

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

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

CASE NO. 12,620

APPLICATION OF ELM RIDGE RESOURCES, )  
 INC., FOR COMPULSORY POOLING, )  
 SAN JUAN COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

March 22nd, 2001

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, March 22nd, 2001, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

STEVEN T. BRENNER, CCR  
 (505) 989-9317

OIL CONSERVATION DIV.  
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## I N D E X

March 22nd, 2001  
Examiner Hearing  
CASE NO. 12,620

	PAGE
EXHIBITS	3
APPEARANCES	3
APPLICANT'S WITNESSES:	
<u>PATRICK HEGARTY</u> (Landman)	
Direct Examination by Mr. Bruce	4
Cross-Examination by Mr. Hall	18
<u>JAMES M. HORNBECK</u> (Geologist)	
Direct Examination by Mr. Bruce	24
REPORTER'S CERTIFICATE	29

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## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	6	18
Exhibit 1A	6	18
Exhibit 2	9	18
Exhibit 3	15	18
Exhibit 4	17	18
Exhibit 5	25	28
Exhibit 6	26	28

\* \* \*

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

## FOR THE APPLICANT:

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 P.O. Box 1056  
 Santa Fe, New Mexico 87504

FOR EDWARDS ENERGY CORPORATION and  
 PENDRAGON ENERGY PARTNERS, INCORPORATED:

MILLER, STRATVERT and TORGERSON, P.A.  
 150 Washington  
 Suite 300  
 Santa Fe, New Mexico 87501  
 By: J. SCOTT HALL

\* \* \*

STEVEN T. BRENNER, CCR  
 (505) 989-9317

1           WHEREUPON, the following proceedings were had at  
2   9:42 a.m.:

3           EXAMINER STOGNER: Call next case, Number 12,620,  
4   which is the Application of Elm Ridge Resources, Inc., for  
5   compulsory pooling, San Juan County.

6           Call for appearances.

7           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
8   representing the Applicant. I have two witnesses.

9           EXAMINER STOGNER: Any other appearances?

10          MR. HALL: Mr. Examiner, Scott Hall, Miller  
11   Stratvert and Torgerson, Santa Fe, on behalf of Edwards  
12   Energy Corporation and Pendragon Energy Partners,  
13   Incorporated.

14          EXAMINER STOGNER: Do you have any witnesses?

15          MR. HALL: No, sir.

16          EXAMINER STOGNER: Any other appearances?

17          Will the two witnesses please stand to be sworn?

18          (Thereupon, the witnesses were sworn.)

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

22                   DIRECT EXAMINATION

23   BY MR. BRUCE:

24           Q. Will you please state your name and city of  
25   residence?

1           A.    My name is Patrick Hegarty, and I live in Aztec,  
2   New Mexico.

3           Q.    What is your occupation?

4           A.    I am president of DELHI-Trading, Incorporated.

5           Q.    Okay.  And by trade do you practice as a landman?

6           A.    Yes, I do.

7           Q.    And what is your relationship to Elm Ridge in  
8   this matter?

9           A.    Elm Ridge is a drilling partner of mine in  
10   various ventures in the San Juan Basin, as well as this  
11   particular deal here.

12          Q.    Have you previously testified before the Division  
13   as a landman?

14          A.    Yes, I have.

15          Q.    And were your credentials as an expert accepted  
16   as a matter of record?

17          A.    Yes, they were.

18          Q.    Are you familiar with land matters involved in  
19   this Application?

20          A.    Yes, I am.

21               MR. BRUCE:  Mr. Examiner, I tender Mr. Hegarty as  
22   an expert petroleum landman.

23               EXAMINER STOGNER:  Any opposition or any  
24   questions?

25               MR. HALL:  We'll stipulate to his qualification.

- 1 EXAMINER STOGNER: So qualified. Thank you, sir.
- 2 Q. (By Mr. Bruce) Mr. Hegarty, briefly, what does  
3 Elm Ridge seek in this case?
- 4 A. We seek compulsory pooling of the north half of  
5 Section 24 in Township 26 North, Range 13 West.
- 6 Q. And the target of this well is the Basin-  
7 Fruitland Coal Gas Pool?
- 8 A. Yes.
- 9 Q. Which is spaced on 320 acres?
- 10 A. That's correct.
- 11 Q. What is the name of the well, and where will it  
12 be located?
- 13 A. The name of the well is the Ryley Bart Federal  
14 Number 1, and it will be located in the northeast quarter  
15 of Section 24 of Township 26 North, Range 13 West.
- 16 Q. What is Exhibit 1?
- 17 A. Exhibit 1 is the plat, land plat, showing the  
18 offset wells for this matter.
- 19 Q. And it also shades the proposed well unit?
- 20 A. That's correct.
- 21 Q. And why don't you keep Exhibit 1A also in front  
22 of you, Mr. Hegarty? Could you identify the leases  
23 involved and the ownership of the parties in the north half  
24 of Section 24?
- 25 A. The northwest quarter is an Indian-allotted

1 lease. The northeast quarter is a federal BLM lease.

2 Q. Okay. And on Exhibit 1A you've listed the  
3 interest owners in each lease?

4 A. Yes, I have.

5 Q. Of these interest owners, which at this time have  
6 not voluntarily signed the AFE and operating agreement?

7 A. There are only two 180s that have not volunteered  
8 to join in the drilling of this well, and that is Edwards  
9 Energy Corporation and Devon Energy Corporation.

10 Q. Now, let's discuss your efforts to obtain the  
11 voluntary joinder of these parties, and I'll refer you to  
12 Exhibit 2. Now, before we get going on this, when did you,  
13 your entity, and Elm Ridge acquire an interest in the  
14 northwest quarter?

15 A. We acquired an interest in the northwest quarter  
16 in May of 2000, via a farmout agreement from Marathon Oil  
17 Corporation.

18 Q. Okay. And now we're here about ten months later.  
19 Was there something necessary before you could really get  
20 the process going of permitting a well?

21 A. Yes, the Navajo Indian allotted lease, NO-G-9601-  
22 1296, comprising the northwest quarter of Section 24 of 26-  
23 13, expired on December 31st of the year 2000. We -- I --  
24 negotiated an extension of that lease for the purposes of  
25 drilling a coal gas well.

1           Q.   And so you had to work with the BIA to get an  
2 extension of that lease so that you could properly do the  
3 land work and get this process rolling?

4           A.   Yes, we did.

5           Q.   Okay. And then I believe you started permitting  
6 the well itself in October of 2000?

7           A.   Yes, we did. We submitted a notice of staking on  
8 October 30th to drill a Fruitland Coal well in the  
9 northeast quarter of Section 24.

10          Q.   All right. And then shortly thereafter, you  
11 began proposing the well to the interest owners?

12          A.   That's correct. We actually were negotiating  
13 with Devon. The prior owner of Devon Corporation was Santa  
14 Fe Snyder, and through a merger Santa Fe Snyder merged into  
15 Devon, and we had -- basically, with all of the transfers  
16 of interest we were having some problems getting them to  
17 really focus on this acreage. But as soon as we put the  
18 notice of staking in -- So in answer to your question, we  
19 were working with Devon prior to getting the lease  
20 extension or anything, because we thought that would be our  
21 most problematic interest. But after we secured the  
22 extension, filed the notice of staking, we sent out AFEs  
23 and asked for the joinder in the drilling of this well from  
24 the other parties, interest owners in these two leases that  
25 we just described.



1 Q. Okay, and I don't know which way to start. Maybe  
2 it would be best to start, perhaps, at the back of Exhibit  
3 2, probably, Mr. --

4 A. Okay.

5 Q. -- Hegarty. So your first letter to Devon was in  
6 September of 2000?

7 A. That's correct.

8 Q. And then going through this package of exhibits,  
9 there will be other letters. But just in summary, what has  
10 been Devon's position or -- in this matter?

11 A. Devon's position is that with the mergers and the  
12 expansion of ownership and -- I mean, they're probably one  
13 of the largest independents in the United States at this  
14 point, and they have not been able to get the personnel  
15 that really handle the workload of miscellaneous interests  
16 such as this, and my repeated efforts to try and get them  
17 involved in the drilling of this well, to either sell, farm  
18 out or participate, have been fruitless.

19 And they basically told me that, Hey, we  
20 understand, you've got to do what you've got to do because  
21 you've got an expiring lease, you're just going to have to  
22 force pool our interest because we can't devote the  
23 attention necessary to make a decision.

24 Q. Okay, so they said just go ahead and force pool  
25 us?

1           A.    Right.

2           Q.    Okay.  And then leaping backwards about five  
3 pages in, there's the notice of staking which you did in  
4 October of 2000?

5           A.    That's correct.

6           Q.    And then going back another page there is a  
7 letter to Marathon?

8           A.    Well, basically it's a letter dated November 1st.  
9 And the purpose of including this letter is just to show  
10 that, number one, there is an agreement between Marathon  
11 and myself which gives me rights to be here today, and it  
12 acknowledges that Elm Ridge Resources will be the  
13 designated operator for the drilling of the wells in this  
14 particular tract.

15          Q.    Okay.  And then the next couple of pages are the  
16 amendment of the Navajo-allotted lease, extending the  
17 primary term of the lease?

18          A.    That's correct.

19          Q.    Okay.

20          A.    And basically I included that to demonstrate to  
21 the Hearing Examiner and all interested parties that there  
22 is -- we're under a time clock here to get a well drilled  
23 to protect our interests.

24          Q.    Okay.  And then go back the next couple of pages,  
25 there is correspondence with the BLM regarding the Navajo-

1 allotted lease, and there is a demand to develop that  
2 lease?

3 A. That's correct.

4 Q. Okay, that's kind of introductory. And then you  
5 get into the correspondence. And without going into it in  
6 too much detail, on December 21 you first wrote to Edwards  
7 Energy Corporation?

8 A. Yes, we faxed and sent via certified mail an  
9 invitation to participate in the drilling of the subject  
10 well.

11 Q. And then a few days later you sent another letter  
12 to Devon Energy, making the same proposal to them, on  
13 December 27th?

14 A. That's correct.

15 Q. And again, you wrote to Devon on January 5th,  
16 proposing the well?

17 A. That's correct. And they wanted to know what our  
18 basis for -- you know, we told them that if we couldn't get  
19 something done -- I'd actually been working with them -- I  
20 didn't include all the correspondence that I had with Santa  
21 Fe Snyder, but I've been working with them for about a year  
22 on this project, and so my only alternative is to force  
23 pool, which I didn't want to do, and they wanted me to  
24 justify my ownership in the tract, so I did that for them.

25 Q. Then on January 10th of this year you sent a

1 second request to Edwards Energy Corporation?

2 A. Yes, and that was faxed and by certified mail.

3 Q. And on January 17th you again contacted Devon  
4 Energy by mail?

5 A. Yes.

6 Q. Now, there's a letter in here, January 23, to  
7 Greg Merrion, the president of Merrion Oil and Gas  
8 Corporation. What is their status in this project?

9 A. Basically, Pendragon -- When I used to work for  
10 Merrion Oil and Gas and I put this acreage, the operating  
11 agreement, together, that covered the northeast quarter of  
12 that tract, while employed with Merrion Oil and Gas.

13 And Pendragon -- I'd been having conversations  
14 with Pendragon, and they said that they acquired an  
15 interest in Edwards' position and that Merrion may have an  
16 interest as well. So as a precautionary measure, I just  
17 sent T. Greg Merrion a copy of this whole proceeding to  
18 advise him of what we were doing and to investigate what  
19 his records showed, just as a precautionary measure.

20 Q. Okay. But at this point you do not believe they  
21 have an interest?

22 A. No, we confirmed they do not have an interest.

23 Q. Okay. Then on January 23rd you wrote -- I'll  
24 take a step back. At first you did not know of Pendragon's  
25 interest in the well?

1           A.    Right, because the record check that we did of  
2   the BLM records -- and that was by Schutz Abstract Company  
3   -- showed that Edwards actually owned all of the interest,  
4   and Pendragon advised us that they did, in fact, own an  
5   interest --

6           Q.    Okay, so --

7           A.    -- via an assignment, of a general assignment  
8   with Edwards.

9           Q.    Okay.  So on January 23rd, you proposed the well  
10   to Pendragon?

11          A.    That's correct.

12          Q.    And you had additional conversations with  
13   Pendragon, and they have agreed to join voluntarily in the  
14   well?

15          A.    Yes, they have.

16          Q.    Okay, and we'll get to that in a minute.  Then on  
17   January 29th you sent a third request to Edwards Energy?

18          A.    Yes, we faxed and again sent another registered  
19   letter to Edwards Energy Corporation.

20          Q.    Okay, and let's get to that.  Mr. Examiner, if  
21   you turn to the third page from the top of Exhibit 2, this  
22   would be the final letter -- the agreement signed by  
23   Pendragon; is that correct?

24          A.    That's correct.

25          Q.    And what they did, they wanted some adjustments

1 in the estimated well costs and you agreed to those?

2 A. Yes.

3 Q. And page 4 of this exhibit is the AFE that  
4 Pendragon has actually signed?

5 A. That's correct.

6 Q. And it reduced the proposed cost of the well  
7 somewhat?

8 A. That's right. And basically, if you want detail  
9 there --

10 Q. Well, let's get into that in a second.

11 A. Okay.

12 Q. But in short, you've had a number of telephone  
13 calls and correspondence, written correspondence, with  
14 Pendragon, and they joined --

15 A. That's correct.

16 Q. -- with Edwards Energy. And you hope they sign,  
17 but they haven't yet?

18 A. Well, Edwards Energy has never replied to any of  
19 our certified letters that were faxed and certified.

20 Q. Okay. And then Devon Energy, most of all, you've  
21 been in touch with them any number of times, and they just  
22 said, Go ahead and force pool us?

23 A. That's correct.

24 Q. Okay. In your opinion, have you made a good-  
25 faith effort to obtain the voluntary joinder of all

1 interest owners in the well?

2 A. Yes, I have.

3 Q. Does Elm Ridge -- Do you request that Elm Ridge  
4 Resources, Inc., be designated operator of the well?

5 A. Yes, I do.

6 Q. And what overhead rates are requested?

7 A. The overhead rates that are requested are \$4000  
8 drilling well rate and a \$350 producing well rate.

9 Q. Are these rates fair and reasonable and  
10 comparable to overhead rates used by other operators in  
11 this area?

12 A. Yes, they are.

13 Q. Now, what is Exhibit 3?

14 A. Exhibit 3 is the original AFE that was tendered  
15 to all the interest owners.

16 Q. In your opinion, is the completed well cost of  
17 \$181,000 in line with the cost of other Fruitland Coal  
18 wells drilled in this area of San Juan County?

19 A. Yes, it is.

20 Q. Now, getting back to Exhibit 2, Pendragon did  
21 request some changes in this AFE?

22 A. They did.

23 Q. And page 4 of that exhibit, do you believe --  
24 what would be the -- it's kind of hard to read on this --

25 A. Okay --

1 Q. -- copy.

2 A. -- it's real easy. Basically, rigs right now are  
3 extremely difficult to acquire, and they -- our extension  
4 of the lease was such that we've got to get a well drilled.  
5 So we were basically -- Elm Ridge Resources owns a drilling  
6 company and Bearcat, and we were going to get a bigger rig  
7 than was really necessary to drill this well, because  
8 that's the only rig we could get, and it was because of the  
9 fact --

10 Q. -- tightness of the rigs?

11 A. -- right, exactly, and so -- but we were able to  
12 fit in -- Jim Ludwick, who owns LB Speed Drill, basically  
13 extended me a favor, and he said that he was drilling some  
14 wells up there, and he would allow this additional well to  
15 be slipped in to get it drilled. And so by virtue of that  
16 fact, we were able to shave off some money off the AFE.

17 Q. Okay. So on the AFE signed by Pendragon, the  
18 approximate cost is what? \$168,000?

19 A. That's correct.

20 Q. And in your opinion that is a fair and --

21 A. Yes.

22 Q. -- reasonable cost also?

23 A. Yes.

24 Q. Were there any other changes that Mr. Al Nicol of  
25 Pendragon wanted?



1           A.    Yes.  Basically, we were going to perform a  
2   Halliburton sand-wedge frac, and we -- he, Al Nicols, is  
3   very concerned about, you know, the type of frac we put on,  
4   because he said these coals are very underpressured.  And  
5   anyway, he wants us to make sure we use some sort of  
6   energized proppant.  And so we started, you know, looking  
7   at some of the other products that were out there.  And  
8   American Energy has a frac job that's \$10,000 cheaper and  
9   satisfied Al Nicol's concerns in that regard.  And so in  
10   essence he went ahead and signed the AFE.

11           Q.   And that is reflected in this revised AFE?

12           A.   That's correct.

13           Q.   And this is the AFE you would propose to Devon  
14   and Edwards Energy at this time also?

15           A.   Yes.

16           Q.   And was notice of this hearing given to the  
17   nonconsenting interest owners?

18           A.   Yes, it was.

19           Q.   And is Exhibit 4 simply my affidavit of notice  
20   with the notice letter and certified return receipts?

21           A.   Okay.

22           Q.   Were Exhibits 1 through 4 prepared by you or  
23   under your supervision or compiled from company business  
24   records?

25           A.   Yes, they were.

1 Q. And in your opinion, is the granting of Elm  
2 Ridge's Application in the interests of conservation and  
3 the prevention of waste?

4 A. Yes, it is.

5 MR. BRUCE: Mr. Examiner, I'd move the admission  
6 of Elm Ridge Exhibits 1 through 4.

7 MR. HALL: No objection.

8 EXAMINER STOGNER: Exhibits 1 through 4 will be  
9 admitted into evidence.

10 Thank you, Mr. Bruce.

11 Mr. Hall, your witness.

12 CROSS-EXAMINATION

13 BY MR. HALL:

14 Q. Mr. Hegarty, let me ask you briefly about some of  
15 the efforts to secure the Edwards Energy voluntary joinder  
16 in the well. If you look at your compilation, Exhibit 2,  
17 your first correspondence to Edwards dated January -- I'm  
18 sorry, December 21st, 2000, that was your first proposal to  
19 Edwards; is that correct?

20 A. Let me flip to that page. Yes, it was.

21 Q. And at the time of that proposal it was assumed  
22 that Edwards owned 92-1/2-percent operating rights in the  
23 northeast quarter; is that right?

24 A. That's correct.

25 Q. And that ownership interest was also reflected in

1 your second letter to Edwards, dated January 10th, 2001?

2 A. Yes.

3 Q. And that later proved to be incorrect; is that  
4 right?

5 A. Yes.

6 Q. Okay. Could you explain to the Hearing Examiner  
7 the circumstances behind that confusion of the ownership  
8 size for Edwards in the northeast quarter?

9 A. Okay. Basically, the assignment from Edwards to  
10 Pendragon was not recorded in the BLM records, and so it  
11 was not reflected in the title work that was done.

12 Edwards notified Pendragon, Pendragon called me,  
13 Al Nicols with Pendragon informed me of this assignment.  
14 We verified the legitimacy of this assignment and sent  
15 Pendragon a notice. And there was some question as to  
16 whether Merrion might own an interest as well, and so as a  
17 precautionary measure we just sent it to everybody that  
18 could potentially claim to own an interest and -- to make  
19 sure that we had everybody covered.

20 Q. All right. If you'll look again in your Exhibit  
21 2, in your January 23rd letter to Merrion, it references  
22 the JOA you spoke about. At the time the well was being  
23 proposed to the other interest owners, was there some  
24 uncertainty as to who the actual operator of the well would  
25 be, around January 23rd?

1           A.   Well, basically the operating agreement that was  
2 put together in 1990, which I put together as an employee  
3 of Merrion Oil and Gas, designated Merrion Oil and Gas as  
4 operator of the northeast quarter of Section 24, Township  
5 26 North, Range 13 West.

6           The Merrions do not own an interest in the  
7 northeast quarter, so they're designated operator -- the  
8 fact was, if we wanted to utilize that operating agreement  
9 it would have to be revised to designate another party as  
10 operator because Merrion didn't own an interest in the  
11 subject lands.

12           So anyway, we felt it appropriate by virtue of  
13 the fact that the agreement was out there and I had  
14 personal knowledge of it, having put it together to notify  
15 them and just -- you know, just to let them know what was  
16 going on.

17           Q.   Okay. And when was that issue resolved, finally,  
18 that Merrion would not -- Merrion's JOA would not be  
19 applicable to the land?

20           A.   Basically, it was probably early February, I had  
21 a conversation with T. Greg. And Pendragon as well, they  
22 were the only other party that could potentially be an  
23 operator, because they have the resources to operate, Al  
24 Nicols being an engineer. And anyway, he was comfortable  
25 with the fact of Elm Ridge being the designated operator,

1 and thus he signed the agreement.

2 Q. All right. So as of February, anyway, the deal  
3 was certain with respect to, one, who the operator was and,  
4 two, the AFE cost which at that time would have still been  
5 the \$181,000 --

6 A. That's correct.

7 Q. -- AFE proposal?

8 And earlier, I believe I heard you respond to a  
9 question from Mr. Bruce that you'd never received a  
10 response from Edwards Energy --

11 A. Right.

12 Q. -- at all. But I would refer you to your letter  
13 dated January 29th, 2001, if you could look to that,  
14 please.

15 A. Okay.

16 Q. If you will look at the third paragraph there it  
17 says, "We have confirmed your assertion of ownership of BLM  
18 Lease...Number 31059; Edwards Energy owns 25% of 67.50%..."

19 A. Right.

20 Q. "...16.875% of 8/8ths net) of the operating  
21 rights for the NE/4 of section 24, T26N R12W." Let me ask  
22 you about that. Does that indicate there were some  
23 communications between you and Edwards about the proposal?

24 A. No, Pendragon advised us of Edwards' assertion.

25 Q. All right. If you'll look at your correspondence

1 from Pendragon to you dated February 6th, again consistent  
2 with your testimony, that's the first indication you had  
3 from Pendragon, anyway, that the well costs might not be in  
4 line for a --

5 A. Yes.

6 Q. -- Coal well?

7 A. That's right.

8 Q. And again, that indicates uncertainty over who  
9 the operator would be --

10 A. Right.

11 Q. -- as of early February?

12 And pursuant to negotiations with Pendragon, you  
13 reduced the cost and submitted a new AFE as recently as  
14 March 19th, and that's attached to your March 19th  
15 correspondence to Pendragon, a part of your exhibit?

16 A. That's correct.

17 Q. Now, earlier -- Let me make sure the record is  
18 clear on this. I believe Mr. Bruce asked you whether the  
19 AFE costs on the revised AFE were \$168,000.

20 A. Yes.

21 Q. The letter indicates \$158,000. Which is correct?

22 A. \$168,000. That's a typographical error.

23 EXAMINER STOGNER: Which letter are you referring  
24 to that has the wrong --

25 MR. HALL: The March 19th letter to Pendragon.

1 MR. BRUCE: Mr. Examiner, the third page of  
2 Exhibit 2.

3 Q. (By Mr. Hall) It's hard to tell what's reflected  
4 on the AFE attached to that, but can you tell us what the  
5 AFE figure is?

6 A. It's \$168,543. I can provide the original copy  
7 of that --

8 Q. Okay.

9 A. -- if need be, to verify those numbers.

10 Q. Now, was the revised AFE proposal provided to  
11 Edwards?

12 A. No, it was not.

13 Q. Will you be providing that to Edwards?

14 A. Only if directed to, yes. I mean, if he wants to  
15 participate, we would certainly allow him to participate,  
16 as long as he prepays his moneys owed.

17 Q. All right. If I understand your testimony,  
18 you're offering Edwards Energy to participate on the same  
19 basis, same AFE as --

20 A. Surely.

21 Q. -- provided to Pendragon?

22 A. Yes, no problem.

23 Q. Do you have a witness who will be testifying  
24 about the risk penalty you're seeking for the well?

25 A. Yes.

1 Q. That's your next witness?

2 A. That's correct.

3 MR. HALL: Okay. Nothing further, Mr. Hegarty.

4 EXAMINER STOGNER: Any redirect, Mr. Bruce?

5 MR. BRUCE: No, sir.

6 EXAMINER STOGNER: I'm sorry?

7 MR. BRUCE: No, sir.

8 EXAMINER STOGNER: I have no questions of Mr.  
9 Hegarty. He may be excused.

10 JAMES M. HORNBECK,

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

13 DIRECT EXAMINATION

14 BY MR. BRUCE:

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

17 A. My name is James Hornbeck, and I reside in  
18 Farmington, New Mexico.

19 Q. What is your occupation?

20 A. I am a consulting geologist.

21 Q. And have you been employed by Elm Ridge in this  
22 matter?

23 A. Yes, I have.

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



1 A. Yes, I have.

2 Q. And were your credentials as an expert accepted  
3 as a matter of record?

4 A. Yes, they were.

5 Q. And are you familiar with the geology involved in  
6 the proposed well?

7 A. Yes, I am.

8 MR. BRUCE: Mr. Examiner, I tender Mr. Hornbeck  
9 as an expert petroleum geologist.

10 EXAMINER STOGNER: Any objections or any  
11 questions?

12 MR. HALL: No objection.

13 EXAMINER STOGNER: Mr. Hornbeck is so qualified.

14 Q. (By Mr. Bruce) Mr. Hornbeck, could you identify  
15 your Exhibit 5 and discuss its contents for the Examiner?

16 A. Exhibit 5 is a basal Fruitland Coal thickness  
17 map. It shows the existence of the basal Fruitland Coal,  
18 ranging in thickness anywhere from 16 feet to a maximum of  
19 26 feet across the area of review. The average thickness  
20 is around 20 feet in the north half of Section 24.

21 Q. In drilling these Fruitland Coal wells, there's  
22 really no question that the Fruitland Coal underlies this  
23 area, is there?

24 A. Not based on the existing data.

25 Q. Would you then refer to your Exhibit 6, discuss

1 that for the Examiner and the risks involved in drilling  
2 wells of this type?

3 A. Okay, Exhibit 6 is the same scale base map, nine  
4 sections surrounding Section 24. What I've presented there  
5 is the cumulative production in MCF, gas. The yellow  
6 circles are just indicative proportionate to the overall  
7 cumulative production as of now, the present. And the  
8 ranges are significant. They range anywhere from under 200  
9 million cumulative production to as much as almost 900  
10 million, so it shows that the coal is not a uniform  
11 reservoir in this area.

12 Q. Okay. So looking at an areawide basis, there is  
13 quite a bit of variability in production among these  
14 Fruitland Coal wells?

15 A. Yes, there is.

16 Q. Do you have an idea of when some of these wells  
17 were drilled?

18 A. I do. The majority of the wells were drilled  
19 in -- commenced in the early 1990s. Some of the wells have  
20 been completed as recently as the year 2000, so over the  
21 span of the last 10 years the area has been continually  
22 developed.

23 The most recent well completed in the area, based  
24 on my research, is the well in the southeast of Section 18  
25 in 26 North, 12 West, southwest of Section 18, and it's

1 cum'd 65 million.

2 Some of the other wells, for example some of the  
3 older wells completed back in the early 1990s, there's a  
4 well in the southwest of Section 24, in Township 26 North,  
5 13 West, that was completed in June of 1993, and it's only  
6 cum'd 252 million.

7 Q. Okay. So it's your opinion that you will hit the  
8 coal here, but there is variability in production from the  
9 coal in this area?

10 A. Yes, that's correct.

11 Q. As a result, do you recommend that the usual  
12 penalty for coal gas wells, which is cost plus 156 percent,  
13 be assessed against nonconsenting working interest owners  
14 in the proposed well?

15 A. I do.

16 Q. And were Exhibits 5 and 6 prepared by you or  
17 under your supervision?

18 A. They were prepared by me.

19 Q. In your opinion, is the granting of Elm Ridge's  
20 Application in the interest of conservation and the  
21 prevention of waste?

22 A. Yes, it is.

23 MR. BRUCE: Mr. Examiner, I'd move the admission  
24 of Elm Ridge Exhibits 5 and 6.

25 MR. HALL: No objection to the exhibits, and I

1 have no questions for the witness.

2 EXAMINER STOGNER: Exhibits 5 and 6 will be  
3 admitted into evidence.

4 I'm sorry, what were those risk penalty factors  
5 again?

6 MR. BRUCE: Cost plus 156 percent, Mr. Examiner.

7 EXAMINER STOGNER: No questions of this witness.  
8 You may be excused.

9 Do you have anything further, Mr. Bruce?

10 MR. BRUCE: Nothing further, Mr. Examiner.

11 EXAMINER STOGNER: Do you have anything further,  
12 Mr. Hall?

13 MR. HALL: No, sir.

14 EXAMINER STOGNER: If there's nothing else  
15 further in Case Number 12,620, then this matter will be  
16 taken under advisement.

17 (Thereupon, these proceedings were concluded at  
18 10:19 a.m.)

19 \* \* \*

20  
21 I do hereby certify that the foregoing  
22 is a complete record of the proceedings  
23 the Examiner hearing of Case No. 12620  
24 heard by me on 22 March 2001

25  
Off Conservation Division

## CERTIFICATE OF REPORTER

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

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

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

WITNESS MY HAND AND SEAL March 25th, 2001.



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STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002

STEVEN T. BRENNER, CCR  
(505) 989-9317