

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:)
)
APPLICATION OF MYCO INDUSTRIES, INC.,) CASE NOS. 13,071
FOR COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)
)
APPLICATION OF MYCO INDUSTRIES, INC.,) and 13,072
FOR COMPULSORY POOLING, EDDY COUNTY,)
NEW MEXICO)
) (Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, JR., Hearing Examiner

May 22nd, 2003

Santa Fe, New Mexico

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Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, JR., Hearing Examiner, on Thursday, May 22nd, 2003, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

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May 22nd, 2003
 Examiner Hearing
 CASE NOS. 13,071 and 13,072 (Consolidated)

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* * *

A P P E A R A N C E S

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

FOR CHISOLM TRAIL VENTURES; LEE M. BASS, INCORPORATED; SID
R. BASS, INCORPORATED; KEYSTONE, INCORPORATED; THRU LINE,
INCORPORATED; and BASS ENTERPRISES PRODUCTION COMPANY:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
Santa Fe, New Mexico 87504

* * *

ALSO PRESENT:

DAVID R. CATANACH
Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 8:59 a.m.:

3
4 EXAMINER BROOKS: At this time we'll call Case
5 Number 13,071, the Application of MYCO Industries, Inc.,
6 for compulsory pooling, Eddy County, New Mexico.

7 Call for appearances.

8 MR. CARR: May it please the Examiner, my name is
9 William F. Carr with the Santa Fe office of Holland and
10 Hart, L.L.P. We represent MYCO Industries, Inc., in this
11 matter, and I have two witnesses.

12 I would also request at this time that you call
13 the following case. It is also a compulsory pooling case
14 by MYCO. It covers the other half of the section which is
15 involved. It's pooling the same parties. The evidence
16 will be -- substantially between the two of them. We would
17 request that they be consolidated for purpose of hearing,
18 with separate orders to issue.

19 EXAMINER BROOKS: Any objection to the
20 consolidation, Mr. Bruce?

21 MR. BRUCE: No, sir.

22 EXAMINER BROOKS: Very good, at this time we'll
23 call Case Number 13,071 [sic], Application of MYCO
24 Industries, Inc., for compulsory pooling, Eddy County, New
25 Mexico.

1 Call for appearances.

2 MR. CARR: I'd like the record to again note my
3 appearance.

4 EXAMINER BROOKS: Okay. Mr. Bruce?

5 MR. BRUCE: In both cases, Mr. Examiner, I'm
6 entering my appearance on behalf of Chisolm Trail Ventures;
7 Keystone, Incorporated; Lee M. Bass, Incorporated; Sid R.
8 Bass, Incorporated; Thru Line, Inc. -- "Thru" is spelled
9 T-h-r-u -- and Bass Enterprises Production Company.

10 I have one witness.

11 EXAMINER BROOKS: Very well, Cases Numbers 13,071
12 and 13,072 will be consolidated for the purposes of
13 hearing.

14 Will the witnesses please stand to be sworn, all
15 the witnesses?

16 (Thereupon, the witnesses were sworn.)

17 EXAMINER BROOKS: Could you please repeat the
18 parties you represent, Mr. Bruce?

19 MR. BRUCE: Chisolm Trail Ventures; Lee M. Bass,
20 Incorporated; Sid R. Bass, Incorporated; Keystone,
21 Incorporated; Thru Line, Incorporated; and Bass Enterprises
22 Production Company.

23 EXAMINER BROOKS: Thank you, Mr. Bruce.

24 You may proceed when ready, Mr. Carr.

25 MR. CARR: Thank you, Mr. Examiner.

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SHARI DARR HODGES,

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

DIRECT EXAMINATION

BY MR. CARR:

Q. Would you state your name for the record, please?

A. Shari Darr Hodges.

Q. Miss Hodges, where do you reside?

A. Artesia, New Mexico.

Q. By whom are you employed?

A. MYCO Industries, Inc.

Q. And what is your position with MYCO Industries, Inc.?

A. Land manager.

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

A. Yes, sir.

Q. At that time were your credentials as an expert in petroleum land matters accepted and made a matter of record?

A. Yes, sir.

Q. Are you familiar with the Applications filed by MYCO in each of the consolidated cases?

A. Yes, sir.

Q. Are you familiar with the status of the lands in

1 each of the subject spacing units?

2 A. Yes, sir.

3 MR. CARR: Are Ms. Hodges' qualifications
4 acceptable?

5 EXAMINER BROOKS: They are accepted. Or -- I'm
6 sorry, Mr. Bruce, any objection?

7 MR. BRUCE: I have no objection.

8 EXAMINER BROOKS: They are accepted.

9 Q. (By Mr. Carr) Ms. Hodges, would you briefly
10 state what MYCO seeks in each of these cases?

11 A. In Case Number 13,071 we're seeking an order to
12 pool all the minerals in all the formations from the
13 surface to the base of the Morrow formation in Section 31
14 of Township 21 South, Range 28 East, in Eddy County, New
15 Mexico, as to the west half all formations and/or pools
16 developed on 320-acre spacing, as to the southwest quarter
17 for all formations and/or pools developed on 160-acre
18 spacing, and as to the northwest quarter, southwest
19 quarter, for all formations and/or pools developed on 40-
20 acre spacing, to be dedicated to our Juneau "31" Fee Com
21 Number 1 well, to be drilled at a standard gas well
22 location in Unit Letter L.

23 Q. What about in Case 13,072?

24 A. We're seeking an order to pool all minerals in
25 all formations from the surface to the base of the Morrow

1 formation in Section 31 of Township 21 South, Range 28
2 East, in Eddy County, New Mexico, as to the east half for
3 all formations and/or pools developed on 320-acre spacing,
4 as to the southeast quarter for all formations and/or pools
5 developed on 160-acre spacing, and as to the southeast
6 quarter, southeast quarter, for all formations and/or pools
7 developed on 40-acre spacing, to be dedicated to our
8 Panther City "31" Federal Com Number 1, to be drilled at a
9 legal location for a standard gas well, Unit Letter P.

10 Q. Let's go to what has been marked for
11 identification as MYCO Exhibit Number 1. Would you
12 identify these and review them for the Examiner?

13 A. Exhibit Number 1 is actually two plats, the first
14 plat being the plat for the Juneau "31" Federal Com Number
15 1. You'll see that it's the west half of Section 31. The
16 yellow acreage is MYCO and its partners' acreage. The
17 green highlighted acreage is the Bass group acreage. And
18 the red dot is where we plan to locate our well.

19 Q. In the Juneau "31" Federal Com Number 1, MYCO has
20 75 percent of the working interest; isn't that correct?

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

22 Q. All right, let's go to the second page of Exhibit
23 1. What is this?

24 A. This page shows the proration unit for the
25 Panther City Federal "31" Com Number 1, and the green

1 acreage, once again, is Bass, the yellow acreage is MYCO,
2 and the red dot is where we plan to have our well.

3 Q. In this particular well, MYCO would own 25
4 percent of the working interest?

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

6 Q. What are the primary objectives in the proposed
7 well?

8 A. Morrow, Strawn and Wolfcamp.

9 Q. And what interests are subject to pooling?

10 A. We are -- Based on information provided by Bass,
11 we're here to force pool Chisolm Trail Ventures; Keystone,
12 Inc.; Lee M. Bass, Inc.; Sid R. Bass, Inc.; Thru Line,
13 Inc.; and Bass Enterprises Production Company.

14 Q. All of these companies are Bass-related entities;
15 is that your understanding?

16 A. Yes, sir, that's my understanding.

17 Q. Are there other interest owners in each of these
18 wells?

19 A. Yes, sir, there are a total of, besides MYCO,
20 eight other owners.

21 Q. And who are they?

22 A. They are -- Actually, there's three Yates
23 entities. That would be MYCO, Yates Drilling and Abo. And
24 then there are six other entities. They are Upside, LLC;
25 Jasha Cultreri; Prospector, LLC; Parrot Head Properties;

1 Brian Reid; and David Godsey.

2 Q. There was a company in there whose name I didn't
3 understand. It may need to be spelled. What was the --

4 A. Jasha, and that is J-a-s-h-a, last name Cultreri,
5 C-u-l-t-r-e-r-i.

6 Q. All right, let's go to what has been marked MYCO
7 Exhibit Number 2. Would you identify this and review it?

8 A. Exhibit Number 2 is a pile of correspondence
9 we've had with Bass. And since it's such a large exhibit,
10 we created a summary. The summary is the first five pages
11 of this exhibit.

12 And as you can see by looking at this exhibit, we
13 started communicating with Bass on this area in August of
14 2001. And this area, just to sort of get us all in the
15 same spot, is the western edge of the Big Eddy Unit. And
16 during this time with Bass, you can see by glancing through
17 that we have supplied well log information on wells that
18 they have requested information on. We've communicated
19 things that we've heard about other wells in the area that
20 we didn't know whether or not Bass knew about, because we
21 wanted to share the information with them. And we've sent
22 them various proposals on different options on how we might
23 be able to develop this area.

24 During this time also, we've bought our fee
25 leases twice. We bought them once, their primary term

1 lapsed, we bought them again, they're now in their second
2 term.

3 And Bass's leases, as you may or may not know,
4 are the Big Eddy Unit leases which have been held by that
5 unit, my understanding, as I think Bill said, in the 1950s.

6 So those leases have been there virtually
7 undeveloped since the 1950s, and we are now ready to
8 develop them. We feel that we've waited as long as we can.
9 We have a rig available, we have partners ready, and MYCO
10 is ready, willing and able to drill the wells. Up until as
11 late as yesterday afternoon, I was negotiating with Bass in
12 an effort to avoid being here today. We didn't see any
13 option, we didn't get a decision, so we're here today.

14 Q. In the course of these negotiations, have you
15 also had personal meetings with representatives of Bass?

16 A. Yes, sir, we went to Midland to meet with Bass.

17 Q. And you've also met with them in Fort Worth, have
18 you not?

19 A. I had one meeting in Fort Worth.

20 Q. Let's go to what has been marked as MYCO's
21 Exhibit Number 3. Would you identify those, please?

22 A. Exhibit Number 3 is an AFE for the Juneau "31"
23 Fee Com Number 1 and the Panther City "31" Federal Com
24 Number 1.

25 Q. And are the totals identical for both wells?

1 A. Yes, sir, they are.

2 Q. Would you review those totals, please?

3 A. Dryhole cost of \$698,000 and completed well
4 \$1,162,600.

5 Q. Ms. Hodges, are these costs in line with actual
6 costs incurred by MYCO in drilling similar wells in the
7 area?

8 A. Yes, sir. We have drilled five Morrow wells
9 direct -- the west -- right off this prospect. And we base
10 these AFEs on those costs that we have incurred and
11 experienced by drilling those wells.

12 Q. Is MYCO Exhibit Number 4 the accounting
13 procedures for joint operations attached to the joint
14 operating agreement for each of these wells?

15 A. Yes, sir.

16 Q. And this is the accounting procedure that's been
17 approved by other interest owners who are voluntarily
18 participating in the well?

19 A. Yes, sir.

20 Q. Do these accounting procedures provide for
21 periodic adjustment of overhead and administrative costs?

22 A. Yes, sir.

23 Q. That's set out in Section III on page 3?

24 A. Yes, sir.

25 Q. There's an annual adjustment April 1st of each

1 year?

2 A. Yes, sir.

3 Q. Does MYCO request that the overhead and
4 administrative costs set by the orders resulting from this
5 hearing also provide they be adjusted in accordance with
6 these procedures?

7 A. Yes, sir.

8 Q. What are the overhead and administrative costs
9 that MYCO is seeking while drilling this well and also
10 while producing it if, in fact, it is successful?

11 A. While drilling \$6200 a month, while producing
12 \$620.

13 Q. And how do these compare to the Ernst and Young
14 figures for wells at this depth?

15 A. They're consistent and actually lower than that,
16 and they're also lower than an operating agreement we
17 received from Bass recently.

18 Q. You recommend that these figures be incorporated
19 into the orders that result from this hearing?

20 A. Yes, sir, we do.

21 Q. Does MYCO Industries, Inc., seek to be designated
22 the operator of the proposed wells?

23 A. Yes, sir, we do. As I mentioned a moment ago,
24 MYCO has operated five wells in that immediate area, and
25 it's a rather difficult area. And we've had some problems,

1 we've overcome the problems, we've paid for some expensive
2 lessons. We'd like to take those with us and drill these
3 wells as well, as opposed to having someone else operate
4 and perhaps having to pay for the same lesson again.

5 Q. Is Exhibit Number 5 an affidavit confirming that
6 notice of this hearing has been provided in accordance with
7 the Rules of the Division?

8 A. Yes, sir.

9 Q. Were Exhibits 1 through 5 either prepared by you
10 or compiled under your direction?

11 A. Yes, sir.

12 MR. CARR: At this time, Mr. Examiner, we move
13 the admission into evidence of MYCO Exhibits 1 through 5.

14 EXAMINER BROOKS: Objection?

15 MR. BRUCE: No objection.

16 EXAMINER BROOKS: One through 5 admitted.

17 MR. CARR: That concludes my direct examination
18 of Ms. Hodges.

19 EXAMINATION

20 BY EXAMINER BROOKS:

21 Q. Well, the AFE that's Exhibit 3 seems to me to be
22 decidedly on the modest side for -- This is a 12,500-foot
23 well --

24 A. Yes, sir.

25 Q. -- is that correct?

1 A. Yes, sir.

2 Q. You said this was a difficult area. I'm
3 surprised you don't -- it doesn't cost you more. Is there
4 any reason for this being a relatively low AFE for that
5 depth?

6 A. Well, MYCO Industries, Inc., is involved with
7 Yates Petroleum Corporation, we are a third-owner in Yates
8 Petroleum Corporation. And by having that position in New
9 Mexico we benefit from having some good relationships with
10 the drilling rigs and a lot of the contractors, and we are
11 able to keep our costs down, and that helps a lot.

12 Q. Very good.

13 A. Yes, sir.

14 Q. Now, you've identified some other parties. Which
15 of those are MYCO -- or MYCO/Yates-related entities? Are
16 any of them outside entities?

17 A. Yes, sir, the only three that are Yates entities
18 are MYCO Industries, Inc., Abo Petroleum Corporation, and
19 Yates Drilling Company.

20 All the others, the six others, are outside of
21 the Yates group.

22 Q. That was Abo Petroleum --

23 A. -- Corporation, yes, sir.

24 Q. -- Corporation, and Yates Drilling?

25 A. Yates Drilling Company.

1 Q. And the other people you listed are outside
2 parties that are not associated with either Yates or Bass?

3 A. That is correct.

4 Q. Now, Yates owns -- I mean MYCO -- Is the
5 ownership, 75 and 25, is that the total for the MYCO group?

6 A. Yes, sir.

7 Q. Okay.

8 A. The 25 percent would be total MYCO group.

9 A. And how much is the total for the Bass group?

10 A. Well, in the one well on the west half they have
11 25 percent, and on the east half 75 percent.

12 Q. Okay, so -- Well, what about the other people?
13 You know, that doesn't leave anything for the other people.

14 A. Okay, I'm sorry, let me clarify what I was
15 saying. On the west half --

16 Q. Yeah.

17 A. -- the yellow acreage, which is 75 percent of
18 that proration unit, MYCO and those other entities that are
19 non-Bass own that -- share that lease --

20 Q. Right.

21 A. -- and then -- So the 75 percent includes those
22 other entities, the Yates entities and the other entities.

23 And on the east half the same holds true. Of the
24 25 percent, it's MYCO and the Yates entities and the non-
25 Bass entities.

1 Q. So the Bass people have 25 percent of the west
2 half --

3 A. Yes, sir.

4 Q. -- and 75 percent of the east half?

5 A. Yes, sir.

6 Q. And these outside entities, are they being force-
7 pooled or --

8 A. No, sir. No, sir, they are not.

9 Q. Have they entered into an operating agreement --

10 A. Yes, sir, they have.

11 Q. -- with MYCO?

12 A. They sure have.

13 Q. Have they agreed to the proposal for these wells?

14 A. In theory, yes, sir, they have.

15 Q. When you say in theory, they have not given
16 written consent?

17 A. That is correct, other than they've been a party
18 to all of the documents with Bass, and we're just waiting
19 to get the paperwork circulated to them. They are all in
20 agreement.

21 Q. Okay.

22 A. We have an arrangement with them that allows them
23 to participate under the operating agreement or do the
24 nonconsent or farmout, so we have a real tight arrangement
25 with them.

1 Q. Yeah, okay.

2 A. So it's virtually wrapped up.

3 Q. And they are parties to an operating agreement
4 that names MYCO as the operator?

5 A. Yes, sir, that's true.

6 EXAMINER BROOKS: Okay, I think that's all I
7 have.

8 Mr. Catanach?

9 EXAMINER CATANACH: Just one.

10 EXAMINATION

11 BY EXAMINER CATANACH:

12 Q. Ms. Hodges, it seems to me that you've mostly
13 dealt with Mr. Wayne Bailey. Is he pretty much -- Does he
14 represent that group?

15 A. That's my understanding. Wayne is the only one
16 that I've dealt with, that's true.

17 EXAMINER CATANACH: Okay.

18 EXAMINER BROOKS: Thank you.

19 THE WITNESS: Thank you.

20 MR. BRUCE: Mr. Examiner, I have a few questions.

21 EXAMINER BROOKS: I'm sorry, I should have let
22 you examine before I did.

23 MR. BRUCE: I just have a couple.

24 EXAMINER BROOKS: I have a tendency to do that.

25 Go ahead.

CROSS-EXAMINATION

1
2 BY MR. BRUCE:

3 Q. Ms. Hodges, in what order do you propose drilling
4 the well, does MYCO propose drilling the well?

5 A. We propose to drill the Juneau "31" Fee Com
6 Number 1 first.

7 Q. That's the west half?

8 A. That's the west half, yes, sir. And we hopefully
9 will do that in the next two or three -- start that in the
10 next two or three weeks.

11 Q. Is there some time deadline that mandates that
12 two or three weeks?

13 A. We have a rig available that we would like to use
14 there. It's a rig that we're familiar with, a crew that
15 we're very comfortable with. As I said a moment ago, it's
16 a very dangerous drilling spot, and that's the rig we would
17 prefer to use here.

18 Q. What is the acreage on the west half?

19 A. You mean what type of ownership?

20 Q. No, no, no, no. What is the total acreage,
21 number of acres?

22 A. 320, more or less. There are some lots in there.

23 Q. Okay. Is it a standard-sized unit?

24 A. Yes, sir.

25 Q. Now, it's not highlighted on your Exhibit 1, but

1 is MYCO currently drilling a well in the east half of
2 Section 36, immediately to the west of your Juneau well,
3 proposed --

4 A. No, sir, we're not drilling it; we have drilled
5 it.

6 Q. You have drilled it?

7 A. It's been drilled, yes, sir.

8 Q. Has it been completed?

9 A. No, sir.

10 Q. Has it been logged?

11 A. Yes, sir.

12 Q. Are there any problems with the well?

13 A. I don't know that I'm at liberty to discuss that
14 well at this point.

15 Q. Does that well influence the drilling of this
16 Juneau well?

17 A. Well, that's probably more of a geology question,
18 and I can give you what I've gleaned from this area, but
19 I'm not an expert. And that is that for the most part one
20 well does not really influence the next. And I think that
21 maybe Mr. Reid can enlighten you a little more, because I'm
22 just -- I don't think so, is my opinion --

23 Q. Okay.

24 A. -- to answer your question.

25 MR. BRUCE: I have nothing further, Mr. Examiner.

1 EXAMINER BROOKS: Your testimony a moment ago
2 raised the possibility that this is an irregular section.
3 Do you have an exact acreage, Mr. Carr?

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

5 EXAMINER BROOKS: Okay --

6 MR. CARR: But I can provide --

7 EXAMINER BROOKS: -- if you find out if it's
8 under the 320 --

9 MR. CARR: I will let you know that.

10 EXAMINER BROOKS: -- please advise me.

11 I believe that's all I have. Anything else from
12 this witness? Okay, beg the parties' indulgence. I would
13 like to call a five-minute recess at this time.

14 (Thereupon, a recess was taken at 9:19 a.m.)

15 (The following proceedings had at 9:24 a.m.)

16 EXAMINER BROOKS: Okay, we're ready to proceed
17 again.

18 MR. CARR: May it please the Examiner, at this
19 time we call Brian Reid.

20 BRIAN REID,

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

23 DIRECT EXAMINATION

24 BY MR. CARR:

25 Q. Would you state your name and place of residence?

1 A. Brian Reid, Midland, Texas.

2 Q. How do you spell your last name?

3 A. My last name is R-e-i-d.

4 Q. By whom are you employed?

5 A. Featherstone Development Corporation.

6 Q. And what is the relationship of Featherstone to
7 this project?

8 A. Featherstone is a participant in the project and
9 in the drilling of several of the other wells in the area,
10 through the other companies that you asked about earlier,
11 that are not MYCO companies.

12 Q. What is your relationship to this project?

13 A. As part of that participation in Featherstone
14 development, I provide geologic support for the drilling.

15 Q. You're the geologist on the project?

16 A. I am.

17 Q. Have you previously testified before this
18 Division?

19 A. I have not.

20 Q. Could you review for the Examiners your
21 educational background?

22 A. I received a bachelor of arts degree from Trinity
23 University in geology in 1979. I received a master of
24 science degree in geology from Miami University in Ohio.

25 Q. Summarize your work experience.

1 A. After my schooling I went to work for Exxon
2 Company, USA. I worked for Exxon for 13 years, the last
3 four years of which were in Midland, working the Permian
4 Basin, primarily southeast New Mexico. After leaving Exxon
5 I worked as an independent consultant in Midland, primarily
6 dealing with the Permian Basin. And for the last two years
7 I've worked for Featherstone Development. All of this work
8 has been as a petroleum geologist.

9 Q. Are you familiar with the Applications filed in
10 each of these cases?

11 A. Yes, sir.

12 Q. Have you made a study of the area which is the
13 subject of these Applications?

14 A. I have.

15 Q. Are you prepared to share the results of your
16 work with the Examiners?

17 A. Yes, sir.

18 MR. CARR: Are the witness's qualifications
19 acceptable?

20 EXAMINER BROOKS: Any objection?

21 MR. BRUCE: No objection.

22 EXAMINER BROOKS: He's qualified.

23 Q. (By Mr. Carr) Basically, Mr. Reid, what is the
24 purpose of your testimony here today?

25 A. The purpose of my testimony is to discuss the

1 risk involved in drilling Morrow wells, specifically those
2 two that are proposed.

3 Q. And the primary objective in this well is the
4 Morrow formation?

5 A. Is the Morrow formation, the East Carlsbad Gas
6 Pool.

7 Q. East Carlsbad-Morrow Gas Pool?

8 A. I'm sorry, East Carlsbad-Morrow Gas Pool.

9 Q. Are there secondary objectives?

10 A. The Strawn formation and the Wolfcamp formation
11 have produced in the area, and we will look at them and
12 evaluate them. But they're not such that they would cause
13 the well to be commercial. We're really focusing on the
14 Morrow. We need a good Morrow well to make the well
15 commercial.

16 Q. If you don't have a good Morrow zone, you're not
17 really looking at the Strawn and the Wolfcamp as changing
18 this to a paying well; it's just to help you offset your
19 loss?

20 A. It's not likely that those two formations would -
21 -

22 Q. Could you generally describe the Morrow formation
23 in this area?

24 A. In the specific area of these wells, it's very
25 similar to the regional Morrow. The Morrow occurs as sand-

1 filled channels. In this area they run generally northwest
2 to southeast. The amount of sand that you encounter in
3 these channels is quite variable. They pinch out rapidly
4 laterally, and even within the channels often the sand is
5 not present.

6 In addition to that, the production from the sand
7 is somewhat unpredictable. Even wells that have, say, tens
8 of feet of sand may not produce in paying quantities or
9 commercial quantities. So there's the unpredictability of
10 the reservoir performance as well as the amount of sand
11 present.

12 Q. Let's go to MYCO Exhibit Number 6. Would you
13 identify this and review the information on the exhibit for
14 the Examiner?

15 A. This is a nine-section plat showing the
16 penetrations of the Morrow in the general area of the
17 proposed wells. It shows of the wells that have been
18 completed the amount of gas that's been produced in
19 millions of cubic feet. If there's a red circle on the
20 well, then it's been productive of gas from the Morrow.
21 And the number is in millions.

22 There have been 14 penetrations to date of the
23 Morrow in this immediate area. Nine of them have had
24 completions attempted. And of those nine, four have been
25 commercial wells.

1 Q. What you're doing, actually, is stepping out to
2 the southeast from an area in which there has been
3 development, correct?

4 A. You can see the density of the wells on the west
5 side of the map is quite a bit more than the center and the
6 east, and some of those are MYCO wells, and we're trying to
7 continue the development that we've accomplished there to
8 the east into Section 31.

9 Q. And a dryhole cost for a well in the area is
10 approximately what?

11 A. It is almost \$700,000.

12 Q. And the success ratio in this area is to date
13 four out of 14 attempts; is that right?

14 A. That's correct.

15 Q. And even if you make a well, there is a chance
16 you wouldn't have a commercial well?

17 A. That's correct, many have not been commercial.

18 Q. Are you prepared to make a recommendation to the
19 Examiners as to the risk penalty that should be assessed
20 against any interests not voluntarily committed to the
21 well?

22 A. Yes, I am.

23 Q. And what is that?

24 A. Two hundred percent.

25 Q. In your opinion, do you believe that granting

1 this Application and approving a 200-percent risk penalty
2 will be in the best interests of conservation, the
3 prevention of waste and the protection of correlative
4 rights?

5 A. Yes, sir, I do.

6 Q. And how soon could MYCO go forward with the
7 actual commencement of drilling?

8 A. It's my understanding that the rig is available
9 and under contract as soon as it finishes a well, it's
10 available to drill on these locations in two or three
11 weeks.

12 Q. Was Exhibit 6 prepared by you?

13 A. Yes, it was.

14 MR. CARR: At this time, Mr. Examiner, we move
15 the admission into evidence of MYCO Exhibit Number 6.

16 EXAMINER BROOKS: Objection?

17 MR. BRUCE: No objection.

18 EXAMINER BROOKS: Six is admitted.

19 MR. CARR: And that concludes our direct
20 examination of Mr. Reid.

21 EXAMINER BROOKS: Mr. Bruce? We'll follow proper
22 form this time.

23 CROSS-EXAMINATION

24 BY MR. BRUCE:

25 Q. Mr. Reid, I'll start off with the question I

1 asked Ms. Hodges. What is the status of the Austin Number
2 well in the southeast quarter of Section 36?

3 A. I don't know the latest up-to-date status of the
4 well. I have -- I provide geologic information to MYCO,
5 but I'm not privy to their management discussions of the
6 wells. The last time I talked to them, it was my
7 understanding that they intended to complete the well, so I
8 marked it on my map as completing, and I don't know the
9 latest developments in the attempts in that completion, or
10 their --

11 Q. Completing --

12 A. -- or their intention to complete it.

13 Q. Completing in the Morrow?

14 A. Possibly.

15 Q. You don't know which zone they're going to
16 complete the well in?

17 A. The last time that I talked to them, they were
18 discussing that completion in the Morrow, and I believe
19 they will attempt it.

20 Q. Do you know if it's the upper Morrow, middle
21 Morrow, lower Morrow?

22 A. I know that there are sands that could be
23 completed in either the middle or the lower.

24 Q. What thickness -- Have you looked at the logs on
25 that well?

1 A. I have looked at the logs.

2 Q. Now, have you done any geologic evaluation of
3 this well, of the Austin Number 2 and the Juneau Number 1?

4 A. The Juneau is proposed, so I don't have any
5 additional geologic information on that well. But I have
6 seen the logs on the Austin Number 1 -- Number 2.

7 Q. That's not the question. Have you prepared a
8 geological evaluation of these wells?

9 A. Of the proposed wells?

10 Q. Yes.

11 A. Yes, I have.

12 Q. Okay. Have you prepared maps? Do you have any
13 idea what you project as the Morrow thickness? Do you have
14 gross-pay maps, net-pay maps?

15 A. I have made maps before the Austin was drilled,
16 and I have updated those maps with the information that the
17 Austin provided, so...

18 Q. And what do they show? I mean, you didn't bring
19 them with you today?

20 A. I didn't bring them with me today.

21 Q. Why not?

22 A. Because the nature of the Morrow sands is such
23 that the channels are very unpredictable, and as I
24 testified, the amount of sand present from well to well
25 varies greatly.

1 Q. So geology is not valuable in evaluating this
2 prospect?

3 A. There is a lot of uncertainty in the geology,
4 and...

5 Q. What is the middle Morrow thickness in the Austin
6 Number 2?

7 A. I'm not at liberty to discuss that.

8 MR. BRUCE: Mr. Examiner, I'd request that he be
9 required to testify about that information. We think it's
10 relevant to the drilling of these two wells.

11 EXAMINER BROOKS: Mr. Carr?

12 MR. CARR: The testimony is that one well has
13 really no direct bearing on the development of another.
14 Heyco is going forward developing -- I'm sorry, MYCO going
15 forward developing what it can out here while it's for two
16 years been trying to deal with that.

17 At this point in time it seems to me that to use
18 these proceedings simply to try and ride the smaller
19 company is inappropriate. The data is not something we're
20 using to base our testimony on or our request for a risk
21 penalty, and it's inappropriate to require that they start
22 using this -- be allowed to use this hearing as a fishing
23 process.

24 You can see that the success ratio here in the
25 evidence we have presented establishes the risk penalty,

1 and we do not believe we should be required to show
2 additional information that we have not elected to use that
3 we at this point in time consider proprietary.

4 MR. BRUCE: Mr. Examiner, that's the first time
5 I've heard the Yates entities be called small companies.
6 But --

7 MR. CARR: I object to that. They're not all the
8 same, and MYCO isn't Yates Petroleum. Mr. Bruce knows
9 that.

10 MR. BRUCE: Mr. Examiner, in virtually every case
11 before you in a force pooling case they come forward with
12 geology to present geological risk involved to testify
13 about the risk involved in drilling this well. We think
14 it's completely relevant, not only to giving the other
15 companies an idea as to whether to participate in the well,
16 but also to justify their risk. I don't think mere
17 production data is sufficient. I think that data is
18 relevant to this case, to both cases, and should be
19 produced.

20 EXAMINER BROOKS: Well, it's not really practical
21 to require a witness to produce something they haven't
22 brought with them in the context of our Examiner Hearings.
23 However, I will allow you to ask the question.

24 I will overrule the objection, because I take it
25 Mr. Carr has interposed an objection of trade secret, and I

1 don't believe that's established at this time. So for the
2 purpose of this question we'll direct the witness to answer
3 the question in the narrative.

4 Q. (By Mr. Bruce) And I think what I was asking is,
5 Mr. Reid, what thickness in the middle Morrow and
6 separately the lower Morrow did you see on the logs in the
7 Austin Number 2 well?

8 A. I'll answer your question. Could you be more
9 specific about the thickness?

10 Q. Well, what parameters do you use, what cutoff do
11 you use?

12 A. I generally use a -- I generally map on a gross-
13 sand basis, the amount of sand, and depends on which part
14 of the Morrow we're looking at, whether I'm mapping on a
15 specific target sand or on a larger package of sand that's
16 not necessarily one continuous sand.

17 Q. Well, in these particular wells, which sands did
18 you map? Did you map the lower Morrow?

19 A. I did not.

20 Q. Did you map the middle Morrow?

21 A. Yes, I did.

22 Q. And did you only do a gross sand map?

23 A. I only did a gross sand map.

24 Q. And what was the thickness in the Austin Number 2
25 well?

1 A. Three feet.

2 Q. And what thickness did you project in the Juneau
3 Number 1?

4 A. Forty feet.

5 Q. And what thickness did you project in the Panther
6 City Number 1?

7 A. Thirty-five feet.

8 Q. Is structure important in these wells?

9 A. It is not.

10 Q. And to the best of your knowledge, there has been
11 no testing of the Austin Number 36; it may well be in the
12 process of completion?

13 A. To the best of my knowledge, no testing.

14 Q. That's all you know about it?

15 A. That's all I know.

16 MR. BRUCE: That's all I have, Mr. Examiner.

17 MR. CARR: I have nothing further.

18 EXAMINER BROOKS: I don't have any questions.

19 Mr. Catanach?

20 EXAMINER CATANACH: (Shakes head)

21 EXAMINER BROOKS: Very good.

22 MR. CARR: That concludes our direct
23 presentation.

24 EXAMINER BROOKS: Mr. Bruce?

25 MR. BRUCE: I'll call Mr. Bailey to the stand.

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JERRY WAYNE BAILEY,

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

DIRECT EXAMINATION

BY MR. BRUCE:

Q. Would you please state your name for the record?

A. It's Jerry Wayne Bailey.

Q. Where do you reside?

A. Fort Worth, Texas.

Q. Who do you work for and in what capacity?

A. I'm the division landman for Bass Enterprises Production Company.

Q. And there was a question. Bass is here representing those other entities I named in my entry of appearance, is it not?

A. That's correct.

Q. Have you previously testified before the Division as a petroleum landman?

A. Yes.

Q. And were your credentials as an expert accepted as a matter of record?

A. Yes.

Q. And are you familiar with the land matters involved in these Applications?

A. Yes, I am.

1 Q. Now, before we get into your exhibits, Mr.
2 Bailey, we're here today on two wells. Actually, MYCO
3 proposed additional wells to Bass, did it not?

4 A. Yes.

5 Q. How many wells total?

6 A. MYCO proposed eight wells in five 320-acre
7 proration units. There were these two, there was another
8 one to the east of these two, and there were two more to
9 the north.

10 Q. Okay.

11 A. And all of those units are units in which Bass
12 has a substantial interest. In the Juneau or the west half
13 of Section 31 we have 25 percent, but in the other four we
14 have anywhere from 75-percent interest to 87-1/2-percent
15 interest.

16 Q. Since there are five well units, then there are
17 what, three proposed infill wells also, or second wells on
18 a well unit?

19 A. Correct.

20 Q. Okay. And Ms. Hodges testified that this acreage
21 is within the Big Eddy Unit, is it not?

22 A. That's correct, and Bass is the unit operator
23 responsible for various reporting and permitting
24 obligations to the BLM, the OCD and the State of New
25 Mexico, according to the obligations of the Big Eddy Unit

1 agreement.

2 Q. Okay, that unit agreement was approved by all
3 three entities, was it not?

4 A. Correct.

5 Q. And Bass is designated operator by all three
6 entities under the various unit documents?

7 A. Bass has the exclusive obligation of reporting to
8 the agencies for all operations involving unit leases.

9 Q. Okay. Now, to summarize the issues you're here
10 for today, there are eight wells, and is it Bass's opinion
11 that the reasonable way to drill these wells is to drill
12 one, provide the data, and move on to the next one?

13 A. That's correct.

14 Q. And also, if these Applications are granted, does
15 Bass request that it be designated operator?

16 A. Yes.

17 Q. Okay, we'll get into that in a minute. First,
18 could you briefly identify Exhibit 1 and describe what that
19 shows for the Examiner?

20 A. Exhibit 1 is a base map showing the location of
21 the Big Eddy Unit boundary and the current wells that have
22 been drilled to date, along with the five proration units
23 that were proposed by MYCO. And these units are the
24 subject of many conversations and phone calls and whatnot
25 between Bass and MYCO over a several-month period, as was

1 previously testified.

2 Q. Okay, up through yesterday?

3 A. Yes, through yesterday. And I haven't reviewed
4 the Applicant's list of contacts which were presented in
5 testimony, but I do notice that there are two letters from
6 Bass to MYCO which are not on that list, and I don't see
7 them in the package where Bass has made offers to develop
8 all five -- or excuse me, four of the five proration
9 units --

10 Q. Okay --

11 A. -- and to systematically drill, and Bass would
12 make elections to either participate or farm out or grant a
13 term assignment to MYCO in a step-by-step process.

14 Q. Okay. Now, the first letter that wasn't included
15 was a letter dated May 14th, 2003?

16 A. Correct.

17 Q. And then a second letter dated May 19th, 2003?

18 A. Correct.

19 Q. And that May 19th letter is marked Exhibit 2, is
20 it not?

21 A. Yes.

22 Q. And it's really just more or less an update or a
23 refinement of the May 14th letter?

24 A. Yes, this is the last offer that was made by
25 Bass, and there were conversations after that letter.

1 There was another letter from MYCO that's in their package,
2 and until late yesterday afternoon Bass and MYCO were
3 seriously discussing a voluntary agreement for the
4 development of this area, including the two Applications
5 being discussed today.

6 Q. Okay. Now, without going into detail, this
7 letter of May 19th does set forth what Bass proposed, does
8 it not?

9 A. The May 14th was at one time what we proposed.
10 The May 19th is the most recent proposal, and it's very
11 substantial to the -- or it's comparable to the May 14th,
12 but it provides for even more locations to be drilled.

13 Q. Okay, and it would provide for Bass on a timely
14 basis to either join in a well or farm out or give a term
15 assignment on this acreage; is that correct?

16 A. That's correct, and it would also provide for
17 Bass to drill and participate in the two wells to the
18 north, which are not the subject of the Applications today,
19 but it does show that Bass was making reasonable offers and
20 had made elections to MYCO --

21 Q. Okay.

22 A. -- and that we would make elections on these two
23 Applications in due time, in time for them to meet their
24 requirements, timing requirements, as they were made known
25 to Bass.

1 Q. Okay. Now, there is in one of the paragraphs
2 here talk about the Austin State "36" Number 2 well. Bass
3 was interested in obtaining data from that well, was it
4 not?

5 A. Correct.

6 Q. That has not been provided to Bass, has it?

7 A. No.

8 Q. Were there indications early on that MYCO might
9 provide data on that well to Bass?

10 A. Yes.

11 Q. But to date there has been no --

12 A. Correct.

13 Q. -- data? Let's move on to the operatorship
14 issue. Bass as unit operator has certain duties, does it
15 not?

16 A. That's correct.

17 Q. Could you summarize those for the Hearing
18 Examiner, and perhaps highlight a couple problems involved
19 if Bass is not named operator?

20 A. Well, according to the unit agreement and the
21 regulations of the three agencies, namely the Code of
22 Federal Regulations and various regulations by the Minerals
23 Management Service and the Bureau of Land Management, as
24 well as the State Mineral Office -- or State Land Office
25 and the OCD require unit operators to file numerous items

1 of documentation for each well drilled for the production
2 of unitized substances. These include permits,
3 designations of agent, drilling and completion progress
4 reports, commercial well determinations, submittals of
5 participating areas.

6 And then after a well is placed on production,
7 the unit operator s charged with the duty of reporting
8 royalty to the Mineral Management Service, based on either
9 lease well production or on a participating area basis, in
10 the event a participating area is assigned.

11 Q. Okay, let's go to that participating-area issue
12 for a minute. If a participating area is formed, it could
13 conceivably include multiple wells, could it not?

14 A. That's correct.

15 Q. And multiple well units?

16 A. That's a correct, a participating area is -- or
17 in order to summarize the unit agreement, a participating
18 area is the geographical boundary of known productive
19 substances, or reasonably known at that time, of the area
20 that is commercially productive. And it can be one 320-
21 acre unit in the case of a Morrow well, or it can be two or
22 three. Regardless of the number of wells that are drilled,
23 it is a geological process.

24 Q. So it could conceivably include a number of wells
25 where, if MYCO is the operator, Bass might be the operator

1 of certain other wells inside the same participating area?

2 Conceivably --

3 A. Well --

4 Q. -- if MYCO is granted these Applications, is what
5 I'm saying?

6 A. That's correct, and that would violate the Big
7 Eddy Unit agreement and various other regulations that Bass
8 has been required to maintain during the life of these
9 federal units and the wells that have been produced.

10 Q. And in a participating area, the unit operator or
11 the operator of that participating area, has to report on a
12 unified basis royalties?

13 A. Correct.

14 Q. And severance taxes?

15 A. Correct.

16 Q. And make other filings with the government
17 agencies?

18 A. There is a myriad of filings that are the
19 responsibility of the unit operator to file, from the
20 staking of a well through the productive life of a well, if
21 it's productive. And if a well is productive, Bass
22 receives a letter mandating Bass as unit operator to
23 provide a commercial well determination. And that's with
24 any well that involves unitized substances. And both of
25 these Applications involve unitized substances.

1 Q. So it doesn't matter that there may be
2 uncommitted acreage in a well?

3 A. No. And then after a commercial well
4 determination is made, Bass must timely, within a certain
5 described period, provide an outline of the area of known
6 geological production, which is then determined to be the
7 participating area.

8 Q. And if it cannot do that on a timely basis, it
9 does face penalties from the state and federal governments
10 regarding the reporting of production or payment of
11 royalties, does it not?

12 A. That's correct.

13 Q. As a result, Bass requests that if these
14 Applications are granted, Bass be named operator?

15 A. That's correct.

16 Q. Has Bass signed a designation of agent in favor
17 of MYCO?

18 A. No.

19 Q. Were Exhibits 1 and 2 prepared by you or under
20 your supervision?

21 A. Yes.

22 Q. Do you believe that if these Applications are
23 granted, Bass should be named operator?

24 A. Yes.

25 Q. Moreover, would you request that these

1 Applications be either continued or denied so that the
2 parties can work out their differences?

3 A. That's correct. The parties have had numerous
4 conversations. Recently we had agreed on the -- we had an
5 agreement in principle concerning the major substantive
6 provisions of a voluntary agreement.

7 Q. In your opinion, is Bass's proposal in the
8 interests of conservation and the prevention of waste?

9 A. Yes.

10 MR. BRUCE: Mr. Examiner, I'd move the admission
11 of Bass Exhibits 1 and 2.

12 MR. CARR: No objection.

13 EXAMINER BROOKS: One and 2 are admitted.

14 MR. BRUCE: And I have nothing further of the
15 witness.

16 EXAMINER BROOKS: Mr. Carr?

17 CROSS-EXAMINATION

18 BY MR. CARR:

19 Q. Mr. Bailey, is it correct that Bass had -- When
20 did Bass actually acquire the interest in the spacing units
21 that are the subject of this hearing?

22 A. I don't know.

23 Q. These are tracts that are not going to expire
24 because of the Big Eddy Unit situation; is that fair to
25 say?

1 A. Yes.

2 Q. The Big Eddy Unit was approved back in the 1950s,
3 was it not?

4 A. Yes.

5 Q. And has Bass operated the unit all that time?

6 A. Yes.

7 Q. So you've had these interests since the 1950s?

8 A. I don't know.

9 Q. Would there be any reason to suspect you hadn't?

10 A. I don't know.

11 Q. You will agree, however --

12 A. I don't know the date that Bass acquired the
13 leases in Section 31.

14 Q. You agree you've had them for some time?

15 A. You're asking me a question that I don't know.

16 Q. Okay. And I would assume that over this period
17 of time, especially since negotiations commenced two years
18 ago, that Bass has been studying the Morrow in this area;
19 is that fair to say?

20 A. Yes, we've been studying it very seriously and
21 diligently.

22 Q. Were you studying it, or do you know, prior to
23 the time that MYCO started looking at these properties?

24 A. Yes, we've always studied it.

25 Q. Always? How far back is always?

1 A. I don't know.

2 Q. In the course of these studies, does Bass have
3 any disagreement with MYCO that a 200-percent penalty
4 should be assessed if someone elects not to participate in
5 a Morrow well?

6 A. I'm not prepared to answer that question.

7 Q. Is it because you don't know?

8 A. Yes.

9 Q. So a penalty of less than 200 percent might be
10 possible, but you don't know?

11 A. I'm not prepared to answer that question,
12 therefore I do not know.

13 Q. Would you agree with me that as of today there is
14 no agreement with MYCO for the development of any of the
15 spacing units that you've been discussing?

16 A. That's correct.

17 Q. Did you see the request for a continuance of this
18 hearing that was filed by Mr. Bruce?

19 A. Yes.

20 Q. And do you understand that in that request for a
21 continuance there were representations that agreements had
22 been reached on certain properties?

23 A. I don't --

24 Q. If we look at your --

25 A. -- the representations would have to be specific,

1 and I would comment on them.

2 Q. Let's look at your letter of May the 19th.

3 A. Okay.

4 Q. Do you have that in front of you?

5 A. Yes.

6 Q. There's a paragraph -- I think it's the second
7 paragraph -- it starts out by saying, "By now, you should
8 have received Bass' written elections to participate in two
9 of the above proration units, being the west half of
10 Section 19 and the west half of Section 30." Do you see
11 that language?

12 A. Yes.

13 Q. There is no agreement between the two of you now
14 for the west half of 19, is there?

15 A. That's only due to the lack of a response from
16 the parties that own a leasehold interest in those two
17 proration units. Bass has corresponded with them, asking
18 for their execution of an operating agreement.

19 Q. Until that, you don't have an agreement?

20 A. That's correct.

21 Q. Does Bass desire to operate the west half of 19?

22 A. Is MYCO proposing to operate the west half of 19?

23 A. MYCO proposed a well in Section 19, yes.

24 Q. As to the west half of Section 30, have you
25 reached an agreement on that?

1 A. That's what we were trying to do yesterday. No,
2 excuse me. There's no written agreement in the west half
3 of Section 30.

4 Q. Have you reached an agreement on a well location
5 in that acreage?

6 A. Bass has proposed a location. We have no written
7 response concerning that location.

8 Q. So you have no agreement on the location?

9 A. Correct.

10 Q. Have you advised MYCO that you're filing a
11 compulsory pooling Application on the west half of 19?

12 A. Yes.

13 Q. So we have no agreement there?

14 A. What agreement are you referring to?

15 Q. I mean, do you have an agreement? If you have
16 one, tell me about it.

17 A. We have attempted to obtain an agreement.

18 Q. But you have no --

19 A. We have no response.

20 Q. Okay. Now, as to the need for data on the Austin
21 "36" State Number 2 well, do you have any ownership in that
22 well? Does Bass have any ownership in the well?

23 A. No.

24 Q. Ms. Darr stated that in the -- I mean, Ms. Hodges
25 stated that in the past they had provided certain well data

1 and information to Bass; is that correct?

2 A. That's what I've been told. I was not involved
3 in that.

4 Q. In proposing wells that Bass might be willing to
5 drill in the area, does Bass have concern about the order
6 that the wells are drilled or just -- I mean, is that one
7 of the issues, the order of development?

8 A. Yes.

9 Q. You have certain wells you prefer to have drilled
10 first?

11 A. That's what I've been told. I'm not a geological
12 witness, I'm not a geologist. Those are referring to
13 geological issues.

14 Q. You are the person that's been principally
15 involved in the negotiations with MYCO?

16 A. Correct.

17 Q. Have you been told that there are concerns about
18 the order of development, whatever they might be?

19 A. By who?

20 Q. Well, anyone in your company.

21 A. Have I been told -- Could you clarify your
22 question?

23 Q. I'm just trying to find out if that is an issue,
24 and you said well, you weren't a geologist. Is that an
25 issue, is the order of development an issue?

1 A. I think the order of development is obviously an
2 issue in any broad area to be developed. It's an obvious
3 issue that is crucial to anyone who has a substantial risk
4 and expense in the number of wells that are being
5 considered in this area.

6 Q. And I know you're not a geologist. I'm not
7 asking you a geological question. I'm just asking you if
8 that is an issue. Is it just a generic issue, or is there
9 some particular reason that you -- you know, a list that
10 you'd like to pursue? I just don't know, and I just want
11 to know. If you're negotiating, is that something that's
12 just from you just in a generic way, or is there some
13 particular concern about where the development should
14 start, or do you know?

15 A. We've been told from MYCO that the west half of
16 Section 31 would be drilled as the first well in the
17 proration units that are being applied for today. That's
18 what I know about the order.

19 Q. Okay.

20 A. Bass has no objection to that. That's the extent
21 of my knowledge.

22 Q. And that's the extent of where I'm trying to go
23 with this. You have a request that if these Applications
24 are granted, that Bass be designated the operator; is that
25 correct?

1 A. Correct.

2 Q. You haven't filed an Application to pool the
3 lands or seek designation of an operator, have you?

4 A. Not at this point.

5 Q. And you've known this Application was pending for
6 several weeks?

7 A. I've also known that we were, in my opinion, very
8 close to a voluntary agreement.

9 Q. And you've been working on that agreement for two
10 years?

11 A. There have been discussions from the date that is
12 presented. I don't -- I cannot testify to the accuracy of
13 that date. We have had serious discussions and
14 correspondence for approximately the last month.

15 Q. Okay.

16 A. And more recently, the conversations and
17 correspondence have been very prudent by both parties,
18 which is why Bass filed for a continuance to allow for a
19 voluntary agreement, and Bass knows of no reason for MYCO
20 to have gone through with the compulsory pooling hearing in
21 an emer- -- we know of no emergency at this date.

22 Q. These unique requirements in the Big Eddy Unit,
23 Bass has been aware of these for some time, have you not?

24 A. Yes.

25 Q. In your discussions with MYCO, have you discussed

1 these problems in terms of the unique provisions of the Big
2 Eddy Unit --

3 A. We have alluded --

4 Q. -- with Ms. Hodges?

5 A. We have alluded to the requirements of the Big
6 Eddy Unit and the requirements of Bass as operator.

7 Q. Have you set those out or explained those to Ms.
8 Hodges?

9 A. Not in detail. Did you raise this problem in the
10 prehearing statement that was filed in this case?

11 A. I don't recall.

12 Q. Do you know if a prehearing statement was filed
13 in this case?

14 A. I'm not sure what a -- what all a prehearing is,
15 what is required. I assume a statement was filed to
16 designate that Bass would be presenting a witness. I don't
17 know how detailed it is --

18 Q. All right.

19 A. -- I don't know what it said, I don't know if it
20 also includes a prehearing statement. It might have.

21 Q. Have you discussed this situation, this
22 particular situation, with MYCO proposing to drill in this
23 area?

24 A. What situation?

25 Q. The proposals MYCO is making to drill. Have you

1 discussed this matter with the BLM?

2 A. I've discussed some of their proposals, not all
3 of their proposals. I don't recall if the discussions
4 involve the two wells being applied for today.

5 Q. In your discussions, has the BLM told you that
6 the inclusion of fee acreage in the spacing unit will
7 render them nonunit wells?

8 A. No.

9 MR. CARR: That's all I have. Thank you.

10 EXAMINER BROOKS: Anything further, Mr. Bruce?

11 MR. BRUCE: Not at this time.

12 EXAMINATION

13 BY EXAMINER BROOKS:

14 Q. Is the acreage that's claimed by MYCO and the
15 other non-Bass parties in this unit -- in these proposed
16 spacing units, is this noncommitted acreage?

17 A. Myco's leases are noncommitted to the unit
18 agreement.

19 Q. Okay.

20 A. Bass's leases are committed to the unit
21 agreement. Therefore, any operations in the proposed
22 proration units are committed to the unit agreement, and
23 Bass is therefore obligated to perform its duties as unit
24 operator, and all three agencies are a party to the unit
25 agreement, as well as many other parties that did commit

1 their leases --

2 Q. But Myco --

3 A. -- to the unit. Myco --

4 Q. -- Myco and its partners are not parties to the
5 unit agreement because their acreage is uncommitted,
6 correct?

7 A. Correct.

8 Q. They may have testified to this, but I didn't
9 focus on it. Are their leases fee leases? They're not
10 federal leases?

11 A. To my knowledge, they're all fee leases.

12 Q. Okay. Now, is there a unit operating agreement
13 for the Big Eddy Unit?

14 A. Yes, there is.

15 Q. And Myco is not a party to it, correct?

16 A. To my knowledge, no.

17 Q. And Bass is the operator under the terms of the
18 unit operating agreement?

19 A. Yes, sir.

20 Q. Do you -- Does Bass object to either of the
21 proposed locations?

22 A. To this date, I have not been told of such an
23 objection.

24 Q. So you're not here to testify to any such
25 objection?

1 A. No, sir. But we don't have as much data as Myco
2 has. Therefore, in all precaution of safety I'll reserve
3 that opinion on behalf of other people of my company.

4 EXAMINER BROOKS: Okay. Mr. Catanach?

5 EXAMINER CATANACH: (Shakes head)

6 EXAMINER BROOKS: Anything else?

7 MR. BRUCE: Nothing else, Mr. Examiner.

8 EXAMINER BROOKS: Very good. Summation?

9 MR. BRUCE: Mr. Examiner, as Mr. Bailey
10 testified, there are some legal issues involved regarding
11 operatorship of the wells, and I won't reiterate them other
12 than to say that if these Applications are granted we would
13 request that Bass be named operator.

14 EXAMINER BROOKS: Well, I would be interested in
15 hearing any elucidation you can make of the legal
16 implications because they are, to my mind, somewhat
17 complicated.

18 MR. BRUCE: And I -- Mr. Examiner, I must say
19 that Mr. Bailey did not inform me he was coming out here
20 until about four o'clock yesterday, which is why I did not
21 previously notify the Division he would be testifying, and
22 I have not pulled out the unit operating agreement. I
23 would like to be given a few days to do that, rather than
24 speak off the top of my head.

25 EXAMINER BROOKS: Okay. Well, we would be happy

1 to receive any elucidation in the form of a written
2 submission, if it would be more convenient.

3 MR. BRUCE: Furthermore, if the Applications are
4 granted, we request that they be staggered so that, as Ms.
5 Hodges said, if the west-half well is drilled first, we
6 think it's only fair to give out the data after that well
7 is drilled so a decision can be made as to the second well.

8 And thirdly, we'd request that an infill -- that
9 the order contain an infill drilling provision such as
10 you've recently incorporated in another case. Again, we
11 would put forward the request that we think either a denial
12 or a continuance of these Applications is proper. It may
13 well lead to voluntary settlement among the parties.

14 Finally, I would note that I believe this is a
15 nonstandard proration unit. I don't know if that requires
16 readvertisement or not. I think the west half is a
17 nonstandard proration unit. I think it's less than 316
18 acres, based on the land plat that was submitted by MYCO,
19 and that should be corrected.

20 EXAMINER BROOKS: Well, is there evidence of that
21 -- the land plat, now, is that -- What exhibit was that?

22 MR. BRUCE: Exhibit 1, MYCO Exhibit Number 1. I
23 believe if you look at those lots, Lots 1 through 4, I
24 can't see all the numbers, but I believe Lot 4 looks to be
25 37.50 acres, and as you step northward they get slightly

1 larger in acreage. But nonetheless, since they're all less
2 than 39 acres, I think you can see some acreage figures
3 of --

4 EXAMINER BROOKS: I can see some figures, but I
5 can't read any of them, even in Lot 4. The .50 I can read,
6 but I can't -- It's 3-something-50, but I can't tell if
7 that's a 7 or --

8 MR. BRUCE: I believe there are less than 316
9 acres in that well unit, therefore it is a nonstandard
10 unit.

11 EXAMINER BROOKS: Okay. Mr. Carr, did you --

12 MR. CARR: Yes, sir.

13 EXAMINER BROOKS: -- have anything by way of
14 summation?

15 MR. CARR: May it please the Examiner, we have
16 been -- we, MYCO, have been trying to get this acreage
17 developed for two years. And in the meantime, our lease
18 has expired, we had to go out and re-acquire the property.
19 During this period of time we have been negotiating with
20 Bass.

21 We stand before you today having met all the
22 requirements of statute. We're entitled to pooling orders
23 on each of these tracts. There's more than one interest
24 owner in each spacing unit, the parties have been unable to
25 reach voluntary agreement, the negotiations have continued

1 over an extended period of time, at least on MYCO's side,
2 in good faith.

3 We've gone to hearing, we've provided notice, and
4 we submit we're entitled to pooling orders, and we're
5 entitled to be designated operator.

6 I don't think the Division goes out and selects
7 an operator. I think you grant or deny an application for
8 that, and there is no application before you seeking
9 designation of Bass as operator of anything. And over the
10 last two years they haven't elected to come in here and ask
11 you to designate them operator of anything. They've only
12 showed up here today with new arguments they haven't
13 disclosed before.

14 As to the risk, the risk is clear. In this area
15 people have attempted 14 times to make a Morrow well, and
16 they've been successful four times. If MYCO has to carry
17 Bass to get the acreage developed and Bass has 75 percent
18 of the working interest, we're clearly entitled to a 200-
19 percent penalty on a well of this nature. The data before
20 you supports that Application.

21 As we've gone through this process trying to
22 reach a voluntary agreement, we have repeatedly shared data
23 with Bass. And all they want is more and more, delay,
24 delay, to look at more. And now, yesterday, they're
25 starting to fish for information on the well that MYCO

1 drilled offsetting the subject spacing units.

2 They own nothing in the well, they're entitled to
3 no data, and it will not really impact their decision
4 because these wells are high-risk. One well doesn't
5 dictate what's going to happen to the other.

6 We've been trying to do this for two years.
7 They've been sitting on the property for 50. We have no
8 decision from Bass.

9 If you look at the request for continuance
10 originally filed in this case, it was reported that there
11 were agreements on two spacing units, and there are not.
12 One of those two spacing units, the one in Section 19, the
13 west half of 19, Bass has now proposed a different operator
14 and it says they're going to force pool us. That doesn't
15 even get close to being an agreement. And while we
16 represent we would like a little time to work this out,
17 we're drifting farther away.

18 As to the west half of 30, we want a different
19 location. Look at the map, look where the wells are, and
20 you'll see that a different location can have a huge impact
21 on whether or not you want to drill a Morrow well out here.

22 When you change location, you go back to go.
23 There is no agreement. And after two years with valuable
24 property interests that we'd like to develop, we have to
25 come to you because we cannot get Bass to sign on the

1 bottom line.

2 Is it a nonstandard unit? We'll check that,
3 we'll advise, and we'll correct that if we need to.

4 But you know, the thing that bothers me most
5 about this is, after two years of trying to work it out,
6 when do we find that we have a bunch of issues that still
7 are on the table? We found out this morning before the
8 OCD.

9 Bass all this time may have, as Mr. Bailey said,
10 alluded to issues that spring from the Big Eddy Unit. I
11 would suggest they should have discussed those and put them
12 on the table about 24 months ago, but they didn't.

13 Our conversations with the BLM go a different
14 direction and say that fee lands make these and render
15 these nonunit wells, and the argument they want to spring
16 today does not take away from you the right and, I submit,
17 under the statute, the obligation to pool the lands and
18 designate us the operator.

19 It's interesting to us that today we have a
20 nonstandard unit, today we have unit issues, and they
21 didn't even file a prehearing statement to alert us of
22 these issues.

23 This is hearing by ambush. We've been trying for
24 years to get these properties developed, by us or by Bass,
25 and I would suggest that the first Basshole we've seen was

1 here at hearing today.

2 EXAMINER BROOKS: Rebuttal?

3 MR. BRUCE: Mr. Examiner, there's no need to
4 insult Bass. I would note that one of these wells is on
5 unit acreage. I think that alone makes it a unit well.
6 There may be squabbles as to the other well, the west-half
7 well, but clearly the east-half well is on unit acreage.

8 One party is never always right or always wrong,
9 Mr. Examiner, but it's also the obligation to inform itself
10 of procedures regarding the Big Eddy Unit if it's going to
11 be drilling in the Big Eddy Unit.

12 EXAMINER BROOKS: Okay, are you through? I'm
13 sorry, I cut you off.

14 How long will you need to submit your
15 observations on unit issues?

16 MR. BRUCE: I could do it by Tuesday.

17 EXAMINER BROOKS: By Tuesday. Would you want
18 opportunity to respond?

19 MR. CARR: Yes, sir, we would.

20 EXAMINER BROOKS: How long would you need?

21 MR. CARR: We would try to have it by the
22 following Monday at 5:00. That's the night before the
23 Fruitland Coal hearing. Thank you, Mr. Bruce.

24 EXAMINER BROOKS: Okay, thank you very much,
25 gentlemen. Subject to the leave that has been granted to

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submit post-hearing arguments, Cases Numbers 13,071 and 13,072 are taken under advisement.

(Thereupon, these proceedings were concluded at 10:14 a.m.)

* * *

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. _____ heard by me on _____ 19____
_____, Examiner
Oil Conservation Division

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 May 24th, 2003.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006