

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

OIL CONSERVATION DIV.
OCT -6 PM 7:32

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION FOR THE)
PURPOSE OF CONSIDERING:)
)
APPLICATION OF PRAIRIE SUN, INC.,)
FOR COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)

CASE NO. 12,236

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MARK W. ASHLEY, Hearing Examiner

September 2, 1999

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MARK W. ASHLEY, Hearing Examiner, on Thursday, September 2nd, 1999, 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. 12,236

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A P P E A R A N C E S

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* * *

1 WHEREUPON, the following proceedings were had at
2 9:35 a.m.:

3 EXAMINER ASHLEY: This hearing will now come back
4 to order, and the Division calls Case 12,236.

5 MR. RAND CARROLL: Application of Prairie Sun,
6 Inc., for compulsory pooling, Eddy County, New Mexico.

7 EXAMINER ASHLEY: Call for appearances.

8 MR. ERNEST CARROLL: Mr. Examiner, my name is
9 Ernest Carroll of the Losee, Carson, Haas and Carroll law
10 firm of Artesia, New Mexico, and I am here today on behalf
11 of Prairie Sun, Inc., the Applicant in this matter.

12 EXAMINER ASHLEY: Additional appearances?

13 MR. BRUCE: Mr. Examiner, James Bruce of Santa
14 Fe, representing Exxon Corporation. I have one witness to
15 be sworn.

16 MR. ERNEST CARROLL: Mr. Examiner, I have one
17 witness also, I'm sorry.

18 EXAMINER ASHLEY: Okay. Any additional
19 appearances?

20 Will the witnesses please rise to be sworn in?

21 (Thereupon, the witnesses were sworn.)

22 EXAMINER ASHLEY: Before we get started, are
23 there any motions at this time?

24 MR. BRUCE: Mr. Examiner, I think my motion will
25 require testimony, so I would wait until the end of the

1 hearing.

2 EXAMINER ASHLEY: Okay. Mr. Carroll?

3 MR. ERNEST CARROLL: Thank you, Mr. Examiner.

4 HOYT E. LEE,

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

7 DIRECT EXAMINATION

8 BY MR. ERNEST CARROLL:

9 Q. Mr. Lee, would you state your full name and
10 address for the record?

11 A. Hoyt E. Lee. I live in Roswell, New Mexico at
12 3103 Yeso.

13 Q. Mr. Lee, what is your present occupation?

14 A. I'm a consulting engineer and do contract
15 engineering and operations for various companies in the
16 Permian Basin.

17 Q. You have, Mr. Lee, in the past, had occasion to
18 testify before the occasion [*sic*] with respect to land
19 matters and engineering matters, have you not?

20 A. Yes, I have.

21 Q. And you have had your testimony presented and
22 been accepted in both the areas of land-management issues
23 and engineering issues?

24 A. That is correct.

25 Q. You are familiar with the Application of Prairie

1 Sun that is now being heard by the Examiner, are you not?

2 A. Yes, I am.

3 Q. Are you familiar with both the land issues that
4 will be presented and the engineering issues?

5 A. Yes, I am.

6 MR. ERNEST CARROLL: Mr. Examiner, I tender Mr.
7 Lee as an expert for testimony in this case with respect to
8 both land matters and engineering matters.

9 EXAMINER ASHLEY: Mr. Lee is so qualified.

10 MR. ERNEST CARROLL: Thank you, sir.

11 Q. (By Mr. Ernest Carroll) Would you briefly
12 summarize what Prairie Sun is seeking an order from the
13 Commission for?

14 A. Prairie Sun currently owns the east half of the
15 east half of Section 28, Township 23 South, Range 29 East.
16 It has a wellbore on this lease, the Laguna Grande Number
17 1, which was the first well drilled in an exploratory unit
18 created by Exxon. The well has changed hands several
19 times, however geological and engineering studies have
20 shown that there are some potential reservoirs to produce
21 in that wellbore.

22 Prairie Sun is requesting compulsory pooling of
23 the west half of the east half in order to comprise enough
24 acreage to have the proration unit needed for the OCD
25 regulation.

1 Q. Prairie Sun is therefore seeking to pool all
2 formations that produce on a 320-acre basis; is that
3 correct?

4 A. That is correct.

5 Q. And at present Prairie Sun owns half of the
6 necessary acreage, that being the east half of the east
7 half of Section 28?

8 A. That is correct.

9 Q. And Exxon owns the west half of the east half of
10 Section 28; is that correct?

11 A. Yes, sir, that is correct.

12 Q. The exploratory unit that was originally created
13 and for which this existing wellbore was drilled pursuant
14 to, that exploratory unit has been disbanded; is that
15 correct?

16 A. Yes, it has been disbanded.

17 Q. You have prepared certain exhibits for
18 presentation here, have you not?

19 A. I have.

20 Q. I would ask you to turn to Exhibit Number 1.
21 Would you identify that exhibit for the record and then
22 point out the significant points on it for the Examiner?

23 A. Exhibit 1 is a lease plat showing the various
24 ownership in the area. As you can see, in Section 28, the
25 east half, east half shows on the map ownership to be

1 Paloma Resources. Prairie Sun, Inc., purchased their
2 interest in that lease effective 1-1 of 1999.

3 Q. All right. It also shows the temporarily
4 abandoned well that Prairie Sun seeks to re-enter, does it
5 not?

6 A. That is correct.

7 Q. That is the wellbore that is shown in the east
8 half of the east half on this map?

9 A. Yes, it's in Unit I, located 990 from the east
10 line and 1380 from the south line.

11 Q. Would you turn to what has been marked as Exhibit
12 2?

13 A. Exhibit 2 is a land plat of Section 28, showing
14 the various ownership and the lease number of the two
15 federal leases encompassed in Section 28.

16 Q. All of Section 28, the minerals belong -- They're
17 federal minerals, are they not?

18 A. All minerals are under federal lease.

19 Q. The lease that Prairie Sun owns, Federal Lease
20 New Mexico 67103, is that lease just solely comprised of
21 160 acres?

22 A. That lease is strictly 160 acres, comprising the
23 east half, east half of Section 28.

24 Q. The 160 acres belonging to acreage that you seek
25 to force-pool with Prairie Sun's acreage is part of a much

1 larger lease numbered New Mexico 19848; is that correct?

2 A. Yes, I believe the Exxon lease NM-19848 is a
3 1760-acre lease.

4 Q. All right. To your information, that particular
5 lease is presently held by production; is that correct?

6 A. It is currently held by production.

7 Q. The Prairie Sun lease is held by the fact that it
8 once was a producing lease; is that correct?

9 A. That's correct. That lease was held by the unit,
10 the unit disbanded, and there was a small amount of oil
11 that was tested in the Delaware prior to the acquisition of
12 the acreage. However, it is currently not producing and is
13 in jeopardy of losing that 160-acre lease if some sort of
14 production is not established.

15 Q. And is that why Prairie Sun is now seeking to
16 force pool this acreage, to try to get production on this
17 lease?

18 A. Yes, it is.

19 Q. Would you turn to Exhibit Number 3?

20 A. Exhibit --

21 Q. The area -- Does this just strictly show the
22 acreage that you are seeking to unitize?

23 A. Yes, it is. It shows the amount of additional
24 acreage necessary to create this proration unit.

25 Q. At this time, then, there are only two working

1 interest or leasehold interest owners in the subject
2 acreage sought to be pulled; is that correct?

3 A. That is correct, it's Exxon 50 percent and
4 Prairie Sun 50 percent.

5 Q. All right. We'll deal with that issue again on
6 the notice when we come to the certificate of compliance
7 with 1207. Let's go on.

8 The particular location that the Laguna Grande
9 Number 1 well was drilled, that is not a standard location,
10 is it?

11 A. No, it is not, it's not a standard location for a
12 320-acre prorated gas well.

13 Q. Would you discuss the importance of Exhibit 4,
14 what it shows us?

15 A. Exhibit 4 is an administrative order for a
16 nonstandard location that was approved in 1975 prior to
17 Exxon's commencing the drilling of the Laguna Grande Number
18 1 well.

19 Q. This well, then, was it drilled in 1975 or 1976?

20 A. It was drilled in 1975.

21 Q. All right. And so it has been around for quite
22 some time; is that correct?

23 A. Yes, sir, just about -- almost 24 years.

24 Q. Exxon was the original operator of that well; is
25 that correct?

1 A. That is correct.

2 Q. You have prepared a chronological well history,
3 have you not, and presented that in Exhibit 5?

4 A. Yes, sir.

5 Q. Would you go over the highlights of the
6 chronological well history of this well for the Examiner?

7 A. Originally, Exxon applied for a nonstandard
8 location to drill a Morrow well in the east half, east
9 half, of Section 28, Township 23 South, Range 29 East.
10 This order, which is Exhibit 4, was approved by Joe Ramey
11 of the OCD on September 22nd, 1975.

12 Subsequently, after approval, the well was
13 spudded on 11-13-75. They drilled the well, they had
14 several drill stem tests. Of particular interest were the
15 ones in the Wolfcamp, Strawn and Morrow, which all yielded
16 hydrocarbons to the surface and good pressures.

17 After drilling the well they started completion
18 work. It was originally perforated in the lower Morrow,
19 which they deemed noncommercial and squeezed it off. They
20 came up to the Morrow from 13,107 to 13,258, acidized and
21 frac'd the well, and they potentialized it on 3-27 of 1976
22 with an AOF of 4.1 million per day.

23 The well was shut in for approximately a year
24 until an El Paso line was tied in, and at that point the
25 well was put on line. They produced it for four months and

1 sold, plus or minus, a little over 100,000 MCF out of that
2 lower Morrow. And based on the actual decline in rates
3 that it was producing, it appears that there could very
4 well be something mechanically wrong with it, indicating
5 that sharp of a decline.

6 The well was then plugged back from the Morrow to
7 the Strawn, and it tested 1.7 million cubic feet per day on
8 a test dated 5-22-79. And then there's -- in the file
9 there's a disconnect notice from El Paso on March 23rd of
10 1980, and the well was temporarily abandoned.

11 Exxon then proposed an application to complete
12 the well in the Wolfcamp from 11,182 to 11,364, dated 11-10
13 of 1981, and never did follow through with their completion
14 attempt in the Wolfcamp. They came up to the Bone Springs
15 and made a very weak well, produced four barrels of oil,
16 eight barrels of water and 71 MCF.

17 And then they sold the well and -- They proposed
18 to plug and abandon the well, then they sold that acreage
19 to Eastland Oil Company on September 24th of 1986.

20 Eastland went out and held the acreage by
21 occasionally flow-testing the well out of the Bone Springs,
22 and then they also submitted a proposal to plug and abandon
23 the well.

24 And at that time Bettis, Boyle and Stovall took
25 over the well on 6-1 of 1994. And then the unit

1 designation changed and was dissolved on 9-94, and the name
2 changed from the Laguna Grande Federal Unit Number 1 to
3 just the Laguna Grande Federal Number 1.

4 Bettis, Boyle and Stovall attempted a Delaware
5 completion in 9 of 1994, and then they also proposed a
6 P-and-A procedure on 3 of 1995. At that time, one of my
7 other clients in a company which I had interest in, Paloma
8 Resources, purchased the well in the 160 of the east half,
9 east half, of Section 28, and started attempting
10 negotiation with Exxon for a farmout on additional acreage
11 required for the proration unit.

12 And then shortly after that, Exxon made a term
13 assignment with Penwell, and that term assignment carried
14 over to Concho, and we attempted -- had further attempts to
15 gain the acreage for the proration unit.

16 And then on January 1st of this year, Prairie Sun
17 purchased all the properties of Paloma Resources and
18 started negotiation for the additional acreage once again.

19 Q. All right, Mr. Lee, we'll come back to some of
20 the efforts to acquire farmouts on this acreage, but let's
21 finish the engineering aspects with this well.

22 Would you turn, then, to -- Well, there was one
23 correction. If you will look on number 3 of your
24 chronological history, you show "Drill out on 11/26/76."
25 Should that not be "75", 1975?

1 A. Yes, that's correct, that's a typographical
2 error.

3 Q. Okay, all right. Let's turn to your Exhibit 6,
4 and if you'll discuss what -- or describe what Exhibit 6 is
5 for the record and discuss its significance?

6 A. Exhibit 6 is a current wellbore configuration of
7 the Laguna Grande Federal Number 1 wellbore. It shows the
8 various spots in which the well has been perforated, and
9 then the cast-iron plugs and things where it had been
10 plugged back. It also shows the casing and casing program
11 that was run.

12 There is a cast-iron plug inside the 7-5/8 casing
13 above the top of the liner, as well as some plugs and
14 additional -- and perfs in the Bone Springs and Delaware
15 that will have to be squeezed off and drilled out prior to
16 going into the 5-inch liner to ensure some integrity due to
17 the pressures that are expected to be encountered in the --
18 once we get down into the Pennsylvanian and Wolfcamp area.

19 Q. Now, Mr. Lee, have you prepared an authority
20 for -- an AFE for the work that Prairie Sun proposes to
21 perform on this well in an effort to bring production on
22 this east half of Section 28?

23 A. Yes, I have.

24 Q. And is that Exhibit 7?

25 A. Exhibit 7 is the AFE that I prepared and

1 circulated for the workover to establish production either
2 from the Morrow or Pennsylvanian or Wolfcamp formations.

3 Q. How many actual -- The Morrow is the primary
4 objective, is it not?

5 A. Yes, it is.

6 Q. What other secondary objectives do you believe
7 that are possible on a 320-acre basis?

8 A. Well, there are Atoka, Strawn and Wolfcamp
9 formations. The Strawn and the Wolfcamp have both been
10 tested also and yielded hydrocarbons in commercial
11 quantities at the surface during flow tests that -- and
12 especially the Wolfcamp had never been put on line and
13 produced.

14 Q. Okay. With respect to this procedure that you're
15 proposing, would you explain what you plan on doing and why
16 you think you have a reasonable possibility of bringing
17 this well into a productive status?

18 A. To start off with in the Morrow, the well came on
19 with high producing rates. After fracturing the Morrow
20 wells, as the frac technology has evolved and there's been
21 more work in the Morrow, it's become standard engineering
22 practice to try not to produce the wells at very high rates
23 after fracs because of the carry-back of the sand in the
24 wellbore, which then plugs up the wellbore, and the wells
25 will rapidly decline to the point they will bridge off and

1 become nonproductive at all.

2 It's my feeling that if we go back in this well
3 and go back to the Morrow that was tested at 4.1 million a
4 day, that we can probably encounter a large amount of sand
5 in the wellbore.

6 And also it might be noted that this well was
7 producing into El Paso's line, and at that time it was
8 running anywhere from 900 to 1100 p.s.i. line pressure
9 during these years. The well was not -- All the records do
10 not indicate that it ever had any sort of compression
11 installed to help it produce.

12 And also now, all the line pressures in the area
13 are half of what they were originally. And in addition,
14 there's a low-pressure gas line that crosses the corner of
15 this location that's currently operated, and it is carrying
16 gas from the well in Section 29 out of the Atoka, which has
17 cum'd over 1.5 B so far.

18 Q. The dryhole cost of the procedure proposed is
19 \$206,000. Do you believe that that is a reasonable cost
20 for the procedures that you have outlined?

21 A. Yes, I do.

22 Q. The producing cost would be \$374,150. Do you
23 believe that is a reasonable cost?

24 A. Yes, I do.

25 Q. This AFE was originally prepared back in March of

1 this year. Do you believe these numbers are still valid
2 for work to be performed today?

3 A. Yes, they are.

4 Q. The next exhibit that you have prepared, Exhibit
5 8, is a Model Form Operating Agreement, is it not?

6 A. Yes, this is an AAPL Form 610, Model From Joint
7 Operating Agreement, where -- showing Prairie Sun as
8 operator of the area.

9 Q. Are you prepared to render an opinion with
10 respect to the penalty risk assessment that ought to be or
11 that Prairie Sun is requesting to be given by the
12 Commission in its order?

13 A. Yes, I am.

14 Q. And what is that?

15 A. Two hundred percent.

16 Q. In the JOA, then, that would equate to the 300
17 percent that is standard?

18 A. Yes, it would be the cost and then the additional
19 200 percent.

20 Q. Would you relate to the Examiner your reasons why
21 you're asking for the 200-percent rate from the Commission?

22 A. Due to the fact that there are a number of plugs
23 to be drilled out, and especially due to the fact that
24 there's a cast-iron bridge plug set in the bottom part of
25 the 7 5/8 above the 5-inch liner, in my experience in re-

1 entering a large number of wells, sometimes there can be
2 considerable expense incurred in getting these plugs out
3 from on top of a liner. Once you cut them loose, they'll
4 go down and sit on top of a liner and just sit and spin,
5 and sometimes it's quite a lengthy and expensive process to
6 remove those.

7 Also, due to the time factor that the well has
8 been sitting shut-in and not producing, quite often that
9 also is not good for the casing. You could also incur
10 further mechanical problems.

11 Q. With respect to voluntary unit created for these
12 kinds of procedures, is this a normal or standard
13 contractual-rate risk assessment of 300 percent, or the 200
14 -- 100 plus 200?

15 A. Yes, that is correct.

16 Q. You are also recommending to the Division
17 Examiner overhead rate for both drilling and producing, are
18 you not?

19 A. Yes, I am.

20 Q. And they're the ones that are contained in the
21 JOA?

22 A. Yes, they are contained in the COPAS accounting
23 procedure attached to the JOA.

24 Q. What are those rates?

25 A. Drilling well rate of \$5000 per month and a

1 producing well rate of \$500 per month.

2 Q. Mr. Lee, in your experience is that the typical
3 rate for wells of this nature and depth in the particular
4 area that we are concerned with?

5 A. Yes, it is.

6 Q. All right. Let's now turn more to the nature of
7 the completion process that you're hoping to accomplish by
8 turning to your Exhibit Number 9.

9 And if you would describe for the record what
10 Exhibit Number 9 is, and then discuss the significant
11 points of this exhibit.

12 A. Exhibit Number 9 is a stratigraphic cross-section
13 prepared to show the wells that were drilled by Exxon in
14 Sections 27, 28 and 29 of the original exploratory unit.

15 As is evidenced on the cross-section there, there
16 is a Morrow section that was perforated and produced from
17 13,086 to -297 -- I mean, 13,107 to -258. It had a drill
18 stem test on there that had gas to surface, it had a
19 good -- a 1.2 million producing rate and pressures in
20 excess of 5800 pounds. This zone is the one that was
21 originally completed and put on line and produced the
22 100,000 or so MCF, 197,727 MCF.

23 This also shows the Strawn formation, which cum'd
24 10,260 MCF in a couple of months on line.

25 Also, the cross-section shows the various

1 Wolfcamp, Atoka formations. It might be noted that the
2 well in Section 29 has cum'd over 1.4 BCF out of the Atoka.
3 We have a thinner zone in our -- in the Laguna Grande
4 Number 1, however it does correlate and is pinched out
5 further to the east in Section 27.

6 The cross-section also has the DST results of the
7 Wolfcamp and the Strawn that were conducted on the wellbore
8 in question.

9 Q. Mr. Lee, based upon your experience in the field
10 of petroleum engineering, do you believe that the re-entry
11 project proposed by Prairie Sun presents a reasonable
12 opportunity to obtain production of hydrocarbons of gas
13 from the subject well?

14 A. I certainly do.

15 Q. And well within the normal realm of risk that
16 operators take in this particular area?

17 A. That's correct. We have hydrocarbons that were
18 tested flowing at commercial rates to surface, we've got
19 good pressures, and I see no reason why there should not be
20 commercial hydrocarbons in this well.

21 Q. All right. Now, let's turn to your efforts to
22 try to obtain joinder for this particular project.

23 From your -- You have had considerable experience
24 over a long period of time in trying to obtain the re-entry
25 of this well, have you not, Mr. Lee?

1 A. Yes, for a number of years, in fact.

2 Q. All right. Back as early as September of 1995,
3 when Paloma Resources first acquired this east half of the
4 east half of Section 28, inquiries were made of Exxon to
5 obtain a farmout for this project, were they not?

6 A. They were. In fact, Paloma Resources purchased
7 this acreage on my recommendation to secure the wellbore
8 and then seek the other 160 acres necessary for a proration
9 unit to develop a gas well on this prospect. And at that
10 time they started -- they, through me, started negotiations
11 with Exxon for a farmout in the area.

12 Q. In 1995, did Exxon have any desires or express
13 any desires to you of farming out?

14 A. In 1995, they did not want to farm out. They had
15 discussed -- They had some discussion of a term assignment
16 for two years in the hundred-dollar-an-acre with an 80-
17 percent net revenue. We started negotiations on that, and
18 then I was notified two days after we started talking that
19 the right hand didn't know what the left hand was doing,
20 and they had already made an agreement, term assignment,
21 with Penwell, covering that acreage.

22 Q. Did you attempt to try to obtain a farmout of
23 this -- Well, first of all, the term assignment to Penwell,
24 it involved more than just the west half of the east half
25 of Section 28, did it not?

1 A. That is correct. What Exxon was wanting to do
2 was, they were shopping the entire 1760 acres that they had
3 in there, and Penwell --

4 Q. Was that under that one lease that we've already
5 looked at?

6 A. That's correct.

7 Q. All right. I'm sorry to interrupt you.

8 A. They made their term assignment to Penwell at
9 that time for, I believe it was \$200 an acre, for the 1760
10 acres.

11 Q. Did Penwell subsequently assign its interest out?

12 A. Penwell was acquired by Concho Resources, and
13 then the term assignment followed from Penwell to Concho.

14 Q. Did you attempt to farm out from both Penwell and
15 Concho?

16 A. I did on several occasions, and -- with Penwell
17 and also with Concho.

18 Q. Did you determine the expiration date that was of
19 record on that term assignment?

20 A. I tried telephoning Concho and Exxon both to seek
21 the status of the acreage in the west half of the east half
22 of Section 28. I never got any response, so we had the
23 abstractor pull the case file in that area, and we found a
24 recorded term assignment from Exxon to Penwell and then to
25 Concho that was going to -- that was expiring in November

1 of 1998.

2 Q. All right. After that point, did you again begin
3 efforts to farm out this acreage from Exxon?

4 A. Yes. I tried numerous times. I don't know how
5 many times I called the Midland office, and I would -- My
6 last correspondence was with a Mr. Randy Lewicki with
7 Exxon, and I was advised that he was handling all of the
8 land matters in southeastern New Mexico.

9 I left numerous voice mail messages on his voice
10 mail, and when I never received any response when I would
11 call back to the Midland office, I'd say, Is there someone
12 else I should talk to, or how do I get in touch with
13 someone? And they would always forward me to some voice
14 mail to leave a message, and I never received any calls
15 back or any written correspondence to answer any of my
16 letters.

17 Q. Did you then attempt to write Exxon concerning
18 this acreage earlier in this year?

19 A. Yes. In fact, on March the 3rd of 1998 [sic], I
20 once again sent a letter to Mr. Lewicki, requesting a
21 farmout or their agreement to join in this east-half well,
22 the Laguna Grande Number 1, and I sent this letter to him
23 and told him that I, you know, really would like for them
24 to either join with me or confirm farmout or something so I
25 would not have to go to the actions of force pooling to

1 protect my rights in the east half, east half of that
2 section, which is going to be in jeopardy if production is
3 not established.

4 And I told them if they would like, send their
5 signed AFE back with a check in the amount of \$103,000 for
6 their share of the dryhole cost or a farmout letter, and we
7 would then go in for the -- circulate a joint operating
8 agreement.

9 Q. Exhibit Number 10 is a copy of the March 3rd, and
10 that was 1999, was it not, earlier this year?

11 A. Yes, sir, that was earlier this year, March 3rd,
12 1999.

13 Q. Okay, and that Exhibit 10 is the actual letter
14 that you sent addressed to Mr. Lewicki, including a
15 description of the workover procedure and the AFE which we
16 have previously discussed?

17 A. That's correct.

18 Q. Did you ever -- Did you receive this letter back,
19 returned as undelivered, or any response by Exxon to it?

20 A. I never received any response, and I never
21 received anything returned back in the mail as
22 undeliverable.

23 Q. All right. Did you then attempt at a subsequent
24 time to write Exxon?

25 A. Yes, I did, and on the term assignment that Exxon

1 executed to Penwell and then to Concho in the latest
2 correspondence, all the things that were filed of record
3 all showed the Box 1600 in Midland, Texas. And so once
4 again, on April the 20th, Exhibit 11, is another letter
5 that I sent on April the 20th, once again, and I told them,
6 you know, I still have not received any correspondence or
7 phone calls, and never received any phone calls --

8 Q. Okay, with respect to Exhibit 11, again, you
9 received no responses; is that correct?

10 A. No response.

11 Q. And the letter that you mailed out was not
12 returned as undelivered or anything such?

13 A. Right. In the April 20th letter I did put in
14 there that a copy of this letter was being forwarded to the
15 Houston office since I have not been able to get any
16 correspondence from anyone out of the Midland Exxon office.

17 Q. Exhibit 12, then, would be a copy of the letter
18 that you sent to Exxon in Houston, Texas?

19 A. Yes, that's correct, Exhibit 12 is a letter dated
20 April 20th also, to Exxon in Houston, Texas. And I didn't
21 know who to get ahold of there, so I just put attention to
22 the land manager and basically sent them a copy of
23 everything that I had been sending to Midland.

24 Q. Would that have been a copy of the earlier letter
25 wherein you requested a farmout and sent the workover

1 procedure and AFE?

2 A. That's correct.

3 Q. Did you receive this letter back?

4 A. No, I never received anything back.

5 Q. No calls or correspondence in response to it?

6 A. Nothing.

7 Q. Now, if you'll turn to what is Exhibit 13, this
8 is the certificate of mailing that was prepared by my
9 office signifying compliance with Rule 1207; is that
10 correct?

11 A. That's correct.

12 Q. On Exhibit A there is a list of individuals or
13 companies to which the notice letter of the filing of the
14 force-pooling application was made; is that correct?

15 A. That is correct.

16 Q. All right. Let's go down through that list of
17 individuals and identify them for the Examiner as to the
18 kind of interests that they actually own.

19 Mr. Roy D. Collins, what kind of interest did he
20 own and why did you send notice to him?

21 A. Mr. Collins has an overriding royalty on the east
22 half, east half of Section 28.

23 Q. That is the acreage that --

24 A. -- that Prairie Sun owns.

25 Q. All right. Who is Mr. Rick Roberts?

1 A. He also owns an overriding royalty interest in
2 the east half, east half that Prairie Sun owns.

3 Q. All right. You have here that you sent notice to
4 Concho Resources; is that correct?

5 A. Yes, we also -- At this time we sent, through
6 certified mail also, to Concho Resources and Exxon in
7 Midland, once again. And this time we did receive back as
8 undeliverable from Exxon.

9 Q. All right. First of all with Concho Resources,
10 did you receive communication back from Concho Resources
11 after you sent them the notice letter?

12 A. That's correct. According to the term
13 assignments that we had found, as I stated previously, the
14 term assignment, I believe, was due to expire, and we did
15 not know if an extension had been granted or not, so at
16 this point we went ahead and sent everything to Concho, as
17 well as Exxon, and received a letter back from Concho
18 stating that they no longer -- that the term assignment had
19 expired and they no longer owned any interest in that
20 remaining acreage.

21 Q. All right. Now, the first -- We've got Exxon
22 listed twice here. This is to show the two addresses to
23 which notice was sent; is that correct?

24 A. That is correct.

25 Q. In the packet of letters, there is a copy of the

1 letter sent to P.O. Box 1600 and the return envelope, is
2 there not?

3 A. That is correct.

4 Q. And then there is the delivered letter to Exxon
5 at the 28 Kerry Road; is that correct?

6 A. That is correct.

7 Q. Now, you also sent notice to the Bureau of Land
8 Management; is that correct?

9 A. Yes, I sent notice to the BLM in Roswell.

10 Q. They are the mineral owner under the entire
11 Section 28, are they not?

12 A. Yes, they are.

13 Q. Have you had verbal conversations also with the
14 BLM, and is there any problem with respect to the project
15 that you're proposing?

16 A. I've had contact, verbal communication, with the
17 BLM, and all they told me that all they need -- required,
18 was a communitization agreement after production had been
19 established.

20 Q. All right. Now, after these notice letters were
21 sent out, Mr. Lee, did you have occasion to talk to a
22 representative of Exxon Corporation?

23 A. Yes, I did. After the -- It's dated July 30th on
24 your stationery. That letter was sent to Exxon. And then
25 I received a telephone call from Bob Mathew of Exxon in

1 Houston.

2 Q. Did -- In Houston, is that correct?

3 A. That's correct.

4 Q. Did he tell you what -- or identify himself and
5 give you his title?

6 A. Yes, he indicated that he was Bob Mathew with
7 Exxon Company and that he had received our notice of force-
8 pool action, and he indicated to me that they did not want
9 to participate or farm out but would be interested in a
10 term assignment on that acreage of \$275 per acre with a 75-
11 percent net revenue.

12 Q. What acreage were they offering a term assignment
13 on? Was it the 160 acres sought to be force-pooled or some
14 other --

15 A. He said that they were actively shopping the
16 entire 1760 acres and that they might consider a term
17 assignment on the small portion, the 160 required, the west
18 half of the east half, under the same terms, \$275 an acre
19 and a 75-percent net revenue, but I would have to get back
20 with them pretty soon because it could possibly be sold to
21 someone else on the term assignment covering the whole
22 lease.

23 Q. Did you inquire again as to the possibility of
24 Exxon entering into a farmout or joining Prairie Sun in the
25 actual procedure?

1 A. Mr. Mathew indicated they weren't interested in
2 joining and that they preferred not to do the farmout.

3 Q. All right. Exhibit 14, what is that?

4 A. Exhibit 14 is a letter that I composed after I
5 had talked to Mr. Mathew, thanking him for his time on the
6 phone to discuss this, and our desire to farm out or have
7 Exxon participated, and stated that his terms of \$275 an
8 acre with a 75-percent net revenue was not acceptable, and
9 that we were going to continue on with our force-pooling
10 Application?

11 Q. Is that still a position of Prairie Sun, that
12 purchasing the acreage for the price listed, whether it be
13 160 or the entire 1760 acres, is that unacceptable to
14 Prairie Sun?

15 A. Yes, it is.

16 Q. Exhibit 15 -- You can go look at Exhibit 15 and
17 16. What are these two exhibits?

18 A. These are waivers that we sent to the overriding
19 royalty interest in the acreage that is owned by Prairie
20 Sun of the east half -- east half of Section 28.

21 Q. This is Mr. Roberts and Mr. Collins, they were
22 the overriding royalty interest owners, and they waived any
23 objection to an order force-pooling this acreage; is that
24 correct?

25 A. That is correct.

1 Q. In your opinion, Mr. Lee, has Prairie Sun made a
2 good-faith effort to try to obtain the joinder or a farmout
3 of Exxon, the only other interest owner involved in this
4 force-pooling action, in the project as proposed?

5 A. I feel Prairie Sun has done a lot towards trying
6 to get participation in this, especially when you look at
7 the overall picture. There has been, through Prairie Sun,
8 through my efforts with Prairie Sun and Paloma Resources
9 and then Concho and Penwell previously under their term
10 assignment, to do something with that acreage necessary to
11 comprise a proration unit.

12 We're talking about a period of four to four and
13 a half years that I've been attempting to try to get
14 something going to re-enter this well and establish
15 commercial production.

16 Q. The last time Exxon proposed any work on this was
17 in 1982 when they proposed to attempt a Delaware
18 completion, which they apparently abandoned and did not
19 try; is that correct?

20 A. That is correct.

21 Q. So apparently between 1982 and the present date,
22 Exxon has done nothing on its own to try to attempt a
23 workover procedure or try to bring this acreage into a
24 productive status?

25 A. That's correct. For the last -- From the time

1 they started that well in 1975, the first well, the Laguna
2 Grande Number 1, from 1982 till now is 16 years that Exxon
3 has not attempted to try to do anything to establish
4 commercial production.

5 Q. Mr. Lee, Exhibits 1 through 16, were they
6 prepared by you or under your direction?

7 A. Yes, they were.

8 MR. ERNEST CARROLL: Mr. Examiner, I would move
9 the admission of Exhibits 1 through 16 at this time.

10 EXAMINER ASHLEY: Exhibits 1 through 16 will be
11 admitted into evidence.

12 MR. ERNEST CARROLL: I would pass the witness at
13 this time.

14 EXAMINER ASHLEY: Mr. Bruce?

15 CROSS-EXAMINATION

16 BY MR. BRUCE:

17 Q. Mr. Lee, looking at your Exhibit 1, a couple of
18 clarification points. You've referred to a couple of
19 units, you referred to the Laguna Grande unit, but this one
20 -- This is a Midland Map Company map, is it not?

21 A. Yes, it is.

22 Q. It refers to the Laguna Salado South Unit. Is
23 that the unit that terminated a few years ago, or is it the
24 Laguna Grande unit?

25 A. It was the Laguna Grande unit.

1 Q. Is the Laguna Salado South unit still in effect?

2 A. I'm not sure. I believe the Laguna Salado is a
3 Santa Fe Energy unit. I believe it's operated by Santa Fe
4 Energy.

5 Q. Uh-huh. The reason I'm asking, is any of the
6 acreage in Section 28 committed to that unit?

7 A. None of the acreage in Section 28 is committed to
8 the Laguna Salado South unit, that I'm aware of.

9 Q. Then moving on to your Exhibit 6, just a question
10 of interest. At what approximate depth is the top of the
11 Wolfcamp formation?

12 A. Approximate top of the Wolfcamp is -- I've got it
13 in my notes, I can give you the exact top if you want it.

14 Q. Sure. The reason I'm asking is simply, anything
15 below that would be spaced on 320, I believe; is that
16 correct?

17 A. Also the Wolfcamp in that area below 10,000 feet,
18 according to the rules of the OCD, was also requiring 320
19 acres.

20 Q. That's what I mean, below the top of the
21 Wolfcamp.

22 A. Yes, that's correct. The tops of the Wolfcamp
23 com in at 9950 feet, and it exists through 11,886, which is
24 the top of the Strawn.

25 Q. So it's a pretty thick section?

1 A. Yes, it is.

2 Q. Thank you. The JOA that you've submitted here,
3 was that ever sent to Exxon?

4 A. I believe in my correspondence I told them that
5 once they would agree to sign the AFE and/or participation
6 agreement, then the JOA would be forwarded to them at that
7 time.

8 Q. Has this been signed by McInnes Resources
9 Company?

10 A. I believe it has since this has been -- since it
11 has been prepared. I believe this was just an exhibit that
12 was copied to show what was encompassed in the actual JOA.

13 Q. Okay. Now, you said with respect to -- I don't
14 know if it was Paloma or another company, you first started
15 looking at this property in 1995?

16 A. Yes, sir.

17 Q. But by then it had already been given on a term
18 assignment to Penwell Energy?

19 A. My first negotiations on this, I was trying to
20 get a farmout on it prior to the term assignment being
21 issued to Penwell.

22 Q. Were you ever able to make a deal with Penwell or
23 Concho?

24 A. Penwell came back with an offer of \$200 an acre
25 and a 74-percent net revenue, which I declined. They said

1 that they could get -- that they had authorization from
2 Exxon to make that deal if we so desired.

3 Q. Now, when you -- you said you first -- Getting up
4 to more recent times, you started calling Exxon in -- Did
5 you start calling them at the end of last year or in
6 January, 1999?

7 A. I'm not real certain when the telephone calls all
8 started. I believe it was towards the end of 1998, and
9 then once all the assignments were made from Paloma into
10 Prairie Sun, well then we stepped up the efforts at that
11 time.

12 Q. Was it always calling the Midland office?

13 A. Yes, it was.

14 Q. Now, on your Exhibit 13, I believe Mr. Carroll
15 pointed out as part of Exhibit B to Exhibit 13 there's the
16 notice letter to Exxon at P.O. Box 1600 in Midland, and
17 that was returned to you, was it not?

18 A. When we sent out the -- We sent out two, to
19 Concho -- one to Concho and one to Exxon. And the one to
20 Exxon at that point, sent to Box 1600, was returned. And
21 so we sent it then to the Kerry Road address.

22 Q. Okay. And the P.O. Box 1600 one, it's kind of
23 faded but it says, I believe, undeliverable as addressed,
24 forwarding order expired?

25 A. Yes, that's correct.

1 Q. Mr. Lee, I've handed you what's been marked Exxon
2 Exhibit 1, but it's actually a response to the Motion to
3 Dismiss that I filed on behalf of Exxon, oh, a week or ten
4 days ago, and I'd like to go down a few things with you.

5 Starting in paragraph 3, it says -- Did you help
6 Mr. Carroll prepare this response?

7 A. Yes.

8 Q. It says, starting in paragraph 3 at the bottom of
9 page 1, you began calling Exxon offices in Midland. What
10 phone number did you call?

11 A. I don't have that here. I've got it somewhere in
12 my notes. It's the one that's published in the phone book
13 and in the Burmas Oilfield Directory and in directory
14 assistance.

15 Q. And you attempted to contact Randy Lewicki,
16 correct?

17 A. That's correct.

18 Q. And you were given Mr. Lewicki's voice mail
19 during several calls in 1999?

20 A. I don't believe at that time it was Mr. Lewicki.
21 Usually what I would get is staff, whoever answered the
22 phone, and I would ask for Mr. Lewicki or whoever is
23 handling the Permian Basin land area, and they would send
24 me to some voice mail and I would leave a message and leave
25 my name and address and phone numbers and telling what I

1 was calling about.

2 Q. Well, when you got the voice mail, whose voice
3 mail was it?

4 A. I'm not sure.

5 Q. Moving on down, on page -- I guess it would be
6 page 2, paragraph 5, you sent certain letters which are
7 attached to this response. They're also in your exhibit
8 packet. And you said each time you called the Exxon land
9 department in Midland; is that correct?

10 A. Yes, I would call the number that I had and I'd
11 ask for the land department or someone there that I could
12 talk to about a farmout on the Permian Basin.

13 Q. And you said you talked to a secretary or
14 someone. Do you --

15 A. Yes.

16 Q. -- have any names of the people you talked to?

17 A. No, I do not. I didn't write them down.

18 Q. And for any of the voice mails, you don't have
19 any names of anyone you left a voice mail message?

20 A. No.

21 Q. Now, your letters that are submitted as Exhibits
22 A, B and C to this response are not signed by you. Is
23 there any reason for that?

24 A. Because I just printed these off of my computer.
25 These were just copies of the letter that I had signed and

1 sent.

2 Q. Where did you get Mr. Lewicki's name from?

3 A. He was in Midland. I talked to him several times
4 in the Midland office, starting way back prior to the
5 Penwell deal.

6 Q. And you never got any of your letters back from
7 Exxon, except the certified mail which came back as
8 undeliverable?

9 A. The one that was -- I never received anything
10 back until the one that was sent certified the last part of
11 July, I believe it was.

12 Q. Now, the final letter you sent to -- it was your
13 Exhibit 14 that you sent to Mr. Mathew, says you declined
14 the farmout, or you decline the offer of Exxon for the west
15 half, east half. Did you ever make a counter-offer?

16 A. No. My offer was to farm out. His indications
17 were that Exxon was not interested in joining or farming
18 out, but was interested in term assignment of those terms
19 which just were not acceptable.

20 Q. What were your farmout terms?

21 A. For the west half of the east half, and an 80-
22 percent net revenue lease covering that west half of the
23 east half.

24 I don't know if we actually discussed actual
25 terms of farmout, when he told me that Exxon was not really

1 interested in a farmout. I don't know if we ever went to
2 great lengths on what the farmout terms would be since they
3 were not interested in farming out or joining.

4 Q. Do any of your letters set forth farmout terms?

5 A. Not that I'm aware of.

6 MR. BRUCE: Mr. Examiner, that's all I have of
7 this witness.

8 EXAMINER ASHLEY: Mr. Carroll?

9 MR. ERNEST CARROLL: Mr. Examiner, may I ask just
10 a couple of questions?

11 EXAMINER ASHLEY: Yes.

12 MR. ERNEST CARROLL: I forgot one question that I
13 should have asked.

14 REDIRECT EXAMINATION

15 BY MR. ERNEST CARROLL:

16 Q. In your conversation with Mr. Mathew wherein they
17 discussed this term assignment, did Mr. Mathew state or
18 tell you what Exxon's position was going to be with respect
19 to your Application filed for force pooling?

20 A. He told me just straight up that that was -- that
21 they were going to oppose the action of force pooling in
22 that acreage.

23 Q. All right. The number that you called in Midland
24 during -- through 1999, was the company name announced by
25 the answering individual?

1 A. Yes, it was.

2 Q. And what was that?

3 A. Exxon.

4 Q. Were you talking to a live person or a voice mail
5 at that point in time?

6 A. It was some lady that answered the phone.

7 Q. Did you identify the purposes of your phone call?

8 A. Yes, I did.

9 Q. And were you always directed to a person which
10 that -- the answering person represented to be the person
11 taking care of the area?

12 A. They would ask what particular area that I was
13 inquiring about, so they would know who to --

14 Q. And how did you describe the particular area?

15 A. I described it as southeast New Mexico.

16 Q. All right. Did that always satisfy the
17 receptionist as to whatever the inquiry --

18 A. Yes, it did.

19 Q. Were you ever able to talk to a live person,
20 though, after you were passed from the reception area?

21 A. I never talked to a live person until Mr. Mathew
22 called and told me that he had received a copy of the force
23 pooling action. Prior to the force pooling action actually
24 being filed, I never was able to talk to anyone except for
25 Mr. Lewicki back in 1995.

1 Q. This is a standard federal lease. What is the
2 royalty on the lease that Exxon had?

3 A. One-eighth.

4 Q. A one-eighth lease?

5 A. Yes.

6 Q. All right. So the offer of an 80 percent would
7 leave some room for an overriding royalty?

8 A. That would leave a 7-1/2-percent overriding
9 royalty.

10 Q. Have you ever had a counteroffer with respect to
11 a larger override or anything such as that?

12 A. No.

13 Q. Did Mr. Mathew offer anything such as that?

14 A. No.

15 MR. ERNEST CARROLL: Thank you, Mr. Examiner.

16 EXAMINER ASHLEY: Mr. Bruce?

17 MR. BRUCE: Nothing.

18 EXAMINATION

19 BY EXAMINER ASHLEY:

20 Q. Mr. Lee, in the letter that you wrote in March of
21 1999, you start out saying, "This letter is to request...a
22 Farmout Agreement or Participation in the above described
23 lands in Eddy County, New Mexico." Now, in that letter you
24 included the AFE that's attached; is that correct?

25 A. That's correct.

1 Q. And the workover procedure?

2 A. Yes, I put a detailed workover procedure as well
3 as the AFE.

4 Q. Okay. Now, is this all you said about the
5 farmout agreement? Was your farmout agreement ever spelled
6 out for them?

7 A. No, I was just requesting a farmout, and we never
8 got into any terms, because I never could get anyone to
9 talk to me.

10 Q. Okay. Now, I wanted to ask you some more
11 questions about the geology of the area.

12 A. Sure.

13 Q. Is there any other production, Morrow production,
14 within the area close to this well?

15 A. There is Morrow production to the north in
16 Section 22, there is also Morrow production in Section -- I
17 believe it's Section 32, to the south and west. It's not
18 included on this map.

19 Q. Okay, and if I'm understanding this right, this
20 well was originally tested in the Morrow and completed in
21 the Morrow?

22 A. It was tested and completed in the Morrow for a
23 rate of 4.1 million cubic feet per day.

24 Q. How come that zone was abandoned?

25 A. I'm not sure. On the production declines, it

1 started off at 43,000 MCF per month, the following month
2 20,000, the following month 10,000, and then it got down to
3 300 MCF for the next month. And so it just dropped right
4 off, which indicated to me not limited reservoir but
5 mechanical problems.

6 Q. Okay.

7 A. More specifically, more than likely, since it was
8 sand-frac'd, it was probably full of sand.

9 Q. Okay. Do you know anything about the Laguna
10 Salado South unit, when it was formed, the history of it or
11 anything?

12 A. No, sir, that unit is operated by Santa Fe
13 Energy, is all that I'm aware of.

14 EXAMINER ASHLEY: Okay.

15 MR. BRUCE: Mr. Examiner, if I can interrupt,
16 Exxon actually formed that unit, and Santa Fe Energy took
17 over operations from Exxon. I believe it was ten years or
18 eight or ten years ago, something like that. I only know
19 that because I did the hearing for Exxon.

20 EXAMINER ASHLEY: To form the unit?

21 MR. BRUCE: Yeah, I believe --

22 EXAMINER ASHLEY: And it was formed about eight
23 years ago?

24 MR. BRUCE: Yeah, I'll --

25 EXAMINER ASHLEY: Something like that?

1 MR. BRUCE: I believe so.

2 EXAMINER ASHLEY: And when did Santa Fe take over
3 operation?

4 MR. BRUCE: It was shortly thereafter.

5 EXAMINER ASHLEY: Okay.

6 Q. (By Examiner Ashley) When you began contacting
7 Exxon back at the first of the year, were you aware that
8 most of their operations had been moved out of Midland?

9 A. No, sir.

10 EXAMINER ASHLEY: Okay, all right.

11 Do you have any questions?

12 MR. RAND CARROLL: Yeah, I have a few questions,
13 Mr. Lee.

14 EXAMINATION

15 BY MR. RAND CARROLL:

16 Q. Your March 3rd, 1999, letter sent to Exxon in
17 Midland, that was a certified letter. Did you get a
18 receipt for that, return receipt?

19 A. On March the 3rd -- I'm not sure if the March 3rd
20 letter was sent certified mail. I don't recall.

21 Q. Well, if you look in the second paragraph of that
22 letter it says, "Please approve this AFE within 30 days
23 from time of receipt of this Certified Letter..." So
24 apparently it was a certified letter.

25 A. I've got some more -- I think I've got another

1 green card somewhere, but I don't know if this was sent
2 certified or not, because I can't find the green card for
3 it.

4 Q. Well, you said in the letter it was certified.

5 A. Well, I'm sure I probably sent it certified if I
6 put it in the letter, but I don't have the green card to
7 confirm that.

8 Q. You don't have it in your records?

9 A. No, sir.

10 Q. When did you get the Bell Street address in
11 Houston? You were sending correspondence to a P.O. Box in
12 Midland, and then you sent it to Kerry Road in Houston, and
13 then the last letter you sent is to an address on Bell.
14 Did you get that address from Mr. Mathew?

15 A. No, I got it also out of some of the other
16 oilfield directories that I could find with their
17 addresses, since I was unable to get any response from the
18 Midland office. I sent a copy of it to the land manager in
19 Houston, and on April the 20th, since I was not having any
20 luck out of Midland, I thought, well, perhaps at that time,
21 well then, they would at least -- if it was supposed to be
22 going somewhere else, they'd let me know where it was
23 supposed to go.

24 I sent two letters on April 20th, one to Exxon in
25 Midland, and also in that letter, the one that went to

1 Midland, I also put, "A copy of this letter is..." being
2 "...forwarded to your Houston office as well in an attempt
3 to get someone to inform me of Exxon's position." And so I
4 sent it to the box and the Bell address in Houston and just
5 addressed it to the land manager at that time.

6 Q. Okay, so you sent it to the Bell address in both
7 April and in August.

8 What correspondence did I see with the Kerry Road
9 address?

10 A. That was the corrected address after the green
11 card came back as undeliverable at the end of July. I
12 believe it's Exhibit 13.

13 Q. So you got the Kerry Street as the corrected
14 address, and still in August of this year you sent it to
15 the Bell address again? Your August 20th response to
16 Mr. --

17 A. The Kerry Road address was in Midland, and Mr.
18 Mathew was in Houston, and so my last response --

19 Q. Oh, I see.

20 A. -- on August 20th, then, went back to the Bell
21 address, to Mr. Mathew down there in Houston.

22 Q. Okay. There was a reference made to a McInnes
23 Resources Company. What's their involvement in this whole
24 matter?

25 A. Prairie Sun sold 20 percent of working interest

1 in the east half, east half, to that corporation.

2 Q. And what did they sign, a JOA?

3 A. They signed a JOA and an AFE to participate.

4 Q. But that signature doesn't appear on this
5 exhibit?

6 MR. ERNEST CARROLL: Mr. Carroll, we did not
7 present that.

8 MR. RAND CARROLL: Okay.

9 MR. ERNEST CARROLL: Since this was a -- They're
10 not an interest owner that we were getting, they were
11 someone that we actually sold this project to, is why we
12 didn't present that --

13 MR. RAND CARROLL: Well, I thought we were
14 referring to the JOA, and there was a question regarding
15 McInnes Resources.

16 THE WITNESS: That was because that was the JOA
17 for everybody. And principally, the purpose was to show
18 that that was what the overhead rate was being offered, and
19 the penalty would be the same --

20 MR. RAND CARROLL: Okay.

21 THE WITNESS: -- as we are requesting or
22 recommending to the Commission.

23 Q. (By Mr. Rand Carroll) Well, Mr. Lee, did you
24 testify you actually did have some conversations with Mr.
25 Lewicki?

1 A. Yes, I did.

2 Q. And that was when, earlier this year?

3 A. That was starting at the first --

4 Q. First of January?

5 A. In 1995 and 1996 and 1997, is when I was talking
6 to Mr. Lewicki, and then the project kind of fell by the
7 wayside when I couldn't get anything from Penwell. And
8 then when Concho took over Penwell we started reviving the
9 project again, and I went back and had the abstractor find
10 the address and the term assignment so we could see who
11 owned it, whether Concho still did or Exxon. And since we
12 didn't have any idea, we sent that to both Concho and Exxon
13 again at that time.

14 But I did not speak to Mr. Lewicki at that time.

15 Q. Okay, so prior to speaking to Mr. Mathew in
16 August, you had no -- you didn't talk to anybody at Exxon,
17 besides leaving messages?

18 A. Just left message after message.

19 Q. In 1999?

20 A. Yes, sir.

21 MR. RAND CARROLL: Okay, that's all I have.

22 FURTHER EXAMINATION

23 BY MR. ERNEST CARROLL:

24 Q. Mr. Examiner, since I haven't been up here in a
25 while I forgot to ask the all-important question of Mr.

1 Lee.

2 In your opinion, does the granting of this
3 Application by the Division promote conservation and
4 protect correlative rights?

5 A. Yes, it does.

6 MR. ERNEST CARROLL: I'm sorry, a formality.

7 I have nothing further. That was the only
8 witness that we have.

9 EXAMINER ASHLEY: Okay. Mr. Bruce, do you have
10 anything further?

11 MR. BRUCE: I don't have anything further with
12 Mr. Lee.

13 EXAMINER ASHLEY: Thank you, Mr. Lee. You may be
14 excused.

15 M.P. BOB MATHEW,
16 the witness herein, after having been first duly sworn upon
17 his oath, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BRUCE:

20 Q. Could you state your name and city of residence
21 for the record?

22 A. My name is M.P. Bob Mathew, Houston, Texas.

23 Q. Who do you work for?

24 A. I work for Exxon Company, USA.

25 Q. Exxon Company, USA, is a division of Exxon

1 Corporation?

2 A. Corporation, that's right.

3 Q. Let's get this clear on the record right away.

4 What is your direct phone number?

5 A. It's area code (713) 431-1029.

6 Q. And at what address can you be reached in Exxon?

7 A. We have two addresses. One is a P.O. box and
8 another is a physical street address. The P.O. box is P.O.
9 Box 4697, Houston, Texas 77267. And the physical address
10 is 396 West Greens Road, Houston, Texas, 77067.

11 Q. What is your job title at Exxon?

12 A. I'm a senior land representative.

13 Q. Does your area of responsibility include
14 southeast New Mexico?

15 A. Yes, it does.

16 Q. In fact, are you really the only landman handling
17 southeast New Mexico?

18 A. That's correct.

19 Q. How long have you been doing that?

20 A. About two years.

21 Q. Have you previously testified before the
22 Division?

23 A. No, I have not.

24 Q. Would you please summarize your educational and
25 employment background?

1 A. I received a petroleum land management degree
2 from the University of Texas in Austin, and upon graduation
3 I went to work for Exxon in 1981. I worked for 19 1/2
4 years, approximately, at Exxon.

5 Q. And are you familiar with the land matters
6 involved in this Application?

7 A. Yes, I am.

8 MR. BRUCE: Mr. Examiner, I'd tender Mr. Mathew
9 as an expert petroleum landman.

10 EXAMINER ASHLEY: Mr. Mathew is so qualified.

11 Q. (By Mr. Bruce) Now, Mr. Mathew, as Exxon's
12 landman responsible for southeast New Mexico, would any
13 proposal regarding the drilling of a well or a farmout or
14 anything else come to you?

15 A. Generally, they do come to me.

16 Q. Now, if somebody wanted to get your name and
17 address, how could they find it?

18 A. The most common way that people who don't know
19 about Exxon in Houston would contact me would be through
20 looking at the PBLA or Permian Basin Landman's Association
21 Directory. All of Exxon's landmen are members of that
22 organization, and their names and addresses and phone
23 numbers are listed in the Midland Land Directory. And we
24 often come out for their meetings. So people in the oil
25 and gas business in Midland know how to contact landmen.

1 Q. Now, Exxon's Midland office is closed, is it not?

2 A. Yes, it was closed.

3 Q. How long ago was it closed?

4 A. It was closed in 1997, as of August 1st.

5 Q. So it's been closed 25 months now?

6 A. Yes.

7 Q. What about the phone number there?

8 A. The phone number was kept active for a few weeks,
9 and I checked on this before I left Houston. It was kept
10 active until the middle of September. It had a forwarding
11 number on it. That number was (915) 688-6100. And then
12 about September 15th of 1997 the number was de-activated,
13 and if you call that number today you get a telephone
14 company message saying that the number is no longer active.

15 Q. So for almost two years now, it's been impossible
16 to call the Midland office?

17 A. That's correct.

18 Q. Or what was the Midland office?

19 A. That's right.

20 Q. All of the people in Midland who wanted to remain
21 with Exxon moved to Houston?

22 A. That's correct.

23 Q. Now, regarding this particular tract of land, you
24 verified that there had been a term assignment to Penwell
25 at one point?

1 A. That's correct.

2 Q. When did ownership revert to Exxon?

3 A. It would have reverted sometime in March of this
4 year, and the reason -- March of 1999.

5 Q. And had -- I don't know what the precise terms or
6 length of the term assignment was, but was there a well
7 drilled under there that extended that assignment?

8 A. Yes, there was a well that was drilled by
9 Penwell. It was a Delaware well in Section 28, in the west
10 half, and they had under the terms of that term assignment
11 180 days to commence operations on a subsequent well.

12 There was some question as to when exactly
13 operations ceased on that Penwell well, which Concho took
14 over, and so it was agreed that the term assignment would
15 terminate around March of 1999, 180 days from the date they
16 determined operations had ceased.

17 Q. And on Prairie Sun's Exhibit 1 that well, I
18 think, would be the -- I think it's listed here as the
19 Cochiti Federal Well Number 2, which is in the northwest of
20 the southwest of Section 28.

21 A. I believe that's correct.

22 Q. So really, Exxon really didn't own the interest
23 to negotiate with until March of 1999?

24 A. That is correct.

25 Q. Now, I want to get to the Motion to Dismiss in a

1 minute here, Mr. Mathew. But in general terms, Exxon isn't
2 out there to stop people from drilling, is it?

3 A. No. In fact, we have an active program to
4 promote to industry a large number of acres that our
5 company has no plans to drill on, and it's called our
6 acreage forward stewardship process. We actually encourage
7 other companies to come in and try to get development going
8 on our own tracts that we have no plans for in the near
9 future. And it's one of --

10 Q. And this is one of those tracts?

11 A. Yes, this happens to be one of those tracts.

12 Q. Does Exxon have any objection to dealing with
13 just 160 acres, rather than the whole lease?

14 A. No.

15 Q. Now, you made an offer, and I don't know if it
16 was in writing or over the phone, to Mr. Lee, did you not?

17 A. Yes, it was over the phone.

18 Q. Did you ever receive a counteroffer?

19 A. No, I did not.

20 Q. The terms that you offered, are they similar to
21 the terms other operators have accepted on lands in New
22 Mexico?

23 A. Yes.

24 Q. Approximately how many deals since you became the
25 landman for New Mexico have you consummated?

1 A. Consummated well over 30 different deals.

2 Q. Did you have only one conversation with Mr. Lee?

3 A. Actual conversation, one. I believe there were
4 two voice mail messages that were traded.

5 Q. Okay. During that conversation did he ever
6 mention the precise farmout terms that he mentioned during
7 his testimony today?

8 A. No.

9 Q. Mr. Mathew, do you have in front of you what I've
10 marked Exxon Exhibit 1, the Response to the Motion to
11 Dismiss?

12 A. Yes.

13 Q. Let's go down through this, starting with
14 paragraph 3 where it says that Prairie Sun began calling
15 Exxon offices in Midland. I mean, from your previous
16 testimony, could you reach anybody in Midland?

17 A. You could not reach anyone in our main Midland
18 office. That number was disconnected. Midland had a
19 Sprayberry field office, that one on Kerry Road, but it was
20 actually outside Midland.

21 Q. What about reaching Mr. Lewicki there?

22 A. Randy Lewicki left Exxon's employment on -- I
23 believe it was July 1st of 1997.

24 Q. So when the Exxon Midland office closed and
25 everybody moved to Houston, Mr. Lewicki elected to stay in

1 Midland?

2 A. Yes, he elected to go to work for Phillips.

3 Q. I think he's still a landman for Phillips.

4 A. I believe that's correct.

5 Q. And because of this, there really is no land
6 department in Midland, and hasn't been for a couple of
7 years?

8 A. That's right.

9 Q. Moving on down this, there are two paragraphs
10 numbered paragraph 3, but on the second paragraph 3,
11 obviously since Mr. Lewicki hasn't been there for two
12 years, he couldn't return any phone calls, could he?

13 A. That's right.

14 Q. Now, attached to this and submitted as the main
15 exhibit package are three letters, Exhibits A, B and C to
16 the Response. Before this response was delivered to us,
17 had you ever seen any of these three letters?

18 A. No, I have not.

19 Q. And the ones that went to P.O. Box 1600
20 apparently -- I mean, obviously the certified mail had been
21 returned to Mr. Lee?

22 A. I don't know. Yeah.

23 Q. So you never saw those letters. Now, the one
24 that goes to Houston, P.O. Box 2180, that is a general
25 Exxon P.O. box?

1 A. Yeah, that's the P.O. box that Exxon company
2 used. Its headquarters, or all the headquarters groups,
3 are housed.

4 Q. That's not the land department?

5 A. No.

6 Q. This letter never made it to you?

7 A. It did not.

8 Q. And anything coming regarding New Mexico should
9 come to you?

10 A. That's right.

11 Q. And without belaboring the point, I mean, the
12 comments regarding calling Midland, again, there was no
13 phone number in Midland that anybody could be reached at,
14 other than the Sprayberry field office?

15 A. That's right.

16 Q. They would not handle New Mexico properties?

17 A. No.

18 Q. Mr. Mathew, I've handed you what's been marked as
19 Exhibit 2. Is that simply a paragraph-by-paragraph
20 rebuttal, prepared with your assistance, regarding the
21 Prairie Sun response to Motion to Dismiss?

22 A. Yes.

23 Q. And it pretty much summarizes what you -- in
24 paper form, what you've just testified to?

25 A. That's correct.

1 Q. I'm handing you what's been marked Exxon Exhibit
2 3, Mr. Mathew. Could you just briefly describe what that
3 is for the Examiner?

4 A. I just kept a chronology of my conversations or
5 interactions with Prairie Sun regarding this matter, and --

6 Q. And basically what -- if I can summarize, what
7 you've seen is an early August letter that got to you, the
8 letter that went to the Sprayberry field office?

9 A. That's right.

10 Q. And then you had a phone conversation with Mr.
11 Lee?

12 A. Just one phone conversation, on August the 17th.

13 Q. And you put forth Exxon's terms, proposed terms
14 for a term assignment?

15 A. That's right.

16 Q. And you have never received a counteroffer from
17 them?

18 A. No, not verbally, not in writing.

19 Q. Mr. Mathew, were Exxon Exhibits 2 and 3 prepared
20 by you or under your direction?

21 A. Yes, they were prepared by me.

22 Q. And in your opinion, should this Application be
23 dismissed so that the parties can negotiate further
24 regarding a farmout or term assignment?

25 A. That's what we feel.

1 MR. BRUCE: Mr. Examiner, I would move the
2 admission of Exxon's Exhibits 1 through 3.

3 EXAMINER ASHLEY: Exhibits 1 through 3 will be
4 admitted at this time.

5 MR. BRUCE: And I pass the witness.

6 EXAMINER ASHLEY: Mr. Carroll?

7 CROSS-EXAMINATION

8 BY MR. ERNEST CARROLL:

9 Q. Mr. Mathew, Exxon is a very large corporation, is
10 it not?

11 A. Yes, it is.

12 Q. The address that was used by Mr. Lee for Houston,
13 P.O. Box 2180, or 800 Bell, are those valid addresses for
14 some part of Exxon, Inc.?

15 A. Yes.

16 Q. Now, you're not telling the Examiner that there
17 is not an Exxon office in Midland, Texas, that answers the
18 telephone "Exxon"?

19 A. I believe there's the Sprayberry field office
20 that answers.

21 Q. All right. Do you have any knowledge or personal
22 knowledge, whether or not those people in that Sprayberry
23 office know that the land department has moved from Midland
24 to Houston?

25 A. The Sprayberry field office is not in my area of

1 jurisdiction, so I don't get interactive in that office.

2 New Mexico is handled out of our Seminole field office.

3 Q. All right. So if someone calls that office, they
4 should know that the land department for Exxon exists in
5 Houston, and they would probably know the correct telephone
6 number or address, wouldn't they?

7 A. I wouldn't know the answer to that.

8 Q. You wouldn't know the answer. The Sprayberry
9 office in Midland should know that the production matters
10 for New Mexico are handled in the -- What did you say,
11 Seminole office?

12 A. Yeah, but each field office handles their
13 distinct fields, and they don't worry about the other field
14 offices.

15 Q. Does that go to the point that they will not tell
16 someone who calls and inquires about, I want to talk to
17 someone about acreage, is it policy of Exxon not to give
18 them the proper information or to tell them where to go to
19 find out what they're asking?

20 A. I wouldn't know about those allegations.

21 Q. You wouldn't know. Okay.

22 There are live human beings, though, in the
23 Sprayberry office in Midland, are there not --

24 A. I would think so.

25 Q. -- to your knowledge?

1 And let's -- you talk -- You have mentioned that
2 Exxon has an active program to try to deal with the acreage
3 that it holds, and apparently there is quite a lot of
4 acreage held by Exxon in southeastern New Mexico, is there
5 not?

6 A. What do you mean by "quite a lot"?

7 Q. Significant, it takes how much of your time to
8 deal with southeastern New Mexico?

9 A. How many acres are you talking about?

10 Q. Well, yeah, how many acres does Exxon have? Do
11 you have an idea?

12 A. About 100,000.

13 Q. Hundred thousand acres. That's a significant
14 amount of acreage, is it not?

15 A. Uh-huh.

16 Q. In your conversation with Mr. Lee, you did inform
17 him that Exxon was not interested in farming out or
18 drilling or joining in this proposal; is that correct?

19 A. No, it's not. In fact, Mr. Lee has
20 misrepresented that in his response filed through the
21 Commission.

22 The exact conversation that I had with Mr. Lee is
23 listed on the chronology there. I advised Mr. Lee that it
24 was our preference to try to trade all of these 1700 acres,
25 because we had this program in place, and we had some

1 parties that we were talking to about taking the entire
2 tract, that we would not stand in his way of just doing the
3 160 if he came back to us with what we wanted, which was an
4 18-month term assignment for the bonus of \$275 an acre with
5 us delivering a \$75 NRI.

6 And we did not hear back. Mr. Lee said that he
7 would talk to his folks and get back to me, and he never
8 called back.

9 Q. Well, isn't it true, though, Mr. Lee brought up
10 in that conversation that he wanted Exxon to either join or
11 farm out? Is that not true?

12 A. No.

13 Q. So that was never part of the conversation?

14 A. No, he said in an earlier letter that he would
15 like a farmout, but there were no terms, and I was giving
16 him the terms for the deal --

17 Q. Did you ask -- Okay, excuse me, I didn't mean to
18 interrupt.

19 Okay, so you were giving him the terms of the
20 deal that Exxon would accept?

21 A. That's right.

22 Q. And they did not include farming out or joining,
23 did they?

24 A. I believe I told him that we would prefer not to
25 joint the well.

1 Q. Well, what does "prefer" mean?

2 A. We --

3 Q. You haven't joined.

4 A. -- would not.

5 Q. You haven't -- You would join?

6 A. Would not.

7 Q. You would not join, okay. So that's out of the
8 way. Exxon is not going to join in this project, no matter
9 what?

10 A. That's right.

11 Q. Okay. Farming out. What are the terms that
12 Exxon would farm out under?

13 A. We generally don't do farmouts. We do what we
14 call term assignments.

15 Q. Uh-huh.

16 A. That's been the practice in the 30-plus deals
17 that we've had in New Mexico. And for all essence -- It's
18 just a matter of semantics. We just call a farmout a term
19 assignment.

20 Q. I see. So frankly, right now, as of this date,
21 Exxon has on the table everything that it will do with
22 respect to making a trade on this acreage.

23 A. This is our initial terms. If Mr. Lee wants to
24 propose a counter, we'll certainly look at it.

25 Q. You already know he wants you to either join or

1 farm out. That's rejected. So the only thing that you're
2 going to consider is him offering you a different amount of
3 money for a term assignment; is that correct?

4 A. What do you mean by "farmout"?

5 Q. Farmout is where you assign the acreage
6 allowing -- based on a net-revenue interest, and allow him
7 to drill a well.

8 A. He didn't give me any specifics on the farmout.

9 Q. But that's not what Exxon will do a deal on, is
10 it?

11 A. We generally don't do it, but we do do deals that
12 are straight farmouts too, when the situation necessitates.

13 Q. What is Exxon's objection to this acreage being
14 force pooled?

15 A. We don't have an objection to Mr. Lee or his
16 company drilling the well on it, we just want a negotiated
17 deal, that's all.

18 Q. A deal only on your terms; is that correct?

19 A. No, the terms are subject to negotiation. He has
20 not made any counteroffer.

21 Q. What again is the answer to my question? What is
22 your objection to this acreage being force-pooled?

23 A. We would like for Prairie Sun to attempt to
24 negotiate with Exxon before force pooling us.

25 Q. And the only area of negotiation would be a price

1 as to a term assignment; is that correct?

2 A. Price and net revenue interest.

3 Q. Price and net revenue interest. But it would be
4 a term assignment; is that correct?

5 A. That's generally the way we would do it.

6 Q. You say you want more time to negotiate. How
7 much time is necessary to negotiate?

8 A. If we can reach agreement, we can do it in a few
9 days.

10 Q. As to a farmout agreement wherein you just assign
11 the acreage to allow the well or the workover procedure --
12 because this well is already in existence, it doesn't have
13 to be drilled -- as to a farmout agreement where Exxon
14 would allow Prairie Sun to complete the well, and if it
15 gets a well that is capable of commercial production and
16 then earn an assignment with an 80-percent net revenue, is
17 Exxon's position that that is an unacceptable offer?

18 A. Because we're not getting the value for that
19 acreage that we feel should be --

20 Q. That you should be given to it. You have been
21 shopping this acreage since early 1982; is that correct?
22 That was the last time Exxon did any work, and then there
23 is -- The chronology that Mr. Lee presented, there have
24 been a number of assignments to various people.

25 A. I personally have not been shopping the acreage

1 until -- in recent months.

2 Q. All right. But Exxon -- This acreage has been
3 available for sale and has had a number of takers since
4 1982; is that correct?

5 A. I believe the Penwell deal was the result of an
6 earlier promotive effort.

7 Q. Well, the chronology that Mr. Lee presented with
8 respect to the different assignments of people that held
9 this acreage, you have no objection with the accuracy of
10 that, do you, Mr. Mathew?

11 A. No.

12 MR. ERNEST CARROLL: I pass the witness.

13 EXAMINER ASHLEY: Mr. Bruce?

14 REDIRECT EXAMINATION

15 BY MR. BRUCE:

16 Q. Just one question, Mr. Mathew. As you said, when
17 you're looking at a term assignment or a farmout, it's
18 really semantics as to the difference between the two?

19 A. That's right. It's just, our company in New
20 Mexico prefers to handle their farmouts via that
21 instrument.

22 Q. Each requires a well to be drilled or well work
23 to be done within a specific period of time, or the
24 interest lapses?

25 A. That's right.

1 MR. BRUCE: That's all I have.

2 MR. ERNEST CARROLL: With respect to that, I have
3 one question.

4 RE-CROSS-EXAMINATION

5 BY MR. ERNEST CARROLL:

6 Q. There is a distinct difference, though, Mr.
7 Matthew, because a term assignment also requires the person
8 obtaining the term assignment to pay cash money for the
9 acreage; is that correct?

10 A. Our farmouts also require cash money, by the way.

11 Q. That's because the farmouts that Exxon -- the
12 only farmouts Exxon will give are term-assignment-type
13 farmouts; is that correct?

14 A. No, we give farmouts in other parts of the
15 country for cash consideration, because we want to make
16 sure that the people that we give farmouts to are serious
17 about drilling.

18 Q. The fact that Mr. Lee is willing to spend over
19 \$200,000 to perform this workover is not sufficient
20 indication to Exxon that he intends to do the work, then,
21 is that what you're saying?

22 A. No.

23 Q. Okay. But you are saying Exxon wants cash paid
24 to it in order to make a deal on this acreage?

25 A. We believe the acreage has a value.

1 MR. ERNEST CARROLL: That's all I have.

2 EXAMINATION

3 BY EXAMINER ASHLEY:

4 Q. Mr. Mathew, what was the term assignment that you
5 had reached with Penwell?

6 A. The term of that? I didn't actually work on that
7 deal, but that was for a period of several years. It
8 required wells to be drilled and had a 180-day continuance
9 development provision. Penwell drilled one well, which was
10 that Cochiti well, and then they had 180 days thereafter to
11 commence another well. Concho had the interest at that
12 time, and they chose to allow it to lapse.

13 That would have been March of 1999.

14 Q. Did their term involve any kind of price per acre
15 and --

16 A. Yes, they paid a bonus per acre.

17 Q. What did they pay?

18 A. I'm not sure since I didn't do that deal, but if
19 I were to just guess I would say a couple of hundred
20 dollars per acre.

21 Q. Okay. Prior to Exxon closing the Midland office,
22 would you be involved in any land matters that happened in
23 New Mexico?

24 A. I was working in the lease maintenance
25 organization, called land owner relations, and I had

1 contact with our various land offices. At the time, it
2 was -- In more recent years it was New Orleans and Midland,
3 and prior to that Denver.

4 Q. But did you oversee the land matters in Midland?

5 A. We didn't oversee, we had more of a review role
6 and support role in that organization.

7 Q. So if Mr. Lee had contacted Mr. Lewicki prior to
8 the office closing in Midland, would you have known about
9 that?

10 A. No. I was in the controllers organization that
11 had stewardship over lease maintenance, so we were removed
12 from the field office.

13 Q. So that would have -- what would have happened in
14 Midland would have happened independent of anything in the
15 Houston office?

16 A. Yes, where I was employed at the time. But in
17 1997, in September of 1997, I moved to the Houston land
18 organization. So I was new to land. I've been handling
19 New Mexico ever since 1997, but prior to that I was not
20 involved in the land organization.

21 Q. Well, then -- Okay, did the land department in
22 Houston handle New Mexico land matters prior to the Midland
23 office closing?

24 A. Oh, I see your question. No, they did not. They
25 were handled out of Midland.

1 Q. Okay. So any kind of conversation would probably
2 not -- would have gone unnoticed in Houston?

3 A. That's right.

4 EXAMINATION

5 BY MR. RAND CARROLL:

6 Q. Mr. Mathew, you had a conversation with Mr. Lee
7 on the 17th of August?

8 A. Uh-huh.

9 Q. From your understanding, what was his problem
10 with your offer of a term assignment? Was it the cash
11 bonus or was it the net revenue interest, or both?

12 A. He didn't indicate that he had a problem. He
13 just said, you know, he was going to talk to his folks
14 about my offer and he would get back to me, and he never
15 did.

16 MR. RAND CARROLL: Okay, that's all I have.

17 FURTHER EXAMINATION

18 BY EXAMINER ASHLEY:

19 Q. And what, again, was your problem with his offer?

20 A. He really didn't have an offer to speak of, he --
21 In writing, I think he proposed a farmout with no distinct
22 terms. I stated what our terms would be up front to him.
23 He said he would talk to his folks and get back to me. I
24 never heard back.

25 EXAMINER ASHLEY: Mr. Carroll, do you think it

1 would be possible to produce any of the return receipts for
2 the letters that Mr. Lee has written since the first of the
3 year?

4 MR. ERNEST CARROLL: That I can't answer until we
5 go back through his files. He said he had a few green
6 cards. I just don't have a representation to make to you
7 as to whether or not we would be successful in locating the
8 green card that is referenced in the letter.

9 I know I asked him to look for some. He found
10 some cards. We found a green card for the Concho letter in
11 March that was going at the same time. We didn't make that
12 an exhibit, but he was trying, he was -- but it was also
13 aside. We found that one.

14 I don't know, he might be able to find the one --
15 because these letters were being written in the March --
16 There was a letter written to Exxon in March which we've
17 made an exhibit. We can't find the green card.

18 The same letter was written to Concho. We found
19 the green card, but then we found out Concho wasn't the
20 source and we didn't make that an exhibit. But we just
21 haven't located it to date. I don't know if he went back
22 and he could find it, and I just don't want to make a
23 representation to you one way or the other. I mean, we can
24 certainly try.

25 I know we found one. And that is just an

1 indication to me that I think he did what the letter said.
2 It's just we don't have it now. He didn't -- Most of these
3 cases don't get down to whether or not there's a green card
4 or not, at least ones I've had, and Mr. Lee just hasn't had
5 that experience, and I can tell you that's what he's
6 represented to me, and we just -- We've looked for it, and
7 we haven't found it yet.

8 And he has been out on the -- In fact, when he
9 left, he left straight from a well. He's been quite busy
10 in the nature of his consulting business when we came up
11 here, so -- and he's -- There's just been a lot going on in
12 his life, so...

13 EXAMINER ASHLEY: Okay. You also mentioned
14 earlier that there was a concern about losing the lease,
15 and there was some -- Is there a particular deadline
16 that --

17 MR. ERNEST CARROLL: There is no particular --
18 There is not a set deadline as of yet, but that doesn't
19 mean we're not going to get one.

20 The lease -- what happened, because -- these
21 federal exploratory units -- Commercial production for the
22 extension of an exploratory unit that had a lot of acreage
23 is a higher standard, but commercial production for a
24 producing well which will keep a particular lease alive is
25 a lower standard.

1 The proponents of -- The supporters of the
2 exploratory unit, the larger exploration unit, did not,
3 according to the feds, get the sufficient amount of
4 commercial production in order to hold the vast amount of
5 acreage.

6 Then, as Mr. Lee outlined for you, the well was
7 put on production, both gas, and there was some Delaware
8 and there was some testing. So there's been a productive
9 history over -- since 1975 or 1976, when the well first
10 produced.

11 The BLM has been satisfied, but quite frankly
12 we're setting on the edge of our chairs wondering when that
13 notice -- and we are -- That's why we had to file the force
14 pooling Application, because we are in fear of that, and if
15 that happens it will be a short-term notice, put it on
16 productive status.

17 But the well is in that -- as far as the feds are
18 concerned, it does enjoy temporarily abandoned status, it
19 has had production, the lease has been held -- and that's
20 just a 160-acre lease -- has been held up to the present
21 time. But it does stand in risk of losing because there's
22 no production right now.

23 EXAMINER ASHLEY: We're going to take a five-
24 minute recess. We'll come back at 10:30.

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

1 (The following proceedings had at 10:30 a.m.)

2 EXAMINER ASHLEY: Mr. Bruce, have you made a
3 motion in this case?

4 MR. BRUCE: Yeah, I would like to make a brief
5 statement, and I'll do it in the alternative.

6 Mr. Examiner, you know, I'd like to start off by
7 saying that Exxon would like to see something get done out
8 here. Mr. Lee is doing a good thing, trying to bring the
9 well back on line. If he can do that, more power to him.

10 But really, Exxon just simply believes that the
11 parties should be held to the standards required by the
12 statute and Division policy and that we should have some
13 additional time to negotiate. I think that would clear up
14 the problems. And if they can't come to terms, Prairie Sun
15 could come back and force-pool them.

16 But, you know, Mr. Mathew testified he didn't see
17 any of these letters. The first time they got the letters
18 was, I think, a July 30th -- or maybe an August, early
19 August letter that went to that Sprayberry field office,
20 that got forwarded to Houston. And that's when I got
21 called by Mr. Mathew and his compatriots about this case.

22 I would renew the Motion to Dismiss or make it,
23 in the alternative, a continuance of this hearing to allow
24 the parties just more time to negotiate. I don't think
25 there has been sufficient time, and I don't think there

1 have been sufficient negotiations. And with a few weeks'
2 extra time, maybe they can come to terms on this.

3 I don't think -- I recognize their fear of a time
4 delay or time deadline by the BLM, but I believe under
5 federal regulations usually there's a letter issued and a
6 company is given an X period of time to bring a well back
7 on production on a lease before it's expired. So I don't
8 think the BLM could call them up tomorrow and say, Hey,
9 your lease is dead. There would be some time element
10 involved, or they wouldn't be allowed to bring the well
11 back into production.

12 So having said that, you know, Exxon doesn't
13 object to being force pooled, they merely want Prairie Sun
14 to comply with the statutes. And we think a few more weeks
15 of negotiating would settle that.

16 EXAMINER ASHLEY: Okay. Mr. Carroll?

17 MR. ERNEST CARROLL: Mr. Examiner, there's two
18 parts.

19 With respect to just an outright dismissal, we
20 certainly oppose that. We believe we have tried to do
21 something with Exxon, and Exxon over the many years has
22 established a policy.

23 The issue here is, can Exxon force Mr. Lee or
24 Prairie Sun to pay -- not only put their money up for the
25 operation proposed but pay them a dollar sum per acres? I

1 think the testimony is pretty clearcut, that's all Exxon
2 wants, and Prairie sun is not willing to put up an
3 additional amount of money on top of the money they are
4 going to risk in the operation. I think the testimony has
5 indicated that.

6 And I think compliance with the statute has been
7 met, based on the testimony presented here today. There
8 has been a meeting of these parties, there has been an
9 established time period of what Exxon's position is, and
10 there's testimony with respect to Prairie Sun. So I don't
11 think a dismissal is proper.

12 However, I think this Examiner has a hearing date
13 sometime in September. My client, though he does not
14 believe there is going to be much room for success because
15 we know the positions -- and he has expressed that in his
16 testimony, and I think Mr. Mathew has pretty well expressed
17 the position of Exxon. We have no objection, though, to
18 the next hearing that this Examiner has in September -- and
19 you called a couple of dates, so I think that you have a --
20 I suggest -- I feel like you have one. You can correct me
21 if you do not. But to allow the parties -- and as Mr.
22 Mathew said, only a few days may be necessary -- to allow
23 the parties to at least converse and see if there is any
24 room for movement with respect to that key issue, the
25 payment of additional money, and then once you give us the

1 date of the hearing, that -- say by Monday of the week of
2 the hearing date, counsel, both of us, advise you whether
3 or not a deal has been made.

4 And if a deal has been made, of course, the
5 hearing should be dismissed, because there's only two
6 parties. If a deal cannot be made, then I think the case,
7 based on the evidence presented here, should be taken under
8 advisement and a ruling handed down as to the Application
9 seeking the force pooling.

10 And so we -- in a sense, we're giving the
11 credence or -- and agreeing, then, to one of the
12 alternatives posed by Mr. Bruce on behalf of Exxon. But we
13 would like to do it to your next hearing date and set it up
14 along the terms, and I think that should be sufficient
15 time.

16 I think Mr. Mathew and Mr. Lee can, as we leave
17 here, set a time of which they can converse, and once
18 they've gotten and looked at everything, that they can set
19 up an appointment time where they can actively converse and
20 discuss the alternatives available to them.

21 EXAMINER ASHLEY: Okay. I'm not going to dismiss
22 the case. I will continue the case to my next docket. The
23 problem is that my date -- Well, I guess it shouldn't be a
24 problem. My next docket is the 21st of October.

25 MR. ERNEST CARROLL: Oh, 21st of October, okay.

1 EXAMINER ASHLEY: And I would like for both
2 parties to contact me that Monday before -- I'm not sure of
3 the date, as to what the status is. And then we'll hear
4 any additional testimony on the 21st and take it under
5 advisement at that time.

6 MR. ERNEST CARROLL: With respect to the -- I do
7 not suspect we'll have -- Do you think there will be the
8 necessity of additional testimony with respect to the
9 negotiation, other than just a representation by Counsel,
10 yes or no?

11 MR. BRUCE: Yeah, I would anticipate that we
12 wouldn't need to bring Mr. Lee back. If anything, I
13 suppose we could submit affidavits or just --

14 MR. ERNEST CARROLL: If that would -- just an
15 affidavit as to what happened and whether or not there's
16 any -- you know, that's all I'd like to see --

17 MR. BRUCE: Yeah.

18 MR. ERNEST CARROLL: -- just to keep the parties
19 from having -- because I know Mr. Mathew had to come up
20 from Houston. That's quite an expense. And Mr. Lee's
21 taken away from trying to keep his wells producing.

22 So then --

23 MR. BRUCE: I don't have any objection to that.

24 MR. ERNEST CARROLL: To that, if there is a
25 necessity of additional -- be presented in affidavits or

1 just based on the statement --

2 EXAMINER ASHLEY: That would be fine with me.

3 MR. RAND CARROLL: And please inform us if you
4 get a notice from the BLM.

5 EXAMINER ASHLEY: Yes.

6 MR. ERNEST CARROLL: If we do, we will give
7 you -- give me a call.

8 MR. BRUCE: Yeah, tell us of that. If you do,
9 please tell us.

10 MR. ERNEST CARROLL: Yeah, I'll immediately
11 notify you, Bruce.

12 EXAMINER ASHLEY: And let me know too.

13 MR. ERNEST CARROLL: I certainly will.

14 EXAMINER ASHLEY: Okay.

15 MR. ERNEST CARROLL: Send you a copy of the
16 letter.

17 EXAMINER ASHLEY: Okay, thank you.

18 MR. ERNEST CARROLL: Thank you.

19 (Thereupon, these proceedings were concluded at
20 11:35 a.m.)

21

* * *

22 I do hereby certify that the foregoing is
23 a complete record of the proceedings in
the Examiner hearing of Case No. 12236
heard by me on 9-2 1999

24

Mark Bailey . Examiner
Off Conservation Division

25

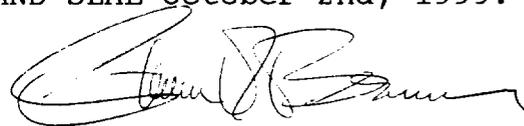
CERTIFICATE OF REPORTER

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 October 2nd, 1999.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002