

3 IN THE MATTER OF THE HEARING CALLED
4 BY THE OIL CONSERVATION DIVISION FOR
5 THE PURPOSE OF CONSIDERING:

6 APPLICATION OF DEVON ENERGY
7 PRODUCTION COMPANY, L.P.
8 FOR A NONSTANDARD OIL SPACING
9 AND PRORATION UNIT AND COMPULSORY
10 POOLING, EDDY COUNTY, NEW, MEXICO.

CASE NOS.
14968 and 14969
(Consolidated)

ORIGINAL

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS
12 EXAMINER HEARING

13 BEFORE: RICHARD EZEANYIM, CHIEF EXAMINER
14 DAVID K. BROOKS, LEGAL EXAMINER
15 PHILLIP GOETZE, TECHNICAL EXAMINER

16 March 21, 2013

17 Santa Fe, New Mexico

18 This matter came on for hearing before the
19 New Mexico Oil Conservation Division, Richard Ezeanyim,
20 Chief Examiner, David K. Brooks, Legal Examiner and
21 Phillip Goetze, Technical Examiner, on Thursday, March
22 21, 2013, at the New Mexico Energy, Minerals and Natural
23 Resources Department, 1220 South St. Francis Drive,
24 Porter Hall, Room 102, Santa Fe, New Mexico.

25 REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102

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1 APPEARANCES

2 FOR APPLICANT DEVON ENERGY PRODUCTION COMPANY:

3 JAMES G. BRUCE, ESQ.
 Post Office Box 1056
 4 Santa Fe, New Mexico 87504
 (505) 982-2043
 5 jamesbruc@aol.com

6 FOR KHODY LAND & MINERALS COMPANY:

7 MICHAEL H. FELDEWERT, ESQ.
 HOLLAND & HART
 8 110 North Guadalupe, Suite 1
 Santa Fe, New Mexico 87501
 9 (505) 988-4421
 mfeldewert@hollandhart.com

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1 (9:45 a.m.)

2 EXAMINER EZEANYIM: At this point, there
3 are two cases now that are going to be consolidated for
4 purposes of hearing, as we did with the previous ones.
5 And the first case is Case 14968, application of Devon
6 Energy Production Company, L.P. for a nonstandard oil
7 spacing and proration unit and compulsory pooling, Eddy
8 County, also consolidated with Case Number 14969,
9 application of Devon Energy Production Company, L.P. for
10 a nonstandard oil spacing and proration unit and
11 compulsory pooling, Eddy County.

12 Call for appearances.

13 MR. BRUCE: Mr. Examiner, Jim Bruce of
14 Santa Fe representing the Applicant. I have two
15 witness.

16 EXAMINER EZEANYIM: Any other appearances?

17 MR. FELDEWERT: Mr. Examiner, Michael
18 Feldewert, from the law firm of Holland & Hart,
19 appearing on behalf of Khody Land & Minerals Company.
20 That's K-H-O-D-Y. And I do not have any witnesses here.

21 EXAMINER EZEANYIM: Any other appearances?

22 Okay. May the witnesses stand up to be
23 sworn? State your names.

24 MR. GRAY: Ken Gray.

25 MR. HARRAN: Craig Harran.

1 MR. BRUCE: And, Mr. Examiner, if the
2 record could reflect that both witnesses were previously
3 sworn in and qualified as experts.

4 EXAMINER EZEANYIM: That's good. That's
5 fine.

6 Mr. Bruce, you may proceed.

7 KEN GRAY,
8 after having been previously sworn under oath, was
9 questioned and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BRUCE:

12 Q. Mr. Gray, could you identify Exhibit 1 for the
13 Examiner?

14 A. Exhibit 1 is a photocopy of a Midland map, and
15 the red line crosshatch delineates the two 240-acre
16 project areas that are the subject of this application,
17 located in the southwest quarter of Section 30, in the
18 west half of Section 31, 23 South, 29 East, Eddy County.

19 EXAMINER EZEANYIM: Mr. Gray, why do you
20 always give us photocopies?

21 THE WITNESS: Pardon me?

22 EXAMINER EZEANYIM: Why do you always give
23 us photocopies? You always give us -- I want it so I
24 can read it.

25 THE WITNESS: There could be copyright

1 infringement going on.

2 EXAMINER EZEANYIM: I want to read it, you
3 know (laughter).

4 EXAMINER BROOKS: Well, I don't think you
5 could read a Midland map even if you had the original.
6 I've never been able to read one, even years ago when my
7 eyes were a lot better than they are now.

8 THE WITNESS: We can make any kind of plat
9 you want. If you don't like these, we can make them
10 different.

11 EXAMINER EZEANYIM: Well, no, it's not --
12 you know, maybe we can interpret it from that. We
13 should get the original, you know. Okay. I'm sorry.

14 Q. (BY MR. BRUCE) Mr. Gray, could you identify the
15 additional pages of Exhibit 1?

16 A. Yeah. The second page is a state Form C-102
17 for the Harroun Trust 31-30 Fed Com 2H, which does not
18 have an API number yet because we don't have a federal
19 permit issued yet.

20 And the third page of that exhibit is the
21 state Form C-102, Harroun Trust 31 3H.

22 Q. And that well does have an API number?

23 A. Yes, it does.

24 EXAMINER EZEANYIM: Which one?

25 MR. BRUCE: The last page, 31-3.

1 EXAMINER EZEANYIM: On Case 14968, right?

2 MR. BRUCE: Correct.

3 Q. (BY MR. BRUCE) And what formation will be
4 tested by these wells?

5 A. The Delaware Formation.

6 Q. And what pool are the wells in?

7 A. I don't know what pool they're in, to tell you
8 the truth.

9 MR. BRUCE: Mr. Examiner, if you go to the
10 final page of Exhibit 1, they are in the Harroun
11 Ranch-Delaware pool.

12 EXAMINER EZEANYIM: Harroun. Okay.

13 MR. BRUCE: The pool code is given. And I
14 checked, and that pool is developed on statewide rules.

15 EXAMINER EZEANYIM: Okay. Good.

16 And that's -- both wells are going to be
17 producing from that, Harroun Ranch? Both wells, right?

18 MR. BRUCE: Both wells.

19 EXAMINER EZEANYIM: Okay.

20 Q. (BY MR. BRUCE) And on these C-102s, Mr. Gray,
21 the horizontal is drawn with a straight line. It looks
22 like you're more or less using the same well pad for
23 both wells; are you not?

24 A. Yes, we are.

25 Q. Will the producing interval of each wellbore be

1 orthodox?

2 A. Yes, they will.

3 Q. And could you -- and in this pool -- in both
4 cases, is Devon only seeking to force pool the Delaware
5 Formation with the nonstandard unit?

6 A. That's correct.

7 Q. What is Exhibit 2?

8 A. The first page of Exhibit 2 -- there is only
9 one page of Exhibit 2, but that's a listing of the
10 interest owners that are the subject of this application
11 and their interest in both of these wells.

12 Q. What is the current status with OXY?

13 A. Well, we've been -- we've been in negotiations
14 with OXY -- and this would apply to Chevron as well --
15 since we proposed the well back in December, and we've
16 pretty much agreed in principle on an operating
17 agreement for the drilling of these wells. It just
18 hasn't been signed yet. So I'm hopeful in the next week
19 or so that will be the case, and this pooling will have
20 no affect on them.

21 Q. If you subsequently reach an agreement with OXY
22 and Chevron, will you notify the Division?

23 A. Yes, we will.

24 Q. What about Benco Energy?

25 A. Benco is in a similar position. They came in

1 about halfway through this process, and they were
2 assigned an interest from their predecessor, Fortson Oil
3 Company, and they've elected -- verbally elected to
4 participate. And they're just waiting for the rest of
5 the parties to come to an agreement on a Joint Operating
6 Agreement, so they can sign that as well.

7 Q. And what is Exhibit 3?

8 A. Exhibit 3 is a copy of the proposal letter,
9 dated December the 5th, proposing these two wells, along
10 with a list of, at the current time, the interest owners
11 in the wells.

12 Q. And what are Exhibits 3A, 3B and 3C?

13 A. 3A is -- we tried to put in chronological order
14 the discussion, mostly through e-mail, although there
15 have been some phone conversations, with the various --
16 in this case, Exhibit 3A, Khody Land & Minerals with
17 regard to the well proposal and their response or
18 nonresponse and in an attempt to get some sort of an
19 election from them as to whether or not they wanted to
20 participate or not.

21 And Exhibit 3B is similar, with a similar
22 nature of contacts with OXY, and in chronological order.

23 And then 3C would be the same contacts and
24 our efforts to reach agreement with Chevron.

25 Q. Now, the 3A, the correspondence, the company

1 name is RKI Exploration & Production. Is that related
2 to Khody Minerals?

3 A. It is related. I'm not sure I could tell you
4 the exact relationship, but the owner -- the title to
5 the working interest is in Khody Land & Minerals.

6 Q. And all interest owners in the well units are
7 locatable?

8 A. Yes, they are.

9 Q. In your opinion, has Devon made a good-faith
10 effort to obtain a voluntary joinder of the interest
11 owners in the wells?

12 A. In my opinion, yes.

13 Q. What are Exhibits 4A and 4B?

14 A. 4A and 4B are drilling complete cost summaries
15 for each of these wells representing a completed well
16 cost of \$7,227,000.

17 Q. And in your opinion, are these costs fair and
18 reasonable and comparable to the costs of other wells
19 drilled of this type, drilled in this area of Eddy
20 County?

21 A. Yes, they are.

22 Q. Was notice given to the parties being force
23 pooled?

24 A. Yes, it was.

25 Q. And is that reflected in the Affidavit of

1 Notice, marked as Exhibit 5?

2 A. Yes, it is.

3 Q. Does Exhibit 6 list the offset working interest
4 owners or operators to both wells?

5 A. Yes, it does.

6 Q. And was this list prepared by an independent
7 landman hired by Devon Energy?

8 A. Yes, it was.

9 Q. And was notice given to all of the offsets?

10 A. Yes, sir, it was.

11 Q. And is that reflected in the Affidavit of
12 Notice marked Exhibit 7?

13 A. Yes.

14 MR. BRUCE: Mr. Examiner, I received one
15 envelope back. It's the very last page of Exhibit 7.

16 And, Mr. Brooks, I will testify.

17 EXAMINER BROOKS: Okay. You may do so
18 (laughter). I will not report you to the Grievance
19 Committee.

20 MR. BRUCE: The one letter that came back
21 was from Henrietta Elmore. However, I had a
22 conversation with another person notified, a Geraldetta
23 Marrs, who is on page 2 of Exhibit 6, and she said that
24 Henrietta Elmore was her mother that was deceased and
25 that the interest is now owned by Geraldetta Marrs and

1 her sister, Marie Ryan, both of whom did receive actual
2 notice.

3 EXAMINER EZEANYIM: So what does that
4 imply?

5 MR. BRUCE: That even though the letter was
6 returned -- she's deceased; she no longer owns the
7 interest, and I do not believe that any publication
8 notice is required.

9 EXAMINER EZEANYIM: Okay.

10 Q. (BY MR. BRUCE) Mr. Gray, were Exhibits 1
11 through 7 prepared by you or under your supervision or
12 compiled from company business records?

13 A. Yes, they were.

14 Q. In your opinion, is the granting of these two
15 applications in the interest of conservation and the
16 prevention of waste?

17 A. Yes, it is.

18 MR. BRUCE: Mr. Examiner, I move the
19 admission of Exhibits 1 through 7.

20 EXAMINER EZEANYIM: Any objection?

21 MR. FELDEWERT: No objection.

22 EXAMINER EZEANYIM: Exhibits 1 through 7
23 will be admitted.

24 (Devon Energy Exhibit Numbers 1 through 7
25 were offered and admitted into evidence.)

1 MR. BRUCE: I have no further questions of
2 the witness.

3 EXAMINER EZEANYIM: Mr. Feldewert?

4 MR. FELDEWERT: Since Mr. Bruce testified,
5 is he now subject to cross-examination (laughter)?

6 EXAMINER BROOKS: No. I think he's not
7 subject to cross-examination (laughter).

8 CROSS-EXAMINATION

9 BY MR. FELDEWERT:

10 Q. Mr. Gray, I'm looking at Exhibit Number 2. Can
11 you identify -- what is Devon's interest in the proposed
12 spacing unit?

13 A. I don't have the exact number because it's
14 changing as we -- we've acquired a lot of interest, but
15 it's in the 52, 53-percent range.

16 Q. So if I take your 52 to 53 percent and add up
17 the remaining percentages up here, is that going to come
18 to up to 100 percent?

19 A. It should.

20 Q. So you've acquired interests in acreage by way
21 of assignment?

22 A. Term assignment, and we actually bought one of
23 the interest owner's leasehold interest and interest in
24 the existing wells that are close by, but mostly by term
25 assignment.

1 Q. So the parties that remain, then, with respect
2 to this well would be Devon, OXY, Chevron, Khody and
3 Benco Energy?

4 A. Correct.

5 Q. And that would account for 100 percent?

6 A. It should.

7 Q. So none of these -- there is no party yet,
8 then, that has signed your proposed JOA?

9 A. No. One has. One of the original parties to
10 the proposal has signed it. That's why they're not on
11 here. I see your point. Nortex [phonetic] Corporation
12 was one of the original parties to the proposal.

13 Q. Did you acquire their interest?

14 A. No, no. They've signed the operating
15 agreement. They're going to participate.

16 Q. What was their percentage interest? Was it
17 pretty small?

18 A. Four percent, four to five.

19 Q. So they're the only party that has signed your
20 proposed JOA?

21 A. So far.

22 Q. Did they have any issue as to preferential
23 right division [sic] into the JOA?

24 A. Did Nortex [phonetic]?

25 Q. Yeah.

1 A. No, sir.

2 Q. Have you had any discussions about that, that
3 there were any other interest owners than shown on
4 Exhibit Number 2?

5 A. Other than Khody. We've had that discussion
6 with Khody, and at their request, I've asked Chevron and
7 OXY if they would agree to waive -- not waive but strike
8 the preferential right to purchase under the operating
9 agreement that we've all been discussing. OXY responded
10 this morning that they don't have a problem with it.
11 Haven't heard from Chevron, because I've told Khody that
12 we've been down this road with Chevron before, and they
13 haven't been able to get over that. So in this case, I
14 don't know if they will or not.

15 Q. Get over what?

16 A. Obviously, your client wants to delete the pref
17 right.

18 Q. Yes.

19 A. Chevron wants to keep it in, and they have yet
20 to agree to that.

21 Q. So you're in discussions with Chevron?

22 A. Yes.

23 Q. Now, the ownership with respect to your
24 proposed spacing unit -- let's look at Exhibit Number 1.

25 Devon, I take it, owns an interest

1 throughout the entire proposed nonstandard spacing unit?

2 A. Yes, sir.

3 Q. Now, Khody, as I understand it, just owns a
4 portion of the interest in the west half of Section 31;
5 is that correct?

6 A. Correct.

7 Q. Do you know where their interest is? I haven't
8 had a chance to visit with them.

9 A. Well, there are -- there are at least three
10 joint operating agreements that are currently in effect
11 covering the lands that we're talking about, so Khody's
12 subject to one of those -- at least one of those
13 operating agreements. So their contractual interest is
14 spread over the entire west half of Section 31.

15 Q. The entire west half of Section 31.

16 Now, besides Devon, who else owns an
17 interest in the southwest quarter of Section 30?

18 A. In the southwest quarter of Section 30, Devon,
19 OXY, Nortex, and that's it.

20 Q. Devon, OXY, Nortex.

21 Have any of the other interest owners that
22 you seek to pool today, have they expressed any concern
23 about including the southwest quarter of Section 30 in
24 your proposed horizontal well plans?

25 A. No, sir.

1 Q. Has Devon previously drilled a -- I'll call it
2 a mile-and-a-half lateral. I know it's less than that.
3 But has Devon previously drilled a lateral to this
4 length in the Delaware in this area?

5 A. Not in this area.

6 Q. What about elsewhere?

7 A. Yes, we have.

8 Q. Where?

9 A. Township 25, South 30- -- it's in Lea County,
10 25-32. Maybe it's 24-32. It's the surface hole of
11 24-32 that goes south into 32, Section 32.

12 Q. And did you experience any problems with that
13 well at that length?

14 A. Tell you the truth, I don't remember. Nothing
15 that I recall. I mean, we've always had -- always
16 having problems with wells, but it turned out to be a
17 very good well, if that's the question.

18 Q. Is that in the Delaware?

19 A. Yes, it is.

20 Q. Would you -- and I know you're not a geologist,
21 but from your understanding, is that area similar to the
22 area we're looking at with respect to this application
23 as it relates to the formation in which you wish to
24 drill?

25 A. You're correct, I'm not a geologist. In my

1 mind, it's Delaware, and that's about it. You'll have
2 to ask our geological witness.

3 Q. Have you drilled any other mile-and-a-half
4 laterals?

5 A. I don't know the length of every well that we
6 drill. We've drilled extended laterals not necessarily
7 for the purpose of completing an extended lateral, but
8 in potash areas, we like to drill a mile and a half --
9 maybe not mile and a half but extend more than a mile
10 just to get to our lease, so, yeah, we've drilled a
11 number of extended laterals.

12 Q. And that's a good distinction. In terms of the
13 completed interval, is the only one that you have
14 drilled that you're aware of in the Delaware with a
15 completion is roughly a mile and a half in this Lea
16 County area that we're talking about?

17 A. That's the only one I can think of right now,
18 yeah.

19 Q. I looked at your plan, and I'm wondering which
20 well do you anticipate, in terms of the lateral,
21 drilling first?

22 A. The 2H.

23 Q. And when do you plan to drill that?

24 A. Well, our initial plans were right after the
25 first of the year, but given the fact that we haven't

1 had a whole lot of luck getting everybody to agree, we
2 continue to push it back, and now I think it's scheduled
3 for the first part of May.

4 Q. And then when do you plan to drill the second
5 well?

6 A. We'll drill both of them simultaneously -- not
7 simultaneously but back-to-back.

8 Q. Now, I notice that your proposed costs are 7.2
9 million, roughly?

10 A. Uh-huh.

11 Q. And that's for each well?

12 A. Yes, sir.

13 Q. I noticed previously at the hearing for your
14 single-section Delaware well, you anticipated costs of
15 4.8 million.

16 A. Correct.

17 Q. It's not quite twice this, but it comes pretty
18 close?

19 A. (Indicating.)

20 Q. What's the -- what's the -- roughly, is there a
21 component of the cost that would account for an almost
22 40-percent increase by going into just one additional
23 quarter section?

24 A. I can't give you an exact depth, but I believe,
25 in the previous hearing, the vertical depth of the

1 Delaware was substantially shallower by 3,000 feet.
2 Maybe it was in the 5,000 -- in the 5,000-foot range,
3 and these are at 8,000. So we've got to drill deeper
4 vertically, and, of course, the increased lateral would
5 account for more.

6 Q. Given the cost of these wells, at 7.2 million
7 each, are you providing an opportunity for the interest
8 owners to sequence their election? In other words, will
9 they have an opportunity to examine the results and
10 success of the first well before they have to make an
11 election and pay their share of the costs associated
12 with the second well?

13 A. No, that's not been part of any discussion.

14 Q. Is that an option? Would that be something
15 Devon would consider?

16 A. If we were forced to, I suppose we would, but
17 we typically haven't done that.

18 Q. So would you object to a provision in the
19 pooling order that would provide the parties with an
20 opportunity to observe the results of the first well
21 before they have to make their election and pay another
22 set [sic] of their share of another 7.2 million for the
23 second well?

24 A. I think we would resist that, yes.

25 Q. Why is that?

1 A. Well, we think -- we know that the risk is
2 pretty low that we're not going to be successful. I
3 mean, we think there is a very good chance that we're
4 going to be successful without having to see one well
5 drilled and watching it.

6 Q. So you're confident in your project?

7 A. Yes, we are.

8 Q. And that's the only reason you would object to
9 a provision that would allow sequencing of costs?

10 A. (Indicating.)

11 Q. That's a yes?

12 A. Yes.

13 Q. One final question. If you're doing a
14 mile-and-a-half lateral -- and I'm looking at your
15 ownership block -- in the northwest quarter section of
16 the -- okay? Why wouldn't you go ahead and try a
17 two-mile lateral?

18 A. I'm not a drilling engineer, but I think -- I
19 think there is some resistance to drilling -- let me put
20 it this way: I think -- I think, you know, it's Devon's
21 at this point that it's mile and a half. We're just
22 kind of -- you know, two miles may eventually be a
23 standard, but we haven't gotten there yet. ✓

24 Q. So we're taking a step out here from what is
25 customarily a mile lateral to a mile and a half? ✓

1 A. We're taking baby steps with them, yeah.

2 Q. So you would see some additional risk with a
3 two-mile lateral?

4 A. Drilling risk, yeah.

5 Q. So you can appreciate if someone was to be
6 concerned with the drilling risk associated with a
7 mile-and-a-half lateral? Is that fair?

8 A. There are probably more than -- but, yeah. The
9 longer the lateral, the more the risk, yeah.

10 MR. FELDEWERT: That's all the questions I
11 have. Thank you.

12 EXAMINER EZEANYIM: Okay. Very good.
13 Before I have David Brooks ask a question, I need some
14 clarification on that. I don't know how legally this
15 works.

16 Mr. Feldewert, you don't have a witness, so
17 without a witness, I have to ask you a question.

18 MR. FELDEWERT: Well, I guess you can ask
19 me a question.

20 EXAMINER EZEANYIM: Is that okay if I ask
21 Mr. Feldewert a question?

22 EXAMINER BROOKS: Yes, you can ask counsel
23 a question.

24 EXAMINER EZEANYIM: Because he doesn't have
25 a witness.

1 First of all, I'm not trying to put you on
2 the pedestal. I want you to understand what we're doing
3 here, because my understanding -- you know, you-all have
4 to forgive me. I'm not an attorney. So I'm not
5 supposed to know that.

6 What people do is that they come in here
7 and say, Well, I want to -- you know, and then they ask
8 for their client. So you are ambitious.

9 Could you explain to me what Khody wants in
10 this case?

11 MR. FELDEWERT: What Khody --

12 EXAMINER EZEANYIM: Yeah, what Khody wants,
13 before we start asking you questions. You have
14 clarified some of the questions I wanted to ask, so I
15 have gotten the answers from what you asked.

16 But what does Khody want in this case? Why
17 did they hire you to come here?

18 MR. FELDEWERT: Well, I can at least offer
19 my observations as to what they are concerned about.

20 EXAMINER EZEANYIM: Okay. That's what I'm
21 asking.

22 MR. FELDEWERT: And I think, actually, if I
23 go into it -- if you take a look at Exhibit Number 3A,
24 Mr. Examiner -- and I saw it somewhere in here.

25 EXAMINER EZEANYIM: I see it here.

1 MR. FELDEWERT: If you look at the first
2 page --

3 EXAMINER EZEANYIM: Yup.

4 MR. FELDEWERT: -- they've expressed to
5 Devon that they prefer to see the wells remain -- remain
6 within Section 31.

7 EXAMINER EZEANYIM: What did you say?

8 MR. FELDEWERT: Look at the first page of
9 Exhibit 3A, the e-mail from Cody Reid. He's a
10 representative of Khody, K-H-O-D-Y, Land & Minerals
11 Company, and you see that they would prefer to see the
12 lateral, the horizontal well, remain within Section 31,
13 as you traditionally see with this type of development.

14 Their concern is the extension of the
15 lateral into a quarter section in which they have no
16 ownership. And as you extend a lateral, I think you
17 expand the concerns about whether the lateral is going
18 to equally contribute to the well, what type of
19 additional reserves, so to speak, you're bringing into
20 the well, how productive it is and how well it's going
21 to react in this type of scenario.

22 I'm not an engineer. I can't give you any
23 specifics, but, obviously, as Mr. Gray testified to,
24 there is additional drilling risk, and there is also a
25 risk associated with the completion, and, you know,

1 whether you're going to have uniform production across
2 the acreage, number one.

3 Number two, there is a little issue with
4 respect to the Joint Operating Agreement, as Mr. Gray
5 alluded to. That's what Khody is trying to work
6 through. That's why we were hoping for some additional
7 time to address it before we came to the hearing here
8 today, but we didn't get that opportunity.

9 And then third is, as you can imagine,
10 we're looking at \$7.2 million each. That's a lot of
11 money. The way this is set up, they -- essentially, if
12 a pooling order is entered, they're going to have to
13 pony up the money and make their election on both wells
14 before they see the results of anything, drilling out
15 there for a mile and a half.

16 Now, if I were an interest owner and
17 somebody wanted to try this, I might be interested in
18 one well, but before I have to pony up for a second
19 well, I'd like to see how we do; I'd like to see how
20 things play out. So that's their concerns.

21 EXAMINER EZEANYIM: Unfortunately, that is
22 something you can't just -- you know, if you went
23 there -- I don't know how that works. I'm not the oil
24 and gas expert. Everything is a risk. Even if you are
25 looking for a pilot hole, it's a risk. Everything is a

1 risk, but that's not going to be -- you know, it doesn't
2 undermine what you are saying, but I want to understand
3 where your client is coming from before we start asking
4 questions.

5 MR. FELDEWERT: And I agree with you; there
6 is risk associated with everything. I will point out
7 that the Division has, in the past, previously, in prior
8 orders, sequenced elections in a circumstance where the
9 parties were coming in and consolidating cases and
10 seeking to pool for multiple spacing units.

11 EXAMINER EZEANYIM: I understand.

12 MR. FELDEWERT: And that's something that
13 we would like the Division to consider here.

14 EXAMINER EZEANYIM: Very good. I think I
15 understand now what you are -- because initially I just
16 thought you wanted to make an appearance. Now I
17 understand what you are doing, and I can take it from
18 here and ask questions appropriately.

19 Now, Mr. Brooks, do you have any questions
20 for this witness?

21 EXAMINER BROOKS: I do.

22 CROSS-EXAMINATION

23 BY EXAMINER BROOKS:

24 Q. There is an order that I couldn't find
25 yesterday afternoon, but I'll find it, which I wrote at

1 the direction of the incumbent OCD director, which
2 states, at least at the time that the order was written,
3 that the ~~standard for horizontal development is one-mile~~
4 ~~horizontals.~~ And we recognize that's not universal, we
5 would approve compulsory pooling of other than a
6 one-mile horizontal on a case-by-case basis.

7 With that in mind, I will ask you: Is
8 there anything from a land standpoint -- and I'll make a
9 similar question to the expert witness. Is there
10 anything from a land standpoint that is unusual about
11 the configuration of this particular -- the
12 development -- I'm sorry. Let me start again.

13 Is there anything unusual about the pattern
14 of development in this area that militates in favor of a
15 mile-and-a-half laterals as opposed to one mile, or is
16 it, on the other hand, simply the trend to be doing
17 laterals, which I understand is happening?

18 A. I think it's just the trend to try and see what
19 the appropriate lateral is. Is it one, one and a half?
20 Is it two? I think our philosophy is, we think we're
21 better off by exposing more of the rock to more lateral.

22 Q. So, basically, this is being done for
23 engineering reasons. It doesn't have anything to do
24 with the existing pattern of development in the
25 formation of this --

1 A. There is no pattern that I know of. This is
2 what we think is appropriate.

3 Q. Now let's go back to what Mr. Ezeanyim and
4 Mr. Feldewert were talking about, Mr. Feldewert's client
5 requesting a split election between the two wells, as I
6 understand it.

7 A. Uh-huh.

8 Q. Are these two wells -- I should know this, but
9 I didn't pay enough attention. Are these two wells in
10 separate project areas, or are they in the same --

11 A. Separate project areas, but they will be
12 drilled from a single pad, and they will be drilled --
13 they'll be -- the surface hole locations will be
14 sufficiently close enough together that you have to
15 drill one. Well, you drill one, and then you skid the
16 rig over, and you drill the other. You don't start
17 completing the first one until they're both drilled, and
18 they're both completed at the same time. So as
19 proposed, I don't know how sequential election or
20 delayed election or whatever you want to call is -- I
21 don't see how that would work in this case because
22 they're going to be completed at the same time.

23 Q. One is west half-west half, and one is east
24 half-west half?

25 A. Yeah.

1 I will offer this, and Mr. Feldewert's
2 client has mentioned it one time, maybe twice. But they
3 did -- they didn't really propose it, but they did
4 mention, Well, maybe we could just spread our working
5 interest in these two wells. And there is also going to
6 be two more wells drilled in the east -- just to the
7 east, in the east half of 31 and the southeast quarter
8 of 30, identical wells. So there are four wells that
9 are going to be drilled. Khody only owns in two of
10 those. They have at least tossed out the notion that
11 maybe they could spread their interest in all four
12 wells.

13 Q. Well, that's just a matter of negotiation.
14 That's not anything --

15 A. I'm just saying, they would reduce their
16 interest in the first two wells, see -- you know, see
17 those drilled, and then the next two, they would have a
18 lesser interest in, and they would see the results of
19 the first two.

20 Q. It sounds like the kind of thing I'd want to do
21 if I were in their position, but it's not something the
22 Division could do.

23 EXAMINER BROOKS: I think that's all my
24 questions.

25 EXAMINER EZEANYIM: Mr. Goetze?

1 EXAMINER GOETZ: No questions for this
2 witness.

3 CROSS-EXAMINATION

4 BY EXAMINER EZEANYIM:

5 Q. I was reading the two applications, and I think
6 I'm trying to establish landing. You know, one of the
7 ways is in the Harroun Trust 31-30 Federal Com Number --

8 A. 3H.

9 Q. -- 3H. Okay. 2H [sic].

10 Now, the other one is the Harroun Trust,
11 that one #3. I was thinking that it would be the same,
12 because they are, you know, the same pad. You know, but
13 1-30 [sic] 3H, you know, where you got your name, why is
14 the name so different? Is this one Federal 1 a fee? I
15 mean, that Harroun Trust, that one -- and then the other
16 one is Federal Com --

17 A. There is a federal -- there is a federal lease
18 in the 2H, yes.

19 Q. That's a federal lease, and there's also a fee
20 lease?

21 A. It's one.

22 Q. There is fee land there, and fee land on the
23 second well?

24 A. There is one 40-acre federal lease, and then
25 there are fee lands in the 2H.

1 Q. Repeat again. I didn't get it. What did you
2 say?

3 A. In the 2H, there's one -- in that project area,
4 there is one 40-acre tract that's federal, and the rest
5 of it is private.

6 Q. The rest of the 240 is private?

7 A. Yeah. So when we have a federal lease
8 involved, we have to include the fed name in there.

9 Q. So the wells are named appropriately the way it
10 is named?

11 A. Yes.

12 Q. There is nothing wrong with those names?

13 A. No.

14 Q. So -- but both lands are federal and fee,
15 right?

16 A. Right.

17 Q. I don't know. Did I have your -- I think I had
18 your additional plot, 102. Do we have the pool names?
19 Yeah. Did we?

20 MR. BRUCE: Yes. It's the Harroun
21 Ranch-Delaware.

22 EXAMINER EZEANYIM: They're going to
23 produce on that, right?

24 MR. BRUCE: Yes.

25 Q. (BY EXAMINER EZEANYIM) And you are only --

1 since you are -- you are only pooling that whole other
2 well, right?

3 A. Uh-huh. Yes, sir.

4 EXAMINER EZEANYIM: One API?

5 MR. BRUCE: Correct.

6 EXAMINER EZEANYIM: I think I have one API
7 on 3H.

8 And then here, is escrow required? What
9 did we say about that?

10 THE WITNESS: No, sir. Well, maybe --

11 EXAMINER EZEANYIM: Is escrow required?

12 EXAMINER BROOKS: Are there interests in
13 this case that either we don't know for sure where the
14 people are who own them, or we don't know for sure who
15 owns them?

16 THE WITNESS: No. We don't have any title
17 issues.

18 MR. BROOKS: No title issues, and nobody in
19 title that you can't locate?

20 THE WITNESS: Right.

21 EXAMINER EZEANYIM: No escrow?

22 EXAMINER BROOKS: No.

23 EXAMINER EZEANYIM: Believe it or not, I do
24 get caught with people asking me to pay them their
25 money. I don't have their money.

1 We got the overhead already. Did you
2 mention --

3 MR. BRUCE: I think I forgot to ask
4 Mr. Gray what the overhead rates were for those wells.

5 THE WITNESS: You know, we would propose
6 \$6,000 --

7 EXAMINER EZEANYIM: It's not what you
8 propose. It's what it is.

9 THE WITNESS: Okay. 6,000 drilling well
10 rate and 600 monthly overhead rate.

11 EXAMINER EZEANYIM: I'm sorry to correct
12 you, but, I mean, you could say, I prefer 9,000.

13 EXAMINER BROOKS: Well, he said "propose."

14 EXAMINER EZEANYIM: Okay. "Propose." I
15 thought you said prefer.

16 EXAMINER BROOKS: In fact, it is a
17 proposal, because the Division has the final say.

18 EXAMINER EZEANYIM: Okay. I'm sorry about
19 that.

20 EXAMINER BROOKS: I think one question we
21 probably have not always asked that we probably should,
22 although I think the answer is going to be yes in every
23 case, probably, but we should probably verify that the
24 rate that we are -- that is being proposed in cases is
25 the same as the rate that applies under the Joint

1 Operating Agreement among the consenting parties,
2 because it would not be --

3 EXAMINER EZEANYIM: Yeah. I think in most
4 cases it might be different.

5 EXAMINER BROOKS: That would surprise me.

6 MR. BRUCE: That would surprise me, too.

7 EXAMINER EZEANYIM: Okay. Okay. I hope
8 the surprise is that they are not different. Okay. I
9 would like that.

10 Now, this is the crux of the matter here
11 now, and I think we may have to listen to the other
12 witness before we -- and I think that's really why
13 Mr. Feldewert is here. You know, when we have that
14 southwest blocked off on Section 30 and when we combine
15 it with the west half of 31, we are leaving the other
16 three-quarter -- the other three-quarter sections. I
17 don't know how I want to develop that, but we are going
18 to deal with that. I don't know.

19 Q. (BY MR. EZEANYIM) As a land person, Mr. Gray,
20 can you address that or can Mr. Harran address that,
21 because you know I'm going ask questions whether
22 Mr. Feldewert is here or not, because I want to know how
23 you are going to handle that Section 30 after you have
24 quartered off the southwest quarter. So can you answer
25 that question, or is the geologist going to answer that

1 question for me? I mean, it's a simple question. Tell
2 me what is going on there.

3 A. Well, from a --

4 Q. Can you answer that question?

5 A. From a land standpoint, there is no reason why
6 we can't include these additional lands. I think you're
7 looking for a technical justification for doing it, and
8 I can't do that for you.

9 Q. Oh, yeah. From a land point, even in
10 accordance with the -- you could do that, but now we
11 have to use our common sense, also, to know is that the
12 best way to do it, that's why we have hearings. Okay?
13 So I think we are going to discuss that when the
14 geologist is actually -- we will talk more about it.

15 A. Yeah.

16 Q. Okay. Let me see if I have something else for
17 you.

18 Okay. Now, yes, one more thing for you.
19 If we are talking about the southwest -- the southwest
20 quarter of Section 30, how do you obtain interest in
21 that southwest quarter?

22 A. How did we obtain an interest?

23 Q. Interest. How do you -- do you own interest
24 there?

25 A. Yes. Yes.

1 Q. I think by some assignment or by --

2 A. No. We've owned an interest in the south half
3 of Section 30 for many years.

4 Q. Oh, the lower south half?

5 A. Yes.

6 Q. So you have the right to extend your lateral
7 from south 31 to 30, right?

8 A. Yes.

9 Q. I thought you didn't have anything there, from
10 what I read somewhere.

11 A. No.

12 Q. Okay. We'll leave some of the questions,
13 again, until we hear from the geologist.

14 MR. BRUCE: I do have a couple of follow-up
15 questions for Mr. Gray, if that's okay, Mr. Examiner.

16 EXAMINER EZEANYIM: Sure.

17 REDIRECT EXAMINATION

18 BY MR. BRUCE:

19 Q. Just to verify, and I think you said this
20 already, Mr. Gray, but is Devon also planning to drill
21 two 240-acre horizontal Delaware wells in the east half
22 of 31 and the southeast of 30?

23 A. Yes, we are.

24 EXAMINER EZEANYIM: Repeat that question.

25 Repeat the question. What did you ask him? I didn't

1 get it.

2 MR. BRUCE: We can get into this with the
3 geologist.

4 EXAMINER EZEANYIM: Yeah, I know, but --

5 Q. (BY MR. BRUCE) Is Devon planning to drill
6 two -- some Delaware wells -- 240-acre well unit
7 Delaware wells in the east half of 31 and the southeast
8 of 30?

9 EXAMINER EZEANYIM: You are planning to do
10 that --

11 MR. BRUCE: Yes.

12 EXAMINER EZEANYIM: -- in the future, but
13 not now?

14 Q. (BY MR. BRUCE) And, Mr. Gray, one thing, if a
15 sequencing is done, will Devon incur additional costs by
16 moving the rig off site and moving it back on once
17 sufficient production data is obtained for someone to
18 make --

19 A. Yes. There is always cost associated with a
20 rig-move.

21 EXAMINER EZEANYIM: Are you done?

22 MR. BRUCE: Yes.

23 EXAMINER EZEANYIM: Do you have an engineer
24 here today?

25 MR. BRUCE: No, we do not.

1 EXAMINER EZEANYIM: Who prepared the AFE
2 for this well?

3 THE WITNESS: Our drilling engineers and
4 completion engineers.

5 EXAMINER EZEANYIM: Could anybody answer
6 the question: Why is the cost substantially different?
7 I know you are going to have -- I mean, that was asked
8 by counsel, but it's one of the questions I'm going to
9 ask. Consider that question: Why is it substantially
10 higher? I know when you are drilling that roughneck
11 [sic], there are a lot of costs, but I believe the
12 question is whether it is maybe double if you are going
13 one mile and one and a half. It is something I think it
14 might be because of the risk involved in drilling that
15 one-half mile, but it could be of interest to talk to
16 somebody that prepared that AFE, because the cost -- to
17 make sure it's good, that it's okay.

18 EXAMINER BROOKS: That is a part of our
19 responsibility, yes.

20 EXAMINER EZEANYIM: Well, I'm not
21 questioning it, but, you know, I'm just wondering. I
22 have the right to -- I understand. I would like to
23 know. I understand within that half while, you know, we
24 incur a lot of costs, of course.

25 EXAMINER BROOKS: But I'm not sure that

1 it's that disproportionate, because what I'm looking at
2 here, unless I'm looking at the wrong line, is 7 million
3 and change, and I've seen a lot for 4 and 5 million for
4 one-mile horizontals recently.

5 EXAMINER EZEANYIM: Right. I'm comparing
6 it with the last case. It was 4.8, and then this one is
7 7. --

8 MR. BRUCE: 2.

9 EXAMINER BROOKS: Yeah. So it's not really
10 that disproportionate.

11 EXAMINER EZEANYIM: No, it's not, but just
12 for my curiosity.

13 MR. BRUCE: That's all I have of this
14 witness.

15 MR. FELDEWERT: I have two more questions.

16 EXAMINER EZEANYIM: Okay. Sure.

17 RECROSS EXAMINATION

18 BY MR. FELDEWERT:

19 Q. Mr. Gray, I don't think anybody asked you this
20 question, but I'm assuming that the overhead rate that
21 you propose is the same as what is in the JOA that's
22 been --

23 A. I was going to offer this when they were
24 talking about it earlier. I can't really tell you what
25 it is under the operating agreement, because I don't

1 have it with me, but if it's different, we'll change the
2 operating agreement.

3 Q. I figured (laughter).

4 A. In retrospect, the operating agreement might be
5 a little higher, but I couldn't swear to it right now;
6 but if it is, we can settle for six and six.

7 Q. And, secondly, Mr. Brooks alluded to it and I
8 do have a question about that. You mentioned that there
9 wasn't anything unusual about the development
10 configuration out here -- or the land configuration to
11 support or suggest a one-half mile lateral. I think
12 your answer was for engineering reasons. But if I look
13 at Exhibit Number 1, you allude to the fact that Devon
14 has an interest in the south half of Section 30,
15 correct?

16 A. Uh-huh.

17 Q. You have two leases there?

18 A. Uh-huh.

19 Q. And your lateral is going to extend into your
20 leasehold area leaving, then, the north half of Section
21 30 with a circumstance that the development is going to
22 have to be on some other basis other than the stand-up
23 laterals. So I guess one could look at this and say
24 that your proposal is based on the land-acreage --
25 position.

1 And I think the question that we would have
2 or the Division may have, is: How would you propose
3 that the interest owners in the north half of Section 30
4 are going to develop their reserves given that they're
5 going to be hampered in this circumstance by the
6 mile-and-a-half lateral extending in the south half of
7 Section 30?

8 A. Well, if we all agree that mile-and-a-half
9 laterals are acceptable, I don't know why the people in
10 the north half of Section 30 couldn't combine their
11 interest with the interest owners in Section 19 and
12 drill mile-and-a-half laterals or mile laterals,
13 whatever they choose to do.

14 Q. Have you visited with them about that scenario?

15 A. With the people in the north half of 30?

16 Q. Yeah.

17 A. No.

18 MR. FELDEWERT: That's all the questions I
19 have.

20 EXAMINER BROOKS: You misunderstood my
21 concern, Mr. Gray. I don't think we would care if you
22 were charging your partners more than you want us to
23 charge the pool parties (laughter). What we don't want
24 you to do is ask us to charge the pool parties more than
25 you charge your parties (laughter).

1 THE WITNESS: We will be consistent with
2 whatever that number is.

3 I do have one more -- on Exhibit 5, Exhibit
4 A, we have three parties to dismiss from the pooling.

5 EXAMINER EZEANYIM: Right now?

6 THE WITNESS: Yes.

7 EXAMINER EZEANYIM: Why?

8 THE WITNESS: We've already reached
9 agreement with them.

10 EXAMINER EZEANYIM: Just as we are talking
11 here?

12 THE WITNESS: Pardon me?

13 EXAMINER EZEANYIM: Just as we are talking,
14 you reached an agreement that you want to pool?

15 THE WITNESS: No. No (laughter).
16 Actually, one of them, yes. In between hearings, I
17 did -- we got --

18 MR. EZEANYIM: Okay.

19 THE WITNESS: We want to dismiss Fortson
20 Oil Company. We're on Exhibit 5.

21 MR. BRUCE: Exhibit 3 -- or Exhibit 5. I'm
22 sorry.

23 THE WITNESS: Exhibit 5, and Exhibit A to
24 Exhibit 5. We want to he dismiss Fortson Oil Company.

25 EXAMINER EZEANYIM: Let me see.

1 THE WITNESS: They're the third one down,
2 Fortson Oil Company. We want to dismiss Fortson
3 Production Company, and we want to dismiss AWM
4 Management Trust.

5 EXAMINER EZEANYIM: Okay. You don't want
6 us to pool them, correct?

7 THE WITNESS: Correct.

8 MR. FELDEWERT: One minute.

9 EXAMINER EZEANYIM: Anything further,
10 Mr. Bruce?

11 MR. BRUCE: Nothing further of this
12 witness.

13 EXAMINER EZEANYIM: Anything further,
14 Mr. Feldewert?

15 MR. FELDEWERT: Nothing further.

16 EXAMINER EZEANYIM: Mr. Brooks?

17 EXAMINER BROOKS: No questions.

18 EXAMINER GOETZE: No questions.

19 EXAMINER EZEANYIM: We might call you back,
20 Mr. Gray, because I might have some issues, so bear that
21 in mind.

22 THE WITNESS: Okay.

23 EXAMINER EZEANYIM: Call your next witness.

24 MR. BRUCE: Call Mr. Harran to the stand.

25

1 CRAIG HARRAN,

2 after having been previously sworn under oath, was
3 questioned and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BRUCE:

6 Q. State your name for the record.

7 A. Craig Harran. No relation to Harroun. I wish.

8 Q. And are you familiar with the geology involved
9 in this application --

10 A. Yes.

11 Q. -- these applications?

12 A. Yes.

13 Q. Could you identify Exhibit 9 for the Examiner?

14 A. Yeah. Exhibit 9 is a structure map based on
15 the top of the Lower Brushy Canyon.

16 EXAMINER EZEANYIM: Where are those? They
17 are not here.

18 MR. BRUCE: Yeah. They were under the
19 other exhibits.

20 EXAMINER EZEANYIM: Okay. I see 7.

21 MR. BRUCE: And just for maybe -- not for
22 clarification, but to show that I was up too late last
23 night doing these exhibits, there is no Exhibit 8. I
24 misnumbered them.

25 Q. (BY MR. BRUCE) Mr. Harran, identify Exhibit 9

1 for the Examiner.

2 A. So Exhibit 9 is a structure map based on the
3 top of the Lower Brushy Canyon showing predominantly a
4 dip to the east.

5 Q. And does this plat also show the outline for
6 the two wells in the eastern halves of these two
7 sections?

8 A. Yes. The western of the two -- the wells are
9 highlighted in red. The western Harroun Trust 31-30 Fed
10 Com 2H section-and-a-half lateral, and then on the east,
11 the Harroun Trust 3H. And you can also see in blue the
12 cross-section line touching our three wells over the
13 area of interest.

14 Q. Getting back to one thing that Mr. Gray
15 mentioned, in prior cases that you've testified in, what
16 was the approximate depth of the Delaware zone in those
17 wells?

18 A. For the one -- is that --

19 Q. Yes.

20 A. 5,200 vertical depth.

21 Q. And what is the vertical depth in --

22 A. So here we -- I have to go to the drilling plan
23 here. It's 63-, 6,400 is the landing depth, so it is a
24 bit deeper.

25 Q. Is there any -- and the additional wells in

1 Section 31 and 30 that are highlighted in blue on your
2 plat, those will also be Delaware tests?

3 A. Those are deeper gas wells.

4 Q. No, no, no, no. The --

5 A. Oh, I'm sorry. In the east half. I apologize.
6 I thought you said the ones in blue.

7 Yeah, the two east half that are not
8 labeled, but those will be the Harroun Trust 31 4H and
9 5H. Those are Lower Brushy Canyon-Delaware wells in the
10 same zone as these two.

11 Q. And let me ask this question in two parts. Is
12 there any established pattern for Delaware horizontals
13 in this area, stand-ups or lay-downs? And why are
14 you -- what is the reason for drilling these as stand-up
15 wells

16 A. In general, I like to drill a long strike,
17 versus going primarily updip or downdip. It can cause
18 less problems in drilling; hence, it's more economic and
19 saves money.

20 Q. And is there an established pattern in this
21 area for --

22 A. There is not, but basinwide, we've done most of
23 our Lower Brushy Canyon wells as stand-ups.

24 EXAMINER EZEANYIM: Mr. Harran, let me just
25 stop you right there. I heard what you said. Using a

1 longer strike, you save money. Are you going to strike
2 the more productive zones? That's the question. You
3 might save money, but you lose -- hydrocarbons. You say
4 you want to save money. Yeah, you want to save money,
5 but -- horizontal well. It's not going to be a vertical
6 well. It's going to be a horizontal well, where you
7 want to go to the more productive zones --

8 THE WITNESS: That's right.

9 EXAMINER EZEANYIM: -- regardless of
10 whether you are trying or not.

11 THE WITNESS: Correct, but from a drilling
12 standpoint -- and there are a variety of things in that
13 question, but from a drilling standpoint, there are less
14 technical difficulties when you drill a long strike
15 versus up or down. Then also, from a production
16 standpoint, as far as your fluids going to where your
17 pump is, if you're drilling predominantly downdip, you
18 may have a little bit of a problem with your pump
19 significantly higher than the rest of the reservoir.

20 EXAMINER EZEANYIM: Okay.

21 Q. (BY MR. BRUCE) What is Exhibit 10, Mr. Harran?

22 A. So Exhibit 10 is a gross isopach map over the
23 Lower Brushy Canyon interval, and that's a contour
24 interval of ten feet. And then I'll just go beyond that
25 to -- Section 11 is the net isopach over that Lower

1 Brushy Canyon interval based on cutoff values of greater
2 than ten percent porosity from a ~~density~~ porosity cutoff
3 and less than 85 API gamma units.

4 Q. And what is Exhibit 12?

5 A. And Exhibit 12 is the cross section showing the
6 three wells that are highlighted in Exhibits 9, 10 and
7 11 going from west to east. And those are control
8 wells. Obviously, those data have gone into the
9 contour -- contouring of the --

10 Q. And there is a fairly uniform thickness in the
11 Delaware in this area?

12 A. ~~Correct.~~

13 Q. In your opinion, will each quarter-quarter
14 section in the proposed well units contribute more or
15 less equally to production?

16 A. Correct. Yes.

17 Q. And finally, what are Exhibits 13 and 14?

18 A. So these are the drilling and directional plans
19 for both the 31-30 Fed Com 2H. That's the well on the
20 west half of the west half of 31. And then Section --
21 or Exhibit 14 is the Harroun Trust -- for the Harroun
22 Trust 31-38. We had two different vendor companies
23 prepare these. So Weatherford includes the more robust
24 data package -- that's why it's so thick -- versus
25 Pathfinder, is just the cover sheet. But these wells

1 will be drilled and completed in very similar manners.

2 Q. Now, how many completion stages would be used
3 in these wells?

4 A. We would be doing nine stages total, roughly 3
5 million pounds of sand. Ninety-five percent of that --
6 24 will be mesh and a small, nominal amount, five
7 percent, is 100 mesh. And among that, about 25 percent
8 would be resin coated.

9 Q. In your opinion, is the granting of these two
10 applications in the interest of conservation and the
11 prevention of waste?

12 A. Yes, very much so.

13 Q. And were Exhibits 9 through 12 prepared by you
14 or under your supervision?

15 A. They were all prepared by me.

16 Q. And were Exhibits 13 and 14 compiled from
17 company business records?

18 A. Yes.

19 MR. BRUCE: Mr. Examiner, I'd move the
20 admission of Exhibits 9 through 14.

21 EXAMINER EZEANYIM: Any objection?

22 MR. FELDEWERT: No objection.

23 EXAMINER EZEANYIM: Exhibits 9 through 14
24 will be admitted.

25 (Devon Energy Exhibit Numbers 9 through 14

1 were offered and admitted into evidence.)

2 MR. BRUCE: I have no further questions of
3 the witness.

4 EXAMINER EZEANYIM: Mr. Feldewert?

5 CROSS-EXAMINATION

6 BY MR. FELDEWERT:

7 Q. Mr. Harran, I'm looking at Exhibit Number 11.

8 A. Uh-huh.

9 Q. I believe I was making a note, and I had my
10 exhibits wrong. I can't remember. Which one did you
11 testify to about the porosity cutoff that you used?

12 A. That would be Exhibit 11, which is the net pay
13 map.

14 Q. And what porosity did you use for this map?

15 A. Ten percent. And you can see that on the
16 labeled block there, the cutoff values, greater than ten
17 percent phi, less than 85 API gamma.

18 Q. Now, this is for the Brushy Canyon in the
19 Delaware?

20 A. Correct. This is for the Lower Brushy Canyon.

21 Q. And you testified previously in Case 14961 that
22 you were dealing with -- were you dealing, in the prior
23 case, with the Lower Brushy Canyon?

24 A. No. That was the Middle Brushy Canyon.

25 Q. Middle Brushy Canyon?

1 A. Correct.

2 Q. In that case, you used a 14-percent porosity
3 cutoff?

4 A. Correct.

5 Q. Why did you use that porosity cutoff in the
6 exhibits in the prior case and this case?

7 A. For other Lower Brushy Canyon wells in the
8 basin that I -- I have developed, I've used a
9 ten-percent cutoff, and it seems to be a good economic
10 indicator. I'm familiar with the Middle Brushy Canyon.
11 Again, Raleigh Blumstein, the geologist, worked up that
12 prospect, and in that area, he wanted to use a 14
13 percent. But the Lower Brushy Canyon, which, again, is
14 below the Middle Brushy Canyon, basinwide and as far as
15 analog fields, I've used a ten-percent porosity cutoff
16 level, and it worked well for our decision-making.

17 Q. You would use the same ten percent for the
18 Middle Brushy Canyon?

19 A. I wouldn't. I mean --

20 Q. You would or you wouldn't?

21 A. -- you could, but that -- for those wells in
22 the Middle Brushy Canyon, that would show even greater
23 net pay value. So if he wanted to be a little more
24 rigid in his cutoff. And that's -- that's his decision
25 for that part of the basin in a different part of the

1 formation, in the Middle Brushy Canyon.

2 Q. So he was a little more conservative?

3 A. He was a little more rigid in his cutoff, but
4 he didn't -- you can also see that he didn't use a gamma
5 cutoff. So --

6 Q. You think that accounts for the difference in
7 the porosity pattern?

8 A. Well, where you are in the basin and the
9 formation matters, but if you don't use -- there are a
10 little more shales in the Lower Brushy Canyon, so I use
11 the gamma cutoff to make sure that in my values that
12 shales are not contributing to the high-porosity values.
13 Shales can have high porosity, but their API gamma would
14 be over 85. So I want to put in that gamma cutoff to
15 make sure that I'm not -- conservatively, I'm making
16 sure that I'm not counting porosity contribution from
17 shales.

18 Q. Let me have you look at Exhibit Number 9,
19 please. Would you -- let me do it this way. The
20 horizontal wells that are shown in Section 32 --

21 A. Correct.

22 Q. -- are those in the Delaware?

23 A. Those are predominantly Bone Spring. And some
24 of the -- so the wells with the dark circles are drilled
25 wells. There is also on this map some proposed wells

1 that have open circles, so those have not been drilled.

2 Q. Is there a way on this map that I can identify
3 wells that are completed in the Delaware?

4 A. For horizontal -- for horizontal wells -- there
5 are no horizontal Delaware wells on this map.

6 Q. There are none?

7 A. There are none.

8 Q. Okay. So if I look over there at the sections
9 that are cut off to the right of Exhibit Number 9, which
10 are lay-down horizontals, you're saying those are not in
11 the Delaware?

12 A. Correct.

13 Q. Do you know where those are completed?

14 A. I believe those are in the Bone Spring.

15 Q. In the Bone Spring.

16 So are most of the wells we see on this
17 exhibit completed in the Bone Spring?

18 A. Well, the gas wells are Morrow wells. So those
19 are the circles with the -- well, do you mean to ask the
20 question: Are those horizontals wells we see on this
21 exhibit?

22 Q. That's a better question.

23 A. Well, most -- of the horizontal wells we see on
24 this exhibit, I believe, yes, are Bone Spring.

25 Q. But according to your testimony, there is no

1 horizontal development shown on this map in the
2 Delaware?

3 A. Correct.

4 Q. And then what are the vertical wells -- let me
5 ask you this: The well up here on Section 19, on the
6 top of this exhibit, that gas well, where is that
7 completed?

8 A. I believe most of the deeper gas wells here are
9 Morrow producers.

10 Q. That, therefore, penetrates the Delaware; does
11 it not?

12 A. Yeah, the Delaware and the Bone Spring. There
13 are quite a bit of --

14 Q. And if I looked at Section 25, there is a well
15 down there in the southeast quarter of the southeast
16 quarter. Do you see that?

17 A. Yeah.

18 Q. Does that penetrate the Delaware?

19 A. So that symbol, I believe, is P&A'd, and I
20 don't remember -- plugged and abandoned or some sort of
21 abandoned. That dark circle with the hatch with the two
22 arrows, I don't recall if that well ever produced or if
23 it was logged, et cetera.

24 Q. Do you see what I'm referring to?

25 A. You're talking about in the southeast-southeast

1 corner of 25?

2 Q. Yes, right adjacent to Section 30.

3 A. Right. So that symbol means abandoned or
4 plugged and abandoned, and I'm not sure -- and that can
5 tell a variety of things.

6 Q. My question is: Do you know if it penetrates
7 the Delaware?

8 A. I don't recall.

9 Q. In light of the fact that that well up there in
10 Section 19 penetrates the Delaware, is there any reason
11 that you did not include that in your cross section to
12 get a feel for what the -- what it looks like as you
13 move north here in this area?

14 A. Right. And it was used in the contouring of
15 the -- with the gross isopach and the net isopach maps,
16 so its values are represented in contour lines. I just
17 showed the three wells within our area of development --
18 or that we're planning on drilling, both these first two
19 wells, the Harroun Trust 31-30 Fed Com 2H and the 31 3H,
20 as well as the subsequent two wells, the 31 4H and 5H.
21 So I did the closest. They provided the most control.

22 Q. Did you do any study -- cross-section study
23 that included that well up in Section 19?

24 A. Yeah, I have. And when I picked the tops for
25 the Lower Brushy Canyon for that well which went into

1 the contouring, I obviously had to bring it up on a
2 cross section to put those tops in the appropriate parts
3 of the Delaware.

4 Q. Is there any reason why you didn't include
5 that, then, on your Exhibit Number 12?

6 A. And, again, I stuck with the three wells that
7 are closest to our area that we're going to be drilling.
8 But the values from that well in Section 19 are
9 reflected in the contour maps. So if you go back to --
10 if you go up to Exhibit Number 10 -- or excuse me. I
11 apologize. Exhibit 11, in general, you can see the net
12 values increasing as you go to the north and a little
13 bit to the northwest. So without understanding the
14 porosity in that interval, it would be a little bit
15 higher.

16 Q. Is there -- do you see -- from a geologic
17 perspective, do you see -- if you're going to drill into
18 Section 30, as you propose, do you see any geologic
19 reason why you would not continue all the way through
20 Section 30 so you don't leave the north half of Section
21 30 undeveloped?

22 A. Aside from the fact that we don't have a lease
23 there?

24 Q. But you're pooling today, aren't you?

25 A. We are pooling today, but, you know, as we

1 mentioned, we've done --

2 Q. My question is: Is there any geologic reason?

3 A. There is not a geologic reason.

4 Q. Have you done any study, Mr. Harran, between
5 orienting your well in the Delaware like this and
6 stand-up, as you call it, in the longer strike --

7 A. Uh-huh.

8 Q. -- as opposed to a lay-down or an intersect
9 type of pattern that you go ahead and study between the
10 two?

11 A. What do you mean intersect pattern?

12 Q. Well, if I laid it down in this area, I'd be
13 either going east to west or west to east.

14 A. Right. So what would you be intersecting?

15 Q. You're going against the structure.

16 A. Right, either downdip or updip.

17 Q. Right.

18 Have you done any study between the success
19 of wells in the Delaware that are a stand-up position
20 like you propose, versus a lay-down --

21 A. I, myself, have not done a study. Most of my
22 Lower Brushy Canyon is done in the greater Delaware
23 Basin, stand-up based on a drilling parallel strike.
24 And that seems -- from a geosteering perspective, it
25 seems to cause less confusion, a little bit easier, a

1 little less porpoising. If you're going down to depth
2 [sic] change, a little more optimum than strikes. So to
3 keep up with going up or down, the more porpoising you
4 have, the more potential of mechanical problems. So to
5 eliminate that risk, we've done the stand-up drilling
6 for the Lower Brushy Canyon.

7 Q. But you haven't done any -- production of the
8 reserves?

9 A. I, myself, have not done a study like that.

10 MR. FELDEWERT: That's all the questions I
11 have.

12 EXAMINER EZEANYIM: Thank you very much.

13 Mr. Brooks?

14 CROSS-EXAMINATION

15 BY EXAMINER BROOKS:

16 Q. I think the question I'm going to ask is very
17 similar to what Mr. Feldewert asked, but it may be a
18 solid effort. So I will go ahead and ask it.

19 Going back to what I said about the case
20 that expressed -- the order in which we expressed a
21 preference for mile-long horizontals for compulsory
22 pooling purposes, is there any geologic reason peculiar
23 to this area why this particular formation and area
24 should be developed by mile-and-a-half long horizontals
25 as opposed to mile-long horizontals?

1 A. You can see from the net pay map that the
2 porosity -- the net pay map, which incorporates
3 porosity, gets better as you go to north. So in theory,
4 you're tapping into better-quality reservoir as you go
5 to the north and slightly to the northwest.

6 Q. Well, would that continue on up in the north
7 half of Section 30?

8 A. According to this map, let's say, with respect
9 to the southwest corner of 31, is the northwest quarter
10 of 30 better? Yes. So I could say yes.

11 Q. So there wouldn't be -- that wouldn't really
12 militate in favor of development by -- by
13 mile-and-a-half horizontals versus drilling two-mile
14 horizontals in Section 31 and two-mile horizontals in
15 Section 30, if I understand what your reasoning is?

16 A. And I want to make sure I understand your
17 reasoning, too. You're saying that a two-mile lateral
18 would be even more economic or provide potentially a
19 better result than just the section --

20 Q. Or two horizontals end to end.

21 A. Aside from the fact that you have a greater
22 environmental footprint and the more it costs.

23 Q. Yeah.

24 A. And from the cost standpoint -- and if you
25 don't mind, I just want to touch on that.

1 Q. Yeah. Go ahead.

2 A. You're getting the most bang for your buck when
3 you're spending money in the lateral. Your vertical
4 well is -- aside from uphole completions, you ain't
5 [sic] producing out of there. So doing two one-section
6 pads, you're spending a lot of money in the vertical
7 portion. Even above the Delaware, where it's not
8 prospective, that's dead money. So as I -- the more
9 bang for my buck I get spending money extending the
10 lateral, because that's exposing -- that's dollars spent
11 in the reservoir as opposed to uphole in the vertical
12 well.

13 Q. At the same time, you testified, I believe,
14 have you not, that there are some problems with going
15 beyond a mile and a half that -- well, at some point.
16 We don't know where.

17 A. At some point.

18 Q. At some point, the problems involved in making
19 the lateral longer overcome those cost considerations?

20 A. That is correct. And the industry is, as
21 Mr. Gray testified, pushing beyond single-section
22 laterals. We see it in a variety of parts of the basin.
23 I'm drilling one well, as we speak, that is over a
24 section lateral right now in southern Lea County.

25 The well that Mr. Gray referred to, the

1 Cotton Draw 32 Fed Com 1H, our section-and-a-half
2 lateral was a very strong well for us, and we have --
3 are in the process of permitting three
4 section-and-a-half offsets of that and two two-section
5 lateral offsets from that. So there are a variety of
6 factors that go into those decisions, land decisions, et
7 cetera, as well as engineering and geology.

8 So to answer your question, industry is
9 pushing; the trend is to push beyond the single-section
10 lateral. Where the limit of commission of returns is
11 has yet to be determined.

12 Q. Thank you.

13 EXAMINER EZEANYIM: You done?

14 EXAMINER BROOKS: I'm through.

15 EXAMINER GOETZE: No questions at this
16 time.

17 EXAMINER EZEANYIM: Well, Mr. Harran, they
18 asked my questions, but I have a few concerns. The
19 question that -- Mr. Feldewert asked what I wanted to
20 ask, and he touched on it.

21 CROSS-EXAMINATION

22 BY EXAMINER EZEANYIM:

23 Q. Let's go back to that north half of Section 30.
24 From what you have said previously, describe to me how
25 that section -- I know you don't put anything there, but

1 somebody owns interest there. If, for example, we
2 approve what you are asking right now, how would the
3 north half of Section 30 be developed, from your
4 geologic experience? Because, you know, I don't blame
5 you. You are working for Devon, and you have to do
6 whatever is right for them, what they want you to do.
7 That's why you come here.

8 However, we also have some right to do
9 certain things in a way that is beneficial to everybody.
10 Can you describe to me how you are going to, you know,
11 develop the north half of Section 30 after we have taken
12 out the south half, because I know you are going to take
13 the southwest half, and then later, you are going to
14 also take the southeast half. I make the decision for
15 them. Who has interest in the north half?

16 A. Well, since we're -- since we're discussing
17 hypotheticals, if I own all of the north half of 30 and
18 all of Section 19, I would do a section-and-a-half
19 lateral.

20 Q. No, no, no. You don't have anything in Section
21 19.

22 A. I know, but do you see what I'm saying? I
23 would do another section-and-a-half lateral up there,
24 especially on -- the west half of 19 and west half of 30
25 is a higher net pay, so I would want to have a very -- a

1 section-and-a-half lateral in the west half of those
2 sections.

3 Q. Before I even continue, I have nothing against
4 you drilling two-mile or one-and-a-half mile laterals.
5 That might give us more -- I don't have anything --
6 don't get me wrong.

7 But now, you don't own anything in the
8 north half of that Section 30. Then -- let's say the
9 owner comes in there, but you don't have anything in
10 Section 19. How would you develop that after the south
11 half is taken away, taken from this one-half mile, you
12 know? I'm just trying to see for you, in your
13 analytical experience, of how you would develop the
14 north half if you --

15 A. So if I owned all of Section 31 and 30,
16 subleases in all of Section 30, I would try a
17 two-section lateral.

18 Q. Do what?

19 A. Two-section lateral.

20 Q. If you owned all the sections in 31 and 30?

21 A. Uh-huh.

22 Q. Two-section laterals?

23 A. Yeah.

24 Q. So what do you mean?

25 A. I'm not sure I really understand your question.

1 If I only owned the north half of 30, what would I do?

2 Q. Yeah.

3 A. I would try and pool in the interest owners in
4 Section 19 and drill a section-and-a-half lateral going
5 north.

6 Q. So now set a mile and a half in that area. You
7 know, of course -- you know, it expands. Because once
8 you chalk off those lands, that's all you are going to
9 do now, because that's how we're going to set a
10 precedence --

11 A. Right.

12 Q. -- by going a mile and a half in that area.
13 Where do we stop?

14 A. Right.

15 Q. And then who owns the interest with [sic]? You
16 see, I don't know what area --

17 MR. BRUCE: Well, Mr. Examiner -- I'd like
18 to interject, Mr. Examiner. You know, we do give notice
19 to the offsets of these hearings, and no one has
20 objected, number one.

21 And number two, if you go to Section 19,
22 Devon doesn't own an interest. I mean, the interest
23 owners in those sections need to look at that. Devon
24 can't tell people what to do with their sections of land
25 or leaseholdings just from --

1 A. I would love to do that, though. Can we get
2 permission from the Commission (laughter) --

3 MR. FELDEWERT: You noticed 40-acre tracts?

4 MR. BRUCE: 40-acre tracts.

5 MR. FELDEWERT: I mean, you can only go 40
6 acres around.

7 EXAMINER EZEANYIM: What did you say?

8 MR. FELDEWERT: Their notice didn't cover
9 the entire north half. You have to go 40 acres around
10 each tract.

11 MR. BRUCE: That's what we're required to
12 do.

13 EXAMINER EZEANYIM: Well, sometimes -- you
14 know, this notice is just for notice sake. You might
15 notice people that wouldn't even look at it until
16 everything is done, and then -- but they are going to
17 come to a hearing. You noticed them of the hearing to
18 object. That's why we are here.

19 Q. (BY MR. EZEANYIM) So I'm not saying that if you
20 don't have anything in the north half -- but I'm trying
21 to get what you would do if you owned an interest there,
22 or what would you do. Would you expand into Section 19?
23 Somebody who, you know -- above 19. So we start
24 expanding one half miles north and south. So my
25 question is: Is that a prudent way to do it? Of

1 course, you are here to fight for your company, which is
2 Devon. There is nothing wrong with that. If I were
3 you, I'm sure I would be doing the same thing. But now
4 we have to see it from a different perspective.

5 A. Right.

6 Q. You know, are we setting a precedent? You can
7 understand my --

8 A. Oh, yeah. Absolutely. Yeah. Absolutely. And
9 there are a variety of reasons. And previously --
10 potash is the main thing -- is a big driver in the
11 Delaware Basin for very -- for long laterals, too, and I
12 think even longer than two-section laterals are being
13 permitted. So there are a variety of drivers.

14 In my opinion, the more laterals you have
15 in the reservoir, the better. There's less surface
16 impact and environmental/surface impact with fewer pads.
17 So there are a variety of ways of -- you know, drivers
18 for it. The less surface facilities you have, the more
19 economic.

20 You know, for us to develop a
21 section-and-a-half lateral, it's more economic for us to
22 do it from two long sections -- section-and-a-half pads
23 than, let's say, two two-well pads in the southern half
24 of 30 and then two pads in the southern half of Section
25 30 or -- you know, we want to cut down on the number of

1 surface pads. That improves our economics, and we're
2 tapping the same amount of reservoir with less amount of
3 pads.

4 Q. I know. Don't get me wrong. I know the value
5 to improve the economics. And with that given, who is
6 in the north half? What am I going to tell them to do?

7 A. Well, they've given us a verbal. They haven't
8 signed it yet, but it seems like they're in favor.

9 The Contra [phoentic] 32 -- and I'll just
10 say for the record, the Contra [phonetic] 32 Fed Com 1H,
11 Chevron, was a partner in it, and they participated, and
12 they've been happy with it. And we will be offsetting
13 that with other section-and-a-half laterals. So we
14 believe that in the Lower Brushy Canyon we are starting
15 to see a benefit of section-and-a-half laterals in other
16 parts of the basin.

17 EXAMINER EZEANYIM: Does anybody have
18 anything further?

19 EXAMINER BROOKS: I have one more
20 follow-up.

21 RECROSS EXAMINATION

22 BY EXAMINER BROOKS:

23 Q. Just to clarify the record, you said something
24 about potash. You were talking hypothetically, right?

25 A. No. And as Mr. Gray mentioned, in our Lost

1 Tank area, in northern Eddy County, we had to have our
2 surface locations in an island area, and so these were
3 longer than single-section laterals.

4 Q. Yeah, but is potash any kind of affecter here
5 in this area?

6 A. No, but --

7 Q. That's what I wanted to clarify.

8 A. Yeah. I'm sorry.

9 Q. Thank you.

10 A. And I just mentioned that as one of the reasons
11 why people are pushing for longer laterals. That's not
12 here, but in general.

13 Q. Yeah.

14 MR. FELDEWERT: I have just two
15 clarifications.

16 RE CROSS EXAMINATION

17 BY MR. FELDEWERT:

18 Q. Mr. Harran, did you -- so is it your opinion,
19 then, that the stand-up pattern, the best way to develop
20 it is the Delaware Formation in this area?

21 A. Yes.

22 Q. And did you also then testify that in your
23 opinion, based on your studies, that as you move north,
24 the net pay gets better?

25 A. Well, according to this map, it shows that --

1 you can see the 64 -- excuse me -- the 60-foot --

2 Q. What map are you looking at?

3 A. Figure 11.

4 Q. Exhibit 11?

5 A. Exhibit 11. I'm sorry. Exhibit 11.

6 So, in general, you have more of the green
7 and kind of a lime-ish-green, which is 40, 50 and then
8 60 net foot pay in Section 30 than you do in 31.

9 MR. FELDEWERT: Okay. That's all the
10 questions I've got.

11 EXAMINER EZEANYIM: You done?

12 Mr. Feldewert, are you done?

13 MR. FELDEWERT: Yes, I am.

14 EXAMINER EZEANYIM: Mr. Bruce, anything?

15 MR. BRUCE: Nothing further, Mr. Examiner.

16 MR. FELDEWERT: I do want to make a couple
17 of observations when we're finished with the witnesses.

18 EXAMINER EZEANYIM: Are we finished with
19 the witnesses?

20 MR. BRUCE: Yes.

21 EXAMINER EZEANYIM: Okay. Go ahead,
22 Mr. Feldewert.

23 MR. FELDEWERT: I would ask that if you're
24 considering the pooling order in this case, that you
25 provide me with an opportunity to propose language for

1 the sequencing of election. I understand the benefit of
2 having a drilling rig on site and not moving it off and
3 then moving it back on, but I believe we can come up
4 with a provision that would allow a sequence in the
5 payment for these two proposed wells without that
6 occurring. And I'd like the opportunity to do that, at
7 least propose it to the Commission.

8 More importantly, I'm concerned about the
9 pooling application here because, as you know, the
10 pooling statute only allocates production on an acreage
11 basis. In this case, the witness has testified that as
12 you move north into Section 30, your thickness becomes
13 better; pay becomes better. So I don't know how he
14 gets to the conclusion that the wellbore can contribute
15 more or less equally as you move on Section 31, now on
16 Section 30. That's my first concern.

17 Secondly, he's also testified that the
18 stand-up pattern is the best way to develop this area.
19 According to his testimony, it's the best way to
20 preserve the reserves. The pattern that they had
21 proposed here would result in them taking up the south
22 half of Section 30, leaving the north half of Section 30
23 orphaned. And according to his proposal, the best way
24 to develop is to do some kind of a stand-up horizontal
25 well.

1 So I think you have to be careful here,
2 because you're assuming that the north-half owners are
3 going to want to do a stand-up well that will extend
4 into Section 19, because that's the only way it's going
5 to be economic to them, if you establish this pattern
6 out there and you go beyond what has been traditionally
7 accepted by the Division for pooling.

8 The north-half owners have not received
9 full notice of this. The owners in the offsetting
10 40-acre tract have, but that does not extend into the
11 full north half of Section 30, nor does it include
12 Section 19, which, according to this witness, would be
13 the most logical section to include in any additional
14 stand-up pattern.

15 So number one, we would like the
16 opportunity to present language in the sequencing going
17 to consider the pool order. But, number two, I'm not so
18 sure there is a circumstance here that allows you to
19 pool these lands given that there is a difference in pay
20 between the sections that are involved and, secondly,
21 that you're going to be creating a stand-up pattern here
22 that is going to make it difficult for the interest
23 owners in this area to do what has traditionally been
24 full-section laterals and the most efficient pattern for
25 the production of the reserves.

1 EXAMINER EZEANYIM: Mr. Bruce?

2 MR. BRUCE: Mr. Examiner, first of all, the
3 Division rules allow greater than 160-acre laterals.
4 And as Devon's witnesses have testified, the engineers
5 and the drilling companies keep pushing that. Due to
6 longer and longer laterals, they're finding it more
7 economic. Now, if the Division wants to outlaw 240-acre
8 units, they ought to change the rule. This is allowed
9 by the rules. We've followed all the procedures.

10 Secondly, as to sequencing, the only time
11 I've seen that in a Division order is when it's been
12 voluntary insofar as sequencing of elections and well
13 proposals. And Devon, of course, opposes that. It
14 would just add extra costs, extra time, extra waste.

15 And finally, Mr. Gray testified that
16 insofar as the south half of Section 30 goes, the
17 southwest quarter of Section 30, Khody owns no interest
18 in that quarter section. Therefore, if the thickness in
19 Section 30 is greater than in Section 31, how is Khody
20 harmed? It's getting the benefit of the thicker
21 reservoir. And all the interest owners in the southwest
22 quarter of Section 30, Nortex [phonetic], Devon and
23 Chevron, will be joining in the wells. So I fail to see
24 how Khody is harmed by that fact, if it's a fact,
25 because you're dealing with 6,500 feet below the earth.

1 So whether or not, you know, it's 460 feet in one place,
2 50 feet in another, I don't think that, in the long run,
3 it makes much difference geologically or productionwise
4 of the well.

5 EXAMINER BROOKS: Question on that,
6 Mr. Bruce. Does the evidence reflect that all of the
7 parties proposed to be pooled are only in Section 31 or
8 just Khody?

9 MR. BRUCE: No. They own -- well, Khody
10 owns only in Section 31. The other parties, and I think
11 Benco, owns only in Section 31. But certainly Chevron
12 and Nortex [phonetic], another party, was voluntarily
13 joined in the well only in Section 30 -- southwest
14 quarter of Section 30.

15 EXAMINER BROOKS: Well, they were
16 voluntarily joined, but is there anybody that you're
17 asking us to pool in Section 30?

18 MR. BRUCE: At this point, Chevron, but we
19 expect their voluntary joinder.

20 EXAMINER BROOKS: No one else?

21 MR. BRUCE: No one else.

22 EXAMINER EZEANYIM: This sequencing that
23 Michael Feldewert is asking for -- you say you're going
24 to provide sequencing language in the order in case we
25 are going to -- what is sequencing? Is that something

1 we should consider? I want to know more about that.

2 EXAMINER BROOKS: Well, I think it would be
3 interesting to see what he proposes.

4 EXAMINER EZEANYIM: Okay.

5 MR. BRUCE: And if he does that,
6 Mr. Examiner, I'd like a week after he submits it to the
7 Division to respond to it.

8 EXAMINER BROOKS: Well, you're the
9 Applicant, so if somebody's in a hurry, it would be you.
10 So I don't see any reason why that should be denied.

11 EXAMINER EZEANYIM: Okay. Because, you
12 know, we have to take into consideration anybody's
13 requests. Nobody requested about this sequence, but if
14 you think you can get it --

15 EXAMINER BROOKS: Well, this is a fairly
16 novel situation, and there is a case on pooling where
17 one party wanted to -- wanted to participate only to
18 certain depths. And it went up to the Supreme Court,
19 and the Supreme Court said, Well, it's just
20 discretionary; the Division can do whatever they see
21 fit. That's not the same situation, but it's somewhat
22 analogous. But, you know, if we can do whatever we see
23 fit, then it seems to me that we should be as well
24 informed as we can be before we decide what we see fit.

25 MR. BRUCE: That's the Viking [phonetic]

1 Petroleum case, I think.

2 EXAMINER BROOKS: I don't remember the
3 style, but I do remember the facts.

4 EXAMINER EZEANYIM: So you don't object?
5 We can get that sequencing language?

6 EXAMINER BROOKS: That seems reasonable to
7 me.

8 EXAMINER EZEANYIM: Okay. I have one more
9 last question. Since Mr. Bruce appointed [sic] the
10 witness, I can ask you a question.

11 How are revenues and costs shared for
12 people who own an interest in Section 31 and not an
13 interest in Section 30, like Khody here? So if Khody
14 wants to pay the cost, it would be on a tract basis or
15 on an acreage basis?

16 MR. BRUCE: Mr. Examiner, I think that if
17 the well unit -- the 240-acre well unit is force pooled
18 and Khody owns seven percent interest in the total well
19 unit, that means they would own more in Section 31
20 because they own zero in Section 30. But it's based on
21 the well-unit size. I mean, it's based on their total
22 interest in the well unit. For instance, if they owned
23 15 percent in the west half of Section 31, in a 240-acre
24 well unit, their interest would be reduced by one-third.
25 So they would own a ten-percent interest in the overall

1 well unit.

2 EXAMINER EZEANYIM: And that's how the
3 costs are shared, too?

4 MR. BRUCE: That's -- that's -- it's done
5 on an acreage basis under the pooling statutes, and so
6 Exhibit 2 that Mr. Gray presented shows their interests
7 in each well unit, and that's what they would receive.

8 EXAMINER BROOKS: The pooling statute
9 expressly and quite clearly says that revenues are to be
10 allocated by acreage and only by acreage. You could
11 read it to give the Division some discretion in terms of
12 the allocation of costs, but you'd have to have very
13 persuasive reasons to allocate costs some way other than
14 the way revenues are to be allocated, because
15 fundamental fairness would suggest that the costs of
16 revenue would be allocated in a certain form.

17 MR. BRUCE: That's all I have. Thank you.

18 EXAMINER EZEANYIM: The record will reflect
19 that Mr. Feldewert will write sequencing language to be
20 considered.

21 Well, if there is nothing further, we will
22 take these two cases under advisement. Case Numbers
23 14968 and 14969 are taken under advisement.

24 (Case Numbers 14968 and 14969 conclude

25 I do hereby certify that the foregoing is a true and correct report of the proceedings in the Examination of Case No. 14968 & 14969
11:16 a.m.)
the Examiner heard by me
3/25/13

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, New Mexico Certified
6 Court Reporter No. 20, and Registered Professional
7 Reporter, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that
9 the foregoing pages are a true and correct transcript of
10 those proceedings that were reduced to printed form by
11 me to the best of my ability.

12 I FURTHER CERTIFY that the Reporter's
13 Record of the proceedings truly and accurately reflects
14 the exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither
16 employed by nor related to any of the parties or
17 attorneys in this case and that I have no interest in
18 the final disposition of this case.

19

Mary C. Hankins

20

MARY C. HANKINS, CCR, RPR
Paul Baca Court Reporters
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2013

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