

NEW MEXICO OIL CONSERVATION DIVISION

EXAMINER HEARING

SANTA FE, NEW MEXICO

Hearing Date JULY 10, 1997 Time 8:15 A.M.

NAME	REPRESENTING	LOCATION
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Ernest [unclear]	W. H. C. - [unclear]	Artesia
Michael Hayes	Yates, Petroleum	Artesia
Paul [unclear]	[unclear]	Artesia
DAVE BONEAU	YATES, PETROLEUM	ARTESIA
Robert Burke	Yates Pet.	Artesia
William [unclear]	[unclear]	Artesia
[unclear]	[unclear]	Artesia
LUCK [unclear]	[unclear]	[unclear]
W. J. [unclear]	[unclear]	Santa Fe
Gene [unclear]	Grill [unclear]	Santa Fe
TOM E MOORE	MOORE LOYALTY TRUST	MIDLAND, TX
Max [unclear]	[unclear]	DALLAS, TX
W. WATSON [unclear]	ST. A. OIA CO.	MIDLAND, TX
SHAY C. JOHNSON	CITIZENS ALLIANCE	HOUSTON, TX
SEYMOUR L. ROBINSON	" " "	" "
JULIE JENKINS	AMOW PROD. CO.	DENVER, CO
SCOTT HALL	MURKIN [unclear]	ST

NEW MEXICO OIL CONSERVATION DIVISION

EXAMINER HEARINGSANTA FE, NEW MEXICOHearing Date JULY 10, 1997 Time 8:15 A.M.

NAME	REPRESENTING	LOCATION
John Zant	Burlington	Farmington
James P. Price	—	SF
BILL FRANKLIN	Conoco	Midland
JAMES STRICKLER	Burlington	Farmington
KEET SHIPLEY	BURLINGTON	FARMINGTON
Best Horn	MARY TARR	Farmington
John A.	Gallegos Burlington	Santa Fe
JULIE JENNINGS	ARMCO	JENNINGS

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION FOR THE)
PURPOSE OF CONSIDERING:)

CASE NO. 11,804

APPLICATION OF YATES PETROLEUM)
CORPORATION FOR SIMULTANEOUS DEDICATION,)
LEA COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

July 10th, 1997

Santa Fe, New Mexico

RECEIVED

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Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, July 10th, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

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 Examiner Hearing
 CASE NO. 11,804

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A P P E A R A N C E S

FOR THE DIVISION:

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 Santa Fe, New Mexico 87505

FOR THE APPLICANT:

LOSEE, CARSON, HAAS & CARROLL, P.A.
 311 West Quay
 Post Office Box 1720
 Artesia, New Mexico 88210
 By: ERNEST L. CARROLL

* * *

1 WHEREUPON, the following proceedings were had at

2 8:20 a.m.:

3 EXAMINER CATANACH: We'll now call first case,
4 11,804.

5 MR. RAND CARROLL: Application of Yates Petroleum
6 Corporation for simultaneous dedication, Eddy County, New
7 Mexico.

8 EXAMINER CATANACH: Call for appearances in this
9 case.

10 MR. ERNEST CARROLL: Mr. Examiner, I'm Ernest
11 Carroll of the Artesia law firm of Losee, Carson, Haas and
12 Carroll, and I am appearing today here on behalf of the
13 Applicant, Yates Petroleum, and I will have three
14 witnesses.

15 EXAMINER CATANACH: Call for additional
16 appearances.

17 Okay, can I get the witnesses to please stand and
18 be sworn in at this time?

19 (Thereupon, the witnesses were sworn.)

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

23 DIRECT EXAMINATION

24 BY MR. ERNEST CARROLL:

25 Q. Mr. Moran, would you state your full name for the

1 record?

2 A. My name is Charles "Chuck" Moran.

3 Q. Mr. Moran, by whom are you employed?

4 A. Yates Petroleum Corporation.

5 Q. And how are you employed?

6 A. I'm employed in the land department as an
7 associate landman. I've been there five years with them.

8 Q. Have you ever testified before the Oil
9 Conservation Commission before?

10 A. No, I have not.

11 Q. Would you tell the Examiner what your education
12 credentials are?

13 A. I have an undergraduate degree, a BBA with a
14 master's -- or, in accounting, and a juris doctor's degree,
15 have passed both the Texas and New Mexico Bars and am
16 currently licensed in both states.

17 Q. And how long have you been employed by Yates?

18 A. Five years -- or coming on five years.

19 Q. All right. And you have been pursuing the work
20 in the petroleum land management field all during that --

21 A. Yes.

22 Q. -- period of employment?

23 A. Yes.

24 MR. ERNEST CARROLL: Mr. Examiner, we would
25 tender Mr. Moran as an expert in the field of petroleum

1 land management.

2 EXAMINER CATANACH: Mr. Moran is so qualified.

3 MR. ERNEST CARROLL: All right, thank you.

4 Q. (By Mr. Ernest Carroll) Now, are you familiar
5 with the Application before the Examiner today, Mr. Moran?

6 A. Yes.

7 Q. Did you personally work on that?

8 A. Yes, I did the land work in preparing and getting
9 ready for this, and I have handled getting everything ready
10 to come up here today.

11 Q. All right. Now, you have prepared certain
12 exhibits, have you not?

13 A. I prepared Exhibit Number 1 and Exhibit Number 2.

14 Q. All right. Let's turn to Exhibit Number 1.
15 Would you identify what that exhibit is?

16 A. Exhibit Number 1 is a production of a Midland map
17 that is colored showing areas where Yates Petroleum or
18 other Yates entities have interests in the land in that
19 area.

20 The area of particular concern is Section 27 in
21 the center of the map. We have leased up that whole
22 section except for ten acres in the north half.

23 Q. With respect to the well that is the subject of
24 this hearing, all of the acreage is leased, is it not?

25 A. Yes.

1 Q. The proposed proration unit for that well -- And
2 would you please state the name of the well for the record?

3 A. The name of the well will be the Martin ARH
4 Number 1. It will be a south-half spacing in the northwest
5 of the southeast, 1980 from the south and 1980 from the
6 east.

7 Q. All right. Now, on this map there is a dark
8 circle that is drawn in the south half. It covers the word
9 "Buck Pounds". Do you see that? It's in the --

10 A. Yes.

11 Q. -- the northwest of the southeast.

12 A. Yes.

13 Q. Is that the proposed location?

14 A. Yes, that is.

15 Q. All right. Now, there is other -- this -- The
16 acreage in Section 27 is colored in in solid yellow. There
17 is other acreage that's colored in solid yellow. Does that
18 mean that Yates Petroleum owns a hundred percent of the
19 leases in that area colored solid?

20 A. It means that a Yates -- one of the Yates
21 companies does. It may be one of the different Yates
22 companies, but it's -- the solid yellow in Section 27 is
23 owned by -- the leases are owned by Yates Petroleum; Yates
24 Drilling; Myco Industries, Inc.; and Abo Petroleum.

25 Q. The acreage that is outlined in yellow, is Yates

1 Petroleum a mineral interest owner and the operator of that
2 acreage?

3 A. They are operator in all but one area, which is
4 in Section 26, which is operated by a company called H&R
5 Resources [sic] in the south half of Section 26. All the
6 other outlined in yellow is an area where the Yateses have
7 an interest and they operate the wells, except for the well
8 in Section 34.

9 Q. Yates Petroleum is seeking to drill a well and
10 simultaneously dedicate it to the south half of Section 27.
11 Is the other well that is presently drilled and producing
12 located on this map?

13 A. Yes, it is. It's shown to be in the northeast of
14 the southeast of Section 27. It's called the Big Buck
15 Pounds Number 1.

16 Q. All right. That's denoted by that gas symbol
17 well there in the --

18 A. Yes.

19 Q. -- the northeast of the southeast? All right.

20 There is also, on this particular south half, a
21 dry hole. Could you tell the Examiner what that is?

22 A. That well is a dry hole that was drilled down to
23 1900 feet that was plugged back and is now being used as a
24 water well.

25 Q. All right. With respect to the leases that Yates

1 Petroleum has in the south half of Section 27, there is
2 written across, right above the "Big Buck Pounds" label,
3 the date "7-27-97". What -- Why is that appearing there on
4 the map?

5 A. That is appearing because a lease was due to
6 expire on 7-27-97. It's one of the larger mineral owners'
7 leases out there. That date has been extended by -- that
8 would give us a two-month extension on that date.

9 Q. So your leases that you must drill under will be
10 expiring, then, September 27th, 1997?

11 A. Correct.

12 Q. With respect to the -- When we were preparing for
13 the hearing, we found that the citation and the -- that had
14 been used by the OCD contained an incorrect well-location
15 footage, did we not?

16 A. Yes.

17 Q. The footage that was actually purported for the
18 Martin well was that of the Big Buck Pounds well; is that
19 where the --

20 A. Correct.

21 Q. -- mistake occurred?

22 A. Correct.

23 Q. We've given notice to the OCD about that, have we
24 not?

25 A. Yes.

1 Q. All right. Let's turn to Exhibit Number 2. This
2 is an exhibit you prepared, is it not?

3 A. Yes.

4 Q. And would you describe for the record what
5 Exhibit 2 is?

6 A. Exhibit 2 is an indication of the spacing of the
7 Morrow wells surrounding Section 27. The well indicates
8 the well operator and the name of the well. It also shows
9 where the unleased acreage is that we've not been able to
10 lease at this point.

11 Q. This is likewise a land plat that has been
12 cleaned up with all the --

13 A. Right.

14 Q. -- extraneous information taken off?

15 A. Correct.

16 Q. What -- With respect to -- And this deals with
17 the issue of notice. All of the surrounding proration
18 units to this proposed proration unit for the Martin well
19 are operated by Yates Petroleum except for two; is that
20 correct?

21 A. Yes, the only two not operated by Yates Petroleum
22 are in the south half of Section 26. That's operated by
23 H&S Resources. And in Section 34, in the north half, the
24 well is operated by Western Oil Producers.

25 Q. Notice was given to both of those operators --

1 A. Yes.

2 Q. -- of this hearing and Application?

3 A. Yes.

4 Q. And we'll deal with that in an exhibit.

5 The blue-colored space, is that the 10 acres
6 which you informed the Examiner a moment ago is unleased?

7 A. That indicates an area of 20 acres. I've
8 leased -- it's -- Ten acres of it is unleased at this
9 point. It's -- They have 10 -- a half of an undivided
10 interest in that 20 acres.

11 Q. All right. Was notice given to the unleased
12 acreage owners?

13 A. Yes, it was.

14 Q. All right. Let's go on, then, to Exhibit Number
15 3. This is the certificate of mailing in compliance with
16 Rule 1207, is it not?

17 A. Yes.

18 Q. And this shows letters of -- the letters of
19 notice that were sent to Western Oil Producers; H&S
20 Resources, Inc.; and then the owners -- the third letter,
21 the H. Hiram Moore [*sic*], Betty Jane Moore, Michael
22 Harrison Moore, and Trustees Under the Indenture of Trust,
23 these are the owners of the unleased acreage; is that
24 correct?

25 A. Yes, correct.

1 Q. All right. As we've indicated to the Examiner,
2 there is already a producing Morrow well on the south half
3 of Section 27; is that correct?

4 A. Correct.

5 Q. Would you give the Examiner a brief synopsis of
6 the history and the reason for Yates seeking the
7 simultaneous dedication for the drilling of this new well,
8 the Martin well?

9 A. Our geologists that developed a prospect in the
10 area and determined that there is a potential to go in and
11 drill a new Morrow well in the area.

12 Upon investigation, we determined that it was
13 questionable whether the leases under the producing well
14 were actually in force at the time or they had lapsed under
15 their own terms. So we pursued acquiring new leases in the
16 area to acquire the rights to go in and drill the well.

17 The owners of the well are all friend -- or all
18 people located around the Artesia area. They are friends
19 with the Yateses, and the Yateses did not want to cause any
20 problems for the people and avoid a trip to the courthouse,
21 so we were willing to work with everybody out there to
22 attempt to appease everybody and yet allow us to pursue
23 drilling a new prospect.

24 Q. Well, Mr. Moran, is it Yates' opinion that the
25 lease -- the leases under which the Big Buck Pound well

1 were originally drilled had all expired?

2 A. Yes, we believe they had expired.

3 Q. The Big Buck Pounds, the production from it -- It
4 is a producing well, is it not?

5 A. Yes, it is a producing well.

6 Q. Is it -- In the normal sense of the word, is the
7 production commercial in Yates's opinion?

8 A. It would not be a commercial well for us to
9 produce.

10 Q. What is the gas that is being produced from this
11 well being used for at the present time?

12 A. Currently, the gas is being used to run
13 irrigation motors for the hayfields in the area. They are
14 running and producing -- I believe it's four irrigation
15 wells.

16 Q. So this is why we affectionately call this the
17 agricultural exception to the well spacing that we're
18 proposing, then; is that correct?

19 A. Correct. They --

20 Q. The owners of -- The farmers that are using the
21 well, they own part of the mineral interest; is that --

22 A. Correct. The owners of the company that is the
23 operator of the well are mineral owners. The principals
24 are mineral owners.

25 Q. However, all of the mineral owners under this

1 south half are not using this gas; is that --

2 A. That is correct.

3 Q. -- correct?

4 Is that where part of the rub comes in?

5 A. That is definitely part of the rub comes in.

6 Q. Yates Petroleum has contacted -- Well, first of
7 all, who is the operating entity for the Big Buck Pounds
8 well?

9 A. The operating entity is a company called CDQ,
10 Inc.

11 Q. All right. Has Yates Petroleum entered into an
12 agreement with CDQ, Inc.?

13 A. Yes, we entered into a letter agreement with them
14 concerning that well.

15 Q. Is that letter agreement Exhibit Number 4?

16 A. It is Exhibit Number 4.

17 Q. Would you briefly explain what this letter
18 agreement covers, for the Examiner? And give us the date
19 of this letter agreement.

20 A. The letter agreement is dated July 24th, 1996.
21 It was a letter agreement that we entered into to
22 accommodate and avoid a legal battle with the CDQ, Inc.

23 The agreement provides that they be -- you know,
24 allow them to continue to operate the well. Some of the
25 key provisions that they're going to be allowed to operate

1 the well under are the payment of royalty and the payment
2 of taxes accordingly to what they produce. It allows them
3 to maintain operatorship of the well. It provides for
4 plugging of the well.

5 It give us the opportunity when they think it has
6 ceased to produce, they have to turn -- notify us of their
7 intention to plug, and we have 30 days to decide whether to
8 take the well over from them or to allow them to go ahead
9 and plug out the well.

10 And it provides that they indemnify us for their
11 actions out there on the well.

12 Q. Because of the use of this well to provide gas --
13 Well, first of all, is the gas metered from this well?

14 A. Yes, it is metered.

15 Q. Is this well hooked up to -- directly to the
16 irrigation motors?

17 A. Not as far as I can tell. Or --

18 Q. But the gas that comes from it is used --

19 A. Yeah, yes --

20 Q. -- for irrigation --

21 A. -- yes, it --

22 Q. -- that's what --

23 A. Yes.

24 Q. Okay.

25 A. I'm not an engineer.

1 Q. The gas has to go into a --

2 A. They -- It looks like a normal producing well to
3 me.

4 Q. All right. But the well -- But you have
5 determined that that's how this gas when it is -- when the
6 irrigation wells are in use, the gas from the well goes to
7 the wells?

8 A. Yes.

9 Q. When the wells are not used, which is half of the
10 year, probably, then the well goes into a gathering line?

11 A. Yes, gathering line.

12 Q. All right. And this was all hooked up some time
13 ago, and I guess the initial contract was with
14 Transwestern?

15 A. Yes, this -- Transwestern was the gathering line,
16 I believe, at the time, and -- out of -- the --

17 Q. When Yates just decided they wanted to work this
18 prospect, did they determine that this Big Buck Pounds well
19 was unavailable to go in and re-enter?

20 A. This well was unavailable to re-enter because of
21 the problems associated with getting control of the well.
22 The well was unavailable because the people wanted to
23 maintain that well for the agricultural use. And as Mr.
24 Hayes will explain later, it was probably not the -- our
25 geological best choice.

1 Q. Now, with respect to the actual location of the
2 Big Buck Pounds, is that an orthodox location?

3 A. Yes.

4 Q. No, the Big Buck Pounds well.

5 A. The Big Buck Pounds itself is not an orthodox --
6 is an unorthodox location that was approved back in 1974
7 under Case Number R-4726-A.

8 Q. Is that the order that --

9 A. That's the order approving the unorthodox
10 location.

11 Q. What was the case number that that application
12 was made under?

13 A. 5163, Case Number 5163. It was a --

14 Q. What was the basic reason for seeking an
15 unorthodox location?

16 A. The -- From reading the order, it is apparent
17 that they believed at the time that they would encounter
18 more pay at the unorthodox location.

19 Q. All right. The location of the Martin well is an
20 orthodox location, is it not?

21 A. Yes, it is.

22 Q. All right. With respect to these issues, is it
23 your opinion -- do you believe that the granting of this
24 Application sought by Yates would prevent waste and protect
25 correlative rights?

1 A. Yes, I do believe it will.

2 Q. And prevent lawsuits?

3 A. And prevent lawsuits, yes.

4 MR. ERNEST CARROLL: Mr. Examiner, we would move
5 the admission of Exhibits 1, 2, 3 and 4.

6 EXAMINER CATANACH: Exhibits 1, 2, 3 and 4 will
7 be admitted as evidence.

8 MR. ERNEST CARROLL: And I would have no other
9 questions.

10 EXAMINATION

11 BY EXAMINER CATANACH:

12 Q. Mr. Moran, when this Big Buck well was drilled
13 did they have all the interests consolidated at that point?

14 A. Yes, they did. It was -- I believe it was
15 originally drilled by Hanson, and they eventually ended up
16 selling all their interest to CDQ, Inc.

17 Q. And the well has produced for a number of years?

18 A. It was drilled sometime in 1974 and is producing
19 now. The -- I think the engineer will speak to the
20 production history.

21 Q. If the well was producing all this time, how does
22 the lease expire, or how does the lease terminate under --

23 A. If it did not produce through continuously.
24 There may be some absences in production, days -- I think
25 the underlying leases provide for, if you don't produce it

1 for 90 days, the lease is due to expire, and that was one
2 of our concerns, is why we wanted new leases, and we went
3 in and re-leased it.

4 The operators believe -- They firmly believe that
5 they still had valid leases. I call -- I don't -- I
6 question whether they did.

7 Q. Is this all fee acreage?

8 A. It's all fee acreage. It's all pay farms.

9 MR. ERNEST CARROLL: Mr. Examiner, we will put on
10 testimony which will indicate that the well was also
11 uneconomic. The rate of production for the last five, six
12 years has been no more than 4 MCF a day. So it's a very
13 minor amount of gas that's being produced.

14 MR. RAND CARROLL: Now, does CDQ bill the other
15 working interest owners for this shortfall --

16 THE WITNESS: The -- well --

17 MR. RAND CARROLL: -- the expense?

18 THE WITNESS: CDQ --

19 MR. RAND CARROLL: I mean, if it's uncommercial
20 and it's losing money --

21 THE WITNESS: Well, that --

22 MR. RAND CARROLL: -- does CDQ bear the whole
23 cost of the --

24 THE WITNESS: Yeah, they were 100-percent working
25 interest owner.

1 MR. RAND CARROLL: Okay.

2 THE WITNESS: And CDQ, Inc. -- The principals of
3 CDQ, Inc., are also surface owners out there that are
4 farming hay.

5 MR. ERNEST CARROLL: It is our information that
6 this corporation was created by the people that wanted to
7 use it, and as you're well aware, the cost of these old gas
8 wells -- There's not a whole lot of, you know, upkeep and
9 general maintenance and what have you.

10 And at least for the last dozen or half-dozen
11 years, it apparently has been a cheaper deal for them to
12 produce that well and maintain it than it is to buy the
13 natural gas on the open market.

14 And there was a dispute -- Isn't it correct, Mr.
15 Moran, that there was a dispute between the owners?
16 There's -- Some of the mineral owners that were contending
17 that the leases were --

18 THE WITNESS: Yes.

19 MR. ERNEST CARROLL: -- expired, and these people
20 were saying -- contending it was not, and that's why
21 Yates --

22 THE WITNESS: Yes.

23 MR. ERNEST CARROLL: -- has done what it's done,
24 to avoid putting neighbor against neighbor, basically?

25 THE WITNESS: Yes.

1 Q. (By Examiner Catanach) Has production been
2 reported from this well all along, to the OCD?

3 A. To my understanding, they've been reporting the
4 production.

5 Q. You have no knowledge of whether or not any
6 royalty income was paid to the other owners in this --

7 A. I have knowledge that they did pay, as recently
8 as December, royalty checks.

9 That was part of the internal fight amongst some
10 of the mineral owners, because at this time I was trying to
11 lease up the land and they were refusing to cash the
12 royalty check because they were in belief that their lease
13 had expired and they did not want to do anything to allow
14 the lease to re- -- to breathe life into the lease.

15 Q. So Yates has now leased up this -- the whole
16 south half again --

17 A. Yes.

18 Q. -- under new leases?

19 A. Brand-new leases.

20 Q. And you've got 100 percent of the interest?

21 A. I have 100 percent of the interest.

22 Q. Do you propose that -- You're going to drill your
23 well, and you propose that CDQ be allowed to operate their
24 well?

25 A. Yes.

1 Q. That's going to be a problem with ONGARD, I
2 think. I'm not sure how we'll work that out.

3 You're not proposing to -- You're not going to
4 operate the well?

5 A. Our agreement with them is that they maintain
6 control of it. It may be as our agent, but --

7 MR. ERNEST CARROLL: We understand that there may
8 be some problem, and we're prepared to be the operator of
9 record for the OCD's purposes, and they will then be -- the
10 operation will be then as our agent.

11 MR. RAND CARROLL: So the possibility Yates would
12 be reporting production for both wells?

13 MR. ERNEST CARROLL: If that's what is required,
14 then that's what we will be glad to do. We understand it's
15 a problem.

16 It's just -- This is the easiest way to stop
17 the -- This is the Hatfields-and-McCoy situation,
18 literally, and that has been -- Mr. Moran has discussed
19 that problem with them, and they will -- whatever is
20 required by the OCD will be done. That's why the separate
21 agreement was entered into.

22 And you have to understand, the owners of CDQ
23 leased their minerals to us so that we could drill the
24 Martin well, and that -- in return for the agreement. And
25 that's why we're coming here as the operator and asking for

1 simultaneous dedication.

2 MR. RAND CARROLL: Right, rather than Yates and
3 CDQ jointly asking for --

4 MR. ERNEST CARROLL: Yeah.

5 MR. RAND CARROLL: -- simultaneous dedication?

6 MR. ERNEST CARROLL: That's right.

7 Q. (By Examiner Catanach) CDQ is -- Under the terms
8 of the agreement, CDQ is still responsible for plugging the
9 well, ultimately?

10 MR. ERNEST CARROLL: They are still -- That is
11 the agreement with Yates, that they will be responsible for
12 plugging the well. We have the first right of refusal to
13 take the well over, under the agreement.

14 MR. RAND CARROLL: Do you know whether CDQ has a
15 plugging bond in place?

16 THE WITNESS: I did not check on it, but
17 apparently they're an operator of more than just this well
18 within the state, so I would believe they would be.

19 MR. ERNEST CARROLL: We understand that they have
20 more than one well, and we understood that there was no
21 problem because they had been reporting production in those
22 kind of matters up to this time.

23 EXAMINER CATANACH: Okay, we have nothing further
24 of this witness. He may be excused.

25 MR. ERNEST CARROLL: Okay. Admittedly, this is a

1 one-of-a-kind situation.

2 We'd next call Dave Boneau.

3 DAVID F. BONEAU,

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

6 DIRECT EXAMINATION

7 BY MR. ERNEST CARROLL:

8 Q. Would you please state your name and occupation
9 for the record?

10 A. My name is David Francis Boneau. I work as an
11 engineer for Yates Petroleum Corporation in Artesia, New
12 Mexico.

13 Q. You have had your credentials as a petroleum
14 engineer accepted many times by this body, have you not?

15 A. They've been accepted, yes, sir.

16 Q. All right. Now, you are familiar with the
17 pending Application before the Oil Conservation Division?

18 A. That's right.

19 Q. And you have prepared certain exhibits, have you
20 not?

21 A. Yes, I have.

22 Q. All right. Let's begin with Exhibit 5. And, Mr.
23 Boneau, you've been doing this as long as I have. Why
24 don't you just start with Exhibit 5 and make your
25 presentation, going through each of the subsequent exhibits

1 that you've prepared?

2 A. All right. Yates is requesting that the south
3 half of the Section 27 be dedicated to these two wells.

4 My point is that the current well is mostly dead
5 and not really a commercial well in the normal sense of the
6 word, and so we're asking to simultaneously dedicate this
7 new well, which we hope is commercial, with nearly nothing,
8 and we hope that that's an acceptable outcome of this.

9 Exhibit 5A is probably the place to start. It's
10 just a table of production from this Big Buck Pound Com
11 Number 1 well. It's produced since 1974. It produced most
12 of its gas early in its life, and for the last ten years, I
13 guess since 1988 -- well, essentially since 1987, 1988,
14 production has been 4 to 5 MCF a day. Production has been
15 lower than -- well, by a factor of 10 lower than what it
16 would take to be what I would call a commercial well.

17 So in total, the well has produced 435 million
18 cubic feet, but most of that was early in its life, and the
19 well is limping along, as I say. The well is -- tests
20 commercial and -- it just would not be commercial for a
21 petroleum company.

22 Exhibit 5B is a graph that tries to make
23 essentially those same kind of points. The left side shows
24 cumulative production, and the plot that's in purple -- I
25 think I can tell purple from blue -- the plot that's in

1 purple is the cumulative production. And you can see that
2 a great amount of that production was produced before 1980.
3 The purple line shoots up to high values and then levels
4 off.

5 At the same time that this plot shows the
6 bottomhole pressure in the well, and that bottomhole
7 pressure started above 3000 pounds. And it's been below
8 500 pounds for the past 15 years. So the well started
9 production in 1974. It produced at high rates for a while,
10 and then the production went away.

11 Accompanying that was a sharp decrease in the
12 bottomhole pressure, and that bottomhole pressure has been
13 relatively constant at low levels since then.

14 So the real commercial production of the well
15 occurred before 1980, I think, is the truth of the
16 situation. And it's been a very marginal well since then.

17 And Hanson, the operator of the well, realized
18 that and in 1984 sold the well, whatever, gave the well to
19 this CDQ company. So Exhibit 5C is a State Form C-104,
20 which details the transfer of operatorship to CDQ in May
21 and June of 1984.

22 So the well has been operated by this CDQ company
23 since 1984, it's been producing this 5 MCF a day for
24 agricultural purposes since 1984, and I think the
25 information, you know, is fairly consistent that that's

1 what's been going on for twelve years or so.

2 And we just have this kind of strange well
3 sitting there, and then we have our Yates geologist that
4 thinks there's another commercial well to be drilled there.
5 The geologist will show you some logs, but basically the
6 story is that this Big Buck Pounds has produced from an
7 upper lower Morrow sand. And the geologists think that
8 there's a good-sized reservoir in the area that would
9 produce out of a lower lower Morrow sand, a different sand.

10 Obviously, if we drill the Martin and we get this
11 same sand, we're going to have nothing. We're going to
12 have a dry hole if we get the same sand that's in this Big
13 Buck Pounds. Only if we get a different sand will we have
14 a commercial well.

15 So there's no chance of the new well being
16 dedicated to the same sand that the old well is in. You
17 just would have two losers. So -- You'll see from the
18 geologist that they're looking for a lower lower Morrow
19 sand, a different sand than produces from this Big Buck
20 Pounds.

21 I -- Yates has been here with similar cases in
22 what we call the Vanderbur area where -- Actually, there we
23 had a 14-BCF well, and we came and simultaneously dedicated
24 it and found a 4-BCF well. Here, the best we have in here
25 is a 3- or 4-BCF well, and I think the geologist is hoping

1 for a 14-BCF well. You know, God bless him, I hope he
2 finds it. But... Anyway.

3 The point of the engineering, I think, is simply
4 that the current well is clearly noncommercial, and we hope
5 that that makes it clear that simultaneously dedicating a
6 new well with this agricultural well does not violate the
7 spirit of your rules.

8 Q. Mr. Boneau, in your opinion, then, while this
9 well is uneconomic in the traditional sense, it does --
10 There is still parts of the economy that are deriving some
11 economic benefit from that well?

12 A. Oh, definitely. These -- The alfalfa farmers are
13 real interested in maintaining production from this, and --

14 Q. Based on that fact, are you of the professional
15 opinion that to grant this Application and allow the
16 drilling of the Martin well and the simultaneous dedication
17 to the south half of this Section 27, that such granting
18 would both prevent waste and protect correlative rights?

19 A. That's -- The answer is clearly yes. Yates wants
20 to go out there and risk \$600,000 to re-establish
21 commercial production. The farmers are getting what they
22 need from the Big Buck Pounds in a strangely commercial
23 sense, and we're trying to establish what we think is
24 commercial hydrocarbon production in the same area.

25 They're -- It's clearly the right thing to do

1 from those two perspectives of correlative rights and
2 waste.

3 Q. You have described, now, all of your exhibits,
4 have you not?

5 A. Well, there's an Exhibit 5D and 5E that show some
6 information about the wells in the area, and they're mainly
7 there to -- They're not there for me to go over well by
8 well; they're there to assist in answering questions that
9 may arise from --

10 Q. All right.

11 A. -- the Examiner.

12 MR. ERNEST CARROLL: Mr. Examiner, we would move
13 admission of Exhibits 5, 5A through -- E?

14 THE WITNESS: E, Edward, that's right.

15 MR. ERNEST CARROLL: Excuse me?

16 THE WITNESS: I said 5 through 5 Edward, 5E.

17 MR. ERNEST CARROLL: Right, right. We would move
18 admission of those exhibits, Mr. Examiner.

19 EXAMINER CATANACH: Exhibits 5A through 5E will
20 be admitted as evidence.

21 MR. ERNEST CARROLL: I would pass the witness.

22 EXAMINATION

23 BY EXAMINER CATANACH:

24 Q. Mr. Boneau, was the -- The current well, was that
25 drilled into the lower Morrow section that you're

1 targeting?

2 A. Yes, it was, and there's -- The geologist has a
3 -- will show you the log. There's a hint of a sand there,
4 maybe two to four feet, that, to an engineer, is
5 approximately in the location of the sand that he's looking
6 for. I'm not saying I know it's the sand he's looking for,
7 but there's a small sand in the lower lower Morrow that, to
8 me, is probably an indication of the sand he's looking for.

9 Q. So that sand would probably not be a commercial
10 sand in this -- in the existing well?

11 A. I think it's clearly not a commercial sand in
12 this existing well.

13 Q. It was never tested, though, as far as you know?

14 A. As far as I know, it was not tested.

15 Q. Okay. This is all basically from the -- This
16 is -- what? Kennedy Farm or Kennedy --

17 A. The field is called Kennedy Farms Morrow. It's
18 clear from looking through all these records that the CDQ
19 has been operating as a real operator for this 10 or 15
20 years and submitting, you know, production records, et
21 cetera. But...

22 Q. Okay, these are all the wells -- You've
23 summarized all the Kennedy Farms field?

24 A. Well, the lists are all the wells that are in the
25 nine sections that surround this location, so they're all

1 the wells that are in Exhibit 6, which we haven't gotten to
2 yet --

3 Q. Okay.

4 A. -- is what they are, just...

5 Q. This CDQ well that -- do you think it could go on
6 producing for a number of more years?

7 A. Yes, in my opinion it will last like it's going
8 at least five more years, probably ten. The CDQ well, this
9 well, has made less than a half a BCF, and I've calculated
10 that it's drained about 50 or 60 acres, or will drain about
11 50 or 60 acres, you know, which is a 900-foot circle, a
12 circle that wouldn't intersect the new location, actually,
13 if it were a circle. But, you know, it's obviously not a
14 circle. But it's drained about 50 acres, 50 or 60 acres.

15 Q. Is it Yates' intention not to perforate this
16 particular sand in the new well, the one that's being
17 produced in the CDQ?

18 A. Yes. I feel, as sure as you can be, that it will
19 not be there -- I expect it not to be there, but if it is
20 there we'd be foolish to perforate it. And no, we're not
21 going to perforate it.

22 Q. So that's not your intent?

23 A. That's not our intention, that is definitely not
24 our intention. Our intention is to find this new sand or
25 to call the well a failure. The engineers will call it a

1 failure, whether the geologist will.

2 Q. And it's my understanding that, with the
3 exception of the two proration units to the east and to the
4 south, Yates operates all of the other Morrow wells in this
5 nine-section area; is that correct?

6 A. Yeah, that is -- That's correct.

7 Q. Okay.

8 A. Yes.

9 EXAMINER CATANACH: I think that's all I have of
10 this witness.

11 MR. ERNEST CARROLL: That's all I have for this
12 witness.

13 MICHAEL D. HAYES,
14 the witness herein, after having been first duly sworn upon
15 his oath, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. ERNEST CARROLL:

18 Q. Would you please state your name and occupation?

19 A. Michael D. Hayes, petroleum geologist for Yates
20 Petroleum.

21 Q. Have you previously testified and had your
22 credentials as a petroleum geologist accepted by the
23 Division?

24 A. Yes, I have.

25 Q. All right. You are familiar with Yates's

1 Application before the Examiner today, are you not?

2 A. Yes, I am.

3 Q. And were you the person responsible or have
4 assisted in the preparation of Exhibits 6 and 7 for
5 presentation here?

6 A. Yes, sir.

7 Q. All right, let's turn to Exhibit Number 6. Would
8 you explain -- first describe for the record what Exhibit 6
9 is and then explain?

10 A. Exhibit 6 is a combination map that is showing a
11 combination of structure on the lower Morrow marker, an
12 isopach map, and a producing zone map.

13 The dashed lines are subsea depths on the lower
14 Mor- -- marker, showing structure, a 100-foot contour
15 interval.

16 The solid lines are isopach map of the lower
17 Morrow clastic interval. They're on 10-foot contour
18 intervals.

19 And then the producing zones are identified by a
20 color code that's shown in the legend below.

21 In addition to that, basically anything that
22 penetrated the Morrow -- in this case, basically went
23 through the Morrow -- is shown with a circle.

24 And then a square box goes around three of the
25 wells in the map area that actually produce from the lower

1 Morrow clastic interval.

2 Essentially what I'm trying to show here is that
3 structure dips to the south and east approximately 100 feet
4 or 200 feet a mile or so. There's a lower Morrow clastic
5 channel that cuts through the map area that is shown with
6 the solid contours. We believe that we can intercept that
7 lower Morrow channel and encounter commercial hydrocarbons
8 in through that channel.

9 I'll show in a cross-section in just a moment why
10 I believe that that channel goes this particular direction.
11 This is essentially a portion of a larger regional map,
12 too, that shows our channels kind of trending this
13 direction.

14 From our mapping, we really believe that we can
15 get a new channel and a thicker channel than has been
16 encountered in the mapping area.

17 Q. The large red number that appears below each one
18 of these Morrow producers --

19 A. That is a -- The large red number is the
20 thickness of the sand in the lower Morrow clastic interval.
21 Usually it's based on a 50-API cutoff. In some places --
22 in particular, I'm going to go back to one well -- it's
23 actually based on -- it's interpretive from the density
24 neutron crossover. There's either an invalid gamma ray or
25 it's not reading normal to what we're accustomed to seeing

1 in the area.

2 Q. The values that are shown here do indicate that
3 there is a lower Morrow clastic channel sand in this area
4 running as you've depicted it, do they not?

5 A. Yes.

6 Q. And it is Yates' opinion that by moving to the
7 west that they can encounter a thicker portion of that
8 channel; is that correct?

9 A. A thicker portion and, in fact, hopefully,
10 another sand altogether, yes.

11 Q. All right. Has that -- Being able to do that,
12 has that been established regionally by Yates in its
13 experience in this area?

14 A. Yes, it has.

15 Q. All right. Anything further you'd like to talk
16 about that exhibit?

17 A. No, that pretty much summarizes that exhibit.

18 Q. All right. Why don't you turn to Exhibit 7, and
19 if you would identify it for the record and then explain
20 its significance to Yates's Application.

21 A. Exhibit 7 is a stratigraphic cross-section that's
22 hung on the lower Morrow clastic marker. The cross-section
23 as shown on the map runs A-A' from the south to the north,
24 essentially, and kind of -- it projects in the proposed
25 location.

1 Some of the key aspects of it are, starting at

2 A -- First of all, I'll go through the cross-section.

3 You've got a lower Morrow clastic marker, the lower Morrow
4 clastics interval showing where it's hung on from the lower
5 Morrow clastics down to the Mississippian unconformity, and
6 then the Chester limestone is shown on the two logs.

7 One of the techniques that we use to try and
8 chase these lower Morrow channels is by mapping the isopach
9 thickness between the Mississippian unconformity and the
10 lower Morrow clastic marker.

11 And on this cross-section, first of all, starting
12 from the Hanson Clyde Guy Number 1, which is A on the map
13 and on the cross-section, you can see where there's a nice
14 thick channel there running from approximately 8800 feet
15 down to, say, approximately 8820 or -25 or so. It's a
16 nice, thick, clean sand that is fairly well developed.

17 And when you correlate back over to the Big Buck
18 Pounds well, which will be essentially offsetting, you can
19 see how the interval has thinned dramatically. And that --
20 Not only is that sand not present but, in fact, that whole
21 isopached thickness interval is essentially not there.

22 And what we believe what we can do is -- by
23 stepping to the west of the Big Buck Pounds, is intercept
24 where that thickness is developed and, in fact, hopefully
25 get a sand. I've shown it here on the cross-section as a

1 separate channel. It may, in fact, be the same channel
2 sand. At this point that's not as critical as, in fact,
3 intercepting a new sand.

4 And above that, you can see -- on the Big Buck
5 Pounds, you can see the producing interval where that well
6 is producing from at approximately 8630 to -40 or so.

7 Q. Mr. Hayes, based on your study and training as a
8 petroleum geologist, and based upon the regional geology
9 and the specific facts that are found from the surrounding
10 wells, are you of the opinion that this Martin well
11 proposed location is a prospective location for the Morrow
12 formation?

13 A. Yes, I am.

14 Q. In your opinion, will the granting of this
15 Application prevent waste and protect correlative rights?

16 A. Yes.

17 MR. ERNEST CARROLL: Mr. Examiner, I would move
18 admission of Exhibits 6 and 7.

19 EXAMINER CATANACH: Exhibits 6 and 7 will be
20 admitted as evidence.

21 MR. ERNEST CARROLL: And I would pass the
22 witness.

23 EXAMINATION

24 BY EXAMINER CATANACH:

25 Q. Mr. Hayes, are these wells that are producing

1 from the Morrow in this area -- do they generally produce
2 from this -- from the lower interval?

3 A. As can be seen on the exhibit, the mapping
4 exhibit, I've put a square around the wells that produce
5 just from the lower Morrow itself.

6 The well in the north half of 22 there -- I
7 believe it's the Tom Brown "GO" well -- that produces from
8 the lower Morrow. But it does produce from an upper lower
9 Morrow interval, different than what we'd actually be
10 chasing.

11 Q. Uh-huh.

12 A. And then in the case of the well in the east half
13 of 28, that also produces from or produced from the upper
14 lower Morrow that would be essentially different than the
15 channel we're trying to chase. They are lower Morrow, but
16 they're an upper stratigraphic interval from the primary
17 target that we're chasing.

18 Q. So the interval that you're targeting is not
19 being produced in any of the wells in this area?

20 A. That's correct, that's our opinion.

21 Q. Is that because it's not present in any of these
22 other wells, or --

23 A. Well, as can be seen on the Hanson Clyde Guy to
24 the south, you can see where there's a decent sand down
25 there.

1 And that well is somewhat problematic, and
2 clearly the operator that drilled it had some problems with
3 it too. They found a pretty decent little sand, they
4 tested it, and they thought they had a commercial well
5 there, set pipe on it and collapsed the casing. And then
6 they sidetracked it and tried drilling it again and DST'd
7 it and got some poor DST results and plugged it.

8 So there's a pretty good indication that there's
9 a channel that's there and, in fact, it's sand-filled. And
10 so that's really our strongest indication that there's --
11 this sand is present. We just don't believe that it's been
12 tapped into, essentially.

13 Q. So it may, in fact, be present in some of the
14 other wells?

15 A. Well, it -- Yeah, from the standpoint that, yes,
16 something in that stratigraphical interval may be present.
17 Whether it's, in fact, that exact sand, that's unclear.

18 Q. Is there any potential in your proposed well for
19 an uphole sand in the middle Morrow or --

20 A. Absolutely.

21 Q. So you've got some of that too?

22 A. Yeah, you couldn't rule it out, because you can
23 see on the map -- Just on the map, you can see where
24 there's some other wells that are producing the Morrow, and
25 they're clearly not identified as lower Morrow producers.

1 And some of them are pretty good producers, you know, made
2 a couple of BCF of gas.

3 So yeah, that -- I'm concerned about drainage
4 from those intervals. But clearly it would be a target.

5 Q. Was there any potential for this upper Morrow
6 production in the CDQ well?

7 A. I'll just look over here at the -- It's difficult
8 to tell. I can't rule it out completely, because there is
9 what appears to be some sand development at approximately
10 8600 feet. It has not been perforated. And we're
11 apparently not going to get the option to test it ourselves
12 right now. I can't rule it out completely. It does not
13 look terribly well developed, but it can't be ruled out.

14 EXAMINER CATANACH: I have nothing further of
15 this witness.

16 MR. ERNEST CARROLL: Mr. Examiner, that would
17 conclude our evidentiary part of the hearing.

18 The only thing, I would again call the attention
19 of the Examiner that this case is presently being
20 readvertised because of the mistake that occurred, giving
21 the wrong location for the Martin well.

22 And I would also remind the Examiner that we do
23 have a fairly short fuse, and when the time, 20 days, runs
24 out we would ask that we have a -- be granted an expedited
25 order so that we may drill this well under the short fuse

1 of the leases.

2 MR. RAND CARROLL: Mr. Carroll, would Yates have
3 any problem with the order requiring Yates to file a C-104,
4 change of operator, for the Big Bucks well, and then
5 whatever agreement Yates has with CDQ regarding operation?

6 MR. ERNEST CARROLL: Yates is not in a position
7 to argue with the Commission in any shape, form or fashion.
8 We knew, and when we went into this we knew that that might
9 very well be a requirement. It's been discussed with all
10 parties, and that's why the language in the letter
11 agreement says that they would operate it.

12 They don't care, they just want their well. And
13 they're willing, and that's been covered. So whatever you
14 require, we certainly will live with.

15 MR. RAND CARROLL: Thank you.

16 EXAMINER CATANACH: Was the case readvertised for
17 the 24th?

18 MR. ERNEST CARROLL: Mr. Catanach, I can't tell
19 you. I know the minute we discovered it we called Florene,
20 and she was to get it done. I don't know. I'll be honest
21 with you, I was in other court hearings and my secretary
22 actually talked with Florene, and I just don't know what
23 was --

24 EXAMINER CATANACH: Okay. So in essence, we're
25 going to continue the case to either the 24th or August

1 7th.

2 MR. ERNEST CARROLL: That's my understanding, and
3 then have it called again. I don't think there's going to
4 be any problem with it, or it would have been here now, but
5 -- and there shouldn't be. But that's just a formality
6 which we have to --

7 EXAMINER CATANACH: Okay, and we corrected the
8 well location, and there was also a mis- -- It says Section
9 17, and --

10 MR. ERNEST CARROLL: No, it should be 27, yes,
11 sir.

12 EXAMINER CATANACH: Yeah. So hopefully we
13 corrected both of those.

14 MR. ERNEST CARROLL: I hope so.

15 EXAMINER CATANACH: All right. So we'll continue
16 and readvertise this case for either the 24th or the August
17 7th hearing.

18 (Thereupon, these proceedings were concluded at
19 9:15 a.m.)

20 * * *

21 I do hereby certify that the foregoing is
22 a complete record of the proceedings in
23 the Examiner hearing of Case No. 11804,
heard by me on July 10 1997.

24 Daniel Catnach, Examiner
25 Oil Conservation Division

CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL July 12th, 1997.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 1998