

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

MAY 4

IN THE MATTER OF THE HEARING)
CALLED BY THE OIL CONSERVATION)
DIVISION FOR THE PURPOSE OF)
CONSIDERING:)
APPLICATIONS OF NEARBURG)
EXPLORATION COMPANY AND)
YATES PETROLEUM CORPORATION)

CASE NOS. 11,233
and 11,234
(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

April 7th, 1995

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Division on Friday, April 7th, 1995, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, before Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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A P P E A R A N C E S

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By: ERNEST L. CARROLL

* * *

1 WHEREUPON, the following proceedings were had at
2 1:30 p.m.:

3 EXAMINER CATANACH: Call Case 11,233.

4 MR. RAND CARROLL: Application of Nearburg
5 Exploration Company for compulsory pooling, Eddy County,
6 New Mexico.

7 EXAMINER CATANACH: Are there appearances in this
8 case?

9 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
10 the Santa Fe law firm of Kellahin and Kellahin, appearing
11 on behalf of the Applicant, and I have four witnesses to be
12 sworn.

13 EXAMINER CATANACH: Additional appearances in
14 this case?

15 MR. CARROLL: Mr. Examiner, I'm Ernest Carroll of
16 the Artesia law firm of Losee, Carson, Haas and Carroll,
17 and I'm here today on behalf of Yates Petroleum.

18 We are in opposition to the Application of
19 Nearburg Exploration, and I have three witnesses.

20 EXAMINER CATANACH: Okay, it's my understanding,
21 gentlemen, that we are going to hear this case in
22 conjunction with Case 11,234; is that correct?

23 MR. KELLAHIN: Mr. Examiner, I would so request,
24 and seek to have Case 11,234 consolidated with this case
25 for purposes of taking testimony.

1 EXAMINER CATANACH: At this time we'll call Case
2 11,234.

3 MR. RAND CARROLL: Application of Yates Petroleum
4 Corporation for compulsory pooling, Eddy County, New
5 Mexico.

6 EXAMINER CATANACH: Are there additional
7 appearances in either of these cases?

8 There being none, can I get the witnesses in
9 these cases to stand and be sworn in?

10 (Thereupon, the witnesses were sworn.)

11 MR. KELLAHIN: Call Mr. Bob Shelton, Mr.
12 Examiner.

13 ROBERT G. SHELTON,
14 the witness herein, after having been first duly sworn upon
15 his oath, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. KELLAHIN:

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

20 A. Robert G. Shelton. I'm a landman with Nearburg
21 Exploration Company.

22 Q. On prior occasions have you testified before the
23 Division and qualified as an expert in the area of
24 petroleum land management?

25 A. Yes, sir, I have.

1 Q. With regards to the two pooling cases that are
2 involved before the Examiner today that involve a spacing
3 unit in North Dagger Draw, would you describe for us
4 whether or not you had any involvement in the land portion
5 of those transactions?

6 A. Yes, sir, I've been intimately involved in the
7 preparation of these exhibits and working on the case and
8 the proposals to Yates Petroleum and their companies.

9 MR. KELLAHIN: We tender Mr. Shelton as an expert
10 petroleum landman.

11 EXAMINER CATANACH: He is so qualified.

12 Q. (By Mr. Kellahin) Mr. Shelton, to orient the
13 Examiner, let me have you turn to what we've marked as
14 Nearburg Exhibit 1. It's identified as a locator map.

15 What is the source of this map?

16 A. This is a map I prepared to simply identify where
17 the land is in conjunction with the more established area
18 of the Upper Pennsylvanian-Dagger Draw North Pool.

19 As you can see, on the left side of the map is
20 the main body of the pool.

21 And then where it says Fairchild 13 Number 2
22 well, shows a round open circle which indicates Nearburg
23 Exploration Company's proposed location, which is the
24 subject of this compulsory pooling.

25 The red boxes in here are only to identify areas

1 on which Nearburg and Yates have operations where Yates is
2 the operator of those 160-acre units.

3 And we'd like to point out that in those units
4 Nearburg Exploration Company has anywhere from a five-
5 percent to a 50-percent interest, and by virtue of its
6 voluntary agreement with Yates, none of those units have
7 been pooled, and we've been agreed in the past voluntarily
8 to participate in those wells without being before the
9 Commission in those units.

10 Q. What were the basis for Nearburg's agreement to
11 consent on a voluntary basis for a solution concerning
12 operatorship for those other six spacing units?

13 A. Operations in the area and also division of
14 ownership.

15 Q. All right. In these other six spacing units,
16 Yates collectively had a larger percentage than Nearburg?

17 A. All except for one, which is the Boyd "X" spacing
18 unit, where it's 50-50.

19 Q. Okay. When we get over to the southeast of the
20 southwest quarter of 13, farther to the east of this
21 display, there's the words "Fairchild 13 Number 2". What
22 does that reference?

23 A. That references Nearburg's proposed well name for
24 the well that's shown by the circle on the map, 1980 from
25 the west, 660 from the south of Section 13.

1 Q. The proposed location that Nearburg is requesting
2 is 1980 from the west and 660 from the south?

3 A. That is correct.

4 Q. And are we within what the Division currently has
5 established to be wells subject to the rules and
6 regulations of the North Dagger Draw-Upper Penn Pool?

7 A. I believe we are. Our well in the northwest
8 quarter of Section 24, a completion report has been filed
9 on it for the Cisco/Canyon and the Dagger Draw North-Upper
10 Pennsylvanian Pool, and we are within one mile of that
11 completion report filing.

12 Q. So we can keep the well names separate between
13 the two companies' proposals, yours is the Fairchild 13-2?

14 A. Right.

15 Q. And how do we know the -- Yates' naming of their
16 proposed wells?

17 A. Their name for the well is the Bert APB, I
18 believe, Number 1.

19 Q. Okay. Is there a difference in location between
20 the two operators or the two proposed operators?

21 A. Yes, there is. Their location is 660 out of the
22 south and west.

23 Q. You have testified before the Division in other
24 compulsory pooling matters involving Yates and/or other
25 companies?

1 A. Yes, sir.

2 Q. As part of that process, do you normally prepare
3 an ownership map?

4 A. Yes, sir, I do.

5 Q. Describe for us the information you utilize to
6 develop an ownership map.

7 A. Initially we use the ownership reports prepared
8 by field land personnel, and in addition to that, in this
9 case, we have received two title opinions rendered by Mr.
10 Rudy Woerndle of Midland, Texas, which we used to prepare
11 the ownership exhibit you see before you.

12 Q. All right, sir. Let's turn to that ownership
13 display. It's marked as Nearburg Exhibit Number 1 -- I'm
14 sorry, Exhibit 2, is it?

15 A. Correct.

16 Q. All right. The size involved here includes what?
17 The --

18 A. The diagram indicates a 160-acre spacing unit for
19 the proposed well in the Dagger Draw North-Upper
20 Pennsylvanian Pool.

21 Q. All right. Based upon the available information
22 you had concerning the division of interests, what have you
23 displayed?

24 A. I've displayed the current ownership of record
25 and the current ownership as set forth in Mr. Woerndle's

1 title opinions, representing Nearburg Exploration Company
2 to have 66.67 percent, Yates Petroleum Corporation 23.33,
3 Yates Drilling 3.33, Abo Petroleum Corporation 3.33, and
4 Myco Industries 3.33, with a total 100-percent ownership.

5 Q. This is -- How would we make the conversion to a
6 working interest percentage for participation in and paying
7 for the costs of the well?

8 A. Nearburg Exploration Company would have two-
9 thirds interest. The Yates Companies would have one-third.

10 Q. Off the record and prior to the hearing, the
11 attorneys involved and the Examiner with Division Counsel
12 discussed what has been characterized as a disputed
13 interest with regards to a lease that was once held by
14 Yates from a particular individual named Walter Holmquist,
15 I think it is.

16 A. That is correct.

17 Q. All right. Does this calculation at this point
18 include a resolution of that disputed lease interest?

19 A. This calculation represents Nearburg to have
20 ownership of that particular interest, which changes our
21 interest from 50 percent to 66.67 percent.

22 Q. All right. So the disputed lease interest from
23 Holmquist under this spreadsheet, is attributed to the
24 Nearburg interest?

25 A. That is correct.

1 Q. All right. Let's turn now to the chronology, if
2 you will, of your activities concerning the well.

3 Give us your first recollection of the initial
4 contact by either party concerning a well as an additional
5 well in this spacing unit.

6 A. The first contact or proposal that was received
7 on this well was -- The proposal was made by Yates
8 Petroleum Corporation. It was received by us on March 3rd,
9 1995, and it proposed their well, the Bert APD, I believe,
10 and their proposal was 660-660.

11 Q. Prior to that proposal, do any of the working-
12 interest owners have a producing well in this pool, in this
13 spacing unit?

14 A. Not in this spacing unit, no.

15 Q. So currently, as we speak today, this 160-acre
16 spacing unit does not yet have a Cisco/Canyon well in it?

17 A. That is correct.

18 Q. What, if anything, did you then do, Mr. Shelton,
19 concerning the proposal by Yates for a well in the
20 southwest quarter of this section at their proposed
21 location?

22 A. We reviewed their proposal, we looked at their
23 location and determined that their location would be a
24 significantly higher risk than the one we would prefer to
25 drill.

1 We on March 7th sent a well proposal of our own
2 to Yates Petroleum and the other working interest owners of
3 the Yates entities, proposing our location 1980 from the
4 west, 660 from the south.

5 Both of them are Cisco/Canyon locations,
6 approximately 8000 feet.

7 Q. Other than negotiations between Nearburg and the
8 Yates Companies collectively -- I'll refer to them as
9 "Yates" for simplicity -- are there any other working
10 interests involved in the negotiating process?

11 A. No, there's not.

12 Q. After sending your proposal to Yates, which was
13 the March 7th date --

14 A. Correct.

15 Q. -- did you have further discussion, negotiations
16 or responses from Yates about your proposal?

17 A. Yes, I did, I talked to Yates personnel one other
18 time on another matter, which was a communitization
19 agreement on another well drilled in the Dagger Draw field,
20 and at that time I proposed that this case be settled, that
21 we, Nearburg, be allowed to operate the well.

22 And in exchange, there is a compulsory pooling
23 filed by both parties in the northeast quarter of Section
24 24, which -- I will refer back to the Exhibit 1 map -- is a
25 direct offset diagonally to the southeast of the subject of

1 this hearing, which covers the northeast quarter of Section
2 24, and --

3 Q. All right, let me stop you right there.

4 In the northeast quarter of 24 to the south is
5 another proposed 160-acre spacing unit for production from
6 this pool?

7 A. From the same source of supply as the
8 Cisco/Canyon, same spacing and same field rules.

9 Q. All right. And Nearburg and Yates have competing
10 pooling cases on file with the Division for operations in
11 that spacing unit?

12 A. For April 20th docket.

13 Q. All right.

14 A. And I simply suggested, and by this letter which
15 evidences the same, I requested that we voluntarily agree
16 to settle both these hearings and not bring them before the
17 Examiner.

18 Nearburg would operate the one in the southwest
19 quarter, because we had the superior working interest, and
20 also in the northeast quarter we were allowing Yates to
21 operate, although they do not necessarily have the superior
22 interest. There's -- That interest is broken up between
23 the Johnsons, the Lodewicks and other people who are
24 currently unleased, which I'm assuming both sides are
25 attempting to lease.

1 It is unknown at the time of that hearing who
2 will have the larger working interest.

3 Regardless, Nearburg is willing to acquiesce to
4 their operatorship in the northeast quarter in exchange for
5 their agreement to let us operate the southwest quarter and
6 do away with all these hearings completely.

7 Q. That information is set forth on your Exhibit
8 Number 3?

9 A. Yes, it is.

10 Q. And this is a letter that you wrote?

11 A. That is a letter that I prepared and wrote and
12 sent to Doug Hurlbut, Yates Petroleum.

13 Q. Were you able to initiate a solution on a
14 voluntary basis between Yates and Nearburg with regards to
15 this well, based upon this proposed solution?

16 A. No, there was no -- I talked -- There was no
17 written response at all to this proposal.

18 I talked to Douglas Hurlbut about a week later
19 and asked him if there was any response from them.

20 And they said no, that he -- I was again talking
21 to him on another subject. I brought this up, and he said
22 no, there was not -- there wasn't any response to it, that
23 it wouldn't be settled, it would go before the Division.

24 Q. You described earlier the indication that this
25 current exploration in Dagger Draw was some distance from

1 the main Dagger Draw development that was occurring to the
2 west?

3 A. That is correct.

4 Q. What is the approximate distance between the main
5 Dagger Draw and what we're now seeing --

6 A. It's approximately --

7 Q. -- in this area?

8 A. Well, from the main development of Dagger Draw,
9 it's four miles from the -- three to four miles from any
10 existing main production in the field.

11 Q. Have you prepared, Mr. Shelton, a display or a
12 map to show the various activities by Nearburg, Yates and
13 others in this particular area so that we can see the
14 status of the development?

15 A. Yes, I have. It's shown as Exhibit 4, which is a
16 base map, and I'll go through it very briefly.

17 Q. All right, give us a chance to unfold it, and
18 then we'll have you talk about it.

19 A. This exhibit simply sets forth the areas centered
20 around Section 13. Again, in Section 13, 19-25, you can
21 see the location symbol location and Fairchild 13 Number 2
22 well description.

23 What this does is show the area of wells right
24 around here. Again, the main portion of the Dagger Draw
25 field is off to the west. This shows the activity in the

1 area conducted over the recent -- over years by Nearburg.

2 On the right, southeast part of this map, you can
3 see --

4 Q. Let me get myself oriented here. In Section 13,
5 the symbol that you've displayed here is the Fairchild
6 13-2?

7 A. Our location that we have proposed for this
8 hearing, that's correct.

9 Q. All right, what is the source of the information
10 that you have put on this display?

11 A. The information is our drilling well records and
12 oil and gas lease records from actual operated wells that
13 Nearburg has done since 1985 -- 1984, 1985 -- in this
14 immediate area.

15 Q. How current is this information?

16 A. It's within the last 30 days, 60 days.

17 The last well we drilled out here, as you can see
18 in Section 24, is the Fairchild 24 Number 1 well, which is
19 a well that Nearburg operates, which is the direct offset
20 to the spacing unit proposed in this hearing. We operate
21 that well. That well was completed in February of 1995.
22 That's the last activity that I'm aware of -- That is the
23 last activity I'm sure of by Nearburg in this area.

24 Q. All right. Give us a relationship of the various
25 operators' activities. Do you have a way to tell us which

1 of these wells, if any of them, are operated by Yates or
2 any of the Yates entities?

3 A. As -- I'm not an expert on the Yates wells which
4 they operate in the area. I know they have wells in
5 Section 3, they have one well in Section 15 and one well in
6 Section 14. I'm not sure of other wells they have in the
7 area.

8 Nearburg, in this area, as you can see by the
9 map, is operated, drilled -- is either dry and abandoned or
10 currently has producing in excess of 17 wells in this
11 immediate area and has a lot of experience, both in
12 operational and in geologic land areas in this immediate
13 area.

14 Our first lease in this area of an activity was
15 taken on February 9th, 1981, as displayed on the map, and
16 we have constantly been very active in this area in leasing
17 and in drilling since that day.

18 Q. Let's turn to the specifics, now, Mr. Shelton, of
19 your proposal back to the Yates entities.

20 What is your first written communication to Yates
21 that specifically identifies this well proposal by spacing
22 unit and by well location?

23 A. Our proposal was made to Yates, again, in
24 response to their proposal of their location, received by
25 us March 3rd.

1 Our letter was mailed March 7th, 1995. As shown
2 on the green card, it was received by Yates on March 8th,
3 1995.

4 We proposed a location of 1980 from the west, 660
5 from the south in Section 13.

6 We've also submitted with our proposal an AFE
7 estimating the costs to drill and complete the well and an
8 operating agreement by which we designate Nearburg
9 Producing Company as the operator.

10 Q. This letter is a copy of the original. The
11 original was executed by you?

12 A. Yeah, on the second page is the original executed
13 by me. It for some reason didn't copy well, and so I made
14 an extra copy of it just for the text of the letter.

15 Q. All right. Did you transmit, then, with your
16 well proposal an itemized estimate of well costs for Yates'
17 consideration?

18 A. Yes, we do. We have an AFE which Mr. McDonald
19 will go through here briefly, which was prepared by him,
20 estimating the cost of the proposed operation.

21 Q. And that submittal also included a proposed
22 operating agreement for the parties' consideration?

23 A. Yes, it did.

24 Q. Okay. Let me direct your attention back to
25 Exhibit Number 2. You've identified the potential

1 interests of the parties with what we now believe to be a
2 disputed interest by Yates for what I will characterize as
3 the Walter Bert Holmquist lease?

4 A. Correct.

5 Q. Have you taken a lease from Mr. Holmquist?

6 A. Yes, we have, and it is recorded in Eddy County.

7 Q. For what percentage interest within the spacing
8 unit have you taken that lease?

9 A. That interest of Mr. Holmquist covers one-sixth
10 interest in the southwest quarter spacing unit.

11 Q. Within the southwest quarter spacing unit, are
12 all the interests undivided among that spacing unit?

13 A. Yes, sir, they are.

14 Q. If we exclude from both parties' ledger, if you
15 will, the disputed Holmquist interest, how would the
16 percentages change on Exhibit 2?

17 A. On Exhibit 2, if you take the one-sixth interest
18 away from us, we would have 50 percent.

19 And assuming Yates does not have that one-sixth
20 interest either, their interest would be one-third.
21 Totaling 83.33 percent, the remaining interest not taken
22 into consideration, Nearburg would still have the majority
23 interest in the spacing unit.

24 MR. KELLAHIN: Mr. Examiner, at this point in the
25 presentation I have a chronology which is marked as Exhibit

1 Number 6, and at this point I'll make a tender of proof.

2 Prior to the hearing there was discussion with
3 the Examiner about this issue, and I propose that we might
4 solve your -- this issue by a tender of proof, and I would
5 propose to ask this witness at this point the chronology of
6 events and sequences with regards to Nearburg taking the
7 disputed lease interest, their knowledge and notice about
8 whether or not Yates still had a lease recorded or
9 otherwise concerning that interest.

10 I understand there's an objection forthcoming to
11 this, and in terms of efficiency, we would request at this
12 point that the chronology would substantially refer to my
13 tender of proof as to this matter, and it's set forth on
14 Exhibit 6.

15 EXAMINER CATANACH: Would you still cross- --
16 Would you still examine your witness about this evidence,
17 Mr. Kellahin?

18 MR. KELLAHIN: Not at this point, Mr. Examiner.
19 If there's an objection and if you should sustain the
20 objection, then Mr. Shelton and I will go on to other
21 topics.

22 MR. ERNEST CARROLL: I'm confused. Mr. Kellahin,
23 do you intend to put on Mr. Woerndle to testify to the
24 title opinion also?

25 MR. KELLAHIN: I do so.

1 MR. ERNEST CARROLL: What then is Mr. Woerndle
2 going to testify to? Because it seems like -- I don't now
3 what I'm objecting to and what I'm cutting myself off from
4 cross-examining.

5 What do you plan to do with Mr. Woerndle?

6 MR. KELLAHIN: I propose to call Mr. Woerndle,
7 Mr. Examiner, to authenticate the two title opinions that
8 are Nearburg's proposed Exhibits 7 and 8.

9 I will ask Mr. Woerndle, based upon his
10 inspection of the record, what is his professional opinion
11 as an oil and gas title examiner as to the various
12 interests.

13 I will then ask him to take into consideration
14 the disputed lease that is of concern to Mr. Carroll, and
15 we will do the calculations accordingly with his testimony.
16 But I will have him authenticate the title opinions.

17 The difference here is that Mr. Shelton has
18 information concerning whether or not Nearburg had
19 knowledge and information about a lease that Yates has
20 taken from Holmquist but did not place of public record,
21 and the issue then becomes one of whether or not there was
22 any actual notice by Nearburg of the lease that Yates
23 failed to record.

24 It is that topic that you have advised me that
25 you don't want to address, and so my purpose is to

1 construct the presentation so that that issue has been
2 carefully separated from the other issues that you've
3 decided you wanted to hear.

4 MR. ERNEST CARROLL: Mr. Examiner, I think what
5 we've got here is six one way, half a dozen the other.

6 One, normally we don't call attorneys to testify
7 as to the ownership or the need to authenticate a title
8 opinion.

9 Mr. Shelton has already testified as to the
10 numbers and what it would be with different -- the
11 ownership.

12 By putting on the authentication, we are getting
13 into the issues which this Division cannot or does not have
14 the jurisdiction to decide. It is unnecessary, and
15 basically it is redundant.

16 I will stipulate that this is Mr. Woerndle's
17 title opinion. I have no problem with it.

18 I cannot stipulate that these actions occurred on
19 this chronology of things, nor are they necessary to this
20 hearing. Again, these go to the issue of whether or not
21 there's a valid lease, who had notice, all of those issues
22 of that determination.

23 Mr. Shelton has testified that it is his opinion,
24 if you -- as to what they have, and whether -- and it's
25 based on -- and it's already acknowledged there's a

1 contested issue.

2 That's all this Commission [sic] needs to know,
3 and that's stipulated to.

4 There is a contested issue as to 16 percent, and
5 it will have to be dealt with differently. The Division
6 will have to fashion an order to that, to -- how to handle
7 that upon the resolution of that disputed ownership. We
8 don't need to get into that.

9 And so, one, I'm going to object to any -- I
10 object to any further testimony about this fact, but I'm
11 not going to -- If there's a tender, I have to be able to
12 tender my objections to these things.

13 I think this is ridiculous, and we're getting
14 farther and farther afield, and I think this is the point
15 that we were discussing earlier.

16 MR. KELLAHIN: I'm going to try one more time,
17 Mr. Examiner, see if I can make this abundantly clear to
18 Mr. Carroll.

19 The reason that this Exhibit 6 is presented to
20 you is because all the topics that are addressed in this go
21 to the issue of the disputed interest, and I'm not
22 stipulating to anything.

23 What I'm doing is offering you a tender of proof,
24 and you as an Examiner have to make a decision.

25 If you accept my tender of proof, then we're

1 going to talk about this disputed interest.

2 If you reject my tender of proof, then I have the
3 tender in writing as an exhibit that I can show to any
4 appellate body on that issue, and I have carefully
5 preserved it so that we don't have to go through this
6 discussion more than a few more minutes.

7 And if you rule against me, then we move on to
8 the next issue. And that's how I see us doing this.

9 MR. ERNEST CARROLL: I will object, then, to his
10 tender of proof, and I will -- If that is sustained, my
11 objection, then I will likewise tender during my case just
12 some admission of exhibits to be considered with respect to
13 that, and we won't have any testimony, and I can live with
14 that.

15 MR. RAND CARROLL: Well, Mr. Kellahin, your
16 tender of proof is just Nearburg's version of what happened
17 during this oil and gas lease, right?

18 MR. KELLAHIN: Exactly right, Mr. Carroll.

19 MR. RAND CARROLL: And Exhibits 7 and 8 are title
20 opinions rendered by Mr. Woerndle; is that correct?

21 MR. KELLAHIN: Yes. And those title opinions,
22 now, are going to deal with the entire title. And when I
23 call him, I will separate out of my discussion with him the
24 disputed interest.

25 MR. RAND CARROLL: Mr. Carroll has agreed to

1 stipulate to the authenticity of these two title opinions.
2 I guess I don't understand why we have to get into the
3 title opinions.

4 MR. KELLAHIN: So that you will recognize how to
5 calculate out the disputed interest and how you apportion
6 the remaining interests that are not in dispute.

7 MR. RAND CARROLL: Didn't Mr. Shelton just
8 testify as to that?

9 MR. KELLAHIN: He did, based upon his testimony
10 as a landman as to that issue.

11 But I think I'm still entitled to call the expert
12 in that area, to say that yes, this is what he's done.

13 And that's also my proposal. And if you decide
14 that I cannot do that, you'll need to decide accordingly.

15 But I do not propose to withdraw Mr. Woerndle as
16 a witness.

17 MR. RAND CARROLL: Mr. Carroll, do you have any
18 disagreement with Mr. Shelton's testimony, other than the
19 one-sixth interest that's in dispute?

20 MR. ERNEST CARROLL: As to the ownership, there
21 is a 50-percent ownership in Nearburg, which we recognize
22 that they own. And if that's what you just asked me, no,
23 we do not dispute that 50 percent.

24 The only thing in dispute with Exhibit 2 that Mr.
25 Shelton has presented is the ownership of the Holmquist

1 interest. We contend we own it, they contend they own it.
2 That's -- All of the rest of the ownership, we are in
3 complete agreement with Mr. Shelton's testimony.

4 EXAMINER CATANACH: Mr. Kellahin, will your
5 witness describe a different interest than has been
6 described by Mr. Shelton in regards to the interest
7 ownership in the disputed interest?

8 MR. KELLAHIN: No, sir, Mr. Woerndle will testify
9 consistently with Mr. Shelton's opinion, and the
10 calculation is as Mr. Shelton has represented it to you.

11 EXAMINER CATANACH: Well, then, why do we need to
12 hear his testimony? If you agree with Mr. Shelton, why do
13 we need to hear it again?

14 MR. KELLAHIN: If you decide that you don't want
15 to hear it, that's your decision. I submit to you that
16 he's here to be called as a witness to authenticate the
17 exhibit. He's certainly well within your --

18 MR. RAND CARROLL: Mr. Carroll has already
19 stipulated as to the authenticity of the exhibit.

20 MR. KELLAHIN: And then all you have to do, now,
21 is decide that you do not need to hear Mr. Woerndle's
22 testimony, because it is cumulative. And that is the
23 ruling from the bench that I would recommend.

24 MR. RAND CARROLL: That's what I recommend too.

25 EXAMINER CATANACH: We're going to rule thusly,

1 Mr. Kellahin.

2 MR. KELLAHIN: As I've suggested?

3 EXAMINER CATANACH: As you've suggested.

4 MR. KELLAHIN: All right, sir.

5 To make the record clear, I understand there's an
6 objection to the chronology, because it gets into a
7 disputed subject matter for which there is an objection.

8 That's my tender of proof, and I would suggest
9 that it's timely now for the Examiner to rule that he will
10 not consider the issues as described in a summary fashion
11 on Exhibit 6, and then we can move on.

12 (Off the record)

13 MR. RAND CARROLL: Mr. Kellahin, so you're
14 offering Exhibit Number 6 into the record, now, as an
15 exhibit?

16 MR. KELLAHIN: I am offering it as a summary of
17 my tender of proof, rather than sit here and read it to you
18 as a tender of proof.

19 I know there's an objection to it, and I suggest
20 your solution is simply to take it as a tender of proof and
21 direct me not to engage in this topic.

22 MR. RAND CARROLL: Rule thusly.

23 MR. ERNEST CARROLL: As I understand it, he's
24 asking that the exhibit be admitted for the limited purpose
25 of being a tender of proof, and I don't object to that.

1 EXAMINER CATANACH: Okay, we will accept that
2 exhibit as a tender of proof --

3 MR. KELLAHIN: All right, sir.

4 EXAMINER CATANACH: -- and I will direct you to
5 discontinue your line of questioning on it.

6 MR. KELLAHIN: Thank you, sir.

7 Q. (By Mr. Kellahin) All right, Mr. Shelton. In
8 preparing the joint operating agreement and comparing it to
9 the one submitted to you by Yates, are there any material
10 differences between you and Yates within the context of the
11 forms themselves, excluding all the attachments?

12 A. There is some differences. Ours is a 1982 form.
13 As I remember, you all's submission is a 1977 form.
14 There's some inherent differences in the form.

15 There's differences also in Exhibit A, which sets
16 forth, again, the interest that we believe we own, versus
17 the interest that Yates submitted under their operating
18 agreement.

19 And on Exhibit C there was a very slight
20 difference in the overhead rate charged -- proposed to be
21 charged for the drilling well rate between the two
22 operating rates.

23 Q. Give us the two choices on the drilling and
24 producing well rates.

25 A. As I remember Yates', their producing-well rate

1 was \$540, and on our producing well rate it is \$540.
2 Drilling well rate on our operating agreement is \$5640; and
3 as I remember their drilling well rate, it was \$5400.

4 Q. Is that difference a matter of significance to
5 you on behalf of Nearburg and how this case should be
6 resolved?

7 A. It is insignificant.

8 Q. When we look at the differences in form, is it a
9 matter of significance to you as a landman, to which form
10 the Division directs the parties to apply in terms of
11 handling this transaction?

12 A. We prefer the 1982 form, Yates prefers the 1977.
13 The Division doesn't require execution of the operating
14 agreement at all, so I don't think that's a matter even
15 of -- a reason to be discussed.

16 Q. If operations are awarded to Nearburg, then for
17 those issues that are not resolved in a pooling order, do
18 you propose to operate as if you were subject to the 1982
19 form or the 1977 form?

20 A. The 1982 form.

21 Q. All right, sir. Let me direct your attention now
22 to Exhibit Number 7. Would you identify this information?

23 A. Exhibit Number 7 is a supplemental drilling title
24 opinion prepared by Mr. Rudy Woerndle of Midland, Texas,
25 who is a certified oil and gas attorney for New Mexico.

1 Q. What does this document supplement, Mr. Shelton?

2 A. It supplements Exhibit Number 8, which is a title
3 opinion dated January 26th, 1995, done also by Mr.
4 Woerndle, as to the south half of Section 13.

5 We had this title opinion supplemented, dated
6 March 23rd, 1995, for the purpose of ownership as to the
7 southwest quarter only, which is the subject of this
8 hearing.

9 Q. Exhibit 7, then, would be apportioned to the
10 southwest quarter of 13?

11 A. That is correct.

12 Q. When we look at the title opinion, have you
13 relied upon this title opinion in your testimony with
14 regards to how you prepared and presented Exhibit Number 2?

15 A. It is the basis from which I prepared it.

16 Q. Let's turn to page 2. When this title opinion is
17 summarized, how did you go about extracting from the
18 calculation or summary of interest the disputed interest?

19 A. If I were to extract the disputed interest, I
20 would deduct it from both parties, since it's unresolved.
21 And in doing so, it would leave Nearburg Exploration
22 Company with a 50-percent interest and Yates Petroleum, et
23 al., with a one-third interest.

24 Since it's in dispute, it is only fair that it be
25 taken from both parties, because it will be the subject of

1 litigation, and it cannot be credited to either.

2 Q. If you do that, then the change to make on page 2
3 in the summary of the working interest would leave all the
4 Yates interests unchanged at that point?

5 A. That is correct.

6 Q. And to subtract it arithmetically --

7 A. -- from Nearburg --

8 Q. -- from the Nearburg's interest, and that would
9 reduce the 66 2/3 --

10 A. Fifty percent --

11 Q. -- to 50 percent?

12 A. -- and yield a sum of 83.33 percent.

13 MR. KELLAHIN: All right, sir. That concludes my
14 examination of Mr. Shelton.

15 We move the introduction, with the exception of
16 Exhibit 6, which has already been ruled on, of Exhibits 1
17 through 5, and then Exhibits 7 and 8.

18 EXAMINER CATANACH: Any objections, Mr. Carroll?

19 MR. ERNEST CARROLL: No.

20 EXAMINER CATANACH: Exhibits 1 through 5 and 7
21 and 8 will be admitted as evidence.

22 Mr. Carroll?

23 CROSS-EXAMINATION

24 BY MR. ERNEST CARROLL:

25 Q. Mr. Shelton, looking at your Exhibit Number 1,

1 your locator map --

2 A. Yes, sir.

3 Q. -- the 160 proration unit just directly south of
4 the area where we are now involved in looking at, which
5 would be the northwest quarter of Section 24, you operate a
6 well in that section, do you not?

7 A. We operate that proration unit.

8 Q. All right, and a well -- The Fairchild Number 1
9 well is drilled in that proration unit; is that correct?

10 A. That is correct.

11 Q. Yates Petroleum owns an interest in that well, do
12 they not?

13 A. Yes, they do.

14 Q. They have approximately a one-eighth working
15 interest; is that correct?

16 A. I believe with the interest they acquired from
17 Harvey E. Yates, they do have that interest, if I'm not
18 mistaken.

19 Q. Now, Mr. Shelton, just prior to the time of the
20 proposal of -- the two proposals in March, there was
21 actually an earlier proposal for a well to be drilled in
22 the southwest quarter of Section 13, was there not?

23 A. Yes, there was.

24 Q. And that's dated in December of 1994?

25 A. That may very well be so.

1 Q. And it was a proposal by Nearburg to drill a
2 Morrow test in the southwest quarter of Section 13?

3 A. That is correct.

4 Q. Yates -- You had conversations with Yates
5 Petroleum concerning the drilling of a Morrow well in the
6 southwest quarter of Section 13 during the latter part of
7 1994 and the early part of 1995?

8 A. That is correct.

9 Q. At that time, Yates indicated that they were not
10 willing to, one, drill a Morrow well or, two, entertain
11 your being the operator of a Morrow well in that section?

12 A. I believe that is true.

13 Q. In that proposal of December 27th, 1994, it was a
14 typical proposal, just like the later one that you have
15 introduced as Exhibit -- I think it was dated March 7th.
16 It had a cover letter, AFEs, the same kinds of information,
17 did it not?

18 A. I don't remember it. I don't have it with me,
19 and I'm not familiar with it right now.

20 MR. ERNEST CARROLL: What is your last exhibit
21 number? Twelve?

22 MR. FANT: Twelve.

23 Q. (By Mr. Ernest Carroll) I'm going to show you
24 what I've marked as Exhibit 13, Yates Exhibit 13, and ask
25 you to look at that and see if you recognize it.

1 A. I recognize it as a well proposal from Nearburg
2 Exploration on the Fairchild 13 Number 1 well.

3 Q. Okay, and that would have been a Morrow test?

4 A. Yes.

5 Q. In that packet there is a joint operating
6 agreement; is that not correct?

7 A. Yes, that is correct.

8 Q. And on the Exhibit A -- Now, for a Morrow test
9 that would be a 320-acre?

10 A. That's correct, and this was proposed as a south-
11 half unit.

12 Q. So really, the representation that I think may
13 have been inadvertently drawn from your earlier testimony
14 is that there was conversation between Yates and Nearburg
15 concerning this area of concern, prior to the March -- two
16 March letters that you have introduced into evidence; is
17 that correct?

18 A. Oh, for the purpose of a Morrow well, which at
19 that location has now been withdrawn and is not applicable
20 to this hearing.

21 Q. I understand, but at least there was conversation
22 going on between Yates and Nearburg concerning it?

23 A. Yes, there was.

24 Q. Now, there was an Exhibit A to the -- to that
25 joint operating agreement, was there not?

1 A. Yeah, I'm sure there was.

2 Q. And in that Exhibit A on December 27th, you
3 credited Yates with ownership of that Holmquist lease, did
4 you not?

5 A. I do not know. Let me look.

6 Q. At least -- Let me rephrase my question.

7 On Exhibit A, you show Yates with one quarter of
8 a 320-acre proration unit; is that correct?

9 A. Let me address your first question. I have
10 examined the exhibit to this operating agreement, and
11 nowhere on it do I find the Walter Bert Holmquist lease.

12 Q. You only list Nearburg's lease in that exhibit;
13 is that correct?

14 MR. KELLAHIN: Mr. Examiner, I have a point of
15 procedure to object to. My objection is that you have
16 directed the parties, particularly me and my case, not to
17 engage in the discussion about the disputed Holmquist
18 lease.

19 It's therefore inappropriate for Counsel to
20 cross-examine my witness on a subject matter for which I
21 was precluded from making a direct examination.

22 MR. ERNEST CARROLL: What -- I'm trying to just
23 build a foundation for my tender of an exhibit which I
24 think should be treated just the same as Mr. Kellahin's,
25 which -- The exhibit will be three leases. They are a

1 lease dated in 1992, 1987 and 1982, which show Yates owning
2 or having leased this subject tract.

3 I think it is relevant, it is the countervailing
4 evidence to Exhibit 6.

5 All I'm trying to do -- And I will tender this.
6 I can tender this testimony and -- because Mr. Shelton is
7 not being cooperative here --

8 MR. KELLAHIN: I object to the
9 characterization --

10 MR. ERNEST CARROLL: Well, I'll withdraw that.

11 MR. KELLAHIN: -- of my witness as not being
12 cooperative.

13 He's attempting to do a submittal of proof to you
14 in an improper way, and he knows how to do it right. It's
15 not through the cross-examination of Mr. Shelton.

16 MR. ERNEST CARROLL: Well, I don't agree with Mr.
17 Kellahin.

18 But what I am going to show is that on Exhibit A,
19 that's a 320-acre proration unit. I tender that in the
20 east half of the south half -- or the east quarter --
21 Nearburg owns 100 percent.

22 The other 160, it would have been -- as we
23 contend, we own 50, they own 50.

24 When you combine those two 160s for the 320, that
25 shows that we owned a quarter of that proration unit, they

1 own three-quarters.

2 That is what is reflected on Exhibit A, a quarter
3 ownership in Yates because of our ownership of 50 percent
4 of the southwest quarter.

5 I offer that as a tender of proof.

6 I then offer three exhibits, and I will -- the
7 three -- Excuse me, three leases I will tender as Exhibit
8 14.

9 They are, one, an oil and gas lease dated
10 December 10th, 1981, from Mr. Walter Holmquist to the Yates
11 entities.

12 The second page is a lease dated February 1st,
13 1987, from Walter Holmquist to the Yates entities.

14 And the third is another five-year lease dated
15 October 24th, 1991, to the Yates entities.

16 And I would suggest that these two exhibits, 13
17 and 14, be treated the same as Mr. Kellahin's Exhibit
18 Number 6.

19 MR. KELLAHIN: Mr. Examiner, we need to have you
20 make a decision. My objection to the cross-examination of
21 this witness on this issue.

22 MR. ERNEST CARROLL: I think I withdrew my cross-
23 examination.

24 EXAMINER CATANACH: Did you?

25 MR. RAND CARROLL: Did you?

1 MR. ERNEST CARROLL: Yes, sir. And then I'll
2 make the tender of proof, so I don't think that's a
3 necessary decision.

4 EXAMINER CATANACH: Okay, that takes care of Mr.
5 Kellahin's objection.

6 Do you have any objection to the admission of
7 these exhibits as tender of proof, Mr. Kellahin?

8 MR. KELLAHIN: Yes, sir, that both parties be
9 treated consistently with this issue.

10 EXAMINER CATANACH: I thought we did.

11 MR. KELLAHIN: I thought so too. We object to
12 the tender of proof on his leases here that bring into
13 question what happens with the 16 percent.

14 EXAMINER CATANACH: Okay.

15 MR. KELLAHIN: If we might have copies of those
16 subsequent to the hearing, or if you have copies now, that
17 would -- I would appreciate it.

18 EXAMINER CATANACH: So Yates' tenders of proof
19 will be accepted at this time.

20 MR. KELLAHIN: I want to make sure the record is
21 clear, Mr. Examiner.

22 These were submitted as tenders of proof for only
23 the purpose of filling in his tender.

24 We object to them being admitted as evidence for
25 your consideration on the topic of the disputed interest.

1 MR. ERNEST CARROLL: They're to be treated like
2 Exhibit 6, and I think they should be kept together.

3 MR. RAND CARROLL: They won't be treated as
4 exhibits, they won't be evidence; they'll be tenders of
5 proof.

6 MR. ERNEST CARROLL: Yes, sir. I'll go ahead and
7 give you those so that you can...

8 Q. (By Mr. Ernest Carroll) Mr. Shelton, addressing
9 Exhibit Number 4, which is your large land plat, frankly, I
10 just -- I may have not heard. I really didn't understand
11 what the purpose of this exhibit -- What's the significance
12 of it, bottom line, for admission of this exhibit?

13 A. This exhibit demonstrates Nearburg's operatorship
14 of wells in this area over a period beginning in 1981 and
15 shows our consistent, sustained operatorship and lease
16 ownership in this area and how many wells we've drilled --
17 and how many wells we operate in this area, as opposed to
18 four miles away where you get into Dagger Draw, the proper
19 Dagger Draw currently developed field.

20 Q. You will agree with me that Yates Petroleum was
21 likewise engaged in leasing during 1981 out here in this
22 particular area?

23 A. I have no knowledge of that whatsoever. I do not
24 know what Yates did in 1981.

25 Q. You're also aware that Yates Petroleum operates

1 many more wells than Nearburg does in the Dagger Draw
2 field?

3 A. Not in this area, they don't.

4 Q. With respect -- I was a little confused as to
5 your testimony as to what is the drilling rate, overhead
6 rate, that you are proposing or recommending for adoption.

7 You have indicated that there is -- between the
8 two proposals, there is a small dollar difference. But
9 what rate are you asking the Commission to impose, no
10 matter who gets operatorship in this area, with respect to
11 this --

12 A. We will agree with a rate of \$5400 for a drilling
13 well and \$540 for a producing well rate.

14 Q. Exhibit Number 3, your letter of March 29th --

15 A. Yes.

16 Q. -- 1995, first of all, this particular quarter
17 section of Section 24, what is the ownership interest of
18 Nearburg?

19 A. Current ownership of Nearburg is 11.25 percent.

20 Q. This is a quarter section where there are more
21 than just the two parties, Yates and Nearburg; is that not
22 true?

23 A. The Lodewicks and the Johnsons also own interest,
24 whose interest is currently uncommitted, and either party,
25 I assume, could end up with that interest.

1 So Nearburg's interest could be as large as more
2 than 50 percent.

3 Q. You're also aware that the Johnsons and Lodewicks
4 have a very consistent practice of either joining or going
5 nonconsent with respect to the drilling of wells out in
6 this area?

7 A. That is not true. The Johnsons lease to Nearburg
8 Exploration Company and the Fairchild well directly to the
9 west into the Fairchild 24 well.

10 So I don't think you could say at all that they
11 have a consistent pattern of joining or going nonconsent.
12 They are a lessor in that well.

13 Q. Well, you know the Lodewicks are represented by
14 Jim Jennings and that they don't lease? You have
15 approached them for a lease for this particular quarter
16 section and they've denied it, have they not?

17 A. I know they have not leased to us in this
18 section. There is leases that they've granted in the past.

19 Q. And the Johnsons, likewise, have denied a lease
20 to you in this quarter section?

21 A. That's correct.

22 Q. So it's not a possibility right now that Nearburg
23 would end up with greater than 50 percent interest in that
24 well?

25 A. We are continuing to negotiate with them.

1 Q. You also know that HEYCO, Harvey E. Yates
2 Company, owns slightly over 20 percent?

3 A. 20.3125 percent.

4 Q. And you're also aware of their election, based
5 upon the two proposals that have been sent out here to go
6 with the Yates group, allow them to -- ?

7 A. No, I am not aware of that. I have had
8 conversations with the land manager at HEYCO within the
9 last week, and that was not the expression I got from her
10 at all.

11 Q. But you're not aware of the conversations that
12 they have had with them, particularly Sherry Darr; is that
13 not who you're talking to?

14 A. Sherry Darr is who I'm talking to.

15 Q. All right. But you're not aware of the
16 conversation that occurred in the last week with Yates
17 Petroleum where she has indicated that she would go with
18 that?

19 A. I have no knowledge of that.

20 Q. The point being, is that in this particular
21 quarter section which you have -- which has been the
22 subject of this offer of compromise, Nearburg only controls
23 11.25 percent; is that correct?

24 A. That is correct.

25 Q. Now, one interesting thing, I want -- would like

1 for you to explain the purpose of the blind copy notation
2 going to Mr. William J. LeMay.

3 What was the purpose of sending this letter to
4 Mr. LeMay and not, one, indicating to Yates Petroleum that
5 you sent it to him?

6 A. I think it's important for Mr. LeMay and the
7 Examiners to know that we are attempting to settle these
8 hearings before they come before them, so that they're not
9 back between Yates and Nearburg for operatorship, that we
10 are trying to endeavor to truly not bring cases that don't
11 need to be brought before the Examiner.

12 Q. Well, then, Mr. Shelton, wouldn't you agree with
13 me that if you're making that information known or
14 available to Mr. LeMay, it should likewise be made known to
15 Yates Petroleum at the same time?

16 A. As far as I understand, it was. My -- this was
17 not -- As you can see, it was signed for me. I was out of
18 town at the time, and when that letter was sent to Yates,
19 it was my understanding that it was sent to you with the
20 copy noticed on it, that it would go to William J. LeMay.

21 Q. But that's not the purpose of a "BCC" notation,
22 is it?

23 A. My copy of it has "carbon copy: William J. LeMay"
24 on it.

25 Q. And the notation "BCC" prior to it?

1 A. Right.

2 Q. And this technically means that this was a blind
3 copy that was only sent -- no notice was sent to the
4 addressee of it?

5 A. Was there notice on your letter too?

6 Q. No.

7 A. Well, like I say, I was out of town. It was
8 fully intended for notice to be given to you all.

9 MR. ERNEST CARROLL: Mr. Catanach, I have no
10 further questions.

11 EXAMINER CATANACH: Any redirect?

12 MR. KELLAHIN: Oh, no, sir.

13 EXAMINER CATANACH: Just a couple, Mr. Shelton.

14 EXAMINATION

15 BY EXAMINER CATANACH:

16 Q. The original proposal for this well was sent by
17 Yates on March 3rd, is that correct?

18 A. Received by us March 3rd, that's correct.

19 Q. Received. That wasn't submitted as an exhibit,
20 was it?

21 A. No, it wasn't. I assume it will be.

22 Q. I want to ask you a little bit about -- I believe
23 you testified that in this area you have been able to reach
24 an agreement with Yates, a voluntary agreement on six
25 spacing units?

1 A. That the Commission -- These units were never
2 brought before the Commission. They were voluntarily
3 agreed on by Nearburg, where Nearburg acquiesced and
4 allowed Yates to operate.

5 Q. All six of these proposed units, you allowed
6 Yates to operate?

7 A. That is correct.

8 Q. Have you reached an agreement with Yates on any
9 other spacing units that they have allowed you to operate,
10 voluntary agreement?

11 A. We had succeeded to one or more agreements where
12 we operate by succession of interest under an old operating
13 agreement.

14 As I understand, in the northeast quarter of
15 Section 31 they have an interest where we operate, they
16 have a quarter interest, that was not an agreed-to
17 operating agreement. That agreement originally was between
18 us and Conoco, 50-50. Yates filed a lawsuit against
19 Conoco, as I understand it, ended up with 25 percent. It
20 was also a succession.

21 Yes, the northwest quarter of Section 22 that we
22 operate, Yates has a -- I believe a 1-percent interest in
23 there, or a very small percent.

24 We have 87 -- We have 90-some percent. We
25 operate that. They did agree voluntarily.

1 There was a 1984 operating agreement covering the
2 east half of Section 22 where we operate, and again they
3 have a very small interest.

4 And I believe those are the only two.

5 Q. With regards to some of these spacing unit issues
6 that have been resolved voluntarily by Yates and Nearburg,
7 can you again briefly summarize some of the criteria that
8 was used in determining who would operate these spacing
9 units?

10 A. The amount of ownership was the main criteria.

11 And also it was very important, and one
12 determining factor was -- Remembering these units were
13 entered into some years ago, at the time they were entered
14 into, production, actual production facilities, pipelines
15 in the area, electrical service, all other things were also
16 a matter of importance to us, which those circumstances
17 have now changed on the surface to the extent that they're
18 not really describable here.

19 But as in the case of the northwest quarter of
20 Section 29, at the time that was drilled, our facilities
21 were far removed from that, and they had a 75-percent
22 interest, we had a 25-percent interest, so we agreed to
23 them operating.

24 I would say surface occupancy of operator
25 facilities and ownership were the two criteria on the basis

1 of which we made our decision.

2 EXAMINER CATANACH: I have nothing further of the
3 witness.

4 Mr. Shelton may be excused.

5 MR. KELLAHIN: Mr. Examiner, at this time we'd
6 call Mr. Tim McDonald.

7 TIM McDONALD,
8 the witness herein, after having been first duly sworn upon
9 his oath, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. KELLAHIN:

12 Q. Mr. McDonald, would you please state your name
13 and occupation?

14 A. My name is Tim McDonald. I'm a petroleum
15 engineer for Nearburg producing in Dallas, Texas.

16 Q. Mr. McDonald, on prior occasions have you
17 testified before this Division in the field of petroleum
18 engineering?

19 A. Yes, I have.

20 Q. With regards to this particular issue before the
21 Examiner today, have you made a comparison between the
22 Nearburg AFE and the Yates AFE?

23 A. Yes, I have.

24 Q. In addition, are you familiar with the
25 availability of surface facilities to support this well if

1 the operatorship is awarded to Nearburg?

2 A. Yes, I am.

3 MR. KELLAHIN: We tender Mr. McDonald as an
4 expert petroleum engineer.

5 EXAMINER CATANACH: He is so qualified.

6 Q. (By Mr. Kellahin) Mr. McDonald, let's have you
7 take what's marked as Exhibit 12. The base map is a
8 Midland Map Company map, I assume?

9 A. That's correct.

10 Q. All right. Are you satisfied that it is
11 reasonably current and accurate for the purposes that we're
12 about to discuss?

13 A. Yes, I think it is.

14 Q. On top of that map you have caused certain
15 information to be superimposed. Before we talk about the
16 details, what is your purpose and objective in sponsoring
17 this exhibit?

18 A. Well, basically it's to show that we have water
19 lines, electric lines and surface facilities installed on
20 our Nearburg Fairchild 24 Number 1 well, which is the
21 adjacent 160 to the 160 in discussion here, and to show
22 that we can handle -- economically handle the production
23 from the proposed well.

24 Q. Why is that an issue in your mind as an engineer,
25 when you look at potential Cisco/Canyon production in this

1 particular portion of the pooled area?

2 A. Well, based on our tests on our Fairchild, or our
3 limited tests, we anticipated making a considerable amount
4 of water, comparable to the Dagger Draw proper field.

5 So in order to operate the well economically, you
6 have to have a saltwater disposal system in place.

7 Q. Describe for us the components that you've
8 identified to be issues of importance to the Examiner
9 concerning servicing this well if Nearburg's operatorship
10 is awarded to Nearburg.

11 A. That shows our Akeman [phonetic] saltwater
12 disposal well and a line that we've constructed running up
13 to the Fairchild 24 Number 1 well. It shows the electric
14 line that we've installed from the road down to the 24
15 well, and it shows the tank battery that we're currently
16 installing on the Number 24 location that we would most
17 likely propose to use also as the 13 Number 2 well.

18 Q. What's the current status of the Fairchild 24
19 Number 1 well, the well to the south of this dispute?

20 A. It's currently shut in, waiting on a gas line to
21 be installed, gas sales line.

22 Q. What type of facilities are required for
23 servicing the Fairchild 13 Number 2 well if the Division
24 awards the operatorship to Nearburg?

25 A. Well, we certainly need a heater treater and a

1 free-water knockout separate from the 24 with metering
2 equipment, so we would meter the two wells separately.

3 And then, depending on the volumes that were
4 produced out of 24 and the 13, the tank battery may be
5 sufficient that we have now. We might have to add to that.

6 Q. Were you involved in designing and equipping the
7 Fairchild 24 Number 1 well, in terms of its equipment?

8 A. Yes.

9 Q. Let me ask you, sir, to turn to Exhibit Number
10 13. Did Mr. Shelton provide you with a copy of the Yates
11 AFE?

12 A. At some point he did. I'm not sure exactly when.

13 Q. All right. When we look at this spreadsheet,
14 then, Exhibit Number 13, before we talk about the details,
15 describe for us what you were doing.

16 A. All I was doing was trying to categorize --
17 Obviously, the level of detail in the two AFEs are
18 different, so you really can't look at them line item by
19 line item and make a comparison.

20 I was trying to look at a gross overall
21 difference in the two AFEs and try to sort out areas where
22 there were large discrepancies in cost.

23 Q. If you take the Yates AFE and the Nearburg AFE as
24 we'll see them in the package and lay them side by side,
25 then it's rather difficult to make a line-item-by-line-item

1 comparison?

2 A. Right, they don't look very much alike at all.

3 Q. They're formatted in a different way?

4 A. Right.

5 Q. Do you have experience in preparing AFEs?

6 A. Yes.

7 Q. What is that experience?

8 A. Well, I've been preparing AFEs for several years
9 in this area.

10 Q. Who prepares Nearburg's AFEs for this area when
11 they are to be prepared?

12 A. Generally myself, with some assistance from our
13 field personnel.

14 Q. When you reorganize the information for Exhibit
15 13, then, you are trying to put components in each AFE by
16 which you then can make a direct comparison?

17 A. The best I could, yes.

18 Q. When we look at the bottom lines of significance
19 to you as an engineer in making comparisons of the two
20 AFEs, without going through the entire spreadsheet let's
21 find the logical subdivisions of costs and have you show us
22 the comparisons as forecast by each company.

23 A. Okay. I think the major difference that I see is
24 on the drilling footage rate, and we currently have a
25 contract in place for \$14.50 a foot, whereas the Yates AFE

1 showed \$17.50, which, at a depth of 8200 feet, would be
2 approximately a \$25,000 difference.

3 I believe Yates' AFE was actually 8500 feet, so
4 there's some distortion in that cost. I think theirs was
5 \$149,000 and ours was \$118,000.

6 We feel geologically that the 8200 feet should be
7 deep enough for this test.

8 Q. When you're trying to make a judgment about
9 comparing AFEs, is the drilling footage rate an item of
10 concern for you?

11 A. Yes, it's a major portion of the dryhole cost,
12 certainly.

13 Q. And in this instance, you have contracted price
14 of \$14.50 a foot?

15 A. That's correct.

16 Q. And the Yates AFE, when that's examined, that's
17 based upon \$17 a foot?

18 A. I believe it's \$17.50.

19 Q. \$17.50? Both companies are proposing to use a
20 footage rate for drilling the well?

21 A. We are. By judging from their AFE, I presume
22 they are.

23 Q. When we go down the spreadsheet, find another
24 point of substantial significant difference between the two
25 AFEs.

1 A. Really, on the first page, you know, it looks
2 like the cementing of the production casing -- our
3 experience out there is -- you know, we've been -- It's
4 been costing us about \$30,000. They were showing \$38,000.
5 I guess that's an \$8000 difference.

6 Really, the rental, drilling tools and equipment
7 is misleading, because their AFE categorizes -- We break
8 ours out in more detail than that, so even though there's a
9 big difference there, we pick up those costs in other
10 areas. So that's not really significant.

11 Q. Okay.

12 A. Really, on the second page, on the completion,
13 ours --

14 Q. Well, let's get down to the bottom line on the
15 first page.

16 A. All right.

17 Q. When you total these numbers up, what do each
18 proposal show?

19 The net effect, when the comparison is made on
20 the total intangibles, you've got a \$54,600 number in
21 parentheses?

22 A. Right.

23 Q. What does that mean?

24 A. That's the total -- That's the completion and
25 dryhole intangible difference. It's the intangible dryhole

1 costs and completion costs, the difference in the two AFEs.

2 Q. And if a number is in a parentheses, what does
3 that signify?

4 A. It signifies that Nearburg's number is less.

5 Q. Okay. When we look at the bottom-line entry at
6 that point, the \$54,600 is the volume -- the total dollars
7 higher at this point in the AFE comparison for the Yates
8 AFE than the Nearburg AFE?

9 A. That's right.

10 Q. All right. Let's turn to the second page.

11 When we look at the second page and look at the
12 tangible costs, so we don't have to go through all these
13 entries, find the ones that are of importance to you that
14 represent a significant difference.

15 A. Well, certainly the artificial lift equipment.
16 There's about a \$30,000 difference there, and that's
17 probably based on them -- a different size of artificial
18 lift equipment than we're anticipating using there.

19 I believe that whatever is actually used, the
20 cost would be the same to either party. But based on our
21 experience in the Fairchild well, we feel like we can get
22 by with less equipment, apparently.

23 Q. There's a significant price differential two
24 columns down?

25 A. Right.

1 Q. There's a \$5000 difference. To what is that
2 attributed?

3 A. Well, the tank battery, we actually included in
4 this AFE \$15,000 for a tank battery.

5 We feel like most likely we'll be able to get the
6 Commission's approval to use common surface storage
7 facilities, anyway, but we won't have to even spend that
8 \$15,000, or at least just a part of it.

9 Q. Is that an item, in your opinion, that represents
10 a significant difference in analyzing the two AFEs?

11 A. Yes.

12 Q. And can you quantify the difference as
13 represented on the two AFEs?

14 A. Well, they're showing \$20,000, we're showing
15 \$15,000.

16 I suspect that if we're allowed to use the common
17 facilities it may cost us, you know, more like \$5000. So
18 maybe a \$15,000 difference.

19 Q. All right. As we move down the column, then,
20 what is the next entry that's of importance to you?

21 A. Well, obviously the \$50,000 on the separator,
22 heater treaters, and I don't know all that's included in
23 Yates' -- in that category. I would presume it includes
24 flow lines, saltwater-disposal gathering lines.

25 I don't know where their system is in this area

1 but, you know, it seems awfully high for surface equipment.

2 Q. Based upon your knowledge -- Where is their
3 closest facilities, based upon your knowledge, that could
4 service this well if they're awarded operatorship?

5 A. I really don't know.

6 Q. Okay. When we go down the AFE, then, what is the
7 next entry that's of importance?

8 A. Well, I think those are the major -- the
9 highlights.

10 Q. When you total all the tangibles, the \$58,920
11 number is in parentheses?

12 A. Right.

13 Q. And that represents the excess of the Yates AFE
14 over the Nearburg AFE?

15 A. That's correct.

16 Q. And when you combine the tangible and the
17 intangible, what is the total differential?

18 A. It looks like \$113,520.

19 Q. That their AFE is higher than yours?

20 A. That's correct.

21 MR. KELLAHIN: That concludes my examination of
22 Mr. McDonald.

23 We move the introduction of his Exhibits 12 and
24 13.

25 EXAMINER CATANACH: Exhibits 12 and 13 will be

1 admitted as evidence.

2 Mr. Carroll?

3 CROSS-EXAMINATION

4 BY MR. ERNEST CARROLL:

5 Q. Mr. McDonald, the term AFE -- or the numbers used
6 in an AFE, these are just estimates, are they not?

7 A. That's correct.

8 Q. Have you done a study to determine what
9 Nearburg's percentage or rate of success has been in
10 complying with or coming close to drilling the wells in
11 this area in accordance with their AFEs?

12 A. Back in time we did. It's been a couple years
13 ago.

14 Q. You are aware that that study showed that
15 Nearburg consistently averages more for actual cost than
16 what their AFEs are?

17 A. I believe that was correct.

18 Q. Now, this particular AFE, you did not prepare it,
19 did you?

20 A. Yes, I did.

21 Q. You did prepare it?

22 A. Yes.

23 Q. As I understood your testimony, Mr. Kellahin
24 asked when you first saw it, and you indicated that Mr.
25 Shelton showed it to you?

1 MR. KELLAHIN: No, I was representing the Yates
2 AFE.

3 Q. (By Mr. Ernest Carroll) Okay. So you prepared
4 this AFE?

5 A. Right.

6 Q. Can you tell me why your signature was not on the
7 AFE submitted to Yates or in the Exhibit 5 that Nearburg
8 has tendered to Mr. Shelton?

9 A. I would suspect my initials are on it under
10 "prepared", are they not.

11 Q. Okay. TRM, would that be --

12 A. That would be --

13 Q. -- your initial?

14 Now, are you in the habit of just having someone
15 type that in, or do you sign these AFEs? What is the
16 procedure? Do you just have some secretary type one out,
17 or do you individually prepare an AFE?

18 A. I individually prepare them on my computer.

19 Q. You indicated that one of the key differences on
20 the intangibles was the drilling footage rate; is that
21 correct?

22 A. That's correct.

23 Q. You said that you had a contract in place on the
24 drilling?

25 A. That's correct.

1 Q. Who is that contract with?

2 A. Peterson Drilling Company.

3 Q. And does that in-place drilling contract right
4 now specify that they will drill this particular well, the
5 Fairchild Number 2 well, at that rate?

6 A. Yes, it does.

7 Q. So you've already -- When did you contract with
8 Peterson?

9 A. Well, we have a -- It's a multi-well contract
10 that covers a given area, and in certain areas the price is
11 such, and in other areas it's a different price.

12 Q. Well how many more wells do you have on that
13 Peterson contract? Are you saying it's just limited to an
14 X amount of wells? Or is it every well that Nearburg wants
15 to drill in a certain area, you get this footage rate?

16 A. In the past it was originally set up for five or
17 six wells, and we've extended it from time to time under
18 the same terms.

19 Q. Well, have you had conversation with Peterson
20 Drilling at this time, since there's been somewhat of a
21 drilling boom out there, to verify with them that they will
22 drill this particular location at that footage rate?

23 A. Yes, I have.

24 Q. And when did that conversation take place?

25 A. I believe we talked to them last week.

1 Q. Who did you talk to?

2 A. I suppose Ray Peterson.

3 Q. Suppose?

4 A. Ray Peterson.

5 Q. Well, did you do the talking, or did someone else
6 do the talking?

7 A. Actually, it may have been our drilling
8 superintendent, Butch Lewis, may have talked to him.

9 Q. All right. It wasn't you, though?

10 A. I talked to him in general terms about the
11 contract. I can't recall if I talked about the specific
12 well.

13 Q. You made a comment that there was a difference in
14 the total amount of hole projected to be drilled, Nearburg
15 projecting a somewhat shallower hole; is that correct?

16 A. That's right.

17 Q. And in your estimation, that was sufficient hole?

18 A. That's right.

19 Q. Why do you drill beyond the TD? What is the
20 purpose of drilling more hole below the objective in these
21 Delaware wells?

22 A. Well, in these Cisco/Canyon wells --

23 Q. Excuse me, I don't mean Delaware, I meant
24 Cisco/Canyon.

25 A. We generally try to drill the whole Cisco/Canyon

1 interval and then drill enough rathole below that to run
2 our logging tools.

3 Q. Just to run the logging tools? Is that the only
4 purpose for drilling rathole?

5 A. No, also for your cementing operations.

6 Q. What about the use of a submersible pump, Mr.
7 McDonald?

8 A. Also, use of a submersible pump, that's --

9 Q. All right, and that is probably the key purpose
10 of drilling a deeper rathole, deeper than the objective, so
11 as to accommodate these submersible pumps, which have
12 become the boon to this field?

13 A. That is an important reason also.

14 Q. Now, you've indicated that you think you can save
15 some money by instituting a common tank battery?

16 A. Right.

17 Q. Mr. McDonald, do you know of any examples of a
18 common tank battery being used out here in the Dagger Draw
19 field?

20 A. Yates has three or four of them that we've
21 approved. They've sent us notices to agree with, and we've
22 complied with them, gone along with it.

23 Q. All right. But what that means is that there has
24 to be an agreement; is that correct?

25 A. That's correct.

1 Q. And Nearburg at this time has not done anything
2 concerning an agreement as far as using a common tank
3 battery?

4 A. No, that would generally be done after the well,
5 after we know we've made a well.

6 Q. But -- And then after the agreement, then it has
7 to be approved by the OCD; is that correct?

8 A. That's correct.

9 Q. Now, you indicated that you were unaware of the
10 saltwater disposal facilities of Yates Petroleum; is that
11 correct?

12 A. That's right.

13 Q. Then you're unaware of Yates' saltwater disposal
14 well up in the northeast of the northwest of Section 14?
15 The dryhole well there, it says --

16 A. The Cotton Federal. Now that you've pointed it
17 out, I've heard of it over the years. But, you know, I
18 haven't studied their disposal systems at all.

19 Q. All right. So you have heard of the fact that
20 Yates does have a disposal well in that particular area?

21 A. I believe I have.

22 Q. And that disposal well is closer than the Akeman
23 State saltwater disposal well?

24 A. It's closer than the well --

25 Q. It's closer to --

1 A. A lot less than Yates' was. I don't recall. I
2 think -- I don't recall, I don't. Ten to 15 percent, the
3 way I recall, but I could be wrong.

4 Q. Did you also express an opinion about Yates'
5 drilling?

6 A. Yes, that was, I think, the purpose of the study,
7 yes. And I don't recall what theirs was. I know it was
8 more than Nearburg's, though.

9 Q. So would you consider those two factors to cancel
10 each other out, essentially?

11 A. It's been our history -- You know, it's been our
12 experience that our AFEs are usually more accurate than
13 theirs.

14 EXAMINER CATANACH: Okay, I have no further
15 questions.

16 MR. KELLAHIN: Do you want to take another
17 witness before you have a break, Mr. Examiner? I'm down to
18 my geologic presentation.

19 EXAMINER CATANACH: Is it long?

20 MR. KELLAHIN: I don't know, 20, 30 minutes.

21 (Off the record)

22 EXAMINER CATANACH: Let's take a few minutes
23 here.

24 (Thereupon, a recess was taken at 2:53 p.m.)

25 (The following proceedings had at 3:10 p.m.)

1 EXAMINER CATANACH: All right, call the hearing
2 back to order.

3 Call your next witness, Mr. Kellahin.

4 JERRY ELGER,

5 the witness herein, after having been first duly sworn upon
6 his oath, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. KELLAHIN:

9 Q. Mr. Elger, for the record would you please state
10 your name and occupation?

11 A. Jerry Elger. I'm a geologist for Nearburg
12 Producing company.

13 Q. And where do you reside, sir?

14 A. In Midland, Texas.

15 Q. You're going to have to speak up. The hum of
16 this fan is pretty irritating, I think, at this end of the
17 room, so speak up.

18 Now, that microphone is not going to help you;
19 that's just for the court reporter. So you'll have to keep
20 the volume of your voice up.

21 On prior occasions, have you testified before the
22 Division Examiner and been qualified by this agency as an
23 expert in matters of petroleum geology?

24 A. Yes, I have.

25 Q. Have you previously testified before the Division

1 concerning geologic interpretations that you have made for
2 portions of the North Dagger Draw Upper Pennsylvanian Pool?

3 A. Yes, I have.

4 Q. When Mr. Nearburg and his various employees look
5 for a geologist on staff to handle geologic
6 interpretations, it's you, is it not, sir?

7 A. That's correct.

8 Q. Were you asked to make a further geologic
9 investigation of the geologic matters surrounding Yates'
10 proposed location as it compared to what Nearburg was
11 proposing as a location within this quarter section?

12 A. Yes, I was.

13 Q. And have you done all that work?

14 A. I have.

15 Q. And based upon that work, do you now have
16 opinions and conclusions about the appropriate location at
17 which to put this well?

18 A. Yes, I have.

19 MR. KELLAHIN: We tender Mr. Elger as an expert
20 petroleum geologist.

21 EXAMINER CATANACH: He is so qualified.

22 Q. (By Mr. Kellahin) Mr. Elger, when you're looking
23 in your office for the tools of your trade to apply to this
24 particular issue, what are the kinds of things that you're
25 going to want to look at as a geologist to make decisions

1 for this portion of what is identified as the east edge of
2 North Dagger Draw?

3 A. You're going to want to utilize the full suite of
4 electric logs, porosity logs, sonic logs, density neutron
5 logs, resistivity logs, whatever is available, whatever has
6 been run in the wells.

7 A full suite of mud logs is very helpful. It
8 helps ascertain where the oil-water contacts occur.

9 And of course, whatever seismic would be
10 available.

11 Q. With regards to the geologic log information, did
12 you have all that information for all the wells in this
13 area?

14 A. Yes, I did.

15 Q. Are there any wells operated in this area by any
16 other operator for which you did not have logs?

17 A. No.

18 Q. In terms of the mud logs, did you have available
19 all mud logs?

20 A. I had the majority of the mud logs that are for
21 wells that were drilled on my Exhibit Number 14.

22 Q. In addition, did you have available to you any
23 seismic data?

24 A. Yes, we did.

25 Q. And how was that information of use to you as a

1 geologist?

2 A. It helps determine -- Well, the reflection
3 surface at the top of the Canyon carbonate section is a
4 very good seismic reflector, and we utilized our seismic
5 information in this area to determine the highs and lows of
6 the top of the Canyon.

7 Q. When you're looking at taking that information
8 and organizing it and evaluating it in a particular way,
9 what kind of maps do you want to look at in order to reach
10 conclusions?

11 A. It depends on what's relevant.

12 Q. That's what I want you to tell me. What's
13 relevant for this?

14 A. In this case, what's relevant is the pay section
15 in the Fairchild 24 Number 1, in the northwest quarter of
16 Section 24, that we've drilled and operated by Nearburg
17 Producing Company.

18 Q. Well, why is that going to be important to you?
19 Isn't that simply the kind of production we're getting in
20 North Dagger Draw, farther to the west?

21 A. Well, it's a little bit different than -- You'll
22 see on some of the displays I have that it is a little bit
23 different than what's present and producing over in the
24 Dagger Draw field.

25 Q. So what kind of map would you produce?

1 A. I produced a structure map on the top of the
2 dolomite reservoir, which was compiled utilizing both
3 subsurface well control and seismic, and I also utilized
4 the mud logs available to me.

5 Q. Is structure going to be a matter of significance
6 to you as a geologist when we look at your maps?

7 A. It is in this case, yes.

8 Q. And why is it in this case?

9 A. Because we think the base of the pay section in
10 the producing well is very close to the oil-water contact.

11 And again, it's a little bit different -- Well,
12 if I could refer to my Exhibit 14 and start in this
13 collection of exhibits, you'll understand a lot better why
14 all this information ties together and is relevant to the
15 proposed locations in the southwest quarter of Section 13.

16 Q. All right. In addition to mapping the structure,
17 are there any other critical maps that you as a geologist
18 would prepare to address this issue?

19 A. Yes, in this case there is.

20 Q. And what may they be?

21 A. That's the thickness of the pay.

22 Q. And why is that important?

23 A. Because the pay appears to pinch out to the west,
24 updip to the west, into a grade from a porous dolomite
25 facies into a nonporous dolomite reservoir rock.

1 And because of that, there is a different oil-
2 water contact in this area than there is for what's known
3 for -- recognized for Dagger Draw.

4 Q. Are there any other additional mapping components
5 that you need to prepare in order to make a comprehensive
6 judgment about where to put these wells?

7 A. Those are the main ingredients, all of the
8 subsurface control, the well logs, the seismic.

9 Q. Having done all that work, what is your
10 conclusion about the appropriate location for this well?

11 Should it be, as Yates has proposed it to be, 660
12 out of the corner?

13 Or should it be, as Nearburg proposed it, 1980
14 from the west line, 660 from the south?

15 A. It should be as Nearburg proposed.

16 Q. And why, sir?

17 A. Well, because as my exhibits will show, their
18 proposed location appears to be structurally low to the
19 Nearburg producing well in the northwest quarter of Section
20 24.

21 And in the case -- If there is reservoir rock
22 present at that location, it would be below the water
23 contact and water-bearing, not hydrocarbon-bearing.

24 Also, that well is situated to the west of the
25 Nearburg proposed location and in close proximity to -- at

1 least I've interpreted in close proximity to the pinchout
2 or the gradation of the reservoir rock into the tight
3 nonreservoir limestone facies.

4 Q. The productive portion of the reservoir in this
5 area is going to be in the dolomite, is it not?

6 A. That's correct.

7 Q. And when we move into the limestone, the
8 limestone in this area is not going to produce
9 hydrocarbons?

10 A. That's correct.

11 Q. Did Mr. Shelton come to you with Yates' well
12 proposal as to its location?

13 A. Yes, he did.

14 Q. And what if any reaction did you have to that?

15 A. My first reaction was that it would be -- could
16 be both low and tight, and there would be a high degree of
17 risk in drilling that location.

18 Q. And were you able to make that judgment based
19 upon work that you had already conducted?

20 A. Yes, I did.

21 Q. Were you the geologist that helped locate the
22 Fairchild 24 Number 1 well to the south?

23 A. Yes, I was.

24 Q. And so you already had knowledge and information
25 about where to put the well in the southwest quarter of

1 this section?

2 A. Well, when we originally drilled the well in
3 Section 24, it was proposed to drill as a Morrow location.
4 And we encountered a hydrocarbon show in the Canyon
5 dolomite, opposite where we ended up perforating and
6 completing the well.

7 And based on the drill stem tests that we took
8 across that interval and the results of that drill stem
9 test, I immediately undertook mapping of that particular
10 interval to see where the extent of it could potentially
11 occur.

12 Q. Let's look to see the results of your work
13 product, Mr. Elger. If you'll look at what we've marked as
14 Exhibit 14, does this represent your work?

15 A. Yes, it does.

16 Q. Before we talk about the interpretation, set the
17 stage for the information that we're seeing.

18 A. Okay, there's three colors displayed on this
19 exhibit. The gray line that -- The gray line is roughly
20 where I've interpreted the pinchout of the dolomite pay
21 section.

22 You'll see the well in Section 23, at A in
23 Section 23, is colored gray, and also a well down in a
24 section that's east of 25 has been colored gray. The gray
25 indicates wellbores where the Upper Canyon is completely a

1 limestone nonreservoir section.

2 The blue indicates -- follows structure and
3 indicates where we've interpreted the oil-water contact for
4 the dolomite reservoir in the Upper Canyon.

5 And the green, of course, represents the well as
6 producing -- or has a dolomite reservoir section producing
7 from the Upper Canyon.

8 Q. Will your geologic control points in terms of log
9 information be displayed on a cross-section that we'll look
10 at in a minute?

11 A. Yes.

12 Q. When we're looking at data to support the
13 location of the oil-water contact, what information will we
14 have to show?

15 A. We'll have some drill stem tests. And of course
16 what we don't have is evidence, but what I have is the mud
17 logs on three of the wells that -- well, all of the wells
18 that are displayed on Exhibit Number 15.

19 Q. And when we look at the Upper Canyon reservoir
20 limits, when we make that transition from dolomite into
21 purely the lime section, what evidence are we going to have
22 to support that conclusion?

23 A. That's displayed very dramatically on the density
24 neutron logs and the PE curves used -- density neutron
25 logs.

1 Q. Set the geologic setting for us when we look at
2 this particular area and how it compares in similarity or
3 contrasts to what we -- more commonly known as the main
4 portion of the North Dagger Draw Pool.

5 A. Well, as Bob testified earlier, we're two or
6 three miles east of the main development that's occurring
7 in the Dagger Draw field.

8 When we drilled and proposed the well in the
9 northwest quarter of Section 24 as a Morrow location, based
10 on all of the offsetting control, we really didn't
11 anticipate the Canyon to be productive here because, as you
12 can see, where -- and again, this is a top-of-dolomite
13 structure map, Exhibit 14. All of these subsea datums are
14 well below the minus-4300-foot subsea datum which Conoco
15 and Yates and everybody else has testified numerous times
16 before the Commission as being the lowestmost oil in the
17 Dagger Draw field.

18 Q. Before this activity, the perception of the water
19 at minus 4300 was that it was farther west of this area?

20 A. That's correct.

21 Q. And with the drilling of this Morrow attempt in
22 Section 24, then, you have found new information that shows
23 that we have the dolomite here that is oil-productive?

24 A. That's correct. The top of the dolomite in this
25 well in Section 24 is 65 feet structurally below to that

1 4300 subsea datum which everybody had recognized as the
2 oil-water contact.

3 Q. All right, let's --

4 A. So there has to be another explanation to why
5 there's hydrocarbons in this well.

6 Q. Let's come back to Exhibit 14 in a minute, but
7 let's look at the cross-section so we can get the vertical
8 profile of the reservoir.

9 Take a moment and open up Exhibit Number 15.
10 Your line of marcation for the cross-section is shown on
11 Exhibit 14, is it not?

12 A. Yes, it is.

13 Q. Let's start with A, which is the far left of
14 Exhibit 15 and represents the westernmost well. Starting
15 at that point, take us across the cross-section from left
16 to right.

17 A. Okay, that well was originally drilled by Amoco
18 Production Company, and it was re-entered by Nearburg
19 Producing Company and completed as a Morrow gas producer.

20 The Upper Canyon -- And I just might take a
21 second to show you the subdivisions in this local area of
22 the Canyon itself. They're displayed just above the title
23 block on the right-hand side of the cross-section, the
24 Upper Canyon, Middle Canyon and Lower Canyon. I was able
25 to define those particular units and follow those units to

1 all of the wellbores that have penetrated the map section
2 in Exhibit Number 14.

3 Now, the well drilled at A, the Upper Canyon
4 section, was completely a limestone section. There was no
5 dolomite whatsoever in the Upper Canyon.

6 The immediate northeast offset, drilled by
7 Nearburg, again, as the Fairchild 24 Number 1 in the
8 northwest quarter of Section 24, encountered a dolomite
9 section in the lower portion of the Upper Canyon, and I've
10 shaded that dolomite section as pink on all of the cross-
11 sections.

12 The perforations are also marked in the depth
13 column on that well log.

14 Q. All right, let's use that well as the marker
15 well. That's the well that discovered this portion of the
16 dolomite being oil productive in this vicinity, is it not?

17 A. Yes.

18 Q. Take us vertically, going from top down, then,
19 and show us how you were able to establish a point on the
20 logs that identified for you as a geologist that you were
21 dealing with a feature that would correspond to the top of
22 the Canyon Bank. Is that not a marker point for you?

23 A. The Canyon Bank is that surface that's been
24 shaded in -- well, on these cross-section displays it's the
25 top blue line.

1 And what you have is a shale package that sits on
2 top of a carbonate package. In some instances it's a
3 dolomite, but in this whole local area it's a limestone,
4 that interface.

5 That's the interface that we utilized off -- or
6 were able to determine from synthetic seismograms, was a
7 very good reflection surface, and it was incorporated into
8 the seismic interpretations that we applied to the area.

9 Q. All right. To refine the structural
10 interpretation that you had made with just the conventional
11 log information, you had the additional benefit of the
12 seismic line?

13 A. Yes.

14 Q. Let's go back to Exhibit 14 now, and show the
15 Examiner the line location that you have utilized and
16 integrated into your geologic presentation.

17 A. Okay. That line has been defined -- or called --
18 or displayed on Exhibit 14 as line 5070, and it's an east-
19 west line that traverses the bottom of Sections 13 and 14.
20 Actually -- It actually ends in Section 18. And it
21 traverses through the proposed Nearburg location in Section
22 13 and also the proposed Yates location in Section 13.

23 Q. All right. When we look at the seismic data and
24 if we look at data point 1080 on the seismic line, that's
25 going to be your closest data point to the proposed Yates

1 location?

2 A. Yes, it is.

3 Q. And when we get to the seismic line and look at
4 data point 1090, that's going to be very close in proximity
5 to where you're proposing to put the well?

6 A. Yes.

7 Q. We're using the Fairchild 24-1 well as our marker
8 well, and you have told us that you can mark the top of the
9 Canyon bank with this reflection between the shale and the
10 limestone?

11 A. Yes.

12 Q. Can you see that event or feature as a reflection
13 in the seismic line?

14 A. Yes, very -- It's very bright, very dramatic.

15 Q. Let's go to the seismic line.

16 All right, before we look at that issue, help us
17 organize Exhibit 16 so that we see where we are in relation
18 to the marker line of the seismic run on Exhibit 14.

19 A. Well, again, the end of the line is over where
20 I've got "East" and identified the Canyon over in the time
21 column, just above the title block. That is the actual end
22 of line 5070, and it proceeds for some distance to the
23 west.

24 Q. All right. On the seismic line you have shown a
25 horizontal marker point and have labeled it on the far

1 right as "Canyon"?

2 A. Yes.

3 Q. What does that mean?

4 A. Well, that's what the geophysicists, again,
5 utilizing synthetic seismograms, a number of them out in
6 this area, identified as this reflection surface, the
7 interface of the Wolfcamp shales on top of the Canyon
8 carbonate.

9 Q. And have you integrated with your conventional
10 geologic information and confirmed the validity of the
11 seismic?

12 A. Yes.

13 Q. So that you and the geophysicists are both
14 agreeing on what is the top of the reflection for the top
15 of the Canyon Bay?

16 A. Yes, it ties very well.

17 Q. All right. Let's take the yellow line. What is
18 the significance of the yellow line?

19 A. The yellow line is just internally within the
20 Canyon, and it identifies and highlights what the actual
21 interface surface is doing as you traverse along the line
22 and through the proposed locations.

23 Q. Are you able to measure or quantify the distance
24 in a vertical sense as we move across the top of this
25 structure?

1 A. Yes.

2 Q. When we look at data point 1080 on Exhibit Number
3 16 --

4 A. Yes.

5 Q. -- it's shown at the top of the display, and that
6 corresponds to the Yates location?

7 A. Yes.

8 Q. As you project that line down through the seismic
9 data, what does it show you when you get to the Canyon?

10 A. It shows me that the Yates proposed location is
11 in a syncline or a low.

12 Q. When you move over to data point 1090 that
13 corresponds to the Yates proposed location, and project
14 that down into the Canyon portion of the formations, what
15 does it show you in relation to the Yates location?

16 A. It shows me that they're drilling in a syncline -
17 - that they're proposed to drill a well in a syncline.

18 Q. Which well has the more favorable position, based
19 upon the seismic data?

20 A. The Nearburg proposed location, and it was --
21 Again, it was picked utilizing -- incorporating the seismic
22 and the subsurface well control.

23 Q. How much -- Are you able to quantify the degree
24 of advantage in the reservoir between the Yates location
25 and the Nearburg?

1 A. To some degree. There's a slight margin of
2 error, but when you incorporate all of the well control you
3 can get it fairly close.

4 Q. Approximate for us how much footage we gain in
5 structure at the Nearburg location.

6 A. The contour interval on the structure map is 50
7 foot. We could gain 30, 35 feet of structural advantage
8 over the Yates proposed location.

9 And again, let me point out that that's very
10 important, because if I can refer back to Exhibit Number
11 15, which is the cross-section, and go back to the
12 Fairchild 24 well which Nearburg drilled and completed in
13 the Canyon, the entire pay section is only a matter of 20-
14 some feet thick.

15 So if we're 20 or 30 feet low and you -- the base
16 of that dolomite section in that wellbore is at the water
17 contact, what that in effect does is move your entire pay
18 section below water.

19 Q. We've looked at the first two wells on the cross-
20 section. You've projected with the seismic information
21 what we should see in terms of a structural position for
22 the Yates well location.

23 Help us understand what your concerns are about
24 moving this well to the west and how it may approach the
25 Upper Canyon reservoir limits.

1 A. Again, the dip direction is to the east, so
2 you're moving updip to the west, towards Dagger Draw.

3 The whole interpretation of the trap for
4 hydrocarbons in the Fairchild well is that that dolomite
5 package, as you proceed to the west, pinches out. And it's
6 very dramatic in these first two wells. It's absolutely
7 gone over in this Parino Com well over in Section 23.

8 What we're afraid of is that at the Yates
9 proposed location the same thing is going to happen: As
10 you move to the west, the farther west you go, the less
11 likely you are to retain this dolomite reservoir package.

12 If I could draw -- if you would take a straight
13 edge, for instance, and draw a line from the Nearburg
14 Lakewood 18 well, which is at A' on the cross-section, that
15 well has very little dolomite remaining present in the
16 Upper Canyon. It's almost absent. It's right at that
17 termination of that pay package.

18 If I could draw a straight line from that
19 wellbore between the Parino Com and the Fairchild well, you
20 would see that even the Nearburg proposed location is at
21 risk of this dolomite section being not present, but it's
22 even much greater risk at the Yates proposed location.

23 Q. Let's go back to the cross-section, Exhibit 15.
24 We've left with the marker well, which is the Fairchild
25 24-1.

1 Have you perforated, or has Nearburg perforated
2 the entire productive interval of the dolomite?

3 A. Yes.

4 Q. Take us through the rest of the projection as we
5 move from left to right, then.

6 A. Well, the projection simply follows what our
7 seismic and subsurface control are telling us, and that's
8 that the -- you could drop downdip from the Fairchild 24
9 well to the Yates proposed location, and that dolomite
10 section could thin.

11 We feel like at the Nearburg proposed location,
12 the seismic and subsurface are again telling us that we'd
13 be structurally high or flat to the Fairchild location and
14 that the dolomite section would thicken back to the east.

15 As you can see, there's really not a tremendous
16 amount of well control out here. But the seismic
17 information and the control that does exist tells us what
18 we need to know in terms of where the safest locations are.

19 Q. And what, in your opinion, is the safest location
20 for all interest owners?

21 A. In the southeast quarter of -- southwest quarter
22 of 13, it's the 1980 from the west line location.

23 MR. KELLAHIN: That concludes my examination of
24 Mr. Elger.

25 We move the introduction of his Exhibits 14, 15

1 and 16.

2 EXAMINER CATANACH: Exhibits 14, 15 and 16 will
3 be admitted as evidence.

4 Mr. Carroll?

5 CROSS-EXAMINATION

6 BY MR. ERNEST CARROLL:

7 Q. Mr. Elger, the -- your Exhibit 16 shows the
8 seismic lines. Was this the 3-D seismic or 2-D seismic?

9 A. This is a printout display of a portion of our
10 3-D survey.

11 Q. All right. This particular 3-D seismic line, has
12 it been migrated?

13 A. I believe it has, yes.

14 Q. Let's look just a moment here on the orientation
15 of the shot lines that are reflected on Exhibit 14 and
16 Exhibit 16.

17 Now, as I take it, there is a group of circles
18 that run across the southern half of Section 13 and the two
19 adjacent sections. And every other circle, we see a
20 number, starting on the left, 1070, then 1080, 1090, 1100.
21 That is the shot line, is it not?

22 A. Yes.

23 Q. And so those numbers -- 1070, 1080, 1090 -- these
24 are the same numbers that run across the top of your
25 Exhibit 16, are they not?

1 A. Yes, uh-huh.

2 Q. All right. So if we look at Exhibit 14, the 1080
3 shot mark is east of the proposed location by Yates; is
4 that correct?

5 A. It's very close, yes.

6 Q. Now, the 1090 line is west of the Nearburg
7 proposed location; is that correct?

8 A. It's very close to -- when it projects down to
9 the line, it's almost on it.

10 Q. All right. But the distance between 1090 and the
11 Nearburg well is less than the distance between the 1080
12 and the Yates well; is that correct?

13 A. Yes.

14 Q. All right. Let's look at Exhibit 16. When you
15 look at 1080 and the line drawn for the Bert location, it's
16 almost on the 1080 line, is it not?

17 A. That's correct.

18 Q. And then --

19 A. It --

20 Q. Excuse me?

21 A. It should probably have been spotted or drafted
22 just slightly to the west of 1080 --

23 Q. All right.

24 A. -- which would have been even more centered into
25 the syncline.

1 Q. Well, let's look, then -- Since you've told us
2 that this line here is drafted improperly, let's look over
3 at 1090.

4 Now, we see the Nearburg line, a distance here
5 maybe an eighth to a quarter of an inch to the left of the
6 1090 line. But on Exhibit 14, it shows that the line
7 should be actually to the right of the 1090, doesn't it?

8 A. Well, I can't see this -- this didn't -- You
9 know, this display doesn't show the tick -- the actual tick
10 mark for the 1090 shot point. You know, it didn't come
11 through very well, so I had the draftsman print it darker
12 so it would display better. And whether he didn't get it
13 centered exactly right or -- It's probably a little bit of
14 a drafting --

15 Q. Well, we can assume that the tick line should
16 probably be somewhere in the center of the 1090 --

17 A. Very close, yes.

18 Q. -- number, shouldn't it?

19 A. Yes.

20 Q. And so this -- The margin of error on the drawing
21 of the line for the Nearburg location is at least larger
22 than the error on the one showing the Bert location; isn't
23 that true?

24 A. Yes.

25 Q. Now, you've told us that the indicator here --

1 the reflector, excuse me, that's a better word -- the
2 reflector here is not the dolomite but the limestone; is
3 that not true?

4 A. That's correct. It's the top of the bank,
5 whatever the carbonate is. Whether it's dolomite or
6 limestone, it still is --

7 Q. All right. You will agree with me that the
8 limestone is not the reservoir, does not -- is not a
9 reservoir rock?

10 A. That's correct.

11 Q. It has to be the dolomite?

12 A. Right.

13 Q. And you know from your drilling and experience in
14 this area that the limestone in this area is anywhere in
15 the 50-plus feet thickness, is what you've encountered?

16 A. That's correct.

17 Q. All right. So really, you told us that the
18 location -- as you read the seismic, the location of the
19 Fairchild 15, as opposed to the Bert, would get the driller
20 of those wells an advantage of approximately 30 foot; is
21 that correct?

22 A. That's approximate, yes.

23 Q. Well, if the limestone can vary 30 to 50 feet,
24 that margin -- that error created by not really knowing
25 where the top of the dolomite is -- actually could destroy

1 your advantage that you're talking about. That area of
2 limestone could be greater than this advantage that you're
3 claiming that you can encounter?

4 A. That's why you utilize the subsurface control in
5 conjunction with the seismic, and that's the way this
6 picture has been developed.

7 See? That the dolomite section is a known --
8 it's known in this area from well control that it thins to
9 the west.

10 Q. And the only -- The closest subsurface
11 information you've got is your well in the northwest
12 quarter of Section 24; is that correct?

13 A. Well, there's obviously more well control out
14 here that was utilized in this interpretation than what's
15 displayed on this map. But, you know, for purposes of this
16 hearing, we're just displaying the subject area.

17 Q. Well, is there any well control between the well
18 in 24 and the two proposed locations?

19 A. No.

20 Q. And in fact, the well control you're talking
21 about is up in the northern parts of the section to the
22 east of Section 13, and up in that northern area; is that
23 not true?

24 A. Yes.

25 Q. And you've got some very significant deviations

1 or drawing of the formation between that data and Section
2 24, do you not?

3 A. Yes. And again, that's based on the projection
4 of the top of the reservoir, in conjunction with the top of
5 the carbonate bank and the fact that in this local area
6 they tend to mirror each other.

7 I'm not saying that's true all over Dagger Draw,
8 but in this local area the well control strongly suggests
9 that those two --

10 Q. Which wells --

11 A. -- surfaces mirror each other.

12 Q. Which wells tell you that?

13 A. The well in 23, the well in 24, the well in
14 Section 18, and there's another well in the west half of
15 Section 23. All of those wells.

16 Q. Okay. When you say "mirror", how do you know --
17 You only have one data point. How do you know that it
18 mirrors? Are you saying that the thickness in the well in
19 23 is -- the thickness of the limestone in 23 is the same
20 in 24?

21 A. Nearly.

22 Q. Nearly?

23 A. It's nearly as -- You know, I could add it up
24 real quick. It's a little over 60 feet thick in the Parino
25 well, and it's -- well, it's nearly 60 feet thick to the

1 top of the dolomite in the Fairchild well. So it's very
2 close.

3 Q. Now, over there in the -- Okay, now, you were
4 saying it's very similar between the well in Section 23 and
5 the well in Section 24; is that correct?

6 A. Yes.

7 Q. In your cross-section, though, you show no
8 dolomite at all --

9 A. That's right.

10 Q. -- in the --

11 A. In the Upper Canyon.

12 Q. -- well in 23?

13 A. That's right, in the Upper Canyon. That's right.

14 Q. So that's a major distinction there, isn't it?

15 A. Major distinction? Major -- It means the upper
16 dolomite may have thickened a little bit to the Fairchild
17 well --

18 Q. Well --

19 A. -- the relationship between the Parino well and
20 the Fairchild.

21 Q. -- what we're saying is that you notice that
22 there is a definite thickening of this section, limestone-
23 dolomite, as you move from the 23 well to the Section 24
24 well?

25 A. There's a little bit of a thickening, yes.

1 Q. But how do you know that this thickening just
2 occurs in the dolomite area and that it's going to be --
3 What tells you that that is going to stay consistent?

4 A. Well, again, I was able to differentiate the
5 various units within the Canyon -- the Upper, Middle and
6 Lower -- based on some gamma-ray ticks. And the pay
7 section in the Fairchild well falls right at the base of
8 the Upper Canyon.

9 Q. The well in Section 24, was this based on -- Was
10 this well picked on the basis of seismic?

11 A. Yes, it was.

12 Q. And this well was not picked or projected as a
13 Canyon well, was it?

14 A. No.

15 Q. It was -- Based on your seismic, you picked a
16 Morrow test, did you not?

17 A. That's correct.

18 Q. In fact, has Nearburg ever been able to pick a
19 Canyon well or have any experience of being successful in
20 picking a Canyon well with the use of its seismic?

21 A. A Canyon well?

22 Q. Yes, a Canyon/Cisco test in this Dagger Draw
23 area?

24 A. Have we ever utilized -- I'm not sure I
25 understand your question.

1 Q. Have you successfully found a Cisco/Canyon well
2 on the basis of your seismic testing?

3 A. Yes.

4 Q. Where?

5 A. Section 27.

6 Q. 27, where?

7 A. The South Boyd Number 4 -- well, section -- not
8 on this -- I mean, the seismic extends beyond the bounds of
9 this map, and in Section 27 we did utilize a seismic to
10 identify and drill a Cisco/Canyon test that is productive.

11 Q. That particular well was a direct offset of an
12 already-producing Canyon/Cisco well, was it not? The
13 Tackitt well?

14 A. Yes.

15 Q. And the fact that it was a direct offset figured
16 very heavily in the picking and drilling of that well by
17 Nearburg?

18 A. That in conjunction with the seismic.

19 Q. Did you do a comparison of the actual log of
20 where the limestone was found in the dolomite and compare
21 that to what your predictions were from your seismic?

22 A. Yes.

23 Q. And what did you find?

24 A. It was a very good comparison.

25 Q. What's "very good" mean?

1 A. We were very pleased. We were very pleased.

2 Q. Well, what --

3 A. We drilled a successful, commercial well.

4 Q. Okay, what was the difference in deviation?

5 A. I don't know. I don't think we've gone back --
6 we were --

7 Q. Well, what we're talking about here is a 30-foot
8 advantage?

9 A. Right, and we're --

10 Q. Were you within 30 foot of picking the interval
11 of the dolomite through the use of that seismic?

12 A. For the Fairchild well?

13 Q. No, for the well over in 27.

14 A. I believe we were, yes.

15 And that's not the only instance where we've
16 utilized it. That's the only operated well we've utilized
17 it.

18 MR. ERNEST CARROLL: That's all I have, Mr.
19 Catanach.

20 EXAMINATION

21 BY EXAMINER CATANACH:

22 Q. Mr. Elger, do you know if Yates has any access to
23 seismic data in Section 13?

24 A. I do not.

25 Q. They don't have access to your seismic

1 information; is that correct?

2 A. No, that's correct.

3 EXAMINER CATANACH: I have nothing further.

4 The witness may be excused.

5 MR. KELLAHIN: That completes our direct
6 presentation, Mr. Examiner.

7 I'm sorry, there is the certificate of mailing
8 that I need to submit to you, Mr. Examiner.

9 Exhibit 17 is the certificate of mailing and my
10 certificate of compliance with the notice provisions of the
11 Division for this case.

12 EXAMINER CATANACH: Exhibit 17 will be admitted
13 as evidence.

14 MR. KELLAHIN: That completes our presentation.

15 MR. ERNEST CARROLL: May I proceed?

16 EXAMINER CATANACH: Please.

17 MECCA MAURITSEN,

18 the witness herein, after having been first duly sworn upon
19 her oath, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ERNEST CARROLL:

22 Q. Would you please state your name and residence
23 for the record?

24 A. It's Mecca Mauritsen, and I live in Artesia, New
25 Mexico.

1 Q. Ms. Mauritsen, by whom are you employed?

2 A. Yates Petroleum Corporation.

3 Q. And in what capacity?

4 A. As a landman.

5 Q. Ms. Mauritsen, are you familiar with the two
6 pending Applications before the Examiner, the two competing
7 Applications for compulsory pooling by Nearburg and Yates?

8 A. Yes, sir.

9 Q. And have you had an occasion to testify before
10 this Commission or the Division and have your credentials
11 in the area of petroleum land management accepted?

12 A. Yes.

13 MR. ERNEST CARROLL: I would tender Ms. Mauritsen
14 as an expert in the field of petroleum land management.

15 EXAMINER CATANACH: She is so qualified.

16 Q. (By Mr. Ernest Carroll) You have prepared
17 certain exhibits today, have you not?

18 A. Yes, sir.

19 Q. Let's turn to your first exhibit, Exhibit 1, and
20 would you identify for the record what that is and then
21 describe its significance to the case?

22 A. It is a lease map of the area we're talking
23 about.

24 The yellow-shaded acreage is just areas that
25 Yates has an interest in, some kind of -- either mineral or

1 leasehold interests.

2 I've also got the spacing unit marked and
3 outlined in red, of the southwest quarter of Section 13, of
4 the spacing unit we're talking about today.

5 Our proposed Bert APB Number 1 is the red dot
6 located 660 from the south and west.

7 And the blue dot is Nearburg's proposed Fairchild
8 13 Number 2, which is 660 from the south and 1980 from the
9 west.

10 Q. All right. What is the significance of the solid
11 yellow and then the outlined areas in yellow?

12 A. Well, the solid yellow on the southwest quarter
13 of 13 is just to make the spacing unit stand out.

14 And 14, that's acreage that's owned a hundred
15 percent by Yates. The outline just shows that it's a
16 partial interest that we own.

17 Q. All right. Anything further with that exhibit?

18 A. No.

19 Q. Would you turn to Exhibit Number 2 and again
20 identify it for the record and then explain its
21 significance?

22 A. This is a -- just a map of the North Dagger Draw
23 Pool.

24 The black line is the zero dolomite line. All
25 the wells that have been drilled in the North Dagger Draw-

1 Upper Penn Pool are designated inside of that.

2 The black dots and anything that's a black circle
3 are Yates-operated wells. The black dots are the ones that
4 have been drilled and completed; the circles are just
5 proposed locations.

6 The purple dots are Nearburg-operated wells and
7 proposed locations.

8 The blue dots are Conoco.

9 The yellow represent any of the other operators
10 out there.

11 In the North Dagger Draw-Upper Penn Pool, Yates
12 operates between 105 and 110 wells, Nearburg operates
13 between 12 and 14, and of course there's some drilling at
14 this time.

15 Q. Now, this particular map only depicts the pool --
16 the wells within the North Dagger Draw Pool; is that
17 correct?

18 A. Well, there are other wells you'll see located on
19 the map.

20 There are a few gas wells, there are some oil
21 production out in this area, but they're indicated in the
22 gas symbols.

23 Anything outside the zero dolomite line is other
24 production.

25 Q. All right. Now, the purple circles, either the

1 gas symbols, solid lines or open circles, those are
2 Nearburg-operated --

3 A. That's correct.

4 Q. -- wells or locations; is that correct?

5 A. That's correct, right.

6 Q. Now, with respect to the wells that have the gas
7 symbols, those are Morrow gas wells, are they not? The
8 purple ones?

9 A. Most are Morrow. There might be a couple Strawn,
10 but the majority of them are Morrow, right.

11 Q. All right. In this particular area, there is
12 only one producing within more than a mile around this area
13 -- well, yeah, approximately a mile. There is -- The only
14 Nearburg-operated well is in Section 24 -- is that correct?
15 -- for the -- in this pool?

16 A. In this pool, that's correct.

17 Q. Now, there was an Exhibit 4 that was introduced
18 by Nearburg. That map somewhat differs from this with
19 respect to the Nearburg wells; is that correct?

20 A. That's correct.

21 Q. And why is that?

22 A. Well, it showed all the wells Nearburg has
23 drilled or operates currently, not just the Dagger Draw
24 wells, but all wells. There are several more wells.

25 This mainly shows the Dagger Draw field.

1 Q. Okay. Did that Nearburg map also include
2 dryholes, that sort of thing --

3 A. Yes --

4 Q. -- your information?

5 A. -- I believe it did, right.

6 Q. All right, let's turn to Exhibit 3. Or is there
7 anything further that you would like to discuss with this
8 exhibit?

9 A. No, I think that's all.

10 Q. Okay. Exhibit 3, what is -- Would you identify
11 for the record what Exhibit 3 is?

12 A. Exhibit 3 is our proposal to drill the Bert APB
13 Number 1 that we did send to Nearburg on March 2nd, 1995.
14 They received it March 3rd. It's a cover letter, plus an
15 AFE and our proposed joint operating agreement.

16 Q. All right. This -- Okay. Mr. Shelton described
17 in his testimony the proposal that was sent out by Yates.
18 Basically was that testimony accurate?

19 A. Yes, it was.

20 Q. All right. The -- there was some -- Mr. Shelton
21 described the slight differences in the operating rates and
22 what have you.

23 A. Right.

24 Q. Would you please tell the Examiner what overhead
25 rates that Yates thinks are appropriate for a well in this

1 Cisco -- a Cisco/Canyon well in this quarter section?

2 A. Okay, we're proposing a \$5400 drilling well rate
3 and a \$540 producing well rate. And I believe Mr. Shelton
4 said they would agree to those rates also.

5 Q. All right. Now, with respect to a nonconsent
6 penalty, which -- what do you feel is appropriate, or Yates
7 feel is appropriate in this?

8 A. Both OA's proposed a 400-percent penalty. We
9 realize that those -- that you cannot impose that, so we
10 would request that a 200-percent penalty be imposed.

11 Q. Do you feel that that is consistent with the
12 experience of other operators in the area --

13 A. Yes.

14 Q. -- that that would be adequate?

15 A. Yes, sir.

16 Q. All right. And it certainly is less than what
17 both Nearburg and Yates proposed in the initial offerings
18 to try to get -- work out a compromise?

19 A. That's correct.

20 Q. All right, let's turn to your Exhibit 4. What is
21 that?

22 Would you again identify it and discuss its
23 significance?

24 A. This is our approved APD, or Application for
25 Permit to Drill, our Bert APB Number 1 at a location of 660

1 from the south and 660 from the west, Section 13 of 19
2 South, 25 East.

3 And it has been approved by the Oil Conservation
4 Division.

5 Q. So Yates has already received and got permission
6 to drill a well at this location?

7 A. That's correct.

8 Q. Let's turn to your Exhibit Number 5, and what is
9 that?

10 A. That is just our certificate of mailing and
11 compliance with Rule 1207, that we did send notice of this
12 hearing.

13 Q. All right, and notice was given to just Nearburg
14 Production?

15 A. That's correct. They're the only other party
16 involved.

17 Q. Now, Mr. Shelton described the ownership of -- in
18 this quarter section, he described what Nearburg had as 50
19 percent, he described the contested Holmquist lease, the
20 amount, and then he described what the remaining ownership
21 was in Yates Petroleum --

22 A. That's correct.

23 Q. -- and he presented exhibits showing those
24 numbers --

25 A. That's correct.

1 Q. -- exactly?

2 Do you agree with those numbers as represented?

3 A. Yes, we do.

4 Q. The only difference is, Yates does differ with
5 respect to the ownership of the Holmquist least?

6 A. That's correct.

7 Q. That's a contested issue?

8 A. Right.

9 Q. Okay. Let's turn next to your Exhibit Number 6.

10 A. This is just a proposal -- I believe Mr. Shelton
11 also put in as an exhibit -- that we received from Nearburg
12 on March 8th. It's their cover letter, AFE and JOA for
13 their Fairchild 13 Number 2.

14 Q. I noticed on both your Exhibit 3 and this Exhibit
15 6 you have a red flag. What is the purpose of that red
16 flag?

17 A. That just marks where the AFE is at, because
18 those are to be discussed later by our engineering witness.

19 Q. All right, that was just to make it -- ease of
20 locating the two AFEs; is that correct?

21 A. That's correct.

22 Q. Is there anything further that you would wish to
23 tell the Examiner in relationship to these exhibits?

24 A. No, sir.

25 MR. ERNEST CARROLL: I would move, Mr. Examiner,

1 the admission of Yates Exhibits 1 through 6 at this time.

2 EXAMINER CATANACH: Exhibits 1 through 6 will be
3 admitted as evidence.

4 MR. ERNEST CARROLL: And I would pass the
5 witness.

6 EXAMINER CATANACH: Mr. Kellahin?

7 CROSS-EXAMINATION

8 BY MR. KELLAHIN:

9 Q. Ms. Mauritsen, if you'll look at Exhibit 3 with
10 me --

11 A. Yes, sir.

12 Q. -- your proposal to Nearburg is March 2nd?

13 A. Well, it was mailed on March 2nd. They did
14 receive it March 3rd, right.

15 Q. But it's prepared by you, and it is sent on March
16 2nd?

17 A. That's correct.

18 Q. At the time that was prepared, did you submit an
19 estimated well cost to Nearburg?

20 A. Yes, we did.

21 Q. And who prepares and signs off on this AFE?

22 A. Mr. Al Springer prepares the majority of our AFEs
23 and signs off on them.

24 Q. What is Mr. Springer's function with Yates?

25 A. He's in our engineering department. I'm not

1 positive of his exact title. He is in the engineering
2 department.

3 Q. If you're going to one of the Yates personnel for
4 questions or AFEs, Mr. Springer is the man you go see?

5 A. Yes, he's the one that prepares them.

6 Q. Okay. That was done on the 2nd of March --

7 A. The AFE was --

8 Q. -- letter -- the AFE?

9 A. -- was prepared March 1st.

10 Q. You see up on the top it says March 1st?

11 A. Yes.

12 Q. Okay, look on Exhibit 4 for me.

13 A. Okay.

14 Q. The Application for a Permit to Drill, filed with
15 the regulatory agency --

16 A. Right.

17 Q. -- shows that it's dated on March 1st?

18 A. That's correct.

19 Q. And it is correspondingly approved on March 1st?

20 A. That's correct.

21 Q. This well has been approved at Yates' request by
22 the Oil Commission prior to requesting Nearburg to
23 participate in this well?

24 A. That's correct.

25 Q. Is that not true?

1 A. Yes, that's true.

2 Q. Is that Yates' common practice, to obtain
3 Applications for Permits to Drill before you propose the
4 well to the other interest owners in the spacing unit?

5 A. It's not always common, but we do do it
6 occasionally, yes.

7 Q. And did it here?

8 A. Yes, sir.

9 Q. Do you do it consistently when you propose wells
10 to Nearburg?

11 A. I don't believe so, no.

12 Q. Why was it done in this case?

13 A. I really can't answer that. I did not file the
14 APD. I was requested to prepare the documents to propose
15 the well, but I do not have anything to do with when the
16 APD is taken over to be approved.

17 Q. On Exhibit 1 --

18 A. Yes.

19 Q. -- the color coding --

20 A. Yes.

21 Q. -- within the southwest quarter of Section 13 --

22 A. Right.

23 Q. -- you've shaded that in as all yellow acreage?

24 A. Well, I think I said I just did that so that the
25 spacing unit stands out. It's not representing us having a

1 hundred percent; I just wanted it to stand out on the plat
2 itself.

3 Q. Okay.

4 A. It does not represent that.

5 Q. You described the ownership in Section 14 to the
6 west?

7 A. Correct. That's the only part in this nine
8 sections that I worked on where we do have a hundred-
9 percent ownership.

10 Q. All right. Do you know the ownership in the
11 southwest quarter of 14, which is the adjoining section?

12 It's shaded entirely in yellow. What does that
13 mean?

14 A. A hundred percent Yates.

15 Q. Yates Petroleum Company?

16 A. Well, Yates, et al. It's not --

17 Q. Yates and all the entities?

18 A. That's correct.

19 Q. And when I get over in the southeast quarter --

20 A. Right.

21 Q. -- why is that not shaded entirely in yellow?

22 A. Because we do not own a hundred percent of that
23 acreage.

24 Q. Who else owns the rest?

25 A. There is a mineral owner, and it used to be one

1 of the Fants. I don't remember if it's C.J. or D.B. Fant
2 that still owns that, as far as I know, and we do not have
3 that lease.

4 Q. How big an interest is it?

5 A. I believe it's a half interest, but I'm just --
6 From my memory, I believe it's a half interest.

7 Q. Yates only controls 50 percent of the southeast
8 quarter of 14; is that what I'm hearing?

9 A. Well, I think we actually have a little less than
10 50 percent.

11 We don't have -- We have 140 acres out of the
12 whole 320 section, east half of 14.

13 Q. When we look at your development map, which is
14 Exhibit Number 2, Yates has the proposed Bert location in
15 the southwest of 13?

16 I see that marked on here.

17 A. That's correct.

18 Q. How far west do we have to go before we get to an
19 oil well in North Dagger Draw that's operated by Yates?

20 A. Oh, I'd say approximately 2 1/2 miles.

21 Q. And where would that be?

22 A. The closest one would probably be in the
23 southeast quarter of Section 21, our Patriot AIZ Number 5.

24 MR. KELLAHIN: Thank you, Mr. Examiner, I have
25 nothing else.

EXAMINATION

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BY EXAMINER CATANACH:

Q. Ms. Mauritsen, do you routinely deal with Nearburg Producing Company on these spacing-unit issues?

A. Yes, I have in the last six months or so, yes.

Q. Are you aware of the instances referenced by Mr. Shelton this morning where Yates and Nearburg were able to agree voluntarily on operatorship?

A. I'm aware of them. I was not the landman handling the wells, but I'm aware of them.

Q. Are you aware of some of the criteria that were used by Yates and Nearburg to determine who should operate those spacing units?

A. The two that Bob pointed out as far as the ownership, and at the time I guess he said it was their operations viewpoint.

But that's all I know of, because I was not involved in actual negotiations on those.

Q. Would you characterize those as being accurate as far as Yates is concerned?

A. As far as I know, yes.

EXAMINER CATANACH: Okay. That's all I have of the witness.

MR. ERNEST CARROLL: I have nothing further from this witness.

1 BRENT MAY,

2 the witness herein, after having been first duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ERNEST CARROLL:

6 Q. Would you please state your name and place of
7 residence for the record?

8 A. Brent May. I live in Artesia, New Mexico.

9 Q. Mr. May, if you would, please, try to speak up.
10 The roar from this intake is really tough, and I'm having a
11 hard time hearing. I'm sure maybe the Examiner too.

12 A. Okay.

13 Q. By whom are you employed?

14 A. Yates Petroleum.

15 Q. In what capacity?

16 A. As a petroleum geologist.

17 Q. Mr. May, are you familiar with the two competing
18 Applications now being heard by this Examiner?

19 A. Yes, I am.

20 Q. And have you performed geological work with
21 respect to these Applications?

22 A. Yes, I have.

23 Q. And have you testified before the Division on
24 previous occasions and had your credentials as a petroleum
25 geologist accepted?

1 A. Yes, I have.

2 MR. ERNEST CARROLL: Mr. Catanach, I'd tender Mr.
3 May as an expert in the field of petroleum geology.

4 EXAMINER CATANACH: Mr. May is so qualified.

5 Q. (By Mr. Ernest Carroll) Mr. May, with respect to
6 the Application that Yates has filed and in opposition of
7 the Nearburg Application, have you prepared certain
8 exhibits?

9 A. Yes, I have.

10 Q. And would you please turn to your first Exhibit,
11 Number 7, and if you would identify that and explain its
12 significance to the case.

13 A. This is a partial log of the Nearburg Fairchild
14 24 Number 1, located in Section 24 of 19 South, 25 East.
15 It's the same log that Mr. Elger had on his cross-section.

16 This is a neutron density log, just over the
17 Canyon or Upper Penn section.

18 I might state that -- Mr. Elger stated this too.
19 This is the key well in the area, since we are about two to
20 two and a half miles east of the main North Dagger Draw
21 Pool, and this is the only Canyon or Upper Penn producer in
22 this immediate area.

23 I'd just like to point out, I've marked the top
24 of the Canyon limestone and the top of the Canyon dolomite,
25 the base of the dolomite.

1 As was stated before, this was drilled originally
2 to the Morrow. Original TD was around 9599.

3 I've marked one DST that Nearburg performed in
4 the upper part of the Canyon dolomite, and I've also marked
5 the perforations that they have currently perforated. And
6 from what I understand, at least they have tested around
7 800 barrels of oil per day, a little over 2000 of water,
8 and around a half a million gas.

9 And also, I might state that the blue colored
10 in -- and that's colored in on the PE log -- that's just
11 showing dolomite present within this well.

12 Q. Mr. May, is the geologic data available from the
13 drilling of this Fairchild 24 Number 1 the principal
14 subsurface data available to a geologist in trying to map
15 the productive interval in the Cisco/Canyon area of the
16 southwest quarter of Section 13?

17 A. This is the key well, since it's the only
18 producer for a couple of miles around.

19 Q. All right. Is there anything else further you
20 would like to point out with respect to Exhibit 7?

21 A. No, I believe that's all.

22 Q. Would you turn to Exhibit 8, then, and identify
23 it?

24 A. This is a structure map. It shows the top of the
25 Canyon dolomite. Contour interval is 50 feet, and it shows

1 both the Yates and Nearburg proposed locations.

2 Note the Fairchild 24 Number 1, the only
3 producer, shown with a red dot down in Section 24. There's
4 also a few Morrow producers around, which Mr. Elger has
5 also pointed out.

6 On my map I'm showing a structural high trending
7 east-west and plunging to the east. Both the proposed
8 locations are on the southern flank of this high. It
9 appears both the locations should be higher than the
10 producing well in 24, but it also appears like the Yates
11 location could be 35 to 40 feet higher structurally than
12 the Nearburg location.

13 Q. Well now, Mr. May, let's just deviate just a
14 moment here. Your map is drawn on the top of the Canyon
15 dolomite; is that correct?

16 A. That is correct.

17 Q. The Canyon dolomite that you're depicting here is
18 the actual pay zone or pay interval; is that correct?

19 A. That is correct.

20 Q. Now, as you understand Mr. Elger's testimony, the
21 top of the interval that he was mapping -- Was it actually
22 the Canyon dolomite or the Canyon limestone?

23 A. He used the Canyon dolomite as his mapping. But
24 with the seismic line he integrated, all he could see was
25 the top of the Canyon lime.

1 Q. All right. Now, would you please discuss for
2 us -- You just testified that you feel that the proposed
3 Yates location would be more favorable than the proposed
4 Nearburg location or be structurally higher; is that
5 correct?

6 A. That's correct.

7 Q. Mr. Elger testified differently. Would you
8 please discuss those differences and why you feel that Mr.
9 Elger is incorrect?

10 A. Well, as I alluded to earlier, Mr. Elger mapped
11 on the Canyon dolomite using his subsurface data. But when
12 he added in his seismic data, that is based on top of the
13 Canyon limestone. That's a different horizon. Now, I'm
14 sure he interpreted where he thought the Canyon dolomite
15 would come in based off his seismic top.

16 My experience out here -- Even though he has
17 pointed out some of the surrounding wells he thought the
18 limestone thickness was similar, which is true, but my
19 thickness -- I have seen great variation in short distances
20 in the thickness of the lime.

21 So the shot points he has going across the two
22 locations, that could vary his structure map a little bit
23 if that lime thickness changes.

24 Q. All right. Now, with respect to the thickness of
25 the lime is it your information that you could even read

1 that on the 3-D seismic?

2 A. From what I understand, no, that is strictly an
3 interpretation on whoever's doing the seismic
4 interpretation.

5 Q. Why is that, to your information?

6 A. As far as I know, the way I understand it, the
7 seismic reads the interface between the Penn shales right
8 above the Canyon. It's the difference between the shales
9 and the carbonate, and that's what shows the big peak or
10 the identifiable peak on the seismic, and that is just
11 between the interface between the shale and the top of the
12 Canyon. And the top of the Canyon out here has been the
13 Canyon limestone. So his seismic, that's all he's seeing.

14 Q. Mr. May, is the limestone in this area -- has it
15 been found to be thick enough to even be read with the use
16 of seismic?

17 A. From what I understand, the resolution and the
18 thickness of the lime out here, you might have a very hard
19 time seeing that thick -- that 50-some-odd feet of
20 limestone.

21 Q. Now, you have heard Mr. Elger testify. Do you
22 consider that testimony of Mr. Elger credible enough to
23 change your interpretation that you have rendered to this
24 Division Examiner?

25 A. That is his interpretation. I have a different

1 interpretation. And I think there's room enough out here,
2 with only having one known producer and the few well-
3 control data you have out here, that there's room for
4 different interpretations.

5 Q. Is it your testimony, though, after having
6 considered Mr. Elger's testimony, that you do not believe
7 that you would adopt his interpretation?

8 A. I don't think I could at this point, with the
9 data that he shows. It's too much variance in there.

10 Q. To your information, do operators in this area
11 use the seismic to define the locations for the
12 Cisco/Canyon?

13 A. I am personally -- I know Nearburg shot a 3-D
14 seismic in this area, and that's the only seismic I am
15 personally aware of.

16 Now, whether or not Conoco or Nearburg is using
17 3-D seismic or 2-D seismic elsewhere in the field, I do not
18 have personal knowledge of that.

19 But as far as I know out here, they did use their
20 3-D seismic.

21 As far as I know, they have not drilled a Canyon
22 producer, based on a 3-D seismic, except for the one well
23 that Mr. Elger alluded to, which was a direct offset.

24 Q. 3-D seismic has been used out here to define
25 Morrow tests; is that not true?

1 A. Like Mr. Elger said, they drilled the Fairchild
2 24 Number 1 originally as a Morrow prospect, and I believe
3 they drilled their Lakewood Farms 18 Number 1 in 18 of 19
4 South, 26 East, as a Morrow producer, and both were dry, I
5 believe, in the Morrow.

6 Q. Now, you have indicated that the proposed Yates
7 location would be structurally higher. Could you quantify
8 that?

9 A. Probably around 35 to 40 feet, maybe, somewhere
10 in that area.

11 Q. And again, what is the basis of your opinion that
12 it would be higher?

13 A. That's off the subsurface data on top of the
14 dolomite, and that is my interpretation. There's -- I'll
15 concede there's room for other interpretations out here.

16 Q. Is there anything else that you'd like to discuss
17 here with respect to Exhibit Number 8?

18 A. Oh, I would just like to point out -- not
19 necessarily towards my exhibit, but Mr. Elger's --
20 Nearburg's Exhibit 14, he has a line drawn distinguishing
21 between non-Canyon reservoir and Canyon reservoir, which he
22 has shaded gray. And in between the two wells, between the
23 Fairchild 24 Number 1 in Section 24 and the well in 23, I
24 think he can pick that fairly decently, based on the data.

25 But up around the proposed locations, there's no

1 data points up there to base that on, and that's his
2 interpretation.

3 Q. And you would differ with that?

4 A. Well, I would say at this point there's not
5 enough data to really put that line in.

6 Q. You would feel uncomfortable with drawing that
7 line, then?

8 A. Yes, the lack of data, I'm not sure where I could
9 draw that line at this point. There's just not enough data
10 up there.

11 But that's his interpretation.

12 Q. Anything else with respect to that?

13 A. No, sir.

14 Q. Okay. If you'd turn to your Exhibit Number 9,
15 again, would you identify it for the record and discuss its
16 significance?

17 A. This is a net isopach of the Canyon dolomite.
18 The contour interval is 50 feet. Again, the two proposed
19 locations are shown.

20 This map shows a net dolomite thick trending
21 basically east-west, with the two locations within the
22 thick. Both locations should have similar dolomite
23 thickness and should have more dolomite than the Fairchild
24 Number 1.

25 So this map is showing no difference between the

1 two proposed locations.

2 Q. You show no, then, advantage between the two
3 proposed locations based on this map?

4 A. No, sir, there is no advantage between the two
5 locations here.

6 Q. Is there anything else that you would like to
7 discuss with respect to this exhibit?

8 A. No.

9 Q. Mr. May, is there anything else that you would
10 like to discuss with respect to the geologic exhibits that
11 Mr. Elger testified to?

12 A. I might just state that whichever well is
13 drilled, and if a Canyon producer is made, I would bet
14 money the other location will be drilled too. I believe
15 that there's -- if there's a Canyon producer drilled up
16 here, both wells will eventually get drilled.

17 Q. And under the field rules, that could occur?

18 A. Yes, sir, because you can drill four per 160.

19 Q. All right. Both of these wells are orthodox for
20 drilling additional wells within that 160; is that correct?

21 A. That's correct.

22 Q. So actually two wells could be drilled, one each,
23 north of the two proposed locations?

24 A. That's correct.

25 Q. Now, with respect, though -- your opinion, which

1 do you feel -- Based on the information now available to
2 the parties, which do you feel -- which location do you
3 feel has the structural advantage or would be more
4 favorable to be drilled first?

5 A. According to my interpretation -- and I still
6 feel I can stick with my interpretation -- the Yates
7 location would be the better of the two locations.

8 Q. Do you have anything further you'd like to --

9 A. No, I believe that's all.

10 MR. ERNEST CARROLL: Mr. Examiner, I would move
11 admission of Yates Exhibits 7, 8 and 9 at this time.

12 EXAMINER CATANACH: Exhibits 7, 8 and 9 will be
13 admitted as evidence.

14 MR. ERNEST CARROLL: And then I pass the witness.

15 EXAMINER CATANACH: Mr. Kellahin?

16 CROSS-EXAMINATION

17 BY MR. KELLAHIN:

18 Q. Mr. May, I'm looking at your Exhibit Number 8.
19 South of the dispute in Section 24 is the Fairchild 24
20 Number 1 well, drilled by Nearburg?

21 A. South of Section 13?

22 Q. I'm sorry.

23 A. Yes, sir.

24 Q. South of 13 in Section 24 is the Nearburg 24-1
25 well?

1 A. Yes, sir, that's correct.

2 Q. It's producing oil out of this Canyon dolomite?

3 A. That is correct.

4 Q. Why is there oil at that location?

5 A. That's a good question, and I think Mr. Elger hit
6 on one possibility, that you could have -- As he showed on
7 his cross-section, there was a piece of dolomite at the
8 very top. First you had the Canyon lime, then you went
9 into a piece of dolomite, and then you went into more lime,
10 and you finally went into the Canyon dolomite body. And
11 that upper dolomite is where they have perforated and are
12 producing out of.

13 That looks like maybe a little finger of dolomite
14 on top of the dolomite section.

15 Q. Do you have any alternative theory to how this is
16 trapped and located there?

17 A. I think Mr. Elger is -- I would probably agree
18 with that.

19 Now, there's another one that is being kicked
20 around and is not been proven. There's a possibility that
21 that production from the main body of the field could
22 eventually come down and meet this. But that's highly
23 speculative.

24 I think Mr. Elger at this point has the better
25 interpretation, and I would agree with his cross-section.

1 Q. Did you have available to you any of the seismic
2 data that Mr. Elger had utilized in his interpretation?

3 A. No, I did not. All I had was subsurface only. I
4 did not have any seismic available to me.

5 Q. When we look at the Exhibit 8, is the strategy
6 here to play off the success of the Fairchild 24-1 well in
7 Section 24?

8 A. That is the key well, and I would have to agree
9 with that statement.

10 Q. When we look at minimizing -- Well, let's look at
11 the risk issue before we talk about minimizing it.

12 Within the southwest quarter of 13, the risk,
13 regardless of which location, is substantial for either
14 operator, is it not?

15 A. I agree.

16 Q. And regardless of who is the operator, the
17 maximum 200-percent penalty is going to be appropriate,
18 isn't it?

19 A. I agree.

20 Q. Apart from that issue, though, you can manage the
21 risk in several ways, and one way would be to locate the
22 next well as close as you could to the Fairchild 24 well;
23 is that not true?

24 A. In some instances. But according to my
25 interpretation it did fall structurally higher, the closer

1 one.

2 But then again, on Mr. Elger's interpretation,
3 the well that's a little further away, according to his
4 interpretation, would be higher.

5 Q. The advantage under either interpretation is for
6 -- the challenge for either one is to be as high as you can
7 structurally?

8 A. That helps. But that is not everything, because
9 as we saw on Mr. Elger's cross-section, that thin piece of
10 dolomite where the Fairchild 24 Number 1 is producing, that
11 is the reservoir out here, and either one of these
12 locations, there's a risk we could lose that dolomite at
13 either location.

14 Q. When you look in Section 14 to the west of 13, it
15 appears by your interpretation in Exhibit 8 that we are
16 gaining structure as we move into the adjoining section?

17 A. Yes, sir.

18 Q. Why has not Yates proposed a well in the
19 southeast of the southeast of 14?

20 A. I don't know if I can answer that right now
21 because I don't know the land questions involved and how
22 much -- if we own that acreage. I don't know that off the
23 top of my head, sir, and I --

24 Q. Well, forget the land questions. Ms. Mauritsen
25 has told us the land ownership in 14. I'm talking about

1 geologic strategy.

2 A. Okay, again, you could go back to your previous
3 question. You could be getting further away from your
4 reservoir. And there's risk involved there on -- the
5 further -- As you pointed out, the further you get away,
6 possibly you could be getting further away from that thin
7 piece of dolomite that's producing.

8 And then again, on the other hand, you might get
9 lucky enough to where it thickens up. But it adds your
10 risk, the further away you get.

11 Q. When we look at your Exhibit 9, which is the
12 distribution of the dolomite on the isopach, what's "net"
13 mean?

14 A. It's the -- I'll describe it the same way I did
15 in the last hearing, and what I did is, I looked at the
16 dolomite and actually counted up the feet thickness of
17 dolomite present. I did not use the gamma ray, I did not
18 use the porosity. I only counted up the net feet of
19 dolomite --

20 Q. Okay.

21 A. -- total, in the whole Canyon section.

22 Q. Okay. And when you count that total at the
23 Fairchild 24 location, you get 289 feet?

24 A. Yes, sir.

25 Q. And if you move up into Section 18, up to the

1 northeast, and we look up in the northwest-northwest,
2 there's a value of 268?

3 A. I'm sorry, in which --

4 Q. Yes, sir, I'm looking in Section 18.

5 A. Oh, okay. Yes, sir, I see it.

6 Q. In the northwest-northwest --

7 A. Yes, sir.

8 Q. -- There's a value of 268?

9 A. Yes, sir.

10 Q. Are you counting that off the log that was on Mr.
11 Elger's cross-section, which is that Nearburg Lakewood Farm
12 18-1 well?

13 A. That should be the same, yes.

14 Q. All right, let's look at his cross-section. You
15 have it there.

16 What are you counting when you get 268 feet, if
17 we're looking at his cross-section?

18 A. You can see he's got the limestone colored at the
19 top, and then he goes into what he's correlating in, a
20 little thin section that possibly correlates to the
21 producing zone in the Fairchild 24 Number 1. That's
22 dolomite.

23 And then you go down into the Middle Canyon, what
24 he has labeled as the Middle Canyon, there's dolomite
25 present there.

1 You go down into what he has marked the Lower
2 Canyon, and down to about eight thousand and approximately
3 fifty, there's dolomite there. And then you finally go
4 back into limestone.

5 Q. All right. When you're looking at the log in
6 that section, would you agree with him that the opportunity
7 for oil production out of the dolomite is confined to that
8 portion that he has shaded --

9 A. Possibly.

10 Q. -- in the pink?

11 A. Possibly. I would like to point out that
12 everyone was surprised by the Fairchild 24 Number 1
13 becoming a producer, and I think Nearburg could even agree
14 to that.

15 So at this point I don't rule out anything. And
16 we could always stumble across more productive interval
17 elsewhere, besides that thin dolomite finger, as I recall
18 it, that's present in the Fairchild 24 Number 1.

19 Q. Looking west on Exhibit 9 again, you've got
20 Section 13 where the dispute exists?

21 A. Yes.

22 Q. In Section 14, farther to the west, there is a
23 well symbol, and it's got a value of 306 feet?

24 A. Yes, sir.

25 Q. That is Yates's disposal well, is it not, where

1 you're disposing of water into the Canyon, are you not?

2 A. That is correct, if I'm understanding it right.

3 Q. When we look at your Exhibit Number 7, the well
4 in 14 would be disposing in a zone that is correlative to
5 what portion of the log shown on the Fairchild 24 well?

6 A. I'm not exactly sure of where exactly those
7 perforations are in the well in 14. So -- There's a
8 possibility, if I remember right -- and I could be wrong,
9 but if I remember right, I don't think there's that finger
10 of dolomite in that well. But -- I believe the
11 perforations are in the upper part of the Canyon dolomite,
12 but -- I could be wrong on that, but I think that's what I
13 remember.

14 Q. That disposal well that's putting water in the
15 Canyon member, how many feet on your structure map is that
16 upstructure to the Fairchild 24 well?

17 A. That -- let's see, approximately -- to the
18 Fairchild 24? That was approximately 123 feet, I believe.

19 Q. Yes, sir, that's what I calculate.

20 When we look at your dolomite section, you have
21 connected Sections 14, 13, 24 and 23 into the same dolomite
22 reservoir, haven't you?

23 A. This net isopach dolomite, I'm not trying to map
24 out individual units within the dolomite. It is the net of
25 all dolomite. So yes, I'm not mapping out individual

1 dolomite units.

2 Q. Do you know what kind of volumes are being
3 disposed of into the disposal well?

4 A. No, sir, I do not. And I might point out, that
5 was converted into a disposal well several years ago,
6 before the development in North Dagger Draw, and that's why
7 that disposal well was put there.

8 I think if it was today, if we drilled that well
9 today, we probably would not convert it into a disposal
10 well.

11 Q. Is it still being utilized for disposal purposes?

12 A. I'm not sure, I'm not sure.

13 MR. KELLAHIN: I have no further questions, Mr.
14 Examiner.

15 EXAMINATION

16 BY EXAMINER CATANACH:

17 Q. Mr. May, am I correct in understanding your
18 testimony that the seismic information utilized by Nearburg
19 is not really valuable in this case because you still have
20 to make certain assumptions as to thickness of the
21 dolomite?

22 A. I don't know if I should say that the word
23 "valuable" should be used, but what I'm trying to get at is
24 that all they can see on their seismic is the top of the
25 limestone. And I have seen, working North Dagger Draw, the

1 thickness of the limestone can vary.

2 And thus, it's hard to predict the top of the
3 dolomite, based off the top of the limestone.

4 Q. Is the limestone thickness -- in some areas is it
5 consistent?

6 A. I've seen it vary from zero to over a hundred
7 feet in thickness. I've seen it in 40-acre offsets -- In,
8 I believe, Section 10 of 19 South, 25 East, I think I've
9 seen it vary from, if I remember right, around 40 feet
10 thick to over 100 feet thick in 40-acre offsets. So it can
11 vary in thickness.

12 Q. Can it be consistent?

13 A. I would say with the lack of data around Section
14 13 -- I mean basically in the nine sections around 13 you
15 have around -- maybe one to two wells, one and a half to
16 two wells, per section. I would say with that lack of
17 control it might be hard to predict the consistency of it
18 in this area.

19 Now, once you get back over to North Dagger Draw
20 and you basically have 40 acres -- every 40 acres drilled
21 up, you can get a better feel for it.

22 Q. Mr. May, is it your opinion that both of these
23 locations are drillable and both will be productive in this
24 reservoir?

25 A. I think there's a chance, yes, that both

1 locations could be productive.

2 I think both locations appear to be risky too.

3 And I have my interpretation that says the Yates
4 well should be higher, and Mr. Elger has his
5 interpretation.

6 Q. These wells can be risky based upon the
7 structural position?

8 A. Well, I think the big risk here is that we're
9 stepping out quite a ways from the known producer, and this
10 is the -- and the Fairchild 24 is the only Canyon producer
11 in this area -- you have to say back two, two and a half
12 miles, back to the west to get into North Dagger Draw
13 before there's any Canyon production.

14 And as Mr. Elger said, this is way downdip of
15 where we originally thought you could find productive
16 acreage in the Canyon. That also adds to the risk.

17 Also, we only have the one data point, the
18 Fairchild 24, on that dolomite finger. Where else -- You
19 know, it's very hard to predict where else that finger
20 goes.

21 Granted, Mr. Elger also can see it in the well in
22 23, but that's basically only two in this immediate area.
23 That's not a whole lot of data to go on.

24 So there can be a lot of room for interpretation.

25 EXAMINER CATANACH: That's all I have of the

1 witness.

2 ROBERT FANT,

3 the witness herein, after having been first duly sworn upon
4 his oath, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. ERNEST CARROLL:

7 Q. Would you state your name and residence for the
8 record?

9 A. My name is Robert Fant, and I live in Artesia,
10 New Mexico.

11 Q. And by whom are you employed?

12 A. I'm employed by Yates Petroleum Corporation.

13 Q. What capacity?

14 A. As a petroleum engineer.

15 Q. Have you had occasion to testify before this
16 Division and have your credentials accepted as a petroleum
17 engineer?

18 A. Yes, sir, I have.

19 Q. And Mr. Fant, are you personally familiar with
20 the Applications now before this -- the two competing
21 Applications now before this Examiner?

22 A. Yes, sir, I am familiar with them.

23 MR. ERNEST CARROLL: Mr. Examiner, I tender Mr.
24 Fant as an expert in the field of petroleum engineering.

25 EXAMINER CATANACH: Mr. Fant is so qualified.

1 Q. (By Mr. Ernest Carroll) Mr. Fant, you have
2 prepared certain exhibits, have you not?

3 A. Yes, sir, I have.

4 Q. Before we get into those exhibits, you have also
5 examined the two AFEs that were presented, one by Nearburg
6 and one by Yates; is that correct?

7 A. Yes, sir, I have.

8 Q. And that's where you would like to begin your
9 testimony, is it not?

10 A. Yes, sir, I would like to start with these.

11 Q. Okay. The two exhibits that you're going to be
12 looking at, the AFEs, for the Examiner's ease, would be
13 Exhibit Number 3, behind the red tab, and Exhibit, I
14 believe, 5, behind the red tab; is that correct?

15 A. Yeah, the red --

16 Q. No, it's Exhibit 6, excuse me, 3 and 6.

17 A. Yeah, 6.

18 Q. 3 would be the Yates AFE, 6 would be the Nearburg
19 AFE; is that correct?

20 A. Yes, sir.

21 Q. All right. Would you please give us the benefit
22 of what your opinion is with respect to comparing these two
23 -- the differences in these two AFEs?

24 A. I don't want to take too long on this; Mr.
25 McDonald has covered some of this.

1 But basically there are discrepancies between the
2 two AFEs. Exhibit Number 3 contains the Yates AFE, and
3 Exhibit Number 6 contains Nearburg's AFE. And just as he
4 mentioned, there are some discrepancies, and he mentioned
5 some of the more prominent ones.

6 And the intangible drilling cost, the most
7 prominent difference is actually the footage rate.

8 When this AFE was presented, we realized that
9 there would be -- there might be some increased drilling
10 activity, and we were concerned that drilling rates might
11 increase, and we wanted to prepare our partners for that,
12 that that might happen.

13 In reality, drilling rates have not increased
14 substantially out here, and so...

15 Again, as we alluded to earlier, these are cost
16 estimates. I mean, they are hopefully based upon
17 experience, but they are simply estimates made by these
18 people. This does not define, necessarily, how much money
19 will be specifically spent on these wells. Conditions
20 arise and things change.

21 When Mr. -- Mr. Springer, Al Springer, our
22 drilling superintendent, writes the AFEs. When he wrote
23 this one out, he was concerned that drilling rates might go
24 up, and even with the increased activity we really haven't
25 seen that to any tremendous effect.

1 Q. With respect to the drilling company that
2 Nearburg was talking about having a contract, Peterson, you
3 in fact at the present are utilizing the rig that would
4 have been under that contract?

5 A. Well, we had been until just a day or two ago.
6 We actually drilled a well with them.

7 They released that -- We released that rig
8 subsequent to the TD and running of casing in that well.

9 Q. The significance is that the drilling contractors
10 out here are available to both parties, the same drilling
11 contractors?

12 A. Yes. I mean, that's absolutely true.
13 Contractors are -- In fact, we used the specific company
14 that they spoke about using. We just used one of their
15 rigs. And we, I'm sure, get a similar type of drilling
16 costs.

17 Now, that was approximately \$30,000 of the
18 difference between the two wells. And there was a -- Part
19 of that difference in the drilling footage rates, is the
20 fact that we have estimated taking the well to 8500 feet.

21 That's a practice that Yates Petroleum has found
22 to be beneficial in the long-term operations of these
23 wells. It provides to have enough rathole beneath the
24 Canyon to where if there were any problems or junk left in
25 the hole, if you were to run into the problems, stuff

1 coming into the wellbore and it falls to the bottom, it's
2 of no concern, you don't have to worry about that.

3 Q. So the practice of drilling a deeper rathole is a
4 decision consciously made by Yates to avoid having trouble
5 with stuff that normally accumulates in these holes?

6 A. Yes, it's an attempt on our part to prevent
7 future problems in the wells and to keep the operating
8 costs down. We don't have to go in and clean them out or
9 anything of that nature.

10 Q. Now, this is a much more significant problem,
11 because these wells are subject to being pumped by
12 submersible equipment, and that raises the risk for that
13 kind of occurrence happening?

14 A. Yeah. If you've got high volumes of fluid coming
15 into these wells, which 2500 barrels of fluid a day is high
16 volumes -- I mean there's not that many wells throughout
17 the State of New Mexico that produce those types of fluid
18 volumes. We lift them with a submersible pump.

19 That's a fairly large submersible pump,
20 especially for this area. Pumps of that size can run on
21 the order of \$80,000 to \$100,000. And bringing something
22 in there, not giving it room to fall down, and sucking it
23 into the pump and destroying a pump is a very, very
24 expensive consideration.

25 And that's part of our reasons for taking it -- I

1 just wanted to cover why we like to take them a little
2 deeper.

3 Most of the others -- And again, as Mr. McDonald
4 pointed out in his comparison of these, we categorize our
5 intangible drilling costs. The two different companies
6 categorize them differently, and it's very tough to
7 determine exactly where the differences are.

8 There's some significant differences on water
9 costs. Again, that's going to be a function of actually
10 when the well is drilled, what that actually costs.

11 It could be that supervision is a -- You know, I
12 noticed on theirs that just the term "supervision" showed a
13 large increase in theirs over ours. But then again, it
14 just said "supervision". I don't know whether that's their
15 specific well-site supervision of their personnel or
16 supervision by contractors. It's not spelled out in their
17 particular AFE.

18 But with respect to the intangible costs, the
19 primary one is the drilling footage, and it probably will
20 be lower.

21 Again, these are estimates, and when it comes
22 down to the drilling of a well, we are going to strive to
23 obtain the lowest cost possible from the drilling
24 contractors, and we have a history of doing that, and I
25 intend to present evidence to prove that.

1 That's basically all I have on the intangibles.

2 Q. Okay, go on to the tangible things.

3 A. The tangibles, again, there's two primary
4 differences in the tangible costs, and they're much easier
5 to delineate where the cost differentials are.

6 In general, the actual pipe costs, the costs per
7 foot for the pipe, Nearburg's are equivalent or higher per
8 foot of pipe for their...

9 The -- One of the large, glaring differences,
10 Nearburg has \$80,000 for artificial lift equipment. I have
11 spoken with our production personnel and with our drilling
12 people to -- and with the ESP, Electrical Submersible Pump,
13 Corporation. These are the people who we primarily use to
14 obtain our pumps.

15 You know, we're looking at \$60,000 to \$80,000 for
16 the pump. We have in there, possibly, the contingency for
17 a variable-speed drive.

18 But it's -- All of that is going to be driven by
19 what the well can produce. As Mr. McDonald said, you know,
20 we can estimate these things, but the cost there is going
21 to be driven by what the well actually produces. When we
22 get down and complete the well, that's what's going to
23 drive whether or not you need a bigger pump or a smaller
24 pump or the drives.

25 There is -- That's \$30,000 difference.

1 The other big difference is the -- You know, we
2 have \$60,000 for separation equipment, flow lines,
3 miscellaneous, and that's a big differential between
4 theirs.

5 Separation equipment, you know, again, that's
6 going to be determined -- the size separator you have to
7 buy. We need a three-phase separator in this instance,
8 because we are going to produce gas, oil and water.

9 Again, though, the size of that equipment is
10 determined by what the well can produce. So we can make
11 all these estimates. We can say, well, we can get one for
12 \$3000. But still, we've got to get the size that will
13 handle the production, and that will be decided when it
14 comes in.

15 The other differential is evidently the tank
16 battery issue of whether or not we are going to surface
17 commingle on another lease.

18 Our particular AFE has provisions for building a
19 tank battery for this 160-acre proration unit, and it
20 appears that -- from the testimony, that they are not going
21 to do that, and...

22 So basically, AFEs -- I'm really striving to make
23 the point that AFEs are just estimates. And the specific
24 well conditions, when you get in there to drilling it,
25 that's what really controls the cost.

1 And again, I'm going to present some data that
2 shows where those actually go.

3 You can estimate all you want, but when it gets
4 down to it, there are histories of how much wells cost, and
5 I think that has a much greater bearing on this particular
6 case than an AFE.

7 If we had received their AFE first -- I don't
8 know what our AFE -- what exactly the AFE costs would be.
9 I know they received our AFE first, before theirs was --
10 went out.

11 And so I'm concerned that, you know, you could
12 get in -- If we just consider AFEs, we could get into a
13 situation of one-upsmanship on AFE-writing, and it still
14 doesn't have any bearing.

15 You get out there and you drill the well, and you
16 must engage in certain practices in drilling the well that
17 are safe and that are specified by the rules, and we must
18 do certain things. And those are what are going to drive
19 the costs of the wells.

20 Q. Now, you have prepared a study, then, about
21 actual drilling costs, and that's in your Exhibit Number
22 10; is that correct?

23 A. That is correct. Exhibit Number 10 is simply a
24 compilation of the actual drilling costs, booked costs, for
25 14 wells operated by Yates Petroleum and four wells

1 operated by Nearburg.

2 Now, I want to first go through my selection
3 criteria for the wells. I wanted a common data set between
4 the wells, so I selected -- I wanted data that Nearburg had
5 the data too, so I selected wells that we had drilled that
6 they had interest in. So they had the drilling cost data.

7 I selected wells that they drilled that we had
8 interest in, so that I knew were completed and all the
9 costs have been booked. And I basically looked at the
10 cumulative costs on these things.

11 And there are 14 wells. Ours happen to be
12 alphabetically sorted. There's no time frame exactly on
13 these, but they are alphabetically sorted.

14 And if you look, the average for Yates Petroleum
15 Corporation drilling a Dagger Draw well is \$673,000. This
16 is physical cost, this is factual.

17 There are 14 wells.

18 If you look closely, there are three wells, the
19 Hooper AMP Number 1, the State K Number 3, and the Voight
20 AJD Com Number 1. Those three wells are above \$700,000.

21 The remainder of the wells are under \$600,000 --
22 I mean under \$700,000 -- with an average of \$673,000.

23 So over 75 percent of the time that we drill a
24 well, it comes in -- and I think the exact number is around
25 77 percent -- under \$700,000.

1 Our drilling staff, moving into an outlying area,
2 was concerned about having to drill a tank battery.

3 They in fact -- I specifically spoke with the
4 drilling supervisor. He did not specifically look, when he
5 wrote this AFE, how far our operations, in terms of
6 saltwater disposal, were away. It's right around a mile.
7 So that's part of the high cost that we estimated, that
8 won't be -- won't actually occur, because he was not taking
9 into consideration that the Cotton saltwater disposal well
10 is in the proximity.

11 But again, we estimated \$741,000.

12 When you move to the lower four wells, the ones
13 operated by Nearburg Petroleum, I think the numbers just
14 speak for themselves pretty bluntly.

15 The average for Nearburg Petroleum is almost
16 \$720,000, \$719,000, about \$46,000 more than we spend per
17 well. That's about a 6- to 7-percent increase for Nearburg
18 to drill the well versus us.

19 I'm just -- I wanted to present this as the
20 historical facts about what has been spent out here. These
21 are Dagger Draw wells. These are Dagger Draw completed oil
22 wells. That is a -- In my opinion, that's a stark
23 difference.

24 And they came to us with an AFE saying that they
25 can drill a well around -- for approximately \$92,000 less

1 than what they do on average. And I -- I just had -- I
2 have trouble with that.

3 And I go back to the statement that AFEs are
4 estimates. And I don't want the companies -- I don't want
5 it to become a practice of getting into one-upsmanship on
6 AFE-writing when we come up here. I want people to put
7 down what they truly believe it will cost.

8 And I think these numbers reflect historical --
9 the historical averages.

10 Q. Now, you've also on this exhibit compared what
11 the AFEs were for these wells and have presented an average
12 there, have you not?

13 A. Well, now, this is -- The AFEs here are the AFEs
14 as we see right here. The AFE numbers, drilling-cost
15 estimate, the \$741,200 is what we presented to them in
16 Exhibit Number 3.

17 Q. Okay, and then the other number --

18 A. The \$627,000 is their estimate in their -- in
19 Exhibit Number 6, their proposal back to us.

20 Q. All right. So then the historical data shows
21 that the average -- Yates is -- or has an average of
22 drilling under than what --

23 A. What we have proposed, in this instance.

24 Q. -- what we've proposed, almost \$75,000?

25 A. Yes.

1 Q. And then -- But the expense level for Nearburg is
2 that they have understated almost \$100,000 what they have
3 been historically drilling the wells for?

4 A. Yes, sir.

5 Q. All right. With respect to drilling practices,
6 have you noted a difference in the practices that have been
7 engaged in by Nearburg, as opposed to Yates?

8 A. Yeah, there are some significant differences.
9 Nearburg --

10 Q. You've prepared an exhibit to illustrate those
11 differences, have you not?

12 A. Yes, I have.

13 Q. And that's Exhibit 11?

14 A. That is Exhibit 11.

15 Q. Okay, would you describe that, then?

16 A. Exhibit 11 shows a porosity log from the -- what
17 is now considered to be the Tackitt AOT Number 2. It was
18 originally drilled as the State K Number 2. It was drilled
19 by Nearburg.

20 They went in, and this -- I have three intervals
21 marked on this well. There's a box with some writing in it
22 and arrows extending in each direction. There are two on
23 the right-hand side and one on the left-hand side, and each
24 one of these boxes has a little number in it.

25 And if you'll proceed to number "1", the first

1 thing that was done in this particular well, again,
2 Nearburg drilled the well and was completing it. And they
3 added the perforation, they perforated in the interval
4 shown on the -- in the box number 1 with the arrows
5 extending, 7737 to 7785, that's the perforation interval.
6 They acidized it, and it flowed 432 barrels of oil per day,
7 1783 barrels of water per day, 632 MCF a day.

8 And again, sir, that's flowing. With an
9 artificial lift, that particular interval should have
10 made -- you know, possibly could have made near proration-
11 unit allowable.

12 But again -- They did not stop there.

13 They set a bridge plug on top, on the -- just
14 above these perforations and proceeded to perforate the
15 interval that I've designated with the "2", and that's the
16 interval 7606 to 7720. They acidized that with a large
17 volume.

18 These intervals, that I'm quoting on
19 perforations, they did not perforate the entire interval.
20 In fact, the perforation intervals that they specifically
21 perforated are marked in the depth track with the little
22 holes.

23 In this particular interval, they flowed 43
24 barrels of oil per day, 85 barrels of water per day and
25 over 4 million cubic feet of gas per day.

1 So basically, in the lower portion you've got an
2 oil well, and in the upper portion you've basically got a
3 gas well.

4 And this should be apparent to them from the DST.
5 If you look over on the far right side of the log, there is
6 an interval marked right near the top as DST number 1, and
7 you can -- It's standard mud-logging notation for DSTs, but
8 it shows that the interval runs down to almost 7750 -- or
9 7760 -- from above 7600. That's almost 200 feet of Canyon
10 interval that they DST'd.

11 Looking at that particular DST, that particular
12 well produced -- On that DST, it was flowing about 7
13 million cubic feet of gas per day. Now, that's way too
14 much gas to be in solution in the oil, and therefore the
15 plain consideration that we had a gas cap in this
16 particular localized area of the reservoir.

17 Now, under general circumstances it is much
18 preferable to produce the oil column -- or the portion of
19 the reservoir that's not high gas content first, to
20 maintain the energy from the gas cap, and use that to drive
21 the oil out, and then produce the gas, and you get more oil
22 and gas out of that.

23 But with their -- with this particular operations
24 technique, they went in and knocked out the bridge plug.
25 And we move over to interval number 3, 7606 to 7785

1 overall, and the well was flowing 121 barrels a day, 1100
2 barrels of water a day and 5 million cubic feet of gas.

3 So we've gone from leaving in the bottom 400
4 barrels of oil and some water -- and 1700 barrels of water
5 and 632 MCF. Basically -- In the bottom you have an oil
6 well, and in the top you have a gas well. And when you
7 produce the whole thing, basically the gas is dominating
8 the flow.

9 Now, as the particular JOA or operating agreement
10 in this section or this proration unit holds, Yates was
11 designated the operator, and the operating agreement
12 specifies that once the well is completed, it's turned over
13 to Yates Petroleum.

14 And that brings me to Exhibit Number 12, which is
15 a production plot of this particular well.

16 This well was basically completed right at the
17 beginning of September of last year.

18 I've got three dark vertical black lines on this
19 that show three significant occurrences.

20 The first vertical black line was when Nearburg
21 decided to perforate the gas cap.

22 The second one is when the well was -- turned
23 over operatorship to Yates Petroleum.

24 And then there's one in November when we ran a
25 submersible pump into the well.

1 And it's kind of busy, in the -- The graph is
2 kind of busy in the beginning of it. But again, oil is
3 designated as green, water is blue, gas is red. I chose
4 blue-green for a water-oil ratio and purple for a gas-oil
5 ratio. I thought that was appropriate.

6 And the important things to note is, when the
7 well is flowing, when -- Before the sub pump is run, after
8 the well had been perforated in the gas cap, oil production
9 is real erratic, but it hovers and averages around 70 to 80
10 barrels a day. I mean, it is up and down quite a bit.

11 But we're looking at flowing, and the way that
12 Nearburg completed this well and designated a completed
13 well, a well capable of about 70 barrels of oil a day, and
14 when you look at the gas -- 7 declining to maybe 6 million
15 cubic feet a day, a tremendously high-rate gas well, and
16 ever-increasing water production.

17 It took us a while at Yates Petroleum to figure
18 out what was wrong with this well. And we felt that -- You
19 know, originally, they had a very good -- a much higher oil
20 cut, a much lower GOR. And we were concerned that we were
21 losing reservoir energy here in this well. And so finally,
22 we figured it out, what was going on.

23 We put it through the necessary process to get a
24 submersible pump out there, and in mid- to early November,
25 we ran a sub pump in the well, and you can see that the oil

1 production dramatically increases. The oil production
2 peaks at over 400 barrels of oil per day, around 450
3 barrels of oil per day.

4 The gas rate really didn't change much.

5 Water rate that we had before running the pump
6 and after running the pump really didn't change much.

7 So now what we're doing is, we're getting a heck
8 of a lot more oil out of this thing, out of this particular
9 reservoir without -- while the gas is still coming out. I
10 mean, we're recovering oil before the gas cap is wasted.

11 We would have preferred -- and we feel that it
12 would have been a much better operation -- if the gas cap
13 had not been perforated. It would have prevented waste in
14 this particular instance. And that's -- you know, that
15 relates to some production experiences in the area and some
16 practices that have concerned Yates Petroleum in this
17 particular area, or in Dagger Draw.

18 I'd like to go back briefly to one other point,
19 if I may. We spoke about drilling costs. Mr. McDonald --
20 I'm not sure whether he covered it or not, but I'd like to
21 cover the constituents of power -- of operating costs.

22 In Dagger Draw, with these high-volume wells,
23 they're primarily controlled by three components.

24 The first component is overhead. That's
25 specified by the operating agreement. I think we both

1 agree that it should be \$540 per month. I think that's a
2 moot point.

3 The saltwater disposal is another big point of
4 that, the charges to get into systems. Nearburg charges
5 their partners 25 cents a barrel for saltwater disposal.
6 We charge our partners 25 cents a barrel for saltwater
7 disposal, same number. The well is going to produce.

8 The third point being power, and that's
9 specifically what is driven by how much the pump needs and
10 how much the well -- how much we need to lift, what the
11 well delivers. So operating costs between the two
12 companies should essentially be the same on that instance.

13 But again, with the completion techniques in this
14 particular instance, there was significant energy --
15 reservoir energy waste, and --

16 Q. Mr. Fant, did you address with respect to the
17 drilling practices the mudding up and the intervals of DST?

18 A. Yeah, the -- When they are drilling wells, they
19 mud up when they're into the Canyon. This concerns us just
20 from an operational standpoint.

21 Dagger Draw is well known for high H₂S content in
22 the gas. Drilling with the light muds, you run risks of
23 not cleaning the holes, sticking pipe, creating operational
24 problems that could prevent the smooth operation of the
25 well. You could lose returns. You don't have any mud cake

1 on the wall to seal off any of this stuff. You could get
2 H₂S coming.

3 If your rig crew is not prepared to handle it,
4 you could have problems with it, if they're not prepared to
5 understand how lost returns occur. You can have serious
6 problems with it. And that practice exacerbates that
7 problem.

8 With respect to the DSTs, as I mentioned earlier,
9 in the Tackitt Number 2 on Exhibit 11, they DST'd an
10 interval of almost 200 feet. They've spoken with the
11 concern for delineating contacts.

12 Shorter intervals in this particular instance
13 might have helped them, even though it was apparent from
14 the first DST that they did have a gas cap. It might have
15 told them that -- where that gas cap exactly was, and they
16 might have been able to increase the interval perforating
17 and producing oil without producing that gas. Again, that
18 could have prevented waste.

19 That's basically what I wanted to cover, then.

20 Q. Mr. Fant, do you have an opinion that -- This
21 Commission is concerned with issues of waste and
22 correlative rights with respect to the granting or denying
23 of these two competing Applications.

24 A. I believe strongly that designation of Yates as
25 the operator will prevent waste. I think the historical

1 evidence has shown that Yates drills wells in Dagger Draw
2 for less money than Nearburg. And in protection of
3 correlative rights, we both own interests in this section,
4 and that -- This is an orthodox location, so that's -- it
5 fulfills those needs.

6 Q. Is there anything further that you would like to
7 address?

8 A. No, I think that --

9 MR. ERNEST CARROLL: Mr. Examiner, I would move
10 admission of Yates Exhibits 10, 11 and 12 at this time.

11 EXAMINER CATANACH: Exhibits 10, 11 and 12 will
12 be admitted as evidence.

13 MR. ERNEST CARROLL: I pass the witness.

14 CROSS-EXAMINATION

15 BY MR. KELLAHIN:

16 Q. Mr. Fant, are you suggesting to the Examiner that
17 he should decide this case based upon how big a rathole
18 either operator leaves in this well?

19 A. No.

20 Q. You've told us that the disposal of produced
21 water from this proposed well is going to go into the
22 Cotton disposal well?

23 A. No, sir.

24 Q. Where are you going to put it?

25 A. That's our -- That is the nearest point in which

1 we can enter our SWD system. And from that point it's
2 within the confines of the water disposal system, and it
3 might go to a myriad of different -- Once it's in that
4 system, I can't specifically say where a specific molecule
5 of water goes. However, the costs for doing that are
6 irrelevant. I mean, the costs for disposal are not a major
7 issue there.

8 Q. Let me give you a chance to give you a question,
9 and then you can respond to the question.

10 The Cotton well is still in the disposal system,
11 isn't it?

12 A. It is at this point, yes, sir.

13 Q. Yates is still utilizing it for disposal, are you
14 not?

15 A. Yes, sir, as granted by the OCD.

16 Q. And Mr. May has told us that that disposal of
17 produced water goes into the Canyon member of the
18 reservoir, does it not?

19 A. Yes, in that particular well it does.

20 Q. Are you aware that the Nearburg disposal well
21 disposes of its water and its system in the Devonian
22 formation?

23 A. I am not aware of where their particular wells
24 dispose of water, but I know that the Devonian is a common
25 disposal interval, as we use in many of our wells.

1 Q. Are you aware of whether Yates has studied the
2 continuing feasibility and the practicality of continuing
3 to use the Cotton well as a disposal well, as part of this
4 system?

5 A. They are studying it -- I don't want to say as we
6 speak, because actually I think they've quit down in
7 Artesia at this moment. But there is a continuing study of
8 the disposal system going on right now.

9 So whether this water enters and goes towards
10 that well, that's where our operation goes to, and if we
11 can tie into there, we can send the water to another
12 portion of our system and put the water in another well.

13 So whether or not the Cotton continues is a moot
14 point.

15 Q. With regards to the North Dagger Draw wells, how
16 many of those wells have you actually been involved in?

17 A. I'm not sure what you're asking.

18 Q. How long have you been employed by Yates?

19 A. I've been employed by Yates Petroleum since
20 January of 1992.

21 Q. During that period of time, how many of these
22 Dagger Draw wells has Yates drilled?

23 A. I'm not prepared to answer the statement of how
24 many wells we've drilled over that interval.

25 Q. Can you tell us, in any of those Dagger Draw

1 wells operated by Yates, whether or not you have perforated
2 the gas portion of the pool?

3 A. Oh, certainly we have, but we -- when we -- when
4 there's clear evidence, we avoid it.

5 Q. But you've got examples in the reservoir of doing
6 the same circumstance that you describe for us that
7 Nearburg did in the Tackitt AOT Number 2?

8 A. Yeah, and if I might expound on those, one of
9 those --

10 Q. My question for you, sir, was whether or not you
11 have examples of that occurrence for the --

12 A. Oh, I do have an example. Yeah, I do have an
13 example.

14 Q. Now, the actual well costs, are you involved in
15 the preparation and tabulation of the AFEs and comparing
16 them to the actual costs of the wells?

17 A. I'm not exactly sure -- Are you referring to
18 Exhibit Number 10?

19 Q. Yes, sir.

20 A. Okay. I asked our account- -- Our accounting
21 department puts forth a tabulation of how much money we
22 spend on a well, okay? Accounting is a logical
23 organization.

24 I asked them to tell me how much money had been
25 spent on those wells, they provide those numbers. I also

1 asked them to provide us with the numbers for the four
2 Nearburg wells.

3 Q. Is the schematic of the Yates saltwater disposal
4 system a matter of public information?

5 A. I am not sure.

6 Q. Can you tell us, if we discontinue the use of the
7 Cotton well as a disposal well in the Yates system, where
8 is the next closest disposal well in that system that would
9 take produced water from the Fairchild 13 well?

10 A. I can't tell you, and it's really irrelevant.

11 Q. I didn't ask you that, sir. I just asked you the
12 question where it was.

13 A. I can't tell you.

14 MR. KELLAHIN: I didn't ask you for an editorial
15 comment.

16 No further questions, Mr. Examiner.

17 EXAMINATION

18 BY EXAMINER CATANACH:

19 Q. Mr. Fant, do you know what drilling rate per foot
20 you can get on this well?

21 A. I would have to estimate that we would probably
22 -- To provide a little bit of a cushion, I would probably
23 say \$15.25 to \$15.50. I don't want to specifically say we
24 can go out there and get \$14.50 a foot.

25 Q. On your Exhibit Number 10, are these all of the

1 wells that are jointly owned by Yates and Nearburg in this
2 area?

3 A. There are a couple of more wells. As you see,
4 the Fairchild 24 Number 1 is not on here. We -- Because of
5 the lag in the accounting system, we don't have that data.
6 That's not available, that well. And in fact, that well is
7 not completed.

8 And there's one other well, the Ross Ranch 22
9 Number 2, in which we have an interest. And again, that
10 well is not completed, and therefore we're not -- the
11 timing is such that we can't -- I can't be sure that those
12 costs would represent a fully drilled well.

13 EXAMINER CATANACH: I don't have anything further
14 of this witness.

15 MR. ERNEST CARROLL: Just one question, Mr.
16 Examiner.

17 REDIRECT EXAMINATION

18 BY MR. ERNEST CARROLL:

19 Q. Mr. Fant, you indicated that you had a specific
20 example in mind where you had perforated the gas cap. What
21 example was that?

22 A. That, in fact, is a direct offset to the Tackitt.
23 Yes, sir, we did perforate the gas cap. We perforated the
24 same gas cap here, because the gas cap in this well was
25 producing, and we had to protect the correlative rights of

1 the other proration unit directly. And that well is the
2 State K Number 3, and it's located directly west of the
3 Tackitt Number 2.

4 And to be a -- you know, to fulfill our fiduciary
5 responsibility as an operator, we had to do that.

6 Otherwise, the gas would be drained off. We did not -- It
7 was not something we necessarily wanted to do, but our hand
8 had been forced by the completion techniques applied in the
9 Tackitt Number 2.

10 MR. ERNEST CARROLL: That's all I have.

11 MR. KELLAHIN: Follow up question, Mr. Examiner.

12 EXAMINER CATANACH: Yes, sir.

13 RE-CROSS-EXAMINATION

14 BY MR. KELLAHIN:

15 Q. In Fairchild 24, is there a gas cap in that well?

16 A. I have no indication thus far. I have very
17 limited information on that.

18 Q. Did you see the information that Mr. May and Mr.
19 Elger presented with regards to the reservoir for the
20 Fairchild 24?

21 A. I do not have -- I have not studied that
22 particular information in detail.

23 Q. Did you look at the log of the well for the
24 Fairchild 24 to see where it was perforated?

25 A. It's perforated in the upper section.

1 Q. Within a 40-foot interval, in the dolomite?

2 A. Uh-huh.

3 Q. Did you see any indications of gas cap when that
4 well was perforated?

5 A. I have not seen the whole thing. Specifically on
6 that particular well, the production does not indicate a
7 gas cap.

8 MR. KELLAHIN: No further questions.

9 EXAMINER CATANACH: The witness may be excused.
10 Does that conclude your presentation, Mr. Carroll?

11 MR. ERNEST CARROLL: Yes, it does.

12 EXAMINER CATANACH: Would both counselors agree
13 that closing statements are probably unnecessary?

14 MR. ERNEST CARROLL: I would agree to that.

15 MR. KELLAHIN: I do concur, Mr. Examiner.

16 EXAMINER CATANACH: Okay. I would like to see
17 some rough draft orders in this case from both parties
18 within two weeks.

19 MR. KELLAHIN: All right, sir, be happy to do
20 that.

21 EXAMINER CATANACH: With that, we'll take Case
22 11,233 and 11,234 under advisement.

23 (Thereupon, these proceedings were concluded at
24 5:10 p.m.)

25 * * *

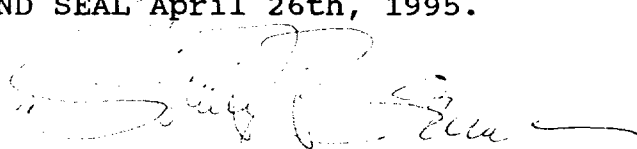
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) SS.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL April 26th, 1995.


 STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 1998

I do hereby certify that the foregoing is a complete record of the proceedings before the Examiner hearing of Case No. 11333-11334 heard by me on April 6, 1995.


 Oil Conservation Division