

NEW MEXICO OIL CONSERVATION COMMISSION

EXAMINER HEARING

SANTA FE, NEW MEXICO

Hearing Date DECEMBER 19, 1990 Time: 8:15 A.M.

NAME	REPRESENTING	LOCATION
F. A. Freeman	Nahoe Energy, Inc.	Midland, Tex.
Maurice Trimmer	Byram Co.	SF
William J. Day	Sampbell and Slack	Santa Fe
VICTOR LYON	CONSULTANT	SANTA FE
Karen Gudney	Kellahan Kellahan Aubrey	Santa Fe
David Lanning	Hisk & Vandriver	Artesia
Cip Day	Yates Pet.	Artesia
Robert Bullock	YATES Pet.	Artesia
Gordon Gudney	HEYCO	Roswell
Jani Day	HEYCO	Roswell
PETE WILKINSON	BTA	MIDLAND
M. Kellahan	Kellahan Kellahan Aubrey	Santa Fe
Myrtle Williamson	WILLIAMSON PET. CONSULT, SOCORRO PET.	MIDLAND, TX
KEITH LOGAN	BTA OIL PRODUCERS	MIDLAND
Bill Duncan	Exxon	"
S. Benson	E.B. Benson, Inc	Midland, T

NEW MEXICO OIL CONSERVATION COMMISSION

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NAME	REPRESENTING	LOCATION
Eduard L. Padilla	Padilla + Snyder	SF
Jimmy Edge	NEARBURG PRODUCING Co.	Midland, TX
Wm McAlpin	Santa Fe Exploration Co.	Roswell
Ed Shub	Nearburg Producing	Midland TX

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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. 10177
APPLICATION OF BTA OIL PRODUCERS)
FOR UNORTHODOX OIL WELL LOCATION,)
EDDY COUNTY, NEW MEXICO)
-----)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

December 19, 1991
2:22 p.m.
Santa Fe, New Mexico

This matter came for hearing before the Oil Conservation Division on December 19, 1991, at 2:22 p.m. at the Oil Conservation Division Conference Room, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Maureen R. Hunnicutt, RPR, Certified Shorthand Reporter No. 166, for the State of New Mexico.

FOR: OIL CONSERVATION DIVISION BY: MAUREEN R. HUNNICUTT, RPR
Certified Shorthand Reporter
CSR No. 166

I N D E X

December 19, 1991
 Examiner Hearing
 CASE NO. 10177

	PAGE
APPEARANCES	3
APPLICANT BTA WITNESSES:	
KEITH E. LOGAN	
Direct Examination by Mr. Carr	5
Examination by Mr. Stovall	16
Examination by Examiner Stogner	37
Cross-Examination by Ms. Aubrey	27
Redirect Examination by Mr. Carr	43
PETE B. WILKINSON	
Direct Examination by Mr. Carr	46
Examination by Mr. Stovall	57
Examination by Examiner Stogner	80
Cross-Examination by Ms. Aubrey	75
Cross-Examination by Ms. Aubrey	63
CLOSING STATEMENTS	
By Ms. Aubrey	86
By Mr. Carr	87
By Mr. Stovall	89
REPORTER'S CERTIFICATE	93

* * *

E X H I B I T S

	ID	ADMTD
APPLICANT BTA OIL PRODUCERS EXHIBIT		
1 JV-P Pardue "C" No. 1 Topographic Map	6	15
2 Application for Permit to Drill, Deepen, or Plug Back	13	15
BIRD CREEK RESOURCES EXHIBIT		
1	44	45

1
2
3
4
5
6
7
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A P P E A R A N C E S

FOR THE DIVISION: ROBERT G. STOVALL, ESQ.
 General Counsel
 Oil Conservation Commission
 State Land Office Building
 310 Old Santa Fe Trail
 Santa Fe, New Mexico 87501

FOR THE APPLICANT: CAMPBELL & BLACK, P.A.
 Attorneys at Law
 BY: WILLIAM F. CARR, ESQ.
 110 North Guadalupe
 Santa Fe, New Mexico 87501

FOR BIRD CREEK KELLAHIN, KELLAHIN & AUBREY
RESOURCES, INC.: Attorneys at Law
 BY: KAREN AUBREY, ESQ.
 117 North Guadalupe
 Santa Fe, New Mexico 87501

* * *

1 EXAMINER STOGNER: This hearing will come to order.
2 Call next case, No. 10177.

3 MR. STOVALL: The application of BTA Oil Producers
4 for an unorthodox oil well location, Eddy County,
5 New Mexico.

6 EXAMINER STOGNER: Call for appearances.

7 MR. CARR: May it please the examiner, my name is
8 William F. Carr, with the law firm of Campbell &
9 Black, P.A. I represent BTA Oil Producers, and I have two
10 witnesses.

11 MS. AUBREY: Karen Aubrey with the Santa Fe law firm
12 of Kellahin, Kellahin & Aubrey. I represent Bird Creek
13 Resources, Inc., and I have no witnesses.

14 EXAMINER STOGNER: Any other appearances?

15 (No response.)

16 EXAMINER STOGNER: Will the witnesses please stand
17 and be sworn?

18 (The witnesses were duly sworn.)

19 EXAMINER STOGNER: Mr. Carr.

20 MR. CARR: At this time we call Mr. Logan.
21
22
23
24
25

1 KEITH E. LOGAN,
2 the Witness herein, having been first duly sworn, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. CARR:

6 Q. Will you state your full name for the record,
7 please?

8 A. Keith E. Logan.

9 Q. Mr. Logan, where do you reside?

10 A. Midland, Texas.

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

12 A. For BTA Oil Producers as a reservoir engineer.

13 Q. Have you previously testified before this
14 division and had your credentials as a reservoir engineer
15 accepted and made a matter of record?

16 A. Yes, I have.

17 Q. In fact, you testified in hearings earlier in
18 an examiner hearing in March of this year concerning
19 development of the tract which is involved in this case;
20 is that correct?

21 A. Yes, I did.

22 Q. Are you familiar with the application filed in
23 this case on behalf of BTA?

24 A. Yes, I am.

25 Q. Are you familiar with BTA's efforts during 1990

1 for the development of the 40-acre tract on which this
2 proposed well will be located?

3 A. Yes, I am.

4 Q. Are you familiar with this 40-acre tract?

5 A. Yes.

6 MR. CARR: Are the witness's qualifications
7 acceptable?

8 EXAMINER STOGNER: Are there any objections?

9 MS. AUBREY: I have no objection.

10 EXAMINER STOGNER: Mr. Logan is so qualified.

11 Q. (By Mr. Carr) Mr. Logan, would you explain
12 what BTA seeks with this application?

13 A. We seek to drill unorthodox location 611 feet
14 from the south line 1,504 from the west line of Section 11
15 of 23 South, 28 East in Eddy County to the Loving-Delaware
16 east pool.

17 Q. Will you refer to what has been marked as BTA
18 Exhibit No. 1, identify that and review it for the
19 Examiner?

20 A. What this is, is it's really an expanded copy
21 of the U.S.G.S. topographic map, which we used also in the
22 March 7th hearing. There have been a few additions
23 because there have been some other things going on here,
24 and I just want to point those out and get you oriented as
25 to what we're talking about.

1 If you look up towards the, oh, top center
2 part, you see the number 11. That is the center of
3 Section 11. The scale of this map is one inch equals 500
4 feet. The smaller red outline is showing the 40-acre
5 tract which we are here to discuss today.

6 Q. That's the southeast of the southwest; is it
7 not?

8 A. Correct.

9 Now, also what I've got on there is, I've got
10 two triangles, which No. 1 was the location we attempted
11 to stake. The No. 2 was another one we attempted to
12 stake, but they were in canals coming off the Pecos River.
13 As you can see, right there in the middle of the tract is
14 the main course of the Pecos River.

15 Q. Now, you attempted to stake the wells that are
16 indicated by the triangles in the Nos. 1 and 2. That's
17 prior to the March hearing; is that right?

18 A. That is correct.

19 Q. All right.

20 A. And also on this map, I've shown the location
21 which we drilled, the "C" No. 1, which is the square
22 within that, the little red square within that proration
23 unit. That was what was approved, based on the hearing
24 March 7th, and we subsequently drilled that well. We're
25 asking today for the proposed location which is in the

1 circle, the red circle.

2 Q. What does the blue square in the center of the
3 40-acre tract indicate?

4 A. The blue square, I've just outlined the area
5 which would be a standard location within this pool. In
6 other words, 330 from the outer boundary of that proration
7 unit.

8 Q. Now, have you added the railroad right-of-way
9 to this plat since the March hearing?

10 A. Yes, I have.

11 Q. What is BTA's primary objective in drilling
12 wells on this 40-acre tract?

13 A. It's completing the Delaware formation.

14 Q. Is this the undesignated East
15 Lovington-Delaware pool?

16 A. East "Loving-Delaware" pool.

17 Q. What are the spacing requirements for wells in
18 that pool?

19 A. 40-acre spacing.

20 Q. And what are the setback requirements from the
21 outer boundary of the tract?

22 A. 330 feet.

23 Q. How far from the Bird Creek acreage to the
24 south is the proposed location?

25 A. We're 611 feet.

1 Q. What are the allowable rates for this pool, do
2 you know?

3 A. 142 barrels a day.

4 Q. I guess at this point I should ask you why has
5 BTA proposed now with the four wells indicated on this 40,
6 why has BTA proposed to develop this tract with wells
7 proposed at unorthodox locations?

8 A. Well, from the topo map, as you see the blue
9 outline showing what is unorthodox location, and there are
10 several topographic problems there, and I think some of
11 them are quite obvious.

12 Q. Why don't you just go through the topographical
13 conditions on this 40-acre tract for the Examiner?

14 A. Okay. The problems: You've got the Pecos
15 River. You've got --

16 Q. That runs through the center of the tract.

17 A. Runs through the center of the tract, yes.

18 You've got canals coming off the Pecos River.
19 You've got low-lying areas of flood planes in the area.

20 Q. These are the areas shaded in yellow?

21 A. Yes.

22 Q. And are these areas that were drawn from, what,
23 BLM maps?

24 A. U.S.G.S.

25 Q. U.S.G.S. maps, all right.

1 A. Right.

2 Q. And what else?

3 A. You've got the railroad running through there,
4 and then on the western side, which I've shown in a dashed
5 line, is El Paso pipeline which ties into another El Paso
6 pipeline in the northern part of the acreage.

7 Q. Are there also some general bluffs and other
8 surface conditions?

9 A. Correct.

10 Q. I think it might be appropriate at this time,
11 Mr. Logan, to review for the Examiner the efforts BTA has
12 undertaken this year to develop this 40-acre tract.

13 A. All right. Early this year we decided to go
14 ahead and develop this 40-acre tract. We made application
15 to the commission and had the hearing March 7th for
16 approval of that location because we were opposed by Bird
17 Creek Resources.

18 We received an order from that hearing that we
19 felt was an equitable penalty assessed, so we spudded the
20 well. And right after that Bird Creek filed for a de novo
21 hearing, which was held June 21st, and the results of that
22 hearing were the 47 percent penalty was assessed for the
23 life of the property.

24 Q. Okay. And what did this -- What happened
25 after that penalty was assessed?

1 A. Well, after that we had several in-house
2 meetings trying to find a way to develop this. We knew
3 the area was capable of top allowable. I don't think that
4 can be denied. And we had considerations of that
5 potential from royalty owners, since Amoco, Kerr-McGee and
6 Teledyne are all royalty owners on that lease, and just
7 decided to evaluate other possibilities.

8 Q. And what you have today is another possibility
9 you're proposing for development of the tract?

10 A. Correct.

11 Q. Now, at the time of the March 7 hearing, a
12 geological witness was called and presented several
13 exhibits. Is geology -- does it play any real factor in
14 determining whether or not you can make a successful well
15 out there?

16 A. No, I don't believe it does.

17 Q. And you're not intending to presum --
18 represumpt (sic) the geologist today?

19 A. No, I'm not.

20 Q. Now, at the March 7 hearing, Mr. Logan, did you
21 testify that the Pardue "C" No. 1 well was the only
22 location on which a well could be drilled on this 40-acre
23 tract?

24 A. Yes, I did.

25 Q. How do you reconcile that statement with the

1 proposal that you have brought to the oil conservation
2 division today?

3 A. Well, in my opinion it is the only good
4 location. If I were to go out there again today, that
5 would be the location I would choose.

6 Q. How does the location that you're discussing
7 today compare to the original location?

8 A. Well, it's moving north. It's only encroaching
9 on BTA, not Bird Creek Resources.

10 Q. And to drill a well, if you're permitted to at
11 this location, what will BTA have to do?

12 A. Well, we'll have to spend more money because in
13 the area of the location, you've definitely fallen off
14 from the location we originally drilled approximately 20
15 feet to an area that I believe is susceptible to flooding,
16 and we would have to build a pad to get it above what we
17 feel is the surface location and take some precautions in
18 the event of flooding too.

19 Q. To ensure that there are no environmental
20 problems?

21 A. Correct.

22 Q. If the water rises in that area, will you have
23 to shut the well down for a period of time?

24 A. Oh, I'm sure that would be the case.

25 Q. In your opinion if these additional precautions

1 are taken, is it possible to drill a well at that
2 location?

3 A. It's possible.

4 Q. Is BTA going to call Mr. Wilkinson to testify
5 in detail about the measures and the kinds of monitoring
6 that will have to be required?

7 A. Yes.

8 Q. And will Mr. Wilkinson be available to explain
9 why directional drilling has been ruled out as the
10 possible way for developing the tract?

11 A. Yes, he will.

12 Q. Can you identify what has been marked as BTA
13 Exhibit No. 2 and just identify what that is?

14 A. All this is, is the "C" 101, "C" 102, just
15 showing the proposed location.

16 Q. And that just shows the surface survey location
17 of where you're proposing the well?

18 A. Correct, correct.

19 Q. And this well will be unorthodox in what
20 respect?

21 A. It will be moving closer to the west line of
22 the proration unit.

23 Q. And who is the operator of the tract to the
24 west?

25 A. BTA.

1 Q. And do you have the same royalty owners under
2 the tract to the west as in the 40 that's involved in this
3 case?

4 A. Yes, we do.

5 Q. Can you explain to the examiner why this
6 particular location on this 40-acre tract is being sought?

7 A. What we're trying to do is be as high as we
8 possibly can and still be far enough away from the
9 pipeline.

10 Q. There's an existing well on the tract, the
11 Pardue "C" No. 1, the well that was approved earlier this
12 year?

13 A. Yes.

14 Q. What is that -- the current status of that
15 well? Is it producing?

16 A. It is producing.

17 Q. And if this application were to be granted,
18 what would BTA do with the "C" No. 1 well?

19 A. We would convert it to salt water disposal.

20 Q. In your opinion will the well's proposed
21 location impair the correlative rights of any interest
22 owner in the pool?

23 A. No.

24 Q. How far from the Bird Creek tract, do you know,
25 will the well actually be located?

1 A. It will be 611 feet from their tract.

2 Q. Was notice of today's hearing required to be
3 given under the rules of the division?

4 A. No. We were only encroaching on ourselves. We
5 did notify Bird Creek.

6 Q. And a copy of the application was provided?

7 A. Yes.

8 Q. Were Exhibits 1 and 2 either prepared by you or
9 complied under your direction and supervision?

10 A. Yes, they were.

11 MR. CARR: At this time, Mr. Stogner, we would move
12 the admission of BTA Exhibits 1 and 2.

13 EXAMINER STOGNER: Are there any objections?

14 MS. AUBREY: No objection.

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

17 (Applicant BTA Exhibits 1 and 2
18 were admitted into evidence.)

19 MR. CARR: That concludes my direct examination of
20 Mr. Logan.

21 MR. STOVALL: Mr. Examiner, with your permission, and
22 with Ms. Aubrey's permission, I would like to ask
23 Mr. Logan some questions prior to Bird's
24 cross-examination.

25 EXAMINER STOGNER: Is there any objection?

1 MS. AUBREY: No objection.

2 EXAMINATION

3 BY MR. STOVALL:

4 Q. Mr. Logan, let me ask you first: Do you have a
5 copy -- you presented a similar exhibit to this as
6 Exhibit No. 1 at the March hearing; is that correct?

7 A. That is correct.

8 Q. Do you have a copy of that here? I don't seem
9 to find it in this case file.

10 MR. CARR: I don't think I have one.

11 MS. AUBREY: Mr. Stovall, I have two copies of it.

12 MR. STOVALL: If I could just look at it, I'll give
13 it back to you. I just don't have one.

14 MS. AUBREY: That's marked as Exhibit No. 7 from
15 Case No. 9883.

16 MR. CARR: Right.

17 Q. (By Mr. Stovall) And Mr. Logan, if I remember
18 correctly, BTA presented the case and discussed numerous
19 locations and was cross-examined by Bird Creek with
20 respect to many of those locations as alternates; is that
21 correct?

22 A. That is correct.

23 Q. I would like to pass down, and if you would,
24 hand Mr. Carr a copy of the transcript.

25 MR. CARR: Okay.

1 Q. (By Mr. Stovall) If you would, turn to page 19
2 of the transcript, Mr. Logan.

3 A. Okay.

4 Q. The question starting on line 10 of page 19,
5 would you mind reading that?

6 Let me back up for a moment here first. If
7 you'd look at page 15, you'll see that Keith E. Logan --
8 is you; is that correct?

9 A. Correct.

10 Q. So this would be a transcript of your
11 testimony; is that correct?

12 A. Yes.

13 Q. If you would, go and read the question and
14 answer starting on line 10 of page 19.

15 A. "Based on all of these
16 topographical conditions, pipelines,
17 railroads, Pecos River, flood plains,
18 bluffs, is there any other location other
19 than the proposed location from which you
20 could drill a well on this 40-acre tract?

21 "No, there was not."

22 Q. And the next question?

23 A. "Yes, we did consider directionally
24 drilling." (sic)

25 Or "Did you consider directional --

1 "Yes, we did consider directional
2 drilling and moving to the northeast to a
3 standard location. The problem that we
4 see is increased drilling costs. We also
5 see, yes, initially these wells will
6 flow, but eventually they will need to be
7 artificially pumped. In doing that you
8 increase your operating costs due to
9 excessive rod wear, potential tubing
10 leaks which leads to premature
11 abandonment and loss of reserves."

12 MR. CARR: Do you want him to go on, Bob?

13 MR. STOVALL: No, that's all right. That's the
14 question and answer on that.

15 MR. CARR: Good.

16 Q. (By Mr. Stovall) If you will, turn to the next
17 page, page 20, the question begins on page 9, the question
18 -- the single question and answer.

19 MR. CARR: On page 9?

20 Q. (By Mr. Stovall) I mean line 9, excuse me, on
21 page 20.

22 A. "Other than directional drilling
23 was there any other option available to
24 BTA that would enable you to develop the
25 reserves under this 40-acre tract from

1 the location thereon?

2 "No, there wasn't."

3 Q. "No, there wasn't" was the answer; is that
4 correct?

5 A. Yes.

6 Q. Look at page 24. The question that begins on
7 line 6 and the answer on line 8.

8 A. "What would be the effect of
9 imposing a production penalty on this
10 well?

11 "The well could keep us from
12 drilling the prospect."

13 Q. And the question on line 23 and the answer that
14 goes with that?

15 A. "If substantial penalty is placed
16 on this well, could BTA produce those
17 reserves?

18 "No, they could not."

19 Q. On page 33 if you would turn there, I believe
20 this is now under cross-examination --

21 MR. CARR: It is.

22 Q. (By Mr. Stovall) -- from Ms. Kellahin (sic).

23 A. Uh-huh.

24 Q. And you're actually responding there. The
25 answer begins on line 11, and you're responding to a

1 question from Mr. Carr regarding the clarification, so
2 that the record is clear, if I'm not mistaken. And if you
3 would, read the sentence beginning on line 16.

4 A. "I went out and looked at all
5 these potential locations. I must say
6 that, and we felt like this was the only
7 one we could get everything in there we
8 needed to drill and get all of our
9 equipment in there."

10 Q. And one more on page 38, the question that
11 begins on line 12 and the answer is on line 15.

12 A. Okay. "And with all these folks
13 out there, this is the only location,
14 this quarter-quarter section, that is
15 feasible?"

16 "Yes, it is."

17 Q. Were you present at the de novo commission
18 hearing on the de novo application of Bird Creek?

19 A. I was present, yes.

20 Q. So you were there when you heard the chairman
21 of the commission deny Bird Creek's offer of evidence that
22 there were alternate locations available in this proration
23 unit; isn't that correct?

24 A. Yes, I did.

25 Q. Is it correct to say, or is it your

1 understanding, that that was done because the commission
2 believed that your location information had been presented
3 in good faith to the division and that you had drilled the
4 well based upon that approval and that the issue really to
5 be considered was the penalty?

6 A. Well, that's what I believed, yes.

7 Q. That's what I'm asking, is what your
8 interpretation of that was.

9 Has -- subsequent to the commission order
10 imposing the -- I think it's a 47 percent penalty; is that
11 correct?

12 A. Correct.

13 Q. --- has BTA filed any other applications with
14 respect to this proration unit?

15 A. Yes, we have.

16 Q. And what -- Other than the one that is being
17 heard right now?

18 A. Right.

19 Q. And what was that application for?

20 A. Well, there were actually two applications.
21 The first one was to drill at the location we've got
22 today, and directional drill to a standard location. The
23 one after that was to reenter the existing wellbore and
24 deviate to a standard location.

25 Q. Then you filed this one to drill a straight

1 hole at this new unorthodox location; is that correct?

2 A. Correct.

3 Q. Do you remember during the course of the
4 testimony in the original Case 9883, were you asked about
5 the location, the area there which is now the subject of
6 this application? Do you remember some discussion about
7 that?

8 A. I don't know that I was asked exactly about
9 that location, but I know there were discussions about
10 something in the west half of the northwest quarter.

11 Q. No discussion about this particular area --
12 Now, this area is -- let me back up -- this location, if I
13 look at the contour lines, is actually physically lower
14 than your existing location; is that correct?

15 A. Yes. Mr. Stovall, what -- if you see the
16 contour due north -- or due south, excuse me, these are
17 10-foot contours, so we're essentially 20 feet, 20 to 25
18 feet low to our existing well.

19 Q. Well, Mr. Logan, I am, as you might gather,
20 quite concerned about the fact that we had some very
21 strong testimony from you in the March 19, '90, hearing
22 regarding the fact that only one location was suitable and
23 that, in fact, even if a penalty was imposed, even that
24 location couldn't be drilled.

25 I am a little concerned about reconciling those

1 statements made under oath on March 7, 1990, with the
2 applications that have subsequently been submitted by BTA.

3 Do you make decisions about those? Are you the
4 decisionmaker on those?

5 A. I am not the decisionmaker.

6 Q. Who is the decisionmaker on those matters?

7 A. The decisionmaker on those matters would be
8 Barry Beal (phonetic approximation).

9 Q. Is he here today?

10 A. No, he is not.

11 Q. Do you report to Mr. Beal?

12 A. Yes, I do.

13 Q. What direction has he given you in this matter?
14 What direction did he give you back prior to the March
15 hearing as far as finding a location for this well?

16 A. Well, of course, we wanted a standard location
17 out here, and that was not possible. Our drilling people
18 went out there and looked at it, and he made his decision
19 based on topographic reasons and input from the drilling
20 department.

21 Q. Were you part of that input?

22 A. I was part of getting a well drilled within
23 that proration unit, yes; but not as far as a surface
24 location, no.

25 Q. Now, I think you did testify -- and part of the

1 testimony which you just read is -- you've been on the
2 proration unit?

3 A. Yes, I have.

4 Q. And from the testimony that we just read over
5 from the March hearing, it appears that you have made the
6 statement that based upon your personal observation that
7 the original location where the Pardue "C" 1 is now
8 situated, that that was the only suitable location.

9 A. I still believe that.

10 Q. Are you saying, then, that Mr. Beal and the
11 decisionmakers in the company are ignoring your advice?
12 Is that what you're saying?

13 A. Well, I'm just saying that a lot of -- with the
14 penalty that was assessed, I'd say my decision was
15 overruled.

16 Q. And at that time you testified that if a
17 substantial penalty was imposed, that this prospect would
18 likely not be developed; is that correct?

19 A. Correct.

20 Q. And the penalty of approximately 50 percent --
21 If I remember -- Let me back up for a moment.

22 The original examiner order imposed a penalty
23 with a volume cap on that; is that correct?

24 A. Correct.

25 Q. And then when it came back de novo and after

1 the well was drilled --

2 A. Correct.

3 Q. -- the commission imposed a 47 percent penalty.
4 Is BTA now then taking the position that an additional
5 50 percent production rate is worth the cost of drilling a
6 second well?

7 A. Yes, we are.

8 Q. So in other words, there was -- What you've
9 said in that March hearing with respect to a substantial
10 -- What do you consider a substantial penalty? Let me
11 ask that.

12 A. Well, based on what I've seen, that 47 penalty
13 is quite substantial.

14 Q. Substantial enough that, in effect, it's worth
15 doubling your costs to double your recovery?

16 A. Right. But a consideration that I think is
17 really being made right now is more exposure to royalty
18 owners since these wells out here are capable of top
19 allowable. We've got a well that we're only producing,
20 essentially, half of that amount.

21 Q. Well, I won't ask you for an opinion as the
22 effect of a commission order on royalty owner litigation.
23 I don't think that's probably within your sphere of
24 expertise; and I'm sure you would rather not answer it, so
25 I won't ask you that.

1 Just from the standpoint as an engineer, how do
2 you reconcile your testimony today with the statements you
3 made in March?

4 A. Because the statement I made in March I still
5 believe is true. Like I said, if I was to go out there
6 again, I would pick that location.

7 Q. As the only possible location on that --

8 A. Yes.

9 Q. -- proration unit?

10 Have you been back out since that well was
11 drilled and looked at the location proposed in today's
12 hearing?

13 A. I haven't actually seen the new location, no,
14 but I've been to the site of the existing well two or
15 three times, so I'm -- I know what it looks like when you
16 go north.

17 Q. Who actually -- Is there anybody from your
18 company who has gone out and participated in the staking?
19 Has this well been staked? I'd better find that out
20 first.

21 A. Yes, I believe it has.

22 Q. Did anybody from your company participate in
23 the staking of that well, actually go onsite and look at
24 that well?

25 A. Yes.

1 Q. Who did that?

2 A. Pete Wilkinson.

3 Q. And he is here and is going to testify; is that
4 correct?

5 A. Correct.

6 MR. STOVALL: Mr. Examiner, I'm not going to ask
7 Mr. Logan any further questions. I certainly would like
8 to request that he not leave, and I'm sure he won't at
9 this point --

10 MR. CARR: He won't.

11 MR. STOVALL: -- just in case there should be any
12 further one that raises some concerns here. I'll not go
13 any further at the movement.

14 EXAMINER STOGNER: Thank you, Mr. Stovall.

15 Ms. Aubrey.

16 MS. AUBREY: Thank you.

17 CROSS-EXAMINATION

18 BY MS. AUBREY:

19 Q. Mr. Logan, your Exhibit No. 1 is essentially a
20 reprint of the Exhibit No. 7 you used at the original
21 examiner hearing, isn't it?

22 A. Yes, it is.

23 Q. 9883?

24 A. Yes.

25 Q. That exhibit doesn't show the entire extent of

1 the flood plain in the 40-acre tract that we're talking
2 about, does it?

3 A. In the 40-acre tract?

4 Q. Yes.

5 A. It shows everything that I could pick up based
6 on the U.S.G.S. topo map.

7 Q. Have you compared your Exhibit No. 1 to the
8 U.S.G.S. flood plain boundary map to see whether or not
9 you've accurately represented the flood plain on your
10 No. 1?

11 A. No, I have not.

12 Q. Do you recall that issue being raised at the
13 examiner hearing in March of 1990?

14 A. Yes, I do.

15 Q. Your "B" No. 2 well, which is located in the
16 northwest, up to the northwest of your proposed location,
17 is in the flood plain, isn't it?

18 A. I believe it is.

19 Q. And you don't show that on your map, do you?

20 A. No, I do not.

21 Q. Have you ever had to shut that well in because
22 of flooding?

23 A. No, we have not.

24 Q. Have you ever had any problem with that well
25 because it's located in the flood plain?

1 A. No, we haven't.

2 Q. Do you know who John West is, Mr. Logan?

3 A. Yes, I do.

4 Q. Are you aware that he is an engineer who was
5 retained by Bird Creek to examine the surface locations
6 available here and to make recommendations? Are you aware
7 of that?

8 A. Yes.

9 Q. Are you aware that Mr. West proposed a location
10 which was a standard location for a Loving-Delaware well
11 in this area?

12 A. I thought that was correct, yes.

13 Q. And you received some of that information,
14 didn't you?

15 A. I don't know that we actually received any of
16 that.

17 Q. He was going to testify at the commission
18 hearing in this matter, but the commission would not allow
19 Bird Creek Resources to put on that testimony. Do you
20 recall that?

21 A. Yes, I recall that.

22 Q. Let me tell you, sir, he proposed a location
23 which is roughly 1,473 from the west line and 330 from the
24 south line. Would that be a standard location?

25 A. How much from the west line?

1 Q. 1,473.

2 A. That would not be standard.

3 Q. Would that be a location that you would choose?

4 A. It's not a location I would choose, no.

5 MR. STOVALL: Let me interrupt you just for a moment
6 just so I can clarify.

7 About where would that be, say, in relation to
8 "C" 1?

9 MR. CARR: North and west.

10 MS. AUBREY: North and west.

11 THE WITNESS: Oh, north. Oh.

12 A. Wasn't it 330 from the south, 14 --

13 Q. (By Ms. Aubrey) 330.

14 A. -- 73.

15 Q. 1,473 from the west. 330 --

16 A. 330 from the south. Well --

17 Q. Could you look at --

18 A. -- Mr. Stovall -- I'm guessing here, but you
19 see the thick contour here (indicating) where it kind of
20 curves down and goes south, it's just a little bit -- it's
21 a little bit south of there, is the best I can --

22 MR. STOVALL: Kind of northwest of the quotation
23 marks C --

24 MR. CARR: "C" No. 1.

25 MR. STOVALL: -- is that correct?

1 THE WITNESS: Correct.

2 MR. CARR: Is that right?

3 THE WITNESS: Yes.

4 Q. (By Ms. Aubrey) From your study of the area,
5 that would be roughly on your blue line, is that right,
6 your blue square that you've drawn on Exhibit 1?

7 A. Not 1,470 from the west would not be, no.

8 Q. It would be farther to the west, then?

9 A. Correct.

10 Q. Do you have -- Let me strike that.

11 Have you looked at that particular location as
12 a location for the well?

13 A. I have not, no.

14 Q. Have you eliminated that as a possible
15 location?

16 A. I just have not looked at it.

17 Q. Have you looked -- I believe that you testified
18 previously that you looked at every possible location. Do
19 I recall that correctly?

20 A. Well, I have looked at the acreage, yes, and
21 there just wasn't enough places in there, we felt, to put
22 equipment in there to drill the well.

23 Q. Have you made any study, drawn any maps, to
24 show whether or not you could put a well pad at that
25 proposed location 330 from the south, 1,473 from the west?

1 A. No, I have not.

2 Q. What demands have you had from royalty owners
3 to change the location of your producing well?

4 A. Well, I didn't testify we'd had any demands,
5 but we do have exposure to them.

6 Q. Have any of them complained to you about the
7 reduced allowable?

8 A. No, they haven't.

9 Q. So claims or threats or threats of demands from
10 royalty owners are not a reason, then, for your seeking to
11 abandon the existing well "C" 1 and drill a new well?

12 A. The potential for that is.

13 Q. But not in reality or actuality; is that right?

14 A. Well, the potential is still there.

15 Q. Who are the royalty owners?

16 A. Amoco, Teledyne and Kerr-McGee.

17 Q. And I believe Teledyne is also a royalty owner
18 in the Bird Creek acreage; isn't that true?

19 A. That is true.

20 Q. How many acres do you think your well will
21 drain at the location which you've proposed in the
22 application that we're hearing today?

23 A. Oh, I'm just really going to have to guess on
24 that.

25 Q. Would you guess for me?

1 A. 20 to 40 acres about.

2 Q. Do you remember the testimony that was
3 presented at the commission hearing that these wells would
4 drain only 20 or 22 acres?

5 A. Yes, I do.

6 Q. Are you standing by that testimony today?

7 A. Well, we've got a little more information now
8 than we had then.

9 Q. And you think that -- and the wells now drain
10 more toward the 40-acre end of that estimate you just gave
11 me?

12 A. We're seeing good performance out of them with
13 much more history than we had at that time, yes.

14 Q. And will the area drainage of the well at the
15 proposed unorthodox location be the same as the drainage
16 area of the "C" 1 where it is now?

17 MR. CARR: You mean the same number of acres?

18 MS. AUBREY: The same acres.

19 A. Oh, I would say they ought to be pretty close.

20 Q. (By Ms. Aubrey) Aren't they going to be
21 contiguous acres? I mean not contiguous, but will they be
22 exactly the same acres? Will there be acreage drained by
23 your new well that are not now being drained by "C" 1?

24 A. Oh, yes.

25 Q. And will there be acres that are presently

1 being drained by the "C" 1 that will not be drained by
2 your new well?

3 A. I'd say that's fair.

4 Q. What's going to happen to the reserves under
5 those acres that will not be drained by your new well?

6 A. Well, we're trying to do the best we can to
7 produce our tract. I mean, I really think -- yeah, to be
8 optimum, of course you'd want to move east, but you've got
9 the Pecos River and the canals off of it.

10 Q. Do you have an opinion today, Mr. Logan, as to
11 whether or not you're going to condemn any productive
12 acreage that is now being produced by the existing "C" 1
13 by moving this well to the new location?

14 A. Well, that is possible.

15 Q. Have you done any calculation? Do you have an
16 exhibit -- you or Mr. Wilkinson have an exhibit here today
17 to give the examiner an estimate of what the extent of
18 that condemnation may be?

19 A. No.

20 Q. I don't know whether I missed this or not, but
21 did you explain why it is you're not going to deviate the
22 location you've proposed today back to a standard
23 location?

24 A. I would like to defer that to Mr. Wilkinson.

25 Q. Do you recall testimony at the first hearing in

1 March of 1990 that it was not economical to spend the
2 \$70,000 or so that it would have cost to deviate that
3 original well?

4 A. Yes, I do.

5 Q. And is it your testimony today that it's now
6 economical for BTA to drill a new well and turn the
7 existing well into a salt water disposal well?

8 A. I think there are a lot more considerations at
9 this point than there were at that time.

10 Q. Well, is that your testimony, sir, from an
11 economic point of view?

12 A. Yes.

13 Q. That 50 percent -- the 47 percent allowable
14 that you're suffering now on the "C" 1 is less expensive
15 than the \$70,000 it would have cost you to deviate that
16 hole in the first place?

17 A. Well, I realize the \$70,000 at the time and the
18 -- we are not considering deviating it at this time
19 either.

20 Q. But about a month and a half or two months ago
21 you did consider deviating; isn't that right?

22 A. We did consider it.

23 Q. Do you know how much money it has cost Bird
24 Creek Resources to appear and represent its interests at
25 the March hearing, the June hearing and this hearing?

1 A. I really don't know.

2 Q. Have you filed a "C" 108 in connection with
3 your suggestion that you will turn the existing wellbore
4 of the "C" 1 into a salt water disposal well?

5 A. No, we haven't.

6 Q. Who's the surface owner?

7 A. I assume the Pardues.

8 EXAMINER STOGNER: I'm sorry. What?

9 THE WITNESS: Well, I would assume the Pardues are
10 out here.

11 Q. (By Ms. Aubrey) Have you contacted them?

12 A. Not as yet.

13 Q. Do these wells make a lot of water, the
14 Loving-Delaware wells in the area?

15 A. Not the wells right in here, no; but ultimately
16 I think we could expect them to.

17 Q. Ultimately you will expect these wells to make
18 a lot of water; is that your testimony?

19 A. Well, I believe that's a possibility, yes.

20 Q. Do you intend to use this as a commercial salt
21 water disposal well?

22 A. No.

23 Q. From what wells do you intend to dispose of
24 water into the "C" 1 once it's completed as a salt water
25 disposal well?

1 A. Well we've got six wells out here now that we
2 operate.

3 Q. How are you disposing of your salt water now?

4 A. We are not disposing of it now.

5 Q. What are you doing with it now?

6 A. I'm sure we're trucking it now.

7 Q. What kind of volume are you talking about?

8 A. Right now I would say probably not more than
9 150 barrels a day.

10 Q. Would it be economic to convert the "C" No. 1
11 to a salt water disposal well in order to dispose of 150
12 barrels of water a day?

13 A. Well, we are looking down the road. We're not
14 looking at current conditions.

15 Q. Is it presently economic?

16 A. Probably not.

17 MS. AUBREY: Mr. Examiner, I don't want to repeat
18 any of Mr. Stovall's questions, to I'll just end my
19 examination now.

20 EXAMINER STOGNER: Thank you, Ms. Aubrey. I have
21 some questions.

22 EXAMINATION

23 BY EXAMINER STOGNER:

24 Q. In BTA's proposal to convert the "C" 1 into a
25 salt water disposal well, what formation would be utilized

1 for disposal?

2 A. We are evaluating that right now.

3 Q. And which ones have you at least narrowed it
4 down to?

5 A. Oh, either somewhere within the Delaware, but
6 another possibility would be down into the Bone Spring,
7 but that's just -- that's not anything that's been
8 approved or anything.

9 Q. So the Delaware is being considered?

10 A. But there are several sands which produce there
11 and -- or not produce, but are present there that are
12 nonproductive.

13 Q. So if the Delaware was considered, it would be
14 a nonproductive stringer; sand stringer, perhaps?

15 A. Yes.

16 Q. Not the present perforations which are there
17 now?

18 A. Oh, certainly not.

19 Q. I hate to be redundant, but I didn't hear the
20 first case. The "C" 2 well over in the southeast -- I
21 mean, sorry, the southwest --

22 A. Southwest.

23 Q. -- is that presently producing?

24 A. Yes, it is.

25 Q. Now, when I go over to unit N or the southeast

1 of the southwest quarter, I noticed a little nose, and
2 that's where the "C" 1 is now, and I'm looking at the
3 topographic portion of it; and I believe the location
4 which Ms. Aubrey stated would have been 330 off the south
5 line. That would have got you away from Bird Creek's
6 property, but of course moved it closer to yours. Why
7 wasn't that considered in the first place?

8 A. We didn't feel it was an acceptable location.

9 Q. The same topographic conditions as your present
10 one?

11 A. There just wasn't enough room at that location,
12 we felt, to put in the equipment to drill the well.

13 Q. How big of a pad do you need for your
14 equipment?

15 A. I believe I stated 150 by 150.

16 Q. Now, that square I see, is that 150 by 150
17 where your present well pad is?

18 A. No. That's going to be smaller than that.

19 Q. Okay. Now that square I see. The minerals out
20 here, are they fee, state or federal?

21 A. They're fee.

22 Q. How many other locations out here that are
23 acceptable -- not acceptable but drillable as opposed to
24 acceptable?

25 A. I really don't know of any.

1 Q. How about if I moved north and west of your
2 proposed location? Is there any topography out there that
3 would prevent me from putting a 150-by-150-foot pad?

4 A. Well, you are -- you're going to be on that
5 bluff. It's where it's going to be going across that
6 bluff.

7 Q. Well, now, if I move north and west?

8 MR. STOVALL: Of the proposed location?

9 Q. (By Examiner Stogner) The proposed location.

10 A. Well, that dashed line is a pipeline also, and
11 that's a consideration too.

12 Q. How about the other side of the pipeline? Is
13 that drillable?

14 A. I personally don't think it's big enough to put
15 in what you need to.

16 Q. It looks like you have more of an area over
17 there than you do at your proposed location. What am I
18 not seeing?

19 A. Well, the proposed location, I think what we
20 intend to do -- and I would prefer deferring the questions
21 on that to Mr. Wilkinson.

22 Q. Mr. Wilkinson is a geologist, right?

23 A. No.

24 Q. No?

25 MR. CARR: No, he's an engineer.

1 A. He's an engineer.

2 Q. (By Examiner Stogner) So he can tell me a
3 little more about the topography out there?

4 A. Well, he's going to testify to the directional
5 drilling.

6 Q. Well, I'm talking about the topography. I'm
7 talking about surface at this point. You're not the one I
8 need to talk about surface obstructions?

9 A. Well, I thought you were wanting to talk about
10 -- I know his intent is to have the pad extend almost to
11 that blue line right there.

12 Q. Well, I guess what I'm getting at, you said
13 there was only one location when there was the "C" 1
14 testing. Now we have another one. How many other ones
15 are out there?

16 A. In my opinion the first one was the location.

17 Q. Well, obviously that's not correct today.
18 There is another one. Well, how many others are there?

19 A. How many others are drillable, on the other
20 side of that pipeline in that green area?

21 A. In my opinion none of them are.

22 EXAMINER STOGNER: I have no other questions of this
23 witness.

24 Are there any other questions of Mr. Logan at
25 this point?

1 MR. CARR: I have just a couple.

2 EXAMINER STOGNER: Mr. Carr.

3 REDIRECT EXAMINATION

4 BY MR. CARR:

5 Q. Mr. Logan, the proposed location is how many
6 feet approximately north of the location on the "C" No. 1?

7 A. It's going to be about 435 feet.

8 Q. Now, when you were talking or answering some of
9 Ms. Aubrey's questions about draining the same acreage,
10 you weren't meaning the same exact acres, but the same
11 number; is that correct? What did you mean when

12 Ms. Aubrey asked you about draining the same acres? Are
13 we talking about the identical same acres or not?

14 A. They're going to drain roughly the same amount
15 of acreage surrounding each wellbore.

16 Q. And you were present at the March 7 hearing?

17 A. Yes, I was.

18 Q. And you were present when Bird Creek talked
19 about the proposed location resulting in overlapping
20 drainage areas?

21 A. Yes, I was.

22 Q. By moving to this location, do you avoid some
23 of that concern about overlapping drainage areas?

24 A. Definitely.

25 Q. Now, you were asked about the costs that Bird

1 Creek had incurred in opposing these locations. What did
2 they obtain as a result of that opposition?

3 A. They obtained the penalty that they were
4 seeking.

5 Q. And that has resulted in having to seek other
6 options for the 40; is that correct?

7 A. Correct.

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

9 EXAMINER STOGNER: Any other questions of Mr. Logan?

10 MS. AUBREY: May I question him just briefly,
11 Mr. Examiner?

12 EXAMINER STOGNER: Ms. Aubrey.

13 RE-CROSS-EXAMINATION

14 BY MS. AUBREY:

15 Q. Mr. Logan, is it your testimony that one must
16 have a 150-foot by 150-foot pad in order to produce this
17 well?

18 A. That is my opinion, yes.

19 Q. And that you can't produce it from a well which
20 is, say, 115 feet by 225 feet?

21 A. I'm not sure of that.

22 Q. Let me show you a map which was produced by
23 John West. It was marked as an exhibit at the June
24 hearing, but it wasn't offered or used. And I would just
25 like you to look at that. This is a drawing that Mr. West

1 made of the location I asked you about earlier, which is
2 1,473 from the west and 330 from the south, and on it he
3 has drawn both a pad area and a pit area.

4 Can you look at that and see whether or not you
5 think that while it may not exactly -- may not be exactly
6 what you would do, whether or not you think it is a
7 reasonable proposal for this well, in terms of the size of
8 the pad and the size of the pit area?

9 A. Oh, I would say it's a possibility.

10 Q. Within a reasonable engineering possibility.

11 MR. STOVALL: I'm not asking you to say you like it.

12 A. I would say it's within a possibility, yes.

13 MS. AUBREY: Mr. Stogner, I have marked this as Bird
14 Creek Exhibit No. 1. I'll offer it for whatever the
15 Examiner would like it for. I obviously don't have a
16 witness to sponsor it.

17 MR. CARR: Then I would object on the grounds that
18 there's no one to sponsor it, but I suspect it can be
19 entered for whatever weight you want to give it.

20 EXAMINER STOGNER: We're going to enter it as Bird
21 Creek's Exhibit No. 1.

22 (Bird Creek Exhibit No. 1
23 was admitted into evidence.)

24 MR. STOVALL: Do you have one for us?

25 MS. AUBREY: I have one photocopy and I have the

1 original copy, which I would also mark, Mr. Stovall.

2 MR. STOVALL: Let the record reflect that what has
3 been offered as Bird Creek Exhibit No. 1 is identified as
4 a topographical study. It involves an area in the south
5 half of the southwest quarter of Section 11, Township 23
6 South, Range 28 East, E -- 28 East NMPM, Eddy County,
7 New Mexico.

8 This is a photocopy. We're told we have the
9 original that contains the signature and registered
10 professional engineer's seal of John W. West, Engineer and
11 Land Surveyor No. 676.

12 MS. AUBREY: Mr. Stovall, I'm now handing you the
13 original with Mr. West's signature on it.

14 MR. STOVALL: And I am assuming, Ms. Aubrey, that
15 neither you nor are you asking the witness to testify as
16 to any foundation or accuracy or manner in which it was
17 drawn or -- It's simply being offered to -- I suppose
18 your intent is to show that there is another possible
19 location? Is that what the intent of this --

20 MS. AUBREY: That's correct, Mr. Stovall, and with
21 the witness's testimony that it's not, that it is within
22 some reasonable engineering probability a reasonable
23 configuration of a pad and pit area at the location that
24 Mr. West proposed in the 40-acre tract.

25 EXAMINER STOGNER: Are there any other questions of

1 Mr. Logan?

2 MS. AUBREY: I have no more questions.

3 MR. CARR: I have no questions.

4 EXAMINER STOGNER: If not, Mr. Logan may be excused.

5 MR. CARR: At this time I would call Pete Wilkinson.

6 EXAMINER STOGNER: Mr. Carr.

7 PETER B. WILKINSON,

8 the Witness herein, having been previously duly sworn, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. CARR:

12 Q. Would you state your full name for the record?

13 A. Peter B. Wilkinson.

14 Q. Mr. Wilkinson, by whom are you employed and in
15 what capacity?

16 A. BTA Oil Producers as the exploitation manager.

17 Q. Have you previously testified before the oil
18 conservation division or commission?

19 A. Yes, sir.

20 Q. Were your credentials as petroleum engineer
21 accepted and made a matter of record at that time?

22 A. Yes, sir.

23 Q. How long have you been employed by BTA?

24 A. Thirteen years.

25 Q. Does your geographic area of responsibility

1 include the portion of southeastern New Mexico involved in
2 this case?

3 A. Yes, sir, that's correct.

4 Q. Are you familiar with the application filed in
5 this matter on behalf of BTA?

6 A. Yes, I am.

7 Q. Are you familiar with the subject area, the
8 proposed well location and prior development on this
9 tract?

10 A. Yes, I am.

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

13 EXAMINER STOGNER: Are there any objections?

14 MS. AUBREY: I have no objection.

15 EXAMINER STOGNER: Mr. Wilkinson is so qualified.

16 Q. (By Mr. Carr) Mr. Wilkinson, have you been
17 involved in the decision to pick the well location which
18 is the subject of this application?

19 A. Yes, I have.

20 Q. What was your involvement?

21 A. Initially we evaluated the area for development
22 from this formation based on showings that we had in our
23 Pardue No. 1, which was completed as an Atoka well, and
24 then additional information that we gained from activity
25 of the wells that were drilled by other operators.

1 Once we found that this wasn't going to be a
2 potentially commercial reservoir, then we proposed to
3 drill this location at the point No. 1 that Keith referred
4 to on his Exhibit No. 1.

5 Q. That's the location for "C" No. 1 well?

6 A. Yes, sir, that's correct.

7 Q. Were you involved in the decision to drill a
8 well at that location?

9 A. Yes, sir, I was.

10 Q. Then you were a witness at the hearing, the
11 commission hearing this summer, were you not?

12 A. Yes, I was.

13 Q. And following that hearing, you're aware that
14 the order was entered that increased the penalty?

15 A. That's correct.

16 Q. Have you been involved in the decisions that
17 were involved in the picking of alternative location or an
18 alternative plan for the development of this acreage?

19 A. Yes, sir, I have been.

20 Q. What was your involvement?

21 A. Initially my --

22 Q. Why don't we wait?

23 Okay. And what was your involvement in picking
24 the alternative location?

25 A. Once we found that the order from the de novo

1 hearing was unacceptable to BTA because of our fiduciary
2 responsibility to our royalty owners, I personally went
3 out and inspected this 40-acre tract for an alternate
4 location. The location that is staked and proposed here
5 is the one that I came up with myself.

6 Q. You're the party that picked it?

7 A. Yes, sir, I am.

8 Q. Now, in making a decision of this nature, there
9 are a number of resources available to you, are there not?

10 A. Yes, sir, there are.

11 Q. Would the input of a man like John West be of
12 some value to you?

13 A. The input of a man like John West would be of
14 some value, but by no means would BTA allow someone to
15 pick our locations for us; it's only an employee of BTA.

16 Q. Bird Creek has offered into the hearing today
17 what they have marked as Exhibit No. 1. Would you look at
18 that, please? By looking at that exhibit, can you tell
19 what it is? I can't.

20 A. Well, it's a proposed pad and pit area for a
21 proposed location. It was a -- let's see -- 1,473 feet
22 from the west line and 330 feet from the south line.

23 Q. In terms of your responsibility with BTA, would
24 the determination of the appropriate configuration of
25 drilling equipment at the site fall within your area of

1 responsibility?

2 A. Somewhat, yes.

3 Q. Would that be more within your responsibility
4 or, say, more within Mr. Logan's responsibility?

5 A. It would be more within mine.

6 Q. And as you look at this, does this seem like a
7 reasonable way to configure the equipment on the surface
8 at this location for the drilling of the well that we're
9 talking about today?

10 A. No, sir, I would not agree with this at all.

11 Q. And why not?

12 A. Well, from the first point, your pit area is
13 such that I don't believe that you could adequately build
14 the location with this pit where it is and drill the well
15 without encountering problems with your pits and your mud
16 within the pits.

17 Q. Now, Mr. Stogner a few minutes ago was asking
18 questions of Mr. Logan, questions about what other
19 possible locations might there be on this 40-acre tract.
20 Now, could you explain how you view the 40-acre tract and
21 what other possible location there might be? And in doing
22 that, I'm asking you to really define for him and for us
23 any possible locations.

24 A. Okay. From looking at the flat plat, the areas
25 outlined in blue, as Keith mentioned previously, are the

1 orthodox locations of which there are none, based upon the
2 following considerations of the railroad, the river, the
3 draining area, the drainage canals and some bluffs that
4 exist.

5 Q. When you say there's no location, do you mean
6 there is no 150-foot by 150-foot location for a well pad
7 in that area?

8 A. In the orthodox location, yes, sir.

9 Q. And when we talk about a 150-foot by 150-foot
10 well pad, can that be changed to 140 by 160, that kind of
11 play in it?

12 A. Yes, sir. We upon times do have to change our
13 pits and our pad configurations to accommodate
14 topographical considerations.

15 Q. When you are drilling a well like the one we're
16 proposing here today, is 150-by-150-foot well pad or some
17 modification of basically that size all that you need for
18 the purposes of drilling a well?

19 A. No, sir. That would need to be extended
20 somewhat for the pit area.

21 Q. Okay. Now, keeping that in mind, within the
22 blue triangle that represents the area in which this well
23 could be drilled at the standard location, in your opinion
24 could BTA drill a well in that area?

25 A. No, sir, we could not.

1 Q. Now, Ms. Aubrey mentioned an alternative
2 location 1,470 feet from the west line and 330 feet from
3 the south line?

4 A. Yes, that's one of Mr. West's exhibits.

5 Q. Do you believe that is a satisfactory location
6 for drilling a well on the tract?

7 A. No, sir, I do not.

8 Q. That location would actually be closer to the
9 Bird Creek acreage than what you're proposing, isn't that
10 correct?

11 A. That location would be about 281 feet closer to
12 Bird Creek than the proposed location, and also about a
13 hundred feet closer to our tract to the west.

14 Q. Now, Mr. Wilkinson, you've stated that you
15 picked this particular location.

16 A. Yes, sir, I did.

17 Q. How would you compare this location to the
18 originally proposed location for the Pardue No. 1?

19 A. This is a far substandard location.

20 Q. Now, is it possible, in your opinion, to drill
21 a well at this location?

22 A. Yes, sir, it is.

23 Q. And is that going to require additional work
24 over and above what would be required at the originally
25 proposed location?

1 A. Yes, sir, it will.

2 Q. Could you just describe for the examiner the
3 kinds of additional work that you'll have to undertake and
4 what you'll have to do to drill a well and to maintain it
5 at that location.

6 A. Initially, it will require extensive dirt work,
7 first off, just to build a road into the location. Then
8 we will be required to build a different-type pad to
9 ensure the fact that we don't have any subsidence on our
10 location. We estimate that this -- this is just a rough
11 number, of course -- 30 to 40 thousand dollars additional
12 costs.

13 Q. Now, once the well is drilled and completed,
14 are there any additional considerations that you're going
15 to be confronted with by virtue of this location?

16 A. Certainly. If this does indeed lie within the
17 flood plain area that Ms. Aubrey alluded to before, then I
18 would certainly think that we would have to have closer
19 monitoring of the well to ensure the fact that we did not
20 have any pollution in it upon the times at which we had
21 rising water.

22 Q. Mr. Wilkinson, since the entry of the order
23 following the examiner hearing, as Mr. Logan noted, there
24 have been three applications brought to this commission
25 with alternative proposals for development of this 40-acre

1 tract.

2 A. Yes, there have. Yes, sir.

3 Q. Are you familiar with each of those proposals?

4 A. Yes, I am.

5 Q. This is the first of those proposals that does
6 not include provisions for directional drilling?

7 A. Yes, sir; that's correct.

8 Q. Were you involved in the decisions to not go
9 forward with applications for directional drilling?

10 A. Yes, sir, I was.

11 Q. Could you explain the reasons for that
12 decision?

13 A. The primary reason for not directionally
14 drilling the well to a standard location is not the
15 \$70,000 additional cost of drilling the well. The primary
16 reason of not deviating the well to a standard location is
17 a loss of reserves because of higher economic limit due to
18 increased operating expenses.

19 There are three methods in which you can
20 artificially lift this well. One is conventional rod
21 pump. Well, when you have a conventional rod pump
22 situation, you incur additional friction between your rods
23 and your tubing. You have premature replacement of your
24 tubing. You have rod parts. You have tubing leaks. Your
25 well is off quite a bit. Your operating expenses increase

1 considerably.

2 I have been personally involved with numerous
3 wells that have been deviated. The operating costs, we
4 feel as if, will be three- to four-fold what they would be
5 under a situation of a straight pole versus deviated.

6 The other two methods that I'm familiar with
7 that we could produce a well, would be a submersible pump
8 and also a hydraulic pump, both of which are much, much
9 more expensive to operate than a conventional rod pump.
10 And with the gaseous nature of this type fluid, they would
11 also be very, very poor in efficiency.

12 Q. Were these the considerations that caused Bird
13 Creek to withdraw or dismiss applications for directional
14 drilling on this tract?

15 A. BTA; not Bird Creek.

16 Q. I'm sorry.

17 In your opinion, can a well at the proposed
18 location, in fact, be drilled into the Delaware?

19 A. Yes, sir.

20 Q. There was some discussion with Mr. Logan about
21 the possibility of converting the existing Pardue No. 1 to
22 the salt water disposal.

23 A. Yes, sir.

24 Q. Are your plans firm concerning the conversion
25 for disposal purposes at this time?

1 A. No, sir. This is just something that has been
2 discussed internally amongst BTA. First and foremost in
3 the minds of the commission, I'm certain, is the fact that
4 prior to producing the proposed location, the "C" 1-Y, we
5 would shut in the "C" 1. Of course, that's just a matter
6 of everyone knows that you have to do that, and we
7 certainly would abide by the rules.

8 We intended upon the drilling of the "C" 1-Y
9 location to test several formations on the way down for
10 potential disposal zones. Once we've tested this, got the
11 well down, then we will evaluate it and then make a formal
12 proposal to the commission for a salt water disposal well.
13 At this point in time we are not making that formal
14 proposal.

15 Q. Based on your personal review of this tract,
16 the topography, is the proposed location the best
17 remaining location to produce the reserves under the
18 tract?

19 A. In my opinion, it is the best location that's
20 available, yes.

21 Q. Is there any other alternative that you have
22 been able to develop that would permit you to effectively
23 produce the reserves in the Delaware underlying this
24 40-acre tract?

25 A. No, sir.

1 MR. CARR: I have nothing further of Mr. Wilkinson.

2 EXAMINER STOGNER: Thank you, Mr. Carr.

3 Ms. Aubrey, your witness.

4 MS. AUBREY: I would defer to Mr. Stovall if he'd
5 like to go first.

6 EXAMINER STOGNER: Mr. Stovall.

7 MR. STOVALL: Let me just --

8 EXAMINATION

9 BY MR. STOVALL:

10 Q. You did not testify in the March hearing; is
11 that right?

12 A. No, sir, I did not.

13 Q. Did you participate in the decision to pick
14 that location at that time?

15 A. Yes, sir, I did.

16 Q. Do you supervise Mr. Logan?

17 A. Yes, I do.

18 Q. And what were your instructions to him with
19 respect to the -- Well, let me back up.

20 What was his participation in the selection of
21 the Pardue "C" 1 location back in March? What were your
22 instructions to him and what did you understand his
23 responsibility was?

24 A. Okay. Our instructions initially were not to
25 Keith; they were to our drilling department to find the

1 most suitable location on the tract.

2 As seen, there are no orthodox locations, which
3 BTA would have preferred to drill. We gain no benefit
4 whatsoever geologically for moving to an orthodox
5 location. If we could have drilled the center-center of
6 this quarter-quarter section, we would have.

7 Upon our drilling department -- information
8 that they gained from being in the field, they relayed to
9 me. I got with Keith. I got the topographic map that
10 you've seen today presented into evidence, and from that
11 information we deduced that this would be probably the
12 best -- not probably -- would be the best location
13 available.

14 Q. The current "C" 1 location?

15 A. The current "C" 1 location, yes, sir. The
16 "C" 1-Y is a substandard location.

17 Q. Once that, saying after the commission order
18 was entered and the penalty was imposed on the "C" 1, who
19 made the decision that another well was going to have to
20 be drilled in this proration area?

21 A. This was done by Barry Beal. He asked us,
22 would we be able to produce the well adequately to protect
23 our correlative right. Our answer to him was no.
24 Therefore, he said to us, "Find an alternative location or
25 find a way to produce the well to adequately produce our

1 reserves under this tract."

2 Q. And what happened after that? Who is "us"
3 first? You said "he asked us."

4 A. Well, there's a group of people. Keith and
5 myself primarily. We did have a geologist that was
6 sitting in on the discussion, but we feel as if geology is
7 not a factor here, so, therefore, we did not bring a
8 geologist to testify.

9 Q. Are you the only engineers in the exploitation
10 department?

11 A. We had one additional engineer in the
12 exploitation department, but he was not involved in this
13 decision.

14 Q. Mr. Beal said, "Go find another location." Who
15 was responsible for finding that location?

16 A. I did.

17 Q. You actually went out in the field and
18 inspected?

19 A. Yes, sir, I spent about six hours out there
20 tramping around. I took a dirt contractor, a drawing
21 contractor and a drawing foreman with me, and got their
22 input as we had had on the initial location also. I said,
23 "Can we drill here?"

24 Q. Had you been out there before when the "C" 1
25 location was picked?

1 A. No, sir.

2 Q. So this was your first time out there in the
3 field?

4 A. At this particular location, yes.

5 Q. When was that? I mean, when did you go out
6 there? Did you not ever go out there before the "C" 1 was
7 drilled; is that correct?

8 A. No, sir, I did not. I went out there prior to
9 the de novo hearing, but after completion of the well; and
10 I just looked at the location of the well to see if it
11 was, yes, indeed the best location available; and at that
12 time I agreed that it was the best location available.

13 Q. After Mr. Beal made the decision to drill
14 another well, did you seek Mr. Logan's input at all in
15 picking another location?

16 A. I discussed it with him, yes, sir.

17 Q. Did he make any recommendations to you?

18 A. He recommended that we not drill this location.
19 He felt as if it was not a suitable location in his
20 opinion; and as is with most organizations, there is a
21 hierarchy, and I overruled him.

22 Q. Now, you've testified, I believe, that it's
23 some 30 to \$40,000 more expensive to drill the proposed
24 location here than to -- say, to drill the "C" 1; is that
25 correct?

1 A. Yes, sir, that's correct.

2 Q. How much did the "C" 1 cost?

3 A. I don't have an exact figure on the completion
4 cost.

5 Q. Well, just give me a round figure.

6 A. \$450,000.

7 Q. So does that, in effect, become an incremental
8 cost in drilling this well too?

9 A. Without taking into consideration that we may
10 have some salvage, yes. And salvage meaning some
11 equipment around also salvaging this wellbore for
12 utilization as a salt water disposal well.

13 All these factors were discussed and considered
14 prior to the decision that was made to drill an
15 alternative location here.

16 Q. After the division order was entered, you
17 elected to proceed with the drilling of the C-1, subject
18 to the penalty and the division order at that time; is
19 that correct?

20 A. Yes, sir.

21 Q. And you commenced that drilling prior to Bird
22 Creek's filing their de novo application?

23 A. Yes, sir, approximately four to five days, if I
24 can recall.

25 Q. Four to five --

1 A. Well, it was between four -- four or five days
2 before theirs, we received notice of theirs.

3 Q. Were you aware that they have the right to file
4 a de novo hearing?

5 A. Yes, sir.

6 Q. Were you aware that in that de novo hearing,
7 the issue of both location and penalty could become an
8 issue and in fact the penalty that you were electing under
9 was not necessarily the penalty that you would be drawing
10 up?

11 A. Yes, sir. That was a business decision that we
12 made at the time that we commenced drilling of the well.
13 We had a rig available, and we felt as if the penalty that
14 was imposed was protective of everyone's correlative
15 rights, and we decided as a business matter to go ahead
16 and proceed with the drilling of the well.

17 Q. With the benefit of 20-20 hindsight, do you
18 feel that perhaps the additional expenditure of 30 to
19 \$40,000 for the current proposed location with drilling
20 the "C" 1 might have been a --

21 A. Definitely, yes, sir. Hindsight forces are
22 beneficial.

23 Q. And whose decision was it that Mr. Logan would
24 come back today and testify?

25 A. He was requested by --

1 MR. CARR: I told him that he had to be here, because
2 I believe you or maybe Ms. Aubrey requested that both
3 Mr. Logan and Mr. Crawford be here.

4 MS. AUBREY: I wrote a letter to that effect.

5 MR. CARR: Yes.

6 MS. AUBREY: And I believe you did also.

7 MR. STOVALL: Well, I wrote a letter, yes, when the
8 directional drilling application was filed.

9 MR. CARR: That's right.

10 MR. STOVALL: I requested that the witnesses that
11 testified and decisionmakers be present at the hearing.

12 MR. CARR: Yes.

13 Q. (By Mr. Stovall) The final decision was made
14 by Mr. Beal, though; is that correct?

15 A. Yes, sir; all final decisions. We make
16 recommendations.

17 Q. And Mr. Beal is not here today?

18 A. No, sir.

19 MR. STOVALL: I don't think I have any further
20 questions.

21 EXAMINER STOGNER: Ms. Aubrey.

22 MS. AUBREY: Thank you.

23 CROSS-EXAMINATION

24 BY MS. AUBREY:

25 Q. The well location that you proposed today moves

1 away from BTA -- from Bird Creek's location; is that
2 correct?

3 A. Are you talking about their alternative
4 location?

5 Q. Well, the location you're proposing here today,
6 the unorthodox location is farther away from the Bird
7 Creek acreage; isn't that right?

8 A. It's 611 feet, yes, ma'am, and state route 330.

9 Q. And it's farther away than the present location
10 at the "C" 1; isn't that right?

11 A. Yes, it is.

12 Q. Now, you've testified that on your Exhibit 1
13 there is no location that you can drill within that blue
14 square; is that right?

15 A. Yes, ma'am.

16 Q. What about the area just to the northwest of
17 your No. 1 triangle?

18 A. That's in the flood plain.

19 Q. Isn't B -- excuse me. But the "B" 2 is in the
20 flood plain, too, isn't it?

21 A. When we staked the No. 1 well, the one shown by
22 the triangle, several authorities, I believe one of them
23 was -- I believe it was the highway patrol. I guess --

24 MR. STOVALL: I think the testimony, I think there
25 was some reference to discussions --

1 THE WITNESS: Yes. I --

2 MR. STOVALL: -- with the Corps of Engineers in the
3 transcript.

4 THE WITNESS: Yeah. The Corps of Engineers were
5 contacted, and we were told that we could not drill in
6 that location. The No. 1 well is actually in a drainage
7 canal off of the river.

8 Q. (By Ms. Aubrey) There is a certainly aerial
9 extent of your yellow-shaded area on your Exhibit 1, isn't
10 there?

11 A. Yes.

12 Q. Is it your testimony that you have examined all
13 locations up to the edge of that yellow shading and that
14 you cannot drill in any of them?

15 A. That's correct.

16 Q. You will agree with me that your "B" 2 well is
17 in the flood plain; is that correct?

18 A. I agree that that's what you said.

19 Q. Do you dispute whether -- Do you dispute that?

20 A. No, I'm not disputing what you said; no, ma'am.

21 Q. Have you looked at the flood hazard boundary
22 map published by HUD for Eddy County, New Mexico, and
23 compared that to the shading which you claim is the flood
24 plain on your Exhibit No. 1?

25 A. I have not.

1 Q. Mr. Logan mentioned that there were concurrent
2 sands in the Pardue "C" No. 1 which were nonproductive,
3 some Delaware sands. Do you know which ones those are?

4 A. As far as -- we don't know if they are or are
5 not nonproductive. We intend on testing these sands as we
6 drill the Pardue "C" 1-Y.

7 Q. The testimony at the commission hearing -- and
8 there may have been some dispute on this issue, but at the
9 commission hearing there was testimony as to at least four
10 Delaware sands which could be productive in these wells;
11 is that right?

12 A. Yes, ma'am, that's correct.

13 Q. And Mr. Allen Barron from Bird Creek identified
14 those as the A, B, C and D. Do you recall that?

15 A. I remember the nomenclature, yes.

16 Q. Are those the sands, the Delaware sands, that
17 you're going to test?

18 A. No, ma'am.

19 Q. Which Delaware sands are you going to test?

20 A. They're at an approximate depth of about 23,000
21 and 3,500 feet (sic).

22 Q. So those would be shallower, then?

23 A. Considerably shallower than this, yes.

24 Q. Do you have an opinion now as to the A, B, C
25 and D Delaware sands will be productive in your new well?

1 A. Well, we certainly believe that the D, as your
2 nomenclature stated, would be productive. I have no
3 opinion about the A, B or C.

4 Q. The "C" No. 1 is presently completed in what
5 Bird Creek calls the D sand?

6 A. That's correct, yes. All of our wells are
7 completed in the same sand, the first sand body above the
8 top of the Bone Springs.

9 Q. You were asked questions by Mr. Carr about the
10 location that John West has indicated is available 1,473
11 from the west, 330 from the south.

12 A. Uh-huh.

13 Q. And I believe that you testified that you
14 wouldn't allow anyone outside BTA to pick a location for
15 you.

16 A. No, ma'am.

17 Q. Was it your understanding that Mr. West was
18 trying to do that for you?

19 A. No, ma'am.

20 Q. What's wrong with his location, to your
21 understanding?

22 A. The configuration of his location with his
23 pits.

24 Q. So is it just the pit configuration that you
25 object to?

1 A. That would be my primary objection, yes, ma'am.
2 I did not look at that exhibit in detail enough to --

3 MR. STOVALL: Let me recommend again here, we are
4 testifying based on Ms. Aubrey's testimony as to what
5 Mr. West's exhibit represents, so any answers you give
6 will be with that qualification. Think about that in
7 terms of how far we need to go with the discussion of this
8 theoretical pit that we really can't verify.

9 A. If I had a choice between this location and the
10 one that I picked, I would take the one that I picked.

11 Q. (By Ms. Aubrey) All right. Let's assume that
12 you do have the choice between those two locations.

13 A. I do have a choice, okay.

14 Q. And you would pick the one that we're here
15 talking about today?

16 A. That's correct.

17 Q. And without -- I certainly don't mean to limit
18 you to anything that Mr. West has shown on his exhibit,
19 but what I want to know is: Assuming that the pit problem
20 could be solved, would his proposed location be as
21 acceptable as the location you've proposed for the
22 "C" 1-Y?

23 A. I'm not qualified to state that without going
24 out and visually inspecting it, because the way his
25 location falls and with my memory of where this bluff is,

1 we would have to do extensive dynamiting to build this
2 location, and I would have to evaluate the difference in
3 the cost between this location and the location as we
4 proposed. I'm not qualified to do that at this point in
5 time.

6 Q. So do you know today, can you tell the Examiner
7 today whether or not that location that Mr. West has
8 indicated on that exhibit is on the bluff, for instance?

9 A. It's right on the edge, yes, ma'am.

10 Q. It's on the edge?

11 A. From my memory of the area, yes. And this
12 bluff does have a considerable, large, thick cap of very
13 dense, hard rock on top of it; therefore, if we had to do
14 any dirt work -- and I assume from looking at this, you've
15 got a 10-foot elevation between here and here, drops
16 16 feet between here and here (indicating) -- yes, that's
17 a considerable amount; so therefore, there would be a
18 considerable amount of dirt work; and that 30,000, 40,000
19 that I mentioned earlier on the alternative location might
20 yet indeed be 75,000 without going out there. Without
21 going out there with a dirt contractor, I can't testify to
22 that.

23 Q. I just want to be clear about that. You can't
24 say that this is necessarily an impossible or absolutely
25 unacceptable location to drill today?

1 A. It's unacceptable to me, yes.

2 Q. So you examined this one? That's what I'm
3 trying to get you --

4 A. I'm saying --

5 Q. Did you look at this one?

6 A. I'm saying -- Yeah, I've been out there. I've
7 walked right across here, yes, I have.

8 Q. Did you consider this location?

9 A. It would have been considered, yes, ma'am.
10 This specific location, no; but the area, yes.

11 Q. Has anything changed in the section between
12 March and now that now makes it possible for you to drill
13 at the location that you're proposing for the "C" --

14 A. No.

15 Q. -- "C" 1-Y?

16 A. No, ma'am.

17 Q. So if I understand your testimony, considering
18 the \$450,000 you spent to drill the "C" 1, the
19 30 to \$40,000 you're going to spend to do dirt work at the
20 proposed location for the "C" 1-Y, is that still an
21 economic prospect for BTA?

22 A. Yes, ma'am, we'll double our reserves.

23 Q. How will you double your reserves?

24 A. We won't be penalized for the life of the well
25 at approximately a 50 percent rate.

1 Q. So you're drilling this well to avoid the
2 penalty on the "C" 1; is that correct?

3 A. That's basically it, yes.

4 Q. And you testified, I believe, that Mr. Beal at
5 least felt your correlative rights were being impaired; is
6 that correct?

7 A. Yes, they are.

8 Q. How is that?

9 A. We're not allowed to produce at a maximum,
10 allowable rate, nor all the reserves that we would be
11 entitled to at that rate.

12 Q. So it's the rate that you're objecting to?

13 A. No, it's not the rate; it's the ultimate
14 recovery, and that is most definitely tied to rate.

15 Q. You don't believe whether or not -- as an
16 engineer, do you know whether or not there is a point in
17 time at which your well, the "C" 1, will no longer produce
18 its allowable?

19 A. Certainly there will be that point in time.

20 Q. Do you believe that there's a time -- as an
21 engineer do you know if there's a time which the "C" 1
22 will no longer produce even a reduced allowable?

23 A. That's correct.

24 Q. Are you doing any particular monitoring on the
25 "B" 2 well located --

1 A. Yes, we monitor all of our wells daily.

2 Q. But you said you'd need closer monitoring --

3 A. Yes, ma'am.

4 Q. -- of the "C" 1 or "C" 1-Y if it were drilled
5 in the flood plain.

6 A. The proximity of the river would, of course,
7 require us to do that. Whether the elevation is the same
8 between this location and the "B" 2, the proximity of the
9 river, if my understanding of the flood plain is correct,
10 you have your most turbulence nearest to the deepest
11 portion of the river which is the closest to the proposed
12 location.

13 Q. But you don't know today how the elevation of
14 the "C" 1-Y proposed location or the "C" 1 location
15 compares to the "B" 2; is that correct?

16 A. The "C" 1-Y is approximately the same elevation
17 as the "B" 2. I believe it's about three or four feet
18 less than it is. The "B" 2 is approximately 25 feet less
19 than the "C" 1.

20 Q. Is it still -- is your testimony today that the
21 increased operating expenses of producing the
22 directionally drilled well are what have convinced you --
23 convinced BTA not to pursue directional drilling? Is that
24 correct?

25 A. That's one of several considerations, yes; and

1 the primary consideration.

2 Q. And is another consideration the cost of the
3 directional drilling?

4 A. The \$70,000, certainly; that's not a small sum
5 of money.

6 Q. And how many dollars a month do you propose it
7 would cost, an increase, to drill -- to produce a
8 directionally drilled well?

9 A. From my experience producing wells that have
10 been directionally drilled -- of course, at the point in
11 time that we're at right now, there would be no increase
12 because the wells are flowing, so there's no problem
13 there; but once we start having to artificially lift the
14 well, we feel as if our operating costs will probably
15 increase, let's say, \$1,800 a month to \$6,000, \$6,500 a
16 month.

17 Q. Are any of these Delaware wells in the area on
18 artificial lift?

19 A. Yes.

20 Q. Which one?

21 A. On our map the "D" 1. It's the furthest well
22 from the north and west.

23 Q. So that's in the northwest quarter of 11; is
24 that right?

25 A. Yes.

1 Q. Were you aware that Mr. Joe Janica was present
2 and available to testify for Bird Creek Resources at the
3 commission hearing in June on the question of directional
4 drilling, costs of directional drilling and operation
5 costs?

6 A. I'm not familiar with his name, no, I'm not.

7 Q. Didn't one of your applications filed over the
8 course of this spring or summer after the commission order
9 from the June hearing include converting the "C" 1 to a
10 salt water disposal well?

11 A. Well, the one that you have that we presented
12 today has that on there, I believe. Let me look at it.
13 It states, "BTA operates Pardue "C" 1 in this
14 quarter-quarter section. This will be a replacement well.
15 The well No. 1 will be shut in upon completion of the
16 well, possibly converted to SWD."

17 Q. I'm referring to one of your earlier
18 applications.

19 A. I don't have those with me, so I could not
20 testify to the accuracy of that statement.

21 MS. AUBREY: I believe that that's all I have.

22 Do you want to introduce your second exhibit?

23 MR. CARR: If I didn't move the admission of my
24 exhibits, Mr. Examiner, I really would like to move the
25 admission of Exhibits 1 and 2.

1 EXAMINER STOGNER: I believe we did.

2 MR. CARR: Okay.

3 MS. AUBREY: That's all I have.

4 EXAMINER STOGNER: Let's see.

5 EXAMINATION

6 BY EXAMINER STOGNER:

7 Q. Are you familiar with the wells "C" 1 -- of
8 course you are -- "C" 2, "B" 1, "B" 2 and "B" 1?

9 A. Yes, sir.

10 Q. Are any of them -- have any of those had
11 directional surveys done on them?

12 A. No, sir, other than Topco's (phonetic
13 approximation) as we drill the wells.

14 Q. Have you reviewed those for these wells?

15 A. Yes, sir. Maximum deviation, of course,
16 according to our drilling contracts, is 3 degrees, and
17 they've all stayed less than 3 degrees upon -- while they
18 were being drilled. They're a matter of public record. I
19 do not have those with me, and to testify to the exactness
20 of it, I could not.

21 Q. But none of them are over 3 degrees that you
22 know of?

23 A. No, sir, not to my knowledge.

24 Q. And looking at Exhibit No. 2, casing program
25 8-5/8 and a run of 500 feet, and 5-1/2 to 6,450, what

1 would be the maximum deviation for a directionally drilled
2 well if it was kicked out underneath the surface casing to
3 the depth of 6,450?

4 A. Our proposal to drill to the center-center of
5 the quarter-quarter section, I believe, was 17-1/2
6 degrees.

7 Q. That's to drill to the center?

8 A. To the center-center, yes, sir, which is our
9 preferable location. We would prefer to drill to the
10 center-center.

11 Q. How about drilling to 330 foot of the blue
12 window, I should say?

13 A. I don't have those numbers, and nor did we ever
14 ask a directional drilling company to give us a proposal
15 on that, to my knowledge.

16 Q. 17 degrees would that be a kick-off point from
17 underneath the 8-5/8-inch casing?

18 A. Not directly underneath it. I will -- my
19 recollection, it was going to be a thousand or 1,200 feet,
20 something of that nature. Of course, we were going to
21 generally build ours angled instead of having any dog legs
22 in the well.

23 Q. Are you familiar with Order No. R-9147A? That
24 was the de novo case -- or de novo order issued in
25 Case 9883?

1 (Discussion off the record.)

2 Q. Let me back up a little bit. Is all of
3 Section 11 one lease, or how are the leases out here in
4 this west half of Section 11?

5 A. We have, I believe, three separate leases.

6 Q. Three separate leases?

7 A. Yes, sir. That's the designation of the B, C
8 and D. I can't testify to that; I'm not a landman.
9 That's just my recollection.

10 Q. Is it safe to say that "C" 1 and "C" 2 are
11 probably on the same lease, at least that would be the
12 south half of the southwest quarter?

13 A. Yes, sir, that would be safe. Yes, sir, I
14 believe that's true.

15 Q. Now, your proposed well location, as it is
16 today, does encroach off of a standard location, which is
17 your blue window, towards the southwest of the southwest
18 quarter, does it not?

19 A. Yes, sir, it does.

20 Q. Would that, in essence, also be draining
21 production from that quarter-quarter section?

22 A. It would, yes.

23 Q. Are ultimate reserves from underneath the south
24 half of the southwest quarter, could there be some
25 potential waste or some production left behind, especially

1 over in the east side of the southeast quarter of the
2 southwest quarter, if this well was allowed to be drilled?

3 A. There would be some, yes.

4 Q. Are you familiar -- You are familiar with
5 Order R-9147A?

6 A. Yes, sir.

7 Q. Do you know how the penalty was assessed?

8 A. It was a 47 percent penalty.

9 Q. Do you know the population?

10 A. Well, yes, sir. It was the encroachment upon
11 the lease line to Bird Creek minus -- the standard
12 location minus the encroachment. It would be the
13 encroachment divided by the standard amount, is what it
14 would be. $330 \text{ minus } 176 \text{ divided by } 330$.

15 Q. Was it the encroachment to Bird Creek or the
16 encroachment to a standard location?

17 A. It's the encroachment towards Bird Creek's
18 lease from a standard location, a standard location being
19 330, and the actual location being 176 feet from the south
20 line.

21 Q. Since this well is encroaching a standard --
22 I'm sorry. A proration unit has a standard location.
23 Should it be also assessed a penalty?

24 A. We're only encroaching upon ourselves as common
25 mineral owners.

1 Q. But you also testified potential loss of
2 production on the east side of the proration unit due to
3 the well being moved to an unorthodox location to the
4 west?

5 A. We feel as if this location would probably have
6 -- leave less oil on the ground than the "C" 1 location
7 would.

8 MR. STOVALL: Let me clarify that answer, just if I
9 might.

10 THE WITNESS: Okay.

11 MR. STOVALL: "C" 1 with the penalty; is that what
12 you're talking about?

13 THE WITNESS: Yes, sir; that's correct.

14 MR. STOVALL: You're not talking about the
15 engineering --

16 THE WITNESS: Oh, with --

17 MR. STOVALL: -- character of the well itself, but
18 rather at the penalized production rate?

19 THE WITNESS: That's correct.

20 MR. STOVALL: Excuse me. I just wanted to clarify
21 that.

22 EXAMINER STOGNER: Thank you for the clarification,
23 Mr. Stovall.

24 With that, I have no other questions of this
25 witness. Are there any other questions of Mr. Wilkinson?

1 MR. STOVALL: I've got a couple.

2 EXAMINATION

3 BY MR. STOVALL:

4 Q. Mr. Wilkinson, you stated that either you or
5 your Mr. Beal determined that the "C" 1 producing at its
6 penalized rate results in an impairment of BTA's
7 correlative rights; is that correct?

8 A. Yes, sir.

9 Q. Would you explain that, please?

10 A. Our producing rate being reduced by some
11 47 percent would result in a decrease in recoverable
12 reserves at this location.

13 Q. Well, let me ask you something. Do you know
14 why proration units and spacing locations, well location
15 requirements are established? Do you know what the
16 purpose of those are?

17 A. That's right. Yeah, I do, yes, sir.

18 Q. Would you explain your understanding of it?

19 A. My understanding is to prevent waste.

20 Q. In what way?

21 A. Overproduction, too many wellbores within the
22 same proration unit, thus one producing company and/or
23 individual would gain an unfair advantage over an offset.
24 Law of capture I believe is . . .

25 Q. Does that not happen when you move the "C" 1

1 176 feet closer to another proration unit?

2 A. We didn't drill it there because we wanted to;
3 we drilled it there because we --

4 Q. All right. I'm not questioning -- at this
5 point I'm not questioning your motives; I'm questioning
6 the effect. Would it --

7 A. The effect of it would be, yes. I agree.

8 Q. And if I remember the geological testimony from
9 the original hearing, we're talking a relatively
10 homogeneous reservoir; is that correct?

11 A. Yes, sir, that's correct.

12 Q. And is it safe to say that for all practical
13 purposes as an engineer there is radial drainage for the
14 most part in this area? I remember there was some
15 differing testimony. I'm just asking for a --

16 A. We, unfortunately, don't have the tools to
17 state that this is, yes, indeed radial drainage, but I
18 would safely to assume my own opinion of it to be that
19 it's somewhat radial drainage, not exactly. I don't
20 believe there's such a thing as exact radial drainage.

21 Q. I accept that. I accept that that term is
22 within standard engineering understanding, that you're
23 talking more or less circular with --

24 A. That's correct.

25 Q. -- more or less equidistant from a wellbore

1 unless there's some geological reason that that doesn't
2 occur.

3 A. That's right. Pressure zones. Yes, sir.

4 Q. Now, it's my understanding that in terms of
5 protection of the waste and assuming prevention of wastes
6 and protection of correlative of correlative rights that
7 the division attempts to locate wells towards the center
8 of a proration unit so that that proration unit is
9 effectively drained and each owner of each proration unit
10 has an opportunity to drain its reserves without draining
11 its neighbor's reserves in excess of -- is that correct?

12 A. Yes, sir.

13 Q. You move outside that window, which is a fairly
14 large window in this particular area -- you have a 330
15 offset -- the fact is that with some -- with radial
16 drainage as we've defined it here, that in fact BTA would
17 be draining Bird Creek's resources. Whatever its intent
18 was, whatever its reasons are, it would continue to drain
19 that; is that not --

20 A. That was ascertained at the de novo hearing,
21 yes, sir.

22 Q. I think that's probably a good answer because I
23 think that's what the commission has stated, that in order
24 to protect Bird Creek's correlative rights, they would
25 have to --

1 A. That's right.

2 Q. -- limit the production.

3 A. That's right.

4 Q. And if that results in a reduction of
5 production from the BTA well, it is not because BTA is
6 loosing those reserves underlying its tract, but rather
7 because BTA is not producing as much reserves underlying
8 the Bird Creek tract? Would that be --

9 A. That would be a fair --

10 Q. -- assessment of how you would believe the
11 commission intends --

12 A. Yes, sir. That's how I believe that the order
13 was entered, yes.

14 Q. So it's, in fact, not the penalty imposed, but
15 rather the location that causes the impairment of -- any
16 impairment that there may be of BTA's correlative rights
17 to recover its reserves?

18 A. Yes, that's correct.

19 Q. And is it safe to characterize your testimony
20 that the new proposed location better enables BTA to
21 recover its own reserves and hopefully -- you hope without
22 a penalty, and because it's further away from Bird Creek,
23 at least will not recover as much of Bird Creek's
24 reserves? And when I'm talking about reserves, I'm
25 talking about oil in place under the proration unit.

1 A. That would be a fair assessment, yes, sir.

2 Q. And it's your contention that there should be
3 no penalty imposed on this well because, in fact, while it
4 may cause waste by not draining the eastern half of the
5 proration unit as effectively as it could, it is not
6 impairing anybody's correlative rights because the oil
7 underlying the south half of the southwest quarter all
8 belongs to the same people?

9 A. Yes, sir, that's correct.

10 Q. And it may be somewhat wasteful to have the
11 wells not as evenly spaced as we'd like, but at least
12 there's no harm to anybody else; is that right?

13 A. Yes, sir.

14 Q. I just want to make sure we had a clarification
15 as to the reasoning behind the imposition of the penalty,
16 not -- well, there to impair BTA's correlative rights.

17 A. No, I agree with you. No, I -- I certainly
18 didn't mean that you were impairing us. It was just we
19 were impaired by our location.

20 EXAMINER STOGNER: Are there any other questions of
21 this witness?

22 MR. STOVALL: I have nothing.

23 MR. CARR: I have none.

24 EXAMINER STOGNER: Ms. Aubrey, I'm going to ask you a
25 question.

1 MS. AUBREY: Sure.

2 MR. STOVALL: You asked this gentleman what it cost
3 -- if he knew how much it cost Bird Creek. How much did
4 it cost Bird Creek?

5 MS. AUBREY: Well, I'll be happy to state on the
6 record what my understanding is, that attorney fees for
7 the de novo hearing and the examiner hearing, plus expert
8 witness fees, John West's fee, Joe Janica's fee, Allen
9 Barron's fee, for the commission hearing, all in excess of
10 \$30,000.

11 That does not count any internal costs to them.
12 That's simply fees paid to outside consultants in
13 connection with these hearings.

14 EXAMINER STOGNER: Thank you. I appreciate you're
15 answering that question.

16 Do you want to change companies now, Mr. Carr?

17 MR. CARR: I'm going to raise my rates.

18 (Discussion off the record.)

19 EXAMINER STOGNER: With that, are we ready for
20 closing statements?

21 Ms. Aubrey, I'll let you go first.

22 MS. AUBREY: Thank you, Mr. Stogner.

23 Bird Creek is here today in opposition to the
24 most recent request for an unorthodox location, and our
25 opposition is based not on the usual theory that BTA is

1 now crowding our location, but that this location was on
2 the ground in March of 1990, and the testimony before the
3 examiner in March of 1990 was that it was not a drillable
4 location.

5 BTA now comes before you and says, "Oh, well,
6 now that you penalized our production, it suddenly looks
7 drillable." That has caused Bird Creek not only to have
8 its correlative rights impaired by the drainage which
9 occurred back then, but to have its property rates
10 impaired by having to continue to argue with BTA in
11 Section 11 over whether or not there is a surface location
12 which can be drilled. One would think that was a fairly
13 easy question to answer.

14 We were prepared to show you and bring you
15 expert testimony at the commission level on what we
16 believed to be the true state of the surface of
17 Section 11. We didn't put that on. And you have one
18 exhibit before you today, our Exhibit No. 1, to show you
19 that there is still a location in that section which could
20 be drilled, and there's still an argument about it.

21 I would suggest to you that BTA has once again
22 failed to sustain its burden of proof of a prima facie
23 case that it's entitled to an unorthodox location on this
24 well; and I'd ask you to deny it.

25 That's all I have.

1 EXAMINER STOGNER: Thank you, Ms. Aubrey.

2 Mr. Carr.

3 MR. CARR: May it please the Examiner, I would like
4 to look at this from two perspectives. The first is the
5 simplest one, and that is as to the question of unorthodox
6 location available on the tract.

7 If we look at the record before you in this
8 and, in fact, all proceedings involving this location,
9 there is not a shred of evidence from anyone that oil can
10 effectively be drilled in that blue window on Exhibit 1
11 today at an orthodox location. In fact, the evidence
12 shows that you have to go to an unorthodox location.

13 Of the four proposed locations that have been
14 attempted on this tract, none of them are within that blue
15 orthodox window. We've met our burden, and we have shown
16 you why we have to have an unorthodox location.

17 Now, Bird Creek is objecting now, as they have
18 before, because of concerns about correlative rights. And
19 I will tell you that in my -- I don't see how, on the
20 record before you, correlative rights could have been
21 impaired.

22 The reason is that when the Pardue No. 1 was
23 drilled, it's been drilled and produced under penalties
24 that have been approved by the OCD. Its rates have been
25 restricted, and the restrictions on the \$30,000 that Bird

1 Creek has invested may result in the additional costs of a
2 new well at \$450,000 and a salvage effort.

3 And the fact of the matter is, any time an
4 operator comes in and proposes an unorthodox location and
5 someone else wants to fight it, there're costs associated
6 with that. In this case the -- I hate to say, Ms.
7 Aubrey's been terribly successful for \$30,000. We've had
8 to reevaluate the whole development plan for the property
9 and are now looking at an additional investment of
10 approximately \$450,000.

11 And when you look at the record of all the
12 proceedings -- and they're all available, and you
13 certainly are free to do that -- you will see that from
14 the very beginning at the examiner hearing, the amount in
15 question because of the original location, even based on
16 the examiner records, was something in the neighborhood of
17 12,000 barrels.

18 Without belaboring the point, we have told you
19 exactly how we got to this point, why we're before you
20 today. We've told you step by step how we've proposed the
21 original location, what's transpired and why we've come
22 back. We've asked you to consider this new proposal, and
23 we're requesting that you approve this location so that we
24 can go forward at a location now 611 instead of the
25 required 330 setback from Bird Creek; and we can go

1 forward and develop reserves, reserves that we own the
2 working interest in, and the royalty interest owners are
3 common in the only other tract upon whom we're
4 encroaching.

5 So for all these reasons we request that the
6 application today be granted and that it provide that this
7 well not be produced until the "C" 1 well is shut in and
8 stays that way.

9 That's all I have.

10 EXAMINER STOGNER: Does anybody else have anything
11 further in Case No. --

12 MR. STOVALL: Yeah. I just want to say one thing,
13 Mr. Examiner. I've never made closing argument in anybody
14 else's case before, but I always do something different.

15 Unfortunately, this is not only a case of
16 location, but it is a case of credibility, and I think
17 it's important to realize that this commission has been
18 very successful for several decades because it relies on
19 what it hears from the people who appear before it.

20 I think, unfortunately, I'm going to say
21 perhaps the corporate integrity of BTA, which may be --
22 which has been challenged here -- and I'm not going to
23 make any statements as to the quality of that integrity,
24 but I would certainly say it has been challenged.

25 You have had testimony by a witness, who in

1 fact today said he still believes that his testimony was
2 correct, that the proposed location for the Pardue "C" 1
3 was the "only" available location at any costs, that there
4 just simply were no other locations. But now we've
5 discovered that that's not exactly true from the
6 corporate standpoint, that that location -- that there
7 were, in fact, other locations if the price was right.

8 I don't know what lessons can be learned from
9 this. I'm not -- I'm not expressing any judgments, but I
10 would say that this being the case, that the question of
11 appearances and credibility having been raised, I would
12 admonish -- admonish BTA in particular in this case to be
13 aware of that: that if it is a matter of money, then tell
14 us that it's a matter of money, that in fact a location is
15 available, but it cannot -- it is not desirable because of
16 the additional incremental costs, and at what point does
17 that cost become a compelling factor. And that's what
18 you've told us now; and if we heard that the first time,
19 then perhaps it wouldn't be the same here.

20 The commission in denying Bird Creek's offer of
21 testimony from Mr. West and others regarding locations
22 relied on that initial evidence., and of course the
23 question is immediately raised when a new application is
24 filed which asks for that which we were told could not be
25 done.

1 So with that, I will end this case because
2 that's why we've been here for two hours as opposed to
3 half an hour, is not the issue of whether this application
4 should be granted, but rather what have we heard before.

5 EXAMINER STOGNER: Does anybody else have anything
6 further in Case 10177?

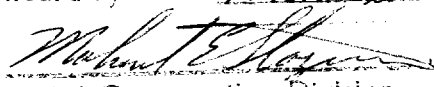
7 (No response.)

8 EXAMINER STOGNER: If not, this case will be taken
9 under advisement.

10 And with that, hearing adjourned.

11 (The foregoing hearing was concluded at the
12 approximate hour of 4:12 p.m.)

13 * * *

14
15
16
17 I do hereby certify that the foregoing is
18 a complete and correct transcript of the
19 the hearing held on 19 December 1977
20 heard by me on 19 December 1977.
21  Director
22 Oil Conservation Division
23
24
25

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

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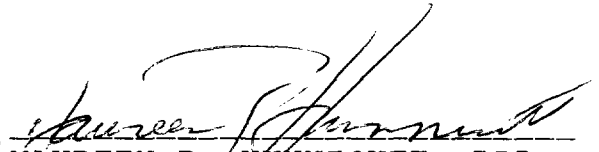
REPORTER'S CERTIFICATE

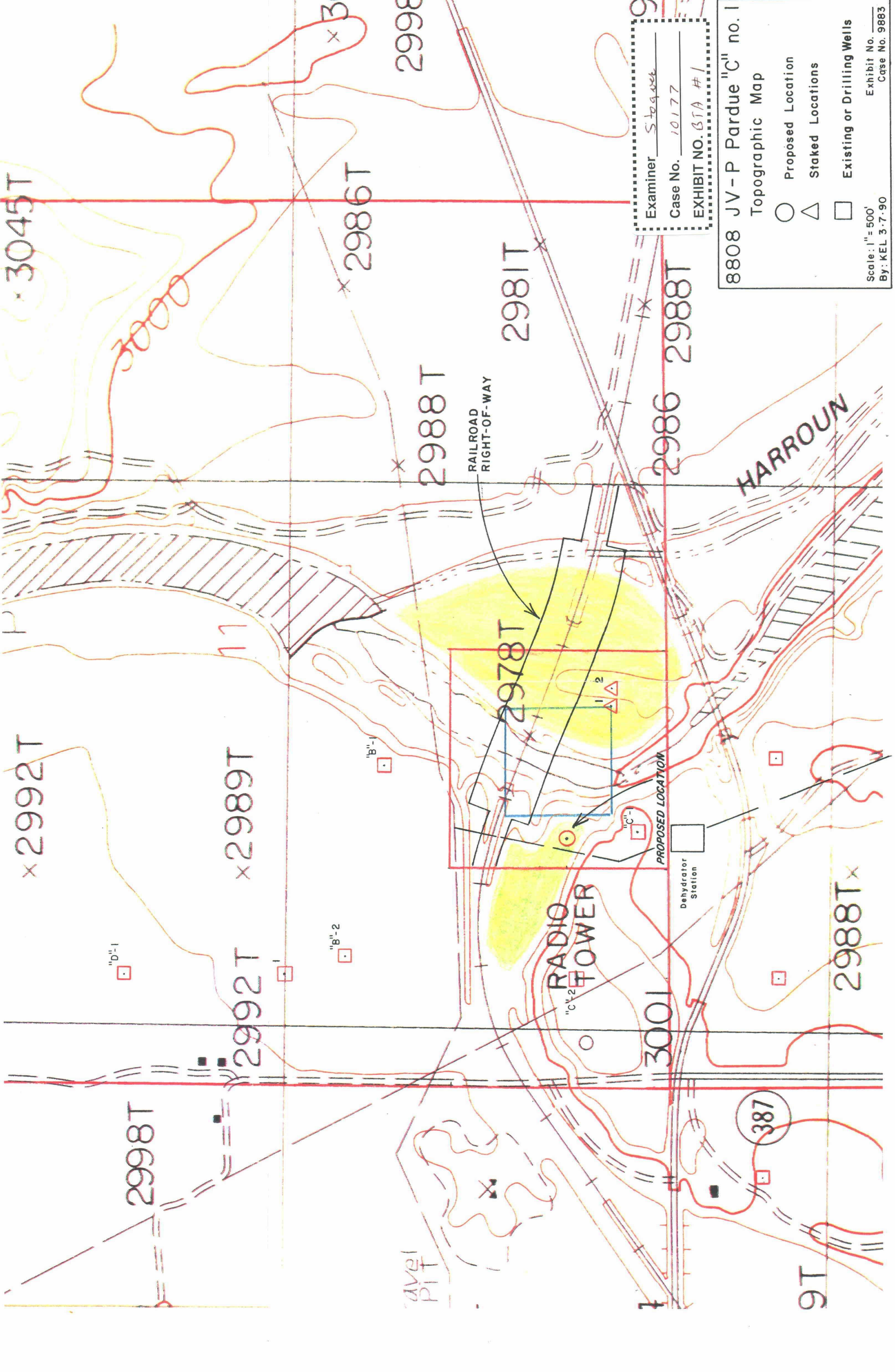
I, MAUREEN R. HUNNICUTT, RPR, a Certified Shorthand Reporter and Notary Public, DO HEREBY CERTIFY that I stenographically reported these proceedings before the Oil Conservation Division; and that the foregoing is a true, complete and accurate transcript of the proceedings of said hearing as appears from my stenographic notes so taken and transcribed under my personal supervision.

I FURTHER CERTIFY that I am not related to nor employed by any of the parties hereto, and have no interest in the outcome hereof.

DATED at Santa Fe, New Mexico, this 31st day of January, 1991.

My Commission Expires:
April 25, 1993


MAUREEN R. HUNNICUTT, RPR
Certified Shorthand Reporter
CSR No. 166, Notary Public



Examiner Stogwe
 Case No. 10177
 EXHIBIT NO. STA #1

8808 JV - P Pardue "C" no. 1
 Topographic Map
 ○ Proposed Location
 △ Staked Locations
 □ Existing or Drilling Wells
 Scale: 1" = 500'
 By: KEL 3-7-90
 Exhibit No. _____
 Case No. 9883

3045T

2998

2986T

2981T

2988T

2986 2988T

2992T

2989T

2978T

"D"-1

"B"-2

2992T

RADIO TOWER

PROPOSED LOCATION

Dehydrator Station

"C"-2

"C"-1

3001

2988T

2998T

387

avel PIT

9T

BEFORE EXAMINER STOGNER

OIL CONSERVATION DIVISION

BTA EXHIBIT NO. 1

CASE NO. 10117