

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION
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7 EXAMINER HEARING
8

9 IN THE MATTER OF:
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12 Application of Conoco, Inc., Case 9801
13 for compulsory pooling,
14 Eddy County, New Mexico.
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19 TRANSCRIPT OF PROCEEDINGS
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21 BEFORE: VICTOR T. LYON, EXAMINER
22

23 STATE LAND OFFICE BUILDING

24 SANTA FE, NEW MEXICO

25 November 1, 1989.

CUMBRE COURT REPORTING
(505) 984-2244

ORIGINAL

A P P E A R A N C E S

FOR THE DIVISION:

ROBERT G. STOVALL

Attorney at Law

Legal Counsel to the Division

State Land Office Building

Santa Fe, New Mexico

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FOR KATHLEEN CONE,

et al.:

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Attorneys at Law

Post Office Box 550

Roswell, New Mexico 88202-0550

1 HEARING EXAMINER: Call case 9801.

2 MR. STOVALL: Application of Conoco, Inc.,
3 for compulsory pooling, Eddy County, New Mexico.

4 HEARING EXAMINER: Appearances.

5 MR. KELLAHIN: Mr. Examiner, I'm Tom
6 Kellahin of the Santa Fe law firm of Kellahin,
7 Kellahin & Aubrey. I'm appearing on behalf of the
8 Applicant, Conoco, Inc.

9 MR. RICHARDS: My name is Damon Richards
10 with the law firm of Sanders, Bruin, Coll & Worley, in
11 Roswell, New Mexico. I'm appearing for Kathleen Cone,
12 Douglas Cone, Tom R. Cone, Kenneth G. Cone, Clifford
13 Cone, and Cathy Cone Auvenshine.

14 HEARING EXAMINER: All right.

15 MR. STOVALL: Would you make sure the
16 reporter has got all the names correctly.

17 MR. KELLAHIN: Mr. Examiner, on behalf of
18 my client I have met with Mr. Richards this morning on
19 behalf of his collective clients, the Cone family
20 interest in the spacing unit. There are some issues
21 that the parties desire to continue to discuss with
22 each other concerning the operations for the subject
23 well.

24 There is an opportunity, I believe, for a
25 voluntary agreement among all parties, and to give

1 each side the full opportunity of exploring that to
2 its fullest, I would like to request, with
3 Mr. Richards' concurrence, that the case be continued
4 to the docket of November 15th, and that if he and I
5 and our respect clients are unsuccessful in reaching a
6 voluntary agreement, then we'll come before the
7 Examiner on that date and present the compulsory
8 pooling application. So we would like to request that
9 this case be continued.

10 HEARING EXAMINER: Very good. Is there any
11 objection?

12 MR. RICHARDS: No. We concur on that.

13 HEARING EXAMINER: Case 9801 will be
14 continued to the November 15th Examiner Hearing.

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18 I do hereby certify that the foregoing is
19 a correct and true copy of the proceedings in
20 the examination hearing of Case No. 7801,
heard by me on November 1, 1989:

21 *[Signature]*, Examiner
22 Oil Conservation Division


1 CERTIFICATE OF REPORTER

2
3 STATE OF NEW MEXICO)
4) ss.
COUNTY OF SANTA FE)

5
6 I, Diana Abeyta, Certified Shorthand
7 Reporter and Notary Public, HEREBY CERTIFY that the
8 foregoing transcript of proceedings before the Oil
9 Conservation Division was reported by me; that I
10 caused my notes to be transcribed under my personal
11 supervision; and that the foregoing is a true and
12 accurate record of the proceedings.

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

17
18 WITNESS MY HAND AND SEAL January 3, 1990.

19
20
21 
22 DIANA ABEYTA
CSR No. 267

23 My commission expires: May 7, 1993
24
25

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

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EXAMINER HEARING

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9 IN THE MATTER OF:

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11 Application of Conoco, Inc. Case 9801
12 for compulsory pooling,
13 Eddy County, New Mexico

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TRANSCRIPT OF PROCEEDINGS

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19 BEFORE: DAVID R. CATANACH, EXAMINER

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STATE LAND OFFICE BUILDING

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SANTA FE, NEW MEXICO

23

November 15, 1989

24

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ORIGINAL

A P P E A R A N C E S

FOR THE DIVISION:

ROBERT G. STOVALL
Attorney at Law
Legal Counsel to the Divison
State Land Office Building
Santa Fe, New Mexico

1 HEARING EXAMINER: Call case 9801.

2 MR. STOVALL: Application of Conoco, Inc.,
3 for compulsory pooling, Eddy County, New Mexico.

4 Applicant requests this case be continued
5 to November 29, 1989.

6 HEARING EXAMINER: Case 9801 is hereby
7 continued to November 29.

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1 CERTIFICATE OF REPORTER

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3 STATE OF NEW MEXICO)
4) ss.
5 COUNTY OF SANTA FE)

6

7 I, Deborah O'Bine, Certified Shorthand
8 Reporter and Notary Public, HEREBY CERTIFY that the
9 foregoing transcript of proceedings before the Oil
10 Conservation Division was reported by me; that I
11 caused my notes to be transcribed under my personal
12 supervision; and that the foregoing is a true and
13 accurate record of the proceedings.

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

18 WITNESS MY HAND AND SEAL November 25, 1989.

19

Deborah O'Bine
DEBORAH O'BINE
CSR No. 127

20

21

22 My commission expires: August 10, 1990

23

24

25

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 9701,
heard by me on November 15 1989.

David R. Cabanell
_____, Examiner
Oil Conservation Division

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION
4 CASE 9801

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6 EXAMINER HEARING

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8 IN THE MATTER OF:

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10 Application of Conoco, Inc., for
11 Compulsory Pooling, Eddy County,
12 New Mexico

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15 TRANSCRIPT OF PROCEEDINGS

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17 BEFORE: MICHAEL E. STOGNER, EXAMINER

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19 STATE LAND OFFICE BUILDING

20 SANTA FE, NEW MEXICO

21 November 29, 1989

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ORIGINAL

A P P E A R A N C E S

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3 FOR THE DIVISION:

ROBERT G. STOVALL

Attorney at Law

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Legal Counsel to the Divison

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Santa Fe, New Mexico

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Santa Fe, N.M. 87504-2265

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1 HEARING EXAMINER: This hearing will come
2 to order. Call the next case, Case Number 9801.

3 MR. STOVALL: Application of Conoco, Inc.,
4 for compulsory pooling, Eddy County, New Mexico.

5 HEARING EXAMINER: Call for appearances.

6 MR. KELLAHIN: Mr. Examiner, I'm Tom
7 Kellahin of the Santa Fe Law Firm of Kellahin,
8 Kellahin & Aubrey. I'm appearing on behalf of the
9 Applicant, and I have three witnesses to be sworn.

10 HEARING EXAMINER: Are there any other
11 appearance in this matter? Will the witnesses please
12 stand to be sworn.

13 (Thereupon, the witnesses were sworn.)

14 HEARING EXAMINER: Mr. Kellahin.

15 MR. KELLAHIN: Thank you, Mr. Examiner.
16 Mr. Examiner, for your information, this case was
17 originally on the hearing docket for November 1st, at
18 which time I appeared on behalf of Conoco, Inc., and
19 Mr. Daymon Richards, an attorney in Roswell, New
20 Mexico, appeared on behalf of the Cone family
21 interests.

22 We're seeking to have those interests
23 pooled in the spacing unit for the drilling of this
24 well. The names and addresses of the Cone family
25 members are shown on one of our exhibits.

1 At Mr. Daymon's request at the November 1st
2 hearing, this case was continued to give the Cone
3 family an opportunity to further negotiate with Conoco
4 for their voluntary participation in the spacing
5 unit. The case was docketed for November 15th and
6 then it continued again to today's hearing, November
7 29th.

8 In the interim, all but one of the Cone
9 family interests has been voluntarily committed to the
10 spacing unit, and despite our efforts we were unable
11 to get the last Cone family member to participate.
12 That individual's name is Cathy Cone Auvenshine, and
13 so we're compelled to go ahead with our pooling case
14 at this time, Mr. Examiner.

15 I would like to call at this time Mr. Jerry
16 Hoover. Mr. Hoover is a petroleum engineer with
17 Conoco, and has testified on prior occasions.

18 JERRY HOOVER

19 Called as a witness herein, having been first duly
20 sworn upon his oath, testified as follows:

21 EXAMINATION

22 BY MR. KELLAHIN:

23 Q. Mr. Hoover, for the record, would you
24 please state your name and occupation.

25 A. I'm Jerry Hoover. I am senior reservoir

1 engineer with Conoco.

2 Q. Mr. Hoover, would you describe what
3 involvement you have had in the development of a
4 spacing unit and a well for the subject application of
5 Conoco today?

6 A. I've prepared or supervised the preparation
7 of the first six exhibits.

8 Q. Would you describe for the Examiner what
9 Conoco is seeking to accomplish with this application?

10 A. We seek the compulsory pooling of all the
11 working interests, from the surface to the base of the
12 Cisco Canyon Formation, underlying the southwest
13 quarter of Section 36, Township 19 South, Range 24
14 East, in Eddy County, for the drilling of the Dee
15 State Well No. 2.

16 Q. Let me direct your attention, Mr. Hoover,
17 to Exhibit 1. Does that exhibit identify and describe
18 the spacing unit and the well location for this well?

19 A. Yes, it does. This Well Location and
20 Acreage Dedication Plat shows the proposed 160-acre
21 proration unit in the southwest corner of Section 36.
22 The well is to be located at 660 feet from the south
23 line and 990 feet from the west line in that section.

24 MR. STOVALL: Excuse me Mr. Kellahin. I
25 may be jumping the gun on you. You stated that Mr.

1 Hoover has testified before, but did you wish to
2 qualify him?

3 MR. KELLAHIN: I have not tendered him as
4 an expert yet. I was just laying the foundation to do
5 so.

6 MR. STOVALL: All right. I wanted to make
7 sure. Okay.

8 MR. KELLAHIN: Thank you.

9 Q. Describe for us the primary objective
10 formation that this well is targeted for, Mr. Hoover.

11 A. This is targeted for the Cisco Canyon
12 Formation.

13 Q. What type of formation is that?

14 A. That is a dolomite formation.

15 Q. Is this a gas producing or an oil producing
16 reservoir?

17 A. This reservoir is oil producing.

18 Q. And, to the best of your knowledge, what is
19 the designation of the pool to which this well and
20 spacing unit would be dedicated?

21 A. We anticipate this would be on the North
22 Dagger Draw, Upper Pennsylvania Pool.

23 Q. Have you, as a petroleum engineer, made a
24 study of the geologic and engineering facts
25 surrounding the performance of the wells in this pool

1 and your assessment of the prospect as you've located
2 it here in this unit?

3 A. Yes, I have.

4 MR. KELLAHIN: Mr. Examiner, we tender Mr.
5 Hoover as an expert petroleum engineer.

6 HEARING EXAMINER: Mr. Hoover is so
7 qualified.

8 Q. Mr. Hoover, let me direct your attention,
9 sir, to what is marked as Exhibit No. 2. Is this also
10 an exhibit that you prepared or caused to be prepared
11 under your direction and supervision?

12 A. Yes, it is.

13 Q. Would you describe for us what this exhibit
14 shows?

15 A. This map shows all of the wells and
16 operators in the area of the Dee State 2, which is
17 indicated by the arrow and the large dot. The dashed
18 box around the Dee State 2 is the 160-acre standard
19 proration unit that we're seeking through this
20 compulsory pooling.

21 Conoco has received 98.75 percent of
22 approval for communitization of this 160 acres, and
23 communitization and joint operating agreements have
24 been signed by those parties. The next witness will
25 discuss, in more detail, those agreements.

1 Q. Sir, let's turn to Exhibit No. 3 and have
2 you identify and describe that exhibit.

3 A. This is the same base map as Exhibit 2, but
4 showing the completion horizons for all of these wells
5 as indicated underneath the wells. Also, all of the
6 Cisco oil wells are highlighted by the pink dots.

7 I would like for you to notice the trend
8 that is established by these Cisco completions that
9 are highlighted. Beginning in the upper right corner
10 you'll notice that they define a northeast to
11 southwest corridor, a fairly narrow band of
12 productive, commercially productive pay exist for the
13 Cisco along this orientation.

14 Q. When I look at the display and see the
15 Section 1 immediately to the south of your spacing
16 unit, there's a Yates-Cisco well?

17 A. Yes.

18 Q. With the exception of that Yates well, are
19 there any other Cisco-producing wells to the south and
20 west within this pool?

21 A. Not within this pool.

22 Q. This represents, then, the southwestern
23 current extent of the development for Cisco oil
24 production in the reservoir?

25 A. That is correct.

1 Q. Let's look at Exhibit No. 4, Mr. Hoover,
2 and have you identify and describe that exhibit.

3 A. All right. This base map shows only the
4 Cisco completions and gives recovery information for
5 the closest offsets to this proposed Dee State No. 2.

6 You'll note the well to the south in
7 Section 1, that Mr. Kellahin just referred to, this is
8 the Foster AN No. 1. It was completed only in 1987
9 and has recovered, in about two years' time, about
10 136,000 barrels of oil. It's still producing at 140
11 barrel-per-day rate with about 700 MCF gas. So this
12 was the primary indicator to us that it would be a
13 productive well in our lease, also.

14 Also to the north, up in Section 36, you
15 see the State CO Com, and then to the northwest in
16 Section 35, the Roden Federal GD. These are very
17 recently drilled wells by Yates. They've been drilled
18 this year. We have only initial flow information on
19 them, but they also appear to be commercially
20 productive wells.

21 Q. Is there any Cisco producing wells in
22 Section 6, to the south and east of your section?

23 A. No.

24 Q. And in Section 31, immediately to the east
25 of Section 36, is there any producing Cisco wells in

1 that section?

2 A. Not at this time. There is a plugged well
3 in that section in the upper part there you see.

4 Q. And the diagonal offsetting section to the
5 south and west in Section 2, there are no Cisco
6 producing wells in that section?

7 A. No, there are not.

8 Q. Let me direct your attention, Mr. Hoover,
9 to Exhibit No. 5. Would you identify and describe
10 that display for us?

11 A. Yes. Exhibit 5 is a combined structure and
12 isopach map. You'll notice that the structural
13 contours are the yellow dashed lines, while the
14 isopach are the solid black lines. The Cisco wells
15 are highlighted by the pink dots.

16 Let's look first at the structure, the
17 yellow lines. You'll notice it's very gently dipping
18 monocline, dipping from your left, or the west, to the
19 east. You'll notice these contours are parallel to
20 the orientation of the Cisco completions, the
21 northeast to southwest trend we pointed out
22 previously. They parallel that area. And all the
23 productive wells are in the mid-section of this
24 structural feature.

25 As you move down structure to the right, or

1 to the east, that's moving into 100-percent water
2 production. As you move to the west, to the upper
3 part of the structure, it stratigraphically pinches
4 out, so the mid-section here is the productive area.

5 Now, if you'll look at the solid black
6 contours, those are the isopach lines. These lines
7 are isopaching the total gross dolomite in this
8 section. And you'll note right in the middle of this
9 map, running diagonally, is the thickest portion of
10 the dolomite section, running between 100 and 150 feet
11 thick. On either side it goes to zero.

12 Now, successful development requires these
13 two characteristics, a thick part of the dolomite and
14 being in the middle part of this structural feature.

15 Q. Have you prepared a diagram of the
16 potential wellbore for the drilling and completion of
17 the well, Mr. Hoover?

18 A. Yes, we have.

19 Q. Is that shown on Exhibit 6?

20 A. Yes, sir.

21 Q. Would you identify and describe that
22 display for us?

23 A. Exhibit 6 shows a typical wellbore diagram
24 for a Cisco completion in this area. This is what is
25 proposed for the Dee State No. 2. You'll note that

1 the surface casing will go to 1,200 feet, will be
2 circulated to surface to seal off all of the known
3 water sands in the area. Production casing will go to
4 a depth of 8,100 feet and will also be circulated to
5 surface.

6 Q. Is the Cisco production in this area one
7 that experiences typical risks in drilling and
8 completion of the wells?

9 A. Yes, I think it does.

10 Q. Exhibits 1 through 6, were they prepared by
11 you or under your direction and supervision, Mr.
12 Hoover?

13 A. Yes, they were.

14 Q. The information on the configuration of the
15 various leases within the south half of Section 36, is
16 that something for another witness?

17 A. I would be glad to comment on that.

18 Q. Well, are you familiar with the ownership
19 within the south half of Section 36?

20 A. Oh, yes. The details of that will be in a
21 communitization agreement.

22 MR. KELLAHIN: That concludes my
23 examination of Mr. Hoover, Mr. Stogner. We would move
24 the introduction of his Exhibits 1 through 6.

25 HEARING EXAMINER: Exhibits 1 through 6

1 will be admitted into evidence.

2 EXAMINATION

3 BY MR. STOGNER:

4 Q. Mr. Hoover, you've submitted quite a bit of
5 information supporting the Cisco completion. Are
6 there any other formations spaced on 160 that could be
7 encountered that might be producing in this area?

8 A. There's a possibility of perhaps some
9 follow-up production in the Wolfcamp. That's rather
10 spotty in this area, but there's always a possibility
11 of that. The Morrow is rather unpredictable. We're
12 not drilling to that. That's the only one I'm aware
13 of that might be a possible back-up.

14 Q. And on Exhibit No. 3 you did show at least
15 one Wolfcamp well in there. Is that the only Wolfcamp
16 producer?

17 A. That is the only Wolfcamp producer within
18 the area of this map.

19 HEARING EXAMINER: I have no other
20 questions for Mr. Hoover.

21 MR. KELLAHIN: My next witness is Judy
22 McLemore.

23 JUDY McLEMORE

24 Called as a witness herein, after having been first
25 duly sworn upon her oath, testified as follows:

EXAMINATION

1
2 BY MR. KELLAHIN:

3 Q. Ms. McLemore, would you please state your
4 name and occupation.

5 A. My name is July McLemore, and I'm a senior
6 environmental analyst for Conoco.

7 Q. You'll have to speak up a bit; you're
8 soft-spoken, Judy. Would you spell your last name
9 for the court reporter.

10 A. M c L E M O R E.

11 Q. Ms. McLemore, would you describe for the
12 Hearing Examiner what it is that you do for your
13 company that would have importance to your involvement
14 in this particular case?

15 A. Okay. Relevant to this case I coordinated
16 or prepared Exhibits 7 through 15 to demonstrate the
17 ownership in this acreage, the proposed risk penalties
18 and the proposed cost allowed for overhead cost.

19 Q. As part of your duties as a joint
20 operations analyst, would you describe the kinds of
21 things that you do?

22 A. Okay. My previous job was the joint
23 operations analyst, and in that position I was
24 responsible for negotiating joint operating
25 agreements, for insuring that our contracts were

1 administered properly, and for handling any questions
2 from joint interest owners and royalty owners.

3 Q. As part of your duties, are you familiar or
4 have you made yourself familiar with the ownership
5 within the spacing unit that's proposed for this well,
6 being the southwest quarter of Section 36?

7 A. Yes, I have.

8 Q. And as part of your duties, have you made a
9 study and investigation of the various well costs that
10 are being utilized by your company and others within
11 this immediate vicinity?

12 A. Yes, I have.

13 Q. And as an analyst, have you determined
14 whether or not, in your opinion, the proposed costs
15 that Conoco proposes for this well are fair and
16 reasonable?

17 A. Yes, I have.

18 Q. In addition, have you been involved with
19 other members or employees of Conoco in discussing and
20 negotiating, on a voluntary basis, the participation
21 of the working interest owners in the spacing unit?

22 A. Yes, I have.

23 Q. And do you have recommendations to the
24 Examiner for risk factor penalties and for overhead
25 rates to be assigned in this case?

1 A. Yes, I do.

2 MR. KELLAHIN: Mr. Examiner, we would
3 tender Ms. McLemore as an expert joint operations
4 analyst.

5 HEARING EXAMINER: Ms. McLemore is so
6 qualified.

7 Q. To give the Examiner some background, would
8 you take what is marked as Exhibit No. 7 and explain
9 to us the--and perhaps let's do it with one of the
10 other displays that Mr. Hoover used, where it's
11 outlined the configurations of the various leases
12 within the south half of Section 36. I've simply
13 picked up Exhibit 4. 2 and 3, I think, have the same
14 information on it.

15 A. All right.

16 Q. Let's look at Exhibit No. 4 and Exhibit No.
17 7, and would you summarize for the Examiner who the
18 working interest owners are and what percentages they
19 would have in the spacing unit?

20 A. Exhibit 7 is the Exhibit A to the
21 communitization agreement that was provided to all the
22 working interest owners in the proposed proration
23 unit. If you'll notice in the middle of the page of
24 Exhibit A, there are two leases that contributed to
25 this proration unit.

1 One lease is for the northwest to the
2 southwest quarter. In that lease we have seven
3 working interest owners; Conoco and in the Cone
4 interest. Of those seven owners we have 95 percent
5 approval of the project. The only approval lacking is
6 Cathy Cone Auvenshine.

7 Immediately below that you'll see the
8 120-acre lease that is also part of the proposed
9 proration unit, of which we have two interest owners
10 in that, Conoco and Yates Petroleum, 50/50, and both
11 of those parties, of course, have approved the
12 project.

13 Q. As of the November 1st hearing, at that
14 date, Ms. McLemore, what percentage or what parties
15 had not yet committed their interest to the well?

16 A. At the November 1st hearing?

17 Q. Yes, ma'am.

18 A. The Cone interest, with the exception of
19 Tom Cone, had not agreed to participate. We had the
20 approval of Conoco, Yates and Tom Cone, which would
21 have been 75, 80 percent in Tract 1, the 40-acre
22 tract, and we would have had 100 percent in the
23 120-acre tract.

24 Q. Subsequent to the November 1st hearing and
25 prior to today's hearing, has Conoco been successful

1 in its efforts to get the Cone family interest to
2 voluntarily participate in the well, with the
3 exception of Cathy Cone Auvenshine?

4 A. Yes, we have been.

5 Q. When we take Cathy Cone Auvenshine's
6 interest, which is five percent of the 40-acre tract--

7 A. Uh-huh.

8 Q. --and proportionately reduce it to the
9 160-acre spacing unit, what is her percentage?

10 A. One and a quarter percent interest.

11 Q. Let me direct your attention now to Exhibit
12 No. 9-A. Do you have that before you?

13 A. Yes, I do.

14 Q. Would you identify and describe that
15 exhibit for us?

16 A. Exhibit 9-A is a copy of the cost estimate
17 of the AFE that was sent to each of the proposed
18 working interest owners in this proration unit.

19 Q. Can you tell us approximately when this was
20 sent to the working interest owners?

21 A. We sent this the first time to each of the
22 owners on August 31st, under our letter dated August
23 31, 1989.

24 Q. Would a copy of this AFE and letter have
25 been sent to Cathy Cone Auvenshine?

1 A. Yes, it would have been.

2 Q. Let me have you go ahead and identify some
3 of your other exhibits. Would you identify Exhibit
4 9-B for me?

5 A. Exhibit 9-B is a copy of the narrative that
6 was furnished to the partners, giving justification
7 for the proposed drilling well.

8 Q. Was this also an attachment to the August
9 letter?

10 A. Yes, it was.

11 Q. It was sent to the working interest owners?

12 A. Uh-huh.

13 Q. Identify and describe for me the October 9,
14 1989, letter that's shown as Exhibit 10.

15 A. Okay, that is Exhibit 10-B, and that was a
16 follow-up letter from the August 31st letter, to again
17 request the parties to consider participating in the
18 drilling of this well. And we also notified them at
19 that time of the compulsory pooling that was scheduled
20 for November 1, 1989; also telling them that they had
21 a right to appear at this hearing and voice any
22 objections or any concerns that they had.

23 Q. Can you describe for me what the exhibit
24 number is for the August '89 letter?

25 A. It's 10-A.

1 Q. With Exhibit 10-A, which is the August
2 letter, and the October 9th letter--which is Exhibit
3 10, is that correct?

4 A. 10-B.

5 Q. 10-B. Has Conoco given all the working
6 interest owners in the proposed spacing unit the
7 opportunity to participate in the drilling of the
8 well?

9 A. Yes, we have.

10 Q. Do you have return receipts showing that
11 you have delivered copies of your proposed
12 participation in the well to the various working
13 interest owners, and have indicated to them that the
14 hearing of this case was originally docketed for
15 November 1, 1989?

16 A. Yes, I do.

17 Q. How is that shown?

18 A. That is Exhibit 11. These receipts are for
19 the October 10th letter, showing they received that
20 letter notifying them both of the hearing and also
21 requesting, again, that they respond to our proposal.

22 Q. When we look at the AFE which is Exhibit
23 9-A, have you satisfied yourself that you can reach an
24 opinion that the AFE costs for this particular well
25 are within the range of reason for other wells to this

1 depth?

2 A. Yes, I have.

3 Q. And how have you done that?

4 A. This AFE cost was based on our previous
5 experience in drilling in this area. Our previous two
6 wells that we drilled, we AFE'd them for \$725,000 cost
7 and we have experienced, the one that we have
8 completed, and the costs are all in. We've just spent
9 between \$715,000 and \$720,000 on it. And the latest
10 one we've not had all the costs in, but we estimate we
11 will spend approximately \$720,000 in gross costs for
12 that well. This indicates our cost estimates are
13 reasonable for the work that is required to drill
14 these wells and complete them.

15 Q. Would you take Exhibit No. 3 and identify
16 for Mr. Stogner the two other Conoco operated Cisco
17 wells to which you've referred?

18 A. I'm not sure I can, sir.

19 Q. Can you identify them by name please?

20 A. Leeman Federal No. 1 and the Barbara
21 Federal No. 8.

22 Q. Say the first one again.

23 A. The Leeman Federal No. 1 and Barbara
24 Federal No. 8.

25 Q. Do you have a well location for each of

1 those?

2 A. No, sir, I don't believe I do.

3 MR. KELLAHIN: All right. With the
4 Examiner's permission, we'll give you the description
5 of the location of those wells at the conclusion of
6 the hearing.

7 HEARING EXAMINER: That was Leeman Federal
8 No. 1 and Barbara Federal No. 8?

9 MR. KELLAHIN: That's correct. We'll give
10 you the specific locations at the conclusion of the
11 hearing.

12 Q. [BY MR. KELLAHIN] Let me ask you whether
13 or not, based upon your analysis of this area, you
14 have an opinion to express to the Examiner as to a
15 potential risk factor penalty to be assessed against
16 the non-consenting working interest owners?

17 A. Yes.

18 Q. Do you have such an opinion?

19 A. Yes, I do.

20 Q. What is that opinion?

21 A. My recommendation is that we assess a
22 penalty of cost plus 200 percent against the
23 non-consenting owners.

24 Q. What is the basis upon which you make that
25 opinion?

1 A. The basis is the fact that this is the
2 recognized non-consent penalty acceptable for
3 development projects in New Mexico in the majority of
4 joint operating agreements that we are participants
5 in, both as operator and non-operator.

6 Q. Have you made a summary based upon your
7 statistical analysis of those various wells and
8 prepared it in the form of an exhibit?

9 A. Yes, I have.

10 Q. Let me direct your attention, then, to
11 Exhibit No. 13. Would you identify and describe what
12 you've done?

13 A. Okay. What I did is took a sampling of
14 contracts that Conoco is either a working interest
15 owner in or is an operator in with a working interest
16 ownership, and I have outlined the county in which
17 those wells are located, the depth of the projects,
18 the date of the agreements and the penalties
19 associated with those projects in the joint operating
20 agreements agreed upon.

21 And if you'll note under the penalty
22 column, you'll see the majority of these agreements
23 have 300-percent penalties for the subsequent
24 operations provision of a joint operating agreement.
25 This has also been the case for a number of years; a

1 1977 agreement with 300 percent, an '80 agreement with
2 300 percent, a '76 agreement, and then our recent
3 agreement in the Dagger Draw area at 300 percent
4 penalties.

5 Q. Let me take you back to Exhibit 12. Would
6 you identify and describe what that is?

7 A. This is a copy of the page which sets forth
8 the non-consent penalties in the proposed joint
9 operating agreement for the Dee State No. 2. This
10 form is on the 1982 American Association of Petroleum
11 Landman's Model Form 610 Agreement. This is the most
12 widely accepted form and penalties used by the
13 industry for development projects in this state.

14 If you'll note on line 21, for subsequent
15 operations, the risk penalties associated with those
16 are 300 percent for drilling, reworking, deep
17 cleaning, plugging back, et cetera. And this
18 agreement has been accepted by the 98.75 percent of
19 the interest in this unit and, therefore, they have
20 recognized this to be a reasonable penalty for
21 subsequent projects in this area.

22 Q. Exhibit No. 12 was taken from the '88 form?

23 A. From the 1982 form.

24 Q. I'm sorry, the '82 form. How does the
25 language that you're specifically interested in

1 compare to the '77 form?

2 A. It's the same.

3 Q. So that those areas or those specific joint
4 operating agreements that you've analyzed in Exhibit
5 No. 13, regardless of the fact if they were '82 or '77
6 forms, had the same type of--

7 A. Penalty structure, yes.

8 Q. --penalty structure. All right.

9 A. And that would have been the case had it
10 been the '56 form, also.

11 Q. The joint operating agreement that has a
12 subsequent operations, 300-percent penalty, how does
13 that fit into your argument that the Examiner ought to
14 adopt a 200-percent penalty for the initial operation
15 on this well? On one hand you're dealing with
16 subsequent operations and on the specific case you're
17 dealing with initial operations of the well.

18 A. Okay. On the one hand, setting up a
19 two-structure penalty, a one penalty under an order
20 for a non-consent and the second under a subsequent
21 operation penalty, can create an inconsistency between
22 the administering of the non-consents and between the
23 parties in subsequent operations.

24 For example, under an operating agreement,
25 when you get to case in point, there's a case in point

1 election at which time a party may go non-consent.
2 And when he does that, that flips it back to the
3 penalty that's been agreed to by the parties under
4 this article that we see in front of us, which means
5 that some parties might be non-consent at 200 percent
6 in the drilling of the initial well, and some parties
7 might be non-consent at 300 percent in the same well
8 for the completion project, which means that you have
9 an inequity created between the parties in this oil
10 for the non-consent penalties.

11 That can also occur if you have a
12 subsequent operation proposed further down the road, a
13 recompletion or such. You may have the situation
14 arise where you have one set of penalties being
15 applied for certain parts of the operation and another
16 set for the other parts of the operation, and
17 therefore you have an inequity as well as creating a
18 difficulty in administering the penalties associated
19 with this well in this area.

20 Q. Have you also made a study to reach a
21 conclusion with regards to a recommendation for the
22 overhead rates to be assessed against the
23 non-consenting working interest owner?

24 A. Yes, we have.

25 Q. What is your opinion?

1 A. Our recommendation is that a rate of \$5,400
2 per month for the drilling well, and a rate of \$540
3 per month for the producing well, be assessed against
4 non-consenting parties.

5 Q. Let me ask you to identify and describe
6 Exhibit No. 14.

7 A. Exhibit 14 is, again, a copy of the
8 overhead provisions taken from the proposed joint
9 operating agreement for the Dee State No. 2. It's
10 based on the COPAS 1984 on-shore accounting procedure,
11 which is the most widely accepted on-shore form in the
12 industry.

13 The well rates stipulated are the same that
14 were recommended for this hearing, \$5,400 for drilling
15 wells and \$540 for producing wells, and this has been
16 accepted again by 98-3/4 percent of the interest
17 owners in the proration of this unit.

18 Q. For this well?

19 A. Yes.

20 Q. Have you made an analysis of what the
21 overhead rates are for similar wells, in order to
22 satisfy yourself that your opinion about this
23 recommended rate is fair and reasonable?

24 A. Yes, I have.

25 Q. How have you done that?

1 A. I have again taken a sampling of contracts
2 in which Conoco owns an interest as an operator or
3 as a non-operator.

4 Q. Is that shown on Exhibit No. 15?

5 A. Yes, it is.

6 Q. Would you describe for us what you conclude
7 from an examination of that information?

8 A. My conclusion is based on wells in Eddy and
9 Lea County. Our overhead rates as proposed are well
10 within the range that we are experiencing from other
11 operators and we have used in other operating
12 agreements in that area.

13 MR. KELLAHIN: That concludes my
14 examination of Ms. McLemore. We move the introduction
15 of her Exhibits 7 through 15.

16 HEARING EXAMINER: Exhibits 7 through 15
17 will be admitted into evidence. Are there any
18 questions?

19 MR. STOVALL: Yes.

20 EXAMINATION

21 BY MR. STOVALL:

22 Q. Ms. McLemore, I'd like to go back to your
23 Exhibit 12, if we could. You've spent quite a bit of
24 time describing the subsequent operations and initial
25 operations under the operating agreement. Do you have

1 a copy of the full operating agreement with you?

2 A. Yes, I do.

3 Q. Could I take a look at that for a moment?

4 A. Sure.

5 Q. Now, if I read--while you're digging that
6 out--if I read the provision that you're referring to
7 on line 21, you're referring to that as a 300-percent
8 penalty in your testimony?

9 A. Uh-huh.

10 Q. But if I read that correctly, what you're
11 actually recovering is cost plus 200 percent, or 300
12 percent of costs, is that correct?

13 A. That is correct.

14 Q. Are you saying that that is consistent with
15 what you're asking the Commission to award, is cost
16 plus 200?

17 A. Yes, it is. We're asking for cost plus 200
18 percent. It's normally stated as a 300-percent
19 penalty in operating agreements. It's on page 6 of
20 the JOA.

21 Q. Now, is it your understanding that this
22 subsequent operations provision that comes under the
23 Article 6 on drilling and development, is that
24 correct, if I look at your total operating agreement?

25 A. Yes.

1 Q. When that's referring to subsequent
2 operations, is that penalty applicable to the drilling
3 of the Dee well and the initial well under this
4 operating agreement?

5 A. No, it is not. Normally parties, when you
6 come to the decision to join a well, you sign the
7 joint operating agreement after you've negotiated its
8 terms, as an indication of participation in the well.
9 When you sign the joint operating agreement for the
10 initial well, you have agreed to participate in the
11 well.

12 Q. You've not had operators who have signed a
13 joint operating agreement and then have gone
14 non-consent under that?

15 A. No, that is not an option under the
16 operating agreement. That would have to be an added
17 provision under the Article 15 provisions of the JOA.

18 MR. STOVALL: Okay. That's all the
19 questions I have on that.

20 HEARING EXAMINER: I have no questions of
21 this witness. Is there anything further for this
22 witness, Mr. Kellahin?

23 MR. KELLAHIN: No, sir.

24 HEARING EXAMINER: You may be excused.

25 MR. KELLAHIN: We would call Mr. Hugh

1 Ingram, Mr. Examiner.

2 HUGH INGRAM

3 Called as a witness herein, after having been first
4 duly sworn upon his oath, testified as follows:

5 EXAMINATION

6 BY MR. KELLAHIN:

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

9 A. My name is Hugh Ingram. I'm conservation
10 coordinator for Conoco in the Hobbs Division.

11 Q. As part of your duties, Mr. Ingram, have
12 you been involved in efforts to try to contact and
13 negotiate the participation on a voluntary basis of
14 the Cathy Cone Auvenshine interests in the subject
15 spacing unit?

16 A. Yes, I have.

17 Q. Have you, on prior occasions, testified
18 before the Oil Conservation Division as an expert
19 witness in matters of petroleum land management?

20 A. Yes, I have.

21 MR. KELLAHIN: We tender Mr. Ingram as an
22 expert witness.

23 HEARING EXAMINER: Mr. Ingram is so
24 qualified.

25 Q. Mr. Ingram, would you summarize for us what

1 has been Conoco's efforts to get Cathy Cone
2 Auvenshine's interest committed to participating in
3 the well on a voluntarily basis?

4 A. Of course, the first efforts that were made
5 were as previously testified, were made by submitting
6 to her copies of the AFE for drilling the well and the
7 joint operating agreement and the communitization
8 agreement. We received no response from Cathy Cone
9 Auvenshine, so we proceeded at that time with the
10 plans for compulsory pooling by coming here on
11 November 1st.

12 At that time we discussed with two of the
13 Cone interest owners the proceedings that we were
14 planning to pursue at that particular time.

15 Q. That was Doug Cone and--

16 A. Doug Cone and Kenneth Cone. So, rather
17 than proceed with the compulsory pooling hearing, we
18 agreed with those Cone interests to meet with them
19 subsequent to that hearing, and try to more fully
20 explain to them our reasons for wanting to drill this
21 well.

22 And when we returned, then, to Hobbs, we
23 established contacts with Kenneth Cone and Douglas
24 Cone, and set up a meeting with them in Midland, at
25 which time we gave them additional explanations which

1 they had not asked for and we did not really feel
2 compelled to do, but which we sought to do in order to
3 relieve their concern about the drilling of this well.

4 Q. Did they subsequently agree to participate
5 on a voluntary basis in the well?

6 A. Subsequently, then, they agreed to
7 participate.

8 Q. What's your knowledge and understanding of
9 Cathy Cone Auvenshine's position with regards to her
10 voluntary participation in the well?

11 A. We were informed by one of the Cones, I
12 believe it was Douglas Cone, that he had talked with
13 Cathy Cone on the phone, and he stated his opinion
14 that he did not think that she wanted to participate
15 in the drilling of this well.

16 Q. Have you subsequently made contact with
17 Cathy Cone Auvenshine to verify, of your own personal
18 knowledge, what she proposes to do?

19 A. I spoke with her very briefly yesterday.
20 When I arrived in Santa Fe, I had a message from my
21 secretary in Hobbs that Cathy had called me yesterday
22 morning, and I had already left for Santa Fe, so when
23 I received that message I called her and talked with
24 her briefly on the phone. And she did not state to
25 me, she never told me what it was that she wanted to

1 do. I told her that my understanding was that she did
2 not wish to participate. She affirmed that. And then
3 shortly thereafter she hung up the phone, and there
4 was no further discussion.

5 Q. She hung up the phone on you, didn't she?

6 A. That's right.

7 Q. In your opinion, Mr. Ingram, has Conoco
8 exhausted all good-faith efforts to get Mrs. Cone
9 Auvenshine to voluntarily participate in the well?

10 A. Yes, I have. I think we've gone really
11 beyond what we were obligated to do. After our
12 meeting with Douglas Cone and Kenneth Cone, the
13 project engineer on this well made at least two
14 attempts to call Cathy Cone Auvenshine, and was
15 unsuccessful in reaching her, and we had already
16 delayed the drilling of this well much longer than we
17 would like to, and so we proceeded with our attempts
18 to compulsory pool the uncommitted interests and
19 proceed with drilling a well.

20 Q. Have you, on behalf of Conoco or Conoco
21 personnel, to your knowledge, received any written
22 correspondence from Cathy Cone Auvenshine?

23 A. No, we've not received anything from her in
24 response to our communications to her in writing.

25 Q. Have you had an opportunity to review the

1 letter that was submitted to the Oil Commission this
2 morning over Cathy Cone Auvenshine's signature?

3 A. Yes, I did. I read that letter.

4 Q. Do you have any comments or observations
5 about the content of that letter?

6 A. No, I really don't have any conclusions to
7 reach from that letter. It appears that she is upset
8 about the compulsory pooling. I don't know exactly
9 why. It seems to me the only option that we have
10 left, if we want to proceed with the drilling of the
11 well--

12 Q. Is to force pool her interest?

13 A. That is correct. We have received no
14 response from her concerning--she has not told us what
15 she wants. Really, all we know is she's upset with
16 the forced pooling proceeding.

17 MR. KELLAHIN: Thank you, Mr. Ingram. I
18 have nothing further.

19 HEARING EXAMINER: Thank you Mr. Kellahin.

20 EXAMINATION

21 BY MR. STOVALL:

22 Q. Mr. Ingram, do you have a copy of the
23 letter we received this morning?

24 A. Yes, I do.

25 Q. It refers to, I believe it's the second

1 paragraph on the bottom, on the first page of that
2 letter--

3 MR. STOVALL: And perhaps, Mr. Kellahin,
4 would you prefer to have this in as an exhibit and
5 marked in some way to identify it? We could enter it,
6 but if you have no objections, I'll ask him questions
7 about it.

8 MR. KELLAHIN: I have no objections to your
9 asking him questions about the letter.

10 Q. She states, "I feel it is unfortunate that
11 Conoco will not take an assignment or farmout and
12 insists that I join." Do you know if Conoco has
13 attempted to negotiate a farmout or assignment of any
14 sort of her lease?

15 A. No, we really haven't made an offer of a
16 farmout or purchase of her interest in that lease. We
17 were just really kind of waiting on her to respond and
18 she has never responded. She has never told us that
19 she wanted a farmout or exactly what she wanted, so
20 there was no way we could respond to that.

21 I don't know that Conoco would be
22 interested in making any alternative offer to her. As
23 a working interest owner, I think the only obligation
24 we have is to offer her an opportunity to participate
25 in the well. And any subsequent offers to that, you

1 know, we might be willing to discuss with her whether
2 or not we could come to terms. We have no idea.
3 We've not been able to discuss it with her.

4 In my conversation with her on the phone
5 yesterday, I would have pursued that thought to some
6 extent--now, to what extent I don't know--but I would
7 have pursued that had she not hung up the phone on
8 me. But apparently she's not interested enough to
9 pursue it, so this is the proceeding that we think is
10 in our best interest.

11 Q. Is it your understanding that Doug Cone was
12 representing all of the Cone family interests in
13 previous discussions and negotiations?

14 A. Well, I was under the impression originally
15 that Doug Cone and Kenneth Cone probably spoke pretty
16 much for the family, but apparently that was an
17 erroneous impression that I had. We found out
18 differently later on. During our subsequent meeting
19 with Doug Cone and Ken Cone, they told us they could
20 not speak for Cathy, and so then we pursued--we then
21 talked with Clifford Cone, another of the brothers,
22 and apparently he speaks for himself and apparently
23 his mother. And so, then, they subsequently joined in
24 the venture as well.

25 MR. STOVALL: I have no further questions.

1 HEARING EXAMINER: For the record, I'll
2 take administrative notice of the Auvenshine letter
3 which was received by FAX to us here at the OCD on
4 November 29, 1989, and it's marked "9:46 a.m."

5 I have no further questions of Mr. Ingram
6 at this time. Are there any other questions or do you
7 have anything further, Mr. Kellahin?

8 MR. KELLAHIN: Other than providing you the
9 specific well locations of those two wells that Ms.
10 McLemore testified to, we have nothing else, Mr.
11 Examiner.

12 HEARING EXAMINER: Anybody else have
13 anything further in Case 9801? This case will be
14 taken under advisement.

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1 CERTIFICATE OF REPORTER

2

3 STATE OF NEW MEXICO)
4) ss.
5 COUNTY OF SANTA FE)

6

7 I, Carla Diane Rodriguez Certified
8 Shorthand Reporter and Notary Public, HEREBY CERTIFY
9 that the foregoing transcript of proceedings before
10 the Oil Conservation Division was reported by me; that
11 I caused my notes to be transcribed under my personal
12 supervision; and that the foregoing is a true and
13 accurate record of the proceedings.

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

18 WITNESS MY HAND AND SEAL December 11, 1989.

19

20

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22 My commission expires: May 25, 1991

23

24

25

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 9801
heard by me on 29 November 1989
Michael E. Stojan, Examiner
Oil Conservation Division