

1 STATE OF NEW MEXICO
2 ENERGY AND MINERALS DEPARTMENT
3 OIL CONSERVATION DIVISION
4 STATE LAND OFFICE BLDG.
5 SANTA FE, NEW MEXICO

6 1 August 1984

7 COMMISSION HEARING

8 IN THE MATTER OF:

9 Application of Greenwood Properties, Inc. to vacate and void Division Order No. R-7482, San Juan County, New Mexico. CASE 8285

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11
12 BEFORE: Commissioner Joe Ramey, Chairman
13 Commissioner Ed Kelley

14 TRANSCRIPT OF HEARING

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17 A P P E A R A N C E S

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DENNY FOUST

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MR. RAMEY: The hearing will
come to order.

Call next Case 8285.

MR. PEARCE: That case is on
the application of Greenwood Properties, Inc. to vacate and
void Division Order No. R-7482, San Juan County, New Mexico.

MR. KELLAHIN: If the Commis-
sion please, Tom Kellahin and Karen Aubrey, Kellahin and
Kellahin, appearing on behalf of the applicant, Greenwood
Properties, Inc..

MR. PADILLA: Mr. Chairman, Er-
nest L. Padilla, Santa Fe, New Mexico for Slayton Oil Cor-
poration.

MR. RAMEY: Any witnesses each
of the parties propose to call.

MR. PEARCE: Could I ask all of
the prospective witnesses to rise please.

(Witnesses sworn.)

MR. KELLAHIN: Mr. Chairman, I
have a brief statement.

We represent Greenwood Proper-
ties. We propose to introduce into evidence an acreage map
on Section 18, Township 29 North, Range 14 West. That map
shows proration units and spacing the units in the Cha Cha

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Gallup Pool.

The evidence will demonstrate to you that in Section 18 there have been created by the Division three non-standard proration units in that section.

The evidence will show you that the first non-standard proration unit was created in August of 1979 and consisted of Tract 4 and 5 and certain reparation rights. That proration unit is generally located in the west half of the northwest quarter. This was the first proration unit created on a non-standard basis.

A standard unit, the evidence will show you, is an 80-acre tract.

Thereafter, wells were drilled in the section. The evidence will show that the east half of the northwest quarter is a standard 80-acre tract to which there is a Cha Cha-Gallup well dedicated.

The evidence will further show you that there is an 80-acre tract in the north half of the northwest quarter -- northeast quarter, I'm sorry, of Section 18, a standard 80-acre tract, including lots and a certain portion of reparation rights dedicated to the well.

The evidence will also show you that Slayton Oil Corporation in March of this year before an Examiner Hearing requested and received from the Division the second and third non-standard proration units in the section. One of them was the west half of the southwest quarter of the section, generally, and conformed to the pro-

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2 ration unit that had been first established as a non-
3 standard unit.

4 The third non-standard prora-
5 tion unit created, the evidence will show you, is the one in
6 which Greenwood Resources contends that their correlative
7 rights have been violated. That non-standard proration unit
8 includes two Federal lots plus certain reparian rights north
9 of the river to the center line of the river channel. That
proration unit consists of approximately 71 acres.

10 The evidence will demonstrate
11 to you that there is in combination with the proration unit
12 to the north a hiatus created between the proration units in
13 which there is a section of over nine acres north of the
14 center line of the channel and south of the south boundary
15 of this proration unit in the north half of the northwest
16 quarter that is not now, nor has been dedicated to produc-
tion in the Cha Cha-Gallup.

17 We believe the evidence will
18 demonstrate to you that there is no engineering or geologic
19 justification for the exclusion of that acreage and there-
20 fore the non-standard proration unit approved for the well
21 ought to be set aside and that Slayton, as operator, ought
22 to be required to include the nine acres that was omitted.

23 The evidence will further show
24 you that Greenwood Resources has been ready, willing, and
25 able to participate and contribute its acreage to this well
and to this proration unit, and that they have received no

1 notice of the creation of a non-standard proration unit and
2 that prior to drilling of this well by Slayton, they were
3 fully able to pay and contribute their share so their
4 acreage would be included.

5 We believe at the conclusion of
6 the evidence we will have provided you sufficient
7 justification to set aside and void the non-standard
8 proration unit order and require that this acreage be
9 included in the order to avoid violating Greenwood
10 Resources' correlative rights.

11 That is our position at this
12 time.

13 MR. RAMEY: Thank you, Mr.
14 Kellahin.

15 Do you have any opening
16 statement, Mr. Padilla?

17 MR. PADILLA: I have no
18 argument, Mr. Chairman.

19 MR. RAMEY: You may proceed,
20 Mr. Kellahin.

21 MR. KELLAHIN: Mr. Chairman, as
22 our first witness we will call Mr. Denny Foust, please.

23 DENNY FOUST,

24 being called as a witness and being duly sworn upon his
25 oath, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Mr. Foust, for the record would you please state your name and occupation, sir?

A My name is Denny Foust and I'm a consulting geologist out of Bloomfield, New Mexico.

Q Mr. Foust, do you hold a degree in geology?

A Yes, I do.

Q And when and where did you obtain that degree?

A Bowling Green State University, 1966-'72.

Q Subsequent to graduation have you been employed in the San Juan Basin as a petroleum geologist?

A Yes. I worked for Caribou Four Corners for approximately three years.

Q What period of time were you employed as a geologist for Caribou Four Corners, Mr. Foust? Can you give us the approximate time?

A From 1978 through '81.

Q And have you been employed by Slayton Oil Corporation?

A Yes, as a consultant.

Q And what period of times do your employment as a consultant for Slayton, what periods of time have those been?

1
2 A I'd say October of '82 through the pre-
3 sent.

4 Q I want to direct your attention to Town-
5 ship 29 North, Range 14 West, and principally to Section 18
6 and to the Cha Cha-Gallup Oil Pool within that section. Are
7 you familiar with that property?

8 A Yes.

9 Q Are you familiar with Greenwood
10 Resources, Mr. Foust?

11 A Yes.

12 Q In what way are you familiar with Green-
13 wood Resources?

14 A Oh, I know it's purchased Caribou's in-
15 terest in the acreage north of the river and subsequently
16 purchased some interest from Mountain States through Paul
17 Slayton.

18 Q Have you ever done consulting geologic
19 work or been employed by Mountain States Petroleum?

20 A No, sir.

21 Q Mountain States is the other principal
22 owner involved in this transaction, is it not?

23 A Yes. I don't know the particulars of the
24 transaction but they were. I don't know how the successor
25 operations took place.

26 Q You've worked for Caribou Four Corners,
27 done consulting work for Greenwood Resources, and you are
28 familiar with Mountain States.

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A Yes.

Q Would you describe for us what consulting geologic work you did for Greenwood Resources with regards to Section 18 and the Cha Cha-Gallup Pool? In a general way describe for us what you were retained to do.

A In Section 18?

Q Yes.

MR. PADILLA: I'm sorry, did you ask the question for Greenwood Resources?

MR. KELLAHIN: Yes, sir.

A I went to Denver one day at Greenwood's request and reviewed some possible locations for Greenwood in the area north of the river, not just Section 18, and we did talk about an offset to the Kirtland No. 3 Well, which is located in the north half of the northeast quarter.

Q All right, sir, and when did that take place, approximately?

A February.

Q February of 1984?

A Yes.

Q All right. Are you familiar with the Cha Cha-Gallup Wells that have been drilled in Section 18?

A Yes.

Q In fact, haven't you participated in some fashion as a geologist in either the location or the evaluation of those locations for all those wells in that section?

A I would say that's true except for the

1
2 No. 11 Well. I really wasn't involved in that.

3 Q All right, sir.

4 MR. KELLAHIN: We tender Mr.
5 Foust as an expert petroleum geologist.

6 MR. RAMEY: He is so qualified,
7 Mr. Kellahin.

8 Q Mr. Foust, I have copies of an exhibit
9 that I want to use as simply a way to help orient all of us
10 to the various wells and the proration units in the section.
11 Let me ask you, Mr. Foust, on behalf of Slayton Oil Corpora-
12 tion, did you testify as the geologist before the Examiner
13 of the Oil Conservation Division on March 14th, 1984, with
14 regards to seeking approval for two of the non-standard pro-
15 ration units in this section?

16 A Yes, sir.

17 Q And you also testified in 1979 with re-
18 gards to the request to obtain the first non-standard prora-
19 tion unit in this section for the Cha Cha-Gallup Pool.

20 A Yes.

21 Q As part of your testimony in the March
22 hearing before the Examiner, Mr. Foust, did you submit as
23 Exhibit Number One this oil and gas plat from the Bureau of
24 Land Management records --

25 A Yes.

Q -- concerning this township?

Because the township map is on such a
small scale, Mr. Foust, I've simply taken Section 18 and had

1
2 the copy machine increase the size of that exhibit, and what
3 I show you as Greenwood's Exhibit Number Nine is that same
4 exhibit. All right, sir?

5 A Yes, that's right.

6 Q If you will, Mr. Foust, let me direct
7 your attention to what is identified as the first non-stand-
8 ard proration unit generally consisting of Lots 5 and Lots 4
9 out of the north half of the northwest quarter. Do you see
10 that?

11 A Yes, I know what you're talking about.

12 Q All right, sir, are you in general agree-
13 ment as to the approximate configuration of that non-stand-
14 ard proration unit?

15 A To the best of my knowledge this would be
16 pretty close.

17 Q All right, sir, to the best of your re-
18 collection, that non-standard proration unit included Lots
19 4, 5, and the reparation rights north of the center line of
20 the -- is this the San Juan River?

21 A Yes.

22 Q All right, is that a correct statement?

23 A Yes.

24 Q And you testified before the Oil Conser-
25 vation Division in August, I guess, of 1979 in order to get
that proration unit approved?

A Yes, I did.

Q All right, sir. What is the well name or

1
2 identification for the well that was drilled in that prora-
3 tion unit?

4 A The well name is the Kirtland No. 4.

5 Q Would you locate for us on that exhibit
6 the approximate location of the Kirtland No. 4 Well?

7 A It's approximately on the east/west divi-
8 sion line between Lots 4 and 5, about the center.

9 Q All right, sir. Slightly north of the
10 edge of the reparian rights in the center of -- did you say
11 Lot 5?

12 A Yes. See the line going across there be-
13 tween Lots 4 and 5?

14 Q Yes, sir.

15 A And if you just go to about the center of
16 that line, that's approximately the location.

17 Q All right. Mr. Foust, I show you what I
18 have marked as Greenwood Resources Exhibit Number Ten and
19 ask you if this is the C-104 and the other Oil Commission
20 forms with regards to the Kirtland No. 4 Well that is in
21 that non-standard proration unit we've been discussing? If
22 you'll take a minute to look at that, sir.

23 A It appears to be.

24 Q All right, sir. In chronological order
25 now, Mr. Foust, after the Kirtland No. 4 Well proration
unit, did that -- is that the first well drilled in the sec-
tion to the Cha Cha-Gallup?

A Actually that was the second well drilled

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in the section to the Cha Cha-Gallup.

Q The first well would be the No. 3 Well?

A Yes.

Q All right, let's go to that one. Would you identify for us what the proration unit is for the Kirtland No. 3 Well?

A It should be the north half of the north-east quarter.

Q All right, sir, and approximately where is the Kirtland No. 3 Well located?

A It would be located approximately in the center of Lot 2.

Q And that is a standard 80-acre proration and spacing unit for the No. 3 Well?

A Yes.

Q Mr. Foust, I'm going to show you what I've marked as Exhibit Number Eleven, which is copies of documents in the Commission well file on this Well No. 3, and ask you to review that and see whether or not those documents are correct.

A Yes.

Q All right, sir. In looking at the C-102 that's appended to Exhibit Number Eleven, Mr. Foust, does Exhibit Number Nine, which is the enlarged copy of the BLM oil and gas plat, does the proration and spacing unit assigned to the Kirtland No. 3 Well, does that generally conform to the way it's depicted on Exhibit Number Nine?

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A Is this Number Nine?

Q Yes, sir, let's mark that on there for you.

A I guess so. You really don't have the proration units depicted on here or numbered or anything.

Q Who -- who drilled this No. 3 Well, Mr. Foust?

A Caribou Four Corners.

Q And were you employed as a geologist for Caribou Four Corners when that well was drilled?

A Yes.

Q In looking at Exhibit Number Nine, in your opinion does that reasonably accurately project the location of that proration unit in relation to the San Juan River?

A Yes.

Q Who drilled the -- all right, let me ask you this. The No. 3 Well, when was that well spudded, do you recall approximately when?

A September of '79.

Q All right.

A Probably the first half.

Q We go from the No. 3 Well, then, and we go to the No. 4 Kirtland Well.

A Yes.

Q That was the next well in the progression?

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After the No. 4 Well, what then is the next well that was drilled?

A The next well that was drilled would be the Kirtland No. 11.

Q All right, let's look at the Kirtland No. 11, Mr. Foust.

Mr. Foust, I show you the well file documents from the Oil Commission file with regards to the Kirtland No. 11 Well, which is marked as the Greenwood Exhibit Number 12, and ask you if you can identify those documents?

A I wasn't associated with this well in any way, but these appear to be the records.

Q All right, sir, you were not associated with Caribou Four Corners when that well was drilled?

A No, sir.

Q Based upon your study and knowledge in the area, were you aware that that well was being drilled?

A Yes.

Q All right. Approximately when was that well spudded, Mr. Foust? Do you recall?

A I think it was December of '81.

Q And at that point you had left employment with Caribou Four Corners?

A Yes.

Q And what was your next employment?

A I had as a consultant worked with several parties, Dick Lauritsen, he's the Lobo Production in the

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area.

Q Mr. Foust, based upon your knowledge of the area, are you able to identify for us what the proration and spacing unit for the No. 11 Well is? Can you tell us what it is?

A Yes. It's an 80-acre spacing as a result of the forced pooling.

Q Do you recall who the parties were that were force pooled into that 80-acre spacing unit?

A It would have been the current unit owner at that time in 19 -- or latter half of 1981, which would have been Suburban Propane.

Q All right. When you refer to the current unit owner, Mr. Foust, what unit are you talking about?

A This is the Northwest Cha Cha Unit, which is a Federal production unit.

Q All right, and generally with regards to Section 18, what are the boundaries of the Northwest Cha Cha Unit?

A All of that land south of the mid-channel of the San Juan River.

Q Directing your attention to the standard 80-acre spaced proration and spacing unit for the No. 11 Well, do you have an opinion as to whether or not that well's proration and spacing unit consists of acreage both north and south of the mid-channel of the San Juan River?

A Yes.

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Q And what is that opinion?

A It does consist of acreage both north and south.

Q And will that proration unit consist of acreage both within and without of the Northwest Cha Cha Unit?

A Yes, it does.

Q All right, sir. Let me direct your attention now to the proration unit that was part of your request in March of '84, the proration unit that lies south of the center line of the San Juan River channel and is in the west half of the southwest quarter. All right, sir, are you with me?

A Uh-huh.

Q If you'll look at Exhibit Number Nine, does that depiction of the proration unit generally conform to your recollection and knowledge about its configuration?

A Yes. The spacing unit is Lots 6, 10, and 11 of 18, plus the adjacent river channel. That's Lot 6.

Q Okay. And when you combine -- let's see, what well is drilled to that non-standard proration unit?

A It would be the Northwest Cha Cha No. 1318.

Q No. 13-18, and what's the approximate location of that well, Mr. Foust?

A It's 870 feet from the west line and 2130 from the south line; approximately the center of Lot 10.

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Q All right, sir. In comparing the non-standard proration unit for the No. 4 Well and the non-standard proration unit for the 13-18 Well, is there any acreage between those proration units along the river channel that is not dedicated to either one or the other of those proration units?

A No.

Q All right. Let me direct your attention now to the next proration unit that was the subject of the March '84 hearing. There is a non-standard proration unit consisting of Lots 8 and 9 and riparian rights north of those lots to the center of the river channel. Is that correct?

A Yes.

Q And is that accurately depicted and represented on Exhibit Number Nine?

A I guess so, apparently to the center of the river channel.

Q All right, sir. Do you recall what the size of the non-standard proration unit is for that unit?

A 70.57 acres.

Q And what is the well that's been drilled on that non-standard proration unit? What's the well number?

A It's the Northwest Cha Cha No. 32-18.
32-18.

Q And who is -- that's a Northwest Cha Cha

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Unit?

A Slayton Oil Corporation.

Q Now, in the March '84 hearing, Mr. Foust, you qualified as a geologic consultant and indicated in the record that you were familiar with land title problems in the unit area. Are you in fact familiar with the ownership in this section?

A I think so.

Q All right, sir. When the 80-acre proration unit was established for the No. 3 Well in the north half of the northeast quarter of 18 --

A Yes.

Q -- who was the operator of that well?

A Caribou Four Corners.

Q Okay, and who is the current operator of that well?

A Greenwood Resources.

Q What, if any, interest did Mr. Slayton or Slayton Oil Corporation have in Caribou Four Corners? Is Mr. Slayton or Slayton Oil Corporation a principal in Caribou Four Corners?

A No.

Q Company?

A No.

Q Did Mr. Slayton or his company have any interest ownership in the 80-acre proration unit that was assigned to the No. 3 Well?

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A It was a joint venture between Mountain States and Caribou Four Corners.

Q All right, sir. Does Mr. Slayton at all material times here, or Slayton Oil Corporation, have any interest in Mountain States?

A Not now.

Q Did they have any -- did Mr. Slayton have any interest in Mountain States when it was joint ventured with Caribou in that No. 3 proration unit?

A Yes.

Q All right, what was Mr. Slayton's interest in Mountain States?

A I assume he was an equal partner. There were two individuals involved.

Q Mountain States was composed of Mr. Slayton and who else?

A K. Havenor.

Q You'll have to spell it for the court reporter.

A H-A-V-E-N-O-R. Havenor.

Q Mr. Slayton and Mr. Havenor were 50 percent partners in Mountain States?

A To the best of my knowledge.

Q And Mountain States then was a 50 percent joint venture partner with Caribou?

A Slightly more than 50 percent.

Q All right, sir. In the 80-acre proration

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unit assigned to the No. 3 Well.

A Yes.

Q And Caribou Four Corners, then, was the operator for the well.

A Yes.

Q Do you recall approximately when Greenwood Resources obtained operation of the Caribou Well, the No. 3, Kirtland No. 3 Well?

A You'll have to ask the Greenwood.

Q You don't remember. Is that Mountain States relationship we've just described for that proration unit, is that typical of the way Mr. Slayton had the rest of his interest north of the center line of the San Juan River?

A To the best of my knowledge it was a joint venture for the acreage that was included in the agreement.

Q All right, and did that cover the properties in Section 28 north of the center line of the San Juan River, or was that also indicative of the ownership south of the river?

A It only covered certain leases covered in the agreement, and it didn't have anything to do with the Northwest Cha Cha Unit.

Q All right. Mr. Foust, I'd like to direct your attention to the subject of the March '84 hearing before the Examiner, Mr. Stamets, of the Oil Commission.

Let me have a minute and see if I can put

1 your exhibits back in the right order.

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3 MR. PADILLA: Mr. Chairman, we
4 have no objection to the exhibits and record of the previous
5 case being entered in this case.

6 MR. KELLAHIN: Mr. Chairman, I
7 think it might facilitate my questions of Mr. Foust if we
8 simply incorporated into this proceeding the transcript, ex-
9 hibits and testimony from the Examiner Hearing in Case 8117
10 and Case 8118, heard on March 14th, 1984, and the subsequent
11 order entered after that.

12 MR. RAMEY: All right, those
13 cases will be incorporated into the record of this case.

14 Q With regards to your testimony about the
15 70.5-acre non-standard proration unit to which the 31-18
16 well was dedicated, Mr. Foust, am I correct in understanding
17 that that proration unit included only Lots 8, 9, and the
18 reparation rights to the center of the San Juan River?

19 A Yes.

20 Q Let me show you Exhibit -- let me show
21 you Exhibit Number Six from that hearing in March of '84,
22 Mr. Foust, and ask you whether or not you prepared that ex-
23 hibit?

24 A Yes, I did.

25 Q Mr. Foust, there are reparation rights just
north of the north line of this non-standard proration unit
from the center line of the San Juan River up to the south
boundary line of the proration unit for the No. 3 Well that

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were not included in the proration unit for the 32-18 Well.

A Yes.

Q That area includes approximately how many acres, do you know?

A Well, I think it, as near as I could determine graphically, it's about 9.43 acres.

Q Have you made a study fo the geology in the area of Section 18, for the Cha Cha-Gallup I assume you have.

A Yep.

Q Are you aware of any geological reasons not to include that 9.6 acres into the formation of this proration unit for the 32-18 Well?

A Not geologic reasons.

Q All right, sir. Are there any -- at the time you testified in March of '84, Mr. Foust, did you attempt to notify any of the offsetting owners of the non-standard proration unit of the requested application?

MR. PADILLA: I'm going to object to that question. I think the -- Mr. Kellahin's application for a de novo hearing was denied on the basis, as I understand it, that notice had been given in accordance with the Oil Conservation Division requirements and that that's not the issue in this case.

The issue is to vacate the order. It's not a question of whether notice was given in the previous hearing.

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2 MR. KELLAHIN: I don't think
3 I've asked any question that should raise that kind of ob-
4 jection. I simply asked Mr. Foust whether or not he had
5 given notice to any of the offset owners to this non-stand-
6 ard proration unit.

7 MR. PADILLA: Nonetheless, it
8 calls for a legal conclusion.

9 MR. KELLAHIN: It escapes me
10 what the legal conclusion is I'm asking. It's a factual
11 question. Mr. Foust was the geologic expert for Slayton.
12 He testified at the hearing. He's obviously done the work
13 in the area.

14 I want to find out who he's
15 told what about the non-standard proration unit. I think
16 that's a fair question.

17 MR. RAMEY: I'm going to over-
18 rule the objection and let the witness answer, if he can do
19 that.

20 MR. KELLAHIN: Let me see if I
21 can figure out what the question was, Mr. Foust.

22 Q With regards to the non-standard prora-
23 tion unit for the 32-18 Well, in preparing that application
24 for hearing and going about working on this project for Mr.
25 Slayton, did you contact any of the working interest owners
in Section 18 about your requested application for the non-
standard unit?

A No, I did not.

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2 Q All right, sir. Were you the principal
3 individual retained by Slayton Oil Corporation to prepare
4 the exhibits and testimony and to obtain approval for the
5 non-standard proration unit?

6 A I believe so.

7 Q Did you attempt to form a standard prora-
8 tion unit of 80 acres for this well?

9 A No.

10 Q Do you have an opinion or knowledge as to
11 whom you believe to be the owner of the oil and gas rights
12 to the 9.6 reparian interest that was excluded from this
13 non-standard proration unit?

14 MR. PADILLA: Objection. Mr.
15 Foust isn't qualified as an expert in land titles.

16 MR. KELLAHIN: I'll withdraw
17 the question.

18 Q Mr. Foust, what is your understanding of
19 who owns the 9.6 acres?

20 A I don't really know who owns the 9.6 ac-
21 res or 9.4 acres.

22 Q All right, you've indicated that you ex-
23 cluded the 9.6 acres from that proration unit. What are the
24 reasons for doing that, Mr. Foust?

25 A The principal reason was to have the en-
tire spacing unit, or proration unit, excuse me, within the
boundaries of the Northwest Cha Cha Unit so the well could
be operated as a part of the Northwest Cha Cha Unit, and it

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would be entirely on Navajo Tribal lands.

Q All right, sir, are there any other reasons?

A Well, there are some economic reasons that go with operating it as a unit well.

Q Did you identify for the Examiner at the March '84 hearing the reasons why you wanted a non-standard proration unit?

A I don't recall exactly what the testimony was.

Q Did you submit for his consideration any of these factors, such as you wanted the entire operation to be within the North Cha Cha Unit area?

A Again, I don't recall exactly what the testimony was.

Q Did you indicate to the Examiner that the area south of the river was Navajo lands?

A Yes.

Q You have some knowledge, then, of the approximate location of the Navajo interests in the Cha Cha Gallup in Section 18?

A At least I make an interpretation, yes.

Q All right, sir, and generally where are the Navajo Tribal interests in relation to the center line of the San Juan River channel?

A Everything south of the center line of the channel.

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2 Q With regards to the economic considera-
3 tions for the formation of a non-standard proration unit,
4 Mr. Foust, in order to have unit and non-unit lands assigned
5 to a proration unit for production from the 32-18 Well, it
6 would simply require you to allocate production between unit
7 and non-unit interest, would it not?

8 A If you can get the approval of the Navajo
9 Tribe.

10 Q All right, sir. Based upon your exper-
11 ience in this area and as a geologist, are you aware that it
12 is possible to unitize or communitize unit and non-unit
13 operations for a well on a proration unit like that?

14 A I'm aware that it has been attempted.

15 Q Apart from the Navajo question, Mr.
16 Foust, you can simply set a tank battery for the 32-18 Well
17 or measure oil production from that well so that you can ac-
18 count to the non-unit owners. You can do that, can't you?

19 A Well, this is where some of the economic
20 questions come in.

21 Q All right. Anyway, it can be done, can't
22 it, subject to economics?

23 A Yes, sir.

24 Q All right. What is the initial potential
25 for the well drilled, the 32-18 Well? What kind of well did
you get?

A I think I based it on a one-day pumping
when we turned in our data for 42 barrels of oil and 40 bar-

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rels of water.

Q It's a one-day pump test?

A Yes. I have the pumping or production records from -- for about 30 or 31 days since it's been on a pump.

MR. PADILLA: We'll be submitting this information on our case in chief, Mr. Chairman.

MR. KELLAHIN: May I have just a moment?

Q Mr. Foust, I'd like to show you Exhibit Number Seven from the March '84 hearing, which you introduced. Is that a true and accurate copy of your Exhibit Number Seven from that hearing?

A This is a demand letter that was addressed to Suburban Propane.

Q All right, sir, let's describe, if you will, for the Commission what the significance to you, if any, is of the demand letter.

A Well, the BLM had requested that certain steps be taken involving some wells, some of which were already plugged; some of which were supposed to have a communitization agreement finalized on them, and they're asking to drill these wells on a demand basis to prevent drainage.

Q Let me direct your attention to the last sentence in the last paragraph of the letter on the first page there, and ask you to read that for me.

A Being a statement such as communitization

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2 agreements with the offsetting wells, as appropriate, would
3 be considered adequate protection for Lots 6, 7, and 8.

4 Q Yes, sir. Did you attempt, or were you
5 involved in any way in an attempt to form a standard prora-
6 tion unit or to communitize the necessary leases to form a
7 standard 80-acre proration unit for the south half of the
8 northeast quarter?

9 A Well, the way this statement reads, I
10 don't think that we could have got a communization agreement
11 including Lots 7 and 8 with -- or 8 in particular. With
12 Kirtland No. 3 Lot 7 is supposed to be included a communiti-
13 zation agreement with Kirtland No. 11, which has never been
14 completed.

15 Q I confused you with my question, I'm sor-
16 ry.

17 Did you make any efforts to form a stand-
18 ard proration unit which would have included Lots 8 and 9
19 and the reparation rights so that you would have a full 80-
20 acre proration unit for hte 32-18 Well?

21 A No, sir.

22 MR. KELLAHIN: Thank you. That
23 concludes my questions of Mr. Foust.

24 MR. RAMEY: Any questions of
25 Mr. Foust?

MR. PADILLA: By way of cross
examination. I will call him later, Mr. Examiner -- or Mr.
Chairman.

CROSS EXAMINATION

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3 BY MR. PADILLA:

4 Q Mr. Foust, do you know for sure who owns
5 title to the minerals underlying the riverbed of the San
6 Juan River?

7 MR. KELLAHIN: I'm going to ob-
8 ject to the question. We just went through that, I think.
9 We decided that Mr. Foust is not an expert on land title
10 ownership.

11 MR. RAMEY: And that he didn't
12 know.

13 MR. KELLAHIN: Yes, sir.

14 Q Let me show you what we have identified
15 as Exhibit Number Five, and ask you to identify that.

16 A This is a master title plat for 29 North,
17 14 West.

18 Q And does that fit the Section 18?

19 A Yes, it does.

20 Q Does it also show in the bold line the
21 north half of Section 18 and the south half of Section 7 as
22 the patent having been issued regarding the south half of
23 Section 7 and the north half -- and the northeast -- or the
24 north half of the northeast quarter of Section 18?

25 MR. KELLAHIN: I'm going to ob-
ject to the question. He's not laid a foundation to show
that this witness is capable to answer that question.

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Q Mr. Foust, have you -- are you familiar with master title plats of the Bureau of Land Management?

A Yes, as they relate to oil and gas plats.

Q Have you studied those plats at the office of the Bureau of Land Management here in Santa Fe?

A Periodically.

Q Have you examined those with regard to Section 18, Township 29 North, 15 West?

A Yes, I looked at this one in advance of the hearing.

Q And are you familiar with the plat so that you can testify regarding inception of fee titles of lands of Section 18?

A Yes, I have examined the patent deeds which are issued on the lands in Section 18.

Q Now, do you know whether a patent deed was issued to the north half of the northeast quarter of Section 18?

A Yes, sir, it was.

Q I show you what we have marked as Exhibit Number Four and have you identify that.

A This is a patent deed from the United States of America to Frank J. Coolidge.

Q How was that patent described?

A It's the north half of the northeast quarter of Section 18 and the south half of the southeast quarter to Section 7.

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2 Q How many acres were included in that pat-
3 ent?

4 MR. KELLAHIN: I'm going to ob-
5 ject at this time, Mr. Chairman. This obviously is not
6 quite the way to do this. This is all hearsay testimony.

7 The appropriate way is to get
8 certified copies of these documents from the Bureau of Land
9 Management. There is a self-attesting certificate that is
10 appended to these kinds of things and they are therefore ad-
11 missible in District Court and to the Commission for all
12 those kind of things.

13 I think we've established earl-
14 ier this afternoon that Mr. Foust, although he has some
15 knowledge of the ownership in the area, and to which Mr.
16 Padilla has already objected, is certainly not an expert in
17 determining land title ownership, and if that's the purpose
18 or the direction we're headed, we'll object.

19 MR. PADILLA: Mr. Ramey, I be-
20 lieve that in direct examination Mr. Foust was asked as to
21 whether these proration units under consideration here in-
22 cluded the -- started from the mid-channel of the river and
23 whether they included properties where mineral rights under-
24 lie the river.

25 I'm just simply trying to show
the extent of those mineral rights the best that I can.

MR. KELLAHIN: Mr. Chairman,
the document speaks for itself and it's simply hearsay to

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allow the man to testify from that.

The documents themselves are not admissible at this point because they have not been certified by either the custodian of those records or the BLM with their certification stamp and it does not matter at all what Mr. Foust has to say about that subject, it's hearsay.

MR. RAMEY: We'll overrule the objection. Please proceed, Mr. Padilla.

Q I believe my question, Mr. Foust, was how many acres were conveyed by that patent?

A According to this copy, the deed states containing 156 acres and 36/100ths of an acre.

Q Mr. Foust, reading that document, and I assume that you've read it before, is there any mention of reparation rights?

A No, sir, there is not.

MR. PADILLA: I have no further questions of this witness.

CROSS EXAMINATION

BY MR. RAMEY:

Q That amount of acreage would be the south half of the southwest quarter of 7, or southeast quarter of 7 and then Lots 1 and 2 of 18.

A The deed says the north half of the northeast quarter; makes no reference to Lots 1 and 2.

MR. KELLAHIN: I have some

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questions.

REDIRECT EXAMINATION

BY MR. KELLAHIN:

Q Mr. Foust, are you aware of whether or not, either prior to or after this patent issuance, whether there have been additional patents issued with regards to ownership in the northeast quarter of Section 18?

A I did not find any in searching the county records of San Juan County.

Q It's possible for you, as patents be issued and not be subject to record in San Juan County, is it not?

A Yes, sir.

MR. KELLAHIN: I have no more questions. Are we waiting for me?

MR. PEARCE: Yes, we are.

MR. KELLAHIN: I'm sorry. I am all through because I don't know what this is.

MR. RAMEY: The witness may be excused.

MS. AUBREY: The next witness is Linda Price.

LINDA PRICE,

being called as a witness and being duly sworn upon her oath, testified as follows, to-wit.

DIRECT EXAMINATION

BY MS. AUBREY:

Q State your name for the record, please.

A My name is Linda Price.

Q And where are you employed?

A I'm employed with Greenwood Resources as Vice President of Land.

Q Ms. Price, how many years have you been employed in the oil and gas business?

A Twelve years.

Q And how many years have you been employed by Greenwood?

A I've been with Greenwood for five years.

Q Would you describe for the Commission what your duties are Vice President, Land, with Greenwood Resources?

A I am in charge of the Land Department, which consists of myself and a Lease Analyst/Secretary. Between the two of us we prepare assignments, maintain lease records with regard to all of our prospects, these included. We prepare -- I oversee preparation of title opinions, both for drill sites and Division order purposes; assignments; and any curative documents that are required.

Q Are you involved with the acquisition and sale of properties for Greenwood Resources?

A Yes.

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Q Ms. Price, have you researched and are you familiar with state of the title underlying Section 18 that we've been discussing today?

A When we purchased the properties from Caribou Four Corners, we retained an attorney in Farmington who also had done an extensive amount of work with Caribou Four Corners, and he has -- he has searched title to that.

Q In connection with the Greenwood application that we're hearing today, are you familiar with the title in Section 18?

A That's right, I'm familiar with the leases.

Q And have you examined your company's records and other records in order to familiarize yourself with the state of the title in Section 18?

A That's correct.

MS. AUBREY: Mr. Chairman, I tender Ms. Price as an expert in petroleum land title of Section 18.

MR. RAMEY: She is so qualified, Ms. Aubrey.

MS. AUBREY: Thank you.

Q Ms. Price, let me refer you to what we've marked as Exhibit Number One. That would be Greenwood Exhibit No. 1. Can you open that out and briefly explain to the Commission what that shows?

A This plat shows our ownership of our

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wells north of the -- of the mid-channel that we have either communitized with Indian lands or in the case of the Kirtland No. 3, that comprise the north of the northeast quarter of Section 18, which is all fee land.

Q Is the Kirtland No. 11 Well shown on that plat?

A The Kirtland No. 11 comprises the east half of the northwest section.

Q There's been some testimony here this afternoon that it was not possible to complete a communitization agreement with the Navahos in connection with the No. 11 Well.

Do you agree with that statement?

A When we purchased the property from Caribou Four Corners they had attempted to -- or rather they had submitted a communitization agreement to the BLM and it had been returned to them with changes that they needed to make.

When we acquired the property that had not been done yet. Greenwood resubmitted the communitization agreement and I do have correspondence from the Bureau of Indian Affairs that that is approved, but I do not have a copy of the actual contract stamped by the Bureau of Indian Affairs.

Q But you've been informed by the BIA that it has been approved.

A Right, I have correspondence on it.

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2 Q And does that communitization agreement
3 cover both Indian and non-Indian land?

4 A Yes, it does.

5 Q Let me refer you now, Ms. Price, to Num-
6 ber Two, Exhibit Number Two. Can you explain what that is?

7 A Okay, what I've done here is made a list
8 of -- of our involvement with these properties from the be-
9 ginning, that being that in June of '83 we were negotiating
10 with Caribou Four Corners to purchase the property and we
11 made due diligent review of the -- of the ouspices, the pro-
12 perty to the south, and traveled to Farmington to do so.

13 At the end of June we were contacted by
14 Kay Havenor of Mountain States Petroleum. It was his con-
15 cern of some problems regarding the operations that Caribou
16 Four Corners -- Caribou Four Corners operations of the pro-
17 perties as regards to Mountain States' interest, and indi-
18 cated that there might be a lawsuit between the two of them.

19 Q Let me stop you there, Ms. Price. Is the
20 Caribou Four Corners that you testified about earlier and
21 that's shown on your Exhibit Two the Caribou Four Corners
22 that Mr. Foust was employed by?
23 shown on your Exhibit Two

24 A That's right.

25 Q And is the Mountain States Petroleum that
you're testifying about the Mountain States Petroleum with
which Paul Slayton was involved?

A That's right.

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Q Okay.

A We met with Paul Slayton, rather our president, Bob Schillingham, met with Mr. Slayton on the 12th of July, and they discussed the problems and possible solutions. Mountain States in that time period was interested in taking over the properties as operator, or they might be interested in selling their interest to Greenwood.

We were not in a position to negotiate that with them at that time period but --

Q When did you begin negotiations for the purchase of the Mountain States' interest in this area?

A We were contacted by Mr. Slayton. Bob Schillingham was contacted by Mr. Slayton in the middle of September and was advised that we could not begin negotiations until our exchange offer was further along.

Thereafter, in October, October 11th, we did begin negotiations with Mr. Slayton.

Q Let me stop you there. We've introduced an exhibit earlier, marked Exhibit Nine. There's an area marked in yellow on that exhibit. Can you tell me whether or not that area marked in yellow is included in the land that you were negotiating with Mr. Slayton to purchase?

A Yes. Slayton came to Denver on the 14th of November when we discussed further terms and conditions of the sale. Our exchange offered -- at that point in time he was told that we could not again make a contract with him

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2 until at such time as we closed our exchange offer, which
3 was accomplished on December 7th.

4 We negotiated a contract on the 28th of
5 December, which was mailed to Mr. Slayton.

6 The purchase was supposed to occur by our
7 purchasing it from Slayton Oil Company. Slayton Oil Corpor-
8 ation was to purchase that interest from Mountain States Pe-
9 troleum.

10 The contract was executed on the 20th of
11 -- 27th of January and assignments were executed on the 9th
12 of February.

13 Q In February of 1984, Ms. Price, did you
14 retain Denny Foust to assist you in connection with this ac-
15 quisition, or evaluation of the property that you'd ac-
16 quired?

17 A We wanted him to -- he was very familiar
18 with the area and we wanted to ask him to help us with con-
19 tinued operations and select further locations.

20 Q At the time that you retained him were
21 you aware that he had been working for Slayton?

22 A I don't think I was personally. I don't
23 know about anyone else.

24 Q Let me interrupt your discussion of Exhi-
25 bit Two and have you refer to Exhibit Three. Tell me what
that is.

A That's an invoice received from Mr. Foust
for his services on the 9th of February when he came to

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2 Denver to discuss the prospective locations and which does
3 cite the dates.

4 Q And shows that he worked for you on the
5 9th of February. I assume that's supposed to be the 10th of
6 February to 13th of February, is that correct.

7 A Right.

8 Q Look at page two, would you?

9 A Okay, that's the -- in April we had some
10 leases that were -- that needed to be renewed and also ac-
11 reage that we also wanted to acquire within that area, and
12 Mr. Foust did some title research for us at the County
13 Courthouse and also did lease from Bonavar (sic).

14 Q Would you look at the next page, please?

15 A The next page is his letter to us giving
16 us his information with regard to the locations for poten-
17 tial drilling.

18 Q Ms. Price, would you look at the third
19 page of Exhibit Number Three. Does that discuss possible
20 locations in the northeast quarter of the northeast quarter
21 of Section 18?

22 A Well --

23 Q We may be stapled together differently.

24 A Yeah.

25 MR. PADILLA: I'm curious where
we're going with Mr. Foust's statements other than the fact
that he works for 25 hourly rate, or something. I'm curious
where this is going.

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MS. AUBREY: Would you like me to respond to that, Mr. Ramey?

Are you also curious?

MR. RAMEY: Yeah, I'm curious. Where -- where are you going?

MS. AUBREY: Mr. Ramey, we're going to show that Mr. Foust knew at the time that he testified before the Examiner that Greenwood had an interest in the 9.7 acres which were excluded from the proration unit and that Slayton knew it and that the exclusion was deliberate and that there were no reasons to justify the exclusion and that there were no reasons given to the Examiner to establish a non-standard proration unit.

MR. RAMEY: All right, please proceed.

MS. AUBREY: Thank you.

Q Ms. Price, would you look at a plat on the second to last page on the exhibit. Can you tell us what that is?

A Okay. We were looking at possibly drilling in the northeast quarter, northeast northeast quarter of Section 18 and Mr. Foust was helping us with regard to possible drillsite locations, and this, this plat cites three locations.

Q So he was helping you pick drilling locations within Section 18.

A That's right.

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Q I want to refer you specifically to the week of the 6th through 11th of February, 1984. Did you have any conversations with Paul Slayton during that week with regard to a non-standard proration unit which he intended to form south of the San Juan River?

A Yes. Mr. Slayton telephoned me and asked that we write a letter to the Commission approving a non-standard proration unit that would not include the acreage that we owned, the riparian acreage that we owned which would be included in a standard proration unit.

Q That would be the 9.7 acres north --

A That's right.

Q -- of the mid-channel of the San Juan River?

A Uh-huh.

Q What was your response to him?

A I had a meeting with Paul Paulson, our engineer, and Bob Schillingham, our president, and we came to the conclusion that we would just as soon drill and pay our proportionate share of the cost, which I later advised Mr. Slayton over the telephone.

Q What was his response to your offer to come into the unit and pay your proportionate share of the cost?

A Mr. Slayton wanted the non-standard proration unit in order that he could avoid additional drilling and disbursement of revenue, and also the placement of a

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tank battery just for that well.

Q What happened next with the non-standard
-- what was the next thing you heard about the non-standard
proration unit?

A We heard that the well was being drilled.

Q Did you receive any notice of any appli-
cations filed in connection with the application for a non-
standard proration unit?

A No, we did not.

Q Did you see the Commission docket in con-
nection with the application for a non-standard proration
unit?

A No.

Q How did you find out about it?

A Paul Paulson found out about -- well,
Paul Paulson found out about the well being drilled through
our field pumper who operates the wells north of the river
and also through his discussions with Ernie Bush with the
Aztec Office.

Q I think you testified that the acreage
dedicated to the No. 11 Well is comprised of both Navajo and
non-Navajo lands.

A Yes.

Q Are you aware that it's also comprised of
unit and non-unit lands?

A Yes.

Q Do you have an opinion as to whether or

1
2 not it would have been possible to include the 9.7 acre
3 tract with the 70.57 acre tract to form a standard 80-acre
4 proration unit?

5 A I know of no reason why it should not.

6 Q Ms. Price, is the 9.7 acre tract present-
7 ly sharing in production from any well?

8 A No, it's not. It's excluded from the
9 Kirtland No. 3 spacing unit and also the proration unit
10 formed -- well, from the Cha Cha Unit and the proration unit
11 for the 32-18 Well which was subsequently drilled.

12 Q Let's go now to Exhibit Number Four.
13 Will you look at that and identify it for the Commission?

14 A Okay. Exhibit Number Four consists of
15 assignments of the leases that cover the reparation rights in
16 Section 18 of this 9.7 acres.

17 There's an assignment of oil and gas
18 lease from Caribou Four Corners into Greenwood Resources,
19 Inc. which is effective July 1 of '83; an assignment from --
20 well, they're not in the right order.

21 Q Would you take a minute and put them in
22 some order that makes sense?

23 A Okay. Our next assignment should be an as-
24 signment of Caribou Four Corners into Mountain States inter-
25 est, Mountain States Petroleum, to bring their 56-1/4 work-
ing interest in all of those wells.

Mountain States then assigned the inter-
est of Paul Slayton and Patricia Slayton, individually, and

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2 Slayton Oil Corporation, effective January 1 of '84.

3 He also made assignment to Blair Petro-
4 leum, which is a partial interest that did not wish to sell
5 their interest to Greenwood Resources, and of which he is a
6 working interest owner in these leases.

7 And then there's an assignment from Paul
8 Slayton, Patricia Slayton, individually, and Slayton Oil
9 Corporation into Greenwood Resources, Inc., according to the
10 terms of our purchase.

11 Also in this exhibit are two basal oil
12 and gas leases with the legal description that covers the
13 acreage adjacent to Lot 2 of Section 18 and also adjacent to
14 Lot 1.

15 Q Based on the documents contained in Exhi-
16 bit Four can you offer an opinion to the Commission as to
17 the ownership of the 9.7 acres north of the mid-channel of
18 the San Juan River?

19 A I believe that these documents show that
20 Greenwood Resources and Blair Petroleum Corporation current-
21 ly own this acreage.

22 Q And the documents you have before you,
23 Ms. Price, can you testify for the Commission as to the num-
24 ber of acres that was purchased by Greenwood Resources in
25 this tract?

A Some of this -- some of the acreage on
these two base leases I believe is involved in the Kirtland
No. 3.

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2 The Nell Beavers lease contains approxi-
3 mately 9.7 acres and the -- the (not understood) and repar-
4 ian acreage rights lease covers 3.35 acres.

5 Q Of the assignments into Greenwood, can
6 you look at the assignments and see how many acres they
7 cover?

8 A They cover the same.

9 Q And that would be 9.7 acres?

10 A 9.7 acres for the Beavers lease and 3.35
11 acres for the (not understood.)

12 Q Just so I'm clear, I'm referring you now
13 to Exhibit Nine, the yellow section there. Can you testify
14 as to how many acres are contained within the area marked in
15 yellow on that plat?

16 A That would be the 9.43 acres; 70.57 acres
17 being Lots 8 and 9, as testified by Mr. Foust.

18 Q Ms. Price, do you have an opinion as to
19 whether or not if the application of Greenwood to void the
20 non-standard proration unit is not granted, whether or not
21 the correlative rights will be violated?

22 A I believe that the -- that the Kirtland
23 No. 3 proration unit was formed under the field rules, com-
24 prising 80 acres as a standard unit and that if the order is
25 not vacated, that there would be definitely a hiatus of the
9.43 acres, which would not enjoy any benefit from produc-
tion of either of these wells.

Q If the proration units remain as they are

1
2 today, will the correlative rights of the royalty owners in
3 the 9.43 acre tract, or the yellow area on Exhibit Nine, be
4 violated?

5 A That's right, their rights will be im-
6 paired.

7 MR. AUBREY: I have no other
8 questions.

9 MR. RAMEY: Any questions of
10 Ms. Price?

11 Mr. Padilla?

12 MR. PADILLA: I have a few, Mr.
13 Examiner.

14 CROSS EXAMINATION

15 BY MR. PADILLA:

16 Q Ms. Price, have you staked a well in the
17 northeast of the northeast quarter of Section 19?

18 A No, we have not.

19 Q Do you have any plans to drill a well
20 there?

21 A Excuse me?

22 Q Do you have any plans to drill a well
23 there?

24 A Yes, we do.

25 Q But you haven't staked it yet. What
would you dedicate to that well? What acreage would you de-
dicate to that well?

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A We're going to appeal to the Commission to produce, to drill a well. We believe that the Kirtland No. 3 does not produce according to the allowable of that 80 acre spacing unit and we will appeal to the Commission to drill a second well in that 80-acre unit in order to attempt to produce allowable.

Q Field rules allow second wells to be drilled on a proration unit, don't they?

A Yes, sir.

Q With regard to your Exhibit 9 on the acreage colored yellow, do you know for sure that you own that land? Can you testify and tell us that Greenwood Resources has that land absolutely as against any other party?

A I have opinions from our trades stating that we do own that land. If there are any title defects then that won't be the case, however.

Q Do you know, did your Exhibit No. 9, which is I believe a blow-up of a portion of the oil and gas title plat at the BLM, the difference between the delineation of Lots 1 and 2, and Mr. Foust's previous testimony as to the description of that property as the north half of the northeast quarter? Can you--do you know why there's a difference?

A The difference would be due to the location of the river, the San Juan River.

Q Would you say that Lot 1 as depicted in your exhibit is what I--I believe it's 35.86 acres?

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A I believe that.

Q Lot 2 is 38.50 acres, correct?

A That's right.

Q If we were to describe that same acreage as the north half of the northeast quarter we would be talking about 80 acres, correct?

A That's right.

MR. KELLAHIN: Doesn't add up right.

MR. PEARCE: I would suggest that if everybody were to look at Slayton Exhibit Number Five to check those acreage numbers that you just said because the blown-up copy looks different than your Exhibit Five.

MR. PADILLA: Let me look at that. It looks like 35.

MR. PEARCE: Yeah.

MR. KELLEY: They're both different.

MR. RAMEY: 36? It looks like 36.

MR. KELLAHIN: Can we go off the record for just a second.

(Thereupon a discussion was had off the record.)

1
2 MR. RAMEY: All right. Let's
3 go back on the record.

4 Q Ms. Price, let me ask those questions and
5 correct the acreage description. I have identified, and I'm
6 not sure that I've done it correctly, Lot 1 as depicted on
7 the oil and gas plat as 36.86 acres, correct?

8 A That's right.

9 Q Lot 2 is 39.50 acres.

10 A That's right.

11 Q Now, Lot 1 is described on your Exhibit
12 Number Nine. Is that acreage from the north line of Section
13 18, east line of Section 18, bounded by the river and also
14 bounded by the quarter quarter line between Lot 1 and 2,
15 correct?

16 A Right.

17 Q And Lot No. 2 is bounded on the west by
18 the half-section line of Section 18 as it appears on that
19 plat, correct?

20 A Correct.

21 Q The south boundary of that is the river-
22 bank, as depicted on your Exhibit Number Nine of Lot 2?

23 A Of Lot 2, yes.

24 Q And also Lot No. 1?

25 A That's right.

Q And the combined acreage there is less
than 80 acres--

A That's right.

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2 Q --correct? Now, can you tell us the dif-
3 ference between a description as specified to by Mr. Foust
4 earlier on the U. S. patent that indicates the north half of
5 the northeast quarter and Lots 1 and 2--

6 A No.

7 Q --as shown on your Exhibit Nine?

8 A No, not entirely.

9 Q Then we don't know for sure whether the
10 descriptions on your oil and gas leases, whether they be
11 from Caribou or Green or Nell Beavers. We don't know
12 whether that's correct or not?

13 A That's right.

14 Q You would agree that under the patent
15 from the government to Frank J. Coolidge that no riparian
16 rights were included in that patent?

17 MS. AUBREY: I object to that
18 question. This witness hadn't seen that exhibit.

19 Q Well, let me show you a copy of what we
20 have marked as Exhibit Five.

21 MS. AUBREY: Take your time and
22 read it.

23 Before the witness answers the
24 question I have an additional objection, and it's a renewal
25 of an earlier objection. Mr. Foust testified when he spon-
sored this exhibit that he did not check anything but the
San Juan County records; he did not check Federal records to
see whether they are the patents issued before or subsequent

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2 to the issuance of the patent which is shown on Slayton Ex-
3 hibit Four. My objection goes both to the relevancy and to
4 the lack of foundation. I'd like to renew that foundational
5 objection.

6 MR. PADILLA: If I may reply,
7 Mr. Chairman.

8 I think the--I don't know what
9 is involved in those oil and gas leases. For all I know--an
10 objection has been made that they're not certified copies of
11 those records on this oil and gas plat or master title plat.
12 These are not certified. We're simply trying to establish,
13 and this is the improper form--I'm trying to show that this
14 is not--that we don't know who owns the title to that and
15 that this Commission does not have jurisdiction. If that is
16 the question, and we can't decide, and Greenwood Resources
17 thinks that they have title but don't know for sure, then I
18 think that this is not the place to decide who owns title to
19 that riverbed.

20 MS. AUBREY: Well, that mis-
21 states the witness's testimony. In addition, under New Mex-
22 ico law the owner of property can always testify to the
23 chain of title. She is the vice president of Greenwood Re-
24 sources and she has every right to testify to the title of
25 that land. The patent isn't admiss'ible because it's not
certified; it's not stamped with a self-authenticating
stamp; and the witness has failed to lay sufficient founda-
tion that he searched the Federal records and can tell us

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2 whether or not there are patents issued before or after
3 this. This is being offered for the purposes of showing
4 that riparian rights were not patented. This document can't
5 do that without testimony from this witness that he had--
6 from Mr. Foust that he searched the records and can testify
7 that there are no other patents.

8 MR. PADILLA: Mr. Ramey, I
9 don't think that I have moved for admission of this Exhibit
10 Number Four. I simply asked the witness to testify from it.

11 MR. PEARCE: I'm sorry, clari-
12 fication for the Commission and the Commission's counsel,
13 I'd like the question repeated please. What is the witness
14 being asked to testify to?

15 MS. AUBREY: Mr. Ramey, I be-
16 lieve the question before the witness is whether or not this
17 patent conveys riparian rights.

18 MR. PEARCE: Is that the ques-
19 tion?

20 MR. KELLAHIN: That's the way
21 it started.

22 MR. PEARCE: Or is that what
23 you thought he wanted? I'm sorry, is that your question,
24 Mr. Padilla?

25 MR. PADILLA: If I recall, I
think my last question was whether she would agree with Mr.
Foust's reading of this document that riparian rights were
not patented under the document.

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MR. RAMEY: Okay, we're going to sustain the objection. The witness can testify as to what the document says, but whether it--whether she could draw a legal opinion as to whether it's--it covers the riparian rights in there, I don't think she could answer that.

Q Ms. Price, are you familiar with the master title plats of the Bureau of Land Management?

A Yes, I am.

Q Are you familiar with the way they're depicted? With their symbols? Are you familiar with the symbols on master title plats of the Bureau of Land Management?

A Well, I don't believe I've seen them. I haven't actually seen them of -- seen the master plat, and that's the plat I've seen --

Q Well, are you familiar with -- yes.

A Right.

Q Can you tell us how boundaries are depicted on those plats? Let's take Section 18, for example, Lots 1 and 2.

A Boundaries are -- of lots --

Q Can you tell us--can you tell us what the bold line around the north half for Lots 1 and 2 in the south half of Section -- or Lots 1 and 2 in the south half of Section 7 on that plat, what that means?

A That is the original patent.

Q And where does that end on the south?

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A It ends at the location of the river.

Q The bank of the river, doesn't it?

A Bank of the river.

Q Do you know whether the Navajo tribe has approved the communitization agreement on Kirtland No. 11?

A Yes, I have correspondence to that effect.

Q From the tribe or from the Bureau of Land-- Indian Affairs?

A From the Bureau of Indian Affairs.

Q Do you know whether any royalty disbursements have been made to the tribe and to the fee owners under the proration unit in the Kirtland No. 11?

A I have requested--excuse me, to answer your question, Caribou Four Corners prepared a Division order and indemnified--an indemnifying Division order that the royalty owners and working interest owners agreed to their interests, and they have disbursed according to those that have responded and executed a Division order.

Q Why is--

A To the Tribe there has been no royalties disbursed, which we're in the process of determining the amount.

Q Why is an indemnification agreement necessary?

A Because there--because it was not possible to get a legal Division order title opinion due to

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no communitization agreement being approved.

Q Have the fee owners been paid royalties?

A Some have.

Q Those who signed the indemnification agreement?

A That's right.

Q Do the terms of the indemnification agreement call for a repayment of those royalties in the event that the royalty calculations are incorrect?

A That's right.

Q Does the Navajo tribe have to sign the communitization agreement?

A Yes, they do.

Q Have they done so yet?

A I have not received it.

Q How long has it been before the tribe?

A Okay, the date of the communitization agreement is March 15. I received communica--

Q March 15, what?

A Of '84. Excuse me.

Q When was the date of first production?

A The date of first production was I believe sometime in '82.

Q Why the delay?

A The delay was due to Caribou Four Corners not answering the BLM's initial return of the communitization agreement with the specified changes. As I understand

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2 it, Suburban Propane objected to one of the requirements
3 from the tribe, or rather from the BLM, which the tribe
4 would've required. The matter was dropped for reasons that
5 I'm not aware of.

6 Q Would Greenwood Resources sign a commun-
7 itization agreement or a--that indemnification agreement?

8 A Pardon me?

9 Q Would Greenwood Resources sign an agree-
10 ment indemnifying Four Corners--who required the indemnifi-
11 cation agreement you testified to earlier?

12 A The indemnification agreement was with
13 regard to Division orders that were distributed for purposes
14 of disbursing revenue.

15 Q Well, let me ask this question. Was
16 title approved in the title opinion under which the Division
17 order was based?

18 A The title opinion could not be accom-
19 plished due to the fact that there was not a communitization
20 agreement. And we are in the process now of obtaining that.

21 Q Consequently title was not approved by
22 the examining attorney, is that--

23 A That's correct.

24 Q --your testimony?

25 A That's--that was the method of operation
that Caribou had started.

MR. PADILLA: No further ques-
tions.

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MR. RAMEY: Any other questions
of Ms. Price?

MS. AUBREY: Briefly, Mr.
Ramey.

REDIRECT EXAMINATION

BY MS. AUBREY:

Q Did you pay Slayton for 9.6 acres of
land, Ms. Price?

A Yes, we did.

Q In connection with your acquisition?

A Yes, we did.

Q And was the attorney who examined the
title and gave you the opinion Slayton's own attorney?

A For the acquisition?

MR. KELLAHIN: For the title
work?

A For the title work?

MR. KELLAHIN: Was it Mr.
Weems?

A Mr. Weems did title work for both Caribou
and Mountain States.

Q The final questions that Mr. Padilla was
asking you on cross examination, just so the record's clear,
are directed to the Kirtland 11, is that correct?

A That's correct.

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Q They don't have anything to do with the 9.6 acres that we're talking about.

A Not that I know of.

Q Were Exhibits One through Four, Ms. Price, prepared by you or under your supervision and direction?

A That's correct.

MS. AUBREY: I tender Exhibits One through Four.

MR. RAMEY: Exhibits One through Four will be admitted.

Q Will granting of Greenwood's application prevent waste, protect correlative rights, and promote conservation, in your opinion?

A Yes.

MS. AUBREY: I have no more questions of this witness.

MR. RAMEY: Any other questions of Ms. Price? Mr. Padilla.

MR. PADILLA: Would granting of the application get approval from the Indian Tribe?

MS. AUBREY: Well, I object to that question. That's beyond Ms. Price's ability to answer.

MR. PADILLA: I'll withdraw the question.

MR. KELLAHIN: Mr. Chairman, at this time we would withdraw, because we simply haven't ten-

1
2 dered them. Exhibits Five, Six, Seven and Eight. The exhi
3 bits have been renumbered Ten, Eleven, Twelve, and Thirteen.
4 I think that's right. Nine, Ten, Eleven and Twelve.

5 MR. RAMEY: So you have One
6 through Four and Ten through Twelve?

7 MR. KELLAHIN: Nine through
8 Twelve.

9 MR. RAMEY: Nine through
10 Twelve, okay, and you're offering those?

11 MR. KELLAHIN: Yes, sir.

12 MR. RAMEY: All right, they
13 will be admitted.

14 Do you have another witness,
15 Mr. Kellahin?

16 MR. KELLAHIN: No, sir, that
17 concludes our presentation.

18 MR. RAMEY: Okay. Before we
19 get into yours, Mr. Padilla, let's take a little stretch.

20 (Thereupon a recess was taken.)

21 MR. RAMEY: The hearing will
22 come to order. Mr. Padilla.

23 MR. PADILLA: I call Mr. Denny
24 Foust, Mr. Examiner, or Mr. Chairman.

25 He's already been called and
qualified.

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2 MR. RAMEY: He's already been
3 qualified and sworn.

4 MR. PADILLA: And sworn.

5 DENNY FOUST,

6 being recalled as a witness and having been previously sworn
7 upon his oath, testified as follows, to-wit:

8
9 DIRECT EXAMINATION

10 BY MR. PADILLA:

11 Q Mr. Foust, would you briefly describe
12 what we have marked as Exhibit Number One and tell the Com-
13 mission what it is and what it contains?

14 A It's a plat that's prepared graphically
15 from the oil and gas plats and master title plats of the U.
16 S. government, showing Section 18 with the acreage north of
17 the river, which in general agreement, Greenwood owns, and
18 the Northwest Cha Cha Unit south of the river shown in
19 brown, and the acreage in question is shown in blue. And
20 the two new wells are shown there with the black circles
with red centers.

21 It's very similar to some previous exhi-
22 bits.

23 Q Mr. Foust, will the -- in the interest of
24 brevity, is there anything new that we haven't covered with
25 regard to this exhibit that we haven't covered in previous
testimony?

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A I don't believe so.

Q Let me show you what we have marked as Exhibit Number Two and have you identify that for the Commission and tell us what it is and what it contains.

A This is the same graphic plat with the spacing units for the individual wells color coded as they are presently approved.

And it also shows the two new wells that were drilled in the northwest Cha Cha Unit in red with black circles, and the existing oil wells in the north half of the section a standard black circle.

Q Mr. Foust, you've heard Ms. Price testify here that Greenwood Resources had plans to drill a well in what is described as Lot Number 1 of their Exhibit Number Nine in Section 18.

Assuming that that well is drilled, can you tell us how many wells will be north of the river and how many wells will be south of the river and how -- how much land would be dedicated to each of those wells?

MR. KELLAHIN: I'll object, Mr. Chairman, that is irrelevant. It doesn't matter how many wells are north of the river, south of the river. The spacing in this pool is 80 acres and it doesn't matter if you have a second well.

MR. PADILLA: Mr. Ramey, I think we've already established that we have three non-standard proration units, all exceptions to 80-acre spacing.

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2 We now have a new dimension with plans for drilling a well
3 in Lot 1, and I think it's very relevant to show how many
4 wells are going to be drilled in Section 18 north -- or
5 going to exist in Section 18 north of the river and how many
6 wells there currently will be south of the river, in view of
7 the lay of the land.

8 It most certainly is relevant
9 as far as correlative rights is concerned, which is what the
10 application of Greenwood Resources is all about.

11 MR. RAMEY: I'll overrule the
12 objection and let the witness answer the question.

13 A Well, there are currently three producing
14 wells north of the San Juan River and assuming that a well
15 in Lot 1 would be successful, it would make four producing
16 wells.

17 On the south side of the river the two
18 new wells which were recently drilled by Slayton Oil Corpor-
19 ation are the only producing wells.

20 Q Could you drill more wells in those pro-
21 duction units south of the river?

22 A The only location that we could drill
23 south of the river would be in Lot 11, which is in the
24 southwest southwest corner.

25 Q Would that --

A That's of the ones that we're dealing
with here. There are some more wells could be drilled in
the south.

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Q Would that have the effect of draining lands in Lots 5 and 4?

A No, sir.

Q It would have the effect of draining your own well, wouldn't it?

A Yes.

Q Now, I see in Lot Number 9 in the proration unit under consideration here today, could you drill a well on that?

A Due to the National Wetlands Act, the BIA will not permit a well to be drilled in Lot 9.

Q Is that marshy land?

A That's marsh.

Q As a practical matter would you drill a well on that land?

A It still would be possible to drill a well if the BIA would permit it, and they're very, very touchy about it.

Q Can you do a quick computation for us assuming that well is drilled and also assuming that it is a successful well, how much acreage would be dedicated to the wells north of the river and to the current wells south of the river?

A It would be about 225 acres owned by Greenwood north of the river with four wells and then --

Q What does that average per well?

A 55-56 acres.

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2 Q Does that include also the entire 80-acre
3 proration unit under which -- to which the No. 11 is dedi-
4 cated?

5 A Yes, that would.

6 Q Now, give us a computation as to the ac-
7 reage south of the river, a proration unit south of the
8 river.

9 A Well, that's about 165 acres.

10 Q What's the average on that?

11 A Just slightly over 80, about 82.

12 Q Do you believe correlative rights would
13 be impaired given that scenario?

14 A I do not believe so.

15 Q Let's go now to based on current wells
16 and the -- and the dedication of those wells north of the
17 river, how much land is currently dedicated to those wells
18 north of the river without the additional new well?

19 A The same 225 acres.

20 Q And what does that average?

21 A About 75 acres.

22 Q That's still less than the dedication
23 south of the river, is that correct?

24 A Yes, it is.

25 Q Is there any further testimony you have
with connection to Exhibit Number Two?

A Just if we wanted to refer to the Kirt-
land No. 11 Well situation.

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2 Q Yes. Can you give us your version of the
3 problems with that communitization, please?

4 A Well, to the best of my knowledge, I
5 agree with Linda to a point that the BIA has approved a com-
6 munitization agreement that was finally submitted to the BLM
7 and approved, but we have received two or three rather vehe-
8 ment telephone calls from the Navajo Minerals Department.
9 Mr. Aktar Zammon --

10 THE REPORTER: Please spell
11 that name, Mr. Aktar Zammon.

12 A That one's easy. A-K-T-A-R, Aktar.

13 THE REPORTER: All right, Ak-
14 tar.

15 A Zammon, Z-A-M-M-O-N.

16 And the engineer's name is Ferfera, as
17 close as I can come.

18 Q Would you proceed, Mr. Foust, and tell us
19 your version of --

20 A Well, I don't know whether or not we're
21 going to be able to persuade them to sign the communitiza-
22 tion agreement. They have made an attempt to get the lease
23 cancelled with the BLM to date, with Sue Umsler in Albuquer-
24 que, and I think their principal objection is to State jur-
25 isdiction over Indian lands and the ability to force pool
Indian lands with non-Indian lands.

26 Q Was that 80-acre tract force pooled?

27 A Yes, it was.

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2 Q What's the nature of their objection? Is
3 it that they don't want the Indian lands combined with other
4 lands?

5 MS. AUBREY: Well, I object.
6 That calls for hearsay from this witness.

7 A I don't know the exact answer anyway.

8 Q Okay. I don't need to go further on
9 that.

10 Let's go on to Exhibit Number Three and
11 have you tell us what that is, what it contains.

12 A This shows the production from the Well
13 No. 32-18, which is the one located in Lot 8.

14 Since we got it pumping on a regular
15 basis, and I've got slightly more than 30 days there, starts
16 about the 28th of June and goes through the 30th of this
17 month, and it's broken down into oil and water.

18 Q Is that stated in barrels?

19 A Yes, it is.

20 Q Okay.

21 A And it looks like it will average some-
22 where between 15 and 20 barrels of oil and 30 to 50 barrels
23 of water, depending on whether it settles in. We do have
24 all our frac fluid back on this well about the 15th of the
25 month, so it may be a halfway decent picture.

26 Q Would you say that the decline from June
27 28th, 1984, to July 30th, 1984, from 75 barrels of oil to 17
28 barrels of oil is a rapid decline?

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A Yes, if it's a true decline and there's nothing downhole affecting it.

Q How about the water production? Tell us about it.

A Well, I would have hoped it would have been more in the 50/50 range, about 40 barrels of oil and 40 barrels of water. When we decided to drill the well that is what we were hoping for.

Q How much does it cost to haul that water away?

MS. AUBREY: I object. That question is not relevant to the proceeding before the Commission.

MR. PADILLA: Mr. Chairman, I'm trying to show that -- well, let me rephrase the question.

Q Do you -- do you expect that the water will remain under your -- the same under your July 30th date?

A If it's necessary to dispose of the water as a separately operated well, when you get to be about 10 percent oil it becomes economically zero. It's no longer feasible to produce the well.

Q Do you think this is going to be a good or bad well?

A It could decline very shortly to about a 10-barrel a day well, 50 barrels of water or 100 barrels of water. It's hard to say.

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Q Do you have anything further to add to your testimony?

A I don't believe so.

MR. PADILLA: Tender the witness for cross examination, Mr. Chairman.

MR. RAMEY: Any questions of Mr. Foust?

MS. AUBREY: I have no questions.

MR. RAMEY: The witness will be excused.

Anything else, Mr. Padilla?

MR. PADILLA: Nothing else, Mr. Chairman. I move the admission of Exhibits One through Five.

MR. RAMEY: One through Five, did you say?

MR. PADILLA: Yes.

MR. RAMEY: Oh, okay. Exhibits One through Five will be admitted.

Any closing statements? Mr. Padilla, do you have one?

MR. PADILLA: Mr. Chairman, very briefly, I think there are some critical title problems here that can be solved by this Commission.

We have shown that the northeast quarter of Section 18, or at least the north half of

1 the northeast quarter of Section 18, has been described as
2 both the northeast quarter and the north half of the north-
3 east quarter, and as Lots 1 and 2.

4 The plat of the Bureau of Land
5 Management shows that patents that were issued went to the
6 riverbank. Now, I'm also aware that these oil and gas
7 leases that were submitted by the applicants in this case,
8 I'm sure that they relied in good faith on title, but that
9 does not affect the issued -- or the orders issued by the
10 Oil Conservation Division earlier, which I believe by virtue
11 of this application is a collateral attack on that.

12 We've had testimony here con-
13 cerning lack of notice. Well, I think we have followed all
14 the notice requirements of the Division. It's not necessary
15 under current regulations to notify individually, or to give
16 personal notice of an application. Consequently, I think we
17 now have a valid order. I think there's a serious question
18 as to title of the riverbed and the minerals underlying the
19 riverbed, as far as I can see, title has not been approved
20 on Section 11 or 12. Involving Section 11, I don't know
21 what to tell the problems are with that well.

22 No testimony has been presented
23 other than the fact that -- testimony that Ms. Price's com-
24 munitization agreement has not been approved; however, with
25 regard to that, Division Order under that well, it concerns
me that indemnification agreements have been issued and I
think brings up and supports our contention that there are

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serious title problems.

My belief, and my opinion is, whether it's any good or -- basically is that the United States Government owns the title to the minerals underlying the riverbed.

Exhibit Number Five or Number Four, as we have marked it, shows that by Executive Order dated 4-24-1886 the Navajos got everything south of the river. North of the river is owned under that patent that we have shown here and we have not had any testimony from the applicants concerning title to the river, other than oil and gas leases, which I think are based on erroneous opinions or I wouldn't prove title on that, let me put it that way, on those gas leases having that kind of situation.

And I think that in view, we have presented testimony, if the applicants own lands north of the river, we're not going to have five or four wells north of the river if they drill that well and it's a successful well. I don't think their rights are being impaired. They now have a proration unit there consisting of 64 acres, or thereabouts, north of the river. South of the river we have one consisting of 93 acres. I think the equity flows both ways and I think that the order of the Division ought to be left undisturbed.

MR. RAMEY: Thank you, Mr. Padilla. Ms. Aubrey?

MS. AUBREY: Thank you, Mr.

1 Ramey.

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3 What we have here today is a
4 problem created by Slayton by ignoring the correlative
5 rights of the mineral owners under the 9.6 and 9.1 acre
6 tract. Even Slayton's own Exhibit Number One admits that
7 the area is in question; that it's not dedicated to any pro-
8 ration unit. There can't be any question of that before the
9 Commission today.

10 We have a hiatus created by
11 Slayton from which Slayton benefited, and was created by
12 Slayton because they didn't want to follow the accounting
13 problem they in fact created themselves.

14 We have shown by substantial
15 evidence that Greenwood has title to that land and to those
16 minerals. None of the exhibits or testimony presented be-
17 fore the Commission today has disproved that.

18 There can be no question from
19 the testimony and the exhibits that even if Greenwood dril-
20 led the well at the location in Lot 1, there's no testimony
21 that the mineral owners in the 9.6-acre tract are going to
22 share in that production.

23 In fact the testimony is to the
24 opposite, that unless the Commission recognizes that the
25 Examiner Order is fatally defective, the mineral interest
owners under that tract will never share in production at
all from any well.

This acreage was sold by Slay-

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2 ton to Greenwood. Greenwood paid Slayton money for it, and
3 now Slayton wants to exclude it from any production from any
4 well.

5 At the Examiner hearing no testimony was
6 presented to justify the creation of a non-standard prora-
7 tion unit. There was no explanation given to the Examiner
8 of why they were requesting the non-standard proration unit
9 beyond the statement that part of it was Indian land and
part of it wasn't.

10 Well, we know from -- from the acreage
11 dedicated to the Kirtland ll Well that a communitization
12 agreement can be entered into involving Indian and non-
13 Indian land, and Linda Price has testified that she has
14 heard from the BIA that the agreement will be approved.

15 On behalf of the applicant we ask that
16 the Commission vacate the order, finding that it is fatally
17 defective in that the applicant at the Examiner Hearing,
18 Slayton Oil, failed to satisfy the jurisdictional require-
19 ments for the creation of a non-standard proration unit and
20 once you have vacated that order, then Slayton will have to
figure out to solve this problem which they have created.

21 As it stands now, Greenwood bought the
22 land, paid money for it, and now finds itself excluded from
23 all production. That is an inequitable result, a result
which cannot be allowed to stand.

24 MR. RAMEY: Does anyone have
25 anything further to add in this case?

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2 We would request both counsel
3 to give me a suggested order on this as soon as possible.

4 The Commission will take this
5 case under advisement and the hearing is adjourned.

6 (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 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.

Sally W. Boyd CSR