

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

7

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

OIL CONSERVATION DIVISION

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

CASE NOS. 11,521

APPLICATION OF MEWBOURNE OIL COMPANY FOR)
COMPULSORY POOLING AND AN UNORTHODOX GAS)
WELL LOCATION, EDDY COUNTY, NEW MEXICO)

and 11,533

(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

ORIGINAL

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

June 13th, 1996

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, June 13th, 1996, 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

June 13th, 1996
 Examiner Hearing
 CASE NOS. 11,533 and 11,521 (Consolidated)

	PAGE
EXHIBITS	3
APPEARANCES	4
OPENING STATEMENTS	
By Mr. Kellahin	7
By Mr. Carr	10
MEWBOURNE WITNESSES:	
<u>STEVE COBB</u> (Landman)	
Direct Examination by Mr. Carr	12
Cross-Examination by Mr. Kellahin	22
Redirect Examination by Mr. Carr	28
Examination by Examiner Stogner	29
<u>RALPH P. MOORE, JR.</u> (Geologist)	
Direct Examination by Mr. Carr	31
Cross-Examination by Mr. Kellahin	44
Examination by Mr. Carroll	46
CLOSING STATEMENTS	
By Mr. Kellahin	47
By Mr. Carr	48
REPORTER'S CERTIFICATE	52

* * *

E X H I B I T S

Nearburg	Identified	Admitted
Exhibit 1	7, 27, 49	49
Exhibit 2	22, 49	49
Exhibit 3	22, 50	49
Exhibit 4	31, 49, 50	49
Exhibit 5	25, 50	49

* * *

Mewbourne	Identified	Admitted
Exhibit 1	16	21
Exhibit 2	16	21
Exhibit 3	17, 20	21
Exhibit 4	17	21
Exhibit 5	18	21
Exhibit 6	21	21
Exhibit 7	33	44
Exhibit 8	35	44
Exhibit 9	35	44
Exhibit 10	37	44
Exhibit 11	38	44
Exhibit 12	40	44

* * *

A P P E A R A N C E S

FOR THE DIVISION:

RAND L. CARROLL
Attorney at Law
Legal Counsel to the Division
2040 South Pacheco
Santa Fe, New Mexico 87505

FOR NEARBURG EXPLORATION COMPANY:

KELLAHIN & KELLAHIN
117 N. Guadalupe
P.O. Box 2265
Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

FOR MEWBOURNE OIL COMPANY
AND ENRON OIL AND GAS COMPANY:

CAMPBELL, CARR, BERGE and SHERIDAN, P.A.
Suite 1 - 110 N. Guadalupe
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 9:35 a.m.:

3 EXAMINER STOGNER: At this time I'll go back and
4 call Case Number 11,521, which is on page one, the bottom
5 of that page.

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

8 EXAMINER STOGNER: Call for 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.

12 We would request at this time, Mr. Examiner, that
13 this case be consolidated for purposes of the record with a
14 Mewbourne Applicant in a Case Number -- 11,533, is the
15 number.

16 MR. CARR: May it please the Examiner, my name is
17 William F. Carr with the Santa Fe law firm Campbell, Carr,
18 Berge and Sheridan.

19 I'd like to enter my appearance in both of these
20 cases on behalf of Mewbourne Oil Company, and we would
21 concurrently request that the cases be consolidated for the
22 purpose of testimony.

23 EXAMINER STOGNER: At this time I will call Case
24 Number 11,533.

25 MR. CARROLL: Application of Mewbourne Oil

1 Company for compulsory pooling and an unorthodox gas well
2 location, Eddy County, New Mexico.

3 EXAMINER STOGNER: Other than Mr. Kellahin
4 appearing on behalf of Nearburg and Mr. Carr appearing on
5 behalf of Mewbourne, are there any other appearances in
6 either or both of these cases?

7 MR. CARR: May it please the Examiner, I'd like
8 the record to also reflect that in Case Number 11,533 we
9 have also entered our appearance on behalf of Enron Oil and
10 Gas Company.

11 EXAMINER STOGNER: Mr. Kellahin, do you have
12 witnesses?

13 MR. KELLAHIN: No, sir, I do not intend to call
14 any witnesses.

15 EXAMINER STOGNER: Mr. Carr?

16 MR. CARR: I have two witnesses.

17 EXAMINER STOGNER: How about Enron?

18 MR. CARR: No, I'm not calling a witness on
19 behalf of Enron.

20 EXAMINER STOGNER: Okay. Let me get this
21 straight, Mr. Kellahin. You have no witnesses, but yet
22 you're appearing here in Case 11,521?

23 MR. KELLAHIN: Yes, sir, and after I make my
24 opening statement, I hope to make my intent clear to you,
25 Mr. Examiner --

1 EXAMINER STOGNER: Oh, well, in that case --

2 MR. KELLAHIN: -- and there's a stipulation
3 between Counsel with regard to some of my documentation.

4 So my effort is to expedite the presentation of
5 the case to you and focus on the one issue of concern for
6 us.

7 EXAMINER STOGNER: Mr. Carr, if it's no problem
8 with you, I'm going to have Mr. Kellahin, then, start with
9 opening remarks.

10 MR. CARR: That will be fine.

11 EXAMINER STOGNER: Mr. Kellahin?

12 MR. KELLAHIN: Thank you, Mr. Examiner.

13 Mr. Examiner, let me hand you what I propose to
14 introduce as Nearburg Exhibit 1 so that I can identify for
15 you the area of the issues involved.

16 Mr. Examiner, Nearburg Exhibit Number 1 is a plat
17 showing the north half of Section 4. The prospect for both
18 Mewbourne and Nearburg is the drilling of a Morrow well in
19 the Illinois Camp-Morrow Gas Pool. This is a dispute
20 between Mewbourne and Nearburg over the well location of
21 that well.

22 The plat identifies in Unit Letter B Nearburg's
23 proposed location for this well. The plat also identifies
24 the approximate location in Unit Letter E of Mewbourne's
25 proposed unorthodox well location. That well, by reference

1 to the docket, is proposed to be located 990 feet from the
2 west line, 1650 feet from the north line.

3 The parties have discussed among themselves and
4 among the various interest owners that are outlined on this
5 exhibit the two locations. At this point, Nearburg, with
6 only 14 percent of the working interest ownership in the
7 spacing unit, is willing to concede that Mewbourne be
8 provided the first opportunity to test their geology and to
9 drill the Morrow well. While Nearburg believes that their
10 geologic interpretation is superior, they recognize that
11 they only have 14 percent, and so in order to avoid a
12 disputed, contested hearing with regards to that issue,
13 Nearburg proposes to concede and would allow Mewbourne,
14 then, the opportunity under a compulsory pooling order to
15 attempt to drill a commercial well at the location they
16 have chosen.

17 We would ask that you enter the standard
18 compulsory pooling order, that it provide for the typical
19 terms and conditions, which would be 90 days to commence
20 actual drilling of the well after the entry of the order,
21 that it provide the 30-day election period for the parties
22 to decide whether they would elect to join Mewbourne in
23 that well, that it provide the 200-percent risk factor, and
24 that the overhead rates that Mewbourne proposes be adopted.

25 In order to provide a comprehensive solution to

1 the dispute, we would ask that you provide Nearburg with
2 the second opportunity, and by that I mean that in the
3 event Mewbourne fails to commence the drilling of their
4 location within the terms of the order, the typical 90-day
5 commencement period, that at that point the order provide
6 that Nearburg then has the chance to do so.

7 And what I'm saying is that Nearburg then would
8 have the obligation and responsibility to send out election
9 letters under this comprehensive pooling order and start a
10 30-day election period for the working interest owners and
11 would likewise have a 90-day period in which to commence
12 actual operations, and so all the terms and conditions that
13 would apply to Mewbourne would also apply to Nearburg.

14 We believe that that's an appropriate solution to
15 the dispute. It allows the majority percentage to have the
16 first chance and the first choice, it protects us in the
17 event that they're not successful, then I don't have to
18 come back to another hearing at some point in the future,
19 and we simply resolve this matter today.

20 We are also asking, Mr. Examiner, that if
21 Mewbourne elects to drill the well and commences so within
22 the 90-day period, that they do so with due diligence and
23 that upon drilling the well, if they are unable to obtain
24 commercial production out of the Morrow, that then Nearburg
25 has rights under this order to commence operations for the

1 location of its choice. We think this is a comprehensive
2 solution and provides a meaningful way for the Division to
3 resolve this dispute.

4 With that statement, then, Mr. Examiner, what I
5 propose to do when it's my turn to present evidence, with
6 the concurrence of opposing counsel, I would simply
7 introduce for your consideration by stipulation, then, the
8 notification letters, our AFE and the fact that we've
9 provided all parties with notice of this hearing, and we
10 would conclude at that point and let you enter an
11 appropriate order.

12 So that's our position in this case, Mr.
13 Examiner.

14 EXAMINER STOGNER: Mr. Carr?

15 MR. CARR: May it please the Examiner, initially
16 I think it's important to note that the parties are really
17 quite close in terms of where they stand on this issue.

18 We are prepared, Mewbourne, to go forward with
19 our well in accordance with the order, the pooling order of
20 the Division. We do have concern about an absolute drop-
21 dead date of 90 days if, in fact, something should occur
22 that would require us to come back and request an extension
23 of that date. We're not aware of that now, but we would
24 prefer to go ahead under a standard pooling order.

25 We also are prepared to commit that we will go

1 forward and drill the well with due diligence, but we think
2 that putting that kind of a provision in the order could
3 lead to future problems.

4 So basically where we are is, we stand before you
5 representing substantially in excess of 80-percent of the
6 interest owners in this tract with the location we're
7 prepared to go forward with and drill under an approving
8 order, that if we are unable, in full compliance with the
9 order, to drill a successful well, we would immediately
10 notify Nearburg and they then could go forward giving us an
11 opportunity to elect or not elect and go forward with their
12 location.

13 But the only difference is as to fixing a set
14 drop-dead date, and also request that there be some
15 standard of due diligence set in the order which we think,
16 you know, could become a source of future problem. So
17 we're that close.

18 And I also want you to know that I've talked with
19 Mr. Kellahin, and we will not oppose his introducing the
20 exhibits for Nearburg as he desires.

21 EXAMINER STOGNER: Anything further at this time,
22 before we hear evidence?

23 MR. KELLAHIN: No, sir.

24 EXAMINER STOGNER: Mr. Carr, you may proceed
25 then.

1 MR. CARR: At this time we would call Mr. Steve
2 Cobb.

3 MR. CARROLL: Have these witnesses been sworn?

4 EXAMINER STOGNER: I don't believe they have.

5 Will the witnesses please stand to be sworn at
6 this time?

7 (Thereupon, the witnesses were sworn.)

8 EXAMINER STOGNER: Mr. Carr?

9 MR. CARR: May it please the Examiner, at this
10 time we'd call Mr. Steve Cobb.

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

14 DIRECT EXAMINATION

15 BY MR. CARR:

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

18 A. Steve Cobb.

19 Q. And where do you reside?

20 A. Midland, Texas.

21 Q. By whom are you employed?

22 A. Mewbourne Oil Company.

23 Q. And what is your current position with Mewbourne?

24 A. District landman.

25 Q. Mr. Cobb, have you previously testified before

1 this Division?

2 A. Yes, I have.

3 Q. At the time of that testimony, were your
4 credentials as a petroleum landman accepted and made a
5 matter of record?

6 A. Yes, they were.

7 Q. Are you familiar with the Application filed in
8 this case on behalf of Mewbourne?

9 A. Yes.

10 Q. And are you familiar with the status of the lands
11 in the subject area and also Mewbourne's efforts to obtain
12 voluntary participation in this project of all affected
13 owners?

14 A. Yes.

15 MR. CARR: Are the witness's qualifications
16 acceptable?

17 EXAMINER STOGNER: Any objections?

18 MR. KELLAHIN: No objection.

19 EXAMINER STOGNER: So qualified.

20 Q. (By Mr. Carr) Mr. Cobb, would you briefly state
21 what Mewbourne seeks with this Application?

22 A. We seek an order pooling all minerals from 5000
23 feet to the base of the Morrow formation, on the north half
24 of Section 4, 18 South, 28 East.

25 Q. And what you're proposing is a standard north-

1 half unit for all units developed on 320 acres within this
2 interval?

3 A. That's correct.

4 Q. Are you also proposing 80-acre spacing for tracts
5 developed on 160 acres?

6 A. Yes, that's correct.

7 Q. And for formations developed on 80 acres, what is
8 the spacing unit?

9 A. South laydown, south half, northwest.

10 Q. South half, northwest quarter?

11 A. That's correct.

12 Q. What is the name of the well to which you propose
13 to dedicate this acreage?

14 A. The Scoggin Draw 4 State Com Number 1.

15 Q. And is that well proposed at an unorthodox
16 location?

17 A. It is.

18 Q. What is that location?

19 A. 1650 feet from the north line and 990 feet from
20 the west line of Section 4.

21 Q. And has that location been approved by
22 administrative order of this Division?

23 A. Yes, it has.

24 MR. CARR: Mr. Stogner, that order approving that
25 unorthodox location is Administrative Order NSL-3679, which

1 was entered on June the 11th.

2 Q. (By Mr. Carr) Now, Mr. Cobb, have you been in
3 negotiation with Enron Oil and Gas?

4 A. Yes, I have.

5 Q. And have you reached an agreement with Enron
6 concerning the unorthodox location?

7 A. I have.

8 Q. And what is that agreement?

9 A. That agreement provides that we will not produce
10 our well in the north half of Section 4 in excess of 3
11 million cubic feet of gas per day.

12 Q. And does Mewbourne request that that provision be
13 reflected in the order entered in this case?

14 A. Yes, I do.

15 Q. What are the well-location requirements in the
16 Morrow formation in this particular area?

17 A. The statewide rules provided 1650 from the end
18 line and 660 from the side line.

19 Q. And this well is proposed in an existing pool in
20 New Mexico?

21 A. The Illinois Camp-Morrow Gas Pool.

22 Q. Now, the location is actually too close to what
23 boundary of the proposed spacing unit?

24 A. To the west boundary, by 660 feet.

25 Q. Have you prepared exhibits for presentation in

1 this hearing?

2 A. Yes, I have.

3 Q. Could you refer to what has been marked as
4 Mewbourne Exhibit Number 1, identify that and review it for
5 the Examiner?

6 A. This is a plat showing our proration unit, our
7 proposed location and Nearburg's proposed Application for a
8 north-half unit. Nearburg's location was proposed at 1310
9 from the north line and 1650 from the east line.

10 Q. And that's a standard location --

11 A. That's correct.

12 Q. -- as far as that unit?

13 A. That's correct.

14 Q. Who operates the offsetting tract to the west?

15 A. There's two operators. There's Phillips
16 Petroleum and Enron Oil and Gas Company.

17 Q. Okay. And you have been in negotiations with
18 Enron and they are also -- have represented that they speak
19 for Phillips in that --

20 A. That's correct.

21 Q. What is the primary objective in the proposed
22 well?

23 A. The Morrow formation.

24 Q. Let's go to Exhibit Number 2, and I'd ask you to
25 identify and review that, please.

1 A. This is an ownership breakdown by tract of the
2 north half of Section 4.

3 Q. And Exhibit Number 3?

4 A. That is a unit breakdown which reflects Mewbourne
5 Oil Company's interest to date.

6 Q. And what interests have actually farmed out or
7 committed to Mewbourne?

8 A. 73.4375 percent.

9 Q. And the uncommitted interest owners are indicated
10 on this exhibit, are they not?

11 A. That's correct.

12 Q. Let's move to Exhibit Number 4. Will you
13 identify that?

14 A. Exhibit Number 4 is a copy of our AFE for this
15 test.

16 Q. Would you review the costs that are set forth on
17 that exhibit?

18 A. This AFE is provided for a 10,500-foot Morrow
19 test, which provides cost to casing point of \$397,803 and
20 completion costs of \$311,215, for a total well cost of
21 \$709,018.

22 Q. Are these costs in line with what's been charged
23 by other operators for similar wells in the area?

24 A. Yes, they are.

25 Q. Has Mewbourne in fact drilled other Morrow wells

1 in this area?

2 A. Yes, we have.

3 Q. Could you now take a minute and review for Mr.
4 Stogner the efforts that have been made by Mewbourne to
5 obtain the voluntary participation of all interest owners
6 or mineral owners in the proposed spacing units?

7 A. Our Exhibit Number 5 sets out all of my
8 correspondence with all of the uncommitted working interest
9 owners in this unit, this proposed unit.

10 Q. When did Mewbourne first start -- undertake
11 efforts to -- directed toward the development of this
12 acreage?

13 A. We originally started working on this unit in
14 1993.

15 Q. And what did you do at that time?

16 A. We made offers to several companies there to get
17 them to commit our interest to us, either through farm-in
18 or acquisition.

19 Q. When did the active negotiations commence that
20 have really resulted in today's hearing?

21 A. I would say it's -- It's been ongoing for several
22 years, but we've really increased our efforts in December-
23 January of this year.

24 Q. When were your first contacts with Nearburg?

25 A. My first contacts with Nearburg were April 1st of

1 1996.

2 Q. And since that time you have been negotiating but
3 unable to reach an agreement with them; is that fair?

4 A. That's correct.

5 Q. In your opinion, have you made a good-faith
6 effort to locate and obtain the voluntary participation of
7 all interest owners in these spacing units?

8 A. Yes, we have.

9 Q. Have you made an estimate of the overhead and
10 administrative costs to be incurred while drilling this
11 well if in fact it is successful?

12 A. Yes, we have.

13 Q. And what are the overhead costs while drilling
14 and while producing the well?

15 A. A drilling well rate of \$6000 and a producing
16 well rate of \$600.

17 Q. And how do these compare? Are they comparable to
18 the figures proposed by Nearburg in their AFE?

19 A. Yes, Nearburg has similar figures proposed to us.
20 We have outside agreements, operating agreements, signed by
21 other parties that provide for these figures, and Enron's
22 Section-5 pooling Application provided similar numbers.

23 Q. Okay. Have these numbers been accepted by Fina
24 and by OXY?

25 A. Yes, they have.

1 Q. And are they consistent with the figures and the
2 costs incurred by Mewbourne in other similar wells in this
3 area?

4 A. Yes, they are.

5 Q. And do you recommend that these figures of \$6000
6 a month while drilling and \$600 a month while producing be
7 incorporated into the order which results from this
8 hearing?

9 A. I do.

10 Q. I'd like you to go back to what has been marked
11 as Exhibit Number 3.

12 A. Okay.

13 Q. This lists the -- all owners in the proposed
14 spacing unit --

15 A. Right.

16 Q. -- this exhibit; is that correct?

17 A. That's correct.

18 Q. At this point in time, which of these owners have
19 voluntarily committed their interest and therefore would
20 not be subject to pooling?

21 A. Fina Oil and Chemical and OXY USA.

22 Q. What is the status of the Eugene Nearburg
23 interest?

24 A. Eugene Nearburg has signed a farmout agreement
25 with Mewbourne Oil Company.

1 Q. What about a Mr. Copas?

2 A. The same thing, he has too.

3 Q. So the people that are subject to the pooling
4 would be Nearburg Producing --

5 A. Nearburg, Amoco, Arco, Bruno and Marshall.

6 Q. All right. Have each of those individuals been
7 provided with notice of this Application and this hearing?

8 A. Yes, they have.

9 Q. And is Exhibit Number 6 a copy of an affidavit
10 with attached letters confirming the fact that notice of
11 has been provided in accordance with OCD rules?

12 A. Yes, it is.

13 Q. Will Mewbourne call a technical witness to
14 testify about the risk associated with this proposed well?

15 A. Yes, we will.

16 Q. Were Mewbourne Exhibits 1 through 6 either
17 prepared by you or compiled under your direction?

18 A. Yes, they were.

19 MR. CARR: At this time, Mr. Stogner, we would
20 move the admission into evidence of Mewbourne Exhibits 1
21 through 6.

22 EXAMINER STOGNER: Any objections?

23 MR. KELLAHIN: No objection.

24 EXAMINER STOGNER: Exhibits 1 through 6 will be
25 admitted into evidence.

1 MR. CARR: And that concludes my direct

2 examination of Mr. Cobb.

3 EXAMINER STOGNER: Thank you, Mr. Carr.

4 Mr. Cobb, in reviewing -- I'm sorry, Mr.
5 Kellahin?

6 MR. KELLAHIN: All right, sir. Thank you.

7 CROSS-EXAMINATION

8 BY MR. KELLAHIN:

9 Q. Mr. Cobb, I've handed you what are marked for
10 introduction as Nearburg Exhibit 2, which is the letter
11 over Mr. Shelton's signature, dated March 28th of 1996.
12 The particular sample you have before you is to Mr. Robert
13 Marshall.

14 And then also I've handed to you a copy of
15 Nearburg's proposed Exhibit 3, which is the Nearburg AFE
16 for the well at their location.

17 Does your memory recall receiving a similar
18 request from Mr. Shelton, addressed to Mewbourne, under a
19 cover letter of this same date but in fact addressed to
20 your company?

21 A. Yes, that's correct. I'm not sure of the exact
22 date on it, but it's similar.

23 Q. What's the date in your package? I have failed
24 to note it. The date in your package where you propose to
25 Nearburg and the other working interest owners the actual

1 drilling of this well with the AFE that was introduced this
2 morning?

3 Let me help you out, Mr. Cobb. I think --

4 A. I've got it.

5 Q. I think it's about four pages down in Exhibit
6 Number --

7 A. Okay.

8 Q. -- Exhibit Number 5, if you'll look four pages
9 down.

10 A. Okay, I've got Exhibit 5. April 2nd is the date
11 we proposed it to Nearburg.

12 Q. All right. Were you responsible on behalf of
13 your company, then, for talking with Mr. Shelton of
14 Nearburg concerning the various terms and conditions of the
15 two proposals between these two companies?

16 A. Yes.

17 Q. To the best of your knowledge, was there any
18 dispute or disagreement raised by Mewbourne with regards to
19 the Nearburg AFE?

20 A. Not that I'm aware of.

21 Q. All right, so the AFE was not an issue?

22 A. Not that I'm aware of, no.

23 Q. The proposed overhead rates that each of you were
24 proposing, that also was not an issue, was it?

25 A. Comparable, right.

1 Q. In fact, the only issue of disagreement was the
2 location of the well?

3 A. That's correct.

4 Q. All right. When you were working on the tract
5 ownership that we see tabulated on Exhibit 3, and as well
6 as summarized on Exhibit Number 2 --

7 A. Right.

8 Q. -- is this your primary responsibility, or is
9 this someone else's work product?

10 A. That is my responsibility.

11 Q. All right. In addressing Mr. Carr's questions
12 with regards to the Eugene E. Nearburg interest that's
13 shown on Exhibit Number 3, were you aware, Mr. Cobb, that
14 the records at the County Clerk's Office in Eddy County,
15 State of New Mexico, reflect a term assignment of Eugene
16 Nearburg's interest, joined in by his wife, that commit
17 this interest to Nearburg Exploration Company?

18 A. No, I'm not.

19 Q. All right, sir.

20 A. No, I'm not.

21 Q. Let me show you a copy of that --

22 A. Okay.

23 Q. -- and see if you have seen this. I apologize
24 for not having extra copies, but I'll make --

25 A. That's fine.

1 Q. -- I'll make some, Mr. Cobb.

2 A. That's fine.

3 MR. KELLAHIN: Mr. Examiner, we'll have the term
4 assignment that was executed and recorded marked and
5 copied. I propose to mark it as Nearburg Exhibit Number 5.

6 THE WITNESS: No, I have not seen this.

7 Q. (By Mr. Kellahin) All right. That would
8 indicate, would it not, Mr. Cobb, that your Exhibit Number
9 3 needs to be edited so that the Eugene E. Nearburg
10 interest is shown under the Nearburg company interest,
11 would it not?

12 A. Yeah, I need to check, you know, my agreement
13 with Mr. Nearburg, the date of that agreement.

14 Q. What kind of -- You said you had a farmout
15 agreement --

16 A. Right.

17 Q. -- from them?

18 A. Right, I do.

19 Q. Did you place that farmout agreement --

20 A. No, I did not.

21 Q. -- of record anywhere?

22 A. No, I did not.

23 Q. So Eugene Nearburg may have some problem if he's
24 committed to both companies?

25 A. Exactly.

1 Q. But to the best of your knowledge, you did not
2 record your document?

3 A. No, we did not record it.

4 Q. Did you communicate to Mr. Shelton that you had
5 Mr. Eugene Nearburg's interest under your control?

6 A. No, I did not.

7 Q. In your negotiations with Mr. Shelton, Mr. Cobb,
8 did you represent to him that Mewbourne was willing to
9 commit to commence actually drilling this well within 90
10 days of the issuance of the pooling order in this case?

11 A. Right.

12 Q. All right. That was an affirmative?

13 A. That's correct.

14 Q. Are you aware or has anyone at Mewbourne told you
15 any conditions, concerns or limitations that would preclude
16 you from commencing this well within that 90-day period?

17 A. No, they have not. However, we have every intent
18 of commencing within that time frame.

19 Q. All right, sir.

20 A. I can't commit us to drill a well, you know, but
21 we have every intent to.

22 Q. All right, and that was your representation to
23 Mr. Shelton when you talked to him?

24 A. That's correct.

25 Q. We're dealing with what type of acreage in the

1 north half of 4? Is this state, federal?

2 A. All state.

3 Q. This is all State of New Mexico --

4 A. All state leases --

5 Q. -- lease?

6 A. -- that's correct.

7 Q. And so each of these various interest owners have
8 interest deriving out of State of New Mexico oil and gas
9 leases?

10 A. That's correct.

11 Q. Let me show you what I've marked as Nearburg
12 Exhibit 1, which was the little yellow-colored plat.

13 I need to -- Bill, would you share a copy,
14 please?

15 Mr. Cobb, does Mr. Shelton's Exhibit 1 here for
16 Nearburg represent the accurate configuration of the
17 various oil and gas leases in the north half?

18 A. Yes.

19 Q. All right. Apart from the issue over Eugene E.
20 Nearburg's interest, do you see anything other than that in
21 the way Mr. Shelton has compiled the tabulation on the
22 bottom of Exhibit 1 that's different from how you have
23 tabulated the interest?

24 A. Let's see. No, that's -- that's correct.

25 MR. KELLAHIN: All right.

1 Thank you, Mr. Examiner. That's all the
2 questions I have.

3 EXAMINER STOGNER: Mr. Carr?

4 REDIRECT EXAMINATION

5 BY MR. CARR:

6 Q. Mr. Cobb, you did propose the well to Eugene
7 Nearburg, did you not?

8 A. Yes, I did.

9 Q. And he executed and returned your farmout
10 agreement --

11 A. Yes, he did.

12 Q. -- did he not?

13 Now, regardless of whether or not you have Mr.
14 Nearburg committed to you or to Nearburg or to both of you,
15 what percentage ownership does Mewbourne have? In excess
16 of 70 percent committed to the well?

17 A. Yes, we do.

18 Q. And you've reviewed this proposal with all the
19 interest owners --

20 A. Yes.

21 Q. -- in the proposed spacing unit?

22 And that's the percentage that's elected to go
23 with you under the proposal?

24 A. That's correct.

25 MR. CARR: That's all I have.

EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY EXAMINER STOGNER:

Q. Mr. Cobb, in referring to your Exhibit Number 2, and I'm also looking at Nearburg Exhibit Number 1 --

A. Right.

Q. -- so I can make sure of what is being force-pooled and what has been committed --

A. Okay.

Q. -- okay, the 320 acres, the north half --

A. Right.

Q. -- those are the figures that we see in Exhibit Number 3.

Okay, how about for the 160-acre spacing, the pool spaced on 160? Have you broken that out --

A. Let's see.

Q. -- force-pooled?

A. No, I haven't. I can do that for you.

Q. Well, are there -- How about just identifying if there are individuals --

A. Yeah, on the 160 you would have Arco and Amoco --

Q. Okay.

A. -- and you would have Bruno and Marshall --

Q. Okay.

A. -- and Nearburg.

Q. Okay. How about for 80-acre spacing, in which

1 you're requesting?

2 A. It would just be Nearburg.

3 Q. Okay. Is there any necessity to force-pool the
4 80 acres?

5 A. No, I guess there wouldn't be.

6 Q. How about for the 40 acres?

7 A. No, there's no neces- -- we don't -- that --
8 Nearburg owns that 100 percent.

9 Q. Okay, so they can be dropped?

10 A. The 40 can be dropped. They own that.

11 Q. How about the 80?

12 A. But we still own half of that, though, so we'd
13 probably want to leave the 80, because we own --

14 Q. All -- or Mewbourne has Tract Number 5?

15 A. We have Tract 5, right.

16 Q. Okay. So Nearburg has Tract --

17 A. -- 6, what I'm calling Tract 6, the southwest of
18 the northwest.

19 Q. Okay. And we're dropping 40 acres for 40-acre
20 spacing?

21 A. Dropping the Nearburg 40.

22 EXAMINER STOGNER: Okay. All right.

23 Mr. Carr, I assume that your next witness will
24 tell me what pools are spaced on --

25 MR. CARR: Yes, sir.

1 EXAMINER STOGNER: -- 80 acres around that area?

2 MR. CARR: Well, if he doesn't, we'll certainly
3 get that to you.

4 EXAMINER STOGNER: All right. Anything further
5 with this witness?

6 MR. KELLAHIN: I need to obtain Exhibit 5, which
7 is that term assignment, and make copies and --

8 THE WITNESS: Right.

9 MR. KELLAHIN: -- we'll have it introduced. I'll
10 find you another copy.

11 THE WITNESS: Okay, thanks.

12 EXAMINER STOGNER: Will that be Exhibit 4 or
13 Exhibit 5?

14 MR. KELLAHIN: Exhibit 5. I've marked Exhibit 4
15 to be my certificate of notification of the parties for
16 hearing.

17 EXAMINER STOGNER: Mr. Carr, you may proceed.

18 MR. CARR: Mr. Stogner, at this time we would
19 call Ralph Moore.

20 RALPH P. MOORE, JR.,
21 the witness herein, after having been first duly sworn upon
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CARR:

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

1 A. Ralph P. Moore, Jr.

2 Q. And Mr. Moore, where do you reside?

3 A. Midland, Texas.

4 Q. By whom are you employed?

5 A. Mewbourne Oil Company.

6 Q. And what is your position at Mewbourne?

7 A. Exploration Manager.

8 Q. Have you previously testified before this
9 Division?

10 A. I have.

11 Q. At the time of that testimony, were your
12 credentials as a petroleum geologist accepted and made a
13 matter of record?

14 A. They were.

15 Q. Are you familiar with the Application filed in
16 this case on behalf of Mewbourne?

17 A. I am.

18 Q. Have you made a geological study of the area
19 surrounding your proposed well?

20 A. Yes, I have.

21 Q. And are you prepared to share the results of that
22 study with the Examiner?

23 A. Yes.

24 MR. CARR: Are the witness's qualifications
25 acceptable?

1 EXAMINER STOGNER: No objection?

2 MR. KELLAHIN: No objection.

3 EXAMINER STOGNER: Mr. Moore is so qualified.

4 Q. (By Mr. Carr) Have you prepared certain exhibits
5 for presentation in this case?

6 A. I have.

7 Q. Would you now refer to what has been marked for
8 identification as Mewbourne Oil Company Exhibit Number 7,
9 identify that and review it for Mr. Stogner?

10 A. Exhibit Number 7 relates to the East Scoggin Draw
11 prospect. It's a production study. It reflects the
12 cumulative production for the wells, from the Morrow zones
13 only. We internally divide the lower Morrow sands into the
14 orange sand and brown sand. The wells that currently
15 produce or have produced from those zones are so colored to
16 reflect that production. Our Morrow penetrations have been
17 circled. The scale of the map is 1 to 2000, as will most
18 of my exhibits be.

19 In the local area, the lower Morrow sand has the
20 most widespread production. However, the lower Morrow
21 brown sand has the best overall reserves. The well in 16 H
22 is a typical orange-sand-only producer, having produced
23 approximately 1.7 BCF and 9000 barrels of oil since 1981,
24 through September of 1995. Production numbers are
25 reflected through September of 1995.

1 The well in 29 J will be an exceptional brown
2 sand producer only, having produced nearly 34 BCF and over
3 300,000 barrels of condensate since 1953.

4 The Arco Dancer well, located in Section 32 at
5 location H, is a new lower Morrow orange-sand-only well,
6 and while the information has not been released, field
7 reports have this well producing approximately a million
8 cubic feet a day.

9 Our proposed location, the Scoggin Draw 4 State
10 Com Number 1, should encounter productive lower Morrow
11 orange sand and brown sands. Both of the sands are
12 considered to be the primary objectives for this test. The
13 proposed test should encounter lower Morrow sands capable
14 of producing in excess of 2 BCF.

15 In my opinion, there are few acceptable
16 commercial secondary objectives. Cross-section A-A' will
17 be discussed later.

18 Q. Mr. Moore, do you personally know what pools may
19 be developed on 160- or 80-acre spacing in this area?

20 A. In 160- or 80-acre spacing?

21 Q. Yes.

22 A. I'm not -- I don't have -- I don't know.

23 MR. CARR: Mr. Stogner, with your permission, I
24 will submit that to you before the end of today. We'll
25 identify those for you and provide a copy to Mr. Kellahin.

1 EXAMINER STOGNER: Thank you.

2 Q. (By Mr. Carr) Let's go to your structure map,
3 Exhibit Number 8. Will you identify and review that for
4 the Examiner?

5 A. Exhibit Number 8 is the top of the lower Morrow
6 structure map -- the base of the lower Morrow shale
7 structure map, correction. It has been developed by
8 utilizing well-control data only; no seismic data has been
9 used in its construction. The contour interval is 50 feet.

10 This map reflects regional southeast dip
11 throughout the area, lower and brown sands' productions
12 have been so noted. The wells penetrating the Morrow
13 sections have been so noted with circles.

14 In my opinion, structural risk should not be a
15 significant risk factor in the success of this test. The
16 lower Morrow orange and brown sands' stratigraphy
17 represents the highest risk variable for this prospect.

18 Q. All right, Mr. Moore, let's now go to the
19 isopach, and I would ask you to review this exhibit for Mr.
20 Stogner.

21 A. Which exhibit, I'm sorry?

22 Q. And we'll start with Exhibit Number 9, being the
23 isopach on the orange sand.

24 A. Exhibit Number 9 reflects the lower Morrow orange
25 sand, gross sand isopach. Again, the wells penetrating the

1 Morrow section have been circled. Wells completed in the
2 lower Morrow orange sand are colored orange.

3 This map has been constructed utilizing wellbore
4 control data only, for the gross thickness of the lower
5 orange sand. It represents the amount of gross clean sand.

6 The contour interval is 10 feet. By example, the
7 well located in Unit 15 E has 40 feet, which is in the
8 denominator of that fraction, of gross clean Morrow sand.
9 The 35 feet above it in the numerator represents the amount
10 of net clean orange sand, with a porosity cutoff of 7
11 percent.

12 In my opinion, the lower Morrow orange sand is
13 representative of a distributory-channel depositional
14 systems. These sands tend to have a regional northwest-to-
15 southeast depositional trend, and my interpretation
16 suggests that the wells in positions 29 J, 32 H, 33 N, 9 F,
17 9 K, 10 E, 16 H and 15 E identify a well-defined lower
18 Morrow orange sand fairway. At location 15 E, the orange
19 sand is very well developed. I'll show that on the cross-
20 section in a few minutes.

21 Mewbourne Oil Company drilled this well, trying
22 to encounter thick productive orange sand. The thick
23 orange sand was in the well, and it suggests that the
24 depositional axis for the orange sand fairway lies to the
25 east of wells located in 9 F, 9 K and 16 H.

1 In my opinion, wells drilled at locations 4 G and
2 5 N, which is a new Enron well that's scheduled to start
3 soon, will likely miss this well-defined potentially
4 productive orange sand fairway.

5 Q. So basically what you're showing here is a
6 proposed location that's on trend with the offsetting
7 producers in this fairway, in this portion of the Morrow?

8 A. That's correct.

9 Q. All right. Let's take a look at the brown sand,
10 and I'd ask you to refer to Mewbourne Exhibit Number 10.

11 A. As I've noted -- As has been noted on previous
12 maps in Section 4 of this Exhibit 10, which is the lower
13 brown sand gross isopach, the X in Section 4 would be the
14 standard location, and the location in Section E is so
15 designated, or location E.

16 For this Exhibit, once again, all the Morrow
17 wells are circled. This map has been constructed utilizing
18 wellbore control data only for a gross thickness of the
19 lower brown sand. It represents the amount of gross clean
20 sand. No seismic has been integrated into this
21 interpretation.

22 The contour interval is 10 feet. By example, the
23 well in 15 E, again, has 30 in the denominator. That
24 represents the amount of gross clean brown sand. The 20 in
25 the numerator represents the amount of lower brown clean

1 sand, with a porosity of 7 percent.

2 In my opinion, the lower Morrow brown sand is
3 representative of distributory-channel depositional
4 systems. These sands tend to have a regional northwest-to-
5 southeast depositional trend. My interpretation suggests
6 that the wells positioned in 29 J, 32 C, 32 H, 33 N, 9 F,
7 9 K, 10 E, 16 H and 15 E identify a well-defined lower
8 Morrow brown sand fairway.

9 The well in 15 E, again, encountered a thick
10 lower Morrow brown sand relative to the wells in 9 J and
11 9 K, suggesting that depositional axis lies to the east of
12 the wells in Section 9.

13 In my opinion, a well drilled at location 4 G or
14 5 N will likely miss this well-defined potentially
15 productive brown sand fairway.

16 Q. All right, Mr. Moore, let's now go to the cross-
17 section, Mewbourne Exhibit Number 11. I'd ask you to
18 review that for Mr. Stogner.

19 A. Exhibit 11 is a stratigraphic cross-section,
20 A-A'. It's hung on the base of the lower Morrow shale. It
21 has been noted on the previous exhibits that I've
22 presented, and particularly the isopach maps with the brown
23 sand, Exhibit 10, and the orange sand, Exhibit 9.

24 The point of this cross-section is that we feel
25 like we're running down a well defined northwest-to-

1 southeast depositional trend.

2 The well on the extreme left is the outstanding
3 Amoco producer, which has produced -- which produces from
4 the brown sand in excess of 33 BCF, I believe. The orange
5 sand is not productive in that well.

6 The next well in the cross-section, at 32 H, is
7 the Arco Dancer well that I've made reference to, and the
8 brown sand is not particularly well developed; it is
9 producing from that orange sand. We do not know the exact
10 perforations, but it would appear on this log to be the top
11 six to eight feet. The middle Morrow green sand is noted.
12 It's not perforated in this well.

13 Then we have our location at 4 E, and I made
14 reference to 15 E, which is the well on the extreme right
15 of the cross-section, a number of times. This is a fairly
16 important well for the interpretation.

17 Starting from the bottom, you can see that it has
18 a thicker brown sand than the Arco Dancer well. It also
19 has a thicker brown sand than the wells in 9 that I
20 previously mentioned. So we feel like the depositional
21 axis lies to the east of the wells in 9, and this well is
22 in that zone. We tested that zone and frac'd it, but it
23 did not develop sufficient reservoir-quality rock to make a
24 well in that zone.

25 The orange zone above that is very well

1 developed. It has very high porosity relative to most of
2 the orange producers in the area. For instance, you can
3 compare it to the 32 H well.

4 We hit the thick depositional axis of the orange
5 sand, in my opinion, however we were wet.

6 The green sand is also developed, but poorly so,
7 and this well has been plugged back to the Bone Spring.

8 That's all I have on this exhibit.

9 Q. Let's go to Exhibit Number 12. Can you identify
10 that?

11 A. Exhibit Number 12 was developed to show Mewbourne
12 Oil Company's operational expertise in the area. It's on a
13 scale of 1 to 4000. The pink dot in location 4, Section 4,
14 is the location that we've been talking about, in 18-28.

15 This map, as I said, is a 1-to-4000 scale. The
16 yellow dot, the yellow circles without the red circles --
17 I'm sorry, let me rephrase that. The yellow circles within
18 the red circles indicate the wells in which Mewbourne Oil
19 Company has operated during the drilling. There are 18
20 wells indicated by that, with red circles around yellow
21 circles.

22 The yellow circles without red circles indicate
23 the wells in which Mewbourne Oil Company had a nonoperator
24 working position in the well during drilling. There's two
25 wells. So in this area of the 20 wells that have been

1 drilled and in which Mewbourne Oil Company has a position,
2 18 they've operated.

3 In reference to the agreement that was mentioned
4 earlier between Mewbourne Oil Company and Enron, not to
5 produce this test if successful from the Morrow in excess
6 of 3 million cubic feet of gas per day, let me have you
7 look at the blue dot in the center of the map. That is the
8 only well that has been drilled and completed in the Morrow
9 section in the last ten years that is capable of producing
10 3 million a day.

11 So a number that have been done -- I have a list.
12 I believe there are about 16 entries. So there's one well
13 that has the capability of producing more than 3 million a
14 day.

15 Q. So that penalty would be applicable only if, in
16 fact, you were able to drill and complete an exceptional
17 well in the area?

18 A. Exceptional well.

19 Q. Mr. Moore, what is the green line on this
20 exhibit?

21 A. The green line represents a Mewbourne Oil
22 Company-operated gas-gathering system. This system ties
23 into Transwestern's main line, and Mewbourne Oil Company
24 might be in a position to pass along a very -- one-cent-
25 per-MMBTU gathering fee, as opposed to the typical 15-cents

1 gathering fee which might be associated with another
2 operator.

3 A line to connect the well in 4 would have to be
4 tied into a well in Section 6 of 18-24. So we feel like
5 this low gathering fee is a significant savings and
6 benefit.

7 Q. Mr. Moore, what conclusions can you reach from
8 your geological study of this area?

9 A. I feel like in reviewing with other working
10 interest owners, we've seen multiple interpretations of
11 these orange and brown sands. It's relatively high risk.

12 Q. Are you prepared to make a recommendation to the
13 Examiner concerning the risk penalty that should be
14 assessed against any nonparticipating interest owners in
15 these wells?

16 A. Yes.

17 Q. And what is that?

18 A. That would be the maximum of 200 percent.

19 Q. In your opinion, is there a chance that a well at
20 this location could, in fact, be an economic failure?

21 A. Certainly.

22 Q. And do you recommend that this risk penalty apply
23 to all the formations that are being pooled?

24 A. That's correct.

25 Q. And why is that? Why should the penalty apply to

1 the other formations?

2 A. Because those formations are with significant --
3 The potential to establish production, commercial
4 production, in all those zones would be fairly high risk.

5 Q. Does Mewbourne seek to be designated operator of
6 the proposed well?

7 A. We do.

8 Q. In your opinion, will a well at the proposed
9 location effectively produce the reserves under this tract
10 in the Morrow formation, thereby preventing waste?

11 A. Yes.

12 Q. Is it your opinion that correlative rights will
13 be protected by permitting the well to produce with a 300
14 -- or 3-million-a-day penalty agreement?

15 A. Yeah, that's --

16 Q. Will approval of this Application and the
17 drilling of the well otherwise be in the best interest of
18 conservation?

19 A. Yes.

20 Q. Were Exhibits 7 through 12 either prepared by you
21 or compiled at your direction?

22 A. They were.

23 MR. CARR: At this time, Mr. Stogner, we would
24 move the admission into evidence of Mewbourne Exhibits 7
25 through 12.

1 EXAMINER STOGNER: Any objection?

2 MR. KELLAHIN: No objection.

3 EXAMINER STOGNER: Exhibits 7 through 12 will be
4 admitted into evidence.

5 MR. CARR: And that concludes my direct
6 examination of Mr. Moore.

7 EXAMINER STOGNER: Thank you, Mr. Carr.
8 Mr. Kellahin?

9 MR. KELLAHIN: Thank you, Mr. Examiner.

10 CROSS-EXAMINATION

11 BY MR. KELLAHIN:

12 Q. Mr. Moore, your geologic maps, particularly the
13 isopachs, I think, all show the proposed Nearburg location
14 in addition to the Mewbourne location?

15 A. They do.

16 Q. All right. Under your theory of the depositional
17 environment for the Morrow, you envision a Morrow channel
18 system for which the Nearburg location, then, will be east
19 of and outside of the channel that you're targeting; is
20 that not true?

21 A. That's correct.

22 Q. The Nearburg location, then, in your opinion, is
23 even riskier than the location that you are proposing for
24 the north half of 4?

25 A. Under this interpretation, and in my opinion,

1 yes.

2 Q. All right. Do you have any reason to believe
3 that the Division Examiner should, if he chooses to do what
4 I've asked -- and that is combine the two pooling cases --
5 do you have any reason geologically to object if the
6 Examiner also applies a 200-percent risk factor to the
7 Nearburg location if that location is ever drilled?

8 A. That would be fine. I have no objection.

9 Q. When we look at the south half of 4, there is a
10 well location in the southwest quarter of this same
11 section. What is that intended to represent?

12 A. That well -- That location is a second location
13 that Mewbourne Oil Company might propose at a later date.

14 Q. All right. So that would be a Mewbourne
15 proposal?

16 A. That would be a Mewbourne location.

17 Q. And you've not yet proposed that?

18 A. No.

19 Q. Okay. So the sequence, then, for testing the
20 Morrow in Section 4 would be the commitment by Mewbourne to
21 go ahead with the subject well in Unit Letter E of 4?

22 A. That's correct.

23 Q. That would be the first priority in terms of
24 developing Section 4?

25 A. Right.

1 MR. KELLAHIN: All right, sir, thank you. No
2 further questions.

3 EXAMINER STOGNER: Thank you, Mr. Kellahin.

4 Mr. Carr, any other redirect?

5 MR. CARR: No redirect.

6 EXAMINER STOGNER: I have no questions of Mr.
7 Moore. He may be excused --

8 MR. CARROLL: I have one question.

9 EXAMINER STOGNER: I'm sorry.

10 EXAMINATION

11 BY MR. CARROLL:

12 Q. Mr. Moore, you mentioned the Mewbourne-operated
13 gathering system --

14 A. That's correct.

15 Q. -- and that Mewbourne might be able to pass on
16 this one-cent gathering rate?

17 A. Yes.

18 Q. What are the conditions to passing that one-cent
19 gathering rate on to this well?

20 A. I don't know the terms of the exact agreement.
21 That was just a summary that was given to me, and it
22 reflects the situation.

23 Q. But it seems likely that --

24 A. It seems very likely.

25 MR. CARROLL: Okay, that's all I have.

1 EXAMINER STOGNER: Thank you, Mr. Carroll.

2 Are there any need of closing remarks at this
3 time?

4 MR. KELLAHIN: Just to summarize very briefly,
5 Mr. Examiner, if I may --

6 EXAMINER STOGNER: Okay.

7 MR. KELLAHIN: -- I'd request your permission to
8 provide you a draft order of my concept of a solution.

9 We would ask, as I have requested, that Mewbourne
10 be given the first priority and that if they fail to
11 commence within the 90-day period, that the second
12 opportunity to drill would be then Nearburg's.

13 I think this is a comprehensive solution to this
14 issue. It avoids the burden of having to come back in
15 October or the fall to do this case again, in the event
16 Mewbourne is not successful with their well proposal.

17 Mr. Cobb has told you that they have every
18 intention to commence this well within the 90-day period.
19 It appears from statements of Mr. Carr, that is the only
20 item of difference with regards to asking you to adopt a
21 comprehensive solution where one operator has the first
22 choice, followed then by the second working interest
23 owner's choice in the event the first fails.

24 We think that's an efficient means of resolving
25 this matter and we'd like you to consider our request.

1 EXAMINER STOGNER: Mr. Carr?

2 MR. CARR: Mr. Stogner, we also will submit a
3 proposed order. We would request and will submit an order
4 that's a standard pooling order. We will provide in that
5 order that if we drill a dryhole under the terms of the
6 order or elect not to go forward with a well at this
7 location, that we would notify the Division, at which time
8 Nearburg could go forward under a pooling order, as long as
9 we were afforded an opportunity to make an election as to
10 whether or not we would be participating or not in that
11 well, should we ever get to that point.

12 We also would note that we have reached an
13 agreement with Enron and, through Enron, Phillips,
14 concerning a production limitation. We would request that
15 that also be reflected in the order so there's no confusion
16 about this at a later date.

17 And with that, we will submit a proposed order
18 and also a list of pools that can be developed under 160-
19 or 80-acre spacing in the north half of this section.

20 EXAMINER STOGNER: Before we leave this matter, I
21 want to take administrative notice of the file in NSL-3679.
22 That was the order, I believe, that approved the unorthodox
23 location of the proposed Nearburg well -- I'm sorry,
24 Mewbourne well.

25 MR. CARR: Yes, sir.

1 EXAMINER STOGNER: And you're going to provide me
2 a copy, Mr. Carr -- or Kellahin, of Exhibit Number 5; is
3 that correct?

4 MR. KELLAHIN: Yes, sir. And as a housekeeping
5 chore, Exhibit 4 I'm about to hand you is my certificate of
6 notification as to the parties with regards to our
7 proposal.

8 EXAMINER STOGNER: And for the record, you have
9 provided Mr. Carr with copies of these exhibits, or will
10 provide him a copy of Exhibit Number 5?

11 MR. KELLAHIN: Yes, copies of everything except
12 for Number 5, which I need to duplicate. And at this point
13 we would formally move the introduction of Nearburg's
14 Exhibits 1 through 5.

15 MR. CARR: And we have no objection.

16 EXAMINER STOGNER: Okay. For the record, I just
17 want to identify, Nearburg's Exhibit Number 1 is a map or a
18 plat -- Why don't you do it?

19 MR. KELLAHIN: Yes, sir.

20 EXAMINER STOGNER: Just a short --

21 MR. KELLAHIN: Exhibit 1 is the plat that Mr.
22 Shelton prepared, showing the configuration of the tracts
23 and his percentages.

24 Exhibit 2 is the sample cover letter that he sent
25 to all the working interest owners. The cover letter shows

1 Mr. Marshall, but in fact he sent that same letter to all
2 parties.

3 Exhibit 3 is the Nearburg AFE for the well they
4 proposed.

5 Exhibit 4 is my certificate of notification of
6 hearing.

7 And Exhibit 5 is the recorded term assignment
8 from Eugene Nearburg to Nearburg Exploration Company that I
9 will copy and provide to the parties.

10 EXAMINER STOGNER: Okay, one final little note.
11 I would like to see both Mr. Kellahin and Mr. Carr
12 collaborate on a rough draft order. Most, it sounds like
13 you both agree on. There are certain, probably, issues
14 that can either be underlined --

15 MR. KELLAHIN: Yes, sir.

16 EXAMINER STOGNER: -- that perhaps you don't
17 agree. But if you could do that, as opposing to giving two
18 rough drafts, if you could collaborate on one and then just
19 disagree on certain paragraphs.

20 MR. KELLAHIN: I think we're going to see one
21 order from both of us. We'll present a single order, and
22 then we will red-line the one paragraph, I think, that
23 there is a difference about.

24 EXAMINER STOGNER: Or whatever.

25 MR. KELLAHIN: Yes, sir, I understand how to do

1 it.

2 EXAMINER STOGNER: Okay, if something else should
3 come up.

4 Okay, with that, what kind of time period? It's
5 up to you guys.

6 MR. CARR: We'll coordinate that and --

7 MR. KELLAHIN: Yeah, within the next few days,
8 Mr. Examiner.

9 EXAMINER STOGNER: Okay.

10 MR. KELLAHIN: We can get it to you by early next
11 week.

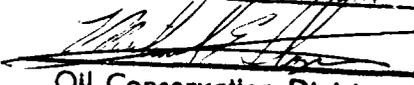
12 EXAMINER STOGNER: All right.

13 Is there anything further to consider in either
14 Case 11,521 or 11,533, other than leaving the record open
15 for the information to be provided and a rough draft order?
16 Then we'll continue on.

17 Let's take another ten-minute recess at this time
18 to prepare for the next plugging cases.

19 (Thereupon, these proceedings were concluded at
20 10:35 a.m.)

21 I do hereby certify that the foregoing is
22 a complete record of the proceedings in
23 the Examiner hearing of Case Nos 11521 and 11533
24 heard by me on 13 June 1996.

25  , Examiner
Oil Conservation Division

