

BEFORE THE
OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE
HEARING CALLED BY THE OIL
CONSERVATION DIVISION FOR THE
PURPOSE OF CONSIDERING:

APPLICATION OF CHI OPERATING, INC.
FOR COMPULSORY POOLING,
ROOSEVELT COUNTY, NEW MEXICO.

BEFORE EXAMINER STODNER OIL CONSERVATION DIVISION	
CHI	EXHIBIT NO. 1
NO.	10602

CASE NO. 10602

AFFIDAVIT

BILL SELTZER, being duly sworn, upon his oath states:

1. I am a certified petroleum landman in the state of Texas and have been employed by Chi Operating, Inc. to identify and obtain the voluntary participation of all interest owners from the surface to the base of the San Andres formation underlying Lots 1 and 2, S/2 NW/4, SW/4 (W/2 equivalent) of Section 5, Township 8 South, Range 37 East, for the drilling of a well at a standard location thereon to test the Undesignated Bluit-San Andres Pool.

2. Since I had been unable to obtain the voluntary joinder of all interest owners in this property, Chi Operating, Inc, obtained compulsory Order No. R-9595 in Case 10389 which pooled all mineral interest from the surface to the base of the San Andres formation under this acreage. I was the land witness in that case.

3. Due to low gas prices Chi Operating Inc. was unable to drill a well in the W/2 of Section 5 pursuant to this order and, after extensions by Mr. LeMay, this order terminated of its own terms on June 1, 1992.

4. Recent increases in natural gas prices have made this prospect economically viable and I have been asked to again identify and obtain the voluntary joinder of all interest owners in this property.

5. I have contacted all interest owners whose whereabouts can be determined in the W/2 of Section 5, Township 8 South, Range 37 East, and all have joined in this well except for the heirs of Mary Ann Gelder, who I have been unable to locate.

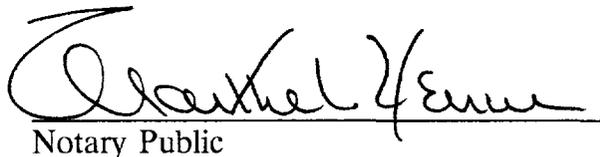
6. Mary Ann Gelder died in 1957 in Midland, Texas. She had never married and had no will. Her estate was administered in Midland, Texas. She apparently had one brother who was in some branch of the U. S. Military Service. There is nothing in either the probate or land records of Midland County, Texas or Roosevelt County, New Mexico from which the heirs of Mary Ann Gelder can be located.

FURTHER AFFIANT SAYETH NAUGHT.


Bill Seltzer

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

SUBSCRIBED AND SWORN to before me this 17th day of November, 1992 by Bill Seltzer.


Notary Public

My Commission Expires:

August 19, 1995

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. 10389
Order No. R-9595

APPLICATION OF CHI OPERATING
INC. FOR COMPULSORY POOLING,
ROOSEVELT COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on September 19, 1991, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 10th day of October, 1991, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.

(2) The applicant, Chi Operating Inc., seeks an order pooling all mineral interests from the surface to the base of the San Andres formation underlying Lots 1 and 2, S/2 NW/4, and SW/4 (W/2 equivalent) of Section 5, Township 8 South, Range 37 East, NMPM, Roosevelt County, New Mexico, forming a 319.09-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing which presently is only applicable to gas wells drilled in the Undesignated Bluit-San Andres Associated Pool. Said unit is to be dedicated to a well to be drilled at a standard gas well location thereon.

(3) The applicant has the right to drill and proposes to drill a well at a standard gas well location in the SW/4 of said Section 5.

(4) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(5) To avoid the drilling of unnecessary wells, to protect correlative rights, to avoid waste, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool completion resulting from this order, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) The applicant should be designated the operator of the subject well and unit.

(7) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(11) \$3200.00 per month while drilling and \$320.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before January 1, 1992, the order pooling said unit should become null and void and of no effect whatsoever.

(14) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(15) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) All mineral interests, whatever they may be, from the surface to the base of the San Andres formation underlying Lots 1 and 2, S/2 NW/4, and SW/4 (W/2 equivalent) of Section 5, Township 8 South, Range 37 East, NMPM, Roosevelt County, New Mexico, are hereby pooled forming a 319.09-acre gas spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing which presently is only applicable to gas wells drilled in the Undesignated Bluit-San Andres Associated Pool. Said unit shall be dedicated to a well to be drilled at a standard gas well location in the SW/4 of said Section 5.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 1st day of January, 1992, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the San Andres formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 1st day of January, 1992, Ordering Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division Director for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Ordering Paragraph No. (1) of this order should not be rescinded.

(2) Chi Operating Inc. is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.
- (B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$3200.00 per month while drilling and \$320.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in Roosevelt County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

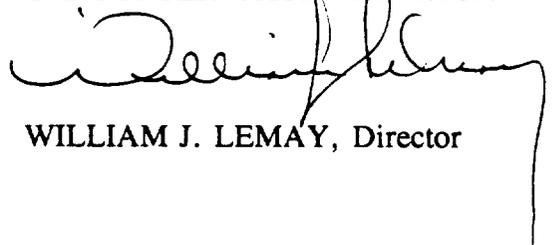
(13) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY, Director

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

APPLICATION OF CHI OPERATING INC.)
FOR COMPULSORY POOLING,) CASE NO. 10³189
ROOSEVELT COUNTY, NEW MEXICO.)
-----)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner
September 19, 1991
10:25 a.m.
Santa Fe, New Mexico

This matter came for hearing before the Oil Conservation Division on September 19, 1991, at 10:25 a.m. at the State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Linda Bumkens, CCR, Certified Court Reporter No. 3008, in and for the County of Bernalillo, State of New Mexico.

FOR: OIL CONSERVATION
DIVISION

BY: LINDA BUMKENS CCR
Certified Court Reporter
CCR NO. 3008

I N D E X

1		
2	September 19, 1991	
3	Examiner Hearing	
4	CASE NO. 10389	
5	APPEARANCES	2
6	WITNESSES	
	<u>BILL SELTZER</u>	
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	Examination by Mr. Catanach	8
8	<u>WILLIAM HERMANN</u>	
	Direct Examination by Mr. Carr	9
9	Examination by Mr. Catanach	13
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11	REPORTERS CERTIFICATE	16
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14	Chi Operating Exhibits 1 through 4	8
15	Chi Operating Exhibit 5	13
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17		
18		
19	FOR THE DIVISION:	ROBERT G. STOVALL, ESQ.
20		General counsel
		Oil Conservation Commission
21		310 Old Santa Fe Trail
		Santa Fe, New Mexico
		87501
22	FOR CHI OPERATING	
23	INC.:	CAMPBELL, CARR, BERG &
		SHERIDAN P.A.
24		BY: MR. WILLIAM F. CARR, ESQ.
		110 North Guadalupe
25		Santa Fe, New Mexico

1 EXAMINER CATANACH: Okay. At this time we're
2 going to skip the Amerada case and go and call Case
3 10389.

4 MR. STOVALL: Application of Chi Operating
5 Inc., for a compulsory pooling, Roosevelt County,
6 New Mexico.

7 EXAMINER CATANACH: Any appearances in this
8 case?

9 MR. CARR: If it please the Examiner, my name
10 is William F. Carr with the law firm Campbell, Carr,
11 Berge & Sheridan of Santa Fe. We represent Chi
12 Operating Inc., and I have two witnesses.

13 MR. CATANACH: Any other appearances?

14 (No response).

15 Will the witnesses please stand and be
16 sworn?

17 (At which time Mr. Bill Seltzer and William
18 Hermann were sworn.)

19 BILL SELTZER,
20 the Witness herein, being previously duly sworn, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. CARR:

24 Q. Will you state your name and place of
25 residence?

1 A. Bill Seltzer, Midland, Texas.

2 Q. By whom are you employed and in what
3 capacity?

4 A. I'm employed by Chi Operating Company as a
5 land consultant.

6 Q. Have you previously testified before this
7 Division and had your credentials as a land man
8 accepted and made a matter of record?

9 A. Yes, I have.

10 Q. Are you familiar with the application filed
11 in this case in the subject area?

12 A. Yes.

13 MR. CARR: Are the witness's qualifications
14 acceptable?

15 EXAMINER CATANACH: Yes.

16 Q. (By Mr. Carr) Would you briefly state what
17 Chi Operating Inc. seeks with this application?

18 A. Chi Operating Inc. seeks an order pooling
19 all of the mineral interests in all formations in a
20 320-acre spacing unit from the surface down to the
21 base of the San Andres formation covering the west
22 half of Section 5, Township 8 South, Range 37 East,
23 Roosevelt County.

24 Q. Would you refer to what has been marked for
25 identification as Chi Exhibit Number 1? Identify

1 this and review it for Mr. Catanach.

2 A. This is a location plat showing the west
3 half of Section 5, Township 8 South, Range 37 East,
4 together with -- Excuse me -- a location of the
5 proposed well being 990 from the south and 990 from
6 the east line of Section 5.

7 Q. What is the primary objective in the
8 proposed well?

9 A. To test the San Andres formation.

10 Q. All right. Let's go to Chi Exhibit
11 Number 2. I'd ask you again to identify that for
12 the Examiner.

13 A. This is -- again, an acreage plat showing
14 three separate tracts and the ownership of the
15 interest that Chi has under all three tracts. If
16 you'll notice that in tract one Chi has a full
17 interest. Tract two they have a full interest
18 having just acquired the interest of Answorth group
19 in those tracts. The only interest which is not
20 leased is under tract three, being the heirs of Mary
21 Ann Gilder, which has a 16th interest outstanding in
22 the east half of the southwest quarter of Section 5.

23 Q. Mr. Seltzer, what percentage of the acreage
24 ownership has been voluntarily committed to the
25 proposed well?

1 A. 98 percent.

2 Q. Would you identify what has been marked as
3 Chi Exhibit Number 3?

4 A. Chi Exhibit Number 3 is an AFE showing that
5 a dry hole would cost \$119,000, and a completed well
6 of 224,000.

7 Q. Are these costs in line with what other
8 operators charge for similar wells in this area?

9 A. Yes, it is.

10 Q. Could you summarize the effort you have
11 made to locate -- I guess at this point -- just the
12 heirs of Mary Gilder, to provide them with notice
13 and an opportunity to participate in this effort?

14 A. Mary Ann Gilder is deceased and she is not
15 in Roosevelt County. I found her probate in Midland
16 County under Probate Number 2058, which she died
17 without a will and had a next of kin as a brother,
18 who I am unable to locate. I have written every
19 Gilder in the State of Texas through the driver's
20 license division to determine if there's any of
21 these parties knows the whereabouts of any heirs of
22 Mary Ann Gilder, and I have not received a positive
23 answer from any of them.

24 Q. And in your opinion, have you made a good
25 faith effort to exhaust all channels available to

1 you to locate the heirs of Miss Gilder?

2 A. Yes.

3 Q. Has Chi drilled other San Andres wells in
4 the immediate area?

5 A. Yes.

6 Q. Is what has been marked Exhibit Number 4
7 simply an affidavit confirming that notice was
8 provided to the Answorth group advising them of
9 today's hearing?

10 A. Yes.

11 Q. And as of -- in the last few days an
12 agreement has been reached with these individuals to
13 voluntarily participate?

14 A. Yes, it has. We secured leases from the
15 Answorth group.

16 Q. What are the overhead and administrative
17 costs that Chi will seek while drilling the well,
18 and also while producing it if it is a success?

19 A. We seek a \$3200 drilling rate, and a \$320
20 monthly administrative rate.

21 Q. Do these figures conform to the figures set
22 forth in the Ernston Young survey for wells in this
23 area to this depth?

24 A. Yes, they do.

25 Q. Do you recommend that these figures be

1 incorporated into the order which results from
2 today's hearing?

3 A. Yes.

4 Q. Chi Operating seeks to be designated
5 operator of the well?

6 A. Yes.

7 Q. Were Exhibits 1 through 4 either prepared
8 by you or compiled under your direction?

9 A. Yes, they were.

10 MR. CARR: At this time, Mr. Catanach, we move
11 the admission of Chi Operating Exhibits 1 through
12 4.

13 EXAMINER CATANACH: Exhibits 1 through 4 will
14 be admitted as evidence.

15 (Chi operating Exhibits 1 through
16 4 were admitted in evidence.)

17 MR. CARR: That concludes my direct
18 examination of Mr. Seltzer.

19 EXAMINATION

20 BY MR. CATANACH:

21 Q. Mr. Seltzer, you said that you have secured
22 the interest of the Answorth interest?

23 A. Yes.

24 Q. What about the Sanders?

25 A. Yes, sir, we have those.

1 Q. Okay.

2 A. The only one outstanding is this Mary Ann
3 Gilder.

4 Q. Okay.

5 A. Which we cannot locate.

6 MR. CATANACH: I have no further questions.
7 The witness may be excused.

8 MR. CARR: At this time I call Mr. Bill
9 Hermann to the stand.

10 WILLIAM HERMANN

11 the Witness herein, being previously duly sworn, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. CARR:

15 Q. Will you state your name for the record,
16 please?

17 A. Will Hermann.

18 Q. And where do you reside?

19 A. Midland, Texas.

20 Q. By whom are you employed and in what
21 capacity?

22 A. Chi Operating as a land man and geologist.

23 Q. Have you previously testified before this
24 Division?

25 A. No, I haven't.

1 Q. Would you review for Mr. Catanach your
2 educational background, and then summarize your work
3 experience?

4 A. Undergrad and graduate degrees from Texas
5 Tech University, graduating with a Master of Science
6 in '81, and independent land man from '81 to '83 in
7 Midland at which time David Harrison, my partner and
8 myself, formed an operating company which we've
9 since operated as Chi Operating Inc.

10 Q. And do you function both as Chi's land man
11 and geologist?

12 A. Yes.

13 Q. Are you familiar with the application that
14 was filed in this case on behalf of Chi?

15 A. Yes, I am.

16 Q. And have you made a geological study of the
17 subject area?

18 A. Yes, I have.

19 MR. CARR: Mr. Catanach, we would tender
20 Mr. Hermann as a practical oil man.

21 MR. CATANACH: He is so qualified.

22 Q. (By Mr. Carr) Have you prepared exhibits
23 for presentation here today?

24 A. Yes.

25 Q. Would you identify what has been marked as

1 Chi Exhibit Number 5?

2 A. Exhibit 5 is a structure map mapped on the
3 PI marker of the San Andres and show structure in
4 the area of the proposed location that defines what
5 we're trying to find there.

6 Q. And outlined in yellow is the proposed
7 spacing unit to be dedicated to the well?

8 A. Yes, it is.

9 Q. And the location is in the southwest of the
10 southwest of Section 5?

11 A. Yes, it is.

12 Q. Did you prepare this structure map?

13 A. Yes, I did.

14 Q. Could you go to this map, and by simply
15 using this exhibit, explain to Mr. Catanach the risk
16 associated with this proposed location?

17 A. Well, what you see in Section 5 and in
18 Section 8 immediately to the south, there are three
19 San Andres completion gas wells, two of which were
20 very noncommercial, one of which was very commercial
21 producing 1.8 BCF, the other producing less than 150
22 million cubic foot of gas each.

23 Q. So what you have here is a location that is
24 offset in this formation both to the north and the
25 east with wells that were not successful?

1 A. Yes, it is.

2 Q. In your opinion, what does it take to make
3 a successful well in this pool?

4 A. I believe to recoup your investment and get
5 any kind of reasonable rate of return, about a half
6 a BCF of gas.

7 Q. And structurally how do you need to be
8 located?

9 A. You need to be on favorable structural
10 position, of course, that's what cause the
11 accumulation of hydrocarbons, but not so far
12 northward or shelfward to cause a facies change
13 within the San Andres dolomite.

14 Q. And how does this particular location
15 compare to that criteria?

16 A. We feel like we have a reasonably good
17 chance of being structurally high. But on the other
18 hand, our risk we see is that we may cross the
19 facies change.

20 Q. In your opinion, is it possible to drill a
21 well at this location that would not be a commercial
22 success?

23 A. Yes, it is.

24 Q. Are you prepared to make a recommendation
25 as to the risk penalty that should be assessed

1 against the interest that will not be voluntarily
2 committed to the well?

3 A. I would recommend the maximum 200 percent.

4 Q. The party who is not participating, or
5 whereabouts are unknown, how do you propose to
6 handle the funds that would be attributed to that
7 interest?

8 A. An account will be set up in the county
9 seat of Roosevelt County for her benefit.

10 Q. And you would be escrowing the funds
11 there?

12 A. Yes.

13 Q. Was Exhibit Number 5 prepared by you?

14 A. Yes, sir, it was.

15 MR. CARR: At this time, Mr. Catanach, I would
16 move the admission of Chi Exhibit Number 5.

17 MR. CATANACH: Exhibit Number 5 will be
18 admitted as evidence.

19 (Chi Exhibit Number 5 was
20 admitted in evidence.)

21 MR. CARR: I have nothing further of this
22 witness.

23 EXAMINATION

24 BY MR. CATANACH:

25 Q. You stated there were two -- or, I'm

1 sorry -- three wells drilled in Section 5 and 8.

2 Which two were nonprofitable? Is that your term

3 "nonprofitable"?

4 A. Noncommercial I think. Did I say

5 nonprofitable?

6 Q. I don't remember.

7 A. The well in the southeast of the northwest

8 made 37 million cubic feet of gas and is now

9 plugged. The well in the southeast of the southeast

10 made 146 million cubic feet of gas and is now

11 plugged.

12 Q. So the good well is in Section 8?

13 A. Yes, sir.

14 Q. The major portion of the pool is east of

15 your proposed location?

16 A. Yes, it is.

17 Q. Okay.

18 EXAMINER CATANACH: I don't have anything

19 further. The witness may ask excused.

20 MR. CARR: We have nothing further in this

21 case.

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 10389,
heard by me on September 19 1991.

David R. Catanach, Examiner
Oil Conservation Division

22
23
24
25 EXAMINER CATANACH: There being nothing

