

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

| | | |
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| IN THE MATTER OF THE HEARING CALLED BY |) | |
| THE OIL CONSERVATION DIVISION FOR THE |) | |
| PURPOSE OF CONSIDERING: |) | |
| |) | |
| APPLICATION OF MEWBOURNE OIL COMPANY |) | CASE NOS. 11,830 |
| FOR COMPULSORY POOLING, EDDY COUNTY, |) | |
| NEW MEXICO |) | |
| |) | |
| APPLICATION OF DEVON ENERGY CORPORATION |) | and 11,833 |
| (NEVADA) FOR COMPULSORY POOLING, EDDY |) | |
| COUNTY, NEW MEXICO |) | (Consolidated) |
| |) | |

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

October 9th, 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, October 9th, 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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* * *

1 WHEREUPON, the following proceedings were had at
2 10:05 a.m.:

3 EXAMINER CATANACH: All right, we'll call the
4 hearing back to order at this time, and we'll call Case
5 11,830.

6 MR. CARROLL: Application of Mewbourne Oil
7 Company for compulsory pooling, Eddy County, New Mexico.

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

10 MR. HALL: Mr. Examiner, Scott Hall, Miller
11 Stratvert and Torgerson law firm of Santa Fe on behalf of
12 Mewbourne Oil Company. I have four witnesses to be sworn
13 this morning.

14 EXAMINER CATANACH: Additional appearances?

15 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
16 the Santa Fe law firm of Kellahin and Kellahin, appearing
17 on behalf of Devon Energy Corporation. I have three
18 witnesses to be sworn.

19 EXAMINER CATANACH: Okay. Additional
20 appearances?

21 Will the seven witnesses please stand to be sworn
22 in at this time?

23 (Thereupon, the witnesses were sworn.)

24 MR. KELLAHIN: Mr. Examiner, back on September
25 12th I filed a motion to consolidate the Mewbourne case

1 that you've just called for hearing with the Devon Energy
2 Corporation compulsory pooling case, which is docketed as
3 Case 11,833, and we would move that for purposes of taking
4 testimony these two cases be consolidated.

5 MR. HALL: And we'll agree to that.

6 EXAMINER CATANACH: At this time we'll call Case
7 11,833.

8 MR. CARROLL: Application of Devon Energy
9 Corporation, Nevada, for compulsory pooling, Eddy County,
10 New Mexico.

11 EXAMINER CATANACH: Call for additional
12 appearances in either of these cases.

13 Okay, Mr. Hall?

14 MR. HALL: Thank you, Mr. Examiner.

15 Call Steve Cobb to the witness stand.

16 STEVE COBB,

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

19 DIRECT EXAMINATION

20 BY MR. HALL:

21 Q. For the record, state your name.

22 A. Steve Cobb.

23 Q. Mr. Cobb, where do you live, by whom are you
24 employed and in what capacity?

25 A. I live in Midland, Texas, and I'm employed by

1 Mewbourne Oil Company as a district landman.

2 Q. All right. And have you previously testified
3 before the Division and had your credentials accepted as a
4 matter of record?

5 A. Yes, I have.

6 Q. And you're familiar with the lands that are the
7 subject of this proceeding?

8 A. I am.

9 Q. And you've had involvement with the attempt to
10 obtain voluntary joinder in the drilling of this well?

11 A. I have.

12 MR. HALL: Are the witness's credentials
13 acceptable?

14 EXAMINER CATANACH: Any objection?

15 MR. KELLAHIN: No objection.

16 EXAMINER CATANACH: The witness is so qualified.

17 Q. (By Mr. Hall) Mr. Cobb, what I'd like you to do,
18 if you would turn to Exhibit 1, which is the notebook, I'd
19 like you to take that, run through that and summarize for
20 the Examiner Mewbourne's efforts to obtain voluntary
21 participation in this well.

22 Why don't we start with -- Let's run through some
23 of the tabs. Tab 1 in Exhibit 1, of course, is the table
24 of contents, but let's turn to -- I'm sorry, Tab 1 is the -
25 - Before Tab 1 is the table of contents.

1 What is Tab 1?

2 A. Tab 1 is the -- It shows the unit area of Section
3 15.

4 Q. All right. Why don't you identify the lands for
5 the record in the proposed well location?

6 A. The proposed well location for our Carlsbad "15"
7 Federal Com Number 1 well is to be located at a standard
8 location 1850 from the west line and 1950 from the south
9 line of Section 15, 21 South, 26 East, Eddy County, New
10 Mexico.

11 We are seeking today to pool all interests in all
12 formations in the south half of said Section 15 for the
13 purpose of drilling our Carlsbad "15" well. We are
14 proposing a Morrow test and are asking that Mewbourne Oil
15 Company be named operator of this test.

16 Q. All right. Let's refer to Tab 2 of Exhibit 1.
17 Would you explain that, please?

18 A. Tab 2 outlines the unit ownership of the south
19 half of 15.

20 Q. And what are those percentages for the parties?

21 A. Mewbourne Oil Company owns 50.08 percent, and
22 Devon Energy Corporation owns 49.92 percent.

23 Q. So you have the majority interest?

24 A. We do.

25 Q. Not an overwhelming majority, but a majority?

1 A. That's correct.

2 Q. If you look page 2 of Tab 2, would you describe
3 that, please, sir?

4 A. This is a tract-by-tract ownership breakdown of
5 the south half of Section 15.

6 Q. Mr. Cobb, let's refer to Tab 3. Identify this
7 chronology in Exhibit 1.

8 A. Tab 3 is a chronology of events that outline,
9 among other things, my efforts to reach a deal with Devon
10 Energy in drilling and operating this -- our proposed well.

11 Q. All right. Why don't you outline that history
12 for the Examiner, if you would, and refer to those exhibits
13 under the tabs?

14 A. Okay, basically on November 15th of 1996, we
15 began our geological study of this area, this area being
16 21-26.

17 In January of 1997 I had ordered lease takeoffs
18 covering this area, and in February of 1997 we began
19 actively acquiring interest in this area.

20 On March 13th of 1997, we approached Devon Energy
21 in Oklahoma City and expressed an interest to enter into
22 some sort of AMI with Devon for development of this area.

23 Q. Let me ask you, before that point in time, had
24 you ever been approached by Devon --

25 A. No, we had not.

1 Q. -- for this area?

2 A. No, we had not.

3 Q. All right. Please continue.

4 A. On June 12th of 1997, we had -- We had proposed
5 our well to Devon for the drilling of this Morrow well, and
6 on June 16th of 1997, Ken Gray had called me and advised me
7 that they also were interested in drilling a well in there
8 and also wished to operate.

9 Q. Well, let me ask you, under Tab 5 is a letter
10 from you dated June 12th, 1997, and did you transmit your
11 AFE with that letter?

12 A. Yes, I did.

13 Q. And the AFE is under Tab 4; is that correct?

14 A. That is correct.

15 Q. And also, again looking under Tab 5 at your June
16 12th letter, you indicate you propose to drill the well in
17 the third quarter of 1997; is that correct?

18 A. That's correct.

19 Q. So you were ready to go then?

20 A. We were ready to go.

21 Q. All right, please continue.

22 A. We then filed our APD for our proposed well, and
23 I visited with Ken Gray on 6-24, that the BLM had advised
24 us that we needed to move our location 200 feet to the
25 east, as our original location of 1650 was not drillable.

1 And I sent a letter to Ken outlining that change in our
2 location with an AFE.

3 Q. Did the BLM request you to move your location
4 over for a topographic reason?

5 A. Yes, they did.

6 Q. And what was Devon's response to that?

7 A. Devon's response to that was that they did not
8 have a problem with our location. They indicated to me
9 that they wanted to drill and operate a well also, and the
10 location of our well was not a problem. They agreed with
11 that location.

12 Q. All right. But at that point they hadn't
13 committed to Devon as operator of the well; is that right?

14 A. That's correct.

15 Q. What did you do about that, at that point in
16 time, about early July of 1997?

17 A. We filed for a pooling application before the
18 NMOCD.

19 Q. All right. What happened next?

20 A. Right at that same time, July the 3rd, 1997, we
21 received a well proposal from Devon for their well.

22 Q. And did they send an AFE to you as well?

23 A. Yes, they did.

24 Q. What were their AFE total completed well costs,
25 by the way? I believe if you refer to Tab 7, that's their

1 transmittal letter.

2 A. Completed well costs of \$721,000.

3 Q. Right. That's somewhat higher than Mewbourne's
4 AFE; is that right?

5 A. That's correct.

6 Q. All right. And what happened next?

7 A. We sent out -- we had several -- I had a
8 telephone conversation with Ken Gray on the 29th. We
9 notified Devon of our compulsory pooling application. They
10 notified us on the 29th also, that they were planning to
11 also pool us.

12 Q. Let me back up with you just a minute, if you
13 would refer to Tab 8. It's your letter dated July 14,
14 1997, to Ken Gray, correct?

15 A. Right.

16 Q. What was the thrust of that letter? What was the
17 purpose of that letter?

18 A. This is in response to their letter, their well-
19 proposal letter of July 3rd, and I am --

20 Q. You offered some reasons why you thought
21 Mewbourne should be designated operator, correct?

22 A. That's correct.

23 Q. And what were some of those reasons you outlined
24 in the letter?

25 A. That we maintain a fully staffed office in Hobbs,

1 we have 30 years' experience of operations in this area, we
2 have drilled approximately 35 Morrow wells in Eddy County
3 in the last ten years. Our AFE was less than Devon's. And
4 that we had initiated this idea, we had initiated and
5 brought it to Devon's attention.

6 Q. All right. Now, going back to about July 29th,
7 you were speaking of, what happened about that time?

8 A. We had -- After Ken advised me they were going to
9 apply for a pooling before the NMOC, we sent out to Devon
10 on the 30th our JOA, and I had called Devon at that time to
11 try to reach some type of an arrangement with them wherein
12 we would operate the well -- we would have until January
13 1st, 1998, to operate the well, and if we didn't by that
14 time then we would turn it over to Devon.

15 Q. All right. What kind of response did you get to
16 that?

17 A. Devon refused that. They weren't interested in
18 that type of deal.

19 Ken then made a suggestion to me that one company
20 drill the well and then one company complete the well.

21 Q. All right. And did Mewbourne consider that
22 proposal?

23 A. No, we didn't. Drill and complete -- One company
24 drill and complete the well and another operate it through
25 the life of the well. No, we did not.

1 Q. All right. What happened next? Why don't you
2 continue with the sequence of events?

3 A. Okay. We submitted our JOA to Devon on 8-6-97.
4 We had continued -- We had this pooling scheduled
5 originally for August 21st, 1997. We've had a couple of
6 continuances to today.

7 On 8-19 I received a letter from Devon advising
8 me that they were not going to consider our JOA until such
9 time as the NMOCD has issued an order in this case.

10 Q. And that's the letter dated August 19th, 1997,
11 under Tab 11?

12 A. That's correct.

13 Q. So was it your impression from that letter that
14 Devon simply wanted to defer to the OCD to try to work this
15 out?

16 A. Yes, it is.

17 Q. And what happened next?

18 A. Our exploration manager, Ralph Moore, contacted
19 Wayne Roberts with Devon, trying to solicit any type of
20 response from Devon as to how we could get together to work
21 out our differences here.

22 Q. All right. Was that successful?

23 A. No, it was not.

24 Q. All right. Let's look at your letter of August
25 26th, 1997 -- I'm sorry, Devon's letter of August 26th,

1 1997, under Tab 13.

2 A. Okay.

3 Q. If you look down at the -- Well, what was the
4 purpose of that letter, first of all, your understanding?

5 MR. KELLAHIN: Object to the form of the
6 question, Mr. Examiner. This is Devon's letter. He's
7 asking this witness to somehow figure out what Devon had in
8 mind. I think the letter speaks for itself.

9 MR. HALL: I believe he can testify as to his
10 understanding of a Devon response in the context --

11 EXAMINER CATANACH: I'm going to let him answer
12 that in that regard.

13 THE WITNESS: Ken Gray and I had talked about --
14 Ken asked me what my understanding of the concessions that
15 we've made to Devon were to date, as of this letter.

16 I had a telephone conversation with him right
17 before he wrote this letter. And I told him items number 1
18 and 2 of this letter, that Mewbourne should be named
19 operator until January 1st, and that we would possibly
20 operate at some reduced producing/drilling overhead rates.
21 We were trying to figure out some way to resolve this
22 matter so we could get on with the drilling of this well.

23 Q. (By Mr. Hall) If you look at the fifth paragraph
24 of the letter, it reads, "In response, Devon believes the
25 well can and should be drilled much earlier than the

1 January 1st date which you have proposed." Do you see --

2 A. Right.

3 Q. -- that text there?

4 In fact, you had proposed a number of dates. You
5 had proposed to start the well earlier than January 1st?

6 A. Third quarter, that's correct.

7 Q. All right. What transpired after that point in
8 time?

9 A. I called Devon and suggested another alternative
10 to settling this issue, and that was to sell them a quarter
11 of our interest in another section in this area as a way to
12 resolve this matter. And they responded favorably by the
13 idea, yet they wanted 45 percent, us to sell them 45
14 percent of our interest, and we could not agree to that.

15 Q. All right. Were there any other efforts to
16 obtain Devon's voluntary participation in the well after
17 that point?

18 A. After that, I proposed that we form a working
19 interest unit comprising all of Section 15 and the north
20 half of 22, and to share our interest, proportionately
21 reduce our interest as to whatever it is to the unit, and
22 that Devon could operate that unit. And --

23 Q. How was that received?

24 A. -- they declined on that offer.

25 Q. All right. Any other activity between then and

1 now to try to get their voluntary joinder?

2 A. No, that's been our last contact.

3 Q. All right, let's turn, if you would, to Exhibit 1
4 under Tab 17. If you would identify that, please, sir.

5 A. This is our APD.

6 Q. It's filed with the BLM --

7 A. That's correct.

8 Q. -- correct? And what date was that APD
9 transmitted to the BLM?

10 A. I believe on the -- June 16th.

11 Q. If you'll look at the drilling engineer's
12 signature, it says June 17th. Would that be accurate?

13 A. Or June 17th, yeah.

14 Q. All right. Mr. Cobb, in your opinion has
15 Mewbourne made a good-faith effort to try to obtain
16 voluntary participation of Devon in this well, in this
17 case?

18 A. Yes, we have.

19 Q. And were the materials contained in Exhibit 1
20 compiled by you or at your direction?

21 A. Yes, they were.

22 MR. HALL: That concludes our direct of Mr. Cobb,
23 and we'd move the admission of Exhibit 1.

24 EXAMINER CATANACH: Exhibit 1 will be admitted as
25 evidence.

1 Mr. Kellahin?

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

3 CROSS-EXAMINATION

4 BY MR. KELLAHIN:

5 Q. Mr. Cobb, let's go back to your chronology behind
6 Exhibit Tab Number 3.

7 A. Okay.

8 Q. Prior to February 1st of 1997, am I correct in
9 understanding that Mewbourne had no interest in this area?

10 A. That's correct.

11 Q. And by having no interest, I mean you had no
12 working interest in any oil and gas lease in a nine-section
13 area?

14 A. That's correct.

15 Q. And if we put Section 15 in the center of the
16 nine-section area, you would have no interest on February
17 1st?

18 A. Correct.

19 Q. You acquired an interest in Section 21, which is
20 the diagonal offset to the southwest quarter of Section 15?

21 A. Right.

22 Q. And that interest was the first interest you
23 acquired in this area; is that not true?

24 A. That is correct.

25 Q. You acquired that interest from Hallwood

1 Petroleum Corporation, did you not?

2 A. Correct.

3 Q. And the purpose of acquiring that interest was so
4 that Mewbourne could engage in the re-entry of the Ocotillo
5 well that's located in the northwest quarter of that
6 section?

7 A. That's correct.

8 Q. And your commitment to Devon is that you were
9 going to expeditiously commit yourself to re-entering that
10 well and attempting to recomplete it in the Strawn
11 reservoir; is that not true?

12 A. That's correct.

13 Q. And you have not yet done that, have you?

14 A. We have not, no.

15 Q. By March 13th -- March 13th is the first contact
16 Mewbourne has with Devon with regards to a proposal to do
17 anything in this area concerning Section 15?

18 A. Say that again, please.

19 Q. Yes, sir, I said it very poorly. I'm sorry.

20 With regards to Section 15, March 13th is the
21 first contact by Mewbourne to Devon?

22 A. Other than the phone call that set the meeting
23 up.

24 Q. Yes, sir, I understand that.

25 A. Right.

1 Q. The entry here says development in 21 South, 26
2 East. It does not specify a particular section?

3 A. That's correct.

4 Q. All right. As of March 13th, did Mewbourne have
5 any interest in this township, other than what I described
6 to be your acquisition of the Hallwood interest in the
7 northwest quarter of 21?

8 A. No.

9 Q. Okay. So you and Mr. Moore go to Devon's office
10 and you meet with Ken Gray and Wayne Roberts, Devon's
11 geologist --

12 A. Correct.

13 Q. -- is that not true?

14 A. That's correct.

15 Q. And at that meeting, Mr. Moore points to Section
16 11, to a Yates well -- we're looking at the northeast
17 diagonal offset to 15 -- and he indicates that Yates well
18 has been successful in its efforts to produce gas in the
19 Strawn reservoir; is that not true?

20 A. I would be speculating on that. I don't remember
21 exactly what Ralph and the geologists were talking about.

22 Q. All right. You were there at the meeting?

23 A. I was there at the meeting, but I don't remember
24 specifically what was said --

25 Q. Okay.

1 A. -- about that.

2 Q. Do you recall that Mr. Moore did not present
3 Devon with any maps, geologic or otherwise?

4 A. I do.

5 Q. And he did not; is that not true?

6 A. He did not.

7 Q. Neither did you?

8 A. Neither did I.

9 Q. There was no data given by Mewbourne to Devon at
10 that meeting?

11 A. That's correct.

12 Q. The discussion was focused on the Yates well in
13 Section 11 and the fact that it had produced Strawn gas,
14 right?

15 A. Again, I'm not sure of that.

16 Q. Okay. Did you propose to Devon at that time some
17 specific type of way to engage in the development of the
18 Strawn reservoir in the township?

19 A. We did. We expressed an interest in forming an
20 AMI with them for the development of this 21-26.

21 Q. All right. Following that meeting, the next
22 contact indicated on your chronology with Devon does not
23 occur until June 12th; is that not true?

24 A. That's correct.

25 Q. Okay.

1 A. But I did have contact with them.

2 Q. This summary does not indicate that. What
3 have --

4 A. No, it --

5 Q. What have you excluded from the summary?

6 A. I have excluded that we allowed Devon to share in
7 a federal lease that we acquired in April. We agreed to --
8 Devon had an interest in it, and -- as did we, and we
9 agreed to go to the lease sale and acquire the lease and
10 offer Devon half of it.

11 Q. Well, let's be specific, Mr. Cobb. You're
12 talking about the southwest quarter of Section 21 --

13 A. That's correct.

14 Q. -- and the arrangement was that Devon and
15 Mewbourne would jointly go bid on that federal lease which
16 had expired and was up for sale again?

17 A. That's correct.

18 Q. All right.

19 A. That's not reflected on here.

20 Q. Yes, sir. My question for you, sir, is, in
21 Section 15, prior -- after March 13th and prior to June
22 12th, there is no contacts by Mewbourne to Devon concerning
23 that section?

24 A. That's correct.

25 Q. Okay. On June 12th, then, you send Steve Cobb

1 correspondence where you send an AFE and you propose the
2 well at a specific location; is that not true?

3 A. That's true, correct.

4 Q. Okay. When you refer to the APD, it indicates
5 the drilling engineer signed it on June 17th, which is five
6 days after your proposal to Mr. Cobb -- from Mr. Cobb to
7 Mr. Gray on the well proposal?

8 A. Uh-huh.

9 Q. All right. At the time you sent the letter to
10 him, the June 12th letter, that letter indicates a
11 particular footage location, does it not?

12 A. It does.

13 Q. When we look at this section, as of June 12th
14 when you sent the letter --

15 A. Right.

16 Q. -- in Section 15 --

17 A. Right.

18 Q. -- Mewbourne had acquired the south half of the
19 southeast quarter, correct?

20 A. South half -- of Section 15?

21 Q. Yes, sir.

22 A. Yes.

23 Q. And you had acquired the south -- the northeast
24 of the southeast, right?

25 A. Northeast, south- -- That's correct.

1 Q. So you got three-fourths of the southeast
2 quarter?

3 A. Correct.

4 Q. And you have the southeast of the southwest?

5 A. Correct.

6 Q. You have that 160 acres, and it's configured as
7 I've described it?

8 A. Right.

9 Q. And you acquired that entire interest from the
10 same company, did you not?

11 A. That's correct.

12 Q. You acquired that interest from a company by the
13 name of Carlow Corporation, did you not?

14 A. Correct.

15 Q. When did you acquire that interest?

16 A. June 6th, I believe, was -- June 6th.

17 Q. Were you aware, Mr. Cobb, that in April and May
18 Mr. Gray was negotiating with Richard Coates of Carlow to
19 have them participate in a joint venture in Section 15 for
20 the drilling of these deep gas wells?

21 A. Yes, I was.

22 Q. How did you come to acquire the Carlow interest
23 in Section 15?

24 A. We were talking with him at the same, as early as
25 April, about acquiring their interest.

1 Q. Did Mr. Coates disclose to you that he was
2 discussing this prospect with Mr. Gray?

3 A. I did not have anything to do with the
4 acquisition of this interest. It was handled out of our
5 title office.

6 Q. All right. So what is your knowledge about the
7 Carlow Corporation's arrangement with Mewbourne for the
8 transfer of their interest to Mewbourne?

9 MR. HALL: Mr. Examiner, just -- Are you finished
10 with your question? Let me object. I think this line of
11 questioning is far beyond the scope of direct. It's not
12 particularly relevant to anything. I don't think there's
13 any dispute about Mewbourne's ownership and their right to
14 drill in the south half. The manner of their acquisition
15 has no bearing on the case before you.

16 MR. KELLAHIN: It will become relevant, Mr.
17 Examiner, with Mr. Ken Gray's testimony. And I'm just
18 about on finished on this item, if you will indulge me for
19 a question or two.

20 EXAMINER CATANACH: I will. Let's proceed.

21 Q. (By Mr. Kellahin) All right. Do you have any
22 knowledge and information concerning Mewbourne's
23 acquisition of the Carlow Corporation interest?

24 A. I don't understand the question.

25 Q. All right. You are aware Mewbourne got the

1 interest in 15 from Carlow Corporation?

2 A. Correct.

3 Q. And you are aware that that occurred about June
4 6th, I believe you said?

5 A. Correct.

6 Q. All right. Are you aware of any other
7 circumstances surrounding the acquisition by Mewbourne of
8 that interest?

9 A. No.

10 Q. Okay. The well is proposed on the APD, the June
11 17th APD, and is to be located not on Mewbourne's tract;
12 isn't that true?

13 A. That's correct.

14 Q. You've gone out and you've put it on the
15 northeast of the southwest quarter, which is a tract
16 controlled by Devon?

17 A. Correct.

18 Q. Did you call Devon and discuss that proposal with
19 them before you did it?

20 A. No, I called Ken Gray and told him we had to move
21 the well 200 feet to the east, which would be that present
22 1850.

23 Q. That's a later event. What I'm asking you is,
24 before you staked it originally, at the original location
25 before it was moved, did you tell Devon you were going to

1 do that?

2 A. I did not.

3 Q. Is it your practice or your company's practice to
4 go out and stake wells on property that you do not control
5 and do not have an interest in?

6 A. No.

7 Q. All right. We have the meeting with Devon on
8 March 13th. The next contact is June 12th, and you give
9 them a specific proposal?

10 A. Correct.

11 Q. Okay. The next contact by Mewbourne with Devon
12 is to advise them that you have moved the location on June
13 24th, correct?

14 A. No, on the 16th Devon calls me, Ken calls me, and
15 advises me that they wish to operate 15 also.

16 Q. All right. Your entry at the bottom of the page
17 says that you've directed counsel to initiate compulsory
18 pooling, and that is an entry dated July 1st?

19 A. Correct.

20 Q. I find no entry in here where you advise Devon
21 that you're about to initiate compulsory pooling against
22 them, prior to July 1st; is that not true?

23 A. That's true.

24 Q. Okay. You've hired counsel and directed them to
25 initiate compulsory pooling, and you have done so without

1 advising Devon that you are doing so?

2 A. Up until that date, yes.

3 Q. All right. On July 29th you have a phone
4 conversation with Ken Gray, and during that phone
5 conversation, which is on a Monday, I believe, you advise
6 him that your counsel is going to file compulsory pooling
7 application for the south half of Section 15; is that not
8 true?

9 A. That's correct.

10 Q. And prior to that time, you did not disclose to
11 him that you were preparing to file a compulsory pooling
12 application against Devon?

13 A. Not that I recall.

14 Q. And to the best of your recollection, this
15 chronology represents all the significant events concerning
16 the chronology of these negotiations and discussions?

17 A. Yes.

18 Q. Let's go back to your March 10th, 1997, letter.
19 Do you have that in the packet here?

20 A. Let's see. March 10th?

21 Q. Yes, sir. Is that included in your package?

22 A. Let's see. I don't see it in here, but I'll get
23 my file.

24 I don't have it.

25 Q. You don't have a March 10th letter?

1 A. No.

2 Q. All right. On March 10th, 1997, the only
3 interest you are aware of that Mewbourne held in this
4 township was the interest in Section 21?

5 A. Correct.

6 Q. Okay. On the June 12th letter -- that's the one
7 that's in the package --

8 A. Right.

9 Q. -- it's Tab 5, and that's the proposal letter
10 from Mewbourne to Devon, true?

11 A. True.

12 Q. Okay. In your proposal to them, you are
13 specifying the south half as the spacing unit for the well;
14 is that not true?

15 A. Correct.

16 Q. At that time you had no knowledge about what was
17 occurring in the section concerning an orientation of a
18 spacing unit, true?

19 A. I don't understand that.

20 Q. All right. In Section 15 it was open, at this
21 time, to determine what direction the spacing unit would be
22 turned for a deep gas well.

23 MR. HALL: Do you understand the question?

24 THE WITNESS: No.

25 Q. (By Mr. Kellahin) One more time, I'm sorry. In

1 Section 15, on June 12th, there was no deep gas production
2 below the top of the Wolfcamp in this section?

3 A. Not to my knowledge. I think you -- it would be
4 better to ask our geologist that.

5 Q. The proposal for a south-half-oriented spacing
6 unit in Section 15 is contained in your letter?

7 A. Right.

8 Q. Did you talk to Ken Gray of Devon before you sent
9 the letter, an orientation for the spacing unit?

10 A. No, I did not.

11 Q. You simply unilaterally declared what Mewbourne's
12 preference was at that point then? Yes?

13 A. I don't understand the word "unilaterally".

14 Q. Mewbourne, by itself, on its own, without
15 discussions with Devon, tells Devon the well proposal
16 involves the south half of 15.

17 A. That is correct.

18 Q. All right. The second page of the letter says
19 you anticipate to drill the well in the third quarter of
20 1997. Do you have a rig available at this time to drill
21 this deep gas well?

22 A. We do.

23 Q. Are you under contract with that rig?

24 A. You may ask our operations that question.

25 Q. Is it your strategy, Mr. Cobb, to go ahead and

1 start permitting these well locations by filing APDs before
2 you've had a response from the working interest owners as
3 to a well proposal?

4 A. I do not have anything to do with the permitting
5 of wells.

6 Q. Do you have directions to file well proposals
7 without regard to whether or not you have engaged in
8 permitting them?

9 A. No, I do not.

10 Q. You made a point earlier of describing the
11 decimal difference here between the Mewbourne interest and
12 the Devon interest. One is -- Your interest is 50.08, the
13 Devon interest is 49.92. Do you think this case ought to
14 be decided based upon that issue?

15 MR. HALL: Well, I'm going to object. I think
16 that's an ultimate conclusion for the Hearing Examiner.

17 MR. KELLAHIN: I think it's a fair question, Mr.
18 Examiner. He's come before you to ask that you approve
19 them as the operator. He's made a point of saying there's
20 a difference. I want to know if he has an opinion as to
21 whether we ought to decide that case based upon that
22 difference.

23 EXAMINER CATANACH: Well, you can ask him his
24 opinion.

25 THE WITNESS: My opinion is, I think it is

1 relative. All things being equal, I think everything
2 should be considered. And I think the working interest,
3 whether -- the majority should be considered.

4 Q. (By Mr. Kellahin) Do you think it should be a
5 consideration that the well is located on Devon's 40 acres
6 and not Mewbourne's?

7 A. In this particular case I don't because Devon's
8 agreed to the location that we've proposed. We're in total
9 agreement of the location.

10 Q. Okay. And so that's okay, you can put it on
11 their tract? That's your conclusion?

12 A. They have no problem with it.

13 Q. There's a July 14th letter that you sent Ken
14 Gray. Is that in your package here? I think it's at Tab
15 8, Mr. Cobb.

16 A. Right, okay.

17 Q. You talked about the possibility of an area of
18 mutual agreement in which to operate?

19 A. Correct.

20 Q. And the area specified was what acreage, sir?

21 A. We didn't specify -- We didn't have a specific
22 outline.

23 Q. This is your July 14th letter where you're
24 proposing to Devon a number of items. The next thing I
25 have from you in terms of correspondence is initiated by

1 Mr. Carr on behalf of Mewbourne, and it's the compulsory
2 pooling application. Am I correct in my chronology of the
3 letters?

4 A. Let's see. Say that again? From July -- July
5 14th to what?

6 Q. July 14th to July 30th, I find no correspondence
7 from you to Mr. Gray.

8 A. Right.

9 Q. Okay. The compulsory pooling application seeks
10 to pool various combinations of spacing units, does it not?

11 A. It does.

12 Q. Are you aware of any 80-acre spaced units in this
13 area?

14 A. Could you leave that question for our geologist?

15 Q. So you don't know?

16 A. I'm not sure, no, I'm not.

17 Q. As a landman, do you see any purpose served by a
18 40-acre compulsory pooling at the drillsite tract in which
19 you have no interest?

20 A. Yes.

21 Q. Your Application is seeking a compulsory pooling
22 order covering a 40-acre tract in which you have no
23 interest. Is that really what you want to do?

24 A. Yes. I wouldn't want --

25 Q. Explain to me what how you do that.

1 A. Well, it's my understanding I wouldn't want to
2 drill Devon a free well. If this thing was ever produced
3 on 40 acres only, I would have drilled them a free 40-acre
4 well.

5 Q. And so what would be your interest in a 40-acre
6 spacing unit?

7 A. The same as here.

8 Q. You would have the 320 interest --

9 A. Right.

10 Q. -- proportionate as to a 40-acre tract?

11 A. Right.

12 Q. Are you aware that in the State of New Mexico
13 compulsory pooling orders are issued based upon the size of
14 the proration and spacing unit?

15 A. Yes.

16 Q. Are you aware that despite your desire you would
17 have no interest in the 40-acre oil if you drill this well?

18 A. I'm not aware of that, no.

19 Q. Okay. Does that change your mind about
20 operations?

21 A. I'd have to think about that.

22 Q. Okay.

23 A. I'm not aware of that.

24 Q. What's your choice of the orientation? You said
25 an 80-acre spacing unit. You've got it standing up in the

1 east half of the southwest quarter as an 80-acre unit,
2 right?

3 A. Correct.

4 Q. And the purpose served by that is to put your
5 southeast of the southwest into that spacing unit?

6 A. Correct.

7 Q. Have you discussed with Devon the fact that if it
8 was a laydown north-half southwest quarter you would have
9 no interest in that well?

10 Q. Does your package contain your September 12th
11 letter to Mr. Gray?

12 A. Let's see.

13 Q. It should be under Tab 15, I believe.

14 A. Oh, September 12th?

15 Q. I'm sorry, I --

16 A. Okay. Yes, it -- Tab what? 14?

17 Q. I believe it's 15, Mr. Cobb.

18 A. Tab -- Yes, t does.

19 Q. You end the letter by saying, "We feel this
20 proposal is a major concession..." Describe for me what
21 you're conceding that's major.

22 A. Let me read this again.

23 By allowing Devon to operate, I think, is a major
24 concession. We feel very strongly about operating this
25 proposed well. It was -- We feel it was our idea, our

1 prospect, and we would sure like to operate it.

2 Q. So the concession of operatorship is the major
3 concession?

4 A. In my opinion.

5 Q. All right. The discussion up to the has been
6 focused on consolidating Section 15, and it did not include
7 the north half of 22; is that not true?

8 A. That's correct.

9 Q. All right. So if you concede operations, you're
10 asking Devon to accept within this area of development the
11 north half of 22, true?

12 A. That's correct.

13 Q. All right. Are you aware of the relative
14 geologic value of those properties as they relate one to
15 another?

16 A. No, I am not.

17 Q. Okay. You go on to conclude that acceptance of
18 this offer in order to avoid an Oil Conservation Division
19 hearing, et cetera, et cetera. Mewbourne initiated this
20 hearing process, did it not?

21 A. It did.

22 Q. It's a process that you could have not initiated
23 and thereby avoided?

24 MR. HALL: I'll object, calls for speculation.

25 MR. KELLAHIN: I think it's a fair question for

1 this witness.

2 THE WITNESS: Say it again.

3 Q. (By Mr. Kellahin) Yes, sir. By not initiating
4 that compulsory pooling application, you could avoided this
5 hearing today?

6 MR. HALL: Same objection.

7 EXAMINER CATANACH: I'll agree with Mr. Hall. He
8 doesn't have to answer that.

9 MR. KELLAHIN: No further questions, Mr.
10 Examiner.

11 EXAMINER CATANACH: Any redirect, Mr. Hall?

12 MR. HALL: Briefly.

13 REDIRECT EXAMINATION

14 BY MR. HALL:

15 Q. Mr. Cobb, in preparation for the hearing here
16 this morning, you've taken the opportunity to tabulate the
17 number of contacts you initiated to Devon, have you not?

18 A. Right.

19 Q. And likewise, the number of contacts initiated by
20 Devon to Mewbourne. Can you tell me how many -- Why don't
21 you just count how many were initiated by Mewbourne, how
22 many by Devon.

23 A. I'd need some time to --

24 Q. Take your time.

25 A. I mean a lot of time.

1 Q. Okay.

2 A. I mean, it's --

3 Q. Let me ask, is it safe to say that Mewbourne-
4 initiated contacts exceed the Devon-initiated contacts?

5 A. Correct. My purpose of this was to show that for
6 -- that Devon was reacting to my proposals for -- When I
7 proposed a well, they would propose a well. When I
8 proposed an NMOCD hearing -- They were just simply reacting
9 to my efforts.

10 Q. Earlier Mr. Kellahin asked you to speculate about
11 the circumstance that might evolve, were there a completion
12 in only a 40-acre pool.

13 MR. KELLAHIN: He's misstated my question. I did
14 not ask this witness to speculate.

15 Q. (By Mr. Hall) Do you understand my question?

16 A. Say it again.

17 Q. Mr. Kellahin asked you about the possibility,
18 were this well to be completed in only a 40-acre pool --

19 A. Right.

20 Q. -- which Mewbourne does not have an interest. Do
21 you recall that question?

22 A. Yes, I do.

23 Q. In fact, Mewbourne hopes to complete in a number
24 of other formations, let alone a 40-acre completion; is
25 that right?

1 A. That's correct.

2 MR. HALL: Nothing further of this witness.

3 EXAMINER CATANACH: Okay, I have a few questions.

4 EXAMINATION

5 BY EXAMINER CATANACH:

6 Q. Mr. Cobb, in -- when you initiated the geologic
7 study of this area -- maybe this is for the geologist. Let
8 me ask you, do you know if Mewbourne had interest in this
9 area?

10 A. Interest geologically in the area?

11 Q. Interest ownership of --

12 A. Well, it depends what area. We've got a map, we
13 can show you. Or our leasehold holdings out here.

14 Q. Okay. And you acquired your interest, I believe
15 you said, June 6th?

16 A. Correct.

17 Q. And that was for the 160 acres in Section 15?

18 A. Correct.

19 Q. When did you acquire the interest in Section 22?

20 Do you --

21 A. Let's see. That was at the same time, it's part
22 of the same agreement.

23 Q. Okay. And that's also -- That's 200 acres?

24 A. Right.

25 Q. And that was from the same company?

1 A. That was.

2 MR. CARROLL: What company was that?

3 THE WITNESS: Carlow, C-a-r-l-o-w, Corporation.

4 Q. (By Examiner Catanach) Where did -- You acquired
5 some interest in the northwest quarter of Section 21 --

6 A. Right.

7 Q. -- is that the extent of your interest in that
8 section?

9 A. No, then we have the southwest also. We have a
10 west-half unit there with Devon.

11 Q. Okay, that's half and half on that?

12 A. It's a little -- We have a little more than half.
13 I don't have the exact figure.

14 Q. Okay. Now, the first time that you proposed the
15 well to Devon was -- in Section 15, was June the 12th?

16 A. That's correct.

17 Q. At that time -- During that period, did it appear
18 that Devon was not going to participate in the drilling of
19 that well?

20 A. You said prior to that time?

21 Q. No, during that time. I mean --

22 A. Well, shortly after Ken got that well proposal he
23 called me and said they wanted to operate -- They've never
24 had a problem with the location, so that would lead me to
25 believe that they would participate in it yet would want to

1 operate it.

2 Q. So you kind of knew that there was going to be a
3 problem back then?

4 A. Yes, yes, I did.

5 Q. So less than three -- or about three weeks from
6 then, you directed your counsel to file a compulsory
7 pooling application?

8 A. Correct.

9 Q. Would you normally give a company more time than
10 that to consider a proposal before you filed an
11 application?

12 A. Well, we -- My thinking on that was, we would go
13 ahead and file that, yet we would set it so far out -- We
14 were giving them, I think, almost two months, to consider
15 this before the actual hearing date would be scheduled.

16 Q. So you directed Counsel to file a specific -- for
17 a specific hearing date?

18 A. I believe for August -- I believe for August 21st
19 was the date I instructed him to file for, was our first
20 hearing on this. And I thought that was enough time. From
21 June 12th to August 21st is two months, a little over two
22 months.

23 MR. CARROLL: Well, why didn't you instruct your
24 counsel on June 13th to file an application for compulsory
25 pooling and set it for late August?

1 THE WITNESS: I could have. I -- Yeah, I could
2 have.

3 Q. (By Examiner Catanach) Basically, we're talking
4 about a drilling and operations question here. I mean,
5 both companies want to drill and operate this well, and
6 that's the --

7 A. That's my understanding.

8 Q. -- that's the problem we've got here.

9 A. Right.

10 Q. And you've got a rig already contracted to drill
11 this well?

12 A. We have. I'd -- You know, I'd ask that you talk
13 to Mr. Calvert about -- our operations witness.

14 EXAMINATION

15 BY MR. CARROLL:

16 Q. Mr. Cobb, is it my understanding that both you
17 and Devon were competing to acquire the Carlow interest?

18 A. I don't know that we were competing.

19 Q. What was the status of the negoti- -- Let me
20 rephrase that.

21 A. Yeah.

22 Q. It was my understanding you testified that you
23 were aware that Devon had been talking to Carlow?

24 A. Right, right.

25 Q. And what was your understanding of the substance

1 of those talks?

2 A. Ken Gray had told me that they were negotiating
3 with Carlow on a working interest unit, former working
4 interest unit out here.

5 Q. In Section 15?

6 A. Yes.

7 Q. In the south half of Section 15?

8 A. I think -- I don't know. I think all of Section
9 15.

10 Q. Do you know whether specific well locations --

11 A. No

12 Q. -- had been discussed?

13 A. No.

14 Q. And in your opinion, why did Carlow choose to
15 sell their interest to you, rather than participating with
16 Devon?

17 A. I can't answer that. I don't know.

18 MR. CARROLL: That's all I have.

19 FURTHER EXAMINATION

20 BY EXAMINER CATANACH:

21 Q. There was some discussion about a well in Section
22 21. Is there currently a producing well in the west half?

23 A. Yeah, it's the Ocotillo Hills Number 1 well.

24 Q. And it's operated by who?

25 A. By Mewbourne Oil Company.

1 Q. There was some discussion about a re-entry. What
2 is that all about?

3 A. I think Keith would be best suited to address
4 that, but we are planning to re-enter that well. Ken Gray
5 and I are negotiating an agreement on that right now.

6 Q. Okay, that well is not producing at this time?

7 A. I don't know if it's -- the status of it right
8 now.

9 EXAMINER CATANACH: Okay. I think that's all I
10 have of this witness. He may be excused.

11 MR. HALL: At this time we call Ralph Moore to
12 the witness stand.

13 RALPH P. MOORE, JR.,

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

16 DIRECT EXAMINATION

17 BY MR. HALL:

18 Q. For the record, please state your name, sir.

19 A. Ralph P. Moore, Jr.

20 Q. And Mr. Moore, where do you live, by whom are you
21 employed and in what capacity?

22 A. I live in Midland, Texas. I'm employed by
23 Mewbourne Oil Company as district exploration manager.

24 Q. And have you previously testified before the
25 Division and had your credentials accepted as a matter of

1 record?

2 A. Yes.

3 Q. You're familiar with the circumstances
4 surrounding Mewbourne's proposal to drill and operate the
5 Carlsbad "15" in Section 15?

6 A. Correct.

7 MR. HALL: Are the witness's credentials
8 acceptable?

9 EXAMINER CATANACH: They are.

10 Q. (By Mr. Hall) Mr. Moore, if you would refer to
11 Exhibit 1, in the chronology under Tab 3, you participated
12 in the March 13th, 1997, meeting with Devon in Oklahoma
13 City, did you not?

14 A. That's correct.

15 Q. Could you tell the Hearing Examiner what was the
16 purpose of that meeting?

17 A. Mewbourne's purpose in that meeting was to go up
18 and discuss the Ocotillo Hills well Number 1, as well as
19 see if we couldn't make a deal with Devon of some type to
20 expand a -- obtain an acreage position in a play that we
21 had been working on for some time.

22 So the purpose was twofold: to discuss the well
23 as well as the Strawn play.

24 Q. Was it apparent to you at the Oklahoma City
25 meeting that Devon had any ongoing plans for developing the

1 Strawn in the area?

2 A. They were unaware of the play.

3 Q. How did Mewbourne become aware of the play?

4 A. Our geologist had been developing it since
5 November.

6 Q. All right. And who did you meet with,
7 specifically? Did you meet with Ken Gray?

8 A. We met with Ken Gray, Wayne Roberts, Steve Cobb
9 and myself. One other party that was there was Steven
10 Blair, Devon's manager of outside operations. He engaged
11 in discussions, both in the meeting room and on the way to
12 a restaurant, in terms of our plans.

13 Q. What was your impression of Devon's development
14 out there? Would you characterize it as active
15 development?

16 A. Specifically for the Strawn, I would characterize
17 it -- and Morrow -- as inactive and not aware of the play.

18 My name has been mentioned a time or two earlier
19 here today. I -- we discussed -- The first question that
20 was asked by Mr. Gray was, What are you plans for the well,
21 Ocotillo Hills Number 1? And we said we were going to try
22 a Strawn completion.

23 And I continued that on a little further. Once
24 again, the manager of outside operations was there. His
25 name, again, was Steven Blair. I told them that we were --

1 interested -- or maybe Mr. Cobb did -- we were interested
2 in expanding and developing a new position in this play.
3 It's been brought out before, we had no position other than
4 the Ocotillo Hills Well Number 1. This was a play -- We
5 initiated it, or at least the idea. We saw the concept.

6 And we were ready to make some kind of a deal
7 with Devon, and I proposed some sort of interest area,
8 joint development, at the risk of -- We had no acreage
9 position, so we were a bit vulnerable.

10 They seemed interested in the idea. I not only
11 talked about the Yates well, but I talked about the Penwell
12 well to the south. And using a Devon land map, I believe,
13 I outlined where the fairway of the play was. Devon had no
14 knowledge of this play from the Yates well to the Penwell
15 well.

16 On the way to the restaurant, Mr. Blair and I
17 continued in discussions. Mr. Roberts, Wayne Roberts, was
18 in the area. I don't know whether he was listening at that
19 point on the way.

20 And I expressed my concern to Mr. Blair about
21 Mewbourne Oil Company's potential vulnerability in here,
22 about exposing a play that they had no -- that Devon had no
23 knowledge of. And we were very interested in working out
24 some kind of a deal. I was assured that, one, they weren't
25 going to sell any acreage because it was a core property in

1 the Delaware up shallower.

2 And Mr. Blair informed me that he would not
3 compete with us, Devon would not compete with us. And as
4 being manager of outside operations, I assumed he could
5 speak for them as a manager.

6 He said he also welcomed the idea of
7 knowledgeable independents bringing new ideas to Devon's
8 massive acreage position so these people could -- so Devon
9 as part of their strategy could not only develop their own
10 things, but their acreage position would allow them to do
11 and be involved with other things because of knowledgeable
12 independents coming in.

13 Operations of the property, of this play,
14 potential acreage, was never discussed. I just assumed,
15 since I was dealing with an outside operations manager and
16 he said he could speak for Devon, that some game rules had
17 already been established. One, it was our idea. And two,
18 they would not compete with us. And that's how we left it.

19 And that's all I have to say.

20 Q. All right. Did you take away from the Oklahoma
21 City meeting the assumption that had Mewbourne not
22 approached Devon, that it's likely the Strawn reserves
23 would have gone undeveloped?

24 A. Yes.

25 One other thing I want to expand on is that the

1 concept that was discussed with Mr. Blair was, we will not
2 compete with you for acreage. Go get the acreage, and then
3 let's come back and let's see where we go from here. And
4 once again, he was delighted that we had presented this
5 opportunity.

6 Q. Now, later in the sequence of events, it's
7 apparent to all that you couldn't obtain Devon's voluntary
8 participation in the well. And if you'll turn to Tab 12,
9 Exhibit 1, it's your letter dated August 21, 1997, is it
10 not?

11 A. Uh-huh. Yes.

12 Q. Why did you write that letter?

13 A. Steve Cobb's and Ken Gray's negotiations and
14 discussions didn't seem to be making any progress. As
15 exploration manager, the office -- At this point we had
16 already been informed earlier when Devon said -- Mr. Gray
17 said, that they would become a competitor. I made the
18 assumption that it was not being handled by Mr. Blair, but
19 I really didn't know.

20 So I called Wayne Roberts to try to open up
21 another line of discussion of where do we go from here? I
22 asked him -- I once again reminded him that I was district
23 exploration manager and would like to talk to somebody that
24 could help us as a group negotiate a deal.

25 And he informed me that he was the guy I needed

1 to speak with.

2 Q. All right. Did you ever get a response to your
3 August 21 letter?

4 A. No. And during the conversation Mr. Roberts was
5 very quiet.

6 Q. All right. Can you briefly tell the Examiner
7 about Mewbourne's other acreage holdings, Mewbourne's other
8 production in the area?

9 A. In the immediate area of this particular
10 township, to the best of my knowledge, we have no
11 production. We've been on new play, except for -- Well, we
12 had no production. Ocotillo Hills Number 1 was our only
13 position.

14 Q. All right. Outside of that immediate area, do
15 you have operations?

16 A. We do have a massive position in Eddy County, but
17 not in this particular township, to the best of my
18 knowledge.

19 Q. All right. When you say "massive", what do you
20 mean by that?

21 A. Well, Mewbourne operates hundreds of wells, most
22 of them Pennsylvanian-Morrow wells. Maybe "hundreds" is --
23 I'm not sure of exactly our number, but we have a sizeable
24 position. We have a full Hobbs, New Mexico, drilling
25 department, production department, whatever it takes to

1 develop the existing assets, as well as new assets.

2 MR. HALL: All right. That concludes my direct
3 of this witness. Pass the witness.

4 EXAMINER CATANACH: Mr. Kellahin?

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

6 CROSS-EXAMINATION

7 BY MR. KELLAHIN:

8 Q. Let me see if I understand this, Mr. Moore. You
9 go to Devon on March 13th, you tell them you have no
10 acreage position in the township, you have seen efforts by
11 Yates, and I think you mentioned a Pennzoil -- Was it
12 Pennzoil or Penwell?

13 A. Penwell.

14 Q. Penwell. Two points of information that made it
15 encouraging to explore the township for the deep gas,
16 right?

17 A. Right.

18 Q. At that meeting you did not provide them any of
19 the geologic or technical data that you were developing; is
20 that not true?

21 A. That's correct.

22 Q. All right. And Devon appeared to be interested,
23 but you had no acreage position in the township, right?

24 A. That's correct.

25 Q. All right. Am I correct in understanding that

1 you came away from that meeting with the impression that if
2 I get an acreage position for Mewbourne, then I can come
3 back to Devon and we can talk about some type of joint
4 venture? I believe that's about what you said.

5 A. Well, we already had the Ocotillo Hills Number 1
6 position.

7 Q. Yes, sir, apart from that.

8 A. And I believe they were a party to that well in
9 the additional acreage that was picked up. They
10 participated in that as well.

11 So conceptually, I had the impression from Mr.
12 Blair, was, we will not compete with you for acreage --
13 and, I'm assuming since I'm dealing with an outside-
14 operated manager -- or operations. Get as much acreage as
15 you can. Then you can tell us in detail what your specific
16 plans were. We will not compete with you.

17 Q. He said, we won't compete with you, get an
18 acreage position, and, I thought you told me, come back to
19 Devon and we'll talk about cooperative efforts to develop
20 the deep gas?

21 A. That's correct.

22 Q. Okay. And you never came back to them prior to
23 June 12th, when Mr. Cobb sent them this specific proposal
24 for a staked well in the southwest quarter of 15?

25 A. That's incorrect. We were advised by Mr. Gray

1 that they were becoming a competitor. There was no reason
2 to go back to them. They had already, in concept, violated
3 a potential deal. They were competitors.

4 Q. Where did you get that kind of information, Mr.
5 Moore? We didn't hear a word about it from Mr. Cobb.

6 A. I was advised by Mr. Cobb, through a conversation
7 with Mr. Gray, that that is what was said: We are becoming
8 a competitor.

9 Q. Were you here during Mr. Cobb's testimony?

10 A. Yes, I was.

11 Q. He didn't testify that way, did he? He never
12 said a word about that?

13 A. I guess he didn't recall that.

14 Q. Ah, but you did?

15 A. I recall him telling me.

16 Q. Okay. Are you aware of how you went about
17 acquiring the Carlow Corporation interest?

18 A. We purchased an interest, yes.

19 Q. Okay. Were you aware at the time that you
20 purchased the interest from Carlow that Carlow was in
21 negotiations with Devon to form a joint-venture arrangement
22 in Section 15?

23 A. Carlow approached us. I -- the only -- My
24 personal knowledge --

25 Q. Yes, sir.

1 A. -- is that the approached us about this acreage,
2 they came down -- Kip Agar and his geologist, Tom Smith,
3 came down and did a show-and-tell. I don't believe there
4 was any discussion with Devon in that meeting, and I wasn't
5 aware of it until subsequent.

6 Q. Okay.

7 A. I thought we were dealing with Carlow and they
8 had a position and were trying to sell it and --

9 Q. They did not disclose to you that they --
10 concurrently with negotiating with you, they were having
11 discussions with Devon?

12 A. I don't recall that being said.

13 Q. All right. Were you in any meetings with Richard
14 Coates, a landman --

15 A. I don't --

16 Q. -- that was associated --

17 A. I don't know --

18 Q. -- with that corporation?

19 A. I don't know Richard Coates.

20 Q. All right. Let me finish my question --

21 A. Sure.

22 Q. -- and I'll let you finish your answer.

23 Is it your company's practice to go out and stake
24 locations before you discuss with your working interest
25 owners in that spacing unit a consolidation for the

1 drilling of that well?

2 A. Our company's policy are to develop the assets
3 that we have in a prudent manner.

4 Q. All right. Did you hear my question?

5 A. Yes.

6 Q. Would you give me an answer to the question?

7 A. I did.

8 Q. That was not responsive, sir. Is it your
9 company's practice to go out and stake a well location in
10 the spacing unit before you talk to the working interest
11 owners in that spacing unit about that well?

12 A. If that's a secondary fallout, so be it. We were
13 just interested in developing the assets.

14 Bear in mind, if I might --

15 MR. KELLAHIN: All right, I've heard your answer.
16 I have no other questions.

17 THE WITNESS: Okay.

18 EXAMINER CATANACH: He's done. Are you --

19 MR. KELLAHIN: I'm done.

20 MR. HALL: Are you finished?

21 REDIRECT EXAMINATION

22 BY MR. HALL:

23 Q. Mr. Moore, is it your understanding all along
24 that Devon never had a problem with well location where he
25 staked it; is that right?

1 A. The well location has never been an issue with
2 either party.

3 Q. All right. So we put the sequence of events into
4 proper context, Mewbourne was actively considering the
5 Strawn play out there, early as when?

6 A. November, October of 1996.

7 Q. Okay. At what point did Mewbourne management
8 make the decision to commit company resources, company
9 assets, company time, to evaluating the Strawn out there
10 and going after it during production?

11 A. That would have been about November as well.

12 Q. All right.

13 A. I would have had to approve the development of
14 the play.

15 MR. HALL: All right. Nothing further of this
16 witness.

17 MR. KELLAHIN: Follow-up, Mr. Examiner.

18 RE CROSS-EXAMINATION

19 BY MR. KELLAHIN:

20 Q. I'm not sure of the chronology here, Mr. Moore.
21 Mewbourne has no interest in the area except the
22 acquisition of the northwest of 21, which occurred -- I've
23 lost track of the date. I think Mr. Cobb testified that it
24 was acquired February 1. Okay?

25 A. (Nods)

1 Q. Other than that, Mewbourne has no acreage
2 position, and you acquire an acreage position elsewhere in
3 the township from Carlow, right?

4 A. (Nods)

5 Q. When did Carlow show Mewbourne this play, or this
6 property?

7 A. Play is incorrect.

8 Q. Okay.

9 A. Specific acreage in a section, I don't recall the
10 exact date.

11 Q. Okay. Do you know why Carlow would have come to
12 Mewbourne if Mewbourne had no position in the township?

13 MR. HALL: I'll object to the question to the
14 extent it calls for speculation about another non-present
15 party's state of mind.

16 EXAMINER CATANACH: Do you have any knowledge of
17 that, Mr. --

18 THE WITNESS: Repeat the question, please.

19 Q. (By Mr. Kellahin) Yes, sir. I'm curious what
20 your understanding is. Mewbourne didn't go out and find
21 Carlow, right?

22 A. The discussions between Kip Agar -- And I
23 personally don't know how they found us.

24 Q. My understanding of your testimony was that
25 Carlow came to Mewbourne.

1 A. That's correct.

2 Q. Okay.

3 A. Kip Agar and Ken Waites, exploration manager for
4 the company, are acquaintances. I don't know whether this
5 came up through conversations through them.

6 Q. All right.

7 A. I was just advised that Carlow was coming down
8 and showing us a deal.

9 Q. All right, so you don't have any knowledge about
10 what triggered Carlow's seeking Mewbourne out?

11 A. I do not.

12 Q. But you do know that they sought you?

13 A. I think --

14 Q. You don't know that either?

15 A. I don't know that either.

16 MR. KELLAHIN: Okay. No further questions.

17 MR. HALL: Nothing further of this witness, Mr.

18 Examiner.

19 EXAMINER CATANACH: Pardon me?

20 MR. HALL: I have nothing further of Mr. Moore.

21 EXAMINATION

22 BY EXAMINER CATANACH:

23 Q. So, Mr. Moore, you don't know who approached who
24 with this deal?

25 A. The Carlow?

1 Q. Yes.

2 A. I do not.

3 Q. In your original meeting with Devon, did they, in
4 fact, state to you that they had no knowledge of the Strawn
5 play in this area?

6 A. Yes. And Mr. Examiner, my answer to that was
7 Strawn play, yes. Strawn production, I wouldn't know.

8 EXAMINER CATANACH: I have nothing further of
9 this witness.

10 MR. HALL: At this time, Mr. Examiner, we would
11 call Keith Williams to the stand.

12 KEITH WILLIAMS,
13 the witness herein, after having been first duly sworn upon
14 his oath, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. HALL:

17 Q. For the record, sir, please state your name.

18 A. Keith Williams.

19 Q. Mr. Williams, where do you live, by whom are you
20 employed, and in what capacity?

21 A. I'm a geologist for Mewbourne Oil in Midland,
22 Texas.

23 Q. And you've previously testified before the
24 Division and had your credentials accepted as a matter of
25 record?

1 A. Yes, I have.

2 Q. You're familiar with the geology surrounding the
3 Carlsbad "15"?

4 A. Yes, sir.

5 Q. And you've prepared a geologic study in
6 connection with the Carlsbad "15"?

7 A. I have.

8 MR. HALL: Mr. Examiner, we offer Mr. Williams as
9 a qualified geologic witness.

10 EXAMINER CATANACH: Mr. Williams is so qualified.

11 Q. (By Mr. Hall) If you would, please, Mr.
12 Williams, why don't you provide the Hearing Examiner with
13 an overview of the geology surrounding the well?

14 A. Okay. Well, on a regional study that I had been
15 doing of the -- kind of the whole area, tying in a bunch of
16 stray Mewbourne properties, in with this intervening
17 township, I mapped numerous zones in 21 South, 26 East.
18 And during the course of that study I came across a
19 production anomaly in a well drilled by Yates in 1983.
20 It's in the northeast quarter of the little production map
21 on the northwest corner of this exhibit.

22 Q. For the record, you're referring to Exhibit 2,
23 that's --

24 A. Yes, Exhibit 2, series of maps. The well in 11
25 is the Yates Petroleum Lake Shore "XH" Federal Number 1.

1 This map omits all the shallow wells. All these wells have
2 been drilled to the Morrow formation, approximately 11,000-
3 plus feet.

4 The majority of the development in this area was
5 in 1974-75. About ten years later Yates drilled the Lake
6 Shore Federal in Section 11. It produced pretty poorly at
7 first from the Morrow, from 1989 to mid-1990, made about 40
8 million cubic feet.

9 In 1991 to mid-1994 they recompleted that well to
10 the Atoka. It made about 50 million cubic feet.

11 And then in 1994 they completed it to a Strawn
12 sand interval, and since that time it's made about 2.1 BCF
13 and 85,000 barrels of oil, through March of 1997.

14 So the map to the right of that is a gross
15 isopach of this interval, with the Yates well -- the older
16 Yates well in Section 11, having 15 feet of gross sand in
17 that interval. There was an older well in Section 10 that
18 had that zone completed in it, that only made about 220
19 million cubic feet. It's no longer in that zone.

20 The production map shows also the interest
21 Mewbourne has acquired since this work was done, consisting
22 in varying interests in potential proration units in the
23 south half of 15, in the north half of 22, the well we have
24 been talking about in the west half of 21, and then the
25 east half of Section 20, along this same map trend.

1 By and large, very few wells have tested this
2 interval. It carries a fairly high degree of risk, even
3 though the Yates well has performed real well.

4 Exhibit 3 is a cross-section, four-well cross-
5 section, on the production map that has all the key wells
6 on it.

7 The well on the right-hand side is the Yates Lake
8 Shore Federal well. The perforations over the Strawn sand
9 interval are shown there right around 9800 feet.

10 The next well on the cross-section is the Devon-
11 operated State B0 Com well. It is completed in the upper
12 Pennsylvanian at the top of the cross-section. It is
13 dedicated to a north-half proration unit in that zone. It
14 was completed in 1973-74, as were most of the other wells
15 out there, and has cum'd about 1.3 BCF out of that
16 interval. It did not test the Strawn sand.

17 Coming farther to the left on the cross-section
18 is the Ocotillo Hills Number 2 well. I believe it is also
19 operated by Devon. It was a Morrow well and has produced
20 from the same Canyon interval as well.

21 The cross-section pretty much just shows kind of
22 a continuity of this sand across these four wells, you
23 know, in the middle of this mapped sand trend and shows
24 basically that the Yates well is the only one that has
25 tested it, and basically shows the Yates well has,

1 probably, a lot better reservoir characters, but without
2 tests it's difficult to say. There is a lot of risk
3 attendant with this type of reservoir.

4 The map immediately below the production map is a
5 gross Canyon zone. It shows the well in 15 that produced
6 out of it. It shows essentially two wells that have
7 produced out of it. Again, the well in the north half of
8 15 is dedicated to this proration unit.

9 Okay, the map below that is a Strawn -- just a
10 Strawn structure map, just basically shows southeast-to-
11 east dip in the area and three Strawn wells to date.

12 Exhibit 4 is a type log that just shows two
13 Morrow sands that I've chose to put on this Exhibit 2. The
14 second from the top on the right-hand side is a purple sand
15 isopach. It's a gross sand map. It shows the producers in
16 Section 16 and 21 and shows potential thicks in the north
17 half of 22 and the east half of 20 in that zone.

18 Then in the last map is a lower Morrow --
19 basically the bottommost sand in these wells, what we call
20 the brown sand. We show it more or less with an east-west
21 stripe. And it just had a show in the well in the north
22 half of 15, didn't produce out of it.

23 Q. Anything further you wish to add with respect to
24 the exhibits?

25 A. I think that about covers it.

1 Q. All right. Mr. Williams, will the relocation of
2 the well 200 feet to the east have any significant bearing
3 on the well's ability to produce recoverable reserves, or
4 encounter recoverable reserves?

5 A. We don't believe it will. There's no seismic or
6 anything that defines this location, so to the best of our
7 ability, no.

8 Q. All right. Tell us about the permeability and
9 the porosity of the Morrow throughout this region. Does it
10 tend to vary, or is it consistent?

11 A. The permeability and porosity in both the Strawn
12 sand, the Strawn carbonate and the Morrow clastic
13 reservoirs vary considerably. The production map pretty
14 well attests to the variability when -- The Yates well is a
15 perfect example. Up till 1994, it was pretty much a
16 commercial bust.

17 Q. All right. Is that the basis for Mewbourne's
18 recommendation that it receive the 200-percent risk penalty
19 assessment in this case?

20 A. Yes, it is.

21 Q. And in your view that 200-percent assessment is
22 appropriate?

23 A. Yes, sir.

24 Q. Is there a risk that the well will not be
25 completed as a commercially successful well?

1 A. Absolutely. Yes, the well in the north half of
2 15 wasn't, the well in the south half of 22 was not,
3 neither was the well in the south half of 10. So it
4 carries a fairly high degree of risk.

5 Q. Mr. Williams, in your opinion will granting
6 Mewbourne's Application be in the best interests of
7 conservation and the prevention of waste and protection of
8 correlative rights?

9 A. I believe it will.

10 Q. Let me ask you, Mr. Williams, till you started
11 your geologic evaluation of the area, there really was no
12 Strawn play out there; is that accurate to say?

13 A. That's right. And "play" is probably somewhat of
14 a misnomer. Most of these wells have been out here since
15 -- Well, since 1974. The Yates well, it's been out here
16 since 1983. So it's more just a map trend of mostly wells
17 that have intervals behind pipe that haven't been tested,
18 may not be productive.

19 Q. But nobody was actively drilling for the Strawn?

20 A. No, they weren't. That's why we were able to
21 pick up our interests in here.

22 Q. By the way, you mentioned the State BO Com,
23 operated by Devon. Do you know who drilled that well?

24 A. I believe it was Arco. It's on this cross-
25 section. Yes, it was drilled by Atlantic Richfield

1 originally.

2 Q. All right. Mr. Williams, were Exhibits 2, 3 and
3 4 prepared by you?

4 A. Yes, sir.

5 MR. HALL: At this time, Mr. Examiner, we'd move
6 the admission of Exhibits 2, 3 and 4.

7 That concludes our direct.

8 EXAMINER CATANACH: Exhibits 2, 3 and 4 will be
9 admitted as evidence.

10 Pass the witness, Mr. Kellahin.

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

12 CROSS-EXAMINATION

13 BY MR. KELLAHIN:

14 Q. Mr. Williams, let's look at Exhibit 2. It's this
15 montage of geologic displays. If you'll start with the
16 production map at the top, the only well on this map to
17 have -- Well, there's two wells, I guess, that have
18 produced out of the Strawn, the one in 23 and the one in
19 11?

20 A. 10, 11 and 23, yes, sir. It's on the structure
21 map.

22 Q. All right, that's the Strawn production in the
23 area.

24 The last Strawn production is the Yates well?
25 That's the newest --

1 A. Newest --

2 Q. -- Strawn production?

3 A. In this township it is, yes, sir.

4 Q. All right, the Section 11?

5 A. That I know of.

6 Q. And they've cum'd what? 2 BCF?

7 A. Yes, sir.

8 Q. And about 83,000 barrels of oil?

9 A. Yes, sir.

10 Q. What's the vintage of that completion in the
11 Strawn? Do you recall how old --

12 A. 1994.

13 Q. 1994?

14 A. (Nods)

15 Q. Yates has not chosen to try to offset that well,
16 has it?

17 A. Yes, it has. There's a location in the south
18 half of 11 and the east half of 10, currently.

19 Q. In 11 and 10?

20 A. On my exhibit, yes, sir, there's a --

21 Q. All right. They've not drilled either one of
22 those, have they?

23 A. Not that I know of. They are staked and --

24 Q. Okay. I guess I didn't make my question clear.
25 We don't have another well being drilled by Yates to offset.

1 their Strawn production in 11 at this point?

2 A. Well, Devon is drilling a well in 15.

3 Q. Yes, sir, that's not -- wasn't my question. The
4 question was, Yates has not chosen to offset its own well?

5 A. It has, but I believe from my study of the
6 regulations, like concerning the Avalon reservoir, they had
7 a lot of other probably regulatory hurdles to file.

8 Q. So the answer to my question is yes, isn't it?

9 A. The bet I know, it may be drilling right now. I
10 haven't been out there.

11 Q. All right.

12 A. But it's been filed for some time, as far as a
13 record with the OCD.

14 Q. The only drilling well at this point in this area
15 is Devon's well in the northwest of 15, which is a drilling
16 well? It's being drilled?

17 A. Yes, sir.

18 Q. All right. When we look at all these deep gas
19 possibilities, is it your opinion that the best prospect is
20 the Strawn?

21 A. It's one, yes, sir.

22 Q. Well, and it's the major one?

23 A. Yes, it's the reason why I picked this area, yes.

24 Q. All right. Let's look at the Strawn isopach up
25 in the northwest corner of the display. Are these gross

1 values contoured on here?

2 A. It's gross Strawn sand isopach.

3 Q. All right. We haven't used any cutoffs?

4 A. No, sir.

5 Q. When we look at the gross sand, do you have any
6 opinion as a geologist about what the gross sand thickness
7 has to be in order to give you an opportunity for
8 commercial Strawn gas production?

9 A. I think about 10 feet.

10 Q. Okay.

11 A. There are -- There's completions in this
12 township. The Yates well is not the only one. There about
13 four others off of this map in this township.

14 Q. General rule of thumb --

15 A. Eight --

16 Q. -- in this area --

17 A. Eight --

18 Q. -- would be ten feet? Eight to ten?

19 A. Eight to ten feet.

20 Q. Okay. The Yates well in 11 has got 15?

21 A. Yes, sir.

22 Q. That's by your count?

23 A. Yes, sir.

24 Q. When we look at Section 15 and the north half of
25 22 --

1 A. Yes, sir.

2 Q. -- it looks an opportunity here to test for
3 Strawn gas in that area, right?

4 A. Yes, sir.

5 Q. When we divide that section and the half section
6 below it into quarter sections, 160 acres, we're going to
7 get six of them, right?

8 A. Yes -- or -- The north half of 22 and the south
9 half of 15?

10 Q. No, the north half of 22 and all of 15.

11 A. Oh, yes, sir.

12 Q. You've got six quarter sections?

13 A. Yes.

14 Q. Based upon your interpretation, would you rank
15 those for me, those quarter sections, in terms of priority
16 and where you would put these wells? I want to understand
17 how to value your map, is what I'm asking you, Mr.
18 Williams.

19 A. Well, at this point I would say the ones in 15
20 are probably comparable. It's difficult to say. The best--
21 looking developed intervals are the Yates well and the well
22 in the northwest of 21, from my work.

23 Q. Okay. When we look at the northeast of 22, if I
24 read your map correctly, it looks like the worst quarter
25 section to try to put the well in at this point.

1 A. It may be.

2 Q. Based upon the current data, you would not put
3 the well in the northwest -- I'm sorry, the northeast of
4 22?

5 A. Topographically, I don't believe you could.

6 Q. Well, that's not my question, sir. It's
7 geologically, based upon this map --

8 A. Well, with --

9 Q. -- in the Strawn?

10 A. Right, with no additional wells, you wouldn't
11 drill a well in the northeast of 22.

12 Q. All right. When you compare the quarter sections
13 in Section 15, the southeast quarter of 15 would be your
14 last choice of those four quarter sections in 15; is that
15 not true?

16 A. Well, not necessarily. I mean, you could drill
17 farther -- You could probably drill just south of the old
18 well, just due east -- east of where you are, south of the
19 BO, which is in 15G.

20 Q. Okay.

21 A. I mean, you could drill a well in that quarter
22 section. As much as we know about it, both those are
23 comparable --

24 Q. All right. But the --

25 A. -- at this point.

1 Q. The criteria for selection is to maximize the
2 gross thickness in the Strawn sand; is that not true?

3 A. It is, but the well in 15 is an older well, and
4 it has a not real comparable set of logs to the Yates well
5 which is, you know, 20 years younger.

6 Q. The well in the northeast of 15 is of what
7 vintage, sir?

8 A. 1974.

9 Q. All right. The results of that well don't
10 discourage you from the opportunity for Strawn gas in that
11 section?

12 A. It wasn't tested. It doesn't look as -- you
13 know, as good. But like I said, it's on a poorer set of
14 logs, so --

15 Q. Okay. Your log value, then, is 18 feet of gross
16 thickness in the Strawn. How confident are you about the
17 18-foot calculation?

18 A. Less than I am on the 15 in the Yates well.

19 Q. All right.

20 A. But it's difficult -- It's a sonic log, and it's
21 difficult to say.

22 Q. Okay.

23 A. It's a radioactive sand, and you can't very well
24 draw a gamma-ray cutoff, so you basically just -- you
25 look --

1 Q. What -- Excuse me. Did you finish --

2 A. -- at the porosity cutoff on different types,
3 different vintages of logs.

4 Q. What's the purpose of the well location in the
5 northwest of 22?

6 A. Northwest of 22?

7 Q. Northwest quarter of 22? Is that a staked
8 location?

9 A. That -- I believe -- Yeah, I'm not real sure if
10 it's been staked or not. I think we've probably staked the
11 one in 20, we've staked the one in 15, 22 is likely staked
12 although I'm not positive.

13 Q. Have you developed a strategy or a plan in terms
14 of how to develop Section 15 in the north half of 22? How
15 would you go about doing it?

16 A. Well, we had planned to drill this well in 15
17 first. We plan to do a workover in 21, we plan to drill a
18 well in 15 and plan to drill a well in 20, and then 22 is
19 somewhere after that.

20 MR. KELLAHIN: Okay, thank you. I have no
21 further questions.

22 MR. HALL: Nothing further.

23 EXAMINATION

24 BY EXAMINER CATANACH:

25 Q. Is it my understanding that in the north half of

1 Section 15 Devon is currently drilling a well?

2 A. Yes, sir.

3 Q. And that's a -- Is that a Morrow test?

4 A. It's a Morrow-Strawn test. I'm...

5 Q. So there is some potential in the Morrow in this
6 area; is that --

7 A. I believe there is. What -- The Morrow here is
8 pretty well faulted, I believe, and you have a string of
9 pretty much Morrow dry holes, being Section 10, 15 and 22,
10 down through here, so it's potential but it's risked very
11 highly.

12 If you didn't have the Strawn you couldn't
13 justify drilling a Morrow test, I don't believe, in my
14 opinion. You have a lot of wet tests in there.

15 Q. Okay. How about the Penn or the Canyon?

16 A. The major risk in the Canyon is going to be
17 depletion from that old well, I believe. I think it will
18 be there, and it will likely be porous.

19 The well in -- The BO Com in 15G made about 1.3
20 BCF, but it's taken it, you know, 24 years or more to do
21 it.

22 The well in 21, on the east half of 21, only made
23 about 20 million cubic feet from that zone, so it would be
24 noncommercial.

25 Q. Mr. Williams, did you develop this prospect?

1 A. Yes, sir.

2 Q. What prompted you to look in this particular
3 township?

4 A. Well, I've worked -- It was just simply one I
5 hadn't worked.

6 I've worked, you know, all of them and just
7 basically looked for workovers and came across the Yates
8 well. It had been done in 1994, and I -- it took me to
9 1996 to find it. But it had been out there producing quite
10 a bit of gas.

11 Q. So --

12 A. There's no real secret or magic to it; it's just
13 mostly leg work and --

14 Q. Is it Mewbourne's practice to look at acreage --
15 I mean, to look at areas that they don't have acreage in?

16 A. Yes, sir.

17 Q. Is that the standard?

18 A. Yes, sir. My job is to pretty much -- revolves
19 around assets he doesn't already own, is to -- We've
20 nominated or purchased the rest of this through other
21 companies and/or state and federal sales.

22 EXAMINER CATANACH: Okay. I have nothing
23 further. This witness may be excused.

24 MR. HALL: At this time, Mr. Examiner, we would
25 call Ken Calvert to the stand.

1 KEN CALVERT,

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

4 DIRECT EXAMINATION

5 BY MR. HALL:

6 Q. For the record, please state your name, sir.

7 A. My name is K.M. Calvert, Ken.

8 Q. Mr. Calvert, where do you live, by whom are you
9 employed and in what capacity?

10 A. I live in Lindale, Texas. I work in the
11 Mewbourne home office in Tyler as engineering manager.

12 Q. And Mr. Calvert, you're a petroleum engineer by
13 trade, then?

14 A. Yes, I am.

15 Q. You've previously testified before the Division
16 and had your credentials accepted as a matter of record; is
17 that right?

18 A. I have.

19 Q. You're familiar with Mewbourne's Application in
20 this case and surrounding acreage?

21 A. Yes, I am.

22 MR. HALL: At this point we'd offer Mr. Calvert
23 as an expert petroleum engineer.

24 EXAMINER CATANACH: Mr. Calvert is so qualified.

25 Q. (By Mr. Hall) If you would, please, Mr. Calvert,

1 I'd like for you to provide Mr. Catanach with an overview
2 of Mewbourne's operations in the area.

3 A. Okay, is this big map listed as Exhibit 5?

4 Q. Yes, sir.

5 A. Is that what we're talking about?

6 Q. Yes. Why don't you refer to Exhibit 5?

7 A. Okay, this is approximately a three-by-five-
8 township map, and only -- If you don't mind, I'm going to
9 stand up so I can see it too, look over. And the only
10 thing that is shown on here is the Mewbourne acreage plus
11 wells that are of Pennsylvanian depth. We have other wells
12 in the area, but I think the crux of the matter here is the
13 operation of -- and drilling and completion and operation
14 of deeper wells, so the shallower wells have been left off
15 this map.

16 In the immediate area that we're talking about in
17 Township 21-26, the closest well that we've actually
18 drilled, you will see three wells to the north in 20-27,
19 and there is one well to the southeast. It would be our
20 Federal "N" well, and that's in 22 of 26.

21 Our -- Currently developing is what we call
22 Burton Flat, and that would be -- Oh, let's look at Section
23 5, 6 -- or not 6, we don't have acreage there, but 5, 7 and
24 8 of 20-28, and we have just finished drilling two wells
25 there and development drilling there this year.

1 The other -- There's one other area of large
2 development that is still going on, and it's on up to the
3 north part of the map. That would be in 18-27, 18-28, and
4 that's an area that we call our Chalk Bluff area and
5 Illinois Camp. We've got some other acreage to drill in
6 there this year.

7 But that -- we have -- Well, since about 1990 I
8 believe we've drilled 34 Morrow wells in this area and 20
9 in about the last five years. So we're very familiar with
10 drilling and operating in this area.

11 Q. So if I understand you correctly, so you have a
12 total of 20 -- or 52 formation -- Morrow formation wells?

13 A. No, no. The 34 was on this map in total.

14 Q. I see.

15 A. Twenty in the last -- Well, the 34 is probably in
16 the last, oh, probably -- since about 1988. The last 20
17 are since 1992, about four five wells a year.

18 Q. All right. Now, with respect to the Carlsbad
19 "15" Com well, when did Mewbourne make the management
20 decision to commit its resources, its capital, to
21 developing the Strawn play there?

22 A. You mean as far as committing personnel to it
23 or --

24 Q. Yes, sir.

25 A. -- dollars to it?

1 Q. Personnel, company resources.

2 A. Okay, personnel, late 1996.

3 Q. All right. Now, with respect specifically to the
4 drilling of the Carlsbad "15", when did Mewbourne make the
5 decision to commit capital to that?

6 A. In the range of May to June of this year.

7 Q. All right. Sometime prior to the preparation of
8 your AFE then?

9 A. Yes.

10 Q. And does Mewbourne have an approved APD from the
11 BLM for the well?

12 A. Yes, we do.

13 Q. Do you have -- Refer to Tab 17, Exhibit 1.

14 A. Okay.

15 Q. Is that your APD?

16 A. Yes, it is.

17 Q. And when was that date?

18 A. It was dated to be sent out June the 17th, 1997.
19 It was received by the BLM June 18th and approved on July
20 18th.

21 Q. Now, what about rig availability? Does Mewbourne
22 have a rig available to drill this particular section?

23 A. Yes. The rig that will be -- that is available,
24 is currently drilling. And we've been on that well about
25 10 days. So on the order of 15 to 20 days, that rig will

1 be available.

2 Q. All right.

3 A. Plus we have two other rigs coming.

4 Q. Rig availability is not a problem with respect to
5 this well?

6 A. No. The current drilling rig could go
7 immediately to this well.

8 Q. All right. What else has Mewbourne done to
9 prosecute drilling and development of the Strawn in the
10 area?

11 A. Well, it -- I will be just reiterating what
12 others have said, but we have the Ocotillo Hills well that
13 Devon has, to my knowledge, a 50-percent interest in, that
14 there's a JOA being prepared at this time, that will be --
15 or an attempted recompletion will be made to the Strawn.
16 And then we have Avalon Hills State "20" Number 1 that, as
17 I understand, is a 100-percent Mewbourne well, that's on
18 schedule to be drilled, plus the other acreage that we have
19 purchased.

20 Q. All right. And what first triggered Mewbourne's
21 interest in developing the Strawn out here at all?

22 A. The Yates Lake Shore Federal well.

23 Q. All right. Do you know what it's produced to
24 date?

25 A. To my knowledge, it's produced about 2 BCF and

1 over 80,000 barrels of condensate.

2 Q. All right. Mr. Calvert, in your opinion has
3 Mewbourne developed a particular expertise and a good
4 reputation in the drilling and completion of these deep
5 Penn formation wells in the area?

6 A. Well, we've been quite successful. We've made
7 some good wells. And developmental -- You know, we proceed
8 through making discoveries and consistent development of
9 it, so we've made some good wells and have very little
10 trouble in doing so.

11 Q. Now, if you know, does Devon have a reputation
12 for drilling and operating deep Penn formation wells in
13 southeast New Mexico?

14 A. Not to my knowledge. I have researched the
15 *Dwight's* data, and I found one well that it appeared that
16 they had probably drilled, plus the one that's drilling
17 right now.

18 Q. All right.

19 A. And I don't know -- They've had the acreage
20 position in the area probably six years or so.

21 Q. The *Dwight's* data you looked at covered what
22 area? Was that Eddy County?

23 A. Yes.

24 Q. Is the availability of a saltwater disposal
25 facility of any particular significance here?

1 A. No.

2 Q. Why not?

3 A. Well, typically the Morrow and Strawn wells, the
4 ones that we operate and have direct experience with, make
5 very little to no water.

6 Q. All right. Now, how about surface facilities?
7 In particular, lease roads, roads to the drill site. Can
8 you tell the Examiner what the situation is there with
9 respect to topography and terrain?

10 A. Well, the topography is not necessarily rough
11 like a lot of southeast New Mexico is. It appears that
12 from the -- if you look through and, oh, I believe, get
13 back to -- In you guys' last two pages --

14 Q. You're referring to --

15 A. -- pages in Tab 17, we filed a sundry notice
16 changing our proposed access road. We found that after we
17 did further look, it would be a little easier to come in
18 from Highway 285, use an existing lease road, and we would
19 end up building about a half mile of lease road.

20 Q. All right. Now, Devon has their well going in
21 the north half of 15. Are they any closer to the location
22 than you would be?

23 A. Well, not a whole lot. And I just have to assume
24 that they would build a lease road from their well down to
25 the proposed location. I don't -- They would have about a

1 half mile of road to build also.

2 Q. All right.

3 A. We would build it from one direction, they would
4 build it from another direction, or I assume that they
5 would.

6 Q. If you would, Mr. Calvert, let's turn to
7 Mewbourne's AFE, which is under Tab 4 of Exhibit 1. Would
8 you take that in front of you, please, sir?

9 A. Okay.

10 Q. Let's review those figures for the Hearing
11 Examiner, if you would. What's the total for a completed
12 well?

13 A. \$690,000.

14 Q. And are the costs that are reflected on the AFE
15 in line with what's being charged by other operators and
16 Mewbourne for similar wells in the area?

17 A. It's definitely in line with what it costs us to
18 drill those wells, and I don't have that much familiarity
19 with what other people are charging, not knowing exactly
20 what you mean by "charging". But billed-out cost.

21 Q. All right. And I believe you've testified
22 Mewbourne has had substantial experience in drilling other
23 Morrow wells in the area?

24 A. Yes, sir.

25 Q. Have you made an estimate of the overhead and

1 administrative costs while drilling and producing the well?

2 A. Yes, sir.

3 Q. And what are those rates?

4 A. The drilling rate overhead is estimated to be
5 \$6000, and the producing well overhead would be \$600 per
6 month, after completion.

7 Q. All right. Have you compared those rates to the
8 Ernst and Young publications for overhead rates?

9 A. Yes, I have.

10 Q. And do they appear to be in line with what's
11 being charged?

12 A. They appear to be in line, and also in line with
13 current going rates of JOAs.

14 Q. All right. Is Mewbourne asking that those rates
15 be incorporated into any order that results from this
16 hearing?

17 A. Yes.

18 Q. Let's compare Devon's AFE, if you would, please,
19 sir. Look under Tab 16, Exhibit 1. And first of all, do
20 you have that in front of you?

21 A. Yes, I do.

22 Q. All right. What is their total completed well
23 cost?

24 A. Their total completed well cost is \$721,000.

25 Q. All right, somewhat higher than yours, then?

1 A. Yes.

2 Q. Somewhat higher than Mewbourne's?

3 A. That would be \$31,000, AFE to AFE.

4 Q. All right. Let's quickly review some of the line
5 items on the Devon AFE. Is there anything about those that
6 you wish to comment on?

7 A. Well, there are some obvious differences that I
8 see. One is in the production casing. Our total is
9 \$73,000, Devon's is \$55,000. And that's just purchase of
10 hard goods. So they're -- In purchasing the hard goods,
11 you know, if our casing was down at \$55,000, then we'd be
12 under our AFE by another \$20,000, so -- \$18,000 or so.

13 As I understand their -- And I have not seen it,
14 but as I understand an APD that they apparently have,
15 they're also showing the use of 5 1/2 casing.

16 So I'm sort of wondering why there would be that
17 much differences, if they're actually going to be using
18 5 1/2 casing, in that you're just buying pounds of steel.
19 And say if you was going to run 11.6-pound, 4 1/2, as
20 opposed to 15.5-, 17-pound, 5 1/2, the ratio of the
21 difference about fits. So I question exactly what's going
22 on there.

23 Another item that -- They have an area of their
24 AFE that I'm not sure what they've used it for, but they
25 have an environmental and safety that is numbered 551 to

1 559, almost to the bottom of the page, and there are no
2 values in there. And if they're not entered someplace
3 else, there will be some other cost as to H₂S requirements
4 on location by the BLM and the pit volume totalizer, to
5 keep up with the pit volume gains and losses to know if
6 you're getting a kick or if the wellbore is taking fluid
7 somewhere. So that's one item.

8 Another item, I notice that they have \$280,000 on
9 a -- I assume it's a footage bid. And ours is \$280,000.
10 But I also notice, down, item number 269, they also have
11 consultants at \$18,600. They're apparently on location at
12 that time, and I would assume that either under a footage
13 or a turnkey contract, that the drilling service contractor
14 would be providing the most of that supervision, and that
15 would appear to be a full-time consultant at about \$500
16 bucks a day for a 40-day well, out from under surface.

17 Q. Does that tell you that Devon doesn't have any
18 staff to do supervision there?

19 A. Oh, I don't know that. I'm just reading that
20 they've got a contract supervisor on location here.

21 Q. I see. Does Devon reflect any budget for well
22 control insurance?

23 A. I didn't find one. Devon may be self-insured as
24 to their interest. If they are self-insured to their
25 interest, then we would have to pick up additional moneys

1 on our own to pay for our own well insurance that would
2 make their -- in effect, make their AFE to us higher,
3 because we're picking up cost outside of their billing,
4 Devon's billing.

5 Q. All right. Based on your experience in drilling
6 in Eddy County, is that a concern to Mewbourne, that you're
7 possibly going to have some difficulties?

8 A. We carry full wellbore insurance on all of our
9 wells, and the problems that are encountered in this
10 particular area, I would think that it would be appropriate
11 to have wellbore insurance.

12 Q. All right. Did you have an opportunity to
13 compare the Devon AFE and the Mewbourne AFE side by side?

14 A. Yes, I did.

15 Q. Did you see any similarities?

16 A. There's quite a few similarities. It would
17 appear that -- well, there are just a lot of -- There are
18 costs on the AFE that was prepared after our AFE that are
19 identical to ours.

20 Q. So would it be safe to assume that Devon simply
21 reacted once it received Mewbourne's AFE and constructed
22 its own AFE?

23 MR. KELLAHIN: He can't ask that kind of
24 question.

25 MR. HALL: I'll withdraw the question.

1 MR. KELLAHIN: It's argumentative.

2 Q. (By Mr. Hall) Mr. Calvert, is there a risk that
3 this well may not be completed as a commercially successful
4 well?

5 A. Yes, it is. There are risks in that this is a
6 stratigraphic play that -- or a stratigraphic prospect that
7 has been attested to by the -- by Mr. Williams. And even
8 though the sand may be there, the quality of the porosity
9 and permeability are subjective. And so even though that
10 you hit the sand and it looks good on the log, the quality
11 of the well and whether or not it's a commercial producer
12 or not is still suspect.

13 Other items that come up on drilling of this type
14 well, especially in this are -- There are two things that
15 can happen to you in this area.

16 One is a waterflow. They're very difficult to
17 control, and you have to move a lot of water and haul it
18 off the location to a disposal well as you're drilling.
19 That would occur, probably, above 4000 feet. That really
20 doesn't have anything to do with the bottom of the hole,
21 but it's just something that you have to contend with. And
22 if that might happen because you'd lose the hole, then
23 you've lost the hole.

24 Then the other item is, directly opposed to a
25 waterflow is lost circulation. And there's actually

1 caverns that you can get into, fractured limestone, various
2 things. And I don't know that we always know what it is
3 that bites us, but there are opportunities to be bit in the
4 area.

5 Q. All right. In your opinion, is the recommended
6 200-percent risk penalty assessment appropriate for this
7 well?

8 A. I do.

9 Q. And, Mr. Calvert, in your opinion, will granting
10 Mewbourne's Application be in the best interests of
11 conservation, the prevention of waste, and the protection
12 of correlative rights?

13 A. Yes.

14 Q. And further, Mr. Calvert, in your opinion do you
15 believe that Mewbourne has acted with all due diligence in
16 obtaining voluntary participation of Devon and otherwise
17 prosecuting the drilling of the well here?

18 MR. KELLAHIN: I'm going to object to the
19 question. This witness is not qualified to testify about
20 negotiating efforts with Devon, and that was part of the
21 question.

22 MR. HALL: Well, I think he can testify about due
23 diligence in prosecuting drilling, if he can be allowed to
24 answer that.

25 EXAMINER CATANACH: I think he -- Yeah.

1 THE WITNESS: Yes, I do, I can attest to the fact
2 that we have been monetarily and having the well on the
3 drilling schedule, oh, since right about the time we filed
4 the APD.

5 And then I'm also personally responsible for
6 making a survey of all the pipelines in the area so that we
7 know that we have a place to go with the gas when -- if and
8 when a well is drilled.

9 And we do that also, along at the same time AFEs
10 and permits are going to be filed, in that we certainly
11 wouldn't want to drill a well in an area that it would be
12 cost-prohibitive to lay a line to it. Now, this is not one
13 of them, but we go through the same procedure in every well
14 we drill.

15 Q. (By Mr. Hall) All right. So in your opinion,
16 Mewbourne -- has Mewbourne taken all the necessary steps to
17 drill this well in a timely fashion?

18 A. From a production and drilling operations, yes.

19 Q. All right. Mr. Calvert, did you -- Was Exhibit 5
20 prepared by you or at your direction?

21 A. Yes, it was.

22 MR. HALL: We'd move the admission of Exhibit 5.

23 That concludes our direct of this witness.

24 EXAMINER CATANACH: Exhibit Number 5 will be
25 admitted as evidence.

1 Mr. Kellahin?

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

3 CROSS-EXAMINATION

4 BY MR. KELLAHIN:

5 Q. Mr. Calvert, you did not prepare the Mewbourne
6 AFE, did you?

7 A. No, I did not. Mr. Eric Hoover did.

8 Q. And he prepared this about -- It says June 10th,
9 1997?

10 A. Yes.

11 Q. Did he prepare the Mewbourne AFE before you had
12 to re-evaluate the road-construction plats that were filed
13 with the BLM?

14 A. Did he -- I didn't understand.

15 Q. You described earlier a sundry notice that had
16 been filed to change the routing of the road to the well
17 site.

18 A. Yes, okay, now --

19 Q. That was done after he did the AFE, right?

20 A. That's right. That was done as a result of
21 spending more time in the field and also determining that
22 part of the road that was originally indicated to be used,
23 we found out that it was on top of a pipeline right of way,
24 and we did not want to use that part of the road -- or the
25 existing pipeline right of way, as others were doing, for

1 our right of way to the well.

2 Q. Okay, let me make sure I understand. Mewbourne
3 proposes the specific location to Devon on June 12th, and
4 they file the APD, or at least the engineering fellow for
5 you signs it on June 17th.

6 A. Okay.

7 Q. At that time you hadn't done any field site work
8 out in the southwest quarter to see if you could physically
9 stake it at the location you had requested the permit for?

10 A. Well, at the time that the well was staked --

11 Q. Yes.

12 A. -- the -- then the BLM requested that we move it
13 200 feet.

14 Q. Yes, sir, and --

15 A. There is a waterway -- Even though a topographic
16 map won't show a big dip in there, there is a slight
17 waterway that they say is a -- in flood stage is a large
18 drainage area that they wanted to stay out of.

19 Q. Yeah, you --

20 A. But -- and they --

21 Q. Mr. Calvert, you're not answering my question,
22 sir.

23 A. Okay.

24 Q. The question was --

25 MR. HALL: Let him finish. Were you finished?

1 MR. KELLAHIN: It's nonresponsive to the
2 question. Let me ask you the question.

3 THE WITNESS: Well, I was fixing to answer it.
4 Then, basically, the right of way was approached, or the
5 road to it, was approached from other lease roads. And
6 then subsequent to that, we determined that we could build
7 a road in cheaper from the other direction. But we did not
8 change the AFE. The AFE could potentially be a little bit
9 less on the location and roads.

10 Q. (By Mr. Kellahin) My question, sir, was that on
11 June 17th the APD was filed at a particular location. It
12 was 1980 from the south, 1650 from the west. That request
13 was made prior to the time Mewbourne went out and had the
14 site inspection with the Bureau of Land Management.

15 A. I can't answer that specifically in that Mr.
16 Hoover is the district manager in the Hobbs office and he
17 is the one that personally did it. And the day that he did
18 it on and who he met and when he met with the BLM, I cannot
19 answer that question.

20 Q. If he had met with them before he requested this
21 location, he could have filed for the location they finally
22 made him permit this well for --

23 MR. HALL: Objection, calls for speculation.

24 Q. (By Mr. Kellahin) -- right?

25 EXAMINER CATANACH: I'll allow that.

1 Q. (By Mr. Kellahin) What explains the fact that he
2 had to move the location?

3 A. The BLM requested him to move it.

4 Q. What explains the fact that he did not know that
5 at the time that he filed the APD for a different location?

6 A. I don't know the dates that you're asking for.

7 Q. The water flow that you described as one of the
8 potential problems, that waterflow problem is going to
9 occur regardless of who operates, right?

10 A. Sure. Yeah. Yeah, yeah.

11 Q. It's an inherent risk?

12 A. True. What I was getting at was that that is
13 part of the risk, and the reason that you need the wellbore
14 insurance.

15 Q. I understand. What do you do if you have a
16 waterflow with the water being flowed?

17 A. We --

18 Q. Does it come to the surface?

19 A. What?

20 Q. Does the water come to the surface?

21 A. Yes, sir, it certainly does.

22 Q. And you've got to do something with it, don't
23 you?

24 A. Yes, sir. We -- the last well -- and I've
25 forgotten which exact well it was, but it wasn't in the

1 group of wells that you see here. I believe it was on
2 the -- what we call a Santo Niño area. We had some 30
3 trucks running 24 hours a day hauling water.

4 Q. How much volume of water is that, Mr. Calvert?

5 A. Several thousand barrels a day. Each truck --
6 Each truck holds 180 barrels. We had 30 running, and just
7 as soon as they would dump it, we would come right -- go
8 right back.

9 Q. Are flows in that range within the range of
10 expectation for a well such as this well?

11 A. Certainly.

12 Q. And if you had a disposal well in the near
13 vicinity to put that water into, wouldn't that be helpful?

14 A. It would have to be an awfully good disposal
15 well.

16 Q. The other issue you described was lost
17 circulation?

18 A. Yes.

19 Q. Okay. And that is an occurrence that could
20 happen regardless of who is named operator, right?

21 A. Sure, sure, yeah.

22 Q. Can you approximate for us what the magnitude of
23 cost impact would be for either of those occurrences?

24 A. Let me think a minute. On that particular
25 waterflow, it was on the order of probably \$15,000 to

1 \$20,000 a day.

2 Q. A day?

3 A. A day.

4 Q. What kind of financial consequences are
5 associated with lost circulation?

6 A. Well, the -- One is the ceasing of drilling until
7 you get it under control, or going ahead and dry-drilling.
8 That's the two options that you have.

9 If you cease drilling, obviously you're back on
10 day work if you're on a footage contract, and the cost of
11 the hole is going up. Then whatever it takes as far as
12 possibly cementing the bottom of the hole off, re-drilling
13 it, various lost circulation materials that might be
14 attempted with the mud system. And usually those occur not
15 as a result of drilling a deep well but up in the surface
16 pipe area, the shallow areas. And so there's various ways
17 to control it. Sometimes you have to set an extra string
18 of pipe.

19 Q. Are the risks and expertise necessary and
20 associated with the drilling of wells like this unique unto
21 Mewbourne?

22 A. No, no.

23 Q. You use the same kind of strategies and
24 techniques that are commonly utilized in the industry for
25 the drilling activities of deep gas wells?

1 A. Well, let me say this about that. I know our --
2 the people that we will have on there will be
3 experienced --

4 Q. I don't question that, sir.

5 A. -- and will know how to handle those particular
6 items.

7 Q. Those people are not unique to your company,
8 though?

9 A. They're not unique to our company, no, they are
10 not.

11 Q. With regards to the completion process, were you
12 involved in designing the completion program for the well?

13 A. Yes, I am.

14 Q. For this well?

15 A. Yes.

16 Q. What's the completion program, in a few
17 sentences?

18 A. Well, you will note on the APD that we were
19 setting 5 1/2 casing. We will perforate the Strawn, more
20 than likely, if one of the lower zones are not productive,
21 break it down with acid and, depending on the type of sand
22 quality, whether the Strawn has to be just broken down with
23 acid breakdown or further stimulation.

24 Q. Is it typical for a well like this to run any
25 kind of tests on it?

1 A. Drill stem tests?

2 Q. Yeah, right. Do you do any of that?

3 A. We do have -- We do drill stem test wells.

4 Q. Would that be a common occurrence for deep gas
5 wells like this?

6 A. It depends on -- We have a well-site geologist,
7 and we will have a mudlogger, and we will -- that will help
8 to determine whether or not you need to run a drill stem
9 test or you drill through it.

10 Q. Have you provided for those cost components in
11 your AFE?

12 A. For a drill stem test?

13 Q. Yes, sir.

14 A. I don't believe so, no.

15 Q. Okay. When we talk about the risks associated
16 with a well like this, what -- In drilling ten wells, how
17 many of these would produce commercial strawn gas?

18 A. I can't answer that.

19 Q. All right. In terms of associating risks in this
20 area, can we figure out what the odds are?

21 A. The better person to have questioned that was the
22 geologist.

23 Q. It's a geologic risk?

24 A. I would say it is, yes.

25 Q. So the location of the well, based upon geology,

1 is what diminishes or increases the risk of these wells?

2 A. To a great extent, yes.

3 MR. KELLAHIN: No further questions.

4 MR. HALL: Nothing further of this witness.

5 EXAMINER CATANACH: Just a couple.

6 THE WITNESS: Yes, sir.

7 EXAMINATION

8 BY EXAMINER CATANACH:

9 Q. In the event you guys do encounter the waterflow
10 that you've talked about --

11 A. Yes, sir.

12 Q. -- what does Mewbourne plan to do with that
13 water? Is there someplace you can take that water?

14 A. There are -- To the specific saltwater disposal
15 well in this area, I can't tell you which one it is. But
16 we -- Whenever that does occur, we take it to a commercial
17 disposal well.

18 Q. Do you know what the closest well might be?

19 A. No, sir, I do not.

20 Q. But you've got some plans for where you would
21 take it in case that happens? I mean --

22 A. Well, we know where two wells are that we have
23 used in the Santo Niño problem that I've talked about --

24 Q. Okay.

25 A. -- which is not -- Santo Niño probably is -- It's

1 not on this map, but the wells that we would have drilled
2 in there are on the highway between probably two-thirds to
3 three-quarters of a mile -- of the way between Hobbs and
4 Carlsbad. So those wells are -- Those wells would probably
5 be in close enough proximity to use those.

6 EXAMINER CATANACH: I have nothing further of
7 this witness.

8 MR. HALL: Nothing further, Mr. Examiner.

9 Let me also offer into evidence our Exhibit 6 in
10 your packet. It's our Rule 1207 affidavit.

11 And I also have another matter. I'd like the
12 Hearing Examiner take administrative notice of certain
13 C-103s and sundry notice forms filed with the OCD.

14 We conducted a search of the Division's active
15 drilling well files, only for this township, to see exactly
16 what Devon's experience in this township was.

17 And as you'll see, all we could come up with was
18 a C-103 for the Cactus State 10 in Section 16, received an
19 APD, and May 26th of 1995 there's a subsequent request for
20 an extension of that. No other evidence that the drilling
21 started at that well.

22 Similarly, the Cactus "9L" State Number 1 in
23 Section 9, similar circumstance. APD was approved in
24 September of 1995, no drilling was done, extension
25 requested, no other evidence that the well was drilled.

1 Likewise for the Cactus "90" Fed Number 1 in
2 Section 9. APD issued March of 1996. That date expired,
3 an extension was requested. Again, I have no other
4 evidence that that well was staked.

5 There is a C-103 for the Cactus 12 in Section 16.
6 It was drilled and it was D-and-A'd in May of 1996.

7 And that's, from our search, anyway, all the
8 active Devon drilling well files for this township.

9 And again, we ask the Examiner to take
10 administrative notice of that in this case. In a
11 circumstance such as this where circumstances are so close
12 and equal, I think this has a bearing on the willingness of
13 an operator's prosecution of drilling activities in the
14 area, and the matter is a matter to be taken into
15 consideration.

16 MR. KELLAHIN: Mr. Examiner, I object to Mr.
17 Hall's argumentative, editorial comments with regards to
18 his exhibit. He needs to go back and do his homework.
19 He's missed the Devon drilling well in the northwest
20 quarter of this very section. I doubt the thoroughness and
21 the reliability of this.

22 But separate and apart from that, I don't think
23 it's relevant, helpful or useful, and we object to it.

24 EXAMINER CATANACH: Mr. Kellahin, I think I'm
25 going to let it in, only -- if I do think I need this

1 information, I can supplement this with my own search of
2 Division records if, in fact, this comes into play at all.

3 MR. KELLAHIN: Yes, sir. Thank you.

4 MR. HALL: That concludes our direct case, Mr.
5 Catanach.

6 EXAMINER CATANACH: Okay. I would suggest that
7 we press on after a short break.

8 (Thereupon, a recess was taken at 12:22 p.m.)

9 (The following proceedings had at 12:44 p.m.)

10 EXAMINER CATANACH: Let's go, Mr. Kellahin.

11 MR. KELLAHIN: Mr. Examiner, my first witness is
12 Mr. Ken Gray. Mr. Gray is a landman with Devon Energy
13 Corporation.

14 KEN GRAY,

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

17 DIRECT EXAMINATION

18 BY MR. KELLAHIN:

19 Q. For the record, sir, would you please state your
20 name and occupation?

21 A. Yes, my name is Ken Gray and I'm the district
22 landman for Devon Energy Corporation.

23 Q. On prior occasions have you testified before the
24 Division in that capacity of landman?

25 A. Yes, I have.

1 Q. And have you been the principal landman involved
2 in negotiations and discussions with Mewbourne concerning
3 this well proposal?

4 A. Yes, I have.

5 Q. As part of your general duties, is this an area
6 that you have had your technical people prepare a map to
7 show the distribution of interest within the township?

8 A. Yes, I have.

9 Q. And have you reviewed that information and
10 satisfied yourself it's correct?

11 A. Yes.

12 Q. Have you, on behalf of Devon, ever participated
13 in a compulsory pooling application hearing before this
14 Division?

15 A. No.

16 MR. KELLAHIN: We tender Mr. Gray as an expert
17 landman.

18 EXAMINER CATANACH: Mr. Gray is so qualified.

19 Q. (By Mr. Kellahin) Let me have you take a few
20 minutes, Mr. Gray, and let's look at the map. It's marked
21 as Devon Exhibit 1. Explain to us the significance of the
22 color code.

23 A. I don't know that our color-coding is unlike
24 other companies'.

25 The yellow on the map represents Devon leasehold,

1 where we own 100 percent of the working interest from
2 surface on down.

3 The red indicates that Devon owns something less
4 than 100 percent. We could own 100-percent working
5 interest, but only as to a certain depth, or we could own
6 50-percent working interest or some other percentage as to
7 certain depths. The red just represents that we don't own
8 everything.

9 And the brown indicates some small mineral
10 interests that we have.

11 And the green -- I believe the green, although
12 it's not on here, represents an overriding royalty
13 interest.

14 The blue is the Mewbourne acreage, as I
15 understand their acreage position.

16 Q. To the best of your knowledge, as of July 30th
17 when the competing pooling applications were filed before
18 this Division, would this map reflect that distribution of
19 ownership in the township?

20 A. Yes, to my knowledge.

21 Q. Prior to that date there was a different
22 configuration of ownership in the township; is that not
23 true?

24 A. Yes.

25 Q. What is the well symbols on here, and what do

1 they represent? All wells at all depths, to the best of
2 your knowledge, or --

3 A. Are you talking about the gas well symbols,
4 the --

5 Q. The gas and the oil well symbols on the display.

6 A. I'm sorry, I don't --

7 Q. Okay. The map has some gas well symbols, oil
8 well symbols.

9 A. Uh-huh.

10 Q. Are they unique to a particular reservoir, or are
11 they indicative of simply a wellbore, regardless of depth?

12 A. No, the black dots represent Delaware wells,
13 shallow Delaware wells, which we have drilled since about
14 1993. And the gas wells are in a -- I believe it's the
15 Avalon-Morrow Gas Pool.

16 Q. Let's set that locator map aside for a moment,
17 and we can use it as a reference point. I would like to
18 have you identify what is marked as Devon Exhibit 2.

19 A. Uh-huh.

20 Q. What is that, sir?

21 A. The front page of this Exhibit 2 is a chronology
22 of the significant phone conversations, correspondence with
23 Steve Cobb and/or Ralph Moore at Mewbourne, and the
24 appropriate backup, the letters themselves.

25 Q. Did you prepare this chronology?

1 A. Yes, I did.

2 Q. Was it based upon your best recollection of these
3 various items?

4 A. Yes, it is.

5 Q. And did you go back through your notes and
6 whatever correspondence to help you tabulate this
7 chronology?

8 A. Yes, sir, I did.

9 Q. Let's start in September of 1996 at the beginning
10 point of the chronology, and ask you to describe what
11 occurred on that date or during that period of time that's
12 relative to activity in the deep gas intervals in this
13 township.

14 A. In September -- and I'm not quite sure what date
15 it -- exact date -- I got a telephone call from an
16 independent landman in Midland named Richard Coates. He
17 was inquiring as to our acreage, and I believe he was
18 inquiring specifically as to Sections 10, 15 and 22.

19 I get those calls every day about, you know,
20 we've got an idea, what do you all typically do? And my
21 answer is just the same every time. You know, at that
22 point in time we did not have a prospect, a deep prospect
23 on our acreage. And I said, If you have some acreage that
24 involves our acreage, you know, we're willing to drill
25 wells, we want to drill wells. Most people want to farm

1 out or they want to buy our acreage. And we're not in the
2 business to farm out unless we deem it, you know,
3 justified, or to sell our acreage.

4 That was really the last I'd heard of him
5 until -- or heard from him, until the March 13th meeting,
6 which is listed on the -- I'm sorry, the April 23rd
7 meeting, which is listed on the chronology.

8 Q. For prospects in the township, Devon's choice is
9 to participate, as opposed to sell or farm out?

10 A. If it's justified, yeah.

11 Q. Okay. The next entry on the chronology is a date
12 of March 10th, 1997. What does that represent?

13 A. That's basically an unsolicited offer from Steve
14 Cobb at Mewbourne to purchase all of our leases in the
15 sections that are listed there.

16 Q. Okay. At that time, what was your knowledge
17 about whether Mewbourne had any interest in the township?

18 A. I don't think I had any knowledge at that time of
19 them owning anything.

20 Q. All right. What, if anything, did you do in
21 response to this letter?

22 A. I think it was a phone call right before the
23 March 13th meeting. I believe I called Steve. And I don't
24 remember specifically but I said, We -- You know, we're not
25 interested in selling. And it may have been the same

1 conversation where we set up the March 13th meeting, you
2 know, when it was determined they weren't going to be able
3 to buy our interest, they said, Well, we want to come and
4 talk to you about the Ocotillo Hills Number 1 and some
5 other things.

6 Q. The letter of March 10th, in the first sentence,
7 from Mr. Cobb to you, says, Mewbourne desires to
8 consolidate its interest in those areas in which it
9 conducts operations. There's a reference that indicates an
10 area of interest.

11 To the best of your knowledge, did Mewbourne have
12 any operations in any of those areas shown in the
13 reference?

14 A. If they did, it would be by virtue of their
15 acquisition of the Ocotillo Hills Number 1 well, which
16 there really haven't been any operations since they
17 required it. But they did own an interest in it.

18 Q. Tell me about the Ocotillo well. What is the
19 plan, and what do you understand was going to happen?

20 A. Well, from the very beginning the former
21 operator, Hallwood, proposed to P and A the well. They
22 proposed it to us, we concurred, and before they could
23 actually do it they said, Well, we have some people who
24 want to buy our interest in the well, we want to make some
25 money off of this deal.

1 Q. What's the time frame?

2 A. I don't remember specifically. February
3 sometime.

4 Q. Okay. And then what happens?

5 A. Well, they indicated that a guy named Richard
6 Coates was calling them, wanting to buy the wellbore. And
7 the next thing I hear, they've sold it to Mewbourne, and
8 Mewbourne's contacted us, and we set up the March 13th
9 meeting.

10 Q. Okay. At that meeting, did Mewbourne share any
11 specific geologic mapping of this potential opportunity for
12 Strawn activity in the township?

13 A. The March 13th meeting?

14 Q. Yes, sir.

15 A. No, sir.

16 Q. Did they come forward with a specific proposal
17 about what to do?

18 A. No, their proposal or their idea and their
19 preference was to form an AMI, a joint-venture area of some
20 kind, but there were no specific sections or leases. It
21 was a general trend from the Yates well down to the Penwell
22 well down in 32. But no specific area defined.

23 Q. In summary, what did Devon tell Mewbourne's
24 personnel?

25 A. We told them -- Well, first of all, I think we

1 asked them if they had any acreage, which the answer was
2 no, other than perhaps the Ocotillo Hills. And I believe
3 our response was that we would -- certainly we'd be willing
4 to talk to them about joint operations, joint venture, AMI,
5 whatever you want to call it, when they had an acreage
6 position.

7 Q. Prior to the June 12th, 1997, letter from
8 Mewbourne, where they proposed this well at its specific
9 location, had any of the Mewbourne personnel returned to
10 Devon, to your knowledge, to discuss this idea of a mutual
11 cooperative AMI area?

12 A. Not the -- not as to -- no, they didn't -- The
13 only conversation I recall would be relative to the
14 Ocotillo Hills Number 1 and purchase of some leasehold in
15 the southwest quarter of Section 21.

16 Q. On June 12th, 1997, there's a letter in your
17 chronology. You have a copy of that letter, and it's the
18 Mewbourne letter we've been discussing this morning?

19 A. Uh-huh.

20 Q. Prior to June 12th, 1997, and after the March
21 13th meeting with Mewbourne's personnel, did any other
22 company or individual meet or approach you concerning
23 development of prospects in the township?

24 A. From March to June --

25 Q. March 13th to June 12th.

1 A. Yeah, again, I got a call from the same Richard
2 Coates who had called me back in September, and he advised
3 us that he had an acreage position now, and he was ready to
4 come talk to us about development of their leases as it
5 related to ours.

6 Q. Did he disclose to you where his acreage position
7 was?

8 A. He might have on the phone, but I don't really
9 remember. They had a map when they came up to see us, and
10 they showed us where their acreage was.

11 Q. This is on April 23rd, there was actually a
12 meeting?

13 A. Yes, in our office.

14 Q. And were geologic maps disclosed to you?

15 A. Yes, they were.

16 Q. And what, if anything, happened as a result of
17 that meeting?

18 A. Of course, we looked at their map and talked
19 about the area, and they had some preliminary ideas about
20 where they thought a well might be located. We also had
21 some maps, which we did not present to them.

22 But, you know, the whole conversation centered
23 around, Let's go out and drill -- You know, we've got the
24 Yates well, going to drill, we've got the Bonneville well
25 in the east half of 10, Ocotillo Hills is going to get

1 recompleted at some point. Let's think about it, let us
2 think about it and let Devon think about it, and we'll get
3 back to you.

4 Q. Were you out there actively looking to acquire
5 additional acreage in the township?

6 A. As we told Mewbourne when they came to our office
7 on March the 10th after they had wanted to buy our acreage,
8 our initial response to them was that we would also like to
9 own more acreage in this township. We don't want to own
10 every acre, but we would like to own selectively more.

11 Q. As part of that effort, did you join with
12 Mewbourne to bid and acquire the southwest quarter of
13 Section 21 at a federal lease sale?

14 A. Yes, we did. We bid on some other properties
15 that have been for sale in the township. We've increased
16 our position. Since we bought most of these leases back in
17 1992, we've acquired additional interest in the township.

18 Q. Was there any promise or commitment made, to the
19 best of your knowledge, by your company, not to do that, in
20 relation to what Mewbourne may decide to do?

21 A. Not to -- ?

22 Q. -- compete for a lease acquisition?

23 A. I heard Mr. Moore say that a while ago, and I --
24 If that was -- I was not party to that conversation.

25 At the time of that meeting, I believe the

1 northeast quarter of Section 20 was on the next federal or
2 state -- I can't remember which it was -- lease sale.

3 State sale, I believe it was, which was coming up the very
4 next week if I'm not mistaken. And they indicated to us
5 that they were going to go bid on that. And we may have
6 said, we won't be your competition for that lease.

7 Now, I don't know what -- As far as his
8 conversation with Mr. Blair, I'm not privy to that
9 conversation.

10 Q. Okay. What did you convey to the Carlow
11 representatives in summary of the April 23rd meeting? What
12 was supposed to happen?

13 A. We were going to look at our maps, look at what
14 we saw of their maps, and get back to them with some sort
15 of proposal.

16 Q. Did that subsequent meeting ever occur?

17 A. It did on May the 6th. I was in Midland, I went
18 to Richard Coates' office, and I proposed to them verbally
19 that we form a 640-acre working interest unit of all of
20 Section 15 and that Devon would operate. I don't recall if
21 we specifically had a location at that time or not. I
22 think we may have indicated somewhere in the west half.

23 Q. And how did you leave that conversation?

24 A. Well, he thought it sounded like a good idea. He
25 would have to get back with the people at Carlow, and that

1 he would get back with me.

2 Q. What then is the next thing that happens?

3 A. The next thing that happens is, I get a well
4 proposal from Steve Cobb on June the 12th, proposing a well
5 in the northeast of the southwest quarter of Section 15.

6 Q. Prior to that time did Mr. Cobb talk to you or
7 discuss with you the orientation of that spacing unit?

8 A. No.

9 Q. Did he discuss with your their proposal about the
10 specific well location?

11 A. No.

12 Q. Did he talk to you about what location in Section
13 15 ought to be the first well drilled in that section?

14 A. No.

15 Q. Did he come back to you with a proposal for an
16 area of mutual interest?

17 A. No.

18 Q. Did he send you any documentations concerning the
19 formation on a voluntary basis of an area of mutual
20 interest?

21 A. No.

22 Q. Following the June 12th letter, the next entry on
23 your chronology deals with a subsequent June 24th letter.
24 Is that not true?

25 A. True.

1 Q. Did Mr. Cobb discuss with you the staking of this
2 well on the Devon tract?

3 A. I don't know that it was specifically discussed
4 as being on our tract. It was a phone conversation and a
5 subsequent letter that they were going to have to move it
6 200 feet.

7 Q. When did you learn that Mewbourne was going to
8 file a compulsory pooling application to force Devon's
9 acreage into the south-half spacing unit?

10 A. Well, he called me probably the day before, so
11 I'm guessing the 29th, or it might have been the day of
12 this July 30th date on the chronology. And it was a
13 courtesy call more than anything, to tell me he was going
14 to do that.

15 Q. Upon learning of that occurrence, what if
16 anything did you do concerning the filing of a competing
17 pooling application?

18 A. I called you and asked you to reciprocate.

19 Q. The parties are proposing a well at the same
20 location, are they not, Mr. Gray?

21 A. The location is not an issue.

22 Q. At this point, Devon has taken action to commence
23 drilling a well in the north half of Section 15, have you
24 not?

25 A. That's correct.

1 Q. And so the only open spacing unit for deep gas is
2 the south half?

3 A. Yes.

4 Q. So the orientation of the spacing unit can no
5 longer be an issue?

6 A. I suppose it could if everybody agreed, but...

7 Q. Ken, why are we here today?

8 MR. HALL: Object to the question. Vague.

9 Q. (By Mr. Kellahin) Why are we competing over
10 operations in this spacing unit?

11 A. Well, we're not particularly pleased, as I'm sure
12 everybody else in this room is not particularly pleased,
13 that we're here doing this. And as much as I'd like to
14 tell Mr. Catanach that Devon as operator can go out and
15 drill the well cheaper, faster, that our technical people
16 are smarter than Mewbourne's and all of the other nice
17 things that you might like to hear from -- in an operations
18 fight, which you've already noted, this is not a pooling,
19 it's an operations concern -- I'd like to tell you all
20 those things. But I don't think that that would be an
21 accurate statement. We don't have any distrust of
22 Mewbourne. I'm fully confident that they're a competent
23 operator, as we are.

24 But the fact of the matter is that we were
25 negotiating with who we thought owned the leases to do a

1 joint venture which Mewbourne had proposed to us earlier
2 but had no acreage. We were negotiating with Carlow on a
3 section where, as far as we knew, Mewbourne owned no
4 acreage. And between the March -- excuse me, the May the
5 6th meeting with Carlow in Midland and the June 12th well
6 proposal, we thought we were dealing with somebody else.

7 And along comes the June 12th well proposal from
8 Mewbourne, and in my mind they basically drew a line in the
9 sand, as is their history, which they've been quite
10 successful. We've got the acreage now, we're the first
11 ones to propose, let's see where it goes.

12 And on top of that, it was on our lease, which,
13 if it's a 40-acre well, they will not own an interest in.

14 And that kind of irked us, to be real honest with
15 you. And I guess that generally is why we're here.

16 Q. After Mewbourne commenced the pooling effort, did
17 you and Mr. Cobb exchange telephone calls and
18 correspondence in an effort to try to resolve the dispute?

19 A. After the filing of the force-pooling
20 Application?

21 Q. After the July 30th filing of the Application.

22 A. There was additional exchange of correspondence,
23 yes.

24 Q. All right. Each company's position was, they
25 wanted to be the operator; is that not true?

1 A. That's true.

2 Q. And in exchange for giving up that opportunity,
3 the two of you discussed various other things that might
4 happen in terms of acquiring acreage, trading acreage or
5 reconfiguring interest; is that not true?

6 A. Yes.

7 Q. And that effort has not been successful, has it?

8 A. No.

9 Q. In response to the June 12th letter from
10 Mewbourne, did, on July 3, you author a letter to Mewbourne
11 with regards to a counterproposal for operations of this
12 wellbore?

13 A. Yes, I did.

14 Q. Is that what's contained in the package of
15 Exhibit Number 2?

16 A. Yes, it is.

17 Q. And you and Mr. Cobb began to posture about
18 operations, didn't you?

19 A. Uh-huh.

20 Q. All right. And you sent him a list of things
21 that you think you guys can do, and you get a letter back
22 on July 12th, what he thinks he can do. Right?

23 A. Right.

24 Q. Okay. And then the package has Mr. Carr's force
25 pooling Application, and then we get over to Mr. Cobb sends

1 you a proposed operating agreement, and what happened next?

2 A. After he sent us this operating agreement, I
3 wrote back and advised him that we wouldn't review it, nor
4 would we execute it at this time, as we thought that the
5 issue of operations was still an issue to be decided, and
6 we'd look at that when it was appropriate.

7 Q. And once the issue of who was operator was
8 decided, then the next step or subsequent steps is to
9 negotiate the operating agreement itself?

10 A. Right.

11 Q. The next letter in your package is an August 21st
12 letter from Ralph Moore to Devon, addressed to Wayne
13 Roberts?

14 A. Uh-huh.

15 Q. Were you involved in any way in this exchange,
16 other than having this letter put in your file?

17 A. Only to the extent that Wayne made it known to me
18 that he had gotten a call from Ralph.

19 Q. All right, we'll talk to Mr. Roberts in a minute
20 about that.

21 A. Yeah.

22 Q. The next thing you do is, on August 21st, you
23 write Mr. Cobb a letter, don't you?

24 A. Yes.

25 Q. Okay. In the bottom of the letter you're

1 proposing something, and what are you doing? The last
2 paragraph of the first page of the August 26th letter is
3 where I'm directing your attention.

4 A. Well, the whole idea of that letter was to
5 respond to Ralph Moore's conversation with Wayne, and Steve
6 Cobb's conversation with me as to what exactly each of the
7 parties had proposed in terms of solutions to the
8 operations issue. And I didn't know if they knew at the
9 time that we were -- had staked and filed for an APD in the
10 north half of 15.

11 So I basically offered that we've got a rig out
12 there now. We can drill it earlier than any of your
13 earlier proposed dates, and we don't have to do go through
14 the -- We wouldn't be here today. I mean, that was
15 basically it. We proposed that we move the rig that's
16 currently drilling right now to this well, and that Devon
17 operate it.

18 Q. The well in the north half of 15 is 100-percent
19 working interest owner Devon?

20 A. Yes.

21 Q. So there was no one else to invite into that
22 well?

23 A. No.

24 Q. And you're proposing something here at the
25 bottom, to the formation of a 640 unit area, for 15. On

1 the bottom of page 1 of the August 26th letter. Are we
2 looking at the same thing?

3 A. Yeah, yeah.

4 Q. All right.

5 A. We had previously done that, had proposed that to
6 Steve Cobb when we found out, because it's what we were
7 proposing to Carlow. And I told Mewbourne when they
8 proposed the well, we would do the same thing. And they
9 didn't like that idea.

10 Q. They declined?

11 A. Right.

12 Q. And then you subsequently traded letters, trying
13 to work out some other kind of solution, and none of those
14 succeeded?

15 A. Correct.

16 Q. Okay. At this point you're asking the Division
17 Examiner to allow Devon to be the operator of the well?

18 A. Yes, we are.

19 MR. KELLAHIN: That concludes my examination of
20 Mr. Gray.

21 We move the introduction of his Exhibits 1 and 2.

22 MR. HALL: No objection.

23 EXAMINER CATANACH: Exhibits 1 and 2 will be
24 admitted as evidence.

25 Mr. Hall?

CROSS-EXAMINATION

1
2 BY MR. HALL:

3 Q. Mr. Gray, quickly, if you would, I want to refer
4 back to your Exhibit 1 and direct your attention to the
5 west half of Section 21 on there.

6 A. Uh-huh.

7 Q. Make sure it's accurate as to ownership. You
8 reflect by your color coding that in the northwest quarter
9 of 21 it's 100-percent Devon-owned. Is that accurate?

10 A. Well, in a sense. But let me answer that a
11 different way. These dark black lines that are on here,
12 those are my way of reminding myself that we do have joint
13 operating agreements that cover portions of those sections.
14 And in this case we have an operating agreement covering
15 all of Section 21.

16 So yes, we own the lease 100 percent, but we've
17 contributed that to the section, and we have contractually
18 less than 100-percent working interest in that northwest
19 quarter, so --

20 Q. Okay. Mewbourne has a position --

21 A. Mewbourne has a contractual interest in that
22 lease as well.

23 Q. All right.

24 A. The color coding would not apply to contractual
25 interest, I guess, is my point.

1 Q. I understand.

2 A. Okay.

3 Q. Mr. Gray, looking at your chronology, wouldn't it
4 be accurate to characterize Devon's conduct throughout as
5 being reactive, as opposed to proactive, in the drilling of
6 the Carlsbad 15?

7 A. I don't think so. As I said before, we were
8 being what I consider proactive dealing with the other
9 working interest owner in the section --

10 Q. Well, in fact --

11 A. -- up until June 12th.

12 Q. Let's look at the chronology. The first entry on
13 there is your September, 1996, contact from Richard Coates.
14 And again, this item entry was initiated by Mr. Coates, not
15 Devon; is that accurate?

16 A. Correct.

17 Q. He came to you. And as I understand your
18 testimony, you said that Devon had no prospects in the
19 area. Is that what you said?

20 A. We had prospects. I don't know -- We probably
21 weren't, at that point, looking at drilling a Morrow well.

22 Q. Okay. Then --

23 A. Obviously, we've had prospects by our Delaware
24 activity.

25 Q. All right. Well, I want to make sure I

1 understood your earlier testimony. I guess you had no
2 prospects in Sections 10, 15 and 22. Is that what you
3 meant?

4 A. Right.

5 Q. Then next entry, March 10th letter from
6 Mewbourne, again initiated by someone else, to Devon. Then
7 that led to the March 13th meeting in Oklahoma City with
8 Mewbourne, Mr. Cobb and Mr. Moore?

9 A. Right.

10 Q. At that time did Devon have any geology for this
11 acreage?

12 A. Not to my knowledge, not as to the deeper gas.

13 Q. All right. Did Devon have any plans to commit
14 company resources to undertake an investigation of the deep
15 gas geology at that time?

16 A. We've looked at the Morrow from time to time.
17 Specifically as to those sections, I don't think we had.
18 But in the township we certainly had.

19 Q. You did not present that to Mewbourne at that
20 meeting?

21 A. No.

22 Q. Then again, the next entries are April 23rd,
23 meeting with Carlow Corporation. Did Carlow bring you
24 their geology?

25 A. Yes.

1 Q. And did you reciprocate with your geology?

2 A. Yeah.

3 Q. So the first proposal by anyone at all, if I
4 understand it, to drill the well in the south half of 15,
5 or anywhere in Section 15, was Mewbourne's June 12th
6 proposal?

7 A. That was the first well proposal with an AFE and
8 a location, right.

9 Q. By anyone at all?

10 A. That's right.

11 Q. And then again on June 24th, you were contacted
12 by Mr. Cobb and told that the BLM wanted to move the
13 location to the east, correct?

14 A. That's right.

15 Q. And did you review that decision with in-house
16 geologist, anyone else?

17 A. Typically, when we get those changes to
18 proposals, we make sure it gets in the AFE folder that's
19 being circulated for approval.

20 Q. All right, but did Devon -- What was Devon's
21 position with respect to change of location? Did it
22 object?

23 A. No.

24 Q. No problem with that?

25 And likewise, did it have any problem with a

1 laydown proration unit in the south half?

2 A. No, not particularly.

3 Q. So that was not an issue?

4 A. As long as we operated.

5 Q. But the configuration was not an issue?

6 A. No.

7 Q. I'm trying to pick out from your chronology the
8 next initiative taken by Devon to promote the drilling of
9 Section 15, and if I understand your chronology there was
10 no initiative taken from September, 1996, until July 3rd;
11 is that accurate? July 3rd of 1997?

12 A. No, I don't think that's right. I think we were
13 taking the initiative as of May the 6th, when we were
14 talking with who we thought were the working interest
15 owners in the section.

16 Q. Did Carlow want to operate the well?

17 A. I think we talked about it, yeah, we asked them
18 about operations just in general, and it was kind of a non-
19 response. Yeah, of course everybody wants to operate, but
20 they didn't say that it was a requisite that they operate.

21 Q. All right. But did Devon have a proposal on the
22 table to them at that time that Devon operate the well?

23 A. That was the purpose of the May the 6th meeting,
24 was to put that proposal in front of them verbally, which
25 it was done.

1 Q. All right. So the first written proposal by
2 anyone was the Mewbourne proposal, and the first written
3 proposal by Devon was not until July 3rd of 1997, in
4 response to Mewbourne's offer?

5 A. Okay, I'll agree with that.

6 Q. Let me refer you in your Exhibit 2, on page 22
7 and 23, is your August 26th, 1997, letter.

8 A. Uh-huh.

9 Q. That was your response to Mr. Moore's letter to
10 Mr. Roberts, correct?

11 A. Correct.

12 Q. Is there some reason why you undertook to
13 respond, rather than Mr. Roberts?

14 A. Typically, as a matter of company policy, we
15 would prefer that our technical staff not get in the matter
16 involved in negotiations of those -- the things of those
17 nature, whether it be operation or contracts or whatever.

18 Q. Did you instruct Mr. Roberts to have no further
19 communications with Mr. Moore about this well?

20 A. I might have. I may have said, you know, that,
21 as Mr. Moore has already indicated, he thought that it was
22 not going the proper direction and that he might be able to
23 do something by calling Wayne. And Wayne is the district
24 geologist. I would suspect that Mr. Moore should have
25 called our district exploration manager. But I may have

1 told Wayne just to refer him to me if he called again.

2 That sounds like something I would say.

3 Q. The last page of your August 26th letter, the
4 last full paragraph there you indicate, Devon can spud the
5 Carlsbad "15" as early as mid-October, subject to receipt
6 of an approved APD.

7 Did you have an APD pending with the BLM at that
8 time?

9 A. No, we've not done anything as operator out here.

10 Q. Okay.

11 A. For the reasons we've already stated.

12 Q. Isn't it true, Mr. Gray, that you told Steve
13 Cobb, the Mewbourne landman, that Devon would be a
14 competitor in this area at a certain point in time?

15 A. I don't recall the conversation. A competitor as
16 -- buying leases, operations, what are we -- ?

17 Q. Let me ask you, did you attend a federal lease
18 sale here in Santa Fe?

19 A. In July, I did, yes.

20 Q. At that lease sale did you tell Mr. Cobb that
21 Devon was now a competitor with Mewbourne acreage?

22 A. I don't know why I would have.

23 Q. Do you know? Can you say yes or no, or do you
24 simply not recall?

25 A. I don't recall.

1 Q. On July 29th, isn't it true that you had a
2 telephone conversation with Mr. Cobb, and you discussed --
3 well, about July 29th, you had a telephone conversation
4 with Mr. Cobb, and you discussed the possibility of
5 compulsory pooling applications on both sides, correct?

6 A. If that was the date. I -- It was either the
7 29th or the 30th.

8 Q. Yeah. In response to that, were you advised by
9 Mr. Cobb that if you didn't file soon you'd miss the
10 deadline for the August 21st hearing date?

11 A. I believe I did.

12 Q. And is that what notified you to contact Mr.
13 Kellahin and get an application underway?

14 A. Yes.

15 Q. Can you tell me -- There's no question now that
16 Devon is a competitor with Mewbourne in terms of acquiring
17 acreage and drilling the well, certainly; is that fair to
18 say?

19 A. I think that would be fair.

20 Q. Is it also fair that Mewbourne was correct to
21 assume that early on Devon would not actively compete with
22 it in acquiring acreage in drilling the well?

23 A. I was not within earshot of that comment, so I --
24 If that's the impression that they got by the conversation
25 with Mr. Blair, then that's the impression they got. But

1 it was not -- Again, I don't know if it meant we wouldn't
2 compete with you for leases, we won't compete with you for
3 operations.

4 The only competition that I remember, the only
5 conversation about competition was for the northeast
6 quarter of Section 20, which was on the next federal lease
7 sale, which I believe we told them we would not compete
8 with them. Beyond that I'm not aware of any other --

9 Q. All right.

10 A. -- conversations about competition or the lack
11 of.

12 Q. So anyway, in connection with the federal lease
13 in Section 20, the spirit of the relationship -- at that
14 point in time, anyway -- was that you were noncompetitors?

15 A. Right.

16 Q. And that changed after a point?

17 A. Correct.

18 Q. What caused Devon to change that?

19 A. Well, we were interested -- we became interested
20 in the area. That's about as short as I can put it.

21 Q. And what triggered Devon's interest in the area?

22 A. Well, as Mr. Moore has already testified, they
23 came to our office on -- whatever date it was -- March the
24 13th --

25 Q. All right.

1 A. -- and showed us a trend, or at lease pointed to
2 a trend. And I believe his remark was, It goes right
3 across your acreage.

4 Q. Is it fair to say that had Mewbourne not come to
5 Devon and shown them the play, that Devon would not have
6 undertaken to try to drill the well on its own?

7 A. That's not necessarily true. We -- it may not
8 be -- It would have been in the same time, but...

9 Q. What is the status of the well in the north half
10 of 15 now?

11 A. I think you could ask our operations engineer
12 when he testifies.

13 Q. Do you know, though? Is it still --

14 A. It's drilling.

15 Q. -- drilling today?

16 A. Yeah.

17 Q. It's not been completed yet?

18 A. No.

19 Q. If the well in the north half of Section 15 is a
20 dry hole, is Devon still committed to drilling in the south
21 half?

22 A. You're going to have to ask our technical people
23 that question. That's not my call.

24 Q. Okay. You don't know what the company's position
25 would be, then?

1 A. No.

2 Q. If you know, when do you expect to complete the
3 well on the north half and release that rig? Any idea?

4 A. You'll have to talk to our engineer.

5 Q. Well, are these typically 30- or 40-day wells?

6 A. It's my understanding they're about 30-day wells,
7 if everything goes okay.

8 Q. And when was it spudded?

9 A. Let's let the engineer answer these, okay?

10 I'm --

11 Q. Well --

12 A. I don't know exact dates.

13 Q. -- we'll, indeed, ask him, but --

14 A. I don't know --

15 Q. -- if you know --

16 A. -- I don't the exact date it's spud.

17 Q. Okay. Is it -- If you know, has it been drilling
18 for more than a couple of weeks?

19 A. If I had to guess, I'd say yes, but I don't know
20 specifically.

21 Q. All right. And is it likely that the well will
22 be completed before --

23 MR. KELLAHIN: I'm going to object to the
24 questions. The witness is being as polite as he can to Mr.
25 Hall. He does not have these answers. I have a witness

1 that may be able to respond. We're getting nowhere.

2 EXAMINER CATANACH: Mr. Hall, I think I agree
3 with Mr. Kellahin.

4 MR. HALL: If I may connect up, I do have a
5 reason --

6 MR. CARROLL: Where are you going, Mr. Hall?

7 MR. HALL: -- for this line of questioning. If I
8 may connect up with the very next question.

9 Q. (By Mr. Hall) Mr. Gray, if the well in the north
10 half of Section 15 is completed soon, does Devon plan on
11 holding that rig on the section until a compulsory pooling
12 order is issued in this case?

13 A. Holding the rig?

14 Q. Yes.

15 A. I guess it would depend on how fast an order came
16 out. I don't -- It would be my understanding that an order
17 would be issued in time to have that rig move from one spot
18 to -- from the spot it's currently in, to the south half of
19 the section. But I -- You might ask Mr. Catanach [sic]. I
20 don't know.

21 Q. So it's likely you'd have to --

22 A. I mean --

23 Q. -- move the rig to another location, not the
24 south half of 15?

25 A. You're ask the wrong person.

1 MR. HALL: Okay. No further questions, Mr. Gray.

2 EXAMINER CATANACH: Anything else, Mr. Kellahin?

3 MR. KELLAHIN: Yes, sir, a couple of points here.

4 REDIRECT EXAMINATION

5 BY MR. KELLAHIN:

6 Q. Mr. Gray, when we're talking about the June 12th
7 letter from Mewbourne to you, I sense that you've attached
8 importance to what was communicated in that letter. And my
9 question is, did that letter have any effect on your
10 relationship with Mewbourne up to that point?

11 A. I'm not under- -- I'm not sure I'm --

12 Q. Prior to the June 12th letter, what was your
13 expectation from Mewbourne or anyone else concerning the
14 development of Section 15?

15 A. Quite honestly, after the March 13th meeting, at
16 which point we agreed that we would be able to discuss a
17 joint venture with them, at such point as they acquired
18 acreage, quite frankly, I wished them luck on acquiring
19 acreage in this township, because it's hard to get.

20 And with the Carlow people and our discussion
21 with them, I really never -- I didn't think too much about
22 Mewbourne after that point, other than as it related to the
23 Ocotillo Hills recompletion and the acquisition of the
24 lease in the southwest quarter.

25 Q. Prior to the June 12th letter, did Mewbourne

1 return to you to discuss a cooperative effort for the
2 development of Section 15?

3 A. No, sir.

4 MR. KELLAHIN: No further questions.

5 EXAMINATION

6 BY EXAMINER CATANACH:

7 Q. Mr. Gray, is it at that point of the June 12th
8 letter that you became -- where you developed -- I don't
9 know how to characterize it -- your relationship with
10 Mewbourne deteriorated or...

11 A. Well, I don't think it deteriorated. Mewbourne
12 does business a different way than we do, and they've been
13 very successful at it.

14 And no, it didn't deteriorate. I just thought if
15 Mewbourne had the idea of walking away from the March 13th
16 meeting, that we were just going to stand by and do nothing
17 and that we were going to be passive and that we were not
18 going to compete with them, whether it be for operations or
19 for leases, then we probably should have walked away from
20 that meeting with the impression that if they did get some
21 acreage, yeah, that they would come back to us, which they
22 didn't.

23 But I never really expected them to.

24 Q. What is the advantage to Devon to drill and
25 operate this well? Why is it so important to Devon to do

1 that?

2 A. As I said before, I'd like to give you a long
3 list of those things, but that was really not the issue. I
4 think both companies are equally capable of drilling the
5 well for comparable AFE costs and operating during
6 production. Obviously there's elements of control as
7 operator that a nonoperator doesn't have, but I don't think
8 that's the issue.

9 I think the issue is, we were negotiating with
10 the interest owner in the section who owned the lease, and
11 in a period of -- I don't know, three weeks, I guess, the
12 ownership changed, and all of a sudden the game was, who
13 proposes the well first? And that didn't sit very well
14 with us.

15 MR. CARROLL: Are you more irritated a Mewbourne
16 or Coates?

17 THE WITNESS: I guess I should be more irritated
18 at Carlow, because I would expect them to have called us
19 and told us that, well, we either like your idea of the
20 working interest unit, or no, we don't, or we've sold it,
21 or something. But, you know, it doesn't always work out
22 the way you'd like it.

23 Q. (By Examiner Catanach) Mr. Gray, the leases that
24 Devon owns in this area, they've had them since when? Do
25 you know?

1 A. The vast majority of these we bought in 1992.

2 Q. And it has mostly been, up to this point, the
3 development of the shallow reservoirs?

4 A. We've had some recompletions in some of our gas
5 wells to the Strawn, I think that we'll talk about later.
6 But our deep gas development in here is -- The wells were
7 already there. We've not drilled any deep gas wells, other
8 than the one we're drilling right now.

9 Q. Okay. And you have not filed an APD for your
10 proposed well?

11 A. No, sir.

12 EXAMINER CATANACH: Okay. I have nothing further
13 of this witness, Mr. Kellahin.

14 MR. KELLAHIN: Mr. Roberts?

15 WAYNE ROBERTS,

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. For the record, sir, would you please state your
21 name and occupation?

22 A. My name is Wayne Roberts. I'm a geologist.

23 Q. Mr. Roberts, on prior occasions have you
24 testified before the Division?

25 A. No, I have not.

1 Q. Summarize for us your education.

2 A. I have a bachelor of arts degree in geology from
3 Trinity University, and I did graduate work at Duke
4 University in geology.

5 Q. In what year, sir?

6 A. 1974 and 1975, respectively.

7 Q. What's your current employment?

8 A. I'm employed with Devon Energy Corporation,
9 Oklahoma City, as a district geologist.

10 Q. As part of preparation for today's hearing, have
11 you made an investigation of the risk factors associated
12 with drilling this well at this particular location?

13 A. Yes, I have.

14 Q. In addition, separate and apart from preparing
15 for today's hearing, were you involved as the geologist in
16 evaluating the opportunity to explore for deep gas in this
17 township, in the year 1997, current year?

18 A. Yes, I was.

19 Q. And you attended these various meetings that we
20 have described where you, in fact, were present?

21 A. Yes.

22 Q. Okay. As a result of your preparation, do you
23 now have an opinion with regards to the risk associated
24 with this well?

25 A. Yes, I do.

1 MR. KELLAHIN: We tender Mr. Roberts as an expert
2 petroleum geologist.

3 EXAMINER CATANACH: He is so qualified.

4 Q. (By Mr. Kellahin) I'd like to go through these
5 displays rather quickly with you and have you help us focus
6 our attention on those points which you find important.

7 But before we do that I want to ask you the
8 conclusion of your geologic study, and that is whether or
9 not you now have a recommendation to the Division
10 concerning the appropriate risk factor penalty to be
11 assessed in this pooling order. Do you have such an
12 opinion?

13 A. Yes, I do.

14 Q. Is that percentage penalty conditioned upon who
15 operates the well?

16 A. No, it's not.

17 Q. What is your recommendation?

18 A. Two hundred percent.

19 Q. Will that recommendation be applicable to all
20 potential reservoirs and formations to be penetrated by
21 this well?

22 A. Yes.

23 Q. Let's start looking at those. The displays are
24 organized in such a way as will go from shallow to deep, I
25 believe?

1 A. Yes, sir.

2 Q. The first display, if -- It's a locator and it
3 gives us some color codes. Take a few minutes and describe
4 for us what we're seeing.

5 A. The first map is a producing -- or production
6 map, color-coded on the right side from Delaware, being the
7 youngest, which is the field in Sections 9 and 15, which
8 Devon operates.

9 The numbers related to production are in
10 thousands of barrels and millions of cubic feet. And the
11 "I" or the "A" after the production is whether the wells
12 are active or inactive, or that particular zone is active
13 or inactive.

14 Scattered throughout the rest of this ninespot
15 map are deeper wells that have penetrated the Morrow and
16 therefore the Strawn and intervening horizons. There's
17 production in the Wolfcamp, there's been production in the
18 Atoka, there's been production in the Strawn, the upper
19 Pennsylvanian, Cisco/Canyon and the Morrow.

20 Q. Okay. Let me ask you part of the chronology of
21 events between your participation in the Mewbourne
22 discussions and your participation with the Carlow
23 representatives in those discussions, and commencing with
24 the March 13th meeting, that is a meeting which you
25 attended?

1 A. Yes.

2 Q. At that meeting, did Mr. Moore -- who is
3 Mewbourne's geologist -- did he show you any maps?

4 A. No, he did not.

5 Q. Describe for us your recollections of what they
6 were proposing, from a geologic perspective.

7 A. As stated earlier, the map that was used, the
8 only map that was used, was our land map. And Mr. Moore
9 indicated wells -- a well to the northeast and a well to
10 the southwest, and waved his arm, insinuating that the
11 Strawn is a viable play in this township at this time.

12 Q. On April 23rd, there's a meeting with Carlow
13 Corporation in which Mr. Gray testified that he saw some
14 Carlow geology. You attended that meeting?

15 A. Yes, sir.

16 Q. Did you see any geology presented by Carlow?

17 A. Yes, I did.

18 Q. And what did they show you?

19 A. They showed a structure map and an isopach map of
20 Strawn sand that basically had a trend northeast-to-
21 southwest. On the -- let's say the -- On this map that
22 we're looking at right now, it would be south of the well
23 in Section 15.

24 Q. Prior to the April 23rd meeting with Carlow, had
25 you done any preparation or investigation so that you could

1 begin to form an opinion?

2 A. After our meeting with Mewbourne?

3 Q. Yes.

4 A. I went in and looked at the Strawn play in here
5 and had made maps, structure maps and isopachs across
6 sections.

7 Q. And so by the time you had the meeting with
8 Carlow on April 23rd, you were beginning to formulate your
9 opinions about the Strawn?

10 A. Yes.

11 Q. What was Carlow proposing to do?

12 A. Carlow came in and wanted to combine their
13 acreage with ours and somehow come to a joint-venture
14 agreement to get some wells drilled out here.

15 Q. By "combining acreage", did you understand that
16 to mean their acreage position in the north half of Section
17 22, as well as their acreage in Section 15?

18 A. It was all discussed, yes, sir.

19 Q. Okay. Was there any conclusion you reached about
20 their interpretation in terms of the best places to put
21 wells in that area?

22 A. Based on my interpretation, I felt that -- I
23 tended to put the sand trend northwest of the well in 15,
24 and they had it southeast of the well in 15, and therefore
25 I felt that any wells being drilled in Section 15 should be

1 as far west and north as they could be.

2 Q. What time did you -- Approximately when did you
3 formulate the opinion about how best to develop Section 15
4 in terms of the orientation of spacing units or where to
5 put the two wells in the section?

6 A. Just very quickly, I would like to have two wells
7 in there, and the only way to get two wells in what I saw
8 is, the better sand would be laydown.

9 Q. As a result of your studies, did you have a
10 priority of choice as to where the wells would be located
11 and in what sequence they might be drilled?

12 A. I believe I would have started in the north half
13 of 15 and worked my way south.

14 Q. And that, in fact, is what Devon is doing; is
15 that not true?

16 A. Yes.

17 Q. All right. Let's turn past Exhibit 4 and have
18 you give us a quick conclusion on the Delaware. We're
19 looking at Exhibit 5.

20 A. That's a structure map on the Delaware. It's --
21 We call it an "A" sand. It's right above the producing
22 horizon in the field, which is indicated here in green.

23 Q. When we look at Section 15, do you have a
24 conclusion or opinion about the possibility of encountering
25 the Delaware, and if so, is this very risky or not?

1 A. I believe it's fairly risky. We've found by
2 drilling the well in the northeast northeast of 16 that the
3 structure that we had fell off quite rapidly, although the
4 next contour out is definitely widened and, you know, there
5 could be something in there, but it would definitely be a
6 risk.

7 Q. All right. So having the opportunity for the
8 Delaware at this location does not substantially reduce the
9 risk so it's less than the maximum?

10 A. Correct.

11 Q. Let's look at Exhibit 6. What are we seeing
12 here?

13 A. This is a Strawn structure map and isopach map,
14 showing basically an east-southeast dip into the Basin
15 structurally, and isopach as I saw it, which I tried to
16 build off a density curve with crossover, a density of
17 8-percent porosity, although I did have to fudge the
18 Section 15 well because that's a sonic well, and I tried to
19 come up the best I could there with a relative number.

20 Q. Okay. Let me show you Mr. Williams' montage --
21 it's his Exhibit Number 2, and it's got his gross Strawn
22 isopach on it -- so that you can have it in front of you.

23 You and he have a difference of opinion with
24 regards to the values and the positioning of the Strawn
25 through Section 15, do you not?

1 A. Somewhat.

2 Q. When we look at the Mewbourne property interest
3 in the north half of 22 and in 15, what do you conclude
4 geologically about the speculative nature or the probable
5 nature of their acreage, as compared to yours?

6 A. Well, my interpretation of the well in 15 really
7 sets that up as far as I'm concerned, and I have very
8 limited sand in what I see as the major producing sand,
9 Strawn sand, here, as compared to Mr. Williams. So
10 therefore I have to -- I -- It's something we don't always
11 like to do, but I put a zero contour in there because I did
12 have the wells in 14 and 22 that I felt didn't really have
13 any of the sand that I was looking at anyway.

14 Q. One of the letters that we talked about this
15 morning was a letter from Mr. Cobb where he was saying
16 Mewbourne was going to make a major concession and let
17 Devon operate if you would take into the area of mutual
18 interest the north half of 22.

19 A. We --

20 Q. What's your opinion about adding 22 into the
21 area?

22 A. Based on my interpretation, we didn't really feel
23 that we'd be gaining anything by having more than we had in
24 22 and that we'd be depleting our -- decreasing our own
25 interest overall in Section 15.

1 Q. The relative value, geologically, between the two
2 areas is significant, in your opinion?

3 A. In my opinion.

4 Q. Let's look at Exhibit Number 7. This is the
5 three-well cross-section that's shown on Exhibit Number 6,
6 and it helps us identify that Strawn interval that you're
7 targeting for this well, does it not?

8 A. Yes.

9 Q. Give us a quick reading on what we're trying to
10 find in the Strawn.

11 A. The well on the right end of the cross-section is
12 the Yates well in Section 11, and I was unable to determine
13 any net perms on this, so they have a gross -- as far as
14 I'm concerned, they had a gross perf interval. So I don't
15 know exactly which one of these sands that they're
16 producing out of. I found one that I thought I could
17 correlate across the area, and that was what I mapped, and
18 it's indicated here as the "A" sand.

19 It goes southwest to our well in Section 16,
20 which we have recently completed and was a discussion with
21 Carlow regarding, We have the Yates well out here, this is
22 a good idea, let's -- you know, we ought to test one of
23 these behind pipe to make sure the idea works before we go
24 out and spend a lot of money on a well. We have
25 recompleted the well in 16.

1 And then it goes south to Section 21, the
2 Ocotillo Hills 1, which was to be recompleted.

3 Q. And so your preference for exploration strategy
4 as a geologist at that time was what, sir?

5 A. It was our opinion that we ought to test one of
6 the wells behind pipe and make sure that that sand is --
7 that we had mapped was productive.

8 Q. That opportunity exists over in Section 21 where
9 the Ocotillo well is, right?

10 A. Yes, it does.

11 Q. To the best of your knowledge, has Mewbourne
12 exercised that opportunity?

13 A. No.

14 Q. Are you aware of when and if they may ever do
15 that?

16 A. I have heard no plans.

17 Q. That would be your preference, though, is to have
18 that behind-the-pipe Strawn tested in that wellbore, to
19 help you set up further opportunities in 15?

20 A. That was the original discussion, and in the
21 meantime we got tired of waiting on them and we tested our
22 own.

23 Q. All right. Let's turn to Exhibit 8, have you
24 identify this for us.

25 A. This is a structure map on the lower Morrow

1 shale, basically just showing regional southeast dip.

2 Q. What's the depositional environment of the Morrow
3 here?

4 A. Well, the upper Morrow is more a northeast-
5 southwest-trending shoreline sand, and the lower Morrow
6 below this marker is usually more of a channel/fluvial
7 system, trending more north-south or more northwest-
8 southeast.

9 Q. For the shoreline-deposited Morrow sands in the
10 upper portion, would the structure map be a useful map to
11 look at to see if it helps you in picking a location?

12 A. Well, yes, some of these wells that had produced
13 out here have been tested and have had water, so we can get
14 updip from those.

15 Q. That's not a primary geologic tool in this area,
16 then, when we're looking for the Morrow channel sands?

17 A. If you have an indication of porosity with water
18 in it downdip, then yes, it would be. But it's --
19 Stratigraphy is the major play out here, in the Morrow.

20 Q. The strategy here is, the Strawn is perhaps the
21 best target?

22 A. As was indicated by Mr. Williams, I think the
23 Strawn play out here is the driving factor to get some
24 wells drilled. Is the relationship between the Morrow and
25 the Strawn such that it is reasonable to go ahead and drill

1 the well to the Morrow, just to take a peek?

2 A. I believe it is. It's another couple thousand
3 feet, but this is quite a sand-prone area, and whether it's
4 faulting or just stratigraphic, we could stumble into
5 something by taking it deeper.

6 Q. Let's look at your interpretation, then, of the
7 Morrow. Let's start with Exhibit 9. Tell us where we are
8 in the Morrow.

9 A. Well, this is just -- the LMC is nothing by my
10 nomenclature for a lower Morrow Channel 1, and it was a
11 well -- or a sand that was tested in the well in Section
12 15. The only other place I see that on this map is down in
13 Section 22, and I felt there was a chance of this sand,
14 which tested gas and water in Section 15, of trending
15 north-south through this area.

16 Q. And if you want to identify that particular
17 interval, we could look at Exhibit 10 and you can show on
18 the cross-sections what you've mapped.

19 A. Right, that's just -- would indicate what sand
20 I'm trying to follow north-south through there.

21 Q. Let's turn past, then, the cross-section, which
22 is Exhibit 10, and let's look at a lower interval in the
23 Morrow that you've studied. It's Exhibit 11. Identify
24 this and give us your conclusions.

25 A. Well, this is just another lower Morrow channel

1 that is productive in Catclaw Draw, or our Catclaw Draw, in
2 Sections 9 and 16, which Devon operates. And this was an
3 isopach. Once again, I believe it's 8-percent -- Excuse
4 me, it's not indicated, but it should be 8-percent porosity
5 on neutron.

6 Q. And then finally we have Exhibit 12, which is the
7 cross-section that will show the Examiner the interval --

8 A. -- which would identify that and the comings and
9 goings of the sands.

10 Q. When we look at positioning the well in the south
11 half of Section 15, what is your preference between
12 locating the well in the southeast quarter, as opposed to
13 the southwest quarter?

14 A. Based on my interpretation, it would be much
15 riskier placing the well in the southeast quarter because
16 I -- once again, on my interpretation, I get really thin
17 sand in the well that exists in the east half of Section
18 15, so I would want to be as far west in the section as I
19 could be.

20 Q. In looking at the southwest quarter, then, can
21 you define with any specificity the precise footage
22 location in which to drill the well, to give you your best
23 opportunity in the Strawn?

24 A. I think the legal location in the northwest of
25 the southwest would be the best, or at least the

1 regulatory, 1650 from the west and 1980 from the south.

2 MR. KELLAHIN: Okay. That concludes my
3 examination of Mr. Roberts. We move the introduction of
4 his Exhibits -- I believe they are 5 through 12? Yes.

5 EXAMINER CATANACH: Exhibits 5 through 12 will be
6 admitted as evidence.

7 Mr. Hall?

8 CROSS-EXAMINATION

9 BY MR. HALL:

10 Q. Mr. Roberts, when did Devon become aware of the
11 Strawn play, to your knowledge?

12 A. It's been stated before that when Mewbourne came
13 to our office, I believe March 13th, that the arm-waving,
14 they made it aware to us.

15 Q. But for the Mewbourne initiative, did Devon have
16 any plans to undertake a geologic evaluation of the Strawn
17 in the area?

18 A. Once again, as was stated earlier, we're always
19 undergoing evaluation of acreage and behind-pipe potential
20 in wells. I personally, on March 13th, didn't have a plan
21 to go out and study the Strawn on that date.

22 Q. Okay. You didn't have any geology done by the
23 March 13th meeting, anyway?

24 A. Not on that Strawn.

25 Q. All right. And I look on your title blocks for

1 all your exhibits, and they show a date of September of
2 1997.

3 A. When they're all printed out --

4 Q. All right.

5 A. -- for this purpose, for this meeting.

6 Q. When did you first create some Strawn geology for
7 the area?

8 A. Immediately after our March 13 meeting with
9 Mewbourne.

10 Q. Was there anything inappropriate about Ralph
11 Moore's contacts with you in connection with this well?

12 A. Inappropriate, no. I expect that it was six
13 months since I had seen him, and he called me out of the
14 blue six months later and, you know, reiterated that we'd
15 like to get this well drilled, they wanted to operate. And
16 I said I understand that, we would like to operate. And
17 whether that was inappropriate or not, I don't know.

18 Q. You don't have an opinion whether that was
19 inappropriate?

20 A. Well, the most that I can remember, that was
21 totally out of the blue. I spend maybe five percent of my
22 time working this area, and the rest of it is Rocky
23 Mountain properties. So I had nothing on my desk that I
24 could discuss with him.

25 Q. At the March 13th meeting, didn't you convey to

1 Mr. Moore that you were the one to talk to about this
2 prospect?

3 A. I am the geologist for this particular township.

4 Q. So the answer to my question is yes?

5 A. Geologically, yes.

6 Q. There was -- You didn't tell him to refer any
7 questions to the manager or anybody -- any other level at
8 the company?

9 A. No, I did not.

10 Q. You made reference to the recompletion in that
11 Section 21. Do you recall your testimony about that?

12 A. Yes.

13 Q. Do you know if Mewbourne sent Devon a JOA for
14 that operation?

15 A. That's not something that would necessarily come
16 by me, so I'm not aware of that.

17 Q. Would you know, then, why Devon has not acted on
18 Mewbourne's JOA for that?

19 A. I have no idea.

20 Q. On your Exhibit 9, I believe that's your Morrow
21 structure, is it not? Let's see. Your isopach for the
22 Morrow?

23 A. (No response)

24 Q. The way you've drawn it, it appears that
25 penetration of the Morrow there carries some risk with it,

1 as you've drawn it?

2 A. Yes.

3 Q. But on the other hand, Devon does not dispute the
4 current location of the well, correct?

5 A. Correct.

6 Q. Location is not an issue here?

7 A. (No response)

8 Q. Did you evaluate the Yates Lake Shore 1 in
9 Section 11 in connection with your geology?

10 A. I have looked at the logs on that well, yes, the
11 production figures.

12 Q. And do you know when that well was completed?

13 A. 1994, I believe. Well, in the Strawn originally,
14 I don't recall. It might be on the cross-section here; 4
15 of 1984 is when I would have that -- the Yates well being
16 drilled initially.

17 Q. Okay. So is it safe to say that it may have been
18 completed in the Strawn in 1994, but next to your acreage -
19 - but you were not made aware of that until Mewbourne
20 brought that to you; is that correct?

21 A. That's right.

22 Q. In Section 15, the State BO 1 that you all
23 acquired from Hondo, do you know why that has never been
24 recompleted in the Strawn?

25 A. As far as I know, it's still making economical

1 production out of the Cisco/Canyon, and I think we looked
2 at that, and maybe there's a casing problem that we
3 couldn't get down. It's -- that well -- We thought about
4 that, but it was not -- Mechanically it was not something
5 that we wanted to attempt.

6 Q. How about your well in Section 16? Do you know
7 what the production rates are from that well?

8 A. Which one?

9 Q. The BR 1, current rates?

10 A. Yes, sir, approximately 2.5 million a day.

11 MR. HALL: That concludes our cross of Mr.
12 Roberts.

13 EXAMINER CATANACH: I have no questions of this
14 witness.

15 WALLY FRANK,

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. Sir, would you please state your name and
21 occupation?

22 A. My name is Wally Frank. I'm a district engineer
23 with Devon Energy Company.

24 Q. Mr. Frank, on prior occasions have you testified
25 before the Division?

1 A. I have not.

2 Q. Summarize your education for us.

3 A. I graduated from the University of Oklahoma in
4 1991 with a bachelor of science in petroleum engineering.

5 Q. What are your current responsibilities for Devon?

6 A. I'm the district engineer for the Eddy County
7 properties.

8 Q. As part of that responsibility, do you prepare
9 the AFEs?

10 A. Yes, sir.

11 Q. And did you prepare the AFE that Devon attached
12 to -- It's exhibit package, and which was submitted to
13 Mewbourne?

14 A. Yes, sir.

15 Q. In addition, have you analyzed and reviewed the
16 Mewbourne AFE?

17 A. I have.

18 Q. Have you made yourself knowledgeable about the
19 various components and the cost-comparison numbers in both
20 the AFEs?

21 A. I've tried to, yes.

22 MR. KELLAHIN: We tender Mr. Frank as an expert
23 petroleum engineer.

24 EXAMINER CATANACH: He is so qualified.

25 Q. (By Mr. Kellahin) Mr. Frank, let's take Exhibit

1 13. Identify for us what is on the first page. What are
2 we looking at? I'm sorry, I'm confusing you. 13 is
3 your --

4 A. Okay --

5 Q. -- is your --

6 A. -- I have it here, yes.

7 Q. -- is your tabulation.

8 A. This is a cost comparison of the Devon AFE and
9 the Mewbourne AFE.

10 Q. This is your work product?

11 A. This was actually done by another engineer, but I
12 have reviewed it.

13 Q. All right. He tabulated it, and did you go back
14 through each of the items, then, in both AFEs and check his
15 work?

16 A. Yes, sir.

17 Q. Can you adopt his work product as yours at this
18 point?

19 A. I can.

20 Q. The comparison of AFEs in terms of format,
21 Mewbourne and Devon have a slightly different format, do
22 they not?

23 A. That's correct.

24 Q. In order to let us make a direct comparison,
25 then, you have divided the costs into various

1 subcategories?

2 A. That's true, we've made some assumptions and
3 tried to read between the lines and come up with this cost
4 comparison.

5 Q. You were able to group line items under what you
6 have identified as site preparation?

7 A. Correct.

8 Q. What do you mean by that?

9 A. The location, preparation and entrance road into
10 the location.

11 Q. Okay. Setting aside Mewbourne's estimate, let's
12 look at the Devon estimate only. Where did you get that
13 number, and what degree of confidence do you have in its
14 reliability?

15 A. We have a relationship with several of the dirt
16 contractors in southeast New Mexico. I called upon one of
17 them to go actually look at the physical site and give me
18 their best-guessed estimate on what it would cost to
19 prepare it.

20 Q. That relationship has been developed as a result
21 of your oil production in the area out of the Delaware?

22 A. Correct.

23 Q. So these are the same people you deal with --

24 A. Yes.

25 Q. -- in that activity?

1 A. Yes.

2 Q. Okay. And you got a price of what?

3 A. About \$25,000, all told.

4 Q. Were you able to compare that to the cost
5 estimate of Mewbourne and derive a comparable?

6 A. We were somewhat higher than Mewbourne's
7 location.

8 Q. All right. What degree of confidence do you have
9 that the Mewbourne estimate is accurate?

10 A. Based on the information I've been given, I think
11 their bid is somewhat low.

12 Q. Let's look at the other items. Rig costs are
13 comparable. Let's find a line item that has a difference.

14 You have a specialized services item, and then
15 you have added up the entries that make up that item. What
16 are you describing here?

17 A. Specialized services on the Devon AFE contains
18 cement, P-and-A costs, water -- water disposal, various
19 items of that nature.

20 Q. Okay. Does your tabulation of specialized items
21 under the Devon column include anything for plugging and
22 abandoning the wellbore?

23 A. It does, yes, sir.

24 Q. Were you able to find a similar item estimated in
25 the Mewbourne AFE?

1 A. I was not.

2 Q. When we look at the stimulation in the Morrow, do
3 you have a value in your tabulation that is related to
4 Morrow stimulation?

5 A. Yes, I do.

6 Q. Is that included in your number?

7 A. Yes, it is.

8 Q. Could you find an equivalent entry to -- in the
9 Mewbourne AFE?

10 A. I found an entry for a single stimulation in the
11 Mewbourne.

12 Q. Do you plan for more than one stimulation?

13 A. Yes, sir --

14 Q. If --

15 A. -- we have -- Yes, sir, I do.

16 Q. You have the Morrow and the Strawn cost of
17 stimulation in your AFE?

18 A. Yes, sir.

19 Q. Okay. Do you have costs of drill stem testing in
20 your AFE?

21 A. We have included three DSTs in our estimation.

22 Q. Could you find those in the Mewbourne AFE?

23 A. I could not.

24 Q. All right. Mr. Calvert made a point of drawing a
25 comparison with your AFE and his with regards, I think, to

1 the casing string or the production string. I forgot the
2 number. There was a cost comparison where they had \$75,000
3 and you had \$55,000. Remember that?

4 A. They had \$73,000, and I had \$55,000, yes.

5 Q. Okay. From your point of view, what are we
6 comparing, and what's the difference?

7 A. Basically apples and oranges. They are obviously
8 running -- It's noted they're running 5 1/2; I quoted 4 1/2
9 casing.

10 Q. Okay. Were you involved in the preparing of the
11 estimate for Devon's use for the well in the north half of
12 15?

13 A. I was.

14 Q. Okay. And how does this AFE compare, your Devon
15 AFE for the south half of 15, compare to what you've
16 estimated for the well in the north half of 15?

17 A. It's real similar.

18 Q. You went through the same methodology and format
19 of doing this?

20 A. Yes, sir.

21 Q. Okay. Let's turn to the last item that's stapled
22 in this exhibit package. It has a heading, it says "Yates
23 Petroleum Corporation". Does Devon have an interest in
24 this well?

25 A. No, sir, I don't believe so.

1 Q. Okay. But you have an AFE from Yates dated March
2 20th of 1997, and it deals with a wellbore in Section 11?

3 A. Obviously I'm mistaken. If we received an AFE,
4 we must have an interest in the well.

5 Q. Well, apart from the interest, you have the AFE?

6 A. Correct.

7 Q. It appears to be true and accurate, from Yates,
8 right?

9 A. Yes, sir.

10 Q. And what do they show as a dry hole and a
11 completed well cost for drilling a deep Morrow gas test?

12 A. Approximately -- A dry hole and completed cost of
13 approximately \$1.1 million.

14 Q. Substantially higher than either you or Mewbourne
15 have proposed to at least AFE for this well?

16 A. Correct.

17 Q. Okay. In your opinion, is the Devon AFE fair and
18 reasonable?

19 A. If all goes well it is, yes.

20 Q. All right. So this AFE is based upon the
21 expectation that if there are no changes in operations
22 required, then this is accurate?

23 A. Correct.

24 Q. All right. Do you share with Mr. Calvert the
25 same type of concerns that he had about problems beyond the

1 control of whoever operates the well?

2 A. I do.

3 MR. KELLAHIN: That concludes my examination of
4 Mr. Frank.

5 We move the introduction of Exhibit Number 13.

6 MR. HALL: I would object to 13 to the extent it
7 contains a Yates AFE.

8 EXAMINER CATANACH: What's your objection to
9 that?

10 MR. HALL: This witness cannot authenticate it,
11 and it's purely hearsay.

12 MR. KELLAHIN: He's an expert. He's entitled to
13 rely on hearsay evidence, Mr. Examiner. We can check the
14 rule book, we can pull out the Rules of Civil Procedure. I
15 think you find it in Rule 701, an expert can rely on
16 hearsay evidence to formulate an opinion, and that's what
17 this man has done.

18 MR. HALL: The problem is, with its
19 admissibility, that he cannot authenticate it. He had no
20 involvement in the preparation of the --

21 MR. KELLAHIN: The rule does not require him to
22 authenticate it.

23 MR. CARROLL: Well, it's evidence of the basis of
24 his opinion. I mean, it's evidence substantiating his
25 opinion.

1 MR. HALL: Well, and that's my point, he cannot
2 authenticate that.

3 MR. CARROLL: I don't think he's trying to
4 authenticate it.

5 EXAMINER CATANACH: I think we'll go ahead and
6 admit it.

7 All right, Exhibit Number 13 will be admitted as
8 evidence.

9 Mr. Hall?

10 CROSS-EXAMINATION

11 BY MR. HALL:

12 Q. Mr. Frank, let me ask you some of the questions
13 I've asked already in this proceeding.

14 If the well in the north half of Section 15 turns
15 out to be a dry hole, is Devon still committed to drilling
16 in the south half of 15 today?

17 A. Well, of course, I can't answer that. I think a
18 lot of that will depend on the recompletion of the Ocotillo
19 Hills, once that's done. But as far as presenting company
20 policy on that, I can't speculate.

21 Q. Let's talk about the Ocotillo Hills recompletion.
22 Do you know what's been the hold-up with Devon's execution
23 of Mewbourne's AFE and JOA?

24 A. I have no idea, no, sir.

25 Q. But is it correct that Devon has not executed

1 Mewbourne's JOA?

2 A. To this date I don't believe we have executed it.
3 I don't recall when we received it, so I don't know if
4 we've had enough time to evaluate and look at the JOA.

5 Q. You don't know if time is the reason or not; you
6 simply don't know why it hasn't been executed?

7 A. Correct.

8 Q. When was the well in the north half of 15
9 spudded?

10 A. The second week of September.

11 Q. Okay. And these are -- What have you planned
12 for? A 30- or a 40-day well?

13 A. A 32-, yeah, to drill.

14 Q. Okay. So you're close to completion right now?

15 A. Well, we've been having some problems and hold-
16 ups, but we're continuing to drill.

17 Q. Okay. What problems have you encountered?

18 A. As Mr. Calvert said, we did encounter the lost
19 circulation zone, and we've had some deviation problems in
20 the well.

21 Q. Any other problems?

22 A. Not to date.

23 Q. All right. Do you reside in Oklahoma City?

24 A. Norman, actually.

25 Q. Norman?

1 A. Yes.

2 Q. So you're not the on-site, district -- or at
3 least a district supervisor for this well in New Mexico?

4 A. I am. I am the district supervisor. I'm the
5 district engineer for this well.

6 Q. I see.

7 A. I am not on site.

8 Q. How much experience have you had in drilling deep
9 Penn formation wells in Eddy County?

10 A. Well, actually, I broke out working in the
11 oilfield when I was 14 years old. I worked summers and
12 weekends during high school. I went overseas when I was 19
13 years old. I pushed tools and drilled from 1979 to 1986,
14 internationally --

15 Q. -- Eddy County.

16 A. -- internationally. And then I went back to
17 school. I graduated from college, I went to work for Kerr-
18 McGee as a district engineer. Some of my properties were
19 Indian Basin-Morrow properties, which are further to the
20 west than these properties are.

21 I have no personally supervised the drilling of a
22 Morrow well, but I was the completion supervisor on the
23 completion of several of these.

24 Q. All right. Can you estimate for us when it's
25 likely you'll be able to release the rig off of the north-

1 half location?

2 A. I would hope in a maximum of two more weeks.

3 Q. Two weeks. Once that is released, do you plan on
4 holding the rig on location, pending the resolution of
5 operatorship in the south half?

6 A. No, we do not. We would have to pay standby
7 rates for the rig. We have the contract written to drill a
8 south-half well. They are committed to drilling that well,
9 but because of this hearing our timing has been pushed off.

10 I have spoke with the drilling company. They are
11 going to move to drill the Yates well, I'm assuming in the
12 south half of Section 11, and then come back pending
13 resolution of this matter and drill our south-half well in
14 15.

15 Q. Now, getting back to the lost-circulation
16 problems you've encountered, can you refer back to Exhibit
17 13, your AFE, and tell me where you've budgeted for that
18 contingency in here?

19 A. I did not. As I said, I budgeted this AFE on
20 everything going correct and well, without any problems.

21 Q. Okay. Do you have an idea of how much cost may
22 be attributable to your deviation problem and your lost-
23 circulation problem?

24 A. Well, you -- As Mr. Calvert said, it's just the
25 opposite of getting a water flow. Instead of having to

1 truck water off, you have to truck it in. And that does
2 add considerable costs.

3 Q. So it's turned out our saltwater disposal
4 facility is really not an issue for this well?

5 A. That's correct.

6 Q. In your experience in Eddy County and elsewhere,
7 have your estimated pre-drill costs fairly approximated
8 your actual well costs, in your AFEs?

9 A. In the drilling of the Avalon 15 C or --

10 Q. Generally.

11 A. Yes, I usually come quite close in my AFEs. I
12 have drilled, to date, 14 wells in Eddy County, in a
13 different field, and we have not been over budget on any of
14 those.

15 Q. Do you typically not account for contingencies
16 such as lost circulation, and when you do encounter those
17 does it make your actual costs exceed your AFE estimations?

18 A. Yes, there's two ways to attribute contingencies.
19 You can either somewhat inflate your estimated costs on
20 line item, or you can add a contingency. As you can see,
21 Mewbourne added two percent -- which is just about one
22 day's day rate for this rig -- to their -- as their
23 contingencies. I prefer to inflate the line items somewhat
24 to account for that.

25 Q. What depth are you drilling at now?

1 A. We're at about 5500 feet.

2 Q. Why did you elect to use 4-1/2-inch surface
3 casing?

4 A. As an --

5 Q. I'm sorry, production casing.

6 A. Production casing. As a way to control the well
7 costs. Simple as that.

8 Q. If you encounter drilling problems using the
9 4-1/2-inch casing, your costs inflate because of that if
10 you have to try to correct those problems. In other words,
11 what happens if you have to fish for a while? Is that more
12 difficult with 4-1/2-inch casing?

13 A. Well, that would be after the well is drilled,
14 and after you get the well completed, there might be some
15 sort of fishing going on inside the 4 1/2. I don't believe
16 so, not really. When you fish 2 3/8 inside 4 1/2, it's
17 very similar to fishing 2 7/8 inside 5 1/2 and its
18 associated equipment.

19 Q. Well, isn't it safe to say that it's easier to do
20 completions and recompletions inside of a 5 1/2 rather than
21 4 1/2?

22 A. I don't think you can say that. I think there's
23 a -- The tools are available and are common for 4 1/2
24 completions.

25 Q. Have you ever damaged a casing in a frac

1 operation?

2 A. Yes, we have.

3 Q. And what happens? Isn't -- If you're using a
4 4-1/2-inch casing and damage it in a frac operation, what
5 do you do to cure that?

6 A. Well, you repair it the same way you would if you
7 damaged your 5 1/2.

8 Q. It's not more difficult? Is that your testimony?

9 A. No.

10 Q. Can you frac it after you've done the repairs on
11 it?

12 A. Sure, if you go downtubing.

13 MR. HALL: I have nothing further of this
14 witness.

15 EXAMINER CATANACH: I don't have any questions of
16 this witness.

17 Anything further?

18 MR. KELLAHIN: Mr. Examiner, I have Devon Exhibit
19 Number 3. It's my certificate of notice. It indicates
20 that on July 29th, we mailed notice to Mewbourne. It
21 attaches the notice letter, and on the last page is the
22 return receipt card showing receipt of notice. We would
23 ask that Exhibit 3 be admitted into the record.

24 EXAMINER CATANACH: Exhibit Number 3 will be
25 admitted as evidence in this case.

1 Does that conclude your presentation?

2 MR. KELLAHIN: Yes, it does.

3 EXAMINER CATANACH: I suggest we dispense with
4 closing statements, unless you care to give one.

5 MR. KELLAHIN: Yes, sir, I have something I'd
6 like to say.

7 MR. HALL: Mr. Catanach, if I could I'd like to
8 put Mr. Calvert on for some brief rebuttal testimony.

9 MR. CARROLL: Regarding what?

10 MR. HALL: The casing issue.

11 MR. CARROLL: And what is the casing issue?

12 MR. HALL: Well, it bears on prudent operations
13 and problems you're likely to encounter in using 4-1/2-inch
14 versus 5-1/2-inch casing. It has a bearing on the
15 experience of the respective operators. I think that may
16 be a factor in the ultimate decision here.

17 EXAMINER CATANACH: If you cover it briefly, I'll
18 let you do it.

19 MR. HALL: We'll cover it briefly.

20 KEN CALVERT (Recalled),
21 the witness herein, having been previously duly sworn upon
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HALL:

25 Q. Mr. Calvert, you've been previously sworn. You

1 heard Mr. Frank testify about the fact that Devon proposes
2 to use 4-1/2-inch production casing here. Do you have any
3 comments about that?

4 A. Yes, in that over the life of a well -- Let's
5 just assume everything goes right, like you was talking
6 about on the initial completion.

7 Over the life of a well, several -- casing
8 deterioration may occur. And first, in fishing, if you're
9 fishing 2 3/8 and 4 1/2 like he suggested, it's as easy to
10 do that as fishing 2 7/8 inside a 5 1/2.

11 However, if you get certain small-diameter tools
12 lost off inside of the 4 1/2 casing, and maybe you have
13 jars, oil jars, hydraulic jars, bumper jars or whatever,
14 and drill collars, to get that kind of -- fish that kind of
15 material out of the hole -- Let's just say it's a packer, a
16 permanent packer, maybe. Then the IDs of those tools do
17 not allow you to run string shots to back off with, to
18 maybe just run a perforating gun or so forth.

19 There are tools -- and I've just had -- I know
20 this because I've just been there in the last two or three
21 months, that you can get as small as 3/4 inch in diameters.
22 There are tools made, if you can find them.

23 And where -- The problem comes in if you have
24 small-ID drill collars to jar with, small-ID subs or jars,
25 it gets very difficult if you get some of those things hung

1 up, if you've got to back off the top part of your fishing
2 string, to get some other larger drill collars, change out
3 maybe the tubing string to get off of it, where you can get
4 on with something that you can really hammer it out of the
5 hole with.

6 The 4 1/2, our experience is, is where we have
7 real trouble. And if you're going to have trouble fishing,
8 it's going to be in 4 1/2, as opposed to 5 1/2, because
9 5 1/2, you're getting to a big enough casing string you can
10 do something with.

11 The other thing is, we're talking about a
12 possible multiple-pay field. I hope, whether they drill it
13 or whether we drill it, it is a multiple-pay well. And
14 sometimes if you have to stimulate after a well's been
15 there a while, if you get a hole in, say, 4 1/2 casing and
16 it has to be repaired, typically it's going to be repaired
17 by squeezing.

18 And typically, the better frac jobs, the higher
19 rates, the larger capacity of sand and water, in the
20 current frac jobs that we're doing we go down the casing,
21 to get the rate that we want to get the frac away and to
22 propagate frac.

23 If you get a hole in the 4 1/2, you're faced with
24 putting, to get any kind of rate at all, which is going to
25 be reduced, you're forced to putting 2 1/2 -- or 2 7/8

1 tubing inside of 4 1/2 casing, to frac that well, to get
2 any good frac at all.

3 If you have 5 1/2, you can always run slimline
4 3 1/2 and frac through it. And that's almost -- Slimline
5 3 1/2 is not -- The rates that we tried to get is not that
6 far off of 4 1/2 to start with.

7 And so the longevity of a well is certainly going
8 to be better with a 5 1/2 than it is with 4 1/2, if you run
9 into problems. And so we -- Our AFE does have the 5 1/2 in
10 it, and our experience tells us that's what you need to
11 run.

12 And so if his AFE has the price of 4 1/2 in it at
13 that price, then to have the equivalent well, you're going
14 to have to add \$20,000 to it, the differential, to get up
15 to an equivalent servicing well.

16 MR. HALL: Okay. Thank you, Mr. Calvert.

17 That's all we have.

18 EXAMINER CATANACH: Okay. Mr. Kellahin?

19 MR. KELLAHIN: No, sir.

20 EXAMINER CATANACH: Okay. You say you want to
21 give a brief closing statement --

22 MR. KELLAHIN: Yes, sir.

23 EXAMINER CATANACH: -- Mr. Kellahin?

24 MR. KELLAHIN: Yes, sir.

25 EXAMINER CATANACH: Proceed.

1 MR. KELLAHIN: Thank you.

2 I'll give you my quarter, Mr. Examiner, and you
3 can decide this case with a flip of a coin.

4 EXAMINER CATANACH: Thank you.

5 MR. CARROLL: Call it.

6 MR. KELLAHIN: Or you can remember the memo that
7 you gave us back in April of 1995, and that memo was
8 generated because of the Dagger Draw wars.

9 You may remember, you may remember, that Nearburg
10 and Yates got into a squabble over Randy Patterson not
11 electing within a 30-day period under an operating
12 agreement, and Nearburg made them go nonconsent.

13 And within a matter of days, John Yates, then,
14 combed the entire reservoir, finding any spacing unit in
15 which he had an interest and Nearburg had an interest, and
16 he served Nearburg with more than 35 well proposals and
17 AFEs. And we went to the force-pooling wars before you on
18 virtually all those cases.

19 As a result, during that effort, you gave us this
20 memorandum. It's a guidance thing to help us resolve these
21 things. Because quite frankly, I don't want to be here any
22 more than you want to be here. Our docket has got force-
23 pooling cases that don't belong here. You need to tell us
24 how to pursue these, how to resolve these.

25 And I'm looking at your list, and you've already

1 told us. You said relevant and pertinent evidence of
2 willingness of operators to negotiate a voluntary
3 agreement. Mewbourne flunked that criteria.

4 Look at their chronology. What is the
5 expectation of Devon? On March 13, Mewbourne comes and
6 says, Let's get together and put together on a cooperative
7 basis an area of mutual interest.

8 What happens next? They don't come back, they
9 don't talk. They close the door on any negotiation on a
10 voluntary agreement, because on June 12th they give Devon
11 an ultimatum. Without discussing with Devon, Mewbourne
12 makes the choice of the orientation of the spacing unit.
13 Mewbourne makes the choice about the well location.
14 Mewbourne makes the choice to go out and stake the well.

15 It has a chilling effect on voluntary agreements
16 when one party seeks to prosecute one of these cases. And
17 that's the word Mr. Hall used in a question to Mr. Calvert.
18 He said, Describe the efforts of Mewbourne to prosecute
19 this well. I like his choice of words because it describes
20 what Mewbourne does. They are using the force-pooling
21 process as a negotiating weapon, and it has a chilling
22 effect on all of us when they close the door to
23 opportunities to work out voluntary agreements by giving
24 you this pre-emptive challenge.

25 And if you decide that this case is decided by

1 that event, then it sends a signal to all of us that the
2 first thing that we do when we get an idea is to blitz the
3 reservoir, to ambush our interest owners in a section, and
4 go out and stake the well, get it permitted, propose a
5 specific location, and then sit back and negotiate after
6 the fact. I think it is hostile, I think it's predatory,
7 and I think it ought not to be done.

8 So you can either flip the coin or you can award
9 operations to Mewbourne and award [sic] them for this
10 aggressive strategy, or you can allow us to operate this
11 well and send a message to Mewbourne and the rest of the
12 industry that this predatory action is not going to be
13 tolerated. We want voluntary agreements as a first choice
14 and force pooling as a last resort.

15 EXAMINER CATANACH: Mr. Hall?

16 MR. HALL: Obviously, Mr. Catanach, the deciding
17 factor should be that the Applicant who does not use the
18 coin-flip joke should prevail. The record might also
19 reflect that Mr. Kellahin has tried to give the Examiner
20 some money in advance of a decision.

21 (Laughter)

22 MR. HALL: It is a close case, Mr. Catanach. And
23 what do you do? I think your earlier memorandum is
24 directly relevant to this. Let me provide you with a copy
25 of Order Number R-10,731-B, follows your memorandums, so

1 you can have it in your file when you craft your order for
2 this case.

3 And it shows you the steps you have to go through
4 to decide a close case like this. This is what it comes
5 down to: We need to get hydrocarbons out of the ground.
6 Mewbourne is ready to do it, Devon is not. In fact, I
7 think it's pretty clear from the Devon witnesses' testimony
8 here this afternoon that they're not committed to drilling
9 the well in the south half. Mewbourne is.

10 On the other hand, Devon is going to wait until
11 it gets results from its north-half location. Till that
12 happens, what else do you have to look at?

13 Look at the facts throughout -- Devon was unaware
14 of the Strawn play. It was not until other operators,
15 Mewbourne and Carlow, took the prospect to them that they
16 reacted.

17 Early on, Mewbourne made the decision to commit
18 company resources, time, personnel and money to prosecuting
19 the drilling of the Strawn play out here. Their objective
20 is to get hydrocarbons out of the ground for the State of
21 New Mexico.

22 On the other hand, Devon's style is to sit back
23 and react, purely reactive throughout. I think that should
24 be the deciding factor for you in drawing your order for
25 this case.

1 That's all I have, Mr. Catanach.

2 EXAMINER CATANACH: Thank you, Mr. Hall.

3 Anything further?

4 MR. KELLAHIN: No, sir.

5 EXAMINER CATANACH: There being nothing further,
6 let's take Case 11,830 and 11,833 under advisement.

7 Thank you, gentlemen.

8 (Thereupon, these proceedings were concluded at
9 2:30 p.m.)

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I do hereby certify that the foregoing is
a correct record of the proceedings in
the examiner hearing of Case No. 11830, 11833
heard by me on October 9 1997.
David R. Leland, Examiner
Oil Conservation Division

