STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

CASE 9994

EXAMINER HEARING

IN THE MATTER OF:

Application of Doyle Hartman for Compulsory Pooling, a Non-Standard Gas Proration Unit and Simultaneous Dedication, Lea County, New Mexico

TRANSCRIPT OF PROCEEDINGS

BEFORE: DAVID R. CATANACH, EXAMINER

STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

June 27-28, 1990

APPEARANCES

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I N D E X

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E X H I B I T S

APPLICANT'S EXHIBITS:

E X H I B I T S (Continued)

APPLICANT'S EXHIBITS

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CHEVRON EXHIBITS:

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WHEREUPON, the following proceedings were had at 4:07 p.m.:

EXAMINER CATANACH: Okay, we'll call the hearing back to order and call Case 9994.

MR. CARROLL: Application of Doyle Hartman for compulsory pooling, a nonstandard gas proration unit and simultaneous dedication, Lea County, New Mexico.

EXAMINER CATANACH: Are there appearances in this case?

MR. GALLEGOS: J.E. Gallegos, Santa Fe, New Mexico, appearing on behalf of the Applicant, Doyle Hartman.

MR. CARR: May it please the Examiner, my name is William F. Carr with the law firm Campbell and Black, P.A., of Santa Fe. I represent Chevron, USA, Inc.

MR. HALL: Mr. Examiner, Scott Hall from the Santa Fe law firm of Miller, Stratvert, Torgerson and Schlenker, P.A., on behalf of the Stephen S. Chandler Irrevocable Trust.

EXAMINER CATANACH: Any other appearances?

Will the witnesses in the case please stand to be sworn at this time?

(Thereupon, the witnesses were sworn.)

MR. GALLEGOS: The Applicant calls Bryan E. Jones.

BRYAN E. JONES,

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

DIRECT EXAMINATION

BY MR. GALLEGOS:

Q. Would you state your name, please?

A. Bryan E. Jones.

Q. Where do you live, Mr. Jones?

A. Midland, Texas.

Q. What is your employment?

A. I'm a petroleum landman for Doyle Hartman.

Q. In the capacity of a petroleum landman for Doyle Hartman, have you prepared the evidence in behalf of this Application, and are you personally familiar with the exhibits and facts supporting this Application?

A. Yes, I am.

Q. And how long have you been a petroleum landman?

A. Approximately 17 years.

Q. Have you previously qualified as an expert to testify before the Oil Conservation Division of New Mexico, as well as other regulatory bodies and courts as an oil and gas landman?

A. Yes, I have.

MR. GALLEGOS: We tender Mr. Jones as an expert in that field, Mr. Examiner.

EXAMINER CATANACH: He is so qualified.

Q. (By Mr. Gallegos) Have you brought to the hearing today a certain group of exhibits that you intend to sponsor, Mr. Jones, which are Exhibits 1 through 10 on the Schedule of Exhibits list that has been provided to the Examiner, his counsel, and to counsel for the parties who are intervening?

A. Yes, I have.

Q. All right. Taking Exhibit Number 1 and using that as a reference point, Mr. Jones, would you explain what that exhibit shows and how it demonstrates what is being sought in this Application?

A. Exhibit Number 1 is a portion of the Lea County land map, blown up, which shows our proposed 280-acre nonstandard Eumont proration unit, consisting of the north half of the southeast quarter and the southeast southeast quarter of Section 5, and also the northeast quarter of Section 8, all in the Township 21 South, Range 36 East.

It also shows the location of our proposed Eumont infill well, our State "A" Com Number 5 Well, and in addition to this it shows Chevron's proposed 400-acre nonstandard Eumont proration unit in portions of Section 5 and 6 of 21 South, 36 East.

And in addition it shows the location of Eumont's -- of Chevron's proposed Eumont infill well, their Graham State NCT-E Number 3.

Q. Okay. Is there anything else of significance that you want to point out on Exhibit Number 1 at this time?

A. I think it's significant to point out at this point that the north half of the southeast quarter of Section 5 is a State of New Mexico tract. The lease was issued in January of 1934. That tract has never been dedicated or participated in as to any Eumont production from this field.

Q. That 80 acres has previously been undedicated to any proration unit?

A. That is correct.

Q. All right. Can you give the Examiner some idea of the status of the royalty ownership in the surrounding areas, since you point out that this is a State of New Mexico lease?

A. Predominantly all of the surrounding lands are State of New Mexico minerals. The beneficiary of those minerals are the general -- common school fund here in the State of New Mexico.

There are some federal leases immediately to the east of our tract.

Q. Adjacent --

A. Yes.

Q. -- to the east? All right.

And is one of the -- Or would one of the products of the granting of this Application be that this 80 acres, then, would be developed and be productive as far as the royalty ownership is concerned?

A. That is correct.

Q. Anything else that you'd like to point out?

A. I don't believe so on this exhibit at this time.

EXAMINER CATANACH: Excuse me, if I may, Mr. Gallegos. The advertisement for this case was for a 320-acre unit or, in the alternative, a 280-acre nonstandard proration unit. Is it my --

THE WITNESS: I'm going to answer that with my next exhibit.

EXAMINER CATANACH: Okay.

THE WITNESS: All right?

Exhibit 2 is a letter agreement, dated June 21st, 1990, between Arco Oil and Gas Company and Doyle

Hartman, and it's in regard to the Arco State "G" Com 240-acre Eumont proration unit, which currently consists of the southwest quarter of Section 5 and the south half, southeast quarter of Section 5.

The south half, southeast quarter of Section 5 is currently owned, 50 percent by Arco and 50 percent by Doyle Hartman.

We've entered into a letter agreement, dated June 21st, 1990, to exchange our interest in 40-acre tracts, and for that reason we're proposing to form a 280-acre nonstandard proration unit, as opposed to a 320, and we submit Exhibit 2 in evidence of that fact.

Q. (By Mr. Gallegos) And is there a closing set for the transaction between Doyle Hartman and Arco as --

A. Just as soon as possible. They're preparing the instruments of conveyance right now. We didn't have an opportunity to complete it before today's hearings.

Q. So the answer to Examiner Catanach's question lies within in this, and it's with that setting aside of the 40 acres of that 80 that you come up with a 280-acre proration unit?

A. That is correct, and I think it's important to point out that Arco is voluntarily agreeing to reconfigure their existing proration unit to cooperate with our proposed redevelopment.

Q. Okay, let's turn to Exhibit Number 3.

A. Exhibit 3, again, is a portion of the Lea County land map which shows all of the currently existing Eumont proration units in and around our proposed 280-acre nonstandard unit.

I have shown on there the reconfigured 200-acre proration unit which we're applying for today on behalf of Arco, and also on there I'm showing Chevron's proposed 400-acre unit, consisting of portions of Sections 5 and 6.

Q. Okay. Let's slow down a little bit here and take these, if we can, to help us understand what the units are that's being shown here.

So in yellow you show the proposed unit in Case 9994 that's pending here?

A. That is correct.

Q. Okay. And then you're referencing the Chevron unit that's proposed in Case 9949?

A. That is correct. That's outlined in pink.

Q. Okay, and that would be a 400-acre unit?

A. That is correct.

Q. All right. And let's take this around, then, with the one that's next to the north of the proposed

Hartman unit.

A. That's the Arco State "H." It's a 160-acre proration unit.

And immediately to the east of that is a Chevron 120-acre proration unit.

Immediately to the south of that is a currently existing Chevron Bell Ramsay 120-acre proration unit.

You'll notice on there that I have a dashed line and have connected that to an additional 160. That is a proposal that Chevron has apparently made to Arco to enlarge that existing proration unit.

Immediately to the west of that --

Q. Let me interrupt you --

A. Okay.

Q. -- just a second. And Mr. Examiner, and for the record, this illustrates the proposed proration unit for which we had sought by way of subpoena duces tecum information from Chevron, and upon motion to quash that subpoena was disallowed yesterday. But this would be in the area that we were concerned with.

Okay, if I might, Mr. Jones, if you just go ahead clockwise, then --

A. Okay.

Q. -- and describe the other ones.

A. The green outline at the bottom of the plat is the Arco and Chevron Bell-State, a 240-acre Eumont proration unit.

And then in the --

Q. Is that existing as it is?

A. That is a currently existing Eumont proration unit.

In the southwest quarter of Section 8 is the Conoco Meyer "A-1" 160-acre Eumont proration unit.

And in the northwest quarter of Section 8 you have a Conoco Meyer 160-acre proration unit also, currently Eumont proration unit.

Circled in red are the currently producing Eumont wells within each one of those proration units. And you'll also notice on there that we have noted by red dots our proposed State "A" Com Number 5 location; Chevron's proposed State "E" Number 3 location, Graham State "E" Number 3; and then also Chevron's Meyer Bell Ramsay Number 5 over in Section 9.

Q. Does the recent activity as to the configuration and sizing of proration units shown on Exhibit 3, as well as activities in this area generally, say anything to you about a trend as to size of proration units?

A. Yes, we believe that our Application, along with Chevron's pending Application, 9949, is indicative of the fact that all of the operators out there believe that we have to drill Eumont wells on enlarged proration units at this time due to current low allowables and low gas prices in order to justify the economics of drilling those wells.

And again, I think that's demonstrated by the fact that Chevron has apparently proposed to enlarge their proration unit immediately to the east of ours.

Q. Anything else that you wish to comment on concerning Exhibit 3, Mr. Jones?

A. I don't believe so.

Q. Okay, let's turn to Exhibit 4, then. Would you identify what that is and explain what it shows?

A. Exhibit Number 4 is a tabulation of the current working-interest ownership within our proposed 280-acre proration unit.

It's broken down by tract, and then also down at the bottom it shows what the total ownership will be following approval of our Application.

It should be noted that we have approximately 71 percent of the working-interest owners who have voluntarily agreed to cooperate with our proposed redevelopment.

Q. All right, let's give some attention to the

80-acre parcel which was previously undedicated.

A. Okay.

Q. And would you explain the circumstances of that 80-acre parcel or what background is indicative of the fact that it had not previously been developed, and what's been done about that?

A. As I previously stated, that lease was issued in January of 1934. It was subsequently assigned to Koch Exploration Company, who we bought it from in May of this year.

The lease had never been developed as to the Eumont, primarily due to an excessive overriding royalty burden of 37-1/2 percent of 8/8.

We spent a considerable amount of time, money and effort, and several months in negotiating a reduction in all those overriding royalties. There was three primary owners.

We have now successfully negotiated a reduction in those overrides to make it economically feasible to drill that 80-acre tract and include it in our enlarged proration unit.

Q. Were there three interest owners in those overrides?

A. That's correct.

Q. Okay, and what are the attachments to --

A. Attached to this tabulation is a copy of the assignments into Doyle Hartman of the record title interest, not only the lease interest but also the record title assignments regarding the overriding royalties that we acquired.

Q. Okay. But for the reduction of those overriding royalty interests, would this 80 acres continue to be undevelopable?

A. That's correct. It would be a 50-percent net revenue to the operator, and there's no way anybody could justify those economics in today's environment.

Q. So as things stand at this time, and looking at the various ownership interests, then, what ownerships are not in agreement with the pooling that's sought here?

A. As of this date, Chevron U.S.A., Inc., owns 28.6 percent that they have not voluntarily agreed to cooperate with our proposed redevelopment.

Q. And that flows out of their 50-percent ownership of the 160 acres --

A. -- in the northeast quarter of Section 8.

Q. Okay.

A. And then we have two interests that are represented by the First National Bank of Wichita. Both of them -- One of them is a trust and the other one is an agency agreement that they have.

And I have several exhibits, and I'll show you in a minute, regarding our correspondence back and forth to them.

And again, as of this date, we have not reached any type of voluntary agreement with them.

Q. Okay. And with later exhibits, are you prepared to demonstrate to the Examiner that you made every effort possible to obtain the consent and agreement of both Chevron and those --

A. Yes, I am.

Q. -- bank trusts? All right.

Anything else concerning Exhibit 4 that you'd like to speak to?

A. No, sir.

Q. What is Exhibit Number 5?

A. Exhibit Number 5 is an affidavit executed by Mr. Harry Nutter of the Gallegos Law Firm.

It evidences the fact that we have properly notified all of the offset operators as well as all of the parties within our proposed 280-acre proration unit, that we have filed this Application, and that we are seeking compulsory pooling of that 280-acre unit.

Q. All right. Exhibit Number 6, please, Mr. Jones, what is that?

A. Exhibit 6 is a photocopy of four separate letters from Doyle Hartman to the First National Bank of Wichita regarding their ownership of the working interest in the north half, southeast quarter of section 5.

Q. When did you begin to communicate with the First National Bank of Wichita about this matter?

A. The first one is dated October 30th, 1989, and it contains a purchase offer wherein we had offered to purchase their interest in that 80-acre unit.

Q. Okay. Would you just summarize what the communications have been and the results of those communications so that Mr. Catanach doesn't have to read 50 pages here in one minute?

A. We followed that letter with several phone conversations and then with a written letter dated April 11th, 1990.

And again we re-emphasized the fact that this 80 acres has been drained by offsetting Eumont wells for almost 40 years, and that it was in need of development or else we would all lose our right to develop that and there would be no remaining reserves.

Again, we made them an offer to purchase. And this particular letter, I sent them a copy of the deed and the drafts for their interest.

I have -- The last letter attached to it is dated June 18 of this year. They had requested that I send them an AFE on the proposed redevelopment.

We complied with that, and I broke down in there what their portion of the cost would be, based on our estimates.

As of this date, they have not voluntarily agreed to cooperate with our redevelopment. Being a trust, they have told me that it's almost impossible for them to take the risk involved in drilling as a working-interest partner -- participant.

They've also told me that they're not in a position to sell trust assets. So we're at an impasse with them, essentially.

Q. All right. Is it true, however, that the bank trust officers have expressed no opposition in principle to the objectives of this Application?

A. That's correct, they would like to see their interest developed.

Q. Okay, let's proceed to Exhibit Number 7, and I ask that you identify that and explain the contents of it.

Q. Exhibit Number 7 is a photocopy of three separate letters from Doyle Hartman to Chevron, the first of which is dated March 9th, 1990.

And in that we had proposed a multi-property exchange of interest between ourselves and Chevron. It includes the interest in this -- in the northeast quarter of Section 8 in here.

Q. Can you summarize what this initial proposal was that was made in March of this year to Chevron?

A. We had proposed to redevelop the State "A" 160-acre proration unit in the northeast quarter of Section 8 on the basis of a 160-acre unit.

And we have since, of course, revised that proposal, but that was what our initial offer was.

And again, we had offered to make a multi-property exchange of interests with them. And to date I have received no written responses whatsoever to that letter.

Q. Okay. What did you do next?

A. Then on April the 18th, we again wrote Chevron, proposed to redevelop this particular Eumont lease, we offered them an opportunity to sell to us.

We gave them an opportunity to farm out to us.

And then we also referred back to our March 9th letter and told them that we were still willing to enter into a trade agreement of some sort.

And again -- We also offered them the

opportunity to join.

And again, they have not responded at all to this request.

Q. Was it about the period of time that you started communications with Chevron that you had obtained the interests for the other 50-percent ownership in the northeast of 8?

A. Yes, sir, we had consummated the acquisition of the remaining 50-percent interest in that.

Q. Okay.

A. Our last letter to Chevron is dated June 4th, 1990.

And in this particular letter we propose to form either the 320-acre or the 280-acre unit that we made application for.

We enclosed a copy of our Application to them, and -- along with -- And again, we enclosed copies of our previous letters and gave them the opportunity to join, farm out, sell or make the original trade proposal.

And again, we have received no response to that proposal.

Q. All right. Were you aware, as you were communicating with Chevron, of the various proposals and offers that you summarized that Chevron was seeking in Case Number 9949 --

A. We were aware --

Q. -- an enlarged proration unit?

A. At our last letter, yes, we were. Prior to that, we were not.

Q. All right. I think that would be -- bring us to Exhibit Number 8 --

A. Eight.

Q. -- Mr. Jones. What is that?

A. That's a Model Form Operating Agreement that we proposed to have govern the operation of our 280-acre proposed Eumont proration unit.

The operating agreement provides for Doyle Hartman to be the operator.

It provides that our proposed State "A" Com Number 5 well be commenced on or before six months from this date, which is June 27th, 1990.

It further provides for a 300-percent nonconsent penalty for additional operations.

The preferential right-to-purchase provision has been removed.

And finally, it provides for a fixed overhead rate -- drilling rate -- of $5500 per well per month, and a fixed overhead producing rate of $550 per well per month.

This operating agreement is identical to the ones that we have submitted to the Commission before and which an Order was recently issued on our Britt-Laughlin Com hearing in May of this year.

Q. Do you consider the terms of this operating agreement to conform with the general custom and practice for development of wells in this particular area?

A. Yes, I do.

Q. And in your opinion, are the terms reasonable?

A. Yes, they are.

Q. Would you please identify Exhibit Number 9 and explain what that shows?

A. Exhibit 9 is a letter dated August 22nd, 1989, from Doyle Hartman to Conoco with regard to the east half of the west half of Section 9, Township 21 South, Range 36 East.

It's the identical tract upon which Chevron has proposed their Meyer Bell Ramsay Number 5 Well.

In this particular letter we had made an offer to Conoco and their remaining NMFU partners to acquire their interest. When I say the NMFU partners, it's Amoco, Arco, Conoco and Chevron. Each one of them own 25 percent in that lease. And the NMFU means New

Mexico Federal Unit.

Q. What is the significance of this exhibit?

A. We point out the fact that this particular 160-acre tract was currently nonproducing as to the Eumont, that it was abandoned as to the Eumont in October of 1986, and we feel further that it's possibly put the bug in Chevron's ear to develop that themselves.

Q. And what is Exhibit Number 10?

A. And Exhibit 10 is a letter dated May 9th, 1990, to Conoco from Doyle Hartman. And again, it's in regard to -- They put the wrong exhibit in here, excuse me.

Q. Oh, it's not what it's supposed to be?

A. It's not what it's supposed to be.

Q. Okay.

A. So we'll withdraw that exhibit.

Q. Boren State "E," that's not --

A. It has nothing to do with these lands.

Q. All right. Were there any further proposals made as to the proration unit where that Meyer or, I guess it's the Bell Ramsay Number 5 Well --

A. Yes, I did write an additional letter to Conoco in May of this year. Unfortunately, I don't know the exact date.

But we had proposed again to acquire that particular property, we had proposed to enter into a multi-property exchange with Conoco concerning not only this lease but several other ones.

Q. Okay. Mr. Jones, would you explain to the Examiner, then, what Doyle Hartman is seeking to accomplish by this Application?

A. We're asking for the reconfiguration of the Arco State "G" Com 240-acre proration unit which currently consists of the southwest quarter and the south half, southeast quarter of Section 5.

We're requesting that it be reconfigured to a 200-acre Eumont proration unit consisting of the southwest quarter and the southwest southeast quarter.

Q. Did you say 200-acre?

A. Yes, that's correct.

Q. Okay.

A. And the southwest southeast quarter of Section 5.

Again, I think it's important to point out that Arco has voluntarily agreed to this reduction in size as evidenced by Exhibit 2 that we've submitted.

Secondly, we are asking for the approval of our proposed 280-acre nonstandard Eumont proration unit, which will consist of the north half, southeast quarter, and the southeast southeast quarter of Section 5, and the northeast quarter of section 8, 21 South, 36 East.

It will also include the dedication of the previously undedicated, nonproducing 80-acre tract in the north half, southeast of Section 5.

Third, we are asking for the compulsory pooling of all interests within that proposed 280-acre proration unit.

Fourth, we are asking that Doyle Hartman be designated as the operator of that unit.

Fifth, we are asking to be compensated for the fair and equitable value of our State "A" Com Number 4 Well in Unit A of Section 8, and Mr. Stewart will introduce into evidence at a later time what we think the fair and equitable value of that wellbore is at this time.

And finally, we are asking the Commission to assess a risk penalty of 200 percent against the parties to be compulsory pooled, due to the fact that they have been given every opportunity to voluntarily cooperate with our proposed redevelopment, and they've chosen not to do so.

We believe that Chevron is deliberately making an attempt to preclude our proposed redevelopment of our leases while at the same time going about the redevelopment of adjacent offset leases that they own.

Q. Do you believe that the pooling of the interests, as sought in the formation of the unit and drilling of the proposed well, will serve the interests of the protection of correlative rights and prevention of waste?

A. Yes, I do.

Q. And what facts do you believe support that opinion?

A. Well, the fact that that 80 acres in the north half of the southeast quarter of Section 5 has been drained for approximately 40 years by surrounding Eumont wells. We desire to protect that from further drainage.

Our State "A" Number 4 Well in Unit A of Section 8 down there, as Mr. Stewart will demonstrate at a later time, will not recover the remaining reserves within the existing proration unit.

Q. And do you believe that a proration of this size is necessary in order to justify the drilling of a well in light of allowable levels?

A. Yes, we do. We feel like an enlarged proration unit with a larger acreage factor of 1 is necessary to justify the drilling economics of the Eumont infill well at this time.

MR. GALLEGOS: I move the admission of Exhibits 1 through 9 and pass the witness.

EXAMINER CATANACH: Exhibits Number 1 through 9 will be admitted as evidence.

Mr. Carr?

CROSS-EXAMINATION

BY MR. CARR:

Q. Mr. Jones, is it my understanding from your testimony that Arco is going to be responsible for reforming the proration unit that is being contracted by 40 acres in Section 5?

A. They have asked us that if we did not include that in our Application today, since they're voluntarily agreeing, to do that.

Q. But you understand that will be their responsibility and not Mr. Hartman's?

A. I understand.

Q. When did Mr. Hartman acquire his interest in the northeast quarter of Section 8?

A. We acquired our first interest in -- I believe it was October of last year, from Texaco.

And then we required an additional 25 percent from Oryx Energy, previously Sun, and we closed that transaction, I believe it was in February or March of this year.

Q. And at that time he -- Mr. Hartman -- became the owner of the 50-percent working interest in that tract and operates that tract?

A. That's correct.

Q. Now, the interest in Section 5 has been acquired by Mr. Hartman during the last -- Actually, although there may have been negotiations before, the actual assignment of those interests has been within the last 30 to 60 days or less?

A. Well, actually, our first assignment was actually dated prior to May of this year, and I'd have to refer back to my exhibits to get the exact date.

We bought some minority interests prior to the time that we bought Koch Exploration Company's 72-1/2-percent working interest. We closed that transaction May 17th of this year.

Q. What working interest does Mr. Hartman hold in the north half of the southeast quarter of Section 5?

A. 97.5 percent.

Q. And who has the balance of that?

A. The 2-1/2 percent remaining is owned by the trust department of the First National Bank of Wichita.

Q. And then as to the 40 acres that has recently been acquired from Arco, being the southeast of the southeast?

A. 100 percent Doyle Hartman.

Q. And when you say Doyle Hartman, does that include just Mr. Hartman, or does --

A. No, James A. Davidson, who's our working-interest partner.

Q. All right. And there's been no well in the Eumont on any of this acreage?

A. As to the north half of the southeast quarter of Section 5, that is correct.

As to the southeast southeast quarter of Section 5, I don't believe there's ever been a Eumont well actually drilled on that 40, but it did participate as a portion of the Arco State "G" Com Unit.

Q. The well spotted on that, to your knowledge, was not a Eumont well?

A. No. Again, Mr. Stewart might be able to address that, but I can't.

Q. I'd like to turn to your Exhibit Number 4.

A. Okay.

Q. If I look at Exhibit Number 4, the -- If we come down the left margin, we've got Tract 3. That's the northeast quarter of Section 8. And if we go over to the working-interest percent, it shows that at this time Mr. Hartman and Chevron each have 50 percent of the working interest?

A. That is correct.

Q. If your proposal is adopted and we come down to the bottom, if I read this correctly -- Correct me if I don't -- acreage committed, acreage noncommitted, total proration unit, we come over and we find a working-interest figure, and we have 29.2 percent working interest attributed to Chevron.

A. No.

Q. Okay.

A. Chevron, plus the two interests owned by the First National Bank in Wichita.

Q. What would Chevron's interest be?

A. Chevron's would be 28.5714.

Q. So its interest in the southeast quarter would be 28.5714 percent?

A. The interest in the entire 280-acre proration unit following approval would be that percentage.

Q. Okay. What interest would it have today in the existing well in the 160-acre, the State "A" Number 4?

A. Currently it has 50-percent working interest.

Q. And what would that working interest become if this proposal is adopted?

A. It would be reduced to the 28 percent that is spread over the entire 280-acre unit.

Q. Now, that well is currently producing?

A. That is correct.

Q. And it would experience the same sort of production and ownership of the production from that well; isn't that --

A. That is correct.

Q. Okay.

A. I think it's important to point out right here that in our proposal -- and I'd have to read the letter, but I believe it's our second letter to Chevron -- we gave them the opportunity to farm out to us on that 160-acre proration unit and retain their existing interest in the Number 4 Well and farm out the remainder of that proration unit, and again they've chosen not to do so apparently.

Q. You talked about a 37-percent overriding royalty interest in the north half of the southeast?

A. That is correct.

Q. And then you talked about efforts to -- And I guess what that meant is, in that tract alone the operator would have had only a 50-percent net revenue interest?

A. That is correct.

Q. You've been able to renegotiate some of those. What is the current overriding royalty interest burden on the north half of the southeast?

A. If you give me one moment, I'll calculate it for you.

(Off the record)

Take 21.210975 and subtract 12-1/2. Okay, it's approximately -- The overriding royalty, approximately, right now is 8.71 percent, almost nine percent.

Q. And that's a reduction from --

A. -- 37 percent.

Q. -- 37 percent?

If we look at the total proration unit column on Exhibit Number 4, or the block down at the bottom, if we go over to the last column it shows yes/no. Those indicate those who have joined in this proposal; is that right?

A. That's correct.

Q. And if I come down that column and look at the total proration unit, Mr. Hartman has joined and Mr. Davidson has joined?

A. That is correct.

Q. And no one else has joined?

A. That is correct.

Q. Now, I'd like to go to -- just briefly to Exhibit Number 6, the packet of letters from the First National Bank of Wichita.

A. Okay.

Q. And you probably don't have to refer to any of these in particular, Mr. Jones, but feel free to for...

As I just quickly look through these letters, did you ever propose the 280-acre unit which is the subject of this hearing?

A. Yes, I have.

Q. And was that proposed prior to June 4th, the day the Application was filed?

A. I don't believe so.

Q. Now, let's go --

A. Of course, they were notified, along with -- by certified mail, with all the other interest owners of that hearing.

Q. The same statement would probably hold true to Chevron; is that correct?

A. That is correct.

Q. Now, I think you testified a few minutes ago that there was never a response to your March 9, 1990, letter. Is that what you stated?

A. As to the overall trade proposal we have not received, to my knowledge, a response that would either accept or decline the unit.

Q. Let me show you, Mr. Jones, what has been marked as Chevron Exhibit Number 5, and I'd ask you to look at that. Have you seen that?

A. Okay, I don't recall that I've seen this, no.

Q. Okay.

A. Okay, just let me read here a second.

Okay, that looks to me like it's a counterproposal of some sort. Was there an additional letter that goes with this?

Q. No. Do you recall ever having seen this before?

A. No, I don't.

Q. Okay, thank you.

MR. GALLEGOS: Is this -- Check the reference up here, Sections 18 and 32.

MR. CARR: Okay.

MR. GALLEGOS: Does that have anything to do with --

THE WITNESS: That refers to our A.L. Christmas and Arnott land leases --

MR. CARR: All right.

THE WITNESS: -- that we obtained a farmout from Chevron back in 1985.

Q. (By Mr. Carr) Okay. In conjunction with this did you ever have telephone communications with Miss Beckham?

A. With this particular letter?

Q. Yes.

A. Not that I recall.

Q. Did you have telephone conversations with her concerning the March 9 proposal?

A. Yes, I have, in regard to the A.L. Christmas and the Arnott Ramsay leases.

Q. Did you have any concerning this particular acreage with her?

A. Not that I recall.

Q. Now, if we go to the April 18 letter, this is a proposal, I believe, that really focused on the development of the northeast quarter of Section 8; isn't that right?

A. That is correct.

Q. And if we move -- And that was a further development program for that interest alone, that 160?

A. That is correct.

Q. Now, we go to the June 4th letter, and I think you've already stated that this was the first time you approached Chevron concerning the 280-acre unit which is before the Division today?

A. Before I answer that, let me read --

Q. Okay.

A. -- the whole thing, if I might.

If you'll refer back to the March 9th letter on page 2, paragraph 2, we state in there, We have a proposed 280-acre proration unit.

Q. Okay. And at that time have you stated what interest it is? What acreage it is?

A. Yes, I have, right at the very top, the first paragraph there. You'll have to go back up.

Q. Following the -- this proposal, did you contact Chevron or discuss with Chevron this proposal any further prior to the time you filed this Application?

A. No.

Q. When in the Application it states that you have sought and obtained -- sought to obtain voluntary cooperation from all working-interest owners in the 320-acre unit or, alternatively, the 280-acre and that you've been unable to obtain that, were you referencing that March letter? Is that what you were talking about?

A. Well, I was referencing all of them,

actually, and then also the phone conversations that I've had with Mr. Sam Martin of Chevron's Houston, and then also Mr. Dave Messer of Chevron's Houston office, and I have talked to both of them on numerous occasions asking what the status was on all of our proposals with Chevron.

And their response to me always has been that we have not reached a decision as to any of them.

Q. When you talked to Mr. Messer and Mr. Martin by phone, have you kept any kind of records of those calls?

A. I have personal notes, yes, I do.

Q. Have you called them and visited with them since the filing of this Application on the 4th of June?

A. Specifically not to either one of those, but there was -- I believe his name is Eric Hanson.

Is there an Eric Hanson in you all's Houston office?

It was Eric something. I can't remember his last name. Anyway, I've talked to him about it.

Q. Since June the 4th?

A. Yes, I have.

Q. And what response did you get?

A. Again, I received the same response, that they had not reached a decision regarding our proposals.

Q. I want to ask you a couple questions, and if you're the wrong person I'm sure you'll tell me.

We talked about the reduction in ownership in the existing well in the northeast quarter of Section 8.

My question is -- and I'd like to ask you -- and if you don't know, tell me -- how you proposed the nonconsent penalty would work if in fact this acreage is pooled.

A. I'm not sure that I understand your --

Q. I'll follow up.

A. Okay.

Q. First of all, if Mr. Hartman goes forward and drills a well in the northern portion of the new proration unit, and Chevron stays nonconsent --

A. Yes.

Q. -- and a risk penalty is imposed, as you've recommended --

A. Yes.

Q. -- what production would be used to enable Mr. Hartman to recoup his costs plus the penalty? Would it be the production from the new well or from both wells on the proration unit?

A. It would be from the combined well, because we're asking for the simultaneous dedication of that well.

Q. And if the new well was a dry hole, would the cost of drilling that dry hole also be recovered out of production from the existing well, since they're simultaneously dedicated?

A. I would say yes, sir.

Q. Now, if the --

A. One thing I think we need to point out here, though, also that we're seeking also today, is to be compensated for the fair and equitable value of that wellbore, of which Chevron owns 50 percent.

So whatever value that we agree on here today -- and Mr. Stewart, as I've stated, has evidence to that, what we believe the value is -- Chevron would receive credit for that 50-percent ownership.

Q. Then what we would be doing is, we were nonconsent and there was a 200-percent penalty, the production out of the old well would be used to pay Mr. Hartman's cost plus the penalty?

A. That is correct.

Q. And the percentage of that production that would apply to the penalty wouldn't be the 50 percent that we own today; it would in fact be the 28- or 20-

some-percent figure that we would own in the entire proration unit?

A. That is correct. But then also, you would have to deduct from the drilling and completion cost, the fair and equitable value for Chevron's interest --

Q. Right.

A. -- in the existing wellbore.

Q. And that would be a factor in this formula as well?

A. Right.

Q. And that well is currently producing?

A. It is.

Q. Mr. Stewart can give us more detail on that.

A. Yes, it is.

Q. And the remaining reserves that are available to that well and can be produced would offset the expense of the further development of the unit?

A. In addition to the proposed well that we plan to drill, yes.

Q. And having whatever those remaining reserves are would, in fact, reduce the risk incurred in drilling the next well, would it not?

A. No, I don't believe it would.

Q. You already know that you've got X amount of production you can rely on to service your costs; isn't that right?

A. Well --

Q. Production out of the old well?

A. Mr. Stewart will demonstrate the fact here, after a while, that there is a possibility that we could lose that wellbore tomorrow due to improper invasion of water through injection into the Monument South Unit, which Chevron operates.

Q. But if that -- As long as that well continues to produce, that revenue would be available to pay the costs of further development?

A. The revenue with that well, plus the additional well we propose to drill.

Q. Would Mr. Stewart be the individual to address questions of what you believe are the remaining reserves?

A. Yes, sir.

Q. An early application addressed the question of having overriding royalty owners share in the cost of the development. Mr. Hartman's no longer pursuing that?

A. No, we withdrew that application on June 4th of this year.

Q. And since that time the overriding royalty problem has been resolved, in fact, so --

A. Yes, sir.

Q. -- it's not the issue that it was?

A. Yes, sir.

Q. At this time is Hartman the majority overriding royalty interest owner in the proposed unit?

A. Yes. What we've done is, we've merged the overriding royalty interest that we've acquired into the working interest.

Q. How would you -- When we talk about the wellbore and the value for the wellbore, when would that actually be recovered by, say, Chevron or Mr. Hartman? Do you know how you would propose that be handled?

A. I'd like to defer that question to Mr. Stewart, but I believe it would just be in the form of a credit initially following completion.

Q. We'll pursue that --

A. Okay.

Q. -- with Mr. Stewart.

As to the operating agreement you have proposed, there is an existing agreement that governs operations on the south -- on the northeast quarter of Section 8; isn't that right?

A. Unfortunately -- That's correct. Unfortunately, it's dated May of 1930, and there's nothing in it that conforms to current industry standards.

Q. And are you proposing that the pooling order would substitute somehow the new operating agreement for the old? I'm just --

A. Yes, sir. We're asking -- What we will do is, we will disband the old 1930 operating agreement and replace it with the one that we've submitted today.

Q. And that would be done by virtue of the Commission action?

A. Yes, sir.

Q. So the old agreement, then, would no longer govern development of that tract. We'd be looking at a new operating agreement?

A. Yes, sir.

Q. Even if that isn't executed by the parties?

A. They'll be given an opportunity subsequent to an issuance of an order to review the operating agreement and execute it if they so choose or make any amendments or changes that they propose or whatever. It really becomes a matter of negotiation following the issuance of an order.

Q. Okay. Questions concerning producing rates that are necessary to make an economical well and allowables, Mr. Stewart --

A. Mr. Stewart, uh-huh.

MR. CARR: Then I have no further questions.

THE WITNESS: Okay.

REDIRECT EXAMINATION

BY MR. GALLEGOS:

Q. Mr. Jones, let's go back to Exhibit Number 3 for a moment, and let me have you direct yourself to this proposed new unit that you are informed and believe is being configured by Chevron and others.

That's the east half of the west half of 9, and then the west half of the northwest in 9, and then I guess it's the southwest of the southwest of 4?

A. Yes.

Q. All right. So let's talk about, if you will, please, what the ownership interests are in the now-existent -- I'm going to call it the Bell Ramsay Unit, which Chevron is operator.

A. Currently it's my understanding that that is a 120-acre Eumont proration unit that's owned 100 percent by Chevron.

The east half of the west half of Section 9 is owned 25 percent by Chevron, 25 percent by Conoco, 25 percent by Arco, and 25 percent by Amoco.

Q. All right. So if that unit is being formed as is believed, what is happening concerning the dilution of Chevron's ownership interest?

A. Chevron would be diluting its interest from a 100-percent interest in an existing 120-acre proration unit to approximately 50 percent -- 57 percent -- spread over a 280-acre proration unit.

MR. GALLEGOS: All right. I think that's all the questions that I have.

Mr. Hall?

MR. HALL: Briefly, Mr. Catanach.

CROSS-EXAMINATION

BY MR. HALL:

Q. Mr. Jones, with respect to the reduced override in the north half of the southeast of Section 5, is it correct that there is presently a dispute within the Chandler Trust interests over the size of that override?

A. I'm not sure there's a dispute over the size of the override, no.

Q. Is there ongoing litigation, to your knowledge?

A. Yes, there is.

Q. What is the nature of the dispute involved in that litigation?

A. It regards whether -- They question the validity of the assignment into us, although we have a recorded assignment of record in Lea County.

Q. You purport to have merged those overrides into Mr. Hartman's working interest; is that correct?

A. That is correct.

Q. But with the exception of Chevron and the bank, the Hartmans would still speak for the remainder of the executive rights in the proration unit, and the override, regardless of its size, would not affect those executive rights; is that correct?

A. That is correct.

MR. HALL: Okay, nothing further.

RECROSS-EXAMINATION

BY MR. CARR:

Q. If I might, just in follow up to Mr. Gallegos's question concerning the tract in Section 9, Mr. Jones, the area outlined in pink, what is the basis for including that particular acreage? Did you check well files, or is that from what you were advised by Arco?

A. I was advised by Arco, number one.

And then, number two, they filed a C-101 with the OCD for the location of their Meyer Bell Ramsay Number 5 Well. There was a plat attached but they did not outline any acreage, so the plat was returned to Chevron.

In my meeting with Arco on June 22nd, when we executed our letter agreement, I took this particular plat with me and I asked them if this was the proposal in front of them from Chevron at this time regarding the Meyer Bell Ramsay Number 5 Well, and they confirmed that it is.

Q. There is only one existing well, and that's the well in what is, I guess, the equivalent of the southwest of the southwest of Section 4?

A. That's correct, the Meyer Bell Ramsay Number 5 right now.

Q. And if that acreage --

(Off the record)

Q. (By Mr. Carr) And if that 40 was not in the proposal, then you'd have no producing well on that tract, would you?

A. If they took it out, that's correct.

MR. CARR: That's all I have.

THE WITNESS: The Well Number 299 in the east half of the west half of Section 9 was a previous Eumont producer that was abandoned and converted to a water injection well for the waterflood unit.

MR. CARR: That's all.

EXAMINER CATANACH: Anything further of this witness?

I have a couple of questions, Mr. Jones, just briefly.

EXAMINATION

BY EXAMINER CATANACH:

Q. You stated that you were pooling the interest of Chevron and the interest held by the First National Bank of Wichita.

A. Yes, sir.

Q. There's another interest that you failed to mention, the Barbara Hepworth Agency.

A. Well, I mentioned it, the fact that they represent two interests.

They have an agency with Barbara Hepworth. It's the Barbara D. Hepworth Agency; they're the agent for her.

And then they have the William D. Bloss Trust, and they represent both of those interests.

Q. I see.

MR. GALLEGOS: "They" being the First National Bank?

THE WITNESS: The First National Bank of Wichita.

Q. (By Examiner Catanach) I see.

And it's your opinion that you've made a good attempt to try and secure voluntary agreement with

Chevron and with these other interest owners?

A. Yes, sir.

Q. The joint operating agreement that you -- or the operating agreement that you submitted as evidence, as Exhibit Number 8, what overhead rates did that have in it again?

A. $5500 per month per well for drilling-well rate, and then $550 per month per well for producing-well rate.

Q. And those are, in fact, the overhead rates that you're proposing to be issued in this case?

A. That is correct, and they're identical to the ones that were approved in the Order issued by the Commission last month in our Britt-Laughlin Com hearing regarding the southeast quarter of Section 5 of 20 South, Range 37 East.

Q. Would you happen to have an order number on that?

A. I'll get it for you, but I don't remember it off the top of my head.

EXAMINER CATANACH: That's fine. I can find that.

That's all the questions I have at this time.

MR. GALLEGOS: Applicant calls Michael Stewart.

MICHAEL STEWART,

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

DIRECT EXAMINATION

BY MR. GALLEGOS:

Q. State your name, please.

A. Michael Stewart.

Q. Where do you live?

A. Midland, Texas.

Q. Who do you work for?

A. Employed by Doyle Hartman as a petroleum engineer.

Q. Are you personally familiar with the Application, Mr. Stewart, and have you prepared or had prepared under your supervision certain exhibits that you intend to sponsor here?

A. Yes, I have.

Q. Have you previously -- You're a professional engineer, by the way?

A. I graduated School of Mines, 198- -- Colorado School of Mines, 1984, with a bachelor of science in petroleum engineering.

Q. And have you previously testified as an expert witness in petroleum engineering before the New Mexico Oil Conservation Division and other regulatory bodies?

A. Yes, I have.

MR. GALLEGOS: We offer Mr. Stewart as an expert.

EXAMINER CATANACH: He is so qualified.

Q. (By Mr. Gallegos) I'd like to draw your attention, Mr. Stewart, to Exhibit Number 11 and ask you to identify that exhibit and explain what it shows.

A. Exhibit Number 11 is a contour structure map drawn on a base ownership map of an area in southeast Lea County, New Mexico. The area is centered around Section 5, 21 South, Range 36 East.

It's approximately a mile and a half due west of Oil Center, New Mexico.

The contour map is at a base scale of one inch equals 1000 feet. The contour interval is 25 feet per division. It was drawn on the -- what we call the "CUQ" marker, which is an abbreviation, Commonly Used Queen.

We've developed maps in-house based upon this marker which occurs approximately 50 feet above the top of the Commission's Queen zone, or Queen picks, throughout southeast Lea County.

The contours themselves illustrate --

Q. And for the record, those zones are part of the Eumont gas interval?

A. That's correct. The Eumont gas interval in this area consists of the Lower Yates or Yates, Seven Rivers and Queen. And some operators, as Doyle Hartman, go further to make a distinction in the Queen zone between the Queen and the Penrose formations.

Q. All right.

A. The contour map further goes on to illustrate a -- in the area of lower and dipping structure to the south and the west, a higher structure that trends higher to the north and the east.

The map has got our proposed 280-acre proration unit highlighted in yellow on it, comprised -- or it takes into account acreage in Section 5 and in Section 8.

It's got Chevron's 400-acre proposed proration unit located in Section 5 and in Section 6. It's outlined in pink.

It also shows the route of two cross-sections, one trending primarily north-south -- that would be Cross-Section A/A-prime -- and the cross-section B/B-prime, which trends east west.

Q. Okay. Does the Queen zone occur throughout the area shown?

A. The Queen zone occurs throughout the area.

The porosity that develops within the Queen zone and the Eumont zone is not prevalent all over the entire area. In areas the Queen porosity is gone and the Penrose is present. In some areas the Yates is there, in some areas it's not. And in some areas the Seven Rivers is there.

This map does not represent those zones and where they are present, but the structure of the Queen is based on the "CUQ" marker.

Q. Do you attach any significance to the size of the proration unit being formed by Chevron as illustrated on this map, as well as the 280-acre unit sought by Doyle Hartman in this Application?

A. Yes, I do. I'll emphasize, again, what Bryan Jones testified to and that's the fact that due to low allowables, economic development of the Eumont pool is not feasible as previously based on 160-acre units.

And I believe the Commission -- This is going to be a trend the Commission is going to see, is a lot of these increased units coming before them due to the low allowables present.

Q. Over here on the proposed Chevron unit, I see in -- It looks like the southeast quarter, the red dot, what does that indicate?

A. It indicates Chevron's proposed Graham Bell

Number 3 Well, which would be an infill Eumont well adjacent to their existing Number 2 well, and also indicated by a red dot at approximately 1650 feet from the south line and 845 feet from the east line in Section 5, Doyle Hartman's proposed State "A" Com Number 5 Well.

Q. All right. And I'm sure you'll have some exhibits that will go to the question, but generally, what rationale do you have for the proposed location of the State "A" Com Well, the Number 5? It would be the new well, the infill well.

A. The rationale for locating it at its present is, one, the 80 acres consisting of the north half of the southeast quarter of Section 5 have never been dedicated to a Eumont-producing proration unit, nor has a Eumont well ever been drilled on it.

Thus, the reserves underlying that tract have been drained by offset producers.

Hence, we believe that a well needs to be drilled there to protect our reserves and recover our fair share of reserves.

We'll also show through a further exhibit that the mechanical abilities of the State "A" Com Number 4 won't allow the effective and efficient drainage of the reserves that the wellbore, the State

"A" 4 wellbore, encounters in the Eumont interval.

Q. What are the facts as to the activities in connection with the Eunice Monument waterflood that influence drilling in this area and that are illustrated on Exhibit Number 11?

A. There's several facts that go into it. The Eunice Monument south unit that Chevron is the operator of is the operator of is a basic five-spot water -- 40-acre, water-injection, secondary-recovery unit.

You'll note the different well numbers, and by the side of some of those well numbers that are included in the EMSU will be a water -- a WI, which stands for water injection.

There's several injection wells surrounding us. Some of them, we feel, could be possible problems in that they're comprised of casing strings, production strings or, in the case of an injection well, the injection string that they do the injecting through, being at the top of the Grayburg, allowing potential water crossflow up into the low-pressure Jal- -- or Eumont interval.

And we also will show through a later-introduced exhibit several surface constraints in locating the Number 5 Well.

Q. Okay. I'm going to ask you to address

Exhibits 12 and 13, which are your cross-sections. But while you're still at your seat, let me direct your attention to the southwest quarter of Section 8.

You see where you have the first well in your A-prime/A line, which is the Number 3, and then the Number 18 Well? Would you explain the facts concerning those wells?

A. The Meyer "A-1" Number 3 Well, located in the southwest of the southwest of 8, was originally drilled in 1935 as a Grayburg-San Andres open-hole completion.

In 7 of '53, it was dualed as a Eumont completion producing at the tubing-casing annulus.

Q. And who was the operator?

A. Conoco was the operator. It's an NMFU lease. Conoco owns a quarter, and Chevron owns a quarter, Arco a quarter, Amoco a quarter.

In 11 of '85, apparently the owners of the lease decided to cooperate and squeeze off the Eumont interval, abandoning the remaining Eumont reserves, which we'll show later to be projected at approximately 2 BCF, and convert the well to an injection well, into the Eunice Monument south unit -- excuse me, a producing well into the Eunice Monument south unit -- as producing Well 335.

And after that was performed, they moved up into the northeast of the southwest of Section 8, drilled a replacement Eumont well on the 160-acre proration unit.

Q. Okay. And what is the significance to the Doyle Hartman acreage of the placement of the Number -- of the Number 18 Well? That's the one in the northeast of the southwest.

A. It's apparent -- It's apparent to us that the decision to move up and drill in the northwest quarter of the southeast -- excuse me, northeast quarter of the southwest quarter of 8 -- was made in the realization that there could be reserves underlying the northeast quarter of Section 8 that would not be recovered by the State "A" Com Number 4 Well, and they could capture those reserves by moving into that location.

Q. All right.

A. I'll make a note on the cross-section that they moved, and as a result of drilling the Number 18 Well, lost part of the pay zone in the Eumont.

Q. Okay. Let's -- If you will, please, direct yourself, then, to Exhibit 12 which is that cross-section, and explain what it shows.

A. As I noted earlier, Exhibit 12 is a cross-section, A/A-prime. It trends from the -- primarily north to south. And I'll start down on the south end.

Q. Which is the area we were just talking about; is that right?

A. The area we were just talking about.

The first well depicted is the Meyer "A-1" Number 3. And a common trend in this area, as far as development of the pools --

Q. Why don't turn your --

A. A common trend in this area is development of the pools. In the Thirties these wells were drilled as open-hole completions, completed in the Grayburg-San Andres.

Later, in the 1953 and 1954 time period, a lot of them were either plugged back to the Eumont zone or dualed in the Eumont zone, with the deeper Grayburg-San Andres producing through the tubing, Eumont zone producing through the tubing-casing annulus.

The Meyer "A-1" Number 3 is representative of what I just spoke about. It was drilled in 1934, completed in the Grayburg. In 1954 they came back -- Excuse me, 1953, they came back and completed in the Eumont interval, being the Lower Yates-Seven Rivers zone, Queen zone and Penrose zone.

To date, or up through 1985 when the Eumont zone was squeezed, the well had produced 4.7 BCF from the Eumont. In 1985 the well averaged 809 MCF per day, and that's per producing day.

You move one location to the north and east, and you encounter the replacement well, the Meyer "A-1" Number 18, which was drilled in 1986 after the Eumont zone was squeezed off. And the "A-1" Number 3 Well, you can see by the completion interval in the log that as a result of moving to the northeast they lost the Queen zone and they lost the Seven Rivers and the Yates zones. And the well so far has cum'd 305,000 MCF. 1989's production average is 771 MCF per day.

What I'd like to make a note of right here, and we'll confirm with some reserve calculations, and we'll confirm with analogy to some other areas, is that we feel like on a cost basis it would have been better and more prudent to just plug the Number 3 Well back and leave it as a Eumont producer, and then step aside and drill a twin producing well in the -- for the EMSU unit.

Instead of doing that, they ran -- they had to incur the cost of squeezing off the Eumont with cement, drilling it out, setting a liner over the Grayburg-San Andres and converting it to a producer, and then move up to the northeast, lose a couple pay zones, and drill a producing Eumont well.

As we move to the north, we encounter the now

Doyle-Hartman operated State "A" Number 4. It's completed in the Lower Yates and the Seven Rivers and the Penrose zone. It's cum'd 4.3 BCF. 1989's average was 155 MCF per producing day.

As we move further to the north, we encounter the Arco State "G" Com Number 1 Well.

Typical of the other wells, it was originally a dual -- or originally a single Grayburg-San Andres producer that was plugged back and dualed as a Eumont-Grayburg-San Andres producer.

Through the end of this year the Eumont zone has cum'd 5 BCF. 1989's average was 212 MCF per day.

That well currently -- and I'll make a note that you might want to refer back to your contour plat. Prior to the forming of the EMSU unit, Arco decided to abandon the Grayburg zone, and they continued to produce the Eumont zone and stepped aside and drilled a twin Grayburg well, which is included as a water-injection well, number -- number 255 in the Eumont unit.

As we go further to the north, we encounter the Arco State "H" Number 1 Well, a Eumont producer through the lower Yates, Seven Rivers, Queen and Penrose zones.

It's cum'd 2.7 BCF. 1986 average production was 36 MCF a day. At that time, they abandoned the Eumont and drilled a new Number 5 Well, infilling with the Eumont Well Number 5 to the north and east of it.

One of the things that I want to point out here is, that well was operated as a dual completion with the Eumont producing up the back side. And the relatively low cum of 2.17 BCF, as we'll see throughout the area, indicates that that's an inefficient way to produce the Eumont, primarily because of water problems.

The Number 5 Well, as I mentioned earlier, is an infill well in the State "H" lease, 160-acre proration unit.

It's cum'd -- It was drilled in 1986. It's cum'd 276,000 MCF. Average 1989 production was a third of a BCF.

We picked up a well, the Meridian Shell State Com "B" Number 7, just to continue the cross-section. It also shows the productive interval being in the Penrose and the Eumont zone.

And then we include on the cross-section our recently drilled Doyle Hartman Turner State Number 3 located in the F location of Section 32, 20 South, 37 East.

And the main reason for including this one on the cross-section is to note the success of drilling infill wells. In that 160-acre proration unit it consisted, as shown on, I believe, Exhibit A -- or Exhibit Number 1.

There was an existing Number 2 Well completed in the Eumont interval that cum'd 7 BCF. That well was abandoned. Doyle Hartman acquired the lease, went in, drilled the Turner State Number 3 as an infill Eumont well. It came on line in 1 of '90.

The first five months of this year, we've made 52,000 MCF. The average rate for 1990 is 565 MCF per producing day. And we wanted to include this as an example of successful infill drilling.

Q. On the cross-section B/B-prime, Exhibit Number 13, let me ask you, Mr. Stewart, to just address yourself to, I think, maybe one well that's of some remarkable significance.

A. Cross-section B/B-prime, which trends from the east to the west, it picks up two wells that I've previously touched on, so I won't reiterate those, that being the Arco State "H" Number 1 and the State "H" Number 5.

What I'd like to point out on this exhibit is the Chevron H.T. Orcutt "A" Number 1 Well. And the adjacent unit, Monument South Number 225, is a water-injection well.

The H.T. Orcutt "A" Number 1 was drilled in 1935, originally completed as an open-hole Grayburg-San Andres producer.

If you'll note, the 5-1/2 production string --

Q. You're going to have to stand --

A. As you'll note, the 5-1/2 production string on the "A" Number 1 Well, it is approximately 3718 feet, which is approximately the top of the Grayburg, bottom of the Penrose.

This well was abandoned -- The Grayburg-San Andres was abandoned in 1954 when they set a cast-iron bridge plug at 3702, and they continued to produce the well up through the Eumont. And the well has cum'd almost 3.3 BCF. 1989's average Eumont production was 44 MCF a day.

But what we want to emphasize here is, to fill out the pattern Chevron needed an injector in this area, and they moved approximately -- well, exactly 80 feet -- or approximately 81 feet to the south and east of the Orcutt Number 1 and drilled the EMSU number 225 as an injection well.

It's a cased injection well. You'll see that the perforations go from -- or go exactly from 3730 to

3990. They're injecting water into the Grayburg-San Andres zone at the rate -- approximate rate of 263 barrels a day at a surface pressure of approximately 600 p.s.i.a.

And those fluids are free to migrate the 80 feet to the north and east, into the Orcutt open-hole wellbore that hasn't been squeezed off. It just has a cast-iron bridge plug on it. And it could potentially move up behind the 1935 cement job and water out the low-pressure Eumont interval.

And we'd like to bring that -- bring it out in the open, because we feel like that's one -- one of the major risks in this area of infill drilling where an existing waterflood is ongoing.

Q. And do you think that kind of risk is a potential as far as the proposed well in this proration unit?

A. Yes, we certainly do. And we'll show other data where some fresher data might indicate that the Bell Ramsay Number 5 Well, located in the southwest of the southwest of Section 4 may have had some -- or may be incurring some water encroachment right now.

Q. Okay. Let's turn your attention to Exhibit 14 now.

A. Exhibit 14 is an NM OCD Form 102 which has been somewhat revised to show the proposed 280-acre proration unit and the location of the proposed Hartman State "A" Com Number 5. Since it crosses Section 1, we enlarged the area on the plat to include Section 8 and Section 5.

You'll notice in the inset to the -- in the upper left-hand corner, the surface obstructions make it a legal location.

There's a northern natural gas high-pressure line 120 feet to the west of the proposed location.

There's a Chevron buried, I believe -- I don't know if it's an injection or a production line, associated with their EMSU unit, approximately 110 feet to the east of the proposed location.

And then there's a Chevron secondary overhead power line that runs north and south 125 feet to the east of the proposed location.

Q. But nonetheless, the State "A" Com would be on a standard location?

A. That's correct.

Q. Okay, let's go on to Exhibit 15.

A. Exhibit Number 15 are two AFE's, the first AFE being that for -- and it's an AFE and Detail Well Estimate for drilling the State "A" Com Number 5 Well. It's based on 100 percent cost. The costs that I've shown here are based on my experience in drilling eight Eumont wells, Eumont or Jalmat wells, very similar in nature over the last nine months.

The total of that for a completed producer being $416,917, that includes a 10-percent contingency for the drilling intangibles and the well equipment, which is industry-standard.

You might note on there that Doyle Hartman, through his experience since 1974 of exclusively developing the Jalmat and Eumont pools, has opted for seven-inch production casing.

I feel like that would allow us to recover the maximum amount of reserves from the low-pressure Eumont pool, which causes the cost to go up a little bit. But we feel like the costs merit, due to the increase in recovery reserves and the increased oil deliverability.

Q. What is the second page?

A. The second page is an Authorization for Expenditure and Detail Gathering System Estimate associated with connecting the State "A" Com Number 5 into Northern Natural Gas existing sales facilities located in Section 8.

Due to the recent FERC actions and abandonments and current gas-marketing situations, operators have been forced not only to drill, complete and recover reserves, but also to get part of those to market. And we're now forced with the -- laying our own gathering lines and connecting the wells into existing facilities, and the total of this AFE is for $46,305. It includes contingencies of ten percent.

Attached behind that is a plat which is a Northern Natural Gas pipeline map in the area showing our proposed route and where we propose to tie on to Northern's system, which we feel is the most efficient spot to allow us the lowest line pressure available on Northern's system, based on their existing line sizes.

Q. Based on your experience, do you believe that the costs shown here are necessary and reasonable?

A. Yes, I do.

Q. Let's turn to Exhibit Number 16, please, and I'll ask you to tell the Examiner what that is and the significance of it.

Q. Exhibit Number 16 is a composite pressure-time plot for wells adjacent -- for Eumont wells adjacent to the proposed State "A" Com Number 5.

On the Y axis you have the shut-in pressure in p.s.i.a. On the X axis you have time indicated by years.

I'll let you refer back to our contour plat.

The wells on the contour plat that are circled in red are the eight wells that we've included in this study, and they're labeled as so on the bottom of the plot.

What this shows is a constant and analogous -- a homogeneous decline of reservoir pressure from those eight wells, versus time, surrounding the proposed unit.

And we submit this as evidence of the potential drainage of the 80-acre tract by the existing wells in the area due to the nature of the Eumont interval and the reservoir qualities.

All of the wells are grouped fairly close together as the pressure declines with time.

We'll also -- It also shows that we expect an average reservoir pressure, when we drill the State "A" Com Number 5, of 175 p.s.i.a.

I made note earlier of the Chevron-operated Bell Ramsay Number 5, located in the southwest quarter of the southwest quarter of Section 4.

The pressures that have been reported to the Commission by Chevron for that well are indicated on the plot with the diamond, and you'll see in 1988 Chevron reported a pressure of almost 600 p.s.i.a. from a previous pressure of about 170 pounds.

Q. This is the --

A. The diamond --

Q. -- diamond jumping up here?

A. -- jumping up there.

We feel, and it's been our experience, and based on the fact that Chevron's injection pressure in the area for their EMSU unit averages about 600 p.s.i., that that shows that they may have some water breaking through some wells, either through faulty cement jobs in old wells or collapsed casing or holes in pipe, which would explain this high pressure.

Q. Mr. Stewart, with the excellent communication shown in this reservoir, can you draw any conclusions as to the approximate volume of gas that's already been drained from that 80-acres that's previously not been developed?

A. Yes, I can, and I do that through the use of another exhibit that we'll introduce later.

Q. Okay. Let's go to Number 17, which probably should have been next after Number 15, but --

A. All right. Number 17 is the Estimated Well and Production Facilities Value for the Hartman State "A" Number 4.

And the way we arrived at that is, I worked up an AFE to drill and complete a similar well, similar to the State "A" Number 4, which includes 5-1/2 production casing, the way that we drill wells and feel like they should competently be drilled and completed.

And then from that number, which is detailed on the attached, and it turns out to be $389,382, I subtracted what the well lacks, in essence.

When we drill a well, we cement the production string from the bottom of the casing string all the way to the surface and circulate cement.

This well did not have cement circulated on it beyond the 5-1/2 production string. I believe that --

Q. Okay, just to shorthand it, the deducts are what a present Doyle Hartman well would not have -- I mean, would have, that this well does not have?

A. That's correct. And that includes the cost to bring cement behind the 5-1/2 casing up to surface, our fracturing and stimulation costs, pumping-unit costs, and other associated costs that the State "A" Number 4 does not have.

Q. Okay. Now, let's talk about this in light of Chevron having a 50-percent ownership in this. Chevron, I think you said, would end up with 28.7 percent, roughly, of the cost, drilling cost of the new well?

A. That's correct.

Q. All right. So then it would receive a credit of one-half of this amount as against that drilling cost?

A. That's correct.

Q. All right. Let's turn to Exhibit Number 18.

A. Exhibit Number 18 is a -- the first page -- The first two pages of it is a summary. We took two wells, the Hartman State "A" Number 4, located in the northeast northeast of Section 4, and projected the reserves based on two different methods, the first method being the rate/time decline-curve method which we feel illustrates the mechanical abilities of the well to produce the reserves that the wellbore encounters.

You can see, based on that -- the decline-curve analogy, we see remaining reserves as of 4-1-90 to be approximately half a BCF, based on decline-curve analysis.

If you'll turn to the second page of the graph, the P/Z plot, we feel like the P/Z or material-balance method illustrates the reserves that the wellbore encounters that the reservoir says are there to recover.

In many instances out here, with old wells you're limited by the mechanical abilities of the well.

If you'll go through the calculations which I've done here on the P/Z, we estimate the remaining gas in place on the State "A" Number 4 by decline- -- by P/Z analysis -- to be 1.8 BCF.

You can see that there remains about 1.3 BCF of gas that the wellbore in the State "A" Number 4 encounters that won't be efficiently and effectively drained by the existing State "A" Number 4 Well.

The other half -- The other side of the argument is the Conoco -- or, excuse me. Yeah, Conoco-operated Meyer "A-1" Number 3 which was a Eumont interval plugged and abandoned in 11 of 1985 in favor of an EMSU well.

The decline analysis projects remaining reserves as of the time of abandonment to be approximately 2.2, 2.3 BCF.

You can see that the time the well was abandoned, it had deliverability of 17,000 MCF per month.

I'll make a note that in -- The production is tabulated behind that, and you can see in October of 1985 the well produced 10,401 MCF in 17 days.

Behind the decline -- the rate-time decline analysis, is the P/Z analysis.

When you project the remaining reserves based on P/Z or a material balance analysis, you get approximately 2 BCF of remaining reserves.

What we hope to present and that these exhibits testify to is that the Meyer "A" 1 Number 3 mechanically could efficiently and effectively drain the area that was encountered by the wellbore, because the decline-curve analysis and the P/Z analysis closely match, whereas the State "A" Number 4 is limited by its mechanical abilities.

Q. Okay. And does that indicate something to you as to -- as to drainage of those adjacent 160's?

A. It indicates to me that the Meyer "A-1" Number 18 Well is probably encroaching on the existing 160-acre proration unit, the State "A" Number 4 being the northeast quarter of Section 8.

Q. Okay. And if things were to just remain as they are with proration units and wells, would you be of the opinion that, first, the State "A" Number 4 would not efficiently drain that 160-acre unit and, secondly, that that unit would be -- would suffer migration to that Meyer 18 Number -- Number 18 Well?

A. Yes, I do believe that.

Q. Okay. Let's turn to Exhibit 19, and why don't you start on 19 -- I think it's -- works a little better if you address yourself to the second page first, this diagram with the circle.

A. Exhibit Number 19 is, once again, just an ownership map of the area of southeast Lea County.

I've drawn a circle around the proposed State "A" Com Number 5 location of 1-1/3-mile radius, and within that circle I've highlighted all the Eumont wells. These aren't -- These are wells that have produced or are currently producing from the Eumont interval.

And then I've developed a work sheet that shows by lease and well number, operator and location the cumulative Eumont production through 1-1-90 that's been produced out of those wells.

And you can see the sum of the Eumont production in that 1-1/3-mile radius has been almost 94 BCF. It's a very prolific Eumont area, to say the least, as far as cums.

The next column I show is Chevron's working interest in each one of the wells, and the column following that is Chevron's working-interest share of the cumulative Eumont production produced from each well, simply multiplying the cum times Chevron's working interest.

You'll note that Chevron's total working-interest share of Eumont production in the 1-1/3-mile radius is almost 40 BCF, and on a percentage basis that works out to almost 40 --

Q. Hold it, you said BCF? Yeah.

A. Yeah, 40 BCF --

Q. Okay.

A. -- out of 94 BCF total production.

On a percentage share, that shows that Chevron in that 1-1/3-mile radius has produced approximately 42 percent of the reserves that have been produced to date.

I'll also make a note that I converted the 1-1/3-mile radius to acres. It turns out to be that that radius encompasses 3574 acres, and that on a straight proration share the 80-acre-never-dedicated-nor-drilled north half of the southeast quarter of Section 5 should have got 2 BCF out of the -- out of the cumulative production for the area.

Q. That's the question I was asking you earlier as to what you think has probably been lost from under that acreage?

A. That's correct, that the state has lost -- their state royalty has suffered to -- you know, to the approximate volume of 2 BCF worth of gas.

Q. What conclusion does this information lead you to in regard to Chevron's refusal to participate in the proposal of Doyle Hartman in this --

A. The main conclusion --

Q. -- proration unit?

A. The main conclusion that it leads me to is that Chevron views the situation and has elected not to participate primarily because they own and control the interests offsetting the tract and will recover the reserves through existing or proposed wells.

MR. CARR: I'm going to object. That's just speculation on the part of the witness as to what Chevron's motives is.

The numbers are here. You can draw such conclusions, but I don't think he should speculate.

MR. GALLEGOS: I think he can state his opinion.

MR. CARR: I think he can state an engineering opinion, but he can't start speculating as to other parties' motives.

EXAMINER CATANACH: I'll sustain that objection.

Q. (By Mr. Gallegos) What is your opinion as to what will occur if the situation remains the same and Hartman is not allowed to form this proration unit and develop it as sought?

A. If the proration unit isn't formed, the reserves underlying the proration unit will be produced via existing offsetting wellbores, of which Chevron owns an interest in.

Q. Okay. And the interest that it owns in those offsetting wellbores is demonstrated by Exhibit Number 19?

A. That's correct.

Q. Okay. All right. Let's talk, now, Mr. Stewart, a little bit about your opinions regarding the risk associated with drilling the proposed State "A" Number 4 Well.

A. I believe there's four factors of risk that go into drilling the State "A" Number 5 -- State Com Number 5 well, those being:

Mechanical risk. Anytime you stick a bit in the ground, you've got the mechanical risk that you're going to lose the hole, not only from the time that it's drilled till it's completed but until the well has drained, the reservoir and has been properly plugged and abandoned.

You can -- There's no assurance of payout, and that can come via mechanical risk, which includes waterflows, a collapsed casing in the well that you're drilling or in offset wells, and potential -- other potential hazards that I'll touch on in a moment.

The other risk is geological risk. While the Eumont interval is present throughout, different zones in the Eumont interval come and go. You can see by the cross-sections that in some cases the Queen is present; in other cases it's not.

So you've got the geological risk of porosity pinchouts, localized porosity pinchouts which will limit your reserves, and that's a risk that you won't have a successful drilling venture. And we define a successful drilling venture as one that recovers your money and gives a reasonable return thereupon.

The other risk I'd like to point out is drainage. This area, as we have said before, has been drained by almost 40 years of previous Eumont production due to an existing excessive overriding royalty, and we're not sure exactly how much reserves are left down there.

And we feel like that the -- the gas that's been produced in the area adds a risk, because there was no wells drilled on that acreage. And because of the reservoir parameters and the qualities of the reservoir, the offsetting wells can potentially drain that 80-acre tract.

The other thing I want to touch on is -- that's prolific in this area, where you have secondary recovery going on in primarily lower intervals -- is injection of water that can go from the -- the intended injection zone into the lower-pressure Eumont or Jalmat zone.

And we've got several examples showing where units that have been operated and under secondary recovery, primarily waterflood, the water injected has encroached into the Jalmat and Eumont intervals and effectively watered out the dry-gas Jalmat and Eumont intervals.

Q. Okay. That having been said, let me ask you to address Exhibits -- sort of jointly address Exhibits 20, 21 and 22.

A. Exhibit 20 is a letter dated November 14th, addressed to Chevron where we offered to purchase their H.T. Orcutt lease.

In that letter we pointed out the potential problems that we saw with the close proximity of their EMSU injection well number 225, and the existing open-hole interval in the H.T. Orcutt "A" Number 1.

We also point out in the letter the problems that we've had on a well that we drilled in the latter part of 1989, that being the Federal Jack A-20, which was a Jalmat zone -- Jalmat well, completed in the Jalmat interval, that produces approximately 200 barrels of water a day, which we feel is caused by an offset -- previously operated offset injection well injecting into the lower Langlie Mattix unit.

Q. Okay. And does Exhibit 21 refer to a well lost because of the invasion of --

A. Exhibit 21 is two letters on Lanexco letterhead concerning their State Number 1 Well, the first being addressed to Conoco, the second being addressed to working-interest owners, which we are one of.

To summarize the letters, the State Number 1 is located in the south Eunice unit, operated by Conoco.

We've got correspondence from the working-interest owner in the south Eunice unit that they estimate they've lost approximately 65 percent of the water injected into a dry-gas thief interval, that being the Jalmat pool.

And this is an example of a New Mexico well that was curtailed due to low allowables. When allowables were increased for a month, they tried to increase the production on the well and discovered that it had been watered-out by adjacent water injection that was injected out of zone.

Q. Okay.

A. And that would be an illustration of risk after the well's been completed.

Q. Okay, what is Exhibit Number 23?

A. Exhibit Number 23 is a -- pertains to our Jack A-20 Number 11 Well, and without going into great detail there, we drilled a well, as I said, offsetting a well that was completed in the deeper Langlie Mattix zone that had a real short casing string. The casing string was only 12 feet below the top of the dry-gas interval.

That well had approximately 12 million barrels of water injected into it. It was 1300 feet away from our Jack A-20 Number 11 Well.

When we completed the well, the well produced an average of over 200 barrels of water a day from the dry Jalmat gas interval.

Q. Okay. I think, for the record, I misspoke when I called it 23. It's a December 8, 1989, memo, and it's Exhibit Number 22.

A. That's correct.

Q. Okay. What's Exhibit 23?

A. Okay, Exhibit Number 23 is a list comprised by Dan Nutter summarizing the penalty factors contained in the compulsory pooling orders issued by the NM OCD from the time period May 16, 1989, through June 6 of

1990.

It shows that there were a total of 45 orders issued by the NM OCD. Out of those 45, only seven received less than the maximum 200 percent penalty. Of those seven, six were coal-seam gas wells located in the San Juan Basin.

The other well, one of the seven, was force-pooled after the well was completed, so it received only a penalty of 75 percent.

Q. All right. Let's turn, then, to Exhibit Number 24, and actually -- Is this sheet, here, this copy of the C-101, that's part of Exhibit Number 24?

A. That's correct. That was filed with the NM OCD in the Hobbs office, and it's dated 5-30 of 90 --

Q. Could we --

A. -- signature was dated 6-7 of 90.

Q. Excuse me. Could we do this: Could we call the copy of C-101 Exhibit 24 and then this plat that goes with it 24-A?

A. Yeah, that would be acceptable.

Q. Would that be?

A. Uh-huh.

Q. All right. Okay, go ahead and explain --

A. That C-101 was submitted to the Hobbs district for the drilling of the Meyer Bell Ramsay

Number 5 Well located in -- 1980 feet from the north -- from the west line, and 990 feet from the south line of Section 9, 21 South, Range 36 East, submitted on behalf of Chevron.

In correspondence with the NM OCD in Hobbs, they said that the form C-102, the acreage dedication plat, was returned to Chevron because there was no acreage outlined thereon.

Exhibit 24-A would be the proposed proration Unit II plat. It illustrates our proposed 280-acre State "A" Com lease, Chevron's 400-acre proposed proration unit, and it also illustrates what we -- what's been communicated to us as Chevron's proposal and location for the Meyer Bell Ramsay Number 5 and the corresponding proration unit associated with that.

Q. All right. And is the next exhibit, 25, does it relate to what's shown on 24 and 24-A?

A. Yes, it does. And one way it relates is that in Chevron's prehearing statement they objected to Hartman on one account based upon their dilution of interest in the proposed 280-acre proration unit, and this is a worksheet which shows Chevron's working-interest shares being 50 percent in the existing 160-acre northeast quarter of Section 8 State "A" 4 Number Well. It shows their -- Chevron's net acres, it shows

Chevron's net wells.

And then the next column shows Chevron's proposed working interest if they would join in the 280-acre proposed proration unit.

It shows their net acres, it shows their net number of wells based on the existing State "A" Number 4 Well and the proposed State "A" Com Number 5 Well.

It also shows the current deliverability of the State "A" Number 4 Well under the existing column as being 155 MCF per day to 100 percent. Chevron's share of that would be 78 MCF per day.

And then over in the proposed column, as far as deliverability, that figure is based upon a top allowable well for the 280-acre unit, which would be -- 513 MCF per day for a 280-acre is unit based upon 1989's Eumont allowables. And then Chevron's share of that, as being 147 MCF per day.

The column to the extreme right shows the difference between the proposed and the existing insofar as Chevron's share. It shows that by participating in the unit, Chevron would increase its net wells by .07 percent -- or excuse me, by .07; it shows that they would increase their net deliverability by 69 MCF per day.

Q. And their net acres would remain the same?

A. That's correct.

Q. Okay. So in -- So what happens -- While gaining deliverability they go from 50 percent of 160 acres to 28.5 of 280 acres?

A. That's correct.

Q. Okay. Is there any other comment that you had as far as what was illustrated by Exhibit 24-A, the plat?

A. Yeah, the -- Exhibit 24-A, once again, is Chevron's prehearing statement. They made the indication that they would be diluted, and as Bryan Jones testified earlier --

Q. You mean diluted by this Application?

A. Diluted by our Application. As Brian Jones testified earlier, what they have apparently proposed to do in Sections 9 and in Section 4 would dilute them themselves, and we feel like it's contradictory to argue against dilution as it comes in our Application and then propose to do that very same thing to yourself in an offsetting tract.

MR. GALLEGOS: Okay. I move the admission of Exhibits 11 through 25, including 24-A, and pass the witness.

EXAMINER CATANACH: Exhibits 11 through 25 will be admitted as evidence.

(Off the record)

CROSS-EXAMINATION

BY MR. CARR:

Q. Okay, just a general question, Mr. Stewart. Do you have any idea why the Koch 80 acres was never included originally in the Arco unit?

A. In the Arco State "G" unit or in any Arco --

Q. In any unit. Do you know why it has been a standout all this time, in your research?

A. The overriding -- The excessive overriding burden.

Q. And that was the reason they kept it out?

A. Yes. And we have some correspondence wherein Koch wanted to drill the 80 acres and couldn't reduce the excessive overriding burden.

Q. In evaluating wells in this area, do you look to a minimum producing rate that is necessary to have a commercial well?

A. No, we don't necessarily look at a minimum producing rate.

Q. Have you considered developing this area on 160-acre tracts?

A. No, we haven't -- Or, yes, we have, we've considered the northeast quarter of Section 8 on a 160-acre tract as evidenced by our previous correspondence to Chevron.

Q. Do you have an estimate of the allowable rate that is necessary if you were to consider development on a, say, a 160-acre tract?

A. We believe that a minimum allowable of 600 MCF would be necessary to develop the Eumont on a 160-acre tract, or an acreage factor of 1.0.

Q. And it would be 600 --

A. 600 MCF per day.

Q. With a 600-MCF-per-day allowable, would it be possible to develop a 120-acre tract?

A. I believe not.

Q. What's the current Eumont allowable? Do you know?

A. 1989's current Eumont allowable was approximately 107,000 MCF for the year, which averaged 293 MCF per day.

Q. And what would be the allowable for the month of, say, June 1990? Do you know?

A. No, I haven't looked at that yet.

Q. Okay. If we look at just the 120 acres in Section 5, Mr. Hartman would have in excess of 98 percent of the working interest in that 120, would he not?

A. I believe that's correct, as based upon the previous exhibits submitted.

Q. By adding the 160 acres in the northeast of Section 8, the net effect, really, is it increases the allowable that is available for the drilling of that additional well; isn't that right?

A. That's correct.

Q. What is the current producing rate of the well -- the existing well -- the State "A" 4 Well, I believe it is -- in the northeast of 8?

A. It in 1989 averaged 155 MCF per day.

Q. Is that a commercial well?

A. Yes.

Q. Now, I think you talked about risk, and you looked at four factors. When we talk about a drainage factor in risk, aren't we really just talking about the chance that the reserves won't be there?

A. The chance that the reserves won't be there and you won't have a successful venture in drilling and completing and producing the well.

Q. And when this acreage was acquired, you had evaluated it and knew there had been some drainage from the tract?

A. That's correct.

Q. Another part of the problem we have, and risk we have in this area, is the water problem?

A. That's correct.

Q. And you are aware that there were waterflows on the area at that time?

A. Waterfloods or waterflows?

Q. Probably both. Waterfloods --

A. Yeah, yeah, that is correct.

Q. -- and waterflows?

A. Right.

Q. You had pointed that -- you had, I think, if we look at the -- you cited the Turner 3, Number 3 Well, as an example of what Mr. Hartman was able to do in terms of going back and drilling successfully infill wells?

A. That's correct.

Q. When did he do that?

A. I believe we spudded the well in -- around August 15th of 1989 and completed the well shortly thereafter, and then spent approximately four months battling with Northern to get a pipeline connection and secure the -- and build the gas-gathering facilities.

Q. And how many acres are dedicated to that well?

A. 160 acres.

Q. And that's a Eumont well?

A. That's correct.

Q. Are there more than one producing Eumont wells on that tract?
A. No, that's a single producing Eumont well.
Q. And the allowable figure that you gave me a while ago would have been applicable at the time this well was drilled?
A. That's correct.
Q. I think in your testimony, both from Exhibit Number 11 and also in testifying from Exhibit Number 18, you expressed concern over the fact the Meyer 18 Well in the southwest of 8 was in fact able to and draining the reserves from this proration unit?
A. From the proration unit --
Q. At this --
A. -- in the northeast quarter?
Q. Yes, sir.
A. It is possible that that well -- and probable that that well is recovering reserves from that proration unit.
Q. You were concerned about the condition of the State "A" Number 4, both mechanical and otherwise, as not being able to effectively drain this area?
A. Right. The way -- The completion techniques that were used on the State "A" Number 4, as based upon decline curve and P/Z analogy, showed that the reserves

the wellbore encounters, what the reservoir says is available to be produced, is limited by the mechanical condition of the well.

Q. And there's no workover potential in that well? I'm talking about the State "A" Number 4.

A. It's -- It remains to be seen.

There's several factors that would go into that, primarily being a 1935 completion and the condition of the casing and the -- That would be one of the prime considerations.

Q. You're not suggesting that a well as proposed by Mr. Hartman in the -- I think it's the northeast of the southeast of 5 or an equivalent to the regular section, you're not suggesting that that well is going to recover reserves that are currently being drained by the Meyer 18?

A. What I would be suggesting is that due to the configuration of proration units throughout the Eumont and the Jalmat interval and the location of wells, that the Commission cannot prevent drainage across lease lines or ensure that you drain the gas underlying your existing acreage.

What they can do is comprise and allow proration units and the location of wells in a just and reasonable manner that everybody can produce the reserves associated with the Eumont fairly, and that would be that the Number 18 Well is offsetting the southeast -- southwest quarter of the northeast quarter of Section 8, the State "A" Number -- the existing 160-acre proration unit that the State "A" Number 4 is located on, its encroaching on that acreage, and that the well up in Section 5 would allow us to recover reserves equitable to the other wells surrounding that.

Q. I just wanted to be sure we weren't suggesting we had some unique drainage arrangement that was going to prevent that from happening.

A. No, that's not correct.

Q. Okay.

A. We could draw a line there, but that wouldn't do it.

Q. I wouldn't believe you.

If we look at Exhibit Number 15, this is the AFE. The AFE -- These are the costs that a risk penalty is going to be based on; isn't that correct?

A. That's incorrect. The risk penalty will be based -- The penalty will be applied as to actual costs.

Q. That's right, and my question is, and I stated it wrong, this -- These are the numbers, if Chevron should elect to participate in the well, their percentage that they would be required to pay under the Order would be based on these numbers?

A. I don't believe -- No, their risk penalty would be based upon actual costs. If we --

Q. Okay --

A. -- came in under budget --

Q. -- I'm not asking you to give me a legal interpretation here. I'm just asking, are these -- Is this the AFE that you intend to drill the well on?

A. That's the AFE I intend to drill the well on --

Q. Okay.

A. -- and it's based upon drilling eight or nine previous wells in the last year.

Q. So these are the numbers we could rely on in evaluating --

A. That's correct.

Q. -- the proposal?

And attached to this is an Authorization for Expenditure concerning some gathering equipment on the surface?

A. That's correct.

Q. Surface equipment. There wouldn't be a risk penalty associated with this; there's no risk with this, is there?

A. No.

Q. You indicated that Mr. Hartman uses 7-inch casing as opposed to, I guess, 5-1/2. And I'd ask you to tell me in general terms, because you'll be able to tell me in terms I can't understand, how does this improve the ability to recover reserves from the Eumont?

A. I don't know, Bill, that I want to talk about that. I feel like that might be proprietary information. You know, this concerns our completion techniques that gives us a competitive edge in the area. And to disclose those to others would --

Q. Okay.

A. We'd lose that advantage.

Q. I'm not trying to get proprietary data from you.

A. If --

Q. Is it necessary to give you flexibility -- I mean, is --

A. What we feel, Bill, is that it allows you increased deliverability in the well, which -- All things being the same in a reservoir, a well that has more deliverability than another well, all things being equal in the reservoir encountered, that well will recover more reserves, the one with higher deliverability.

Q. I'm not going to pursue that with you any further.

A. If you're concerned about us putting a high number on the AFE to run Chevron out, you know, we're not out there, and we can back these AFE's up with actual costs on previous drilling --

Q. My question was general in nature. You said you thought that was more effective, and I just wondered if there was any other reason why.

Exhibit 17. This is the estimate of well production facilities value. When was this prepared? Just recently?

A. That's correct. It was prepared on the 6th of June.

Q. Is there not also a flow line associated with this well?

A. The existing connection, it's owned by El Paso Natural Gas, connected to the wellhead --

Q. Okay.

A. -- not owned by the working-interest owners of the well.

Q. As we go to Exhibit Number 19, as I understand this exhibit, you used this to compute the number -- or the reserves that could have been or should have been produced in the past or attributed to this 80-acre tract that's not been produced?

A. That's correct, and that's based purely on a prorated share of acreage --

Q. And --

A. -- versus cums.

Q. -- was it your testimony that these reserves have likely been drained from this tract and produced by the well?

A. That's highly possible.

Q. And some of the offsetting tracts are state tracts, are they not?

A. And federal tracts, that's correct.

Q. And some school children might have gotten some benefit there?

A. That's correct --

Q. All right.

A. -- as well as the NMFU royalty owners.

Q. Okay. Now, look at your cross-sections. The area that you've shaded, are you indicating the perforated interval or are you including any unperforated pay zones in these wells?

A. The area shaded is the existing, as we best know it, based on OCD filings, 103's, 105's of the current producing intervals or intervals that were producing in the Eumont, with the exception of the EMSU Well Number 225, which is adjacent to the H.T. Orcutt "A."

You can see that that -- That shading is done in blue, which we use to indicate a water-injection zone.

Q. And just to be sure I understood, you were trying -- Then what we see is basically the perforated zones?

A. That's the existing perforated zones, that's correct.

Q. In developing this property, when you drill and complete a well, do you propose to fracture-test that well?

A. Yes, we do.

Q. And is there any method that you can do this to be sure you don't tie into one of these waterfloods or waterflows?

A. You'll never be guaranteed that your fracture is not going to go out of zone.

As I said, in the eight previous wells that we drilled last year, we encountered water in one well at high rates, and we feel like -- and we've got conclusive evidence that that was from and it was introduced into the dry-gas interval, primarily based upon a short casing string that was landed at the base of the producing interval.

Q. If we go to Exhibit Number 25, this additional 69-MCF-per-day recovery is based on a top allowable, is it?

A. That's correct, top allowable for 1.75 acreage factor, or 280 acres. And that's simply 293 MCF per day, based on 1989's, times 1.75.

Q. Does this show any deduction for costs incurred to get that extra 69 barrels -- or 69 MCF?

A. No, it doesn't.

MR. CARR: Okay, that's all I have, thank you.

EXAMINER CATANACH: Is there any redirect, Mr. Gallegos?

MR. GALLEGOS: No redirect.

EXAMINER CATANACH: I may have a few questions, but I think I'll defer those till morning, if that's agreeable.

And I think we all should go home at this point.

Okay, we'll do that. We'll call a recess at this point till, say, 8:30 tomorrow morning.

(Thereupon, evening recess was taken at 6:10 p.m.)

(The following proceedings were had on Thursday, June 28, 1990, at 8:35 a.m.)

EXAMINER CATANACH: Call the hearing back to order this morning, and I believe where we left off, Mr Stewart was on the stand.

If I may get Mr. Stewart back on the stand for just a few questions.

EXAMINATION

BY EXAMINER CATANACH:

Q. Mr. Stewart, I'd like to go over with you a little bit on how you determine the value of the State "A" Number 4, if I may.

A. All right. What I did was, I AFE'd it to drill a similar well in the manner that, based on Hartman's 10-plus years of experience out in the Eumont and Jalmat pools, fields, like you have to competently complete a well.

And that AFE is on the -- is attached as the -- titled Eumont Infill Well. And the State "A" Number 4 is drilled and has 5-1/2 production casing, unlike the wells that we currently drill.

And I used current prices to -- based on a 5-1/2-inch production string, to drill and complete a well in the manner that we feel one needs to be drilled to properly develop the Eumont.

And that total is $389,000 -- or $389,382. And I started with that figure, and then from that figure I subtracted what the State "A" -- the condition of the State "A" Number 4 is in right now, and I subtracted the things that were included in the AFE that the State "A" Number 4 lacks.

And that would be, when we drill a well, because of the fracturing techniques we use and other -- One reason is because of the injection water and deeper horizons and -- in other areas, and in this area some water may have gotten out of zone.

We feel like it's necessary to bring cement all the way behind the surface pipe -- or behind the production string, up to surface.

And the State "A" Number 4 does not have that, so I deducted the cost to bring that cement to the surface.

The State "A" Number 4 was never fractured. I deducted the cost, our fracturing cost.

And it does not have a pumping unit on it. I deducted those costs, which were the pumping connections, the unit, the controller, the rods, and then the cost of the tank battery is simply a water tank and a separator and then flow lines. And that nets out to $195,782.

Q. So that's what the interest owners would be subject to paying their share of?

A. No, that's what they would be -- The owners of the well, being Hartman 50 percent and Chevron 50 percent, would be credited that $195,782 in their proportional share towards the unit.

The folks that don't own in that would be charged against their share of the -- their share in the 280-acre unit, against that value.

Q. I see. Now, does Hartman propose to do any of this work to the State "A" Number 4?

Does he intend to fracture it or bring the cement up behind the 5-1/2-inch casing?

A. We've -- Right now, we feel like when we drill the State "A" Com Number 5, we do some testing of zones to see what kind of productivity, insofar -- if there's water in the zones and what pressures.

We individually test the pressure zones in the Eumont interval, and we feel like that gives us an indication of is there water there?

The problems that might be associated with fracturing an old well could be, you know, is water present or is there abnormally high pressures?

So what we will probably do is drill the State "A" Com Number 6, gather some more data about the reservoir, and then evaluate the Number -- or drill the Number 5, and then evaluate the Number 4.

One of the things that I've noticed in going through the old Texaco well record on the Number 4, it appears that there was some question. They had done some squeeze jobs in the lower zone, being the Grayburg-San Andres, and there was some note in the well files as to some casing problems.

You know, we -- Before we would go in and fracture it, we might have to have a look at that and see if that casing problem exists in the Eumont interval or if it's in the deeper Grayburg-San Andres interval.

So I would say right now we have no proposal to do that work but, you know, we will evaluate it.

Q. Okay, so any subsequent work that you do on the State "A" Number 4 will be billed to the interest owners in their share?

A. That's correct.

Q. Proportional share.

A. And again, I'll make the note that the case that we referred to yesterday that was recently a force-pooling case, similar -- and -- I want to say exact duplicate method was used to arrive at an existing wellbore value.

Q. Is the State "A" Number 4 or the -- yeah, the State "A" Number 4 currently incapable of making the 160-acre allowable?

A. That's correct. Averaged 155 MCF a day, per producing day, in 1989. The Eumont allowable for a 160-acre p.u. was 293.

And I believe through Exhibit 18 we illustrated that the wellbore is limited mechanically to the reserves that it will recover.

Q. Have you done any type of calculation which might indicate what the proposed Number 5 Well will recover?

A. We've run some economics, based on some assumptions of offset wells and how they perform, based on P/Z's, the remaining gas in place that we feel those wells will not recover, that being the offset wells, and we've made analogous conclusions or -- On other Hartman-drilled wells, we have history that shows what we feel like we can do in our completion techniques which will more efficiently and effectively drain the low-pressure Eumont interval.

And through those analogies on old -- on new infill wells that we've drilled, we correlate back to this area and primarily do it based on the pressure that we expect to encounter in the reservoir. And on that composite pressure/time plot, Exhibit -- Let me find the Exhibit.

MR. GALLEGOS: It's 16.

THE WITNESS: Okay, Exhibit Number 16, you can see that the wells in the immediate area have declined uniformly as to pressure and time, and we -- As I stated before, we expect to encounter a reservoir pressure of approximately 175 p.s.i.a.

And we go through some calculation based on the slope that we feel we can achieve on a P/Z curve, and that being -- We take the reciprocal of the slope, being we're going to recover X amount of MCF per pound of pressure drop in the reservoir.

And in this case, I would say our studies have led us to believe that that factor can be as high as 15,000 MCF per pound of pressure drop in the reservoir.

So if you were to take 15,000 MCF and an abandonment pressure of 40 pounds or 45 pounds, that leaves you with 130 pounds of reservoir pressure, times your 15,000 MCF, and that's -- That's how we'd arrive at our reserve.

It's kind of a unique way of calculating reserves in the pool, but based on history we feel like it works.

Q. (By Examiner Catanach) The State "A" Number 5 is basically an infill well. Do you have any doubt that you will encounter some gas production in the Eumont?

A. I believe we'll -- Barring mechanical risk, which would be losing the hole, not being able to actually complete the well due to unforeseen problems, which are numerous, and the fact that there's some water flows or potential water problems in the area, we don't -- we're here -- we're proposed to do this well because we feel like it's an economically viable project for us.

And to be economically viable for us, we have to weigh the risk versus the return. And so I guess since we're here proposing the well, we feel like we will encounter gas production.

Q. Now, you say that you -- There's a good chance of mechanical risks. Has Hartman had similar problems in similar Eumont wells that he's drilled?

A. In the previous eight Eumont wells that we drilled, we've had no problems -- or eight Eumont and Jalmat wells that we drilled last year, we've encountered no mechanical problems to date with the wells, with the exception of the Jack A-20 Number 11, which is a well that I talked about a little bit yesterday in making 200 barrels of water a day.

It continues to make between 175 and 200 barrels of water a day out of the dry-gas Jalmat interval, and that well would have not -- and we -- It's still yet to be seen if it is going to be an economic success.

It definitely would not have been an economic success if we had not had our own water disposal well about a mile -- or about two and a half miles away that we are able to dispose of the water in for minimal cost.

But the eight wells that I was associated with drilling, the only, like I say, mechanical problem that we did encounter was with the Jack.

I'm not all that familiar with Doyle's wells that he drilled in the previous ten years' experience in the Jalmat and Eumont.

I do know of a couple problems that he had as far as casing strings that -- or casing that parted upon cementing it. Lost one hole to that.

EXAMINER CATANACH: I believe that's all the questions I have at this time.

The witness may be excused.

MR. GALLEGOS: Mr. Examiner, that completes our evidence. But before we close the case, I would like to have the record reflect the proceeding that was held in this matter on June 26th -- that is, Tuesday of this week -- which I don't believe was made a matter of record.

On the 22nd a subpoena was issued from the Commission and served on Chevron, seeking information concerning Chevron's activities by way of formation of proration units and drilling of wells on surrounding offsetting acreage, and Chevron filed a motion to quash. That was heard by the Commission in a telephone conference on the afternoon of June 26th, 1990.

I don't know whether you intend to enter an Order on that, Mr. Examiner, and if you do, that of course will help with the record in that regard.

But it was ruled after counsel for the parties were heard that the subpoena would be quashed and that Chevron would not be required to produce the evidence at this hearing that had been the subject of that subpoena. And I wanted the record to reflect that.

Is there any exception to --

MR. CARR: No exception.

MR. GALLEGOS: -- my statement?

EXAMINER CATANACH: Mr. Gallegos, in the past we have not entered a written order on the subpoena or the motion to quash. I'll check with counsel for the Division. If you request one, I'm sure we can accommodate you.

MR. GALLEGOS: Well, if we didn't have something, and I think if I hadn't at least done this then there would be no way if that were ever to be a matter raised at a later time.

So I think it's clear that your ruling was to sustain the motion of Chevron to quash the subpoena, and I think the record reflects that, and nobody's arguing that that's -- that the proceeding was different than I've described it.

MR. CARR: No, no argument with it.

EXAMINER CATANACH: Okay.

MR. GALLEGOS: With that, we close our case subject to rebuttal.

EXAMINER CATANACH: Okay. Mr. Carr?

MR. CARR: Mr. Catanach, at this time we would call Bryan Cotner, C-o-t-n-e-r.

BRYAN C. COTNER,

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

DIRECT EXAMINATION

BY MR. CARR:

Q. Will you state your full name for the record?

A. Bryan C. Cotner.

Q. Mr. Cotner, by whom are you employed and in what capacity?

A. I'm employed by Chevron, USA, Inc., as a petroleum reservoir engineer in Hobbs, New Mexico.

Q. Have you previously testified before the Oil Conservation Division?

A. No, I have not.

Q. Would you summarize your educational background?

A. I hold a bachelor of science degree in petroleum engineering from the University of Texas in Austin. I was granted that degree in May of 1981.

Q. Could you review your work experience since graduation?

A. I began work for Gulf Oil Corporation in June of 1981, immediately following graduation. It was merged with Chevron, USA. I've been continuously employed with Gulf/Chevron since that date, seven years as a reservoir engineer and two years as a field engineer.

Q. Does your geographic area of responsibility as an engineer in the Hobbs office include the portion of southeastern New Mexico which is involved in this case?

A. Yes, it does.

Q. Are you familiar with the Application filed in this case on behalf of Mr. Hartman?

A. Yes, I am.

Q. Are you familiar with the acreage that is subject to and involved in that Application?

A. Yes, I am.

MR. CARR: We would tender Mr. Cotner as an expert witness in reservoir engineering.

EXAMINER CATANACH: He is so qualified.

Q. (By Mr. Carr) Mr. Cotner, would you briefly state why Chevron is appearing in this case?

A. Chevron opposes the Application of Mr. Hartman for the formation of the 280-acre unit because of its dilution of Chevron's interest in the existing 160-acre unit that is dedicated to the State "A" Number 4.

Q. What is Chevron's interest in that proration unit?

A. We have a 50-percent working interest in the State "A" Number 4 and 160-acre unit.

Q. And without repeating the testimony, just could you summarize what the current status of that acreage is?

A. There is one producing well that is producing

155 MCF per day. It's a marginal well. The amount of margin fluctuates with the fluctuations of allowable, which this year we've seen go from 600 MCF per day to down around 230 MCF per day.

Q. How long has this well been producing?

A. Since about 1935.

Q. And what is its cumulative production to date?

A. It's produced approximately 4.4 BCF of gas.

Q. And how much acreage is dedicated to it?

A. 160 acres.

Q. Could you identify what has been marked as Chevron Exhibit Number 1?

A. Yes, sir. It's a rate-versus-time plot of gas production on a semi-log scale. It indicates production gathered from the Petroleum Information Data Base and updated through March of this year based on New Mexico Oil and Gas Engineering Committee statistical reports, except for February when there was no report, and I utilized the gas proration schedule to come up with the February data.

I've fitted a line of decline to estimate remaining reserves, and my best estimate at this date is that there's 612 million cubic feet remaining to be produced, based on this rate-versus-time plot.

Q. Can you explain the spikes that appear in the mid-1980's?

A. I would assume that the dramatic spike -- drops and rises in production during the 1980's is a result of marketing conditions during that time period.

Q. And what is the current producing rate for this well, as indicated on a monthly basis?

A. About 4600 MCF per month.

Q. Anything else you want to present with Exhibit Number 1?

A. No, sir.

Q. Let's go now to Exhibit Number 2. Would you identify that exhibit?

A. This is a P/Z-versus-cumulative-gas-production plot. This plot was actually supplied by Mr. Hartman in his April 18th memo. I double-checked several of the points, or most of the points, using the Dwight's data and found them to be correct. So I had no problem utilizing the curve that he supplied.

Based on this plot, I'd estimate remaining gas reserves for the State "A" Number 4 to be approximately 1.1 BCF.

Q. Looking at Exhibits 1 and 2, does this tell you anything about the future profitability of this well?

A. It shows that the well has an economic future ahead of it for quite some time.

Q. Let's go now to Exhibit Number 3. Would you identify this?

A. Exhibit Number 3 is a summary of Chevron and Mr. Hartman's interest in the current proration unit and in the two alternatives that he originally proposed in his Application.

We now know that it's -- We're just discussing the 280-acre proration unit, so we'll stick to that.

It shows that Chevron's interest will go from 50 percent to 28.57 in the existing operations. Mr. Hartman -- The exhibit indicates that Mr. Hartman will go from 50 percent to 58.57. But with the information we learned recently, we now know that Mr. Hartman's interest will be 67.23 percent.

Down at the bottom, I show a calculation I made utilizing the monthly lease operating reports at Chevron that indicate revenues and expenses, a profit-loss statement, if you will.

And based on the data that I gathered for the first five months of 1990, in a 280-acre proration unit, Chevron will lose $1319 a month in revenue from the existing well if this 280-acre proration unit is compulsory-pooled.

Q. Basically, how you got that was just applying the percentage reduction in Chevron's interest to the average monthly cash flow?

A. Yes, sir, that is correct.

Q. Let's move on now. Let's go to Exhibit Number 4.

A. Exhibit Number 4 is a sequence of events that we saw something similar to yesterday. It indicates all correspondence between Chevron and Mr. Hartman concerning the subject property.

On March 9, Mr. Hartman proposed a trade which included several properties, including the State "A" lease.

On March 23, Chevron declined Mr. Hartman's offer.

On April 18, Mr. Hartman proposed an infill well in the 160-acre State "A" lease. This is currently a 150-MCF-a-day producer.

When he proposed this infill well on a 160-acre lease, the margin was only about 200 -- or the allowable was 240 MCF per month. So the margin was about 90 MCF per day for his proposed infill well.

On May 25, Mr. Hartman proposed the formation of a 160- alternate 120-acre proration unit in the southeast quarter of Section 5, Township 21, Range 37. Chevron was notified as offset operator in this Application.

On June 4, Mr. Hartman filed for the creation of a 320-acre unit in the southeast quarter of Section 5, the northeast quarter of Section 8. The alternate was a 280. He seeks forced pooling of the working interest. His proposal incorporates portions of two existing gas proration units.

We heard evidence yesterday that Arco has voluntarily agreed to redefine their proration unit.

And on the same day, June 4, Mr. Hartman invited Chevron to participate in this 320- alternate 280-acre proration unit.

Chevron's interest to 320 would have been 25, but today we know it will be 28.57.

Q. At this point in time, what is Chevron's stand on these proposals?

A. Chevron opposes the joining of the 280-acre proration unit, and we oppose compulsory pooling of the unit.

Q. When you talk about margin, you're talking about the difference between the allowable and existing production from the dedicated acreage?

A. Yes, sir, that is correct.

Q. You heard Mr. Hartman's witnesses testify yesterday concerning the imposition of a 200-percent risk penalty?

A. Yes, sir.

Q. Do you believe that is an appropriate penalty in this situation?

A. No, sir, I do not. I believe Mr. Hartman is offsetting his risk by the dilution of Chevron's interest and his increasing interest in existing operations. And at the most, that risk factor should be one-half of his proposed risk factor.

Q. At most, 100 percent?

A. Yes, sir.

Q. Why does Chevron seek denial of this Application?

A. This Application will deny Chevron the opportunity to produce its reserves that had been proven under the 160-acre tract.

Q. What do you propose be done in this situation? Or what is Chevron's recommendation?

A. Chevron's recommendation would be for the -- now, the compulsory pooling, for Mr. Hartman to develop his 120-acre tract by himself.

Q. Do you believe granting the Application would impair the correlative rights of Chevron?

A. Yes, sir, I do.

Q. In your opinion, would denying the Application result in waste?

A. No, sir, I do not.

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

A. With the exception of Number 2, which was provided by Mr. Hartman, yes.

MR. CARR: At this time we would move the admission of Chevron Exhibits 1 through 4.

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

MR. CARR: That concludes my direct examination of Mr. Cotner, and I pass the witness.

EXAMINER CATANACH: Mr. Gallegos?

MR. GALLEGOS: Thank you.

CROSS-EXAMINATION

BY MR. GALLEGOS:

Q. Mr. Cotner, do we understand that you have been stationed in Hobbs throughout your nine-year career with Chevron or with Gulf as merged into Chevron?

A. No, sir, I have not spent my entire career in Hobbs.

In September of 1982 I was transferred to

Hobbs from the Goldsmith area office which was in Odessa.

And in 1984, January, I was transferred to the Sundown field office in Sundown, Texas, and returned in October of 1985, and I have been in Hobbs since that time.

So I was in Hobbs from 1982 to 1984 and from 1985 to date.

Q. And you are entirely familiar with all of the various proposals that Mr. Hartman has made to Chevron concerning this acreage that I think commenced sometime in March of this year; isn't that true?

A. I'm familiar with each of those proposals. It was on Exhibit 4 that we submitted.

Q. Well, and it was also -- Those were also contained in, I think, Exhibit 6 and 7 that were provided by Hartman witnesses yesterday, various letters with attachments and that sort of thing.

A. Each one that was directed to Chevron I am familiar with.

Q. And each one directed to Chevron, in each case you were copied by Doyle Hartman's office?

A. I believe that's correct, yes.

Q. Okay. And I would assume, then, from your position, your responsibility, that you're likewise familiar with the facts surrounding the proposed 400-acre proration unit of Chevron that's the subject of Case 9949?

A. No, sir, I'm not familiar with that case.

Q. And you're not familiar with the proration unit or the facts pertaining to it?

A. No, sir, I'm not.

Q. Chevron's case, the next case to be heard?

A. No, sir, I am not familiar with that case.

Q. There are representatives of Chevron here today who are?

A. I believe so, yes.

Q. And who are they?

A. My understanding would be that Mr. Rick Jones would have knowledge of that case and Mr. Al Bohling, but they would have to confirm that.

Q. You don't speak to them?

A. No, I do speak to them.

Q. Okay, so you would have some idea as to what they know about that, wouldn't you, Mr. Cotner?

A. I don't think I'd say that I have some idea what they know about it. I would have to have some idea that they know things about that case, yes, sir.

Q. Well, are you telling us you've made a conscientious effort to know nothing about that --

A. No, sir, I --

Q. -- so that you can only address the Hartman proration unit?

A. No, sir, I'm not saying that at all. I made a conscientious effort to come testify the case that I'm testifying in, and no effort was made to be prepared to testify in the other case of which I've had no opportunity to work on.

Q. You work on matters of this sort for Chevron in its Hobbs office, don't you, sir?

A. Yes, sir, but I did not work on the Orcutt proration unit.

Q. All right. And are you familiar with the facts concerning a proposed proration unit in Section 9 that was mentioned by the Hartman witnesses and illustrated on their exhibits?

A. I have some intelligence about that proration unit.

Q. All right. And would Rick Jones and Al Bohling have additional intelligence about that proration unit?

A. Yes, sir, I believe that's correct.

Q. All right. As I understand it, what you are asking the Division to do is to deny the Application of Doyle Hartman in this case, correct?

A. That is correct.

Q. So one result of that denial, you agree, would be that the 80 acres constituting the north half of the southwest -- excuse me, the southeast quarter of Section 5 -- would remain an undedicated lease, subject to drainage from offsetting units; isn't that true?

A. That would be dependent on Mr. Hartman's development of the lease or not.

Q. Well, the result of what you ask in this proceeding would be that 80 acres would remain undedicated; isn't that true?

A. At the end of the day, yes, that would be correct.

Q. That's correct. And another result of what Chevron asks the OCD to do would be that the 160 acres on which the State "A" 4 is located would be subject to continuing drainage by your Meyer "A" Number 18 lease in the southwest quarter of Section 8; isn't that true?

A. Now, are you referring to the Conoco lease?

Q. Yes, in which you have an interest; isn't that true?

A. I have not calculated drainage maps to know for certain that that lease is draining portions of the northeast quarter of Section 8.

Q. What do you think is the drainage area of the

Meyer 18?

A. I'm uncertain, because I have not calculated drainage-radius maps.

Q. Well, what's your best opinion? Are you telling the Examiner that it would not probably be draining the northeast quarter of Section 8?

A. No, sir, I don't think I'm saying that to the Examiner. I think I'm telling the Examiner that I don't have an opinion this morning if that well is draining the northeast quarter of Section 8.

Q. By the way, you made the point that Conoco -- that's a Conoco lease, in suggesting that Conoco is the operator?

A. Yes, sir.

Q. Is Conoco the operator in the case of all so-called NMFU properties?

A. Yes, sir, I believe that's correct.

Q. So how is it that Chevron is going to be drilling a well in Section 9 on NMFU properties?

A. I don't believe it's certain to date that we'll be drilling a well on the NMFU properties, but I believe --

Q. Well, proposed. And how is it that it's proposed that Chevron will be drilling a well?

A. I would assume that Chevron would be drilling the well as a majority interest owner in the gas com that will be created in Section 9.

Q. So that's a departure from your NMFU agreement?

A. I'm not sure if it is or not. I'm not well versed in all the clauses of the NMFU agreement.

Q. Well, in order for Chevron to drill the well would require some sort of consent or a relinquishment by Conoco as the designated operator of those properties; isn't that true?

A. I would assume that's correct, yes.

Q. Okay, and the proposal is that Chevron will be drilling that well?

A. Yes, sir, I believe that's correct.

Q. Okay. Let's come back to what the result would be at the end of the day, as you put it, if the Application is denied.

Another result, which I believe is shown by your Exhibits 1 and 2, is that under the 160 acres in the northeast quarter of Section 8, something like one-half BCF of reserves will be left in the ground, unrecovered by the State "A" 4 Well; isn't that true?

A. No, sir, I don't believe that is necessarily correct. That is a possibility, but I don't believe it is absolutely certain that that is the case.

Q. All things being equal, as you want them to be -- that is, everything left alone, the State "A" 4 as it is, operated as it is -- you demonstrate that 500,000 MCF will be unrecovered by that well? Isn't that what your exhibit shows?

A. My exhibits show my estimations of remaining reserves under each of the two different techniques used to calculate remaining reserves, one decline-curve analysis and one P/Z.

Both methods require assumptions and interpretation. Both methods could be incorrect or correct. One method could be incorrect and the other method correct.

The exact number of reserves remaining for the State "A" Number 4 is something that's interpretive, and it has error associated with its interpretation.

Q. Okay, so you are suggesting in your testimony now that Exhibits 1 and 2 are not be relied on?

A. I believe I'm testifying that the remaining reserves for the State "A" Number 4 are somewhere between 600 and 1200 MCF and 1.1 BCF.

Q. Well, your Exhibit 1 is meant to say to the Examiner that you think the State "A" 4 will recover approximately 600,000 MCF --

A. Yes, sir, that's --

Q. -- isn't that what it says?

A. Yes, sir, that's what it states.

Q. And then you go on to use that in order to make your calculation on Exhibit 3 of how much revenue Chevron is losing; isn't that true?

A. No, sir, the remaining reserves have nothing to do with how much revenue Chevron will lose on a monthly basis based on the first five months of 1990.

Q. Okay. Your rate employed on Exhibit 1 is the rate that's used for monthly loss, loss of revenue?

A. Yes, sir.

Q. Okay, and what you're saying, you don't know that that would continue? That rate of $1300 a month might not continue?

A. I would assume that it would decline with time.

Q. All right. And as unreliable and imperfect as the exhibits are, if we accept Exhibits 1 and 2 at face value, then the answer to my question about leaving a half a BCF of reserves in the ground is that that is what they show; isn't that true?

A. Yes, sir.

Q. On the -- Mr. Cotner, I think you have an exhibit packet. It will help our discussion if you have Exhibit 24-A in front of you. I'm going to refer to that. Do you have one handy?

Just on your engineering expertise, since we might have to talk to Mr. Jones and Mr. Bohling about some of these things, but just on your own expertise, Mr. Cotner, let me direct your attention to the area outlined in Section 6 and Section 5 as the proposed Chevron Unit in Case 9949, and assume that that accurately shows that unit, since you don't have intelligence on your own of that fact, all right?

A. Yes, sir.

Q. Now, let me ask you to further assume that the proposal of Chevron in Case 9949 on the formation of that 400-acre unit is to drill a well in the -- I guess it would be the south half of the southeast quarter. These are funny-shaped sections, but the red dot --

A. Yeah, where the dot is.

Q. Where the red dot is pointed to, is the Graham State Number 3. Assume that that is the location of the proposed well. All right?

Now, what rationale would exist for drilling a well there for the efficient drainage of that 400-acre unit?

A. This unit will be simultaneously dedicated with two producers; is that correct?

Q. Yes, it will be dedicated, I think, with the Orcutt well in the -- in Section 5. Do you see the Orcutt?

A. Yes, sir.

Q. All right.

A. I believe that the formation of this unit will allow for sufficient margin to drill a second well in this 400-acre proration unit.

Q. And that comes about, does it not, by reason of the fact that the 400 acres will provide a sufficient allowable to justify that well drilled where the red dot is shown?

A. Yes, sir, that's correct, that enters into it.

Q. Okay. But you're not -- and would not represent as a reservoir engineer to the Examiner that that well where the red dot is shown is going to efficiently or at all drain the acreage in Section 5, are you?

A. No, sir, I'm not going to make any testimony in that case.

Q. Well, I'm asking for your opinion. You don't have to know anything about the case. Just look at the map and the circumstances with your knowledge of the

Eumont pool.

A. No, sir, I wouldn't think that that well would have significant drainage in that -- in the partial section -- or partial of Section 5.

Q. And are you aware that the Orcutt well in Section 5 is producing at the rate of about 30 MCF per day?

A. No, sir, I'm not aware of that.

Q. Well, if you assume that to be the fact, then that well is not draining that acreage, is it? And will not recover the reserves under it?

A. Unless that well has already drained the acreage.

Q. Do you have some information in that regard?

A. No, sir, I have not calculated drainage radius maps for this --

Q. If the well has already drained the acreage then do you think it's appropriate that that acreage be included in the 400-acre unit in order to set an allowable?

A. I would not know.

Q. Well, you wouldn't expect an allowable to be permitted by the OCD on an acreage factor if there were no reserves, would you?

A. Under that case, I'd have to assume that there were no reserves, and I don't think I would want to make that assumption at this time.

Q. All right. What's your opinion of the estimated radius of drainage around that Graham State Number 3, the red dot?

A. I have not made any calculations, and so I have no opinion.

Q. In your engineering judgment, would you say that Chevron should be proposing to drill a well on the 160 acres in Section 5?

A. I have not studied that and cannot make an accurate comment about it at this time.

Q. Well, with your knowledge of the Chevron personnel, then, who would you think -- Who would you believe has studied that?

A. We have an engineer in the Hobbs division named Nicky Warlick who is, I believe, the engineer that's worked on the Orcutt proposal.

Q. All right. And Mr. Jones and Mr. Bohling would be familiar with that study, would they not?

A. They are also familiar with the elements of our Application for the Orcutt, that's correct.

Q. Your are in agreement, aren't you, Mr. Cotner, with the testimony of Mr. Stewart that there's excellent communication in the zones that we're concerned with here, Eumont?

A. I was looking back for testimony from yesterday, and I cannot recall precisely what was said.

It's my understanding that there are zones that do have communication with the Eumont, and there are isolated porosity zones that are not in communication, and I believe Mr. Stewart had some testimony to that effect yesterday also.

Q. Okay. So what is your opinion?

A. That there is heterogeneity in the formation, and there are some portions of the formation that are continuous and some portions that are not.

Q. By the way, on Exhibit 3, before we leave this, what calculation did you make as to the gain for Chevron in dollars per month as the result of Hartman's drilling of the State "A" Number 5 which would result if this Application is approved?

MR. CARR: The drilling of the additional well?

MR. GALLEGOS: That's the additional well. The State "A" Number 5 is --

MR. CARR: All right.

MR. GALLEGOS: -- is the infill well.

THE WITNESS: Prior to preparing for the hearing, when we had Mr. Hartman's proposal for participating in 320 alternate 280, I did make calculations of what would be Chevron's value in each of the different scenarios.

Based on the information I had at that time, the value of diluting our interest and participating in the new well with the reserves in production available, or that we would believe that the new well would be capable of producing, was less than the value of the existing operations for Chevron.

And that's why we protest this, because the dilution does not protect our correlative rights. It causes us to lose value, and it prevents us from developing the reserves that we have on our 160-acre unit.

Q. Okay. Now, would you answer my question? What is the calculation of the gain? You've shown $1300 a month loss, at least at present rates. What's the calculation of gain to Chevron by reason of having a 28-percent interest in the new well to be drilled?

A. I thought I answered your question when I said that the value of participating in a new well was less than the value of present operations. I didn't calculate the first five months average cash flow from the new well because it hasn't been drilled.

And I don't have the numbers with me, but I had calculated that the present-worth profit, discounted at 10 percent, of the existing operations and Chevron's 50-percent in those operations was worth more than our 28.57-percent interest in the existing operations plus the new well.

Q. Well, do you -- I take it you do not dispute Mr. Stewart's calculations that Chevron will have a net gain of 69 MCF per day, production?

A. No, sir, I don't dispute those. Those were very similar to the estimations that I have.

Q. And at $1.50, if you extend that monthly, that's going to mean something in the neighborhood of $2100 additional monthly income for Chevron, isn't it?

A. Yes, sir, but there's also a significant investment associated with that.

Q. You mean Chevron's share of the cost of drilling the new well?

A. Yes, sir, that's correct.

Q. Which, by the way, could have been a participation cost, as opposed to a nonconsent risk factor, if Chevron had elected to do that; isn't that correct?

A. Yes, sir. And I believe that's the terms that I calculated it under also, is participation.

Q. Okay. Let's turn our attention to the proposed proration unit in Section 9, about which you say you do have some information.

First of all, Mr. Cotner, are the assumptions of Doyle Hartman correct as set forth by his witnesses' testimony concerning the formation of that unit?

A. The assumption that the unit is planning on being formed, or being formed in this current configuration, or the configuration that you all have drawn?

Q. That's what I'm asking. That assumption is correct.

A. That -- This configuration?

Q. Yes.

A. No, sir, it is not correct.

Q. Okay, and in what regard is it not correct?

A. The proposed proration unit will not include the southwest quarter of the southwest quarter of what I believe would be Section 4, which includes the Bell Ramsay Number 5 Well.

Q. Okay. So that 40 acres in Section 4 will not be part of that unit, so it would be a 240-acre unit, correct?

A. Yes, sir, I believe that's correct.

Q. All right. And since that 40 acres is 100 percent Chevron acreage, when we testified -- or when the witnesses testified that Chevron was agreeing to dilution of its interest in that proration unit, the dilution will, in fact, be greater by reason of the fact that that 40 acres is not included; isn't that true?

A. Well, what is incorrect is there will be no dilution of existing operations. No currently producing well will have a dilution of Chevron's interest.

Q. Well, answer my question. Isn't it true that Chevron is agreeing to a dilution of its interest in the proration unit to an even greater extent than we had assumed because of the exclusion of that 40 acres?

A. Yes, sir, the working interest in the 240 acres for Chevron would be less than in a 280-acre unit.

Q. And that Bell Ramsay Number 5 Well in Section 4, then, will remain with a -- What will that be? A 120 proration unit, standup 120 in Section 4?

A. I'm not sure exactly what the plans call for in the other proration units --

Q. All right.

A. -- adjacent to it.

Q. And what's the -- What's the status of the Bell Ramsay's production now?

A. I do not know.

Q. Well, I -- You heard the testimony of Mr. Stewart that it's producing something like 160 MCF a day?

A. I would not dispute that.

Q. So it's not producing even the allowable for 120 acres, is it?

A. Not in the current allowable, no, it's not.

Q. All right. So then you have a 240-acre proration unit, and when was it that Chevron proposed to the other NMFU partners the formation of the -- I guess it's called the Bell Ramsay Meyer proration unit?

A. That may be correct. I'm not sure of the name --

Q. Okay. But anyway, let's call it -- let's just call it the --

A. I'm not sure when it was initially proposed. My first understanding that there was planned development was following the March 9th letter from Mr. Hartman that as a part of his proposed trade, it included our interest in the 160-acre NMFU property.

And when I researched to see if -- what the status of that property was, I encountered that we had prepared an AFE -- I'm not sure if it had been distributed to the partners at that time or not -- for the proposed 240-acre proration unit.

Q. I'm sorry, Mr. Cotner, I have a little trouble following what you say sometimes, the way you put it.

A. I'm not sure of the date when Chevron proposed this. I first had information concerning this 240 shortly after March 9th, and it had been proposed and AFE'd at that time. I'm not sure if the AFE had been distributed to the partners or not, but that was the first time I was aware of the 240.

Q. Okay, let me see if I've got the facts. With Mr. Hartman's March 9th, 1990, proposal letter, you started looking into this area. And when you did, you say you found that an AFE was existing, made by Chevron on this Bell Ramsay Meyer -- Meyer Bell Ramsay proration unit?

A. Yes, sir, that's correct.

Q. To drill the Bell Ramsay Meyer Number 5, which would be down to the bottom, to the south of this unit?

A. Yes, sir, that's correct.

Q. And Chevron had issued the AFE?

A. We had had an AFE internally to justify the proposal of that well.

Q. Okay, I understand. So this was just

something -- This was sort of a cost workup internally by Chevron?

A. I do not know if it had been distributed to partners at that date or not.

Q. Well, is an internal -- An internal AFE, doesn't that mean --

A. It had been internally approved by local management, and I do not know if it had been distributed to Conoco and NMFU partners at that time or not.

Q. We're talking about some work done in the Hobbs office?

A. Yes, sir.

Q. All right. And I am still not clear, given what is, I think, to be common understanding of the NMFU, why Chevron would be making an AFE and proposing to drill a well, as opposed to Conoco.

A. I'm sorry, I don't know the answer to that.

Q. Well, isn't Conoco the operator?

A. Conoco is the operator of the NMFU.

Q. Okay. Had you seen this done before? That is, Chevron study and propose a well and do an AFE?

A. I don't believe I -- I do not recall seeing any other AFE that Chevron had proposed joining NMFU properties in -- for a gas com, no. This is my first experience with that.

Q. Okay. When can you tell us that the AFE, the well-drilling proposal for the Meyer Bell Ramsay Number 5, was out to the other partners?

A. I would have to check with the Hobbs office. I do not know that information.

Q. And you cannot say whether or not it was out before the Hartman March 9, 19- --

A. No, I cannot testify whether it was or not.

Q. All right. Then tell us this: What consents has Chevron received from its NMFU partners as to this proposal?

A. I do not know. This is not a project that I initiated or am keeping up with. It's just a project that I became aware of as a result of Hartman's March 9th letter when I investigated the status of the property.

Q. Okay. Well, tell the Examiner this: Let's say that one or more of the partners do not consent. Then what risk penalty will they be subject to?

A. I do not know.

Q. Well, you've worked with NMFU properties for years in Lea County, haven't you?

A. Yes, sir.

Q. Well, what's been the practice when

somebody's been nonconsent- --

A. I have not dealt with force-pooling in NMFU properties, and I'm not certain as to what the nonconsent is.

Q. All right. So you cannot tell the Examiner, then, whether in fact it would be a 200-percent penalty under the agreement between those partners?

A. No, sir, I do not know what the penalty is under the agreement.

Q. Taking a look at the location of the Meyer Bell Ramsay Number 5 Well, as an engineer, how does that strike you as to location for the drainage of that 240-acre proration unit?

A. I'd say it's something similar to what's involved in the Orcutt proration unit.

Q. Okay, that is a location of a well that is not likely to actually drain the acreage which is dedicated to the proration unit?

A. There may be portions of the acreage in the proration unit that will not be directly drained by that well.

Q. But it would be important to the participants that they have 240 acres, because then they have sufficient acreage to make up an allowable that will support the economics of drilling that Bell Meyer -- Or

Meyer Bell Ramsay Number 5 Well?

A. Yes, sir, I'm sure that's correct.

Q. In your opinion, what is the probable area of drainage of the Meyer Bell Ramsay Number 5 well?

A. I would not like to speculate, and I have not calculated any drainage-radius maps.

Q. Well, it would appear from that that the well is being located in a way that it's going to probably drain the Texaco acreage to the south; isn't that true?

A. It's possible.

Q. Okay. Is that a policy of Chevron, to locate wells in proration units in that manner, so they'll drain offsetting acreage?

A. No, sir, I do not believe that's a policy. I believe it's the policy to locate wells where we think that we'll capture the best amount of reserves and have the best chance of success.

Q. Going back up to the 40, let's talk about that a little bit, with that -- the Bell Ramsay Number 5, as opposed to the Meyer Bell Ramsay Number 5.

Do you intend to abandon that well, the one that's producing some 160 MCF per day?

A. No, sir, I do not believe so.

Q. You don't intend to drill another well in that 120-acre unit?

A. I'm not familiar with the exact plans for the existing proration unit when we attempt to form the Meyer Bell Ramsay.

Q. Okay. Chevron, I take it, doesn't have any position in opposition to the formation of units of sufficient size as to permit allowables that support the economics for the drilling of a well?

A. No, sir.

Q. And you don't feel, for example, in the case of the Hartman unit, that even though its proposed State "A" Com Number 5 may not drain all of the proposed acreage, that that makes the Application subject to a denial?

A. No, the size of the unit is not what we take issue with.

Q. You do not take issue with that?

A. That's correct.

Q. All right. Well, then, let's focus on the Hartman 280-acre proration unit and go back to some of your analysis.

With Exhibit 1 you've done an analysis of remaining recoverable reserves.

Based on that, tell us what your analysis is of net income estimated to be received by Chevron from that State "A" 4 Well.

In other words, let's take it from what you think reserves will be recovered to Chevron's 50-percent net interest in net income to be received.
A. I do not have that data with me, although I have calculated it. I don't want to try to recall what that amount was.
Q. Any particular reason you didn't bring that?
A. No, sir, there's no particular reason.
Q. But you did make that calculation?
A. Yes, sir.
Q. And then you would have reduced that to present value, wouldn't you?
A. That's correct.
Q. What discount factor did you use when you did that?
A. Ten percent.
Q. And when you did that, what present value did you come up with of that extended income stream?
A. I do not recall exactly what that amount was.
Q. Well, did you make those calculations, Mr. Cotner, back when Mr. Hartman was making proposals to Chevron?
A. Yes, I did.
Q. Mr. Hartman made various proposals, one of which included an outright cash purchase, did he not?

A. Yes, sir, that's correct.

Q. All right. Well -- And you're telling us now that you're not able to testify as to your calculations about that discounted present value of Chevron's expected income?

A. I can testify that I do remember that my calculation of present value of future operations of the existing well was greater than the value of Mr. Hartman's cash offer.

Q. Okay. Well, Mr. Hartman's cash offer was $180,000, wasn't it?

A. And then I think we can deduce and I can testify that the present worth of remaining operations is greater than $180,000.

Q. All right, good. That's getting us someplace. How much greater?

A. I do not recall how much greater.

Q. $10,000? In that magnitude? What's your best recollection?

(Off the record)

THE WITNESS: My best recollection is that it was in the neighborhood of $10,000 to $20,000 in excess of that.

Q. (By Mr. Gallegos) Okay. And what was being offered Chevron, Mr. Cotner, was that free of risk, free of uncertainty as to the market, Chevron could receive today $180,000 from Hartman, and it turned that down on the proposition that it would receive or might receive $10,000 or $20,000 more over many years into the future.

A. Yes, sir, we turned down that offer.

Q. Actually, the fact is, you didn't turn it down. Chevron didn't even honor Mr. Hartman with a reply; isn't that true?

A. Yes, sir, on the April -- We have not replied to the April 18th letter.

Q. Have you replied to the March 9th letter?

A. Yes, sir, we did.

Q. What were the proposals of the April 18th letter?

A. The proposals of the 18th -- April 18th letter -- was to drill an infill well on the 160-acre northeast quarter of Section 8. The options that Mr. Hartman proposed was to let Chevron join in the drilling operations, to sell for cash -- $180,000, I believe he said -- or to farm out our interest as to the new well only.

Q. And then there was also a June 4th letter? Correct?

A. Yes, sir, that's correct.

Q. You haven't had time to consider the April 18th letter and reply to Mr. Hartman?

A. Actually, in this particular case we had not had time to fully consider the April 18th letter and reply prior to the June 4th letter.

Q. And in fact, efforts to call you -- you, Mr. Cotner, personally -- were unavailing? You would not return the phone calls of Mr. Jones; isn't that true?

A. I believe you used plural. I do recall receiving one message that Mr. Jones had tried to call one time, and I don't believe I made an effort to return that call.

Q. In the April 18th letter, Hartman proposed -- made alternate proposals. Beside cash proposals, there was a proposal of a farmout, wasn't there?

A. I believe I testified to that, that's correct.

Q. Which would have meant -- The way it was structured, it would have meant that Conoco would have retained its 50-percent interest, as is, in the State "A" 4? First of all, that's true, isn't it?

A. No, Chevron and not Conoco.

Q. I'm sorry, Chevron?

A. Yes, sir, that's my understanding.

Q. All right. And then it would have allowed

Chevron to go ahead and gain a -- I believe it was an 8.75 override on the new well to be drilled in the Hartman acreage?

A. Excuse me, I don't believe the April 18th letter addressed the Hartman acreage at all. I believe it just discussed the northeast quarter of Section 8, the 160-acre unit.

Q. All right. Let's take a look at that, because I think that counter-proposal was made, and maybe it wasn't in the April 18th letter.

(Off the record)

Q. (By Mr. Gallegos) Okay, Mr. Jones has corrected me to say that the April 18th letter was just a farmout on the northeast quarter of Section 8, and then the June 4th letter contained the additional provision that I was just asking you about to the effect that Chevron would receive an 8.75 net overriding royalty in the proposed infill well, that being the Number 5 well?

A. Yes, sir.

Q. Okay. So it would have -- under those proposals, Chevron would have retained the 50-percent interest that it now objects to having diluted, and it would have gained the override with no risk and no expense?

A. Yes, sir, that's the way the proposal shows.

Q. All right. And Chevron did not even reply to that; isn't that true?

A. We have not replied to Mr. Hartman to date on that, no.

Q. Does it just boil down to this, Mr. Cotner, that Chevron does not want Doyle Hartman as a competing producer in this area?

A. No, sir, I don't believe it boils down to that at all.

Q. Well, when proposals of this nature are made to Chevron and there are not even replies, no attempt to negotiate or form any kind of agreement, you understand that the only recourse for development to occur is for an application of this nature to this Division?

A. Yes, sir, I understand that. And I'd like to point out that in that June 4th offer for us to join, this action was included in that offer.

Q. You mean the filing of this Application?

A. Yes, sir.

Q. Are you stating to us that Mr. Hartman should delay and not go forward with development of his potential gas-producing acreage, while Chevron does whatever it does in adjoining units and doesn't respond to his proposals?

A. I would state that I believe that Mr. Hartman should give us time to evaluate and voluntarily join prior to seeking that Application.

Q. Do you want to voluntarily join now?

A. No, not in this proposal, we do not.

Q. Well, this is June 27th -- I believe. Something like that.

You still haven't had the opportunity to evaluate the June 4th letter?

A. No, I believe we've had the opportunity to evaluate it.

Q. Okay, let's -- Let me get back to the question that I asked before.

Isn't it the basic position of Chevron that it does not want Doyle Hartman operating in this area?

A. No, sir, I believe that's incorrect.

Q. You would say, or you would state here to this Division, that Doyle Hartman should be afforded the same opportunities of development and in the same manner as Chevron, correct?

A. Sure.

MR. GALLEGOS: Okay. Let me just take a look at a couple notes here.

Okay, I think that's all the questions I have. Thank you.

MR. CARR: I have just two questions.

THE WITNESS: Okay.

REDIRECT EXAMINATION

BY MR. CARR:

Q. Mr. Cotner, in response to a question from Mr. Gallegos you indicated that you did not quarrel with the 69-MCF-per-day, net-gain figure contained in the exhibit of Mr. Stewart; is that correct?

A. That's correct.

Q. Are you not disputing that figure? Do you agree that 69 MCF per day will be obtained by the additional well?

A. I agree that that is the potential of the net gain.

I'm uncertain of what the actual gain will be, but if I were to generate economics to determine if we should participate or not, then that would be similar to the number that I'd use.

Q. If we go to the exhibit and look at the Meyer Number 5, that is the -- not the Bell Ramsay, but the Meyer Number 5 in the extreme southern portion of Section 9 which is being proposed, is that well proposed at standard location?

A. I'm uncertain.

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

EXAMINATION

BY EXAMINER CATANACH:

Q. Mr. Cotner, have you calculated the reserves that might be recovered from the proposed Well Number 5 -- I mean in Section 5?

A. I have made an estimation, yes.

Q. Do you know what those might be?

A. I believe the estimate was somewhere between .8 and 1 BCF.

Q. So what you've done is, you've taken those potential reserves and calculated Chevron's investment in the new well and come to the conclusion that Chevron's interest would be adversely affected?

A. Yes, sir.

Q. The figures that you have on Exhibit 3, the loss of $1300 a month in revenue, now, that doesn't take into account production from the new well, correct?

A. No, sir, that's just indicating the dilution in the existing well.

EXAMINER CATANACH: Okay, I believe that's all I have of the witness.

MR. GALLEGOS: I have a couple of follow-up questions, if I might, based on that testimony.

RECROSS EXAMINATION

BY MR. GALLEGOS:

Q. When you say that the proposed State "A" 5 is projected by you to have .8 to 1 BCF of reserves, is that based on Chevron's drilling and completion techniques?

A. I believe that estimation is -- does not take into account -- or consider -- the drilling and completion techniques, but actual reserves that will be encountered.

Q. Well, if I calculate correctly from Mr. Stewart's prior testimony, he is -- he's seeing 1.95 BCF. Twice, at least twice more than you're projecting.

And if that is true, then the benefit to Chevron, albeit on a diluted interest, is considerably greater than what you've been presenting in your exhibits; isn't that true?

A. That's somewhat dependent upon your allowable.

Q. Well, the 69 MCF per day that was calculated in Exhibit 25 was based on the existing low allowable of 293 MCF per day; isn't that true?

A. And my calculations were also.

Q. So everybody's dealing with the allowable situation that we're talking about?

A. Yes, sir.

Q. Well, I'm just asking you, it's rather obvious that your economics concerning what you think Chevron is going to suffer financially are considerably changed if the reserve estimates of Mr. Stewart are accurate, as opposed to yours.

A. I'm not sure if they'll be considerably changed since they'll come later in the life, because of allowable restrictions, and when you discount that at 10 percent, that's worth less today. Or the change is discounted by the discount factor.

Q. And of course, when you're working with .8 of a BCF it's the same thing. You're applying a discount factor to that.

A. But if you're producing a top allowable well at one decline and you say that there's no decline or a little bit shallower decline, and I produce those additional 1 BCF reserves, 10 or 15 years down the road after what my estimation was, then when you discount that, there is a positive change, but I don't know if I'd argue that it's a significant change or not when it's discounted.

Q. All right. But on the other hand, Chevron's content to sit with the Number 4 Well, making 155 MCF, not even making the 293-MCF-a-day allowable; that's your company's position?

A. Yes, sir, at this time.

MR. GALLEGOS: That's all.

EXAMINER CATANACH: Anything further?

MR. CARR: Nothing further.

EXAMINER CATANACH: Okay, this witness may be excused.

MR. GALLEGOS: Let me have just a second. You didn't intend to call Mr. Jones?

MR. CARR: I don't intend to call anyone else.

Can we take five minutes?

EXAMINER CATANACH: Sure, we'll take a five-minute recess.

(Thereupon, a recess was taken at 9:50 a.m.)

(The following proceedings had at 9:58 a.m.)

EXAMINER CATANACH: Call the hearing back to order at this time.

MR. CARR: Mr. Catanach, Mr. Gallegos has requested that we make Mr. Bohling available for questioning.

We have no objection to that.

Mr. Bohling is present, has not been sworn.

EXAMINER CATANACH: Okay. Would you stand

and be sworn in, Mr. Bohling?

(Thereupon, the witness was sworn.)

MR. GALLEGOS: So at this point I take it that Chevron has rested and we're on rebuttal?

MR. CARR: Yes.

ALAN BOHLING,

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

DIRECT EXAMINATION

BY MR. GALLEGOS:

Q. Would you state your name, please?

A. My name is Alan Ward Bohling.

Q. Where do you live, Mr. Bohling?

A. I live in Hobbs, New Mexico.

Q. You're employed by Chevron, USA?

A. Yes, sir, I am.

Q. And what is your job?

A. I am a special projects engineer.

Q. Do your responsibilities include proration management?

A. Proration matters, yes.

Q. What else does special projects mean, Mr. Bohling? OCD hearings?

A. Just anything the Division wants done goes in our direction. Yes, OCD proceedings, proration matters, regulatory matters.

Q. Okay. Let me ask you to look at Exhibits 24 A and Exhibit 3.

Both of those are maps of the area that's in question here, and Exhibit 3 may be the most useful for the few questions I have. It shows surrounding proration units.

First of all, briefly, as to the proration unit to be formed in Section Number 9 -- that would be the west half of the northwest quarter and the east half of the west half -- that unit would not cross section lines, and if it's formed by agreement of the NMFU partners then it would be a matter of administrative approval by the OCD, correct?

A. That is correct.

Q. It would not require a regularly docketed hearing?

A. Right.

Q. And is that what is contemplated by Chevron?

A. That's the way we're approaching it, yes.

Q. All right. Then let's look up the line at Section 4. As matters stand today, that Bell Ramsay Number 5 Well is in a 120 proration unit that's shown here with a dotted line along the east boundary, correct?

A. That's correct.

Q. Is the plan that that 40 acres will then be included in the proration unit next to the north, which is also operated by Chevron?

A. That is correct.

Q. Okay, and that -- There is a well, now, on the 120 acres to the north that's in the -- that's outlined in orange, correct?

A. Yes, Well Number 8.

Q. Okay, that's the Bell Ramsay Number 8?

A. Yes, sir.

Q. Okay. So you will then go from 120 acres to 160 acres, and that new proration unit will be dedicated to the Bell Ramsay Number 8 and the Bell Ramsay Number 5, correct?

A. In Section 4, yes. Number 8 and Number 5 Well will be simultaneously dedicated to a new 160-acre proration unit.

Q. Okay. Now, let's take a look at what Chevron is doing then. And that's basically 100 percent acreage of Chevron, correct?

A. Yes, sir.

Q. Okay, so let's see, 160 acres means an acreage factor of 1?

A. Yes, sir.

Q. And an allowable today of 293 MCF per day?
A. Approximately, yes, sir.
Q. Correct?
A. Uh-huh.
Q. All right. Now, the Bell Ramsay Number 5 has been producing at a rate of how many MCF per day?
A. I am not -- I do not know.
Q. All right. Well, I think the testimony of Mr. Stewart was 160 or 165 MCF per day. Is it up there?
MR. STEWART: It's not there. I can get decline curves.
Q. (By Mr. Gallegos) Well, let's -- You testified to that. Let's say 160. Let's say the Number 5, unless you have something --
A. Based on June's proration schedule, I calculate approximately 149 MCF a day production. It had 4620 MCF shown for April sales.
Q. Okay, for 1989?
A. That's 154 MCF a day for April.
Q. Okay. Well, let's use that, okay?
And the Bell Ramsay Number 8 has been producing the allowable for 120 acres, has it not? 219 MCF per day?
A. It's got an acreage factor for 120 acres,

yes.

Q. Okay, and in 1989, it produced the allowable. That would be 219 MCF per day; is that correct?

A. For 1989, what has it produced? Is that what you're asking?

Q. Yes, it's been producing at --

A. That would be in the ballpark, yes.

Q. Okay. We could add those two, Mr. Bohling?

A. 219 and 154.

Q. All right.

A. I come up with 373.

Q. All right. But you will have an allowable of only 293, so you -- by Chevron's action, it will be losing in the range of 80 MCF per day of production; isn't that correct?

A. Based on these numbers, that is correct.

MR. GALLEGOS: That's all.

CROSS-EXAMINATION

BY MR. CARR:

Q. Is 293 the allowable for June? Or is that an annual figure?

MR. GALLEGOS: That's been the -- That's the average of this year.

THE WITNESS: For 1989.

MR. GALLEGOS: I'm sorry, that was the

average of 1989 because, you know, a given month it's going to -- That was what was employed. The 293 was what was employed in Exhibit 25 as 1989 average.

Q. (By Mr. Carr) Mr. Bohling, what is the allowable for June? Do you know that?

A. The allowable for June is --

Q. For a full-acre factor?

A. Full-acre factor is 600 MCF a day.

MR. CARR: That's all I have.

EXAMINER CATANACH: I have no questions of the witness.

If I may, I'd like to ask Mr. Stewart a couple of questions.

<u>MICHAEL STEWART (Recalled)</u>,

the witness herein, having been previously duly sworn upon his oath, was examined and testified as follows:

EXAMINATION

BY EXAMINER CATANACH:

Q. Mr. Stewart, if the proposed Application is denied, do you know what Mr. Hartman intends to -- if he intends to develop his acreage in Section 5, and if -- how?

A. I believe the -- If the Application is denied, the first thing we'll do is seek the appeal, go *de novo* on the hearing, and -- because in our estimation, and as the witness proved by Chevron's proposals, current Eumont allowables do not allow for development of wells on 120 acres, 160 acres.

You can see that Chevron's proposed a 400-acre proration unit. It appears like they feel they need 400 acres to develop Eumont wells on it.

Q. So it's the position of Hartman that he would not likely develop the 120-acre proration unit in Section 5?

A. Mr. Hartman's not -- has not made it a past practice to undertake uneconomic ventures. Based upon the current allowables, that venture would most likely be uneconomic.

EXAMINER CATANACH: I see. Thank you.

Would Counsel like to give closing statements in this case? Okay.

Mr. Carr?

MR. CARR: May it please the Examiner, we've heard a great deal of testimony in this case about not only the subject property but what other operators are doing with other properties in the same general area, and this may be instructive in terms of background.

But the question before you is narrow. The question is, will Hartman's proposal prevent waste and protect correlative rights? And we submit on this record the answer has to be no. And for that reason Chevron is asking you to deny the Application.

At present, the northeast quarter of Section 8 has been developed by the owners of that acreage. They availed themselves of the opportunity to produce the reserves by drilling the State Number 4 Well.

That well has produced for many years. It's produced over 4.4 BCF, and depending on whose calculation you look at it has 1.1 to 1.5 BCF remaining.

Hartman recently acquired a 50-percent interest, working interest, in this tract, and now the working interest is divided 50-50.

Hartman also has recently required [sic] in excess of 98 percent of the working interest in 120 acres in Section 5. There are no wells on that acreage, and he now seeks to go forward with development.

He comes before you with a proposal that is agreed to by only Mr. Hartman and Mr. Davidson. He wants to create a 280-acre unit.

This is not like other proposals before you, for what he proposes to do is take, as Mr. Stewart knows, a profitable well with in excess of 1 BCF remaining reserves, and use this to put a cushion or a floor under the risk he is taking in further development of what is now an offsetting tract.

We submit to you a 200-percent penalty is inappropriate, for while we are looking at -- if you take Chevron calculations of .8 BCF or you go to Mr. Stewart of 1.95 BCF in the new well -- if you take those, he already has as much as 1.5 BCF in the old well, which is a backstop for his further development and limits the risk he is taking.

And even though we talk about maybe being -- well, not being able to do it -- even Mr. Stewart wouldn't rule out that there's workover potential there.

There have been contentions and suggestions that Section 8, the northeast quarter, is being drained. And we talked about drainage in this case, but nothing in Hartman's proposal will change how the northeast quarter of Section 8 is being produced or how those reserves are being recovered.

And I'm not suggesting that this is unique. But nothing in this proposal addresses the drainage of any particular MCF. This case is about allowables and enough allowable to justify the drilling of another well.

What Hartman's proposal does, however, is it does dilute the interest of Chevron in its existing reserves.

A profitable well in the northeast of 8 is owned 50 percent by Chevron. Under this proposal that's reduced to 28.5.

And Chevron's options are simply this: Join, pay your share, your 28.5 percent, or be pooled. Agree to a reduction of your interest in the old well or be pooled. Agree to our proposal or be pooled. And in the process, give up the existing operating agreement that governs operations in the northeast of Section 5.

We're not interested in their proposal, and therefore we're here because Mr. Hartman is following his right to bring this matter on for pooling. And he wants you to pool the land and impose a 200-percent penalty, so that we can now throw in our interest in the existing well, so he can develop what we believe is nothing more than an offsetting tract that he should develop on his own.

If we're pooled and we don't consent, then our share is going to be taken out of production. And it's not the 50 percent we now have in our well; it's a reduced amount. It's down to 28.5.

So it's going to take longer to pay this out, just because our acreage and our interest in the existing well is going to be reduced. And this applies even if Mr. Hartman goes up there and drills a dry hole. Our interests will be taken to offset that.

We submit this is an interesting proposal. It puts a floor under his risk at the same time he's asking you to impose what we believe is an inappropriate maximum penalty.

Our correlative rights are impaired.

We now have an opportunity to produce our share of our reserves in Section 8.

Hartman's proposal, we submit, denies us that opportunity. We're immediately going to lose $1300 a month in revenue. And the benefit which is held out is the possibility -- and it is only that -- of 69 MCF per day.

To get this, you have to have a top allowable well. And to get this, there are going to be substantial costs incurred which have not been defined.

There's a lot of talk about dilution of Chevron's interest. Well, I will tell you Section 9 is not the same as what is being proposed by Mr. Hartman, because the tract in Section 9 doesn't have an existing well under an operating agreement that has been producing and continues to produce and return a profit.

There's a question that is just floating out there about an operating agreement on the northeast quarter of Section 4. One exists. It may not have as modern a terms as Mr. Jones would like or as Mr. Hartman would prefer.

But the OCD, I submit, should not and perhaps cannot come in with your order and wipe out an existing contract and adopt and impose new terms on parties who voluntarily reached an agreement for the development of the northeast quarter of Section 8.

We further contend that Mr. Hartman has failed to show that denial of his Application will cause waste.

Mr. Stewart testified that Hartman needs 600 MCF a day for a profitable Eumont well. That's a ballpark figure. I think the evidence in this case alone shows that Mr. Hartman can and does drill for substantially less.

In April, in his 18th letter, he's proposing an infill well in the northeast quarter of Section 8. That's in Exhibit 7.

With the current well producing 155 MCF per day and an allowable of, say, 290, he was proposing a well just a -- two months ago, with an additional allowable he could turn to of approximately 150 MCF per day.

He cites to you the Turner Number 3 as an example of how he can drill an infill well and obtain great additional recovery, and he does have a good record in that regard.

But when he goes out on the Turner Number 3, he dedicated 160 acres. He proposed this last year, when we're looking at average allowables of 293 MCF per day.

We submit to you he drilled an infill well, the Turner Number -- He drilled the Turner Number 3, looking for an additional recovery of less than 300 MCF per day.

You even look in this case, look at Exhibit 25, you look at the very last figure in Exhibit 25, and it shows that the additional recovery that can be obtained out of the new well Mr. Hartman is proposing on this tract is 358 MCF per day.

And these figures are important, because while we may want to talk about the average allowable from last year of 294 MCF per day, we're looking today at 600 for this month, and no reason to expect that that's not going to continue.

And if you take that figure, 600, and you reduce it to the 120-acres that Mr. Hartman owns in Section 5 and has 98-plus percent of the working interest, he could drill a well and he would have 450 MCF per day available to him. And that is more than he's seeking with the well that's at issue in this case, that's more than the Turner 3, that's more than what he proposed in April.

We submit to you Mr. Hartman has an opportunity to produce his reserves without waste, without taking our interest to protect him from the risk he's assuming without impairing our correlative rights.

And for that reason, his Application should be denied.

EXAMINER CATANACH: Mr. Gallegos?

MR. GALLEGOS: Yes, sir.

Mr. Examiner, thank you for your patience in this matter, and particularly for hearing most of this case at a very late hour last evening. We appreciate that.

Let me start out by focusing a bit on what the evidence shows as to Mr. Hartman's efforts in forming this proration unit. And this goes to some degree to the statement to say that there's only Mr. Hartman and Mr. Davidson's agreement.

The evidence shows that first of all, the 80-acre tract was acquired from Koch industries. So

Mr. Hartman, through reasonable and evidently good-faith negotiations on both parts, was able to obtain agreement and purchase from Koch Industries.

Then it was necessary to remove the very burdensome overriding royalty interests, something that nobody else had accomplished for, I guess, some 40 years. And it resulted in that state lease sitting undedicated and drained from offsetting acreage.

Mr. Hartman was able to accomplish that with the diverse interests of overriding-royalty interests -- of the overriding royalty holders.

Then Mr. Hartman was able to obtain agreement with Arco. And as you know, there has been a trade achieved, and 40 acres is set aside as 100-percent owned by Hartman, Davidson, and 40 by Arco in the proposed proration unit.

So through these efforts, and obviously reasonable good-faith kind of negotiations and proposals, Mr. Hartman has been able to assemble that and come to agreement with those diverse, competing-type interests.

But proposal after proposal to Chevron did not even generate the courtesy of a response or counter-offer or anything of that sort.

Mr. Hartman was spurned when he was even offering cash that Chevron admits is essentially the equivalent of what it might expect to receive over an extended time, subject to risk and uncertainty in the future, and wouldn't take the cash today. In other words, spurned every effort by Mr. Hartman.

Now, doesn't the Examiner have to ask oneself, what is going on? What is Chevron doing? What kind of attitude is that when these efforts are being made and these kind of offers made, and such that other parties can agree, other parties can come to transactions with Mr. Hartman, but Chevron won't even talk to him?

That's the first point that I think has to weigh heavily on the consideration of this Application, and probably more heavily on the consideration of, why is Chevron here objecting when somebody wants to develop?

Protection of correlative rights? Chevron essentially admits, and it cannot be denied, it is an undisputed fact, that if this Application is not allowed there will be continuing derogation and damage to correlative rights.

That has been happening for decades as regards to the undedicated 80 acres, and Chevron would ask that that continues. Chevron's objection and opposition ask this Division and this Examiner to continue to bless and approve derogation of correlative rights, number one.

You cannot accept the objection and deny the Application without allowing the continuation of that conduct.

Secondly, waste. It is an undisputed fact that the State "A" Number 4 will not recover the reserves under the existing 160-acre proration unit.

You can use Chevron's calculations, and the waste will be 500,000 MCF. Or you can use Hartman's that it might be more in the neighborhood of 900,000 MCF. But waste it is, unequivocal, undisputed, if Chevron has its way.

Now, the fact remains, while we might have the aberration of 600 MCF a day of allowable in June, 1990, that has not been the practice, that has not been the trend, and if everybody knew that 600 MCF was going to continue, that might change a lot of things about the economics in Lea County.

But based on what the allowables have been, based on 1989, a producer cannot drill a well without sufficient acreage to generate allowable that will translate to the economics for drilling and a recovery of the investment in a reasonable time.

And what speaks to that more eloquently than what Chevron's doing?

Chevron says, Hartman, do it on 120 acres. But, by the way, next case, we're going to do it -- We want to do it on 400 acres. And we're doing it over here in Section 9 with our NMFU partners on 240 acres.

But, you know, Hartman, do it on 120 acres.

It's conceded, again, it's not disputed, even by Chevron's testimony, that you have to assemble sufficient-size proration units or there will not be development.

120 acres, there is not a sufficient allowable, there will not be a well drilled. The State "A" 5 will not be drilled.

Wells on smaller proration units that you see now in this pool were drilled in the 1930's.

Basically, you have to have the acreage to have the economics.

Anybody knowing the area, as this Division does, and this Examiner does, knows that the situation is one of drainage and counter-drainage. It's having the acreage, it's locating your well, and everybody -- everybody lives and lets live. At least, that's the way the situation should be.

The fact of life is that the producers are dealing with a very highly permeable pool, and you have to drill and look at the location of the Chevron wells and proposed wells, and it tells you that.

You have to drill in a way so that you are affecting drainage at some places, counter-drainage at other places, and hopefully -- if everybody is given the equal opportunity -- then it evens out.

Dilution of interest was the peg on which Chevron could come forward and lodge an objection, a thin, very thin straw.

It's not dilution of interest. What we're talking about here is really a disguise for the continuing license of Chevron to produce gas from offsetting tracts.

If Hartman and others can't work at this game of the drainage and counter-drainage and have that protection, really Exhibit Number 19 tells the whole story.

It's not dilution of interest, Mr. Examiner.

You look at Exhibit 19, and Chevron is sitting in there as the predominant owner of acreage in a mile-area around this tract. And the simple fact is, it's getting some 42 percent of all the gas it's produced. And if these tracts can continue to be drained, instead of being undeveloped, it's going to drain the offsetting acreage.

And that is the big economic bonus it wants. That's been its game, and that's what it wants to keep going.

If this application is denied, what the OCD is saying is that Chevron can drain, and Chevron can develop, or maybe Chevron and its NMFU partners can develop, but Hartman cannot. And that would be totally contrary to law and incorrect on the evidence.

Thank you.

EXAMINER CATANACH: Is there anything further in this case?

MR. CARR: Not from me.

EXAMINER CATANACH: Case 9949 [sic] will be taken under advisement.

(Thereupon, these proceedings were concluded at 10:25 a.m.)

* * *

CERTIFICATE OF REPORTER

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

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

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

WITNESS MY HAND AND SEAL July 18, 1990.

STEVEN T. BRENNER
CSR No. 106

My commission expires: October 14, 1990

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 99xx, heard by me on June 27 1990.

, Examiner
Oil Conservation Division