

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 RICHARDSON PRODUCTION)
COMPANY FOR COMPULSORY POOLING, SAN JUAN)
COUNTY, NEW MEXICO)

CASE NOS. 12,854

APPLICATION OF RICHARDSON PRODUCTION)
COMPANY FOR COMPULSORY POOLING, SAN JUAN)
COUNTY, NEW MEXICO)

and 12,855
(Consolidated)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

July 11th, 2002

Santa Fe, New Mexico

02 JUL 30 AM 12:55
OIL CONSERVATION DIV

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, July 11th, 2002, at the Aztec City Council Chamber, Aztec City Hall, 201 West Chaco, Aztec, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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July 11th, 2002
 Examiner Hearing
 CASE NOS. 12,854 and 12,855 (Consolidated)

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A P P E A R A N C E S

FOR THE DIVISION:

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FOR THE APPLICANT:

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Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

ALSO PRESENT:

MICHAEL E. STOGNER
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 12:15 p.m.:

3 EXAMINER BROOKS: We'll call now Case Number
4 12,854, Application of Richardson Production Company for
5 compulsory pooling, San Juan County, New Mexico.

6 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
7 the Santa Fe law firm of Kellahin and Kellahin, appearing
8 on behalf of the Applicant, who request at this time that
9 you also call the next case and that they be consolidated
10 for purposes of making a record.

11 EXAMINER BROOKS: Very good, at this time we'll
12 call Case Number 12,855, Application of Richardson
13 Production Company for compulsory pooling, San Juan County,
14 New Mexico.

15 Ask for appearances.

16 MR. KELLAHIN: Same appearances.

17 EXAMINER BROOKS: Are there any other appearances
18 in either of these cases?

19 There being none, pursuant to the request of the
20 Applicant, Cases Numbers 12,854 and 12,855 will be
21 consolidated for purposes of hearing only.

22 MR. KELLAHIN: Mr. Examiner, I'd like the record
23 that both witnesses in the prior case have been sworn, duly
24 qualified and continue to testify in these two cases under
25 oath.

1 EXAMINER BROOKS: So reflected.

2 Now, Mr. Kellahin, are these the exhibits for
3 both cases?

4 MR. KELLAHIN: They're the land exhibits for the
5 21-and-2 well, which is the first case of the two.

6 EXAMINER BROOKS: 12,854.

7 MR. KELLAHIN: Yes, sir. And as soon as we
8 finish those I'll give you a separate package for the
9 second case.

10 EXAMINER BROOKS: Very good. You may proceed.

11 PAUL LEHRMAN,

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

14 DIRECT EXAMINATION

15 BY MR. KELLAHIN:

16 Q. Mr. Lehrman, would you please refer to what we've
17 marked as Exhibit 1 in this case? You should be looking at
18 a plat.

19 A. You're on 12,854?

20 Q. Yes, sir.

21 A. It's a plat showing the northwest dedication for
22 the FRPC 21-2 well.

23 Q. Does it show a well location displayed on that
24 map?

25 A. Yes, it does.

1 Q. The purpose of this particular case is to
2 consolidate by pooling uncommitted interest owners in a
3 160-acre spacing unit, consisting of the northwest quarter
4 of this section?

5 A. That's correct.

6 Q. When we set that locator map aside and look at
7 Exhibit Number 2, what are we seeing with this exhibit?

8 A. It's a list of the unleased mineral owners.

9 Q. Have you satisfied yourself, based upon a review
10 of the Richardson records, that this list is current and
11 accurate as to the uncommitted interest owners in that
12 spacing unit as of today?

13 A. Yes, I believe that is accurate.

14 Q. To the best of your knowledge, are these the best
15 available addresses for these individuals or entities?

16 A. Yes.

17 Q. A review of the Richardson records disclosed a
18 letter as to when this well was proposed to all those
19 people. Do you have a copy of that?

20 A. Yes, I do, I believe that's Number 3.

21 Q. All right, this exhibit package of multiple
22 pages?

23 A. Yes, it's a copy of the letter sent out March
24 15th, 2002, along with copies of receipt cards, and I
25 believe that's it.

1 Q. Did it also include a -- Does the letter indicate
2 that it included a proposed estimate of well costs for the
3 well?

4 A. Yes.

5 Q. Subsequent to sending out this letter, is there
6 any indication in the files that any of these uncommitted
7 parties responded?

8 A. No.

9 Q. Okay, let's turn to Exhibit Number 4. Exhibit
10 Number 4 is my certificate of notice to the uncommitted
11 parties. And if you'll look at the third page of that
12 exhibit, have you satisfied yourself that this list is
13 still accurate and current, and these parties are still the
14 uncommitted parties?

15 A. Yes.

16 Q. What is the total percentage of the uncommitted
17 interest in the spacing unit?

18 A. 34.91 percent.

19 Q. Let me turn you now to the second case. I hand
20 you --

21 EXAMINER BROOKS: Mr. Kellahin, just a moment.
22 Give me a chance to get caught up with you on checking
23 these return receipts here.

24 MR. KELLAHIN: Mr. Examiner, the only one we
25 could not deliver --

1 EXAMINER BROOKS: Yes.

2 MR. KELLAHIN: -- was the second one down on the
3 table, which is Forrest and Patricia Elkins.

4 EXAMINER BROOKS: Right.

5 MR. KELLAHIN: The rest are received and
6 documented by the green cards. We've checked this address,
7 and it's the best address we can find.

8 EXAMINER BROOKS: Okay. Well, just give me a
9 minute to go through this.

10 Okay, you may proceed.

11 MR. KELLAHIN: Thank you.

12 Q. (By Mr. Kellahin) Let's turn to the exhibit
13 package that I have distributed to you and to the Examiner,
14 and it deals with the next case. It's 12,855. We're now
15 dealing with the well in the southwest quarter. Would you
16 look at Exhibit Number 1? Do you have that before you?

17 A. Yes.

18 Q. The proposed spacing unit for the Coal is a west-
19 half orientation?

20 A. That's correct.

21 Q. The northwest quarter we just discussed as being
22 a stand-alone Pictured Cliffs well at this point?

23 A. That's correct.

24 Q. Let's now look at the combined PC-Coal well in
25 the southwest quarter. Do you have a footage indicated for

1 that well?

2 A. Yes.

3 Q. Tell us what it is.

4 A. 660 from the west, 762 from the south.

5 Q. For the spacing unit you have tabulated for the
6 Pictured Cliffs percentages, and then for the west-half
7 dedication to Coal you have a separate tabulation?

8 A. That's correct.

9 Q. Tell us what the tabulation shows.

10 A. It shows the percentages of unleased mineral
11 interests in that prospective southwest quarter and west
12 half.

13 Q. Okay. Let's turn to Exhibit Number 2. Exhibit
14 Number 2 consists of two pages?

15 A. That's correct.

16 Q. Describe for us each of the two pages.

17 A. It's just basically a detailed summary of the
18 nature and percent of interest for the unleased mineral
19 owners in those respective spacing units.

20 Q. And we look at the first page of Exhibit 2, and
21 this would show the interest and the percentage in the
22 southwest 160?

23 A. That's correct.

24 Q. And when we look at the total west half as a
25 spacing unit in the Coal, some of the names are repeated,

1 but you've picked up others?

2 A. That's correct.

3 Q. All right. For those that are repeated, you have
4 changed the percentage, so it represents their percentage
5 of the 320?

6 A. That's correct.

7 Q. Okay. When you look at the Pictured Cliffs
8 portion, what is the uncommitted percentage for the
9 Pictured Cliffs Pool?

10 A. 9.38.

11 Q. And what's the uncommitted percentage for the
12 Coal Pool?

13 A. 22.14.

14 Q. Turn with me to Exhibit Number 3. Would you
15 identify for us what we're seeing in this package of
16 documents?

17 A. It's a copy of a letter sent certified mail to
18 each individual unleased mineral owner, dated 3-15-02.

19 Q. What was included with that letter?

20 A. A copy of the AFE and the offer to lease and join
21 the well.

22 Q. Have you searched the Richardson records to
23 determine if there were subsequent responses by any of the
24 parties to whom that letter was sent?

25 A. Yes, I have.

1 Q. And what conclusion did you reach?

2 A. The parties that were unleased are represented
3 here by the letter and the return cards as not willing to
4 participate.

5 Q. When we turn to Exhibit 4, my certificate of
6 notice of hearing, and look at the third page, are you
7 satisfied that these are still the proper parties with the
8 best available address?

9 A. Yes.

10 Q. And they are still the uncommitted interest
11 owners to the spacing unit?

12 A. That's correct.

13 Q. With regards to the notification, all of these
14 parties or entities received notice, with the exception of
15 Forrest and Patricia Elkins --

16 A. That's correct.

17 Q. -- in San Marcos, Texas, and this is the best
18 address you have for those two people?

19 A. That's correct.

20 MR. KELLAHIN: That concludes my examination of
21 this witness as to both cases.

22 We would move the introduction of Exhibits 1
23 through 4 in both cases.

24 EXAMINER BROOKS: Exhibits 1 through 4 in each
25 case, as tendered, are admitted.

EXAMINATION

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BY EXAMINER BROOKS:

Q. Now, what the situation in this case is, is that you have a half section, the west half of 21, 29 North, 13 West, and you plan to drill a well in the northwest quarter, which will be a stand-alone Pictured Cliffs well, and a well in the southwest quarter, which will be a combined Pictured Cliffs-Fruitland Coal well, correct?

A. That's correct.

EXAMINER BROOKS: Okay, I believe that's all my questions of this witness.

Go ahead.

EXAMINER STOGNER: Mr. Brooks, I have a couple questions.

EXAMINER BROOKS: Go ahead.

EXAMINATION

BY EXAMINER STOGNER:

Q. If you look on the list of unleased mineral interests --

EXAMINER BROOKS: On which case?

EXAMINER STOGNER: Okay, on both cases, but I'll refer to Exhibit Number 2, because these two entities also appear in the other case.

EXAMINER BROOKS: Correct.

EXAMINER STOGNER: Exhibit Number 2, and if you

1 go down halfway, there's the City of Farmington. And then
2 if you go all the way down there's the State of New Mexico
3 Highway Department.

4 EXAMINER BROOKS: Correct.

5 Q. (By Examiner Stogner) These are government
6 entities, are they not?

7 A. They are.

8 EXAMINER STOGNER: Mr. Kellahin, do you have any
9 comment on the force-pooling of government entities, what
10 we've seen in the past?

11 MR. KELLAHIN: What the practice has been, if the
12 government agency has agreed to utilize a leasing
13 arrangement, and we entered into that discussion and
14 obtained those leases. The Commissioner of Public Lands
15 has that available to us.

16 The State Highway Department, unfortunately, is
17 unwilling to even engage in the process. There is no form
18 of lease that they will approve, and they simply will not
19 discuss that issue with you.

20 And so our plan is to set aside the interests
21 that would be committed to the State Highway Department --
22 it involves right-of-way interest -- and set that aside in
23 escrow and continue to try to have them reach a contractual
24 solution.

25 The City of Farmington has a similar process,

1 occasionally executes leases but has not done so in this
2 case, and we'll continue to pursue that. We suggest you
3 have authority to pool the interest of these governmental
4 agencies and would ask you that you do that.

5 EXAMINER BROOKS: Okay, I don't believe I have
6 anything further.

7 EXAMINER STOGNER: No other questions.

8 EXAMINER BROOKS: Witness may stand down.

9 MR. KELLAHIN: Mr. Examiner, while the witnesses
10 are exchanging positions, you're going to see the same
11 exhibits from Mr. Richardson in both cases, and let me make
12 sure we have collated this set right.

13 If you can take Exhibit 5 through 9 -- Exhibit 5
14 through 8 in the packages, Exhibit 9 is the AFE. So make
15 sure the geologic maps are in the order that I have them.

16 Exhibit 5 is the structural contour map.

17 Exhibit 6 is the cumulative production map.

18 And the last, 7, is the Coal isopach of
19 thickness.

20 EXAMINER BROOKS: Okay, in my set 6 and 7 are
21 reversed. Six is the Coal isopach and 7 is the cumulative
22 production.

23 EXAMINER STOGNER: On mine, 5 is the structure
24 contour, 6 is the Coal isopach and 7 is the cumulative
25 production.

1 MR. KELLAHIN: Let's do them with the way your
2 numbers are. So Mr. Richardson and I will talk about the
3 Coal isopach as 6 and the cumulative production map as 7,
4 so we're in the same order that you are.

5 EXAMINER BROOKS: Okay, very good. Thank you.

6 DAVID B. RICHARDSON,

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. KELLAHIN:

11 Q. Mr. Richardson, let's look at Exhibit 5. What is
12 displayed on this display?

13 A. Again, this is a structure contour map on the
14 base of the Fruitland Coal.

15 Q. It's prepared in the same manner by you as the
16 exhibit we saw in the last case?

17 A. Yes, it is.

18 Q. Let's take a moment and find Section 21.

19 A. Right, it's the center section in the ninespot.
20 The proposed 21-2 Pictured Cliffs well is in the northwest
21 quarter of the section, and the 21-3 is in the southwest
22 quarter.

23 Q. Let's talk about the risks associated with both
24 of these wells as to the Pictured Cliffs formation.

25 A. Okay.

1 Q. What's your recommendation as to that zone for
2 both wells?

3 A. In that zone, possible drainage from older wells
4 that have been drilled many years ago, and again the water
5 production and low bottomhole pressure.

6 Q. Water production is a risk component of Pictured
7 Cliffs production?

8 A. Yes, it is.

9 Q. When we look at the map, is there a way to
10 identify what wells on here are PC wells?

11 A. Any well in the northwest or the southeast
12 quarter would be a PC well.

13 Q. Okay. The other wells that are on an orientation
14 for northeast-southwest are going to be Coal wells?

15 A. Yes, they are.

16 Q. With the additional PC in those wellbores?

17 A. Yes.

18 Q. Let's refer to the Coal portion of the structure
19 map.

20 A. Right.

21 Q. When we look at the Coal portion --

22 A. Okay.

23 Q. -- on the structure map, what is your opinion
24 about the risk associated with the Coal formation for these
25 two pooling cases?

1 A. The risk is high here because of a general
2 localized thinning of the Coal, from being totally absent
3 in the southeast corner of 21 to, proposed in the 21-3,
4 four feet in the basal Coal.

5 Q. Do you have a recommendation to the Examiner as
6 to whether the application of the Division's 156-percent
7 penalty to the Coal is appropriate in this case?

8 A. Yes, it is.

9 Q. Let's look at the Coal thickness map. We've got
10 that marked as Exhibit Number 6.

11 A. Yes.

12 Q. At these two locations, the Number 2 and 3
13 locations, what have you estimated to be the Coal
14 thickness?

15 A. In the northwest corner, in the 21-2, although we
16 won't be completing the Coal in that quarter section, it's
17 seven feet; in the southwest quarter, four feet.

18 Q. I'm looking at the contour lines. You have two
19 contour lines here. What is the northern contour line?
20 What is that thickness?

21 A. In -- That's the San Juan River.

22 Q. Oh, I'm sorry, I thought it was a contour line
23 and thickness. That's the river. I'm sure I'll hear about
24 that.

25 (Laughter)

1 Q. (By Mr. Kellahin) So when we're looking at the
2 distribution of the Coal, can you give us a picture of
3 where we would go, in what direction, to improve the
4 thickness of the Coal?

5 A. We would obviously go to the north, that would be
6 one way to go. To the northeast, there's a very thick Coal
7 to the northeast.

8 Q. But at this location it's pretty thin?

9 A. It's very thin.

10 Q. Let's look at the production map, if you'll look
11 at Exhibit 7.

12 A. Yes.

13 Q. Let's show the Examiner how you have tabulated
14 the existing cumulative production for the Pictured Cliff.

15 A. Okay, it's in the PC column, in the first column,
16 and the Fruitland Coal -- There's only one well that I
17 found online that had production in the Fruitland Coal in
18 these sections.

19 Q. Let's look at that. You can find where the well
20 is by reading across and finding it's the ROPCO 15-1?

21 A. Yes, it is.

22 Q. And then you can look at Section 15 and find the
23 Number 1 well up in the northeast quarter section?

24 A. Yes.

25 Q. And the cumulative production on that well

1 is -- ?

2 A. Approximately .9 BCF.

3 Q. Do you have production on any other well on this
4 map from the Coal that would give you a cumulative
5 production number?

6 A. No, we don't.

7 Q. Are there other Coal wells on this map?

8 A. No. There is one well that I am aware of but I
9 could not find production on. That's a well that Merrion
10 operates in the southwest quarter of Section 15.

11 Q. In the Southwest quarter of 15.

12 A. Right.

13 Q. One of those two symbols --

14 A. Yes.

15 Q. -- is a Coal-well symbol?

16 A. In the southwest.

17 Q. With the exception of those two wells, then,
18 there's no Coal wells on the nine-section plat?

19 A. We have recently completed some Coal wells, but
20 they're not on line yet. We're awaiting commingling orders
21 on them.

22 Q. Show me where they would be.

23 A. It would be the Richardson RPC 17-3 --

24 Q. Okay.

25 A. -- southwest of 17; the northeast of 20, the

1 Eaton-White Number 2; a few days ago we recently drilled
2 the 20-3 in the southwest quarter. And that's all of them.

3 Q. So the Number 3 well is going to be the eastern
4 stepout to the existing wells, and you have to go all the
5 way to Section 15 to find established production?

6 A. That's right.

7 Q. Describe for the Examiner the risks associated
8 with obtaining commercial production from the Coal member
9 at the location of the 21-and-3 well.

10 A. Okay, the risks are very high because the coal is
11 so thing.

12 Q. Is there a water component associated with the
13 risk for this well?

14 A. Yes, there is.

15 Q. And what do you do with your water?

16 A. We truck it to water-disposal wells. There have
17 been instances in the city limits where you can dispose of
18 it in the sewer system, but that wouldn't be the case here.
19 It's outside the city limits. So it has to be trucked away
20 to a water-disposal well.

21 Q. Let's turn to Exhibit 8. I have a tabulation of
22 overhead rates. It's a first page, followed by the Ernst
23 and Young summaries.

24 A. Yes.

25 Q. What's your recommendation to the Examiner as to

1 overhead rates for the two wells?

2 A. A drilling rate of \$5000 and an overhead rate of
3 \$500.

4 Q. Would that be applicable to both?

5 A. Yes.

6 Q. And that's consistent with what you've received
7 and requested in prior pooling cases?

8 A. Yes, it is.

9 Q. Let's turn to discussing the two AFEs.

10 A. Yes.

11 Q. The one I have in front of me happens to be from
12 the second case, 12,855, and we need to find the one for
13 12,854. If you pull both of those up, Mr. Richardson.

14 EXAMINER BROOKS: The one I have is only for
15 12,854.

16 MR. KELLAHIN: All right, let me see if we can
17 find the 12,855. You have 12,854, Mr. Brooks?

18 EXAMINER BROOKS: Yes, I have 12,854.

19 MR. KELLAHIN: All right, let me find 12,855.

20 THE WITNESS: Here's a 12,855.

21 MR. KELLAHIN: Do you have one of these now,
22 David?

23 THE WITNESS: I don't have a 12,854. I've got a
24 12,855.

25 MR. KELLAHIN: So do I.

1 Q. (By Mr. Kellahin) Do you now have each AFE, Mr.
2 Richardson?

3 A. Yes, I do.

4 Q. Let's start with the AFE for the 12,854 well.
5 Identify for us what you believe to be the reasonable costs
6 associated with that well.

7 A. Yes, \$194,000 for a completed well.

8 Q. In your opinion, is that a fair and reasonable
9 estimate for a well at this location, at this depth?

10 A. Yes, it is.

11 Q. To the best of your knowledge, is it consistent
12 with the current costs actually paid for wells like this?

13 A. Yes, it is.

14 Q. Let's turn to the next AFE, it's the 12,855 AFE.
15 Tell us what are the total costs associated with that well.

16 A. \$263,000 for the commingled well.

17 Q. And how do those costs compare to what you had to
18 pay to drill and complete similar wells like this?

19 A. Comparable.

20 MR. KELLAHIN: That completes my examination of
21 Mr. Richardson.

22 The exhibit numbers we're requesting to be
23 introduced is 6 through 9, I believe. Did I miscount?

24 EXAMINER BROOKS: And these are the same exhibits
25 for both --

1 MR. KELLAHIN: Yes, sir.

2 EXAMINER BROOKS: -- except for Number 9, and we
3 have two 9's, so do we want to mark one of them as Exhibit
4 10?

5 MR. KELLAHIN: That might be the easiest thing to
6 do.

7 EXAMINER BROOKS: Okay, Exhibits 6 through 10,
8 then, are admitted in both cases, 12,854 and 12,855.

9 MR. KELLAHIN: Thank you, sir.

10 EXAMINER BROOKS: That concludes your Examination
11 of Mr. Richardson?

12 MR. KELLAHIN: Yes, it does.

13 EXAMINATION

14 BY EXAMINER BROOKS:

15 Q. Okay. Once again, is Richardson Operating
16 Company to be designated as operator?

17 A. Yes.

18 Q. And again, what I understand is that the well in
19 the -- Let me make sure I'm in the right location. The
20 well that is to be drilled in the southwest quarter is to
21 be a combined Fruitland Coal-Pictured Cliffs well, correct?

22 A. Yes, it is.

23 Q. That's the 21-3 well?

24 A. Yes.

25 Q. Now, that well you expect to get a downhole

1 commingling order on?

2 A. Yes, we do.

3 Q. And you understand that you will not be allowed
4 to produce it until you do that by separate proceeding,
5 correct?

6 A. Yes.

7 Q. What is the name of the Pictured Cliffs Pool
8 that's implicated here?

9 MR. KELLAHIN: Mr. Examiner, our research
10 indicates they're both in the West Kutz-Pictured Cliff Gas
11 Pool.

12 EXAMINER BROOKS: West Kutz, that's K-u-t-z?

13 MR. KELLAHIN: Yes, sir.

14 EXAMINER BROOKS: Thank you. I believe that's
15 all I have. Well, no, one out of curiosity.

16 Q. (By Examiner Brooks) What is the depth of this
17 proposed well?

18 A. Approximately 1200 feet.

19 Q. And I wasn't terribly concerned about the
20 administrative overheads you recommended, because they're
21 within range of what we've approved before in Pictured
22 Cliffs and Fruitland Coal wells, but it does appear that
23 they're considerably on the high side of the averages shown
24 on the Ernst and Young survey that you put in evidence of
25 \$3500 and \$381.

1 reference to this map?

2 A. It would be just off the edge of the map in --
3 actually, a mile to the west of the edge of this map.

4 Q. A mile to the west. Now, that would be the
5 boundary that runs from north-south until you hit the
6 river?

7 A. Yes.

8 Q. And then it goes back to the west along the river
9 or in the river?

10 A. Right, south of the river.

11 Q. So the -- And you're proposing to drill in the
12 river?

13 A. Actually, I think the mapmaker made a slight
14 error. But no, we're not drilling in the river.

15 Q. Okay.

16 A. Aren't we drilling on B-Square Ranch?

17 MR. LEHRMAN: Yeah.

18 Q. (By Examiner Stogner) But the most important
19 thing in this particular instance, what I was leading up
20 to, the portion of the river shown on this map, whether it
21 be in the right place or wrong place, this is not the
22 boundary of the Navajo Reservation?

23 A. No, it is not. That ends at the township line.

24 Q. I'm sorry, what?

25 A. The reservation ends at the township line

1 separating 13 and 14 West.

2 Q. And that's about a mile, a mile and a half from
3 your proposed well?

4 A. Yes, it is.

5 Q. To the west?

6 A. Yes.

7 EXAMINER STOGNER: Okay, no other questions.

8 FURTHER EXAMINATION

9 BY EXAMINER BROOKS:

10 Q. I guess this would really be a question for your
11 land witness rather than for you, but are you satisfied
12 that the San Juan is not classified as a navigable stream?

13 (Laughter)

14 MR. KELLAHIN: Not anymore.

15 EXAMINER BROOKS: Well, it's a serious question,
16 actually. Now, I realize I come from Texas, and in Texas
17 there's a statutory definition of a navigable stream which
18 is based on the width of the eroded bed, and I know that
19 that's not followed in other western states.

20 But still, I did a bunch of title examination in
21 La Plata County, Colorado, and the bottom line was that the
22 Colorado Land Department advised that while they had never
23 considered the La Plata to be a navigable stream, they were
24 not willing to give any assurance that they would not at
25 some time assert that the La Plata -- that the Animas was a

1 navigable stream.

2 So I think it's a serious land issue. It's
3 probably not something we're concerned with if you're
4 satisfied with it, but I just wanted to be sure that you
5 were satisfied that you'd covered that fact.

6 MR. KELLAHIN: Yes, sir.

7 THE WITNESS: (Nods)

8 Q. (By Examiner Brooks) Is that a yes?

9 A. Yes, sir.

10 EXAMINER BROOKS: Okay, very good. Thank you.

11 THE WITNESS: Thank you.

12 EXAMINER BROOKS: If there's nothing further,
13 Cases Numbers 12,854 and 12,855 will be taken under
14 advisement.

15 (Thereupon, these proceedings were concluded at
16 12:40 p.m.)

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I do hereby certify that the foregoing is
a complete record of the proceedings of
the Examiner hearing of Case No. 12854/65-5
heard by me on July 11, 2002.
David K. Brooks Examiner
Oil 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 28th, 2002.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002