

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION
4

ORIGINAL

5 IN THE MATTER OF THE HEARING CALLED
6 BY THE OIL CONSERVATION DIVISION FOR
7 THE PURPOSE OF CONSIDERING:

CASE NO. 14116

8 APPLICATION OF FASKEN OIL & RANCH Ltd.,
9 FOR AN ORDER AUTHORIZING AN ADDITIONAL
10 WELL IN THE "POTASH AREA" AT AN
11 UNORTHODOX WELL LOCATION, LEA COUNTY,
12 NEW MEXICO

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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SPECIAL EXAMINER HEARING

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BEFORE: DAVID K. BROOKS, Legal Examiner
TERRY WARNELL, Technical Examiner

18

June 30, 2008

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Santa Fe, New Mexico

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21 This matter came for hearing before the New Mexico Oil
22 Conservation Division, DAVID K. BROOKS, Legal Examiner, and
23 TERRY WARNELL, Technical Examiner, on June 30, 2008, at the
24 New Mexico Energy, Minerals and Natural Resources Department,
25 1220 South St. Francis Drive, Room 102, Santa Fe, New Mexico.

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A P P E A R A N C E S

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ALSO PRESENT:

Joseph H. Tippetts, Holme Roberts & Owen, LLP
Robert P. Jornayvaz III, Intrepid Potash
Jimmy D. Carlile, Fasken Oil & Ranch, Limited

1 MR. BROOKS: Good morning, ladies and gentlemen,
2 we're back on the record in Case No. 14116, Application of
3 Fasken Oil and Ranch for Approval of APDs, Lea County,
4 New Mexico.

5 Mr. Manges, before we start the evidence, would you
6 raise the matter with us that you mentioned before we started
7 this morning.

8 MR. MANGES: Yes, Mr. Examiner. Over the weekend, we
9 contacted Charlie High, counsel for Mosaic Potash, and Mr. High
10 informed me that he contacted his client regarding whether they
11 had notice of the change or the new location that's been
12 proposed here. And the reason we did that was the location has
13 been moved over approximately 600 feet, and that location is
14 closer to Mosaic leasehold and/or its potash. And what
15 Mr. High indicated to me was he contacted his client this
16 morning, and that they were interested in intervening in this
17 matter and would be filing an entry of appearance this morning
18 as well as a motion for a continuance so they can participate.

19 And I have his cell phone number. And what he had
20 suggested was that if the Examiner would indulge us, he would
21 like to at least orally enter his appearance at this time and
22 state his clients's position. So I've got his cell phone
23 number, and he's standing by.

24 MR. BROOKS: Okay. Well, we have a number of
25 problems, not the least of which is that I got the conference

1 phone, and then I saw the sign on the telephone outlets that
2 say you have to contact ASD to get them turned on, so it may
3 not be feasible to use it in this room for awhile.

4 Before we proceed with that, though, I foresee that
5 perhaps Intrepid may not want to share their confidential
6 exhibits with Mosaic. Would that be a correct observation?

7 MR. FELDEWERT: I was actually going to raise that
8 issue.

9 MR. BROOKS: So I think we're almost in a situation
10 where the only thing we can do is proceed with this hearing to
11 completion, even if there was not a great deal of inefficiency
12 in not doing so, which, of course, there is. But there may be
13 cross motions between Mosaic and Intrepid over that issue.

14 Before we -- what I think we're going to have to
15 do --

16 MR. FELDEWERT: Mr. Examiner, I would also state for
17 the record, I don't think there's a basis for him to now
18 suddenly come in and --

19 MR. BROOKS: Yeah. I was going to ask for you to
20 state your position. What I was going to say before that was I
21 think the most efficient thing to do -- because I don't know
22 how long it would take to get ASD to do anything. I never know
23 that. So I think probably the most efficient thing to do would
24 be for the attorneys only to come to my office, and we can just
25 call Mr. High on my phone. But I want to hear from

1 Mr. Feldewert first.

2 MR. FELDEWERT: Mosaic was notified when the APD was
3 filed almost a year ago.

4 MR. BROOKS: That was for the original location.

5 MR. FELDEWERT: The original location. And they
6 expressed no objection. As you know, in the course of the
7 filing of this application, Fasken voluntarily moved the
8 location to deal with what they thought was Intrepid's concern
9 at the time.

10 This case was advertised. This hearing was
11 advertised for a well in the northwest quarter of Section 16 in
12 Unit F in an unorthodox well location. This location is still
13 in Unit F of Section 16 in the northwest corner at an
14 unorthodox well location. It was advertised in the newspaper,
15 Mr. Examiner, as a well in the northwest corner, Unit F and in
16 an unorthodox well location.

17 Mosaic had every opportunity to appear at this
18 hearing and present whatever concerns they would have with a
19 well in Unit F in Section 16. We have not moved out of Unit F.
20 The well has been adjusted to accommodate Intrepid's concerns.
21 It would be as if the Division itself looked at the evidence
22 and determined that we should move the location to where we did
23 to get away from their mine. In that circumstance, Mosaic
24 would not have an opportunity to come in and somehow now claim
25 prejudice.

1 I don't see any basis whatsoever for a continuance of
2 this hearing. They had their opportunity.

3 MR. BROOKS: Okay. Well, I guess Mr. High is
4 entitled to be heard. So we will stand in recess and the
5 attorneys will come to my office, and we will call Mr. High.

6 [Recess taken from 8:46 a.m. to 9:00 a.m., and
7 testimony continued as follows.]

8 MR. BROOKS: Back on the record in Case No. 14116.
9 Would someone please get the door there. Thank you, Ocean.
10 Intrepid may call their next witness.

11 MR. MANGES: Intrepid is going to go ahead and call
12 James P. Lewis, and Jim Cress will be questioning Mr. Lewis.

13 MR. BROOKS: Okay.

14 MR. CRESS: Thank you, Mr. Examiner. At this point,
15 I'd like to raise again the issue of confidentiality. We
16 talked about this at the beginning of the hearing. The two
17 witnesses that we're going to hear from this morning, their
18 testimony we would like to have sealed, as we discussed,
19 because they're going to be discussing trade secrets --

20 MR. BROOKS: So you're requesting -- I'm sorry. I
21 know how frustrating it is for a court reporter to try to get
22 two voices at the same time.

23 So you're requesting that the hearing be closed for
24 the purpose of this witness's testimony?

25 MR. CRESS: I am.

1 MR. BROOKS: Okay. We will close the hearing at this
2 time. Is there anyone present who is not a -- I don't see
3 anyone who is not either counsel or representative of party.
4 Okay. If anyone comes -- yes, sir?

5 MR. FELDEWERT: Just as a matter of procedure, will
6 that extend to -- I mean, in the event that -- well, let's see
7 if it happens.

8 MR. BROOKS: Okay. If anyone enters the room who is
9 not associated with a party, we will address this issue at that
10 time. There has been an indication that the director might
11 want to sit in on part of this hearing, and we will not exclude
12 him.

13 MR. CRESS: That's fine.

14 MR. BROOKS: Okay. And I should say anyone who is
15 not a party or attorney or representative of the Oil
16 Conservation Division, because we will not exclude those.

17 Okay. You may proceed.

18 MR. CRESS: Thank you.

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**PAGES 10-200
SEALED.**

SEE PAGES 264-65.

1 University, respectively.

2 Q. Okay. And your professional experience most
3 recently is with Intrepid Potash. And can you describe some of
4 the things you've done with them since you've been employed
5 there in August of 2005?

6 A. I would be glad to. I'm involved in matters of
7 finance including the preparation of financial models for
8 capital planning purposes. I'm also involved in our supply and
9 demand and pricing forecasting for the company. I've been
10 involved heavily in the S-1 preparation and also some cost
11 analysis.

12 Q. Okay. The S-1 was for Intrepid's recent initial
13 public offering --

14 A. That's correct.

15 Q. -- in April of 2008? You've also done financial
16 modeling for Intrepid?

17 A. That's right. A big part of my job is the
18 budgeting and financial planning role, which would include any
19 type of long-term forecasting for the company.

20 Q. And as part of your responsibilities, do you
21 assist management in analyzing major capital expansions?

22 A. I do.

23 Q. And deciding where to invest their money and in
24 what areas of their various mining operations?

25 A. I do. I maintain models for each of our

1 facilities and development assets.

2 Q. You have economic models for each of the mines
3 that you use to determine priorities and help assist in
4 planning?

5 A. Yes.

6 Q. Okay. Prior to employment, you were with
7 Standard & Poor's?

8 A. That's correct. That was a corporate value
9 consulting group. It is now Duff & Phelps. They specialize --
10 or we specialized in valuing many different types of assets,
11 company valuations, stock valuation, intangible assets, fixed
12 assets. A lot of different evaluation techniques were used
13 there.

14 Q. So you were determining the value of assets and
15 also decisions whether or not to invest in particular
16 businesses?

17 A. Primarily examining the decisions of others to
18 invest. So looking at M & A transactions and allocating value
19 based on those. And also looking at projects that other
20 companies were engaged in and the returns on those projects.

21 Q. Okay. And then your experience prior to that was
22 also in valuation and financial analysis?

23 A. Yes. I did some work -- my internship between my
24 first and second year in grad school working for the Illinois
25 Development Finance Authority helping them develop some of

1 their modeling around venture capital and primarily around
2 venture capital work.

3 Q. So your most recent experience is in potash
4 valuation and also more generally fertilizers; is that correct?

5 A. Yeah. We look extensively at the supply and
6 demand fundamentals for fertilizers. I focus most specifically
7 on potash and the outlook for potash and supply and demand.

8 MR. CRESS: Okay. At this time, I'd like to offer
9 Intrepid Exhibit 29 to be admitted.

10 MR. FELDEWERT: No objection.

11 MR. BROOKS: Exhibit 29 is admitted.

12 [Respondent's Exhibit 29 admitted into evidence.]

13 MR. CRESS: And at this time, I'd like to offer
14 Mr. Taylor as an expert witness in business valuation and
15 financial analysis, specifically including potash economics.

16 MR. FELDEWERT: No objection.

17 MR. BROOKS: So qualified.

18 Q. (By Mr. Cress): Okay. Mr. Taylor, let me ask
19 you a question first. You've studied the history of the
20 Carlsbad area of potash mines, including the history of the
21 prior owners as part of your job?

22 A. Yes.

23 Q. Are you aware of why the National Potash Mine
24 closed in 1982?

25 A. The National Potash Mine closed as a result of

1 low potash prices and ineffective -- they were, at the time,
2 the least effective company in processing potash. At that
3 time, the Canadian government also had developed a lot of
4 mines. And this was right after those mines had been
5 developed, so there was a large new supply of potash in North
6 America. And basically the price pressure caused that mine to
7 close down.

8 Q. Are you aware of whether or not that was a price
9 dumping case filed against the Canadian --

10 A. Yeah. There was a case brought by Senator -- I
11 believe -- Domenici, which was settled in 19 -- I believe it
12 was -- '88 or '89. Unfortunately, that mine did not survive
13 before that settlement was reached.

14 Q. Thank you. You mentioned that you were
15 responsible for supervising Intrepid's S-1 for the recent
16 public offering?

17 A. Yes.

18 Q. Could you help me reconcile any confusion there
19 might be about statements in the S-1 and Intrepid's
20 long-standing evaluation of the North Mine?

21 A. I'd be happy to. For the purposes of stating
22 reserves in the S-1, under Industry Guide 7, you are
23 required to have what's called a feasibility study for
24 reserves, and that's basically a feasibility study, if it's not
25 already an operating facility.

1 So for the HB mine, as an example, we prepared a
2 feasibility study which allows you then to qualify for what is
3 called -- for SEC purposes -- mineralized deposits, which we
4 would call for this purpose, commercial ore. You're allowed to
5 qualify it as proven or probable reserves. What we were saying
6 in the S-1, what we pointed out in the S-1, is we were not
7 engaging, at that time, in an SEC-type study around proven and
8 probable reserves.

9 Q. Okay. And did you model the North Mine assets
10 for Intrepid prior to April of 2008?

11 A. Yeah, I modeled the North Mine along with all of
12 our other major assets right from the beginning of my time at
13 Intrepid. So we have had a working model of the North Mine
14 since -- I probably completed that about two years ago now.

15 Q. Okay. Could you turn to Fasken Exhibit -- the
16 S-1, and I'm afraid I lost the number here.

17 A. I think it's 26.

18 Q. Thank you.

19 A. Page 87.

20 Q. I'm looking at what's Page 87 of the S-1. It's
21 Page 1029 of the document as we produced it for Fasken. On
22 Page 87 a statement is made that, "Intrepid may choose to
23 re-open the North Mine in the future, although no feasibility
24 study for the project is currently contemplated."

25 Is there a difference between the feasibility study

1 reference and the S-1 and the type of study or financial
2 analysis that Intrepid would engage in for its own internal
3 purposes?

4 A. Absolutely. The standard for that feasibility
5 study is simply to show that the mine would be economic. You
6 don't have to do the type of detailed engineering that you
7 might do in opening a mine. And then from there, you establish
8 a separate set of mining reserves that roll out of that
9 feasibility study. It's really an exercise around reserves
10 for -- and I might also note that the reserves around the North
11 Mine, many of those reserves were classified as reserves as
12 part of the West Mine reserves.

13 Q. Mr. Lewis testified about that this morning, I
14 believe, that those red panels shown on Exhibit Intrepid 39
15 were developed and are currently part of the West Mine
16 reserves.

17 A. I'd also note that any item that is not
18 considered reserves for SEC purposes is called mineralized
19 deposits, which I think I mentioned before. In this case, that
20 would be the commercial ore. And there is a lot of commercial
21 ore out there that is not classified as reserves from an SEC
22 standpoint.

23 Q. Is a feasibility study necessary to mine
24 commercial potash deposits if you don't want to declare them as
25 SEC-compliant reserves?

1 A. Absolutely not.

2 Q. So the feasibility study in this case that's
3 under contemplation or which has commenced recently is to
4 determine the feasibility of the re-opening the north process
5 facility and shafts, but it is not a feasibility study that is
6 aimed primarily at the commercial potash deposits. It's more
7 aimed at the shafts and what type of processing facility and so
8 forth?

9 A. I think you fairly characterized it. The
10 feasibility study or the pre-feasibility study that we're
11 engaged in now is to see what we need to do from an engineering
12 standpoint, the next steps to opening the mine.

13 Q. Okay.

14 A. Which is entirely different from that SEC
15 feasibility study.

16 Q. Can you look at a copy of Intrepid's Exhibit 41.
17 I don't know if we've handed those out.

18 A. I'm not sure I have that.

19 Q. Let me give you this copy. I just need 41.
20 Okay.

21 There was some testimony by Mr. Harvey, I believe,
22 about a Fasken exhibit that was a draft. Can you tell me
23 whether you're aware whether the Tetra Tech pre-feasibility
24 contract was signed?

25 A. Yes. I'm aware that it was signed.

1 Q. Okay. And if you can review this document. Can
2 you tell me whether this is a copy of the signed contract?

3 A. This is a copy of that contract and signed by Pat
4 Avery, our president and chief operating officer.

5 Q. Is there a date indicating when it was signed?

6 A. The fax is stamped -- it was May 29th of this
7 year.

8 MR. CRESS: Okay. I'd like to offer Intrepid
9 Exhibit 41 into evidence.

10 MR. FELDEWERT: No objection.

11 MR. BROOKS: Is this is a sealed exhibit?

12 MR. CRESS: It should be sealed, yes. Thank you.

13 MR. BROOKS: Okay. Exhibit 41 is admitted under
14 seal.

15 [Respondent's Exhibit 41 admitted into evidence under
16 seal.]

17 Q. (By Mr. Cress): I'd like to turn your attention
18 to Intrepid Exhibit -- it's Intrepid Exhibit 31.

19 A. That's a Merrill Lynch report on --

20 Q. Can you describe for me what this is?

21 A. Merrill Lynch was one of the banks that served as
22 an underwriter for Intrepid. This is their first research
23 report about our company after the public offering as launched
24 by Steve Byrne, the analyst that covers us.

25 Q. And I believe you also serve in an investor

1 relations capacity now with Intrepid?

2 A. I have been filling in that role until we get
3 somebody else full-time.

4 Q. Then you've been reviewing these reports as they
5 come out about the company?

6 A. Yes. They are of great interest to us.

7 Q. Is there a statement in this exhibit about the
8 North Mine?

9 A. Yes, there is, but I am not -- it might take me a
10 second to find it.

11 Q. That's fine. I couldn't find it either. That's
12 why I asked you to try the find it. Page 6. Look at the top
13 of Page 6, if you could.

14 A. Okay.

15 Q. And could you read for me that paragraph on the
16 top of Page 6?

17 A. Sure. "Long-term potash fundamental remain
18 strong. Potash has the best long-term" -- the top paragraph?
19 Sorry. I started the wrong paragraph there.

20 "Longer term, Intrepid's unit costs could decline as
21 its incremental capacity expansions have lower unit costs. The
22 company's HB mine will be a solution mine with solar
23 evaporation ponds similar to the low-cost Moab operation, but
24 with even lower unit costs, as the potash crystals will be
25 processed at the nearby West Carlsbad facility, which has

1 excess milling capacity, thus lowering unit fixed costs.
2 Intrepid's North Mine adjacent to the East Carlsbad mine is
3 shut down with fully operational shafts. We believe this mine
4 could be restarted in the next few years, representing upside
5 to our production estimates."

6 Q. Okay. So this is an analyst's view looking and
7 evaluation the company's assets. And it is dated when?

8 A. I believe that was a couple of weeks ago.

9 Q. I think it's on the first page.

10 A. The 20th of June, 2008.

11 Q. June 20th. So just 10 days ago.

12 MR. CRESS: At this time. I'd like to offer into
13 evidence Intrepid Exhibit 31 as a confidential exhibit.

14 MR. BROOKS: What is confidential in a research
15 report --

16 MR. CRESS: These research reports are only available
17 for people who pay for them. So, although the company gets a
18 copy, I believe they're not free to print it and give it to
19 people. Because Merrill Lynch would take exception to that.

20 MR. BROOKS: So you're saying that is Merrill Lynch's
21 confidentiality rather than Intrepid's?

22 MR. CRESS: I believe that's correct.

23 MR. BROOKS: Okay. Well, I will continue the policy
24 I have done so far and will admit 31 under seal.

25

1 [Respondent's Exhibit 31 admitted into evidence under
2 seal.]

3 MR. CRESS: Thank you.

4 Q. (By Mr. Cress): So have other analysts and
5 investors in Intrepid, since it's been public for the last
6 couple of months, expressed interest in the North Mine as an
7 asset of Intrepid's?

8 A. Absolutely. As part of going public, we sat down
9 with all the analysis that would be covering us and gave them a
10 review of our assets. They all expressed an interest in the
11 North Mine and wanted to know more about our plans. Then on
12 the road show -- I participated in all the road show meetings
13 that we had -- and the majority of the investors asked us if we
14 could accelerate the plans for when we are planning to re-open
15 the North Mine.

16 So I would say there's a lot of interest from
17 investors -- appropriately so, given the price of potash --
18 that we bring on this development asset as soon as possible.

19 Q. And this focus by investors has been expressed to
20 Intrepid directly over the last few months since April?

21 A. Yes, it has. But it became very obvious on the
22 road show the amount of interest there was in the North Mine.

23 Q. So just in the last few months, your new public
24 shareholders and analysts have told Intrepid that they find the
25 North Mine to be an attractive opportunity that Intrepid should

1 be looking at?

2 A. That's right. We, as a management team, have
3 always known it's a good asset. We have known, as the price of
4 potash has gone up, the focus has turned more and more to the
5 North. And now we've got the test form process out of the way,
6 which absorbs an inordinate amount of management time, and
7 we're able to focus more time on getting this developed.

8 Q. So Intrepid's management has focused its
9 attention on North just in the last couple of months. And the
10 reason for that is it has heard from its new public
11 shareholders. Prior to this -- I guess I should back up.
12 Prior to this, Intrepid was owned just by a --

13 MR. FELDEWERT: Mr. Examiner, may I object? I know
14 you don't normally -- I know this is an administrative
15 proceeding, but we seem to have a lot of leading going on with
16 this witness.

17 MR. BROOKS: That's certainly true. Perhaps you
18 should rephrase your question.

19 MR. CRESS: I will. I apologize. Let me rephrase
20 the question.

21 Q. (By Mr. Cress): Prior to the IPO, was Intrepid
22 owned privately by just a few investors?

23 A. Yeah. Intrepid was owned primarily by Hugh
24 Harvey and Bob Jornayvaz and their other partner, Platte River
25 Ventures.

1 Q. And now Intrepid has public shareholders since
2 the IPO, just since April?

3 A. That's correct.

4 MR. BROOKS: And in this case, IPO is Initial Public
5 Offering.

6 MR. CRESS: Yes.

7 MR. BROOKS: It's not Intellectual Property Officer,
8 or five or six other possible meanings.

9 Q. (By Mr. Cress): Okay. I would like to ask you
10 to turn to Exhibit 3.

11 MR. BROOKS: Whose Exhibit 3?

12 MR. CRESS: I'm sorry. Intrepid's Exhibit 3.

13 Q. (By Mr. Cress): Is Exhibit 3 an exhibit that you
14 prepared?

15 A. It is.

16 Q. And it's an exhibit that has a lot of different
17 kinds of data shown on it. Is this the type of data that you
18 rely on in your financial analysis for Intrepid of the potash
19 market?

20 A. Yes. I would definitely pay a lot of a attention
21 to price.

22 Q. Could you look at the first page for me and
23 explain what is depicted here?

24 A. Yeah, I'd be happy to. This is a long-term view
25 of the price of potash as it has developed since 1985. And

1 what you will notice is that it's been relatively flat and that
2 there's a period starting in 2006 -- and I apologize for the
3 scale being so wide. If it were stretched a little bit more,
4 you would see a more gradual increase in the price going up in
5 the last few years to the levels you see. This is a US-Midwest
6 price that we're showing here from Green Markets, which is a
7 well-respected industry publication that samples prices in the
8 Midwest and other places as well.

9 Now, I'd love to explain this trend. As you look at
10 this trend, one of the things that people don't realize about
11 potash is there was a large over-supply of potash,
12 historically. This came from -- there are two primary reasons,
13 really, where there are a lot of large reserves -- Canada and
14 Russia. And those governments, the Canadian and Russian
15 governments, brought on a lot of mines, first under the Soviets
16 and then the Canadians developed a lot of mines leading to an
17 over-supply of potash, really. That over-supply had to be
18 worked off in the market.

19 And so there are several events that have happened
20 that have worked off that over-supply in the market. You can
21 see several mine floods here in 1986, 1997 and in 2006. With
22 each of those floods, all in Canada or Russia, where they have
23 different geology than we have here in Carlsbad, a significant
24 amount of potash was removed from the market, and you can see a
25 small or large price response.

1 Another significant event in the price of potash is
2 the collapse of the former Soviet Union in 1991. They used to
3 consume 12 million tons of potash a year. And they went from
4 12 million tons to less than a million tons virtually
5 overnight. So there was a large over-supply and largely the
6 Canadians would match their production to supply allowing the
7 price to stay stable for all these years.

8 You know, potash -- just to go back a little higher
9 level -- is primarily used as a fertilizer.
10 Ninety-five percent is consumed in agriculture. It is one of
11 three essential nutrients, nitrogen, phosphorous and potassium,
12 without which no life really exists. You can't grow plant
13 matter. So proper ratios of MP and K allow you to grow a good
14 crop. What we saw, or what we see, in the current price
15 response is that price supply and demand for potash come into
16 balance, the demand for potash has actually accelerated faster
17 than suppliers can bring on supply.

18 And through this entire period, there was very little
19 focus from suppliers in bringing on additional mines. As you
20 can imagine, the art of bringing on new green fields and other
21 projects has somewhat been lost to -- except for operating
22 companies. And so you see this response where supply and
23 demand come into balance. And I'll get into that in more
24 detail later. But that has led to this -- where we currently
25 are on pricing. Price has responded to get supply and

1 demand -- to try and get supply and demand into balance.

2 Q. And what is the current price, shown on this
3 exhibit, of potash?

4 A. The current price that's relevant in this case is
5 the Carlsbad price of \$583, which is essentially what we would
6 ship from Carlsbad to, say, the Midwest. So there's some
7 shipping costs, there's some mark-ups for dealers, et cetera,
8 along the way. But \$583 is our list price in June.

9 Q. This is what Intrepid uses to sell its commercial
10 potash, this \$583. And that's as of June 1?

11 A. That's as of June 1. That's when that was made
12 effective.

13 Q. I believe Mr. Lewis testified that you gave him a
14 price assumption to use in calculating his Section 16 reserve
15 analysis that is reflected in Intrepid Exhibit 11.

16 A. That's right. We used \$532 for that analysis.
17 At the time we began this analysis, that was the list price in
18 May.

19 Q. So that was the price effective May 1?

20 A. That's correct.

21 Q. And the price as effective June 1 is \$583?

22 A. That's correct.

23 Q. That's an increase of \$50 a ton?

24 A. That's correct. And I would note that over the
25 last seven to eight months, those are typical increases,

1 monthly increases.

2 What's important also to note is what the outlook for
3 the price is now. Because some people look at this price and
4 ask, well, it has gone up so precipitously, or appears to be
5 precipitously, but if you really understand the supply and
6 demand fundamentals, you understand that it is a sustainable
7 price. And we'll get into that in more detail.

8 And not only is it sustainable, but people like Steve
9 Byrne, whose research we have, is predicting that the price,
10 the average price, that Intrepid will sell for next year is
11 above \$700 a ton.

12 Q. Was Mr. Byrne the analyst in Intrepid Exhibit 31?

13 A. Yes, for Merrill Lynch. I believe he's
14 predicting \$740 a ton in 2009 and \$760 a ton in 2010. Other
15 long-term forecasts come from industry groups such as FERTECON
16 that look at all three nutrients, but they have a publication
17 specifically dedicated to potash. They're predicting a price
18 above -- for North America -- above \$750 a short ton through
19 2020.

20 So there's been a shift, a fundamental shift. I
21 think the easiest way to understand it for people who aren't
22 familiar with this chart is, if the supply and demand
23 fundamentals of potash had been in balance this entire time,
24 you would have seen a more orderly climb up this price charge.
25 But now that we're back into balance, I believe potash is

1 selling for what it's worth as a crop nutrient.

2 Q. Can you turn to the next page of your exhibit and
3 explain what this shows. It's titled "Potash Consumption
4 Growth Exceeds Historic and Projected Oil Consumption Growth"?

5 A. Yes. The purpose of this exhibit is to
6 demonstrate the demand fundamentals for potash are very strong.
7 As a comparison, we're using oil here because oil is often seen
8 as this very base commodity with strong demand. But potash is
9 actually experiencing a higher growth rate historically and
10 forecasted. This forecast comes from FERTECON that we're using
11 and from the EIA, for oil and gas.

12 Q. Is FERTECON a source that you rely on for these
13 kind of projections?

14 A. They are. They are my favorite -- well, I
15 shouldn't say favorite -- but in my estimation, the best at
16 forecasting price in the industry.

17 Q. And the oil forecast reflected here, that came
18 from where?

19 A. That's the base case from the EIA, Energy
20 Information Association of the US Department of Energy.

21 Q. Energy Information Administration of the US
22 government, the Department of Energy, okay.

23 If you could turn to the third page of this exhibit.
24 Could you explain what this is showing?

25 A. Yes. I referenced this earlier that the demand

1 for potash has grown steadily. And you can see here -- the
2 green line represents the world without the former Soviet
3 Union.

4 Q. This is the collapse you described of the Soviet
5 Union and the effect it had on potash.

6 A. That's right, yeah, the blue line. And you can
7 imagine what that did to the supply and demand fundamentals to
8 have that collapse. What is remarkable in potash is that there
9 was very little downward volatility through this entire
10 collapse. There's very little downward volatility in the price
11 of potash, generally. If you were to compare that to, say, oil
12 prices, there's much more downward volatility in price.

13 Q. So the price stayed relatively stable, but the
14 consumption of potash went down considerably?

15 A. Yeah. That's the approximately 11-million ton
16 reduction in the consumption of potash from the former Soviet
17 Union, which has now started to recover. There's been a lot of
18 great work in the background that's allowed this market to
19 develop the way it has. There's a group called the
20 International Plant and Nutrition Institute which gives us a
21 forward compound annual growth rate for China, India and
22 Brazil. They've gone in, and they've been trying to educate
23 their farm economies about how to increase their yield of
24 crops.

25 China has a stated goal of self-sufficiency in their

1 food. They consume approximately 12 million tons of potash a
2 day. They need to consume 27 million tons to get to
3 self-sufficiency. India has typically under-applied potash,
4 and if you do not apply nutrients in the proper ratios, you do
5 not get the yields that you need. India recognizes a strong
6 need to put more potash on their soils. They are depleted. So
7 you see a strong growth rate expected from India.

8 And Brazil, their soils in Brazil actually leach
9 potash very quickly, so you have to constantly be reapplying
10 it. And it's also one of the largest growth areas in the world
11 for agricultural land. They have a region called the Cerrado
12 that is adding agricultural land. It's not the Amazon, don't
13 worry, but it is a growth area which is why potash consumption
14 in Brazil is growing. They can grow two or three crops a year
15 there. This is all in response to the critical need in the
16 world for food today.

17 Q. And is the green line, if I understand that
18 correctly, is that the consumption if you leave the Soviet
19 Union out of it?

20 A. That's right.

21 Q. So the chart is showing a progression that's a
22 little more orderly if you leave the Soviet Union out of it
23 because of that collapse in '92?

24 A. That's right.

25 Q. What was the source of the data on this page,

1 Page 3?

2 A. The International Fertilizer Association tracks
3 potash demand as a fertilizer. So I would note that this is
4 just fertilizer demand. There's also demand for industrial
5 uses, which would take the total demand higher.

6 Q. And the National Fertilizer Association is an
7 authority you consider reliable for these kinds of studies?

8 A. It's an industry group of CEOs and others who
9 join to produce very good data. They have some very good
10 agronomists and economists that allow us to track areas of the
11 world that would be hard to without their work.

12 Q. Okay. Could you turn, then, to Page 4 of
13 Exhibit 3 and explain what's on this page and the significance
14 of it?

15 A. There's a lot of business here, so I'll walk
16 through each chart. But this really is the key to why potash
17 demand is so high.

18 As we look at the top left chart, "World Population
19 versus Fertilizer and Meat Consumption" -- this data comes from
20 the FAO, which is an arm of the UN -- as you notice, "World
21 Population, World Fertilizer Usage NPK" -- K is potash -- and
22 "World Meat Consumption" are all growing in lockstep. And
23 World Meat Consumption is actually the one line that is of
24 critical importance today as economies in China and India are
25 improving, their diets are also improving.

1 And, you know, part of that trend is consuming more
2 meat which consumes more grain. For example, a pound of chicken
3 takes three pounds of grain to produce. Beef is a higher
4 ratio. I believe it's 8 to 1. And so that's one important
5 trend that's leading to higher grain consumption.

6 The trend on the right, "Hectares of Arable Land per
7 Person," is an important trend in fertilizer consumption.
8 Populations are constantly growing, putting pressure on arable
9 land and also as populations grow, land is converted to other
10 uses. And so you see, in order -- there are only two ways to
11 improve yields to feed the people in the world: Proper
12 fertilization and through seed genetics and technology. Those
13 are really the only two ways that we advance.

14 And the third chart here, "World Grain Production and
15 Stock to Use Ratios," really explains where we are today.
16 Historically, we've been able to produce an excess of grains.
17 But we reached a point approximately nine to ten years ago when
18 the consumption of grains started to exceed production. And
19 this is before ethanol ever got going. So eight of the last
20 nine years, more grains have been consumed in the world than
21 have been produced despite increasing yields around the world.

22 This is a critical trend, and this is why crop
23 prices -- if you go to the right -- are starting to move up
24 rapidly. The markets are trying to send a signal to growers
25 around the world that we need more grains. We need to

1 replenish these stocks before -- we may have already passed the
2 critical point, to be honest.

3 But the prices, the outlook for crop prices, is
4 actually important in the outlook for potash prices. And as
5 you look at the futures for crop prices, they're forecasted to
6 be quite strong for some time. Because even if we have record
7 crops for several years, we'll barely start to even work on
8 restoring yields. And as you know, Mother Nature is the chief
9 determinate in crop yields. So that, technology, and
10 fertilizers, are the three things that go into a yield.

11 Q. Okay. And the sources for this data that you
12 list on this Page 4 of Exhibit 3 --

13 A. Yeah. I'm happy to go through. So I listed the
14 FAO on the top left. The FAO is also on the top right. The
15 bottom left is we sourced -- some of this is from the
16 International Plant and Nutrition Institute, which provides --
17 oh, I'm sorry. No. This is also from the FAO. This is Grain
18 Production and Stock to Use Ratio. And then the crop prices
19 come from the Chicago Board of Trade.

20 Q. Okay. And I also see listed here PPI. What is
21 that?

22 A. PPI is the old name for the International Plant
23 and Nutrition Institute. That is a leading group of
24 agronomists around the world that have gone to China, Russia,
25 India -- now they are working in Africa as well -- to try and

1 educate people on the proper balance of nutrients. Their work
2 has largely alerted the world that there's a deficiency of
3 potash application.

4 Q. And then IFA we've already talked about as -- and
5 these are sources that you rely on for information for these
6 kinds of production?

7 A. Absolutely.

8 Q. Can you turn again, then, to the next page and
9 explain what the significance is of this chart?

10 A. Now we start to look at supply. We looked at the
11 demand side. And demand is forecasted to be quite strong for
12 some time due to the facts that we've listed. This is the
13 supply side.

14 The industry has, in response to this strong
15 demand -- is effectively producing at capacity. And the reason
16 there's a difference between effective capacity and nameplate
17 capacity -- in the Potash industry, nameplate capacity is
18 defined when a plant is first commissioned and does not take
19 into account depletion, potentially flooding that may have
20 occurred in some mines, and other factors which actually limit
21 what a mine can actually produce. At Intrepid, one of the
22 studies that I was asked to do when I first came, was to look
23 at every mine in the world and determine what they could
24 actually produce, which is what we call the effective capacity.

25 Q. These were all potash mines?

1 A. All the potash mines in the world -- and all the
2 potash projects in the world as well -- which I track.

3 Q. And when you say "potash project," is that a mine
4 that hasn't been built yet, essentially?

5 A. Yeah. Potash projects could be either an
6 expansion at an existing facility or a green field, which would
7 be a brand new mine somewhere in the world, or a brown field,
8 which is similar to what we're doing at North, re-opening a
9 mine that had existed before which doesn't require as much work
10 as a green field mine.

11 But this -- 93 percent effective capacity has gotten
12 a lot of attention since our IPO and in other contexts.
13 Analysts have been starting to point out the supply deficiency
14 much more frequently in their research. RBC recently came out
15 with a piece that specifically focused on this. The
16 International Fertilizer Association just came out with some
17 specific research on this. Everyone -- all point to the supply
18 deficiency -- which probably we should go to the next slide to
19 cover some of that.

20 Q. Let's do that, then. This data was your own
21 study which you testified?

22 A. That's right. And the green data, I should tell
23 you what that is. That's a representation of North American
24 inventories basically divided by world consumption to give an
25 idea of how much potash inventory is out there. And you will

1 notice that there is a decline in potash inventories which is
2 an indication that demand is greater than supply and
3 inventories are being drawn down to historical lows.

4 Q. Okay. If we could turn, then, to Page 6 of
5 Exhibit 3. Can you explain the significance of this graph?

6 A. This is really the key to where potash prices are
7 going to be in the future. If you look at demand forecasts, we
8 used FERTECON's 3.5 percent demand growth forecast. But others
9 have prognosticated a higher growth rate. And if you look at
10 the growth rates for China, India and Brazil, it's quite
11 possible a higher growth rate would occur in the market if the
12 potash were available.

13 But in 2007, for example, the demand for potash was
14 greater than the inventory drawdown. That situation is
15 expected to persist at least into 2010, and not getting any
16 kind of relief until 2012. And that is assuming that all of
17 the announced projects -- the blue area is announced
18 projects -- that all of those projects come online as scheduled
19 or as announced without any hiccups, which is a tall order,
20 actually.

21 Q. What precipitated that drawdown in inventories.
22 Was there a single event that contributed to that?

23 A. Well, one event which has added to the tightness
24 in the market is this Russian mine flood which occurred in
25 2006, and the reason we show that separately is so you can see

1 the impact of this flood on existing supply. It occurred at a
2 time when the market needed potash. So that reduction of 1.3
3 million metric tons of potash came at that time with the market
4 was already tight. And it takes five to seven years, really,
5 to bring on a new mine to replace that mine.

6 Q. And this chart on Page 6 was compiled as part of
7 your study of the different projects around the world?

8 A. That's right. I first started on this study when
9 I was first hired, and it was actually my task was to look at
10 the supply and demand fundamentals. And I've continually
11 updated this study through today.

12 Q. Okay. If you could turn to the next page of
13 Exhibit 3, Page 7. Can you explain -- are these the projects
14 that you were talking about that you studied, or some of them?

15 A. These are some of the higher profile, more likely
16 green field, projects out there as compared to the North Mine.
17 One of the reasons that investors asked us so much about the
18 North Mine while we were on the road show is it has certain
19 advantages that these green field mines do not have.

20 For example, the North Mine has existing shafts, has
21 an abundant knowledge of the ore bodies, has existing water
22 supply, electricity, tailings disposal, rail, storage
23 facilities. I mean, it really is so much farther along than a
24 green field would be. And if I were to take an example --
25 let's look at the Magminerals Project, which is approximately

1 comparable in size. That's a 600,000-ton mine.

2 Q. 600,000 tons. These are all the tons per year
3 these would produce?

4 A. Yes. That's right. These are short tons of
5 production a year.

6 So as you look at that, the first thing you will
7 notice is that the estimated cost to bring on that green field
8 is roughly twice that of the North. So from an investment
9 standpoint, that's a very attractive first measure. The second
10 thing is the location here in the Congo, where there is
11 political risk, of course.

12 And then there's no infrastructure to support his
13 mine right now. They need a port facility. They need
14 electricity, which they're contemplating getting from a
15 hydroelectric project two countries away. They will actually
16 be producing from a carnallite ore body. So there was some
17 discussion about whether carnallite can be produced
18 economically. They are planning to produce from a
19 carnallite-only ore body, which, you know, is a higher energy
20 process than what we will be doing at North, which is a
21 flotation process.

22 You know, as you go through this list, that
23 infrastructure piece should not be underestimated. There's a
24 project in Argentina that Rio Tinto has been looking at for
25 many years. It's extremely remote. It requires upgrades to a

1 long rail line. It requires the paving of a couple of hundred
2 kilometers of road. They do not have a gas supply, and it
3 requires a continuous large gas supply, and there's no
4 population there to staff the mine, and no experience either.

5 So as you go through this list, all these green
6 fields have to tackle all these problems that the North Mine
7 doesn't have.

8 Q. Okay. And you've got a capital cost estimate
9 here. Those are just rough estimates of the potential cost,
10 but the -- and the .3B in the case of the Intrepid North Mine
11 is plus or minus \$300 million; is that correct?

12 A. That's correct. As you can imagine, with the
13 capital costs on these projects, you would want to have
14 well-developed engineering. The only project -- there are only
15 a couple of projects -- three projects on here that really have
16 well-developed engineering, you know, outside of the North
17 Mine. That would be the Potash Corp in Saskatchewan expansion,
18 green field. Magminerals has put forth some economics. I
19 can't speak to the reliability of any of these numbers, but
20 they've put numbers out.

21 Q. These were put out by the owners of these
22 projects?

23 A. By the owners of the projects. And then the Rio
24 Tinto project has also put a forecast down. Other estimates
25 are based on Potash Corp's estimate for the cost of a green

1 field in Saskatchewan, Canada. And they are in the ideal
2 position to make those estimates, so we've relied on their
3 estimates for that.

4 Q. And these are -- Intrepid costs are not firm. I
5 mean, this is what Intrepid is studying in the feasibility
6 study that we heard about?

7 A. That's right. And we would treat that as
8 confidential. Because one of the things with investors -- one
9 of the reasons that you wait to go to investors is you want to
10 have that more fully developed so that you don't have to
11 disappoint investors or give a wrong number. But that is our
12 best estimate at this time.

13 Q. Prior to doing continued feasibility study work?

14 A. That's right. One of the major points of the
15 feasibility work that we're doing now is to develop those cost
16 estimates.

17 Q. That's the work that you've commenced as of the
18 end of May?

19 A. That's right. I can't speak to that estimate as
20 reasonable, though, based on what we need to add, which would
21 be just the processing facilities at the North Mine and some
22 underground infrastructure that we need to add back.

23 Q. So some of the other projects, as you testified,
24 are one needed a port, that sort of thing? Intrepid's North
25 Mine is located in Carlsbad, New Mexico. You have power. You

1 have other infrastructure already in place and servicing your
2 East and West Mines, and it's right next door, essentially.
3 That's part of what contributes to the lower cost?

4 A. Absolutely.

5 Q. I think that was the last thing I had on that.
6 If you could turn to Page 8, I would like to ask you about
7 this. But I also at this moment would like to have you look at
8 this side-by-side with the separate exhibit, and that is
9 Intrepid 3-A?

10 MR. FELDEWERT: Mr. Examiner, is there a chance we
11 can take a short break?

12 MR. BROOKS: I was thinking the same thing. We're
13 not close to finishing this witness?

14 MR. CRESS: I'm not sure how much longer, but this is
15 actually a very good time to break.

16 MR. BROOKS: Okay. Let's take a 10-minute recess.

17 [Recess taken from 4:43 p.m. to 4:55 p.m., and
18 testimony continued as follows:]

19 MR. BROOKS: Back on the record.

20 MR. CRESS: Thank you, Mr. Examiner.

21 Q. (By Mr. Cress): Mr. Taylor, on Page 8 of
22 Exhibit 3, you show a comparison between the potash affected by
23 the Laguna No. 2 Well and the probable revenue from the well.
24 Can you explain where you derived these numbers?

25 A. I'd be happy to. I think the \$438 million should

1 be familiar at this point. That comes from Exhibit 11 that Jim
2 Lewis discussed at length. That is the revenue that is
3 expected just from the area -- the new area affected by Laguna
4 No. 2.

5 MR. FELDEWERT: Can I ask what exhibit we're on?

6 MR. CRESS: We're looking at Exhibit 3, Page 8.

7 MR. FELDEWERT: Okay.

8 THE WITNESS: So if we can look at Exhibit 11, it is
9 the new potash waste that Laguna 2 would result in if it were
10 to be drilled.

11 Q. (By Mr. Cress): I'm sorry. Go ahead.

12 A. And again, that's using the \$532 potash, which
13 was our May list price.

14 Q. And the price now is?

15 A. It's \$582. So if you were to use that, it would
16 go up another 9 percent, approximately another \$40 million.

17 Q. And where is the value of the Laguna No. 2
18 derived from?

19 A. In this analysis, we did not yet have Fasken
20 Exhibit 24, so I prepared this prior to receiving that exhibit.
21 So we used the best information we had available at the time,
22 which was a memo prepared by Fasken Oil and Ranch dated
23 4/12/2007 regarding the expected production out of Laguna
24 No. 1. So the way this analysis was conducted is we looked at
25 Laguna No. 1 and created a twin for this analysis to say this

1 is the total revenue that would be expected.

2 So on that memo, Fasken assigns the total expected
3 oil and gas to be 92,000 barrels of oil and 1.5 billion cubic
4 feet of natural gas. Then we simply applied the current price
5 of oil and gas, which at the time, was \$136 per barrel for oil
6 and \$13 per mmbtu for gas to arrive at \$32 million of probable
7 revenue. So I believe we are being generous because we did not
8 assign any probability at this point to those revenues.

9 Q. This was an un-discounted value. Okay. Can you
10 turn to Intrepid Exhibit 3-A, if you would? This was also
11 prepared by you?

12 A. Yes.

13 Q. And in this case, I think you said you used the
14 estimate of the value of the Laguna No. 2 reflected in Fasken's
15 Exhibit 24?

16 A. That's correct. I received this Friday morning,
17 this Fasken 24 -- I believe it was received Thursday night, but
18 I first saw it Friday morning -- and recognized that the
19 probability tree from Fasken 24 is the exact information we
20 needed to do this analysis according to their own economics.
21 So I redid the numbers using their economic model. And they
22 are expecting -- the expected value or expected revenue from
23 the Laguna No. 2, at \$10.5 million, which is -- and the potash
24 revenue is 41.7 times the revenue expected from the well.

25 Q. Okay. And on Exhibit 3, Intrepid Exhibit 3, the

1 multiple was 13.7 times?

2 A. That's correct.

3 Q. So once you had the actual value that Fasken
4 attributed to its own well which you didn't receive at the time
5 you were preparing Intrepid Exhibit 3, you just reran the
6 numbers?

7 A. That's all I did. It was fairly straightforward
8 from there.

9 Q. There are a couple of other differences I would
10 just point out for fairness. The potash price was the May list
11 price. That's the same and, obviously, has changed, as you
12 said, by 9 percent or so and just in the last month. The oil
13 price is slightly lower. It's \$131 a barrel. It was \$136 when
14 you prepared it on Thursday. And you used the same gas price.
15 So it would be -- the \$10,500,000 would be slightly greater
16 value. But still, the order of magnitude of the multiples here
17 would be more or less the same even taking the difference into
18 account.

19 A. That's correct. I mean, my conclusion from this
20 is that the potash resource in that half-mile buffer in just
21 the new half-mile buffer, excluding Laguna 1, has a much higher
22 market value than the expected oil and gas revenue. I use the
23 terms "expected" as a financial term here because they have
24 assigned the probabilities which allow you to get to an
25 expected value.

1 Q. Okay. If we could, then, turn to the next page,
2 Page 9 of Exhibit 3. And if you could -- if you can kind of
3 walk us through the same comparison between Page 9 as depicted
4 in Intrepid Exhibit 3 and Page 9 as depicted a Intrepid
5 Exhibit 3-A.

6 A. Okay. I will walk through Exhibit 3, Page 9,
7 first. The royalty rate, from what I understand, in Section
8 16, is 1/6 of the revenue. Which is if you were to compare
9 back to Page 8, 1/6 of \$32 million gets you to \$5.3 million in
10 expected royalties to the State.

11 For purposes of calculating the royalties that can be
12 expected from potash, typically our royalties are anywhere from
13 2 to 5 percent, so I provided that range. It would mostly like
14 fall somewhere between this range: At a 2-percent royalty, you
15 would expect \$8.8 million of potash royalties from this
16 section, and from a 5-percent royalty, you would expect \$21.9
17 million.

18 And I would also note that these royalties would come
19 over time. So for the Laguna No. 2 Well, you would expect to
20 receive these royalties over the expected 20-year life of the
21 well, and for the potash ore, you would expect it over the
22 period it would take to mine this area.

23 Q. And just to be clear that the royalty is between
24 the 2 and 5 percent, since we don't have an exact rate, that's
25 just the royalties attributable to the additional commercial

1 potash wasted by the Laguna No. 2 Well. It's not the entire
2 section. It's just the section as depicted and discussed by
3 Mr. Lewis.

4 A. That's correct. All these three slides are just
5 comparing the additional area affected by the Laguna No. 2.

6 Q. And you also backed out, as he did, the Laguna
7 No. 1?

8 A. That's correct.

9 Q. That was already wasted?

10 A. That's correct.

11 Q. And those multiples, then, when you -- I'm sorry.
12 Can you turn now to Intrepid 3-A and just describe the
13 difference here in the royalty and the fact that you used
14 Fasken's own number as reflected on their exhibit, the value
15 they attribute to this well?

16 A. Well, that's a fairly similar analysis, taking
17 1/6 of the \$10 million equates to approximately \$1.8 million in
18 expected royalties from Laguna No. 2 versus the same number of
19 royalties -- excuse me. \$8.8 million at the 2 percent versus
20 \$21.9 million at the 5 percent. So Intrepid's royalties would
21 be between 4.9 and 12.2 times higher than that expected from
22 Laguna No. 2.

23 Q. Okay. Thank you. If you could turn to the last
24 page of Intrepid Exhibit 10 and explain this chart to us.

25 A. In this, we believe one of the important

1 distinctions between potash and oil and gas development is how
2 much cash is put into the local economy in the forms of taxes
3 and labor costs and energy -- all that is consumed in producing
4 potash. So on the right side, you have the potash contribution
5 of \$110 million. What I did to get to that number is I looked
6 at the amount of reserve of ore that is expected from the
7 Laguna No. 2, excluding the No. 1 area and the pillars, and I
8 believe that number was reported by Jim Lewis.

9 Q. It's on Exhibit 11 if you want to turn to that.

10 A. It's 824,000 product tons, using the assumption
11 that we would have a 500,000-ton mine. So these are the
12 assumptions I used, that we would have a 500,000 ton a year
13 mine comparable to our West Mine, that the cost to operate that
14 mine would be comparable to our West Mine, and that the
15 sustaining capital required would be comparable to our West
16 Mine.

17 And then I added up the operating costs that would
18 equate to roughly a year and a half of operations to produce
19 this entire area if all you did was put all your miners into
20 one area. That's not a standard practice, but for these
21 purposes, it's a good estimate of the amount of time you would
22 spend in the area. And then I added that to the operating
23 costs plus the sustaining capital, and that was \$110 million of
24 expenditures that would go into the local economy.

25 Q. And I just want to clarify. You said if you put

1 all your miners in there, you could mine all of this ore in
2 about a year and a half. But you might do that at different
3 times, but it would still add up over time if you used your
4 assumption, to \$110 million?

5 A. That's right. Because the operating costs and
6 processing costs to mill and produce a finished product are
7 essentially the same. Looking at this Laguna No. 2, all I had
8 to start with was the estimate of a \$5 million vertical well.
9 And I assumed 10 percent operating costs, which I learned from
10 this exhibit was too high of an assumption.

11 Q. And you're looking at Fasken --

12 A. Fasken 24. They actually estimate operating
13 costs closer to 1 percent of revenues.

14 Q. So you then, after -- just like on the last page,
15 when you got their actual numbers which you didn't get until
16 Friday, you calculated their operating costs, et cetera, using
17 their own projections?

18 A. That's correct. That's right. And that comes
19 straight from -- so this is assuming a vertical well. The
20 vertical costs would be \$4.5 million. And then the operating
21 costs that they assume on Fasken 24, I believe, is \$1,200 a
22 month. And I used 20 years to add up to a total cash into the
23 local economy of \$4.8 million. And I would note that the
24 Intrepid number only includes sustaining capital. It does not
25 include the capital to restart the North Mine, because I didn't

1 think that was fair in this comparison because we will have
2 other ores that we will access. But a portion of that cost,
3 you might reasonably assume -- a portion of that cost here I've
4 chosen to be more conservative.

5 Q. Because those expenditures will be made in the
6 local Carlsbad, New Mexico, economy, the capital costs?

7 A. That's right. The cost of restarting the mine
8 should -- if you were looking at allocating that cost, you
9 should allocate it across all the reserves that will be
10 accessed over the life of the mine.

11 Q. So these were conservative projections of the
12 contribution of the potential reopening of the North Mine to
13 the local economy. You didn't double --

14 A. They did not include that.

15 Q. Okay.

16 A. And I would note that it's 23 times -- the potash
17 mining in this case would contribute 23 times as much to the
18 local economy.

19 Q. Okay. And that was -- you're looking at Intrepid
20 Exhibit 3-A, which was using their own numbers, using Fasken's
21 numbers for the marginal Laguna No. 2. The contributions to
22 the local economy were \$110 million, and that was 23 times
23 their own -- the contributions, that's based on their
24 estimates. And in Intrepid Exhibit 3, on Page 10, you were
25 using -- that was prior to getting their actual estimates that

1 were reflected in Fasken's Exhibit 24.

2 A. That's right.

3 MR. CRESS: Okay. At this point, I think I would
4 like to move for the admission of Intrepid Exhibit 3, as
5 confidential, and Intrepid Exhibit 3-A also as confidential.

6 MR. FELDEWERT: No objection to the admission.

7 MR. BROOKS: Exhibits 3 and 3-A will be admitted
8 under seal.

9 [Respondent's Exhibits 3 and 3-A admitted into
10 evidence under seal.]

11 MR. CRESS: All right, Mr. Taylor --

12 MR. FELDEWERT: Just so the record is clear, I don't
13 agree to admitting them under seal.

14 MR. BROOKS: I understand that. We're going to talk
15 some more at the conclusion of the hearing about the process
16 for these sealed exhibits. But let us proceed with the
17 hearing.

18 Q. (By Mr. Cress): Mr. Taylor, in your opinion, and
19 having compared the values as a financial analyst of Intrepid's
20 proposed North Mine and also the value of the commercial potash
21 that would be wasted by the Laguna No. 2 to the revenues that
22 would be generated from the Fasken Laguna No. 1, would the
23 proposed Laguna No. 2 Well unduly reduce the total quantity of
24 commercial deposits of potash that can reasonably be recovered
25 in Section 16 and on Intrepid's federal leases in Sections 9

1 and 17, in your opinion?

2 A. Yes.

3 Q. And do you agree with Jim Lewis that the value of
4 the wasted commercial potash is at least \$530 per ton of
5 product sold?

6 A. Yes. And I believe that could be a conservative
7 assumption.

8 Q. Based on all of the projection, demand
9 projections, supply capacity problems and everything that
10 you've gone through, it's your opinion that the use of a \$532
11 per ton product price is appropriate?

12 A. Yes.

13 Q. Okay. And that includes, within that \$438
14 million that Jim Lewis estimated on Intrepid Exhibit 11, 532 --
15 553 product tons valued at \$28 million dollars in Sections 9
16 and 17 on leases currently owned by Intrepid?

17 A. Yes.

18 Q. In your opinion, as a financial analyst, would
19 the proposed Laguna No. 2 Well interfere unduly with the
20 orderly commercial development of commercial potash deposits
21 owned by Intrepid?

22 A. Yes, it would.

23 Q. And these deposits are in Section 9 and 17 in
24 terms of deposits owned by Intrepid. In your opinion, would
25 the proposed Laguna No. 2 Well interfere unduly with the

1 orderly commercial development of potash deposits in
2 Section 16?

3 A. Yes.

4 Q. Okay. So the commercial potash waste in both
5 cases, on Section 16 but also in the surrounding federal
6 sections, you believe. And when you say that the proposed
7 Laguna No. 2 Well would unduly interfere with the orderly
8 commercial development of potash deposits, is it safe to say
9 that there's an impact on Intrepid's development of its assets
10 by the development of this well?

11 A. Yes. When you develop potash ore bodies or
12 extract potash ore, you do it in an orderly fashion. That is,
13 you lay it out to get all the ore while you're in an area.
14 Because once you leave, unless you leave large pillars
15 behind -- which represents lost production -- that area will
16 subside. And in many cases, you will move much further into
17 the mine.

18 In fact, in almost all cases, as you progress in your
19 mining, you move further and further from the face. And it
20 would be -- it represents a burden to have to come back to an
21 area, if it were possible at all. That's just not how potash
22 is normally extracted.

23 Q. So you agree with Mr. Lewis when he testified
24 that the fact of having to wait 20 years, if that's the
25 expected life of the Fasken No. 2, may result in these

1 commercial potash deposits being bypassed altogether.

2 A. More than likely.

3 MR. CRESS: Thank you. That's all I have.

4 MR. BROOKS: Okay. Cross-examination?

5 CROSS-EXAMINATION

6 BY MR. FELDEWERT:

7 Q. Do you have Exhibit 3-A still out in front of
8 you, Mr. Taylor?

9 A. Yes.

10 Q. Okay. If you look at the second page -- now, you
11 show under your projections probable royalties to the State of
12 \$1.8 million. Is that for the entire producing life of the
13 Fasken No. 2?

14 A. Yes, it is.

15 MR. CRESS: I believe it's 4.8, Mike. I'm on the
16 wrong page, sorry.

17 MR. FELDEWERT: It's 1.8.

18 Q. (By Mr. Feldewert): If you look at Fasken
19 Exhibit No. 7? Can you turn to that real quick for me, please?

20 A. Fasken 7, yes.

21 Q. That indicates here that total royalties paid to
22 the State of New Mexico for the Laguna No. 1 has been almost
23 1.8 already, correct? I'm in the middle.

24 A. Yes.

25 Q. Okay. And you didn't take into account severance

1 taxes in your analysis here?

2 A. We looked at the 1/6 royalty.

3 Q. Okay. All right. And your analysis done on 3-A
4 assumes that you will eventually at some point in time have a
5 lease for mining potash in Section 16?

6 A. Can you restate that again?

7 Q. Your analysis here on 3-A assumes that you at
8 some point in time will have a lease to mine for potash in
9 Section 16?

10 A. Actually, it's not dependent on us having a
11 lease. It's dependent on somebody being able to mine this at
12 some time.

13 Q. All right. And, again, you're assuming here, as
14 your attorney pointed out, that you don't wait to develop the
15 oil and gas first, that you go ahead and try to do it prior to
16 any oil and gas development -- any additional oil and gas
17 development?

18 A. I'm sorry. You're saying that we don't -- can
19 you restate the question?

20 Q. Your analysis here assumes that you don't
21 continue with oil and gas development, and that you instead
22 halt it, and you proceed with potash mining at some point in
23 time in the future.

24 A. I'm afraid I'm not quite sure what you're asking.
25 Could you restate it for me?

1 Q. Why don't we, in the interest of time here, why
2 don't we then move to your price analysis. Now, the price that
3 you have used in your analysis of potash, I think you testified
4 to was \$532?

5 A. That's right.

6 Q. Is that for sylvite?

7 A. That is a potash, yes, for granular potash out of
8 the Carlsbad region.

9 Q. Is that sylvite?

10 A. It is sylvite, yes.

11 Q. Okay. Would you turn to Fasken Exhibit 26 for
12 me, please? It this the prospectus that you helped put
13 together?

14 A. Yes, it is.

15 Q. Okay. Would you turn to Page 957 of this
16 prospectus, please?

17 A. Nine -- oh, your 957?

18 Q. Yeah.

19 A. Okay.

20 Q. I'm looking at the page stamp in the bottom
21 right-hand corner.

22 A. Okay.

23 Q. Now, if this is where your -- if I'm
24 understanding correctly, Mr. Taylor -- this is where you're
25 informing your potential investors of the risk factors

1 associated with their investment, right?

2 A. As required by the SEC, yes.

3 Q. Okay. And so you're being critical here, and
4 you're warning them about not making too many assumptions, are
5 you not?

6 A. We're warning them of the potential risks to the
7 business.

8 Q. Okay. Why don't you read the first bolded risk
9 to the business that you identified to your investors out loud?

10 A. The entire thing?

11 Q. No, just the bolded part.

12 A. Okay. "Our potash sales are subject to price and
13 demand volatility resulting from periodic imbalances of supply
14 and demand, which may negatively affect our operating results."

15 Q. Okay. Now, you also indicate in here that you
16 sell your potash in the spot market in the US?

17 A. Are you referring to this paragraph?

18 Q. Yes. About two thirds of the way down, it says,
19 "We sell the majority of our potash" --

20 A. Yes.

21 Q. -- "into the spot market in the US and have no
22 long-term or material short-term contracts for the sale of
23 potash."

24 A. That's correct.

25 Q. Is that still correct?

1 A. That we sell the majority into the spot market?

2 Q. Yes.

3 A. Yes. We do sell the majority of our potash in
4 the spot market.

5 Q. Okay. Would you read the last sentence for us,
6 please?

7 A. "As a result, we do not have and cannot obtain
8 protection from this volume and price volatility."

9 Q. Okay. So you're indicating to your investors
10 that there's price volatility in the potash industry, right?

11 A. That's right.

12 Q. And you can't protect them from that price
13 volatility.

14 A. That's correct.

15 Q. And would you turn to Fasken Exhibit 31 for me,
16 please? This is a graph that shows the historical prices for
17 potash going back to 1980, correct?

18 A. Yes.

19 Q. And does this accurately depict the trend of
20 potash prices for this 28-year period of time?

21 A. It does. It shows the sharp upward volatility.

22 MR. FELDEWERT: Has this exhibit been admitted? Did
23 we do this? All right. If we have not, I would move the
24 admission of Fasken Exhibit 31.

25 MR. CRESS: We would not have any objection.

1 MR. BROOKS: Okay. Fasken 31 is admitted.

2 MR. CRESS: I believe this was admitting it was
3 confidential because it Green Markets data.

4 MR. BROOKS: Okay. Fasken 31 is admitted if it has
5 not already been done.

6 MR. CRESS: Under seal?

7 MR. BROOKS: Under seal.

8 [Applicant's Exhibit 31 admitted into evidence under
9 seal.]

10 Q. (By Mr. Feldewert): Now, you mentioned,
11 Mr. Taylor, this flooding that occurred in the Soviet Union in
12 2006?

13 A. That's correct.

14 Q. Where would that be on this time line?

15 A. Well, it is a bit tough to actually match up
16 dates with this slant here. But the 2006 flooding event would
17 have been just before that second movement up in price because
18 it was in December of '06.

19 Q. So it was closer to '07?

20 A. Yeah. It was just before '07.

21 Q. Okay. That answers that. I was wondering about
22 that.

23 And then what you chose to use for your analysis,
24 then, is a \$532 price that has not been seen at any time
25 throughout the period shown on here?

1 A. Actually, it's depicted right here at present
2 time. It is depicted as the price.

3 Q. If I'm looking at this chart, am I correct that
4 the average potash price, at least for a vast majority of this
5 period, is somewhere around \$100 a ton?

6 A. Yes. I think we talked about that at length.

7 Q. Wouldn't it, Mr. Taylor, be just as reasonable
8 for someone who would be analyzing the value of potash to use a
9 price somewhere between \$100 and \$200 a ton?

10 A. I would think that it is not reasonable, given
11 today's economics.

12 Q. Now, in your analysis, did you use a gross price
13 or a net price?

14 A. We look at the spot price, it's what we're using.

15 Q. That would be a gross price?

16 A. It's actually a net price.

17 Q. Oh, yes. Okay. Does that correspond with the
18 prospectus that we were looking at here, Exhibit 26?

19 A. I'm very familiar with that prospectus.

20 Q. Does your \$532 price correspond with the net
21 prices in terms of what it represents? Does it correspond with
22 the net prices shown in the prospectus?

23 MR. CRESS: I'm going to object because I'm not sure
24 that the S-1 shows the net price. Or if it does, I would like
25 to know where.

1 MR. BROOKS: Well, the witness testified that we was
2 thoroughly familiar with it, so he can perhaps set us straight
3 on that. Overruled.

4 THE WITNESS: Okay. If you'd like to direct me to a
5 page, I cannot -- I can only conjecture where you might be
6 looking.

7 Q. (By Mr. Feldewert): I'm sorry, Mr. Taylor, I
8 just want to make sure I understand this first. And I
9 apologize for my ignorance.

10 With the price that you used, the \$532 a ton, that is
11 your sale price, correct?

12 A. That's what we expect to net after freight.

13 Q. After freight. So that would be a net price?

14 A. The net sales price as it is on Page 13 of our
15 S-1 or -- we've changed our numbers, 955.

16 Q. Thank you. If we could go to 955, and again,
17 you're very familiar with this report, you're showing an
18 average selling price per ton to your investors, correct?

19 A. That's correct.

20 Q. And it shows for potash and langbeinite. And
21 just so I'm clear, the potash number would be sylvite?

22 A. That's correct.

23 Q. And it shows for 2007 it was \$194 a ton?

24 A. That's correct.

25 Q. For 2006, \$179 a ton?

1 A. Yes.

2 Q. For 2005, \$162 a ton?

3 A. Yes.

4 Q. Okay. So when you are informing your investors,
5 you utilized actual prices in your analysis, not any
6 projections?

7 A. Can you state that again?

8 Q. In this prospectus --

9 A. These are actual results if that's what your
10 referring to.

11 Q. Is there anything in this prospectus that
12 projects a price of \$532?

13 A. The pricing trend is laid out, but the price has
14 changed tremendously from 2007, and the -- actually at several
15 points in the document -- I believe Page 3 or 945 addresses
16 that the price has changed dramatically from the -- actually,
17 from the third quarter of 2007. And it is reflected in the
18 price of fertilizer stocks today.

19 Q. Okay. Do you expect your investors to rely upon
20 a \$532 price per ton for potash if they are thinking about
21 investing in your company?

22 A. I can't speak for our investors. Some of our
23 investors do rely on Mr. Byrne's research we referenced
24 earlier, and he is using a \$740 price for potash next year.
25 And I don't remember his average for this year, but we could

1 look at that if you like.

2 Q. That's what we went through --

3 A. Merrill lynch.

4 Q. Merrill Lynch.

5 A. He's indicative of the type of research on our
6 company right now.

7 Q. Is there anything in this prospectus that I
8 should focus on that would indicate to your investors that they
9 should rely upon a \$532 price per ton?

10 A. The \$532 price per ton is effective June 1st.
11 That occurred after the prospectus was published.

12 Q. Okay. All right. Now --

13 A. Excuse me. That was the May 1st price.

14 Q. The financial statement of this prospectus -- and
15 I go to Page 1030.

16 A. 1030.

17 Q. Yes.

18 A. Business section?

19 Q. And I want to make sure I understand this page.
20 You are showing your proven and probable reserves, correct?

21 A. Yes.

22 Q. And that's with the assistance of this Agapito
23 independent review?

24 A. That's right. This is the whole point of the
25 discussion about feasibility studies for SEC purposes.

1 Q. And you show your Carlsbad West Mine on here?

2 A. That's correct.

3 Q. And you show at that minimum remaining life, in
4 terms of years, of 122 years?

5 A. Yes.

6 Q. And that -- if I'm understanding what you have
7 testified to today, that projection of 122 remaining life years
8 includes the red panels there depicted on Exhibit 40?

9 A. Those are a portion of those 122 years remaining
10 life, yes.

11 Q. And then you show projected remaining life in
12 terms of years for your Carlsbad East Mine --

13 A. Yes.

14 Q. -- of 42?

15 A. Yes.

16 Q. And you show a projected minimum remaining life
17 for your HB mine of 28 years?

18 A. Yes. For phase one of the HB mine.

19 Q. All right. And you don't show any projections,
20 at least on this page here for the North Mine, unless I'm
21 missing something.

22 A. That's right. You need to complete a feasibility
23 study for SEC purposes to show those reserves. We have to
24 classify them as mineralized deposits in this document.

25 Q. There are certain hoops you have to jump through?

1 A. Yeah.

2 MR. FELDEWERT: Okay. That's all my questions,
3 Mr. Examiner.

4 EXAMINATION

5 BY MR. BROOKS:

6 Q. Have you ever heard the saying it's difficult to
7 predict things, especially in the future?

8 A. I have.

9 Q. Do you think there's not a possibility that the
10 price of potash which has gone up very aggressively in a very
11 short time will go back down, perhaps not to its previous
12 levels, but to a level substantially below the present prices?
13 At least for some period of time?

14 A. It's possible. Not probable in the near term or
15 the immediate term.

16 Q. Your charts go back only to 1980?

17 A. The price charts?

18 Q. Yeah.

19 A. Yes.

20 Q. And I'm asking a question I have no idea of the
21 answer to. But what was the profile of the price of potash in
22 the 1970s?

23 A. The profile has been fairly consistent, so there
24 was a period of time when potash prices got very low when the
25 Canadians brought on their mines initially.

1 Q. And that was in 1980s, was it not?

2 A. I believe it was.

3 Q. There have been two times in my life that I can
4 recall commodity prices, wholesale commodity prices generally,
5 went up very rapidly in a very short time and the second one of
6 those two times is this year. And the first one was in the
7 1970s. That's why I was curious about what the potash prices
8 were in the 1970s. Because at least with regard to oil and
9 gas, that reversed itself in the 1980s and put you out of
10 business at the time if you were in oil.

11 Anyway, if you don't know, you don't know. And I
12 certainly don't. I think that's the only question I have for
13 this witness.

14 Mr. Warnell?

15 MR. WARNELL: I have no questions.

16 MR. BROOKS: Redirect?

17 MR. CRESS: Just a couple of questions.

18 REDIRECT EXAMINATION

19 BY MR. CRESS:

20 Q. Let's go back for a second, Mr. Taylor, to Fasken
21 Exhibit 26. That was the S-1.

22 A. Okay.

23 Q. And go back to Page 945. At the bottom of that
24 page, is there a projection of prices indicated there from
25 2003 -- or actually, the actual prices for 2003 and a

1 projection -- I'm sorry. Not a projection, the actual price
2 through the three months ended March 31, 2008?

3 A. There is. It's a Midwest, delivered price for
4 potash.

5 Q. And that's kind of an apples-and-oranges
6 comparison because that price is different than Carlsbad?

7 A. Somewhat. But the Midwest price pulls the
8 Carlsbad price.

9 Q. And that price for 2008 is \$532?

10 A. The average price through the first quarter was
11 \$502.

12 Q. Okay. Recently -- Intrepid went public in April
13 and then, due to the securities rules, there was a quiet period
14 after that when the company didn't issue any information
15 regarding the company's activities until its first earnings
16 call?

17 A. That's right.

18 Q. Its first earnings call was just held, I believe,
19 on June 3 of this year; is that right?

20 A. I'd have to go back and check, but it was the
21 first Monday.

22 Q. The first Monday in June. And that earnings call
23 was actually to announce your first quarter results for 2008,
24 meaning for the quarter ending March 31, 2008?

25 A. That's correct.

1 Q. Okay. And as part of that earnings call, was
2 there a discussion of price projections and forecast?

3 A. There was. We laid out both in our earnings call
4 and in the press release the progression of our pricing through
5 that point. And at that time, we made it publicly known that
6 June 1st price of \$582 a ton.

7 Q. So at the first opportunity you had to update the
8 information in the S-1, which was your earnings call, because
9 of this quiet period, you discussed prices, and you updated
10 your investors as to the current price. And as of the call, it
11 was actually the \$582-a-ton price?

12 A. That's correct.

13 Q. Okay. I'd like to direct your attention to
14 another portion of the Fasken's Exhibit 26 in the S-1 on
15 Page 1030. That was that table of reserves.

16 We've had -- again, it's getting late in the day, but
17 we've tried to carefully differentiate today between commercial
18 potash, which Jim Lewis talked about extensively, and which
19 Intrepid defines itself as SEC reserves, proven and probable
20 reserves, okay? And on 1030 Intrepid is tabulating its proven
21 and probable reserves. This was the first time Intrepid had to
22 do this publically as a public company, correct?

23 A. Correct.

24 Q. And Mr. Lewis testified that part of those
25 reserves, and I believe you agreed with him, are included

1 currently in the West Mine reserves?

2 A. That's correct.

3 Q. So there's a portion of that. And then, I
4 believe, we also clarified that under the SEC standards,
5 everything that falls under proven and probable reserves is
6 described as mineralized material or mineral resources?

7 A. Mineral deposits.

8 Q. And you're not allowed to quantify those in an
9 S-1 under the SEC's disclosure rules?

10 A. You're specifically prohibited from quantifying
11 them and discussing them on the same lines with your reserves.

12 Q. Okay. So the north reserves are actually
13 included as west reserves here?

14 A. A portion of what would one day be reserves,
15 potentially be reserves, is disclosed.

16 Q. And you mentioned in the discussion about whether
17 potash prices will go back down that -- you were asked whether
18 you thought that was possible in the near term, and you said
19 that you didn't think that was a near-term probability. When
20 you say "near-term probability," can you just tell me what
21 period of time you're talking about?

22 A. Yeah. The supply and demand models and futures
23 on crops would indicate through 2012. Basically between that
24 five- to seven-year period that it would take to build green
25 fields. And given that there are no other significant green

1 fields announced today, we have very good visibility on the
2 amount of capacity that will be brought on in the next five to
3 seven years. So until a bunch of green fields are announced,
4 there's very good visibility on the supply and demand
5 fundamental.

6 Q. And some of the projections on which you based
7 your analysis in Intrepid's Exhibit 3, in fact, are predictions
8 of where the price will be through 2020. And those projections
9 I believe you said were in the \$700 range?

10 A. FERTECON's forecasting that they'll be no less
11 than \$750 per ton. They show prices higher than that through
12 2020, but that's the lowest they show as additional production
13 comes on. I believe the Examiner asked as new stuff comes on.
14 That's what FERTECON is forecasting right now.

15 Q. Okay. Let's turn to -- I think this is my last
16 question. Let's turn to Exhibit 3 and go to Page -- Intrepid
17 Exhibit 3 -- not 3A, but 3 -- this is Page 7 where you were
18 discussing these potash development projects, and there's a
19 project on this page that you discussed briefly that is located
20 in the Democratic Republic of Congo.

21 A. Yes.

22 Q. What type of ore body would be mined as that --
23 if that project was developed?

24 A. This is a carnallite ore body, a 100-percent
25 carnallite ore body, that they're targeting to commercially

1 produce. Their forecast show it as being a commercial ore
2 body. And it doesn't surprise me that they are able to mine
3 carnallite because the processing plant at our East Mine is
4 capable of processing carnallite in much the same way they plan
5 the do it here in the Congo, through a crystallization process.

6 Q. So that would indicate to you that at least the
7 owner here, Magminerals, at least they can acquire technology
8 to process 100-percent carnallite ore.

9 A. That's right. It is more expensive processing it
10 and a higher energy process, unlike our North Mine, which is a
11 flotation plant and has a much lower cost and will likely
12 decrease our company cost structure. But it is quite possible
13 to mine carnallite. Another project that's not listed on here
14 is a Thailand-Asian Pacific project. And that also is a
15 carnallite ore body. There are several carnallite ore bodies
16 under development or review for development today.

17 MR. CRESS: Thank you. That's all I have.

18 MR. FELDEWERT: I forgot. I had a note and I forgot
19 to ask. I apologize. If I may?

20 MR. BROOKS: Okay.

21 RECROSS-EXAMINATION

22 BY MR. FELDEWERT:

23 Q. Mr. Taylor, you mentioned that you have modeled
24 the North Mine for the last two years?

25 A. That's correct.

1 Q. What documents did you prepare or produce as a
2 result of that modeling for the last two years? Can you just
3 give me a description?

4 A. What I generally am asked to do is a discounted
5 cash flow model which models the potential cash flows and costs
6 associated with a given facility and the capital associated
7 with it.

8 Q. So if I was -- you would have developed a cash
9 flow model?

10 A. That's correct. Cash flow model similar to --
11 well, not similar to, but not unlike what Fasken Exhibit 24 is
12 attempting to do for their well, just trying to look at this
13 return of projects.

14 Q. And would you have developed any other document
15 in your study over the last two years?

16 A. I've developed many documents over the last two
17 years. Are you asking specifically to the North?

18 Q. Well, you had mentioned that you had modeled the
19 North Mine for the last two years. That's what I'm asking
20 about. Do you have a file in which you keep the documents that
21 you generate as a result of this model?

22 A. No. It's an electronic file.

23 Q. An electronic file? How do you describe it? Is
24 it named?

25 A. DCF North Mine, dot XLS.

1 MR. FELDEWERT: Okay. That's all I have. Thank you.

2 MR. BROOKS: Okay. Thank you. Does that conclude
3 the evidence?

4 MR. MANGES: That does for Intrepid.

5 MR. BROOKS: Very good. I believe Mr. Warnell has a
6 another appointment. He has to meet his wife, and if he's
7 late, he may join Mr. Jones and myself as divorced members of
8 the Division.

9 So we wouldn't put him to that inconvenience. Let us
10 take a short break. And I don't know. Do the parties want to
11 make closing statements this evening, or do you prefer to
12 submit something in writing, or what's the parties' pleasure.

13 MR. MANGES: Well, I definitely think we'd like to
14 submit something in writing. There's quite a bit of stuff to
15 cover here, so --

16 MR. BROOKS: Mr. Feldewert?

17 MR. FELDEWERT: If we're going to do that, then I
18 don't see any point in a closing statement.

19 MR. BROOKS: Very good. Then let's submit closing
20 statement in writing. So that leaves the only thing we have
21 left to do is determining how we're going to deal with these
22 exhibits. And I have some thoughts on that subject, but I want
23 to take a short break first.

24 So let's us take about a 5-minute break and then we
25 will convene without the necessity of Mr. Warnell attending.

1 Anybody who can leave other than the attorneys are free to
2 leave. Of course, if you're here with your attorney, I guess
3 you have to wait for him. Oh, and the court reporter. We
4 can't lose the court reporter.

5 [Recess taken from 5:43 p.m. to 5:50 p.m., and
6 testimony continued as follows:]

7 MR. BROOKS: We have the attorneys here now. So
8 there's some things I wanted to say about how we're going to do
9 the sealing of the exhibits.

10 First of all, though, Mr. Manges, I want to get the
11 record supplemented on one matter. This is something they
12 don't do in courts, but it's usually done in administrative --
13 not infrequently done in administrative proceedings. I would
14 like for you to ascertain and file with us something about
15 whether or not there is a requirement of a setback from a lease
16 line where the adjacent section is unleased. Mr. Lewis was
17 asked about that and said he would like to check it. He didn't
18 seem to know the answer, and I think it's important that we
19 have evidence on that.

20 MR. MANGES: Okay. So setback requirements?

21 MR. BROOKS: Right. And, of course, you file that
22 with me with a copy to Mr. Feldewert.

23 MR. MANGES: Okay.

24 MR. BROOKS: That's the only thing I can think of
25 that we need to supplement that I'm aware of.

1 Now, as to the sealing of the exhibits. Again, this
2 will be something I will need for counsel for Intrepid to
3 prepare because you're the proponent of sealing the exhibits.
4 We need to get some kind of description of each sealed exhibit,
5 and a statement of the reasons why it was requested that
6 exhibit be sealed.

7 There should not be confidential information included
8 in this document because this document itself will not be under
9 seal --

10 MR. MANGES: Right.

11 MR. BROOKS: -- but will be made available to anyone
12 who requests these documents in the event that there is an open
13 records request for these documents. But we will have a basis
14 for drawing an issue if the occasion arises when the issue
15 needs to be drawn.

16 MR. MANGES: Okay.

17 MR. BROOKS: Otherwise, what we have left is just a
18 matter of being sure that the court reporter has a copy of each
19 exhibit and that the court reporter knows which exhibits were
20 to be sealed.

21 Also, the testimony of Mr. Lewis was received in
22 closed session and the record of the testimony of Mr. Lewis is
23 to be sealed. I do not --

24 Yes, Mr. Feldewert?

25 MR. FELDEWERT: Was that the entire testimony of Mr.

1 Lewis?

2 MR. BROOKS: Well, there never was any distinction.

3 MR. CRESS: Our request was, before we even started
4 this morning, was for both Mr. Lewis' testimony and Mr.
5 Taylor's testimony to be sealed completely.

6 MR. BROOKS: I don't think that was made clear, and
7 there was -- the lady from IHS was in here during a portion of
8 Mr. Lewis --

9 MR. CRESS: I didn't realize until I --

10 MR. BROOKS: -- witness's testimony. So I do not
11 believe there was anything that is protectable in Mr. -- what
12 was his name.

13 MR. CRESS: Mr. Taylor.

14 MR. BROOKS: -- Mr. Taylor's testimony except I
15 understand that you believe his exhibits are protectable
16 because they are proprietary information that was purchased and
17 interpretations made from them. But I am going to direct only
18 the sealing of Mr. Lewis' testimony. I will direct the sealing
19 of the entire testimony of Mr. Lewis because there was no
20 distinction made as to what needed to be sealed and what
21 didn't.

22 MR. FELDEWERT: Would it make -- I mean, the way
23 you've approached the exhibits about what should be sealed and
24 what makes sense for the exhibits. Should we not do the same
25 thing for Mr. Lewis? I have -- I have difficulty understanding

1 how all of Mr. Lewis' testimony can be subject to --

2 MR. BROOKS: Well, it was received in a closed
3 hearing. And there was never -- the hearing was never
4 officially re-opened, but the closure, from my understanding,
5 applied only to Mr. Lewis. It was not repeated. And even if
6 it had been as to Mr. Taylor, it was waived because the
7 representative from IHS was present for a portion of the
8 testimony.

9 MR. CRESS: Mr. Examiner, I would like to object on
10 the record to not sealing Mr. Taylor's testimony. I believe
11 the transcript will show that this morning we clearly asked
12 that the testimony of both witnesses be treated as confidential
13 and completely sealed.

14 And the reasons for Taylor's testimony to be sealed
15 that we indicated this morning was that he would be testifying,
16 I believe, about things like capitol cost projections of the
17 company related to the opening of the North Mine. And also
18 that some of the data compiled in Exhibit 3 was compiled from
19 sources which Intrepid is not at liberty to make public because
20 Intrepid actually has to protect the confidential nature of
21 that information which it receives from third parties.

22 So I would like to make that objection, and I would
23 ask for an opportunity to further brief it before you make a
24 final decision on whether Mr. Taylor's testimony is sealed.

25 MR. BROOKS: Okay. I will accord you that

1 opportunity, and then Mr. Feldewert will have an opportunity to
2 respond.

3 MR. MANGES: Well, the lady left. She was here for a
4 very brief interval --

5 MR. BROOKS: Right.

6 MR. MANGES: -- before we noticed, and then she left,
7 and then we broke, and she never came back.

8 MR. BROOKS: She was here for only a portion of the
9 testimony. I do not know exactly how much. But it was not all
10 of it. But I don't have any record of when she came in or when
11 she left.

12 MR. MANGES: Well, when -- it should be clear on the
13 transcript.

14 MR. BROOKS: If you will brief these issues for me.
15 I have taken the approach that I have on the exhibits,
16 basically, because we have that statute with regard to the
17 Energy, Minerals, and Natural Resources Department about the
18 maintenance of confidential information.

19 And as far as I know, the statute has not been
20 construed by anybody. So a good question as to what it means,
21 but unfortunately it imposes some penalties on the person
22 responsible -- on the individual responsible for its violation
23 which causes me some concern.

24 But I will ask the parties to brief that issue on
25 Mr. Taylor's testimony. Because I do believe there's a waiver

1 on the issue since there was a member of the public present
2 during part of the testimony.

3 Okay. That concludes all I have except that nobody
4 is free to leave until the court reporter is satisfied that she
5 has all the exhibits and knows which ones are under seal.

6 This hearing stands adjourned.

7 [Hearing concluded.]

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REPORTER'S CERTIFICATE

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I, JOYCE D. CALVERT, Provisional Court Reporter for the State of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case and that I have no interest in the final disposition of this proceeding.

Signed this 30th day of June, 2008.




JOYCE D. CALVERT
New Mexico P-03
License Expires: 7/31/09

1 STATE OF NEW MEXICO)
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 2 COUNTY OF BERNALILLO)

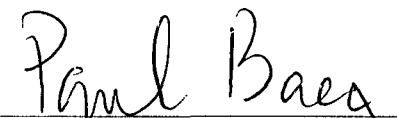
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I, JOYCE D. CALVERT, a New Mexico Provisional Reporter, working under the direction and direct supervision of Paul Baca, New Mexico CCR License Number 112, hereby certify that I reported the attached proceedings; that pages numbered 1-268 inclusive, are a true and correct transcript of my stenographic notes. On the date I reported these proceedings, I was the holder of Provisional License Number P-03.

Dated at Albuquerque, New Mexico, 30th day of June, 2008.



Joyce D. Calvert
 Provisional License #P-03
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