

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 QUEST CHEROKEE, L.L.C.,)
FOR APPROVAL OF AN APPLICATION FOR)
PERMIT TO DRILL, LEA COUNTY, NEW MEXICO)

CASE NO. 13,870

ORIGINAL

FILED
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

February 15th, 2007

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, February 15th, 2007, 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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A P P E A R A N C E S

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By: MICHAEL T. NEWELL

* * *

1 WHEREUPON, the following proceedings were had at
2 9:30 a.m.:

3 EXAMINER CATANACH: All right, I'll call the
4 hearing back to order, and at this time I'll call Case
5 13,870, the Application of Quest Cherokee, L.L.C., for
6 approval of an application for permit to drill, Lea County,
7 New Mexico.

8 Call for appearances.

9 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
10 representing the Applicant. I have three potential
11 witnesses to be sworn.

12 EXAMINER CATANACH: Additional appearances?

13 MR. NEWELL: Your Honor, Michael Newell for the
14 Intervenor.

15 And I have Mr. Lee Roberson, one of the
16 Intervenor, present with me, and he'll need to be sworn.
17 And we've got another witness, Bruce Baizel, who will be
18 here shortly, and we have two people in Hobbs who are
19 standing by, by phone, who could not make it because of
20 travel and weather conditions yesterday coming up southeast
21 New Mexico, and that's Steve and Barbara Cox. And all
22 these witnesses have been identified, your Honor.

23 EXAMINER CATANACH: Mr. Newell, are the witnesses
24 in Hobbs -- do you plan on putting them on? Are they going
25 to testify?

1 MR. NEWELL: Your Honor, if that's possible. I
2 don't know the Rules. I believe Mr. Roberson called up
3 yesterday because he was concerned about him getting --
4 being able to make it. He did make it through, but Ms. Cox
5 is elderly and she couldn't, and I think the -- who is
6 the -- the one up here that's -- Mr. Fesmire said there's a
7 number that can be used to call in and appear by telephone.

8 EXAMINER CATANACH: Okay. Why don't we take a
9 short break and we'll set up the phone.

10 (Off the record at 9:32 a.m.)

11 (The following proceedings had at 9:37 a.m.)

12 MR. NEWELL: We can proceed. I think they only
13 want to be there when it's time for them to testify, if
14 that's all right.

15 EXAMINER CATANACH: That would be fine. Remind
16 me that we need to swear them in, if they're going to
17 testify.

18 MR. NEWELL: I will. We'll have a number to
19 call. Lee, would you tell them that we'll call them?
20 Thanks.

21 EXAMINER CATANACH: Okay. All right, let us
22 proceed.

23 Mr. Bruce?

24 Oh, I'm sorry, can I get the witnesses to stand
25 and be sworn in at this time? Let's see, you've got one

1 out of the room?

2 MR. NEWELL: Yes, and we'll remember to swear him
3 in as well.

4 EXAMINER CATANACH: Okay.

5 (Thereupon, the witnesses were sworn.)

6 DAVID BOLTON,

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

9 DIRECT EXAMINATION

10 BY MR. BRUCE:

11 Q. Would you please state your name and city of
12 residence?

13 A. David Bolton, Oklahoma City. My residence is
14 Mustang, Oklahoma.

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

16 A. I work for Quest Resources Corporation. I'm the
17 executive vice president of land for that company.

18 Q. And what is the relationship between Quest
19 Resource and Quest Cherokee?

20 A. Quest Cherokee, L.L.C., is a subsidiary of Quest
21 Resource Corporation.

22 Q. Have you previously testified before the
23 Division?

24 A. No, I have not.

25 Q. Would you please summarize your educational and

1 employment background?

2 A. I'm a graduate of the University of Oklahoma. I
3 attended the Oklahoma City University School of Law. I've
4 been a landman for a little over 15 years. I've previously
5 testified before the Oklahoma Corporation Commission. I've
6 worked primarily Oklahoma. I've also worked Texas,
7 Louisiana, Kansas, New Mexico.

8 Q. Does your area of responsibility at Quest include
9 this part of southeast New Mexico?

10 A. Yes, it does.

11 Q. And are you familiar with the land matters
12 involved in this Application?

13 A. Yes, I am.

14 MR. BRUCE: Mr. Examiner, I'd tender Mr. Bolton
15 as an expert petroleum landman.

16 EXAMINER CATANACH: Any objection, Mr. Newell?

17 MR. NEWELL: No objection.

18 EXAMINER CATANACH: Mr. Bolton is so qualified.

19 Q. (By Mr. Bruce) Mr. Bolton, let's go through your
20 exhibits. What is Exhibit 1?

21 A. That is the State of New Mexico Form C-102.

22 Q. And does this reflect the location of the well
23 that Quest seeks to drill?

24 A. Yes, it does.

25 Q. And you are seeking -- What is the depth of -- I

1 mean the primary zone of interest in this well? Is it the
2 San Andres formation?

3 A. I believe that's correct, yes.

4 Q. And that's an oil formation?

5 A. I believe so, right.

6 Q. And this would be a standard well location for an
7 oil well?

8 A. Yes, it would.

9 Q. What is Exhibit 2?

10 A. This is a map of the vicinity, sort of a plat.

11 Q. And does it identify the approximate location of
12 your proposed well?

13 A. Yes, it does.

14 Q. Is this northwest of 9 in the City of Hobbs?

15 A. Not to my knowledge, it is not.

16 Q. And attached as page 2 is another plat, is it
17 not?

18 A. Yes.

19 Q. Is there public-road access to your proposed
20 drillsite?

21 A. Yes, there is.

22 Q. What is Exhibit 3?

23 A. Exhibit 3 is a survey plat that we had prepared.

24 Q. Showing the immediate environs of the proposed
25 well site?

1 A. Yes.

2 Q. And on Exhibit -- page 2, there's a hand-drawn
3 plat. Does this reflect the well site with respect to
4 structures in the area?

5 A. Well, I believe it really reflects the well site
6 in relation to the ownership tracts.

7 Q. The tracts owned in this area?

8 A. Yeah.

9 Q. Okay. And so it would reflect -- In other words,
10 there's names --

11 A. -- of the various owners --

12 Q. -- of the various owners, Cox, et cetera. And
13 this is just to show where your well site is with respect
14 to the other tracts in the area?

15 A. Yes.

16 Q. Now is Exhibit 4 just information taken from the
17 State Land Office website?

18 A. Yes, it is.

19 Q. Now the minerals of the northwest quarter of
20 Section 9 are owned by the State of New Mexico, are they
21 not?

22 A. That is correct.

23 Q. And this information just shows information like
24 the patent number, the surface patent number, and the oil
25 and gas lease number?

1 A. Yes.

2 Q. What is Exhibit 5?

3 A. Exhibit 5 is the original patent of the surface
4 from the State of New Mexico.

5 Q. And it covers all of -- Well, we're here today on
6 the northwest of 9, but it covers all of the west half of 9
7 and other acreage --

8 A. Correct --

9 Q. -- does it not?

10 A. -- correct.

11 Q. And does it reserve minerals?

12 A. Yes, it does.

13 Q. And is that reflected on page 2?

14 A. That is, and the State of New Mexico reserved the
15 right to prospect for, mine, produce and remove oil and gas
16 under these lands.

17 Q. Okay, what is Exhibit 6?

18 A. Exhibit 6 is the state oil and gas lease between
19 the State of New Mexico and Upland Corporation, covering
20 the northwest of Section 9.

21 Q. And then the last couple of pages of this
22 exhibit, is this an assignment of the lease?

23 A. That's correct.

24 Q. Who was it assigned to?

25 A. Chesapeake Exploration.

1 Q. And Quest rights derive from Chesapeake
2 Exploration, do they not?

3 A. That's correct. Subsequent to Cherokee obtaining
4 the lease, they assigned a term assignment to Tierra Oil
5 Company, and subsequent to that we purchased their rights.

6 Q. Quest Cherokee purchased Tierra Oil Company's
7 rights?

8 A. That's correct.

9 Q. And is that reflected in the exhibits and other
10 instruments compiled as Exhibit 7?

11 A. Yes, it is.

12 Q. Now was there a time limit in the term assignment
13 from Chesapeake to Tierra?

14 A. Yes, and that's expired once, and we've -- or
15 maybe twice now. We have extended that. Tierra extended
16 it once, and then we just recently extended it for an
17 additional 90 days.

18 Q. Okay, so it didn't actually expire; the deadline
19 came up and the deadline was extended?

20 A. Yes, that's correct.

21 Q. Okay. So under the term assignment you now have
22 the right to drill -- you have to commence by May 1, 2007?

23 A. That's correct.

24 Q. Therefore Quest does have a mineral interest,
25 owns a mineral interest, and is entitled to develop its

1 minerals?

2 A. We own a leasehold interest right.

3 Q. What is Exhibit 8?

4 A. Exhibit 8 is a summary of the surface issues on
5 this tract. This was prepared by Tierra, and prior to us
6 purchasing this property.

7 Q. And they contacted the City of Hobbs, Lea County
8 and the State Land Office, to determine whether or not
9 there are any restrictions on drilling at this location?

10 A. Yes, they did.

11 Q. And what was their conclusion?

12 A. That it was not in the city limits and was not
13 regulated as such. Before we purchased this property I
14 also went and met with the city and discovered the same
15 thing.

16 Q. And the county?

17 A. And the county, yeah.

18 Q. So you independently confirmed what is reflected
19 on Exhibit 8?

20 A. Yes, I did.

21 Q. What is Exhibit 9?

22 A. That is a series of correspondence between our
23 field landman, Vernon Dyer, and the current surface owner
24 and their attorney.

25 Q. And Mr. Dyer, on behalf of Quest, was not able to

1 come to terms with arranging an agreement regarding the
2 well site, was he?

3 A. That is correct.

4 Q. And Mr. Newell on behalf of these owners objected
5 to the OCD; is that correct?

6 A. Yes.

7 Q. And the OCD Hobbs office, as a result, refused to
8 issue an APD?

9 A. That's right.

10 Q. And said we must come up to Santa Fe?

11 A. Correct.

12 Q. And that's why we're here today?

13 A. It appears so, yeah.

14 Q. Now this is correspondence to or from Mr. Dyer.
15 If there are any specific questions on that, is Mr. Dyer
16 here today on behalf of Quest?

17 A. Yes, he is.

18 MR. BRUCE: Mr. Examiner, Exhibit 10 is simply a
19 certified mail notice to Mr. Newell of the hearing date. I
20 had spoken with Mr. Newell and he confirmed that I could
21 just simply notify him, rather than the various surface
22 owners, of the hearing date. And I would -- and that's
23 just Exhibit 10.

24 Q. (By Mr. Bruce) Mr. Bolton, were Exhibits 1
25 through 10 prepared by you or under your supervision or

1 compiled from company business records?

2 A. Yes, they were.

3 Q. And in your opinion is the granting of this
4 Application necessary to protect the correlative rights of
5 Quest Cherokee?

6 A. Yes, it is.

7 MR. BRUCE: Mr. Examiner, I'd move the admission
8 of Exhibits 1 through 10.

9 EXAMINER CATANACH: Any objection?

10 MR. NEWELL: No objection.

11 EXAMINER CATANACH: Exhibits 1 through 10 will be
12 admitted.

13 MR. BRUCE: I pass the witness.

14 EXAMINER CATANACH: Mr. Newell?

15 MR. NEWELL: Thank you.

16 CROSS-EXAMINATION

17 BY MR. NEWELL:

18 Q. Mr. Bolton, my name is Michael Newell. Our firm
19 represents the intervenors in this matter.

20 Let me ask you something. Has a C-102 been
21 filed?

22 A. Has the C-102 been filed?

23 Q. Yes.

24 A. Yes, I believe it has.

25 Q. Can you explain why it doesn't appear in the

1 record?

2 MR. BRUCE: Well, if I could interject, the Hobbs
3 office has refused to accept the APD, and that's where the
4 C-102 would be filed. And so I doubt it's been filed,
5 because the OCD has refused to accept anything.

6 EXAMINER CATANACH: Okay.

7 Q. (By Mr. Newell) And the same thing for C-101?

8 A. Yes.

9 Q. It hasn't been filed either?

10 A. That's correct.

11 Q. Okay. And are you aware of OCD regs that require
12 them to be filed prior to the application?

13 A. Yes, I presume that would be the case.

14 Q. Okay. Is there a reason why -- On Exhibit Number
15 1 you submit a Form C-102; is that correct?

16 A. Yes.

17 Q. It's not signed; there's no operator
18 certification on there, is there?

19 A. No, it's not signed.

20 Q. And that is a certification where the operator
21 certifies that, I hereby certify that the information
22 contained herein is true and complete to the best of my
23 knowledge and belief and that this organization either owns
24 a working interest or unleased mineral interest in the
25 land, including the proposed bottomhole location, or has a

1 right to drill this well at the location pursuant to a
2 contract with an owner of such mineral or working interest,
3 or to a voluntary pooling agreement or compulsory pooling
4 order heretofore entered by the Division. Do you see that?

5 A. Yes.

6 Q. So Quest Cherokee has not made that certification
7 to the State of New Mexico, has it?

8 A. Well, it would be my understanding that that
9 wouldn't be required until all of the processes were
10 approved. And since the Hobbs office wouldn't approve it,
11 we had to come here instead, it's my understanding that's
12 why that's not signed.

13 Q. Is your position that the C-101s and C-102s do
14 not have to be part of the record prior to the approval of
15 the Application; is that correct? Is that Quest Cherokee's
16 position?

17 A. No, I think we want to comply with all the Rules
18 of New Mexico.

19 Q. Okay. Now Quest Cherokee only recently -- Does
20 Quest Cherokee have any other -- or any production in New
21 Mexico at this time?

22 A. No, they don't.

23 Q. Okay. And has Quest Cherokee provided -- Well,
24 let me ask you this: Has Quest Cherokee registered with
25 the OCD as an operator?

1 A. Yes, we have.

2 Q. Okay, and do you have an OGRID number?

3 A. Yes. If you don't have it, I may have it -- I
4 know I've got it in my office. I don't think I have it
5 with me though.

6 Q. Okay, so you're not prepared to give it here
7 today?

8 A. (No response)

9 Q. And I will note that it does not appear on your
10 Form C-102, which is your Exhibit Number 1.

11 A. Well, I know we have it, but I don't have it with
12 me.

13 Q. Okay, is there any reason why it wasn't included
14 on Exhibit Number 1?

15 A. I don't know what that reason would be.

16 Q. Okay. And what's the current address for notice?

17 A. For Quest Cherokee?

18 Q. Yeah.

19 A. It would be 9520 North May, Suite 300, Oklahoma
20 City.

21 Q. Okay, so you don't have a New Mexico address for
22 record of address; is that correct?

23 A. Mr. Bruce is our service agent.

24 Q. Agent for service of process --

25 A. Yes.

1 Q. -- pursuant to the New Mexico Public Regulation
2 requirements, correct?

3 A. I would presume that would be right.

4 Q. All right. Now have you registered anyone with
5 the New Mexico Oil Conservation Division as a contact
6 number so that they can send Quest Cherokee current
7 notices?

8 A. Mr. Bruce.

9 Q. Okay. And who's the emergency contact name and
10 telephone number for Quest Cherokee in Lea County?

11 A. I don't know that we have one in Lee County.

12 Q. Okay, so right now there is no emergency contact
13 name and telephone number for each district where the
14 operator operates, correct?

15 A. Not that I'm aware of.

16 Q. Okay. And have you met the financial assurance
17 requirements of the OCD that are required by Rule
18 19.15.3.101?

19 A. I don't know what Rule 19 --

20 Q. -- .15 --

21 A. -- specifically states. If you're asking if we
22 have obtained our bond -- Is that what you're asking? I'd
23 have to review the Rule, whatever rule you're stating.

24 Q. Okay, all right. And has Quest Cherokee
25 disclosed to the New Mexico Oil Conservation Division the

1 name of each director, partner or officer or person of
2 interest with the Applicant who owns more than 25 percent
3 or has served in that capacity over the last five years?

4 A. If that was part of the required filing, then
5 yes, we did.

6 Q. Okay, is that filing -- Do you have a copy of
7 that filing?

8 A. I don't have one right here. Mr. Bruce might
9 have it, but I don't.

10 Q. Okay, do you have something that indicates that
11 you have complied with the Division's financial assurance
12 requirements?

13 A. We sent the -- we obtained a cash bond, cash
14 plugging bond, with the Wells Fargo bank here in Santa Fe.

15 Q. Okay.

16 A. I don't have the paperwork back from them yet.

17 Q. Okay. Was that the -- What was the amount of the
18 bond?

19 A. \$10,000.

20 Q. Okay. And how many feet do you anticipate the
21 well to be?

22 A. 5000 feet.

23 Q. No more?

24 A. No, not that I'm aware of.

25 Q. Okay. And is that amount sufficient to reclaim

1 and recover the surface estate in the event the well is
2 unsuccessfully completed?

3 A. It's the amount required by law, by the state,
4 for a single well plugging bond in Lea County.

5 Q. Okay, is it sufficient, though, to cover not only
6 the amount of plugging but the amount of reclamation and
7 recovery?

8 A. I presume it would be.

9 Q. Okay. Now you know this an urban interface area,
10 correct?

11 A. I know it's close to the City of Hobbs, yeah.

12 Q. Okay.

13 A. It's close to the city limits.

14 Q. Now let me ask you, are you familiar with your
15 notice in this matter?

16 A. Our notice?

17 Q. Yeah. May I approach the witness?

18 EXAMINER CATANACH: Yes.

19 MR. NEWELL: What's the -- Should we start our
20 numbers with -- I think your last number is 11, right?
21 Should we start ours with 12 or --

22 EXAMINER CATANACH: No, you --

23 MR. NEWELL: -- do you want to --

24 EXAMINER CATANACH: -- can start yours at 1.

25 MR. NEWELL: Okay, or -- Okay, like Intervenor's

1 Number 1?

2 EXAMINER CATANACH: Uh-huh.

3 MR. NEWELL: Okay. Counsel -- I'm going to show
4 him a copy of the notice here.

5 MR. BRUCE: Okay.

6 Q. (By Mr. Newell) Let me hand you a document that
7 was purported to be the notice of hearing that was issued
8 by the New Mexico Oil Conservation Division. Are you
9 familiar with that notice?

10 A. No, this is the first time I've seen it.

11 Q. Okay. Did Quest Cherokee provide the New Mexico
12 Oil Conservation Division with information that was used to
13 put together this notice?

14 A. I would presume. I didn't prepare this notice,
15 so I don't know.

16 Q. Okay. Would you look at the description of where
17 the notice -- or where the well is going to be located, on
18 that notice?

19 A. Okay.

20 Q. Do you see that?

21 A. Yes.

22 Q. And does that say the well is located five miles
23 north northwest of Hobbs, New Mexico?

24 A. Uh-huh. Yes, it does.

25 Q. Okay. Now I'd ask you to look at your Exhibit

1 Number 2.

2 A. Okay.

3 Q. Now is Exhibit -- Exhibit Number 2 is a document
4 that you had prepared, or Quest Cherokee had prepared, that
5 shows the outline of the city limits, correct?

6 A. Yes.

7 Q. Okay. And you're familiar with -- This shows
8 section lines, correct?

9 A. Yes, it does.

10 Q. And a section is a square mile, correct?

11 A. Yes.

12 Q. Okay. So if you move down a section, you move a
13 mile, correct?

14 A. Yes.

15 Q. Okay. Now the city limits of Hobbs is actually
16 just a matter of a few hundred feet away from the proposed
17 well location to the north, correct?

18 A. A portion of the city limits is, you know, within
19 a quarter mile or so from the proposed well.

20 Q. Okay, and a portion of the city limits is
21 actually west of the well location, making the well east of
22 the proposed city limits, roughly a mile --

23 MR. BRUCE: Mr. Examiner, if I can interject. As
24 you know, the attorneys prepare these. And I can inform
25 Mr. Newell that I prepared this ad on behalf of my client,

1 which is what the Division requires us to do. Furthermore,
2 in any of these ads, generally, whether it's Mr. Carr or
3 Mr. Kellahin or the other people who practice over here, we
4 take the distance from the downtown center of a city like
5 Carlsbad or Hobbs, and that's where the distance comes
6 from.

7 There's nothing in this ad that is intended to be
8 incorrect or deceiving, that's simply how it was done. And
9 if Mr. Newell wants to question me on it, fine. That's all
10 this is.

11 MR. NEWELL: I respect that, Mr. Hearing Officer,
12 and I respect Mr. Bruce's statement. But the reality from
13 our standpoint is, individual notice was not given to the
14 property owners. And I'm not suggesting it's required. In
15 fact, I think it's not required unless -- you know, the
16 notice requirements in the Rules are fairly specific, and
17 so they have to give notice by publication. And when you
18 give notice by publication and say something is five miles
19 outside the city limits to the north northwest, that
20 mischaracterizes the location of this well. And we believe
21 that there's a problem with notice with respect to this
22 particular issue. We're right in the middle of an urban
23 interface here, and --

24 MR. BRUCE: And Mr. Examiner, if he wants me to
25 correct it I can say it's five miles from the intersection

1 of such-and-such highways, that's fine. We didn't say five
2 miles from the exterior boundaries of Hobbs, and if you
3 want me to do that, that's fine.

4 MR. NEWELL: Well, I guess my point is, it's
5 misleading. It goes to an issue that we think is relevant
6 here, and that's the defective nature of the notice.

7 MR. BRUCE: And Mr. Examiner, there is no
8 requirement to notify the surface owners, and notice was
9 given by certified mail. And if it's merely that they want
10 me to correct it, fine. It's not defective. If that's the
11 case, then I would guess half the ads before the Division
12 are somewhat incorrect because they don't specify -- I
13 mean, it gives the section, township and range, or quarter
14 section, township and range. And if they can't figure that
15 out from that data, then that's their problem and not
16 Quest's.

17 (Off the record)

18 EXAMINER CATANACH: Mr. Newell, do you have a
19 motion on this point?

20 MR. NEWELL: Yes, we would move that either the
21 Application be dismissed or that notice be required to be
22 issued again, because there may be several other people
23 that would like to participate in this hearing, but because
24 they believe that the well -- you know, when they saw the
25 notice they believed the well was located somewhere five to

1 -- five miles north northwest of Lovington, which would put
2 it out in a clearly rural area, next to dairies and other
3 things. They probably weren't too concerned.

4 But what we have here, and what we would present
5 through evidence is the fact that you have a great deal of
6 residential development here, you have a school in the
7 area, you have a retirement community situated right by
8 this well location. And we believe that the notice did not
9 give the parties -- or interested people, shall we say --
10 proper notification of this proposed well location.

11 I will agree with Mr. Bruce, and I will state
12 this for the record: As far as the Intervenors go, he did
13 provide notice, hand-delivered it to my office on roughly
14 January 25th. That's not the nature of my objection.

15 It's -- the nature of my objection is that it
16 mischaracterizes where the well is located and leaves a
17 false impression to the community. Notice was published,
18 and that means you give an accurate description to the
19 community of what's going on. And they failed to do that
20 because, as we can see from their Exhibit Number 2, while
21 they may not be in the city limits *per se*, they are
22 certainly north, west, east and south of city limit
23 boundaries -- they're almost in the middle of a city limit
24 boundary -- and that's just not what the notice reflects.

25 So we would either request, you know, that they

1 renote this hearing and have it set somewhere down the
2 line, or that the Application be dismissed for defective
3 notice, in which case they can come in and refile.

4 MR. BROOKS: Mr. Newell, is there any notice
5 requirement that you contend is applicable that would have
6 required notice to be published in this case?

7 MR. NEWELL: Well, your Honor, I believe under
8 the notice requirements of the Division only require, if
9 they're in the city limits, for the city limit -- or for
10 the city to be notified --

11 MR. BROOKS: Right.

12 MR. NEWELL: -- and I believe also that there's
13 not a specific rule on this, however I would represent to
14 you that there are certain due process requirements that
15 have to be met, and if you do do notice, if you do send
16 notice, it still has to be accurate. Let's assume that
17 it's not required. By them taking affirmative action to
18 send notice, then I think there's a requirement also that
19 the notice be factually accurate, and I don't think there
20 is here.

21 But I still submit that irrespective of whether
22 this kind of notice is required by the Rules, which I think
23 publishing has always been a requirement that -- you know,
24 that I think has been well known. I think the -- and let
25 me pull out the notice Rule here.

1 I believe there are -- when it comes to notice,
2 the requirements include giving the OCD the appropriate
3 information so that you all can put it on your website, and
4 then publishing under certain circumstances, which we would
5 submit this fits into, in a paper of general circulation
6 either in the area affected or, if it affects the whole
7 statewide, then area of general -- or a paper of general
8 circulation in the state.

9 MR. BROOKS: Well, that's a key issue here,
10 because my question -- I'm not clear on why we would be
11 required to even have a newspaper publication notice in
12 this case. We used to require newspaper publication notice
13 of all Examiner Hearings, and we changed the Rule a few
14 years ago to only require that where a party is required to
15 be notified we didn't have adequate address information,
16 otherwise it was sufficient if it's published on the
17 website and distributed to the OCD's mailing list, as I
18 understand it. That's what we attempted to say when we
19 rewrote the Rules.

20 Now a question is, is there something that
21 requires by statute or by rule that requires public notice
22 in this character of case?

23 MR. NEWELL: And I would submit to the extent
24 that, you know, it impacts surface owners and other people,
25 I would submit yes, there is under a due-process

1 requirement the requirement that someone be given notice
2 and, you know, people generally impacted should be given
3 notice. And we believe it's a due process requirement with
4 the basic concepts of notice and the opportunity to be
5 heard.

6 And I think if you look at the Rules and how
7 they're designed, I think there's a statement in here that
8 the Rules are designed to encourage participation in the
9 Division and the Commission's hearings, making possible
10 effective presentation of evidence and the parties and the
11 general public's points of view, allowing all participants
12 a reasonable opportunity to submit data, views and
13 arguments and to assure that Division and Commission
14 hearings are conducted in a fair and equitable manner.

15 And I would submit that notice is fundamental to
16 allowing all participants a reasonable opportunity to
17 submit their points of view, submit data, views and
18 arguments.

19 MR. BROOKS: Well, I think that this notice is
20 probably not required by the Rule, and the notice itself is
21 accurate because it gives the township and range, so I
22 would recommend that the Examiner overrule the objection.

23 EXAMINER CATANACH: I would concur with that, Mr.
24 Brooks.

25 MR. NEWELL: May I proceed?

1 EXAMINER CATANACH: Yes.

2 Q. (By Mr. Newell) Okay. You were aware that this
3 urban interface exists at this proposed well location,
4 correct?

5 A. I am aware that it is near the city limits, yes.

6 Q. Okay. Well, your Exhibit Number 8 discusses the
7 fact that it may even be part of the Country Living Estates
8 Subdivision Number 2, correct?

9 A. Yes.

10 Q. Okay. And I noticed on the C-102 that has not
11 been filed that you propose an open-pit system, correct?

12 A. That could be. I'd have to defer to our
13 engineers for that.

14 Q. Okay, that's what's reflected on the C-102,
15 correct?

16 A. This doesn't say anything about an open pit.

17 Q. Okay, let me see -- do you have a -- Okay, let me
18 ask you to look at Exhibit Number 3 -- I'm sorry --

19 A. Okay.

20 Q. Do you see that? You have a proposed pit area
21 there to the north --

22 A. Yes.

23 Q. -- of the proposed well location, correct?

24 A. Yes.

25 Q. So you don't even propose to do a closed-loop,

1 internally constrained system, even though you're in a
2 residential subdivision, correct?

3 A. As I said, I'd defer to our engineers about how
4 they're going to drill this well.

5 Q. Is there an engineer that's going to be present
6 here today to testify?

7 A. No.

8 Q. Okay. And you know that one of the things that
9 the Commission has authority to do in the Application is to
10 put restrictions or conditions on the Application, correct?

11 A. Say that again.

12 Q. Do you understand that this Commission has the
13 right to impose restrictions or conditions on your
14 Application?

15 A. Sure.

16 Q. Okay. And those conditions could include form
17 and nature of pits and drilling methods and things of that
18 nature, correct?

19 A. I'm sure it could.

20 Q. Okay. Now have you all taken into consideration
21 what's going to be necessary to protect this community from
22 the adverse impacts of this drilling operation?

23 A. I'm sure that they have and that they will. We
24 will --

25 Q. And what will --

1 A. -- we will readily comply with any rule or
2 regulation imposed upon us by the State or any, you know,
3 regulatory authority that requires us to do whatever we
4 need to do, to comply with their Rules.

5 Q. Okay. Do you feel like there's any particular
6 need that you're going to have to meet to drill this
7 particular well at this particular location?

8 A. Not that I'm aware of.

9 Q. Okay, so you feel it's -- you conduct your
10 operations just like if you were out in the pasture, 10
11 miles away from the nearest farmhouse?

12 A. I would say that we, you know, are always safety
13 conscious, whether we're in the middle of a pasture or in
14 the middle of a, you know, town.

15 Q. Okay. Where is the closest elementary school to
16 this location?

17 A. There is a school north of this location.

18 Q. It's an elementary school, and it's on College
19 Lane, correct?

20 A. It's across the -- it's across the road in the
21 next section north, yeah.

22 Q. Okay. Now let me ask you to look at that Exhibit
23 3 again.

24 A. Okay.

25 Q. College Lane is the road on the very top of the

1 document, correct?

2 A. I presume.

3 Q. Okay.

4 A. That looks like it would be right, yeah.

5 Q. Okay. And those are houses that re depicted
6 there, correct?

7 A. Well, there are houses in the area, but this plat
8 depicts ownership, it doesn't have specific structures.

9 Q. Okay, but there are structures in those
10 locations, correct?

11 A. There are some structures there, yeah.

12 Q. Okay. And there's a home right across the
13 street, correct? Right across Ja-Rob?

14 A. I don't know -- Oh, Ja-Rob, yes, yeah.

15 Q. And it says "Mr. Lynch's home" on your Exhibit
16 Number 3, correct?

17 A. That's what it says, yeah.

18 Q. Okay. And do you know that school would be right
19 up there about where that 49 number is, correct?

20 A. That would be close. It would be north of that,
21 even, I believe.

22 Q. Well, the elementary school has -- I mean, it's
23 on College Lane, correct?

24 A. Yes.

25 Q. Okay, and that is College Lane, correct?

1 A. I presume it is, yeah. It doesn't say on here
2 College Lane, but the scale of the map would lead me to
3 believe that that's College Lane.

4 Q. Okay. And then the retirement community is just
5 immediately to the west of the school, correct?

6 A. I'm not familiar with the retirement community.
7 I couldn't say where that is.

8 Q. Okay, it's Beehive Retirement Community. You all
9 aren't aware of that?

10 A. I know there's some structures in the area. I'm
11 not from that area. I did inspect this area, but I did not
12 take note of a retirement community there. Are you talking
13 about a nursing home? Is that what you're talking about?

14 Q. Yeah.

15 A. There very well could be, I don't know for sure.

16 Q. Yes, sir. What particular plans do you have to
17 keep elementary school students from getting over in your
18 facilities, either during the drilling operation or later
19 if a well is made during the production phase?

20 A. Well, we would comply with any rules that are
21 imposed by the State, and if the State requires us to do
22 certain things we'd be glad to do that. As a practical
23 matter, I'm sure that if we commence production we'd want
24 to fence the property.

25 Q. Okay. Now is there any type of barrier you're

1 going to put up during drilling?

2 A. I don't know what the engineer has planned for
3 that.

4 Q. Okay, again you're not prepared to testify to
5 that here today --

6 A. I'm not the engineer, so you'd have to ask --

7 Q. Is there anyone here that's going to testify
8 to --

9 A. No, we have a geologist here that may be able to
10 speak to that, but you'd have to ask him.

11 Q. Okay, but to your knowledge, Quest Cherokee has
12 implemented no particular protections with respect to this
13 drilling operation to protect the location from the
14 presence of elementary school kids that are in the area
15 because of the elementary school, correct?

16 A. Well, I don't agree with the way you're framing
17 your question. What I'm saying is that we will comply with
18 any regulation that is imposed upon us. We will take every
19 safety measure necessary. Whatever that is, the specifics
20 of that, I can't speak to.

21 Q. Okay. Now drilling operations are a 24-7
22 operation, correct?

23 A. Yes.

24 Q. And so you're going to have trucks, transports,
25 service personnel coming in and out of this location all

1 times of the day or night, correct?

2 A. That could be, yeah.

3 Q. Have there been any measures or steps taken to
4 address the noise that's going to be emanating from the
5 drilling location to protect and -- you know, protect the
6 community there and the people that live in and around the
7 drilling location?

8 A. Again, the specifics of it I'm not familiar with.
9 I would think that, again, we would comply with any rule or
10 regulation imposed upon us in that area. It's not in the
11 city limits, and there's no specific ordinance requiring
12 any sort of noise abatement in that area that I'm aware of.

13 Q. Okay. You recognize that your use of the surface
14 has to be reasonable, correct?

15 A. Yes.

16 Q. Okay. And do you consider it reasonable to not
17 do anything to abate any noise that would be emanated from
18 the drilling location with residences in such close
19 proximity?

20 A. Well again, I mean, we want to be a good neighbor
21 to the ones in the area there. I'm sure that something
22 like that could be negotiated if there was no specific
23 regulation for it, which we would meet anyway.

24 Q. Okay. As you sit here today, are you willing to
25 represent to the Division any particular steps that Quest

1 Cherokee is willing to take to address the noise that's
2 going to be emanating from the well location?

3 A. The specifics of that would be beyond my scope.

4 Q. Okay. Now I'm going to ask you the same thing
5 about the fumes. The drilling rigs generally run on diesel
6 fuel, correct?

7 A. Some do, yeah.

8 Q. Okay. Well, do you -- What kind of drilling rig
9 are you going to use here?

10 A. I'm not the engineer, I don't know.

11 Q. Okay.

12 A. It's my understanding it's a mud rig, but that's
13 all I know.

14 Q. And that's a diesel-operated rig, correct?

15 A. A lot of them are. I don't know the specifics of
16 what rig they've contracted, I just don't know.

17 Q. There's going to be engines that are going to be
18 emanating exhaust, correct?

19 A. There could be, I just don't know.

20 Q. Okay. What measures are going to be taken to
21 ensure that the community in and around there is protected
22 from exhaust fumes?

23 A. We would take any measures that are required --
24 that are implemented upon us by any regulatory authority,
25 and I'm sure that common sense would come into play too.

1 Q. Okay. Now let me ask you, is Quest's position
2 that they're going to do only what's minimally required by
3 the Division?

4 A. No.

5 Q. But you're not prepared to tell the Division what
6 additional steps Quest is willing -- Quest Cherokee is
7 willing to take in this matter; is that accurate? I mean,
8 would that be a good summary of where we are?

9 A. You're asking questions that are beyond my
10 expertise, and that I just can't speak to. I don't know
11 the specifics of what type of rig. They could be using an
12 electric rig for all I know. I don't know.

13 Q. All right. Now what kind of chemicals are in the
14 mud components that are going to be used --

15 MR. BRUCE: Mr. Examiner, I would object. He
16 keeps asking these engineering questions. Ask something
17 that's directed towards land issues.

18 MR. NEWELL: Your Honor, if I might, I would just
19 want to make sure that the record reflects that there are a
20 variety of issues here that I think this Division needs to
21 consider.

22 MR. BRUCE: And he can do that in his own case.

23 MR. NEWELL: Okay, I will, that's fine. I'll
24 move on.

25 EXAMINER CATANACH: All right.

1 Q. (By Mr. Newell) Now has there been any action
2 taken on the surface issue summary, that you're aware of,
3 that was prepared and you all have introduced as Exhibit
4 Number 8?

5 A. What do you mean by "action"?

6 Q. Well, obviously it states, The West Bishop Canyon
7 project is located on the northern edge of the City of
8 Hobbs, New Mexico, and due to the close proximity of the
9 area your predecessor who assigned it to you conducted
10 numerous inquiries regarding the feasibility of drilling in
11 the area. Has Quest Cherokee also engaged in inquiries
12 regarding the feasibility of drilling an area?

13 A. Yes, I've already testified to that.

14 Q. Okay, what specifically were those?

15 A. I've already testified to that.

16 Q. Okay. Have you talked to any residences?

17 A. Personally, no.

18 Q. Okay. Other than --

19 A. We do have a witness here today who has.

20 Q. Mr. Dyer, correct?

21 A. Yes, if you'd like to ask him those questions.

22 Q. Other than Mr. Dyer, has anyone spoken to anyone?

23 A. Not to my knowledge.

24 Q. Okay. Now you said there's public ingress and
25 egress, correct?

1 A. Did I say that?

2 Q. You said there's public road access, correct?

3 A. There is a public road that runs south of College
4 Lane. It would be directly in front of our location,
5 proposed location.

6 Q. Is the structural integrity of that road
7 sufficient so it could handle the equipment that's going to
8 be brought in without tearing up the road?

9 A. I'm not a road engineer. I don't know.

10 Q. Okay, I'm just asking. Okay?

11 Now why is it called the West Bishop Canyon
12 project? I mean, Lea County is pretty flat, I don't think
13 there's any canyons in Lea County.

14 A. I didn't name it, I don't know.

15 Q. Okay, okay. What are the land values in that
16 area?

17 A. We did a little research on that, but I'm not --
18 I don't recall the specifics of that.

19 MR. NEWELL: May I approach the witness?

20 EXAMINER CATANACH: Yes.

21 Q. (By Mr. Newell) Okay, I'm going to hand you a
22 document that we'll mark as Exhibit Number 2. There is a
23 property listing for Ja-Rob Lane for 3/4 of an acre, in
24 north Hobbs by Westminster, and that's where we're talking
25 about, correct?

1 A. I'm not intimately familiar with Hobbs, but
2 Ja-Rob Lane is mentioned on here. I would think that that
3 would be close, yeah.

4 Q. Okay, and for that 3/4 of an acre, someone is
5 asking \$30,000 for it, correct?

6 A. That's what they're asking.

7 Q. All right. Now you see at the bottom of that
8 same column where it says prime multi-purpose land?

9 A. Uh-huh, yes.

10 Q. Okay, and we've talked about College Lane,
11 correct?

12 A. Yes.

13 Q. Okay, and that's the other road that's closest to
14 this proposed location to the north, correct?

15 A. Yes.

16 Q. Okay, and for 13.39 acres the asking price is
17 \$160,000. Do you see that?

18 A. Yes.

19 Q. Okay. Would you agree with me that the land
20 values here are more than the land values that one would
21 have if you all were drilling out in the middle of some
22 pasture somewhere, grazing land, correct?

23 A. That's possible. There's some pretty expensive
24 pasture land, though, too.

25 Q. Okay. Now who are the officers of Quest

1 Cherokee?

2 A. Myself, Walter Uris is the vice president of
3 geology, Richard Marlin is the vice president of
4 engineering, David Gross is the chief financial officer,
5 and Jerry Cash is the CEO.

6 Q. Okay. Now what entities have you been involved
7 in, in the last five years, as either an officer, a
8 director, a partner, or a person with a 25-percent or
9 greater interest?

10 A. This is the only public entity that I've ever
11 been involved with.

12 Q. What about a private entity?

13 A. Well, I've had a private company of my own.

14 Q. Did that private company do work in New Mexico?

15 A. No.

16 Q. Okay. Has any of the officers, directors,
17 partners or applicants ever had interest in any entities in
18 the last five years that did business in New Mexico?

19 A. You'd have to ask them, I have no idea.

20 Q. Okay, you're not prepared to offer that kind of
21 testimony here today, correct?

22 A. About their personal finances and what they've
23 done in the past, no.

24 Q. Okay. How many water wells are in Section 9?

25 A. I don't know.

1 Q. Where is the closest water well?

2 A. I don't know.

3 Q. Has there been any work done to determine the
4 location and types of water wells in the area?

5 A. Not to my knowledge.

6 Q. Okay. How much did Quest Cherokee pay for the
7 assignment that's at issue in this matter that gives it --
8 or purports to give it the right to drill this location?

9 A. I may be bound to some confidentiality on that.
10 I'm not sure I can answer that here.

11 Q. So are you refusing to give that testimony?

12 A. Do I have to answer that?

13 MR. BRUCE: I would object if there is
14 confidential data. I don't think that's necessary to the
15 hearing anyway.

16 EXAMINER CATANACH: What's the purpose of that,
17 Mr. Newell?

18 MR. NEWELL: Well, the purpose is to -- they've
19 taken the position that they're going to lose some kind of
20 right or interest in the event that this is -- this
21 Application is not allowed. And so they're -- to me,
22 they're trying to, you know, use the short time frame and
23 the extensions to put pressure on this Division to rush
24 this Application through.

25 My feeling is, my position is that there are a

1 lot of issues that have to be looked at here, consistent
2 with this Division's authority in granting applications,
3 and -- For example, they may have some arrangement where
4 how much they pay is contingent on the ability to drill the
5 well, and they may not have any financial obligation or
6 risk if the well is not drilled, based on, you know, the
7 term and nature of their contracts between them and their
8 predecessor in interest or their predecessor's agreement
9 with Chesapeake or whoever it would be, you know, you walk
10 through the series of entities.

11 And so there's definitely a situation here where
12 we've had a variety of assignments that have occurred over
13 a relatively short period and extensions granted in those.

14 And my concern in the big picture is, we've got
15 an entity here that has never produced in New Mexico,
16 didn't exist in New Mexico prior to December 15th, has no
17 track history in New Mexico, wants to come in here and
18 drill in a residential area near a school and a retirement
19 community with high land values -- and we'll introduce
20 evidence to show there's a huge amount of water wells that
21 are identified by the State Engineer in the section -- and
22 we believe it fits a pattern here that -- and I'm not
23 suggesting -- let's -- I want to say this. I assume these
24 guys are honorable people.

25 But let's assume that they're not for the sake of

1 what I'm about to argue here. They could come in and have
2 a shell corporation that has no other assets, drills this
3 well, does things that are inconsistent with either the
4 rules of this Division or its obligations to the State of
5 New Mexico or the surrounding land owners, and then just
6 walks away, and here's your \$10,000 bond.

7 And you know, there's nothing that we can do or
8 say about it, and these people have had their community
9 ruined, and -- you know, then -- here's where we are.

10 And we believe that's why in the Commission
11 Rules, or in the Division Rules, it gives this Division the
12 power to impose conditions and restrictions on the
13 application. And we believe that, you know, this whole
14 process is being kind of rammed through.

15 And I'll give you another example. The
16 Application was filed on January 3rd. It was originally
17 set for February 1st. That's not 30 days. I mean, there
18 has been a rush to push this thing forward in a way that,
19 you know, does not give this Division the opportunity to do
20 its job and protect the Intervenors such as those I
21 represent. So that's -- you know --

22 MR. BRUCE: And Mr. --

23 MR. NEWELL: -- narrowly, and big-picture, why I
24 want to ask that question.

25 MR. BRUCE: And if I can respond, Mr. Examiner,

1 we've presented the assignments, we've shown that we have
2 the right to drill under these assignments. The fact of
3 the matter is, there is a time deadline -- that's at the
4 grace of Chesapeake -- and if that expires, Quest will lose
5 the right to drill, a valuable right to drill.

6 Everything else Mr. Newell says is pure
7 speculation. He's saying Quest might do this or Quest --
8 He's saying Quest is a bad actor, he's assuming everything
9 the worst about them.

10 They've come in here, they've gotten qualified to
11 do business, they've bonded, they want to drill a well.
12 Quest has spent most of its time -- and Mr. Bolton could
13 testify about this, they're primarily an operator in
14 Oklahoma. They don't come in to act poorly, they come in
15 to drill a good well and to make some money. There's
16 nothing wrong with that.

17 Everything else Mr. Newell says is pure
18 speculation.

19 MR. NEWELL: May I respond to that just briefly?

20 MR. BROOKS: Okay, go ahead.

21 MR. NEWELL: Then why didn't Quest come in here
22 and do it without setting up the subsidiary?

23 THE WITNESS: Can I -- I can answer that, if --

24 MR. BROOKS: Well, I think that was intended as a
25 rhetorical question for argumentative purposes, rather than

1 as a question to the witness.

2 It seems to me that what they may have paid for
3 the assignment is of very marginal relevance in testimony
4 as it is confidential information, so under the
5 circumstances I would recommend the Examiner overrule -- or
6 sustain the objection and not allow the question.

7 EXAMINER CATANACH: I would concur again with
8 counsel on that point.

9 MR. NEWELL: May I proceed?

10 EXAMINER CATANACH: Yes.

11 MR. NEWELL: Thank you.

12 Pass the witness.

13 EXAMINATION

14 BY EXAMINER CATANACH:

15 Q. Mr. Bolton, the well is, I assume, going to be
16 dedicated to a 40-acre tract; is that correct?

17 A. I believe that's correct, yes, sir.

18 Q. And there's a little bit of inconsistency with
19 regard to the well name. The C-102 that you provided is
20 not the same as the ad for this case. Can you address
21 that?

22 A. I don't know why it was mislabeled in the
23 publication. I don't know if that was a typographical
24 error or what. The name of the well is the West Bishop
25 State Number 1.

1 Q. So that is the correct name?

2 A. Yes, sir.

3 Q. Mr. Bolton, do you know how long it's going to
4 take to drill the well?

5 A. In discussions with the engineers, they suggested
6 that it would take approximately two weeks.

7 Q. And the primary target, again, is the San Andres.
8 I assume this is the same San Andres that's being produced
9 around the City of Hobbs right now, the Grayburg-San
10 Andres?

11 A. I presume that to be the case. You might want to
12 ask our geologist. He could probably answer that better
13 than I could.

14 Q. Okay. And as far as you know, the well is -- the
15 well is not within the city limits; you've already checked
16 that, right?

17 A. I'm certain the well is not within the city
18 limits.

19 Q. And again, you'd be -- Quest would be willing
20 to -- any safety or other regulations that the Division may
21 deem necessary in this case, Quest would be willing to
22 comply with?

23 A. Certainly.

24 Q. And I don't know what those might be, if
25 anything, but I just wanted to make sure you'd be willing

1 to do that.

2 A. Certainly.

3 EXAMINER CATANACH: All right. Do you have any
4 questions?

5 MR. BROOKS: A couple.

6 EXAMINATION

7 BY MR. BROOKS:

8 Q. It's my understanding that you personally have
9 had no contact with the surface owners with regard to this?

10 A. Personally?

11 Q. Yes.

12 A. No, I have not.

13 Q. Now who from Quest did?

14 A. Vern Dyer is a broker that we hired, a local
15 broker from the Hobbs area to do that.

16 Q. And he's present here --

17 A. Yes, he is?

18 Q. -- and he'll testify?

19 A. Yes, he is.

20 MR. BROOKS: Okay, thank you. I think that's all
21 the questions I have.

22 EXAMINER CATANACH: Anything further, Mr. Bruce?

23 MR. BRUCE: No, sir.

24 EXAMINER CATANACH: Okay, this witness may be
25 excused.

1 VERNON D. DYER,

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

4 DIRECT EXAMINATION

5 BY MR. BRUCE:

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

7 A. It's Vernon Dyer.

8 Q. Where do you reside?

9 A. Roswell, New Mexico.

10 Q. And what is your relationship to Quest Cherokee
11 in this matter?

12 A. I'm working for them as a contract landman.

13 Q. Where you -- as part of your duties, were you
14 requested to try to come to terms with the surface owner
15 regarding a well location for the proposed well?

16 A. Yes, that is correct.

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

19 A. Yes, sir, I have.

20 Q. And were your credentials as an expert petroleum
21 landman accepted as a matter of record?

22 A. Yes.

23 Q. And you are familiar with the surface matters
24 with respect to this proposed well?

25 A. Yes, I am.

1 MR. BRUCE: Mr. Examiner, I'd tender Mr. Dyer as
2 an expert petroleum landman.

3 EXAMINER CATANACH: Any objection?

4 MR. NEWELL: No objection.

5 EXAMINER CATANACH: Mr. Dyer is so qualified.

6 Q. (By Mr. Bruce) Mr. Dyer, just very briefly, I
7 wasn't planning you up, but what type contacts did you have
8 with the surface out here?

9 A. Mostly telephone -- well, all telephone
10 conversations with Ms. Cox and with Steve Cox. And those
11 are the two ones I was dealing with on this. I did receive
12 a call from other surface owners in the area.

13 Q. Okay --

14 MR. NEWELL: Mr. Hearing Examiner -- I don't mean
15 to interrupt you. Since he may be testifying to things
16 that my witnesses who are on the telephone were other
17 parties to, could we go ahead and call them at this time so
18 that they can hear matters to the extent the testimony
19 concerns specific interactions with them? I think that
20 would be --

21 EXAMINER CATANACH: Sure, that would be
22 appropriate.

23 MR. NEWELL: Okay, the number is 888-525- --

24 EXAMINER CATANACH: Hang on.

25 MR. BROOKS: I don't believe we've even got a

1 dial tone yet, so something needs to be turned on that
2 isn't on.

3 (Off the record)

4 MR. BROOKS: We've got it.

5 MR. NEWELL: 888-525-0755.

6 EXAMINER CATANACH: I'll let you talk to them.

7 MR. NEWELL: Can I do it from here?

8 MR. BROOKS: No, you've got to have one of these
9 microphones.

10 MR. NEWELL: Okay, may I approach?

11 EXAMINER CATANACH: Yes, certainly.

12 A VOICE: [unintelligible].

13 MR. NEWELL: Yeah, Steve Cox, please.

14 A VOICE: Yes, hang on just a second, please.

15 MR. COX: All right, go ahead.

16 MR. NEWELL: Steve, this is Mike Newell. Mr.
17 Dyer is on the stand and so we're going to connect you all,
18 and you know, you all can listen to Mr. Dyer's testimony,
19 and then it will be some time before we get to you all.
20 But you know, this way you all can hear what's going on,
21 all right?

22 MR. COX: All right.

23 MR. NEWELL: And don't say anything. If you get
24 cut off, though, I guess -- call the New Mexico Oil
25 Conservation Division and tell them you've been cut off

1 from the hearing room, okay?

2 MR. COX: Okay.

3 MR. NEWELL: All right, thanks, Steve. And it's
4 Vernon Dyer who's on the stand, and he's being asked
5 questions by Mr. Bruce, the Applicant's attorney. All
6 right?

7 MR. COX: All right.

8 EXAMINER CATANACH: Okay, before we get started,
9 Mr. Brooks has a telephone call to make, so I'm going to
10 take a short recess, because I'm not going to proceed
11 without him.

12 MR. BROOKS: Yes, I apologize for interrupting
13 the proceedings, but this relates to a matter pending
14 before the Legislature. And as you know, they are not very
15 tolerant of delays.

16 EXAMINER CATANACH: So we'll take just a short
17 break here, hopefully.

18 (Thereupon, a recess was taken at 10:43 a.m.)

19 (The following proceedings had at 10:52 a.m.)

20 A VOICE: [unintelligible].

21 MR. NEWELL: Steve Cox, please.

22 A VOICE: Okay, hang on just a second.

23 MR. COX: Okay.

24 MR. NEWELL: All right, Steve, we're going to go
25 back on the record. Okay?

1 MR. COX: All right.

2 MR. NEWELL: All right, thanks.

3 EXAMINER CATANACH: All right, Mr. Bruce, you may
4 proceed.

5 MR. BRUCE: Okay.

6 MR. NEWELL: Would it be acceptable to put a
7 chair and put this on a chair?

8 MR. BROOKS: That could be done.

9 EXAMINER CATANACH: Sure.

10 MR. NEWELL: That way it might pick up everyone a
11 little better.

12 MR. BROOKS: It may be too far to pick up you,
13 but you can move it closer if you need to.

14 Q. (By Mr. Bruce) Mr. Dyer, I just started asking
15 you, and I really just have a couple of brief questions
16 which -- first of all, where the proposed well is located,
17 that land is owned by the Coxes; is that correct?

18 A. That is correct.

19 Q. And could you just briefly go over your contacts
20 with the Coxes and how those contacts terminated?

21 A. Well, the first contact I made was on the 16th of
22 November with Ms. Cox. I had left a message at her home
23 and she called me back. And I talked to her briefly about
24 what Quest would like to do, and I'd like to get permission
25 to go ahead and survey.

1 And she said she didn't want a well on the land,
2 and she didn't want to give me permission to survey.

3 So I said that was her choice, and I thanked her
4 and we finished our conversation.

5 And then later on, on the 27th through the 28th,
6 29th, somewhere along in there, of November, I made a
7 couple of calls to her and left messages asking her to call
8 me back.

9 And I think at the same time, right in that area,
10 Steve made a call and left a message on my phone.

11 And in the meantime, on the 28th, I had written a
12 letter to Ms. Cox, just -- it's part of the exhibits -- and
13 to try to -- asked her to contact me.

14 But after that is when Steve called, and I wasn't
15 in at the time and he left a message.

16 So before I could call them back on the 1st,
17 December the 1st, I received the letter from the law firm
18 stating that they were -- they had been hired to represent
19 them and that they were not going to do anything to let us
20 on the land, and we were not to -- that they were going to
21 block us by filing with the OCD to stop the Application.

22 So at that time I quit trying to make contact,
23 because there wasn't any sense. I knew how Ms. Cox felt, I
24 knew this was -- and so I quit trying to make contacts,
25 because we never made a deal on it at that time. I had

1 talked to -- Steve and I had had a couple conversations
2 since then, but we never really -- we haven't made any
3 agreement on anything.

4 Q. Okay. Now when you reference the law firm,
5 you're referring to Mr. Newell's law firm?

6 A. Yes, I'm sorry. The letter was from Michael
7 Newell, and it's the Handel [sic] Samberson firm in
8 Lovington.

9 Q. And then -- so talks ceased because the Coxes
10 didn't want to deal with you; is that fair to say?

11 A. Yes, yes, it's fair to say they didn't want to
12 deal on location or anything like that.

13 Q. And one final question, Mr. Dyer. Did Mr.
14 Williams at the OCD's Hobbs office inform you that because
15 of the surface owner objections, that the Division District
16 Office wouldn't approve an APD for the well and that we
17 would have to come up to Santa Fe to get approval?

18 A. That is correct, when I talked to him.

19 MR. BRUCE: Thank you. I pass the witness.

20 MR. NEWELL: Thank you.

21 CROSS-EXAMINATION

22 BY MR. NEWELL:

23 Q. Mr. Dyer, my name is Mike Newell. And are you
24 referring to the letter that was written December 1st,
25 2006, to Chris Williams, that's part of Exhibit 9?

1 A. Yes, yes.

2 Q. Okay. And you were given a copy of that,
3 correct?

4 A. Yes.

5 Q. Okay. And that does not say that the Coxes don't
6 want to deal with you anymore, does it?

7 A. No, it does not.

8 Q. Okay. What it says, it tells Mr. Williams that
9 the Coxes raised an objection and request a hearing on the
10 proposed location of the Quest Resource Corporation well in
11 Section 9, correct?

12 A. Yes.

13 Q. Okay. And --

14 A. It's what one of the letters on December the 1st
15 says.

16 Q. Okay.

17 A. There's two letters from you on December the 1st.

18 Q. All right. Oh, and then there's one to you?

19 A. Yes.

20 Q. Okay. Now did you go back and check with
21 Chesapeake to see why they decided not to drill?

22 A. Did I go back and talk to Chesapeake?

23 Q. Yes.

24 A. No, I did not.

25 Q. Okay. And that letter that you're referring to

1 is also attached as Exhibit Number 9, correct?

2 A. Yes, that is correct.

3 Q. Okay. Have you been to the physical location of
4 this proposed drilling site?

5 A. Yes, I have.

6 Q. Okay. And there are houses to the north,
7 correct?

8 A. That is correct.

9 Q. And there are houses to the south, correct?

10 A. Yes.

11 Q. Okay. And there's a house across the street to
12 the west, correct?

13 A. That is correct.

14 Q. And there is a housing development that's going
15 in to the east across the pasture, correct?

16 A. Now that I don't know.

17 Q. Okay.

18 A. When I talked to the City Commissioner, I talked
19 to one of them and they didn't say anything about that.

20 Q. Okay. Did you do any work to determine whether
21 this location was in a subdivision?

22 A. Yes, I did.

23 Q. And did you find that it was in a subdivision?

24 A. It was not in a subdivision.

25 Q. Okay. Are you aware of the work that was done on

1 this that's reflected on Exhibit Number 8 that's styled
2 West Bishop Canyon Prospect?

3 A. No, I was not aware of it until today.

4 Q. Okay. So did you -- Do you know whether it is or
5 is not in the Country Living Estates subdivision?

6 A. Well, I talked to Gary Forna, the City
7 Commissioner, and he told me that it was not in a
8 subdivision --

9 Q. Okay, is --

10 A. -- so I can only go by that.

11 Q. Okay, Mr. Forna is just a commissioner though,
12 correct?

13 A. Well, yes.

14 Q. Okay --

15 A. He may not like to be called "just a
16 commissioner". He's a commissioner, yes.

17 Q. He doesn't work for the City of Hobbs?

18 A. No, he does not.

19 Q. And he does not -- he's not employed as the
20 person at the City of Hobbs that's in charge of
21 subdivisions, correct?

22 A. I assume that is correct, yes.

23 Q. Okay. What he is, he's an elected official who
24 is not an employee of the city, correct?

25 A. Yes.

1 Q. And so did you check with any city officials to
2 determine whether this area is in a subdivision or not?

3 A. No, not with any of the city officials. I looked
4 in the county records at Lovington.

5 Q. Okay. Now I believe you had written a letter to
6 the Coxes dated November 28th, 2006, correct?

7 A. That is correct.

8 Q. Okay, and you talk about dislocation causes less
9 disruption. Is that -- That was your term, correct?

10 A. That's right.

11 Q. Okay. How was this location determined to cause
12 less disruption, and to whom was less disruption caused?

13 A. Well, that was my personal opinion, because it
14 was far enough south that it wasn't close to the homes to
15 the north, and it didn't interrupt her home. I was more
16 concerned about Ms. Cox than I was any of the other
17 landowners, I'll be honest with you.

18 Q. Okay. Now Ms. Cox lives on College lane
19 immediately to the north?

20 A. That is correct.

21 Q. Okay. And Ms. Cox is a woman of retirement age,
22 correct?

23 A. That is correct.

24 Q. And you've been around oil and gas drilling
25 operations, correct?

1 A. Right there in the middle of Hobbs when I grew
2 up.

3 Q. And in oil and gas drilling operations they
4 operate 24-7, or they're drilling 24-7, correct?

5 A. That is correct.

6 Q. Okay. And you're going to have a variety of
7 pieces of heavy equipment coming in and out of there,
8 correct?

9 A. I assume so.

10 Q. Okay, you're going to have water haulers and
11 you're going to have trucks, transport trucks bringing in
12 various things?

13 A. That's all possible but that's not guaranteed.
14 There may be a well there that we can use without having to
15 haul a water truck.

16 Q. Okay, a water well?

17 A. Yes.

18 Q. Now there are water wells in the area, correct?

19 A. I'm sure there is, yes, they're -- all that --
20 homes -- they're not on city water, so all those houses got
21 to be on water somehow.

22 Q. Okay. And is there anything in place right now
23 that has been negotiated by Quest Cherokee which secures
24 them a water resource for the drilling of this well?

25 A. That I don't know. I don't have any part of

1 that. My question -- my responsibility is working with the
2 surface owner.

3 Q. Okay. Now -- and the bottom line is, your
4 dealings with the surface owner have been unsuccessful,
5 correct?

6 A. As to getting -- negotiating a land -- a
7 location, that is correct.

8 Q. Right. I think on a personal level -- I think I
9 can speak -- I think you all got along pretty well, you
10 just couldn't --

11 A. Oh, yes --

12 Q. -- ultimately agree?

13 A. -- yes, I think the world of Ms. Cox --

14 Q. Yeah --

15 A. -- don't get me wrong.

16 Q. It wasn't like you all --

17 A. I knew her husband very well.

18 Q. It wasn't like you all fought or anything --

19 A. Oh, no.

20 Q. -- you just ultimately had to disagree, kind
21 of --

22 A. Yes.

23 Q. -- is that -- would that be a fair
24 characterization?

25 A. Yeah, I think that's very fair.

1 Q. Okay.

2 A. When she first told me that she didn't like it, I
3 honored her wish and I called the company and told them,
4 and they just made their decision, so I went back.

5 Q. Okay. Now I'm going to ask you to look at a
6 document we've identified as Exhibit Number 2, and this
7 area is a high-land-value area, correct?

8 A. Yes, it is.

9 Q. Okay. And in your discussions the high land
10 values definitely were an issue, correct?

11 A. In what way?

12 Q. Well --

13 A. As an issue, you mean there was a disagreement or
14 something?

15 Q. Yes.

16 A. No, there wasn't a disagreement on the values.

17 Q. Okay. Let me ask you this: There are no
18 presently producing oil and gas wells in this area,
19 correct? At least in Section 9?

20 A. Not that I know of.

21 Q. Okay. And do you understand what kind of
22 production they are hoping to make out of this well?

23 A. The type?

24 Q. Yes.

25 A. Today, I didn't know before today what it was.

1 Q. Okay, so you have no present knowledge of that.

2 There's no battery facilities or any kind of
3 facilities that are located in this area, correct?

4 A. I wouldn't say that, because I don't know what
5 you consider that area, and also haven't driven the whole
6 area looking. There's oil wells all over Hobbs and around
7 the territory.

8 Q. Fair enough, let's say Section 9.

9 A. No, not in Section 9.

10 Q. Okay. I agree with you, "area" is kind of an
11 ambiguous term.

12 A. Yeah.

13 Q. All right. Did you represent to -- well, let
14 me...

15 Have you ever been given authority to go to the
16 land owner and say, We can do certain things to protect you
17 from noise, pollution or chemicals or the things associated
18 with drilling of an oil and gas well?

19 A. No, I've never had the opportunity to say that to
20 him, because we never got that far in conversation.

21 MR. NEWELL: Okay. All right, I pass the
22 witness.

23 EXAMINER CATANACH: Anything further?

24 MR. BRUCE: Nothing for me.

25 EXAMINER CATANACH: Do you have anything?

EXAMINATION

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BY MR. BROOKS:

Q. As I understand your last response, you didn't make any offer because the Coxes' position was simply that they were not going to grant permission on any basis; is that correct?

A. No, the reason I stopped -- the reason we didn't pursue it any further is, I knew from the OCD where they may not even get the well approved, was, they wasn't going to accept the Application. You know, unless we get an application approved, there's not any damages to do.

Q. Okay, so it was because of the action of our District Office that you broke off negotiations?

A. Yes, because of the client of the attorney and then saying they was going to file with the District Office, and then the District Engineer calling me saying they wasn't going to accept it.

MR. BROOKS: Okay, very good. Thank you.

THE WITNESS: We still talk to them though.

EXAMINER CATANACH: Anything further of this witness?

You may be excused.

Mr. Newell, do you want to --

MR. NEWELL: I'm going to ask him if they want to -- Hey Steve? Steve? Hello, Steve?

1 I think that answers the question. And they'll
2 call if they need to call in. And I don't anticipate
3 putting them on until after lunch, okay?

4 EXAMINER CATANACH: Okay.

5 MR. BRUCE: Mr. Examiner, before I move on to my
6 next witness, I'd ask -- I think Mr. Dyer is going to stick
7 around for a little longer, but unless Mr. Newell has need
8 of him I'd ask that he can be excused so he can head back
9 down to Roswell at some point.

10 MR. NEWELL: No objection to that.

11 EXAMINER CATANACH: Okay. Thank you, Mr. Dyer.

12 STEVEN HOCHSTEIN,

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

15 DIRECT EXAMINATION

16 BY MR. BRUCE:

17 Q. What is your name, please?

18 A. Steven Hochstein.

19 Q. Would you spell that for the record?

20 A. S-t-e-v-e-n H-o-c-h-s-t-e-i-n.

21 Q. Where do you reside?

22 A. In Houston, Texas. Actually a small called
23 Pearland, suburb of Houston.

24 Q. Okay, and you work in Houston?

25 A. I work in Bellair, another suburb of Houston.

1 Q. Who do you work for?

2 A. I work for Quest Resource.

3 Q. What is your job at Quest?

4 A. I'm a manager of new ventures, look for new
5 opportunities for Quest Resource.

6 Q. By profession are you a geologist?

7 A. I'm a geologist.

8 Q. Have you previously testified before the Division
9 as a geologist?

10 A. No, I have not.

11 Q. Would you summarize your educational and
12 employment background for the Examiner?

13 A. I graduated from the University of Texas in 1981
14 with a degree -- bachelor of science degree in geology.
15 I've been employed in the oil and gas business since 1981,
16 so 26 years in the oil and gas business, various companies.
17 I went to work for Quest in -- I believe last year.

18 Q. Okay. Have you worked New Mexico before?

19 A. Yes, I have, with the previous -- previous
20 employ, I worked Raton Basin.

21 Q. Does your area of responsibility at Quest include
22 this area of southeast New Mexico?

23 A. It includes the entire country.

24 Q. And have you studied the geology involved in the
25 drilling of Quest's proposed well?

1 A. Yes, I have.

2 Q. And so you are familiar with the geology involved
3 in the drilling of this well?

4 A. Yes.

5 MR. BRUCE: Mr. Examiner, I'd tender the witness
6 as an expert petroleum geologist.

7 EXAMINER CATANACH: Any objection?

8 MR. NEWELL: Your Honor, I would like to reserve
9 objection, and we can either do it through a voir dire --
10 but it's not his general qualifications that I object to,
11 it's maybe his specific knowledge of this project. He
12 identifies that he was a -- he's manager of new ventures,
13 and he didn't define, really, what that was. I don't know
14 if that's more of a managerial/entrepreneurial-type,
15 acquisition position, or if it's a geology position.

16 I don't want to slow down the hearing, and so
17 what I would do is, if you would -- I do not object to him
18 going ahead and providing testimony, and hopefully, you
19 know, this issue about his extent of knowledge as to this
20 particular project will be fleshed out, and that would be
21 my only objection, and we can do it through a voir dire
22 right now, or we can do it through just reserving the
23 objection.

24 MR. BROOKS: Well, if you trust the Examiner to
25 not consider the testimony, if you subsequently -- if he

1 subsequently strikes it, then I guess we can reserve it,
2 because we don't have a jury here to consider, so I think
3 we can do that procedure if you feel that would be more
4 efficient.

5 MR. NEWELL: I think it may be more efficient,
6 but I'll do whatever the pleasure of the Commission is.

7 MR. BROOKS: Well, whatever the Examiner wants to
8 do is fine with me, but I think that he can do that. I
9 think that's an option that's available to the Examiner if
10 he wishes to take it.

11 EXAMINER CATANACH: All right, let's go forth on
12 that note.

13 Q. (By Mr. Bruce) And Mr. Hochstein -- I think my
14 voice is finally dying on me. Maybe we're all lucky here.

15 Why don't you identify Exhibit 11, and as part of
16 that maybe start off with your discussion of what you do do
17 for Quest to maybe answer some of Mr. Newell's questions,
18 and then what types of materials you looked at in deciding
19 whether Quest should purchase this prospect, and then how
20 you came about preparing this exhibit?

21 A. My responsibilities for Quest include reviewing
22 -- looking for new unconventional oil and gas opportunities
23 for Quest across the U.S., and even some international. I
24 review a number of prospects and acquisitions for Quest.
25 At any given time I may have three or four projects ongoing

1 at any one time. My responsibility is to oversee the
2 geologic components of any acquisitions and/or prospects
3 that are acquired or developed internally for Quest.

4 Q. Okay, and what does Exhibit 11 reflect?

5 A. Exhibit 11 is a map that I constructed after
6 reviewing data and maps and the prospect that was
7 originally reviewed from Tierra, a company that had a
8 prospect in the area that we were interested in after doing
9 some regional geology. We liked the prospect area, we
10 liked the concept, and subsequent to that acquired the
11 prospect from Tierra and are in the process of permitting
12 our well.

13 Q. So you did review well data and other geologic
14 data in preparing this exhibit?

15 A. Yes, I did.

16 Q. There's lots of lines and numbers on here. Could
17 you go through it and before you describe why you want to
18 drill at this proposed location, just outline the
19 structure, oil-water contacts, et cetera?

20 A. Yes. This is kind of a combination -- it's two
21 maps kind of overlain on top of each other. The black
22 contour levels are structural contours at the top of the
23 San Andres in proximity to the -- what's commonly referred
24 to as the A zone or the Hobbs zone, which is the primary
25 producing interval in the wells in this area.

1 The purple contours are the isopach of the -- or
2 the net thickness of the -- of that A zone or Hobbs zone.

3 The green lines -- or the red-highlighted wells,
4 the wells that are highlighted with a red dot, are wells
5 that were productive from the San Andres formation. And
6 you can see -- just underneath the title block there, you
7 can start to see some red dots, kind of underneath the
8 title block there. That would be Hobbs -- the large Hobbs
9 field, which also produces from the San Andres.

10 The green lines labeled "Possible Oil-Water
11 Contact" are my estimate of the original oil-water contact
12 for these accumulations that were originally developed in
13 the San Andres.

14 The "Perm Barrier?" labels there that you see for
15 the -- and then the subsequent dashed lines that the arrows
16 are pointing to, are inferred permeability barriers. And
17 they're inferred for a couple of reasons. One, the -- as I
18 mapped the thickness of the porosity zone, there is a thin
19 that develops, and there needs to be -- there's no
20 structural separation between these two accumulations, yet
21 they have different oil-water contacts, and therefore -- I
22 believe that that is due to the -- a permeability or some
23 other form of separation between these two that separate
24 those two oil-water contacts.

25 As we see as we move across the Bishop Canyon

1 field, which is the field immediately offsetting our
2 proposed location, that we see the indications of another
3 thin and a potential for another perm barrier over in that
4 location.

5 The purpose of the location where we picked it,
6 is, one, to stay proximal to the old production where we
7 have a higher density of subsurface control, to stay --
8 remain updip of the original oil-water contact, and
9 realizing that that oil-water contact may have migrated
10 updip through the production of the old wells, and then to
11 try to also attain a thicker porosity than was seen on the
12 eastern limits of the -- or the western limits of the
13 field.

14 Contouring suggests that there may be a thicker
15 porosity interval, and -- that I have mapped, and that
16 would be the hope, that we would indicate some thicker
17 porosity, which would improve the economic viability of the
18 well.

19 Q. Okay. So when you consider all these factors,
20 the best location for the initial well in your prospect is
21 in the northeast quarter, northwest quarter of Section 9?

22 A. Yes, it is.

23 Q. What is Exhibit 12, briefly?

24 A. Exhibit 12 is just an example of a log in the
25 area. It's the Mar Win Development Atlantic Richfield

1 Number 1 in Section 15, and that's just -- the logs in this
2 field area are generally old, very old and very poor
3 quality, and this was kind of the best quality log that I
4 had, so I used it just to kind of annotate where the top of
5 the San Andres mapping horizon is and the porosity, primary
6 porosity zone, that the wells had produced from.

7 And our project, or our proposed completion
8 interval is -- we hope to encounter, or attempt to
9 establish production in this zone, as well as maybe some
10 other very thin, porous zones that are suggested on the
11 logs.

12 Q. San Andres zones?

13 A. San Andres zones, yes, they would be deeper.

14 Q. What is the cost of the proposed well? And I
15 refer you to Exhibit 13.

16 A. Yeah, we have an estimate of about \$695,000 to
17 drill and complete this well. Costs have continued to
18 increase dramatically with time.

19 Q. And what is Exhibit 14?

20 A. Fourteen is a summary, economic one, of a --
21 comparing a vertical well with a directional well, and
22 the -- one of the reasons why this prospect is economic is
23 the product price now, and projects that weren't economic a
24 year ago or, you know, a year and a half ago are economic
25 now because of the price of oil, and we're hoping to

1 capitalize on the current commodity price. However, costs
2 have increased dramatically in the last couple of years as
3 well, and directional work has gone up substantially.

4 So what we're looking at here is, we're comparing
5 the cost of a straight hole versus -- and the economics
6 associated with a straight hole, versus drilling -- moving
7 to the west and drilling a directional well. And on our
8 rate of return gets below 20 percent, which is -- once you
9 get below that, it's really not worth taking the risk of an
10 economic venture. As it is, it's a fairly skinny project
11 already.

12 Q. So you need to drill a vertical well --

13 A. Yes, we do.

14 Q. -- at your proposed location?

15 A. Yes.

16 Q. If the initial well is successful, could other
17 wells potentially be drilled on your prospect?

18 A. Yes, they could.

19 Q. And if that's the case, would Quest attempt to
20 use common facilities to the extent feasible?

21 A. To the extent that it's economically feasible, we
22 would make every effort to limit the amount of impact on
23 the surface.

24 Q. Now there is -- in going through the objector's
25 exhibits, there's stuff about well blowouts. Do you

1 anticipate that being a problem in drilling these shallow
2 San Andres wells?

3 A. No, we are in a -- this area has been developed
4 for many, many years, and as you can see -- and from the
5 Bishop Canyon field, there were six producers there that
6 have produced, you know, a million barrels and a BCF of
7 gas. So if anything, we're expecting maybe even slightly
8 underpressure environment.

9 So there's not really any abnormal pressures in
10 this regime, and this would be the -- this would be the
11 extremely safe -- you know, not expecting any surprises at
12 all. This is very fundamental drilling.

13 Q. Very straightforward --

14 A. Very straightforward.

15 Q. Were Exhibits 11 through 14 prepared by you or
16 under your supervision, or compiled from company business
17 records?

18 A. Exhibits 13 and 14 were prepared by Brian
19 Simmons, an engineer that works in the Bellair office as
20 well. I generated Exhibits 11 and 12.

21 Q. In your opinion, is the granting of Quest's
22 Application in the interests of conservation and the
23 prevention of waste?

24 A. Yes, it is.

25 MR. NEWELL: I object to the question. I don't

1 think he's established his qualifications to offer that
2 type of opinion.

3 MR. BROOKS: Well, subject to your -- you know,
4 we reserved your objections on his qualifications. I think
5 petroleum geologists are generally assumed to be, if
6 they're familiar with the area, competent to give that type
7 of opinion.

8 MR. NEWELL: And I don't think it's that latter
9 portion that we've established here. At least that would
10 be my position.

11 MR. BROOKS: Well, you may take the witness on
12 voir dire if you wish.

13 MR. NEWELL: Well, I can do it in cross. I mean,
14 I think --

15 MR. BROOKS: Okay.

16 MR. NEWELL: -- that's what we agreed.

17 I just felt like I needed, for the record, to
18 make the objection --

19 MR. BROOKS: Okay.

20 MR. NEWELL: -- and I wasn't trying to change the
21 rules that we agreed to a minute ago.

22 MR. BROOKS: Well, I will advise that the
23 Examiner overrule the objection.

24 EXAMINER CATANACH: I will overrule the
25 objection.

1 MR. BRUCE: Now, I was going to move to qualify
2 the witness as an expert petroleum geologist, but if Mr.
3 Newell wants to cross-examine him first, that's fine.

4 MR. NEWELL: That would be my preference, if
5 that's all right, Mr. Bruce.

6 EXAMINER CATANACH: Okay, that would be fine.

7 MR. NEWELL: All right.

8 MR. BRUCE: I pass the witness.

9 CROSS-EXAMINATION

10 BY MR. NEWELL:

11 Q. Mr. Hochstein -- Is that Hochstein?

12 A. Hochstein.

13 Q. Hochstein, okay. My name is Michael Newell, and
14 I represent the Intervenors in this matter.

15 You indicate that the relative margin on this --
16 economic viability on this well -- I think your term was
17 "skinny", correct?

18 A. Yeah, it's a very -- yeah, it -- I'm not sure the
19 word I used a moment ago.

20 Q. Okay. And basically \$165,000 to directionally
21 drill is something that you don't believe makes it
22 economically feasible, correct?

23 A. That's correct.

24 Q. Okay, and that's how much it is, \$165,000
25 difference, correct?

1 A. That's our estimate.

2 Q. Okay. Based on what, Exhibit Number 13 --

3 A. Uh-huh.

4 Q. -- is that correct?

5 A. Fourteen.

6 Q. Fourteen, I'm sorry. Now, what's your
7 familiarity with the Grayburg-San Andres formation in Lea
8 County, New Mexico?

9 A. I have looked at a number of productive --
10 production trends. I've mapped the structure, reviewed a
11 number of well logs, mud logs, test information and
12 production information and mapped over the -- a small
13 amount of Lea County.

14 Q. Okay. It's H₂S-bearing or -producing strata,
15 correct?

16 A. Yeah, there is a small amount of H₂S in the gas.

17 Q. Okay. And that H₂S, though, has -- the presence
18 of H₂S has increased as the field has aged, correct?

19 A. I'm not sure which field you're talking about?

20 Q. The Grayburg-San Andres formation in what would
21 be considered the Hobbs field, I guess.

22 A. In Hobbs field, I'm not familiar with that trend.

23 Q. Okay, you're not familiar with the --

24 A. -- with the increase in --

25 Q. Okay.

1 A. -- in H₂S in Hobbs field --

2 Q. Okay.

3 A. -- I'm not -- I'm not familiar with that.

4 Q. Okay. What H₂S protections have been put into
5 the AFE that's Exhibit Number 13?

6 A. Again, I'm not an engineer, I did not prepare the
7 AFE, but all protections would be taken that are required.

8 Q. And required based on what?

9 A. Based on oil and gas regulations.

10 Q. Okay. Is there any enhanced requirement because
11 of the proximity of residences and a school to this area?

12 A. I'm not familiar with the -- if there are any
13 enhanced requirements.

14 Q. Okay. Why is the -- On Exhibit Number 13, why is
15 the line item for "Environmental" blank?

16 A. I don't know.

17 Q. So there's been no allocation in the AFE for
18 environmental protections, correct?

19 A. I don't see any in there.

20 Q. Okay. And what kind of system is anticipated, if
21 the Application is granted as it exists, for the
22 confinement and disposal of drilling muds and waste?

23 A. All normal procedures of oil and gas development,
24 you know, everything required by the State.

25 Q. Are you going to use a closed-loop system?

1 A. I do not know if we're using a closed-loop system
2 or not.

3 Q. Can you look at the AFE and tell me?

4 A. I wouldn't be able to tell.

5 Q. Okay. Is there anything on there for frac tanks
6 or other tanks that would be consistent with use of a
7 closed-loop system?

8 A. I'm sure we will have -- Well, I say I'm sure.
9 Frac tanks are a very common item on a drilling location.
10 I'm not sure what type of system that we'll be using.

11 Q. Okay. It looks like you have production
12 equipment also on this AFE, on the completion side; is that
13 correct?

14 A. That is correct.

15 Q. Okay, and you anticipate putting a tank battery
16 out here on this location, correct?

17 A. Yes.

18 Q. Okay, and how do you anticipate handling the
19 presence of an elementary school near a tank battery
20 facility?

21 A. I don't understand your question.

22 Q. Well, do you know there's an elementary school
23 close to this prospect?

24 A. Yes, we've covered that today.

25 Q. Okay. And you're proposing to put a tank battery

1 out there, right?

2 A. That is correct.

3 Q. Kids are going to be walking back and forth to
4 school, right by your tank battery, correct?

5 A. I believe this question was already answered
6 previously, but in a producing -- under a producing well it
7 is common practice to fence the production facilities.

8 Q. Okay. With the kind of fence that's a three-
9 strand barbed-wire fence to keep out --

10 A. We will do whatever fence is required.

11 Q. Okay. And that's not in the AFE though, correct?

12 A. Fencing would be covered in the AFE. I'm not
13 sure under what line item that it is, but the cost of
14 constructing the fence would be included in the AFE.

15 Q. Okay, but there's no item that says fencing,
16 correct?

17 A. Not every -- these are categories, these are not
18 individual line items.

19 Q. Can you tell me which category fencing would e
20 in?

21 A. I cannot.

22 Q. Okay. And I believe given the fact that there's
23 the presence of H₂S, you need to do some kind of --

24 MR. BRUCE: Well, I would object to the form of
25 the question. That hasn't been established that there's

1 H₂S in this area.

2 Q. (By Mr. Newell) Do you anticipate H₂S in the
3 production from the Grayburg-San Andres formation in Lea
4 County, New Mexico?

5 A. Yes.

6 Q. Now, have you conducted any air emissions
7 analysis to determine, you know, what's going to be
8 appropriate?

9 A. I'm not sure -- No, we have not done any air
10 emissions analysis.

11 Q. How do you anticipate disposing of H₂S on
12 location?

13 A. There are a number of means of handling H₂S.

14 Q. Are you going to --

15 A. There are very common oilfield practices. I'm
16 not sure which system will be best for our particular
17 circumstances. That will be determined upon testing.

18 Q. Okay, do you anticipate flaring?

19 A. I don't know.

20 Q. Okay, do you think it's appropriate to flare,
21 given the proximity of this location to housing, schools
22 and a retirement community?

23 A. I'm not in a position to make that kind of a
24 judgment. It's -- If done correctly under all the
25 regulations and all the necessary safety precautions are in

1 place, I would assume it would be okay.

2 Q. Okay. Now let me ask you this: What kind of
3 backup facilities would you have if a no-flare ban is
4 instituted like has been instituted by this Division in Lea
5 County in drought conditions?

6 A. I'm not prepared to answer.

7 Q. It looks like --

8 A. I guess I don't understand -- you know, we will
9 do whatever we need to do to drill and complete the well in
10 a safe manner under the -- and satisfy all of the
11 regulatory requirements made upon us.

12 Q. Okay. And you recognize that this is a peculiar
13 location because of its proximity, right?

14 MR. BRUCE: I would object to the form of the
15 question.

16 Q. (By Mr. Newell) Okay, Exhibit Number --

17 A. It's a very standard location.

18 Q. What?

19 A. It's a standard surface location. I mean --

20 Q. It's a standard surface location from your
21 standpoint?

22 A. Yeah, sure. I mean, it's -- we -- I mean, it's
23 not requiring any special cut-and-fill or -- you know, the
24 topography is fairly routine. I recognize the cultural
25 areas, we've discussed that.

1 Q. Right, and I guess that's what -- and what I hear
2 you saying --

3 A. I don't want to say peculiar, it's not peculiar.

4 Q. Okay.

5 A. These are done -- you know.

6 Q. Let me just make sure, though, I understand what
7 Cherokee is willing to do. What you're saying is, you're
8 willing to do whatever is necessary, whatever this
9 Commission requires, either by its rules or by whatever it
10 imposes if it approves this Application, to make sure that
11 the community that's impacted by this drilling location is
12 safe, correct?

13 A. I'm saying that we will do whatever is required
14 and requested by the Commission and the regulatory agencies
15 in drilling this well.

16 Q. Okay. And then you've presented to this
17 Commission Exhibit Number 8, which is the surface issue
18 summary, correct? Do you see that?

19 A. Okay, yes.

20 Q. Okay. So you know it's in close proximity to an
21 urban area, correct?

22 A. Yes.

23 Q. Okay. And have there been any particular
24 protections built into your AFE to address the proximity of
25 the well to an urban area?

1 A. I don't know.

2 Q. Okay. And --

3 A. It's an estimate.

4 Q. Okay. Well, what does Quest Cherokee tell this
5 Commission, or this Division, is necessary to make this a
6 safe, viable location so that not only its interests are
7 protected, but the correlative rights of the surface owners
8 and the adjacent area rights are protected?

9 MR. BRUCE: Mr. Examiner, I suppose I can let Mr.
10 Newell ask these questions all day long. The Applicant has
11 stated it will comply with Division regulations regarding
12 the drilling, equipping and producing of the wells. Under
13 those regulations, wells have been drilled in Hobbs,
14 they've been drilled in Farmington. They're drilled all
15 over the state. I don't know what Mr. Newell is getting
16 at. His clients wouldn't speak to us so that we might come
17 to terms with anything.

18 And so other than complying with Division
19 regulations, I don't know what he wants other than to try
20 to make my clients look bad, but they're ready to comply
21 with Division regulations. I don't know what more needs to
22 be said.

23 MR. NEWELL: Was that an objection? I mean, I
24 don't know how to --

25 MR. BRUCE: I would object to any -- If they've

1 got something that they propose, let them propose. We're
2 proposing drilling a well under the regulations of the
3 Division, period. There are no surface-use restrictions,
4 there are no City of Hobbs requirements, there's no Lea
5 County requirements. It will drill and complete and
6 produce the well in a safe manner.

7 Other than that -- I suppose Mr. Newell could
8 speculate all day long, and my witness could be up here
9 saying, Gosh, I don't know, Gosh, I don't know. But what's
10 the point?

11 I would object to any further questioning along
12 these lines.

13 MR. NEWELL: Let me see if I can move on.

14 EXAMINER CATANACH: Okay.

15 Q. (By Mr. Newell) Now what things have you
16 put in place to protect the health and safety --

17 MR. BRUCE: This is the same thing, Mr. Examiner.

18 MR. NEWELL: The Division specifically has
19 authority to look at the health and safety issues, the
20 environment, and the protection of correlative rights.

21 And I think it's incumbent upon them as an
22 applicant, if they're going to come in here and say -- and
23 as they acknowledge on Exhibit 8 and the other exhibits,
24 that they're going and drilling in a residential area with
25 a school close to it, how are they going to then drill this

1 in a manner that is consistent with their requirements to
2 do this in a safe manner and protect the environment and
3 those things that the Division is responsible for
4 protecting?

5 And I think -- them as the Applicants -- it's
6 their burden to show the -- you know, that they can meet
7 all of these standards. And I think since they're saying
8 it's in the urban area -- or a residential area with these
9 other characteristics -- in close proximity to an urban
10 area, I guess that's the phrase there, then I think...

11 For example, they keep using the City of Hobbs as
12 an example. There's no battery facilities in the City of
13 Hobbs. There are specific -- all the batteries are located
14 external from the City of Hobbs. The wells have specific
15 characteristics and protection characteristics. If you're
16 drilling in West Fort Worth for that production that's out
17 there, there are specific things that are put in place to
18 protect those residential communities, even in someplace
19 like Texas, which doesn't have the residential and
20 environmental protections that New Mexico has.

21 My point is this, if -- and I think the testimony
22 is quite clear. They've made no accommodations in their
23 drilling. They're treating this just like if they were
24 drilling 10 miles away from anyone else's house, out in the
25 middle of a pasture. They approach this in the same

1 manner.

2 And what they're telling you also is that a
3 \$165,000 difference makes this non-economical. And so, you
4 know, I get back to my point: How are we supposed to feel
5 comfortable that if you all say, Okay, here's what you have
6 to do to protect the residences and the community in this
7 area, that they're going to economically do that when it's
8 such a narrow prospect anyway?

9 MR. BROOKS: Well, I think you said the testimony
10 is clear, and I think that's basically what Mr. Bruce was
11 saying. As such, I think the objection is addressed to
12 repetition and marginal relevance, so I think it's just
13 discretionary with the Examiner.

14 MR. NEWELL: And I'll move on, I won't even --

15 MR. BROOKS: I won't make a recommendation.

16 EXAMINER CATANACH: Let's try and move on from
17 that.

18 MR. NEWELL: And I'll move on. I think the point
19 is made.

20 Q. (By Mr. Newell) Okay, let's look at Exhibit
21 Number 11. More than happy to move to something like
22 Exhibit 11. Do you have Exhibit 11 in front of you?

23 A. Yes, I do.

24 Q. Okay, and you've testified that this is kind of a
25 double contour map that's laid on top of each other, and it

1 depicts a variety of things, correct?

2 A. That's correct.

3 Q. Okay. Now, I see a number 20 there. Do you see
4 that?

5 A. Yes.

6 Q. And what does that represent?

7 A. That represents the thickness of the San Andres
8 porosity, A porosity zone.

9 Q. Okay. And then right below number 20 you have a
10 number there that's a negative 1066. Do you see that?

11 A. Yes.

12 Q. What does that represent?

13 A. That's the subsurface elevation of the San
14 Andres.

15 Q. Okay, is that the top of the formation or --

16 A. Yes.

17 Q. Okay. And then you have a red and green dot
18 below that, or circle or whatever -- however you want to
19 characterize that. Do you see that?

20 A. Yes.

21 Q. And what is that?

22 A. That is a -- that's a -- just a -- The green dot
23 signifies that it's an oil well, and the red dot is just a
24 highlight to show that it's a San Andres producer.

25 Q. And is it your testimony that this was a -- is

1 that -- And that would be in unit A, would it not?

2 A. Unit A?

3 Q. Of Section 9?

4 A. I don't understand your question.

5 Q. Are you familiar with the way this Division
6 identifies a unit, 40-acre spacings, in --

7 A. Are you talking about the northwest of the
8 northwest of -- or the northeast of the northeast of
9 Section 9?

10 Q. Yeah. Do you know how that would be referred to
11 by this Division?

12 A. No.

13 Q. Okay. I'm going to represent to you that the
14 northeast quarter of the northeast quarter of Section 9
15 would be unit A. Can we agree on that, counsel?

16 MR. BRUCE: That's fine.

17 THE WITNESS: That's a unit?

18 MR. NEWELL: Yeah, it's --

19 MR. BRUCE: It's an internal designation, Mr.
20 Hochstein.

21 Q. (By Mr. Newell) Yes. And I'll explain this
22 further. What they do is, they have 16 letter
23 designations --

24 A. I understand the concept.

25 Q. Okay. Now did you look at the production history

1 of the Bishop Canyon Uranium Company well that was drilled
2 in Section 9, unit A, that's depicted there on your map?

3 A. Yes.

4 Q. And that was plugged and abandoned in 1968,
5 correct?

6 A. I know it's been abandoned, yes. I do not recall
7 the year.

8 Q. Okay, so nearly 40 years. How much -- Well, let
9 me then ask you, on all of these wells here, are any of
10 them currently producing in Section 9?

11 A. To my knowledge, no, they've all been abandoned.

12 Q. Plugged and abandoned. Do you know when the last
13 one was operated?

14 A. No, I don't.

15 Q. Okay. If I represent to you that the well that's
16 in unit J was abandoned also in 1968, would you be
17 surprised at that?

18 A. No.

19 MR. NEWELL: Mr. Hearing Examiner, can we ask the
20 Division to take administrative notice of the well file for
21 the Bishop Canyon -- or for all the wells that were drilled
22 and located in Exhibit Number 9 by either the Bishop Canyon
23 Uranium Company, Wayne Moore, Tom Brown Drilling Company,
24 H.L. Brown, Jr., or the Pennzoil Company?

25 EXAMINER CATANACH: For what purpose, Mr. Newell?

1 MR. NEWELL: The purpose is, these will depict,
2 you know, the status of those wellbores that are identified
3 in this -- the impression that I see from Exhibit Number 11
4 that it gives, is that they're not abandoned. As I read
5 Exhibit Number 11, the abandoned oil well has a green dot
6 and a line through it. Do you see on their legend there
7 where it says well symbols?

8 EXAMINER CATANACH: Uh-huh.

9 MR. NEWELL: And the other wells that are
10 depicted in Section 9 that are green and red don't reflect
11 that they are abandoned wells. And so that would be the
12 purpose that I'm wanting the Division to take
13 administrative notice of its own records.

14 MR. BROOKS: Okay, you said Exhibit 9. I think
15 you meant Section 9.

16 MR. NEWELL: Section 9, I'm sorry, Exhibit 11.
17 Thank you, I'm sorry.

18 EXAMINER CATANACH: Well, I believe the witness
19 did testify that the wells were all plugged and abandoned
20 to his knowledge, but I will take administrative notice of
21 the well files for that purpose.

22 MR. NEWELL: I appreciate that.

23 Q. (By Mr. Newell) Mr. Hochstein, is there any
24 reason why Exhibit 11 doesn't accurately depict that those
25 other wells in Exhibit 9 are plugged and abandoned?

1 A. I was just -- That wasn't the intent of my making
2 this map. That wasn't anything I contemplated as being
3 significant. I mean, I have a mapping software, and that
4 -- wells that produce oil, I have them set up -- and this
5 is globally across many counties -- to treat those symbols
6 as -- you know, as -- if it's produced oil, it's a green
7 symbol.

8 Q. Okay.

9 A. There's no attempt to hide the fact that they
10 were plugged. As a matter of fact, that's one of the
11 reasons why we want -- we think this is a viable prospect,
12 is, these wells were plugged, and almost all of them were
13 still producing, under -- in today's world would be
14 economic quantities of oil.

15 Q. Okay. Let me ask you, you testified that those
16 green lines depict the possible oil-water contact?

17 A. That is correct.

18 Q. Okay. It looks like in Exhibit Number 11 there's
19 a disconnect on the oil-water contact. Do you see that, in
20 Section 11?

21 A. A disconnect?

22 Q. Yeah --

23 A. The difference in the oil-water contact?

24 Q. Yeah.

25 A. I explained that previously.

1 Q. I'm sorry, I missed that, do you mind doing that
2 again?

3 A. That's a separate production over there, on the
4 east Bishop Canyon area, that's a separate pod of
5 production, and they have different oil-water contacts.

6 Q. So it's on the other side of that barrier, the
7 perm barrier that you've identified, at least, on this
8 exhibit, correct?

9 A. Well, you have to have a separation -- you know,
10 you have to have some form of separation.

11 Q. Okay. You also testified that there may have
12 been a migration of that possible oil-water contact point,
13 correct?

14 A. It's possible, yes.

15 Q. Okay. What's the most current data you have to
16 determine that that's where the oil-water contact is?

17 A. This is purely based upon the original
18 accumulation.

19 Q. So that data is at least 40 or 50 years old,
20 correct?

21 A. Well, data is data, but yeah, that's the --
22 that's my estimate of the original oil-water contact,
23 correct.

24 Q. If there has been a migration of the possible
25 oil-water contact, in which direction would it be

1 migrating?

2 A. South.

3 Q. Okay.

4 A. South and -- south and perhaps west --

5 Q. Okay --

6 A. -- but that --

7 Q. -- what factors would cause that oil-water
8 contact to migrate?

9 A. Production.

10 Q. Okay, production drawing, if you will, the water
11 towards the production?

12 A. Well, that -- yes.

13 Q. Okay. Such as the production of the San Andres
14 field to the south -- or the San Andres formation to the
15 south in the Hobbs field; is that correct?

16 A. I'm sorry, come again?

17 Q. Okay, and I kind of butchered that question. You
18 said -- you know, I think you testified that production
19 drawing that oil-water contact to the south would be a
20 factor that might make it migrate, correct?

21 A. Yes.

22 Q. Okay. And that would be -- something that would
23 make it migrate would be some kind of significant, if you
24 will, depletion of the formation, correct?

25 A. That is correct.

1 Q. Okay. And to the south there's Grayburg-San
2 Andres production that's not reflected on Exhibit 11,
3 correct?

4 A. There's a -- yes.

5 Q. A significant unitized --

6 A. To the south, to the north, to the west, to the
7 east, this whole area is surrounded with San Andres.

8 Q. Okay. But some of the more significant San
9 Andres production is located in the Hobbs field immediately
10 to the south, correct?

11 A. That is correct.

12 Q. Okay. And do you know how -- what impact, if
13 any, that San Andres production has had on that oil-water
14 contact line?

15 A. The Hobbs field production?

16 Q. Yeah.

17 A. We're postulating nothing.

18 Q. Okay, what factors would, then -- where would the
19 production come from that might impact that oil-water
20 contact line?

21 A. The wells that -- in Bishop Canyon field.

22 Q. The past production?

23 A. Yes.

24 Q. That -- Okay.

25 A. That is correct.

1 Q. Okay. Now what was the -- was there a
2 significant increase in water production from those wells
3 that you have identified there?

4 A. The water-oil ratio increased, but I don't think
5 the volume of water increased --

6 Q. Okay.

7 A. -- specifically.

8 Q. So the amount of total fluids remains fairly
9 consistent, the ratio of --

10 A. Yeah, you know, I don't have the decline curves,
11 you know, with me. I'm not prepared to talk to the
12 specific. I know that the oil-water con- -- the water-oil
13 ratio, if you will, increased and that at the time these
14 wells were abandoned, they were producing more water than
15 oil, and they were producing oil at what I would assume
16 would be uneconomic rates, and that's why the wells were
17 plugged.

18 Q. Okay. And is there a facility available to
19 remove produced water? Is there a -- Well, let me ask you
20 this: How do you -- under your proposed drilling and
21 completion approach for this well, how do you propose
22 removing the produced water?

23 A. Initially we would truck the water, and then if
24 economically viable we would try to run a pipeline to a
25 nearby water disposal well, if there is one.

1 Q. Okay. And do you know where the closest water
2 disposal well is?

3 A. We are in the process of looking for that right
4 now.

5 Q. Okay. And under your Exhibit Number 13, it looks
6 like you've only identified two 500-barrel tanks; is that
7 correct?

8 A. Where do you see that?

9 Q. Under tangible completion assets.

10 A. Production, liner, tubing, surface equipment
11 tanking and fittings -- Two 500 barrels. Yeah.

12 Q. And how do you propose to remove the produced
13 water with two 500-barrel tanks?

14 A. Trucking.

15 Q. No, are you going to remove it from those two
16 tanks, or do you anticipate other facilities being added on
17 this battery location?

18 A. I'm not sure I understand your question.

19 Q. Sure. Okay, are these both -- Do you anticipate
20 both these tanks will be production tanks?

21 EXAMINER CATANACH: Are you going to put oil in
22 the tank or water?

23 THE WITNESS: For oil or -- okay, I assume one is
24 gas and one is water.

25 Q. (By Mr. Newell) Okay, one is oil and one is

1 water?

2 A. Did I say gas? Yeah, one is oil, one is water.

3 Q. Okay.

4 A. Yeah.

5 Q. How do you anticipate separating them --

6 A. With a sep- --

7 Q. -- gravity?

8 A. With a separator.

9 Q. Okay. And is there a separator identified on
10 the --

11 A. Well, we're pumping oils. Yeah, I -- you know,
12 again, you're getting into more of the engineering and
13 completion design, and I'm -- actually my last answer was
14 speculation on my part.

15 Q. And I guess where I'm headed with this is, you
16 know, I think if we're looking at the impact that this is
17 going to have on the health and environment --

18 A. There's surface separation equipment in the AFE,
19 so that might answer your question.

20 Q. Okay, \$6000 surface separation equipment? Is
21 that right?

22 A. Surface separation equipment, six -- yeah, \$6000.

23 Q. And how is the oil to be sold? Truck, or is
24 there a line out there to sell the oil?

25 A. I'm assuming it would be trucked, but that's an

1 assumption on my part. It would be trucked early on.
2 Again, if economically viable, we could run a line
3 somewhere, if there's a viable alternative. But we're
4 anticipating oil production to be somewhat moderate.

5 Q. Okay. But at the very least, though, we -- based
6 on what you've proposed here today, even after completion
7 there will be truck traffic that's created by transport of
8 water and transport of oil, that will be present at this
9 location near the school district, correct?

10 A. Yes, sir.

11 Q. Near the school.

12 Now on Exhibit Number 11, what's the yellow-
13 shaded area?

14 A. That's our leases. Those are our leases, our
15 acreage position.

16 Q. Okay, so from an acreage position, you can go to
17 the west and directionally drill, correct?

18 A. From a mineral ownership position, yes.

19 Q. Okay, and there's not as much development in the
20 pastures to the west, correct?

21 A. I have no idea.

22 Q. Has anyone looked at that on behalf of Quest
23 Cherokee?

24 A. We do not feel it's economically viable to drill
25 a directional well.

1 Q. Okay, and that's the bottom line from Quest
2 Cherokee's standpoint, correct?

3 A. That's the bottom line. That is the bottom line,
4 yes.

5 Q. Okay. Irrespective of the impact on the rights
6 of the surface owners in Section 9, correct?

7 A. I'm not going to answer that question.

8 Q. Does Quest Cherokee have any production in the
9 Permian Basin?

10 A. I believe that's already been asked.

11 Q. No, I think I asked if it was -- had production
12 in New Mexico, and the Permian Basin --

13 A. Permian Basin, okay. No, we do not.

14 Q. Okay. Do you have any experience as a geologist
15 with working in the Permian Basin?

16 A. I have mapped several areas in the Permian Basin,
17 we have another San Andres prospect that we have leased in
18 Gaines County, we have attempted -- have looked at several
19 other projects in the Permian Basin.

20 Q. Okay. What -- Other than what you've just
21 identified, what knowledge do you personally have about the
22 production or the geology, if you will, in the Permian
23 Basin, whether that's the New Mexico portion of the Permian
24 Basin or the Texas portion of the Permian Basin?

25 A. Outside of, you know, mapping and working it over

1 the last year and a half, that's been my experience.

2 Q. Okay, do you have any -- Other than in the Raton
3 Basin, which is in northern New Mexico, do you have any
4 experience in New Mexico with the geological structures of
5 this state?

6 A. Yes, I've worked the San Juan Basin, the Raton
7 Basin, I've done some surface mapping in and around
8 Carlsbad, and then the Permian Basin oil and gas work that
9 I mentioned earlier.

10 Q. You've never -- have you ever been -- Well, who
11 was your prior employer? I think you didn't identify him,
12 but you indicated that you had some experience in New
13 Mexico with a prior employer.

14 A. I previously worked for El Paso Corporation and
15 Sonat Exploration Company.

16 Q. What was the last one? I'm sorry, I didn't hear
17 you.

18 A. Sonat, S-o-n-a-t, Exploration Company.

19 Q. Okay. And did they have oil wells, gas wells,
20 both?

21 A. Both.

22 Q. Okay, and where were those wells located in New
23 Mexico?

24 A. In New Mexico? I think the only assets that
25 either owned in New Mexico were in the San Juan Basin and

1 in the Raton Basin.

2 Q. Okay, and were those gas or were those both?

3 A. Both of those were gas.

4 Q. Okay. So really, you have very limited
5 experience with oil production from the Grayburg-San Andres
6 formation in the Permian Basin, whether it's in Texas or
7 New Mexico, correct?

8 A. I've been working the San Andres for about a year
9 and a half in New Mexico and west Texas.

10 Q. Okay. Have you ever been the geologist who
11 signed off on a drilling location in the Permian Basin in
12 the San Andres formation?

13 A. Not until this one, no.

14 Q. Okay. Have you ever been on location at a
15 drilling location into the Grayburg-San Andres unit in the
16 Permian Basin, whether it's in New Mexico or Texas?

17 A. No, I have not.

18 Q. Okay. How long have you worked for -- Do you
19 work for Quest Cherokee or just for Quest?

20 A. Quest Resource Corp.

21 Q. Okay.

22 A. I guess I work for them both. I'm not quite
23 exactly sure how that works.

24 Q. Good, I'm not either.

25 Does Quest Cherokee have -- yeah, does -- No,

1 excuse me, move back up. Does Quest Resources have any
2 Permian Basin production?

3 A. Not to my knowledge, no.

4 MR. NEWELL: I will pass --

5 THE WITNESS: This is a new venture.

6 MR. NEWELL: -- the witness, and I will assert my
7 objection now that this witness is not qualified to testify
8 as a geologist over matters relating to the Grayburg-San
9 Andres formation in the Permian Basin, whether it's in New
10 Mexico or Texas. He doesn't have the requisite background
11 and knowledge of, you know, the geology associated with
12 that, and that foundation has not been laid.

13 (Off the record)

14 EXAMINER CATANACH: Mr. Newell, this geologist
15 has developed this prospect. It seems to me he's worked
16 the area for a year and a half, he's knowledgeable about
17 the wells in this area, and we have no strict
18 qualifications on these types of situations. It's my
19 opinion that this witness is qualified, and we'll go from
20 there.

21 MR. NEWELL: Okay, I pass the witness.

22 EXAMINATION

23 BY EXAMINER CATANACH:

24 Q. Within the northwest quarter of Section 9, you've
25 chosen a location in the northeast -- the northeast quarter

1 of the northwest. Can you explain to me why that is the
2 best available location in that northwest quarter to drill
3 that well at this time?

4 A. Well, our original location was even further to
5 the east, but there were the 300-foot -- there were some
6 surface restrictions as far as how close to structures we
7 could be. So this was the best location we could get to in
8 proximity to the known control, where we felt like we could
9 get high to the original oil-water contact, encounter good
10 porosity and maintain those restrictions that we had, 300
11 feet from the structure.

12 Q. You have the entire leasehold in the northwest
13 quarter of Section 9. Would the other three 40-acre tracts
14 within that unit -- would they be inferior geologically to
15 that -- to your proposed location?

16 A. Yes, they would. They all move away from
17 control, and they all move away from the known oil
18 accumulation and move toward what we suspect may be a
19 decrease in permeability.

20 Q. So is your primary consideration, you want to
21 keep it close to where the well is produced?

22 A. That's a big part of it, yes, sir. From the
23 stated reason that these wells were actually producing
24 economic quantities at the time they were plugged.

25 Q. Would you recommend drilling a well in any of the

1 other quarter quarter sections in that area?

2 A. Upon success of this well I would, yes.

3 Q. Now this, I guess -- you're calling it the Bishop
4 field. This is a separate -- in your opinion, this is a
5 separate producing interval than from the Hobbs field,
6 right?

7 A. A separate reservoir.

8 Q. It is a separate reservoir?

9 A. That's our speculation. And the reason for that
10 would be, you can correlate, perhaps, that the same
11 porosity zone that is productive in Bishop Canyon field is
12 a similar stratigraphic equivalent to the zone that's
13 productive in the Hobbs field, but there were a number of
14 wells drilled in between the two fields that were non-
15 productive, so there has to be some separation between
16 them.

17 And you can see, you know, wells immediately
18 updip of the current field, of the Bishop Canyon field,
19 were dry holes, and they tested the San Andres.

20 Q. You're referring to wells in Section 5 and
21 Section 3 and Section 4?

22 A. Wells in Section 10 and Section 9, and -- up --
23 yeah, updip is to the south.

24 Q. Okay. Now, this is -- Is it strictly San Andres,
25 and there's no Grayburg interval?

1 your Exhibit 14, your economic analysis --

2 A. Yeah.

3 Q. -- just so I understand it. Of course D&C means
4 drilling and completion, right?

5 A. Yeah, yeah.

6 Q. And ROR is rate of return?

7 A. Uh-huh.

8 Q. And Inc/Inv, what does that mean?

9 A. That's income to investment, and I see a mistake
10 on this one. Those are actually reversed.

11 Q. Okay --

12 A. The income to investment, that's -- the 60 cents
13 goes on the straight hole, and the 30 cents goes to the
14 directional well.

15 Q. Could you explain what that --

16 A. That is basically a discounted return. In other
17 words, you make for every dollar -- for every dollar that
18 you invest, you make 60-cent discounted return on that
19 investment.

20 Q. In other words, does that -- You take the amount
21 of money you're going to make over the life of the well,
22 and you discount it to present value, and you figure that
23 the amount of money that you're going to make is 60 cents
24 for every dollar that you --

25 A. That's correct.

1 Q. Okay, I think I under- --

2 A. And that's unrisksed, yeah.

3 Q. Okay --

4 A. And then --

5 Q. -- F&D, what does that mean?

6 A. That's find and development cost.

7 Q. Okay. So your cost, then, would be \$33 per

8 barrel?

9 A. Per barrel of oil equivalent. That's --

10 Q. Okay.

11 A. -- the gas has been converted to oil --

12 Q. Right.

13 A. -- using six to one.

14 Q. What price are you assuming to get this rate

15 of --

16 A. I believe this was based on a \$55 flat price.

17 Q. Okay. And then when you say 2000-foot kick, that

18 means moving the well 2000 feet --

19 A. -- and drilling directionally.

20 Q. -- and drilling directionally.

21 A. That is correct.

22 Q. Okay, are you familiar with this -- I should have

23 asked the previous witness, but are you familiar with this

24 Exhibit 3 that shows the well pad, and then a second sheet

25 that shows -- a drawing of some of the things in the

1 vicinity?

2 A. I've seen -- yes, I've seen the plat. The second
3 sheet I'm not familiar with.

4 Q. Okay. Well, that's -- really, the second sheet
5 was what I was going to ask about. And as I said, I should
6 have asked the previous witness about that, so I won't ask
7 any questions.

8 The lease -- well, this yellow area is all -- the
9 yellow area outlines all the leases that you've had in the
10 area, right?

11 A. That is correct.

12 Q. And this lease -- this particular lease is only
13 the northwest quarter of Section 9, correct?

14 MR. BRUCE: That's correct, Mr. Examiner.

15 MR. BROOKS: That's what I thought.

16 MR. BRUCE: That's Exhibit --

17 MR. BROOKS: I think that's all my questions.

18 EXAMINER CATANACH: Anything further of this
19 witness?

20 MR. BRUCE: No, sir.

21 EXAMINER CATANACH: This witness may be excused.
22 Does that take care of your presentation, Mr.
23 Bruce?

24 MR. BRUCE: I'm done.

25 EXAMINER CATANACH: Okay, I guess it would be a

1 good time to take a lunch break.

2 MR. NEWELL: Yes. One of our witnesses is not
3 going to testify, so we'll -- it should be shorter. And
4 what I anticipate is beginning with Bruce and maybe putting
5 on the people by telephone after Bruce, and then Lee is my
6 follow-up witness, and I think we ought to -- depending on
7 cross, I think from our standpoint an hour ought to -- hour
8 and 15, 20 minutes, ought to handle the time necessary for
9 our portion.

10 EXAMINER CATANACH: You won't ask any cross, will
11 you?

12 (Laughter)

13 MR. BRUCE: On the other hand, Mr. Examiner, you
14 know I'm usually pretty brief --

15 EXAMINER CATANACH: I know --

16 MR. BRUCE: -- on cross-examination.

17 EXAMINER CATANACH: -- I know.

18 Okay, let's take a break, and we'll reconvene
19 about 1:30.

20 (Thereupon, noon recess was taken at 12:18 p.m.)

21 (The following proceedings had at 1:34 p.m.)

22 EXAMINER CATANACH: Okay, let's get started then.
23 Call the hearing back to order, and at this time I'll turn
24 it over to Mr. Newell.

25 MR. NEWELL: Your Honor, at this time the

1 Intervenor will call Bruce Baizel.

2 EXAMINER CATANACH: Okay.

3 MR. NEWELL: And I believe Mr. Baizel has been
4 sworn in, but the rest of our witnesses, I think, still
5 have to be sworn in.

6 EXAMINER CATANACH: And are we going to try and
7 call the other parties on the phone?

8 MR. NEWELL: When there -- comes time for them to
9 testify, and I anticipate calling them as soon as Mr.
10 Baizel is complete.

11 EXAMINER CATANACH: Okay.

12 MR. NEWELL: And I appreciate the accommodation
13 of counsel and the Commission in that regard. I mean, it
14 was kind of dicey traveling yesterday from the southeast,
15 and --

16 EXAMINER CATANACH: Oh, yeah, we do it all the
17 time with our own witnesses, so it's totally
18 understandable.

19 MR. NEWELL: Appreciate that.

20 BRUCE BAIZEL,

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. NEWELL:

25 Q. Would you please state your name?

1 A. Bruce Baizel.

2 Q. And Mr. Baizel, where do you live?

3 A. I live in Hesperus, Colorado.

4 Q. Okay, and what do you do?

5 A. I'm the staff attorney for the Oil and Gas
6 Accountability Project, which is a nonprofit organization
7 based out of Durango.

8 Q. Are you licensed to practice law anywhere?

9 A. I'm licensed in Colorado, have been since 1986.

10 Q. Okay, so for 20 years, then, you've been a
11 licensed practicing attorney?

12 A. That's correct.

13 Q. Any particular areas of practice that you
14 specialize in?

15 A. Environmental law. Most of those 20 years have
16 been on environmental law in various forms. The last four
17 years I've been employed full time by OGAP, as we call it,
18 working on nothing but oil and gas issues.

19 Q. Okay. Would you please state for the record what
20 OGAP is?

21 A. Oil and Gas Accountability Project.

22 Q. Okay, and are you staff counsel for --

23 A. I am.

24 Q. -- Oil and Gas Accountability Project, or OGAP?

25 A. Yes, I am.

1 Q. Okay. All right, and you're comfortable if I use
2 the acronym OGAP?

3 A. That's fine.

4 Q. Okay.

5 A. I'm sure I'll probably use it as well.

6 Q. Okay. And why don't you tell me what OGAP is?

7 A. As I said, we're a nonprofit organization. We
8 work on nothing but oil and gas issues. The organization
9 was formed in 1999. I came on board at the end of 2001.
10 It primarily deals with the impacts of oil and gas, as
11 opposed to the production end of things. And so in my work
12 what I am dealing with usually is phone calls from either
13 surface owners, or I do a lot of consulting with local
14 governments and, to some extent now, in both the Colorado
15 and New Mexico Legislature in drafting legislation dealing
16 with oil and gas.

17 And usually when we get called and when I get
18 called, it's a surface owner that has an issue with a
19 particular well, either before it's been drilled or that
20 impacts afterwards. So that's a lot of what I've been --
21 my day-to-day work.

22 Q. Have you ever testified before any commissions or
23 anything in any oil and gas producing states?

24 A. No, I've not -- I've been on the other side of
25 things; I've been asking the questions, but I've not

1 testified.

2 Q. Okay. And you have a -- what's the basis of your
3 -- Well, let me ask you this. Since the last four years of
4 working with OGAP, you have acquainted yourself with
5 various, I guess, issues relating to the impacts of oil and
6 gas exploration, particularly in the intermountain west,
7 correct?

8 A. Actually across the country --

9 Q. Okay.

10 A. -- from Pennsylvania, Michigan, Alabama, and then
11 from New Mexico north, and then up into Alaska. And I
12 would say probably upwards of 300 individual surface owners
13 that I have either advised or dealt with during most of
14 that time. So that's the basis for the experience.

15 Q. And you've dealt with surface-owner issues,
16 correct?

17 A. That's correct.

18 Q. And in fact, you earlier this morning were over
19 at the Legislature on a committee meeting for the surface
20 on a protection act that's being debated in the State of
21 New Mexico, correct?

22 A. That's correct.

23 Q. And what was your role in formulating that piece
24 of -- or that bill that's going through the legislative
25 process?

1 A. I did the initial drafting, and then I've been
2 involved in the negotiations with the New Mexico Oil and
3 Gas Association and the Independent Producers Association
4 on that bill.

5 Q. So you have an independent basis of knowledge
6 about oil and gas matters and how they impact surface
7 owners and --

8 A. That's correct.

9 MR. NEWELL: Okay. I would tender Mr. Baizel as
10 an expert to testify as to the impacts of oil and gas
11 production on surface owners.

12 EXAMINER CATANACH: Any objection?

13 MR. BRUCE: Only insofar, Mr. Examiner, as it
14 concerns the area of law. If it gets into engineering,
15 geology, chemistry, anything like that, I would object.

16 EXAMINER CATANACH: Okay, we'll qualify the
17 witness.

18 MR. NEWELL: And in that regard I think, you
19 know, he can speak to the basis of his knowledge, and this
20 Commission would obviously have the ability to weigh that.
21 To the extent I understand that objection, I think it may
22 be one that goes to weight instead of admissibility,
23 depending on the question, but I think we can get into
24 that.

25 MR. BROOKS: Well --

1 MR. NEWELL: Depends on what I ask him,
2 obviously.

3 MR. BROOKS: Yeah, I -- You know, I used to be a
4 district judge in a former life, and I always sort of had
5 the idea that all objections to the qualifications of
6 experts went to weight rather than admissibility, but the
7 Supreme Court didn't seem to agree.

8 MR. NEWELL: It's not a bright line, is it?

9 MR. BROOKS: No. We will continue, subject to
10 Mr. Bruce raising specific objections to specific
11 testimony --

12 MR. NEWELL: You know, and I have --

13 MR. BROOKS: -- if that's okay with the Examiner.

14 MR. NEWELL: I have no objection giving him the
15 same leeway you all afforded me this morning in dealing
16 with his geologist, if that's all right.

17 EXAMINER CATANACH: Okay.

18 Q. (By Mr. Newell) Mr. Baizel, would you, I guess,
19 share with me some concerns you have? And first of all,
20 let's talk about in the area of notice. Have you had the
21 chance to look at this particular situation and the notice
22 issue involved?

23 A. Well, as I understand the OCD Rules, the only
24 notice requirement in a matter like this would be if it's
25 within a municipality or village, and so the surface owner

1 upon whom a well is proposed has -- there's nothing in the
2 regulation that requires notice.

3 Q. Okay, and that would be under Rule 102, correct?

4 A. Yes.

5 Q. Okay. And in your experience is New Mexico
6 unique in this regard, in terms of the lack of notice, if
7 you will, that's given to surface owners that are impacted
8 by a drilling location?

9 A. I don't know of another western state that
10 doesn't require notice currently.

11 Q. Okay.

12 A. It doesn't mean that the surface owner has rights
13 in terms of where an actual location would be, but in terms
14 of just the notice part, just about every state that I'm
15 aware of has a notice provision for the surface owner.

16 Q. Okay. And you've had occasion to look at the
17 notice in this particular matter, correct?

18 A. Yes, I have seen it.

19 Q. And I'll ask you to look at Exhibit Number 1,
20 Intervenor's Exhibit Number 1, that should be up there.
21 And do you recognize that to be the notice of this hearing?

22 A. Yes, they're on the second page.

23 Q. Okay.

24 A. I do.

25 Q. And in this notice does it identify that this

1 well is going to be located approximately five miles north
2 northwest of Hobbs, New Mexico?

3 A. That's what's written here, yes.

4 Q. Okay. And are you familiar with the relative --
5 well, let me -- I'll refer that -- You have seen that
6 notice, correct?

7 A. Yes, I have.

8 Q. And did you pull it off of the New Mexico Oil
9 Conservation Division website when you reviewed it?

10 A. Yes, I did --

11 Q. Okay --

12 A. -- and I printed a copy --

13 Q. -- and is that the same notice --

14 A. It is the same notice, yes.

15 Q. Okay, I'd move the introduction of Intervenor's
16 Exhibit Number 1.

17 EXAMINER CATANACH: Any objection, Mr. Bruce?

18 MR. BRUCE: No objection.

19 EXAMINER CATANACH: The only -- My exhibits
20 aren't numbered, as far as I can tell.

21 MR. NEWELL: Yeah, Number 1 -- and I'm sorry, it
22 was the notice that we --

23 MR. BRUCE: Mr. Examiner, it's the Division's
24 docket.

25 EXAMINER CATANACH: Okay, okay.

1 MR. NEWELL: That would be Exhibit Number 1, and
2 I'll --

3 EXAMINER CATANACH: Just if you could identify so
4 I can write on them as we go. I'm not sure why those don't
5 have numbers on them.

6 MR. NEWELL: I think the reason they don't have
7 numbers is my fault, but I wasn't sure about the numbering
8 system. And I did go ahead and start numbering some with
9 the court reporter, and I'll make sure that I clearly
10 identify the numbers that we're attaching to the exhibits,
11 okay?

12 EXAMINER CATANACH: Okay. Did we already -- we
13 already had some exhibits -- or those are the same ones --

14 MR. NEWELL: One and 2.

15 EXAMINER CATANACH: -- we're working on now?

16 MR. NEWELL: Yeah, 1 and 2. I don't think
17 they've been introduced.

18 EXAMINER CATANACH: Okay.

19 MR. NEWELL: They were just discussed.

20 EXAMINER CATANACH: All right.

21 MR. NEWELL: Okay.

22 EXAMINER CATANACH: Exhibit 1 will be admitted.

23 Q. (By Mr. Newell) Okay. Now you've had occasion
24 in your employment to look at specific impacts of oil and
25 gas, correct?

1 A. That's correct.

2 Q. You have a book that has been put together by
3 OGAP; is that correct?

4 A. That's correct.

5 Q. Okay. And would you tell the Commission what
6 this book is?

7 A. This book, *Oil and Gas at your Door? A*
8 *Landowner's Guide to Oil and Gas Development*, we prepared
9 that based on our experience and research, first in 2004,
10 and then we updated it in 2005, to try to address from
11 start to finish in the oil and gas production process
12 through the reclamation, what kinds of impacts a surface
13 owner could expect to experience during that process.

14 And so my part in the production of this was to
15 review the entire document. I was the primary preparer for
16 Chapters 2 and 3 -- 2 is the legal and 3 is the Tips for
17 Landowners -- and then I supervised the woman that actually
18 put the document together. So that's sort of our
19 organizational expertise as of 2005. It's expensive to
20 keep updating it, so now we do it by website.

21 Q. Okay. And I believe beginning on page Roman
22 numeral I-8, it talks about the drilling process, correct?

23 A. Correct.

24 Q. And this drilling process identifies various
25 things, site selection, site preparation, rigging up and

1 spudding in; is that correct?

2 A. That's correct.

3 Q. And so you're familiar with -- and on the next
4 page it goes to the Exploration Stage - Issues and Impacts,
5 correct?

6 A. Correct.

7 Q. Okay. And would you share with the Commission
8 some of the issues and impacts that are expected when oil
9 and gas drilling occurs?

10 A. Well, I think, if I may, page I-42 --

11 Q. Okay.

12 A. -- and the succeeding pages through to I-62 are a
13 summary of the health, safety, quality-of-life type issues
14 that we are often dealing with. So it's those issues that
15 I feel that my expertise is most oriented towards --

16 Q. All right.

17 A. -- and those would be the pages I would direct
18 your attention to.

19 Q. Would you share with the Commission some of those
20 health, safety, quality-of-life and environmental issues
21 that have been identified?

22 A. Well, I think the initial one -- and I was
23 listening to the testimony this morning regarding land
24 values. La Plata County where I reside and with whom we
25 consult at times -- we consult with the county government

1 -- has quite a bit of coalbed methane development, as well
2 as regular natural gas, not that many oil wells. But when
3 they were faced with a downspacing proposal early 2001,
4 2002, from BP, they conducted a -- hired a consultant, did
5 a comprehensive study of various impacts they could expect.

6 In my experience, one of the items that they did
7 has not been duplicated elsewhere, and that's what I would
8 like to draw your attention to.

9 On page I-44, it references a study conducted in
10 La Plata County, and it found that -- an overall increase
11 in housing values during the 10-year period. What it also
12 found -- and it looked at a little over 170 different sales
13 -- properties that were sold -- it found a 22-percent
14 decrease in sale value for those properties that had a well
15 located on them. And --

16 Q. Mr. Baizel, let me interrupt you for just a
17 moment. Do you have an exhibit that -- or do you have a
18 document before you that would be the study you're making
19 reference to?

20 A. Yes, the study was titled "La Plata County Impact
21 Report, October, 2002". It is currently available on their
22 website still. It's about a 300-page report. I didn't
23 print the whole report off. What I have is the executive
24 summary.

25 Q. This is a public document?

1 A. It is, it's --

2 Q. It's maintained by La Plata County?

3 A. That's correct.

4 Q. Okay, and it's --

5 A. -- and it's still there, I checked before I came
6 down yesterday.

7 Q. Let's identify that as Exhibit Number 4, if you
8 will.

9 MR. BROOKS: Is that the same document that says
10 "Exhibit 2" here in our stacks?

11 THE WITNESS: Yeah, that was my numbering the
12 night before --

13 MR. NEWELL: And I didn't have enough foresight
14 this morning to begin with 7.

15 THE WITNESS: In that exhibit, if you look at
16 E-2, it gives a bit more detail on the work by BBC Research
17 and consulting. But to my knowledge, that is the only
18 systematic study that has looked at the impact of an oil or
19 gas well on property value. There's a lot of anecdotal
20 evidence one way or the other, but this is the only study
21 that we have been able to find.

22 Q. (By Mr. Newell) Okay, and this study shows a
23 decline in value of 22 percent, correct?

24 A. Correct.

25 MR. NEWELL: Okay. I would move the introduction

1 of Exhibit Number 4.

2 MR. BRUCE: I would object on relevancy. This
3 has to do with La Plata County, Colorado, not Lea County,
4 New Mexico.

5 MR. NEWELL: I'll address that. First, I think,
6 on relevance it goes to the rights of surface owners,
7 correlative rights, if you will, which I think is a part of
8 this Division's duty to look at the impact of correlative
9 rights. It's a study that's been done in another oil and
10 gas producing area on the impacts of oil and gas
11 development on property values. It is not Lea County, but
12 it is some evidence that does show that there is a negative
13 impact on surface owners' property values by oil and gas
14 development.

15 I think it is relevant, and I think it's
16 consistent with the Commission Rules that I read this
17 morning to allow this information to be presented to the
18 Division and for it to be considered in that context.

19 MR. BRUCE: Mr. Examiner, I suppose that's as
20 relevant as, in Intervenor's Exhibit 3, on page I-44, when
21 it states in there that, In some Wyoming counties, housing
22 values, in general, have increased due to the boom because
23 of extra jobs. I think this is all just speculative, and
24 it has nothing to do with Lea County, New Mexico.

25 EXAMINER CATANACH: Well, I'm going to go ahead

1 and admit it, and I will give it the consideration that I
2 think it is due.

3 Q. (By Mr. Newell) All right. Mr. Baizel, now I'll
4 ask you to go back to your exhibit -- what we identified as
5 Exhibit Number 3, which is the *Oil and Gas at your Door?*

6 OGAP --

7 A. Uh-huh.

8 Q. -- publication.

9 A. Yes.

10 Q. Now what are some other impacts that are present
11 when oil and gas development occurs?

12 A. The testimony this morning that I was hearing,
13 and particularly with regard to truck traffic, but also
14 what -- OGAP was a party to the rulemaking in Colorado
15 regarding formulation of a noise regulation for oil and gas
16 operations in Colorado, and that was passed in 2005, it was
17 amended in 2006.

18 As part of that involvement on a task force,
19 working group, stakeholder group, we worked through the
20 literature on what kinds of noise levels could be expected
21 from oil and gas operations. And I also draw your
22 attention to page I-45 in *Oil and Gas at Your Door?*, which
23 were measurements taken in La Plata County as well.

24 In general, what we have found, both in that
25 Colorado rulemaking process but in terms of these

1 measurements is, noise is often expressed in DBAs, which is
2 -- I don't -- I'm not testifying as to what that exactly
3 means, that's just the common level at which noise is
4 expressed. It's used in -- with the regulations that
5 address noise.

6 In general, the noise levels from an oil and gas
7 operation tend to be between 50 and between 85 and 90 DBAs,
8 based on actual measurement. And I think -- I don't know
9 if -- I guess it would be a matter of notice, but at least
10 in Colorado they limit the noise that may be produced 350
11 feet from a well site to 50 and 55 DBA, because of all the
12 noise complaints.

13 Q. And did you bring that Colorado regulation?

14 A. I did.

15 Q. And is that --

16 A. It's --

17 Q. -- identified --

18 A. -- Rule --

19 Q. -- as --

20 A. -- 802.

21 Q. Yeah, I'm sorry, what?

22 A. It's their Rule 802.

23 Q. Okay, and is it a page entitled "Aesthetic and
24 Noise Control Regulations"; is that correct?

25 A. Correct.

1 Q. Okay, and this is, again, a regulation that's
2 maintained by the State of Colorado relating to noise
3 abatement; is that correct?

4 A. That's correct, it's maintained by the Colorado
5 Oil and Gas Conservation Commission.

6 Q. And you pulled this off yourself, correct?

7 A. I did.

8 Q. And it's a public record?

9 A. It is.

10 MR. NEWELL: Okay. I'd move the introduction of
11 what we've identified as Exhibit Number 5, the "Aesthetic
12 and Noise Control Regulations", including Rule 802, from
13 the State of Colorado.

14 MR. BRUCE: No objection, Mr. Examiner.

15 MR. BROOKS: Now, this is not what's been marked
16 as Exhibit 5 in our stack?

17 MR. NEWELL: No, it will be Exhibit 3 in your
18 stack. Everything is two numbers off because of the fact I
19 had a 1 and 2 identified this morning.

20 MR. BROOKS: Okay, I'm not finding it --

21 MR. NEWELL: May I --

22 MR. BROOKS: Well, the Examiner has got it. It
23 doesn't particularly matter that I do or not. Go ahead.

24 MR. NEWELL: I have a copy here.

25 EXAMINER CATANACH: The -- That's Exhibit 5?

1 MR. NEWELL: Yes.

2 EXAMINER CATANACH: Exhibit 5 will be admitted.

3 Q. (By Mr. Newell) All right. So did they do any
4 studies on particular types of activities, such as truck
5 traffic or anything like that, that identified the decibel
6 levels or the DBAs relating to those activities?

7 A. Well, as I said, the range tended to be between
8 50 and 85 DBA for the whole gamut of oil and gas drilling,
9 production activity. It depends whether you're talking
10 about trucks or whether you're talking about compressors.
11 There's variation there. We're talking about oil here, so
12 you wouldn't have a compressor; you'd have the truck
13 traffic and the drilling rig, would be the two primary
14 sources of noise there.

15 Q. And you're familiar with this Application; I've
16 asked you to look at this Application, correct?

17 A. Yes, I have.

18 Q. Is there anything in the Application that
19 suggests that Quest Cherokee or the Applicant has put in
20 measures to protect from the noise impacts associated with
21 this drilling?

22 A. I didn't see anything in the Application. I
23 heard reference in the testimony this morning to maybe
24 using electric motors to address noise issues in other
25 contexts; that's often done on a wellhead.

1 Q. That was on the production side though, correct?

2 A. That's correct.

3 Q. And when he was talking about electric motors in
4 testimony today, I believe the witness was talking about
5 using electric motors in the drilling process, correct?

6 A. I think you're right, and -- correct.

7 Q. Okay. So other than that, did you hear of any
8 effort made by the Applicant to address the noise issues
9 that are going to be relevant to this particular drilling
10 location?

11 A. I heard nothing, and I've seen nothing in the
12 materials.

13 Q. Okay. Now let's leave noise behind us for a
14 minute. What other impacts do you anticipate?

15 A. One of the issues that we have been asked to
16 address has been hydrogen sulfide. We've done some
17 monitoring on sites in Alabama. As part of a internship we
18 had a student from University of California, Berkeley,
19 working with us last year, and as part of her master's
20 degree she was looking at what kinds of studies have been
21 -- and measurements of H₂S, hydrogen sulfide, have been
22 done, and she prepared a paper which laid out those
23 results.

24 As part of her research, she identified with the
25 sister New Mexico Environment Department agency, some

1 monitoring that they did in 2002. And they did it in the
2 southeast part of New Mexico, and the results were that
3 there were levels of H₂S above ambient level, and it varied
4 depending on what kind of oil and gas facility you were by,
5 or a dairy farm, or they also looked at municipal waste
6 facilities.

7 It would be consistent, I think, with the
8 testimony earlier this morning that you're expecting some
9 H₂S from this well. How much, I don't know, and I
10 couldn't...

11 Q. And they didn't address how they were going to
12 handle the H₂S, other than to say they would comply with
13 whatever regulations are appropriate, right?

14 A. This morning that was what I heard, that's
15 correct.

16 Q. Now what other concerns did you have, or what
17 other issues do you anticipate the surface owners would
18 have to deal with, with respect to this oil and gas
19 drilling location? Do we have issues of dust?

20 A. I guess -- Yeah, I mean, truck traffic generates
21 dust. I have not seen the roads. I don't know if you're
22 on a dirt road or a paved road. But in the San Juan Basin
23 one of our staff members is a member of the air quality
24 task force, which is operating up there -- it's organized
25 by New Mexico Environment Department -- and they are trying

1 to determine the relative contributions of actual oil and
2 gas operations, versus vehicle traffic, versus power
3 plants. And that information is all available through the
4 NMED website in terms of what their recommendations are,
5 but dust is a significant issue up there, at least in the
6 San Juan Basin, and air quality.

7 Q. Okay. And you also have other airborne
8 contaminants or substances, including volatile or organic
9 chemicals, or VOCs, correct?

10 A. Yes, what I heard in the testimony this morning
11 was that there would be oil, water and some gas. At least,
12 that's the historical -- what's been produced from these
13 wells that are now plugged and abandoned.

14 We have gotten involved in a Colorado rulemaking
15 on the VOC part of it because the volatile organic
16 compounds, if -- depending on what's done with the gas --
17 if those are just emitted into the air, the medical
18 literature is such that -- it is accepted EPA state health
19 departments that VOCs are linked with increased levels of
20 asthma.

21 So it would depend on what their production
22 process was. If they were to capture the gas, then it
23 would not be such an issue. But if they're just going to
24 vent it, then you could see some health issues related to
25 VOCs.

1 Q. And technologically they are able to capture the
2 gas, correct? You could put production facilities that
3 basically capture the gas and recirculate it into the
4 production stream, correct?

5 A. That's correct. Williams does that quite a bit
6 in western Colorado -- green completion, they call it --
7 and they can capture up to 90 percent in their production
8 process.

9 Q. Okay. Now given the location of this facility to
10 a school where you might have, you know, the impacts of
11 asthma felt more acutely by students, do you think that
12 would be an appropriate condition to put on this production
13 facility, would be that their facilities recapture the gas
14 that's either emanated from or produced from production?

15 MR. BRUCE: And I would object to this question
16 and anything along this line, because it has to -- he would
17 be testifying not only as an engineer but a public health
18 expert.

19 MR. NEWELL: My response would be, he's someone
20 who's looked at oil and gas issues. He's testified that
21 they worked with the New Mexico Environmental Department in
22 formulating studies of H₂S, other compounds that are also
23 produced and airborne. I think he's certainly able to
24 speak to the fact that -- although I think the ultimate
25 determination rests with the Division, and so you can

1 accept his testimony or not accept his testimony.

2 But I think this would be one of the things that
3 would fall in -- potentially under the terms and conditions
4 or, you know, clause, if you will, that you all have in the
5 approval process. I think you all -- It's not just a yes
6 or no answer for the Division. The Division could say yes,
7 with these conditions attached. And I think no one thus
8 far has been in a position to speak to, you know, what some
9 of these conditions are.

10 I submit -- I think it's the Applicant's
11 position, or responsibility, to tell this Division, you
12 know, here's our concerns, here's what's going on at this
13 location, and here's how we can address health,
14 environmental and correlative rights issues. But they
15 didn't do that.

16 So I'm trying the best I can to present that type
17 of information to this Division so that they can consider
18 these things as they consider this Application.

19 (Off the record)

20 EXAMINER CATANACH: We'll let the witness answer
21 the question. But again I will determine, when we decide
22 the case, how much weight to give to his testimony.

23 MR. NEWELL: All right --

24 THE WITNESS: Could you repeat the question,
25 please?

1 Q. (By Mr. Newell) Sure. Would a closed system
2 that captured the vapors be something that -- whether
3 they're H₂S vapors or VOCs or anything like that, would
4 that be something that you think would be prudent, given
5 the location and its proximity to residences and school and
6 things of this nature?

7 A. The health literature that I reviewed and then
8 prepared submissions to the Colorado Air Quality Control
9 Commission, which regulates air emissions from oil and gas
10 in Colorado, identified two at-risk populations, and that
11 was the young and the old.

12 And so when I looked at the Application, and you
13 had a school and you had an assisted-living facility, in
14 terms of the literature that's out there that we gathered
15 and submitted and certainly accepted by industry in
16 Colorado, those are two at-risk populations close by. So
17 it would seem to me it would be prudent if they were not to
18 vent these things in close proximity to these facilities.

19 Q. Now you have a -- have you done any studies to
20 show, like for example, what a gas well would produce in
21 terms of tons of VOCs?

22 A. The best information that we have, the study in
23 Colorado, 16 tons of VOCs in a single completion. Now
24 that's a gas well.

25 Q. And you understand this is a dual-completion

1 well, oil and gas?

2 A. I understand, and I don't know what the mix would
3 be. The data we have for a gas well, 16 tons was the
4 figure. Given the fact that it's an oil and gas well,
5 there's a spill hazard associated with this too, correct?

6 A. Spills happen, yes.

7 Q. Okay. And did you hear of any particular
8 testimony this morning about how they plan on addressing
9 spills or keep spills from happening or, in other words,
10 protecting the environment in the area from the effects of
11 the oil and gas operations that they're proposing?

12 A. I heard nothing in the testimony this morning
13 about spill-prevention plans or those sorts of things.

14 Q. Okay. Now finally, are there chemicals and muds
15 used in the drilling process?

16 A. As a general industry practice, yes. What we
17 have done -- OGAP and I supervised this -- we have gone to
18 the -- under federal law, service providers, particularly
19 Halliburton, BJ, Schlumberger, are required to report
20 chemicals used in both oil and gas production that they may
21 store or have on site above a certain volume, and those are
22 the Tier 2 forms which are maintained -- I believe in New
23 Mexico it's through emergency preparedness offices.

24 We accessed that database, and then through time
25 we have been copying MSDS sheets and making an inventory of

1 what's being used in drilling, reworking operations. As
2 part of that, then, we're working with two PhD chemists in
3 Colorado, Mary Bachran and Theo Coburn, and they have
4 produced a database for us of chemicals that are listed on
5 those sheets or in those Tier 2 reports. So it actually is
6 public data. It's available out there.

7 What we have done is brought it into a single
8 database, and that's "Chemicals used in -- " it actually
9 should read " -- Oil and Natural Gas -- " because the
10 sheets don't differentiate, so...

11 Q. And that's a document that at the bottom of it,
12 you've identified it as Exhibit 5, but what we'll call it
13 now is Exhibit 7; is that correct?

14 A. That's correct.

15 Q. Okay, and this is a -- this is a chemical listing
16 that OGAP has put together, based on information that was
17 available to the public sector; is that correct?

18 A. That's correct.

19 Q. Okay. And this information is maintained by
20 OGAP; is that correct?

21 A. That's correct, OGAP and TEDX. Mary is actually
22 the one who physically maintains the database on her
23 computer.

24 Q. And there's a variety of chemicals identified
25 here, and it looks like they're listed in alphabetical

1 order; is that correct?

2 A. That's correct.

3 Q. Okay. And are these like additive chemicals? Is
4 that what these would be?

5 A. You'll see a third column. The third column
6 lists the purpose. That information comes from either --
7 from the reporter, so either from Halliburton or from the
8 actual operator on the MSDS. So if they call it a foaming
9 agent, that's what's listed here. If they call it a
10 friction reducer, additive, gellant, crosslinker, biocide,
11 that is pulled directly from those form.

12 MR. NEWELL: Okay. I'll introduce or tender
13 Exhibit Number 7, a document entitled "Chemicals used in
14 Natural Gas Development and Delivery in New Mexico", as
15 Exhibit Number 7.

16 MR. BRUCE: I don't know if -- Mr. Newell never
17 attempted to introduce Exhibit 6.

18 MR. NEWELL: I haven't introduced 6 or 3. I
19 still have to go back and clean those up.

20 EXAMINER CATANACH: Any objection to 7, Mr.
21 Bruce?

22 MR. BRUCE: Not to 7.

23 EXAMINER CATANACH: Exhibit 7 will be admitted.

24 Q. (By Mr. Newell) Okay, let's go back a minute and
25 then pick up. There's a document that's entitled "Hydrogen

1 Sulfide, Oil and Gas, and People's Health". Do you see
2 that, Mr. Baizel?

3 A. Yes, I do.

4 Q. Okay. Would you tell the Division what this
5 document is?

6 A. It is a portion of a master's thesis, referenced
7 earlier. Ms. Skrtic was an intern with us last year, 2006.
8 She prepared -- she did the research with us on H₂S, and
9 this printed portion here is the part that's relevant to
10 New Mexico. The entire paper is available on our website
11 currently, publicly available, it's about a 70-page paper.
12 And she was looking at how -- H₂S's health impacts and how
13 it is regulated in the various states, and that's what this
14 paper was.

15 Q. Let me call your attention to page 6 of that
16 paper.

17 A. Yes, sir.

18 Q. And do you see at the top of the page where it
19 talks about the fact that the regions with the highest or
20 the largest percentage of proven reserves with at least
21 four parts per million hydrogen sulfide are the eastern
22 Gulf of Mexico, Overthrust and Permian Basin?

23 A. I see that, yes.

24 Q. And is the Permian Basin, including southeast New
25 Mexico, depicted on the Figure 1 map that's also found on

1 page 6?

2 A. Yes, it is depicted there.

3 Q. Okay. In the event there's a flaring of hydrogen
4 sulfide, it produces sulfur dioxide, correct?

5 A. Yes, that's what the literature says. I've not
6 personally experienced it.

7 Q. Okay, that's according to the paper then,
8 correct?

9 A. Uh-huh.

10 Q. And this paper is peer-reviewed, correct?

11 A. It was a thesis for a master's project, so it was
12 reviewed by her committee. It is not what would be called
13 peer-reviewed in the scientific literature.

14 Q. Okay, it's been reviewed for purposes of a
15 master's thesis, correct?

16 A. That's correct, which she did receive.

17 Q. Okay. And is this the paper that is utilized by
18 OGAP in their dealings with surface issues related to oil
19 and gas production?

20 A. It is. It summarizes what the various states
21 have done in terms of regulation of hydrogen sulfide, and,
22 if there has been data collection, what those levels were.

23 Q. Okay. And does this -- Well, let me ask you
24 this. Is this information that you thought would be
25 relevant to consideration by this Division in formulating

1 their decision on whether to grant this Application or not
2 and in considering what, if any, qualifications,
3 restrictions or requirements they may put on the Applicant,
4 if the Application is granted?

5 A. If I could reframe that, please?

6 Q. Yeah.

7 A. In reviewing the materials that you sent up as
8 far as the Application, and based on our knowledge that
9 hydrogen sulfide in southeast New Mexico has historically
10 been an issue, there was nothing in the Application
11 materials that indicated the presence, absence, level of
12 hydrogen sulfide that would be expected from this well.
13 Therefore, this information was the best we could draw from
14 for the Permian Basin, in particular the New Mexico
15 sampling that begins on text page 37, for what might be
16 expected down here if you have no actual sampling.

17 Depending on what level of hydrogen sulfide -- I
18 mean, the OCD has a regulation that may kick in and require
19 an evacuation plan. But in the absence of any sampling
20 that can't be addressed, so this was -- the purpose for
21 this was, it was the best information we had on H₂S down
22 there.

23 Q. Given the nature of this location by a school and
24 the fact that they anticipate producing from a formation
25 that has hydrogen sulfide, would it be your recommendation

1 to the Division that the -- if they grant the Application,
2 that the evacuation plan should be in place immediately to
3 address the issues of an evacuation for the school or the
4 assisted living --

5 MR. BRUCE: And I'm going to ask Mr. Newell to
6 explain whose evacuation plan?

7 Q. (By Mr. Newell) I think it's Quest's evacuation
8 plan.

9 A. My understanding of Rule 118 for the OCD is, if
10 you have a reasonable expectation of a certain level of
11 hydrogen sulfide, then it is required that you have an
12 evacuation plan, and the first question for me would be
13 some data sampling, what do you expect to get out of there?
14 I was hoping to hear that this morning. Maybe it's low
15 enough that it's not an issue, but I didn't hear that.

16 So to me, then, the prudent thing is to go out
17 and -- well, okay, is it going to be -- I mean, the reg is
18 very specific, 118, about if you have so many parts per
19 million, this level and so on. It's an OCD Rule, and I
20 just didn't see the data, so...

21 MR. NEWELL: And you know, with that we'll move
22 on from that, but I'll introduce the "Hydrogen Sulfide, Oil
23 and Gas, and People's Health" exhibit as Exhibit Number 6
24 and move its introduction into evidence.

25 EXAMINER CATANACH: Any objection?

1 MR. BRUCE: Yeah, I would object. The witness
2 hasn't -- I'm not sure what the author's degree is going to
3 be in, whether it's chemistry or chemical engineering or
4 what, but the witness cannot state that he has
5 independently reviewed this and verified it, and
6 furthermore she's not available for cross-examination. So
7 I would object to the admission of Exhibit 6.

8 MR. BROOKS: It seems it's clearly hearsay.

9 MR. NEWELL: I don't think hearsay is precluded
10 in these proceedings though.

11 MR. BROOKS: Well, our Rules say that the Rules
12 of Evidence can be used as a guideline but aren't binding
13 on the Examiner, so I guess it's up to the Examiner.

14 (Off the record)

15 EXAMINER CATANACH: I will take it for what it
16 is. I would be interested in reading this document, and I
17 don't know that we're going to rely heavily on the document
18 for the purpose of this case, but I would like to go ahead
19 and admit it.

20 This will be Exhibit Number 6?

21 MR. NEWELL: Yes, Mr. Examiner.

22 THE WITNESS: I guess for the record, if you want
23 the full document, I have a website address which all 70
24 pages --

25 Q. (By Mr. Newell) Would you please read that in

1 the record?

2 A. Yeah, it would be:

3 <http://www.earthworksaction.org/publications.cfm?pubid=168>

4 MR. BROOKS: I would say that I think if we go
5 into incorporating by reference material from websites that
6 we're getting beyond the rule that says that the Examiner
7 bases his recommendation on the record that's made in the
8 proceeding. We can take judicial -- take administrative
9 notice of stuff in the OCD's files, but I think that's
10 about as far as we're allowed to stray off that in the
11 record.

12 MR. NEWELL: And for the record, I wasn't
13 suggesting that that be admitted. I just -- I think, you
14 know, in fairness, if you -- if counsel and the other
15 side -- and to the Division, if you submit a document that
16 maybe has -- you know, you've taken bits and pieces out of,
17 in fairness it seems like it's appropriate to least cite
18 the whole text in case the opposing side wants to go, you
19 know, do what they need to do out of the balance of the
20 document. So that's all I was trying to do. I wasn't
21 trying to introduce stuff that's not part of this
22 proceeding here today.

23 EXAMINER CATANACH: That's fine.

24 Q. (By Mr. Newell) Okay. Now you've also brought
25 another document with you which is entitled "Chemicals used

1 in Oil and Natural Gas Development and Delivery in New
2 Mexico"?

3 A. That's correct.

4 Q. Okay, would you please explain to the Division
5 what this document is?

6 A. This document was prepared by Dr. Mary Bachran.
7 She's the one that maintains the chemical database that --
8 she's in -- her PhD -- I cannot say what it's in actually.
9 Theo's is in chemistry. The two of them are TEDX. They
10 went through this list that was --

11 Q. Exhibit Number 7?

12 A. -- Exhibit 7, and compared that against the
13 health literature. And this document here, then, is her
14 written summary of that -- what she found when she
15 evaluated those chemicals against the environmental health
16 literature.

17 Q. This is information that's out in the public
18 sector, correct?

19 A. Correct, so she looked at peer-reviewed journals.

20 Q. And this basically identified some of the health
21 and environmental risks associated with the use of certain
22 of these chemicals that were identified in oil and gas
23 development, correct?

24 A. Oil and gas development in New Mexico, yes.

25 Q. New Mexico, okay. And this is a document that's

1 maintained at OGAP; is that correct? Or TDEX [sic]?

2 A. We have a written agreement with her that she
3 would do this analysis, so she did this for us.

4 Q. Okay, and she did it on you all's behalf?

5 A. That's correct.

6 Q. Approximately a year ago?

7 A. Yes.

8 Q. Okay.

9 A. I'm sorry, that's a typographic -- This is
10 February 8 of 2007.

11 Q. Okay.

12 A. This came last week.

13 Q. Okay.

14 A. I apologize. I had not caught that.

15 MR. BRUCE: It should be 2007?

16 THE WITNESS: It's 2007. She transmitted this to
17 me last week.

18 Q. (By Mr. Newell) Okay. And it looks like this
19 document is based off a compilation that she made from
20 reports sent to the State of New Mexico from Halliburton
21 Energy Services, Inc.; BJ Services, Inc.; and Schlumberger;
22 is that correct?

23 A. We obtained those and provided those to her. We
24 got those Tier 2 reports, and --

25 Q. Okay. And it's also based off of material safety

1 data sheets which are required by the US Environmental
2 Protection Agency, correct?

3 A. Actually, they're required by OSHA because
4 they're for worker safety --

5 Q. Okay.

6 A. -- and -- but yes, they are required, and they're
7 in the public --

8 Q. -- domain?

9 A. Uh-huh.

10 Q. And this is basically a compilation of those MSDS
11 sheets compared to the matters, the chemicals that were
12 identified on Exhibit Number 7, correct?

13 A. She developed that list from these sheets, that's
14 correct.

15 MR. NEWELL: Okay. I'll move the introduction of
16 Exhibit Number 8, "Chemicals used in Natural Gas
17 Development and Delivery in New Mexico", prepared by Dr.
18 Mary Bachran.

19 MR. BRUCE: Same objection, Mr. Examiner, I won't
20 waste my breath.

21 MR. BROOKS: Same observation.

22 EXAMINER CATANACH: Same result.

23 Q. (By Mr. Newell) And then finally let's go back
24 to Exhibit Number 3. This is the OGAP publication, and it
25 deals with a variety of these issues, including those you

1 pointed out on pages I-44 -- excuse me, beginning at I-43
2 -- or -42, and over the next few pages, correct?

3 A. That's correct.

4 Q. Okay. And just to summarize, under the category,
5 Health, Safety and Quality of Life, the areas that OGAP
6 identified are health impacts that may result from surface
7 and subsurface contamination, dust and air pollution, soil
8 contamination, noise pollution, light pollution and stress
9 related to living in an industrial zone; is that correct?

10 A. That's correct, that's based on our experience
11 with surface owners.

12 Q. And they're identified with safety, maybe, and
13 danger due to potential home fires and explosions due to
14 methane or hydrogen sulfide seepage, potential of fires or
15 pollutants from accidents or improper worker conduct in the
16 field resulting in blowouts, valves left open, and flooding
17 relating to poor water and waste management practices; is
18 that correct?

19 A. That's correct.

20 Q. Okay. And it also notes that -- potential
21 driving issues with respect to workers going in and out of
22 the facilities, correct?

23 A. Correct. I have a personal experience there,
24 being run off the road.

25 Q. Okay. And --

1 MR. BRUCE: Not by Quest?

2 THE WITNESS: No. No, a subcontractor for
3 another company.

4 Q. (By Mr. Newell) Okay. And I believe you've
5 identified and discussed most of the rest of the areas. Is
6 there any other information that you think is important
7 that you want to share with the Commission relating to this
8 Application?

9 A. Well, on the map there was a potential pit area
10 identified in their exhibits, and as part of another
11 proceeding, the OCD has a database that it has maintained,
12 developed, of groundwater contamination sites, some 700
13 plus, throughout the state. Upwards of 300 of those are
14 related to pits.

15 I think in this case, probably notice by the
16 Hearing Officer -- I don't need to testify to that. They
17 maintain the database, it's there, we've looked at it to
18 see what part of the production process that data indicates
19 caused the contamination, and several hundred of those were
20 from well sites.

21 So I mean, it's the OCD database. It's there.
22 And the fact that they're proposing pits would raise the
23 question, what are they going to do? Single-, double-
24 lined, or a closed system, whatever, particularly in close
25 proximity to school and fencing. In the City of

1 Farmington, they have very stringent fencing requirements
2 in their city limits. You're not in city limits, you're --
3 So, you know, that's within the Division's discretion, I
4 guess, but pits are a safety issue, as well as a
5 groundwater issue in this state, historically.

6 Q. Sure. And there are groundwater -- I mean,
7 concerns here because there are water wells, domestic and
8 irrigation water wells that are in close proximity to this,
9 correct?

10 A. I don't have knowledge of that, one way or the
11 other.

12 Q. If there were, the use of an open pit would pose
13 some danger to those, correct?

14 A. It would depend on whether the pit was lined and
15 whether it had leak detection. That would be more of an
16 issue with water.

17 And the testimony this morning was fairly
18 general, so I couldn't determine if they're planning on
19 using pits or not. I mean, it certainly is on their map.

20 Q. Yeah, and they didn't say what the quality of the
21 pit would be, correct?

22 A. No, not one way or the other. Just couldn't
23 tell.

24 Q. You're familiar with the wellfield ordinance
25 that's been adopted by the City of Lovington, New Mexico,

1 correct?

2 A. Yes, I reviewed that when it was being considered
3 by the City.

4 Q. And to protect their water well field, they have
5 a requirement of closed-loop systems for drilling in that
6 area, correct?

7 A. That's right, they'd had -- and speaking -- I
8 spoke with the city manager about that and why they did
9 that, and they'd had enough contamination issues that when
10 the groundwater was close enough they just didn't want more
11 contamination.

12 Q. Are there any other issues you want to share with
13 the Division?

14 A. No.

15 MR. NEWELL: I would pass the witness, and also
16 ask the Division to introduce or -- I would move the
17 introduction of Exhibit Number 3, the *Oil and Gas at Your*
18 *Door?* book, prepared by OGAP. And then I have one more --
19 We'll take these one at a time. I've got one more thing.

20 MR. BRUCE: I have no objection to Exhibit 3, Mr.
21 Examiner.

22 EXAMINER CATANACH: Okay, Exhibit 3 will be
23 admitted.

24 MR. NEWELL: And then the last thing, I would
25 move the Division to take administrative notice of its

1 groundwater contamination review and study.

2 EXAMINER CATANACH: I'm sorry, the -- are you
3 talking about our database, Mr. --

4 MR. NEWELL: Yes. Yes, Mr. Hearing Examiner, I'm
5 sorry.

6 EXAMINER CATANACH: We will take administrative
7 notice of that database.

8 MR. NEWELL: Thank you, I will pass the witness.

9 EXAMINER CATANACH: Mr. Bruce?

10 MR. BRUCE: Just a few questions.

11 CROSS-EXAMINATION

12 BY MR. BRUCE:

13 Q. Is it Baizel or Baizel?

14 A. Baizel.

15 Q. Baizel.

16 A. Just like your -- except with a Z.

17 Q. Have you been down to Hobbs, Mr. Baizel?

18 A. I have not.

19 Q. Well, that short-circuits a lot of my questions.

20 A. They keep telling me I should go, but life is
21 busy.

22 Q. People are wonderful down there.

23 I suppose, then, my only question is, you're
24 talking about dust and things like that. Have you ever
25 been in southeast New Mexico in the spring when the wind is

1 blowing?

2 A. Yes, I have, actually, I drove through.

3 Q. It can get pretty dusty, can't it?

4 A. I got caught in a dust storm, I agree.

5 Q. What can be done about that?

6 A. Pray for rain.

7 MR. BRUCE: Thanks, that's all I have.

8 MR. BROOKS: I had a couple, but -- Do you want
9 me to go first?

10 EXAMINER CATANACH: Yeah, go ahead.

11 MR. BROOKS: Okay.

12 EXAMINATION

13 BY MR. BROOKS:

14 Q. This is mostly for curiosity, rather than having
15 any direct relevance to the case, so I'll keep it short.
16 But you said that OGAP was based out of Durango, Colorado,
17 and we've dealt with people from Durango before, but what's
18 your relationship to the people in Bozeman, Montana? I
19 think you have some --

20 A. We have --

21 Q. -- that shows in Bozeman, Montana?

22 A. Right, Jennifer Goldman was our staff -- is and
23 was a staff member for us. She was based, actually, out of
24 Taos a few years ago, and so she had a lot of contact with
25 OCD. And she's now based out of Bozeman, and so her office

1 is in Bozeman.

2 Q. You mentioned that most states require -- most
3 western states, I believe you said, required notice to
4 surface owners, and I'm familiar with the statutory
5 requirements in Montana, Wyoming, and North and South
6 Dakota, and I'm familiar with the regulatory requirements
7 in Colorado. That's about as far as I go, but -- and also
8 statutory requirements in Oklahoma.

9 Is there any notice requirement that you know of
10 in Texas? There wasn't when I lived there, but that's been
11 a while back.

12 A. We have not found one in Texas.

13 Q. Okay, I never heard of one in Texas, but like I
14 say, I left Texas a while back.

15 What about Utah?

16 A. Utah has no -- I do not know of my own knowledge.

17 Q. I'm not aware of one in Utah or Nevada.

18 A. Yeah, there's so little oil and gas in Nevada
19 that it's not been an issue.

20 Q. Well, I guess that's true --

21 A. It's becoming an issue, but it's not --

22 Q. We'll pass Arizona because we know there's no oil
23 and gas there. What about California?

24 A. California does have notice.

25 Q. Is it statutory or by rule?

1 A. It is statu- -- no, it's by rule, excuse me.

2 Q. DNR, Department of Natural Resources?

3 A. Yeah.

4 Q. Okay. I guess I won't prolong that inquiry any
5 further. I believe that's all my questions. Are you going
6 to stay around till after the proceeding, or are you going
7 to be going back?

8 A. Well, I drive back today. I don't have a hard
9 and fast deadline. Legislature was this morning.

10 MR. BROOKS: Well, I believe I -- there's
11 something that -- some other things I want to ask you, but
12 I believe I have your phone number. I may be able to find
13 it somewhere, but if you could just leave me a card if you
14 leave --

15 THE WITNESS: I can do that.

16 MR. BROOKS: -- that would be appreciated.

17 Mr. Catanach?

18 EXAMINER CATANACH: Is this questions outside the
19 scope of the hearing?

20 MR. BROOKS: Outside -- I told you that it was
21 going to be outside the scope --

22 EXAMINER CATANACH: Okay.

23 MR. BROOKS: -- so I won't go into those.

24 EXAMINER CATANACH: Okay.

25 EXAMINATION

1 BY EXAMINER CATANACH:

2 Q. The problems you discussed with -- in relation to
3 some of the air-quality problems, is that based on the
4 premise that a lot of this, or some of this stuff is going
5 to be vented from the well or from the tank battery?

6 A. Well, you have -- Yes, condensate tanks are one
7 of the big stationary sources in Colorado, and that's what
8 the rule applied to there. As a practical matter, what
9 often happens with those is, the lids get wired open and so
10 they're just venting the whole time. And so it's partly --
11 it's a matter of proper operation. But condensate tanks,
12 separators, were the big sources that were being -- now
13 being regulated in Colorado for the VOCs.

14 Venting is not yet regulated in terms of
15 completion. You're not required to capture that gas when
16 you're completing. We're watching one up near Farmington,
17 and it can be a lot of gas. Economically it makes some
18 sense, but -- to capture it, but it's not required.

19 Q. And these chemicals, it's a pretty -- is this a
20 pretty comprehensive list of the chemicals that are used on
21 your Exhibit Number 7?

22 A. No, because the reality is, a lot of the
23 chemicals on the sheets don't actually list the specific
24 chemical. They list -- you know, as a crosslinker, or
25 they'll give a generic name, and then that's considered

1 proprietary.

2 So I think Dr. Bachran references in there where
3 -- somewhere around 50 percent. She can't determine what
4 the full chemical composition is. These are just the ones
5 she could identify from those forms. So it under-reports
6 rather than over-reports.

7 Q. Okay. And we don't know at this point whether
8 any of these chemicals will be used at this drill site?

9 A. That's correct.

10 Q. We just don't know?

11 A. Absolutely correct.

12 EXAMINER CATANACH: I don't think I have anything
13 else.

14 MR. NEWELL: Just one follow-up.

15 EXAMINER CATANACH: Okay.

16 REDIRECT EXAMINATION

17 BY MR. NEWELL:

18 Q. You do anticipate some chemicals will be used in
19 the drilling of this well, correct?

20 A. Yes, either in the drilling muds or if there's
21 any sort of -- in terms of completion, if there's anything
22 down there. It's standard practice, so I mean I don't know
23 of a well that doesn't use some sort of chemical mix in
24 their production process.

25 MR. NEWELL: Okay, that's all I have.

1 EXAMINER CATANACH: Okay, this witness may be
2 excused.

3 MR. NEWELL: And I will call the Coxes next. And
4 I have -- speaking with them at lunch, they said they could
5 not hear very well either the questions or the witness, and
6 so may I suggest that when myself and Mr. Bruce ask the
7 questions, if we might could sit in a chair and position
8 ourself close to one of those phone speakers, if that's
9 acceptable?

10 EXAMINER CATANACH: As long as Mr. Bruce is not
11 contagious.

12 (Laughter)

13 MR. BRUCE: That's your risk.

14 EXAMINER CATANACH: That would be fine.

15 A VOICE: [unintelligible].

16 MR. NEWELL: Yeah, Steve Cox, please.

17 A VOICE: Mr. Cox, okay, hang on just a second.
18 We can't hardly hear you. I hope that you can hear when
19 she picks it up.

20 MR. NEWELL: Okay, thank you.

21 MS. COX: Hello.

22 MR. NEWELL: Mrs. Cox?

23 MS. COX: Yes.

24 MR. NEWELL: Okay, this is Mike Newell, and we're
25 going to have you sworn in, and then I'm going to put your

1 testimony on the record. All right?

2 MS. COX: I can't hardly hear you.

3 MR. NEWELL: Okay, Mrs. Cox?

4 MS. COX: Yes.

5 MR. NEWELL: Can you hear me better now?

6 MS. COX: A little bit.

7 MR. NEWELL: Okay, Mrs. Cox, hold on just a
8 second. Let me ask counsel something.

9 MS. COX: Okay.

10 (Off the record)

11 MR. NEWELL: Mrs. Cox?

12 MS. COX: Yes.

13 MR. NEWELL: We're going to try to shorten this a
14 little bit. Counsel for the Applicant is willing to
15 stipulate that you're the surface owner and that you're
16 objecting to this particular Application, all right?

17 MS. COX: Yes.

18 MR. NEWELL: And so as soon as they swear you in,
19 I'll probably just ask you a couple of questions and then
20 pass you over to Mr. Bruce to ask whatever questions he
21 has, or to the Hearing Examiner, or Division counsel to ask
22 what questions they ask, okay?

23 MS. COX: Okay.

24 MR. NEWELL: So we'll do this very quickly, and
25 we'll probably just use you, and then -- Yeah, probably be

1 the same thing with Steve, if we even need him.

2 Do you want to swear in the witness?

3 EXAMINER CATANACH: Please, yes.

4 (Thereupon, the witness was sworn.)

5 BARBARA COX (Present by telephone),

6 the witness herein, after having been first duly sworn upon

7 her oath, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. NEWELL:

10 Q. Mrs. Cox, state your full name for the record.

11 A. Barbara Dan Cox.

12 Q. Okay, and Mrs. Cox, everyone agrees that you own
13 the property where the -- or the surface of the proposed
14 well location, so we don't need to go there.

15 Would you tell this Division and counsel and
16 everyone else present in the room what your objections are
17 to this location?

18 A. Well, for one thing it's going to hurt the value
19 of my property. You know, I'm just getting ready to sell
20 it, and now they're going to put that well out there, and
21 it's really going to hurt my property --

22 Q. Okay, would you explain what --

23 A. -- as well as a lot of other things, you know.

24 Q. Sure, would you explain what's going on in the
25 area with respect to property values, particularly in that

1 area around Ja-Rob and -- the intersection of Ja-Rob and
2 College Lane?

3 A. Well, they're building a lot of new homes, real
4 nice homes there, and you know, I think it will just hurt
5 the value. And then there's a school right up the street,
6 not too far from where I live --

7 Q. Okay.

8 A. -- and also an old folks' home --

9 Q. Okay, and is this --

10 A. -- so --

11 Q. Mrs. Cox, is this property part of your
12 retirement nest egg, if you will?

13 A. Yes. Yes, I was planning on that --

14 Q. Okay, so it's a --

15 A. -- for my retirement.

16 Q. Okay, so this was a significant investment for
17 you and your late husband, correct?

18 A. Yes, yes.

19 Q. Okay. Now, let me ask you this. What's your
20 age?

21 A. I'm 67.

22 Q. Okay. And Mrs. Cox, are you concerned about
23 noise and dust and these type of things that are -- and the
24 contaminants that are going to be at this well location?

25 A. Yes, I sure am.

1 Q. Okay. And what's the traffic light there, and
2 what would be the impacts of a lot of truck traffic in the
3 area?

4 A. Well, it would be kind of bad. I mean, you know,
5 to have all that going on down there.

6 Q. Okay. Ja-Rob is a paved street, correct?

7 A. Yes, it is, Ja-Rob, and also College Lane is
8 paved.

9 Q. Okay, and they're two-lane streets, correct?

10 A. Yes.

11 Q. And they're not laned for traffic, are they?

12 A. No.

13 Q. Okay. And there's no -- at least on Ja-Rob,
14 there's no shoulder or anything like that, correct?

15 A. No, huh-uh.

16 Q. Okay. Do you have anything else you want to tell
17 the Hearing Examiner or anyone else present about, you
18 know, why you object to this location?

19 A. Well, I guess that about covers it all.

20 Q. Okay. Well, I'm going to pass you to Mr. Bruce,
21 and he's the attorney for the Applicant, Quest Cherokee,
22 and he's going to ask you questions, and then the Hearing
23 Examiner or counsel may ask you questions. All right, Mrs.
24 Cox?

25 A. Yes.

CROSS-EXAMINATION

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BY MR. BRUCE:

Q. Mrs. Cox, my name is Jim Bruce. I apologize, I have laryngitis.

A. That's fine.

Q. I just have a couple of quick questions. When did you buy this property?

A. We bought it in 1976.

Q. Do you recall what you paid per acre for the property?

A. How much --

MR. NEWELL: I'll object to --

THE WITNESS: -- we give per acre?

MR. NEWELL: And Mrs. Cox, just a second. I will object. If it was not relevant this morning as to what was paid for the rights to drill, I would submit that it's not relevant what she paid either. I'm not going to belabor the point, I just want to make the objection for the record.

MR. BRUCE: My point would be, they're claiming loss of value.

MR. NEWELL: Okay.

EXAMINER CATANACH: I will allow that question to be answered.

Q. (By Mr. Bruce) Okay. And so Mr. [sic] Cox, the

1 Hearing Examiner asks that you answer the question. What
2 did you pay per acre for this property?

3 A. Excuse me, I didn't hardly understand you.

4 Q. I'm sorry, what price per acre, what dollar per
5 acre, did you pay for this property?

6 A. Well, at that time I think it was \$37,500 --

7 Q. That's the total --

8 A. -- for the whole thing.

9 Q. And how many acres was that?

10 A. We had 30 acres at that time.

11 MR. BRUCE: Thank you, that's all I have, ma'am.

12 EXAMINER CATANACH: Any more?

13 EXAMINATION

14 BY MR. BROOKS:

15 Q. Yeah, Ms. Cox, when -- Can you hear me?

16 A. Yes.

17 Q. I'm David Brooks, I am one of the attorneys for
18 the Division and I'm representing the Hearing Examiner
19 today.

20 A. Uh-huh.

21 Q. When you purchased this property in 1976, were
22 you aware that you were not buying the oil and gas under
23 the property, that that belonged to someone else?

24 A. Well, of course my husband bought it. I didn't
25 know.

1 Q. So you didn't inquire into that subject?

2 A. No, not really.

3 Q. Okay. And if the record in this proceeding
4 indicates that the oil and gas under this property belongs
5 to the State Land Trust for the State of New Mexico, you
6 wouldn't dispute that?

7 A. Well, I don't guess.

8 MR. BROOKS: Okay, I think that's the only
9 question I have.

10 EXAMINER CATANACH: Yeah, I have no questions of
11 Mrs. Cox, so...

12 REDIRECT EXAMINATION

13 BY MR. NEWELL:

14 Q. Okay. And then Mrs. Cox, that's all I have, and
15 I think -- Why don't you tell Steve that I don't think we
16 need him to testify. I've named him, so I guess Mr. Bruce
17 has the right to have him called if -- Okay. And we don't
18 need his testimony. I think it's pretty much going to be
19 redundant to yours.

20 But Steve, just for the record, is your son,
21 correct?

22 A. Yes, uh-huh.

23 Q. Okay, and he was going to help you out with
24 respect to these matters in dealing with Quest Cherokee,
25 correct?

1 A. Yes, he was.

2 Q. Okay, and he's had some dealings with the landman
3 for Quest Cherokee, and you heard the landman testify this
4 morning, correct?

5 A. You know, we couldn't hear.

6 Q. Okay, fair enough.

7 A. We couldn't hear a lot of what was being said.

8 MR. NEWELL: Okay. Well in that event, why don't
9 you let me put on Steve Cox, just to address those issues
10 that were -- and I'll be real limited --

11 MR. BROOKS: Yeah.

12 MR. NEWELL: -- just to the issues that were
13 raised --

14 THE WITNESS: Well --

15 MR. NEWELL: -- this morning.

16 THE WITNESS: -- Steve's not here right now, but
17 you could --

18 MR. NEWELL: Okay.

19 THE WITNESS: -- get him on his phone.

20 MR. NEWELL: No, that's quite all right, we don't
21 need to. Mrs. Cox, thank you very much.

22 THE WITNESS: Okay.

23 MR. NEWELL: I'll report to you when I get back
24 to Lovington, all right?

25 THE WITNESS: All right.

1 MR. BROOKS: I guess I would like to ask Ms. Cox
2 one other question, since David didn't ask any.

3 FURTHER EXAMINATION

4 BY MR. BROOKS:

5 Q. Ms. Cox, your position is that you object to this
6 well being located on this property on any terms; is that
7 correct?

8 A. Yes, uh-huh.

9 Q. And even if the Division were to impose some
10 conditions on the way that it's operated to attempt to
11 protect environmental concerns, you would still object?

12 A. Yes, I would.

13 MR. BROOKS: Thank you.

14 EXAMINER CATANACH: Thank you, Ms. Cox.

15 THE WITNESS: Uh-huh, thank you.

16 EXAMINER CATANACH: Okay.

17 MR. NEWELL: Can she be excused?

18 EXAMINER CATANACH: Yes.

19 MR. NEWELL: Mrs. Cox, thank you for waiting, and
20 you're excused.

21 THE WITNESS: Okay.

22 MR. NEWELL: Thank you.

23 THE WITNESS: Thank you.

24 EXAMINER CATANACH: Bye, bye.

25 THE WITNESS: Bye, bye.

1 MR. NEWELL: Thank you, Mr. Examiner.

2 EXAMINER CATANACH: Sure.

3 MR. NEWELL: We'll call -- I'm sorry, did you
4 want to say something? I interrupted you.

5 EXAMINER CATANACH: No.

6 MR. NEWELL: I was going to call my next witness
7 and --

8 EXAMINER CATANACH: No, go ahead.

9 MR. NEWELL: We'll call Lee Roberson.

10 LEE ROBERSON,

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

13 DIRECT EXAMINATION

14 BY MR. NEWELL:

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

16 A. Lee Roberson.

17 Q. Mr. Roberson, where do you live?

18 A. I live at 1321 College Lane.

19 Q. Okay. And do you have property that's close to
20 this proposed well location?

21 A. Yes, I do, I have property that adjoins it to the
22 east.

23 MR. NEWELL: Okay. And let me ask you to -- May
24 I approach the witness, your Honor?

25 EXAMINER CATANACH: Certainly.

1 Q. (By Mr. Newell) Let me hand you a document that
2 we will mark as Exhibit Number 9. You can mark that. And
3 this is the document right here.

4 EXAMINER CATANACH: Okay.

5 Q. (By Mr. Newell) Mr. Roberson, do you recognize
6 that document?

7 A. Yes, I do.

8 Q. Is that a document you caused to be prepared?

9 A. Yes, it is.

10 Q. Okay, and would you explain to this Division what
11 the document is?

12 A. This document, page 1 of the document shows the
13 well location and some proximities by feet to different
14 structures that are close to it, not all structures by any
15 stretch of the imagination. Just to show the distance, for
16 example, to a home close by, 567 feet.

17 It says Tom's, that's Tom Duncan -- he was not
18 able to attend today -- his home that he built there about
19 three or four years ago, 663 feet.

20 Todd's, that's my son's home with where my little
21 five-month-old granddaughter lives, 1845 feet.

22 The nursing home, 2055 feet.

23 Elementary school, 1439 feet.

24 Barn, that is my barn with my -- one of my water
25 wells there, 756 feet. Back porch of my house, 967 feet.

1 And to my property line, 333 feet.

2 Q. And Mr. Roberson, are these reflected on the
3 second page of that exhibit?

4 A. As best as you can see it, it is. The X there,
5 or the sign there on the photocopy is the location of the
6 well. And you can see, for example, where the school is,
7 just right around the corner, and those other structures in
8 relation to this photograph.

9 This photograph appears to me to be a bit old.
10 You notice down at the bottom, Lindsey Manufacturing
11 Company, developed this photograph for me. The gentleman
12 that owns that company is named Mike Carter. He is at
13 Pivot Irrigation Company, and he came out and got those
14 measurements for me with his -- whatever instrument he
15 used, and developed this photograph.

16 Q. Okay. Mr. Roberson, are there are additional
17 structures and residences that aren't depicted in this
18 areal photo that are present now?

19 A. Yes, there are, there are numerous structures
20 that have been added since this areal photo. For example,
21 just north of the location there are, I believe, five homes
22 there now. Of course where that little dot is, is my home.
23 To the east of me, going eastward along College Lane, all
24 those five-acre tracts have been developed and homes built.
25 A friend of mine, Kenny Facke, just built a 5000-square-

1 foot home right in that area.

2 To the east of my property, directly east of
3 where this well location is, Cimarron development
4 subdivision has just been completed with 38 lots that have
5 all been sold. To the south of this photograph is one of
6 the major high-end subdivisions of Hobbs, Westminster
7 subdivision.

8 Down -- You can see Ja-Rob Lane running north and
9 south. Down on the end of Ja-Rob Lane on the south,
10 yesterday two gentlemen, Dwayne Taylor and Johnny Cope,
11 announced a subdivision of, I believe, Windsor Homes, about
12 65 homes that they're going to build right there on Ja-Rob
13 Lane.

14 So that's -- Also the retirement home just west
15 of the school is not in this photograph. So that's what's
16 going on in the area.

17 Q. And there's a home right across Ja-Rob --

18 A. That is correct, Mr. -- I can't remember that
19 gentleman's name, he's a retired gentleman directly across
20 the street. When Chesapeake originally staked this well
21 they staked it in his front yard, and then they moved it
22 across the street two years ago where the present location
23 is now with Quest.

24 MR. NEWELL: Okay. Now I'm going to move the
25 introduction of this document as Exhibit Number 9.

1 MR. BRUCE: No objection.

2 MR. NEWELL: Okay. Mr. --

3 EXAMINER CATANACH: Exhibit Number 9 will be
4 admitted.

5 Q. (By Mr. Newell) Mr. Roberson, I'm going to ask
6 you to look at a newspaper article, and -- May I approach
7 the witness?

8 MR. NEWELL: Sure.

9 Q. (By Mr. Newell) Okay. And would you identify
10 the newspaper and the date?

11 A. This is the *Hobbs News-Sun*, the daily newspaper
12 in Hobbs, New Mexico, dated February 13th, 2007.

13 Q. Okay. And -- Do you have one, counsel?

14 MR. BRUCE: Yeah, thank you.

15 MR. NEWELL: Okay. Do you all have one?

16 EXAMINER CATANACH: No, we don't.

17 MR. NEWELL: Okay. I'll make copies, but --

18 EXAMINER CATANACH: There isn't --

19 MR. NEWELL: -- you know, we've got an extra.

20 EXAMINER CATANACH: Was it in your package of
21 exhibits?

22 MR. NEWELL: Yes, that may be -- right there.

23 EXAMINER CATANACH: Okay.

24 MR. NEWELL: Yeah, that's it.

25 Q. (By Mr. Newell) And this is the *Hobbs News-Sun*

1 from February 13th --

2 A. Yes, sir.

3 Q. -- 2007? Okay, and you were talking about
4 Cimarron Estates; is that correct?

5 A. Yes. I might have said Cimarron Development.
6 Cimarron Estate, same thing.

7 Q. Okay. And does this article talk about that
8 Cimarron Estates that you just testified to?

9 A. Yes, sir, it talks about a good friend of mine,
10 Mr. Gary Jones, who developed that subdivision just east of
11 my property and east of this proposed well location.

12 Q. Okay. And so this is property that would also be
13 impacted with a west prevailing wind by this well location?

14 A. That is correct?

15 MR. NEWELL: Okay. I will identify and introduce
16 this newspaper article as Exhibit Number 10.

17 MR. BRUCE: No objection.

18 EXAMINER CATANACH: Exhibit Number 10 will be
19 admitted.

20 MR. NEWELL: Now I think you also identified --
21 and this is in yesterday's paper, after I already left, and
22 so we do not have copies for it, and so I propose that I
23 circulate it by counsel first, and then ask the witness
24 about it if counsel has no objection.

25 EXAMINER CATANACH: Okay.

1 MR. NEWELL: He had just testified about the
2 Windsor Estate subdivision, and that's an article that
3 discusses that.

4 MR. BRUCE: I have no objection, Mr. Examiner.
5 I'd only ask that, afterwards, if the counsel could make
6 copies and give them to us after the hearing.

7 MR. NEWELL: I have no problem with that, if
8 there's a facility here that I can do that; is that --

9 MR. BRUCE: Or he can do it when he gets back to
10 his office.

11 MR. NEWELL: Okay, thank you.

12 Q. (By Mr. Newell) Let me hand you a document that
13 we will mark as Exhibit Number 11 and ask you if you can
14 identify that?

15 A. This is the *Hobbs News-Sun* dated February 14th,
16 2007.

17 Q. Okay, and does this newspaper contain an article
18 discussing the Windsor Estates subdivision?

19 A. Yes, it does.

20 Q. And where is that located?

21 A. That is at the -- that's on Ja-Rob Lane. It will
22 be just south of Todd's house there on Ja-Rob Lane.

23 Q. Okay. And Todd's house was identified, it's the
24 southernmost point on that --

25 A. -- on that exhibit, yes, sir. I'm sorry.

1 MR. NEWELL: That's all right.

2 So I'll move the introduction of that newspaper
3 as Exhibit Number 11.

4 EXAMINER CATANACH: Exhibit Number 11 will be
5 admitted.

6 Q. (By Mr. Bruce) Okay. And Mr. Roberson, I'm
7 going to ask you to look at a document we identified this
8 morning as Exhibit Number 2. Do you see that?

9 A. Yes, sir.

10 Q. Okay, and did you have occasion to pull that out
11 of the *Hobbs News-Sun* as well?

12 A. Well, actually my wife pulled that out of the
13 *Hobbs News-Sun* for me. It shows the -- a couple acreages
14 there in the proximity, giving values of what people are
15 asking for their land.

16 Q. Okay. And is that a newspaper article from the
17 *Hobbs News-Sun* dated Sunday, January 28th, 2007?

18 A. That is correct.

19 Q. Okay. And as we discussed this morning, that
20 includes a 3/4-acre lot on Ja-Rob that is -- the asking
21 price is \$30,000, and then 13.39 acres on College Lane that
22 \$160,000 is the asking price for; is that correct?

23 A. That's correct.

24 Q. Okay. And are you familiar with this?

25 A. Yes, I am familiar with it.

1 MR. NEWELL: I'll move the introduction of
2 Exhibit Number 2 -- or Intervenor's Exhibit Number 2.

3 MR. BRUCE: I have no objection to --

4 EXAMINER CATANACH: Exhibit Number 2 will be
5 admitted.

6 Q. (By Mr. Newell) Now Mr. Roberson, I believe you
7 testified that you have a water well in the area; is that
8 correct?

9 A. I have two water wells in the area, yes.

10 Q. Okay, and there are other water wells that you're
11 familiar with in the area, correct?

12 A. Yes.

13 Q. Okay. And you've had occasion to go to the State
14 Engineer and New Mexico State Engineer's Office website and
15 look at the wells located in Section 9; is that correct?

16 A. I have not looked at those wells, no, sir, I have
17 not.

18 Q. Okay. Are you -- let me ask you to -- May I
19 approach the witness, your Honor?

20 EXAMINER CATANACH: Yes.

21 Q. (By Mr. Newell) Let me hand you a document that
22 we've identified as Exhibit Number 9. I believe it's this
23 document right here. It will be the State Engineer's
24 document right here.

25 MR. BRUCE: That's going to be Exhibit 12?

1 MR. NEWELL: Yes.

2 Q. (By Mr. Newell) Mr. Roberson, would this be a
3 document that would purport to be from the State Engineer's
4 website, for Township 18 South, Range 38 East, Section 9?

5 A. Yes, it would.

6 Q. Okay. And is your water well reflected on here,
7 or your water wells?

8 A. Yes. Yes, they are.

9 Q. Okay. And do you understand this to be a listing
10 of all the water wells, then, in that area, in Section 9?

11 A. I would agree that this is a list of -- is every
12 -- all water wells on the State Engineer's website, yes,
13 sir.

14 Q. And there are numerous wells, are there not, in
15 Section 9?

16 A. That is correct.

17 MR. NEWELL: Okay. I'd move the introduction of
18 this document as Exhibit Number -- I think I'm on 12 or 13?

19 EXAMINER CATANACH: I believe it's 12.

20 MR. NEWELL: Okay.

21 MR. BRUCE: I have no objection, Mr. Examiner.

22 EXAMINER CATANACH: Exhibit 12 will be admitted.

23 Q. (By Mr. Newell) Now Mr. Roberson, you were
24 present this morning when you heard testimony from the
25 Applicant that they felt like the blowout risk was low

1 because of the nature of the pressure in the formation,
2 correct?

3 A. That's correct.

4 Q. Okay. If there was a blowout and you had to
5 evacuate, what's the situation like in Hobbs for even
6 getting a motel room?

7 A. Well, thanks for asking that. The City of
8 Hobbs -- I've live in the City of Hobbs since 1980. The
9 City of Hobbs is busting loose currently, thank the good
10 Lord. There's no available housing anywhere to be had, no
11 motels to be rented. Motels are building frequently, so
12 the availability of housing is absolutely very minimal at
13 best.

14 Q. And you indicated in your testimony earlier that
15 there was a proposed drilling location that was staked
16 earlier, correct?

17 A. Yes, I've had occasion to work with Mike
18 Whitefield over at Chesapeake Oil and Gas. We have some
19 property in Eddy County that Chesapeake staked a well on at
20 the same time that they staked this well here, and Mr.
21 Whitefield and I became acquainted very well.

22 And Whitefield agreed that this was a sensitive
23 area in which to drill, and pulled up the stake and thought
24 that it was probably not a good location for Chesapeake Oil
25 and Energy Company to drill a well.

1 Q. Okay. Mr. Roberson, I want -- but I don't want
2 you to be redundant with what Mr. Baizel testified to, but
3 I think you've got some health concerns, correct?

4 A. Well, you know, I've lived in -- I grew up in
5 southeast New Mexico, I was born and bred there. I'm
6 third-generation New Mexican. Okay? I've lived around the
7 oilfield my whole life and I've lived Hobbs since 1980, and
8 I've owned numerous properties in Lea County, farm, ranch
9 properties. This property here represents a -- with my
10 house that I built on it two years ago, represents a
11 significant investment on my and my wife's part, our life's
12 savings. Okay?

13 And I've been around this oil patch, and I've
14 seen some really lousy operators. Okay? I've seen gas
15 flared out of gas wells, I've seen blowouts in Eddy County,
16 I've seen blowouts in Lea County, I've seen oil and gas
17 production, I've seen pits and tanks overfilled and run out
18 the -- down the roads, hundreds of yards. I've seen water
19 contamination due to drilling pits. I even have a current
20 situation on one of my farms with some chlorides in one of
21 my water wells, due to waterflood injection and spilling of
22 pit.

23 So I've seen the impact that oil and gas can have
24 on surface owners. Not saying that I do not support the
25 oil and gas industry, because we are very pro-oil industry

1 in Lea County, as you know. But I've also seen the adverse
2 side to landowners, if not properly operated.

3 Q. Do you see anything in the Application that
4 caused you to think that there was a concern or any
5 accommodation being made for your rights as a property
6 owner whose property is less than 300 feet from this well?

7 A. Well, when I read the Application it was
8 basically null and void of any information, with the
9 exception on the drawing of a drilling pit. And I have
10 great concern about a drilling pit being so close to all
11 the residences. This is a neighborhood. Just right around
12 the corner is an elementary school. Okay? Most of these
13 residences have domestic water wells. Okay? So I have
14 grave concern about having a drilling pit and drilling --
15 burying any chemicals.

16 I have a reservation about -- until today I
17 didn't now this was going to be an oil well or a dual
18 production well. I have a lot of concerns about storage
19 tanks being on facility and overflowing. I've seen that
20 numerous times in the oil and gas industry. So I have
21 grave concerns about that.

22 I have concerns about -- since this is a dual-
23 production well, that a minimum amount of gas on a daily
24 basis will be flared out into the neighborhood, just let
25 out. That's going to cause grave health concerns. There's

1 a lot of small kids in this area. Just down the street on
2 Ja-Rob Lane, like I said, my granddaughter Addison lives,
3 and two houses down another young lady that's five months
4 old lives that's a good friend of mine. So I have real
5 grave concern about air quality. Okay?

6 My back porch is 967 feet from this proposed
7 well. I'm building my granddaughter a swimming pool as we
8 speak. According to my wife, that's what I'm doing. I
9 have a real concern about breathing any air that might blow
10 right into my porch, because I'm strictly 100-percent
11 downwind from this property. Okay? And I have a real
12 concern with that. So I'm concerned about the air quality.
13 And if you've ever been to Lea County, you know what I'm
14 talking about. Okay?

15 I've had property that was operated by EnerQuest,
16 CrownQuest and Texland Petroleum in New Mexico. They
17 flared gas out into the atmosphere. Okay? Under OCD regs
18 and rules. So that's a real concern for me.

19 There's no doubt, if this well were even to be
20 approved, which it should not be, that it should be drilled
21 with a closed-loop system. There should not be any bearing
22 of any chemicals or contaminants in the soil. Okay?

23 Q. Let me ask you to look at Exhibit Number 11 of
24 the Intervenor -- not our exhibits, of their exhibits, and
25 it's this document right here that their geologist

1 prepared.

2 A. I don't have it in front of me.

3 MR. NEWELL: Okay. May I approach the witness?

4 And I can do this --

5 EXAMINER CATANACH: Sure.

6 MR. NEWELL: -- if I could just stand up there

7 with him, and we can look at the same document?

8 EXAMINER CATANACH: Sure.

9 MR. NEWELL: Is that okay with you, Counsel?

10 MR. BRUCE: Yes.

11 Q. (By Mr. Newell) To the west of the proposed

12 location, once you get past the residence, there's no

13 development to speak of to the west, correct?

14 A. At the present time that is correct.

15 Q. So there would be the ability to move the well

16 location to the west, still produce the minerals, and not

17 have the impact on the residences and the property along

18 Ja-Rob Lane and College Lane?

19 A. That would diminish the impact on that, that is

20 correct.

21 Q. Okay. And if this Application were approved,

22 would it be your request that it be only approved if the

23 well location were moved to an area where it didn't impact

24 the surrounding residences and the school?

25 A. That is correct.

1 Q. Now you indicated you had some chloride
2 contamination in one of your water wells on some property
3 you own, correct?

4 A. That's correct.

5 Q. Is the New Mexico Oil Conservation Division aware
6 of that?

7 A. Yes.

8 Q. Has it been cleaned up?

9 A. Nothing has been done for over two years.

10 Q. Is it your observation that the New Mexico Oil
11 Conservation is understaffed -- or Oil Conservation
12 Division is understaffed in Lea County, New Mexico?

13 A. I know Chris Williams very well, I know Mr.
14 Johnson very well. They're good people. But they're up
15 against it. They just -- I also know several of the other
16 staffers down there. They're working as hard as they can
17 work. Okay?

18 Q. Okay. And they can't keep on top of it?

19 A. There's no way they can keep up, that is correct.

20 Q. And so you have a situations like you've
21 experienced where known contamination has been allowed to
22 exist for years before it's cleaned up?

23 A. I have it currently on one of my farms, and it's
24 been existing for a long time, that's correct.

25 Q. Now you're familiar with a community or a

1 development that's on the west side of Hobbs, correct?

2 A. Yes.

3 Q. And that's the Westgate subdivision; is that
4 correct?

5 A. I'm very familiar with the Westgate subdivision.
6 When I first moved to Hobbs in 1980, I moved into the
7 Westgate subdivision on Tasker Drive, named after Coach
8 Ralph Tasker. And up the street from me was a lady that
9 worked for me for a number of years. Her name was Virginia
10 Perry, and her husband Roland. And I've known very, very
11 well, because she worked for me for a lot of years. And
12 Virginia was one of those type of people that always
13 thought that she was mentally ill because she showed up
14 every day to work sick, and I thought there was something
15 wrong with her mentally. I thought perhaps that -- you
16 know, just that type of person.

17 Well, come to find out in Westgate, her house was
18 built on top of a pit, a drilling pit. Okay? That house
19 had to be contaminated [sic], torn down, and all the
20 contents taken away, after she lived there for over 20
21 years. Her and her husband, I know them well, have
22 numerous health problems. I think Mrs. Perry has lupus.
23 Okay? And their medical bills exceed \$30,000 to \$40,000 on
24 an annual basis.

25 Q. You knew this because you employed her and you

1 paid for her health care, right?

2 A. I employed her and I paid for her health care,
3 and I prepared her tax returns for a number of years,
4 that's correct.

5 Q. Okay. And so you're concerned that development
6 in this neighborhood would have the same impact as the
7 development in Hobbs in the Westgate subdivision, correct?

8 A. This is a proposed well that is going into a
9 neighborhood, an up and coming neighborhood in Hobbs, New
10 Mexico. I would be just ashamed to have any child killed
11 or harmed. It would not be worth the profits that were
12 made on this well. I would be very disappointed -- okay?
13 -- that this neighborhood would be adversely impacted by
14 this well if not operated safely.

15 And wells are going to have problems. That's
16 just the nature of the beast. You're going to have a
17 problem somewhere in the next 20 to 25 years on this well.
18 That's just the way it is. There are just some places
19 where an oil and gas well should not be drilled, and this
20 is one of them. It's absolutely not.

21 I live on College Lane. I've lived there a
22 little over two years. We built our home and moved in.
23 We've been there about two and a half years, and there have
24 been numerous traffic accidents up and down College Lane,
25 because College Lane, as we discussed earlier, is not in

1 the city limits of Hobbs, it's in the county. It's not
2 patrolled by the City of Hobbs. The Lea County Sheriff's
3 Department is way understaffed. They go home every night
4 at midnight, and they don't show back up to work till eight
5 o'clock.

6 There have been numerous traffic accidents on
7 College Lane. I can tell you of Donovan Youngblood, who
8 likes to drive up and down that street about 80 miles an
9 hour. He happens to be a freshman at New Mexico Junior
10 College. Okay? So I'm real concerned about the traffic
11 that this oil well will bring to the neighborhood, and it
12 could easily adverse the neighborhood due to traffic
13 problems.

14 Q. Okay. Do you have anything else you want to
15 share with this Division in this hearing?

16 A. Well, I want to say something to Quest Resources.
17 I want to congratulate Quest Resources on what you're
18 doing. Okay? You know, Hobbs is not opposed to oil and
19 gas drilling and development. I know the risks that you
20 gentlemen take. Okay? I deal with clients in the oil and
21 gas industry every day. Okay? And I certainly hope that
22 you're successful in your ventures, and I know you're
23 taking a lot of risk. And there's no hatred towards you
24 gentlemen, I want you to be aware of that.

25 But there are just some places that oil and gas

1 development should [sic] exist, and I want you to really
2 seriously consider and think about the economic -- not the
3 economic, the health and welfare impact that you're going
4 to have in this neighborhood, with all these kids and all
5 these residences and -- if you're successful in your
6 Application. Because I think the risks are not worth that,
7 any stretch of the imagination. And that's basically what
8 I take out of this hearing today. Okay?

9 MR. NEWELL: I pass the witness, Mr. Hearing
10 Examiner.

11 EXAMINER CATANACH: Mr. Bruce?

12 CROSS-EXAMINATION

13 BY MR. BRUCE:

14 Q. Now Mr. -- It's Roberson?

15 A. I say Roberson, yes, sir.

16 Q. Roberson.

17 A. Uh-huh. But you can say -- you can say it any
18 way you want to.

19 Q. No "t"?

20 A. No "t".

21 Q. Thanks. Now there's been talk about excess
22 traffic and fumes and dust. Now the roads to this drill
23 site are paved, are they not?

24 A. Yeah, let's talk about that a minute. Ja-Rob
25 Lane is a little two-lane road, okay?

1 Q. Paved?

2 A. And it's paved. However -- and College Lane is
3 paved, and it's a little two-lane road. But off Ja-Rob
4 Lane to this well site it's not paved. Okay? It will be a
5 caliche road.

6 Q. Now you mentioned the school and the old folks'
7 home and the other houses. Now you're talking about
8 accidents on College Lane. I presume it's fairly busy?

9 A. College Lane is very busy, yes.

10 Q. Hundreds, thousands of cars going by each day?

11 A. I haven't done a traffic count. I can't tell
12 you. I do know yesterday I was pulling out of Hobbs about
13 1:30 to come up here, and there was probably 50 mothers
14 picking up kids at the elementary school, sitting outside,
15 up and down both sides of the street. Okay?

16 Q. How many kids in the elementary school?

17 A. I don't have a clue. I know it's K through 6. I
18 know that I try to get to work before 7:00 so I can avoid
19 the traffic.

20 Q. Several hundred, probably?

21 A. I don't have a clue.

22 Q. Okay. But Ja-Rob Lane and College Lane are very
23 busy?

24 A. Yes, they are.

25 Q. Cars going by all the time?

1 A. More so on College Lane than Ja-Rob, yes.

2 Q. Trucks?

3 A. Trucks, you bet. Now semi-trucks or pickup
4 trucks? What kind of trucks are you referring to?

5 Q. Let's start with pickup trucks. Oh, yeah, I have
6 a pickup truck. I drive up and down Ja-Rob every day,
7 absolutely.

8 Q. Okay, let's go up one step above that, not semi's
9 but say delivery trucks, like UPS trucks?

10 A. Very seldom. Only occasionally when they come to
11 residences, I assume.

12 Q. Well, there are residents out there and --

13 A. A lot of residents, that's right.

14 Q. -- and there must be at least a couple of semi's
15 doing deliveries now and then?

16 A. I -- you know, I haven't seen any semi's, but
17 there may be.

18 Q. Okay. And now you're talking about what, the
19 Cimarron -- Cimarron Estates? I think that was it?

20 A. You're talking about the Cimarron Estates
21 subdivision?

22 Q. Yeah.

23 A. Yes, sir.

24 Q. And that's adding 38 houses?

25 A. Yes, it has.

1 Q. Okay. How many -- around our neighborhood and
2 around these new subdivisions, how many cars are at each
3 house?

4 A. Boy, I don't have the -- I couldn't guess. I
5 imagine at least two. I think my neighbor next door to me
6 has about five.

7 Q. That's --

8 A. Okay.

9 Q. -- I was thinking anywhere --

10 A. All right.

11 Q. -- from two to four --

12 A. Right.

13 Q. -- wouldn't be uncommon --

14 A. Right.

15 Q. -- in New Mexico?

16 A. Sure.

17 Q. It's sure --

18 A. Sure.

19 Q. -- common up here.

20 A. Sure.

21 Q. They're all --

22 A. A lot of cars, you bet.

23 Q. And so there you have at Cimarron Estates 38
24 lots, probably another 150 vehicles. And you mentioned the
25 Windsor subdivision, that's 65 houses. Multiply that --

1 let's just be conservative -- by three. That's another
2 couple hundred. So right there, you -- just with those two
3 new subdivisions, you probably have three to -- three to
4 four hundred new vehicles going by every day and driving by
5 every day in that neighborhood?

6 A. Oh, that's -- I don't know if that's a good guess
7 or not, but I don't know --

8 Q. It's not reasonable?

9 A. -- you've got several -- I don't know, I don't
10 know. I know we have an increase of traffic flow.

11 Q. Plus delivery trucks, Fed-Ex --

12 A. Well, I'm sure we have the Swan's man come up and
13 down the neighborhood.

14 Q. Swan's man?

15 A. How's that?

16 Q. There's all sorts of people like that. And those
17 vehicles -- and that's just in addition to what's already
18 out there?

19 A. Oh, in the last six months you're talking about,
20 or what?

21 Q. I'm saying if you add these two subdivisions,
22 what we are talking about is another 300, 400 vehicles per
23 day, in addition to the vehicles that already use College
24 Drive.

25 A. Okay.

1 Q. And you said 50, 60 at a time to pick up the kids
2 at the school.

3 A. Oh, I don't know if I said 50 or 60, I said there
4 was at least 50 or 60 cars out there yesterday.

5 Q. Okay, that's what I meant, 50 or 60 cars. School
6 buses?

7 A. I'm sure there's school buses.

8 Q. And they all give off fumes, don't they?

9 A. Well, you know, I think they probably do.

10 Q. And are you or your neighbors proposing any
11 restrictions on car traffic, truck traffic --

12 A. Well, you know --

13 Q. -- to the school, around the old folks' home or
14 anything like that, because of the fumes?

15 A. That's a good question. Okay? Diesel semi-
16 trucks exhaust more fumes than regular cars, do they not?

17 Q. Well, I'm not an expert.

18 A. Uh-huh.

19 Q. I say it looks that way.

20 A. Uh-huh.

21 Q. On the other hand, they're supposed to be --

22 A. But when --

23 Q. -- they're less polluting also?

24 A. I wasn't even thinking about the fumes of the
25 vehicles when I talked about traffic.

1 Q. You were just talking about raw numbers?

2 A. No, I was talking about semi-truck traffic in
3 that neighborhood.

4 Q. Okay. But it sounds like, from what you told me
5 before, the accidents are mainly from cars and cars going
6 too fast?

7 A. Well, I don't know, I haven't done a traffic
8 study. I know my son's -- my partner's son flipped his car
9 at 3:00 in the morning, so I don't know what that was due
10 to.

11 Q. Well, I hope he's okay.

12 Another thing you mention is, you know, in Hobbs
13 -- and I go down there a couple -- every other month, Mr.
14 Roberson, and Hobbs is growing. And you said there's no
15 available housing. There's a lot of things going on in
16 Hobbs, isn't there?

17 A. You know, Hobbs is just busting loose right now.

18 Q. And part of it is the booming oil and gas
19 business, isn't it?

20 A. You know, I'm glad you asked that question
21 because I sit on the economic development board of Lea
22 County, and I'm part of the executive committee of the EDC
23 of Lea County, and Hobbs has a lot of things going for it.
24 One is oil and gas, there's no doubt. We also have a race
25 track and casino that we worked real hard to attract. So

1 we attract a lot of Texans from across the state line.

2 And one of our biggest attractions now that is
3 making Hobbs bust loose is the uranium enrichment facility,
4 the \$1.6-billion project that is being constructed in
5 Eunice, New Mexico. And I also happened to get to sit in
6 on the G-net meeting last week over in Carlsbad for the
7 centrifuge recycling center.

8 So Hobbs has a lot going for it, not just oil and
9 gas. But yeah, oil and gas is a contributor to that
10 economy.

11 Q. And normally if you mention nuclear power -- now
12 I used to work in that business, Mr. Roberson, but a lot of
13 people get afraid of that business too, don't they?

14 A. That's the reason why we located it down there at
15 Eunice, out there at the state line, away from everybody.

16 Q. Let Texas deal with the adverse winds?

17 A. Do what?

18 Q. Let the winds blow the stuff over to Texas?

19 A. Well, you know, it might be different if somebody
20 had a house 967 feet from the uranium enrichment facility,
21 but I don't think that occurs. I happen to have at home
22 967 feet where I sit on the back porch in the evening, and
23 I would venture to guess that you probably wouldn't like
24 your home 967 feet from a pumpjack --

25 Q. Well --

1 A. -- so I think that's probably about the -- how I
2 feel about it.

3 Q. -- I don't agree with you.

4 A. Yeah.

5 Q. I used to handle plutonium with my bare hands
6 every day, so here I am, so...

7 A. Yeah. Well, I get to -- I'm going to get to
8 smell it every day.

9 Q. But -- Now you bought your property knowing you
10 didn't own the minerals; is that correct?

11 A. That's correct.

12 Q. And this proposed well is not on your land?

13 A. That is correct.

14 Q. Now you're an accountant by trade, Mr. Roberson?

15 A. Yes.

16 Q. Do you ever check stocks or anything like that?

17 A. Occasionally.

18 Q. Have you ever checked Quest Resources on NASDAQ?

19 A. You know, I checked your website out. I sure
20 did. But I don't know if I checked the stock quotation.

21 Q. Okay, are you aware --

22 A. Is it a good buy right now?

23 Q. Are you --

24 (Laughter)

25 THE WITNESS: Huh? Should I invest in it?

1 (Laughter)

2 Q. (By Mr. Bruce) Any advice --

3 A. What's the PE ratio?

4 MR. HOCHSTEIN: I'm an insider, I can't --

5 THE WITNESS: I know that, you can't say that.

6 Maybe I shouldn't invest either, depending on --

7 MR. BROOKS: If everybody talks at once the court
8 reporter --

9 THE WITNESS: I'm sorry.

10 MR. BROOKS: -- is liable to have apoplexy.

11 Q. (By Mr. Bruce) Are you aware it's a \$500-million
12 company that's listed on NASDAQ, Mr. Roberson?

13 A. No, I was not aware that they are -- \$500
14 million, I don't understand what you mean by \$500 million,
15 if it's \$500 million in assets or \$500 million in equity.

16 Q. Now one thing you said, Mr. Roberson -- this is
17 the final question -- you suggested -- well, maybe the --
18 maybe Quest should just move the -- and this is the last
19 question you answered for Mr. Newell -- we should move the
20 well further to the west. But if they did that, wouldn't
21 it make the well closer to the elementary school and the
22 nursing home?

23 A. I doubt it. I haven't gone out there and plotted
24 websites -- sites.

25 Q. Just by looking at your Exhibit 9, wouldn't the

1 simple geometry --

2 A. Well, I guess if you just took a ruler and drew a
3 straight line you could do that. But what if you took a
4 ruler and drew a line right over here to this --

5 Q. I said move to the west.

6 A. Yeah. Well, there's different --

7 Q. You're talking about moving to the southwest.
8 I'm talking about moving to the west.

9 A. Well, was the question west, directly west? I
10 don't know. Out there in the pasture away from everybody,
11 how's that? Common sense.

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

13 EXAMINER CATANACH: Do you have any --

14 MR. NEWELL: No, I mean -- well, you all -- I may
15 have some after -- I don't really have any redirect right
16 now.

17 EXAMINATION

18 BY EXAMINER CATANACH:

19 Q. Mr. Roberson, what would you say is the closest
20 well right now to your house?

21 A. Oil well, sir?

22 Q. Oil or gas well.

23 A. I have no clue because I don't think there's any
24 existing production in a large area. I would guess that --
25 there is a well in the City of Hobbs down there -- you

1 know, when I bought that property I just didn't think there
2 was any oil and gas production anywhere in the local area
3 at all, so I can't tell you of -- It would probably have to
4 be further west, probably three or four miles, is my best
5 guess, I would guess, over there close to the racetrack and
6 casino.

7 Q. Okay. At your house do you ever smell any oil
8 and gas operations?

9 A. No.

10 Q. Never?

11 A. No. At my former residence I did all the time,
12 because I lived right in the middle of the oilfield. But
13 right now, no. Now everybody smells something in Hobbs,
14 New Mexico, a little bit. Okay?

15 Q. I used to live there.

16 A. Yeah, uh-huh.

17 Q. Is it common for companies to drill in the city
18 limits of Hobbs?

19 A. Not that I'm aware of.

20 Q. Are there existing wells in Hobbs?

21 A. There's been some existing wells in Hobbs, there
22 have been a number of wells plugged in Hobbs. But I do not
23 have a personal recollection in the last 20 years -- and I
24 may be mistaken, but I can't recall of a well being drilled
25 in the city limits of Hobbs, directly in the city limits.

1 There might be one on the outskirts, but I don't -- I can't
2 recall of one.

3 Q. And you don't think that there is that many wells
4 in the city limits?

5 A. I don't know how many wells there are. There's
6 probably some oil and gas producing wells in the city
7 somewhere, but I don't know.

8 Q. Okay. This area that you're talking about
9 appears to be under a lot of development. Is it true that
10 maybe to the west of you you're going to have some future
11 development?

12 A. I think to the west and to the southwest there
13 will be some future development at some point. I think
14 it's not as rapid to the east and to -- well, to the east
15 of that property, no, it's not as rapid, but to the west
16 it's going to be slower. I think -- I think all of that
17 area, general area in there, is going to develop, if the
18 price of oil stays strong and we keep attracting uranium
19 enrichment facilities and all those things that we're
20 doing.

21 EXAMINER CATANACH: Okay, I have nothing further.

22 THE WITNESS: I will also say this. There is --
23 being on the EDC board, we have a prospect of the UNIDAD
24 project, which is a subdivision that is going to be west
25 and south of the College Lane Elementary School, which will

1 be a huge thing. It's an MFA-funded thing, so traffic will
2 increase as well there. It's a big thing.

3 EXAMINER CATANACH: Okay.

4 EXAMINATION

5 BY MR. BROOKS:

6 Q. Do you have an Applicant's Exhibit 3 up there?

7 A. No, sir, it's not in front of me.

8 Q. Well --

9 MR. NEWELL: I have one here. Do you want me to
10 approach the --

11 MR. BROOKS: Yeah, if you could --

12 MR. BRUCE: I'll give him ours here.

13 MR. BROOKS: -- give him one to look at, just for
14 the purposes of questions here.

15 THE WITNESS: Thank you.

16 Q. (By Mr. Brooks) On the other side of -- on the
17 west side of Ja-Rob Lane there's drawn in Mr. Lynch's home,
18 so I take it there's a house over there on -- southwest of
19 this location?

20 A. Directly west of this location, yes, sir.

21 Q. Yeah, directly west, okay. And is that the only
22 house on that area west of Ja-Rob Lane on --

23 A. No, there's some -- there's some houses along
24 College Lane. There's one that's been drilled -- I mean --
25 "drilled", excuse me.

1 (Laughter)

2 THE WITNESS: I apologize, I've been drilling all
3 day. There's one that's been built west of Mr. Lynch's
4 house, but I'm not sure it's as far south, so there's
5 some --

6 Q. (By Mr. Brooks) So there's --

7 A. -- so there's some --

8 Q. -- development --

9 A. -- development, yes, sir, scattered houses
10 throughout there --

11 Q. Yeah, they --

12 A. -- yes, sir.

13 Q. -- the areal that you introduced into evidence is
14 -- it's old, right?

15 A. It's an old areal, yes, sir.

16 Q. It doesn't purport to show all the existing --

17 A. That's exactly right.

18 Q. Okay. But you don't know exactly what's over
19 there?

20 A. I have a recollection, yes, sir. I can tell you
21 that the Appletons built a home over there, because that's
22 where Todd's house -- he bought the Appletons' house.
23 Okay? So they built a home over there, west of Mr. Lynch's
24 property. Okay?

25 Q. And you said there were some homes up on --

1 A. Yes, all along College Lane is developing out,
2 yes, sir.

3 MR. BROOKS: Okay, thanks.

4 THE WITNESS: Uh-huh.

5 MR. NEWELL: I have just a couple of follow-up.

6 EXAMINER CATANACH: Okay.

7 REDIRECT EXAMINATION

8 BY MR. NEWELL:

9 Q. Would you look at the -- Can I approach him with
10 this Exhibit Number 11 --

11 EXAMINER CATANACH: Sure.

12 MR. NEWELL: -- I think it might address some of
13 these questions.

14 Q. (By Mr. Newell) While you're doing -- While
15 you're looking at this, let me ask you this, Mr. Roberson.
16 Now production facilities in the City of Hobbs, there are
17 wells you've seen in the City of Hobbs, but they're
18 enclosed and there's high fences and slats in them where
19 they're --

20 A. I'm -- There may be a few that I've seen, but I
21 don't just have a real direct recollection of the
22 production facilities in Hobbs. I think I've seen one down
23 there by Comet Cleaners that was there with a high fence
24 and that kind of stuff, right. Okay?

25 Q. But there are no tank batteries in the City of

1 Hobbs?

2 A. No tank batteries.

3 Q. Okay, all the production -- all the storage
4 facilities are located outside the city limits?

5 A. That's correct.

6 Q. Okay. Now looking at Exhibit Number 11, the
7 Applicant's Exhibit Number 11, this shows the area in and
8 around the Application's proposed location, correct?

9 A. Yes.

10 Q. Okay. None of these facilities are producing
11 facilities, correct?

12 A. That is -- There's no oil and gas infrastructure
13 or production there.

14 Q. Okay. Is there any way to send the production
15 off via pipeline from this location?

16 A. Well, I don't -- I don't have a clue. I wouldn't
17 guess, unless they can build one somewhere, no.

18 Q. Any pipelines there or anything like that?

19 A. There is, I think, a gas transmission line close,
20 a major gas transmission line, close to this well that -- I
21 think it's a natural gas line that crosses my property. It
22 would be just south of this location.

23 Q. Now you heard them talk about getting rid of the
24 wastewater, and if they put an injection well in this area
25 would that cause you concern?

1 A. It would cause me grave concern.

2 Q. And that's because of -- Why?

3 A. Well, because most of these homes are on domestic
4 wells, and I would be very concerned about chloride seeping
5 into the water table and contaminating those wells.

6 MR. NEWELL: Okay, thank you. Pass the witness.

7 EXAMINER CATANACH: Anything further of this
8 witness?

9 MR. NEWELL: No.

10 MR. BRUCE: This witness may be excused.

11 MR. NEWELL: And the Intervenors would rest.

12 EXAMINER CATANACH: Okay. What do we want to do?

13 MR. BROOKS: That's up to you, if you want to
14 give the counsel an opportunity for summation or invite
15 them to submit briefs --

16 MR. NEWELL: And I -- I would propose that we
17 submit some written summations for two reasons. One is the
18 relative hour, and I would just as soon get to Vaughn or
19 somewhere there close while the sun is still shining on the
20 highways.

21 And second is, there's been a lot of evidence
22 presented here today, and I think if we, you know, had a
23 week or so to submit some written submissions, it may be
24 helpful to the Division. We could pull some of this
25 together and fashion it in a cohesive argument. That would

1 be our preference.

2 EXAMINER CATANACH: Mr. Bruce?

3 MR. BRUCE: I don't have any problem with Mr.
4 Newell's requests. I don't know if I can get through a
5 closing anyway.

6 EXAMINER CATANACH: Okay.

7 MR. NEWELL: Yeah, that's -- Darn, I should have
8 thought of that.

9 (Laughter)

10 MR. NEWELL: Strategic mistake on my part.

11 MR. BRUCE: I told you, Mike, you were at an
12 advantage.

13 EXAMINER CATANACH: Would you have anything to
14 submit, Mr. Bruce?

15 MR. BRUCE: Well, let me talk with my clients.
16 Possibly, if Mr. Newell's -- You said you may submit a few
17 things, and --

18 MR. NEWELL: Yeah, I would probably just like a
19 -- you know, like a closing brief, you know, where I said
20 the evidence, and here's how it fits into the Commission
21 Rules.

22 MR. BRUCE: Yeah, that's -- just a closing
23 argument.

24 MR. BROOKS: Yeah, I think that would probably be
25 helpful to me, because I'll probably be asked to advise the

1 Examiner on the legal aspects of this case, and, you know,
2 anything that counsel could furnish would be helpful.

3 EXAMINER CATANACH: And if you would, just state
4 the position of your clients. I know that some don't want
5 to see the well at all, some may allow the well with certain
6 restrictions. I mean, it would be helpful if you
7 summarized the positions and made these recommendations
8 with regard to some of the issues.

9 MR. NEWELL: I'd be more than happy to do that.
10 What's the time frame?

11 MR. BRUCE: Yeah, that's just what I was going to
12 ask.

13 MR. NEWELL: When do you all want it?

14 EXAMINER CATANACH: I don't know, two weeks? Two
15 weeks, pretty standard.

16 Okay, is there anything further?

17 There being nothing further, Case Number 13,870
18 will be taken under advisement, and this hearing is
19 adjourned.

20 (Thereupon, these proceedings were concluded at
21 3:38 p.m.)

22 I do hereby certify that the foregoing is
23 * * * a complete record of the proceedings in
24 the Examiner hearing of Case No. 13870,
25 heard by me on February 15, 2007.
David R. Catanach, Examiner
Oil Conservation Division

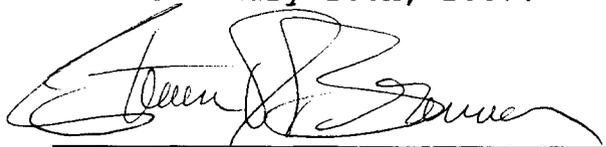
CERTIFICATE OF REPORTER

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 February 20th, 2007.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2010