

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION FOR THE)
PURPOSE OF CONSIDERING:) CASE NO. 12,905
)
APPLICATION OF PRONGHORN MANAGEMENT)
CORPORATION FOR APPROVAL OF A SALTWATER)
DISPOSAL WELL, LEA COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

September 5th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, September 5th, 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.

* * *

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

I N D E X

September 5th, 2002
 Examiner Hearing
 CASE NO. 12,905

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A P P E A R A N C E S

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ALSO PRESENT:

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* * *

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

1 WHEREUPON, the following proceedings were had at
2 10:50 a.m.:

3 EXAMINER CATANACH: Call the hearing back to
4 order, and at this point I'll call Case 12,905, which is
5 the Application of Pronghorn Management Corporation for
6 approval of a saltwater disposal well, Lea County, New
7 Mexico.

8 Call for appearances in this case.

9 MR. PADILLA: Mr. Examiner, I'm Ernest L. Padilla
10 for the Applicant, Pronghorn Management Corporation.

11 EXAMINER CATANACH: Additional appearances?

12 MR. OWEN: Mr. Examiner, Paul Owen of the Santa
13 Fe Law Firm of Montgomery and Andrews, appearing on behalf
14 of DKD LLC.

15 EXAMINER CATANACH: Okay.

16 MR. PADILLA: Mr. Examiner, I have one witness,
17 who's at the witness stand.

18 EXAMINER CATANACH: Mr. Owen, will you have a
19 witness in this case?

20 MR. OWEN: I will have one witness, Mr. Examiner.

21 EXAMINER CATANACH: Can I get the two witnesses
22 to please stand to be sworn in at this time?

23 (Thereupon, the witnesses were sworn.)

24 MR. PADILLA: Mr. Examiner, I have one set of
25 exhibits. I'll be glad to give the ones the witness has to

1 the Division. That was --

2 EXAMINER CATANACH: Thank you, Mr. Padilla.

3 MR. PADILLA: -- an oversight on my part.

4 GUY A. BABER, III,

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

7 DIRECT EXAMINATION

8 BY MR. PADILLA:

9 Q. Mr. Baber, state your full name for the record,
10 please.

11 A. My name is Guy Allen Baber, III.

12 Q. Where do you live, Mr. Baber?

13 A. I live in Hobbs, New Mexico.

14 Q. What is your relationship to Pronghorn Management
15 Corp.?

16 A. President of Pronghorn Management, operating
17 partner, operating member/manager.

18 Q. Did you cause a C-108 to be filed before the
19 Division?

20 A. Yes, sir, I did.

21 Q. In connection with that Application, did you use
22 your experience in the oil and gas industry in order to
23 work up that Application?

24 A. Yes, sir.

25 Q. What is your experience in the oil and gas

1 industry?

2 A. I've been involved with the oil and gas industry
3 since 1976. I worked for Conoco for four years and then I
4 was involved -- I have been involved in our family
5 business, oil and gas production and contracting business,
6 since that time.

7 Q. How long has that been?

8 A. 1976 to 1980, 1980-81, since 1980-81.

9 Q. Can you give us an idea of what the family
10 business is? I mean, do you drill wells, do you -- that
11 kind of thing?

12 A. Mostly, we've bought existing wells and tried to
13 produce those, and we've drilled a few wells, not very many
14 at all.

15 Q. In looking at the prospects and in deciding to
16 file this Application, did you study logs and information
17 that you have in your offices?

18 A. Yes, I did.

19 Q. Do you understand that from the standpoint of a
20 practical oil person?

21 A. From a layman's standpoint, yes.

22 MR. PADILLA: Mr. Examiner, we tender Mr. Baber
23 as not only being the manager and owner of -- part owner of
24 Pronghorn Management Corporation, but also as an
25 experienced oil person.

1 EXAMINER CATANACH: Any objection?

2 MR. OWEN: We have no objection to his being
3 qualified as an experienced oil and gas person. However,
4 we do note that he's not qualified as an expert in
5 petroleum engineering or geology.

6 EXAMINER CATANACH: With that qualification, Mr.
7 Baber is so qualified.

8 Q. (By Mr. Padilla) Mr. Baber, let's start out with
9 what we have marked as Exhibit Number 1. Can you identify
10 that for the Examiner, please?

11 A. This is our Application for the authorization for
12 saltwater disposal well, C-108 Application.

13 Q. What has been the history of that Application?

14 A. The letter is dated April 3rd. We --

15 Q. That's a cover letter?

16 A. Cover letter is dated April 3rd, 2002.

17 Q. And is that when you submitted the Application to
18 the Oil Conservation Division?

19 A. Yes, sir.

20 Q. Okay. Let's get on to the Application itself.
21 Looking at the second page, I guess that's where it starts.

22 A. Yes, sir.

23 Q. And is the information on that first page
24 correct, as far as we are concerned today?

25 A. Yes, sir. Yes, sir, it is.

1 Q. Okay. That's just a cover portion of the C-108;
2 is that fair to say?

3 A. That's right.

4 Q. Okay, let's get on to the third page. What is
5 located on that third page of the Application? It's -- May
6 I approach the witness, your Honor?

7 EXAMINER CATANACH: You may.

8 THE WITNESS: Oh, the third, I'm sorry, the
9 third. This is the -- this information, Injection Well
10 Data Sheet and additional data that we filled out that
11 hopefully, once we've established that we have a disposal
12 well, it will be the 2-7/8-inch tubing with -- plastic
13 coated, with a Baker Model "R" packer set at 5950, and then
14 it goes on to state certain questions and answer certain
15 questions about -- well was drilled initially, was not for
16 injection, but -- and then it was drilled for an oil well,
17 and the injection formation will be the San Andres-
18 Glorieta.

19 Q. (By Mr. Padilla) What was the producing interval
20 of this well?

21 A. It would be in the Townsend-Wolfcamp.

22 Q. And is it productive of oil and gas in that zone
23 now --

24 A. No.

25 Q. -- today?

1 A. No.

2 Q. How long has it ceased to produce oil?

3 A. I haven't -- We haven't ever produced oil out of
4 this zone since we've owned the lease.

5 Q. When did you purchase the lease?

6 A. Oh, I don't know the exact year.

7 Q. Just give us a --

8 A. 1992, 1993, something like that.

9 Q. In conjunction with that purchase, did you
10 receive geologic information from whoever you bought it
11 from?

12 A. Yes.

13 Q. What sort of information did you get?

14 A. Oh, we -- Of course, all the well files, what the
15 previous operator or the original operator, what work they
16 had done, what potential they thought still existed in the
17 Wolfcamp, just standard well files.

18 Q. What is the general producing intervals in this
19 area?

20 A. It would be what they call the Wolfcamp.

21 Q. Wells are drilled to the Wolfcamp and they're
22 produced from the Wolfcamp?

23 A. That's right.

24 Q. Do you know whether there's any shallow
25 production in this area?

1 A. To my knowledge, there's no shallow production.

2 Q. And what is the injection interval here, or the
3 formation that you're going to inject -- propose to
4 inject --

5 A. Our proposal would be for the San Andres-
6 Glorieta.

7 Q. Can you tell the Examiner how you generally want
8 to conduct business out here, as far as injecting water
9 into this well?

10 A. Generally, we'd like to have everything in place
11 as far as with the data and the information that we have,
12 the equipment that's been submitted. And of course we'll
13 have our closed system, and preferably we'd like the zone
14 to take the fluid on a vacuum. But of course if it
15 doesn't, we'll have to have a pump there to pump it, inject
16 it under pressure.

17 Q. Where are you going to get the water to inject?

18 A. Hopefully from truckers, oilfield truckers that
19 are hauling disposal water, produced water, that need a
20 place for a disposal well.

21 Q. Okay. Let's turn on to the next page. What does
22 that show?

23 A. This shows a wellbore schematic of how,
24 hopefully, it will look when we get to the position of
25 ready to inject fluid into the zone, and then it gives a

1 breakdown on the casing size, cement, what the casing sizes
2 are, what's been cemented from the surface casing to the
3 intermediate casing and our 5-1/2-inch production casing.

4 And then of course, like I said, the wellbore
5 schematic, the work we'll have to do to prepare the well to
6 be approved to inject the fluid.

7 Q. The next page has a larger well schematic. Is
8 that the same well?

9 A. Yes, sir, that's the same wellbore schematic.
10 It's just a larger --

11 Q. Can you discuss with us whether the injection --
12 or the cement that is on this well now?

13 A. The cement, as far as right now, this 13-3/8-inch
14 casing string is cemented, circulated to surface.

15 The 8-5/8 is set at 4749 feet, and it's cemented
16 up into the -- up to 625 feet. That's calculated top of
17 cement.

18 And then the 5-1/2-inch casing is set at 10,679
19 feet with 300 sacks of cement, and the top of the cement is
20 9762 feet.

21 Q. Are you going to circulate any more cement into
22 this well?

23 A. Yes, sir, we will do -- What our plan calls for
24 is circulating cement to surface.

25 Q. On what string?

1 A. On the 5-1/2-inch.

2 Q. Okay. So the whole thing will be cemented?

3 A. Yes, sir.

4 Q. Okay. Is my understanding correct, then, that
5 all of the strings are going to be cemented to the surface
6 from where your packer is set at 5950?

7 A. The 5-1/2-inch, yes, will be circulated to
8 surface.

9 Q. Okay. And where in this well schematic is the
10 formation encountered, the injection formation?

11 A. Our formation is from 6000 feet to 6400 feet.

12 Q. Okay.

13 A. The San Andres and Glorieta. I think we're still
14 in the Glorieta at 6400 feet, but that's the zone of
15 interest.

16 Q. What happens below the cement plug that's shown
17 on this schematic? And my question is really, will water
18 migrate below that cement plug?

19 A. I don't think so. We'll have cement in place and
20 our plugs in place.

21 Q. Would the pressures that you intend to encounter
22 in injecting water into this well and into this injection
23 formation cause that plug to fail?

24 A. I wouldn't think so.

25 Q. Let's go on to the next page. What does that

1 show?

2 A. This is Attachment to our Application. It just
3 goes through Roman numeral numbers on what's enclosed in
4 the rest of the Application.

5 Q. Does that show how much water you intended to
6 inject per day?

7 A. Well, we have -- We've proposed, of course, 1500
8 barrels a day at somewhere between 500 pounds and 1000
9 pounds.

10 Q. You mentioned earlier that you intended -- or you
11 planned, hopefully, to inject into a vacuum. How are you
12 aware of that?

13 A. Looking back at the drilling records and the well
14 records, when they encountered this zone of interest at
15 about 6210 they lost circulation in the well.

16 Q. Okay. Is that cemented?

17 A. No, it is not. Not at this point in time.

18 Q. Has there ever been any oil production from the
19 San Andres-Glorieta formation in this well?

20 A. No, sir.

21 Q. Has there been any oil production from the San
22 Andres and the Glorieta in the area?

23 A. No, sir, not to my knowledge.

24 Q. Where is the fresh water encountered within the
25 wellbore?

1 A. I don't know that there was fresh water
2 encountered in this wellbore, but there's fresh water up
3 there that -- if there is, the zone is up, I believe, 60
4 feet to 200 feet, I believe.

5 Q. From what aquifer is that?

6 A. That would be the Ogallala.

7 Q. What do you know about the nature of freshwater
8 sources in the area? Good water, bad water?

9 A. Yeah, I think it's -- I think there's good water
10 out there.

11 Q. What opinion do you have about whether or not the
12 fresh water will be protected by the casing and the
13 integrity of this well?

14 A. Oh, to me there's no doubt about it. It's all --
15 That issue has been addressed a long time ago when they --
16 you know, that's why they ran the 13-3/8 and then ran their
17 intermediate string. It's cased and cemented, tested.

18 Q. So is your answer that there will be no impact?

19 A. Yes, sir.

20 Q. Are you anticipating having to acidize the
21 formation in order to create more porosity to --

22 A. We had it in our AFE that we worked up, just in
23 case. We have it in our costs, that possibly with our
24 cement job that we're going to have to do, that, you know,
25 there be a need to acidize it and clean it up a little bit

1 for the zone to take fluid.

2 Q. Okay, let's go on to the next page, and tell us
3 what that is.

4 A. This is a map of wells that are within a half-a-
5 mile radius of our SWD proposal.

6 Q. How many wells do you operate within that half-
7 mile circle?

8 A. This State T Number 2 will be the only one. The
9 rest of them have been plugged.

10 Q. I notice that there are some other Pronghorn
11 wells there. Are those the ones that are plugged?

12 A. Yes, sir.

13 Q. Are there any producing wells within that one-
14 half-mile circle?

15 A. I don't -- The only producing well may be this
16 Snyder "A", which will be south of the State T Number 1.
17 But I don't know if it's producing now or not, to tell you
18 the --

19 Q. There's a Watson 1-6 to the southeast of the
20 proposed location, or the proposed injection well. What
21 can you tell us about that well?

22 A. That is now a saltwater disposal well.

23 Q. And what formation is it producing --

24 A. I believe they're in the Wolfcamp.

25 Q. Injecting into the Wolfcamp?

1 A. Yes.

2 Q. Do you know any of the history of when that well
3 became an injection well?

4 A. Just in the last few months.

5 Q. Okay, who owns that well?

6 A. I believe DKD LLC, does.

7 Q. And is that the opponent in this case?

8 A. Yes, sir.

9 Q. Okay, let's look at the next page. What is that?

10 A. This is a list of -- or map of the wells in a
11 two-mile radius.

12 Q. Okay. Is there any significance -- Well, let me
13 ask this: Is there any known production within that two-
14 and-a-half-mile radius of the Glorieta and San Andres?

15 A. No, sir, not to my knowledge.

16 Q. Do you know if there are any wells that are
17 producing in this two-mile area or circle that are
18 productive in shallow formations, other than the San Andres
19 and Glorieta?

20 A. I don't know of any shallow production in the
21 area.

22 Q. Okay, what is the primary production in this
23 area, as far as oil and gas is concerned?

24 A. It would be the Wolfcamp, and then I believe
25 Gillespie and others, they're down in the -- a little bit

1 lower than the Wolfcamp, I believe it's the Strawn. It's
2 been a deeper play, deeper than the Wolfcamp.

3 Q. Is a lot of produced water encountered in the oil
4 and gas production in this area?

5 A. I'm not that familiar with the Strawn, but I know
6 the Wolfcamp does produce some water.

7 Q. Let's go on to the next page. What is that list?

8 A. This is a list of the wells that are in the half-
9 mile area.

10 Q. Going to the far side of that, there's one well
11 that's listed as active. Is that the well you mentioned
12 before?

13 A. Well, it shows three active wells. The well I
14 was talking about was the Snyder "A" Com, third from the
15 bottom, shows it to be active.

16 Q. Okay, I'm sorry, the two wells that are --

17 A. Yeah.

18 Q. -- two wells that are active.

19 A. It shows one in the Wolfcamp and two in the
20 Strawn.

21 Q. How far below is the Strawn and the Wolfcamp in
22 this area from the injection formation?

23 A. Ask me that again, Ernie, please?

24 Q. How far below is the Strawn and the Wolfcamp from
25 the injection formation, in terms of depth?

1 A. Of our well?

2 Q. Yes.

3 A. It looks like it's going to be 4700 feet to 5700
4 feet, somewhere around there.

5 Q. What is your opinion as to whether or not
6 injected water that you might inject in the proposed
7 injection well will migrate down to the Wolfcamp or the
8 Strawn?

9 A. I don't think there's -- I don't think that would
10 be a problem. I don't see how it would do that.

11 Q. What are the next few pages on the C-108? Well,
12 specifically the next two pages?

13 A. This is the well data sheets of the -- gives a
14 list of the name of the wells and the status of the wells
15 and what size hole was drilled, casing depths and their
16 cementing programs.

17 Q. What is this intended to show, this information?

18 A. Just to show what is in the area, what has been
19 done in the area, what the casing programs were, the
20 cementing programs were, and then what the status is of the
21 wells.

22 Q. In terms of the cementing and the equipment --
23 downhole equipment in these wells, what does this indicate
24 as far as your proposed injection program?

25 A. Well, a lot of it, of course, you can see that

1 they're mainly concerned with cementing across the Strawn-
2 Wolfcamp zone, and bringing cement up to a certain level,
3 certain top, that they're not really concerned of our zone
4 of interest being productive or having any merit, because
5 they're not bringing the cement up on the primary job for
6 recompletion purposes on down the road. What they're
7 leaving is cement, so when they plug the well they can come
8 in there and cut the casing off and salvage the casing for
9 further value upon determine a -- plug and abandon the
10 well.

11 Q. Does this also show that the cementing program in
12 this well is adequate to protect any zones that may be
13 productive of oil and gas?

14 A. I think it does, yes, sir.

15 Q. Let's go two pages back there. There's a Form
16 C-103. What is that?

17 A. This is just a procedure, approved procedure that
18 the well has been plugged and abandoned.

19 Q. Which well?

20 A. This is the State "C" Number 2 of Charles B.
21 Gillespie, Jr., as operator.

22 Q. And why is this in here?

23 A. We put it in here to show that -- you know, what
24 has been done, pretty much the standard plugging procedure
25 in this area, just to show, you know, what the standard

1 operating procedure is, or pretty close to it, on plugging
2 wells in the area.

3 Q. Okay. How about the next form in here, another
4 C-103?

5 A. This would be another one of Mr. Gillespie's.

6 Q. Okay. Can you continue discussing these C-103s,
7 please?

8 A. They're just more of the same, and then the
9 wellbore schematics on how the well looks once it was
10 plugged. We do have one here where we've -- on the State
11 T, for instance, the State T Well Number 3, where it's been
12 plugged, casing was pulled, and adequate cement was put, as
13 far as the Oil Commission, and the plugging procedures are
14 documented that the well was plugged.

15 And this gives you an idea of what it looks like
16 when you do full casing.

17 Q. Do all these plugged and abandoned wells show in
18 the schematic that is attached to the C-103s that the
19 various productive formations are segregated from each
20 other, and water would not migrate up and down the
21 wellbore?

22 A. That's correct.

23 Q. Let's go down the road here. There's a report
24 from the State Engineer's Office. Can you tell the
25 Examiner what that's about?

1 A. This is just -- This is a report of the water
2 wells that are in the area, gives a list of the name of
3 them and then it shows an analysis of what the water is,
4 what the status of it is.

5 Q. What is the status of the water?

6 A. It looks like it's shallow and it's good water.

7 Q. Are there any wells on the 40-acre tract that
8 you're proposing to dispose water of?

9 A. Any water wells?

10 Q. Yes.

11 A. Not that I'm aware of.

12 Q. These are wells just in the area?

13 A. Yes.

14 Q. Okay, and that would be shallow water?

15 A. Yes.

16 Q. There's a Cardinal Laboratories water analysis
17 here. What does that show?

18 A. That shows an analysis of the water.

19 Q. Is the water good?

20 A. Yeah, it looks like it's okay.

21 Q. Good water?

22 A. Yes.

23 Q. Okay. You have a list now of pools next,
24 following the freshwater information. What is this
25 intended to show?

1 A. This just shows the type of fluid that hopefully
2 will be injected, different pools, different levels of
3 chlorides that -- possibility of these different areas,
4 these different pools, that -- the type of fluid we'll be
5 injecting into our well.

6 Q. Do you know of any restrictions as to the number
7 of chlorides or anything like that, that you can dispose
8 of, or that you're --

9 A. No, I do not.

10 Q. But as I understand this list, is that water from
11 any one of these pools could come and be disposed of in
12 your injection well?

13 A. Yes, sir.

14 Q. Is that all over southeast New Mexico?

15 A. Yes, sir.

16 Q. What's the last -- second to the last -- third to
17 the last page indicate, that's marked with a Roman numeral
18 VIII at the top right-hand corner?

19 A. This is just a formation top, available, and then
20 the lithology record of the area.

21 Q. Has this Application been approved already?

22 A. Yes, sir, it has.

23 Q. What is the reason that you know of as to why
24 this -- an objection was filed?

25 A. According to my information, they objected

1 because they said that they were not notified as an offset
2 operator.

3 Q. When you say "they", who do you mean by "they"?

4 A. DKD LLC

5 Q. Okay. At the time you filed this Application,
6 were the offset operators the operators that are listed on
7 the second to last page of this C-108?

8 A. Yes, sir, at the time we submitted our
9 Application --

10 Q. Third to the last, I'm sorry.

11 A. Yes, sir.

12 Q. -- Chesapeake Operating was offset operator;
13 Charles B. Gillespie, Jr.; Pronghorn Management
14 Corporation; and Energen Resources Corporation were all
15 notified as offset operators.

16 Q. Do you know generally when DKD acquired its
17 interest in the area?

18 A. According to my records, he -- his assignment,
19 bill of sale and conveyance was of record May 14th, 2002.

20 Q. And you're referring to the assignment that we
21 submitted with our packet that is --

22 A. Yes, sir.

23 Q. -- Exhibit Number 5, right?

24 A. Yes, sir, Assignment, Bill of Sale and Conveyance
25 from Chesapeake Operating and others to DKD LLC.

1 Q. While we're here, take a look at Exhibit Number 6
2 in your packet.

3 A. Yes, sir.

4 Q. What is that?

5 A. That's a registered return receipt from the
6 offset operators of the letter we sent out, Chesapeake,
7 Pronghorn, we didn't -- I didn't -- State Land Office as
8 landowner, Energen Resources Corporation and Charles B.
9 Gillespie, Jr.

10 Q. Let's go on to Exhibit Number 7. What is that?

11 A. This is a change-of-operator from Chesapeake
12 Operating, Incorporated, to DKD LLC.

13 Q. When was that change-of-operator approved?

14 A. It looks like the change-of-operator was approved
15 April 15th, 2002.

16 Q. Was that after you filed your Application?

17 A. Yes, sir.

18 Q. Let's go on now back up to Exhibit Number 2.
19 Please identify that. What is that?

20 A. That is a -- It's an inter-office correspondence
21 that I had in our well files that I used for some of my
22 information evaluating the State T Number 2 well as a
23 saltwater disposal well.

24 Q. Is this information in your business records?

25 A. Yes, sir.

1 Q. And is this information the information that you
2 acquired as a result of acquiring the lease?

3 A. Yes, sir.

4 Q. Okay, what does that indicate as far as the --
5 Well, no, tell me, what does that show in terms of the
6 proposed injection zone?

7 A. It address the San Andres formation itself, and
8 it addresses that there's been some slight shows of oil in
9 the San Andres formation. We encountered porosity in the
10 State T Number 2 well --

11 Q. Now who's saying that? Who's saying we
12 encountered -- I mean, you're quoting from that, is that
13 right?

14 A. That's right.

15 Q. Okay, go ahead, and please tell the Examiner
16 where that is located. Is that in the first page?

17 A. Yes, sir, it's in the first page. It's to
18 Charles L. West from Tom P. Frizzell, subject, possible
19 workover zones in the State T Number 2 well and the Number
20 4 well, but we're addressing the State 2. It's down here
21 in the San Andres -- under the caption "San Andres", and it
22 reads --

23 Q. Is that about the middle of the page somewhere?

24 A. It's the middle third, or lower third, excuse me.

25 Q. Okay, what does it say about San Andres?

1 A. It says that there's been some shows of oil
2 reported, but there's been an unsuccessful attempt in the
3 J.W. Brown 1 State.

4 Q. And where is that well located in comparison to
5 the proposed injection well?

6 A. I believe it is a west offset to this well, to
7 the State Number 2 well.

8 Q. Okay.

9 A. It indicates, our microlog on the State Number 2
10 well indicates that we had porosity through the State T
11 Number 2, and due to the poor results -- they're continuing
12 on -- due to the poor results on the Brown well, a
13 recompletion in the San Andres is not recommended.

14 And it goes on to state that during the drilling
15 of the T Number 2 well, circulation was lost at 6210. A
16 recommendation was made to watch this zone in subsequent
17 wells, which will be next the State T Number 3 well.

18 Q. Where is the State T Number 3 well?

19 A. It would be in -- It's in Unit Letter N, which
20 would be a southeast offset to our Number 2 well.

21 Q. Is that where DKD's disposal well is located?

22 A. Yes, sir, Unit Letter N.

23 Q. Okay.

24 A. And it states that in the Number 3 well they did
25 not have a stain or fluorescence through this interval. On

1 this recommendation, no recompletion is recommended for
2 this zone.

3 Q. Is that all you have in Exhibit Number 2?

4 A. I'd also like to -- I don't know how we do this.
5 I think we've got our -- We may need to submit another
6 exhibit. Can I --

7 Q. What do you have there?

8 A. Is it okay to --

9 Q. Just answer my question.

10 A. I've got another one of these inter-office memos,
11 and on Exhibit 2 I would like to address --

12 Q. What do you have there, Mr. Baber, on the
13 other -- You said you had another memo. What does that
14 address?

15 A. Well, it addresses more of what we're talking
16 about in relation to our zones in the State T Number 1
17 well, State T Number 2 well and State T Number 3 well --

18 Q. Okay.

19 A. -- which of our interests --

20 Q. Do you have multiple copies of that?

21 A. I do in my folder.

22 Q. You can get them.

23 EXAMINER CATANACH: Let's go ahead and do that.

24 MR. PADILLA: May I show them to opposing
25 counsel?

1 EXAMINER CATANACH: Do you want to mark these,
2 Mr. Padilla?

3 MR. PADILLA: We'd like to mark them as Exhibit
4 2A.

5 MR. OWEN: Collectively as Number 2A?

6 MR. PADILLA: Yes.

7 MR. OWEN: Okay. Do you have -- How many copies
8 of this do you have?

9 THE WITNESS: He could have that, yeah, they can
10 have that --

11 MR. PADILLA: Well --

12 THE WITNESS: -- or -- I think they have copies
13 of that.

14 EXAMINER CATANACH: Let's talk one at a time,
15 please.

16 THE WITNESS: Oh, I'm sorry.

17 EXAMINER CATANACH: We only have one -- two
18 copies of this.

19 MR. PADILLA: He has one and I have another.

20 EXAMINER CATANACH: Okay, go ahead and -- We'll
21 make copies after the hearing.

22 Q. (By Mr. Padilla) Mr. Gillespie -- I mean, Mr.
23 Baber --

24 A. God bless his heart.

25 Q. -- let's talk about the memo dated December 9th,

1 1969, first, and then the one dated September 26th, 1958.

2 A. Okay, yeah. That's -- I've pretty well covered
3 everything that I would like to point out in the December
4 9th, 1969, memo.

5 Q. What does that say? What did you point out?
6 What did that --

7 A. Just what we talked about, it addressed the San
8 Andres situation, that they had an unsuccessful attempt in
9 the J.W. Brown Number 1 State, there was no recommendation
10 to recomplete in the State T Number 2, and it shows that we
11 did lose circulation in the State T Number 2 and that they
12 wanted to evaluate the zone in the State T Number 3, and it
13 did not have stain or fluorescence through this interval.

14 MR. OWEN: Point of clarification, Mr. Examiner.
15 Is the first memo, this December 9th, 1969, memo the same
16 memo that's included as Exhibit Number 2?

17 THE WITNESS: No, that --

18 MR. OWEN: They've got the same date, but they're
19 different subject matter?

20 THE WITNESS: Somebody's secretary inadvertently
21 put 2A memo with Exhibit 2. If you turn to the second page
22 on the Number 2 exhibit as submitted, you can see that is
23 January 13th, 1958. Mr. Nolan Hirsch is the one reviewing
24 this one.

25 MR. PADILLA: Maybe we can take a short break and

1 straighten this out.

2 EXAMINER CATANACH: Let's do that, let's take
3 five minutes and try and get these exhibits straightened
4 out.

5 (Thereupon, a recess was taken at 11:34 a.m.)

6 (The following proceedings had at 11:37 a.m.)

7 EXAMINER CATANACH: Let's go back on the record
8 here and go ahead, and let's clarify the record for the --

9 MR. PADILLA: To clarify the record and get these
10 exhibits straightened out, we've struck what we marked
11 originally Exhibit 2A. I take it back.

12 And we've marked two new exhibits, Exhibit 2A and
13 2B.

14 EXAMINER CATANACH: You've struck the original
15 Exhibit 2; is that correct?

16 MR. PADILLA: The original Exhibit 2. And the
17 Exhibit 2A is the December 9th, 1969, memo, and the other
18 is another memo dated September 26th, 1958.

19 Q. (By Mr. Padilla) Let me ask you, Mr. Baber, do
20 you have anything to add by way of clarifying what you
21 intended to say about the San Andres in these wells
22 surrounding the injection well?

23 A. What I'd like to say is, as we talked about what
24 the memo -- and we agree with -- that there was porosity
25 encountered in the State T Number 2 well. The west offset,

1 they attempted a recompletion in the San Andres formation,
2 which was not successful. They wanted to monitor this zone
3 in the Number 3 well, and it did not have any stain or
4 fluorescence to this interval.

5 Q. And that Number 2 well is the one in Unit Letter
6 N?

7 A. Number 3 is in Unit Letter N.

8 Q. Okay.

9 A. Our well, Number 2, is in Unit Letter L.

10 Q. Okay. The well that's located on the DKD acreage
11 is which well?

12 A. The State T Number 3.

13 Q. And what does Exhibits 2A and 2B show about that
14 well?

15 A. What I'd like to point out in the 2B exhibit is
16 to note the formation tops and the structural relationship
17 to nearby wells. Our State T Number 1 well is --

18 Q. And you're referring to what exhibit now?

19 A. I'm referring to Exhibit 2B.

20 Q. And what page of Exhibit 2B?

21 A. It would be the bottom of the first page and then
22 the top of the second page.

23 Q. Okay, go on with your testimony.

24 A. I would like to note that the Glorieta, the San
25 Andres, the Glorieta -- or the Glorieta formation in our

1 Number 2 well comes in at 2344, which would be high to the
2 State T Number 3 well at 2373.

3 And I would like to note also in -- on the fourth
4 page, at the bottom third of the paper under "Discussion",
5 that the well that the zone in the State T Number 1 well of
6 interest to us, the San Andres-Glorieta, did not even occur
7 in that well, the State T Number 1 well, which is in Unit
8 Letter N.

9 Q. Is that the DKD acreage?

10 A. That is the acreage, yes, sir.

11 Q. Okay. You mentioned the heights of the
12 formation. What does that have to do in terms of whether
13 the adjoining wells are lower or higher, insofar as this
14 Application is concerned?

15 A. Well, what we were figuring, if we're higher
16 where our well is, and our water saturation is 100 percent,
17 that the wells that are downdip from us would be water
18 saturation too, that there might be possibility of oil and
19 gas production in that Number 3 well. The zone does show
20 up in the Number 3 well, which is in Unit Letter N, but in
21 Unit Letter M the zone did not even show up there, and I do
22 not believe that Texas Pacific, who was the original
23 operator, even logged, electric-logged, up through this
24 zone.

25 Q. Did you bring any logs with you today?

1 A. I did, I brought logs on the State Number T
2 Number 2 well and then the State T Number 3 well also.

3 Q. Are those included in Exhibit Number 3?

4 A. Yes, sir, they're Exhibit Number 3.

5 Q. Okay. Can you point out to the Examiner the
6 relevant information contained in those logs, as far as
7 this Application is concerned?

8 A. Turning to the second page, this is our State T
9 Number 2. It confirms, or notes there, that they did lose
10 circulation at 6210. They felt like they had a slight show
11 at 6200 to 6250, and then it does note that the zone does
12 not occur in the State T Number 1 well.

13 Q. What other logs do you have there?

14 A. I've got the -- That was addressing the microlog,
15 and then we have the electric log, which is showing our
16 zone of interest.

17 And then we move on to the State T Number 3,
18 which is showing the zone also. It does say on the
19 microlog that there was a 5-percent dead stain, but it does
20 -- in further discussion that there was no fluorescence or
21 stain -- or hydrocarbons.

22 Q. And you're referring back to Exhibit 2B at that
23 point?

24 A. Yes, sir, 2A and 2B.

25 Q. Okay. Mr. Baber, is this Application in the best

1 interests of oil conservation?

2 A. Yes, sir, I believe so.

3 Q. Why do you have that belief?

4 A. I don't think there's any other -- There's not
5 any oil and gas production, shallow production, in this
6 area, I don't think there's any possibility of oil and gas
7 production.

8 It's all calculated water saturation, pretty
9 close to 100 percent. And the only other alternative, it
10 looks like to me, to this well would be plug and
11 abandonment.

12 Q. When you look at the list on the C-108 of the
13 pools which are in this area, would injection of produced
14 water have a tendency to prolong the production in those
15 pools because you can get rid of the water somewhere?

16 A. Yes, I believe it will.

17 Q. Okay, you have an Exhibit 4 there in your packet
18 which is a letter from Lynx to yourself; is that right?

19 A. Yes.

20 Q. How did this get to be done?

21 A. This --

22 Q. This letter.

23 A. In our conversations, with working through our
24 position and, you know, the reasons for our application,
25 you had asked me if I could come up with some type of

1 formula or what it would take, what type of fluid, how much
2 fluid it would take, as far as us injecting, to affect the
3 south offset to us, which would be -- which was formerly
4 the State T Number 1 well, which is DKD LLC's, part of his
5 80-acre tract now.

6 Q. How did you go about finding out how much --
7 Essentially you're looking to see how much capacity there
8 is in that 40-acre tract, right?

9 A. That's right.

10 Q. So what did you do next?

11 A. I went to Lynx Petroleum Consultants and worked
12 with Larry Scott, and we came up with some -- we reviewed
13 the logs and came up with some assumptions.

14 Q. Did you work on this calculation yourself?

15 A. No, sir, I worked with Larry Scott.

16 Q. Okay. But you worked with him?

17 A. Yes, sir, Larry and I worked together.

18 Q. Okay. What did you come up with as far as how
19 much capacity there is in this 40-acre tract?

20 A. Well, we assume some variables which are listed,
21 and in the formula Larry -- we came up with, you know, we
22 would have to inject 4.97 million barrels for approximately
23 nine years at the 1500 barrels per day to effectively move
24 water to his -- to that Number 1 well.

25 Q. What assumptions did you make?

1 A. Well, number one was the reservoir height. It
2 was 34 feet.

3 Q. Where did you get that from?

4 A. We picked it up off one of the reports here, 2A
5 or 2B, that they encountered 35 feet of porosity in the
6 State T Number 2 well.

7 Q. Okay, what's the next variable?

8 A. And then we -- reservoir porosity of 15 percent.

9 Q. Where did you get that from?

10 A. We picked it up off the logs, and then --

11 Q. Well, the logs --

12 A. -- just assumed that -- some generally accepted
13 porosity numbers.

14 Q. Which logs in particular did you use to obtain
15 that --

16 A. Our State T Number 2 logs.

17 Q. And is that included in Exhibit Number 3?

18 A. Yes, sir.

19 Q. What's the next variable that you threw into the
20 computation?

21 A. Our next variable, we assume all water currently
22 contained in the reservoir is movable. And then the Number
23 4 is --

24 Q. What does that mean?

25 A. Well, theoretically, the first barrel you put in

1 the zone is movable, and if the zone is in that Number 1
2 well, it will be moved towards that.

3 Q. Okay. What's the next variable?

4 A. And then distance to the south offset well is
5 1320 feet.

6 Q. So what is the conclusion you reached with that
7 calculation?

8 A. The conclusion we reached, assuming the porosity
9 and then resistivities from, you know, one ohm to 7 1/2
10 ohms, will yield water saturations approaching 100 percent.
11 And then with any reasonable combination of formation water
12 resistivity and porosity, the south offset well was
13 reported to be 29 feet downdip, indicating that it too
14 would be wet in the correlative zone.

15 Q. Is it wet right now?

16 A. I'd say it's wet, yes.

17 Q. Because it's downdip?

18 A. Right.

19 Q. Are there any other wells in the area that are
20 updip, shallow wells?

21 A. Not that I know of.

22 MR. PADILLA: Mr. Examiner, we offer Exhibits 1,
23 2A, 2B, 3, 4, 5, 6 and 7.

24 EXAMINER CATANACH: Any objection?

25 MR. OWEN: No objection.

1 EXAMINER CATANACH: Exhibits 1, 2A, 2B, 3, 4, 5,
2 6 and 7 will be admitted as evidence.

3 EXAMINER CATANACH: Does that --

4 MR. PADILLA: Pass the witness.

5 EXAMINER CATANACH: -- conclude your
6 presentation, Mr. Padilla?

7 Mr. Owen?

8 MR. OWEN: Yeah, I've got a few questions.

9 CROSS-EXAMINATION

10 BY MR. OWEN:

11 Q. Mr. Baber, who owns the surface under your well,
12 under your proposed well?

13 A. I believe the State Land Office.

14 Q. State Land Office. Is there a lot of state
15 surface out there?

16 A. I really don't know --

17 Q. Do you know --

18 A. -- as far as a lot.

19 Q. Do you know if, in fact, that surface is actually
20 owned in fee?

21 A. I do not know that.

22 Q. Do you know if there are any homes near that
23 wellbore?

24 A. There's a trailer house close to it.

25 Q. And do you know who lives there?

1 A. No, I do not.

2 Q. Do you know who -- what claim that person has to
3 the surface?

4 A. No, I do not.

5 Q. How far away from the wellbore is that trailer
6 house?

7 A. I do not know exactly. Fifty, 60 feet. I don't
8 know exactly.

9 Q. Pretty close?

10 A. Yeah, it's close.

11 Q. Fifty, 60 feet, you think, give or take 20 or 30
12 feet?

13 A. Yeah.

14 Q. Under a hundred feet, do you think?

15 A. Probably under a hundred feet.

16 Q. Do you think that trailer house is on the same
17 surface tract as your disposal well?

18 A. It probably is.

19 Q. Okay. Who owns the minerals?

20 A. I believe the State does.

21 Q. They're State minerals? Do you know if they're
22 leased to anybody?

23 A. I don't believe they're leased to anybody. I
24 don't know. I don't know.

25 Q. What -- Do you own, or do you have any leasehold

1 interest or anything in the minerals underlying that tract?

2 A. Well, what I do own is the approval of the SWD
3 for this well.

4 Q. Do you have any sort of assignment or deed,
5 mineral deed or any sort of assignment of mineral interests
6 to you, underlying your saltwater disposal well?

7 A. I don't know if I do or not.

8 Q. You don't know whether DKD --

9 A. I don't --

10 Q. -- has any right to the minerals underlying that
11 saltwater disposal well? I mean, I'm sorry, whether
12 Pronghorn has any right to the minerals underlying that
13 saltwater disposal well?

14 A. As far as the minerals, I don't know.

15 Q. Okay. All right, do you have any injection
16 rights?

17 A. I would say I do, with the approval of this
18 permit.

19 Q. With the approval from the OCD?

20 A. Yes.

21 Q. Do you have any injection rights from the owner
22 of the mineral interests?

23 A. I don't know who owns -- I guess I don't know who
24 owns the mineral interests.

25 Q. You don't have an injection permit from the State

1 Land Office?

2 A. I have an administrative order approving my SWD.

3 Q. That's from the Oil Conservation Division; is
4 that right?

5 A. Yes.

6 Q. Has the State Land Office given you an injection
7 permit?

8 A. I don't know that I've applied for one.

9 Q. Have you reached any sort of injection agreement
10 with the State Land Office?

11 A. No.

12 Q. And you think that these minerals are not leased;
13 is that right?

14 A. I don't know if they're leased or not.

15 Q. Have you attempted to reach any sort of injection
16 agreement with any leasehold operator underlying that
17 injection well?

18 A. No, I have not.

19 Q. Okay. I want to turn to the first couple of
20 pages of your Exhibit 1. Actually, I want to go to the
21 fourth page of that Exhibit Number 1. It's the Injection
22 Well Data Sheet, sideways.

23 A. Okay.

24 Q. On that wellbore schematic it indicates that your
25 disposal zone is 6000 feet to 6200 feet; is that right?

1 A. Yes.

2 Q. On the next sheet is a more detailed schematic
3 that also indicates the disposal well is 6000 feet to 6200
4 feet; is that right?

5 A. Yes.

6 Q. On the next sheet is the Attachment to
7 Application C-108. Under Roman IV it indicates that you
8 plan to inject from 6000 feet to 6200 feet; is that right?

9 A. Which Roman numeral?

10 Q. Under Roman numeral -- I'm sorry, Roman numeral
11 VIII --

12 A. Yes.

13 Q. -- it indicates that you plan to inject from 6000
14 to 6200 feet; is that right?

15 A. Yes.

16 Q. You have that saltwater disposal SWD order
17 approving your well in front of you?

18 A. Yes, sir.

19 Q. Does it indicate what zone you were originally
20 approved to inject into? On the bottom of the first page,
21 continuing to the second page?

22 A. Yeah, 6000-6200 feet, yes.

23 Q. What precautions are you taking to ensure that
24 it's not going to go below 6200 feet?

25 A. Well, we'll have our cement plug inside the pipe

1 at 6500 feet, and then outside the 5-1/2-inch will be --
2 we'll have cement circulated to surface.

3 Q. But you put in that plug at 6500 feet?

4 A. Cast iron bridge plug is proposed at, yeah, 6500
5 feet.

6 Q. And I think you testified during your direct
7 examination that you plan to inject between 6000 feet and
8 6400 feet; is that right?

9 A. Yes.

10 Q. Now, your Application said 6200 feet, right?

11 A. Yes, it does.

12 Q. And the permit that was issued and is now stayed
13 said it was limited to 6200 feet; is that right?

14 A. Well, we're still -- that 6400 feet, it's still
15 within the San Andres and Glorieta zone, and it looks like
16 to us, under our information, another 150 feet, 200 feet is
17 of no consequence; it's still in the San Andres and
18 Glorieta formation.

19 Q. So you're anticipating injecting below 6200 feet,
20 including -- you're anticipating that your injected fluids
21 are going to go below 6200 feet, all the way down to below
22 -- around 6400 feet; is that right?

23 A. Well, we don't -- It's according to where we end
24 up actually perforating the zone and where our perforations
25 are, the fluid will go.

1 Q. Are you seeking to amend your Application to
2 include authority to inject up to 6400 feet?

3 A. We're not seeking to amend it right now.

4 Q. So if the order is re-entered, as it was
5 approved, are you willing to comply with that order and
6 only inject down to 6200 feet?

7 A. I don't know that I -- we could possibly -- that
8 could possibly be fine. We don't know exactly if it's
9 going to take it on injection or not.

10 Q. But you may exceed that; is that right? Is that
11 what you're saying?

12 A. I may exceed what?

13 Q. That 6200 feet, you may go down -- all the way
14 down to 6400 feet?

15 A. If I'm not perforated below there, we probably
16 won't.

17 Q. Even though the order -- Okay, let's move on.

18 The Exhibits 2A and 2B indicate that there was a
19 show in the San Andres zone; is that right? A hydrocarbon
20 show?

21 A. A slight show, that's correct.

22 Q. It indicates that there are probably hydrocarbons
23 in the San Andres zone; is that right?

24 A. There may be, but it's -- the water saturation --
25 it may be minimal, nonproductive, or noncommercial.

1 Q. And this is dated 1969; is that right?

2 A. That's right.

3 Q. Have recovery techniques improved since 1969?

4 A. Yes, they have.

5 Q. It's possible that an operator may want to come
6 in and produce that San Andres zone?

7 A. I wouldn't think so, not at all, no. I don't
8 think any- --

9 Q. Even though there hydrocarbon --

10 A. I don't think anybody's interested in producing
11 100-percent water.

12 Q. But there are hydrocarbons there. It's not 100-
13 percent, right?

14 A. Well, it's close to it. There's no shallow
15 production in this area.

16 Q. I want you to look back at your Exhibit Number 1,
17 which is the C-108, it's the big, thick exhibit. Near the
18 back you have a bunch of C-103s. One of them deals with
19 the State T Number 4; is that right?

20 A. Yes.

21 Q. You indicated that -- Do you own Baber Well
22 Servicing Company?

23 A. I have an interest in it.

24 Q. Okay. Are you one of the principals in Baber
25 Well Servicing Company?

1 A. Yes.

2 Q. All right. Did Baber Well Servicing Company
3 perform the work indicated on this Form C-103 that's
4 included in Exhibit 1?

5 A. Yes.

6 Q. That well is not plugged and abandoned, is it?

7 A. It is now.

8 Q. Is there a subsequent C-103 indicating --

9 A. We have not filed a subsequent 103 on the well as
10 of yet.

11 Q. Okay. In the course of plugging the well, did
12 you have any events related to the San Andres? Did you
13 have any oil flows or anything from the San Andres?

14 A. Not that I'm aware of.

15 Q. Were you on site when that well was plugged?

16 A. Not when the well was plugged.

17 Q. Okay. Were you on site at any time during the
18 performance of that work?

19 A. This work that's on the 103?

20 Q. Or the subsequent work which plugged the well?

21 A. I was probably on location back when this work
22 was done that's submitted here in 1993, but I was not on
23 location -- I had not been on location since they plugged
24 the well.

25 Q. When was that well plugged?

1 A. The last few months.

2 Q. Did you clean the surface?

3 A. The surface -- That's what we're waiting on our
4 subsequent report, we need to get the surface cleaned up
5 and, you know, some work done on some equipment that's out
6 there.

7 Q. There remains equipment on the surface?

8 A. Yes.

9 Q. Okay. There's also a C-103 for the State T
10 Number 1; is that right? It should be two pages up from --
11 two or three pages up.

12 A. Yes.

13 Q. And that indicates that, in fact, that well was
14 plugged and abandoned; is that right?

15 A. That well has been plugged and abandoned.

16 Q. And the operator which performed that work is
17 Pronghorn Management Company, the same company you're here
18 for today; is that right?

19 A. Yes.

20 Q. And under the discussion there, Number 12, there
21 are eight enumerated actions that were performed. The
22 eighth one indicates that you erected a dryhole marker and
23 cleaned the location; is that right?

24 A. This is a notice of intent to plug, it's not our
25 subsequent report of plugging.

1 Q. Do you know if the work has been done?

2 A. I don't know if it's been done or not.

3 Q. Do you know if the surface has been cleaned?

4 A. I know the surface has not been cleaned, and
5 we're in the process of getting it cleaned up.

6 MR. OWEN: Okay. That's all I have, Mr.
7 Examiner.

8 EXAMINER CATANACH: Any redirect, Mr. Padilla?

9 MR. PADILLA: I don't have any further questions.

10 EXAMINER CATANACH: Okay, just for purposes of
11 this record here, I'd like to just kind of go over the
12 history of this thing.

13 This Application was filed initially by Pronghorn
14 back in April. The Division did receive this on April 5th,
15 2002.

16 Subsequently, Permit Number SWD-836 dated April
17 30th, 2002, was issued by the Division approving the
18 disposal well for Pronghorn Management.

19 Subsequent to the issuance of the Order, we were
20 contacted by DKD and advised that they may not have
21 received the proper notice when this Application was filed.
22 We did determine after that that it would be best if we
23 suspended the permit until we had a chance to examine all
24 the details relating to this allegation, and essentially
25 that's why we're here today. The permit has been suspended

1 by letter dated July 9th, 2002, and I just wanted to go
2 over that.

3 I do have some questions.

4 EXAMINATION

5 BY EXAMINER CATANACH:

6 Q. Mr. Baber, what rights to you have to re-enter
7 this wellbore? Do you have the lease on this state tract?
8 This is a state lease; is that correct?

9 A. That's right.

10 Q. And you do have the lease. Are you the leasehold
11 owner, or what rights do you have to use this wellbore?

12 A. The way I understood it is, I have rights to the
13 wellbore as a previous operator --

14 Q. Now --

15 A. -- and with the approval of the SWD permit for
16 injection approval for a saltwater disposal injection well.

17 Q. Now, this state lease, does it encompass this
18 whole 40-acre tract, being Unit Letter L, as far as you
19 know?

20 A. Ask me again, please, sir.

21 Q. This state lease that we're talking about, does
22 it encompass all of the 40 acres, which would be Unit
23 Letter L?

24 A. Yes.

25 Q. Okay. And as far as you know, you have the state

1 lease and you have the rights to use this well under your
2 lease?

3 A. The way I understand it, the lease was bought by
4 Chesapeake, which encompassed all of this 40-acre tract and
5 the other 120 acres. There's a 160-acre tract.

6 Q. Okay.

7 A. And when I lost the lease, I still was
8 responsible for the wellbores. And with that, I submitted
9 the proposal, C-108, for a saltwater disposal injection
10 well.

11 Q. Okay. Now, this lease, this 160-acre state lease
12 was originally owned by Chesapeake; is that correct?

13 A. Originally?

14 Q. Or --

15 A. Before --

16 Q. -- before you --

17 A. Before me, yes -- No, after me; after I was the
18 leasehold or had the lease, Chesapeake bought it, I
19 believe, at a state land sale.

20 Q. So you were the leasehold operator, or you had
21 the lease. Did it expire or --

22 A. Yeah, I lost it due to lack of production.

23 Q. Production, okay. So then it was re-leased by
24 the State Land Office and picked up by Chesapeake?

25 A. Yes, sir.

1 Q. Okay. And subsequently you have not gotten any
2 other interest in the lease? You've not acquired any
3 interest in the lease, other than what you had before
4 Chesapeake got it?

5 A. That's right.

6 Q. So do you know who has the lease now?

7 A. I believe Chesapeake does. I'm not for sure, but
8 I believe Chesapeake does.

9 Q. Okay. At the time you filed your Application, I
10 assume you did a record search to see who the offset
11 operators were?

12 A. Yes.

13 Q. And you came up with Chesapeake at that point?

14 A. Yes.

15 Q. Now, your search did not indicate that DKD owned
16 any interest at that time?

17 A. No, sir.

18 Q. And when did you learn that DKD may have had an
19 interest?

20 A. Sometime after we had submitted our Application.
21 It seems like maybe sometime in -- well, the middle of May,
22 end of May.

23 Q. Was it after we had issued the permit?

24 A. I believe it was.

25 Q. Now, I believe you said that DKD -- of record,

1 that you found that they acquired their interest May 14th.
2 Is that when they filed some paperwork showing that they
3 acquired that interest?

4 A. We presented two exhibits. One was the change-
5 of-operator, and it looks like it was received April 2nd,
6 2002, in the Hobbs OCD office, and it was approved April
7 15th, 2002.

8 Q. Okay.

9 A. And then I went to the courthouse, and I don't
10 remember what date and time it was, but it would have had
11 to have been, you know, sometime in May, end of May, to see
12 if an assignment, bill of sale and conveyance had been
13 recorded. And it was of record, and that was the May 14th,
14 2002, date.

15 Q. Okay.

16 A. And showing that he's operator of record in Lots
17 13 and 14, which would be Unit Letter M and N. And we're
18 in -- The State T Number 2 well is up in Unit Letter L.

19 Q. So the extent of their ownership, as far as you
20 know, is just in M and N?

21 A. Yes, sir.

22 Q. Okay. With regards to the injection depth for
23 this well, now, it's my understanding that you're satisfied
24 with what the current permit says, 6000 to 6200; is that
25 correct? You'd be willing to go with that?

1 A. I think we'd be willing to go with that. It came
2 to our attention that possibly another 150 feet or so might
3 be -- We might have a little bit better chance of more zone
4 there. And we felt like still in the San Andres and
5 Glorieta zone, that that wouldn't be a sticky issue with
6 anybody. It may be, I don't know.

7 EXAMINER CATANACH: Okay, the Application that
8 was submitted for the purpose of this hearing, the
9 Application that was provided to the offset operators, Mr.
10 Padilla, did you send just a notice of the hearing, or did
11 you send an Application?

12 MR. PADILLA: I was not involved in this case
13 until after the hearing was set, after this matter was set
14 for hearing, so I was not involved with notifying anyone.

15 EXAMINER CATANACH: Okay, this looks like, then
16 -- Exhibit Number 6 looks like the original notice that was
17 sent to the offset operators, dated sometime in April.

18 MR. PADILLA: Mr. Examiner, that was introduced
19 for the purpose of showing that in April the Application
20 was sent to the existing operators, and we're trying to
21 show that DKD was not an operator at that time.

22 Q. (By Examiner Catanach) Okay. So there has been
23 no additional notice of this hearing to any of the offset
24 operators; is that my understanding?

25 A. I believe that's correct.

1 Q. Okay.

2 A. Let me clarify. On our agenda for today, in the
3 Pronghorn, when we were coming up for the hearing, it does
4 state 6000-6400 feet, just to put that on the record.

5 Q. I understand that, Mr. Baber. However, the
6 Application, all the paperwork that you filed --

7 A. And I understand -- Excuse me.

8 Q. -- all the paperwork that you filed indicates
9 that you intend to inject from 6000 to 6200 feet, and you
10 have not advised any offset operator that you intend to
11 changed that interval to 6400 feet is of great concern to
12 me as far as expanding that interval. So if indeed a
13 permit is issued in this case it will probably be for 6000
14 to 6200 feet.

15 Now, I have a question about the way you guys
16 plan to circulate cement around that 5-1/2-inch casing in
17 that well, if I can find your schematic.

18 Okay, that looks like that has a cement plug at
19 6500 feet.

20 A. That's the proposed?

21 Q. Okay, the well is currently plugged; is that
22 right?

23 A. No, sir, the well is currently -- the Wolfcamp is
24 open. We're going to have to go in there and set a cast-
25 iron bridge plug at -- well, it's here, at the --

1 approximately 10,500 feet, which would be above the
2 existing Wolfcamp perforations.

3 Q. I'm sorry, set a cast-iron bridge plug at where?

4 A. 10,550 feet.

5 Q. Okay, I've got that.

6 A. Excuse me, 10,500 feet.

7 Q. Okay. And you then propose to -- Where will this
8 thing be perforated for purposes of circulating the 5-1/2-
9 inch casing?

10 A. Approximately 9762 feet, which would be the top
11 of the existing cement behind the 5-1/2-inch casing.

12 Q. Okay, that was my question. And then you propose
13 to set a cement plug at 6500 feet?

14 A. Yes.

15 Q. Or a bridge plug?

16 A. Cast-iron bridge plug. Well, one or the other,
17 whatever is -- retainer.

18 Q. Okay. And you believe that will effectively
19 isolate the producing formations below the Strawn and the
20 Wolfcamp?

21 A. Yes, sir.

22 Q. Okay. As far as the water that you're going to
23 be disposing of, you've submitted a list of sources. What
24 we may -- If indeed this permit is reinstated, we may ask
25 you to actually provide a more detailed analysis of this

1 water if you can obtain -- probably -- the companies
2 probably have some kind of water analysis, a more detailed
3 analysis of the water that they're producing from these
4 various fields, and that may have to be supplied --

5 A. Okay.

6 Q. -- for your information.

7 Do you know if the DKD well is currently
8 operating --

9 A. I believe --

10 Q. -- as a disposal well?

11 A. -- it is operating.

12 Q. Is it a commercial disposal well?

13 A. I believe it is.

14 Q. And you intend to operate this well as a
15 commercial well?

16 A. Yes.

17 Q. Which would put you in a competitive situation
18 with DKD?

19 A. That's correct.

20 EXAMINER CATANACH: Okay, I don't have anything
21 else.

22 MR. BROOKS: Okay, I just want to clarify some
23 things that were brought up in Mr. Owen's cross-
24 examination, and I understood it a little better after Mr.
25 Catanach's questions, but I still don't fully understand it.

1 Let's see, is there a map in here?

2 (Off the record)

3 EXAMINATION

4 BY MR. BROOKS:

5 Q. Now, this is -- You referred to the lease as
6 covering 160 acres. What is that 160 acres that --

7 A. Mr. Brooks, I believe that is correct. I don't
8 really know. The original lease I had was a 160-acre
9 lease.

10 Q. And what was the legal description?

11 A. Well, it was Unit Letters K, L, M and N.

12 Q. K, L, M and N, that would be the north half of
13 the south half, it sounds like?

14 A. No, it would be the --

15 Q. No -- Oh, no, that's right.

16 A. That would be the northeast --

17 Q. That's the southwest quarter. K, L, M and N is
18 the southwest quarter, I'm not thinking straight here.

19 A. Excuse me, you're right, yeah, southwest.

20 Q. K, L, M and N is the southwest quarter. And
21 where is this well located that you propose to --

22 A. In Unit Letter L.

23 Q. Unit Letter L. And that's in Section 6, correct?

24 A. Yes, sir.

25 Q. Okay. And you said that your lease expired?

1 A. Yes, sir.

2 Q. And it was re-leased by the State Land Office to
3 Chesapeake?

4 A. I believe that's correct.

5 Q. Now, you don't have any kind of authorization
6 from Chesapeake; is that correct?

7 A. No, I do not.

8 Q. And you don't have any kind of authorization from
9 the State Land Office?

10 A. Not at this point in time, no, sir.

11 Q. Okay. Now, you intend to operate this as a
12 commercial disposal well?

13 A. Yes, sir.

14 Q. People are going to bring -- You hope people will
15 bring produced water from other locations for you to inject
16 in this well?

17 A. Yes, sir.

18 Q. Are there any producing wells on this 160 acres?

19 A. No, sir.

20 Q. Okay.

21 A. Not that -- No, sir, I don't believe so.

22 MR. BROOKS: Okay, I think that's all I have.

23 MR. OWEN: I may have something that may clarify
24 an issue, Mr. Examiner, if I may.

25 EXAMINER CATANACH: Please.

FURTHER EXAMINATION

BY MR. OWEN:

Q. Mr. Baber, I've tendered to you and exhibit that's marked DKD LLC Exhibit Number 3; is that right? Have I given you that exhibit?

A. Yes.

Q. Okay. Is that a mineral lease from the State of New Mexico to Chesapeake?

A. It's an oil and gas lease between the State of New Mexico and Chesapeake.

Q. Does that cover the acreage on which your injection well is located?

A. I believe it does, yes, sir.

Q. Okay. And you haven't gotten any subsequent assignment from Chesapeake to you; is that right?

A. No, I have not.

MR. OWEN: Okay, that's all I have.

THE WITNESS: I'd like to clarify something, hopefully try to clarify, if I could, please.

EXAMINER CATANACH: Go ahead, sure.

THE WITNESS: This 6000-to-6200-feet deal, we submitted our proposal and I got a call from Mr. Jones, and he was evaluating the situation. And he had looked at the logs, and he thought we might be -- might want to look at lowering our zone 150, 200 feet, which I looked at myself

1 and I agreed. And at that point in time I thought that
2 that would be part of our Application.

3 But I understand it was not, and I understand if
4 we decided that we needed the 6200 feet to 6400 feet or
5 6350, whatever it is, we were going to file appropriate
6 documentation, notify offset operators. What were we
7 talking about, Ernie, yesterday? Whatever it would take to
8 have everybody notified and everybody signed off and
9 everybody agreed with what we were doing.

10 We felt like -- I felt like not a verbal but just
11 a -- It was even suggested we might have to run another ad
12 in the paper, or -- sufficient notification for everybody
13 -- for us to be in compliance and everybody to be satisfied
14 with what we were doing out there. I mean, it's not --

15 EXAMINER CATANACH: I understand, Mr. Baber. All
16 I'm saying is that the way your Application has been filed,
17 I can't authorize that injection interval at this time.
18 But you certainly -- If we do approve the permit, you're
19 certainly welcome at a later time to file --

20 THE WITNESS: Yes --

21 EXAMINER CATANACH: -- an additional amended
22 application.

23 THE WITNESS: -- that's fine, thank you very
24 much.

25 EXAMINER CATANACH: Thank you.

1 Anything further?

2 MR. PADILLA: I have nothing further.

3 EXAMINER CATANACH: Okay, this witness may be
4 excused.

5 MR. OWEN: Mr. Examiner, I call Mr. Danny Watson.

6 DANNY R. WATSON,

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. OWEN:

11 Q. Could you please tell us your name?

12 A. Danny R. Watson.

13 Q. Where do you live?

14 A. I live in Tatum, New Mexico.

15 Q. Who do you work for?

16 A. I'm self-employed. I have a hot-oil business,
17 oilfield-related business.

18 Q. Okay. Are you involved with a company named DKD
19 LLC?

20 A. Yes, I own it.

21 Q. You own that company?

22 A. I own it, president of it, yes.

23 Q. Are you the president also?

24 A. Yes.

25 Q. Have you testified before this Division before?

1 A. No, I haven't.

2 Q. Can you give us a brief explanation of your
3 background in oil and gas matters?

4 A. I've been involved in the oilfield ever since I
5 was about 16 years old, in and out of trucking businesses.
6 I've owned up to four wells. Currently I've gotten rid of
7 them.

8 I operated a brine well for about 20 years that I
9 drilled and produced everything myself. Recently I sold
10 it, a couple years ago, and now I'm currently involved in a
11 saltwater disposal well.

12 Q. Okay. Are you familiar with the Application
13 filed in this case?

14 A. Yes, I am.

15 Q. Do you own either surface or mineral rights in
16 the area near where the proposed injection well is?

17 A. Yes, I own the surface rights, and I currently
18 have the minerals leased through Chesapeake from the State
19 of New Mexico.

20 Q. That's not right where this Pronghorn injection
21 well is, is it?

22 A. No.

23 Q. It's offsetting Pronghorn?

24 A. It's offsetting, yes.

25 Q. Both the surface and the mineral lease offset

1 Pronghorn's proposed injection well; is that correct?

2 A. That is correct.

3 Q. Okay. Turning to Exhibit Number 1, is that the
4 same change-of-operator and assignment which Pronghorn
5 tendered as their Exhibit Number 5 and 7, I believe?

6 A. Say again, I'm sorry?

7 Q. Is this Exhibit Number 1, is that a change-of-
8 operator and assignment, indicating that DKD LLC is now the
9 operator of a specific well?

10 A. That is correct, yes.

11 Q. And assigning specific mineral interests to DKD
12 LLC?

13 A. Yes, it is.

14 Q. And is that assignment assigning those minerals
15 which offset Pronghorn's proposed injection well?

16 A. Yes, it is.

17 Q. And is that assignment the same assignment that
18 Pronghorn introduced as their exhibit with the recording
19 stamp on it?

20 A. Yes.

21 Q. So it indicates it has been recorded in the Lea
22 County records; is that right?

23 A. Yes.

24 Q. And is that change-of-operator form on our
25 Exhibit Number 1 the same change-of-operator form that

1 Pronghorn submitted with the approved stamp of the OCD?

2 A. Yes.

3 Q. Okay. What well does this change-of-operator
4 pertain to?

5 A. Currently it shows that it come from Chesapeake
6 Operating Watson 6 Number 1 to DKD. I kept the same name.

7 Q. Okay. And is that the same well that's discussed
8 in DKD Exhibit Number 2?

9 A. Yes.

10 Q. What is Exhibit Number 2?

11 A. Exhibit Number 2 is the permit from the OCD
12 allowing DKD to inject water.

13 Q. When was that approved?

14 A. I believe in April, about April 26th.

15 Q. Of this year?

16 A. Yes, of 2002.

17 Q. What formations are you authorized to inject
18 into?

19 A. Currently it's in the Wolfcamp-Cisco-Canyon
20 formation.

21 Q. Are you currently injecting into those intervals?

22 A. Yes.

23 Q. When did you start?

24 A. I started July the 3rd, is when we started
25 injecting water.

1 Q. Okay. Why don't you turn now to Exhibit Number
2 3, which I handed out to the Examiner a few minutes ago.
3 It's that mineral lease from the State of New Mexico. Do
4 you have that in front of you? It's the mineral lease from
5 the State of New Mexico to Chesapeake.

6 A. No, I do not, I'm sorry.

7 Q. Okay.

8 A. I've got Exhibit 2 and 4, but I don't have a 3.

9 MR. BROOKS: Do you want to look at my copy?

10 THE WITNESS: Okay, thank you.

11 Q. (By Mr. Owen) Does this lease cover the acreage
12 underneath Pronghorn's proposed injection well?

13 A. To the best of my knowledge, I believe it covers
14 everything under it, yes.

15 Q. Okay. And is Chesapeake the lessee of that
16 acreage?

17 A. That is correct, yes.

18 Q. Okay, when was it issued? When was the agreement
19 reached with the State of New Mexico and Chesapeake?

20 A. It looks like 1996, June the 1st.

21 Q. Okay. Is this lease current?

22 A. Yes, it is.

23 Q. Is it held by production?

24 A. Yes.

25 Q. From which well?

1 A. Chesapeake Little Number 6, they are just offset
2 to me on the other side there, and they are currently
3 producing it.

4 Q. Okay. But that well is holding this lease, which
5 is Exhibit Number 3; is that right?

6 A. That is correct, yes.

7 Q. Okay. Have you had any discussions with
8 Chesapeake about whether Chesapeake has assigned its
9 mineral interests or right to inject to anybody else?

10 A. Yes, after I heard verbally that Pronghorn had
11 got their permit through, I called up and talked up to the
12 head land person over the State of New Mexico with
13 Chesapeake. They told me at that time that they had not
14 had any knowledge of any kind of leasing, anything else,
15 hadn't been contacted.

16 Q. No, you heard that Pronghorn had been issued an
17 injection permit. Who did you hear that from?

18 A. At that time, Baber had -- or Pronghorn had a
19 plugging crew out there, and the guy that was plugging it
20 is Buddy Garner. He come by and told me that they had the
21 permit.

22 Q. And when was that?

23 A. Oh, he didn't tell me that for a couple of
24 months. And at that time it was probably about June the
25 27th, 28th.

1 Q. Okay. And when did you have your discussion with
2 this person with Chesapeake?

3 A. The 28th, after I found out, approximately 2:00
4 p.m. in the afternoon.

5 Q. Okay. Do you know who owns the surface on which
6 Pronghorn's proposed injection well is located?

7 A. Yes, I do. His name is Felipe Moreno.

8 Q. Okay, I want you to turn to DKD Exhibit Number 4.
9 Do you recognize that?

10 A. Yes, I do.

11 Q. What is it?

12 A. It's a warranty deed from the Lea County Clerk's
13 Office that I went and looked up on the map to be sure I
14 knew where I was at. I went to the Lea County Court Office
15 and picked this up and had it certified, because I'm
16 positive that that's who lives there.

17 Q. And does this warranty deed cover the surface on
18 which Pronghorn's proposed injection well is located?

19 A. According to the Lea County map that I looked at,
20 it does.

21 MR. OWEN: Okay. Mr. Examiner, I do point out
22 that a certified copy is included in the packet of exhibits
23 before you. The certified stamp is copied with the rest of
24 the exhibits which have been given to opposing counsel and
25 the other parties in the room.

1 EXAMINER CATANACH: Okay.

2 Q. (By Mr. Owen) What is the date of that warranty
3 deed, Exhibit Number 4?

4 A. Just a second, please. 14th day of August, 1991.

5 Q. Okay. Are you reading that down in the bottom?

6 A. Yes.

7 Q. Does that indicate that it was filed in the Lea
8 County Records on August 14th, 1991?

9 A. Yes.

10 Q. Okay, why don't you turn to Exhibit Number 5?
11 Can you tell me what that is?

12 A. This is a picture that includes the wellbore in
13 the foreground there. Right behind it, it includes the
14 trailer house and the workshop that Felipe Moreno owns.

15 Q. Is this the same Felipe Moreno that's in the
16 Exhibit Number 4 that owns that surface?

17 A. That is correct.

18 Q. All right. How do you know that this is the
19 wellhead that Pronghorn proposes to use as its injection
20 well?

21 A. Whenever I put in my SWD, an OCD field
22 representative by the name of Bill Prichard came out there
23 to inspect it several times, and I told him I had heard
24 that and wanted to know if it was true, and he said yeah,
25 he thought so. And I asked him to carry me to this

1 wellhead, to be specifically sure that that was it, and
2 this is the wellhead that we came up on.

3 Q. Did Mr. Prichard take you to this wellhead?

4 A. Yes, he did.

5 Q. Did he tell you that this is the well that
6 Pronghorn intends to use as its injection well?

7 A. Yes, he did.

8 Q. Is it on the same surface tract as the Moreno
9 home?

10 A. Yes, it is.

11 Q. Is there any fence or any other boundary marker
12 between the Moreno home and this wellhead?

13 A. No, sir.

14 Q. Okay. To the best of your knowledge, does
15 Pronghorn have any other operations in the area?

16 A. Not since they plugged out the wells in the last
17 three months or so, that I'm aware of.

18 Q. So they've been in the business of plugging some
19 wells?

20 A. That's my understanding, yeah.

21 Q. Does that include plugging some wells that are on
22 the surface, that you own?

23 A. Yes.

24 Q. Why don't you turn to DKD Exhibit Number 6? Can
25 you tell me what that is?

1 A. Exhibit Number 6?

2 Q. Yes, sir.

3 A. Yes, on January 28th I wrote a letter to the Oil
4 Commission, asking them to get ahold of the rightful owners
5 to please clean up or clean off the equipment that was on
6 location, and -- which they did. I think they had to call
7 them about three times before they did get ahold of me.

8 And as you can tell, that I worked on this quite
9 some time. To give you a little history on this, if I may,
10 my ex-sister-in-law owned this property for a number of
11 years, and I know that I helped her whenever Jerry Sexton
12 and several of them was there trying to get some of this
13 stuff removed. And whether she wrote letters or not, I
14 can't speak for her. But I do know that it's been there
15 for a number of years, and -- exceeding over 10 years, I'm
16 sure.

17 Q. And are these two wells that are mentioned on
18 here the same wells that I was asking Mr. Baber about,
19 whether the surfaces had been cleaned?

20 A. Yes.

21 Q. And has that surface been cleaned?

22 A. On the State T Number 4, it's been cleaned to
23 well satisfaction. I don't have a problem with it after
24 they plugged it.

25 The State T well, that's approximately west of me

1 a quarter mile, it's not on my property so I'd rather not
2 make comments on it because I don't know whether it's
3 satisfaction or not.

4 As you can see in this letter, the wellbores was
5 either bordering me and their anchors are over on me or
6 whatever, on the Oryx State "T" well, but the tank battery
7 and the well that they plugged several years ago -- I don't
8 know how long it's been -- there's still quite a bit of
9 trash, flow lines, everything else still out there.

10 Q. Is that on your surface?

11 A. Yes, it is.

12 Q. And is that material represented in Exhibit
13 Number 7?

14 A. Yes, it is.

15 Q. Can you tell me what that exhibit is, please?

16 A. It's just a history here, not to sling mud or
17 anything else, I just want to state the facts on this, that
18 I know for the two years that I've had the property it's
19 been this way. I know for a fact, in reference -- past
20 history of ten years, it's been about like this.

21 Q. Which well is this equipment associated with?

22 A. This is in conjunction with all three wells, is
23 the way it looked, because there's flow lines coming from
24 each well, coming into a central tank battery.

25 Q. Is this on your surface?

1 A. Yes, this is all on my deeded land, yes.

2 Q. And are these wells that Pronghorn was
3 responsible for plugging, according to the C-103s that we
4 reviewed earlier?

5 A. Yeah, I guess. You know, I check into this
6 before I started on any of this for -- you know, to clarify
7 myself. And the best I could find out, it looked like he
8 had plugging orders from 1988 up till now, and he just
9 recently plugged two wells. But now that's the best I
10 could find.

11 Q. Who took these pictures in Exhibit Number 7?

12 A. I took them myself.

13 Q. When did you take them?

14 A. I took them approximately one month ago.

15 Q. Is the condition of the land and the equipment
16 the same today as it was then?

17 A. Approximately two and a half weeks ago they came
18 in and got the two bigger tanks, the two 500-barrel welded
19 tanks, they moved them out. But as far as everything else,
20 it's all still there.

21 Q. Okay. Who took the pictures in DKD Exhibit
22 Number 5, those pictures of the Moreno house?

23 A. I took those pictures also.

24 Q. When did you take those pictures?

25 A. I took those approximately Labor Day.

1 Q. Of this year?

2 A. Yes, uh-huh. Yes.

3 Q. And to the best of your knowledge, is the
4 condition of that property, including the location of the
5 home and the wellbore, substantially the same today as it
6 was at the time these pictures were taken?

7 A. That's correct. Labor Day was approximately a
8 week ago.

9 Q. Okay. Is there anything further you'd like to
10 add, Mr. Watson?

11 A. I think this thing pretty well speaks for itself.
12 Again, I'm not here to sling mud, I'm not here to really do
13 anything like that. I just want to state the facts and
14 find out why I can't get my land cleaned up. And if you're
15 going to run something like this, I just don't think it's
16 fair to me.

17 MR. OWEN: All right, I pass the witness.

18 EXAMINER CATANACH: Mr. Padilla?

19 CROSS-EXAMINATION

20 BY MR. PADILLA:

21 Q. Mr. Watson, as I understand your testimony,
22 you're essentially saying you have no objection to this
23 Application if they clean the land; is that fair?

24 A. The only objection I've got to it is that he's
25 had over ten years to put one in. If he'd put one in, I

1 wouldn't have had to worry about it.

2 Q. You're saying "put one in". What do you mean, an
3 injection well?

4 A. His injection well.

5 Q. My question was, as I understand your testimony,
6 you seem to have some environmental concerns for the
7 surface of the land, but you have no objection to the
8 injection Application itself; is that fair?

9 A. Particularly not, I don't have a whole lot of
10 problem with him trying to inject in it.

11 Q. You just want him to clean the surface; isn't
12 that right?

13 A. Well, that's the number-one thing, but there's a
14 couple things.

15 Q. Okay, what's the second thing?

16 A. He hasn't followed any procedures yet. First of
17 all, he didn't notify me. I just got through with this
18 process, so I kind of have an idea what's going on.

19 The third thing is, Chesapeake's got the minerals
20 leased. I had to get it all in black and white before I
21 could inject.

22 Q. I understand that. You agree that at the time
23 that Pronghorn filed its Application to inject, you were
24 still not the approved operator of record on your well; is
25 that right?

1 A. Well, I think you'll notice, I had change-of-
2 operator since February.

3 Q. But the Oil Conservation Division had not
4 approved your change-of-operator form until April 15th,
5 correct?

6 A. That's what it indicates, yes.

7 Q. So your Exhibit Number 1 is just what you
8 submitted, right? It doesn't have an approval stamp on it?

9 A. Not at that current time.

10 Q. Okay. And we have to look to our Exhibit Number
11 7 in order to find out when you became the official
12 operator for the acreage?

13 A. Exhibit Number 7?

14 Q. Of -- The Applicant's exhibit.

15 A. Okay. Would you restate that again, please?

16 Q. Well, let me just restate it this way: The Oil
17 Conservation Division did not approve your change of
18 operator until April 15th, right?

19 A. That's when the stamp was, that's correct.

20 Q. Okay. And in your Exhibit Number 1 it doesn't
21 have an approval stamp on it?

22 A. That's correct, I agree with that.

23 Q. You'd agree with me also that the assignment,
24 bill of sale and conveyance that is attached to your
25 Exhibit 1 was not recorded by you until May 15th -- or,

1 correction, May 14th, 2002, right?

2 A. Yes, sir. If I may explain that?

3 Q. Well, of record, for anyone to have notice of
4 that assignment, they wouldn't have notice of that in the
5 county records until May 14th when you filed that
6 assignment, right?

7 A. Okay, I'll go along with that, yes, sir.

8 Q. Okay. Do you have any objections here on any --
9 You haven't presented any objections to this Application on
10 the basis that you intend to drill any shallow wells to the
11 San Andres or the Glorieta formation, right?

12 A. I didn't Object on that, but I have been
13 contacted by two people that do want to drill it.

14 Q. But you're not objecting today on that basis?

15 A. No, sir, not at the present time --

16 Q. And --

17 A. -- but I want to protect what I've got.

18 Q. Isn't your true motive for objecting to this
19 Application is because it competes with your saltwater
20 disposal well?

21 A. No, I can handle competition. I'm not worried
22 about that.

23 Q. You're not concerned at all about competition?

24 A. No, sir, I'm not worried about that. I've been
25 in that all my life.

1 Q. What was it that you said that you had -- you
2 wish they had drilled this well -- done this thing ten
3 years ago?

4 A. Well, I think if you'll look at the OCD records
5 he's been on the list since 1988. If wanted to put in an
6 SWD, why didn't he do it?

7 Q. Well, I suppose I could ask you the same
8 question, why didn't you do the saltwater disposal well
9 earlier, right?

10 A. Well, I bought the lease -- or I bought the land
11 about a year and a half ago, and I waited on Chesapeake for
12 two years to get the paperwork squared up, or I would have
13 had it in two years ago.

14 Q. Now, you purchased this wellbore from Chesapeake?

15 A. That is correct.

16 Q. Okay. As part of your purchase, did you do any
17 due diligence in terms of investigating whether or not
18 there were any regulatory affairs being conducted out there
19 at the time?

20 A. Did I do any of that?

21 Q. Yes.

22 A. Yes.

23 Q. What did you find?

24 A. I found that once I got the lease from Chesapeake
25 and everything, that they said I could do anything they

1 wanted to, because it's a lease from top to bottom.

2 Q. Would you agree with me that Chesapeake got a
3 copy of the Application of Pronghorn for saltwater
4 injection on April 8th, 2002?

5 A. I couldn't agree to that, because I wasn't
6 notified. And June the 28th, they told me they had not
7 been notified.

8 Q. Do you think this exhibit -- Do you have any
9 reason to believe that this Exhibit Number 6, which is the
10 return receipt, is incorrect?

11 A. Yeah, I would think it's incorrect. But I don't
12 know. I mean, that's a personal opinion.

13 Q. And you would agree with me that at the time --
14 on April 8th, 2002, Chesapeake Operating was the operator
15 for the acreage that you now have, right?

16 A. April the 8th?

17 Q. Yes.

18 A. I don't think they were. I think -- just because
19 it's documented in Lea County on the 15th; I think I had it
20 done before that.

21 Q. Well, your change of operator wasn't approved
22 until April 15th, correct?

23 A. Well, I can't help that, it was filed by
24 February. Right there it says February the 2nd, whenever I
25 notified them, an effective date.

1 MR. PADILLA: May I look at Exhibit Number 7?

2 EXAMINER CATANACH: Certainly.

3 MR. PADILLA: Our Exhibit Number 7.

4 MR. BROOKS: Oh, you mean their Number 7 -- your
5 Number 7.

6 Q. (By Mr. Padilla) When did you say you filed this
7 with the Oil Conservation Division?

8 A. It says effective date, February 1 of 2002.

9 Q. Okay, but you didn't file that until April 2nd,
10 2002. Let me show you the stamp, receipt of the Oil
11 Conservation Division.

12 A. Okay.

13 Q. So you didn't file it on February 1st, right?

14 A. Apparently not, according to that.

15 Q. As between you and Chesapeake now, you ma have
16 been the operator on February 1st, right?

17 A. Okay, yes, sir.

18 Q. But in terms of giving notice to Pronghorn or
19 anyone else, there's nothing of record to show that you
20 were the operator, correct?

21 A. I guess so, yeah.

22 Q. Is there any shallow oil production in this area?

23 A. Not in that immediate area. There is some on the
24 outlying.

25 Q. How far away?

1 A. Oh, approximately -- As the crow flies,
2 approximately six miles.

3 Q. Okay.

4 A. Which means nothing where I'm at, but there is
5 some approximately six miles away.

6 MR. PADILLA: That's all I have.

7 EXAMINER CATANACH: Okay, anything else?

8 MR. OWEN: Yeah, I do have a couple of follow-
9 ups.

10 FURTHER EXAMINATION

11 BY MR. OWEN:

12 Q. Mr. Baber, one of these -- issue I forgot to ask
13 you about. We had talked about, or I had talked with Mr.
14 Baber about the State T Number 4 well and that well being
15 plugged. Do you remember that discussion?

16 A. Yes.

17 Q. And the C-103 is included in Pronghorn's
18 exhibits. Did you see that C-103 when you were over here?

19 A. Yes.

20 Q. Were you on-site when that plugging operation,
21 the plugging operation of the State T Number 4 well, was
22 being performed?

23 A. Almost daily.

24 Q. Was there any event relating to the San Andres
25 formation when that operation was being performed?

1 A. Yes, there was.

2 Q. What happened?

3 A. Whenever they shot the casing off, whenever they
4 went to clean out the hole, the wellbore in order to get
5 their cement down there to plug across the casing, they had
6 to circulate approximately 25 barrels or so of oil out of
7 it.

8 Q. And was that from the San Andres formation?

9 A. Apparently, it was somewhere in the neighborhood
10 of the San Andres in there, yes.

11 Q. And how far away on the surface is that State T
12 Number 4 well from this injection well proposed by
13 Pronghorn?

14 A. It's straight east of it, about a quarter of a
15 mile, approximately.

16 Q. Okay.

17 A. They also did it the second day they come in
18 there, circulated the oil out of it.

19 Q. Circulated oil out of it two days in a row?

20 A. Yes, sir.

21 Q. Out of the San Andres formation?

22 A. Yes, sir.

23 Q. Okay.

24 A. To clean up the wellbore so they could cement it.

25 Q. All right. Now, I'm going to switch gears on

1 you --

2 A. Okay.

3 Q. -- back to your arrangements with Chesapeake.

4 When did you reach agreement with Chesapeake on changing
5 the operator and assigning the mineral interests to you?

6 A. We had been talking about it for quite some time.
7 The date, I'm not sure about. But I do know that we had
8 discussed taking it over the date of February, 2002.

9 Q. All right, and when did you sign that assignment?

10 A. I signed it probably in -- I'm going to say the
11 first part of May, probably.

12 Q. You signed an assignment the first part of May?

13 A. I think that's right.

14 Q. When did you sign that change of operator?

15 A. I thought it was earlier than what he showed me,
16 but apparently -- it was in April, what he showed me, but I
17 thought it was earlier than that.

18 Q. Now, that stamp that he showed you is when it was
19 filed with the OCD; is that right?

20 A. Right.

21 Q. Did you file with the OCD?

22 A. Yes.

23 Q. You filed that change of operator with the OCD?

24 A. Yes.

25 Q. Did you file the assignment of the mineral

1 interests in the Lea County Records?

2 A. No, I did not, because they sent it to me, they
3 requested me to sign it. Due to the other signatures that
4 they needed from other partners, they wanted me to send it
5 back to them. I did, I sent it back to them. I called
6 them two or three times since then, it's been approximately
7 a month or so, and they said that they were still working
8 on it, and they haven't sent me a copy back yet.

9 Q. Okay.

10 A. But my understanding is, they're going to send it
11 to the Lea County Courthouse to have it recorded, and then
12 I should get a copy of that.

13 MR. OWEN: Okay, that's all I have, Mr. Examiner.

14 EXAMINER CATANACH: Okay. A couple of questions.

15 EXAMINATION

16 BY EXAMINER CATANACH:

17 Q. Mr. Watson, the change-of-operator form that you
18 submitted, that is for what well again? The State -- Go
19 ahead and tell me, what well is that for?

20 A. It's for the DKD LLC Watson Number 6 -- or Watson
21 6 Number 1, I'm sorry.

22 Q. Which was -- What was the previous name of that
23 well?

24 A. That was Chesapeake Operating Watson 6 Number 1.

25 Q. Okay, that's always been the same name?

1 A. It's been the same name, just change of operator.

2 Q. Okay. Now, all you did is acquire that wellbore
3 from Chesapeake, or did you acquire the lease, the 40-acre
4 lease or the 80-acre lease, or what did you acquire from
5 them?

6 A. Okay, I acquired the wellbore, and in the deal
7 they gave me approximately 76.63 acres to go along with it.
8 In other words, if you look at Exhibit 1 back here on the
9 -- Chesapeake Operating to DKD --

10 Q. Uh-huh.

11 A. -- the way that worked out is, I have Lots 13 and
12 14 to take care of my Watson 6 Number 1. That is
13 approximately 76.65 acres.

14 Q. Okay. So you own the mineral interests under
15 that 76 acres?

16 A. That is correct, I had the lease --

17 Q. So if you wanted to drill a producing well, you
18 could?

19 A. That is correct.

20 Q. Okay.

21 A. In this it says, all rights, title and interest
22 to all depths.

23 Q. Okay. And as far as you know, Chesapeake
24 retained Lots 11 and 12?

25 A. That is my understanding.

1 Q. Okay.

2 A. Now, I haven't had an attorney look at this, I
3 haven't...

4 Q. Now, you were referring to some equipment and
5 stuff that is in this vicinity. That is located on Lot 11
6 or 12?

7 A. No.

8 Q. Okay, where is that equipment that you're trying
9 to get cleaned up?

10 A. It's on Lot 13 and 14 on me, deeded land.

11 Q. You're the surface owner?

12 A. That is correct.

13 Q. And that equipment belongs to or is -- It was in
14 association with wells that were on -- in Lots 11 and 12?

15 A. Also, yeah. In other words, all those wells
16 apparently pumped into a central tank battery, and the
17 central tank battery was on me.

18 Q. So it's your contention that -- who's responsible
19 for that equipment?

20 A. Whenever Mr. Baber did call me, he did accept
21 responsibility for the tank battery, he did accept
22 responsibility for the wellbores, by his own admission.

23 Q. Okay.

24 A. And he said that he would work on it.

25 EXAMINER CATANACH: I don't have anything

1 further.

2 EXAMINATION

3 BY MR. BROOKS:

4 Q. Well, this is really not a pertinent question --
5 Well, first of all, I do have one or two.

6 You said you -- I think you testified to this:
7 You own the surface of this land that -- this same land
8 that you own the minerals from -- the oil and gas lease
9 from Chesapeake?

10 A. That is correct.

11 Q. There's been some statements in the record that
12 you own the minerals, but that's not really an accurate
13 statement?

14 A. No, sir, it's -- I've got them leased --

15 Q. Yeah, you own an oil and gas lease.

16 A. -- through Chesapeake, through the State of New
17 Mexico.

18 Q. Right.

19 A. State of New Mexico actually owns it.

20 Q. But you own the oil and gas lease as to Lots 11
21 and 12; is that what you own?

22 EXAMINER CATANACH: Thirteen and 14.

23 Q. (By Mr. Brooks) Oh, 13 and 14.

24 A. Thirteen and 14.

25 Q. Thirteen and 14. You do not own the oil and gas

1 lease as to the location where the State T Number 2 is
2 located, though?

3 A. Well, it says here in this lease there's 233.36
4 acres, and I'm going to go with the assumption that no, I
5 do not have the lease on 11 and 12, but I've got the lease
6 on 13 and 14.

7 Q. Yeah, but you do not own the lease where the well
8 that Pronghorn wants to inject into is located? That lot
9 is not a part of your lease?

10 A. I'm not sure about that.

11 Q. Well, I mean it's not part of your ownership. It
12 may be part of the same lease, but it's not part of -- you
13 don't -- That's what I'm trying to clarify. You claim --

14 A. I honestly believe it's on mine, because I have
15 that 80-acre lease.

16 Q. And your lease is which lots?

17 A. Thirteen and 14.

18 Q. Okay, well --

19 A. Now, to clarify this, I only have 50 acres of
20 surface right, but I have 80 acres of mineral rights.

21 Q. Yeah. There's a significant enough confusion in
22 the record that I'm not sure that there's any evidence as
23 to exactly what lot.

24 There's evidence as to what unit letter this well
25 is located on, but I'm not sure there's anything in the

1 record at this point to -- having gone through all those
2 exhibits, I'm not sure there's anything in the record that
3 shows what lot this well is located on.

4 A. Well, I've got everything on the M and N block, I
5 know that.

6 Q. Yeah.

7 A. And I think I've got -- I'd have to look at the
8 state map again, but I'm pretty sure I've got that up there
9 on the hill.

10 Q. Okay. Well, that's all I think I have of serious
11 questions. I did have a question, what is a hot-oil
12 business?

13 A. I wish I had brought them pictures in here. I'll
14 put my equipment up against anybody.

15 Q. What do you do?

16 A. We pick up the crude oil a lot of times and heat
17 it up, put it back down the well to melt all of the
18 paraffins and everything in the tubing --

19 Q. Oh, I see.

20 A. -- heat up paraffins in the bottom of the tanks.

21 MR. BROOKS: Okay, that's all my questions.

22 EXAMINER CATANACH: Do you have any others?

23 MR. JONES: I don't think so.

24 EXAMINER CATANACH: Okay, that's all the
25 questions I have. But I would like a five-minute recess.

1 I want to consult with my attorney here.

2 (Thereupon, a recess was taken at 1:03 p.m.)

3 (The following proceedings had at 1:12 p.m.)

4 EXAMINER CATANACH: Do you guys have anything
5 further?

6 MR. OWEN: I don't have any additional evidence.
7 I do --

8 EXAMINER CATANACH: Ready for closing statements?

9 MR. OWEN: Yeah, I believe it would be
10 appropriate for Mr. Padilla to go first.

11 MR. PADILLA: Well, if he's going to do it, I
12 might as well say something.

13 Mr. Examiner, this Application, it's clear that
14 the basis of the protest here is strictly -- there was no
15 notice given. We've gone through a hearing here. Mr.
16 Watson for DKD has not made any case as far as saltwater
17 disposal itself is concerned. All he is stating is that
18 he's got some concerns about some of the surface land, and
19 he wants that taken care of, cleaned up.

20 Mr. Baber testified that that was an ongoing
21 process right now, they're plugging and abandoning the
22 wells in the area, and they will recomplete this well if
23 this order is -- or if the suspension is lifted from this
24 order.

25 So I don't know what the nature of the objection

1 is other than -- the only conclusion I can reach is that
2 Mr. Watson doesn't want a competitor out there. It is in
3 direct competition to have the two saltwater disposal wells
4 in the same area.

5 But as far as the geology, as far as the
6 Application itself is concerned, there's no reason why
7 injection cannot occur in the proposed well, in this well.
8 There's not going to be any waste, there's not going to be
9 any kind of impairment of correlative rights. The zone in
10 Mr. Baber's well is not even existent, by the nature of the
11 evidence that we have presented.

12 Now, there is a little bit of confusion with
13 regard to the 6200 feet and 6400 feet. To clarify that, I
14 think there's no question but that the Application needs to
15 remain at 6200 feet. We're not trying to overreach. We
16 realize that to go to 6400 feet, we'd have to start all
17 over again and give notice. So I don't want the Commission
18 to be confused by that Application. The injection interval
19 should remain at 6000 to 6200 feet.

20 But going again to -- Now, I wanted to touch on
21 one other basis. Right now, there's been some issue raised
22 as to whether or not Pronghorn has authority to inject,
23 because they may not have a mineral lease or they may not
24 have any rights to inject there.

25 I want to distinguish between regulatory

1 authority to inject and having some ownership right to
2 inject. If indeed Mr. Baber needs to obtain rights
3 following this hearing, he will have to do that.

4 But to raise the notion that the regulatory
5 authority to inject has to have some kind of mineral
6 ownership along with it at the time of this Application, at
7 the time of the granting of this permit, I think you're
8 talking about two different things.

9 One is having some kind of mineral right or right
10 of some sort to inject, and that would come from the State
11 Land Office or from Chesapeake Operating, who owns, it's
12 clear, the oil and gas lease. But the authority, the
13 regulatory authority in and of itself, as far as being able
14 to inject is different thing.

15 Now, we get into notions of trespass or
16 something, but that doesn't apply to Mr. Watson or DKD. It
17 applies to the person or the entity owning Unit Letter L,
18 which is Chesapeake, or it would be the State Land Office,
19 who is the mineral owner underlying that land.

20 But as far as the integrity or the propriety of
21 this Application, it should not be questioned, because very
22 often -- I've been negotiating in the past rights with the
23 State Land Commissioner for saltwater disposal by way of
24 business leases or by way of underground injection
25 authority, irrespective of the regulatory authority given

1 by the Oil Conservation Division.

2 So there's been nothing presented here by DKD to
3 show that this Application, on the basis of waste and on
4 the basis of impairment of correlative rights or on the
5 basis of conservation, that should raise itself to such an
6 extent that this Application should be denied. Again, this
7 is purely regulatory and has nothing to do with whether or
8 not Mr. Baber or Pronghorn has some kind of license or some
9 kind of authority from a landowner or a leaseholder
10 position to allow injection of water in this well.

11 But as far as the jurisdiction of the Oil
12 Conservation Commission, or the Division, you have before
13 you the wellbore. What's going to occur in the -- There's
14 nothing, there's no known oil production that would impair
15 the right, the regulatory right, to inject in this well.

16 Thank you.

17 EXAMINER CATANACH: Thank you, Mr. Padilla.

18 MR. OWEN: Mr. Examiner, Mr. Padilla has to some
19 extent oversimplified the issues. In fact, there are other
20 issues before you.

21 First, I would like to refer to the zone that was
22 noticed. It was noticed from 6000 to 6200 feet. That's
23 the notice that was published in the paper, and that's the
24 notice that was given to the offset operators. However, I
25 note in one of my letter points, it was not given to the

1 surface owner.

2 The Order requires the injection interval to be
3 from 6000 to 6200 feet. Mr. Baber has testified that he's
4 going to place a plug at -- a cement plug, I believe, at
5 6500 feet.

6 To the extent that Mr. Padilla has conceded that
7 Pronghorn is only requesting injection authority from 6000
8 to 6200 feet, and to the extent that an order approving the
9 injection is issued, I would request that appropriate
10 measures be taken to ensure that the injection interval
11 stops at 6200 feet and does not progress down to 6400 feet,
12 6500 feet. If that is going to be the case, then as Mr.
13 Padilla's notice -- as indicated, we would need a new
14 notice to be given to all the offset operators and the
15 surface owner.

16 Which brings me to my next point. The only
17 evidence before you is that the surface of this land on
18 which this injection well is located is owned by an
19 individual. It's fee surface. That individual was not
20 given notice. That individual does not appear on the
21 return receipt cards, the letter was not given to them, the
22 Application was not given to them.

23 This Application is not properly before the
24 Division, and if the Division wants to consider it, notice
25 does need to be given to that surface owner, Mr. Moreno.

1 As to the injection zone itself, in fact, there
2 has been testimony before you today that there have been
3 hydrocarbon shows in that injection interval. And Mr.
4 Watson testified that when an offsetting well was plugged,
5 that in fact they had to circulate oil twice from that zone
6 before they were able to plug it. It appears that, in
7 fact, that zone may well be capable of production. It is
8 this agency's duty to prevent waste and protect correlative
9 rights.

10 My final point will be that Pronghorn doesn't own
11 any rights at all, but it is your duty to protect the
12 rights that are there. It appears that there are
13 hydrocarbons in place in this zone, it appears that those
14 hydrocarbons may well be impacted by the injection of
15 saltwater. And I believe it is your duty to prevent waste
16 and to protect correlative rights, to deny this
17 Application, because, in fact, that zone does show that it
18 is possibly capable of production in that area.

19 But Mr. Examiner, the biggest point that you have
20 before you is that Pronghorn simply doesn't have any rights
21 in this area. Mr. Padilla attempts to make the argument
22 that you can issue orders to any operator, to any
23 applicant, regardless of their ownership interest in the
24 area.

25 Now, it's not proper for you to determine

1 ownership disputes, that's for the courts to determine. We
2 don't have an ownership dispute. What we have is
3 uncontradicted testimony from Mr. Watson and a concession
4 from Mr. Baber that, in fact, Chesapeake owns the minerals,
5 that Pronghorn has no authority to inject into these
6 minerals.

7 In carrying out your duties to prevent waste and
8 protect correlative rights, you must be aware of who the
9 owner of the mineral interest is. If there's a dispute
10 about it, it's appropriate for you to abstain from
11 exercising your jurisdiction.

12 In this case, there is no dispute. Pronghorn
13 does not have those rights. When Pronghorn has those
14 rights, I submit it would be appropriate to re-submit this
15 Application. However at this time, I submit that it is
16 appropriate for this Division to deny the Application and
17 dismiss the Application of Pronghorn. Thank you.

18 EXAMINER CATANACH: Thank you, Mr. Owen.

19 Anything further in this case?

20 MR. OWEN: No.

21 EXAMINER CATANACH: There being nothing further
22 in this case, Case 12,905 will be taken under advisement.

23 (Thereupon, these proceedings were concluded at
24 1:20 p.m.)

25

* * *

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


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 September 8th, 2002.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002

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