

BEFORE THE
NEW MEXICO OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
January 10, 1985

COMMISSION HEARING

IN THE MATTER OF:)

Application of Jack J. Grynberg for amendment)
of Division Order R-6873, Chaves County, New)
Mexico.)

CASE 8400

BEFORE: R. L. Stamets, Director

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the New Mexico Oil
Conservation Commission:

Jeff Taylor
Legal Counsel for the Commission
State Land Office Building
Santa Fe, New Mexico

MR. STAMETS: Call Case 8400.

MR. TAYLOR: Case 8400, the application of Jack J. Grynberg for amendment of Division Order R-6873, Chaves County, New Mexico.

MR. STAMETS: At the request of the applicant this case will be continued indefinitely. The hearing is adjourned.

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO

10 July 1985

COMMISSION HEARING

IN THE MATTER OF:

Application of Jack J. Grynberg for CASE
amendement of Division Order R-6873, 8400
Rio Arriba County, New Mexico.

BEFORE: Richard L. Stamets, Chairman
Ed Kelley, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the OCD:

Jeff Taylor
Attorney at Law
Legal Counsel to the Division
Oil Conservation Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

1
2 MR. STAMETS: Case 8400, which
3 is the application of Jack J. Grynberg for amendment of
4 Division Order R-6873, Chaves County, New Mexico.

5 At the request of the
6 applicant, this case will be continued until the September
7 18th Commission Hearing.

8
9 (Hearing concluded.)
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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY
that the foregoing Transcript of Hearing before the Oil Con-
servation Division was reported by me; that the said tran-
script is a full, true, and correct record of the hearing,
prepared by me to the best of my ability.

Sally W. Boyd CSR

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO

12 December 1984

COMMISSION HEARING

IN THE MATTER OF:

Application of Jack J. Grynberg for CASE
amendment of Division Order, R-6873. 8400
Chaves County, New Mexico.

BEFORE: Richard L. Stamets, Chairman
Commissioner Ed Kelley

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation
Division:

For the Applicant:

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MR. STAMETS: Call next Case
8400, application of Jack J. Grynberg for amendment of
Division Order R-6873.

At the request of the applicant
this case will be continued to the Commission Hearing
scheduled for January 10, 1985.

(Hearing concluded.)

C E R T I F I C A T E

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STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO

7 November 1984

COMMISSION HEARING

IN THE MATTER OF:

Application of Jack J. Grynberg	CASE
for amendment of Division Order	8400
R-6873, Chaves County, New Mexico.	

BEFORE: Richard L. Stamets, Chairman
Commissioner Ed Kelley

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation	Jeff Taylor
Division:	Attorney at Law
	Legal Counsel to the Division
	State Land Office Bldg.
	Santa Fe, New Mexico 87501

For the Applicant:

MR. STAMETS: Call next Case
8400.

MR. TAYLOR: The application of
Jack Grynberg for amendment of Division Order R-6873, Chaves
County, New Mexico.

MR. STAMETS: At the request of
the applicant, this case will also be continued to the
December 12th Commission hearing.

(Hearing concluded.)

C E R T I F I C A T E

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MR. STAMETS: Call Case 8400.

MR. TAYLOR: Case 8400, the application of Jack J. Grynberg for amendment of Division Order R-6873, Chaves County, New Mexico.

MR. STAMETS: At the request of the applicant this case will be continued indefinitely. The hearing is adjourned.

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO

12 December 1984

COMMISSION HEARING

IN THE MATTER OF:

Application of Jack J. Grynberg for CASE
amendment of Division Order, R-6873. 8400
Chaves County, New Mexico.

BEFORE: Richard L. Stamets, Chairman
Commissioner Ed Kelley

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation
Division:

For the Applicant:

MR. STAMETS: Call next Case
8400, application of Jack J. Grynberg for amendment of
Division Order R-6873.

At the request of the applicant
this case will be continued to the Commission Hearing
scheduled for January 10, 1985.

(Hearing concluded.)

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ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO

7 November 1984

COMMISSION HEARING

IN THE MATTER OF:

Application of Jack J. Grynberg	CASE
for amendment of Division Order	8400
R-6873, Chaves County, New Mexico.	

BEFORE: Richard L. Stamets, Chairman
Commissioner Ed Kelley

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation	Jeff Taylor
Division:	Attorney at Law
	Legal Counsel to the Division
	State Land Office Bldg.
	Santa Fe, New Mexico 87501

For the Applicant:

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2
3 MR. STAMETS: Call next Case
4 8400.

5 MR. TAYLOR: The application of
6 Jack Grynberg for amendment of Division Order R-6873, Chaves
7 County, New Mexico.

8 MR. STAMETS: At the request of
9 the applicant, this case will also be continued to the
10 December 12th Commission hearing.

11 (Hearing concluded.)
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Sally W. Boyd CSR

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO

12 June 1985

COMMISSION HEARING

IN THE MATTER OF:

Application of Jack J. Grynberg for CASE
amendment of Division Order No. R- 8400
6873, Chaves County, New Mexico.

BEFORE: Richard L. Stamets, Chairman
Ed Kelley, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation Maryann Lunderman
Division: Attorney at Law
 Energy and Minerals Dept.
 Santa Fe, New Mexico 87501

For the Applicant:

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MR. STAMETS: We'll call first today Case 8400, being the application of Jack J. Grynberg for amendment of Division Order No. R-6873, Chaves County, New Mexico.

The applicant in this case has asked that it be continued.

The next regularly scheduled Commission hearing will be July 10th, and it will be continued to that date.

(Hearing concluded.)

C E R T I F I C A T E

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Sally W. Boyd CSR

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
State Land Office Building
Santa Fe, New Mexico

18 September 1985

COMMISSION HEARING

IN THE MATTER OF:

Application of Jack J. Grynberg for CASE
amendment of Division Order No. R- 8400
6873, Chaves County, New Mexico.

BEFORE: Richard L. Stamets, Chairman
Ed Kelley, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation
Division:

Jeff Taylor
Legal Counsel to the Division
Oil Conservation Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

For Jack J. Grynberg: J. E. Gallegos
Attorney at Law
JONES, GALLEGOS, SNEAD, &
WERTHEIM
P. O. Box 2228
Santa Fe, New Mexico 87501

A P P E A R A N C E S

For HEYCO:

William F. Carr
Attorney at Law
CAMPBELL & BLACK P. A.
P. O. Box 2208
Santa Fe, New Mexico 87501

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MR. STAMETS: We'll call next
Case 8400.

MR. TAYLOR: The application of
Jack J. Grynberg for amendment of Division Order No. R-6873,
Chaves County, New Mexico.

MR. STAMETS: Call for appear-
ances in this case.

MR. GALLEGOS: Appearing for
the applicant, Jack J. Grynberg, I'm J. E. Gallegos, P. O.
Box 2228, Santa Fe, New Mexico.

MR. CARR: May it please the
Commission, my name is William F. Carr, with the law firm
Campbell and Black, P. A., of Santa Fe, appearing on behalf
of Harvey E. Yates Company.

Mr. Stamets, I have a brief
statement to present on behalf of Harvey E. Yates Company.
It might be more appropriate for me to present that at this
time inasmuch as certain concerns raised by Harvey E. Yates
may be addressed by Mr. Gallegos and his witnesses in the
course of their direct testimony.

MR. GALLEGOS: We have no ob-
jection to that manner of proceeding.

MR. STAMETS: Very good. Mr.
Carr, you may proceed.

1 MR. CARR: Mr. Chairman, Order
2 R-6873, which was upheld by Supreme Court of New Mexico
3 pooled all mineral interest through the Ordovician formation
4 underlying the west half of Section 18, Township 9 South,
5 Range 27 East. It designated Harvey E. Yates Company as
6 operator of that unit and authorized a 200 percent risk
7 charge.

8 Harvey E. Yates Company, pur-
9 suant to the order, drilled and completed its Seymour State
10 No. 1 Well in the southwest quarter of the northwest quarter
11 of Section 18, dually completing the well in the Atoka and
12 Abo formations.

13 Jack J. Grynberg, owner of the
14 east half of the northwest quarter of Section 18 has re-
15 mained nonconsent and therefore not paid of the costs of
16 drilling and completing the Seymour State No. 1 Well.

17 At this time Harvey E. Yates
18 Company has not recovered its costs, much less the 200 per-
19 cent risk charge.

20 Harvey E. Yates Company offered
21 to farmout to Mr. Grynberg its interest in the west half of
22 Section 18, subject to its vested rights in the Seymour State
23 No. 1 well, reserving a net override interest of 6 percent
24 without any back-in requirements. No agreement has been
25 reached between the parties.

1 Harvey E. Yates objects to the
2 application if it seeks to substitute Mr. Grynberg as
3 operator of the Seymour State No. 1 Well and the spacing
4 unit on which it is located on the grounds that until payout
5 of costs and risk charge occur, the Commission has not the
6 power to divest Harvey E. Yates Company of its vested
7 interest in the Seymour State No. 1 Well.

8 Harvey E. Yates Company objects
9 to the forced pooling of rights from the surface to the base
10 of the Abo. Under Section 70-2-17(c) the party who proposes
11 to pool for the drilling of a well must have the right to
12 drill.

13 Harvey E. Yates Company submits
14 that Mr. Grynberg does not have the right to drill in the
15 southwest quarter insofar as it affects formations from the
16 surface to the base of the Abo.

17 Furthermore, there is nothing
18 in Order R-6873 or in the Notice of Hearing thereon, which
19 even purports to create a nonstandard unit in the Abo for
20 the Seymour State No. 1; therefore if Mr. Grynberg claims an
21 interest in the Abo formation under the southwest quarter by
22 reason of this ownership of the east half of the northwest
23 quarter, then it is the position of Harvey E. Yates that Mr.
24 Grynberg will have to reduce his interest in the Abo forma-
25 tion in the Seymour State No. 1 Well from one-half to one-

1 quarter.

2 That concludes the statement of
3 Harvey E. Yates Company.

4 MR. STAMETS: Do you have that
5 in writing, Mr. Carr?

6 MR. CARR: Quote.

7 MR. STAMETS: All right, that
8 will be fine.

9 Mr. Gallegos?

10 MR. GALLEGOS: Mr. Chairman, I
11 think all of the concerns raised by the statement will be
12 laid to rest by the evidence and I won't comment further in
13 that regard except to point out that the application is mis-
14 conceived by Harvey E. Yates and Company in regard to his
15 concern that it asks that he be substituted as operator of
16 the Seymour State No. 1. That is not the application.

17 The application only asks that
18 Grynberg be named the operator of this second well.

19 As a further preliminary mat-
20 ter, Mr. Chairman, I would point out that the application in
21 this proceeding among other things asks for an unorthodox
22 location for the second well. That may present a deficiency
23 in regard to the published notice and the Commission might
24 care to republish this and continue the hearing after the
25 completion of the evidence today so that notice can be given

1 of that aspect of this case.

2 With that we're prepared to
3 proceed with our evidence.

4 MR. STAMETS: You may.

5 MR. GALLEGOS: The applicant
6 will call two witnesses and I'd ask if they could be sworn
7 at this time. They are Morris Ettinger and Professor Bruce
8 Kramer.

9
10 (Witnesses sworn.)

11
12 MR. GALLEGOS: I'd like to
13 first call Mr. Ettinger, and there should be on the table
14 before the Commission members and before its attorney copies
15 of our exhibits and of a brief that we've submitted.

16
17 MORRIS I. ETTINGER,
18 being called as a witness and being duly sworn upon his
19 oath, testified as follows, to-wit:

20
21 DIRECT EXAMINATION

22 BY MR. GALLEGOS:

23 Q Please state your name.

24 A Morris Ettinger.

25 Q Where do you live, Mr. Ettinger?

1 A I live in Denver, Colorado, 1955 South
2 (not understood), Denver, Colorado.

3 Q Are you associated in business with Jack
4 Grynberg and also with a company known as Grynberg Petroleum
5 Company?

6 A Yes. I'm the Exploration Manager of this
7 company, Grynberg Petroleum.

8 Q All right. How long have you been the
9 Exploration Manager?

10 A About six years.

11 Q Very briefly would you state what your
12 formal education has been and your experience in the oil and
13 gas industry?

14 A Well, I'm a graduate of Colorado School
15 of Mines where I got a degree in geophysical engineering and
16 Master of Science in geology.

17 I've worked in the oil since I graduated
18 in 1955 until the present time.

19 I was involved with J. Grynberg and Asso-
20 ciates.

21 I was the Petroleum Commissioner of the
22 State of Israel and I was Vice President of Oceanic Explora-
23 tion Company before being the Exploration Manager of Gryn-
24 berg Petroleum.

25 Q Have you previously testified as an ex-

1 pert in petroleum geology and geophysics before this Commis-
2 sion and other regulatory bodies?

3 A Yes.

4 MR. GALLEGOS: We tender Mr.
5 Ettinger as a qualified expert.

6 MR. STAMETS: He is considered
7 qualified.

8 Q Mr. Ettinger, would you take before you
9 Exhibits One, Twos, and Three, and with the assistance of
10 those exhibits identify for the Commission the particular
11 property and the producing field in which it is located?

12 A Well, we're talking primarily about the
13 west half of Section 18 and in particular about the east
14 half of the northwest of Section, which is owned at the pre-
15 sent by Jack Grynberg.

16 The Exhibit Number Three shows an assign-
17 ment from Viking Petroleum to Jack J. Grynberg.

18 Exhibit Number Two indicate the leases in
19 question and the ownership of each one of the owners of the
20 west half of Section 18.

21 And Exhibit Number One shows the, again,
22 those leases plus some of the leases and ownership of the
23 surrounding area.

24 Q Okay. Generally speaking, what is the
25 character of the -- the development in that area, oil and

1 gas, other hydrocarbons?

2 A Well, the development in the last I would
3 say about five years includes two formations primarily in
4 this area. It's the Abo formation and the Fusselman
5 formation. Abo is productive of gas and the Fusselman is
6 also productive of gas. These are the two main formations
7 which are considered to be commercial.

8 Q Now, would you direct your attention to
9 Exhibits Number Six and Number Seven, Mr. Ettinger, and
10 first of all tell the Commission what each of those exhibits
11 is.

12 A Exhibit Number Six is a structure contour
13 map contoured on the top of the Fusselman formation. It al-
14 so indicates in the shaded area the area in which the Fus-
15 selman is missing. Actually the Fusselman was eroded in
16 this area.

17 It also indicates the various wells that
18 are drilled either to the Abo or to the PrePermian forma-
19 tion.

20 Q Now, let me take, as an aside for a mo-
21 ment, Exhibit Number Four and ask you to refer to that and
22 refer the Commission to that. What is it?

23 A Exhibit Number Four is an order of the
24 Commission, Case Number 7390, Order No. R-6873, and this was
25 done at the request of Harvey Yates for forced pooling of

1 the west half of Section 18, in which the Commission issued
2 an order primarily is the pooling of all mineral interest
3 down through the Ordovician formation underlying the west
4 half of Section 18, Township 9 South, Range 27 East.

5 Q This application in no way seeks to -- to
6 affect the pooling that was accomplished by this order.

7 A No.

8 Q Isn't that correct? Now, does the shaded
9 area on Exhibit Number Six indicate the west half of Section
10 18 from the surface standpoint that's subject to Order 6873?

11 A Yes.

12 Q All right. Now were you a witness in the
13 hearing in 1981 that underlay the issuance of the order
14 that's represented by Exhibit Number Four?

15 A Yes.

16 Q And what was the basic contested issue in
17 that proceeding?

18 A We objected to the request of Harvey
19 Yates for forced pooling the west half of Section 18 and
20 primarily what we objected is the drilling of a well to the
21 Ordovician formation. We objected on the ground that we
22 felt that an Abo test is justified because of the develop-
23 ment of the Abo in that area at that time.

24 As far as the PrePermian horizon there
25 weren't too many wells drilled at that time; if I remember,

1 the only well drilled in the area at that time was the
2 Plains Radio in Section 7, 9 South, 27 East, and we thought
3 it isn't sufficient information at that time to justify the
4 expense of drilling to the PrePermian.

5 And what we said is let's drill
6 to the Abo and we agreed to share the expenses for drilling
7 to the Abo and we said let's wait a little bit as more in-
8 formation will become available and then decide if there is
9 any reason, a good reason to drill and test the PrePermian
10 formation.

11 Q That position was rejected by the Commis-
12 sion, was it not, and the Commission designated Harvey Yates
13 and Company as an operator to drill the test well that was
14 proposed to this PrePermian formation?

15 A Yes.

16 Q Okay, and what position did Grynberg take
17 on that well as to participation?

18 A Well, we agreed, consistent with our
19 view, to pay for the expenses to the Abo but I guess it went
20 all the way to the Supreme Court and we couldn't resolve
21 this question, and as a result we are -- Grynberg Petroleum
22 decided to go nonconsent on this well.

23 Q Now, does the -- does Exhibit Seven il-
24 lustrate some information that you think is pertinent to the
25 well in place and in your opinion concerning the second well

1 that's being proposed?

2 A Yeah. Exhibit Number Seven is a cross
3 section through the Fusselman formation between two wells,
4 the Elk Oil Company Viking State Comm No. 2, which is lo-
5 cated in Section 19, 9 South, 27 East, and the Harvey E.
6 Yates Company Seymour State No. 1, located in Section 18,
7 Township 9 South, 27 East.

8 The Elk Oil Company is productive in the
9 Fusselman and this cross section shows the Fusselman forma-
10 tion and the perforation intervals in this well.

11 In the Harvey E. Yates we also see that
12 the Fusselman formation is present. It's much thicker than
13 in the Elk. Roughly speaking, in the Elk it's about 100
14 feet thick and in the Harvey Yates well, Seymour No. 1, it's
15 about 240 feet thick.

16 We also see that the Atoka formation in
17 the Harvey E. Yates is much thinner -- much thicker than in
18 the Elk Oil Company, in which the, actually, Lower Atoka is
19 very, very thin.

20 What we see also is that they tested in
21 the Harvey Yates, they tested the Fusselman formation and in
22 the upper test, what is shown as DST No. 4, from interval
23 from 6055 to 6140, they got gas to surface in five minutes
24 with a flow of 2.7 MCF a day, decreasing to 1.5 MCF a day,
25 and they recovered 500 feet of gas-cut mud, and then the

1 lower test, DST No. 5, from 6155 to 6191, they recovered
2 1395 feet of water.

3 So they, what they did is squeeze the
4 perforations, set a packer, and completed the well in the
5 Atoka formation and the perforation intervals are shown on
6 the cross section in the Seymour State No. 1.

7 In the Elk Well they perforated the Fus-
8 selman from 5957 to 6016 and they got a -- they completed it
9 as a gas well with a calculated absolute open flow of 3.542-
10 million cubic feet per day.

11 Q Generally speaking, what has been the
12 performance of the Elk Oil well, the Viking State No. --

13 A The Elk Oil is a very --

14 Q -- 2?

15 A -- good well and has been now on produc-
16 tion for, I guess, two, two years, or so, or more than two
17 years, and roughly speaking, it did produce more than a mil-
18 lion cubic feet per day.

19 Q Mr. Ettinger, by the way, the Order 6873
20 pools all the interest from the Ordovician to the surface.

21 What is the relationship of the Atoka and
22 Fusselman formations to the Ordovician?

23 A Well, Atoka is a Pennsylvanian which is
24 included in this interval from surface to the Ordovician,
25 and Fusselman is an Ordovician, so both formations are

1 pooled in accordance with the Commission order.

2 Q All right. Well, what has been the per-
3 formance of the Seymour State No. 1 Well that was drilled
4 by Harvey E. Yates on this unit?

5 A Well, Seymour State No. 1 Well basically
6 is -- hasn't produced too well, and actually in Exhibit Num-
7 ber Eight we have the production of the PrePermian on page
8 number one and then the production of the Abo in the second
9 page.

10 What we see is that the total production
11 from the PrePermian up to July, '85 was 32,000,608 cubic
12 feet, or 32,608 MCF, and also what we see, that basically
13 from all practical -- from January, '84 the PrePermian
14 either did not produce at all or produced very little.

15 Q Now, was the -- was this matter before
16 the Commission for a hearing in about April or May of 1984?

17 A Yes.

18 Q And at that time did you state in your
19 opinion that the -- that the production of the Seymour State
20 No. 1 from the Atoka was essentially noncommercial?

21 A Yes, because as we can see in the Exhibit
22 Number Eight, we go back, we can see that actually these are
23 very poor production with the exception, maybe, the first
24 few months it produced in '82 and '83, and then from January
25 to April did not produce anything.

1 So we can say that basically the Atoka
2 formation from which it was completed is depleted and is not
3 commercial.

4 Q Then what happened?

5 A So the Harvey Yates said that they would
6 try and recomplete the well and they did so and therefore we
7 see that they got production in May, June, July, August,
8 September, October, November, but the quantities are defin-
9 itely noncommercial, and then from December, '84 to the pre-
10 sent time the Atoka formation did not produce any gas.

11 Q Is it your opinion that this Seymour
12 State No. 1 Well as far as production from the Atoka is a --
13 is a nonproducer or noncommercial well?

14 A Yes.

15 Q Okay. It does, as shown by the second
16 page of Exhibit Eight, continue to produce, however, from
17 the Abo in commercial quantities --

18 A Yes.

19 Q -- is that true? All right. While we're
20 providing the Commission with the information on the Seymour
21 State No. Well -- Seymour State No. 1 Well, would you just
22 identify what Exhibit Nine is?

23 A Exhibit Number Nine is the well history
24 summary sheet prepared by Harvey E. Yates Company on the
25 Seymour State No. 1, showing how the well was completed,

1 where the perforation intervals are, where they set the cast
2 iron bridge plug at 6100, and they did perforate a number of
3 intervals in the Atoka.

4 Q All right. Now, by this application
5 Grynberg proposes a second well to be drilled on this same
6 320-acre unit, --

7 A Yes.

8 Q -- is that correct?

9 A Uh-huh.

10 Q Will you describe what the proposal is
11 and your expert opinion as to why it is justified?

12 A Well, we show the location of the pro-
13 posed well in Exhibit Number Six in a location which is
14 southwest southwest of Section 18, Township 9 South, Range
15 27 East.

16 The reason for this location, the geolo-
17 gical reason for this location, is that as far as the Fus-
18 selman formation is concerned, we should be above the
19 gas/water contact which we encountered in the Seymour State,
20 and lower structurally from the area in which the Fusselman
21 was eroded and we believe that this location should produce
22 gas from the Fusselman.

23 Q Between 1981 and the present have there
24 been additional developments that you believe are helpful in
25 identifying formation objectives for this well?

1 A Well, actually, we look at the wells that
2 drilled through the Fusselman in this area, we're seeing 1,
3 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, we see something on the
4 order of 12 to 14 wells and all of them were drilled with
5 the exception, as I mentioned, of Plains Radio, and maybe
6 another one, were drilled after 1981.

7 Q All right, and which of those have
8 obtained production in the Fusselman?

9 A Well, we can see that in Section 13 there
10 are two wells, Eastland No. 1 and Eastland No. 2, producing
11 from the Fusselman.

12 We can see in Section 19 two wells, the
13 No. 1 Meredith and No. 2 Viking, producing from the Fussel-
14 man.

15 We can see also in Section 14 the Elk No.
16 1 Aikman producing from the Fusselman.

17 And in Section 23, it's a Yates No. 1, I
18 guess it's I-B -I-S, producing from the Fusselman.

19 Q Is there any other formation that would
20 be an objective of this second well?

21 A Yeah, it's the Abo.

22 Q Okay.

23 A The Abo formation.

24 Q So by this well there would then be 320
25 acres which would be devoted to the objective of production

1 from the Fusselman and there would be 160 acres dedicated to
2 the Abo.

3 A Correct.

4 Q Now, sir, would you speak to the proposed
5 location of this well and in that connection refer the Com-
6 mission to Exhibit Number Twelve, the proposed location on
7 that 320-acre unit?

8 A Exhibit Number Twelve, maybe -- maybe
9 first let me point out that another well was drilled in Sec-
10 tion 13, which is not shown on Exhibit Number Twelve in the
11 northwest southeast of Section 13, which was drilled by Pool
12 and it's a dry hole because the Fusselman was missing.

13 The attempt was made here to compare the
14 orthodox location and the unorthodox location in Section 18
15 that we propose and to show which wells are going to be af-
16 fected.

17 It's clear that there is no -- the dis-
18 tance of the proposed location, whether it's orthodox or not
19 orthodox, it's 660 feet from the boundary line of Section 18
20 and Section 13, and therefore there's no effect on Section
21 13.

22 The only effect in terms of drainage that
23 this well could have is on the Elk No. 2 Viking because in-
24 stead of being 980 -- the location, instead of being 980
25 feet north of the south line of the section it's only 660

1 feet and therefore it's closer to the Elk No. 2 Viking State
2 Well in Section 19.

3 An attempt was made here to show the
4 change in distances from the orthodox location to the unor-
5 thodox location and show in the case of a limiting factor of
6 the production in the unorthodox location what in my opinion
7 this factor should be, 79 percent.

8 Q Okay. You've attempted to make a calcu-
9 lation of the limiting factor to compensate for the unortho-
10 dox location?

11 A Correct.

12 Q All right. And that is, the calculation
13 itself is shown at the bottom, lefthand bottom of the Exhi-
14 bit Eleven?

15 A Exhibit Twelve.

16 Q Exhibit Twelve.

17 A Yes.

18 Q Right. Now, as matters stand without the
19 drilling of the second well, Mr. Ettinger, do you have an
20 opinion whether or not there is drainage being affected by
21 offsetting wells?

22 A From a practical standpoint I don't think
23 so, because the Elk is fairly -- the Elk No. 2 Viking Well
24 in Section 19, it's quite a distance away from our proposed
25 location and I think that there won't be any effect, or very

1 little, in terms of drainage.

2 Q That is the proposed second well?

3 A The proposed second well in the southwest

4 --

5 Q Will have little effect on --

6 A The adjoining leases.

7 Q All right. Do you see a need to develop
8 a second well on the west half of Section 18 to protect the
9 correlative rights of the -- of the interest holders?

10 A Well, there's no question that we, based
11 on the geology that I described before, we have in the south
12 half of Section 18 a potential Fusselman reservoirs, which
13 in my opinion should be productive of gas and if we are not
14 going to drill the well, eventually it would be drained with
15 time by the adjoining wells producing from the Fusselman.

16 Q Has Grynberg sought to have Yates Company
17 drill this second well on the west half of Section 18?

18 A Yes, and Exhibit Number Ten is a letter
19 sent by Grynberg Petroleum Company to Harvey E. Yates Com-
20 pany asking them to drill the well in the southwest south-
21 west of Section 18, the same location as we propose.

22 Q And what was the response to this letter?

23 A There was no response.

24 Q All right. Well, they have, the present
25 designate operator has not proceeded to drill the proposed

1 well.

2 A Correct.

3 Q And was there also an attempt by that
4 operator to affect a drilling of a second well through a
5 farmout to another operator?

6 A Yes, an attempt was made to farmout to
7 another operator but I guess deal fell through.

8 Q Well, that farmout also did not succeed
9 in the drilling of the second well.

10 A Correct.

11 Q All right. Now, among your exhibits is
12 Exhibit Number Eleven. Would you identify that for the Com-
13 mission?

14 A Yes. Exhibit Number Eleven is an AFE of
15 the well that we propose in the southwest southwest of Sec-
16 tion 18. We call it #2-18 State Com, and it shows the --
17 what we anticipate are the costs of this well to a depth of
18 6200 feet, which is sufficient to test the Fusselman, will
19 cost.

20 Q Now this AFE is dated January 7, 1985.
21 What is your opinion of the validity of these expense esti-
22 mates as of September?

23 A I think that the costs did not change
24 since then.

25 Q Mr. Ettinger, would you state, then, in

1 summary, what Grynberg seeks by this application and what he
2 proposes to do if the application is granted?

3 A Actually, what we seek is to develop this
4 west half of Section 18. We feel that it is a very good
5 potential for gas production in the Fusselman and that's
6 what we would like to do.

7 In addition we think that the Abo also
8 has good potential for production, so in order to develop
9 this unit, or pooled unit, properly, I think another well
10 should be drilled and in the location that we suggested at
11 the southwest southwest of Section 18, and that's what we
12 propose to do.

13 Q All right, Mr. Ettinger, is there any-
14 thing in this application or intended by Grynberg that would
15 affect Yates status as operator of the Seymour State No. 1
16 Well?

17 A No, we don't want to operate the Seymour
18 State No. 1 and we are perfectly agreeable for Yates to con-
19 tinue to operate the Seymour State No. 1 Well without our
20 interference whatsoever.

21 Q And do you recognize that your interest
22 in the production from the Abo in the Seymour State No. 1 is
23 limited to the 24.6 percent interest you have in the 320 ac-
24 res?

25 A Yes. I mean this is what we've been

1 thinking all along, that this is our ownership in this
2 pooled unit and we think this is our interest in this unit.

3 Q And is it your view that the drilling of
4 this second well will comply with standard units; that is,
5 on this 320 acres there will be two Abo wells with 160-acre
6 spacing each, and one PrePermian well with 320-acre spacing.

7 A Well, actually, I don't think that this
8 well, proposed well, violates the spacing regulations of the
9 State of New Mexico, because basically what we're going to
10 end up is with two Abo wells on 160 acres and right now the
11 Atoka formation, which we think is actually depleted and
12 noncommercial, but anyway, we are not going, as I've shown
13 in the cross section, I don't think there is any potential
14 in the Atoka whatsoever and our intention is to drill from
15 the Fusselman, which is not productive in this 320 acres.

16 Q Which is not presently productive.

17 A Which is not presently productive.

18 Q And is not -- is it potentially produc-
19 tive in any way from the Seymour State No. 1?

20 A I don't think so, because it was tested
21 and recovered water in the Fusselman and was tight in the
22 upper part of the Fusselman.

23 MR. GALLEGOS: We pass the wit-
24 ness and move Exhibits One through Sixteen into evidence.

25 MR. KELLEY: Mr. Gallegos,

1 there is no Exhibit Number Five.

2 MR. GALLEGOS: That's right.
3 It's One through Four and Six through Sixteen.

4 MR. STAMETS: Without objection
5 these exhibits will be admitted, and let's go off the record
6 for a moment.

7
8 (Thereupon a discussion was had off the record.)
9

10 MR. STAMETS: Okay, back on the
11 record.

12 Mr. Gallegos, I believe you had
13 some more questions for Mr. Ettinger.

14 MR. GALLEGOS: We've rested our
15 direct of Mr. Ettinger and pass him for cross examination.

16 MR. STAMETS: Any --

17 MR. CARR: I have nothing for
18 Mr. Ettinger on cross.

19

20 CROSS EXAMINATION

21 BY MR. STAMETS:

22 Q Mr. Ettinger, I believe you indicated
23 that it would be Mr. Grynberg's intention to complete both
24 in the Abo and in the PrePermian in this new well, is that
25 correct?

1 A Well, if the Abo, of course, the sand
2 will be there, yes, that is the intention, yes.

3 Q It would seem to me based on what I see
4 in the docket in this case that as advertised we are only
5 talking about a second PrePermian well and the Abo is not
6 included.

7 On that basis it would seem as though we
8 would have to have a readvertisement of this case to provide
9 for both PrePermian and the Abo completion.

10 A All right.

11 Q As well as the unorthodox location, which
12 was mentioned earlier.

13 Let me ask you a question here, and I
14 realize this is not what you've asked for in this case, al-
15 though that's the way it's advertised.

16 If the -- if the Commission should decide
17 that the only way to grant Mr. Grynberg's application in
18 this case were to make him the operator of both wells and
19 replace Harvey Yates Company as the operator on the Seymour
20 State Well, recognizing that Mr. Grynberg did not pay his
21 share of the cost of drilling that first well, would it be
22 possible for Mr. Grynberg to collect the money for the pro-
23 duction of that well and continue to make proper payouts to
24 parties who did pay their share of the cost of drilling that
25 well until such time as payout is achieved including the

1 risk factors?

2 A Oh, I don't see any problem. We can ac-
3 tually keep a separate accounting on the two wells on the
4 production from the two wells and distribute the revenue in
5 accordance with whoever is going to participate in this sec-
6 ond well, which we don't know at the present time, and then,
7 of course, there is the division of the Seymour No. 1 in ac-
8 cordance with the Division order. We can distribute reven-
9 ues and operate the well.

10 I don't see any problem there. The only
11 reason we did not suggest it is that we thought that Harvey
12 Yates wanted to remain, and we can see that they want to re-
13 main as operator, and we thought we had enough conflict in
14 the past and why should we create more conflict by trying to
15 remove them as the operator.

16 But if the Commission would insist and
17 would issue an order that this is what they want, from a
18 practical point of view I don't seen any problem.

19 Q And do you believe that there are suffi-
20 cient reserves of gas in the formations that you've men-
21 tioned here today to pay out the cost of drilling this se-
22 cond well?

23 A Yes. I think that if we do find produc-
24 tion in the Fusselman, I think that from what I see from the
25 other surrounding wells, the reserves would justify to re-

1 cover the cost plus to make some profit.

2 Q And do you also believe that this is the
3 only way that the owners of interest in the formations under
4 the force pooled unit can protect their correlative rights
5 in the pools in question?

6 A Yes. I think this is the only practical
7 location for finding production in the Fusselman, as well as
8 in the Abo, to the advantage of all the interest owners in
9 this tract.

10 Q And if the Commission believes, is con-
11 vinced, or understands the law to say that there can be only
12 one operators of a force pooled unit, would you then request
13 that Mr. Grynberg be named the operator of the unit and in-
14 cluding both wells in order that the second well can be
15 drilled?

16 A Yes, but only on one condition, that
17 there are going to be two separate operating agreements for
18 each well.

19 Number one is existing now, which is the
20 Seymour No. 1, and we'll have to come up with another oper-
21 ating agreement for all the interest owners who are going to
22 participate in the second well.

23 Q So the standard provisions of a Division
24 forced pooling order should apply, giving all parties an op-
25 portunity to pay their share, join in the drilling of the

1 well, or not, a separate risk factor which should be ap-
2 plied.

3 A That's correct.

4 Q And if this is the case, do you have a
5 recommendation as to what sort of a risk factor should be
6 applied for this well?

7 A Yes. I will go along with the original
8 order of the Commission of 200 percent.

9 Q And what --

10 A In addition to the cost of drilling the
11 well.

12 Q What about the overhead charges while
13 drilling and --

14 A And I think we also will look at the same
15 thing it was in the Commission order, which is \$350 -- let
16 me check -- yeah, in Exhibit -- the same thing the Commis-
17 sion order, we talked about \$3550 per month while drilling
18 and \$355 per month while producing.

19 MR. STAMETS: Are there other
20 questions of the witness?

21 MR. GALLEGOS: I have nothing
22 further.

23 MR. STAMETS: He may be ex-
24 cused.

25 MR. GALLEGOS: Applicant calls

1 Professor Bruce Kramer.

2
3 BRUCE KRAMER,
4 being called as a witness and being duly sworn upon his
5 oath, testified as follows, to-wit:

6
7 DIRECT EXAMINATION

8 BY MR. GALLEGOS:

9 Q Please state your name to the Commission.

10 A Bruce Kramer.

11 Q Where do you live?

12 A I live at 6804 Norfolk Avenue, Lubbock,
13 Texas.

14 Q What is your occupation?

15 A I am Professor of Law at Texas Tech Uni-
16 versity School of Law.

17 Q Would you identify Exhibit Number Thir-
18 teen, Professor Kramer?

19 A Yes. That is a copy of my curriculum
20 vita, or resume.

21 Q All right. In particular would you tell
22 the Commission about your experience and accomplishments in
23 the field of oil and gas law?

24 A Yes. I began actively teaching and re-
25 searching and writing in the field of oil and gas since

1 about 1979.

2 I've published three Law Review articles
3 since 1983, dealing with oil and gas problems, including a
4 presentation before the Southwestern Legal Foundation (not
5 understood) oil and gas law and taxation.

6 I am an index -- the indexing author to
7 the Oil and Gas Reporter. I am also on the editorial board
8 of the Oil and Gas Reporter. I revised Volumes II and III
9 of the Myers, The Law of Pooling and Unitization and have
10 updated it through the annual supplements since 1979.

11 I am presently under contract with Pro-
12 fessor Pat Martin of Louisiana State University and former
13 Commissioner of Conservation of the State of Louisiana, to
14 revise and expand presently Volume I into two new volumes,
15 and that will be completed within the next year.

16 Q What has happened to Myers concerning the
17 --

18 A Mr. Myers died. He was a Dallas attorney
19 and he has since died.

20 Q And the name, this work will still be
21 known as Myers?

22 A The answer is that we're negotiating with
23 the publishers as to exactly -- they feel or at least cer-
24 tain people feel that the Myers has certain value in terms
25 of its marketability; nonetheless, there will be certainly

1 recognition that it will be Kramer and Martin, Revision of
2 Myers, or something like that.

3 Myers will some way remain in there but,
4 however, Professor Martin and myself names will be somewhere
5 involved.

6 MR. GALLEGOS: We tender Pro-
7 fessor Kramer as an expert in the field of oil and gas law
8 and particular in questions concerning pooling and unitiza-
9 tion.

10 MR. STAMETS: Professor Kramer,
11 just a couple of questions.

12 Professor Kramer, in your
13 studies have you found different states have different stat-
14 utes and different methods of dealing with the issues of
15 compulsory pooling?

16 A Yes and no. I don't mean to be evasive;
17 however, in certain broad context, most of the compulsory
18 pooling statutes are very much the same.

19 When it comes down to the details, proce-
20 dural and otherwise, then you can get some changes and there
21 is some substantial differences relating to judicial review.

22 But in the concept of pooling, as it's
23 described in most state statutes is about the same. The im-
24 pact and the effect by statutory or compulsory pooling is
25 approximately the same.

1 There are -- Texas is a little different
2 but most of the other states are about the same.

3 MR. STAMETS: The witness is
4 considered qualified.

5 Q Professor Kramer, to prepare you to tes-
6 tify in this proceeding did you examine and investigate cer-
7 tain factual information?

8 A Yes. I reviewed Order R-6873. I also
9 looked at several letters or correspondences between Grynberg
10 and Yates, or Yates' attorney, Mr. Losee. I also reviewed
11 the application of Jack Grynberg to amend R-6873.

12 Q And you've been present in the hearing
13 room today to hear the testimony of Morris Ettinger?

14 A Yes, I have.

15 Q And in order to equip yourself to render
16 opinions on certain issues in this proceeding, have you con-
17 sidered any legal authorities?

18 A Yes, I have. I've obviously referred to
19 the New Mexico Oil and Gas Act, the provisions thereof, and
20 the rules and regulations of the Oil Conservation Commis-
21 sion.

22 I've also looked at several other State
23 statutes, including Oklahoma and Kansas.

24 I also -- well, that was -- and some
25 other similar state statutes in jurisdictions in which I

1 read some cases.

2 In addition to that I looked at several
3 treatises and texts, including Myers' Law of Pooling and
4 Unitization, the multi-volume treatise by Professors Wil-
5 liams and Myers in the Law of Oil and Gas, and the treatise
6 by Professor Kutz, also entitled the Law of Oil and Gas.

7 I also reviewed numerous cases, well over
8 twenty-five, regarding the issues, the legal issues that
9 have been raised by this application.

10 Q What is Exhibit Fourteen?

11 A Exhibit Fourteen identifies the major
12 legal principles that underlie the application of Jack Gryn-
13 berg seeking this unorthodox location, being designated
14 operator.

15 Q Let's start an examination of these by my
16 asking you your opinion of the -- of the legal ownership ef-
17 fect of the pooling of the west half of Section 18 under
18 Commission Order R-6873.

19 A The pooling, the order itself says all
20 interests are pooled through the Ordovician on the 320-acre
21 west half of Section 18.

22 The Statute 70-2-17(c) treats all opera-
23 tors as -- operations as pooled following entry of a compul-
24 sory pooling order.

25 Essentially what either voluntary or com-

1 pulsory pooling accomplishes is the unification of owner-
2 ship, whether it be royalty or operating interest, on the
3 area that is covered by the pooled unit or the compulsory
4 pooling order, and treats it as though there was a sole
5 owner, I mean undivided ownership when you have multiple
6 owners, and essentially you erase all internal boundary
7 lines and the boundary lines of the new ownership criteria
8 are those which are set forth in the compulsory pooling or-
9 der.

10 Q I'll come back to that but let me ask you
11 as to the second point. What, in your opinion, is the pro-
12 priety of designating Grynberg as an alternate operator to
13 drill the second well that's proposed on this unit?

14 A Well, normally once a compulsory pooling
15 order is entered, the issue of who is the operator essen-
16 tially becomes a matter of administrative discretion and
17 it's a matter of the administrative agency essentially fol-
18 lowing statutory guidelines to prevent waste and protect
19 correlative rights or produce oil and gas as the case may
20 be, and they have, in most situations, been granted substan-
21 tial discretion to designate an operator or potentially
22 operators to carry out the legislative guidelines.

23 Q Do you believe there is any effect or
24 equation on that discretion in a circumstance such as this
25 where the designated operator is not drilling a second well

1 and --

2 A You obviously have a unique situation
3 here because of the nature of, or Mr. Ettinger's opinion of
4 the nature of the Fusselman formation with the fact that the
5 one well that was allegedly designated to drain it apparent-
6 ly does not drain it and therefore the geology would tend to
7 lead you to want to drain the formation from the 320-acre
8 unit. The designated operator of a well which apparently
9 will not be productive does not want to be the operator and
10 therefore there is nothing that I could read certainly in
11 the New Mexico statutes which would prevent the Commission
12 from designating a second individual as a second operator on
13 a well, given these unique circumstances.

14 Normally you don't have two wells to the
15 -- to the formation which you are -- which you set up your
16 pooled unit.

17 This also goes back to the nature of the
18 original order, which pooled all the formations.

19 So you have several unique circumstances
20 which might lead to a unique remedy, which might be limited,
21 if the agency was thinking about not setting a precedent, to
22 these unique set of facts.

23 Q Do you think that Mr. Grynberg's noncon-
24 sent status as to the first well has any effect on his stan-
25 ding?

1 A No. Again, starting from the order it-
2 self, the order talks about an election on a well and don't
3 talk about an election on other wells, since at that time it
4 was considered that one well would be sufficient to drain
5 the Fusselman for the entire 320 acres.

6 Since the geology has changed, his non-
7 consent status cannot prejudice him in his ability to seek a
8 second well, since his election to go nonparticipant was
9 based upon one well and one AFE and one -- and his ideas re-
10 garding the availability of productive reservoir at the lo-
11 cation of the No. 1 Well.

12 Now normally an election is only binding
13 on an operator as to the wells which are the subject matter
14 of the election, and in this case the well was a well. It
15 was not a consent or nonconsent election on the entire 320
16 acres; it was on the Seymour State Well in its proposed lo-
17 cation.

18 Again, normally -- excuse me. Normally
19 one well or pooled unit is what you have, but again we have
20 these unique circumstances here because of the geology and
21 the reservoir location.

22 Q With the aid of Exhibits Fifteen and Six-
23 teen now, would you just sort of go back through your con-
24 clusions and explain why you arrived at the opinions that
25 you've just stated?

1 A Okay. Yes. Exhibit Fifteen essentially
2 describes the nature of the ownership before the compulsory
3 pooling order R-6873, in which Mr. Grynberg owned plus or
4 minus 80 acres in essentially the northeast section of the
5 rectangle and was separate.

6 At that point it was clear that Mr. Gryn-
7 berg did not have the authority or the right to drill in the
8 area colored yellow; however, after the compulsory pooling
9 order, which by its own terms pooled all the formations on
10 the entire 320 acres, ownership essentially becomes unified,
11 as if they were undivided interests, one owner owning rough-
12 ly 3/4 and one owner owning roughly 1/4 on the entire 320
13 acres to all formations down to the PrePermian, subject to
14 the order, which is what it stated, so that instead of own-
15 ing a specified area of a larger whole, they are now become
16 essentially a 1/4 interest owner of the entire 320-acre half
17 section.

18 Q Professor Kramer, I don't ask of you to
19 go into citations and that kind of thing here, but is this
20 opinion that you stated based in legal authorities in sev-
21 eral jurisdictions which have addressed --

22 A Yeah.

23 Q -- this situation?

24 A Yeah, well, the exact question of the na-
25 ture or the effect of pooling in terms of how it -- how it

1 affects ownership, is really not a question which comes up
2 very often because it's sort of the essence or the essential
3 attribute of pooling.

4 The given is that the pooling statute
5 says that what you do is you erase internal boundary lines
6 and you set up either the unitized area or the pooled unit
7 area as the external boundary lines and everything else is
8 erased and rights are then determined by virtue of the vol-
9 untary pooling agreement, the unit operating agreement, or
10 the compulsory pooling order.

11 And in this circumstance the compulsory
12 pooling order pools all of the interest on the 320 acres.

13 Q Then if you'd address yourself to Exhibit
14 Sixteen, how does that serve to explain your views?

15 A Okay. Well, again essentially our Exhi-
16 bit Sixteen shows the unique nature of the Fusselman forma-
17 tion here and why a second well needed to be -- needs to be
18 drilled on a pooled unit that was pooled to essentially al-
19 low one well on 320 acres.

20 The wells, the Seymour State 1 essential-
21 ly did not produce from the Fusselman because of the nature
22 of the geology of the circumstance and that therefore the
23 original purpose for the pooled unit, which was to test the
24 Fusselman and to produce from the Fusselman, would essen-
25 tially be nullified unless a second well would be drilled to

1 get producing or production in paying quantities from the
2 320-acre Fusselman formation.

3 Q Is this second well consistent with spac-
4 ing unit requirements for the formation involved?

5 A Well, the pooled -- the spacing require-
6 ments for the Fusselman, or PrePermian, are 320 acres.
7 There is presently no well which is producing from the 320
8 acres, therefore it would not be inconsistent with teh spac-
9 ing regulations to allow a well to test the 320 -- the Pre-
10 Permian Fusselman in another location.

11 MR. GALLEGOS: That concludes
12 the direct of Professor Kramer and we pass him for examina-
13 tion and move the admission of Exhibits Thirteen through
14 Sixteen.

15 MR. STAMETS: These exhibits
16 will be admitted.

17 Are there questions of Profes-
18 sor Kramer?

19 MR. CARR: No questions.

20 MR. STAMETS: I have no ques-
21 tions.

22 Professor Kramer may be ex-
23 cused.

24 A All right. Thank you.

25 MR GALLEGOS: Thank you.

1 That concludes the applicant's
2 case.

3 MR. STAMETS: Obviously we'll
4 have to have some readvertising in this case for the -- to
5 include the Abo formation and for the unorthodox well loca-
6 tion.

7 I'll be happy to accept short
8 briefs from all interested parties in this case which would
9 justify the Commission varying from its -- well, I think
10 it's more than just a policy matter, of having one operator
11 on a force pooled unit, to allow this to happen, and perhaps
12 we may uniquely amend the application to allow for two oper-
13 ators on a single force pooled unit.

14 MR. GALLEGOS: We will do some
15 research and likely submit a brief on that. The brief we
16 submitted didn't address that issue.

17 MR. STAMETS: Let's go off the
18 record for a minute.

19
20 (Thereupon a discussion was had off the record.)
21

22 MR. STAMETS: This case will be
23 readvertised for the Commission Hearing set for October the
24 17th and if there is nothing further, then, the case will be
25 continued until that time.

(Hearing concluded.)

C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY
CERTIFY that the foregoing Transcript of Hearing before the
Oil Conservation Division (Commission) was reported by me;
that the said transcript is a full, true, and correct record
of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

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COMMISSION HEARING

CASE
8400

A P P E A R A N C E S

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A P P E A R A N C E S

For Harvey E. Yates Co.: A. J. Losee
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2
3 MR. STAMETS: The hearing will
4 please come to order.

5 We'll call at this time Case
6 8400, which was previously heard and is continued and read-
7 vertised.

8 MR. TAYLOR: The application of
9 Jack J. Grynberg --

10 MR. STAMETS: Grynberg.

11 MR. TAYLOR: -- for amendment
12 of Division Order R-6873, Chavez County, New Mexico.

13 MR. GALLEGOS: Appearing for the
14 applicant, Jack J. Grynberg and Grynberg Petroleum Company,
15 I'm J. E. Gallegos, Santa Fe, New Mexico.

16 MR. LOSEE: Appearing for Har-
17 vey E. Yates Company, A. J. Losee, Artesia, New Mexico.

18 MR. STAMETS: You may proceed.

19 MR. GALLEGOS: Mr. Chairman, on
20 September 18th of this year this matter came on for hearing
21 and has now been readvertised.

22 At the hearing last month we
23 presented our case and the only thing I have to add to it
24 for the moment is a short brief addressing the questions
25 that were raised at the close of that hearing.

It speaks to the authority of

1
2 the Commission to name a separate operator for the second
3 well from the -- from the designated unit operator.

4 And with that I think we'll
5 save our seven and a half minutes and use it for rebuttal of
6 Mr. Losee's testimony.

7 MR. STAMETS: All right. Mr.
8 Losee.

9 MR. LOSEE: I wish to offer two
10 exhibits, if the Commission please, both having to do with
11 the question that was raised in the second notice as to
12 whether or not HEYCO was going to be removed as operator from
13 the existing Seymour No. 1 Well, and I only have one copy of
14 the first one, which is a certified copy of the order of the
15 U. S. Bankruptcy Court for the District of Colorado, recit-
16 ing that Jack J. Grynberg bankruptcy proceeding is still
17 pending.

18 It's my understanding it's a
19 Chapter II proceeding and it has not been dismissed at this
20 point.

21 MR. STAMETS: Jerry, is this
22 the same proceeding that was mentioned a long time ago?

23 MR. LOSEE: Still pending, yes,
24 sir. It's my understanding it started in about 1981.

25 MR. STAMETS: Okay.

MR. LOSEE: And probably arose

1
2 from a case which I'm going to ask the Commission to take
3 administrative notice of, which is Danzig versus Jack
4 Grynbrg and Associates. It originally started in 1984, but
5 the last hearing was held in -- originally started in 1978.
6 It's 208 California Reporter 336, and briefly, solely as an
7 explanation, the case speaks for itself, it's a case in
8 which a class action was brought against Mr. Grynberg and
9 his wife and a judgment was obtained in favor of the class
on the theory of rescission.

10 Grounded upon fraudulent misre-
11 presentations, a judgment was entered in the amount of about
12 \$6.7 million.

13 The next exhibit I have ties
14 in, really, to that, and I do not have any citation on it.

15 It's simply an excerpt out of
16 the USA Today, which I hate to quote as legal authority, on
17 October the 8th, but it indicates that the Supreme Court of
18 the United -- it's referring to a group of cases that the
19 Supreme Court either agreed to grant cert on or deny, and
this was one of the cases they denied cert on.

20 I move the introduction of the
21 two exhibits.

22 MR. STAMETS: Any objection?
23 They will be --

24 MR. GALLEGOS: I'm afraid, Mr.
25

Chairman, that I'm going to have to object to Exhibit Number Two. It would be unqualified for many reasons. One of those would be, I'm sure, hearsay, and without a context to it even hearsay doesn't tell us very much.

MR. LOSEE: Whatever the Commission would prefer as far as the exhibit. I have no citation on it but I'll have it in a week or so out of the Supreme Court Reports. It's denied cert.

MR. GALLEGOS: That would be a more appropriate way, I think, to submit it. I knew that the case was on petition for cert and I think --

MR. LOSEE: Are you satisfied it's been denied or --

MR. GALLEGOS: I was not informed on that.

MR. STAMETS: Mr. Gallegos, would you object if Exhibit Number Two was not accepted as an exhibit but placed in the well file as a submittal which would go with the latest (not clearly understood).

MR. GALLEGOS: As long as it's not being allowed as substantive evidence.

MR. STAMETS: Right.

MR. GALLEGOS: We have no objection to Exhibit One.

MR. STAMETS: We will accept

1 Exhibit One as evidence in this case.

2
3 MR. LOSEE: HEYCO, Harvey Yates
4 Company, which I'm going to refer to as HEYCO throughout
5 this dissertation or testimony, hopefully argument, appears
6 to object -- appears at this hearing to object to portions
7 of the proposed application as enlarged upon or changed by
8 the notice.

9 The first is that HEYCO objects
10 to any attempt to remove its operator of the Seymour State
11 No. 1 Well that's been drilled under the forced pooling or-
12 der, and in which Mr. Grynberg has paid no part of the costs
13 of drilling and in which the cost of drilling, much less the
14 200 percent risk, have not been recovered.

15 Secondly, HEYCO appears to sub-
16 mit the argument that Mr. Grynberg does not have the right
17 to any production in the southwest quarter of Section 18
18 above the base of the Abo formation.

19 I'll -- this case has been here
20 a long time. It was heard first by the Commission in 1972,
21 appealed by Mr. Grynberg to the District Court, reversed --
22 not reversed but amended, modified, probably improperly, ap-
23 pealed to the Supreme Court and the Commission's order force
24 pooling Mr. Grynberg upheld.

25 From HEYCO's standpoint Mr.
Grynberg sued, through his trustee sued HEYCO in the Colo-

1 rado County Court, lost there and appealed to the District
2 Court in Denver and lost there, claiming that he was entit-
3 led to his override by virtue of the forced pooling order.
4

5 A year ago, in November of
6 1984, Mr. Grynberg filed the first application to drill the
7 well in the southwest quarter to test the Fusselman, and it
8 was dismissed without prejudice a the request of Mr. Gryn-
9 berg.

10 HEYCO's worn out arguing about
11 this spacing unit. Maybe the Commission is and maybe Mr.
12 Grynberg is.

13 One thing I would point out
14 that was pointed out by Mr. Carr in the --his statement to
15 the Commission a month ago, which he made on behalf of
16 HEYCO, HEYCO did offer to Mr. Grynberg a farmout on the west
17 half of Section 18 subject to the vested rights of HEYCO in
18 the Seymour No. 1 Well, reserving a net override of 6 per-
19 cent and no back in.

20 That was rejected probably, and
21 Mr. Gallegos can correct me if I'm wrong, on -- based upon
22 his theory or the theory of his client that he already owns
23 an interest in the southwest quarter above the base of the
24 Abo equal to 24.6 percent and that as a result he doesn't
25 need our farmout on that interest.

When this application was filed

1
2 and the hearing held on September 18th, I had some doubt as
3 to whether on the notice that I read in the paper whether
4 there was purportedly going to be any attempt to remove
5 HEYCO from the Seymour No. 1 Well.

6 Mr. Gallegos assured me on the
7 telephone that that was not Mr. Grynberg's intent and as a
8 result we did not offer any testimony and Mr. Carr made a
9 statement at the conclusion of the hearing. The question
10 was raised, I think by you, Mr. Stamets, that there was some
11 concern as to whether you should have two operators on a
12 unit and that raises the possibility that my client may be
13 removed from -- if you grant the order.

14 So we're here today to offer
15 this evidence, really solely for the purpose of raising the
16 question as to Mr. Grynberg's financial ability to assume
17 the duties of operator of the Seymour No. 1 Well.

18 We frankly researched it at my
19 office and they found no -- there's two questions.

20 One, can you change an operator
21 under these facts, or two, can you have two operators.

22 We looked at it that if you
23 can't change the operator, if you're going to grant a forced
24 pooling, you have to permit another operator, permit two
25 operators to be on it, and my argument is based on the
theory that you can't -- you should not change the operator

1
2 and probably shouldn't (sic).

3 The only way that Order R-6873
4 can be amended or should be amended is if circumstances have
5 changed and Mr. Grynberg argues that the circumstances have
6 been changed in that he thinks a Fusselman well can be drill-
7 led on the southwest quarter.

8 I'm not here arguing or testi-
9 fying, HEYCO is simply saying that there's no circumstances
10 that have arisen to show that HEYCO isn't performing its
11 responsibility as operator of the Seymour No. 1 Well, and
12 that's the issue if he is to be removed.

13 Until he gets payout and a risk
14 charge, HEYCO, Mr. Grynberg is a complete stranger to that
15 well. He has no more vested interest than I do or Mr. Tay-
16 lor, Mr. Gallegos, unless and until the well pays out.

17 I raise some practical problems
18 that if he is made operator of the Grynberg No. 1 Well, in
19 the first place there's no operating agreement with any ac-
20 counting procedure attached. The Commission would simply
21 enter an order saying that you get so much for a drilling
22 well and so much for a producing well per month. But that
23 doesn't take care of all the other responsibilities of an
24 operator, pull the pipe and tubing, and maybe test another
25 formation, the pipe collapses, how does he go about operat-
ing, and really, how does he effect a proper charge and how

1
2 do the nonoperators -- HEYCO would just be one of them; it
3 has 15 or 20 partners in that well.

4 If Mr. Grynberg feels that the
5 Seymour No. 1 won't pay out plus 200 percent risk penalty,
6 he's never going to get any interest in the well. There's
7 no incentive for him to pay a single bill on the well. He
8 has no interest in it; he's never going to get an interest
in that well.

9 But if he doesn't pay the
10 bills, some service company or laborer can file a lien and
11 foreclose HEYCO and its partners out of the well.

12 HEYCO has an obligation to its
13 partners that really make it mandatory that it appear before
14 the Commission to see that those circumstances do not arise
15 and until there is some showing that HEYCO is not performing
16 its responsibility, we submit that it should be removed as
17 operator and if the Commission sees fit to grant the drill-
18 ling of this well by Mr. Grynberg in the southwest south-
west, we urge the Commission to appoint a second operator.

19 Turning to the second portion
20 of our objection, that is to say, the claim by Mr. Grynberg
21 that Order R-6873 gave him a 24.6 percent interest in the
22 west half of Section 18, as to all formations from the sur-
23 face to the Ordovician, which is Part I in his brief, and
24 which is in part the gist of the argument offered by Mr.
25

1 Kramer in his testimony to the Commission. He testified at
2 the last hearing, Professor Kramer from Texas Tech.

3 I asked somebody what kind of
4 interest is this 24.6. Is it vested interest? Is it passed
5 legal rights? Does it convey title?

6 If it does, I submit that it's
7 beyond the Commission's jurisdiction because it is not the
8 function of this Commission to try title.

9 They draw their comfort from
10 the order in the paragraph of the -- the first paragraph of
11 the order portion of Order R-6873 in which it says that all
12 mineral interest down through the Ordovician underlying the
13 west half of Section 18 are hereby pooled to form a 320-acre
14 gas spacing and proration unit, and I place emphasis on
15 this, to be dedicated to a well drilled at a standard loca-
16 tion on said 320. And then the order, as is customary with
17 Commission orders, says if you don't start the well by March
18 1, '82, and continue drilling it with due diligence, can
19 terminate, and further, if you don't drill it to completion
20 and abandon it within 120 days the order's going to termin-
21 ate, and I submit that the order was entered and it affected
22 only the rights from that well. It did not purport to
23 change the spacing unit above and below the Abo.

24 One case that was not cited in
25 the brief by Mr. Grynberg is Southern Union vs. Essen, 540

1 Pacific 2d 603. It was a 1975 Oklahoma case in which South-
2 ern Union got a forced pooling order.
3

4 Did you get the citation, Mr.
5 Taylor?

6 Drilled the first well, plugged
7 and abandoned, dry hole.

8 They went in and started on --
9 asked the Commission for an interpretation of that order, as
10 to whether it force pooled beyond the well.

11 The Commission held that, no,
12 it didn't. The appeal was taken to the Supreme Court on two
13 points, that point, for one, and the Supreme Court says,
14 we're not going to tell you what the order did, but Commis-
15 sion, you don't have the authority, the jurisdiction to de-
16 termine what rights were granted.

17 There is a good, the only ar-
18 ticle I found on what interest is granted by the forced
19 pooling, and it doesn't answer the question, it's an Oklaho-
20 ma Law Review and -- well, I'll have it here in a minute --
21 25 Oklahoma Bar Journal 298, if my memory serves me.

22 Oklahoma has a little different
23 theory, of course, in that if it's an operator they sell him
24 out. They set a bonus and say you either participate or
25 take your bonus and override.

And so for awhile Oklahoma

1
2 looked like it was a vested interest in the lease but fol-
3 lowing this Southern Union case that I just gave you the
4 citation, the commentator end of it, Professor Kuntz, being
5 at Oklahoma, implies that it's only an interest during the
6 life of the well.

7 The claim by Mr. Grynberg
8 raises some very interesting questions.

9 One I asked you does the inter-
10 est that he claims that he got in the southwest quarter
11 above the Abo remain in force during the entire term of his
12 lease? What if we plug and abandon our well next week, is
13 it still (not clearly understood)? And if it is during the
14 term of his lease, what about a new lease? Does that remain
15 in force?

16 It has to if he has a vested
17 interest.

18 What if HEYCO were to drill an
19 Abo oil well in the southwest quarter? Would Mr. Grynberg
20 have a 24.6 percent interest by virtue of the pooling?

21 What if HEYCO were to drill an
22 Abo gas well in the southwest quarter? Would Mr. Grynberg
23 have a 24.6 percent interest?

24 If the answer to both of those
25 questions is yes, then that Commission order has to be con-
strued to have changed as to the west half of Section 18 the

1 drilling and spacing requirements for all oil and gas wells
2 because that's exactly the argument they're making.
3

4 We submit that the notice, the
5 forced pooling notice, was not broad enough to accomplish
6 that change.

7 We raise another question to
8 the argument made by Mr. Kramer that it created a working
9 interest unit. What about the override and royalty owners?
10 Are they going to be affected? Now the royalty owners
11 aren't because it's a state -- there's two state leases in-
12 volved. You all probably may or may not remember the unit,
13 and this is Mr. Grynberg's exhibit. The blue is his acreage
14 and the yellow is HEYCO's. It's all state leases so the
15 royalty is not going to change but the override owners are
16 different.

17 Do Mr. Grynberg's override
18 owners, which are his children and Mr. Ettinger, have an in-
19 terest in the southwest quarter by virtue of that pooling
20 order? If it's a valid spacing unit, then they do. Does
21 that mean that the override owners in the southwet quarter
22 are reduced by this 24.6 percent? They have to be if the
23 claim is right, if Mr. Grynberg's claim is correct.

24 And that's the real crux. I
25 mean what does the Commission order grant and what was in-
tended to be granted by that order. I think you could make

1
2 some kind of argument that the order is not clear but inso-
3 far as it attempts to change the spacing rules, statewide
4 spacing rules, it's not effective because there was no no-
5 tice that that was the intent of the Commission, and it has
6 to do that to accomplish the purpose that Mr. Grynberg is
7 offering.

8 They submit one case in Oklaho-
9 ma, and there are actually two appeals, Texas Oil and Gas
10 vs. Rein. The case they cited is at 534 Pacific 2d 1277.

11 The second case, exactly the
12 same facts, is 1280, in which a mineral owner, mineral and
13 surface owner, in the south half south half of the section
14 was being force pooled for a second well. Texas Oil and Gas
15 owned the other 480 acres and this south half south half was
16 unleased and they wanted to drill a well down there and the
17 owner came in and said you can't own it, you can't drill it
18 on my lands because you don't own any part of it and the
19 crux of the -- the Commission says, that's no problem, it's
20 all in the spacing unit, the drilling and spacing unit we've
21 established.

22 And that's the difference.
23 What is the drilling and spacing unit? Unfortunately, this
24 case doesn't show. But it is clear that when you read the
25 case that the spacing was 640-acre spacing for the well pro-
posed by Texas Oil and Gas, and that the mineral lessee

1 could be force pooled even though it was on his land.

2 We're not saying that he can't
3 drill in the southwest southwest. We are simply saying that
4 the spacing order of the Commission in the Abo and Above
5 doesn't conceivably cover the southwest (inaudible).

6 That's the basis. The argument
7 is if the Commission should grant him forced pooling in that
8 above the base of the Abo, then some how people have lost
9 their rights without any kind of due process and without any
10 condemnation.

11 I've at least taken my -- more
12 than my seven and a half by two, I am sure. If the Commis-
13 sion would like, and I apologize to Mr. Gallegos, we can
14 give him enough time to respond.

15 I would be pleased to submit a
16 brief if the Commission would like, ten days or less.

17 MR. STAMETS: Certainly would
18 appreciate that.

19 Also I would like to know how
20 or who HEYCO is paying in the Abo formation, if they're pay-
21 ing on the basis of the 160-acre tract consisting of the
22 northwest quarter of the section or if they're paying on the
23 basis of the 320-acre tract consisting of the west half of
24 the section.

25 MR. LOSEE: Mr. Stamets, the

1
2 working interest owners in the west half of the northwest
3 and southwest are identical. They are being paid the work-
4 ing interest.

5 The override and the royalty
6 owners in that same land are also identical; however, the
7 override owner in the northwest -- in the west half of the
8 northwest is being paid half of his override, because I
9 looked at Mr. (not understood) title the day before yester-
day.

10 He is reduced by 50 percent in
11 the northwest northwest as to the Abo, and incidentally,
12 this well, and I don't know whether your testimony explained
13 it, this well has not produced, although dualled originally,
14 has not produced from the Atoka since December. It hasn't
15 been plugged, as I understand it, but it's (inaudible), but
16 we have treated it as spacing on 160 acres. As a matter of
fact, Mr. Grynberg did in his brief to the Supreme Court.

17 MR. STAMETS: But nevertheless,
18 I'd like to see something showing the ownership in that half
19 section --

20 MR. LOSEE: I'll get you a
21 copy, Mr. --

22 MR. STAMETS: -- an indication
23 of how the Abo --

24 MR. LOSEE: I'll get you a copy
25

1 of Mr. Christy's opinion, and I'll give you a brief in ten
2 days.

3 MR. GALLEGOS: Mr. Chairman,
4 Mr. Commissioner, with all due respect, I think Mr. Losee's
5 done a commendable job of making unclear what is -- what is
6 a bit clear, and confused what is really relatively simple.

7 Let me start out by cutting
8 down to where the differences really are and where they
9 aren't.

10 First of all, I agree that
11 we're worn out litigating over this unit. That point I
12 agree with.

13 I also agree that we did reject
14 the farmout with the retained override for the very reason
15 that Grynberg already has an interest in the acreage that
16 would -- that would have been purportedly transferred by
17 that override, and therein lies the important principle and
18 a principle that this Commission can deal with, because it
19 calls on this Commission to say what its own order accom-
20 plishes, and it does that repeatedly and continually in the
21 exercise of its jurisdiction and can do that here.

22 I bring back to the attention
23 of the Commission Exhibit Number Fourteen, which summarized
24 Professor Kramer's testimony and in the simplest of words he
25 said and demonstrated the legal authorities to support it,

1
2 that your Order 6873 has created an undivided fractional in-
3 terest in the production from the pooled mineral interest
4 underlying the 320-acre unit from the surface to the Ordivi-
5 cian.

6 Grynberg's undivided fractional
7 interest in all production from the unit is the 24.6. The
8 Exhibit Fifteen simply was a pictorial illustration of that.

9 I hear the words coming from
10 Protestant's counsel that there are no rights of Mr. Gryn-
11 berg in the southwest of the southwest and then I hear the
12 opposite being said in almost the same breath, that we're
13 not saying he can't drill in the southwest quarter but it
14 changes the spacing rules and sort of switching within one
15 statement of what the positions are.

16 So let's first of all go step
17 by simple step.

18 HEYCO's doing is what we're
19 dealing with. By that I mean it was HEYCO who sought the
20 pooling order in the terms in which it exists. It said to
21 the Commission, we want the entire 320 pooled, all mineral
22 interests from the Ordovician to the surface, and it wanted
23 that because that then gave it the 320 acres to drill the
24 deep well, and it got that.

25 Upon that happening, then,
everybody had an undivided interest in every acre on that

1
2 in every acre on that half section.

3 Mr. Grynberg has 25 percent,
4 24.6 in every foot or every acre of the section.

5 That's the first principle that
6 applies and it's undeniable and it's fundamental and there's
7 nothign complicated about that.

8 Secondly, there's no change in
9 the spacing units that's involved here.

10 There will be an Abo well with
11 160 acres dedicated to it and another Abo well with 160 ac-
12 res dedicated, completely in keeping with the spacing rules.

13 The uncontroverted testimony is
14 the deep well, the Atoka well is nonproductive, it's noncom-
15 mercial. There is no production.

16 The second well will test the
17 Fusselman. There will be a deep well on 320 acres; nothing
18 inconsistent with the spacing rules.

19 Those are the principles that
20 involve law, the testimony of Professor Kramer and briefing,
21 if further briefing is needed.

22 With that, if it please the
23 Commission, I think it's made necessary for us to put on
24 three or four minutes of evidence by Mr. Ettinger concerning
25 the financial fitness of Grynberg as an operator, since the
question has been raised by the exhibits introduced here,

1
2 and if I may do that, we will have completed our presenta-
3 tion.

4 I'd like to call Mr. Ettinger.

5 MR. STAMETS: Mr. Ettinger is
6 still under oath.

7 MR. GALLEGOS: Do you under-
8 stand?

9 MR. ETTINGER: Yes, sir.

10 MORRIS I. ETTINGER,
11 being called as a witness and being duly sworn upon his
12 oath, testified as follows, to-wit:

13 DIRECT EXAMINATION

14 BY MR. GALLEGOS:

15 Q Just for purposes of the record would you
16 state your name, please?

17 A Morris Ettinger.

18 Q Mr. Ettinger, I'd like for you to address
19 the question of the suitability of Jack Grynberg and Gryn-
20 berg Petroleum Company to perform the responsibilities that
21 are inherent in being the operator of a well with other in-
22 terest owners involved.

23 First of all, let me ask you to tell the
24 Commission what Mr. Grynberg and your company are presently
25

1
2 doing in that regard?

3 A Well, we are operating all throughout
4 the, mostly the Rocky Mountains and New Mexico, something in
5 the order of fifty wells that we operate.

6 We conduct all the duties of any other
7 operator in terms of production, distributing the revenues,
8 and all the technical work necessary to keep the well on
9 production.

10 Q In doing that, is your company paying
11 those who furnish materials or labor on those wells on a
12 timely and regular basis?

13 A Sure.

14 Q And are you making distribution to inter-
15 est owners of the -- of the income that they're entitled to?

16 A Yes.

17 Q All right. What generally is the finan-
18 cial status of Jack Grynberg at this time, or Grynberg Pet-
19 roleum Company?

20 A I know that I cannot tell exactly his net
21 worth today, but I'm sure that if the Commission wants he
22 can submit the -- some sort of a statement to show what is
23 his assets.

24 Q Mr. Ettinger, if, let's take two possibi-
25 lities here concerning the west half of this Section 18.

If the Commission determines that your

1
2 company should be the operator of the second well, HEYCO re-
3 main the operator of the first well, what would be the ac-
4 counting approach that you would follow as that kind of an
5 operator?

6 A First of all, we are going to keep ac-
7 counting definitely separate from the Seymour State Well and
8 the well that we are going to drill. All what we're going
9 to do is we are not part to the operating agreement on the
10 Seymour Well. I don't want to be part of this operating
11 agreement and all what we'll do, we'll distribute and do
12 anything necessary as operator and have exactly the same
13 condition and terms that is stated in this operating agree-
14 ment.

15 We are ready to go even one step further
16 and if HEYCO will insist, we're willing that TransWestern
17 who is buying the gas will distribute the revenues. Of
18 course we'll have to send them the bill for the operating
19 expenses of I think it's \$350 a month for operating the
20 well, or if there should be some kind of workover the part-
21 ners in this well will have to pay, but we'll do it more as
22 a trustee with an interest of, as we understand it, the peo-
23 ple who own interest in this well would like to have their
24 maximum revenues.

25 Q Now is the crux of your position that
without a second well being drilled there is a damage to

CROSS EXAMINATION

BY MR. LOSEE:

Q Mr. Ettinger, are you familiar with these Chapter II proceedings of bankruptcy?

A I, of course, I know about it but I really don't know the details.

Q Do you know when it started? Was it 1981?

A I think it was back something like that; '81, or something like that.

Q And you're aware it's still in existence?

A As far as I know, I don't think that any creditor lost any money. Everything was paid as far as the --

Q Well, my question was it's still in force, still in existence?

A I thought that it all was resolved but maybe some issues are still outstanding. I cannot really testify to this.

Q One other question. If Mr. Grynberg were appointed operator of the Seymour No. 1 would he assume the possible liability for mechanical failures or negligence in the operation of that well?

A We are not going to assume responsibility. We'll try our best, as any other operator, and the

1
2 well itself is not a very good well. It's producing some-
3 thing in the order, I think, as I think you said the Atoka
4 is not productive. I think you said you plugged it.

5 Q No, no.

6 A Not yet, but anyway, for the last year it
7 didn't produce anything.

8 What remains is the Abo and I don't anti-
9 cipate any problem, you know, with producing the Abo. We
10 have at least, we operate something in the order of 15, I
11 think, wells in the Abo in the last four years and no prob-
12 lem whatsoever.

13 Q But you are not willing to assume the
14 responsibility about --

15 A I don't understand what you mean.

16 Q -- the liability for negligence in the
17 operation of the well.

18 A If you can prove that we were absolutely
19 negligent, probably we can, but I don't anticipate we'll do
20 anything to damage the well or something.

21 MR. LOSEE: No further ques-
22 tions.

23 MR. STAMETS: Any other ques-
24 tions?

25 The witness may be excused.

Anything further?

MR. GALLEGOS: Nothing further.

Thank you. Sorry we went over.

MR. LOSEE: I'll take the blame.

MR. STAMETS: I knew better when I said we'd do it.

Okay, this case will be taken under advisement.

I would like to ask both counsel in addition to whatever other submittals there are, to submit proposed orders in this case.

MR. GALLEGOS: Ten days?

MR. STAMETS: Oh, it's going to be at least that long before I get around to this so ten days will be fine.

(Hearing concluded.)

C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.
