

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 YATES PETROLEUM)
CORPORATION, HANLEY PETROLEUM, INC.,)
AND ENERGEN RESOURCES CORPORATION FOR)
ALLOWABLE REDUCTION AND THE ESCROW OF)
PRODUCTION PROCEEDS, LEA COUNTY,)
NEW MEXICO)

CASE NO. 12,086

ORIGINAL

OIL CONSERVATION DIV
99 JUN 23 AM 7:35

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

July 8th, 1999

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, July 8th, 1999, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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 Examiner Hearing
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* * *

1 WHEREUPON, the following proceedings were had at
2 10:21 a.m.:

3 EXAMINER STOGNER: Okay, this hearing will come
4 to order. At this time I'll call Case Number 12,086.

5 MR. CARROLL: Application of Yates Petroleum
6 Corporation, Hanley Petroleum, Inc., and Energen Resources
7 Corporation for allowable reduction and the escrow of
8 production proceeds, Lea County, New Mexico.

9 EXAMINER STOGNER: At this time I'll call for
10 appearances.

11 MR. HALL: Mr. Examiner, Scott Hall, Miller,
12 Stratvert and Torgerson law firm, Santa Fe, on behalf of
13 Energen Resources Corporation.

14 We have three witnesses this morning.

15 EXAMINER STOGNER: Other appearances?

16 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
17 representing Gillespie Oil, Inc., and Charles B. Gillespie,
18 Jr.

19 I have two possible witnesses.

20 MR. CARR: May it please the Examiner, my name is
21 William F. Carr with the Santa Fe law firm Campbell, Carr,
22 Berge and Sheridan. We represent Yates Petroleum
23 Corporation and Hanley Petroleum, Inc.

24 At this time we do not intend to call a witness.
25 We may have a statement.

1 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
2 the Santa Fe law firm of Kellahin and Kellahin, appearing
3 on behalf of Mr. Larry Squires and Snyder Ranches, Inc.

4 I do not intend to call a witness.

5 EXAMINER STOGNER: Other appearances?

6 At this time I would like for all witnesses or
7 potential witnesses, let's go ahead and have you all stand
8 at this time to be sworn.

9 (Thereupon, the witnesses were sworn.)

10 EXAMINER STOGNER: And let the record show that I
11 had six people stand up to be sworn at this time.

12 Okay, I believe there has been a request for
13 opening statements or opening comments?

14 MR. HALL: I'll make a very brief opening
15 statement, Mr. Examiner, on behalf of Energen Resources
16 Corporation.

17 What we are asking the Division to do by this
18 Application is three things:

19 We are asking the Division to enter an order
20 reducing the allowable in the West Lovington-Strawn Pool to
21 50 barrels of oil per day.

22 We are also asking that production proceeds
23 attributable to the working interest be paid into escrow
24 pursuant to the New Mexico Proceeds Payment Act for wells
25 inside the West Lovington-Strawn Unit, wells within the

1 pool that are also outside the boundaries of the West
2 Lovington-Strawn Unit. That would include the new Beadle
3 Number 1 well drilled by Energen Resources Corporation
4 recently. It's not yet a producing well.

5 Mr. Examiner, we're also asking for a temporary
6 exemption from the allowable reduction for a period of
7 three months, to enable Energen to derive production data
8 from the Beadle Number 1 well. It's recently drilled.

9 To orient you, Mr. Examiner, if I may approach,
10 simply leave a unit map in front of you. I don't intend on
11 introducing this as an exhibit, but to give you a
12 perspective of the locations of the wells and the unit
13 boundaries that are involved here.

14 Mr. Examiner, this case comes on the heels of
15 Case Number 12,171, which was heard by you on May 27th,
16 1999, which turned out to be something of a tumultuous
17 case. And I recognize that an application of this sort is
18 a precipitous application. It's a very difficult matter
19 for a Hearing Examiner to have to hear a case like this. I
20 understand that.

21 I think it's equally difficult for a Division
22 Director to issue an order in a case like this. There is a
23 danger in my view, cases like this could be cited as a
24 precedent in other disputes. Operators could come in and
25 simply ask the Division to solve a dispute by reducing the

1 allowables. That is a very difficult thing for the
2 Division to do. But in certain cases it's necessary.

3 In this case it is necessary for two primary
4 reasons. We will present proof on each of these reasons.

5 One, it is necessary to help resolve what is, in
6 fact, a dispute among the working interest owners and the
7 operator, West Lovington-Strawn Unit, over the proper
8 expansion of that unit. It's been delayed a long time now.

9 The second reason is, it is necessary for the
10 Division to act in this case to prevent the ongoing waste
11 and violation of correlative rights that have been
12 occasioned by that delay.

13 That's the case we will present to you this
14 morning.

15 And with that, I am prepared to lead off with my
16 initial witness.

17 Call Mr. Ken Gray to the stand.

18 EXAMINER STOGNER: Before you -- Mr. Hall, at
19 this point, is there any desire for any of the other
20 attorneys to make a statement at this point?

21 MR. BRUCE: I don't think I have anything to say
22 at this point, Mr. Examiner.

23 MR. CARR: I have no opening statement.

24 MR. KELLAHIN: Nor I.

25 EXAMINER STOGNER: Mr. Hall?

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KENNETH H. GRAY,

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

DIRECT EXAMINATION

BY MR. HALL:

Q. For the record, please state your name, sir.

A. Kenneth H. Gray.

Q. Mr. Gray, where do you live, and by whom are you employed and in what capacity?

A. I live in Midland, Texas. I'm employed by Energen Resources Corporation, and I'm employed as their District Landman.

Q. And you're familiar with the Application that's been filed in this case by Yates and Energen?

A. Yes, I am.

Q. And you're familiar with the circumstances surrounding the West Lovington-Strawn Unit?

A. Yes.

Q. Now, you testified in Case Number 12,171 and had your credentials accepted as a matter of record in that case, did you not?

A. Yes.

MR. HALL: We'd again offer Mr. Gray as a qualified petroleum land.

EXAMINER STOGNER: If there's no objection, Mr.

1 Gray is so qualified.

2 Q. (By Mr. Hall) Mr. Gray, would you explain to the
3 Hearing Examiner what it is, exactly, that Energen's
4 pursuing by this Application?

5 A. As stated by Mr. Hall originally, we'd like a
6 temporary reduction of the production allowable for the
7 West Lovington-Strawn Pool. Of course, that includes the
8 unit as well as outside the unit.

9 And we'd like -- For that pool, we'd also like
10 the funds escrowed, and of course less taxes and royalty
11 payments, we would want them to be paid, of course.

12 And we would want enough time on the Beadle
13 Number 1 to be able to produce it, as stated by Mr. Hall,
14 for approximately three months so that we could get the
15 necessary engineering data to fully evaluate that well, to
16 see how it fits, as far as the unit.

17 Q. Mr. Gray, why do you believe this action is
18 necessary?

19 A. We feel like we need to remove the incentive for
20 Gillespie to continue to hold the Snyder "EC" Com Number 1
21 and the "EC" Com Number 4 out of the unit.

22 We'd like to make it so that the parties involved
23 would want to resolve the differences. And we certainly
24 are including ourselves in that, so that the second
25 expansion hopefully could go forward. And it seems like in

1 the past we've met with Gillespie's demands, and then when
2 we do that, certain other demands have come up to postpone
3 the inclusion of the above wells into the unit. It just
4 seems like it goes on and on and on.

5 It appears that Gillespie Oil, Inc., as operator,
6 has no incentive to convince Charles B. Gillespie as a
7 working interest owner to bring these two wells into the
8 unit. That's my perception, anyway, in that matter.

9 Q. Well, in your view, is asking the Division to
10 intercede to act to reduce the allowable for the pool the
11 most efficient means of resolving the impasse over the unit
12 expansion?

13 A. That's a hard question. I really don't know what
14 else to do than ask them that. You know, after the last
15 meeting, we had a recommendation by Mr. Stogner to get
16 together and make sure that we could get a final order.

17 And we did call, and of course Mark was certainly
18 cooperative in that, and we met on Friday morning, and we
19 worked that night on Thursday, and we came to what we felt
20 was in agreement, at least in principle. Of course, it was
21 still -- in Mr. Mladenka's defense, he made it very clear
22 that it was still subject to Mr. Gillespie's approval, and
23 we thought that that would work. In fact, we thought we
24 were going to be through with this thing. But of course
25 then Mr. Gillespie decided that it wasn't acceptable, so it

1 didn't work, so...

2 Q. Let me establish a couple of matters for the
3 record, Mr. Gray. When you say "Gillespie", "Mr.
4 Gillespie", who are you referring to?

5 A. Charles E. Gillespie, Jr., I believe, is the main
6 person for himself, for Gillespie Oil, Inc., and of course
7 the previous Gillespie-Crow, Inc.

8 Q. And he is the operator of the West Lovington-
9 Strawn Unit?

10 A. Yes, he is, and he's also the individual who owns
11 the interest.

12 Q. Is he also the operator of the Snyder "EC" Com
13 Number 1 and the Snyder "C" Number 4 wells?

14 A. I would say yes, but in what capacity I'm not
15 certain.

16 Q. All right. And you've also referred to another
17 individual, Mark, Mr. Mladenka. Who is that?

18 A. He is his production engineer, I assume in charge
19 of this -- the Midland office. He's sitting right there.

20 Q. Mr. Gray, based on the history of the affairs
21 surrounding the unit, unit expansion, and based on
22 Energen's participation and all that, is there any
23 realistic expectation on Energen's part that the unit
24 expansion process can be accomplished anytime soon, say
25 within six weeks?

1 A. You know, it's unfortunate but I really don't
2 think so, based on our past experience, unless the
3 Commission takes a position that makes all parties want to
4 resolve the issues. It hasn't happened, so I have no
5 reason to believe it's going to happen.

6 Q. All right. And you've participated in the
7 creation of certain exhibits to help demonstrate to the
8 Examiner the history of events surrounding the unit, have
9 you not?

10 A. Yes.

11 MR. HALL: Let's refer to Exhibit 1 in the
12 notebook, if we could.

13 And Mr. Examiner, for the record let me explain
14 something about this. Under Tab 1, Exhibit 1 in the
15 notebook, is what's titled a "Chronology of Events". This
16 chronology was compiled by me with Mr. Gray's assistance,
17 and it is derived almost entirely of matters that are of
18 record in this case. In the previous --

19 THE WITNESS: Mr. Stogner, I think that book's
20 backwards. I think it's upside down. There you go.

21 MR. HALL: Are we together, Mr. Examiner?

22 Under Exhibit 1, as I said, that chronology
23 consists of matters almost entirely of record in the
24 previous cases before the Division and the Commission
25 involving the West Lovington-Strawn Unit. Mr. Gray helped

1 compile this chronology.

2 What I would like to do is, if I may have some
3 latitude, walk you through certain of these historical
4 events. Believe it or not, Mr. Examiner, this is a
5 condensed version of the history, even though it is some
6 13, 14 pages in length. It does not include all of the
7 history surrounding the West Lovington-Strawn Unit.

8 And I don't intend to discuss each and every
9 entry in here, but let me highlight certain of them for
10 you. And I think we should begin with page 1 of Exhibit 1,
11 to establish what began this whole affair.

12 In 1992, Charles B. Gillespie, Jr., and PG&E
13 Resources Company together drilled the discovery well for
14 this field, the Hamilton Federal Number 1 in Section 33.

15 There were a series of additional wells that were
16 drilled by PG&E and Gillespie. I believe there were seven
17 in all that those two entities partnered together on, 50-
18 percent each. Ultimately it was clear that a unit needed
19 to be formed for the field.

20 And in September, 1995, Gillespie and then Dalen
21 Resources -- And let me explain who Dalen Resources is.

22 Dalen Resources is the successor in interest to
23 PG&E Resources Company. And just so you know, Dalen was in
24 turn acquired by Enserch Corporation. Enserch and Dalen
25 have both been parties to the various cases before the

1 Division surrounding this unit.

2 Enserch in 1997, I believe, had a name change to
3 EEX, Inc. They were also a party. I represented them as
4 well.

5 Recently, in October of 1998, the EEX interests
6 were acquired by Energen Resources Corporation. So there
7 is a consistent succession of interests from PG&E on
8 through Enserch -- or, I'm sorry, Energen.

9 September of 1995, Gillespie and then Dalen got
10 together and negotiated with the other working interest
11 owners for creation of the unit. They drafted the unit
12 agreement. That happens to be Exhibit 2, under Tab 2 in
13 the notebook. The initial acreage comprising the unit is
14 described in the chronology.

15 I would point out something. This is in the
16 chronology and the unit agreement itself, but under Section
17 4 of the unit agreement it states that the unit operator is
18 obligated to expand the unit to include any additional
19 tract or tracts as reasonably necessary or advisable for
20 the purposes of this agreement or as may otherwise be
21 prudent. I think that provides some context to this
22 proceeding here today.

23 The next event of significance to this hearing
24 occurred on March 26, 1996, when Charles B. Gillespie, Jr.,
25 completed the Snyder "EC" Com Number 1 well in Section 6.

1 Around that same time, there was some additional
2 drilling on the periphery of the unit. Yates and Gillespie
3 drilled the State "S" Number 1 well, and Hanley Petroleum
4 drilled the Chandler Number 1 well on the northern flank of
5 the unit.

6 In about August of 1996, there, if you look at
7 that entry, it was apparent that those wells were competing
8 with the unit wells. As a consequence, the unit operator,
9 Mr. Gillespie, recognized that there needed to be some
10 steps taken. So what he did at that time, back in 1996, he
11 reduced production from the unit wells from the maximum
12 allowable of what was then 445 barrels to 150 barrels of
13 oil per day to better balance reservoir injection and
14 withdrawal rates and to maintain bottomhole pressure in the
15 reservoir.

16 At the same time, recognizing that there was
17 communication beyond the boundaries of the unit, there was
18 a need to reduce the allowable on a fieldwide basis. So
19 Gillespie-Crow, Inc., the name of the operator entity at
20 that time, filed an application with the Division to reduce
21 the allowable.

22 That case was heard by the Division, and what was
23 in effect a project allowable of 250 barrels of oil per day
24 for the field was implemented.

25 Soon after that, September of 1996, Gillespie-

1 Crow increased production from the State "S" Number 1 to
2 the top well allowable.

3 Knowing that there was a need to expand the unit
4 by virtue of the drilling on the boundaries in 1996 and
5 1997, on January 24th, 1997, Gillespie-Crow filed its
6 application in Case 11,724 for the first expansion of the
7 unit.

8 There were some difficulties in getting that case
9 heard, frankly. There were disputes among the various
10 affected parties about the proper boundaries of the unit at
11 that time and the allocations and participations in the
12 unit.

13 As a partial consequence of some of those ongoing
14 disputes, then, on March 15th, 1997, Yates' attorney
15 approached Gillespie-Crow's attorney seeking a voluntary
16 continuance of the hearing on the unit expansion case,
17 which was then set for March 20th, 1997.

18 Gillespie on March 17th said it would agree to
19 continue the hearing if Yates would agree to shut in the
20 State Number 1 well and the Chandler Number 1 well until
21 the Division issued an order properly expanding the unit.

22 I think that's a significant entry in the
23 chronology, Mr. Examiner, to begin providing some context
24 to this hearing today. There was a recognition back in
25 1997 that expansion and development ought to proceed on an

1 orderly basis.

2 February of 1998, the OCD had approved the first
3 expansion of the West Lovington-Strawn Unit in Order
4 R-10,864. That order issued in September, September 9th,
5 1997. And as I said, in February, 1998, Gillespie-
6 Crow drilled and completed the Snyder "C" Number 4 well in
7 Section 6, just on the southeast periphery of the unit as
8 it then existed.

9 It was immediately apparent from the drilling of
10 the Snyder "C" Number 4 well that the Strawn formation
11 encountered by that well was in pressure communication with
12 the unitized interval. It was also immediately apparent
13 that the Snyder "C" Number 4 well was benefitting directly
14 from the unit's pressure operations.

15 Soon after that well was drilled, just about
16 contemporaneously, Hanley Petroleum, Inc., and Yates
17 Petroleum Corporation filed their own application for a
18 unit expansion. It was a significantly larger unit than
19 had been previously proposed, but interestingly, that
20 Application did not include the 90 acres dedicated to the
21 Snyder "C" Number 4 well. That was of concern to, at the
22 time, Enserch EEX.

23 April 28th, 1998, there was a meeting of all unit
24 working interest owners in Midland. Before that meeting
25 there had been some requests of the unit operator to expand

1 the unit the unit to include the Snyder "C" Number 4.
2 However, at that meeting in Midland the unit operator did
3 not include that item on the agenda for the meeting.

4 At that same time, EEX became aware that the unit
5 operator, Gillespie, had plans to raise the bottomhole
6 pressure in the unit by increasing the volumes of injected
7 gas through the unit's pressure-maintenance operations.
8 That concerned EEX.

9 Consequently, on April 30th, 1998, EEX made
10 written request of Gillespie-Crow to make immediate
11 application for the expansion of the unit to include the
12 Snyder "C" Number 4 well.

13 And if you will look under Tab 1A, there is a
14 letter from EEX dated April 30th, 1998, which states just
15 that.

16 By that same letter, Mr. Gillespie -- or
17 Gillespie-Crow, was asked to respond to the request by May
18 7th, 1998.

19 May 7, 1998, came and went with no response from
20 the unit operator.

21 Because of that lack of response, on May 15,
22 1998, I was directed by Energen EEX -- I'm sorry, Enserch
23 EEX, to file an application to expand the unit to include
24 the Snyder "C" Number 4 well. That's Case Number 11,987.

25 Notice of that went out on May 22nd, and a copy

1 of that notice letter is under Tab B.

2 There were some difficulties in getting any of
3 the unit expansion cases heard, and they are chronicled in
4 the entries for May 31st, 1998, through June 8th, 1998.
5 There were requests for a continuance. There had been a *de*
6 *novo* appeal filed by Yates in Case Number 11,724. As a
7 result, all of the pending applications were consolidated
8 and were pending on the Commission's docket.

9 There were some discovery disputes that had the
10 effect of further delaying matters, in my view,
11 unnecessarily. I thought those matters could have been
12 worked out and should not have prevented the Commission
13 from hearing this matter.

14 On June 3rd, 1998, I wrote on behalf of EEX to
15 the Commission to avoid any request for continuance,
16 stating that it was unnecessary.

17 The very next day, an additional request for
18 continuance came in. I wrote another letter saying that we
19 strongly urged -- we strongly opposed any further
20 continuances in the case.

21 Nevertheless, on June 8th, 1998, the consolidated
22 cases were continued to an undetermined date. And that
23 sequence of events is demonstrated through Exhibits B, C,
24 D, E and F.

25 In October of 1998, Energen acquired the

1 interests of the EEX Corporation in the area. And at that
2 point I can continue examining Mr. Gray again, since that
3 heralds his entry onto the scene.

4 Just about that same time, Yates and Hanley on
5 October 8th, 1998, also seeing that the expansion was being
6 unreasonably delayed, filed their own application for
7 allowable reduction in this very same case.

8 Then on November 2nd, 1998, there was another
9 working interest owners' meeting convened in Midland.

10 Q. (By Mr. Hall) And Mr. Gray, let me ask you about
11 that. What was included on the agenda for that meeting?

12 A. We talked about the well shut in for pressure
13 buildup of the Snyder "C" and the "EC" Com, talked about
14 the formation of the technical committee, talked about the
15 allowable reduction as proposed by Yates and Hanley, and
16 there was a lot of engineering information that Mark went
17 through at the beginning, trying to bring everybody up to
18 speed.

19 Q. Was the issue of expanding the unit to include
20 the Snyder "C" 4 brought up?

21 A. It was talked about, yes.

22 Q. But was there any affirmative commitment made to
23 pursue that?

24 A. No, there was not.

25 Q. Did the working interest owners at that meeting

1 agree to appoint a technical committee?

2 A. Yes, they did.

3 Q. And what was the charge of the technical
4 committee?

5 A. To re-map the West Lovington-Strawn and adjacent
6 acreage and come up with a new map, a new HPV map, and
7 allocation formula.

8 Q. All right. Let's look at the exhibit under Tab
9 1G. It's a letter dated December 10, 1998. Is that your
10 letter?

11 A. Yes, it is.

12 Q. What was the purpose of that letter?

13 A. We wanted to make sure that we were all on the
14 same page, and we wanted some assurance from Gillespie that
15 the Snyder "C" 4 would be put in the unit, the proposed
16 expansion --

17 Q. And let's look --

18 A. -- because -- I guess the reason -- because the
19 results of the pressure buildup were in at that time, and
20 we knew for sure that those wells -- we already did, but
21 there was no doubt at that point that they were in
22 communication with the unit.

23 Q. All right, let's look at Exhibit H. Is that the
24 response you received from the operator?

25 A. Yes, it is.

1 Q. What did you understand the meaning of that
2 response to be?

3 A. Well, I felt like it was no more than an
4 additional effort on Gillespie's part to postpone the
5 expansion for an inclusion of the Snyder "C" 4 well into
6 the unit. I mean, that's what I got out of it.

7 Q. What was the reason for that cited to you?

8 A. It says that -- As outlined, it says, "The
9 technical committee is currently working unit expansion
10 issues," and that process had to be finalized before they
11 could do that, before they could bring that into the unit.
12 It was premature to bring it in.

13 Q. Pending the work of the technical committee?

14 A. Yes, that's what was stated by Mr. Mladenka.

15 Q. January 8th, 1999, there was a meeting of the
16 technical committee, was there not?

17 A. Yes.

18 Q. What did you understand to have come out of that
19 meeting?

20 A. I understood that they agreed on the new HPV map,
21 that they were in agreement at that time.

22 Q. Did you understand that the operator committed to
23 pursue the expansion of the unit immediately to include the
24 Snyder "C" 4?

25 A. That was my understanding, yes.

1 Q. Now, let's look at Exhibit I, if you would
2 identify that, please, sir.

3 A. Again, that was a letter in an effort to make
4 sure we were communicating as what was discussed at the
5 technical committee. Of course, the first main issue of
6 that letter was, again, to emphasize the unit expansion to
7 include the Snyder "C" Number 4 well.

8 Q. All right, let me refer you to the first entry
9 there. It says, "This letter will memorialize our
10 understanding of the commitments made by the Unit
11 Operator."

12 What exactly was the unit operator committing to
13 do?

14 A. He was willing to go ahead with the unit
15 expansion and include the Snyder "C" 4.

16 Q. All right. Did the unit operator agree to pursue
17 expansion before the Snyder "C" 4 had reached payout?

18 A. Yes, he did.

19 Q. And that's reflected on your letter of January
20 15, 1999, Exhibit I?

21 A. Yes. That was certainly my understanding,
22 anyway.

23 Q. Let me ask you about events in February 4, 1999,
24 when Energen undertook a review of its acreage situation in
25 the area surrounding the unit, specifically the Beadle

1 Number 1. Would you explain to the Hearing Examiner what
2 happened there?

3 A. Well, we had acreage that covered the majority of
4 interest in the west half of Section 35 at the time, and it
5 was pretty obvious that the expansion would not take place
6 in a timely manner to preserve any of that acreage. And...

7 Q. When would that acreage expire?

8 A. May 21st, I believe, was the first lease that
9 expired on the Beadle tract, which is the west half of the
10 southeast quarter, standup 80, Section 35.

11 Q. And that's reflected under the entry for February
12 4, 1999, in the chronology?

13 A. That's correct.

14 Q. February 11th, 1999, there was another meeting of
15 the technical committee in Midland. What happened there?

16 A. Well, I understand that among other things they
17 discussed the penalty. The payout issue seemed to be a big
18 issue with Mr. Gillespie, and the committee talked about
19 150 percent.

20 And as I understand it, since I was not present,
21 but our other witnesses were, that Mr. Mladenka said again
22 that he had to get approval from Mr. Gillespie before that
23 would be acceptable. And I believe that he responded
24 almost the next day or very close and said that 150 would
25 not work, that it had to be 200 percent.

1 Q. And you're referring to the payout for the Snyder
2 "C" Number 4?

3 A. I am. And they talked about 117 percent for the
4 "EC" Com Number 1.

5 Q. All right. On March 5, 1999, another meeting of
6 the technical committee. What happened at that meeting?

7 A. Well, again, this 200-percent payout issue was a
8 problem, because Energen did not want to agree to the 200
9 percent, and Mr. Gillespie insisted that that be a
10 consideration for him to participate in the unit expansion,
11 as I understood it.

12 Q. Was there some discussion of a formula for
13 participation, the components of a formula?

14 A. Yes, as I understand it, this 200 percent was a
15 result of 100-percent recoupment plus the allowable that
16 the well was able to make for a period of time. If it
17 could make full allowable for, say, six months or -- I'm
18 not sure if the six months entered into it at that time,
19 but if it was capable of doing that, then it got another
20 additional hundred percent.

21 And of course, the "EC" Com was not a very good
22 well, so that's the reason it was only producing at 40 or
23 50 barrels, and that's the reason it was at 100 plus 17
24 percent, being a total of 117.

25 Q. All right. So as of March 5, 1999, that

1 technical committee met in Midland. And if you refer back
2 in time to January 15, 1999, the time when you memorialized
3 the unit operator's commitment to proceed with the unit
4 expansion, was any application filed with the Division to
5 pursue that?

6 A. I don't believe so, no.

7 Q. All right. Let's look at the entry for March 15,
8 1999, referring again to the Beadle well. What was going
9 on with that acreage?

10 A. Well, we really had no desire to drill the Beadle
11 well or any well out there, so we initially tried to obtain
12 extensions on our leases, and it was at that time that we
13 realized that David Arrington had taken top leases on
14 everything we owned in that section, which were actually
15 taken a year earlier, none of which had ever been filed of
16 record. We discovered this directly from the mineral
17 owners when trying to extend our leases.

18 Q. All right. Did you approach Arrington in March
19 and try to seek his participation in the drilling of a
20 well?

21 A. Yes, we did.

22 Q. And were you successful?

23 A. We had a conversation, and he indicated he would
24 like 100 percent of the leases, not just his 17 percent.

25 And he said, You do what you need to do, and we'll do what

1 we need to do, and we'll still communicate about it.

2 I don't know how far I'm supposed to go here.

3 Q. Well, let me ask you, after a conversation like
4 that on March 29, 1999, did you direct your counsel to file
5 an application for compulsory pooling?

6 A. Yes, we did.

7 MR. HALL: All right. Again, for the record, Mr.
8 Examiner, if you'll look to the entry on April 7, 1999,
9 that is the date that Gillespie Oil, Inc., filed the
10 application in Case Number 12,171, to expand the unit.

11 Q. (By Mr. Hall) Again, Mr. Gray, look at the
12 chronology, the entry for April 13, 1999. There was
13 another working interest owners' meeting --

14 A. Correct.

15 Q. -- in Midland?

16 What was on the agenda for that meeting?

17 A. We found out, of course, just the day before,
18 that the application to expand the unit had actually been
19 filed. The AFE was discussed for 200-percent reimbursement
20 of well costs, and I believe that the participation
21 formula, the 80-20, was also discussed at that time.

22 Q. And explain the 80-20 for the Examiner.

23 A. Okay, the 80 -- It was an 80-percent HPV and 20-
24 percent well factor.

25 Q. As a basis for the participation formula?

1 A. Correct. And also there was discussion about the
2 Tracts 14 and 15 and the problems they created.

3 Q. All right. You mentioned that AFEs or ballots
4 were circulated?

5 A. Yeah, they were actually given out to us at the
6 working interest owners' meeting.

7 Q. Ballots, you're referring to?

8 A. Yes, the ballots were. And I believe Ballot --
9 I'm not sure, but I know Ballot 1 and 2 were for inclusion
10 of the two Gillespie wells in the unit. Ballot 3 was
11 basically an AFE for the 200 percent, to pay Mr. Gillespie
12 for those wells coming into the unit.

13 Q. All right. Did the unit operator ever formally
14 or otherwise publicize the results of those ballots?

15 A. No, he did not.

16 MR. HALL: Mr. Examiner, if you'll look at the
17 entry for April 26th, 1999, there's a reference to Exhibit
18 K, and again this is where we began to encounter additional
19 delays and requests for continuances. Because the unit had
20 not been expanded on April 29th, 1999, the Division heard
21 Energen's application to pool the acreage to the Beadle
22 Number Well [sic] so it could drill that well and preserve
23 its lease.

24 Again, on May 6th, 1999, Mr. Examiner, there were
25 -- Well, there's several entries for May 6th and May 17th.

1 Those entries chronicle some difficulties which arose with
2 respect to how the application for the unit expansion was
3 structured. There were some perceived problems with it.
4 There were some errors in the tract allocations. In our
5 view, the application was deviated from what the technical
6 committee had agreed to earlier in Midland.

7 There was an effort among counsel to resolve most
8 of those issues, and most were, and most have been. But by
9 that time it was clear that there were other outstanding
10 issues that would prevent ratification from the unit. And
11 as you know, if you'll refer to the entry on May 17th,
12 1999, Energen felt obliged to file a motion for continuance
13 of the unit expansion case in 12,171. That motion was
14 denied, and the hearing on the expansion proceeded on May
15 27th.

16 At that hearing, Gillespie Oil, Inc., as unit
17 operator, presented what was in essence the technical
18 committee's proposal for expanding the unit, along with the
19 participation formula. As I indicated, there were some
20 discrepancies with respect to the allocations to some
21 particular tracts. Those issues were subsequently worked
22 out. They're no longer issues on the table in the context
23 of these proceedings.

24 At the same hearing, Mr. Examiner, as you will
25 recall, the same witnesses who testified on behalf of

1 Gillespie Oil, Inc., also presented testimony on behalf of
2 Charles B. Gillespie, Jr., an individual, proposing an
3 alternative configuration for the unit, and that
4 alternative proposal had not been provided to anyone before
5 the time of the hearing.

6 Q. (By Mr. Hall) Mr. Gray, May 28th, 1999, the day
7 after the hearing, can you tell the Hearing Examiner what
8 transpired on that day?

9 A. Yeah, I'd say from the results of the meeting we
10 knew that the payout issue had to be resolved for
11 ratification to take place. We felt like that was a
12 conclusion. And so after the meeting we meet with counsel,
13 with Scott, and decided that we wanted to work on this
14 issue and get it resolved while we were here.

15 So through Scott we called -- had him call Jim
16 Bruce, and we tried to run down Mark at his motel. We were
17 unable to do that, but Mr. Bruce was able to find him, and
18 we met that next morning on Friday, and we appreciate Mr.
19 Mladenka doing that with us, to try and resolve the issues
20 involved.

21 And the night before, we actually went through
22 and -- what we felt like was concessions on our part, but
23 we wanted to get the unit expansion resolved, and we went
24 through these issues as is outlined in the outline here,
25 Exhibit 1.

1 Q. Let me ask you, what was your understanding of
2 the primary issue that was preventing ratification?

3 A. The primary issue as I understood it was the 200
4 percent. That's what I felt like was it.

5 Q. The 200-percent payout issue?

6 A. The 200-percent payout issue for Gillespie on the
7 Snyder -- Yeah, the Snyder "C" Number 4 well.

8 Q. And what did Energen come up with to address that
9 issue?

10 A. We basically came up with a way whereby the
11 payout -- he would have the right to retain and operate
12 that well until he had received 200-percent payout. At
13 that time it would come back into the unit.

14 Q. All right, let's look at Exhibit 1L, under Tab L
15 there. Could you identify that, please, sir?

16 A. That was an amendment to the operating agreement
17 to provide for the payout multiple, and it was in line with
18 what I said previously, that --

19 Q. How does it work?

20 A. It basically says that they would be able to
21 retain 100 percent of the costs for their well and an
22 additional percent based upon a payout multiple, based upon
23 the top pool allowable for a period of six months. But in
24 this we have already agreed what it was for the Snyder "C"
25 4 well, being 116 percent -- I mean for the "EC" Com being

1 116 percent and the Snyder "C" 4 well being 200 percent.

2 And the other terms were to apply to the Beadle
3 and any other wells drilled in the unit expansion area
4 prior to it being put in the unit.

5 Q. Now, Exhibit L -- it's referred to as "Draft V"
6 up there -- was it proposed that the unit operating
7 agreement be amended to include these particular
8 provisions?

9 A. Yes, it was.

10 Q. And so if I understand what you're saying, by
11 virtue of the Draft V amendment, the 200-percent payout on
12 the "C" 4 well was guaranteed?

13 A. Yes.

14 Q. The 116-percent payout for the "EC" Com well was
15 guaranteed?

16 A. Yes.

17 Q. The same payout multiple provisions would have
18 applied to Energen's Beadle well, presuming they could
19 muster the production up against the pool allowable?

20 A. That is correct. And I guess another -- It was
21 called a payout multiple, as opposed to a well factor, so
22 that we would not have to change the participation
23 percentages that were already agreed to by the technical
24 committee.

25 So on the Beadle, we were not asking for a well

1 factor; we were just getting a multiple payout, based upon
2 its ability to produce during the initial stage.

3 Q. And wasn't the idea that the payout multiple
4 provision would be made applicable to wells drilled on
5 expansion acreage before that acreage was formally brought
6 into the unit?

7 A. Yes, that's correct.

8 Q. And was that what was discussed with the
9 Gillespie representatives --

10 A. Yes, that was.

11 Q. -- on May 28th?

12 A. Yes.

13 Q. As of May 28th, anyway, was it your impression,
14 was it your understanding that there was tentative
15 agreement on that?

16 A. It was, but again, Mark, I'm sure through
17 experience, said that Mr. Gillespie would have to give it
18 his blessing.

19 We did make an effort and obtain management
20 approval of Energen so that we would not have that obstacle
21 to overcome, I might add, but --

22 Q. When did you obtain that approval?

23 A. We actually had that before we left on Friday.

24 Q. The 28th of May?

25 A. Yes.

1 Q. Let's refer to Exhibit Tab M, 1M. Would you
2 identify that, please, sir?

3 A. Yes, that's a letter that I wrote to Mark
4 Mladenka.

5 Q. Dated -- ?

6 A. -- June the 3rd, 1999. And it was again to put
7 in writing those things which we understood were verbally
8 acceptable to Mr. Gillespie's approval. And the reason we
9 wrote the letter is because in our discussion here in Santa
10 Fe, Mark made it clear that he probably would not be able
11 to get with Mr. Gillespie until Wednesday of the following
12 week, and we still hadn't heard anything on Thursday, so we
13 thought we better go ahead and take the initiative to write
14 the letter, since they had not responded.

15 Q. Explain to the Hearing Examiner briefly what the
16 enclosures to your June 3rd, 1999, letter are.

17 A. Well, we added a side letter agreement, and it
18 outlines the things in there. That's the Draft III. We
19 understood that that might be revised slightly by Mr. Bruce
20 for Gillespie. But this was basically a letter outlining
21 the terms as agreed upon by the technical committee, as far
22 as the formula and how that was going to be handled.

23 Q. Let's go through those very quickly here.

24 A. All right.

25 Q. If you look at the draft side letter agreement,

1 it says "Draft III" at the top.

2 A. Yes.

3 Q. Item 1 (a) is referring to what?

4 A. That's a revised unit agreement tract
5 participation. That's -- had a -- We put a June 1st
6 effective date on it, but this is what we understood would
7 be the tract participations by tract. It was revised to
8 accommodate the fact that certain tracts initially proposed
9 -- like say 16 had an A and a B, different ownership in A
10 and different in B. So it was no different than we already
11 had, except divided out, those tracts, between A and B.

12 Q. All right. And then item 1 (b), what's that?

13 A. That again, was the allocation of the --
14 according to the technical committee, the HPV map.

15 Q. That's the HPV map everybody agreed would be
16 used?

17 A. Correct.

18 Q. And item (c) is what?

19 A. Well, that's the amendment to the unit operating
20 agreement for -- that we just talked about, for the payout
21 issue.

22 Q. Next page, item (d)?

23 A. That was the outside -- that was to do with the
24 gas balancing, so people would get credit for -- That was
25 an amendment to the operating agreement.

1 Q. And then item (e) is the Draft V well payout
2 amendment to the operating agreement; is that correct?

3 A. Yes.

4 Q. And item (f), that sets for the --

5 A. -- effective date.

6 Q. -- effective date, June 1, 1999?

7 A. Yes.

8 Q. Everybody's agreeable to that, as you understood?

9 A. I did, yes.

10 Q. Look at numbered paragraph 3 on page 2 of that
11 draft side letter agreement. What was that all about?

12 A. That was basically if those percents on the
13 Snyder "EC" Com and the Snyder "C" 4 well of 116 and 200
14 percent had been reached -- were reached prior to them
15 coming, the unit expansion being finalized, that that money
16 would be escrowed.

17 Q. Okay. So all that went to the operator on June
18 3rd, correct?

19 A. Correct.

20 Q. A week later, June 10, 1999, hear anything back
21 by then?

22 A. No. Let's see. No, I did not.

23 Q. No other follow-up on the part of the operator?

24 A. That's correct. We did find out -- I hadn't.

25 received any written response as to whether that was

1 acceptable or not, but we were told that -- and found out
2 that Gillespie had actually staked another well, offsetting
3 our Beadle well.

4 Q. All right. If you'll look at Exhibit N, is that
5 the C-101 and C-102 for the new well you found out about?

6 A. I'm sorry.

7 Q. Look under Tab N --

8 A. Okay.

9 Q. -- exhibit number --

10 A. Yes, that's the well.

11 Q. And what's that location, for the record?

12 A. It's 467 from the north and 820 from the west
13 line of Section 5, 16 South, 36 East. It's in Lot 4.

14 Q. And what's the proximity to the Beadle location?

15 A. I believe it's about 1100 feet, but I'm not sure.

16 I think that's what Mark told me.

17 Q. By the way, was the Beadle drilling by that time?

18 A. Yes.

19 Q. When did you commence the Beadle?

20 A. We commenced operations on -- I think two days
21 before that -- the 21st, and probably about -- oh, probably
22 about the 25th or 26th. That's approximately.

23 Q. All right. So again referring back to June 3rd,
24 1999, date, you sent your transmittal to the operator,
25 didn't hear anything on June 10th. Two weeks later, June

1 17, 1999 --

2 A. No.

3 Q. -- hear anything?

4 A. No, we did not.

5 Q. Three weeks later, June 22, 1999, less than three
6 weeks later, what did you do?

7 A. We wrote him the letter as outlined in, I guess,
8 Exhibit O. And since he had not responded, we took the
9 liberty of putting the Draft III on our letterhead, and we
10 asked him to let us know where he stood on this matter.
11 And we said if we didn't hear back by business day on
12 Thursday, we'd assume that we were not in agreement
13 anymore. I mean, because he hadn't agreed to -- he hadn't
14 verbally come back and -- or written us a response stating
15 Mr. Gillespie would do that.

16 Q. All right, let's look at Exhibit P. Is that the
17 first response you had from Mr. Gillespie?

18 A. Yes, I received this from you, and I guess it's
19 dated the same day that I wrote my letter. But my letter
20 was out before I received -- before I seen this letter.
21 But it appears that, you know, that he accepted our June
22 3rd letter, but he wanted some additional concessions for
23 that.

24 Q. Well, what were those additional concessions?

25 A. He wanted us to farm out the Beadle well to the

1 unit participants, and he wanted it to all happen before
2 the Beadle well reached the Strawn formation.

3 Q. And how close to the Strawn was the Beadle well
4 by that time?

5 A. It was -- let's see, the 22nd. When I read this
6 -- It was like a Wednesday when I was reading this. The
7 22nd, I believe, was a Tuesday. And we felt like the
8 Beadle well would be down and penetrate the Strawn by
9 weekend. So we had basically part of Wednesday and
10 Thursday and Friday to try and figure out what to do.

11 Q. All right. June 24, 1999, did Energen direct a
12 communication back to Mr. Gillespie's counsel's June 22
13 letter? Look at Exhibit R.

14 A. Yes.

15 Q. What was the nature of Energen's response?

16 A. We agreed to farm out our interest in Tract 21,
17 the Beadle to -- and the essence was, we were willing to
18 make it a unit well without it being in the -- without the
19 expansion actually taking it in at that time, with the
20 payout multiple applying to the Beadle well.

21 Q. So is it accurate to say that in essence Energen
22 was accepting or agreeing to the new concessions that Mr.
23 Gillespie wanted?

24 A. We did agree to them as we understood them.

25 MR. HALL: All right. Mr. Examiner, I would

1 refer you to some follow-up events. On June 25, 1999,
2 there were some further communications between counsel
3 trying to finalize this arrangement.

4 If you'll refer to Exhibit S, there was a request
5 for clarification from Gillespie's counsel on June 25 sent
6 by fax. There was an immediate response that same day.

7 Exhibit T, we thought everything had been
8 clarified.

9 Q. (By Mr. Hall) And Mr. Gray, let me come back to
10 you again. Let's look at Exhibit 1U.

11 A. Yes, sir.

12 Q. What is that?

13 A. This was to comply with Mr. Gillespie's wishes as
14 we understood them. We offered to all working interest
15 owners the right to participate in the Beadle Number 1.
16 And we -- Because of the time involved, this was faxed out
17 on Friday morning. Most of them were all out by ten
18 o'clock.

19 We asked them to respond by that afternoon, by
20 five o'clock, Central Daylight Time, because we -- I felt
21 like I was in no position to offer this to people after I
22 knew the outcome of the Beadle well, and so I had to get a
23 response by Friday based upon the conditions that Mr.
24 Gillespie had placed upon us.

25 Q. Explain to the Hearing Examiner basically what

1 was offered to the other unit participants.

2 A. We offered them the right to participate in the
3 Beadle 1 well on a term-assignment basis wherein they would
4 have the right to a payout in that well based upon the
5 Exhibit -- Was it 5, that we talked about earlier? In
6 other words, they could get 200 percent back of their 100-
7 percent investment if the well was a good well. Of course,
8 if it wasn't a very good well, they could lose their
9 investment.

10 But we put them on the same basis that Energen
11 was on.

12 Q. All right, and you sent them an AFE for those
13 other --

14 A. I did.

15 Q. -- working interest owners to sign?

16 A. Yes, I provided them with the attachments as
17 outlined in -- with the June 3rd letter and all the
18 attachments to that June 3rd letter, plus an AFE.

19 Q. Were any of them able to turn around a response,
20 given the short-fuse deadline that you had given them?

21 A. I pretty much got a response from all parties
22 except for those associated with Gillespie, but --

23 Q. Did you get -- I'm sorry, go ahead.

24 A. Go ahead.

25 Q. Did you get responses both accepting and

1 rejecting --

2 A. Yes, I did.

3 Q. -- farmout?

4 A. Let's turn the page in the exhibits to Exhibit V,
5 Mr. Gray. What is that?

6 A. That is a letter that we got through counsel that
7 said that Mr. Gillespie rejected Energen's proposal. I
8 felt like he rejected what we had tried to do that was his
9 proposal, so I was a little confused at that point.

10 Q. But is it your understanding, despite the steps
11 you took to fulfill the terms of the tentative agreement
12 anyway, circulate AFEs to all the other parties, offer
13 participation in the well, that as of June 25th, the deal
14 was off?

15 A. Yes, it was off. In our letter, since we hadn't
16 -- written response from Gillespie were few and far
17 between, we did put a condition in there that it was
18 subject to Mr. Gillespie giving us written response. So
19 the whole deal was off at that point.

20 Q. Would it be fair to call that a disappointing
21 development?

22 A. It was for me, because then I had to -- then I
23 faxed everybody back again and told them that the deal was
24 off because of this response.

25 Q. With that rejection, did you also understand that

1 the agreement on the payout multiple formula had gone down
2 as well?

3 A. I'm not sure if it was or not. We certainly
4 hadn't backed off of what we agreed to do. We were still
5 agreeable to the 200 percent, so why Gillespie rejected
6 this I guess I wasn't certain. I don't believe it was the
7 payout issue anymore, in case he's decided to go higher
8 than 200 percent now.

9 Q. But as far as you're concerned sitting here
10 today, you don't have agreement on the payout issue; isn't
11 that correct?

12 A. That would be correct.

13 Q. Mr. Gray, in connection with Energen's
14 Application, I understand Energen is requesting a reduction
15 of the allowable to 50 barrels a day; is that correct?

16 A. That's correct.

17 Q. What's the basis for that?

18 A. There's probably no technical basis for that. We
19 felt like that was a number that would hopefully get the
20 results and cause the least harm to the parties involved.

21 Q. All right, let's discuss the effect on leases.
22 If you'll refer to Exhibit 2 under Tab 2, that is the unit
23 agreement for the West Lovington-Strawn Unit area, is it
24 not?

25 A. It is.

1 Q. Are there particular provisions in the unit
2 agreement that would address a regulatory-agency-ordered
3 reduction in production?

4 A. Yes, there is.

5 Q. What are those?

6 A. In Section 22, on page 15, it -- third line talks
7 -- says that all leases will be modified to comply with the
8 terms of this agreement. All leases, I'm sorry, will be
9 modified to comply with the terms of this agreement but
10 otherwise remain in force and effect.

11 And then if you look on page 16 (d), it makes it
12 clear that if an order is issued by the Commission, that
13 order will be binding on the lessors as well. Page 16,
14 number (d).

15 And then I guess if we go to Section 25 --

16 Q. What page is that on?

17 A. 18.

18 Q. What does that section provide?

19 A. The very first part of that, it said, All
20 production shall be in conformity with allocations and
21 quotas made or fixed by -- by the regulatory bodies.

22 Q. All right.

23 A. It's the first like three lines, two lines.

24 Q. It's your understanding as a professional
25 landman, then, that at least with respect to the leases

1 within the unit, all of those leases are conformed to
2 comply with the terms of the unit agreement?

3 A. That's correct.

4 Q. And the unit agreement provides that unit
5 operations and leases affected will be conformed with any
6 regulatory agency order with respect to production that may
7 issue, correct?

8 A. That is correct.

9 Q. So wouldn't it be the case that even if
10 production were reduced all the way down to zero, those
11 leases would not terminate?

12 A. As long as that came out of the Commission,
13 correct.

14 Q. All right. Let's talk about leases outside of
15 the present boundaries of the unit that may be affected.
16 Why don't you identify to the Examiner which of those
17 tracts described in the expansion acreage would be
18 affected? You might also refer to Exhibit 3A.

19 A. On your map, Mr. Stogner, the one that was not as
20 an exhibit, but Tracts 16 and 17 is where the two wells
21 are, the Snyder "C" 4 and the Snyder "EC" Com.

22 And if we look at Exhibit A -- I guess that's 3A,
23 the tract description is the first entry. Lot 2, 16A,
24 that's part of the proration unit. On the extreme right,
25 it tells you that's the Snyder "EC" Com. 16A and 16B make

1 up the Snyder "EC" Com. And the Snyder "C" 4 is Tract 17.

2 And the minimum production language, as contained
3 in the leases, is the footnotes. They're all -- There are
4 three. We've got those other numbers on there that are not
5 relevant, but --

6 Q. Let me ask you, the first page of Exhibit 3A, is
7 that a summary of the lease provisions of the affected
8 leases that you have prepared?

9 A. That is correct.

10 Q. And let me ask you again, what would be the
11 effect on those leases if the allowable were reduced to 50
12 barrels per day?

13 A. They would not lose the leases.

14 Q. All right.

15 A. I'm sure Mr. Mladenka probably could verify this,
16 but those leases are way beyond the end of the primary
17 terms, and they're probably all held by other production
18 anyway. But if that not be the case, then paragraph (3)
19 would apply to all three of the Gillespie leases.

20 We had this taken from another exhibit, and (1)
21 and (2) probably should have been crossed off. The
22 language in that makes it very clear that all expressed or
23 implied covenants are subject to federal and state laws,
24 executive orders. And so we feel like that would cover it.

25 Q. So the leases would not terminate --

1 A. That's correct.

2 Q. -- by virtue of an order that --

3 A. That is correct.

4 Q. Briefly, what are the attachments behind that
5 first page of Exhibit 3?

6 A. I just attached copies of the leases that were
7 involved, since there was just three of them. There was a
8 question. There they are, you can read them. And the
9 paragraph that we're talking about is paragraph 9 -- yes,
10 paragraph 9 on the first lease, and probably that on all of
11 them.

12 Let's see. Yeah, it's paragraph 9 in all cases.

13 Q. Mr. Gray, will granting Energen's Application in
14 this case be in the interests of conservation, the
15 prevention of waste and protection of correlative rights?

16 A. Yes, it would.

17 I might -- you might -- the B -- I might explain
18 what it is, since we skipped the A.

19 Q. Sure.

20 A. The B lease is the Beadle, and what problems it
21 might cause as well, as far as the allowable that was
22 reduced. There are 33 leases involved. The minimum
23 production has a number by it corresponding to the
24 footnotes on the last page, and we have put representative
25 leases for each one of those categories, 1, 2 or 3. We

1 didn't see any point in putting all 33 of them on there.

2 But that's what that exhibit is for.

3 Q. In any event, you're asking for reduction of the
4 allowable only to 50 barrels of oil a day, so there will be
5 some proceeds?

6 A. That's correct.

7 Q. And you're asking for proceeds attributable to
8 the working interest to be escrowed, correct?

9 A. That is correct.

10 Q. The proceeds attributable to the royalty
11 interests in payment of taxes --

12 A. Are to be paid.

13 Q. -- would not be escrowed?

14 A. That is correct.

15 Q. Mr. Gray, were Exhibits 1 through 3 and all the
16 subparts prepared by you or at your direction or with the
17 assistance of your counsel?

18 A. Yes.

19 MR. HALL: We move the admission of Exhibits 1
20 through 3 and their subparts, and that concludes my direct
21 of this witness.

22 EXAMINER STOGNER: Are there any objections?

23 Exhibits 1, 2 and 3 will be admitted into
24 evidence at this time. Thank you, Mr. Hall.

25 Mr. Bruce?

CROSS-EXAMINATION

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BY MR. BRUCE:

Q. Mr. Gray, I just need a couple of points of clarification.

You talked about reducing production to 50 barrels of oil per day. Is that for -- per well or per the unit?

A. That's per well.

Q. And what about this temporary exemption for the Beadle well? At what rate do you want to produce that?

A. I assumed we would be at full allowable for that period of three months.

Q. The 250 barrels --

A. Yes.

Q. -- of oil per day?

A. Correct.

I would point out that that money would be put in escrow.

Q. Maybe you're not the right one to ask this, Mr. Gray, but what do you propose for the future? Is Energen proposing more technical committee meetings, a further hearing on unit expansion? Could you describe what Energen is seeking?

A. We would -- It would be our wishes that the technical committee would meet again and make sure

1 everybody is in agreement, but I can defer that to our
2 later witnesses.

3 We would like -- I guess we'd like to know what
4 the issues are for sure, so we can resolve them. I mean,
5 it just seems like it's going on and on. In my mind I'm
6 not really why the unit expansion is not going on why, why
7 we're not doing it, why --

8 Q. Well, it -- Is Energen at this time prepared to
9 ratify either of the proposals that were set forth for unit
10 expansion at the May 27th hearing?

11 MR. HALL: Mr. Examiner, we will present
12 additional witnesses to address those questions.

13 THE WITNESS: Okay, yeah, I think that's right.

14 MR. BRUCE: So long as Mr. Gray stays here in
15 case the other witnesses don't answer that, Mr. Examiner...

16 EXAMINER STOGNER: Okay.

17 THE WITNESS: Okay, I'll be here.

18 Q. (By Mr. Bruce) Mr. Gray, if you could look at
19 your Exhibit 2, Exhibit Number 2 --

20 A. Two?

21 Q. The unit agreement.

22 A. Yes, sir.

23 Q. Go to page 18, Section 25. Has Energen sought to
24 obtain or -- Look at that section. It refers to "The A.O."
25 Do you know who the A.O. is?

1 A. Yes.

2 Q. And who is that?

3 A. That represents the BLM.

4 Q. Okay. Has Energen sought the approval of the
5 A.O. or of the Land Commissioner to reduce production on
6 its lands, on either of their lands?

7 A. Which lands are you referring to? In the unit?

8 Q. Has Energen sought the approval of the A.O. as to
9 federal lands in the unit, and the Land Commissioner as to
10 state lands in or outside of the unit?

11 A. Outside the unit, we're just talking about fee
12 lands, first of all, so your question will be just for the
13 unit itself.

14 Q. Okay. But has Energen sought the approval of
15 either of them as to reducing production from their lands?

16 A. I have not.

17 MR. BRUCE: I don't have anything further, Mr.
18 Examiner.

19 EXAMINER STOGNER: Mr. Carr, your witness.

20 MR. CARR: I have not questions.

21 EXAMINER STOGNER: Mr. Kellahin?

22 CROSS-EXAMINATION

23 BY MR. KELLAHIN:

24 Q. Mr. Gray, would you turn in your chronology to
25 page 11 --

1 A. Page 11.

2 Q. -- please?

3 On page 11, if you'll pick up the entry on May
4 17th, 1999 -- it's the third from the bottom --

5 A. Yes, sir.

6 Q. -- Energen files a motion for continuance in Case
7 12,171. That's the unit expansion case, is it not? I
8 don't remember --

9 A. I'm sorry, I don't --

10 MR. HALL: We'll stipulate that it is.

11 THE WITNESS: Okay.

12 Q. (By Mr. Kellahin) All right, that's the unit
13 expansion case --

14 A. All right.

15 Q. -- right?

16 A. Okay.

17 Q. That's the one that Mr. Stogner heard on May
18 27th, correct?

19 A. Correct.

20 Q. Case 12,086 is Energen's case to restrict
21 production in the pool, correct?

22 A. Okay.

23 Q. All right. What was the purpose of the
24 continuance request by Energen to continue the unit
25 expansion case? Do you remember?

1 A. We felt like there were some issues that had not
2 been resolved with Mr. Gillespie, and if he did not sign --
3 if he was unwilling to ratify the unit expansion, then,
4 then perhaps it was a waste of time.

5 Q. All right.

6 A. I would -- That was our counsel's decision.

7 Q. On the 19th of May, then, you commenced the
8 Beadle 1 well, right?

9 A. We commenced drilling operations.

10 Q. Yes, sir. And then on the 27th we had the
11 hearing before Mr. Stogner?

12 A. That's correct.

13 Q. Then, if I understand your summary, we go through
14 to about the 25th of June, take almost a month, and if I
15 can characterize your testimony, I believe you believe that
16 Energen had conceded to all the items that Mr. Gillespie
17 wanted to achieve post-hearing?

18 A. That's certainly my understanding, yes.

19 Q. All right. On the 27th of June, then, the Beadle
20 penetrates the Strawn formation. What's the status of that
21 wellbore now?

22 A. It's -- Pipe has been set, but completion has not
23 taken place.

24 Q. Do you have logs on the well?

25 A. Yes.

1 Q. Does Energen want Examiner Stogner to issue an
2 order based upon the record that was heard and established
3 before him on the 27th of May? Is that what you want?

4 A. I'm not sure I understand --

5 MR. HALL: Objection, I don't understand the --

6 THE WITNESS: I don't understand your question.

7 MR. HALL: I don't understand the question, Mr.
8 Stogner.

9 MR. KELLAHIN: We had a hear- --

10 MR. HALL: Order in this case or the other case?

11 Q. (By Mr. Kellahin) All right, we had a hearing
12 before Examiner Stogner on the 27th of May, right? That
13 case was completed.

14 You were there, weren't you?

15 A. May 27th.

16 Q. Yes, sir.

17 A. Yes, I was.

18 Q. All right. There was a record made?

19 A. Yes, sir.

20 Q. He was given technical evidence and arguments and
21 had a decision to make, did he not?

22 A. That's correct.

23 Q. And he advised counsel to prepare a draft order
24 and submit it to him?

25 A. That's correct.

1 Q. And that draft order was not submitted?

2 A. And he --

3 Q. At least at this point, it has not --

4 A. And he also in that advised that he would prefer
5 one draft order.

6 Q. All right. In order to accomplish his intention,
7 then Energen and Gillespie, through counsel, and your
8 participation with Mr. Mladenka, talked about the issues
9 that were disputed at that hearing, true?

10 A. That's correct, yes.

11 Q. All right. And so by the 25th of June, at least
12 according to you, counsel for Gillespie should have had
13 enough information to complete a draft order, right?

14 A. That's correct.

15 Q. All right. My point is, do you want Examiner
16 Stogner to issue an order in that case based upon that
17 record?

18 A. I'd defer that to my counsel, let him answer
19 that.

20 EXAMINER STOGNER: No, sir --

21 THE WITNESS: I can't --

22 EXAMINER STOGNER: -- he's asking you that
23 question. You can't defer a question to your counsel.

24 THE WITNESS: Well, I'm not sure I understand
25 that question.

1 MR. KELLAHIN: Well, let me explain to you again,
2 sir --

3 EXAMINER STOGNER: Do you want to try one more
4 time, Mr. Kellahin --

5 MR. KELLAHIN: Yes, sir.

6 EXAMINER STOGNER: -- because it's pretty clear
7 to me --

8 THE WITNESS: All right, well, I apologize.

9 EXAMINER STOGNER: -- and I don't know why you
10 don't answer.

11 THE WITNESS: Go one more time and I'll.

12 MR. KELLAHIN: All right, let me try and do it
13 again.

14 MR. HALL: If I may interject, I think I can
15 expedite this line of questioning.

16 MR. KELLAHIN: I would prefer that Mr. Hall
17 didn't interject, and that he's testified all morning long,
18 and my questions are for Mr. Gray, not Mr. Hall.

19 EXAMINER STOGNER: I agree with Mr. Kellahin at
20 this instance, Mr. Hall.

21 MR. HALL: That's fine, not a problem.

22 Q. (By Mr. Kellahin) Mr. Gray, as the land
23 representative for your company --

24 A. Okay.

25 Q. All right? -- what position is your company

1 taking with regards to the unit expansion case?

2 A. We would like it to happen.

3 Q. All right. In order to make it happen, Mr.

4 Stogner must issue a decision --

5 A. That's correct.

6 Q. -- must he not?

7 A. Yes, he must.

8 Q. All right. And he must do so based upon a record
9 that's been placed before him?

10 A. That's correct.

11 Q. Okay. Do you want him to issue that decision
12 without regard to the technical data now available for the
13 Beadle well?

14 A. We feel like that the ratification would not
15 happen if that -- it would -- He can issue that order, but
16 it probably wouldn't be ratified.

17 Q. Well, that's not my question. My question is, do
18 you want him to issue the order on expansion, regardless of
19 whether it may or may not be ratified, based upon that
20 record?

21 A. I would say no.

22 Q. All right, because the Beadle well now has data
23 available to you that's going to change the pore-volume
24 map; is that not true?

25 A. That is correct.

1 Q. All right.

2 A. That's correct.

3 Q. And so before Mr. Stogner wastes his time
4 deciding this controversy about the expansion, this matter
5 needs to go back to the technical committee so that the
6 working interest owners can redraw them?

7 A. I agree, yes, that's correct.

8 Q. And that's what Energen wants to happen?

9 A. Yes.

10 Q. And when will that take place?

11 A. We'd like to start next week if the operator
12 would be willing to do that.

13 Q. Well, and you control that decision, don't you?
14 You've got the data, it's your wellbore being drilled,
15 right?

16 A. Which they have --

17 MR. HALL: This isn't --

18 THE WITNESS: They have the data on the Beadle, I
19 mean, as far as --

20 Q. (By Mr. Kellahin) Aren't you drilling -- Isn't
21 Energen drilling the Beadle well?

22 A. Yes, but the logs have been provided to the
23 operator.

24 Q. Isn't Energen in charge of the operations that
25 will get you the tests on all the formations?

1 A. That is correct.

2 Q. All right, so that data is under your control, is
3 it not?

4 A. Yes, it would seem that's the case, correct.

5 Q. And when will you have that information available
6 in a complete enough fashion that it can be of use to the
7 technical committee?

8 A. I'm not technically qualified to answer that.

9 Q. Well, you've asked for a 90-day testing.

10 A. Right, that's what my engineers tell me that
11 would be ample time to have that information.

12 Q. All right, and then what's supposed to happen
13 after that?

14 A. The maps -- We would hope can be redrawn right
15 now based upon the logs, rather than that information,
16 because we are not getting a well factor on the Beadle
17 well, so that doesn't seem to be an issue. But we do have
18 information of where the hydrogen pore volume could be
19 drawn based upon those logs.

20 Q. How long do you think it will take the technical
21 committee to accomplish a review and get this back to the
22 working interest owners for discussion?

23 A. We feel like that at one meeting, at most two,
24 they could re-do the map, because they're just going to
25 have to do it in the area where the Beadle exists.

1 Q. Now, the Beadle well was commenced, oh, what,
2 about eight days before the Examiner Hearing before Mr.
3 Stogner on May 27th, if I've got the sequence right?
4 Bottom of page 11, it commences on May 19th.

5 A. The Beadle well was probably spudded about five
6 days after that, probably the 24th, 25th, in that
7 neighborhood, actually spudded. Drilling operations were
8 commenced on the 19th to hold the lease because they had a
9 21st expiration date.

10 Q. So at the time that Energen came forward on the
11 May 27th hearing, you knew that the data from the Beadle
12 well once achieved would be necessary in order to re-
13 examine all the maps?

14 A. No, we didn't know that --

15 MR. HALL: I'll object to that --

16 THE WITNESS: -- we didn't know that.

17 MR. HALL: -- that mischaracterizes prior
18 testimony.

19 THE WITNESS: We didn't know what the outcome of
20 the Beadle well would be. It could have come in exactly
21 like we had it mapped.

22 Q. (By Mr. Kellahin) So what had you intended to
23 happen with the Beadle well?

24 A. We had -- If everybody had agreed, we were
25 agreeable to go ahead with the allocation factors, and the

1 Beadle well would not have affected anything --

2 Q. Okay --

3 A. -- on the oil --

4 Q. -- so when did you make the change of decision
5 that you now want to re-do the maps?

6 A. With the outcome of the Beadle well being down,
7 it doesn't look as good as mapped. We are -- It's
8 certainly to our detriment to re-map it. And we felt like
9 we'd have so many objections from the people involved that
10 we had to re-map it.

11 Q. And when did you become aware of that
12 information?

13 A. The well came -- was down just the last week.
14 It's just been recently.

15 Q. Okay, so the data has been generally available to
16 you for about a week?

17 A. I believe that's correct. I'm not sure the date
18 it was logged.

19 Q. And yet you're here today asking for the pool to
20 be substantially shut in?

21 A. That is correct.

22 MR. KELLAHIN: No further questions.

23 MR. BRUCE: Mr. Examiner, could I have one
24 follow-up question?

25 EXAMINER STOGNER: Yes, sir.

FURTHER EXAMINATION

1
2 BY MR. BRUCE:

3 Q. Mr. Gray, you were at the April 13, 1999, working
4 interest owners' meeting, were you not?

5 A. Yes, I was.

6 Q. Do you remember right at the end of that meeting,
7 Mr. Cromwell, Energen's geologist, stating at that time
8 that the drilling of the Beadle well would change the maps?

9 MR. HALL: Well, I'm going to object to that.
10 That's -- I think mischaracterizes Mr. Cromwell's
11 statements. That statement is not in evidence in any
12 event, and at this point it is hearsay.

13 THE WITNESS: I would answer that by saying that
14 we agreed that the Beadle well, we weren't going to take a
15 well factor -- We were trying to expedite this in our
16 meeting with Mr. Mladenka, and so we were agreeable to
17 leave the map as is at one point in time.

18 MR. BRUCE: That's okay for now, Mr. Examiner.
19 That's all I have.

20 EXAMINER STOGNER: Redirect?

21 MR. HALL: No redirect.

22 EXAMINER STOGNER: What's your -- You have two
23 more witnesses?

24 MR. HALL: Two witnesses. Mr. Gray was the
25 longest witness. It's almost ten till -- quarter till

1 noon, so I'll...

2 EXAMINER STOGNER: When do you propose to submit
3 the notification of this particular case today?

4 MR. HALL: Notice has issued.

5 EXAMINER STOGNER: Yes, and -- But is it in here,
6 or do you have a different exhibit now?

7 MR. HALL: I have a different exhibit for that.
8 I'll tender it at the end of the hearing.

9 EXAMINER STOGNER: And is that going to be your
10 -- What, one of your next two witnesses?

11 MR. HALL: I'll tender it at the -- now, if you
12 like, or at the end of this.

13 EXAMINER STOGNER: Yeah, let's take a look at it
14 now.

15 MR. HALL: Sure. Exhibit 16 is our notice
16 affidavit.

17 EXAMINATION

18 BY EXAMINER STOGNER:

19 Q. Mr. Gray --

20 A. Yes, sir.

21 Q. -- on this allowable reduction, what length of
22 period, what length of time, are you requesting? is this
23 to be a permanent --

24 A. No, it was temporary.

25 Q. To what degree?

1 Or are you familiar with the prorationing scheme?

2 A. Yes, I thought he was asking me if it was for the
3 unit, the West Lovington-Strawn Unit, or for a well.

4 Q. Okay.

5 A. I understand it's for a well and its associated
6 unit, proration unit.

7 Q. Okay.

8 A. That's where I was coming from, that's what I
9 understood him to say.

10 Q. Okay, so I understand it's pursuant to the
11 prorationing scheme in which that allowable is based?

12 A. Correct.

13 Q. Okay.

14 A. Yeah.

15 EXAMINER STOGNER: Mr. Hall, before I had asked
16 for that, you had mentioned something, or you were
17 beginning to mention something about, maybe, a good time to
18 go have lunch?

19 MR. HALL: That was my intention.

20 EXAMINER STOGNER: Okay, at this time --

21 MR. BRUCE: Mr. Examiner, could I ask one
22 question of either Mr. Hall or Mr. Gray?

23 EXAMINER STOGNER: Is this pertaining to Exhibit
24 16?

25 MR. BRUCE: Yes.

1 EXAMINER STOGNER: Let's see, at this time --
2 Well, do you object to the admission of Exhibit 16?

3 MR. BRUCE: I do not object to the admission of
4 Exhibit 16.

5 MR. HALL: So moved.

6 EXAMINER STOGNER: Exhibit 16 will be admitted
7 into evidence.

8 Okay, Mr. Bruce?

9 FURTHER EXAMINATION

10 BY MR. BRUCE:

11 Q. Were any royalty or overriding royalty owners
12 notified of this Application?

13 A. No.

14 EXAMINER STOGNER: I'm sorry, I didn't hear an
15 answer.

16 THE WITNESS: I said no.

17 EXAMINER STOGNER: Okay.

18 Do you have any other questions?

19 MR. BRUCE: No questions.

20 EXAMINER STOGNER: So when would be -- Mr.
21 Kellahin, Mr. Carr, Mr. Hall and Mr. Bruce, when would be a
22 good time to reconvene after lunch? When would be a good
23 time? See if you can all get together on something here.

24 MR. HALL: I vote for 1:15.

25 EXAMINER STOGNER: Is that agreed by everybody?

1 1:15 it is, we'll reconvene. Thank you.

2 (Thereupon, a recess was taken at 11:53 a.m.)

3 (The following proceedings had at 1:22 p.m.)

4 EXAMINER STOGNER: This hearing will come to
5 order.

6 Mr. Hall?

7 MR. HALL: Mr. Examiner, we would call Dave
8 Cromwell to the stand.

9 MR. BRUCE: Mr. Examiner, before we begin --

10 EXAMINER STOGNER: Yes, sir?

11 MR. BRUCE: -- based on that last exhibit that
12 was admitted, I don't know that this case was properly
13 noticed.

14 EXAMINER STOGNER: Do you want to explain
15 yourself, Mr. Bruce?

16 MR. BRUCE: Well, first of all, getting back to
17 Section 25 of the unit agreement, I don't know what much
18 use it will do to go through this without the approval to
19 reduce production from the A.O. and the Land Commissioner
20 as to the state and federal lands.

21 Furthermore, notice was only given to the working
22 interest owners, and I believe in a case like this, that
23 affects the interests of the royalty and overriding royalty
24 interest owners, also notice should be given to them.

25 MR. CARROLL: Mr. Hall, a response?

1 MR. HALL: Yes, sir. Mr. Examiner, there is no
2 clearly directly applicable rule for purposes of
3 notification in a case like this. Accordingly, the rule we
4 tried to follow was Rule 1207.A, which is the rule
5 addressing changes in pool rules. I thought it was most
6 closely applicable. And that rule says you are to notify -
7 - exactly what it says.

8 MR. CARROLL: Why don't you look at that catch-
9 all at the end too, for adjudications not listed above or
10 applications not listed above?

11 MR. HALL: I'm sorry, I didn't hear?

12 MR. CARROLL: Why don't you look at -- I think
13 it's 11, applications not listed above.

14 MR. HALL: Well, that's the question, whether or
15 not a property interest is affected, and I think the
16 previous testimony has established that there will be no
17 effect on property interest as we understand that term to
18 be defined under the current case law, as muddled as it was
19 by virtue of the *Johnson* appeal.

20 But there is no working interest, no lease
21 interest subject to termination here. It's not the case
22 where you would have that property interest affected in the
23 case of a downspacing application or something like that.

24 MR. CARROLL: The effect is the same though,
25 isn't it? The royalty checks would be unreduced, in this

1 case 80 percent?

2 MR. HALL: That is not a property interest under
3 New Mexico law. That is an interest in production
4 proceeds. I think the *Christie Petroleum* case established
5 that. That is not a real prop- --

6 MR. CARROLL: What was Mrs. Uhden's interest?

7 MR. HALL: She had a property interest that was
8 -- participation in wells were reduced, her acreage
9 participation was reduced --

10 MR. CARROLL: What was her --

11 MR. HALL: -- so it would be different.

12 MR. CARROLL: What was her property interest?
13 Wasn't it a royalty interest?

14 MR. HALL: Yes, but it was a royalty interest
15 determined by acreage participation. It was a property
16 interest that was affected by reduction. You don't have
17 that case here because there is no lease termination.

18 The only outcome of the hearing affecting the
19 royalty interest is a reduction in participation in
20 proceeds, and that's all. That is not a real property
21 interest under valid case law.

22 MR. BRUCE: Mr. Carroll, Mr. Examiner, believe it
23 or not, this is the first time I've cited the *Uhden* case in
24 a Division proceeding. That was a spacing decision. Mrs.
25 Uhden was a royalty interest owner. Amoco sought an

1 increase in spacing in the Cedar Hills-Fruitland Coal Gas
2 Pool. The net effect was that her royalty interest was
3 reduced in half in the wells in which she owned an
4 interest.

5 The Supreme Court in that case stated the issues
6 presented, or whether the proceeding was adjudicatory or
7 rule-making -- and the decision of the Court was that it
8 was adjudicatory -- and whether the royalty interests
9 reserved by the lessor of an oil and gas estate were
10 materially affected by a state proceeding so as to entitle
11 the lessor to actual notice of the proceedings, the
12 conclusion of the Supreme Court was that the New Mexico and
13 United States Constitutions requires the party who files a
14 spacing application to provide notice of the pending
15 proceedings by personal service to such parties whose
16 property rights may be affected as a result.

17 I think there's another reason. Now, this was a
18 spacing decision, the net effect was the same: Royalty
19 payments are reduced.

20 There's another effect, if this decision does
21 apply, the *Uden* decision, and the relief is granted, that
22 decision wouldn't be binding on the royalty owners.

23 Energen or Gillespie Oil, Inc., or Charles B.
24 Gillespie, at the Division's direction, if the order was
25 granted, would have to reduce their production from their

1 wells, but the royalty owners would not be subject to that,
2 and they could make conflicting demands upon the royalty
3 interests -- I mean, excuse me, upon the working interest
4 owners.

5 And therefore, I do not think notice is proper.

6 EXAMINER STOGNER: Mr. Hall, how many royalty
7 interests would be -- would need to be contacted? Is a
8 majority of this federal or state, or how much fee property
9 is out here?

10 MR. HALL: I can't answer that question except
11 generally, there is a small amount of state acreage, there
12 is federal acreage, there's a substantial amount of fee
13 acreage owned by Snyder Ranches. They have always been a
14 party to these proceedings.

15 There are additional royalty interests in the
16 pool, in the expanded unit area. Not all of the royalty
17 interests have been notified, I'll admit that. And again,
18 it's our position that this involves operation under pool
19 rules. It's an operational matter. It does not affect
20 property interest.

21 There is no avenue for a royalty interest owner
22 to make conflicting demands on his lessee because of a
23 reduction in production, because each lessee, each
24 operator, is bound to operate by the Division's orders with
25 respect to production.

1 So there's no legal standing for a demand to be
2 made. I think that argument is frivolous.

3 MR. CARROLL: Yeah, but according to the *Johnson*
4 decision, if -- would the Division order apply to that
5 royalty interest owner if they weren't notified of this
6 case?

7 MR. HALL: Applied in what sense? There would be
8 no opportunity for the royalty interest owner to bring
9 himself into compliance. He's conveyed away all his
10 executive rights. Those are the rights --

11 MR. CARROLL: Didn't Mrs. Uhden --

12 MR. HALL: Pardon me?

13 MR. CARROLL: -- convey away all of her proper-
14 -- or her rights?

15 MR. HALL: Well, again --

16 MR. CARROLL: She signed a lease with Amoco.

17 MR. HALL: Again, I think that's an entirely
18 different situation. That affected her acreage
19 participation, not participation in royalty proceeds. The
20 *Christie Petroleum* case makes quite clear that
21 participation in production proceeds is not a real property
22 interest.

23 MR. BRUCE: Mr. Examiner, the *Uhden* case doesn't
24 talk about real property. It talks about property -- oil
25 as property, cash as property. And what does it derive

1 from? It derives from that real property royalty interest.

2 The argument in *Udden* made by my worthy opponents
3 was that there was a pooling clause in the lease, and
4 therefore once the Division increased the spacing, that
5 they could simply pool it under the pooling clause, and
6 there was no effect.

7 Mr. Hall is making the same type of argument,
8 that there's no effect because the Division ordered it.
9 But that begs the question of whether or not those interest
10 owners are entitled to notice.

11 MR. HALL: Mr. Examiner, that argument is
12 tantamount to saying that a royalty owner can come in and
13 demand of his lessee that he produce his well in excess of
14 established allowables, or in violation of some other order
15 of the Division. I just don't think that's what the rule
16 contemplates.

17 MR. CARROLL: But the royalty interest wasn't
18 notified of this hearing. He might come in and have an
19 argument against reducing the allowable. But he doesn't
20 have that opportunity if he's not provided notice.

21 MR. HALL: If there is a concern about notice, I
22 believe, pending the ruling of the Examiner on this
23 objection, we could provide notice to the royalty interests
24 if that's what's required, and keep the record open in this
25 case.

1 EXAMINER STOGNER: Tell you what, I'm going to
2 divert ruling on this until we hear the evidence today, and
3 then we'll make a decision at that time. Okay?

4 So with that, if there's nothing further, then
5 Mr. Hall, continue with your witness. I believe we were
6 introducing what, Ed Cromwell; is that correct?

7 MR. HALL: Dave Cromwell.

8 EXAMINER STOGNER: Dave, I'm sorry.

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

12 DIRECT EXAMINATION

13 BY MR. HALL:

14 Q. For the record, state your name.

15 A. David Cromwell.

16 Q. And Mr. Cromwell, where do you live and by whom
17 are you employed?

18 A. I live in Birmingham, Alabama. I'm employed as
19 the Permian Basin district geologist with Energen
20 Resources.

21 Q. All right, and you've previously testified before
22 the Division in Case 12,171, and you've had your
23 credentials accepted as a matter of record; is that
24 correct?

25 A. Yes, sir.

1 Q. And you're familiar with the West Lovington-
2 Strawn Unit and the Application filed in this case?

3 A. Yes, sir.

4 MR. HALL: Mr. Examiner, we would again tender
5 Mr. Cromwell as a qualified witness.

6 EXAMINER STOGNER: Is there any objection?

7 Mr. Cromwell is so qualified.

8 Q. (By Mr. Hall) Mr. Cromwell, if you'd give the
9 Hearing Examiner an overview, what's been your specific
10 involvement with the West Lovington-Strawn Unit
11 proceedings?

12 A. My involvement started with the West Lovington-
13 Strawn last fall, and I attended a working interest owners'
14 meeting last October, and I was part of the technical
15 committee that was assigned to re-map the West Lovington-
16 Strawn, and I participated in all five meetings held over a
17 course of four months, December, January, February and
18 March of late last year and the beginning of this year.

19 Myself, the geologist, petroleum engineer with
20 Energen, Barney Kahn, sometimes was at the meeting, or Jim
21 Piwetz with Energen.

22 The other participants of the committee were
23 Gillespie. He had two engineers, Mark Mladenka and John
24 McDermott, also an engineer, participated in all the
25 meetings.

1 Hanley Petroleum had a geologist, Brett Bracken,
2 and an engineer, Greg Wilkes, that participated in the
3 meeting.

4 Yates Petroleum had an engineer, Dave Boneau,
5 that participated in all the meetings.

6 During the course of those meetings, I thought we
7 had an amicable relationship going. We exchanged data, we
8 worked up some fine points and recalculated the HPV, we
9 changed the R_w . Everybody agreed on that. We changed the
10 method of calculation with the density on the logs to
11 determine those calculations.

12 Energen generated the base maps, and we provided
13 the calculations to determine the HPV. That data was
14 presented to all the participants of the technical
15 committee. The data was gone over together. We worked on
16 a common map and, what I thought, agreed to a specific map
17 that was generated and presented at the unit expansion last
18 May that you presided over.

19 At no time during the meeting were we informed or
20 did we even have any knowledge that Mr. Gillespie had a
21 consulting geologist that was taking our data and remapping
22 it on his own, and I found that this is very disruptive to
23 the spirit of the agreement where we were going to sit
24 together and work out a new expansion formula to
25 everybody's agreement.

1 And so when the data was presented last May, we
2 take exception to that data, and I just wanted to go on
3 record as saying that we don't agree with the data that was
4 presented by Mr. Charles Gillespie as independent operator,
5 I guess, outside of the unit.

6 And in fact, some of those maps had some major
7 mistakes in them, and I resent the fact that our data was
8 taken and interpreted and that we were considered that we
9 were the ones that were in error.

10 So from that standpoint, I feel that Mr.
11 Gillespie violated the camaraderie to work together to
12 solve and move forward with the expansion of the unit.

13 Q. Let me ask you, how frequently did the technical
14 committee meet?

15 A. We met five times in four months.

16 Q. All right. During the course of those meetings,
17 was it your understanding there was agreement among all the
18 participants with respect to the unit boundaries and the
19 pore volume allocations?

20 A. Yes, sir, there was.

21 Q. Who provided most of the technical support to the
22 committee's efforts?

23 A. Everybody worked together to provide that data,
24 and then Energen took the data and generated that data to
25 provide to the members of the committee.

1 Q. All right, so you generated maps, allocations, et
2 cetera, based on what you understood was an agreement
3 reached by the technical committee, correct?

4 A. Yes, sir.

5 Q. And the Gillespie representatives were present
6 and participated in those deliberations, correct?

7 A. Yes, they were.

8 Q. Did at any time they state any objection to what
9 was being generated by the technical committee?

10 A. No, sir, not that I'm aware of.

11 Q. Okay.

12 A. I thought everything was going fine until we had
13 the surprise geologist's interpretation last may.

14 Q. So during the course of the technical committee's
15 meetings, was there any indication on behalf of the unit
16 operator or Mr. Gillespie individually that an alternative
17 proposal was being formulated?

18 A. No, sir.

19 Q. Let's discuss, if you would, Mr. Cromwell, the
20 situation on the Beadle Number 1. Have you prepared some
21 exhibits to testify about that?

22 A. Yes, sir, I have. I've got a few exhibits.

23 If you don't mind, could I approach and show
24 those to you?

25 EXAMINER STOGNER: Okay, are you starting with

1 Number 4; is that correct?

2 THE WITNESS: Yes, sir, just to walk you through
3 the exhibits if you don't mind.

4 EXAMINER STOGNER: Okay. You need to be careful
5 whenever you do this because it's not going to come out on
6 the record if you just point and say, Here it is, here it
7 is. It would be better if you describe it from your side
8 as opposed to pointing it. But if you think you can do
9 that, go right ahead.

10 THE WITNESS: Okay. Basically, the first exhibit
11 is a Strawn-producing field in central Lea County. The
12 fields that I've outlined, this is our West Lovington-
13 Strawn Unit. As noted, it's just outside the city limits
14 of Lovington. And you notice the other fields in the area.
15 Also take notice that this field is fairly large and it
16 encompasses several square miles.

17 The next exhibit --

18 Q. (By Mr. Hall) What's that exhibit number?

19 A. Exhibit Number 5 --

20 EXAMINER STOGNER: I'll tell you what, this is
21 not going to work. Why don't you go back over there and
22 then you describe it from --

23 THE WITNESS: Okay.

24 EXAMINER STOGNER: -- from that seat. If you
25 can't do that, then we'll have to work something else out.

1 Because not only are you explaining it to me, you're
2 explaining it to everybody here, and this is a case in
3 which there are many people here that are being affected
4 today, so...

5 THE WITNESS: Yes, sir, okay.

6 EXAMINER STOGNER: Okay.

7 THE WITNESS: The second exhibit is a
8 diagrammatic cross-section that I've prepared to show how I
9 feel the algal mounds have accumulated and built up in the
10 West Lovington-Strawn. The large --

11 EXAMINER STOGNER: Which exhibit are we looking
12 at, Mr. Hall?

13 MR. HALL: We're referring to Exhibit 5, Mr.
14 Examiner.

15 EXAMINER STOGNER: Okay.

16 THE WITNESS: Exhibit 5 shows the algal mound
17 coalescing in what I believe is the situation at the West
18 Lovington-Strawn Pool. Notice the mound on the right-hand
19 side of the exhibit. That is an isolated mound. That is a
20 situation where you may have just one or two wells that
21 will be productive from a smaller feature on the side or
22 flank of the existing map.

23 This is just a cartoon to explain how I feel the
24 geological situation where the algal mounds during
25 Pennsylvanian time grew and coalesced to form the

1 particular West Lovington-Strawn Pool.

2 Exhibit 6 is a cross-section that I have
3 prepared, and it shows the eastern flank of the West
4 Lovington-Strawn field. If you'll note, you have the
5 Snyder "EC" well, the "C" 4 well, the Gillespie State "S"
6 well, and the dry hole, the Julia Culp well, to the north
7 on flank.

8 If you'll notice, I have picked certain markers.
9 I have a top Strawn porosity marker, I have a top Strawn
10 formation marker, and I have a base Strawn. I believe that
11 the base of the Strawn is the platform on which the
12 existing mounds or mound grew.

13 If you'll look, you can see the little green area
14 on the extreme right-hand side of the "EC" well. That is
15 the perforated interval in that well. And you compare it
16 to the "C" 4 well, and you can see that you have a much
17 thicker area of perforation. In other words, the rock
18 quality is better.

19 As an example -- May I approach, sir?'

20 EXAMINER STOGNER: No, sir. Why don't you sit
21 back down and then describe from your --

22 THE WITNESS: This is a piece of a rock that's
23 got holes in it. These holes show you the spaces that the
24 oil has accumulated in the rock. This is a core from one
25 of the wells in the field. We believe that this

1 interconnectibility is how the oil moves through the rock
2 and is produced. If you do not get these holes -- they're
3 called vugs -- then the rock is fairly tight and you do not
4 get any hydrocarbons.

5 We --

6 EXAMINER STOGNER: Let's go back to that. Now,
7 which well did this come from, and what depth was it?

8 THE WITNESS: This particular specimen came from
9 11,569 feet deep. It occurs in the Number 3 Hamilton well.

10 Q. (By Mr. Hall) And which exhibit are you
11 referring to?

12 A. If you'll go to Exhibit Number 7, the Number 3
13 Hamilton well is located in Section 33, in the northeast
14 quarter of the southwest quarter of that section.

15 EXAMINER STOGNER: Okay, which well, again?

16 Describe --

17 THE WITNESS: The Number 3, the West Lovington-
18 Strawn Unit Number 3. That is where -- There were two
19 cores taken in this pool. That well and the Number 2
20 Earnestine to the south and east are the only two wells
21 where we have cores.

22 The reason I -- The only reason I'm showing you
23 this piece of core, sir, is that I wanted to illustrate
24 that you can see the various holes within this rock.

25 EXAMINER STOGNER: Okay, are you through with it?

1 THE WITNESS: Yes, sir.

2 EXAMINER STOGNER: Why don't you bring it here.

3 Mr. Bruce, are you needing to inspect this?

4 MR. BRUCE: (Shakes head)

5 EXAMINER STOGNER: Okay.

6 All right, Mr. Hall?

7 THE WITNESS: If you will continue on and look at
8 Exhibit 7, it has been brought out that we have drilled our
9 Number 1 Beadle well in the southwest quarter of the
10 southwest quarter of Section 35.

11 Also of note, it's been brought out that Mr.
12 Gillespie is drilling a well immediately to the southeast
13 of us in the northwest quarter of the northwest quarter of
14 Section 5.

15 The reason that we drilled our Number 1 Beadle
16 well was because of land considerations. We knew that the
17 area was going to be incorporated in the recent expansion
18 which Mr. Hall has provided to you as the bottom map that
19 you're looking at right now.

20 We felt that we needed to protect our rights as
21 the leaseholder in here, otherwise the leases would be
22 expiring, and so we were under pressure to go ahead and
23 drill that well.

24 And now it has come to our attention that Mr.
25 Gillespie has staked a well, for what reason we do not

1 know, directly south of our well. This acreage was also
2 going to be proposed in the unit expansion.

3 If we wanted to create an adversarial
4 relationship, sir, we could have drilled a -- proposed a
5 well in the eastern portion of the southeast quarter of
6 Section 34, which is closer to the "C" 4 well that we've
7 been talking about today. In other words, a location
8 directly to the west of the Beadle well. You can see that
9 open wide acreage in there, and that would be -- What tract
10 is that in? I don't have that --

11 MR. HALL: I'm sorry, it's on the map there.

12 THE WITNESS: Sir, could I come look at that?

13 EXAMINER STOGNER: Don't you have a map?

14 THE WITNESS: No, sir, not a --

15 MR. HALL: He doesn't have the tracts.

16 EXAMINER STOGNER: Okay, I'm sorry.

17 MR. HALL: Just look on here.

18 THE WITNESS: This is --

19 MR. HALL: -- Tract 18?

20 THE WITNESS: -- Tract 18, a location in the
21 eastern half of the southeast quarter.

22 Q. (By Mr. Hall) Mr. Cromwell, let me ask you
23 something here. What is the current status of the
24 completion of the Beadle Number 1 well?

25 A. The Beadle Number 1 well has been logged and

1 casing has been run to total depth. We are going to
2 complete that well next week --

3 Q. All right.

4 A. -- perforate it.

5 Q. Are you able to draw any initial conclusions from
6 the data you have, the well-log data, at this point?

7 A. Yes, sir, I have. That is the reason for Exhibit
8 Number 7. It shows the structure on the top of the Strawn.
9 Exhibit 8 shows the -- I'm sorry, Exhibit Number 7 shows
10 the top of base of the -- I'm sorry, it shows the base of
11 the Strawn mound.

12 Exhibit Number 8 shows the top of the structure.

13 And finally, Exhibit Number 9 shows the Strawn
14 porosity values.

15 If you will note on this last exhibit, Exhibit
16 Number 9, the top of the Strawn porosity, which is the area
17 that we feel has all the holes in the little piece of rock
18 that I've showed you, is a lot lower structurally than we
19 anticipated. If you'll note, it is lower than the "C" 4
20 well and is lower than the "EC" well.

21 EXAMINER STOGNER: Okay, sir, I've got Exhibit
22 Number 9. Do you want to start over again?

23 THE WITNESS: Okay. If you'll look at our Beadle
24 well, it's in the southwest quarter of the southwest
25 quarter of Section 35.

1 The structural position of that well is lower
2 than the "C" 4 well, which is to the southwest of us. And
3 the "C" 4 well is a very good well.

4 If you take that even further to the southwest,
5 the "EC" well is low also, and we are even lower than that.

6 We feel that we have encountered a Strawn mound
7 that is just on the edge and that this mound is not nearly
8 as porous and permeable or as hydrocarbon-bearing as the
9 main production that you see to the west of us.

10 So in other words, we have drilled the Beadle
11 well, and preliminary data indicates that it is
12 disappointing from what we initially anticipated when we
13 initially talked about the well at the working interest
14 owners' meeting in April.

15 Q. Mr. Cromwell, in your opinion, will the technical
16 committee's pore-volume map and unit-boundary map have to
17 be revised in order to honor the data from the Beadle
18 Number 1 well?

19 A. Yes, sir.

20 Q. And consequently, will it be necessary for the
21 Division to consider the revised pore-volume and boundary
22 map in connection with the unit expansion cases presently
23 pending?

24 A. Yes, sir.

25 Q. Is Energen proposing convening the technical

1 committee anytime soon?

2 A. Yes, sir.

3 Q. How soon can that be done?

4 A. We propose -- We would like to propose as soon as
5 possible, as early as next week. This process would
6 probably take several weeks to accomplish. During that
7 time we would also have some pressure data from the well
8 that would help us in our evaluations.

9 But we have the logs, the logs have been
10 presented to Mr. Gillespie as operator.

11 Q. Based on your experience with the technical
12 committee, can we reasonably expect that all the parties
13 will be able to agree on new boundaries and tract
14 allocations on a ratifiable order anytime soon, say within
15 six weeks?

16 A. No, sir.

17 Q. Mr. Cromwell, in your opinion has Energen acted
18 diligently to promote the expansion of the West Lovington-
19 Strawn Unit?

20 A. Yes, sir.

21 Q. Has Energen done anything to obstruct the
22 expansion process?

23 A. Not that I know of. We have been -- Like I said,
24 we've just gotten involved in the last nine months in the
25 Unit, and we've been going forward as quickly as we feel

1 possible to fully develop the unit.

2 Q. Let me ask you another question with respect to
3 the well Gillespie is proposing south of the Beadle Number
4 1 well. In your opinion, is the development of that well
5 at that location consistent with a coordinated plan of
6 development for the unit?

7 A. No, sir, I do not.

8 Q. Do you believe that there are superior locations
9 within the existing unit that should be developed?

10 A. Yes, sir, I do. With the drilling of that well
11 on acreage that is proposed to go into the unit, I feel
12 that we're going to be in a situation where -- that we're
13 going to have a delaying of the expansion, because that
14 well will necessitate further data that will want to be
15 incorporated in the expansion.

16 Q. To your knowledge, Mr. Cromwell, has the operator
17 ever provided a plan of development for review to Energen?

18 A. No, sir, I don't believe they have.

19 Q. Mr. Cromwell, were Exhibits 4 through 9 prepared
20 by you?

21 A. Yes, sir.

22 MR. HALL: We'd move the introduction of Exhibits
23 4 through 9, Mr. Examiner.

24 That concludes our direct of Mr. Cromwell.

25 EXAMINER STOGNER: Are there any objections?

1 Exhibits 4 through 9 will be admitted into
2 evidence at this time.

3 Thank you, Mr. Hall.

4 Mr. Bruce, your witness.

5 CROSS-EXAMINATION

6 BY MR. BRUCE:

7 Q. When were the logs on the Beadle well given to
8 representatives of the unit operator?

9 A. This morning.

10 Q. In response to a subpoena?

11 A. Yes, sir.

12 Q. So it was involuntary?

13 A. It would have been voluntary, yes, sir. The
14 reason that we drilled the well tight, sir, is that we're
15 not sure whether we're dealing with Mr. Gillespie as a unit
16 operator or Mr. Gillespie as an adversary that's drilling
17 on the outside of the unit.

18 Until this well was staked on the outside of our
19 well and proposed acreage that was going be incorporated in
20 the unit expansion, we thought we could have a working
21 relationship with Mr. Gillespie.

22 Q. So you wouldn't give them voluntarily, in short?

23 A. We were planning to give this information at the
24 technical committee meeting. Everybody would get it at the
25 same time, and we would go over the data together, yes,

1 sir.

2 Q. Were any of these maps, Exhibits 6 through 9,
3 submitted at the technical committee?

4 A. No, sir.

5 Q. No, they weren't?

6 A. Most of these maps were prepared for the force
7 pool hearing that we had in May with Mr. Arrington.

8 Q. I notice many of them are dated December, 1998,
9 however.

10 A. Sir?

11 Q. Look at Exhibit 9. It's dated December, 1998.

12 A. And revised in June. I believe I revised that
13 since we've added the Beadle well, sir.

14 Q. Did Charles Gillespie individually or Gillespie
15 Oil, Inc., ever obstruct or impede Energen in drilling its
16 Beadle well?

17 A. No, sir.

18 Q. You state -- Have you drafted a new HPV map?

19 A. We're working on one, yes, sir.

20 Q. Okay. Do you have a preliminary estimate on what
21 percentage of the unit your Tract 21, the Beadle Tract,
22 will have in the unit?

23 A. No, sir, I don't. It is less than what we
24 originally anticipated.

25 Q. Is the only thing that's needed to determine what

1 you think now are the correct unit boundaries an HPV map
2 and some pressure data?

3 A. Yes, sir.

4 Q. You don't need production data?

5 A. Production data would be incorporated in the
6 pressure data, yes, sir.

7 Q. Why do you need three months of production data?

8 A. We may not need three months. We may only need
9 one month or two months.

10 Q. Well, you're asking for three.

11 A. As a maximum, yes, sir.

12 Q. And why do you need that again, to produce at
13 full volume?

14 A. In order to fully understand how that well will
15 deliver hydrocarbons.

16 Q. In your view, what is the earliest we can move
17 forward with a re-opened unit expansion case?

18 A. Could you state that in a little different words?

19 Q. How soon can we come back before Mr. Stogner and
20 present a new HPV map?

21 A. Depending on the results of the test of the well,
22 I would say within a month.

23 If you -- Could I say a few things or --

24 MR. HALL: No, just respond to his questions.

25 Q. (By Mr. Bruce) Let me ask you this question. At

1 this point will Energen ratify either proposal that was
2 made before Mr. Stogner on May 27th?

3 A. Yes, sir.

4 MR. HALL: If you can say, if you know the answer
5 to that question.

6 THE WITNESS: Yes, sir.

7 EXAMINER STOGNER: He said "yes".

8 THE WITNESS: Yes, sir.

9 Q. (By Mr. Bruce) You would ratify one of the two
10 proposals made to Mr. Stogner on May 27th, Energen will?

11 A. Yes, sir.

12 Q. Then why do we need an expansion hearing, another
13 expansion hearing?

14 A. Another expansion hearing? Well, the reason we
15 would like another expansion hearing, even though it's to
16 our detriment because the well is not as good as we
17 anticipated, we would be willing to go along with the
18 proposal that was presented on the 27th of May here, yes,
19 sir.

20 But we felt that it was in -- the ethical thing
21 to do, in fact, that our Beadle well is not nearly as good
22 as we anticipated, to go ahead and re-map it.

23 Q. But you do want the well payout on the Beadle
24 well, don't you?

25 A. If it pays out, yes, sir.

1 Q. The 200-percent payout or 250-percent payout?

2 A. 200 percent, I believe, is what we talked about,
3 yes, sir.

4 Q. Just one final question, Mr. Cromwell. On your
5 Exhibit 5 --

6 A. Yes, sir.

7 Q. -- what you've called the cartoon, how high are
8 the -- how thick are these algal mounds?

9 A. Typically, the mounds are only 50 or 60 feet
10 thick. The West Lovington-Strawn is over 200 feet thick.

11 Q. I'm having a little trouble measuring it, but if
12 you're looking at the -- in the foreground, that first bump
13 on the left-hand side, that one you're saying, is what, 225
14 feet thick or something like that?

15 A. Yes, sir.

16 Q. Is that other yellow mound in the background
17 taller, or is that just because it starts at that other --
18 I'm sorry if I'm not stating myself clearly, but does the
19 base of that start at another one of those red lines
20 horizontally?

21 A. No, sir, I believe that they actually coalesced
22 and they grew on top of one another.

23 Q. So would this top mound, then, be approximately
24 400 feet thick?

25 A. No, sir, it would be in accordance with the scale

1 I have at the side. It would be -- All together, the mound
2 would be around a little over 200 feet tall.

3 MR. BRUCE: Okay, I'm just having a little
4 trouble understanding the scale.

5 That's all I have, Mr. Examiner.

6 EXAMINER STOGNER: Thank you, Mr. Bruce.

7 Mr. Carr?

8 MR. CARR: I have no questions, Mr. Stogner.

9 EXAMINER STOGNER: And Mr. Kellahin is not in the
10 room.

11 Any redirect?

12 MR. HALL: Yes, Mr. Examiner.

13 REDIRECT EXAMINATION

14 BY MR. HALL:

15 Q. Let me make sure I understood one of your
16 responses to one of the questions that Mr. Bruce asked you.
17 You indicated that Energen would ratify one of the current
18 proposals before the Examiner presented in the last
19 expansion hearing case. Did I understand you to say yes?

20 A. Yes, sir.

21 Q. In fact, if it were the technical committee
22 proposal, Energen would gladly ratify that, would it not?

23 A. Yes, sir.

24 Q. And the reason for that is because it attributes
25 more pore volume to Energen's interest than the Beadle

1 results show are available to those tracts, correct?

2 A. That's correct.

3 Q. Do you have any reasonable expectation that the
4 other interest owners who also would be ratifying a
5 proposal would go along with something like that?

6 A. No, sir.

7 Q. So is it your expectation that an additional pore
8 volume map and an additional boundary map will have to be
9 presented to the Examiner in connection with the expansion
10 case?

11 A. Yes, sir.

12 MR. HALL: Nothing further, Mr. Examiner.

13 EXAMINER STOGNER: Mr. Carroll?

14 EXAMINATION

15 BY MR. CARROLL:

16 Q. Yeah, Mr. Cromwell, if you'll look at Exhibit
17 Number 9, what do these jagged green outlines represent?

18 A. The jagged green outlines are areas where the
19 Strawn is absent in porosity.

20 Q. And then I heard mention of an offset well that's
21 staked by Gillespie in the northwest of the northwest of 5?

22 A. Yes, sir.

23 Q. Wouldn't you also need the data from that well to
24 draw a pore volume map?

25 A. That's my point, yes, sir. See, that would

1 necessitate another delay. That acreage has already been
2 exposed in the new expansion. So my feeling is, you know,
3 why would Mr. Gillespie stake a well, when an acreage is
4 proposed to be in the unit with the new expansion?

5 Am I making myself clear on that?

6 Q. So in other words, you'd want us to wait till
7 this well is drilled and we get the data from it before we
8 decide?

9 A. No, sir, my point is, you know, we would not like
10 to see the well drilled at all. This was another way of --
11 tactic of delaying the unit expansion process.

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

13 EXAMINATION

14 BY EXAMINER STOGNER:

15 Q. Okay, so that I understand, you are requesting a
16 three-month sort of a testing allowable for your Beadle
17 well?

18 A. Yes, sir.

19 Q. Regardless of whether an allowable reduction is
20 formulated or whether you have a set allowable, as it is
21 today?

22 A. Yes, sir. In other words, from an engineering
23 standpoint -- and I think our engineer can testify to that
24 a little better than I can, but we need to get that flow
25 data as well as the pressure data, to determine how good of

1 a well it is, how much hydrocarbon it can deliver.

2 Now, that may not take three months. But we feel
3 that we can get that done within a maximum time of three
4 months.

5 Q. Okay. Exhibit Number 7 and Exhibit Number 9, I'm
6 taking a look at that oil-water contact.

7 A. Exhibit Number 9, Number 7, yes, sir.

8 Q. They appear to be a little bit different, but yet
9 the revision dated June, 1999 --

10 A. Yes, sir, one of those oil-water contacts is done
11 on the top of the Strawn formation, and the other is done
12 on the base of the Strawn.

13 Q. Okay. That's quite a discrepancy, is it not, or
14 a movement or a --

15 A. Yes sir --

16 Q. -- difference?

17 A. -- it's related to the buildup that you see in
18 the Strawn.

19 Q. Now, is that a static oil-water contact, or is
20 that going to be moving?

21 A. We're not real sure at this point. We do believe
22 that we see some encroachment in some of the fringe wells
23 there.

24 For example, the Hanley well to the north, we
25 seem to be producing, you know, a significant amount of

1 water in that northern well. And that's located in Section
2 28.

3 EXAMINER STOGNER: Are there any other questions
4 of this witness?

5 MR. BRUCE: Just one more.

6 EXAMINER STOGNER: Mr. Bruce?

7 FURTHER EXAMINATION

8 BY MR. BRUCE:

9 Q. I'm sorry, it just dawned on me, Mr. Cromwell,
10 you said something about drilling wells inside the existing
11 unit.

12 How many wells does Energen believe should be
13 drilled inside the existing unit?

14 A. We don't have a definite number at this point.
15 We're currently studying it.

16 Q. I thought you said -- Never mind.

17 EXAMINER STOGNER: Any other questions?

18 MR. HALL: No, sir.

19 EXAMINER STOGNER: You may be excused.

20 THE WITNESS: Have you finished looking at the
21 rock specimen?

22 EXAMINER STOGNER: No, that's ours now.

23 And in doing so, Mr. Hall, it's been brought to
24 my attention, since this was brought up, this was the piece
25 of core. Is that to be made part of the record at this

1 time?

2 MR. HALL: We're not asking it to. You can
3 certainly do so if you wish.

4 EXAMINER STOGNER: I think to make the record
5 complete until this matter is definitely over, that maybe
6 at some certain time in the future --

7 MR. HALL: Could we get it back.

8 EXAMINER STOGNER: -- you can ask for it at that
9 time. Whatever happens to this case.

10 MR. HALL: Do we need to give it an exhibit
11 number?

12 EXAMINER STOGNER: I don't think we need to give
13 it an exhibit number, I think we --

14 MR. HALL: -- refer to it just as the rock.

15 EXAMINER STOGNER: -- also need to ask where
16 specifically it was.

17 MR. HALL: Okay.

18 EXAMINER STOGNER: I'll make sure that it gets
19 labeled and put somewhere. And in the future, whenever
20 this matter is settled, you can come in and ask for it.
21 That's one reason I'm not giving it an exhibit number,
22 because then it would be made permanent, a permanent
23 record.

24 So with that...

25 MR. HALL: At this time we call Barney Kahn to

1 the stand.

2 BARNEY KAHN,

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

5 DIRECT EXAMINATION

6 BY MR. HALL:

7 Q. For the record, please state your name.

8 A. Barney Kahn.

9 Q. Mr. Kahn, where do you live and by whom are you
10 employed?

11 A. I live in Birmingham, Alabama. I'm employed by
12 Energen Resources as a reservoir engineer.

13 Q. And you're familiar with the West Lovington-
14 Strawn Unit and the Application filed in this case?

15 A. Yes.

16 Q. And you previously testified before this Examiner
17 in Case Number 12,171, did you not?

18 A. Yes, I did.

19 Q. And your credentials were accepted at that time?

20 A. Yes.

21 MR. HALL: Again, Mr. Examiner, we tender Mr.
22 Kahn as a qualified engineer witness.

23 EXAMINER STOGNER: Are there any objections?

24 Mr. Kahn is so qualified.

25 Q. (By Mr. Hall) Mr. Kahn, let me ask you to -- on

1 behalf of Energen, why, in your opinion, is this action by
2 the Division necessary? Why is this Application necessary?

3 A. Unit expansion has been in the works for
4 approximately the past 17 months, and we don't seem to be
5 any farther ahead towards expanding the unit. And what
6 we're asking for the Application is a temporary reduction
7 of the pool allowable to 50 barrels to be reduced from the
8 250-barrel-a-day limit, and we feel like that will expedite
9 the expansion.

10 Q. In your opinion, has Energen exhausted all
11 reasonable means available to it to try to resolve this
12 matter?

13 A. Well, we've tried everything to -- We've
14 accommodated and made concessions on all of the demands
15 made by Gillespie and others in order to move this
16 expansion along, but we don't seem to be any farther along
17 on the expansion.

18 Q. Well, let's talk about some of that. You
19 participated in some of the technical committee
20 deliberations?

21 A. Yes, my first technical committee meeting was the
22 February meeting.

23 Q. Throughout the course of your involvement in this
24 matter, why don't you tell the Hearing Examiner what
25 Energen has given up to try to bring this matter to

1 closure?

2 A. Well, one of the things that I became involved
3 in, the technical committee meeting on February 11th, was,
4 there were a lot of proposals to include other parameters
5 in the -- to determine the participation factors. Things
6 that were being suggested were based on operating costs,
7 structural position, well capacity, well count, in all of
8 these things in addition to hydrocarbon pore volume.

9 We felt that hydrocarbon pore volume was the
10 appropriate parameter to use in calculating the
11 participations, but we felt that especially operating cost
12 and structural position were definitely not appropriate,
13 but we were willing to go along with incorporating a well
14 factor that took into account the well's capacity to
15 produce at the top allowable for a period of time.

16 Q. At whose insistence?

17 A. That -- the -- I think one of the companies that
18 were proposing a well factor was the Hanley and Yates
19 group, and they were trying to achieve a higher
20 participation in the unit than would be accomplished by a
21 straight hydrocarbon pore volume factor alone.

22 Q. By counting wells on tracts?

23 A. Yes.

24 Q. And was that agreeable to Energen?

25 A. Well, what we proposed was, in addition, in lieu

1 of the 100-percent hydrocarbon pore volume, we suggested
2 that maybe an 80-percent hydrocarbon pore volume, 20-
3 percent well factor. And we also threw out a 60-percent
4 hydrocarbon pore volume, 40-percent well factor for the
5 committee to look at and see which of the three proposals
6 would be the most acceptable to all of the parties in the
7 committee.

8 Q. And what did the committee decide?

9 A. The committee decided that the 80-percent
10 hydrocarbon pore volume and 20-percent well factor
11 participation was the one that accommodated everybody's
12 interest.

13 Q. And I believe it's correct that the committee was
14 assuming that there would be an April 1, 1999, effective
15 date for the expansion, correct?

16 A. Yes.

17 Q. So with that effective date, that means there
18 would have been no well factor attributable to the tract --
19 Tract 21 where the Beadle is now located, because that well
20 didn't exist?

21 A. That's true.

22 Q. That was still agreeable to Energen

23 A. Yes, even though this 80-percent/20-percent
24 combination reduced Energen's overall participation in the
25 expanded unit.

1 Q. Okay. How much participation has Energen given
2 up through this process?

3 A. With the proposal that was agreed upon in the
4 technical committee, it amounted to about a five-percent
5 reduction.

6 Q. All right. And still that's been agreeable to
7 Energen?

8 A. Yes.

9 Q. How about the payout issue, Mr. Kahn? How did
10 Energen seek to accommodate that issue?

11 A. Well, that was discussed at the meeting that I
12 attended on February 11th, and several payout multiples
13 were suggested. I think the meeting adjourned with -- I
14 think it was 150-percent payout multiple for the Snyder "C"
15 4 well, was something that Mr. Mark Mladenka was going to
16 discuss with Mr. Gillespie.

17 Q. All right.

18 A. But as I understand, right after that we got word
19 that Mr. Gillespie would not accept anything less than 200
20 percent for the Snyder "C" 4 well.

21 Q. All right. Is it your understanding that the
22 unit operating unit simply provides that wells being
23 brought into the unit are to be brought in on a paid-out
24 basis, period?

25 A. Yes, according to the unit operating agreement, a

1 well in the expanded area would be brought in -- If it had
2 not reached payout, it would be brought in at 100-percent
3 payout. If it had exceeded payout, of course, it would be
4 brought in at that time.

5 Q. All right, so that was an additional sticking
6 point between Energen and Gillespie, anyway?

7 A. Yes, we felt that -- at that point we were told
8 -- At that February meeting, we were told that the Snyder
9 "C" 4 had not yet reached 100-percent payout. As it turns
10 out, the Snyder "C" 4 had actually reached payout sometime
11 in the month of January, at the end of January.

12 Q. All right, do you have --

13 A. But I don't think all of the data -- all of the
14 revenues weren't in at that time, and that was a reason
15 that I think it was suggested that it hadn't quite reached
16 100-percent payout.

17 Q. All right. You prepared certain exhibits in
18 connection with the payout issue?

19 A. Yes.

20 Q. Why don't we refer to that as -- Can you identify
21 Exhibit 10, please, sir?

22 A. Yes, Exhibit 10 is the Snyder "C" 4 payout status
23 provided by Gillespie. It was -- It's through February of
24 1999, and it shows that payout occurred sometime in late
25 January and that the well had already exceeded 100-percent

1 payout by \$68,000 by the end of February.

2 Q. All right. Let me ask you an additional question
3 on this point, since we're speaking about accommodations
4 Energen has made. Let me have you refer in Exhibit 1,
5 under Tab Q --

6 EXAMINER STOGNER: Q as in queen?

7 MR. HALL: Quebec.

8 EXAMINER STOGNER: Quebec, very good.

9 Q. (By Mr. Hall) Is that your affidavit?

10 A. Yes, sir.

11 Q. And why was this generated?

12 A. This affidavit was generated to become a part of
13 the record, to show that we had appeared at the May 27th
14 hearing and we had agreed upon participation for Tracts 14
15 and 15. That item was cleared up. That was one of the
16 items that was in confusion before the May 27th hearing.
17 And that -- Let's see. And that the testimony was
18 presented by Gillespie for the Snyder "EC" 1 to get 116
19 percent and the Snyder "C" 4 to get 200 percent of payout.

20 Q. Now, the attachment to your affidavit, Exhibit Q,
21 is that the Draft V amendment to the unit operating
22 agreement?

23 A. Yes, this is -- we had a -- We met after the
24 hearing on the 27th, that evening, that Thursday evening,
25 we met in your offices to try to work out how to resolve

1 the payout issue as being the one remaining issue that was
2 still in question, that other issues had been resolved
3 between the parties, but this issue on payout multiple had
4 not been, and we had devised -- using the Gillespie
5 language of how to achieve multiple payout, we had written
6 that into this draft and contacted the Gillespie
7 representatives to meet with us the following morning on
8 Friday.

9 Q. All right. You largely conceived of Draft V, did
10 you not?

11 A. Yes.

12 Q. Would you explain briefly to the Hearing Examiner
13 how it's intended to operate?

14 A. We basically used the Gillespie formula for
15 coming up with a payout multiple, that the well itself
16 would achieve 100-percent payout according to the unit
17 agreement as it was, that would be brought in at 100
18 percent, but that an additional payout multiple would be
19 achieved by the percentage that the well could produce
20 above the 250-barrel-a-day allowable for a period of six
21 months. So if it could produce 250 barrels a day for six
22 months, then it would achieve 100-percent additional payout
23 multiple, so that the overall multiple would be 200
24 percent, but that it would exceed 200 percent.

25 In the case of the "EC" 1 well, it was only

1 capable of producing 16 percent of the allowable, so
2 therefore its payout multiple was an additional 16 percent
3 added to the 100 percent, to achieve 116-percent total
4 payout multiple.

5 Q. So it's your understanding that the amendment
6 would apply to the Beadle Number 1?

7 A. Well, it would apply to the Beadle Number 1 and
8 any other well that we bought, you know, in the expanded
9 area.

10 Q. All right, so --

11 A. But of course the Beadle Number 1 would have to
12 have six months in order to determine whether it could meet
13 the full allowable for the six-month period. And so by
14 calling -- by using this as a payout multiple rather than a
15 well factor, we were able to have the wording such that it
16 would receive a payout multiple based on its capacity.

17 But it would not affect the well factor as far as
18 determining participation factors in the unit, because we
19 had already agreed to abide by the technical committee's
20 participations, which gave the Beadle well a factor of
21 zero. So we were willing to maintain that zero factor for
22 participation purposes.

23 Q. So in your opinion, was the payout multiple
24 formula, the Draft V, a fair, reasonable and equitable
25 means of resolving the 200-percent payout issue?

1 A. Well, Thursday evening when we had concluded with
2 this, we felt that it was. After having the meeting with
3 the Gillespie representatives on Friday morning, we were
4 assured by them that this was also a reasonable agreement
5 that they could take forward to Mr. Gillespie, and that
6 they would meet with Mr. Gillespie approximately by
7 Wednesday, June 2nd.

8 Q. All right. Let's refer back to the Exhibit 10,
9 your payout data for the "C" 4. Anything further you wish
10 to address on that exhibit?

11 A. Well, this exhibit only carries you through
12 February of 1999. We went ahead and continued that and
13 prepared Exhibit Number 11, which is a continuation of that
14 payout status, through November of 1999.

15 Q. All right. Do these exhibits tend to demonstrate
16 that if the allowable is not reduced, that there will be an
17 impairment of correlative rights?

18 A. Well, we have to look at some further exhibits --

19 Q. Okay, go ahead.

20 A. -- to get to the point.

21 Basically what Exhibit Number 11 demonstrates is
22 that the payout multiple of 100 percent was reached in
23 January. Continued production, based on the current
24 allowable, they will reach 200 percent by the end of
25 October and exceed it a little bit into November.

1 The reason I use November as a cutoff date was
2 because at the May 27th hearing I believe Mr. Mladenka had
3 suggested that it might take about six months to get the
4 ratification of the units. So six months from the time of
5 the previous hearing would put us into the end of November.

6 Q. All right. Anything further with respect to
7 Exhibit 11?

8 A. Well, another thing it shows is that the oil
9 production on the "C" 4 well becomes reduced by the 2000
10 GOR limit. The well has reached a 2000 GOR limit in March
11 and is currently exceeding the GOR limit of 2000 to 1. So
12 as a result, even though the allowable is 250 barrels for
13 an 80-acre -- and they're actually on 90-acre, so it's
14 really 285 barrels a day -- their oil production will be
15 reduced by the amount of the gas-oil ratio that exceeds
16 2000.

17 So as you can see, the production continually
18 decreases after April of 1999, on through, down to November
19 of 1999.

20 And the gas-oil ratio which you see in the column
21 -- the GOR, standard cubic feet per barrel -- as you can
22 see, that GOR is going up from 1900 to 1, up to 6400 to 1.

23 Q. All right. Let's refer now to Exhibit 12,
24 please, sir.

25 A. Okay, Exhibit 12 is a plot of gas-oil ratio,

1 which is standard cubic feet per barrel, versus cumulative
2 oil on a semi-log scale. The GOR axis, the Y axis, is a
3 logarithmic scale, and the cumulative oil scale is an
4 coordinate scale.

5 The points on here are each month, and what is
6 showing basically is the gas-oil ratio for the -- up until
7 a cumulative production of around 70,000 barrels has
8 basically been a solution gas ratio, solution gas ratio
9 somewhere in the range of 1500 to 1. And sometime in
10 February it started to go above the solution ratio, as you
11 can see on Exhibit Number 11, and it's going up -- 1585.

12 Currently -- The last data that we actually have
13 is April data. We do not have the May data yet, even
14 though normally we would have had it by now. But we're
15 estimating that the May production is where you see the
16 dotted vertical line. To the left of the dotted vertical
17 line is actual, to the right of the dotted vertical line is
18 forecast. That passes through the month of April, data
19 point.

20 So everything to the right of the dashed vertical
21 line is the months of May, June, July, August, on through
22 November. And it's a steadily increasing ratio of trending
23 -- increasing.

24 Q. Anything further with respect to Exhibit 12?

25 A. Well, I'd like to come back to Exhibit 12. I was

1 just going to also point out Exhibit 13, which is the
2 closest well to the Snyder "C" 4. It's the West Lovington-
3 Strawn Unit Number 12, and it also is the same plot of gas-
4 oil ratio versus cum oil. We don't show all of the earlier
5 months, because they were just a solution ratio. But at
6 about a point of 240,000 barrels the ratio starts
7 increasing. And this shows a similar trend of increasing
8 gas-oil ratio versus cum as shown on the Snyder "C" 4 well.

9 Q. Let's refer to --

10 A. And going back to Exhibit 12, this increasing
11 gas-oil ratio is due to the expanding secondary cap that
12 had already expanded into the West Lovington-Strawn Unit 12
13 and caused its ratio to go up. It is now expanding into
14 the Snyder "C" 4. And basically what's happening, the gas
15 above the solution ratio is basically unit gas that's being
16 produced by the "C" 4 well.

17 Q. The "C" 4 well being outside of the unit?

18 A. Being outside of the unit, producing unit gas.

19 Q. Let's refer to Exhibit 14 now. Would you
20 identify that and explain what that's intended to reflect?

21 A. Okay, Exhibit 14 is a material balance that is
22 prepared by Gillespie every month. The latest month that
23 we have here is the -- It was prepared through April of
24 1999, and this was a part of their exhibit at the May 27th
25 hearing.

1 But what it basically shows is the balance of
2 reservoir withdrawals in reservoir barrels and the gas
3 injection also in reservoir barrels so that they can show a
4 balance between whether the injection is keeping up with
5 the withdrawals.

6 Whenever there's a negative, that means the
7 withdrawals were greater than injection.

8 Whenever it's a positive on the monthly balance
9 that you see here -- which is the fourth column from the
10 right, monthly balance in reservoir barrels -- where it's
11 positive it just shows that more injection had occurred
12 than -- it was greater than withdrawals by that amount.

13 Q. Let me ask you, are those withdrawal data limited
14 to withdrawals from the unit or --

15 A. No.

16 Q. -- is that poolwide?

17 A. This exhibit is withdrawals from the pool as a
18 total, including the -- both Snyder wells.

19 Q. I see. Go ahead, what else does Exhibit 14
20 reflect?

21 A. Well, it reflects that there has been an overall
22 -- If you look at the cumulative balance, it shows that
23 overall there's been more withdrawals than there has been
24 offsetting injection, so that the cumulative balance is a
25 negative, which is the reason that the pressures are lower,

1 from the 3294 down to the 3223, which was the latest
2 average reservoir pressure exhibited in the May tests that
3 were -- bottomhole pressure tests that were run.

4 Q. So let's refer to Exhibit 15 at this point.
5 Would you explain that, please, sir?

6 A. Okay. Exhibit 15 is just an expansion and
7 continuation of Exhibit 14. What we did on Exhibit 15 was
8 separate the pool production into unit production and
9 Snyder production, production from the Snyder "EC" 1 and
10 the Snyder "C" 4. We only go back to March of 1996,
11 because that's when the Snyder "EC" 1 came on line.

12 Basically what this -- We used all of Gillespie's
13 definitions and equations of converting oil production to
14 reservoir barrels and converting gas injection to reservoir
15 barrels. And we did that for both the unit and the Snyder.

16 And what this demonstrates is that, you take the
17 reservoir withdrawal, which is the farthest right-hand
18 column on the exhibit, which is withdrawal reservoir
19 barrels, for the Snyder "EC" 1 and the Com 4, and you
20 convert those reservoir barrels back to gas injected at
21 standard conditions, and we have a column right here in the
22 middle called "Additional Makeup Gas". And this is under
23 the overall heading called "Purchased", which is just to
24 the right of the overall heading called "Unit".

25 We have an overall heading called "Purchased".

1 Then the first column under that overall heading is
2 additional makeup gas in MCF. And what that is, is a
3 conversion of the Snyder withdrawals converted to surface
4 gas, and that's how much additional makeup gas had to be
5 purchased by the unit working interest owners in order to
6 make up for the withdrawals from the Snyder wells.

7 The next column is a cumulative makeup gas, which
8 is just the running cum of that column.

9 The next column over is the actual price paid for
10 the makeup gas to be injected into the unit to maintain
11 pressure. And those were the actual prices paid.

12 The next column over from that is, what was the
13 cost for that particular month for the additional makeup
14 gas, which is nothing more than the additional makeup gas
15 times the gas price.

16 And then the column to the right of that is the
17 cumulative gas cost.

18 So cumulatively speaking, through the last data
19 point that we have, which is April of 1999, the unit
20 working interest owners have had to pay an additional
21 \$638,382 to pay for makeup gas to support the withdrawals
22 from the Snyder wells, which are outside the unit boundary.

23 If you carry this on through November, which was
24 suggested to be the soonest date we could reach
25 ratification, that amount has increased to \$986,857 that

1 the unit is paying for makeup gas to make up for the
2 withdrawals from the pool.

3 So what we've done is, we've converted this back
4 to dollars of cost to the unit owners for -- to support
5 production that they're not benefitting yet.

6 Q. From these data is it safe to assume, then, that
7 the operator of the Snyder "C" 4 well, "EC" Com well, in
8 addition, has enjoyed additional production proceeds by
9 virtue of support from the unit's pressure-maintenance
10 operations?

11 A. That's right. If this amount of makeup gas had
12 not been purchased by the unit owners, those withdrawals
13 would have caused a further reduction in bottomhole
14 pressure, which would cause an even greater expansion of
15 the secondary cap, which increases GORs, which then reduces
16 the amount of oil that can be produced under the GOR limit.

17 Q. All right. And as the "EC" Com well and the "C"
18 4 well have not been within the unit, not operated as unit
19 wells, the operators of those wells have not borne any of
20 the costs of that injection gas, have they?

21 A. That's true, they haven't borne any of that cost.

22 Q. Do you know if the Snyder "C" 4 well has sold any
23 gas volumes that are, in fact, injection gas volumes?

24 A. I don't know from an MCF-to-MCF basis whether,
25 you know, the MCF that they sell is in return purchased by

1 the unit or not. But it doesn't really matter. The unit
2 is having to buy makeup gas. And whether it's gas being
3 sold by Snyder -- by Gillespie or not, I'm not aware of
4 that.

5 Q. There's been no accounting to the unit, as far as
6 you're aware, of sales from the "C" 4 well?

7 A. I do not know where their gas sales are going.

8 Q. Can you conclude from the data that you've
9 provided that it is without question that the "EC" Com and
10 the "C" 4 wells have indeed benefitted from pressure-
11 maintenance operations on the unit?

12 A. Well, yes, they've definitely benefitted from the
13 gas being injected, also from not having to bear the cost
14 of that gas being injected.

15 Q. Does that conclude your testimony with respect to
16 the exhibits you prepared? Anything further you wish to
17 add?

18 A. No.

19 Q. All right. Can you briefly review for the
20 Examiner from your perspective as an engineer the current
21 status of operations on the Beadle Number 1 and the effect
22 that will have on events here?

23 A. We logged the well, ran pipe, and will be
24 perforating and testing beginning sometime in the middle of
25 next week.

1 Q. At this point is there sufficient data to
2 determine whether the Strawn encountered by the Beadle well
3 is in pressure communication with the unitized interval?

4 A. No, but we should know that right after
5 perforating and testing the well. We should know if the
6 pressure is in communication with the rest of the pool.

7 Q. All right.

8 A. But right now, though, we do have the log data,
9 which we could have a technical committee meeting and
10 prepare hydrocarbon pore volume maps.

11 Q. How soon can that be accomplished?

12 A. That can be accomplished the beginning of next
13 week.

14 Q. Is there any question that Energen will make the
15 well logs available to the technical committee?

16 A. Well, that always was our intention, to make the
17 well logs available to the technical committee so that we
18 could redraw the hydrocarbon pore volume map.

19 You know, we would be glad to go along with the
20 current technical committee's hydrocarbon pore volume map,
21 but due to the fact that the Beadle well does not have the
22 volume that was estimated on that technical committee map,
23 we feel that it wouldn't be ratified without having another
24 technical committee hearing to account for the new data
25 from the Beadle well.

1 Q. Mr. Kahn, in your opinion is action by the
2 Division necessary now in order to protect correlative
3 rights and prevent waste?

4 A. Yes.

5 Q. What does maintaining the present status quo do?

6 A. Well, if the past 17 months is any indication,
7 this could continue to drag out, and as far as -- It's my
8 opinion that there is no real incentive for Mr. Gillespie
9 to include the Snyder "C" 4 well into the expanded unit.
10 But the longer it stays out, the higher the payout
11 multiple will be.

12 Q. In your opinion, has Energen exhausted all
13 reasonable means to reach a resolution of the unit
14 expansion process?

15 A. We felt that after the Friday meeting with the
16 Gillespie representatives -- that was Friday, May 28th,
17 after the hearing -- we felt like we had resolved all of
18 the issues and that we were in full agreement with being
19 able to proceed with the expansion and that everything
20 that's happened since then, with the nonresponsiveness from
21 Mr. Gillespie, the new demands, especially the demand that
22 he participate in the Beadle well, which we acceded to, and
23 in his rejection of his own demand -- it appears from all
24 of these things that have happened since May 28th, that our
25 optimism for getting this unit expanded on that date has

1 all been shot.

2 Q. All right. You've chronicled for the Examiner a
3 number of concessions that Energen has made in this
4 process. Do you know of any others that are reasonably
5 available to you?

6 A. Well, I mean, we have acceded to every one of Mr.
7 Gillespie's demands, but then as soon as we do, I think new
8 demands are then proposed.

9 Q. All right. The current process is not working,
10 is it?

11 A. It hasn't worked, no, it has not.

12 Q. All right. Were Exhibits 10 through 15 prepared
13 by you?

14 A. Well, I did not prepare -- I prepared three of
15 those exhibits. Exhibit 10 was prepared by Gillespie and
16 Exhibit 14 was prepared by Gillespie. The remaining
17 exhibits were prepared by myself, which is Number 11,
18 Number 12, Number 13 and Number 15.

19 Q. Right. You utilized the data in the Gillespie
20 exhibits in preparation of your other exhibits?

21 A. Yes, I did.

22 MR. HALL: We'd move the admission of Exhibits 10
23 through 15.

24 That concludes my direct of this witness.

25 EXAMINER STOGNER: Thank you, Mr. Hall.

1 Mr. Bruce?

2 Oh, in the meantime, I'm going to accept -- Let's
3 see, what exhibits again? That was --

4 MR. HALL: Ten through 15.

5 EXAMINER STOGNER: Ten through 15 will be
6 admitted into evidence at this time.

7 And Mr. Bruce, your witness.

8 MR. BRUCE: No questions.

9 EXAMINER STOGNER: Mr. Carr?

10 MR. CARR: No questions.

11 EXAMINER STOGNER: Mr. Kellahin is still out.

12 EXAMINATION

13 BY EXAMINER STOGNER:

14 Q. Okay, I'm looking at Exhibit Number 15 and
15 Exhibit Number 14, and some of the figures on the gas
16 injection are somewhat different. What's the discrepancy
17 there, or why? Particularly since April 1999. And then
18 you have another discrepancy if you go up to December of
19 1998.

20 A. I see the discrepancy that you're talking about.
21 I see a discrepancy for November of 1998, which is 83
22 versus 84.

23 Q. And they're kind of scattered throughout there.

24 A. Yes. I believe this -- I'd have to look at my
25 spreadsheet to see if this was a -- I'll have to look at

1 that column to see how it was generated.

2 A. Okay, even though the discrepancy is not all that
3 much. The gas being injected, that's essentially
4 reinjection of the gas that's coming off the unit; is that
5 correct?

6 A. No, sir -- Well, there's two components to that.
7 There's gas being reinjected from produced gas from the
8 unit, plus makeup gas that's being purchased to supplement
9 that.

10 Q. Okay, now, the unit gas, that's under the column
11 "Gas Injection RBI"? Is that unit gas being reinjected?

12 A. Yes -- No, that's total gas. That includes
13 makeup gas and unit gas that was produced.

14 Actually, the unit gas that's produced goes to
15 the plant, and due to liquid extraction and plant losses,
16 approximately 61 percent of the gas that's produced is then
17 available for reinjection into the unit.

18 Q. Okay.

19 A. So makeup gas then has to be purchased in order
20 to not only make up for that 39 percent that was lost to
21 natural gas liquids extraction and plant losses, but also
22 for the oil volume that was produced.

23 Q. Okay. And the additional gas makeup is from
24 where in particular? Is it from some wells in the pool or
25 somewhere else, or are you getting it from the Warren plant

1 or --

2 A. Well, it's -- Like I said, the reinjected gas is
3 from the unit.

4 Q. The reinjected, but I'm talking about the makeup.

5 A. The makeup gas, I'm not certain as to where it's
6 being purchased from.

7 Q. But that's having to be purchased, and then the
8 people in the unit are paying for it; is that right?

9 A. Yes, sir. Yes, sir.

10 Q. Okay. What would occur if the gas injection was
11 suspended in this particular project?

12 A. The reservoir pressure would decrease a lot more
13 rapidly than it's currently decreasing.

14 Q. And would there be a market for this gas?

15 A. Yes, sir.

16 Q. Okay. That way all the people in the unit would
17 share in that; is that correct?

18 A. Well, the people in the unit share on the basis
19 of the gas that they've purchased.

20 Q. The gas that -- Exactly. But if that was a
21 mechanism to make everybody agree and play happy, as
22 opposed to making the royalty interests suffer, just shut
23 the injection down, then that way the production can still
24 occur outside of the unit without affecting anybody,
25 wouldn't that be correct?

1 A. Well, I believe at this point, without doing a
2 more thorough reservoir study, that it would be premature
3 to start blowdown, I think, is what you're suggesting, is
4 blowdown where we just start selling all the produced
5 gas --

6 Q. Oh, unless the unit operations just shut down
7 completely to conserve everything. I didn't say you had to
8 shut the wells down; I said if you shut injection down. If
9 the unit operator chooses to go ahead and produce and blow
10 down, that's his choice or the unit's choice, right?

11 A. If I'm following you correctly, what you're
12 saying is that the gas that is produced, rather than being
13 reinjected, would be sold. Is that what you're saying?

14 Q. That's -- Yeah, because there wouldn't be
15 anywhere else to put it, right?

16 A. Yes, sir, I'm just referring to that strategy as
17 being the blowdown strategy.

18 Q. That would -- Yeah, that would be the strategy
19 I'm alluding to at this point. What would happen out there
20 as far as re-establishing -- What would happen to the
21 reservoir, what would happen to the good that's already
22 been done if that blowdown strategy occurred?

23 A. At this point, I believe that the reservoir
24 pressure would drop precipitat- -- drastically. Without
25 having done a simulation and a thorough material balance,

1 I, you know, can't say at this point how much the pressure
2 would be reduced in the reservoir.

3 But a reduction in the pressure in the reservoir
4 would cause the secondary cap to expand even further into
5 the well so that the gas-oil ratio would increase more
6 drastically, thereby reducing the amount of oil that could
7 be produced in order to stay within the 2000 gas-oil limit
8 -- ratio limitation.

9 So overall, production would decrease, and I
10 think overall, recovery from the reservoir would be
11 diminished.

12 Q. If the unit operators or the unit operations went
13 ahead and kept producing after a shut-in on the injection
14 well was given --

15 A. Yes, sir.

16 Q. Now, that -- If the unit operator chose to shut
17 the producing wells in the unit, would that affect the
18 reservoir energy, or would it just put everything on hold
19 for a while?

20 A. I do not believe that reducing the -- temporarily
21 reducing the allowable would harm the reservoir.

22 Q. Well, I'm not asking about that. I'm just saying
23 if everything was suspended just within the unit.

24 A. Oh, and --

25 Q. If the unit operator -- If an order came out to

1 suspend injection, and then the unit operator within the
2 current unit elected to shut in all their producing wells,
3 just within the unit, then what would -- Would there be any
4 harm to the reservoir at that point?

5 You'd still have your pressure, wouldn't you?

6 A. Well, are you suggesting that the wells outside
7 of the current unit would still be allowed to produce, or
8 were you talking about the whole pool being shut down?

9 Q. Well, let me -- Now, listen to what I'm saying
10 here.

11 A. Okay.

12 Q. If an order came out to shut the injection well
13 in --

14 A. Yes, sir.

15 Q. -- and the unit operator elected to shut in the
16 unit wells to preserve the pressure there, now whatever the
17 operators wanted to do, whoever they might be, outside of
18 the current unit operations, whether it be XYZ Oil Company,
19 suggests that they might want to produce, maybe another
20 company, ABC, wants to shut theirs in. But that's outside
21 the unit. They have that prerogative. They're at standard
22 locations.

23 A. Uh-huh.

24 Q. But I'm talking about just within the unit area,
25 within the green area, what would be the effect on the

1 reservoir?

2 A. Well, the effect on the reservoir is that
3 production would be withdrawn from the unit area by wells
4 producing outside of the unit area, and so therefore they'd
5 be producing unit gas and unit oil. The wells outside the
6 unit, outside the green area.

7 Q. Well, wouldn't they be producing oil and gas from
8 their lease?

9 A. Well, they're producing it from their lease, but
10 we have a secondary gas cap that's been formed by gas
11 coming out of solution as well as gas being reinjected into
12 the reservoir. That gas -- As the reservoir pressure
13 diminishes, that gas cap, secondary gas cap, is going to
14 continue to expand.

15 Q. So it would behoove everybody to expand that unit
16 if that was to occur?

17 A. Yes, sir, that's what we want. We want this unit
18 to be expanded so that unit gas is not being produced by
19 outside wells.

20 Q. I'm just thinking of some other possible
21 solutions in this matter without harming the effects to the
22 royalty interest.

23 And currently there's only one injection well; is
24 that correct?

25 A. Yes, sir.

1 Q. As a reservoir engineer -- Of course, the
2 injection well is over there in Section 1. How long did
3 the injection -- How long did that well inject before there
4 was some sort of pressure or notice of whatever effect over
5 on that eastern side of the unit? In other words, when did
6 those wells start feeling the effect, a positive effect, to
7 this injection?

8 A. Well, I have plotted up the expanding gas front.
9 I did not bring it with me. But as early as -- In 1998,
10 the various wells close to the injection well all started
11 increasing to ratios to where they were shut in, and I
12 believe at this time there's approximately five wells that
13 are currently shut in within the unit because of high gas-
14 oil ratios.

15 Q. And when did the well start injecting?

16 A. October of 1995.

17 Q. Okay, so you're talking about you saw some
18 effect, especially over on the eastern side, in about three
19 or four years?

20 A. It became -- It's being pretty drastic in 1998
21 when a lot of the wells are being shut in because of high
22 gas-oil ratios. I think currently there's approximately
23 five wells within the unit that are shut in because of high
24 ratios.

25 Q. So we wouldn't start seeing an immediate effect

1 if that scenario was to occur?

2 The operator chooses to shut his producing wells
3 in because there was an order shutting the injection in,
4 and the operators outside the unit elected to keep
5 producing their wells, which rule of capture allows for
6 that.

7 You wouldn't see an immediate effect to the
8 pressure over in the main part of the unit, then, would
9 you, for some time? You wouldn't see an immediate effect?
10 What I'm hearing, you might see three years before that
11 affected it?

12 A. Well, I don't have the figures to be specific
13 about that. But I do not believe it would be three
14 years --

15 Q. Well, what information --

16 A. -- although the production from outside the unit
17 would probably not be as great as the unit, you know,
18 because there's not as many wells, so the withdrawals from
19 outside the unit wouldn't be as great as the withdrawals
20 within the unit have been.

21 Q. What information would I need as an engineer, and
22 of course the geologist on our staff, to determine what
23 effects that would make? What kind of information would I
24 need from the unit?

25 A. Well, I think that a ruling that would cause the

1 injection to terminate and therefore the operator then
2 would shut in all of the wells within the currently
3 unitized portion and allow the wells outside the unit
4 boundary to continue producing, even though they were in
5 the same pool, would be very detrimental to the unit
6 itself.

7 Q. Immediately?

8 A. Yes, sir, I think -- Well, immediately we can see
9 that the Snyder "C" 4 is already producing unit gas.

10 Q. Well, yeah, because if -- When did the Snyder "C"
11 4 get drilled, when was it drilled?

12 A. It was drilled in -- I think it was drilled in
13 February of 1998. It went on production, I think, in March
14 or so of 1998.

15 Q. Okay, so it took about three years before you saw
16 that kind of an increase over there. That wasn't an
17 immediate increase.

18 A. Well, yes, sir, as you can see here, from the
19 time it started producing in, let's say, March of 1998,
20 until the ratio exceeded solution ratio, that occurred in
21 January or February of 1999, so that was less than one year
22 later.

23 Q. Well, I'm not saying that might not be the best
24 solution, but it is a solution. It is a solution.

25 A. Well, the best solution, in our estimation, would

1 be a solution that would cause the unit to be expanded as
2 soon as possible.

3 Q. Okay.

4 A. That would be the best solution for the maximum
5 recovery from the Strawn Pool.

6 Q. Okay, that's the best solution. What's the
7 second-best solution?

8 A. Second-best solution, we believe, is to reduce
9 the allowable to the point where it would encourage
10 everyone to -- all the participants to expedite the
11 formation -- the expansion of the unit. That's the --

12 Q. Okay, as an engineer I'd see where you see that.
13 But looking at all the other instances, that may not be the
14 best second solution.

15 I agree with your first solution, but that may
16 not be the best second solution. From an engineering
17 aspect, it probably would be.

18 But taking all the consideration in of
19 correlative rights and notification issues and making sure
20 that all royalty issues are taken care of and protected and
21 making sure that the regulations that are presently in
22 effect throughout the state are correctly administered,
23 this might be -- taking all those things into effect, this
24 might be a next-best solution, and that would be to shut
25 the injection well down.

1 Just a possibility, just pondering and just
2 thinking out loud at this point. I can do that, since
3 you've brought the second-best solution, as you feel,
4 toward me to make that decision.

5 The best solution has not been made where
6 everybody has -- can agree to something. At least, I
7 haven't seen the rough draft order yet. That's something
8 to ponder.

9 With that, I have no other questions of this
10 witness.

11 Any other questions?

12 MR. BRUCE: (Shakes head)

13 MR. HALL: I have nothing further of this
14 witness.

15 EXAMINER STOGNER: Let's take about a 10-minute
16 recess.

17 (Thereupon, a recess was taken at 2:57 p.m.)

18 (The following proceedings had at 3:25 p.m.)

19 EXAMINER STOGNER: Okay, with that, this hearing
20 will come to order.

21 Mr. Hall?

22 MR. HALL: That concludes my case in chief, Mr.
23 Examiner.

24 EXAMINER STOGNER: Okay, Mr. Bruce?

25 MR. BRUCE: Call first Mr. Charuk to the stand,

1 Mr. Examiner.

2 LYNN S. CHARUK,

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

5 DIRECT EXAMINATION

6 BY MR. BRUCE:

7 Q. Would you please state your name and city of
8 residence?

9 A. Lynn S. Charuk, Midland, Texas.

10 Q. And who do you work for with respect to this case?

11 A. Charles B. Gillespie, Jr.

12 Q. And are you employed by him or are you a
13 consultant?

14 A. I'm a consulting geologist for Mr. Gillespie.

15 Q. Have you previously testified before the Division
16 as a geologist?

17 A. Yes.

18 Q. And were your credentials as an expert petroleum
19 geologist accepted as a matter of record?

20 A. Yes.

21 Q. And are you familiar with geologic matters
22 involved in the West Lovington-Strawn Pool, the West
23 Lovington-Strawn Unit area?

24 A. Yes.

25 MR. BRUCE: Mr. Examiner, I tender Mr. Charuk as

1 an expert petroleum geologist.

2 EXAMINER STOGNER: Are there any objections?

3 MR. HALL: No objection.

4 EXAMINER STOGNER: Mr. Charuk is so qualified.

5 Q. (By Mr. Bruce) Mr. Charuk, we've marked on the
6 wall what I think -- I think it should be exhibit Number 1.
7 I didn't put the exhibit number on it. Could you identify
8 that for the Examiner?

9 A. Exhibit Number 1 is a total isopach map of the
10 Strawn -- West Lovington-Strawn Pool and surrounding pools.
11 It is an isopach based on the parameters that were
12 established by the technical committee of the three-percent
13 porosity cutoff.

14 And what I did was examine all the logs that have
15 values and just simply add up the feet that were three
16 percent or higher in porosity, and generated this isopach
17 map.

18 Q. Was this work done in conjunction with the
19 technical committee proceedings, or did you do this
20 independently?

21 A. I was totally independent of any technical
22 committee maps or base maps or anything like that. All
23 this information was supplied by myself. I got it either
24 at the subsurface library in Midland, Texas, or for logs
25 that weren't released or unavailable, I used Mr.

1 Gillespie's personal well files.

2 Q. Now, was this similar to a map you presented at
3 the unitization hearing six weeks ago?

4 A. Yes.

5 Q. What has changed since then, and how has your map
6 changed, maybe?

7 A. Well, the change has been with the drilling and
8 the logging of the Beadle Number 1 by Energen right here in
9 red, right in --

10 Q. In the southwest southwest of Section 35?

11 A. Uh-huh.

12 Q. Okay.

13 A. Which we got this morning.

14 Q. Okay.

15 A. And I added up the total net feet of pay, or
16 porosity over three percent in the Beadle well, and came up
17 with a seven, a value of a seven. Now what's significant
18 about is, there's a seven over here. The "EC" Com well has
19 4. The well in the middle, the Snyder "C" 4, has 30 feet
20 of net porosity, indicating to me another bioherm building
21 up to the southeast.

22 There's a trend through here. From the unit you
23 can see up here, through here, through the "EC" Com to the
24 southeast.

25 EXAMINER STOGNER: Okay, I'm going to stop you

1 right there. Go back, because whenever you read it from
2 the transcript, "from here to here to here" --

3 THE WITNESS: Okay, I'm sorry.

4 EXAMINER STOGNER: -- I'm going to ask you to be
5 a little bit more specific.

6 THE WITNESS: There's a bioherm trend starting
7 inside the unit on the northwestern side of the unit,
8 trending southeast through the unit and intersecting the
9 Snyder "C" 4 well, where there's 30 feet. On either side
10 there's a very thin set of wells. The "EC" com, which is
11 southwest of the Snyder "C" 4, has four feet, and the
12 Beadle well, which is northeast of the Snyder "C" 4, has
13 seven feet.

14 That sets up a northwest-southeast-trending
15 bioherm, which also is indicative of where a lot of the
16 other Strawn production south and southeast of Lovington
17 occurs also.

18 Q. (By Mr. Bruce) Do the results from the Beadle
19 well essentially confirm your interpretation of the
20 reservoir?

21 A. The Beadle well came in thinner, as far as total
22 net feet of porosity, than I anticipated, and that's why I
23 had to do a little bit of whitening out of my original and
24 recontour to kind of find in with my original map.

25 Q. Now, just looking at -- You were here today and

1 listened to all the testimony, did you not, Mr. Charuk?

2 A. Yes, sir.

3 Q. Just looking at it from a geologic standpoint, is
4 there a good well location in what would be Lots 4, 5, 6,
5 that area of Section 5, 16 South, 36 East, on the southeast
6 side of this reservoir?

7 A. I believe it's a viable location that is worthy
8 to be drilled.

9 Q. Is there risk involved?

10 A. Yes, there's risk. I think the risk would be how
11 much total net feet of porosity you will encounter when you
12 penetrate the Strawn bioherm there, and also its structural
13 position.

14 Q. To date in the West Lovington-Strawn Unit and
15 West Lovington-Strawn Pool, has Mr. Gillespie drilled any
16 dry holes?

17 A. Not that I'm aware of.

18 Q. Now, this -- If that well was drilled, the "F" 3
19 well, which you've also marked ont that map --

20 A. "F" 3 location is right here, circled in red.

21 Q. In Lot 4?

22 A. It's southeast of the Beadle well. It's a legal
23 location. It's 1100 feet away from the Beadle well, and
24 it's 467, I believe, from the north, and 800 from the west,
25 which is a legal location according to the field rules

1 established for the West Lovington-Strawn Unit.

2 Q. This would be an edge well, a downdip well in the
3 unit, is that correct?

4 A. I believe it's probing the edge of the field.

5 Q. Okay. And if it was drilled, it would be one of
6 the last producing wells in the unit; is that correct?

7 A. It's not in the unit yet --

8 Q. Yeah --

9 A. -- but --

10 Q. -- Mr. Gillespie did propose that acreage to go
11 in the unit?

12 A. Yes.

13 Q. Mr. Charuk, was Exhibit 1 prepared by you?

14 A. Yes, sir.

15 Q. Strictly from a geologic standpoint, do you
16 believe that the granting of Energen's Application is in
17 the interest of conservation and the prevention of waste,
18 or do you believe it's adverse to the prevention of
19 conservation?

20 MR. HALL: Object to compound questions.

21 EXAMINER STOGNER: Do you want to restate your
22 question, Mr. Bruce?

23 Q. (By Mr. Bruce) Is Energen's Application in the
24 interest of conservation and the prevention of waste?

25 A. No, I don't believe so at this time.

1 MR. BRUCE: Mr. Examiner, I'd move the admission
2 of Gillespie Exhibit Number 1.

3 EXAMINER STOGNER: Are there any objections?

4 MR. HALL: No objection to the exhibit.

5 EXAMINER STOGNER: Exhibit Number 1 will be
6 admitted into evidence at this time.

7 Mr. Bruce, is that --

8 MR. BRUCE: That concludes my testimony from Mr.
9 Charuk.

10 EXAMINER STOGNER: Mr. Hall, would you like some
11 time to review that particular exhibit before you cross-
12 examine this witness.

13 MR. HALL: I think I'm ready to proceed --

14 EXAMINER STOGNER: Okay, in that case --

15 MR. HALL: -- with a brief cross-examination.

16 EXAMINER STOGNER: -- your witness.

17 CROSS-EXAMINATION

18 BY MR. HALL:

19 Q. Mr. Charuk, Mr. Bruce asked you whether you
20 thought there were some good locations for developing
21 Sections 5 and 6. Do you recall that question?

22 A. Sections 5 and 6? Yes.

23 MR. BRUCE: I think the question was Section 5.

24 THE WITNESS: Five --

25 MR. HALL: Section 5.

1 THE WITNESS: -- I don't recall Section 6.

2 Q. (By Mr. Hall) I'm sorry, with respect to Section
3 5, do you identify good locations for development there?

4 A. I believe there's one good location there at this
5 time, based on the geology that we have right now.

6 Q. I see. Have you taken the time to identify other
7 locations, perhaps better locations, that merit development
8 within the existing unit?

9 A. I don't believe there are any. This unit is so
10 -- The permeability is so great in this unit that -- it's
11 so well connected with the gas cap, I don't feel like there
12 are any locations inside the unit.

13 Q. I believe I heard you testify that the location
14 for the Snyder Fed 3, the proposed well, is, quote, at the
15 edge of the field; is that accurate?

16 A. It's probing the edge of the field is what I
17 said, yes.

18 Q. All right. Do you believe that is a superior
19 location to any other undeveloped locations within the
20 existing unit?

21 A. I can't answer that, only a drill bit can.

22 Q. Do you have an opinion?

23 A. I believe it's a good location, and it needs to
24 be drilled. It's offsetting an excellent well, and it's on
25 an undrained 100-acre tract.

1 Q. The offsetting well is --

2 A. -- the "C" 4.

3 Q. -- the Beadle Number 1?

4 A. The "C" 4. The "C" 4 is a producing well.

5 Q. All right. Do you regard the Beadle Number 1 as
6 an outstanding well?

7 A. No, I don't. It's -- You know, if you want an
8 analog based on just log information, which is all we have
9 right now, I believe it's very similar to the "EC" Com
10 well.

11 Q. All right. I'm not sure I got an answer to my
12 earlier question, do you believe that there are other
13 locations within the unit that merit development?

14 A. Based on a risk factor or --

15 Q. In your opinion as a geologist?

16 A. -- just to go out there to drill wells for the
17 heck of drilling them, or what?

18 Q. In your opinion as a geologist?

19 A. No I don't.

20 Q. And why do you say that? What's the basis for
21 that?

22 A. I believe that the existing wells in the unit
23 right now, combined with the pressure injection from the
24 Speight well, will be sufficient to drain the remaining
25 reserves within the unit without destroying any more

1 economics by putting any more straws into the container.

2 Q. To your knowledge, is there any immediate need to
3 drill the Federal 3 well, due to expiring lease or anything
4 like that?

5 A. To my knowledge, my opinion? I believe that it
6 needs to be drilled to at least make the royalty owners
7 happy, because I think the royalty owners will be very
8 upset if they're going to be drained by a Beadle well, and
9 I think it should be drilled immediately.

10 Q. Do you know whether the royalty owner has made a
11 demand?

12 A. No, I do not know that.

13 Q. Okay, do you know whether there's any expiring
14 lease problem for that location?

15 A. There is none that I know of.

16 Q. And that acreage is contained within the proposed
17 expansion in any event; is that correct?

18 A. Yes, sir.

19 Q. If that acreage is included within a final
20 expanded unit, there would be no immediate need to drill
21 it, would there?

22 A. I believe the location has already been staked,
23 and Mr. Gillespie feels an immediate need to drill his
24 well.

25 Q. If the Federal 3 were included in the unit and,

1 as you say, is offset by at least one outstanding well,
2 would the economics of recovering additional oil be
3 affected by the cost of drilling the Federal 3 well?

4 Let me rephrase the question.

5 Can't the unit -- the proposed expansion, that
6 acreage where -- could it be adequately drained by the
7 existing wells?

8 A. At the edge of the unit, I don't know if it will
9 or not. I can't answer that question. All I can say is
10 that, you know, Mr. Gillespie looks at each well on an
11 economic basis that he deems viable for him to make a
12 decision whether or not he wants to drill a well or not.
13 And if the economics dictate that it's a viable location, I
14 assume he has a right to drill that well.

15 MR. HALL: No further questions of this witness.

16 EXAMINER STOGNER: Mr. Carr, your witness.

17 MR. CARR: No questions.

18 EXAMINER STOGNER: Mr. Bruce, redirect?

19 MR. BRUCE: No, sir.

20 EXAMINATION

21 BY EXAMINER STOGNER:

22 Q. Mr. Charuk, the Number 3 well, the proposed
23 Snyder "F" Number 3 well --

24 A. Yes, sir.

25 Q. -- did you -- how much involvement did you have

1 about picking this location?

2 A. I personally picked that location --

3 Q. Okay, so it was --

4 A. -- on request of Mr. Gillespie to pick a location
5 on that lease.

6 Q. And when were you first approached to look at a
7 possible well location in Section 5?

8 A. I believe six -- approximately six weeks ago,
9 five weeks ago. I'm not exactly sure of the date.

10 Q. About the time -- and you were here for the --
11 Was it May 27th?

12 A. I think it was the week right after the 27th,
13 after we had the hearing and Energen announced their
14 location.

15 Q. Now, there's been extensive 3-D seismic, I know,
16 down around the Lovington area. Did that have an influence
17 on your preparation?

18 A. To my knowledge, there's no seismic on this tract
19 in Section 5. I think the seismic for the unit stops
20 somewhere on the section line, if I'm not mistaken.

21 Q. Are you talking about the section line between 4
22 and 5 or -- I mean, I'm sorry, 5 and 6?

23 A. Yes, somewhere right in there, uh-huh.

24 Q. Okay. And you're anticipating the Strawn
25 interval to be at what depth in this particular well?

1 A. Approximately flat with the Snyder "C" 4 is the
2 way I have it interpreted.

3 Q. And what depth is that?

4 A. Minus subsea of approximately minus 7560. So at
5 a KB of about 3950 or so, and that's approximate.

6 Q. What's the nearest Strawn producer to the south
7 and east of your proposed well? Is it shown on the map, or
8 is it further off?

9 A. Yes, yes, our -- There's two Chesapeake wells,
10 approximately -- and that's a mile, so that's approximately
11 a mile, a little over a mile southeast of the Lovington 5
12 Number 1.

13 Q. Is that in Section 5 or 4?

14 A. Section 5, it's -- Section 5 is an extra long
15 section.

16 Q. Okay.

17 A. There's -- this old Foran well, which is near --
18 It's a dryhole, but it did have -- encountered maybe five
19 feet of Strawn bioherm in there, that I've heard had a
20 show, but I've yet to see the mud log on it.

21 Q. But you were able to use at least the log --

22 A. Yeah, I've got the subsurface log from the
23 library, yes.

24 Q. Do you know what pool that Chesapeake well has
25 been classified?

1 A. No, I don't know offhand. I know for -- I know
2 that it also has different bottomhole reservoir pressures
3 than any of the wells in the unit, so it's assumed to be in
4 a separate bioherm.

5 Q. A lot of new development like that out in this
6 general area --

7 A. Yes.

8 Q. -- would you say?

9 A. Mr. Gillespie's the one that really started it
10 all.

11 Q. Now, "started it all", are you talking about --

12 A. With his --

13 Q. -- what? West Lovington or --

14 A. Yeah, West Lovington. There wasn't any Strawn
15 production west of Lovington until Mr. Gillespie discovered
16 the Hamilton Number 1 --

17 Q. Okay.

18 A. -- is what I meant to say.

19 Q. But now the Humble City and Midway and all
20 that --

21 A. Those are older Strawn fields, uh-huh.

22 EXAMINER STOGNER: In fact, I grew up with the
23 story that the City of Lovington hired a geologist to go
24 out there, said, We want to build an airport but we don't
25 want any oilfields around it, so we chose that area. I

1 don't know if that's true or not, but Mr. Zeph Franklin
2 used to say that.

3 Are there any other questions of this witness?

4 MR. HALL: Briefly, Mr. Examiner.

5 FURTHER EXAMINATION

6 BY MR. HALL:

7 Q. I'm not sure if you're the witness to answer this
8 question, but do you have an opinion whether or not the
9 Federal 3 well, if it's drilled, is intended to benefit
10 from the unit's pressure-maintenance operations?

11 A. It's intended to be a stand-alone oil well
12 producer similar to the Beadle well. I guess if the Beadle
13 well is going to benefit from the pressure maintenance, so
14 will the "C" 4, same thing.

15 MR. HALL: No further questions.

16 EXAMINER STOGNER: You may be excused.

17 Mr. Bruce?

18 MR. BRUCE: For the record, Mr. Examiner, the
19 proposed Gillespie well is the Snyder "F" 3.

20 EXAMINER STOGNER: Snyder "F" 3, and I'm
21 referring back to Tab N, I believe, is the copy of the
22 C-102 and C-103 --

23 MR. BRUCE: Yes.

24 EXAMINER STOGNER: -- off of --

25 MR. BRUCE: Yes, sir.

1 EXAMINER STOGNER: -- Energen's Exhibit 1.

2 MR. BRUCE: Yes, sir.

3 MR. HALL: Did I say something else?

4 MR. BRUCE: I thought you said Fed.

5 EXAMINER STOGNER: I heard a "Fed" in there
6 somewhere.

7 THE WITNESS: I missed that.

8 MR. HALL: I may have.

9 EXAMINER STOGNER: But when you said that, or if
10 it was said, you were referring to the proposed Well Number
11 3; is that correct?

12 MR. HALL: (Nods)

13 MARK MLADENKA,

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

16 DIRECT EXAMINATION

17 BY MR. BRUCE:

18 Q. Would you please state your name and city of
19 residence for the record?

20 A. My name is Mark Mladenka. I live in Midland,
21 Texas.

22 Q. And who are you employed by?

23 A. I'm employed by Charles B. Gillespie, Jr.

24 Q. Are you also -- In what position?

25 A. I'm employed as a production manager. I've been

1 trained as an -- educated as an engineer.

2 Q. Now, Mr. Gillespie operates well in his own
3 right, does he not --

4 A. Yes, he --

5 Q. -- individually?

6 A. Yes, individually.

7 Q. Now -- And then there is a company called -- the
8 corporation called Gillespie Oil, Incorporated?

9 A. That is correct.

10 Q. And that entity is the actual operator of the
11 West Lovington-Strawn?

12 A. Correct, I'm the production manager for that
13 entity also.

14 Q. Have you previously testified before the Division
15 as an engineer?

16 A. Yes, I have.

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

19 A. Yes, they were.

20 Q. And are you familiar with the engineering matters
21 related to operations in the West Lovington-Strawn Pool and
22 the West Lovington-Strawn Unit?

23 A. Yes.

24 MR. BRUCE: Mr. Examiner, I'd tender Mr. Mladenka
25 as an expert petroleum engineer.

1 EXAMINER STOGNER: If there are no objections,
2 Mr. Mladenka is so qualified.

3 Q. (By Mr. Bruce) Mr. Mladenka, I've put in front
4 of you Energen Exhibit 1, and I'd ask you to turn to Tab 1.
5 Let's rehash a little of the history of the unit.

6 Now, right on that first page, in November, 1994,
7 there's an entry about Mr. Gillespie individually and Dalen
8 Resources, the predecessor to Energen, initiating formal
9 discussions regarding unitization. Based on the testimony
10 from other cases in this pool, Mr. Gillespie actually began
11 considering unitization in early 1993, did he not?

12 A. I'm not sure whether unitization or not, but a
13 pressure-maintenance project.

14 Q. The -- All the leases currently were held by
15 Gillespie and Energen. The first five wells were drilled
16 relatively close, and that was prior to 1994, and the
17 engineer at the time that was doing the material balance
18 said, Guys, this thing is bigger than what we think it is.

19 So that was when we originally considered some
20 type of secondary recovery operation, i.e., the pressure
21 maintenance.

22 Q. And sometime in the middle of 1994, at that
23 point, Mr. Gillespie individually was the only operator in
24 that unit --

25 A. That is --

1 Q. -- in the -- what is now the unit area?

2 A. That is correct.

3 Q. And in mid-1994, he restricted unilaterally
4 production to 100 barrels of oil per day, did he not?

5 A. That is correct.

6 Q. And what was the reason for that?

7 A. At some point you will cause the -- the bubble
8 point of the oil was 4100, the reservoir pressure was 4390.
9 We saw a pressure depletion, a certain amount of cumulative
10 production falling.

11 At some point the oil becomes immobile, and the
12 gas will break out of solution. Therefore you will leave
13 additional oil -- possibly recoverable oil, in the
14 formation. We did not know where that point is, and quite
15 frankly do not know at what point that reservoir pressure
16 is when the oil becomes immobile.

17 Q. The next point I'm interested in is on page 2,
18 October 1, 1995. That's when the original West Lovington-
19 Strawn Unit became effective, is it not?

20 A. That's correct.

21 Q. So by then the pressure maintenance and
22 unitization had already been under consideration for a
23 couple of years?

24 A. Yes, that's correct.

25 Q. So it took a couple of years to accomplish

1 unitization in the first place?

2 A. That is correct.

3 Q. And production from the wells in the existing
4 unit area had been restricted to 100 barrels a day for
5 about a year and a half at that point?

6 A. That is correct. We actually restricted
7 production for about three months in 1995, until prior to
8 increasing the production, when we saw and felt that this
9 thing was going to work.

10 Q. If production hadn't been unilaterally restricted
11 back in 1994, we wouldn't be here today, would we, Mr.
12 Mladenka?

13 A. At 454 barrels a day, no, per well. And each one
14 of these wells are capable of doing that.

15 Q. Now, next, the State "S" well was drilled, right
16 around October-November, 1995, and that well was connected
17 to the unit, was it not?

18 A. That is correct.

19 Q. When was the first expansion of the unit
20 effective?

21 A. November 1st of 1997.

22 Q. So it took about two years to expand the unit?

23 A. That is correct.

24 Q. The first go-around?

25 A. That is correct.

1 Q. Now, the hearing on unit expansion was in May of
2 1997, I believe?

3 A. That is correct, for the first expansion.

4 Q. And Yates Petroleum and Hanley Petroleum appealed
5 that case *de novo*; is that correct?

6 A. That is correct.

7 Q. As a matter of fact, that's still pending and
8 will come up for hearing again next month?

9 A. I believe that's correct.

10 Q. We were scheduled to go to the *de novo* hearing in
11 what? October of 1997?

12 A. That is correct.

13 Q. But something intervened, didn't it, Mr.
14 Mladenka? A fight over the seismic data?

15 A. I believe that's correct.

16 Q. Yates and Hanley wanted the seismic that Enserch,
17 Energen's predecessor had in its possession?

18 A. That was one of the additional points, correct.

19 Q. And Yates and Hanley said, We can't go to hearing
20 without that data?

21 A. That is correct.

22 Q. And as a matter of fact, they applied for --
23 Originally the Division had denied access to that data; is
24 that a correct statement?

25 A. They ruled in Energen's favor.

1 Q. Enserch's?

2 A. Enserch's.

3 Q. Enserch's favor.

4 Yates and Hanley reapplied and the Division, or
5 Commission, changed its mind; is that correct?

6 A. Absolutely.

7 Q. And that led to a long fight over production of
8 that seismic data?

9 A. Several months.

10 Q. That started in late 1997?

11 A. Correct.

12 Q. After the decision on that seismic was made, Mr.
13 Gillespie himself didn't object to turning over that data,
14 did he?

15 A. Absolutely not.

16 Q. Or, in the alternative, letting Yates and Hanley
17 shoot seismic across the unit?

18 A. They ultimately were allowed to shoot seismic.
19 Since we operated the property, we allowed them to shoot
20 seismic over that -- the unit, and additional leases.

21 Q. But Enserch, Energen's predecessor, appealed the
22 decision of the Commission to the Supreme -- not the
23 Supreme Court, but to the District Court in Lea County?

24 A. I believe that's correct.

25 Q. And that fight went on for what? About a year

1 and a half?

2 A. Yes.

3 Q. Did that fight have any effect on the timing of
4 unit expansion matters?

5 A. It delayed it.

6 Q. Charles Gillespie or the unit operator never took
7 any part in those District Court proceedings, did they?

8 A. Absolutely not.

9 Q. Now, the next point on this time line, page 7, in
10 April the "C" 4 well was completed?

11 A. That is correct.

12 Q. About what? A year and a quarter ago, now?

13 A. Yes.

14 Q. Was data on that well immediately provided to
15 Enserch or EEX voluntarily?

16 A. Yes, it was. I was in constant daily
17 conversations with them. In fact, I called them with the
18 DST data the day I retrieved it, and if it wasn't within a
19 week, they have logs on that well within about two weeks.

20 After we completed the well, I think the next
21 question is, we called a working interest owners' meeting
22 to share the data with the other interest owners within the
23 unit.

24 Q. Now, there's an entry on here that Gillespie
25 advises EEX of his plans to raise bottomhole pressure. Can

1 you comment on that?

2 A. They apparently misunderstood me. At the time,
3 the DST of the "C" 4 indicated a possible communication
4 with the reservoir. It was 3250-something. The unit was
5 3260. There was enough concern in my mind, and the mode of
6 operandi that Gillespie has done since we started
7 injection, was to maintain reservoir pressure. Not to
8 increase it, that would be foolish. You'd be pumping up a
9 balloon, and you're not really -- You just want to maintain
10 it. We knew we were not at critical pressure where the oil
11 become mobile. It was just to maintain it.

12 If the "C" 4 was connected to the unit and we did
13 not make allowances to maintain the reservoir pressure for
14 oil that came out of the pool, the reservoir pressure would
15 drop. Therefore, it was not to raise bottomhole pressure,
16 it was to maintain bottomhole pressure.

17 Q. Okay. The next item is EEX or Enserch did file
18 an application to include the Snyder "C" 4 well in the
19 unit. I don't know if you recall, Mr. Mladenka, but in
20 essence, EEX was asking that noncontiguous acreage be added
21 to the unit; is that correct?

22 A. That is correct. It did not include the Snyder
23 "EC" Com proration unit.

24 Q. Or intervening acreage between -- any other
25 intervening acreage between the "C" 4 --

1 A. Correct, 18 of the technical committee's map.

2 Q. Now, that brings up the Snyder "EC" Com. When
3 was that well completed?

4 A. I believe that was in March of 1995.

5 Q. It's a fairly old well?

6 A. Yes, it is.

7 Q. Now, that was not included in either the first
8 unit or -- in the original unit or in the first expansion,
9 was it?

10 A. That's correct.

11 Q. As a matter of fact, Enserch and EEX did not want
12 that well in the unit, did they?

13 A. No, it was a well that currently has not even
14 paid out, going on over four years. And it would have
15 been, you know, more of a -- It could be perceived not to
16 meet certain financial levels, let's say.

17 Q. Okay. But if it hasn't paid out yet, the unit
18 operating agreement currently provides for bringing wells
19 on payout, so it hasn't even met that requirement of the
20 unit operating agreement?

21 A. No, it has not.

22 Q. Now, in what, late summer of 1998, you heard that
23 Energen was buying EEX's interest in the unit?

24 A. That is correct.

25 Q. Did you ever meet with them early on?

1 A. As soon as I found out that Energen had purchased
2 the Enserch interest, I personally knew several individuals
3 associated with Energen and knew this was an asset. It had
4 been written up in the paper, blah, blah, blah, how
5 important -- or it was considered an important asset.

6 And I thought I'd get these guys up to speed as
7 soon as possible. I met in their office and tried to give
8 them a very quick picture, explain the scenario, the "C" 4
9 situation, the bottomhole pressures, and then I invited
10 them -- And I also went through a basic what we could do.
11 I heard earlier that a plan of operation has not been
12 submitted. I have had my hands tied from *de novos*, so
13 forth, but there is things out there that I mentioned, and
14 slimhole tubing to help lift -- so forth. Anyway, some
15 operational problems and things we can do.

16 Then in -- That was in August, I believe. Maybe
17 late August or early September we went on a field trip and
18 actually -- I don't know if we went to every well out
19 there, but we looked at the operations from a field
20 standpoint.

21 Q. You wanted to familiarize Energen with what's
22 going on out there?

23 A. Absolutely.

24 Q. They or their predecessor had been Charles
25 Major's partner in this whole area for years and years and

1 years?

2 A. That's correct.

3 Q. Now, then you get down to the November 2, 1998,
4 working interest owners' meeting, which both you and I
5 attended, Mr. Mladenka. And I believe at that meeting Dr.
6 Boneau proposed the formation of a technical committee, did
7 he not?

8 A. That is correct.

9 Q. And both you and he talked about the need for
10 pressure data, new pressure tests?

11 A. That is correct.

12 Q. When were those pressure tests performed after
13 the November 2 meeting?

14 A. After the meeting, I had the unit shut in by that
15 Friday. It was on Tuesday, and I had it shut in within
16 three days, or four days.

17 Q. Okay.

18 A. And we obtained the pressure data the next
19 Monday. It's a 72-hour shut-in pressure buildup,
20 bottomhole pressure buildup.

21 Q. And you sent that data to the other members of
22 the technical committee?

23 A. I believe I sent it out, we all looked at it, and
24 at the technical committee we discussed it and concluded
25 that it was definitely in pressure communication.

1 Q. Okay, but did you send it out before the first
2 technical committee meeting?

3 A. I believe that's right.

4 Q. Okay. And then going down these -- I don't think
5 you have any dispute with these dates. There's a December
6 7, 1998, meeting, and then there was an additional four
7 meetings after that?

8 A. That's correct.

9 Q. Okay. And you attended all of those meetings?

10 A. Yes, I did.

11 I'd like to say something about the "C" 4. It
12 had similar bottomhole pressure as the unit. The State "D"
13 8, which is in the South Big Dog, in Section 2, right here,
14 is not connected to the unit, separate pool. It had --
15 When it was drilled, it had a 3700-pound bottomhole
16 pressure.

17 At the time, this particular South Big Dog field
18 had been producing for a period of time. We expected the
19 bottomhole pressure to be reasonably close to -- if it's
20 original pool -- to have 4300 pounds bottomhole pressure.
21 It was 3700, 3300 for the unit, 3300 for the "C" 4.

22 Another -- so it -- And I've seen other maps with
23 the "D" 8, State "D" 8 in Section 1 and the Ocean Energy
24 well in Section 2, you know, a separate porosity pod in
25 itself. So there was concern about difference in reservoir

1 pressures, is what I'm getting at.

2 Number 2 was the chromatograph on the Snyder "C"
3 4. I don't have it with me, but it was well over the
4 current -- or the original of the unit. The MMBTU of the
5 unit was 1300 to 1400, and the Snyder "C" 4 had and MMBTU
6 of the produced gas of nearly 2000 or over.

7 So that put a flag up in our mind that we needed
8 to produce this well for a period of time, just identically
9 what the Beadle well has to do for a volume of fluid, and
10 determine if there's a pressure drawdown or not, if it's
11 two separate reservoirs.

12 And the way things were scheduled at the time, we
13 had just come off a unit pool pressure buildup in February
14 of 1998. The next one was not scheduled for six months
15 later. However, we -- The February buildup was causing
16 some operational problems due to temperatures, shut-in
17 wells, long-flow lines, paraffin buildup, extensive
18 expenses.

19 So we moved the buildup to a later date and we
20 called the working interest owners' meeting to plan the
21 buildup, to determine whether or not the "C" 4 was shut in.
22 We shut the "C" 4 in for over 21 days to obtain a pressure
23 pulse to absolutely confirm that it was connected to the
24 unit.

25 But anyway, that's the time frame on the Snyder

1 "C" 4.

2 Q. Now, there were what? Five technical committee
3 meetings?

4 A. Yes.

5 Q. And at those hearings, now -- or those weren't
6 hearings, but at those meetings certain things were
7 considered, Mr. Mladenka, and one was unit expansion, of
8 course?

9 A. Yes.

10 Q. Does Mr. Gillespie object to bringing the "C" 4
11 well or the "EC" Com well into the unit?

12 A. No, he does not.

13 Q. Did he object to the new tract participation
14 formula that the other parties proposed?

15 A. No, he did not.

16 Q. Did he object to, you know, substantially
17 increasing Hanley's tract-participation percentages?

18 A. No, he did not.

19 Q. Does he object to extending, if we can do it,
20 extending Hanley's lease?

21 A. No, he does not.

22 Q. Mr. Gillespie was willing to deal, wasn't he?

23 A. Yes, he was.

24 Q. What was the one thing that he was really
25 interested in?

1 A. A multiple payout.

2 Q. And why was he interested in that?

3 A. Because of -- The Hanley well and the State "S"
4 had received multiple payouts.

5 Q. And what were the multiples in those two wells?

6 A. The Hanley well paid out 2 1/2 times, and State
7 "S", the WLSU Well Number 12, as it is called now, paid out
8 5 1/2 times.

9 Q. Now, did you bring up this multiple payout at
10 these technical committee meetings or with Energen or any
11 of the other members at any other time?

12 A. Basically, as one of the other witnesses
13 testified, it did come up at one of the technical committee
14 meetings.

15 Q. Was anybody -- Or was Energen willing to go up to
16 250 percent like Charles wanted?

17 A. Like it was said, I talked to Mr. Gillespie the
18 day after the -- that day of the meeting, and we thought
19 that 200 percent should be the minimum we should go for. I
20 met with Energen's management prior to the -- one of the --
21 fourth or fifth technical committee -- it was in a March
22 meeting, and said, This is our position, we need 200
23 percent.

24 They said no.

25 And there was really nothing left to discuss at

1 that meeting at that time.

2 Q. Did that kind of upset Mr. Gillespie?

3 A. Ye, it did.

4 Q. I think we went through this at the last hearing,
5 but he feels kind of proprietary about this pool, does he
6 not?

7 A. Yes.

8 Q. He discovered it, brought the pressure-
9 maintenance project to fruition?

10 A. That's correct.

11 Q. I've personally never seen a geologist run so
12 many DSTs in my life, but he was concerned about the
13 wellbeing of the reservoir.

14 Q. You've been here and heard the testimony today,
15 haven't you, Mr. Mladenka --

16 A. Yes.

17 Q. -- about how Energen's upset with Mr. Gillespie?

18 A. Yes.

19 Q. Is it fair to say that Mr. Gillespie wasn't too
20 pleased with Energen's behavior?

21 A. That's correct. We proposed this in February,
22 the 200 percent. We had a hearing. The next day they
23 offered 200 percent. We could have agreed in February.

24 The proposal -- just recent, at the end of the
25 next day after the hearing, May -- if I can go that far

1 ahead, maybe -- stipulated that the operator would retain
2 ownership of the well and produce it to 200 percent.

3 Mr. Gillespie's position is, the unit owner --
4 the unit needs to own those wells. Therefore, the unit
5 owners can share in the production of that well, even
6 though it might cost them 200 percent or 250. They would
7 then become owners of that production.

8 They would also -- The gas that would be produced
9 would be available to -- as make-up gas, or re-inject. It
10 would be a very simple thing. Instead of the owners owning
11 the wells into the multiple payout to reach --

12 Q. Well, getting back to the 200-percent proposal,
13 that was rejected, and I guess Mr. Gillespie said, Fine,
14 then I want to be treated like the Chandler well?

15 A. Exactly.

16 Q. Which got 250 percent?

17 A. It got 250 percent.

18 Q. That's, in essence, his current position?

19 A. That's correct.

20 Q. Now, a couple other things happened in February.
21 Did Energen ever make a request to reduce the makeup gas in
22 this unit?

23 A. That is correct, oil prices were low, we were
24 maintaining reservoir pressure, and we talked about it -- I
25 believe it was in February. We couldn't do anything before

1 February; we had already nominated a certain amount of gas.

2 March, we decided -- or Energen asked to reduce
3 the purchase of makeup gas to half of what it was
4 averaging. It was averaging \$150,000 per month, and we --
5 which we're trying to maintain the purchase of makeup gas,
6 not the residue gas that's returned to the unit, but we're
7 limiting the purchase of makeup gas to \$75,000 per month.

8 Q. Now --

9 A. We agreed to that.

10 Q. Now, when that proposal went out on that February
11 11th technical committee --

12 A. Let me add something to that, which, if you don't
13 buy enough makeup gas to maintain reservoir pressure, you
14 therefore lose reservoir pressure, if you do not have
15 enough residue gas to reinject. So we consciously made a
16 decision to drop reservoir pressure.

17 Q. Now, this proposal that's in Mr. Gray's Exhibit
18 1, February 11th, 1999, all of that was subject to
19 management approval, was it not?

20 A. Yes.

21 Q. Did Mr. Gillespie ever approve the proposal that
22 went out then?

23 A. No, we did not. The meeting consisted of
24 Energen's attorney and the people that testified here
25 today. It was told to us that pending management approval,

1 this is our proposal. All I got was Mr. Gray's --

2 Q. No, no, I'm talking about the February stuff now.

3 A. Oh.

4 Q. The technical committee proposal that we did
5 present on May 27th, did Mr. Gillespie ever agree fully
6 with that technical committee proposal?

7 A. No, he did not.

8 Q. Now, let me digress for a minute, Mr. Mladenka.
9 If you'd go to Tab H on Exhibit 1?

10 A. I'm sorry?

11 Q. Tab H, 1H. It's a letter from you to Ken Gray?

12 A. Yes.

13 Q. And Energen wanted you to file an application for
14 unit expansion; is that correct?

15 A. That is correct.

16 Q. Now, as of this date, there was no participation
17 formula in place, was there?

18 A. I don't even think we had a map done at that
19 time.

20 Q. So at this point there was no current map on
21 which to base unit expansion, and there was no new tract
22 participation formula?

23 A. We could have called a meeting, but we wouldn't
24 have had anything to present.

25 Q. I could have applied, we could have had a

1 hearing, and what would we present?

2 A. Exactly.

3 Q. Let's move on to -- go back to the main Exhibit
4 1, page 11, and I'm almost through with this.

5 The April 13, 1999, technical committee
6 meeting --

7 A. What date?

8 Q. April 13, 1999.

9 A. Okay.

10 Q. Now, on page 11 it says, "Energen states
11 objection to the allocation of pore volume..." Isn't it
12 true that at that meeting Yates and Hanley represented and
13 said that the application filed by Gillespie Oil with the
14 OCD was 100-percent correct? Is that not true?

15 A. That is correct.

16 Q. And Energen objected, but they did not tell us
17 why we were wrong at that meeting?

18 A. No, there was something about wording on
19 something that I never did get complete clarification on.

20 Q. We didn't find out what their true objection was
21 until May 27th, did we?

22 A. That's correct, at the hearing.

23 Q. Then there's the next entry, April 26th, 1999.
24 Mr. Gillespie doesn't have on staff, or Gillespie Oil
25 doesn't have on staff a landman, do they?

1 A. No, they don't.

2 Q. Now, the unit was being substantially added to,
3 and there was a lot of legwork on the land end that needed
4 to be done?

5 A. That's correct. We contracted that out.

6 Q. And when the application was filed, did we have
7 all the current land information we needed?

8 A. No, we did not.

9 Q. That information really wasn't ready until what,
10 early May?

11 A. I believe that's correct. I don't have the exact
12 date. The land people sent the stuff directly to --

13 Q. Unit Source?

14 A. -- the people in Unit Source, in Colorado.

15 Q. And at that time notice was given of the hearing?

16 A. That is correct.

17 Q. Okay, then one final thing. If you'd turn to Tab
18 M, 1M --

19 A. Okay.

20 Q. -- and it's one of the proposals by Energen.
21 There was a meeting the day after the unitization hearing,
22 was there not?

23 A. That's correct.

24 Q. Was any agreement reached, or was it contingent
25 upon --

1 A. My feeling of that meeting the day after the
2 hearing was, My God, we're getting some cooperation,
3 they're willing to deal. Never -- Here we are back to
4 February on the 200 percent. I felt great about that.

5 We got back into town, I was waiting -- I was
6 told at the meeting, pending management approval. I never
7 got confirmation from any management, and all these people
8 -- Ken Gray wrote these letters June 3rd. He was at the
9 meeting, he said management approval. And I see nothing in
10 these letters that said these terms were approved by
11 management.

12 When the Beadle well was spudded we had a certain
13 amount of time to get this issue resolved. I took it upon
14 myself to Mr. Gillespie, I said, We need to make a
15 counterproposal, even though we're not absolutely certain
16 this is Energen's management approval proposition.

17 So that's when we asked Energen to farm it out to
18 the unit, 200 percent -- or farm out the Beadle well to the
19 unit. Therefore the unit owners would then own an interest
20 in the well. They would not be affected, whether or not
21 any additional ratification was ever received from an
22 expansion. The unit owners would then own the Beadle well.

23 That would also apply to any additional well
24 drilled on any additional tract outside of the unit.

25 Q. Do you think that was a fair proposal?

1 A. I do. It would solve a lot of things.

2 Q. Does Mr. Gillespie object to the multiple payout
3 for the Energen Beadle well?

4 A. Absolutely not.

5 Q. He just wants all the wells to be treated alike?

6 A. That is correct.

7 Q. Mr. Cromwell has proposed a technical committee
8 meeting next week. Do you have any objection to that?

9 A. Absolutely not.

10 Q. In your opinion, has Charles Gillespie acted
11 diligently to expand the unit?

12 A. Yes, he has.

13 Q. Has Gillespie Oil acted diligently to expand the
14 unit?

15 A. Yes, we have.

16 Q. If the "F" 3 well is drilled, is that meant to
17 delay unitization?

18 A. I don't know. If we're going to -- If the
19 technical committee decides on another participation -- The
20 well factor has a lot to do with the payout. The technical
21 committee decided on a six-month period of production. If
22 we're only allowed to produce our "F" 3 well 50 barrels a
23 day, and that had to be for six months but we're only
24 allowed -- I don't know. We've got some things to iron
25 out.

1 Q. But strictly the drilling of that well isn't
2 meant to delay anything; it's merely to protect offset
3 rights?

4 A. That's correct.

5 Q. Now, was this -- Mr. Charuk said he helped pick
6 this location five, six weeks ago. When was the first time
7 the "F" 3 well came up with Mr. Gillespie?

8 A. The day we DST'd the Snyder "C" 4, we had a
9 favorable test, even though our seismic stopped at the
10 lease line. Once again, you're playing close-ology. It
11 set that location up. We should consider that.

12 So we -- It was first mentioned. I had Mr.
13 Squires, the Snyder Ranches owner, on the drill floor with
14 me, ask me about the Snyder "F" lease that day.

15 Q. So about a year and a quarter, that "F" 3 well
16 came up?

17 A. Yes.

18 Q. And Mr. Squires is the royalty owner under both
19 the tracts of the "C" 4 and the "F" 3?

20 A. Correct. We've never received any pressure from
21 Snyder Ranches to drill this well. The Energen well was
22 drilled, we're protecting Snyder Ranches' correlative
23 rights by drilling that well.

24 We were willing to farm out that location under
25 the same terms as the Beadle farmout to the unit.

1 Q. Would the Beadle well be productive if Gillespie
2 and EEX or Enserch had not initiated pressure maintenance
3 some time ago?

4 A. I doubt it.

5 Q. Now, you heard Mr. Kahn talk about some -- the
6 costs of gas injection. First off, Mr. Gillespie, as the
7 largest interest owner in the unit, bears close to half
8 those costs, does he not?

9 A. Yes.

10 Q. And he also had to bear about half the cost for
11 the Chandler well?

12 A. Chandler and the State "S".

13 Q. Okay.

14 A. Those cumulative costs from a 100-percent
15 standpoint were, if not a million, were approaching one
16 million dollars in gross cost.

17 Q. Mr. Mladenka, I've heard you -- You were here
18 when Mr. Kahn testified, did you not?

19 A. Yes.

20 Q. And he was talking about the "C" 4 producing unit
21 gas; is that --

22 A. That was his testimony.

23 Q. Could you comment on that? Identify Exhibit 2
24 and comment on that for the Examiner?

25 A. Unit 2 [*sic*] is the latest volume statement from

1 our gas gathering company, Feagan Gathering Company. They
2 gather all the gas from the West Lovington Strawn Unit and
3 several additional wells in the area.

4 The Chandler well is still called the Chandler
5 well instead of WLSU Well Number 13. And the State "S" HP,
6 that's actually a combination of the high and low pressure
7 meters. Due to the *de novo*, we've had to maintain
8 individual batteries, individual meters, due to interest
9 changes, perhaps. So therefore these wells are carried
10 separately.

11 But the Chandler well also -- the residue gas
12 from it is added to the unit. Since it's part of the unit,
13 we're allowed to reinject it, and also with the State "S".

14 I'd like to point out that the unit MMBTU is
15 1.182. This is reflecting the wells that are cycling,
16 perhaps, most of the free gas, which were injecting gas
17 when the MMBTU of 1.03, let's say, of an average MMBTU.

18 You can look at the edge wells, the State "S".
19 It's showing a gas-oil ratio -- Barney showed those
20 exhibits -- of around 4000 GOR. It's showing a 1272 MMBTU,
21 which tells you that you're getting leaner and leaner.

22 The Chandler well downdip, 1536 MMBTU.

23 Like to point out the Snyder "C" 4: We're at
24 1354. And that could be due to -- even though it's not the
25 1500 that the Chandler is -- The "C" 4 is here. It could

1 be connected to the bioherm here. The reservoir pressure
2 dropped by a thousand pounds.

3 Q. By "here", you mean to the southeast --

4 A. Oh, I'm sorry.

5 Q. -- side of the reservoir?

6 A. The Snyder "C" 4 on the edge of the -- In Section
7 6, could be on the edge of our -- what we think is another
8 bioherm in Section 5. You've got to remember, the gas
9 injection did not start for a year, or several years, after
10 pressure depletion started, from 4300 down to 3300, 1000
11 pounds.

12 So you probably created a separate gas cap here.
13 You got below the bubble point. This is -- So this could
14 actually be producing the -- We don't know this --

15 EXAMINER STOGNER: Okay, now --

16 THE WITNESS: -- I mean, this is a scenario.

17 EXAMINER STOGNER: -- let's -- I'm going to stop
18 you there --

19 THE WITNESS: Okay.

20 EXAMINER STOGNER: -- because you're saying
21 "here" and "there" and pointing --

22 THE WITNESS: Oh, I'm sorry.

23 EXAMINER STOGNER: -- but that's not going to
24 turn up on the transcript.

25 THE WITNESS: Okay.

1 EXAMINER STOGNER: So --

2 THE WITNESS: It could be associated
3 with --

4 EXAMINER STOGNER: -- if that was what you said.
5 Now, I want to get that on the record, what you said. But
6 you pointed. I want you to describe more fully what you
7 said.

8 MR. BRUCE: You have to describe sections and --

9 THE WITNESS: Right.

10 MR. BRUCE: -- quarter-quarter sections.

11 THE WITNESS: The Snyder "C" 4 could be connected
12 to the bioherm that is developing in Section 5, with the --
13 That's one of the reasons why the gas-oil ratio on the "C"
14 4 was originally very low.

15 But it has since dropped the oil-water -- oil-gas
16 contact down in the bioherm in Section 5. Therefore, it is
17 only producing the associated gas or the gas cap created by
18 the pressure depletion from 4300 pounds down to 3300
19 pounds. And therefore you're not producing the 1100 MMBTU
20 of the unit, even though some of our previous maps in May
21 of 1997 indicated that some of the porosity in the Snyder
22 "C" 4 was in the gas-cap leg.

23 I'm just trying to show out a scenario where this
24 may or may not be unit gas. I do not think it's injected
25 gas. And it's associated gas, and the lower you go into

1 the column of the gas cap, the richer it will be.

2 The amount of gas we've injected is over 6 BCF.
3 I think there -- Nobody's ever really said this, but
4 there's considerably more gas in this reservoir than the 6
5 BCF that we've put in.

6 Q. (By Mr. Bruce) A couple of final things, Mr.
7 Mladenka. I know you don't have it in front of you but
8 it's Mr. Kahn's Exhibit Number 11, and he's done an
9 estimate that, you know, if unitization was accomplished by
10 November, 1999, the "C" 4 well would have paid out about
11 200 percent, is what his exhibit says, roughly?

12 A. Correct.

13 Q. In essence, that's what -- that's close to what
14 Mr. Gillespie is asking for, and it's what Energen is
15 proposing at this time?

16 A. That's -- 200 percent, how we get -- whether the
17 unit owns the wells or they produce on their own, yes,
18 that's --

19 Q. So until November, there's nothing happening that
20 -- nobody has proposed at this point? There's nothing
21 adverse happening, as compared with what Energen or
22 Gillespie has proposed, as far as well payout?

23 A. That's correct.

24 MR. BRUCE: Mr. Examiner, I'm going to put one
25 more map up here, and it's what I grabbed out of my file

1 today. I've marked it Exhibit 3. This is actually the
2 current West Lovington-Strawn HPV map put out by the
3 technical committee.

4 EXAMINER STOGNER: Okay, why don't you -- What is
5 the date on that map down in the lower right-hand corner?

6 MR. BRUCE: That map is dated -- Boy, I should
7 say current, but it is February 12, 1999. I think it's --
8 Yeah.

9 EXAMINER STOGNER: Is there a revised date on
10 that?

11 MR. BRUCE: Revised June 1, 1999.

12 EXAMINER STOGNER: Was this not the --

13 MR. BRUCE: It was presented at the hearing.

14 EXAMINER STOGNER: Today?

15 MR. BRUCE: Well, a map, or one like this, was
16 presented at the hearing on May 27th.

17 EXAMINER STOGNER: Mr. Hall, didn't you also
18 provide me this map earlier this morning? Or -- Yeah, this
19 morning?

20 MR. HALL: I don't think this map was presented
21 at the unit expansion case. The unit operator presented
22 the entirety of the unit expansion case on behalf of --

23 MR. BRUCE: Oh, you know what?

24 MR. HALL: -- the technical committee, so I don't
25 think this is --

1 MR. BRUCE: Actually, Mr. Examiner, I just -- I
2 remember. There were some issues regarding various -- Mr.
3 Hall provided me with this map after the hearing -- I'm
4 sorry, Mr. Examiner -- to make corrections on the technical
5 committee map, I believe.

6 MR. GRAY: It was the tract separation.

7 MR. BRUCE: The tracts were incorrect at the
8 hearing, if you'll recall, and this is the HPV map with the
9 correct tract numbers.

10 EXAMINER STOGNER: Okay, you have pointed up what
11 you have called Exhibit Number 3. I have had a map in
12 front of me all day today in this particular case that's
13 very similar to that one, that I've been marking on and
14 making annotations.

15 MR. BRUCE: It -- I believe, other than the tract
16 numbers -- And let Mr. Hall look at it. It may well be --

17 MR. HALL: Yeah, I do not object to the admission
18 of this, by the way. We did not tender this into evidence.

19 EXAMINER STOGNER: Okay.

20 MR. HALL: This is for your orientation.

21 EXAMINER STOGNER: Good, and that's the
22 orientation map.

23 Now, I'm assuming, Mr. Bruce, that you are going
24 to provide everybody here today copies of this exhibit?

25 MR. BRUCE: Everybody can have copies of this.

1 EXAMINER STOGNER: Good.

2 MR. BRUCE: And really, it's not so much -- I'm
3 not going to show a technical case or any technical
4 testimony after this, but I would like to go through this
5 map with Mr. Mladenka.

6 EXAMINER STOGNER: Okay, I'm a little concerned
7 here. I'm a little confused. You're not presenting this
8 as technical evidence?

9 MR. BRUCE: I am only presenting it for land
10 purposes.

11 EXAMINER STOGNER: Okay.

12 Q. (By Mr. Bruce) Now, Mr. Mladenka -- and Mr. Hall
13 may want to get closer so he can see, or Mr. Gray -- in
14 essence Energen today is saying, Mr. Gillespie is greedy?

15 A. That's what I'm hearing.

16 MR. HALL: I'm going to object to that. That's
17 mischaracterization of testimony. That's inappropriate.

18 EXAMINER STOGNER: What was the question again,
19 Mr. Bruce?

20 Q. (By Mr. Bruce) Well, Mr. Mladenka, how would you
21 characterize Energen's portrayal of Mr. Gillespie today?
22 Is he --

23 A. We -- I feel like they are -- they think we are
24 causing a delay to the unitization strictly for the purpose
25 of producing the "C" 4 to Mr. Gillespie's benefit solely.

1 Q. Okay. Now, when this unit was originally formed,
2 Mr. Gillespie was also criticized, was he not?

3 A. Yes.

4 EXAMINER STOGNER: Mr. Bruce, you're getting
5 pretty close to me doing some sustaining on some objections
6 here.

7 MR. HALL: Object, leading.

8 MR. BRUCE: Well, Mr. Examiner, I want to show
9 you how Mr. Gillespie really formed the unit originally to
10 his own detriment.

11 EXAMINER STOGNER: Just -- Like I said, you're
12 getting very close. What's that have to do with today's
13 testimony and what we're considering today?

14 MR. BRUCE: Well, Mr. Examiner, I think they're
15 saying Mr. Gillespie is only acting on his own behalf, and
16 I want to show you differently. And if you don't think
17 it's necessary, fine, I'll --

18 MR. HALL: You know, Mr. Examiner, if I may pose
19 an additional objection, I question the relevance of this
20 line of questioning. We're here to address prevention of
21 waste and protection of correlative rights. Those are the
22 issues on the table.

23 MR. BRUCE: And as part of that he's saying --
24 I'm sorry, Mr. Examiner.

25 EXAMINER STOGNER: In looking at the Application,

1 Mr. Hall, dated -- or correspondence dated July 2nd,
2 statement in case, that the Applicant seeks the issuance of
3 an order temporarily reducing the allowable for all
4 existing and planned wells in the West Lovington-Strawn
5 until the affected working interest owners can resolve the
6 long-standing and continuing impasse over the expansion.

7 I believe, from what I've heard today, there is
8 an impasse. Now, if each other is trying to lay blame on
9 each other -- Is that what you're trying to do at this
10 point?

11 MR. BRUCE: I'm not trying to lay blame on
12 Energen; I'm just trying to shown Mr. Gillespie's interest
13 and concern.

14 EXAMINER STOGNER: How long do you think this
15 portion of the testimony is going to take?

16 MR. BRUCE: Two to three minutes.

17 EXAMINER STOGNER: I'll allow it.

18 MR. BRUCE: Now, on this map, Mr. Examiner, the
19 green is the current boundary. I will cross-hatch Tract
20 14, which is the Hanley tract added in the first expansion,
21 Tracts 12 and 13, which were added in the first expansion.

22 Q. (By Mr. Bruce) Looking at this, Mr. Mladenka,
23 Tracts 19 and 20, which were not originally included, who's
24 the working interest owner in those?

25 A. Charles Gillespie.

1 Q. 100 percent?

2 A. 100 percent.

3 Q. He could have had those added to the unit, and he
4 never asked for them?

5 A. Never were included.

6 Q. Tract 27, at the time of the initial unitization,
7 who owned the working interest in that?

8 A. I believe Charles Gillespie did.

9 Q. 100 percent?

10 A. Correct.

11 Q. Tract 16, 17 and the -- what are shown as Tracts
12 22 and 23A?

13 A. All 100 percent, Charles Gillespie.

14 Q. Tracts 22 and 23B, what? About --

15 A. 22B, 100 percent. I don't think he owns 23.

16 Q. Okay. Now, at the time of the initial expansion
17 hearing, he was criticized, or at the subsequent -- at the
18 initial expansion hearing, he was criticized for not adding
19 in the east half of 34, was he?

20 A. That's correct.

21 Q. Not by Energen or Enserch?

22 A. No.

23 Q. At that point, when the initial unitization
24 occurred, what did Mr. Gillespie believe his interest was
25 in that east half?

1 A. At least 25 percent. I don't have the exact
2 number.

3 Q. Okay.

4 A. Yeah, there's a state lease up there with 50-
5 percent interest, correct.

6 Q. That was owned jointly by Energen and --

7 A. -- and --

8 Q. -- Enserch?

9 A. -- Enserch and Gillespie.

10 Q. Okay. If he had added all those tracts into the
11 unit back when, he could have substantially increased his
12 percentage of the unit, couldn't he?

13 A. Significantly.

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

15 EXAMINER STOGNER: Does that conclude your
16 direct?

17 Q. (By Mr. Bruce) With that, Mr. Examiner, I would
18 ask Mr. Mladenka, first of all, were Exhibits -- was
19 Exhibit 2 prepared by you or compiled from company business
20 records?

21 A. Yes.

22 Q. And Exhibit 3 is simply the technical committee
23 map?

24 A. That's correct.

25 Q. And in your opinion, is the denial of Energen's

1 Application in the interests of conservation and the
2 prevention of waste?

3 A. Yes, it is.

4 MR. BRUCE: Mr. Examiner, I would move the
5 admission of Gillespie Exhibits 2 and 3.

6 EXAMINER STOGNER: Okay, what about Exhibit
7 Number 1? That was his --

8 MR. BRUCE: That was Mr. Charuk's.

9 EXAMINER STOGNER: -- you're going to provide.
10 Okay, Exhibits Number 2 and 3, if there are no
11 objections --

12 MR. HALL: No objection.

13 EXAMINER STOGNER: -- will be admitted at this
14 time, provided that you supply everybody copies of those
15 subsequent to today's hearing, as soon as possible.

16 And with that, Mr. Hall, your witness.

17 MR. HALL: I'll try to tighten it up in view of
18 the time.

19 CROSS-EXAMINATION

20 BY MR. HALL:

21 Q. Let me ask you very simply, Mr. Mladenka, is Mr.
22 Gillespie better off with the "C" 4 out of the unit?

23 A. Currently all the revenue is his, correct.

24 Q. Okay, the answer is yes?

25 A. Yes.

1 Q. To get back to the discussion you had with Mr.
2 Bruce, he testified about the May 28th, 1999, meeting with
3 the Energen representatives?

4 A. Correct.

5 Q. See if I accurately restate that testimony. I
6 understood you to say that at that meeting you were told
7 that Energen had management approval?

8 A. No, I did not. Pending management approval.

9 Q. That was your understanding at the time --

10 A. When we left that meeting on Friday, pending
11 management approval, that was the proposal.

12 Q. Did you at any time understand that Energen had
13 not obtained management approval?

14 A. I did not receive any correspondence saying
15 management approval.

16 Q. Let's look at Exhibit 1M in the chronology there.
17 It's Energen's June 3rd, 1999, letter to you there. I
18 guess you're correct, there is no reference to management
19 approval in there. Did that strike you as odd at the time
20 you received that letter, with all these side letter
21 agreements referencing the tentative agreement?

22 A. At this particular time, I -- It still didn't say
23 management approval. I think -- I don't remember when this
24 day was, but it was probably a day or two after I had told
25 Mr. Gillespie what the terms were, and we were waiting on

1 confirmation of management approval.

2 Ken was at the meeting. Apparently he did not
3 have management approval at the time. I see no management
4 approval on this letter. Therefore, I did not act.

5 Q. At any time did you make inquiry of Energen
6 whether or not they, in fact, had management approval?

7 A. No, I did not.

8 Q. Did you ever make them aware that this was a
9 concern of yours?

10 A. No, I did not.

11 Q. Let's look at Exhibit 10. It's Energen's June
12 22, 1999, letter, pointing out that they hadn't heard back
13 from you all in response to the June 3rd correspondence.

14 Look at the last two lines there. It says, "I
15 have taken the liberty of having the same finalized on our
16 letterhead for Gillespie's approval..."

17 Did that indicate to you that Energen at least
18 had management approval to send you a final document at
19 that time?

20 A. At that time I approached Mr. Gillespie, and I
21 said, This is the deal they want. And that is when we
22 talked about it a few days. And I'm not sure exactly Jim's
23 in here that wrote the letter about the farmout, requesting
24 the farmout of the Beadle well to the unit owners, and we
25 would throw our well in also at the same time.

1 Q. So as of that date anyway, it was your --

2 A. That is when we decided I have to do something
3 before the well cuts the pay zone and get commitment from
4 the owners, because at the working interest owners' meeting
5 in November, if it was farmed out to the unit -- I may have
6 to go back and read the testimony or the conversation of
7 the working interest owners' meeting -- there was yes, yes,
8 yes, I heard, of a farmout of the Beadle well to the unit
9 owners.

10 And Energen personnel at that time, That's an
11 idea, we'll consider it. Never heard anything after that.

12 Q. Let's look at Exhibit 1P then. It's of June 22,
13 1999, and didn't Gillespie direct his counsel to accept the
14 Energen proposal?

15 A. Yes.

16 Q. Is there any question in Gillespie's mind, as of
17 that date anyway, that Energen had management approval for
18 the deal on the 200-percent payout?

19 A. We accepted it with the following
20 modifications --

21 Q. But obtaining management approval was not one of
22 those conditions?

23 A. No, this was the -- Mr. Gillespie's approved --
24 this is what I was allowed -- or actually, you know, we
25 composed it, Jim wrote it, this was Mr. Gillespie's wishes,

1 this letter.

2 Q. Well, I'm confused, Mr. Mladenka. On the one
3 hand I hear you saying -- set me right if I'm not stating
4 this correctly -- I hear you saying that what prevented the
5 deal from going forward after May 28th to June 22nd was a
6 misperception on Gillespie's part, anyway, that Energen
7 hadn't received management approval --

8 A. Correct.

9 Q. -- you were waiting for that?

10 A. Correct, absolutely.

11 Q. But at the same time I see correspondence back
12 and forth indicating acceptance of a deal. No other
13 reference to management approval pending.

14 A. No, I did not -- I was waiting on management's
15 approval.

16 Q. Is the 200-percent payout multiple acceptable to
17 Gillespie or not?

18 A. As long as the unit is the operator, the unit
19 pays -- treats everyone the same. The Beadle will get paid
20 200 percent now. Don't wait for it to be operated by
21 Energen for a year and a half or a year. If its oil price
22 is up, it will be six months. Don't wait. Bring it in
23 now.

24 Therefore, the unit owners will -- the current
25 owners will share in the proceeds and the oil of that well,

1 the residue gas will be returned to the unit. Therefore,
2 it would essentially be a unit well. It would not depend
3 whether or not we obtained ratification from all parties,
4 working interest owners or royalty owners. And that would
5 apply to the Snyder "F" 3. That is why we wanted it worded
6 this way.

7 Q. And why did you wait for more than three weeks to
8 communicate --

9 A. I was waiting on management approval, and we were
10 picking locations, and I've got other things to do.

11 When I received this, I go, Charles, we need to
12 do something. He was aware of that June 3rd letter with
13 the proposal, and I said, We were told at the meeting on
14 Friday, after the hearing, pending management approval.

15 And the only management I have met, apparently,
16 is a VP from Alabama. He's the one that nixed 200 percent
17 in February.

18 Q. In any event, you had agreement on 200-percent
19 payout multiple May 28th?

20 A. I saw a willingness to barter, to trade. There
21 was at no point -- This is February, we could have settled
22 on the 200 percent in February. But here it is in May, but
23 it wasn't worded the way we wanted it worded.

24 Q. You never communicated that to Energen?

25 A. No.

1 Q. All right. Now, your royalty owner under the
2 "C" 4, would he have gone along with having the unit
3 participate in the payout unit multiple before the well was
4 brought into the unit?

5 A. I would say that if we bought -- Well, I don't
6 know. I don't know. But that -- See, it doesn't matter if
7 it would have been ratified or not. The unit would have
8 owned -- The unit owners would have owned the well and the
9 proceeds. The mineral owner would have been producing his
10 minerals all along.

11 Q. Before the well was even brought into the unit?

12 A. Correct.

13 Q. You don't the royalty owner would have objected
14 to proportionate --

15 A. A multiple payout, I think -- You know, it isn't
16 the 250. That's why we went with 250, to be treated the
17 same way. We came off the 250 to get it to be farmed into
18 the unit, or to have the unit owners own that well, and the
19 Snyder "F" 3, and any other well that may be proposed
20 outside of the current unit boundary.

21 Q. By the way, are you requesting a well factor for
22 the "F" 3 well if it's brought into the unit?

23 A. We want it to be treated exactly the way every
24 well is --

25 Q. So --

1 A. -- outside the current unit.

2 Q. So if there's an April 1, 1999, effective date,
3 that --

4 A. We are willing to be treated exactly the same as
5 any other well, and expect any other well to be treated the
6 same.

7 Q. So the answer to my question is yes?

8 A. Yes.

9 Q. Do you agree with Mr. Charuk that there are no
10 other viable locations for development within the existing
11 unit?

12 A. Currently, the gas-oil ratio is increasing. We
13 need to find another point in the reservoir. I'm not a
14 geologist, but I do know this: A structurally low well is
15 going to -- We can shut in some of the high gas-oil ratios,
16 we can arrest the increase of GOR.

17 Once this GOR starts going up, there are -- If
18 there are any additional locations within the unit, we have
19 to be extremely careful on where we're going to pick it.
20 Number one, you've got water close by. And our experience
21 with water is, you've got to be very careful with it.

22 So any other location within the unit is in the
23 downdip direction, with a known water leg associated with
24 that porosity. So it would be an extremely risky well.
25 I'm not going to say that we won't drill a well there, but

1 if our technology can show that we can produce a well with
2 porosity in the water leg, therefore -- and we can assure
3 ourselves of obtaining porosity above the water and stay
4 away from the water, yes, there would probably be an
5 additional location. And that one well could possibly
6 generate more wells.

7 Q. Earlier you testified that in your opinion having
8 the Snyder "C" 4 produce outside the units of the boundary
9 was not impairing correlative rights, or there's no
10 detrimental effect on the unit. Is that accurate? Have I
11 stated it accurately?

12 A. It's definitely benefiting from the pressure-
13 maintenance project.

14 Q. My question is, is there any detriment to the
15 unit?

16 A. The oil in place under the Snyder "C" 4 has not
17 been exceeded by the production that it has produced. The
18 recovery of the Snyder "C" 4 is probably greater than the
19 primary means. Whether or not we are moving reserves from
20 the unit onto the "C" 4 -- It could be, since the reservoir
21 pressure is dropping, it could be coming from the porosity
22 pod in Section 6 that we've got mapped.

23 Q. Earlier, I believe you testified that the
24 original BTU in the "C" 4 well is around 2000?

25 A. Right.

1 Q. Let's look at your Exhibit 2, the Feagan
2 Gathering Company data. Do you see the entry there for BTU
3 for the Snyder "C" 4?

4 A. Yes.

5 Q. 1354, correct?

6 A. Correct.

7 Q. Does that indicate to you that the gas being
8 produced from the "C" 4 well is being mixed with the
9 injection gas?

10 A. No, it does not. See, this is -- It tells me
11 that it is producing gas-cap gas, not injection gas.
12 You've got to remember that the -- and I made the
13 statement, you know, Feagan showed the 2000 or that we had
14 a chromatograph for the first three months -- it's set up
15 on a settlement basis every three months. The next one
16 showed it to be in the realm of the 1500 MMBTU. They
17 probably sampled it at the wrong spot or something to that
18 nature.

19 Q. Okay. What are the origins of the gas cap in the
20 pool?

21 A. The original gas cap? It had none.

22 Q. All right.

23 A. The 1000-pound drawdown created a gas cap. And
24 it would create a gas cap in any isolated porosity pod that
25 the top of the porosity pod was not communicated with the

1 gas cap.

2 Q. Mr. Mladenka, I believe it's important for you
3 that the record be corrected on a particular matter. You
4 testified with respect to the dispute that arose over the
5 production of the seismic data, and I believe you said that
6 it was at that time Enserch who pursued an appeal of the
7 Division Director's order to produce seismic data.

8 A. Correct.

9 Q. Isn't it true that that seismic data was owned
10 jointly by Gillespie and Enserch?

11 A. Correct.

12 Q. And isn't it also true that Gillespie
13 participated in joint pleadings to the Division Director
14 asking for a reconsideration of that order, a stay of that
15 order?

16 A. We asked -- When the Commission ruled --
17 overturned the admission of the -- that it would be
18 allowed, that is when we said, okay --

19 Q. In fact --

20 A. -- take a look at the seismic.

21 Q. In fact, Gillespie did object to turning over the
22 seismic?

23 A. Initially. And it was -- Yeah. I mean, we
24 joined with Enserch's concern about turning over the
25 seismic.

1 Q. I can't remember. Did I ever send you a legal
2 bill for all that work I did?

3 A. No.

4 Q. Okay. Let me ask you, Mr. Mladenka, you
5 indicated that early on in the operating life of the field
6 that Gillespie had voluntarily reduced production to
7 approximately 100 barrels of oil a day?

8 A. Correct.

9 Q. Did Gillespie also at any point during the course
10 of events surrounding this unit seek to reduce the
11 allowable?

12 A. They did.

13 Q. And what was the purpose of that?

14 A. The State "S" was producing 454 barrels a day
15 with pressure communication to the unit, and in order to --
16 You've got to remember, reservoir pressure is declining
17 every day, and you've got the unit -- There wasn't even a
18 unit at the time, just voluntarily producing the other
19 wells at 100 barrels a day. The State "S" was producing at
20 450 a day. We tried to minimize the damage to the
21 reservoir. That was significant. You've got 1000 barrels
22 a day versus 500 barrels a day from one well.

23 Q. All right. Was Gillespie the Applicant in Case
24 Number 11,599, if you can recall?

25 A. Can you tell me what the case was?

1 Q. The caption is, "Application of Gillespie-Crow,
2 Inc., for pool expansion, contraction, pool creation and
3 special pool rules, Eddy County, New Mexico." It should be
4 "Lea", I believe.

5 A. Is that the reduction allowable?

6 Q. Yes.

7 A. Yes.

8 Q. Do you know if Gillespie notified the royalty
9 interest owners --

10 A. I do not know.

11 Q. -- in the pool?

12 MR. HALL: Mr. Examiner, at this time I'd request
13 you take administrative notice of the notice affidavits in
14 Case Number 11,599. I had a chance to look at those, and
15 lo and behold, there's no notice to the BLM. And what I
16 would say in regard to that, Mr. Examiner, there is a
17 doctrine that applies in situations like this. It applies
18 to legal proceedings before administrative agencies, called
19 the doctrine of administrative estoppel.

20 And I would argue to you, Mr. Examiner, that
21 Gillespie is estopped to argue as a defense to this
22 proceeding that there was inadequate notice.

23 With that, that concludes my cross-examination of
24 Mr. Mladenka.

25 EXAMINER STOGNER: Mr. Carr, your witness.

1 MR. CARR: No questions.

2 EXAMINER STOGNER: Redirect?

3 MR. BRUCE: Just one question.

4 REDIRECT EXAMINATION

5 BY MR. BRUCE:

6 Q. Regarding the allowable reduction, Mr. Mladenka,
7 when that was done, the State "S" had the full allowable,
8 445 barrels a day; is that correct?

9 A. That is correct.

10 Q. Injection -- It was right around when injection
11 began. Unit wells at that point were incapable of
12 producing much more than 200, 225 barrels a day; is that
13 correct? Because -- in order to maintain reservoir
14 pressure?

15 A. Right, we restricted reservoir -- or production.

16 Q. So production was made uniform across the unit
17 and --

18 A. Correct.

19 Q. -- from wells also?

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

21 EXAMINER STOGNER: What was the order number on
22 that? Do you have the record on that?

23 MR. BRUCE: I can get it for you, Mr. Examiner.

24 MR. HALL: I can find it.

25 MR. BRUCE: I think it was 90- -- Wasn't it one

1 in the 9722 series that originally created this pool?

2 EXAMINER STOGNER: Well, does anybody have --
3 What I was really getting at, does anybody have a copy of
4 that handy?

5 MR. BRUCE: It seems to me it was 9722-C or
6 something like that.

7 EXAMINER STOGNER: Okay. But anyway, I'll take
8 administrative notice of Case 11,599.

9 EXAMINATION

10 BY EXAMINER STOGNER:

11 Q. Mr. Mladenka, I've kind of lost track here.
12 What's your expertise? Are you an engineer or a landman?

13 A. Engineer.

14 Q. You're an engineer.

15 Would there be any adverse effects to the unit as
16 it presently stands if all operations were to cease and the
17 pressure was to remain the same in this particular unit, no
18 production, no injection.

19 A. To the reservoir?

20 Q. Yes.

21 A. No.

22 Q. Okay. Now, the State "S" in which everybody was
23 referring to that really precipitated in that Case 11,599,
24 that was that one in the west half of Section -- I'm sorry,
25 the east half of Section 34; is that correct?

1 A. That is correct.

2 Q. In Tract 12?

3 A. Correct.

4 EXAMINER STOGNER: Okay, I have no other
5 questions of this witness. You may be excused.

6 Mr. Bruce, anything further?

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

8 EXAMINER STOGNER: Mr. Bill Carr?

9 MR. CARR: May it please the Examiner, I have a
10 very brief statement in conclusion for Hanley, and Dr.
11 Boneau has statement he'd like to make for Yates. That's
12 what we would suggest as our appropriate participation.

13 EXAMINER STOGNER: Okay, I'll tell you what,
14 before we get to the statements, I have just one question
15 of Mr. Kenneth Gray.

16 Mr. Gray, you're still under oath.

17 One quick question:

18 KENNETH H. GRAY (Recalled),
19 the witness herein, having been previously duly sworn upon
20 his oath, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY EXAMINER STOGNER:

23 Q. The unit as it now stands, approximately what
24 percentage of interest does Energen have?

25 A. Some 46.

1 EXAMINER STOGNER: Thank you, sir. All right.

2 Mr. Bruce, would you have an objection to Yates
3 and Mr. Carr with their closing statements, then I would
4 allow you to follow up, with Mr. Hall submitting a
5 statement last.

6 MR. BRUCE: Whatever your pleasure is, Mr.
7 Examiner.

8 EXAMINER STOGNER: Okay, Mr. Carr, I'll have
9 either you or Mr. Boneau -- Okay, why don't you come on up
10 here so we can get a clear and concise record?

11 DR. BONEAU: I'm Dave Boneau, a petroleum
12 engineer with Yates Petroleum Corporation. And this is my
13 statement, if I can get it out in a sensible way to you.

14 I urge you to reduce the allowable in order to
15 force an agreement between Energen and Gillespie. I have
16 not been involved with this case from the start, but I have
17 been involved with it since the beginning of 1996, which is
18 three and a half years ago.

19 For most of those years, I fought against
20 Gillespie and Enserch for what I considered fair treatment
21 in the State "S" Number 1 well and the Chandler Number 1
22 well.

23 The atmosphere of the whole situation has
24 improved greatly since Energen bought out Enserch's
25 interest, and I consider the technical committee to have

1 been successful in addressing the technical issues. The
2 80-20 formula that's been proposed by the technical
3 committee satisfies my goal of fair treatment for the State
4 "S" 1 and the Chandler Number 1, and so I want to see the
5 unit expanded with that 80-20 formula. And that's the
6 selfish part of it, I think, from my point of view.

7 The remaining issues are between Gillespie and
8 Energen, and actually it was fun for like one afternoon to
9 sit on the sidelines and watch the two of them fight
10 instead of the other ways around.

11 But from my point of view, Energen has given in
12 on everything, and still we don't have any expansion. And
13 we've all sat here today, and I think you've heard some
14 pretty silly arguments, actually, that attest to the
15 impasse that we have. And what I'm telling you is, I think
16 these guys need a kick in the pants, and you're the one
17 that I think is able to do that. I don't know of anyone
18 else that is. And I think the kick they need is to reduce
19 the allowable so that these major owners, you know, have no
20 other course but to agree.

21 And so I'm urging you to approve the Application
22 in this Case 12,086.

23 Thank you.

24 EXAMINER STOGNER: Thank you, Dr. Boneau.

25 Mr. Carr?

1 MR. CARR: May it please the Examiner, years ago
2 when the Applicant brought this case before you, this unit
3 before you originally under the Statutory Unitization Act,
4 they testified as required by statute that the reservoir at
5 that time had been substantially defined by development.
6 And we know today how wrong that statement was, and it
7 started us down a road that we're still on today, wrestling
8 with what is the appropriate unit boundary.

9 Hanley Petroleum is a working interest owner in
10 the unit. They participated in the technical committee,
11 and they supported the results that were presented to you
12 six weeks ago.

13 With new data, they want it clear that they're
14 prepared to meet again and integrate this information into
15 their work and to assist in revising the recommendation to
16 you.

17 The Hanley objective is simple: An appropriate
18 unit expansion based on the technical data now available.
19 And they are prepared to do and will support whatever is
20 required to achieve this objective.

21 Thank you.

22 EXAMINER STOGNER: Thank you, Mr. Carr.

23 Mr. Bruce?

24 MR. BRUCE: I'll be brief, Mr. Examiner.

25 Mr. Carr is right, this reservoir has continually

1 surprised people by how large and how good it is. I think
2 it's larger than any single Strawn reservoir except maybe
3 the Lusk-Strawn Pool.

4 I must reiterate at this point that we wouldn't
5 even be here today if it wasn't for the foresight of Mr.
6 Gillespie. Energen seems to think Mr. Gillespie has done
7 something wrong. The only thing he's done is make a profit
8 for everyone involved in this unit.

9 Energen wants to put the cart before the horse.
10 The Statutory Unitization Act provides for the Division to
11 make an independent judgment on the merits of the
12 unitization plan, and once the Division enters its order,
13 we can seek ratifications. We have no objection to a
14 technical committee meeting. I would guess it's inevitable
15 that one will be held next week. I see no problem with
16 that.

17 There has been a lot of give and take between the
18 parties. Unfortunately, in some extent it's hardened the
19 positions of both sides of this dispute.

20 We think if you look at the chronology of what's
21 occurred here, there has been no delay. The expansion is
22 essentially proceeding along the same time line, similar to
23 any other expansion, or a similar -- or the original
24 unitization of this pool.

25 I don't think you should approve this

1 Application. Number one, it's not warranted. Mr. Kahn's
2 Exhibit 11, apparently people are pretty much now in
3 agreement, or to a certain extent, that there should be a
4 multiple well payout. Mr. Kahn's calculation shows that
5 will occur in November, 1999. If that's the case, what's
6 the problem here with the "C" 4 well, or the "EC" Com
7 hasn't paid out yet.

8 I also think you shouldn't approve this
9 Application because it will open up the Division for
10 similar cases in other applications, unitization, pool
11 rules, unorthodox locations, rather than encouraging
12 negotiation among the parties, and it will only adversely
13 affect their position.

14 The final thing I have to say is, the Application
15 asks for an escrow of production proceeds. In essence, the
16 Division would be issuing an injunction telling people
17 where to put their money, and I believe that's outside the
18 scope of the Division's authority, and that cannot be
19 granted.

20 Thank you, Mr. Examiner.

21 EXAMINER STOGNER: Mr. Hall?

22 MR. HALL: Mr. Examiner, I'll be very brief in
23 view of the hour.

24 Let me state at the outset, this has not been an
25 effort on our part to demonize any individual. We have not

1 sought to cast this as a conflict of personalities, and I
2 would urge you to avoid buying into the efforts to have
3 this dispute so portrayed.

4 It is purely a matter of protection of
5 correlative rights, prevention of waste and taking the
6 necessary action to get two business entities who cannot
7 agree, to come to terms to finalize expansion of the unit.

8 That is all it is, it's nothing more than that.
9 Personalities are not at work here.

10 Mr. Examiner, the evidence that we presented
11 clearly established the following:

12 There is an ongoing violation of correlative
13 rights, and a reasonable expectation that those -- that the
14 impairment of correlative rights will continue into the
15 future.

16 There is ongoing waste.

17 There also exists an incentive for an interest
18 owner to keep certain properties out of the unit, and, I'm
19 sorry to say, delay the expansion process.

20 The evidence also establishes that Energen has
21 acted at every turn in good faith. They have made
22 concession after concession, and yet there is still no
23 resolution to this impasse. Further, there is no
24 reasonable expectation of resolution anytime soon.

25 Given the history of this process, the unit

1 expansion process, there is no reasonable expectation that
2 any of us can have. That matter can be resolved, order
3 presented to you, order issued and sent out for
4 ratification before November or who knows how long it will
5 take? The parties need to be made to deal. There is no
6 other alternative here, Mr. Examiner.

7 The only alternative is a statutory remedy, and
8 that is for the Division to step in and act to protect
9 correlative rights. Without it, there will be no
10 resolution, and as I say, there will be continued
11 impairment of correlative rights. The Division must act.

12 Thank you, Mr. Examiner.

13 EXAMINER STOGNER: Thank you.

14 I believe there was a question earlier about the
15 notification issue. I believe in this particular case,
16 especially since the way it was brought in this particular
17 instance to set an allowable for the reason to resolve a
18 long-standing issue, and that's the way it's worded here, I
19 believe in this instance royalty interest needs to be
20 notified.

21 I'm therefore going to continue this case for six
22 weeks -- my next hearing is scheduled for August 19th -- so
23 that the royalty interests affected for the West Lovington-
24 Strawn -- I urge you to also map it out and see who those
25 affected parties are.

1 Don't just simply draw a mile radius around that
2 particular pool, because there are other pools that abut
3 this that are being produced, so let's don't get anybody
4 upset that we don't have to.

5 All the affected royalty interest within the
6 governing bounds of this particular pool need to be
7 notified.

8 MR. HALL: Let me ask you a question about that,
9 because we will do that, Mr. Examiner, we will notify
10 royalty interests. I understand you do not include
11 overrides?

12 EXAMINER STOGNER: Now that you've brought
13 overrides up, yes, notify them and identify them at that
14 time.

15 MR. HALL: We will also identify and notify all
16 operators, working interest owners as well, to the extent
17 we can identify them.

18 EXAMINER STOGNER: Also, I'm going to bring some
19 other stuff up.

20 Back on May 26th, Case 12,171, hopefully I was
21 waiting for a draft order that everybody could agree on.
22 I'll remind everybody that was for a statutory unitization
23 expansion.

24 So I don't have to wait for a draft order -- I
25 was hoping that I could get one from everybody, and I

1 sensed it in some people in this room, that I was being
2 considered the one holding that particular order up. Well,
3 I will remind those parties that I was not, I was hoping
4 that everybody in here could agree to something. That's
5 what I was waiting on. I don't have to.

6 But it sounds like to me there's going to be
7 another meeting next month -- I mean next week. So I would
8 like to have by July 20th -- that's next -- or the Tuesday
9 after next -- a rough draft order. If I do not get
10 anything from that, then I can take other means to take
11 action to get an impasse taken care of. And that could be
12 go into Order Number R-10,448, authorization for injection,
13 and either suspend or adjust it. And I can do whatever
14 means after that date if there is no order.

15 At the same time, I will start writing a
16 secondary recovery -- I mean, I'm sorry, a statutory unit
17 order for that expansion, based on the evidence that was
18 presented at that hearing on July 27th, and not on the
19 evidence today that was presented. I can't do that, for
20 obvious reasons, but from that particular case file. Bear
21 that in mind. There's other means that can be done, in a
22 more simple manner, if that is what you want an allowable
23 adjustment for, there's other ways to do it. And I will do
24 it.

25 So with that, this hearing is adjourned today,

1 and I'll see you again on August the 19th.

2 With that, this hearing is adjourned.

3 (Thereupon, these proceedings were concluded at
4 5:17 p.m.)

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

CERTIFICATE OF REPORTER

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

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

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

WITNESS MY HAND AND SEAL July 15th, 1999.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002