

(9) In support of Marbob's contention that the well location exception sought by its application in this case was necessary to prevent waste or protect correlative rights, Marbob presented evidence supporting the above points:

- (a) Marbob cannot drill its proposed well within the standard window in the S/2 of Section 23. Marbob presented evidence indicating that the proposed location is necessitated by the United States Department of the Interior, Bureau of Land Management's ("BLM") requirement that the proposed well be located at the subject location. Marbob originally proposed the subject well at a standard location in the S/2 of Section 26. However, due to the existence of three "special management areas," defined and identified by the BLM as (i) sensitive soils; (ii) cave-karst; and (iii) visual resources, the BLM required Marbob to drill at the proposed location. The BLM refuses to allow Marbob to drill a well at any standard well location in the S/2 of Section 23.
- (b) Although geologic considerations are not the basis for Marbob's request for a well location exception, Marbob presented geologic evidence indicating that the Morrow sand, which is the primary objective of the proposed well, trends north to south under the western half of the acreage to be dedicated to this well. Marbob is the operator of the Primero Federal Well No. 1, which is located in the NW/4 of Section 23, 850 feet from the North line and 847 feet from the West line of Section 23. That well is successfully producing from the same sand that is the object of the well at issue in this case. In contrast, Marbob's Primero White 14 Federal Well No. 1 and Primero White 14-A Well No. 2, both located in the SW/4 of Section 14, Township 26 South, Range 24 East, NMPM, Eddy County, New Mexico, sought the same sand, but were dry holes and did not discover hydrocarbons capable of production in paying