

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. 12,942
)
APPLICATION OF DAVID H. ARRINGTON OIL)
AND GAS, INC., FOR COMPULSORY POOLING,)
LEA COUNTY, NEW MEXICO)
_____)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Hearing Examiner

October 10th, 2002

Santa Fe, New Mexico

OCT 21 AM 9:42
STEVEN T. BRENNER

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Hearing Examiner, on Thursday, October 10th, 2002, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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October 10th, 2002
 Examiner Hearing
 CASE NO. 12,942

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A P P E A R A N C E S

FOR THE APPLICANT:

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By: PAUL R. OWEN

* * *

ALSO PRESENT:

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

WILLIAM V. JONES, JR.
Petroleum Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 10:50 a.m.:

3 EXAMINER BROOKS: At this time we'll call Case
4 Number 12,942, the Application of David H. Arrington Oil
5 and Gas, Inc., for compulsory pooling, Lea County, New
6 Mexico.

7 Call for appearances.

8 MR. FELDEWERT: May it please the Examiner,
9 Michael Feldewert of the law firm of Holland and Hart here
10 in Santa Fe on behalf of the Applicant, David H. Arrington
11 Oil and Gas, Inc.

12 MR. OWEN: May it please the Examiner, Paul R.
13 Owen of the Santa Fe law firm of Montgomery and Andrew,
14 appearing on behalf of Great Western Drilling Company.

15 MR. FELDEWERT: Mr. Examiner, I have two
16 witnesses here today.

17 EXAMINER BROOKS: Okay. Do you have a
18 preliminary motion in this case, Mr. Owen?

19 MR. OWEN: No, Mr. Examiner. A discussion was
20 engaged in by the parties during NMOGA about a continuance,
21 and Arrington preferred to put their case on today. And
22 we're not, obviously, ready to put our case on. It's
23 scheduled for the November 13th docket, and we'll proceed
24 at that time. I'll move to continue the case, at the
25 conclusion of Arrington's testimony, to the November 13th

1 docket.

2 EXAMINER BROOKS: Very good. Do you have any
3 witnesses today?

4 MR. OWEN: Not in this matter.

5 EXAMINER BROOKS: Very good. Your witnesses
6 should stand to be sworn, please.

7 (Thereupon, the witnesses were sworn.)

8 EXAMINER BROOKS: Call your first witness.

9 MR. FELDEWERT: Dale Douglas.

10 EXAMINER BROOKS: You may proceed, Mr. Feldewert.

11 MR. FELDEWERT: Thank you.

12 DALE DOUGLAS,

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

15 DIRECT EXAMINATION

16 BY MR. FELDEWERT:

17 Q. Mr. Douglas, would you please state your full
18 name and address for the record?

19 A. My name is Dale Douglas, I reside in Midland,
20 Texas.

21 Q. And by whom are you employed and in what
22 capacity?

23 A. I'm an independent petroleum landman doing
24 contract land services for David Arrington Oil and Gas,
25 Inc.

1 Q. And have you previously testified before this
2 Division and had your credentials as an expert in petroleum
3 land matters accepted and made a matter of record?

4 A. Yes, sir, I have.

5 Q. Are you familiar with the Application that has
6 been filed by Arrington in this case?

7 A. Yes, sir, I am.

8 Q. And are you familiar with the status of the lands
9 in the subject area?

10 A. Yes, sir.

11 MR. FELDEWERT: Are the witness's qualifications
12 acceptable?

13 EXAMINER BROOKS: They are acceptable.

14 Q. (By Mr. Feldewert) Would you please turn to
15 Arrington Exhibit Number 1? I want you to identify it for
16 the Examiner and then briefly state what Arrington seeks
17 with this Application.

18 A. Yes, sir, the exhibit is a land plat. On that
19 land plat there is a red outline on the 320-acre proposed
20 spacing unit for the well. You'll notice that this is an
21 irregular section in that it's basically a section and a
22 half in size. This proposed location consists of certain
23 lots, so when I go through here and describe these lots,
24 they are the ones within the red outline.

25 Arrington seeks an order pooling all the minerals

1 from the surface to the base of the Morrow formation
2 underlying Lots 1, 2, 7, 8, 9, 10, 15 and 16 of this
3 irregular Section 1 in Township 16 South, Range 34 East, to
4 form a standard 328.34-acre east-half gas spacing unit for
5 all formations and pools developed on 320-acre spacing
6 within that vertical extent. This proposed spacing unit
7 presently includes the Undesignated Townsend-Morrow Gas
8 Pool. This spacing unit is to be dedicated to Arrington's
9 proposed Triple Teaser Federal Com Well Number 1, to be
10 drilled at a standard location in Unit B of irregular
11 Section 1.

12 Q. What is the proposed footage location for this
13 well?

14 A. The proposed footage location for the well is
15 1200 feet from the north line and 1665 feet from the east
16 line of Section 1.

17 Q. This is a standard location?

18 A. Yes, it is.

19 Q. Has the footage location for this well recently
20 changed? And if so, why?

21 A. Yes, the footage location changed from the
22 distance from the east line. It was originally proposed as
23 1335 feet from the east line, it's been changed to 1665
24 feet from the east line. This was required because of
25 cultural problems out on the land. There's a fence right

1 at the proposed location, and there's a home and barn just
2 on the east side of that fence location. So in order to
3 accommodate the surface owner's request, we moved the
4 location.

5 Q. So have Arrington's representatives been out
6 there to review the location?

7 A. Yes, he has.

8 Q. And have they staked the location?

9 A. Yes, sir, it's been staked.

10 Q. And they found that impediments existed at the
11 initial location, which is 1200 feet from the north line
12 and 1335 feet from the east line?

13 A. That's correct.

14 Q. So you moved it 333 feet to the west to avoid
15 those impediments?

16 A. Right, and the location remains in the same
17 quarter quarter section.

18 Q. Okay. Now, this new location at 1665 from the
19 east line, was that advertised for the hearing here today?

20 A. Yes, it was.

21 Q. All right. Is this federal acreage?

22 A. Yes, it is.

23 Q. Would you identify and review for the Examiner
24 Arrington Exhibit Number 2?

25 A. Yes, sir, Arrington Exhibit Number 2 is a

1 synopsis of the ownership under this proposed unit.

2 Q. And what percentage interest does Arrington have
3 in this well?

4 A. Arrington owns 50 percent of the working interest
5 leasehold ownership in the proposed unit.

6 Q. Does Arrington seek to pool the remaining few
7 working interest owners in this acreage, which is Great
8 Western and Davoil?

9 A. Yes, sir, we do.

10 Q. What percentage interest does each of these
11 entities own in this east-half proposed spacing unit?

12 A. It's the same -- It's the ownership that's set
13 forth on Exhibit 2: Great Western Drilling Company, 32.238
14 percent and Davoil, Inc., 17.762 percent.

15 Q. Okay. Now, I'd like you to turn to Arrington
16 Exhibit Number 3, and I want you to identify it for the
17 Examiner, and I want you to outline the efforts that
18 Arrington undertook to develop this irregular section and
19 your efforts to obtain a voluntary agreement.

20 A. Okay, Arrington Exhibit 3 was put together as a
21 synopsis of the steps that we've taken to get this well
22 ready to drill. In January of 2002, January 31st, our
23 original location for the Triple Teaser well was staked.

24 Q. Okay. Now, had you done some geologic work prior
25 to this time?

1 A. Yes, I think the geologic work for this prospect
2 in this area began back in the fall of 2000.

3 Q. And what was going on during the year 2001?

4 A. During 2001, we were performing all of our lease
5 checks, mineral ownership and attempting to acquire acreage
6 in the area.

7 Q. Okay, so then you staked your location on January
8 31st, 2002. What did you do next?

9 A. The next thing we did, since this is federal
10 acreage, we acquired an archaeological survey for this
11 initially staked location. That was done February the
12 28th.

13 Sometime in March we obtained approval for our
14 archaeological survey.

15 Q. Now, is this for the initial location at 1335
16 feet from the east line?

17 A. Yes, sir, it was.

18 Q. Okay.

19 A. And then on July the 23rd we made our well
20 proposal to the working interest owners.

21 Q. Okay, are those letters attached to this exhibit?

22 A. Yes, they are.

23 Q. All right. And that was July 23rd, 2002?

24 A. Yes, sir, that's when we proposed the drilling of
25 the well to Great Western and to Davoil.

1 Q. Did either of those parties respond to your well
2 proposal at any time in July?

3 A. No, sir, they did not.

4 Q. Okay, what did you do next?

5 A. On August the 27th, the Triple Teaser well
6 location was restaked as a result of us attempting to
7 obtain a surface agreement with the landowner. We
8 accommodated his request, moved the location to the west.
9 We then restaked that location, and that location is the
10 1665 feet from the east line.

11 Q. Okay.

12 A. Also in August, we received no response from
13 either of the other two working interest owners with whom
14 we proposed the well.

15 Q. Okay, so now we're in September. What did you do
16 in September?

17 A. Since we restaked the location, we had to have a
18 new archaeological survey done, which we did. On September
19 the 5th we ordered the survey. And then on September the
20 13th, we received the approved archaeological survey that
21 would allow for the permit for the Triple Teaser well.

22 Then on September the 17th, Arrington filed its
23 pooling Application for the Triple Teaser well.

24 Q. Okay. Now, at any time in September, did Great
25 Western or Davoil provide any response to Arrington's

1 Triple Teaser well proposal or your pooling Application?

2 A. No, sir, they didn't.

3 Q. Okay. And during the period of time since
4 Arrington commenced its development efforts over a year
5 ago, has Great Western, to your knowledge, undertaken any
6 efforts to develop this acreage?

7 A. None to my knowledge.

8 Q. How long has Great Western owned its interest in
9 this particular section?

10 A. The records that we've checked indicated that
11 Great Western acquired their interest in the early 1970s.

12 Q. Okay, and did Arrington eventually receive a well
13 proposal for this acreage from Great Western?

14 A. Yes, we did.

15 Q. Okay, has that been marked as Arrington Exhibit
16 Number 4?

17 A. Yes, it is.

18 Q. Okay. Now, when was this proposal received by
19 Arrington?

20 A. The proposal letter from Great Western was
21 received by Arrington on October the 7th.

22 Q. And that's stamped up in the right-hand corner?

23 A. Yes, sir, it is.

24 Q. Okay. Is this, Mr. Douglas, the first time that
25 Great Western has shown any interest in developing the east

1 half of this acreage, to your knowledge?

2 A. Yes, it is, to my knowledge.

3 Q. What does this well proposal that you received on
4 Monday of this week propose?

5 A. The letter appears to propose what is called a
6 competing drilling proposal. It's basically the same
7 location that Arrington originally proposed at the 1335
8 from the east line. I'm really not certain what the
9 competing drilling proposal is, because there's been no
10 discussions between the group, but this is the first
11 indication that we've had where they're going to develop
12 this acreage.

13 Q. So it's the same location -- Well, it's the same
14 location you initially proposed; is that right?

15 A. Yes, it is.

16 Q. And that's the location that has a problem with
17 the fence line?

18 A. Yes, sir.

19 Q. All right. Did they propose to drill to the same
20 formation and depth as you proposed back in July of this
21 year?

22 A. Yes, I believe they did.

23 Q. Do they propose the same spacing unit that you
24 proposed back in July of this year?

25 A. Yes, they did.

1 Q. When Arrington proposed its well in July, did you
2 submit an AFE at that time to the working interest owners?

3 A. Yes, sir.

4 Q. Has that been marked as Arrington Exhibit Number
5 5?

6 A. Yes, it is.

7 Q. Now, have you reviewed the AFE that you submitted
8 back in July with the AFE that Great Western submitted this
9 past Monday for their proposal?

10 A. Yes, we have.

11 Q. Is there any significant difference in terms of
12 costs between the AFE that you submitted way back in July
13 and the AFE that they submitted this past Monday?

14 A. We see no significant difference in the cost. I
15 think there's -- on the estimated completion cost,
16 Arrington's are a few dollars higher, but on the drilling
17 cost Arrington's is -- on the estimated drilling cost,
18 Great Western's are lower.

19 Q. There's about a 2-percent difference in the two?

20 A. Yes, about 2, 2 1/2 percent.

21 Q. If my math is correct?

22 A. Right.

23 Q. All right. When does Arrington intend to drill
24 the well that it proposed to the working interest owners
25 this past July?

1 A. Our intent is to drill the well immediately upon
2 the receipt of an OCD pooling order or in the event an
3 agreement is reached with the other parties.

4 Q. Do you have a concern that -- Is there a reason
5 why you've been working since the first of this year to get
6 this property developed?

7 A. Is there a reason why?

8 Q. Yes.

9 A. Yes, sir, we have -- in of our lease acquisitions
10 we have some dates that are impending expirations, which
11 are March of next year.

12 Q. March of 2003?

13 A. Of 2003.

14 Q. Okay. Mr. Douglas, to your knowledge is
15 Arrington the only interest owner that has staked a
16 location for this spacing unit?

17 A. Yes, I believe so.

18 Q. Is Arrington the only one that has obtained the
19 necessary archaeological survey for this proposed well?

20 A. Yes, to my knowledge that's correct.

21 Q. Are you the only interest owner that has gone out
22 there and obtained a surface agreement with the surface
23 owner?

24 A. To my knowledge, yes.

25 Q. And are you the only interest owner that has

1 initiated the necessary administrative proceedings to
2 develop this property?

3 A. Yes, sir.

4 Q. Okay. Has Arrington expressed a willingness to
5 work with Great Western on the development of this acreage
6 and to reach a voluntary agreement?

7 A. Yes, we have. In our initial well proposal we
8 solicited their participation and joinder in the well, or
9 in the absence of their participation requested that we --
10 or suggested that we might make another agreement regarding
11 their interest.

12 Q. Did you have telephone conversations with them
13 before they filed their -- or sent to you their letter this
14 past Monday?

15 A. I personally have not. I placed a phone call to
16 Mr. Headington, but he was out of town.

17 Q. Has someone from Arrington had conversations?

18 A. Mr. Baker may have had a conversation with Mr.
19 Richards.

20 Q. Do you have any understanding of what the
21 impediment is to a voluntary agreement in this situation?

22 A. Speculation only is that it's an issue of
23 operatorship.

24 Q. Okay.

25 A. We have not been contacted to specifically state

1 why an agreement has not been -- we have not been able to
2 reach an agreement.

3 Q. Are you aware of any reason why Great Western
4 would be a more qualified operator for this well than
5 Arrington?

6 A. Not to my knowledge, no.

7 Q. How much experience does Arrington have with
8 drilling Morrow wells in this area?

9 A. I've been doing work with Mr. Arrington over the
10 last approximately five years. I'd say they've drilled 10
11 to 15 Morrow wells within a five-mile area around
12 Lovington.

13 Q. How much experience does Great Western have in
14 drilling Morrow wells in this area?

15 A. I'm really not sure. Since I've been working the
16 area I've not noticed that they've drilled any Morrow wells
17 within this area that they operate.

18 Q. Okay, and they've owned this property, your
19 records show, since 1973?

20 A. That's correct.

21 Q. In your opinion have you made a good faith
22 effort, Mr. Douglas, to obtain the voluntary agreement for
23 the development of this property with all interest owners?

24 A. Yes, sir.

25 Q. Has Arrington undertaken all the steps that you

1 understand are necessary to pool the interests and allow
2 Arrington to drill and operate a well to protect its
3 acreage?

4 A. Yes, sir, I believe we have. As indicated on our
5 synopsis, we've studied the area, came up with a prospect
6 to drill, staked our location, we've conducted the
7 necessary federal studies required to get the permit. We
8 properly proposed our well, seeking the joinder of the
9 other parties, back in July. Over two months have passed
10 since that well has been proposed, without a specific
11 response from Great Western or Davoil.

12 So yes, I think we've done the things necessary
13 to get this well drilled.

14 Q. Is Arrington Exhibit Number 6 an affidavit with
15 the attached letters giving notice of this hearing?

16 A. Yes, it is.

17 Q. Okay. Were Arrington Exhibits 1 through 6
18 prepared by you or compiled under your direction or
19 supervision?

20 A. Yes, they were.

21 MR. FELDEWERT: Mr. Examiner, I would move the
22 admission into evidence of Arrington Exhibits 1 through 6.

23 EXAMINER BROOKS: Any objection, Mr. Owen?

24 MR. OWEN: No objection.

25 EXAMINER BROOKS: 1 through 6 are admitted.

1 MR. FELDEWERT: And that's all the questions I
2 have at this time of this witness.

3 EXAMINER BROOKS: Mr. Owen.

4 EXAMINATION

5 BY MR. OWEN:

6 Q. Mr. Douglas, I want you to turn to Arrington
7 Exhibit Number 3. It's your testimony that that synopsis
8 summarizes your contacts with Great Western; is that right?

9 A. It's a summary of the things that we did to get
10 our hearing and to get the well drilled, yes.

11 Q. Okay. I want you to turn to the second page of
12 that. Is that the cover letter that you sent with an AFE
13 to Great Western?

14 A. Yes, it's a letter that Bill Baker, the
15 exploration manager, mailed out.

16 Q. Do you know what the date of that letter was?

17 A. It's covered up on this letter. I believe it's
18 July the 23rd.

19 Q. And that letter proposes a location at 1335 feet
20 from the east line; is that right?

21 A. That's correct.

22 Q. I want you to turn to Arrington Exhibit Number 5.
23 Is that the AFE that was proposed in this case?

24 A. The AFE that was attached with this letter, the
25 footage location was 1335.

1 Q. Is this the AFE that was attached to the letter
2 in Exhibit Number 3, do you know?

3 A. No, it's not. I was explaining to you the
4 difference in the two; it's the 1335 to 1665 footage.

5 Q. Has Arrington ever proposed the well at 1665?

6 A. No, sir, we didn't. We proposed it as a Unit B
7 well, 1335 feet off the east line, and it was moved for
8 cultural reasons.

9 Q. But Arrington has not proposed a well at 1665
10 feet to either Great Western or Davoil; is that right?

11 A. Not at that footage.

12 Q. Okay.

13 A. It's in the same 40-acre tract, though.

14 Q. What is the proposal that Arrington has made or
15 contemplates making with regard to the acreage and reaching
16 voluntary agreement with Great Western?

17 A. We contemplated their participation in the
18 drilling of the well and, if they elected to do so, enter
19 into an operating agreement to develop the property.

20 Q. Did you ever send a JOA to Arrington --

21 A. No, sir.

22 Q. -- to Great Western?

23 A. No, sir, nor did they request one.

24 Q. Have you proposed any other sort of arrangements
25 to reach voluntary agreement? Farmout or anything like

1 that?

2 A. Our proposal letter to them asks for their
3 participation in the drilling of the well, and then in the
4 event they elected not to participate then we would
5 entertain any kind of proposal that they might have
6 regarding their interest.

7 Q. And have you had any discussions about that?

8 A. None.

9 Q. You haven't made any other proposals; is that
10 right?

11 A. Any other proposals?

12 Q. You've sent out your cover letter and your AFE,
13 and that's the only proposal you've made; is that right?

14 A. Our proposal has been made without a response,
15 yes.

16 Q. And Great Western has sent out a proposal and an
17 AFE; is that right?

18 A. We received a proposal on Monday, October the
19 7th, yes.

20 Q. Correct, but they've sent out the same amount of
21 material that you have; is that right?

22 A. I'm not sure what you mean by the same amount of
23 material.

24 Q. Cover letter and AFE. You haven't sent out
25 anything else, have you?

1 A. Yes, I sent Mr. Headington a letter on Friday,
2 and to Davoil, stating that we still hadn't heard from
3 them --

4 Q. Friday when?

5 A. Friday, which would have been October 4th. It
6 was when Mr. Headington was out of town. It was the same
7 day I placed the phone calls.

8 Q. That was when Mr. Headington was probably coming
9 in to Santa Fe for the NMOGA conference?

10 A. That's correct.

11 Q. Do you have a copy of that letter here?

12 A. No, sir, I didn't bring one.

13 MR. OWEN: Okay, that's all the questions I have.

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

16 Mr. Catanach, do you have any?

17 EXAMINER CATANACH: (Shakes head)

18 MR. FELDEWERT: Then call Bill Baker, Mr.

19 Examiner.

20 BILLY DON BAKER, 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. FELDEWERT:

25 Q. Mr. Baker, would you please state your full name

1 and place of residence?

2 A. Billy Don Baker, Jr., and I reside in Midland,
3 Texas.

4 Q. By whom are you employed and in what capacity?

5 A. I'm employed by David H. Arrington Oil and Gas,
6 Inc., and I'm the exploration manager.

7 Q. And have you previously testified before this
8 Division as a petroleum geologist and had your credentials
9 accepted and made a matter of record?

10 A. Yes, sir, I have.

11 Q. Are you familiar with the Application that
12 Arrington has filed in this case?

13 A. Yes, sir, I am.

14 Q. And have you made a technical study of the area
15 that is the subject of this Application?

16 A. Yes, sir, I have.

17 MR. FELDEWERT: Mr. Examiner, are the witness's
18 qualifications acceptable?

19 EXAMINER BROOKS: They are.

20 Q. (By Mr. Feldewert) Mr. Baker, what is the
21 primary target for Arrington's well that was proposed back
22 in July?

23 A. The principal target that we're going after here
24 is what I consider to be lower Atoka-Brunson gas pay sand.

25 Q. Would you describe for the Examiner your drilling

1 plan for your Triple Teaser Fed Com Well Number 1?

2 A. Okay. David H. Arrington Oil and Gas is
3 proposing a 13,400-foot Atoka-Morrow test that will TD in
4 the base of the Morrow formation at a standard location of
5 1200 feet from the north line and 1665 feet from the east
6 line.

7 Q. Do you have Exhibit 5 in front of you?

8 A. Yes, sir.

9 Q. Okay, and that's the Arrington AFE.

10 A. Correct.

11 Q. Would you review for the Examiner the dryhole and
12 completed well costs?

13 A. This is an AFE that was prepared by our drilling
14 engineer, Mr. Chuck Sledge. It outlines that the dryhole
15 cost of the well will be \$1,014,501, with a completion cost
16 of \$525,980 and a total D and C cost of \$1,540,481.

17 Q. Are these the costs that were submitted to the
18 working interest owners when you proposed the well back in
19 July of this year?

20 A. Yes, sir, I believe so.

21 Q. Are these costs in line with what has been
22 incurred by Arrington and other operators in the area for
23 similar wells?

24 A. Yes, sir, and we have recently participated with
25 several wells with Yates Petroleum and Chesapeake in the

1 immediate area, and these costs are right in line with
2 their costs.

3 Q. Okay. Have you made an estimate of the overhead
4 and administrative costs while drilling this well and also
5 while producing it if you are successful?

6 A. Yes, sir, we have, and we're proposing \$6000 a
7 month drilling cost and \$600 a month producing.

8 Q. Are these rates in line with what has been
9 charged by other operators in the area?

10 A. Yes, sir, I believe so.

11 Q. Were these rates approved by the Division?

12 A. Yes, sir, they were.

13 Q. Do you know which case that was?

14 A. That was for our Double Hackle Peacock 31 State
15 Com Number 1, and I believe that was Order Number R-11,667.

16 Q. Okay. That was entered in October?

17 A. Yes, sir, I believe so.

18 EXAMINER BROOKS: Do you have the case number?

19 MR. FELDEWERT: Mr. Examiner, I do not. I can
20 get that to you.

21 EXAMINER BROOKS: Thank you.

22 Q. (By Mr. Feldewert) Mr. Baker, do you recommend
23 that these figures be incorporated into any order that
24 results from this hearing?

25 A. Yes, sir, I do.

1 Q. And do you request that they be adjusted and
2 approved by the Division subject to adjustment in
3 accordance with Section 31.A.3 of the COPAS form entitled
4 Accounting Procedures and Joint Operations?

5 A. Yes, sir.

6 Q. Mr. Baker, are you prepared to make a
7 recommendation to the Examiner as to the risk penalty that
8 should be assessed against the nonconsenting interest
9 owners for this project?

10 A. Yes, sir, I am, and that should be 200 percent of
11 the maximum.

12 Q. Okay, why don't you turn to Exhibit Number 7,
13 identify it and review it with the Examiner?

14 A. Okay, Mr. Examiner, Exhibit Number 7 is a
15 structure map on the top of the Morrow lime formation.
16 This is a structural map which delineates a nose, a kind of
17 an east-west-oriented nose, in which our proposed location
18 will be situated. This particular nose I believe to be
19 critical for the trapping of the gas as the sands in the
20 Atoka will be kind of in a north-south orientation.

21 It shows that our Triple Teaser Federal Com
22 Number 1 well will be located right on the top of this
23 structure, in between a couple of wells out here, one
24 drilled in 1952 by Humble, the second one drilled, I
25 believe, in 1972 or 1979 by HNG. I'll show you both these

1 a little bit later on our cross-section.

2 But we should be slightly high to both these
3 proposed wells, and I'll show you the sand targets that
4 we're going to on the next exhibit.

5 Q. Okay, why don't you go to the next exhibit,
6 identify that and review it with the Examiner?

7 A. Okay. Exhibit Number 8 is an isopach map of the
8 lower Atoka-Brunson sand, which is our primary target sand
9 out here. The geology suggests that these are north-south-
10 trending channel sands and that we should be centered right
11 in the middle of a particular north-south-trending channel
12 sand and hopefully have approximately 20 feet of a net-pay
13 sand here.

14 It also shows, which I will show on the next
15 exhibit, on cross-section A-A', that it will be a direct
16 offset to that Humble well. It had approximately 20 feet
17 of net sand in it, and I'll discuss that in cross-section
18 A-A'.

19 But it also shows that as you move to the HNG
20 well had a gross interval of about 42 feet of sand but was
21 tight. This will kind of delineate the western edge of it
22 and show the pinchout of the sand.

23 Q. That's the well with the circle around it, 4/42?

24 A. Yes, sir, that is correct.

25 Q. Okay, why don't you move to Arrington Exhibit

1 Number 9, identify it and review it, please?

2 A. Okay, Arrington Exhibit Number 9 is going to be a
3 structural cross-section, three-well cross-section, with
4 our proposed location on it.

5 Mr. Examiner, I have to note for the record that
6 there is a correction on this cross-section. Please note
7 at the very top up there where it shows A-A'. Those should
8 be reversed. A should be on the right-hand side, A' should
9 be on the left-hand side. That is a drafting error, and I
10 apologize for that error.

11 Q. Mr. Baker, let me ask you about Exhibit Number 8.
12 Do we have the same --

13 EXAMINER BROOKS: Excuse me -- Oh, you were just
14 going to ask the same question I was going to ask. Go
15 ahead.

16 Q. (By Mr. Feldewert) Yeah, do we have the same
17 mistake on Exhibit Number 8?

18 A. I believe Exhibit Number 8 would be correct,
19 because if I put A on the right-hand side, then A' should
20 be on the left-hand side, and that should be correct. I
21 believe your Exhibits 7 and 8 are correct and Exhibit 9 is
22 not.

23 Q. Okay.

24 A. What I'd like to do is start on the right-hand
25 side of this, Mr. Examiner, and quickly I will just

1 identify the different pay horizons in the immediate area,
2 and then I will focus on the principal target that we're
3 going to be going in here.

4 At the very top of the well, the Sabine
5 Production Eidson Unit Number 1 well, which is in Section
6 34, you'll see a sand at approximately twelve thousand -- I
7 believe that is eight hundred and twenty feet. That's the
8 Atoka-Brunson interval in this particular well. That will
9 be the principal target for us as we move across from an
10 east-to-west orientation. I'll talk a little bit about the
11 drill stem test on it in just a second.

12 From there you'll move right down to a marker
13 called the top of the Morrow lime. It's colored in blue
14 right there. That is the structural horizon which Exhibit
15 Number 7 was constructed around. That is the structural
16 marker that I use out here for a structural pick.

17 As you move down the log you'll see a green
18 horizon down there called the top of the lower Morrow
19 clastics. This is what I believe to be a correlative
20 marker across the area that kind of outlines where you
21 start to pick up a lot of lower Morrow sandstones in here
22 that are productive in the immediate area.

23 And then below that you have the top of the lower
24 Morrow shale.

25 As you move on down you'll see that in this

1 particular well they did pick up a little bitty sand in the
2 base of the lower Morrow right there, before they entered
3 the top of the Austin lime. The top of the Austin lime, in
4 my opinion here, will delineate the base of the Morrow and
5 will be the very bottom interval in which we tag for our
6 proposed well.

7 Now, in just -- in looking and focusing on the
8 Atoka-Brunson interval in the Sabine Production well, this
9 well was drilled, I believe it was back in the early 1970s.
10 And you can see as they drilled down through it, they
11 actually drill stem tested the Atoka-Brunson interval here.
12 They DST'd at 12,739 through -832. They actually recovered
13 gas on this test. They had gas to surface in 45 minutes at
14 35 MCF a day. They recovered 60 feet of water and gas-cut
15 drilling fluid. Had an initial shut-in pressure of 5956,
16 with a final shut-in pressure of 6351 pounds. To date, I
17 have not seen any type of test in this interval.

18 The Sabine Production well has been principally
19 completed in these lower Morrow clastics, and you see down
20 below I actually show the perforated intervals. The Morrow
21 was all perforated together from perforations 13,130 down
22 to 13,190. The well was initially completed as a natural
23 completion at 4.37 million a day. I have no record that
24 these zones were ever frac'd. The well has currently cum'd
25 251 million and 2800 barrels of oil. I'm showing that

1 right now the well has not got any type of production on
2 it, but I'm also showing that it has not been shut in and
3 it has not been recompleted either.

4 Now, as we move to the left, you'll encounter
5 what I consider to be a key show hole for the setting up of
6 our Triple Teaser Federal Com Number 1, and this is the
7 Humble Oil Elliott Federal Number 1 well, which is located
8 in Section 1. This well was drilled as a Devonian test by
9 Humble back in 1952.

10 As they were drilling the well down, you can see
11 they conducted a number of drill stem tests. The one I'd
12 like for us to focus on will be located just to the left of
13 the log there. It was a drill stem test from 12,690 feet
14 to -895. The drill stem test was open two hours and six
15 minutes. They had 1690 feet of water cushion. They did
16 get gas to surface in 40 minutes and water cushion in 48
17 minutes. The well flowed at a rate of 1.8 million a day.
18 They recovered 31 feet of condensate, gravity 51, 950 feet
19 of condensate and oil/gas-cut mud. They had an initial
20 shut-in pressure of 5900 pounds and flowing pressures of
21 1875 to 2800. There was no indication of any type of final
22 shut-ins on this.

23 Now then, they conducted a number of other drill
24 stem tests as they went down, and they even actually came
25 back up and initially tried a completion in those lower

1 Morrow clastics, and they actually perforated a stray lower
2 Atoka zone, and I have noted those at the bottom of the
3 log. And they perforated these all at one time, and they
4 were from 12,880 to -910, 13,120 to -135, 13,140 to -175.

5 Once again, this appears to have been a natural
6 completion. There was no indication of any stimulation.
7 The well IP'd at 4.5 million a day and 257 barrels of
8 condensate, flowing tubing pressure 400 pounds on a 48/64-
9 inch choke.

10 The best my records can find -- and this was 1952
11 -- I show that the well produced approximately 60 days,
12 somewhere thereabouts, and they cum'd 85 million cubic feet
13 of gas and an unreported amount of oil. There were no oil
14 records that I could find anywhere.

15 And then after that time it appears like they
16 plugged the well off, came back up. They actually
17 perforated the interval in question, the Atoka-Brunson
18 zone, they perforated 12,760 to -805. They swabbed the
19 well with trace of gas and load water. They reported about
20 25,000 parts per million water in there, and then they set
21 a Baker packer in there and moved on up the hole. They
22 tested a couple of little Wolfcamp stray zones and
23 subsequently plugged the well.

24 Now after reviewing this and knowing the Atoka-
25 Brunson in this area and having been actively involved in

1 this area since 1990, in mapping the Brunson out here and
2 watching all the companies, one of the things that we have
3 noticed about the Brunson reservoir is that this zone
4 typically needs an acid treatment and a frac treatment to
5 sustain what we consider to be commercial production.

6 There are a number of wells in the area that have
7 been perforated with just a perf and then a little light
8 acid. Some of them will come on anywhere from 200 MCF up
9 to maybe 500, 600 MCF a day, but they'll quickly drop on a
10 very strong 85-percent drop and then go hyperbolic at a
11 very low rate.

12 Yates noticed this first back over in Section 10,
13 I believe it was, of 16-35, and they went in and frac'd the
14 well in there. That was the Brunson well very near where
15 Ocean drilled the Carlisle well that everybody knew that
16 blew out. That immediate area, that kind of references it.
17 Quickly got the well up to 2 1/2 million a day, it dropped
18 to about 1 1/2 million a day and then stabilized.

19 And that's kind of been the practice for the
20 Brunson interval out here ever since, is, as you go into
21 these things, for whatever reason, there's some damage,
22 there's something that on a natural perf completion you're
23 not going to get much of a gas show.

24 We've actually drilled the wells in Section 22 of
25 16-35, in which we have perforated, acidized, swabbed to

1 the seating nipple and had no show of gas, and come in and
2 frac'd it and made 2.5 million a day.

3 So for whatever reason, we believe that this
4 particular Atoka-Brunson interval right here is bypass pay,
5 by the fact that they perforated, they swabbed the well,
6 they had a little bit of gas out, and then they abandoned
7 it.

8 Now, as you move on across the cross-section,
9 you'll see our proposed Triple Teaser Number 1. We do
10 believe that we're going to gain a little bit of structural
11 advantage in here. I don't know if that's really of any
12 significance. I think we will be a little bit high.

13 And then as you move on across the cross-section
14 you're going to encounter the HNG Oil Lovington Plains
15 Number 1. Now this is also a very key well. The well was
16 drilled, like I said -- Oh, I said 1970s; it was drilled in
17 1982. It's currently producing out of these lower Morrow
18 clastics. But the key thing here is that they encountered
19 a very large, thick Atoka-Brunson interval.

20 But they also drill stem tested it, and if you'll
21 look at the drill stem test, which I have highlighted there
22 at the top, they DST'd 12,770 to -837, they had a 1200 foot
23 freshwater condition, they opened the well with a weak
24 blow, no gas to surface. They recovered their 1200 feet of
25 water cushion plus 27 gallons of diesel and 46 feet of

1 drilling fluid.

2 They had initial shut-in pressure of 1184,
3 flowing pressures of 684 to 736 and a 240-minute final
4 shut-in pressure of 1170.

5 What this tells me is, they basically got tight
6 sand, tight reservoir. So somewhere between the Humble
7 well and the HNG well, it's my belief that we had some type
8 of porosity pinchout. Basically they ran out of reservoir
9 rock, is what they did.

10 And I believe that is the risk that we have here,
11 is exactly where is that porosity pinchout?

12 Now, Exhibit 8 indicates that we should encounter
13 about 20 feet of pay horizon. But because of the HNG well,
14 if we were to end up with another well very similar to
15 theirs, we could easily have a dry hole in the lower Atoka,
16 which indicates that you could have a noncommercial dry
17 hole here.

18 Now, as far as the lower Morrow clastics go, it
19 is my belief that we will encounter some lower Morrow sands
20 in here. I think we all know that the lower Morrow is a
21 series of very thin, linear sands. I know over in Eddy
22 County you can drill offsets and encounter virgin
23 pressures.

24 But you can also, over in this particular area
25 here, stumble into -- or drill the same reservoir. And I

1 see the risk here for the lower Morrow for us being -- I
2 think we'll have sands, we've just got a bottomhole
3 pressure risk. I think we're going to have a possible
4 depletion risk here.

5 But obviously, because of the nature of the
6 Morrow, we will drill to the top of the Austin to look at
7 the Morrow sands.

8 Q. Mr. Baker, based on your analysis of this area,
9 do you believe there's a chance you could drill a well at
10 the proposed location that would not be a commercial
11 success?

12 A. Yes, sir, I do, for the reasons that I just
13 explained. We could get the lower Atoka Brunson in a tight
14 position, in which there would be no reservoir-quality
15 rock, and then encounter Morrow sands that were depleted.

16 Q. Does David H. Arrington Oil and Gas, Inc., seek
17 to be designated operator of this well?

18 A. Yes, sir, we do.

19 Q. Mr. Baker, have you reviewed the well proposal
20 that Great Western submitted to Arrington this past Monday?

21 A. Yes, I have.

22 Q. To your knowledge, has Great Western made any
23 changes to the drilling plan that Arrington developed and
24 pursued, beginning with the archaeological survey that you
25 commenced in February of this year?

1 A. No, sir.

2 Q. Have you had any conversations with Great Western
3 about the substance of the well proposal that Arrington
4 submitted to Great Western and Davoil in July of this year?

5 A. Yes, sir, I had a conversation with Mr. Russell
6 Richards, who is their exploration geologist over at Great
7 Western, this past Friday. And we discussed, among other
8 things, the geology in this area. And for the most part, I
9 think Russell and I are pretty much in agreement as to the
10 geology in this specific area.

11 We talked a little bit about is there a possible
12 way of working the deal out? And of course that comes down
13 to our two respective employers, and I think they both want
14 operations of the well.

15 Mr. Russell also requested at that time the
16 possibility of a continuance of this particular hearing
17 right here of our case --

18 Q. Okay.

19 A. -- and I told him that I'd have to visit with Mr.
20 Arrington and counsel.

21 Initially I thought that that would be okay, but
22 upon conversation with counsel and Mr. Arrington we decided
23 that it would be better if we moved forward with our case.

24 Q. Had you received any contrary well proposal on
25 Friday?

1 A. No, sir, not on Friday.

2 Q. Now, has Great Western given you any reason why
3 it should operate this well, rather than Arrington?

4 A. No, sir.

5 Q. Are you aware, Mr. Baker, of any reason that
6 Great Western would be a more qualified operator than
7 Arrington?

8 A. No, sir, I'm not. And based on our recent
9 activity in the area, Arrington's recent activity in the
10 area, we've drilled approximately 30 to 35 wells in this
11 area, of which 10 to 15 of those wells were targeted to the
12 lower Atoka and Morrow. And this is within a five-mile
13 radius of Lovington.

14 Because of that, I believe that we probably had
15 more recent drilling experience in the area, and we have
16 drilled a number of these wells. To my knowledge, I don't
17 believe Great Western has drilled anything in this
18 immediate area in the past five years that would give them
19 the kind of drilling expertise that we have.

20 Q. Okay. Now, we've touched on this. You all have
21 been out to the site, you've staked a site. There's a
22 problem with the location that they propose in their letter
23 that you received this last Monday?

24 A. Yes, sir, they're going to -- Their proposal is
25 basically on what our initial proposal was, and until we

1 actually got out on the grounds, our engineer, and started
2 preparing the location, we didn't realize that fence and
3 that house were going to be an obstruction.

4 Q. So Mr. Baker, nobody is going to be able to drill
5 a well at 1335, are they?

6 A. Not without doing a lot of damage settling it
7 with somebody.

8 Q. All right, in your opinion will the granting of
9 this Application naming Arrington as the operator of this
10 well be in the best interests of conservation, the
11 prevention of waste and the protection of correlative
12 rights?

13 A. Yes, sir.

14 Q. Were Arrington Exhibits 7 through 9 prepared and
15 compiled under your supervision and direction?

16 A. Yes, sir, they were.

17 MR. FELDEWERT: Mr. Examiner, I'd move the
18 admission into evidence of Arrington Exhibits 7 through 9.

19 EXAMINER BROOKS: Objection?

20 MR. OWEN: No objection.

21 EXAMINER BROOKS: Seven through 9 are admitted.

22 MR. FELDEWERT: Mr. Examiner, that concludes our
23 presentation in this case.

24 I do have a closing statement.

25 EXAMINER BROOKS: Mr. Owen?

EXAMINATION

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BY MR. OWEN:

Q. Mr. Baker, is it your testimony that the well proposal made by Great Western is at the same location as Arrington's initial proposal?

A. Yes, sir, I believe so.

Q. Do you have a subsequent proposal in which you propose the well at 1665 feet?

A. No, sir, we did not make a subsequent formal proposal.

Q. So your initial proposal is your only proposal?

A. Correct, yes, sir.

Q. Okay, and you propose the well at the same location that Great Western proposed the well?

A. Initially, until we got out there and found out that we're not going to be able to drill it there.

Q. But you haven't proposed that well at the second location?

A. No, sir.

MR. OWEN: That's all I have.

EXAMINER BROOKS: I don't believe I have any questions. Do either of you gentlemen?

MR. JONES: No.

EXAMINER BROOKS: Witness may stand down.

Anything further, Mr. Owen?

1 MR. OWEN: Mr. Examiner, on Friday of this past
2 week Great Western provided its AFE to Arrington and
3 Davoil.

4 On I believe it was Monday, possibly Tuesday of
5 this week -- no, actually it was yesterday, on October the
6 9th, Great Western filed its Application for compulsory
7 pooling seeking pooling of the same lands for the same
8 horizon, same formations, at a legal location within the
9 proposed spacing unit, with no footage requirement in the
10 Application.

11 I expect that Great Western will investigate the
12 alternate location and take steps to bring that within its
13 proposal.

14 Given that we do have competing force pooling
15 Applications, the appropriate course at this time is to
16 leave the record in this case open, continue it to the
17 November 13th docket when Great Western's case is scheduled
18 to be heard, and hear the case at that time. At that time
19 Great Western will come forth with its own interpretation
20 of the geology, with evidence to show that it has
21 independently developed a well proposal and will present
22 its evidence in support of its position that it should be
23 designated operator of this well.

24 So at this time I request that this case be
25 continued to the November 13th, 2002, docket.

1 EXAMINER BROOKS: Mr. Feldewert?

2 MR. FELDEWERT: Mr. Examiner, we oppose the
3 request for a continuance and we ask that you grant a
4 pooling application. The Application for compulsory
5 pooling which Great Western filed yesterday states within
6 it that there's no disagreement over the costs associated
7 with this well and there's no disagreement over location.
8 The only disagreement is operations.

9 Paragraph 5 states, and I think rather
10 interestingly, that Great Western has proposed to drill a
11 well and Arrington has refused to join. Well, what they
12 are referencing is a proposal that they did not submit to
13 Arrington until Monday of this week. This is over two
14 months after Arrington proposed its well and only two days
15 before the pooling hearing. They didn't respond to
16 Arrington's proposal in July, they didn't respond in
17 August, they did not respond in September. They waited
18 until the Monday of this week.

19 And then they propose not a different well, not a
20 different location, not a new development plan. They
21 propose, rather, the same well at the same location for the
22 same cost, and all they're doing is piggy-backing on all
23 the work that Arrington did in this case.

24 And while they received Arrington's pooling
25 Application on the 17th of September, they don't file

1 anything until yesterday and now contend, Oh, we have a
2 competing pooling application, delay this matter, hear us
3 next month and then make your decision.

4 Now, in my mind this situation raises three
5 questions. What has Great Western been doing for the three
6 months since Arrington proposed its well in July of this
7 year? What does the statute say about pooling? And what
8 are the policies of this Division with respect to well
9 proposals?

10 Now the first question, I think we know. Great
11 Western hasn't done anything since July of this year. They
12 let Arrington do all the work. Arrington did the geology,
13 Arrington did the site preparation, Arrington went out and
14 staked it, they've met with the land owner, they've reached
15 an agreement with the land owner, they went out and got the
16 necessary archaeological survey, and they have initiated
17 the administrative approvals necessary to get this project
18 going that they started and commenced in January of this
19 year.

20 Now, they didn't take any action on Arrington's
21 proposal until the very last minute, and now they stand
22 here before you and say, Well, wrestle operations away from
23 Arrington, let us operate it. But they don't provide any
24 evidence today why they should operate the well instead of
25 Arrington, and they want you to delay, continue to delay so

1 that they can continue to investigate and find out if their
2 well location is even going to work, which we know it's
3 not.

4 Secondly, in response to the second question, if
5 I may approach --

6 EXAMINER BROOKS: You may.

7 MR. FELDEWERT: -- this is the law with respect
8 to pooling. Mr. Examiner, the statute is very clear.
9 Section 70-2-17.C talks about what occurs "When two or more
10 separately owned tracts are embraced within a spacing or
11 proration unit..." And if you go halfway down, here is the
12 law: "Where, however, such owner or owners", one, "have
13 not agreed to pool their interests, and", two, "where one
14 such separate owner, or owners, who has the right to drill"
15 -- Arrington has the right to drill -- "or proposes to
16 drill" -- Arrington has proposed to drill -- "a well on
17 said unit to a common source of supply," -- which we have
18 here, those are the preconditions -- "the division, to
19 avoid the drilling of unnecessary wells or to protect
20 correlative rights or to prevent waste, shall pool..."

21 That's the law. Arrington has met all the
22 preconditions for a pooling order. They have a right to
23 drill, they have proposed to drill and operate a well,
24 they've been unable to reach an agreement, they've filed
25 their pooling Application in a timely manner, the hearing

1 is properly noticed, it's been noticed at the 1665 location
2 which was required by cultural reasons, we know that no one
3 can drill a well at a 1335 location. There's no reason for
4 everybody to go back to square one and now propose a new
5 well at 1665. That makes absolutely no sense. This
6 hearing has been properly noticed, and now a hearing has
7 been held.

8 So the statute entitles Arrington to a pooling
9 order, naming it operator of the well that it proposed in
10 July.

11 Now the third question. What are the Division's
12 policies on well proposals? Well quite frankly, I'm not
13 sure I know anymore. You were confused at the beginning of
14 this hearing as to who's doing what. I'm confused now,
15 because we're getting into an area where we're not sure
16 what the procedures are before this Division when it comes
17 to well proposal.

18 Our office has always advised clients that if you
19 receive a well proposal, you must take action. You can't
20 do nothing for over two months, and then the week of the
21 pooling proceedings suddenly file -- or submit to the
22 working interest owners an alternative plan, come walk over
23 here to the Division two days before the pooling hearing or
24 the day before the pooling hearing and file a competing
25 pooling application. That has not been our understanding

1 of the proper procedures before this Division.

2 We have always advised our client that if you
3 truly have a development plan that you desire to pursue,
4 you've got to get that development plan out to the working
5 interest owners as quickly as possible, you've got to
6 submit it in writing so that everyone out there has the
7 plan before them, so that they can then engage in a
8 voluntary effort to reach an informed, voluntary, well-
9 reasoned agreement on a development plan.

10 So if Great Western had proposed this well in
11 July, and Arrington came to our office, we would have told
12 them that you cannot sit there in the weeds and ignore that
13 well proposal for over two months, submit an alternative
14 plan to the working interest owners the Monday before the
15 pooling hearing, go out and file a pooling application on
16 the day before the hearing and then expect the Division to
17 delay action on this matter on the first well that was
18 proposed out there, the initial proposal, and entertain
19 what I would call a very Johnny-come-lately plan.

20 Now, is that the correct advice? I don't know.
21 You tell me and you tell Arrington. But that's what we've
22 always understood the procedures to be. We've always
23 understood that diligence was an important factor when
24 examining well proposals. Diligence was not only necessary
25 to show a willingness to develop the property, but

1 diligence was also necessary to show a willingness to
2 negotiate a voluntary agreement in good faith.

3 And I always understood that for a working
4 interest owner to have standing before this Division to
5 argue that its well proposals should be adopted, that the
6 working interest owner must show diligence with respect to
7 developing and with respect to proposing a project.

8 And in this case, Arrington is the only working
9 interest owner that has staked a well site, that has
10 obtained the necessary surveys, the archaeological surveys,
11 have reached a surface agreement with the owner, reviewed
12 and modified its location to address any impediments out
13 there, properly proposed the well in writing to the working
14 interest owners, sought concurrence from them and timely
15 filed a pooling application after the necessary, what I've
16 always understood to be, six-week period of time to allow
17 the parties to attempt to reach an agreement.

18 Now, in this case the ownership interest favors
19 Arrington. They've got the 50-percent interest out there.
20 Arrington is the only working interest owner out there
21 facing expiration of its term assignments if the well is
22 not drilled in the third quarter.

23 If you name Great Western as the operator under
24 this pooling order, what happens if it doesn't drill this
25 well and lets that order expire after the 90-day period?

1 Arrington, then, is at least sitting there in February
2 without a well to protect its lease expiration -- or its
3 acreage expiration, on March 1st of this year. That makes
4 no sense.

5 Shouldn't Arrington be the entity, as the party
6 who's worked on this well, has developed it, shouldn't they
7 be the entity that controls its own destiny? They're the
8 only ones that have shown diligence in developing this
9 property, they're the only interest owner that has shown
10 diligence in proposing a well. There's no debate over
11 geology, there's no debate over location.

12 The only reason we have a debate today is because
13 Great Western suddenly wants to operate this well. And I
14 submit to you that their last-minute effort to piggy-back
15 on Arrington's work, and its last-minute plea to operate
16 the well that Arrington proposed almost three months ago
17 should not be condoned by this Division.

18 So we ask, you should take our pooling -- or our
19 Application under advisement and issue an order, that you
20 dismiss their pooling Application untimely, and that you
21 allow Arrington to go forward as the operator of this well
22 so they can continue to develop this property in an
23 efficient and timely manner.

24 EXAMINER BROOKS: Rebuttal, Mr. Owen?

25 MR. OWEN: As you might expect, Mr. Examiner.

1 Mr. Feldewert poses three questions, three valid
2 questions.

3 His first question is, what has Great Western
4 been doing for the last three months? It's a very good
5 question. You'll find out on November 13th. Mr. Feldewert
6 suggests that Great Western has been piggy-backing on the
7 back of Arrington's work, it's not done any work on its
8 own, it's somehow using Arrington Oil and Gas's geologists
9 and engineers and landmen to develop its proposal.

10 Mr. Examiner, I submit that when you hear this
11 case on November 13th you will see that, in fact, Great
12 Western has been diligent, Great Western has done its own
13 work, and Great Western will protect its interests.

14 The first question simply isn't right for you to
15 decide at this point.

16 The second question is, what does the statute say
17 with respect to pooling?

18 Mr. Feldewert tells you that an interest owner
19 has to have the right to drill. Great Western has a right
20 to drill.

21 That a well has to be proposed. Great Western
22 has proposed a well.

23 That there be no agreement as to the terms of the
24 proposal. There's been no agreement as to the terms of the
25 proposal.

1 And that a case be noticed. Great Western has
2 filed its Application for compulsory pooling. That case
3 will be heard on the November 13th docket.

4 That question simply isn't right to decide.

5 But I would point you to the statute, and within
6 the statute, four lines up from the end of paragraph C
7 there, is the phrase "...or proposes to drill a well on
8 said unit to a common source of supply..."

9 Arrington proposed a well. They proposed a well
10 at the 1335 location. Then they come in and ask you to
11 pool the lands and dedicate them to a well in the 1665
12 location.

13 They never proposed the well which they're
14 seeking to have you dedicate the acreage to. They have not
15 met the statutory requirements. I assume they'll do so
16 following this hearing, and I assume that question will be
17 ripe for decision at the November 13th hearing. However,
18 at this time, Mr. Examiner, that question is not ripe.

19 The third question, and perhaps the most
20 important question, Mr. Examiner, is, what are the
21 Division's policies on well proposal. Mr. Feldewert
22 indicates that he doesn't know what the policies are.

23 Well, Mr. Examiner, when I first started
24 practicing before the Division, Mr. Bill LeMay issued a
25 memo to the Hearing Examiners, dated April 9th, 1995, that

1 sets forth -- and I'll introduce that memo in the next
2 hearing. It sets forth nine specific criteria for you to
3 consider in deciding competing well proposals.

4 Only one of those criteria is who has a majority
5 interest. Only one of those criteria is when was the well
6 proposed. Well, they're only two criteria out of nine.

7 Mr. Examiner, there will be policies for you to
8 decide this case, and that case will be ripe for decision
9 at the conclusion of the November 13th hearing.

10 In conclusion, Mr. Examiner, Great Western has a
11 well proposal which it has submitted. It has filed an
12 Application for compulsory pooling at a legal location, any
13 legal location within the spacing unit, the same spacing
14 unit which Arrington now proposes.

15 Mr. Examiner, this case will be ripe for decision
16 at the November 13th hearing, at the conclusion of that
17 hearing, and I request that you continue it until that
18 hearing.

19 Thank you.

20 EXAMINER BROOKS: Very good. What was the date
21 of that LeMay memo you mentioned?

22 MR. OWEN: April 9th, 1995.

23 EXAMINER BROOKS: April 9th, 1995. Do you happen
24 to have a copy of that with you?

25 MR. FELDEWERT: Mr. Examiner, I have it in front

1 of me if you would like to --

2 EXAMINER BROOKS: Okay.

3 MR. FELDEWERT: -- see it.

4 EXAMINER BROOKS: I would like to. There's a
5 bunch of these memos floating around, I know, and the
6 present Director has a no-policy policy, so supposedly the
7 Division has no policies except its rules, except the
8 existing memoranda that have not been revoked from the
9 previous Director are considered to be still things we can
10 refer to, so...

11 MR. OWEN: And I've checked on that specific
12 issue, Mr. Examiner. There's no --

13 EXAMINER BROOKS: Yeah.

14 MR. OWEN: -- revoked --

15 EXAMINER BROOKS: I thought it had not been, but
16 as --

17 MR. FELDEWERT: Just for clarification, the memo
18 was written by Mr. Catanach. So I think Mr. Catanach will
19 be very familiar with the memo.

20 EXAMINER BROOKS: No doubt. It's an opportune
21 time that this matter should be raised, because one of the
22 Division's projects for the current fiscal year is to
23 develop a rule on compulsory pooling, and -- that will
24 supersede the existing policies, whatever they are, and of
25 course we welcome any input on what the policies should be

1 as to be enunciated in the new rule, which of course has no
2 application to this case.

3 What other package is this you're --

4 MR. OWEN: That's the remaining exhibits to be
5 heard in the next hearing.

6 EXAMINER BROOKS: Oh, in the next case.

7 MR. OWEN: Correct.

8 EXAMINER BROOKS: Okay, very good.

9 MR. FELDEWERT: Mr. Examiner, if I may?

10 EXAMINER BROOKS: Yes, sir.

11 MR. FELDEWERT: You know, we are prepared, I
12 would submit they are prepared, to hear this matter today.
13 This was advertised to hear today. If they think they have
14 some arguments as to why they should operate the well or
15 how they have been diligent in this matter, there's no
16 reason they cannot present that issue today. This case was
17 properly advertised at the 1665 location, which is what
18 everybody is going to have to drill at.

19 If they have a competing proposal, if they have
20 reasons why they should be considered operator, there is
21 absolutely no reason why that cannot be heard today, and
22 then we can tick off these nine points -- and I think Mr.
23 Catanach, who's more familiar than I, knows what they
24 are -- and we can make our arguments on these nine points
25 and we can get this matter completed.

1 There's no reason to sit here and wait another
2 month to do that.

3 EXAMINER BROOKS: Now, which case is this -- What
4 is the case number for Great Western's Application on
5 Section 1? Is that a separate case number?

6 MR. OWEN: That is a separate case number, Mr.
7 Examiner.

8 EXAMINER BROOKS: That's what I thought, but...

9 MR. FELDEWERT: I got that yesterday, so I don't
10 know what the case number would be, if it has one yet.

11 MR. OWEN: Mr. Examiner, on the material which I
12 received back from the Division the case number is not
13 written --

14 EXAMINER BROOKS: Okay.

15 MR. OWEN: -- so I don't know. It was filed
16 yesterday at 3:22 in the afternoon.

17 EXAMINER BROOKS: Okay, so it was filed
18 yesterday?

19 MR. OWEN: Correct.

20 EXAMINER BROOKS: Very good. I will grant the
21 motion for continuance, and Case Number 12,942 will be
22 continued to the -- I think it's November 14, is it not?

23 MR. FELDEWERT: Correct. Yes, that's correct.

24 EXAMINER BROOKS: There have been several
25 references to November 13th, I think it's the November 14th

1 docket. And the record will remain open, and it will be in
2 the discretion of Arrington whether they want to offer
3 additional evidence at the continued hearing or rest on the
4 evidence that they have submitted at this hearing.

5 Just a second.

6 (Off the record)

7 EXAMINER BROOKS: We will stand in recess until
8 1:00 p.m.

9 (Thereupon, these proceedings were concluded at
10 11:55 a.m.)

11 * * *

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14 I do hereby certify that the foregoing is
15 a complete record of the proceedings in
16 the Examiner hearing of Case No. _____,
17 heard by me on _____ 19_____.
18 _____, Examiner
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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 12th, 2002.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002