

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 NOS. 10955,  
10956, 10957  
APPLICATIONS OF CONSOLIDATED OIL & GAS INC.  
-----

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: David Catanach, Hearing Examiner

April 14, 1994

Santa Fe, New Mexico

This matter came on for hearing before the  
Oil Conservation Division on April 14, 1994, at  
Morgan Hall, State Land Office Building, 310 Old  
Santa Fe Trail, Santa Fe, New Mexico, before Deborah  
O'Bine, RPR, Certified Court Reporter No. 63, for the  
State of New Mexico.

MAY 27 1994

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April 14, 1994  
 Examiner Hearing  
 CASE NOS. 10955, 10956, 10957

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14 A P P E A R A N C E S

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24  
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1 EXAMINER CATANACH: Call the hearing back  
2 to order. At this time call Case 10955.

3 MR. CARROLL: Application of Consolidated  
4 Oil & Gas Inc. to amend Division Order No. R-9033,  
5 San Juan County, New Mexico.

6 EXAMINER CATANACH: Are there appearance  
7 in this case?

8 MR. KELLAHIN: If the examiner please, I'm  
9 Tom Kellahin of the Santa Fe law firm of Kellahin and  
10 Kellahin, appearing on behalf of the applicant.

11 With your permission, Mr. Examiner, we  
12 would request that this first case be consolidated  
13 for purposes of testimony with the next two cases,  
14 and that all three be heard together.

15 EXAMINER CATANACH: Is there an additional  
16 appearance in this case?

17 MR. ANDERSON: Mr. Examiner, my name is  
18 Edmund T. Anderson. I'm from Midland, Texas, and I'm  
19 making an appearance on behalf of myself, as well as  
20 in my capacity for trustee for the Mary Anderson Boll  
21 Family Trust.

22 I have an interest in two of the three  
23 cases that Mr. Kellahin wants to combine. It's Case  
24 No. 10955 and 10957, but I don't think I have an  
25 interest in 10956. I don't have any objection to

1 10955 and 10957 being combined together, and I really  
2 don't know anything about 10956.

3 MR. CARROLL: Mr. Anderson?

4 MR. ANDERSON: Yes.

5 MR. CARROLL: I have a copy of the lawsuit  
6 you filed in Midland County, Texas.

7 MR. ANDERSON: Right.

8 MR. CARROLL: Are you an attorney?

9 MR. ANDERSON: Yes. I'm licensed in Texas  
10 and California. I'm inactive in both jurisdictions.

11 MR. CARROLL: Okay.

12 EXAMINER CATANACH: So I guess for the  
13 purpose of this hearing, we'll go ahead and  
14 consolidate the cases. I guess that would be the  
15 easiest way to do it.

16 At this time call Case 10956 and 10957.

17 MR. CARROLL: Application of Consolidated  
18 Oil & Gas Inc. to amend Division Order No. R-9178 San  
19 Juan and Rio Arriba Counties, New Mexico.

20 Application of Consolidated Oil & Gas Inc.  
21 to amend Division Order No. R-9179, San Juan and Rio  
22 Arriba Counties, New Mexico.

23 Mr. Examiner?

24 EXAMINER CATANACH: Yes.

25 MR. CARROLL: We have received -- the

1 Division has received numerous correspondence from a  
2 James J. Rubow, initially requesting continuance of  
3 this hearing to April 28, 1994.

4 After consideration, the Division denied  
5 Mr. Rubow's request, and I should bring up that Mr.  
6 Anderson also filed a request for continuance. Both  
7 requests were denied on April 13 by letter.

8 James Rubow has renewed his request for a  
9 continuance due to a conflict he has with a hearing  
10 before the Colorado Oil and Gas Conservation  
11 Commission.

12 I guess my recommendation is that you take  
13 his renewed request for continuance under advisement,  
14 and that if you see a need for Mr. Rubow's  
15 participation after the hearing has begun and the  
16 evidence indicates that his input would be valuable  
17 or necessary, that you take his renewed request for a  
18 continuance or reconsider that renewed request for  
19 continuance at that time.

20 We will take his correspondence as an  
21 entry of appearance without objection of any of the  
22 parties here.

23 EXAMINER CATANACH: Mr. Kellahin, I assume  
24 that your clients are in opposition to continuance at  
25 this time?

1 MR. KELLAHIN: Yes, Mr. Examiner, we are  
2 in opposition, and we are ready to proceed.

3 EXAMINER CATANACH: Probably what we'll do  
4 is, as my counsel has advised me, if during the  
5 course of the hearing I feel that Mr. Rubow's  
6 presence or testimony is necessary to adequately hear  
7 the case, we will likely continue it at that point  
8 until Mr. Rubow can be present.

9 With that I guess we'll go ahead and  
10 proceed at this point.

11 MR. KELLAHIN: I have two witnesses to be  
12 sworn.

13 EXAMINER CATANACH: Will the witnesses  
14 please stand to be sworn in?

15 MR. ANDERSON: Sir, I intend to testify  
16 also. Do you want me to be sworn in now?

17 EXAMINER CATANACH: Please do so, sir.

18 (Witness sworn.)

19 MR. ANDERSON: Mr. Examiner, do you mind  
20 if I move this around a little bit so I can see?

21 EXAMINER CATANACH: I have no problem with  
22 that.

23 THE WITNESS: Can we move it back?  
24 Otherwise, I can't get down to it.

25 MR. ANDERSON: Sure. I think that will

1 work.

2 MR. KELLAHIN: Mr. Examiner, if I might  
3 share with you the items that we would like to focus  
4 your attention on this afternoon. And after doing  
5 that, I'll present to you two witnesses, Mr. Phil  
6 Wood: Mr. Wood is a petroleum landman for  
7 Consolidated Oil & Gas, resides in Denver, and he is  
8 the landman for Consolidated that has handled the  
9 efforts to consolidate on a voluntary basis the  
10 interests.

11 He's familiar with the Richmond force  
12 pooling orders that we are asking you to reconsider.  
13 And he can discuss with you and the rest of us his  
14 course of conduct and dealings and his opinions  
15 concerning the parties involved, including the  
16 interest of Mr. Anderson and the trust he represents.

17 In addition, I'm going to present to you  
18 Alan Harrison. Mr. Harrison is a petroleum  
19 engineer. He is working on the details of the costs  
20 and the activity to be conducted on these three  
21 wells.

22 We are picking up where Richmond left off  
23 with three pooling orders issued by the Division.  
24 The prehearing statement that I have filed may serve  
25 as a useful outline for you because we are trying to



1 present to you three different pooling orders, all of  
2 which have common components.

3 The orders were issued at the request of  
4 Richmond Petroleum, Inc., so that they could  
5 consolidate various tracts for a 320 coal gas spacing  
6 and to drill three wells.

7 Each of those three wells was drilled, but  
8 none of those wells was completed within the time  
9 sequences provided by the original pooling order.

10 One well was completed in, or at least perforated in  
11 December -- it's the federal well -- in December of  
12 the year it was drilled, and that would have been  
13 December -- I'm sorry, the well that was perforated  
14 was the Miller well, and that was perforated in  
15 December of 1992.

16 The sequence is such that as you tract  
17 through the details of the transaction concerning the  
18 three pooling orders, there was significant concern  
19 by Consolidated that when they acquired interest in  
20 the leases and in the wellbores, that all of the  
21 necessary components for complying with the force  
22 pooling order by Richmond Petroleum may not have been  
23 complied with.

24 So part of what we're asking you to do is  
25 to reissue these pooling orders so that parties that

1 are being subject to the pooling order will have new  
2 or additional election periods; that we adjust the  
3 various time components for the reporting of the  
4 costs of the well to the interest owners, and amend  
5 the various times in which the activities need to be  
6 completed.

7           There are certain parties in each of the  
8 wells that were pooled originally, and Richmond  
9 subsequently worked out solutions, and they  
10 participated.

11           In the case of Mr. Anderson, for the two  
12 wells that he has an interest in, it will be Mr.  
13 Wood's testimony that the tract in which Mr. Anderson  
14 has an interest is not the drill site. It is  
15 included within the 320-gas spacing unit, and that  
16 the lease that Mr. Anderson had originally executed  
17 to McElvain, which McElvain was committing to  
18 Richardson to the spacing unit, that the lease  
19 involved expired and was not otherwise held by  
20 activity on the appropriate wellbore.

21           The position is that Mr. Anderson's lease  
22 has expired. He was not pooled in the original  
23 pooling orders. And Mr. Wood will tell you that he  
24 has attempted to make a voluntary agreement with Mr.  
25 Anderson and has not been able to do so.

1           We're going to ask you to apply the  
2 commonly utilized pooling procedure in that instance  
3 and have Mr. Anderson's interest in the spacing unit  
4 pooled by an order of the Division and so that he and  
5 his trust will have the election to participate under  
6 the pooling order or to go nonconsent.

7           In addition, as to that interest, we are  
8 asking that if he elects and the trust elects to  
9 participate in the well, that they must pay their  
10 proportionate share of actual costs already spent  
11 plus our forecast of reasonable estimated future  
12 costs to put the well into production.

13           Mr. Anderson and Mr. Wood have a  
14 difference of opinion about those costs. And so that  
15 is going to be one of the issues for you to consider  
16 is the cost allocation. We will contend that we're  
17 entitled to recover from Mr. Anderson's interest the  
18 costs that were already expended.

19           When we turn to Mr. Rubow's interest, Mr.  
20 Carroll made reference to his correspondence in the  
21 file, his position is similar to the Anderson  
22 position with regards to the Rubow property. They  
23 had a lease for which the lessee was attempting to  
24 commit that interest to the spacing unit. It was not  
25 the drill site. That lease expired. There was no

1 activity on that well that held the lease.

2 Despite efforts by Mr. Wood, he's been  
3 unable to get the Rubow interests committed to the  
4 lease. We take the position that we've exhausted our  
5 good faith opportunity. The interest is not  
6 committed, and we want the force pooling provisions  
7 of the statute invoked so that Mr. Rubow will have  
8 the opportunity to make his choices under that  
9 process.

10 In addition, we are going to ask you to  
11 continue with the imposition of the risk factor  
12 penalty. In this case, the original orders provided  
13 for 156 percent. Mr. Harrison is going to describe  
14 for you the status of the wells, what he anticipates  
15 he needs to do, and he is going to recommend to you  
16 that the 156 percent penalty continue on each of  
17 these wells.

18 In addition, we will recommend to you the  
19 overhead rates and the other modifications necessary  
20 in order to satisfy all of us that these orders have  
21 been reissued and that everyone who is now being  
22 pooled or is subject to pooling is going to have new  
23 elections. Whether they got them in the past or not,  
24 we're going to give them a chance to have a new  
25 election under these pooling orders and remove any

1 doubt about whether Richmond ever gave them adequate  
2 notice.

3 And so that's where we're headed. The  
4 issues are the same in all three cases. The facts  
5 are slightly different. The material issues are  
6 identical with regards to the sequences. And when  
7 it's all said and done, then we will ask you to use  
8 your authority and jurisdiction to revise and amend  
9 the pooling orders as they now exist.

10 PHILIP WOOD,  
11 the witness herein, after having been first duly  
12 sworn upon his oath, was examined and testified as  
13 follows:

14 EXAMINATION

15 BY MR. KELLAHIN:

16 Q. Mr. Wood, for the record, would you please  
17 state your name and occupation.

18 A. My name is Philip Wood. I'm a petroleum  
19 landman.

20 Q. On prior occasions, Mr. Wood, have you  
21 testified before this Division?

22 A. No, I have not.

23 Q. Summarize for us your education.

24 A. I have a bachelor's and master's degree  
25 from the University of Northern Colorado.

1 Q. In what years?

2 A. I received my bachelor's in 1979 and my  
3 master's in 1981.

4 Q. In what fields?

5 A. Both were in geography.

6 Q. Describe for us what has been your  
7 involvement as a petroleum landman.

8 A. I started working as a landman immediately  
9 upon graduation in 1981 and have done nothing else  
10 since then; so I guess that would be 13 years. I  
11 worked for a company called DeKalb Energy Company for  
12 12 of those years and ended up being land manager of  
13 that company. DeKalb sold out of the U.S. at the end  
14 of 1992, soon after which I became land manager of  
15 Consolidated Oil & Gas.

16 Q. Your activity with DeKalb involved what  
17 area of the United States?

18 A. For approximately ten years, it was the  
19 various Rocky Mountain states, including New Mexico.  
20 For the last two years, it was primarily Gulf Coast  
21 Texas.

22 Q. Your activity as a landman for  
23 Consolidated has involved what particular area, what  
24 geographic area?

25 A. Geographic area? Well, primarily most of

1 the Rocky Mountain basins, and like I indicated  
2 earlier or just a few minutes ago, West Texas and the  
3 Gulf Coast.

4 Q. Have you been the landman with your  
5 company that's primarily responsible for the subject  
6 matters involved in these three cases?

7 A. Yes.

8 Q. Have you examined and are familiar with  
9 the transaction your company had with Richmond  
10 Petroleum, Inc.?

11 A. Yes.

12 Q. And have you been the employee of your  
13 company that has been designated the responsibility  
14 to negotiate and discuss Mr. Anderson's interest in  
15 the two spacing units out of the three cases?

16 A. Yes.

17 Q. And, similarly, have you had those  
18 discussions and negotiations with Mr. Rubow?

19 A. Yes.

20 Q. In addition, are you familiar with the  
21 parties and the interests involved in each of the  
22 spacing units?

23 A. Yes, sir.

24 Q. And have you examined and reviewed the  
25 leases and other documents involved in trying to

1 consolidate these interests into the appropriate  
2 spacing units?

3 A. Yes, sir.

4 MR. KELLAHIN: We tender Mr. Phil Wood as  
5 an expert petroleum landman.

6 EXAMINER CATANACH: Mr. Wood is so  
7 qualified.

8 Q. (BY MR. KELLAHIN) Let me have you take a  
9 moment, Mr. Wood, and use the locator map which is  
10 not specifically in the exhibit package. Identify  
11 for us and help us see where we are.

12 A. I'd be happy to. If you'll refer to  
13 Exhibit 1 of your packets, there's a shot of a  
14 portion of this map. I thought it would be very  
15 beneficial to take just a minute and go through the  
16 acquisition of the Richmond properties so you could  
17 better understand how we ended up where we are  
18 today.

19 What you see here is the Colorado-New  
20 Mexico border, the San Juan-Rio Arriba County border,  
21 which meanders through here, through the Miller and  
22 the Carnes location.

23 Q. How is that identified on the display?

24 A. On the San Juan River. Then in Colorado  
25 you have the junction of La Plata County and



1 Archuleta County.

2 Back in 1993, Consolidated, through its  
3 efforts to acquire properties in the San Juan Basin,  
4 approached Richmond Petroleum, Inc., of Dallas to  
5 discuss a possible acquisition. They were very  
6 interested, and at the end of 1993, we acquired  
7 approximately 14 properties in Colorado.

8 The properties were in various states of  
9 completion. Two of the wells in La Plata County had  
10 actually been hooked up to a gas line and had  
11 produced; the rest had not but had all qualified for  
12 Section 29 tax credit for the coal bed methane. And  
13 these are all coal bed methane wells, by the way.

14 Also included in the Richmond package but  
15 not closed upon until January 1994 were the four New  
16 Mexico wells, the three that we're discussing, the  
17 Miller 11, the Carnes, the Federal, and then another  
18 well, which I'll just point out for reference, the  
19 Miller 10.

20 These wells, as you can see, are boxed in,  
21 shall we say, by the Navajo Reservoir. And the only  
22 access to the wells and eventually the only way that  
23 gas can be produced from those wells, as far as we  
24 can see, will be up through Colorado.

25 We are currently designing and hope to

1 implement this summer or install this summer a  
2 gas-gathering, water-gathering system coming through  
3 these Colorado wells and tying into the New Mexico  
4 wells. And that's one of the things I wanted you to  
5 see, and that's why this larger map is here.

6 So that pretty well takes care of the  
7 reference, I think.

8 Q. Okay. Let's talk generally about the New  
9 Mexico property or the New Mexico portion of the  
10 acquisition, and then we will talk specifically about  
11 each of the spacing units in that acquisition.

12 A. Fine.

13 Q. The closing date on the acquisition that  
14 involved the New Mexico property you said was  
15 January?

16 A. Yes. The effective date was -- the actual  
17 effective date was January 24, 1994. And I'm not  
18 sure what the exhibit is, but in your package you'll  
19 find the Special Warranty Deed recorded in both New  
20 Mexico counties that shows that date.

21 Q. We'll come back and talk in detail about  
22 each of the spacing units, but give us a general  
23 overview about the position you found yourself in as  
24 a landman in examining these three spacing units and  
25 trying to put them into a position where you could

1 then complete these wells and produce and allocate  
2 the production among the interest owners.

3 A. The land, and when I say that, I speak to  
4 leases and mineral ownership, was basically in a  
5 state of disarray. Richmond had drilled these wells  
6 originally under the original orders in, I'll say the  
7 first half of 1990. They did so -- Richmond actually  
8 owned no leases; so most of the leases -- or all of  
9 the interests original were earned via farm-in from  
10 companies such as McElvain here in Santa Fe and  
11 others. Under the terms of those farm-ins, Richmond  
12 was required to drill the wells within a certain  
13 period of time, and they did so.

14 In my mind, Richmond, the main focus that  
15 Richmond was centering on was the Section 29 tax  
16 credit. When the tax credit was extended, or the  
17 deadline for qualifying for the tax credit was  
18 extended to, I believe it was the end of 1992,  
19 Richmond changed their completion program and did not  
20 bother to establish that there was coal bed methane  
21 production available and bring gas to surface until  
22 December of '92.

23 They did so in the two Miller wells. They  
24 did not do so in the Carnes. And the Federal well,  
25 as Mr. Harrison can tell you, it was never drilled to

1 -- it never penetrated the coal. Therefore, the  
2 land situation was somewhat in disarray. We knew  
3 that going in and don't seek sympathy for that.  
4 Several leases such as Mr. Anderson's and Mr. Rubow's  
5 had expired. The reason they expired is there was no  
6 production. In fact, in the case of the Federal, you  
7 clearly just had a borehole penetrating the ground.  
8 It never even got to the coal formation.

9 So that was the situation when we took  
10 over.

11 Q. When you acquired the interest from  
12 Richmond Petroleum, what did you acquire with regards  
13 to the three spacing units that are the subject of  
14 these cases?

15 A. We acquired all of Richmond's right,  
16 title, and interest, which in the wellbore and in the  
17 equipment, which I don't believe there was any -- Mr.  
18 Harrison can speak to that, as well as any rights to  
19 production that Richmond may have earned by virtue of  
20 drilling the well.

21 And I should point out that we believe,  
22 and still do, that Richmond's ownership in the  
23 wellbore is disproportionate today to their ownership  
24 in rights to production, or the rights that we  
25 purchased from them, due to expiration of leases,

1 etc.

2 Q. Was consideration paid by Consolidated to  
3 Richmond for these spacing units and the wellbores  
4 and interests within the spacing units?

5 A. Yes, sir.

6 Q. Let's turn to the first of the spacing  
7 units. Let's look at Exhibit No. 2. This is the  
8 Federal 9 #1 Well. It's the subject of Order  
9 R-9033. First of all, let's look at how the tracts  
10 are configured in the spacing unit. Do you have an  
11 illustration of that?

12 A. I have an illustration. It's Exhibit 2.

13 Q. Describe for us what you've illustrated.

14 A. Exhibit 2 outlines the different tract  
15 ownership in what we hope to be the spacing unit for  
16 a producing coal bed methane well, being the east  
17 half of 9, or the east half equivalent of 9.

18 Below it I have shown the working interest  
19 owners and/or unleased mineral owners, their  
20 interest, or at least what I believe to be their  
21 interest, and the tract from which their interest is  
22 derived.

23 Q. There are four tracts that compose the  
24 configuration of owners in the east half of 9?

25 A. Yes, sir.

1 Q. And have you approximated the actual  
2 location of the wellbore itself?

3 A. As best we could, yes, sir.

4 Q. It's up in unit letter A of the section?

5 A. Yes, sir.

6 Q. You've tabulated the interest owners. Now  
7 let's focus the examiner's attention on the parties  
8 who at the date of filing your application had not,  
9 in your opinion, had their interests committed to the  
10 well in the spacing unit?

11 A. That would be --

12 Q. I'm going to read, just to keep it  
13 correct, from the application, it refers to a Jerry  
14 L. and a Donna M. Young?

15 A. Yes. Their interest is derived from Tract  
16 No. 1. They were an unleased mineral owner at the  
17 time Richmond drilled the well. We were successful  
18 in leasing their interest. And although I do not  
19 have a copy of the lease to provide to you, the lease  
20 has been taken, paid for, and is being recorded.

21 Q. On Exhibit No. 2, do you show the Young  
22 interest as part of the Consolidated Oil & Gas  
23 interest at this point?

24 A. Yes, sir, I do.

25 Q. Do you have all the executed documents

1 necessary to satisfy yourself that the Young interest  
2 has been fully committed to a lease which is now held  
3 by Consolidated?

4 A. Yes, sir.

5 Q. So we may delete the Young interest from  
6 the effects of any pooling order the Division may  
7 enter in that spacing unit?

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

9 Q. There are two other parties or interests  
10 within the east half of 9 listed in the application.  
11 First, there is the Ralph O. and Suzanne W.  
12 Bogeberg. Is their interest still shown on Exhibit  
13 2?

14 A. Yes, sir, as tract No. 3.

15 Q. Describe that interest and why it is still  
16 shown on Exhibit 2.

17 A. The Bogeberg interest is a mineral fee  
18 interest that was force pooled in the original order  
19 by Richmond. Richmond was unable to locate the  
20 Bogebergs, and so were we.

21 Q. Summarize for the record the kinds of  
22 efforts you made to try to find the Bogebergs.

23 A. We contacted and actually hired the field  
24 landman that Richmond used in conducting their  
25 operations.

1 Q. Who was that individual?

2 A. His name is James Fullerton.

3 Q. To your knowledge, was Mr. Fullerton able  
4 to locate or find Bogebergs or anyone knowing where  
5 they might be located?

6 A. No, sir, he was not.

7 Q. Did you review for yourself and make a  
8 determination as a landman that Mr. Fullerton's  
9 efforts had been in good faith and had been diligent  
10 enough to try to find those people?

11 A. I believe they were more than diligent,  
12 yes, sir.

13 Q. Despite that effort, neither you nor Mr.  
14 Fullerton could find those people?

15 A. Correct.

16 Q. So you've left them on Exhibit 2 as an  
17 interest to be pooled?

18 A. Yes.

19 Q. Let's turn to what is characterized as the  
20 Edward Anderson, et al., interest. Was that an  
21 interest that Richmond pooled originally in this  
22 well?

23 A. Yes, sir. That interest was under lease  
24 to T.H. McElvain.

25 Q. Is there a pooling clause in that lease?



1 A. Yes, sir.

2 Q. So it was committed to the spacing unit  
3 not by the compulsory pooling order?

4 A. Correct. Or shall I say it was Richmond's  
5 intent if production were established to commit it to  
6 a spacing unit.

7 Q. Then what happened?

8 A. Richmond never completed the well. Under  
9 the terms of the lease, the lease expired and has sat  
10 dormant through today.

11 Q. Is that an interest that you seek to have  
12 pooled for this spacing unit and for coal gas  
13 production out of the Federal 9 Well?

14 A. Yes.

15 Q. Are there any other interests to be  
16 addressed by the examiner with regards to that well  
17 and that spacing unit?

18 A. No, sir.

19 Q. Let's turn to Exhibit No. 3. Identify and  
20 describe what you've prepared here.

21 A. Exhibit No. 3 is the proposed 320-acre  
22 spacing unit for the Carnes 11 #1 Well. The map  
23 above shows the location of the well, the  
24 configuration of the spacing unit, the proposed unit  
25 as well as the individual tract configurations. The

1 interests or the portion below it shows the  
2 individual working interest owners, their interests  
3 and where that interest was derived.

4 Q. To expedite your responses, Mr. Wood, let  
5 me refer to the application filed for Consolidated in  
6 amending this pooling order and address the parties  
7 that you're seeking to pool. First of all, there's a  
8 James Rubow, Passport Energy, Inc., with a .025  
9 interest?

10 A. Yes.

11 Q. Was that a party originally pooled by  
12 Richmond in the spacing unit?

13 A. That was a -- his interest was originally  
14 under lease. Mr. Rubow, as well as others, bought  
15 the mineral interest of someone after they had  
16 already leased to McElvain. Richmond was earning an  
17 interest in the lease via a farm-in from McElvain. I  
18 can't tell you today when they bought that interest,  
19 whether it was before or after the order was issued.

20 Q. At the time the application was filed, did  
21 you have voluntary commitment of the Rubow interest  
22 either by farmout, by lease, or by some voluntary  
23 agreement?

24 A. With Mr. Rubow?

25 Q. Yes, sir.

1 A. No.

2 Q. Do you have subsequent documentation in  
3 the proposed exhibits that addresses your contacts  
4 and negotiations with Mr. Rubow?

5 A. Yes.

6 Q. And have you as of today been able to  
7 reach a voluntary written agreement with Mr. Rubow to  
8 commit his interest to the spacing unit?

9 A. No, I have not.

10 Q. The next interest listed in the  
11 application is a Buddy Baker?

12 A. Yes.

13 Q. Is that interest shown on your Exhibit No.  
14 3?

15 A. No, it is not. The reason why it is not  
16 is Mr. Rubow supplied Consolidated with a recorded  
17 mineral conveyance from Mr. Baker to himself  
18 conveying all Mr. Baker's right, title, and  
19 interest. Therefore, Mr. Rubow is credited with a  
20 full-- rather than 2-1/2 percent and Mr. Baker with  
21 2-1/2 percent, we show Mr. Rubow with a full 5  
22 percent on this exhibit.

23 Q. And so the Baker interest now held by Mr.  
24 Rubow is an interest that you seek to have pooled by  
25 the Division in this hearing?

1 A. Yes.

2 Q. And it's not an interest that's otherwise  
3 committed by some voluntary agreement?

4 A. No, it is not.

5 Q. The next listed interest is the Anderson  
6 and the trust interest that Mr. Anderson represents.  
7 Is that an interest in this spacing unit that's under  
8 the same lease that we've just described for the  
9 federal well?

10 A. Yes.

11 Q. And your answers are the same as to the  
12 Carnes spacing unit as they were to the Federal unit?

13 A. Yes.

14 Q. That you do not have a written voluntary  
15 agreement with Mr. Anderson or his trust interest to  
16 commit that interest to the Carnes spacing unit?

17 A. That is correct.

18 Q. Let's turn now to the next listed  
19 interest. There is a Manuel Rodriguez for the Carnes  
20 spacing unit?

21 A. Yes.

22 Q. Is that still listed on your Exhibit No.  
23 3?

24 A. Yes, it is.

25 Q. Why is that still listed?

1           A.     We were unable to locate Mr. Rodriguez.  
2     Richmond was unable to locate Mr. Rodriguez. We sent  
3     certified letters to Mr. Rodriguez's last known  
4     address. They came return to sender, and we have not  
5     been able to locate him.

6           Q.     Have you or Mr. Fullerton made efforts to  
7     verify the address and made your best efforts to try  
8     to locate Mr. Rodriguez?

9           A.     Yes, we have.

10          Q.     And this is the last known best address  
11     that you had for him?

12          A.     Yes, it is.

13          Q.     It's one listed in Scottsdale, Arizona?

14          A.     Correct.

15          Q.     The Richard Clark interest, what's the  
16     status of that?

17          A.     The Richard Clark interest is identical,  
18     as far as where we stand, to the Rodriguez interest.

19          Q.     Was it originally pooled by Richmond?

20          A.     Yes.

21          Q.     Is this a party that you have not been  
22     able to locate despite your efforts?

23          A.     That is correct.

24          Q.     Let's turn to the third spacing unit.  
25     That's the one for the Miller 11, and that's the

1 subject of Order R-9178. The application indicates  
2 two parties at the time the application was filed  
3 that had not committed their interest to the spacing  
4 unit. It's Rubow and Baker. What's the status of  
5 their interest with regards to the Miller 11 spacing  
6 unit?

7 A. It's identical to that with the Carnes.  
8 We have been unable to reach an agreement with them  
9 for either their lease or their participation, and  
10 Mr. Baker's interest has since been conveyed to Mr.  
11 Rubow. A copy of the deed is in the correspondence  
12 exhibit.

13 Q. Do you remember the title on the  
14 Rubow-Baker interest? Was it subject to a lease at  
15 the time Richmond held their interest?

16 A. It was subject to the same lease as the  
17 interest was under the Carnes' well.

18 Q. And so Rubow and Baker were not subject to  
19 the original pooling order by Richmond?

20 A. No, they were not.

21 Q. And subsequently then that lease, in your  
22 opinion, has expired?

23 A. Yes, it has.

24 Q. Let's turn now to the next subject matter  
25 in the exhibit package is Exhibit 5. And stapled

1 together are the copies of the three Oil Conservation  
2 Division Orders issued in these cases?

3 A. Yes.

4 Q. Are you familiar with these orders, Mr.  
5 Wood?

6 A. Yes, I am.

7 Q. Let me have you go on to identify the next  
8 documents. Following 5 is a three-page legal size  
9 paper marked as Exhibit No. 6. What are we looking  
10 at here?

11 A. I don't have --

12 Q. It should be stamped on the very back if  
13 you turn it all the way over?

14 A. Oh, I do have. I believe these were the  
15 Richmond AFE's submitted to the Commission at the  
16 time of the original pooling.

17 Q. Let's go now and have you identify Exhibit  
18 No. 7.

19 A. Exhibit No. 7 is a letter from the  
20 Division to Richmond, granting them extension in  
21 which to commence operations on the Federal No. 9  
22 Well.

23 Q. Let's turn now to the documentation on  
24 when each of these wells was commenced. If you'll  
25 look at what is marked Exhibits 8-A, -B, and -C,

1 would you identify for the record each of those  
2 documents.

3 A. 8-A is the sundry notice on the Carnes 11.

4 Q. Which indicates what for the spud date?

5 A. Which indicates that the well was spud on  
6 June 5, 1990.

7 Q. Is that also your information as to when  
8 that well was spudded?

9 A. That is the information that we have, yes,  
10 sir.

11 Q. Let's turn now to the Miller.

12 A. Exhibit 8-B here is the sundry notice for  
13 the Miller 10. I believe the one we wanted to submit  
14 before the Commission was the sundry notice for the  
15 Miller 11.

16 MR. KELLAHIN: That's correct. With your  
17 permission, Mr. Examiner, I'd like to withdraw and  
18 substitute after the presentation a revised Exhibit  
19 B, which would be the one for the Miller 11. This is  
20 obviously the incorrect sundry notice.

21 Q. Do you have information, Mr. Wood, as to  
22 what your records show to be the commencement date of  
23 the Miller 11 Well?

24 A. I don't have that with me, no. Mr.  
25 Harrison will be able to answer that question for



1 you.

2 Q. All right, sir. We'll come back to that  
3 then.

4 If you'll look at Exhibit 8-C, identify  
5 and describe for us the sundry notice that we're  
6 looking at there.

7 A. 8-C is the sundry notice for the Federal  
8 No. 9 Well showing that it was spud on May 13, 1990.

9 Q. Have you included as one of the exhibits,  
10 Mr. Wood, a copy of the document that shows that  
11 Consolidated now has a property interest in the  
12 spacing units and in the wellbores?

13 A. Yes. That would be Exhibit No. 9.

14 Q. What are we looking at when we see Exhibit  
15 No. 9?

16 A. You're looking at a recorded copy of a  
17 Special Warranty Deed from Richmond Petroleum, Inc.,  
18 to Consolidated Oil & Gas, which essentially conveys  
19 all of Richmond's right, title, and interest,  
20 whatever that may be, in and to the wells shown on  
21 Exhibit A and the leases to follow on Exhibit A.

22 Q. Have you also made a search of information  
23 concerning what Richmond has expended for each of the  
24 wells involved?

25 A. Yes, sir. You should have before you

1 Exhibit 10, which is a fairly detailed itemization of  
2 the cost of each of the three wells.

3 Q. What's the source of this information?

4 A. Richmond's accounting department.

5 Q. Have you satisfied yourself to the best of  
6 your knowledge that the tabulation of costs spent for  
7 each of these three wells is as accurate as you can  
8 determine it to be?

9 A. Yes, we have.

10 Q. And what is your conclusion?

11 A. We believe this to be an accurate  
12 representation of what Richmond spent, especially  
13 when compared to their well files.

14 Q. You have a copy for each of the three  
15 wells, starting first with the Carnes and then moving  
16 to the Federal and then finally the Miller 11?

17 A. That's correct.

18 Q. Describe for us from your perspective in  
19 terms of future costs at the time you acquired the  
20 property. What was your next step or next course of  
21 conduct for Consolidated to take the next phase of  
22 operation, if you will, for each of the wells?

23 A. Two of the wells, the Carnes and the  
24 Federal, had yet to qualify for Section 29 tax  
25 credits, which we saw as valuable not only to

1 Consolidated but for all parties, working interest  
2 and royalty.

3 The deadline for filing the application  
4 had been extended to March 31, and that was something  
5 that was deemed as valuable by all parties, and we  
6 felt the need to proceed with that immediately prior  
7 to entering into or conducting full-scale completion  
8 on all the wells.

9 Q. What was the timing to complete that  
10 particular phase of activity?

11 A. We had to have the application filed prior  
12 to the end of March.

13 Q. In order to file the application, what, if  
14 anything, did you have to do or have done to the  
15 Federal well or the Carnes 11 Well?

16 A. The Federal well, and let me say that Mr.  
17 Harrison can go into much greater detail, but the  
18 Federal well essentially had to be drilled into the  
19 coal formation, and we needed to establish that there  
20 was coal bed methane by bringing gas to surface.

21 The Carnes well had already penetrated the  
22 coal formation. Work needed to be done essentially  
23 to bring gas to surface.

24 Q. For the Miller 11 Well, that well under  
25 operations by Richmond had already been perforated in

1 the coal?

2 A. Yes. They did that in December of 1992  
3 prior to the original expiration of the filing date.

4 Q. Were the tax credit filings timely made  
5 for that well?

6 A. Yes, sir.

7 Q. Identify for us what we're looking at for  
8 Exhibit No. 11?

9 A. Exhibit No. 11 is Consolidated's  
10 authorization for expenditure. It was provided to  
11 all parties for the further completion work, and when  
12 I say that I mean bringing gas to surface that we  
13 just discussed on the Carnes' well and for the  
14 Federal well.

15 Q. Is this the last expenditure required for  
16 either the Carnes or the Federal well in order to  
17 have them ready and capable of gas production out of  
18 the coal gas pool?

19 A. No, sir. All we've established is the  
20 availability of coal and coal bed methane in these  
21 wells. Mr. Harrison can go into much greater detail,  
22 but essentially what we need to do is supply  
23 facilities to these wells, to fracture stimulate  
24 these wells, and to hook these wells up to a gas  
25 gathering system.

1 Q. Did you circulate the AFE shown on Exhibit  
2 No. 11 to any of the parties for which you now seek  
3 pooling orders from Examiner Catanach?

4 A. The appropriate AFE's were submitted to  
5 all parties.

6 Q. That would have included Mr. Anderson?

7 A. Yes, sir.

8 Q. Would it have included Mr. Rubow and Mr.  
9 Baker?

10 A. Yes, sir.

11 Q. And all the others for which you're  
12 seeking pooling?

13 A. Yes.

14 Q. Do you have any recommendation or opinion  
15 to the examiner as to what, if any, modification of  
16 the overhead operating rates for each of the wells?  
17 In the original pooling orders, if memory serves me  
18 correctly, the pooling orders provided for overhead  
19 rates.

20 And if you'll look at the Order R-9033 in  
21 Exhibit 5, for the Federal well, it was \$3,500  
22 drilling well rate and then \$350 a month producing  
23 well. And then if you turn to the Miller 11 order,  
24 it's \$4,500 a month and \$450 a month producing. And  
25 then, finally, if you look at the last one, the

1 Carnes, that's going to be \$4,500 and \$450.

2 What, if anything, do you want the  
3 examiner to do with regards to modifying those levels  
4 of overhead rates?

5 A. Consolidated feels that the \$3,500 and  
6 \$350 is a fair amount to use and we would like to  
7 amend all three orders to read the same.

8 Q. So for the Miller 11 order, which is  
9 R-9178, you're seeking to have that reduced?

10 A. Correct.

11 Q. In addition, you're asking the Division to  
12 change the operator designated in each of the pooling  
13 orders?

14 A. Yes.

15 Q. What, if any, activity has Consolidated  
16 undertaken to file notices with the appropriate  
17 regulatory agencies that you have assumed operations?

18 A. Well, we have done just that. We have  
19 filed the necessary change of operator forms, bond  
20 requirements, and I believe we are fully installed as  
21 operator in that regard.

22 Q. And for each of these cases then you would  
23 like them amended to now substitute in Consolidated  
24 as the operator in place of Richmond?

25 A. Yes, sir.

1           Q.     Let's turn now probably to the most  
2     important part of your dealings with these matters,  
3     Mr. Wood, and it's the package of correspondence and  
4     documents that has been stapled together as a single  
5     exhibit and marked as Consolidated Exhibit 12.  
6     Before we look at the specifics, identify generally  
7     what we are now looking at.

8           A.     This is a copy of all of the  
9     correspondence that has transpired since my original  
10    notice to Mr. Rubow, Mr. Anderson, and Mr. Baker and  
11    the others. I've also included copies of any  
12    correspondence they have sent to me, some of which I  
13    believe were sent to the commission first; so it's  
14    somewhat redundant.

15                I've also included copies of, in Mr.  
16    Rubow's case, the deeds from Buddy Baker to himself,  
17    and prior to that, Mr. Rubow's interest was owned by,  
18    I believe, his company, which is Passport Energy,  
19    which conveyed it to himself.

20                I also, just for reference, include the  
21    lease from which Mr. Rubow's minerals were originally  
22    covered back in 1990 when the wells were drilled.  
23    And Mr. Anderson's case is identical, and I also  
24    include a copy of Mr. Anderson's lease that expired  
25    in 1990.

1 Q. Without having to read through all this,  
2 let me ask you to turn through the documents, and  
3 let's discuss Mr. Rubow's position and what, if  
4 anything, you've done. And if you'll turn with me  
5 until you find the Consolidated letter over your  
6 signature that is dated March 1st of 1994 -- are you  
7 with me?

8 A. Yes.

9 Q. In reference to the March 1st letter,  
10 prior to that date, did you have any verbal or  
11 written communications with Mr. Rubow concerning his  
12 interest in the Carnes' well?

13 A. I had had one face-to-face meeting with  
14 Mr. Rubow.

15 Q. What was the topic of discussion, and with  
16 what result?

17 A. The topic of discussion was not whether  
18 the lease that was in effect when Richmond drilled  
19 the well was still in effect today.

20 Q. Why was that not a topic?

21 A. Because that lease expired.

22 Q. Did Mr. Rubow communicate to you anything  
23 that caused you to believe that he agreed with that?

24 A. Yes, he believes it expired.

25 Q. In addition to the Carnes' well, is that



1 also true of the Miller well in which Mr. Rubow had  
2 an interest?

3 A. It's identical. The situation is  
4 identical.

5 Q. That situation is identical with those two  
6 spacing units?

7 A. Yes. Except for the interest involved and  
8 the cost involved, they're identical.

9 Q. That meeting with Mr. Rubow, what was the  
10 topic?

11 A. The topic was twofold. One, I made Mr.  
12 Rubow an offer to lease his unleased mineral  
13 interest. At the time we were unable to reach any  
14 sort of consensus.

15 Also, in the event that he did not wish to  
16 lease, to invite his participation in the well, or  
17 both wells, actually, by virtue of him joining in all  
18 costs from this date forward, as well as paying his  
19 proportionate share of costs incurred by Richmond.

20 Q. What did Mr. Rubow do with regard to that  
21 proposal by you?

22 A. Mr. Rubow voiced his opinion first  
23 verbally, later in writing, that -- well, he rejected  
24 my lease terms. As far as his right to participate,  
25 Mr. Rubow believes he has a right to participate in

1 the well; however, he believes his right -- and as  
2 far as I could tell, he was asserting that he already  
3 owned an interest in my wellbore, or Consolidated's  
4 wellbore.

5 MR. CARROLL: Mr. Examiner, before we go  
6 much further, I realize the Rules of Evidence are  
7 relaxed in these proceedings, but we're getting into  
8 a lot of hearsay here as to what Mr. Rubow said  
9 during these discussions.

10 MR. KELLAHIN: I respectfully disagree  
11 with you. It's not hearsay when a party of record  
12 before the Division has made admissions to my client  
13 who is under oath and here to testify. That doesn't  
14 constitute hearsay when a party involved has made  
15 admissions to this man about his interests.

16 MR. CARROLL: Whether those admissions are  
17 against his interests or not is a factual matter. It  
18 sounds like Mr. Rubow was asserting that he had an  
19 interest in the wellbore, and that is not against his  
20 interest in this matter.

21 I'd just interject that to make the  
22 examiner aware of the hearsay objections that can be  
23 made to evidence currently being entered.

24 MR. KELLAHIN: I don't want to play school  
25 on evidence, Mr. Examiner. Mr. Carroll and I are

1 going to disagree on what that is and what that rule  
2 means. What I'd like to do, though, is to put on the  
3 record what Mr. Wood believes were the issues to  
4 negotiate between himself and Mr. Rubow, what  
5 happened with those negotiations, and why he now  
6 seeks to have that interest pooled.

7 That's the predicate I need to establish  
8 for you so that you can say we've got an uncommitted  
9 interest here, and, despite our efforts, have not  
10 been able to reach an agreement and therefore are  
11 entitled to a pooling order.

12 EXAMINER CATANACH: You may proceed.

13 Q. (BY MR. KELLAHIN) The issue of difference  
14 was that Mr. Rubow asserted to you that he had an  
15 ownership interest in the wellbore?

16 A. That is correct. And that he was more  
17 than happy to participate in the further completion  
18 of the well and operation of the well; however, he  
19 asserted that his right was absent of having to pay  
20 any costs previously incurred in the drilling of the  
21 well.

22 Q. Subsequent to that conversation, did you  
23 offer in writing for each of those two spacing units,  
24 the Carnes and the Miller spacing unit, another  
25 offer?

1 A. It was basically the same offer.

2 Q. But you have now repeated it in detail in  
3 writing?

4 A. In writing. And that was my letter of  
5 March 1st.

6 Q. With regards to the value of a proposed  
7 lease acquisition, did you offer Mr. Rubow the same  
8 range of compensation that you had been offering  
9 others?

10 A. I offered Mr. Rubow exactly what I had  
11 offered other people in the exact same tracts that  
12 Mr. Rubow's interest was derived.

13 MR. KELLAHIN: We are looking, Mr.  
14 Examiner, at the correspondence from March 1st of  
15 '94. And the particular copy I have in front of me  
16 says the Carnes' well. It's addressed to Mr. Rubow.

17 Q. In terms of the compensation under a lease  
18 arrangement, had you been successful in obtaining  
19 leases from other interest owners in those spacing  
20 units at those rates?

21 A. Yes, sir, we have.

22 Q. What, if any, response did you get from  
23 Mr. Rubow concerning your proposal of March 1, if you  
24 will, for the Carnes' well, and the March 4th letter  
25 for the Miller well?

1           A.     Mr. Rubow verbally rejected our offer to  
2     lease and our premise concerning costs.

3           Q.     Did his position change from your  
4     conversation earlier with him?

5           A.     No, it did not.

6           Q.     The point of difference is still the same?

7           A.     Yes, it is.

8           Q.     Summarize for us, Mr. Wood, if you have an  
9     opinion, why you have disagreed with Mr. Rubow on his  
10    contention about not having to pay for actual cost  
11    already spent in this basin?

12           MR. ANDERSON:   Your Honor -- excuse me, I  
13    didn't mean to say Your Honor, but I did, didn't I?  
14    I'm going to object to Mr. Wood testifying as to a  
15    matter of law.   The question that has been posed to  
16    him is not a question of fact that's within his  
17    capacity to answer, but rather it's a question of law  
18    and a matter for a court.

19           MR. CARROLL:   Mr. Anderson, what exactly  
20    is the question of law that you're bringing up?

21           MR. ANDERSON:   The question of law is why  
22    is Consolidated entitled to Richmond's costs from Mr.  
23    Rubow.   That is a matter of law.   The right of  
24    Consolidated to those costs is a matter of law.   It's  
25    not an opinion question for a witness.

1 MR. KELLAHIN: Mr. Anderson and I are  
2 going to disagree. Without objection, Mr. Wood has  
3 been qualified as an expert petroleum landman, and  
4 within the context of that expertise, he certainly  
5 can reach and express an opinion as to why he and Mr.  
6 Rubow have disagreed about how and if Mr. Rubow  
7 participates in this well and whether or not he is  
8 entitled to benefit in some cost arrangements.

9 We've been talking about it for almost an  
10 hour now, and I think it's the next logical question  
11 to ask and fully within his expertise.

12 MR. ANDERSON: Certainly the question as  
13 to whether or not they agree to disagree is within  
14 his competence. As to why Consolidated is entitled  
15 to Richmond's costs, that's not within his  
16 competence.

17 MR. CARROLL: Mr. Anderson, and I'd  
18 recommend to the examiner here, I think he's  
19 testifying as to why there's a disagreement, and he  
20 is not testifying as to his opinion on the legal  
21 matter.

22 MR. ANDERSON: Okay.

23 MR. CARROLL: Is that correct?

24 MR. KELLAHIN: I'm going to ask him his  
25 opinion on that disagreement.

1 MR. ANDERSON: My point was he wants his  
2 legal opinion on that matter, and he's not competent  
3 to testify as to that.

4 MR. CARROLL: I think, Mr. Examiner --

5 MR. KELLAHIN: Mr. Anderson has misstated  
6 my question. I'm not asking him a legal opinion.  
7 I'm asking him a professional expert opinion within  
8 his expertise.

9 MR. CARROLL: Mr. Examiner, I'd recommend  
10 that the witness be allowed to answer the question,  
11 and you need to take under consideration that he's  
12 not a lawyer and his opinion is given for what it's  
13 worth, and it's sure not in any way binding upon you.

14 EXAMINER CATANACH: Yes, because this is  
15 not the final say-so by any means in this matter, I'm  
16 sure. And this will probably just be considered  
17 their opinion in the matter. So I will go ahead and  
18 allow it.

19 THE WITNESS: Can you restate the  
20 question?

21 MR. KELLAHIN: Yes, sir.

22 Q. Mr. Rubow asserted to you that he was  
23 unwilling to make an agreement, and the problem with  
24 the agreement was that he wanted to be credited with  
25 his proportionate share of the actual costs already

1 spent. Is that a correct statement of what he told  
2 you?

3 A. Yes.

4 Q. All right. What position did you take on  
5 behalf of your company in response to his position?

6 A. I believe Mr. Rubow is incorrect. And the  
7 reasons I believe Mr. Rubow is incorrect, I mean,  
8 once again, take you back to the acquisition of these  
9 properties. When Consolidated was looking at and  
10 later acquired these properties from Richmond, we  
11 didn't -- we recognized that their ownership in the  
12 well might be disproportionate or higher than their  
13 rights to production. In other words, I knew that  
14 Mr. Rubow's interest was unleased. I did not credit  
15 Mr. Rubow with an automatic interest in the wellbore,  
16 and I'll explain why.

17 These, both wells, the Miller and the  
18 Carnes, were drilled under -- by virtue of farmouts  
19 and under the Commission orders. Those Commission  
20 orders provided Richmond the opportunity to drill  
21 Fruitland coal wells and subsequently establish  
22 production and to operate those wells on a unit basis  
23 and pool interests that did not participate.

24 Richmond did not perform under those  
25 orders, fully perform, in my opinion. Richmond did



1 drill the wells, but Richmond never completed the  
2 wells, as I believe was required by the order, for  
3 quite some time afterwards.

4 In fact, the Carnes' well, Richmond never  
5 did touch again. Essentially, it was just a borehole  
6 that it penetrated, it was cased through the  
7 Fruitland coal. No gas had been brought to surface.  
8 No production had been established.

9 The Miller well was in the same position  
10 until December of '92, when, for whatever reason,  
11 Richmond chose to complete that well.

12 In other words, what I'm saying is that  
13 the original Commission orders provided Richmond with  
14 the opportunity to drill Fruitland coal wells and to  
15 subsequently pool interests. Richmond did not  
16 perform under the original orders.

17 Obviously, leases did expire, and I don't  
18 believe that anything that has transpired  
19 retroactively gives Mr. Rubow any sort of interest in  
20 that wellbore. We have never questioned Mr. Rubow's  
21 right to production in the event that coal bed  
22 methane production is established and 320-acre  
23 equivalent spacing unit is used. We have never  
24 questioned that.

25 We have merely questioned his right to

1 essentially have retroactive ownership in the  
2 wellbore or wellbores.

3 Q. Have you been involved in land title  
4 transactions and arrangements where oil and gas  
5 leases have terminated or expired of their terms and  
6 have not been held by production?

7 A. In this --

8 Q. In any of your dealings as a landman  
9 within the course of your professional experience,  
10 have you dealt with the sequence of expiring oil and  
11 gas leases within a spacing unit?

12 A. Yes.

13 Q. Do you have a copy of the Rubow oil and  
14 gas lease that is the subject in this case?

15 A. Yes.

16 Q. Mr. Rubow's interest in the spacing unit  
17 was a mineral interest?

18 A. Yes.

19 Q. Is there a copy of the oil and gas lease  
20 that affected his interest?

21 A. Yes. I believe it's stapled behind all of  
22 the correspondence. It's the Stella Quintana lease  
23 dated May 20, 1988.

24 Q. The Stella Quintana lease to McElvain?

25 A. That is correct.

1 Q. How in that lease does Mr. Rubow have an  
2 interest?

3 A. Have an interest in what?

4 Q. By the time that Richmond drilled the  
5 well?

6 A. Mr. Rubow purchased, along with others,  
7 the mineral interest that was covered by this lease.

8 Q. How does that interreact with the  
9 Quintana-McElvain lease that's dated May 20, 1988?

10 A. I'm not sure I understand the question.

11 Q. What is the source of Mr. Rubow's interest  
12 in the spacing unit? Did he get a lease from  
13 somebody, or does he own the minerals?

14 A. He owns the minerals.

15 Q. Were those minerals ever under lease to  
16 McElvain, to Richmond, or anyone else?

17 A. It's my understanding they were under  
18 lease at the time he bought them by virtue of this  
19 lease of May of '88 to T.H. McElvain, Jr.

20 Q. He bought the oil and gas mineral interest  
21 that was subject to the Stella Quintana lease to  
22 McElvain?

23 A. That's correct.

24 Q. When this lease expired then, he had the  
25 underlying mineral interest?

1 A. That is correct.

2 Q. All right, I'm with you. In order for  
3 Richmond to do something on either of those spacing  
4 units, to hold and make effective this oil and gas  
5 lease that would burden the Rubow interest, what  
6 would Richmond have to have done?

7 A. Richmond would have had to had either a  
8 producing well or a well, in this case, I'm assuming  
9 we're talking gas, a gas well capable of production  
10 shut in.

11 Q. And did that occur in either case?

12 A. No, it did not.

13 Q. And therefore the lease expired?

14 A. That is correct.

15 Q. Do you find any other document or  
16 agreement by which Mr. Rubow would have committed his  
17 interest to the well?

18 A. No.

19 Q. By which he would have committed his  
20 interest to the spacing unit?

21 A. No.

22 Q. Was the well located on his lease?

23 A. No, it was not.

24 Q. The Buddy Baker interest, is that a  
25 similar arrangement as the James Rubow interest?

1 A. It's identical.

2 Q. Would your opinions, conclusions, and  
3 statements about James Rubow be the same if applied  
4 to the Buddy Baker interest?

5 A. Yes.

6 Q. You contacted Mr. Baker before he  
7 committed his interest to Mr. Rubow, and you were not  
8 able to make a lease arrangement with him?

9 A. That is correct.

10 Q. Let's turn now to the subject of the  
11 Anderson interest. If you'll thumb through the  
12 correspondence, there is a letter dated March 1st of  
13 '94 as to the Federal well in the east half of 9  
14 spacing unit, and then there's one for the Carnes in  
15 the south half of 11, dated also March 11.

16 A. Yes, sir.

17 Q. Do you recall those in succession?

18 A. Yes, sir.

19 Q. Following writing that letter, did you  
20 have any verbal or other correspondence, written or  
21 otherwise with Mr. Anderson?

22 A. I had telephone communication with Mr.  
23 Anderson.

24 Q. What was the context of the conversation?

25 A. Although I do not remember word for word,

1 it was essentially the same as with Mr. Rubow. It  
2 was, one, an introduction; two, a description of our  
3 situation or our plans, how we perceived things to  
4 be. And I'm not sure, so I won't say -- I'm not sure  
5 if I made Mr. Anderson a verbal lease offer in any  
6 verbal communication.

7 Q. Do the two March 1st letters of this year  
8 represent your first written specific proposal to Mr.  
9 Anderson for his individual and the trust interests  
10 in each of those spacing units?

11 A. Yes, they do.

12 Q. What, if any, response did you receive  
13 back from him?

14 A. I'm not sure what other verbal  
15 communication. We've had other verbal  
16 communication. I'm not sure where it fits into the  
17 sequence of events. Essentially, Mr. Anderson  
18 responded in writing with his letter of March 14.

19 Q. Let's find that. Where in the package  
20 will we find that?

21 A. That will be right above my letters.

22 Q. It follows prior to your letter?

23 A. Subsequent to my letter, on top of.

24 Q. What position does he take concerning the  
25 negotiation?

1           A.     Mr. Anderson essentially asserts a similar  
2     opinion as did Mr. Rubow in that he believes he does  
3     have the right to participate in the well without  
4     paying any share of any back expenses in drilling the  
5     well.

6           Q.     Does Mr. Anderson maintain in any of his  
7     conversations or writings with you that the lease of  
8     his interest is still an effective lease?

9           A.     No. Mr. Anderson and I fully agreed from  
10    the beginning, asserted that his lease had expired.

11          Q.     When we look at his lease, what are we  
12    looking at, and where is it found in this package?

13          A.     It's in the back of my letters.

14          Q.     It's on legal paper?

15          A.     It's on legal paper. It's a Xerox. My  
16    apologies, it's somewhat poor. It's in a different  
17    form than Mr. Rubow's. It's a lease dated July 19,  
18    1988, once again, to T.H. McElvain, Jr., covering  
19    lands in the southeast southeast of Section 9 and the  
20    southeast southwest of Section 11.

21          Q.     Primary term of two years?

22          A.     Primary term of two years. The effective  
23    date of the lease was July 19, 1988.

24          Q.     Did you make Mr. Anderson and the trust a  
25    similar offer as you made to Mr. Rubow and Mr. Baker

1 concerning a proposed lease or farmout or  
2 participation?

3 A. I made them an identical lease offer and  
4 identical participation offers, the only adjustment  
5 being their interest.

6 Q. When you look at the sequence of events,  
7 did you come to a conclusion concerning whether any  
8 of the activity by Richmond on either the Federal  
9 well or the Carnes well was sufficient to extend the  
10 Anderson lease beyond its primary term?

11 A. After examining it, I don't believe that  
12 there was sufficient activity to extend the lease,  
13 no.

14 Q. Did you advise Mr. Anderson that you and  
15 he disagreed about the cost allocation and whether or  
16 not his interest should bear actual costs already  
17 spent?

18 A. Yes, both verbally and in writing.

19 Q. And you've not been able to resolve that?

20 A. No, I have not.

21 MR. KELLAHIN: That concludes my  
22 examination of Mr. Wood. We would move the  
23 introduction of his Exhibits 1 through 12, and let me  
24 renew my request to substitute the appropriate sundry  
25 notice for the Miller 11 Well instead of the Miller



1 10. We're asking permission to withdraw Exhibit 8-B  
2 and to give you the right form.

3 EXAMINER CATANACH: Is there any  
4 objection?

5 MR. ANDERSON: No objection.

6 EXAMINER CATANACH: Exhibits 1 through 12  
7 will be admitted, and Exhibit 8-B will be substituted  
8 at a later time.

9 EXAMINER CATANACH: Mr. Anderson, do you  
10 have any questions of the witness?

11 MR. ANDERSON: Yes, sir, I do. Just for  
12 my own edification, since I've never done this  
13 before, Mr. Catanach, I met you, but, sir, I don't  
14 know who you are.

15 MR. CARROLL: Rand Carroll is my name.

16 MR. ANDERSON: Randy?

17 MR. CARROLL: Just Rand.

18 MR. CARROLL: Rand Carroll. And you are  
19 an attorney, Mr. Carroll?

20 MR. CARROLL: Yes.

21 MR. ANDERSON: Is it C-A-R-R-O-L-L?

22 MR. CARROLL: You got it.

23 MR. ANDERSON: Are you general counsel to  
24 the Commission?

25 MR. CARROLL: Yes, I am.

## EXAMINATION

BY MR. ANDERSON:

Q. Mr. Wood --

A. Yes, sir.

Q. Let's see. After you completed the acquisition by Richmond, did you have to go back and buy a bunch of leases to shore up the title?

A. I'm not sure what you mean by a bunch, but we did acquire some new leases, both on minerals that were unleased -- were never leased by Richmond or anyone else at the time that they drilled the well, and some of those that had expired, that is correct.

Q. Can you give me an approximate number of the leases that you bought? This would include both New Mexico and Colorado?

A. The Colorado -- Colorado is not in a similar situation from the standpoint that there is -- and it is not shown on the map that there's conventional production. By that I mean Mesaverde and other production throughout the area in Colorado, that HVP's most of the leases.

Q. So Richmond's title in Colorado was okay?

A. Richmond's title in Colorado presented different challenges than their title in New Mexico.

Q. Then you didn't have to buy any leases in

1 Colorado?

2 A. I have not yet, no.

3 Q. But you're going to have to?

4 A. I'm not saying I won't, but I haven't  
5 finished my -- these wells are not -- the wells in  
6 Colorado are not on line either. I don't want to  
7 tell you that there won't be additional leases taken  
8 in Colorado. I'm saying I can't tell you of one  
9 today that I'm in the process of taking or that I  
10 know I have to take.

11 Q. So all the leases that you took were in  
12 New Mexico?

13 A. Yes.

14 Q. All the new leases?

15 A. All the new leases.

16 Q. And approximately how many of those did  
17 you take?

18 A. Two. Two leases, three individuals.  
19 Yeah, I wouldn't call it a bunch.

20 Q. What was the most you paid for any of  
21 these leases?

22 A. In dollar amount?

23 Q. Yeah?

24 A. \$60 per net acre.

25 Q. And the maximum royalty that you paid?

1 A. 20 percent.

2 Q. And the best term that was given?

3 A. Primary term?

4 Q. Right, primary term?

5 A. One year.

6 Q. You said that Richmond acquired McElvain's  
7 interest by way of a farmout; is that right?

8 A. Yes. Most, and I stress the word "most,"  
9 of Richmond's interest was derived through a farm-in  
10 from T.H. McElvain.

11 Q. Is that attached as an exhibit?

12 A. No, it is not.

13 Q. Do you have copies of those farm-in  
14 agreements with you?

15 A. No, I do not. I didn't think they would  
16 be pertinent to the discussion. I can tell you that  
17 in the McElvain, as well as any other farm-ins that  
18 Richmond may have had, no assignments have yet been  
19 made -- were made to Richmond or have been made to  
20 Consolidated.

21 When we were in the process, and I'm not  
22 sure of the sequence of the events, but either in the  
23 process or had just acquired these properties, I  
24 spoke with each and every farmor, such as T.H.  
25 McElvain, and secured an agreement, or I guess I'll

1 use the term "ratification," even though nothing was  
2 called ratification, that those farmouts would still  
3 be in force and effect if indeed Consolidated was  
4 successful in establishing coal bed methane  
5 production.

6 Q. So apparently McElvain never felt  
7 compelled to assign the leases that McElvain owned to  
8 Richmond?

9 A. Not that I've ever seen, no.

10 Q. Have you checked the records in San Juan  
11 County?

12 A. Personally?

13 Q. Yes.

14 A. No. I might add that the new leases, that  
15 one of the new leases I took pursuant to my agreement  
16 was actually taken in the name of T.H. McElvain.

17 Q. In the farm-in agreement --

18 A. Which, with McElvain?

19 Q. Yes. I'm not sure I really want to ask  
20 you because I don't have a chance to cross-examine  
21 the document. I would like to know whether or not  
22 McElvain was obligated under the terms of the farm-in  
23 to convey its title to Richmond, but I would rather  
24 see the document. Would it be possible to have  
25 Consolidated send me those farm-in agreements?

1 EXAMINER CATANACH: Mr. Kellahin?

2 MR. KELLAHIN: I don't know what it's  
3 relevant for. If Mr. Anderson can persuade it's  
4 somehow relevant to your decision, Mr. Examiner.  
5 They are matters I guess we can find and are subject  
6 to discovery, if they're somehow determined relevant.

7 MR. CARROLL: Mr. Anderson, what is the  
8 relevance of the farm-in agreements to matters at  
9 hand here?

10 MR. ANDERSON: Well, it's related to  
11 whether or not my lease is still in force and  
12 effect. And there is an assignment on the record in  
13 San Juan County from Richmond to Consolidated in my  
14 lease, but the records are completely void of any  
15 assignment from McElvain to Richmond.

16 Consolidated is contending that they  
17 acquired all of Richmond's interest, but I don't  
18 think Consolidated acquired my lease. That's the  
19 point.

20 MR. CARROLL: Correct me if I'm wrong, Mr.  
21 Anderson, but hasn't Consolidated admitted that your  
22 lease has expired?

23 MR. ANDERSON: They think it's expired and  
24 I think it's expired, but of record it's still  
25 there. There's been no release filed. I haven't

1 gotten a release from anybody. If you had an  
2 attorney examine the title, they would tell you that  
3 your minerals were still under lease until you got  
4 the release. And this bears on whether or not I am  
5 an owner under the terms of the statute that confers  
6 jurisdiction of the Commission upon me, that confers  
7 jurisdiction over me.

8 MR. KELLAHIN: Mr. Examiner, this is an  
9 issue of concern to Mr. Anderson but is not relevant  
10 to you. If McElvain has not filed a release of  
11 record to the oil and gas lease, that's of no  
12 consequence here.

13 MR. ANDERSON: I'm sorry --

14 MR. KELLAHIN: All parties admit that the  
15 lease has expired.

16 MR. ANDERSON: I'm sorry, but that's just  
17 not the case at all. For the Commission to have  
18 jurisdiction over me as an owner, I have to have the  
19 right under the statute to drill a well and to  
20 produce it. That's what the statute says.

21 MR. CARROLL: Mr. Anderson?

22 MR. ANDERSON: Right.

23 MR. CARROLL: You'd have to show me that  
24 statute. If you own mineral interest in the State of  
25 New Mexico, I believe we have jurisdiction over you.

1 MR. ANDERSON: No, sir, that's not right.  
2 For this Commission to have jurisdiction over me in  
3 this hearing, I have to be an owner in terms of the  
4 statute.

5 MR. CARROLL: I beg to differ there, Mr.  
6 Anderson.

7 MR. ANDERSON: Well, what I'm talking  
8 about is Section 7-2-17, paragraph C, and then  
9 further the term "owner" is defined by Section  
10 7-2-33: "Owner means a person who has the right to  
11 drill into and to produce from any pool and to  
12 appropriate the production either for himself or for  
13 himself and another." And I'm telling you that I  
14 don't have that right as I stand here today because  
15 the condition my lease is in.

16 MR. CARROLL: Can we go off the record?

17 (A discussion was held off the record.)

18 MR. CARROLL: Let the record reflect that  
19 we've had a discussion whether the Commission has  
20 jurisdiction over this matter. After recommendation  
21 from counsel, the examiner has ruled as follows. Go  
22 ahead.

23 EXAMINER CATANACH: I think that we'll  
24 continue on the assumption that Mr. Anderson does  
25 have an interest, although that may be subject to



1 some litigation. We can only assume at this point  
2 that he does have an interest and proceed at that,  
3 but I don't know what else we can do at this point.

4 MR. ANDERSON: Could I add one thing,  
5 please.

6 EXAMINER CATANACH: Yes, sir.

7 MR. ANDERSON: That we also discussed  
8 whether or not the Commission has jurisdiction over  
9 me as an individual, as an owner under the terms of  
10 the statute.

11 MR. CARROLL: That is correct, that  
12 discussion was had during the recess. Whether that  
13 interest is cloudy or in doubt, it is still an  
14 interest, and you are an owner of that interest, and  
15 by being here and voluntarily subjecting yourself to  
16 the jurisdiction of the Commission, we believe we  
17 have jurisdiction.

18 MR. ANDERSON: May I respond to that,  
19 please.

20 MR. CARROLL: Sure.

21 MR. ANDERSON: If I hadn't showed up, then  
22 probably the order would have been issued, and I  
23 would not have had the right to raise it on appeal  
24 because the district court in hearing appeals cannot  
25 hear new evidence. So me being here voluntarily is

1 not an indication that I think I'm subject to the  
2 Commission's jurisdiction but rather preserving my  
3 right on appeal.

4 MR. CARROLL: Mr. Anderson, your interest  
5 is subject to the jurisdiction of this Commission,  
6 and just based upon that interest, I believe you  
7 would have the right of appeal.

8 MR. ANDERSON: Okay. Well, I guess  
9 there's no sense in going any further.

10 Back to my question, can I get copies of  
11 the farm-in agreement between McElvain and Richmond?

12 MR. KELLAHIN: We would object on the  
13 grounds of relevance, and you'll need to decide that  
14 issue.

15 MR. ANDERSON: Mr. Examiner, to explain  
16 what the relevance is, it's a question of whether or  
17 not I'm an owner under the terms of the statute which  
18 subjects me to the Commission hearing.

19 EXAMINER CATANACH: Will those documents  
20 enable you to make the determination that you are?

21 MR. ANDERSON: It will help me figure out  
22 who owns my lease. For instance, if all that was  
23 required under the farm-in agreement was for Richmond  
24 to drill a hole and it says nothing about completion,  
25 then Richmond probably is entitled to an assignment

1 from McElvain.

2 If, on the other hand, the farm-in  
3 agreement, which is more customary, requires the  
4 actual completion and production, then it's possible  
5 that Richmond never earned the interest and that  
6 McElvain still owns the lease.

7 EXAMINER CATANACH: Mr. Anderson, is this  
8 the same issue that you're taking to court?

9 MR. ANDERSON: It's one of them. I'm  
10 trying to figure out who to sue to get my lease back  
11 or to get the lease terminated. And originally I  
12 sued Richmond and Consolidated, but after looking at  
13 the records in San Juan County, Richmond never  
14 acquired it of record.

15 Today is the first time I ever heard about  
16 the existence of this farm-in agreement, but I need  
17 to know whether the terms of the farm-in, Richmond is  
18 entitled to an assignment from McElvain.

19 Somebody is obligated to give me a  
20 release, and I don't know who it is. It's either  
21 McElvain, Richmond, Consolidated or everybody else  
22 that signed a voluntary pooling agreement.

23 MR. CARROLL: Excuse me, Mr. Anderson, but  
24 didn't Mr. Wood under oath say that the lease had  
25 expired that you have an interest in?

1 MR. ANDERSON: He did.

2 MR. CARROLL: It appears to me you have an  
3 open-and-shut case if you go to court.

4 MR. ANDERSON: I think it's open and shut,  
5 but I don't know who to sue to get it, whether I sue  
6 in Texas or New Mexico. I've got to sue somebody.

7 MR. KELLAHIN: This recourse is against  
8 McElvain. They're the ones that are the parties to  
9 the farm-in or the farmout.

10 MR. ANDERSON: We don't know what the  
11 farm-in says. Like I said, if Richmond is obligated  
12 to get an assignment or is entitled to an assignment  
13 from McElvain, then Richmond and Consolidated ought  
14 to be parties to the suit.

15 MR. CARROLL: Mr. Anderson, you're  
16 addressing matters outside the scope of this  
17 hearing. Your recourse is against McElvain. If they  
18 won't file a release of the lease, sue McElvain, but  
19 it really doesn't pertain to the matters here before  
20 the Division.

21 MR. ANDERSON: I think it bears on the  
22 ownership issue.

23 MR. CARROLL: Excuse me. You either have  
24 a royalty interest under the lease or you own the  
25 mineral interest.

1 MR. ANDERSON: Right.

2 MR. CARROLL: You're an owner either way.

3 MR. ANDERSON: No. If you're just a  
4 royalty owner, you don't have the right to drill and  
5 complete a well and to withdraw the production;  
6 therefore, you're not subject to any pooling order.

7 MR. CARROLL: But you've taken the  
8 position the lease has expired?

9 MR. ANDERSON: I have.

10 MR. CARROLL: And that you are the owner?

11 MR. ANDERSON: I have.

12 MR. CARROLL: You've said that on the  
13 record; therefore, you're an owner under the statute  
14 and we have jurisdiction over you and over this  
15 matter by your own admission.

16 MR. ANDERSON: No. That's not the way it  
17 works, though. You have to have legal right to drill  
18 and withdraw from the pool.

19 MR. CARROLL: You do have the legal right  
20 to drill. If you want to clear your title, then you  
21 sue McElvain to get a release of record.

22 MR. ANDERSON: If your title has a cloud  
23 on it, then you don't have the right. You couldn't  
24 get a partner in Texas or New Mexico to drill a well  
25 with you.

1 MR. CARROLL: That's outside the scope of  
2 our regulatory authority; so --

3 MR. ANDERSON: Can I get a copy of the  
4 farm-in?

5 MR. KELLAHIN: He needs to make demands  
6 upon McElvain to get the farm-in. It's not my  
7 problem. He can't have it both ways. He can't be a  
8 lessee and receive his royalty and, on the other  
9 hand, not, and yet want a share of actual costs spent  
10 without having paid for it.

11 His problem is with McElvain, and that's  
12 why we have force pooling, and that's why  
13 Consolidated gets to utilize it. And we don't need  
14 to get in his box in this problem. He needs to go  
15 see McElvain.

16 THE WITNESS: If it would be of  
17 assistance, and I hope I'm not out of line, I'm  
18 willing to testify that, in my opinion, Richmond did  
19 not earn an assignment or the rights to an assignment  
20 of your lease from McElvain, and, therefore, one was  
21 never given, having read the farmout myself.

22 EXAMINER CATANACH: Let's take a short  
23 recess.

24 (A recess was taken.)

25 EXAMINER CATANACH: We'll call the hearing

1 back to order at this time, and we're going to  
2 continue with this case. And, Mr. Anderson, I  
3 believe that you're still cross-examining the  
4 witness.

5 MR. ANDERSON: Yes, sir. Thank you.

6 EXAMINER CATANACH: Maybe we ought to  
7 settle the issue about the agreement that you  
8 requested. Mr. Kellahin has agreed off the record to  
9 check with McElvain, and if it's not -- the agreement  
10 is not proprietary in any fashion, that he will  
11 release it to the Division.

12 MR. KELLAHIN: I will ask McElvain if they  
13 will release it to the Division, to Mr. Anderson, and  
14 to me, and we'll advise all the parties of what their  
15 response is. And I will do that tomorrow as soon as  
16 Mr. Wood and I can get back to our offices.

17 Q. (BY MR. ANDERSON) Let's see, Mr. Wood.

18 A. I've forgotten where we were at.

19 Q. Me too. Let me clear up something that's  
20 a problem in my mind. I got the impression from your  
21 earlier testimony that you weren't sure whether or  
22 not my lease was committed to the Carnes and the  
23 Federal wells; is that correct?

24 A. The question is, is your lease committed  
25 to those wells?

1 Q. Well, no. I got the impression that you  
2 didn't know or you weren't sure whether or not my  
3 lease was committed to the Carnes and Federal wells.

4 A. Okay. Why I --

5 Q. I'm asking you, do you know whether or not  
6 it was?

7 A. It was?

8 Q. I'm asking you, do you know whether or not  
9 it was committed?

10 A. Back when? I guess that's what I'm trying  
11 to figure out. How far back are you going, when? At  
12 the time of the original order or at the time the  
13 wells were drilled?

14 Q. At the time the wells were drilled, I  
15 guess.

16 A. Which was after the original order had  
17 been issued or orders. And your lease and the way I  
18 read the order and the way I understand is your lease  
19 was committed to the well if indeed Richmond -- to  
20 the unit, if indeed Richmond performed; i.e.,  
21 drilling the well and completing the well as a  
22 producing coal bed methane well.

23 Q. So you're not aware of any declaration of  
24 pooling agreements -- you said you hadn't checked the  
25 records in San Juan County?



1           A.     I said I personally had not gone to San  
2 Juan County and checked the records.

3           Q.     So you're not aware of any declaration of  
4 pooling agreements?

5           A.     I am aware that Richmond and the other  
6 working interest owners filed declarations pooling, I  
7 think, on all of these wells.

8           Q.     My research shows there were two pooling  
9 agreements filed.

10          A.     Are we talking about one well, or we  
11 talking about --

12          Q.     They covered separate wells. One was on  
13 the Carnes well, and one was on the Federal well.  
14 And that my lease was listed in Exhibit A to those  
15 two pooling agreements. Do you know that to be the  
16 fact?

17          A.     I believe that to be true, yes.

18          Q.     Have you had a title opinion done on the  
19 Carnes and Federal wells?

20          A.     No, sir.

21          Q.     Do you plan to have one done?

22          A.     Yes, sir.

23          Q.     Are you familiar with how the Carnes and  
24 the Federal wells were drilled, or should I discuss  
25 that with --

1 A. Mechanically?

2 Q. Right.

3 A. I suggest you save your questions for Mr.  
4 Harrison.

5 Q. Okay. How much did Consolidated pay for  
6 the Carnes well?

7 A. I believe that's confidential information.

8 Q. Well, it may be confidential, but it's  
9 real relevant. I mean, you're asking me to reimburse  
10 Consolidated based on Richmond's costs, but you may  
11 have paid 15 bucks for it.

12 A. I can assure you we did not allocate 15  
13 bucks to it. But when discussing -- and stop me if  
14 you wish, but I was asked the question. When you're  
15 trying to talk about one well in a large acquisition,  
16 the large acquisition includes countless liabilities,  
17 countless problems, and price is not merely on a  
18 well-by-well basis.

19 Q. Mr. Wood, I know that you all did an  
20 engineering study on these wells before you bought  
21 them because you guys are competent operators, and I  
22 know you allocated a percentage of what you paid  
23 Richmond for these two wells?

24 A. Yes, we did.

25 Q. I want to know how much you paid for the

1 Carnes' well.

2 A. I'm not going to share that information at  
3 this time unless instructed to do so.

4 MR. CARROLL: Mr. Kellahin, do you have  
5 something to say?

6 MR. KELLAHIN: The witness says he doesn't  
7 have his management approval to disclose those kinds  
8 of internal cost allocations with regards to this  
9 acquisition, and I can do nothing else than defend  
10 his statement.

11 I think he's got approval to tell you the  
12 overall gross price paid for the properties, but  
13 we're not at liberty with management to disclose how  
14 that may have been itemized, if at all.

15 MR. ANDERSON: Mr. Catanach, we're just  
16 doing the Texas two-step here. They're asking me to  
17 reimburse them for costs paid by Richmond, but it may  
18 bear absolutely no relationship to what they actually  
19 paid for them. This sounds like double-dipping or  
20 unjust enrichment to me, and I think I have a right  
21 to know how much they paid for the Carnes and Federal  
22 wells.

23 MR. KELLAHIN: My position is it's not  
24 relevant what they paid for it. The question is,  
25 what is it going to cost Mr. Anderson to

1 participate. At this point he hasn't paid anything.

2 MR. ANDERSON: Fine. We'll just let  
3 Consolidated set the fare here.

4 EXAMINER CATANACH: We would rule that the  
5 information is relevant. So we would instruct the  
6 witness to answer the question as best he can.

7 THE WITNESS: If you would excuse me for a  
8 second. I didn't bring --

9 MR. KELLAHIN: May we visit about that  
10 topic, about how to respond?

11 EXAMINER CATANACH: Sure.

12 (A discussion was held off the record.)

13 EXAMINER CATANACH: Let's go back on the  
14 record at this time.

15 MR. KELLAHIN: Mr. Wood, in response to  
16 Mr. Anderson's question during the off-the-record  
17 break, did you examine in your briefcase and  
18 determine if you had a copy of that portion of the  
19 purchase agreement between Richmond and Consolidated  
20 that discloses the allocation of the purchase price  
21 back to the wellbores that are the topic of the  
22 discussion before the Division this afternoon?

23 THE WITNESS: Yes, I did.

24 MR. KELLAHIN: Has that copy that you  
25 brought with you been marked as Consolidated Exhibit

1 No. 16?

2 THE WITNESS: Yes, it has.

3 MR. KELLAHIN: Mr. Examiner, we would have  
4 this document entered in evidence as a privileged,  
5 confidential communication to be disclosed among  
6 these parties only for the purposes of the hearing,  
7 and that this portion of the transcript from here  
8 forward with the questions and answers that Mr. Wood  
9 responds to for the exhibit be treated as  
10 confidential and sealed from the public.

11 EXAMINER CATANACH: That request will be  
12 granted, Mr. Kellahin.

13 MR. ANDERSON: May I approach the witness  
14 and pick up the exhibit?

15 EXAMINER CATANACH: Yes, sir.

16 EXAMINATION

17 -Continued-

18 BY MR. ANDERSON:

19 Q. According to this exhibit, you paid  
20 roughly \$192,300 for the Carnes well?

21 A. If that's what's indicated there.

22 Q. And Richmond's cost, as reflected on  
23 Exhibit 10, \$199,000 plus under cost?

24 A. Richmond's, the total cost of drilling the  
25 well?

1 Q. Yes.

2 A. Well, I don't have it in front of me. I'm  
3 assuming you're quoting it correctly.

4 Q. I'm reading from Exhibit 10 here.

5 A. Okay.

6 Q. Then on the Federal No. 1, paid \$264,000  
7 for the well, and Richmond spent \$135,000; is that  
8 correct? I think I've got that right, about  
9 \$135,000?

10 A. I believe you're reading out of the net  
11 column.

12 Q. I'm sorry, you're right. \$140,000 plus?

13 A. Gross cost of the well.

14 Q. I think I did that on the other one, too.  
15 Richmond spent about \$224,616 on the Carnes well?

16 A. The exhibit that I just handed you is  
17 based upon Richmond's net. The figures I believe  
18 you're quoting are gross costs off Exhibit 10; is  
19 that correct?

20 Q. Yes, that's correct. So you must have  
21 given some value to gas in the ground, at least in  
22 the Federal well?

23 A. We gave value to the wellbore itself and  
24 to perceived reserves in the Fruitland coal.

25 Q. Can we go back to Richmond's costs? Did

1 Richmond prepare Exhibit 10, or did you?

2 A. Richmond did.

3 Q. And I take it they prepared this probably  
4 from their invoices or what?

5 A. Well, I would make that assumption but --

6 Q. But you don't know?

7 A. I have no idea what else they could have  
8 prepared it from.

9 Q. They didn't tell you where they got the  
10 information? They didn't say what the source of  
11 these numbers was?

12 A. Their accounting records.

13 Q. They told you that, Mr. Wood?

14 A. Yes.

15 Q. I imagine that Richmond as operator  
16 actually paid the cost, as is usual and customary,  
17 but do you know what percentages of these costs  
18 Richmond actually paid and what percentage they  
19 recouped under the JIB?

20 A. If I understand the question correctly,  
21 Richmond paid all the costs and collected all the  
22 money due them from the other joint working interest  
23 owners.

24 Q. That's what I'm trying to get at.

25 A. Yes.

1 Q. The percentage that they collected under  
2 the JIB's?

3 A. They had no outstanding JIB's at the time  
4 we bought.

5 Q. I don't mean that either. How much --  
6 let's take the Carnes well.

7 A. Yes.

8 Q. Out of \$224,616.72, how much did the  
9 partners contribute to that well?

10 A. Well, if you'll read, Richmond is showing  
11 their net at a little over \$199,000. I'm assuming  
12 that the difference was collected from the other  
13 nonoperating parties.

14 Q. So you think that this net amount column  
15 here is what Richmond was actually out-of-pocket?

16 A. I believe that's correct.

17 Q. And you stated that Richmond actually paid  
18 all the bills?

19 A. I don't know that to be a fact. It is  
20 customary for the operator to pay the bills.

21 Q. There were a ton of liens filed against  
22 Richmond in San Juan County. I didn't look at all of  
23 them. But do you know whether in fact Richmond  
24 actually paid out \$199,471.83 on the Carnes well?

25 A. No, I do not.



1 Q. Would the same be true of the Federal  
2 well, do you know that Richmond paid \$135,415.25?

3 A. No, I do not.

4 Q. Would you know, for instance, on the  
5 Carnes well, the difference between the gross amount  
6 and the net amount, would possibly that be attributed  
7 to any moneys paid by McElvain?

8 A. Can you give me an example? I'm not --

9 Q. Let's say McElvain only had my lease when  
10 it went into the well. I don't think that was the  
11 case, but let's just assume that they only had 1/32  
12 of the well. Do you know whether or not McElvain  
13 paid 1/32 of these costs?

14 A. No, I don't know. I know pursuant to the  
15 farmout agreement, they were not required to do that,  
16 and I'll make the assumption they did not, but I  
17 don't have a record of money changing hands.

18 Q. Do you know whether or not McElvain was  
19 billed anything by Richmond?

20 A. My answer is the same. Pursuant to the  
21 agreement that Richmond operated under, McElvain was  
22 to pay no costs. Richmond was to assume those costs  
23 or pay those costs attributable to McElvain's share,  
24 as is customary in a farmout agreement, if I  
25 understand what you're asking me correctly.

1 Q. What I really want to know is whether or  
2 not McElvain paid any of these costs on either the  
3 Carnes or the Federal well?

4 A. Not to my knowledge.

5 Q. But you don't know whether they did or  
6 not, actually?

7 A. I have no idea, no.

8 MR. ANDERSON: I think that's all I've  
9 got.

10 MR. KELLAHIN: I've got one point on  
11 redirect, if I may.

12 EXAMINER CATANACH: Okay, sure.

13 FURTHER EXAMINATION

14 BY MR. KELLAHIN:

15 Q. Mr. Wood, Mr. Anderson referred to two  
16 declaration of pooling agreements. There's  
17 apparently of record a declaration of pooling  
18 agreement filed for the Carnes and one filed for the  
19 Federal well. Do you understand what a declaration  
20 of pooling agreement is?

21 A. Yes, I do.

22 Q. Describe what it is.

23 A. Declaration of pooling is a voluntary  
24 pooling amongst those who possess the right to pool,  
25 typically, the lessee in most cases, not always, to

1 form a voluntary unit, typically to correspond to a  
2 spacing unit that's established by the Commission.

3 Q. Will that declaration be exercised by the  
4 operator or the lessee by utilizing the pooling  
5 provision clauses of the oil and gas leases, if those  
6 leases have those kinds of clauses?

7 A. Typically, yes.

8 Q. What happens if either before or after the  
9 declaration is filed or executed, one of the  
10 underlying oil and gas leases terminates or expires  
11 for any reason?

12 A. That lease is unaffected by the pooling.  
13 It is not a part of the pooling. The pooling  
14 requires, as I believe does the Commission order, for  
15 the operator to perform in a certain manner. It  
16 provides them an opportunity -- it outlines what will  
17 be if the operator performs; i.e., in this case, the  
18 well is drilled, the production established. If  
19 nothing happens or if that doesn't happen, then it  
20 carries no force or effect.

21 MR. KELLAHIN: Thank you.

22 EXAMINER CATANACH: Give me a couple of  
23 minutes. I've got to make a phone call.

24 (A recess was taken.)

25 EXAMINER CATANACH: Let's go back on the

1 record, and a couple of questions.

2 THE WITNESS: My exhibits are all messed  
3 up so give me time.

4 EXAMINER CATANACH: This has been like  
5 going through a maze here. I just want to clarify  
6 some issues to make sure I understand.

7 EXAMINATION

8 BY EXAMINER CATANACH:

9 Q. Going through each of these, I'm going to  
10 start with Exhibit 2, and I want to determine  
11 actually which interests have been consolidated and  
12 which interests you guys are actually pooling at this  
13 time. I mean, you've got a bunch of interests  
14 listed, if you'll look at Exhibit No. 2.

15 A. Yes.

16 Q. Obviously, all of Consolidated's interest  
17 is in the well. You don't have an agreement with Mr.  
18 Anderson, Mr. Bogeberg?

19 A. Yes.

20 Q. You do not have an agreement with him?

21 A. I do not have agreements with Anderson or  
22 Bogeberg. I was trying to show you the other working  
23 interest parties.

24 Q. Right.

25 A. I do have agreements with McElvain,

1 Raymond, and Southland Royalty.

2 Q. You do have agreements with those parties?

3 A. I do have agreements. If you'll allow me,  
4 I'll make the blanket statement that I have signed  
5 agreements -- well, they're not really agreements,  
6 they're just confirmations, from all of the original  
7 working interest owners.

8 I sent letters out that basically said our  
9 records indicate that this is the interest you have  
10 in this particular well, and please confirm that.  
11 And I also listed the agreements that they were  
12 subject to. And all parties returned those. And all  
13 parties except Mr. Anderson, Mr. Rubow, signed the  
14 AFE's for these wells.

15 Q. The Bogeberg interest was not locatable?

16 A. Correct.

17 Q. So is it your opinion that in each of  
18 these wells, the only interest that has not been  
19 consolidated are the Anderson and the Rubow  
20 interests?

21 A. Yes.

22 MR. KELLAHIN: No.

23 THE WITNESS: In addition to Bogeberg and  
24 Clark and Rodriguez, yes.

25 Q. (BY EXAMINER CATANACH) The Federal well

1 did not penetrate the coal. That's what I heard?

2 A. Correct. Consolidated did that over the  
3 last couple of months. In order to qualify for the  
4 Section 29 tax credit, once again Mr. Harrison can  
5 tell you exactly what went on, but we had to drill  
6 into the coal. I don't know why Richmond stopped  
7 prior to reaching the coal.

8 Q. That was done recently, in the past two  
9 months?

10 A. It was done, yes, once again, in order to  
11 qualify the well for the Section 29 income tax  
12 credit.

13 Q. Was that well completed?

14 A. We brought gas to surface. We consider  
15 that well as being a shut-in gas well now, waiting on  
16 fracture stimulation and pipeline and facilities.

17 Q. Would it be more appropriate to ask Mr.  
18 Harrison?

19 A. I would save your questions for Mr.  
20 Harrison.

21 Q. The other two wells, one of the wells was  
22 completed, perforated?

23 A. The Miller 11 was perforated I believe in  
24 December of '92, which at the time I believe was the  
25 deadline for the Section 29 tax credit or just before

1 the deadline.

2 Q. And the Carnes well?

3 A. The Carnes well was never perforated until  
4 just recently. I think it was done either -- I  
5 believe it was done just before the Federal well.

6 Q. That was done by Consolidated?

7 A. Yes.

8 Q. The actual drilling cost that you want to  
9 base your -- let me back up here. You've got an  
10 exhibit that shows actual well cost obtained from  
11 Richmond?

12 A. Yes, sir.

13 Q. Those just include drilling costs, or do  
14 they including costs incurred by Consolidated?

15 A. They do not include any costs incurred by  
16 Consolidated.

17 Q. Exhibit No. 11, your AFE for the Carnes  
18 and the Federal wells --

19 A. Yes, sir.

20 Q. -- those are estimates for completion  
21 costs?

22 A. Those are estimates for completion costs  
23 -- well, not all completion costs. Once again, the  
24 object of the work done in those two wells was to  
25 basically bring gas to surface, establish that it's

1 coal bed methane, and qualify for Section 29 income  
2 tax credit.

3 Q. They're estimated costs of what  
4 Consolidated has already spent?

5 A. This is what was sent out prior to our  
6 conducting the work.

7 Q. But the work has been completed?

8 A. Yes.

9 Q. Is there an exhibit showing estimated  
10 completion costs?

11 A. From this point forward?

12 Q. Right.

13 A. No, there is not. Can I suggest you save  
14 that question for Mr. Harrison?

15 EXAMINATION

16 BY MR. CARROLL:

17 Q. Mr. Wood, I have a couple of questions.  
18 What happened to Richmond, are they still in  
19 operation?

20 A. Is Richmond still --

21 Q. A company, operating?

22 A. To the best of my knowledge, they are,  
23 yes.

24 Q. Do you know what problems they were  
25 experiencing up there north of Navajo Lake in



1 completing the wells and connecting them to gathering  
2 lines?

3 A. You mean why wasn't it done?

4 Q. Right.

5 A. Do I know why? I know some of the  
6 reasons. I'm sure I don't know all. Richmond, you  
7 have to understand, drilled a lot more wells than  
8 just those that we're looking at. These are not a  
9 small portion of everything they did but certainly  
10 not the majority of everything Richmond did in  
11 whatever, four or five-year span they were an active  
12 operator.

13 I know the things that readily come to  
14 mind are the lawsuit, which all the Colorado wells,  
15 the Southern Ute lawsuit over ownership, certainly  
16 has a great impact or had on Richmond, as well as a  
17 lot of operators in Colorado. That would probably be  
18 one of the major items.

19 To be honest, I've tried to apply logic to  
20 a lot of things Richmond did, and I don't know.  
21 You'd have to ask them.

22 Q. Who owns the gathering lines in that  
23 little peninsula there?

24 A. What little peninsula?

25 Q. Jutting down south into Navajo Lake?

1 A. Into New Mexico?

2 Q. Yes.

3 A. There are no gathering lines.

4 Q. Who owns the closest gathering line?

5 A. Mr. Harrison can speak to it, but I  
6 believe it's the surface line in Colorado, which none  
7 of these coal bed wells are connected to, that's  
8 referred to as the old Tiffany line, and I believe  
9 it's owned by Southwestern, but I don't know.

10 Q. Mr. Rubow bought Buddy Baker's interest,  
11 and that was fairly recently?

12 A. He was reconveyed that interest. I'm  
13 assuming he bought it, but yes. The interest was  
14 originally at -- well, when we came on the scene, the  
15 interest was owned, split evenly between Passport  
16 Energy, I believe that's the name, and Mr. Baker.  
17 Passport conveyed its interest to Mr. Rubow, and so  
18 did Mr. Baker. So that's all been consolidated. And  
19 he has provided me, and I believe it's in the  
20 correspondence, a recorded mineral deed to that  
21 effect.

22 Q. Yes. I believe the date on it is March  
23 24, '94.

24 A. Yes. It just happened.

25 Q. You said the Section 29 tax credit, the

1 deadline was extended to March 31, 1994?

2 A. For some wells, of which these were some.  
3 I'm not sure of the full extent. I just know that in  
4 our conversation with the appropriate agencies, that  
5 these wells could qualify if indeed we did the  
6 necessary work and filled out the application, which  
7 forced us into somewhat getting the cart before the  
8 horse. We would have much rather gotten some things  
9 settled, but it's valuable to all parties, royalty  
10 owners, working interest owners, everybody. It was  
11 something that needed to be done.

12 Q. Just one more. What are JIB's?

13 A. Joint interest billings, invoices.

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

15 FURTHER EXAMINATION

16 BY EXAMINER CATANACH:

17 Q. Just a couple more, Mr. Wood. I'm still  
18 trying to make sense out of the Anderson/Rubow  
19 interests. Initially, the Anderson and Rubow  
20 interests were leased to McElvain?

21 A. That is correct.

22 Q. Now, McElvain, how did those interests get  
23 conveyed towards him?

24 A. Can I just kind of free associate here?

25 Q. Sure.

1           A.     That's kind of what we've been doing. I  
2 don't know about you gentlemen, but I'm getting a  
3 little tired.

4           You're correct. Both leases were leased  
5 to T.H. McElvain, Jr. Richmond, by virtue of a  
6 farmout agreement, which merely states that if  
7 Richmond goes out and drills wells on the properties  
8 that are completed as producers or wells capable of  
9 producing, that they would receive assignments,  
10 certain interests in those leases from T.H. McElvain.

11          Q.     And there's no cost to McElvain in  
12 drilling the wells?

13          A.     That is correct. McElvain would have an  
14 interest in the wells after payout, after Richmond  
15 recouped their costs attributable to McElvain's  
16 original interests.

17          Q.     I'm sorry, run that by me again. I was  
18 trying to write something.

19          A.     McElvain went back in for a share, I  
20 believe it was a third, at such time as Richmond  
21 recouped their costs associated with the McElvain  
22 interests; i.e., if Richmond spent \$100,000, and  
23 McElvain originally had 30 percent, once Richmond  
24 recouped the \$30,000 that McElvain would have spent  
25 had they participated in the well, then McElvain

1 would back in for a share, actually own a share of  
2 the well. Richmond did not perform, and no  
3 assignments were ever made.

4 The first thing I did when we were buying  
5 this interest is I flew down here and met with  
6 McElvain representatives and negotiated, just like  
7 I've done with everybody, laid all the cards on the  
8 table and said, "Now where do we go?"

9 The McElvains agreed to honor the terms of  
10 the farmout even though it was four years old or so,  
11 way past its term, if Consolidated would use its best  
12 efforts to complete the wells and hook them up for  
13 gas sales. McElvain and Consolidated both realized  
14 that McElvain does not have the full interest that it  
15 did back in 1990. Certain leases have expired.

16 Q. Rubow's?

17 A. Mr. Anderson's, Mr. Rubow's. And that  
18 just happens in the business. And the McElvains are  
19 fully cognizant of that. My agreement with them was  
20 to use my best efforts at Consolidated's sole cost to  
21 reacquire through leases any minerals or any old  
22 McElvain leases that had expired. The new leases  
23 I've taken were in McElvain's name, and I paid for  
24 them. And that's what I felt was the right thing to  
25 do, and that was the first start to putting all this

1 back together.

2 Everything that could have gone wrong went  
3 wrong, and Consolidated has gone to -- we knew we  
4 were buying a mess. So I'm not trying to say we were  
5 innocent bystanders, but we've gone to great lengths  
6 to treat everybody fairly, straightforward. I have  
7 not offered anybody any more money to lease than I've  
8 already leased to other people for. And we've been  
9 very open and forthright, did as much as we can  
10 through this entire process. Tried to get these  
11 wells back on, and of course tried to do what's in  
12 everybody's best interests, especially  
13 Consolidated's, since that's my job.

14 And we're almost done. I'm glad to say  
15 it's almost there. Mr. Rubow and Mr. Anderson are  
16 really the -- not that some minor land issues may not  
17 come up in Division order type of title, but as far  
18 as reestablishing interests in the wells, we're  
19 almost done.

20 EXAMINER CATANACH: I have nothing  
21 further.

22 MR. ANDERSON: Could I ask just a couple  
23 of questions?

24 EXAMINER CATANACH: Briefly.

25 FURTHER EXAMINATION

1 BY MR. ANDERSON:

2 Q. Has anybody else proposed a well in the  
3 south half of Section 11, Township 32 North, Range 6  
4 West or the east half of Section 9, Township 32  
5 North, Range 6 West?

6 A. To Consolidated?

7 Q. Right.

8 A. Since our taking over?

9 Q. Yes.

10 A. A Fruitland coal well?

11 Q. Right.

12 A. Or any well?

13 Q. Any well?

14 A. Not to my knowledge.

15 Q. Has anybody contested your right to  
16 complete the Carnes and Federal wells?

17 A. Not to my knowledge, no.

18 Q. And I didn't contest your right to  
19 complete those wells?

20 A. No, sir, you did not.

21 Q. Has anybody else asserted the right to  
22 drill in the south half of Section 11 or the east  
23 half of Section 9?

24 A. Let me just make a statement, and then  
25 I'll answer your question. My rights are limited to

1 the Fruitland coal.

2 Q. Okay.

3 A. Okay? So I'm not aware of other things  
4 that may go on.

5 Q. That's fine. You can limit the question  
6 to the Fruitland coal.

7 A. Okay. Can you restate the question?

8 Q. Sure. Has anybody asserted the right to  
9 drill into the Fruitland coal formation in the south  
10 half of Section 11 or the east half of Section 9?

11 A. I'm not sure what you mean by your  
12 question. It's very similar to the one I just  
13 answered, I thought.

14 Q. True.

15 A. Still I'm not sure what you're -- is it  
16 the same? I'm not sure what you're asking me.

17 Q. Nobody has proposed a well?

18 A. Right.

19 Q. Nobody has contested your right to drill  
20 or complete these wells, but has anybody asserted  
21 their right to drill an additional well?

22 A. I'm not sure what you mean asserted their  
23 right to drill.

24 Q. Has anybody called you on the phone or  
25 written you a letter and said, "I have a right to



1 drill the well into the Fruitland coal formation in  
2 those two half sections also"?

3 A. Not in so many words, no. I'm still not  
4 clear what you're asking me, and I apologize.

5 Q. I don't know how else to say it.

6 A. Please try. I'm more than willing to  
7 answer the question. I just can't.

8 EXAMINER CATANACH: One at a time, please.

9 MR. ANDERSON: Sorry.

10 Q. Has anybody notified you, or have you  
11 heard of anybody insisting that they also have the  
12 right to drill a Fruitland coal well in the south  
13 half of 11 or the east half of 9?

14 A. Maybe this will answer your question. I  
15 have had nobody express their intent to do so.

16 Q. Have I proposed a well?

17 A. Not to my knowledge.

18 MR. ANDERSON: Okay. Thank you.

19 EXAMINER CATANACH: The witness may be  
20 excused.

21 MR. KELLAHIN: Mr. Examiner, at this time  
22 I call Mr. Alan Harrison.

23 ALAN HARRISON,  
24 the witness herein, after having been first duly  
25 sworn upon his oath, was examined and testified as

1 follows:

2 EXAMINATION

3 BY MR. KELLAHIN:

4 Q. Would you please state your name and  
5 occupation.

6 A. My name is Alan Harrison. I'm the  
7 district operations manager for Consolidated Oil &  
8 Gas.

9 Q. Do you hold a professional degree within  
10 the oil and gas industry?

11 A. I do. I have a Bachelor of Science Degree  
12 in petroleum engineering from Colorado School of  
13 Mines, and I obtained that in 1981.

14 Q. What do you specifically do for your  
15 company?

16 A. Okay. My primary function there is to  
17 oversee any reservoir- and operation-related  
18 activities to our properties that we operate. And in  
19 this particular instance I've been assigned the  
20 Richmond area or the San Juan Basin area.

21 Q. Including the Carnes, the Miller 11, and  
22 the Federal 9 Well?

23 A. That's correct.

24 Q. As part of your duties, have you made  
25 investigations of those wellbores to satisfy yourself

1 what additional work needs to be done in those wells?

2 A. I have.

3 Q. And have you formulated opinions about the  
4 ranges of costs that are involved in completing and  
5 putting those wells into production?

6 A. I have.

7 Q. In addition as an engineer, have you  
8 reached an opinion with regards to the remaining risk  
9 involved for getting these wells into production and  
10 to have sufficient production to pay for the cost of  
11 those wells?

12 A. Yes. I have considered that and have  
13 various opinions on that.

14 MR. KELLAHIN: We tender Mr. Harrison as  
15 an expert engineer.

16 EXAMINER CATANACH: Any objection?

17 MR. ANDERSON: No objection.

18 EXAMINER CATANACH: Mr. Harrison is so  
19 qualified.

20 Q. (BY MR. KELLAHIN) Perhaps the easiest way  
21 is take them one at a time.

22 A. That's how I have them set up here. That  
23 will work just fine.

24 Q. Pick one. Which one do you want to start  
25 with?

1           A.     We'll start with the Carnes.

2           Q.     Okay. Before we talk about the costs,  
3 tell me the status of the wellbore at the point of  
4 acquisition or thereabouts.

5           A.     Okay. At the time of acquisition, what  
6 existed was a wellbore that was not capable of  
7 producing gas to the surface. It had limited surface  
8 equipment, really only to the extent that it had a  
9 wellhead on there, and that was it, really no other  
10 type of surface facilities around, and again not  
11 capable of production at that time.

12          Q.     Did you make an examination of the  
13 mechanical integrity of the wellbore, anything to do  
14 with whether or not it was still serviceable and  
15 suitable for the purpose to which it had been  
16 intended?

17          A.     Yes, I did. For instance, I constructed  
18 the wellbore diagrams from the records that were  
19 provided in the Richmond files and so forth and tried  
20 to determine exactly what was below the surface.

21          Q.     And what did you find out?

22          A.     Okay. Basically, what they had done is  
23 they had drilled to a certain depth above the coals,  
24 set an intermediate string casing, came back at a  
25 later date, that being in December of '92, drilled

1 down through the coal, set a liner in place, cemented  
2 that liner in, and at that point came out of the  
3 hole.

4 Subsequent to that activity, they  
5 attempted to go in and perforate the well but  
6 encountered a cement bridge very close to the liner  
7 top. They simply walked away at that point from  
8 everything I see. They never returned to either  
9 clean out the well or attempt to perforate it.

10 Q. When we look at the Carnes well in that  
11 status, and recognizing that I have told you the  
12 pooling order in that case provides for a risk factor  
13 penalty of 156 percent, and that if there are  
14 nonconsenting interest owners, their proportionate  
15 share of a working interest may be assigned a risk  
16 penalty number, the 156 number, do you have an  
17 opinion as to whether the examiner ought to reduce or  
18 change or somehow modify that penalty factor for the  
19 Carnes well?

20 A. I would have to say that that assessment,  
21 in my opinion, is a fair assessment, and it should be  
22 continued with.

23 Q. Does the fact the wellbore has been  
24 drilled reduce or diminish the risk factor penalty?

25 A. No, it doesn't. And I want to qualify

1 that, to the extent that, from a geological  
2 standpoint, the presence of the coals, we're fairly  
3 certain that they would be there. The mechanics of  
4 drilling a well to that depth are taken under a  
5 slight risk to the operator because they're usually  
6 drilled under a turn-key type contract.

7 So really the majority of the risk lies in  
8 knowing what type of well you're going to get.

9 There's just a wide variance throughout the Basin in  
10 regards to coal bed methane-type wells in terms of  
11 their production volumes, water volumes, and their  
12 feasibility to produce.

13 Q. Does that risk then still remain ahead of  
14 or in the future for Consolidated and the other  
15 working interest owners?

16 A. It does.

17 Q. Is there anything about the way the Carnes  
18 well was drilled that affects the risk?

19 A. Yes. And I have to say, it not only  
20 affects the Carnes well but all the wells here. And  
21 that is, at the time these wells were drilled, which  
22 was back in the middle of 1990, a lot of operators  
23 and drilling companies, for that matter, to reduce  
24 their risk of blowout drilled with drilling mud. And  
25 that was to counteract the poor pressures they might

1 encounter to prevent a blowout.

2 A lot of operators have undertaken a lot  
3 of steps to research the damage that's caused by  
4 drilling in an overbalanced situation and drilling  
5 with a fluid that poses some contaminants to the coal  
6 beds. And nowadays what you see are operators  
7 drilling in the coals with either water or air.

8 Again, it's something that at the time the  
9 wells were drilled, it was probably an acceptable  
10 practice. Now we know that it can cause some  
11 formation damage, given the fact that the Carnes as  
12 well as the other two wells were drilled with  
13 drilling mud, we do anticipate there could be some  
14 formation damage, and we're hopeful that through our  
15 research and determining a way to stimulate this that  
16 we might be able to rid that damage, but it is a risk  
17 that still lies ahead, and it's not certain as to  
18 what extent we may be able to correct the formation  
19 damage.

20 Q. When we look at the Carnes well, the  
21 Division records reflect an AFE in the case file for  
22 the Carnes. It's in our package as Consolidated  
23 Exhibit No. 6. It shows certain dry hole and  
24 proposed completed well costs.

25 Then we have submitted the costs as

1 accounted to us by Richmond for moneys actually spent  
2 on that well. And that was marked as Exhibit No.  
3 10. Do you have a copy of that, Mr. Harrison?

4 A. Yes, I do.

5 Q. And then Exhibit No. 11 is an AFE for the  
6 additional work that was done to qualify the well for  
7 the tax credit. Do you have that?

8 A. I sure do.

9 Q. Lead us through the process now. What I  
10 want to know is your opinion on the range of costs  
11 for a completed well. Show us where we are with  
12 actual costs spent by Richmond, actual costs spent by  
13 Consolidated, and what lies ahead then as future  
14 potential cost to be paid for by the working interest  
15 owners.

16 A. Sure. I've looked at the AFE estimate  
17 that was provided to the working interest owners  
18 prior to the drilling of the well, and based on the  
19 itemized cost items there, in my opinion, they're  
20 reasonable, given the time that they were prepared,  
21 that being in 1990.

22 You know, I can't say that these costs are  
23 reflective of today because prices have changed  
24 regarding certain services, but yes, the AFE does  
25 appear to be reasonable.



1           Looking at what they have incurred in  
2 costs, that Richmond has incurred in costs to date in  
3 getting to the point where they have cased the well  
4 but were unable to perforate it, those costs are also  
5 reasonable costs. I think it's pretty obvious that  
6 in just seeing the relocations themselves that  
7 Richmond was concerned about costs and then probably  
8 took precautions to keep the costs down.

9           So yes, everything that was incurred,  
10 again, is reasonable.

11           As far as what we've undertaken, as was  
12 alluded to earlier, there was a deadline in order to  
13 complete our application for the Section 29 tax  
14 credits under the NGPA 107-2. We put together a  
15 work-over procedure that would allow us to go in and  
16 recover gas from the coal beds, analyze that gas, and  
17 supply that to the proper state agency to verify that  
18 yes, this well is producing coal bed methane gas.

19           That was done. We prepared an AFE that  
20 was sent out to partners prior to our conducting this  
21 work. Our AFE estimate was \$24,850. We went out  
22 there, and we actually did the work for under  
23 \$20,000.

24           I can't give you an accurate cost estimate  
25 at this point because there still are some bills that

1 are coming in. It's very common practice in an oil  
2 field that when you go out and conduct work with the  
3 various service companies, that you dispute some of  
4 theirs charge. We're going through that process. I  
5 imagine in another two or three weeks, we will have  
6 an accurate cost for describing the work here. I  
7 know it does come in under the AFE cost.

8 As far as what we see ahead for this well,  
9 as was indicated, this well has nothing on it more  
10 than a wellhead. We haven't installed tubing in the  
11 well, which was done during the time of the  
12 workover. We will need to go in there, stimulate the  
13 well to produce it at its optimum levels.

14 That is going to probably be the majority  
15 of our cost estimate at the time that we prepared  
16 that. We also have to equip the well with the proper  
17 facilities to allow the gas to come from the well,  
18 rid itself of any liquids, and then eventually lay a  
19 flowline from that well to our gathering system and  
20 get the well on production. I've estimated those  
21 costs to accomplish that are going to be in the range  
22 of \$150,000.

23 And I would like to qualify that and say  
24 that the reason we have not prepared a detailed  
25 estimate on that at this time is we are probably two

1 to three months away from actually getting to that  
2 point on these wells. We're still not comfortable  
3 that we have researched the stimulation process  
4 enough to go out and say that, here's what we're  
5 going to do on this well, and here's how much it's  
6 going to cost.

7 Over the next course of a month, I will be  
8 researching that more intensely and expect to arrive  
9 at a decision on how we will stimulate the well, and  
10 then we will go to the proper service companies to  
11 get bids. Again, that's probably going to be the  
12 main cost in the cost of completing this well in  
13 order to put it on production. That's where we are  
14 with the costs.

15 Q. Subject to the fine-tuning the specific  
16 details of future remaining expenditures, your best  
17 estimate at this time is that it's in the range of  
18 \$150,000?

19 A. That's correct.

20 Q. Let me share with you what the procedure  
21 normally is for AFE's under pooling orders and see  
22 how we might fit supplemental AFE's into a schedule.  
23 Quite frankly, the Division, I think, has not been  
24 faced with amending or reissuing pooling orders in  
25 the middle of the drilling activities. The industry,

1 I believe, deals with it in terms of supplemental  
2 AFE's, as you have done?

3 A. That's correct.

4 Q. Let me suggest a procedure, and you tell  
5 us how it would work. If the Division examiner  
6 agrees to reissue the pooling order, after the  
7 pooling order is issued within some time sequence,  
8 you would have an obligation to submit a specific AFE  
9 for remaining future costs to all interest owners  
10 that are subject to the pooling order. And it would  
11 be the same AFE that you're going to send to the  
12 working interest owners that are committed to the  
13 wells either by a JOA or some other document.

14 After that notice is sent out, then the  
15 parties under the pooling order have a chance to pay  
16 their share. Thereafter, once money is actually  
17 spent, all those parties under the pooling order can  
18 object to actual reasonable costs and bring you back  
19 before the examiner and talk about if all those  
20 expenditures were fair, reasonable, and appropriate.

21 Would that general schemework of things  
22 apply to give us a solution for how to handle  
23 remaining future costs for these wells by having you  
24 prepare and submit to the Division and to these other  
25 owners that specific AFE that identifies the items

1 that go into the \$150,000?

2 A. Yes. I can prepare that within, I'm going  
3 to say, a 30-day period after the order is issued.

4 Q. That time frame, would that be a  
5 sufficient time frame in which to have elections made  
6 for the additional work and to get that work done in  
7 a timely fashion?

8 A. Yes, it would. And if we felt that it  
9 needed to be done earlier, then we would just send  
10 out the AFE's earlier.

11 Q. Let's turn to the next well in your  
12 package. What's the next --

13 A. I have the Federal.

14 Q. Let's look at the Federal 9 Well. At the  
15 time Consolidated acquired that well, describe for us  
16 the status of the well as you have determined it to  
17 be.

18 A. Okay. This was, is what the industry  
19 calls it that works in the San Juan Basin, a top-set  
20 well. It was drilled down to the top of the coals.  
21 An intermediate casing string was set right above  
22 that to keep the integrity of the hole, and it was  
23 left at that.

24 I might also add, again, it was only  
25 equipped with a wellhead, no other type of facilities

1 on location.

2 Q. Have you examined the integrity of that  
3 wellbore and the method of drilling that well?

4 A. I have.

5 Q. What's your conclusion?

6 A. It was done as most operators would do it  
7 in drilling a top-set well.

8 Q. What remains to be done?

9 A. Let me say that we have done some work  
10 since Richmond, and then I'll lead into what we plan  
11 on doing.

12 Again, this was a well that because gas  
13 had not been brought to surface, the application was  
14 not completed. So our intent was to go out there,  
15 drill the well down through the coal bed, bring gas  
16 to surface, have it analyzed, submit that data along  
17 with other data gathered during that drilling  
18 process, submit that to the proper agency to comply  
19 with the deadline for the Section 29 tax credit.

20 Probably the one interesting feature about  
21 the Federal well is that most top-set wells are  
22 drilled for the purpose of either going in and doing  
23 what is called the cavity-type completion, which is  
24 basically an open hole-type completion. We feel  
25 based on conversations with other operators that that

1 might be a good method for this well.

2           So we, in our decision to go in and get  
3 this gas sample, we have left it in an open-hole  
4 condition after drilling down through there. Again,  
5 the cost associated with doing that in the AFE, like  
6 the other well, the AFE's were prepared in advance,  
7 sent to partners.

8           We've gone and have done the work. We  
9 achieved our goals. And the AFE, I believe, was  
10 estimated, or the costs shown on the AFE are  
11 \$46,400. We were actually able to do the work for in  
12 the range of \$30,000.

13           We overestimated our costs because we were  
14 under the opinion that we needed a certain type of  
15 rig, and, again, through our research and diligence,  
16 we were able to determine that we could do this  
17 process using a different type of rig and  
18 consequently lowered our costs significantly below  
19 the amount stated on the AFE.

20           As far as what lies ahead of us, again, we  
21 feel strongly at this point that this may be a  
22 cavitation candidate. That is a process of, when  
23 you're in the completion process of completing this  
24 cavity, it's an ongoing, it's a day-to-day decision  
25 as to whether or not you continue. With my knowledge

1 of the area at this point, I'm going to estimate that  
2 the future cost for completing this well, if we are  
3 successful with the cavity-type completion, will be  
4 \$195,000.

5 Again, the bulk of that cost would be  
6 attributable to the cavitation process, which I'm  
7 estimating could take two weeks at a daily cost in  
8 the range of \$7,000, and that's a figure that again  
9 we have researched.

10 So that's what we're going with at this  
11 point. Again, we would prepare an AFE to reflect  
12 this type of completion process as well the other  
13 costs associated with doing this type of completion,  
14 as well the equipment needed to equip the facility  
15 and enable it to produce into our gathering system.

16 Q. Those additional future expenditures would  
17 be sent out to the working interest owners with a  
18 supplemental AFE?

19 A. Yes.

20 Q. Can that process be utilized to send out  
21 this supplemental AFE to any party that would be  
22 subject to the pooling order?

23 A. Yes.

24 Q. And allow them to make an election based  
25 upon that AFE as actually submitted?



1 A. Yes.

2 Q. When you look at the costs involved in the  
3 well, what Richmond spent, what you spent to get the  
4 sample for the tax credit, and what you forecast as  
5 remaining expenditures, can you tell us what that  
6 total number, in your estimate, is going to be?

7 A. Sure. Richmond in their AFE estimated a  
8 producing well equipped on production would cost  
9 \$385,000. In getting to the top-set status, they  
10 spent \$140,000. We have gone in, as I stated  
11 earlier, spent an additional \$30,000 to drill the  
12 well down through the coal, obtain the gas sample.  
13 That and the \$195,000 that I'm estimating we will  
14 spend to finish completing the well and equip it will  
15 bring us to a total cost of \$365,000, which is  
16 approximately \$20,000 less than the original AFE sent  
17 out by Richmond.

18 Again, I believe that the costs that they  
19 incurred were reasonable. They did it in a quick  
20 manner. They did not have any problems. And,  
21 consequently, any contingency items that would be in  
22 the AFE that would support a higher cost estimate  
23 were not incurred. So the \$140,000 they spent was  
24 very reasonable.

25 Q. Let's go back to the Carnes well and have

1 you give me that arithmetic for that well.

2 A. Sure.

3 Q. What do you forecast to be the total cost  
4 to the Carnes well?

5 A. The total forecasted cost for that well  
6 would be \$393,000.

7 Q. And you get to that number by?

8 A. By taking into account the \$224.6 thousand  
9 that Richmond incurred in cost, the additional  
10 \$18,000 we spent in getting the gas sample for the  
11 NGPA application, and then the additional \$150,000  
12 for completing the well and equipping it.

13 Q. How does that compare to the original AFE  
14 submitted to the Division by Richmond for the Carnes  
15 well?

16 A. It's approximately \$77,000 greater than  
17 the Richmond's estimate.

18 Q. And that difference is attributed to what?

19 A. I would say that probably the primary  
20 increase is in the stimulation process. Again, they  
21 prepared this AFE back in 1990. The cost for  
22 materials and so forth to stimulate the well at the  
23 size that they had planned on stimulating it, those  
24 costs are much greater in today's market.

25 The other thing is they incurred more road

1 cost and site preparation cost as reflected in their  
2 cost allocation. And of course there is that \$18,000  
3 that is really an incremental phase of the completion  
4 phase, but we had to segregate it in order to meet  
5 the deadline.

6 So those three main areas are the reasons.

7 Q. Are you still satisfied that the  
8 reevaluated cost for the well as a total completed  
9 well is reasonable?

10 A. Yes, I would still say that.

11 Q. Let's go on to Miller 11. What was the  
12 status of that well when you acquired it?

13 A. It was a completed wellbore. In other  
14 words, it had been drilled down through the coals,  
15 casing was set through the coals, the coal beds were  
16 perforated, and gas sample was taken, and the  
17 wellhead was installed, and that ended their process.

18 Q. Have you examined that wellbore and its  
19 status and reached any conclusions?

20 A. Not to the best of my knowledge. It has  
21 the integrity necessary to carry forth with it from a  
22 completion standpoint. There's nothing in the  
23 records that would indicate otherwise. So we do  
24 believe it's a wellbore with integrity and can be  
25 carried on with in the future.

1 Q. Do you have a forecast of the remaining  
2 future cost to spend on that well?

3 A. Yes. That amount is \$170,000. This well  
4 is very similar to the Carnes well, which I estimated  
5 at \$150,000. I'm estimating an additional \$20,000  
6 here because we have determined that additional road  
7 work is going to be necessary, site reclamation, and  
8 there have been some other issues regarding the  
9 landscaping around there that are going to generate  
10 more costs.

11 Q. Let's go through the cost components.  
12 Looking at Richmond's actual costs, what costs you  
13 have actually spent to date, and what you look as  
14 future costs in order to complete and produce the  
15 well.

16 A. Okay.

17 Q. Give us the total number, and then let's  
18 talk about the components.

19 A. Sure. Again, their AFE to drill and  
20 complete that well us \$326.4 thousand. Their costs  
21 to date have been \$142.8 thousand. We have not spent  
22 any additional dollars on that well for its  
23 completion.

24 Given the estimated remaining cost to  
25 complete that well of \$170,000, that, with the cost

1 to date, would give us a total of approximately  
2 \$313,000 or \$13,000 lower than Richmond's estimate.

3 Q. Any opinion or conclusion about the  
4 reasonableness?

5 A. No. I'd say again that everything appears  
6 to be in line. Looking at their itemized costs that  
7 they incurred, again, they were able to accomplish  
8 this fairly closely to their AFE estimates.

9 Again, what we see in terms of what lies  
10 ahead, Richmond did not qualify exactly what they had  
11 planned in terms of stimulation and so forth, but we  
12 believe, with the estimates that we've made to date,  
13 that the \$170,000 is a very good number. And add  
14 that to the actual costs, that brings you very close  
15 to their AFE cost. So everything seems to be in  
16 line.

17 Q. The remaining future cost, the \$170,000,  
18 has that been itemized in an AFE ready for submittal  
19 to the working interest owners?

20 A. Not at this point.

21 Q. Again, the same process then as we have  
22 suggested for the other two wells; that when that AFE  
23 is ready, it goes out to the working interest  
24 owners. It would also go out to any party with  
25 rights for election under the pooling order, and they

1 would have the opportunity to make elections in a  
2 similar fashion, if you will, as the other working  
3 interest owners?

4 A. That's correct.

5 MR. KELLAHIN: That concludes my  
6 examination of Mr. Harrison.

7 EXAMINATION

8 BY MR. ANDERSON:

9 Q. Let me see if I understand. On the Carnes  
10 well, Richmond set a liner through the Fruitland  
11 coal?

12 A. That's correct.

13 Q. How big was that liner?

14 A. 4-1/2 inch.

15 Q. Do you know how many feet that was, by  
16 chance?

17 A. I'm going to use rounded-off numbers, call  
18 it 300 -- I can tell you exactly.

19 Q. I'll tell you what, would you just give me  
20 the casing program on that, please.

21 A. Sure. They set surface casing, which is  
22 9-5/8 inch, they set that to a depth of 233 feet.  
23 They drilled down through that surface to a depth of  
24 2,517 feet. They set a string of 7-inch casing.

25 Q. 2,517?

1           A.     2,517. They then came in and drilled down  
2 to the coal beds, set a liner with the top being at  
3 approximately 2,298 feet, extending to a depth of  
4 2,839 feet.

5           Q.     And that got them through the Fruitland  
6 coal?

7           A.     Yes, it did.

8           Q.     They spent \$19,866 on their casing  
9 program. That's just the cost of the casing. That  
10 doesn't include the cement; right?

11          A.     Yes, that would just strictly be casing  
12 cost, the surface, the intermediate, and the liner.

13          Q.     We're paying about \$10 a foot for 9-5/8.  
14 What are you all paying?

15          A.     You paid how much?

16          Q.     About \$10 a foot.

17          A.     I'm going to say -- you know, let me  
18 qualify that and say that I'm not real familiar with  
19 pipe prices in the San Juan Basin area, but I'm going  
20 to venture to say that we're probably going to be  
21 able to acquire, if we get to the point where we ever  
22 need pipe like this that it will probably be in that  
23 neighbor. Again, I have not checked on pipe prices  
24 in the area; so I really can't answer that question  
25 with any degree of accuracy.

1 Q. 7-inch we're paying about \$6.50 a foot in  
2 West Texas. What are you all paying out here?

3 A. Again, we haven't purchased any pipe in  
4 this area for that. We do very little drilling.

5 Q. In this area?

6 A. Well, in any of our areas that we operate  
7 in. Our drilling is somewhat limited, and again  
8 that's not my department. I would not be responsible  
9 for going out and securing pipe and things of that  
10 order. We have somebody else that would do that,  
11 that would be more in tune with what prices are for  
12 pipe.

13 Q. So you're working mostly as a completion  
14 or reservoir engineer?

15 A. Well, let me say this. Up to this point  
16 in this basin, we have not had the need to go out, or  
17 we haven't drilled any wells. We have not had to put  
18 anything in the hole other than tubing. So for me to  
19 be familiar with what pipe charges are in this area,  
20 I haven't ventured into that area, but since I am in  
21 charge of this project, when we get to a point where  
22 we will need those kinds of things, I would be  
23 working with another individual in our office in the  
24 design and procurement of pipe and various other  
25 services. So, yes, I would become familiar with



1 those.

2 Q. Did you have a chance to review Richmond's  
3 invoices?

4 A. No.

5 Q. I have a couple questions about these  
6 items that I guess Richmond has provided you. The  
7 second item, previously unallocated clear to property  
8 account, do you have any idea what that is,  
9 \$6,378.50?

10 A. Are we talking about the Carnes well?

11 Q. I'm sorry, yes. The next thing. Let's go  
12 back to the Carnes. The first item, approved  
13 leasehold nonproducing, \$2,892.23, do you know what  
14 that charge is for?

15 A. No, I don't.

16 Q. How about the third item, approved  
17 leasehold now producing recording fees and title,  
18 \$21,050.70?

19 A. I don't know exactly what those are for.  
20 I know enough to know what they're saying there, but  
21 I have not seen the actual invoices that would  
22 indicate what the itemized breakdown of those total  
23 costs are.

24 Q. What do you think that cost covers?

25 A. Well, attorneys fees for doing a title

1 opinion, recording fees with the various county court  
2 houses once they've obtained leases, assignments,  
3 whatever. Again, those -- I would venture to say  
4 those costs are related to those types of issues.

5 Q. Well, I wonder how that differs with item  
6 4, recording fees and title work?

7 A. There's that item "WK" next to that, and,  
8 again, I don't know what that abbreviation stands for.

9 Q. I suspect that stands for work, title  
10 work, probably attorneys.

11 A. Again, I can't speak for those type of  
12 cost items.

13 Q. How about the fifth one, previously  
14 unallocated clear property account, \$16,254.31, do  
15 you know what that's for?

16 A. No.

17 Q. On the wellhead equipment, I guess it's  
18 item 7, more or less, \$10,357.75. What kind of  
19 wellhead equipment was on the location?

20 A. What they had were -- they had a main  
21 master valve, and they had two wing valves, and they  
22 were brand new type equipment. The manufacturers, I  
23 couldn't tell you who the manufacturers of those  
24 were, but what we did do, we took them to a local  
25 well servicing company and have placed them on their

1 properties to avoid anybody walking off with them  
2 because the two wing valves were laying off on the  
3 side. But they are new quality, they have been  
4 inspected and so forth.

5 Q. Since they ran a liner but didn't run to  
6 surface, did they have a wellhead for both surface  
7 casing and the 7 inch?

8 A. What they have is a casinghead, which  
9 would be tied on to the 7 inch. The liner is  
10 actually hung off near the bottom of the intermediate  
11 string with the use of a liner hanger, which is  
12 nothing more than a packer-type element.

13 Q. This cost doesn't sound high to you?

14 A. On which?

15 Q. On the wellhead equipment?

16 A. For brand new equipment of the type of  
17 quality valves and the size that they had, that to me  
18 is probably pretty close.

19 Q. Really?

20 A. Yes.

21 Q. We're only paying about \$2,000 for a new  
22 wellhead and about \$1,000 for a used.

23 A. This Carnes well was the exception to what  
24 they normally equip their wells with out here. On  
25 almost every one of these, they just had a Larkin

1 type wellhead that can be purchased for that type of  
2 price with a bonnet sticking up from that underneath  
3 the cap.

4 And, again, that type of equipment,  
5 especially in a used condition can be purchased for  
6 those types of prices. This well was an exception.  
7 Why they had this premium-type equipment out there, I  
8 can't answer that.

9 Q. You said the only surface equipment was  
10 the wellhead, but item, it looks like No. 9, was a  
11 gathering system, \$426.83. Do you know what that's  
12 for?

13 A. No. It's a low amount. I'm going to --  
14 no, I can't say exactly what that's for. Various  
15 companies, when they go to coding invoices and so  
16 forth, have different cost items under various cost  
17 names, for instance, gathering systems. It's my  
18 guess that something they did on that well either in  
19 the roadside preparation or anything that at all  
20 would be related to what they had planned to do down  
21 the road in terms of installing a gathering system,  
22 whether it be a flowline path or something like that,  
23 that's the only thing, but, again, I do not know  
24 exactly what that stands for.

25 Q. Have you visited the Carnes and the

1 Federal location?

2 A. I sure have.

3 Q. And there's nothing there but a wellhead?

4 A. There's nothing there but a wellhead,  
5 that's correct. Let me venture to say that, yeah,  
6 there are open pits at those locations as well.

7 Q. The pits haven't been closed?

8 A. No, they haven't. That's something that,  
9 again, we have addressed with the various agencies,  
10 and that will be taken care of.

11 Q. How about the tenth item, cleared from  
12 working progress, \$546.21?

13 A. Again, I couldn't tell you exactly what  
14 itemized amount that would be.

15 Q. How about the drilling contract, do you  
16 know if it was footage or turnkey?

17 A. It's my understanding that these were  
18 drilled on a footage basis.

19 Q. So it looks like about what, \$12 a foot or  
20 so?

21 A. According to their AFE's, they were  
22 estimating \$11.25 a foot. I take that back. That's  
23 on the Federal well. On the Carnes, \$12.00 a foot.

24 Q. The next item, site preparation, etc.,  
25 \$30,000?

1           A.     Right.  If you look at this location, it's  
2 cut into the side of a hill.  You can see a lot of  
3 dirt had to be moved, the road into the location  
4 again has to make a cut through a hillside, plus it's  
5 a long road.  It's probably three quarters of a  
6 mile.  It was rocked.  They took some precautions to  
7 assure them they could reenter the location in bad  
8 weather an so forth.

9           Q.     So that looks like a reasonable charge to  
10 you?

11          A.     Yes.  I'm going to say it's probably a  
12 little on the high side, but again when you look at  
13 all the work, the dirt that has been removed out  
14 there, and depending on which contractor they used, I  
15 could easily see it costing that much.

16          Q.     They drilled and set a liner.  They've got  
17 a charge here for acidizing, fracing stimulants,  
18 inhibitors, I guess it is, IMHI.  Do you know what  
19 that \$1,455.08 is for?

20          A.     I'm going to venture to say that what  
21 probably happened is, after they perforated the well,  
22 they were not able to bring in a sufficient amount of  
23 gas and probably thought that that was due to some  
24 near wellbore formation damage.  So they probably put  
25 a small acid job on the well to clear those

1 perforations to allow the gas to come out easier.

2 Q. Any idea what the other service is,  
3 \$1,899.53 is for?

4 A. No. Again, it's one of those things that  
5 varies by company. It could very well be some  
6 miscellaneous-type contract labor that they had out  
7 there, welders. Of course, I really haven't looked  
8 to see if they have it itemized for welders, but my  
9 guess, it is various services such as welding and  
10 things like that.

11 Q. On the overhead charge, if they were  
12 charging \$3,500 a day overhead, what, it took about  
13 ten days to drill the well?

14 A. What they did, keep in mind it was done in  
15 stages. They actually drilled a top-set type well  
16 initially. So when the well was spudded back in  
17 June, and I'd have to pull out the drilling reports,  
18 it was probably a total time on location, I'm going  
19 to estimate probably five to six days, but before I  
20 say that, I do have something that should -- it's  
21 actually in a file down there on the table.

22 MR. KELLAHIN: Which one do you want?

23 THE WITNESS: It's the Carnes. It should  
24 be up on top.

25 It would be five days.

1 Q. (BY MR. ANDERSON) Five days to drill?

2 A. On the initial drilling procedure to top  
3 set the well.

4 Q. And then how many days to set the liner,  
5 do you know?

6 A. That's in a separate report here. I  
7 believe that includes -- those dates have been filed  
8 on a sundry notice as well. Actually, Richmond's  
9 files, to a large extent, were incomplete regarding a  
10 lot of these questions that you're asking. So that's  
11 what's taking some time here.

12 It would be my guess that it was, again, a  
13 three- or four-day process.

14 Q. On the liner?

15 A. So setting the liner, right. That would  
16 be -- you have to drill down the well and set your  
17 liner, cement it, wait a day for your cement before  
18 you go in and perforate.

19 Actually, I believe I found it right  
20 here. That was a four-day process.

21 Q. On the completion, I guess they attempted  
22 a completion there, did they?

23 A. Well, are you referring to Item 104,  
24 completion work over swab?

25 Q. Yes.



1           A.     Again, that's the additional cost they  
2 incurred by bringing a work-over rig out there to  
3 drill the well down. It was probably a well with a  
4 fairly large size substructure just as a  
5 precautionary measure. They would hook up a  
6 power-swivel, drill down through the casing shoe into  
7 the coals, use that same rig to set their liner with,  
8 cement with, and so forth. And that's why you see  
9 the almost \$24,000 charge under that cost item. That  
10 would be, again, associated with the drilling out  
11 into the coal beds, setting the liner, cementing, and  
12 so forth.

13           Q.     Does it say on the drilling report what  
14 kind of rig they used?

15           A.     I do know that they used what's called in  
16 the Basin a completion rig, which is a rig that's  
17 equipped for 24-hour-type operation. They generally  
18 have a substructure of anywhere from 18 to 24 feet to  
19 accommodate the BOP's, because, again, when you go  
20 into a drill-out situation, you may want to drill out  
21 under balance and you want to have the protection.

22           Q.     Do you think that's reasonable?

23           A.     We, again, in our research in the area, a  
24 lot of companies, even a lot of major companies,  
25 prefer to use a rig with a large substructure because

1 they have certain policies regarding BOP-type  
2 setups. We feel that we can do this with a modified  
3 daylight rig, which is less costly, and that's how we  
4 undertook this project for drilling out the Federal,  
5 for instance.

6 Q. Finally, I guess mud and chemicals, item  
7 No. 111, those were incurred during the setting of  
8 the liner, do you think?

9 A. Those were likely incurred during the  
10 drilling process. Again, they were using a gel-type  
11 system to drill down with. So it would be the mud  
12 and chemicals involved in the drilling to the  
13 placement of the 7-inch casing, again, which is at a  
14 depth of about 2,500 feet.

15 Again, that's -- it's one of those cost  
16 items that not knowing exactly where the mud came  
17 from, if they were a prudent operator, that mud would  
18 have been mixed off location and brought in, hauled  
19 in in trucks to assure the quality of it. And, yes,  
20 I could see costs that high.

21 Q. How about item 124, other services, any  
22 idea what it's for?

23 A. Item 124. Again, I'm going to have to  
24 refer back to my answer on the other services.  
25 Again, what I think is happening here is they have

1 cost categories, intangible, tangible, and so forth,  
2 which probably relate to which phase of drilling or  
3 completion they're in.

4 So given that this other service is under  
5 what would be an intangible-type item, again, it's  
6 probably a welding type service, any slew of services  
7 that might be required for the operation that they  
8 were undertaking.

9 We do the same thing a lot of times in our  
10 company. We have items that, because you don't want  
11 to present an AFE that's so cumbersome with details,  
12 that you will put contract labor, miscellaneous  
13 services. If it's something that you have a real  
14 good feel for what they might be, you might put some  
15 parentheses in your AFE stating what you expect those  
16 other services to be.

17 That's how we would do it. I don't know  
18 what Richmond's policy was. That's my guess as to  
19 what it is.

20 Q. How about item 201, there's another casing  
21 charge in addition to the other casing charge?

22 A. Again, that's probably just their service  
23 casing, given that they only ran 233 feet at a cost  
24 of \$14 a foot I believe is what they -- let me get to  
25 the Carnes here.

1           Yes, they estimated a cost of \$1,900 in  
2   their AFE for surface casing. As you can see, that  
3   charge is \$1,967. So I would assume that would be  
4   the cost for that.

5           Q. I guess I have the same question with  
6   items 204 and 213. Why are they duplicated here  
7   again?

8           A. The wellhead equipment, that could, again,  
9   be a needle valve or some other small valve that  
10   maybe they ordered on location. Something, again, a  
11   small auxiliary piece of equipment, whether it be the  
12   bonnet that was installed on the wellhead  
13   afterwards.

14           Again, without a detailed estimate,  
15   looking at that small of a cost, that would be my  
16   guess, is an auxiliary item, whether it be a packing  
17   element, the bonnet itself, or whatever.

18           Q. And item 213, the surface equipment?

19           A. Surface equipment installation?

20           Q. We had that under item 10 also.

21           A. Again, that's probably based on what phase  
22   of the drilling or completion process that they were  
23   in. They would have duplication of cost items to  
24   refer to whether it was a dry hole cost item, a  
25   producing well cost item.

1           The surface and equipment installation  
2     there, that could -- again, it would have to be  
3     related to the wellhead because there is no other  
4     surface equipment out there, and there never has been  
5     other than rental-type equipment.

6           Q.     And then finally 214, noncontrol well  
7     maintenance?

8           A.     Noncontrollable well maintenance.

9           Q.     Noncontrollable?

10          A.     I can't answer what that would stand for.  
11     What I did in assessing these costs, just to  
12     reiterate, a lot of times when you go into a drilling  
13     operation and so forth, you know, a lot of unexpected  
14     things occur or other services, some come in greater  
15     than you would anticipate, some come in less.

16                 By the time those charges get back to the  
17     office and are coded into the proper cost categories,  
18     as you can see, there's a much more itemized  
19     statement of the types of costs that are incurred  
20     versus what the AFE has. It's my guess or, excuse  
21     me, it's my opinion that the total cost that they  
22     have incurred here to the point that they were are  
23     within reason at the time that a lot of these  
24     services were conducted and so forth.

25                 When I see this itemized statement and see

1 these items, again, that pose some questions in my  
2 mind, I have to just go back and say without seeing  
3 what exactly their policy is for coding invoice items  
4 from the field, I have to look at this more in a  
5 general sense, and that's what I've done.

6 Q. Were you part of the team that worked up  
7 the bids for the property?

8 A. No, I wasn't.

9 Q. I take it, though, that whoever worked on  
10 these bids from Consolidated pretty much relied on  
11 these figures without actually getting into the  
12 invoices?

13 A. That's -- well, again, I can't answer that  
14 from the standpoint that, since I wasn't involved  
15 with that, I don't know how they treated that. I  
16 think it's safe to say that in any evaluation, there  
17 are a lot of items that come into play, and I would  
18 guess it would mainly be reserves.

19 Q. Do you have any idea percentagewise how  
20 much Consolidated allocated to the reserves in these  
21 bids?

22 A. When you say bids --

23 Q. Well, in the offer to --

24 A. No, I don't.

25 Q. To Richmond?

1           A.    No.  It was my function there, those  
2 things are totally kept separate from what I do.  
3 It's really not my business to ask about those  
4 things.  Those are other persons' responsibilities.

5           Q.    But is it your understanding that in the  
6 money paid to Richmond that part of the money,  
7 though, was consideration for reserves in place?

8           A.    I think -- the only thing I can speak to  
9 is that the cash consideration given to Richmond was  
10 for what we felt was the market value of those  
11 properties and everything associated with those  
12 properties.

13          Q.    Which included the reserves in place?

14          A.    That would include, sure, some forecast of  
15 estimated remaining reserves.

16          Q.    You said you were going to have to bill  
17 your own gathering system.  If I join you in this  
18 well, will you sell my gas?

19          A.    Again, that's not my position.  It's not  
20 my -- I don't have the authority to make those  
21 decisions; so I can't speculate on that one.  Those  
22 issues are handled by other departments.

23          Q.    Who would be able to answer that question?

24          A.    That would probably be our gas marketing  
25 department, probably them with our executive staff.

1 We have direction from our executive staff as to how  
2 we're going to handle situations like that.

3 Q. Can Consolidated guarantee me that if I  
4 join in the drilling of this well, they will sell my  
5 gas?

6 MR. KELLAHIN: Objection. That's  
7 irrelevant to the discussion here. We're not here to  
8 market Mr. Anderson's gas. We're here to force pool  
9 his interests.

10 EXAMINER CATANACH: I would agree with  
11 that, Mr. Kellahin.

12 MR. ANDERSON: I understand they're here  
13 to force pool me, but if I pay all this money and  
14 they refuse to market my gas, then I've wasted a lot  
15 of time and money.

16 MR. CARROLL: Is there a question here,  
17 Mr. Anderson?

18 MR. ANDERSON: Yes. I want to know if  
19 Consolidated will market my gas if I join in drilling  
20 of this well.

21 MR. KELLAHIN: What he does is he writes  
22 them a letter and enters into negotiations about gas  
23 marketing, which has nothing to do with force  
24 pooling. We're going to be the operator of the  
25 well. We don't have any obligation to market his



1 share of the gas. If that's what he wants to do, he  
2 needs to negotiate with Consolidated. And I propose  
3 that that take place outside the context of this  
4 hearing.

5 MR. CARROLL: There are other marketers  
6 out there that can market your gas produced from  
7 these wells.

8 Q. (BY MR. ANDERSON) I take it that when you  
9 drilled down through the Fruitland formation in the  
10 Federal well, that you used water?

11 A. That's correct.

12 Q. Is this cavitation process done with  
13 nitroglycerin?

14 A. No, it's not. It's done with either air  
15 or nitrogen and maybe a foaming agent of some type to  
16 help carry back some of the coal, but, no, no  
17 nitroglycerin whatsoever.

18 Q. There's no downhole explosion involved?

19 A. No, there sure isn't.

20 Q. Any indication how the Federal well will  
21 turn out?

22 A. We feel very positive about it just based  
23 on the response that we saw doing what we did on the  
24 well. It seems to have a certain degree of  
25 permeability. We don't know to what extent, but

1 based on shut-in pressures after we've taken analysis  
2 and so forth, it looks very encouraging. Again,  
3 that's why we're leaving it open for a possible  
4 cavitation type of completion.

5 MR. ANDERSON: Thank you.

6 EXAMINATION

7 BY EXAMINER CATANACH:

8 Q. Mr. Harrison, under an amended force  
9 pooling order, would you propose that Mr. Anderson  
10 and Mr. Rubow be given a new election period with  
11 which to decide whether or not they want to join the  
12 well?

13 A. Sure.

14 MR. KELLAHIN: Yes, sir, that's our  
15 commitment.

16 EXAMINER CATANACH: Standard 30-day  
17 election period?

18 MR. KELLAHIN: Whatever we can build into  
19 the sequence, but my presumption was it would be 30  
20 days.

21 Q. (BY EXAMINER CATANACH) The terms of the  
22 force pooling order require the submittal of an AFE.  
23 After the effective date of the order, you would be  
24 required to furnish that to the interest owners.  
25 Would that AFE contain the costs you've summarized in

1 your testimony?

2 A. What I see, the AFE would cover the future  
3 remaining costs. To give the working interest owners  
4 an idea of what would have to be incurred from this  
5 day forward, I would -- and this is something I have  
6 to discuss with our people, but I would imagine that  
7 there would be another type of cost allocation item,  
8 and I don't know if you want to call it an AFE,  
9 summarizing the costs that have been incurred to date  
10 that would be paid if they elected to join.

11 I don't see them being one AFE. I see  
12 them being two separate items. The AFE I would  
13 submit would be for costs to be incurred related to  
14 the completion of the well.

15 Q. But you would be able to put those two  
16 AFE's together and submit them to --

17 A. I sure could.

18 Q. You are maintaining that should these  
19 parties elect to go nonconsent, that they still be  
20 assessed a risk penalty of 156 percent for each well?

21 A. I do. As I stated earlier, I feel there's  
22 still a great degree of risk ahead of us. It's just  
23 the nature of the beast that we're dealing with out  
24 there, in addition to those other -- that other area  
25 of risk, which would be the possible formation damage

1 as a result of drilling with a drilling rig.

2 EXAMINER CATANACH: I have nothing further  
3 of the witness.

4 MR. CARROLL: I just have a couple of  
5 questions here.

6 THE WITNESS: Sure.

7 EXAMINATION

8 BY MR. CARROLL:

9 Q. The closest gathering line is owned by  
10 Southwestern?

11 A. Yes. Southwestern Production Company. Do  
12 you mind if I step down, and I'll show you on this  
13 topo map that we have here. Southwestern Gas  
14 purchased what is called the Tiffany system, gas  
15 gathering system, and it basically runs through the  
16 middle of our properties as they're shown here, which  
17 would be approximately a mile and a half north of the  
18 New Mexico State line, right along this county road.

19 There are some diverge points that pick up  
20 some of their wells, but, yes, there is a gathering  
21 line in place. It is a surface line. I want to  
22 emphasize that.

23 Q. Who does Southwestern connect to?

24 A. Northwest Pipeline.

25 Q. And then how far are your wells from the

1 Southwestern gathering line?

2 A. We're the same distance that their wells  
3 are for the most part because, as was spoken to  
4 earlier, we have the coal rights only. We have twin  
5 wells to our wells in a lot of our locations, which  
6 are conventional-type wells. Those conventional-type  
7 wells are owned by Southwest Production. So they're  
8 taking the gas from those conventional wells to their  
9 gathering system.

10 So in answer to your question, their line  
11 is very close to our properties.

12 Q. What about the three wells in question  
13 here?

14 A. No, they are not close to these wells.  
15 The nearest proximity, again, would be about a mile  
16 and a half north of our properties would be the  
17 closest interconnect point into that Tiffany line.

18 Q. So would they build a connecting line, or  
19 you would build a line to Southwest?

20 A. That's something that's typically  
21 negotiated. If they were going to gather our gas,  
22 they would probably say, "Okay, we'll bill to you,  
23 and here's going to be your gathering cost." If we  
24 bill to them, they would probably offer us a reduced  
25 type gathering fee since they didn't have to incur

1 that cost to bill to us.

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

3 EXAMINER CATANACH: The witness may be  
4 excused.

5 MR. KELLAHIN: That concludes our direct  
6 presentation.

7 EXAMINER CATANACH: Thank you, Mr.  
8 Kellahin. Do you want to take a little break here?

9 MR. ANDERSON: I don't care. I've got an  
10 eight-hour drive. I'd just as soon plow ahead.

11 EXAMINER CATANACH: Let's take five.

12 (A recess was taken.)

13 EXAMINER CATANACH: Call the hearing back  
14 to order, and at this time I'll turn it over to Mr.  
15 Anderson who is going to testify in a narrative  
16 fashion?

17 MR. ANDERSON: I suppose so. If there's  
18 no objection, I would like to enter some testimony  
19 into the record.

20 EXAMINER CATANACH: Any objection, Mr.  
21 Kellahin?

22 MR. KELLAHIN: Let's do it. I recognize  
23 that Mr. Anderson has advised the Division he is an  
24 attorney that doesn't practice in New Mexico. I  
25 don't want to interrupt his presentation. I would

1 object to the legal conclusions. Be that as it may,  
2 I'm interested to hear his position and what he has  
3 to say. So let me just make that comment, and it can  
4 run as to an objection as to the legal conclusions.  
5 But I assume to let him make his presentation and  
6 let's see what he has to say.

7 THE WITNESS: I really didn't intend to  
8 make any legal arguments.

9 MR. KELLAHIN: All right, sir. Let's  
10 proceed.

11 THE WITNESS: My name is Edmund T.  
12 Anderson IV, and I'm from Midland Texas. I'm here  
13 representing myself and myself as trustee for the  
14 Mary Anderson Boll Family Trust.

15 The minerals in question were purchased by  
16 my father in about 1949, and they were leased to T.H.  
17 McElvain, Jr., on July 19, 1988. It's an undivided  
18 one quarter mineral interest in the southeast quarter  
19 of the southeast quarter of Section 9 and the  
20 southeast quarter of the southwest quarter of Section  
21 11, both in Township 32 North, Range 6 West, of the  
22 New Mexico Prime Meridian, San Juan County, New  
23 Mexico.

24 The lease provided for a two-year term and  
25 a two-year limitation on shut-in gas royalties. I

1 won't go into too much detail on the lease, but  
2 paragraph 12.E. obligated McElvain to notify me of  
3 any assignment of my lease and to send me a copy.

4 I never received anything from McElvain  
5 even though the lease provided in paragraph 13 that  
6 he was obligated to send me location plats and  
7 drilling reports. The first communication I had from  
8 McElvain was on November 14th of 1990 when he sent me  
9 a check for shut-in gas royalties. Since this was  
10 passed the end of the primary term, I wrote on  
11 November 20 of 1990 and requested a drilling report.

12 Originally the shut-in gas royalties were  
13 tendered for the Federal 32-9-6 No. 1 only. It  
14 wasn't until April the 22nd of 1991 that I received a  
15 reply from McElvain, at which time a Rhonda Wilkinson  
16 of his office called me to tell me that somehow my  
17 request had slipped through the crack and they would  
18 send me a drilling report. In fact, I did get a  
19 drilling report. I believe it was on the Federal No.  
20 1 only. I seem to have misplaced it; so I can't  
21 really say that for sure.

22 At any rate, it was very clear from the  
23 drilling report that the well had not been  
24 completed. So I asked for a completion report. And  
25 several months passed, I never received a completion



1 report, so I destroyed the shut-in gas royalty check.

2 I don't remember for sure whether shut-in  
3 gas royalties were tendered in 1991, but on May the  
4 11th of 1992, Richmond Petroleum, Inc., sent me a  
5 check for shut-in gas royalties. Again supposedly it  
6 covered only the Federal No. 1 well.

7 I wrote Richmond on May 22, 1992, and told  
8 them that in my opinion the lease had expired.

9 Apparently, Richmond was unphased by my  
10 correspondence because on April the 23rd of 1993,  
11 Richmond again sent me shut-in gas royalties. And on  
12 April the 28th of 1993, I sent them back. I wrote  
13 them a letter. It was very short. It just said that  
14 the lease had expired and the check is returned.

15 I also filed an affidavit in San Juan  
16 County noting that the lease had expired. And  
17 sometime in January or February of 1994, Consolidated  
18 called me -- actually, it was Phil that called me,  
19 and he told me that Consolidated had acquired  
20 Richmond's interest and intended to complete both of  
21 these wells and would like for me to lease.

22 And when I raised the question of  
23 participation, Consolidated objected to it. And  
24 finally on March the 1st, 1994, Consolidated sent me  
25 an offer to lease, and in the alternative they would

1 let me participate if I paid my proportionate part of  
2 what they thought Richmond's costs were.

3 I have checked the records in San Juan  
4 County, New Mexico, and there is no release on file  
5 for my lease, nor have I ever received one. I also  
6 cannot find any assignment from McElvain to Richmond  
7 or Consolidated or any other party. Of record  
8 McElvain still owns this lease.

9 The lease is recorded in Volume 1092 at  
10 Page 165 of the records of San Juan County.

11 The east half of Section 9 was pooled in a  
12 designation of pool unit which is recorded in Volume  
13 1121 at Page 313 of the records of San Juan County,  
14 and T.H. McElvain, Jr., signed this designation of  
15 pool unit. The designation was corrected in Volume  
16 1143 at Page 129. Whatever correction they made did  
17 not affect my interest in my lease.

18 This pooled unit covers the Federal No. 1,  
19 and my lease was listed in the exhibit of leases that  
20 was attached to this designation of pool unit. The  
21 south half of Section 11, which is the Carnes No. 1,  
22 was pooled, and that designation was recorded in  
23 Volume 1127 at Page 379. My lease was listed as an  
24 exhibit in that pooling agreement also, and McElvain  
25 was named as the owner of the lease.

1 I have a number of objections to the costs  
2 which I would like permission to submit to you in  
3 writing, if that's possible.

4 EXAMINER CATANACH: That would be fine.

5 THE WITNESS: I have not proposed to drill  
6 a well with my interests, nor have I ever indicated  
7 that I have the right to drill one. I have not tried  
8 to stop Consolidated from completing either the  
9 Carnes or the Federal wells.

10 I would like to state that of record in  
11 San Juan County, there were a lot of liens filed  
12 against Richmond. I don't have an exact number, and  
13 I didn't look at them, and there were some releases  
14 filed. I don't have any idea if any of these applied  
15 to the Carnes or the Federal wells, but I would like  
16 to reserve the right to check into that further.

17 MR. CARROLL: Into whether release of  
18 liens were filed?

19 THE WITNESS: Yes. There were a bunch of  
20 them filed against Richmond.

21 THE WITNESS: I have a number of exhibits  
22 which I would like to leave with you. Some of these  
23 have already been entered into the record; so I won't  
24 leave them. Exhibit No. 2 is McElvain's letter of  
25 November 14, 1990, sending me shut-in gas royalties

1 on the Federal No. 1. There are two parts to that  
2 exhibit.

3 Exhibit 3 is my letter to McElvain dated  
4 November 20, 1990, requesting a drilling report.

5 MR. CARROLL: Mr. Anderson. Pardon me,  
6 what was Exhibit No. 1?

7 THE WITNESS: I'm sorry. I was the oil  
8 and gas lease, but it's already been entered; so I  
9 don't intend to enter it again.

10 MR. CARROLL: All right.

11 THE WITNESS: That's why these numbers  
12 probably aren't in order.

13 Exhibit No. 4 is the letter of Richmond  
14 Petroleum dated May 11, 1992, again tendering shut-in  
15 gas royalties.

16 Exhibit 5 is my letter to Richmond dated  
17 May 22, 1992.

18 Exhibit 6 is the affidavit that I filed,  
19 which is recorded in San Juan County.

20 Exhibit 7 is the letter of Richmond  
21 Petroleum dated April 23, 1993, again tendering shut-  
22 in gas royalties.

23 Exhibit 8 is my letter of April 28, 1993,  
24 to Richmond returning their shut-in gas royalties.  
25 And I believe the remainder of what I had previously

1 marked has been entered by Consolidated; so I won't  
2 bother with trying to enter those.

3 I do have a prepared written statement  
4 which I would call a response which I've marked as  
5 Exhibit 13 that I would like to leave with you. And  
6 I request at this time that these exhibits be entered  
7 into the record.

8 EXAMINER CATANACH: Okay. Can you repeat  
9 the numbers that you had again for me, please.

10 THE WITNESS: Sure. No. 2 is the letter  
11 from McElvain --

12 EXAMINER CATANACH: You don't have to--  
13 just the numbers.

14 THE WITNESS: Okay. There's a No. 2; it  
15 has two pages to it. There's a No. 3, consisting of  
16 one page. No. 4, which is one page. No. 5, which is  
17 two pages. No. 6, which is one page. A No. 7, which  
18 is one page, 8, which is one page, and 13, which is  
19 four pages.

20 EXAMINER CATANACH: Mr. Anderson, do you  
21 have copies of those exhibits for Mr. Kellahin?

22 THE WITNESS: No. I'm sorry, I've been  
23 working out of my duffle bag for three days, and I  
24 don't.

25 MR. KELLAHIN: It's not a problem, Mr.

1 Examiner. Mr. Anderson told me that he was short  
2 copies. I have no objection to introducing those.  
3 If you can set them aside for me, I'll come by  
4 tomorrow and get a set.

5 EXAMINER CATANACH: Thank you, Mr.  
6 Kellahin. Exhibits 2, 3, 4, 5, 6, 7, 8 and 13 will  
7 be admitted as evidence at this time.

8 THE WITNESS: Shall I leave these up  
9 here?

10 EXAMINER CATANACH: Just leave them with  
11 us here.

12 THE WITNESS: I believe that's all I have  
13 unless you all have some questions.

14 EXAMINATION

15 BY EXAMINER CATANACH:

16 Q. As I understand your position, Mr.  
17 Anderson, it is your position that you should be  
18 allowed to participate in the well without paying  
19 costs that have been incurred thus far?

20 A. Yes, sir.

21 Q. And future costs?

22 A. Oh, no. I mean --

23 Q. You believe you're subject to future  
24 costs?

25 A. Oh, absolutely. And I offered the same to

1 Consolidated.

2 MR. WOOD: And that's in writing.

3 THE WITNESS: And I offered to prepay them  
4 also.

5 Q. (BY EXAMINER CATANACH) The only dispute  
6 is then to costs already incurred?

7 A. Costs incurred by Richmond, right.

8 Q. By Richmond?

9 A. Right.

10 Q. Not incurred by Consolidated?

11 A. No.

12 Q. You're willing to pay those?

13 A. Oh, absolutely.

14 EXAMINATION

15 BY MR. CARROLL:

16 Q. Mr. Anderson, the legal memorandum you  
17 mentioned earlier today, that is Exhibit 13, I take  
18 it?

19 A. Yes, sir, that's right.

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

21 EXAMINER CATANACH: Mr. Kellahin?

22 EXAMINATION

23 BY MR. KELLAHIN:

24 Q. Mr. Anderson, does your written statement,  
25 Exhibit 10, include your discussion and reasoning why

1 you propose that you should not have to pay for those  
2 costs that Richmond expended for the wells?

3 A. I think that's 13.

4 MR. CARROLL: That's Exhibit 13.

5 Q. (BY MR. KELLAHIN) 13, whatever the  
6 Exhibit number is?

7 A. Yes, it does.

8 Q. You have put in writing your argument?

9 A. A lot of them. I would like to be able to  
10 file an additional response after the hearing based  
11 on what I've heard today, if that's possible, but  
12 yes, it does.

13 MR. KELLAHIN: I'm not going to quiz you  
14 on it if you've got a written statement giving us  
15 direction on how you have reached your position, and  
16 that's what I'd like to examine.

17 We need to discuss how to proceed from  
18 here. It's up to the examiner. Typically, he'll ask  
19 both parties to prepare draft orders and/or any  
20 additional supplemental memos that he wants or that  
21 you might like to file. And it's up to his pleasure  
22 as to how he wants to proceed.

23 EXAMINER CATANACH: Would both parties  
24 like to submit briefs again? Mr. Kellahin, you in  
25 response to what he has filed?



1 MR. KELLAHIN: Yes, sir. I've not read  
2 it. I don't know what he said.

3 EXAMINER CATANACH: And, Mr. Anderson, you  
4 want to supplement your brief?

5 THE WITNESS: Yes, sir, I'd like to.

6 MR. CARROLL: Maybe it would be better for  
7 both parties after each side has examined the  
8 exhibits to file post-hearing statements and then  
9 replies to each other as opposed to other statements,  
10 or is that getting too cumbersome?

11 EXAMINER CATANACH: I think one is  
12 sufficient.

13 MR. CARROLL: Okay.

14 EXAMINER CATANACH: It appears to be  
15 pretty clear what the focal issue is in this case.

16 MR. KELLAHIN: We've discussed it all day,  
17 and I think I understand Mr. Anderson's position. He  
18 and I disagree. I'd like to read exactly how he's  
19 phrased it, but I don't think I need anything else in  
20 order to provide a short statement and then a  
21 suggested order and let you deal with the case.

22 EXAMINER CATANACH: Draft orders also, if  
23 you would submit a draft order. Time frames,  
24 gentlemen?

25 MR. KELLAHIN: At your pleasure. I can do

1 it in ten days.

2 MR. ANDERSON: That's fine.

3 EXAMINER CATANACH: Okay. We'll say have  
4 the briefs and the draft orders in within ten days.

5 MR. KELLAHIN: All right, sir.

6 EXAMINER CATANACH: And the confidential  
7 issue, we need to settle that tomorrow?

8 MR. KELLAHIN: Yes, sir. It's running  
9 late, and Mr. Wood can get back to his office  
10 tomorrow. He and I will discuss which of us contacts  
11 McElvain. We will contact McElvain about the farmout  
12 agreement.

13 EXAMINER CATANACH: Right.

14 MR. KELLAHIN: Mr. Wood will contact his  
15 supervisors with regards to the confidential purchase  
16 agreement with Richmond and advise me if I may  
17 withdraw the confidentiality provisions that apply to  
18 Exhibit 16 and the testimony related to that.

19 EXAMINER CATANACH: Okay.

20 MR. KELLAHIN: I believe that's all I was  
21 asked.

22 EXAMINER CATANACH: So you will let us  
23 know tomorrow as to the nature of that?

24 MR. KELLAHIN: I'll give you a progress  
25 report. Tomorrow may be too short to talk to

1 Richmond, but hopefully early next week we can clear  
2 that hurdle, and apart from that, it's of record  
3 between us, and we can draft orders accordingly.

4 EXAMINER CATANACH: And you're still in  
5 possession of that exhibit?

6 MR. KELLAHIN: No, sir. We returned it to  
7 you, and you now have the only copy.

8 MR. CARROLL: We have it.

9 EXAMINER CATANACH: I'm going to leave it  
10 with you, and you do what you want with it.

11 MR. KELLAHIN: We can either take a few  
12 minutes and get a copy for Mr. Anderson to take with  
13 him, or I will get it tomorrow when I get his stuff,  
14 and I'll just fax him a copy, whatever you'd like to  
15 do.

16 THE WITNESS: Either one is okay.

17 MR. KELLAHIN: I want to go home. I'll do  
18 it tomorrow.

19 EXAMINER CATANACH: What else?

20 MR. KELLAHIN: Unless you have some  
21 specific things for us to address, I'm well aware of  
22 your concerns in discussions today, and we'll present  
23 our position, and Mr. Anderson will do that. Then  
24 you can decide.

25 EXAMINER CATANACH: Okay. I suppose we'll

1 have all the information we need when we get the  
2 supplemental information. So we'll proceed at that  
3 point. And at this time we'll take the case under  
4 advisement.

5 MR. ANDERSON: And you guys are going to  
6 check on the farm-in?

7 MR. KELLAHIN: Yes.  
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CERTIFICATE OF REPORTER

STATE OF NEW MEXICO )

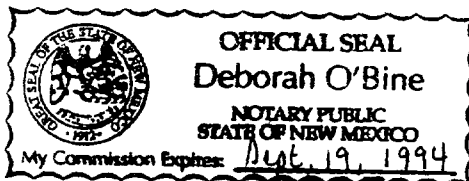
) ss.

COUNTY OF SANTA FE )

I, Deborah O'Bine, Certified Shorthand Reporter and Notary Public, HEREBY CERTIFY that I caused my notes to be transcribed under my personal supervision, and that the foregoing transcript is a true and accurate record of the proceedings of said hearing.

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

WITNESS MY HAND AND SEAL, May 4, 1994.



*Deborah O'Bine*  
DEBORAH O'BINE  
CCR No. 63

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 10955, 10956, 10957 heard by me on April 14 1994.

*David Cantant*, Examiner  
Oil Conservation Division

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