

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 PETROCAP, INC., FOR) CASE NOS. 12,886
COMPULSORY POOLING, ROOSEVELT COUNTY,)
NEW MEXICO)
)
APPLICATION OF PETROCAP, INC., FOR) and 12,887
COMPULSORY POOLING, ROOSEVELT COUNTY,)
NEW MEXICO)
) (Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

ORIGINAL

BEFORE: DAVID K. BROOKS, Hearing Examiner

June 27th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, June 27th, 2002, 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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OIL CONSERVATION DIVISION

I N D E X

June 27th, 2002
Examiner Hearing
CASE NO. 12,886 and 12,887 (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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By: WILLIAM F. CARR

* * *

ALSO PRESENT:

DAVID R. CATANACH
Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

WILL JONES
Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

* * *

1 WHEREUPON, the following proceedings were had at
2 1:20 p.m.:

3 EXAMINER BROOKS: Okay, we'll call the hearing
4 back to order.

5 Do I understand that in Case Number 12,886 and
6 12,887 you're requesting to be consolidated for --

7 MR. CARR: Yes, sir --

8 EXAMINER BROOKS: -- purposes --

9 MR. CARR: -- I am.

10 EXAMINER BROOKS: -- of hearing?

11 Okay, Case Number 12,886 and 12,887, each styled
12 the Application of Petrocap, Inc., for compulsory pooling,
13 Roosevelt County, New Mexico, will be called -- both cases
14 will be called at this time and will be consolidated for
15 purposes of hearing.

16 Call for appearances.

17 MR. CARR: May it please the Examiner, my name is
18 William F. Carr with the Santa Fe office of Holland and
19 Hart, LLP. We represent Petrocap, Inc., in this matter,
20 and I have two witnesses.

21 EXAMINER BROOKS: Will the witnesses please stand
22 to be sworn?

23 (Thereupon, the witnesses were sworn.)

24 EXAMINER BROOKS: You may proceed, Mr. Carr.

25 MR. CARR: Thank you, Mr. Brooks.

1 VICTORIA POWELL IRWIN,

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

4 DIRECT EXAMINATION

5 BY MR. CARR:

6 Q. Would you state your full name for the record,
7 please?

8 A. Victoria Powell Irwin, and that's I-r-w-i-n.

9 Q. Where do you reside?

10 A. Dallas, Texas.

11 Q. By whom are you employed?

12 A. I'm self-employed, independent petroleum landman.

13 Q. And what is your relationship with Petrocap?

14 A. I am a consulting petroleum landman for them, the
15 last five and a half years.

16 Q. Have you previously testified before this
17 Division?

18 A. No, I have not.

19 Q. Would you review your educational background for
20 Mr. Brooks?

21 A. I attended the Southern Methodist University and
22 the University of Texas at Dallas and then spent many years
23 in continuing education with the Institute of Energy
24 Development, American Association of Professional Landmen,
25 as well as various other Southwestern Legal Foundation

1 classes over the years.

2 Q. Would you summarize your work experience?

3 A. Yes, I started as a lease analyst in 1963 with J.
4 Lee Youngblood, an independent in Dallas, Texas, and went
5 from him to Edwin L. Cox, and from there I became a landman
6 with Kaiser-Francis in 1976. In 1981 I managed an oil and
7 gas company, the land, the revenue accounting and investor
8 relations for a major investor in New York City. In 1986 I
9 became an independent petroleum landman.

10 Q. Ms. Irwin, are you familiar with the Application
11 filed in each of these consolidated cases?

12 A. Yes, I am.

13 Q. And are you familiar with the status of the lands
14 in the area which is the subject of this matter?

15 A. Yes, I am.

16 MR. CARR: May it please the Examiner, we tender
17 Ms. Irwin as an expert witness in petroleum land matters.

18 EXAMINER BROOKS: She is so qualified.

19 Q. (By Mr. Carr) Would you briefly state what it is
20 that Petrocap seeks in this case? And I think what we
21 should do, Ms. Irwin, is start with what has been marked
22 Exhibit Number 1, and if you could generally orient us as
23 to the area we're talking about.

24 A. Well, basically we're talking about an area
25 that's 10 miles northwest of the Peterson field in Chaves

1 County, New Mexico. It's actually in 4 South, 31 East of
2 Roosevelt County.

3 Q. If we look at Exhibit 1, we're talking about an
4 area north and west of the word "Roosevelt" in the upper
5 right-hand corner; isn't that correct?

6 A. That's correct.

7 Q. And this is a plat that generally shows the oil
8 and gas fields of southeast New Mexico?

9 A. That's correct.

10 Q. Is it fair to characterize our effort here as
11 trying to develop a formation that would be a rank wildcat?

12 A. Oh, I would think so. There's certainly nothing
13 going on in the area.

14 Q. And in these cases we're talking about pooling
15 acreage for two wells; is that right?

16 A. That's correct.

17 Q. And they're going to be drilled to what
18 formation?

19 A. The Penn Unconformity conglomerate.

20 Q. And that's the Granite Wash?

21 A. Yes.

22 Q. Okay. First let's talk about what we seek in
23 Case 12,886, which is the north half of 34. Would you
24 explain to the Examiner what it is we seek in that case?

25 A. Well, we would like an order pooling all the

1 minerals from the surface to the base of the Penn
2 Unconformity -- or the Granite Wash, actually.

3 Q. Okay. We're looking at a north-half spacing unit
4 for all formations on 320?

5 A. That's correct.

6 Q. The northwest for any formation we might
7 encounter on 160?

8 A. That's correct also.

9 Q. If we found anything that was on 40s, we would be
10 looking at the southwest quarter of the northwest quarter;
11 is that correct?

12 A. That's also correct.

13 Q. Do the Oil Conservation Division records show any
14 defined pool within a mile of either of these spacing
15 units?

16 A. No, they do not.

17 Q. And the name of the well we propose to drill in
18 Section 34 is what?

19 A. The McCowen Number 1.

20 Q. Will that be at a standard location?

21 A. It will be.

22 Q. Do you know the footage on --

23 A. I believe it's 1980 from the south and 660 from
24 the west.

25 Q. There's actually a wellbore there, is there not?

1 A. That's also true.

2 Q. And so we're seeking authority to re-enter that
3 well?

4 A. Uh-huh.

5 Q. If we're unsuccessful, would you also be
6 proposing to drill a new well at that location?

7 A. Yes, we will, that is our backup plan.

8 Q. And it would be drilled in close proximity to the
9 existing wellbore?

10 A. Hopefully within 100 feet.

11 Q. Okay. Let's look at the other case, 12,877.
12 That's the north half of Section 22?

13 A. Uh-huh.

14 Q. What are we seeking here?

15 A. Exactly the same thing.

16 Q. Same spacing units in that section?

17 A. Same spacing. The only difference would be the
18 location, of course.

19 Q. And the name of the well in Section --

20 A. It will be the Stevenson Number 1.

21 Q. And that is 1980 from the north and 660 from the
22 east?

23 A. That's correct.

24 Q. You've indicated we're drilling to the Penn
25 Unconformity conglomerate, Granite Wash. That is the

1 primary objective?

2 A. Yes, it is.

3 Q. Are there any secondary objectives?

4 A. Not to my knowledge.

5 Q. So if we find something else, it's just blind
6 luck?

7 A. That's right, absolutely.

8 Q. Let's go to what has been marked as Exhibit
9 Number 2. Could you identify that, please?

10 A. All right. First of all, we have for Section
11 34 --

12 Q. I think Exhibit 2 is just a general --

13 A. Just a large --

14 Q. -- a general map --

15 A. All right.

16 Q. -- showing leases in the area of interest. And
17 what does this show us?

18 A. Well, it shows us basically the general area,
19 which is our AMI, and then it shows the acreage that we
20 have leased, as well as the locations of both wells.

21 Q. Now, this acreage really adjoins the community of
22 Elida, does it not?

23 A. It does.

24 Q. Let's go to Exhibit Number 3. What is this?

25 A. This is a land map showing the actual north half

1 of Section 34, as well as the ownership.

2 Q. Is this state, federal or fee land?

3 A. It's fee land.

4 Q. Now, would you identify Exhibit Number 4 and
5 review that for Mr. Brooks?

6 A. If you can look at the portion that's outlined,
7 the section in the southeast southeast of the -- actually
8 the northeast quarter, is the acreage that we have been
9 unable to obtain 100 percent.

10 Q. Okay.

11 A. It shows the ownership.

12 Q. Okay, and then we go to Exhibit Number 4. Is
13 this a breakdown --

14 A. Yes, it is.

15 Q. -- of the owners in that tract?

16 Can you identify for us those interest owners who
17 are voluntarily committed to this property?

18 A. Yes, Stevenson, W.S. Stevenson, has leased, Fred
19 Allen Stieg and all of the various Good interests, the
20 trust and Mr. Good himself. And then in the next page, the
21 second page, Burkett and the McCowens have all leased.

22 Q. Behind that we have additional interest owners.
23 Are any of those individuals who have committed to -- Have
24 any of those committed to the well?

25 A. Well, actually these are not. The pages past

1 that are not in our drill site.

2 Q. Okay.

3 A. But some of them have leased, yes.

4 Q. What percentage of the working or mineral
5 interest is voluntarily committed to the well in the north
6 half of Section 34?

7 A. Well, actually it's in excess of 90 percent.

8 Q. Who still is outstanding and going to be subject
9 to pooling?

10 A. Will Johnson, David London and Ronald and Glenda
11 Anthony.

12 Q. Those are the only interest owners?

13 A. That's correct.

14 Q. Could you review for Mr. Brooks the efforts
15 you've made to obtain their voluntary participation in this
16 well and what the status of these negotiations is at the
17 present?

18 A. Well, we sent letters initially in November to
19 these individuals and requested that they lease, and we
20 never heard from these three people.

21 David London just didn't respond, so we sent
22 another letter and got no response to that.

23 Ronald and Glenda Anthony, I checked with someone
24 who works at the abstract company who was doing some work
25 for us, and she said they definitely lived in Elida. So we

1 sent another letter to the same address. No response.

2 Will Johnson, as it turned out, in his actual
3 ownership in this north half is the 25 acres instead of the
4 entire 100. He was the grandfather of W.S. Stevenson who
5 leased, who died intestate. And Stevenson's mother is
6 dead, and she had two sisters, and he does not even know
7 where one of those is. So there has been no way to resolve
8 the situation. He tried to work on it a while and to date
9 has not been able to come up with either the whereabouts of
10 the missing aunt or any other information.

11 So I would say that there's very little chance of
12 us securing anything out of the Johnson estate, whereas the
13 other two just didn't bother to respond.

14 A. In your opinion, have you made a good-faith
15 effort to locate each of these individuals and obtain their
16 voluntary participation in the well?

17 A. Very definitely.

18 Q. Is Petrocap Exhibit Number 5 a copy of the
19 letters that were sent last November to these individuals?

20 A. Yes.

21 Q. And you have followed up with additional
22 communication --

23 A. That's correct.

24 Q. -- since that time; is that right?

25 Would you identify what has been marked as

1 Petrocap Exhibit 6?

2 A. That is the AFE -- actually, there are two AFEs,
3 one for an alternative well in the event that we are not
4 able for some reason to use the existing wellbore. And
5 both of those have the cost as is standard in any AFE for a
6 drilling well.

7 Q. If we look at the first AFE, this was for the
8 drilling of the new well?

9 A. Yes, it is.

10 Q. And what are the total well costs for this well
11 if you were to drill a new well?

12 A. Well, if it's a dryhole, heaven forbid, it would
13 be \$385,750. And if it is, as we hope, a well that we can
14 complete, it would be \$689,650.

15 Q. If we look at the last two pages of this exhibit,
16 the AFE for a recompletion, what are the costs there for a
17 dryhole and completed well?

18 A. \$184,350 for a dryhole and \$490,100 for a
19 producing well.

20 Q. And are these costs in line with what would be
21 incurred by other operators --

22 A. Yes, they are.

23 Q. -- for drilling similar wells in this area?

24 Is Exhibit Number 7 an affidavit with attached
25 notice letters confirming that notice of this hearing has

1 been mailed by certified mail to each of those parties
2 subject to pooling at their correct address?

3 A. Yes, it is.

4 Q. Let's go now to the north half of Section 22.
5 Let's go to what is marked Petrocap Exhibit Number 8.
6 Would you identify that, please?

7 A. It is a land plat showing the ownership and
8 acreage in Section 22, as well as the proposed well site.

9 Q. And what is the status of the acreage?

10 A. We have been unable to lease a percentage of the
11 northwest northwest, as well as some interest within the
12 northeast quarter.

13 Q. And the spacing unit will be the entire north
14 half?

15 A. Yes, it will.

16 Q. Is this state, federal or fee land?

17 A. This is state land also.

18 Q. Let's go now to Exhibit Number 9, the ownership
19 breakdown, and I would ask you again to review this with
20 the Examiner and identify those parties that are in and the
21 status of those negotiations.

22 A. W.S. Stevenson, once again. He has been leased.
23 W.O. and Ruth Stevens have not. Toreador Royalty has been.
24 Myrtle Mosley and H.O. have not been, nor have the Bank of
25 America, both trusts. Lisa Glasson has leased, as well as

1 the Good estate. And then on the third page Viola Burk and
2 Ruby Boyd have both leased. Actually, Ruby -- It's all
3 owned by Viola at this point. And then the next page,
4 Effie Boyd has not leased. And I think that's all on our
5 drill site.

6 Q. What percentage of the working or mineral
7 interest is voluntarily committed to the well?

8 A. About 76 percent, perhaps a little more.

9 Q. Now, you've identified the interest owners who
10 are not voluntarily in the well. Can you review generally
11 the efforts you've made to locate these individuals and
12 obtain their voluntary participation?

13 A. Yes. The first letter we wrote to the Stevens
14 was returned, because that was not a valid address. I
15 looked in the telephone book and found them living around
16 the corner from the office and called Mrs. Stevens and got
17 the correct mailing address and mailed her another letter.

18 After I didn't hear from her I called back and
19 she said, I just don't think I want to do anything. So --
20 She's an elderly woman, and I think it was probably a
21 decision she just didn't want to make.

22 The Mosleys, the address that -- it was returned
23 from the Spanish Trace Apartments. They had no phone
24 number listed in Athens, Texas, and so we wrote a letter to
25 an address that I found on the Internet for a Myrtle D.

1 Mosley in Mesquite, Texas, and that also was returned. No
2 one seemed to know who they were.

3 The Bank of America, we wrote letters. Actually,
4 there were several conversations with people at the Bank of
5 America. They wanted an exorbitant amount of royalty
6 and/or bonus consideration and would not commit.

7 Q. What is the status of the effort on Effie Boyd?

8 A. Effie is dead. And according to Viola Burk, who
9 owns the other 120 acres in that quarter, Viola's aunt, who
10 left her a part of hers, was married to the brother of
11 Effie, and Effie was never married, died and left no heirs.
12 So --

13 Q. Is there any probate of that interest or any
14 records that show --

15 A. No records at all. And we asked people in the
16 abstract company if they could research it, and they came
17 up with nothing.

18 Q. In your opinion, have you made a good-faith
19 effort to identify all interest owners in the spacing unit
20 and obtain their voluntary participation in the well?

21 A. Yes, I think I have.

22 Q. And is Exhibit Number 10 copies of letters, the
23 November 26th letter, to these individuals?

24 A. Yes.

25 Q. Exhibit 11 is two AFEs. These are the AFEs for

1 the wells that you're seeking authority to drill in Section
2 22.

3 Are the numbers for the wells in 22 identical to
4 the numbers you presented for the well in Section 34?

5 A. Yes, they are.

6 Q. Is Petrocap Exhibit Number 12 an affidavit with
7 attached mailing notices confirming that notice of the
8 hearing was provided to those subject to pooling in
9 accordance with the Rules of the Division?

10 A. That's also correct.

11 Q. Has Petrocap made an estimate of the overhead and
12 administrative costs to be incurred while drilling these
13 wells and also while producing them if, in fact, they are
14 successful?

15 A. Yes, the \$523 a month and then \$4772.

16 Q. The \$4772 would be while drilling, and the other
17 one --

18 A. That would be a drilling rate.

19 Q. Now, how do these compare to the most recent
20 Ernst and Young figures?

21 A. They are the Ernst and Young figures.

22 Q. And do you recommend that these be incorporated
23 into any order that results from this hearing?

24 A. Yes, I do.

25 Q. Does Petrocap seek to be designated the operator

1 of these wells?

2 A. Actually, Petrocap itself will not be the
3 operator. The operating arm, Kestrel Resources, will be
4 the actual operator.

5 Q. And so you have a separate company --

6 A. That's correct.

7 Q. -- that operates for you?

8 Q. How do you spell that?

9 A. K-e-s-t-r-e-l, Inc.

10 Q. And do they own any interest in the well --

11 A. No, they --

12 Q. -- or are they strictly an operating --

13 A. They are strictly an operating entity, they do
14 not own any interest.

15 Q. Were Exhibits 1 through 12 either prepared by you
16 or compiled under your direction and supervision?

17 A. Yes, they were.

18 MR. CARR: At this time, Mr. Brooks, we would
19 move the admission into evidence of Petrocap Exhibits 1
20 through 12.

21 EXAMINER BROOKS: Exhibits 1 through 12 are
22 admitted.

23 MR. CARR: And that concludes my direct
24 examination of Ms. Irwin.

25 EXAMINER BROOKS: Very good.

EXAMINATION

1
2 BY EXAMINER BROOKS:

3 Q. I'll start with this operator, because I'm not
4 sure I got -- Is that K-e-

5 A. -- -e-s- --

6 Q. -- -s-t-r-a-l?

7 A. -- -e-l.

8 Q. -- -e-l, Kestrel, Inc.

9 A. That's correct.

10 Q. Does it have a comma?

11 A. Yes, it does, as a matter of fact.

12 Q. The only thing I know about commas in corporate
13 names is that Texaco doesn't have one, and I guess that's
14 moot.

15 A. I have a problem with commas myself.

16 Q. You said that Bank of America wanted an
17 exorbitant royalty rate. Define "exorbitant" for me.

18 A. I'm pretty sure it was 25 percent.

19 Q. Were there any further negotiations when they
20 indicated to you that they wanted 25 percent, or did you
21 just not pursue it any further?

22 A. Well, we were offering 3/16, and we actually felt
23 that since there had been leases taken in the area for 20
24 years and there was no drilling activity even proposed,
25 that that was a fair royalty to offer. I think we did end

1 up on one particular interest, very small, in giving a
2 slight amount more, but -- we were more willing to
3 negotiate on a price basis, but we've had some -- not this
4 thing, but we've had some trusts and/or institutions who
5 think that this is the same as south Texas or Louisiana, I
6 think, who wanted several hundred dollars an acre in bonus,
7 and that's just not a do-able.

8 Q. Well, that's a fairly long answer, but going back
9 to my exact question, did you communicate any further with
10 Bank of America after you received the proposed --

11 A. Yes, we did.

12 Q. You wrote to them and told them it was --

13 A. Actually it was a telephone conversation, and
14 said that was just not workable.

15 Q. Okay, very good. Since the AFEs are the same, I
16 assume the well in Section 22 is a re-entry also; is that
17 correct?

18 A. Yes, it is.

19 Q. Now, I wanted to ask some questions about those
20 existing wells. Should I ask you or should I ask your next
21 witness?

22 A. I think you should ask the next witness.

23 EXAMINER BROOKS: I thought that might be -- I
24 believe that's all the questions I have of you.

25 Do either of your gentlemen have any more?

1 Okay, thank you.

2 MR. CARR: At this time we call Mr. Howard.

3 And Mr. Brooks, I would point out that the
4 technical exhibits, we have a cross-section and structure
5 map and an isopach. The exhibits are identical, so we've
6 just grouped them together.

7 There are two structure maps, they're the same.

8 There are two cross-sections. The only
9 difference is, one is plotted for one well and one is
10 plotted for the other. So we were anticipating perhaps two
11 separate hearings, but we've put them both together --

12 EXAMINER BROOKS: Okay.

13 MR. CARR: -- and so -- But they are the same.
14 When you see them and they look alike it's because they are
15 alike.

16 EXAMINER BROOKS: Very good.

17 GEORGE J. HOWARD,

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

20 DIRECT EXAMINATION

21 BY MR. CARR:

22 Q. All right, would you state your name for the
23 record, please?

24 A. George John Howard.

25 Q. Mr. Howard, where do you reside?

1 A. McKinney, Texas.

2 Q. By whom are you employed?

3 A. I'm self-employed.

4 Q. And what is your relationship to Petrocap?

5 A. I'm a partner with Petrocap in this venture.

6 Q. Have you previously testified before the New
7 Mexico Oil Conservation Division?

8 A. Yes, I have.

9 Q. And how long ago was that?

10 A. Quite a while.

11 Q. Why don't we have you review your educational
12 background for the Examiner?

13 A. Certainly. I have a BS degree in geology from --
14 this is how long ago it was -- Texas Western College, which
15 is now UTEP, and have been employed in the oil business for
16 34 years.

17 Q. And at all times employed as a geologist?

18 A. Yes.

19 Q. And at all times employed as a geologist?

20 A. Yes.

21 Q. Are you familiar with the Application filed in
22 this case?

23 A. Yes.

24 Q. Have you made a geological study of the area
25 which is the subject of this Application?

1 A. Yes, I have.

2 Q. And are you prepared to share the results of that
3 work with Mr. Brooks?

4 A. Yes.

5 MR. CARR: We tender Mr. Howard as an expert in
6 petroleum geology.

7 EXAMINER BROOKS: So qualified.

8 Q. (By Mr. Carr) Mr. Howard, how long have you been
9 attempting to obtain a lease on the interests that are the
10 subject of this Application?

11 A. Approximately 20 years.

12 Q. And you've been dealing with the actual rancher
13 who owns the property on which the wells will be
14 recompleted or drilled?

15 A. That is the case.

16 Q. Are there any other Penn Unconformity
17 conglomerate of Granite Wash wells in this immediate area?

18 A. No, the only other commercial production is down
19 in the Hobbs area at the Wance field, the Wance-Brunson.

20 Q. And how far is that?

21 A. About a hundred miles.

22 Q. There are no secondary objectives in the area?

23 A. Of this -- ?

24 Q. In the wells, there are no secondary --

25 A. Not in the two wells we're going to re-enter, no.

1 Q. Let's go to what has been marked for
2 identification as Petrocap's Exhibit Number 13, the cross-
3 section, and I would ask you to identify and review the
4 information on these exhibits for the Examiner.

5 A. This cross-section was prepared to depict and
6 identify the conglomerate section in the two wells which we
7 plan to re-enter. The well in Section 22, the Gulf
8 Stevenson, on the cross-section would be the well second
9 from the left. And the old Skelly McGowan would be the
10 well in 34, which is the well on the cross-section that's
11 second from the right.

12 And you can see the direction of the cross-
13 section; it's placed on both the isopach map and the
14 structure map. So nearby wells that -- like the L&B Tucker
15 well, which had no Granite Wash or conglomerate whatsoever,
16 and then -- that's on the left side. And then you go to
17 the Gulf, which had a moderate thickness. And then as you
18 progress to the south and to the Skelly well it was quite
19 thick, and then in the Florida Anthony well on the section,
20 again there's no Granite Wash. So it's quite a variable
21 zone.

22 Q. When you prepared the cross-section and these
23 maps, you were building -- constructing them from well
24 control alone; is that correct?

25 A. That's correct.

1 Q. If we go to the next exhibit, Exhibit Number 14,
2 the structure map, you've got the trace for the cross-
3 section on this exhibit?

4 A. Yes.

5 Q. Are those the only four wells that you have in
6 the area from which to develop your interpretation?

7 A. No, there's several other wells.

8 Q. Okay, are they shown on any of the exhibits?

9 A. Yes, they're on the structure map and on the
10 isopach map.

11 Q. Let's go to your structure map, and basically I'd
12 ask you to review what this shows.

13 A. The structure map -- you have to look at the
14 cross-section as well. The structure map is drawn on the
15 unconformity, which is what they call the Mississippian
16 Unconformity, which is at the base of this conglomerate
17 zone. If you look at the wiggly line right below the word
18 "conglomerate", that is the zone in which I made the
19 structure map.

20 If you will notice also, this structure map is on
21 a 250-foot contour interval, so it's quite a steep
22 structure, quite a bit of closure.

23 Q. Go to Exhibit 15, the isopach, and review that
24 information.

25 A. Yes, on the isopach map, again, there are only

1 two wells that have this porous conglomerate in it, and
2 that's the Gulf and the Skelly wells. The wells to the
3 north and to the east and to the -- well, the two wells to
4 the east, do not have any conglomerate sands in them at
5 all.

6 Q. In your opinion, is there substantial risk
7 associated with the re-entry or the drilling of new wells
8 in this area?

9 A. Well, of course there's always risk with a re-
10 entry for mechanical failure alone. But this is a highly
11 speculative venture and it's extremely high risk.

12 Q. Can you make a recommendation to the Examiner as
13 to the risk penalty that should be assessed against any
14 nonparticipating interest in the well?

15 A. Yes, I would recommend a 200-percent penalty.

16 Q. Do you believe that there is a chance that you,
17 in fact, could drill a well at either of these locations
18 that would not be a commercial success?

19 A. We could actually do it at both.

20 Q. In your opinion, will granting the Application
21 and the drilling of these wells be in the best interests of
22 conservation, the prevention of waste and the protection of
23 correlative rights?

24 A. Yes.

25 Q. And how soon does Petrocap hope to commence the

1 drilling of these wells?

2 A. Within approximately 90 days.

3 Q. Were Exhibits 13 through 15 prepared by you?

4 A. Yes, they were.

5 MR. CARR: Mr. Brooks, we'd move the admission
6 into evidence of Petrocap Exhibits 13 through 15.

7 EXAMINER BROOKS: 13 through 15 are admitted.

8 MR. CARR: That concludes my direct examination
9 of Mr. Howard.

10 EXAMINATION

11 BY EXAMINER BROOKS:

12 Q. Okay, these two wells that you're re-entering,
13 since you have logs that go down below those formations I'm
14 assuming that these wells were drilled to and through these
15 formations, this formation; is that correct?

16 A. If I'm understanding your question, they were
17 drilled to basement, which is the Precambrian.

18 Q. Okay. But they go all the way through the Penn
19 conglomerate?

20 A. Yes, these wells were drilled, starting with the
21 Gulf well back in the 1950s, primarily looking -- they
22 could see the bit structural feature on what was then 100
23 percent or 1-D seismic data, but they couldn't identify any
24 zones. But they were drilling for Siluro-Devonian, and
25 what they found was a bald structure with Permian sediments

1 setting on top of granite. And off on the flanks of this
2 granite knob, of course, you do have the Siluro-Devonian
3 present.

4 But over the majority of the structure, it's
5 Permian sitting on top of this Penn conglomerate, which is
6 then on top of the granite.

7 Q. And they didn't find what they were looking for
8 in these wells?

9 A. This was not a recognized reservoir at that time,
10 they did not find what they were looking for.

11 Q. Right. And they did not do any testing in --

12 A. No, sir.

13 Q. -- these logs of this Penn conglomerate?

14 A. No, sir.

15 Q. Okay. Are there any special risks associated
16 with re-entering wells that have been plugged and abandoned
17 for this long?

18 A. Definitely.

19 Q. Could you tell me something about that?

20 A. Well, one of the biggest problems is, you don't
21 know what they threw in the hole, which is the most
22 frequent way of disposing of trash, metal pieces, bits, old
23 bits and things, put them in the hole, and then you don't
24 have to pay to have them hauled off. That's probably one
25 of the biggest risks. And then you've got to drill out the

1 cement plugs, which you can actually drill off of one of
2 those and start drilling new hole if you're not successful
3 in getting them out. So that's the main risk.

4 EXAMINER BROOKS: I believe those are the only
5 questions I have. I'm trying to think if I missed
6 something. I think that's all.

7 Oh, oh, yeah, I had one question. This is
8 probably for Mr. Carr, but perhaps for the witness.

9 As you filled my form, which you were so kind to
10 do, you put the top as the base of the Penn Unconformity
11 sand and the bottom as the base of the Penn Unconformity
12 sand. I understand that's your only objective?

13 MR. CARR: That's the only objective.

14 EXAMINER BROOKS: Is that the way you want the
15 order to read, for that formation only?

16 MR. CARR: You probably should ask Mr. Howard.
17 As a lawyer practicing geology I've obviously failed.

18 THE WITNESS: In examining the electric logs, I
19 don't see anything else in those wellbores that would have
20 the capability of producing. This is the only zone that I
21 could recognize.

22 EXAMINER BROOKS: Yeah. So if you did find
23 anything else, then, if we wrote it this way you'd have to
24 come back and ask for another cut in our --

25 MR. CARR: You know, in regard to an order, I

1 mean, we are asking for anything on 320-acre spacing --

2 THE WITNESS: Yes.

3 EXAMINER BROOKS: Right.

4 MR. CARR: -- to be pooled. But there is just
5 the one target --

6 EXAMINER BROOKS: Yeah.

7 MR. CARR: -- the area that we're aware of.

8 EXAMINER BROOKS: But if your ownership goes all
9 the way up, it would seem reasonable to put from the
10 surface to the base --

11 MR. CARR: Yes, sir --

12 EXAMINER BROOKS: -- in order --

13 MR. CARR: -- you're right.

14 THE WITNESS: That's what we should do.

15 EXAMINER BROOKS: Just make it easier for
16 everybody.

17 Okay, I think that's all.

18 Mr. Jones?

19 MR. JONES: I have one question of Mr. Howard.

20 THE WITNESS: Yes, sir.

21 EXAMINATION

22 BY MR. JONES:

23 Q. Did you say you had access to the mud logs on
24 these wells?

25 A. No, I didn't have -- could never find the mud

1 logs, you know, Skelly and Gulf are gone, no longer in
2 existence. I did have the sample logs that were
3 commercially prepared, and I actually reviewed the well
4 cuttings from the library in Midland myself.

5 Q. Okay. So as far as identifying that Skelly
6 McGowan well as being a real thick conglomerate, that was
7 from the samples as well as the electric logs?

8 A. Yes.

9 Q. And it definitely wasn't present in the Anthony?

10 A. No. And I looked at the samples on that as well.
11 You can tell when you hit the -- if you look at the little
12 -- again, the wiggly line, you can tell when you hit the
13 hard Precambrian granite because the porosity goes just
14 about down to zero.

15 Q. And the porosity is pretty good in the Penn
16 conglomerate in the McGowan, but also the gamma ray is
17 pretty dirty also?

18 A. It's very dirty.

19 Q. But you still think it might be productive?

20 A. Well, you know, there are a number of these --
21 There's only one field in New Mexico, but there's a number
22 of these fields in Texas, probably 50 or 60, including the
23 Panhandle Field, one of the major reservoirs, is this type
24 of Granite Wash. And normally the gamma ray will go off
25 scale three or four times. It's radioactive due to the

1 radioactive materials, not due to shale plugging up the
2 pore space.

3 Q. Okay.

4 A. So it does -- The radiation in the reservoir does
5 mess up, so to speak, the response of the electric logs.
6 So if you're unfamiliar with this reservoir, then you
7 wouldn't recognize this as being a reservoir.

8 Q. So the original people that drilled the Skelly,
9 guess, probably didn't recognize that?

10 A. That's correct.

11 Q. Okay, thank you.

12 A. There was no production in New Mexico from this
13 zone --

14 Q. Oh, okay.

15 A. -- at that time.

16 MR. JONES: Thank you.

17 EXAMINER BROOKS: Okay, if there's nothing --
18 Anything further, Mr. Carr?

19 MR. CARR: Nothing further, Mr. Brooks.

20 EXAMINER BROOKS: Very good, Cases Numbers 12,886
21 and 12,887 will be taken under advisement.

22 THE WITNESS: Thank you

23 (Thereupon, these proceedings were concluded at
24 1:52 p.m.)

25

* * *

I do hereby certify that the foregoing
* complete report of the proceedings
before the Examiner reading was taken
and by me at June 27, 2002
12886/12887
Steven T. Brenner, Director
Conservation Dept.

STEVEN T. BRENNER,
(505) 989-9311

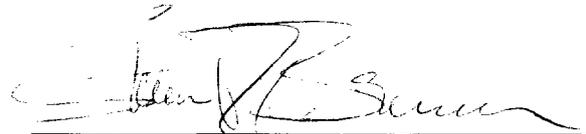
CERTIFICATE OF REPORTER

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 2nd, 2002.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002