

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY)	
THE OIL CONSERVATION DIVISION FOR THE)	
PURPOSE OF CONSIDERING:)	
)	
APPLICATION OF BURLINGTON RESOURCES)	CASE NOS. 11,808
OIL AND GAS COMPANY FOR COMPULSORY)	
POOLING AND A NONSTANDARD GAS PRORATION)	
AND SPACING UNIT, SAN JUAN COUNTY,)	
NEW MEXICO)	
)	
APPLICATION OF BURLINGTON RESOURCES OIL)	and 11,809
AND GAS COMPANY FOR COMPULSORY POOLING,)	
AN UNORTHODOX GAS WELL LOCATION AND A)	
NONSTANDARD PRORATION UNIT, SAN JUAN)	
COUNTY, NEW MEXICO)	
)	(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS (Volume I)

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

July 10th, 1997

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday and Friday, July 10th and 11th, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, 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

FOR THE DIVISION:

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AND THE GLA-66 GROUP (CASE 11,808 ONLY):

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By: J. SCOTT HALL

* * *

ALSO PRESENT:

BERT HARRIS, representing Mary Maude Harris

* * *

1 WHEREUPON, the following proceedings were had at
2 10:46 a.m.:

3 EXAMINER CATANACH: At this time we'll call Case
4 11,808.

5 MR. CARROLL: Application of Burlington Resources
6 Oil and Gas Company for compulsory pooling and a
7 nonstandard gas proration and spacing unit, San Juan
8 County, New Mexico.

9 EXAMINER CATANACH: Call for appearances in this
10 case.

11 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
12 the Santa Fe law firm of Kellahin and Kellahin, appearing
13 on behalf of the Applicant, Burlington Resources Oil and
14 Gas Company.

15 MR. GALLEGOS: Mr. Examiner, I'm Gene Gallegos,
16 Gallegos Law Firm, Santa Fe, New Mexico. Along with me is
17 Jason Doughty. We're appearing in behalf of Wayne Moore
18 and in behalf of a group of owners I'll refer to as the
19 GLA-66 group, who own the acreage constituting three-
20 fourths of the section in question.

21 MR. HALL: Mr. Examiner, Scott Hall from the
22 Miller, Stratvert and Torgerson law firm, Santa Fe, on
23 behalf of Total Minatome Corporation.

24 MR. KELLAHIN: Mr. Examiner, we would like to
25 consolidate for purposes of testimony Case 11,808 with Case

1 11,809.

2 EXAMINER CATANACH: Is there any objection to
3 that?

4 MR. GALLEGOS: We have no objection to
5 consolidate solely for the purpose of combining the taking
6 of the evidence.

7 EXAMINER CATANACH: Okay, at this time we'll call
8 Case 11,809.

9 MR. CARROLL: Application of Burlington Resources
10 Oil and Gas Company for compulsory pooling, an unorthodox
11 gas well location and a nonstandard proration unit, San
12 Juan County, New Mexico.

13 EXAMINER CATANACH: Do we have the same
14 appearances in both cases?

15 MR. HALL: Yes, we do.

16 MR. GALLEGOS: In 11,809, Mr. Examiner, the
17 GLA-66 group does not have an interest, so we'd be
18 appearing in that case in behalf of Wayne Moore.

19 MR. HARRIS: May I approach the Commission --

20 EXAMINER CATANACH: Sure.

21 MR. HARRIS: -- concerning 11,809?

22 EXAMINER CATANACH: Yes, sir.

23 MR. HARRIS: I'd like to request a 30-day
24 continuance on that due to the fact the lawyer I've
25 retained is in Texas tied up on business right now.

1 MR. CARROLL: And who are you, sir?

2 MR. HARRIS: I'm Bert Harris. I represent Mary
3 Maude Harris, who owns an original lease within the unit,
4 and this concerns a spacing unit already in the proposed
5 unit that they're proposing, and there's several breaches
6 within that. There's acreage that has never been paid on.
7 And we are in the process of getting that all straightened
8 out, but nothing's happened that we've ever got back ahold
9 of me. And I gave Amoco word that I was coming here; they
10 asked me not to.

11 MR. CARROLL: You mean Burlington?

12 MR. HARRIS: No, Amoco who holds the lease, but
13 it represents Burlington. Amoco holds 68 percent of the
14 working interest in the unit proposed.

15 MR. KELLAHIN: Mr. Examiner, it appears this
16 gentleman's dispute is with Amoco and not the Applicant.
17 We believe his problems are beyond the scope of this case.

18 MR. CARROLL: Then, sir, you're here because --
19 Your interest did receive notice of the hearing?

20 MR. HARRIS: Yes, we did receive notice of it,
21 but when I got up with my said counsel, due to the short
22 amount of time I had, he was unable to reschedule to be
23 here. He is in Texas on a case.

24 MR. CARROLL: And who is your counsel?

25 MR. HARRIS: John Dexter, out of Oklahoma.

1 The reason I come here today is, the
2 communitization unit set up within this unit, called the
3 Boyd Unit, in the west half of Section 8, in 1954, the
4 acreage established there is not being followed correctly.
5 The individual land owners, the farmers in that area, their
6 acreage has been dropped dramatically.

7 But yet the railroad lease in there, the federal
8 lease and any lease that shows an accountant handling that,
9 the acreage has stayed the same, but yet Amoco still bases
10 all of its prorationing pay based on a 324 spacing unit,
11 but the acreage ain't there, it don't add up. They keep
12 dropping the individual owners' acreage off.

13 And I would like to get this resolved before they
14 go ahead with this.

15 MR. GALLEGOS: Mr. Examiner --

16 EXAMINER CATANACH: Mr. Gallegos?

17 MR. GALLEGOS: I didn't mean to interrupt you.

18 I want to speak to this matter because, as you
19 know, we sought a continuance of this case. I have never
20 seen a case in this Division move with the rapidity of this
21 one. We received notice of this Application on June 20th,
22 20 days ago, with an intervening holiday.

23 We filed a motion for continuance, we sought
24 discovery. We've had no opportunity to have discovery from
25 Burlington, to obtain any kind of technical data or

1 information so that we can prepare expert testimony.

2 Our efforts at discovery, although there's been
3 no written ruling, but I think the record should reflect we
4 simply received a phone call Tuesday afternoon, late
5 Tuesday afternoon, saying our motion for continuance is
6 denied, our subpoena duces tecum is quashed.

7 And this is just the kind of situation we're
8 faced with, because there seems to be this extraordinary
9 rush for this matter to be heard due to the desires of
10 Burlington but overlooking the rights of any other parties
11 that are vitally at stake here.

12 For example, in the Section 29 case, the parties
13 I represent own a far larger portion of that lease interest
14 than Burlington. We're talking 66, 67 percent of the
15 acreage, with Burlington 10 percent. But everything is
16 being done here to accommodate Burlington in every way.

17 I support this gentleman's request for
18 continuance, and I renew our motion for continuance. Let's
19 do this in an orderly manner where somebody can have an
20 opportunity to prepare and have some discovery, and that's
21 what due process is about.

22 EXAMINER CATANACH: Mr. Kellahin, do you want to
23 respond?

24 MR. KELLAHIN: Yes, sir.

25 Mr. Examiner, we proposed these wells to the

1 interest owners in Section 8 and in Section 9. Those
2 proposals and AFEs went out more than 10 and 11 weeks ago.

3 This is a plain-vanilla, routine pooling case.
4 There are no technical issues involved in this pooling
5 case. This is not a spacing case, this is not a drainage
6 case. This is a pooling case.

7 The only evidence I have to present today is a
8 drilling engineer who will tell you that this is the first
9 attempt for a deep-gas San Juan Basin gas well in years,
10 that the prior 28 attempts have all been failures.

11 We are looking for a risk factor penalty of 200
12 percent, based upon the absence of evidence that there is
13 any possible production. The fact is that the maximum
14 penalty is justified.

15 I've brought a drilling engineer to talk about
16 the AFE, I've brought a landman to talk about efforts to
17 consolidate the properties and interests.

18 But at this point there's no need for discovery
19 of Burlington's proprietary seismic data or anything else.
20 This should be a simple matter, and the opponents are
21 trying to make it complicated. There's no reason we can't
22 go forward.

23 MR. CARROLL: Did you bring a geologist to
24 address the risk issue?

25 MR. KELLAHIN: No, sir, I did not, based upon

1 your oral decisions the other day, deciding that the
2 seismic information was proprietary and I need not produce
3 it. So I have not chosen to bring a geologist. We're
4 addressing risk factor based on the absence of deep gas
5 production in the San Juan Basin. I don't think that's a
6 matter of geologic proof.

7 MR. GALLEGOS: Excuse me, but this is a new
8 ruling I have not heard of that -- There's been some ruling
9 that certain data, seismic data, is proprietary? Where
10 does that come from and how has that been announced?

11 MR. KELLAHIN: It was announced orally when you
12 quashed the motion to produce that data.

13 MR. GALLEGOS: Well, Mr. Examiner, this is not
14 the simple case that Burlington would like for it to be.
15 It is a very extraordinary case.

16 It involves the exploration on a test basis of
17 something that's obviously never been approached before in
18 the Basin, and it's doing it in a manner that casts most of
19 the expense on other parties, rather than on Burlington
20 itself.

21 There are a myriad of issues, whether the well is
22 even necessary -- that has to be proven -- and whether
23 correlative rights of the other parties are being
24 protected, whether a risk factor of any magnitude is
25 justified. All of the standards under Section 70-2-17C

1 have to be proven, have to be established for this party,
2 and we're entitled to contest those.

3 But we can't do it in the dark. Burlington
4 simply says, We hold all the cards, we know everything
5 about why we're approaching this, you all are entitled to
6 know nothing but put up your property or put up your money,
7 one or the other. Either you pay on a \$2.3-million well or
8 you lose your property. In the dark.

9 That's what's going on here, and that is no way
10 for there to be a fair determination of the issues here.

11 MR. KELLAHIN: May I respond to Mr. Gallegos?

12 MR. CARROLL: Well, maybe we'll hear from Mr.
13 Hall if he has anything to say at this point?

14 MR. HALL: Thank you, Mr. Carroll. Let me add
15 from Total's perspective that there are additional issues
16 on the table than Mr. Kellahin identified, and they are
17 issues created by Burlington's action in this case.

18 From our perspective there are the additional
19 issues of, one, whether Total's interests have been
20 committed voluntarily to the two wells. We believe they
21 have. Two, whether Burlington has attempted to obtain
22 Total's voluntary consent to participation in a good-faith
23 manner.

24 And three, the third issue, that Burlington
25 itself has created, is whether or not the GLA-46 agreement

1 is applicable to the deep rights for both of these wells.
2 From their correspondence and conduct to date, they have
3 cast that in issue. We're entitled to pursue it.

4 They dispute its existence and its applicability
5 to the deep rights, and it has a direct bearing on an issue
6 this Division Examiner has to make, whether or not there
7 has been a voluntary commitment. We need discovery on
8 that. You're entitled to a full, fair and complete hearing
9 on the facts on that issue, and I believe it's a factual
10 issue, in my view. We need to do additional discovery on
11 that, to present that particular matter to you so you can
12 rule.

13 This case is not ready to proceed today.

14 MR. CARROLL: And why is it a factual matter?

15 MR. HALL: Whether or not the GLA-46 simply
16 applies to the deep rights. We want to be able to put
17 on --

18 MR. CARROLL: That sounds like legal
19 interpretation, rather than a factual matter.

20 MR. HALL: It may be a mixed question. I think
21 it's more a question of fact now. We want to be able to
22 put on factual proof about that, about the course of
23 performance, course of dealing with parties over time.

24 MR. KELLAHIN: May I respond?

25 MR. CARROLL: (Nods)

1 MR. KELLAHIN: In Section 8 the Marcotte well is
2 drilling as we speak. In the Marcotte well in Section 8,
3 Burlington has consolidated 93 percent of the interest
4 owners on a voluntary basis. Moore has 2.25 percent,
5 Minatome has 4.65 percent.

6 The other spacing unit in question is in Section
7 9. In that section there are interest owners that Mr.
8 Gallegos represents that are not in the Section 8 well.

9 The Division has never decided in a pooling case
10 the prerogative of the operator to select the spacing unit.
11 Mr. Gallegos wants to have a debate and discovery on why
12 Burlington chose Section 8. That has never been relevant
13 before in terms of these pooling cases.

14 Mr. Gallegos wants to explore the seismic
15 information to determine why we've selected this area for
16 this first test well. That, quite frankly, is not relevant
17 to pooling cases.

18 Mr. Hall wants to have you litigate his contract
19 dispute. I would suggest to you we could take a ten-minute
20 break and you can read the 1951 farmout operating agreement
21 and conclude it is not ambiguous. It simply provided, back
22 then, for 18 Mesaverde wells to be drilled within a short
23 period of time, a matter of a few years, and that they were
24 all drilled and completed.

25 You can find, if you want to explore that kind of

1 topic, that all the GLA-46 owners, with the exception of
2 Minatome, have agreed to the deep gas exploration based
3 upon joining Burlington's farmout. No one but Minatome
4 takes the position that GLA-46 somehow applied to the deep
5 gas. Quite frankly, that's outside your jurisdiction.

6 And quite frankly, Mr. Hall's strategy is flawed
7 because it violates the rules of evidence. He wants to
8 attack, explain and otherwise have you engage in a debate
9 about the interpretation of that contract. This is not the
10 forum for that topic.

11 MR. HARRIS: Regarding Section 8 which he speaks
12 of, the working in that, he don't mention nothing about the
13 original leaseholders' interest in there and the
14 stipulation within the original oil and gas leases that
15 don't allow them to pool the people's property in a unit
16 larger than 320 acres.

17 That's one of the reasons I'm here, is because of
18 the breaches that have come within that 320-acre unit
19 already. The landowners out there -- not all of them --
20 the original mineral-right holders, the farmers that have
21 lived there for generations that actually hold the rights
22 of those minerals underneath their ground, they -- they
23 have not given their approval for it.

24 MR. CARROLL: Sir, when you talk about breaches,
25 you're usually talking about breaches of contract, and

1 that's usually for the courts to decide.

2 MR. HARRIS: Yes, sir.

3 MR. CARROLL: Normally in compulsory pooling
4 cases, we look at whether the applicant has a working
5 interest and the right to drill. If the working interest
6 -- the applicant does own a working interest, he does have
7 the right to drill and he does have the right to compulsory
8 pool other parties.

9 We also look at whether there's been an attempted
10 voluntary agreement with nonconsenting parties, and that
11 will be part of the evidence of this case.

12 There was a request for a bunch of information
13 through the use of subpoenas and the subpoenaing of a
14 witness regarding a bunch of pure -- just geological
15 information, which is really not relevant to a compulsory
16 pooling case unless it relates to risk.

17 In this case, the Applicant is drilling for deep
18 gas, and the standard risk imposed by the Division in
19 compulsory pooling cases is 200 percent, unless it's coal-
20 seam gas, and that's 156 percent.

21 Mr. Gallegos, was the information you were trying
22 to obtain -- was that related to the risk penalty and to
23 show that this well was -- should be assessed less than a
24 200-percent risk?

25 MR. GALLEGOS: It would relate to that. It would

1 also relate to the necessity of drilling the well. The
2 statute speaks of avoiding the drilling of unnecessary
3 wells.

4 Mr. Kellahin says, Oh, it's never been relevant
5 as to where an operator decides he's going to drill a well
6 on a spacing unit.

7 I think this case demonstrates the uniqueness of
8 the issues we have here. Burlington has come here on a
9 fast-track basis to obtain six hundred --

10 MR. CARROLL: I would beg to differ on the fast-
11 track basis. It's pretty standard here to have a case
12 heard 20 days after notice has been given. This is not an
13 extraordinary case, by any means. In fact, most of our
14 compulsory pooling cases come before the Division this
15 fast.

16 MR. GALLEGOS: I think it's pretty extraordinary
17 to not allow continuance on a case when any party asks for
18 it and to have it heard the first time it's on the docket.
19 I counted, I think, eleven cases today that had been
20 previously continued, that were again continued. I don't
21 practice here with the regularity --

22 MR. CARROLL: Well, sir, that's usually the
23 applicant that asks for a continuance, and if the applicant
24 asks for a continuance, it's granted.

25 MR. GALLEGOS: And usually the applicant, because

1 there's comity, if another party asks for the time and
2 needs time for preparation, my experience has been, whether
3 you're applicant or whoever, you agree to it and you allow
4 that continuance to allow somebody proper time for
5 preparation.

6 I have never had a circumstance where continuance
7 hasn't been allowed, and usually it's a matter of
8 agreement, because the parties understand that each one has
9 the -- needs their particular opportunity for preparation
10 to obtain witnesses.

11 There's no way that we can bring expert
12 testimony, even on the risk factor, before this Division.

13 MR. CARROLL: What attempts have been made at
14 agreement to continue the case?

15 MR. GALLEGOS: They've been denied. We sought
16 that.

17 MR. CARROLL: Sought that from Burlington?

18 MR. GALLEGOS: Mr. Kellahin has refused.

19 But let me indicate that, you know, there has to
20 be more of an issue as to the location of this well than
21 just simply -- We take it as a given, as any operator comes
22 in, let's say on Section 9, somebody has a working interest
23 of 10 percent in a section and is going to cast the cost of
24 a \$2.3-million well on everybody else, when in an adjoining
25 section that operator owns or controls 90, 100 percent of

1 the acreage, certainly raises the question, when you're
2 doing what is supposedly exploratory drilling, why aren't
3 you in the next section, where you control the acreage?
4 Why are you coming into a section where we're going to say
5 to the other interest owners, You either pay for this well
6 \$2-million-plus or you lose your interest?

7 If Burlington --

8 MR. CARROLL: Wait a minute, hold it. They don't
9 lose their interest if they don't pay for the well.

10 MR. GALLEGOS: They effectively lose their
11 interest on a 200-percent --

12 MR. CARROLL: What do most operating agreements
13 provide for in a penalty?

14 MR. GALLEGOS: I think 200 percent is fairly
15 common, on drilling. You'll notice --

16 MR. CARROLL: Anything less than 200 percent?

17 MR. GALLEGOS: You'll notice in this Application
18 some, some less, yes.

19 You'll notice in this Application, Mr. Carroll,
20 that Burlington is not content to seek the 200-percent
21 penalty on drilling. Burlington is asking for a 200-
22 percent penalty on completion, on surface facilities, after
23 the point has been reached where they know whether there's
24 a well or not. They want 200-percent penalty on operating
25 expense. So, in effect it would confiscate the --

1 MR. CARROLL: Well, which well is -- which --
2 which case -- In which case is the well being drilled right
3 now?

4 MR. KELLAHIN: It's in Section 8. It's the
5 Marcotte well, and that's the section in which Burlington
6 has consolidated 93 percent of the owners voluntarily.

7 MR. GALLEGOS: That's 11,809, is that case.

8 MR. CARROLL: We're going to break for a couple
9 minutes.

10 (Thereupon, a recess was taken at 11:08 a.m.)

11 (The following proceedings had at 11:10 a.m.)

12 MR. CARROLL: We're going to go ahead and hear
13 the case and defer our ruling on the motions to continue
14 till the end of testimony, and we might at that time rule
15 to continue the case to hear additional testimony.

16 At this point we're also going to limit the
17 evidence and testimony to the issues at hand. It appears
18 that Burlington will show that they're a working interest
19 owner in these two sections, and then they have the right
20 to drill.

21 Questions regarding why they're drilling the
22 well, we don't want to hear any questions or testimony
23 regarding that.

24 The parties in a compulsory -- The parties being
25 compulsory pooled do have the right to not pay their money

1 up front. They probably will be assessed a risk penalty,
2 because no one should get a free ride on somebody else.

3 Again, the rulings on the motions for discovery
4 were denied because they appeared to relate to the geology
5 and as to why these locations were chosen.

6 Mr. Hall?

7 MR. HALL: May I address that, please?

8 When we applied for our subpoena, the scope of it
9 was limited to land issues, title issues. The day the
10 subpoena was issued I faxed a copy of that to Mr. Kellahin,
11 along with a letter stating that I understood production of
12 this information, in addition to the engineering and
13 geologic data that Mr. Gallegos had requested, would be
14 problematic before the time of this hearing, and offered to
15 work with him to reach some sort of an accommodation on
16 that, got no response to that. As Hearing Examiner, you
17 should understand that the scope of that subpoena was quite
18 different.

19 That's our primary issue, is the voluntary
20 commitment issue. It's our position in this case that we
21 have consented to this well, we are voluntarily
22 participating. We want to put on evidence about that.

23 We believe there is more evidence out there about
24 that, that would show Burlington's, Meridian's, El Paso's
25 acquiescence in a long-standing course of performance,

1 course of conduct under the GLA-46, which would help the
2 Division Examiner show that, yes, indeed, we are consenting
3 voluntarily, will eliminate that issue as far as we're
4 concerned.

5 MR. CARROLL: Mr. Hall, the Division isn't in the
6 business of interpreting old operating agreements or
7 communitization agreements. That is up to the courts.

8 I believe the Division can fashion an order that
9 could provide for the contingency that a court would find,
10 that Total has voluntarily committed, and that's the intent
11 of the Division.

12 MR. GALLEGOS: If it please the Examiner, Mr.
13 Carroll, let me just explain a little further, as you're
14 speaking about defining the issues here.

15 Whether or not Burlington has sought voluntary
16 agreement on a genuine and good-faith basis is a very
17 important issue.

18 MR. CARROLL: That's an issue we will hear.

19 MR. GALLEGOS: And that's why we're seeking
20 information that we have sought by the subpoena duces
21 tecum.

22 There is no way that people can make a decision
23 whether they will join in a well, and particularly a well
24 of this magnitude, in an unknown situation, without having
25 the kind of information that is commonly provided by

1 operators who are proposing to other working interest
2 owners the drilling of a well.

3 If Burlington would furnish the information that
4 says to them, We have a prospect, and it must say to them,
5 We think we can recover something, we probably wouldn't be
6 here.

7 Our clients would be interested in voluntarily
8 participating, if they have some information on which to
9 make that decision. That's what we're seeking, that's what
10 the subpoena sought, so that we can get the information and
11 evaluate it, have an expert evaluate it. We may say, This
12 is fine, we want to participate, we want to be with you.
13 But we have had --

14 MR. CARROLL: Mr. Gallegos, I am going to ask for
15 legal memoranda at the end of this case showing what
16 information can be obtained, or that they're legally
17 entitled to, prior to the joining in a well, whether under
18 voluntary agreement or under compulsory pooling. And you
19 can make your argument at that time.

20 Mr. Kellahin, do you want to respond to Mr.
21 Gallegos?

22 MR. KELLAHIN: Not at this time, Mr. Examiner.

23 EXAMINER CATANACH: I'm not sure that that's
24 correct, that this information is not commonly, in most
25 cases, is not commonly given to interest owners to aid them

1 in making a determination. I'm not sure that Meridian or
2 Burlington is under an obligation to provide the interest
3 owners with this information if it's seismic data or other
4 data that cost Burlington an amount of money.

5 I mean, it would make no sense to furnish to the
6 interest owners at no --

7 MR. CARROLL: And you can make your arguments in
8 the memoranda I'm asking for.

9 MR. GALLEGOS: Well, we'll present evidence that
10 it is common practice and that other operators have
11 furnished it to our clients when they seek their
12 participation in the well. How else does somebody make the
13 decision?

14 MR. CARROLL: They can hire their own geologist
15 and review the public records and make that.

16 You can also infer from the Application that
17 Burlington considers this a -- Any person that wants to
18 drill a well usually considers it a good enough prospect to
19 bring a case.

20 MR. GALLEGOS: And we'd like to know why, what
21 basis that is, and I think that's all that's being sought.

22 Voluntary agreement means exactly that, two
23 parties mutually on something. For us to do that -- and
24 we're open to doing it -- we need the information.

25 MR. CARROLL: You would like the information,

1 that's correct.

2 Shall we start?

3 MR. KELLAHIN: Yes, sir. Call James Strickler.

4 Mr. Strickler needs to be sworn, sir.

5 EXAMINER CATANACH: Let's get all the
6 witnesses --

7 MR. CARROLL: How many witnesses do we have?

8 EXAMINER CATANACH: -- that we're going to have
9 today. Mr. Gallegos, do you have witnesses?

10 MR. GALLEGOS: Yes, we do.

11 EXAMINER CATANACH: Mr. Hall?

12 MR. HALL: Yes, sir, I have two this morning.

13 MR. CARROLL: So a total of six?

14 (Thereupon, the witnesses were sworn.)

15 JAMES R.J. STRICKLER,

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

18 DIRECT EXAMINATION

19 BY MR. KELLAHIN:

20 Q. All right, sir? Mr. Strickler, for the record,
21 sir, would you please state your name and occupation?

22 A. My name is James Strickler, and I'm a senior
23 staff landman for Burlington Resources in Farmington, New
24 Mexico.

25 Q. And where do you reside, sir?

1 A. I also reside in Farmington, New Mexico.

2 Q. On prior occasions have you testified before the
3 Division as an expert in petroleum land management issues?

4 A. Yes, I have.

5 Q. What are your current responsibilities for your
6 company concerning Sections 8 and Section 9?

7 A. I'm the Penn landman that is responsible to --
8 responsible, securing land agreements to drill wells in San
9 Juan County, New Mexico.

10 Q. When did you first become responsible for
11 consolidating interests in Section 8 and Section 9?

12 A. Approximately last August of 1996, I was put in
13 charge of this particular area to consolidate acreage to
14 support a deep Penn test. There were two other company
15 landmen that worked on this project back in June of 1996,
16 and then, of course, we have an independent landman that
17 helps us do title work.

18 Q. Have you determined to your satisfaction that you
19 have resources within your company to make an accurate
20 tabulation of the identity of the interest owners in
21 Section 8 and Section 9?

22 A. Yes, sir.

23 Q. Did you determine whether or not you had the
24 ability within your company and under your direction to
25 determine the percentage interest those interest owners

1 would have in Sections 8 and Section 9?

2 A. Yes, sir.

3 Q. As part of your duties, did they include efforts
4 to consolidate the interest owners in these two sections
5 for purposes of drilling the deep gas well tests we're
6 about to describe?

7 A. Yes, sir.

8 Q. And have you continued on to the present in those
9 efforts?

10 A. Continuing, yes, sir.

11 MR. KELLAHIN: We tender Mr. Strickler as an
12 expert petroleum landman.

13 EXAMINER CATANACH: Any objection?

14 MR. HALL: No objection.

15 EXAMINER CATANACH: Mr. Strickler is so
16 qualified.

17 MR. KELLAHIN: Mr. Examiner, we have presented to
18 you separate exhibit books for each case. There are some
19 exceptions with regard to the identify of parties, so that
20 you can be specific as to those interests per section. But
21 generally, the information is going to be applicable to
22 both cases.

23 And so Mr. Strickler and I will choose the
24 exhibit book that deals with the Marcotte well. It's the
25 exhibit book 11,809. We will start with that one, and then

1 as necessary we will supplement from information for the
2 Scott well.

3 Q. (By Mr. Kellahin) Do you have the exhibit book
4 before you, Mr. Strickler, for 11,809?

5 A. Yes, sir.

6 Q. We'll come back to some of these displays, but
7 let's talk about how the book is organized.

8 First of all, generally tell me what we will see
9 when we look behind Exhibit Tab Number 1.

10 A. Exhibit Tab Number 1 is the Application to drill
11 the Marcotte Number 2 well on a nonstandard gas proration
12 and spacing unit, and also seeks compulsory pooling.

13 Q. Were you involved in sending out notices of this
14 Application to all the affected interest owners in both
15 Section 8 and 9?

16 A. Yes, sir.

17 Q. Can you recall the date on which notices were
18 sent in both cases?

19 A. The notices of compulsory pooling was sent out
20 June 17th, June 18th.

21 Q. Let me show you an affidavit that has been
22 executed by Mr. Alexander.

23 A. I'm sorry, I was off a couple of days. The
24 mailing by certified mail was mailed out on June 16th for
25 both the Marcotte Number 2 and the Scott 24.

1 Q. So despite the fact that Exhibit 1 indicates a
2 notice letter of June 17th, it was mailed the day before
3 that?

4 A. Yes, sir.

5 Q. All right. Did you work with Mr. Alexander in
6 terms of identifying the parties for whom you had not
7 obtained agreement and for whom you sought to have the
8 Division issue a pooling order?

9 A. Yes, sir.

10 Q. Let's look at the Application. As you move
11 through the Application, you get to an Exhibit B. We're
12 dealing with the Marcotte well?

13 A. Yes, sir.

14 Q. When we look at the categories of parties for
15 which you're requesting pooling, are there more than one
16 category?

17 A. Yes, there are.

18 Q. Are there working interest owners uncommitted in
19 Section 8?

20 A. Yes.

21 Q. Can you identify what working interest owners are
22 not committed in Section 8?

23 A. Total Minatome Corporation, covering their
24 4.6522-percent gross working interest; Lee Wayne Moore and
25 JoAnne Montgomery Moore, Trustees, covering 2.2517 percent;

1 the balance are approximately 93 percent, all committed to
2 drilling or farming out in the Marcotte Number 2 well in
3 Section 8.

4 Q. As to the Marcotte well, apart from the working
5 interest owners, are there any unleased mineral owners for
6 whom you're seeking to have pooling?

7 A. No, sir.

8 Q. Okay. Are there any royalty owners for which you
9 are seeking to have a pooling order?

10 A. Yes, sir.

11 Q. And how would they be identified in Exhibit 1?

12 A. If you'll look at Exhibit C, that -- you'll see a
13 list of mineral owners, lessors that are under lease.
14 Their leases allow for 320-acre spacing.

15 We're requesting -- We sent these folks notices
16 of 640-acre spacing, and we also sent these individuals
17 amendments to the oil and gas lease, to amend their lease
18 to allow for 640-acre spacing.

19 Q. Do you know, Mr. Strickler, to whom these royalty
20 owners had signed their various leases?

21 A. They varied. The leases were located primarily
22 in the west half of Section 8.

23 Q. And to what lessee or operator or working
24 interest owners --

25 A. Amoco Production Company, Amoco Production

1 Company.

2 Q. Is that true of all the royalty owners under the
3 Marcotte well, that their interest is affected by leases to
4 Amoco?

5 A. Yes, sir. I also want to mention that we do have
6 an undivided interest in some of those leases as well. So
7 Burlington also has an ownership in some of the leases that
8 we're seeking amendments.

9 Q. Describe for me what is your position with
10 regards to the need to pool royalty owners.

11 A. These old leases were taken in the 1950s, and
12 they allowed for 320-acre spacing, which is customary for
13 Mesaverde, Dakota, Fruitland Coal. We're drilling a deep
14 gas well on a 640-acre unit basis --

15 Q. Let me ask you this.

16 A. Yes.

17 Q. Do those leases provide that you can commit those
18 leases to a 640-acre spacing unit under their current
19 terms?

20 A. No, sir.

21 Q. Are there any other categories of parties in the
22 Marcotte well to be pooled, other than those that you've
23 described?

24 A. No, sir.

25 Q. Let's take a moment and flip to the Scott 24 well

1 in Section 9 and look at that exhibit book, which is Case
2 11,808. Turning behind Exhibit Tab 1, when we look at the
3 Marcotte -- the Scott 24 for Section 9, are there
4 categories of interest owners, which would be working
5 interest owners -- are they to be pooled if this
6 Application is granted?

7 A. Yes.

8 Q. Who are those working interest owners?

9 A. Let me refer you to Exhibit B.

10 Q. Looking behind Exhibit 1 of this book, and you're
11 looking at Exhibit B that's attached to the Application?

12 A. Yes, sir.

13 Q. All right, and what are we supposed to see?

14 A. You'll see the various owners, over 68 owners, in
15 Section 9. 35 percent of the owners are committed to the
16 drilling of the well, Scott 24.

17 Q. How do we know on Exhibit B the status of
18 commitment?

19 A. You'll see on the right-hand side the individuals
20 or companies that have not participated or farmed out their
21 interest.

22 Q. Okay. If it says "yes", they're committed --

23 A. Yes, correct.

24 Q. -- if it says "no", they're not committed?

25 A. That's correct.

1 Q. All right. Apart from the working interest
2 owners for the Scott well, are there any unleased mineral
3 owners?

4 A. No, sir.

5 Q. If you'll look at Exhibit C, on the very end,
6 Jerald T. Marcotte --

7 A. Correct.

8 Q. -- now, is he a leased or an unleased mineral
9 owner?

10 A. He's a leased mineral owner.

11 Q. I'm not sure I understand your answer.

12 A. He's -- Jerald Marcotte is under an existing oil
13 and gas lease. His lease does not provide for 640-acre
14 spacing. We sent him an amendment to his oil and gas
15 lease, and we have received it back --

16 Q. All right.

17 A. -- so he is now -- he is now committed --

18 Q. So in Section 9 --

19 A. -- on 640-acre spacing.

20 Q. So in Section 9 for the Scott well, there are no
21 unleased mineral owners that you're seeking to pool?

22 A. That's correct.

23 Q. Are there any royalty owners in Section 9 for
24 which you're seeking pooling?

25 A. Yes, sir, that's Jerald T. Marcotte. He is the

1 royalty owner. And we have obtained an amendment to his
2 oil and gas lease, so he's in good shape.

3 Q. In Section 9 are there the same kind of royalty
4 owners with the same type of limiting leases that limit the
5 size of the spacing unit to 320 acres?

6 A. Jerald T. Marcotte was the only one in Section 9.

7 Q. When I look, then, at Exhibit B, I'm looking at a
8 tabulation of individuals with working interests?

9 A. Correct.

10 Q. With -- On Exhibit B, with the exclusion of
11 Conoco, Amoco, Minatome and Moore, starting on the next
12 page, are these working interest owners that are
13 collectively referred to as GLA-66 group?

14 A. Yes, sir, starting at Hope Simpson.

15 Q. Down at the bottom of page 2 with Hope Simpson,
16 from there down, these are uncommitted working interest
17 owners that have an interest pursuant to what you
18 characterize as GLA-66?

19 A. Correct.

20 Q. Okay.

21 A. I want to mention, also, that three of these
22 owners have agreed to farm out recently, and that is not
23 updated on this list.

24 Q. Let's --

25 A. Also, we've acquired two other owners. We

1 acquired their deep rights previously. So they're not
2 listed because they're committed to Burlington. So we've
3 made trades with five of the 63 owners.

4 EXAMINER CATANACH: Can you tell us which of the
5 three, then --

6 THE WITNESS: Yes, sir. Elizabeth Farrington on
7 page 3 -- I'll double-check this for you -- Ralph U.
8 Fitting, Jr., Trust, on page 6, and we have one more, Roy
9 E. Bard, and I'm trying to find him. On page 3, Roy E.
10 Bard, Jr.

11 EXAMINER CATANACH: Those parties have farmed
12 out?

13 THE WITNESS: Yes, sir.

14 Q. (By Mr. Kellahin) Mr. Strickler, let me address
15 now the topic of the nonstandard size of Section 8 and
16 Section 9. For wells drilled to this depth in the San Juan
17 Basin, the Division provides what size for a standard-sized
18 spacing unit?

19 A. 640 acres.

20 Q. Are either one or both of these sections standard
21 640 acres?

22 A. No, sir, they're not.

23 Q. Why are they not?

24 A. They're both irregular sections. Section 8
25 comprises 639.78 acres, and Section 9 comprises 636.01

1 acres.

2 Q. How did that occur?

3 A. Governmental surveys.

4 Q. There's simply nothing you can do about that,
5 right?

6 A. No, sir.

7 Q. To your knowledge, does the Division provide for
8 640-acre spacing units that would be standard if they
9 contained the acreage you've described here?

10 A. Yes.

11 Q. These would have to be approved, then, as
12 nonstandard proration units?

13 A. Correct.

14 Q. All right.

15 A. Correct.

16 Q. One of the wells is at a proposed unorthodox
17 location?

18 A. Yes, sir.

19 Q. Which one is at the unorthodox location?

20 A. The Marcotte Number 2 well is located 1540 feet
21 from the south line and 935 feet from the east line of the
22 section.

23 Q. Are there topographical or archeological reasons
24 to explain that location?

25 A. Yes, sir, we used an existing well pad where two

1 other wells were located to minimize surface disturbance.

2 Q. And was that the reason selected for not putting
3 this well at a standard location in that section?

4 A. That is correct, there's a lot of ravines in this
5 area, and this was the safest and least -- caused the least
6 disturbance to the surface. There's two subdivisions in
7 this area.

8 Q. Let's look at Exhibit Book 11,809 -- that's the
9 one for the Marcotte well -- and turn behind Exhibit Tab
10 Number 2 and have you identify the first colored display.

11 A. What you see here is a 12-section area posting
12 the ownership acreage of the Moore Group, and it's posted
13 with --

14 Q. I'm on --

15 A. I'm sorry.

16 Q. I'm on page one.

17 A. Oh, I'm sorry.

18 Q. You're ahead of me.

19 A. Moving ahead.

20 Q. All right, go back to the first display behind
21 Exhibit Tab 2 and identify that for us.

22 A. What you see is the spacing, Section 8. We've
23 posted the Marcotte Number 2 well, and we've crosshatched
24 all of Section 8 as an identifier.

25 Q. To the best of your knowledge, does this display

1 accurately reflect the approximate location and the
2 category of the wells shown on the nine-section display?

3 A. Yes, it does.

4 Q. When we look in Section 8, there is a red dot.
5 What does that approximate?

6 A. That is the location for the Marcotte Number 2
7 well.

8 Q. Okay. Turn behind that display, and let's look
9 at the next information.

10 A. Okay.

11 Q. For the prior display and the rest of the
12 displays behind Exhibit Tab Number 2, have you satisfied
13 yourself to the best of your knowledge that they're
14 accurate and correct?

15 A. Yes, sir.

16 Q. Let's look at this next display. It's got some
17 color-coding to it?

18 A. Yes, it does.

19 Q. Describe the color code.

20 A. The acreage colored in blue represents the Moore
21 acreage, which is scattered throughout this 12-section
22 area. The acreage colored in green describe Total
23 Minatome's acreage, which is scattered throughout the area
24 as well. It gives you a visual of where their ownership
25 is.

1 Q. You've shown an area of 12 sections?

2 A. Yes, sir.

3 Q. In any of those 12 sections have you been able to
4 consolidate on a voluntary basis 100 percent of the working
5 interest ownership?

6 A. No, sir.

7 Q. When we look in Section 9, Moore and GLA-64 have
8 interests in 9?

9 A. Yes, they do.

10 Q. And they have interests in 8?

11 A. The Moore and Total Minatome group, they have
12 interests in Section 8 and 9.

13 Q. Are their interests limited only to 8 and 9?

14 A. In the case of Moore and Total Minatome, they own
15 in both sections. GLA-66 owns in Section 9.

16 Q. Okay. When you look at this, are the Moore and
17 Minatome interests confined and limited only to Sections 8
18 and 9?

19 A. Oh, no, sir. They have acreage all throughout
20 the area. All we're attempting to do is consolidate two
21 sections. They own an interest in anywhere from six to
22 nine sections.

23 Q. Identify for me what you mean by this code,
24 GLA-46.

25 A. That represents the Total Minatome undivided

1 ownership acreage. We --

2 Q. My question was, What does GLA-46 identify? How
3 many interest owners are composed in the group that's
4 collectively called GLA-46?

5 A. Let me refer you to the exhibit, the Marcotte 8
6 well, and I can list them for you. The Marcotte Number 2
7 well, rather, Exhibit B.

8 Q. Okay.

9 A. Amoco production company is a part owner of GLA-
10 46, Total Minatome is a part owner, the Umbach brothers,
11 George and William, the Lowell White Family Trust, Walter
12 A. Steele, the Estate of G.W. Hannett, T.G. Cornish,
13 Patricia Hueter, Mary Emily Hueter [sic], and A.T. Hannett,
14 also known as the Walter Steele Group. Those are the
15 owners of the GLA-46 acreage.

16 Q. Of the group of owners collectively referred to
17 as GLA-46, have you received the voluntary commitment of
18 all those interest owners pursuant to your proposed
19 operating agreement that's before the Division today?

20 A. Yes, and also farmouts.

21 Q. Are there any of those owners not committed.

22 A. Only one --

23 Q. And --

24 A. -- Total Minatome.

25 Q. That group would have an interest in both wells?

1 A. Yes, sir.

2 Q. Are any of those owners, with the exception of
3 Minatome, asserting the proposition that the 1951 agreement
4 covers the deep gas?

5 A. No, sir.

6 Q. When we go back to the display you and I were
7 last describing, which is the second one behind Exhibit Tab
8 Number 2, the color code for GLA-46, if you'll look at the
9 color code in Section 9, they have some numbers adjacent to
10 that, still in green?

11 A. Yes.

12 Q. The last number is 3.55.

13 A. That is the --

14 Q. What does that represent?

15 A. That represents their working interest in Section
16 9.

17 Q. Whose working interest?

18 A. Total Minatome's working interest in Section 9.

19 Q. All right. It has been divided so that it only
20 reflects Total Minatome's interest?

21 A. Yes, sir.

22 Q. When we look at the blue number, the last of the
23 blue numbers in that column in Section 9, the .2946 --

24 A. That represents the Moore interest.

25 Q. Correspondingly, when we go over to Section 8,

1 identify for us the significance of the last in the column
2 of the blue and the green numbers.

3 A. The green numbers, GLA-46, Total Minatome's
4 interest, is posted in the southeast quarter of this
5 section, and they control 4.6522 percent of the working
6 interest.

7 The Moore interest, depicted in blue again,
8 they -- we post their working interest at 2.2517 percent
9 working interest in the northwest quarter of 8.

10 Q. Let's flip behind this exhibit and look at the
11 next display. What are you presenting here, Mr. Strickler?

12 A. This gives you a cleaned up version of Total
13 Minatome's interest in this 12-section area. We identify
14 their interest in the Sections 3, 4, 8, 9, 15, 16 and 17.

15 Q. Okay. And then the last display in this exhibit
16 tab, would you identify and describe that?

17 A. This depicts the Moore acreage located in a 12-
18 section area covering ownership in Sections 4, 5, 6, 7, 8,
19 9 and 17 and 18.

20 Q. All right. In the Marcotte well in Section 8,
21 does the group GLA-66 have any interest in Section 8?

22 A. No, sir, they don't.

23 Q. Are Bard and LaForce some of the working interest
24 owners that are in the GLA-66 group?

25 A. Yes, they are.

1 Q. When we look at Section 9, does the GLA-66 group
2 have a working interest in Section 9?

3 A. Yes, they do.

4 Q. Let's go to the exhibit book for the Scott well,
5 then, which is 11,808, turn behind Exhibit Tab Number 2.
6 The first display is simply the same type of illustration
7 in the first book, except you've spotted the Scott well?

8 A. Correct.

9 Q. The next display is just what we've seen before?

10 A. Correct.

11 Q. It's the composite of Moore/GLA-46/Minatome?

12 A. Yes, sir.

13 Q. The next two displays are again the same, right?

14 A. Correct.

15 Q. Turn to the next one, which is a depiction of
16 GLA-66, right?

17 A. Correct.

18 Q. Let's describe what you're showing with regards
19 to the Scott well in relationship to the GLA-66 group.
20 What do we see?

21 A. What we've done is colored in two leases, two
22 federal leases. We identify them as Lease Number NM-639,
23 covering approximately 1240 gross acres, located in Section
24 3, 4, 9 and 10 of 31 North, Range 10 West.

25 The adjoining lease is -- we identify that as

1 Lease Number 640. It covers approximately 1117 acres, and
2 it lies in Section 11 and 12 of the same township and
3 range.

4 Q. Focus on Section 9.

5 A. Yes, sir.

6 Q. When I look at the group characterized as GLA-66,
7 does that group include Burlington?

8 A. Yes, it does.

9 Q. How do we identify the other interest owners that
10 are collectively called GLA-66?

11 A. May I refer you to the Exhibit --

12 Q. Yes, sir.

13 A. -- Exhibit A of the operating agreement?

14 Actually, it's under -- I think it's easier to
15 find it, Exhibit 1. And if you'll look at page 2 --

16 Q. I liked your first idea.

17 A. Okay.

18 Q. Let's see if we can get everybody where you were
19 going.

20 A. Okay.

21 Q. If you'll turn behind Exhibit Tab 4, you've
22 identified this as part of Exhibit A to the operating
23 agreement.

24 A. Right.

25 Q. Take your time, flip past the first eight pages,

1 and there's a spreadsheet. It's captioned "Complete List
2 of GLA-66 Owners with 'No' on Farmout".

3 A. Correct.

4 Q. All right. Read down this list and start at the
5 point where it actually begins a listing of the GLA-66
6 owners.

7 A. I'd like to make a correction. We listed a
8 complete list of the GLA-66 owners. We also included, just
9 for simplicity's sake, Total Minatome's ownership and Lee
10 Wayne Moore's ownership. Please make a note that they're
11 not part of the GLA-66 group.

12 Q. Draw a line below those two names.

13 A. Right, then you'll start out with Hope Simpson,
14 and then you'll continue on, and we list all the owners and
15 their *pro rata* share of the drilling completion costs for
16 the Scott 24 well.

17 Q. Okay.

18 A. I also want to --

19 Q. Identify for me what you are meaning when you
20 talk about the area covered by the GLA-66 group. That is
21 the area depicted on that last display behind Exhibit
22 Number 2?

23 A. Yes.

24 Q. Geographic area?

25 A. Yes, the geographic area, yes.

1 Q. All right. Within that geographic area, there
2 are a group of owners characterized as GLA-66, right?

3 A. Correct.

4 Q. Okay. Describe for me vertically how those
5 interests have been consolidated or not consolidated, above
6 and below the base of the Dakota.

7 A. The GLA-66 owners, they own a different ownership
8 type from the surface to the base of the Mesaverde
9 formation. Below the base of the Mesaverde formation, they
10 own a working interest or operating rights interest, and
11 that's what you see on this list, is their *pro rata* share
12 of their ownership in Section 9.

13 Q. Let me ask you a question.

14 A. Okay.

15 Q. From the Mesaverde up, the percentages are
16 different than Mesaverde down?

17 A. That's correct, it's a different ownership.

18 Q. Below the Mesaverde, there is or is not an
19 operating agreement that covers that deep gas operations?

20 A. There is no operating agreement covering the deep
21 gas.

22 Q. All right. So collectively referring to GLA-66
23 is simply a matter of convenience --

24 A. Correct.

25 Q. -- to determine who these people are?

1 A. That is correct.

2 Q. It doesn't indicate a commitment by contract --

3 A. Right.

4 Q. -- as to the deep rights?

5 A. That is correct.

6 Q. All right. We were in the exhibit book at a
7 point behind Exhibit 4. We had looked at the tabulation of
8 the GLA-66 owners who had not committed yet, and beyond
9 that, then, is an operating agreement?

10 A. Yes, sir.

11 Q. Let me direct your attention to that. In terms
12 of operators or working interest owners that have approved
13 this operating agreement, what is the status of Amoco's
14 commitment to this operating agreement?

15 A. They have farmed out their interest to us.

16 Q. Are they in both wells?

17 A. Yes, sir, they are.

18 Q. What is the status of Conoco's commitment?

19 A. Conoco is our joint venture partner, and they're
20 participating with us.

21 Q. Is that true as to both wells?

22 A. That is true.

23 Q. Has Conoco executed or approved this operating
24 agreement?

25 A. Yes, sir.

1 Q. Describe for us the overhead rates that Conoco
2 has approved for operations of these two wells under these
3 agreements.

4 A. Please flip back to Exhibit C.

5 Q. Exhibit C is what, sir?

6 A. The COPAS accounting procedure, the 1984 onshore
7 COPAS accounting procedure. And what we have listed there,
8 the drilling well rate is \$5100 and the producing well rate
9 is \$510.

10 Q. Now, you've given that to us rather cryptically.
11 Is this a monthly rate or a daily rate or what?

12 A. The drilling well rate is prorated daily and the
13 producing well rate is a monthly rate.

14 Q. Okay. So on a monthly basis, if we're going to
15 translate this into pooling order, what are the numbers?

16 A. On the monthly --

17 Q. Yes, sir.

18 A. The monthly rate is \$510 per month.

19 Q. For a producing well?

20 A. For a producing well, yes.

21 Q. And for a drilling well, \$5100 --

22 A. Yes, sir.

23 Q. -- a month?

24 A. Yes, sir.

25 Q. Do you have a recommendation to the Examiner as

1 to what overhead rates to apply in both these pooling
2 cases?

3 A. We recommend that these rates be approved. The
4 most recent COPAS accounting procedure for wells 14,000
5 feet is roughly \$546 for a producing well rate, so we are
6 well under that. The monthly drilling well rates are in
7 the \$5800 category, and we're well under that.

8 So we feel like this is a very fair and
9 competitive rate, and we recommend that the Commissioner
10 adopt these two rates.

11 Q. Let's take the Marcotte book -- it's 11,809 --
12 turn behind Exhibit Tab Number 3, and let's look at the top
13 map. There is a similar topo map behind Exhibit Tab Number
14 2 in the Scott exhibit book; is that not true, Mr.
15 Strickler?

16 A. Yes, sir.

17 Q. Well, let's refer to the one in the Marcotte
18 book. Looking at Section 8, first of all, identify for us
19 what you were describing earlier when you talked about the
20 position of the Marcotte well within Section 8 being based
21 upon topography.

22 A. As you can see there, it doesn't really show up
23 that well on this topographic map, but on the land map that
24 we showed you earlier, there were two existing wells in
25 this vicinity. One was a PC well, one was a Mesaverde

1 well. And this was the best area to build a location for
2 the deep Penn. And this also minimizes the surface
3 disturbance.

4 Q. Has Burlington utilized that existing pad for the
5 location of the rig that's currently drilling for the
6 Marcotte well?

7 A. Yes, we have.

8 Q. Do you have a suitable topographic location for
9 the Scott 24 well?

10 A. Yes, we do. You'll notice in the other book that
11 the Scott well is located 1530 feet from the north line and
12 2430 feet from the west line, and --

13 MR. GALLEGOS: What are we referring to? You
14 said the other book, but --

15 THE WITNESS: The --

16 MR. KELLAHIN: You can probably see it on the
17 same display --

18 THE WITNESS: -- Scott. You can --

19 MR. KELLAHIN: Let's not confuse --

20 THE WITNESS: -- you can.

21 MR. KELLAHIN: Wait, don't talk yet. One at a
22 time.

23 THE WITNESS: Okay.

24 Q. (By Mr. Kellahin) If you'll look at the Marcotte
25 book, there's Section 9 shown. You've asked us to move to

1 the Scott book where there is, in fact, a dark triangle.

2 A. Yes.

3 Q. What does that represent, sir?

4 A. That represents the location of the Scott 24.

5 Q. All right. And has that been determined by
6 Burlington to be a suitable topographic location for the
7 Scott well in Section 24?

8 A. Yes, sir.

9 Q. Once again, let me take you back to the Marcotte
10 book. It's 11,809. I want you to turn behind Exhibit Tab
11 Number 4 and I want to start a discussion with you with
12 regards to your effort to consolidate interest owners for
13 the Marcotte well in 8. I do not desire you to read this.
14 I'm going to ask you to summarize it.

15 But let me ask you some preliminary questions.

16 A. Okay.

17 Q. Behind the chronology of events, there's a series
18 of letters and correspondence, and they are placed in the
19 book in chronological order; is that not true?

20 A. That's correct.

21 Q. Are you able to authenticate the accuracy of all
22 the documents behind this Exhibit Tab Number 4?

23 A. Yes, sir.

24 Q. To the best of your knowledge, they're true and
25 accurate?

1 A. Yes, they are.

2 Q. They've come out of the business records of
3 Burlington that are under your control as a landman for
4 this project?

5 A. Yes, sir.

6 Q. Is this intended to be a complete and full
7 chronology of all activities with regards to the Marcotte 2
8 well?

9 A. Only the written correspondence. We've had
10 numerous phone conversations amongst all the parties.

11 Q. All right, and that is not shown on this?

12 A. No, sir.

13 Q. Let me ask you to summarize the items in the
14 chronology, starting with the July of 1996 efforts, and
15 take us down to the current time with regards to the
16 consolidation of interest owners for the Marcotte 2 well.

17 A. Okay. I'd like to give a brief history on this
18 particular area. Our joint venture partner is Conoco, Inc.
19 We entered into a joint venture with them two and a half
20 years ago. It's my understanding that there was a lead
21 area in this general vicinity two years ago.

22 Over a year ago, we were given instructions, the
23 land department was given instructions, to start
24 consolidating interests. We began as early as June 18th of
25 1996, over a year ago. We sent out letters to various

1 parties.

2 We started in the Marcotte Number 2 well on July
3 29th. We sent out offer letters to acquire nonproducing
4 deep rights from Total Minatome and the Moore Oil Trust.

5 In February of 1997, we sent a proposal to Total
6 Minatome offering them to participate, farm out or sell
7 their interest, and we enclosed a farmout -- proposed
8 farmout terms.

9 After many conversations with Total Minatome,
10 they sought some revisions to the farmout terms and
11 conditions. We were happy to accommodate them, and we sent
12 them a new proposal in April.

13 On April 22nd, we sent out to the Wayne Moore
14 group a similar offer to participate or farm out their
15 interest or sell, if they would like, on April 22nd.

16 We also sent out a well proposal on April 22nd to
17 the various working interest owners in Section 8, asking
18 them to voluntarily participate or farm out their interest
19 in Section 8.

20 We sent out follow-up letters to Total Minatome
21 on May 22nd, stating our position that the GLA-46 agreement
22 did not cover the deep gas. And then we received back from
23 Total Minatome their acceptance of our AFE, subject to the
24 GLA-46 agreement, which we have a dispute over.

25 On June 3rd, we sent out letters to all the

1 mineral owners or royalty owners who owned under leases
2 that did not allow for 640-acre spacing, to notify them of
3 the intent to form a Section 8 spacing unit.

4 On June 16th, we sent out additional letters to
5 the mineral owners, with an amendment to the oil and gas
6 lease, allowing them to sign up and amend their lease.

7 We sent out another proposal to Total Minatome,
8 approving the terms and conditions of our previous farmout
9 requests, on June 16th.

10 And then on July 7th we received a
11 counterproposal from Mr. Moore, proposing some farmout
12 terms.

13 And that summarizes --

14 Q. All right.

15 A. -- the chronology of events in Section 8. We
16 started over a year ago.

17 Q. Not all the correspondence is indicated or set
18 forth in the exhibit behind Exhibit Tab Number 4, is it?

19 A. No, sir.

20 Q. All right. You've simply selected --

21 A. -- the key elements --

22 Q. -- the key elements of those letters?

23 A. -- of voluntary support for our prospect and
24 well.

25 Q. All right. Let's turn now to the exhibit book

1 for the Scott well -- it's 11,808 -- and let's now look
2 behind Exhibit Tab 3 and let's again have you turn your
3 attention to this.

4 Once again, this is not a total chronology of
5 every single contact or event with regards to your efforts,
6 is it?

7 A. No, sir.

8 Q. And does it contain all the correspondence?

9 A. No, sir.

10 Q. All right. You've summarized some of the key
11 items for us in the tabulation, then?

12 A. Yes, sir.

13 Q. Take us through your efforts for consolidating
14 interests for the Scott 24 well.

15 A. We started a little earlier in Section 9. We
16 started June 18th, 1996, where we sent offer letters to the
17 GLA-66 owners. We also -- We've mentioned in the Section 8
18 chronology of events the July 29th letter.

19 On September 10th, 1996, we offered to purchase
20 the nonproducing deep rights under the GLA-66 leases.

21 And then on November 20th we notified the GLA-66
22 owners that we have plans to put together a Pennsylvanian
23 test to approximately 14,000 feet. We asked for their
24 voluntary support of 640 acres, and we also mentioned that
25 this was -- we mentioned the risk involved and also the

1 estimated cost at that time. This was the earliest ideas
2 that we had on cost and depths and spacing.

3 The rest of the letters, the rest of the entries,
4 are identical to the chronology of events in the Marcotte
5 Number 2 well.

6 Q. When I look at April 22nd, 1997 --

7 A. Yes, sir.

8 Q. -- there's a letter to Moore?

9 A. Correct, we also -- Yes, sir, there is.

10 Q. Is there a similar letter of that date to
11 Minatome?

12 A. Yes, sir.

13 Q. Am I correct in remembering the difference in the
14 books here?

15 A. Well, the letter you see to Wayne Moore included
16 all of his lands -- or -- not all of his lands, but --

17 Q. No, my question was, the chronology expresses a
18 letter of April 22nd to Moore.

19 A. Correct.

20 Q. Was there also letters to Minatome of April 22nd?

21 A. No, there was not. On April 22nd there was a
22 letter proposing -- No, I'm getting confused.

23 On April 29th was the next letter to Total
24 Minatome proposing the well in Section 9. There was not a
25 letter to Total Minatome in Section 9.

1 Q. All right. So the entry on the 29th --

2 A. -- was the well proposal --

3 Q. All right.

4 A. -- for the Scott 24.

5 Q. And that proposal letter goes out to what group
6 of interest owners in Section 9?

7 A. All the working interest owners in Section 9
8 received that well proposal.

9 Q. All right. So that letter would have included
10 Total Minatome?

11 A. Yes, it would have, but not on April 22nd.

12 Q. All right. Are you continuing, Mr. Strickler,
13 with your efforts to obtain voluntary agreement with any of
14 these owners?

15 A. Yes, sir.

16 MR. KELLAHIN: Mr. Examiner, it's five after
17 twelve. I don't know your desire. This would be a
18 convenient time for me to take a break if you would like to
19 have a lunch break.

20 EXAMINER CATANACH: Are you done with this
21 witness?

22 MR. KELLAHIN: I'm not sure, I need to gather my
23 thoughts and see. But we're getting close. I'm just not
24 certain.

25 EXAMINER CATANACH: Well, let's do that. That

1 will give Mr. Gallegos a chance to review this data.

2 Break for an hour, be back here at one.

3 MR. KELLAHIN: All right, sir.

4 (Thereupon, a recess was taken at 12:05 p.m.)

5 (The following proceedings had at 1:10 p.m.)

6 EXAMINER CATANACH: Call the hearing back to
7 order, and I'll turn it over to Mr. Kellahin again.

8 MR. KELLAHIN: Thank you, Mr. Examiner.

9 Q. (By Mr. Kellahin) Mr. Strickler, let me direct
10 your attention back to the topic of the royalty owners,
11 those royalty owners who you're seeking to have pooling.
12 Can you estimate for me the total number of those royalty
13 owners?

14 A. The total number is 33.

15 Q. Out of that 33, with your efforts, how many have
16 agreed to participate or otherwise modify their agreements
17 so they can share royalty on 640 acres?

18 A. Fifteen so far, and I haven't checked yesterday
19 or today's mail.

20 Q. So you've got about half of those --

21 A. Correct.

22 Q. -- committed at this point?

23 When I direct your attention to the Scott well in
24 Section 9, that's the well in which the GLA-66 group has an
25 interest?

1 A. Yes.

2 Q. Okay. Have you been dealing with any particular
3 individual or group of individuals who represent to you
4 that they are the spokesperson for that group?

5 A. Well, I've been speaking with Mr. Watson LaForce
6 in Midland, Texas, and then --

7 Q. Why have you been doing that?

8 A. Mr. LaForce is one of the owners of GLA-66 and is
9 one of the major spokesmen for that group.

10 Q. How do you know that to be so?

11 A. Well, he mentioned that to me, that he has had a
12 long-term relationship with the 63-some-odd owners. He
13 described them as being widows and orphans in the Chicago
14 area and is real good friends with all of them, and that's
15 what I know.

16 Q. Have you discussed with Mr. LaForce various means
17 by which that group might voluntarily commit to
18 participation in the Section 9 prospect for the Scott 24
19 well?

20 A. Yes, sir.

21 Q. What type of arrangements have you explored with
22 Mr. LaForce on behalf of the 66 group?

23 A. Well, back in July of last year we offered to
24 purchase their deep rights, and that was on July 29th of
25 1996. And then we also offered them to participate -- I'm

1 sorry, we had a series of letters after that.

2 On November 20th of 1996 we notified the GLA-66
3 owners that we have a Pennsylvanian test planned to be on
4 their acreage, we didn't know where at that time, that it
5 would be 14,000 feet. We gave them all the parameters, the
6 approximate costs, and we asked them to voluntarily
7 participate with us on a 640-acre spacing --

8 Q. What, if any --

9 A. -- or sell their interest.

10 Q. What, if any, response did you receive from Mr.
11 LaForce with regards to that proposal?

12 A. They weren't interested at that time, until we
13 had a specific location.

14 Q. Have you dealt with GLA-66 in terms of other
15 wells?

16 A. No, sir, I have not.

17 Q. With regards to this group, what, if any,
18 understanding do you have about the group's willingness to
19 participate and pay their share of a well?

20 A. Since the 63 owners own an overriding royalty
21 interest in the shallow rights, they're not accustomed to
22 having a working interest, and Mr. LaForce explained that
23 to me, that they didn't want to participate, it just wasn't
24 part of their business strategy. They don't want a working
25 interest, they didn't want to have any liabilities when it

1 comes to drilling a deep gas well, so --

2 Q. And have you offered them all the -- alternative
3 terms, other than --

4 A. Yes, sir. Because of that, we sent out farmout
5 terms, a farmout proposal, for their consideration, with --
6 for their review. And we've received three favorable
7 responses so far. And like I said earlier, we acquired two
8 of the owners in the summer, last summer.

9 Q. Okay. During the break I have marked as
10 Burlington Exhibit 7 in each of the cases, Mr. Alexander's
11 certificate of notification in the case. I'll ask you to
12 take a moment and look at those certifications.

13 Did you assist Mr. Alexander in the tabulation
14 and the compilation of those return receipt cards to verify
15 that to the best of your effort you had notified all the
16 parties that were listed on both Applications?

17 A. Yes, sir.

18 Q. And what is your answer? Have you done so?

19 A. Yes, sir, I have.

20 MR. KELLAHIN: Mr. Examiner, that concludes my
21 examination of Mr. Strickler. We move the introduction of
22 Exhibits 1 through 5 in each case, plus Exhibit 7 in each
23 case.

24 EXAMINER CATANACH: Any objection?

25 MR. GALLEGOS: Seven is the --

1 MR. KELLAHIN: Certificate --

2 MR. GALLEGOS: -- notice?

3 MR. KELLAHIN: -- of notice, Gene.

4 MR. GALLEGOS: No objection.

5 EXAMINER CATANACH: Exhibits 1 through 5 in both
6 cases and Exhibits 7 in both cases will be admitted as
7 evidence.

8 CROSS-EXAMINATION

9 BY MR. GALLEGOS:

10 Q. Mr. Strickler, let's go back to the summer of
11 last year. I understand that that's when you were assigned
12 the project that retained participation --

13 A. Yes, sir.

14 Q. -- of the acreage in the drilling of these two
15 wells?

16 A. Yes, sir.

17 Q. Is that a description of your assignment, or what
18 was it? What acreage was the target that you were to work
19 on?

20 A. Back in August of 1996, I was assigned this area,
21 and my job was to consolidate deep rights, mainly through
22 acquisitions, mainly through purchase, and that's what we
23 attempted to do, and my predecessors attempted to do, back
24 in June of last year.

25 So as far as the area is concerned, the area

1 varied in size. It changed with the geoscientists and
2 their work, and we checked title on a lot of sections in
3 this particular area.

4 Q. Was a gentleman by the name of Walter Parks
5 working on this --

6 A. Yes, sir, he's an ind- --

7 Q. -- before you?

8 A. He's an independent landman, yes, sir.

9 Q. Okay. And how long did you understand that he
10 had been working on the acquisition project?

11 A. Walt Parks started, again, in early summer of
12 last year and wrote letters to the various GLA-66 owners
13 back in June of last year.

14 Q. Were you involved at that time?

15 A. No, sir, I wasn't. I didn't come on board until
16 August of last year.

17 Q. In your position as -- you are the manager of the
18 land department?

19 A. I'm a senior staff land depart- -- excuse me, I'm
20 a senior staff landman, assigned to this -- the Penn team.
21 So I have two other supervisors.

22 Q. Okay. Who constitutes the Penn team?

23 A. The Penn team, I'm the designated landman. We
24 have a geologist by the name of Mike Dawson, a geophysicist
25 by the name of David Schoderbeck and a petroleum engineer

1 by the name of Chip Lane and a drilling engineer by the
2 name of Curt Shipley.

3 Conoco has a similar team.

4 Q. Curt Schilling?

5 A. Shipley.

6 Q. Curt Shipley?

7 A. Yes, sir. You'll hear him in a minute.

8 Q. Okay. And then Amoco, you say, has a similar
9 team?

10 A. I'm not sure about Amoco, no, sir. Conoco has a
11 similar team.

12 Q. Conoco.

13 A. Conoco has a similar team.

14 Q. I see, okay. You said in your direct testimony,
15 unless I misunderstood, that this was a joint venture with
16 Amoco.

17 A. With Conoco.

18 Q. Did you state --

19 A. I'm sorry, I meant to say Conoco.

20 Q. You meant --

21 A. We have a joint-venture agreement with Conoco.

22 Q. Okay. And then so we would understand that
23 Conoco has what you might call a cohort, similar Penn team
24 with a landman, a geologist, a geophysicist and the two
25 engineer positions?

1 A. Yes, sir.

2 Q. And you work jointly?

3 A. We work together, yes, sir.

4 Q. Okay. How long -- I realize you've only been on
5 the team since August of last year, but how long has the
6 team been assembled --

7 A. That I don't know.

8 Q. -- for Burlington?

9 A. That I don't know. I've been with the company
10 almost three years, and the Conoco-Burlington joint venture
11 started two and a half years ago. So...

12 Q. For what you'd call the call the deep
13 Pennsylvania --

14 A. Joint exploration program --

15 Q. Okay.

16 A. -- yes, sir.

17 Q. Well, just tell us -- We'll discuss changes, but
18 when you came on board in August of 1996, what was the
19 acreage target that you were given at that time?

20 A. That is confidential information. The geologists
21 and geophysicists came up with an outline. The asked me to
22 concentrate within that outline, and I'm not at liberty to
23 disclose that.

24 Q. Well, was it --

25 A. But it's centered around Section 8, I can tell

1 you that.

2 Q. Okay. One section to each side of Section 8,
3 generally?

4 A. Much larger.

5 Q. Well, are we talking about nine sections?

6 A. I'm just not able to disclose that.

7 MR. GALLEGOS: Well, I'd ask that the witness be
8 directed to answer the question, Mr. Examiner.

9 MR. KELLAHIN: We'll pose an objection, Mr.
10 Examiner.

11 EXAMINER CATANACH: What's the relevance, Mr.
12 Gallegos?

13 MR. GALLEGOS: What the justification is for the
14 well and for voluntary agreement. Some of the overtures to
15 these parties for agreement have been for substantial
16 acreage -- it hasn't been just for Section 8 or Section 9
17 -- and we want to know why.

18 EXAMINER CATANACH: I'm not sure that it's
19 relevant to the case. This Application is focusing on
20 Sections 8 and Section 9; that's what we're dealing with
21 here.

22 MR. GALLEGOS: So, what -- Are you ruling?

23 EXAMINER CATANACH: Yeah, I would say the witness
24 doesn't have to answer that question.

25 Q. (By Mr. Gallegos) Then after August of 1996

1 there were changes in the target acreage that you were
2 assigned to work on?

3 A. It changed a little bit.

4 Q. Just a little bit. Five percent?

5 A. It's hard for me to quantify that.

6 Q. Well, give us your best estimate.

7 A. The geologists and geoscientists from both
8 companies, they have their various ideas, and we as a land
9 department will check a maximum area, and it will have
10 contracted or expanded as their feelings dictate. So I
11 really can't give you a ballpark figure.

12 Q. Did the Conoco geologists and geophysicists
13 select the locations for --

14 A. That was a joint --

15 Q. -- the well in Section 8 and Section 9?

16 A. That was a joint decision, yes, sir.

17 Q. What do you mean when you say there is a joint
18 venture? What is the --

19 A. Well, the deep Penn, as you know, there's not any
20 production in the entire Basin. It's a very high-risk
21 play, and we don't want to suffer gambler's ruin, and we
22 went out and found a partner to help us spread the risk
23 because of the expensive drilling cost and the other
24 exploration activities necessary to work a large area.

25 So Conoco was our joint-venture partner in this

1 endeavor, and we're spreading the risk. We don't want to
2 drill wells without having a partner.

3 Q. What I was trying to ask is the general terms of
4 the joint venture. Are you 50-50?

5 A. Yes, sir.

6 Q. Okay. And are each of the companies putting --
7 donating acreage to the joint venture?

8 A. We do have acreage, both companies have acreage.
9 And yes, that is part of the joint-venture agreement.

10 Q. Okay. And obviously you're sharing all the
11 information that is getting between the two parties,
12 geologic, seismic, everything --

13 A. That's what a joint venture -- That's how a joint
14 venture operates, yes.

15 Q. All right. So they'll share the expenses of
16 drilling the wells?

17 A. Yes, sir.

18 Q. And share the risk?

19 A. You bet.

20 Q. And if there's revenue completion, they would
21 share in that, correct?

22 A. Correct.

23 Q. Okay. When you joined the Penn team in August of
24 1996, were there any farmouts of acreage that had been
25 accomplished? Or I should say farm-ins, from your

1 standpoint.

2 A. Right, right. We were concentrating on
3 consolidation of interest at that time, so the farmouts
4 were to come later.

5 Q. Okay. So did you work on obtaining the Amoco
6 farmout?

7 A. No, sir.

8 Q. Okay. But that was accomplished since you've
9 been on the team?

10 A. Yes, sir.

11 Q. When was that accomplished?

12 A. I'm not sure of the date. Another -- My land
13 manager took care of that particular transaction or trade,
14 with his counterpart at Amoco.

15 Q. Trade, you say?

16 A. That's another definition of a farm-in or a
17 farmout; it's a trade.

18 Q. Did you provide -- Did Burlington provide
19 technical information to Amoco in the course of the
20 negotiation of that farmout?

21 A. I'm not at liberty to say that. That was between
22 my manager and the manager at Amoco. They worked out the
23 deal --

24 Q. Well, I'm not asking for what the information
25 is --

1 A. Oh, right.

2 Q. -- I'm simply asking -- That information was
3 furnished to Amoco, so it could make a decision on whether
4 or not to farm out; isn't that true?

5 A. I'm not at liberty to say. That information,
6 that agreement, is confidential between Amoco and
7 Burlington, and I'm not in a position or have the authority
8 to discuss the terms and conditions of that agreement.

9 Q. I didn't ask you that, sir.

10 A. Well --

11 Q. I just asked you, isn't it true that technical
12 data was furnished to Amoco --

13 MR. KELLAHIN: I'm going to object on relevance
14 grounds.

15 Q. (By Mr. Gallegos) -- surrounding the making of
16 the farmout agreement?

17 MR. KELLAHIN: It's confidential contracts
18 between these people, and I don't see it's relevant, Mr.
19 Examiner.

20 MR. GALLEGOS: I'm not asking for the terms of
21 the contract. It can just simply be answered yes or no,
22 the information was furnished; isn't that true?

23 EXAMINER CATANACH: I think it's relevant. I'm
24 going to direct the witness to answer that question.

25 THE WITNESS: The answer is yes.

1 Q. (By Mr. Gallegos) Okay. There's also a farmout
2 obtained from Cross Timbers on the Section 8 property,
3 correct?

4 A. Yes, sir.

5 Q. Okay, did you work on that?

6 A. I sure did.

7 Q. Okay. And about when did you accomplish
8 agreement with Cross Timbers?

9 A. That was in -- I'll have to refer to my book. I
10 don't have that with me. Late May, early June.

11 Q. Of this year?

12 A. Yes, sir.

13 Q. And isn't it true that Cross Timbers was provided
14 technical data and information concerning this project?

15 A. That is correct.

16 Q. Now, as to interest owners such as the Moores and
17 the GLA-66 owners, what instructions were you given in
18 regard to your efforts at obtaining their interest, either
19 by purchase or some other means?

20 A. Their acreage was important to our wells, and
21 naturally we attempted to purchase their interest or offer
22 them a farmout or offer them to participate. That's a
23 normal procedure in putting together a land area to support
24 a deep high-risk well.

25 Is that what you're referring to?

1 Q. Well, let me make the question more specific.

2 What was the authority that you were given in
3 terms of dollars you could offer to purchase their
4 interest? Let's start with that.

5 A. We had the -- Gosh. Not knowing the market value
6 of the deep Penn, because there's no production in the
7 entire Basin, we sent out initial offers to try to find a
8 market value, so we started back in June and July of last
9 year. And as the market would respond to us, offers were
10 increased in the hopes of making a negotiated deal. So it
11 was -- That was a joint decision between Conoco and
12 Burlington as far as dollars, I guess, to --

13 Q. So were you instructed to start out with a
14 lowball, \$10-an-acre --

15 A. Absolutely. We had no idea what it was worth.
16 Again, it's an unknown formation.

17 Q. Okay.

18 A. So we started out at that level and we went up
19 from there.

20 Q. Okay. Then what -- Was that authority increased?

21 A. Yes, yes, as parties negotiated, the authority
22 was increased to make a deal.

23 Q. Okay. Was actually your first offer six
24 dollars --

25 A. That was --

1 Q. -- an acre?

2 A. Those were lump-sum numbers. The acreages were
3 less, were fractional acres. And so if they had six-tenths
4 of an acre, it would amount to six dollars.

5 Q. Okay, so then that would have been in the summer
6 of 1996 --

7 A. Correct.

8 Q. -- right?

9 A. June and -- Right.

10 Q. Then in September did you come up with a \$20-an-
11 acre offer?

12 A. I believe so. Yes.

13 Q. Okay. Would Burlington be willing to sell its
14 acreage in Section 9, the deep rights, for \$20 an acre?

15 A. No, sir, because it's in one of our prospects,
16 and if it wasn't in a prospect we would entertain a
17 reasonable offer.

18 Q. Okay. You didn't offer reciprocally to these
19 people who offered \$20 -- You'd say, Or we'll take \$20 an
20 acre for ours? That wasn't the nature of the --

21 A. No.

22 Q. -- negotiation?

23 A. No.

24 Q. Okay. And then in November your basic approach
25 to everybody was, we'll give you a -- what? A two-percent

1 override, or we'll force-pool you, and here's a joint
2 operating agreement with a 400-penalty and all the other
3 provisions that are in this joint operating agreement
4 that's in your exhibit --

5 A. No, sir, we --

6 Q. -- that step?

7 A. No, sir, we didn't say that. We offered a -- We
8 did offer the GLA-66 owners the opportunity to participate.
9 We set out some parameters for the voluntary 640-acre unit,
10 and we did increase our offer. We offered them an override
11 opportunity.

12 Nowhere did we say that we were going to force
13 pool their interest --

14 Q. In the November --

15 A. -- in the November 20th, 1996, letter. We stated
16 the depths and the formation, the risk and the estimated
17 cost. We didn't know what the location was going to be at
18 that time. We would want to put everybody on notice.

19 Q. But you knew there was going to be a well in
20 Section 9?

21 A. Not at this time, no.

22 Q. Did the team know that?

23 A. Not at this time. Not November 20th, 1996.

24 Q. Who were you speaking to at that time regarding
25 whether there was to be a well in Section 9?

1 A. The GLA-66 owners.

2 Q. No, I mean within the Penn team.

3 A. The Penn team? At that time they were still
4 finalizing their data and their information, and the exact
5 locations weren't determined until the spring of this year.

6 Q. I wasn't asking about exact locations --

7 A. Right.

8 Q. -- I was just asking about wells in Section 8 and
9 Section 9. You knew in November that there were going to
10 be wells in those two sections; isn't that right?

11 A. No, sir, not -- No, not in November, I did not.
12 We --

13 Q. In November, 1996, you were not making offers of
14 the kind that were sent out on November 20th, except to
15 interest owners in Section 8 and Section 9; isn't that
16 true, Mr. Strickler?

17 A. I'm not sure I understand the question.

18 Q. The offers that you sent out on November 20,
19 1996, were only directed at working interest owners in
20 Section 8 and Section 9; isn't that true?

21 A. Section 9.

22 Q. Only Section 9?

23 A. Section, 3, 4, 9, 11 and 12.

24 Q. Your farmout agreement at a later time
25 encompassed all the acreage under these --

1 A. Right, right.

2 Q. Was that the offer that you made in November of
3 1996? Is that what you're saying?

4 A. In November of 1996 we asked for acreage support
5 on the six sections on the letterhead.

6 Q. Well, let's take a look at that particular --

7 A. Okay.

8 Q. -- offer. Maybe I've got them confused.

9 First of all, no offers in November, 1996, on
10 Section 8; is that right?

11 A. We made offers at a later date on Section 8.
12 Well, actually earlier, June 18th, we sent out offers.
13 July 29th we sent out offers to the Section 8 --

14 Q. I'm talking about the fall of 1996, if we can --

15 A. We sent earlier offers out.

16 Q. Okay. I'm looking at the notebook for Case
17 11,808, and under Exhibit 3 you have the chronology that
18 you referred to before. Are you with me?

19 A. Yes.

20 Q. Okay. And the your chronology shows a date of
21 11-20-96, letters to Watson LaForce, Jr., *et al.*

22 What I find at that day is a letter to Walter B.
23 Farnham, and then a letter to a Hill, Louis Hill?

24 A. Yes, sir.

25 Q. Are those meant to --

1 A. These are sample letters.

2 Q. Sample letters?

3 A. Yes.

4 Q. All right.

5 A. Right. They went to --

6 Q. It wasn't necessarily LaForce but it was one of
7 the --

8 A. Right --

9 Q. -- the GLA-66 group.

10 A. -- we didn't want to thicken up the book here.

11 Q. Okay. And doesn't the letter, first of all, tell
12 the recipient that it's a very high-risk well, ten-percent
13 chance of success?

14 A. Correct.

15 Q. You were discouraging voluntary participation?

16 A. No, sir, that's just our estimation of the risk
17 involved.

18 Q. Haven't you told various parties that you've
19 talked to personally that you wouldn't invest in this; it
20 would be better off putting their money in the stock
21 market?

22 A. That's my personal feeling.

23 Q. And that's what you told people?

24 A. That's right.

25 Q. All right. So that's discouraging them from

1 participating, right?

2 A. You can read it that way.

3 Q. Okay. Then you'll -- You say if you participate,
4 you'll enter into a 1982 form operating agreement providing
5 for a 400-percent nonconsent penalty --

6 A. Yes, sir.

7 Q. -- with the right-to-purchase provision deleted?

8 A. Correct, those are --

9 Q. That's a bit discouraging for anybody who wants
10 to --

11 A. How so?

12 Q. -- sign up.

13 A. I don't feel that -- It's pretty standard. With
14 the nature of this well, the 1982 model form operating
15 agreement is customarily used, the risk penalty is
16 reasonable for a high-risk well of this nature, and a
17 preferential right to purchase is almost always deleted, so
18 it's pretty much standard joint-operating-agreement
19 language.

20 Q. Well, wouldn't --

21 A. I don't find that unusual.

22 Q. Wouldn't anybody with common sense say, Rather
23 than sign up voluntarily with you I might as well be force-
24 pooled because it's only a 200-percent penalty? Isn't that
25 true?

1 A. The -- To be equivalent to what you're saying,
2 this 400-percent nonconsent penalty that we're proposing
3 would be equivalent to a 300-percent penalty, with the 200-
4 percent risk penalty that you're referring to, so the only
5 difference -- Yeah, it is 100-percent difference.

6 In other words, to be equal to the maximum
7 penalty in New Mexico it's 300 percent, and we did request
8 400 percent because we felt that was more appropriate a
9 risk penalty for this type of well.

10 Q. The dryhole cost, just the drilling cost on the
11 Scott 24, is \$1.7 million in round figures, correct?

12 A. I believe you're right. Yes, sir, \$1,713,800.

13 Q. And roughly 65 percent of that, if you're the
14 GLA-66 owners, how much, Mr. Strickler?

15 A. The --

16 Q. \$1.2 million, roughly?

17 A. I don't have a calculator here, but that sounds
18 about right, I guess. We have participation or we have
19 commitments from 35 percent of the owners. I think the
20 GLA-66 group represents a little under 60 percent, so 60
21 percent times --

22 Q. Well, your own list over here shows that it
23 represents 64.2 percent.

24 A. That's the total. That counts Total Minatome and
25 also the Wayne Moore interest. The GLA-66 owners who

1 you're representing, it's approximately 60 percent.

2 Q. Okay. Well, for purposes of illustration -- We
3 can get the exact number, but 60 percent.

4 A. Okay. Roughly a million dollars, \$1,027,000.

5 Q. All right. A hundred percent is, in this case
6 with this group, a million dollars?

7 A. Right, right.

8 Q. So anybody is better off not agreeing and just
9 saying, Well, force pool us then, on the terms that you
10 were offering, correct?

11 A. That's a business decision to be made by the GLA-
12 66 owners. I really can't answer that.

13 Q. Mr. Strickler, did you offer to negotiate that?
14 Did you say to people, We want you to join up with us, and
15 we'll ease back on that penalty, we'll come back to a lower
16 percentage? Did you offer that to anybody?

17 A. Nobody wanted to participate, Mr. Gallegos. No,
18 that didn't come up. They're not in the business of --

19 Q. Did you have authority -- Did you have authority
20 to do anything other than simply send out these written
21 offers and have people take it or leave it?

22 A. Oh, no, we would negotiate with them in good
23 faith, hear any counterproposals that they might have, if
24 it's reasonable, and -- Yeah, we'd love to work with
25 everybody.

1 Q. So you --

2 A. But the general impression I got from the owners
3 is, they just don't like a working interest.

4 Q. So you'd be open to reducing the penalty?

5 A. Oh, if they're not comfortable with the 400-
6 percent penalty -- We think it's fair, we'd like to stick
7 with that. That's what we have with their partners. We
8 would -- We would work with them and go with 300-percent
9 penalty.

10 Q. Well, how about going with a 200-percent penalty?

11 A. Well, 300-percent penalty is the maximum that
12 we're allowed, and so 300-percent penalty is really the
13 minimum, we think, that would help support a well of this
14 nature.

15 Q. But for the sake of agreement --

16 A. Right.

17 Q. -- so that people would agree, what you're saying
18 is, you're not willing to reduce the penalty below the
19 maximum amount allowed by statute?

20 A. No one -- the -- Very few people have asked that,
21 asked for that. That really didn't come up.

22 Q. I'm asking what Burlington is willing to do in
23 order to try and get agreement on the part of other owners.

24 A. Any ideas that these owners have, I will be happy
25 to submit to management for their approval.

1 Q. Well, Mr. -- I personally don't have the
2 authority to alter our original penalty request, but if I
3 -- I can go to management and ask for their approval, and
4 I'm sure they would be very favorable.

5 Q. Well, Mr. LaForce, at least on his part,
6 suggested a larger override --

7 A. Oh, yes, he did.

8 Q. -- isn't that right?

9 A. Yes, he did. And the override was so excessive
10 that our economics would fail on all counts. The normal
11 leases out there have an eighth royalty, and I believe they
12 wanted to deliver a 60-percent net revenue interest lease,
13 which is a 25-percent overriding royalty, and I haven't --
14 That was just too tough.

15 Q. Well, 22.5-percent override --

16 A. Okay.

17 Q. -- right? But there's already a five-percent --

18 A. That's right, there is. There is, 22.5 percent.
19 But the bottom line is a 60-percent net revenue, we
20 wouldn't be to drill this prospect, or that well, it's too
21 onerous.

22 Q. So then -- But you'd be willing to make it a 65-
23 percent?

24 A. Oh, not at all.

25 Q. Okay.

1 A. Not at all.

2 Q. Well, you said near the close of your direct
3 testimony just before the lunch break that you continue in
4 your efforts to get voluntary agreement. What have you
5 done since -- Well, let's just take the last two weeks.
6 What have you done in the month of July to continue to get
7 agreement?

8 A. Well, I've fielded phone calls from some of the
9 GLA-66 owners. Three of them have come in. Those are the
10 only opportunities that I've had, when I presented my offer
11 to them. We've gotten three responses, and so far that's
12 been the --

13 Q. That's your effort --

14 A. Or, so far --

15 Q. -- to receive three -- three --

16 A. No, we certainly want to do better than that, but
17 so far we have received three responses to farm out their
18 interest to us, and we -- we're wrapping up the paperwork
19 on those now.

20 Q. Tom Moore sent you --

21 A. Yes.

22 Q. -- a counterproposal --

23 A. Yes, he did.

24 Q. -- July 1 --

25 A. Yes, he did.

1 Q. -- and you haven't responded to it yet, have you?

2 A. No, sir, I haven't. I haven't had a chance to.

3 Q. Isn't it true, Mr. Strickler, that in considering
4 these offers you've made to both the GLA-66 group and to
5 the Moore interest, requests have been made of you to
6 provide some information in order that these people could
7 make an informed decision; isn't that right?

8 A. Yes. Yes, sir.

9 Q. And you've told them they can't have it?

10 A. No, sir, I told them that that information is
11 confidential between the parties that acquired that
12 information. I have no authority to disclose proprietary
13 seismic or geology over any area in the entire Basin or --
14 let alone this area. That is not mine to give.

15 Q. Isn't it also true that in requesting this
16 information, you were advised in writing that if you would
17 provide it, it would be accepted under terms of
18 confidentiality and kept confidential?

19 A. That has no merit, because these are contractual
20 arrangements, they're propriety nature, and we're not
21 allowed to disclose that without partner approval, and
22 that's -- Whether you keep it confidential or not, there's
23 nothing I could do to accommodate you.

24 Q. Okay. But it was provided to Cross Timbers?

25 A. It was provided to Cross Timbers with this

1 provision: They agreed in advance to either farm out their
2 interest or participate or sell their interest on
3 prearranged terms. On that basis only, were we able to
4 give them a summary briefing of the prospect. They saw the
5 high-risk nature of it, and they've elected to farm out.

6 So they pre-agreed in writing as to, you know,
7 what they would do. And in this case, they farmed out
8 their interest to us.

9 Q. Did you give the GLA-66 owners or the Moores the
10 same opportunity?

11 A. No, sir, I did not, for this reason. They asked
12 it without any strings attached, and we're not able to do
13 so. For one thing they said, We want a free look at your
14 information in order to make a decision. I said I couldn't
15 help them in that regard.

16 Q. No, I'm saying, did you say, We can't do it that
17 way, but we'll do it the way we did with Cross Timbers?

18 A. Oh, no, sir.

19 Q. Okay. And they didn't say no strings attached?
20 They, in fact, wrote you -- I wrote you in their behalf --

21 A. Right.

22 Q. -- saying it will be kept confidential --

23 A. But you didn't agree to make a trade with us.
24 That letter means nothing to us. You want a free look at
25 our information, and you'll keep it confidential? How does

1 that allow you to contribute your acreage to our well?

2 Q. Did you just simply advise these people that
3 you'd like to do it on the basis of a free agreement, that
4 a trade would be made? You didn't do that, did you?

5 A. Oh, no, sir.

6 Q. The Marcotte well, Marcotte Number 2, is being
7 drilled, isn't it, Mr. Strickler?

8 A. Yes, sir.

9 Q. It was spudded on July 1, 1997?

10 A. I believe June 25th.

11 Q. June 25th? All right. At what depth is that
12 well now?

13 A. I'll defer that our drilling engineer that is
14 here today. He'll -- I'm not sure.

15 Q. Well, approximately.

16 A. 3200 feet, last I heard a couple days ago.

17 Q. Have you been drilling steady since June 25th?

18 A. As far as I know.

19 Q. Okay. Have you been providing daily drilling
20 reports to the working interest owners?

21 A. Yes, sir.

22 Q. To the Moores?

23 A. No, sir. They're not a participant.

24 Q. Is that information available?

25 A. If you're going to participate in the well and

1 pay up -- and pay your costs of the well, then that
2 information is available.

3 Q. Are you --

4 A. They've elected not to participate in the well.

5 Q. Are you aware that your counsel has filed papers
6 in this proceeding saying that this group has the
7 opportunity to, quote, write down, end quote, the Marcotte
8 Well Number 2 and learn the results from that drilling
9 before making an election concerning committing their
10 interest to the drilling of the Scott 24 well in Section 9?

11 A. Yes, sir, I read that.

12 Q. Okay, so that's -- Do you stand by that?

13 A. Well, that's true.

14 Q. Okay. Well, where is the information? Why isn't
15 it being furnished?

16 A. The information is not available to a
17 nonparticipant. They're not taking the risk with us. They
18 own a working interest in Section 8, 2.25-percent interest,
19 but they've elected not to participate in our well --

20 Q. Okay.

21 A. -- therefore they're not entitled to any
22 information.

23 Q. Well --

24 A. If they participate then they --

25 Q. -- doesn't that contradict what I've just stated

1 has been represented by your counsel and papers filed in
2 this case?

3 Are you -- Let me ask you directly.

4 A. I don't understand the question.

5 Q. Are you going to provide the results on the
6 Marcotte Number 2 well to my clients, who both have an
7 interest in Section 9, so they can make a decision whether
8 or not to participate in the Scott 24 well?

9 A. That information is not mine to give. I don't
10 have the authority to give well information to a party that
11 has elected not to participate in the drilling and
12 completion of the well.

13 Q. So the answer is no?

14 A. Yes.

15 Q. Okay. So no matter what the circumstances, if
16 the parties, in order to make a decision in Section 9, ask
17 the opportunity to have the results on the Section 8 well,
18 that information will not be provided to them?

19 A. That information is handled by our drilling
20 department, and they're -- that information is not
21 available until -- unless you participate in the well. So
22 it's not available to those who don't participate in the
23 Section 8 well.

24 Q. Do you understand that the ordinary procedure on
25 a force-pooling application would be that if the order

1 issues granting the application, the parties to be force
2 pooled are allowed a period of time after again receiving
3 an AFE, proposed joint operating agreement, a period of
4 time to make a decision whether they want to participate
5 voluntarily --

6 A. Yes, yes, I am familiar with that, yes.

7 Q. But in that period of time, and assuming that
8 we're talking about 60 to 90 days, the order to be issued,
9 the time period, even though Burlington will have results
10 concerning the Marcotte well, that information will not be
11 furnished?

12 Well, you're shrugging your shoulders and --

13 A. No. No, it won't be furnished.

14 Q. All right. Okay. Do you have any plans to
15 respond to the July 1, 1997, offer that Tom Moore sent you
16 on the Moore interest?

17 A. Yes, sir, I do. It's unacceptable to our
18 management.

19 Q. Okay, so that's your response?

20 A. Yes, sir.

21 Q. You just haven't been able to write him to that
22 effect?

23 A. That's correct.

24 Q. Okay. That offer is contained in your --

25 A. Yes, sir, it is.

1 Q. -- booklet here?

2 A. It sure is.

3 Q. Are you prepared to speak to the risk penalty
4 application or the risk penalty terms sought by the
5 Application, or is that to be addressed by the engineer
6 with you?

7 A. It is to be addressed by the engineer.

8 Q. All right. Let me ask you a couple of questions
9 about well location. I guess either one of these booklets
10 probably serves as well as the other.

11 I'm looking at the 11,808 under Tab Exhibit 2.
12 The very last plat there, although it's headed Scott 24,
13 the star in Section 8 shows the location of the Marcotte
14 well, correct?

15 A. I'm looking at --

16 Q. Are you with me?

17 A. I'm looking at a different map, apparently. Oh,
18 see, the topographic --

19 Q. It's the topographic.

20 A. Okay, yes, I'm with you now.

21 Q. Okay. They're the same in both of the books?

22 A. They are.

23 Q. Okay. The location of the Marcotte well was,
24 isn't it a fact, Mr. Strickler, selected by the geologist
25 and the geophysicist?

1 A. Yes, sir.

2 Q. And that's why it was placed outside of the
3 ordinary or standard window?

4 A. Well, let me clarify, because Section 8 -- the
5 Section 8 was a prime location. The location was chosen to
6 use an existing wellpad, and it was an acceptable location
7 to minimize surface disturbance.

8 So for topographic reasons and the using existing
9 wellpad and using existing roads, that location was picked.

10 Q. There are existing wellpads all over Section 8,
11 aren't there Mr. Strickler?

12 A. Oh, yes. This was, I guess, the best location.

13 Q. This specific location was selected by the
14 geologist and geophysicist, based on their evaluation and
15 decisions; isn't that right?

16 A. Based on their studies, yes.

17 Q. Okay. Now, what -- We can use any of these maps.
18 Let's just look at the first one in here, which is this
19 Scott 24. It's colored, and you were using it to show the
20 Section 9 spacing unit?

21 A. Correct.

22 Q. All right. What is the location distance from
23 the quarter-section line, for the Scott 24?

24 A. 210 feet.

25 Q. Do you have a plat or an APD plat or something

1 that --

2 A. Yes, I have a plat. The legal location is 1530
3 feet from the north line and 2430 feet from the west line
4 of Section 9, which falls in the northwest quarter of the
5 section.

6 Q. All right. And that's an irregular section?

7 A. Yes, it is, 636.01 acres.

8 Q. Okay. And how do you calculate that it's --
9 You're saying that it's 230 feet west --

10 A. 210, approximately 210.

11 Q. 210, excuse me, 210. You're saying it's 210 from
12 the quarter-section line between the northeast and
13 northwest quarter?

14 A. Yes.

15 Q. Do you have a drilling permit that allows that
16 well location?

17 A. I'll have to defer that to the engineering
18 department.

19 Q. Okay.

20 A. I'm not --

21 Q. You've arrived at that by making the calculation
22 from the west line? Is that how you come to your --

23 A. Well, I have a survey plat. Yeah, we've staked
24 the location.

25 Q. Oh, okay.

1 A. Yeah, we have a survey plat, and I have it in
2 front of me.

3 Q. The survey plat?

4 A. (Nods)

5 Q. Is that contained anywhere in these exhibits --

6 A. No, sir.

7 Q. -- that we've missed?

8 A. No, sir.

9 Q. Have you -- I'm not clear. I've asked a similar
10 question. I wasn't sure where we ended up with this. Has
11 Burlington filed an application for a permit to drill that
12 well?

13 A. I don't know the answer to that question. The
14 engineering department would know.

15 Q. Okay. Can you explain to the Examiner why
16 Burlington began drilling the Marcotte Number 2 well on
17 June 25, 1997, instead of waiting until this force-pooling
18 proceeding was able to go forward and be completed?

19 A. The next speaker will address that more
20 specifically. I can elaborate a little bit on that.

21 There's a rig shortage in the San Juan Basin.
22 There's not a rig in the Basin that can handle a 14,000-
23 foot test. There's a nationwide shortage of drilling rigs
24 that are capable of drilling a 14,000-foot Pennsylvanian
25 test, and a nationwide search was conducted -- and the

1 drilling department will elaborate on this, but they were
2 able to find a suitable drilling rig, the Parker Number
3 218, that would be capable of drilling these two wells.

4 And so time was of the essence to secure that rig
5 under contract, or there would have been a six-month to
6 nine-month delay in securing another suitable rig. And you
7 get in the winter months, you'd have weather-condition
8 problems. And so we felt very fortunate that the drilling
9 department -- that they were successful in finding a good
10 rig. But the next speaker will elaborate more on that.

11 Q. So it's your testimony Burlington could not
12 tolerate a six-month delay? What difference would that
13 make?

14 A. Well, we felt that this prospect was ready to go.
15 We saw no need to delay the drilling of this well. A rig
16 was available, and action was taken.

17 You know, when you work on a project for two
18 years, you work the different pieces and parts
19 simultaneously, and the drilling rig was a pretty important
20 part. Naturally, the land and geology and the geoscience
21 is all important. But they all came together at this
22 appropriate time, and there was no logical reason to delay
23 the drilling of this well.

24 Q. Explain to us what you mean when you say the
25 prospect was ready to go.

1 A. What I really want to say is that putting
2 together the land, the geology, the geophysics, the
3 engineering, and the securing of a drilling rig, in this
4 particular project, took over two years to get it all
5 together. The drilling rig was the last -- was certainly a
6 necessary item to test the idea.

7 I hope I answered your question. I'm not sure I
8 understand it. But you've got a laborious process putting
9 together a prospect of this nature, and --

10 Q. And that was all done? What you're saying, that
11 was all completed?

12 A. It was all completed as best we could, and the
13 rig was available, and we put it to work.

14 Q. No, but I meant all the preparation to zero in on
15 the prospect, that was -- has all been done? Correct?

16 A. Yeah. Yes, sir.

17 Q. And for how long has that all been done?

18 A. Oh, gosh, I -- What do you mean exactly? When
19 was what done? The --

20 Q. Prospect ready to go, you said.

21 A. The prospect was ready to go --

22 Q. Except for --

23 A. We've got a lot of loose ends here --

24 Q. -- making the hole --

25 A. -- that's why we're here today. We have a lot of

1 loose ends, so there's no perfect prospect. So I really
2 can't answer your question.

3 Q. Okay, so -- but -- So then if you've got some
4 loose ends, you need some time to tie up the loose ends?

5 A. That's why we're here at the force-pooling
6 hearing. This helps us tie up those loose ends.

7 Q. I think your testimony meant to indicate that
8 aside from actually drilling, from a technical standpoint,
9 everything was decided about the prospects, where and what
10 it was and that kind of thing, prior to June, right?

11 A. Oh, yeah. Yes.

12 Q. Okay.

13 A. Yes.

14 Q. Now I'm trying to say, at what time prior to June
15 of this year was it at that stage?

16 A. I don't know the exact date.

17 Q. Well, approximately.

18 A. The -- Sometime in February, earlier this year.

19 Q. Okay. By the way, I notice that in these -- in
20 various of your mailings, you have the name, the address
21 and the working interest of each and every one of the GLA-
22 66 owners, correct?

23 A. Where are you referring to?

24 Q. Various documents.

25 A. The document that you're referring to is Exhibit

1 A to the proposed operating agreement where we list --

2 Q. That's one of them.

3 A. That's one them.

4 Q. And then your -- yeah, your --

5 A. We have a --

6 Q. -- that's a good example.

7 A. We have a cost breakout. That's another one.

8 Q. Okay. Do you have some kind of computerized
9 mailing capability so that when you want to communicate
10 with these 62 or 63 people you can shoot a mailing out to
11 them?

12 A. Yes.

13 Q. Are you aware, Mr. Strickler, that both Sections
14 8 and Section 9 contain federal oil and gas leased acreage?

15 A. Yes.

16 Q. Okay. And you know, of course, that the east
17 half of Section 9 and the southwest quarter of Section 9
18 are part of the Federal Oil and Gas Lease SF-078389?

19 A. Yes.

20 Q. Okay. Are you of the view that the Division
21 compulsory pooling order is effective as to that federal
22 lease acreage?

23 A. Yes.

24 Q. What, if anything, have you done to seek approval
25 of the Bureau of Land Management to the compulsory pooling

1 of the federal lease acreage?

2 A. Nothing that I'm aware of. I didn't know there
3 was -- that it was necessary.

4 MR. GALLEGOS: I pass the witness.

5 CROSS-EXAMINATION

6 BY MR. HALL:

7 Q. Mr. Strickler, if you would, please, I'd like to
8 talk to you about the GLA-46 somewhat. First let me
9 establish something.

10 There's no question about your authority to speak
11 for Burlington Resources here today; is that correct?

12 MR. KELLAHIN: Objection, the question is
13 ambiguous about the nature of his authority.

14 EXAMINER CATANACH: Clarify that, Mr. Hall.

15 Q. (By Mr. Hall) Your statements are made on behalf
16 of Burlington Resources today, correct?

17 A. Yes.

18 Q. And you can speak for and represent Burlington's
19 position --

20 MR. KELLAHIN: In what --

21 Q. (By Mr. Hall) -- in the context of this pooling
22 Application.

23 MR. KELLAHIN: Objection to the same question.
24 It's too vague. We've qualified this gentleman as a
25 landman. The scope of the question is far beyond that.

1 THE WITNESS: I'm not a manager, if that's what
2 you mean.

3 Q. (By Mr. Hall) I understand. Well, within the
4 scope of your qualified expertise, the scope of your
5 credentials here established --

6 A. I'll let you know if I can't answer.

7 Q. Okay. But within the scope of your established
8 credentials, you're authorized to speak on behalf of
9 Burlington. No question about that, is there?

10 A. Concerning this force-pooling matter, yes.

11 Q. All right. Give the Hearing Examiner a little
12 bit of background on the GLA-46. First of all, what does
13 GLA-46 mean?

14 A. GLA-46 is a 1951 agreement entered into between
15 our predecessors in title to Total Minatome and to
16 Burlington, and the purpose of that agreement was to drill
17 18 Mesaverde wells over a period of four years, four per
18 year.

19 If there was a well drilled above or below the
20 Mesaverde formation, that well would count towards that
21 drilling commitment. That drilling commitment was
22 fulfilled in approximately 1956, thereabouts.

23 That's about the extent.

24 Q. All right. And so everyone is clear,
25 Burlington's predecessor under that agreement was San Juan

1 Production Company, correct?

2 Q. And Total's predecessor was Brookhaven?

3 A. Yes.

4 Q. All right.

5 MR. CARROLL: Pardon me, what do the initials
6 "GLA" stand for?

7 THE WITNESS: General land agreement.

8 MR. CARROLL: Okay.

9 MR. GALLEGOS: Gas lease sale agreement.

10 MR. HALL: Perpetual commitment.

11 Q. (By Mr. Hall) Mr. Strickler, I want to read you
12 something that your attorney, Mr. Kellahin, filed in
13 conjunction with his reply to Minatome's -- Total
14 Minatome's Motion to Dismiss. You don't need to have this
15 in front of you; it's very brief.

16 But in a heading summary Mr. Kellahin wrote, the,
17 quote, deep gas rights, unquote, are excluded from the
18 GLA-46, November 27th, 1951, farmout/operating agreement.

19 Do you agree with that? Is that Burlington's
20 position here today?

21 A. I'd like to defer that to Mr. Kellahin. We have
22 an issue with Burlington's legal department. I'm not
23 really -- I'm not a lawyer and I'm not part of our legal
24 department, so --

25 Q. Well, what's the land issue? You deal in matters

1 of land title, correct?

2 A. Yes.

3 MR. HALL: I think he can speak to it so it --

4 MR. KELLAHIN: I'm going to object, Mr.

5 Examiner --

6 THE WITNESS: As far as interpreting --

7 MR. KELLAHIN: Excuse me. I'm going to object,
8 Mr. Examiner. It's not appropriate for this landman or
9 Minatome's land people to express opinions and make
10 interpretations of these old contracts.

11 Besides, it's beyond your jurisdiction here.

12 We've all acknowledged that there's a difference of opinion
13 about this agreement. Burlington takes the position the
14 deep gas is not included, Minatome says it is, and we're
15 going to have to resolve that somewhere else.

16 MR. HALL: Mr. Catanach, I think we need to have
17 the witness answer the question. It's clearly within the
18 scope of his experience and expertise. It's really --

19 MR. KELLAHIN: It's irrelevant and beyond his
20 expertise.

21 MR. HALL: Excuse me, Mr. Kellahin. It's at the
22 very heart of our position here, is whether or not Total
23 Minatome has voluntarily committed its acreage to the well.
24 I want to know this witness's understanding of Burlington's
25 position, whether or not the deep rights are affected by

1 GLA-46. Simple question. I think he can answer it.

2 MR. CARROLL: Mr. Hall, you're asking him to give
3 his interpretation of the GLA-46.

4 MR. HALL: No, I'm simply asking him what his
5 position is, period.

6 MR. CARROLL: And you think it's different than
7 Burlington's attorney, Mr. Kellahin?

8 MR. HALL: There's no reason he can't answer that
9 question. He said he could speak for Burlington. I'd like
10 to hear it.

11 MR. KELLAHIN: It's not relevant, Mr. Examiner,
12 what this man's opinion --

13 MR. CARROLL: Oh, it's probably not relevant, and
14 we'll take into consideration that Mr. Strickler is not an
15 attorney. But yeah, if you can give your thoughts on
16 whether deep gas is included or not.

17 THE WITNESS: I think not.

18 Q. (By Mr. Hall) All right. Is it Burlington's
19 position that it does not own the operating rights on the
20 GLA-46 as to any formation below the Mesaverde?

21 A. Please restate the question.

22 Q. Is it Burlington's position that it does not own
23 or control any of the operating rights under the GLA-46 as
24 to any formations below the Mesaverde?

25 MR. KELLAHIN: Objection, Mr. Examiner. He's

1 asking the landman legal conclusions.

2 MR. HALL: Mr. Catanach, this is a professional
3 landman. He has reviewed this document, he's familiar with
4 its terms. It's part of his responsibilities to make
5 interpretations of their applicability, make judgments
6 whether or not such an interest should be pooled or whether
7 it's already committed. He ought to answer that question.
8 It's at the heart of this case.

9 MR. CARROLL: Yeah, he can state his opinion
10 again. Go ahead and answer.

11 THE WITNESS: I don't believe the deep gas rights
12 are covered by the agreement.

13 Q. (By Mr. Hall) What do you mean by "deep gas
14 rights"? Is that defined in GLA-46?

15 A. You can define it any way you want to. Deep gas
16 rights would be any rights below the base of the Mesaverde
17 formation.

18 Q. And that's how you've defined it in the context
19 of GLA-46?

20 A. Subject to, I'm sure, legal interpretation.

21 Q. All right. So to you as a landman, you've made a
22 judgment that Burlington has no titular interest, interest
23 in the operating rights, or any type of executive-rights
24 interest under the GLA-46 below the base of the Mesaverde,
25 correct?

1 Do you understand the question?

2 A. No. We own interest in the lease. That's
3 operating rights, okay?

4 Q. All right.

5 A. We own 50 percent of that acreage. So yes, we do
6 own a working interest in that lease, or in the leases.

7 Q. All right. And those working interest -- How
8 about the operating rights? Are the operating rights
9 derived --

10 A. Same thing, operating rights --

11 Q. Let me finish my question.

12 The operating rights that Burlington claims, are
13 they derived under the GLA-46?

14 A. We own undivided interest in those lands.

15 Q. My question to you, Mr. Strickler, is, under the
16 GLA-46, does Burlington claim any sort of ownership
17 interest in the operating rights below the base of the
18 Mesaverde?

19 A. All depths, yes.

20 Q. And so we're clear about your answer, those
21 operating rights, Burlington claims, are derived under the
22 GLA-46?

23 MR. KELLAHIN: I'm going to --

24 THE WITNESS: No.

25 MR. KELLAHIN: -- object again. He's asking this

1 man to reach legal conclusions with regards to a contract
2 dispute that has yet to be litigated. And I think it's
3 inappropriate to sit here and guess about interpretation of
4 those agreements.

5 Quite frankly, if you'll look at the Rules of
6 Evidence and read this farmout, it's not ambiguous. You
7 can read it in ten minutes. And yet here we are, trying to
8 debate what this means. I think this is nonsense.

9 MR. CARROLL: How far are you going to go with
10 this, Mr. Hall?

11 MR. HALL: In terms of time?

12 MR. CARROLL: Yes.

13 MR. HALL: Maybe about 30 minutes or so with this
14 witness.

15 MR. CARROLL: You're going to lead him through
16 the GLA-46 agreement?

17 MR. HALL: I'll be very brief on the GLA-46.

18 MR. CARROLL: And then what else are you going to
19 touch on?

20 MR. HALL: About his efforts to secure voluntary
21 joinder, exercising good faith.

22 MR. CARROLL: Okay. Well, if you only have a
23 couple more questions on the GLA-46 we'll accept his
24 testimony for what it's worth.

25 MR. HALL: Directing him to answer the last

1 question, then?

2 MR. KELLAHIN: I don't know what the last
3 question was. Could we repeat it?

4 MR. CARROLL: Yeah, please restate it.

5 MR. HALL: Would you read it back, Mr. Brenner?

6 (Thereupon, the question at page 104, lines 20
7 through 22, was read.)

8 Q. (By Mr. Hall) Would you answer, please?

9 MR. KELLAHIN: Mr. Examiner, will you note my
10 continuing objection to this line of inquiry so that I
11 don't have to interrupt opposing counsel? But I object to
12 this and all the rest of the questions --

13 MR. CARROLL: So noted.

14 MR. KELLAHIN: -- on this topic.

15 THE WITNESS: I'm clear that we own a half
16 interest in that lease. That's all I'm clear about. Your
17 reference to GLA-46, I'm not able to answer.

18 MR. HALL: Fair enough.

19 If I may approach the witness with GLA-46.

20 Q. (By Mr. Hall) Mr. Strickler, again, you've
21 reviewed GLA-46. You're familiar with its terms, correct?

22 A. Yes, sir.

23 Q. Would you identify the language in GLA-46 that
24 limits applicability exclusively to the Mesaverde?

25 A. Mr. Hall, I've read the agreement, and this

1 agreement is under study with our legal department, and I
2 don't see what I -- what else I can do to add to our legal
3 department's particular work on this interpretation.
4 There's nothing I can do here to circumvent the legal
5 department's review of this.

6 Q. What is --

7 A. I'm not a lawyer and --

8 Q. What is --

9 A. -- I'm not qualified to interpret the --

10 Q. What is Burlington's legal -- Are you finished
11 with your answer?

12 A. Yeah.

13 Q. What is Burlington legal department's
14 interpretation of GLA-46?

15 A. They're not here to answer that. I'm not here --
16 I'm not going to put words in their mouth. I --

17 Q. You said you knew what their interpretation was.
18 What is it?

19 A. That -- Well, the bottom line is that the deep
20 gas rights are not covered by this agreement.

21 Q. All right. Now, to get back to my original
22 question -- by the way --

23 A. Right.

24 Q. -- GLA-46 has been marked as Total's Exhibit 1.
25 Can you identify any language in GLA-46 that limits its

1 applicability to the Mesaverde?

2 A. I'm going to defer that to our legal department.

3 Q. So the answer to my question is, no, you
4 cannot -- you're unable to --

5 A. I'm not going to answer your question, is the --
6 is my response.

7 Q. Mr. Strickler, do you agree with Mr. Kellahin's
8 representation in Response to our Motion to Dismiss that
9 the GLA-46 may apply to the Dakota?

10 A. I'm going to defer that also to our legal
11 department.

12 Q. Do you have a view on that, Mr. Strickler?

13 A. There's been over 30 amendments to this
14 agreement. Each time this agreement has been amended, due
15 to new proposals over the years -- I don't have all that
16 information in front of me. I can't speak specific to the
17 Dakota rights. So I'm going to pass.

18 MR. CARROLL: Yeah, Mr. Hall, it seems these
19 questions are beyond Mr. Strickler's expertise or authority
20 to answer. So -- Are you going to finish up here with the
21 GLA-46?

22 MR. HALL: Pretty soon, pretty soon.

23 MR. CARROLL: How many more questions do you
24 have?

25 MR. HALL: Several. I'll be very brief --

1 GLA-46.

2 Q. (By Mr. Hall) Isn't it true, Mr. Strickler, that
3 at the very least Burlington viewed the GLA-46 as at least
4 casting some cloud on title to the deep rights, correct?

5 A. Yes.

6 Q. And that's why you went out and solicited
7 amendments to it?

8 A. As part of the negotiating process, yes.

9 Q. If you would look at your exhibit book in Case
10 11,809, under your Tab Number 4, there is a letter from you
11 to Deborah Gilchrist, land manager at Total, dated April 1,
12 1997. Can you find that?

13 A. I found it.

14 Q. If you'll look at the second full paragraph of
15 that letter on the first page, would it be accurate to
16 summarize that you were soliciting an amendment to GLA-46?

17 A. Yes.

18 Q. You used the term, "agrees to amend the November
19 27, 1951 Operating Agreement", correct?

20 A. As has been done 30 times before, yes.

21 Q. And in your letter, as I understand it -- and you
22 may correct me if my understanding is not right, but your
23 amendment would have applied to all depths. There was no
24 reference in your letter as to any depth restriction?

25 A. No, sir.

1 Q. I believe I asked you a compound question, but is
2 it correct that there was no limitation as to depth
3 restriction?

4 A. I believe that's correct.

5 Q. In that same letter, you also propose that the
6 amendment apply to all of Total's interest under the GLA-46
7 Basinwide, correct?

8 A. In the April 1, 1997, letter, yes.

9 Q. Do you have any idea how many acres that was?

10 A. No.

11 Q. More than 2000?

12 A. Quite a -- Quite a few.

13 Q. More than 2000?

14 A. That's just an estimate.

15 Q. Among the terms of your proposed amendment to
16 GLA-46 were 400-percent nonconsent penalty; is that
17 correct?

18 A. Yes sir.

19 Q. If you would turn back to Exhibit 1, Mr.
20 Strickler, the GLA-46 agreement, just briefly. If you
21 would look at Paragraphs 4b and 4f.

22 EXAMINER CATANACH: Where are we at, Mr. Hall?

23 MR. HALL: It's page 3. If you'll look at
24 Exhibit 1, top page is farmout agreement. Exhibit B to the
25 farmout agreement, Exhibit 1, is the operating, that is,

1 the GLA-46 operating agreement. Page 3 of that, Paragraph
2 4b, continuing on to page 4, and then on page 5, Paragraph
3 4f. Take a moment to look at those, Mr. Strickler.

4 Have you reviewed those provisions before?

5 A. Yes.

6 Q. You're familiar with them?

7 A. (No response)

8 Q. Would you explain briefly your understanding of
9 their operation?

10 A. As I said before, this agreement was designed to
11 drill 18 Mesaverde wells and -- over a four-year period or
12 four wells per year. Any wells drilled above and below
13 would account to that well count. Those 18 wells were
14 drilled in a timely fashion back in -- through 1951,
15 through 1956, according to my understanding, and that
16 obligation was met.

17 Q. All right. Now, those particular Paragraphs 4b
18 and 4f, would it be accurate to say that they contain an
19 acreage reassignment provision?

20 A. (Nods)

21 Q. And you're nodding your head yes. You need to
22 answer --

23 A. Yes.

24 Q. -- verbally.

25 A. Yeah, I see that.

1 Q. To your knowledge, has Burlington or any of its
2 predecessors, Meridian, El Paso, ever reassigned or
3 relinquished acreage back to Brookhaven or its successors
4 under these acreage reassignment --

5 A. I don't know the answer to that question.

6 Q. Is Burlington disclaiming any operating rights or
7 other rights under GLA-46 it might have in the deep
8 formations now?

9 A. I'm not going to -- I'm not able to answer that
10 question.

11 Q. If you look at Paragraph 1, the operating
12 agreement to GLA-46 -- You see Paragraph 1 there?

13 A. I see definitions. Oh, that's accounting
14 procedure.

15 MR. CARROLL: Where are you at in this exhibit,
16 Mr. Hall?

17 MR. HALL: It's page 1 of the operating
18 agreement.

19 MR. CARROLL: Okay, it's about the sixth page?

20 Q. (By Mr. Hall) That numbered Paragraph 1 is
21 labeled "Assignment of Operating Rights." Is there any
22 depth limitation in Paragraph 1 that you see at all?

23 A. Not in Article 1.

24 Q. Mr. Strickler, let me hand you what's been marked
25 as Total's Exhibit 2, if you would identify that for the

1 record, please.

2 Mr. Strickler, is Exhibit 2 labeled "Supplement
3 to Operating Agreement Dated November 27, 1951"?

4 A. Yes.

5 Q. With a date of the 30th day of November, 1962?

6 A. Yes.

7 Q. Have you seen this --

8 A. No.

9 Q. -- document before?

10 A. No.

11 Q. Let me refer you to page 2 of that document, the
12 second full paragraph there, the second "WHEREAS". Would
13 you read that paragraph, please, sir?

14 A. "WHEREAS" -- Is this on page 2, the second
15 "WHEREAS"?

16 Q. Yes, sir.

17 A. Okay. "WHEREAS Section 5d2 of said Agreement of
18 November 27, 1951, as amended, provides in substance that
19 in the event any well be drilled upon said acreage to a
20 greater depth than a Mesaverde well, the maximum drilling
21 costs (except casing to be furnished by San Juan) to be
22 paid out of production by Brookhaven shall be agreed upon
23 by the parties in the manner comparable to the maximum cost
24 of the Mesaverde well, as defined in Section 5d1 of the
25 subject Agreement..."

1 Q. All right. If you would look at the final page
2 of Exhibit 2, does it reflect a signature by a
3 representative for El Paso Natural Gas Company?

4 A. Yes, I see one.

5 Q. And again, back on page 2, do you agree -- does
6 Burlington agree with that second "WHEREAS", interpreting
7 Section 5d2 of the GLA-46?

8 A. Again, this is the legal department's
9 jurisdiction. They have reviewed this agreement and they
10 have their analysis of it, so I can't answer that question.
11 That's their job.

12 Q. You don't have a position one way or another; is
13 that --

14 A. I'm not going to make a position without allowing
15 the land department -- excuse me, the legal department, to
16 come up with their interpretation.

17 Q. So I understand, the protocol within Burlington
18 is that all decisions, all interpretations of land title
19 documents like that are deferred to legal?

20 A. In this case, where we have a dispute, yes.

21 Q. And has legal advised you what Burlington's
22 position is with respect to this particular document?

23 A. No, sir, I don't know a thing about this
24 provision.

25 Q. All right. Going back to your exhibit book, Mr.

1 Strickler, in the 11,809 case for the Marcotte 2, you have
2 a letter dated May 22nd, 1997. It's your letter to Deborah
3 Gilchrist, Land Manager, at Total Minatome Corporation.

4 A. I'm with you.

5 MR. CARROLL: What date is that letter, Mr. Hall?

6 MR. HALL: It's May 22nd, 1987.

7 EXAMINER CATANACH: Is it in 11,809?

8 MR. HALL: Correct.

9 Q. (By Mr. Hall) Mr. Strickler, that first full
10 paragraph following your numbered paragraphs on that May
11 22nd letter, accurate to say in that paragraph you
12 interpreted the GLA-46, then, to at least apply to the
13 Pictured Cliffs and Mesaverde formations?

14 A. Yes.

15 Q. Earlier, did I understand your testimony
16 correctly that it was your view the GLA-46 applied to only
17 the Mesaverde formation?

18 A. As I stated earlier, the 18 wells that were part
19 of the initial obligation in this agreement required the
20 drilling of 18 Mesaverde wells. But any wells drilled
21 above and below the Mesaverde well would apply to that 18-
22 well count. And this is a PC area, so there were PC wells,
23 it's my understanding, that would apply to that 18-well
24 count.

25 So that was my feeling, that the 18 wells

1 included not only Mesaverde wells but also PC wells, and
2 that we're covered.

3 Q. All right. So if I understand, your
4 interpretation, then, is that the 18-well drilling program
5 has been performed, correct?

6 A. Yes, sir.

7 Q. And as a consequence of that, the GLA-46 is
8 extinguished? Is that accurate?

9 A. That is not -- I'm not -- I can't speak on that
10 either. That's, again, the legal department's
11 jurisdiction.

12 Q. All right. Was it the legal department that
13 directed you to try to obtain amendments to GLA-46 for the
14 Marcotte 2?

15 A. No.

16 Q. Did you do that on your own?

17 A. Yes.

18 Q. Why did you do that?

19 A. The -- This agreement over the years has been
20 handled by amendment. Everybody has -- Because the
21 agreement is on a case-by-case basis over the years, we
22 followed that same format.

23 Looking in the files, there's 30 amendments to
24 the agreement, and so we felt that -- I felt that was the
25 best methodology to handle the -- you know, the trade, the

1 proposed trade with Total, along with the other owners.

2 They agreed to amend the agreement also, or
3 that's how they've been -- the tradition of handling this
4 agreement.

5 And it's a 46-year-old agreement, and I'm
6 familiar with it the last, you know, six to nine months.
7 So we followed that same history in amending the agreement,
8 and that's why I wrote the letter of May 22nd.

9 Q. Well, I believe there's some confusion, though,
10 Mr. Strickler. Does GLA-46 apply to the deep rights or
11 not?

12 A. I think, again, this is something that the legal
13 department at Burlington is -- has a good handle on. I'm
14 just trying to make a trade with all the various parties in
15 this prospect. This seems to be the easiest path to take,
16 to get a voluntary agreement.

17 So by offering participation and farmout and
18 purchase of rights, that's the route we took. I mean, I
19 don't know what else to tell you.

20 Q. As I understood -- I'm sorry, were you finished?

21 A. Yeah, just trying to make --

22 Q. As I understood your earlier testimony, you
23 indicated it was your decision, you made the determination
24 that it would be appropriate to obtain amendments to GLA-46
25 for deep rights, correct?

1 A. That's the way the agreement has been handled
2 over the years. I saw it in the file and we went the same
3 way.

4 Q. You weren't directed by the legal department --

5 A. No.

6 Q. -- to do that?

7 A. No, not when these letters were written, no.

8 Q. And so it was your interpretation of GLA-46 that
9 that would be appropriate?

10 A. My feeling is, since we got cooperation from all
11 the other GLA-46 owners to either participate or farm out,
12 that that would be the appropriate action with Total
13 Minatome. And they were very cooperative with us, so
14 that's the route we took.

15 Q. Indeed, hasn't Total participated in any number
16 of wells outside of the Mesaverde formation under GLA-46,
17 with Burlington, with El Paso, with Meridian?

18 A. I don't have the history of all the wells drilled
19 under GLA-46. There are a large number. So I really don't
20 -- I'm not an expert on that.

21 Q. But there are at least some, would you
22 acknowledge?

23 A. I would assume so.

24 Q. Mr. Strickler -- Get off the GLA-46 for just a
25 moment and ask you about the expedited drilling of the

1 Marcotte well in this case and why that was done.

2 In your negotiations with Total, you dealt with
3 Deborah Gilchrist; is that correct?

4 A. Yes, primarily.

5 Q. Did you represent to Ms. Gilchrist that
6 Burlington was required to expedite drilling of the
7 Marcotte 2 because the BLM had given you a limited drilling
8 window?

9 A. We've had so many conversations that I may have
10 mentioned that. I don't recall specifically. We're
11 running full speed ahead on drilling this prospect, so --
12 What's the issue here?

13 Q. Well, my question was, did you represent to Ms.
14 Gilchrist or anyone that you had a short time frame in
15 which to drill the Marcotte Number 2 because of a
16 limitation the BLM placed on you?

17 A. I don't recall specifically saying that. I do
18 recall saying that the BLM is real excited about this new
19 Penn test, because there's -- there hasn't been any
20 drilling in 13-some-odd years, and that they're being very
21 careful in granting APDs. They're worried about the
22 environmental impact statements and this sort of thing,
23 so -- and as the next speaker will tell you, we do have a -
24 - we had a -- we located a drilling rig that we were happy
25 to obtain and put to work.

1 So yeah, I guess there was a sense of urgency.
2 There always seems to be with an exploration well like
3 this.

4 Q. Well, let me be more specific. I'm interested in
5 what the BLM might have told Burlington. In connection
6 with a -- Burlington's reply to a motion to dismiss in this
7 case, you provided an affidavit; do you recall that?

8 A. Yes.

9 Q. Let me simply read this to you --

10 A. Okay.

11 Q. -- see if you recall this. Paragraph 18 of your
12 affidavit: This rig was contracted with a two-well
13 commitment in order to drill the Marcotte Well Number 2 and
14 a subsequent well during good-weather months and drilling
15 windows allowed by the BLM and to avoid any bad winter
16 weather delays.

17 I'm sorry, I don't have extra copies, but I'll
18 show you --

19 A. Right, I remember that.

20 Q. What was the basis of that particular statement,
21 drilling windows allowed by the BLM?

22 A. Well, there's some -- You have the antelope, you
23 have the raptors, you have the various drilling
24 restrictions by the BLM. I was simply making a broad
25 statement about that.

1 The -- I guess the main thing is, we found this
2 rig in Ozona, Texas, over 700 miles away, to drill the
3 Marcotte Number 2. In order to get that rig, the Parker
4 218 rig, out here, we committed to two wells, and so we're
5 readying two locations for this -- so we can keep this rig
6 busy. And that's -- We also wanted to avoid winter weather
7 and any delays that might come our way through drilling,
8 you know, window restrictions that the BLM might have.

9 Q. Well, here's my question about that.

10 A. Okay.

11 Q. Do you know if the BLM imposed any sort of time
12 limitation on the drilling of the Marcotte Number 2 because
13 of weather?

14 A. Oh, no, we're -- That's just normal planning by
15 any oil company or gas company, to plan your operations in
16 good-weather months. So that's pretty basic.

17 Q. So is the answer to my question, no, there is no
18 time limitation imposed by BLM?

19 A. Not that I'm aware of.

20 Q. Getting back to the May 22nd, 1997, letter, you
21 still have that in front of you there?

22 A. Yes.

23 Q. You make a comment in the next-to-last paragraph
24 that -- I'll just read it. "Burlington does not agree with
25 your interpretation of the agreement which allows you to be

1 carried or effectively bring down the project on the
2 subject well."

3 Let me ask you about that. What did you mean by
4 that, "bring down the project"?

5 A. We -- I felt that with all the other GLA-46
6 owners participating or farming out, that having a 4.65-
7 percent interest would hold up this project, that wanted --
8 wished to be carried under an old agreement that we felt
9 didn't apply. So that was my feelings, you know, at the
10 time this letter was written.

11 Q. Your feelings were that if Total Minatome
12 Corporation did not participate, did not agree to your
13 program, the well would not go forward?

14 A. That was my feeling in this statement.

15 Q. And this is -- We're talking about a 4.5-percent
16 interest?

17 A. 4.6522, yes, \$107,000 carry.

18 Q. Under GLA-46, are you aware of whether or not
19 there is a requirement that any assignment by Burlington of
20 its interest under GLA-46 required consent of any other
21 party?

22 A. I'm not familiar with that provision.

23 Q. Would you identify who in Burlington's management
24 the Penn team reported to?

25 A. Let's see, Jerry Zieche is the -- not the

1 exploration manager, but he's one of the directors. We
2 report to Jerry Zieche.

3 Q. Others?

4 A. Then the vice president is Mark Ellis. I guess
5 he's the division VP, so he's the ultimate boss. Danny
6 Hill is in between him. So you have Mark Ellis, Danny Hill
7 and Jerry Zieche that are in charge of this area, I guess,
8 the Penn play.

9 Q. Of those individuals, or others, who authorized
10 you to undertake negotiations with Total or any of the
11 other unjoined interest owners?

12 A. The -- My land manager, Bobby Kennedy, back in
13 August of 1996 assigned me to this area.

14 Q. And did he likewise impose limitations on your
15 authority in terms of dollar figures you could offer to
16 acquire acreage, et cetera?

17 A. Everything is subject to management approval, so
18 yes.

19 MR. HALL: No further questions of this witness,
20 Mr. Catanach.

21 I'd move the admission of Exhibits 1 and 2 and
22 ask that the Division take administrative notice of GLA-46
23 and the 1962 supplement. They are instruments of record in
24 San Juan County.

25 MR. KELLAHIN: We object, Mr. Examiner.

1 MR. CARROLL: To what?

2 MR. KELLAHIN: To the admission of those
3 documents as not being relevant to this case.

4 EXAMINER CATANACH: I believe that we will admit
5 those and consider those with due consideration, whatever
6 they're worth --

7 MR. KELLAHIN: All right, sir.

8 EXAMINER CATANACH: -- for our purposes. So
9 we'll go ahead and admit Exhibits 1 and 2 and take
10 administrative notice of GLA-46.

11 MR. KELLAHIN: Is Mr. Hall concluded with his
12 examination?

13 MR. HALL: Yes, I am.

14 MR. CARROLL: Mr. Gallegos, did you have an
15 objection or no objection?

16 MR. GALLEGOS: No objection.

17 MR. KELLAHIN: I have some redirect, Mr.
18 Examiner, if I may.

19 EXAMINER CATANACH: Okay.

20 REDIRECT EXAMINATION

21 BY MR. KELLAHIN:

22 Q. Let's go back to the May 22nd letter, Mr.
23 Strickler, the one that Mr. Hall was talking to you about,
24 the one you wrote to Minatome.

25 In addition, I want you to turn to GLA-46 and

1 look at the operating agreement. Find page 7. Do you have
2 that?

3 A. Yes, sir.

4 Q. Do you see the carried interest provisions that
5 are there for Brookhaven?

6 A. Yes.

7 Q. All right. Back in 1951, when these wells were
8 being drilled by San Juan in the Mesaverde, was someone in
9 Brookhaven's position obligated to pay for any of the share
10 of the cost in cash?

11 A. Would you repeat your question, please?

12 Q. When you look at the carried interest on page 7,
13 my question for you is, how was Brookhaven's share of the
14 cost of the well to be collected?

15 A. Out of half of production.

16 Q. All right. Does that mean that if the well is
17 successful, then the operator drilling the well will
18 recover Brookhaven's share of the cost only out of 50
19 percent of Brookhaven's share of production?

20 A. Correct.

21 Q. The other 50 percent gets paid to them directly?

22 A. Right.

23 Q. If the production is insufficient to recover the
24 cost, there is no penalty otherwise imposed?

25 A. That's correct.

1 Q. Is that right?

2 A. That's correct.

3 Q. If the well is a dry hole, there are no out-of-
4 pocket expenses for Brookhaven?

5 A. Correct.

6 Q. All right. That is the position that Minatome
7 would like to be in with regards to the deep gas; is that
8 not true?

9 A. Yes.

10 Q. That they would be a carried interest for which
11 you would recoup their share of cost only out of future
12 production?

13 A. That's correct.

14 Q. And if there is no production, you bear the total
15 cost of that effort?

16 A. Yes, sir.

17 Q. If there is production, you recover it at the 50-
18 percent rate without any penalty?

19 A. Correct.

20 Q. When you look at the May 22nd letter, you're
21 offering amendments to GLA-46?

22 A. Yes.

23 Q. Do those amendments envision a continuation of
24 this carried interest provision from the 1951 contract?

25 A. No.

1 Q. In fact, that's what these amendments were doing?

2 A. Yes.

3 Q. Doing away with that arrangement?

4 A. Exactly.

5 MR. HALL: I'm going to object to the leading
6 nature of the questions.

7 Q. (By Mr. Kellahin) What were you proposing on May
8 22nd, when you're suggesting an amendment?

9 A. Simply follow the same procedures over the last
10 40-some-odd years to -- each new proposal would stand on
11 its own and everybody would either participate or farm out.

12 Q. Did you intend by those amendments to have a
13 continued carried interest provision as we see in this old
14 agreement?

15 A. No.

16 Q. Have the other GLA-46 owners that have agreed to
17 this amendment agreed to amendments that exclude this type
18 of carry provision?

19 A. Correct.

20 Q. Okay. Let's look at the operating agreement.
21 You've got an operating agreement, and you've got some
22 provisions in there for a 400-percent penalty?

23 A. Correct.

24 Q. Would you look at the portion of the operating
25 agreement where you find that provision?

1 A. Page 6 of the operating agreement.

2 Q. That's a continuation of an article that starts
3 back over on page 5, is it not?

4 A. Yes.

5 Q. When you look at page 5, which contains the full
6 context of the section that has the 400-percent penalty in
7 it, what's the caption of the section?

8 A. "Subsequent Operations".

9 Q. Under "Operating Agreements", does the nonconsent
10 provision under subsequent operations apply to the initial
11 well that is being proposed?

12 MR. HALL: Objection --

13 THE WITNESS: No.

14 MR. HALL: -- Mr. Catanach. Earlier -- and I
15 don't mean to be trite about this, but Mr. Kellahin
16 interposed an objection because interpretation of legal
17 contracts is outside the expertise of this witness.

18 MR. CARROLL: And we accepted it, taking due
19 notice of his qualifications of experience and authority.

20 Q. (By Mr. Kellahin) All right. When we look at
21 the functions of the operating agreement that you have
22 proposed here, and you apply them to interest owners making
23 an initial investment for the Marcotte well, there is no
24 opportunity for those voluntary committed interest owners
25 to go nonconsent under this agreement; is that not true?

1 A. That's correct.

2 Q. They pay their money, they commit to the well,
3 and only thereafter, if there's subsequent operations, does
4 the 400 percent kick in?

5 A. Correct.

6 Q. When we look at the penalty factor for the force
7 pooling, that is a cost-plus-200-percent, and that affects
8 people who have not voluntarily committed to the initial
9 investment for that well?

10 A. Correct.

11 Q. And if they do not voluntarily commit, then the
12 limitation of their financial exposure is to their share of
13 future production plus a penalty?

14 A. Correct.

15 Q. And if they make no commitment and you spend the
16 money and it's a dry hole, they're out free?

17 A. That's right.

18 MR. KELLAHIN: No further questions.

19 MR. HALL: Brief recross?

20 MR. CARROLL: Recross?

21 MR. HALL: Very briefly.

22 RE CROSS-EXAMINATION

23 BY MR. HALL:

24 Q. Mr. Strickler, GLA-46 farmout agreement and
25 operating agreement, there's a pre-existing condition of

1 title, Marcotte Number 2 and Scott Number 24, correct?

2 A. Correct.

3 Q. And it applies to deep rights, correct?

4 A. That is not correct.

5 Q. Then what was the purpose of soliciting an
6 amendment to GLA-46, if it was inapplicable, at all?

7 A. My job as a landman, and not a lawyer, is to
8 negotiate hard with all the owners and solicit their
9 support to where all parties are happy, and the amendment
10 route was the simplest and easiest route to go. We didn't
11 want to do anything out of the norm.

12 This agreement had been handled by amendments all
13 these years. If a new well was proposed, parties would
14 participate and pay their bills, and that's all we were
15 after. Okay?

16 In this case, the GLA-46 owners, either one
17 farmed out or participated. And we were hoping that Total
18 Minatome would cooperate with us in the same manner.

19 So the amendment process was the simplest
20 solution and, you know, we wanted to get this prospect
21 ready to go and move forward with the drilling of this
22 well.

23 Q. Understand, Mr. Strickler, if GLA-46 did not
24 apply, you could have just as easily supplied Total with a
25 610 form operating agreement and AFE, got to the same

1 place, correct?

2 A. That's correct.

3 MR. HALL: No further questions.

4 MR. CARROLL: Mr. Gallegos, do you have any?

5 MR. HALL: Nothing further, thank you.

6 (Off the record)

7 EXAMINER CATANACH: Are there any other questions
8 of this witness from anybody?

9 MR. KELLAHIN: No, sir.

10 EXAMINER CATANACH: Let's take a short break here
11 before I prepare my questions.

12 (Thereupon, a recess was taken at 2:57 p.m.)

13 (The following proceedings had at 3:16 p.m.)

14 EXAMINER CATANACH: All right. Let's reconvene
15 at this time, and we have a few questions, Mr. Strickler.

16 EXAMINATION

17 BY EXAMINER CATANACH:

18 Q. Are you the primary witness in terms of
19 testifying with regards to the unorthodox location for the
20 Marcotte well?

21 A. Yes, sir.

22 Q. Okay, can you answer a few questions on that?

23 As I understand it, the unorthodox location is
24 based on topographic and archaeologic conditions?

25 A. Correct.

1 Q. Can you briefly, again, describe what these
2 conditions are?

3 A. Give me a moment to flip back to the topo map.

4 It's my understanding when the staking took place
5 that this location took advantage of two existing drill
6 pads, and if I can show you the map, on Exhibit 2, you have
7 the -- you have a Mesaverde well and a PC well in that
8 vicinity, and that was the most favorable location in that
9 southwest quarter to locate this well.

10 MR. GALLEGOS: May I inquire, just so we're all
11 looking at the same -- this is the --

12 THE WITNESS: That's the topo.

13 MR. GALLEGOS: -- topo map?

14 THE WITNESS: Right.

15 Q. (By Examiner Catanach) Mr. Strickler, were --
16 there are drilling -- There are orthodox drilling windows
17 in each of the quarter sections in Section 8. Do you know
18 if an orthodox location was explored in any of the other
19 drilling windows?

20 A. No, sir, I believe the goal was to stay within
21 the southwest quarter of 8, and this location avoided a lot
22 of houses and other -- There's a couple of subdivisions in
23 this area, so they felt that that was the safest location
24 from a -- I guess an environmental sense.

25 And they needed a five-acre drillpad, and a

1 suitable five-acre drillpad was -- the best spot was where
2 you see it now.

3 Q. Are you saying that the other three quarter
4 sections within Section 8 were not acceptable due to
5 topographic problems as well?

6 A. It's my understanding that the geologists and
7 geophysicists from Conoco and Burlington identified section
8 -- the southwest quarter -- excuse me, southeast quarter as
9 being the best location, and that's what the BLM surface
10 personnel --

11 Q. This unorthodox location is a combination, then,
12 of topographic and geologic considerations?

13 A. The Section 8 -- I can't answer, I'm not sure of
14 that. I'm sure -- I'm just -- The drawing department
15 handled the staking of this well in conjunction with the
16 geologist and geophysicist, and they explained to me that
17 it was for topographic reasons that they picked that
18 location, because we needed a five-acre drillpad.

19 Q. Okay, you can't definitively say whether or not
20 there are no standard locations within the other three
21 quarter sections in Section 8?

22 A. When this well was -- I'm not aware of the
23 drilling department reviewing any other locations, other
24 than the one in the southeast quarter of Section 8. It's
25 1540 feet from the south line and 935 feet from the east

1 line, so it's -- We're okay from the south line, and we're
2 within the 1200-foot setback from the east line. I believe
3 the setbacks are 1200 feet.

4 EXAMINER CATANACH: Mr. Kellahin, is Burlington
5 prepared to put on any geologic evidence with regards to
6 this well location?

7 MR. KELLAHIN: Mr. Examiner, I had not intended
8 to. The geologic information, as I understand it, is
9 proprietary. The selection of the location within Section
10 8 was not driven by a geologic preference. It was simply a
11 matter of convenience in Section 8 to find a wellpad that
12 already existed.

13 EXAMINER CATANACH: Do you know if any of the
14 other quarter sections had existing wellpads that could
15 have been utilized?

16 MR. KELLAHIN: I do not know, and I would have to
17 find that out.

18 EXAMINER CATANACH: I think we need some more --
19 some more evidence concerning the unorthodox location for
20 this well, exactly what the reasons were. There's a
21 question in my mind about how it was determined. I think
22 we need to address that further.

23 MR. KELLAHIN: Burlington has permitting people
24 that go out into the field all the time to do this kind of
25 work, and I apologize, I should have brought one of those

1 people that could address the topography.

2 This case looks like it will go into tomorrow.
3 Perhaps I can arrange to have a Burlington representative
4 come tomorrow, and we further discuss the location.

5 EXAMINER CATANACH: Mr. Kellahin, if the quarter-
6 section location was driven by some geologic considerations
7 -- and maybe you can find that out too --

8 MR. KELLAHIN: I will find that out.

9 EXAMINER CATANACH: -- if that is the case, we
10 may need, in fact, to have some geologic testimony on that.

11 MR. KELLAHIN: Okay. The predicament that -- If
12 that is what occurred, the predicament that it gives me is
13 that we will have to disclose proprietary seismic
14 interpretations.

15 MR. CARROLL: Well, you want an unorthodox
16 location too.

17 MR. KELLAHIN: I understand that.

18 EXAMINER CATANACH: Which may, in fact, may be
19 limited to Section 8.

20 MR. KELLAHIN: Let me examine that.

21 EXAMINER CATANACH: Okay, we'll address that
22 further tomorrow.

23 THE WITNESS: Mr. Catanach, may I have a word
24 with Mr. Kellahin?

25 EXAMINER CATANACH: Yes.

1 THE WITNESS: I just want to show him something.

2 (Off the record)

3 Q. (By Examiner Catanach) Just, Mr. Strickler,
4 briefly, with regards to the interest ownership, in Case
5 Number 11,808 I just want to make sure I understand the
6 breakdown of interest here. Who, in fact -- Which of these
7 interest owners are subject to GLA-46 or are associated
8 with GLA-46?

9 A. Are you referring to Section 8?

10 Q. I'm referring to the Scott well.

11 A. The Scott well? Total Minatome.

12 Q. That's the only interest owner that --

13 A. That's uncommitted.

14 Q. Well, what I'm asking you is, you said you've had
15 some -- there were some other interest owners who were
16 previously subject to GLA-46 or who were -- that have
17 otherwise committed already?

18 A. Yes, yes, let me mention those to you.

19 Q. Yeah.

20 A. You have Amoco Production Company --

21 Q. Okay.

22 A. -- you have George and Robert Umbach --

23 Q. Okay.

24 A. -- you have the Lowell White Family Trust --

25 Q. Okay.

1 A. -- Walter A. Steele --

2 Q. Okay.

3 A. -- G.W. Hannett, T.G. Cornish, Patricia Hueter --

4 Q. Okay.

5 A. -- Mary Emily Voller --

6 Q. Okay.

7 A. -- and A.T. Hannett.

8 Q. Okay. How about the Wayne Moore interest?

9 A. They're not subject to GLA-46.

10 Q. Okay. And from there on, the Hope Simpson --
11 where you start with Hope Simpson, all the way to the end,
12 those are the GLA-66 group?

13 A. Correct.

14 Q. Okay. Now, of the interest owners who are part
15 of the GLA-46, you say you've reached agreement with some
16 of those interest owners?

17 A. All by Total Minatome.

18 Q. Okay. Did those interest owners sign the new
19 JOA?

20 A. They farmed out their interest.

21 Q. They all farmed out?

22 A. Yes, sir.

23 Q. Okay.

24 A. Yes, sir. So they didn't need to sign the JOA.

25 May I make a correction? Robert Umbach

1 participated, and he did sign the operating agreement. So
2 all but one farmed out. Robert Umbach elected to
3 participate, and he did sign the new operating agreement.
4 The rest farmed out.

5 Q. Signed the new joint operating agreement?

6 A. Yes, sir, correct.

7 Q. Okay. So as I understand it, with regards to the
8 Scott well, we're just -- Let's see. You've got 35 percent
9 voluntarily committed?

10 A. Committed, yes, sir.

11 Q. All right. And the rest of the interest owners
12 you're pooling --

13 A. Yes, sir.

14 Q. -- or seek to pool?

15 A. Yes, sir.

16 Q. Including one royalty owner, Jerald --

17 A. -- Marcotte.

18 Q. Okay.

19 A. And he has signed an amendment to his oil and gas
20 lease, so he's agreed to the 640 acres.

21 Q. So he's not -- You're not seeking to pool his
22 interest?

23 A. We have an amendment from him, so he's
24 voluntarily amended his oil and gas lease.

25 Q. All right. With regards to the Marcotte well,

1 you've got voluntary participation from 93 percent of the
2 working interests?

3 A. Yes, sir.

4 Q. And the only parties you're pooling in this case
5 are Total and the Moore interests?

6 A. That's correct.

7 Q. Plus some royalty interest owners?

8 A. Yes, sir.

9 Q. And the royalty interest owners are being given
10 the opportunity to amend their lease?

11 A. Correct, and we sent out amendments to their oil
12 and gas leases for them to review and execute.

13 Q. And some of them have executed?

14 A. Out of the 33, we've received 15 so far, and I
15 haven't checked the mail the last couple of days.

16 Q. As I understand it, in your -- in the cross-
17 examination, I believe you testified that Burlington was
18 willing to reduce the risk penalty in their operating
19 agreement?

20 A. This was brought to -- We put in our proposed
21 joint operating agreements 400 percent. With the maximum
22 risk penalty, that would be reduced to 300 percent, in
23 effect.

24 Q. So you'd be -- You were willing to drop that 100
25 percent?

1 A. Exactly, if they would prefer going to 300
2 percent, which makes sense because that's the maximum
3 penalty.

4 Naturally, we were seeking voluntary support for
5 our operating agreement, which did provide for 400
6 percent --

7 Q. Okay.

8 A. -- because of the risk of this well.

9 Q. There was some testimony about an agreement
10 between Burlington and Cross Timbers where Burlington did
11 provide some technical evidence to Cross Timbers.

12 A. Cross Timbers, they agreed to either farm out,
13 participate or sell their interest to us, in writing, on
14 mutually acceptable terms and conditions. With that
15 information we showed them an abbreviated prospect
16 presentation. They took that information and elected to
17 farm out because it was a little too risky for them.

18 Q. Are you in a position to say whether or not that
19 same offer could be made to these -- to other interest
20 owners?

21 A. If we receive a written agreement from the other
22 interested owners that they will want to participate and up
23 front with our operating -- I mean with our AFE, sign our
24 operating agreement to farm out or to resell their interest
25 on mutually agreeable terms, yes, sir, we can do that.

1 The GLA-66 owners that comprise 61 individuals,
2 they gave me the overwhelming impression, is that they
3 didn't want to participate in a well. They just don't like
4 a working interest because of the liability of
5 participating in a well of this nature. So that really was
6 an appropriate avenue with those 61 owners, and to get them
7 to all sign an agree- -- you know, an acceptable agreement,
8 was difficult.

9 Q. But if they requested that kind of --

10 A. Oh --

11 Q. -- offer, you would --

12 A. -- absolutely, absolutely.

13 Q. So --

14 A. No, none of them requested it, but as far as
15 committing their acreage to us on prearranged terms, we've
16 had a request for free looks at our data, which we were not
17 able to comply. With no commitments to either participate
18 or farm out, we're unable to accommodate, you know, those
19 folks.

20 EXAMINATION

21 BY MR. CARROLL:

22 Q. Mr. Strickler, what's the date of the last valid
23 sanding offer to the interests you're pooling? And then
24 how was that set forth? Can you point to the letter?

25 A. On June 16th, we made an offer, a new, revised

1 offer to the GLA-66 owners to farm out their interest or
2 participate or go nonconsent. Let me see if I can find
3 that for you.

4 That's the Hope Simpson, *et al.* That may be the
5 Hope Simpson letter, dated June 6th, I'm sorry, June 6th.
6 Acreage support proposal for Scott 24.

7 Q. So that's still effective?

8 A. Yes, sir. Yes, sir, and we're working with folks
9 on this basis right now.

10 We sent a new proposal to Total Minatome on June
11 16th --

12 Q. Okay.

13 A. -- and we sent a proposal to the Moore interest
14 on April 22nd.

15 Q. What about the Marcotte well?

16 A. The same letters apply to both. The June 16th --
17 Total Minatome owns an interest on both the Section 8 and
18 9, and Moore owns an interest in both Section 8 and 9. And
19 then the June 6th letter deals with the GLA-66 owners in
20 Section 9.

21 Q. Okay, you testified Mr. Moore's proposal dated
22 July 1st, 1997, is unacceptable?

23 A. Yes, sir.

24 Q. Will you tell me why that's unacceptable?

25 A. The terms and conditions are, from an economic

1 standpoint, too little net revenue and too big a back-in
2 for us to accept those terms.

3 Q. Does Burlington have a standard net revenue
4 interest that --

5 A. Seventy-five percent.

6 Q. Seventy-five?

7 A. Eighty to 75 percent is the norm.

8 Q. Mr. Strickler, what are the advantages of a party
9 joining by signing an operating agreement, rather than
10 waiting for a force-pooling order and then paying their
11 money up front?

12 A. The -- again, the -- our operating agreement with
13 the -- as we presented it, was on a voluntary basis. And
14 if they didn't like that, then force pooling would be their
15 second option.

16 Q. Well, do they have any rights under the operating
17 agreement they wouldn't have under a force-pooling order?

18 A. Well, they'd have the rights to propose a well.

19 Q. What?

20 A. Under an operating agreement they have rights to
21 propose a well. They do have certain rights as a
22 nonoperator to --

23 Q. Well, are they going to be provided information
24 that parties joining under a force-pooling order wouldn't
25 receive, or do you provide the same information to both

1 sets of parties that pay their money up front, whether
2 they're under an operating agreement or under a force-
3 pooling order?

4 A. Well, the -- We do not furnish any proprietary
5 seismic or geology.

6 Q. How about drilling reports?

7 A. Drilling reports are available, yes, if you
8 participate.

9 Q. Under either a force-pooling order or an
10 operating agreement, or just under an operating agreement?

11 A. Under an operating agreement, that's provided,
12 because they're paying their money and they're entitled to
13 that information.

14 Q. But what if they're under a force-pooling order
15 and elect to pay their money up front? Do they get the
16 drilling reports?

17 MR. KELLAHIN: Mr. Carroll, our practice is to
18 provide that information.

19 Q. (By Mr. Carroll) Mr. Strickler, there's a little
20 -- I think some of the parties are confused regarding the
21 risk penalty, and the 300 percent which is equivalent to
22 the Division's 200 percent is a little bit apples and
23 oranges, isn't it? I mean, the Division is cost plus 200
24 percent, which is, in effect, 300 percent?

25 A. Exactly.

1 Q. And under an operating agreement it's 300 percent
2 of cost, which is the 300 percent?

3 A. That's right.

4 Q. So 300 under an operating agreement is equivalent
5 to 200 under our statute?

6 A. Correct.

7 Q. And I hate to ask a question about this GLA-46,
8 but I'm going to ask one.

9 A. Okay.

10 Q. It's my understanding that both parties believe
11 this agreement is effective. See if you agree with my
12 understanding. The difference of opinion here is that
13 Burlington believes that this -- a carried interest
14 provision only applies to the first 18 wells under that
15 agreement, and there's no provision for future development,
16 and that's why the amendments were constantly made?

17 A. That's my understanding, the way this agreement
18 was handled --

19 Q. And it's Total's --

20 A. -- over the years.

21 Q. -- understanding, is that this carried interest
22 provision continues after this first --

23 A. Correct.

24 Q. -- 18-well development?

25 A. That's correct.

1 Q. But you would agree with me that both parties
2 believe this agreement is effective and it covers the deep
3 gas rights, but that anything after the first 18 well
4 development as to these deep gas rights, that's an issue?

5 A. There's a difference of opinion on the deep
6 rights between both parties. Total Minatome believes it's
7 covered, and we don't think so.

8 And also, by the administration of this
9 agreement, there's been *ad hoc* amendments as you go along,
10 and the Pennsylvanian was never envisioned in the 1951
11 agreement, deep gas exploration.

12 Q. And when you sign an operating agreement, you're
13 committing for the well --

14 A. On your *pro rata* share --

15 Q. -- the initial well --

16 A. Yes, sir, your *pro rata* share.

17 Q. -- under that operating agreement?

18 And if you don't pay, you can get sued?

19 A. Well, there's some lien provisions and --

20 Q. Right, but --

21 A. Right.

22 Q. -- you've obligated to pay the costs of the well
23 proposed by that operating agreement, correct?

24 A. That's correct. That's the purpose of signing
25 the operating agreement and signing the AFE, agreeing to

1 the costs.

2 MR. CARROLL: That's all I have.

3 FURTHER EXAMINATION

4 BY EXAMINER CATANACH:

5 Q. Mr. Strickler, the interest owners who were
6 subject to GLA-46 who elected to farm out, is it your
7 opinion that they felt they couldn't participate under that
8 agreement? Is --

9 A. No, sir, their motivation was the merits of the
10 well, and whether or not they wanted -- They had to make a
11 decision, and their decision, except for one owner, was to
12 farm out their interest because of the high-risk nature of
13 the well.

14 And so they -- That's what they did. They
15 supported our two wells with their decision to farm out.
16 And with the exception of Mr. Umbach, he elected to
17 participate, and he's the only one.

18 Q. Well, wouldn't they have been in a better
19 position if they had participated under GLA-46?

20 A. They felt it didn't apply.

21 Q. Okay, that's what I'm asking.

22 A. Yes, sir, they felt it did not apply.

23 Q. They felt it didn't apply?

24 A. Exactly right.

25 Q. And so they farmed out?

1 A. They farmed out, and one signed a new operating
2 agreement.

3 FURTHER EXAMINATION

4 BY MR. CARROLL:

5 Q. Mr. Strickler, the pooling of these royalty
6 interests, under their leases, their acreage is allowed to
7 be pooled up to 320 acres?

8 A. Some of the leases, yes.

9 Q. Okay. So, in effect, you're -- if they're force
10 pooled in this order, they would be getting half as much
11 interest and twice as much acreage?

12 A. Yes.

13 Q. Right.

14 A. They get to share -- they get to share in the
15 production --

16 Q. -- in the production of much acreage --

17 A. They get to share in the production on a 640-acre
18 basis on the deep gas only. It would affect their shallow
19 production, which is set up on 320s.

20 Q. Right, and if a well is drilled on the 320 added
21 to their 320, they can share in that well, even though that
22 well is not drilled --

23 A. That's right --

24 Q. -- in their 320?

25 A. -- that's right.

1 MR. CARROLL: That's all I have.

2 EXAMINER CATANACH: I think that's all the
3 questions we have of this witness.

4 Is there anything else?

5 MR. KELLAHIN: I have another witness, and I
6 have --

7 MR. GALLEGOS: I have some further questions, if
8 I may, generated by the Examiner's questions, unless Mr.
9 Kellahin has questions.

10 MR. KELLAHIN: Is that an appropriate procedure?
11 Do you want to go around again?

12 EXAMINER CATANACH: Yeah, if we can keep it
13 brief.

14 MR. GALLEGOS: Yes, it's a new area that was just
15 opened up by your questions. Thank you.

16 FURTHER EXAMINATION

17 BY MR. GALLEGOS:

18 Q. Mr. Strickler, I want to focus on this
19 hypothetical situation where you said you would share data
20 if my clients had a prearranged agreement. Remember the
21 questions you were asked by Examiner Catanach and your
22 answers just a few moments earlier --

23 A. Yes.

24 Q. -- on that subject, focusing on that, is it
25 absolute that you do that?

1 Okay, let's talk about that. Now, you said you
2 would want an arrangement where it would already be agreed
3 that the parties would either participate, farm out, or
4 sell their deep rights interest, that's --

5 A. Correct.

6 Q. Those were the three alternatives?

7 A. Correct.

8 Q. All right. Number one, if they were to
9 participate, they would be agreeing to accept the joint
10 operating agreement that Burlington has proffered just as
11 is, no negotiation, softening, changing of any terms; is
12 that right?

13 A. That's the arrangement we have with Cross
14 Timbers, yes.

15 Q. Okay, I understand.

16 All right. Now, second alternative, farm out.
17 Isn't it true that you have made offers to farm out the
18 acreage of the GLA-66 group and the Moore group, but in
19 both instances it was not the acreage in Section 8 or
20 Section 9 but all of their acreage, some 3000 acres for
21 Moore and 2480 acres for the GLA-66 owners?

22 A. That's the consideration for showing you the
23 seismic data and the geology, is that you contribute your
24 acreage in the prospect area. Otherwise, there's no
25 incentive for us to show you proprietary seismic and

1 geology without your supporting the entire prospect.

2 Q. I just wanted the Examiner to understand what --

3 A. That's Cross Timbers did.

4 Q. -- where you're coming from --

5 A. That's what Cross Timber did.

6 Q. We're here -- With the GLA-66 owners, we're here
7 to force-pool their 480 acres in Section 9 --

8 A. Right.

9 Q. -- but when you say you would be willing to show
10 this information, you would expect them to agree to farm
11 out 2480 acres?

12 A. Absolutely, yes, sir.

13 Q. All right.

14 A. That is the consideration for --

15 Q. That's the condition that you place on it?

16 A. -- showing you the -- That's right.

17 Q. Okay.

18 A. That's --

19 Q. And in the case --

20 A. -- customary.

21 Q. -- of Moore it's some -- several sections, 3000-
22 some acres?

23 A. Roughly 160 net acres is the Moore interest.

24 Q. No, but I mean when you made the farmout --

25 A. It covered -- Yeah, it covered all of his lands

1 in the area, yes.

2 Q. Yes.

3 A. Yes.

4 Q. And that's what you're talking about here --

5 A. Yes, that's the normal farmout procedure.

6 Q. I wanted Mr. Catanach to understand, you're not
7 saying you'd make this arrangement for the acres that
8 you're seeking to force pool. You would want all of their
9 acreage in the area?

10 A. In the prospect area, yes.

11 Q. Okay. And then on the third alternative, for the
12 sellout, that's what you want too, right?

13 A. Correct.

14 Q. They would have to agree in advance, before they
15 saw anything, that they're going to sell out everything
16 they had in the area?

17 A. On mutually acceptable terms, yes. They'd have
18 to be comfortable with the terms, just as Cross Timbers was
19 comfortable with their terms. This is prearranged -- These
20 are mutually acceptable terms and conditions.

21 Q. But just to be clear, you're not talking about,
22 in alternative number three where they would be selling you
23 the acreage that you're seeking to force-pool, but rather
24 all the acreage they have --

25 A. The farmout -- the farmout request covers their

1 lands in the prospect, and the acreage covers their lands
2 in the prospect, the acreage sale.

3 Q. And if they were to enter into such a prearranged
4 agreement, what is it that you would provide?

5 A. It's a data package. It's a -- The geologists
6 and geophysicists will give a geologic and geophysical
7 presentation, explaining the prospect as we see it, and
8 basically that's it.

9 Q. I forget the exact term you used about doing it
10 with Cross Timbers, but it was something like it was a
11 shortened look or something --

12 A. Oh, what I meant by that is, it's not a -- It's
13 an hour or thirty-minute, thirty-minute to an hour geologic
14 and geophysical presentation. That's about all -- It's
15 pretty basic stuff, apparently.

16 Q. So you wouldn't provide all of the data --

17 A. Oh, no.

18 Q. -- and interpretations --

19 A. Oh --

20 Q. -- and any of -- No.

21 A. Oh, there's -- no data would be -- would be --
22 You would see some data, but you wouldn't -- We're not
23 allowed to give any copies away, but you're allowed to see
24 the data and see our interpretation, geologic
25 interpretation, which is helpful. It was helpful to Cross

1 Timbers. They elected to farm out.

2 Q. But it would certainly be something less than all
3 of what the Penn team --

4 A. Oh, abs- --

5 Q. -- put together to come up with these prospects?

6 A. It's a specific area presentation that will allow
7 enough info to make a decision to farm out, participate or
8 sell your interest.

9 MR. GALLEGOS: Okay, that's -- I wanted to
10 clarify that. Thank you.

11 MR. KELLAHIN: All done.

12 EXAMINER CATANACH: Okay, one more.

13 FURTHER EXAMINATION

14 BY MR. CARROLL:

15 Q. So the deal struck with Cross Timbers and Amoco
16 covered more than just these two sections?

17 A. Absolutely.

18 Q. All right.

19 A. And may I point out one thing? If you'll look at
20 the map showing their acreage, we're dealing with two
21 sections. The GLA-66 owners, the GLA-46 owners, and the
22 Moore interests, they have acres sprinkled throughout the
23 area, so they're going to benefit by the drilling and
24 completion of this well. They'll have offsets that they
25 can do with what they wish. We're only dealing with two

1 sections, not with twelve.

2 MR. GALLEGOS: May I --

3 FURTHER EXAMINATION

4 BY MR. GALLEGOS:

5 Q. What is the acreage that was farmed out by Cross
6 Timbers?

7 A. I don't have that information with me. But it
8 was in the prospect area, which I can't disclose to you.

9 MR. HALL: Mr. Catanach, a couple of GLA-46
10 questions.

11 EXAMINER CATANACH: Brief, brief.

12 FURTHER EXAMINATION

13 BY MR. HALL:

14 Q. Clarify something with you, Mr. Strickler.

15 Earlier you said that Amoco had farmed out its
16 GLA-46 interest to you. Of all of Amoco's farmout to
17 Burlington, how much of that was derived from the GLA-46?

18 A. I don't have that breakdown for you. The Amoco
19 farmout covered all their lands, which included some GLA-46
20 lands.

21 Q. Is it safe to say that it's -- only a small
22 percentage of the Amoco farmout is subject to GLA- --

23 A. I don't have that breakdown for you. I don't
24 have that information.

25 Q. Can you tell me if it's a small or a large

1 percentage?

2 A. Well, they have -- Amoco has the second largest
3 ownership in GLA-46, so I wouldn't say it's small.

4 Q. Now, with respect to the other nonoperator GLA-46
5 interest owners, you provided some testimony that you
6 believed that they farmed out to you because it was their
7 opinion, their view, their position, that GLA-46 didn't
8 apply to their interest; isn't that what you said?

9 A. They were cooperative -- They were cooperative
10 with Burlington, and we made a negotiated deal --

11 Q. My question is --

12 A. -- so --

13 Q. -- did you testify --

14 A. -- whether they -- I don't know what their
15 feelings were. That was their decision.

16 Q. You can't offer testimony as to their reasons for
17 farming out, can you?

18 A. They wanted to cooperate with our deep test.
19 That was their reason.

20 MR. HALL: No further questions.

21 EXAMINER CATANACH: This witness may be excused.

22 MR. KELLAHIN: Mr. Catanach, I'd like to, with
23 your permission, offer you a tender of proof with regards
24 to this location question you raised with me a while ago.

25 I believe you'll find if we search and look at

1 the well files for the Marcotte Number 2 well, you'll find
2 that its APD was filed, its C-102 was approved, and the APD
3 was approved at a point in time when 160 acres was the deep
4 gas spacing, and it would have been at a standard location.

5 The Marcotte wellpad, as staked where it is,
6 would have been standard under 160-acre spacing, which
7 would be 790 setbacks.

8 After the Commission changed General Rule 104,
9 established 640 spacing, this well had already been staked
10 and approved. And so thereafter, an amended C-102 was
11 filed, dedicating 640 to this location, and that amended
12 C-102 for 640 spacing was approved.

13 And so that's the sequence, and it has stayed in
14 this location in the southwest quarter simply by the
15 topography there and utilizing an existing pad.

16 So I think you'll find when we look at the file
17 that this well was staked at a standard location and only
18 became unorthodox as a result of the operation of General
19 Rule 104.

20 EXAMINER CATANACH: Mr. Kellahin, would that be
21 -- would that be all you had to offer in terms of this
22 location?

23 MR. KELLAHIN: Yes, sir.

24 EXAMINER CATANACH: All right. So you don't plan
25 on providing an additional witness or evidence as to that

1 -- as to the location?

2 MR. KELLAHIN: No, sir, that was the sequence.
3 This is an unusual circumstance. We are not looking at
4 approving an NSL after the rules are in place.

5 My recollection is -- and I'll -- and I'm -- I
6 need to search the file to make sure I'm correct in my
7 recollection, but I think we have the oddity where this
8 becomes an NSL simply as a result of changing the spacing.

9 MR. CARROLL: Mr. Kellahin, when was the rig
10 moved on location?

11 MR. KELLAHIN: I believe -- I'll have to go back
12 and look. I don't know when it was moved on location. It
13 was spud about the 25th of June.

14 MR. CARROLL: And when was the Application in
15 this case filed?

16 MR. KELLAHIN: The application for the force
17 pooling?

18 MR. CARROLL: And the unorthodox location as part
19 of the Application.

20 MR. KELLAHIN: It was filed on June 11th for the
21 Marcotte well.

22 MR. GALLEGOS: The changed spacing resulted from
23 an order issued June 5th.

24 (Off the record)

25 MR. CARROLL: When was it staked, Mr. Kellahin?

1 MR. KELLAHIN: I'll have to go look. I do not
2 recall. I know it was staked and approved -- Well, in
3 fact, here it is. Here's the C-102. It was surveyed and
4 staked on February 16th.

5 MR. CARROLL: And when was it spud? I've
6 forgotten.

7 MR. KELLAHIN: 25th of June, Mr. Carroll.

8 (Off the record)

9 EXAMINER CATANACH: Mr. Kellahin, who were
10 notified in terms of the unorthodox location? Was it
11 offset interest owners?

12 MR. KELLAHIN: There is a list, and I'll have to
13 find it, but we were notifying the operators that --
14 towards whom the well encroached, and I'll have to go back
15 and look because memory fails me on who those parties were.

16 We picked up notifications for the interest
17 owners in 9, as part of the force-pooling notification.

18 And 17 to the south -- That's Amoco, if I
19 remember correctly. They were notified.

20 And then over in 16 I'll have to wait for Mr.
21 Alexander to tell me, but my understanding is, the
22 certificate includes the offsets towards whom the well
23 encroached.

24 EXAMINER CATANACH: Okay.

25 MR. KELLAHIN: And I am not aware of any

1 opposition to the location.

2 EXAMINER CATANACH: You'll verify that with --

3 MR. KELLAHIN: Yes, sir.

4 EXAMINER CATANACH: -- data from Mr. Alexander?

5 Okay.

6 Okay, let's move on.

7 MR. KELLAHIN: All right. Call Mr. Kurt Shipley.

8 KURT A. SHIPLEY,

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

11 DIRECT EXAMINATION

12 BY MR. KELLAHIN:

13 Q. Mr. Shipley, would you please state your name and
14 occupation?

15 A. My name is Kurt Shipley. I'm a senior drilling
16 engineer with Burlington Resources.

17 Q. And where do you reside, Mr. Shipley?

18 A. In Farmington, New Mexico.

19 Q. On prior occasions have you testified before the
20 Division as a petroleum engineer?

21 A. Yes. Yes, I have.

22 Q. Summarize for us your education.

23 A. I have a mechanical engineering degree from Texas
24 Tech University.

25 Q. In what year did you obtain that?

1 A. In 1991.

2 Q. Subsequent to graduation you became employed by
3 Burlington?

4 A. Meridian Oil at the time.

5 Q. Okay. And where were you stationed?

6 A. I've been in Farmington for just over six years.

7 Q. During that period of time, did you devote any
8 part of your expertise and your work schedule to the
9 preparation of AFEs and information concerning well costs?

10 A. Yes, I have. That's the primary focus of my job.

11 Q. During this period of time, can you estimate the
12 approximate number of AFEs that you may have prepared,
13 reviewed or been involved with on behalf of your company?

14 A. The number is a great deal. It's anywhere from
15 700 to 1000 cost estimates for AFE preparation.

16 Q. Were the AFEs that we're about to look at, the
17 one for the Marcotte well and the one for the Scott 24
18 well, AFEs that you compiled with the assistance of others
19 but were totaled and presented under your control?

20 A. Yes, this well -- I'm the chief drilling engineer
21 over this well, but I work closely with another number of
22 other drilling engineers and field personnel that have a
23 great deal of experience in drilling wells.

24 Q. When we begin to look at the AFEs, then, it
25 represents your work product?

1 A. Yes, it does.

2 Q. As part of that effort, did you also look for
3 examples of 14,000-foot-deep gas wells in the San Juan
4 Basin by which to get some historical perspective on their
5 costs and on the days involved in drilling them to points
6 at that depth?

7 A. Yes, I did.

8 Q. As a result of that information, have you
9 determined the number of penetrations in the San Juan Basin
10 that would have been sufficiently deep enough to access the
11 interval you're attempting to target here, which lies at a
12 depth of approximately 14,000 feet?

13 A. Yes, there was -- In the San Juan Basin there
14 have only been 14 -- or there have only been three wells
15 that have been drilled to a total depth of 14,000 feet.

16 Q. In addition, have you looked at the drilling
17 program for the Pennsylvanian wells outside of the San Juan
18 Basin, up in the Barker Creek Paradox Dome area?

19 A. Yes, I'm the chief drilling engineer over -- it's
20 our Barker Dome field, and we do drill Pennsylvanian wells
21 there. I did compare them to this well as best I could,
22 but I don't feel that they are relevant to the types of
23 wells we drill -- or the type of well that we are drilling
24 in the San Juan Basin, because their depth is only around
25 8000 feet.

1 Q. In preparation of the AFEs, did you also avail
2 yourself of determining the availability of a rig that was
3 suitable to drill a well to this depth?

4 A. Could you say that again?

5 Q. Yes, sir. In terms of developing an AFE, part of
6 the cost of the AFE is conditioned upon what particular rig
7 you choose to use?

8 A. Yes, it is.

9 Q. And part of that cost component is the
10 availability of such a rig?

11 A. Yes, it is. Prices for rigs have inflated in the
12 past couple of months.

13 Q. Based upon your examination of the cost and the
14 wells involved in the San Juan Basin that drilled to this
15 depth, have you also been able to formulate an opinion with
16 regards to an appropriate risk-factor penalty to apply in a
17 pooling case?

18 A. Yes, I have.

19 MR. KELLAHIN: At this time we tender Mr. Shipley
20 as an expert witness.

21 EXAMINER CATANACH: Any objection?

22 MR. HALL: No, sir.

23 MR. GALLEGOS: No objection.

24 EXAMINER CATANACH: Mr. Shipley is so qualified.

25 Q. (By Mr. Kellahin) Let's start with the exhibit

1 book. It's 11,809. We may have to find you one here.

2 When we look at the exhibit book for the Marcotte
3 well, 11,809, and turn behind Exhibit Tab Number 6, are we
4 looking at illustrations, displays and finally the AFE that
5 you have prepared?

6 A. Yes, we are.

7 Q. Are you the author of all these displays?

8 A. With the exception of the completion cost
9 estimate, the facilities cost estimate and then the AFE
10 cover sheet.

11 Q. All right.

12 A. But I worked very closely with Chip Lane on those
13 two cost estimates.

14 Q. Have you examined his work product and
15 independently reached the conclusion about the
16 reasonableness of his recommendations as to those cost
17 components?

18 A. Yes, I have. We worked very closely together,
19 and I feel that they are reasonable for this well.

20 Q. Let's start with the first display. Identify and
21 describe what we're seeing with the first color display.

22 A. This is a general map of the San Juan Basin, and
23 it also shows the relationship of where our Barker Dome
24 field is in respect to the San Juan Basin.

25 And roughly spotted on the map are all the

1 Pennsylvanian penetrations in the San Juan Basin. There
2 are 28 of them.

3 And then it shows the location of our proposed
4 exploration well, which is about eight miles north of
5 Aztec, between Aztec, New Mexico, and Durango, Colorado.

6 Q. From the vicinity of the Marcotte well, as well
7 as the Scott 24 well, how far do we have to go in terms of
8 miles before you find the first established gas production
9 out of the Pennsylvanian formations?

10 A. Did you ask production in the Pennsylvanian?

11 Q. Yes, sir. How far do you have to go to find it?

12 A. There is no production known in the Pennsylvanian
13 formation at this time in the San Juan Basin. Now --

14 Q. If you go outside the San Juan Basin, how far is
15 it before you find Pennsylvanian gas production?

16 A. Outside the San Juan Basin, it's about ten miles
17 to Barker Dome where Pennsylvanian wells produce. Our well
18 is actually about 20 miles from the Barker Dome field.

19 Q. When you get to the Barker Dome, you said that
20 that was production at a different depth than what you're
21 forecasting for the exploration efforts for the Marcotte
22 well?

23 A. Yes, it is.

24 Q. The depth of the Barker Dome production is what,
25 sir?

1 A. They're -- They range from 8000-foot wells down
2 to around 9500 feet. I think there's one there that's
3 close to 10,000 feet.

4 Q. When we look at all the penetrations exploring
5 for deep gas in the San Juan Basin area, there was a total
6 of what? Twenty-eight, you said?

7 A. Yes, there is.

8 Q. Were any of those wells capable of producing gas
9 in commercial quantities out of the Pennsylvanian
10 formation?

11 A. No, they weren't, they were -- They were all dry
12 holes or noncommercial.

13 Q. Do you have a recommendation to the Division
14 concerning a risk factor penalty to apply in these pooling
15 cases?

16 A. I would recommend a 200-percent risk factor,
17 based on the OCD's rule.

18 Q. And why do you reach that conclusion?

19 A. Well, it's a -- This is a highly risky geologic
20 project and a drilling project, and there are no wells that
21 have ever produced out of those 28 that have ever been
22 drilled.

23 Q. Let's turn to the next display and talk about the
24 vintage of the 28 wells. If you'll turn to the next
25 illustration. What have you plotted here?

1 A. This is a histogram of Pennsylvanian exploration
2 wells in the San Juan Basin. Going up the scale on the
3 left side, it states the number of wells from one to five,
4 and then it starts in terms of years on the X axis. From
5 1950 to present date there's a total of 28 wells.

6 And what it shows is sporadic drilling of the
7 Pennsylvanian formation. Some years there were wells
8 drilled, and some years there were no wells drilled. And
9 there was anywhere from one up to three wells drilled in a
10 particular well -- in a particular year. And it has been
11 since the mid-1980s since any Pennsylvanian wells have been
12 drilled.

13 So not only have there been very few
14 Pennsylvanian wells drilled, it has been a long time since
15 a Pennsylvanian well has been drilled in the San Juan
16 Basin.

17 Q. In order to formulate and analyze the cost
18 estimated for these wells, you had to examine the type of
19 drilling program you anticipated to occur at both of these
20 locations; is that not true?

21 A. Yes, I did.

22 Q. Let's turn to the next illustration, which is
23 labeled a well profile, and have you walk us through how
24 you have designed the drilling program, and then we'll move
25 into the cost components of the program.

1 A. Okay, this well program was designed similar to
2 successful Pennsylvanian wells that have been drilled to
3 this depth. I've listed some of the challenges that we
4 will see in order to try to drill a well of this depth in
5 the San Juan Basin.

6 Q. You said you were using illustrations of
7 successful Pennsylvanian wells?

8 A. Successfully drilled --

9 Q. Drilled.

10 A. -- but not produced. Like the three 14,000-foot
11 wells that were drilled before, this has a similar casing
12 design to them, and that's the only way these wells are
13 really related --

14 Q. Okay.

15 A. -- in that they -- they have similar casing
16 points and casing sizes.

17 Q. Okay. Describe for us what you have planned to
18 occur.

19 A. Again, the challenges, some of the challenges
20 that we face, are along the left-hand side. The surface
21 casing point is obligatory by onshore to number two from
22 the *Federal Register*. That was --

23 Q. We're looking at setting surface casing, 20-inch
24 surface casing?

25 A. Twenty-inch surface casing to 500 feet and

1 drilling a 26-inch hole.

2 Q. All right.

3 A. Once we set that surface casing, we are drilling
4 through the Ojo Alamo and Fruitland Coal formations.
5 There's also a potential for great loss of circulation in
6 the Pictured Cliff formation, which is about 2000 feet.

7 Q. All right, let's come back up to the Ojo Alamo in
8 the Fruitland. The caption says "wet".

9 A. Yes.

10 Q. What are you illustrating that challenge to be?

11 A. When I say "wet" there, I mean water wet and that
12 they cannot be successfully air-drilled through that
13 formation, in order to -- They can't be successfully air-
14 drilled through the Ojo Alamo and the Fruitland formation,
15 because they're water-wet.

16 Q. So what do you have to do?

17 A. You have to mud-drill through that section.

18 Q. And what's the purpose of that?

19 A. To control water, to control flow of water into
20 the wellbore, also to protect the integrity of the wellbore
21 and circulate drill cuttings out of the hole.

22 Q. You weight up the mud in the drilling portion of
23 this activity so it has a reservoir pressure greater than
24 the reservoir pressure outside the wellbore?

25 A. Yes, and that's -- Another primary use of

1 drilling mud is to control the formation pressures and keep
2 the weight of the mud above the formation pressures so that
3 they don't flow into the wellbore.

4 Q. You said there is a challenge of lost
5 circulation. What do you mean, and where might it occur?

6 A. Again, this -- We talked briefly about a well
7 that this well was twinned on the same wellpad. That is a
8 Pictured Cliff well. It was a fairly -- It is still a
9 fairly prolific Pictured Cliff well, and it is depleted
10 down to a formation equivalent of less than 2.0-pound-per-
11 gallon equivalent mud weight. The weight of water is 8.3
12 pounds per gallon. So you're greatly overbalanced.

13 And when you drill into a depleted, fractured
14 formation like that, it wants to take your drilling fluid
15 out of the wellbore and into the formation. It presents a
16 great, great challenge to drill through some -- through
17 great lost circulation potential.

18 Q. As you're going through the Ojo Alamo and the
19 Fruitland you are overbalanced?

20 A. Yes.

21 Q. But then when you encounter the depleted Pictured
22 Cliff, that overbalance is going to create a lost
23 circulation problem?

24 A. Yes, it is.

25 Q. How do you handle that?

1 A. With lost-circulation material. If it gets too
2 great, cement squeeze jobs can be performed here. But
3 typically in this area it can be handle with lost-
4 circulation material.

5 Q. You propose to set the 13-3/8-inch intermediate
6 casing at approximately 3135 feet?

7 A. Yes.

8 Q. Why at that point?

9 A. The purpose for that casing point is to interrupt
10 mud drilling prior to entering the very depleted Mesaverde
11 formation, which is also highly fractured, and it is a two-
12 pound-per-gallon-equivalent formation.

13 Q. All right. Let's assume that you're successful
14 on setting your intermediate casing at 3135.

15 A. Yes.

16 Q. Once you set the casing, do you place cement
17 between the formation and that casing string?

18 A. Yes, we do. All of these strings of casing have
19 cement placed behind the casing.

20 Q. At this point, if you're successful, will you
21 have tied cement to surface at a depth of 3135, back on up?

22 A. Yes, we will, and that's in order to protect any
23 freshwater aquifers or shallow -- prevent migration of
24 fluids behind that casing.

25 Q. Let's assume the project is successful at that

1 point. Then what happens?

2 A. At that point we will drill out from underneath
3 the 13 3/8 casing, and we will virtually have to -- This
4 section virtually requires air drilling or gas drilling,
5 and --

6 Q. Because why?

7 A. Because historically speaking in the area, it
8 cannot be successfully mud-drilled, no matter what lost
9 circulation material you pump.

10 Q. You're trying to move through the Mesaverde
11 formation at this point?

12 A. Yes, we're trying to drill through the Mesaverde
13 formation down to another casing point at 7425, which is
14 above the Morrison formation, which is, again, water-wet,
15 and it cannot be successfully air-drilled or gas-drilled.

16 Q. The estimates are that at 7425, then, you're
17 below the Mesaverde?

18 A. Yes.

19 Q. And above the Morrison?

20 A. Yes.

21 Q. All right. What do you do then?

22 A. Then we would set casing and cement that. And
23 due to the low formation pressures we would cement this
24 casing string and overlap back into the 13 3/8 casing at
25 3135. But due to the inability of the Mesaverde formation

1 to hold any column of fluid, we feel like we would be
2 unsuccessful to try to make an attempt to cement that back
3 to surface. So --

4 Q. Let's -- Before you talk about this contingency,
5 let's look at the first option. The first option, then, is
6 to set the 9 5/8 at 7425 and to do what?

7 A. Well, don't be confused with the way this diagram
8 is written.

9 Q. I've misread the diagram, haven't I?

10 A. Well, there is a contin- -- We have set ourselves
11 up, hopefully, for success by planning on a contingency.
12 We fully believe that we will have to drill the diagram on
13 the right, which is to drill an 8-1/2-inch hole down to
14 12,000 feet and set casing at -- or 7-inch casing, and then
15 set another liner as we drill into the Pennsylvanian --
16 after we drill the Pennsylvanian formation.

17 Q. All right, let's talk about why you do that. If
18 you look at the contingency side of the plat, if you look
19 at the 8-1/2-inch hole in which you're going to put the
20 7-inch casing --

21 A. Yes.

22 Q. -- what's accomplished by that procedure?

23 A. We have a concern by another lost circulation
24 zone which potentially will be encountered around 10,000
25 feet in the Entrada formation. It's a great water-disposal

1 Pennsylvanian formation with cores that might be cut or
2 logging tools. And that was the smallest hole size that we
3 felt comfortable or that is safe to really work in and do
4 the type of evaluation that we anticipate to do in this
5 well.

6 Q. If you ignore for the moment the failure of 28
7 other attempts in the San Juan Basin and set aside the fact
8 that there's no established gas production in the San Juan
9 Basin at this depth, does the risk of this particular
10 drilling operation alone justify the maximum penalty?

11 A. Yes, I feel that it does. Down to 7425, that
12 casing design is like any other Mesaverde or Dakota well
13 that we drill in the San Juan Basin, and we have extensive
14 knowledge of the -- of all those drilling formations and
15 parameters down to that depth, with the exception that
16 these hole sizes are just larger.

17 From 7425 down to 14,225, we virtually know
18 nothing. There is just no data, there's no drilling data,
19 except for those few wells. And we have records on those,
20 and we're using that information as best we can, but we
21 truly do not know what we will encounter when we drill
22 below 7425 in this area. The control is just too far away
23 from this well.

24 Q. In terms of forecasting the reasonable
25 probability of the length of time in which to drill either

1 of these wells, have you made an analysis to approximate
2 what your best forecast is of the drilling time required
3 for the Marcotte well or the Scott 24?

4 A. Yes, I have.

5 Q. Have you reduced that information to an
6 illustration?

7 A. Yes, I did.

8 Q. Let's turn to the illustration. It's captioned
9 "Marcotte 2 - Days versus Depth Comparison". Before we
10 look at the data, show us how to read the scales.

11 A. What this is is a -- It's not uncommon in
12 drilling engineering to forecast a days-versus depth chart.
13 On the -- Down the left-hand side of the scale, there's a
14 depth chart from zero down to 14,000 feet, and then the
15 days record is recorded along the top -- the X axis again,
16 but in this case it's across the top.

17 What we do is -- I have historical data that
18 shows the previous three 14,000-foot wells that were
19 drilled and where they were in relation to depth and on
20 what day they were at those particular depths.

21 Q. Let's look at the blue line first. That's the El
22 Paso well drilled in 1961?

23 A. Yes. It's the San Juan 29 and 5 Number 50. It's
24 approximately 40 miles from this location. It was drilled
25 in 1961 by El Paso, and it took them 120 days to drill to

1 14,000 feet.

2 Q. If you read over and look at the blue line, what
3 well is that and where is it located?

4 A. The blue line or the green line?

5 Q. The green line, the Jessi Hahn well.

6 A. Okay, the Jessi Hahn, that was drilled -- That
7 was the Jessi Hahn Number 1 in 1976, drilled by Amoco. And
8 this is 15 years later, they've shaved one down to 119
9 days. And that was the -- That is, in fact, the deepest
10 well ever drilled in the San Juan Basin, at 14,503 feet.

11 Q. Where is that well located, if you recall, in
12 relation to this area?

13 A. It is about 30 miles from this location. It is
14 up in Colorado. There's two dots on the --

15 Q. Your first display?

16 A. Yeah, the first display, there's two dots on
17 the -- or two stars up in Colorado, and it's one of those.
18 I think it's the closest one, the one on the left-hand
19 side. It's up in Colorado.

20 Q. Let me turn your attention to the last line
21 plotted on the display. It's the purple one for the
22 Phillips well.

23 A. Yeah, the Phillips well was drilled in 1984, the
24 San Juan 30 and 6 unit, Number 112Y, and that was a 14,000-
25 foot well, the third 14,000-foot well drilled, and it was a

1 124-day well.

2 Q. How have you used this information, then, to
3 forecast your projection of the drilling days required for
4 the Marcotte 2 well?

5 A. Well, we have an aggressive target, as you can
6 see, of 60 days for the Marcotte. What we used was
7 information from these wells. These wells, they had a lot
8 of trouble time, a lot of bad things happen while they were
9 drilling the well.

10 What we tried to do was take our knowledge of --
11 our current knowledge of drilling Mesaverde and Dakota
12 wells, translating that to the larger hole sizes that we're
13 using here, and also try to translate any information that
14 we could from 7000 feet on down with respect to these wells
15 and the other Pennsylvanian wells drilled, and then our
16 current activity that we're doing at Barker Dome, which we
17 do encounter some of the same formations; they're just at
18 much shallower depth.

19 Q. Let's turn to the next display and what you've
20 categorized as some of the -- you characterized them as
21 logistical challenges, but some of the items that you as a
22 drilling engineer are in a general way dealing with as you
23 begin to prepare this AFE.

24 A. Well, I've talked about some of the drilling
25 challenges that we have and some of the challenges that we

1 have not -- with lack of data.

2 But probably -- We believe that logistical
3 challenges to drilling this type of a well are probably
4 some of the greatest challenges that we have, because
5 although 14,000-foot wells are not uncommon elsewhere in
6 the United States, they're extremely rare in the San Juan
7 Basin, as you've seen.

8 We have -- In order to drill a well here, we have
9 regulatory requirements, we have a remote location that
10 we're in. We're surrounded by mountains. We're far from
11 any deep-well drilling, as far as deep-well drilling goes
12 in other parts of the country.

13 Deep well experience, we have a number of people
14 in our building that have drilled deep wells, but this
15 primarily applies to the local vendor community that we
16 have to use to help drill a well like this. Those local
17 vendors are calling on their expertise all over the
18 country, but the people that are in place and have been in
19 place for years drilling our wells don't have deep well
20 experience, so it's a great logistical challenge to get
21 that knowledge into our Basin.

22 Drilling equipment, again, there are no rigs in
23 the San Juan Basin that are capable of drilling a well this
24 deep, so we had to bring in a rig for this well, and all
25 the equipment that goes with drilling a well like this,

1 virtually everything had to be brought in special for this
2 program.

3 Materials, again, we don't have them in the San
4 Juan Basin.

5 And then we've taken a lot of great care and
6 precaution in order to protect the fact that we're in close
7 proximity. Homes are in the area, and we've taken a great
8 deal of caution in order to protect them.

9 Q. Let's see how all this information translates,
10 then, in terms of your forecast of an estimated expenditure
11 for the well.

12 If you'll turn to the next display, there is a
13 summary cover sheet, which gives you some gross numbers,
14 and let's provide the Examiner with those, if you give him
15 the total dryhole cost, the completion cost and the
16 facility cost.

17 A. The drilling dryhole cost was \$1,713,000. The
18 suspended cost, if you add the \$77,000 to run the 5-inch
19 liner on top of the \$1.7 million, you come up with a total
20 of close to \$1.8 million.

21 The completion cost for this well is \$407,000.

22 Q. What type of completion is forecast under this
23 estimate?

24 A. What we would do in the completion of this well
25 is drill out any cement, clean up the wellbore, perforating

1 and frac'ing the selected Pennsylvanian intervals, possibly
2 an acid frac, which is done -- we primarily do at Barker
3 Dome, and then running tubing.

4 Q. Then finally is the construction of the surface
5 facility.

6 A. Yes, the construction of the surface facilities,
7 an estimated cost of \$119,000, for a total cost of around
8 \$2.3 million.

9 Q. Is the AFE for the Scott 24 well constructed in
10 the same fashion?

11 A. Yes, due to the close proximity to the Marcotte
12 Number 2, within a mile, mile and a half of this location,
13 it should be drilled very similarly. And knowing what we
14 know at this time right now, the Scott AFE has been
15 prepared the same.

16 Q. Let's turn past the cover sheet. This says
17 prepared by you at the top. Were you responsible for
18 estimating and forecasting the drilling dryhole cost?

19 A. Yes, I was.

20 Q. Okay. To the best of your knowledge, is it
21 accurate and reliable, and, in fact, you are executing your
22 plan based upon these costs?

23 A. Yes, we -- This is an accurate a cost estimate as
24 I felt like we could come up with, and -- that we could
25 generate. And we intend to carry out the -- or the actual

1 drilling according to this plan.

2 Q. The next item I have in my book -- and they may
3 be reversed -- I have facilities estimated next, and then
4 finally completion estimates. Yours may have been --

5 A. That's what I have.

6 Q. You have it in that order?

7 A. Facilities is next.

8 Q. All right. Mr. Lane prepared this, you've
9 reviewed it, and you agree with his conclusions?

10 A. Yes, I do.

11 Q. And the same thing for the completion cost that
12 you just described the procedure for.

13 A. Yes, I do.

14 Q. Do you have an opinion as to whether or not, in
15 your estimate, the forecasted costs for the Scott 24 and
16 the Marcotte Number 2 well are fair and reasonable?

17 A. Yes, I do.

18 Q. Are the voluntarily consenting parties that are
19 participating in this cost using this AFE as a basis upon
20 which they pay their participation?

21 A. Yes, this is the AFE that was sent out to
22 partners.

23 Q. And this is the one that they have approved?

24 A. Yes.

25 Q. Do you have a recommendation to the Examiner as

1 to use of this AFE in terms of providing provisions in the
2 pooling orders for estimating costs, that he will use this
3 estimated cost as the estimate by which pooled parties will
4 have an opportunity to pay their share and be a consenting
5 party under the pooling order?

6 A. Yes, I feel like this is a fair cost estimate for
7 -- or fair AFE for this type of a project.

8 MR. KELLAHIN: All right, sir. That concludes my
9 examination of Mr. Shipley. We'd move the introduction of
10 Exhibit 6 in each of the two exhibit books.

11 MR. GALLEGOS: No objection.

12 EXAMINER CATANACH: Okay, Exhibit 6 in each of
13 the two cases will be admitted as evidence.

14 MR. GALLEGOS: Go ahead?

15 EXAMINER CATANACH: Mr. Gallegos, yes.

16 CROSS-EXAMINATION

17 BY MR. GALLEGOS:

18 Q. Let me ask you, Mr. Shipley, first of all to
19 focus on the actual circumstances of the Marcotte Number 2
20 well. It is correct, is it not, that that well is already
21 being drilled?

22 A. Yes, it is.

23 Q. Give us the date of move-on, rig-up.

24 A. The date of move-on, rig-up. I'm going to refer
25 to my calendar here for some --

1 Q. Please do.

2 A. -- some of these dates.

3 The actual date of move-on and rig-up -- I don't
4 have the exact date, because so much equipment came from
5 such a long distance, it arrived on different days.

6 But give or take a few days, it was around -- it
7 was in the first week of June, when it first started
8 arriving.

9 Q. Okay. You -- We understand you are the chief
10 drilling engineer on this well, correct?

11 A. Yes.

12 Q. So you're on location -- If you're not here doing
13 something like this, you're on location daily?

14 A. We have well-site rig supervisors. I have done
15 that in the past myself, but on this particular well we
16 have two of our best rig supervisors alternating week on
17 and week off on that rig.

18 But I am out there on -- I've been out there
19 virtually every day of the operation. It's close to our
20 office, and I've been there on all the casing jobs, with
21 the exception of the one that I've missed since I've been
22 down here.

23 Q. And you keep a daily diary which you're referring
24 to here and you have on the witness stand with you?

25 A. Yes. If that --

1 Q. Okay. What was the spud date?

2 A. The actual spud date was June 25th at 6:00 a.m.
3 The actual rig-up of the rig started about seven days
4 before that.

5 Q. Okay. Has the drilling been essentially
6 continuous since that time?

7 A. Yes, it has.

8 Q. Okay. Is the rig being paid for on a day,
9 footage or --

10 A. It's a daily rate.

11 Q. Daily rate, okay. What is that rate?

12 A. The rate of that rig is \$7250 a day, for a 24-
13 hour operation.

14 Q. That's Parker --

15 A. Parker Drilling, and the rig number is 218.

16 Q. Okay. By when did you have the surface casing
17 set?

18 A. Let me refer to my notes here. Surface casing
19 was set on day four, which was June 29th.

20 Q. And what is the depth today? Did you get a
21 report this morning?

22 A. I got one right before I came on the stand, in
23 fact, and we were at 3103 --

24 Q. Okay.

25 A. -- and that was the first intermediate casing

1 point --

2 Q. Okay.

3 A. -- for the 13 3/8 casing point.

4 Q. Okay. So do you consider that you're on
5 schedule?

6 A. We're actually -- On the 60-day projected
7 schedule, we're about four days behind.

8 Q. Okay.

9 A. We had a little trouble time, lost circulation in
10 the Pictured Cliff formation. We fought that for a few
11 days.

12 Q. So adding that four days to your 60, it would be
13 about the end of August when you should complete the
14 drilling and setting casing?

15 A. I -- That's probably a fair assumption.

16 Q. All right. Are daily drilling reports being
17 generated?

18 A. Yes, they are.

19 Q. Okay, and who's included in the circulation on
20 those reports?

21 A. Due to the confidential nature of the project, we
22 have a limited access internally. Our own people are not
23 getting a circulation, as would be a normal well. The
24 Pennsylvanian team and then the drilling engineers and
25 drilling superintendents involved.

1 As far as external circulation, I don't have a
2 list of who that was. That was -- That is taken care of
3 under my drilling manager and his secretary.

4 Q. You'll confirm for us that you work with, among
5 others, with Mike Dawson and David Schoderbeck on the
6 Burlington Penn team?

7 A. Yes, I do.

8 Q. Okay. So you've worked, in a sense, shoulder to
9 shoulder with them for -- what? A couple of years, on this
10 project?

11 A. I've been on this project about a year.

12 Q. But worked closely with them since that time?

13 A. Oh, yes, very closely.

14 Q. And do you and the members of the Burlington Penn
15 team and the members of the Conoco Penn team meet regularly
16 to discuss this project?

17 A. I talk with my counterpart, which is Ricky Joyce,
18 the drilling engineer for Conoco, on a fairly regular
19 basis. He came in late in the project. We've met in
20 Farmington with Conoco many times, and we've met with
21 Conoco down in Midland in their office. I was there one
22 time.

23 Q. And with about what frequency do you meet with
24 the geologists and geophysicists on your own Penn team?

25 A. I meet with them on a daily basis.

1 Q. Okay. Let me ask you to take the Case 11,809
2 notebook before you, Mr. Shipley, for the moment.

3 A. Okay.

4 Q. Do you have that? And look under Tab 4. These
5 pages aren't numbered, but let me -- Let's see, it's the
6 sixth page back from the tab, and it's an AFE.

7 A. Yes.

8 Q. Do you find that?

9 A. Yes.

10 Q. Okay, let's take a look at that. This is
11 prepared by you, as reflected by the entry in the upper
12 right-hand corner, correct?

13 A. Yes.

14 Q. What is the date of this document?

15 A. January 9th, 1997.

16 Q. All right. The well name on this document is
17 Arch Rock Number 1. What does that signify?

18 A. That was a -- That was the projected name for the
19 first well that we were going to drill.

20 Q. What is the significance of "Arch Rock"?

21 A. I think that is a name for the area, a
22 topographical landmark in that area.

23 Q. A surface feature, not a subsurface feature?

24 A. Yeah, a surface feature, probably. I'm not sure.

25 Q. Okay. In the second line, under "Location",

1 "Section" is just shown as "XX". Would that indicate that
2 at that particular date you didn't have a specific
3 location?

4 A. Yes, at the time this was a general cost estimate
5 for a 14,000-foot well in Township 31 North, Range 10 West.

6 Q. All right. What is the significance of the
7 proposed intermediate TD, show at 3900 to 7500 feet?

8 A. Oh, okay, refer -- You could maybe refer to the
9 following picture.

10 Q. Okay.

11 A. Intermediate TD is represented by the 13 and 3/8
12 casing string and the 9 5/8 casing string. This particular
13 well has what we're calling an intermediate TD and an
14 intermediate (2) TD. There are two intermediate TDs for
15 this well.

16 Q. I notice under the logging, you plan to log from
17 500 foot to 7500 foot, the first log sweep, correct?

18 A. Yes.

19 Q. Is there any part of this concept that provides
20 that if the Pennsylvania, the target formation, does not
21 prove productive you'll come back uphole and complete in
22 shallower zones?

23 A. I assume maybe that's a fallback, but I don't
24 know.

25 Q. Well, has that been discussed?

1 A. It was discussed. I mean, what do you do with a
2 well this deep if it's a dry hole? It was discussed.
3 Originally, we were inten- -- the geologist was intending
4 to log the entire well, and that was thrown out for cost
5 purposes, and we will be logging just the bottom portion of
6 the well, and that is represented in the final cost
7 estimate.

8 Q. Okay. Well, you recognize that you are
9 penetrating with this well a number of known productive
10 formations, correct?

11 A. Yes.

12 Q. Okay. Let me now ask you, having taken a look at
13 this January 9, 1997, instrument, to turn back to the AFE
14 that you were referring to under the Exhibit 6 group of
15 affidavits on your direct testimony, and skipping the --
16 well, let's take a look at the -- Let's do take a look a
17 look at what you call the cover sheet, the one that's sort
18 of a summary.

19 A. Yes.

20 Q. Okay. What does this reflect as to the Marcotte
21 well, the portion of the total cost to complete that would
22 be borne by Burlington Resources, as contrasted with that
23 that would be borne by the other interests?

24 A. Are you talking about the section for joint
25 interest owners?

1 Q. Yes, sir.

2 A. Okay, Burlington Resources' piece would be
3 \$215,000, and others would represent \$2.1 million.

4 Q. Now, let's turn to the next page, the detailed
5 cost estimate. What was the date that you prepared this,
6 Mr. Shipley?

7 A. This was February 26th, 1997.

8 Q. All right. Somebody initialed an approval; is
9 that what --

10 A. Yeah, that was drilling superintendent Pat Bent.

11 Q. Okay.

12 A. And there's a -- It didn't come through real well
13 in the copy, but the drilling manager initialed it as well,
14 below my name, and his name is Steve Pugh.

15 Q. Okay.

16 A. So we had three signatures or three initials on
17 this particular cost estimate.

18 Q. Okay. Now, if we look at this document, made on
19 February 26th, 1997, we now have a specific well name, that
20 being the Marcotte Number 2, correct?

21 A. Yes.

22 Q. And we have a specific location for the well as
23 of that date, correct?

24 A. Yes, we do.

25 Q. It's in Section 8, and you are able to state at

1 that time the exact location and footage from the various
2 section boundary lines?

3 A. This was the proposed location at the time, and
4 once we go out and do the on-site inspection, it can be
5 moved several feet in one direction or the other to fit the
6 well on the particular location.

7 Q. But this, in fact is -- what you've stated here
8 is the location that you received the drilling permit
9 for --

10 A. Okay.

11 Q. -- is that correct?

12 A. Then in this case it was the same.

13 Q. Okay. So at least by February 26th of this year,
14 you had the exact location for this Penn test in Section 8;
15 isn't that true?

16 A. Yes.

17 Q. Okay. And was this location staked or sited on
18 the basis of a 160-acre proration unit?

19 A. I don't know that.

20 Q. Well, where did you get the information to put in
21 the second line in the upper left-hand part of this
22 document?

23 A. I got the total depth and a list of -- I got the
24 total depth of the well and the location from my geologist.

25 Q. Okay. Mr. Dawson?

1 A. Mr. Dawson.

2 Q. All right. Any discussion with him or Mr.
3 Schoderbeck about how that precise location was selected?

4 A. Not -- No, I can't remember us discussing that.

5 Q. Okay, but you're that was the source of it; isn't
6 that true?

7 A. Of Mike Dawson?

8 Q. Yes.

9 A. Yes.

10 Q. All right. Now, comments here, this would
11 verify, I believe, what you were saying earlier that the
12 decision was made to start the logging deeper in the
13 borehole?

14 A. Yes.

15 Q. All right. Let me call your attention to line
16 number 81, tubing.

17 A. Yes.

18 Q. Okay. Now, you have detail concerning the
19 casing, or projected casing, for the well at various
20 depths. That appears above that, correct?

21 A. Yes, we do.

22 Q. All right. You have nothing for tubing, correct?

23 A. Correct.

24 Q. Okay. It is anticipated, is it not, that if this
25 well is successful it will produce a very dry gas?

1 A. We don't know what the content of the gas will be
2 at this time.

3 Q. Well, isn't it a fact that your geologist and
4 your geophysicist expect, because of the nature of their
5 target geology, that this gas will have little or no
6 condensate, little or no NGLs?

7 A. No, that is possible, we could have -- At this
8 time they don't know if there is oil potential production,
9 gas production.

10 We have no idea at this time what production
11 might be, because there is none.

12 Q. Okay. So on what basis did you determine that
13 you would not provide for tubing in this well?

14 A. We did allocate dollars for tubing. That should
15 have been -- That was done in the completion cost estimate
16 where we have a line item for tubing, which is 81 again,
17 and we have \$72,223 for tubing.

18 Q. Okay. I didn't see that. I had gone to the next
19 page on the 81 for tubing and saw a zero there, and I see
20 on your completion estimate you have the tubing.

21 A. Yes. That would be the production string of
22 tubing for the well.

23 Q. Okay. At what size?

24 A. I believe at the time we -- This was estimated a
25 2 7/8 production string of tubing.

1 Q. Let me ask you now to turn to the other notebook
2 that's Case 11,808, under Tab 6 [sic], and would you turn
3 to your AFE information for this Scott well. Do you have
4 that?

5 A. Yes.

6 Q. Start with the summary sheet, just to go quickly.

7 This would indicate if the well is to be
8 completed at the projected cost, Burlington would bear
9 approximately \$239,000 of that expense, and other interest
10 owners would bear \$2,100,000, approximately; is that
11 correct?

12 A. That is correct.

13 Q. Okay. If you'll turn to the next sheet, this
14 cost estimate was also prepared on February 26th, 1997;
15 isn't that true, Mr. Shipley?

16 A. Yes, that is.

17 Q. Okay. And at that time the well name had been
18 selected, the Scott 24?

19 A. To my knowledge, yes.

20 Q. Somebody supplied that to you?

21 A. Yes.

22 Q. And at that time the location was scheduled for
23 Section 9, although not at a specific point within the
24 section; is that what the information would indicate?

25 A. Yeah, that is correct.

1 MR. GALLEGOS: I pass the witness.

2 EXAMINER CATANACH: Mr. Hall?

3 MR. HALL: I can do it now or tomorrow, whatever
4 you wish.

5 EXAMINER CATANACH: How long are you going to be?

6 MR. HALL: I don't have much.

7 EXAMINER CATANACH: Let's go ahead and go.

8 CROSS-EXAMINATION

9 BY MR. HALL:

10 Q. Mr. Shipley, were you responsible for regulatory
11 permitting for the wells?

12 A. That is handled in our department, but it handled
13 by a regulatory agent that we have, which is Peggy
14 Bradfield.

15 Q. All right. Are you her supervisor?

16 A. I am not her supervisor, but I work closely with
17 her. I did supply the operations plan and the H₂S
18 contingency plan for the APD.

19 Q. All right. The information that Peggy Bradfield
20 received for purposes of filing a C-102 form with the OCD
21 would have come from you, footage location, acreage
22 dedication?

23 A. No, the footage, I have nothing to do with the
24 selected location. I'm told the location where we're going
25 to drill.

1 Q. And did you supply that information to Ms.
2 Bradfield?

3 A. No, our geologist -- When he supplies me with the
4 information for total depth and the location, he supplies
5 it to her at the same time.

6 Q. Do you know if -- you don't know; it's to be
7 determined. But if you do, is Burlington planning on
8 calling the geologist or other person in charge of
9 regulatory permitting?

10 A. I don't know at this time.

11 Q. How about for the APDs or notice of staking filed
12 with the BLM? Is that your responsibility?

13 A. No, it is not. We have a man that prepares our
14 location and builds the locations, and he works closely
15 with a surveyor, and he also works closely with the BLM
16 representative for surface locations.

17 Q. Do you know if he's going to testify?

18 A. No, I don't.

19 MR. HALL: That's all I have.

20 EXAMINER CATANACH: I don't think I have any
21 questions of this witness. Let me just make sure.

22 EXAMINATION

23 BY EXAMINER CATANACH:

24 Q. Mr. Shipley, with regards to the three wells that
25 were drilled to a depth of 14,000 feet in the San Juan

1 Basin, are you familiar with what they did encounter at
2 that depth, in terms of shows or tests or anything?

3 A. I am very familiar. I have studied these wells,
4 and there were indications of shows, and -- gas shows. And
5 I think the -- I don't have my information in front of me,
6 but I know CO₂ gas was encountered in the Pennsylvanian and
7 the San Juan Basin by drill stem testing.

8 As far as the extent of any more information on
9 shows, I don't have that in front of me, but there could be
10 CO₂, there could be gas. We don't know.

11 Q. Is that CO₂ in conjunction with methane gas?

12 A. No.

13 Q. It was CO₂ by itself?

14 A. Yes.

15 Q. Your AFEs are based on a 60-day drilling program,
16 more or less?

17 A. Yes, they are.

18 Q. Okay, so that is a pretty aggressive drilling
19 program compared to the past wells that have been drilled.
20 Do you think you can pretty much stick to that?

21 A. Well, it's my job to stick to it. I hope we can.
22 We're doing very well as of right now, and I -- based on
23 estimates, I think -- I think it's very feasible. We need
24 to do a good job. We need to continue the good job that
25 we're doing.

1 EXAMINER CATANACH: I have nothing further of
2 this witness, Mr. Kellahin.

3 MR. KELLAHIN: All right.

4 EXAMINER CATANACH: Is there any other questions
5 of this witness?

6 MR. GALLEGOS: No, Mr. Examiner.

7 EXAMINER CATANACH: He may be excused.

8 I guess this is a good time to break.

9 MR. KELLAHIN: What time would you like us back?

10 EXAMINER CATANACH: 8:15 I suppose we should
11 start, get a good start on it. I'm not sure how much we
12 have left.

13 Do you have any estimates in terms of your
14 presentations?

15 MR. HALL: I have two witnesses. Direct of each
16 would be about 20 minutes, three or four exhibits apiece,
17 land oriented.

18 MR. GALLEGOS: We have two witnesses who will be
19 probably 30 minutes on direct. One may be a little
20 shorter. Thirty, and the other may be 20, 25.

21 EXAMINER CATANACH: Okay, so we're not looking
22 at, I mean, another day of this?

23 MR. GALLEGOS: I think there's a good chance of
24 finishing by noon.

25 EXAMINER CATANACH: Okay. And -- We have a

1 couple of outstanding issues with you that you're going to
2 determine overnight.

3 MR. KELLAHIN: Yes, sir.

4 EXAMINER CATANACH: Okay. Well, let's go ahead
5 and break at this point, and we'll reconvene at 8:15.

6 (Thereupon, these proceedings were concluded at
7 5:05 p.m.)

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 11800 11809
heard by me on July 10 1997.
David K. Catnach, Examiner
Oil Conservation Division

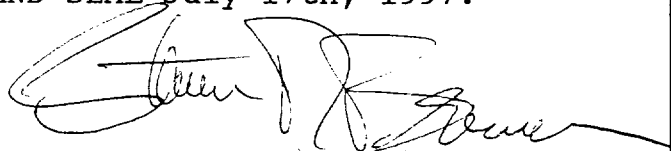
CERTIFICATE OF REPORTER

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 (Volume I) 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 July 17th, 1997.

A handwritten signature in dark ink, appearing to read 'Steven T. Brenner', is written over a horizontal line.

STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 1998