

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

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

CASE NO. 11,360

APPLICATION OF NEARBURG )  
EXPLORATION COMPANY FOR COMPULSORY )  
POOLING, EDDY COUNTY, NEW MEXICO )

**ORIGINAL**

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

**RECEIVED**

October 5th, 1995

OCT 19 1995

Santa Fe, New Mexico Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, October 5th, 1995, 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.

\* \* \*

## I N D E X

October 5th, 1995  
 Examiner Hearing  
 CASE NO. 11,360

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<u>MICHAEL M. GRAY</u> (Landman)	
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\* \* \*

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\* \* \*

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

FOR THE DIVISION:

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Legal Counsel to the Division  
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FOR THE APPLICANT:

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By: W. THOMAS KELLAHIN

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   8:38 a.m.:

3           EXAMINER STOGNER: At this time I'll call next  
4   case, Number 11,360.

5           MR. CARROLL: Application of Nearburg Exploration  
6   Company for compulsory pooling, Eddy County, New Mexico.

7           EXAMINER STOGNER: At this time I'll call for  
8   appearances.

9           MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of  
10   the Santa Fe law firm of Kellahin and Kellahin, appearing  
11   on behalf of the Applicant, and I have two witnesses to be  
12   sworn.

13          EXAMINER STOGNER: Are there any other  
14   appearances in this matter?

15          Both witnesses, please stand to be sworn at this  
16   time.

17          (Thereupon, the witnesses were sworn.)

18          EXAMINER STOGNER: Mr. Kellahin?

19          MR. KELLAHIN: Thank you, Mr. Examiner. Exhibits  
20   1 and 2 are the geologic displays that Mr. Elger will  
21   sponsor. If you'll set those aside for just a moment,  
22   we'll start with the land testimony, which commences with  
23   Exhibit Number 3.

24          My first witness is Mike Gray. Mr. Gray is a  
25   consulting landman, employed by Nearburg Production

1 Company.

2 MICHAEL M. GRAY,

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. KELLAHIN:

7 Q. Mr. Gray, for the record would you please state  
8 your name and occupation?

9 A. Michael M. Gray. I'm a consulting landman for  
10 Nearburg Exploration Company and Producing Company.

11 Q. And where do you reside, sir?

12 A. Amarillo, Texas.

13 Q. Has it been your responsibility as a landman to  
14 attempt to consolidate on a voluntary basis the working  
15 interest owners for the drilling of the subject well within  
16 the spacing unit that we're about to discuss in this case?

17 A. Yes.

18 Q. On prior occasions have you testified and  
19 qualified as an expert before the Division in matters of  
20 petroleum land management?

21 A. Yes.

22 Q. In addition, have you made yourself familiar with  
23 the proposed operating agreement that is to be utilized in  
24 this case?

25 A. Yes.

1 Q. And you are generally knowledgeable about the  
2 operating costs and the system by which your company  
3 prepares and submits estimates of well cost to other  
4 interest owners?

5 A. Yes.

6 MR. KELLAHIN: We tender Mr. Gray as an expert  
7 witness.

8 EXAMINER STOGNER: Mr. Gray is so qualified.

9 Q. (By Mr. Kellahin) Mr. Gray, let me have you  
10 turn, sir, to what is marked as Exhibit 1 and identify it  
11 for us in drawing our attention to the half section that's  
12 outlined in red.

13 A. Exhibit 1 or Exhibit 3?

14 Q. I'm sorry, Exhibit 3.

15 A. Exhibit 3 is a locator map depicting the proposed  
16 unit for the MW "33" well, being the west half of Section  
17 33, Township 17 South, Range 27 East.

18 Q. When this well was originally proposed, the  
19 original proposal offered the well in the southwest quarter  
20 of Section 33, did it not?

21 A. That's correct.

22 Q. And had it been located in the southwest quarter,  
23 there is a division of interest as shown on Exhibit Number  
24 3?

25 A. Yes, there is.

1 Q. Since then, the case has been amended,  
2 readvertised, and new notices have been sent to the other  
3 interest owners, moving the location up to the northwest  
4 quarter of 33, have you not?

5 A. Yes.

6 Q. Within the northwest quarter of 33, do you  
7 control on a voluntary basis all formations that might be  
8 productive on a 160-acre spacing configuration?

9 A. Yes, we do.

10 Q. And so all you're seeking to do, then, is to  
11 compel those parties who have not voluntarily agreed in the  
12 southwest quarter so that you can form a standard west-half  
13 spacing unit for any production below the top of the  
14 Wolfcamp?

15 A. Yes.

16 Q. And the primary target for this well is a Morrow  
17 test, is it not?

18 A. That's correct.

19 MR. KELLAHIN: All right. So that portion of our  
20 case, Mr. Examiner, that asks for the pooling of the  
21 shallow gas is no longer necessary, and we're seeking to  
22 amend our request, asking for a pooling order for all 320  
23 gas spacing below the top of the Wolfcamp.

24 Q. (By Mr. Kellahin) All right, let's turn now to  
25 Exhibit Number 4, Mr. Gray, and give us an illustration,

1 then, of what party is the only party remaining as a  
2 nonconsenting party.

3 A. Exhibit Number 4 represents an illustration of  
4 the west half of Section 33, Township 17 South, Range 27  
5 East, and depicts the ownership within the west half of  
6 that section, being Nearburg Exploration Company, with 87.5  
7 percent of the acreage under lease, and Amoco Production  
8 Company with an outstanding 12.5-percent interest.

9 Q. And that percentage calculation is derived by the  
10 fact that Amoco has the 40-acre tract that is the southeast  
11 quarter of the southwest quarter of Section 33?

12 A. That's correct.

13 Q. And when you do the calculation for the deep gas  
14 west half spacing, then their share is reduced to the 12.5  
15 percent?

16 A. That's right.

17 Q. Summarize for us before we talk about the  
18 exhibits themselves your efforts to consolidate the  
19 interest owners on a voluntary basis. When you first  
20 started, how many parties were you dealing with?

21 A. Initially, we were dealing with four individual  
22 owners: Exxon, MW Petroleum, and Petco and Amoco.

23 Q. As of this morning, the only party with whom you  
24 have not received or obtained voluntary approval is which  
25 party?



1           A.    Amoco.

2           Q.    All right.  Let's go through the package of  
3 documents, then, that address your attempts to get Amoco to  
4 participate with you on a voluntary basis.  If you'll start  
5 with Exhibit Number 5, let's summarize the correspondence.

6           A.    Exhibit Number 5 is a package of correspondence  
7 mailed by certified mail in March of 1995 to the then  
8 outstanding interest owners in the west half of Section 33,  
9 which at the time were Amoco Production Company and MW  
10 Petroleum Corporation.

11                   The letter proposes the drilling of a well, at  
12 that time, in the southwest quarter of Section 33, and  
13 submits an authority for expenditure for review and  
14 approval, and also a model form operating agreement for  
15 review.

16           Q.    Apart from the fact the well was proposed in the  
17 southwest quarter, was it always proposed as a Morrow test?

18           A.    Yes, that's correct.

19           Q.    And have the AFE costs submitted to the other  
20 interest owners changed insofar as the location?

21           A.    No, they haven't.

22           Q.    So by moving the location didn't change the AFE  
23 costs?

24           A.    No, sir, it didn't.

25           Q.    Has Amoco objected to any of the proposed AFE

1 costs?

2 A. No, they haven't.

3 Q. Have they objected to your proposed operating  
4 costs?

5 A. No, they haven't.

6 Q. What is your recommendation to the Examiner as to  
7 operating cost charges to be included in the pooling order?

8 A. We recommend the operating charges as set forth  
9 on the operating agreement which was submitted, of \$6000  
10 for a drilling well and \$600 a month for a producing well.

11 Q. Have you caused a search to be made of Nearburg's  
12 records to determine whether or not there are examples of  
13 those costs for wells of this depth by which we may have a  
14 comparable?

15 A. Yes, sir, the most -- One of the most recent or  
16 the most recent well that we've drilled of comparable  
17 depth, which was done, I guess, probably begun -- spudded  
18 just prior to the end of last year, these were the  
19 operating numbers that were agreed upon by the working  
20 interest parties.

21 Q. And they're what you propose to have the Division  
22 adopt in this pooling case?

23 A. Yes, sir.

24 Q. Describe for us the method by which Nearburg goes  
25 through to prepare and issue an authority for expenditure.

1           A.    AFEs are prepared by our engineering and drilling  
2 departments with -- based on experience and quoted prices  
3 from suppliers and generally probably tend to be --  
4 probably to err on the side of pessimism.

5           Q.    Was there any objection from Amoco as to this  
6 AFE?

7           A.    No, sir.

8           Q.    And based upon your knowledge, have you compared  
9 it to other AFEs for wells at this depth to determine if  
10 it, in your opinion, is fair and accurate?

11          A.    Yes, sir, again, relative to the most recent well  
12 that we drilled to this approximate depth, this AFE is  
13 actually slightly lower, I think, than AFEs issued in the  
14 recent past, for wells of equivalent depth.

15          Q.    In addition, you proposed to Amoco, had they  
16 joined you on a voluntary basis, a model form operating  
17 agreement that was utilizing, I believe, the 1992 AAPL  
18 form?

19          A.    That's correct.

20          Q.    And that was completed, the appropriate  
21 attachments were appended to that, and it was submitted to  
22 Amoco, was it not?

23          A.    Yes.

24          Q.    As a result of any of those submittals, have you  
25 had conversations with any employee or personnel at Amoco?

1 A. Yes, I have.

2 Q. And with what kind of response from Amoco?

3 A. Generally a nonresponse, a "Well, we're looking  
4 at it" kind of response.

5 Q. Did you specifically draw Amoco's attention to  
6 the fact that you're amending the location of this well to  
7 move it up into the northwest quarter of the section?

8 A. Yes, I did.

9 Q. And how did you do that, sir?

10 A. By certified mail and telephone facsimile, I  
11 noticed Amoco that the well would be moved to the northwest  
12 quarter of the section, or the proposed well would be  
13 moved, and sent them a revised AFE describing the new  
14 location, and also a revised page 4 of the operating  
15 agreement, also changing the location.

16 Q. So in addition to the notices of hearing showing  
17 that amendment, you initiated a separate letter identifying  
18 to Amoco the fact that the location was being adjusted?

19 A. That's correct.

20 Q. And did you receive any response from Amoco as to  
21 that issue?

22 A. I received the response that they received my  
23 correspondence, and no other response.

24 Q. All right, sir. At this point, Mr. Gray, have  
25 you exhausted all reasonable efforts to obtain a voluntary

1 agreement from Amoco for the drilling of this well in this  
2 spacing unit?

3 A. Yes, sir.

4 Q. Do you now desire to have the Commission issue a  
5 pooling order in this case?

6 A. Yes.

7 MR. KELLAHIN: That concludes my examination of  
8 Mr. Gray.

9 We move the introduction of Exhibits 3 through 6.

10 EXAMINER STOGNER: Exhibits 3 through 6 will be  
11 admitted into evidence.

12 EXAMINATION

13 BY EXAMINER STOGNER:

14 Q. Was the March letter of Exhibit Number 5 -- Was  
15 that the first contact, written contact, made with Amoco?

16 A. To my knowledge, sir. I didn't work for Nearburg  
17 at the time, so that's -- As far as I know, that's the  
18 first contact.

19 Q. Now, your AFE -- I'm sorry, your operating  
20 agreement is dated March 15th, 1995. Has any of those  
21 numbers been changed or amended?

22 A. No, not since submitted to Amoco.

23 A. Okay, and those are still the figures that  
24 Nearburg will still be operating off of?

25 A. Yes, sir.

1 EXAMINER STOGNER: I have no other questions of  
2 this witness. He may be excused.

3 MR. KELLAHIN: I'd like to call Mr. Jerry Elger.  
4 Mr. Elger is Nearburg's petroleum geologist. He's going to  
5 discuss Exhibits 1 and 2. Exhibit 1 is a cross-section,  
6 and Exhibit Number 2 is a composite display of a structure  
7 map and an isopach.

8 JERRY B. ELGER,  
9 the witness herein, after having been first duly sworn upon  
10 his oath, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. KELLAHIN:

13 Q. Mr. Elger, for the record would you please state  
14 your name and occupation?

15 A. Jerry Elger. I'm a petroleum geologist.

16 Q. On prior occasions, Mr. Elger, have you testified  
17 as an expert geologist before the Division and had your  
18 qualifications accepted and made a matter of record?

19 A. Yes, I have.

20 Q. Pursuant to your employment in that capacity by  
21 Nearburg Producing Company, have you made a geologic  
22 investigation of this prospect?

23 A. Yes, I have.

24 Q. And in fact, this geologic work represents your  
25 work product in terms of locating this well?

1           A.    That's correct.

2                   MR. KELLAHIN:  We tender Mr. Elger as an expert  
3   witness.

4                   EXAMINER STOGNER:  Mr. Elger is so qualified.

5           Q.    (By Mr. Kellahin)  Before we talk about the  
6   displays, give us a general overview of the geology with  
7   regards to the components of risk that are relevant to the  
8   Examiner when he issues a pooling order.

9           A.    Well, the components of risk are primarily that  
10   the Morrow sands can be very fickle, they can be -- you can  
11   have -- encounter sand within units that are typically  
12   mapped, and those sands will lack porosity and  
13   permeability.  You can encounter sands with porosity and  
14   permeability, but the sands can lack hydrocarbons; they can  
15   be water-bearing.

16                   Those are the primary risks.  Or you can -- If  
17   you've mismapped the sands you can not encounter any sand.

18           Q.    You've testified before the Division with regards  
19   to recommendations on penalty factors in pooling cases on  
20   prior occasions, have you not, sir?

21           A.    Yes, I have.

22           Q.    Within the context, then, of that topic, do you  
23   have a conclusion and recommendation to the Examiner as to  
24   an appropriate risk factor penalty to be applied against  
25   Amoco in this case?

1 A. Yes, I do.

2 Q. And what is it, sir?

3 A. It would be cost plus 200 percent.

4 Q. Let's turn to Exhibit Number 1 and have you  
5 identify it, and then we'll talk about it.

6 A. Exhibit Number 1 is a stratigraphic cross-section  
7 of the offset wells to this proposed west-half-of-33 test.  
8 It shows an old well that was drilled in the mid-1950s by  
9 Humble Oil. That well is the only penetration of the  
10 Morrow in Section 32 to the west. That well had some --  
11 encountered some sands within the Morrow. A number of  
12 drill stem tests were run across those sand intervals, the  
13 results of which are displayed at the bottom of the log.

14 Casing was run on this well, and both of the sand  
15 intervals in the lower and upper part of the Morrow were  
16 production tested. Those results are displayed at the  
17 bottom of the log.

18 Basically, this well has some thin sands. They  
19 appear to lack porosity and permeability, indicating that  
20 this well may be on the edge of some sand systems within  
21 the Morrow, but this wellbore did not encounter any  
22 commercial hydrocarbon-bearing sands within the Morrow  
23 section.

24 Q. When you as an exploration geologist are looking  
25 for your best opportunity for hydrocarbon recovery in the



1 west half of Section 33, what formation or formations have  
2 come to mind?

3 A. Well, the Morrow, primarily the Morrow.

4 Q. Do you see any other secondary objectives, either  
5 in shallower zones, either gas or oil, that represent a  
6 real probability as a backup zone?

7 A. The -- There's a silty, sandy section that's  
8 present within what's been designated the Cisco formation  
9 in this local area. Those -- There are several wells that  
10 have production histories from this silt/sand section.  
11 It's not really a commercial objective. I think the  
12 average from the four wells that have been designated  
13 within the Logan Draw Cisco field are probably about a  
14 third of a BCF per well, average.

15 Q. So your best prospect is looking at the Morrow?

16 A. That's correct.

17 Q. When you look at the Morrow, do you subdivide it  
18 from an exploration concept to any subdivisions?

19 A. Yes, there's a number of subdivisions. The first  
20 one that's apparent is the datum for the cross-section  
21 itself, being a shale marker that occurs regionally within  
22 the middle part of the Morrow and has been recognized and  
23 classified as the top -- the base of the shale being  
24 classified as the top of the lower Morrow.

25 Q. When you put this data together, I think it would

1 help if you go down to the center portion, the bottom

2 center portion of Exhibit 1, and you have drawn some  
3 contour lines?

4 A. That's correct.

5 Q. Are those structural contour lines?

6 A. Yes, they are.

7 Q. Give us a quick summary of what structure means  
8 to you as you explore for Morrow production in this area.

9 A. Well, what we typically try to do is find as many  
10 Morrow sand packages that could contain reservoir rock,  
11 where those intersect structural noses or structurally  
12 positive areas within the Morrow. You have a tendency,  
13 where you get simultaneously sands crossing noses and  
14 anticlines in structural positive areas, of getting  
15 enhancement of production within each of the individual  
16 Morrow packages.

17 Q. Does that explain why you have a preference to be  
18 in the northwest quarter of 33 as opposed to the southwest  
19 quarter of 33?

20 A. Yes, it does.

21 Q. Because there is a structural advantage to the  
22 northwest quarter?

23 A. A structural advantage, that's correct.

24 Q. All right. Let's turn to Exhibit 2. Let's take  
25 a look at that. First of all, describe for us what we're

1 looking at.

2 A. We're looking at a gross sand isopach of the  
3 early lower Morrow system which is productive off to the  
4 east of the proposed drill site and also productive in  
5 wellbores to the north of the proposed drill site.

6 Q. Now, the isopach is shaded in yellow, ranges of  
7 yellow shading, but you've also superimposed the structure  
8 map on this display, have you not?

9 A. Yes, I have.

10 Q. Help us interpret that.

11 A. Well, we have a system where commercial  
12 hydrocarbon-bearing sands do occur, again to the north and  
13 to the east of the proposed drill site. There's apparently  
14 some sort of a band in this -- what I've interpreted as a  
15 channel system, that occurs in the vicinity of the east  
16 half of Section 32, west half of 33.

17 There's kind of a lack of well control as to  
18 where this system makes this actual turn, although there is  
19 a well that's present down in the northwest quarter of  
20 Section 4 that did have this sand present and had -- The  
21 sand section by drill stem test contained both gas and  
22 water. The well was unable to complete, due to the  
23 percentage of water from this particular reservoir.

24 Q. Let's take Exhibit 2, then, and have you  
25 summarize for us the major components or reasons that have

1 caused you to conclude that the 200-percent risk factor is  
2 appropriate.

3 A. Well, this proven sand reservoir in the early  
4 lower part of the Morrow system apparently is present, or  
5 it's interpreted as being present, in the west half of  
6 Section 33. And the structural component of the nose that  
7 runs diagonally across the Section 29 and the north part of  
8 Section 33 seems like a logical place to drill to obtain  
9 potential reservoir-quality sand within this system, with  
10 the enhancement of the structure.

11 Q. How have you shown the dryholes that have  
12 penetrated and not been successful in producing this  
13 portion of the Morrow?

14 A. On this display, if the well has not encountered  
15 any sand whatsoever within the early lower Morrow system,  
16 it's been shaded gray.

17 If the well has encountered sand but has lacked  
18 porosity, I kind of have a twofold numbering system by each  
19 wellbore. The first number represents the net feet of  
20 porosity greater than 8 percent within that sand interval.  
21 The second number represents the overall gross thickness of  
22 the sand.

23 And you see there's a number of wells drilled in  
24 here that have encountered the sand but lack porosity.  
25 Those wells have been shaded a yellow color.

1           Productive or gas-bearing sands have been shaded  
2 orange on this display.

3           Q.   Do you see any geologic component in here that  
4 reduces the risk to less than what we typically see in Eddy  
5 County to be the high-risk Morrow exploration?

6           A.   The area has a fair amount of well control, but  
7 that's -- We don't have the advantage of any seismic in  
8 this particular area.

9           Q.   So the fact that you do have well control does  
10 not diminish the risk to less --

11          A.   No.

12          Q.   -- than 200 percent?

13          A.   No.

14          Q.   All right. Were Exhibits 1 and 2 prepared by  
15 you?

16          A.   Yes, they were.

17               MR. KELLAHIN: That concludes my examination of  
18 Mr. Elger.

19               We move the introduction of his Exhibits 1 and 2.

20               EXAMINER STOGNER: Exhibits 1 and 2 will be  
21 admitted into evidence at this time.

22                               EXAMINATION

23           BY EXAMINER STOGNER:

24           Q.   I know in your testimony you primarily kept it to  
25 the Morrow formation, but is there any attempt or is there

1 any -- does Nearburg attempt to -- or are they going to  
2 test the Atoka and some of the higher formations?

3 A. I have mapped the Atoka in this particular area,  
4 and I think the -- There is an Atoka well on this map, but  
5 it's up in Section 22. I believe that's the only Atoka  
6 producer. And I don't see any Atoka sands, channels, that  
7 project anywhere in or around this particular acreage.

8 Obviously, we'd like to -- You know, we would  
9 certainly like to encounter some productive Atoka in this  
10 area. But I think that's very high --

11 Q. So this is essentially going to be a stand-alone  
12 Morrow?

13 A. That's correct.

14 EXAMINER STOGNER: Okay, I don't have any other  
15 questions of this witness.

16 MR. KELLAHIN: Mr. Examiner, the last exhibit is  
17 my Exhibit 7, which is the certificate of mailing in  
18 compliance with the notice requirements where we show that  
19 we have sent this notice to the parties. We would request  
20 that Exhibit 7 be introduced at this time.

21 EXAMINER STOGNER: Okay, now, you show that MW  
22 Petroleum Corporation was notified, but I --

23 MR. KELLAHIN: They're --

24 EXAMINER STOGNER: -- as I understand that, they  
25 have joined at this time?

1 MR. KELLAHIN: Yes, sir.

2 EXAMINER STOGNER: Okay, Exhibit Number 7 will be  
3 admitted into evidence also.

4 MR. KELLAHIN: That concludes our presentation.

5 EXAMINER STOGNER: Does anybody else have  
6 anything further in Case Number 11,360?

7 If not, then this case will be taken under  
8 advisement.

9 (Thereupon, these proceedings were concluded at  
10 9:04 a.m.)

11 \* \* \*

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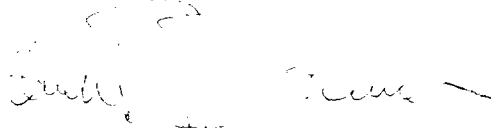
## CERTIFICATE OF REPORTER

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

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


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

WITNESS MY HAND AND SEAL October 11th, 1995.

  
 STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 1998

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 11360 heard by me on 5 October 1995.

  
 \_\_\_\_\_, Examiner  
 Oil Conservation Division