

## NEW MEXICO OIL CONSERVATION COMMISSION

EXAMINER HEARINGSANTA FE, NEW MEXICOHearing Date \_\_\_\_\_ FEBRUARY 3, 1994 Time: 8:15 A.M.

NAME	REPRESENTING	LOCATION
Dinse R	Yates Pet. Corp	Artesia
Pinson McWhorter	Yates Pet. Corp	Artesia
Maurice Trimmer	Byram Co	SF
Raye Miller	Marbob Energy	Artesia
John R Gray	Marbob Energy	Artesia
James Bruce	Hahl Law Firm	SF
William L. Carr	Danbury, Conn, Engle & Shuck	Santa Fe
Bill Duncan	Exxon Co. U.S.A.	Midland
Bill Hawkin	Amoco	Denver
Ira Pasternak	Amoco	Denver
Frank Seidel	Amoco	Denver
Gary Witz	Amoco	Denver
Ant Richardson	Yates Petroleum Corp.	Artesia
Emil Z. Carr	Loree Carr - Yates	Artesia
W. J. Kellhorn	Kellhorn & Kellhorn	Santa Fe



## 1 STATE OF NEW MEXICO

## 2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

## 3 OIL CONSERVATION DIVISION

4  
5 IN THE MATTER OF THE HEARING )  
6 CALLED BY THE OIL CONSERVATION )  
7 DIVISION FOR THE PURPOSE OF )  
8 CONSIDERING: )

CASE NO. 10,888

9  
10 APPLICATION OF MERRION OIL AND )  
11 GAS CORPORATION )  
12 \_\_\_\_\_ )

13  
14 **ORIGINAL**

15 REPORTER'S TRANSCRIPT OF PROCEEDINGS16 EXAMINER HEARING

17 BEFORE: JIM MORROW, Hearing Examiner

18 MAR 21 1994

19 February 3rd, 1994

20 Santa Fe, New Mexico

21 This matter came on for hearing before the Oil  
22 Conservation Division on Thursday, February 3rd, 1994, at  
23 Morgan Hall, State Land Office Building, 310 Old Santa Fe  
24 Trail, Santa Fe, New Mexico, before Steven T. Brenner,  
25 Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

## I N D E X

February 3rd, 1994  
Examiner Hearing  
CASE NO. 10,888

REPORTER'S CERTIFICATE

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\* \* \*

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

FOR THE DIVISION:

ROBERT G. STOVALL  
Attorney at Law  
Legal Counsel to the Division  
State Land Office Building  
Santa Fe, New Mexico 87504

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:25 a.m.:

3 EXAMINER MORROW: Call the hearing to order in  
4 Docket 4-94, and first call Case 10,888.

5 MR. STOVALL: Application of Merrion Oil and Gas  
6 Corporation for compulsory pooling and a non-standard gas  
7 proration unit, Rio Arriba County, New Mexico.

8 Mr. Examiner, this case was continued by the  
9 Division in order to enable the Applicant to make  
10 additional efforts to locate and find one of the parties  
11 sought to be pooled.

12 Apparently those efforts were met with some  
13 success. They have located the heirs of that party and  
14 have entered into an agreement with that party for the  
15 development of the property, and therefore those interests  
16 which had not been properly notified do not need to be  
17 pooled, and this case can be taken under advisement.

18 And we have an affidavit from the Applicant  
19 setting forth the facts.

20 EXAMINER MORROW: All right, we'll put the  
21 affidavit in the record and take Case 10,888 under  
22 advisement.

23 (Thereupon, these proceedings were concluded at  
24 8:26 a.m.)

25 \* \* \*

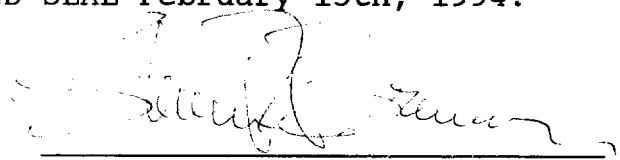
## CERTIFICATE OF REPORTER

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

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

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

WITNESS MY HAND AND SEAL February 15th, 1994.

  
STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 1994

I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 10888,  
heard by me on Feb 3 1994.

, Examiner  
Oil Conservation Division

## STATE OF NEW MEXICO

## ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

## OIL CONSERVATION DIVISION

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

CASE NO. 10,888

APPLICATION OF MERRION OIL AND )  
GAS CORPORATION )  
\_\_\_\_\_ )

JAN 14 1994

**ORIGINAL**REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

BEFORE: JIM MORROW, Hearing Examiner

December 16, 1993

Santa Fe, New Mexico

This matter came on for hearing before the Oil  
Conservation Division on Thursday, December 16, 1993, at  
Morgan Hall, State Land Office Building, 310 Old Santa Fe  
Trail, Santa Fe, New Mexico, before Steven T. Brenner,  
Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

## I N D E X

December 16, 1993  
 Examiner Hearing  
 CASE NO. 10,888

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APPEARANCES

3

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GEORGE F. SHARPE

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REPORTER'S CERTIFICATE

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\* \* \*



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

FOR THE DIVISION:

ROBERT G. STOVALL  
Attorney at Law  
Legal Counsel to the Division  
State Land Office Building  
Santa Fe, New Mexico 87504

FOR THE APPLICANT:

TANSEY, ROSEBROUGH, GERDING & STROTHER, P.C.  
Attorneys at Law  
By: TOMMY ROBERTS  
621 West Arrington  
P.O. Box 1020  
Farmington, New Mexico 87401

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   10:58 a.m.:

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8           EXAMINER MORROW: All right, we'll call Case  
9   10,888 at this time.

10          MR. STOVALL: Application of Merrion Oil and Gas  
11   Corporation for compulsory pooling and a non-standard gas  
12   proration unit, Rio Arriba County, New Mexico.

13          EXAMINER MORROW: Call for appearances.

14          MR. ROBERTS: Mr. Examiner, my name is Tommy  
15   Roberts. I'm with the Tansey law firm in Farmington, New  
16   Mexico, appearing on behalf of the Applicant, Merrion Oil  
17   and Gas Corporation.

18          I have two witnesses to be sworn.

19          EXAMINER MORROW: Will the witnesses please stand  
20   and be sworn?

21          (Thereupon, the witnesses were sworn.)

22          (Off the record)

23          EXAMINER MORROW: Go ahead.

24          MR. ROBERTS: Mr. Examiner, this is an  
25   Application of Merrion Oil and Gas Corporation for

1 compulsory pooling.

2 Originally as submitted, the Applicant did not  
3 request approval for a nonstandard proration unit. This  
4 involves a situation where the original well was drilled  
5 within a 352.07-acre spacing and proration unit, and  
6 approval for that nonstandard unit was obtained from the  
7 Oil Conservation Division, the Aztec office, at the time  
8 that well was drilled.

9 As advertised, the Application contains a request  
10 for approval of a nonstandard spacing and proration unit.  
11 That is one issue I think we need to resolve in the course  
12 of this hearing, as to -- is whether or not the infill well  
13 which is proposed to be drilled here is being drilled in an  
14 already-approved nonstandard spacing and proration unit.

15 The impact of that decision is that the  
16 appropriate parties were not notified of an application for  
17 a nonstandard spacing and proration unit until recently,  
18 but not in time to satisfy the 20-day requirement prior to  
19 this hearing today.

20 The Applicant has also submitted a letter request  
21 to the Division asking that this Application for a  
22 nonstandard spacing and proration unit be placed on the  
23 January 6th docket. So If we can resolve that issue in the  
24 course of the hearing today, that would certainly be  
25 helpful.

1           The underlying problem that gives rise to the  
2 Application for compulsory pooling is the interests owned  
3 by three people.

4           The interest as originally created was in the  
5 nature of a production payment, and the provisions of the  
6 document creating that production payment call for the  
7 automatic conversion of that production payment interest at  
8 times when production from the property falls below certain  
9 levels. And in those events, the interest converts from a  
10 production payment to a working interest.

11           The Applicant in this case is taking the position  
12 that those production payment interests are still in  
13 effect, but because of low production they have  
14 automatically converted to working interests, and that  
15 these people who own those interests are parties who are  
16 entitled to participate in the drilling of this infill  
17 well, which is the subject of this Application.

18           And we'll provide some testimony and evidence  
19 that supports the Applicant's position that the interests  
20 are now working interests and that they are subject to  
21 joinder in this infill operation.

22           And questions at this point? I'd be happy to  
23 answer.

24           MR. STOVALL: Yes, I do have some questions.

25           It is most unusual to have a compulsory pooling

1 on an infill well, since presumably the lands have been  
2 joined, production.

3 I guess the concern I've got, Mr. Roberts, is  
4 whether or not the Division has the authority to determine  
5 whether or not -- whether this is a production payment at  
6 this point or whether it's a working interest under the  
7 terms of that agreement.

8 The Division has consistently taken the position  
9 that it does not have jurisdiction to interpret private  
10 contractual arrangements between parties and --

11 MR. ROBERTS: My response would be that we are  
12 not here to ask you to make that interpretation. We as the  
13 Applicant have conducted a study to ascertain the nature of  
14 the interest as it exists today and have made the  
15 interpretation that this interest is a working interest  
16 today, that it's subject to participation in this  
17 particular well.

18 We don't ask the Division to make that  
19 determination, but we think it's within the Division's  
20 authority to issue a compulsory pooling as to any interest  
21 that may be subject to participation in the well, and  
22 that's simply what we ask you to do today.

23 The testimony that we will provide will indicate  
24 to you that one of the interest owners cannot be located,  
25 one of the interest owners has agreed to participate with a

1 working interest after consultation with an attorney, the  
2 third interest owner is just not sure what she has and was  
3 not able to make a decision as to whether or not she would  
4 want to participate as a working interest owner or not.  
5 The testimony will be that she has indicated to the Merrion  
6 representatives that she would just like to have her  
7 interests force-pooled and that she would be subject to the  
8 order of the Commission or the Division.

9 But I think that basically our response to your  
10 concern is that we really aren't asking the Division to  
11 interpret the nature of this interest.

12 MR. STOVALL: Okay, let me go to the next  
13 question, then. At the time the original well was drilled  
14 and the acreage consolidated for purposes of allocation of  
15 production, what is -- what was the basis for that  
16 consolidation and what is the status of that at this point?  
17 I mean, basically -- What you're really asking for is a  
18 subsequent operations force-pooling order, I think, it  
19 sounds like.

20 MR. ROBERTS: Well, the testimony that we would  
21 provide would indicate that there was no operating  
22 agreement in effect which would control the interests that  
23 we seek to force pool today.

24 MR. STOVALL: Was it a single working interest at  
25 the time? Is that what the -- at the time the first well

1 was drilled?

2 MR. ROBERTS: At the time the first well was  
3 drilled -- these people may correct me, but I think the  
4 production payment was in existence at that time, but that  
5 because of production levels it should have been treated as  
6 a working interest but was not.

7 MR. STOVALL: Okay.

8 MR. ROBERTS: And that's a whole separate issue  
9 that Merrion has to deal with.

10 But at this point we're trying to get them in  
11 line so that they can proceed with their activities on this  
12 infill well. But there was no operating agreement in place  
13 and never has been an operating agreement in place that  
14 would control as to those production payment working  
15 interest interests.

16 MR. STOVALL: So in other words, if they were  
17 truly production payments, then there was no problem with  
18 them, and if they were -- But if they were then, and  
19 assuming they are now, working interests, they need to be  
20 brought in as working interests primarily for the purpose  
21 of allocation of costs, not really for the consolidation of  
22 the property.

23 MR. ROBERTS: That's right.

24 MR. STOVALL: Okay --

25 EXAMINER MORROW: With that --

1 MR. STOVALL: I'm sorry, go ahead.

2 EXAMINER MORROW: -- I guess, with the exception  
3 of the interests you can't find, other people are in  
4 agreement with the pooling arrangement; is that right?

5 MR. ROBERTS: I think we can say one of the  
6 others is. They have signed an operating agreement,  
7 they've signed an AFE, and they're going to participate.

8 The other one is really not certain what she has.  
9 She's only verbally indicated to the Merrion representative  
10 that she did not intend to contest this hearing or case or  
11 Application and that she would rather not sell her  
12 interest, she would rather keep her interest, whatever it  
13 is, and that she would be subject to -- consider herself  
14 subject to any order that the Commission or Division enters  
15 here.

16 So really we have one person who is not certain  
17 what she has, not -- probably not certain what she wants to  
18 do.

19 The third person cannot be located.

20 EXAMINER MORROW: I guess it will show in here  
21 how big those interests are.

22 MR. ROBERTS: Yes. Shall I proceed?

23 MR. STOVALL: I think I understand the context  
24 now. Let's --

25 MR. ROBERTS: Okay. We'll call Crystal Williams.



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CRYSTAL WILLIAMS,

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

DIRECT EXAMINATION

BY MR ROBERTS:

Q. State your name and your place of residence for  
the record, please.

A. Crystal Williams, Farmington, New Mexico.

Q. And by whom are you employed?

A. Merrion Oil and Gas Corporation.

Q. How long have you been employed by Merrion?

A. Five years.

Q. In what capacity?

A. Landman.

Q. Have you testified on any prior occasion before  
the Oil Conservation Division?

A. Yes, I have.

Q. In what capacity?

A. As a landman.

Q. And were your qualifications as an expert in the  
field of petroleum land work made a matter of record at  
that time and accepted by the Division?

A. Yes, they were.

Q. Are you familiar with the Application in this  
case?

1 A. Yes, I am.

2 Q. Have you prepared certain exhibits to be  
3 submitted in conjunction with your testimony today?

4 A. Yes, Exhibits 1 through 7.

5 MR. ROBERTS: We tender Ms. Williams in the field  
6 of petroleum land work.

7 EXAMINER MORROW: All right, we accept her  
8 qualifications.

9 Q. (By Mr. Roberts) Ms. Williams, would you briefly  
10 state the purpose of the Application in this case?

11 A. The Application is to force-pool interests in the  
12 Dakota field or Dakota Pool in Section 24, lots 1 through  
13 8, which is the north half of Township 27 North, Range 7  
14 West.

15 Q. Do you also seek the authority to drill an infill  
16 well in an existing nonstandard spacing and proration unit?

17 A. Yes, we do.

18 Q. Would you refer to what's been marked as Exhibit  
19 Number 1 and identify that exhibit?

20 A. Exhibit 1 is a Fruitland outcrop map of the San  
21 Juan Basin. The purpose of this is to show the general  
22 location of the well within the San Juan Basin.

23 Q. Now, this location as spotted on this exhibit is  
24 not intended to be exact, is it?

25 A. No.

1 Q. Now, turn to what you've marked as Exhibit Number  
2 2 and identify that exhibit.

3 A. Exhibit 2 is a lease ownership plat of the  
4 section in which our well -- our infill well and the  
5 initial well are located.

6 The thick dotted line is the proposed spacing of  
7 the infill well of 352.07 acres. It shows the initial  
8 well, the Shelby Federal 1 and the infill well, the Shelby  
9 Federal 1E.

10 And in the lower corner it shows the uncommitted  
11 interests that we are trying to force-pool of Doris  
12 Henderson, which has 3.75-percent working interest, and  
13 Harriet Buchenau, who has a 1.875-percent interest.

14 Q. Does it also identify the oil and gas lease which  
15 covers the lands in the north half?

16 A. Yes, it identifies the only lease that's involved  
17 with both wells.

18 Q. Would you identify that by serial number?

19 A. That's SF-079298-C

20 Q. And I would take that to be a federal oil and gas  
21 lease?

22 A. Yes, it is.

23 Q. What is the footage location of the proposed  
24 infill well?

25 A. The infill well will be located 800 feet from the

1 south line and 2030 feet from the west line.

2 Q. And is this a standard gas well location?

3 A. It's a nonstandard.

4 Q. This is a nonstandard gas well location?

5 A. No.

6 Q. Let me rephrase -- Let me say the question again.

7 Is this a standard gas well location?

8 A. Yes, it is, I'm sorry.

9 Q. Okay.

10 A. I was thinking of spacing.

11 Q. What is the current status of the original well  
12 in this spacing and proration unit, that well that you have  
13 identified as the Shelby Federal Number 1 well?

14 A. It is producing.

15 Q. And the objective formation of the infill well is  
16 the Dakota formation?

17 A. Yes, it is.

18 Q. What is the ownership interest of Merrion Oil and  
19 Gas Corporation in the proposed spacing unit?

20 A. Merrion Oil and Gas and its employees who make up  
21 the interest in the well has 92.5 percent.

22 Q. And the other owners?

23 A. The remaining 7.5 percent is made up of three  
24 entities: of Sarah Mims, of <sup>1.875 JAM</sup>~~1.87~~ percent, who is  
25 participating; and Harriet Buchenau, which is <sup>1.875%</sup>~~1.85~~, which

1 is noncommitted; and Doris Henderson of 3.75 percent, which  
2 is also noncommitted.

3 EXAMINER MORROW: Who was the first one?

4 THE WITNESS: Sarah Mims.

5 EXAMINER MORROW: She's the one that's committed,  
6 right?

7 THE WITNESS: Yes.

8 Q. (By Mr. Roberts) Since this is an infill  
9 operation, one might assume that there would be an  
10 operating agreement that would apply to the lands within  
11 the spacing and proration unit.

12 Is there not an operating agreement that would be  
13 applicable to this particular area?

14 A. No, there is not.

15 Q. And so the interests of Ms. Mims and Ms. Buchenau  
16 and Ms. Henderson are not committed by virtue of a prior  
17 operating agreement?

18 A. That's correct.

19 Q. When did Merrion acquire its interest in this  
20 acreage?

21 A. The effective date of the acquisition was July  
22 1st, 1993.

23 Q. Let me ask you to refer to what's been marked as  
24 Exhibit Number 3 and ask you to identify that exhibit.

25 A. This first part of a letter from the OCD

1 approving the nonstandard gas proration unit with 352.07  
2 acres for the initial well, which was referred to as the  
3 Federal Com 1.

4 The second sheet is a sundry notice wherein we  
5 changed the name of the Federal Com Number 1 to the Shelby  
6 Federal Com Number 1.

7 Q. What is the date of that letter from the Oil  
8 Conservation Division?

9 A. March 8th, 1968. [sic]

10 Q. And who has signed that letter?

11 A. The district supervisor. I can't read the  
12 signature.

13 MR. ROBERTS: For the record, Mr. Examiner, I  
14 believe that is signed by Emery C. Arnold, who was the  
15 district supervisor for District Number 3 in Aztec at the  
16 time.

17 Q. (By Mr. Roberts) Ms. Williams, would you now  
18 refer to what's been marked as Exhibit Number 4 and  
19 identify that exhibit?

20 A. Exhibit 4 is several documents which create the  
21 production payment.

22 The first is a decision letter from the BLM  
23 approving the assignment from Horton, Paul Horton, to Bert  
24 Fields, wherein he retained a production payment of 7.5  
25 percent of the gross production, which would be paid based

1 on \$5000 per acre, and it would have to produce to certain  
2 levels.

3 The last of the approved assignment of the BLM  
4 was attached regulation or stipulation where it spelled out  
5 what the average monthly production would be to meet the  
6 requirements of the production payment, which was 15  
7 barrels of oil per day per well, or gas levels of 500,000  
8 cubic feet per well per day.

9 Q. And that document provides for the automatic  
10 reversion of the production payment interest to a working  
11 interest in the event production levels are not met?

12 A. That's correct.

13 Q. And what lands are covered by the assignment  
14 instrument which creates the production payment interest?

15 A. The assignment only refers to the federal lease  
16 that was mentioned earlier, which is just the north half of  
17 Section 24 in Township 27 North, Range 7 West.

18 Q. Would it be accurate to say, then, that the total  
19 amount of this production payment would be calculated by  
20 multiplying \$5000 by the total number of acres within the  
21 north half of Section 24 of 27 North, 7 West?

22 A. Correct.

23 Q. Have you examined the public records to verify  
24 the current ownership of this production payment?

25 A. Yes, we have. The 7.5-percent interest that was

1 retained initially by Horton was split into three entities,  
2 which was Sarah Mims, which she receives 1.875 percent;  
3 Harriet Buchenau, who receives 1.875 percent; and Doris  
4 Henderson who received 3.75 percent.

5 Q. Is it the position of Merrion Oil and Gas  
6 Corporation that these interests are currently in a  
7 converted state, in other words, that they are not  
8 production payment interests but are working interests?

9 A. That's correct.

10 Q. Now please refer to what's been marked as Exhibit  
11 Number 5, and I'll ask you to identify that exhibit.

12 A. Exhibit 5 is correspondence with one of the  
13 interest owners, Harriet Buchenau. The first letter, dated  
14 July 30th, states that we did purchase the well from the  
15 Shelby Agency and that we were considering their interest  
16 as a working interest, not a production payment. And it  
17 was also an offer to purchase her interest in the lease in  
18 352 acres.

19 The second letter was dated November 5th, 1993,  
20 where we tie it back to the initial letter that was sent,  
21 the offer to purchase, and we increased our offer to  
22 purchase on that. And at that time we also sent her an  
23 operating agreement -- a proposed operating agreement for  
24 the infill well, also an AFE if she decided to participate.

25 The next letter is dated November 24th, where I



1 had sent some documentation as to the production payment  
2 and how it came about, and at that time I had given Harriet  
3 Buchenau Sarah Mims' attorney's name so she could research  
4 it herself and make a decision for herself.

5 And the last letter, dated November 24th, was  
6 sent certified to Ms. Buchenau letting her know that we  
7 were going to force-pool hearing and that she could show up  
8 at that time, state her case, or, you know, let her know  
9 what was going on.

10 Q. Was the November 24th letter which notified Ms.  
11 Buchenau of this hearing placed in the mail on November  
12 24th?

13 A. Yes, it was.

14 Q. Do you have evidence of her receipt of that  
15 letter?

16 A. Yes, on the last page of that letter she received  
17 it December 6th of 1993, certified.

18 Q. Have you communicated with Ms. Buchenau since the  
19 date of her receipt of the November 24th letter?

20 A. Yes, I have.

21 Q. And has she indicated to you what her position is  
22 with respect to this hearing and this Application?

23 A. She said to go ahead and force-pool her interests  
24 because she could not make a decision what she wanted to do  
25 at that time.

1 Q. Now refer to what we've marked as Exhibit Number  
2 6 and tell us what that exhibit is.

3 A. Okay, Exhibit 6 is correspondence with Doris  
4 Henderson, who is another working interest owner.

5 And when we acquired this well from Shelby  
6 Agency, we were advised that the address that they had for  
7 Doris Henderson was invalid. And at that time I called the  
8 credit bureau and gave them her Social Security number, in  
9 which they gave me a new address, which I did try.

10 And this first letter just states that we did  
11 purchase the well and that she was in suspense with the  
12 previous owner of the well in the lease and that she would  
13 need to contact me as soon as possible.

14 And the next paper shows that it was returned  
15 unclaimed.

16 And the last letter is dated November 24th, which  
17 was also sent certified, that we were making her aware of  
18 the force-pool hearing, to meet that obligation.

19 Q. The second letter, dated November 24th, was  
20 addressed to the same address as the earlier letter?

21 A. Correct.

22 Q. Did you make any other efforts to try to identify  
23 any current address or location for Ms. Henderson?

24 A. No, I did not at that time, no.

25 Q. What response has Sarah Mims given you with

1 respect to participation in this infill well?

2 A. She has signed the proposed operating agreement  
3 and the AFE and has agreed to participate.

4 Q. Did she consult with an attorney?

5 A. Yes, she did.

6 Q. Are you familiar with the notice requirements  
7 established by the Oil Conservation Division with respect  
8 to the provision of notice to interested parties in a case  
9 of this type?

10 A. Yes, I am.

11 Q. And in your opinion, have those notice  
12 requirements been satisfied by the Applicant?

13 A. Yes, they have.

14 Q. Look at what you've marked as Exhibit Number 7  
15 and identify that exhibit.

16 A. Exhibit 7 is a standard operating agreement for  
17 the proposed infill well. It's the 1989 version. It  
18 covers the north half or lots 1 through 8 of Section 24,  
19 Township 27 North, Range 7 West.

20 Q. Is this the operating agreement that was sent to  
21 Ms. Buchenau and mailed to Ms. Henderson?

22 A. Yes, it was.

23 Q. Has it been executed by all other working  
24 interest owners, other than these two individuals?

25 A. Yes, it has.

1           Q.   Is this operating agreement a standard form of  
2   operating agreement that's commonly used in the oil and gas  
3   industry?

4           A.   Yes, it is.

5           Q.   And have there been any major, substantive  
6   provisions amended or added to this form of operating  
7   agreement?

8           A.   No.

9           Q.   Who do you propose be designated as the operator  
10   of this infill operation?

11          A.   Merrion Oil and Gas.

12          Q.   Ms. Williams, were Exhibits Numbers 1 through 7  
13   either prepared by you or at your direction and under your  
14   supervision?

15          A.   Yes, they were.

16               MR. ROBERTS:  Mr. Examiner, I would move the  
17   admission of Exhibit Numbers 1 through 7.

18               I have no other questions for this witness on  
19   direct.

20               EXAMINER MORROW:  1 through 7 are admitted.

21                               EXAMINATION

22   BY EXAMINER MORROW:

23          Q.   Ms. Williams, on one of the documents there was a  
24   -- production payment was reserved, there was --

25          A.   Yes.

1 Q. -- a notation there about a 5-percent overriding  
2 royalty.

3 A. That was a previously existing override. In  
4 addition to the 5 percent they also reserved a 7.5-percent  
5 production payment.

6 Q. What about that? Is it gone?

7 A. The 5-percent override? It still exists.

8 Q. And the 7.5-percent payment, that's the same 7.5  
9 that becomes a working interest; is that correct?

10 A. It's -- The 7.5-percent production payment, would  
11 automatically convert into working interest if --

12 Q. In other words, it's exactly the same percent?

13 A. Exactly, yes, yes.

14 Q. Was it paid off or not?

15 A. No, it has never reached payoff area, which the  
16 next witness, George Sharpe, will be going through that.

17 Q. It would have been substantial, \$5000 per acre?

18 A. Yeah, it equates to \$1.76 million.

19 Q. On your contact or attempt to contact Ms.  
20 Henderson --

21 A. Uh-huh.

22 Q. -- who did you say you talked to?

23 A. The credit bureau in Farmington. I gave them  
24 Doris Henderson's Social Security number. We had that from  
25 the Shelby Agency for past Division orders, and that's the

1 address that they had as of 1992.

2 Q. But you never talked to her by phone?

3 A. No, I never could locate her.

4 EXAMINATION

5 BY MR. STOVALL:

6 Q. Is the credit bureau the only place you attempted  
7 to search for her?

8 A. Other than trying to reach the Shelby Agency to  
9 see if they had received anything other than what they had.

10 Q. Did you ever contact directory assistance in  
11 Dallas or anyplace like that where you've got a --

12 A. No, because the address I was told, their  
13 division orders were returned for previous reasons from  
14 Shelby, and the address that I had gotten from Dallas I  
15 just had returned. I don't -- I never did call to see if  
16 she had any new listing, phone-numberwise.

17 MR. STOVALL: Have you done any check of --  
18 attempted to check any -- Well, let me back up on that.  
19 I'd like to follow this a little further --

20 EXAMINER MORROW: Please.

21 MR. STOVALL: -- if you don't mind, Mr. Examiner.

22 Q. (By Mr. Stovall) You know of Mrs. Henderson's  
23 existence because of -- she was the record owner through  
24 the Shelby Agency; is that correct?

25 A. Correct, yes.

1 Q. And did she derive it by an inheritance from --  
2 I'm sorry, who was the original --

3 A. Horton is the one that initially reserved the  
4 production payment.

5 Q. Okay, and she derived it by inheritance or  
6 transfer, or do you know what the title history is on that?

7 A. I believe it was assigned to her. The exact  
8 history on that, Doris Henderson, Sarah Mims and Harriet  
9 Buchenau are all ex-wives, Sarah Mims being the widow, and  
10 from there, that's where they received their interest.

11 Q. Of Mr. --

12 A. It wasn't Mr. Horton --

13 MR. ROBERTS: For the record --

14 Q. (By Mr. Stovall) Fields, Mr. Fields; is that  
15 correct?

16 MR. ROBERTS: For the record, Mr. Stovall and Mr.  
17 Examiner, these three individuals are former spouses of an  
18 individual whose name is Robert Mims. And I think Ms.  
19 Williams' research indicates that Mr. Mims somehow acquired  
20 an interest in this production payment, or acquired this  
21 production payment interest, and then through dissolution  
22 of marriage proceedings the former spouses have acquired  
23 these interests.

24 Q. (By Mr. Stovall) The famous property settlement.  
25 All right.

1 I am a little concerned that the only efforts  
2 you've made to contact, to locate Ms. Henderson is through  
3 the Farmington, New Mexico, credit bureau. You've never  
4 had a Farmington, New Mexico, address for her; is that  
5 correct?

6 A. No. They can trace it by Social Security Number.

7 MR. STOVALL: If Ms. Henderson has credit in a  
8 credit bureau system, which the Farmington bureau is a  
9 member of, they can trace it by that. If she doesn't have  
10 credit, then they don't have a record of her.

11 I'm concerned that you didn't go to at least  
12 directory assistance at a very minimum, a city directory of  
13 some sort, or some sort of search in Dallas, Texas, as a  
14 starting point to attempt to locate Mrs. Henderson, and  
15 I've --

16 MR. ROBERTS: Mr. Stovall --

17 MR. STOVALL: -- I've got some real concerns  
18 about the notice issue there.

19 MR. ROBERTS: -- Ms. Williams indicated that the  
20 Farmington Credit Bureau had given her the address in  
21 Dallas, which she had corresponded. So the Farmington  
22 Credit Bureau did have access through the Social Security  
23 number, and this was an address that was thought to be  
24 current through at least 1992.

25 Do you know exactly what time frame within 1992



1     that that address was --

2             THE WITNESS:  She did not give me an exact month.

3             MR. ROBERTS:  -- deemed to be current?

4             THE WITNESS:  She said --

5             MR. ROBERTS:  So it's a fairly current --  
6     relatively current address.

7             MR. STOVALL:  Well, it's relatively current --  
8     again -- Well, I don't need to get into it.

9             I don't think that alone is an adequate search,  
10     and we have had cases here where much more extensive  
11     searches have failed to locate and were subsequently  
12     overturned.

13            You know, I -- my feeling is that we need to go  
14     -- that you need to go a little further and do some  
15     checking through other sources, starting in Dallas, Texas,  
16     to find -- see if you can locate Mrs. Henderson.  Telephone  
17     directory at the very least, probably the city directory of  
18     some sort, and perhaps real estate and probate records.

19            I think that's a standard that has to be met in  
20     order to ask us to compel an interest into the unit, and  
21     we've got cases to that effect.

22            So that would be my recommendation with respect  
23     to Mrs. Henderson.

24            EXAMINER MORROW:  That she do some more  
25     searching?

1 MR. STOVALL: That she do some more searching,  
2 yeah. It's going to require a little bit of leg work to  
3 make sure --

4 MR. ROBERTS: How would you propose that we  
5 provide the results of that additional search for the  
6 record?

7 MR. STOVALL: Well, my suggestion to the Examiner  
8 is going to be that we continue this case to enable you to  
9 do that and that, depending on what you find -- possibly by  
10 affidavit; you do not necessarily have to come down and  
11 testify again as to --

12 MR. ROBERTS: Okay.

13 MR. STOVALL: But I think that's -- and  
14 ultimately, I think it's -- Well, I realize there's some  
15 expense involved in it, and it does put a burden. As I  
16 say, we have had cases in the past where more extensive  
17 searches have been inadequate and have resulted in a burden  
18 to the operator, so...

19 MR. ROBERTS: May we then conduct that search and  
20 provide an affidavit to supplement the record? Is that --

21 MR. STOVALL: That would be my reaction, unless  
22 something else comes up that -- you know, that you feel --

23 MR. ROBERTS: If she's located, that could give  
24 rise to some additional issues, but --

25 MR. STOVALL: Oh, yeah, exactly.

1 MR. ROBERTS: -- assuming that as a result of the  
2 additional search she's not located, then I think we would  
3 then assume that we could supplement the record with an  
4 affidavit?

5 MR. STOVALL: I think that's correct.

6 EXAMINER MORROW: So I guess we'll continue  
7 just --

8 MR. STOVALL: Just continue that --

9 EXAMINER MORROW: -- in the unlikely event they  
10 find her.

11 MR. ROBERTS: I think that's something that we  
12 can probably get on right away, and we may be able to  
13 provide that to you right away.

14 MR. STOVALL: Yeah, and I suggest at a minimum  
15 that you check phone directories, probate -- public record  
16 searches for her name.

17 Q. (By Mr. Stovall) The only other thing I would  
18 ask is, with respect to Ms. Buchenau I'm assuming you sent  
19 this letter; is that correct? The Application that you  
20 sent to us --

21 A. Yes.

22 Q. -- you sent it to her?

23 A. Yes.

24 Q. And the return receipt card shows that she  
25 received it on the 6th?

1           A.    Yes.

2           Q.    Would you just provide us with an affidavit that  
3   you actually mailed it prior to the -- I assume you mailed  
4   it on the date that it was --

5           MR. ROBERTS:  Well, she testified that she mailed  
6   it on the 24th, so that's in the record.

7           MR. STOVALL:  Okay.  Yeah, I just -- When  
8   somebody would come in looking, I'd just as soon have an  
9   affidavit, if you don't mind, just a two-paragraph  
10  affidavit, just for convenience on that one.

11          EXAMINER MORROW:  All right.  Are you through?

12          MR. STOVALL:  I'm through.

13                               FURTHER EXAMINATION

14  BY EXAMINER MORROW:

15          Q.    Are the overhead rates -- are those standard  
16  rates from an accounting firm's book?

17          A.    Yes, they are.  They're used -- or taken off the  
18  *Ernst and Young* survey --

19          Q.    *Ernst and Young*.

20          A.    -- which will be covered in Exhibit 11.

21          EXAMINER MORROW:  Okay.  We're going to talk some  
22  more about that.  Okay, good.

23                I don't have any more questions.  Thank you, Ms.  
24  Williams.

25          MR. ROBERTS:  Call George Sharpe.

1                                    GEORGE F. SHARPE,  
2     the witness herein, after having been first duly sworn upon  
3     his oath, was examined and testified as follows:

4                                    DIRECT EXAMINATION

5     BY MR. ROBERTS:

6                Q.     Would you state your name and your place of  
7     residence for the record?

8                A.     My name is George Sharpe.   I live in Farmington,  
9     New Mexico.

10              Q.     By whom are you employed?

11              A.     Merrion Oil and Gas Corporation.

12              Q.     In what capacity?

13              A.     I'm a petroleum engineer and I'm the oil and gas  
14     investments manager, whatever that may be.

15              Q.     How long have you been employed in that capacity?

16              A.     I've been a petroleum engineer with them for four  
17     years, and I've had my lofty title for six months or so.

18              Q.     Have you testified on prior occasions before the  
19     Oil Conservation Division?

20              A.     Yes, I have.

21              Q.     In what capacity?

22              A.     As a petroleum engineer.

23              Q.     Have your qualifications as an expert in the  
24     field of petroleum engineering been made a matter of record  
25     and accepted by the Division?

1 A. Yes, they have.

2 Q. Are you familiar with this Application?

3 A. Yes, I am.

4 Q. And have you prepared certain exhibits to be  
5 submitted in conjunction with your testimony?

6 A. Yes, I have. Exhibits 8 through 11 have been  
7 prepared by me or at my direction.

8 MR. ROBERTS: Mr. Examiner, I would tender Mr.  
9 Sharpe as an expert petroleum engineer.

10 EXAMINER MORROW: We'll accept Mr. Sharpe.

11 Q. (By Mr. Roberts) Mr. Sharpe, have you undertaken  
12 a study to ascertain the status of the production payment  
13 interests which have been the subject of the prior  
14 testimony in this case?

15 A. Yes, I have.

16 Q. What materials or data did you examine?

17 A. I examined production data that's on public  
18 record through the *Dwight's Data System*.

19 Q. And what conclusions did you reach?

20 A. I made two conclusions.

21 The first is that it is highly unlikely that the  
22 production payment has ever been -- the \$5000 an acre has  
23 ever been met.

24 And in addition, I concluded that it is unlikely  
25 that at any time during the history that the wells were

1 ever producing in excess of 500 MCF per day and 15 barrels  
2 of oil per day, and thus they -- the interest should have  
3 been converted to a working interest, the production  
4 payment.

5 Q. Is a summary of the data that you examined and  
6 the conclusions you've made in exhibit form here?

7 A. It is in Exhibit 8. Exhibit 8 has three pages.  
8 The first page shows the five wells that have been  
9 completed in the north half of Section 24, 27 North, 7  
10 West.

11 Page 2 of that exhibit shows the cumulative  
12 production from all five wells to be just under 3 BCF of  
13 gas and 12,500 barrels of condensate. There's some  
14 calculations at the bottom of page 2, Exhibit 8, that show  
15 that the production payment for 352.07 acres at \$5000 an  
16 acre should total \$1,760,350.

17 If you look at the cumulative production from the  
18 well -- and I had to make some assumptions on gas price and  
19 oil price, because I'm unaware of what those wells actually  
20 received during their history. I assumed \$2.50 per MCF and  
21 \$25 a barrel. That would give gross revenue of  
22 approximately \$7.7 million.

23 The 7.5-percent share of that would be  
24 approximately \$580,000, which is significantly less than  
25 the required production payment.

1           Q.    So the known factors that were available to you  
2   are cumulative production from a certain number of wells  
3   that are known to have been drilled and produced from the  
4   north half of this particular section?

5           A.    Yes.

6           Q.    And the assumptions that you had to make were  
7   with respect to gas and oil price?

8           A.    Yes.

9           Q.    Your calculation indicates that assuming a gas  
10   price of \$2.50 per MCF and an oil price of \$25 per barrel,  
11   that the 7.5-percent portion would have achieved a net  
12   interest or a net revenue of about \$580,000.

13                   Can we then assume that it would have taken an  
14   oil price and the gas price about three times higher than  
15   those levels assumed to have reached the total amount of  
16   the production payment?

17           A.    Yes.

18           Q.    And when you say it's highly unlikely that the  
19   production payment interest has been satisfied, you're  
20   basing that on the assumptions as to gas price --

21           A.    Yes.

22           Q.    -- and oil price?

23                   Now, would you a little bit more specifically go  
24   through the analytical process in determining or concluding  
25   that the production payment interests are currently



1 converted to a working interest?

2 A. Yes. On the third page of Exhibit 8 shows the  
3 annual production of oil and gas for all the wells in the  
4 north half of Section 24, from 1970 through 1993.

5 The year of highest production was 1972, when 622  
6 barrels of oil and 104,932 MCF of gas was produced. At  
7 that time there were four wells producing. And if you  
8 calculate the oil rate per well per day, that was less than  
9 half a barrel per day of oil and approximately 72 MCF per  
10 day of gas per well, both significantly below the limit set  
11 in the agreements.

12 Therefore, the production payment should have  
13 converted to a working interest.

14 Q. Why did you begin with the year 1970 in your  
15 analysis?

16 A. That is the earliest date that *Dwight's* has the  
17 production data available.

18 Q. Let me ask you now to turn to what you've labeled  
19 as the Applicant's Exhibit Number 9, ask you to identify  
20 that exhibit.

21 A. Exhibit 9 is an AFE, Authority for Expenditure,  
22 that was prepared for the well in question, the Shelby  
23 Federal Number 1E.

24 Q. What are the total dryhole and completed well  
25 costs?

1           A.    The total dryhole costs are \$247,700, and the  
2 completed well is projected to cost \$456,300.

3           Q.    In your opinion, are these costs reasonable,  
4 given the nature of the proposed operation?

5           A.    Yes, they are.

6           Q.    And are these estimated costs consistent with  
7 your experience in the San Juan Basin with the drilling and  
8 completion of Dakota wells?

9           A.    Yes, they are.

10          Q.    Now, refer to what you've marked as Exhibit  
11 Number 10 and identify that exhibit.

12          A.    Exhibit Number 10 is an aerial schematic showing  
13 the current production rate from other Dakota infill wells  
14 surrounding our proposed Federal Com 1E.

15                The rates are listed in MCF per month.   The  
16 closest offset to the Federal Com 1E is making 7500 MCF per  
17 month or about 250 MCF a day.   There are varying rates of  
18 wells around there, as high as a million a day from the  
19 well in Section 29 of 27 North, 6 West.

20                The 250 MCF a day would be a marginal, if not  
21 uneconomic, well, depending on your price forecast  
22 assumptions.   We anticipate that this well will be economic  
23 and hope to do better than that, but there is certainly  
24 some risk that we will have a marginal or uneconomic well.

25          Q.    Is the purpose of this exhibit to illustrate some

1 element of risk involved in --

2 A. Yes.

3 Q. -- undertaking this operation?

4 A. There is certainly some risk that our well will  
5 be uneconomic, although we certainly hope not.

6 Q. What is the status of the infill well as of this  
7 time?

8 A. Well, the rig is actually on the well. They are  
9 close to TD as of yesterday morning's report. I do not  
10 have this morning's report. They are probably running logs  
11 today and running casing tomorrow.

12 Q. Do you propose that a risk factor be charged  
13 against any interest owner who does not voluntarily commit  
14 his or her interest to this operation?

15 A. Yes.

16 Q. And in what amount?

17 A. I would propose the standard 200 percent risk.

18 Q. How do you support that request?

19 A. I support it again by the fact that there is risk  
20 involved in this. We are by no means guaranteed a  
21 successful well.

22 Q. Do you also propose the assessment of supervisory  
23 charges during the drilling and production stages of this  
24 operation?

25 A. Yes, I do.

1 Q. At what rates?

2 A. I would propose -- Exhibit 11 supports my  
3 proposal for \$5012 per month, prorated on a daily basis.  
4 This is the *Ernst and Young* rate survey for the Rocky  
5 Mountain area.

6 On the lower part of the page, for gas wells  
7 between 5000 and 10,000 feet, the 1992 mean drilling well  
8 rate was \$5012, and that is what we're proposing in our  
9 operating agreement.

10 Q. Do you anticipate oil production from this well?

11 A. We do anticipate a minimal amount of condensate,  
12 yes. But it would be definitely classified as a gas well.

13 Q. By this Application, do you seek a simultaneous  
14 dedication of the north half of Section 24, 27 North, 7  
15 West, to these two wells, the original well and the infill  
16 well?

17 A. Yes.

18 Q. In your opinion, will the granting of this  
19 Application be in the interests of conservation and result  
20 in the protection of correlative rights and the prevention  
21 of waste?

22 A. Yes.

23 Q. Were Exhibit Numbers 8 through 12 either prepared  
24 by you or at your direction, under your supervision?

25 A. Exhibits 8 through 11 were prepared by me or at

1 my direction.

2 MR. ROBERTS: Did I say 8 through 12?

3 Mr. Examiner, we would move the admission of  
4 Exhibit Numbers 8 through 11.

5 And we have no other questions for this witness.

6 EXAMINER MORROW: 8 through 11 are admitted.

7 EXAMINATION

8 BY EXAMINER MORROW:

9 Q. Exhibit Number 2 shows one existing well and a  
10 proposed well. Those would be Dakota wells, I assume. And  
11 I believe you said there are four other wells on the tract?

12 A. Yes, sir, there's three -- I believe three  
13 Pictured Cliffs and one Mesa Verde or --

14 Q. Two and two, yeah.

15 A. Two and two, you're correct.

16 Q. Were those wells drilled under the -- They were  
17 drilled under the same 7.5-percent- --

18 A. Yes, sir, they were.

19 Q. -- -per-section payment arrangement?

20 A. That's our understanding through our title  
21 search. At some point that 7.5 percent was part of the  
22 early-on assignment of the lease. After that fact, the  
23 depths were severed. We ended up only owning the base of  
24 the Mesa Verde and deeper.

25 Q. Okay. So you're not proposing that those other

1 four wells --

2 A. No, sir, we have nothing to do with those other  
3 four wells.

4 MR. STOVALL: But you are saying that all -- the  
5 four of them --

6 THE WITNESS: All four of them -- That should be  
7 converted to a working interest on all four wells, in our  
8 opinion.

9 Q. (By Examiner Morrow) But it's not any of your  
10 business about the other four?

11 A. Yes, sir, it's none of our business.

12 Q. So Basin Dakota, you own the Basin Dakota.

13 A. Yes, sir.

14 Q. And the other Basin, the Pictured Cliffs and the  
15 Blanco-Mesa Verde you don't?

16 A. No, sir.

17 MR. STOVALL: It looks like if you put all the  
18 wells together, they don't meet the production threshold;  
19 is that correct?

20 THE WITNESS: No. Right, the sum total of the  
21 wells even doesn't sum up to one well to meet the  
22 production payment.

23 Q. (By Examiner Morrow) You called that casinghead  
24 gas. Is that really gas-well gas you have in that column?

25 MR. ROBERTS: Exhibit 8.

1 THE WITNESS: *Dwight's* put that in there, and  
2 yes, sir, that would be gas-well gas. I'm not sure.  
3 Blanco-Mesa Verde is a gas-well field. So yes, that would  
4 be gas-well gas and condensate.

5 Q. (By Examiner Morrow) Instead of oil, it would be  
6 condensate.

7 I know we're not going to interpret an agreement,  
8 but I've got a couple of questions here just for my  
9 information.

10 When the 7.5 percent agreement was made, was  
11 there any production on this tract, or only anticipated  
12 production? Do you know?

13 A. I am not aware. I don't know.

14 MR. ROBERTS: Mr. Sharpe, if I may, do you know  
15 the drill dates of any of the other wells?

16 THE WITNESS: I don't remember exactly. On the  
17 Shelby Number 1, it would be the only one that I'm familiar  
18 with. But it was in the late Fifties, it was drilled in  
19 the late Fifties.

20 MR. STOVALL: This *Dwight's* report doesn't give  
21 that, does it?

22 THE WITNESS: No, it does not.

23 Q. (By Examiner Morrow) Well, even if you completed  
24 a successful well or came in as good as your AFE estimates  
25 indicate, would that additional production put you over the

1 hump or not?

2 A. No, sir. No, sir, the -- we don't --

3 Q. You still --

4 A. I mean, we anticipate 250 to 500 MCF a day from  
5 this well.

6 And again, it's on a per-well basis, average per-  
7 well basis, that you have to be greater than 500 MCF a day  
8 or 15 barrels of oil a day. And certainly we are not going  
9 to bring the average up to greater than that, even if we  
10 have a million-cubic-feet-a-day well.

11 Q. Do you know if those other four wells were  
12 drilled using this 1968 approval for a nonstandard gas  
13 proration unit?

14 A. I would think not, that this proration unit was  
15 set up strictly for the Dakota, that the Blanco-Mesa Verde  
16 and -- They're on 160s, so they would have separate --

17 MR. STOVALL: Blanco-Mesa Verde, 160?

18 THE WITNESS: No, I'm sorry, Blanco is on 320  
19 also, so it might be. But again, I have no -- We really  
20 haven't done any research as to any other formations. The  
21 PC is on 160.

22 FURTHER EXAMINATION

23 BY MR. ROBERTS:

24 Q. Mr. Sharpe, it's clear that original well for  
25 which that nonstandard spacing proration unit was approved



1 was a Dakota well, though?

2 A. Yes.

3 Q. Was it also completed in the Mesa Verde, or was  
4 it --

5 A. No, it was a --

6 Q. -- a single formation?

7 A. It was a single formation.

8 All right, Exhibit 3, which is the approval by  
9 the Aztec Conservation Commission office, strictly for the  
10 Basin-Dakota. So again, I am not sure what the status of  
11 the other proration unit will be.

12 EXAMINATION

13 BY MR. STOVALL:

14 Q. A couple -- Just a couple of quick questions, and  
15 I guess, Mr. Sharpe, you can answer it as well as the  
16 landman.

17 The 352 acres is a survey -- is because of the  
18 survey differences in that area; is that correct?

19 A. Yes, sir.

20 Q. It is the north half; it just happens to be a  
21 nonstandard north half?

22 A. Yes, sir.

23 Q. Okay. In your interpretation of the rules -- it  
24 would be mine, and would you concur, that once that's  
25 approved, then the infill well provisions of the Basin-

1 Dakota Pool rules apply and --

2 A. That would be my interpretation.

3 MR. STOVALL: I think that's correct.

4 For your information, Mr. Roberts, I don't think  
5 that Application for the nonstandard got onto the January  
6 6th docket. We'd have to look at the notice, but I don't  
7 think it matters because it appears that you got an  
8 approval. So...

9 MR. ROBERTS: Yeah, that would be our argument.  
10 We'd like to have -- I don't know how we want to have that  
11 recorded in the record, but we certainly want to be in a  
12 position of withdrawing the Application for the January 6th  
13 docket if it has been received and logged in.

14 MR. STOVALL: Yeah, I think that --

15 MR. ROBERTS: I don't know if it had been  
16 advertised by now. Theoretically, I guess it would,  
17 wouldn't it?

18 MR. STOVALL: Well, I had asked Florene  
19 yesterday, and she said that she did not have a Merrion  
20 case for the January 6th docket, so --

21 MR. ROBERTS: Okay.

22 MR. STOVALL: -- apparently it didn't, and I  
23 don't remember seeing one. But again, I don't think it's a  
24 problem, so --

25 MR. ROBERTS: Okay.

1 MR. STOVALL: I think -- We'll do one of two  
2 things, or I'd recommend we do one of two things: Either  
3 dismiss that part of the case -- because that was actually  
4 inserted by the Examiner, if I'm not --

5 MR. ROBERTS: Right.

6 MR. STOVALL: -- or by Mr. Stogner when he  
7 prepared the notice, if I'm not mistaken.

8 Or take note and amplify the approval of that  
9 previously issued by the Division.

10 So we can check on the January 6th. If it's  
11 there, we'll dismiss it. If it's not, we'll withdraw the  
12 Application and we will not advertise it for the 20th.

13 MR. ROBERTS: Probably -- Our preference, I  
14 think, would be to dismiss that portion of the Application  
15 that is on the docket today that deals with the nonstandard  
16 spacing proration unit issue. I think that would be my  
17 preference, because if we go forward as though that's a  
18 part of this Application, then we have some problems with  
19 our notification.

20 MR. STOVALL: Oh, no, I don't see that. I think  
21 the effective date of that is back when Mr. Arnold issued  
22 that.

23 EXAMINER MORROW: You said that would be cured by  
24 the 6th, didn't you?

25 MR. ROBERTS: It will be cured by the 6th.

1 EXAMINER MORROW: Well, we're going to continue  
2 it anyhow to get the information, so if anybody --

3 MR. ROBERTS: Well, I'm hopeful that we'll be  
4 able to resolve this notification issue with Ms. Buchenau  
5 within the next two or three days, and then we could submit  
6 an affidavit to you that could supplement the record today,  
7 and that --

8 MR. STOVALL: You mean Henderson? Not Buchenau,  
9 Henderson?

10 MR. ROBERTS: Henderson, I'm sorry. And that  
11 before the end of the year we could tell you that there's  
12 no need to call the case on the 6th.

13 MR. STOVALL: Well, once we continue it, it will  
14 have to come on that docket, so you've got till -- But you  
15 may not have to appear.

16 MR. ROBERTS: Yeah.

17 MR. STOVALL: Yeah, I don't think there's a  
18 problem with the nonstandard. I think we'll reference why  
19 it got on the docket in the first place, and why --

20 MR. ROBERTS: Okay.

21 MR. STOVALL: -- we're taking it off. And then  
22 -- or for this case.

23 And then if the other one has not already been  
24 advertised, we'll just -- we can pull the Application. If  
25 it has been advertised, we can dismiss it on the 6th as

1 being unnecessary.

2 MR. ROBERTS: Okay.

3 EXAMINER MORROW: All right. Do you all have  
4 anything else?

5 MR. ROBERTS: No, sir.

6 EXAMINER MORROW: Thank you, Mr. Sharpe.

7 Let's see, we're going to continue this case  
8 until the 6th to give Ms. Williams time to furnish  
9 additional information. And otherwise, we'll take the  
10 remaining portion of it under advisement.

11 Did I say that all right?

12 MR. STOVALL: Yeah. Really the whole thing is  
13 continued, but --

14 EXAMINER MORROW: And we'll take a break until  
15 one o'clock and reconvene at that time.

16 (Thereupon, these proceedings were concluded at  
17 11:53 a.m.)

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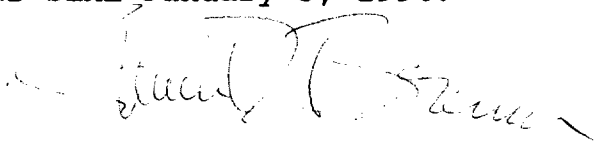
CERTIFICATE OF REPORTER

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

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

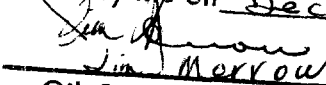
I FURTHER CERTIFY that I am not a relative or  
 employee of any of the parties or attorneys involved in  
 this matter and that I have no personal interest in the  
 final disposition of this matter.

WITNESS MY HAND AND SEAL January 3, 1994.

  
 STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 1994

I do hereby certify that the foregoing is  
 a complete record of the proceedings in  
 the Examiner hearing of Case No. 10888,  
 heard by me on Dec 16 1993.

  
 Jim Morrow, Examiner  
 Oil Conservation Division