

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. 12,922  
)  
APPLICATION OF DAVID H. ARRINGTON OIL )  
AND GAS, INC., FOR COMPULSORY POOLING, )  
LEA COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

September 5th, 2002

Santa Fe, New Mexico

02 SEP 19 AM 8:43

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, 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.

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 Examiner Hearing  
 CASE NO. 12,922

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\* \* \*

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\* \* \*

## A P P E A R A N C E S

## FOR THE APPLICANT:

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By: J. SCOTT HALL

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By: PAUL R. OWEN

FOR YATES PETROLEUM CORPORATION; DAVID PETROLEUM CORPORATION; EDWARD N. DAVID; KEITH E. MCKAMEY; MICHAEL A. McMILLAN; McMILLAN VENTURES, L.L.C.; McMILLAN PRODUCTION COMPANY; WILLIAM B. OWEN; and PERMIAN EXPLORATION CORPORATION:

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By: MICHAEL H. FELDEWERT

\* \* \*

(Continued...)

## A P P E A R A N C E S (Continued)

## ALSO PRESENT:

DAVID R. CATANACH  
Hearing Examiner  
New Mexico Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

WILLIAM V. JONES, JR.  
Petroleum Engineer  
New Mexico Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, NM 87505

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:45 a.m.:

3           EXAMINER BROOKS: Okay, at this time we call Case  
4   Number 12,922, Application of David H. Arrington Oil and  
5   Gas, Inc., for compulsory pooling, Lea County, New Mexico.  
6           Call for appearances.

7           MR. HALL: Mr. Examiner, Scott Hall, Miller,  
8   Stratvert and Torgerson, P.A., Santa Fe, on behalf of the  
9   Applicant, David H. Arrington Oil and Gas, Incorporated.

10          I have two witnesses this morning.

11          EXAMINER BROOKS: Okay, other appearances?

12          MR. OWEN: Mr. Examiner, my name is Paul Owen,  
13   I'm with the Santa Fe law firm of Montgomery and Andrews,  
14   appearing on behalf of Great Western Drilling Company, and  
15   I tender to the Examiner my entry of appearance in this  
16   matter and a related application for compulsory pooling  
17   which was filed this morning.

18          I have no witnesses in this matter.

19          EXAMINER BROOKS: Okay. Now, since your  
20   application was filed this morning, it would not be set for  
21   hearing and would not have been properly notified, so are  
22   you moving for a continuance or --

23          MR. OWEN: Mr. Examiner, a continuance has  
24   already been requested and denied --

25          EXAMINER BROOKS: Okay.

1 MR. OWEN: -- and we're not requesting a  
2 continuance at this time. We ask that our application be  
3 set for the October 10th hearing.

4 EXAMINER BROOKS: Very good. Okay --

5 MR. FELDEWERT: Mr. Examiner --

6 EXAMINER BROOKS: Yes, sir.

7 MR. FELDEWERT: -- one more appearance.

8 EXAMINER BROOKS: Pardon me?

9 MR. FELDEWERT: One more appearance.

10 EXAMINER BROOKS: Okay.

11 MR. FELDEWERT: I'm Michael Feldewert with the  
12 law firm of Holland and Hart, appearing on behalf of Yates  
13 Petroleum Corporation, as well as David Petroleum  
14 Corporation; Edward N. David; Keith E. McKamey; Michael A.  
15 McMillan; McMillan Ventures, L.L.C.; McMillan Production  
16 Company; William B. Owen; and Permian Exploration  
17 Corporation.

18 We do not have any witnesses. I do just have a  
19 brief preliminary statement.

20 EXAMINER BROOKS: Okay. Do you have any  
21 witnesses, Mr. Owen?

22 MR. OWEN: No, I do not.

23 EXAMINER BROOKS: You're representing Great  
24 Western Drilling --

25 MR. OWEN: -- Company.

1 EXAMINER BROOKS: Okay.

2 MR. HALL: Mr. Examiner, if you'll allow, I'd  
3 like to address the Great Western application by way of a  
4 speaking motion to dismiss, if you'll entertain such.

5 EXAMINER BROOKS: Okay, let's swear the witnesses  
6 first, and then I'll allow opening statements so we can  
7 understand this situation here.

8 Witnesses please stand to be sworn.

9 (Thereupon, the witnesses were sworn.)

10 EXAMINER BROOKS: Okay, perhaps the best way to  
11 do this would be, Mr. Owen, I'll let you go first and say  
12 what you want to say about your situation, and then I'll  
13 let Mr. Hall respond, and Mr. Feldewert if he has anything  
14 to offer.

15 MR. OWEN: Mr. Examiner, Great Western Drilling  
16 Company owns a working interest in the minerals underlying  
17 the proposed well, the well which has been proposed by  
18 Arrington and which is being proposed by Great Western  
19 Drilling Company.

20 Great Western Drilling Company has the support of  
21 the majority of the interest owners in the well, far  
22 exceeding the interest which Arrington represents, and  
23 Great Western Drilling Company would like to discuss  
24 operations with Arrington. And it's my understanding that  
25 such discussions have taken place and that the parties may



1 or may not reach an agreement. I don't know what the  
2 status is of those particular discussions.

3 Great Western Drilling Company requested a  
4 continuance of Arrington's case so that those discussions  
5 could continue and so that an agreement could be reached.  
6 Arrington felt that it had a lease-expiration problem,  
7 which is in the first part of next year, as I understand  
8 it, and therefore declined to continue the case.

9 Great Western Drilling Company is proposing  
10 virtually the same well. I don't know what the well costs  
11 are going to be, I haven't seen the AFE. The only issue  
12 will be who will be the operator of the well.

13 EXAMINER BROOKS: Are you proposing the same  
14 location?

15 MR. OWEN: Correct, same location, different well  
16 name. Arrington chooses to name its wells after flies, as  
17 I understand it, fishing flies, and Great Western Drilling  
18 Company chooses to name it after the leaseholder.

19 We have a standard compulsory pooling application  
20 before the Division. We are an interest owner, we have the  
21 right to drill a well. No order has been issued by the  
22 Division against Great Western Drilling Company, and I  
23 believe it's appropriate for the Division to consider it  
24 when that case comes before it on its docket.

25 EXAMINER BROOKS: Okay, Mr. Hall?

1 MR. HALL: Mr. Examiner, if you allow, I'm  
2 prepared to put on witness testimony this morning which  
3 will establish that Arrington has been evaluating the east  
4 half of Section 34, 15 South, 34 East, for the drilling of  
5 a well to the Atoka-Brunson-Morrow formations since January  
6 of 2001.

7 We will also establish that in June of 2002, two  
8 well-proposal letters went out to the parties, including  
9 Great Western, along with an AFE proposing the well, and  
10 that there has been absolutely no response from Great  
11 Western at all to date.

12 The first communication from Great Western to  
13 Arrington was through its former counsel to me on Tuesday  
14 when they entered an appearance on Great Western's behalf  
15 requesting the continuance. But no response to Arrington's  
16 well proposal.

17 There has been no counterproposal by Great  
18 Western to Arrington. If there were discussions, they were  
19 apparently only between Great Western and Yates, not with  
20 Arrington at all.

21 The next action that we're aware of is the filing  
22 of the application by Great Western's new counsel this  
23 morning. This morning is the first we have seen of it.

24 In view of the fact that we can establish that  
25 there has been no prior well proposal by Great Western, its

1 application is premature under the established practices of  
2 the Division. Typically, the Division expects operators to  
3 submit a bona fide well proposal and solicit responses to  
4 that. If no responses are received sooner than 30 days,  
5 then it's appropriate for a proposed operator to submit a  
6 compulsory pooling application.

7 That's not been done here. We think the  
8 application is improper, ought to be dismissed.

9 MR. FELDEWERT: If I might respond, Mr. Examiner?

10 EXAMINER BROOKS: Okay, first of all, Mr.  
11 Feldewert, do you have any comment?

12 MR. FELDEWERT: Mr. Examiner, I know that Yates  
13 attempted to get this matter continued to the October 10th  
14 docket to see if an agreement on the operation of this well  
15 could be reached. Arrington refused that invitation, which  
16 I understand now has forced Great Western to file their  
17 competing pooling application with the Division.

18 There's no dispute over location, there's no  
19 dispute over costs, there's no dispute over the need for  
20 this well. There's only a dispute over who's going to  
21 operate the well.

22 We understand that Great Western has the majority  
23 interest. Yates Petroleum, David Petroleum, et al., the  
24 parties I'm appearing for here today, collectively own  
25 about 43 percent of the working interest. They all support

1 the operation of this well by Great Western.

2 We ask that this matter -- I know that Mr.  
3 Arrington has his witnesses here today. We have no  
4 objection to them going forward. We ask, however, that  
5 this matter be continued or that the Division not take it  
6 under advisement until we have heard Great Western's  
7 application, which is set for October 10th, and ask that  
8 thereafter the Division would deny Arrington's Application  
9 and approve Great Western's application.

10 We hope in the meantime that we can reach an  
11 agreement on the operation of this well. It's my  
12 understanding that there has been some discussion back and  
13 forth between Yates -- I don't know if Great Western was  
14 involved, but other parties and Arrington, I think Mr.  
15 Baker, to see if we could get a resolution on this issue.  
16 I don't think those discussions have completely been  
17 exhausted. That's one of the reasons we asked for the  
18 continuance. They felt like they had to go forward here  
19 today, that's what in essence forced Great Western's hand  
20 to file the pooling application.

21 So what we have here is, Arrington wants to  
22 operate the well, Great Western wants to operate the well.  
23 Great Western has the majority interest, we believe, in the  
24 well, and they are supported by Yates Petroleum. The other  
25 parties I represent collectively own about 43 percent of

1 the working interest.

2 EXAMINER BROOKS: Thank you.

3 Mr. Owen?

4 MR. OWEN: Mr. Examiner, directly addressing the  
5 issues raised by Mr. Hall, he indicates that it is the  
6 Division's practice to require a well proposal to be  
7 tendered before an application for compulsory pooling to be  
8 filed.

9 In fact, Mr. Examiner, that is a practice in the  
10 industry, that is not a requirement by the Division. It's  
11 found nowhere in the Division Rules. It is frequently the  
12 case where a competing force pooling application is forced  
13 by the other side because of lease expiration or other  
14 issues, the other party doesn't want to continue the case  
15 to reach an agreement, and the competing party needs to  
16 file its compulsory pooling application.

17 There's no requirement that a well proposal be  
18 tendered before a compulsory pooling application be filed.  
19 The only prerequisite found in the Division Rules is that  
20 the interest owner, the party seeking compulsory pooling,  
21 have the right to drill the well on the acreage. Great  
22 Western has that right. I've submitted that in my  
23 application, there's no grounds for dismissal.

24 Further addressing the issues raised thus far, I  
25 don't believe that negotiations have broken down between

1 the parties, and I believe that negotiations will continue  
2 between the parties following this hearing.

3 We have no objection to Mr. Arrington -- or to  
4 Mr. Hall putting on David Arrington's witnesses this  
5 morning, and we have no objection to their putting on their  
6 case. We ask that the case be left open and considered in  
7 conjunction with the evidence to be presented by Great  
8 Western at the October 10th hearing.

9 MR. HALL: Mr. Examiner, if I might just briefly?

10 EXAMINER BROOKS: Yes.

11 MR. HALL: I think you have to consider two  
12 issues here. One is diligence.

13 We're prepared to put on witness testimony to  
14 support that Arrington has diligently worked to develop its  
15 acreage and propose the well.

16 Two, that Great Western has done nothing. Great  
17 Western appears with you, without witnesses. There's no  
18 proof to back up any response to our motion to dismiss.

19 Three, another issue you must consider is  
20 prejudice that may result from Great Western's effort to  
21 delay the hearing of this matter. We can establish through  
22 witness testimony again that Arrington has a lease  
23 expiration coming up in the early part of 2003.

24 This matter is continued to the October hearings.  
25 We may expect an order to result November, perhaps later.

1 We think that the likelihood of prejudice accruing to  
2 Arrington, resulting in a potential expiration of its  
3 lease, is too great a risk to incur, to allow Great Western  
4 to come in at the last minute, file an application without  
5 having first proposed a well and delay our legitimate  
6 Application.

7 That's all, Mr. Examiner.

8 EXAMINER BROOKS: Thank you.

9 Well, I think the witnesses are here, that we  
10 should receive their testimony. I will reserve a ruling on  
11 the motion to dismiss until after we've heard the  
12 testimony.

13 You may proceed, Mr. Hall.

14 MR. HALL: At this time, Mr. Examiner, we would  
15 call Enick Diffie to the stand.

16 EXAMINER BROOKS: Okay, I believe he's already  
17 there.

18 MR. DIFFEE: Yes, sir.

19 EXAMINER BROOKS: You may proceed.

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

23 DIRECT EXAMINATION

24 BY MR. HALL:

25 Q. For the record, please state your name.

1           A.    My name is Enick Diffee, first name Enick,  
2   E-n-i-c-k, last name Diffee, D-i-f-f-e-e.  I reside in  
3   Roswell, New Mexico.

4           Q.    How are you employed, Mr. Diffee?

5           A.    I'm an independent consulting landman.

6           Q.    And you've previously testified before the  
7   Division and its Examiners and had your credentials  
8   accepted as a matter of record?

9           A.    Yes.

10          Q.    And you're familiar with the Application that's  
11   been filed in this case?

12          A.    Yes.

13          Q.    And you're familiar with the lands that are the  
14   subject of this Application?

15          A.    Yes.

16               MR. HALL:  Mr. Examiner, we offer Mr. Diffee as a  
17   qualified expert petroleum landman.

18               EXAMINER BROOKS:  Any objections?

19               MR. FELDEWERT:  No objection.

20          Q.    (By Mr. Hall)  Mr. Diffee, if you would explain  
21   to the --

22               EXAMINER BROOKS:  I'm sorry, he is so qualified.  
23   You may continue.

24               MR. HALL:  I'm trying to think when a witness was  
25   not qualified, Mr. Examiner.



1           Q.    (By Mr. Hall)  Mr. Diffie, if you would explain  
2   to the Examiner what it is Arrington seeks by this  
3   Application?

4           A.    Arrington seeks an order pooling all mineral  
5   interests underlying the east half of Section 34, Township  
6   15 South, Range 34 East, and in the following manner:

7                   a)  being the east half to form a standard 320-  
8   acre standup gas spacing and proration unit, being "the  
9   320-acre unit", for any and all formations and/or pools  
10   developed on 320-acre spacing within that vertical extent,  
11   which presently would include but are not necessarily  
12   limited to the Edison North-Morrow Gas Pool,

13                   b)  being the southeast quarter to form a standard  
14   160-acre spacing and proration unit, that being, of course,  
15   "the 160-acre unit", for any all formations and/or pools  
16   developed on 160-acre spacing within that vertical extent,

17                   c)  being the north half, southeast quarter, to  
18   form a standard 80 laydown oil spacing and proration unit,  
19   being "the 80-acre unit", for any and all formations and/or  
20   pools developed on 80-acre spacing within that vertical  
21   extent, which presently includes, but is not limited to,  
22   the Undesignated North Edison-Strawn Pool, and,

23                   d)  the northeast quarter of the southeast  
24   quarter, to form a standard 40-acre spacing and proration  
25   unit, being "the 40-acre unit", for any and all formations

1 and/or pools developed on 40-acre spacing within that  
2 vertical extent, which presently include but are not  
3 necessarily limited to the Townsend-Permo-Penn Pool.

4 Said units are to be dedicated to Applicant's  
5 proposed Huma Huma "34" Well Number 1, to be drilled at a  
6 standard 320-acre spacing and proration unit gas well  
7 location, 1700 feet from the south line, 950 feet from the  
8 east line, in the southeast quarter of Section 34.

9 Also to be considered will be the cost of  
10 drilling and completing said well and the allocation of the  
11 cost thereof as actual operating cost and charges for  
12 supervision, designation of David H. Arrington Oil and Gas,  
13 Inc., or its designee as operator of the well, and a charge  
14 for risk in drilling said well.

15 The proposed well location is approximately ten  
16 miles northwest of Lovington, New Mexico.

17 Q. Mr. Diffie, let's turn to what's been marked as  
18 Exhibit Number 1, please, sir.

19 A. Yes, this is an ownership plat. I'll call your  
20 attention to the east half of Section 34, which is the  
21 proposed 320-acre proration unit. The well location, it  
22 will be a vertical well with the surface and bottomhole  
23 location being the same, which again earlier stated was  
24 1700 feet from the south line, 950 feet from the east line,  
25 lying in the southeast quarter.

1           And I would mention that the east half of Section  
2   34 is comprised of three federal oil and gas leases.

3           To be very descriptive for you, the south half of  
4   the northeast quarter and the north half of the southeast  
5   quarter is Federal Lease NM-17444.

6           The southwest quarter of the southeast quarter is  
7   Federal Lease NM-94621.

8           And the north half of the northeast quarter and  
9   the southeast quarter of the southeast quarter is Federal  
10   Lease NM-106699.

11          Q.   What does the acreage in yellow indicate?

12          A.   The acreage in yellow identifies acreage in which  
13   David H. Arrington Oil and Gas, Inc., actually has a  
14   leasehold or operating rights ownership.

15          Q.   And the red line on Exhibit 1 reflects more than  
16   the proration unit for the well, does it not?

17          A.   Yes, that's just a prospect outline.

18          Q.   Okay. What's the primary target for the well?

19          A.   The Atoka-Morrow.

20          Q.   Let's look at Exhibit 2, if you'd explain that to  
21   the Examiner, please, sir.

22          A.   As I've mentioned earlier, we have three separate  
23   federal oil and gas leases in the various tracts. Exhibit  
24   2 consolidates the leasehold ownership in the east half of  
25   Section 34 and identifies each leasehold owner and their

1     respective leasehold or working interest in the proposed  
2     east-half proration unit.

3           Q.     And it's been represented here today that  
4     Arrington owns only a small percentage of the proration  
5     unit. What's the actual percentage that Arrington  
6     controls?

7           A.     32.03125 percent.

8           Q.     Okay. When did Arrington first acquire its lease  
9     interest in the east half of Section 34?

10          A.     In January of 2001, a participation agreement was  
11     entered into between Arrington and also Devon. And then as  
12     of March 1st of 2001, Arrington was successful in acquiring  
13     an assignment of oil and gas lease from Hunt Oil Company,  
14     and again that's a term assignment, which, as mentioned  
15     earlier in testimony, is subject to exploration as of March  
16     the 1st, year 2003.

17                 And I will mention too, again, with just  
18     Arrington's continued efforts to acquire a voluntary  
19     joinder of participation in the well. As of August the  
20     21st, 2002, a letter agreement was entered into between Tom  
21     Brown, Inc., and also Arrington, for Tom Brown, Inc.,  
22     either to participate in the drilling of the well or to  
23     assign their leasehold interest to Arrington.

24          Q.     Now, for the 160-acre and 80-acre and 40-acre  
25     units, is the ownership the same throughout all horizons?

1           A.    Yes.

2           Q.    Let's turn to Exhibits 3 and 4, please, and would  
3 you explain to the Examiner Arrington's efforts to obtain  
4 the voluntary participation of the other interest owners?

5           A.    Yes, Exhibit 3 is a copy of a letter dated June  
6 the 18th, 2002, and this was the initial well proposal that  
7 was extended by Arrington to all of the working interest  
8 owners. And again, you'll see that this letter was  
9 addressed to Dale Douglas as a leasehold owner in the  
10 proration unit.

11                   And letters were sent to all of the other working  
12 interest owners, but there was an error made in the  
13 proposal. For instance, the letter was addressed to Dale  
14 Douglas, but you'll see in paragraph two it references  
15 Yates. It says, "In the event that Yates should desire to  
16 participate in the drilling" of the well. So we noticed  
17 that error had been made in several of the letters by  
18 retaining the reference to Yates.

19                   So to follow up on correction of that mistake,  
20 letters were then sent out on June the 27th, in which a  
21 specific reference in paragraph two was made to each and  
22 every individual leasehold owner.

23                   But the letter itself proposes the drilling of  
24 the well, extends the invitation to participate in the well  
25 and also an AFE was attached as an exhibit.

1 Q. Now, your certified mail receipt cards are  
2 attached to each of the June 27th --

3 A. That's correct.

4 Q. -- well proposal letters. And does it appear  
5 that those -- When does it appear that those letters were  
6 received by the recipients?

7 A. July the 2nd --

8 Q. Okay.

9 A. -- if not earlier. There's probably one or two  
10 that were received even earlier than that.

11 Q. All right. And you mention the AFE that went out  
12 with the letters. Is that marked as Exhibit 5?

13 A. Yes, it is.

14 Q. All right. Now, you understand that Arrington  
15 seeks the imposition of a 200-percent risk penalty against  
16 those unjoined working interest owners?

17 A. That's correct.

18 Q. And will Arrington present another witness today  
19 to explain the basis of that risk request?

20 A. Yes.

21 Q. And Arrington seeks to be designated operator of  
22 the well?

23 A. Yes.

24 Q. In your opinion, Mr. Diffie, as an expert  
25 petroleum landman, has Arrington made a good faith effort

1 to obtain the voluntary joinder of all the nonparticipating  
2 working interest owners in the proration unit?

3 A. Yes, I would.

4 Q. And were Exhibits 1 through 5 compiled by you?

5 A. Or under my direction, yes.

6 MR. HALL: All right, that completes our direct  
7 of this witness, Mr. Examiner.

8 We'd move the admission of Exhibits 1 through 5.

9 EXAMINER BROOKS: Any objections?

10 MR. OWEN: No objection to the introduction of  
11 the exhibits.

12 EXAMINER BROOKS: Mr. Feldewert?

13 MR. FELDEWERT: No objection.

14 EXAMINER BROOKS: 1 through 5 are admitted.

15 Does that conclude your examination?

16 MR. HALL: Yes, sir.

17 EXAMINER BROOKS: Very good. Mr. Owen?

18 CROSS-EXAMINATION

19 BY MR. OWEN:

20 Q. Mr. Diffie, you indicated that as of August 21st,  
21 that Arrington was engaged in negotiations and had some  
22 sort of letter agreement with Tom Brown, Inc.; is that  
23 correct?

24 A. That's correct.

25 Q. Would you turn to Exhibit 2, please?

1           A.    I have it.

2           Q.    Could you tell me what interest Tom Brown, Inc.,  
3 owns in this well?

4           A.    We credited the interest that was previously  
5 owned by Tom Brown, Inc., to David H. Arrington. So the  
6 interest previously owned by Tom Brown, Inc., under the  
7 320-acre proration unit would have been 7.18 percent. And  
8 that, of course, at this time is included within the  
9 32.03125 percent reflected on Exhibit 2.

10          Q.    Do you have that letter agreement here?

11          A.    Yes, I do.

12          Q.    May I see it, please?

13                Do you have another copy of this?

14          A.    No, that's the only one that I have with me, but  
15 I think -- Bill, do you have a copy of that?

16                MR. BAKER: No, but if you want some more, we can  
17 get you some copies --

18                MR. OWEN: Do you guys mind if I introduce this?

19                MR. BAKER: I don't have any problems.

20                MR. OWEN: Have you seen this, Mr. Hall?

21                MR. HALL: Yes.

22          Q.    (By Mr. Owen) Mr. Diffie, the letter agreement  
23 indicates that you're going to share certain geologic  
24 information with Tom Brown, Inc., and then Tom Brown, Inc.,  
25 has a ten-day period in which to elect to participate in



1 the well; is that correct?

2 A. That's correct.

3 Q. Have you shared that information with Tom Brown,  
4 Inc., yet?

5 A. Not to my knowledge.

6 Q. So Tom Brown, Inc., has not actually committed  
7 its interests to the well yet, has it?

8 A. Not at this time, that I'm aware of.

9 Q. So the 32.03125 percent indicated as represented  
10 by David H. Arrington Oil and Gas, Inc., on Exhibit Number  
11 2 is not actually correct as of this time; is that correct?

12 A. If I could go back to the court reporter as far  
13 as my previous testimony, I believe I indicated that they  
14 did have the option to participate. So I didn't intend to  
15 mislead. And I also mentioned that they either have  
16 leasehold or control leasehold covering that percentage.  
17 So maybe that clarification should be made as to that  
18 certain 32 percent.

19 Q. But Tom Brown, Inc., has not committed its  
20 interests, right?

21 A. That's correct.

22 Q. You don't control Tom Brown, Inc.'s, interest,  
23 correct?

24 A. Under this letter agreement, I think that there  
25 is some indication here that they are willing to work with

1 Arrington.

2 Q. They have the option to commit their interest or  
3 not, right?

4 A. That's correct.

5 Q. Okay, so they haven't committed their interest?

6 A. Okay.

7 Q. Okay. You proposed the well initially on June  
8 18th; is that correct?

9 A. That's correct, the first letter that was mailed  
10 out.

11 Q. You didn't propose it in January of 2001, when  
12 you acquired your interest, did you?

13 A. No.

14 Q. Okay, or March, 2001, when you acquired  
15 additional interest?

16 A. That's correct.

17 Q. And then you sent out an additional proposal on  
18 June 27th; is that right?

19 A. That's correct.

20 Q. And have you received a response from Great  
21 Western?

22 A. Not to my knowledge.

23 Q. Have you received a response from Yates?

24 A. I know -- I have not personally been involved in  
25 these conversations, but I believe that there have been

1 conversations within the last two to three days between  
2 Yates and personnel with David H. Arrington Oil and Gas.

3 Q. And the term assignment that Arrington is  
4 concerned with expires on March 1st, 2003; is that right?

5 A. Correct.

6 Q. Who is that term assignment from?

7 A. That is from Hunt Oil Company.

8 Q. So if the Division entered an order sometime this  
9 year, there would still be time for the election period to  
10 expire before your term assignment expired; is that right?

11 A. I'd like to qualify that by saying that we're  
12 drilling on federally owned minerals, and the time  
13 requirements to drill an oil and gas well on federal leases  
14 can sometimes be somewhat lengthy in procedures being  
15 complied with. So again, we have to take all these factors  
16 into account. And again, when an order might be received  
17 is very critical as to whether or not we would be able to  
18 commence drilling operations prior to that expiration date.

19 Q. Have you discussed this matter with the BLM?

20 A. I know that there are representatives with  
21 Arrington's office that have initiated, you know, the  
22 drilling procedures to be approved. I do not know the  
23 status of those requests.

24 Q. Do you know if there are archaeological problems  
25 with the proposed location?

1 A. I do not know that.

2 Q. Do you know if there are site problems with the  
3 proposed location?

4 A. I do not know that.

5 Q. Do you know if there are any other reasons why  
6 the BLM might object to this proposed location?

7 A. At this time I don't.

8 Q. Do you know if there are any other reasons why  
9 the BLM might propose to the drilling of the well before  
10 March 1, 2003?

11 A. I don't know that at this time.

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

13 EXAMINER BROOKS: Mr. Feldewert?

14 CROSS-EXAMINATION

15 BY MR. FELDEWERT:

16 Q. Mr. Diffie, have you had any conversations with  
17 any party about the operation of this well?

18 A. I personally have not.

19 Q. Have you communicated with any of the parties  
20 listed on your Exhibit Number 2, other than the letter that  
21 you sent out in June 18th of 2002?

22 A. I personally have not had contact.

23 Q. You haven't made any telephone calls or --

24 A. Not personally. I know that there have been  
25 efforts made by Arrington's employees, and I believe that

1 the exploration manager, Bill Baker, will testify, perhaps,  
2 in greater detail about contacts being made.

3 Q. Is it your testimony that if the Division waits  
4 until October the 10th to hear Great Western's pooling  
5 application, that you're going to be unable to meet your  
6 lease expiration in March of 2003?

7 A. I think that could be very likely.

8 Q. And what do you base that on?

9 A. Again, just because we're going to be dealing  
10 with the BLM and the unknowns that have already been  
11 brought out, it's a matter of just not being able to really  
12 know what we're going to be up against at this point in  
13 time to meet that deadline.

14 Q. Do you know how many wells Arrington has drilled  
15 in the last three months?

16 A. In this area, the last three months, they've  
17 slowed their activity in the last three months. But prior  
18 to this, over the past three to five years, they've  
19 probably drilled and completed in excess of 25 or so wells  
20 in this area.

21 Q. Do you know how many wells they've drilled over  
22 the last three months?

23 A. No, I don't.

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

25 EXAMINER BROOKS: Redirect?

1 MR. HALL: Briefly, Mr. Examiner.

2 REDIRECT EXAMINATION

3 BY MR. HALL:

4 Q. If you know, Mr. Diffie, have either -- any of  
5 the Yates entities or Great Western filed APDs or permits  
6 for right-of-ways with the BLM to develop their well  
7 proposal?

8 A. Not to my knowledge.

9 MR. HALL: Nothing further.

10 EXAMINER BROOKS: Okay, thank you.

11 EXAMINATION

12 BY EXAMINER BROOKS:

13 Q. You mentioned that the target of this well is the  
14 Atoka-Morrow. Are there any secondary objectives that -- I  
15 know you went through all the units, but --

16 A. Yes.

17 Q. -- are there any actual secondary objectives?

18 A. There possibly could be. I think that question  
19 could better be answered by the exploration manager, Bill  
20 Baker.

21 Q. No doubt. Let's see, you said the location was  
22 1700 feet from the south line and 950 from the east line.  
23 Did I copy that correctly?

24 A. That's correct.

25 Q. And did you identify Exhibit Number 5, the AFE?

1 A. Yes, we did.

2 Q. And is that your current estimate of the cost --  
3 proposed cost in this well?

4 A. Yes, sir.

5 EXAMINER BROOKS: Okay, I don't think I have  
6 anything else.

7 Mr. Catanach?

8 EXAMINER CATANACH: Nothing.

9 EXAMINER BROOKS: Mr. Jones?

10 MR. JONES: No.

11 MR. HALL: Mr. Examiner, I don't believe the Tom  
12 Brown participation letter has been tendered, and we  
13 certainly do not object to its admission.

14 MR. OWEN: I tender the admission of Great  
15 Western Exhibit Number 1, which I believe is in front of  
16 the witness. Are you going to want to refer to that, Mr.  
17 Baker?

18 MR. BAKER: What is it?

19 MR. DIFTEE: It's the Great Western letter for --

20 MR. OWEN: It's the Tom Brown letter.

21 MR. DIFTEE: Tom Brown, sorry.

22 EXAMINER BROOKS: Any objection, Mr. Feldewert?

23 MR. FELDEWERT: No.

24 EXAMINER BROOKS: Okay, Great Western's Exhibit  
25 Number 1 will be admitted.

1 I believe that would conclude the examination of  
2 this witness. The witness may stand down.

3 You may call your next witness.

4 MR. HALL: At this time, Mr. Examiner, we would  
5 call Bill Baker to the stand.

6 Shall I proceed?

7 EXAMINER BROOKS: You may proceed.

8 BILLY DON BAKER, JR.,

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

11 DIRECT EXAMINATION

12 BY MR. HALL:

13 Q. For the record, please state your name.

14 A. Billy Don Baker, Jr. I reside in Midland, Texas.

15 Q. And for whom do you work and how are you  
16 employed?

17 A. I'm the exploration manager for David H.  
18 Arrington Oil and Gas, Inc., in Midland.

19 Q. And you've previously appeared before the  
20 Division and had your credentials accepted as a matter of  
21 record?

22 A. Yes, sir, I have.

23 Q. Are you familiar with the Application in this  
24 case?

25 A. Yes, sir, I am.



1 Q. And are you familiar with the lands that are the  
2 subject of this Application?

3 A. Yes, sir, I believe so.

4 MR. HALL: Mr. Examiner, we'd offer Mr. Baker as  
5 a qualified expert petroleum engineer -- I'm sorry,  
6 petroleum geologist.

7 THE WITNESS: Yeah.

8 EXAMINER BROOKS: Any objection?

9 MR. OWEN: No objection.

10 EXAMINER BROOKS: Mr. Baker is so qualified.

11 Q. (By Mr. Hall) If you would, Mr. Baker, give the  
12 Hearing Examiner a brief overview of the geology of the  
13 Morrow and Atoka formations in the area of the Application.

14 A. Okay, I'll have three exhibits today, Mr.  
15 Examiner, that I'll talk about the primary target in the  
16 specific area of the Lovington area.

17 The first exhibit that I'm going to be showing  
18 you today is Exhibit Number 6, and this is a structure map  
19 on the top of the Morrow limestone. This is a very well  
20 established regional marker in the area that pretty well is  
21 representative of the structure in which both Atoka and  
22 Morrow sands are pretty much laid down -- actually, the  
23 Atoka is laid down on top of the Morrow limestone. The  
24 Morrow sands are located directly beneath the top of the  
25 Morrow limestone, so this is a very good regional marker

1 for giving me an indication of the structural position of  
2 the proposed primary targets.

3 What this structure map shows right here is that  
4 our proposed location will be sitting on kind of a north-  
5 south-trending structural ridge that is bifurcated by a  
6 fault. If you will notice in this particular situation, it  
7 does appear like we're going to be on the downthrown side  
8 of this fault. That will be part of our risk assessment to  
9 talk about later, although the Atoka-Brunson in this area  
10 does produce on both sides of the fault. There's always a  
11 risk, as far as being on the downthrown side, of  
12 encountering wet sands. And so that will be part of the  
13 risk involved in the drilling of this well, is being in  
14 that downthrown structural position.

15 I have also indicated, kind of in a yellow shade  
16 right there, the proposed proration unit for the Huma Huma  
17 "34" Number 1. And just a little bit of, once again, humor  
18 here. As Mr. Owen said, Mr. Arrington generally likes to  
19 name his wells after flies, fishing flies.

20 EXAMINER BROOKS: Yes.

21 THE WITNESS: In this particular case here, this  
22 well was directly proposed in response to a Kukui well that  
23 I'm going to mention down in Section 6. And Kukui is a  
24 Hawaiian company.

25 And so in line with the Kukui well, Mr. Arrington

1 attempted to name this well the Humahumanukinukiopawaha,  
2 which is the state fish of Hawaii. For simplicity's sake  
3 to the OCD and us as well internally, we've shortened it to  
4 the Huma Huma.

5 EXAMINER BROOKS: Well, we appreciate it.

6 THE WITNESS: I couldn't spell Humahumanukinuki-  
7 opawaha.

8 EXAMINER BROOKS: Nor could I.

9 THE WITNESS: Anyway, also on this particular  
10 structure map I have highlighted Atoka-Brunson wells in an  
11 orange highlight, and then I have also highlighted in blue  
12 Morrow producers in the well -- or excuse me, in the area.

13 You'll also notice on here cross-section A-A',  
14 which is a three-well cross-section with our proposed  
15 location, which will be Exhibit Number 8 that I will  
16 discuss in just a little bit.

17 If you'll move to Exhibit Number 7, this is an  
18 isopach of our primary target, and this is the lower Atoka-  
19 Brunson sand. This is generally a lower Atoka sand.  
20 Brunson is a local name that was established out here,  
21 actually by Yates Petroleum when they drilled the well in  
22 1997. This particular sand just kind of got labeled as the  
23 Brunson sand, so that's a local terminology to most of the  
24 geologists who have worked this area.

25 This is a well-established sand in the area, and

1 to the south of here the wells can average as much as 5.5  
2 BCF and 120,000 barrels. So it's a very prolific sand.  
3 It's generally a north-south-trending channel system. It  
4 appears like there are multiple channel sequences in here.  
5 And really, this system is starting to be developed to the  
6 north. It's principally been developed to the south, and  
7 it was very key in Kukui's well being drilled and finding  
8 commercial sand as far north as they did, because at that  
9 time that was really pushing the northern limits of the  
10 production of the Brunson sand. And that got us real  
11 excited and the reason for our proposal of the Huma Huma.

12 This particular isopach is a net interval isopach  
13 centered around a 10-percent crossplot porosity. I have  
14 indicated, once again, the Atoka-Brunson producers on the  
15 map. Wells in most of the area, or right in this immediate  
16 area, are all relatively new wells.

17 I have attempted to put their relative cums, and  
18 this was through June of this year. Located beside each of  
19 the wells you'll see a little T/C there. That stands for  
20 total cumulative production. And then I put gas in red any  
21 oil or condensate production that has been reported in  
22 green.

23 I have also noted, wherever there's a producing  
24 well in the area, net and gross interval numbers. Net  
25 would be the top number, and then gross interval would be

1 the number located directly under it.

2 As you can see, our proposed location indicates  
3 that we're going to be trying to attempt to extend the  
4 Kukui sand to the north, and we anticipate encountering  
5 anywhere from 15 to 20 feet of net porosity sands, what  
6 we're hoping to encounter.

7 Q. (By Mr. Hall) Look at Exhibit 8, your cross-  
8 section.

9 A. Yes, sir, and you might want to lay this out in  
10 conjunction with the structure map and the isopach. This  
11 is a three-well cross-section at our proposed location,  
12 A-A', with A being located on the left side or the southern  
13 end of the maps.

14 The first well that we want to talk about here is  
15 the Nadel and Gussman well, the E.L. Harrod Number 1 well.  
16 This well was drilled back in August of 2001. As you can  
17 see, I have highlighted a couple of Morrow sands down in  
18 the Morrow, the top of the Austin, the top of the Morrow,  
19 and then the Brunson interval right there. As best I can  
20 tell, the Morrow sands were never tested.

21 And they completed the well in the Brunson  
22 interval for an IPF of 679 MCF a day, zero barrels of oil.  
23 It has cum'd currently about 150 million or .15 BCF, and  
24 producing at a rate of about 600 MCF a day.

25 Now, as you continue to move to the right, you

1 will see the key well that has helped us set up our well,  
2 and that's the Kukui Operating Degas "6" State Com Number 1  
3 well, and this well was actually drilled in mid-April to  
4 May of this particular year and was completed on 6-18 of  
5 2002.

6           Once again, you'll see several Morrow sands down  
7 in there that they elected not to test prior to coming up  
8 to the Brunson interval. They perforated the Brunson  
9 interval and have IP'd it as a natural completion, testing  
10 at a rate of a million a day and 20 barrels of oil with a  
11 flowing tubing pressure of 1800 pounds on a 15/64-inch  
12 choke.

13           At the time of putting this cross-section  
14 together, I believe this well is still currently shut in.  
15 My guess is they're waiting on a pipeline hookup, more than  
16 likely. But the fact that they extended this sand further  
17 north definitely indicates the productivity of this sand  
18 coming in that general direction.

19           Now then, after that you go to the David H.  
20 Arrington Oil and Gas, Inc., Huma Huma "34" Number 1 well.  
21 As you can see, I believe it is my impression that we're  
22 probably going to be in a downthrown position here. I hope  
23 to encounter multiple Morrow clastic sands, basically the  
24 same sort of sand systems that the Degas well encountered,  
25 and then hopefully encounter 15 to 20 feet of the Brunson

1 sand as well.

2 And then the last well on my cross-section is the  
3 Nearburg Producing Company Grasslands "27" Number 1 well,  
4 and this well was drilled in 1995 or 1996 as a Devonian  
5 test. It was dry in the Devonian. Basically, it was a dry  
6 hole in everything. But the key thing about this, you'll  
7 notice, is that it does appear like they encountered the  
8 Brunson sand on top of this structure.

9 Now then, the wellbore obviously was highly  
10 washed out. If you look at the electric log here, the  
11 caliper is going off scale, the logs are going off scale.  
12 So I did not get any net feet of pay here, because I  
13 couldn't reliably figure one. So I basically gave it a  
14 gross interval. But once again, what that does indicate,  
15 that the sand appears to be heading to the north.

16 Q. Mr. Baker, there is a geologic risk that the Huma  
17 Huma well won't be a commercially successful well, correct?

18 A. Yes, sir.

19 Q. And that's why you're requesting 200-percent risk  
20 penalty in this case?

21 A. Yes, sir. I mean, even though in the area the  
22 Brunson has produced both upthrown and downthrown, if you  
23 will look at the well -- I cannot remember the name of it;  
24 it's in the west half of Section 6 down there. On my  
25 isopach I have a well over there in the west half that has

1 a Brunson show around it. That particular well right there  
2 actually appears to have had a gas-water contact in the  
3 Brunson interval, indicating that as you move offstructure,  
4 this particular sand got wet.

5 So even though back to the east there I haven't  
6 seen any water on the downthrown side, there's always that  
7 element of risk, that as you move offstructure I can  
8 encounter a wet sand.

9 Once again, with any sand system there's always  
10 the risk that what I have tied in the Nearburg well to the  
11 north being the same sand system could be two separate  
12 stratigraphically equivalent sands, and I could drill in  
13 between and find no sand at all. I've done that many times  
14 in my career.

15 And then there's always the risk of having a  
16 tight sand.

17 So yes, sir, there's always a high risk. This  
18 could be a noncommercial producer or a dry hole.

19 Q. The fault you spoke about earlier shows up in the  
20 well log for the Kukui well, does it not?

21 A. Basically, it's hard to pick it exactly. There  
22 is some thinning section in there. It could be both where  
23 they're sitting on top of the structure or a fault pick,  
24 but it does appear like there's a thin section there, yes,  
25 sir.



1           Q.    So there is some chance that you may locate your  
2 well on the wrong side of the fault?

3           A.    Yes, sir, it's going to be very close.

4           Q.    If you would provide the Hearing Examiner with an  
5 overview of Arrington's operations in the vicinity of this  
6 well, please, sir.

7           A.    Well, David H. Arrington Oil and Gas, Inc., we've  
8 basically been involved in this area since 1998, and we  
9 have principally been targeting the Strawn, this lower  
10 Atoka-Brunson interval and the Morrow clastic system for  
11 the last three and a half to four years. And as of  
12 January, February of this year, we had drilled between 25  
13 to 27 wells in this immediate area, targeting anywhere from  
14 the Strawn all the way through the Morrow intervals.

15                Mr. Owen alluded to Mr. Diffie, when was the last  
16 time we drilled a well in here? And that was just last  
17 month. Last month we just got through drilling our Double  
18 Hackle Peacock, which -- and by the way, that is a fly name  
19 -- in Section 36 of 16-36, which was targeted as an Atoka-  
20 Morrow test. We're currently in the completion stages of  
21 that well right now. So we are prepping to ramp up. We  
22 have two wells proposed in October to spud in this  
23 immediate area. One is a 14,000-foot, one is a 13,000-  
24 foot, both targeted to the Morrow.

25                So it is through the drilling of these 25 to 27

1 wells, which we also have participated with Yates Petroleum  
2 in a number of wells in this area, Ocean Energy in this  
3 area. We just got through participating with Chesapeake in  
4 a 14,000-foot well. As a matter of fact, we just ran pipe  
5 on it two days ago in this area.

6 And through the participation as well as our  
7 drilling, we feel like we have a pretty good handle on  
8 drilling in this area for the Atoka-Morrow, yes, sir.

9 Q. Let's look at Exhibit 5 again, the AFE.

10 A. Yes, sir.

11 Q. If you would discuss the well costs for the  
12 Examiner.

13 A. Okay, this AFE was prepared by our drilling  
14 manager, Mr. Chuck Sledge. And basically, it's a standard  
15 drilling AFE for an Atoka-Morrow well in here.

16 There's nothing unusual in this particular AFE.  
17 It is a vertical wellbore, basically standard day rates,  
18 standard casing design programs, pretty much a standard mud  
19 program.

20 We have learned that once you get down in the  
21 Morrow, you do need to mud up a little bit in case you have  
22 -- these Morrow sands can have 6000 pounds bottomhole  
23 pressure. You have to be aware of those kinds of things.  
24 But for the most part the mud system is relatively  
25 standard.

1           One of the key things in here that is added that  
2           probably a lot of early AFEs and companies did not add at  
3           that time is frac stimulation. We have learned in this  
4           particular area here that most of these wells require a  
5           fracture stimulation, where in the early days it was kind  
6           of a rule of thumb nobody ever frac'd a Morrow well for  
7           fear of the clays, the kaolinites, the water sensitivities  
8           and stuff.

9           It does appear like this area over here does not  
10          have those clay problems, and consequently there's a lot of  
11          Morrow wells over here that were never frac'd. And they  
12          had been starting to be frac'd in the last four or five  
13          years and had helped make them much more commercial wells.

14          It's basically a standard AFE.

15          Q.    What's your dryhole cost there?

16          A.    Dryhole cost is \$995,201.

17          Q.    And the cost for a completed well?

18          A.    \$1,524,901.

19          Q.    As you said, that includes a substantial sum of  
20          money for the fracture completion?

21          A.    Yes, sir, about \$100,000.

22          Q.    In your capacity as exploration manager for  
23          Arrington, you're familiar with the charges assessed by  
24          Arrington and other operators for similar Atoka-Morrow  
25          wells in the area?

1 A. Yes, sir. Yes, sir.

2 Q. And are the costs reflected on Exhibit 5 in line  
3 with what's being charged by other operators?

4 A. Yes, sir, they are.

5 Q. Now, have you made an estimate of the overhead  
6 and administrative costs while drilling and producing this  
7 well?

8 A. Yes, sir, and that appears to be \$6000 a month  
9 drilling overhead and \$600 a month for producing overhead.

10 Q. And those costs, are they also in line with  
11 what's being charged in the area?

12 A. Yes, sir, they are.

13 Q. And are you recommending that those costs be  
14 incorporated into any order that results from this hearing?

15 A. Yes, sir, I am, sir.

16 Q. And does Arrington request that the order provide  
17 for an adjustment of the drilling and producing overhead  
18 rates in accordance with the current COPAS bulletin for the  
19 area?

20 A. Yes, sir, we do.

21 Q. I want to address Arrington's diligence in  
22 developing this prospect, Mr. Baker. Could you explain,  
23 recount for the Examiner, Arrington's efforts to acquire  
24 and develop this acreage?

25 A. Yes, sir, I will. Let me find that, see if I've

1 got that chronology right here.

2 We first began acquiring -- Well, like I say, we  
3 have been working this area since 1998. We first acquired  
4 interest in this area in January of 2001, per a working  
5 interest agreement with Devon Oil Company out of Oklahoma  
6 City, and we were actively pursuing open acreage in this  
7 area for multiple prospects.

8 We later in that year, on March 1st, acquired a  
9 term assignment from Hunt Oil in these specific prospects,  
10 as well as some other lands in here. Basically, at that  
11 particular time we had a number of potential prospects  
12 going, but there was a lot of activity in the area. And we  
13 chose to watch activity, continued to gain interest. And  
14 we have a number of wells that were higher up on the  
15 drilling list that were located a little bit further east,  
16 that were in the middle of a drilling program there.

17 So it wasn't until actually April 18th of this  
18 year that I actually proposed -- or, I say "proposed" -- I  
19 staked the first well here in Section 34. And that was  
20 just as I was going through my procedures of staking a  
21 well. I knew that Kukui had staked their well in Section  
22 6. I knew about the Nadel and Gussman well, which was  
23 drilled last August, which was an Atoka-Brunson well, and  
24 that was helping establish my trend.

25 And so I basically felt like I kind of knew where

1 I thought the sand was headed. So I went ahead and started  
2 doing my prep work by getting the original location staked.

3 It was in June that we actually got the  
4 information on the Kukui well, got an opportunity to see  
5 the logs and well test data and stuff that did indicate  
6 that the sands were headed in that direction.

7 And because of that, I had to monitor and move my  
8 location just a little bit, so we restaked the well. And I  
9 believe we restaked that June 21st, I believe, is when we  
10 actually restaked the well on there. And it was at that  
11 time that we decided it was time to propose a well and send  
12 it out to the other working parties in this particular unit  
13 right here.

14 I actually prepared the original well proposal  
15 letter on June 18th, and --

16 Q. That's Exhibit 3?

17 A. Exhibit Number 3. And basically, I prepared a  
18 block form letter and gave it to our administrative  
19 secretary to send out to all parties that were in the  
20 working interest -- using the same block form.

21 She sent them to all the right people, but  
22 unfortunately she made that typo which was in, I think, the  
23 second paragraph in there. We noticed that two days after  
24 the well proposal had been sent out. We corrected that so  
25 that there would be no misunderstanding with any of the

1 working interest parties as to what we meant, you know,  
2 when we addressed them, that we wanted to let each one of  
3 them know that we were trying to work with them.

4 So we made the second proposal on June 27th --

5 Q. That's Exhibit 4?

6 A. Yes, sir, Exhibit 4.

7 Up until -- Well, at that particular time we had  
8 really no immediate response. I should say that on July  
9 the 23rd, Davoil contacted us and asked for a joint  
10 operating agreement, please be sent to them. I believe it  
11 was on July the 25th that Dale Douglas, who is another in-  
12 house consulting landman for us, sent that joint operating  
13 agreement to Davoil.

14 This is a federal tract in here, so we did begin  
15 the arch. studies, and we started that in late July and  
16 filed the APDs and stuff to the BLM for approval of APDs on  
17 August 2nd, this year.

18 And then in mid-August of this year we had still  
19 not received any additional contact from anyone other than  
20 Davoil at that time, so we went ahead and moved forward  
21 with a pooling agreement, because we would like to drill  
22 this well as soon as possible.

23 Q. When you say you moved ahead with a pooling  
24 agreement, do you mean to say you moved forward with the  
25 compulsory pooling Application?

1           A.    Application, yes, sir. We basically contacted  
2   Counsel and filed for Application.

3                In reference to a comment that Mr. Owen has made  
4   with the Tom Brown matter, in that Tom Brown letter, and  
5   this is something that Mr. Diffie, because of -- he was not  
6   aware of, is that the date that that letter was signed  
7   right there, I presented this -- basically this geology  
8   right here to Dave Thomas with Tom Brown. So yes, they  
9   have seen this information.

10               Under that letter there it says that they  
11   basically had ten days in which to respond. Because of the  
12   Labor Day weekend, they called us last week and asked if  
13   they could have an extension until sometime this week to  
14   get us an answer, and we graciously said sure, that's not a  
15   problem, because we felt like we already have an agreement  
16   with them. They did mention that they were leaning towards  
17   not participating. But Mr. Owen, that is not signed yet.  
18   But they did lean towards not participating in the deal.

19               To make a slight correction, Tuesday I received a  
20   very brief phone call from Mr. Headington at Great Western  
21   stating that I should be receiving a phone call from Randy  
22   Patterson with Yates Petroleum to talk about this proposal  
23   and that they actually supported Yates Petroleum in the  
24   operation of this well at that time.

25               And I said okay, I had not heard from Randy at



1     that time.

2             And later that afternoon, I did receive a phone  
3     call from Randy Patterson with Yates Petroleum. Randy did  
4     propose a voluntary agreement between Arrington and Yates  
5     Pet., basically designating Yates Petroleum as operator of  
6     the well, to be drilled on or before February 1st, 2003.  
7     If they did not drill or commence drilling by February 1st,  
8     2003, they would turn operations to Arrington.

9             I told Mr. Patterson that obviously Mr. Arrington  
10    would like to operate the well. We felt like we were the  
11    single largest interest owner in the well, with a  
12    commitment one way or another of 32 percent. We had  
13    proposed the well first, we had submitted an AFE, we had  
14    proposed the well on us. Okay? We felt we were very  
15    diligent in moving forward with this, and we would like to  
16    drill it fourth quarter, is what we would like to drill.  
17    But I would take the proposal to Mr. Arrington.

18            I subsequently took the proposal to Mr.  
19    Arrington. And basically he said, you know, I feel like  
20    I'm the largest single interest in here. We proposed the  
21    well first, I'd like to drill it in the fourth quarter.  
22    Therefore, that proposal is off the table. And it was at  
23    that time that we moved forward.

24            Q.    So the only communication you had from Yates was  
25    verbal communication this week, correct?

1           A.    I will tell you this much, back up just a little  
2   bit.   I ran into Frank Scheubel, which is a geophysicist  
3   with Yates Petroleum, at the Permian Basin Landmans  
4   Association skeet shoot in August, and Mr. Scheubel did  
5   indicate to me at that time that they were going to  
6   participate in the drilling of the well.   But that was all  
7   that was talked about.

8           So Yates at that time indicated that they had not  
9   problem with the location, they were going to participate.

10          Q.    By the way, the location is on Arrington acreage;  
11   is that correct?

12          A.    Yes, sir.

13          Q.    But you foresee no written proposal, AFE or  
14   anything, from Yates?

15          A.    No, sir, we have not received any type of written  
16   well proposal, AFE, any type of counter-location or well  
17   proposal, as of yesterday afternoon at four o'clock.

18          Q.    In your opinion, Mr. Baker, has Arrington acted  
19   with diligence in the development of this acreage and the  
20   promotion of this well proposal?

21          A.    Yes, sir, we feel we have.

22          Q.    What's the status of your APD with the BLM, if  
23   you know?

24          A.    I had our operations geologist, Mr. Danny  
25   Ledford, contact the BLM yesterday, and basically that is

1 in the process of being approved right now.

2 As best I know, Mr. Owens, there has been no  
3 archaeological problems, that we know of, and the BLM said  
4 they are trying to expedite the thing this week because  
5 they're going to be gone next week, but they foresee no  
6 problems. They were going to try to get it approved by the  
7 end of this week.

8 Q. Now, to your knowledge, are you aware whether  
9 Great Western or any of the Yates Companies have submitted  
10 an APD to the BLM or C-101, C-102s to the OCD for their  
11 supposed proposal?

12 A. Not that I'm aware of, no, sir. Not that I'm  
13 aware of.

14 Q. All right, Mr. Baker, in your opinion will  
15 granting Arrington's Application be in the interests of  
16 conservation, the prevention of waste --

17 A. Yes.

18 Q. -- and protection of correlative rights?

19 A. Yes, sir, I believe so.

20 Q. Mr. Examiner -- Let me ask you one further  
21 question, Mr. Baker.

22 Were Exhibits 6 through 8 prepared by you or at  
23 your direction?

24 A. Yes, sir, they were.

25 MR. HALL: And if you'll refer to Exhibit 9, Mr.

1 Examiner, that's our notice affidavit giving notice of this  
2 hearing to the interest owners. We move the admission of  
3 Exhibits 6 through 9 at this time.

4 EXAMINER BROOKS: Exhibits 6 through 9 are  
5 admitted.

6 MR. HALL: And that concludes our direct --

7 EXAMINER BROOKS: I'm sorry, I didn't ask if  
8 there are any objections to the exhibits.

9 MR. OWEN: No objection.

10 MR. FELDEWERT: No, Mr. Examiner.

11 EXAMINER BROOKS: Exhibits 6 through 9 are  
12 admitted.

13 Mr. Owen?

14 CROSS-EXAMINATION

15 BY MR. OWEN:

16 Q. Mr. Baker, have you been conducting the  
17 negotiations with other interest owners personally?

18 A. Outside of Yates Petroleum and that one short  
19 conversation with Great Western, no, sir, I have not.

20 Q. But has anybody else with Arrington conducted any  
21 other negotiations with other interest owners?

22 A. Dale Douglas was involved with Kirk McDonald of  
23 TMBR/Sharp -- or, excuse me, Tom Brown.

24 Q. Okay --

25 A. And then he also sent the correspondence to Ken

1 Smith with Davoil, and that's all.

2 Q. Okay, have you heard anything else from Davoil?

3 A. No, sir, we have not.

4 Q. Do you know Davoil's relationship to Great  
5 Western Drilling is?

6 A. Generally, it's almost like a brother-in-law  
7 relationship with Great Western. I believe they have  
8 pretty much been involved with Great Western forever, that  
9 I know of, and they pretty well depend on Great Western's  
10 geological and engineering testimony and generally follow  
11 suit with whatever Great Western does.

12 Q. Okay. Is Arrington willing to negotiate with the  
13 other interest owners, including Great Western?

14 A. I think we're always open to negotiations.

15 Q. Okay. You indicated that the proposal from Yates  
16 in which Yates would operate the well, unless it did not  
17 drill by February 1st, was off the table at this point; is  
18 that right?

19 A. Yes, sir. And the reason for that was, Yates  
20 Petroleum at this particular time only has 17 percent of  
21 the interest in the well, and we felt like, well, we're the  
22 largest interest owner, so we have that rights to the Yates  
23 Pet. And we would also like to drill it in the fourth  
24 quarter. The would really like to drill it in 2003.

25 Q. All right. You indicated that the APD for this

1 well was in process and you expected approval this week?

2 A. Yes, sir, I do.

3 Q. Have you received any indication from the BLM  
4 that they're going to make any changes to the location  
5 proposed by --

6 A. No, sir, that has not been indicated.

7 Q. Have there been any problems indicated by the BLM  
8 with this proposal?

9 A. Not that I'm aware of, no, sir.

10 Q. And you drilled three wells in the last -- Well,  
11 you drilled one well a month ago and two wells proposed to  
12 drill in October; is that right?

13 A. Yes, sir.

14 Q. Are those also on federal land?

15 A. No, sir, they're not.

16 Q. They're not on federal land?

17 A. No, sir.

18 Q. None of them are?

19 A. No, sir.

20 MR. OWEN: Okay. That's all I have.

21 EXAMINER BROOKS: Mr. Feldewert?

22 CROSS-EXAMINATION

23 BY MR. FELDEWERT:

24 Q. Mr. Baker, I know the parties have not had much  
25 time to talk about this operator issue, so I want to find

1 out a few things that I hope might speed things along.

2 Can you tell me what makes up your 32-percent  
3 interest that you show in your Exhibit Number 2?

4 A. That's probably better addressed by Mr. Diffie,  
5 but if Counsel doesn't mind I can make an effort at it.

6 Q. Okay.

7 A. Basically, Mr. Arrington had an original interest  
8 in here through Hunt, which was approximately 21-point-  
9 something-percent interest.

10 Q. Now, that is the term assignment that's going to  
11 expire on March 1st, 2003; is that right?

12 A. Yes, sir.

13 Q. Okay, so that's 21 percent.

14 A. And then we also, per our Devon agreement, earned  
15 their interest in here, which was an additional 3-point-  
16 something percent, which knocked us up to 24.87 percent.

17 Q. What's the nature of your agreement with Devon?

18 A. We have an agreement that covers a large area in  
19 here, an AMI area in here, which is basically a  
20 participation agreement that we established January 1st of  
21 2001, approximately January 1st of 2001, where either of us  
22 could propose wells in here and the other one had the  
23 opportunity to participate in the deal or fall under the  
24 terms that were set out in the agreement, basically.

25 Q. Has Devon committed to participating in this --

1           A.   No, sir, they haven't, they're going to pass.  So  
2 we got their interest.

3           Q.   You have their interest under the AMI --

4           A.   Yes, sir.

5           Q.   Okay, and then what makes up the remaining -- The  
6 remaining 7 percent, is that the Tom Brown --

7           A.   Yes, sir, that is the Tom Brown interest.  That  
8 would be 7.1 percent.

9           Q.   As we've already talked about?

10          A.   Yes, sir, we've already talked about that.

11          Q.   Okay.  Now, did Mr. Arrington instruct yourself  
12 or Mr. Diffie or anybody else to discuss your proposal with  
13 any of the working interest owners that are shown on  
14 Exhibit Number 2 prior to filing your pooling Application?

15          A.   No, sir.

16          Q.   Did he instruct you to attempt to negotiate an  
17 agreement with any of the interest owners shown here on  
18 Exhibit Number 2 after filing your pooling application?

19          A.   No, sir.

20          Q.   You are aware, Mr. Baker, are you not, that these  
21 other working interest owners would be willing to  
22 participate in this project if Great Western was drilling  
23 this well?

24          A.   Yes, sir, that's what I've been told.

25          Q.   Okay.  And their interests here comprise -- If



1 you total it up, it would be what? Seventy -- or 68  
2 percent? Because you all represent 32.

3 A. Yes, sir.

4 Q. If my math is right, that would be 68 percent?

5 A. Approximately.

6 Q. So am I correct, 68 percent of the working  
7 interest owners would participate in this project if Great  
8 Western was the operator?

9 A. So I've been told.

10 Q. And if you add Hunt Oil to that, that would take  
11 it up to 75 percent, would it not?

12 A. Hunt Oil --

13 Q. I'm sorry, Tom Brown's 7 percent. Because Tom  
14 Brown really doesn't care one way or the other, does he?

15 A. I believe Tom Brown has represented that they  
16 would support our position.

17 Q. Okay, and do you know if they would oppose the  
18 well if Great Western was the operator?

19 A. We have not specifically asked them that  
20 question, so I can't answer it.

21 Q. Are you aware of any other working interest owner  
22 in this property who is opposing Great Western as the  
23 operator, other than Arrington?

24 A. No, sir.

25 Q. And if you could work out a deal with Great

1 Western and get this -- that would accommodate your lease-  
2 expiration concern, we wouldn't need a pooling order, would  
3 we?

4 A. Not if the rest of the parties agree to  
5 participate in the well, I guess not.

6 Q. I mean, is there any party on this list that you  
7 haven't been able to contact?

8 A. No, sir.

9 Q. Is there any party on this list that's not  
10 represented here today?

11 A. I don't believe so.

12 Q. Okay. Have you attempted to reach an agreement  
13 with any of these working interest owners that would  
14 accommodate you lease-expiration concern?

15 A. The only one that we've seriously talked to was  
16 Yates Petroleum, in our conversation with Randy.

17 Q. Okay, and their proposal was to -- everybody  
18 enter in an operating agreement, dispense with the need for  
19 any kind of a pooling order, and if they don't drill a well  
20 by February 1st, you would have the operations; isn't that  
21 right?

22 A. Correct.

23 Q. Okay. How long did it take you to get your APD  
24 with the BLM?

25 A. Well, we haven't received it yet, but we've been

1 in that process for over a month.

2 Q. Okay. Have you talked to Yates about changing  
3 that arrangement that they propose, that would alleviate  
4 your concerns about your lease expiration?

5 A. No, sir, we have not had any further discussion.

6 Q. Are you willing to continue to try to negotiate a  
7 deal with these other working interest owners that would  
8 avoid the need for the Division entering a pooling order?

9 A. I think as long as Mr. Arrington appears to have  
10 the single largest interest, that we're probably going to  
11 stand on our position that we have the largest interest and  
12 that -- we contend that we would be in a better position to  
13 operate this well than Great Western.

14 Yates Petroleum is an experienced operator in the  
15 well, and they've operated a lot of wells. Great Western  
16 has not.

17 Q. So your position here today, that because you  
18 have a 21-percent term assignment with Hunt Oil, that you  
19 have an agreement with Devon under which you acquired your  
20 3 percent, and because you have some kind of arrangement  
21 with Tom Brown where you think you're going to get 7  
22 percent, that you should be the operator, and there's no  
23 way that you're going to recede from that position in order  
24 to avoid the necessity of a pooling order?

25 A. Well, I guess we can look at it -- right now we

1 feel -- we definitely have 24.87 confirmed. Nobody else in  
2 here has that large a single interest. And the Tom Brown  
3 is certainly up in the air until they sign, yes, sir.

4 MR. FELDEWERT: Okay, that's all I have. Thank  
5 you.

6 MR. OWEN: I have a brief follow-up.

7 EXAMINER BROOKS: Okay.

8 FURTHER EXAMINATION

9 BY MR. OWEN:

10 Q. Do you know how many wells Great Western has in  
11 the area?

12 A. How many wells, or how many they've drilled  
13 recently?

14 Q. How many wells they have in the area.

15 A. No, sir, I do not.

16 Q. Looking at Exhibit Number 1, does it appear that  
17 there is a Great Western well within your yellow-shaded  
18 area?

19 A. In the yellow-shaded area, a well?

20 Q. Whether active or not.

21 A. There's not one in the yellow-shaded area.

22 Q. There's a notation that indicates Great Western  
23 Davoil. Is that the --

24 A. That's their interest --

25 Q. -- interest --

1           A.    -- that's their interest, yes, Mr. Owen, yes,  
2    sir.

3           Q.    All right.  Do you see any other wells that Great  
4    Western operates in the area?

5           A.    I'll tell you, to the south of there they drilled  
6    some wells in 1970 and 1971, yes, sir.

7           Q.    Okay.  Do you know what their relationship is  
8    with any of the other interest owners in this particular  
9    well?

10          A.    No, sir.

11          Q.    Arrington's position on not wanting to enter into  
12    a joint operating agreement is premised upon Arrington's  
13    having the largest single interest ownership in these  
14    minerals; is that right?

15          A.    Partially, yes, sir.

16          Q.    And also upon Arrington's experience in the --

17          A.    Yes, sir.

18          Q.    -- area, right?

19          A.    Yes, sir.

20          Q.    Yates is a very experienced operator in the --

21          A.    Yes, sir --

22          Q.    -- area, is it not?

23          A.    -- they are.

24          Q.    If the other parties, all the other parties, as  
25    Mr. Feldewert indicated, agreed upon another operator, such

1 as Great Western, Arrington would no longer represent the  
2 single greatest ownership in this well; is that right?

3 A. Unless Yates Petroleum acquired farmouts or term  
4 assignments. Just comprising a bunch of interests does not  
5 make them the largest interest owner. If they were to get  
6 farmouts or term assignments, then their interest could be  
7 increased, yes, sir.

8 Q. If Yates of Great Western obtains commitments to  
9 join a well proposal advanced by either of them, they would  
10 represent the interests of the other interest owners in any  
11 hearing before the Division; is that right?

12 A. Through participation, yes, sir.

13 Q. Okay. And except for -- If that happened,  
14 Arrington would be the nonconsenting party at that point,  
15 right?

16 MR. HALL: Mr. Examiner, may I make an objection  
17 based on the speculative nature of the questions?

18 EXAMINER BROOKS: I think they're argumentative.  
19 I'll sustain the objection to this question.

20 MR. OWEN: All right, no further questions.

21 EXAMINER BROOKS: Redirect, Mr. Hall?

22 REDIRECT EXAMINATION

23 BY MR. HALL:

24 Q. Briefly, Mr. Baker, does Arrington have more  
25 recent experience than Great Western in the area of

1 drilling Atoka-Morrow-Brunson wells?

2 A. Yes, sir, I believe we do.

3 Q. Are you familiar with how many wells that Great  
4 Western has actually drilled in this area, or anywhere in  
5 southeast New Mexico recently?

6 A. Well, obviously I don't monitor their day-to-day  
7 operations, but I'm pretty sure they haven't drilled  
8 anything in this immediate area in a long time.

9 Q. And as far as we're concerned, Mr. Baker, isn't  
10 it accurate to say that the Great Western and Yates well  
11 proposals for this acreage are only speculative at this  
12 point in time?

13 A. Yes, sir.

14 Q. I show you what's been marked as Exhibit Number  
15 10. Would you identify that, please, sir?

16 A. This is a letter from Dale Douglas to myself  
17 concerning the Huma Huma "34" Number 1, and Dale sent me  
18 this letter because part of that interest is still under  
19 Dale Douglas in the title opinion here. But this basically  
20 states that he had only received two responses to our well  
21 proposal, one of them being from Ken Smith with Davoil on  
22 July the 23rd, and then the other one, the agreement letter  
23 with Tom Brown, Inc., regarding the proposed well.

24 Q. All right, for the record let's establish who  
25 Dale Douglas is.

1           A.   Dale Douglas is a contract landman who has done  
2 work for Mr. Arrington for nine, ten years, for the most  
3 part, yes, sir. He does most of our work. Mr. Diffie does  
4 the other part of it.

5           Q.   All right. The date of this letter is September  
6 4th, 2002, correct?

7           A.   Yes, sir.

8           Q.   And so this is current information with respect  
9 to the status of Davoil's participation in the well  
10 proposal, correct?

11          A.   Yes, sir.

12          Q.   Or I should say lack of participation.

13          A.   Yes, sir, uh-huh.

14          Q.   Has -- You need to indicate yes for the record.

15          A.   Yes, sorry.

16          Q.   The letter indicates that as of yesterday, five  
17 o'clock, that Davoil had simply requested a JOA --

18          A.   Yes.

19          Q.   -- and that was provided to Davoil --

20          A.   Yes, sir.

21          Q.   -- that Davoil has had no other follow-up --

22          A.   No.

23          Q.   -- conversation with Mr. Douglas about the well?

24          A.   No, sir, not that we know of.

25          Q.   And it also represents that Tom Brown's interest



1 is committed to the well, does it not?

2 A. Yes, sir.

3 Q. Mr. Baker, after the Division issues an order  
4 pooling these lands pursuant to Arrington's Application in  
5 this case, is Arrington willing to enter into further  
6 negotiations with Yates, Davoil and Great Western for their  
7 participation?

8 A. Yes, sir.

9 MR. HALL: Nothing further, Mr. Examiner.  
10 We move the admission of Exhibit Number 10.

11 EXAMINER BROOKS: Any objection?

12 MR. OWEN: No objection.

13 EXAMINER BROOKS: Mr. Feldewert?

14 MR. FELDEWERT: No, Mr. Examiner.

15 EXAMINER BROOKS: Exhibit 10 is admitted.

16 Anything further from counsel?

17 MR. OWEN: Not with this witness.

18 EXAMINER BROOKS: Mr. Feldewert?

19 MR. FELDEWERT: No, Mr. Examiner.

20 EXAMINER BROOKS: Very good. I don't believe I  
21 have any questions.

22 Mr. Catanach?

23 EXAMINATION

24 BY EXAMINER CATANACH:

25 Q. Just a couple. Mr. Baker, with regards to the

1 completion of the well, are you guys proposing to complete  
2 in the Atoka first? Is that its primary target?

3 A. Mr. Catanach, that's a very good question. We  
4 have had some recent experience with the Morrow, that if  
5 that Morrow develops quite nicely like the -- as you can  
6 see, the Kukui well right there had a pretty nice middle  
7 sand there. Those wells can be 3-BCF wells with proper  
8 frac stimulation.

9 If we feel like we're in a noncompetitive  
10 situation, i.e., we're downthrown, so we're not being  
11 drained necessarily by the Kukui well or any other well,  
12 then we would probably start at the bottom and come up.

13 If we -- obviously, for some reason, that fault  
14 moves and we're in a competitive situation, yes, sir, we  
15 would move to the Brunson sand first.

16 Q. At this point you're not planning on any kind of  
17 dual completion in those zones?

18 A. No, sir, we haven't had a whole lot of luck with  
19 duals.

20 Q. Okay. With regards to some uphole potential, do  
21 you see any in this area?

22 A. Well, sir, there's an awful lot of Wolfcamp  
23 strand lines coming through this area as well as some  
24 sporadic Strawn. The Strawn is generally located more to  
25 the south and southeast, but the Wolfcamp, there is a 50-50

1 shot you might stumble into one of these little strand  
2 lines that sits back here behind the Townsend-Kemnitz reef  
3 system.

4 So yes, sir, we could have some Wolfcamp  
5 potential.

6 Q. Okay. With regards to the 80-acre unit that  
7 you're proposing, I'm not sure -- You've got listed the  
8 North Edison-Strawn Pool. Apparently that is on 80 acres.  
9 I don't know what the setback requirements are for that  
10 pool, but it's possible that may be an unorthodox location  
11 for that 80-acre pool, and I just wanted to say that for  
12 the record. We might have to look that up.

13 So if you were to complete in an 80-acre pool,  
14 you might have to get a subsequent unorthodox location.

15 A. Okay.

16 EXAMINER CATANACH: That's all I have.

17 MR. JONES: I have a couple questions.

18 EXAMINATION

19 BY MR. JONES:

20 Q. Mr. Baker, this Brunson-Atoka washed out in the  
21 Nearburg well?

22 A. Yes, sir.

23 Q. Why do you think it washed out, and what would  
24 you do different to keep it from washing out in your well?

25 A. Well, basically, one of the things that we have

1 determined about the Atoka out here is, when you're  
2 drilling through this shale package out here, you need to  
3 have your water loss very low, because these shales are  
4 swelling shales in here.

5 We've also learned that that's an area you  
6 generally don't want to drill stem test, because the  
7 pressure release after a drill stem test will crush these  
8 shales, and basically you'll fight shale heavings the rest  
9 of the way down. So you can stand to lose a wellbore in  
10 this lower Atoka shale position here.

11 So more than likely -- and I have not seen the  
12 drilling records, I was not -- we didn't participate in  
13 this Nearburg well -- they were targeting the Devonian.  
14 More than likely, they were going through here with a cut  
15 brine, so the water loss was probably 15, 20, 25. Those  
16 shales probably took water and just started heaving.

17 And so when that happens, your wellbore is way  
18 washed out. You know as well as I do, those curves go off-  
19 scale, and they're just not very reliable for predicting  
20 net pay.

21 Q. So is there any disagreement about the depth of  
22 the well that you would drill, or is this --

23 A. I have not heard anything specifically. I mean,  
24 the comments that have been made to me were simply by Yates  
25 Pet.'s Mr. Scheubel, and he hasn't indicated anything

1 different about well depth or well location or anything  
2 like that. I'm assuming we're all in agreement as far as  
3 the location goes.

4 Q. Okay. Do most of your agreements have a casing  
5 point election? In other words, would the participating  
6 people, participating in the drilling, have an opportunity  
7 to make an election at the casing point?

8 A. Yes, sir. I mean, there's always a casing point  
9 election letter sent out at the time of TD, total depth.  
10 And then once the logs are run, you -- under most joint  
11 operating agreements there's usually a -- 48-hour clock? --  
12 that gives other working interest operators an opportunity  
13 to participate in the completion of the well or not.

14 Q. Okay. And as far as getting gas in the pipeline  
15 quickly, how soon do you normally hook up your wells in  
16 this area?

17 A. ASAP, as fast as possible. With the Kukui well  
18 being drilled, we have our own pipeline system out here in  
19 this immediate area, and that's Bluebird Pipeline, and we  
20 do an awful lot of work with Dynergy. We have done some  
21 work with Agave as well. We have a pipeline man.

22 So as we are drilling the well, if we drill stem  
23 test or test a zone that looks commercial, our pipeline  
24 guys are already moving on it. And with the Kukui well we  
25 can't be very far from a pipeline. I have personally not

1 researched exactly how far that is, but it can't be more  
2 than half or three-quarters of a mile.

3 Q. Okay. And I guess you -- Are you the one who  
4 names the prospects, and Mr. Arrington names the wells?

5 A. Yes, sir, I get to name prospects and I get to  
6 name new field discoveries, and he names the wells.

7 Q. Okay.

8 A. Yes, sir.

9 MR. JONES: That's all my questions.

10 EXAMINER BROOKS: Anything further from anyone?

11 Very good, the witness may step down.

12 MR. HALL: Nothing further, Mr. Examiner.

13 We would renew our motion to dismiss. We'll be  
14 glad to follow up with a written motion if you prefer.

15 EXAMINER BROOKS: Okay, anything further from  
16 other counsel?

17 MR. OWEN: Nothing further on the merits of this  
18 particular case at this time, Mr. Examiner.

19 However, I would note that the motion to dismiss  
20 is not appropriate at this time. The application is not  
21 actually before the Division at this time. It's been set  
22 presumably for the October 10th hearing. That's when we  
23 requested that it be set for when it was filed this  
24 morning. And the motion to dismiss would presumably be  
25 appropriate at that time.

1           However, the issue is not ripe at this time, and  
2           we would request that the oral motion to dismiss, be  
3           denied.

4           EXAMINER BROOKS: Mr. Feldewert, anything?

5           MR. FELDEWERT: Mr. Examiner, I've kind of been  
6           sitting here and jotting some notes down, trying to piece  
7           through all of this argument about procedure and about who  
8           went first and who owns the interest, et cetera. I mean,  
9           what I'm hearing here today is that Arrington wants to  
10          drill in the last quarter of this year. They're concerned  
11          about a deal that's going to expire with Hunt Oil, which is  
12          not going to expire until March of 2003, which is five  
13          months away.

14          They've come quickly here, they've asked the  
15          Division to enter a pooling order without any real  
16          negotiation over the operating issue that exists between  
17          the parties. And in my experience, it seems to me that  
18          parties ought to be asking for a pooling order as a last  
19          resort, after they have entered into good-faith negotiation  
20          over the issue between them.

21          They have asked you to pool a number of parties  
22          here today without really entering into any kind of serious  
23          negotiation over how we can accommodate everybody's needs.  
24          And I am convinced that if the parties here would agree to  
25          sit down and negotiate on this issue, that there would be

1 no need for a pooling order.

2 Great Western is going to come here on October  
3 10th, and they're going to have a joint operating agreement  
4 that's going to be approved by 75 percent of the working  
5 interest owners out there. Arrington is the only one that  
6 is going to be opposed to that operating agreement, because  
7 they want operations, because they think they've got the  
8 biggest interest out there and they want to control it.

9 Now, I would suggest that if we got 75 percent of  
10 the working interest owners already agreeing to who was  
11 going to operate the well, already agreed to a well,  
12 already agreed to a location, already agreed to the costs,  
13 that if the Division would wait till October the 10th on  
14 this matter, there is a very good chance that we're going  
15 to have an agreement, and there's going to be no need for  
16 this Division to enter a pooling order, there's going to be  
17 no need for the Division to deal with risk penalties and  
18 everything else that comes up with a pooling order.

19 I don't see any prejudice to Mr. Arrington if we  
20 wait until October the 10th. Let's see if we can get an  
21 agreement and avoid the need for the Division's order in  
22 this case.

23 EXAMINER BROOKS: Thank you. Anything further,  
24 Mr. Hall?

25 MR. HALL: My only response to those comments are



1 that the positions of Great Western and of the Yates  
2 Companies, that they are based solely on speculation at  
3 this time. That's all I have to say about that.

4 EXAMINER BROOKS: Okay.

5 (Off the record)

6 EXAMINER BROOKS: I will overrule the motion to  
7 dismiss.

8 However, I would admonish that we will re-  
9 entertain it if there has not been a well proposal  
10 submitted prior to the hearing on October the 10th.

11 And at this time I will continue Case Number  
12 12,922 till the October 10th Examiner Hearing in order to  
13 give an opportunity for it to be considered in conjunction  
14 with any proposal by Great Western in the interim.

15 MR. HALL: Let me make sure I understand what  
16 we're doing here. Are you contemplating any further direct  
17 testimony on Arrington's Application on October 10th?

18 EXAMINER BROOKS: I wouldn't think it would be  
19 necessary. It seems to me it's been fully presented, but  
20 of course you will have the opportunity if you choose to  
21 present any additional testimony.

22 MR. HALL: The cases are not being  
23 consolidated --

24 EXAMINER BROOKS: No.

25 MR. HALL: -- as I understand it?

1 EXAMINER BROOKS: No, we're just -- We will have  
2 the opportunity to consider them in conjunction with each  
3 other.

4 Okay, if there's nothing further, Case Number  
5 12,922 is being continued to October the 10th.

6 (Thereupon, these proceedings were concluded at  
7 10:16 a.m.)

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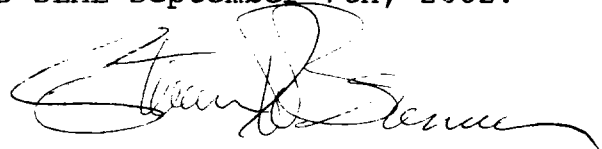
CERTIFICATE OF REPORTER

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 7th, 2002.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 2002