

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION  
STATE LAND OFFICE BLDG.  
SANTA FE, NEW MEXICO  
23 February 1983

COMMISSION HEARING

IN THE MATTER OF:

Application of Clements Energy, Inc.,                      CASE  
for compulsory pooling, Lea County,                      7744  
New Mexico.

BEFORE:      Commissioner Ramey  
                Commissioner Kelley

TRANSCRIPT OF HEARING

A P P E A R A N C E S

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

For Perry A. Poole:

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I N D E X

PERRY A. POOLE

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2 MR. RAMEY: The hearing will come to  
3 order.

4 Call first Case 7744.

5 MR. PEARCE: That case is on the appli-  
6 cation of Clements Energy, Incorporated, for compulsory  
7 pooling, Lea County, New Mexico.

8 MR. PADILLA: Mr. Chairman, I'm Ernest  
9 L. Padilla, Santa Fe, New Mexico, for the applicant, Clements  
10 Energy, Inc.

11 MR. RAMEY: How many witnesses do you  
12 have, Mr. Padilla?

13 MR. PADILLA: Two witnesses.

14 MR. CARR: May it please the Commission,  
15 my name is William F. Carr, with the law firm Campbell, Byrd,  
16 and Black, P. A. of Santa Fe, appearing on behalf of Mr.  
17 Perry A. Poole in opposition to the application.

18 I have one witness.

19  
20 (Witnesses sworn.)

21  
22 MR. PADILLA: Call my first witness,  
23 Wayne Newkumet.  
24  
25

WAYNE NEWKUMET

being called as a witness and being duly sworn upon his oath,  
testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. PADILLA:

Q Mr. Newkumet, for the record would you please  
state your name and where you reside?

A My name is Wayne Newkumet, from Midland, Texas.

Q Can you tell us what your connection is with the  
applicant today?

A I'm a consulting landman for Clements Energy.

MR. RAMEY: Would you spell your last  
name, please?

A Yes, sir. N-E-W-K-U-M-E-T.

MR. RAMEY: Thank you.

Q Mr. Newkumet, have you previously testified  
before the Oil Conservation Division and had your credentials  
accepted as a matter of record?

A Yes, sir.

Q Do you know what the purpose of today's hearing  
is?

A Yes.

Q Will you explain that for us, please?

1  
2 A. We are requesting that the Commission pool the  
3 northeast quarter of Section 14, Township 14 South, Range 34  
4 East, for the drilling of an 11,000 foot test at a location  
5 810 feet from the north line and 660 feet from the east line  
6 of Section 14, for the Clements Energy, Inc., State 14 No. 1  
7 Well.

8 MR. PADILLA: Mr. Chairman, are the wit-  
9 ness' credentials accepted?

10 MR. RAMEY: Yes.

11 Q. Mr. Newkumet, would you please refer to what's  
12 been marked as Applicant's Exhibit Number One and identify  
13 that for us, please?

14 A. Okay. Exhibit Number One is a land ownership  
15 plat. It shows the proposed pooled unit, the northeast quart-  
16 er. It also shows recent prices paid in the area for State  
17 leases, et cetera. It also shows the proposed location for  
18 the Clements Well.

19 Q. How recent is this land plat, Mr. Newkumet?

20 A. Oh, this is probably, oh, within the last couple  
21 of months.

22 Q. Going on to what has been marked as Applicant's  
23 Exhibit Number Two, can you tell us what that is? And what  
24 it contains?

25 A. Okay. Exhibit Number Two is a blow-up of the

section on a smaller scale.

It reflects the lease ownership data. It also reflects the proposed pooled unit, the northeast quarter. It shows the proposed location.

Also, if you'll note, in the southwest quarter of Section 14 I've attempted to show the limits of the High Plains Penn Field cross-hatched there.

Q Mr. Newkumet, what interests are you attempting to force pool in this case?

A The northeast quarter of Section 14, which a portion is owned by Clements Energy, Inc., through a State of New Mexico lease, and a portion owned by Perry Poole, also a State of New Mexico lease.

Q And where is Mr. Poole's lease?

A Mr. Poole's lease is in the northwest quarter of the northeast quarter of the section.

Q Mr. Newkumet, what efforts have you made to seek voluntary joinder of the northwest of the northeast quarter of -- yes, the northwest of the northeast quarter?

A Several telephone conversations and two or three letters over the past several months with Mr. Poole.

Q Will you give us a chronology of the attempts that you have made to force pool -- or to seek voluntary joinder for the drilling of the well?



1  
2           A.       The first contact we had with Mr. Poole was a  
3 telephone conversation of August 20th, 1982. In this telephone  
4 conversation we initiated the offer through our Field Office  
5 in Roswell, in which Mr. Poole was offered \$50.00 per acre  
6 and in addition a 7-1/2 percent overriding royalty interest.

7                   We offered to buy not only the 40-acre tract  
8 in the proposed pooled unit but also another portion of this  
9 lease, the west half of the northwest quarter, part of that  
10 same base lease.

11                   He responded in that conversation that he would  
12 accept no less than \$451.92 per net acre. I should explain  
13 what that number is. That's the amount Clements paid for a  
14 State lease that covers most -- in fact it covers the balance  
15 of that section, back in a June, 1982, State land sale, oil  
16 bid.

17                   I might mention that that lease has a 10-year  
18 term and a 1/8th royalty to the State.

19           Q.       Did you make any other offers to Mr. Poole?

20           A.       We have a -- well, let me say, we've got a  
21 letter marked Exhibit Three, I believe it is. It's an August  
22 20th letter from our field landman back to our office where  
23 he indicates to me in writing exactly the offers that he'd  
24 made through that date.

25           Q.       And that's Exhibit Number Three.

1  
2 A. Right.

3 Q. Going on to what has been marked as Exhibit  
4 Number Four, can you tell us what that is and what it contains?

5 A. Exhibit Number Four is a letter from our field  
6 office addressed to Mr. Poole, in which we offered to pur-  
7 chase the lease for \$300 per net acre and additionally offered  
8 7-1/2 percent overriding royalty interest.

9 The field landman also indicated to Mr. Poole  
10 in that letter that we would absolutely not be in a position  
11 to pay the amount that he was requesting for this lease, in  
12 other words, the \$451.92 per acre, and his 10 to 12-1/2 per-  
13 cent overriding royalty interest, which Mr. Poole indicated  
14 he wanted in a telephone conversation prior to this letter  
15 but after our initial contact.

16 Q. Did you make any telephone -- or did you have  
17 any other telephone conversations with Mr. Poole later?

18 A. Okay, let's see, we had, of course, the October  
19 19th telephone conversation. I believe that conversation was  
20 prefaced by another telephone conversation, which we offered  
21 \$200 per acre and a 5 percent overriding royalty interest for  
22 the tract. Again he indicated it was not acceptable and he  
23 would accept no less than a 10-1/2 percent to 12-1/2 percent  
24 override, and the price of \$451.92 per acre.

25 Q. Mr. Newkumet, have you attempted to farmout the

1  
2 acreage from Mr. Poole?

3 A. Okay, by letter of November 12th, 1982 --

4 Q. That's marked Exhibit Number Six, is that cor-  
5 rect?

6 A. That's right. That is a letter from our office  
7 in which we again offered several alternatives, to purchase  
8 the lease, to accept a farmout from him, or just requesting  
9 his joinder in our well. This letter also spelled out the  
10 working interest percentages, and et cetera, that he would  
11 have under the proposed farmout.

12 We also indicated to him -- I'm getting ahead  
13 of myself.

14 Q. Can you give us an explanation about your  
15 rationale and your reasoning in the offers that you have made  
16 to Mr. Poole as far as the economics and the -- and as far as  
17 the bonuses are concerned; vis-a-vis, say, State land lease  
18 sales?

19 A. Okay. In determining the price to offer to  
20 mineral owners and to bid on these State sales, we have to  
21 look at a couple of things. One would be the term of the  
22 lease. In other words, how long it's going to be in effect  
23 and how long we have to drill on it. Number two, we'd have  
24 to look at the prices that have been paid in the area. Num-  
25 ber three, of course, we have to look at the net revenue in-

1  
2 interest under the lease that we'd be acquiring.

3 In this immediate area, I'd like to just go  
4 over some of the prices that I've noted that have been paid,  
5 just for the record.

6 Q You're referring now back to Exhibit Number One?

7 A That's right. That's correct. Some of these  
8 might be on that exhibit and some might be so recent that  
9 they wouldn't be on it, but for instance, in Section 11, im-  
10 mediately north of us, the southeast quarter and the south  
11 half northeast quarter, a lease dated in June, 1982, to -- it  
12 was purchased by Clements for \$225 per acre, 5-year term, and  
13 a 20 percent royalty.

14 If you'll look in Section 12, the southwest  
15 quarter of Section 12, you'll note that in June of 1982 a  
16 Dave Sorenson paid \$312 per acre for a 10-year lease, 1/8th  
17 royalty.

18 In the southeast quarter of that same section,  
19 in October of 1982 Harper Oil Company paid \$250 an acre for  
20 a 10-year lease, 1/8th royalty.

21 I could go on. There are several more in the  
22 area. Up in Section 5 of this same township we have purchased  
23 the whole section there at sales in May, June, and all the  
24 way through November; 5-to-10 year term, 1/8th to 1/6th  
25 royalty, and we're paying between \$80 and \$90 per acre up

there.

Q. Mr. Newkumet, what's the remaining term in Mr. Poole's lease?

A. I believe Mr. Poole's lease has -- expires in November of 1984.

Q. And did that have a bearing on your decision as to whether to -- in assessing your offer to Mr. Poole?

A. Yes, it had a significant bearing. The royalty, of course, that we'd be delivered would be something -- or the net revenue that we'd be delivered under the override that he's asking would be somewhere in the neighborhood of 75 percent, which is substantially lower than any other lease that we have in the area, so the royalty and the term of the lease, both, are substantially less than anything that we've purchased in the area.

Q. Mr. Newkumet, let me take you out of sequence here and refer you to what has been marked as Exhibits Nine-A, and Nine-B, and Nine-C, and ask you to --

A. Okay.

Q. -- explain those to the Commission.

A. Okay, Exhibit Nine-A is a letter from William F. Carr, Mr. Poole's attorney, which was delivered to us yesterday -- no, the day before yesterday, in which they made a counter offer to our offer of November 12th letter. I

1  
2 think maybe that was Exhibit Five, wasn't it?

3 Q Exhibit Six.

4 A Exhibit Six, okay. They offered to farmout the  
5 lease as to the proration unit under certain terms that we  
6 can read there in that letter.

7 Exhibit Nine-B would be another letter from Mr.  
8 Carr, also, another counter proposal to our November 12th of-  
9 fer.

10 Q Tell us what Nine-C is.

11 A Okay, Exhibit Nine-C is our response to those  
12 two proposals in which we indicated that we would still be  
13 agreeable to the offer that we made in the November 12th pro-  
14 posal but would not be interested in the counter proposal  
15 that was made in the two letters marked Exhibit Nine-A and  
16 Exhibit Nine-B.

17 Q Can you explain the difference between your  
18 November 12th offer and their latest offer to you and why you  
19 in fact have rejected their latest offer?

20 A Okay, the -- our offer of November 12th was a  
21 farmout generally providing that Mr. Poole would retain a 5  
22 percent overriding royalty interest as to his lease in the  
23 well. After payout of the well he would convert that to a  
24 25 percent working interest.

25 Additionally, by drilling the well we'd earn

1  
2 half of the balance of the lease; in other words, the part  
3 in the northwest quarter of Section 14. This is a pretty  
4 standard farmout agreement in the letter that we would probably  
5 approach and receive from any of the other majors or independ-  
6 ents operating in this area. We felt that is a very fair  
7 offer.

8 At the time that we made the offer today's pre-  
9 sent economic condition, oil prices declining and the econo-  
10 mics of the well, that offer is probably better than what  
11 we'd offer to other parties.

12 So we think it's a very fair offer. To date  
13 we've not heard an acceptance or rejection of that offer.

14 Q Are you, in assessing the present economics of  
15 today as opposed to, say, November 23rd, when this hearing --  
16 or when this matter first came to hearing, what changes have  
17 taken place in the oil industry that significantly change  
18 your attitude about the offers that you have made?

19 A In light of the wildcat nature of this prospect,  
20 this would be a wildcat test, we have to use certain econo-  
21 mics to evaluate our prospects. Using oil prices back in  
22 November of around, say, \$32.00 or \$33.00 per barrel, we're  
23 down now to using economics of around \$25.00 a barrel, and  
24 we anticipate for our internal purposes that oil should be  
25 around that level by the time this well is completed and on

1  
2 line, if it should make a well. So you can see it makes a  
3 significant difference in the net revenues, should we make a  
4 well.

5 Q Going on to what has been marked as Exhibit  
6 Number Seven, can you tell us what that is and what it con-  
7 tains?

8 A Okay. Exhibit Number Seven is an AFE for the  
9 drilling of the well.

10 Q Would you please explain that AFE for the Com-  
11 mission, please?

12 A Okay. Actually, let me back up and say that  
13 Exhibit Number Eight is a new AFE reflecting a downward --  
14 we have revised the AFE costs downward. So Exhibit Number  
15 Eight is actually the AFE we need to refer to. It reflects  
16 a dry hole cost of \$437,195 and a completed well cost of  
17 \$710,845.

18 Q And that change has occurred since the first  
19 hearing to the present time.

20 A That's correct, we've had a decrease in almost --  
21 in several costs of drilling these wells.

22 Q Mr. Newkumet, can you tell us what the -- what  
23 delays you've experienced as a result of this -- the delays  
24 and postponements of the de novo hearings, original de novo  
25 hearing?



1  
2 A. It's caused us to incur a substantial amount of  
3 costs, expenses, and time just in trying to get this well  
4 drilled. We've had -- we do have outside investors in the  
5 well, which, you know, make commitments to these kind of deals  
6 and then we can't get them drilled on time it really puts --  
7 it makes it difficult for our operations.

8 Also, we had a rig committed. There's just been  
9 several internal and external delays that's caused us time,  
10 money, and effort in getting this well drilled.

11 The continuances are causing us, at least inter-  
12 nally, a pretty substantial problem.

13 Q. Mr. Newkumet, does Clements Energy still want to  
14 be the operator for drilling of the well in the northeast  
15 quarter?

16 A. Yes, sir.

17 Q. Do you have anything further to add to your  
18 testimony here today? Go ahead.

19 A. Okay. I would like to add the drilling and  
20 producing well rates for wells in this depth category, numbers  
21 supplied by Clements' Vice President of Engineering, would be  
22 \$3755 per month for drilling well rates and \$475 per month  
23 for producing well rates.

24 Q. Those haven't changed from the original hearing,  
25 have they?

1  
2 A. No, they haven't.

3 Q. Are those comparable rates to other wells that  
4 are being drilled in the area?

5 A. Yes, I believe these are probably comparable.  
6 These are numbers that -- these are rates that other operators  
7 in New Mexico and Texas accept from Clements and these are  
8 rates that we accept when we're involved with another operator.

9 Q. Do you have anything else to say today?

10 A. I believe that's all.

11 MR. PADILLA: I believe that's all the  
12 questions I have, Mr. Ramey.

13 MR. RAMEY: Any questions of Mr. New-  
14 kumet? Mr. Carr.

15  
16 CROSS EXAMINATION

17 BY MR. CARR:

18 Q. Mr. Newkumet, when does Clements propose to  
19 drill the well in the northwest quarter of Section 14?

20 A. We propose to drill it -- we would have been  
21 drilling it already had we not had these delays. Should the  
22 Commission find to find our request be acceptable and we be  
23 given the full penalty that we're asking for, we'll commence  
24 it almost immediately. I would say as soon as we could get  
25 all the paperwork and the rigs lined up and all this.

1  
2 Q. If you get a successful well, that would perpe-  
3 tuate the leases dedicated to the well, would it not?

4 A. That's correct.

5 Q. Now I believe you stated that one of the factors  
6 that you considered in making an offer to Mr. Poole was the  
7 time left on his lease, is that right?

8 A. That's correct.

9 Q. Well, if this well would perpetuate the lease,  
10 why is the remaining time factor of any importance?

11 A. Well, we have to look at these three factors  
12 that I mentioned on any occasion. It doesn't really matter  
13 exactly what our plans are. We have to -- still have to look  
14 at those. What if we do get the well drilled? On his lease,  
15 if we would purchase the lease, have problems, for some reason  
16 could not get the well drilled, then we're sitting here with  
17 less than a year and a half.

18 Q. If you drill the well immediately, it wouldn't  
19 make any difference whether the term on Poole's lease was six  
20 months or ten years, would it?

21 A. That's correct, it would not matter, under those  
22 given set of circumstances.

23 Q. Now you recited the prices paid for a number of  
24 tracts in this same general area, recent prices paid. And  
25 you may have testified to this, I don't recall, what was the

dollar -- the bonus per acre paid for the remaining land in the section which is involved in this hearing, in Section 14?

A. Yes, I testified to that. That's the tract, the 520-acre tract that Clements purchased at the June, 1982, State of New Mexico land sale; a 520-acre tract, a 10 year term, 1/8th royalty, and they did pay \$451.92 per acre for that.

I might say two things, or a couple things about this. The longer term is a consideration here. The royalty is a consideration here, and the time that it was purchased back in June, we were looking at other conditions than we are right now in the oil industry, economically.

Q. Other tracts directly offsetting it to the north were purchased at a substantially lower bonus, is that not correct?

A. Are you referring to the tract in Section 11?

Q. That you purchased in June of '82.

A. Okay, that's correct.

Q. That was \$225 an acre?

A. That's correct.

Q. And that was at the same time that you purchased the acreage in Section 14?

A. That's correct.

Q. And there was a well up on that tract that con-

demned part of that acreage, is that not true?

A. I'd better not testify to the geology and engineering on that well, Mr. Carr.

Q. By purchasing the interest in Section 14, Clements also acquired the east half of the northwest quarter of that section, is that --

A. That's correct.

Q. So there are only two interest owners in the north half of 14, Clements and Mr. Poole.

A. This is true.

Q. Now if we look at the various offers which are attached as exhibits, you've made reference to your Exhibit Six, which was your November 12 offer, and also to Exhibit Nine-B, which was the offer which Mr. Poole made to you yesterday. Could you tell the Commission how those two offers differ?

A. Okay. The only difference that I can see in these two offers would be that in our offer we were asking to earn a one-half interest, by drilling a well we were asking to earn a half interest in the balance of this lease that was not in the proration unit, which is very typical for farm-outs in this area.

The offer that was made by Mr. Poole excluded that part of the deal. In other words, all we would get under

1  
2 Mr. Poole's proposal would be the lease right in the proration  
3 unit and no other support. In other words, if we made a dis-  
4 covery on this wildcat well, we would be leaving a direct off-  
5 set that we would not have tied up, which is not prudent bus-  
6 iness to do that.

7 Q But as the terms related to the northwest --  
8 northeast quarter of 14, as of yesterday there was no out-  
9 standing dispute, other than just the inclusion of interest  
10 in the northwest quarter, is that right?

11 A That is correct, as of yesterday.

12 Q Now, if you were able, and I think you just  
13 testified to this but I want to be sure I understand --

14 A Okay.

15 Q -- if you were able to get Mr. Poole to also  
16 agree to throw into the deal his interest in the northwest,  
17 then you would have control of the entire -- development of  
18 the entire north half of 14, is that correct?

19 A Are you asking if he threw it in we would have  
20 control over the development?

21 Q If he accepted your November 12 offer and that's  
22 the only difference from his offer in that it also applies to  
23 the west half of the northwest quarter, wouldn't that afford  
24 Clements full control of the development of the north half?

25 A Okay, let me make sure that we've asked him to

1  
2 sign an operating agreement. If we did, it -- it would. Yes,  
3 we asked him to sign an operating agreement so it would.

4 Q I believe you testified it's normal procedure  
5 for Clements, or an operator, to, when they're trying to reach  
6 an agreement as to a proration unit like we have here, to also  
7 request that, as part of a farmout agreement, other tracts  
8 in other proration units be included.

9 A Yes, this is true, especially in light of the  
10 wildcat nature of this deal. You go in and you take certain  
11 risks in drilling a wildcat. You have to have control of at  
12 least your offsetting tracts to make this worthwhile.

13 Q Are you the wrong witness to ask questions about  
14 as to the --

15 A Geology?

16 Q -- prospect or the desirability of drilling a  
17 well in the northwest quarter?

18 A That would be our geological witness.

19 Q Do you know of any plans that Clements has to  
20 drill additional wells in Section 14?

21 A No, I don't.

22 Q Are you saying that you don't know or there  
23 are none?

24 A There are none to my knowledge.

25 Q And would you know?

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A. I would know.

Q. So there are no plans --

A. There are no plans.

Q. Do you know how many wells Clements is planning to drill in this immediate area, in the area depicted on Exhibit One?

A. At least -- we have tentative plans for a couple extra wells on acreage depicted on that plat. I can't tell you exactly where they are.

Q. Does Clements operate a number of wells in this area?

A. In -- on that plat they operate one other well.

Q. How many wells, do you know, do they operate in the Permo-Penn in this area?

A. Okay, they -- they are joint partners with other operators. This would be -- the well that I mentioned a second ago down to the south, would be the only well that they operate in the Permo-Penn right in this area.

Q. Do you know how many wells they have an interest in? In this area?

A. Two at the present time.

Q. Do you -- are you aware of any plans by Cabot Petroleum Corporation to develop any acreage in -- or any horizons in Section 14 from a well drilled in Section 14?



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A. I have absolutely no knowledge of that.

Q. And Clements has no relationship with Cabot Petroleum Corporation?

A. Absolutely not.

Q. Do you know if you're proposing to drill an oil or gas well, or anticipating an oil or a gas well here?

A. We would anticipate an oil well here.

Q. Do you anticipate the well would also produce gas?

A. No.

Q. Are you sure of that?

A. We -- we could hold that question and ask the geological witness in a minute. I don't think so.

MR. CARR: I have no further questions.

MR. RAMEY: Any other questions of Mr. Newkumet?

MR. PADILLA: I have a couple, Mr. Ramey.

REDIRECT EXAMINATION

BY MR. PADILLA:

Q. Referring to the term of the lease remaining on Mr. Poole's lease, assuming that he did give you the west half of the section and assuming, also, that you drilled

1  
2 either a marginal or a dry hole, would then the term of the  
3 lease as to formulating the decision as to whether or not to  
4 drill a second well in that north half be affected by -- by  
5 the term of the lease?

6 A. If this was completed as a dry hole of course  
7 it would not affect the term of the lease. The term would  
8 go ahead and expire on its own term November of '84. So by  
9 asking for the farmout the way we have, we would have an in-  
10 terest in that tract.

11 Q. But if it were a dry hole and it did earn 50  
12 percent, you would have to drill it before --

13 A. Before November --

14 Q. -- November, 1984.

15 A. That's true.

16 Q. And if it were a marginal well, it would be --  
17 the lease, his lease would be perpetuated by marginal pro-  
18 duction, but that would -- whether or not you drilled it may  
19 affect -- or the remaining term may affect the decision as  
20 to whether or not you'd drill a second well there.

21 A. That's true. That's correct.

22 Q. Do you desire that the Commission make an expe-  
23 ditious decision in this case?

24 A. Yes, we would ask that a decision be made at  
25 the earliest possible convenience -- at your earliest possible

1  
2 convenience in that we do have outside investors and have  
3 plans to drill this well. We are ready to drill the well and  
4 we would like to go ahead and get about the business. We  
5 have -- a lot of internal decisions have to be made and we'd  
6 like to go ahead with it.

7 MR. PADILLA: No further questions.

8 MR. RAMEY: Any other questions?

9 MR. CARR: No questions.

10 MR. RAMEY: Mr. Newkumet, it appears  
11 that the delay we've experienced has reduced drilling costs  
12 by some \$137,000. Maybe we ought to --

13 A. That's true.

14 MR. RAMEY: The witness may be excused.

15 MR. PADILLA: Call Dennis Eimers, Mr.  
16 Chairman.

17  
18 DENNIS EIMERS

19 being called as a witness and being duly sworn upon his oath,  
20 testified as follows, to-wit:

21  
22 DIRECT EXAMINATION

23 BY MR. PADILLA:

24 Q. Mr. Eimers, for the record, would you please  
25 state your name and where you reside?

1  
2 A. My name is Dennis Eimers and I reside in Midland,  
3 Texas, and I'm a consulting geologist for Clements Energy.

4 Q. Have you previously testified before the Oil  
5 Conservation Division or the Oil Conservation Commission and  
6 had your credentials accepted as a matter of record?

7 A. Yes, I have.

8 Q. Are you familiar with the geology in the Permo-  
9 Penn formation in the area of concern today?

10 A. Yes, I am.

11 MR. PADILLA: Mr. Chairman, we offer Mr.  
12 Eimers as an expert geologist.

13 MR. RAMEY: He is so qualified, Mr.  
14 Padilla.

15 Q. Mr. Eimers, would you please refer to what has  
16 been marked as Applicant's Exhibit Number Ten and tell us what  
17 that is and what it contains?

18 A. Yes, I will. Exhibit Number Ten is a structural  
19 contour map which has been drawn on the top of the Pennsylvanian  
20 producing zone in the High Plains Field. It's -- the scale  
21 of the plat is one inch equals 2000 feet. The contour inter-  
22 val is 50 feet. The proposed pool unit outline is highlighted  
23 in yellow on the plat; that's the northeast quarter of Sec-  
24 tion 14. The prominent numbers displayed beneath each circle  
25 surrounding offsetting wells is the structural position of the

1  
2 mapped horizon.

3 Additional information, such as tests, if there  
4 were any, or cumulative production from a particular well,  
5 are shown in less prominent numbers and letters.

6 Our proposed location shown is 810 feet from  
7 the north line, 660 feet from the east line of Section 14.  
8 May I point out that our proposed location would be a step-  
9 out to the High Plains Field. The nearest producer in that  
10 field is the Caymon Corporation No. 1 High Plains Well, loca-  
11 ted in the southwest quarter of Section 14. That well was  
12 completed in June 4th of 1969 with a flowing potential of  
13 488 barrels of oil per day plus 88 barrels of water per day.

14 The well, however, was shut-in in March of 1977  
15 after having produced only 57,342 barrels of oil. The well  
16 was subsequently plugged and abandoned in 1980.

17 That's about all from that exhibit. On Exhibit  
18 Number, I guess it would be Number Eleven, is a copy of an  
19 acoustic log from that Caymon Corporation High Plains No. 1  
20 Well in Section 14. It's intended to show the producing in-  
21 terval in the High Plains Field, as well as the perforated  
22 interval in this particular well. The prospective porosity  
23 greater than or equal to five percent is shown shaded in red  
24 on that exhibit.

25 Q Mr. Eimers, where do you encounter the top of

1 the Permo-Penn formation in this area?

2 A. Okay. As shown on our structure map, Exhibit  
3 Number Ten, obviously our primary objective is the zone that  
4 produces in the High Plains Field. Because, however, of the  
5 occurrence of other Pennsylvanian producing zones in the  
6 area, both above and below our primary zone, we would ask that  
7 the Commission pool all rights below the stratigraphic equiv-  
8 alent of 9000 feet in the Caymon Corporation No. 1 High  
9 Plains Well, down to the base of the Pennsylvanian, which oc-  
10 curs at an approximate depth of 14,500.

11 Q. And that testimony is in conformance with the  
12 application you have made?

13 A. Yes, that's correct.

14 Q. Can you give us what you consider a reasonable  
15 risk factor in this -- for drilling this well?

16 A. Yes. I've made a study of the area in order  
17 to determine the risks. Let me first of all point out that  
18 our proposed location was anticipated to be structurally high  
19 to the offsetting Caymon Corporation No. 1 High Plains Well,  
20 but let me also point out that in that particular well the  
21 potential also -- in potentialing the well, the well was pro-  
22 ducing a significant amount of water.

23 Should we come in structurally low to that  
24 well, we anticipate that our primary objective would be wet.  
25

1  
2 The second factor in considering risk in the  
3 area is the risk of whether or not acceptable reservoir qual-  
4 ity conditions will be encountered in the proposed well. Let  
5 me point out that examining the logs in the surrounding wells  
6 these conditions were not met. Let me further point out that  
7 in fact all the producing wells on the plat, that is there  
8 are three wells shown on Exhibit Number Ten which produced.  
9 Only the well in the northeast quarter of Section 22, which  
10 is located approximately one mile southeast of our proposed --  
11 southwest of our proposed location, is in fact an economical  
12 producer.

13 In considering all of the risks, we would  
14 certainly ask for the maximum penalty of 200 percent to be  
15 given to us.

16 Q Do you have anything further to add to your  
17 testimony, Mr. Eimers?

18 A No, I do not.

19 MR. PADILLA: I have no further ques-  
20 tions of this witness, Mr. Chairman, and I pass the witness.

21 MR. RAMEY: Any questions of Mr. Eimers?  
22 Mr. Carr?  
23  
24  
25

## CROSS EXAMINATION

BY MR. CARR:

Q Mr. Eimers, I'd like to direct your attention to your structure map. Did you prepare this structure map based on well control in the area?

A Yes, that's right.

Q And as I look at this, there is a -- you would have had data -- and correct me if this is wrong -- on a well in Section 11.

A Uh-huh.

Q One in 12.

A Uh-huh.

Q And then some wells in Section 2 and 15; one in 22; one in 23; and one in 24; and also the -- the one well down in the southwest of 14, is that correct?

A This particular plat that we're looking at here is a small portion of a large regional map that we constructed which actually covers, actually, thousands of wells. So I wouldn't say that these wells on this map are all that was used in preparing this map because regional trends are important in constructing the overall structural grain of the area, and this is simply a small area taken out of a larger piece of work that was done.

Q As I look at this it appears to me that the



1  
2 wells in Section 12 and the well in Section 24, you're struc-  
3 turally deeper than any of the wells in Sections 11, 14, 23,  
4 is that correct?

5 A. That's correct, yes.

6 Q. I don't see how you from this data are able  
7 to project a structural high over the proration unit and  
8 don't just have generally north/south trending contours.  
9 Could you tell me what data you relied on projecting the  
10 structural high?

11 A. Certainly. This is why I referred to the  
12 fact that this particular exhibit was simply an insert taken  
13 from a much larger regional map that we have made. In order  
14 to do a meaningful structural analysis in the Permo-Penn it's  
15 necessary to do regional work in order to determine the struc-  
16 tural grains and lineations. It was such lineations that we  
17 used in determining how we feel the structure exists as we  
18 have it mapped.

19 Q. Do you have any particular data that would  
20 indicate a high at this location?

21 A. Well, all the well control is what indicates  
22 in our opinion that there's a high located in the northeast  
23 quarter of Section 14.

24 Q. Can you tell me what it is, what particular  
25 datum that you're referring to to project this high at that

1  
2 location?

3 A. I guess I'm not sure I understand that  
4 question.

5 Q. I don't -- I just wonder if you have any  
6 particular reference point that you can say we -- the forma-  
7 tion was encountered at such a depth in such-and-such a well  
8 and from that you can interpret there was a high in the north-  
9 east of 14.

10 A. Well, from a geological standpoint, simply  
11 the structural tops that are shown on the map from the well  
12 show that there is -- there is an anomaly between the wells in  
13 Section 12, 24, and 11, and particularly the well in Section  
14 14. We have interpreted this as a structural high. Obviously  
15 that's why we are intending to risk the money to drill the  
16 well in the northeast quarter.

17 Q. Wouldn't it be possible that those same data  
18 points simply to show contours trending on just a north/south  
19 direction without that high?

20 A. Let me say that we feel this is the best  
21 geologic interpretation.

22 Q. Isn't it also possible with this data that  
23 another reasonable interpretation could be drawn excluding  
24 this high under the proration unit?

25 A. Another interpretation could be made. It

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wouldn't be reasonable in my opinion.

Q. But based on the data points you could draw -- you could contour in that fashion, could you not?

A. You could contour it a million different ways, but I feel this is the most likely way that it exists.

Q. Did you have any data available to you other than the information from the wells involved in this immediate area?

A. No, this is strictly a subsurface controlled prospect.

Q. Did you have any seismic work available on this area?

A. We used no seismic in coming up with this prospect.

Q. Now, if I understand this interpretation, if you are structurally low to the well in the southwest quarter, of 14, you would -- I believe your testimony is that you would expect your primary objective to be wet, is that right?

A. That's correct.

Q. Well, as I look at this, isn't virtually the entire northwest quarter of this section, based on your interpretation, structurally low to the -- to the one well producing in that section?

A. No, if you were to drill a well at a risky

1  
2 location, not -- if you were to assume you were to drill the  
3 northeast quarter and we were to drill the well in the north-  
4 west quarter, you could drill a well in the east half of the  
5 northwest quarter and by the way we have it interpreted it  
6 would be structurally flat to that Caymon Corporation well,  
7 but it would be a riskier location than drilling in the north --  
8 northeast quarter.

9 Q So you could drill a well at a comparable  
10 structural position in the northwest quarter.

11 A A comparable position to the Caymon Corpora-  
12 tion well, yes.

13 Q And that was not an economical well, is  
14 that right?

15 A No, it was not, yeah.

16 Q And the west half of the northwest quarter  
17 would be, based on this interpretation, structurally low to  
18 the noneconomic well in the southwest quarter, is that right?

19 A That's correct.

20 Q And you believe this is the reasonable in-  
21 terpretation for -- structural interpretation for the north  
22 half of Section 14.

23 A I do.

24 Q I believe you indicated that the well in the  
25 southwest quarter of 14 encountered water problems.

1  
2 A. Yes. Well, when it was initially poten-  
3 tialled it came on line for, I believe, the flowing potential  
4 of 488 barrels per day plus 88 barrels of water per day.

5 Q. And you're hoping to be structurally higher  
6 than that.

7 A. Yes, we certainly are.

8 Q. To get out of the water.

9 A. Right.

10 Q. Do you have to present here today the larger  
11 structure map for this area that would give us an insight as  
12 to how it is you concluded a high in 14?

13 A. No, I do not.

14 MR. CARR: I have nothing further.

15  
16 CROSS EXAMINATION

17 BY MR. RAMEY:

18 Q. Mr. Eimers, you mentioned something, you  
19 wanted to pool the interval from 9000 feet to what?

20 A. 13,500 feet would be the equivalent depth  
21 of what we consider to be the base of the Pennsylvanian in  
22 this area.

23 Q. Is that 9000 feet the top of the Pennsyl-  
24 vanian?

25 A. Uh-huh, roughly, yeah, in the Caymon Well,

1  
2 but we, instead of just saying the Pennsylvanian rights, there  
3 is some question in this area, different operators would dis-  
4 pute what exactly, what is determined to be the top of the  
5 Pennsylvanian, so we wanted to make it clear by saying 9000  
6 feet in the Caymon Corporation No. 1 High Plains Well, the  
7 stratigraphic equivalent interval in that, and thereby hoping  
8 to clarify a little bit better what we're talking about.

9 MR. RAMEY: Mr. Padilla, would you be  
10 willing to furnish the Commission with a finding to this ef-  
11 fect as to what is exactly meant there?

12 MR. PADILLA: Certainly will.

13 MR. RAMEY: In case we decide in your  
14 favor.

15 Do you have any objection to that, Mr.  
16 Carr?

17 MR. CARR: No, I don't.

18 MR. RAMEY: Thank you. Any other ques-  
19 tions of Mr. Eimers?

20 MR. PADILLA: I have one, Mr. Ramey.

21  
22 REDIRECT EXAMINATION

23 BY MR. PADILLA:

24 Q. Mr. Eimers, you won't really know what --  
25 what the geologic conditions are in the northwest quarter of

1  
2 Section 14 until you actually drill the well in the northeast  
3 quarter, isn't that correct?

4 A. That's correct.

5 MR. PADILLA: I have no further ques-  
6 tions.

7 MR. RAMEY: Any other questions?

8 MR. CARR: No questions.

9 MR. RAMEY: You may be excused.

10 A. Thank you.

11 MR. RAMEY: Do you have anything fur-  
12 ther, Mr. Padilla?

13 MR. PADILLA: I offer Exhibits One  
14 through Eleven.

15 MR. RAMEY: Exhibits One through Eleven  
16 will be admitted.

17 Mr. Carr, would you like to proceed?

18 MR. CARR: At this time we call Perry  
19 A. Poole.

20  
21 PERRY A. POOLE

22 being called as a witness and being duly sworn upon his oath,  
23 testified as follows, to-wit:  
24  
25

## DIRECT EXAMINATION

BY MR. CARR:

Q Will you state your full name for the record?

A My name is Perry A. Poole.

Q Mr. Poole, where do you live?

A I live in Miami, Florida.

Q What do you do for a living?

A I have a lawn spray business, a small lawn spray business. It's a one-man operation.

Q Would you summarize for the Commission your experience in the oil and gas business?

A Well, since 1968 I've been entering into the simultaneous oil and gas lease for Federal lands in New Mexico and Wyoming and Utah, and some other states, and at that time I -- I did acquire a lease and have acquired some since then, but basically, I consider myself a, you know, very inexperienced in this area, but it's kind of a -- kind of an American dream as far as I'm concerned.

Q How many wells do you have an interest in as a result of your efforts?

A Well, at this time I have an overriding royalty interest of 2-1/2 percent in one well, but so far I have not received any monies from it.

Q And is that the only well you have an interest



1  
2 in?

3 A. Yes, at this time.

4 Q. And you have under lease the northwest quarter  
5 of the northeast quarter of Section 14, is that correct?

6 A. Yes, I do.

7 Q. And you also have other interests in Section  
8 14.

9 A. Yes.

10 Q. And what is that?

11 A. The west half of the northwest quarter.

12 Q. When did you acquire this property?

13 A. In November 1, 1974.

14 Q. And this was a State of New Mexico lease?

15 A. It is a State of New Mexico lease.

16 Q. Would you explain to the Commission why it is  
17 you're opposing this application today?

18 A. Well, I -- I just feel that Clements is using  
19 the system to make me pay for 75 percent of their well out of  
20 my 25 percent share by making me an offer that would not be  
21 equitable and thus forcing me before the Commission, knowing  
22 full well what the results would be, and I just feel like this  
23 is -- this is not equitable.

24 I've tried to deal in good faith with Clements  
25 but they just seem like they get to a point and they just cut

me off cold in there. I couldn't even deal.

Q Mr. Poole, do you believe that you have been engaged in good faith negotiations?

A I feel that I have.

Q On your part?

A Yes.

Q Do you believe that those efforts have been met with good faith negotiations on the part of Clements?

A No, I don't feel that they have. I acquired this lease back in '74 and I've been paying rent on it and I paid the price when I bought the lease at a New Mexico sale by sealed bid, and I've been paying rents on it every since, and I still participate in the New Mexico sale and a few months ago the State Of New Mexico put out this -- they have -- I'm on their mailing list, and June 15th, 1982, they sent this results of one of their sales. It was the results of the May sale, and at that time I realized that my acreage in Section 14 had somewhat increased from what Clements had paid for Tract No. 014 at -- at that May sale, and they paid \$451.92 and I just felt that I would not be unreasonable to expect that much for my own interest. I realize that some of these larger companies have a tendency to try to, well, in my opinion, to kind of freeze out the little guy in this situation, and I am definitely a little guy.

1  
2 Q Have you heard the testimony here today con-  
3 cerning the risk involved in drilling this well?

4 A Yes, I have, and I don't know, the only  
5 counter I would have for that is -- would be that my risk  
6 factor in this venture is also, and to me, very great, because  
7 I realize that I have -- or I feel that I have a valuable  
8 piece -- valuable piece of property at this point and if they  
9 happen to drill a dry well, all the rents and original price  
10 and any value of my lease at this point is practically nil.

11 Q What happens if they drill a good well?

12 A Well, if they can drill a good well, I end  
13 up paying 75 percent of the well cost, and if it's anything  
14 like the well in the southwest quarter, I wouldn't even real-  
15 ize a penny from it.

16 I mean this well would have to pay -- this is  
17 just my -- my figures. This well would have to pay out  
18 \$2.5-million before I would be eligible for anything, and  
19 that's not including any operation costs for operating it in  
20 the meantime.

21 Q Would it be possible for you to pay your  
22 proportionate share of the well and therefor join in the  
23 drilling?

24 A I wish it would be, but at this point it  
25 would just not be feasible. I couldn't even participate, ac-

1  
2 cording to their figures if I sold my house, or mortgaged it.

3 Q Do you have anything further to add to your  
4 testimony?

5 A Well, yes, I feel that, you know, we finally  
6 after much soul searching, we finally agreed to their terms,  
7 even though I didn't feel it was equitable, but it seemed to  
8 me that the 200 percent risk penalty was even less equitable,  
9 and that was the only thing that forced me to the point to  
10 agreeing to their terms.

11 Q Now when you say you agreed to their terms,  
12 as to what property?

13 A As to the well -- the northeast quarter of  
14 Section 14 in which I have the 40 acres.

15 MR. CARR: I have no further questions  
16 of Mr. Poole.

17 MR. RAMEY: Any questions of Mr. Poole,  
18 Mr. Padilla?

19  
20 CROSS EXAMINATION

21 BY MR. PADILLA:

22 Q Mr. Poole, on the first hearing in November,  
23 November 23rd, you appeared at that hearing by counsel, and  
24 at that time you did not present any expert testimony, did  
25 you?

1  
2 A. No, I don't believe we did. I wasn't at the  
3 hearing.

4 Q. You subsequently asked for a hearing de  
5 novo and as I understand it, you asked for a continuance of  
6 that hearing de novo from the January 25th setting for the  
7 purpose, or so that you could then obtain expert testimony,  
8 isn't that correct?

9 A. Yes, I feel that is --

10 Q. Today you appear by yourself and you still  
11 did not have expert testimony on your side concerning lease  
12 values in the area.

13 A. Well, lease values in the area, as far as  
14 I'm concerned, the rest of Section 14 is a pretty good gauge.

15 Q. If a dry hole is drilled on your property  
16 as a result of -- or on that proration unit including your --  
17 your portion of the lease, you lose nothing, is that correct?

18 A. I lose nothing?

19 Q. You didn't -- you're not putting up anything  
20 for the well, for drilling the well.

21 A. I have a vested interest in that -- in that  
22 40 acres of mine.

23 Q. Okay, but you realize that you also have to  
24 drill a well in order to make it a good property, as you call  
25 it.

1  
2 A. Well, there was no well, I don't think  
3 Clements Energy drilled a well in that section before they  
4 paid that price for the rest of that section.

5 Q. Well, can you point to the Commission of any  
6 good wells in the area?

7 A. My field of expertise is not in this area  
8 and so I don't believe I can make a judgment of any value.

9 Q. Have you, other than the February 21st and  
10 22nd letters, have you ever written any correspondence to  
11 Clements Energy, Inc., in response to their letters?

12 A. No, I have not written any letters, no.

13 MR. PADILLA: I have no further questions  
14 of Mr. Poole, Mr. Ramey.

15 MR. CARR: I have one question.

16 MR. RAMEY: Mr. Carr.

17  
18 REDIRECT EXAMINATION

19 BY MR. CARR:

20 Q. You haven't written letters to Clements, you  
21 say.

22 A. Yes.

23 Q. You have not?

24 A. No, not --

25 Q. Have you discussed this with them?

1  
2 A. Well, our -- all the discussion from my end  
3 was strictly by telephone.

4 MR. CARR: No further questions.  
5

6 CROSS EXAMINATION

7 BY MR. RAMEY:

8 Q. Mr. Poole, I take it you -- you acquire ac-  
9 reage not with the thought of drilling and developing it.

10 A. Well, not at this stage of the game, anyway.

11 Q. You stated that you had a 2-1/2 over -- 2-1/2  
12 percent override in another well somewhere?

13 A. Yes, which has not paid me anything at this  
14 point.

15 Q. Was this a similar deal? You acquired the  
16 acreage and then you --

17 A. I acquired that acreage --

18 Q. -- let it go to another -- to an operator and  
19 retained an override?

20 A. Yes, I did. We reached an agreement.

21 Q. I assume you got a cash bonus of some kind  
22 for that?

23 A. Yes, I did.

24 Q. What was that cash bonus? Do you mind telling  
25 me?

1  
2 A. I think at that particular time, I think it  
3 was, I believe, on that parcel was \$5600.

4 Q. And how big was the parcel?

5 A. I believe 120 acres. Now I couldn't be ex-  
6 actly sure on that, Mr. Ramey.

7 Q. That would be something like \$50.00 an acre?

8 A. I believe -- I believe it was approximately  
9 that, yes.

10 Q. And a 2-1/2 percent override?

11 A. Yes. That was -- this particular well is in  
12 Wyoming in Converse (sic) County, and since I sold that it was  
13 gone to hearing. They had to change the well spacing on it  
14 from 160 acres to 320, and so everything was cut, cut in half.

15 Q. And Clements, in their letter of October 19th  
16 offered you \$300 per acre and a 7-1/2 percent override?

17 A. Yes, sir. They offered me \$300 an acre for  
18 the 40 acres only. In that particular letter they were not  
19 even interested. In fact, I -- I talked them into the west  
20 half of the northwest quarter because I, at that time, dealing  
21 with inexperience, didn't want to break up a lease, and I  
22 wasn't thinking things through as much -- I've gained quite  
23 a knowledge through this whole episode -- so they weren't  
24 even willing to pay me the \$300 an acre for the whole 120  
25 acres. They were only willing to buy the 40 acres, and it so



1 states on the hearing of that letter, that it's dealing only  
2 in 40 acres.

3 Q You are aware that a forced pooling order  
4 does -- does allow a person who is force pooled to join in  
5 the drilling. He can put up his money and can retain his in-  
6 terest?

7 A Yes, I realize that, yes, but this is just  
8 not feasible at this time. I just -- no way I could swing it.

9 MR. RAMEY: Any other questions of Mr.  
10 Poole?

11 MR. CARR: No questions.

12 MR. RAMEY: You may be excused.

13 A Thank you.

14 MR. RAMEY: Do you have anything fur-  
15 ther, Mr. Carr?

16 MR. CARR: I have a statement.

17 MR. RAMEY: Would you proceed?

18 MR. CARR: May it please the Commission,  
19 when you consider this case I think it important that you  
20 keep in mind the respective roles of the parties. We have  
21 one man on one side who isn't knowledgeable in the oil and  
22 gas business and has been investing in some leases. On the  
23 other side we have an oil company who's actively involved in  
24 the development of the Permo-Penn in the area which is the  
25

1  
2 subject of the hearing.

3 I think it's also important to remember what  
4 your statutory directive is. The statute provides in essence  
5 that if more than one interest owner is in the spacing unit  
6 and they can't reach a voluntary agreement as to the develop-  
7 ment of that spacing or proration unit, then the party who  
8 has the right to drill will come in and you will enter an or-  
9 der pooling those lands and setting a risk. I think this, it  
10 must be presumed, however, that this whole statute is based  
11 on the presumption that the parties will act in good faith in  
12 dealing with one another, and we simply submit that that  
13 isn't the case here.

14 What we have is an application before you  
15 to pool the northeast quarter of Section 14. Clements deal,  
16 as to the northeast quarter of Section 14, is by the testi-  
17 mony here acceptable, the parties are in agreement, but what  
18 Clements is insisting on doing is tying up additional interest  
19 in the north half of this section as a condition to dealing  
20 with Mr. Poole.

21 We submit you have voluntary agreement for  
22 development of that tract, but they're trying to put an addi-  
23 tional condition in this, that Mr. Poole must sweeten the  
24 pot by throwing in a lease on 120 -- on 80 acres in the north-  
25 west quarter of this section, and we believe that by coming

1  
2 in and bringing it to hearing and knowing that they can come  
3 in and get a 200 percent penalty, that what they're doing is  
4 abusing this process and coming in and using the pooling pro-  
5 cess to force Mr. Poole to relinquish his interest to them in  
6 an adjoining property; not the pooling unit which is the sub-  
7 ject of this hearing.

8               They say, give away the property or we'll  
9 pool you. I submit what they know they're doing here is --  
10 is handing a hard deal to Mr. Poole, with good knowledge that  
11 they're going to drill a successful well and at the same time  
12 they're going to be able to control the development in the  
13 north half of this section. They haven't proposed any kind  
14 of arrangement to develop the entire north half. They're  
15 focussing on the northeast quarter, but for some reason the  
16 west half, which in their opinion is probably watered out,  
17 for some reason that's important to them and they're going to  
18 tie the whole deal up as to the unit involved in this hearing  
19 because they want additional acreage thrown in.

20               We simply think that it's strange that the  
21 deal would hang up on a property which by their own technical  
22 evidence isn't any good, and we would wonder about the caliber  
23 of the technical evidence presented. I think any reading of  
24 the structural map, looking at the well control, you could  
25 draw that contour a number of different ways. We suspect that

1  
2 their unwillingness to come forward with the overall plat, or  
3 not having the overall plat here, raises questions as to what  
4 it might actually show, even as to the west half of this  
5 section, and we believe that this is not as high a risk ven-  
6 ture as they would have you believe, but they're willing to  
7 come in here and put hundreds of thousands of dollars into the  
8 ground to see.

9                   But it's an interesting situation that they  
10 are in because they're able to come in and if they get a good  
11 well, they can ask Mr. Poole with his lone quarter interest  
12 to pay a substantial portion of the well cost, and yet we  
13 haven't really seen any technical data other than just one  
14 simple contour map that, admittedly, the contour map that they  
15 gave us, by their own testimony, is drawn from data that they  
16 didn't have with them here today, and yet we're supposed to  
17 accept that as the basis for a 200 percent penalty.

18                   We think when you look at the parties you  
19 simply can see that you've got people that are coming from  
20 different relative positions, and that the one with the  
21 strength is using the strength, is abusing the system, and is  
22 asking for, really, an excessive penalty based on the quality  
23 of the evidence presented here today.

24                   We think no penalty would be appropriate,  
25 but if the Commission feels it's essential to impose a penalty,

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2 we think certainly 100 percent is more than adequate, asking  
3 Mr. Poole to bear twice the cost, or his proportional share  
4 of the cost, of drilling the well. He still would be paying  
5 twice what his normal share would pay out of his property  
6 interest.

7 I think it's important to remember, too,  
8 that the only people with -- that the only people that are  
9 going to be risking something aren't just those who are going  
10 to put money in the ground in terms of drilling a well, but  
11 that Mr. Poole also has a valuable property interest which  
12 hangs in the balance here today and he is concerned, and we  
13 are concerned, that an action -- order which pools these lands  
14 and imposes a 200 percent risk penalty, based on the evidence  
15 presented in this hearing, would deprive him of that right,  
16 would impair his right to produce his just and fair share of  
17 the reserves under this tract, and in fact, would be arbitrary  
18 and capricious and unreasonable on the part of this Commission.

19 MR. RAMEY: Thank you, Mr. Carr. Mr.  
20 Padilla?

21 MR. PADILLA: Mr. Ramey, I think it's  
22 presumptuous to say that a successful well is going to be  
23 drilled in the northeast quarter. I think when you make a  
24 statement of that, especially when you have not put on any  
25 expert testimony concerning the potential for drilling a suc-

1  
2 cessful well, I think is certainly presumptuous for the other  
3 side to say that.

4 I don't think that drilling or participating  
5 in two or three other wells is active drilling in the Permo-  
6 Penn. The evidence clearly shows, and we have presented the  
7 evidence, that the wells in the area are certainly risky,  
8 that the Permo-Penn wells, on the basis of substantial evi-  
9 dence alone, the other side has presented absolutely no testi-  
10 mony as to a risk factor penalty, nor have they presented any  
11 testimony, other than Mr. Poole's testimony as to what he  
12 thinks the value of this lease should be. Certainly in the  
13 oil business and under the forced pooling statute, and in  
14 accordance with the spacing requirements for the Permo-Penn  
15 area, the rule is that basically if you're not going to parti-  
16 cipate, you get out.

17 As harsh as that may sound, you'd have to  
18 put your money up in order to find out what kind of property  
19 you've got. Mr. Poole, unfortunately, is not able or willing  
20 to do this at this time. The entire risk and the entire bur-  
21 den is going to be carried by Clements to prove whether Mr.  
22 Poole's lease is any good in the northeast quarter or even in  
23 the northwest quarter.

24 We have had testimony that this is a wildcat  
25 prospect and the testimony has also been that oil companies

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2 naturally would try to protect themselves as far as offset  
3 development of the acreage, and I think in this case it would  
4 be to Mr. Poole's benefit to prove the northeast quarter and  
5 certainly if the well is successful, his acreage in the north-  
6 west quarter is going to improve, as far as dealing any fur-  
7 ther, or as far as even participating in overriding -- or  
8 further type of arrangements that could be made for the --  
9 his property in the north -- or in the west half of the sec-  
10 tion.

11 As far as giving away his lease, I have seen  
12 instances where there has been much less testimony as to the  
13 ability or the participation that -- that companies have tried  
14 to get and obtain voluntary joinder. I think Clements in this  
15 case has exhausted almost every type of contractual arrange-  
16 ment for trying to get voluntary joinder. They have tried to  
17 buy the lease outright on terms that are substantially higher  
18 than what other interest owners in the area have obtained.

19 They have tried to farmout the acreage, and  
20 I think you have to look at a farmout agreement, at the four  
21 corners of a proposal and not just isolate a particular five  
22 percent -- look only at, say, the overriding royalty, or the  
23 amount of acreage that's going to be participating in the --  
24 in participation for the proration unit.

25 So again I think that based upon the statute

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2 we have a nonconsenting interest party, we do not -- we have  
3 exhausted every, almost every avenue, with Mr. Poole, and  
4 only recently did Mr. Poole actually come back with -- and  
5 start offering from his side. I think at that point he de-  
6 cided I'd better do something; it's the last two days. But  
7 I think it's certainly, again, presumptuous to assume that a  
8 successful well is going to be drilled. This is an 11,000  
9 foot test and it's an expensive well and Mr. Poole is not  
10 going to put up any money, and that's just the way it is.

11 Accordingly, the 200 percent penalty should  
12 be assessed. I don't think that Clements would drill the  
13 well with less than 200 percent risk factor if they're carrying  
14 that 25 percent interest.

15 MR. RAMEY: Thank you, Mr. Padilla.

16 Does anyone else have anything to offer  
17 in Case 7744?

18 If not, the Commission will take the  
19 case under advisement.

20  
21 (Hearing concluded.)  
22  
23  
24  
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## C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

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