

STRATTON & CAVIN, P.A.

ATTORNEYS & COUNSELORS AT LAW

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NATURAL RESOURCES - OIL AND GAS LAW

April 28, 1993

**VIA FAX (827-5741) AND REGULAR MAIL**

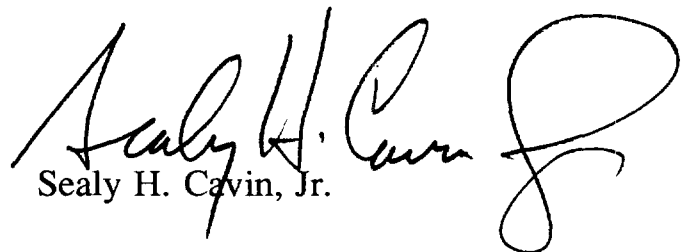
Mr. William J. LeMay, Director  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
State Land Office Building  
Santa Fe, New Mexico 87503

**Re: Oil Conservation Division Case No. 10656  
In the Matter of the Application of Mitchell Energy Corporation for  
Compulsory Pooling and an Unorthodox Gas Well Location,  
Lea County, New Mexico**

Dear Mr. LeMay:

On behalf of Strata Production Company, we hereby withdraw our request  
for a hearing **De Novo** before the Commission in the above-referenced matter.

Very truly yours,

  
Sealy H. Cavin, Jr.

SHC/jas

cc: Mark B. Murphy, President -- Strata Production Company -- via FAX  
W. Thomas Kellahin, Esq. -- via FAX

1042 T-2

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NATURAL RESOURCES - OIL AND GAS LAW

April 28, 1993

W. Thomas Kellahin, Esq.  
Kellahin and Kellahin  
P.O. Box 2265  
Santa Fe, New Mexico 87504-2265

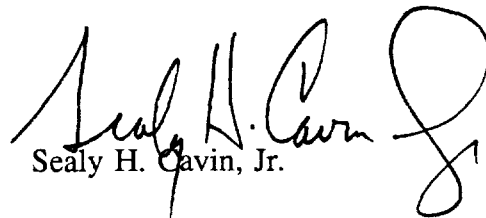
**Re: OCD Case 10656 -- In the Matter of the Application of Mitchell Energy Corporation for Compulsory Pooling and Unorthodox Gas Well Location, Lea County, New Mexico**

Dear Tom:

As you know, Strata has withdrawn its application for a hearing De Novo and is prepared to accept the force pooling order as to its interest under the S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 28, Township 20 South, Range 33 East, N.M.P.M. As to the other interest owners under the S $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 28 which were identified in the letter from Mark Murphy to Steve Smith dated January 13, 1993 (a copy of which is attached hereto), we believe that there is some question as to whether their interests have been effectively pooled. Moreover, we believe that these parties (and Strata for that matter) should each be offered the opportunity to participate in the proposed well as to their respective interest. We see no justification for the "all or none" approach taken by Mitchell and we are not entirely sure that this was contemplated by the Order. As we have maintained from the start, Strata does not have the unfettered authority to act on behalf of the other interest owners.

If you have any questions or if I can be of further assistance, please call.

Very truly yours,

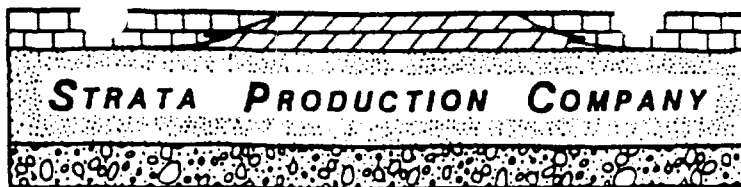
  
Sealy H. Cavin, Jr.

SHC/jas

Enclosure

cc: Mark B. Murphy, President -- Strata Production Company, w/Enclosure  
Robert G. Stovall, Esq., General Counsel -- Oil Conservation Division, w/Enclosure ✓

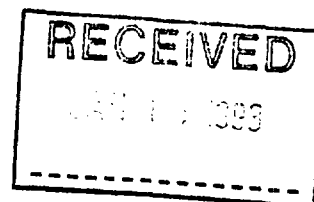
POST OFFICE DRAWER 1030  
ROSWELL, NM 88202-1030



200 WEST FIRST STREET, ROSWELL PETROLEUM BUILDING, SUITE 700  
ROSWELL, NEW MEXICO 88201

January 13, 1993

TELEPHONE (505) 622-1127  
FACSIMILE (505) 623-3533



Via Telefax (915 682-6439)/Hard Copy by Certified Mail

Mitchell Energy Corporation  
1000 Independence Plaza  
400 West Illinois  
Midland, Texas 79701  
Attn: Steve Smith

Re: Leasehold Ownership Information  
North Gavilon Prospect  
NM #92957, S/2 SW/4, SW/4 SE/4  
Section 28, T-20-S, R-33-E  
Lea County, New Mexico

Dear Mr Smith:

During our telephone conversation this morning you expressed some concern that you had not been provided a list of leasehold partners and ownership in the above referenced lease. As Mitchell has set a compulsory pooling and unorthodox gas well location hearing (Case #10656) for Thursday January 21, 1993, I provide this information to facilitate your notification of said owners. Strata has or is in the process of making a direct assignment of each partners proportionate ownership. The names, addresses and ownership is as follows:

Name/Address

Leasehold Ownership

Arrowhead Oil Corporation  
P.O. Box 548  
Artesia, New Mexico 88211-0548

6.25%

Branko, Inc.  
45 Beaverbrook Crescent  
St. Albert, Alberta,  
Canada, T8N2L-4

1.56250%

Duane Brown  
1315 Marquette PL, NE  
Albuquerque, New Mexico 87106

5.0%

S.H. Cavin  
P.O. Box 1125  
Roswell, New Mexico 88202

2.0%

Name/AddressLeasehold Ownership

Robert W. Eaton  
2505 Don Juan NW  
Albuquerque, New Mexico 87104

1.56250%

Terry & Barb Kramer  
5108 Irving BLVD., N.W.  
Albuquerque, New Mexico 87114

30.0%

Landwest  
215 West 100 South  
Salt Lake City, UT 84101

1.0%

Candance McClelland  
4 Country Hill Road  
Roswell, New Mexico 88201

2.1250%

Permian Hunter Corporation  
215 West 100 South  
Salt Lake City, UT 84101

4.0%

Scott Exploration, Inc.  
200 W. First  
Suite 648  
Roswell, New Mexico 88201

9.0%

Strata Production Company  
200 W. First, Suite 700  
P.O. Box 1030  
Roswell, New Mexico 88202

18.50%

Warren, Inc.  
P.O. Box 7250  
Albuquerque, New Mexico 87194-7250

5.0%

Charles J. Wellborn  
P.O. Box 2168  
Albuquerque, New Mexico 87103-2168

2.0%

Winn Investments, Inc.  
706 W. Brazos  
Roswell, New Mexico 88201

1.0%

Lori Scott Worrall  
200 W. First, Suite 648  
Roswell, New Mexico 88201

1.0%

Xion Investments  
215 West 100 South  
Salt Lake City, UT 84101

10.0%

Total 100%



In addition the following own a overriding royalty interest (ORRI) as set forth below:

<u>Name/Address</u>	<u>ORRI</u>
Steve Mitchell 200 W. First, Suite 648 Roswell, New Mexico 88201	.5
George L. Scott III 200 W. First, Suite 648 Roswell, New Mexico 88201	.5
Scott Exploration Inc. 200 W. First, Suite 648 Roswell, New Mexico 88201	.5

Total 1.5%

If I may be of further assistance please call.

Very truly yours,

STRATA PRODUCTION COMPANY



Mark B. Murphy  
President

cc: Sealy H. Cavin, Jr., Esq.

MBM/mo

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE NO. 10656 (DE NOVO)  
Order No. R-9845-A

APPLICATION OF MITCHELL ENERGY  
CORPORATION FOR COMPULSORY  
POOLING AND AN UNORTHODOX GAS  
WELL LOCATION, LEA COUNTY, NEW  
MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on April 29, 1993, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 10th day of May, 1993, the Commission, a quorum being present, having considered the record and being fully advised in the premises,

FINDS THAT:

Strata Production Company, as applicant for hearing De Novo in this case, has withdrawn its request for a hearing De Novo and this De Novo case should be dismissed.

IT IS THEREFORE ORDERED THAT:

Case 10656 De Novo is hereby dismissed and Division Order No. R-9845 is hereby continued in full force and effect until further notice.

Case No. 10656 (De Novo)

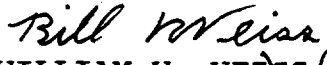
Order No. R-9845-A

-2-

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

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

  
GARY CARLSON, Member

  
WILLIAM W. WEISS, Member

  
WILLIAM J. LEMAY, Chairman

S E A L

fd/

## KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2285

SANTA FE, NEW MEXICO 87504-2285

TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

W. THOMAS KELLAHIN\*

\*NEW MEXICO SOCIETY OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

FACSIMILE COVER SHEETDATE: April 30, 1993NUMBER OF PAGES: -2-  
(including cover sheet)TIME: 9:08 AMTO: Robert G. StovallFROM: W. Thomas KellahinOF: NMOCE

SPECIAL INSTRUCTIONS:

FAX NO: 827- 241☐ URGENTNMOCE Case 10656 (DeNovo)☐ FOR YOUR INFORMATION☐ FOR YOUR REVIEW☐ PLEASE REPLY☐ FOR YOUR APPROVAL☐ PER YOUR REQUESTMESSAGE: Bob: Attached is a proposed order for  
entry in this case.A HARD COPY ☐ WILL ☒ WILL NOT FOLLOW BY U.S. MAIL.

*Florence - Tom's suggestion - Not critical  
to change it*

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

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

CASE NO. 10656 (DeNovo)  
ORDER NO. R-9845-A

APPLICATION OF MITCHELL ENERGY CORPORATION  
FOR COMPULSORY POOLING AND AN UNORTHODOX  
GAS WELL LOCATION, LEA COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on  
May 29, 1993, at Santa Fe, New Mexico before the Oil  
Conservation Commission of New Mexico, hereinafter  
referred to as the "Commission."

NOW, on this \_\_\_\_\_ day of May, 1993, the Commission,  
a quorum being present and being fully advised in the  
premises,

REPORT THAT:

Strata Production Company, as applicant for hearing  
DeNovo in this case, has withdrawn its request for a  
hearing DeNovo and this DeNovo case should be dismissed.

IT IS THEREFORE ORDERED THAT:

Case 10656 (DeNovo) is hereby dismissed with  
~~prejudice~~ and Division Order R-9476 is hereby continued  
in full force and effect.

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

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

Gary Carlson, Member  
William W. Weiss, Member  
William J. LeMay, chairman

66-10-10

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
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NATURAL RESOURCES-OIL AND GAS LAW

TELEPHONE (505) 982-4285

TELEFAX (505) 982-2047

JASON KELLAHIN (RETIRED 1991)

May 6, 1993

Sealy H. Cavin, Jr.  
Stratton & Cavin, P.A.  
P. O. Box 1216  
Albuquerque, New Mexico 87103-1216

Re: NMOCD Case 10656 (DeNovo)  
Order R-9845  
Application of Mitchell Energy Corporation for  
Compulsory Pooling and an Unorthodox Gas Well  
Location, Lea County, New Mexico

Dear Sealy:

I am perplexed by your letter of April 28, 1993 in which you raise issues on behalf of Strata that yesterday were made moot when Strata abandoned its appeal of this order. Your letter is a collateral attack on the finality of the order.

However, so that there is no misunderstanding on your part, I wish to state Mitchell Energy Corporation's position. In summary, Order R-9845 is final, all of the interests underlying the S/2SW/4 of Section 28 including Strata and its "undisclosed partners" has been pooled. The election period has already been provided in accordance with the order and no election was timely made.

There is simply no opportunity for confusion about what was pooled. Order R-9845 is unambiguous. It details at great length the notice argument over the "undisclosed partners" issue and rejected Strata's argument.

Mr. Sealy H. Cavin, Jr.  
May 6, 1993  
Page 2

I specifically refer you to Finding (7) which states: "At all times relevant hereto, the S/2SW/4 which constitutes the remaining 25% working interest in the subject spacing unit has been under the ownership and control of Strata", and the last paragraph of Finding (10) which states: " At all times during negotiations and at the time the application was filed and notice was given, Strata was the record title owner of the mineral interest in question and the Division has jurisdiction over the interest held in Strata's name. Then see Ordering Paragraph (2) which states in part" ALL MINERAL INTEREST, WHATEVER THEY MAY BE, (emphasis added) from the top of the Wolfcamp formation to the base of the Pennsylvanian formation...are hereby pooled...."

Further, after the entry of the Order, and in accordance with the terms of that order, by letter dated February 17, 1993, Mitchell notified Strata of its right to join in the well by prepaying its share of the estimated costs. Strata failed to either obtain a stay of the Order pursuant to Division Memorandum 3-85 or to timely tender payment of its 25% share of the costs of the well.


The result is that Strata has abandoned its appeal, failed to timely elect to participate and therefore by its own actions has committed the entire 25% working interest as a non-consenting party pursuant to the Order.

Strata is responsible to the Division and to Mitchell for this interest (See Finding (12)). The "undisclosed partners" had actual notice of this proceeding and apparently chose to allow Strata to deal on their behalf. If Strata in fact did not have "unfettered authority" to act on behalf of the "other interest owners" then the responsibility lies with Strata and not with Mitchell.

Mr. Sealy H. Cavin, Jr.  
May 6, 1993  
Page 3

Mitchell has complied with the terms and conditions of the Order and these interests are now "non-consenting" under the pooling order and subject to the 250% risk factor penalty.

Very truly yours,



W. Thomas Kellahin

WTK/mg

cc: Robert G. Stovall, Esq. (OCD)  
cc: Mitchell Energy Corporation  
cc: Steve Smith (Mitchell-Midland)  
cc: Mark Stephenson (The Woodlands-Mitchell)

ltr506.031



STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

BRUCE KING  
GOVERNOR

May 11, 1993

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

Mr. Sealy Cavin  
Stratton & Cavin  
Attorneys at Law  
P. O. Box 1216  
Albuquerque, New Mexico 87103

Re: CASE NO. 10656 (De Novo)  
ORDER NO. R-9845-A

Applicant:

Mitchell Energy Corporation

Dear Madam:

Enclosed herewith are two copies of the above-referenced  
Division order recently entered in the subject case.

Sincerely,

*Florene Davidson*

FLORENE DAVIDSON  
OC Staff Specialist

Copy of order also sent to:

Hobbs OCD x  
Artesia OCD x  
Aztec OCD           

Other Thomas Kellahin  
\_\_\_\_\_

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SEALY H. CAVIN, JR.\*  
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NATURAL RESOURCES - OIL AND GAS LAW

May 11, 1993

W. Thomas Kellahin, Esq.  
Kellahin and Kellahin  
P.O. Box 2265  
Santa Fe, New Mexico 87504-2265

**Re: OCD Case 10656 -- In the Matter of the Application of Mitchell Energy Corporation for Compulsory Pooling and Unorthodox Gas Well Location, Lea County, New Mexico**

Dear Tom:

The following is in response to your letter dated May 6, 1993:

1. We continue to believe that only the parties that have received proper notice are bound by the above-described OCD Order. This is, of course, a matter you will have to advise your client on. If you are comfortable with your position that all working interest owners under the S $\frac{1}{2}$ SW $\frac{1}{4}$  are bound by the Order, then that is certainly your decision. Of course, if you are wrong and Mitchell makes a good well, there may be a considerable amount of money to fight about (by my calculations, 25% x 81.5% x \$1,400,000.00 x 200% = \$570,000.00). We, of course, acknowledge that Strata's 18.5% interest is subject to the Order.
2. Section 70-2-18 NMSA 1978 clearly places the "obligation" to force pool on the operator. Based on this statutory provision, we fail to see how it is that Strata is "responsible to the Division and to Mitchell" for all interest under the S $\frac{1}{2}$ SW $\frac{1}{4}$ . Indeed, we fail to understand what exactly Strata's responsibility is in this matter vis-a-vis Mitchell and the other working interest owners under the S $\frac{1}{2}$ SW $\frac{1}{4}$ . In any case, in light of Mitchell's "all or none" approach, we cannot understand what, if anything, Strata can do.

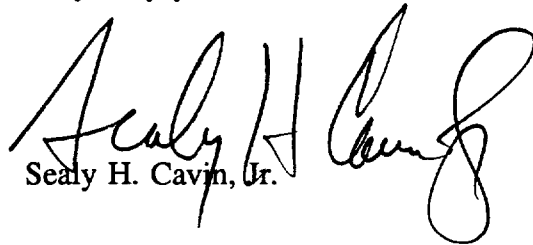
W. Thomas Kellahin, Esq.

May 11, 1993

Page 2

3. Finally, we believe that due process requires that Mitchell provide notice to all affected interest owners. This is particularly true where the operator has actual notice of such interest owners. In our view, when in doubt, notice and a chance to be heard should be provided by the operator. If Mitchell proceeds without providing such notice, then it does so at its peril. Strata certainly has no responsibility to provide such notice. In this case, Strata is merely a working interest owner owning an undivided 18.5% of the working interest.

Very truly yours,



Sealy H. Cavin, Jr.

SHC/jas

cc: Mark B. Murphy, President -- Strata Production Company  
Robert G. Stovall, Esq., General Counsel -- Oil Conservation Division ✓

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

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

*CASE NO. 10656*  
*ORDER NO. R-9845*

**APPLICATION OF MITCHELL ENERGY CORPORATION  
FOR COMPULSORY POOLING AND AN UNORTHODOX  
GAS WELL LOCATION, LEA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 21, 1993, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 15th day of February, 1993, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

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

(2) The applicant, Mitchell Energy Corporation ("Mitchell"), seeks an order pooling all mineral interests from the top of the Wolfcamp formation to the base of the Pennsylvanian formation, underlying the W/2 of Section 28, Township 20 South, Range 33 East, NMPM, Lea County, New Mexico, forming a 320-acre gas spacing and proration unit for all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to, the Undesignated Halfway-Atoka Gas Pool and the Undesignated South Salt Lake-Morrow Gas Pool.

(3) The applicant has the right to drill and proposes to drill its Tomahawk "28" Federal Com Well No. 1 at an unorthodox gas well location 1650 feet from the North line and 1980 feet from the West line (Unit F) of said Section 28.

(4) Strata Production Company ("Strata") appeared at the hearing in opposition to the granting of Mitchell's application.

(5) The operating rights (working interests) for all of Section 28, except the S/2 S/2 and the SW/4 NE/4, are subject to Joint Operating Agreement No. 1130 between Mitchell Energy Corporation, Santa Fe Energy Operating Partners, L.P., and Maralo Inc. designating Mitchell Energy Corporation as the operator. The SW/4 NE/4 is an unleased federal oil and gas tract. The S/2 SW/4 and SW/4 SE/4 is a federal oil and gas lease with record title and operating rights (no overriding royalty) held by Strata Production Corporation. The SE/4 SE/4 is a federal oil and gas lease held by Pitche Energy.

(6) Mitchell has proposed to all working interest owners the formation of the subject spacing unit and drilling of the subject well and has obtained the voluntary agreement of 75% of the working interest ownership in the subject spacing unit for the proposed well.

(7) At all times relevant hereto, the S/2 SW/4 which constitutes the remaining 25% working interest in the subject spacing unit has been under the ownership and control of Strata.

(8) Despite good faith efforts undertaken over a reasonable period of time, Mitchell has been unable to reach a voluntary agreement with Strata concerning voluntary participation in the subject spacing unit and the proposed well.

(9) Strata appeared at the hearing in opposition to Mitchell's proposed W/2 orientation of the spacing unit, the well location, and the overhead charges. In addition, Strata contended that Mitchell had failed to provide notification to Strata's "undisclosed partners" as identified on Mitchell Exhibit No. 17 in this case.

(10) *In support of its motion for continuance, Strata claimed that Mitchell knew all along that Strata had "undisclosed partners" and it was Mitchell's duty to request Strata to disclose the names and addresses and then to provide those parties with an opportunity to join or compulsory pool each party.*

*On the notice issue raised by Strata, Mitchell presented exhibits and testimony which demonstrated that:*

- (a) *abstracts and Title Opinions established that Strata held the record title and all operating rights to the S/2 SW/4 of said Section 28 as of the date the well was proposed to Strata (November 20, 1992), and as*

*of the date Strata received notification of the compulsory pooling application (December 20, 1992), and as of the date of the hearing in this case;*

- (b) by letter dated November 20, 1992 Mitchell proposed to Strata the subject well and proposed spacing unit requesting voluntary participation in the well or in the alternative, proposed farmout terms to Strata;*
- (c) on November 20, 1992, Mitchell was the first working interest owner in Section 28 to propose a Morrow gas well to the working interest owners;*
- (d) although Strata declined to participate in the well, during the next two months, Mitchell and Strata through numerous telephone calls and correspondence between the parties discussed other alternatives including Mitchell purchasing or farming in Strata's interest;*
- (e) Mitchell understood and believed that Strata was dealing for and on behalf of Strata and all of Strata's "undisclosed partners;"*
- (f) by letter dated December 30, 1992 (Mitchell Hearing Exhibit No. 12), Strata offered to sell Mitchell 100% of its record title and operating rights and this offer included representations that while Strata had "undisclosed partners" Strata had the right, power and authority to bind said undisclosed partners; and*
- (g) after negotiations between Mitchell and Strata failed, by letter dated January 13, 1993, Strata for the first time provided Mitchell with the names and addresses of Strata's fifteen "undisclosed partners." (Mitchell Hearing Exhibit No. 17), but no evidence was provided that these "partners" owned an interest in the mineral estate.*

FINDING: At all times during negotiations and at the time the application was filed and notice was given, Strata was the record title owner of the mineral interests in question and the Division has jurisdiction over the interest held in Strata's name.

(11) Mitchell has made a good faith effort to reach a voluntary agreement with the record owner of the interests and is entitled to compulsory pooling.

(12) It would circumvent the purposes of the New Mexico Oil and Gas Act to allow a party owning a working interest in the spacing unit at the time said party was served with a compulsory pooling application to avoid or delay having that entire percentage interest pooled by assigning, conveying, selling or otherwise burdening or reducing that interest after the application and notice of hearing are filed with the Division and served on the party.

(13) Strata's motion to continue for lack of notice to its "undisclosed partners" should be denied.

(14) Mitchell's estimated cost for a completed well is \$1,377,300. with monthly overhead rates of \$6,470 while drilling and \$647 while producing.

(15) Strata stipulated to Mitchell's proposed estimate of well costs ("AFE") identified on Mitchell Exhibit No. 19 as fair and reasonable but requested the Ernst & Young tabulation of average overhead rates be applied in this case.

(16) Because a substantial majority of the working interest owners has agreed to overhead rates which have now escalated in accordance with COPAS procedures to be slightly in excess of the Ernst & Young average rates, the rates proposed by Mitchell are fair and should be adopted in this case.

(17) Based on the geologic evidence presented at the hearing, the orientation of the stand-up 320-acre spacing unit for the first well in said Section 28 serves to provide the best opportunity for full development of potential Pennsylvanian gas in the section with two wells.

(18) Because of a combination of archeological restrictions and surface use limitations, Mitchell has been unable to obtain approval from the United States Bureau of Land Management (BLM), which is the surface management agency for said section, for an acceptable standard gas well location in the W/2 spacing unit, and therefore seeks the proposed unorthodox location which it anticipates will satisfy all the requirements of the BLM.

(19) Approval of this application as set forth in the above findings and in the following order will serve to protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

(20) Mitchell Energy Corporation should be designated the operator of the subject well and unit.

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

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

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

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

(25) \$6470.00 per month while drilling and \$647.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

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

(27) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before May 15, 1993, the order pooling said unit should become null and void and of no further effect whatsoever.

(28) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.



(29) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

**IT IS THEREFORE ORDERED THAT:**

(1) The motion of Strata Production Company to continue this matter for lack of notice to its "undisclosed partners" as identified on Mitchell Energy Corporation's Exhibit No. 17 in this case is hereby **denied**.

(2) All mineral interests, whatever they may be, from the top of the Wolfcamp formation to the base of the Pennsylvanian formation, underlying the W/2 of Section 28, Township 20 South, Range 33 East, NMPM, Lea County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit for all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to the Undesignated Halfway-Atoka Gas Pool and the Undesignated Salt Lake-Morrow Gas Pool, said unit to be dedicated to its Tomahawk "28" Federal Com Well No. 1 to be drilled at an unorthodox gas well location 1650 feet from the North line and 1980 feet from the West line (Unit F) of said Section 28.

**PROVIDED HOWEVER THAT,** the operator of said unit shall commence the drilling of said well on or before the 15th day of May, 1993, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the above-described area.

**PROVIDED FURTHER THAT,** in the event said operator does not commence the drilling of said well on or before the 15th day of May, 1993, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

**PROVIDED FURTHER THAT,** should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Mitchell Energy Corporation is hereby designated the operator of the subject well and unit.

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

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

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

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

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

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

attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

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

(10) \$6,470 per month while drilling and \$647 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest. The operator is hereby authorized to make annual adjustments of said combined fixed rates as of the first day of April each year in accordance with the COPAS accounting schedule utilized by the industry.

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

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

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

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

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

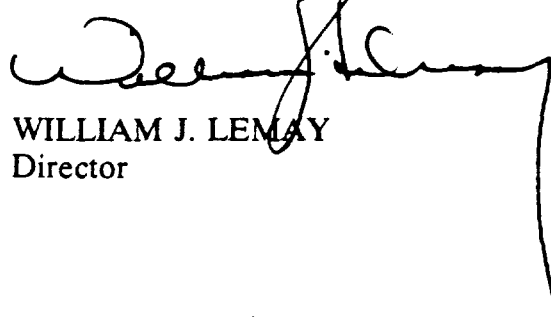
*Case No. 10656*  
*Order No. R-9845*  
*Page No. 9*

---

(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read 'William J. Lemay', is written over the printed name and title. The signature is fluid and cursive, with a long vertical stroke extending downwards from the end of the name.

WILLIAM J. LEMAY  
Director

S E A L

## STRATTON &amp; CAVIN, P.A.

ATTORNEYS &amp; COUNSELORS AT LAW

320 GOLD AVENUE, S.W.

SUITE 1200

P. O. BOX 1216

ALBUQUERQUE, NEW MEXICO 87103-1216

HAROLD G. STRATTON, JR.  
SEALY H. CAVIN, JR.\*  
DEBORAH R. JENKIN\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES - OIL AND GAS LAWTELEPHONE (505) 243-3400  
FACSIMILE (505) 243-1700

TO: COMPANY: \_\_\_\_\_

ATTENTION: \_\_\_\_\_

FAX #: \_\_\_\_\_

SUBJECT: \_\_\_\_\_

FROM: \_\_\_\_\_

DATE: \_\_\_\_\_

NUMBER OF PAGES, INCLUDING COVER SHEET: \_\_\_\_\_

MESSAGE: \_\_\_\_\_

## IMPORTANT

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS CONFIDENTIAL AND INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, COPYING, OR UNAUTHORIZED USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE, AND RETURN THE FACSIMILE TO THE SENDER AT THE ABOVE ADDRESS VIA THE UNITED STATES POSTAL SERVICE. THANK YOU.

## STRATTON &amp; CAVIN, P.A.

ATTORNEYS &amp; COUNSELORS AT LAW

3612 GOLD AVENUE, S.W.

SUITE 1200

P. O. BOX 1216

ALBUQUERQUE, NEW MEXICO 87103-1216

HAROLD C. STRATTON, JR.  
SEALY H. CAVIN, JR.\*  
DEBORAH R. DENKIN

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES - OIL AND GAS LAW

TELEPHONE (505) 243-5100  
FACSIMILE (505) 243-1700

April 28, 1993

**VIA FAX (827-5741) AND REGULAR MAIL**

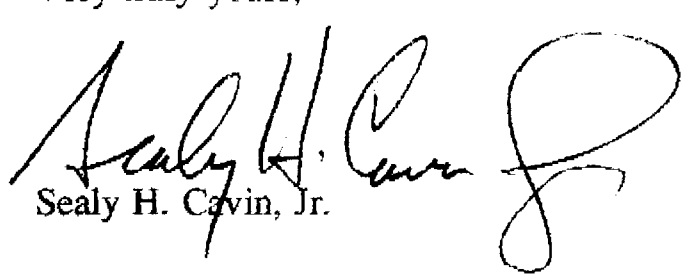
Mr. William J. LeMay, Director  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
State Land Office Building  
Santa Fe, New Mexico 87503

Re: **Oil Conservation Division Case No. 10656**  
**In the Matter of the Application of Mitchell Energy Corporation for**  
**Compulsory Pooling and an Unorthodox Gas Well Located in**  
**Lea County, New Mexico**

Dear Mr. LeMay:

On behalf of Strata Production Company, we hereby withdraw our request for a hearing **De Novo** before the Commission in the above-referenced matter.

Very truly yours,

  
Sealy H. Cavin, Jr.

SHC/jas

cc: Mark B. Murphy, President -- Strata Production Company -- via FAX  
W. Thomas Kellahin, Esq. -- via FAX

STRATTON & CAVIN, P.A.

ATTORNEYS & COUNSELORS AT LAW

HAROLD D. STRATTON, JR.  
SEALY H. CAVIN, JR.  
-----  
HARRY T. NUTTER

320 GOLD AVENUE, S.W.

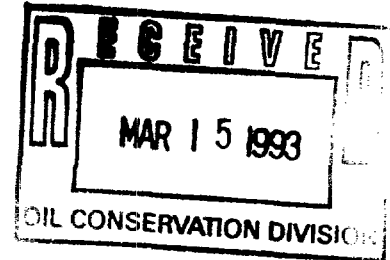
SUITE 1200

P. O. BOX 1216

ALBUQUERQUE, NEW MEXICO 87103-1216

TELEPHONE (505) 243-5400  
FACSIMILE (505) 243-1700

March 11, 1993



**VIA FAX (827-5741) AND CERTIFIED MAIL**

Mr. William J. LeMay, Director  
Oil Conservation Division  
New Mexico Department of Energy,  
Minerals and Natural Resources  
State Land Office Building  
Santa Fe, New Mexico 87503

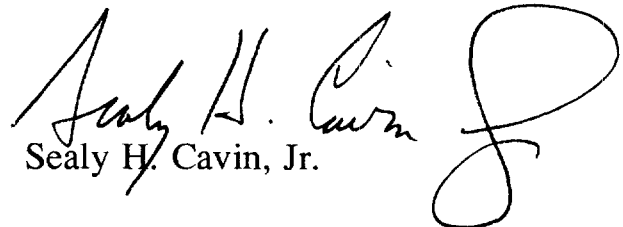
**Re: Oil Conservation Division Case No. 10656  
In the Matter of the Application of Mitchell Energy Corporation for  
Compulsory Pooling and an Unorthodox Gas Well Location,  
Lea County, New Mexico**

Dear Mr. LeMay:

Strata Production Company respectfully requests that the above-captioned case be set for hearing De Novo before the Commission on April 29, 1993.

Your attention to this matter is appreciated.

Very truly yours,

  
Sealy H. Cavin, Jr.

SHC/jas

Enclosure

cc: Mark B. Murphy, President -- Strata Production Company, w/Enclosure  
W. Thomas Kellahin, Esq., w/Enclosure

Mitchell (1)

February 17, 1993

COPY VIA FAX  
ORIGINAL VIA FEDERAL EXPRESS

Strata Production Company  
648 Petroleum Building  
Roswell, New Mexico 88201

Attention: Mr. Mark Murphy



RE: Notification of Election  
Compulsory Pooling  
Tomahawk "28" Federal COM No. 1 Well  
N/2 Section 28, T-20-S, R-33-E, NMPM  
Lea County, New Mexico  
NMOCD Case 10656  
Order R-9845  
MEC. Loc. No. 6457-01

Dear Mr. Murphy:

On behalf of Mitchell Energy Corporation ("Mitchell") and in accordance with the terms of the New Mexico Oil Conservation Division Order R-9845, copy enclosed, I am providing you with notice of Strata Production Company's right to elect to participate in the well to be drilled pursuant to this order.

Strata Production Company ("Strata") has 100% of the working interest ownership of the S/2 SW/4 and a 25% working interest in the spacing unit for all formations below the top of the Wolfcamp formation in this well. Should Strata desire to participate in this well and avoid the payment of the 200% risk factor out of its share of production, then within thirty days of the date you receive this letter, Mitchell must receive a cashier's check for \$344,325.00 being Strata's 25% of the completed well costs and a letter signed on behalf of Strata agreeing to execute a standard joint operating agreement. Enclosed is a copy of the AFE for this well which is the same AFE you stipulated to be reasonable at the hearing.


1  
344  
4  
1376



If you decide not to participate then you need do nothing further. In that event, Mitchell will pay Strata's share of the costs of the well and will recover Strata's share out of production plus an additional 200 percent.

Sincerely,

MITCHELL ENERGY CORPORATION



Steven J. Smith  
Senior Landman

SJS/jm

Enclosures: Order R-9845  
AFE for subject well

cc: Director/NMOCD-Santa Fe  
Central Records/MND-3N

## MITCHELL ENERGY &amp; DEVELOPMENT CORP. - ENERGY DIVISION

AUTHORITY FOR EXPENDITURE (AFE) COST ESTIMATE

## Type Project (check 1 only)

- ☒ Exploratory    ☐ Recompletion (Zone Change Only)    ☐ Disposal  
☐ Development    ☐ Plug and Abandon (Previously Producing Well)    Depth 14,300'  
☐ Injection    ☐ Water Supply

Form B-2    ☐ Add    ☐ Change    ☐ Delete

Group Code \_\_\_\_\_

AFE Number \_\_\_\_\_

Location Code \_\_\_\_\_

Property/Well Name Tomahawk "28" Fed. #1Department Number 730Project Description CompleteCounty Lea St. NMNet Working Interest . 375Operator MEC

Estimated Date Project Will Be Completed \_\_\_\_\_ (Mo./Yr.)

## COMPLETION COSTS

Amount

## INTANGIBLE

22	Overhead	\$ 5,000
23	Company Labor and Services	
24	Contract Labor and Services	40,000
25	Air/Marine Transportation	
26	Other Transportation	14,000
27	Plugging and Abandonment	
28	Rig Mobilization and Demobilization	
29	Supervision - Company and/ or Contract	4,000
30	Site Preparation and Clean-up	
31	Subsurface Casing Equipment	5,000
32	Squeeze Cement and Service	
33	Completion Fluids	4,000
34	Pump Truck Services	1,000
35	Rental Tools	10,000
36	Bits and Reamers	
37	Insurance	
38	Wireline Services	4,000
39	Fishing Tools and Services	
*53	Tertiary Injectants	
68	Fencing	
83	Daywork Contract Fee	10,000
84	Cement and Cement Services - Primary	45,000
85	Acidizing and Fracturing	20,000
*86	Cased Hole Logging and Perforating	30,000
94	Miscellaneous Services and Contingency	5,000

TOTAL INTANGIBLE COSTS

\$197,000

## TANGIBLE

69	Tubinghead Equipment (Including Valves)	\$ 14,000
70	Casing-Production and/or Liner 14,300' 5½" 17# N-80 & S-95	95,200
71	Tubing 14,200' 2 3/8" 4.7# N-80	41,300
72	Packers and Subsurface Equipment	5,000
73	Production Tree (Including Valves)	22,000
74	Storage Tanks 2-210 bbl STL + 1-210 bbl F.G.	14,000
75	Separating Equipment 16"x7' 750 MBTU Stack-Pak + 30"x10' 3 P. Sep	21,000
76	Treating Equipment	
77	Artificial Lift Equipment	
78	Line Pipe	5,000
79	Valves and Fittings Beyond Wellhead	7,000
80	Miscellaneous Equipment	2,500
81	Platform and Structures	
82	Metering Equipment	2,000
87	Pumps	
90	Electrical Equipment	
91	Instrumentation Equipment	
96	Dehydrators and Dryers	
TOTAL TANGIBLE COSTS		\$229,000

TOTAL COMPLETION COSTS

\$426,000

\* Invalid for disposal and water supply wells.

MEDC 252-03  
Rev. 4/29/85Prepared By:  
Date Prepared:James Blount  
8-27-92

STRATA PRODUCTION COMPANY

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

AUTHORITY FOR EXPENDITURE (AFE) COST ESTIMATE

Type Project (check 1 only)

- |   |                                    |   |
|---|------------------------------------|---|
| <input checked="" type="checkbox"/> Exploratory | <input type="checkbox"/> Injection | <input type="checkbox"/> Water Supply         |
| <input type="checkbox"/> Development            | <input type="checkbox"/> Disposal  | <input type="checkbox"/> Depth <u>14,300'</u> |

Form B-1      ☐ Add      ☐ Change      ☐ Delete

AFE Number \_\_\_\_\_

Property/Well Name Tomahawk "28" Fed. #1

Project Description Drill

Net Working Interest 0. \_\_\_\_\_

Group Code \_\_\_\_\_

Location Code \_\_\_\_\_

Department Number 712

County Lea St. NM

Operator MEC

Estimated Date Project Will Be Completed \_\_\_\_\_ (Mo./Yr.)

DRILLING COSTS

INTANGIBLE

Amount

10	Dry Hole Abandonment	
11	Rig Mobilization and Demobilization	
12	Power and Fuel	
13	Water	\$ 35,000
14	Solids Control Equipment Rental	5,000
*15	Directional Equipment and Services	
16	Fishing Tools and Services	
17	Subsurface Casing Equipment	7,000
18	Contract Labor and Services (welding, inspect, csg crews, BOP tsts)	25,000
19	Supervision - Company and/or Contract (40 days @ \$500/day)	20,000
50	Road and Site Preparation	30,000
51	Footage Contract Fee (14,300' @ \$21.50/ft)	310,000
52	Daywork Contract Fee (5 days @ \$5000/day)	25,000
53	Mud and Chemicals (mud-up @ '9400')	75,000
54	Bits and Reamers	
55	Drilling Tool and Equipment Rental (PVT, tank, WB, trailer, chk, trash)	25,000
56	Cement and Cement Services	50,000
*57	Open Hole Logging-Testing (incl 35 days ML, 2 log runs)	80,000
*58	Drill Stem Testing (1 DST)	3,000
59	Coring and Analysis (SW)	5,000
60	Transportation	14,000
61	Air/Marine Transportation	
63	Overhead	10,000
64	Insurance	
65	Company Labor and Services	
*66	Prospect Generation	20,000
67	Miscellaneous Services and Contingency	50,000

TOTAL INTANGIBLE COSTS \$789,000

TANGIBLE

21	Casing-Drive Pipe & Conductor	40' - 30" cond	\$ 4,000
40	Casing - Surface	500'-20" 94# K-S @ \$51.50/ft	25,800
41	Casing - Intermediate	4550'-23 3/8" 388# K-S @ \$23.37/ft	110,000
42	Casinghead Equipment (Including Valves)	(3000 psi)	4,500
43	Casing Spool (Including Valves)	(5000 psi)	18,000
44	Miscellaneous Equipment		

TOTAL TANGIBLE COSTS \$162,300

TOTAL DRILLING (DRY HOLE) COSTS \$951,300

\* Invalid for disposal and water supply wells.

MEDC 252-02

Prepared By: G. W. Tullos

Rev. 4/29/85

Date Prepared: 8/27/92

STRATA PRODUCTION COMPANY

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

February 17, 1993

'93 FEB 17 AM 10 2

COPY VIA FAX  
ORIGINAL VIA FEDERAL EXPRESS

Strata Production Company  
648 Petroleum Building  
Roswell, New Mexico 88201

Attention: Mr. Mark Murphy

10656



RE: Notification of Election  
Compulsory Pooling  
Tomahawk "28" Federal COM No. 1 Well  
N/2 Section 28, T-20-S, R-33-E, NMPM  
Lea County, New Mexico  
NMOCD Case 10656  
Order R-9845  
MEC. Loc. No. 6457-01

Dear Mr. Murphy:

On behalf of Mitchell Energy Corporation ("Mitchell") and in accordance with the terms of the New Mexico Oil Conservation Division Order R-9845, copy enclosed, I am providing you with notice of Strata Production Company's right to elect to participate in the well to be drilled pursuant to this order.

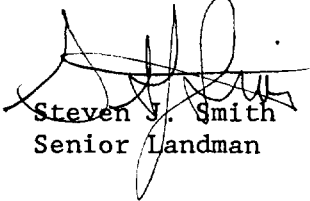
Strata Production Company ("Strata") has 100% of the working interest ownership of the S/2 SW/4 and a 25% working interest in the spacing unit for all formations below the top of the Wolfcamp formation in this well. Should Strata desire to participate in this well and avoid the payment of the 200% risk factor out of its share of production, then within thirty days of the date you receive this letter, Mitchell must receive a cashier's check for \$344,325.00 being Strata's 25% of the completed well costs and a letter signed on behalf of Strata agreeing to execute a standard joint operating agreement. Enclosed is a copy of the AFE for this well which is the same AFE you stipulated to be reasonable at the hearing.

MITCHELL ENERGY CORPORATION 1000 INDEPENDENCE PLAZA  
400 W. ILLINOIS, MIDLAND, TEXAS 79701 915/682-5396  
A subsidiary of Mitchell Energy & Development Corp.

If you decide not to participate then you need do nothing further. In that event, Mitchell will pay Strata's share of the costs of the well and will recover Strata's share out of production plus an additional 200 percent.

Sincerely,

MITCHELL ENERGY CORPORATION



Steven J. Smith  
Senior Landman

SJS/jm

Enclosures: Order R-9845  
AFE for subject well

cc: Director/NMOCD-Santa Fe  
Central Records/MND-3N

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

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

CASE NO. 10656  
ORDER NO. R-9845

APPLICATION OF MITCHELL ENERGY CORPORATION  
FOR COMPULSORY POOLING AND AN UNORTHODOX  
GAS WELL LOCATION, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on January 21, 1993, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 15th day of February, 1993, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

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

(2) The applicant, Mitchell Energy Corporation ("Mitchell"), seeks an order pooling all mineral interests from the top of the Wolfcamp formation to the base of the Pennsylvanian formation, underlying the W/2 of Section 28, Township 20 South, Range 33 East, NMPM, Lea County, New Mexico, forming a 320-acre gas spacing and proration unit for all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to, the Undesignated Halfway-Atoka Gas Pool and the Undesignated South Salt Lake-Morrow Gas Pool.

(3) The applicant has the right to drill and proposes to drill its Tomahawk "28" Federal Com Well No. 1 at an unorthodox gas well location 1650 feet from the North line and 1980 feet from the West line (Unit F) of said Section 28.

(4) Strata Production Company ("Strata") appeared at the hearing in opposition to the granting of Mitchell's application.

(5) The operating rights (working interests) for all of Section 28, except the S/2 S/2 and the SW/4 NE/4, are subject to Joint Operating Agreement No. 1130 between Mitchell Energy Corporation, Santa Fe Energy Operating Partners, L.P., and Maralo Inc. designating Mitchell Energy Corporation as the operator. The SW/4 NE/4 is an unleased federal oil and gas tract. The S/2 SW/4 and SW/4 SE/4 is a federal oil and gas lease with record title and operating rights (no overriding royalty) held by Strata Production Corporation. The SE/4 SE/4 is a federal oil and gas lease held by Pitche Energy.

(6) Mitchell has proposed to all working interest owners the formation of the subject spacing unit and drilling of the subject well and has obtained the voluntary agreement of 75% of the working interest ownership in the subject spacing unit for the proposed well.

(7) At all times relevant hereto, the S/2 SW/4 which constitutes the remaining 25% working interest in the subject spacing unit has been under the ownership and control of Strata.

(8) Despite good faith efforts undertaken over a reasonable period of time, Mitchell has been unable to reach a voluntary agreement with Strata concerning voluntary participation in the subject spacing unit and the proposed well.

(9) Strata appeared at the hearing in opposition to Mitchell's proposed W/2 orientation of the spacing unit, the well location, and the overhead charges. In addition, Strata contended that Mitchell had failed to provide notification to Strata's "undisclosed partners" as identified on Mitchell Exhibit No. 17 in this case.

(10) In support of its motion for continuance, Strata claimed that Mitchell knew all along that Strata had "undisclosed partners" and it was Mitchell's duty to request Strata to disclose the names and addresses and then to provide those parties with an opportunity to join or compulsory pool each party.

On the notice issue raised by Strata, Mitchell presented exhibits and testimony which demonstrated that:

- (a) abstracts and Title Opinions established that Strata held the record title and all operating rights to the S/2 SW/4 of said Section 28 as of the date the well was proposed to Strata (November 20, 1992), and as

*of the date Strata received notification of the compulsory pooling application (December 20, 1992), and as of the date of the hearing in this case;*

- (b) by letter dated November 20, 1992 Mitchell proposed to Strata the subject well and proposed spacing unit requesting voluntary participation in the well or in the alternative, proposed farmout terms to Strata;*
- (c) on November 20, 1992, Mitchell was the first working interest owner in Section 28 to propose a Morrow gas well to the working interest owners;*
- (d) although Strata declined to participate in the well, during the next two months, Mitchell and Strata through numerous telephone calls and correspondence between the parties discussed other alternatives including Mitchell purchasing or farming in Strata's interest;*
- (e) Mitchell understood and believed that Strata was dealing for and on behalf of Strata and all of Strata's "undisclosed partners;"*
- (f) by letter dated December 30, 1992 (Mitchell Hearing Exhibit No. 12), Strata offered to sell Mitchell 100% of its record title and operating rights and this offer included representations that while Strata had "undisclosed partners" Strata had the right, power and authority to bind said undisclosed partners; and*
- (g) after negotiations between Mitchell and Strata failed, by letter dated January 13, 1993, Strata for the first time provided Mitchell with the names and addresses of Strata's fifteen "undisclosed partners." (Mitchell Hearing Exhibit No. 17), but no evidence was provided that these "partners" owned an interest in the mineral estate.*

**FINDING:** At all times during negotiations and at the time the application was filed and notice was given, Strata was the record title owner of the mineral interests in question and the Division has jurisdiction over the interest held in Strata's name.

(11) Mitchell has made a good faith effort to reach a voluntary agreement with the record owner of the interests and is entitled to compulsory pooling.



(12) It would circumvent the purposes of the New Mexico Oil and Gas Act to allow a party owning a working interest in the spacing unit at the time said party was served with a compulsory pooling application to avoid or delay having that entire percentage interest pooled by assigning, conveying, selling or otherwise burdening or reducing that interest after the application and notice of hearing are filed with the Division and served on the party.

(13) Strata's motion to continue for lack of notice to its "undisclosed partners" should be denied.

(14) Mitchell's estimated cost for a completed well is \$1,377,300. with monthly overhead rates of \$6,470 while drilling and \$647 while producing.

(15) Strata stipulated to Mitchell's proposed estimate of well costs ("AFE") identified on Mitchell Exhibit No. 19 as fair and reasonable but requested the Ernst & Young tabulation of average overhead rates be applied in this case.

(16) Because a substantial majority of the working interest owners has agreed to overhead rates which have now escalated in accordance with COPAS procedures to be slightly in excess of the Ernst & Young average rates, the rates proposed by Mitchell are fair and should be adopted in this case.

(17) Based on the geologic evidence presented at the hearing, the orientation of the stand-up 320-acre spacing unit for the first well in said Section 28 serves to provide the best opportunity for full development of potential Pennsylvanian gas in the section with two wells.

(18) Because of a combination of archeological restrictions and surface use limitations, Mitchell has been unable to obtain approval from the United States Bureau of Land Management (BLM), which is the surface management agency for said section, for an acceptable standard gas well location in the W/2 spacing unit, and therefore seeks the proposed unorthodox location which it anticipates will satisfy all the requirements of the BLM.

(19) Approval of this application as set forth in the above findings and in the following order will serve to protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

(20) Mitchell Energy Corporation should be designated the operator of the subject well and unit.

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

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

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

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

(25) \$6470.00 per month while drilling and \$647.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

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

(27) Upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before May 15, 1993, the order pooling said unit should become null and void and of no further effect whatsoever.

(28) Should all the parties to this force-pooling reach voluntary agreement subsequent to entry of this order, this order should thereafter be of no further effect.

(29) The operator of the well and unit should notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

IT IS THEREFORE ORDERED THAT:

(1) The motion of Strata Production Company to continue this matter for lack of notice to its "undisclosed partners" as identified on Mitchell Energy Corporation's Exhibit No. 17 in this case is hereby **denied**.

(2) All mineral interests, whatever they may be, from the top of the Wolfcamp formation to the base of the Pennsylvanian formation, underlying the W/2 of Section 28, Township 20 South, Range 33 East, NMPM, Lea County, New Mexico, are hereby pooled to form, a standard 320-acre gas spacing and proration unit for all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes, but is not necessarily limited to the Undesignated Halfway-Atoka Gas Pool and the Undesignated Salt Lake-Morrow Gas Pool, said unit to be dedicated to its Tomahawk "28" Federal Com Well No. 1 to be drilled at an unorthodox gas well location 1650 feet from the North line and 1980 feet from the West line (Unit F) of said Section 28.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of May, 1993, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the above-described area.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of May, 1993, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Mitchell Energy Corporation is hereby designated the operator of the subject well and unit.

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

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

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

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

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

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

attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

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

(10) \$6,470 per month while drilling and \$647 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest. The operator is hereby authorized to make annual adjustments of said combined fixed rates as of the first day of April each year in accordance with the COPAS accounting schedule utilized by the industry.

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

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

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

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

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


Case No. 10656.  
Order No. R-9845  
Page No. 9

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(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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

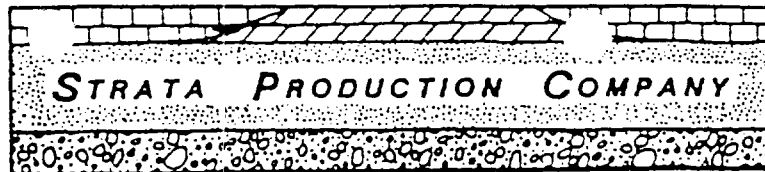
STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION



WILLIAM J. LEMAY  
Director

S E A L

POST OFFICE DRAWER 1030  
ROSWELL, NM 88202-1030



200 WEST FIRST STREET, ROSWELL PETROLEUM BUILDING, SUITE 700  
ROSWELL, NEW MEXICO 88201

February 19, 1993

FEB 20 1993

TELEPHONE (505) 622-1127  
FACSIMILE (505) 623-3533

Via Telefax (915) 682-6439/Hard Copy by Certified Mail

Mitchell Energy Corporation  
1000 Independence Plaza  
400 W. Illinois  
Midland, Texas 79701

Attention: Steven J. Smith, Senior Landman

Re: Offer to Sell Interest in United States Oil and  
Gas Lease NM 82927 which covers the following  
lands in Lea County, New Mexico.

Township 20 South, Range 33 East, N.M.P.M.  
Section 28: S 1/2 SW 1/4, SW 1/4 SE 1/4  
being 120 acres more or less

North Gavilon Prospect

Dear Mr. Smith:

As we discussed by telephone, Strata Production Company ("Strata") offers to sell, subject to partner approval, 100% Record Title Interest and Operating Rights in the captioned lease and lands to Mitchell Energy Corporation ("Mitchell") subject to the following terms and conditions:

1). Strata et al will assign to Mitchell 100% of the Record Title and Operating Rights to the depths set forth in paragraph 3 below and will reserve an overriding royalty interest of 7.5% being equal to the difference between existing lease burdens and 80% net revenue interest.

2). Mitchell agrees to pay Strata a total of \$18,000.00 being \$150.00 per net mineral acre assigned.

3). Strata et al agrees to assign to Mitchell the rights from the top of the Wolfcamp formation to basement.

4). The assignment shall be made on acceptable form to Strata.

This offer shall expire at 5:00 p.m. MST Friday February 26, 1993. I look forward to your response.

Sincerely,

STRATA PRODUCTION COMPANY

A handwritten signature in black ink, appearing to read 'Mark B. Murphy', with a large, sweeping flourish extending to the right.

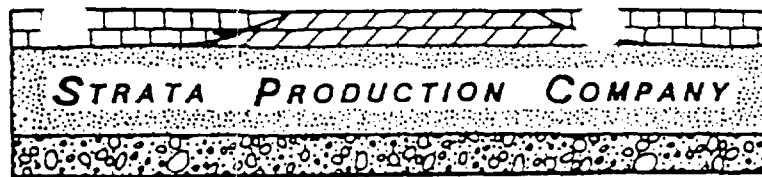
Mark B. Murphy  
President

MBM/mo

cc: Sealy H. Cavin, Esq.



POST OFFICE DRAWER 1030  
ROS WELLS, NM 88202-1030



200 WEST FIRST STREET, ROSWELL PETROLEUM BUILDING, SUITE 700  
ROSWELL, NEW MEXICO 88201

TELEPHONE (505) 622-1127  
FACSIMILE (505) 623-3533

February 24, 1993

Via Telefax (915-682-6439)/Hard Copy by Certified Mail

Mitchell Energy Corporation  
1000 Independence Plaza  
400 West Illinois  
Midland, Texas 79701  
Attention: Steven J. Smith, Senior Landman

RE: North Gaviolon Prospect  
N.M. #82927  
Lea County, New Mexico

Dear Steve:

As a follow up to our telephone conversation, it is my understanding that Mitchell offers as a counter proposal to the terms set forth in Strata's correspondence dated February 19, 1993 the following:

- 1) Mitchell will accept assignment of 100% of the Record Title and Operating Rights to the above referenced lease subject to an 84% NRI with Strata et al retaining a 3.5% ORRI.
- 2) Mitchell will pay Strata et al \$75.00 per acre being \$9000.00.
- 3) The rights to be assigned are from the top of the Wolfcamp formation to basement.
- 4) The assignment shall be on a mutually acceptable form to Strata et al and Mitchell.


It is my intention to discuss Mitchell's proposal with the other lease owners therefore, if the above does not accurately reflect Mitchell's proposal please advise me immediately.

In addition, I have received a copy of Tom Kellahin's correspondence dated February 9, 1993 which includes a copy of BLM

correspondence dated January 27, 1993. Please forward to me a complete copy of the approved APD including any attached stipulations.

Sincerely,

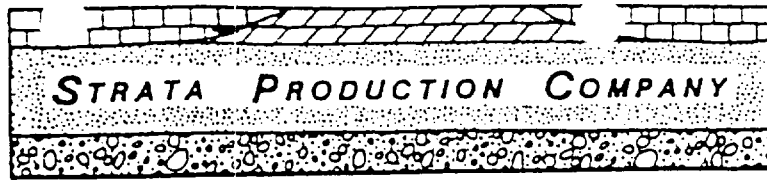
STRATA PRODUCTION COMPANY

  
Mark B. Murphy

MBM/me  
cc: Sealy H. Cavin, Jr. Esq.

FEB 20 1993

POST OFFICE DRAWER 1030  
ROSWELL, NM 88202-1030



TELEPHONE (505) 622-1127  
FACSIMILE (505) 623-3533

200 WEST FIRST STREET, ROSWELL PETROLEUM BUILDING, SUITE 700  
ROSWELL, NEW MEXICO 88201

February 25, 1993

Hard Copy by Certified Mail

Mitchell Energy Corporation  
1000 Independence Plaza  
400 West Illinois  
Midland, Texas 79701  
Attention: Steven J. Mitchell, Senior Landman

RE: North Gavilon Prospect  
N.M. #92957  
S/2 SW/4, SW/4 SE/4  
Section 28, T-20-S, R-33-E  
Lea County, New Mexico

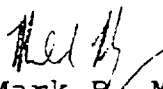
Dear Steve:

This letter shall confirm our telephone conversation yesterday afternoon, whereby you advised me that the terms set forth in Strata's correspondence dated February 19, 1993 accurately reflect Mitchell's proposal to purchase the above referenced lease.

In addition and in response to my request, you advised that Mitchell would not provide a copy of the approved APD with attachments for the Tomahawk "28" Federal COM No. 1 to Strata. You further suggested that Strata obtain a copy of said APD from the BLM office located in Carlsbad. Strata requires such information in order to respond to Mitchell's correspondence dated February 17, 1993.

Sincerely,

STRATA PRODUCTION COMPANY

  
Mark B. Murphy  
President


MBM/me  
cc: Sealy H. Cavin Jr., Esq.

March 3, 1993

COPY VIA FAX  
ORIGINAL VIA CERTIFIED MAIL

Strata Production Company  
200 West First Street  
Roswell, New Mexico 88201

Attention: Mr. Mark Murphy



RE: Tomahawk "28" Fed. COM #1 Well  
1,980' FWL & 1,650' FNL Section 28  
Township 20 South, Range 33 East, NMPM  
Lea County, New Mexico  
TOP HAT MESA PROSPECT

Dear Mr. Murphy:

Pursuant to your request, enclosed is a copy of the BLM approved Application for Permit to Drill (APD) for the captioned well along with all stipulations thereto.

In connection with Mitchell's counterproposal to Strata's proposed sale of its 100% interest in Federal Oil and Gas Lease NM-82927, we would appreciate a formal response at your earliest convenience so that we can adjust our drilling plans accordingly.

We thank you for your cooperation.

Sincerely,

MITCHELL ENERGY CORPORATION

*Signature*  
STEVEN J. SMITH

Steven J. Smith  
Senior Landman

SJS/jm

Enclosure

MITCHELL ENERGY CORPORATION 1000 INDEPENDENCE PLAZA  
400 W. ILLINOIS, MIDLAND, TEXAS 79701 915/682-5396  
A subsidiary of Mitchell Energy & Development Corp.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:  
• Complete items 1 and/or 2 for additional services.  
• Complete items 3, and 4a & b.  
• Print your name and address on the reverse of this form so that we can return this card to you.  
• Attach this form to the front of the mailpiece, or on the back if space does not permit.  
• Write "Return Receipt Requested" on the mailpiece below the article number.  
• The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):  
1. ☐ Addressee's Address  
2. ☐ Restricted Delivery  
Consult postmaster for fee.

3. Article Addressed to:  
Strata Production Company  
200 West First Street  
Roswell, New Mexico 88201  
Attn: Mr. Mark Murphy

4a. Article Number  
P 085 625 355  
4b. Service Type  
☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery  
3-8-93

5. Signature (Addressee)  
*John Starnes*  
6. Signature (Agent)


8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991 ★ U.S.G.P.O.: 1992-307-530. DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

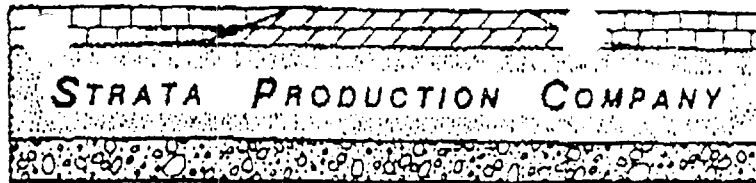
PS Form 3800, June 1991

Sender's Name	Strata Prod. Co.
Street and No.	200 W. First St.
P.O. State and Zip Code	Roswell, N. M. 88201
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	3/4/93

  
Receipt for  
Certified Mail  
No Insurance Coverage Provided  
Do not use for International Mail  
(See Reverse)

P 085 625 355

POST OFFICE DRAWER 1030  
ROSWELL, NM 88202-1030



TELEPHONE (505) 622-1127  
FACSIMILE (505) 623-3633

200 WEST FIRST STREET, ROSWELL PETROLEUM BUILDING, SUITE 700  
ROSWELL, NEW MEXICO 88201

March 16, 1993

Via Telefax (915-682-6439) / Original via Certified Mail  
Mitchell Energy Corporation  
1000 Independence Plaza  
400 W. Illinois  
Midland, Texas 79701  
Attention: Steven J. Smith, Sr. Landman

Re: North Gavilon Prospect  
NM #82927  
Lea County, New Mexico

Dear Mr. Smith:

In response to your correspondence dated March 3, 1993, Strata hereby rejects Mitchell's counterproposal to purchase Strata's interest in the above referenced lease. As you have been aware since the inception of our discussions on October 26, 1992, Strata does not own 100% of said lease. As I have informed you on countless occasions, Strata has been most willing to assist Mitchell by circulating to the other owners any proposed purchase terms which Strata was willing to accept. The partners would then be free to either accept or reject the proposal. Since Strata is unwilling to accept and recommend Mitchell's counterproposal then we will not forward same to the other partners. However, you may contact them directly as each individual's ownership interest and address has been previously provided to you. Strata can only negotiate for it's own account and I encourage you to notify the other leasehold partners before taking any further action.


In response to Mitchell's correspondence dated February 17, 1993 be advised that Strata is unwilling to make an election to participate in the drilling of the Tomahawk "28" Federal COM No. 1 Well until we have exhausted the appeal procedures to NMCCD Order R-9845. In addition, I note Mitchell's requirement that should Strata elect to participate we must tender a cashier's check in the amount of \$244,325.00 to Mitchell. This requirement is in conflict with Mitchell's Model Form Operating Agreement specifically Article VII D.1. (Option 2) which provides that each participant is granted a "completion election" prior to initiating completion operations. In addition, please refer to Exhibit "C" - COPAS Provision I. 3, A. which provides that the Operator may only request an advance "of estimated cash outlay

for the succeeding months operations". As a well of this depth will require 3-4 weeks to drill it is difficult to imagine any circumstance that would require the expenditure of funds required to complete the well within 30 days of spudding the well.

Finally, as we have voted, Strata does not own 100% of the working interest in the S/2 SW/4 and, therefore, we can only elect to participate as to our interest. The other working interest owners will need to make their own election.

Sincerely,

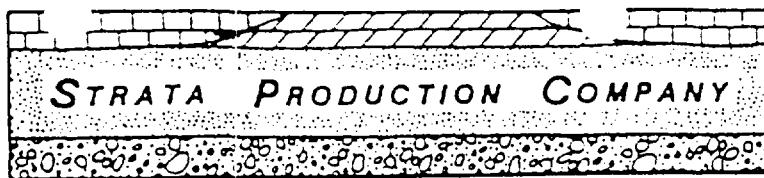
STRATA PRODUCTION COMPANY

  
Mark B. Murphy  
President

MBM/mo

cc: Sealy Cavin Jr, Esq.  
Mark Stephenson

POST OFFICE DRAWER 1030  
ROSWELL, NM 88202-1030



TELEPHONE (505) 622-1127  
FACSIMILE (505) 623-3533

200 WEST FIRST STREET, ROSWELL PETROLEUM BUILDING, SUITE 700  
ROSWELL, NEW MEXICO 88201

April 20, 1993

Via Telefax (915) 682-6439/Hard Copy by Certified Mail

Mitchell Energy Corporation  
1000 Independence Plaza  
400 W. Illinois  
Midland, Texas 79701  
Attention: Don McClung, Landman

Re: Offer to Sell Interest in a portion of United States  
Oil and Gas Lease NM 82927 which covers the  
following lands in Lea County, New Mexico.

Township 20 South, Range 33 East, N.M.P.M.  
Section 28: S 1/2 SW 1/4,  
being 80 acres more or less  
North Gavilon Prospect

Dear Don:

As we discussed by telephone, Strata Production Company ("Strata") offers to sell, subject to partner approval, 100% Record Title Interest and Operating Rights in the captioned lease and lands to Mitchell Energy Corporation ("Mitchell") subject to the following terms and conditions:


- 1). Strata will assign to Mitchell 100% of the Record Title and Operating Rights to the depths set forth in paragraph 3 below and will reserve an overriding royalty interest of 6% being equal to the difference between existing lease burdens and 81.5% net revenue interest, proportionately reduced to the well spacing unit.
- 2). Strata agrees not to compete with Mitchell for the acquisition of Tract #9304143 (SW/NE Section 28, T-20-S, R-33-E) at the Federal Lease Sale on April 20, 1993.
- 3). Strata agrees to assign to Mitchell the rights from the top of the Wolfcamp formation to basement.
- 4). The assignment shall be made on mutually acceptable form.



If acceptable please so indicate below and return one (1) copy to my attention by facsimile (505-623-3533).

Sincerely,

STRATA PRODUCTION COMPANY

  
Mark B. Murphy  
President

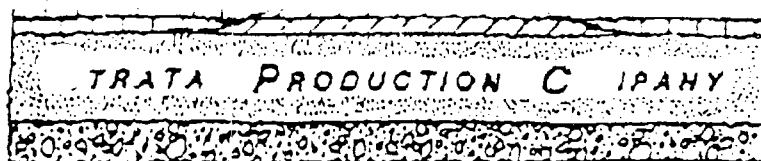
Accepted and Agreed this 19th day of April, 1993  
Mitchell Energy Corporation

By: \_\_\_\_\_

Name/Title: \_\_\_\_\_

MBM/mo

cc: Sealy H. Cavin, Esq.



200 WEST FIRST STREET, ROSWELL PETROLEUM BUILDING, SUITE 700  
ROSWELL, NEW MEXICO 88201

April 20, 1993

Via Telefax (915) 882-6439/Hard Copy by Certified Mail

Mitchell Energy Corporation  
1000 Independence Plaza  
400 W. Illinois  
Midland, Texas 79701  
Attention: Don McClung, Landman

Re: Offer to Sell Interest in a portion of United States  
Oil and Gas Lease NM 82927 which covers the  
following lands in Lea County, New Mexico.

Township 20 South, Range 33 East, N.M.P.M.  
Section 28: S 1/2 SW 1/4,  
being 80 acres more or less  
North Gavilan Prospect

Dear Don:

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- 1). Strata will assign to Mitchell 100% of the Record Title and Operating Rights to the depths set forth in paragraph 3 below and will reserve an overriding royalty interest of 6% ~~being equal to the difference between~~ <sup>inclusive of</sup> existing lease burdens and \*81.5% net revenue interest, proportionately reduced to the well spacing unit in which this <sup>conveying to Mitchell a minimum</sup> acreage is included.
- 2). Strata agrees not to compete with Mitchell for the acquisition of Tract #9304143 (SW/NE Section 28, T-20-S, R-33-E) at the Federal Lease Sale on April 20, 1993.
- 3). Strata agrees to assign to Mitchell the rights from the top of the Wolfcamp formation to basement.
- 4). The assignment shall be made on mutually acceptable form.

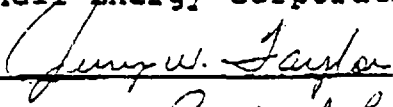
APR 20 1993 10:15:00 10:15:00 10:15:00  
If acceptable please so indicate below and return one (1) copy to my attention by facsimile (505-623-3533).

Sincerely,

STRATA PRODUCTION COMPANY

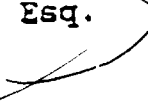
  
Mark B. Murphy  
President

Accepted and Agreed this 19th day of April, 1993  
Mitchell Energy Corporation

By: 

Name/Title: Regional Land Manager

MBM/mo

  
cc: Sealy H. Cavin, Esq.

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

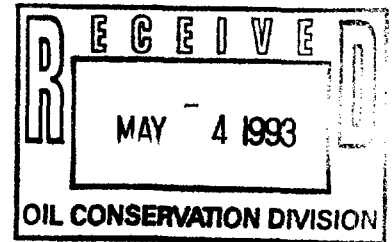
TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

May 4, 1993

Mr. William J. LeMay, Director  
Oil Conservation Division  
State Land Office Building  
310 Old Santa Fe Trail, Room 219  
Santa Fe, New Mexico 87501

**HAND DELIVERED**

Re: Request of Mitchell Energy Corporation  
for an Extension of Commencement of  
Drilling for the Tomahawk "28" Federal  
Com Well No 1 pursuant to Order R-9845  
entered in NMOCD Case 10656



Dear Mr. LeMay:

On behalf of Mitchell Energy Corporation and in accordance with Order R-9845 (copy enclosed), I am requesting a thirty day extension to the commencement date for the subject well and in support state:

(1) On February 15, 1993, the Division entered Order R-9845 pooling the W/2 of Section 28, T20S, R33E forming a 320-acre spacing unit to be dedicated to Mitchell Energy Corporation's Tomahawk "28" Federal Com Well No 1 to be drilled in Unit F of said Section 28;

(2) Order R-9845 provided that the well shall be commenced on or before May 15, 1993;

(3) Because of the pending application of Strata Production Company for a DeNovo Hearing of this matter which was set for a Commission hearing on April 29, 1993, Mitchell elected not to spud the subject well;

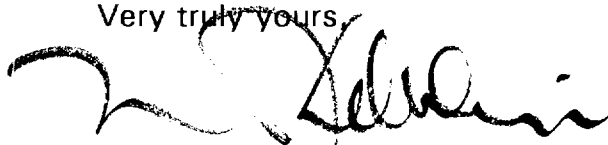
Mr. William J. Lemay  
May 4, 1993  
Page 2

(4) On April 28, 1993, Strata dismissed its request for a DeNovo Hearing;

(5) In order to provide sufficient time to commence the well, Mitchell requests the Division grant a thirty day extension so that Mitchell shall have until June 15, 1993 in which to commence the well.

Should you grant this extension, I have enclosed for your consideration a proposed letter which will authorize the requested extension.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', written over the closing 'Very truly yours,'.

W. Thomas Kellahin

WTK:mg  
Enclosures

cc: Sealy Cavin, Esq.  
Attorney for Strata Production Company  
cc: Mitchell Energy Corporation (Mark Stephenson)

ltr504.031

Mr. William J. Lemay  
May 4, 1993  
Page 3

Proposed letter approving extension

May 4, 1993

W. Thomas Kellahin  
Kellahin and Kellahin  
P. O. Box 2265  
Santa FE, New Mexico 87501

Re: NMOCD Order R-9845  
Approval of Request for Drilling Extension

Dear Mr. Kellahin:

Based upon good cause shown in your written request dated May 4, 1993, and in accordance with the provisions of Division Order R-9845 and the authority retained by Division therein, Mitchell Energy Corporation is hereby granted an extension of time in which to ~~actual~~ comment the drilling of the subject well on the unit pooled by said order until June 15, 1993.

Sincerely,

William J. LeMay  
Director



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



BUFE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

May 6, 1993

W. Thomas Kellahin  
Kellahin and Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87501

**RE: NMOCD Order R-9845**  
***Approval of Request for Drilling Extension***

Dear Mr. Kellahin:

Based upon good cause shown in your written request dated May 4, 1993, and in accordance with the provisions of Division Order R-9845 and the authority retained by the Division therein, Mitchell Energy Corporation is hereby granted an extension of time in which to commence the drilling of the subject well on the unit pooled by said order until June 15, 1993.

Sincerely,

A handwritten signature in cursive script, appearing to read "William J. LeMay".

William J. LeMay  
Director

WJL/sl

cc: Jerry Sexton, OCD-Hobbs  
Case File 10656

RECEIVED  
NEW MEXICO  
OCT 21 1993  
10 21 93  
10 21 93

CERTIFIED RETURN RECEIPT

New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87504

Attention: Mr. Michael E. Stogner

RE: Compulsory Pooling Order #R-9845  
Tomahawk "28" Fed. COM #1  
W/2 Section 28, T-20-S, R-33-E  
Lea County, New Mexico  
TOP HAT MESA PROSPECT  
MEC Loc. No. 06457-01



Dear Mr. Stogner:

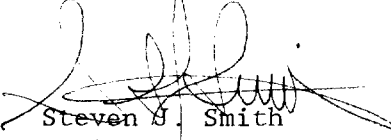
Pursuant to the terms of Compulsory Pooling Order #R-9845, enclosed are itemized schedules of actual costs associated with drilling and completing the Tomahawk "28" Fed. COM #1 well through October 12, 1993. Also enclosed is an itemized cost estimate for additional completion work. Some of the additional work has been completed, however, the invoices for this work have not been received. The remainder will be performed in the near future.

By separate letters of this date, we are sending the same schedules of well costs to Strata Production Company, Santa Fe Energy Operating Partners, L.P. and Maralo, Inc., being all of the parties who have an interest in this case. Enclosed are copies of these letters.

If you have any questions about the enclosed, please contact the undersigned.

Sincerely,

MITCHELL ENERGY CORPORATION

  
Steven S. Smith  
Senior Landman

SJS/jm  
Enclosure

cc: Mark Stephenson/Production Reg. Affairs/MND-3S  
Central Records/MND-3N

MITCHELL ENERGY CORPORATION 1000 INDEPENDENCE PLAZA  
400 W. ILLINOIS, MIDLAND, TEXAS 79701 915/682-5396  
A subsidiary of Mitchell Energy & Development Corp.



## MITCHELL ENERGY &amp; DEVELOPMENT CORP. - ENERGY DIVISION

1 ANNUAL EXPENDITURES AS OF 10 2/93

## Type Project (check 1 only)

☐ Exploratory      ☐ Injection      ☐ Water Supply  
☐ Development      ☐ Disposal      ☐ Depth

Form B-1      ☐ Add      ☐ Change      ☐ Delete

AFE Number \_\_\_\_\_

Property/Well Name Tomahawk "28" Fed Com #1Project Description Drill

Net Working Interest \_\_\_\_\_

Group Code \_\_\_\_\_

Location Code \_\_\_\_\_

Department Number \_\_\_\_\_

County Lea St. NMOperator MEC

Estimated Date Project Will Be Completed \_\_\_\_\_ (Mo./Yr.)

## DRILLING COST

Amount

## INTANGIBLE

10	Dry Hole Abandonment	_____
11	Rig Mobilization and Demobilization	_____
12	Power and Fuel	_____
13	Water	\$28,573
14	Solids Control Equipment Rental	7,527
*15	Directional Equipment and Services	_____
16	Fishing Tools and Services	_____
17	Subsurface Casing Equipment	1,727
18	Contract Labor and Services	19,653
19	Supervision - Company and/or Contract	20,354
50	Road and Site Preparation	44,581
51	Footage Contract Fee	306,540
52	Daywork Contract Fee	33,718
53	Mud and Chemicals	66,855
54	Bits and Reamers	_____
55	Drilling Tool and Equipment Rental	11,153
56	Cement and Cement Services	53,238
*57	Open Hole Logging-Testing	92,929
*58	Drill Stem Testing	7,295
59	Coring and Analysis	3,316
60	Transportation	15,051
61	Air/Marine Transportation	_____
63	Overhead	14,032
64	Insurance	_____
65	Company Labor and Services	_____
*66	Prospect Generation	29,628
67	Miscellaneous Services and Contingency	5,948

TOTAL INTANGIBLE COSTS\*\*\*\*\* \$762,118

## TANGIBLE

21	Casing-Drive Pipe & Conductor	\$1,317
40	Casing-Surface	25,383
41	Casing-Intermediate	140,456
42	Casinghead Equipment (Including Valves)	2,802
43	Casing Spool (Including Valves)	16,156
44	Miscellaneous Equipment	_____

TOTAL TANGIBLE COSTS\*\*\*\*\* \$186,114

TOTAL DRILLING (DRY HOLE) COSTS\*\*\*\*\* \$948,232

\* Invalid for disposal and water supply wells.

MEDC 252-02  
 Rev. 4/29/85  
 Dcostest

Prepared By: Dan TufflyDate Prepared: 10/8/93

MITCHELL ENERGY & DEVELOPMENT CORP. - ENERGY DIVISION  
ANNUAL EXPENDITURES AS OF 10/ /93

Type Project (check 1 only)		
<input type="checkbox"/> Exploratory	<input type="checkbox"/> Recompletion (Zone Change Only)	<input type="checkbox"/> Disposal
<input type="checkbox"/> Development	<input type="checkbox"/> Plug and Abandon (Previously Producing Well)	
<input type="checkbox"/> Injection	<input type="checkbox"/> Water Supply	Depth _____
Form B-2 <input type="checkbox"/> Add <input type="checkbox"/> Change <input type="checkbox"/> Delete		Group Code _____
AFE Number <u>B4804</u>		Location Code <u>06457-01</u>
Property/Well Name <u>Tomahawk "28" Fed #1</u>		Department Number <u>730</u>
Project Description <u>Complete &amp; equip</u>		County <u>Lea</u> St <u>NM</u>
Net Working Interest <u>                    </u>		Operator <u>MEC</u>
Estimated Date Project Will be Completed _____ (Mo./Yr.)		

COMPLETION COSTS

INTANGIBLE

	Amount
22 Overhead . . . . .	\$1,651
23 Company Labor and Service . . . . .	
24 Contract Labor and Services . . . . .	37,388
25 Air/Marine Transportation . . . . .	
26 Other Transportation . . . . .	11,380
27 Plugging and Abandonment . . . . .	
28 Rig Mobilization and Demobilization . . . . .	
29 Supervision - Company/or Contract . . . . .	1,491
30 Site Preparation and Clean-up . . . . .	
31 Subsurface Casing Equipment . . . . .	4,622
32 Squeeze Cement and Service . . . . .	
33 Completion Fluids . . . . .	2,252
34 Pump Truck Services . . . . .	
35 Rental Tools . . . . .	4,464
36 Bits and Reamers . . . . .	
37 Insurance . . . . .	
38 Wireline Services . . . . .	
39 Fishing Tools and Services . . . . .	
*53 Tertiary Injectants . . . . .	
68 Fencing . . . . .	
83 Daywork Contract Fee . . . . .	7,405
84 Cement and Cement Services - Primary . . . . .	32,027
85 Acidizing and Fracturing . . . . .	
*86 Cased Hole Logging and Perforating . . . . .	28,041
94 Miscellaneous Services and Contingency . . . . .	

TOTAL INTANGIBLE COSTS\*\*\*\*\* \$130,721

TANGIBLE

69 Tubinghead Equipment (Including Valves) . . . . .	\$15,216
70 Casing-Production and/or Liner _____	89,824
71 Tubing _____	50,137
72 Packers and Subsurface Equipment . . . . .	4,941
73 Production Tree (Including Valves) . . . . .	23,330
74 Storage Tanks _____	10,755
75 Separating Equipment _____	13,467
76 Treating Equipment _____	
77 Artificial Lift Equipment _____	
78 Line Pipe _____	42,094
79 Valves and Fittings Beyond Wellhead . . . . .	5,537
80 Miscellaneous Equipment . . . . .	807
81 Platform and Structures . . . . .	
82 Metering Equipment . . . . .	
87 Pumps _____	
90 Electrical Equipment . . . . .	
91 Instrumentation Equipment . . . . .	
96 Dehydrators and Dryers _____	
TOTAL TANGIBLE COSTS*****	\$256,108

TOTAL COMPLETION COSTS\*\*\*\*\* \$386,829

\* Invalid for disposal and water supply wells.

MEDC 252-03

Rev. 4/29/85

ccostest

Prepared By: Greg Colburn JCL

Date Prepared: October 8, 1993

MITCHELL ENERGY & DEVELOPMENT CORP. - ENERGY DIVISION  
ESTIMATED ADDITIONAL CHARGE

Type Project (check 1 only)

\_\_\_ Exploratory \_\_\_ Recompletion (Zone Change Only) \_\_\_ Disposal  
\_\_\_ Development \_\_\_ Plug and Abandon (Previously Producing Well)  
\_\_\_ Injection \_\_\_ Water Supply Depth \_\_\_\_\_

Form B-2 \_\_\_ Add \_\_\_ Change \_\_\_ Delete

AFE Number B4804

Property/Well Name Tomahawk "28" Fed #1

Project Description Complete & equip

Net Working Interest .

Group Code \_\_\_\_\_

Location Code 06457-01

Department Number 730

County Lea St NM

Operator MEC

Estimated Date Project Will be Completed \_\_\_\_\_ (Mo./Yr.)

COMPLETION COSTS

Amount

INTANGIBLE

22	Overhead . . . . .	\$1,800
23	Company Labor and Service . . . . .	
24	Contract Labor and Services . . . . .	10,900
25	Air/Marine Transportation . . . . .	
26	Other Transportation . . . . .	2,000
27	Plugging and Abandonment . . . . .	
28	Rig Mobilization and Demobilization . . . . .	
29	Supervision - Company/or Contract . . . . .	1,400
30	Site Preparation and Clean-up . . . . .	
31	Subsurface Casing Equipment . . . . .	
32	Squeeze Cement and Service . . . . .	
33	Completion Fluids . . . . .	600
34	Pump Truck Services . . . . .	1,000
35	Rental Tools . . . . .	4,800
36	Bits and Reamers . . . . .	
37	Insurance . . . . .	
38	Wireline Services . . . . .	3,000
39	Fishing Tools and Services . . . . .	
*53	Tertiary Injectants . . . . .	
68	Fencing . . . . .	
83	Daywork Contract Fee . . . . .	4,600
84	Cement and Cement Services - Primary . . . . .	
85	Acidizing and Fracturing . . . . .	72,000
*86	Cased Hole Logging and Perforating . . . . .	
94	Miscellaneous Services and Contingency . . . . .	900

TOTAL INTANGIBLE COSTS\*\*\*\*\* \$103,000

TANGIBLE

69	Tubinghead Equipment (Including Valves) . . . . .	
70	Casing-Production and/or Liner _____	
71	Tubing _____	\$16,500
72	Packers and Subsurface Equipment . . . . .	
73	Production Tree (Including Valves) . . . . .	
74	Storage Tanks _____	
75	Separating Equipment _____	
76	Treating Equipment _____	
77	Artificial Lift Equipment _____	
78	Line Pipe _____	28,560
79	Valves and Fittings Beyond Wellhead . . . . .	
80	Miscellaneous Equipment . . . . .	
81	Platform and Structures . . . . .	
82	Metering Equipment . . . . .	
87	Pumps _____	
90	Electrical Equipment . . . . .	
91	Instrumentation Equipment . . . . .	
96	Dehydrators and Dryers _____	
	TOTAL TANGIBLE COSTS*****	\$45,060

TOTAL COMPLETION COSTS\*\*\*\*\* \$148,060

\* Invalid for disposal and water supply wells.

MEDC 252-03

Rev. 4/29/85

ccostest

Prepared By: Greg Colburn 366

Date Prepared: October 15, 1993



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



BRUCE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

February 16, 1993

KELLAHIN, KELLAHIN & AUBREY  
Attorneys at Law  
P. O. Drawer 2265  
Santa Fe, New Mexico 87504

RE: CASE NO. 10656  
ORDER NO. R-9845

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

*Sally Leichtle*  
Sally E. Leichtle  
Administrative Secretary

cc: BLM - Carlsbad  
Sealy Cavin  
Steve Keene

## KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2088

SANTA FE, NEW MEXICO 87504-2088

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAWTELEPHONE (505) 982-4286  
TELEFAX (505) 982-2047

JASON KELLAHIN (RETIRED 1991)

February 9, 1993

M.S.

Mr. Michael E. Stogner  
Chief Hearing Officer/Engineer  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87504

VIA FACSIMILE  
(505) 827-5741

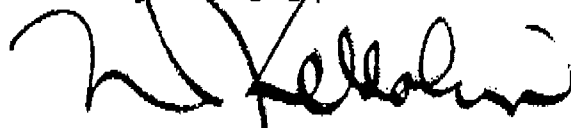
RE: NMOCD Case No. 10656  
Application of Mitchell Energy  
Corporation for Compulsory Pooling  
and an Unorthodox Gas Well  
Location, Lea County, New Mexico  
Tomahawk "28" Federal Well No. 1

Dear Mr. Stogner:

At the hearing of the referenced case held on  
January 21, 1993 you questioned the status of approval  
by the Bureau of Land Management of the proposed  
surface location for the well.

Enclosed for your information is a copy of the BLM  
approval letter for the well dated January 27, 1993.

Very truly yours,



W. Thomas Kellahin

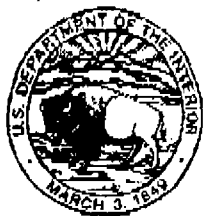
WTK/jcl

Enclosure

xc: Mark Stephenson

Mitchell Energy Corporation  
Sealy Cavin, Jr, Esq. (w/encl.)

lit209.031



## United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

New Mexico State Office

1474 Rodeo Rd.

P.O. Box 27115

Santa Fe, New Mexico 87502-7115

TAKE  
PRIDE IN  
AMERICA

IN REPLY REFER TO:

3160(067)

NM-57280

JAN 27 1993

✓ CERTIFIED---RETURN RECEIPT REQUESTED  
P 864 873 168

RECEIVED

FEB 4 1993

PRODUCTION  
REGULATORY AFFAIRS

Mitchell Energy Corporation  
Attention: George Mullen  
P.O. Box 4000  
The Woodlands, TX 77387-4000

RE: Tomahawk "28" Federal Well No. 1  
NM-57280  
1650' FNL & 1980' FWL, Sec. 28, T20S, R33E  
Lea County, New Mexico

Dear Mr. Mullen:

On November 23, 1992, Mitchell Energy Corporation filed an Application for Permit to Drill (APD) at the above referenced location. I am pleased to approve your APD at the present location. Your copy of the APD, with attached stipulations, is enclosed.

Through our analysis of the APD, we have determined that the well site is located a sufficient distance from the ore zones that potash resources should not be impacted.

If you need any additional information, please contact Tony Herrell in the Carlsbad Resource Area at (505) 887-6544.

Sincerely,

Larry L. Woodard  
State Director

1 Enclosure

## KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2266

SANTA FE, NEW MEXICO 87504-2266

TELEPHONE (505) 982-4225  
TELEFAX (505) 982-2047

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

FACSIMILE COVER SHEET

DATE: February 9, 1993

NUMBER OF PAGES: 3  
(including cover sheet)

TIME:

TO: Michael E. Stogner

FROM: W. Thomas Kellahin

Chief Hearing Officer

OF: Oil Conservation Division

SPECIAL INSTRUCTIONS:

FAX NO.: 827-5741

RE: NMOCD Case No. 10656

Application of Mitchell

Energy Corporation for

Compulsory Pooling etc.

☒ URGENT☒ FOR YOUR INFORMATION☒ FOR YOUR REVIEW☐ PLEASE REPLY☐ FOR YOUR APPROVAL☐ PER YOUR REQUESTMESSAGE: A letter dated today to you with enclosure follows  
for your review.A HARD COPY XX WILL        WILL NOT FOLLOW BY U.S. MAIL.

**KELLAHIN AND KELLAHIN**

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

OIL CONSERVATION DIVISION  
FEB 11 1993  
TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

February 9, 1993

Mr. Michael E. Stogner  
Chief Hearing Officer/Engineer  
Oil Conservation Division  
Post Office Box 2088  
Santa Fe, New Mexico 87504

**VIA FACSIMILE**  
(505) 827-5741

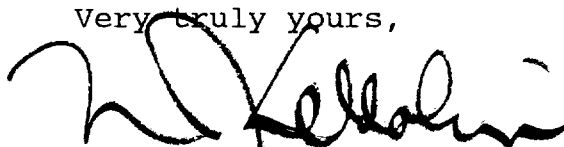
RE: NMOCD Case No. 10656  
Application of Mitchell Energy  
Corporation for Compulsory Pooling  
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Location, Lea County, New Mexico  
Tomahawk "28" Federal Well No. 1

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January 21, 1993 you questioned the status of approval  
by the Bureau of Land Management of the proposed  
surface location for the well.

Enclosed for your information is a copy of the BLM  
approval letter for the well dated January 27, 1993.

Very truly yours,



W. Thomas Kellahin

WTK/jcl

Enclosure

xc: Mark Stephenson

Mitchell Energy Corporation  
Sealy Cavin, Jr, Esq. (w/encl.)

lrr209.031





# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

New Mexico State Office  
1474 Rodeo Rd.  
P.O. Box 27115  
Santa Fe, New Mexico 87502-7115

TAKE  
PRIDE IN  
AMERICA

IN REPLY REFER TO:

3160 (067)  
NM-57280

JAN 27 1993

✓ CERTIFIED--RETURN RECEIPT REQUESTED  
P 864 873 168

RECEIVED

FEB 4 1993

Mitchell Energy Corporation  
Attention: George Mullen  
P.O. Box 4000  
The Woodlands, TX 77387-4000

PRODUCTION  
REGULATORY AFFAIRS

RE: Tomahawk "28" Federal Well No. 1  
NM-57280  
1650' FNL & 1980' FWL, Sec. 28, T20S, R33E  
Lea County, New Mexico

Dear Mr. Mullen:

On November 23, 1992, Mitchell Energy Corporation filed an Application for Permit to Drill (APD) at the above referenced location. I am pleased to approve your APD at the present location. Your copy of the APD, with attached stipulations, is enclosed.

Through our analysis of the APD, we have determined that the well site is located a sufficient distance from the ore zones that potash resources should not be impacted.

If you need any additional information, please contact Tony Herrell in the Carlsbad Resource Area at (505) 887-6544.

Sincerely,

*Larry L. Woodard*  
Larry L. Woodard  
State Director

1 Enclosure

DISTRICT I  
P.O. Box 1980, Hobbs, NM 88240

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88210

DISTRICT III  
1000 Rio Brazos Rd., Aztec, NM 87410

**OIL CONSERVATION DIVISION**  
P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

WELL API NO. 30-025-30123
5. Indicate Type of Lease STATE <input checked="" type="checkbox"/> FEE <input type="checkbox"/>
6. State Oil & Gas Lease No. NM-752
7. Lease Name or Unit Agreement Name Atlantic State "30"
8. Well No. 1-B
9. Pool name or Wildcat Double "A" - Abo South

<b>SUNDRY NOTICES AND REPORTS ON WELLS</b> (DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)	
1. Type of Well: OIL WELL <input checked="" type="checkbox"/> GAS WELL <input type="checkbox"/> OTHER <input type="checkbox"/>	
2. Name of Operator Autry C. Stephens	
3. Address of Operator 110 N. Marienfeld, Suite 110, Midland, Texas 79701	
4. Well Location Unit Letter <u>B</u> : <u>990</u> Feet From The <u>North</u> Line and <u>1655</u> Feet From The <u>East</u> Line Section <u>30</u> Township <u>17S</u> Range <u>36E</u> NMPM <u>Lea</u> County <u></u>	
10. Elevation (Show whether DF, RKB, RT, GR, etc.) 3878.6' GR	

11. Check Appropriate Box to Indicate Nature of Notice, Report, or Other Data

**NOTICE OF INTENTION TO:**

PERFORM REMEDIAL WORK ☐ PLUG AND ABANDON ☒  
TEMPORARILY ABANDON ☐ CHANGE PLANS ☐  
PULL OR ALTER CASING ☐  
OTHER: ☐

**SUBSEQUENT REPORT OF:**

REMEDIAL WORK ☐ ALTERING CASING ☐  
COMMENCE DRILLING OPNS. ☐ PLUG AND ABANDONMENT ☒  
CASING TEST AND CEMENT JOB ☐  
OTHER: ☐

12. Describe Proposed or Completed Operations (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work) SEE RULE 1103.

3/05/92 Pull tubing; Set CIBP @ 6600' w/2 sks cement on top.  
3/06/92 Circulate hole w/9.3# gelled brine & cut casing @ 5,000'. Could not pull casing.  
3/07/92 Cut casing @ 2800' (per OCD approval); LD 5 1/2" casing.  
3/08/92 LD 5 1/2" casing; Ran tubing to 2921'; Load hole w/brine and set 100 sk plug; Mix and set 50 sks cement plug from 1900 - 1800'.  
3/09/92 Cut off wellhead; Set 10 sk plug at surface; Installed marker; Cut off anchor & cleaned location.

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE Jafar R. Salehi TITLE Agent for operator DATE 10/22/92  
TYPE OR PRINT NAME Jafar R. Salehi TELEPHONE NO. 915-687-15

(This space for State Use)

APPROVED BY Eunice M. Hill TITLE OIL & GAS INSPECTOR DATE NOV 05 '92  
CONDITIONS OF APPROVAL, IF ANY:

DISTRICT I  
P.O. Box 1980, Hobbs, NM 88240

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88210

DISTRICT III  
1000 Rio Brazos Rd., Aztec, NM 87410

**OIL CONSERVATION DIVISION**  
P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

WELL API NO. 30-025-30123
5. Indicate Type of Lease STATE <input checked="" type="checkbox"/> FEE <input type="checkbox"/>
6. State Oil & Gas Lease No. NM - 752

**SUNDRY NOTICES AND REPORTS ON WELLS**  
(DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)

1. Type of Well:  
OIL WELL ☒ GAS WELL ☐ OTHER ☐

2. Name of Operator  
Autry C. Stephens

3. Address of Operator  
110 N. Marienfeld, Suite 110 Midland TX 79701

4. Well Location  
Unit Letter B : 990 Feet From The North Line and 1655 Feet From The East Line

Section 30 Township 17S Range 36E NMPM Lea County

10. Elevation (Show whether DF, RKB, RT, GR, etc.)  
3878.6 GR

11. Check Appropriate Box to Indicate Nature of Notice, Report, or Other Data	
<b>NOTICE OF INTENTION TO:</b>	<b>SUBSEQUENT REPORT OF:</b>
PERFORM REMEDIAL WORK <input checked="" type="checkbox"/>	REMEDIAL WORK <input type="checkbox"/>
TEMPORARILY ABANDON <input type="checkbox"/>	ALTERING CASING <input type="checkbox"/>
PULL OR ALTER CASING <input type="checkbox"/>	COMMENCE DRILLING OPNS. <input type="checkbox"/>
OTHER: Recomplete <input checked="" type="checkbox"/>	PLUG AND ABANDONMENT <input type="checkbox"/>
	CASING TEST AND CEMENT JOB <input type="checkbox"/>
	OTHER: Abd. ab. Recomplete Blenita <input checked="" type="checkbox"/>

12. Describe Proposed or Completed Operations (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work) SEE RULE 1103.

07/22/91 Rig Up Pulling Unit, Unset Tubing Anchor & Pull Tubing out of Hole.  
07/23/91 Rig Up Wedge Wireline Co. Set CIBP @ 9100'± & Dump 5 sx cmt on top  
Perf 6690-6706.  
07/24/91 Run Pkr in hole & acidize w/ 2000 gals. Swab load.  
07/25/91 Swab & Test.  
07/26/91 Place Well on Pump.

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE Jafar R. Salehi TITLE Agent for Operator DATE 07/24/91  
TYPE OR PRINT NAME Jafar R. Salehi TELEPHONE NO. 915-687-15

(This space for State Use)

Orig. Signed by  
Paul Kautz  
Geologist

APPROVED BY \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_

CONDITIONS OF APPROVAL, IF ANY:

JUL 31 1991

# OIL CONSERVATION DIVISION

P.O. Box 2088

Santa Fe, New Mexico 87504-2088

## DISTRICT I

P.O. Box 1980, Hobbs, NM 88240

## DISTRICT II

P.O. Drawer DD, Artesia, NM 88210

## DISTRICT III

1000 Rio Brazos Rd., Aztec, NM 87410

## WELL LOCATION AND ACREAGE DEDICATION PLAT

All Distances must be from the outer boundaries of the section

Operator <u>Autry C. Stephens</u>			Lease <u>Atlantic State "30"</u>		Well No. <u>1</u>
Unit Letter <u>B</u>	Section <u>30</u>	Township <u>17 South</u>	Range <u>36 East</u>	County <u>Lea</u>	
Actual Footage Location of Well: <u>990</u> feet from the <u>North</u> line and <u>1655</u> feet from the <u>East</u> line					
Ground level Elev. <u>3878.6</u>	Producing Formation <u>Glorieta</u>		Pool <u>Wildcat</u> <u>Double A South</u>	Dedicated Acreage: <u>40</u> Acres	

1. Outline the acreage dedicated to the subject well by colored pencil or hatchure marks on the plat below.

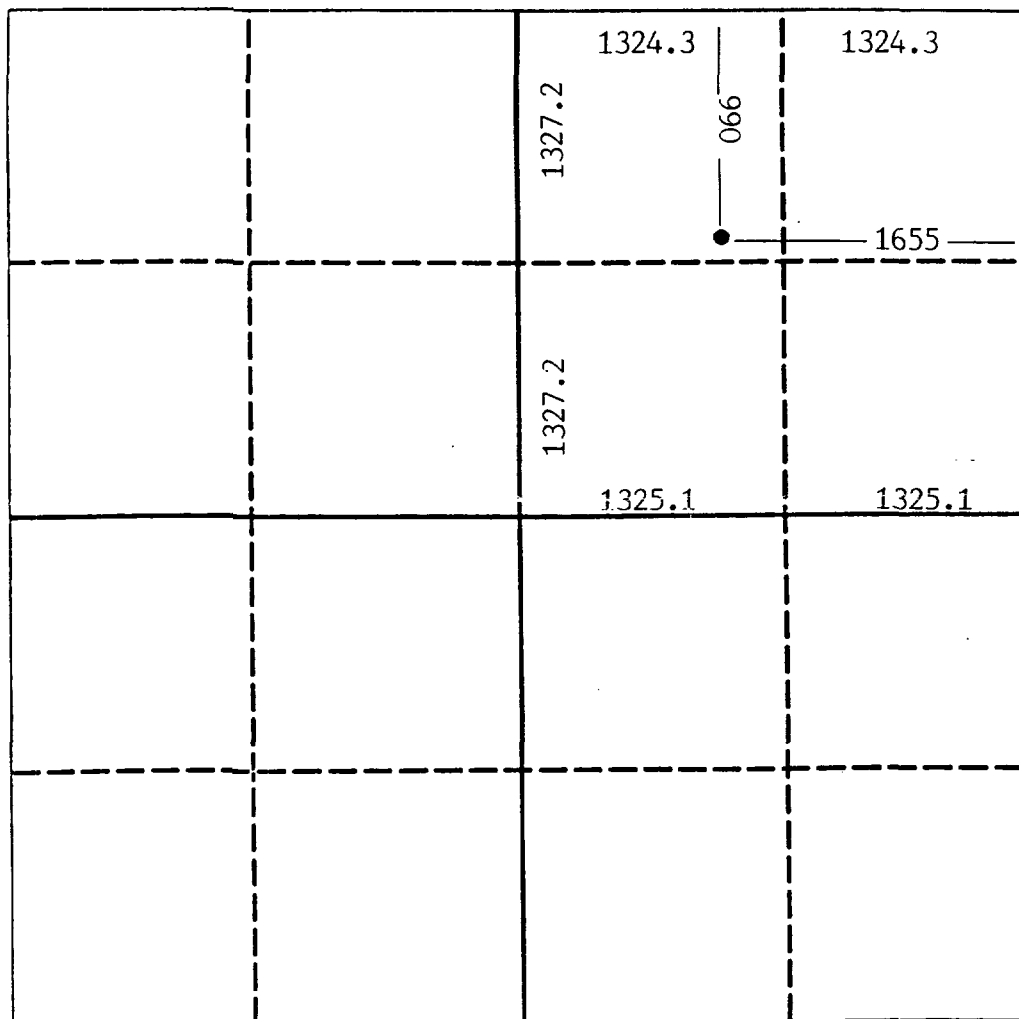
2. If more than one lease is dedicated to the well, outline each and identify the ownership thereof (both as to working interest and royalty).

3. If more than one lease of different ownership is dedicated to the well, have the interest of all owners been consolidated by communitization, unitization, force-pooling, etc.?

☐ Yes ☐ No If answer is "yes" type of consolidation \_\_\_\_\_

If answer is "no" list the owners and tract descriptions which have actually been consolidated. (Use reverse side of this form if necessary.) \_\_\_\_\_

No allowable will be assigned to the well until all interests have been consolidated (by communitization, unitization, forced-pooling, or otherwise) or until a non-standard unit, eliminating such interest, has been approved by the Division.



### OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.

Signature Jafar R. Salehi

Printed Name Jafar R. Salehi

Agent for Operator

Position  
Autry C. Stephens

Company

07/24/91

Date

### SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief.

Date Surveyed

Signature & Seal of  
Professional Surveyor

Certificate No.

0 330 660 990 1320 1650 1980 2310 2640 2000 1500 1000 500 0

Submit 5 Copies  
Appropriate District Office  
DISTRICT I  
P.O. Box 1980, Hobbs, NM 88240

State of New Mexico  
Energy, Minerals and Natural Resources Department

Form C-104  
Revised 1-1-89  
See Instructions  
at Bottom of Page

OIL CONSERVATION DIVISION

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

DISTRICT II  
P.O. Drawer DD, Artesia, NM 88210

DISTRICT III  
1000 Rio Brazos Rd., Aztec, NM 87410

REQUEST FOR ALLOWABLE AND AUTHORIZATION  
TO TRANSPORT OIL AND NATURAL GAS

Operator <u>Autry C. Stephens</u>		Well API No. <u>30-025-30123</u>
Address <u>110 N. Marienfeld, Suite 110 · Midland, Texas 79701</u>		
Reason(s) for Filing (Check proper box) New Well <input type="checkbox"/> Change in Transporter of: Recompletion <input type="checkbox"/> Oil <input type="checkbox"/> Dry Gas <input type="checkbox"/> Change in Operator <input checked="" type="checkbox"/> Casinghead Gas <input type="checkbox"/> Condensate <input type="checkbox"/> Other (Please explain) <input type="checkbox"/>		
If change of operator give name and address of previous operator <u>Arco Oil &amp; Gas Company · P.O. Box 1710 · Hobbs, New Mexico 88240</u>		

II. DESCRIPTION OF WELL AND LEASE

Lease Name <u>Atlantic State "30"</u>	Well No. <u>1</u>	Pool Name, Including Formation <u>Double A Abo South</u>	Kind of Lease State <u>State, Federal or Fee</u>	Lease No. <u>NM 752</u>
Location Unit Letter <u>B</u> : <u>990</u> Feet From The <u>North</u> Line and <u>1655</u> Feet From The <u>East</u> Line Section <u>30</u> Township <u>17S</u> Range <u>36E</u> , <u>NMPM</u> , <u>Lea</u> County				

III. DESIGNATION OF TRANSPORTER OF OIL AND NATURAL GAS

Name of Authorized Transporter of Oil <input checked="" type="checkbox"/> or Condensate <input type="checkbox"/> <u>Enron Oil Trading &amp; Transportation</u>	Address (Give address to which approved copy of this form is to be sent) <u>P.O. Box 1188 · Houston, Texas 77251</u>					
Name of Authorized Transporter of Casinghead Gas <input type="checkbox"/> or Dry Gas <input type="checkbox"/> <u>Phillips 66 Natural Gas Company</u>	Address (Give address to which approved copy of this form is to be sent) <u>4001 Penbrook · Odessa, Texas 79760</u>					
If well produces oil or liquids, give location of tanks.	Unit <u>B</u>	Sec. <u>30</u>	Twp. <u>17S</u>	Rge. <u>36E</u>	Is gas actually connected? <u>No</u>	When? <u>8/30/91</u>

If this production is commingled with that from any other lease or pool, give commingling order number: N/A

IV. COMPLETION DATA

Designate Type of Completion - (X)	Oil Well <input checked="" type="checkbox"/>	Gas Well <input type="checkbox"/>	New Well <input type="checkbox"/>	Workover <input type="checkbox"/>	Deepen <input type="checkbox"/>	Plug Back <input type="checkbox"/>	Same Res'v <input type="checkbox"/>	Diff Res'v <input type="checkbox"/>
Date Spudded <u>11-11-87</u>	Date Compl. Ready to Prod. <u>01-13-88</u>		Total Depth <u>9500</u>		P.B.T.D. <u>9486</u>			
Elevations (DF, RKB, RT, GR, etc.) <u>3896-6 RKB</u>	Name of Producing Formation <u>Abo</u>		Top Oil/Gas Pay <u>9168</u>		Tubing Depth <u>9150</u>			
Perforations <u>9168-9200</u>					Depth Casing Shoe <u>9486</u>			

HOLE SIZE	CASING & TUBING SIZE	DEPTH SET	SACKS CEMENT
<u>17½</u>	<u>13-3/8</u>	<u>402</u>	<u>550 sx - circ</u>
<u>11</u>	<u>8-5/8</u>	<u>3595</u>	<u>1450 sx - circ</u>
<u>7-7/8</u>	<u>5½</u>	<u>9486</u>	<u>2200 sx - toc @ 5285</u>

V. TEST DATA AND REQUEST FOR ALLOWABLE

OIL WELL (Test must be after recovery of total volume of load oil and must be equal to or exceed top allowable for this depth or be for full 24 hours.)

Date First New Oil Run To Tank	Date of Test	Producing Method (Flow, pump, gas lift, etc.)	
Length of Test	Tubing Pressure	Casing Pressure	Choke Size
Actual Prod. During Test	Oil - Bbls.	Water - Bbls.	Gas- MCF

GAS WELL

Actual Prod. Test - MCF/D	Length of Test	Bbls. Condensate/MMCF	Gravity of Condensate
Testing Method (pilot, back pr.)	Tubing Pressure (Shut-in)	Casing Pressure (Shut-in)	Choke Size

VI. OPERATOR CERTIFICATE OF COMPLIANCE

I hereby certify that the rules and regulations of the Oil Conservation Division have been complied with and that the information given above is true and complete to the best of my knowledge and belief.

Signature Jafar R. Salehi  
Printed Name Jafar R. Salehi · Agent for Operator  
Date July 24, 1991 Telephone No. (915) 687-1575

OIL CONSERVATION DIVISION

JUL 31 1991

Date Approved \_\_\_\_\_  
By \_\_\_\_\_ Orig. Signed by Paul Kautz  
Title \_\_\_\_\_ Geologist

INSTRUCTIONS: This form is to be filed in compliance with Rule 1104

- Request for allowable for newly drilled or deepened well must be accompanied by tabulation of deviation tests taken in accordance with Rule 111.
- All sections of this form must be filled out for allowable on new and recompleted wells.
- Fill out only Sections I, II, III, and VI for changes of operator, well name or number, transporter, or other such changes.
- Separate Form C-104 must be filed for each pool in multiply completed wells.

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

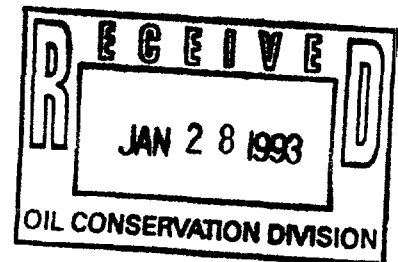
JASON KELLAHIN (RETIRED 1991)

January 28, 1993

Michael E. Stogner  
Hearing Examiner  
Oil Conservation Division  
310 Old Santa Fe Trail  
Room 219  
Santa Fe, New Mexico 87501

HAND DELIVERED

RE: Application of Mitchell Energy,  
Corporation for Compulsory Pooling  
San Juan County, New Mexico  
NMOCD Case No. 10656



Dear Mr. Stogner:

On behalf of Mitchell Energy Corporation please  
find enclosed our Proposed Order of the Division for  
the above-referenced case.

If you have questions or require anything else  
with regard to this matter, please call.

Very truly yours,

W. Thomas Kellahin

WTK/jcl

Enclosure

xc: With Enclosure

Mark N. Stephenson - Mitchell Energy Corp.  
Sealy H. Cavin, Jr., Esq.

lrr128.031

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

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

CASE NO. 10656  
Order No. R-

APPLICATION OF MITCHELL ENERGY  
CORPORATION FOR COMPULSORY POOLING  
AND AN UNORTHODOX GAS WELL LOCATION,  
LEA COUNTY, NEW MEXICO.

**MITCHELL ENERGY CORPORATION'S**  
**PROPOSED**  
**ORDER OF THE DIVISION**

**BY THE DIVISION:**

This cause came on for hearing at 8:15 a.m. on  
January 21, 1993 at Santa Fe, New Mexico, before  
Examiner Michael E. Stogner.

NOW, on this \_\_\_\_\_ day of January, 1993, the  
Division Director, having considered the testimony, the  
recorded and the recommendations of the Examiner, and  
being fully advised in the premises,

**FINDS THAT:**

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

(2) The applicant, Mitchell Energy Corporation  
("Mitchell"), seeks an order pooling all mineral  
interests from the top of the Wolfcamp formation to the  
base of the Pennsylvanian formation underlying the W/2  
of Section 28, T20S, R33E, NMPM, Eddy County, New  
Mexico forming a standard 320-acre gas spacing and  
proration unit for any and all formations and/or pools

developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the South Salt Lake Morrow Gas Pool. Said unit to be dedicated to its Tomahawk "28" Federal Com Well No 1 to be drilled and completed at an unorthodox gas well location 1650 feet FNL and 1980 feet FWL (Unit F) of said Section 28.

(3) Strata Production Company ("Strata") appeared at the hearing in opposition to the granting of Mitchell's application.

(4) The operating rights (working interests) for all of Section 28, except the S/2S/2 and the SW/4NE/4, are subject to Joint Operating Agreement No. 1130 between Mitchell Energy Corporation, Santa Fe Energy Operating Partners, L.P., and Maralo Inc. designating Mitchell Energy Corporation as the operator. The SW/4NE/4 is an unleased federal oil & gas tract. The S/2SW/4 and SW/4SE/4 is a federal oil & gas lease with record title and operating rights (no overriding royalty) held by Strata Production Corporation. The SE/4SE/4 is a federal oil & gas lease held by Pitche Energy.

(5) Mitchell has proposed to all working interest owners the formation of the subject spacing unit and drilling of the subject well and has obtained the voluntary agreement of 75% of the working interest ownership in the subject spacing unit for the proposed well.

(6) At all time relevant hereto, the S/2SW/4 which constitutes the remaining 25% working interest in the subject spacing unit has been under the ownership and control of Strata.

(7) Despite good faith efforts undertaken over a reasonable period of time, Mitchell has been unable to reach a voluntary agreement with Strata concerning voluntary participation in the subject spacing unit and the proposed well.



(8) Strata appeared at the hearing in opposition to Mitchell's proposed W/2 orientation of the spacing unit, the well location, and the overhead charges. In addition, Strata contended that Mitchell had failed to provide notification to Strata's "undisclosed partners" as identified on Mitchell Exhibit 17.

(9) As to the notice issue raised by Strata, Mitchell presented exhibits and testimony which demonstrated that:

(a) Abstracts and Title Opinions established that Strata held the record title and all operating rights to the S/2SW/4 of Section 28 as of the date the well was proposed to Strata (November 20, 1992), and as of the date Strata received notification of the compulsory pooling application (December 20, 1992), and as of the date of the hearing in this case.

(b) By letter dated November 20, 1992 Mitchell proposed to Strata the subject well and proposed spacing unit requesting voluntary participation in the well or in the alternative, proposed farmout terms to Strata.

(c) On November 20, 1992, Mitchell was the first working interest owner in Section 28 to propose a Morrow gas well to the working interest owners,

(d) Although Strata declined to participate in the well, during the next two months, Mitchell and Strata through numerous telephone calls and correspondence between the parties discussed other alternatives including Mitchell purchasing or farming in Strata's interest.

(e) Mitchell understood and believed that Strata was dealing for and on behalf of Strata and all of Strata's "undisclosed partners."

(f) By letter dated December 30, 1992 (Mitchell Hearing Exhibit 12), Strata offered to sell Mitchell 100% of its record title and operating rights

and this offer included representations that while Strata had "undisclosed partners" Strata had the right, power and authority to bind said undisclosed partners.

(g) After negotiations between Mitchell and Strata failed, by letter dated January 13, 1993, Strata for the first time provided Mitchell with the names and addresses of Strata's fifteen "undisclosed partners." (Mitchell Hearing Exhibit 17).

(10) In support of its motion for continuance, Strata claimed that Mitchell knew all along that Strata had "undisclosed partners" and it was Mitchell's duty to request Strata to disclose the names and addresses and then to provide those parties with an opportunity to join and if not then pursue compulsory pooling.

(11) That Mitchell has made a good faith effort to reach a voluntarily agreement with the appropriate parties and is entitled to compulsory pooling.

(12) It would circumvent the purposes of the New Mexico Oil & Gas Act to allow a party owning a certain percentage of the working interest in the spacing unit at the time said party was served with a compulsory pooling application, to avoid or delay having that entire percentage interest pooled by assigning, conveying, selling or otherwise burdening or reducing that interest.

(13) It was Strata's responsibility and obligation to notify its "undisclosed partners" of this compulsory pooling application and Strata cannot shift that responsibility to Mitchell in this case.

(14) Strata's motion to continue for lack of notice to its "undisclosed partners" should be denied and all said "undisclosed partner's" interest received or to be received from Strata, if any, should be subject to the terms and conditions of this order.

(15) Mitchell's estimated cost for a completed well is \$1,377,300. with monthly overhead rates of \$6,470 while drilling and \$647 while producing.

(16) Strata stipulated to Mitchell's proposed estimate of well costs ("AFE") identified on Mitchell Exhibit 19 as fair and reasonable but requested the Ernst & Young tabulation of average overhead rates be applied in this case.

(17) Because a substantial majority of the working interest owners have agreed to overhead which have now escalated in accordance with COPAS procedures to be slightly in excess of the Ernst & Young average rates, the rates proposed by Mitchell are fair and should be adopted in this case.

(18) Strata objected to the Mitchell proposed Joint Operating Agreement in use in the area but admitted if Mitchell accepted the Strata changes to that agreement that Strata still would not reach a voluntary agreement with Mitchell.

(19) Because of dispute over the orientation of the spacing unit and the location of the first Morrow gas well in the section, Mitchell and Strata have been unable to agree on a voluntary basis for the pooling of their respective interests in either the proposed well or its spacing unit.

(20) In support of its orientation and well location, Mitchell introduced the following evidence through its exhibits and the testimony of its geologic witness:

(a) Through the use of some 50 miles of seismic data in the area, in interpretation of well data and some 12 years of personal experience in this specific area, Mitchell's geologist prepared a structure map on the top of the Morrow.

(b) Mitchell's cross-section, structure map and net isopach map were submitted to show the geologic

basis for its proposed orientation of the spacing units and to illustrate its exploration methodology which is based upon structural position and net reservoir thickness of the Morrow "B" sand.

(c) Mitchell's exploration method has been successful in the area and is based upon spacing units being oriented to apportion the reservoir in the section based upon structure and net thickness of the Morrow "B" sand so that there are two gas well locations per section rather than one per section.

(d) The primary objective of Mitchell's proposed orientation of the spacing unit is to provide the best opportunity for full development of said Section with two wells.

(e) Its geology demonstrated that any location in the S/2 of Section 28 is substantially more risky than any location in the N/2 of Section 28.

(f) Mitchell's proposed W/2-E/2 orientation of the spacing units for Section 28 would provide better opportunity for exploring the Morrow reservoir potential at significantly less risk than the N/2-S/2 orientation sought by Strata.

(g) Because of a combination of archeological restrictions and surface use limitations, Mitchell has been unable to obtain approval from the BLM for an acceptable standard location in the W/2 spacing unit, and therefore seeks the proposed unorthodox location which it anticipates will satisfy all the requirements of the BLM.

(h) Mitchell's geologic witness demonstrated with his geologic exhibits that Mitchell had obtained commercial Morrow gas production from the area by a combination of structure and reservoir thickness analysis.

(i) Mitchell's proposed unorthodox location for its Tomahawk "28" Federal COM #1 Well located 1650 feet FNL and 1980 feet NWL of said Section 28 provides a suitable well location for the W/2 spacing unit and leaves available a NE/4 well location for the E/2 spacing unit.

(j) Mitchell's geologic witness testified that any location in the S/2 of Section 28 would be at a lower structural position resulting in an increased risk of the Morrow being wet and non-commercial.

(k) Mitchell's orientation would provide an opportunity for full development of Section 28 in the Morrow formation while the Strata proposed orientation would create the probability that no well would be drilled in the S/2 of the section to recover those reserves.

(21) To support its opposition to the Mitchell orientation and location, Strata presented the following information through its exhibits and the testimony of its witnesses:

(a) That Strata wanted a N/2 orientation which would exclude Strata from having to participate in the subject well;

(b) A Morrow structure map for an area south of Section 28 but failed to include Section 28 or any section adjacent to Section 28.

(c) Strata's geologist testified that Morrow gas wells could be successfully drilled without regard to structure.

(d) Strata's geologist had not prepared an isopach map but adopted without verification the Mitchell isopach and concluded therefrom that wells could be drilled in Section 28 with N/2-S/2 oriented spacing units because of reservoir thickness.

(e) Strata's geologist further contended that by moving the proposed Mitchell well farther north and higher on the structure, the well would be at a standard gas well location if a N/2 oriented spacing unit was approved;

(f) On behalf of Strata, Mr. Mark Murphy testified that while it did not operate or have a working interest in any currently producing Morrow gas well in the area, it was proposing to Mitchell through its testimony at hearing that a S/2 spacing unit be formed so that Strata could drill a Morrow gas well in the SE/4SW/4 of Section 28.

(22) Strata's expert geologist has not been the discovery geologist for any well in the area, while Mitchell's geologist had personally picked eight successful Morrow gas well locations in the area and determined the appropriate orientation of their spacing units.

(23) Strata does not operate or own a working interest in any currently producing Morrow Gas well in the area, while Mitchell is the operator of eight such wells.

(24) The well which Strata proposed to Mitchell at the hearing to be Strata's proposed Morrow gas well for the S/2 of Section 28, in fact was designated by Strata as a shallow Delaware oil well on 40-acre oil spacing.

(25) Strata's geologist testified that there was little data and little well control and the proposed well was very risky but refused to express an opinion about the appropriate level of risk factor penalty.

(26) There is substantial evidence to support approval of the Mitchell position and its application should be approved.

(27) In addition, by adopting the Mitchell position and by rejecting the Strata position, the Division has determined that:

(a) The proposed unorthodox location does not sufficiently lessen the risk of the well and therefore the maximum 200% risk factor penalty should apply in this case;

(b) Approval of the proposed unorthodox location, which is farther away from Strata than a standard well location, is necessary and reasonable in this case;

(c) Compulsory pooling is necessary and reasonable in this case to form a spacing unit for drilling, completing and producing the subject well;

(d) The maximum 200% risk factor penalty should be applied based upon the Mitchell testimony, and the corresponding failure of Strata to contest the issue;

(e) Any location in the S/2 of Section 28 would be substantially down structure from either location in the NW/4 of NE/4 of Section 28 and would disregard an essential element necessary to pick Morrow gas well locations for the full development of the Section.

(f) Strata's contention that the first well in Section 28 should be drilled at the point of greatest reservoir thickness without regard to structural position ignores the fact that operators in the Hat Mesa Pool immediately to the southwest of the subject section have been successful in drilling very productive Morrow gas wells by locating those wells high on structure.

(g) Approval of the Strata's requested orientation would cause too few wells to be drilled in Section 28 and would create the opportunity that some of the reserves that might otherwise be recovered from

that section would either be left in the reservoir causing waste or would allow those reserves to be drained by the proposed well in the NW/4 of Section 28 thereby violating correlative rights.

(h) Strata's contention that a N/2 spacing unit should be approved because that orientation creates a standard location at the highest location on structure ignores the Division's responsibility to orient the spacing units so that the entire section has a reasonable opportunity of being fully developed thereby preventing potential waste and protecting the correlative rights of all interest owners.

(i) An N/2-S/2 orientation would preclude the S/2 from having a successful well and would create the opportunity for the interest owners in the S/2 to have their share of reservoir potential subject to being produced by the proposed well in the N/2 of Section 28.

(j) A N/2-S/2 orientation as proposed by Strata would substantially increase the risk that the Section will not be fully explored because the S/2 spacing unit becomes too risky to justify a well.

(k) A E/2-W/2 orientation as proposed by Mitchell will more equitably distribute the reservoir potential between two 320-acre gas spacing units than would a N/2-S/2 orientation.

(l) Approval of the Mitchell orientation of the spacing unit will afford an opportunity for full development of the section with two wells each located in the optimum portion of the reservoir based upon structural highs and reservoir thickness and dedicated to a spacing unit oriented so as to balance the potential equitably between the interest owners in the section.

(29) Approval of this application as set forth in the above findings and in the following order will avoid the drilling unnecessary wells, protect correlative rights, prevent waste and afford the owner



of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) Strata's motion to continue the case for lack of notice to its "undisclosed partners" is hereby denied.

(2) All mineral interests, whatever they may be, from the top of the Wolfcamp to the base of the Pennsylvanian formation underlying the W/2 of Section 28, Township 20 South, Range 33 East, NMPM, Lea County, New Mexico, are hereby pooled to form an 320-acre gas spacing and proration unit to be dedicated to a well to be drilled at an unorthodox gas well location 1650 feet from the North line and 1980 feet from the West line (Unit F) of said Section 28.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the \_\_\_\_\_ day of \_\_\_\_\_, 1993, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the \_\_\_\_\_ day of \_\_\_\_\_, 1993, Decretory Paragraph No. (2) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (2) of this order should not be rescinded.

(3) Mitchell Energy Corporation is hereby designated the operator of the subject well and unit.

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

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

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

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

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

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

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

(10) \$6,470 per month while drilling and \$647 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest. The operator is hereby authorized to make annual adjustments of said combined fixed rates as of the first day of April each year in accordance with the COPAS accounting schedule utilized by the industry.

Case No. 10656  
Order No. R-  
Page 14

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

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

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

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

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

(16) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

Case No. 10656  
Order No. R-  
Page 15

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

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

WILLIAM J. LEMAY,  
Director

SEAL

STRATTON & CAVIN, P.A.

ATTORNEYS & COUNSELORS AT LAW

HAROLD D. STRATTON, JR.  
SEALY H. CAVIN, JR.

320 GOLD AVENUE, S.W.

SUITE 1200

P. O. BOX 1216

ALBUQUERQUE, NEW MEXICO 87103-1216

TELEPHONE (505) 243-5400  
FACSIMILE (505) 243-1700

HARRY T. NUTTER

January 15, 1993

**VIA FAX -- 982-2047**

W. Thomas Kellahin, Esq.  
Kellahin and Kellahin  
P.O. Box 2265  
Santa Fe, New Mexico 87504-2265

**Re: OCD Case 10656 -- Application of Mitchell Energy Corporation for Compulsory Pooling and Unorthodox Gas Well Location, Lea County, New Mexico**

Dear Mr. Kellahin:

This is in response to your letter dated January 6, 1993.

My first reaction to your letter was that the letter was sent to the wrong party. My second reaction was perhaps one of us was mistaken about the status of the case at the time my January 6, 1993 letter was sent to you.

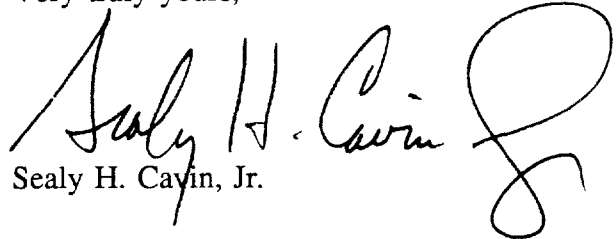
To clear up any misunderstanding, prior to our faxing the letter on January 6, 1993, I had my secretary contact the OCD regarding the status of the case. She was advised by the OCD that the case had already been continued to the hearing date set for January 21, 1993. Based on this information, I fax'd you my letter of January 6, 1993 (a copy of which is attached) merely to confirm that the case had in fact been continued. I would have simply called you to confirm that the hearing had been continued, but based on my prior experience you are not easy to reach and do not have a good record for returning phone calls. I sent the letter to you merely to confirm that our understanding was in fact correct. As you know, the OCD has many cases to monitor and I wanted to make sure that our understanding was in fact correct.

Regarding your specific comments as to the pre-hearing statement, I would note that it is my understanding that the pre-hearing statements are not mandatory. While I support the use of pre-hearing statements, it is my understanding that the OCD is flexible in their use. In addition, the deadline for filing the pre-hearing statement is 4:00 p.m. on the Friday before a scheduled hearing. As indicated above, it was my understanding that the hearing had been continued to January 21, 1993. We intend to file our pre-hearing statement in a timely manner for the rescheduled hearing.

W. Thomas Kellahin, Esq.  
January 15, 1993  
Page 2

If my first reaction to your letter as noted above is correct, then you can disregard this letter. If my second reaction is correct, then I would like to know if the case had in fact been continued prior to the time you received my letter. If in fact the case had been continued prior to that time, then I find your letter to be pure nonsense and misleading.

Very truly yours,

  
Sealy H. Cavin, Jr.

SHC/jas

cc: Mark B. Murphy, President -- Strata Production Company  
Robert G. Stovall, Esq., General Counsel -- Oil Conservation Division ✓



COURT REPORTING, INC.

June 19, 1997

Lynn Hebert, Esq.  
New Mexico Oil & Conservation Division  
2040 South Pacheco Street  
Santa Fe, New Mexico 87505

***Re: Application of Mitchell Energy Corporation for compulsory pooling  
and an unorthodox gas well location, Lea County, New Mexico  
Docket No. 3-39; Case No. 10656***

Dear Ms. Hebert:

Enclosed please find a condensed copy of the OCD hearing in the above-referenced case, taken on **January 21, 1993**.

This copy was ordered by Brian Pezzillo, Esq., of the Stratton & Cavin firm in Albuquerque and is to be delivered to Ms. Hebert.

We will be billing Mr. Pezzillo for this copy, at his request.

Thank you.

Sincerely,

Jackie Wiggins



1 NEW MEXICO OIL CONSERVATION DIVISION

2 STATE LAND OFFICE BUILDING

3 STATE OF NEW MEXICO

4 Docket No. 3-93

5 Case No. 10656

6  
7  
8 IN THE MATTER OF:

9  
10 Application of Mitchell Energy  
11 Corporation for compulsory pooling  
12 and an unorthodox gas well location,  
Lea County, New Mexico

13 BEFORE:

14 EXAMINER MICHAEL E. STOGNER

15 January 21, 1993

16  
17 REPORTED BY:

18 DEBORAH O'BINE  
19 Certified Shorthand Reporter  
20 for the State of New Mexico  
21  
22  
23  
24  
25

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

FOR THE NEW MEXICO OIL CONSERVATION DIVISION:

ROBERT G. STOVALL, ESQ.  
General Counsel  
State Land Office Building  
Santa Fe, New Mexico 87504-2088

FOR MITCHELL ENERGY CORPORATION:

KELLAHIN & KELLAHIN  
117 N. Guadalupe  
Santa Fe, New Mexico 87501  
BY: W. THOMAS KELLAHIN, ESQ.

FOR STRATA PRODUCTION COMPANY:

STRATTON & CAVIN, P.A.  
P.O. Box 1216  
Albuquerque, New Mexico 87103  
BY: SEALY H. CAVIN, JR., ESQ.

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1 EXAMINER STOGNER: At this time I'll call  
2 Case No. 10656.  
3 MR. STOVALL: Application of Mitchell Energy  
4 Corporation for compulsory pooling and an unorthodox  
5 gas well location, Lea County, New Mexico.  
6 EXAMINER STOGNER: Call for appearances?  
7 MR. KELLAHIN: Mr. Examiner, I'm Tom  
8 Kellahin of the Santa Fe law firm of Kellahin &  
9 Kellahin, appearing on behalf of the Applicant,  
10 Mitchell Energy Corporation. I have three witnesses to  
11 be sworn.  
12 EXAMINER STOGNER: Any additional  
13 appearances?  
14 MR. CAVIN: Mr. Examiner, my name is Sealy  
15 Cavin. I'm an attorney with the Stratton & Cavin law  
16 firm in Albuquerque. I'm representing Strata  
17 Production Company, and I have two witnesses.  
18 EXAMINER STOGNER: Any other appearances?  
19 Will the witnesses please stand and be sworn  
20 at this time?  
21 (Thereupon, the witnesses were sworn.)  
22 EXAMINER STOGNER: Mr. Kellahin?  
23 MR. KELLAHIN: Thank you, Mr. Examiner.  
24 During the break, Mr. Examiner, Mr. Stovall and Mr.  
25 Cavin and I discussed potential issues for

1 would -- while we were trying to strike an agreement,  
2 try to coordinate the deal between the various  
3 partners. When the deal fell apart, we told Mitchell  
4 in good faith that we couldn't speak for the partners,  
5 if there was going to be a -- if it would be necessary  
6 to go forward with the forced pooling, that they would  
7 need to notify the partners.  
8 At that time we sent them a list of the  
9 partners and their addresses and I believe suggested  
10 they may want to contact these parties. We believe  
11 these parties are entitled to notice, and we cannot  
12 speak for their interest at this time, Mr. Examiner.  
13 MR. KELLAHIN: In response, Mr. Examiner,  
14 let me submit to you part of my tender of proof on this  
15 issue. To aid you in understanding what Mr. Cavin's  
16 concern is, let me show you what is going to be Exhibit  
17 No. 6. It's simply an ownership plat.  
18 Mitchell's proposal is to formulate a  
19 320-acre gas spacing unit. There is not yet gas  
20 spacing in Section 28. We are proposing to orient the  
21 spacing unit so that there is a west half dedication.  
22 The ownership within the section is such that Mitchell  
23 has consolidated on a voluntary basis all ownership  
24 with the exclusion of the south half of the southwest  
25 west quarter. It's an unshaded tract, and it's labeled

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1 consideration by the Division Examiner in this  
2 compulsory pooling case, which also includes a request  
3 for an orthodox gas well location.  
4 In trying to identify the issues, Mr. Cavin  
5 has raised a notice question, and subject to your  
6 desires perhaps we ought to address the notice issue  
7 first. Mr. Cavin has made mention of it in his  
8 prehearing statement, and I would suggest that if he  
9 desires to raise an issue about notice, that he ought  
10 to go forward and describe for us what his concern is  
11 with regards to notification. Let us deal with that  
12 issue and, based upon the outcome of that issue,  
13 determine whether we go forward or whether some other  
14 solution is appropriate.  
15 EXAMINER STOGNER: Mr. Cavin?  
16 MR. CAVIN: Yes, Mr. Examiner. Our notice  
17 issue goes to the question of whether, in connection  
18 with compulsory pooling action, Mitchell has adequately  
19 notified all interest owners in the west half of  
20 Section 28. We have advised on several occasions -- we  
21 have advised Mitchell there is a Strata -- Mr. Mark  
22 Murphy, who will be called as a witness, has advised  
23 Mitchell on several occasions that there are various  
24 partners in a particular lease that Mitchell seeks to  
25 force pool. We have indicated to Mitchell that we

1 "Strata."  
2 Our tender of proof is that based upon a  
3 title opinion rendered to Mitchell Energy by the Hinkle  
4 law firm, that as of the date of the application and as  
5 of the date the application for compulsory pooling was  
6 served on Strata, which is December 9, that Strata  
7 Production Company was the owner of the operating  
8 rights for that particular federal lease.  
9 That during the course of the negotiations,  
10 our landman will testify that Strata represented that  
11 they had the ability to make deals on behalf of the  
12 operating interest for that lease. And that while  
13 there may be other partners of Strata, they were  
14 undisclosed to us. It was not until negotiations  
15 terminated unsuccessfully, that by letter dated January  
16 13, we were informed that Strata now was telling us  
17 they had other interest owners that would hold  
18 operating rights.  
19 Application was filed on December 7. Strata  
20 was served on the 9th. The case was originally  
21 scheduled for the 7th of January, was continued to this  
22 docket to give the parties additional time in which to  
23 see if they could come to an agreement.  
24 In addition, we will submit to you as part  
25 of our proof a certificate from a certified abstract

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1 company that does business in Lea County, New Mexico,  
2 that has attested to the fact that they've made a  
3 search of the public records of Lea County, New Mexico,  
4 from a period beginning November 6 of '92, ending  
5 January 19, 1992, and it shows that Strata Production  
6 Company is still the owner of all those operating  
7 rights.

8 Our point is the last-minute effort to  
9 disburse their interests simply frustrates our efforts  
10 to consolidate the interest and to formulate on a  
11 compulsory pooling basis the drilling of the well. We  
12 believe we've complied with the notice requirements.  
13 We have dealt in good faith with Strata Production  
14 Company. And it is not our obligation now to go out  
15 and search and find these now disclosed parties that  
16 Strata says we are now obligated to seek.

17 The certificate is here for your  
18 consideration.

19 MR. STOVALL: Mr. Cavin, you are not  
20 representing these other parties; is that correct?

21 MR. CAVIN: No, sir.

22 MR. STOVALL: Mr. Examiner, I don't think  
23 that at this time it's necessary to rule on that  
24 matter, quite frankly. Strata is here and appearing.  
25 The other parties -- if a pooling order is entered, the

1 a tender of proof that meets the requirements on  
2 notification. And I disagree with Mr. Stovall. I  
3 think we need some decision from the examiner as to  
4 whether we've notified the proper properties.

5 MR. CAVIN: Might I interject, Mr.  
6 Examiner? We agree that there is a due process  
7 question as to these interest owners that were  
8 previously identified to Mitchell as far back as  
9 October 26. Perhaps they were identified in generic  
10 terms, but they were nonetheless advised that they were  
11 silent partners.

12 It is not unusual, as you know, to have  
13 other recorded interests, and we, Strata, did its best  
14 to advise Mitchell of this situation. In fact, under  
15 the definition of the federal regulations, these  
16 parties do in fact have operating rights even though  
17 they're not reflected in the public records.

18 We would be happy to submit that to the  
19 Division.

20 EXAMINER STOGNER: I suppose you have a land  
21 witness prepared today to testify on their work to  
22 contact all unleased parties at this point; is that  
23 correct, Mr. Kellahin?

24 MR. KELLAHIN: Yes, sir, and our testimony  
25 is that party is Strata. And while they said they had

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1 parties may object to that order as not being  
2 applicable to them. And if Mitchell goes forward,  
3 chooses to go forward at this time, it does so with the  
4 risk, knowing that there may be other parties out there  
5 at this time who possibly were entitled to notice.

6 And without making that determination, I  
7 would say that at this time Mitchell may go forward, if  
8 it so desires, and that those other parties, if Mr.  
9 Cavin doesn't speak for them, will have to assert their  
10 interest. And Mitchell needs to be aware that that may  
11 happen, and they may come back in here and have to do  
12 it again. But so I would say that the decision is up  
13 to Mitchell at this point.

14 Only those interests over whom the  
15 Commission has jurisdiction will be pooled, and whether  
16 it has jurisdiction over those interests is not a  
17 decision that has to be addressed today because there's  
18 --

19 MR. KELLAHIN: I beg to differ with Mr.  
20 Stovall. I think it's critically important for us to  
21 know before we go through this exercise if we are  
22 pooling Strata and the 25 percent working interest  
23 ownership in that lease or whether we're only pooling  
24 Strata as to 18.5 percent. I think that makes a  
25 material difference as to what we do. We think we have

1 other interest owners, as late as January 12, they  
2 represent that those interest owners are undisclosed to  
3 us. And so that is the issue is whether, having dealt  
4 with and exhausted the efforts with Strata, and been  
5 unsuccessful to get a voluntary agreement because they  
6 now disclose to us on the 15th of January -- 13th of  
7 January, some 15 other individuals and entities, must  
8 we now restart the process and go and try to find those  
9 people?

10 MR. CAVIN: Mr. Examiner, if I might, Strata  
11 -- and I don't think there's been any indication  
12 otherwise -- has offered to provide these names.  
13 Mitchell has not pursued that. And it wasn't until --  
14 and we also did not indicate that we had the authority  
15 to speak for these individuals. We indicated that we  
16 would try to work a deal. And that's what we were  
17 doing in a good faith effort. When the deal came  
18 apart, we said, look, this is getting too complicated.  
19 You're going to have to go to these parties directly.  
20 Frankly, some of them may want to participate, some of  
21 them you may just have to force pool, and others may  
22 accept the farm-out terms.

23 And it's incumbent on the applicant, it  
24 seems to me, and certainly we would take that position  
25 if we were force pooling, to contact anybody that we

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1 were aware of. It's not just constructive notice of  
2 the record. It's actual notice that you receive in the  
3 process.

4 EXAMINER STOGNER: That's part of the forced  
5 pooling provisions and part of the forced pooling  
6 statutes in which a reasonable determination or  
7 reasonable effort was made, and I think we can hear  
8 that today and that determination can be made. And, as  
9 always, any party who doesn't feel they're up to the  
10 forced pooling provision, they can seek the Division's  
11 assistance or the provisions either through hearing or  
12 whatever means, but obviously we have them here today,  
13 and we haven't made that determination yet by listening  
14 to any of the testimony.

15 Mr. Kellahin?

16 MR. KELLAHIN: We're ready to go forward.

17 EXAMINER STOGNER: Are there any other  
18 issues, Mr. Stovall, that you see -- that you mentioned  
19 prior?

20 MR. STOVALL: No. I think if you're  
21 prepared to go with the land case and then, I think --  
22 the legal issue I see here, and I think Mr. Cavin is  
23 raising -- and, Mr. Kellahin, get your response to this  
24 -- it appears that you have complied with the  
25 requirements with respect to notifying all those having

1 MR. STOVALL: I think we need to go forward  
2 with the land testimony to flesh out the facts.

3 MR. CAVIN: We can say without equivocation,  
4 their interests are not bound by Strata, and if there  
5 is a case for misrepresentation, I doubt that this is  
6 the forum for that.

7 We would also also assert that Strata has  
8 not represented that. We have made a good faith  
9 effort. We continued until the 13th. Just so long as  
10 everyone is aware of that as we press into this. We're  
11 perfectly willing to hear this case today. I can also  
12 assure you that there will-- I would be surprised if  
13 none of these parties objects to not having notice.  
14 And I just say that for the record today.

15 MR. KELLAHIN: One final point. Mr. Cavin's  
16 representation is inconsistent with the proof. There  
17 is a December 20 letter from his client that purports  
18 an arrangement and attaches to it the federal  
19 assignment form by which, if we accept their proposal,  
20 they are prepared to execute that assignment form on  
21 behalf of the full 25 percent working interests. You  
22 can't have it both ways, Mr. Examiner.

23 MR. CAVIN: It also states there are  
24 undisclosed owners, that we have been in contact with  
25 these owners and we have tried to -- it expresses that

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1 a record title interest?

2 MR. KELLAHIN: Yes, sir.

3 MR. STOVALL: Are you required to notify  
4 those -- two questions is, have you been given actual  
5 notice of interests which are not recorded; and,  
6 secondly, are you required to notify those interests?  
7 To what extent do they have due process rights to  
8 receive notice; is that correct?

9 MR. KELLAHIN: And then as an additional  
10 item, whether or not Mitchell could rely on what they  
11 believe were representations by Strata that Strata was  
12 representing all those undisclosed interests as we  
13 dealt with this issue. And if you make that  
14 determination, then we don't have any obligation to  
15 notify these undisclosed people.

16 MR. STOVALL: Mr. Kellahin, again, the only  
17 question I would ask you is what if one of these  
18 undisclosed parties comes back in and seeks an order  
19 from the Commission that their interests have not been  
20 pooled by the order because they did not receive  
21 notice?

22 MR. KELLAHIN: We would obviously have to  
23 have a hearing and discuss that issue, but our defense  
24 is that their interest is bound by the activities of  
25 Strata.

1 in black and white. And it's consistent with the whole  
2 pattern. There are undisclosed owners. We have tried  
3 to work out a deal. Where we can't work out this deal,  
4 we said, look, this thing is too complicated. You're  
5 going to have to deal with these people directly. We  
6 set that forth in the agreement precisely. Our  
7 correspondence is consistent. All the telephone  
8 conversations are consistent. And it was just a lazy  
9 landman that didn't want to contact these folks. We  
10 would have been happy to give the information --

11 MR. STOVALL: Let's pass on those kind of  
12 judgments, Mr. Cavin.

13 MR. KELLAHIN: That's unfair.

14 MR. STOVALL: I guess the question is, we  
15 don't even know at this point whether the people have  
16 the property interests which is -- we don't have a  
17 record on that. So let's proceed with the land case,  
18 and the records we have before us at this point show no  
19 interest other than Strata, and so therefore we don't  
20 even know who they are.

21 Mr. Cavin, I will advise that you cannot  
22 represent these people because you are -- you have  
23 represented to this Division this morning that you do  
24 not represent these people.

25 MR. CAVIN: That's true.

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1 MR. STOVALL: There's a little bit of a  
2 problem there as far as your now taking up their flag.

3 MR. CAVIN: I am not attempting to represent  
4 these parties at this hearing. I want to make that  
5 perfectly clear. If there's any misunderstanding on  
6 that, I would state that for the record.

7 MR. KELLAHIN: My choice of presentation is  
8 to present the geologic data first. That's the heart  
9 of the case. We're interested in the geology by which  
10 we fully develop the section, and I'm going to call Mr.  
11 Gawloski first rather than deal with the land  
12 testimony.

13 EXAMINER STOGNER: I'd rather hear the land  
14 testimony at this time because, after all, there is a  
15 separate issue here. Granted, geology and engineering  
16 and the overhead charges, but we need to proceed with  
17 the land testimony at this time and get these other  
18 issues raised up because if there is a problem, why  
19 hear the other things at this point?

20 MR. KELLAHIN: Well, that's my point. We're  
21 raising this in terms of response to Mr. Sealy's  
22 motion. My tender of proof on behalf of the landmen is  
23 what I've summarized at this point. And if we're going  
24 to address the notice issue, then I need to draw him  
25 out of the regular sequence of presentation, and we'll

1 why we have to veer from the norm. I think the land  
2 testimony at this time is appropriate.

3 MR. KELLAHIN: If you'll excuse the fact  
4 that the exhibits are numbered in the sequence such  
5 that the geologic displays are first, we'll present Mr.  
6 Steve Smith, who is the landman, first, recognizing  
7 that the numbers are out of sequence.

8 EXAMINER STOGNER: It will be noted.

9 MR. KELLAHIN: With your permission.

10 EXAMINER STOGNER: You have my permission.

11 MR. KELLAHIN: Let me call Steve Smith.

12 If I might, before we start, I'd like to  
13 apologize for my comment towards Mr. Smith.

14 EXAMINER STOGNER: The record will so note.

15 Just for the record, Mr. Kellahin, your  
16 Exhibits are 5 through 19; is that correct?

17 MR. KELLAHIN: Mr. Smith is going to talk  
18 about Exhibit 6. Exhibit 5 had to do with the  
19 topographic constraints on the surface. Mr. Smith will  
20 talk about Exhibit 6, and then he will take us through,  
21 I want to say 17. I have an engineer here to  
22 authenticate the AFE. Mr. Smith will also talk about  
23 the certification, which is Exhibit 19.

24 EXAMINER STOGNER: Exhibits 6 through 17 and  
25 Exhibit 19 will be the topics for this witness.

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1 talk about the notice.

2 MR. STOVALL: It's unusual. Normally, the  
3 land testimony comes first in most forced poolings.

4 MR. KELLAHIN: I understand.

5 MR. STOVALL: And probably the reason for  
6 that is because the fundamental issue in the previous  
7 case is, you know, is there an agreement and has there  
8 been any good faith negotiations.

9 MR. KELLAHIN: I had understood the  
10 fundamental issue in this case was the orientation of  
11 the spacing units.

12 MR. STOVALL: That's the issue between the  
13 parties.

14 MR. KELLAHIN: Yes, sir.

15 MR. STOVALL: The issue before the  
16 Commission is you've got to have the basis for a forced  
17 pooling order in the first place before you get into  
18 the issues of how will that order be drafted.

19 MR. KELLAHIN: It's already admitted between  
20 these two parties that they can't come to an agreement  
21 despite their efforts to do so. And the only remaining  
22 issue is whether Strata represented the 25 percent or  
23 whether they don't. And if they don't, then we need to  
24 go back and find the rest of them.

25 EXAMINER STOGNER: I don't see any reason

1 Mr. Kellahin?

2 MR. KELLAHIN: Thank you, Mr. Examiner.

3 STEPHEN J. SMITH,  
4 the witness herein, after having been first duly sworn  
5 upon his oath, was examined and testified as follows:

6 EXAMINATION

7 BY MR. KELLAHIN:

8 Q. Mr. Smith, for the record, would you please  
9 state your name and occupation?

10 A. My name is Stephen J. Smith. I'm a senior  
11 landman for Mitchell Energy Corporation.

12 Q. Where do you reside, sir?

13 A. Midland, Texas.

14 Q. Have you on prior occasion testified as an  
15 expert petroleum landman before the Oil Conservation  
16 Division?

17 A. Yes, I have.

18 Q. Summarize for us your experience as a  
19 petroleum landman for your company.

20 A. I went to work for Mitchell Energy  
21 Corporation in 1985. I spent six months, a little over  
22 six months in their Denver office as a senior landman  
23 and was transferred to Midland in April of 1986. I  
24 have functioned as a senior landman in that office  
25 since then, working areas mostly in southeast New



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1 Mexico, but I also do work in Texas as well.

2 Q. Describe for us in a general way the kinds  
3 of documents, instruments, and negotiations that you  
4 deal with on a regular daily basis in the course of  
5 performing your duties as a petroleum landman.

6 A. Fee oil and gas leases, checks of fee title  
7 to minerals, federal and state ownership checks. I  
8 negotiate farm-ins and farmouts between oil and gas  
9 partners, terms of operating agreements. It's the full  
10 gamut that landmen are expected to do.

11 Q. Were you the principal landman on behalf of  
12 your company that negotiated with the working interest  
13 owners for the formulation of a spacing unit on a  
14 voluntary basis for the west half of Section 28 that's  
15 the subject of this hearing?

16 A. Yes, I was.

17 MR. KELLAHIN: We tender Mr. Smith as an  
18 expert petroleum landman.

19 EXAMINER STOGNER: Are there any objections  
20 to Mr. Smith's qualifications?

21 MR. CAVIN: No, Mr. Examiner.

22 EXAMINER STOGNER: Mr. Smith is so  
23 qualified.

24 Q. (BY MR. KELLAHIN) Mr. Smith, let me have  
25 you turn to what is marked as Mitchell Exhibit No. 6.

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1 Identify that for me, please.

2 A. That is a blow-up of the Midland map  
3 representing the leasehold ownership centering Section  
4 28, Township 20 South, Range 33 East, Lea County, New  
5 Mexico.

6 Q. Have you independently verified the accuracy  
7 of the information shown within the boundaries of  
8 Section 28 in terms of the configuration of those  
9 leases?

10 A. Yes, I have.

11 Q. Looking entirely at Section 28 and starting  
12 wherever you choose to start, show us how that tract is  
13 divided in terms of the leasehold.

14 A. Well, Mitchell Energy Corporation and its  
15 partners own 100 percent of the federal leases in the  
16 north half northeast quarter, the southeast northeast  
17 quarter, and the north half southeast quarter, that  
18 being Federal Lease 62228.

19 As to the federal lease covering the  
20 northwest quarter and the northeast southwest quarter,  
21 Mitchell Energy Corporation and its partners have 100  
22 percent of the operating rights below 3,500 feet.

23 And as to the northwest southwest quarter,  
24 Mitchell and its partners have 100 percent of the  
25 operating rights as to the federal lease to all

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1 depths. There is an unleased federal tract, being the  
2 southwest northeast quarter.

3 Q. And that's the approximately 40-acre tract  
4 that is uncolored and totally surrounded by yellow  
5 shading?

6 A. That's correct.

7 Q. Continue.

8 A. Based upon my check of the county records  
9 and instruments provided to us from the federal  
10 abstract company and the county abstract, Strata  
11 Production Company is the record title owner and owner  
12 of 100 percent of the operating rights to the south  
13 half southwest quarter and the southwest southeast  
14 quarter of Section 28. And there is also a federal  
15 lease in the southeast southeast quarter, being 40  
16 acres, and it's owned by Pitch Energy Corporation.

17 Q. Let me ask you, in examining the documents  
18 that affect the opportunity to participate on a  
19 voluntary basis in a well to be drilled to depths below  
20 the top of the Wolfcamp targeting the Morrow in the  
21 west half of 28, did you find any voluntary agreements  
22 entered into by any of the working interest owners that  
23 would have affected their interest in the west half?

24 A. There is an operating agreement in place  
25 between Mitchell Energy Corporation and the partners

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1 covering all of Section 28 and the majority of this  
2 township and range and parts of surrounding townships  
3 and ranges that governs the interaction and development  
4 of any wells drilled in the area between the parties to  
5 that agreement.

6 Q. When you talk about the Joint Operating  
7 Agreement affecting all of 28, does that include any  
8 interest for the federal lease identified in the south  
9 half of the southwest quarter?

10 A. No. It only covers the interests colored in  
11 yellow, being the interests owned by Mitchell Energy  
12 Corporation and its partners.

13 Q. Who are the parties to the Joint Operating  
14 Agreement that you describe?

15 A. Mitchell Energy Corporation is named as  
16 operator of this operating agreement, and we have a 50  
17 percent interest in the leasehold. Santa Fe Energy  
18 Operating has a 25 percent interest in the yellow  
19 acreage, and Maralo, Inc., has a 25 percent in the  
20 yellow acreage as well.

21 Q. Has the well that is the subject of this  
22 hearing been proposed to the interest owners pursuant  
23 to the Joint Operating Agreement?

24 A. Yes, it has.

25 Q. And what decision have those interest owners

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1 made with regards to this well?

2 A. They have agreed to participate in this well  
3 pursuant to the operating agreement.

4 Q. Have they approved the authority for  
5 expenditures of the well?

6 A. Yes, they have.

7 Q. And they have agreed upon the well location?

8 A. Yes, they have.

9 Q. And they have agreed upon the formation of  
10 the west half as the spacing unit for the well?

11 A. Yes, they have.

12 Q. What efforts have you made to identify the  
13 working interest owners that would be able to commit  
14 their interest for the west half of 28 that are not  
15 currently committed under the Joint Operating  
16 Agreement?

17 A. We conducted a search of the county and  
18 federal records in order to determine who had record  
19 title.

20 Q. As part of the ordinary custom and course of  
21 doing business with your company, do you retain outside  
22 counsel to prepare title opinions with regards to drill  
23 sites and spacing units?

24 A. Always.

25 Q. And did you do so in this case?

1 owned those rights.

2 Q. Then as of December 29th when Mr. Burford  
3 rendered his opinion, did he come to any different  
4 conclusion than you have?

5 A. No, he did not.

6 Q. Have you subsequently taken additional  
7 action to verify whether there was placed of record in  
8 Lea County, New Mexico, any assignments, transfers, or  
9 conveyances from Strata Production Company that would  
10 disclose the identity and the address of subsequent  
11 interest owners for that tract?

12 A. Once we were put on notice by Strata  
13 Production Company of their desire to scatter this  
14 lease to the wind, we obtained a limited certificate  
15 from Elliott & Waldron Abstract Company, who prepared  
16 the base abstract examined by Mr. Burford to complement  
17 that abstract, to come forward from the closing date  
18 which is stated in this title opinion as to the fee  
19 tract, November 6, 1992, at 9:00 a.m., coming forward  
20 from that date through January 19, '92.

21 And the search was conducted specifically to  
22 determine whether or not Strata had assigned out any  
23 interest to any parties. And the conclusion rendered  
24 in this limited certificate is, of course, they have  
25 not.

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1 A. Yes, we did.

2 Q. Let me ask you to turn to Mitchell Exhibit  
3 No. 7 and identify that document?

4 A. That is a title opinion dated December 29,  
5 1992, rendered for Mitchell Energy Corporation by Mr.  
6 William B. Burford of the Hinkle, Cox, Eaton, Coffield  
7 & Hensley law firm.

8 Q. The opinion is voluminous, and you have only  
9 attached the first six pages?

10 A. That's correct. And it purports to cover  
11 all interests in the west half except for depths above  
12 3,500 feet as to Tract 1 identified on that title  
13 opinion. And we requested that they exclude those  
14 depths because we had no ownership in them.

15 Q. Based upon your own information, what had  
16 you determined to be the working interest owners for  
17 that portion of Section 28 that's identified as being  
18 included in the south half of the southwest quarter?

19 A. Could you restate your question, please.

20 Q. Yes, sir. Based upon your information, whom  
21 did you believe or what entity did you believe  
22 controlled the operating rights for the south half of  
23 the southwest quarter?

24 A. Based upon the best information obtainable  
25 on the records indicated that Strata Production Company

1 Q. And that is through the ending of what  
2 particular date?

3 A. December 19, 199- -- well -- there appears  
4 to be a typographical error.

5 Q. Yes, it's obviously a typo.

6 A. It should be -- its date, 1993, January 19,  
7 1993, at 7 a.m.

8 Q. You mentioned awhile ago, Mr. Smith, that  
9 Strata disclosed to you the identity of these  
10 previously undisclosed interest owners?

11 A. Yes.

12 Q. When did they do that?

13 A. By letter dated January 13, 1993, received  
14 by Mitchell on January 14, 1993.

15 Q. Prior to that time, Mr. Smith, had Strata or  
16 anyone representing Strata disclosed to you the  
17 identity and the address of those partners?

18 A. No, they had not.

19 Q. What was your understanding and belief with  
20 regards to the appropriate party with whom to enter  
21 negotiations for the commitment of that operating  
22 interest in the south half of the southwest quarter?

23 A. Based upon the information we obtained from  
24 the records, Strata appeared to be the 100 percent  
25 owner. We contacted them and entered into

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1 Mitchell management's approval to do anything. We  
2 contacted the people in our Woodlands office to tell  
3 them what the terms were and seek their approval for a  
4 trade. We did that.

5 They approved, accepting Strata's farmout as  
6 written, and verbally asked me to make sure that it was  
7 clearly understood, as it clearly states here, that if  
8 anyone under the terms of this farmout proposal wanted  
9 to back in under the terms of that farmout, that they  
10 would have to convert 100 percent of their override.  
11 That means that they couldn't keep a portion of their  
12 override and convert the other portion for a working  
13 interest. And it clearly stated that. It was just  
14 simply to make sure all parties understood that.

15 Q. What had you thought you had done then in  
16 response to Mr. Murphy's letter of December 9? Had you  
17 fully examined the options that he had presented to  
18 your company with regards to forming a voluntary unit?

19 A. Yes, we had.

20 Q. And were any of those options acceptable to  
21 you, or did you make a counterproposal to him?

22 A. No. We decided to take their second option  
23 listed in their letter, and I made a phone call to Mr.  
24 Murphy and informed him that Mitchell Energy  
25 Corporation would take the terms of his farmout as

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1 proposed.

2 Again, I restated, wanted to make sure it  
3 was clear that everybody understood that all parties  
4 had to convert 100 percent of their override for  
5 working interest.

6 Q. Were you able to take that information and  
7 discussion and reduce it to a written document that all  
8 parties were willing to execute?

9 A. No, we weren't. When I called Mr. Murphy to  
10 tell him that, he reminded me, and as it states in his  
11 letter and as it states in all of my letters, that the  
12 terms stated in his letter were subject to approval by  
13 his partner. He informed me that, while he felt he had  
14 the authority to write the letter, he did have to seek  
15 his partners' approval. He felt he stood a better  
16 chance of obtaining their approval if Mitchell Energy  
17 Corporation would buy their lease.

18 And we got into a discussion about, you  
19 know, that's all good and well, but we've got a deal  
20 here. And the terms proposed in your December 9 letter  
21 for buyout were unacceptable. That's why we didn't  
22 take that option. We discussed perhaps Mitchell making  
23 them the very best cash offer to buy out Strata.

24 Q. At this point did Mr. Murphy notify you that  
25 you were going to have to deal directly with these

1 undisclosed interest owners that shared his interest?

2 A. No, he did not.

3 Q. What then happened?

4 A. Well, he told me to, you know, go back to  
5 your management and see what you can do and call me  
6 back. And I did that.

7 Again, we went back to our management in  
8 Woodlands and told them what had been discussed, and  
9 that Strata, rather than farming out, even though they  
10 had offered one, would still rather sell, and they had  
11 asked us to make them our best cash offer to buy their  
12 lease. They, in turn, gave me authority to make Strata  
13 an offer to buy their lease.

14 Q. How did we get from the December 9 letter,  
15 which is Exhibit 11, to the December 30 letter, which  
16 is Exhibit 12?

17 A. There were various phone calls after  
18 receiving the December 9 letter and after Mr. Murphy's  
19 and my telephone conversation where he asked us to make  
20 him an offer. I called him back at some later date  
21 between those December 9th and 30th dates and told him  
22 that I had in fact received authority to buy their  
23 lease and offered to do that, paying Strata \$150 per  
24 net acre, being a total of \$18,000, and Strata, in  
25 turn, could also retain an override equal to the

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1 difference by which 20 percent exceeded lease burdens,  
2 thereby assigning Mitchell an 80 percent net revenue  
3 lease.

4 Q. Let me talk to you for a moment about the  
5 cash offer.

6 A. Right.

7 Q. Based upon your experience in this area,  
8 what does \$150 an acre represent to you as being a fair  
9 and competitive price by which to acquire this kind of  
10 interest?

11 A. It is higher than what we've paid in the  
12 area, but in the interest of compromise, we decided it  
13 would perhaps be better to buy Strata out and have 100  
14 percent of the proration unit, take over control, and  
15 march on down the road.

16 Q. What were you accustomed to paying to  
17 acquire all rights at all depths from the surface to  
18 the base of any production?

19 A. I acquired most of the leasehold in Township  
20 22 South, 33 East, that Mitchell has in various  
21 acquisitions and paid probably on average around \$85  
22 per net acre on assignments covering all depths, and on  
23 average received net revenues of around 82 percent in  
24 those assignments, 82-1/2.

25 Q. Let me ask you about the vertical interval

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1 negotiations.

2 It was stated early on by Strata, by Mr.  
3 Murphy, that they did have silent partners, but at no  
4 time did he indicate that we would have to have their  
5 joinder in order to enter into any agreement; that  
6 throughout all of our negotiations, until the very end,  
7 he represented himself as having the capacity to enter  
8 into agreements binding all the parties should we have  
9 reached agreement as to terms.

10 Q. Let me interrupt you for a moment and go now  
11 to Mitchell Exhibit 9, which is the next Exhibit in  
12 sequence?

13 A. Okay.

14 Q. Identify and describe for me what Exhibit 9  
15 means to you.

16 A. Exhibit 9 is a letter, an internal  
17 memorandum, to me from Mrs. Harriet Minton. Mrs.  
18 Minton is the assistant manager of Joint Venture  
19 Accounting for our corporation. And among other  
20 things, her responsibilities include overseeing the  
21 accounting procedures involved in joint operated  
22 properties, which includes overseeing the overhead  
23 rates charged under operating agreements.

24 And the letter represents, at my request,  
25 she looked at the operating agreement that's in place

1 A. That is correct.

2 Q. Let's turn now specifically, Mr. Smith, to  
3 your efforts to obtain Strata Production Company's  
4 voluntary participation.

5 A. Okay.

6 Q. And without going into great detail about  
7 all the correspondence and telephone calls, let me ask  
8 you when you first provided written opportunity to  
9 Strata specifically proposing this well and this  
10 spacing unit, submitting to them an AFE and asking  
11 them, as one of their choices, to voluntarily  
12 participate in the well. Did you do that?

13 A. Yes, we did.

14 Q. When?

15 A. By letter dated November 20, 1992.

16 Q. And how is that marked?

17 A. It's Exhibit 10.

18 Q. Did you provide to Strata any other options  
19 or alternatives in addition to participating --

20 A. Yes, sir.

21 Q. -- by paying their share of the cost of the  
22 well?

23 A. Yes, we did. We offered them as an  
24 alternative an industry standard, what we consider an  
25 industry standard farmout.

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1 that I previously described between Mitchell and its  
2 partners. It covers a large part of this area, under  
3 which there are currently two producing wells, both in  
4 the Morrow, and looked at the overhead rates that were  
5 stated in that operating agreement, and provided me  
6 with a summary of the escalations of the overhead rates  
7 from the effective date, September 1, 1989, to the  
8 present to show what current overhead rates are  
9 currently being charged under that operating agreement.

10 Q. Having received that information, do you  
11 have a recommendation to the examiner as to the  
12 overhead rates you're seeking to have applied in this  
13 compulsory pooling case?

14 A. Yes, I do. Based upon the fact that the  
15 parties that have agreed to participate in this well  
16 under this operating will be charged the rates stated  
17 at the bottom of the two drilling and producing rate  
18 summaries, we would recommend that Strata be also  
19 charged the same overhead rates being for a drilling  
20 well, \$6,470, and for a producing well, \$647.

21 Q. If the Examiner adopts your recommendation,  
22 that level of rate will be consistent then with the  
23 rate being charged those interest owners voluntarily  
24 committing their interest under the existing Joint  
25 Operating Agreement?

1 Q. Did you provide them, in addition to a  
2 farmout, any other options to handle their interest in  
3 the spacing unit?

4 A. Not at that time.

5 Q. What, if any, response did you receive to  
6 the November 10 letter?

7 A. I received a written response from Strata.  
8 That written response is a letter dated December 9,  
9 1992, marked Exhibit 11.

10 Therein Strata offered to Mitchell Energy  
11 Corporation terms to either buy their oil and gas lease  
12 that are stated in there, or, in the alternative, they  
13 offered to farm out to Mitchell Energy Corporation  
14 under substantially the same terms proposed by Mitchell  
15 Energy Corporation by letter dated November 20.  
16 However, the main difference in their letter or in  
17 their proposal to farm out was that they would retain  
18 an increased overriding royalty interest above and  
19 beyond that proposed by Mitchell.

20 Q. You're describing the Strata letter of  
21 December 9, Exhibit No. 11?

22 A. That's correct.

23 Q. What did you do in response then to this  
24 letter? How did you reply to Mr. Murphy?

25 A. Well, first, as we always do, I had to seek

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1 that you're dealing with, Mr. Smith. The pooling case  
2 asked to pool all 320 gas spacing from the top of the  
3 Wolfcamp on down.

4 A. That's correct.

5 Q. What formations were you dealing with Mr.  
6 Murphy on?

7 A. All depths, all depths.

8 Q. The Exhibit 12 --

9 A. Yes.

10 Q. What is that, sir?

11 A. That is a letter dated December 30, 1992.  
12 That was received by Mitchell two ways, once via fax,  
13 and once via certified mail.

14 I believe in a later letter that's marked --  
15 it's a later exhibit, where we attempted to summarize  
16 [sic] the correspondence and the conversations, I  
17 failed to mention that we received a faxed copy of this  
18 on January 4. That was the first time we saw this  
19 letter.

20 In my summation, I said we received it on  
21 December 30. We did not. We got it on January 4. And  
22 it was sent to me after Mr. Murphy had called me to  
23 tell me basically what the contents of it would be.

24 Q. Without giving me all the details, tell me  
25 how to summarize the agreement as Mr. Murphy presents

1 Q. Did you discuss it with your management?

2 A. Not until receipt of this letter, which we  
3 received on January 4.

4 Q. Did you review then this proposal with your  
5 management, and what action, if any, did they take?

6 A. We were told -- I was told that it was  
7 unacceptable; that was not something we would consider,  
8 and that I was to write a letter back to Mr. Murphy,  
9 stating the terms that we believed were agreed to in  
10 our telephone conversation.

11 Q. As of the December 20, '92, letter from Mr.  
12 Murphy to you, did you understand that you were dealing  
13 with Mr. Murphy for the total interest on behalf of  
14 this company, or were you dealing with others?

15 A. Well, up until this point, again, he had  
16 informed me that there were partners, and he clearly  
17 stated it would require partner approval for the  
18 farmout, but I would point out, in the December 30  
19 letter, again, this is Exhibit 12, that an exhibit to  
20 this letter agreement that purported to control the  
21 terms of the sale in Strata's lease to Mitchell,  
22 there's an Exhibit A attached wherein Strata  
23 represented itself as being capable of assigned  
24 Mitchell Energy Corporation 100 percent record title to  
25 this lease.

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1 it to you.

2 A. Well, basically, it correctly described the  
3 acreage to be conveyed, the lease to be conveyed, the  
4 dollar per acre consideration, and the override and sum  
5 to be -- well, it didn't correctly describe the  
6 override. It went on beyond what was discussed when  
7 Mr. Murphy and I -- when I made the dollar offer to Mr.  
8 Murphy to buy Strata's interest.

9 It included terms such as a requirement for  
10 us to pool Strata's retained override underneath the  
11 entire section of 28. And, in turn, they would reduce  
12 proportionately the override retained on their lease.

13 The effect was, they were seeking to have an  
14 override under the entire section as opposed to  
15 retaining an override underneath the lease which they  
16 owned.

17 Q. Give me an idea how the mechanics worked.

18 A. Mechanically, again, in return for reducing  
19 the override retained on their lease, we would have to  
20 turn around and assign to them overriding royalty  
21 interest against our leasehold, which they previously  
22 had no interest in.

23 Q. Did you have authority to accept that  
24 provision?

25 A. No, I did not.

1 Q. How do you reach that conclusion by looking  
2 at this proposed assignment form?

3 A. It's a standard form, federal form  
4 assignment of record title, and if you look down about  
5 the middle of the page where it describes the acreage  
6 to be conveyed, there's a column labeled Percentage of  
7 Interest, and there are three subcolumns labeled Owned,  
8 Conveyed, and Retained.

9 In the Owned column, it clearly shows that  
10 Strata claims to own 100 percent record title. Under  
11 the Conveyed column, it clearly shows that Strata  
12 purports to be able to convey 100 percent record title  
13 to this lease, and that they intend to retain no record  
14 title interest.

15 Q. Having come to the decision that that  
16 provision is not acceptable to Mitchell, what then did  
17 you do?

18 A. After -- of course, I took this letter, once  
19 we got it, as I told Mr. Murphy I would -- like I said,  
20 he called me that day and faxed it to me to tell me the  
21 contents of it. In that phone conversation, I told him  
22 that that's not the trade; that was not what was  
23 presented to Mitchell management, but go ahead and send  
24 it on. I had no authority to pass on whether or not it  
25 was acceptable to Mitchell.

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1 I did send it in to Mitchell, our management  
2 in Houston. It was turned down flat. I was told to  
3 write a letter back, stating what our understanding,  
4 the terms were, and I did that.

5 Q. And how did you do that?

6 A. By letter dated January 5, 1993.

7 Q. That's Exhibit 13?

8 A. That's correct.

9 Q. What then happened?

10 A. I, as it clearly shows, I sent it to Strata  
11 via fax and by certified return receipt mail. I faxed  
12 it early in the morning. Mr. Murphy got it, called me  
13 up, and asked me what -- you know, what do you mean;  
14 this is not what we agreed to.

15 And I reminded him or advised him that, you  
16 know, this is what we agreed to on the phone. These  
17 were the terms that were discussed, and this letter is  
18 intended to represent the terms agreed to and discussed  
19 in our telephone conversation.

20 Q. At this point, then, there is a difference  
21 of opinion as to what the agreement was, and the end  
22 result is you can't get it reduced to a written  
23 agreement?

24 A. That's the bottom line.

25 Q. Identify for us Exhibit 14. What is this?

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1 A. This is a letter again sent to us by Strata  
2 dated January 6. It was sent via fax and by hard copy  
3 by return receipt mail. It was a letter basically  
4 where Mr. Murphy advised that he had talked to his  
5 partners and advised them that we had refused to  
6 execute their letter agreement.

7 He states that "it appears we are unable to  
8 resolve the sale, farmout or participate by Strata"  
9 prior to the January 7 original hearing date. And it  
10 states, as I told him, that we, Mitchell, would  
11 request, in an effort to accommodate them and to  
12 continue to work this deal out, we would request to  
13 extend or seek a continuance to the next docket date.  
14 We did that.

15 It also states that they now thought they  
16 perhaps -- well, they might now consider wish to join  
17 the well. To be honest with you, this is the first  
18 time -- it purports to say that we had discussed  
19 Strata's participation. I would go on record saying  
20 that this is the first point in time where Strata ever  
21 indicated any interest in participating in our well,  
22 and asked that we send them an AFE or send them a joint  
23 --

24 Q. A JOA?

25 A. JOA, and asked to be put on notice of any

1 people that were opposing our unorthodox location.

2 Q. At any point during the negotiations with  
3 Strata, did you provide them or cause to be provided  
4 any geologic data?

5 A. I did not.

6 Q. Do you know whether or not your company  
7 provided geologic data to them?

8 A. It's my understanding that we have, that  
9 Mitchell Energy Corporation has provided Strata with  
10 geological data to show them our picture of why we're  
11 doing what we're doing.

12 Q. After the January 6 letter, Exhibit 14, what  
13 then happened, Mr. Smith?

14 A. Well, I wrote a letter back. Again, Mr.  
15 Murphy in his previous letter acted as if we were --  
16 had moved the location unbeknownst to him, and I  
17 reminded him in our January 6 letter -- this is Exhibit  
18 15, Mr. Examiner -- that the location remained as  
19 originally proposed. And I reminded him that the  
20 location, while it was unorthodox, was unorthodox only  
21 because of archeological and topographical reasons.  
22 And that we were unaware of any opposition from the  
23 parties who were notified of our unorthodox location,  
24 and expected none.

25 Q. Did you respond to his request for a

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1 proposed Joint Operating Agreement?

2 A. I did include -- again, I prepared for  
3 Strata an operating agreement which was virtually  
4 identical to the operating agreement that would have  
5 governed the operations between the agreeing parties to  
6 drill this well.

7 Q. You tailored your proposed operating  
8 agreement with Mr. Murphy and Strata Production based  
9 upon what document?

10 A. Again, it's the operating agreement that is  
11 in place between Mitchell partners that would have  
12 governed or will govern their participation in this  
13 well.

14 Q. Did you have any discussions with Strata  
15 Production Company with regards to what formations or  
16 vertical intervals were being asked to finally be  
17 committed to this well?

18 A. Well, we proposed all depths in all  
19 formations. That was our intent.

20 Q. Exhibit 15, you've summarized various  
21 activities. At the end of there anywhere, did you  
22 leave open the opportunity for the exercise of any  
23 other solutions?

24 A. Well, basically, yes. I basically offered  
25 to Strata the three options that Mitchell was willing

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1 to consider to resolve the problem, and I listed them  
2 in our order of prevention: one, they participate in  
3 the well as we proposed; two, that they agree to farm  
4 out to Mitchell under the terms they proposed to us.  
5 We were more than happy to accept those terms; or,  
6 three -- or, excuse me, two, that they sell certain  
7 terms that we believed to be agreed to; or, three, farm  
8 out as agreed in their letter to us.

9 Q. Identify for us what is Exhibit No. 16.

10 A. Exhibit 16 is a letter from Strata  
11 Production Company to Mitchell Energy Corporation dated  
12 January 12.

13 Q. I'm not going to ask you to go through the  
14 letter, Mr. Smith. Am I correct in concluding that you  
15 and Mr. Murphy disagree with some of the specific items  
16 with regards to this letter?

17 A. I would say that there is minor agreement as  
18 to minor details, and I would say that there are  
19 colorizations of conversations that are perhaps  
20 inaccurate in both but --

21 Q. I don't want to get into that, Mr. Smith.

22 A. The gist of the deal is that it both clearly  
23 summized [sic] the meat of the terms or the efforts to  
24 reach agreement. And there's not really any  
25 substantial difference in either summation of the

1 A. That's correct.

2 Q. And so it is moving in a northerly direction  
3 as it becomes unorthodox?

4 A. That's correct.

5 Q. Did you determine the offsetting operators  
6 for whom notice of that location was to be provided?

7 A. Yes, we did.

8 Q. Can you identify for me, using Exhibit 19  
9 and Exhibit 6, and confirm whether or not the parties  
10 that were entitled to notice of the location have in  
11 fact received notification?

12 A. Yes, I would. Again, the movement or the  
13 direction in which we encroached went northward, and  
14 therefore we were required to notify the parties in  
15 Section 21 and I believe the southwest quarter of 20 of  
16 that encroachment. And those parties were Southwest  
17 Royalties, who had a 50 percent interest in the  
18 southeast quarter of Section 20; Enerlock Resources,  
19 who had the other 50 percent interest in the southeast  
20 quarter of Section 20.

21 We notified Santa Fe Energy Operating  
22 Partners and Maralo because we knew that at the time,  
23 they were in negotiations to purchase Southwest  
24 Royalties and Enerlock's interests; so we included  
25 them.

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1 facts.

2 Q. Let me ask you to turn to the last page of  
3 that letter, Exhibit 16, and the last paragraph, second  
4 to the last sentence says, "Since you have had notice  
5 that these undisclosed owners exist, we would ask that  
6 you grant another two weeks' continuance and notify  
7 these parties of your application."

8 Did you do that?

9 A. No, we didn't.

10 Q. At what point did you receive, if at all,  
11 from Strata Production Company, a list of the names and  
12 addresses of these undisclosed interest owners?

13 A. The first actual notice of the entities that  
14 had been heretofore characterized as partners with  
15 Strata was received via fax on January 13, 1993, and we  
16 received a certified copy on January 14.

17 Q. And that is Exhibit No. 17?

18 A. That's correct.

19 Q. Let me ask you to help me deal with another  
20 item. If you'll look at Exhibit 19, which is my  
21 certificate of notice for hearing --

22 A. That's correct.

23 Q. -- and go back, sir, to the plat which is  
24 Exhibit 6, the unorthodox location is 1,650 from the  
25 north line of the spacing unit?

1 As to the -- we also notified Phillips

2 Petroleum Company, who has a partial interest in the  
3 west half southwest quarter and the northeast quarter  
4 of Section 21.

5 We also notified Oryx, who also has a  
6 partial interest in that same lease, and we notified  
7 Grace Petroleum Corporation, who owns the leasehold  
8 covering the southeast quarter and the northeast  
9 southwest quarter of Section 28.

10 Q. And then the first notification was to  
11 Strata Production Company because they were the party  
12 to be pooled in the spacing unit?

13 A. That's correct.

14 MR. KELLAHIN: That concludes my examination  
15 of Mr. Smith. We move the introduction of Exhibits 6  
16 through 17 and Exhibit 19.

17 EXAMINER STOGNER: Any objections?

18 MR. CAVIN: No, sir.

19 EXAMINER STOGNER: Exhibits 6 through 17 and  
20 Exhibit No. 19 will be admitted into evidence at this  
21 time.

22 Mr. Cavin, your witness.

23 MR. CAVIN: Thank you.

24 MR. STOVALL: Let me do one thing first to  
25 make sure we clear the record. I notice that on the

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1 list of interest owners is an S.H. Cavin. Any  
2 relation?

3 MR. CAVIN: Yes. That's my father.

4 MR. STOVALL: And you are not representing  
5 your father here today?

6 MR. CAVIN: No. He's smarter than that.

7 MR. STOVALL: I won't go any further with  
8 that one.

9 EXAMINATION

10 BY MR. CAVIN:

11 Q. Mr. Smith, I'd like to ask you a few  
12 questions on what I think -- you may be able to help  
13 me. I can't see the exhibit number on this?

14 A. Six.

15 MR. KELLAHIN: Six. It's on the back.

16 Q. (BY MR. CAVIN ) Exhibit No. 6. Can you tell  
17 me what the status of ownership is on the southwest of  
18 the northwest quarter?

19 A. That is an unleased federal tract.

20 MR. KELLAHIN: I'm sorry. I think you  
21 misspoke. Say it again.

22 Q. (BY MR. CAVIN) I'm sorry, the southwest of  
23 the northeast quarter of Section 28?

24 A. That's correct. That is an unleased federal  
25 tract.

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1 Q. Has there been any attempt to lease this  
2 tract and put it up for nomination?

3 A. We wrote a letter to Miss Martha Rivera in  
4 September of 1992 in an effort to nominate it, and we  
5 had every belief that it would be as appeared in this  
6 most recent federal sale; however, by letter from Miss  
7 Rivera, it did not reach the sale because they failed  
8 to verify that the lease had actually terminated. They  
9 felt that they would probably have it up on the next  
10 sale.

11 Q. Okay. When would the next sale be?

12 A. I believe it will be April 21.

13 Q. Okay. Can you tell me what the status --  
14 and if you've already testified to this, I apologize --  
15 the status of the ownership or status of the lease in  
16 the northwest quarter of the southwest quarter of  
17 Section 28?

18 A. It is a federal lease that, again, as I  
19 stated, is owned by Mitchell Energy Corporation and its  
20 partners, and it will be scheduled to expire on  
21 10-1-93.

22 Q. Have there been any comments throughout your  
23 negotiations with Mr. Murphy that would indicate that  
24 he had the unfettered authority to act for his partners  
25 in this matter?

1 A. I would say there were no comments made by  
2 him that said he didn't have. And I would point again  
3 to that letter agreement that he sent for our execution  
4 where it was obvious that he had attached an exhibit  
5 that had a federal assignment that Strata purported to  
6 have authority to act on all parts.

7 Q. That's consistent with your understanding  
8 thought that he had the unfettered authority to deal  
9 for these parties?

10 A. He had the authority to sign an agreement  
11 binding all parties to whatever agreement we reached.

12 Q. So in his earlier correspondence where he  
13 said it would be subject to partner approval, you felt  
14 like that was just a misstatement?

15 A. No. That to me, it's a standard -- I put it  
16 in my letters. That's an industry standard thing.

17 Q. Would it be typical for you to require any  
18 documentation where someone says they have the  
19 authority to deal for other parties?

20 A. I -- as part of the title examination, it's  
21 generally required that we determine the status of  
22 whoever it is and from the search of the county records  
23 determine whether they have record title to the  
24 property, and we did that.

25 Q. As part of your due diligence you would

1 normally do, if a party told you they have undisclosed  
2 partners, would it be typical to ascertain the  
3 authority of those parties?

4 A. As long as I'm under the -- it's not  
5 uncommon out here for companies like Strata to have  
6 lots of silent partners. I mean, Mitchell Energy  
7 Corporation is made up by lots of silent shareholders,  
8 and we do not have to seek their joinder to enter into  
9 any agreements.

10 Q. Would it be unusual for Mitchell to have  
11 unfettered authority to deal for these partners?

12 A. We never seek the shareholders' authority to  
13 enter into operating agreements or sell or farm out.

14 Q. I guess I mean partners, not shareholders.  
15 I'm not speaking of shareholders of Mitchell. I'm  
16 saying your partners. You say you have partners quite  
17 --

18 A. Well, when we have entered into an operating  
19 agreement and we have obtained agreement from our  
20 partners to drill a well, and that operating agreement  
21 would govern what would happen if we acquired an  
22 interest within the contract area, we can act on our  
23 own behalf. And if the partners didn't like what we  
24 did, we have to suffer the consequences with those  
25 interactions.



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1 Q. As far as the disposition of an interest or  
2 the farming out of an interest, is it unusual for  
3 Mitchell to have the unfettered authority to deal for  
4 its partners?

5 A. I wouldn't ever purport to farm out -- let's  
6 just, as an example, turn this around. If I were  
7 attempting or had entered into negotiations with Strata  
8 to farm out Mitchell's leasehold for a well proposed by  
9 Strata in the west half, no, I would not purport to be  
10 able to bind either Maralo's or Santa Fe Energy's  
11 interest.

12 Q. You mentioned the overhead rate. How does  
13 that -- are you familiar with the Ernst and Whinney's  
14 --

15 A. Absolutely.

16 Q. -- proposed overhead rate?

17 A. Sure.

18 Q. Does your overhead rate -- how does that  
19 compare to the proposed overhead rates there?

20 A. The average in Ernst & Whinney I believe  
21 right now is around -- it's lower than what we  
22 proposed. I don't know exactly what it is. But the  
23 schedule that we put forth, again, is what's currently  
24 being charged in the area.

25 We operate two Morrow wells in this

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1 township, and if you expand out into surrounding  
2 townships, we have seven or eight or nine. And we  
3 simply were asking Strata to pay the same overhead rate  
4 everyone else is in the area.

5 Q. Would you have any problem using the Ernst &  
6 Whinney overhead rate for the Strata and its partners?

7 A. I would believe that the rates proposed by  
8 Mitchell are reasonable, and that's what we would want  
9 to stay with.

10 Q. So you wouldn't be agreeable to the Ernst &  
11 Whinney's overhead rates?

12 A. I don't believe I, as a senior landman, have  
13 the authority to make that decision on Mitchell Energy  
14 Corporation's behalf. I would have to seek management  
15 approval to make that statement.

16 Q. Would it surprise you that just catty-corner  
17 to that Section 28 lease in Section 32 Meridian  
18 recently acquired interest at a price of \$1,000 an  
19 acre?

20 A. Would it surprise me? I'm not aware of it.

21 Q. Based on the price that Mitchell's been  
22 paying in this area that are much lower than \$150?

23 A. Well, I will say that I'm a landman, and  
24 terms of a trade are always governed by what two people  
25 think things are worth. And if for whatever reason

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1 Meridian thought something was worth \$1,000, that's  
2 between them and whoever they struck their trade with.

3 Q. It might be possible that \$150 isn't an  
4 inflated price, though?

5 A. We have no qualms about paying \$150 an  
6 acre. We, in writing, offered to pay that and would  
7 gladly accept that today.

8 Q. Okay. Based on the correspondence and  
9 communications with Mr. Murphy, did you ever believe if  
10 you weren't able to strike agreement that you might  
11 have to deal with these partners directly?

12 A. Not until receipt of the January 14 or 13  
13 letter.

14 Q. Did you ever ask Mr. Murphy for information  
15 on the partners?

16 A. He always described them as silent partners,  
17 and I've dealt with any number of companies in the past  
18 who had silent partners. And when I'm led to believe  
19 that the individual with whom I am dealing has the  
20 capacity to bind those silent partners, I don't need to  
21 know who they are.

22 Q. Okay. So you didn't ask for that  
23 information?

24 A. Based upon the representations by Mr. Murphy  
25 that he had the capacity to bind those interests, no, I

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1 didn't.

2 Q. Did you ever consider getting something in  
3 writing from Mr. Murphy that he had the authority to  
4 represent these parties?

5 MR. STOVALL: Let me interrupt this at this  
6 point and say, let's go back to Exhibit 12. I'd like  
7 to -- you referred to the attachment to Exhibit 12, and  
8 pardon me for doing this. I think we can short-circuit  
9 this line of questioning.

10 THE WITNESS: The attachment to Exhibit 12?

11 MR. STOVALL: Did you read this letter, Mr.  
12 Smith, at the time?

13 THE WITNESS: You're talking Exhibit 12?

14 MR. STOVALL: I'm talking Exhibit 12, the  
15 December 30th letter.

16 THE WITNESS: Yes, I did.

17 EXAMINER STOGNER: Third page.

18 MR. STOVALL: Let's dispose of it by just  
19 going to paragraphs No. 5, No. 7, and No. 8.

20 MR. KELLAHIN: I'm sorry, I'm not with you.  
21 Which exhibit?

22 THE WITNESS: Twelve.

23 MR. KELLAHIN: And which paragraphs?

24 MR. STOVALL: Paragraphs 5, 7, and 8.

25 MR. KELLAHIN: Of the body of the --

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1 MR. STOVALL: Of the body of the letter  
2 itself.  
3 THE WITNESS: I did read it.  
4 MR. STOVALL: With that information in the  
5 record, Mr. Cavin, do you wish to pursue this line of  
6 questioning?  
7 MR. CAVIN: Absolutely, and I'd be happy to  
8 explain, too, because I was responsible for drafting  
9 this. This was sent to Mitchell --  
10 MR. STOVALL: Mr. Cavin, please don't  
11 testify. Use a witness.  
12 MR. CAVIN: All right.  
13 Q. At any time prior to December 30th, did you  
14 request anything in writing from Mr. Murphy regarding  
15 his authority to act for the partners?  
16 A. No, I didn't.  
17 Q. Was it your understanding Mr. Murphy could  
18 cut just any deal, or were there just certain deals?  
19 A. No. He told me that it would take his  
20 partners' approval. As I stated in my letters, it  
21 takes management approval. I understood that he was  
22 acting as a go-between, as I was.  
23 Q. Referencing your Exhibit 12, did you  
24 interpret that paragraph 7 to be unlimited or tied to  
25 this agreement?

1 him that it was one of many reasons.  
2 And I would clarify by stating that that was  
3 a landman to landman kind of reasoning. I won't  
4 purport to be a geologist; that that's just one of many  
5 reasons. There were other reasons; i.e., an unleased  
6 federal tract in the southwest northeast that any  
7 reasonable and prudent operator would not include  
8 within a proration unit.  
9 Q. Was there any discussion if you set up a  
10 west half proration unit that, in that fashion, you  
11 could drill two wells in the north half? Was that ever  
12 discussed with Mr. Murphy?  
13 A. That was the main geologic reasoning and  
14 really the main reasoning to do it the way we're doing  
15 it is that we believe -- and I don't want to get into  
16 geology because I'm not a geologist -- but that is the  
17 main reason for doing what we're doing.  
18 Q. Do you keep a phone log, Mr. Smith?  
19 A. Not in detail.  
20 MR. CAVIN: I have no further questions, Mr.  
21 Examiner.  
22 EXAMINER STOGNER: Mr. Stovall?  
23 MR. STOVALL: I don't think I have any.  
24 Well, let me --  
25 EXAMINATION

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1 A. Direct me again.  
2 Q. I'm sorry, your Exhibit 12, it's on page 3,  
3 it's paragraph 7.  
4 A. Undisclosed Owners. Restate your question,  
5 please.  
6 Q. Did you interpret this to be applicable to  
7 just any agreement or specific to this agreement?  
8 A. Well, I would state that if it's possible  
9 for Strata to make this statement in this agreement,  
10 then it would imply that Strata has the capacity to  
11 bind those partners in any agreement should the  
12 partners have agreed to it.  
13 Q. Do you see any difference between a sale and  
14 a joint operating venture as far as the partners would  
15 be concerned and Strata binding them to those?  
16 A. Well, as long as Strata retained 100 percent  
17 record title interest, no.  
18 Q. Did you ever -- in your conversations with  
19 Mr. Murphy, did you ever allude to reasons for a west  
20 half proration unit?  
21 A. I alluded to one of.  
22 Q. What would that reason be?  
23 A. One of the reasons is that I did state to  
24 him was that we have an expiring lease, and we would  
25 certainly like to save it, but I did clearly state to

1 BY MR. STOVALL:  
2 Q. Is there any indication that you have, Mr.  
3 Smith, do you know the nature of the interest or the  
4 interest of the partnership as its referred to?  
5 A. No. We were relying on the fact that Strata  
6 is of record, the record title owner to 100 percent  
7 interest, and they are a New Mexico corporation capable  
8 of conducting business in New Mexico, and his  
9 representation to us that he spoke for these silent  
10 partners and was capable of binding them in an  
11 agreement.  
12 Q. Based upon your experience as a professional  
13 landman, you've been involved in situations before  
14 where there are -- I think you've stated that --  
15 A. Investors?  
16 Q. Investors in the well?  
17 A. Sure.  
18 Q. Is it necessarily the case that they always  
19 own a working interest in leases, that those investors  
20 own working interest in leases?  
21 A. When you say -- I'm not sure I understand  
22 your direction.  
23 Q. As an operator and the owner of oil and gas  
24 leases, and you invested and put up money to  
25 participate in your operations, do those investors

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1 always, unequivocally have an interest in the real  
2 property, or do they have an interest in the production  
3 or --

4 A. Mr. Examiner, I would say that I've never  
5 worked for a company that operated that way and would  
6 not be able to comment. I've only worked for a major  
7 corporation in my capacity as a senior landman, and we  
8 don't have investors. We have shareholders.

9 MR. STOVALL: Okay. I don't think I have  
10 anything further.

11 MR. KELLAHIN: I have one follow-up  
12 question, Mr. Examiner.

13 EXAMINER STOGNER: Mr. Kellahin.

14 FURTHER EXAMINATION

15 BY MR. KELLAHIN:

16 Q. From a landman's perspective, Mr. Smith,  
17 tell me, what, if any, difficulties are created with  
18 regards to the unleased federal tract in the southeast  
19 of the northeast, if, for example, the spacing unit is  
20 the east half or the north half, and you have to now  
21 include that tract as an unleased tract in the spacing  
22 unit. What are your reservations, concerns, or  
23 observations?

24 A. Well, the federal government or the BLM  
25 would allow you to drill a well and approve a

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1 communitization agreement covering the proration unit  
2 containing an unleased federal tract as long as it  
3 wasn't the drill site lease and as long as it did not  
4 constitute a majority of the proration unit.

5 In doing that, they would allow you to drill  
6 your well, and at such times as that lease then came up  
7 for sale, on the next sale that it did come up on, a  
8 condition would be placed upon the issuance of that  
9 lease to the winner that the winner would be required  
10 to sign a communitization agreement covering the well  
11 in that -- or covering that tract as it applied to that  
12 well.

13 Q. Is that a viable option for Mitchell to  
14 exercise in order to form a spacing unit?

15 A. It's not what would be considered reasonable  
16 and prudent because you would then be putting for sale  
17 an interest in a known quantity up for auction. You  
18 would be leaving a hole in your proration unit for  
19 anyone to step in and buy it and bid the price up to  
20 whatever it might go to. It's just not something a  
21 reasonable and prudent operator would do.

22 MR. KELLAHIN: That's all the questions I  
23 have.

24 MR. CAVIN: I have a follow-up, Mr.  
25 Examiner.

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1 EXAMINER STOGNER: Mr. Cavin.

2 FURTHER EXAMINATION

3 BY MR. CAVIN:

4 Q. Mr. Smith, you have experience with federal  
5 leases, I believe you stated?

6 A. Yes.

7 Q. Do you have any reason to doubt, based on  
8 your conversations with the BLM, that this lease will  
9 be put up at the next sale?

10 A. We have a letter in our files from Martha  
11 that it did not make -- we inquired as to why it did  
12 not make this most recent sale, and the reason was that  
13 they had failed to verify, through whatever procedure  
14 they do so, that the lease had actually expired; that  
15 they felt and assured us that, as long as the lease has  
16 expired, it should make the next federal sale.

17 Q. Which again you say that was --

18 A. I believe it's April 21st of this year.

19 Q. Are there any considerations that would  
20 require you to drill this well before that date?

21 A. We have signed AFE's with our partners  
22 covering the proposed well that under the operating  
23 agreement will expire after a certain period of time.

24 Q. Your partners being --

25 A. Santa Fe Energy and Maralo. And we would

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1 proceed -- prefer to get on with our business.

2 MR. CAVIN: Oh, sure. I have no further  
3 questions.

4 EXAMINER STOGNER: Any other questions of  
5 Mr. Smith?

6 MR. KELLAHIN: No, sir.

7 EXAMINER STOGNER: He may be excused.  
8 Mr. Kellahin.

9 MR. KELLAHIN: I'm prepared to continue with  
10 my witnesses, if you desire. If you want to deal with  
11 the notice issue, I guess we can do that, too. However  
12 you would like to proceed.

13 EXAMINER STOGNER: You may continue, Mr.  
14 Kellahin.

15 MR. CAVIN: Could I take a 60-second break?

16 EXAMINER STOGNER: We'll take five minutes.  
17 (Thereupon, a recess was taken.)

18 EXAMINER STOGNER: Mr. Kellahin?

19 MR. KELLAHIN: Thank you, Mr. Examiner.  
20 We'd call at this time Mr. Ted Galowski.

21 TED GAWLOSKI

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

24 EXAMINATION

25 BY MR. KELLAHIN:

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1 Q. Mr. Gawloski, would you please state your  
2 name and occupation.  
3 A. I'm Ted Gawloski. I'm a staff geologist for  
4 Mitchell Energy Corporation in Midland, Texas.  
5 Q. Mr. Gawloski, on prior occasions, have you  
6 testified as an expert petroleum geologist before the  
7 Oil Conservation Division?  
8 A. Yes, I have.  
9 Q. Describe for us what it is that you have  
10 done for your company with regards to the area in Lea  
11 County, New Mexico, that your company is exploring for  
12 Morrow gas production. What is it that you do in that  
13 process?  
14 A. I'm essentially the geologist who works the  
15 exploration end of defining the first location in an  
16 area for the Morrow, using all available geologic data  
17 that we have to determine the best possible locations  
18 to develop Morrow gas in the area.  
19 Q. Section 28 that's the subject of this case  
20 is your own personal project?  
21 A. Yes, it is.  
22 Q. And you are the exploration geologist that  
23 is attempting to find Morrow production in this section  
24 and other areas in the township?  
25 A. That's correct.

1 potential gas reserves?  
2 A. From a Mitchell point of view or from  
3 just --  
4 Q. From anybody's point of view.  
5 A. There is some Morrow activity ongoing in the  
6 area, a lot of it by Mitchell Energy; some of it by  
7 other operators. There's wells being drilled to the  
8 north and some to the south and east, as well, for the  
9 Morrow horizon in here.  
10 Q. Using the legend, Mr. Gawloski, how have you  
11 identified Morrow wells?  
12 A. Currently active Morrow wells?  
13 Q. Yes, sir.  
14 A. Using the arrow. However, that's also for  
15 other wells. It's not just for Morrow activity in  
16 here.  
17 Q. If I find a light blue dot, the legend says  
18 that's a Morrow. A Morrow what?  
19 A. A Morrow producer. It's produced gas out of  
20 the Morrow formation.  
21 Q. What is the nearest Morrow producer in this  
22 area in relationship to Section 28?  
23 A. There are two approximately the same  
24 distance away, a well in Section 33, just to the  
25 south. However, that well did not make any commercial

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1 Q. Based upon that study, have you done certain  
2 mapping and reached certain conclusions with regards to  
3 issues that are relevant to this hearing?  
4 A. Yes, I have.  
5 MR. KELLAHIN: We tender Mr. Gawloski as an  
6 expert petroleum geologist.  
7 EXAMINER STOGNER: Any objections?  
8 MR. CAVIN: No, Mr. Examiner.  
9 EXAMINER STOGNER: Mr. Gawloski is so  
10 qualified.  
11 Q. (BY MR. KELLAHIN) Mr. Gawloski, let me ask  
12 you to take Mitchell Exhibit No. 1. Is this an exhibit  
13 that you prepared?  
14 A. Yes, it is.  
15 Q. Identify for us the Section 28 that's the  
16 subject or the topic of this hearing. Where is it?  
17 A. Section 28 is in the lower portion of this  
18 map. It is in Township 20 South, Range 33 East -- I  
19 mean, there's a green dot showing the approximate  
20 location of the well, the Tomahawk 28 Federal Com or  
21 Federal #1.  
22 Q. Give us a general overview of the  
23 development and exploration that is occurring in this  
24 area with regards to those gas formations below the top  
25 of the Wolfcamp. What is happening to develop those

1 quantities of gas, just essentially a show. The other  
2 well closest to it is our Mitchell Energy well, Top Hat  
3 Federal Well, which has just been on line for  
4 approximately a year right now.  
5 So there's really not a whole lot of Morrow  
6 wells within that general vicinity, producers.  
7 Q. When I move north of 28 about three sections  
8 and get up into Section 9, there's a blue dot and then  
9 a red arrow?  
10 A. That's correct.  
11 Q. What is represented in that section?  
12 A. The blue dot was a Mitchell Morrow  
13 discovery. That was just completed, oh, approximately  
14 three or four months ago, the Anasazi Federal Mine #1,  
15 and we are currently in the process of developing plans  
16 to drill an offset to this well.  
17 Q. Let me talk to you for a moment about your  
18 personal experience as an exploration geologist looking  
19 for Morrow production in this area. How long have you  
20 been engaged in that activity for your company?  
21 A. Ever since I started at Mitchell in 1984, I  
22 have been engaged in Morrow exploration activity and in  
23 years before that when I was working for Amoco  
24 Production Company in the same area.  
25 Q. Can you give us any of your personal

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1 experience in how successful you are in applying your  
2 geologic interpretations and geologic methodology to  
3 successfully finding, locating, and ultimately  
4 producing Morrow gas?

5 A. We have been successful in numerous Morrow  
6 wells in this area and are currently ongoing drilling  
7 wells in here right now at present. And the success  
8 rate we've had in this area has been excellent.

9 Q. Give us a sense of the range of your  
10 successes in the recent period. How many wells have  
11 you personally been involved in picking locations for,  
12 and what has been the success of those attempts?

13 A. We've had -- within the area, approximately  
14 seven to eight Morrow wells that I've been responsible  
15 for. And each one we have, are producing gas out of,  
16 run pipe and produce gas out of it. Most of the wells  
17 are new and the cum's of them are yet to be determined.

18 Q. When you target Morrow production, is there  
19 any particular portion of the Morrow that you're  
20 looking at as a way to then determine where to locate a  
21 well?

22 A. Yes. Our primary target in this area is our  
23 package of Morrow sands, we call the Morrow B interval,  
24 which most of the production in this area does come out  
25 of.

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1 Q. For you as an exploration geologist looking  
2 for Morrow B, what geologic tools are you using by  
3 which then to develop a strategy for exploration of the  
4 Morrow?

5 A. We use -- primarily, we'll go in there and  
6 isopach the Morrow B Section, and then we would  
7 construct a structure map, using all available well  
8 data. In our structure map, we use all available  
9 seismic data that we have in the area, and it's quite  
10 extensive in this particular area. We use that in  
11 conjunction with the well data to make our structure  
12 map.

13 And we also use cross-sections to show the  
14 lateral continuity or discontinuity of the Morrow  
15 sands.

16 Q. What is your exploration strategy or method  
17 by which, having found an area that you want to develop  
18 within a section, what decisions do you make about how  
19 to drill for Morrow production?

20 A. When we go into an area like this, and this  
21 is what we've done numerous occasions in here prior to  
22 this well, we determine what our primary target  
23 formation is in here. And, in this case, it's the  
24 Morrow formation, and primarily the Morrow B sands  
25 section.

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1 We then determine the proration units,  
2 establish for that, in this case, the Morrow being 320  
3 acres. We then use an approach in here how to best  
4 develop that section for the Morrow, using both our  
5 tools that we have, using the isopach and the structure  
6 maps.

7 Q. What is the objective that you're trying to  
8 achieve with your selection of a spacing unit and the  
9 orientation of that unit within a single section?

10 A. We're trying to achieve how best to develop  
11 our primary target formation within that section.

12 Q. Is this a single well per section concept,  
13 or is it a two well, 320-acre development concept or  
14 exploration concept?

15 A. It's a two-well concept that we've used in  
16 this area. It's something that we've done in the past,  
17 and we would do in the future.

18 Q. What do you achieve by looking at the  
19 orientation of spacing units whereby within a section  
20 then you give yourself two spacing units and two  
21 potential locations, one for each of those spacing  
22 units?

23 A. Can you --

24 Q. Yes, sir. What's the objective, what is the  
25 goal that you're trying to achieve within a section by

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1 looking at the whole section as opposed to a single 320  
2 spacing unit?

3 A. We're trying to maximize our potential for  
4 that target formation within a section.

5 Q. How do you do that?

6 A. We do that using our geological maps that we  
7 have constructed for that area.

8 Q. Let me ask you now to turn to the structure  
9 map. Again, is this a display that has been prepared  
10 by you?

11 A. Yes, it has.

12 Q. Before we look at the specific conclusions  
13 that you reach about 28, tell us how to read and  
14 understand the information.

15 A. This is a structure map, again, using all  
16 available well data, as well as the seismic data, and  
17 you can see them mainly on the section lines, all the  
18 seismic data that Mitchell has in this area. It's an  
19 extensive database that we use in here to develop  
20 regional trends for the Morrow. We use these maps in a  
21 regional sense and then hone in on the area that we're  
22 working on.

23 You can see that there's extensive  
24 structural component structure in the area, numerous  
25 faults and structures and things that show in this area

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1 here.

2 Q. Analyze the structure map for us as it  
3 applies to Section 28 and tell us how, if at all, that  
4 information affected how you proposed to orient the  
5 spacing unit in 28.

6 A. You can see in Section 28 -- it's the  
7 section that has the green outline on it? As you move  
8 into the northern half of Section 28, there's actually  
9 a structural closure that is developed in Section 28.  
10 And the northern part of that section is the best  
11 developed structure.

12 As you move south in that section, you lose  
13 a considerable amount of structure, which greatly  
14 increases your risk in this area for finding Morrow  
15 production.

16 Q. The arrow, the point of the arrow, is that  
17 attempting to locate the standard location, or is this  
18 locating the proposed unorthodox location?

19 A. That approximates the unorthodox location.

20 Q. The scale is so small, I guess it's hard to  
21 see, but that is intended to represent the 1,650 from  
22 the north line?

23 A. That's correct.

24 Q. As opposed to 1,980 from the north line?

25 Give us an understanding of the well control

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1 information that you have to help you infer the  
2 structure and the closure of the minus 9400 line within  
3 Section 28. What's your control?

4 A. Well, there's a well in Section 27, a well  
5 in Section 26, a well to the south in 33, and farther  
6 to the north, our well in Section 9.

7 Q. Let's talk about the seismic control. Where  
8 is that?

9 A. There's extensive seismic control east-west  
10 along the southern part of Section 28, north-south  
11 across the western portion of Section 28, another  
12 east-west line running across Section 21, and in the  
13 middle portion of Section 21, and another line,  
14 east-west line along the northern portion of Section 21  
15 and several other lines north-south through the area.  
16 Very extensive seismic base we have here.

17 Q. Based upon the structure map, do you have an  
18 opinion as to the level of risk factor the examiner, in  
19 your recommendation, should assess against any  
20 nonconsenting interest owner regardless of where the  
21 well is located in Section 28?

22 A. The risk for drilling a well in this area is  
23 that we are on, essentially on a structure that has  
24 been untested. That would be the primary risk. The  
25 closest well to us has tested the Morrow in Section 27

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1 and did not produce out of the Morrow section. It did  
2 produce out of the Atoka section.

3 Q. When you consider all those factors that you  
4 as a geologist rely upon, what is the risk factor in  
5 terms of a percentage as assessed by the Division that  
6 you would recommend that be applied in this case?

7 A. I believe the maximum penalty should be  
8 applied in this case, that being 200 percent plus  
9 costs.

10 Q. Does the risk diminish so that the penalty  
11 factor ought to be less than 200 percent, if you move  
12 the location from the closest standard location to the  
13 proposed unorthodox location?

14 A. No, I don't believe that should change at  
15 all.

16 Q. Why not?

17 A. It's a minimal distance that you're moving  
18 structurally, and the risk is still going to be there  
19 because the structure is untested.

20 Q. Can you reach that same conclusion then with  
21 regards to wherever the well is located within the  
22 spacing unit, it's not going to have a material effect  
23 so that the maximum penalty should be less than 200  
24 percent?

25 A. That's correct.

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1 Q. Let's turn now to the isopach information.  
2 In addition to making a structural interpretation, what  
3 else do you do?

4 A. I go into the Morrow section, and I isopach  
5 what we call the Morrow B section. I take the porosity  
6 cutoff of a density porosity of 7 percent, which we  
7 used as a limitation for production, and we isopach  
8 those values using all the available well control that  
9 we have.

10 Q. And you have done that with this isopach  
11 that's identified as Exhibit No. 3?

12 A. That's correct.

13 Q. This is your work?

14 A. That's correct.

15 Q. In making a decision in Section 28 about how  
16 to orient the spacing units so that you can achieve  
17 maximum development on 320 gas spacing for that  
18 section, how does the isopach help you make those  
19 choices?

20 A. The isopach is used in conjunction with the  
21 structure map. You determine, you try to get the best  
22 possible isopach value area that your thickest sand by  
23 in there, and use that in conjunction with your  
24 structure map to maximize your potential within Section  
25 28.

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1 Q. Looking at the isopach, can you give us an  
2 example or an illustration of the ranges of differences  
3 you achieve with a well based upon thickness of the  
4 Morrow B?

5 A. The Morrow B, the way I have it mapped, has  
6 approximately 30 feet of thickness in the west half,  
7 increases to approximately 50 and a little bit toward  
8 the center part of the section. It goes back down to  
9 approximately 40 feet on the eastern portion of the  
10 section.

11 Q. In relation to offsetting or wells in the  
12 area, I guess you have to go over to 26, two sections  
13 away, what was the success of that well in relation to  
14 thickness of the Morrow B sand?

15 A. That well was a successful Morrow test based  
16 upon this same isopach that we used in this area.

17 Q. And that had approximately 60 feet in it?

18 A. Yes.

19 Q. As we move south into Section 33, we find a  
20 Morrow test in Section 33 in the southwest quarter that  
21 is about 30 feet of thickness?

22 A. That's correct.

23 Q. Were you able to obtain a successful Morrow  
24 well?

25 A. That well was essentially an extremely poor

1 develop the whole section?

2 A. It would limit our ability to develop the  
3 whole section. The first well would fit the mapping,  
4 meet our criteria, but the south well would be at such  
5 a risk that, based upon our mapping here right now, we  
6 would not recommend a well if it was in the south half.

7 Q. What do you achieve if you stand the spacing  
8 units up and you have a west half and an east half  
9 orientation to the 320 gas spacing units?

10 A. It gives us the opportunity to fully develop  
11 the section. I have a location in the northwest  
12 quarter and the northeast quarter.

13 Q. Each of which is upstructure from the south  
14 half?

15 A. That's correct.

16 Q. And is comparable then in structural  
17 position?

18 A. That's correct.

19 Q. Let's turn now to Exhibit No. 4 and look at  
20 your stratigraphic cross-section. Before we discuss  
21 the conclusions you reach about Exhibit No. 4, Mr.  
22 Gawloski, show us the line of cross-section, what wells  
23 you've picked.

24 A. This cross-section goes from the north end  
25 across our Geronimo prospect. It's the well on the far

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1 producer, 226,000 cubic feet. So it really is a  
2 nonproducer, just a little show of gas.

3 Q. How do you use the isopach to help you  
4 decide the orientation of the spacing unit you want?

5 A. We use the isopach to try to get into the  
6 thickest sand body that we can in the best structural  
7 position and using our two-well concept to best develop  
8 the section.

9 Q. If it is a north half-south half  
10 orientation, how does the integration of the two  
11 exhibits, the structure map and the isopach, affect  
12 that decision?

13 A. The isopach value shows that the thick go  
14 through the north-south. However, the structure map  
15 shows a preferred orientation or a preferred structure  
16 in the north half. So as you move south into the  
17 section, you will be getting off structure, and it  
18 would inspect your risk considerably.

19 So we'd use the isopach and structure map in  
20 conjunction. And, therefore, the best locations would  
21 be in the northwest quarter and northeast quarter of  
22 Section 28.

23 Q. What happens if the orientation of the  
24 spacing unit is such that there's a north half and a  
25 south half? How does that affect your ability to

1 left. It goes through a well in Section 9, which is  
2 our new discovery, the Mitchell Energy Anasazi Federal  
3 #9 well, moves further south to our proposed location  
4 in Section 28, and ties in a couple of the wells in the  
5 Salt Lake south Morrow field, which is the closest  
6 production to the south of us.

7 Q. Why have you chosen those wells to form a  
8 line for the cross-section?

9 A. It gives us a link of production that we  
10 have to the north and to the south, and it shows us the  
11 character and nature of the sands that we are chasing  
12 in this area.

13 Q. Excluding for a moment the Morrow B sand,  
14 describe and characterize the potential in the other  
15 Morrow sands for us.

16 A. There is potential in the other Morrow  
17 packages, but we feel that it's somewhat limited in the  
18 area. Our well in Section 9 did not have a very good  
19 development of the Morrow C. So our primary target in  
20 here is the Morrow B sand section.

21 Q. Let's look specifically at the Morrow B now  
22 and describe that for us. What do you see about the  
23 continuity of the sands from well to well?

24 A. The Morrow B or the sand package that lies  
25 below that yellow line on the cross-section, and as you

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1 can see as you go across this section here the  
2 variability and discontinuous nature of these Morrow  
3 sands. And we have more experience in this area and  
4 have found that you need to develop this Morrow on a  
5 320-acre proration to adequately develop the entire  
6 section. The nature of these sands have a tendency to  
7 come and go, and we do find new reservoirs in drilling  
8 within the 320-acre proration unit.

9 Q. Based upon your experience in this area with  
10 drilling Morrow wells, what is your conclusion about  
11 the component of risk that you undertake in drilling a  
12 well such as this?

13 A. Because of the nature of the Morrow in this  
14 area, there is always a risk of not finding sands in  
15 one area and finding them in another. The  
16 discontinuous nature always increases the risk of  
17 drilling for the Morrow in this area.

18 Q. Can you characterize this as step-out  
19 development of the existing established Morrow  
20 production?

21 A. To me, from our -- the way Mitchell is  
22 looking at it, it is a wildcat well. We are drilling  
23 north of a field, of the Salt Lake field, which we feel  
24 has strong structural component to it and feel that  
25 we're on another structural trend north of it that has

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1 yet to be fully developed, and our closest other  
2 production is up to the north where we are currently  
3 active right now.

4 Q. Using this stratigraphic cross-section, help  
5 us identify the interval that you have used to isopach  
6 for Exhibit No. 3.

7 A. The interval I used to isopach is the  
8 interval between what's marked on the exhibit as Top of  
9 the Morrow B and Top of the Morrow C. That's the  
10 interval that I used to isopach.

11 Q. Having taken that interval then, how do you  
12 calculate the thickness within that interval by which  
13 you then had prepared the isopach?

14 A. I go through that section and determine what  
15 is the sand in here, and I've used the porosity cutoff  
16 that is what we use as a standard for production.

17 Q. That's the 7 percent?

18 A. 7 percent density. And then I essentially  
19 go in there and add up the thicknesses within that  
20 section.

21 Q. The isopach that's been generated then is a  
22 net sand isopach?

23 A. A net sand isopach of this Morrow B  
24 interval.

25 Q. Using the 7 percent cutoff?

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1 A. That's correct.

2 Q. Let me ask you to turn to Exhibit No. 5  
3 now. Exhibit 5 doesn't have the quarter section or the  
4 section lines on it, and you're going to have to help  
5 us not get confused in the display, Mr. Gawloski. If  
6 you'll, before we talk about the conclusions, look at 5  
7 and tell us where it came from. What is this?

8 A. This is a plat that was prepared by  
9 archeologists. When you go into a federal leasehold  
10 and you're proposing a well, you have to have an  
11 archeological survey done on the location and the pad  
12 site before you can proceed with your permitting.

13 Q. You had chosen for the development of the  
14 section a well located in the west half 1,980 from the  
15 north and 1,980 from the west?

16 A. That's correct.

17 Q. Where do we find that location on Exhibit 5?

18 A. It's marked in the center portion of the  
19 diagram right there under the word "ridge" on dune  
20 ridge, on the lower portion of the dune.

21 Q. Were your field people successful in  
22 obtaining surface clearance for a well to be located as  
23 you had initially proposed?

24 A. No, they were not.

25 Q. What happened?

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1 A. First off, there is a topographical  
2 consideration. There was a large dune ridge, and  
3 that's shown in there by the dashed line, essentially  
4 trending northeast-southwest, and that location was on  
5 the edge of that dune ridge.

6 The other consideration in here, which goes  
7 along with the topographical consideration, is an  
8 archeological site, and you can see it has a  
9 designation there, and it's shown by the bolder dark  
10 line on the dune ridge. Essentially, the dune ridge  
11 was a topographical feature that he found archeological  
12 -- whatever -- artifacts on there. So that we did not  
13 have clearance then to proceed with that location.

14 Q. Were you able to locate a well that  
15 satisfied the surface limitations within the west half  
16 of Section 28?

17 A. That's correct.

18 Q. And where did you ultimately find that you  
19 had an approvable surface location?

20 A. Moving a little bit to the north where the  
21 location would be approximately 1,650 from the north  
22 line instead of 1,980. That would give -- you can see  
23 the box around that location is the boundary of the  
24 well pad. That would be essentially the minimum  
25 distance we could move from there and still conduct our



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1 business in a manner that would have been approved by  
2 the archeologist and probably the BLM.

3 Q. In assessing the risk, is there a material  
4 difference or a change in the risk if you moved from  
5 the closest standard location to this unorthodox  
6 location?

7 A. No, the risk is about the same. It's a  
8 minimal distance that we're moving here.

9 Q. The choices you've made about the  
10 methodology for exploration of the section, the two-  
11 well concept, is that made by you as a geologist  
12 independent initially of any other limitations or  
13 considerations?

14 A. No, sir. There's other considerations that  
15 we use in conjunction with the geological information.

16 Q. Initially, however, what goes into the  
17 decision that you make as a geologist about how to  
18 orient the spacing units?

19 A. Initially, it's what I do with the  
20 geological end of it is what I do initially, and then  
21 if there's any other considerations, we address them.

22 Q. Apart from other considerations now,  
23 initially then the decision is made upon your geologic  
24 work independent of ownership and surface limitations?

25 A. That's correct.

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1 Q. And what was that decision that you made for  
2 Section 28?

3 A. That the best way to develop Section 28  
4 would be to have stand-up proration units in the east  
5 half and the west half and have a well posed in the  
6 northwest quarter of that section.

7 Q. If that is approved by the examiner, what  
8 does that allow Mitchell to do then with the subsequent  
9 development of the section?

10 A. It allows Mitchell to then proceed with a  
11 well. If deemed productive, the first well deemed  
12 productive, we could then proceed with a well in the  
13 northeast quarter of that section.

14 Q. Having made that initial decision, were  
15 there any other informations or facts brought to you  
16 subsequently that caused you to change your opinion  
17 about the orientation of the spacing units?

18 A. A leasehold consideration was brought to my  
19 attention of an unleased partial in the northeast  
20 quarter.

21 Q. The topographic limitation was brought to  
22 your attention?

23 A. That's correct.

24 Q. And you've had to adjust for that?

25 A. That's correct.

1 Q. Any other thing that's affected your choice  
2 about how to orient the spacing units?

3 A. No.

4 Q. Having selected the orientation, summarize  
5 for us the criteria then that gets you to the ultimate  
6 conclusion about the stand-ups. What's the criteria?

7 A. The criteria is one that we used in this  
8 area, that we have used in this area. We take our  
9 geologic maps, cross-sections. We take the isopachs,  
10 determine where the best -- area of best thickness in  
11 the Morrow B, which is our primary target. We then  
12 look at our structure map. And then we look at both of  
13 those and take those into consideration to determine  
14 what the best locations would be to adequately develop  
15 the section.

16 And in this case, using their structure and  
17 isopach, locations in the northwest quarter and  
18 northeast quarter on the east and west half proration  
19 units were the best way to fully develop Section 28.

20 Q. Describe for us the criteria you use in  
21 selecting the well location for each of the two spacing  
22 units once you've decided the orientation.

23 A. Well, once we decide the orientation, in  
24 this case a west-half proration unit, we normally go to  
25 what we feel is our best orthodox location, which is

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1 what we did in this case. And then we submit that to  
2 get permitted based upon clearance of BLM approval of  
3 that location.

4 MR. KELLAHIN: That concludes my examination  
5 of Mr. Gawloski. We would move the introduction of  
6 Exhibits 1 through 5.

7 EXAMINER STOGNER: Exhibits 1 through 5 will  
8 be admitted into evidence at this time. Thank you, Mr.  
9 Kellahin.

10 Mr. Cavin, your witness.

11 MR. CAVIN: Thank you, Mr. Examiner.

12 EXAMINATION

13 BY MR. CAVIN:

14 Q. Can you help me with your name, please. I'm  
15 sorry, I'd just like to pronounce it correctly.

16 A. Ted Gawloski.

17 Q. Gawloski, okay. If I mispronounce it, you  
18 have my apologies in advance.

19 A. I'm used to it.

20 Q. Well, Sealy is not a real winner either for  
21 easy names to pronounce.

22 Let me refer you to Exhibit 5 as far as the  
23 various locations you have looked at, and can you tell  
24 me where is it on this map that you can't drill? I  
25 guess I didn't understand that, from a topographical --

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1 A. The center portion of the plat, essentially  
2 right under the "g" in "ridge" was the initial proposed  
3 location, orthodox location.

4 Q. And that would be, right under the "g" would  
5 be 1,980?

6 A. Right. You can see right to the right of  
7 that, it says 1,980 from the north and west and the  
8 arrow pointing there. That is the location.

9 Q. Is that where the crosshatch is?

10 A. Yes.

11 Q. The crosshatch is 1,980, 1,980?

12 A. Yes.

13 Q. So that crosshatch is on the ridge, so to  
14 speak?

15 A. It's right on the edge of the ridge and  
16 extremely close to the archeological site. The thing  
17 we didn't have drawn here is the size of the well pad  
18 which would be what you see on each of those other  
19 ones; so the well pad would essentially be in the  
20 middle of that dune ridge and archeological site.

21 Q. How large is that well pad?

22 A. It says up there 400 by 400.

23 Q. Okay, 400 by 400. Am I correct, if you move  
24 the 1,980, 1,980 location south, you have to move it  
25 south at least 200 feet because of the well pad?

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1 A. That's approximately it, yes.

2 Q. So you have to have a well pad that's 400 by  
3 400; is that pretty much --

4 A. That's what we normally do for our Morrow  
5 wells. That's not my area of expertise, but he has  
6 this drawn in here as such. That's what he would do.

7 Q. So that's standard for your Morrow wells?

8 A. I'm led to believe that, yes.

9 Q. Do you make any exceptions for these  
10 location sizes, your pad, I should say?

11 A. Very rarely, because I do know this, you  
12 have to have so much spacing out there for safety  
13 reasons that you have to have enough room to do that,  
14 and this is probably pretty standard for BLM deep gas  
15 wells.

16 Q. Can you tell me, and I should probably know  
17 this, but IF #1 means?

18 A. That is an isolated find, I believe, is how  
19 he describes that. There's isolated finds outside of  
20 that dune ridge that he found and he's numbered.

21 Q. And IF #2 is the same sort of thing?

22 A. Yes.

23 Q. Okay. And it looks like that's an access  
24 road that passes through there?

25 A. That's correct.

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1 Q. The location 2,180 by 2,180, that is what's  
2 acceptable for archeological and topographical reasons;  
3 is that right?

4 A. That's correct.

5 Q. But not for geologic reasons?

6 A. That's correct. Well, there was two -- we  
7 had two locations here, and we chose the northern one  
8 based upon geological considerations.

9 Q. But 2,180 and 2,180 is acceptable from  
10 archeological --

11 A. Yes.

12 Q. Can you tell me, I think you've said you  
13 work in the Permian Basin area. What other areas do  
14 you work?

15 A. I've worked the southeast New Mexico for all  
16 12 of my years as a geologist.

17 Q. So that's basically 100 percent of your  
18 work?

19 A. It's been in the Delaware Basin, southeast  
20 New Mexico, that's correct.

21 Q. It sounds like you've got quite an  
22 impressive amount of geologic data. Is that something  
23 you would share with the parties you're seeking to  
24 join, in your interpretations?

25 A. It's something we do not normally do unless

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1 we're bound by some sort of agreement. The other  
2 parties usually make up their own decisions, have their  
3 own staff of geologists and usually will do that  
4 themselves. So we don't normally do that.

5 Q. Would you consider it in this case if it  
6 would help facilitate the -- what would Mitchell's  
7 position be?

8 A. We already did. I sent a portion of this  
9 structure map to geologists at Strata to help in these  
10 discussions we were having so that we might alleviate  
11 some of these problems, and I sent a portion of that  
12 structure map up to them, and it was confirmed that he  
13 did receive that map.

14 It's something that we sometimes do to help  
15 alleviate a problem in an area to get something going,  
16 but normally it's not something that we do. It's more  
17 above and beyond what we usually do.

18 Q. Did you share that information with Maralo  
19 and is it Santa Fe that your other partner is?

20 A. That's correct. We did not -- they have  
21 their own geologists, and they work that up themselves.

22 Q. Do they have access to the information that  
23 your maps are based on?

24 A. I do not know. I'm sure they have the well  
25 control. Now, the seismic data, I do not know. I

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1 cannot speak for them on that. I know we have a very  
2 extensive seismic database in this area.

3 Q. I would refer you to your Exhibit No. 2, and  
4 I take it this is a structure map showing the top of  
5 the Morrow. Now, can you tell me, if you could, where  
6 would you locate this well if you could pick the prime  
7 location within this structure without considerations  
8 to the north line?

9 A. Without considerations -- you would still  
10 have to be within legal bounds of a location. You'd  
11 have to have some sort of consideration of the north  
12 line.

13 Q. I guess I'm trying to get your opinion, what  
14 is the best location, legal location, if you had a  
15 north half proration unit in the north half of Section  
16 28 according to your structure map?

17 A. If you were looking at it from a one-well  
18 standpoint, you could drill a location a little bit  
19 better on the structure, but our methodology in here is  
20 to maximize our potential for the sections. And we've  
21 done that with several wells in this area, several  
22 Morrow wells, including the well in Section 9, and we  
23 have not changed our approach for this location at all.

24 Q. So basically what you're saying is, if you  
25 had to pick the best structural position in 28 that was

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1 a legal location for the north half, it would be  
2 further north than the proposed location?

3 A. You could move it a little further north if  
4 you were looking at it from a one-well standpoint.

5 Q. And that would be a better geologic location  
6 for this one well?

7 A. For this one well.

8 Q. So it's your opinion that the risk should be  
9 the same throughout any part of Section 28, and that's  
10 the 200 percent plus costs?

11 A. That's correct.

12 Q. And it's your opinion that the south half  
13 location is just too risky, and you don't see any  
14 geologic merit to that?

15 A. If we were forced to do north half-south  
16 half, based upon this mapping, I would not recommend it  
17 to my management. Structure in here does play an  
18 important role. The field on the south and west on  
19 this map is, as you can see, on a structural feature at  
20 Salt Lake South Field, and as you get off of that  
21 structure, you do get wells that you get into some  
22 zones that do not produce and are wet.

23 Q. It appears that some of these wells are  
24 pretty good producers that are offstructure; is that  
25 correct?

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1 A. Which wells are you referring to?

2 Q. Well, I guess the -- up in Section 14 up in  
3 that Quail Ridge area, those wells up there, it would  
4 appear they're somewhat offstructure?

5 A. That well is on the edge of a structure. I  
6 would interpret it as being on the edge of a structure,  
7 and there's stratigraphic and structural components to  
8 the wells in here.

9 Q. How about the well in Section 19 of that  
10 same township and range?

11 A. There is no producer in Section 19 of that  
12 township and range. Which one are you referring to?

13 Q. Let me get my bearings here. I believe that  
14 would be 19-33. Let me confirm that for you.

15 A. That well in 19 of 19-33 is an extremely  
16 poor producer. Eight million out of the Morrow I would  
17 not call a good Morrow producer.

18 Q. Eight?

19 A. Eight million. That's something we  
20 certainly would not call -- I'm sure you can go through  
21 here and find one or two exceptions, but you're going  
22 to find most of them that are going to be either on or  
23 on the edge of a structure, and the well field to the  
24 south definitely has a structural component to it.

25 Q. So I guess your position is it's structural

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1 and stratigraphic?

2 A. Structure plays a very important part in  
3 this area, and I think it's obvious from the map here.

4 Q. What would be more significant, the age of  
5 structure or the top of the structure, in your opinion  
6 -- I'm sorry, the edge?

7 A. The edge of the structure versus the top of  
8 the structure?

9 Q. Um-hm. Let me just rephrase this. If you  
10 had your druthers, you're saying you'd come right in at  
11 the very top of the structure?

12 A. That's not correct. If I was looking at  
13 this one map by itself, that may be what you would do.  
14 That is not the way we do business. I can find a  
15 structure out here that has no sand in it, and it's not  
16 going to do me any good to drill it. So I do not use  
17 this map by itself.

18 The well in Section 5 is in a nice  
19 structural position, and it had very little sand in it;  
20 so it didn't do any good to be on the structure.  
21 You've got to use all the tools you have available to  
22 you. In this case, you use your isopach and your  
23 structure.

24 Q. Do you feel like this is a pretty precise  
25 art here to pick these locations?

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1 A. This is as precise as we can get it with the  
2 data we have.

3 Q. Is the -- and I believe this is the correct  
4 name -- the Anasazi well up in Section 9 to the north,  
5 Section 28, is that onstructure or offstructure or on  
6 the edge?

7 A. It came in mapped on the edge of a  
8 structure. And, again, this is a prime example of how  
9 we work a section in this area. We determined that  
10 this section with the isopach and the structure to  
11 maximize the development of that section, we were going  
12 to have lay-down proration units, and we're currently  
13 in the process of permitting a well in the south half  
14 of Section 9, again, under the same methodology as  
15 we're doing in Section 28, get a good thickness  
16 necessary of sand and in it a good structural position.

17 Q. But your well you're proposing in the south  
18 half of 9 would be as far offstructure as the alternate  
19 location you propose in Section 28; is that correct?

20 A. As far offstructure?

21 Q. Let me see. You said you proposed a well in  
22 Section 9?

23 A. That's correct.

24 Q. In the south half?

25 A. That's correct.

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1 Q. Now, there were two locations that you told  
2 me were approved on the Exhibit 5?

3 A. I never said they were approved yet. They  
4 were proposed locations.

5 Q. Would be acceptable as far as topographic  
6 and archeological?

7 A. Yes.

8 Q. Now, based on your mapping, the location  
9 2,180 from north line, 2,180 from the west line, my  
10 question is, you're saying that's too far offstructure,  
11 I believe?

12 A. No, I didn't say that. I said it is farther  
13 offstructure. If I was going to move the location, if  
14 I had two choices to move the location, I would move it  
15 to get a little bit better structural position. That's  
16 just a good geological decision to make. Why move  
17 further downstructure when you don't have to?

18 Q. So if I heard you correctly, your primary  
19 reason from a geologic standpoint for this location as  
20 opposed -- or, I'm sorry, a west half spacing unit is  
21 so that you can get two wells in the north half of  
22 Section 28?

23 A. That's correct.

24 Q. And this we can talk to Mr. Smith about  
25 this, to recall him, but under the operating agreement,

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1 would you have any problem sharing your geologic  
2 information with the participants? Would that be a  
3 problem for the participants who participate in the  
4 well you're proposing?

5 A. We are doing that right now. I believe  
6 we're sharing the geologic data right now. It is not  
7 something we normally do because we take a lot of time,  
8 and we have a lot more data than most people do to do  
9 this. And we've already gone above and beyond and  
10 shared structure maps with seismic data on there that  
11 we don't normally do.

12 We've sort of bent over backwards to try to  
13 work with you, with Strata on this; so it's not  
14 something we normally do, but we're doing it right now.

15 MR. CAVIN: I have no further questions, Mr.  
16 Examiner.

17 EXAMINER STOGNER: Thank you Mr. Cavin.  
18 Mr. Kellahin, any redirect?

19 Mr. Kellahin?

20 MR. STOVALL: He already said no, but I  
21 don't have any.

22 EXAMINER STOGNER: Mr. Stovall, my  
23 apologies. I have no other questions of this witness.

24 At this particular time, we'll take a recess  
25 for lunch until --

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1 MR. STOVALL: Tom, how long is your  
2 engineer?

3 MR. KELLAHIN: Five minutes. He's going to  
4 authenticate the AFE. If that's not a dispute, maybe  
5 we can just put it in the record.

6 EXAMINER STOGNER: Let's go ahead and hear  
7 the engineer's testimony at this time.

8 (Thereupon, a discussion was held  
9 off the record.)

10 MR. KELLAHIN: Mr. Examiner, with the  
11 stipulation of opposing counsel that Mitchell's Exhibit  
12 18 may be introduced and accepted as reasonable cost  
13 for the drilling and completion of this well, I will  
14 choose not to present Mr. Richard, the engineer who  
15 would otherwise authenticate this exhibit.

16 With that stipulation then we would seek the  
17 introduction of Exhibit No. 18.

18 MR. STOVALL: Mr. Kellahin, who can answer  
19 the current status of the APD, Application for Permit  
20 to Drill?

21 MR. KELLAHIN: We've got somebody here that  
22 can.

23 EXAMINER STOGNER: I thought your  
24 engineering witness was going to do that at this time.

25 MR. KELLAHIN: No. He was going to

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1 authenticate this AFE.

2 EXAMINER STOGNER: As far as authenticity of  
3 the AFE, I have no --

4 MR. STOVALL: We can admit Exhibit 18 as the  
5 proposed Authorization For Expenditure without  
6 objection and contest.

7 MR. KELLAHIN: Our APD with the BLM is on  
8 file and has not yet been approved. I think that's a  
9 correct representation.

10 EXAMINER STOGNER: I'd like to hear from  
11 your witness, if you've got one.

12 MR. STOVALL: Has he been sworn?

13 MR. KELLAHIN: We may have to take a break  
14 and put him on after lunch and get our act together on  
15 APD because I wasn't prepared to present the status of  
16 approval of the APD.

17 MR. STOVALL: Mr. Kellahin, so you can  
18 prepare properly, since you are not, the concerns that  
19 we're expressing with this is with respect to the  
20 status of approval of the specific location and whether  
21 you've got the clearances necessary or whether it's  
22 still in a review or it's simply an administrative  
23 process to get the approval done.

24 MR. KELLAHIN: I need to double-check and  
25 make sure we give you the right answer.

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1 MR. STOVALL: With those considerations,  
2 that's what you need to talk to your --

3 EXAMINER STOGNER: So with that, we'll take  
4 a break for lunch and reconvene as 1:45  
5 (Thereupon, the lunch recess was taken.)

6 EXAMINER STOGNER: The hearing will come to  
7 order. Mr. Kellahin?

8 MR. KELLAHIN: Thank you, Mr. Examiner.

9 MR. STOVALL: Has this witness been sworn,  
10 Mr. Kellahin?

11 MR. KELLAHIN: No, sir, he has not. I'd  
12 like to call Mr. Mark Stephenson at this time.

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

16 EXAMINATION

17 BY MR. KELLAHIN:

18 Q. Mr. Stephenson, would you please state your  
19 name and occupation?

20 A. My name is Mark Stephenson. That's spelled  
21 with a p-h instead of a v. I'm employed by Mitchell  
22 Energy Corporation as the manager of the production  
23 regulatory affairs department.

24 Q. Do you have a technical degree in any  
25 professional area, Mr. Stephenson?

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1 A. No, sir, I don't. I have a business degree  
2 from Sam Houston State University in Huntsville,  
3 Texas. I graduated in December of 1979, and I've been  
4 employed by Mitchell Energy Corporation since January  
5 of 1980, various capacities in the field of regulatory  
6 affairs. I've been in my current capacity as manager  
7 of the production regulatory affairs department since  
8 January of 1988.

9 Q. As part of your duties and among your  
10 experiences, have you participated on behalf of your  
11 company with regards to drilling, permitting, and  
12 examining rules and regulations for oil and gas wells  
13 to be drilled in what is called the Division Order  
14 R-111-P area?

15 A. Yes, sir, I have.

16 Q. Are you also familiar with the Secretary of  
17 the Interior's Federal Potash Enclave and the rules and  
18 regulations that apply to drilling in those areas?

19 A. Unfortunately, yes, I'm very familiar with  
20 that order also.

21 Q. With regards to your company's efforts to  
22 obtain an approved APD from the Bureau of Land  
23 Management for the drilling of a specific well, have  
24 you been involved in that process?

25 A. Yes, I have.

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1 MR. KELLAHIN: We tender Mr. Stephenson as  
2 an expert in regulatory affairs dealing with drilling  
3 in the potash area.

4 EXAMINER STOGNER: Any objections?

5 MR. CAVIN: No, sir.

6 EXAMINER STOGNER: So qualified.

7 Q. (BY MR. KELLAHIN) Mr. Stephenson, let me  
8 ask you, sir, to identify for the record what has been  
9 marked as Mitchell Exhibit No. 20.

10 A. Exhibit No. 20 is a copy of the  
11 Application for Permit to Drill for the subject well.  
12 It was filed by Mitchell with the Bureau of Land  
13 Management's Carlsbad office on November 20, 1992.

14 Q. This APD was filed over the signature of  
15 George Mullen. Who is George Mullen?

16 A. George Mullen is an employee of my  
17 department. He is the one who files most of the APD's  
18 in the southeast New Mexico area. Occasionally I file  
19 a few of those. In this particular case, Mr. Mullen is  
20 the one that filed this APD.

21 Q. This request was filed under letter dated  
22 November 20 of 1992, and you're seeking approval of the  
23 location as specified before this examiner, being the  
24 unorthodox well location we've described?

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

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1 Q. As to that location, what are the applicable  
2 rules as you know them concerning drilling in the  
3 potash area or within R-111-P? Where is this acreage?

4 A. This particular acreage is located on  
5 federal acreage. There's no state acreage involved in  
6 Section 28. And, as such, we're really operating under  
7 the '86 secretarial order rather than R-111-P.

8 Q. Where are we in relation to R-111-P  
9 acreage? Are we within or without that boundary?

10 A. We're actually within the boundary of the  
11 designated R-111-P area.

12 Q. But you are more than a mile away from an  
13 LMR?

14 A. I'm not certain that we're more than a mile  
15 from an LMR.

16 Q. With regards to the notice requirements  
17 under R-111-P, what is the requirement that applies to  
18 this tract and what, if anything, have you done?

19 A. What we do and our procedure basically on  
20 permitting wells with the BLM, wells that are subject  
21 to the 1986 secretarial order, the BLM has less formal  
22 guidelines on permitting wells within the designated  
23 potash area, that area designated under the '86  
24 secretarial order. They don't have strict guidelines  
25 as far as notice requirements are concerned, as you

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1 have, for example, in R-111-P.

2 Our normal course of action for any well  
3 within the designated secretarial area, potash area, is  
4 to contact the BLM prior to the time we file the  
5 Application for Permit to Drill. We consult with the  
6 mine engineers in the BLM's Carlsbad office.

7 Q. Was that done in this case?

8 A. Yes, sir, it was. I did that myself in an  
9 attempt to determine whether or not the BLM would  
10 envision any difficulty with respect to this location  
11 due to potash restrictions. We do that in an effort to  
12 save ourselves and BLM some time and trouble, if  
13 possible. There's some cases where it's very clearly  
14 going to create a problem, say, if you're encroaching  
15 upon an LMR or a certain part of the enclave. There's  
16 other areas where I think they can look at the  
17 information they have in that office and give you a  
18 fairly good educated guess as to whether or not they  
19 would anticipate any problem with permitting the well  
20 at that location. That's part of what we do.

21 The other part of what we do is we determine  
22 through contact within the parties that would be  
23 required to be notified of the application, and we give  
24 notice to those parties.

25 Q. Was that done in this case?

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1 A. Yes, sir, it was.

2 Q. Let me direct your attention to Exhibit 21  
3 and have you identify and describe that exhibit.

4 A. Exhibit No. 21 is a letter dated November  
5 17, 1992. It's addressed to Mr. Randy Foote with  
6 Mississippi Chemical Corporation in Carlsbad, New  
7 Mexico. It's a letter giving notice to Mr. Foote and  
8 Mississippi Chemical Corporation that Mitchell intended  
9 to file a Permit to Drill with the BLM at this  
10 location.

11 Q. What, if any, response have you received  
12 from Mississippi Chemical Corporation concerning this  
13 application?

14 A. We have filed no response. We have received  
15 no response at all, affirmative or negative, no  
16 indication of protest from Mississippi Chemical.

17 We do periodically check on the status of  
18 these APD's. As you can see, this particular  
19 application has been pending for over two months now,  
20 and we did communicate with the Carlsbad office of the  
21 BLM last week, and we're advised that the application  
22 was still pending, but we are informed that it had been  
23 reviewed with respect to potash restrictions, and there  
24 didn't appear to be a problem there. Of course, that  
25 won't be determined definitively until the permit is

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1 actually issued, but that's what we were told last  
2 week.

3 Q. In terms of obtaining an approvable APD, are  
4 you aware of any other regulations, restrictions, or  
5 limitations on the approval of the APD?

6 A. No, sir, I'm not.

7 Q. Have you satisfied the requirements for the  
8 surface use in terms of its location with regards to  
9 archeological sites or surface limitations such as the  
10 dunes involved in this case?

11 A. I believe we have. As has been previously  
12 testified, this site has been reviewed by an  
13 archeologist with the BLM or one that was retained to  
14 conduct an archeological survey on behalf of the BLM.  
15 And as a result of that archeological survey, we had to  
16 move the location. But my understanding is that the  
17 proposed location is acceptable with the BLM.

18 Q. Based upon your current information on this  
19 particular proposal and your experience in general with  
20 this type of permitting, what is your conclusion about  
21 the approvability of this location as we've requested  
22 it from the examiner?

23 A. After several checks with the BLM, again, we  
24 have no indication that there's any problem in  
25 permitting this well. My expectation would be that

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1 this permit will be approved.

2 MR. KELLAHIN: That concludes my examination  
3 of Mr. Stephenson. Move the introduction of Mitchell's  
4 Exhibits 20 and 21.

5 EXAMINER STOGNER: Thank you, Mr. Kellahin.  
6 Do you have any questions?

7 MR. CAVIN: Yes, sir.

8 EXAMINATION

9 BY MR. CAVIN:

10 Q. Mr. Stephenson, can you tell me where the --  
11 I'm looking at Exhibit 20, and it's the map with the  
12 one-mile radius, I guess. Can you tell me where the  
13 LMR is just for --

14 A. Well, I don't know how familiar you are with  
15 BLM regulations or the OCD regulations on potash and  
16 specifically with respect to LMR's, but LMR's are  
17 considered confidential by the potash companies and the  
18 regulatory agencies, and that's proprietary  
19 information. We don't have that information.

20 What we have to do is rely on the agencies  
21 to tell us whether or not we're within a certain  
22 distance from the LMR.

23 Q. Okay. When do you expect to receive  
24 approval based on your experience?

25 A. Based on our communication with the BLM last

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1 week, I would think it would be in the next couple of  
2 weeks.

3 Q. Can you tell me, Mr. Stephenson, where the  
4 proposed location is with respect to either proven or  
5 probable potash reserves?

6 A. I don't have a copy of the BLM's 1984 potash  
7 map in front of me. I think the examiner may have  
8 one. I'd be happy to look at his map and try to help  
9 you with that question.

10 MR. STOVALL: Before we even bring that into  
11 the thing, what's the relevance of that to the forced  
12 pooling application?

13 MR. CAVIN: Well, I guess if I knew a little  
14 more about the potash, it might move our location one  
15 way or another. I just don't know.

16 MR. STOVALL: If the location gets approved,  
17 it gets approved by the BLM, and we don't have any  
18 input into that whatsoever because it's all federal  
19 land. If it were state or fee lands, then we would  
20 have an approval process, the OCD.

21 MR. CAVIN: Just as to the casing then is  
22 all the OCD has involvement in or not even that?

23 MR. STOVALL: Well, even the casing. This  
24 is a federally regulated well. The only thing the OCD  
25 really has jurisdiction over with respect to this well

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1 is the consolidation of interests. Although BLM and  
2 OCD are generally consistent on those requirements,  
3 they are administered in this case by the BLM.

4 MR. CAVIN: So it's not a matter to be  
5 decided by the OCD?

6 MR. STOVALL: Correct.

7 MR. CAVIN: I have no further questions.

8 EXAMINATION

9 BY MR. STOGNER:

10 Q. Mr. Stephenson, really what I asked you up  
11 here today for was essentially, in looking at Exhibit  
12 No. 5, 1,980, 1,980 is marked on this exhibit?

13 A. Yes, sir.

14 Q. What I wanted to find out was, did the BLM  
15 come out and request you move this location? You had  
16 two locations to choose from. I was just trying to  
17 find what the status was as opposed to the surface  
18 location and what kind of BLM requirements were made  
19 and what were the steps as far as the on-site review  
20 and how much did Mitchell Energy really have a say in  
21 moving this location?

22 A. Okay. I'd be happy to go through that with  
23 you, Mr. Examiner.

24 Q. Just keep it brief but do cover it.

25 A. All right. Well, anytime we drill a well on

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1 federal acreage, we're required to have an  
2 archeological survey conducted. We did retain an  
3 archeologist to do that here. As a result of this  
4 survey, they determined that the original proposed  
5 location was not acceptable due to topographic and  
6 archeological reasons.

7 When they do find a location unacceptable,  
8 we do try to give them alternate locations to look at  
9 or at least an area that would be acceptable. In this  
10 particular case, the archeologist came up with two  
11 alternate locations. We looked at, I guess, the  
12 options and decided that the northern location,  
13 northern alternative here, was the best option in this  
14 particular case.

15 Q. Now, this option that was, has it had an  
16 on-site review by the BLM personnel at this point?

17 A. By the archeologist?

18 Q. Anybody else in the BLM's bureaucracy that  
19 required on-site. I know it changes in different  
20 areas.

21 A. I don't know the answer to that, Mr.  
22 Stogner. I do know the archeologist has approved it.  
23 They do have to do an environmental assessment, and I'm  
24 not sure whether that has been completed at this  
25 particular location. Again, our last communication

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<p>1 with the BLM indicated that there appeared to be no 2 problem with this location.</p> <p>3 EXAMINATION</p> <p>4 BY MR. STOVALL:</p> <p>5 Q. There are more than just archeological 6 considerations?</p> <p>7 A. That's right. And during a permitting 8 process, we don't try to communicate with each 9 individual that's involved in the permitting process at 10 the BLM. That would just be impossible to track that.</p> <p>11 What we do try to do is find out what stage 12 of the permitting process it's in and when we can 13 anticipate approval, or if there's any complications, 14 we certainly want to know about that, but we don't try 15 to monitor these things with every person at the BLM 16 that touches the paper.</p> <p>17 Q. In your experience with the BLM and based on 18 where you are at this stage of the process, do you 19 believe you would have heard from them if the surface 20 location were unacceptable for any reason?</p> <p>21 A. Yes, sir. I can certainly say that in the 22 past, anytime that they determine there's a problem 23 with the permit, they're very expeditious in advising 24 you of such.</p> <p>25 Q. Both locations are unorthodox; is that</p>	<p>1 MR. CAVIN: No further questions, sir.</p> <p>2 EXAMINER STOGNER: Mr. Stephenson may be 3 excused. Mr. Kellahin, do you have anything further?</p> <p>4 MR. KELLAHIN: No, sir, we have nothing 5 further to present in evidence.</p> <p>6 EXAMINER STOGNER: Okay, Mr. Cavin.</p> <p>7 MR. CAVIN: Mr. Examiner, our first witness 8 is Mark Murphy, president of Strata Production Company.</p> <p>9 MARK MURPHY, 10 the witness herein, after having been first duly sworn 11 upon his oath, was examined and testified as follows:</p> <p>12 EXAMINATION</p> <p>13 BY MR. CAVIN:</p> <p>14 Q. Mr. Murphy, can you please tell the examiner 15 your background in the oil and gas business?</p> <p>16 A. Yes. My name is Mark Bertram Murphy. I'm 17 president of Strata Production Company. I've been 18 involved in the oil and gas business since I was 15 19 years old when I started as a roustabout in 20 southeastern New Mexico and west Texas. My family has 21 been actively involved in oil and gas ventures in 22 southeastern New Mexico and west Texas since 1957.</p> <p>23 I've worked as a landman for Eagle Oil and 24 Gas out of Dallas, Texas, a Dallas independent, and 25 Robb Hart Oil and Gas out of Lockhart, Texas. In 1983,</p>
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<p>1 correct?</p> <p>2 A. Both locations?</p> <p>3 Q. Both of the alternate locations, the 4 southern one and the northern one? If I'm reading your 5 measurements right, it's a standard size section, 6 you're too close to the east line of the proration unit 7 at 2,180?</p> <p>8 A. That's correct.</p> <p>9 EXAMINER STOGNER: That's all I have for 10 this witness. Any other questions for Mr. Stephenson?</p> <p>11 MR. KELLAHIN: No, sir.</p> <p>12 EXAMINER STOGNER: Can he be excused?</p> <p>13 MR. CAVIN: May I ask one question, please, 14 Mr. Examiner?</p> <p>15 FURTHER EXAMINATION</p> <p>16 BY MR. CAVIN:</p> <p>17 Q. We heard earlier about the pad size. It's 18 400 by 400. Is that a requirement of the BLM, or is 19 that a Mitchell practice?</p> <p>20 A. I think that's something that's probably 21 jointly determined by both parties. I can tell you 22 that 400 by 400 is our standard pad size for a Morrow 23 well location.</p> <p>24 MR. CAVIN: Okay.</p> <p>25 EXAMINER STOGNER: Any other questions?</p>	<p>1 I joined my father and sister in a New Mexico oil and 2 gas company by the name of Murphy Operating 3 Corporation. We operated at our peak approximately 400 4 wells, primarily in southeastern New Mexico and west 5 Texas. We appeared numerous times at the Oil 6 Conservation Commission, seeking unitization approval 7 on waterfloods, primarily, San Andres waterfloods 8 located in Roosevelt and Chaves Counties.</p> <p>9 I currently serve as president and have 10 since late 1991, as president of Strata Production 11 Company. We operate approximately 70 wells. We 12 produce a little over 2,000 barrels a day.</p> <p>13 I serve as an industry adviser to the 14 Petroleum Recovery Research Center at New Mexico Tech 15 in Socorro. I've testified in front of numerous 16 legislative hearings on issues from the enhanced oil 17 recovery legislation that was passed a couple years ago 18 to state land policy to federal land policy. I'm 19 currently a past board member and treasurer of the New 20 Mexico Oil and Gas Association. I'm currently the 21 director and vice president of the Independent 22 Petroleum Association of New Mexico.</p> <p>23 I've served as a three-year term with the 24 National Public Lands Advisory Council, which advises 25 the Bureau of Land Management and the Department of</p>



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1 Interior, specifically in the last administration,  
2 Secretary Lujan and Director Sy Jamison on federal  
3 lands policy. I served as vice chairman for that  
4 council. Last year I served as chairman for that  
5 council. I've been reappointed for a three-year term.

6 I could go on, but I hope that will do it.

7 MR. CAVIN: Mr. Examiner, I'd like to tender  
8 Mr. Murphy as an expert qualified to testify on land  
9 matters and also as an oil and gas operator.

10 EXAMINER STOGNER: Are there any  
11 objections?

12 MR. KELLAHIN: Is Mr. Murphy going to be  
13 testifying about geologic or engineering aspects with  
14 regards to this case?

15 MR. CAVIN: No.

16 MR. KELLAHIN: No objection.

17 EXAMINER STOGNER: Mr. Murphy is so  
18 qualified.

19 THE WITNESS: Thank you.

20 Q. (BY MR. CAVIN) Mr. Murphy, I would refer  
21 you to what is marked as Strata Exhibit A and ask if  
22 you could describe that for the examiner?

23 A. Yes. Exhibit A is a reproduction of a  
24 Midland Map Company, 1 inch I believe to 4,000 scale,  
25 for a portion of Lea County and specifically shows

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1 Township 20 South, Range 33 East. Somewhat centered on  
2 that map is Section 28.

3 It is color-coded. The pink acreage is  
4 acreage that Mitchell apparently has an interest in.  
5 There are three leases involved in that. The one  
6 marked No. 1 expires April 1, 1994, and I believe it's  
7 Lease No. 57280. No. 2 expires 9-1-95, I believe; it's  
8 lease No. 62228. And No. 3 expires 10-1-93, and it's  
9 lease No. 77074.

10 The lease shown in blue, which is the  
11 southwest quarter of the northeast quarter of Section  
12 28, expired on or about July 1 of 1992. The Midland  
13 map indicates that the southeast of the southeast is  
14 owned by one Bulldog Energy. It's shown in yellow. It  
15 expires 4-1-96. And Strata's lease No. 82927 is shown  
16 in green, and it expires November 1, 1994.

17 During our initial conversations, my initial  
18 conversations with Mr. Smith of Mitchell, I suggested  
19 to him that they consider a north half proration unit.  
20 That, based on my understanding of the arrangement  
21 between Mitchell and Santa Fe and Maralo, had that been  
22 done, would result in Mitchell owning 50 percent, Santa  
23 Fe owning 25 percent, and Maralo owning 25 percent.

24 At one point it was pointed out to me that  
25 that lease had expired on July 1 of 1992, some seven

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1 months ago, ample time, in my opinion, to nominate and  
2 purchase that lease. Once again, I believe it was  
3 testified this morning that a request was made sometime  
4 in September, some two months after the lease had  
5 expired.

6 Had a south half proration unit been formed,  
7 then Mitchell would own approximately 25 percent, Santa  
8 Fe and Maralo would own approximately 12-1/2 percent  
9 apiece, Strata would own 37-1/2 percent, Bulldog would  
10 own 12-1/2 percent.

11 Q. When were you first contacted by Mitchell,  
12 Mr. Murphy, in connection with their proposed well?

13 A. If I could, I would like to refer to our  
14 Exhibit No. 2, which is Strata Production Company's  
15 letter dated January 12, 1993. It has also been  
16 entered this morning as Mitchell's Exhibit No. 16.

17 Q. Okay.

18 A. In this letter beginning on page 2, I  
19 summarized the telephone conversations and relevant  
20 correspondence --

21 Q. Can I ask you, before you begin, do you keep  
22 a telephone log, Mr. Murphy?

23 A. Yes, I do.

24 Q. Thank you.

25 A. On October 26, Mr. Mitchell -- excuse me --

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1 Mr. Smith with Mitchell contacted me and said that they  
2 were considering -- "they" being Mitchell -- were  
3 considering drilling a Morrow well somewhere in the  
4 northwest quarter of Section 28, and that they would  
5 like to form a west half proration unit, if I recall,  
6 and that a portion of our lease being the south half of  
7 the southwest quarter be included therein in that  
8 proration unit.

9 I advised them at that time that we would  
10 probably not participate but that we would consider  
11 it. We would also consider or farming out. I informed  
12 Mr. Smith at that time that we had other partners; that  
13 until a deal, specific deal was negotiated that we  
14 could recommend, that I couldn't represent those  
15 partners; that, however, historically, normally when we  
16 reached an agreement that we could recommend to our  
17 partners, they would, in most cases, go along with that  
18 deal, but I could not guarantee that.

19 Since we're on this subject, I would else  
20 bring to your attention Mitchell's Exhibit No. 11,  
21 which is Strata correspondence dated December 9, 1992.  
22 The last sentence in the bottom of page 1 -- and I  
23 don't have it in front of me -- but it goes on to say  
24 that any terms would have to be approved by Strata's  
25 partners, and I believe the word "partners" is on the

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1 top of page 2 of that letter.

2 Q. Let me just ask you, in the process --

3 A. Sure.

4 Q. -- did you ever say anything in connection  
5 with these conversations that would indicate that you  
6 had the unfettered authority to represent these  
7 partners?

8 A. Absolutely not. As a matter of fact, I  
9 informed Mr. Smith to the contrary. Each of these  
10 partners had their own interest in here. That there  
11 were numerous partners; I believe I said 10 or 15. I  
12 think the actual number may be closer to 16. But that  
13 the process we normally go through in this case is that  
14 we would negotiate to the best of our ability. If we  
15 felt like that we could recommend the deal to our  
16 partners, I'd be happy to try to facilitate the deal by  
17 working with my partners directly.

18 Q. Why don't you continue and tell me what  
19 happened next?

20 A. We had a series of telephone conversations,  
21 and they're summarized under Nos. 2 and 3 of Strata's  
22 Exhibit 2, Mitchell's Exhibit 16, where we went back  
23 and forth on various terms.

24 At one point on December 16, as a result of  
25 Strata's correspondence dated December 9, which is

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1 Mitchell's Exhibit 11, Mr. Smith called me and said  
2 that they were inclined to go along with our farmout  
3 proposal; however, it was subject to certain  
4 conditions. And the condition that he mentioned was  
5 that we would be required to convert all of our  
6 override to working interest.

7 I reminded him that we had numerous  
8 partners, and that each partner may want to do  
9 something different. Some may elect to convert at  
10 payout; some may not, and that that would be extremely  
11 difficult to do. I reminded him of these partners also  
12 in the context of administrative burdens that it would  
13 take and suggested that they reconsider a purchase of  
14 the lease.

15 Q. Did Mr. Smith ever ask for a list of these  
16 partners?

17 A. No, he did not.

18 Q. Did you ever do anything to indicate to Mr.  
19 Smith you would provide that list?

20 A. Well, yeah, he did not up to this point. We  
21 had a subsequent conversation on January 13. And at  
22 that point, in response to a letter where I suggested  
23 that he contact the partners directly, I asked if he  
24 was going to do that. He said no, that he had no  
25 intention of doing that; that they felt like they had

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1 met the notice requirements. I told him that he was  
2 aware of these partners all along. He said that he had  
3 never been provided a list of those partners.

4 So I wrote a letter dated January 13, I  
5 believe, but I don't have the Mitchell exhibit number,  
6 but it was entered into the record this morning, which  
7 listed the parties, their addresses, and their  
8 interests.

9 Q. Sorry to divert you. Go ahead --

10 A. That's okay. Once we had made agreement on  
11 our deal, I contacted, either myself or other people in  
12 Strata, contacted the partners outlying the deal terms  
13 to them. Everybody was agreeable to doing it. We went  
14 ahead and drafted the letter agreement dated December  
15 30.

16 Prior to sending that letter agreement, I  
17 called Mr. Smith and said -- and reviewed the letter  
18 agreement, specifically reviewing with him the  
19 overriding royalty interest pooling provision. He  
20 responded that when he had gone back to management, he  
21 had failed to bring that to their attention but to go  
22 ahead and send the letter anyway. And so I did.

23 I didn't hear anything from him until I got  
24 the January 5th, I guess the next day, Mitchell  
25 correspondence. I was surprised to get that

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1 correspondence because it basically did not reflect the  
2 deal terms that we had agreed to. I had just spent a  
3 lot of time and effort constructing a letter agreement,  
4 the December 30th letter agreement, and we talked on  
5 January 5th just shortly after that agreement was faxed  
6 to me.

7 That conversation is summarized under No. 13  
8 on page 5 of Mitchell's Exhibit No. 16.

9 Q. Let me ask you a question regarding the  
10 letter dated December 30, '92, which is really a letter  
11 agreement, because there's been some question raised  
12 regarding paragraph 7 of the letter agreement. Where  
13 did you get that provision, that language?

14 A. From a previous letter agreement that we did  
15 with another company.

16 Q. Was that a lease sale?

17 A. Yes, it was. It was a federal lease sale.

18 Q. Was it your intention for this to be deal  
19 specific, or was this to represent that you had  
20 authority to make any kind of deal that they wanted to  
21 make?

22 A. It was deal specific.

23 Q. And that was certainly your intention,  
24 wasn't it?

25 A. That was certainly my intention, and until

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1 we communicated -- I had no -- I never represented that  
2 I could bind the other parties until they approved the  
3 terms of the deal. And once we arrived at terms that I  
4 thought we had agreed upon, and I communicated that  
5 deal to the parties, they agreed. And at that point  
6 then I could represent them and did so in that letter  
7 because I had their approval to do so on those specific  
8 terms.

9 Q. What's the big deal between override and  
10 working interest? Why would they mind not taking an  
11 interest under the farmout?

12 A. They would be subject to operating  
13 agreements and other contractual agreements, and I  
14 simply would not feel comfortable in -- I could not  
15 represent their interest. They'd have to sign those  
16 things as individuals.

17 Q. Who are these parties, as a general rule?

18 A. As a general rule, they're long-term  
19 investors of Strata.

20 Q. So you had some familiarity with what they  
21 typically invest in?

22 A. Absolutely.

23 Q. Do you find them to be the kind of folks to  
24 take working interest with big companies?

25 A. Generally not.

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1 Q. That's all the questions for that.

2 Could you explain for me, again, I got a  
3 little bit confused there, the chronology on the  
4 farmout agreement and how exactly it was that that  
5 didn't work out?

6 A. Oh, the farmout agreement terms. We sent a  
7 letter, I believe it's dated December 9, it's Mitchell  
8 Exhibit No. 11, whereby we proposed to either sell or  
9 farm out. And then that resulted in our telephone  
10 conversation of December 16. And that's when Mr. Smith  
11 advised me that they would be inclined to accept the  
12 farmout provisions. However, it was a conditional  
13 acceptance, which I've always taken to be a  
14 counterproposal. And the condition was that all of the  
15 override had to be converted to working interest.

16 Q. Did you think that \$150 was a fair price?

17 A. Absolutely. As a matter of fact, and once  
18 again it's summarized, telephone conversation, this is  
19 No. 3 on page 2 of Mitchell Exhibit No. 16 -- that Mr.  
20 Smith said he felt that the acreage price of \$300 an  
21 acre originally was excessive. I informed him that I  
22 did not feel it was excessive, that it was consistent,  
23 if not lower, to what recent state and federal sales  
24 had brought in this area. I was familiar that Meridian  
25 had purchased the Exxon acreage in Section 32, which is

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1 immediately adjacent to the Strata acreage for \$1,000  
2 an acre. I'm not sure -- I'm sure I did not  
3 specifically mention that, but what my point was is  
4 that it was not out of line.

5 When he came back with \$150 an acre, he said  
6 that was somewhat higher than what he had been paying  
7 to the north; however, the acreage to the north  
8 generally is not involved in what is now a very hot  
9 play concerning Delaware and Bone Springs, primarily  
10 Delaware rights.

11 Q. So you have some familiarity with this area  
12 in general?

13 A. Yes, I do. We operate approximately ten  
14 wells in Sections 32 and 33 of 20-33 and Section 4 of  
15 whatever the township is immediately to the south.

16 Q. These partners that are listed in your  
17 January 13 letter, which is Mitchell Exhibit 17, are  
18 these long-term partners that have had an interest in  
19 this property, or are these just people you just went  
20 out and sold it to?

21 A. These are long-term partners. As a matter  
22 of fact, those partners actually own a similar interest  
23 in Section 33 immediately offset. They were existing  
24 partners in Section 33 when this came up for bid. Even  
25 though we did not have a formal area of mutual

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1 interest, we offered it to those partners so they could  
2 participate.

3 Q. Is there anything you said to Mr. Smith  
4 throughout these conversations you think could be  
5 construed as the kind of representation that he  
6 indicated you made as to your authority to deal for  
7 these partners?

8 A. Absolutely not and to the contrary. I told  
9 him all along that we had numerous partners; that the  
10 way we've handled this in the past is that we'd  
11 negotiate the best deal we could, and we'd either  
12 recommend it or not recommend it to our partners. But  
13 that I could not bind them in any way, but as a general  
14 rule that they would go along with our recommendation.

15 Q. Do you have experience in this area? Do you  
16 deal with any parties where you have undisclosed owners  
17 or parties contacting you to see whether you're  
18 interested in selling a lease or farming out?

19 A. Absolutely. As a matter of fact, many times  
20 in leasehold situations like this, you don't  
21 immediately make assignments to all the parties until a  
22 well is drilled or some action taken. So if you do  
23 sell it, you only have to handle one assignment from  
24 Strata to whoever the purchaser is. If we assign this  
25 out to all these parties, they would have to gather up

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1 -- we'd have to gather up 15 assignments into Mitchell  
2 or to whomever.

3 Q. Is there anything further you'd like to say  
4 with respect to the January 12 letter, Mr. Murphy?

5 A. Excuse me just a second. Let me review it  
6 here quickly.

7 Q. We can come back to it later.

8 A. Not at this time. I may wish to return to  
9 it later.

10 Q. Okay. Next I'd refer you to what is marked  
11 as Strata Exhibit C, and that's a Model Form Operating  
12 Agreement.

13 A. Yes, sir.

14 MR. STOVALL: Exhibit C or Exhibit 3, Mr.  
15 Cavin?

16 THE WITNESS: Well, I hope -- have we.

17 MR. STOVALL: Change them to numeric,  
18 please.

19 MR. CAVIN: I apologize for that. It should  
20 be Exhibit 3.

21 THE WITNESS: Yes. This was an operating  
22 agreement that was forwarded to me by Mr. Smith at  
23 Mitchell.

24 Q. (BY MR. CAVIN) Are there any provisions  
25 that you feel unusual, particularly in the context of a

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1 forced pool where you really don't have any choice and  
2 you're being sort of married by shotgun, so to speak?

3 A. There's a number of provisions that I find  
4 unusual. The first, I draw your attention to Article  
5 V.B.1. as found on page 4. This has to do with the  
6 Resignation or Removal of the Operator. It's industry  
7 practice that -- and it's on the preprinted form --  
8 this has been deleted and stricken in this case, if the  
9 operator fails and refuses to carry out its duties,  
10 then the remaining parties have the right to vote the  
11 operator out. In this case, it puts the burden of  
12 actually have to bring a suit, actually initiating some  
13 sort of legal action. That would be a very difficult  
14 burden on a small independent oil and gas company.

15 Q. Have you ever seen a provision like that?

16 A. No.

17 Q. How many operating agreements have you  
18 reviewed in your capacity as an operator over the  
19 years?

20 A. Hundreds.

21 I would also draw your attention to Article  
22 VI.B.1. This article basically says an operator should  
23 only use its best efforts to provide nonoperators 24  
24 hours advance notice of any work to be conducted on  
25 Saturday, Sunday, and legal holidays.

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1 It is common practice in the oil and gas  
2 industry, recognizing that it's a seven day a week, 24  
3 hour business, that you always provide weekend and  
4 nighttime numbers in case of discussion or notification  
5 is required. This lessens that burden on the operator  
6 having to make proper notice and consult its partners.

7 I also draw your attention to Article XVI.  
8 It's the Other Provisions towards the back of the  
9 operating agreement. This is -- excuse me. Did I say  
10 XVI? It's XV. Excuse me.

11 This provision provides that if the  
12 operator's interest is under common control of another  
13 company or transferred, then the voting provisions of  
14 the operating agreement are not necessary. In other  
15 words, the operations go with the operator, and in this  
16 case Mitchell.

17 That is not so unusual really, but what is  
18 somewhat unusual is, if they sell "substantially all,"  
19 and I'm quoting, "substantially all of operator's oil  
20 and gas properties, then the transferee shall  
21 automatically become the successor operator without the  
22 approval of the nonoperators."

23 This does not give the partners a chance to  
24 vote on this new operator. In other words, we're  
25 basically -- whoever Mitchell, should they elect and

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1 decide to sell to somebody else, that becomes the  
2 partner's operator whether we like it or not.

3 Q. So it's anybody? There's no limitations  
4 that you're aware of?

5 A. No limitations.

6 Q. How would that normally be handled?

7 A. Normally, when you sell a property like  
8 that, you no longer own an interest in the contract  
9 area. Therefore, then the partners would vote on whom  
10 the operator would be.

11 Q. Okay.

12 A. I'd also draw your attention to Exhibit C,  
13 COPAS Form Accounting Procedure Joint Operations, page  
14 4, provision III, Overhead, which is 1.A.(1). I'm  
15 referring to the drilling well rate of \$6,500 and the  
16 producing well rate of \$650 per month.

17 At this time I'd like to reference Strata's  
18 Exhibit No. 4 (indicated). This was faxed to us by  
19 Ernst & Young. I did not have -- and I believe they  
20 were referred to this morning as Ernst & Whinney. They  
21 are now known as Ernst & Young. They publish the  
22 monthly drilling and monthly producing well rates.

23 You'll note that the 1992 brochure has not  
24 come out, or at least I have not received it. So the  
25 one that I had before was 1991. We did, however, call

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1 Ernst & Young and asked them to fax us their most  
2 recent, and you'll note that it has the 1992 amounts on  
3 there. It shows the median drilling rate for a gas  
4 well in west Texas and eastern New Mexico to be \$5,000,  
5 and the producing rate, the median, to be \$500.

6 Q. Are those numbers actually going the other  
7 way? I look at '91. Can you tell me, are they  
8 decreasing from '91 to '92, or am I misreading this?

9 A. The '91 and '92 median on the drilling well  
10 rates were the same. The mean increased, it appears to  
11 me.

12 Q. From '91 to '92?

13 A. Yes. It depends on whether you're talking  
14 about the median or the mean. The 1991 median for  
15 10,000 to 15,000 foot wells was \$5,000. The 1992 was  
16 also \$5,000.

17 Q. Are you looking at oil or gas?

18 A. I'm looking at gas.

19 Q. I'm sorry, can you tell me again what the  
20 median is for that depth well?

21 A. 1991 is \$5,000. 1992 is \$5,000.

22 Q. And then?

23 A. Producing well rates, 1991 median is 513,  
24 1992 median is 500.

25 Q. You're right. I'm sorry. I was reading --

1 examiner?

2 A. Yes. That's a notice of staking for the  
3 Pavo No. 2 to be located 810 feet from the south line  
4 and 1,980 from the west line. This well, a formal APD  
5 has not been submitted yet, but the BLM and the  
6 archeologist have approved the drill site.

7 Q. Is that an orthodox location for a south  
8 half spacing unit?

9 A. Yes, it is.

10 I'd like to, during our conversation -- and  
11 I say "our" -- my conversation with Mr. Smith of  
12 November 18 -- this is shown as No. 3 on page 2 of  
13 Strata's Exhibit No. 2 -- I had stated early on in our  
14 conversations that we would prefer that Mitchell form a  
15 north half proration unit and leave the Strata lease  
16 out of it so that we would have -- one option, of  
17 course, is to drill a well in the south half.

18 He said that they intended to form the west  
19 half proration unit based on lease exploration  
20 considerations. And that was the exploration of the  
21 northwest quarter of the the southwest quarter in  
22 October of 1983. I said that we did not see any  
23 technical basis for that and asked him to reconsider.

24 Later on he pointed out to me -- during one  
25 of the points of my December 30, 1992, letter agreement

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1 I guess I need bifocals.

2 Let me ask you, it's my understanding from  
3 testimony earlier this morning that the \$6,500 and the  
4 \$650 is the charge made to Mitchell's other partners.  
5 Is there any problem -- you're an operator -- is there  
6 any problem for most accounting systems breaking that  
7 out and charging different people different operating  
8 rents?

9 A. No. As a matter of fact, it's fairly  
10 common. In many cases, you have to -- especially in  
11 some of the older properties, you have to administer  
12 many times two or more operating agreements. They not  
13 only have different overhead rates; they also have  
14 different conditions and procedures. So that's fairly  
15 common.

16 Q. Would you have a rate to propose to Mitchell  
17 under that agreement?

18 A. I take issue with their rate, and I cite as  
19 the industry standard the Ernst & Young amounts which  
20 are shown as Exhibit 4.

21 Q. Are there any other comments regarding the  
22 operating agreement?

23 A. No.

24 Q. Next I would refer you to Exhibit 5, Strata  
25 Exhibit 5, and ask if you would describe that for the

1 was the sharing of geologic information, which is  
2 relatively customary in the industry -- he pointed out  
3 that there was an expired lease, the southwest quarter  
4 of the northeast quarter shown as lease No. 2 -- excuse  
5 me, it's colored blue on Exhibit A.

6 Q. Exhibit 1?

7 A. Exhibit 1, excuse me. He said that they  
8 were concerned that if the information got out, that  
9 when that lease did come available, that they would  
10 have additional competition as a result of the  
11 knowledge of the geologic information on the well they  
12 proposed in the northwest quarter. And I suggested the  
13 way to handle that, that it was not our intent to go  
14 and try to compete with them there, that we would be  
15 happy to sign a confidentiality and non-compete  
16 provision as it pertains to that information in that  
17 lease.

18 Q. If you could complete the sale that you  
19 proposed; was that the context?

20 A. That's exactly right.

21 Q. What are your plans with this location? You  
22 state 1,980 from the west line and 810 from the south  
23 line of Section 28.

24 A. We are going to seek a voluntary approval of  
25 a south half proration unit, and absent that, then we

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1 will move for compulsory pooling.

2 Q. For what?

3 A. For the south half of Section 28.

4 Q. What type of well are you contemplating  
5 there?

6 A. A Morrow well.

7 Q. Is it your feeling that Mitchell has made a  
8 good faith effort to provide notice to all interested  
9 parties, Mr. Murphy?

10 A. No, it's not. I had informed Mr. Smith all  
11 along that we had undisclosed owners. I had asked, and  
12 I would have to check the correspondence, but I believe  
13 -- excuse me.

14 MR. KELLAHIN: While Mr. Murphy is searching  
15 for his response to the question, I will introduce an  
16 objection. I don't think it's the province of this  
17 witness to determine whether or not the notification is  
18 correct.

19 EXAMINER STOGNER: I agree with Mr.  
20 Kellahin. I believe you have already stipulated, Mr.  
21 Cavin, that Strata has no problem with the notification  
22 today or as far as Strata's interest. You might want  
23 to move on, please.

24 MR. CAVIN: Okay.

25 Q. Mr. Murphy, is there anything in Mitchell's

1 interest ownership or the operating rights, if you

2 will, for that portion of the south half of the

3 southwest quarter that was proposed to be included in  
4 the west half spacing unit was owned and controlled by  
5 Strata Production Company?

6 A. He lists here that we're -- I think the term  
7 is record title holder or leasehold holder.

8 Q. Yes. Is that correct?

9 A. That's correct.

10 Q. And at that point had you as record title  
11 owner of that lease assigned out any of the working  
12 interest ownership in that lease?

13 A. No.

14 Q. So the operating rights and the record title  
15 were still held by Strata Production Company?

16 A. That's right, with the proviso that Mr.  
17 Smith had been given notice that there were undisclosed  
18 owners.

19 Q. You told him there were silent interest  
20 owners that -- the identity of those individuals was  
21 not disclosed to him?

22 A. It was not disclosed until he requested them  
23 during a telephone conversation of January 13. And, by  
24 the way, I take objection to the term "silent  
25 partners." I never used that term.

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1 exhibits that you would like to refer to? Do you have  
2 a copy of those?

3 A. No, I do not have a copy.

4 Q. For further comment (indicated)?

5 A. I don't believe so at this time.

6 Q. Any further testimony you'd like to put on  
7 the record?

8 A. No, sir.

9 MR. CAVIN: Mr. Examiner, at this time I  
10 would like to move to admit Strata Exhibits 1 through  
11 5.

12 EXAMINER STOGNER: Are there any  
13 objections?

14 MR. KELLAHIN: No objections.

15 EXAMINER STOGNER: Exhibits 1 through 5 will  
16 be admitted at this time.

17 Mr. Kellahin?

18 MR. KELLAHIN: Thank you, Mr. Examiner.

19 EXAMINATION

20 BY MR. KELLAHIN:

21 Q. Mr. Murphy, was the Hinkle law firm attorney  
22 correct in his analysis of the abstracts and the  
23 ownership when he concluded in his title opinion, which  
24 is presented as Mitchell Exhibit 7, that as of the  
25 appropriate date of that title opinion, the working

1 Q. Undisclosed partners?

2 A. I believe the term was, we have partners in  
3 this lease.

4 Q. And you did not disclose to Mr. Smith the  
5 name and address of those individuals or companies?

6 A. Not until so requested, no.

7 Q. Is Elliott and Waldron Title & Abstract  
8 Company correct in their certification that for the  
9 period from November 6, of '92, ending on January 19,  
10 1993, that their search of the Lea County records shows  
11 that, as of public record information, Strata  
12 Production Company is still the owner of the federal  
13 lease record title and operating rights?

14 A. To the best of my knowledge, yes.

15 Q. The Joint Operating Agreement that you've  
16 described in your testimony, the one that Mr. Smith  
17 provided to you?

18 A. Um-hm.

19 Q. You've given us three or four items of  
20 concern to you. If we change all those, will that  
21 cause you to commit Strata's interest to the west half  
22 spacing unit? Will that solve the problem?

23 A. No. We have been -- I point these out  
24 because of it being shown as a model form and the  
25 number of changes that have been made to this model

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1 form. It is our position that we would maintain that  
2 the proration unit be a north half proration unit; that  
3 the footage location that is proposed by Mitchell is  
4 orthodox for a north half proration unit.

5 Q. So the language and terms of the Joint  
6 Operating Agreement is not the dispositive issue that  
7 resolves this matter?

8 A. No.

9 Q. The unorthodox well location that Mitchell  
10 is seeking approval for in fact moves farther away from  
11 any acreage that Strata controls?

12 A. It moves to the north, that's true.

13 Q. Away from you?

14 A. That's correct.

15 Q. You described a while ago that there were  
16 ten wells in this area in which Strata Production  
17 Company either had an interest in or operated? Did you  
18 say --

19 A. We serve as operator and have an interest  
20 in.

21 Q. Are any of those Morrow gas wells?

22 A. New Mexico Federal #1, which is located in  
23 Section 4, was a Morrow gas well. It was recompleted  
24 in the Bone Springs and later in the Delaware.

25 Q. At the time it was a Morrow well, did you

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1 act as the operator?

2 A. I believe that well was purchased or farmed  
3 out -- I can't recall -- from Grace Petroleum, and I am  
4 unsure as to the status when we took possession.

5 Q. It was originally drilled by Grace  
6 Petroleum?

7 A. That's what I recall, yes, sir.

8 MR. STOVALL: Excuse me just a second, make  
9 sure that we know what you're talking about. Is that 1  
10 in 33, 20-33, Mr. Murphy?

11 THE WITNESS: No, I'm sorry. It would be  
12 New Mexico Federal #1. It would be in Section 4 down  
13 to the southwest of the colored acreage. It's shown  
14 with a circle around it as a discovery well.

15 MR. KELLAHIN: I can help you find that on  
16 Exhibit --

17 MR. STOVALL: That's in that 32, what is it,  
18 19 and I guess -- 21 and 32; is that correct?

19 EXAMINER STOGNER: Long section to the  
20 south?

21 THE WITNESS: Yes, sir, that's correct.

22 MR. STOVALL: It's in the northwest corner  
23 of Section 4?

24 EXAMINER STOGNER: That would be Lot 6 of  
25 that long section?

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1 MR. STOVALL: You're looking, Mr. Kellahin,  
2 at Mitchell Exhibit 1, I think?

3 MR. KELLAHIN: Mitchell Exhibit 1 shows that  
4 same well, Mr. Stovall.

5 MR. STOVALL: Just to know where we are in  
6 relation to -- please continue.

7 Q. (BY MR. KELLAHIN) Within the area, and  
8 we're looking at, I guess, your Exhibit No. 1, is it,  
9 sir? Is that what you mean by -- or Exhibit A, yeah,  
10 that one?

11 A. Exhibit 1. I believe I referred to it as A  
12 before.

13 Q. Within that area, does Strata Production  
14 Company currently operate any producing Morrow gas  
15 wells?

16 A. Not shown on this, I don't believe so that's  
17 shown on this map. There would be one slightly off of  
18 the map to the west. I believe it's the Snowdy Federal  
19 #1. I can't remember the precise location, but it  
20 would be a mile or two west of the edge of the map.

21 Q. Are you the operator of that well?

22 A. And actually I think that well has recently  
23 been recompleted in the Wolfcamp, if I recall.

24 Q. When you look at Mr. Gawloski's Exhibit No.  
25 1, the Mitchell exhibit, are there any wells on that

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1 plat that are producing Morrow gas wells that Strata  
2 Production Company operates?

3 A. There's a lot of wells shown on this map,  
4 and I haven't spent -- I didn't think about this. I  
5 haven't spent a lot of time, but I don't believe so.

6 Q. Do you have a working interest in any of the  
7 Morrow gas wells shown on either one of those displays?

8 A. Absent the New Mexico Federal #1 and the --  
9 oh, you mean wells operated by somebody else that we  
10 may own a working interest in?

11 Q. Yes, sir.

12 A. I don't believe so.

13 Q. Let me go to the topic of the overhead  
14 rates?

15 A. Yes.

16 Q. Have you taken the Ernst & Young tabulation,  
17 which I understood is 1991 information --

18 A. 1992.

19 Q. Have you taken that information and applied  
20 the escalator to it under the COPAS attachment?

21 A. The escalator will not take effect until  
22 April of 1993. So those rates are current for '92, and  
23 normally the operating agreement, the escalation  
24 provision, once a rate has been agreed to, escalates  
25 annually the 1st day of April.

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1 Q. It's consistent with the custom and practice  
2 to have these operating agreements to have COPAS  
3 attachments to them that have these escalators in them?

4 A. Yes. If you're asking whether the COPAS  
5 form is a model form that's used quite a bit in the  
6 industry, the answer is yes.

7 Q. Yes. And it has an escalator in it?

8 A. Yes, it does.

9 Q. Is it unusual to you as an expert in this  
10 area to find on Mitchell Exhibit 9 that an original  
11 Joint Operating Agreement in fact had the overhead  
12 rates escalated?

13 A. No, it's not unusual. Once an agreement has  
14 been reached between parties, since you can't  
15 pre-determine what the escalator will be, it's provided  
16 by Ernst & Young annually. However, that is not to say  
17 that a party coming into an agreement is bound the same  
18 way the parties have already -- that are already part  
19 of that agreement are bound.

20 Q. Exhibit No. 5?

21 A. Yes.

22 Q. The Division Form C-102?

23 A. Yes.

24 Q. How come that's not fully completed?

25 A. Well, it's completed as far as the staking

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1 and a plat. This is what I had in my file.

2 Q. Have you filed that yet?

3 A. I don't know. I don't believe so, but I --  
4 well, no, I take that back. We filed three of them.  
5 We filed the Pavo 1, Pavo 2, and Pavo 3 in each  
6 proration unit of Section 28 along our lease, the  
7 southwest quarter -- southwest southwest, southeast,  
8 and so forth.

9 Q. I need to get that back from you so we can  
10 figure this out. Do you have another copy?

11 MR. CAVIN: Let me see. Oh, yes we've got  
12 one.

13 Q. (BY MR. KELLAHIN) Tell me again now, in  
14 Section 28, you've got this Pavo Federal 2 which is  
15 down here in the southeast of the southwest. You've  
16 got that one on this C-102. You said there were some  
17 others?

18 A. Yes. There's one in the southwest of the  
19 southwest.

20 Q. Southwest southwest, okay?

21 A. Southeast southwest, and southwest  
22 southeast. There's one in each of those 40's. No,  
23 excuse me, not that one but that one.

24 Q. Okay. You haven't declared a spacing unit  
25 for the Pavo Federal #2 on the form?

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1 A. I didn't complete this form, but no, I don't  
2 see one on there. The reason that we've staked those  
3 wells is that Meridian is currently drilling some  
4 Delaware wells in Section 32. I believe they have four  
5 locations staked. They've completed two of those.

6 Q. These are Delaware stakings?

7 A. These are Delaware stakings with the intent  
8 that the Pavo #2 could either be drilled to the  
9 Delaware, if it's successful, or to the Morrow. In  
10 other words, a deep well would more than likely be  
11 drilled if there are shallow proven pays.

12 Q. And your plan then would be a south half  
13 dedication?

14 A. That's correct.

15 Q. When are you going to share that plan with  
16 Mitchell?

17 A. We are right now.

18 Q. Prior to this very moment, have you ever  
19 proposed that as a Morrow well submission?

20 A. We're watching the drilling activity out  
21 there, Mr. Kellahin, trying to determine what is  
22 prudent for us to do.

23 Q. Have you filed an APD?

24 A. No, we have not. We have not filed any  
25 APD's because we have not determined the depths that

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1 these wells will be drilled.

2 MR. KELLAHIN: No further questions.

3 EXAMINER STOGNER: Mr. Cavin, any redirect?

4 FURTHER EXAMINATION

5 BY MR. CAVIN:

6 Q. Yes. Why is it you haven't filed an APD?  
7 It's just seven days ago that negotiations broke down.  
8 Were you still trying to work something out?

9 A. Well, that and there's two other wells.  
10 Mitchell has just completed their well in the northeast  
11 of the southwest, and they have also got two wells  
12 staked. I do not know the status of the drilling. One  
13 in the southwest of the northeast and one in the  
14 southeast of the northeast of Section 32.

15 We also have plans to work on it over our  
16 Gavilan Federal #1 which is in Section 33.

17 Q. What about Section 32 lands that Meridian  
18 just acquired? You've worked pretty close with  
19 Meridian. Do you know if they have any plans in  
20 Section 32?

21 A. My understanding is they have drilled and  
22 completed their second well, and they have two more  
23 staked.

24 Q. So there's a lot going on out in this area?

25 A. That's correct. There's a tremendous amount



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1 of Delaware activity out in this area.

2 Q. Have you critically reviewed the gas  
3 balancing agreement and some of the other provisions,  
4 the special provisions of the operating agreement?

5 A. No, I have not. The only thing I noted on  
6 the gas balancing agreement, it is not the model form  
7 that we use. I believe -- and it may be reprinted by  
8 Mitchell, using the same language. I just don't know,  
9 but there is a model form, I believe, that's been done  
10 by Mountain States Legal Foundation or Rocky Mountain  
11 Oil and Gas or RMOGA or somebody, but there is a model  
12 form that we're used to using. And I have not reviewed  
13 that against the gas balancing agreement.

14 Q. Would you propose, if a gas balancing  
15 agreement is even necessary, would you propose that  
16 model form as opposed to -- since you're familiar with  
17 it and since it is a model form, as opposed to this gas  
18 balancing agreement?

19 A. I don't know without reviewing this gas  
20 balancing agreement. It may be substantially the same  
21 as the model form agreement. I'm not sure.

22 MR. CAVIN: I have no further questions.

23 EXAMINER STOGNER: Mr. Stovall?

24 MR. STOVALL: All of my questions have been  
25 answered.

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1 (Thereupon, a discussion was held  
2 off the record.)

3 EXAMINER STOGNER: I have no questions of  
4 Mr. Murphy at this time. Any other questions? He may  
5 be excused.

6 Mr. Cavin?

7 MR. CAVIN: Mr. Examiner, I'd like to call  
8 George Scott as a witness.

9 MR. STOVALL: Mr. Scott, would you sit at  
10 the end of the table, please.

11 GEORGE L. SCOTT, JR.

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

14 EXAMINATION

15 BY MR. CAVIN:

16 Q. Mr. Scott, could you state for the examiner  
17 your background in the oil and gas industry?

18 MR. STOVALL: State your name first, please.

19 THE WITNESS: George L. Scott, Jr., Roswell,  
20 New Mexico.

21 Q. (BY MR. CAVIN) And your association with  
22 Strata?

23 A. With Strata, I own some of the stock in  
24 Strata. Also my organization, Scott Exploration, is  
25 involved with Strata in the sense that we try to

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1 originate prospects, and Strata operates them.

2 Q. Could you give us -- state your background  
3 in the oil and gas industry, please, Mr. Scott.

4 A. It goes back to 1952. I have a B.S. and an  
5 M.S. in geology from the University of Oklahoma. I  
6 worked nine years for the old Humble Company. That's  
7 Exxon now. And I've been an independent for nearly 30  
8 years in Roswell, New Mexico.

9 MR. CAVIN: Mr. Examiner, I would tender Mr.  
10 Scott as an expert in petroleum geology.

11 EXAMINER STOGNER: Any objections, Mr.  
12 Kellahin?

13 MR. KELLAHIN: No objection.

14 EXAMINER STOGNER: Mr. Scott, let me make  
15 sure I've got this straight. You're here today with  
16 Mr. Cavin as a geologist, or you're here with Strata  
17 today as a geologist?

18 THE WITNESS: Yes.

19 EXAMINER STOGNER: Is that correct?

20 THE WITNESS: Yes.

21 EXAMINER STOGNER: Thank you. You may  
22 proceed.

23 Q. (BY MR. CAVIN) Mr. Scott, I was wondering  
24 if you could refer to the various exhibits that  
25 Mitchell presented earlier in the day, and let's see if

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1 we can go over those.

2 MR. KELLAHIN: Do you want an extra copy of  
3 those?

4 MR. CAVIN: That would be great. As you can  
5 tell, I've memorized them but --

6 Q. Mr. Scott, if you would, please, I'd like to  
7 refer you to the structure map that was prepared by  
8 Mitchell Energy, Exhibit No. 2. It was admitted  
9 earlier as Exhibit No. 2, and ask if you would describe  
10 the critical wells, as far as Strata is concerned,  
11 please, and tell me what role you think structure plays  
12 in --

13 A. Okay. Let me preface, if I might, my  
14 remarks by saying that we have a lot of respect for Mr.  
15 Gawloski as a geologist. I know the geologists that  
16 work for me have been in contact with him over the  
17 years over various matters. And in looking at his map,  
18 I basically -- we're talking here now about the  
19 structure map -- I have no serious objection to the way  
20 he interpreted this. There's always a little  
21 difference in how geologists will contour maps.

22 The one thing that I would question a little  
23 bit here is in the vicinity of the prospect in Section  
24 28, he made -- used the phrase, there was "extensive"  
25 seismic. I wouldn't consider that you have extensive

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1 seismic here. There is no north-south line down the  
2 middle of Section 28, nor along the east line of  
3 Section 28, nor north-south line in the middle of  
4 Section 27 to the east.

5 So although there is fairly good, perhaps we  
6 would say, seismic coverage, it's certainly not  
7 extensive. And as to exactly how the structure would  
8 result in the north half of Section 28 when it's all  
9 said and done could be a little bit different than the  
10 way he has it mapped. But by and large, I can find no  
11 fault with the way he contoured.

12 Q. Mr. Scott, it seems that the decision is  
13 based primarily on, first of all, two wells in the  
14 north half and, secondly, on structure. Can you tell  
15 me, in your opinion, how important structure is?

16 A. There are lots of Morrow wells that are low  
17 structure wells. This is true in eastern Eddy County  
18 and southwestern Lea County. There are wells that are  
19 on top of the structure. There are wells on the flank  
20 of structures. And this exhibit that they have  
21 furnished us, Exhibit 2, shows many wells that are down  
22 the flank or way down the nose, the plunge, the  
23 structural plunge of these closed features that they  
24 show here.

25 I personally don't consider it critical

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1 whether you drill on top of a closed feature or not.  
2 The sands are all lenticular, and the controlling  
3 facet, criteria, in my opinion, on Morrow sand  
4 production is whether or not you get the sand channel.  
5 And those may occur low on the flank of the structure  
6 as well as over the crest of a structure.

7 So I guess one could say, well, yes, I'd  
8 prefer to catch a sand channel up high on a feature,  
9 but, as a practical matter, we find them all over the  
10 area out here. And many times the sands are actually  
11 thicker and better developed in the structural lows.

12 Q. Mr. Scott, do you have much experience in  
13 the Morrow, dealing with the Morrow formation?

14 A. Over the years, many times I've been  
15 involved in the Morrow. I've made a lot of structural  
16 maps. I've worked for -- when I was doing largely  
17 consulting, I did work for many clients, structural  
18 mapping, porosity isopaching cross-sections,  
19 recommending locations, recommending reentries, and  
20 then I have acquired some interest in Morrow wells,  
21 too, as a result of this.

22 Q. So you have some -- how many wells would you  
23 say we're talking about over the years?

24 A. Well, that's a tough one. I don't know.

25 Goodness. I've looked at and examined probably several

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1 hundred Morrow wells in the course of my  
2 investigations. I've been involved in, oh, I guess  
3 four or five Morrow deals, perhaps, and been closely  
4 associated with people drilling Morrow wells or putting  
5 Morrow prospects together.

6 Q. Could you look at the production map, which  
7 is Mitchell Exhibit 1, and also the structure map at  
8 the same time and show us which wells -- I'd like to  
9 have an idea of which of the wells are good producers  
10 that are offstructure. Just give us a quick review, if  
11 you would.

12 A. I haven't sat down and made a detailed study  
13 of which are good wells and what are bad wells. And  
14 when you say good wells and bad wells, that depends on  
15 the price of gas.

16 Q. Sure.

17 A. You know, a well that's not too swift at 90  
18 cents a thousand can be a hell of a well at \$5 a  
19 thousand. So that enters into your judgment. All I  
20 could submit to you is, in looking at the map here, and  
21 all the wells are indicated as Morrow completions,  
22 there are many of them that are on the flank of  
23 structures and even in synclinal lows.

24 Q. Is it your conclusion then that structure,  
25 while it may be a factor, it's certainly not the

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1 controlling factor in a Morrow gas well?

2 A. Well, you've got to have the reservoir  
3 rock. You've got to be in one of these sand channels.

4 I guess you could give equal consideration,  
5 perhaps, to structural position as well as your sand,  
6 but I can tell you that many of the channels are found  
7 on the flanks of structures.

8 I would like to submit in regard to that an  
9 exhibit here. This is not a particularly fancy  
10 exhibit, but we made a quick copy of this before we  
11 left Roswell yesterday, and I would like to show you an  
12 area in the next township south of here where Morrow  
13 wells do not appear to have any close structural  
14 association.

15 MR. CAVIN: We'd like to admit this as  
16 Exhibit 6, Mr. Examiner, if there's no objection.

17 EXAMINER STOGNER: Are there any objections,  
18 Mr. Kellahin?

19 MR. KELLAHIN: Has the witness authenticated  
20 the exhibit?

21 THE WITNESS: Me? Yes. It was done  
22 directly under my supervision.

23 MR. KELLAHIN: No objections.

24 EXAMINER STOGNER: No. 6 will be admitted.

25 Q. (BY MR. CAVIN) Could you tell us what is

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1 contained on Exhibit 6, Mr. Scott?

2 A. Well, that is map contoured on top of the  
3 Morrow Clastic Unit, an important division of the  
4 Morrow, and a fairly good structural marker. And  
5 encircled in orange are a number of Morrow wells. And  
6 all you see are some minor structural nosing and minor  
7 reentrance, southeast plunging dip. So I would submit  
8 that probably the stratigraphy, the development of the  
9 sands is equally important there.

10 Also, I noticed on the porosity, on the  
11 isopach map, the sand isopach map --

12 Q. Which exhibit is that, please, Mr. Scott.

13 A. That is Exhibit No. 3.

14 Q. Mitchell Exhibit No. 3?

15 A. Yes -- that they display an area of very  
16 thin sandstone down here coming across the southeast  
17 corner of Section 32, trending right across the top of  
18 the structure. So you can drill right on top of these  
19 structures and not encounter with sand development.

20 Q. What else can you tell us about Mitchell  
21 Exhibit 3, Mr. Scott, that would indicate that --

22 A. Well, Exhibit 3 --

23 MR. KELLAHIN: Excuse me, there wasn't a  
24 question there.

25 Q. (BY MR. CAVIN) -- that would indicate that

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1 the location proposed by Mitchell is maybe not the end  
2 all or perhaps the best location?

3 A. Okay. On this exhibit, there is very little  
4 well control in the vicinity of Section 28 or 21 or 20  
5 or 16 or 17, back over to the east in 15, 22. This is  
6 a subsurface isopach map based on well control, and yet  
7 the well control is very, very sparse out there.

8 And this map, the isopach map purports to  
9 show the thick and thins of the sands and I suppose a  
10 representation of the way these channels, these  
11 lenticular sand bodies in the Morrow, are developed.  
12 And this approach is a valid approach, in my opinion.  
13 I just want to point out that the well control is very,  
14 very scarce out in here. There is no way of predicting  
15 at this location that there's going to be 45 feet of  
16 net sand. There may be 80, or there may be none based  
17 on contouring from well control.

18 Now, we all think in terms of trends,  
19 sandstone trends, and it would appear that Mr.  
20 Gawloski, down at the south here, saw a thick and made  
21 an effort to connect it up with a thick six miles  
22 north. And that might be a little risky, you know.  
23 That would be my comment there.

24 Another thing about these kinds of maps, if  
25 you'll look at the cross-section exhibit, these sands

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1 do not all occur in the same place in this Morrow B  
2 Unit. This type of map is a lumping map. You take all  
3 of the sands in a particular interval and a particular  
4 well, and then you contour to those values from well to  
5 well. It doesn't mean that these are going to be the  
6 same sands. These individual sands may have completely  
7 different trends and orientations than you would -- you  
8 might expect from looking at a map like this.

9 Now, once again, this is about all you can  
10 do with the Morrow until you actually drill some  
11 wells. And then once you've drilled some close-in  
12 wells, you can contour individual sands and work your  
13 trends. But it's based on very poor remote well  
14 control. So there is an element of risk right there in  
15 Section 28 as to what you're going to find.

16 Q. What would you say about the Morrow location  
17 that Mr. Murphy discussed earlier that Strata is  
18 proposing in the southwest -- I'm sorry, the southeast  
19 quarter of the southwest quarter of Section 28 based on  
20 the isopach map prepared by Mitchell and also the  
21 structure map?

22 A. Well, the isopach map would indicate about  
23 the same thickness of sand as for a location in the  
24 north half, and the structure map would indicate you  
25 would be coming down the flank of the structure, but

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1 you're still without being the lowest position  
2 structurally compared to areas adjacent there several  
3 miles away.

4 So to answer your question simply, you would  
5 be drilling on the flank of a closed structure, just  
6 like many of the wells that are on this map.

7 Q. Is there anything you would like to add as  
8 far as the structure map is concerned, Mr. Scott, as  
9 far as your evaluation of it?

10 A. I believe that I've pretty well covered  
11 that. I can't think of any other thing here. Let me  
12 check my notes.

13 I guess I could state the obvious. If you  
14 made a good well in the north half of the section, I  
15 sure would feel safe about drilling in the south half.  
16 You know, it gives us an important control well out  
17 there.

18 Q. Would you see a need to drill another well  
19 in the north half if you make a good well where they  
20 have proposed?

21 A. I would not see a necessity to, no. Once  
22 again, things like that depend on how thick your sands  
23 are, what you think the orientation of those sands  
24 are. And in this day and time, there are logging  
25 techniques we can employ that give us trends of these

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1 sand trends. Both Schlumberger and Halliburton have  
2 logging tools that give you orientation of these sand  
3 bodies.

4 So depending on the information gained from  
5 that well, it could tell you whether you ought to drill  
6 in the north half or the south half. My guess is just  
7 as good a location could be made in the south half as  
8 the north half as far as the information we have here.

9 Q. Mr. Scott, I'd ask you to look at the -- I  
10 believe that was the structure map -- the isopach map  
11 prepared by Mitchell and tell the examiner if you have  
12 any further critique or comment on that map.

13 A. I've already covered that, I believe, in  
14 some of the remarks.

15 Q. Is there anything you'd like to add with  
16 respect to Strata Exhibit 6 that you've provided?

17 MR. STOVALL: I'll take that as a no, Mr.  
18 Scott.

19 MR. CAVIN: I'm sorry.

20 Q. Just one further question. Mr. Scott, is  
21 it your opinion as an expert in petroleum geology that  
22 a west half spacing unit is not warranted in this case  
23 in light of the location of the well?

24 A. Say it again.

25 Q. A west half spacing unit in Section 28, in

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1 light of the location of the well, is it your opinion  
2 that that should be warranted in this case?

3 A. Well, my opinion is that it would probably  
4 be better to drill in the north half and the south  
5 half. You know, I think I've already addressed that in  
6 discussing the trends of these sandstones.

7 I would like to make one more remark here,  
8 if I might, about this area.

9 MR. KELLAHIN: I'm going to object to the  
10 narrative answer to a question that's not asked.

11 EXAMINER STOGNER: I'm going to agree with  
12 Mr. Kellahin, Mr. Cavin.

13 Q. (BY MR. CAVIN) Mr. Scott, do you have any  
14 closing remarks that you'd like to make regarding the  
15 Morrow in this area, the area of Section 28?

16 A. No, I have none regarding the Morrow.

17 MR. CAVIN: I have no further questions.

18 EXAMINER STOGNER: Thank you, Mr. Cavin.

19 Mr. Kellahin, do you have any?

20 MR. KELLAHIN: Just a few, Mr. Examiner.

21 EXAMINATION

22 BY MR. KELLAHIN:

23 Q. Mr. Scott, when were you asked to be an  
24 expert in this case?

25 A. Oh, several days ago, I guess.

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1 Q. How many hours would you estimate that you  
2 devoted to studying what would be the appropriate way  
3 to maximize development in Section 28?

4 A. I've looked at the seismic map that you all  
5 furnished or Mitchell furnished to Strata, looked at it  
6 and had one of my geologists who is responsible for the  
7 Lea County District review the Morrow wells in the  
8 area, and I discussed this with him sometime back. I  
9 guess about the time we got your seismic map.

10 Q. Approximately when did you get that map?

11 A. Oh, let me think. When -- I believe that  
12 was -- you brought that downstairs to our office the  
13 day it was received up there.

14 MR. MURPHY: I think so.

15 THE WITNESS: I'm referring to this exhibit  
16 right here.

17 MR. STOVALL: Mr. Scott, the question is  
18 being asked of you, so just to the best of your  
19 recollection; okay?

20 THE WITNESS: Oh, okay. Heck, three or four  
21 weeks ago, I suppose.

22 MR. KELLAHIN: Let me see what was provided  
23 to you, sir.

24 THE WITNESS: Okay.

25 Q. (BY MR. KELLAHIN) You were provided a

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1 portion of Mr. Gawloski's structure map?

2 A. Yes.

3 Q. And it is an area that's approximately two  
4 sections on each side north and south, east and west,  
5 of Section 28?

6 A. It's four sections wide.

7 Q. Yes, sir. My question for you, sir, is,  
8 once you were asked to be involved as an expert, how  
9 many hours did you personally devote to studying what  
10 to do with Section 28?

11 A. I spent all day yesterday and until about  
12 eleven o'clock last night reviewing data. And this  
13 doesn't -- okay, your question was after I was asked to  
14 be a witness.

15 Q. Yes, sir.

16 A. That doesn't take into account the many  
17 hours I've been involved in this area before.

18 Q. Let's look at Mr. Gawloski's structure map,  
19 this area. Identify for me any of the Morrow wells in  
20 which you were the exploration geologist that proposed  
21 that Morrow well.

22 A. This is just a small segment of Lea County.  
23 I have not been involved in any Morrow wells in this  
24 area right here, to the best of my knowledge. Let me  
25 think for just a minute, because this is -- let me

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1 think. I have to go back about 25 years here in this  
2 area, and I may well have been, but to tell you the  
3 truth, I would have to go back and check my facts.

4 I have generated Morrow prospects in this  
5 area, put it this way -- that I have tried to get  
6 clients to move on them, yes, over the years.

7 Q. My question was that as an exploration  
8 geologist, there's none of these Morrow wells on that  
9 display that you were the primary geologist that  
10 proposed that well and got it drilled?

11 A. I don't believe so.

12 Q. Let me look at the structure map that you've  
13 introduced as Exhibit No. 6.

14 A. Yes.

15 Q. If I can orient myself as to where you are,  
16 I think your map ends, the north end of your map ends  
17 --

18 A. It does.

19 Q. -- just about where Mr. Gawloski's south end  
20 of his map stops?

21 A. That is correct, yes. I just wanted to show  
22 that south of here but still in the general area, what  
23 it looked like there.

24 Q. You have circled a portion of your display  
25 with an orange elliptical shape?

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1 A. Yes.

2 Q. Just north of that shape, Hat Mesa?

3 A. Yes.

4 Q. Does that not show you as a geologist that  
5 there is a significant structural component to the  
6 success of Morrow wells when they're drilled on  
7 structure?

8 A. No, not at all because there's some wells  
9 right on top of there that have nearly no sand at all.

10 Q. The best wells in that Hat Mesa are on the  
11 best structural position in that pool, are they not,  
12 sir?

13 A. No, I can't deny that. Where these sand  
14 channels cross that big structure, yes, that is true of  
15 some wells but not all. Where there are no sands, your  
16 production is very poor, or poorly developed sands,  
17 your production is poor.

18 Q. On your Exhibit No. 6 prepared in December  
19 of '92, did you prepare a structure map that would take  
20 into Section 28 just to the north?

21 A. We have other maps. This one particular map  
22 is one that -- let me say, this is a work map, a map  
23 that we keep up, we keep current, try to keep up with  
24 the activity on, and we have other mapping segments up  
25 there. Now, I don't --

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1 Q. But you chose not to bring any of those and  
2 utilize them today to utilize your points about Section  
3 28?

4 A. It was not up-to-date. No, I did not choose  
5 to bring it because we do not keep up with current  
6 Morrow activity in those two townships up north.

7 Q. How about an isopach, did you prepare an  
8 isopach that involves Section 28 so we can see what  
9 your opinion is with regards to thickness?

10 A. I really didn't think that was necessary  
11 because I have no objection to the values that Mr.  
12 Gawloski puts on his map here.

13 Q. You didn't see his isopach until today, did  
14 you?

15 A. No, that is correct but --

16 Q. How did you independently verify the  
17 accuracy of that exhibit if you've just seen it?

18 A. I have to go by the reputation of Mr.  
19 Gawloski.

20 Q. And it's pretty good, isn't it?

21 A. In my opinion, as I said when I started, I  
22 have a high regard for him. I also said that the way  
23 he contoured the map in here, his isopach map, is  
24 subject to question.

25 Q. Mr. Gawloski's conclusion was that any well

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1 drilled in Section 28 because of the inherent risk in  
2 drilling Morrow gas wells was going to justify the  
3 maximum risk factor penalty of 200 percent. Do you  
4 concur in that opinion?

5 A. I would have to give that some serious  
6 thought.

7 Q. Let's talk about some of your comments. You  
8 said there was very little well control, very, very  
9 sparse information, and you said it was high risk.

10 A. If I used the word "high" risk, I'd like to  
11 modify that. There is risk, certainly. There's  
12 considerable risk there because you don't have any  
13 close-by wells. You're projecting sand trends across a  
14 map with very little control; so there has to be risk.  
15 We're in a game of risk, obviously.

16 MR. KELLAHIN: No further questions, Mr.  
17 Examiner.

18 EXAMINER STOGNER: Any other questions of of  
19 this witness? He may be excused.

20 Do you have anything further, Mr. Cavin.

21 MR. CAVIN: Yeah, I'd like to ask -- first  
22 of all, I'd like to ask Mr. Scott a question, if you  
23 don't mind, Mr. Examiner.

24 EXAMINER STOGNER: Okay, Redirect?

25 MR. CAVIN: Yes

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## FURTHER EXAMINATION

1 BY MR. CAVIN:

2 Q. Mr. Scott, do you think your experiences in  
3 the Morrow, in other areas of Lea County in the Permian  
4 Basin, are valid when we're looking at Section 28 here?

5 A. I certainly do.

6 Q. So you don't see anything that's unique  
7 about this area that would not allow you to pull on  
8 your 30-some years' experience in the Permian Basin?

9 A. Certainly, experience helps, you know. I  
10 would think yes, that I'm pretty competent. I'm not  
11 sure I'm answering your question exactly.

12 MR. CAVIN: I have no further questions for  
13 Mr. Scott.

14 I would like to ask -- these are the notices  
15 of staking, and I was going to see, if there's no  
16 objection, admitting those, or I can have Mr. Murphy  
17 admit them, but they're the notices of staking for the  
18 wells for the locations that Mr. Murphy has described.

19 MR. STOVALL: Why don't you hand those to  
20 Mr. Kellahin and let him look at them so he can refer  
21 to them?

22 MR. CAVIN: We can make more copies.

23 THE WITNESS: Am I excused?

24 MR. KELLAHIN: No objection.

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1 MR. STOVALL: Mr. Cavin, I'll return these  
2 to you, please make copies, two for us and copies for  
3 everybody else after the conclusion of the hearing.

4 EXAMINER STOGNER: Is there anything  
5 further, Mr. Cavin?

6 MR. CAVIN: Do you mean a closing  
7 statement?

8 EXAMINER STOGNER: It's up to you if you'd  
9 like to make a closing.

10 MR. STOVALL: We'd like to hear the  
11 testimony first.

12 MR. CAVIN: We have no further testimony,  
13 Mr. Examiner.

14 EXAMINER STOGNER: I guess we're ready for  
15 closing statements, if you care to go first, Mr. Cavin.

16 MR. CAVIN: Mr. Examiner, what we have here  
17 is a case where Mitchell wants everything its own way.  
18 They want a west half proration unit. They want the  
19 location they want. They want the operating agreement  
20 they want. And they just want to sort of shove it down  
21 Strata's throat.

22 Mitchell has stated that the location could  
23 be improved by moving it to the north. Certainly if  
24 that's the critical consideration, then maybe they  
25 should be satisfied with one well in the north half.

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1 We believe Mitchell should move the location to the  
2 north and dedicate the well to the north half spacing  
3 unit.

4 Strata has staked the south half location,  
5 the legal location for the Morrow well. Strata intends  
6 to seek participation for Mitchell and other owners in  
7 the south half of Section 28 or, alternatively, seek  
8 force pooling of these interests.

9 In summary, Mitchell's request for an  
10 unorthodox well should be denied for the reasons  
11 stated.

12 Mr. Examiner, I would also note, while I do  
13 not represent any of the partners at this time, Strata  
14 is concerned that its partners have not received  
15 adequate notice required by both the State and Federal  
16 Constitution. We believe these partners should have a  
17 chance to address this body either in support or  
18 opposition to Mitchell's application. And, frankly, we  
19 don't know which they would do. We would note that  
20 it's difficult to believe that Mitchell has made a good  
21 faith, diligent effort to provide such notice.

22 Thank you, Mr. Examiner.

23 EXAMINER STOGNER: Thank you, Mr. Cavin.

24 Mr. Kellahin.

25 MR. KELLAHIN: Couple of quick points, Mr.

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1 Examiner. The efforts that Mr. Smith has extended on  
2 behalf of his company to reach a voluntary agreement  
3 have been exhaustive. Despite his efforts, the parties  
4 admit there is no agreement.

5 The issue of notification to these  
6 undisclosed partners is a red herring in this case. It  
7 would set an unusual and onerous precedent for the  
8 examiner in a situation such as this to allow a party  
9 that has required us to go through this exhaustive  
10 effort of compulsory pooling to frustrate and escape  
11 pooling by, at the last minute, a week before hearing,  
12 now telling us for the first time the identity and  
13 addresses of some 15 or 16 individuals. Our  
14 obligations are to deal with the public record and with  
15 representations made to us with regards to that  
16 interest, and we have in good faith complied with that  
17 obligation.

18 It would be an unusual precedent to allow a  
19 party being pooled at the last minute, after all this  
20 effort, to then come in and tell you they now have 10,  
21 20, 1,500 people that they're assigning their interest  
22 to. That's not how we need to do this.

23 I must tell you about Mr. Gawloski's geology  
24 that Mr. Scott hasn't already confirmed for us. He  
25 admits that Mr. Gawloski is well recognized among his

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1 peers as being very good at what he does, and part of  
2 what he does is not unusual for Section 28. It's a  
3 development methodology that Mitchell is utilizing for  
4 the Morrow play. It's a high-risk play, and he's  
5 looking for two locations in the section, and that's  
6 the way you optimize the development of the section.  
7 You take your best thickness and your best structural  
8 position, and the only way to accomplish that is to  
9 stand them up.

10 The notion that Strata is serious now about  
11 this well location they have proposed today in Section  
12 5 is made ridiculous when you look at the last exhibits  
13 that Mr. Cavin submitted to you. On the very face of  
14 those exhibits, every one of those three wells,  
15 including this one, is specifically identified to be a  
16 shallow, Delaware oil well. There is no effort, no  
17 intent nor execution on their part to propose a south  
18 half orientation. We think we've done all we need to  
19 do and more, and we would like to have our forced  
20 pooling order.

21 EXAMINER STOGNER: Thank you, Mr. Kellahin.

22 Does anybody else have anything further in  
23 Case 10,656? If not, this case will be taken under  
24 advisement.

25 Take a five-minute recess.

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1 CERTIFICATE OF REPORTER

2  
3 STATE OF NEW MEXICO )  
4 ) ss.  
5 COUNTY OF SANTA FE )

6 I, Deborah O'Bine, Certified Shorthand  
7 Reporter and Notary Public, HEREBY CERTIFY that I  
8 caused my notes to be transcribed under my personal  
9 supervision, and that the foregoing transcript is a  
10 true and accurate record of the proceedings of said  
11 hearing.

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

16 WITNESS MY HAND AND SEAL, February 1, 1993.

17  
18 DEBORAH O'BINE  
19 CCR No. 63  
20  
21  
22  
23  
24  
25

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