

NEW MEXICO OIL CONSERVATION DIVISION

EXAMINER HEARING

SANTA FE, NEW MEXICO

Hearing Date JULY 26, 2001 Time 8:15 A.M.

NAME	REPRESENTING	LOCATION
Paul Haden	Mowbarn Oil Co.	Midland
Mike Brewer	Mowbarn Oil Co.	Midland
W. J. [unclear]	[unclear]	Santa Fe
Mike Feldewest	Holanda Hart and Campbell & East	Santa Fe
James Bruce	—	Santa Fe
SWAN HALL	MILLER LAW FIRM	SF

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 MEWBOURNE OIL COMPANY)
FOR COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)

CASE NO. 12,698

ORIGINAL

01 AUG -9 AM 9:20
Oil Conservation Division

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID BROOKS, Hearing Examiner

July 26th, 2001

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID BROOKS, Hearing Examiner, on Thursday, July 26th, 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.

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July 26th, 2001
 Examiner Hearing
 CASE NO. 12,698

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* * *

A P P E A R A N C E S

FOR THE APPLICANT:

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Santa Fe, New Mexico 87504

FOR HARVEY E. YATES COMPANY, JALAPENO CORPORATION and
SHINNERY INVESTMENTS:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: MICHAEL H. FELDEWERT

ALSO PRESENT:

MICHAEL E. STOGNER
Engineer, Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

* * *

1 WHEREUPON, the following proceedings were had at
2 8:15 a.m.:

3
4
5 EXAMINER STOGNER: This hearing will come to
6 order. Please note today's date, Thursday, July the 26th,
7 2001. The docket number is 24-01.

8 At this time call Case Number 12,698, which is
9 the Application of Mewbourne Oil Company for compulsory
10 pooling, Eddy County, New Mexico.

11 Call for appearances.

12 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
13 representing the Applicant. I have two witnesses to be
14 sworn.

15 EXAMINER STOGNER: Any other appearances?

16 MR. FELDEWERT: May it please the Examiner,
17 Michael Feldewert from the law firm of Holland and Hart and
18 Campbell and Carr. I'm appearing on behalf of three
19 different parties today: Harvey E. Yates Company, Jalapeno
20 Corporation and Shinnery Investments, and I have no
21 witnesses.

22 EXAMINER STOGNER: Any other appearances?

23 Will the two witnesses please remain standing and
24 be sworn?

25 (Thereupon, the witnesses were sworn.)

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D. PAUL HADEN,

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

DIRECT EXAMINATION

BY MR. BRUCE:

Q. Would you please state your name for the record?

A. My name is Paul Haden.

Q. Where do you reside?

A. Midland, Texas.

Q. Who do you work for?

A. I work for Mewbourne Oil Company as a landman.

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

A. Yes, I have.

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

A. Yes, they were.

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

MR. BRUCE: May it please the Examiners, I'd tender Mr. Haden as an expert petroleum landman.

EXAMINER STOGNER: Any objection?

MR. FELDEWERT: No.

EXAMINER STOGNER: So qualified.

Q. (By Mr. Bruce) Mr. Haden, could you refer to

1 your Exhibit 1, identify it for the Examiner and describe
2 what Mewbourne seeks in this Application?

3 A. Exhibit 1 is a land plat of the area. It
4 outlines our proposed spacing unit in yellow and our
5 proposed well location in the pink dot. Also attached to
6 the land plat is the ownership of the spacing unit. There
7 are five separate state oil and gas leases which comprise
8 this unit.

9 Q. And what is the well unit, the legal description?

10 A. The legal description is the east half of Section
11 15 of Township 21 South, Range 27 East, in Eddy County, New
12 Mexico.

13 Q. Okay. What does Mewbourne seek, insofar as
14 pooling? Does it seek to pool all depths, or are the
15 depths limited?

16 A. The depths are limited. Mewbourne seeks to pool
17 depths below the base of the Yates formation, through the
18 base of the Morrow formation. This would include 40 acres
19 in the northwest and southeast quarter, as to pooled
20 acreage, and then 160 acres for the southeast quarter, and
21 obviously 320 acres for the east half of Section 15.

22 Q. Okay. Now, the attachment to Exhibit 1 lists the
23 interest ownership. Which of these interest owners does
24 Mewbourne seek to force pool at this time?

25 A. Mewbourne seeks to force pool Harvey E. Yates

1 Company, Cibola Energy Corporation, Yates Energy
2 Corporation and Jalapeno Corporation.

3 Q. Okay, you have come to terms with the other
4 interest owners?

5 A. Yes, we have. Tenison Oil Company has agreed to
6 join with us, as well as Marbob Energy Corporation. They
7 have signed a joint operating agreement and AFE.

8 Q. What is the footage of the well location?

9 A. The footage is 2232 feet from the south line and
10 1980 feet from the east line of the Section 15.

11 Q. Now, that location is unorthodox, is it not?

12 A. Yes, it is.

13 Q. And has that location been approved by the
14 Division?

15 A. Yes, it has, by NSL-4606.

16 Q. Now, let's discuss your efforts to obtain the
17 joinder of the three nonconsenting or four nonconsenting
18 parties. Just briefly, what are Exhibits 2A, 2B and 2C?

19 A. 2A, 2B and 2C is a summary of the communications
20 between the poolees. It lists specific dates of
21 communications. Also attached as to each respective
22 company is a copy of the correspondence and/or notes as to
23 conversations with these entities.

24 Q. Okay, let's not do each one, but would you go
25 down briefly over Exhibit 2A, which contains a summary of

1 your contacts with Harvey E. Yates Company, and describe
2 the process you went through to obtain their joinder in
3 this well?

4 A. The well was proposed by certified mail on May
5 30th, 2001. An AFE was sent for their consideration and
6 execution, along with a copy of our proposed JOA for their
7 consideration and execution.

8 I had several telephone calls to Vernon Dyer and
9 also Melissa Randle. A follow-up letter was sent to
10 Melissa's attention. I also furnished her copies of the
11 signature pages as executed by Marbob and Tenison.

12 I also went to Roswell to meet with them, to
13 discuss their title. They had questions regarding same.
14 They didn't quite agree with the percentage interests which
15 we had credited them. However, this title came as a result
16 of title examination, which is based on the records filed
17 of record in Eddy County, New Mexico, and also the records
18 in the State Land Office.

19 Q. Okay, and based on these several letters,
20 telephone calls and meetings, you have not been able to
21 come to terms with them at this time?

22 A. No, we have not.

23 Q. Now, without -- you mentioned, for instance, Mr.
24 Feldewert entered an appearance for Shinnery Investments,
25 correct?

1 A. Correct.

2 Q. They do not show up in your title opinion, do
3 they?

4 A. No, sir, they do not. They're not of record.

5 Q. Okay. And is that one of the interests that
6 Heyco, or Harvey E. Yates Company, believes owns an
7 interest in their lease?

8 A. Yes, that's correct.

9 Q. But they do not show up of record?

10 A. They do not show up of record, either in the
11 county records or the state records.

12 Q. Okay. Now, without going into detail on Exhibits
13 2B and 2C, did you follow the same general procedure with
14 respect to contacts with Yates Energy Corporation, Cibola
15 Energy Corporation and Jalapeno Corporation?

16 A. Yes, I have. I offered also to meet with Yates
17 Energy Corporation at the same time I was going to meet
18 with Harvey E. Yates Company. However, Shari Hamilton,
19 Yates' landman, could not make the meeting due to some
20 other obligation.

21 Q. Okay. Now, that meeting was in Roswell at
22 Heyco's office, was it not?

23 A. Yes, that's correct.

24 Q. Okay. In your opinion has Mewbourne made a good
25 faith effort to obtain a voluntary joinder of the interest

1 owners in the well?

2 A. Yes, sir.

3 Q. Would you please identify Exhibit 3 and discuss
4 the cost of the proposed well?

5 A. Exhibit 3 is our authorization for expenditure
6 for our proposed Esperanza 15 State Com Number 1 well. It
7 lists dryhole costs of \$952,200 and a completed well cost
8 of \$1,450,500.

9 Q. And this is what, an approximate 11,800-foot
10 test?

11 A. Yes, sir, that's correct, and this is simply an
12 estimate of well costs.

13 Q. Okay. Is this cost in line with the cost of
14 other wells drilled to this depth in this area of Eddy
15 County?

16 A. Yes.

17 Q. Does Mewbourne request that it be designated
18 operator of the well?

19 A. That's correct.

20 Q. Do you have a recommendation as to the amounts
21 which should be paid to Mewbourne for supervision and
22 administrative expenses?

23 A. We're requesting \$5400 for a drilling overhead
24 and \$540 for a producing well rate. These rates are the
25 same as agreed with Marbob Energy Corporation and Tenison

1 Oil Company.

2 Q. And are these amounts equivalent to those or less
3 than those normally charged by Mewbourne and other
4 operators in this area for wells of this depth?

5 A. These rates are normally low.

6 Q. Your rates are low?

7 A. Yeah, our rates are low.

8 Q. Okay. And do you request that these rates be
9 adjusted periodically as provided by the COPAS accounting
10 procedure?

11 A. Yes, we do.

12 Q. And were the nonconsenting parties notified of
13 this hearing?

14 A. Yes, they were.

15 Q. And is Exhibit 4 my affidavit of notice?

16 A. That's correct.

17 Q. Were Exhibits 1 through 4 prepared by you or
18 under your supervision or compiled from company business
19 records?

20 A. They were.

21 Q. And in your opinion, is the granting of
22 Mewbourne's Application in the interests of conservation
23 and the prevention of waste?

24 A. Absolutely.

25 MR. BRUCE: I would tender the admission of

1 Mewbourne Exhibits 1 through 4 into the record.

2 EXAMINER BROOKS: 1 through 4 are admitted.

3 MR. BRUCE: If I could, just one final question,
4 just to clear things up a little bit.

5 Q. (By Mr. Bruce) Mr. Haden, you've gone through
6 the negotiations you've had. There seems -- You've
7 requested a farmout from Heyco and those other parties?

8 A. Yes, we've -- We said we'd make some kind of
9 trade with them.

10 Q. If they didn't want to join?

11 A. If they did not want to join.

12 Q. But you haven't been able to -- Could you
13 describe the terms of your farmout proposal and what they
14 have countered?

15 A. Okay, we've suggested that they deliver us a
16 75-percent net revenue interest on the leases with an
17 option to pay out to exchange their retained overriding
18 royalty interest to a 25-percent working interest after
19 payout, subject to proportionate reduction.

20 Q. Okay.

21 A. They have -- This proposal was to rights as to
22 below the base of the Yates formation through the base of
23 the Morrow formation. However, they offered a farmout to
24 us delivering a 75-percent net revenue interest with an
25 option after payout to back in for a one-third working

1 interest, which is unacceptable economically for this
2 prospect.

3 They also wanted to deliver us only rights below
4 the base of the Wolfcamp formation through the Morrow,
5 which also is unacceptable.

6 MR. BRUCE: Okay, thank you. With that, I'd pass
7 the witness, Mr. Examiner.

8 EXAMINER BROOKS: Okay, let's see, I just wanted
9 to clarify a couple things.

10 EXAMINATION

11 BY EXAMINER BROOKS:

12 Q. The location you said was twenty-two hundred
13 and -- Just repeat the footage you said, let me be sure I
14 have it.

15 A. 2232 feet from the south line and 1980 feet from
16 the east line of Section 15.

17 Q. And 1980 from the east.

18 A. Right.

19 Q. Okay, and this is a Morrow test?

20 A. This is a Morrow test.

21 Q. Are there any other formations in that interval
22 you're talking about from the base of the Yates to the base
23 of the Morrow --

24 A. Yes, they --

25 Q. -- prospective formations in there?

1 A. Yes, there is some production in the area which
2 our geologist can reiterate. There's also some Delaware
3 production up to the northeast, which is a possibility, and
4 that would be spaced on 40 acres. There also is some Bone
5 Spring gas production, which I believe would be spaced on
6 160 acres. That production is in the west half of Section
7 23, adjoining 15.

8 Also there is Wolfcamp possibilities. In fact, a
9 well in our spacing unit did produce Wolfcamp gas, which
10 our geologist will testify.

11 Also the Atoka formation, which would be spaced
12 on 320 acres, as would the Wolfcamp formation. It has a
13 very good chance of being productive.

14 Q. So you are looking -- you are asking for a 320-
15 acre as to the east half and 160 as to the south --

16 A. Southeast quarter.

17 Q. -- southeast quarter, and 40 as to the northwest
18 southeast?

19 A. That's correct.

20 EXAMINER BROOKS: Okay. Mr. Stogner?

21 EXAMINER STOGNER: No questions.

22 EXAMINER BROOKS: Okay, the witness may step down
23 -- I'm sorry, I didn't allow you to examine here, Mr.
24 Feldewert.

25 MR. FELDEWERT: I've been sitting here quietly.

1 EXAMINER BROOKS: You need to speak up if you get
2 ignored.

3 MR. FELDEWERT: I'll do that. I do have a couple
4 of questions.

5 EXAMINATION

6 BY MR. FELDEWERT:

7 Q. Mr. Haden, you said there was a JOA for this
8 property; is that right?

9 A. That's correct.

10 Q. And I want to just confirm, are the overhead
11 rates that you've proposed here today, are they the same
12 overhead rates as those in the JOA for the property?

13 A. That's correct.

14 Q. You haven't made any effort to contact -- Well,
15 let me back up. You haven't included in your notice
16 affidavit Shinnery Investments; is that right?

17 A. That's right, but they're not of record, which is
18 the reason.

19 Q. And is there a title opinion that demonstrates
20 that they're not of record?

21 A. Yes, sir, we have a title opinion, the same title
22 opinion I furnished to Harvey E. Yates Company -- well, all
23 the poolees --

24 Q. Okay.

25 A. -- they have a copy of the title opinion.

1 Q. I haven't -- I just briefly glanced at that title
2 opinion this morning. Let me see that, Jim. I noticed
3 that Shinnery Investments shows up on page 15, some kind of
4 a -- note some kind of assignment of operating rights from
5 George Yates to Shinnery Investment Corporation.

6 A. Yes, if you look in the paragraph (n) --

7 Q. Uh-huh.

8 A. -- that's Shinnery to Coronado.

9 Q. Okay. Now, did Heyco agree that they were not of
10 record when you met with them?

11 A. They were still reviewing their records, but as
12 far as I could tell they agreed that Shinnery was not of
13 record. It probably -- might be in their files.

14 Q. I'm sorry, what was that?

15 A. In their files.

16 Q. Okay, so at least there's some question they may
17 or may not have an interest?

18 A. Right. However, it's not of record.

19 Q. Are you working with Heyco to try to get that
20 straightened out?

21 A. Yes, I am. In fact, I suggested that they get
22 together, meaning Harvey E. Yates Company, Shinnery
23 Investment Company, also Cibola Energy Corporation,
24 Jalapeno Corporation and Yates Energy Corporation, to all
25 get together and decide what they think their ownership is

1 and then execute amongst themselves a stipulation of
2 interest and file it of record. This would be done through
3 cross-conveyancing to each other.

4 Q. Okay, and you would afford them the opportunity
5 for Shinnery to participate or not in this well, I'm
6 assuming, right?

7 A. Sure, if they own an interest, they're more than
8 welcome.

9 Q. Okay. Let me, if I may approach, I've marked as
10 Exhibit A and B what I understand to be correspondence
11 between Heyco and yourself, between Heyco and Mewbourne,
12 concerning their efforts to reach an agreement in this
13 matter. Is this all the written communication which has
14 taken place concerning a farmout agreement, Mr. Haden?

15 A. Yes, that's right.

16 Q. I notice that -- Let me ask you first, to put
17 this in some perspective, when did you file your pooling
18 Application?

19 A. I believe it was July 3rd.

20 Q. Do you recall when you filed your -- July 3rd is
21 when you proposed your well?

22 A. No --

23 Q. That's when you --

24 A. -- May 30th --

25 Q. -- pooling it --

1 A. -- May 30th is when we proposed the well.

2 Q. May 30th, and then you filed your pooling
3 Application --

4 A. -- July 3rd.

5 Q. -- July 3rd. So that's less -- That's just a
6 little over four weeks after you proposed your well?

7 A. Approximately, but it's been nearly eight weeks
8 since we proposed the well.

9 Q. Okay. The first written confirmation I see of
10 some kind of a farmout is dated July 20th from Yates; is
11 that -- or Heyco; is that right? Exhibit -- I believe
12 what's marked as Exhibit B?

13 A. Right. However, when I proposed my well to them
14 May 30th, you will note on the letter, the very bottom
15 paragraph, we offered to acquire their interest by virtue
16 of a two-year term assignment wherein they would deliver us
17 an 80-percent net revenue interest for a cash consideration
18 of \$200 per net acre, which we thought was reasonable.

19 Q. Okay, now what are you referring to?

20 A. May 30th, 2001, letter.

21 Q. And that's in which exhibit?

22 MR. BRUCE: Exhibit 2A.

23 THE WITNESS: Exhibit 2A. And that same offer
24 was made to the same --

25 MR. BRUCE: The very last page.

1 MR. FELDEWERT: Very last page, okay.

2 MR. BRUCE: On Exhibit 2A.

3 MR. FELDEWERT: Thank you.

4 MR. BRUCE: Excuse me. Go ahead, Mr. Haden.

5 THE WITNESS: The same offer was made to the
6 other poolees.

7 Q. (By Mr. Feldewert) Okay.

8 A. The two letters in which you are referring to are
9 also included in Exhibit 2A.

10 Q. Oh, they are. Well, that makes it easy then.

11 Okay, and you -- and as I understand it, the only
12 difference between what Harvey E. Yates Company submitted
13 to you on July the 20th, which is marked as Exhibit B, and
14 what you wrote back to them on July the 24th, which is
15 marked as Exhibit A, is the working interest percentage and
16 then the formations that are to be farmed out; is that
17 right?

18 A. That's correct. Also any farmout agreement that
19 the send us that would obviously be subject to our
20 acceptance as to the terms offered.

21 Q. You said Heyco's -- I think your words were,
22 Heyco's proposal was unacceptable --

23 A. Unacceptable.

24 Q. -- economically?

25 A. Economically.

1 Q. And why is that?

2 A. This is a risky area, of which our geologist Mike
3 Burke will go into. A third back-in proposal is not
4 industry standard. A quarter back-in at payout is pretty
5 much industry standard and is acceptable. If they do not
6 want to join us in the well, then they can farm out to us
7 under those terms.

8 Q. So it's your testimony a one-third back-in is not
9 industry standard?

10 A. That's what I'm testifying.

11 Q. Okay.

12 A. In our opinion.

13 Q. And is that -- So is that kind of a take-it-or-
14 leave-it offer at this point, what you've put there on July
15 24th?

16 A. I'd be willing to listen to anything they have to
17 say, but I think we could not accept a third back-in at
18 payout, no. They could do three things: farm out on the
19 terms we offer, we could acquire their interest outright
20 for a cash consideration, or we could acquire their
21 interest through a term assignment wherein they keep an
22 override and we pay them some cash for a two-year term
23 assignment, or they could join, take the risk with us.

24 Q. Did you offer any farmout terms to them, other
25 than the very brief description in your May 30th letter and

1 what you've put in your July 24th letter?

2 A. No, I have not.

3 Q. Was there any --

4 A. However, I did discuss with Harvey E. Yates
5 Company at our meeting -- Melissa Randle indicated that
6 they would be agreeable to farming out on the terms
7 contained in Heyco's letter dated July 20th. I told her at
8 that time those were not acceptable.

9 Q. And when was that meeting?

10 A. July 19th.

11 Q. July 19th.

12 A. I advised her those terms were not acceptable.

13 Q. Okay. Was there any discussion about a farmout
14 between May 30th when you proposed the well and the meeting
15 on July 19th?

16 A. Not formally.

17 Q. Informally?

18 A. Over the telephone.

19 Q. Was there -- Okay.

20 A. Yes.

21 Q. Okay. All right, now we've talked about Heyco.

22 I wanted to focus a little bit now on Jalapeno.

23 A. Okay.

24 Q. You proposed your well to them on May 30th; is
25 that correct?

1 A. Same date, that's correct.

2 Q. And then four weeks later on July the 3rd, you
3 filed your pooling Application?

4 A. That's correct.

5 Q. I don't see any discussion here about -- well,
6 when was your first -- Did you discuss this matter with
7 Jalapeno at all before filing your pooling Application on
8 July the 3rd?

9 A. What matter are you talking about? The pooling
10 Application?

11 Q. Yes, yeah.

12 A. Yes, I told them that we were going to be filing
13 the pooling Application, because we -- this is due to rig
14 scheduling. We intend to drill this well on or about
15 September 1.

16 Q. Now, when did you -- I mean, I'm looking at your
17 chronology here which you've marked as Exhibit 2C, and I
18 don't see any communications with Jalapeno between the time
19 that you filed your -- or made your well proposal on May
20 the 30th and the date on which you filed your pooling
21 Application, July the 3rd.

22 A. Well, you can see June 19th there was a follow-up
23 letter.

24 Q. To whom?

25 A. Cibola and Jalapeno Corporation. Also a follow-

1 up letter dated July 11th. I also had a conversation with
2 Richard Williams, the landman for Cibola and Jalapeno, on
3 July 11th. He advised me that Harvey E. Yates, Jr., would
4 be out of town for quite some time and therefore could not
5 make any kind of agreement.

6 I also sent them a copy of our title opinion for
7 their information.

8 Q. Okay, now I'm going to focus on the period
9 between the time you filed your pooling Application, okay,
10 and the time you proposed your well. So the period between
11 May 30th and July the 3rd, okay? You've got a June 19th
12 letter to Mr. Yates; is that right?

13 A. Yes.

14 Q. That's the only communication that I see. Am I
15 missing anything?

16 A. May 30th and June 19th.

17 Q. That was it?

18 A. That's correct.

19 Q. No telephone calls

20 A. Yes, I didn't put an exhibit -- Yes, I did call.
21 I got an answering machine.

22 Q. Who did you call?

23 A. Harvey E. Yates, Jr.

24 Q. Okay, did you call -- Did you understand that to
25 be your contact person for Jalapeno?

1 A. No, at a later date Richard Williams called and
2 said, I'm now landman for Harvey E. Yates, Jr. I've dealt
3 with Cibola and Jalapeno Corporation in the past, and I
4 know Harvey E. Yates, Jr., is the owner of those companies.

5 Q. Okay, so it's your testimony that between the
6 time you proposed your well on May 30th and July the 3rd,
7 you called a representative of Jalapeno --

8 A. Yes.

9 Q. -- and left a telephone message?

10 A. Yes, I did.

11 Q. What message did you leave?

12 A. Making certain that they did receive a well
13 proposal, which I did send by virtue of certified mail. We
14 got their green card back, so that confirms that they did.
15 I also at a later date, on or about July -- let me see.

16 Q. Now, remember, I want to stay within the period
17 of time between the time you filed or proposed your --

18 A. Okay, what's your point?

19 Q. I'm just asking you, what was the --

20 A. Okay.

21 Q. -- message that you left?

22 A. Just to reiterate that we'd like to make a trade
23 with them if they didn't want to join. They too are
24 concerned about their interest. They're not real sure of
25 what they own. This all comes back to the Harvey E. Yates

1 Company's interest by conveyances previous.

2 Q. Are you aware of any issue with Jalapeno
3 concerning their percentage interest?

4 A. Cibola and Jalapeno are not certain what exactly
5 interests they have. However, we sent them a copy of our
6 title opinion setting forth their interest.

7 Q. Okay, so you're attempting to resolve that issue?

8 A. Yes, I've suggested, as I did with Harvey E.
9 Yates Company, that they all need to get together and
10 execute a stipulation of interest. That way it would clear
11 it up once and for all.

12 Q. Your chronology indicates here that you sent out
13 a revised AFE. Is that the AFE that's been marked as your
14 Exhibit Number 3?

15 A. Yes. The previous AFE was a little bit more
16 money, \$1,640,300 completed. This is due to the change in
17 drilling rig rates, day rates.

18 Q. The day rates went down?

19 A. Yeah, from then to now, yes, they did. And they
20 probably will again.

21 Q. Now, you've included some costs here that I
22 believe you would be able to recover in the event of a dry
23 hole, is there not? I mean, I'm looking down here at your
24 tangible costs. You've included \$8500 and \$36,500 for
25 surface casing and intermediate casing. Would you be able

1 to recover those costs, recover that casing back, in the
2 event you drilled a dry hole?

3 A. No.

4 Q. Okay, I'm not an engineer, so you've --

5 A. I'm not either.

6 Q. -- got to help me here, okay?

7 A. It's my understanding that we would not.

8 Q. Okay. Now what about down there where you're
9 dealing with -- you have separation equipment listed
10 there --

11 A. In the tangible cost.

12 Q. -- in tanks and steel, 890, 891, 894, see that?

13 A. Okay, yeah.

14 Q. Now, isn't that equipment that you wouldn't lose
15 in the event you drilled a dry hole? I mean, you'd be able
16 to get that equipment back, correct?

17 A. Well, that equipment would not come into play
18 until you completed your well.

19 Q. Okay, but it's not really at risk, is it?

20 A. The \$952,200 worth of equipment is at risk.

21 Q. Okay. That's your dry hole?

22 A. That's the dryhole cost, estimated.

23 Q. Okay.

24 A. It could be significantly more than that,
25 depending on mechanical difficulties while drilling the

1 well, or it could be less.

2 Q. Let's go to the intangibles. In the entry 350,
3 what is the "Intangible Supplies", \$48,800?

4 A. It appears to be drilling bits, cost of drilling
5 bits.

6 Q. Who prepared this AFE?

7 A. At the bottom it lists "T. Burke/N.M. Young".
8 Terry Burke is our drilling engineer, N.M. Young is our
9 district manager in Hobbs, New Mexico. M. Whetstoe that's
10 signed there is our vice president of operations. He's in
11 Tyler.

12 Q. And has Mewbourne drilled other -- Is this a
13 Morrow well?

14 A. This is a Morrow well.

15 Q. Have you drilled other Morrow wells in this area?

16 A. Yes, I have. Or we have, excuse me.

17 Q. Okay.

18 A. In the west half of Section 28, same township and
19 range.

20 Q. Were these individuals that prepared this AFE,
21 were they involved in the drilling of those wells?

22 A. Yes, sir, they were.

23 Q. All right. I'm curious, there's an entry there
24 for 320, it says "Transportation". Do you know what that's
25 for?

1 A. That includes the cost of moving the drilling rig
2 to and from location.

3 Q. So that's -- Okay, that's an additional cost,
4 that's in addition to your day rates?

5 A. Right. It's a cost required by the drilling
6 contractor.

7 Q. Could you identify for me whether Mewbourne would
8 be willing to consider any farmout terms other than those
9 that you set forth in your July 24th letter, or are you set
10 that you have to have them one-third, that you can only
11 give up a 25-percent working interest?

12 A. I think 25 percent is fair.

13 Q. Based on what?

14 A. Economics and what's acceptable within the
15 industry.

16 Q. Okay, thank you.

17 A. You bet.

18 EXAMINER BROOKS: Did you have any further
19 follow-up, Mr. Bruce?

20 MR. BRUCE: I had just a few follow-up questions
21 for Mr. Haden.

22 FURTHER EXAMINATION

23 BY MR. BRUCE:

24 Q. Mr. Haden, with respect to Cibola Energy
25 Corporation or Jalapeno Corporation, to the best of your

1 knowledge is Harvey E. Yates, Jr., the owner of those
2 companies?

3 A. He is the owner.

4 Q. So I mean, he controls them, he'd be the one to
5 contact, wouldn't he?

6 A. Yes, and he's unavailable.

7 Q. And you sent your proposal letter on May 30th.
8 You never heard back from him, did you?

9 A. No.

10 Q. You never got a counter-offer on a term
11 assignment, you never got a --

12 A. No.

13 Q. -- farmout proposal?

14 A. No, he never returned my phone calls and
15 certainly did not send any letters to me.

16 Q. Okay, and so neither -- at least from Cibola and
17 Jalapeno, the contacts were somewhat limited just because
18 they never called you either?

19 A. That's correct. Again, we would make a trade
20 with them, just like we've offered with the other poolees.

21 Q. Okay. And you've given all these parties your
22 title opinion, have you not?

23 A. Yes, I have.

24 Q. And you haven't had -- to the best of your
25 knowledge, they haven't challenged what's in that title

1 opinion, have they?

2 A. No, they have not.

3 Q. I mean, they haven't come back to you and said
4 it's wrong because of A, B or C?

5 A. They have not.

6 MR. BRUCE: Okay, that's all I have, Mr.
7 Examiner.

8 FURTHER EXAMINATION

9 BY EXAMINER BROOKS:

10 Q. Okay. On Exhibit 4, your affidavit --

11 A. Yes, sir.

12 Q. -- I don't see anything with regard to Jalapeno
13 in there.

14 A. Exhibit -- Cibola Energy -- Jalapeno
15 Corporation --

16 Q. Oh, okay --

17 A. -- is named --

18 Q. -- yeah.

19 A. -- right below Cibola.

20 Q. I see it, it's the same --

21 A. Right, they're the same address.

22 Q. They have the same mailing address?

23 A. Yes, sir.

24 Q. Yeah, I see they're in the return receipt. Now,
25 who was the company that had the title that claimed they

1 had an interest in --

2 A. This is Shinnery Investments Company. They
3 apparently are a subsidiary of Harvey E. Yates Company.

4 Q. You did not give them any notice?

5 A. There was no need to, they own no interest of
6 record.

7 Q. Okay, but you had been notified by someone that
8 they claimed to own an interest; is that correct?

9 A. A landman with Harvey E. Yates Company, Melissa
10 Randle, she thought that they -- Shinnery owned an
11 interest, but she has not been able to prove that to me.

12 Q. All these other companies, Harvey E. Yates and
13 Cibola and Jalapeno, are affiliated. Is Shinnery
14 affiliated with that group either, or are they somebody
15 else?

16 A. Well, I think they're affiliated only with Harvey
17 E. Yates Company. Now, a number of years ago Harvey E.
18 Yates, Jr., was part of, as I understand, Harvey E. Yates
19 Company. However, they split off and he started doing his
20 own thing.

21 Q. Yeah, okay. To clarify some of the things that
22 Mr. Feldewert asked about, with Harvey E. Yates Company,
23 during the period of time that you proposed this farmout
24 with a back-in, with a 25-percent back-in, when was that
25 proposed? Was that proposed prior to the July 20, or was

1 that the July --

2 A. That was July 24th, when I proposed that to them
3 formally. However, at my meeting July 19th I suggested to
4 her that we would be agreeable to those terms in lieu of
5 her proposal of a third back-in at payout and rights below
6 the base of the Wolfcamp formation.

7 Q. Okay, but that didn't come up until after the
8 filing -- July 3rd --

9 A. That's right.

10 Q. -- when you filed the proceeding. Now, do I
11 correctly understand that farmout was never actually
12 discussed with anybody, either with Cibola or Jalapeno?

13 A. I believe I discussed same with Richard Williams
14 just over the phone, saying, Hey, you want to join, we'll
15 acquire your interest through farmout or term assignment.

16 Q. Okay, and what time-frame was that?

17 A. I'm estimating that was before and after the
18 pooling Application was filed. It would -- Excuse me, it
19 would be after the Application was filed, it would be July
20 11th, is when I had these discussions with Richard
21 Williams.

22 EXAMINER BROOKS: Okay. Did you want to -- Have
23 you tendered Exhibits A and B? I don't recall.

24 MR. FELDEWERT: No, I have not, and I should. I
25 would tender the introduction of Exhibits A and B.

1 EXAMINER BROOKS: Okay, Harvey E. Yates Company's
2 Exhibits A and B will be admitted.

3 Mr. Stogner, did you have some questions?

4 EXAMINER STOGNER: No other questions.

5 EXAMINER BROOKS: Very good, the witness may
6 stand down.

7 MR. BRUCE: Mr. Examiner, one thing. If you
8 would like a copy of the title opinion I have one here.

9 EXAMINER BROOKS: Are you going to tender it in
10 evidence?

11 MR. BRUCE: I could if --

12 EXAMINER BROOKS: I think it should either be in
13 evidence -- Since it's evidence of title, I think it should
14 either be in evidence, or else I should not consider it.

15 MR. BRUCE: Well then, I -- Mr. Examiner, I
16 tender you what's been marked Mewbourne Exhibit 8, which is
17 a copy of the title opinion prepared by the Hinkle law firm
18 on behalf of Mewbourne Oil Company. I have shown that to
19 Mr. Feldewert.

20 Is that, Mr. Haden, the title opinion that was
21 prepared at your request?

22 THE WITNESS: Yes, sir.

23 MR. BRUCE: Mr. Examiner, I would tender that
24 opinion as Exhibit --

25 EXAMINER BROOKS: Any objection, Mr. Feldewert?

1 MR. FELDEWERT: No objection.

2 EXAMINER BROOKS: Exhibit 8 will be admitted.

3 The witness may stand down.

4 Call your next witness.

5 MR. BRUCE: Call Mr. Burke to the stand.

6 MIKE BURKE,

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

9 DIRECT EXAMINATION

10 BY MR. BRUCE:

11 Q. Would you please state your full name for the
12 record?

13 A. Steven Michael Burke.

14 Q. Where do you reside?

15 A. Midland, Texas.

16 Q. Who do you work for and in what capacity?

17 A. I'm a petroleum geologist with Mewbourne Oil
18 Company.

19 Q. Have you previously testified before the
20 Division?

21 A. No, sir, I have not.

22 Q. Would you please summarize your educational and
23 employment background for the Examiner?

24 A. I've been a practicing petroleum geologist for
25 approximately 20 years now. I graduated in 1980 from

1 Stephen F. Austin State University with a B.S. in geology.

2 Since February of this year I've worked for
3 Mewbourne Oil Company as a petroleum geologist, working in
4 the New Mexico area. Prior to that I spent 13 years with
5 El Paso Production Company working as a petroleum geologist
6 in the southwestern part of the United States.

7 Q. Have you qualified as an expert witness in any
8 other jurisdictions?

9 A. Yes, I've testified on numerous occasions before
10 the Louisiana Department of Conservation as well as the
11 Texas Railroad Commission as an expert petroleum geologist
12 witness.

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

15 A. Yes, sir.

16 Q. And are you familiar with the geologic matters
17 involved in this Application?

18 A. Yes, sir, I am.

19 MR. BRUCE: Mr. Examiner, I tender Mr. Burke as
20 an expert petroleum geologist.

21 EXAMINER BROOKS: His qualifications will be --
22 I'm sorry, are there any objections?

23 MR. FELDEWERT: No objection.

24 EXAMINER BROOKS: His qualifications will be
25 accepted.

1 Q. (By Mr. Bruce) What is the primary zone of
2 interest for this well, Mr. Burke?

3 A. Our primary objective is the Morrow formation.
4 Within the Morrow there are two even higher regarded
5 objectives in the middle and the lower Morrow, the middle
6 Morrow blue sand and the lower Morrow orange sand, which
7 I'll discuss further in some other exhibits.

8 Q. Okay. Would you identify Exhibit 5 and discuss
9 it for the Examiner?

10 A. Yes, Exhibit Number 5 is a structure map that I
11 prepared at the top of the lower Morrow formation. If
12 you'll look at the key in the bottom left-hand corner of
13 the map you'll see that the gas symbols are wells that are
14 deeper than 11,000 feet, which were sufficient to penetrate
15 the Morrow formation. If they have a circle around the gas
16 symbol, it indicates that they produced from the Morrow
17 formation.

18 Also depicted on the map, posted around the wells
19 just to the left, is the cumulative production of the wells
20 through the first of this year, approximately, in MMCFE's.
21 So for example, the well in the middle of the map, that's A
22 on the cross-section, you see a 2639 MMCFE, so it's made
23 2.6 BCF of gas.

24 Also posted around the well is the current status
25 and operator of the well, as well as which formation it's

1 in. The well I just spoke about I say is inactive, so it's
2 been plugged and abandoned. The other wells you'll see the
3 operator and next to them the name of the formation, and
4 then maybe below that if they're still active, the average
5 12-month production for the well in the previous year in,
6 again, MCF of gas.

7 Also depicted on the map you'll see the existing
8 pooled units for the Morrow formation outlined in red, as
9 well as in the middle of the map, outlined in blue, is our
10 proposed pool unit.

11 Q. Now, looking at this map, Mr. Burke, you know,
12 this is a structure map. Sometimes structure isn't too
13 important in the Morrow. Is it important in this area?

14 A. In this particular area it is, yes. The Morrow
15 in this area, in the area of our location, dips back to the
16 east. There's an anticline running along the middle of
17 this map. In the very northwest part of the map it dips
18 back to the west. As you fall low on structure on either
19 side of this anticlinal feature, the lower Morrow begins to
20 produce water and not gas. So the structural position for
21 the lower Morrow objective is important.

22 Q. Okay. And is that reflected in the Morrow
23 production to the east of your proposed well?

24 A. Yes, as you -- if you will look at the production
25 from the wells back to the east and downdip, you'll see the

1 cumulative production numbers are much smaller in general
2 than the wells back on the left and to the west and updip.

3 Q. And of course that adds to the risk involved in
4 drilling your well?

5 A. Yes, it does.

6 Q. Why don't you move on to your Exhibit 6A and 6B
7 and discuss the primary zones that you --

8 A. Both of these exhibits are net sand isopachs of
9 our two key zones that we're going after. They'll also be
10 depicted on the next exhibit, which is a cross-section, so
11 you can look at them. And what I'm trying to demonstrate
12 here is that the area is reasonably underlain by these
13 formations with pay in them. We feel like that we'll
14 encounter both of these formations.

15 If you'll look at the actual well symbols on the
16 map and look at the key and compare it, the numbers posted
17 above the wells are the net sand and the gross sand values,
18 the net on top and the gross on bottom. If the well is
19 circled again with a red circle, it produced out of that
20 particular zone.

21 Now, the production figures are the same as on
22 the previous map. They don't attempt to break out one zone
23 produced so much and one zone produced another amount.
24 That's undeterminable, because these zones are commingled
25 and part of the Burton Flat Morrow field.

1 Q. Okay, why don't you move on to your cross-
2 section, Exhibit 7, and discuss these zones that you are...

3 A. Okay. Of course, this cross-section is exhibited
4 on the maps, and again here it is on a key map, on the
5 right-hand side of the map.

6 The well on the right-hand side of the map is a
7 well that was drilled -- and it's depicted as A' -- is a
8 well that was drilled by Humble Oil and Refining back in
9 1962. Posted below it I say the Morrow tested
10 noncommercial. I have more detail on the testing of it.
11 They tested a high water cut in the lower Morrow and then
12 based on log analysis performed no testing in the middle
13 Morrow because they thought it was tight. And they
14 subsequently completed the well up the hole in the Wolfcamp
15 formation, as they felt that the Morrow was noncommercial.

16 As you move to the left on the cross-section,
17 through our proposed location, which -- moving in an updip
18 position to the old Humble well, we feel like by moving
19 updip we'll have a chance of lowering the water cut from
20 the lower Morrow formation, and we're approximately on
21 strike with a well that was drilled by the Harvey E. Yates
22 Company in 1975 and completed in the Morrow.

23 The perforations are in the depth track, and you
24 can see from the top of the logs to the bottom there's a
25 middle Morrow orange zone that was perforated, and lower on

1 the log is a middle Morrow blue that was perforated, and
2 then down in the lower Morrow there's an orange sand. And
3 based on our geological and engineering interpretation, we
4 feel like there will be depletion in these zones but that
5 sufficient gas will exist that we can make a commercial
6 producer at this location.

7 Q. Okay, in looking at this map, in selecting the
8 well location from a geologic standpoint, you obviously
9 wanted to move away from the Morrow dry hole over in the
10 northeast of the southeast quarter, right?

11 A. Yes, sir.

12 Q. And that well, even though it's on your cross-
13 section, is producing about -- less than half a BCF of gas.
14 that was not from the Morrow, was it?

15 A. No, it was not. This well never produced from
16 the Morrow formation.

17 Q. Okay, so that production on there is from the
18 Wolfcamp; is that correct?

19 A. Yes.

20 Q. Okay. And then you wanted to stay away from the
21 successful well over in the northeast quarter in order to
22 minimize depletion that may affect your well; is that
23 correct?

24 A. Yes, sir, that is correct.

25 Q. Are there secondary objectives in your proposed

1 well?

2 A. Yes, sir, there are. There are a number of
3 formations shallow to the Morrow that produced: the Atoka,
4 the Strawn, Pennsylvanian, the Wolfcamp, the Bone Springs
5 and the Delaware.

6 Again, if you'll look around the wells on the key
7 map you can see some of the offsetting wells, because I
8 have the formations that they're currently in. If you look
9 just to the northwest -- or northeast of our proposed well,
10 there's a well in the northwest part of Section 14, it says
11 "Concho Resources" and "Atoka", and it's currently
12 producing out of the Atoka. So we feel like there are
13 secondary objective zones.

14 Q. In drilling these deep wells, these deep Morrow
15 tests, is it important to have secondary zones which could
16 be productive to help cost recovery and perhaps minimize
17 risk?

18 A. Yes, it is, because our analysis of the area
19 indicates there's significant risk of depletion, there has
20 been some very large cumulative production from the Morrow
21 formation in this area, and it's just -- the depletion is
22 something that really cannot be determined until the well
23 is drilled and pressures are measured.

24 Q. Okay. In your opinion, what penalty should be
25 assessed against any interest owner who goes nonconsent?

1 A. The 200-percent penalty.

2 Q. Were Exhibits 5 through 7 prepared by you or
3 under your supervision?

4 A. Yes, they were.

5 Q. And in your opinion is the granting of this
6 Application in the interest of conservation and the
7 prevention of waste?

8 A. Yes, it is.

9 MR. BRUCE: Mr. Examiner, I'd tender the
10 admission of Mewbourne Exhibits 5 through 7.

11 EXAMINER BROOKS: Any objection?

12 MR. FELDEWERT: No.

13 EXAMINER BROOKS: Mewbourne's 5 through 7 are
14 admitted.

15 Mr. Feldewert?

16 EXAMINATION

17 BY MR. FELDEWERT:

18 Q. Mr. Burke, I just have a couple questions. Your
19 Morrow wells on here, then, are shown with red spacing
20 units; is that right?

21 A. Those are the currently active Morrow-pooled
22 units, the red outlines.

23 Q. Okay.

24 A. That's what they are. There have been other
25 Morrow-pooled units, but they're inactive at the present

1 time, and I did not depict those.

2 Q. What does the red circle around the wells mean?

3 A. That means the well produced from the Morrow
4 formation.

5 Q. Okay, so that well in the northwest quarter of
6 Section 14 produced from Morrow formation, and they moved
7 up to the Atoka?

8 A. Right, and if you even look to the left of it, it
9 made 663 MMCFE from the Morrow formation.

10 Q. 636?

11 A. Right.

12 Q. Okay. Would you consider that commercial?

13 A. Marginally.

14 Q. Marginally commercial?

15 A. Yes, sir.

16 Q. Okay. I understand, then, that you would
17 consider the well in the north half of Section 22 to be
18 commercial. That's a pretty good well, right?

19 A. Oh, yes, certainly.

20 Q. Okay, and the well in the west half of Section
21 15, that's --

22 A. Certainly.

23 Q. All right. And the well in the south half of
24 Section 10, that's a good well; is that right?

25 A. Certainly.

1 Q. Okay. And you indicated that you have not only
2 secondary objectives, but you've got potentially third,
3 fourth, fifth -- I mean, I think you indicated the Atoka,
4 Strawn, Pennsylvanian and Delaware?

5 A. Yes.

6 Q. Is there any risk of depletion in any of those
7 secondary --

8 A. Yes, there is risk of depletion in those zones.
9 I have not studied it with the intensity that I've studied
10 the Morrow and cannot speak to it as strongly, but
11 certainly anytime you have nearby production there's a
12 chance of depletion.

13 Q. Okay, but your testimony about a risk of
14 depletion today only applies to the Morrow formation; is
15 that right?

16 A. Primarily, yes, sir.

17 Q. Okay, you can't testify today that there's any
18 risk of depletion in the Atoka; is that right?

19 A. I'm not prepared to answer that.

20 Q. Or the Strawn?

21 A. No, I'm not prepared to answer that.

22 Q. Or the Pennsylvanian?

23 A. No.

24 Q. Or the Delaware?

25 A. No.

1 Q. All of which are potential targets for your well?

2 A. Yes.

3 MR. FELDEWERT: Okay, that's all I have.

4 EXAMINATION

5 BY EXAMINER BROOKS:

6 Q. Okay, are there other wells -- I didn't follow
7 exactly what you said about which wells were in what
8 formations. There are other wells that are shown on this
9 map that are in other formations, completed in other
10 formations, other than the Morrow?

11 A. Yes, sir. Yes, sir. This is a multiple-pay
12 area, so some of these wells have been completed and
13 recompleted two or three times.

14 Q. Yeah, and you said you didn't break down the
15 production figures?

16 A. For the other zones, no, sir. I simply depicted
17 on here -- if the well is currently producing in a zone
18 other than the Morrow, I have indicated that below the well
19 with the current operator, just as a reference that there
20 are nearby wells in formations other than the Morrow.

21 If you look in the -- as I pointed out, the well
22 in the northwest part of 14 that we just spoke of, below it
23 it says "Concho Resources", and then there's a slash and it
24 says "Atoka". Well, that well is currently operated by
25 Concho and producing from the Atoka formation.

1 Q. Not currently producing from the Morrow, right?

2 A. That's correct, but it had produced from the
3 Morrow in the past because it has that red circle around
4 the gas-well symbol.

5 Q. Okay, is that 636 MCF, was that Morrow production
6 only or --

7 A. That was only Morrow production, that's correct.
8 I only have Morrow production on these maps.

9 Q. Okay. Then that well in the -- Now, the well in
10 the north half of 22 is a pretty good Morrow well, right?

11 A. That's correct. And that well, for example, just
12 so you'll understand, it's made over 5 BCF from the Morrow.
13 It's currently operated by Bass. In the last year it
14 averaged 110 MCF per day, and it's never -- and it's
15 currently still in its original completion in the Morrow.
16 It's never been recompleted. There may be zones behind
17 pipe that I'm not sure about, you know, like Atoka or
18 Strawn or whatever, but it's currently still in the Morrow.

19 Q. And then the well in the west half of 20, looks
20 like that's not currently producing from the Morrow again;
21 is that correct?

22 A. In the west half -- I'm sorry, the west half of
23 15? I saw that 20 up above it and I was --

24 A. In the west half of 15, right, the well that's
25 just to the east of our proposed location never produced

1 from the Morrow. It was the one on the cross-section that
2 produced from the Wolfcamp and tested noncommercial from
3 the Morrow back in 1962, and the well to the north of our
4 proposed location in the west half -- in the east half of
5 15 produced from the Morrow, is currently inactive and has
6 been plugged, made 2.6 BCF.

7 Did I answer that right, did I answer --

8 Q. The one that is in the northeast quarter of 15 --

9 A. Right.

10 Q. -- that's the one you were just talking about?

11 A. Right.

12 Q. That's not currently producing from the Morrow,
13 but it has produced significant production from the Morrow?

14 A. Yes, sir, it has.

15 Q. Now, the one I was asking about was the well in
16 the west half of Section 20 --

17 A. The west --

18 Q. -- I mean Section 15.

19 A. Okay, the west half of Section 15, yes, that is
20 currently producing from the Morrow. It's producing --
21 operated by Bass Enterprises, producing from the Morrow.
22 Last -- In the year of 2000 it averaged about 160 MCF per
23 month from the Morrow formation, and it has made 3971 MMCF
24 or 3.9 BCF of gas from the Morrow.

25 Q. Okay, this well down in the west half of Section

1 23 that's to the southeast of your proposed location --

2 A. Okay.

3 Q. -- a fairly long way off, was that one drilled to
4 the Morrow?

5 A. It was drilled to the Morrow, and I don't have
6 the details on it. It was never completed in the Morrow.
7 I'm fairly sure they considered it noncommercial there in
8 that downdip position. They recompleted the -- They
9 completed the well shallow. It's currently operated by Ray
10 Westall and producing from the Bone Springs formation.

11 Q. Okay. And then going up to the northeast, of
12 course we've talked about the one in 14, and the one in the
13 southeast of 11 again looks like it was a very small Morrow
14 producer?

15 A. Yes, sir, it was a very marginal producer, and
16 it's currently inactive in all zones.

17 EXAMINER BROOKS: Okay, I think this as well as a
18 lawyer is capable of understanding it.

19 Mr. Stogner, did you have any questions?

20 EXAMINER STOGNER: Yes, sir.

21 EXAMINER BROOKS: Okay.

22 EXAMINATION

23 BY EXAMINER STOGNER:

24 Q. The two wells that are currently in the east
25 half, as shown on Exhibit Number 7, those two wells were

1 P-and-A'd in 1984, correct?

2 A. Yes, sir.

3 Q. Okay. Now, when referring to Exhibit Number 1,
4 this was the copy of the Midland Map -- I know it was
5 presented by your previous witness -- if I zero in on the
6 east half, and according to your testimony there are some
7 other wells in the area that's producing from shallower
8 horizons, and it appears to me there are four other
9 wellbores within this same quarter quarter section, being
10 the northwest of the southeast; is that correct?

11 A. Yes, sir.

12 Q. Are any of those still producing or active, or
13 are they all plugged and abandoned?

14 A. I do not know. Those, to my knowledge, are
15 shallow Yates wells. I don't believe we have the rights to
16 that formation as a part of this, and I'm just not sure
17 what the status of those wells are.

18 Q. Okay, so -- but it's your testimony that none of
19 them are within the -- producing or completed within the
20 interval of what you're seeking today?

21 A. No, sir.

22 EXAMINER STOGNER: Mr. Bruce --

23 MR. BRUCE: Yes, sir.

24 EXAMINER STOGNER: -- I see that this well is
25 unorthodox, but it was not advertised as such. What's

1 Mewbourne's plan on that?

2 MR. BRUCE: We filed an administrative
3 application. I -- Let me see...

4 EXAMINER BROOKS: I believe --

5 MR. BRUCE: The advertisement did mention that
6 the well is at an unorthodox location, but it was not
7 advertised for approval of an unorthodox location because
8 that was obtained by Administrative Order NSL-4606.

9 EXAMINER STOGNER: So that has been approved?

10 MR. BRUCE: Yes, sir.

11 EXAMINER STOGNER: That's all the questions I
12 have.

13 EXAMINER BROOKS: Okay, I have nothing further.
14 Is there any follow-up?

15 MR. BRUCE: I have nothing further.

16 MR. FELDEWERT: No, Mr. Examiner.

17 EXAMINER BROOKS: The witness may stand down.

18 MR. BRUCE: I have nothing further in this
19 matter, Mr. Examiner.

20 EXAMINER BROOKS: Mr. Feldewert, do you wish to
21 make any statement?

22 MR. FELDEWERT: Other than the fact that -- I was
23 a little concerned about the fact that there didn't appear
24 to be much effort between the time that they filed their --
25 proposed the well and the time they filed their pooling

1 Application to reach an agreement with all of the parties
2 here today. That is of concern to my clients and I would
3 think should be of concern to the Division.

4 The other point would be that, you know, they're
5 asking for the 200-percent maximum risk penalty here for
6 this well. There are a number of bailout zones for this
7 location. This certainly isn't a wildcat into the Morrow,
8 so I would question whether the Division should be
9 authorizing the 200-percent -- using the same risk penalty
10 for this case as they would use for a wildcat-type of well.

11 EXAMINER BROOKS: Mr. Bruce?

12 MR. BRUCE: Mr. Examiner, my client sent out a
13 letter on May 30th proposing the well, also proposing a
14 term assignment. They never received any counter offer
15 from anyone except Heyco, and that counter offer wasn't
16 until July 19th. They've called, they've written. These
17 guys just don't want to join in the well. They should be
18 force pooled.

19 As to the risk penalty, if it's so risk-free,
20 then why don't they join in? The nearest offset well was
21 dry in the Morrow. It produced from the Wolfcamp, there
22 may be depletion in the Wolfcamp, which apparently is the
23 nearest other producing zone, and then the other wells in
24 the area, there were some good producers, but there is the
25 risk of depletion. As the geologist said, you won't know

1 what it is until you get down there. But there's obvious
2 risk, especially for a 12,000-foot well.

3 The parties should be force pooled, and a 200-
4 percent penalty, the maximum, should be imposed.

5 Thank you.

6 EXAMINER BROOKS: Okay, very good. Thank you
7 very much, gentlemen. Case Number 12,698 will be taken
8 under advisement.

9 (Thereupon, these proceedings were concluded at
10 9:25 a.m.)

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15 I do hereby certify that the foregoing is
16 a complete record of the proceedings
17 heard by me on July 26, 2000 in
18 Case No. 12,698
19 David K. Brooks Examiner
20 Oil Conservation Division
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