

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

IN THE MATTER OF THE HEARING CALLED BY )  
THE OIL CONSERVATION DIVISION FOR THE )  
PURPOSE OF CONSIDERING: )  
APPLICATION OF MARBOB ENERGY CORPORATION )  
FOR AN UNORTHODOX GAS WELL LOCATION, )  
EDDY COUNTY, NEW MEXICO )

CASE NO. 12,370

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

April 6th, 2000

Santa Fe, New Mexico

00 APR 21 AM 10:57

OIL CONSERVATION DIV

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, April 6th, 2000, 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.

\* \* \*

## I N D E X

April 6th, 2000  
Examiner Hearing  
CASE NO. 12,370

	PAGE
EXHIBITS	3
APPEARANCES	3
APPLICANT'S WITNESS:	
<u>RAYE P. MILLER</u> (Landman)	
Direct Examination by Mr. Owen	5
Examination by Examiner Stogner	28
REPORTER'S CERTIFICATE	40

\* \* \*

## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	7	27
Exhibit 2	8	27
Exhibit 3	16	27
Exhibit 4	19	27
Exhibit 5	20	27
Exhibit 6	24	27

\* \* \*

## A P P E A R A N C E S

## FOR THE DIVISION:

LYN S. HEBERT  
 Attorney at Law  
 Legal Counsel to the Division  
 2040 South Pacheco  
 Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

CAMPBELL, CARR, BERGE and SHERIDAN P.A.  
 Suite 1 - 110 N. Guadalupe  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: PAUL R. OWEN

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   9:07 a.m.:

3  
4  
5           EXAMINER STOGNER: At this time I will call Case  
6   Number 12,370.

7           MS. HEBERT: Application of Marbob Energy  
8   Corporation for an unorthodox gas well location, Eddy  
9   County, New Mexico.

10          EXAMINER STOGNER: Call for appearances.

11          MR. CARR: Paul Owen of the Santa Fe law firm of  
12   Campbell, Carr, Berge and Sheridan, representing the  
13   Applicant Marbob Energy Corporation.

14          And I have one witness, six exhibits in this  
15   case.

16          EXAMINER STOGNER: Any other appearances? Let  
17   the record show the room is empty.

18          Will the witness please remain standing to be  
19   sworn in?

20          (Thereupon, the witness was sworn.)

21          MR. OWEN: May it please the Examiner, as my  
22   first witness I call Mr. Raye Miller.

23          EXAMINER STOGNER: Do you have others?

24          MR. OWEN: That's all I have. "First" implies  
25   others. That's my only witness, Mr. Examiner.

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

RAYE P. MILLER,

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

DIRECT EXAMINATION

BY MR. OWEN:

Q. Mr. Miller, would you please tell us your full name and spell your first name?

A. My full name is Raye Paul Miller. My first name is spelled R-a-y-e.

Q. Where do you live?

A. I reside in Artesia, New Mexico.

Q. And who do you work for?

A. I work for Marbob Energy Corporation.

Q. What do you do for Marbob?

A. A multitude of things. I wind up being in the land department, gas contracts engineering. We're a small company, and we do a lot of different things as part of our job.

Q. As a matter of fact, Mr. Miller, you have previously testified before this Division as a practical oilman and had your credentials as a practical oilman recognized and made a matter of record, have you not?

A. That's correct.

Q. Are you familiar with the Application filed on behalf of Marbob in this case?

1 A. Yes, I am.

2 Q. Are you familiar with the status of the lands in  
3 the subject area?

4 A. Yes, sir, I am.

5 Q. And are you familiar with the project in general,  
6 including the geology of the project?

7 A. Yes, sir, I am.

8 Q. Why don't you tell us what Marbob seeks with this  
9 Application?

10 A. Do you want him to accept me before you just get  
11 started right off?

12 MR. OWEN: Mr. Examiner, are the witness's  
13 qualifications as a practical oilman acceptable?

14 EXAMINER STOGNER: Mr. Raye Paul Miller's  
15 qualifications are acceptable.

16 Q. (By Mr. Owen) And Mr. Miller, why don't you tell  
17 us what Marbob seeks with the Application in this case?

18 A. We're seeking an order authorizing Marbob to  
19 drill its Primero Federal Well Number 2 to the Morrow  
20 formation in the Washington Ranch-Morrow South Gas Pool at  
21 an unorthodox location, that location being 2116 feet from  
22 the south line and 542 feet from the west line, which falls  
23 in Unit Letter L of Section 23, Township 26 South, Range 24  
24 East, of Eddy County, New Mexico.

25 Q. And you've prepared a number of exhibits for

1 introduction in this case?

2 A. Yes, sir, I have.

3 Q. Let's turn to Exhibit Number 1. Can you please  
4 explain that exhibit for the Examiner, please?

5 A. Exhibit Number 1 is the administrative  
6 application that we initially submitted in regards to this  
7 unorthodox location, and we were subsequently advised  
8 through discussions that it probably needed to be set for  
9 hearing because of the changes and the setbacks and the  
10 consideration that OCD was giving to unorthodox gas well  
11 locations.

12 Q. And Mr. Miller, did, in fact -- did my law firm  
13 file a formal Application for hearing in this case, as well  
14 as your administrative application, which is reflected in  
15 Exhibit Number 1?

16 A. Yes, sir.

17 Q. Was that Application filed following your  
18 discussions with Mr. Stogner in which it appeared that you  
19 would set this matter for hearing?

20 A. Yes, sir.

21 Q. What's the primary objective of this proposed  
22 well?

23 A. The objective of the well is actually the Morrow  
24 formation. And again, there is actually a producing well  
25 to the north of it that's such that it would be in the

1 Washington Ranch-Morrow South Gas Pool.

2 Q. And in that Morrow pool, why is this unorthodox  
3 location necessary?

4 A. Well, we're seeking a location that actually is  
5 closer to the section line than 660 feet, which is the  
6 required setbacks by the OCD rules for gas wells.

7 Q. And you therefore seek an exception to Rule  
8 104.C.(2).(a) --

9 A. Yes, we do.

10 Q. -- of the Division rules?

11 A. It's based on -- Our request is based on the fact  
12 of problems at surface locations, with the surface manager  
13 being the Bureau of Land Management for the proposed well.

14 Q. Did you initially propose this well at a standard  
15 location?

16 A. Yes, sir, we proposed the well at a standard  
17 location and spent a lot of time with this well and the  
18 current producing well in fighting with the BLM over where  
19 we were going to wind up actually being able to drill it.

20 Q. Mr. Miller, are your negotiations with the BLM as  
21 to this well reflected in Marbob Exhibit Number 2?

22 A. Yes, I've provided in Exhibit 2 several items  
23 here. The first plat that appears on top is actually the  
24 location that we initially requested for the BLM. We show  
25 the plat there and then attach the -- I didn't send the 30

1 pages or attach the 30 pages that they require in an  
2 application to drill, but I did attach the application  
3 front page, and then also the topographic map, which shows  
4 the location of our standard or our initially requested  
5 location.

6 Our folks have had quite a bit of discussion with  
7 the BLM in regards to the location we drilled in the north  
8 half of 23, and so when we filed this location we tried to  
9 place it at a location that we felt like the BLM would  
10 probably find fairly acceptable, given the restrictions  
11 that they have or the special management areas they have in  
12 this location.

13 Following that first topo is, then, a second  
14 plat. You can see our surveyors have loved this work.  
15 It's a long way from Hobbs, and they've gotten various  
16 trips out there to resurvey. This one was done in January  
17 of this year, the other one was done in January of last  
18 year.

19 We thought we had an agreement with the BLM that  
20 this location would be acceptable. And as you can see,  
21 it's 2100 feet from the south line and 700 feet from the  
22 west line. We were told by the cave/karst specialist that  
23 he felt that this location would be fine, and so we  
24 surveyed it in and filed it.

25 You'll notice I've also included a topo that

1 gives you the location where it's located and the access  
2 road that we proposed in to it. And then after that top  
3 you'll find the actual location that is the one we're now  
4 seeking.

5 Q. Mr. Miller, why was that second location  
6 rejected?

7 A. The second location was rejected because of  
8 visual concerns. If you notice, our access road -- Well, I  
9 guess I should describe a little more about the topo.

10 The dark black line that runs kind of from the  
11 northeast to the southwest there through Section 14 and on  
12 down into Section 27 is actually the paved highway running  
13 between Carlsbad and El Paso, or running on into Texas  
14 towards El Paso. This is below Whites City.

15 The BLM has a special management on this area for  
16 various different concerns, but one of them is a visual  
17 concern. And the visual thing of beauty that they see for  
18 people on the highway is the Guadalupe Escarpment, the  
19 mountain range on the west. Now, that -- I mean, it is  
20 pretty. I've driven that road a lot of times going to El  
21 Paso and I've seen it.

22 The problem I have is that our location is not  
23 actually on the side of the road with the mountains. But  
24 that doesn't seem to matter to the BLM. And in fact, they  
25 were very concerned that, you know, this location that was

1 set here on a subsequent field trip, meaning they decided  
2 that that access road would be too visible by people coming  
3 back from El Paso because of the fact that it would extend  
4 across the top of that ridge.

5 And actually, where we're located there, this  
6 location and the other location, that's kind of a flat part  
7 of a ridge. And then it slopes off on both sides into  
8 valleys in there.

9 They decided that that was too visible a  
10 location, and that's why they requested that we move it  
11 even slightly further.

12 And the third plat -- and then it also has a topo  
13 -- and you can see that we're slightly down from the top of  
14 the ridge there and that our access road has now been  
15 changed to where it actually accesses from a point off the  
16 top of the ridge with a little more slope on it.

17 The other areas of concern that the BLM has in  
18 this vicinity is, they have cave/karst concerns. I mean,  
19 none of us want to drill into Carlsbad Caverns or  
20 Lechuguilla Cave, but actually in this area we don't have  
21 the type of formations that would actually have generated  
22 those type of caves. What we actually have in this  
23 vicinity is, we have some gypsum/karst-type of features  
24 that are prevalent in many areas around the southeastern  
25 part of New Mexico.

1           In our discussions with the BLM over the original  
2 first location in the north half of 23, we made several  
3 moves based on karst concerns of the BLM. And that winds  
4 up having set some really difficult negotiations, because  
5 we went through a lengthy process of fighting them over  
6 those locations and finally resolved it at an unorthodox  
7 location to just try to get a well drilled, to see if we  
8 were successful. And indeed, we were successful on that  
9 first well. But the fight that we put up there seems to  
10 have influenced their willing to work with us on many of  
11 these other locations.

12           Q. Now, this third location is reflected on the  
13 third plat and third topo map contained in Marbob Exhibit  
14 Number 2. Is that the location that was proposed in  
15 Marbob's original administrative application to the Oil  
16 Conservation Division?

17           A. Yes, it is.

18           Q. And Mr. Stogner indicated that he would not  
19 approve that location administratively; is that correct?

20           A. Right, it would need to be set for hearing.

21           Q. Did you discuss the fact that the Oil  
22 Conservation Division had reservations about this location  
23 with the BLM subsequent to Mr. Stogner's indication that he  
24 would not approve it administratively?

25           A. Yes, we did, and the BLM actually has provided a

1 letter, which is included behind that last topo, which was  
2 sent to the OCD requesting -- or showing their support for  
3 this Application at the unorthodox location and identifying  
4 the various different concerns that they have in this area.

5 I also failed to discuss the sensitive soil  
6 issue. It winds up being a thing where our first location  
7 to the north fell on a fairly significant slope, and that  
8 was immediately ruled out. We'd either have to go uphill  
9 or downhill, that they wouldn't allow us to drill. And I  
10 mean, this sensitive soil -- Well, obviously I'm not a good  
11 soils person, because it looks like a lot of sensitive soil  
12 in this part of the world. I'm not sure how we don't have  
13 most of Texas being sensitive soils, or a good portion of  
14 west Texas. But anyway...

15 And also, in one of the locations or one of the  
16 access roads of either the original or the second, where  
17 the access road actually was proposed to come off the  
18 highway, there was a small arch site, and so by the fact  
19 that we moved the access road further north, we avoided  
20 that arch site. We did not mitigate it, but it was a very,  
21 very minor arch site, and the archaeologist had indicated  
22 that they might be willing to waive it, as long as we made  
23 sure that our road was confined to the location that we  
24 were actually proposing.

25 Q. So you initially proposed a well at the standard

1 location, and that location was rejected by the BLM; is  
2 that correct?

3 A. That's correct. If you'll notice, there's a  
4 large time frame variance between our first application, or  
5 the staking done in January of 1999, and the second one  
6 done in January of 2000. The BLM was very unhappy with us  
7 in the north half of 23, and when we proposed this well in  
8 the south half of 23, they told us there was no way we were  
9 going to get a location down there.

10 In the interim time, we drilled several wells in  
11 this facility, which I'll talk about later on in a  
12 different exhibit, and we were unsuccessful at those  
13 locations. And since the Number 1 was successful, we  
14 wanted to try for a well in the south half of 23. And as a  
15 result, we've been -- negotiating, I guess, is the proper  
16 word -- ever since, to try to get a location with the BLM.

17 Q. Now, have you actually had on-site visits with  
18 the BLM to try to find a well at a standard location?

19 A. We've had -- Well, Mr. Chumbley, who works in our  
20 office, has been to this location numerous times and had  
21 physical, on-site visits with Mr. Jim Goodbar, who is the  
22 cave/karst specialist for the BLM. And that's how we came  
23 to this final spot, was by their picking it while they were  
24 there in the field.

25 Q. Based on your discussions and on other employees

1 of Marbob's discussions with the BLM, is it your opinion  
2 that there is no possibility of locating a well at a  
3 standard location?

4 A. Surface location, I don't believe the BLM would  
5 grant us a location in the south half of 23 at a standard  
6 location, at least not in the southwest quarter.

7 Q. In your opinion, have you exhausted all  
8 negotiations with the BLM for a standard surface location

9 A. Yes, sir.

10 Q. Do you have any secondary objectives in this  
11 well?

12 A. No, there are none. The Number 1 well that was  
13 drilled in the north half of 23 was mudlogged through all  
14 of the Delaware and all the horizons. We also have drilled  
15 three additional wells to the northwest, to the north and  
16 the northeast, and those were all mudlogged and looked for  
17 secondary targets, and there was no indication of  
18 production outside of potentially in the Morrow horizon.

19 Q. So you're not seeking approval of an unorthodox  
20 location for a proration unit based on 40-acre or 80-acre  
21 spacing?

22 A. No, sir, we're not.

23 Q. How is Marbob planning to drill and produce the  
24 well?

25 A. Our proposal for drilling is basically a fairly

1 simple proposal that has been approved by the BLM. We'll  
2 set 8-5/8 casing at about 950 to 1000 feet. We'll drill a  
3 7-7/8 hole to TD, which should be about 8000 feet. We  
4 would either then -- Well, we'll log and then either run  
5 pipe or plug the well if there's no sands present or not  
6 commercial sands present.

7           If it's successful, we'll set a stack pack and  
8 low-profile green tanks. We won't use the sandstone brown,  
9 we'll actually use nice green tanks, but they'll be short  
10 tanks. And then we'll complete the well and we'll lay a  
11 gas line to the north to tie into the Number 1, which is  
12 currently tied into El Paso Field Service.

13           Q.    And is that Number 1 well reflected on Marbob  
14 Exhibit Number 3 in the north half of 23 there?

15           A.    Yes, if you'd like to look at Exhibit Number 3,  
16 it actually shows the proration unit or the location of our  
17 well there, proposed well, is in the pink. The Number 1  
18 well is shown there to the north, in the north half of  
19 Section 23.

20           This map actually identifies offset proration  
21 units. It's actually a Midland Map Company map that I've  
22 plagiarized here, and it winds up identifying that the  
23 federal lease, if you look there in the east half of 22, is  
24 Federal Lease 100316, which is the same federal lease that  
25 covers all of Section 23 and covers all of Section 24.

1           There is a different federal lease number,  
2   100317, which covers the east half of 27, all of 26 and all  
3   of 25. The royalties on those federal leases are  
4   identical.

5           We wind up -- The only productive well at this  
6   point in the field is the Number 1 well there in the north  
7   half. The ownership of both of those federal leases is  
8   identical.

9           Primero Operating brought this deal to us several  
10   years ago. They had acquired the federal leases. We now  
11   own them jointly with them, and the ownership overrides  
12   royalties, and working interest is all common through all  
13   of the tracts there.

14          Q.    Now, I notice that there are a couple of Marbob  
15   wells located in Section 26 there, one in the east half,  
16   one in the west half. Are those wells actually drilled?

17          A.    No, the wells in Section 26 are proposed  
18   locations which we filed with the BLM, and these are at  
19   orthodox locations.

20                I'm concerned as to how the BLM will approach us  
21   on these locations. I think at this point, even if the  
22   Commission approves this Application, that we probably  
23   should have a letter, possibly from the Commission, that  
24   indicates to the BLM that they need to avoid unorthodox gas  
25   well locations and try to find somewhere inside the

1 orthodox area to allow companies to drill, particularly  
2 given the fact that, you know, gas wells, probably even  
3 with the infill wells, you wouldn't have more than four in  
4 a section, and surely there should be that many suitable  
5 locations, and orthodox, that they would allow us to  
6 consider drilling.

7 So we do need some support from you all to  
8 actually try to avoid going through this again in Section  
9 26.

10 Q. Now, Mr. Miller, you're not saying that you're  
11 planning to come in here and ask for an unorthodox approval  
12 of an unorthodox location for those two wells in 26, are  
13 you?

14 A. No, sir, we're not. In fact, we're going to go  
15 to the BLM and tell them that basically the Commission  
16 doesn't want to see us back, and that they need to work  
17 with us and find a location in an orthodox spot.

18 Q. Okay. Now, as to the Primero well that's the  
19 subject of this Application, have you gotten all working  
20 interests voluntarily committed to the well?

21 A. Yes, all of the interests are agreeable to that  
22 location.

23 Q. And the ownership of interests in the east half  
24 of Section 22 there and the north half of 23 appear to be  
25 affected by the encroachment of this proposed well

1 location. Have you contacted the interest owners in those  
2 proration units?

3 A. Yes, sir. The interest owners, outside of Marbob  
4 Energy, are David Sorenson, Slash Four, Branex and Pitch  
5 Energy. Pitch is one of our companies. Sorenson, Slash  
6 Four and Branex operate under Primero Operating.

7 We have notified them of this hearing, and if you  
8 look at Exhibit 4, each one has signed a waiver for the  
9 unorthodox location based on the notice of the hearing  
10 today, April 6th, and the unorthodox location that we were  
11 seeking. And those are contained as Exhibit 4.

12 Q. And again, Mr. Miller, following your initial  
13 discussions with Mr. Stogner regarding the administrative  
14 application, you had my law firm file a formal Application  
15 for hearing; is that correct?

16 A. Yes, sir.

17 Q. And that hearing was -- That Application  
18 requested a hearing for April 20th, 2000; is that right?

19 A. Yes, sir.

20 Q. In fact this case, of course, is being heard on  
21 April 6th. Your letters that are reflected in Marbob  
22 Exhibit Number 4, in fact, notified them that the hearing  
23 will be April 6th; is that correct?

24 A. That's correct.

25 Q. And in fact, have all interest owners affected by

1 this Application waived objection to this Application and  
2 the relief sought by this Application?

3 A. Yes, sir, they have.

4 Q. Okay. Now, you've also brought a couple of  
5 technical exhibits to review with the Examiner. Can you  
6 take a look at Marbob Exhibit Number 5 and explain it to  
7 the Examiner, please?

8 A. Exhibit Number 5 is a structure map on the Morrow  
9 formation down in this area. The log contained on the  
10 left-hand side of the exhibit is actually the log from the  
11 discovery well, the Primero Federal Number 1.

12 Our structure map that is there to the right is  
13 based on that limestone marker shown there in blue at about  
14 7660 in that particular well. And the actual pay zone  
15 there is a 10-foot interval just shown underneath the brown  
16 line there on the left in the initial well.

17 There is one error on my finely produced exhibit  
18 here. You can tell I didn't draw this one by hand like  
19 some of my others there. It identifies that the cum of the  
20 Primero Federal Number 1 is .106 BCF. The actual cum  
21 currently is .249 BCF. The well is producing at about 1.3,  
22 1.4 million a day, and the reservoir appears to be such  
23 that we'll actually cum somewhere in the neighborhood of 2,  
24 2.5 BCF from that 10-foot sand.

25 To the right is, then, the structure map, based

1 on that limestone marker. And as you can see, we're  
2 dipping to the south southeast there in structure.

3 I love these geologists, as they draw these nice  
4 sand patches for these Morrow channel sands. If you look,  
5 the well in the north half of 23 there did have 10 foot of  
6 sand. If you look in 15, in the northwest quarter, the  
7 Mayes Com Number 1 was a well that was actually a shallow  
8 well that we re-entered and deepened to the Morrow. It has  
9 eight foot of sand, but the sand was unproductive, it was  
10 tight.

11 We then moved from that well in the northwest of  
12 15 to the location in the northeast of 15 called the  
13 Washington Primero Number 1. We drilled that well as a  
14 north half also. Both of those wells were drilled as a  
15 north half proration unit, with 50 percent of it being  
16 federal minerals, the other 50 percent being fee minerals.  
17 We drilled that well.

18 As the nice geologist has shown, there was 16  
19 feet of sand there. The only problem is, that sand was  
20 tight, there was no way that it could be productive.

21 We then came down and decided that we were too  
22 far west, so we moved into Section 14, and we drilled the  
23 Primero White Number 14 in the southwest quarter, at the  
24 location there that shows as Number 1, and encountered only  
25 two foot of sand. And so the geology wisdom was that

1 obviously we'd missed the channel that it lay between, the  
2 Primero White 14 Number 1 and the Washington Primero Number  
3 1, and so all we needed to do was just kick it to the west,  
4 and we would hit that channel and have the mother lode.

5 We did actually apply and directionally drill the  
6 Primero White 14 Number 1 to an unorthodox bottomhole  
7 location after we had drilled it to the orthodox bottomhole  
8 location, and it's shown there as the Number 2, and it had  
9 zero foot of sand in the pay section.

10 And so whereas our nice channel used to take in  
11 those locations, we now have a nice curve around those  
12 locations because it's obvious there's no sand there.

13 There is very little well control in this area.  
14 I mean, this is a guess. Our folks were looking for a  
15 location somewhere in the southwest quarter of 23 to try to  
16 see if there was more of a reservoir there than what we  
17 have.

18 The location that we've applied for here as this  
19 Primero Federal Number 2 is actually about 2334 feet away  
20 from that Primero Federal Number 1, which is the producing  
21 well.

22 The location in Section 22, that Primero Grooms  
23 22 Federal, is at an orthodox location. That has been  
24 approved and permitted by the BLM. It is, though, still  
25 2315 feet away from this unorthodox location. So if we

1 were successful here and moved over to the Primero Grooms  
2 and drilled it, we would have considerable distance between  
3 our wells to try to capture more reservoir if the reservoir  
4 is actually present.

5 Q. Now, that Primero Federal Number 1 in the north  
6 half of 23, was that the original location proposed by  
7 Marbob?

8 A. No, the original location, if our map is right,  
9 would probably now not be in the channel. And we fought  
10 over cave/karst locations. Our original location, I  
11 believe, was in the southeast of the northwest. And we  
12 fought and we fought and we fought, and finally through  
13 agreement with the BLM we came to an agreement on this  
14 location in the northwest northwest.

15 Now, our geologist picked all those fine  
16 locations in 15 and 14, the BLM forced us to the one in 23.  
17 So actually I have a little better hope of this second  
18 location since it's now a BLM-forced location rather than  
19 one our geologist initially picked, but we'll find out  
20 someday.

21 Q. All right. Now --

22 A. Oh, I should also point out on that structure  
23 map, there shows -- and it identifies with a couple of  
24 question marks up there, there may actually be a fault that  
25 runs through the north part of 14 and 15 in there, with the

1 downthrown side being on the north end of it, the upthrown  
2 side being on the south end, of about 100 feet. There was  
3 a shift, you know, between those wells. We didn't actually  
4 encounter any strange drilling, but the change in depth  
5 subsurface makes the geologist believe that there's a  
6 possibility that there may be some type of fault structure  
7 up there that actually has changed.

8 Now, I should also probably mention that to the  
9 north of this is the El Paso Washington Ranch Gas Storage  
10 Unit. So the Washington Ranch field, old field that was  
11 discovered and it's now gas storage, is to the north. And  
12 this location, or these wells in 15, were as close as wells  
13 could be drilled to that gas storage.

14 Q. All right. Now, Marbob Exhibit Number 6 is a  
15 couple of AFEs for this proposed well; is that right?

16 A. Yes, they are. The first exhibit indicates it's  
17 an AFE of August, 1999, which it is, except it has a minor  
18 modification. The footage rate that was in our original  
19 August of 1999 application was below the rate that's  
20 actually shown here, but this rate actually reflects the  
21 cost of drilling a footage well in this area at this time.

22 The second AFE is actually our estimate of what  
23 it would take if we were required to directionally drill  
24 this location to a standard bottomhole location with the  
25 unorthodox surface location.

1           The difference in the AFEs is about \$100,000.  
2           That is probably a little bit high to what our actual cost  
3           would be, and primarily because we tend to have not had  
4           real good results on day work versus footage. Some way,  
5           the drill bits don't seem to drill quite as fast for us  
6           when the drilling contractor has no incentive, and as a  
7           result -- You know, if everything went perfect, the cost  
8           could be somewhere in the neighborhood of about \$60,000 to  
9           \$65,000.

10           We really figure by the time the additional cost  
11           and the additional mud log days and stuff on, we really  
12           felt like the \$100,000 was probably a more accurate cost as  
13           to what it would take if we actually were required to  
14           directionally drill the bottomhole location to a standard  
15           location.

16           Q.    Now, the first AFE, the figures in the first AFE  
17           contained in Marbob Exhibit Number 6 are based on your  
18           actual costs incurred in drilling the wells in 14, 15 --

19           A.    -- and the north half of 23.

20           Q.    -- and the north half of 23; is that right?

21           A.    Yes, except with the adjustment of the drilling  
22           rate there to the AFE. This was not the original drilling  
23           rate that was quoted under the AFE. It was actually, I  
24           believe, a 14.50-per-foot rate. The rates have gone up by  
25           the drilling contractor.

1           Q.    And the rates reflected on the second AFE where  
2           you have a higher rate due to the directional estimate, is  
3           based on your actual experience in drilling the directional  
4           kickoff in the Primero White Number 2 in Section 14; is  
5           that correct?

6           A.    It's based on that experience, and also we did  
7           check with the directional folks to see, because the  
8           Primero White was a little different animal in the fact  
9           that we had already drilled the straight hole. We had to  
10          had to set a plug and kickoff, whereas under this  
11          Application, if we were obligated to directionally drill,  
12          we could just plan on our kickoff point and go in the hole  
13          with a motor on a bit trip and then kick to a standard  
14          location. So it wouldn't be quite as expensive as what we  
15          had.

16                    And also the footage we'd be varying is accounted  
17          for in this AFE.

18          Q.    Okay. Now, one quick question back on your  
19          structure map.

20          A.    Yes, sir.

21          Q.    Your unorthodox location that you're proposing is  
22          not -- doesn't appear to be any geologically inferior  
23          position to the standard location; is that a fair  
24          statement?

25          A.    With the lack of well control in this area, we

1 believe that it's got just as good a chance as the two  
2 locations that we had applied for previously.

3 Q. Okay.

4 A. Those little magic patches of sand that he puts  
5 down there, I don't think he could see.

6 Q. Okay. Now, if you don't drill a well here in the  
7 south half of 23, is it your opinion that reserves will be  
8 left in the ground which might otherwise be recovered?

9 A. Yes, sir.

10 Q. And in your opinion, will the granting of this  
11 Application and the drilling of the proposed well be in the  
12 best interests of conservation, the prevention of waste and  
13 the protection of correlative rights?

14 A. Yes, sir.

15 Q. Mr. Miller, were Exhibits 1 through 6 prepared by  
16 you or compiled under your direction and supervision?

17 A. Yes, they were.

18 MR. OWEN: Mr. Examiner, I move the admission of  
19 Marbob Exhibits 1 through 6.

20 EXAMINER STOGNER: Exhibits 1 through 6 will be  
21 admitted into evidence.

22 MR. OWEN: That's all I have of this witness at  
23 this time, Mr. Examiner.

24 EXAMINER STOGNER: And for the record, the last  
25 page on Exhibit Number 2, the letter from the BLM Carlsbad

1 Office to me, I have not received that. This is the first  
2 time I've seen this letter, so I'll make that a part of the  
3 record. And that was dated March 24th.

4 THE WITNESS: Yeah, they faxed us a copy of it.  
5 I just assumed that it had been sent to you. Sorry about  
6 that.

7 EXAMINATION

8 BY EXAMINER STOGNER:

9 Q. Mr. Miller, were you out there on any of the site  
10 -- what do you call them, site surveys?

11 A. Not on the south half of 23. I made several  
12 trips down there on the north half of 23, and in fact took  
13 a camera, made photographs and had a meeting with, at that  
14 time, Gary Bowers, his cave specialist, and one of the  
15 other folks. And we argued at length and spent several  
16 months fighting over the fact of their not wanting us to  
17 drill at particular locations in the north half of 23.

18 I've driven by the south half, but I actually  
19 wasn't on site when Mr. Chumbley and Mr. Goodbar have had  
20 their various arguments or discussions.

21 Q. But you're familiar with what goes on, general  
22 on-site BLM meeting with the operator?

23 A. Oh, yes, sir.

24 Q. Okay. How many BLM representatives are usually  
25 at one of these things in this area?

1           A.    There have been a whole host of variations in the  
2 way the BLM has handled this.  In our first deal there in  
3 the north half of 23, the BLM actually had one person on  
4 site with us when we were reviewing those possible  
5 locations.  And in fact, we had myself, the geologist and  
6 Mr. Chumbley, all three of us, out there when were, at  
7 different times, going over the north half of 23.

8                   After the problems that we had with that  
9 location, and in the fact that we were going to try to  
10 drill several other locations, we applied for the well in  
11 the south half of 23, the well in 22, the well in 14 and  
12 the well in 15 to the BLM.

13                   We went down, had a meeting with them and  
14 described the various locations that we were wanting to try  
15 to have approved, and they wound up -- they took a team of  
16 six people, I believe, and went and visited each one of  
17 those locations.  They moved our location in the northeast  
18 of 15.

19                   Now, I don't know if the topo maps show it, but  
20 the location in the northeast of 15 is actually down  
21 underneath a considerable hill to where, when you drove by,  
22 even when that well was being drilled, you could not see  
23 the pad and could only see about the top third of the mast  
24 from the highway, because of the slope and change of  
25 terrain.

1           The location in the northwest of 15, of course,  
2 fell on fee, private land, and so the BLM couldn't move us  
3 there.

4           The location in 14, we moved a couple of  
5 different ways for them. It winds up, it fell right beside  
6 the road, and finally the cave/karst and sensitive-soils  
7 people overrode the visual guy and had him allow us to  
8 drill right next to the highway in 14. But it's been a  
9 thing where we've fought -- Every location down there has  
10 been like pulling teeth.

11           Now, you also -- and I didn't address it earlier  
12 -- you notice there's a location shown in the southeast of  
13 15 called the Primero Yates 15 Fee Fed Com. Yates staked a  
14 location, and we staked a location in that vicinity.  
15 That's actually the location that we staked. Yates staked  
16 one that was basically just slightly, I believe, south and  
17 maybe a hair east of that, which would have been basically  
18 the same offset unorthodox as we did in the Primero Federal  
19 Number 1.

20           The BLM told Yates that there was slim to no  
21 chance that they would get that location approved. Yates  
22 fought with them for a period of time, and at this point I  
23 don't believe that location was ever approved, or any  
24 location was ever approved for the southeast of 15. After  
25 our lack of success in the north half of 15, I don't

1 believe those applications are being pursued at this point.

2 Q. Okay.

3 A. Part of the problem we have is the fact that the  
4 Carlsbad office of the BLM -- and I guess this is more  
5 judgmental on my part, but I honestly believe that some of  
6 their specialists have run a little bit amok. I mean,  
7 southeast New Mexico is an area of considerable extractive  
8 industry development, and some of these issues of painted  
9 dirt, cave karst when it's just gypsum karst and stuff,  
10 seem to have taken precedence over sanity.

11 In fact, the first location, when we drilled it,  
12 we wound up moving United Drilling Company in and had them  
13 air-drill the surface, because we knew the problem that we  
14 had had with that cave/karst person, that if we actually  
15 encountered some kind of karst and had lost circulation in  
16 there, that we were going to pay havoc.

17 And so we actually drilled the surface hole with  
18 an air rig, set casing, moved that rig off and then brought  
19 another rig on. We encountered no karst, no lost  
20 circulation when we were drilling with air, and as a  
21 result, on this location we are proposing just to drill it  
22 with rotary, and that's been actually approved by the BLM.

23 They also wouldn't approve our location size. I  
24 mean, each location that we've done down there, they've not  
25 allowed us to have a standard location with standard pits.

1 We've restricted our location size to a minimum size for  
2 each location that we could possibly work in, and we've  
3 actually altered our drilling pits to where the pits are  
4 just long, narrow trenches that reduce the amount of area  
5 that we're impacting. But, you know -- I mean, we've gone  
6 to a lot of trouble to try to work with them on these  
7 areas.

8 Q. Okay, you answered a couple of my questions I was  
9 leading up to.

10 Is there ever, on any of these on-site visits, a  
11 representative of the BLM that's specific to the oil and  
12 gas resources?

13 A. Well, the cave/karst person claims to be a  
14 geologist. And we've never asked him if he has any  
15 technical training, but he believes that he knows as much  
16 about it as our geologist. And in fact, his location was  
17 successful. I don't know, maybe he does.

18 Q. But as far as the departments, the BLM office,  
19 the Carlsbad office in general has an oil and gas designee  
20 of some kind; is that correct?

21 A. Well --

22 Q. Or at least they used to.

23 A. See, Carlsbad doesn't actually have a downhole  
24 person at this point. All the geologic and engineering  
25 work is actually being handled out of the Roswell office.

1 And so we actually submit our applications to drill to  
2 Roswell. Roswell forwards them to Carlsbad, Carlsbad does  
3 all the surface work, archaeology, biology, wildlife,  
4 sensitive species, cave/karst, all that is done in  
5 Carlsbad.

6 And then that is returned back to Roswell, and  
7 then Roswell approves the actual downhole, you know, depths  
8 of casing strings, cement program, where cement needs to be  
9 brought to. So the engineering is actually still handled  
10 out of Roswell.

11 Q. But there's never any Roswell --

12 A. No.

13 Q. That I didn't know. It used to be handled out of  
14 Carlsbad.

15 A. Right. In the reorganization they had looked at  
16 moving all of the functions to Roswell at one point in  
17 doing away with the Carlsbad office.

18 And then in the reorganization plan they did  
19 actually consolidate the engineers and geologists. All of  
20 our unit agreements and everything is handled out of  
21 Roswell for southeast New Mexico. Alexis Swoboda and  
22 Armando Lopez are the engineering people.

23 When we've had problems or questions about the  
24 way that they want casing programs done in Eddy County,  
25 north Eddy County in particular, we've met with Tim Gum

1 from OCD Artesia, that actually met with the BLM in  
2 Roswell.

3 Q. Okay, back to the cave and karst concerns.

4 A. Yes, sir.

5 Q. When the surface area is being drilled or the  
6 surface string is being drilled and some sort of cave/karst  
7 environment is hit or encountered, is the Carlsbad office  
8 or this cave/karst person notified, or do they know about  
9 it?

10 A. Right, we're required, if we have any lost  
11 circulation, to immediately notify the Carlsbad office.

12 What we had set up on the Number 1 well was that  
13 if we encountered a karst when we drilled the surface  
14 string, we would actually run our surface casing with  
15 cement baskets, we would cement up to the bottom of the  
16 cement basket to actually bring the cement up to the void,  
17 and then we would actually come in and cement from the  
18 basket on to the surface.

19 Now, that would leave a gap of no cement actually  
20 at the void. And our agreement was that if we did that,  
21 then on the production string we would have to circulate  
22 cement between the production string and the surface string  
23 so that there would be cement as well as pipe protecting  
24 that void from possible fluid migrations in future years.

25 That didn't happen, and so as a result we were

1 allowed to -- we circulated cement on the surface string,  
2 and as a result we were only required to bring up the  
3 cement above any productive horizons, I believe 500 foot  
4 above, on the production string.

5 Q. If that's encountered and you use the cement  
6 basket and circulate back up to the surface, are you having  
7 to one-inch it?

8 A. I don't remember how that was described in our  
9 Application. Since we didn't do it, I don't remember.  
10 It's been over a year now since we did that well, and I  
11 don't remember what they were requiring. I suspect it  
12 probably was a one-inch type of program.

13 In drilling the other two wells that did not have  
14 -- The well in the northwest of 15 did have surface casing  
15 already on the re-entry, but the well in the northeast and  
16 then the well in the southwest of 14, we did not encounter  
17 any karst features.

18 The other thing that -- you know, and part of the  
19 cave/karst person's concern is the fact that -- you know, I  
20 referenced the fact that there's a considerable slope to  
21 the west there across the highway, and in fact there's a  
22 valley and the old Washington Ranch springs and all are  
23 down in this valley. There are some farms underneath this  
24 slope. In fact, in Section 16 is farmland in there.

25 And you know, the cave/karst person, one of his

1 concerns in 23 was the fact that he felt his karsts were  
2 actually conduits to the water aquifer.

3 We actually got an aerial photo of this area,  
4 went to the State Engineer's office, worked with them to  
5 determine that -- hydrologically where we were in Section  
6 23, that yes, if we were -- you know, if any fluids did go  
7 into one of these karsts, that the drainage, the hydrology  
8 was to the east, and that actually there is no wells in 15  
9 or 24, no surface water in those areas, and that actually  
10 our drainage in the shallow water aquifers was to the east,  
11 it was not to the west, as he initially indicated that we'd  
12 be damaging, or possibly damaging, the stuff down below to  
13 the west.

14 We spent a long time. I mean, this well -- We  
15 need to make some wells and make a lot of gas to pay for  
16 all of our time and effort.

17 EXAMINER STOGNER: Okay. Is there any other  
18 questions of this witness?

19 MR. OWEN: No, I have no further questions.

20 EXAMINER STOGNER: You may be excused.

21 I'll tell you what, Mr. Miller's request has not  
22 gone unnoticed, and I would like for you, Mr. Owen, to work  
23 with me on perhaps some additional paragraphs in this order  
24 that direct the BLM, since -- or what Mr. Miller had  
25 requested, and perhaps to follow up a letter with these

1 concerns.

2 I've had concerns out there quite often -- and  
3 this is not only in the Carlsbad area but also in the  
4 Farmington area -- that there's never an oil and gas person  
5 on these on-site surveys, and it seems to have lost sight  
6 that that's even a resource worth being concerned about,  
7 whenever these on-site surveys. Not only is it not getting  
8 equal billing, I don't even think it's getting adequate  
9 billing.

10 But if you'd work with me on this, I'd appreciate  
11 it.

12 MR. OWEN: Mr. Stogner, as a matter of  
13 clarification on the record, it appears that you will be an  
14 issuing an order in this case, whatever the result is,  
15 which clarifies the Division's concerns regarding wells in  
16 this area and the need for the BLM to take into  
17 consideration the Division's rules and its view of the  
18 necessity of following its well-location rules in this area  
19 generally; is that correct?

20 EXAMINER STOGNER: That's kind of what I see,  
21 addressing in the course of the order this particular  
22 Application, the concerns that led us to this Application.  
23 That can be expanded out to the general -- or to rule  
24 changes, to make it more accessible. Even for them, the  
25 rule change was also done for them, their concerns, the

1 surface concerns. And hopefully we would see fewer of  
2 these.

3 But also, Mr. Miller has also the concerns in 26.  
4 But I think somewhat -- wording can be in there to address  
5 a general issue in this particular area, along with our  
6 rules and regulations and concerns, in light of what we  
7 have got to have in the order for this particular  
8 Application.

9 So if you'll help me with the draft order,  
10 provide me one, and let's work with it.

11 MR. OWEN: Mr. Examiner, I appreciate your  
12 concern, and I think it's particularly appropriate to  
13 Marbob in this case, given its proposal to drill two wells  
14 in 26 and its anticipation of difficulties in dealing with  
15 the BLM and with those particular projects.

16 EXAMINER STOGNER: Okay. So let's do that, and  
17 if there's nothing further in Case Number 12,370, let's  
18 take a 15-minute recess, and thank you.

19 (Off the record at 10:00 a.m.)

20 (The following proceedings had at 10:26 a.m.:)

21 EXAMINER STOGNER: I want to return to Marbob  
22 Case 12,370, and for the record that case will be taken  
23 under advisement.

24 MR. OWEN: Mr. Examiner, for the record, does  
25 Marbob have verbal approval to proceed with the well at

1 this time?

2 EXAMINER STOGNER: At this particular time I have  
3 all intentions of approving this Application, and what I'd  
4 like for you to do is help me with some additional wording  
5 in light of our new rule changes and our new policy as far  
6 as getting tougher on these unorthodox locations.

7 But in this particular matter, yes, I have every  
8 intention of --

9 MR. OWEN: I look forward to working with you on  
10 that matter, Mr. Examiner.

11 (Thereupon, these proceedings were concluded at  
12 10:27 a.m.)

13 \* \* \*

14  
15  
16  
17 I do hereby certify that the foregoing is  
18 a complete record of the proceedings as  
19 the Examiner hearing of Case No. 12370  
20 heard by me on 10 April 2000  
21  Examiner  
22 Conservation Division  
23  
24  
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 April 9th, 2000.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 2002