

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

14 May 1986

EXAMINER HEARING

IN THE MATTER OF:

Application of Mesa Grande Resources, Inc., for compulsory pooling, Rio Arriba County, New Mexico.      CASE 8897

BEFORE: David R. Catanach, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division:

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

For Mesa Grande:

Scott Hall  
Attorney at Law  
CAMPBELL & BLACK P.A.  
P. O. Box 2265  
Santa Fe, New Mexico 87501

## A P P E A R A N C E S

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For Chevron:

Karen Aubrey  
Attorney at Law  
KELLAHIN & KELLAHIN  
P. O. Box 2265  
Santa Fe, New Mexico 87501

## I N D E X

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MR. CATANACH: Call next Case

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8897.

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MR. TAYLOR: Application of

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Mesa Grande Resources, Inc., for compulsory pooling, Rio Ar-

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riba County, New Mexico.

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MR. CATANACH: Are there ap-

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pearances in this case?

9

MR. HALL: Mr. Examiner, Scott

10

Hall from Campbell & Black, P. A., of Santa Fe, on behalf

11

of the applicant, Mesa Grande Resources, and I have two wit-

12

nesses who need to be sworn today.

13

MR. CATANACH: Are there other

14

appearances in this case?

15

MS. AUBREY: Mr. Examiner,

16

Karen Aubrey, with the Santa Fe law firm of Kellahin & Kel-

17

lahin, appearing on behalf of Chevron USA.

18

I have one witness to be sworn.

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MR. CATANACH: Are there other

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appearances in this case?

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(Witnesses sworn.)

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MR. CATANACH: You may proceed.

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KATHLEEN A. MICHAEL,

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

DIRECT EXAMINATION

BY MR. HALL:

Q For the record please state your name and place of residence.

A My name is Kathlee A. Michael and I reside in Tulsa, Oklahoma.

Q Okay, and by whom are you employed and in what capacity?

A By Mesa Grande Resources, Inc., as landman.

Q Okay. Ms. Michael, have you previously testified before the Division and have you had your credentials accepted and made a matter of record?

A Yes, I have.

Q Are you familiar with the application filed in this case?

A Yes.

Q And are you also familiar with the subject area?

A Yes.

1 Q All right.

2 MR. HALL: At this time, Mr.  
3 Examiner, we tender Ms. Michael as a qualified expert.

4 MR. CATANACH: Ms. Michael,  
5 when was the last time you testified before the Division?

6 A November, 1983, I believe.

7 MR. CATANACH: Ms. Michael is  
8 considered qualified.

9 Q If you would, please, briefly state what  
10 Mesa Grande seeks by this application.

11 A Mesa Grande is seeking to pool all the  
12 interests in the southeast quarter of Section 5, Township 25  
13 North, Range 2 West, as to the Pictured Cliffs formation.

14 Q All right, and did you bring with you  
15 certain exhibits in connection with this case?

16 A Yes.

17 Q If you would, please, refer to Exhibit  
18 One and explain to the examiner what this exhibit is inten-  
19 ded to reflect.

20 A Okay. Exhibit One is a production map  
21 which shows the location of the proposed well and surround-  
22 ing -- and the surrounding wells.

23 Q For the record, what is the primary ob-  
24 jective of this particular well?

25 A Pictured Cliffs formation.

1           Q           All right, at this point I'd like you to  
2 refer to what's been marked as Exhibit Two and explain what  
3 this exhibit is intended to reflect.

4           A           Leasehold -- excuse me. Exhibit Two is a  
5 leasehold ownership map which shows the respective leases in  
6 the spacing unit for the southeast quarter and the percent  
7 of ownership in those leases.

8                       It also contains a well interest break-  
9 down to show the interest of each working interest in the  
10 well.

11          Q           Okay, and it also shows the proposed lo-  
12 cation does it not?

13          A           Yes, it does.

14          Q           Actual location in this case?

15          A           Yes.

16          Q           All right. What percentage of the ac-  
17 reage in this proration unit is committed to the well at  
18 this time?

19          A           75 percent.

20          Q           And who is the owner of the uncommitted  
21 interest?

22          A           Chevron.

23          Q           If you would, please, I'd like you to  
24 summarize for the examiner the efforts you have undertaken  
25 to obtain the voluntary joinder of Chevron.

1           A           Okay.    We have as Exhibit Three corres-  
2 pondence -- items of correspondence which reflect the ef-  
3 forts that we've made to secure Chevron's joinder for this  
4 well.

5                        On March 14th, 1986, we wrote to Chevron,  
6 as well as the other working interest owners under the well.  
7 We offered them three options:   One, to participate in the  
8 well; second, to farmout their interest in the well; and  
9 third, to go nonconsent in the initial well under provisions  
10 to be added to the operating agreement, which were outlined  
11 in that letter.

12                      We also included the AFE in this letter,  
13 which is included in our exhibits today as Exhibit Four.

14                      Chevron responded by telephone call and  
15 by letter on March 28th that they would not accept any of  
16 the three options.

17                      Subsequently, we notified Chevron that we  
18 would be having a hearing for the purpose of compulsory  
19 pooling. They called us on May 1st to see if we could work  
20 out some kind of an agreement before the hearing and we not-  
21 ified them on May 2nd by telephone and by letter dated May  
22 5th that there were two options remaining, one, to partici-  
23 pate; second, to go nonconsent in the well, and we requested  
24 that they advise us of an election by May 12th so that we  
25 would know ahead of the hearing whether we needed to be here

1 or not, and we received no response from them.

2 Q All right. In looking at your Exhibit  
3 Three, which consists of several letters, there is a letter  
4 on there marked Exhibit Three-2 --

5 A Uh-huh.

6 Q -- and it is a letter from Chevron dated  
7 March 28th. Is that the notice you referred to previously  
8 from Chevron?

9 A Yes.

10 Q They advised you at that time that they  
11 would not be consenting.

12 A Yes.

13 Q Did they give you verbal notification  
14 prior to this date?

15 A They gave us verbal notification on this  
16 date.

17 Q Okay, in addition to this --

18 A In addition to the letter, yes.

19 Q Okay. What was the spud date for this  
20 well?

21 A March 28th.

22 Q Okay. So Chevron had had notice of the  
23 proposed well as early as when?

24 A I believe they received the letter date  
25 March 14th on the 19th.

1 Q All right, had you had any verbal contact  
2 with Chevron before that time?

3 A Yes, we had.

4 Q Okay. And did you receive a favorable  
5 response to those contacts?

6 A Actually the response was we're looking  
7 it over, we'll let you know.

8 Q Okay. After the time of March 14th,  
9 1986, when you transmitted the AFE along with your letter,  
10 did Chevron or any of its personnel object to anything in  
11 the AFE?

12 A No.

13 Q Okay. Now, following indications from  
14 Chevron that they would go nonconsent in this well, did you  
15 in fact seek to have your attorneys to file this application  
16 for you?

17 A Yes, we did.

18 Q And did your attorneys send notice of  
19 this hearing to Chevron?

20 A Yes, they did.

21 Q Is a copy of that notice what's been mar-  
22 ked as Exhibit Five?

23 A Yes, that's a copy of the letter.

24 Q Okay. And does that have appended to it  
25 the return receipt?

1           A           Yes, it does.

2           Q           What was the date of that notice?

3           A           April 24th, 1986.

4           Q           All right. Ms. Michael, in your opinion  
5 has Mesa Grande made a good faith effort to seek Chevron's  
6 voluntary joinder in this well?

7           A           Yes, I believe we have.

8           Q           If you know, has Mesa Grande drilled  
9 other wells in the immediate area?

10          A           We have drilled other Pictured Cliffs  
11 wells under the name of Nanco, which is the subsidiary com-  
12 pany in Section 15, and those wells were drilled in 1981.

13          Q           All right. Are they shown on Exhibit  
14 One?

15          A           Yes, they are.

16          Q           Okay. Ms. Michael, are you prepared to  
17 make a recommendation to the examiner as to the risk penalty  
18 that should be assessed against the nonconsenting interest  
19 in this case?

20          A           Yes. We --

21                           MS. AUBREY: Mr. Examiner, I  
22 have an objection to that question. That question is not  
23 properly put to a landman but to a geologist, and I suggest  
24 that a landman is not competent to testify as to geological  
25 data.

1 MR. HALL: Mr. Examiner, we  
2 will be presenting additional testimony which will afford  
3 Ms. Aubrey an opportunity to query further on that; however,  
4 I believe Ms. Michael may have participated in the recommen-  
5 dation; therefore I believe she may be qualified as a land-  
6 man to address the issue.

7 MR. CATANACH: We'll let Ms.  
8 Michael address the issue.

9 A We recommend that a 200 percent penalty  
10 be assessed.

11 Q All right. Ms. Michael, in your opinion  
12 will the granting of this application be in the best inter-  
13 est of conservation, the prevention of waste, and the pro-  
14 tection of correlative rights?

15 A Yes.

16 Q All right.

17 MR. HALL: At this time we  
18 would offer Exhibits One through Five.

19 MR. CATANACH: Any objections?

20 MS. AUBREY: I have no objec-  
21 tions.

22 MR. CATANACH: Exhibits One  
23 through Five will be admitted into evidence.

24 MR. HALL: That concludes my  
25 direct of this witness.

1 I have one additional witness.

2 MS. AUBREY: Ms. Aubrey, do you  
3 have any questions of this witness?

4 MS. AUBREY: Yes, I do. Thank  
5 you.

6

7

CROSS EXAMINATION

8 BY MS. AUBREY:

9 Q Ms. Michael, this well was not originally  
10 proposed as a Pictured Cliffs well, is that correct?

11 A That's correct.

12 Q When was it first proposed to Chevron as  
13 a well to be completed in a different formation?

14 A By a letter dated March 14th.

15 Q Let me find that here. So on March 14th  
16 you proposed a Gallup-Dakota test well?

17 A No, on March 14th we proposed a Pictured  
18 Cliffs well.

19 Q Okay, it had previously been proposed as  
20 a Gallup-Dakota test, is that correct?

21 A That's correct.

22 Q And the spud date on this well was March  
23 28th, 1986?

24 A Yes.

25 Q Two weeks after you first proposed the

1 well as a Pictured Cliffs completion?

2 A Yes.

3 Q For what reason did you change your ob-  
4 jective in this well?

5 A Some of the working interest owners who  
6 would have been involved in a Gallup-Dakota test were not  
7 willing to participate in the test as a Gallup-Dakota test.

8 Q Mesa Grande's total interest in the 160  
9 is 23.75 percent?

10 A Yes.

11 Q Is that correct? What would it have been  
12 in the 320 that would have been dedicated to a Gallup-Dakota  
13 well?

14 A Well, it would have been the 23.75 plus  
15 75 percent of the additional 160, assuming an east half  
16 drilling block of Section 5.

17 Q Who was it that would not agree to the  
18 Gallup-Dakota test (not clearly understood)?

19 A Dugan Production. Dugan Production.

20 Q And they have no interest in the proposed  
21 160-acre proration unit.

22 A That's correct.

23 Q When did your -- when was your lease set  
24 to expire on this acreage?

25 A April 1st.

1           Q           How long has Mesa Grande Resources had  
2 that lease?

3           A           They acquired the lease from Northwest  
4 Exploration and I'm not real sure of the date. I believe  
5 the effective date of the assignment was May 1st, 1980.<sup>4?</sup>

6           Q           Almost two years before the primary term  
7 of the lease expired?

8           A           Yes.

9           Q           Why did Mesa Grande Resources wait until  
10 two and a half weeks prior to the expiration of the lease to  
11 propose a well?

12          A           They did not wait until two weeks before  
13 the expiration of the lease to propose a well. Why they  
14 waited that long to propose, I cannot tell you. I don't  
15 know.

16          Q           In fact, the well was drilled three days,  
17 two days, before the -- or spudded two or three days before  
18 the expiration of the lease?

19          A           Yes.

20          Q           Has that well been completed?

21          A           Yes.

22          Q           What formation is it completed in?

23          A           Pictured Cliff.

24          Q           Have you filed a completion report with  
25 the Aztec Office of the Oil and Gas Commission?

1 MR. HALL: At this point, Mr.  
2 Examiner, I'm going to have to object. This is beyond the  
3 scope of this witness. I don't believe she has knowledge as  
4 a landman. That information may be forthcoming through an-  
5 other witness.

6 MS. AUBREY: Mr. Examiner, if  
7 she doesn't know, she can say she doesn't know.

8 MR. CATANACH: Who is your next  
9 witness, Mr. Hall? Is he an engineer or --

10 MR. HALL: He's an engineer.

11 MR. CATANACH: We'll hold off  
12 on that question (not clearly understood).

13 Q But you do know the well's been com-  
14 pleted?

15 A Yes.

16 Q Do you know whether or not the well has  
17 been connected?

18 A The well has not been connected.

19 Q Does Mesa Grande Resources have any gas  
20 contracts for the gas to be produced from this well?

21 A I don't know.

22 Q Is there anyone who's going to testify  
23 here today who will know the answer to that question?

24 A I don't know.

25 Q You proposed a joint operating agreement

1 to Chevron USA which contained a 350 percent penalty, is  
2 that correct?

3 A I don't believe so. I think it was a 200  
4 percent penalty.

5 Q Let me have you look at your March 14th  
6 letter, which is your Exhibit Number Three-1.

7 Do you have that in front of you?

8 A Yes.

9 Q Would you review that letter and see what  
10 penalty you were proposing under the joint operating agree-  
11 ment to Chevron?

12 A In election three we proposed a 200 per-  
13 cent penalty.

14 Q That's a 200 percent penalty for drilling  
15 costs and 150 percent penalty for equipment beyond the well-  
16 head and operator costs?

17 A Yes.

18 Q Thank you. Did you attempt for file for  
19 compulsory pooling on this well prior to the expiration of  
20 your lease?

21 MR. HALL: Well, I'll object.  
22 There's been no evidence adduced that the lease has expired.

23 MS. AUBREY: Mr. Examiner, I'll  
24 be glad to rephrase that.

25 Q Your lease was set to expire April 1, is

1 that right?

2 A That's correct.

3 Q Your compulsory pooling application was  
4 mailed to Chevron April 24, is that right?

5 A That's correct.

6 Q Prior to April 24th, 1986, had Mesa Gran-  
7 de Resources filed any compulsory pooling application in  
8 connection with this 160-acre proration unit?

9 A No.

10 Q Or in connection with the 320-acre prora-  
11 tion unit which would be dedicated to the Gallup-Dakota?

12 A No.

13 Q So your application was filed approxi-  
14 mately a month after the well was spudded?

15 A Approximately.

16 Q I can't remember, Ms. Michaels, if I  
17 asked you this or if you didn't know the answer, but do you  
18 know the completion date?

19 A No, I don't.

20 Q This well was only drilled in order to  
21 hold your lease, wasn't it?

22 MR. HALL: Well, I'll object to  
23 the form of the question. There's been no evidence along  
24 those lines.

25 MS. AUBREY: Well, that's be

1 cause she hasn't answered the question yet, Mr. Examiner.

2 MR. CATANACH: I'll direct Ms.  
3 Michael to answer the question, please.

4 MR. HALL: Would you restate  
5 the question?

6 Q Ms. Michaels, this well was drilled only  
7 for the purpose of holding the lease on Section 5 and not  
8 for any other reason, is that correct?

9 A I would say, no, that's not correct.

10 Q Who in Mesa Grande Resources would be  
11 responsible for filing a temperature survey with the Oil  
12 Conservation Division?

13 A I don't know.

14 Q And who in Mesa Grande Resources would be  
15 responsible for filing the completion report with the Oil  
16 Conservation Division?

17 A I don't know.

18 Q Under the terms of your lease, Ms.  
19 Michaels, by spudding the well before the expiration date  
20 but completing it after that date, does that extend the term  
21 of your lease?

22 MR. HALL: I'm going to object.  
23 There's been no lease tendered into evidence, and even if it  
24 were, the lease would speak for itself.

25 MS. AUBREY: Mr. Examiner,

1 she's in the Land Department. She can either say she  
2 doesn't know or she can answer the question. Whether or not  
3 we've got a copy of the lease here is not relevant.

4 MR. CATANACH: Ms. Michael will  
5 answer the question, please.

6 A Would you repeat the question, please?

7 Q Certainly. By drilling the well prior to  
8 the -- or spudding the well prior to the date of expiration  
9 of your lease, but completing it after that date, does that  
10 extend the term of your lease?

11 A Yes, it does.

12 Q That's a matter with which you are fam-  
13 iliar, is that correct?

14 A Yes.

15 Q Who was it in Mesa Grande Resources that  
16 made the decision to change the objective in this well from  
17 the Gallup-Dakota to the Pictured Cliff?

18 A I don't know.

19 Q How many employees does Mesa Grande  
20 Resources have?

21 A Fourteen.

22 Q Is that a decision that would be made by  
23 a geologist or an engineer?

24 MR. HALL: Mr. Examiner, I  
25 believe that question has been asked and answered. She said

1 she didn't know who made the decision in the first place.

2 MR. CATANACH: Will the -- can  
3 the question be answered by your other witness, Mr. Hall be  
4 answered by any other witness, Mr. Hall?

5 MR. HALL: Yes.

6 MR. CATANACH: We'll save that  
7 question.

8 Q Now you testified that you think Mesa  
9 Grande Resources ought to receive the full statutory penalty  
10 in connection with this well.

11 A Yes.

12 Q Are you aware that the 200 percent penal-  
13 ty you're seeking is the maximum permitted by New Mexico  
14 law?

15 A Yes.

16 Q And you've been permitted to testify on  
17 that issue and I want to explore with you the basis for Mesa  
18 Grande Resources' request for a maximum penalty on a well  
19 which is already completed.

20 MR. HALL: Mr. Examiner, let me  
21 object. I believe I've already stated one objection to this  
22 line of questioning, that I thought it was decided by your  
23 ruling that we'd explore this area with the next witness.

24 MS. AUBREY: Mr. Examiner,  
25 you've permitted her to testify as to the penalty and I'm

1 permitted to cross examine her on what she knows about that.

2 MR. CATANACH: Ms. Aubrey, she  
3 was --

4 MR. TAYLOR: I think -- well,  
5 go ahead and ask her the question but if she doesn't know,  
6 since they've got a witness, just ask that witness.

7 Q Just so my question is clear, I'm going  
8 to ask you on what you base your request for a 200 percent  
9 penalty.

10 Have you discussed this with -- with --  
11 let me back up.

12 Who in Mesa Grande Resources first pro-  
13 posed a 200 percent penalty?

14 A I don't know.

15 Q Have you read or are you familiar with  
16 the New Mexico statutes regarding compulsory pooling?

17 A I would have to say yes.

18 Q And do you have an opinion, Ms. Michaels,  
19 as to whether or not the penalty that is referred to the New  
20 Mexico compulsory pooling statutes is in fact a penalty to  
21 compensate for the risk of drilling?

22 MR. HALL: If you have an opin-  
23 ion.

24 A I would say yes.

25 Q Will you agree with me that the New Mex-

1       ico statutes provide for a -- the imposition of a risk fac-  
2       tor or a penalty factor in order to compensate an operator  
3       who drills a well for the risk which is incurred in drill-  
4       ling?

5                   A            Yes.

6                   Q            And for the risk which is incurred in  
7       completing?

8                   A            Yes.

9                   Q            Are you basing your -- you personally  
10       basing your request for a 200 percent penalty on any geolo-  
11       gical or engineering factor?

12                   A            Well, I don't know that.

13                               MR. HALL:    Well, I'm going to  
14       object to that question. In the course of direct Ms.  
15       Michael was simply asked what the penalty was. She was not  
16       asked the basis for the penalty.

17                               MS. AUBREY:  Mr. Examiner, I  
18       simply asked her if it was based on any geological or engin-  
19       eering data and the only thing she has to do if it's not is  
20       answer no. There's nothing objectionable about that ques-  
21       tion.

22                               MR. HALL:    Well, it is objec-  
23       tionable. It's beyond the scope of direct.

24                               MR. TAYLOR:  I think it's also  
25       without her knowledge, but she's said she didn't know, so I

1 think that should just go on the record that she doesn't  
2 know the basis. She may know what the penalty they want is  
3 but she may not know the technical reasons for asking it, if  
4 I understood her answer.

5 Q Ms. Michael, is the -- did the request  
6 for a 200 percent penalty come from you?

7 A No.

8 Q Did you make the decision to ask for a  
9 200 percent penalty in this case?

10 A No.

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

13 MR. CATANACH: Mr. Hall do you  
14 have anything further?

15 MR. HALL: No, Mr. Examiner, at  
16 this time we'd call, or subject to further questions from  
17 the examiner, we'd call Mr. David Blandford.

18 MR. CATANACH: I have no ques-  
19 tions.

20

21 DAVID M. BLANDFORD,  
22 being called as a witness and being duly sworn upon his  
23 oath, testified as follows, to-wit:

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## DIRECT EXAMINATION

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BY MR. HALL:

Q For the record please state your name and place of residence.

A David M. Blandford, Durango, Colorado.

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

A By Mesa Grande Resources, Incorporated as a petroleum engineer.

Q Have you previously testified before the Division or one of its examiners and had your credentials made a matter of record?

A Yes, I have.

Q Are you familiar with the application and the subject lands in connection with this case?

A Yes, sir.

MR. HALL: At this point, Mr. Examiner, we'd offer Mr. Blandford as a qualified witness.

MR. CATANACH: Mr. Blandford is considered qualified.

Q Mr. Blandford, if you would, please, again briefly state what it is Mesa Grande seeks with this application.

A We're seeking for compulsory pooling in the southeast quarter of Section 5, Township 25 North, Range

1 2 West, for those parties which have not participated or  
2 taken an election under the proposed operating agreement  
3 that's been submitted to them for this area.

4 Q All right, and those parties have had al-  
5 so submitted to them some time ago an AFE for proposed  
6 costs, is that correct?

7 A That's correct.

8 Q If you would, please, I'd like you to re-  
9 fer to Exhibit Four and identify that for me, please.

10 A Exhibit Four is an Authority for Expen-  
11 diture for the drilling of the Guardian No. 1, proposed to a  
12 total depth of 3950 feet. It would be completed in the Pic-  
13 tured Cliffs formation.

14 Q All right, if you would, please briefly  
15 summarize the findings on Exhibit Four.

16 A Okay. Basically we're looking at a total  
17 cost of \$109,198 in intangible costs and about \$33,000 in  
18 tangible costs, for a total of \$202,468 total drilled and  
19 completed well costs.

20 Q In your opinion are the costs shown on  
21 Exhibit Four generally in line with what's been charged by  
22 other operators in the area for like wells?

23 A Mesa Grande has not recently participated  
24 or drilled a PC well in the Gavilan area, well, since 1981  
25 when they did it as Nanco. However, based on cost

1 comparisons with Pictured Cliff wells drilled throughout the  
2 San Juan Basin, yes, it is in line and very reasonable.

3 Q All right. I notice on Exhibit Four it  
4 says prepared by Gregory Phillips. Did you not then actual-  
5 ly Exhibit Four yourself?

6 A No, I did not prepare it but I have gone  
7 over the costs in detail with Mr. Phillips and agree with  
8 his numbers he used on this AFE.

9 Q Okay. Mr. Blandford, are you prepared to  
10 make a recommendation to the examiner as to the risk penalty  
11 which should be assessed against the nonconsenting interest?

12 A Yes, I am, 200 percent.

13 Q All right, and upon what do you base that  
14 risk assessment?

15 A I'd like to call the Examiner's attention  
16 to Exhibit One, a production map of the Gavilan Pictured  
17 Cliffs Gas Pool and surrounding areas, and this production  
18 map shows the area around the Guardian drill site in the  
19 southeast quarter of Section 5.

20 Even though the 160 acres adjoins the  
21 Gavilan PC Pool boundary, the adjacent 160 acres to the east  
22 was never developed and therefore the Guardian Well is more  
23 than one-half mile from the nearest producing Pictured  
24 Cliffs well, that well being Dugan's McDug No. 1 (sic) lo-  
25 cated in the northwest quarter of Section 9. That well was



1 to Exhibit Number Six-A, which is a structure map of the  
2 area, we can see that most of the producing wells are up dip  
3 in this immediate area of the map from the proposed drill  
4 site; however, it has been well documented that the majority  
5 of Pictured Cliffs production within the San Juan Basin is  
6 dependent more on stratigraphic traps and not so much on  
7 structural position, although structural position can  
8 enhance the ultimate recovery of a well. Higher on struc-  
9 ture will give you a little bit better recovery.

10 If you'll refer to Exhibit Six-B, which  
11 is a cross section that's shown on the structure map as A-  
12 A', we see that as we move from A to A' the sands become  
13 better developed as we move from west to east. This shows  
14 how the sandstone build-up in the center of the field to the  
15 east of the drill site is not present west of the drill site  
16 and therefore, as we are trying to define the extent of the  
17 productive Pictured Cliffs formation, we were drilling on  
18 the edge of the field incurring considerable risk.

19 Q All right, so is it your belief that  
20 there is in fact a chance that the proposed well at that lo-  
21 cation would not be a financial success?

22 A Yes, that's my opinion.

23 Q Have you made an estimate of the overhead  
24 and administrative costs while drilling this well and also  
25 while producing this well if it is a successful well?

1           A           Well, based on the -- based on the oper-  
2 ating agreement, we arrived at a cost of \$3150 a month dur-  
3 ing drilling operations and \$300 a month during -- for pro-  
4 ducing operations

5           Q           Now are those costs in line with what's  
6 being charged in the area by other operators?

7           A           Yes, they are. As an example, the wells  
8 operated in this area by Mesa Grande, the Pictured Cliffs  
9 wells were purchased by -- purchased from Northwest Pipeline  
10 Corporation and these are old Pictured Cliffs wells for the  
11 most part, some of the operating agreements dating back to  
12 the fifties. Some of them are still at \$45 a month; others  
13 have been escalated and are currently at \$76 a month, which  
14 compares favorably with the \$300 a month, however, these  
15 haven't been escalated since Mesa Grande took them over from  
16 Northwest Pipeline for the last two years.

17                       So I believe the operating costs are in  
18 line with what's being charged in the area.

19           Q           Is it your recommendatrion that the dril-  
20 ling and operating costs be incorporated in any order that's  
21 issued by the Examiner in connection with this case?

22           A           Yes.

23           Q           Does Mesa Grande seek to be appointed  
24 operator of this well?

25           A           Yes, we do.

1           Q           All right. Mr. Blandford, in your opin-  
2 ion will the granting of this application be in the interest  
3 of conservation, the prevention of waste, and the protection  
4 of correlative rights?

5           A           Yes.

6           Q           Now you're referred to Exhibit Six-A and  
7 Six-B, did you direct that these exhibits be prepared to as-  
8 sist you in testifying here today?

9           A           Yes, I did say that they would need to be  
10 done in order to support my testimony.

11          Q           All right.

12          A           They were not prepared under my direc-  
13 tion, no.

14          Q           But you ordered that they be, in fact,  
15 prepared --

16          A           Yes.

17          Q           -- with certain information on there.

18          A           Yes.

19          Q           All right.

20                   MR. HALL: At this point we'd  
21 move the admission of Exhibits Six-A and Six-B.

22                   MS. AUBREY: Mr. Examiner, I  
23 object to the admission of those two exhibits. The two ex-  
24 hibits were prepared by a geologist named Mr. Emmendorf. I  
25 believe that I correctly wrote down that Mr. Blandford is

1     testifying here as a petroleum engineer and has not been  
2     qualified to interpret or discuss geological exhibits for  
3     you and does not qualify since he did not prepare them or  
4     direct that they be prepared, or supervise their prepara-  
5     tion, to have them offered in evidence.

6                     MR. HALL: If I may respond, I  
7     believe that the witness' credentials have been accepted.  
8     He in fact testified that he directed these exhibits be pre-  
9     pared.

10                    If the Examiner likes, we're  
11     prepared to engage in further inquiry of Mr. Blandford in  
12     connection with these exhibits, but I believe substantial  
13     evidence has been laid justifying the admission.

14                    MR. TAYLOR: Mr. Hall, why  
15     don't you inquire as to whether the witness can testify to  
16     the accuracy of whether the exhibits are representative?

17                    MR. HALL: All right.

18                    MR. TAYLOR: Whether he's -- I  
19     don't if you've gone into whether he's qualified to do that  
20     or not, but maybe you could do that.

21                    MR. HALL: Yes, sir.

22                    Q             Mr. Blandford, you are, in fact, a petro-  
23     leum engineer, are you not?

24                    A             Yes.

25                    Q             And are you prepared to testify that in-

1 formation shown on these exhibits is tangible information  
2 that's available to any engineer or geologist?

3 A That is correct.

4 Q I notice that on the title block at the  
5 bottom of each of the exhibits there are names, one being  
6 Mr. Emmendorfer. I believe I --

7 A Yes, that's on Exhibit Six-A. Alan  
8 Emmendorfer is a geologist for Mesa Grande Resources.

9 Q And have you conferred with Mr. Emmendor-  
10 fer in connection with the preparation of this exhibit?

11 A Yes, I have. I'd like -- also like to  
12 say that a structure map of this nature has certain data  
13 points which are factual and the rest of the interpretation  
14 is strictly interpretation based on the geologist's opinion,  
15 so I can't testify that these structure lines are exactly  
16 right but based on my geologist's interpretation they are  
17 correct.

18 Q All right, and are you familiar with Mr.  
19 Emmendorfer's qualifications (not clearly understood)?

20 A As far as I know of him, he's a very  
21 qualified geologist.

22 Q All right. Is it your testimony that the  
23 information shown on the exhibits is in fact reliable?

24 A Yes.

25 MS. AUBREY: I renew my objec-

1 tion, Mr. Examiner. The attempt at rehabilitation of this  
2 witness has clearly failed when he testified that he could  
3 not explain the interpretation that his geologist made in  
4 preparing the structure map.

5 The facts that there may be  
6 some datum points on the Exhibit Six-A which are public  
7 knowledge or whatever tangible information. is not relevant  
8 ot the inquiry as to whether this exhibit may be introduced  
9 sponsored by and discussed by a witness who had no involve-  
10 ment with its preparation and who is not prepared or quali-  
11 fied here today to bolster the geological interpretation  
12 which has to be contained in the preparation of the exhibit  
13 and the drawing of the lines on it.

14 Now, Mesa Grande Resources, ap-  
15 parently, has fourteen employees. I assume that one or more  
16 of those people is a geologist and if Mesa Grande Resources  
17 wants to come before you and put on geological testimony,  
18 then they may do that through a geologist but not through an  
19 engineer who cannot explain for you the geological interpre-  
20 tation of the exhibit.

21 MR. CATANACH: I'm going to al-  
22 low Exhibit Number Six-B to be admitted as evidence but I am  
23 not going to allow Six-A to be admitted.

24 MR. HALL: Might I inquire of  
25 the Examiner, whether it would be possible to supplement the

1 record through affidavits or further testimony of the geolo-  
2 gist in support of Six-A?

3 MR. CATANACH: Do you have any  
4 objection to that, Ms. Aubrey?

5 MS. AUBREY: If Mr. Hall wants  
6 to put on a geologist here today I have no objection to it.

7 I certainly have an objection  
8 to it being bolstered by affidavits. I can't cross examine  
9 one of those.

10 If he wants to put a witness  
11 on, he can do it.

12 MR. CATANACH: Mr. Hall, I'm  
13 probably afraid that that's going to be insufficient.

14 MR. HALL: I might point out  
15 that -- to the examiner, that the -- in large part the basis  
16 for the information adduced on Exhibit Six-A is from Exhibit  
17 Six-B, which an engineering witness can certainly testify.  
18 It shows the pinchout of the sand, as does Six-A.

19 Mr. Blandford was allowed to  
20 testify on both exhibits on those points without objection  
21 from Chevron, so I would suggest that perhaps Chevron's  
22 objection is perhaps untimely in this case.

23 MR. CATANACH: Mr. Hall, the  
24 contours on Exhibit Number Six-A are highly interpretive and  
25 I would say that in association with Six-B would be unknown.

1 MR. HALL: That concludes my  
2 direct of this witness.

3 MR. CATANACH: Ms. Aubrey?

4 MS. AUBREY: Thank you.

5

6 CROSS EXAMINATION

7 BY MS. AUBREY:

8 Q While we've still got the exhibits in  
9 front of us, Mr. Blandford, let me ask you about Six-B. Did  
10 you prepare that exhibit?

11 A No, I did not.

12 Q Did you select the wells which are shown  
13 on -- the logs of the wells which are shown on this exhibit?

14 A No, I did not.

15 Q Have you interpreted those logs?

16 A I have looked at them closely, yes.

17 Q And what is your expertise in log inter-  
18 pretation?

19 A I've looked at logs, interpreted logs for  
20 various companies throughout my career as a petroleum engin-  
21 eer.

22 Q How many years has that been, sir?

23 A Six and a half years, I believe. Sorry,  
24 five and a half years. I'm sorry, I was a year off.

25 Q Did you make the decision to draw your

1 cross section, or to place your A-A' cross section through  
2 the wells that are depicted on Exhibit Six-B?

3 A No, I did not; that was a geologist deci-  
4 sion.

5 Q That was Mr. Emmendorfer's decision?

6 A Yes, ma'am.

7 Q You have some production figures on Exhi-  
8 bit Six-B. Have you independently verified those?

9 A I have not.

10 Q Do you have a written log analysis that  
11 you've performed on the logs which are shown on this exhi-  
12 bit?

13 A No, I do not.

14 Q There is some other information on this  
15 exhibit which contains completion dates, plugging and aban-  
16 donment, have you checked that information for accuracy?

17 A No, ma'am, I have not.

18 Q Who was it that performed the correlation  
19 between the logs of these wells and created the description  
20 of the formation which I find on the lefthand side of the  
21 exhibit?

22 A That was the geologist.

23 Q Did you perform any correlation of the  
24 formations between the logs yourself?

25 A Not other than looking at and agreeing

1 with the way they were correlated on this cross section.

2 Q Did you look at any other additional --  
3 any other information to allow you to make a judgment about  
4 the accuracy of the correlation of the logs?

5 A Like what?

6 Q Well, I need to know what you did.

7 A What I did basically? My involvement in  
8 this is I have looked at the exhibits, discussed them with  
9 the people that prepared them. Based on my knowledge in the  
10 area, in the San Juan Basin, with Pictured Cliffs production  
11 and the way the Pictured Cliffs appears on logs, that is my  
12 experience in doing this.

13 I have not looked at all the logs in this  
14 area to determine -- he picked a representative sample of  
15 logs across the area.

16 Q You do not have an opinion today as to  
17 whether or not log sample which is shown on your Exhibit B  
18 is in fact a representative sample of the Pictured Cliffs.

19 A Based on the area of extent it is a  
20 representative sample on an east/west direction, yes.

21 Q Why was no north/south cross section  
22 done?

23 A I do not know.

24 Q And I can't remember if I asked you this,  
25 and if I am repetitive I'm sorry, do you know why the cross

1 section line A-A' was selected?

2 A No, I do not.

3 MS. AUBREY: Mr. Examiner, at  
4 this point I renew my objection to this exhibit.

5 MR. HALL: Well, I'll object to  
6 that. The ruling has been made and it constitutes the law  
7 of the case in this proceeding at this point. If there's  
8 any further objection it may be taken up with an appellate  
9 body.

10 MS. AUBREY: Mr. Examiner, I'm  
11 permitted to ask foundational questions of the witness which  
12 his own attorney didn't bother to ask in order to discover  
13 that he doesn't know anything about this exhibit.

14 MR. HALL: Again I'd point out  
15 that --

16 MS. AUBREY: I'd like to finish  
17 my objection, Mr. Hall.

18 He does not have and has not  
19 given you sufficient knowledge about why these were  
20 selected, who selected them, what they mean beyond his gen-  
21 eral log experience in log interpretation, he did not corre-  
22 late them, and they have been offered for the purpose of al-  
23 lowing you to draw a geological conclusion about the risk of  
24 a well in the Pictured Cliffs.

25 I don't want to belabor the

1 point. I simply want to for the record renew my objection  
2 to Exhibit Six-B on the grounds that this witness is not  
3 qualified to testify about it; insufficient foundation has  
4 been laid regarding the preparation of the exhibit and the  
5 selection of the logs that are shown on that exhibit.

6 Mesa Grande is the applicant in  
7 this case and they have the burden, and they haven't met it  
8 with regards to the validity of Exhibit Six-B any more than  
9 they've met it with regard to the validity of Exhibit Six-A.

10 MR. HALL: I would respond that  
11 again the exhibit has been tendered and admitted into evi-  
12 dence.

13 Ms. Aubrey is simply attempting  
14 to get into the merits of the case, not merely the proced-  
15 ural aspect.

16 Because the evidence is now a  
17 matter of record in the case it constitutes the law of the  
18 case. A party may not have two cracks at an offer of evi-  
19 dence, such as Ms. Aubrey is attempting here today.

20 It's improper and wasteful of  
21 the examiner's time.

22 MR. CATANACH: Let's take a  
23 five minute break.

24

25

(Thereupon a recess was taken.)

1 MR. HALL: Mr. Examiner, if I  
2 might, I might like the opportunity to make some additional  
3 comments in response to some of Ms. Aubrey's comments.

4 I'd like for the examiner to  
5 re-assess the purpose for which these two exhibits were of-  
6 fered. They are probative of the issue of what is an appro-  
7 priate risk penalty in this case.

8 Information on here necessary  
9 for that determination is all empirical, public information.  
10 It's not dependent upon any interpretive data contained on  
11 either of the exhibits.

12 What is pertinent here and what  
13 a petroleum engineer can always testify to, particularly in  
14 this case, is the relationship of the productivity in the  
15 offsetting wells firstly; and secondly, the sand build-up  
16 and pinchout. That's empirical information. It's obvious  
17 to anyone on here and need not have a geologist come in here  
18 and testify in such matters.

19 This, and any other petroleum  
20 engineer, are more than sufficient testimony to get that in-  
21 to evidence. It's the type of information that is used  
22 regularly in the ordinary course of any petroleum engineer's  
23 duties.

24 As a consequence, both of these  
25 exhibits, including Six-A, simply are an aid to the examiner

1 to help him adduce the basis necessary for assessment of  
2 the risk. Other evidence in here with respect to interpre-  
3 tations is not necessarily dependent; the risk is not going  
4 to be based upon a geologist's interpretations.  
5 Therefore, we again renew our offer to tender Exhibit Six-A  
6 and Six-B into the record.

7 MR. CATANACH: Do you have any  
8 additional comments?

9 MS. AUBREY: I don't have any  
10 (not clearly understood).

11 MR. CATANACH: I'm not going to  
12 change my earlier ruling. I'm going to still allow Six-B to  
13 be admitted into evidence and disallow Six-A to be admitted.

14 You may proceed, Ms. Aubrey.

15 Q Mr. Blandford, when was the well com-  
16 pleted?

17 A The well was completed, the rig was re-  
18 leased, I believe, in early May, 1986. I can get the exact  
19 date for you, if you --

20 Q Would you do that, please?

21 A May 2nd, that's the date the completion  
22 rig was released.

23 Q Have you filed a completion report with  
24 the Aztec Division of the New Mexico Oil Conservation Divi-  
25 sion?

1           A           It is currently in the process of being  
2 filed -- being prepared, I should say, pending the results  
3 of this hearing. We didn't want to release information be-  
4 fore we knew how this was going to turn out.

5           Q           So you didn't want to release any com-  
6 pletion information to Chevron prior to finding out whether  
7 or not you would be able to impose a 200 percent penalty  
8 against their interest, is that correct?

9           A           Prior to finding out if they were going  
10 to participate in the well or not.

11          Q           You were informed on May 1st, were you  
12 not, that they were not going to participate in the well?

13          A           That is correct.

14          Q           And you completed the well on May 2nd?

15          A           That is correct.

16          Q           So you knew as of May 2nd that --

17          A           The well was completed --

18          Q           Let me finish asking --

19          A           Okay.

20          Q           -- my question. You may on May 2nd that  
21 they were not going to participate in the well.

22          A           Well, I didn't know personally, but yes,  
23 Mesa Grande obviously knew.

24          Q           So you weren't withholding that informa-  
25 tion from them because you didn't know whether or not they

1 were going to participate in the well.

2 A Well, the well was completed by May 2nd  
3 and not on May 2nd. The well was completed during a period  
4 of six or seven or eight days, I'd have to check my records  
5 to find out, and during that period is when the well was  
6 completed. Completion doesn't only take place in two hours  
7 or one day but over a period of days.

8 Q Would you check your records, please, and  
9 tell us, first of all, when you began completing the well?  
10 As I understand, you released the drilling rig sometime  
11 around April 1st, is that right?

12 A Yes. Well --

13 Q Then there was --

14 A Yes, we released the drilling rig around  
15 April 1st and then there was a period where the well was  
16 waiting on a completion rig.

17 Q Okay. Would you tell me when the comple-  
18 tion rig came to the location?

19 A Sure. The completion rig was moved on  
20 location April 24th, 1986.

21 Q The same day you filed your forced pool-  
22 ing application in this matter, is that correct?

23 MR. HALL: I don't believe this  
24 witness has knowledge of that. He hasn't testified to such.

25 MS. AUBREY: He can say he

1 doesn't know, then.

2 A I do not know.

3 Q And how long was the completion rig on  
4 the location?

5 A From the beginning date until May 2nd.

6 Q And do you have any daily progress re-  
7 port, daily reports there with you regarding the completion  
8 of this well?

9 A Just my field notes. We are not prepared  
10 to admit those as evidence.

11 Q Do you have those in front of you, sir?

12 A Yes, ma'am.

13 Q Did you prepare those yourself?

14 A Yes, ma'am.

15 Q And what did you prepare those from?

16 A From daily activities that were per-  
17 formed.

18 Q And did you --

19 A Throughout drilling and completion opera-  
20 tions.

21 Q Did you get those -- that information  
22 from someone in Mesa Grande?

23 A I got it from being there.

24 Q You, oh, you were on location?

25 A Yes, ma'am.

1 MS. AUBREY: Mr. Examiner, I'd  
2 like to take a few minutes and have the field notes, which  
3 Mr. Blandford has in front of him photocopied so that we can  
4 use them as an exhibit in this hearing.

5 MR. HALL: I'm going to object  
6 to that. They have not been tendered as part of the direct  
7 case. There has been no previous request made for such in-  
8 formation.

9 I believe the request is simply  
10 made to allow Chevron to conduct discovery in order to allow  
11 them to make a decision whether or not they want to partici-  
12 pate in this well. The time for that has long since past  
13 and this is an improper request in this proceeding.

14 MS. AUBREY: Mr. Catanach, as I  
15 understand it, the time to participate, to make the election  
16 runs from the date of the Examiner order. I believe that we  
17 are entitled to any information which these people have  
18 brought with them which they have in this hearing room to-  
19 day. I mean I realize for the record that Mr. Blandford has  
20 just put them back in his briefcase, but he did have them  
21 sitting here on the table and was certainly willing to refer  
22 to them to answer when the completion rig came on and when  
23 it left.

24 He's got completion information  
25 right here in this room and we're entitled to it.

1 MR. HALL: Again I'm going to  
2 object. It is completely beyond the scope of direct and not  
3 at all relevant to this application.

4 MR. TAYLOR: For today why  
5 don't we not have the notes admitted into evidence but you  
6 can ask questions about them?

7 MS. AUBREY: Well, Mr. Taylor,  
8 I don't want to argue with Counsel for the Commission, but  
9 it's a little difficult to know what question to ask him.

10 I can't look at them?

11 MR. TAYLOR: I thought you just  
12 wanted to ask him -- you don't know what you want to ask  
13 him? You want to see the notes, is what you want to do?

14 MS. AUBREY: Mr. Taylor, I  
15 don't know what they say.

16 MR. HALL: I'm going to make a  
17 further objection, then. If Ms. Aubrey is going to attempt  
18 to ask questions, it's just a backdoor attempt to adduce in-  
19 formation that's shown on the drilling reports and I believe  
20 your ruling denying Ms. Aubrey the opportunity to look at  
21 the drilling reports themselves would also preclude any ad-  
22 ditional questions on the drilling reports.

23 MS. AUBREY: I wasn't aware  
24 that we'd addressed the issue of whether or not we'd look at  
25 the drilling reports.

1 MR. HALL: I believe I heard a  
2 ruling.

3 MR. CATANACH: On the drilling  
4 reports (not clearly understood)?

5 MS. AUBREY: Mr. Examiner, I  
6 don't recall asking any questions about the drilling reports  
7 and I thank Mr. Hall for reminding me about that. We'll  
8 move to that next, but I think we have a right to see docu-  
9 ments which this witness refers to during his testimony.

10 I want the record to reflect  
11 that he opened his notebook and he looked at it in response  
12 to my questions. It is only fair that Chevron has the op-  
13 portunity to examine whatever this witness is using in con-  
14 nection with his testimony, particularly if he looks at it  
15 and reads from it during his testimony.

16 MR. HALL: Mr. Examiner, I be-  
17 lieve counsel for the commission indicated that we would not  
18 be required to produce those notes here today; therefore, I  
19 think any questions on those notes would likewise be impro-  
20 per.

21 MR. TAYLOR: Well, no, I said  
22 just a minute ago that she could ask questions about the  
23 notes but I didn't know she wanted to see them to ask ques-  
24 tions about it. I thought she knew something about it.

25 I suppose we ought to take a

1 break before we proceed.

2 MR. CATANACH: Can I see both  
3 attorneys in my office, please?

4

5 (Thereupon a recess was taken.)

6

7 MR. CATANACH: This hearing  
8 will come to order.

9 MR. TAYLOR: Because Ms. Aubrey  
10 claims she cannot ask questions on the subject matter which  
11 she was asking about unless she sees the notes, we will  
12 direct that the notes be turned over to her unless there is  
13 an objection that they contain proprietary information, and  
14 if there is an objection that they are proprietary, they  
15 will be turned over to us and we will determine what is pro-  
16 prietary and what is not, I suppose.

17 MR. HALL: Well, we so object.  
18 They indeed contain proprietary information. Furthermore,  
19 they're completely irrelevant for purposes of this hearing.

20 Also --

21 MR. TAYLOR: Well, the objec-  
22 tion that they are irrelevant can't really be determined un-  
23 til somebody looks at them.

24 I think, if the witness is  
25 relying on information other than what's in evidence, or

1 testimony, the adverse party has a right to that evidence,  
2 at least to look at it and to admit it if they want to.

3 MR. HALL: There's --

4 MR. TAYLOR: Because you are  
5 objecting based on proprietary information contained in  
6 notes, unless Karen wants to just ask questions for now and  
7 have him answer those without seeing the notes, I suppose  
8 what we'll have to do is, you'll have to give us the notes  
9 and we'll have to work out some arrangement whereby the pro-  
10 prietary information can be excised or the information she  
11 wants (not clearly understood.)

12 MR. HALL: Well, let me state  
13 on the record that the only reason that those notes were  
14 relied upon at all was in response to the question what date  
15 was the completion rig released. He referred to those notes  
16 but in fact got the information from my own notes. So there  
17 was no reliance upon the daily drilling reports at all.

18 MR. TAYLOR: And I'm not clear  
19 whether once you rely on notes, whether the whole notes have  
20 to be turned over or whether --

21 MR. HALL: They don't.

22 MR. TAYLOR: -- just that part  
23 of them that you've relied on.

24 MS. AUBREY: Well, let me --

25 MR. TAYLOR: So why don't you

1 tell us what you think?

2 MS. AUBREY: So I can clarify  
3 this, Mr. Taylor, I'm relying on Rule 612 of the New Mexico  
4 Rules of Evidence, which permits inquiry, and in the rule at  
5 the discretion of the judge, into matters to which the wit-  
6 ness refers to during his testimony.

7 Mr. Hall may have his own  
8 interpretation of why the witness referred to his notes but  
9 we clearly were all in this room, we all saw him with the  
10 notebood, and saw him refer to information contained in the  
11 notebook.

12 To the extent there is a claim  
13 of proprietary information, I believe that needs to be sub-  
14 stantiated. One can't simply keep out information that may  
15 be damaging or harmful by making a claim of proprietary in-  
16 formation without designating the portions of the notes  
17 which are in fact proprietary and receiving a ruling from  
18 the hearing examiner on that particular issue.

19 On the claim of relevancy, we  
20 are talking here about a penalty, the penalty that this  
21 examiner is to assess against a working interest owner in a  
22 well which is drilled and completed.

23 The statutory penalty exists to  
24 compensate an operator for the risk of drilling and complet-  
25 ing a well.

1                   Now, the examiner is going to  
2 have to decide how much of that risk, if any, is left after  
3 the completion rig has been taken off the location and the  
4 well is completed and has been potentialied. Is there any  
5 risk, and that's a question that we're going to have to an-  
6 swer today.

7                   Clearly, clearly, any informa-  
8 tion on the ability of that well to produce the formation  
9 and what's it producing, it's pressure, is relevant on the  
10 issue of the risk as of today, which is the day we're talk-  
11 ing about the risk.

12                   Mesa Grande chose voluntarily  
13 to drill and complete a well before pooling the working in-  
14 terest owners. Now that is a risk that they take and the  
15 risk that they take is that they will receive no statutory  
16 risk factor for doing that because at this point in time  
17 there is no risk, and the completion information is clearly  
18 going to be relevant and necessary to the examiner in order  
19 to make determination as to whether or not there in fact is  
20 any risk in this well.

21                   MR. HALL: Let me respond to  
22 that briefly.

23                   The scope of evidence that is  
24 necessary for the Division and its examiners to base a pool-  
25 ing order on is controlled in the course of the direct case.

1                   We believe we have more than  
2 amply provided that basis through the scope, the course of  
3 direct.

4                   What Chevron is attempting to  
5 do here today is conduct open discovery in an administrative  
6 proceeding. I would suggest that that is abusive of this  
7 proceeding. It's obvious to everyone in this room that the  
8 well is down. Now Chevron, after having delayed making a  
9 decision for a long time on whether they want to participate  
10 in the well, wants information that will allow them to es-  
11 cape the application of the pooling statutes in New Mexico.

12                   That is improper. It's an af-  
13 ter the fact free look and should not be countenanced by  
14 this Commission.

15                   MR. TAYLOR: And I don't know  
16 what we can do other than if -- if Mesa Grande claims a pro-  
17 prietary interest in the notes, and if Karen doesn't want to  
18 continue her cross without the notes, I guess we can recess  
19 until we look through the notes and decide what to do about  
20 it, because those, as I understand the rules of evidence,  
21 they do have a right to, not knowing exactly what would be  
22 in these notes and what would be proprietary and what would  
23 not, that -- we'd have to determine that, I guess.

24                   MR. HALL: Well, if I may res-  
25 pond, I believe that determination would be up to the appli-

1 cant in this case.

2 We would be willing to tender  
3 those notes to the extent that they were relied upon in this  
4 proceeding today, but practically that does not extend beyond  
5 ascertaining what the release date was on the completion  
6 rig.

7 MS. AUBREY: Let me respond to  
8 that briefly, Mr. Taylor.

9 It is not up to the applicant  
10 to determine the admissibility or inadmissibility of evi-  
11 dence, that's for the examiner. Clearly under Rule 612 the  
12 examiner, sitting as an administrative law judge, has the  
13 right to make that determination and we have the right to  
14 have that determination made not by someone who's trying to  
15 hide the evidence but from someone who's an impartial party  
16 and will look at it and decide whether or not it, in fact,  
17 is proprietary.

18 We would ask that the notes  
19 which are present in the room be subpoenaed by the examiner  
20 and the Oil Conservation Division has the ability to issue  
21 subpoenas, and that they be tendered immediately to the exa-  
22 miner, that the examiner take possession of them, and exa-  
23 mine them in order to allow us to proceed in an intelligent  
24 manner with this hearing.

25 We concur in Mr. Taylor's sug-



1 and I think we'd better look at them, I guess.

2                   So if you want us to subpoena  
3 the notes, I would suggest that you file -- I guess just move  
4 now that we do that, but I think I'd like to look at the law  
5 on whether you get all those notes or not, and maybe con-  
6 sidering that, we ought to think about whether we ought to  
7 just go on with the hearing and do this at the end or  
8 whether you want to recess it now and just wait and see what  
9 the outcome is; because I'm not just looking at the rules of  
10 evidence; if those notes aren't relied on extensively, I  
11 really don't know to just what degree you should have access  
12 to all of them, without knowing what's in them and how ex-  
13 tensive they are.

14                   MS. AUBREY: Well, let me do  
15 something that may clarify this for you, Mr. Taylor. Let me  
16 make an offer of proof on what my questions will be.

17                   My questions will commence with  
18 the name of the contractor who brought the completion rig  
19 onto the location and what occurred every day that that rig  
20 was on the location, when, what time the well was completed,  
21 what formation it is completed in, where it is perforated,  
22 what it has potentialled, what it has tested, what the pres-  
23 sures are. I assume this witness will need to refer to his  
24 notes to answer those questions.

25                   MR. TAYLOR: And I would then

1 say that if he did, then, if he relied on them, they would  
2 be open to you, so I think that's up to you. If you want to  
3 ask -- I would recommend that we go ahead with the question-  
4 ing and if he has to use those notes, then we would have to  
5 see those notes eventually to turn --

6 MS. AUBREY: I'll be happy to  
7 do it the way you --

8 MR. HALL: Well, I'm going to  
9 object to Ms. Aubrey's proposal. I think it simply circum-  
10 vents what's contemplated in the rules in the purpose of  
11 this application. It's improper. It's simply a backdoor  
12 way of adducing that same information. We're still going to  
13 resist it and won't produce it in that fashion, either.

14 MR. CATANACH: Mr. Hall, do you  
15 object to answering questions regarding the completion of  
16 the well?

17 MR. HALL: We'll be glad to  
18 provide information about that insofar as this witness can  
19 testify from his own memory.

20 If it is simply an attempt to  
21 get the notes produced here today, and I believe that it is,  
22 we will object.

23 He can simply testify from his  
24 memory; that's fine.

25 MS. AUBREY: I believe the

1 rules of evidence contemplate the ability to use documents  
2 to refresh a witness' recollection. If I ask him a question  
3 and he says he doesn't know, and if he answers truthfully  
4 that it's in his notes, then I believe that (not clearly un-  
5 derstood) copy of the notes, then I'm not sure we're getting  
6 any place, but I will proceed in any fashion that the exam-  
7 iner desires.

8 MR. HALL: Why don't we break  
9 here?

10 MR. CATANACH: We'll reconvene  
11 at 1:15.

12

13 (Thereupon the noon recess was taken.)

14

15 MR. CATANACH: This hearing  
16 will come to order.

17 MR. TAYLOR: After considering  
18 our ruling earlier, we are going to withdraw our earlier  
19 ruling and here's what we've decided.

20 Any information on completion  
21 of the well in the Pictured Cliffs formation, we are going  
22 to rule is irrelevant and proprietary to the question of the  
23 risk penalty, and we will require that the first page of the  
24 notes that the witness relied on be turned over to us or to  
25 Chevron, but that the rest of the notes -- we assume those

1 notes all go to completion information and therefore they  
2 probably would be confidential, but if there are questions  
3 about it and questions arise in the course of the hearing,  
4 you know, I suppose if those notes are relied on, we would  
5 require they be turned over to us for in camera review.

6                   However, we are ruling that any  
7 information on the completion is irrelevant, and therefore  
8 -- to the question of risk, and therefore those questions  
9 will be ruled irrelevant as they -- if they are asked.

10                   MS. AUBREY: Mr. Taylor, I'd  
11 like to do this as quickly as possible for everyone's con-  
12 venience.

13                   It is my intent to question the  
14 witness, so the record is clear, to question the witness  
15 about the date of the completion, the perforated interval,  
16 the initial potential of the well, whether or not the well  
17 is presently connected, all the dates of completion, the  
18 reason for the delay between spudding the well and complet-  
19 ing the well.

20                   I would prefer not to have to  
21 ask each one of those questions and obtain a ruling, but I  
22 will proceed as you permit (not clearly understood) to tell  
23 you what I intend to ask and have you rule now that those  
24 questions are irrelevant, I will proceed that way.

25                   MR. CATANACH: Ms. Aubrey, the

1 date of completion was already entered into the record, was  
2 it not?

3 MS. AUBREY: I understand that.

4 MR. CATANACH: Do you intend to  
5 ask it again?

6 MR. AUBREY: I don't see any  
7 reason to ask it again.

8 MR. CATANACH: The questions of  
9 the perforated interval, the initial potential, I think  
10 those questions should be proprietary and should not be --

11 MS. AUBREY: In addition to  
12 those questions I have questions about pressure data.

13 MR. CATANACH: From the Pic-  
14 tured Cliffs zone?

15 MS. AUBREY: From the Pictured  
16 Cliffs zone.

17 MR. CATANACH: I think that's  
18 proprietary.

19 MR. HALL: Mr. Examiner, for  
20 further purposes of clarification, I understand we're going  
21 to be required to produce the first page. It contains addi-  
22 tional proprietary information concerning other wells that  
23 are not the subject of this application.

24 May we be afforded an opportuni-  
25 ty to exise that information before we turn the page over?

1 MR. TAYLOR: Yes. I would as-  
2 sume you would turn the page over to us and we'll excise  
3 that information. In fact, I think that's how it should be  
4 done, just turn the page over to us and we'll take out the  
5 information that does not relate to this well or that re-  
6 lates to the completion of this well.

7 Q Mr. Blandford, have you compared the  
8 costs on your AFE with the actual costs which have been in-  
9 curred in drilling the well?

10 A Yes, I have.

11 Q Is there any difference between your AFE  
12 costs and the actual costs?

13 A Yes, there is.

14 Q Would you tell me what that is?

15 A Let's see, do you want an exact number or  
16 an approximate number?

17 Q If you have exact numbers I would like  
18 those.

19 A These are all as today costs. All costs  
20 may not be posted at this point. A difference of \$65,829.

21 Q Which way does that difference go?

22 A It's lower than the AFE.

23 Q Does that include completion costs?

24 A It includes all costs that have been in-  
25 voiced on that well.

1 Q Do you know whether or not that includes  
2 completion costs?

3 A It includes the majority of the comple-  
4 tion costs. Without going to Tulsa and analyzing the  
5 invoices, I couldn't say further.

6 Q Mr. Blandford, were you involved in the  
7 decision to withdraw the offer to Chevron to farmout Chev-  
8 ron's acreage?

9 A No, I was not.

10 Q Are you aware of that decision?

11 A Would you repeat your question?

12 Q Are you aware of that decision being  
13 made?

14 A To withdraw the option to Chevron?

15 Q To farmout.

16 A I wasn't involved in that decision-making  
17 process so I can't really answer your question.

18 Q Had you heard about that before I just  
19 asked you the question?

20 A All I'd heard about was that Chevron had  
21 elected not to elect any of the options on the AFE cover  
22 letter.

23 Q I think that's one of your exhibits.  
24 Would that be the April 10th letter?

25 A This looks like it's Exhibit Three - 1,

1 March 14th letter. It was the cover letter to the AFE, I  
2 assume.

3 Q And that was for a Pictured Cliff well,  
4 is that correct?

5 A Yes.

6 Q Do you know who in Mesa Grande Resources  
7 made the decision to withdraw the farmout offer?

8 A I do not know.

9 Q Who in Mesa Grande Resources is respons-  
10 ible for filing completion reports?

11 A That's done out of the Tulsa office.  
12 That's all I really know about it.

13 Q Now, you testified for us that in your  
14 opinion a 200 percent penalty is appropriately assessed.  
15 Have you based that on the geological data prepared by Mr.  
16 Emmendorfer?

17 A I based it on the production map and on  
18 the stratigraphic cross section.

19 Q And in part you're basing your opinion on  
20 the proximity to known production, is that correct?

21 A Yes.

22 Q Were there any problems encountered in  
23 the drilling of this well?

24 A I do not know.

25 Q Did you have any mechanical difficulties

1 in drilling the well?

2 A No appreciable problems.

3 Q And the well is not completed, is that  
4 correct?

5 A That is correct. Completed, we still  
6 have continued operations on it right now. The rig has been  
7 released.

8 Q As of May 2nd, correct?

9 A As of May 2nd.

10 Q Without telling me what the results of  
11 the tests, have there been tests performed on the well?

12 A No.

13 Q Has the well been IP'd?

14 A No.

15 Q Has the well be perforated?

16 A Yes.

17 Q Do you have an opinion as to whether or  
18 not this well will be economic?

19 A I do not know.

20 Q Have you examined the economics of the  
21 well?

22 A Not closely at this point, no.

23 Q Have you drawn any conclusions about the  
24 production required to make this an economic well?

25 MR. HALL: I'm going to object.

1 I believe this question has been asked and answered in three  
2 different forms.

3 MR. CATANACH: I'm going to  
4 disallow the question.

5 Q Do you have an opinion, sir, whether or  
6 not this well will show a profit to Mesa Grande Resources?

7 MR. HALL: Well, I'm going to  
8 restate my objection. It's the same question again.

9 MS. AUBREY: It's a different  
10 question, Mr. Examiner, and I don't think it's been asked  
11 before.

12 MR. HALL: I think he's testi-  
13 fied that he hasn't examined the economics of this well;  
14 therefore, how could he have any opinion?

15 MR. CATANACH: I'll disallow  
16 that question, also.

17 Q Have you made any calculations, sir, with  
18 regard to the payout status of any working interest owner's  
19 interest in this well with and without the 200 percent risk  
20 factor?

21 A No, I have not.

22 Q You have broken out your AFE, which is  
23 your Exhibit Four, into dry hole costs and completed well  
24 costs.

25 A Uh-huh.

1           Q           In your opinion, sir, is this well a dry  
2 hole?

3           A           I don't know.

4           Q           When do you intend to find out?

5                       MR. HALL: Well, I'm going to  
6 object. That calls for speculation.

7                       MS. AUBREY: He's the engineer;  
8 if he can't answer it, I guess no one can.

9                       MR. CATANACH: I'm going to al-  
10 low that question.

11           A           When the well is tested we will be able  
12 to determine the profitability and future income potential  
13 of the well.

14           Q           When does Mesa Grande Resources intend to  
15 test the well?

16           A           When we get around to it.

17           Q           Would it be your intention, sir, to wait  
18 for an order from the Oil Conservation Division regarding  
19 the pooling and a risk factor before you test the well?

20           A           No.

21           Q           Are you presently scheduled to test the  
22 well?

23           A           We are working it into a schedule right  
24 now.

25           Q           Do you know, sir, what tests you intend

1 to perform on the well?

2 A Essentially flow tests.

3 Q Anything else?

4 A Maybe some pressure tests; we're still  
5 deciding exactly what we want to do right now.

6 Q Have you calculated, sir, the volume of  
7 production you would need to make the well economic for Mesa  
8 Grande?

9 A No, I have not.

10 Q Would you describe for me up to the pres-  
11 ent date what completion procedures have been performed on  
12 the well?

13 A Could you be more specific, please?

14 Q Would you describe for me what completion  
15 procedures have been performed? What has Mesa Grande done  
16 to bring the well to whatever status it is right now?

17 A The well has been cased, perforated, and  
18 stimulated.

19 Q Do you have a gas contract for this well?

20 A I do not know.

21 Q Who in your corporation or organization  
22 would know that?

23 A I do not know.

24 Q I believe you testified, sir, that the  
25 completion rig was moved off the location on the 2nd of May?

1           A           That is correct.

2           Q           Were you involved in any meetings with  
3 representatives of Chevron on the 1st of May?

4           A           No, I was not.

5           Q           Or any conversations on the 2nd of May?

6           A           No, I was not.

7           Q           Were you involved in the decision to  
8 change this proposed well from a Gallup-Dakota well to a  
9 Pictured Cliffs well?

10          A           No, I was not.

11          Q           Do you know who in your organization was?

12          A           I do not.

13          Q           Did you do any engineering studies with  
14 regard to a deeper completion in the Gallup-Dakota in this  
15 well?

16          A           No, I did not.

17          Q           Do you know why the drilling rig was re-  
18 leased on April 1st, 1986 and the completion rig was not  
19 moved onto the location until April 24th?

20          A           That's just when it worked into our  
21 schedule. We had other operations going on at the same time  
22 in the same area.

23          Q           So you're familiar with that subject mat-  
24 ter?

25          A           Somewhat.

1 Q What other operations did you have going?

2 A We were completing other wells that we  
3 had drilled.

4 Q Where are those located?

5 MR. HALL: Well, I'm going to  
6 object. I think it's entirely irrelevant to the entire pro-  
7 ceeding.

8 MS. AUBREY: Mr. Examiner, I  
9 think I get to test his knowledge of the facts about which  
10 he is testifying, especially in light of the limitations  
11 that have been placed upon our cross examination of this  
12 witness.

13 MR. CATANACH: I'll allow the  
14 line of questions.

15 A We were completing three wells that had  
16 been drilled, the Federal Invader No. 1, the Bearcat Federal  
17 No. 1, and the Marauder No. 1.

18 Q Marauder?

19 A Uh-huh.

20 Q And where are those located?

21 A I would have to look at the file to give  
22 you the exact legal descriptions.

23 Q Do you know whether or not they're shown  
24 on your land map that you used as an exhibit?

25 A Two of them are shown, I believe, on one

1 of the maps. Well, one of them is, the Marauder, I believe,  
2 is shown at two sections below the subject drill site. No,  
3 I'm sorry one mile, the southwest quarter of Section 8, just  
4 below the Guardian Well is the Marauder Well.

5 Q And the other wells the Federal Invader  
6 and the Bearcat are off this map? Is that correct?

7 A The -- yes, they are off the map. The --  
8 the -- excuse me, the Bearcat is just south of the Brown  
9 Well, which is the -- one mile below the Marauder Well and  
10 the Invader Well is five or six miles away.

11 Q Do you know when the Marauder Well was  
12 completed?

13 A Not off the top of my head, no.

14 Q Do you know when it was drilled?

15 A It was drilled -- no, I can't give you ex-  
16 act dates.

17 Q Do you have that in your notebook?

18 A Not on the drilling, no.

19 Q How about on the completing?

20 A Yes, that information is in my notebook.

21 Q Would you provide that to me, please?

22 A No, I would not.

23 MR. HALL: We're going to ob-  
24 ject to the request for the reasons previously stated.

25 MS. AUBREY: So the record is

1 clear, Mr. Catanach, there was a 23-day delay between drill-  
2 ling this well and completing it, the well in question and  
3 the Guardian No. 1 Well. If the reason for that is that the  
4 rig was busy completing other wells, I believe we are entit-  
5 led to that knowledge, and he has the information available.

6 I realize that this examiner  
7 does not have contempt powers but, of course, the District  
8 Court has, which would be sufficient to require the witness  
9 to testify when he has refused to answer the question.

10 MR. HALL: I posed an objection  
11 to not only this but other information that Chevron has re-  
12 quested on the grounds that it is proprietary and irrelevant  
13 and I think that justifies a ruling from the examiner that  
14 the notes need not be produced at this time.

15 MS. AUBREY: Mr. Examiner, I'm  
16 not asking for the notes. I'm asking him to look at them  
17 and tell me when the Marauder No. 1 Well was drilled and  
18 completed.

19 MR. TAYLOR: We're going to  
20 direct the witness to answer the question; however, any use  
21 of his notes to answer any questions you have, any discovery  
22 by you of those notes will be limited to the subject matter  
23 of the question and not to the subjects we've already ruled  
24 are irrelevant or confidential, and any turning over of  
25 those notes would be to the Division so that we could review

1 them before -- before they were turned over and would give  
2 Mesa Grande a chance to challenge any turning over of the  
3 notes that we might order.

4 MR. HALL: I believe that would  
5 be consistent with your previous ruling, but so I under-  
6 stand, the inquiry is going to be limited to the completion  
7 date of the Marauder Well.

8 MR. TAYLOR: I thought she wan-  
9 ted to know the drilling date.

10 A No, I don't have the drilling date.

11 MR. TAYLOR: Okay, what else do  
12 you want to know?

13 MS. AUBREY: The completion  
14 date.

15 A Let me say this: We had between one and  
16 three rigs busy completing wells between February 17th and  
17 we still have one rig running, as depending on our manpower,  
18 if we could handle more rigs we got more rigs out and if we  
19 couldn't, we let some of them go. So we've had continued  
20 operations, been going right along completing the wells that  
21 we needed to complete without regard to hearings or -- or  
22 information we needed sooner than others. We just completed  
23 the wells on a timely basis.

24 The rig was released on the Marauder on  
25 April 17th, 1986.

1 Q And did you complete any other wells be-  
2 tween April 17th and April 24th?

3 A The rig that was on the Marauder was re-  
4 leased after that well was completed.

5 Q Did you complete any other wells between  
6 April 17th and April 24th?

7 A Yes, we did.

8 Q And which ones were those?

9 A We completed the -- we were in the com-  
10 pletion process on the Bearcat at the same time we were on  
11 the Marauder.

12 Q Do you know when you completed completion  
13 of the Bearcat?

14 A I'd have to look at my notes.

15 Q Do you have the Bearcat and the Federal  
16 Invader in your notes, too?

17 A Yes, I do.

18 Q The completion dates?

19 A Yes.

20 Q Would you give them to us?

21 A I don't have completion dates. I have  
22 rig release dates.

23 Q Would you give those to me?

24 A Is this under the same --

25 MR. HALL: Subject to our pre-

1 vious understanding of the examiner's ruling, provide those  
2 dates.

3 A March 18th, '86 on the Invader is when  
4 the completion rig was released.

5 April 19th is when the rig was released  
6 on the Bearcat.

7 We also had several producing wells that  
8 had mechanical problems that needed to be pulled in between  
9 some of those completions and during that period in that  
10 area, that we took care of.

11 Q Do you know whether or not you filed a  
12 temperature survey or cement bond log for the Guardian No.  
13 1?

14 A I don't know if that information has been  
15 filed.

16 Q Would that be filed through your office?

17 A Through the Tulsa office.

18 Q Is that -- I didn't ask you that, is that  
19 where you're from?

20 A I live in Durango, Colorado. We're open-  
21 ing an office in Farmington, so I've been --

22 Q Are you working out of the Tulsa office  
23 at the present time?

24 A I'm working out in the field at the pres-  
25 ent time.

1 MS. AUBREY: I have no more  
2 questions for this witness.

3 MR. CATANACH: Any redirect,  
4 Mr. Hall?

5 MR. HALL: No, Mr. Examiner.

6 MR. CATANACH: I have no ques-  
7 tions of the witness.

8 If there are no questions he  
9 may be excused.

10 Besides closing statements is  
11 there anything further in this case?

12 Are you going to call a wit-  
13 ness?

14 MS. AUBREY: No, Mr. Examiner,  
15 Chevron is not going to call a witness.

16 MR. CATANACH: We will adjourn  
17 for about ten minutes.

18

19 (Thereupon a recess was taken.)

20

21 MR. CATANACH: This hearing  
22 will come to order.

23 Ms. Aubrey?

24 MS. AUBREY: Mr. Catanach,  
25 Chevron has no witnesses to call.

1 MR. TAYLOR: Mr. Examiner,  
2 should we mark for evidence the infamous page from the note-  
3 book, or you can just have it. I don't know whether we need  
4 it marked or not.

5 MS. AUBREY: I think we ought  
6 to mark it.

7 MR. CATANACH: Yeah, let's do.  
8 Division Exhibit Number One  
9 will be admitted into evidence.

10 Do we have closing statements  
11 from the attorneys?

12 MS. AUBREY: In what order  
13 would you like them, Mr. Catanach?

14 MR. CATANACH: Ms. Aubrey, you  
15 may proceed first.

16 MS. AUBREY: Mr. Examiner, Mesa  
17 Grande Resources has appeared before you today to ask you to  
18 enter an order pooling Chevron's interest and to ask you to  
19 enter an order granting them the statutory maximum penalty on  
20 a well which has been drilled and completed .

21 I think the important dates for  
22 your consideration are the notice letter to Chevron of a  
23 proposed Pictured Cliffs completion of March 14th, 1986.  
24 Prior to that date there is nothing before you to show that  
25 Chevron was given the opportunity to voluntarily participate

1 in a Pictured Cliffs completion.

2 Two weeks later, on March 28th,  
3 1986, Mesa Grande Resources took it upon themselves to spud  
4 a well at a time when they had not received the voluntary  
5 joinder of all working interest owners and at a time at  
6 which they had not attempted to pool the ownership under-  
7 lying the proposed proration unit.

8 Two days later that well was  
9 drilled and the drilling rig was released.

10 Mesa Grande Resources did not  
11 attempt to follow the New Mexico statutes regarding compul-  
12 sory pooling until April 24th, 1986, when they filed their  
13 application to pool Chevron's interest.

14 Apparently the well was com-  
15 pleted on May 2nd and Mesa Grande Resources is in possession  
16 of certain completion data which you have ruled is not rele-  
17 vant on the issue of risk.

18 I think it's important for the  
19 Examiner to keep in mind what the risk is that is embodied  
20 in the New Mexico statute. The risk described in the sta-  
21 tute is the risk of drilling the well and or taking that  
22 risk an operator has the opportunity but not the right to  
23 receive a percentage of his cost from those people who don't  
24 pay their money up front.

25 The forced pooling statute does

1 not say that the Oil Conservation Division must award a risk  
2 factor. The statute says that it may.

3                   The relevant factors for you to  
4 consider in determining whether or not a risk factor is ap-  
5 propriate are different. Usually the cases that we argue  
6 here about compulsory pooling are cases that are hypotheti-  
7 cal. No one knows, the well has not been drilled yet, and  
8 applicants come in and put on geologic testimony, engineer-  
9 ing data, from which they want you to conclude that the well  
10 is risky; that there are mechanical risks associated with  
11 drilling the well; there are mechanical risks of completing  
12 the well; and there are risks of achieving economic, commer-  
13 cial production.

14                   Those are the things that you hear every  
15 other week and those are the factors that you use to decide  
16 whether or not a maximum statutory penalty is deserved by an  
17 applicant.

18                   We have a very different situation here.  
19 We have a situation where the applicant has taken it upon  
20 himself to go out and voluntarily drill a well, ignoring the  
21 correlative rights of working interest owners in the hydro-  
22 carbons underlying that proration unit; has not attempted to  
23 follow the statutory provision for compulsory pooling those  
24 interests; has simply gone out and drilled the well with  
25 somebody else's -- 25 percent of somebody else's hydrocar

1   bons under there; then come to you with a well that's drill-  
2   led and the testimony was that there were no particular  
3   problems in drilling this well; that in fact the well had  
4   come in so far \$65,000 under AFE, and asks you to impose the  
5   maximum penalty.

6                   I believe it's important for  
7   you to recall that there is not one shred of economic data  
8   before you on this well because apparently Mesa Grande  
9   doesn't think that's important for you to consider.

10                   And apparently Mesa Grande is  
11   not asking you to take the possibility of commercial, econo-  
12   mic production into account in setting the penalty because  
13   they haven't given you anything on that issue.

14                   The only thing you have before  
15   you on the issue of what the penalty should be is Exhibit  
16   Six-B, which was not prepared by the witness who drew the  
17   conclusions from it; the logs on that exhibit were not cor-  
18   related by the witness who drew the conclusions.

19                   I submit to you that Mesa  
20   Grande has given you nothing from which you can conclude  
21   that a 200 percent penalty, or in fact, any penalty, is de-  
22   served by the applicant in this case. They have a completed  
23   well. They didn't have any problem drilling it. We don't  
24   know what kind of a well it is because they won't tell us,  
25   but apparently it's good enough that they feel like they

1 ought to be here pooling the interest of Chevron in the well  
2 and asking for a 200 percent penalty.

3                   They have shown you no geologic  
4 risk in drilling and completing this well as a commercial  
5 well because they have not shown you anything about the com-  
6 mercial production from the well.

7                   They have not even hypothesized  
8 what it might be, as usually happens, when you have a case  
9 where the applicant comes in before he voluntarily takes the  
10 risk of drilling the well.

11                   As you know, it's common for  
12 the engineering witness to come in and talk about the anti-  
13 cipated reserves and whether or not the well is going to be  
14 economic. We don't have any of that here today.

15                   What we have before you is a  
16 landman telling you that 200 percent is okay, and an  
17 engineer drawing some conclusions from a geological exhibit  
18 to justify a maximum penalty in a well that Mesa Grande Re-  
19 sources drilled voluntarily without pooling those working  
20 interest owners who own a portion of those hydrocarbons.

21                   They are asking you for the  
22 best of all possible worlds. They are asking you to impose  
23 a risk factor in effect retroactively. They're asking you  
24 to go back to the day they spudded that well and determine  
25 what the risk was then instead of asking you to determine

1 what the risk is now when they have finally made it to the  
2 Oil Conservation Division and have finally put on their  
3 case.

4                   They have -- their well is  
5 down. There is no statutory reason for you to grant them an  
6 additional 200 percent. They took the risk voluntarily.  
7 They didn't follow the statute, and you should not reward  
8 that kind of behavior by imposing a risk factor of 200 per-  
9 cent. I believe you are limited in any risk factor that  
10 award to the evidence that's been presented to you and I ask  
11 you to recall that that is negligible. They have not given  
12 you anything on commercial production. They have given you  
13 nothing credible on geology or engineering. There is simply  
14 nothing before you on which you can decide to award any risk  
15 factor and a risk factor should not be awarded.

16                   MR. CATANACH: Thank you, Ms.  
17 Aubrey.

18                   Mr. Hall?

19                   MR. HALL: Some brief comments.

20                   I believe that the examiner has  
21 seen quite a bit of dust thrown up in the air today which  
22 Mesa Grande believes is a deliberate attempt to obscure the  
23 true posture of the parties vis-a-vis this proceeding.

24                   This is a simple case. It's a  
25 pooling case where the pooling party seeks to recovery an

1 appropriate amount of risk penalty for the risk assumed by  
2 him.

3                   It is absolutely immaterial  
4 when the well was drilled. To consider that, as Chevron  
5 would have you do, would allow a party to simply sit on his  
6 hands till the very last minute, take a ride for a free  
7 look, see how the well turns out, then decide what to do. I  
8 submit that's an abuse of the Oil Commission proceeding and  
9 should not be countenanced. To do otherwise will ultimately  
10 result in a pattern of all interest owners all over the  
11 state being able to sit back and wait and see what happens  
12 with the well, then make their election.

13                   That will ultimately result in  
14 the abandonment of drilling efforts that might otherwise be  
15 undertaken and eventual waste of hydrocarbons.

16                   There is plenty of evidence in  
17 the record upon which to base both an order granting the  
18 pooling and a 200 percent risk penalty. We've had testimony  
19 from a landman which establishes that Chevron, a major oil  
20 company, had notice of a proposed Gallup well way in advance  
21 of this proceeding and indeed a Pictured Cliffs well. It  
22 had ample opportunity to make a decision on geologic evi-  
23 dence which was available to them; evidence of sufficient  
24 quality available to Mesa Grande at the time, make their  
25 decision, get off their hands and move. They didn't do it.

1                   They elected to wait and see  
2 what was going to happen with the well. They knew a lease  
3 was at risk here. They chose to take that superior bar-  
4 gaining position they had at the time, have Mesa Grande go  
5 ahead, drill and complete the well, and just see what hap-  
6 pens at the hearing.

7                   That is improper and we submit  
8 that the ruling should not allow behavior such as that.

9                   That concludes my comments.

10                  MR. CATANACH: Thank you, Mr.  
11 Hall.

12                  MS. AUBREY: Mr. Examiner, may  
13 we have the opportunity within, say, ten days or two weeks  
14 to submit legal authority on issues that were raised by this  
15 case?

16                  MR. CATANACH: Yeah, I think  
17 that would be appropriate.

18                  MR. HALL: And would we like-  
19 wise have time within which to respond?

20                  MR. CATANACH: In the same time  
21 period as their --

22                  MR. HALL: Ten days after their  
23 submittal.

24                  MR. CATANACH: Yes.

25                  MR. HALL: Okay.

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MR. CATANACH: Is there any-  
thing further in Case 8897?

If not, it will be taken under  
advisement.

(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 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

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 8897 heard by me on May 14, 1986

David R. Cetamb, Examiner  
Oil Conservation Division