

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 EXCO RESOURCES, INC.,)	CASE NOS. 12,700
FOR COMPULSORY POOLING, CHAVES COUNTY,)	
NEW MEXICO)	
)	
APPLICATION OF EXCO RESOURCES, INC.,)	12,701
FOR COMPULSORY POOLING, CHAVES COUNTY,)	
NEW MEXICO)	
)	
APPLICATION OF EXCO RESOURCES, INC.,)	12,702
FOR COMPULSORY POOLING, CHAVES COUNTY,)	
NEW MEXICO)	
)	
)	(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID BROOKS, Hearing Examiner

July 26th, 2001

Santa Fe, New Mexico

ORIGINAL

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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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I N D E X

July 26th, 2001
 Examiner Hearing
 CASE NOS. 12,700, 12,701 and 12,702 (Consolidated)

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A P P E A R A N C E S

FOR THE APPLICANT:

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 9:25 a.m.:

3 EXAMINER BROOKS: At this time we would call Case
4 Number 12,700. This is the Application of EXCO Resources
5 for compulsory pooling, Chaves County, New Mexico.

6 Are you appearing for the Applicant on this, Mr.
7 Feldewert?

8 MR. FELDEWERT: Yes, may it please the Examiner,
9 Michael Feldewert with the law firm of Holland and Hart and
10 Campbell and Carr, appearing on behalf of the Applicant,
11 EXCO. I have two witnesses here today.

12 We would also ask that this particular case be
13 consolidated with Case Number 12,701 and 12,702. the
14 testimony from the witnesses and the exhibits that will be
15 presented to the Division are virtually the same in each of
16 these three cases --

17 EXAMINER BROOKS: Okay.

18 MR. FELDEWERT: -- so in the interest of saving
19 time it seems to me that they can be consolidated.

20 EXAMINER BROOKS: Yes, I was just going to ask if
21 you wanted to consolidate these cases.

22 Are there any other appearances on -- Well, first
23 of all, at this time we will consolidate -- we will call,
24 in addition to Case Number 12,700, which I just called,
25 Case Number 12,701, Application of EXCO Resources, Inc.,

1 for compulsory pooling, Chaves County, New Mexico and Case
2 Number 12,702, Application of EXCO Resources, Inc., for
3 compulsory pooling, Chaves County, New Mexico, and call for
4 appearances as to all three cases, take appearances before
5 ruling on the motion to consolidate.

6 MR. FELDEWERT: Mr. Examiner, I am appearing in
7 each of the consolidated cases for EXCO Resources, Inc.
8 I'm Michael Feldewert with Holland and Hart and Campbell
9 and Carr in Santa Fe.

10 EXAMINER BROOKS: Each of the announced cases,
11 that is, 12,700, 12,701 and 12,702?

12 MR. FELDEWERT: Yes.

13 EXAMINER BROOKS: Is there anyone else appearing?
14 Okay, in the absence of any other appearance, there's no
15 one to object, so Case Number 12,700, 12,701 and 12,702
16 will be consolidated for hearing.

17 And how many witnesses?

18 MR. FELDEWERT: Mr. Examiner, I have two
19 witnesses for these consolidated cases.

20 EXAMINER BROOKS: Okay, will the witnesses please
21 stand to be sworn, please? State your names for the
22 record, please.

23 MS. BAKER: Gayle A. Baker.

24 MR. MEYER: John M. Meyer.

25 (Thereupon, the witnesses were sworn.)

1 EXAMINER BROOKS: Okay, you may proceed, Mr.
2 Feldewert.

3 MR. FELDEWERT: Thank you.

4 GAYLE A. BAKER,

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

7 DIRECT EXAMINATION

8 BY MR. FELDEWERT:

9 Q. Ms. Baker, would you please state your full name
10 and address for the record?

11 A. Gayle A. Baker, 5337 South Cody Street,
12 Littleton, Colorado, 80123.

13 Q. And by whom are you employed and in what
14 capacity?

15 A. I am employed by EXCO Resources, Inc., as an
16 independent consulting landman.

17 Q. Ms. Baker, have you previously testified before
18 this Division?

19 A. No, I haven't.

20 Q. Would you please summarize for the Examiner your
21 work experience?

22 A. I am a certified professional landman and have
23 been for 15 years.

24 Q. And in terms of your employment, when did that
25 begin?

1 A. I have been a landman since 1974, beginning with
2 Amoco Production Company, 1981 with Lough Exploration
3 Company, from then to 1984 for Slosson Oil Corporation, and
4 from then to 1988 as an independent consulting landman for
5 companies as Barrett Resources, Forest Oil Corporation,
6 Coastal Oil and Gas, among others.

7 Q. So you've been acting as a landman since 1974?

8 A. Yes.

9 Q. And have your areas of responsibility included
10 the southern part of New Mexico?

11 A. Yes.

12 Q. Okay. Are you a member of any trade
13 associations?

14 A. Yes, I'm a member of the American Association of
15 Petroleum Landmen, the Denver Association of Petroleum
16 Landmen and the Rocky Mountain Mineral Law Institute.

17 Q. Have you been qualified as an expert in petroleum
18 land matters in any other states?

19 A. Yes, I have.

20 Q. Which states?

21 A. Wyoming.

22 Q. Are you familiar with the Applications that have
23 been filed by EXCO in Case Numbers 12,700, 12,701 and
24 12,702?

25 A. Yes, I am.

1 Q. And are you familiar with the status of the lands
2 which are the subject of these Applications?

3 A. Yes, I am.

4 MR. FELDEWERT: Mr. Examiner, I would tender Ms.
5 Baker as an expert witness in petroleum land matters.

6 EXAMINER BROOKS: Okay, any -- Well, there can't
7 be any objection, there's no one to accept. We will accept
8 her qualifications.

9 Q. (By Mr. Feldewert) Ms. Baker, would you please
10 briefly state for the Examiner what EXCO seeks with the
11 Application in Case Number 12,700.

12 A. The Application asks for an order pooling all
13 minerals from the surface to the base of the Abo formation
14 for all formations and pools that would be developed on 160
15 acres, which would include the Pecos Slope-Abo Gas Pool,
16 and to establish a 160-acre spacing unit for a southwest
17 quarter, which would again include the Pecos Slope-Abo Gas
18 Pool and any formations and pools on those 160 acres, and
19 also, or, to establish a 40-acre spacing unit for all
20 formations and pools for the southwest southwest. Both the
21 160 and the 40 would be standard acre --

22 EXAMINER BROOKS: Now, we have --

23 THE WITNESS: -- poolings --

24 EXAMINER BROOKS: -- excuse me, we have three
25 separate Applications here, so I think we need to get the

1 witness to state which section she's talking about in each
2 case.

3 MR. FELDEWERT: I will.

4 Q. (By Mr. Feldewert) And what you just described
5 is in Section 19, Township 5 South, Range 25 East; is that
6 right?

7 A. That's right.

8 Q. Okay, and you're seeking to pool the southwest
9 quarter to form a 160-acre spacing unit?

10 A. That's correct.

11 Q. And also the southwest quarter of the southwest
12 quarter to form a 40-acre spacing unit?

13 A. That's correct.

14 Q. Okay, and what are they to be dedicated to?

15 A. The well in the southwest quarter would be the
16 Rose Federal Well Number 14, in the southwest southwest or
17 Unit M.

18 Q. And what is the footage location for the --
19 EXCO's Rose Federal Well Number 14?

20 A. 760 from the south line, 660 from the west line.

21 Q. Okay, now why don't you briefly state what EXCO
22 seeks in Case Number 12,701?

23 A. This Application is similar circumstances, again
24 asking for pooling all minerals from the surface to the
25 base of the Abo formation under the northwest quarter of

1 Section 20, 5 South, 25 East, Chaves County, New Mexico.
2 The well dedicated to that Application is the Rose Federal
3 Well Number 15 at a standard location in the southwest
4 southwest, being Unit E. The footage for that well is 1980
5 feet from the north line, 660 feet from the west line.

6 Q. Okay, and then in Case Number 12,702 do you seek
7 the same pooling order for the southwest quarter of Section
8 20, Township 5 South, Range 25 East?

9 A. Yes, I do, but for the location of the southwest
10 quarter of Section 20, 5 South, 25 East, the well dedicated
11 to it would be the Rose Federal Number 16, which would be a
12 standard location in the southwest southwest or Unit M.
13 The footage would be 660 from the south line, 660 from the
14 west line.

15 Q. What is the status of the acreage in the
16 southwest quarter of Section 19, the northwest quarter of
17 Section 20 and the southwest quarter of Section 20?

18 A. It is all encompassed by one federal lease, being
19 NM NM 36408.

20 Q. Okay, why don't you identify for the Examiner and
21 review EXCO Exhibit Number 1?

22 A. EXCO Exhibit Number 1 covers 5 South, 25 East.
23 On here is -- The spacing units for 160-acre standard
24 spacing units are depicted in the southwest quarter of
25 Section 19, the northwest quarter of Section 20, and the

1 southwest quarter of Section 20.

2 Q. And does it show your proposed well?

3 A. It shows the proposed wells in the southwest
4 southwest of Section 19, the southwest southwest for
5 Section 20, and the southwest southwest for Section 20.

6 Q. And that would be the wells with just the black
7 circle?

8 A. Yes, that's correct.

9 Q. Okay. Does EXCO Exhibit Number 1 also contain an
10 ownership breakdown for these spacing units?

11 A. Yes, you will see this at the bottom right under
12 "Remarks". For these proposed Rose Federal Wells 14, 15
13 and 16, EXCO Resources owns 50-percent working interest,
14 Eland Energy owns 37.5-percent Energy [sic], and Providence
15 Energy Corporation owns a 12.5-percent working interest.

16 Q. And I believe you indicated that the ownership is
17 common throughout this section?

18 A. That's correct, all three of these spacing units
19 would contain the same working interest ownership.

20 Q. Okay, how many -- Now, you have EXCO listed on
21 here. Are the other two parties shown with an interest in
22 these quarter sections, are they subject to this pooling
23 Application?

24 A. Yes, both of them are.

25 Q. Okay, and have you been able to locate these two

1 interest owners?

2 A. Yes, I have.

3 Q. Okay. Why don't you then identify EXCO Exhibit
4 Number 2 and review for the Examiner your efforts to obtain
5 voluntary joinder of these two interest owners subject to
6 this pooling Application?

7 A. Exhibits 2a, -b and -c are similar letters to
8 Eland Energy and Providence Energy, proposing the Rose
9 Federal 14, 15 and 16 wells, describing the location, the
10 depth to be drilled, the formation, enclosing a proposed
11 operating agreement and including an AFE inviting them to
12 participate in the drilling of these wells.

13 Q. Okay, did you -- So your initial proposal letters
14 went out on June 1st, 2001?

15 A. That's correct.

16 Q. Okay, and they went out to each of the parties
17 which are the subject of this pooling Application?

18 A. Right.

19 Q. And it was sent out for each of the wells that
20 are at issue here today?

21 A. Yes.

22 Q. Okay. And did you have any follow-up telephone
23 conversations or correspondence with these interest owners?

24 A. Yes, Exhibits 2d, 2d1 and 2e are all written
25 correspondence relating to these proposals subsequent to my

1 initial letter, dated June 1.

2 Q. Okay, now these letters involve Eland Energy. Do
3 you know what the relationship is between Eland Energy and
4 Providence Energy?

5 A. Eland Energy has the authority to make decisions
6 and elections on behalf of Providence Energy.

7 Q. And how do you know that?

8 A. I've been told that from the onset, from their
9 landman, Kyle Wood, and as also known from their land
10 manager, Craig Nielsen. They were supposed to provide me
11 with written evidence, and I haven't received it yet. The
12 person giving the authority on behalf of Providence is out
13 of town until Monday. But they said that would be no
14 problem.

15 There are other wells that EXCO Resources
16 operates and distributes revenue on, and Providence's
17 portion is also distributed to Eland at Providence's
18 request, so there isn't anything unusual.

19 Q. Do they have the same address?

20 A. Yes.

21 Q. Okay. And then what is Exhibit -- Does Exhibit
22 2f set forth your verbal efforts to acquire Eland and
23 Providence's agreement in this matter?

24 A. Yes.

25 Q. And it indicates discussions on June 27th, July

1 the 3rd, July the 5th, July 13th, July 18th and July 24th;
2 is that right?

3 A. Yes.

4 Q. Okay. And I want to make sure, did you
5 testify -- Was there an AFE that went out with your
6 proposal letters?

7 A. Yes.

8 Q. Okay. And what is the status of your discussions
9 today with Eland Energy and Providence Energy?

10 A. We have verbal communication where we are making
11 an effort to reach an agreement in the acquisition of their
12 acreage.

13 Q. Have they indicated to you whether they wanted to
14 participate or not participate?

15 A. They have -- Through this correspondence attached
16 here as exhibits, they have indicated that they definitely
17 do not want to participate in the drilling of the wells.

18 Q. And are you in the process of discussions with
19 them about either acquiring their interest or farming out
20 their interest?

21 A. We are in that process, and we are negotiating
22 that. It is ongoing at this time.

23 Q. And how long has that process been ongoing?

24 A. It has been going since June 27th.

25 Q. Okay. In your opinion, have you made a good

1 faith effort to obtain the voluntary joinder of the
2 interest owners subject to this pooling Application?

3 A. Yes.

4 Q. Has EXCO estimated the overhead and
5 administrative cost while drilling each of these wells and
6 also while producing these wells if they are successful?

7 A. Yes.

8 Q. And what are those?

9 A. The monthly drilling rate would be \$4741, which
10 is a mean in a survey completed by the American Association
11 of Petroleum Landmen, which is also consistent with the
12 figures in the area.

13 Q. Okay, what about producing?

14 A. The producing rate is \$850, which is the same
15 monthly rate that other wells in the area were being
16 charged by the former operator that EXCO acquired its
17 interest from.

18 Q. Do you recommend that this figure be incorporated
19 into any order that results from this hearing?

20 A. Yes.

21 Q. Okay. Do you recommend that the overhead figures
22 approved by the Division be subject to adjustment in
23 accordance with the appropriate COPAS guidelines?

24 A. Yes.

25 Q. Are EXCO Exhibits 3, 4 and 5 affidavits with

1 attached letters giving notice of hearing in each of these
2 consolidated cases?

3 A. Yes.

4 Q. And do they reflect that notice went out to Eland
5 Energy and Providence at the same address and that green
6 cards -- or return receipt cards were received?

7 A. That is correct.

8 Q. Okay. Is it EXCO Resources, Inc., that seeks to
9 be designated operator of the proposed wells?

10 A. Yes.

11 Q. Okay. And were Exhibits 1 through 5 prepared by
12 you or compiled under your direction and supervision?

13 A. Yes.

14 MR. FELDEWERT: Mr. Examiner, at this time I
15 would move the admission into evidence of EXCO Exhibits 1
16 through 5.

17 EXAMINER BROOKS: Okay, EXCO Exhibits 1 through 5
18 will be admitted.

19 MR. FELDEWERT: And that concludes my examination
20 of this witness.

21 EXAMINER BROOKS: Very good.

22 EXAMINATION

23 BY EXAMINER BROOKS:

24 Q. You said that EXCO -- Mr. Feldewert emphasized
25 that EXCO Resources, Inc., is asking to be designated as

1 operator. Now, if I read this note or this remark on
2 Exhibit 1, EXCO Resources, Inc., is the same entity that
3 owns 50 percent working interest in each of these units; is
4 that correct?

5 A. That's correct.

6 Q. And let me clarify what the testimony was as to
7 each of the cases. It's my understanding that Case Number
8 12,700 involves the southwest quarter of Section 19?

9 A. That's correct.

10 Q. And you seek to pool from the surface to the base
11 of the Abo; is that right?

12 A. That's right.

13 Q. And you're seeking a 160-acre spacing unit
14 consisting of the southwest quarter and 40-acre spacing
15 unit consisting of the southwest southwest?

16 A. Yes, sir.

17 Q. Now, 12,701, that is the northwest quarter of
18 Section 20?

19 A. Yes, sir.

20 Q. And you are seeking pooling again from surface to
21 the base of the Abo?

22 A. Yes.

23 Q. And the unit would be the northwest quarter, of
24 course, for 160, and it would be the southwest of the
25 northwest for 40?

1 A. Yes, sir.

2 Q. And that's the Rose Federal Number 15?

3 A. Yes.

4 Q. I'm sorry, then, Section 19 in Case Number
5 12,700, that -- What was the well number?

6 A. The well number is the Rose Federal 14.

7 Q. Rose Federal 14. And what were the footages on
8 the Rose Federal 14?

9 A. 760 from the south line, 660 from the west line.

10 Q. 760 from the south and 660 from the west.

11 A. Yes, sir.

12 Q. And that is a standard location?

13 A. Yes.

14 Q. Now, in 12,701, that's the Rose Federal Number
15 15?

16 A. Yes.

17 Q. And what are the footages on that?

18 A. 1980 from the north line, 660 from the west line.

19 Q. And again that is a standard location?

20 A. Yes.

21 Q. Now, Cause Number 12,702 involves the southwest
22 quarter of Section 20?

23 A. Yes, sir.

24 Q. And again, the zones are surface to the base of
25 the Abo?

1 A. Yes.

2 Q. And the well is the Rose Federal Number 16.

3 A. Yes.

4 Q. And what are the footages on that?

5 A. 660 from the south line, 660 from the west line.

6 Q. 660 from the south and 660 from the west. And
7 you would be seeking a 160-acre spacing unit consisting of
8 the southwest quarter, correct?

9 A. Yes.

10 Q. And 40-acre spacing unit consisting of the
11 southwest southwest?

12 A. Yes.

13 Q. And there are existing wells -- It looks like
14 from Exhibit 1 there are existing wells on each of these
15 units?

16 A. Yes, sir.

17 Q. And these are authorized infill wells, correct?

18 A. Yes, these are allowed by the Pecos Slope-Abo
19 rules. These would be the second well in the 160-acre
20 unit.

21 Q. What is the status of these existing wells?

22 A. They are producing.

23 Q. And were they force pooled or were they
24 voluntarily unitized?

25 A. They were voluntarily pooled under existing -- or

1 -- well, operating agreements. These go back to 1980 where
2 acreage was acquired from Depco Resources by Central
3 Resources, who then was acquired by EXCO. Those agreements
4 apparently have been lost, and that was the purpose of my
5 proposing a new operating agreement under the same terms as
6 what the exploration agreement for these initial wells --
7 the provisions in that exploration agreement provided for.

8 Q. You say they've been lost. Ordinarily you can
9 establish by the testimony of a witness the contents of a
10 lost instrument. Do you know what the terms of those
11 instruments were?

12 A. The only way I can know the terms of those are by
13 my examination of the exploration agreement, which attached
14 to that was an exhibit that said that these will be the
15 terms of any and separate operating agreements.

16 Q. Have you done any research or any investigation
17 to try to find out what -- who were the parties to those
18 old operating agreements and what the terms of the
19 agreements were?

20 A. Yes, I have. The other parties were originally
21 Providence, one of the companies requested to be pooled
22 here --

23 Q. Okay.

24 A. -- who acquired their interest from NICOR, who --
25 Depco-NICOR were 50-50 partners under this exploration

1 agreement. Central Resources acquired Depco's 50 percent,
2 EXCO acquired Central's 50 percent on the other side where
3 NICOR sold their interest, then, to Providence, and then it
4 is held as supported by Exhibit 1, now 37 1/2 percent by
5 Eland, 12 1/2 percent by Providence.

6 Q. Now, I'm not sure I followed all that.

7 A. Okay, I know that was a lot.

8 Q. Who were the parties to the former operating
9 agreement?

10 A. NICOR, Depco.

11 Q. NICOR and Depco, and did they own 50 percent
12 each?

13 A. Yes.

14 Q. At that time?

15 A. Yes, sir.

16 Q. And which one did EXCO acquire?

17 A. Depco's 50 percent.

18 Q. And NICOR -- Providence acquired NICOR's
19 interest?

20 A. That's correct.

21 Q. And does Eland own theirs from Providence?

22 A. Yes.

23 Q. Now, what were the terms of those previous
24 operating agreements that you surmise from the exploration
25 agreement?

1 A. The exhibit that was attached to the exploration
2 agreement stated that the nonconsent penalty would be 100,
3 300.

4 Q. Which wasn't too unusual a penalty structure in
5 those days?

6 A. That's correct. I also did some investigation in
7 Section 21 where there are interests that were acquired
8 under that same exploration agreement, had these same
9 parties involved in it, and under those agreements 100, 300
10 was also the common nonconsent penalty.

11 Q. Now, to clarify, because we don't use the same
12 terminology around here that's used in operating
13 agreements, 100, 300 in -- First of all, when was this
14 done?

15 A. This was done in 1982.

16 Q. Okay. Well, I'm not really familiar with what
17 was done at that time. My knowledge is a little older and
18 a little newer, there's a gap there. But 100, 300, as I
19 remember the way those things were structured, that meant
20 that the operator got to recover 100 percent of the cost of
21 surface equipment; is that correct?

22 A. That's correct.

23 Q. And 300 percent of intangibles and the cost of
24 downhole equipment?

25 A. The 300 would include that, as well a drilling,

1 completing, reworking, any of those costs.

2 Q. Yes, and what about operating costs from date of
3 completion till payout?

4 A. That would be under the 300 percent.

5 Q. Okay, so everything would be under 300 percent
6 except surface equipment?

7 A. That's correct.

8 Q. Surface equipment would be 100 percent?

9 A. Yes, sir.

10 Q. And when you say the operator got to recover 100
11 percent, that would be as to what he got to recover -- 100
12 percent in the terms in which we talk, that would be zero
13 risk penalty, right?

14 A. Yes.

15 Q. Because we assume they recover their costs plus a
16 risk penalty?

17 A. Yes.

18 Q. And when you're talking 300 percent in an
19 operating agreement as to costs that that applied to, that
20 would be 100 percent -- that would be what we would call a
21 200-percent risk penalty, right?

22 A. Yes, sir.

23 Q. Okay. These wells that are on there that are
24 producing now, does Providence and EXCO own the interest in
25 those as well?

1 A. Yes, sir.

2 Q. And they're on pay and getting their interest
3 paid to them?

4 A. That's correct.

5 Q. Is EXCO the operator of these other wells?

6 A. Yes, sir.

7 EXAMINER BROOKS: Okay, very good. Anything
8 further, Mr. Stogner?

9 EXAMINER STOGNER: Yeah, I have a couple of
10 questions.

11 EXAMINATION

12 BY EXAMINER STOGNER:

13 Q. On Exhibit Number 2, third paragraph down, you
14 mention, "We anticipate drilling the five Rose Federal
15 wells..." Now, we're talking about three wells today.
16 What other two wells are you referring to?

17 A. Those are wells that were proposed in Section 21,
18 being in the northwest quarter of 21 via a 160-acre spacing
19 unit in the southwest quarter. These fell under that
20 certain exploration agreement that I've mentioned.

21 Q. Now, this Rose Federal -- Okay, I see Section 19
22 and Section 20, the name Rose Federal, but when I get over
23 in Section 21, that's the Rose Federal Com.

24 A. The proposed wells there are not on this map.

25 Q. Oh, I'm sorry, okay, so that's not the same

1 thing. I'm sorry.

2 So how big is this lease, the Rose Federal lease?

3 A. It encompasses the west half of Section 18, all
4 of Section 20, all of Section 21 and parts of Section --
5 or, excuse me, all of Section 19, 20 and parts of Section
6 21.

7 Q. How long has EXCO been the operator of this
8 lease? I'm assuming they're the operator of all the wells
9 in the Rose Federal lease.

10 A. Yes. Since last September, September of 2000.

11 Q. And you acquired it from who?

12 A. Central Resources, Inc.

13 Q. Was Central Resources responsible for drilling
14 these wells initially?

15 A. No, they weren't, they were drilled by Depco.

16 Q. Okay, the proposed overhead for production,
17 \$850 --

18 A. Yes, sir.

19 Q. If I remember right, usually -- or in many
20 instances it's usually ten percent of the drilling cost.
21 This is a little bit more than that, and you base this on
22 other wells in the area?

23 A. I base this on what Central Resources, the former
24 operator, was billing.

25 Q. But that was under a voluntary agreement, not

1 force pooling; is that correct?

2 A. That's correct.

3 Q. Has EXCO done any other compulsory poolings
4 within this area or been subject to a force pooling
5 provision by another operator in this area?

6 A. No.

7 Q. Do you have any idea of what other compulsory
8 pooling orders -- what their stipulated production overhead
9 is?

10 A. I believe other people in the area, somewhere
11 above -- I think Yates is around \$500. We had actually --
12 EXCO had actually had a meeting in EXCO's Dallas office
13 with Eland proposing to reduce those rates, and in light of
14 our offer to acquire Eland Providence's Energy, we had not
15 determined that figure, but told that if that was the
16 reason for holding them up, making an election, any number
17 between \$400 and \$800 would do.

18 Q. In fact that's mentioned in here --

19 A. Yes, it is.

20 Q. -- in one of the letters. Do you remember which
21 letter, or which document?

22 A. It's in my conversation, I believe.

23 Q. That's right, I think on the last page, Exhibit

24 2f --

25 A. Yes.

1 Q. -- the July 3rd entry?

2 A. In other words, we didn't want them to think that
3 we weren't going to work with them, that whatever they
4 wanted to do, if the \$2000 or so a year made a difference
5 whether they were going to drill these wells or not, that
6 we would not let that interfere with our working with them.

7 EXAMINER STOGNER: No other questions, Mr.
8 Brooks.

9 FURTHER EXAMINATION
10 BY MR. BROOKS:

11 Q. Well, let me just follow up a little bit on that.
12 Is this \$850 a month, is that what's provided in the -- is
13 that what you're charging on the existing wells in this
14 unit?

15 A. Yes, sir, that's what the former operator
16 charged, and so we just continued from that.

17 Q. And nobody's objected to paying that so far?

18 A. Well, Eland would like EXCO to reduce that, and
19 that is the figure that they were going to arrive at.
20 Because of the offer, they didn't continue that.

21 Q. Do you know what was provided in administrative
22 overhead in the previous operating agreement?

23 A. I believe it was \$400, \$450.

24 Q. Four hundred for operating. Do you know what was
25 provided for drilling?

1 A. I think that was around \$3750.

2 Q. \$3750 for drilling. Did it have an escalation
3 clause, do you know?

4 A. Yes, it's under the COPAS.

5 Q. Okay. I didn't know exactly what --

6 A. And actually the producing well rate was probably
7 at \$372, because they're usually the ten-percent less.

8 EXAMINER BROOKS: Very good. Anything further?

9 MR. FELDEWERT: No, Mr. Examiner.

10 EXAMINER BROOKS: The witness may stand down.

11 MR. FELDEWERT: We then call Mr. John Meyer.

12 JOHN M. MEYER,

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

15 DIRECT EXAMINATION

16 BY MR. FELDEWERT:

17 Q. Mr. Meyer, would you please state your name and
18 address for the record?

19 A. John Mitchell Meyer, 2639 South Kline Circle,
20 Lakewood, Colorado 80227.

21 Q. M-e-y-e-r?

22 A. Yes.

23 Q. Okay. And by whom are you employed and in what
24 capacity?

25 A. EXCO Resources, as a senior petroleum geologist.

1 Q. Have you previously testified before this
2 Division or one of its Examiners?

3 A. No.

4 Q. Okay, why don't you summarize your educational
5 background and your work experience, please?

6 A. I received a bachelor of science degree from the
7 University of Northern Colorado in 1983. I'm a registered
8 professional geologist in the State of Wyoming for the past
9 13 years.

10 I began work with Amerada Hess in January of 1983
11 through February of 1985, then went to Pacific Enterprises
12 Oil Company from February, 1985, to February, 1992.
13 Consulted as a geologist from February, 1992, through
14 September, 1993, including a stint at Santa Fe Snyder,
15 working the San Juan Basin in New Mexico, then became
16 employed by Central Resources from September, 1993, through
17 September of 2000, and subsequently EXCO Resources from
18 September, 2000, to present, which included -- part of my
19 areas of responsibility were the southeast portion of New
20 Mexico.

21 Q. Are you a member of any associations?

22 A. Yes, I'm a member of the American Association of
23 Petroleum Geologists, the Rocky Mountain Association of
24 Geologists and the Wyoming Geological Association.

25 Q. Are you familiar with the Applications that have

1 been filed by EXCO in Case Numbers 12,700, 12,701 and
2 12,702?

3 A. Yes.

4 Q. And have you made a technical study of the area
5 that is the subject of these Applications?

6 A. Yes.

7 Q. Are you prepared to share the results of your
8 work with the Examiner?

9 A. Yes.

10 MR. FELDEWERT: Mr. Examiner, I would tender Mr.
11 Meyer as an expert witness in petroleum geology.

12 EXAMINER BROOKS: His credentials will be
13 accepted.

14 Q. (By Mr. Feldewert) What is the primary target
15 for EXCO's proposed wells in each of these consolidated
16 cases?

17 A. The primary target consists of the Abo formation.

18 Q. Okay, would you identify and review for the
19 Examiner what has been marked as EXCO Exhibit 6?

20 A. Exhibit 6 is an authority for expenditure
21 prepared by Summa Engineering for EXCO Resources for the
22 Rose Federal Well Number 14. As previously mentioned, the
23 other three wells are identical in depth, so the AFEs are
24 identical. This AFE was prepared to drill and equip one of
25 these wells. The total dryhole cost is \$177,195, the total

1 completed well cost is \$332,186.

2 Q. And you said this is prepared by whom?

3 A. Summa Engineering.

4 Q. S-u-m-m-a?

5 A. Yes.

6 Q. Okay, and who are they?

7 A. They are an engineering consulting firm located
8 in Oklahoma City who has drilled and supervised the
9 drilling and completion of over 20 wells in this immediate
10 area, primarily for Gothic.

11 Q. Okay, and over what time period have they
12 completed 20 other wells in this area?

13 A. From approximately 1996 to present.

14 Q. Okay. Are you prepared to make a recommendation
15 to the Examiner as to the risk penalty that should be
16 assessed against nonconsenting interest owners?

17 A. Yes.

18 Q. And what is that?

19 A. I recommend the statutory maximum of 200 percent.

20 Q. Okay, why don't you identify and review for the
21 Examiner EXCO Exhibit Number 7 and explain why you believe
22 a 200-percent risk penalty is appropriate here.

23 A. Exhibit Number 7 is a production map of the
24 immediate area, a similar map to what you just reviewed
25 with the land situation, the main difference being -- Well,

1 first of all, all the gas wells on this map are Abo-
2 producing wells. And the main difference on this map,
3 you'll note the blue-circled wells. Those wells depict the
4 infill wells drilled since 1996, operated primarily by
5 Gothic, Yates, and one well by Mewbourne. There are 12
6 wells in total, three of which are considered uneconomic
7 and three of which are marginal wells, based upon our
8 study.

9 The red numbers below the wells depict, going
10 from left to right, the current daily production in MCF per
11 day, followed by the cumulative production in MMCF.

12 Q. What is the production curve like for the Abo
13 formation?

14 A. A typical production curve out there exhibits an
15 exponential decline in production over time.

16 Q. Okay, and you mentioned some uneconomic wells in
17 this area. Can you identify them, please?

18 A. Yes. A well located in 5 South, 25 East, Section
19 16, the southwest of the northeast, you can see that the
20 current daily rate is only one MCF, and it has cum'd 22
21 million. The well located in the northeast southeast of
22 Section 33 is another uneconomic well, as well as the well
23 located in the northwest of the southwest of Section 30.

24 Q. And those are all infill wells?

25 A. Yes, they were.

1 Q. Okay, and then you mentioned that you identified
2 some what you would consider marginal wells?

3 A. Yeah, the marginal wells would be located in the
4 northwest southwest of Section 32, the northwest southwest
5 of Section 29, and the northwest southeast of Section 30.

6 Q. So the infill wells that have been drilled out in
7 this area, have 50 percent of them either been uneconomic
8 or marginal?

9 A. That is correct.

10 Q. Would you identify -- Would you turn to EXCO
11 Exhibit Number 8? These are the pool rules entered for the
12 Pecos Slope-Abo Gas Pool in 1996 by the Division; is that
13 correct?

14 A. Yes, it is.

15 Q. Have you reviewed the geologic findings that were
16 noted by the Division in paragraph (19) of these rules,
17 which I believe is on page 689 of the exhibit?

18 A. Yes, I have.

19 Q. Do you agree with those findings?

20 A. Yes, I do.

21 Q. They're contained in the right-hand column in
22 (a), (b), (c) and (d); is that correct?

23 A. Yes, they are.

24 Q. Okay. What do they tell you with respect to the
25 risk of drilling a successful infill well in the Pecos

1 Slope-Abo Gas Pool?

2 A. That substantial geologic risk is present due to
3 the lateral discontinuous nature of these channel
4 sandstones and that some of the reservoir sands have been
5 partially depleted by previously drilled wells.

6 Q. And do you believe that that's borne out by
7 production history, the infill wells that you show EXCO
8 Exhibit Number 7?

9 A. Yes.

10 Q. Would you identify for the Examiner Exco Exhibit
11 Number 9?

12 A. Exhibit 9 is the Division Order R-10,293.

13 Q. Was this entered in January of 1995?

14 A. Yes.

15 Q. Was this a pooling order for the Abo formation?

16 A. Yes.

17 Q. I believe it was for Section 34 shown on your
18 Exhibit Number 7; is that correct?

19 A. Yes. Yes, it was.

20 Q. Okay. I'd like you to turn to page 4 of that
21 order. Are you aware of the risk penalty that was imposed
22 by the Division under this pooling order for the Abo
23 formation?

24 A. Yes.

25 Q. And what was that?

1 A. Two hundred percent.

2 Q. And then there were some questions earlier, Mr.
3 Stogner, about the drilling rates that had been pooled --
4 the overhead rates in pooling orders in this area, and I
5 believe those are reflected in this order in paragraph (9)
6 on page 5?

7 A. Yes, they are.

8 Q. And again, this would have been in 1995?

9 A. Yes.

10 Q. Okay. Do you recommend that the same risk
11 penalty that was imposed by the Division in Division Order
12 R-10,293 also be imposed for the proposed wells which are
13 the subject of Cases 12,700, 12,701 and 12,702?

14 A. Yes.

15 Q. Do you believe, Mr. Meyer, that in each of these
16 consolidated cases there is a chance that you could drill a
17 well at the proposed location that would not be a
18 commercial success?

19 A. Yes.

20 Q. In your opinion, will the granting of this
21 Application and taking the risk of drilling these infill
22 wells in each of these consolidated cases be in the best
23 interests of conservation, the prevention of waste and the
24 protection of correlative rights?

25 A. Yes.

1 Q. Were Exhibits 6 through 9 prepared by you or
2 gathered or compiled under your supervision and direction?

3 A. Yes, they were.

4 MR. FELDEWERT: Mr. Examiner, at this time I
5 would move the admission into evidence of EXCO Exhibits 6
6 through 9.

7 EXAMINER BROOKS: Six through 9 are admitted.

8 MR. FELDEWERT: And that concludes my examination
9 of this witness.

10 EXAMINER BROOKS: Okay, I have no questions of
11 this witness.

12 Mr. Stogner?

13 EXAMINER STOGNER: Yes, I have some questions.
14 Thank you, Mr. Brooks.

15 EXAMINATION

16 BY EXAMINER STOGNER:

17 Q. Am I to understand that Exhibit Number 9 -- this
18 is the order from 1995 -- that's part of your justification
19 to ask for 200 percent today; is that correct?

20 A. Yes, sir.

21 Q. Okay. How was the pool being developed in 1995?
22 What rules were in place?

23 A. I'm not sure.

24 Q. Well, let's look at Exhibit Number 8. Now, is
25 this the special rules that this pool is now under; is that

1 correct?

2 A. Yes, they are.

3 Q. Do you know when they were enacted?

4 A. In 1996.

5 Q. Okay, so the pooling order came at least a year
6 before; is that correct?

7 A. Yes.

8 Q. Okay. In finding paragraph number (11) on the
9 second page of that -- this is a copy of the *R.W. Byram's*
10 -- it talks about that the pools were subject to the
11 Division's Statewide Rule 104.C(2)(a), which was unprorated
12 and allowed for only one well per quarter section.

13 A. Okay.

14 Q. So let's now look at Exhibit Number 7. Now, is
15 this well that was subject to Exhibit Number 9 reflected on
16 this map?

17 A. Yes, in Section 34, it's the southwest of the
18 northwest, the Pecos Slope 34 Com Number 1.

19 Q. Okay, so we know that this well was drilled in
20 1995?

21 A. Yes.

22 Q. Do you know, or can you tell by looking at this
23 map, the surrounding wells, the surrounding producing wells
24 back to the west -- there's one to the south and a few to
25 the northwest -- if those were drilled before or after this

1 particular well in the northwest of 34.

2 A. They were drilled before.

3 Q. They were drilled before.

4 A. Yeah, you can't tell from this map, but I know
5 that this was a more recent well, drilled on the -- It was
6 not drilled as an infill well.

7 Q. Okay, when you say "this well", you're talking
8 about the Number 1 in the northwest of 34?

9 A. Yes, sir.

10 Q. Okay, that was the subject of the force pooling
11 provision's Order Number R-10,293?

12 A. Yes, sir.

13 Q. Okay. Now, in Section 33 I believe that blue dot
14 indicates an infill well?

15 A. Yes, sir.

16 Q. Okay, so that well was drilled after the infill
17 provision, so sometime after 1996?

18 A. Yes, sir.

19 Q. Now, does your number show on that well, is this
20 a commercially viable well?

21 A. No, sir, it is uneconomic.

22 Q. Also, the well up to the north of this particular
23 northwest quarter section of 34, that shows to be a plugged
24 and abandoned well, is that the Doris RI Federal Number 1?

25 A. Yes, sir.

1 Q. Do you know if that was dry and abandoned, or did
2 it ever have any production?

3 A. I do not know. It should have been dry and
4 abandoned and never had produced.

5 Q. It should have had that because it is -- fits
6 that requirement --

7 A. Yes.

8 Q. -- or it would have that if it fit those
9 requirements?

10 A. Well, the symbol -- All the wells that have
11 produced show a gas symbol for being shut in or plugged --

12 Q. Okay.

13 A. -- depicted by a red symbol.

14 Q. Similar to the one up there in what, the
15 northeast quarter of 27, that looks like it has the gas
16 well emblem, and then it has a red slash?

17 A. Yes, sir.

18 Q. Now, also, if I went back to the immediate east,
19 it looks like the key covers something up. Do you know if
20 there's a producing well in the northeast of Section 34?

21 A. I believe not.

22 Q. So this particular well, at the most, when it was
23 force pooled, was surrounded by some dry wells, and of
24 course this infill well wasn't anywhere close; is that
25 correct?

1 A. Correct.

2 Q. Okay, so today you're asking for a second well on
3 an existing proration unit, and when I look at the two
4 wells immediately below -- the two infill wells immediately
5 below 19 and 20, in Sections 30 and 20, are those viable
6 commercial wells? Because you show what, 140 over 100 and
7 150 over 160?

8 A. Yes, they would be considered economic.

9 Q. Okay, do you think the same conditions exist
10 today as far as risk penalty should be assessed or should
11 be afforded these wells, as opposed to the well drilled
12 back in 1995, still?

13 A. Yes, I believe there should be a 200-percent
14 penalty. The sands are variable enough that -- you know,
15 they're fluvial channels and by nature very discontinuous.

16 Q. How many wells does EXCO Resources operate in
17 this pool, roughly?

18 A. Roughly -- I don't know, 15 or 16.

19 EXAMINER STOGNER: Mr. Brooks I have no other
20 questions of this witness.

21 EXAMINER BROOKS: I have no further questions.

22 Mr. Feldewert, any follow-up?

23 MR. FELDEWERT: No, that concludes our
24 presentation, Mr. Examiner.

25 EXAMINER BROOKS: Very good, the witness may

1 stand down.

2 I guess I just had a question of you, Mr.
3 Feldewert. This is a little unusual situation where you've
4 got an existing operating agreement that supposedly covers
5 these sections. Does that even come within our
6 jurisdiction, or is this unit already pooled by voluntary
7 agreement, albeit the agreement is not in evidence?

8 MR. FELDEWERT: Well, it's apparently an
9 agreement that -- if it exists, that nobody can find,
10 including the pooled parties. I know there's been some
11 communication between them about this. It's my
12 understanding that EXCO and Eland, if they thought there
13 was a voluntary agreement or could find a voluntary
14 agreement, my assumption would be that they would have been
15 here today.

16 But nobody's been able to find the agreement,
17 it's apparently not recorded, so we're in a situation where
18 we do not have a voluntary agreement among the parties. So
19 the only opportunity they have to drill these infill wells
20 is by virtue of the pooling provisions of the State, absent
21 the ability of the parties to reach a subsequent agreement.
22 And I will certainly -- in the event that the parties are
23 able to reach an agreement, I will inform the Commission
24 immediately. But we would ask that the matter be taken
25 under advisement and the appropriate order be issued.

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EXAMINER BROOKS: Well, actually I would assume that if they had found the previous agreement, not only would I assume they would not be here, I would assume you wouldn't be here either.

MR. FELDEWERT: That is correct, sir.

EXAMINER BROOKS: Very good. Case Number 12,700, 12,701 and 12,702 will be taken under advisement.

(Thereupon, these proceedings were concluded at 10:15 a.m.)

* * *

I do hereby certify that the foregoing is a complete and true record of the proceedings in the Examiner hearing of Case No. _____ heard by me on _____ 19____,
_____, Examiner
Of Conservation Division

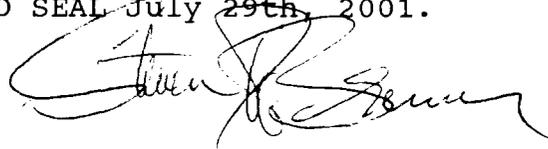
CERTIFICATE OF REPORTER

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

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

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

WITNESS MY HAND AND SEAL ~~July 29th~~, 2001.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002