

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

20 May 1986

COMMISSION HEARING

IN THE MATTER OF:

The disposition of cases called on
the docket of 20 May 1986 for which
no testimony was presented.

CASE
8901 8902,
9690.

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

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation
Division:

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

1
2
3 MR. STAMETS: The hearing will
4 please come to order.

5 To expedite things this morning
6 let me announce that at the request of the applicants Cases
7 8901, 8902, and 8690 will each be continued to the June 19th
8 Commission Hearing. Also, I would note for those in
9 attendance that the Commission would like not to have a
10 hearing in July, so I think that we won't.

11
12 (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

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 7 August 1986

7 COMMISSION HEARING

8 IN THE MATTER OF:

9 Application of Yates Petroleum Cor- CASE
10 poration, Yates Drilling Company, Myco 8901
11 Industries, Inc., and Abo Petroleum
12 Corporation for determination of
13 reasonable well costs, Chaves County,
14 New Mexico.

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

17 TRANSCRIPT OF HEARING

18 A P P E A R A N C E S

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

24 For the Applicants: Joel Carson
25 Attorney at Law
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For Jack J. Grynberg: Ernest L. Padilla
Attorney at Law
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I N D E X

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STATEMENT BY MR. PADILLA

STATEMENT BY MR. CARSON

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MR. STAMETS: At this time we'll call Case 8901, which was called and continued from the June 19, 1986, Commission Hearing.

At that hearing we discovered what appeared to be an error in Finding No. 25 in Commission Order R-7393. At that, or after that hearing I sent a proposed nunc pro tunc order to the attorneys in that case, a proposed new finding, or corrected finding, which would clarify the intent of Finding No. 25, and I have received either written or verbal concurrence from both attorneys that indeed a nunc pro tunc order would correct Finding No. 25.

And so we have this morning signed that nunc pro tunc and let me just read that for the record.

Finding No. 25 as corrected now states that the estimated well costs for the Abo formation, except for costs directly attributable from the top of the Wolfcamp to the PreCambrian, should be estimated on the basis of depth drilled for each formation and that costs for the Abo formation should not exceed 81.89 percent of the total cost of the proposed well (5200 foot Abo depth/5356 total depth equals 0.8189).

And that was entered as of De-

1 cember 2, 1983.

2 With that, then we will con-
3 tinue Case 8901.

4 MR. CARSON: Do you want to
5 start with me again, now?

6 MR. STAMETS: I believe we left
7 off with you last time, so yes, Mr. --

8 MR. CARSON: Do you want to
9 start the witnesses again?

10 MR. STAMETS: Have they --

11 MR. CARSON: I have one
12 additional --

13 MR. STAMETS: Well, let's swear
14 the additional witnesses and if the witnesses were sworn the
15 first time they will not need to be sworn again.

16
17 (Witnesses sworn.)

18
19 MR. STAMETS: Mr. Carson, you
20 may proceed.

21 MR. CARSON: Thank you, Mr.
22 Stamets.

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TOM KELLEY,

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

DIRECT EXAMINATION

BY MR. CARSON:

Q Please state your name,

A Tom Kelley.

Q And, Mr. Kelley, you have previously testified in this case, have you not?

A Yes, sir.

Q And you testified there as a joint interest accountant.

A That's correct.

Q The Commission at the last hearing asked both us and Mr. Ettinger to prepare a revised schedule of drilling costs and an allocation thereof based on their interpretation of the -- of their order in the previous case, is that correct?

A That's correct.

Q And have you prepared such a schedule?

A Yes, I have.

Q I'll refer you to what I've marked as Applicant's Exhibit Number Two, and ask if that schedule was

1 prepared by you or under your supervision?

2 A Yes, it was.

3 Q Would you explain to the Commission gen-
4 erally what you've done?

5 A What I did was to --

6 MR. PADILLA: Mr. Chairman, may
7 I voir dire on this Exhibit Number Two?

8 MR. STAMETS: In what respect,
9 Mr. Padilla?

10 MR. PADILLA: In respect to
11 when it was submitted to Grynberg Petroleum Company.

12 MR. STAMETS: Certainly.

13

14 VOIR DIRE EXAMINATION

15 BY MR. PADILLA:

16 Q Mr. Kelley, on this proposed Exhibit Num-
17 ber Two, did you give Mr. Grynberg, or Grynberg Petroleum
18 Company a copy of this?

19 A Yes, I did.

20 Q When was that?

21 A Yesterday. It was put in Federal Express
22 to his company.

23 Q Did you --

24 A I'm sorry, day before yesterday, pardon
25 me.

1 Q Did you send me a copy of this proposed
2 Exhibit Number Two?

3 A No, I did not. I believe you received a
4 copy from Mr. Carson.

5 MR. PADILLA: Mr. Chairman, we
6 move that this be not admitted on the basis that we did not
7 have an adequate notice. Yesterday while I was over at the
8 Division I accidentally received one and I did not receive
9 it and had no opportunity to examine this until basically
10 today.

11 MR. CARSON: May I respond?

12 MR. STAMETS: Yes, Mr. Carson.

13 MR. CARSON: First let me say
14 that, if you will remember, we were entitled to our papers
15 ninety days after completion of this well and we were fur-
16 nished Mr. Grynberg's on the day of the hearing in June.

17 Secondly, this came on -- we
18 were expecting this hearing to be held in the middle part of
19 August and I was out of the office until the first of the
20 week and when I came back I had Mr. Kelley send it as soon
21 as I got to town, and we would -- we would request one of
22 two things.

23 One, that we go ahead and let
24 us put on our case on the grounds that there's nothing in
25 here that's all that surprising; that we're treating Mr.

1 Grynberg considerably better than he's treated us.

2 And secondly, that if the Com-
3 mission deems that he has not had sufficient notice to --
4 time to study it, this case be continued to the next Commis-
5 sion hearing.

6 MR. STAMETS: Looking at the
7 transcript of the first case, on Page 68, this issue was
8 discussed and in there I said, for the record, a discussion
9 was held off the record as to what Finding No. 25 in Order
10 -- Paragraph 4 of the Order, and on that basis it appears
11 that Yates and Grynberg have calculated a split of the well
12 costs in accordance with the provisions of the order.

13 They both have been asked to do
14 that, to submit that to each other with any comments and to
15 have at least one exchange of what other disagreements come
16 up before the next regularly scheduled Commission hearing on
17 the 7th and 8th.

18 So I would assume that at that
19 time I anticipated that there would be sufficient time for
20 some exchange of views between Mr. Grynberg and Yates be-
21 fore the hearing. I'm certain that I intended that perhaps
22 some of these issues be resolved before the hearing rather
23 than at the hearing.

24 MR. CARSON: No question about
25 that. I -- my only problem is I didn't understand the hear-

1 ing to be held on the 7th and 8th until (unclear) just read
2 the transcript.

3 I had understood it was going
4 to be in the middle of August and I was really planning on
5 the -- on a later date, and the notice of this hearing came
6 in the mail while I was gone, and that's -- as soon as I got
7 back that I sent that -- I had Mr. Kelley send this to
8 Grynberg and I brought Ernie a copy.

9 MR. STAMETS: Mr. Padilla, you
10 wanted this continued to the 10th of September?

11 MR. PADILLA: No, Mr. Chairman,
12 I don't believe that we want to have it continued. We
13 simply would like this thing to be stricken simply because
14 we have had no opportunity -- well, it certainly hasn't been
15 admitted but we object to the admission of this thing be-
16 cause we have had no opportunity to review it and it would
17 be costly to come back in September for another hearing.

18 MR. ED KELLEY: I wouldn't see
19 any need to have a hearing if we can't have it. As to the
20 costs, this is the basis of the hearing; a disagreement as
21 to the allocation of the costs.

22 MR. PADILLA: Well, I'm simply
23 pointing out that we have had inadequate opportunity -- Mr.
24 Grynberg submitted his costs to Yates Petroleum on July 1st;
25 that we're here today in a way unprepared, for the record

1 and the Commission hearing. We want to proceed and we will
2 proceed with our objection noted on the record.

3 MR. STAMETS: Mr. Padilla, I
4 agree with Mr. Kelley that this -- this is basically the in-
5 formation that the Commission would have to consider in ren-
6 dering any decisions.

7 I think it's also clear from
8 the record that it was our intent at the last hearing that
9 there be an opportunity, reasonable opportunity for each
10 side to review the other's documents before the next hear-
11 ing. Unfortunately there's been some confusion on that,
12 but I believe we have to consider this evidence. We can
13 either consider that at this time or we can continue the
14 hearing until the 10th of September and I think it would be
15 your choice.

16 MR. PADILLA: We'll go on with
17 the hearing.

18 MR. STAMETS: Thank you, Mr.
19 Padilla.

20
21 DIRECT EXAMINATION CONT'D

22 BY MR. CARSON:

23 Q Mr. Kelley, -- where was I, Sally, do you
24 remember?

25 THE REPORTER: No.

1 Q Okay, I'll start at this point.

2 The I've handed you Applicant's Exhibit
3 Number Two and ask you if that was prepared by you or under
4 your supervision?

5 A Yes, it was.

6 Q I would ask you to explain that exhibit
7 and the second thing I asked was if you had prepared that in
8 accordance with your understanding, the Commission's under-
9 standing of the order.

10 A Yes, sir.

11 Q Would you explain how you have prepared
12 the exhibit?

13 A I prepared the exhibit by examining the
14 charges to the well allocating those charges that we could
15 isolate strictly to the -- what I refer to as the deep zone,
16 and made an allocation of other charges between the deep and
17 the Abo and arrived at a total.

18 Q And that total is what?

19 A The total allocation to the deep zone is
20 \$128,359.54 and the total to the Abo is \$212,598.18.

21 Q Did you determine that the allocation to
22 the Abo was less than 82 percent?

23 A Yes, sir, I did. The allocations to the
24 Abo is 62.35 percent.

25 Q Based on your evaluation here, using the

1 Commission's interpretation of this order, how much do you
2 believe Mr. Grynberg owes Yates?

3 A My interpretation of the order, my allo-
4 cation indicates that he owes Yates \$79,724.31.

5 MR. CARSON: I would move the
6 introduction of Applicant's Exhibit Number Two.

7 MR. STAMETS: Let me just ask
8 Mr. Kelley a few questions about Exhibit Number Two before
9 we admit this.

10

11

CROSS EXAMINATION

12 BY MR. STAMETS:

13 Q The allocation of costs and calculation
14 of what Yates is due from Mr. Grynberg is shown on page one
15 of Exhibit Two, right?

16 A Yes, sir.

17 Q And the last page, page five of Exhibit
18 Two shows your interpretation of which charges are appli-
19 cable to the deep horizon only.

20 A Yes, sir, that's correct.

21 Q Now, the charges, deep charges, are these
22 different from the deep charges that you submitted at the
23 original hearing in this case?

24 A Yes, sir, they are.

25 Q Okay, and they would reflect costs for

1 drilling from the top of the Wolfcamp on down?

2 A Yes, sir.

3 Q Okay.

4 MR. STAMETS: Exhibit Number
5 Two will be admitted.

6 MR. PADILLA: Mr. Chairman, I'd
7 like to note my previous objection to this for the record.

8 MR. STAMETS: Your objection is
9 noted, Mr. Padilla.

10

11 DIRECT EXAMINATION CONT'D

12 BY MR. CARSON:

13 Q Mr. Kelley, let me ask you, this Exhibit
14 Two explains the -- is prepared on the basis of the instruc-
15 tions given by the Commission at the last hearing, is that
16 correct?

17 A That's correct.

18 Q Does Yates agree with that interpretation
19 of the -- of the Commission order?

20 A No, sir.

21 Q If you were to allocate those expenses to
22 the Abo, such as completion expenses in the Abo, solely to
23 the Abo, would it change the amount that Yates is owed?

24 A Yes, sir.

25 Q And when you -- it would also change the

1 -- and if you used the actual depth drilled and the actual
2 top of the Wolfcamp as your marker, would that also change
3 the percentages?

4 A Yes, sir.

5 Q If you -- and what do you use, what does
6 Yates believe the top of the Wolfcamp to be?

7 A 5378 feet.

8 Q And total depth as is shown on applicant's
9 exhibits on file with the Commission showing the total depth
10 of the well, correct?

11 A I'm sorry.

12 Q I said the total depth of the well is
13 shown on the exhibit that was -- I don't remember the number
14 -- but the OCD exhibit Form C-105 previously -- Exhibit 1-B
15 previously shown to the Division?

16 A That's correct, okay.

17 Q When you use the -- when you use those
18 points, how much does Grynberg actually owe Yates?

19 A Using the -- our tops and the absolute --
20 the allocations to the Abo?

21 Q Yes.

22 A We calculate an additional \$10,670.

23 Q For a total of what?

24 A \$90,395.08.

25 Q Mr. Kelley, I've handed you what I've

1 marked as Applicant's Exhibit Number Three, and ask if you
2 would identify that.

3 A Yes, sir, it's a comparison of the allo-
4 cation of costs between Yates Petroleum and Jack Grynberg,

5 Q And the allocation, the schedule, the
6 Yates schedule, is the one that's known as Exhibit Two.

7 A That's correct.

8 Q And the Grynberg schedule is the one that
9 Mr. Grynberg has furnished us.

10 A That's correct, yes, sir.

11 Q Was that prepared by you or under your
12 supervision?

13 A Yes, it was.

14 MR. CARSON: I would like to
15 move the introduction of Applicant's Exhibit Number Three.

16 MR. STAMETS: Okay, let me
17 clarify something before we admit that.

18 The second column from the
19 righthand side is labeled Grynberg. Now, this column is
20 Grynberg's Abo costs?

21 A Okay. No, sir. Those -- that's Gryn-
22 berg's PrePermian costs.

23 I'm sorry, maybe I don't understand what
24 you're asking.

25 These numbers are off of the schedule he

1 furnished us as those costs allocated to the deep zone.

2 Q Okay. So these are a comparison, basic-
3 ally, of the deep costs.

4 A Yes, sir.

5 Q And those are the only ones which will
6 make any difference to you Yates. Well, I guess --

7 A No --

8 Q -- it's a reciprocal type thing. Either
9 one -- you could have done this utilizing either cost and
10 you would still come up with the same figures.

11 A Yes, sir, pretty much.

12 Q Okay.

13 MR. STAMETS: Without objection,
14 Exhibit Three will be admitted.

15 Q The first item I want to ask you about,
16 Mr. Kelley, is -- is the first item on the exhibit, and
17 that's the 12-30-83 Runnels Mud cost.

18 Q Could you explain that cost to the Com-
19 mission and your reasons for accepting it?

20 A Well, this is the mud cost charged to the
21 well at this point. We accepted this number. As you can
22 see, in the difference column there is a zero, that means
23 that my number, or Yates Petroleum's number and Grynberg's
24 number is the same.

25 Q We accepted that number based on a lack

1 of better information, looking at the mud reconciliation in-
2 formation that we had and use figures. There's a great deal
3 more charged to the well than was actually -- than this fig-
4 ure could support, so we just took that number and used it.

5 Q In other words, Runnels Mud has charged
6 Grynberg as operator for substantially more than Mr. Gryn-
7 berg has paid Runnels Mud.

8 A That's correct.

9 Q So we just accepted the number.

10 A Yes, sir.

11 Q Would you go on down through the differ-
12 ence column and explain the differences and why there is a
13 difference?

14 A Okay. The first item is dated 1-31-84,
15 Jim's Water Service. The amount is different. I allocated
16 \$77.89 based on the Commission's order that the deep zone
17 would bear a portion of all invoices, or all costs.

18 Grynberg allocated the -- that particular
19 invoice based on a formula of 10 days over a total of 19
20 days that the rig was over the hole, or working in the deep
21 zone.

22 We, of course, disagree with that number
23 and there's -- that's the difference.

24 That is the primary difference throughout
25 the whole schedule.

1 tified as -- the date, the date is 2-19-84, Halliburton, al-
2 location of cementing 5-1/2 inch casing.

3 We allocated the cost on -- just on the
4 Commission formula. Mr. Grynberg allocated it based on some
5 other formula.

6 MR. STAMETS: Then that one is
7 just going back to the same issue that you identified in the
8 very first one.

9 A Yes, sir.

10 MR. STAMETS: Okay, we don't
11 need to hear any more about those.

12 A Okay.

13 MR. STAMETS: Go to some other
14 ones.

15 A Okay. The -- then the only other item
16 would be the drilling invoice which is dated 2-21-84.

17 I allocated \$27,748 to the deep zone.
18 Mr. Grynberg allocated \$60,002 to the deep zone based on
19 that same 10 days over 19 days formula.

20 Our allocation is based on the contract
21 between his company and Horizon Drilling, which is a footage
22 contract. They were billed on the basis of footage drilled
23 plus day work. There were two full days and a portion of
24 two other days day work, amounting to \$11,000, which we
25 placed completely within the deep zone and then a portion of

1 the footage from the bottom, base of the Abo to the bottom
2 of the hole, we charged to the -- to the PrePersian.

3 MR. STAMETS: Let me clarify
4 that for myself, and what you're saying is that once the
5 drilling contractor drilled below 5378 to put it at the top
6 of the Wolfcamp --

7 A Yes, sir.

8 MR. STAMETS: -- then you
9 charged every foot of that to the deep zone plus any -- any
10 day work that occurred after that time.

11 A That's correct.

12 MR. STAMETS: Okay, thank you.

13 A That's the only -- the only other item.
14 That was the only item left that was of any consequence.

15 MR. STAMETS: So every other
16 change except these three on 2-12, 2-13 on the first page,
17 and on 2-21 for drilling, all the other differences in allo-
18 cation were because Mr. Grynberg did not allocate some of
19 the shallow costs to the deep horizon, is that correct?

20 A As I understand it, yes, sir, if I under-
21 stand the formula that he worked out correctly.

22 MR. STAMETS: His failure to
23 use this 8189 - 1811 division of well costs.

24 A I'm sorry, I'm not sure I undertood your
25 question.

1 MR. STAMETS: Okay. The order
2 provided that, just looking at a cost which is not directly
3 attributable to the deeper horizon, that cost allocation
4 did not exceed \$189.

5 A Okay.

6 MR. STAMETS: And that was the
7 problem.

8 A Yes.

9 MR. STAMETS: This is certainly
10 a confusing finding and I can understand why there have been
11 problems with allocation of well costs.

12 Are there questions -- or are
13 you through?

14 MR. CARSON I have no further
15 questions.

16 MR. STAMETS: Okay. Are there
17 other questions of this witness?

18 MR. PADILLA: A few, Mr. Chair-
19 man.

20 MR. STAMETS: Mr. Padilla.

21

22

CROSS EXAMINATION

23 BY MR. PADILLA:

24 Q Mr. Kelley, what is the formula you men-
25 tioned that Grynberg use a formula and you said you didn't

1 understand the what the formula was?

2 A I didn't say I didn't understand the
3 formula. I understand 10 days over 19.

4 What I didn't understand is the reason
5 for it in making allocations of invoices.

6 Q Well, isn't that a direct charge on the
7 deeper zone based upon that allocation?

8 A Well, let's say, for instance, we'll take
9 item -- the first item on the Exhibit Two -- I'm sorry,
10 Exhibit Three. It's dated 1-31-84. Yes, the schedule
11 that's been reduced. It's an invoice to Jim's Water
12 Service, service date of 1-31-84, which is the day the well
13 was spudded.

14 Q I'm sorry, where is that?

15 A It's on Exhibit Three, second page, it's
16 dated 1 -- well, it's after the cover page. It's the first
17 column, it's the first -- there you go, dated 1-31-84.

18 Jim's Water Service on 1-31-84 delivered
19 X number of barrels of water to location. He charged \$226
20 of that amount to the deep zone.

21 On 1-31-84, that's the day the well was
22 spudded so they were working on the surface at that day, or
23 just a few feet. I cannot, you know, for the reason I
24 can't understand how \$226 of that amount applies to a depth
25 below 5378 feet.

1 That's the example that I -- that's the
2 first item that was divided on that basis.

3 Q Okay, let's go on now to the other Jim's
4 Water Service charges below that.

5 A Okay.

6 Q Tell me how you made the allocation.

7 A I made the allocation on Jim's Water Ser-
8 vice invoices on those charges that occurred before the 9th
9 day of February, I divided them based on the Commission's
10 percentage of 8189 and 1811. So those charges that occurred
11 after the 9th, which is the day that 5378 was passed, I
12 charged them 100 percent to the deep rights during -- during
13 the drilling phase of the well.

14 Q And you show that on February 7th, is
15 that the way you made that allocation on Jim's Water
16 Service?

17 A No, the 9th.

18 Q I'm sorry, February 9th.

19 MR. STAMETS: So that I under-
20 stand where we've come to now, we're down to February the
21 9th and this is water which was delivered after the well was
22 drilled below the base or the below the top of the Wolfcamp.

23 A That's correct.

24 MR. STAMETS: All right, thank
25 you.

1 Q Is it your understanding that any charges
2 below -- below the top of the Wolfcamp marker are directly
3 attributable to the -- to the lower zone.

4 A That's the way I understand the
5 Commission order, yes.

6 Q Let me have you refer to your Exhibit
7 Number Two and have you refer to that page of that and have
8 you tell me how you arrived at the 84.641 acre factor,
9 second to the last line on that page.

10 A On the drilling cost?

11 Q Yes.

12 A That's a percentage based on the footage
13 portion of the drilling invoice.

14 Q And it's not based on day work?

15 A No. The day work is allocated 100
16 percent to the deep rights, if you'll look at the line, at
17 the first lined, it says deep only, 11416.74 is 100 percent
18 of the cost of the day work on Horizon Drilling's invoice.

19 This does not take into account the expe-
20 nential factor in drilling a deeper well past the Abo forma-
21 tion, is that correct?

22 A I would assume not. I'm not sure I
23 understand what you mean.

24 Q Well, doesn't it cost more to drill a
25 well past the Abo formation, generally?

1 A I suppose it does. I'm not a drilling
2 engineer so I can't correctly answer that question.

3 Q (Unclear) is the cost of -- you allotted
4 to this account and I assume you arrived at this figure.
5 I'm trying to figure out how you came up with that figure.

6 Let me ask the question this way. This
7 is not taking into consideration an exponential factor for
8 drilling the well as you go deeper in the hole, is that cor-
9 rect?

10 A No, it does not.

11 Q Mr. Kelley, when did you receive the
12 Grynberg allocation of costs after the last Commission hear-
13 ing in June?

14 A Middle of July. I can't recall which
15 date.

16 Q Did you make any attempt to call Mr.
17 Grynberg's office regarding any comment that you may have
18 had on that allocation?

19 A No, I did not.

20 Q Did you have a difference of opinion as
21 to the costs allocated on Mr. Grynberg's allocation?

22 A Yes, I did.

23 Q And you chose not to tell us about it un-
24 til today, is that right?

25 A At that point I delivered what I received

1 to Mr. Carson's office and went about my business as a joint
2 venture auditor and --

3 Q Well, didn't you testify to my earlier
4 question that you were the one who sent the allocation Fed-
5 eral Express on the day before yesterday?

6 A That's correct.

7 Q Couldn't you have done that earlier?

8 A Probably not, since I wasn't here. I
9 wasn't in my office for approximately two weeks prior to
10 that.

11 Q Well, didn't you just tell me that you
12 received this in the middle of July sometime --

13 A That's correct.

14 Q -- and looked at it --

15 A Sir?

16 Q And you looked at it and you did not
17 agree with some of those costs?

18 A That's correct.

19 MR. PADILLA: I have no further
20 questions, Mr. Chairman.

21 MR. STAMETS: Are there other
22 questions of this witness?

23 He may be excused.

24 MR. CARSON: May I proceed.

25 MR. STAMETS: You may proceed,

1 Mr. Carson.

2 LESLIE BENTZ,

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

5
6 DIRECT EXAMINATION

7 BY MR. CARSON:

8 Q State your name, please.

9 A Leslie Bentz.

10 Q And Ms. Bentz, by whom are you employed?

11 A Yates Petroleum.

12 Q And in what capacity are you employed?

13 A I am a geologist.

14 Q Have you previously testified before the
15 Oil Conservation Division?

16 A Yes, sir, I have.

17 Q And have your qualifications as a geolo-
18 gist been accepted?

19 A Yes, they have.

20 MR. CARSON: Is the witness
21 considered qualified to testify as a geologist?

22 MR. STAMETS: Without objec-
23 tion, she is considered qualified.

24 Q Ms. Bentz, I'm going to refer you to Ap-
25 plicant's Exhibit Number Four and ask if you can identify

1 that, please.

2 A Yes, sir. This is a stratigraphic cross
3 section. The datum line is the top of the Wolfcamp forma-
4 tion. The vertical scale is one equals 40 -- one inch
5 equals 40 feet. The horizontal scale is one inch equals
6 2000.

7 Q Let me ask you this. Was that exhibit
8 prepared by you or under your supervision?

9 A Yes, it was.

10 Q Would you explain it to the Commission?

11 A Okay, I'll --

12 MR. CARSON; May we shut that
13 door?

14 MR. STAMETS: Yes, if somebody
15 in the back could do that for us I'd sure appreciate it.

16 A Would you like me to start explaining
17 again?

18 Exhibit Four is a stratigraphic cross
19 section. The datum line here is the top of the Wolfcamp
20 formation. The vertical scale is one inch equals 40 feet.
21 The horizontal scale is one inch equals 2000 feet.

22 The stratigraphic control and definition
23 for the Wolfcamp is the first marine limestone following an
24 evaporite sequence, redbeds, anhydrite and dolomite, of the
25 Lower Abo.

1 Well No. 1 in this cross section also ap-
2 pears in the cross section published by the Roswell Geologi-
3 cal Society, the title of that being North/South Strati-
4 graphic Cross Section of Abo Formation and this was pub-
5 lished in 1983. It is listed as Well No. 8 in that publica-
6 tion.

7 I have used their definition for the top
8 of the Wolfcamp and with this cross section I feel like I
9 have established a good straightforward correlation to the
10 Grynberg State No. 1, the well in question.

11 The datums labeled number one through
12 number four are radioactive markers in the Wolfcamp. They
13 have very good continuity and I think they further illus-
14 trate this is a strong, sound, geologic correlation.

15 In conclusion, Yates Petroleum's pick of
16 the Wolfcamp top is consistent with industry standards and
17 not Mr. Ettinger's pick of anhydrite which is clearly Lower
18 Abo, and I would also like to point out that Well No. 3 ap-
19 pearing in the same cross section today, I've presented to
20 the Commission in Case 7984 and the Wolfcamp top pick is
21 identical to that and so Yates petroleum consistently iden-
22 tifies the Wolfcamp in this manner as does the industry as a
23 whole.

24 Q What does -- what do you pick as the top
25 of the Wolfcamp?

1 A It is the first marine limestone
2 following the evaporite sequence.

3 Q And what is that depth on your Exhibit
4 Number Four?

5 A It is 5378.

6 MR. CARSON: I'd like to move
7 the introduction of Applicant's Exhibit Number Four.

8 MR. STAMETS: Without objection
9 the exhibit will be admitted.

10 MR. CARSON: I have no further
11 questions of Ms. Bentz.

12 MR. STAMETS: Are there ques-
13 tions of the witness on this exhibit?

14 MR. PADILLA: No questions.

15 MR. STAMETS: The witness may
16 be excused.

17 Do you have anything further,
18 Mr. Carson?

19 MR. CARSON: No, Mr. Commis-
20 sioner.

21 MR. STAMETS: Mr. Padilla, you
22 may proceed.

23 MR. PADILLA: Call Mr. Jack
24 Grynberg, Mr. Chairman.

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JACK J. GRYNBERG,

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

DIRECT EXAMINATION

BY MR. PADILLA:

Q Mr. Grynberg, for the record would you please state your name and where you reside?

A My name is Jack J. Grynberg. I reside in Englewood, Colorado.

Q Have your credentials as a petroleum engineer been accepted as a matter of record before the Oil Conservation Division?

A Yes, they have. I'm a Registered Professional Engineer in the State of Texas.

Q And what is -- what is your capacity with Grynberg Petroleum Company?

A I'm the president.

Q Are you familiar with the costs that have been assigned by your company and Yates Petroleum Company for --

A Yes, I am.

Q -- the Grynberg State 1-20?

A Yes, I am.

1 MR. PADILLA: Mr. Chairman, we
2 tender Mr. Grynberg as an expert petroleum engineer.

3 MR. STAMETS: Mr. Grynberg is
4 considered --

5 MR. PADILLA: Who will also
6 testify on well costs.

7 MR. STAMETS: -- qualified.

8 Q Mr. Grynberg, let me refer you to the Ap-
9 plicant's Exhibit Number Two, which is the most recent allo-
10 cation -- which is the recent allocation of costs, and let
11 me ask you, sir, when you saw this instrument for the first
12 time?

13 A I saw it yesterday about fifteen minutes
14 before I left the office for the airport about a quarter to
15 four, when you telecopied the items.

16 Q Have you had a chance to meet with your
17 staff concerning the preparation of this -- the correctness
18 of this document?

19 A Just for fifteen minutes, and only a few
20 items during the fifteen minutes we could pick out that I
21 can address myself to.

22 Q What items can you address yourself to,
23 with regard to this Exhibit Number Two?

24 A One of the items sticks out and just the
25 fact that in Mr. Kelley's allocations he used a factor of

1 84.18 percent, whereupon the Commission order, Item 25 in
2 the original Commission order very specifically refers to
3 81.89 percent, and it was my understanding at the last hear-
4 ing here in June the Commission was very adamant that the
5 figure of 81.89 percent be used.

6 Q Okay, let's go on down to specific items
7 --

8 A All right.

9 Q -- that you have been able to identify.

10 MR. STAMETS: Why don't we hold
11 it right there and let me ask Mr. Grynberg a question.

12 A Yes.

13 MR. STAMETS: Referring to the
14 now revised Finding No. 25, it does say, it does have a line
15 in it which says "except for costs directly attributable
16 from the top of the Wolfcamp to the PreCambrian."

17 A Yes, sir.

18 MR. STAMETS: With that excep-
19 tion in there, do you believe then it's possible for a total
20 cost to vary from 81.89 percent, which is referred to later
21 in that section?

22 A Well, there's -- there's no question
23 there.

24 Let me -- let me -- I'm not so sure I un-
25 derstand your question. Would you mind repeating it?

1 MR. STAMETS: Well, if we took
2 out the line "except the cost directly attributable to the
3 --

4 A PreCambrian.

5 MR. STAMETS: Yes, if we took
6 that out and --

7 A All right, if you took that out, then
8 there's no way I would have drilled the well.

9 MR. STAMETS: Well, but if we
10 took it out just for argument at this point --

11 A Yes.

12 MR. STAMETS: -- then the allo-
13 cation of costs would be basically 81.89 percent to the Abo.

14 A That's -- that's if you took it out, yes.

15 MR. STAMETS: Okay.

16 A But then I wouldn't have drilled the
17 well.

18 MR. STAMETS: But if we stick
19 that back in --

20 A Yeah.

21 MR. STAMETS: -- then the over-
22 all cost to the Abo can vary from that 81.89 percent.

23 A Of course, that's what's I'm here to tes-
24 tify.

25 MR. STAMETS: Okay, I wasn't

1 clear that that's what you were saying.

2 A Yeah.

3 MR. STAMETS: Thank you.

4 A I'm here to testify specifically to it.

5 MR. STAMETS: I'm sorry, Mr. --

6 A Sure.

7 MR. STAMETS: -- Padilla, I
8 needed to get that clarified.

9 A Right.

10 Q Okay, Mr. Grynberg, would you go -- cite
11 specific items that you have problems with in this exhibit?

12 A If I may transfer from -- from the tele-
13 copy item to -- to the actual, because the telecopy varies a
14 little bit. This is the telecopy and this is your copy.

15 Okay, just for the record let me mention,
16 since Mr. Kelley touched only the Runnels Mud Company bid,
17 we disputed the majority of the bill. The bill was in ex-
18 cess of \$20,000 and we prepaid \$6240 and we understood it to
19 be a turnkey bill and a loss that resulted in a process
20 which was just settled, by the way, and we pay \$1600 addi-
21 tional.

22 So there will be a correction, but in
23 saving the money, we saved the bulk of it for Yates because
24 most of the mud that was spent was spent directly where the
25 drilling took place in the PrePermian section.

1 Now, continuing with this analysis of Mr.
2 Kelley's, the next item that comes across is Schlumberger
3 and Schlumberger --

4 MR. STAMETS: Could you give us
5 a date on that? It makes it easier to follow.

6 A I believe it's on his page two and it
7 would be the third one from the bottom, and what I'd like
8 for you to do, if you may, is compare it to page three, the
9 very top line, it's -- which is also a Schlumberger bill.

10 MR. STAMETS: I'm sorry, I've
11 got the one now that's on 2-12-84. What -- what was the
12 other one?

13 A 2-12-84, the other one was at the very
14 top of page three, which is 2-18-84.

15 MR. STAMETS: Thank you.

16 A Okay. Mr. Kelley has somewhat a contra-
17 diction in there. Obviously we agree with his 2-18-84 bill
18 but let's analyze that bill.

19 The well went to a total depth and the
20 depth was not adequate to get the whole section tested, so
21 then continued and drilled an additional 120 feet.

22 That second bill of 2-18-84, about 99
23 percent of it is a depth charge. I'm sure you know that
24 Schlumberger's bill consists of two halves; one is a depth
25 charge and one is a footage charge. The depth charge is a

1 direct charge to the total depth drilled. There is no way
2 you can get in there with a sonde, or a set of sondes, un-
3 less you pay Schlumberger the depth charge, and here, right-
4 fully so, Mr. Kelley allocated the total bill to the PreCaa-
5 brian, 99 percent of which is depth charge.

6 If he did this, which he did it correct-
7 ly, then obviously the first Schlumberger bill is incorrect,
8 because the first Schlumberger bill, the total of which is
9 \$20,363.86, that has to be broken up and has to be analyzed
10 in the bill itself, which is what we did.

11 We took the bill at its face value and
12 allocated the depth charge as a direct charge to the total
13 depth drilled, because that's the only way you can get in
14 there, and then took the footage charge and allocated the
15 footage charge on a basis of the formula -- I'm sorry, on
16 the basis of the actual depth that was logged, which is also
17 a direct charge but a direct charge of the logging.

18 So one is a logging charge, one is a
19 depth charge. We allocated the logging on the basis of what
20 was logged and we allocated the depth as a direct charge be-
21 cause there's no way you can get in there unless you went
22 all the way to the total depth.

23 MR. STAMETS: Okay, let me see
24 if I understand what you're saying.

25 You allocated 100 percent of

1 the depth charge --

2 A To the PreCambrian, to the PrePermian.

3 MR. STAMETS: Okay, and then
4 you allocated the footage charge --

5 A Footage charge --

6 MR. STAMETS: -- to each of
7 them. Okay.

8 A To feet logged for the Abo and the feet
9 logged for the prePermian section.

10 MR. STAMETS: Thank you.

11 Q Mr. Grynberg, maybe it's time to have you
12 identify our Exhibit Number Ten and tell us what that is.

13 A Well, our Exhibit Number Ten, the PerPer-
14 mian cost is \$9,658.62.

15 Q Mr. Grynberg, what is Exhibit Number Ten?

16 A The one you just handed me?

17 Q Yes, sir.

18 A This is our allocations.

19 Q And this is the allocation you prepared
20 in accordance with the Commission's instructions?

21 A And the order originally as to direct
22 charges being the direct charges to the PrePermian and the
23 indirect charges being divided on the basis of the formula
24 supplied by the Commission.

25 MR. PADILLA: Mr. Chairman, we

1 move the admission of Exhibit Number Ten.

2 A And that's the one that was sent July 1st
3 to Yates Petroleum Company, to Mr. Kelley.

4 MR. STAMETS: Without objection
5 Exhibit Number Ten will be admitted.

6 Q Now, Mr. Grynberg, would you compare
7 those Schlumberger costs that you were discussing a few
8 minutes ago?

9 A Well, the difference is that Mr. Kelley
10 allocated \$5,920.49 and we have allocated \$9,658.62 to the
11 PrePermian portion.

12 Q And how have you made that allocation?
13 Will you tell me again so I can understand it?

14 A We -- we allocated -- since the Schlum-
15 berger bill consists of two components, one is a depth
16 charge, one is a logging charge, the depth charge is a di-
17 rect charge for the PerPermian and the logging charge is
18 based on the amount of footage logged.

19 Q Okay. What other charges do you see here
20 that you want to --

21 A Well, just quickly that we disagree, is
22 the cementing by Halliburton of the 5-1/2 inch --

23 MR. STAMETS: Would you give us
24 a --

25 A I'm sorry?

1 MR. STAMETS: Give us a date,
2 please.

3 A I have to transfer from the telecopy, Mr.
4 Commissioner --

5 MR. STAMETS: Okay.

6 A -- to this, so if you'll bear with me, I
7 will do so, too.

8 MR. STAMETS: Thank you.

9 A The Halliburton charge, below the last
10 Schlumberger, would be four below. That would be from the
11 top of page three, one, two, three, four, five, dated 2-19-
12 84.

13 MR. STAMETS: Thank you.

14 A Okay. Mr. Kelley allocated \$1,629 to the
15 PrePermian and we have allocated \$3,451 to the PreCambrian,
16 the difference being is that we used a cement bond log and
17 established the top of the cement, from total depth to the
18 top of the cement, and we in fact knew where the cement
19 went, and since you know how many feet of cement is behind
20 the PrePermian, and how many feet is behind the Abc, you can
21 identify it, and if you can identify it, it's a direct
22 charge.

23 Q Mr. Grynberg, would you continue now with
24 the other charges?

25 A The main item, of course, in dispute, and

1 the largest one, is the Desert Drilling footage bill, which
2 is somewhat a misnomer, but it is located from the top on
3 page 3, one, two, three, four, five, six, seven, eight.

4 We've allocated to the PrePermian
5 \$60,002.67, and Mr. Kelley allocated \$27,748.80.

6 We've taken daily drilling tower sheets
7 and when I negotiated a contract with Desert Drilling it was
8 a lump sum contract. Everyone knows that it is a lot faster
9 to drill at the top than it is to drill at the bottom, but
10 in fact you can, and you do, identify the number of days
11 that you drill, the portion of the section at the bottom,
12 number one, it is older, therefore tougher to drill, and
13 number two, it is deeper and also tougher to drill, and when
14 you change your bits because it's tougher to drill because
15 it is an older and more compact section, it takes you longer
16 to get there.

17 I don't see how anyone can assume that it
18 is a uniform footage price strictly on whatever the depth is
19 when in fact the record shows that it took nine days to get
20 through the Abo and it took an additional ten days to get
21 through the total -- through, I'm sorry, through the PrePer-
22 mian section.

23 So it's a case of a total nineteen days
24 where ten days can be directly, unequivocally identified to
25 the drilling of the PrePermian section.

1 And here the part is academic whether the
2 top of the PrePermian is the way we identify and a good por-
3 tion of the industry right at the top of the anhydrite or
4 whether one uses at the base of the limestone, which thick-
5 ness does vary throughout; while the anhydrite is consistent
6 it's a matter of a few hours, that -- that 50-60 feet dif-
7 ference is academic.

8 And when you can directly identify from
9 the total cost of a well that it took ten days to drill the
10 PrePermian and nine days to drill through the Abo, that it's
11 a direct charge. You cannot just take an arbitrary total
12 cost of the well, divide it by the number of feet and say
13 that's the footage price, because everyone knows that the
14 footage price is not an exact price, it is a varying price,
15 but it is for convenience purposes dividing the total cost
16 by the number of feet, but everyone knows that the first
17 3000 feet you drill in a few days, and then gradually get
18 slower and slower and slower.

19 So we have a direct charge of ten days
20 taken from the tower sheets. I don't think anybody can dis-
21 pute that, and that's exactly what we did. That's the
22 direct charge to the drilling of the PrePermian section.

23 If one establish a precedent and say that
24 the drilling of PrePermian section is merely based on what-
25 ever is the average footage charge, I think the State of New

1 Mexico will not be able to force pool or unitize any wells
2 and encourage the drilling to the deeper sections, which is
3 exactly where the future lies, is in the deeper sections,
4 because it is illogical and nobody else would do it. Nobody
5 can afford to go and drill to the deeper sections and bear
6 the majority of the cost and let those in the shallow sec-
7 tions have the great benefit of it.

8 MR. STAMETS: Mr. Grynberg, for
9 what it's worth, I would point out that the method that is
10 currently being used for allocation of costs under these
11 conditions is substantially different from the one that's in
12 this order, so perhaps we've already taken into account your
13 concerns.

14 A Thank you, sir. Thank you, sir.

15 Now, but the order to us, at least, it
16 was clear as far as the deeper portions are concerned;
17 direct charges.

18 And the same thing applies to the next
19 item which we quickly identify, that of Mac Chase completion
20 rig. We had actually direct charges, the amount of time
21 that was spent and let me go and give you Mac Chase. Mac
22 Chase would be from the top on page three, one, two, three,
23 four, five, six, seven, eight, nine, ten, eleventh from the
24 top. And we differ with Mr. Kelley because we again ident-
25 ify. Now this was a completion rig. That completion rig

1 was so many days in the PrePermian horizons and so many days
2 on the Abo horizon, and there was just no question about it.

3 What Mr. Kelley did is he took the total
4 cost of a rig paid by the day and divided, as I understand
5 it, in proportion to the items.

6 Now ours on the Mac Chase is \$15,879, for
7 the PrePermian and his is \$8,091 for the PrePermian, where
8 in fact the daily records indicate exactly as we have it,
9 this is how many days we worked on the various horizons in
10 the PrePermian before we moved up the hole and worked on the
11 Abo.

12 Now these are the ones that obviously
13 stand out very quickly, and unfortunately without my benefit
14 of being able to analyze it because material was not
15 delivered; whether Mr. Kelley was or was not in town, it was
16 not delivered, and the Federal Express supposedly was sent
17 the day before yesterday, never got there yesterday. I
18 don't know about today.

19 Q Mr. Grynberg, if you take your Exhibit
20 Number Ten, how do you arrive at the figures (not under-
21 stood), just add the column? Is that the way you do that?

22 A Yes, that's the way we do that, but as
23 I'm sure you realize, that the exhibit, which is our Exhibit
24 Number Ten, does not pertain to two additional items that
25 are very much in question in this particular case.

1 Q What are those items?

2 A The items concern a previous exhibit,
3 which I believe was submitted.

4 Q What is the description of that exhibit?
5 Is that --

6 A That was the AFE.

7 Q Let me hand you our previous Exhibit Num-
8 ber Two and ask you if that's --

9 A Plus another exhibit, which we'd like to
10 introduce. Here are copies of it.

11 Is it possible to get a little bit of
12 water?

13 MR. STAMETS: Yes.

14 A Shall I just step outside?

15 MR. STAMETS: There's a water
16 fountain right out there.

17 Q Is that the exhibit you were referring
18 to, Mr. Grynberg?

19 A Yes. Yes, Mr. Padilla.

20 Q What item would you like to discuss in
21 that Exhibit Number Two?

22 A Well, what I'd like to discuss, if I may,
23 is that after the order came out, which my recollection is
24 was December 2nd, 1984 -- 1983, we looked at the order, an-
25 alyzed the order, and felt that there is a potential in up-

1 per horizons, upper above the Abo, that the order was simply
2 not addressing the geologic possibilities as such, and we
3 submitted an Authorization for Expenditure to Yates on the
4 basis as if we were to stop at the Abo and not go any far-
5 ther, assuming we had a tremendous well in the Abo with good
6 drill stem test results, or we were to go all the way to
7 total depth.

8 I personally supervised the Authorization
9 for Expenditure and would not want to drill the well unless
10 we had a consent on the basis of participation by the
11 various Yates entities and the second page, which is the
12 PrePermian case, clearly states --

13 MR. CARSON: May I interrupt
14 at this point, please? I'm not sure what he's driving at
15 but if what he is intending to do is to impeach the order of
16 the Commission entered in 1983 or '84, I'm going to object,
17 because he seems to be relying on the order for one purpose
18 and now he's going to talk about what great things he did
19 despite the order, and we're either here working under the
20 order or we're not. For that reason, I'm going to object.

21 MR. STAMETS: Let's find out
22 first what his point is and then we'll see whether or not --

23 A To answer Mr. Carson --

24 MR. STAMETS: -- you have an --

25 A -- I was answering the questions as they

1 were.

2 I'm here to discuss the fact
3 that it is -- at least our original understanding was that
4 we were operating under a signed agreement, that it was
5 signed by everybody concerned after the Commission order,
6 and totally independent of it, specifically, giving the Com-
7 mission --

8 MR. CARSON: I object.

9 MR. STAMETS: In other words,
10 you're attempting to tell us that there's an operating
11 agreement on this well which allocates the well costs?

12 A That's what it is, right there.

13 MR. STAMETS: Mr. Carson, you're
14 saying that you signed this AFE?

15 MR. CARSON: It has nothing to
16 do with this case.

17 MR. STAMETS: Is there an
18 operating agreement on this well?

19 A Yes, sir.

20 MR. CARSON: Yes, sir. There's
21 one in File No. 79-whatever it is, original forced pooling
22 has the operating agreement in it. That's the only
23 operating agreement to my knowledge.

24 A Here are the signatures of everyone for
25 the interest to be paid on the PreCambrian test -- I'm sor-

1 cy, PrePermian test, signed seven days after the Commission
2 order on a voluntary basis with no objections whatsoever,
3 never objected to it, none at all.

4 MR. PADILLA: Mr. Chairman,
5 this AFE was submitted in accordance with the forced pooling
6 order so I do believe it's relevant.

7 MR. STAMETS: Anybody got a
8 copy of the original order in this case?

9 A Yes, Your Honor, right here.

10 MR. STAMETS: Mr. Crynberg, Mr.
11 Padilla, do either of you have any other document besides a
12 signed AFE that you would put forward to indicate that the
13 Division's order in this case is -- is not applicable as to
14 those provisions relative to our determination of well
15 costs?

16 A I -- I can check. Do you have a copy of
17 the operating agreement here?

18 MR. PADILLA: I don't have a
19 copy.

20 A I can call the office real quickly. If I
21 -- if we can put this aside because there's another matter
22 we can address while at the hearing. When we break for
23 lunch I can call the office and find out exactly if -- just
24 to expedite time, if I may suggest to do so.

25 MR. STAMETS: If there is a

1 document that all parties have voluntarily agreed to which
2 independently, independent of our order determines how is-
3 sues such as this will be handled outside of this agency,
4 then I would presume that there is an agreement between the
5 parties and that this order probably no longer applies.

6 A It was our intent and intention that the
7 Authorization for Expenditures from either of the two cases
8 was the prevailing ones.

9 MR. CARSON: I'm going to ob-
10 ject. Even with a document, what his intent was has nothing
11 to do with it. I'm certainly happy to have him call his
12 office and see if there's other documentation, but I think
13 this is a new issue brought for the first time in this
14 hearing. We've already been one day on this thing and for
15 that reason I'm going to object.

16 This is after all a hearing on
17 a forced -- forced pooling order.

18 MR. STAMETS: We'll recess the
19 hearing until 12 -- until 1:15 for lunch and make a decision
20 on this issue subsequent to that.

21
22 (Thereupon the noon recess was taken.)

23
24 MR. STAMETS: The hearing will
25 please come to orders.

1 The Commission has historically
2 viewed any agreement which is voluntarily entered into after
3 issuance of a compulsory pooling order to supersede that
4 order and any terms and conditions in that agreement.

5 If there is an agreement which
6 Mr. Grynberg wishes to introduce today, which indicates that
7 the allocation of well costs, any disputed well cost is to
8 be determined in any other manner, we would consider that
9 and if it were a valid agreement we would defer to that.

10 In the absence of such an
11 agreement, we will go ahead and consider the well costs to-
12 day and issue an order on that basis.

13 MR. PADILLA: Mr. Stamets, we
14 don't have a signed operating agreement; however at this
15 time we would move for dismissal of the application on the
16 basis of the signed AFE as constituting an agreement follow-
17 ing the issuance of the order, original forced pooling or-
18 der.

19 MR. STAMETS: Mr. Padilla, I
20 believe it's the Commission's position that an AFE may be
21 signed by any party wishing to pool and they may pay their
22 share in order to avoid the risk penalty provisions of a Di-
23 vision order, but that they may also not sign any other
24 operating agreement and that all the parties would then be
25 -- continue to be bound by the terms and provisions of any

1 order forced pooling the well.

2 And we believe your motion for
3 dismissal should be denied.

4 MR. PADILLA: We will resume
5 our testimony and put Mr. Grynberg back on the stand.

6 MR. STAMETS: Fine.

7
8 JACK J. GRYNBERG,
9 resuming the stand, testified as follows, to-wit:

10
11 DIRECT EXAMINATION CONT'D

12 BY MR. PADILLA:

13 A Your Honor --

14 Q Mr. Grynberg, let me direct your atten-
15 tion again to Exhibit Number Two and have you tell us how
16 and when that Exhibit Two and in particular the APE was
17 signed by the Yates interests?

18 A The various Yates entities signed those
19 on January 12th, 1984, and in fact altered the interest as
20 the letter of transmittal which is part of Exhibit Two from
21 Yates indicates.

22 Please note the interest on the APE's have
23 been changed to show our correct interests.

24 Subsequently to those signed interests
25 and agreeing to those interests for the PreCambrian -- I'm

1 sorry, for the PrePermian well, on January 18th we sent them
2 an operating agreement, which was the operating agreement
3 submitted during the Commission hearings, but in the letter
4 of transmittal to Yates Petroleum, which letter can be
5 delivered to the Commission, it specifically stated that --

6 MR. CARSON: Your Honor, I'm
7 going to object to him stating what some writing says with-
8 out producing the writing.

9 A I'll introduce it. I'll have it here.

10 MR. CARSON: I'm not asking for
11 that. I'm asking --

12 A If Mr. Stamets says that we can introduce
13 it.

14 MR. STAMETS: I will sustain
15 the objection unless the document is in evidence.

16 Q Mr. Grynberg, do you know of your own
17 personal knowledge, did you write that letter?

18 A I instructed to write that letter, yes.

19 Q Do you know what the contents of that
20 letter are?

21 A Yes, I do.

22 MR. CARSON: I'll object. I
23 think the letter speaks for itself.

24 MR. STAMETS: The objection is
25 sustained.

1 Q Mr. Grynberg, let's move on to another
2 point.

3 Let me hand you what was marked at the
4 earlier portion of this hearing as Exhibit Number Six.

5 A I have a copy of this.

6 MR. PADILLA: Mr. Stamets, this
7 is a copy of Exhibit Six in the original version.

8 Q Can you tell us, Mr. Grynberg, whether at
9 any time you offered to unitize formations other than the
10 San Andres, or the Abo and the PrePermian formations?

11 Did you make an offer to Yates?

12 A I made an offer to Yates that on the
13 basis of the AFE we jointly go and complete the San Andres
14 from approximately 1913 to 1943 feet, about 30 feet of net
15 pay, which based on log interpretation and some shows in the
16 samples indicated that it should be productive, and I wanted
17 to proceed with that completion.

18 Q Why did you want to proceed with that
19 completion?

20 A Because we think to this day that there
21 is a potential for a San Andres oil well.

22 Q Does Grynberg Petroleum own any interest
23 in the San Andres?

24 A Well, based on the signed AFE we have a
25 37-1/2 percent interest.

1 Based on a Commission law or rulings in
2 the past, 40 acres constitute 100 percent ownership of the
3 San Andres, and the 40 acres where the well is located is
4 100 percent owned by the Yates entities.

5 Q Mr. Grynberg, would you complete the San
6 Andres if the decision were up to you to --

7 A Yes.

8 MR. CARSON: I'm going to
9 object to this line of questioning and I'm going to ask that
10 that answer be stricken on the grounds that what he said has
11 nothing to do with this hearing so far as I can see, and
12 to me, well, I guess that's the objection. It's not rele-
13 vant to any issue in this hearing.

14 MR. PADILLA: Mr. Chairman, the
15 purpose of this hearing is to allocate the reasonable well
16 costs. Part of those well costs in retrospect should apply
17 to formations that appear to be productive and should be
18 considered by the Commission in deciding whether or not a
19 complete wellbore ought to be turned over to Yates Petro-
20 leum.

21 Certainly at the inception of
22 the -- we will concede that prior to drilling the only
23 objectives of the well were the Abo and the PrePermian, so
24 there's one horizon here that appears to be productive and
25 it would be inequitable to allow that well cost not to be

1 allocated to the interest owner of that formation.

2 The order speaks in terms of
3 reasonable well costs and I believe there's room for inter-
4 pretation of what the reasonable well costs are.

5 MR. STAMETS: We will sustain
6 Mr. Carson's objection.

7 MR. PADILLA: May I make an of-
8 fer of proof, Mr. Chairman?

9 MR. STAMETS: Yes, you may.

10 MR. PADILLA: Through the tes-
11 timony of Mr. Grynberg?

12 MR. STAMETS: Yes.

13 Q Mr. Grynberg, tell us -- referring to Ex-
14 hibit Number Six, which was introduced earlier, tell us
15 about the San Andres formation and whether you consider that
16 productive?

17 A The San Andres formation produces
18 throughout the area as a known oil and gas producer. It was
19 a clear indication on the attached logs that approximately
20 30 feet of it is porous, and as such, based on quantitative
21 log analysis it also indicates that it's hydrocarbon bear-
22 ing.

23 Now the Commission precedent stands, name-
24 ly that 100 percent of it is owned because of 40-acre spac-
25 ing, then Yates is asking to pay nothing and keep 100 per-

1 cent of the production. That to me doesn't sound equitable.

2 Q Have you made an offer to Yates to com-
3 munitize the San Andres formation?

4 A I made an offer to Yates to either take
5 over the well and pay for its share, and 100 percent of it,
6 for which they're trying to avoid any payment at all, or to
7 go on as the AFE indicated that we owned 37-1/2 percent and
8 we jointly complete it, and I have had no response.

9 What Yates is obviously trying to do is
10 get a free well paying nothing for it.

11 MR. CARSON: Your Honor, I'm
12 going to object to his characterization of what Yates are up
13 to, and he may think he knows but probably doesn't.

14 MR. STAMETS: I understand what
15 we have here is an offer of proof for the record and the
16 Commission is taking no cognizance of the -- what Mr. Gryn-
17 berg is testifying to at this point, and will not consider
18 that in making its decision.

19 MR. PADILLA: I believe that's
20 all I have.

21 A But -- but -- Mr. Padilla, the proof of
22 the depth on the Abo.

23 Q What -- what is the depth of the San An-
24 dres formation?

25 A No, no, the Abo.

1 Q San Andres. Answer my question, Mr.
2 Grynberg.

3 A The producing horizon is from 1913 to
4 1943.

5 Q And what is the Abo formation?

6 A Well, the Abo formation as we have
7 described it, and what we did is we have correlated with an
8 existing producing Wolfcamp well, which is below the Abo, as
9 the Commission approved it, 990 feet from the north line,
10 1880 feet from the west line in Section 24, Township 2
11 South, Range 26 East, which is approximately a mile to the
12 east from this location. This is known as No. 2 Ranger
13 State, operated by Elk Oil Company, and the Wolfcamp perfor-
14 ations, as approved by the Commission, are within an inter-
15 val of 5142 --

16 MR. CARSON: I object and ask
17 him if this is from his own personal knowledge?

18 A Yes, it is.

19 MR. CARSON: You didn't get
20 this over the phone during the lunch hour?

21 A I looked at this thing and I failed to
22 get the precise depth.

23 I'm partners with Elk.

24 MR. CARSON: I object unless
25 it's from his personal knowledge. It sounds to me like --

1 A I am partners with Elk and I was
2 familiar. I didn't have the precise 5142 to 5238.

3 MR. STANETS: Please proceed.

4 A The top of the Abo in that well was 4470
5 feet.

6 Top of the Wolfcamp was at 5142, making
7 the interval 672 feet.

8 In this particular well in question the
9 top of the Abo is at 4692. If you add 672 to it, then the
10 top of the Wolfcamp is at 5364 and not the way Ms. Bentz
11 testified.

12 MR. PADILLA: Mr. Chairman,
13 we'll pass the witness.

14 MR. STANETS: Are there ques-
15 tions of the witness?

16 MR. CARSON; Yes, sir, there
17 are.

18
19 CROSS EXAMINATION

20 BY MR. CARSON:

21 Q Mr. Grynberg, do you -- your first com-
22 ment was on, I believe, Applicant's Exhibit Number -- have
23 you got Applicant's Exhibit Number Two before you?

24 A So many exhibits I want to be sure I've
25 got the right one. Would you mind telling me if this is the

1 right one?

2 Q Well, it's stamped on front, I believe.

3 A I don't have any stamp, got the wrong one,
4 right?

5 Q I'll refer you to Applicant's Exhibit
6 Number Two, I believe it is, the back page.

7 A I have located that. Okay, you can take
8 it back.

9 Q Did you find it?

10 A Yes, sir, page what?

11 Q I don't know, it's an unnumbered page but
12 it's the back page, the one that says -- Page Five, says
13 drilling costs.

14 A Yes, sir.

15 Q Is it your position, or I might say this,
16 you objected to the fact that 84 percent of the well was in
17 the Abo according to the drilling cost application.

18 A Of course.

19 Q And is it your contention that each item
20 must be less than 82 percent?

21 A Well, it is my contention first that in
22 the order, Item 25, and that's the order of December 2nd,
23 1983, and based on the understanding of the hearing in June,
24 that it's supposed to be 81.89.

25 Q Well, I'm sorry, is it your understanding,

1 and contention that each item should be less than 81.-what-
2 ever it is?

3 A No. It is my understanding that those
4 items that you cannot make a direct assignment of costs,
5 those are the items that should be 81.89 percent, but that's
6 all my contention.

7 Part of my contention is -- is that, and
8 obviously that's where the Commission would not admit it --
9 that if -- if the logic dictates, that if Yates owns the San
10 Andres rights, assuming that they do, then they should pay
11 for the san Andres on a similar basis.

12 Q Let me ask you this. Do you have a ques-
13 tion about the logging charge on the invoice dated 2-12-84?
14 Do you recall that?

15 A Well, let's go to the item so we have the
16 amounts, okay? Page?

17 Q Page -- Page Two, the bottom of it.

18 A The third from the bottom?

19 Q The third from the bottom.

20 A Yes, sir. You have to break up that in-
21 voice.

22 Q If I recall correctly, what you said that
23 you did in your allocation was to allocate the cost of log-
24 ging according to where it was logged.

25 A Yes.

1 Q But you charged the depth charge solely
2 to the deep.

3 A Well, you have to. That's only logical.

4 Q I'm asking you a question.

5 A That's what I did, yes.

6

7

8 REPORTER'S NOTE: Due to reforming this portion of the
9 transcript on the computer, Pages 60-A and 60-B are inserted
10 herein. The continuity of the text is correct.

11

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1 Q And you did that on the basis that --
2 that you have to go to 6000 feet, or whatever the depth is,
3 to -- to begin your logging.

4 A But look at your -- look at your item,
5 the very top of Page Three. You did exactly the same.

6 Q I'm asking if that's correct.

7 A That's correct.

8 Q Okay.

9 A But you did the same thing.

10 Q But if you had only gone to 4000 feet, or
11 3000 feet, to start logging, you would still have paid a
12 depth charge for going to 3000 feet. Is that not true?

13 A No, no. You start logging at 4000 feet?

14 Q Yeah.

15 A Well, you wouldn't start logging at 4000
16 feet. You'd start logging --

17 Q No, I'm saying if you had --

18 A You mean a different well?

19 Q This well. Let's talk --

20 MR. STAMETS: Excuse me. Ex-
21 cuse me. Mr. Grynberg, if you'll pay very close attention
22 to the questions and answer the questions asked, we'll cer-
23 tainly appreciate it and the record will be a lot cleaner.

24 A Okay.

25 MR. STAMETS: And if there are

1 different questions which should be asked of you, you and
2 your attorney will have an opportunity to ask those ques-
3 tions and answer those.

4 A All right.

5 Q My question was, if you began logging at,
6 say, 3000 feet, would you not have a depth charge from zero
7 to 3000?

8 A That's a hypothetical, doesn't apply, be-
9 cause it's illogical. Why would you log at 3000 feet?

10 Q I'm --

11 MR. STAMETS: Mr. Grynoberg, --

12 A I don't understand the question.

13 MR. STAMETS: Mr. Grynoberg, can
14 you answer the question --

15 A I don't think I can answer that question.

16 MR. STAMETS: -- that if you log
17 a well to 3000 feet, what will --

18 A Any well.

19 MR. STAMETS: -- your depth
20 charge be?

21 A Any well, if you log to 3000 feet, the
22 depth charge is 3000 feet, yes. Not the -- the depth charge
23 is 3000 feet, yes.

24 Q So if you log a well beginning at 5000
25 feet, the procedure is you go to the bottom and then you be-

1 gin logging back up the well, is that correct?

2 A Yes, and then you pay a logging charge.

3 Q And you ascribe the total logging charge
4 to the lowest depth logged.

5 A No.

6 Q You do not apply the total depth charge
7 to the lowest depth logged?

8 A The two questions you just asked is dif-
9 ferent. The first question you asked total logging charge.

10 Q Oh, I'm sorry, I meant the depth. I'm
11 just talking about the depth.

12 A The depth charge, yes.

13 Q Okay. Are your -- when you calculated
14 the drilling costs as well as water and a number of other
15 things that you've marked with an asterisk on your exhibit,
16 it's based on a total of what you consider to be 19 days
17 drilling, or that the drilling rig was on the well, and 10
18 days of which it was in the Abo, is that correct?

19 A No. Ten days was in the PrePermian.

20 Q Okay, and 9 days was in the Abo.

21 A Yes.

22 Q In making that calculation, did you con-
23 sider the Abo to be 5,200 feet or some other depth?

24 A We considered the Abo to be 5360.

25 Q At the time you made your calculation.

1 A That's correct.

2 Q Did --

3 A As far as the days. Whether it was 5360
4 or a little bit deeper, it's academic. It was a question of
5 an hour.

6 We didn't divide it by hours. We divided
7 by days based on tower sheets.

8 Q Did you charge the PrePermian with days
9 that were spent --

10 A Yes.

11 Q -- working on the rig or fishing or some-
12 thing like that, for example?

13 A Well, depending -- the fishing was, I be-
14 lieve, in preparing it. That's where it was charged, yes.

15 Q Okay. Did you -- and you also charged it
16 with the days that you spent -- that were spent logging.
17 You charged the PrePermian with the days that you logged --

18 A It wasn't days; logging was a couple of
19 hours.

20 Like I told you, we didn't divide it by
21 hours. We divided by days.

22 Q I see, and where was -- while you were
23 doing some of your drill stem testing, did you charge that
24 to the PrePermian?

25 A No, charged the drill stem test to the

1 PrePermian of the PrePermian, of the Abo to the Abo.

2 Q What did you do with those days that were
3 on day work?

4 A All that was day work was PrePermian.

5 Q Okay, you charged that totally, did you
6 not?

7 A So did you.

8 Q I know we did. The next question is, is
9 that your drilling contract, however, was based upon a foot-
10 age basis.

11 A It was based on a total amount.

12 Q No, no, no.

13 A I believe I testified -- I believe I tes-
14 tified --

15 Q Do you have that -- do you have that with
16 you to verify that?

17 A I don't have. I don't have it. But you
18 cannot go ahead and divide it by feet when you have actual
19 days. It was a total amount for so many feet.

20 Q Well, my question was -- was did the con-
21 tract itself call for payment on a footage basis?

22 A I don't recall.

23 Q You don't know.

24 A The contract was a lump sum that I pre-
25 paid.

1 Q I would like to refer you to the -- your
2 schedule and the Mac Chase item.

3 A Yes, sir.

4 Q Which is 3-10, 1984

5 A Okay, 3-10 to 3-31, 1984, is that right?

6 Q Yes.

7 A Yes, sir.

8 Q Now, you objected to our allocation of
9 that.

10 A Yep.

11 Q Would you tell us why?

12 A Because our allocation was on the basis
13 of exactly how many days a workover rig spent on completing
14 the PrePermian horizons and how many days on the Abo.

15 I mean you have a rig says --

16 MR. STAMETS: Gentlemen, rather
17 than go on with answering a trick question, I would point
18 out that the allocation between Graynberg and Yates are
19 identical and there is no difference.

20 A Well, obviously, you know, when you get
21 an item like this with hundreds of items submitted to you
22 fifteen minutes before you catch a plane, you can't compare
23 everything.

24 Q Mr. Grynberg, are you acquainted with the
25 Roswell Geological Society?

1 A I'm sure it exists.

2 Q Do you participate, or does your
3 geologist participate in the efforts to pick the various --
4 tops of various formations?

5 A I don't know. I doubt it.

6 Q Would you agree that the Abo is not
7 consistently the same depth?

8 A I would agree it's not consistent but I
9 would also like to refer you to the AFE where the Abo in the
10 AFE submitted to Yates said we're going to drill to 5200
11 feet.

12 In other words, the Abo produces from the
13 top, not from the bottom, whichever one calls it. We refer
14 to the production in the Abo, not a geologic unit.

15 MR. CARSON; I don't think I
16 have any further questions.

17

18 CROSS EXAMINATION

19 BY MR. STAMETS:

20 Q Mr. Grynberg, in whatever kind of con-
21 tract was issued on the drilling of this well, what did the
22 drilling contractor know as an absolute? Did he know as an
23 absolute how much footage he had to drill or did he know as
24 an absolute how many days he would be drilling?

25 A Any -- I used to be a contractor, Your

1 Honor. I had two drilling companies. Whenever I evaluated
 2 a rig to bid, I would bid how many days I was bidding.
 3 Every contractor in the business does the same way, how many
 4 days a rig is going to --

5 Q Well --

6 A -- be on the well.

7 Q You didn't answer my question.

8 A The answer is yes. He looked at how many
 9 days he was going to be and he gave me --

10 Q No, no --

11 A -- a lump sum.

12 Q You didn't answer my question.

13 A I'm sorry.

14 Q Let me repeat my question.

15 A Okay.

16 Q When the drilling contractor submitted
 17 this contract to you, what did he know he was going to have
 18 to do? Did he know he was going to have to drill to a cer-
 19 tain number of feet or did he know he was going to have to
 20 drill a certain number days?

21 A Well, in my opinion he knew he was going
 22 to drill a certain number of days translated into feet and
 23 the formation that was there.

24 Q Well, no.

25 A I'm sorry.

1 Q I'm not -- you know you wrote this con-
2 tract and you're telling us what was in the contract, and
3 I'm asking you, did that contract provide that he would
4 drill to a certain depth?

5 A To a certain depth, yes, but specifically
6 to a certain formation at an approximate depth.

7 Q So he knew to what depth he would have to
8 drill?

9 A No, an approximate depth, but to a forma-
10 tion he was going to drill.

11 Q Approximate depth. Did that contract
12 provide that that depth would be drilled in any particular
13 number of days?

14 A It provided for a lump sum money.

15 Q So there was a clear cut requirement for
16 footage drilling, no clear cut requirement for any number of
17 days to be drilled.

18 A It was not clear for footage because the
19 footage was estimated. It was clear for the formation to
20 drill.

21 Q Well, I said approximate.

22 A That's correct, approximate.

23 Q Okay. On the Halliburton charge on Feb-
24 ruary the 19th, if I understood your testimony, you allo-
25 cated that cement charge on the basis of how many feet of

1 cement were opposite the PrePermian --

2 A Yes, sir.

3 Q -- as opposed to how many feet were above
4 the PrePermian.

5 A That's correct, yes, sir.

6 MR. STAMETS: Someone correct
7 me if I'm wrong, but as to this charge, if the Commission
8 accepted Mr. Grynberg's position, then that would mean that
9 \$1821.80 would be subtracted from the Yates calculated
10 amount due them of \$79,000-some odd. Is that correct?

11 A Which item is it? Would you --

12 MR. STAMETS: Okay, we're look-
13 ing at the Halliburton cement --

14 A Page what?

15 MR. STAMETS: That's Page Two
16 of Exhibit -- Yates Exhibit Number Two, and then the compar-
17 ison is shown on Yates Exhibit Number Three and the third
18 page, fifth item down from the top.

19 Yates shows a difference of
20 1821.80. So presumably if we accepted your -- your recom-
21 mendation, your explanation there, then that 1821 would come
22 off of what they show on the first page of their Exhibit
23 Number Two.

24 Is that --

25 MR. CARSON: Not exactly. It
depends on what you pick as the base of the Abo, I believe.

1 MR. STAMETS: Could Mr. Kelley
2 work a quick calculation on that based upon the Yates inter-
3 pretation of what the base of the Abo is?

4 MR. KELLEY: Let me find it,
5 find that particular invoice here.

6 A I'm still lost, Mr. Stamets. You're
7 referring to on a Yates submittal, their Exhibit, I think
8 it's Two. There are several Halliburton bills. Which one
9 are you referring to, on Page Three?

10 MR. STAMETS: It would be on
11 Page Three, the one on 2-19, the one, two, three, four --

12 A Fifth.

13 MR. STAMETS: -- fifth from the
14 top.

15 A Fifth from the top. Okay.

16 MR. STAMETS: And as I under-
17 stand it, that's the same charge we're looking at on their
18 Exhibit Number Three on the third page, again fifth from the
19 top.

20 They show a difference between
21 your calculation and their calculation --

22 A Right.

23 MR. STAMETS: -- of 1821.80.

24 A Right. I think what they do is they go
25 to our exhibit, which is on our Page Two, fifth from the top

1 where it allocates 3451.74 and they allocate 1,623.94 and I
2 presume the difference is what is in their other exhibit.

3 MR. KELLEY: The difference, I
4 believe, is the -- the difference in your figuring the top
5 of the cement and depending on where you pick the top of the
6 cement.

7 MR. CARSON: We picked the top
8 of cement out of Mr. Grynberg's Exhibit Number -- what's
9 that exhibit number?

10 A Mr. Carson, I'm sure you're an excellent
11 lawyer but you can't do it from this log.

12 MR. CARSON: I didn't do it.

13 A It's not a cement bond log.

14 MR. CARSON: I didn't do it.
15 Mr. Ettinger did it.

16 A Well, he did it from a cement bond log
17 and he transferred it.

18 MR. CARSON: I just took -- we
19 just took it right off of Mr. Ettinger's exhibit, I think.

20 A That's not it. That's not a cement bond
21 log.

22 MR. CARSON: I don't know what
23 kind of a log it is. I just know --

24 MR. STAMETS: So, Mr.
25 Grynberg, you're saying there is a cement bond log which has

1 not been entered in evidence in this case or it has been and
2 is a different exhibit?

3 A I don't know. I don't know if it has been
4 or hasn't been. That we used to calculate. That's what we
5 conveyed that we're doing to calculate.

6 MR. CARSON: Exhibit Number Six
7 --

8 A Yates has a copy of a cement bond log.
9 How maybe you have it here as an exhibit. Do you have it?

10 MR. CARSON: No, I just -- we
11 just have Mr. Ettinger's top of the cement.

12 A Well, he said it. He did it from his own
13 knowledge and he's the one that picked it.

14 MR. CARSON; That was our prob-
15 lem, cement, and the difference is based on what you picked
16 as the bottom of the Abo.

17 MR. STAMETS: How many dollars
18 difference does it make?

19 Mr. Kelley pointed out that it
20 is marked on the duolateral log which is apparently the
21 second part of the Exhibit Number Six. The two logs must
22 have been presented as Exhibit Six.

23 A Okay.

24 MR. STAMETS: The top of the ce-
25 ment is marked at 4,200 feet on that log.

1 A Yep, it is, you're right.

2 MR. STAMETS: What I'm going to
3 ask is to bring Mr. Kelley back on the stand to answer this
4 question and letters that I have.

5 Let's see if there are any
6 other questions for Mr. Grynberg at this point.

7 Does anyone else have a ques-
8 tion for Mr. Grynberg?

9 He may be excused.

10 Mr. Padilla, do you have any-
11 thing else?

12 MR. PADILLA: Nothing else, Mr.
13 Chairman.

14 MR. STAMETS: I'd like to re-
15 call Mr. Kelley, then, for a couple of questions.

16

17 TOM KELLEY,
18 being recalled as a witness and being still sworn upon his
19 oath, testified as follows, to-wit:

20

21 RE-CROSS EXAMINATION

22 BY MR. STAMETS:

23 Q Mr. Kelley, utilizing the top of the
24 cement shown on Grynberg Exhibit Number Six of 4200 feet,
25 utilizing your Wolfcamp top, can you tell us what difference

1 It makes then in the -- in the difference in allocation of
2 well costs between Yates and Mr. Grynberg if we accept Mr.
3 Grynberg's position that the cement costs should be borne
4 proportionately to the number of feet of cement behind the
5 casing in the Abo versus the number of feet in the PrePer-
6 mian?

7 A Let me see if I understand your question
8 now.

9 Q If I understood you correctly, you bas-
10 ically allocated the cementing charges in accordance with
11 the formula set out in the order.

12 A Yes, sir.

13 Q Okay. And what I'm asking is, or I'm
14 saying is Mr. Grynberg suggested that the more proper allo-
15 cation would be as to the number of feet of cement which is
16 in the PrePermian, the number of feet of cement which is in
17 the Abo, and the allocation should be on that proportion.

18 A Okay.

19 Q So if 20 percent of the cement is in the
20 Abo then 20 percent of the cost should be the Abo and 80
21 percent to the PrePermian, and I wanted you to do that using
22 4200 feet as the top of the cement and your Wolfcamp top.

23 A Okay. You want the difference in the
24 price or the amount allocated?

25 Q Yes, what happens if you reallocate uti-

1 lizing that procedure; how does it change the numbers.

2 A All right. Let's see if I can find the
3 invoices we're working on here.

4 The difference I calculate is \$894.40.

5 Q And that is in Mr. Grynberg's favor?

6 A Yes, sir.

7 Q Okay, now is that 178 feet of cement in
8 the Abo section?

9 A 178 feet, I took --

10 Q Yeah, I was just measuring from 5200 feet
11 where they indicated the top of the cement; 5378, which is
12 what I understand Yates picked the top of the Wolfcamp, so
13 that would be 178 feet in the Abo.

14 A Okay.

15 Q And how many feet do we have in the Pre-
16 Permian?

17 A 1100. I calculate 1168, if the top of
18 the cement is at 4200 feet, right?

19 Q Yes.

20 A Okay, and the difference between 4200 and
21 5378 is 1178 feet, so this -- okay, 178 feet of cement.

22 Can I back up and do it again based on
23 total footage, then?

24 Q Well, 178 feet represents 13.224 percent,
25 more or less, of the total footage and cement.

1 A Okay,

2 Q And if we multiply that times the cost,
3 what, 9000 --

4 A \$1189.83, or thereabouts.

5 Q I got 1119.20.

6 A I must -- you said 13. --

7 Q I got 1190.20.

8 A Okay.

9 Q So that's what should be -- if we accept
10 Mr. Grynberg's position that's what would be allocated to
11 the Abo.

12 A Okay.

13 Q And what does that make the PrePermian
14 now?

15 A \$7810.

16 Q All right, and then how much does that
17 change our final numbers and the amount which will be due
18 Yates?

19 A Okay, just a moment. How much does it
20 change my final number?

21 Q Yes.

22 A Is the question?

23 Q And you're looking first at Exhibit Num-
24 ber Two, Page Four, and what do those final numbers come
25 out?

1 A Okay. Current final number to the
2 PrePermian is 128,358.54.

3 That would result in 134,538.60, with a
4 corresponding deduction in the other column.

5 Q That comes out 206,417.12 for that Abo,
6 right?

7 A Okay.

8 Q So then if we go back to the first page
9 of this exhibit, which -- what numbers did we adjust here?

10 A In the middle of the page, totals.

11 Q Okay.

12 A Those would be the two lines that actual-
13 ly require adjusting if we're going to play with these num-
14 bers.

15 Q All right. For the moment if you'll just
16 give me that final column there to the right, I'll scribble
17 in these other numbers.

18 A You want me to reduce this by the per-
19 centage?

20 Q Well, I'm not sure that that's absolutely
21 necessary. I think we all get the idea at this point that
22 there would be some transfer of costs from the -- from the
23 PrePermian -- no, from the Abo to the PrePermian, and that
24 would be allocated in the same manner that you've done on
25 the first page, the one you went through and made those cal-

1 culations.

2 A So, I'm sorry, what numbers do you want
3 on the front page? Maybe I'm not listening to you.

4 Q That's all right. I don't think we need
5 to do it at this point.

6 A Okay.

7 Q Suffice it to say that you could recalcu-
8 late your final number, 79,724 by instead of having 128,212,
9 putting in these other numbers that we have just now calcu-
10 lated, 134,000, 206,000, and so on, and that would make the
11 difference.

12 Now, let me ask you another question.
13 Why should the depth charge for Schlumberger on the February
14 the 12th charge be allocated in the manner that you allo-
15 cated it instead the manner done by Mr. Grynberg where he
16 allocated 100 percent of the depth charge to the deeper hor-
17 izon?

18 A Well my position is -- or my interpreta-
19 tion of it is that on the first charge, the first depth
20 charge, I agree, we had to get to the bottom of the hole and
21 we logged back up.

22 But I also agree, or it appears to me
23 that in order to log the hole, that in nearly every case
24 Schlumberger ran their tool to the bottom of the hole and
25 they logged out.

1 Part of that logging benefitted the Abo;
2 therefore part of the depth charge also ought to be allo-
3 cated to the Abo.

4 Q On this February the 12th logging, was
5 that logged all the way from the depth that they ran back to
6 the surface?

7 A There are one, two, three, four, as far
8 as I can determine, four different logs on this invoice. In
9 each case the logging extends into the Abo.

10 Q Extends into, well, I'm not sure what
11 you're saying.

12 A Well --

13 Q One foot to surface.

14 A No, sir. On the first -- the first item,
15 the logging was from apparently the bottom of the hole to
16 the surface. Depth charge 6123 feet and also an operation
17 charge of 6123 feet.

18 Q So under -- under that particular log,
19 then, a value was received both above the Wolfcamp and below
20 the Wolfcamp, both as to the depth charge and the logging
21 charge.

22 A Yes, sir, I would assume so, but I char-
23 ged all of the depth charge to the PrePermian, for the ini-
24 tial -- the initial log.

25 Q That's interesting. Why did you do that?

1 A That's just the way I did it.

2 The -- they had to get to the bottom of
3 the hole the first time, so that's just the way I did it.

4 I did not seek any advice on that other
5 than I just did it that way.

6 But in every case, in the four logs that
7 I can identify on this invoice, the logging occurred both
8 below the top of the Wolcamp and above the top of the Wolf-
9 camp, if I'm saying that correctly, and there appears to me
10 --

11 Q And every -- every log that was run on
12 this 2-12 charge, there was value derived for both horizons.

13 A It appeared to me that way.

14 Q But at this point you don't know whether
15 that was a substantial number of feet in one interval as op-
16 posed to the other.

17 A Well, I believe I have it calculated in
18 pencil on this invoice of the footage that actually was log-
19 ged in each zone.

20 Q Okay, when you did the rest of those cal-
21 culations, you said in the first one you allocated the en-
22 tire depth charge to the deeper horizon, which is what Mr.
23 Grynberg proposed, and then the logging was done, you split
24 it between the horizons.

25 What about the rest of them? What about

1 the next run?

2 A The depth charge?

3 Q Uh-huh.

4 A I allocated it based on a percentage de-
5 rived from the footage logged in the well and what percent-
6 age of it was below the Wolfcamp and what percentage was in
7 the Abo, or above, by arriving at a cost per foot for that
8 particular log and dividing the total amount charged on that
9 log on a cost per foot basis on the footage below the Wolf-
10 camp and the footage above the Wolfcamp.

11 Q Okay, so you'd have a depth charge --
12 well, let's say that 10 percent of the log was in the Abo.
13 Then you charged 10 percent of the logging cost and 10 per-
14 cent of the depth charge to the Abo.

15 A Yes, sir.

16 Q Okay. And the only where you allocated
17 the entire depth charge to the deeper horizon was the first
18 one.

19 A Yes, sir, that's correct.

20 Q And that benefits Mr. Grynberg's interest
21 as opposed to Yates interest.

22 A Yes, sir.

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

25 He may be excused.

1 Does anyone have anything they
2 wish to offer in addition at this time?

3 Mr. Padilla?

4 MR. PADILLA: First of all, Mr.
5 Chairman, for the record, I would like to renew my motion,
6 in the form of a motion to strike Exhibit Number Two on the
7 basis of my earlier argument that we did not timely have the
8 exhibit in time to adequately make a preparation for this
9 hearing.

10 You've already denied the
11 motion for dismissal on the basis of the signed AFE, so I'll
12 not do that one.

13 MR. STAMETS: Mr. Padilla, I
14 would renew my overrule of your motion in that we did pro-
15 vide the opportunity for you and your client to choose at
16 the beginning of this hearing to have additional time to re-
17 view this document and you chose not to and we we will
18 overrule your motion.

19 MR. PADILLA: I would like to
20 close at this point.

21 MR. STAMETS You certainly may.

22 MR. PADILLA: The forced pool-
23 ing order in this case, Mr. Chairman, concerns reasonable
24 well costs. There has been no showing by the applicant in
25 this case that the costs as shown by Grynberg Petroleum Com-

1 pany has been unreasonable.

2 We have had testimony concern-
3 ing differences of opinion, differences on how to calculate
4 the footages, but there has been no basis established for
5 those costs as being unreasonable.

6 We have had testimony from Mr.
7 Grynberg and our earlier testimony from Mr. Ettinger
8 indicates that Mr. Grynberg has considerable experience in
9 drilling wells in the Abo formation and that area of
10 southeast New Mexico.

11 The burden of proof lies on the
12 applicants in this case to show that these are unreasonable
13 well costs and I believe that they have not shown that any
14 of these well costs are unreasonable.

15 Furthermore, they show from a
16 standpoint of allowing fair play in this case as far as
17 giving us an adequate opportunity to examine the well costs
18 in some other cases were denied, realizing, of course, that
19 this is part of my earlier motion, but none of these things
20 have been presented by the applicants in this case that
21 would show that any of these costs were unreasonable.

22 The testimony has been that we
23 have a slight difference of opinion as to where the Abo, the
24 base of the Abo is and where the -- what the total depth is,
25 whether or not we had to drill 120 -- an additional 120

1 feet.

2 I think that these are standard
3 practices in the oil and gas industry. It's common know-
4 ledge that there are exponential costs with respect to drill-
5 ling of wells. As you go deeper, obviously the cost per
6 foot is going to increase. We're not saying that we have a
7 footage contract or whether we have a lump sum contract is
8 -- is irrelevant. The basis is that it's known that costs
9 increase as the depth of the well increases.

10 None of the costs, again, that
11 have been presented by Mr. Grynberg would indicate that the
12 well costs are unreasonable.

13 We've had a lot of confusion in
14 this case simply because we're nit-picking back and forth,
15 but none of these things have been shown to be unreasonable
16 and the standard is the reasonableness of those costs.

17 Thank you.

18 MR. STAMETS: Thank you, Mr.
19 Padilla.

20 MR. CARSON: I won't make a
21 very long presentation. I would like to point the Commis-
22 sion to Grynberg's Exhibit Number Five, which think leads to
23 Mr. Grynberg's testimony about how the -- how the cost of
24 this well was calculated, in the field on a footage basis.

25 The second thing I would like

1 to say is if the Commission will recall from the hearing in
2 June, it was that the original petition and the exhibits,
3 including, I believe, Grynberg exhibits, what brought this
4 thing to the Commission in the first place was Mr. Grynberg
5 allocated all of these costs to the lower depth, and ended
6 up with him owing us \$2608.13. Patently that's not fair or
7 reasonable and that's why we're here and the whole purpose
8 of this hearing was to allocate those costs between the
9 depths and determine what was reasonable for each depth.

10 And we submit that -- that the
11 basis upon which we're here is perfectly proper.

12 We also submit that Mr. Gryn-
13 berg has had adequate time to examine everything he needs to
14 examine. You remember that the order calls for him to fur-
15 nish us with his list ninety days after he finished the well
16 in 1984.

17 The first exhibit we received
18 was the last day of the hearing. We didn't get anything any
19 earlier than yesterday, but we contend it's not (unclear.)

20 Thank you.

21 MR. STANETS: I believe that
22 the Commission is in agreement on what they choose to do
23 with this case.

24 I will state it and rely on Mr.
25 Kelley to correct me if I misstate it.

1 We believe that the top of the
2 Wolfcamp as determined by Yates at 5378 is the appropriate
3 depth for splitting the above the PrePermian and the PrePer-
4 mian costs.

5 We find that there are three
6 areas based on the record today of contention between Yates
7 and Grynberg.

8 The first is the logging by
9 Schlumberger identified on Yates Exhibit Number Two, the
10 cost on February 12th, 1984.

11 The Commission believes that
12 Yates gave Mr. Grynberg probably more than we would under
13 those circumstances so we will go along with Yates alloca-
14 tion in that case.

15 The second area of contention
16 is a Halliburton bill, service date 2-19-84.

17 On this one we agree with Mr.
18 Grynberg the allocation should be based upon the percentage
19 in feet behind the individual formations as to total cost,
20 and so the numbers we discussed earlier in the record,
21 1190.2 to the Abo and 7810 to the PrePermian are the appro-
22 priate numbers there.

23 The third item of contention
24 was the Desert Drilling costs shown service dated 2-21-84.

25 And we have to make these deci-

1 sions based upon what we have in the record. We don't have
2 a copy of the drilling contract. We don't know if it was a
3 footage contract. We don't know if it was a number of days
4 contract, but we do know that Desert Drilling, we do believe
5 that Desert Drilling obviously was obligated to drill foot-
6 age, and so we believe that footage is the appropriate way
7 to allocate these costs and accept the Yates cost.

8 With the one change, then, we
9 have already discussed, the Commission accepts those costs
10 on Yates Exhibit Numbr Two, and as adjusted would -- or
11 would then seek the adjustment of that first page of that
12 exhibit to reflect the final numbers and final amount that
13 will be due Yates under -- on this well under these calcula-
14 tions.

15 And we would ask that Mr.
16 Carson supply us a proposed form of order to that affect and
17 if we find that acceptable we would enter that as soon after
18 receipt thereof as we can.

19 These proceedings then in this
20 case are concluded.

21
22 (Hearing concluded.)
23
24
25

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 this portion of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

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

19 June 1986

COMMISSION HEARING

IN THE MATTER OF:

Application of Yates Petroleum
Corporation, Yates Drilling Com-
pany, Myco Industries, Inc., and
Abo Petroleum Corporation for
determination of reasonable well
costs, Chaves County, New Mexico.

CASE
8901

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

TRANSCRIPT OF HEARING

A P P E A R A N C E S

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A P P E A R A N C E S

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MORRIS ETTINGER

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1
2 MR. STAMETS: Call next Case
3 8901.

4 MR. ROYBAL: Case 8901. Appli-
5 cation of Yates Petroleum Corporation, Yates Drilling Com-
6 pany, Myco Industries, Inc., and Abo Petroleum Corporation
7 for determination of reasonable well costs, Chaves County,
8 New Mexico.

9 MR. STAMETS: Call for appear-
10 ances.

11 MR. CARSON: Mr. Chairman, my
12 name is Joel Carson, Losee & Carson, P. A., Artesia, New
13 Mexico, appearing on behalf of the applicants, Yates Petro-
14 leum Corporation, Yates Drilling, Myco Industries, and Abo
15 Petroleum.

16 MR. PADILLA: Mr. Chairman, my
17 name is Ernest L. Padilla, Santa Fe, New Mexico, for Jack J.
18 Grynberg, and I have one witness.

19 MR. STAMETS: I'd like to have
20 all those who are witnesses stand and be sworn at this time,
21 please.

22
23 (Witnesses sworn.)
24
25

1 MR. STAMETS: Mr. Carson, you
2 may proceed.

3
4 TOM KELLEY,
5 being called as a witness and being duly sworn upon his
6 oath, testified as follows, to-wit:

7
8 DIRECT EXAMINATION

9 BY MR. CARSON:

10 Q State your name, please.

11 A Tom Kelley.

12 Q And, Mr. Kelley, by whom are you em-
13 ployed?

14 A Yates Petroleum Corporation.

15 Q And in what capacity are you employed?

16 A I am the Joint Interest Auditing Manager.

17 Q Would you tell the Commission a little bit
18 about your educational background and job experience?

19 A Okay. I graduated from North Texas State
20 University in Denton, December 1970.

21 My oil and gas experience began with Gulf
22 Oil Corporation in West Texas beginning in April, 1976; with
23 Gulf until December, 1981; joined Yates Petroleum January
24 the 3rd, 1982.

25 Since that time I've been employed essen-

1 tially in the same job.

2 Q What did you do when you worked for Gulf?

3 A I started as a warehouse, material super-
4 visory for a number of term leases in West Texas, oh, encom-
5 passing -- I'd have to look at the numbers, excuse me --
6 yeah, several thousand wells, approximately 3000 wells.

7 From there I went to the AFE and budget
8 section where we prepared and administered AFEs for operated
9 properties.

10 From there I was transferred to the Mid-
11 land District where I was employed in the Joint Interest
12 Unit as a specialist in non-operated properties, primarily
13 in the AFE and budget area.

14 From that point I went to work for Yates
15 Petroleum, initially as a manager of the Accounting Group
16 and in January of this year we changed our job classifica-
17 tions. I assumed management of all non-operated properties
18 and the auditing functions.

19 Q Okay, have you been -- had any experience
20 in auditing these joint interest accounts?

21 A Yes, sir.

22 Q Okay, can you tell the Commission a lit-
23 tle bit about that experience?

24 A Well, to date I have personally done 25
25 Joint Interest Audits and answered, oh, say 60, so I've es-

1 essentially worked both sides of the street. I do audit some
2 host audits when other auditors come in to audit the Yates
3 Petroleum properties.

4 Q All right, do you have any -- are you a
5 member of any professional groups or hold any offices in any
6 professional groups?

7 A Yes, sir. I am a member of the New Mex-
8 ico Accounting Society, which is affiliated with COPAS and
9 I'm the chairman of a standing audit committee.

10 MR. CARSON: Mr. Commissioner,
11 I would submit Mr. Kelley as an expert on joint interest ac-
12 counting.

13 MR. STAMETS: Mr. Kelley, what
14 was your degree in?

15 A Journalism.

16 MR. STAMETS: Any questions of
17 Mr. Kelley's qualifications?

18 He will be considered quali-
19 fied.

20 Q Would you --

21 MR. CARSON: Mr. -- would the
22 Commission as a preliminary matter take notice of its own
23 files Number 7982, 7983, and 7984.

24 MR. STAMETS: Those are case
25 numbers?

1 MR. CARSON: Those are case
2 numbers.

3 MR. STAMETS: Without objection
4 we will take note of those.

5 MR. CARSON: 7982 and 7983 are
6 applications by Yates and others for unorthodox locations
7 which were dismissed because of Cause Number 7984, which was
8 the application of Grynberg for forced pooling, and designa-
9 tion of -- as operator.

10 MR. STAMETS: I presume that
11 all of these then cover the same general --

12 MR. CARSON: Yes, sir.

13 MR. STAMETS: -- area.

14 MR. CARSON: Yes, that's cor-
15 rect.

16 Q Mr. Kelley, without getting into great
17 detail would you look at your paragraph one of your applica-
18 tion and in general terms tell the Commission what the pur-
19 pose of this application is?

20 A The intent of our application is to esta-
21 blish reasonable division of costs for the drilling and com-
22 pleting and equipping the Grynberg State 1-20. That's --
23 that's the intent.

24 Q And under that, the Grynberg State 1-20
25 covers 160-acre proration unit insofar as it pertains to

1 depths above the or through the Abo and 320-acre formation
2 insofar as it pertains to the PreCambrian formations, is
3 that not correct?

4 A That's correct.

5 Q And under the circumstances Cause Number
6 7984 there is a difference in -- in the ownership of those
7 two formations.

8 A That's correct. Yates, et al, I mean the
9 Yates interests own 62-1/2 percent of what we refer to as
10 the deep rights and 25 percent of the shallow rights.

11 Q Okay. And in your application you men-
12 tion that the -- at least your version of what the order in
13 Cause Number 7984 says, and that is that those well costs
14 under this forced pooling situation should be allocated be-
15 tween the two depths, right?

16 A That's correct.

17 Q And it says that the -- that not more
18 than 81 -- .8189 decimal figure shall be allocated to the
19 Abo and the balance to the -- to the deep rights.

20 A Yes, sir, that's my understanding.

21 Q And would it also be correct that you
22 paid, that Yates has paid an estimate of well costs to Gryn-
23 berg in the -- the amount of \$215,706.26?

24 A That's correct.

25 Q Now, I would like to refer you to what

1 has been called Applicant's Exhibit One-A, with the applica-
2 tion being styled Exhibit Number One.

3 Q Would you tell us what Exhibit One-A is?

4 A I'm sorry, I --

5 Q There it is right there. One-A is an or-
6 der of the Commission, is it not?

7 A That's correct.

8 Q In Cause Number 7983?

9 A Yes, sir. You want me to explain it to
10 you as I understand it?

11 Q No, not -- just -- just to identify that
12 one and then let's go to Exhibit -- Case Number 7984 and --
13 and identify it and explain to me what -- to the Commission
14 what it means in general terms -- means to you in general
15 terms, I guess, is what I want to say.

16 A Okay. Case Number 7984 is an order force
17 pooling Yates' interests into this unit and naming Jack
18 Grynberg as the operator.

19 Q Okay, so for purposes of your accounting
20 how did you allocate costs between the Abo formation and the
21 deep formations?

22 A Okay, I allocated the cost based on what
23 I understand as to what actually happened as the drilling
24 and completion progressed. Those costs that I could ident-
25 ify that were wholly within the deep rights, that's where I
put them. Those costs that occurred on the surface I

1 allocated based on the Commission's formula.

2 Q Okay.

3 A Those costs that would apply to both for-
4 mations I split based on the formula.

5 Q And those costs that applied solely to
6 one formation you -- you gave to that formation, is that --

7 A Yes, sir.

8 Q -- correct?

9 MR. STAMETS: Where -- where is
10 the formula spelled in the order?

11 MR. CARSON: It's in paragraph
12 25, page --

13 MR. STAMETS: In the findings?

14 MR. CARSON; Yes, sir, page
15 three. It's in the -- it's in what you have there.

16 MR. STAMETS: Is it included in
17 the ordering portion? I see it, it's paragraph four.

18 MR. CARSON; Yes, sir.

19 MR. STAMETS: All right, I'm
20 with you. Thank you.

21 Q Let's go on to the next document in the
22 Exhibit B, please, Exhibit One-B.

23 Would you tell the Commission what that
24 is?

25 A That is a Form C-105 showing -- well,

1 it's the report of completion of the well.

2 Q Okay. And it shows the zones which were
3 perforated and so forth, is that correct?

4 A Yes, sir.

5 Q Would you look at Exhibit One-C and I
6 guess I should, before I leave One-B, that is an -- a form
7 that is filed with the New Mexico OCD, is it not?

8 A Yes, sir.

9 Q Would you now refer to Exhibit One-C and
10 tell me what that is?

11 A Okay. This is a letter from Mr. Bob
12 Pelo, or Robert Pelo, the controller of Grynberg Petroleum,
13 setting out a summary of well costs, which we had asked for
14 on a number of occasions, and summarizing our prepayment
15 versus cost and refunding to us, or to Yates interests,
16 \$2608.31.

17 Q And how did Mr. Pelo arrive at that
18 figure?

19 A By taking the total well costs, including
20 three audit adjustments as a result of the joint venture
21 audit I performed, and dividing them 62-1/2 to Yates inter-
22 est and 37-1/2 to Grynberg interest.

23 Q In other words, this letter of November
24 22nd, 1985, completing ignores the OCD formula, is that cor-
25 rect?

1 A That's the way I look at it, yes.

2 Q And allocates total well costs based on
3 ownership of the deep rights.

4 A That's correct.

5 Q Which naturally favors Mr. Grynberg, is
6 that --

7 A Yes, sir.

8 Q -- correct? Mr. Kelley, going back to --
9 let me ask you this, now. Are you aware of whether the Com-
10 mission has ever been furnished with any well cost data in
11 connection with this pooling application?

12 A Not to my knowledge.

13 Q How -- have -- before you made an audit
14 of Grynberg, had you been furnished with any? By that I
15 mean Yates?

16 A No, sir.

17 Q Tell us how the audit came about.

18 A We received a partial -- or in my words a
19 partial joint interest billing setting out some offsetting
20 interest debits cancelled by credits and a few partial in-
21 voices, which led us to believe that the accounting records
22 were not suitable, or at least in my experience they weren't
23 suitable. So we asked for and received permission to do an
24 audit.

25 Q And you did conduct an audit?

1 A Yes, sir.

2 Q When did that audit take place?

3 A In June of 1985.

4 Q When you left the Grynberg offices did
5 you leave them with a -- the figures that you had ascer-
6 tained?

7 A As a result of the audit?

8 Q As a result of the audit.

9 A Yes.

10 Q And did you also leave them with your
11 version of how the costs should be allocated?

12 A Not -- not on a complete basis like I had
13 submitted to them later, no, sir. I just wrote four very
14 small audit exceptions and I had my closing conference with
15 Mr. Grynberg and Mr. Pelo and at that point he indicated to
16 me that he felt like the well should be divided 75/25, and I
17 went on my way.

18 Q Mr. Grynberg said that or Mr. Pelo?

19 A Mr. Grynberg, as I remember. It was kind
20 of a confused meeting.

21 Q Okay. Now -- and then the next written
22 response that you received was in November, 1985.

23 A Yes, sir.

24 Q And that's what we've called Exhibit,
25 what, C? Yes, Exhibit C.

1 A Okay.

2 Q Now, Mr. Kelley, in Exhibit C Mr. Pelo
3 furnished you with his numbers as well as a list of all ex-
4 penditures relating to the Grynberg State I-20, did he not,
5 or I-20?

6 A Yes, sir.

7 Q And that's attached as Exhibit 2, or as a
8 part of the Pelo letter, Exhibit C.

9 A That's correct.

10 Q And does that form the basis -- did you
11 use those same figures and make the same items and figures
12 in making your --

13 A Yes, I did.

14 Q -- schedule? I would like to refer you
15 to what I believe is Exhibit D and ask you what that is?

16 A Exhibit D is a letter from myself to Mr.
17 Grynberg indicating that we took exception to the way he
18 divided the charges to the well; referred him back to the
19 Commission order and furnished him a revised schedule based
20 on our interpretation of the order.

21 Q Was that -- what was the date of that
22 letter to Mr. Grynberg?

23 A To Mr. Grynberg? January 24th, 1986.

24 Q Okay. Have you ever had any written res-
25 ponse to date showing that that -- that that allocation was

1 incorrect or improper?

2 A No, sir.

3 Q Did Mr. Grynberg pay the sum that you
4 asked?

5 A No, sir.

6 Q What was that sum, by the way?

7 A \$87,116.89.

8 Q Okay. Now, I'm going to refer you to the
9 -- to the exhibit that's attached to that letter and that is
10 the typed schedule showing your allocation of the well
11 costs.

12 A Okay.

13 Q Okay. Would you explain how you handled
14 that?

15 A We took each charge from the schedule
16 furnished to us by Mr. Grynberg and applied it to the well
17 as best I could on what actually occurred, referring back to
18 the drilling schedule and things that we could gather from
19 that, except for those costs that I could identify were
20 wholly within a formation, that's where we charged the cost.
21 Surface work was divided on the Commission formula.

22 Work that was below the -- or what I
23 would refer to as the deep rights, the work occurred totally
24 in the deep rights, I assigned that amount of money to the
25 deep zone.

1 Work that spanned both zones I divided
2 based on the Commission formula.

3 Q Okay. Would you look at, for example, on
4 page one, if I can refer you and the Commission, you've got
5 an item dated February 23rd, 1984.

6 A Okay.

7 Q Robert Becker, geologist.

8 MR. STAMETS: Where are we on
9 this exhibit?

10 MR. CARSON: We've on the
11 schedule attached to Exhibit D. We are --

12 MR. STAMETS: This schedule?

13 MR. CARSON: Yes, sir.

14 MR. LYON: Where is this item
15 that you're talking about now?

16 A It's the sixth item from the bottom.

17 MR. CARSON: It's the item set
18 forth as --

19 MR. LYON: Okay.

20 MR. CARSON: -- February 23rd,
21 1984, invoice, Robert Becker, Geologist.

22 MR. STAMETS: February? I -- I
23 don't find February on mine. Oh, I've got a different date.

24 MR. CARSON: It's on page one,
25 is it not?

1 MR. STAMETS: I see. My pages
2 one, two, and three are in reverse order.

3 All right, that's okay, and
4 we're talking about 2-23, Robert Becker. All right, I'm
5 with you now.

6 Q Okay, would you explain how you allocated
7 that cost?

8 A There's an invoice from Robert Becker,
9 Geologist, and best I could determine all of his time was
10 spent while drilling activities or completion activities
11 were occurring in the deep zone and I allocated 100 percent
12 of his cost to the deep zone.

13 Q Deep zone, and that meant that Yates has
14 paid 62-1/2 percent of that cost and Mr. Grynberg paid 37-
15 1/2, is that correct?

16 A That's correct.

17 Q Okay, then let's look at another item
18 just for an example.

19 You've got Halliburton drill stem test,
20 February 16th, 1984, also on page 1.

21 A That's the very last item. That drill
22 stem test occurred approximately 6325 feet, which is wholly
23 within the deep rights so I assigned it to the deep zone in
24 the well.

25 Q Let's look at page two. You have an in-

1 voice on -- dated February 18th, 1984, Schlumberger logging.
2 How did you allocate that?

3 A I allocated that, as you can see the num-
4 ber, the majority of it was allocated to the deep zone based
5 on the footages logged, the charges on the invoice.

6 Q Okay.

7 A More work was done below the Abo than
8 above or within the Abo.

9 Q And then you've got another item dated 2-
10 12 to 2-20, 1984, Sonny Longo, Drilling Consultant, also
11 page two. How did that work?

12 A That worked, Mr. Longo was on the rig as
13 a consultant while they were drilling in the deep zone. The
14 total days that he charged for were within that zone.

15 Q Now, you've got an invoice dated March
16 the 10th, 1984, and you have allocated all to the Abo. How
17 did that work?

18 A That is an invoice for 6304 feet of 2-
19 3/8ths inch tubing. The well was completed in the Abo and
20 there was no tubing set in the deep zone. So we assigned
21 100 percent of the cost to the shallow zone, to the Abo
22 zone.

23 MR. LYON: Which item was that,
24 now?

25 A That's an item dated 3-10-84, about a

1 third of the way down the page, MEMCO Pipe invoice in the
2 amount of \$11,675.

3 Q Now on 3-10 to 3-31-84 you've got a Mac
4 Chase completion rig, \$23,971.44. How did you allocate
5 that?

6 A I allocated that based on the number of
7 days that the rig was over the hole. The majority of days
8 were spent working in the deep rights, so the majority of
9 the invoice went to the deep zone.

10 Q You've got again on page two, Hallibur-
11 ton, deep right, 3-17-84.

12 A Well, that was a frac of the deep rights,
13 so I put 100 percent of the cost in the deep zone.

14 Q Okay, you've got Halliburton on 3-21-84,
15 two invoices that you've allocated totally to the deep zone.
16 Why is that?

17 A That was an acid job that occurred below
18 5400 feet, which is within the deep zone.

19 Q Now, let's look at the next page. Do you
20 have page three? You have certain legal expenses there. How
21 did you allocate those?

22 A I allocated those based on the Commission
23 formula because I was really unable to determine what those
24 -- what that suit was for, the T. K. Campbell versus Gryn-
25 berg. I never was able to determine what the suit was over.

1 They were charged to the well so I allocated them based on
2 the Commission formula.

3 Q Then at the bottom you have a separate
4 item that you charged -- that you mention as overhead.

5 A During the course of the audit we always
6 reconcile what we call drilling overhead, completion over-
7 head.

8 Grynberg failed to calculate, or my cal-
9 culations reveal that he did not charge enough drilling and
10 completion overhead so I wrote a debit exception in his
11 favor to make up the difference in what he didn't charge.

12 The other two items are surplus tubulars,
13 tubing, I assigned 100 percent of that to the Abo formation
14 and casing, since the hole was cased to total depth, I split
15 the small surplus between the deep and shallow rights.

16 Q Now there's another set of figures that
17 says Abo 225,356.22 times .25 and deep, 115,050 times .625.

18 What are those numbers?

19 A Those are the totals that I arrived at
20 from my divisions on the three pages of the exhibit multi-
21 plied by Yates interest and (not clearly understood) repre-
22 sent what we feel like should be our total contribution to-
23 ward the well.

24 The next line in brackets is the actual
25 payment and the result is a credit of \$87,116.89 that we

1 feel like is an overpayment and that we would like to re-
2 cover.

3 Q Mr. Kelley, was this audit prepared in
4 connection with a standard oilfield joint interest account-
5 ting?

6 A I'm sorry, you're --

7 Q I said was the audit, was that schedule
8 that's attached to Exhibit D sent to Mr. Grynberg, was that
9 prepared in accordance with standard oilfield joint interest
10 accounting practices?

11 A Yes, sir, it was prepared based on recom-
12 mended procedures by bulletins published by COPAS, which is
13 what we use for guides.

14 Q And in your opinion is it true and cor-
15 rect?

16 A Yes, sir.

17 Q And in your opinion, I take it that Mr.
18 Grynberg owes Yates some \$87,000.

19 A That's correct.

20 MR. CARSON: I would like to
21 move the introduction of Exhibit One with subparts A through
22 D.

23 MR. STAMETS: Without objection
24 the exhibit will be admitted.

25 Does that conclude your exam-

1 ination of this witness?

2 MR. CARSON; Yes, sir.

3 MR. STAMETS: Are there ques-
4 tions of Mr. Kelley?

5 Mr. Padilla.

6

7

CROSS EXAMINATION

8 BY MR. PADILLA:

9 Q First of all, Mr. Kelley, as I understand
10 your testimony, you did not follow exactly the formula out-
11 lined in Order R-7393. Is that correct?

12 A That I did not follow?

13 Q Yes.

14 A I'm not under that impression.

15 Q Well, you used it some of the time and
16 then you did not use it as -- well, let me rephrase the
17 question.

18 You did not use it as to certain costs
19 but you used it as to other costs, depending on your inter-
20 pretaton of the order or your accounting procedure.

21 A I applied the costs in my schedules based
22 on what I think actually occurred downhole and by the
23 Commission's percentage in other cases, like surface work,
24 roads, pits, et cetera.

25 Q In other words, depending on the particu-

1 lar cost you used your own formula, depending on whether it
2 was deep rights or shallow rights, is that correct?

3 A I'm not sure I understand your question.
4 I used --

5 Q Well --

6 A -- used --

7 Q -- depending on whether a particular cost
8 applied directly to the shallow rights or the deep rights,
9 you used or you deviated from the formula used in the order.

10 A The formula in the order, as I understand
11 the order, says that we will charge costs that are -- just a
12 minute -- that costs directly attributable to the PreCam-
13 brian or what I refer to as deep rights, will be charged
14 directly to the deep rights, and it's our understanding par-
15 ticular to any formation will be charged to that formation
16 and the only other formation is the Abo.

17 Q But what I'm trying to get --

18 A Maybe I don't understand your question.

19 Q You didn't -- you didn't use this formula
20 -- you didn't apply the formula in the order as to each and
21 every cost and invoice that was associated and received as a
22 result of the drilling of the well.

23 A To the best of my ability I did.

24 Q Wasn't your testimony that you allocated
25 costs that were applicable to the deep rights on the basis

1 of participation in the proration unit and not on the basis
2 of the formula?

3 Acreage participation versus the formula
4 in the order.

5 A Apparently I don't know. I don't think I
6 did. Are you -- are you asking about the final total, is
7 that what you're talking about?

8 Q Well, yes, sir, I'm -- no, I'm not asking
9 about the final total. I'm simply asking that you treated
10 from an accounting standpoint certain costs differently than
11 what the formula indicates.

12 MR. STAMETS: Mr. Padilla, it
13 sounds to me like you're getting a possibility of two
14 different interpretations of the meaning of Finding Number
15 25, is that where we're headed?

16 MR. PADILLA: Basically.

17 MR. STAMETS: It might be sim-
18 pler and less time consuming to -- to allow you to develop
19 that through Mr. Ettinger and if necessary recall this wit-
20 ness to -- as to arguments as to which interpretation is
21 correct or more correct.

22 MR. PADILLA: Well, let me re-
23 phrase the question. I'm not trying to belabor this point.
24 I'm simply trying to understand Mr. Kelley's testimony on
25 direct testimony, on direct examination.

1 Q Let me -- you asked -- you testified as
2 to certain costs, Mr. -- let's take for example, Mr.
3 Becker's estimate that you -- or invoice that you testified
4 about.

5 A Okay.

6 Q That invoice was attributed solely to the
7 deep zone.

8 A That's correct.

9 Q PreCambrian. And that cost was a allo-
10 cated on the basis of acreage participation and not on the
11 formula and the order.

12 A I didn't split the invoice 81, 82, and
13 18, no, I didn't. I assigned it wholly to the deep rights
14 because that's where he was working, or that's my under-
15 standing of an invoice is that the activities that he con-
16 sulted on were within the deep zone.

17 Q Okay. Now, as to surface work it was
18 based on the formula.

19 A That's correct.

20 Q In the order.

21 A Correct.

22 Q Therefore you have two different applica-
23 tions to particular invoices associated with drilling this
24 well.

25 A That's right. That's based on my under-

1 standing fo the Commission's order.

2 Q Okay. Now, you testified that you made
3 four audit exceptions when you made the audit of the Gryn-
4 berg records.

5 A That's correct.

6 Q Can you tell me what those audit excep-
7 tions were?

8 A Yes, sir. Audit exception one was in the
9 amount of \$3764.31 as a charge due the joint account under
10 bills drilling overhead.

11 Would you like a detail?

12 Q Well, briefly tell me what the other
13 three were.

14 A Okay. Exception two was an exception for
15 over billed producing or administrative overhead. The well
16 was never connected to a sales outlet; therefore it's not
17 qualified for an administrative overhead rate.

18 Exception three is an exception in the
19 amount of \$2121.79 for surplus 2-3/8ths tubing that was left
20 charged to the well but was nowhere on site; not in service.

21 Exception four was an exception for two
22 joints of unused 5-1/2 inch casing in the amount of \$356.57.

23 Q What's the balance of those exceptions,
24 Mr. Kelley?

25 A I'd have to add them up.

1 Q Roughly, can you -- do they wash out
2 given the first (not clearly understood).

3 MR. CARSON: They're on your
4 schedule, aren't they?

5 A All of them except number two. Number
6 two exception, Mr. Pelo preferred to solve that one or set-
7 tle that one through the joint interest drilling procedure,
8 which satisfied us.

9 The other three exceptions are essential-
10 ly -- there's a balance in favor of Mr. Grynberg of approxi-
11 mately \$1400.

12 That's gross money, by the way, that's
13 not divided among the interests.

14 Q Mr. Kelley, when you used the invoices
15 that you allocated based upon the formula in the order, did
16 you use actual depths for the depths outlined in the order?

17 A I used actual depths when I split -- when
18 I assigned an invoice wholly to a formation or in some cases
19 I split some invoices based on depths.

20 Q What depths do you have for the Abo for-
21 mation?

22 A I have the top of the Wolfcamp, which I
23 would assume is also the bottom of the Abo, 5378 feet.

24 Q What do you have for total depth --

25 A Total depth of the well is 6419 feet with

1 a plugback total depth of 4756 feet.

2 MR. STAMETS: 47 what?

3 A 56 feet.

4 MR. STAMETS: Thank you.

5 MR. CARSON: I'm sorry, I
6 didn't get what the 4750 was.

7 A 4756 plugback depth.

8 MR. PADILLA: Mr. Chairman, I
9 believe that's all the questions I have of Mr. Kelley.

10 MR. STAMETS: Are there other
11 questions of this witness?

12 MR. CARSON: I just have two or
13 three more.

14 MR. KELLEY: Oh, I'm sorry, go
15 ahead.

16

17

REDIRECT EXAMINATION

18 BY MR. CARSON:

19 Q Mr. Kelley, when you discussed your audit
20 exceptions with Mr. Grynberg and Mr. Pelo, it was always on
21 the basis that these were going to be allocated according to
22 interest ownership in each of these two zones, correct?

23 A Yes, sir.

24 Q And the second question I have is if you
25 have any calculations as to what Mr. Grynberg would owe

1 Yates if you applied -- if you had a measured calculation
2 based on a strictly mathematical formula?

3 A On a strictly mathematical formula of
4 dividing the well per the Commission's order, \$107,311.

5 MR. STAMETS: Okay, now you're
6 going to have to explain that question and answer to me.
7 I'm not sure I understood it.

8 Q What you did, Mr. Kelley, is that certain
9 items that were attributable solely to the shallow zone or
10 solely to the deep zone, you attributed them that way.

11 A That's correct.

12 Q But if you just take the total well cost
13 and say that -- that 81.89 percent is attributable to the
14 Abo and the balance is attributable to the deep zone, then
15 you come up with a different number, is that correct?

16 A Right.

17 Q And that number is the --

18 A \$107,311.

19 MR. STAMETS: And that's what
20 Grynberg would owe Yates under a --

21 MR. CARSON: Strictly mathema-
22 tical formula.

23 I have no further questions.

24 MR. STAMETS: Any other
25 questions of this witness? He may be excused. We may have

1 some questions for him later.

2 And you may proceed, Mr.
3 Padilla.

4
5 MORRIS ETTINGER,
6 being called as a witness and being duly sworn upon his
7 oath, testified as follows, to-wit:

8
9 DIRECT EXAMINATION

10 BY MR. PADILLA:

11 A Mr. Ettinger, will you please state your
12 name and by whom you're employed?

13 A My name is Morris Ettinger and I am the
14 exploration manager for Grynberg Petroleum.

15 Q Mr. Ettinger, were you involved in the
16 case of the Oil Conservation Commission numbered 7984?

17 A Yeah, I was here before the Commission.

18 Q You were an expert witness in that case?

19 A Yes.

20 Q And you have been qualified as an expert
21 engineer before the Commission on other occasions?

22 A Yes.

23 Q What are your current duties now with the
24 -- Jack Grynberg?

25 A I am the, actually, Executive Vice Presi-

1 dent and Manager of Exploration and in charge of all the ex-
2 ploration activity and some of the production activities.

3 Q In connection with the number -- the well
4 in question, which is the 1-20 in Section 20 of Township 9
5 South, Range 27 East, you were also involved as the Explora-
6 tion Manager?

7 A Yes.

8 Q And you are familiar with the costs and
9 have made a study of those costs associated with drilling
10 the well?

11 A Yes.

12 MR. PADILLA: I tender Mr. Et-
13 tinger as a witness, an expert witness.

14 MR. CARSON: For the purpose of
15 testifying concerning the well values and the costs in
16 drilling this well.

17 MR. STAMETS: Do you have some
18 questions as to Mr. Ettinger's ability to testify in this
19 case?

20 MR. CARSON: I have no objec-
21 tion to him as an engineer.

22 MR. STAMETS: Okay, then we
23 will qualify Mr. Ettinger as an Exploration Manager and pet-
24 roleum engineer.

25 Q Mr. Ettinger, can you give us the back

1 ground on the -- how this well came about to being drilled?

2 A Well, actually, this well is an offset to
3 producing wells; it's further to the west. Those were pro-
4 ducing from the Abo, the Wolfcamp, and the Montoya Fussel-
5 man.

6 This well at the time was considered to
7 be an offset to those wells and actually Yates Petroleum
8 submitted to the Commission and they wanted to drill a well
9 in the same location but use the spacing area of the north
10 half because Yates owned the entire Section 20 with the ex-
11 ception of 120 acres owned by Grynberg.

12 And then another well in the west. So
13 they petitioned the Commission for this spacing of north
14 half and the unorthodox location to drill in the, if I
15 remember right, in the southwest of the northwest of Section
16 20 and then also in, I think something like the west half of
17 the southwest using the south half as the spacing for the
18 PrePermian well, and force pool our 120 acres into that
19 spacing.

20 Q Did Grynberg then apply for -- make an
21 application in Case 7984?

22 A Ya, we applied to change the spacing to
23 the west half and drill the well in the northwest southwest,
24 which is a regular location.

25 Q And Grynberg was designated the operator

1 under that order?

2 A Yes.

3 Q In connection with the costs that have
4 been paid or (not understood) under drilling the well, have
5 you studied the Order R-7993 and in particular Findings 24
6 and 25 of that order?

7 A Yes. Now, when I read the order I can
8 interpret it as the estimated well costs of the Abo forma-
9 tion, except for the cost directly attributable to the Pre-
10 Cambrian, should be estimated on the basis of depths for
11 each formation, and so forth.

12 Now, what I can say is that the Commis-
13 sion order, what it says is take the entire cost of the
14 well, subtract the cost of the PrePermian and then divide it
15 based on the depth, everything, in other words, all the
16 direct costs of the Abo which is not -- it doesn't say, it
17 doesn't specify, should be also divided on the basis of this
18 formula. Take the ratio 5200 to 6350, but from a practical
19 point of view, I really think, and I think this is Yates ap-
20 proach and our approach, that really what the Commission
21 meant is anything which cannot be -- any cost which cannot
22 directly be applied either to the Abo or to the PrePermian
23 should be divided based on this formula.

24 So really we first of all had to see what
25 direct costs we can attribute to either one of the forma-

1 tions and then anything we cannot divide, then we divide
2 based on this formula.

3 Q Can you give us an example, and I know
4 you will be -- you have prepared certain exhibits, but can
5 you give us an example of what you mean by direct cost?

6 A Well, direct costs I mean, for example,
7 and I think the witness before me also tried to, is like if
8 we talk about -- let's take the same thing what was men-
9 tioned before, the geologist. He came to the well as we
10 were drilling below 5200 primarily to check the samples from
11 the Wolfcamp all the way down to total depth, and therefore
12 his time and expenses were attributable to the PrePermian
13 costs.

14 Example of costs that cannot be divided
15 is location. The cost for the location cannot be divided
16 into the Abo, and therefore the cost of location, for exam-
17 ple, is divided based on this formula.

18 Q Now, are there other costs that you would
19 consider to be incremental costs just by virtue (not under-
20 stood) or the very nature of the shallow or deep rights?

21 A Well, if, for example, let's take drill
22 stem tests. We drill stem test the Fusselman, so yes, the
23 drill stem test itself is what we, let's say, pay Hallibur-
24 ton for drill stem test is definitely a PrePermian cost, but
25 the rig time, and any other expense should also be consid-

1 ered as PrePermian cost and cannot be divided based on this
2 formula because it doesn't make sense.

3 Q Let's go on now to what you've -- first
4 of all, have you prepared certain exhibits for introduction
5 here or had them prepared under your supervision?

6 A Yes.

7 Q Let's go on now to Exhibit Number One and
8 have you identify that for the Commission.

9 A Well, Exhibit Number One is the --
10 showing the ownership of the west half of Section 20 and how
11 we got the various percentages and where is the well
12 located, on which lease, and so forth.

13 Q Now, Mr. Ettinger, does this apply to the
14 Abo or does it apply to the PreCambrian?

15 A It's applied to both because the
16 PrePermian spacing is the west half and the Abo spacing is
17 the southwest.

18 Q Do percentages change as you go below the
19 160 -- as the 160-acre spacing (not understood).

20 A Oh, sure.

21 Q What are those percentages for the Abo
22 formation?

23 A Well, the Abo is 25 Yates, 75 Grynberg,
24 and the PrePermian is 37-1/2 Grynberg and 62-1/2 Yates.

25 Q Let's go to Exhibit Number Two and have

1 you identify that.

2 A Exhibit Number Two consists of two AFEs
3 that were submitted and executed by Yates.

4 One showed the cost to Abo, 5200 feet Abo
5 test; and the other AFE shows the cost of a PrePermian test
6 that was also executed by all parties concerned and showing
7 the percentages of each case.

8 Q What is the significance of this exhibit
9 in this hearing today?

10 A The significant thing is if we can see
11 from the letter that we have from Yates, Yates paid or pre-
12 paid based on the expenditure of the well to 6350. They
13 paid their share in accordance with this AFE, which does not
14 really use the Commission formula allocating the costs.

15 Q Okay. Is that all you have concerning
16 Exhibit Number Two?

17 A Well, what I want also to stress with Ex-
18 hibit Number Two, that at the time we were talking about
19 primarily two formations that we thought at the time had the
20 main potential, Abo and Montoya Fusselman.

21 After drilling the well and based on the
22 results from drilling the well, a few things happened.

23 First of all, total depth was not 6350
24 but 6415, or 19, depends if we take the log or if we take
25 the drilling depth.

1 Second, in addition to testing the
2 Montoya, we also tested the -- through perforation the Mis-
3 sissippian. We tested the Wolfcamp and we thought that the
4 San Andres has potential and notify Yates to this effect.
5 We didn't do anything, we didn't test, because for the San
6 Andres owned 100 percent of the well spacing.

7 Q Let's go now to what is marked as Exhibit
8 Number Three and tell us what that is.

9 A Exhibit Number Three is the daily drill-
10 ing report from which I feel we can tell what was happening
11 while drilling and it's clear that after eight days of
12 drilling we were drilling at a depth of 5257; that means it
13 took eight days to get to 5200.

14 Q When did you get to 5200, Mr. Ettinger,
15 on what --

16 A We got --

17 Q -- date?

18 A -- on the date of October 9th, '84. Not
19 October; February 9, '84.

20 Q Is that when you reached the --

21 A Ya, it says the day, number 8, depth
22 5227.

23 Q Okay.

24 A Then to reach to casing, by the time the
25 rig was released, a total of 19 days were involved in the

1 drilling, so it took us eight days to get to 5200 and an-
2 other ten to eleven days to get to total depth.

3 Q In relation to total depth, how do you --
4 it took you essentially ten or eleven days to drill the ad-
5 ditional 1100 feet?

6 A That's correct.

7 Q And more time than it took you to drill
8 down to the Abo.

9 A Well, this is always, in the shallower
10 formation you drill faster; as you go deeper the formation
11 are harder; also we had some problem. We had some fishing;
12 did some testing. We ran two runs of logs and this took
13 more time.

14 Q And is this an incremental cost by virtue
15 of drilling deeper, I mean you cannot run a straight formula
16 on this --

17 A Sure. It's always -- it's exponential by
18 the deeper you drill the slower, usually, is the drilling,
19 and therefore costs are higher for incremental footage.

20 Q Okay. Do you have anything further with
21 respect to Exhibit Number Three?

22 A Now I want here to stress that hear we
23 say that on February 13 we were logging and then again we
24 were logging on the -- it doesn't say here, but we again was
25 logging on the 18th.

1 Also we ran a drill stem test on the 17th
2 and, let's see, and also on the 14th we were fishing. All
3 these are extra costs that involve in the drilling of the
4 well.

5 Q Let's go on now to what we have marked as
6 Exhibit Number Four and have you explain that for the
7 Commission.

8 A This is the completion of the well and it
9 shows the dates and what we have done each day when we
10 completed the well, and again I think based on that we can
11 better allocate the expenses of the -- involved in the
12 completion to the various formations, and it's clear, for
13 example, that to March the 22nd the work included strictly
14 the PrePermian and from March 23rd to March 30th -- or no,
15 to April 1, it included the Abo.

16 Q With respect to days that you were
17 working strictly in connection -- in this completion report
18 with PreCambrian formations, how do you apportion costs?

19 A Well, in case, for example, here, if we
20 take the engineer on the well for completion was Jim
21 McWilliams, so what I did is took from here the days that he
22 was on the PrePermian and then took his bill and divided it
23 based on days, so much for the PrePermian, so much for the
24 Abo.

25 Q Do you have anything further with this

1 Exhibit Number Four?

2 A No.

3 Q Let's move on now to Exhibit Number Five
4 and have you identify that for the Commission and tell us
5 what it is.

6 A This is the invoice from Desert Drilling,
7 Incorporated, who was the contractor on the well and what
8 this will show that in addition to the footage rate there
9 was additional cost of \$11,416.74, which includes some day
10 work, and all these based on the dates, it's clear that when
11 we look at a daily drilling report all those dates about --
12 we were at about 6000 feet or over, which indicated those,
13 definitely those rates be applied to the PrePermian expen-
14 ses.

15 Q Okay. You will show how you apportioned
16 this cost in a later exhibit, is that correct?

17 A Yes.

18 Q Let's go on now to Exhibit Number Six and
19 have you tell the Commission what that is and what it con-
20 tains.

21 A Exhibit Number Six are the logs on the
22 well and the reason for showing it is first of all I want to
23 draw the attention of the Commission to the heading of it,
24 the duolateral log and the same thing for the other log,
25 which is compensated neutron, that we have two runs.

1 One run was to 6167 and the other run was
2 to total depth of 6415.

3 The reason for that is that the depth of
4 the Fusselman is deeper than we expected. At the time we
5 weren't sure exactly what happened, and therefore we ran a
6 log for correlation purposes and then when we realized that
7 we didn't reach the Fusselman, we drilled deeper and ran an-
8 other run of the log.

9 So this is one reason.

10 Second reason is to show the various for-
11 mation and I want to draw the attention of the Commission to
12 the depth in the San Andres formation from 1925 to 1945.
13 This is a zone within the San Andres that we think has
14 potential and should be tested.

15 Then this thing also show where is the
16 top of the cement, which is 4200. The top of the Abo, where
17 we perforated the Abo at 4725 to 4735, probably; the top of
18 the Wolfcamp, where we perforated Wolfcamp, 5415 to 5428;
19 the top of the Mississippian, where we perforated the
20 Mississippian from 6195 to 6205; and the top of the Montoya,
21 and where we drill stem tested the Montoya as well as total
22 depth.

23 Q Now you've shown, Mr. Ettinger, the top
24 of the cement on this log at approximately 4200 feet. Can
25 you tell the Commission how you circulated cement in that

1 well?

2 A Well, from the bottom, total depth, up to
3 4200.

4 Q Why was it necessary to circulate cement
5 up to 4200?

6 A Because we wanted to perforate the
7 Mississippian. We wanted to perforate the Wolfcamp, and
8 then we wanted to perforate the Abo, so we had to fill up
9 cement above the Abo.

10 Q Are you going to talk about cementing
11 costs at a later time?

12 A Yes.

13 Q Okay. Let's go on now to Exhibit Number
14 Seven and have you tell us what that is.

15 A Exhibit Number Seven is our allocation of
16 the costs. We used exactly the same as Yates in terms of
17 actually the same order so it would be easier to -- to com-
18 pare. We used the same order, the amount of the total ex-
19 pense are the same; there is no change.

20 Where things are changed is in the allo-
21 cation to the Abo and to -- allocation of the PreCambrian or
22 PrePermian, that it should be.

23 Q You've made certain notations in ink at
24 the top on the percentage on the righthand --

25 A Yes. When we take, actually, the Commis-

1 sion order was based on what we expected total depth to be
2 650; however, the actual total depth was 6415, so we took
3 5200 divided by 6415, which is the actual total depth and
4 got this 81.06 percent.

5 I want to stress one thing,
6 that the 5200 remained valid because the Abo is usually pro-
7 ductive in the upper part and therefore using 5200 would
8 have been to total depth if we would have drilled only to
9 the Abo, we wouldn't go to 5200 and this actually, it shows
10 here that 5200 is below the main producing part of the Abo,
11 and this would have been total depth regardless.

12 So I think the 5200 is valid. Actually
13 it could even be 5150 but let's say 5200 and the actual to-
14 tal depth is 6415 and that's what we should use based on the
15 Commission's formula, in my opinion, ⁵²⁰⁰ ~~6200~~ divided by 6415,
16 which is the actual total depth.

17 Q Let me ask at this point how many Abo
18 wells Grynberg has drilled in that area of --

19 A Oh, we drilled as operator, I would say
20 something like 25 to 30 wells and then we participated with
21 Yates and also with Pool and also with Mesa.

22 Q Okay. Let's go on back to Exhibit Number
23 Seven and have you take the second item on that, which is
24 the Oilfield Construction Company invoice, and tell us how
25 you allocated that invoice.

1 MR. CARSON: Let's see, which
2 is Seven? I'm lost.

3 MR. PADILLA: This one.

4 MR. CARSON: Oh, okay. I'm
5 sure I have it here some place. That's Nine. This one
6 right here? Okay.

7 A Well, this is an example. This is ex-
8 pense was used for location and this was based, since we
9 can't really divide the cost of location into the various
10 formations, I divided based on the formula, 81.06 to the Abo
11 and 18.94 to the PrePermian.

12 Q Now let me go back up to the 81.06, those
13 are based upon actual footages.

14 A That's right.

15 Q Let's go on down to the item on 2-7-86,
16 which is labeled Big Red Supply and tell me how you made
17 that allocation.

18 A Now, this was used for sample bags. We
19 collected sample bags only when the geologist was on loca-
20 tion from the Wolfcamp all the way to total depth, and
21 therefore, this should be definitely allocated to the Pre-
22 Permian because the geologist, and Yates agreed to the geol-
23 ogist that we had, by the witness, the previous witness,
24 that the geology, they agreed that the geology expenses were
25 strictly for the PrePermian, so this should be the same

1 thing.

2 Q How does Yates allocate that \$32.95?

3 A We think they went by the formula (not
4 clearly understood.) Let me check.

5 They went by the depth formula.

6 Q Okay, let's go down to another item,
7 which is February 12th, 1984, the Schlumberger logging and
8 explain that figure.

9 A This expense of \$20,000+ for logging the
10 first one, and Schlumberger deal includes two items: One is
11 what they call operating charge and the other one they call
12 depth shot.

13 Operating charge is the depth that they
14 reach regardless how -- what is the footage of the log, so
15 if we drill, for example, to 6000 feet, they'll charge, if
16 it's 50 cents, 50 cents times 6000 and even if we run only
17 1000 feet of log, this will be their charge.

18 Then, of course, the charge depends on
19 how many feet of log you run.

20 So what I have done is took the third
21 depth charge and I definitely think that the depth charge
22 should be applied to the PrePermian and they took the -- I'm
23 sorry, the operating charge -- no, sorry, I'll start again
24 -- the depth charge should be applied to the PrePermian,
25 operating charge, which is the depth of how many feet of log

1 they ran, should be divided based on the formula.

2 Q And that's the way you have done it?

3 A That's right.

4 Q Okay, let's go to the Halliburton expense
5 at the bottom of the page and tell us why you didn't appor-
6 tion anything to the Abo.

7 A Well, Halliburton, here, I applied, and
8 the same thing Yates applied, the full cost because it was a
9 drill stem test of the Montoya, so we all agree that it
10 should go to the direct charge of the PrePermian; however, I
11 think what we did not include here is the rig time, mud, and
12 which was additional expense involved with this drill stem
13 test. We have done it, and I'll discuss it later in another
14 way.

15 Q Okay. What expenses on page two of this
16 thing do you want to discuss now? Would you --

17 A I want to discuss the Schlumberger log-
18 ging charge on the very top on February 18th. This \$6,493
19 applies to the second run and therefore it definitely should
20 be applied to the PrePermian and should not be divided by
21 the formula.

22 Then I would want to -- we take, I think,
23 the casing, the 5-1/2 inch casing, on February 19, '84,
24 which is the fifth from the top, and --

25 Q Is that the third or the fifth? The

1 fifth?

2 A This is the fifth.

3 Q Halliburton.

4 A No, I'm sorry, this is the cement, the
5 Halliburton cement.

6 Q Okay.

7 A I assumed that the cement, basically, if
8 we would have completed the well only in the -- or actually
9 we perforated in the Mississippian and Wolfcamp, which both
10 are PrePermian, we had to cement it above the Wolfcamp, any-
11 way, I mean to make sure we'll have a good cement job.

12 So we really had to fill up at least 2000
13 feet of cement to do that, which would have brought us to a
14 depth of at least 5400 feet or even higher than that, and
15 therefore I went ahead and applied the full amount to the
16 PrePermian, because I feel that regardless, we would have
17 done the same thing even if we had wanted to test the Abo or
18 not; I mean the different incremental would have been very
19 small.

20 Then I want to go and discuss the invoice
21 of the Desert Drilling on February 21, '84, and this amount
22 is \$114,005, and what I think is that since we know from the
23 daily drilling report how much time was spent to drill to
24 the Abo and how much time was spent to drill through the
25 PrePermian, plus we had an extra, as I explained before, ex

1 tra expenses of fishing, logging, drill stem testing, I
2 think this is the more proper way and I think this is a
3 direct way because we can identify how much time drilling-
4 wise was spent from drilling 5200 to setting casing and
5 therefore I think it should be divided based on the time in-
6 volved, which I took nine days, I included an extra day for
7 running casing, for the Abo, and ten days for the PrePer-
8 mian.

9 Basically it's nine over nineteen.

10 Q Mr. Ettinger, this is the invoice shown
11 by Exhibit Number Five, is that this Abo?

12 A Yes, this is -- relates to it, yes, Exhi-
13 bit Number Five.

14 Q Okay, go on with your explanation.

15 A Then I want to discuss the Mimco Pipe,
16 6304 2-3/8ths, I feel definitely that we used tubing for
17 testing the Wolfcamp, for testing the Mississippian, and
18 therefore we must give some charges to -- or a price on
19 charges to those formations.

20 So what I did here is, basically, I ap-
21 plied the formula that I explained before, 5200 over 6415,
22 to come up with those allocations.

23 Now, what I want to stress, it's clear
24 that when we buy a new pipe it's one cost; when we have a
25 used pipe it's a different cost; so we cannot just say that

1 we can apply new pipe and used pipe and use it, you know,
2 there's no difference.

3 So that's what I did as far as the tub-
4 ing.

5 Q Did you use new tubing? Was this new
6 tubing?

7 A This was the actual cost of the tubing,
8 yes.

9 Q Okay.

10 A New tubing.

11 Now, I want to go next to page number
12 three and talk about Jim McWilliams. It's about the middle;
13 it's April 4, '84.

14 Again I think this bill, it's clear from
15 the completion report how many days spent on the Mississipp-
16 pian, Wolfcamp, and how many days spent on the Abo, so we
17 can divide his bill accordingly.

18 I want to stress that even Yates, when it
19 came to the completion rig, they used the days used for the
20 PrePermian and days used for the Abo, so definitely Jim
21 McWilliams, who was the engineer on location, should be --
22 his bill should be divided the same way.

23 Q You essentially don't have that much of a
24 quarrel with the way Yates has applied some of this cost ex-
25 cept as to the numbers, correct?

1 A Yes. On some -- I mean there's no ques-
2 tion that both of us agree it should be direct to this loca-
3 tion or that location. In some cases I think that I was a
4 little bit more consistent in giving the direct charges to
5 the various formations, rather than what Yates did.

6 I also want to stress that all, for exam-
7 ple, we have a log on the page number one, Jim's Water Ser-
8 vice, trucking brine and fresh water, this is all connected
9 with the mud and therefore I think all those bills should be
10 also divided based on the days rather than based on formula,
11 the way Yates was doing.

12 Q After taking all the items on Exhibit
13 Number Seven and making the divisions the way you have done,
14 what is the bottom line of that exhibit?

15 A The bottom line is that Yates share is
16 \$151,728.44.

17 Q Okay.

18 MR. STAMETS: That's as opposed
19 to Yates' calculation of \$125,589?

20 A That's correct.

21 MR. STAMETS: So we're looking
22 at a difference here of \$26,000.

23 A Correct.

24 Q Is there anything further on Exhibit Num-
25 ber Seven, Mr. Ettinger?

1 A I -- I think we've -- I think basically
2 we discussed -- although I didn't go into the detail but, I
3 mean basically this was the logic, what I tried to explain
4 here is the logic how I approached the allocation of the
5 costs and to summarize this, I feel that we can go and apply
6 directly quite a number of those costs, and we have suffi-
7 cient evidence, whether in the daily drilling report or in
8 the completion report, to do that. I think we are justified
9 in doing that.

10 Anything else, like surface casing, lo-
11 cation, damages, lawsuits, and so forth, I divided according
12 to formula that the Commission came up with.

13 Q Let's go to Exhibit Number Eight and tell
14 us what that is.

15 A Exhibit Number Eight is an affidavit by
16 Mr. Jack Grynberg that after we ran the logs in the well we
17 felt that the San Andres, and I outlined the depth, has --
18 should be tested. In my opinion, based on calculation, the
19 San Andres has something in the order of 20 percent porosity
20 and water saturation less than 40 percent.

21 We, or Mr. Grynberg, called Mr. Peterson
22 with Yates and advised him that this is the situation; this
23 is our interpretation, but since Yates owned 100 percent we
24 cannot do anything and they are welcome to take over the
25 well.

1 They have not, to my knowledge, responded
2 to -- to this, whether they want or they don't want; it's
3 still there and the well is not plugged so if they want it
4 tomorrow, they can get it.

5 Q Okay, let's go on now to Exhibit Number
6 Nine and --

7 A Exhibit Number Nine is an attempt to show
8 that if we take into account the San Andres, and I'd like to
9 stress that we don't -- we did not take into account the
10 Wolfcamp. The Wolfcamp was a potential. Yates agreed to
11 the test and never object to the expenses involved in per-
12 forating, and we did not take it in any formula, whether
13 Yates or our formula, we did not take into account the
14 potential of the Wolfcamp.

15 If we assume the San Andres has poten-
16 tial, and Yates has really 100 percent of San Andres, this
17 is an attempt to show what will be their location based on
18 the same logic that I used for Exhibit Seven -- -is it seven
19 -- yes, yes -- Exhibit Seven, only what I did is, of course,
20 divided the days, I mean it took three days based on the
21 daily drilling report to reach a depth of 2000 feet, so I
22 took and divided the same items that I divided by -- accor-
23 ding to the formula, I divided here -- no, that I divided
24 according to the days of drilling, I divided here three days
25 to San Andres, six days to the Abo, and of course, addition-

1 al ten days to the Fusselman and all, I took the days all on
2 the items that we used the formula, I took also the formula
3 and took the depth and used 2000 feet for San Andres, 5200
4 for the Abo, and 6415 for the Fusselman, in allocating those
5 various costs.

6 And the net result is that using this
7 formula we get that Yates' share is 169,767.64

8 Q Mr. Ettinger, was the Fusselman produc-
9 tive in this well?

10 A No.

11 Q How about the Wolfcamp?

12 A No, I mean, actually, the well, we had
13 some shows of gas from the Abo and I still have the Missis-
14 sippian. I have a big question mark because I felt it
15 should be productive, but nothing came in so right now this
16 well is nonproductive.

17 Q Do you --

18 A Shut in.

19 Q Do you believe a decision will be made to
20 plug and abandon this well, at least as to below the San An-
21 dres?

22 A I think also the Abo at this point is not
23 commercial, actually, in this market, so probably sooner or
24 later we'll have to plug the well.

25 Q So you have additional costs to expend in

1 this well?

2 A Actually, already my accountant gave me
3 some cost that was paid which is not included here, which
4 was something, if I remember, in the order of \$5000, and of
5 course, the plugging the well is also not included here.

6 So there are going to be additional costs
7 involved here, but I felt that we should at least for sim-
8 plicity talk about something that we can compare and I don't
9 anticipate too much of a problem once we agreed on the
10 formula how to divide the addition of the plugging cost
11 plus, as I said, this additional expense, which was already
12 paid. It's \$3560.50.

13 So I imagine the whole thing will be may-
14 be another \$20,000 or so.

15 Q Mr. Ettinger, do you -- are your alloca-
16 tions in your opinion, your allocations as shown on Exhibit
17 Number Seven, based upon standard oilfield practices?

18 MR. CARSON: I'm going to ob-
19 ject to that. He's qualified him as an engineer.

20 MR. PADILLA: I believe the
21 Commission indicated he would also be qualified as a produc-
22 tion, exploration manager.

23 MR. CARSON: But he hasn't
24 qualified him that he's acquainted with oilfield practices.

25 MR. STAMETS: What was your

1 question again?

2 MR. PADILLA: I believe I asked
3 him, my question, I believe, was whether or not in his
4 opinion the allocation of expenses on Exhibit Number Seven
5 were based upon standard oilfield practices.

6 MR. STAMETS: Mr. Ettinger, in
7 your experience have you engaged in the allocation of costs
8 in other wells?

9 A I mean I need to stress that I see a for-
10 mality here; it's a more technical, because you have to know
11 when you take -- there's no, I guess, argument between us
12 and Yates as to those amounts. We both agree that those
13 amounts were spent.

14 The question here is how much of this
15 amount of those various items goes to PrePermian and how
16 much of the amount go to the Abo, and this is, I think, more
17 technical than accountant, because an accountant doesn't
18 know what goes, as an example, into the Schlumberger bill.
19 That know that Schlumberger charged \$20,000 but how they ar-
20 rived at \$20,000, I think it's more technical than account-
21 ant was.

22 MR. STAMETS: I'm inclined to
23 sustain it.

24 We'll sustain the objection.

25 Q Mr. Ettinger, in your experience as a

1 production manager for Grynberg, is your allocation as shown
2 on Exhibit Seven, a standard allocation in your experience?

3 MR. CARSON: If that's the same
4 question, I'm going to object again.

5 MR. PADILLA: I believe the --
6 I've qualified him as a production/exploration manager and
7 I've asked him whether as -- in his experience as an explor-
8 ation manager that allocation is correct.

9 MR. CARSON: I think it's the
10 same question.

11 MR. PADILLA: I'm asking him on
12 the basis of his experience not on the basis of standard
13 oilfield accounting practice.

14 MR. STAMETS: It's an extremely
15 subtle difference, Mr. Padilla. I think we'll let him
16 answer the question and if the record ever goes to the
17 courthouse, we'll take his answer in light of our previous
18 ruling.

19 A I would say yes.

20 Q Mr. Ettinger, do you have anything fur-
21 ther to add to your testimony?

22 A No.

23 MR. PADILLA: Mr. Chairman, we
24 offer Exhibits One through Nine.

25 MR. CARSON: I would like to

1 object to Exhibits Number Eight and Nine on the ground that
2 they are an attempt to allocate some of the costs to the San
3 Andres formation, which is contrary to the Commission's pre-
4 vious order, and the second thing, and I have two additional
5 objections in connection with Exhibit Number Eight, in the
6 sense that it is hearsay; Mr. Grynberg's not here to cross
7 examine; and secondly, it is irrelevant.

8 MR. STAMETS: We will admit Ex-
9 hibits One through Seven in this case.

10 I concur with Mr. Carson that
11 they are irrelevant as to this point.

12 Any further questioning of Mr
13 Ettinger?

14 MR. PADILLA: Well, Mr. Chair-
15 man, I'd like a clarification for the record.

16 I believe that Mr. Ettinger
17 testified that to his knowledge Mr. Patterson had not
18 responded to the contents of the affidavit and I'd like to
19 know whether or not that testimony also would stand or be
20 stricken from the record.

21 MR. STAMETS: We'll allow it in
22 the record but it's of no consequence in the decision in
23 this case.

24 MR. PADILLA: We'll pass the
25 witness.

1 MR. STAMETS: Let's go off the
2 record.

3
4 (Thereupon a discussion was had off the record.)

5
6 MR. STAMETS: Mr. Carson, you
7 may proceed with your cross examination.

8
9 CROSS EXAMINATION

10 BY MR. CARSON:

11 Q I notice, if I am correct, that this well
12 was completed in November 27th, 1984, is that what your re-
13 collections reflect -- I mean what your records reflect?

14 A November 27; I think it was April 1.

15 Q April 1 of '85?

16 A '84

17 Q '84? Okay, I just looked at this 11-27-
18 84 drilling report, so I was looking at 11-27.

19 Your Grynberg Exhibit Number Seven was --
20 when was that prepared?

21 A This was prepared for this meeting about
22 three days ago.

23 Q Okay, and that -- and that's when you,
24 when somebody in the Grynberg organization sat down and made
25 the allocations, is that correct?

1 A Yeah, they're based on what I explained.

2 Q Okay. And on November 27th, 1985, I
3 think you have a copy of it, we sent it to you, a letter
4 from Mr. Prelo -- Pelo, is that the way you pronounce that?

5 A Pelo.

6 Q Pelo, to Tom Kelley, you propose a
7 totally different allocation, is that --

8 A Yes.

9 Q -- correct?

10 A That's correct.

11 Q When -- when, sir, did you become, first
12 become involved in the allocation of these costs?

13 A Oh, we talked about it for the last year.
14 I sat with our accountant and discussed a number of items as
15 to what should be applied to what, but very in detail, I
16 must say, I was involved the last three days in preparing
17 this Exhibit Seven.

18 Q And would it be true that the first time
19 that Yates received this Exhibit Number Seven was today?

20 A Correct.

21 Q Okay, and you received theirs, and by you
22 I mean Grynberg organization, received the Yates allocations
23 in January.

24 A I mean, based on Tom Kelley, possibly. I
25 didn't see it, but probably. All that I know that here, the

1 date of this is May 27, '86, but it's possible.

2 Q Now, if I understand correctly, the logs
3 which are Exhibit Number Six, show the bottom of the Abo to
4 be at about 5378 feet, someplace in that neighborhood.

5 A I call it 5340.

6 Q But in making your allocation what you
7 want to do is to increase, for the purposes of this formula,
8 you want to increase to total depth to 6419, but you do not
9 want to increase the Abo at all.

10 A That's correct and I would like to ex-
11 plain why.

12 Q Well, you already have. I just want to
13 make the point that you -- that you -- that you --

14 A Nowhere it says that we drilled to the
15 bottom of the Abo.

16 Q The whole -- your whole system of alloca-
17 tion is based, though, on a change of the formula from what
18 you originally proposed, is it not?

19 A What do you mean by a change of the for-
20 mula?

21 Q Well, the formula that you are proposing
22 now is different from the formula you were proposing in
23 Cause Number 7984.

24 A This is the Commission.

25 Q But you were asking for a forced pooling

1 in that case.

2 A Yes. At that time we projected, based on
3 our information, what would be the total depth based on the
4 best of our knowledge. Once we drilled we got additional
5 information, of course, and I think we should correct it to
6 the actual information.

7 Q Okay, but you only want to half correct
8 it; you want to correct it on TD but you don't want to cor-
9 rect it on the Abo, is that correct?

10 A That's correct, but if you will allow me,
11 I will explain.

12 Q If you correct it, if you correct the
13 formula on the Abo as well as the total depth, it's -- that
14 correction would be in Yates' favor, would it not?

15 A Ya, if you say what you're saying, yes.

16 Q Okay. I would like to go back to talk
17 about some of these items in Item Number Seven -- I mean in
18 your Exhibit Number Seven.

19 A Item Number Seven.

20 Q Seven is your schedule.

21 A What do you mean by Item Number Seven?

22 Q Well, Exhibit Number Seven.

23 A Oh.

24 Q I'm sorry. I want to ask you questions
25 about Exhibit Number Seven is what I meant to say.

1 A Sure.

2 Q Am I correct, sir, in reading this that
3 when you allocated these figures, that none of your
4 allocations went in Yates' favor?

5 A Let me think about it.

6 Q You either accepted their figure or
7 changed it in your favor.

8 A In general you're probably right.

9 Q Now I would like to talk about the item,
10 one of the items you mentioned as an example to Ernie --

11 A Uh-huh.

12 Q -- which was the bill of February 12th,
13 1984.

14 A The Schlumberger?

15 Q Schlumberger, logging.

16 A Yes.

17 Q And if I recall correctly what you -- you
18 changed the allocation from what Yates submitted to you
19 based on this so-called footage charge for going down the
20 well.

21 A Depth --

22 Q Depth charge, is what you called it,
23 okay. Is that correct?

24 A Yes.

25 Q Now am I correct in understanding that

1 what happens is that the Schlumberger lowers their tool to
2 total depth and then they begin to log back up the hole.

3 A That's right.

4 Q And the depth charge is based on from the
5 top of the earth to the total depth.

6 A No. Depth charge depends on the maximum
7 depth they reach.

8 Q Okay, I'm sorry. If --

9 A In other words, if they reach the total
10 depth of 6415 they will take the charge, like it this case
11 let's say 50 cents per foot, multiply times 6415, and this
12 will be the depth charge regardless what is the footage of
13 the log.

14 Q Okay. So if they -- if they test 6415,
15 like you talked about, and then they back up the hole and
16 start testing other formations, your allocation charges that
17 all to the total depth.

18 A Not all; only the depth charges. We have
19 to divide between two charges. One is the depth charge
20 that's entirely dependent on the depth. Then they have an-
21 other charge which is called the operation charge which de-
22 pends on the footage of the log itself.

23 Q Okay. In the case of the Schlumberger,
24 just to use an example, if they had instead of going to
25 6419, or whatever that footage was, they had gone to, say,

1 5200, then the Abo would have had to bear a portion of that
2 charge, is that -- would have borne that charge, is that
3 correct?

4 A Well, at that depth they wouldn't have
5 logged at all the PrePermian and then the depth they would
6 have charged a depth charge of 5200, and then the operation-
7 al charge, how many feet of log they ran.

8 Q But my point is that in your charge you
9 charged no charge to the upper zones.

10 A For depth charge.

11 Q For depth charge.

12 A That's correct.

13 Q Okay. And that is the same case with the
14 bill of February 18th, 1984, which is also a Schlumberger
15 charge.

16 A This is a -- I used the entire logging
17 charge, let's see -- I think I used the entire logging
18 charge to the depth to the PrePermian because the whole in-
19 terval that was logged here was from 6100 to 60 -- to total
20 depth.

21 So the entire bill should be applied to
22 the PrePermian.

23 Q You've got this Halliburton 5-1/2 inch
24 casing.

25 A Yes.

1 Q You charged that totally to the deeper
2 zone.

3 A Correct.

4 Q Okay, and yet that cement, if I under-
5 stood your log, goes way back up into the Abo.

6 A Well, it does go -- what I said is usual-
7 ly when we cement, we want to test, perforate, let's say, a
8 zone which is about 5500 feet, which is about the Wolfcamp,
9 you set cement several hundred to 1000 feet above the zone
10 to make sure that you have a good cement job. So regard-
11 less, even if we wouldn't like to test the Abo at all, the
12 top of the cement had to be 4500, 4600. As I said about 1000
13 feet above the perforations.

14 In this case we had only about 3-or-400
15 feet 4200, so therefore I said that the majority of the
16 cement expense should go to the PrePermian.

17 Q But you charged it all.

18 A That's correct, because that's probably,
19 under those conditions of uncertainty, is the best way of
20 doing it.

21 Q On the -- you made a charge on the Desert
22 Drilling, Footage and Day Work bill of 2-21-84, if I remem-
23 ber correctly, based on days of work.

24 A Correct.

25 Q Okay. Now tell me this: It takes you so

1 many days to drill into the Wolfcamp, doesn't it?

2 A Yes.

3 Q But for your purpose you ignored that and
4 went with 5200 feet as being the bottom of the Abo.

5 A I took the 5200 feet because that's what
6 I assumed would have been sufficient to test the Abo. The
7 depth sufficient to test the Abo, and that's why I cut it at
8 52 -- what was it, 27 -- and as I said, I gave an extra day
9 -- this is eight days it took to 5227. I added another day
10 for casing, running casing, I added a full day, didn't use
11 it for the Fusselman, and so you do have there a leeway to
12 say, if you want to insist on 5350, you can use this extra
13 day to do it.

14 Q But my point is, I guess, that -- well, I
15 think I've made the point now.

16 Did I understand with the 2-3/8ths inch
17 tubing, that your contention was that it should be allocated
18 on the basis that it was used tubing by the time it got to
19 be in the --

20 A No. Yates did not charge the tubing at
21 all to PrePermian.

22 What I'm saying is I used the same tubing
23 and casing the same way based on depth, based on the depth
24 formula, saying that we used the tubing to test the Fussel-
25 man and test the -- not Fusselman, the Mississippian, and

1 test the Wolfcamp. Both of them is PrePermian. We used the
2 tubing for that purpose and therefore we must have some
3 charge for the tubing for the PrePermian.

4 What I said is that when you buy new tub-
5 ing you pay much more than when you return the tubing and of
6 course, by that time you pay, you get back maybe 50 percent
7 or less of your -- what you paid for new tubing.

8 Q I see.

9 MR. STAMETS: Could we go off
10 the record just a minute here?

11 MR. CARSON; Yeah.

12

13 (Thereupon a discussion was had off the record.)

14

15 MR. STAMETS: For the record, a
16 discussion was held off the record as to what Finding Number
17 25 and Order Paragraph No. 4 in Order R-7393 mean, and on
18 that basis it appears that neither Yates, et al, and Gryn-
19 berg have calculated a split of the well costs in accordance
20 with the provisions of the order.

21 They both have been asked to do
22 that, to submit that to each other with any comments and to
23 have at least one exchange of what other disagreements come
24 up before the next regularly scheduled Commission hearing on
25 the 7th and 8th of August.

1 If this issue cannot be resol-
2 ved it will be brought back at that time.

3 Does anybody have anything fur-
4 ther they wish to add today?

5 MR. CARSON: I guess that what
6 you're expecting is a formula based -- well, I guess we'll
7 have to do it two ways, but one of them will be based on --
8 I'm not sure that I agree with your present interpretation
9 and the record has to be protected to that extent.

10 MR. STAMETS: Well, we'd also
11 -- we'd also listen to explanations as to why the -- why
12 Finding Number 25 should be interpreted in some other way
13 but assuming that those explanations do not prevail, then we
14 would be looking at a split of all costs except those
15 directly attributable to the PrePermian on an 81.89 percent
16 to the Abo with the remainder to the PrePermian.

17 MR. CARSON: Got it.

18 MR. STAMETS: Ernie?

19 MR. PADILLA: I don't have any
20 problem with that. I would say for the record that it's not
21 our intention to challenge the previous order at all. I
22 don't think we've said anything that would do that except
23 that there might be some interpretation problems.

24 MR. STAMETS: Well, it would be
25 my intention to issue an order at an early date to clarify

1 Finding Number 25, where it refers to PreCambrian, to show
2 that the intent was the PrePermian.

3 And that seems to be consistent
4 with the other findings in the order.

5 If there is nothing further,
6 then, the case will be continued until the August 7th hear-
7 ing and the hearing is adjourned.

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

I, SALLY W. BOYD, C.S.R., DO HEREBY
CERTIFY that the foregoing Transcript of Hearing before the
Oil 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