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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. 11,010
)
APPLICATION OF NEARBURG)
EXPLORATION COMPANY)
)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

June 23, 1994

Santa Fe, New Mexico

27 1994

This matter came on for hearing before the Oil Conservation Division on Thursday, June 23, 1994, at Morgan Hall, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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June 23, 1994
 Examiner Hearing
 CASE NO. 11,010

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FOR THE DIVISION:

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By: W. THOMAS KELLAHIN

* * *

1 WHEREUPON, the following proceedings were had at
2 10:30 a.m.:

3 EXAMINER STOGNER: Call next case, 11,010.

4 MR. CARROLL: Application of Nearburg Exploration
5 Company for compulsory pooling, Eddy County, New Mexico.

6 EXAMINER STOGNER: Call for appearances.

7 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
8 the Santa Fe law firm of Kellahin and Kellahin, appearing
9 on behalf of the Applicant, and I have two witnesses to be
10 sworn.

11 EXAMINER STOGNER: Will the witnesses please
12 stand and be sworn at this time?

13 (Thereupon, the witnesses were sworn.)

14 MR. KELLAHIN: Call at this time Mr. Bob Shelton.

15 ROBERT G. SHELTON, JR.,

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

18 DIRECT EXAMINATION

19 BY MR. KELLAHIN:

20 Q. Mr. Shelton, would you please state your name and
21 occupation?

22 A. My name is Robert G. Shelton, Jr. I'm a landman,
23 consulting landman, for Nearburg Producing Company.

24 Q. Have you testified as a professional petroleum
25 landman before the Division on prior occasions?

1 A. Yes, sir, I have.

2 Q. And have you been employed in that capacity by
3 Nearburg Exploration Company, the Applicant in this case?

4 A. Yes, sir, I have been.

5 Q. Pursuant to your employment, have you made an
6 investigation to determine what, in your opinion, are the
7 owners that are entitled to share in production if this
8 well is successful?

9 A. Yes, sir, we have done research to determine who
10 would be entitled to production.

11 Q. In addition, have you undertaken on behalf of
12 Nearburg Exploration Company negotiating with those parties
13 in an effort to arrive at a voluntary agreement?

14 A. Yes, sir, we have.

15 Q. As part of your duties, are you familiar with the
16 cost components, including the AFE proposed for this well,
17 as well as the overhead charges?

18 A. Yes, sir, I am familiar with those.

19 Q. In addition, as part of your duties, are you
20 familiar with the proposed joint operating agreement and
21 the terms and conditions of that agreement?

22 A. Yes, sir, I am.

23 MR. KELLAHIN: We tender Mr. Shelton as an expert
24 petroleum landman.

25 EXAMINER STOGNER: Mr. Shelton is so qualified.

1 Q. (By Mr. Kellahin) Mr. Shelton, let me direct
2 your attention, sir, to the locator map and have you simply
3 identify that for me.

4 A. This is a Midland Map Company land map which
5 shows Township 19 South, Range 25 East, Eddy County, New
6 Mexico. It is used just to locate the spacing unit that we
7 propose for the drilling of the B&B Number 2 Well.

8 You can see over to the west side or to the left
9 of the map the Dagger Draw Upper Pennsylvanian field.
10 We're approximately two miles east of that field, is the
11 general location. Our proposed unit is the south half of
12 Section 22, in 19-25.

13 Q. Let's turn now to Exhibit Number 2. Does this
14 represent your work product?

15 A. Yes, sir, it is my work product.

16 Q. Describe for us what you're showing.

17 A. I'm showing all of Section 22, with emphasis in
18 the south half of Section 22, with the location of the
19 proposed B&B Number 2 well, 2173 feet from the east line,
20 660 from the south line.

21 It also represents by tract of ownership, Tracts
22 A through E, which we are representing to show Nearburg's
23 percent of leased ownership and any other unleased
24 ownership as of the date that we proposed the well to these
25 other participants.

1 Since that date, we have received voluntary
2 agreements with two of the people, one of them being Tract
3 D, Panhandle Royalty Company, who owns 37.5 percent in
4 Tract D for a unit interest of 4.688 percent; and Roy G.
5 Barton in Tract E with a 16.67 percent interest and a unit
6 interest of 2.084 percent.

7 They have both elected to participate with us in
8 the well and have signed and approved an operating
9 agreement form which we're using in connection with this
10 drilling.

11 Q. Is the south half of Section 22, to the best of
12 your knowledge, a regular-size half section?

13 A. Yes, this location is just -- within one mile of
14 the Cemetery-Morrow Pool --

15 Q. Okay.

16 A. -- which is established by the Division. It
17 requires 320-acre spacing, and this is a standard spacing
18 unit for that pool.

19 Q. Why have you chosen a 320-acre spacing unit for
20 the well?

21 A. Because we anticipate that if this well is
22 completed as a Morrow gas well, it will be put in the
23 Cemetery-Morrow unit, and that will be the requirement.

24 Q. In addition to the principal objective being the
25 Morrow, in the event that there is gas production below the

1 top of the Wolfcamp down through the base of the Morrow,
2 then you would want this pooling order to cover all 320-
3 spaced gas pools?

4 A. That is correct.

5 Q. The proposed well location, approximately where
6 is that well located?

7 A. 2373 feet from the east and 660 from the south of
8 Section 22.

9 Q. Double-check for me, Mr. Shelton. On the north
10 half of Section 22 --

11 A. Uh-huh.

12 Q. -- it says the well is 2170 feet from the east
13 line?

14 A. From the east line --

15 Q. Okay.

16 A. -- that's correct.

17 Q. And 660 feet from the south?

18 A. Right. Is that what I said?

19 Q. I'm not sure, but you've repeated it.

20 A. Okay, that is correct.

21 Q. Is that a standard location for deep gas wells?

22 A. Yes, that is. The regular location is 1980 from
23 the end line, which would be from the east, and then we're
24 moving inwardly to the proration unit to a distance of
25 2173, so it is a standard location.

1 Q. Each of the tracts identified by a letter, then,
2 is displayed on the exhibit, and the Examiner can see per
3 tract, then, the interest owner that has the share of
4 working interest within that tract?

5 A. Yes, these people actually have either unleased
6 mineral interest or they have a leasehold interest that
7 represents their percentage of participation in the unit.

8 Q. All right. And then at the very bottom of the
9 display you have shown in the south half what their
10 percentage would be if it's proportionally reduced to the
11 320?

12 A. Yes, sir, that is correct.

13 Q. All right. Explain to us the relationship
14 between the Applicant, Nearburg Exploration Company, and
15 the proposal to have Nearburg Producing Company designated
16 as the operator.

17 A. Nearburg Producing Company is a company that's a
18 sole proprietorship owned by Charles Nearburg. It is the
19 company which owns all of the oil and gas leases that are
20 involved in the south-half unit.

21 Nearburg Producing Company is a corporation also
22 owned by Charles Nearburg, which is an operating company,
23 which operates all of the various wells under which
24 Nearburg has its ownership. Nearburg Producing Company
25 operates approximately 105 wells in New Mexico and in west

1 Texas, and, as I'm sure you're aware, it's been an operator
2 in southeast New Mexico for a very long period of time.

3 We have 13 other Morrow wells in this immediate
4 area that we operate or have drilled over the last several
5 years.

6 We also have approximately 10 Cisco/Canyon wells
7 in the Dagger Draw field. We have a field office located
8 approximately three miles from this well, and we have an
9 on-site pumper, employee pumper, that will be handling this
10 well if it's productive.

11 Q. The structure of the arrangement, then, is for
12 Nearburg Producing Company to be the operating company for
13 the properties?

14 A. That is correct.

15 Q. And you're approved by the Oil Conservation
16 Division for that purpose, having filed the appropriate
17 statewide plugging bonds and other documents required by
18 the Division?

19 A. That is correct.

20 Q. Do other companies share with and participate in
21 wells that are being operated by Nearburg Producing
22 Company?

23 A. Yes, we do. In this immediate area we have a
24 variety of partners who choose to participate with Nearburg
25 Producing Company as the operator: Yates Petroleum, also

1 in this particular well, Roy G. Barton and Panhandle
2 Royalty Company have agreed to participate and have
3 executed an operating agreement designating Nearburg
4 Producing Company as the operator.

5 Q. Prior to filing the Application, and even after
6 the Application, have you continued to try to consolidate
7 on a voluntary basis the various interest owners to
8 participate in the well?

9 A. Yes, sir, we have. We sent out proposal letters
10 to all people that at that time we did not have a voluntary
11 agreement with.

12 On these proposal letters, they were given the
13 opportunity and requested to participate with us in the
14 drilling of the well and were given other alternatives to
15 that participation, including oil and gas lease or
16 acquisition of their interest by purchase.

17 Q. We'll go through the details in a moment, but I'd
18 like to use Exhibit 2 as the summary.

19 A. Okay.

20 Q. At this point do you have an opinion as to
21 whether or not you have exhausted all good-faith
22 opportunities to reach a voluntary agreement with all
23 parties?

24 A. Yes, sir, I believe we have.

25 Q. Let's look at Exhibit 2, then, and have you go

1 down the bottom portion of the display where it says, South
2 Half, Section 22, Spacing Unit Interest --

3 A. Uh-huh

4 Q. -- and read to me the names of the interest
5 owners, only those interest owners for which you do not
6 have an agreement.

7 A. That's James T. Jennings, Tierra Oil Company,
8 Kerr-McGee Corporation, Yates Petroleum Corporation, Yates
9 Drilling Company, Abo Petroleum Corporation, and Myco
10 Industries, Inc.

11 Q. Okay. Give me a quick summary on the status of
12 your efforts with regard to each of those parties, starting
13 first with Mr. Jennings. Give us the short answer.

14 A. Mr. Jennings was contacted. He wants to
15 participate in the drilling of the well. He has a 1.757
16 interest. His only problem with participating is that he
17 does not want to pay any of his portion of dryhole or
18 completed costs up front; all other participants in the
19 well subject to the operating agreement have agreed to do
20 so. And there has been -- He also has required other
21 amendments to the operating agreement which were not agreed
22 on by the other participants in the well.

23 Q. The end result of that effort, as of today we do
24 not have an agreement with Mr. Jennings?

25 A. That is correct.

1 Q. All right. Tierra Oil Company?

2 A. Tierra Oil Company has a very small interest. I
3 talked to Mr. Barnhill on several occasions; he's very
4 considerate and very nice. He wants to participate in the
5 well and has indicated that he would probably do so under
6 the order.

7 Q. Okay, Kerr-McGee?

8 A. Kerr-McGee, I've talked to Kerr-McGee. They have
9 a very small interest; it's an insignificant thing to them.
10 And they asked us to pool them, and they would make an
11 election when required to.

12 Q. Okay. Can we summarize the Yates entities, if
13 you will, as a package?

14 A. Yes.

15 Q. All right, what is the status of your efforts
16 with the various Yates companies?

17 A. My understanding from Yates is that they will
18 also participate under the order. They did not elect to
19 sign the operating agreement, but they, I believe, will
20 participate.

21 Q. All right, let's turn now, sir, to Exhibit 3.
22 Identify that series of documents and letters.

23 A. These are proposal letters with return receipts
24 sent to the various parties, at which time we did not have
25 a voluntary agreement, requesting -- setting forth that we

1 are furnishing them with an option to participate in the
2 B&B Number 2 Well, giving the proposed location.

3 We furnished them an operating agreement and an
4 AFE with this proposal letter. We also asked them -- If
5 they were an unleased interest or a mineral interest owner,
6 we would allow them to grant us an oil and gas lease, or
7 that we would happily negotiate an acquisition of their
8 interest.

9 Q. This represented your formal letter to those
10 parties, identifying the proposed well spacing unit, the
11 well location, showing the options, giving them the cost
12 and tendering not only an AFE but a proposed operating
13 agreement?

14 A. Yes, sir, it does.

15 Q. And all these were sent Federal Express?

16 A. Yes, sir, they were.

17 Q. Let's turn now to the next Exhibit, Exhibit
18 Number 4. There are two AFEs, Exhibit 4 and Exhibit 5.
19 Let's deal with Exhibit 4 first.

20 A. Exhibit 4 is the AFE that at this present time we
21 are introducing for the purposes of this hearing, and it's
22 the AFE that we believe is most consistent to estimate the
23 costs that we predict to be associated with the drilling of
24 the B&B Number 2 Well.

25 Q. The AFE shown as Exhibit 4 is for estimated

1 expenditures that are less than those represented on
2 Exhibit 5?

3 A. Yes, that is correct, the difference being, at
4 the time of preparation of Exhibit 5 we did not have a firm
5 drilling contractor selected, nor had we had a firm rig
6 price. We do at this time for the drilling of this and
7 other wells in the immediate area.

8 And you'll notice that on the first line under
9 "Intangible Costs", the drilling footage on Exhibit 4 is
10 \$16 per foot; the drilling footage rate on Exhibit 5 is \$18
11 per foot. So that reduces the dryhole well costs and the
12 completed well costs to the current AFE of \$418,140
13 dryhole, \$683,345 completed well costs.

14 Q. Are these detailed AFEs prepared within Nearburg
15 Producing Company by a knowledgeable expert that does that
16 on a regular basis?

17 A. Yes, sir, they are. They're prepared in-house
18 with the benefit of all the information we gain from our
19 wells.

20 Q. As part of your involvement in the process, are
21 you familiar with other AFEs, as well as actual costs for
22 drilling similar wells within this general area?

23 A. Yes, sir, I am very familiar. I receive all
24 proposals for AFEs received on drilling of wells from other
25 companies, and I review them, and I've also compared them

1 with our AFEs that we use in these areas and on these
2 wells.

3 Q. And what is your opinion about the reasonableness
4 of the proposed AFE that has now been revised, which will
5 be shown as Exhibit 4?

6 A. It is consistent with those costs estimated for
7 wells to this depth in the area.

8 Q. Have you had any proposed participant object to
9 the AFE costs?

10 A. No, sir, we have not.

11 Q. Do you recommend to the Examiner that he adopt
12 this AFE as reasonable?

13 A. Yes, sir, I do.

14 Q. Let's deal, now, with the subject of the overhead
15 rates.

16 A. All right.

17 Q. What's your recommendation to the Examiner for
18 proposed overhead rates?

19 A. Under the order we were asking for overhead rates
20 of \$6000 drilling well rate and \$600 producing well rate.

21 EXAMINER STOGNER: Go ahead.

22 Q. (By Mr. Kellahin) Okay. In the Application,
23 when we filed the Application --

24 A. When we filed --

25 Q. -- what did we ask for?

1 A. We asked for a drilling well rate of \$6000 per
2 month and a producing well rate of \$600 per month.

3 Subsequent to that period of time, as I mentioned
4 before, Panhandle Royalty and Roy G. Barton have agreed to
5 participate in the well. In doing so, they asked for an
6 amendment to that. We did amend those estimates, and our
7 current cost estimate is \$5664 for a drilling well rate on
8 a monthly basis and \$560 per month on a producing well
9 basis.

10 Q. Would you ask the Examiner that he apply those
11 rates within the context of the pooling order, should he
12 issue you such an order?

13 A. Yes, sir, we do.

14 Q. Okay. Have you had any objections from any
15 parties to the \$5664 and the \$560 number?

16 A. No, we have not. Since then we've reached our
17 agreement with Panhandle and Roy Barton; that's been
18 satisfactory with all parties.

19 Q. As part of your submittal to these interest
20 owners, you forwarded them a copy of Exhibit Number 6, the
21 operating agreement?

22 A. Yes, sir.

23 Q. This is the AAPL form for 1982? That's the form
24 of operating agreement that you use as the master form?

25 A. Yes, sir, that is correct.

1 Q. And then you attach to that various exhibits and
2 modifications?

3 A. Yes, sir, that's correct.

4 Q. All right.

5 A. This form has been used extensively in this area
6 between us and other operators. This is a form that Yates
7 Petroleum and their subsidiaries use with us. We allow
8 them to use it when they operate wells, we use it when we
9 operate wells, and it's very interchangeable and
10 acceptable, and we feel like it's a very equitable form.

11 And in having it approved by Panhandle Royalty
12 and Roy G. Barton, we believe that testifies to its
13 equitableness.

14 Q. Interest owners in this area are so comfortable
15 with the 1982 form that they have not chosen to go to the
16 1989 form?

17 A. That's correct.

18 Q. All right. Have any of the interest owners, with
19 the exception of Mr. Jennings, objected to any of the
20 details contained within the operating agreement?

21 A. None other than those amendments that were
22 granted by our amendment letter and agreed to between
23 Panhandle Royalty. And in doing so, we have offered those
24 same amendments to all participating -- to all parties who
25 may chose to participate, so we don't distinguish between

1 working interest owners and the opportunities we give them
2 to participate.

3 Q. Let's turn now to the subject of Mr. Jennings'
4 objections to the details of the operating agreement. Is
5 your correspondence from him and to him contained in the
6 exhibit package shown as Exhibit 7?

7 A. Yes, sir, it is.

8 Q. I don't want to go into great detail with this
9 negotiation, Mr. Shelton, but give us a quick summary of
10 why you have decided not to agree with his requested
11 change.

12 A. We furnished him a copy. You'll find a May 26th,
13 1994, amendment agreement, which was entered into between
14 the parties who did choose to participate. We offered him
15 the same amendments.

16 He's come back to us with several other proposals
17 that would distinguish his participation from the rest of
18 the working-interest owners, one of the most important ones
19 being that he would not have to pay any of his share up
20 front but would pay on an invoice basis after the costs
21 were incurred.

22 We believe it's only inequitable to treat and not
23 distinguish various working interest owners from each
24 other. We feel like from an operator standpoint -- As the
25 Commission does in their orders, we feel like it's

1 important to get at least the dryhole costs of the well up
2 front so that the money is available to be paid to the
3 various vendors who perform the work on the well.

4 Q. The custom and practice that you have proposed
5 for Mr. Jennings' interest was that he would prepay his
6 share of the dryhole costs?

7 A. Right, just dryhole, not completed well costs.

8 Q. Did you explain to him, or in your conversations
9 do you believe he understood what his option would be under
10 a compulsory pooling order --

11 A. Yes --

12 Q. -- whereby he would have to tender up front not
13 only his share of the dryhole costs but completion costs?

14 A. Yes, sir, we did, and that was specifically
15 stated.

16 Q. And he still chose not to execute the joint
17 operating agreement?

18 A. That is correct.

19 Q. There was an objection raised to the Exhibit F,
20 which is additional provisions with regards to financing
21 and security arrangement.

22 I assume that form is typically used by Nearburg
23 Producing Company and has been agreed to by others?

24 A. It's a typical form used by Nearburg and a lot of
25 other operators in the area. We use it only as a

1 perfection of the lien claims that are in the operating
2 agreement.

3 It's an acknowledgement that there is a lien
4 claim in the file of the record, and it is signed by all
5 other parties that are participating in this well.

6 Q. Part of the reason to do that is, there is an
7 inherent ambiguity in the 1982 model form, which this
8 exhibit cures?

9 A. That is correct.

10 Q. All right. Any other comments with regards to
11 your efforts with Mr. Jennings?

12 A. No, I believe he'll choose to participate, and we
13 hope he does.

14 Q. All right, sir. The last exhibit I want to
15 direct your attention, sir, is Exhibit 8, which represents
16 my affidavit of mailing of notice of hearing.

17 Did you provide, me, sir, with the names and
18 addresses of the parties to which notice of this hearing
19 was to be made?

20 A. Yes, I did.

21 Q. All right. Based upon your knowledge of what's
22 occurred in this area with regards to the wells being
23 drilled, what is your understanding of the level of
24 percentage of risk that is being agreed to by the parties
25 with regards to wells of this type?

1 A. Voluntary agreements such as the one we have
2 entered into with the other participating parties stipulate
3 a nonconsent interest, as our operating agreement does, of
4 500 percent, which is a cost-plus-400-percent effective
5 rate of nonconsent.

6 Q. Are you familiar with other force-pooling orders
7 in this area with regards to what percentage risk factor is
8 being applied?

9 A. Yes, sir, we've done several other force-poolings
10 and been involved in many other of them, and I understand
11 that the force-pooling penalty is 100 percent plus 200
12 percent.

13 Q. Cost plus 200 percent?

14 A. Cost plus 200 percent.

15 Q. All right.

16 A. That's correct.

17 Q. Were -- Except for the certificate of mailing,
18 which I executed, were Exhibits 1 through 8 compiled under
19 your direction, supervision, or represent efforts in your
20 negotiation to obtain voluntary agreement?

21 A. Yes, sir, they do.

22 MR. KELLAHIN: We move the introduction of
23 Exhibits 1 through 8.

24 EXAMINER STOGNER: Exhibits 1 through 8 will be
25 admitted into evidence.

EXAMINATION

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BY EXAMINER STOGNER:

Q. Mr. Shelton, as far as the uncommitted interests, what percentage does that represent, referring back to Exhibit 2? I guess that would just be the --

A. Six and a -- About 6.5 percent.

Q. Okay.

A. I'm sorry, I didn't --

Q. That was Jennings, Tierra, Kerr-McGee and the Yates group?

A. Yes, sir, that is correct.

Q. And Tract A, being the southeast quarter, is 100 percent Nearburg Exploration Corporation; is that correct?

A. Yes, sir, those mineral rights are currently subject to oil and gas leases that are held by Nearburg.

Q. And that's where the well will be located?

A. Yes, sir, that is correct.

Q. What's the status of the APD on that well?

A. It has been approved -- I believe it's been approved and we're waiting for an order, and then we anticipate commencement of the well shortly thereafter.

Q. Okay. Clarification on the authority for expenditure --

A. Yes, sir.

Q. -- Exhibit Number 4, is that the cost in which

1 you are presenting today as the estimated cost?

2 A. Yes, sir, Exhibit 4 is the one that we're
3 presenting as the estimated cost for this well.

4 Q. Make sure I've got the overhead charges for the
5 drilling. The production was \$560, and the drilling --

6 A. And the drilling well rate was \$5664.

7 Q. -- -664?

8 A. Yes, sir.

9 EXAMINER STOGNER: Are there any other questions
10 of Mr. Shelton?

11 MR. CARROLL: Yes, I have a few, Mr. Shelton.

12 EXAMINATION

13 BY MR. CARROLL:

14 Q. You testified that Nearburg Exploration Company
15 is a sole proprietorship?

16 A. That's correct.

17 Q. And that's owned by Charles Nearburg?

18 A. Charles E. Nearburg, yes, sir.

19 Q. Nearburg Producing Company is a corporation owned
20 by Charles E. Nearburg?

21 A. That's correct.

22 Q. Is Nearburg Producing located in Dallas and
23 Nearburg Exploration located in Midland?

24 A. No, sir, Nearburg Producing Company and
25 Exploration Company are both located in Dallas, in the same

1 office building.

2 We have an exploration office for Nearburg
3 Producing Company in Midland, Texas, and we have a
4 producing office for Nearburg Producing Company in Hobbs,
5 New Mexico, and also a field office in this immediate area.

6 Q. Is Nearburg Producing Company a working interest
7 owner?

8 A. No, sir, they're not in this well.

9 Q. And Nearburg Producing is a Texas corporation?

10 A. Yes, sir.

11 Q. And Nearburg Producing has plugging bonds filed
12 with the OCD?

13 A. Yes, sir, they do.

14 Q. Do you know of any problems or history of
15 Nearburg Producing Company as an operator of the wells
16 owned by -- that Nearburg Exploration has an interest in?

17 A. I've been with the company now almost six years,
18 and am very well familiar with the operations of the
19 company, and I know of no problem with vendors, working
20 interest owners or any -- in any way to affect the
21 relationship between the two companies.

22 Q. Are both companies approximately the same age,
23 were they formed about the same time?

24 A. Yes, sir, they are. That's correct.

25 Q. And they've been in operation how long?

1 A. Oh, early to mid-Seventies, I would say.

2 Q. Do you know whether Nearburg Producing Company
3 has any assets?

4 A. Yes, sir, they do have assets.

5 Q. Substantial assets?

6 A. Oh, I don't know what "substantial assets" would
7 be, but they have -- They certainly have assets, yes, sir.

8 Q. Does Nearburg Exploration pay its money up front
9 to Nearburg Producing Company to be the operator?

10 A. Yes, they do. I talked to our financial manager
11 yesterday about that very thing, and they do pay their
12 money up front to Nearburg Producing Company also.

13 And, you know, as a context to this, we believe
14 that it's fair and it's right to do so. I asked that
15 specific question of our financial manager.

16 Q. Has Mr. Jennings or the other working interest
17 owners that you haven't obtained an agreement from yet --
18 have they ever had any problems with Nearburg Producing
19 Company as an operator of other wells?

20 A. We -- Mr. Jennings has only participated with us,
21 to my knowledge, in one other well, which was the B&B
22 Number 1 Well, located in this same section. It was a
23 re-entry and a recompletion.

24 Mr. Jennings' final close-out has not occurred on
25 that well yet, and Mr. Jennings at that time did not want

1 to put his money up front on that well either, did not
2 execute the Exhibit F operating agreement, but did not --
3 but other than those two items, did not have any problem, I
4 don't believe -- had no problems with our operatorship at
5 all.

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

7 EXAMINER STOGNER: Thank you, Mr. Carroll.

8 Any other questions of Mr. Shelton?

9 MR. KELLAHIN: No, sir.

10 EXAMINER STOGNER: You may be excused.

11 Mr. Kellahin?

12 MR. KELLAHIN: Call at this time Nearburg's
13 geologist, Mr. Jerry Elger.

14 JERRY ELGER,

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

17 DIRECT EXAMINATION

18 BY MR. KELLAHIN:

19 Q. Mr. Elger, for the record would you please state
20 your name and occupation?

21 A. Jerry Elger. I'm an exploration geologist for
22 Nearburg Producing Company.

23 Q. Mr. Elger, on prior occasions have you testified
24 as a geologic expert on behalf of Nearburg Producing
25 Company?

1 A. Yes, I have.

2 Q. And pursuant to that expertise, have you made a
3 geologic investigation concerning this well?

4 A. Yes, I have.

5 Q. And based upon that investigation, do you now
6 have certain geologic conclusions and opinions?

7 A. Yes, I do.

8 MR. KELLAHIN: We tender Mr. Elger as an expert
9 petroleum geologist.

10 EXAMINER STOGNER: Mr. Elger is so qualified.

11 Q. (By Mr. Kellahin) Let me have you turn, sir, to
12 the first of your displays that's marked as Exhibit 9.
13 It's the structure map on the top of the lower Morrow.

14 Before we look at the specifics of your proposal
15 in 22, tell me what in your opinion is the formation which
16 represents the greatest opportunity for success?

17 A. The Morrow formation.

18 Q. When we look at the Morrow, it is often
19 subdivided into an upper, middle and lower?

20 A. That's correct.

21 Q. For purposes of this well, within that
22 subdivision, which of those portions of the Morrow is your
23 best opportunity?

24 A. The middle Morrow.

25 Q. Okay. The Exhibit 9 is a structure map?

1 A. That's correct.

2 Q. How does this help you reach a conclusion about
3 where to locate the well within the spacing unit?

4 A. This particular map really has no bearing on the
5 proposed location. What it demonstrates is the
6 relationship of the proposed location to the various other
7 Morrow penetrations within the local area.

8 Q. All right. You prepare a structure map often to
9 see if it's going to make an effect for you on the location
10 within the spacing unit, and this does not?

11 A. That's correct.

12 Q. All right, let's use it for another purpose.
13 Help identify for us the other wells in this area that have
14 been drilled to the middle Morrow.

15 A. Well, all of the Morrow penetrations have gone
16 through the upper, middle and lower Morrow.

17 Q. So the gas-well symbols on here are wells to at
18 least that depth?

19 A. That's correct, all of the symbols that are --
20 the hexagonal symbols and have a subsea datum by them, on
21 the top of the lower Morrow have penetrated that horizon.

22 Q. What's the difference in color code?

23 A. The orange color represents those wells that are
24 early middle Morrow sand producers, which is the objective
25 sand in this case.

1 I might note that on my particular exhibit, the
2 well in the southwest quarter of Section 23, subsea datum
3 of minus 5915, should also be colored orange.

4 Q. Okay. So you're going to have -- How many wells
5 penetrated the middle Morrow in this area?

6 A. There's been eight penetrations that have been
7 displayed on this map.

8 Q. All right. And only two of those were able to
9 produce gas out of the middle Morrow?

10 A. That's correct.

11 Q. All right. Let's go now to Exhibit 10. Identify
12 for us what we're looking at, and then we'll talk about the
13 information.

14 A. This particular map is an isopach map of the
15 middle Morrow, the early middle Morrow sand, and what it
16 shows is a contour interval for that particular sand is 20
17 foot.

18 We have what we think is up to a 60-foot sand pod
19 located in the south portion of Section 22 and the north
20 portion of Section 27.

21 The numbers by each well are the thickness of
22 this particular sand, the early middle Morrow sand
23 interval.

24 Most of the wells you see scattered around vary
25 from two to eight feet, but when you move into the channel

1 sequence -- and this particular deposit appears to be
2 related to a fluvial deltaic type of a channel deposit
3 system with a north-south orientation, you'll see that you
4 can get thickness up to 38 to 44 feet.

5 Q. If you're successful to get thicknesses of 38
6 feet, what level of productivity were you achieving?

7 A. Well, it's difficult to say how much production
8 you'll get relative to the thickness of the sand

9 I have also displayed on this isopach map the
10 cumulative production from each one of these individual
11 wells.

12 Q. Let's look at the two that produce gas out of the
13 middle Morrow and compare those.

14 A. Okay, the well with 38 feet of sand, located in
15 the southwest quarter of Section 26 has produced a
16 cumulative production to date of 1.7 BCF.

17 The well located in the southwest quarter of
18 Section 23, which has eight feet of sand, has produced
19 cumulative production of 54 million cubic feet.

20 Q. What is your objective now, for this well? What
21 are you trying to do?

22 A. We're trying to get into the thickest portion of
23 this channel system, and we think we're able to do that
24 with the aid of seismic technology.

25 Here to date, all of the well control that you

1 see displayed on this map has been drilled strictly on the
2 basis of subsurface geology only.

3 This proposed location will attempt to drill a
4 sand thick that has been identified by the seismic lines
5 that you see displayed, two east-west and a north-south
6 seismic line displayed on this map.

7 Q. Up to now, of the eight Morrow penetrations, only
8 one of them has been a commercial success?

9 A. And it's been marginally commercial, that's
10 correct.

11 Q. In order to give you another geologic tool, if
12 you will, you have some seismic lines shown on the display?

13 A. That's correct.

14 Q. In addition, at the bottom of the map legend it
15 shows "area of seismically defined amplitude anomaly in
16 Morrow"?

17 A. Yes.

18 Q. What is the application in this case of the
19 seismic information?

20 A. We think what we're seeing a relation between is
21 an amplitude anomaly, as defined by the seismic data as
22 displayed, and Morrow thicks.

23 In other words, you're seeing an amplitude
24 anomaly, departure from the normal seismic trace where the
25 sand thickens.

1 Q. Can you give us a type example of how you take an
2 existing wellbore, examine it in relation to the seismic
3 information to see some kind of signature or character?

4 A. Yes, if I could refer to Exhibit Number 11 --

5 Q. Let's do that.

6 A. -- which is a stratigraphic cross-section of the
7 Morrow --

8 Q. Give us a moment and let us unfold it.

9 A. Okay.

10 Q. Let's start off and have you give us the line of
11 trace for the cross-section.

12 A. Okay, the line of trace of the cross-section is
13 located in the lower left-hand portion of the cross-section
14 on the land map.

15 The well located at A, which is the southernmost
16 well, is a well that was drilled by Nearburg Producing
17 Company a number of years ago, the Huber Federal Number 1.

18 Then the cross-section continues to the north and
19 ties three other wells located in adjacent sections to the
20 proposed south half of 22, two of which have produced from
21 this early middle Morrow interval.

22 What Nearburg has done -- and the reason we're
23 utilizing seismic to help us try and define where the sand
24 thicks occur, refer back to the Huber Federal Number 1 on
25 the left-hand side of the cross-section.

1 You see a rather thick sand interval with well-
2 developed porosity, perforated in the top part of the sand.
3 That well effected a completion, and that well has produced
4 to date in excess of 7 BCF of natural gas.

5 Nearburg shot a 2-D seismic line through that
6 wellbore, east-west oriented seismic line through that
7 wellbore. We seismically modeled this particular wellbore
8 to see if we could ascertain on the seismic data where the
9 width of the channel that was penetrated in the Huber
10 Federal Number 1.

11 We think -- What the geophysicist has interpreted
12 is that there is a seismic amplitude anomaly that is
13 consistent with that sand thick in the vicinity of the
14 Huber Federal Number 1.

15 We've taken that same information, extended to
16 the north across this prospect area, and have defined again
17 the area shaded in yellow as an area where we see seismic
18 amplitude anomalies very similar to what we saw in our
19 Huber Federal Number 1.

20 Q. Have you yet to be successful in the application
21 of the seismic data in this particular --

22 A. We have not, we have not drilled any tests on the
23 basis of this test yet.

24 Q. All right. Rather experimental at this point?

25 A. That's correct.

1 Q. Based on all this work, do you have an opinion as
2 an expert as to what percentage risk factor penalty you
3 would recommend to the Examiner in this pooling order?

4 A. I would recommend cost plus 200 percent.

5 Q. Describe for us the reasons that cause you to
6 reach that opinion.

7 A. There are areas along this channel system where
8 you can experience sand thicks within the Morrow and yet
9 have very poorly developed porosity system.

10 The well in the north half of Section 27 is a
11 case in point. That well has -- which is a half mile south
12 of the proposed drill site. That well encountered 44 feet
13 of early middle Morrow sand and has -- not even enough to
14 perforate, they perforated a different sand -- and the well
15 has cum'd to date 56 million cubic feet, which is very
16 uneconomic.

17 So you can run the risk of poor developed
18 porosity within the sand unit, and that may -- We don't
19 know that that's what our seismic is identifying, sand
20 thick with poor porosity.

21 Q. So even with the well control and the seismic
22 information for this particular well in this area, 200-
23 percent risk factor is still reasonable?

24 A. It is.

25 MR. KELLAHIN: All right, sir. That concludes my

1 examination of Mr. Elger.

2 We move the introduction of his Exhibits 9, 10
3 and 11.

4 EXAMINER STOGNER: Exhibits 9, 10 and 11 will be
5 admitted into evidence at this time.

6 EXAMINATION

7 BY EXAMINER STOGNER:

8 Q. In referring to Exhibit Number 10 and your cross-
9 section, am I to assume that although the structure which
10 you're representing on Exhibit Number 10 doesn't extend
11 down into that Section Number 3 in which that Huber Federal
12 Well is represented in the cross-section?

13 A. Yes.

14 Q. Is that the same type of anomaly that you believe
15 exists down there as what you think you're going to
16 encounter?

17 A. That's correct.

18 Q. And that was how thick?

19 A. Forty- -- In where? In the Huber?

20 Q. Yeah, in the Huber.

21 A. You can see -- That's probably 54 feet thick.

22 Q. That's part of the Morrow channel; is that
23 correct?

24 A. That is correct.

25 Q. What causes that anomaly, what kind of

1 geographical --

2 A. Well, what you typically look at in these fluvial
3 channel systems are point bars and channel bars and -- in
4 those bar systems where you get the slow-down of the
5 current system, you get -- sediment deposited drops out,
6 the coarser material can drop out and form thicker
7 deposits.

8 If you've ever flown aerially over a typical
9 river, you'll see where they tend to meander back and forth
10 and the sands drop out on the bends and you get the thicker
11 types of deposit.

12 This looks like -- The geometry looks like it
13 could be some sort of a point bar deposit.

14 Q. As far as porosity, does that change
15 significantly?

16 A. Porosity can still vary within the point bars,
17 and the porosity can also have been altered diagenetically,
18 during the diagenetic alteration within the system.

19 Q. Do you anticipate perhaps encountering production
20 in the lower Morrow or the upper Morrow, even though it
21 wasn't covered in today's discussion?

22 A. Again, if you'll refer to the cross-section and
23 look at the typical types of sands that are developed in
24 the lower Morrow, I have not connected them together, but
25 you can see that in all three wells, on the east side of

1 the prospect, the lower Morrow is very, very poorly
2 developed. None of the wells were perforated in that
3 interval.

4 And in fact, where you see Morrow production in
5 the B&B Well Number 1 in the north half of 22, in the north
6 half of 27, the well that did produce there, those wells
7 are completion attempts in probably the lower Morrow, and
8 you can see what the typical cumulative is, 33 million in
9 one case and 56 million in another, which is not
10 commercial.

11 Q. Do you anticipate any other successful
12 completions? Hopefully, you do.

13 A. We hope -- You can see, I've identified all of
14 the production, including production from the Cisco/Canyon,
15 production from the Atoka, production from the Glorieta,
16 from the Yeso formation, none of which in the area has
17 proven to be really commercial.

18 This is -- The middle Morrow is really the
19 primary objective, and these others are just backups.

20 EXAMINER STOGNER: Any other questions of this
21 witness?

22 MR. CARROLL: (Shakes head)

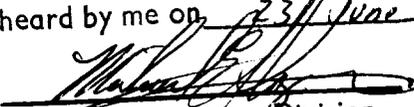
23 EXAMINER STOGNER: You may be excused.

24 MR. KELLAHIN: That concludes the presentation in
25 this case, Mr. Examiner.

1 EXAMINER STOGNER: If there's nothing else
2 further in Case 11,010, this case will be taken under
3 advisement.

4 (Thereupon, these proceedings were concluded at
5 11:16 a.m.)

6 * * *

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12 I do hereby certify that the foregoing is
13 a complete record of the proceedings in
14 the Examiner hearing of Case No. 11010
15 heard by me on 23 June 1994
16  Examiner
17 Oil Conservation Division
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1 CERTIFICATE OF REPORTER

2

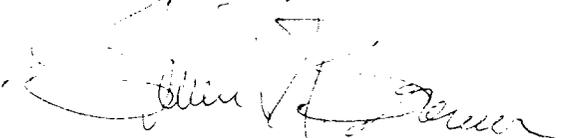
3 STATE OF NEW MEXICO)
 4 COUNTY OF SANTA FE) ss.

5

6 I, Steven T. Brenner, Certified Court Reporter
 7 and Notary Public, HEREBY CERTIFY that the foregoing
 8 transcript of proceedings before the Oil Conservation
 9 Division was reported by me; that I transcribed my notes;
 10 and that the foregoing is a true and accurate record of the
 11 proceedings.

12 I FURTHER CERTIFY that I am not a relative or
 13 employee of any of the parties or attorneys involved in
 14 this matter and that I have no personal interest in the
 15 final disposition of this matter.

16 WITNESS MY HAND AND SEAL June 27, 1994.

17 
 18 _____
 19 STEVEN T. BRENNER
 20 CCR No. 7

21 My commission expires: October 14, 1994

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