STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:	)	CASE NO. 12,563
APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR TERMINATION OF GAS PRORATIONING IN THE JALMAT AND EUMONT GAS POOLS AND TO AMEND THE SPECIAL RULES GOVERNING BOTH POOLS, LEA COUNTY, NEW MEXICO	)	ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

July 12th, 2001

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, July 12th, 2001, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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I N D E X

July 12th, 2001
Examiner Hearing
CASE NO. 12,563

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E X H I B I T S

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A P P E A R A N C E S

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By: WILLIAM F. CARR

ALSO PRESENT:

RICHARD EZEANYIM
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* * *

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

EXAMINER CATANACH: Call the hearing back to order, and at this time I'll call Case 12,563, which is the Application of the New Mexico Oil Conservation Division for termination of gas prorationing in the Jalmat and Eumont Gas Pools and to amend the special rules governing both pools, Lea County, New Mexico.

Call for appearances in this case.

MR. BROOKS: May it please the Examiner, my name is David Brooks. I am assistant general counsel for the New Mexico Energy and Minerals and Natural Resources Department, appearing on behalf of the Oil Conservation Division.

I have one witness who is present and another whom I will ask leave of the Examiner to have appear by telephone and give his testimony by telephone.

EXAMINER CATANACH: Okay, call for additional appearances.

MR. GALLEGOS: Mr. Examiner, Gene Gallegos, Santa Fe, New Mexico, appearing for Doyle Hartman, and we have one witness.

MR. CARR: May it please the Examiner, my name is William F. Carr with the Santa Fe office of Holland and Hart, L.L.P. I'd like to enter our appearances for Raptor

Resources, Inc., BP Amoco and Chevron USA, Inc. I have no witnesses.

MR. BROOKS: Would you like to swear my witness, Mr. Examiner.

EXAMINER CATANACH: I would like to defer that until we get Mr. Morrow on the phone, and we'll do all three of them at the same time, Mr. Brooks.

MR. BROOKS: Very good.

EXAMINER CATANACH: Are there any additional appearances in this case?

MR. BRUCE: Mr. Examiner, James Bruce of Santa Fe, representing Exxon Mobil Corporation. I have no witnesses.

EXAMINER CATANACH: Okay. We are waiting on Mr. Morrow's phone call to start the proceedings in this case. Is he your first witness, Mr. Brooks?

MR. BROOKS: Yes, because of his time schedule we would like to put him on first.

EXAMINER CATANACH: Okay, then we shall wait his arrival.

MR. BROOKS: Okay. Well, to expedite things, with the leave of the Examiner I will head on upstairs so I'll be up there when he calls.

EXAMINER CATANACH: You may be excused.

MR. BROOKS: Thank you.

(Off the record at 1:32 p.m.)

(The following proceedings had at 1:35 p.m.:)

MR. BROOKS: May it please the Examiner, I believe we now have the phone number for Mr. Morrow, and we can get him on the telephone, assuming there's no objection to his testifying by telephone.

EXAMINER CATANACH: Is there any objection?

MR. CARR: No objection.

MR. BRUCE: No objection.

MR. GALLEGOS: No objection.

MR. BROOKS: Very good.

MR. MORROW: Hello?

EXAMINER CATANACH: Mr. Morrow?

MR. MORROW: Yes.

EXAMINER CATANACH: David Catanach here.

MR. MORROW: Hello David.

EXAMINER CATANACH: How are you?

MR. MORROW: Good, how are you doing?

EXAMINER CATANACH: I'm doing good. We have you on speaker in the hearing room, and I assume you're going to be the first to testify so --

MR. MORROW: Okay.

EXAMINER CATANACH: -- we're going to need to swear you guys in. Can I have all the witnesses please stand and be sworn in?

MR. MORROW: Okay, I'm standing.

(Thereupon, the witnesses were sworn.)

EXAMINER CATANACH: Okay, Mr. Brooks, you may proceed.

MR. BROOKS: Thank you, Mr. Examiner.

Mr. Morrow, can you hear me from here?

MR. MORROW: Not as well as I could David.

MR. BROOKS: Mr. Examiner, would you like me to approach the phone so I can --

EXAMINER CATANACH: Certainly, that would be --

MR. BROOKS: -- communicate more efficiently with Mr. Morrow?

EXAMINER CATANACH: Yes, sir, that would be fine.

MR. BROOKS: Thank you, sir. Call Jim Morrow as my first witness.

MR. MORROW: All right, I'm here.

JIM MORROW,

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

DIRECT EXAMINATION

BY MR. BROOKS:

Q. Okay, would you state your name, please?

A. My name is Jim Morrow.

Q. And where do you currently reside?

A. In Longview, Texas.

Q. You're out in the piney woods of east Texas, right?

A. Yes, sir.

Q. Well, that's an appropriate place from which to talk about prorationing, because from what I understand, the east Texas field is where it all began.

A. Well, that could be true.

(Laughter)

Q. And you're now retired; is that correct?

A. Yes, sir, I'm retired.

Q. And were you at one time employed by the New Mexico Oil Conservation Division?

A. Yes, sir, I was, in the 1990s.

Q. And during what time period?

A. Pardon me?

Q. During what time period?

A. It was in the 1990s, two separate times, 1991, 1990 and 1991, and then later in 1993 and 1994, and then I did some contract work for OCD in 1995 and 1996, and then again last year, the year 2000.

Q. Right, and that's that last assignment that I'm going to talk to you about in a minute, but first of all let me ask you, are you familiar with the Jalmat and Eumont Pools in Lea County, New Mexico?

A. Yes, sir.

Q. And did you work with those -- did you form a familiarity with those pools when you were employed by the Division?

A. Yes.

Q. Okay. Those are, are they not, very large gas pools?

A. Gas and oil, yes, sir.

Q. Gas and oil, correct.

A. Right.

Q. And in fact, I'm looking at a map here, and it appears like the Eumont Pool, which is on the north end of the play, is something like from 18 to 20 miles north and south and from six to eight miles east and west, and the Jalmat Pool to the south of it is more like -- seems like about 20-something miles, 24, 26 miles north and south, and about the same east and west. Yeah, again, about six to eight east and west.

A. That sounds all right to me. I don't remember those exact numbers, but they're large pools.

Q. Well -- Yes, okay. Now, you are of course familiar with the concept of prorationing of oil and gas, correct?

A. Yes.

Q. And was one of your responsibilities when you were with the New Mexico Oil Conservation Division related

to the administration of the proration program?

A. Yes, sir, that's true.

Q. So you know how it works and you know all the -- most of the refinements. I won't say all of them, I'm not sure anybody knows all of them.

A. Yes, sir.

Q. Okay. And was it 1999 or 2000 that you were commissioned on a contract to do a study?

A. 2000.

Q. It was in 2000, okay. And you were commissioned by the Oil Conservation Division, correct?

A. Yes, that's true.

Q. And what area were you asked to study?

A. I was asked to perform an analysis of the proration system in the New Mexico prorated pools, gas pools, in particular the Eumont and the Jalmat, and then make a recommendation based on that analysis of whether there is a need to continue to prorate these pools and, if so, how it should be done.

Q. Right.

A. That was my assignment.

Q. Okay, you prepared a report, did you not?

A. Yes, sir, I did.

Q. And I am holding in my hand a report which is not numbered in pages throughout, and it's fairly lengthy, so

it will take me a while to count the pages, and I don't think these gentlemen would want to stand by while I do it, but it states at the top "Memorandum", and it says, "To: Lori Wrotenbery, Oil Conservation Division, From: Jim Morrow, Date: October 25, 2000, Subject: Analysis of Proration System - Southeast New Mexico".

And it has about ten pages of text -- well, no, not quite that many. It has about seven pages of text and a bunch of exhibits, the last of which is entitled "Monthly Allowables - Southeast Prorated Gas Pools, MCF". Does that sound like that's your report?

A. Yes, sir, that is the report, and I've mentioned that that report was submitted to the Commission, to Commissioners Wrotenbery and Bailey and Lee on November 8th at a Commission hearing, so it should be in that record.

Q. Okay, very good. Well, we have made a copy of your report dated October 25, 2000, Exhibit Number 5, for this hearing, and so I want to discuss this with you.

A. Okay. Now actually, the final report was dated November 6th. I'm sure that October 25 is real close to it, but the one in the record, November 8th record, is dated November 6th.

Q. Okay, well, you've straightened me out on something, because I've never seen the November the 6th, and this one says "Final Draft" on it, but --

A. Okay, that's right.

Q. And I think the one that we have offered in evidence is a copy of this October 25th.

A. Probably the difference is, we took the "Final Draft" off and changed the date, so I'm sure that one's the same as the November 5th.

Q. Okay. Well, following the usual -- what appears to be the usual --

A. November 6th, excuse me.

Q. Following what appears to be the usual practice of the Oil Conservation Division, in contrast to the courts, I will examine you about the instrument and then offer it in evidence at the conclusion of my examination.

A. All right.

Q. To talk to you about the conclusions you came to, I need to go back a little bit into the background of what prorationing is and how it works.

A. Okay.

Q. And as I understand it, and correct me if I'm wrong, prorationing is a system for allocating the production of a pool among the various units within that pool that are drawing gas, in this case, from a common source of supply.

A. Yes, sir, that's right. It allocates the available market to the various wells or gas proration

units in the pools. It gives them an opportunity to produce.

Q. Right, and when proration originated, was there a sufficient market in southeastern New Mexico, when prorationing in this area originated, was there a sufficient market in southeastern New Mexico for all the gas that could be produced from the field, from the gas fields in southeastern New Mexico?

A. I understand there was not, and in many pools there was a single outlet, a single pipeline outlet or market for the gas in the pool, rather than multiple markets as there is today.

Q. Right. And at that time the Commission's rules called for the purchaser or purchasers to come in every month and nominate the amount that they could purchase from the pool, and then based on that the Commission would determine -- would allocate that amount among the various units; is that correct?

A. That's correct.

Q. Now, when there got to be a broader market for gas, did that system of nominations and monthly determination of allocations fall into disuse?

A. Yes, it did, more or less. In 1990, in the gas pools we switched to a six-month allocation instead of a monthly, and we started requesting nominations and

producers' forecast, but the purchaser nominations more or less fell into disuse and were no longer received or used.

Q. Well, as a practical matter in the 1990s in southeastern New Mexico, whatever gas you had that was reasonably close to the pipeline you could market, right?

A. I think that's true in the middle 1990s and the later 1990s. The early 1990s there may have been some tightness of the market.

Q. Okay, I want to establish some definitions of some terms here. Proration refers to the system by which production is allocated, correct?

A. Yes, sir, which allowables are assigned which permit the wells to produce.

Q. Now, an allowable is the amount of gas per month that any given unit can produce, correct?

A. Right, that's the way it's assigned, to a gas proration unit, rather than to a well, since the gas proration units may have multiple wells.

Q. Right, there may be more than one well in a unit?

A. Yes, sir.

Q. And if there's more than one well in a unit, then the total production from those wells is measured against the allowable for that unit, correct?

A. That's correct.

Q. And sometimes wells exceed their allowable,

correct?

A. Yes, sir.

Q. And that's a fairly normal fact, that's not something that you go out and shut it in the next day just because it's sitting there alone?

A. No, the rules provided a method by which they could exceed the allowable and then make it up later. In the southeast pools, gas proration units could exceed their allowable by as much as six times. They could be overproduced as much as six times their monthly allowable and then make it up later.

Q. Right. Now, what is a marginal unit?

A. A marginal unit is one which is incapable of producing the assigned allowable.

Q. And is there a formula in the rules by which a nonmarginal unit may be reclassified as a marginal unit and a marginal unit may be reclassified as a nonmarginal unit?

A. Yes, sir, there are those formulas in the rules.

Q. And without going into all the complexities of those formulas which, thanks to another case I have familiarized myself with recently, basically is it not true that if a unit consistently underproduces its allowable, it's reclassified as a marginal unit?

A. If it underproduces, it's reclassified to marginal, that's correct.

Q. Consistently?

A. Pardon?

Q. Consistently?

A. Right, for a period of time.

Q. Right. And if it's a marginal unit, it can produce all it wants to, it no longer has an allowable in the strict sense of the word, that is, a maximum against which its production is measured and it has to make up, correct?

A. That's correct. The marginal units were assigned shadow allowables, and if they exceeded that -- what they called the shadow allowable, which was the allowable it would have gotten had it been nonmarginal for a period of time, then it would be reclassified to nonmarginal.

Q. Correct. Now, when you did this study, one of the things you looked at was how many units in the Jalmat and Eumont Pools -- and you looked at some other pools as well, but we're only concerned with those two --

A. Yes, sir.

Q. -- one of the things you looked at was how many of the units, gas proration units in the Jalmat and Eumont Pools were marginal, correct?

A. That's right.

Q. And you came to the conclusion that virtually all of them were, right?

A. Virtually all of them were underproducing, that's right, underproducing their allowable, producing less than their allowable.

Q. In fact, you found only, I believe, five pools in the Jalmat and six in the Eumont, or maybe I have them reversed, but --

A. Well, it's five GPUs in the Jalmat and six in the Eumont, that's correct.

Q. That's what I was thinking. -- that had at any time during the five-year period covered by -- or how long was the period covered by your study?

A. All right, it was from January of 1997 through March of 2000.

Q. All right, so it was a little over a three-year period?

A. 1997, 1998 -- Right.

Q. And during that period you found only five units in the Jalmat and six in the Eumont that at any time during that period had, for any month, overproduced their allowables --

A. That's right.

Q. -- shadow allowables, right.

A. Right.

Q. No, I believe you have somewhere in here the figure of how many units there were -- there are, how many

GPUs there are in those pools, but I don't -- unfortunately I don't have that flagged here, but it's in the hundreds, correct?

A. Let's see if I have it here. I don't have it. The wells in Jalmat was 396 in March of 2000, and wells in -- producing wells in Eumont was 555 in March of 1996, but I don't have the --

Q. The number --

A. -- or March of 2000, but I don't have the number of GPUs in front of me.

Q. However, can you say, based on this study that you've done and the analysis of the production of these wells that virtually -- as of the time you did this study in 2000, virtually all of the GPUs in the Jalmat and Eumont Gas Pools were marginal?

A. That's right, even those eleven, the five in Jalmat and the six in Eumont, were underproduced at the end of the period. All the overproduction which they had accumulated had been made up by March 31st of 2000.

Q. In fact, in the case of the Eumont, is it not true that all of the instances of overproduction you found in that three-year period were in the first year of that three-year period, namely 1997?

A. That could very well be true. I don't remember that exactly. I could look that up, but I'm not surprised

at this.

Q. Yeah, I believe your report will reflect that --

A. Okay.

Q. -- approximately that.

Now, given the way gas prorationing works, if all of the GPUs are marginal does prorationing have any effect on the production of gas -- on the amount of gas produced in the pool?

A. I believe it has virtually no effect.

Q. So as long as that is the case, if those units are all marginal, the Division could deprorate and it would presumably have no effect on the amount of gas produced from those figures?

A. I'd say that would be a true statement.

Q. Would it have any effect on the allocation of that production among the GPUs?

A. Well, of course, if it was eliminated there wouldn't be any allocation, so I guess to some extent it would have an effect, but I don't think it would have an effect no what they produced.

Q. Well, that's what I meant --

A. Right --

Q. -- because of the allocation and --

A. Right.

Q. Yeah, okay.

A. Right. Yes, sir, you're right.

Q. Back to what I said about where proration originated, the concept was, as I understand it, that if the market were not allocated among the available wells, then because -- even though there wasn't a market, people still had to drill wells because they had to do something to preserve their leases, correct?

A. Well, I'm sure that would happen at times, yes, sir.

Q. And they had to do something to prevent drainage, right?

A. Say that again, please, sir?

Q. Or they might also have to drill wells to prevent drainage, from what I --

A. Yes, sir. Yes, sir, that's true.

Q. And if you got a lot of uneconomic wells that were drilled that couldn't sell enough gas to pay for themselves, you would have premature abandonments, failure to maintain wells, et cetera, correct?

A. Yes, sir, I assume that would be true.

Q. And that's one of the things that's viewed as waste by the Commission in those days?

A. What was that again?

Q. That was one -- The Commission saw that as being waste if you had that situation?

A. Oh, if you drill wells that weren't needed?

Q. Yes.

A. Yes, that would be wasteful.

Q. Right. In your opinion, Mr. Morrow -- Well, first I'll do this the correct way.

Do you have an opinion, Mr. Morrow, based on your experience, your training in petroleum engineering and your experience in working in this area and also based on your study of the Jalmat and Eumont Pools, do you have an opinion as to whether or not gas proration is necessary at this time to prevent waste in those pools?

A. I don't believe it is. I haven't done a reservoir study of either pool. I have looked at production and allowables, and I can see that prorationing has little effect on production. I can see that production has declined fairly drastically in both pools from the mid-1990s until now. In Jalmat, production was roughly half in 2000 what it has been in the mid-1990s, and in Eumont it was roughly a third what it had been in the mid-1990s.

So with that in mind, this lower rate of production, I believe, certainly would not be wasteful compared to that higher rate in the mid-1990s.

Q. Right.

A. And that higher rate was approved by the Commission through increased allowables, based on requests

from operators and testimony by them, so that I'm assuming they believed and the OCD or the OCC believed that waste would not be caused by those higher rates. So I would believe that the lower rates also would not cause waste.

Q. Thank you. Now, I realize I forgot to go through the formalities here, so I'll beg the leave of the Examiner to do it retroactively.

Mr. Morrow, have you testified before the New Mexico Oil Conservation Division previously as an expert witness?

A. Yes, sir, I believe I have.

Q. And have your credentials as an expert in petroleum engineering been accepted by the Division?

A. Yes, they have.

MR. BROOKS: Mr. Examiner, I will ask you to retroactively accept Mr. Morrow as an expert petroleum engineer.

EXAMINER CATANACH: Any objection?

MR. GALLEGOS: No objection.

EXAMINER CATANACH: Mr. Morrow is so qualified.

MR. BROOKS: Thank you. With that I am going to offer Exhibit 5, which is a copy of Mr. Morrow's report draft, dated October 25, 2000, and since he said that he submitted a subsequent report that was actually the official report, I will additionally, to the extent that

there may be any differences, ask the Division to take administrative notice of the November report, which is a part of his -- part of the Division's files.

EXAMINER CATANACH: Okay, Exhibit Number 5 will be admitted as evidence, and the Division will take administrative of the November -- What is it, November 8th?

THE WITNESS: November 6th report, it's the November 8th hearing.

EXAMINER CATANACH: Okay, November 6th hearing --

THE WITNESS: November 8th hearing.

EXAMINER CATANACH: November 6th draft of the report that was submitted at the November 8th -- What year was that, Mr. Morrow? 2000?

THE WITNESS: 2000.

EXAMINER CATANACH: Okay, we will take administrative notice of that report.

MR. BROOKS: Pass the witness, Mr. Examiner.

EXAMINER CATANACH: Any questions of Mr. Morrow, Mr. Carr?

MR. CARR: No questions.

EXAMINER CATANACH: Mr. Gallegos?

MR. GALLEGOS: Mr. Morrow, can you hear me from here?

THE WITNESS: Yes.

EXAMINATION

BY MR. GALLEGOS:

Q. I just have one question. Do you agree that continuation of prorationing for the Jalmat and Eumont Pools is not necessary in order to prevent waste and protect correlative rights?

A. Yes, sir, I agree with that.

MR. GALLEGOS: That's all I have.

EXAMINATION

BY EXAMINER CATANACH:

Q. In the absence of the Division promulgating any other rules governing, say, well density or anything, can we still eliminate prorationing without changing the other rules?

A. That's something that would need to be looked at. In the report I suggested that prorationing should be continued until the OCD could schedule a hearing to consider whether or not the spacing and density rules should be revised in light of the elimination of prorationing, and I assume that's part of the call of the hearing today.

Q. It is, sir. And so it would be your recommendation that the Division look at, say, well density or some other issues in order to protect the correlative rights of all the operators?

A. Yes, sir.

Q. Okay. Mr. Morrow, at the time you looked at the Jalmat Pool, there were not any nonmarginal units producing. Could there, in fact -- Could a unit become nonmarginal at this time?

A. If it has the capacity to produce in excess of the allowables that are assigned it could, yes.

Q. So through additional drilling on a proration unit, a marginal unit could become nonmarginal even at this point in time?

A. That's possible.

Q. Okay.

A. And, you know, somebody might find an area that had not been previously developed and find a nonmarginal producer where the density was not so great.

Q. Yeah. But as you testified, you have not done a reservoir study, so you don't know if that scenario was likely?

A. I don't know if it's likely, but in view of the declining production over the years, I would say that it's probably not probable.

EXAMINER CATANACH: Okay. I believe that's all I have of Mr. Morrow.

Are there any further questions of Mr. Morrow?

MR. BROOKS: Nothing further.

EXAMINER CATANACH: Okay. I don't know, Mr.

Brooks, do you want -- Are we going to excuse Mr. Morrow at this point or --

MR. BROOKS: Yes, your Honor, I would request that Mr. Morrow be excused.

EXAMINER CATANACH: Okay, you won't need him for anything else that you can anticipate?

MR. BROOKS: I think that covered what I need to cover with Mr. Morrow, and I believe Mr. Stogner is fully briefed on the case and will be able to answer any questions.

EXAMINER CATANACH: Mr. Morrow, it appears you will be excused at this point.

MR. MORROW: Well, thank you. I'm sorry I couldn't be there, and good luck to all of you.

EXAMINER CATANACH: Thank you, Mr. Morrow.

MR. MORROW: Good bye.

EXAMINER CATANACH: Good bye. Very good.

MR. BROOKS: Okay, we'll call Mike Stogner.

MICHAEL E. STOGNER,

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

DIRECT EXAMINATION

BY MR. BROOKS:

Q. Okay, would you state your name, please, for the record?

A. Yes, sir, my name is Michael E. Stogner.
Q. And where do you reside?
A. I reside in Torrance County, New Mexico.
Q. And by whom are you employed, Mr. Stogner?
A. The New Mexico Oil Conservation Division.
Q. And in what capacity?
A. I'm an engineer, petroleum engineer, hearing examiner.
Q. And how long have you been so employed?
A. Eleven years and 19 months.
EXAMINER CATANACH: Eleven years, Mr. Stogner?
THE WITNESS: I'm sorry, 19 years, 11 months.
MR. BROOKS: I was going to say, I thought you told me a longer time earlier.
MR. GALLEGOS: Nineteen months is more than a year too.
Q. (By Mr. Brooks) Have you testified previously before the New Mexico Oil Conservation Division as an expert witness in petroleum engineering?
A. Yes, I have.
Q. And have your credentials been accepted by the Division?
A. They have.
MR. BROOKS: I would tender Mr. Stogner as an expert witness.

EXAMINER CATANACH: Any objections?

MR. BRUCE: No objection.

MR. GALLEGOS: You can think about that.

(Laughter)

MR. GALLEGOS: No objection.

EXAMINER CATANACH: There being no objection, Mr. Stogner will be considered an expert witness in this case.

MR. BROOKS: Very good. Thank you, Mr. Examiner.

Q. (By Mr. Brooks) Mr. Stogner, are you acquainted with the Jalmat and Eumont Pools?

A. Yes, I am.

Q. And we've gone over the size of them in testimony with Mr. Morrow. Are you familiar with that map that is posted on the easel over there?

A. I'm very familiar with that map that is posted over there on the easel in front of the hearing room.

Q. Okay. Earlier today I accused you of drafting it, and you told me that somebody else did that.

A. No, I cannot take credit for that map. That map was begun and administered by Mr. Dan Nutter, who was chief engineer at the Oil Conservation Division from the early 1950s until 1982, and what that map depicts is the -- essentially the boundaries of the Eumont and the Jalmat Pool and proration units that were in existence and had changed over time from the 1950s to the early 1960s, and

that probably depicts the proration units that existed in 1964 or 1965.

MR. BROOKS: Permission to approach the exhibit, Mr. Examiner.

EXAMINER CATANACH: Certainly.

MR. BROOKS: Thank you.

Q. (By Mr. Brooks) This is a little hard to see from a long way -- from even a short way away, but does it say Eumont right here at the top?

A. Up on the top portion of the colored area, essentially being the top half of what is depicted as a single structure, is the Eumont, yes, sir.

Q. Is this heavy blue line that squiggles through it, is that the boundary between the Eumont and the Jalmat?

A. Yes, sir, as it is, and I believe that still holds true today. If it's not, it's only slightly changed.

Q. And north is at the top of the map like it's supposed to be, right?

A. North is at the top of the map, yes, sir.

Q. And get us located here. Where is Hobbs?

A. Hobbs is towards the upper right-hand corner, which would be the northeast. Now, the tip of the colored area pretty muchly corresponds with a little community called Arkansas Junction.

Q. Okay, and Eumont is partly named for Eunice,

right?

A. Eunice Monument, yes, sir.

Q. And the town of Eunice is down here along this railroad somewhere?

A. I'd say about halfway down the map toward the eastern side, and it should be depicted as such.

Q. Yeah, I'm looking for it, but it's not depicted very well so you can see. The town of Jal, New Mexico, is further down south, same general alignment, correct?

A. Yes, sir, that would be in the extreme southeast corner of the state, which would be depicted in the lower right-hand corner of that map.

Q. And each of these approximately one-inch squares is a square mile, correct?

A. Yes, sir, that is a mylar map, and the light one-inch squares depict sections.

Q. And has Mr. Nutter used alternate colors to depict various units here, so --

A. He tried to the best of his ability. Like I said, it changed, so sometimes the colors abut each other. But there are many instances where heavy squares, especially a brown color, as depicted further south in the Jalmat, right in there, and they're 160-acre increments, those were essentially proration units that were grandfathered under an old proration order Number R-520.

All others that have colors, if you look closely, will have an order number depicted, whether a Division R order --

Q. Yes, there appear to be R and a number written black ink in many of these units.

A. Those were proration units that were approved by the Commission at the time, after noticed and hearing. There are also depictions of NSP, which is administrative orders that were administered at that time, and still are.

Q. Very good. And this map that we've been referring to is a map that is kept by the Commission -- or by the Division now in the ordinary course of its business, correct?

A. Well, I keep it in my office.

Q. It's not maintained, but it's kept here and it's used by the Division?

A. Yes, sir, I keep it in my office, and I often refer to it. Many of the proration units that are depicted on that map are still in effect, and even if they are not, it gives you a good historical background of where to start. Many of these proration units have been adjusted over time, but I try to maintain the integrity of that order by either mentioning it or amending the orders that are mentioned on that map.

MR. BROOKS: Mr. Examiner, since this map is a

part of the records of the Division, and also since it would be extremely difficult to copy, to make it an exhibit, I'm going to request two things, that the Division take administrative notice of it and, two, that we be allowed to use it as an aid without making it a part of the record of this proceeding?

EXAMINER CATANACH: Any objection to that?

MR. CARR: (Shakes head)

MR. GALLEGOS: No objection.

EXAMINER CATANACH: Okay, the Division will take administrative notice of Mr. Stogner's map.

MR. BROOKS: Thank you.

Q. (By Mr. Brooks) You seem to have a great deal of familiarity with the Jalmat and Eumont, Mr. Stogner. Have you been working with them for quite a long time?

A. Since 1981.

Q. And that's been a responsibility that you have had here at the Division, is to supervise these -- be overall responsible for the prorationing in this pool recently, right?

A. Not the prorationing, I review exceptions to the well location and proration unit orders. As far being the gas proration umpire, no, sir.

Q. Well, that function is not really being performed as to these pools at this time, is it?

A. No, it is not.

Q. Did you at one time assemble a notebook of the Division orders that affect the Jalmat -- You said only the Jalmat Pool, correct?

A. Yes, sir, I did.

Q. And is that the notebook you assembled there?

A. Yes, sir, it's a three-inch loose-leaf notebook.

MR. BROOKS: Okay, I will submit to the Examiner that all of the documents that are contained there are documents that are a part of the official records of the Division, and so rather than introducing that book in evidence, we'll again respectfully request the Division take administrative notice of the orders that it has entered.

EXAMINER CATANACH: Administrative notice will be taken of this notebook.

MR. BROOKS: Okay, thank you.

Q. (By Mr. Brooks) Now, I don't have to go through with you the basic system of prorationing and the definitions, because we've already talked about that and Mr. Morrow has testified concerning it. But I need to go over with you a little bit what the current status is of the gas proration unit in these units. Now, they are both still at this time prorated units, correct?

A. Yes, sir.

Q. And we no longer have monthly proration orders, but they're done on a six-month basis?

A. That's what I understand, yes, sir.

Q. Now, did there come a time in the 1990s when -- Well, I guess I'd better go back, because I don't think I covered this with Mr. Morrow. On what basis is the total allowable for the pool in each of these pools allocated among the gas proration units?

A. Per proration unit, I'm assuming you're talking about the acreage factor?

Q. Correct.

A. By acreage, yes, sir.

Q. And only by acreage, correct?

A. And only acreage.

Q. Now, there was a time back in the late 1950s, as reflected in the entries in your notebook, when the Oil and Gas Conservation Commission entered an order that would have put in a deliverability factor in the computation of proration allowables in the Jalmat Pool, correct?

A. Yes, sir, that is correct.

Q. And that order was held to be invalid by the Supreme Court of the State of New Mexico, correct?

A. Yes, sir. And by reference that was case Number 1327, Order Number R-1092-A, and that rule was void by the New Mexico Supreme Court, and I'm not sure the dates,

exactly.

Q. Okay, well, I think that the *New Mexico Reporter* will reflect that it was probably 1962. But anyway, whatever it says, since that time prorationing has been continued on an acreage factor only, correct?

A. That is correct.

Q. Now, explain what is meant by a factor of one, prorationing in this pool.

A. A factor of one in both the Jalmat and the Eumont reflect 160 acres.

Q. So if a pool is 160 acres within the permitted tolerances of 160 acres, it's said to have a proration allowable assigned to it on a factor of one?

A. That is correct.

Q. And if it's 640 acres or close enough to be within the tolerances, it has a factor of four?

A. That is correct.

Q. And if it were 40 acres, it would be a factor of one-fourth?

A. .25, yes, sir.

Q. Okay. Now, did there come a time in the early 1990s when the Oil Conservation Division adopted a minimum allowable in the Jalmat and Eumont Pools?

A. Yes, sir, that is correct. And in fact, in January of 1991, by Order Number R-8170-J, and in the

Eumont Pool I believe the applicant was Doyle Hartman, and by Order Number R-8170-G, the Eumont was assigned a minimum allowable of 60 MCF for an acreage factor one, and I believe that application was by Texaco.

Q. So if you have a 160-acre unit now in either of these pools, regardless of anything else, marketability, production, deliverability, whatever, if you have a 160-acre unit, its assigned allowable will be no less than 600 MCF per day, correct?

A. That is correct.

Q. When the Division did that, adopted that minimum pooling order, were you a part of that process?

A. To some degree I was, yes, sir.

Q. Was there anybody like Mr. Carr down here beating on the table saying you should not do it?

A. Not that I remember any beating on the table, no, or any opposition. I don't remember any opposition.

Q. Okay, I believe the record will reflect, and the Commission -- the Division's records will reflect one way or the other, but I believe the record will reflect that there was no opposition to the adoption of the minimum proration unit -- minimum allowables at that time.

Okay, is there -- Going back a little bit to the background, the Eumont Pool include what formations? Jalmat and Eumont Pools include what formations?

A. Okay, the Jalmat Pool -- we'll cover the Jalmat first. It's a little bit -- varies. The Jalmat Gas Pool, except for an area that includes all of portions of 7, 8 Sections in Townships 24 South, Range 36 East, and 24 South, 37 East, includes, from the top of the Tansil formation to a point 100 feet above the base of the Seven Rivers formation. In all other areas in the Jalmat Pool except for this small area, it extends from the top of the Tansil formation to a point 250 feet above the base of the Seven Rivers formation. So essentially it includes all of the Yates formation and all of the Tansil formation and a portion of the Seven Rivers formation.

The Eumont Pool is consistent, and it covers all of the Yates, Seven Rivers and Queen formations.

Q. Okay, is there oil production within the horizontal and vertical limits of the Jalmat and Eumont Gas Pools?

A. Yes, there is.

Q. Is it generalized throughout the pools, or is it in various -- in pockets, or explain what the situation is there?

A. Most, not all, of the oil production is along the western flank of both of the pools. It is either an anticline or a series of anticlines, and the majority of the oil production is along the western flank. However,

there are portions along all of the pool in which there are oil wells in these formations. Mostly in the Eumont, it is the Queen formation that is the oil producer. However, there can be some oil pockets included in the Seven Rivers and the Yates.

Q. Now, what is the standard gas proration unit in the Jalmat, the size of the standard gas proration unit in the Jalmat and Eumont fields?

A. They both have the same, and for a unit to be standard, a gas proration unit to be standard in both the Jalmat and Eumont, it is to be 640 acres and is to comprise a single section, governmental section.

Q. Looking at that map that has the existing units colored in alternate colors, I don't see many of those blocks of the same color that are 640-acre sections.

A. That's right.

Q. Would it be fair to say that there are quite a few more nonstandard units than there are standard units in these pools?

A. That is very correct.

Q. Would it also be correct to say that the actual size of the gas units varies substantially?

A. Substantially. It can be anywhere from 40 to 640.

Q. And what is the size of an oil unit in this area?

A. An oil proration unit in both the Eumont and Jalmat pools are 40 acres, and that is to comprise a single quarter quarter section.

Q. Okay, thank you. We'll go back to the significance of the oil in the pool later, but I brought it up at this point, just the background.

Now, you have reviewed Exhibit 2, which is Mr. Morrow's report, correct?

A. Yes, sir, I have.

Q. And like me, you were not aware at the time you reviewed it that he submitted a subsequent report, were you?

A. No, I wasn't aware of that.

Q. So Exhibit 5 that's here before the Division today is the one that you actually reviewed?

A. That is correct.

Q. Now, Mr. Morrow has given the opinion that prorationing, as presently practiced with existing minimum allowables does not have any material effect on production from the Jalmat and Eumont gas pools. Based upon your familiarity with those pools, as well as your review of Mr. Morrow's reports and the production data from the pools, which have reviewed over a longer period of time than covered in Mr. Morrow's reports, do you agree with that?

A. I agree with Mr. Morrow's summation today.

Q. Thank you. And I also asked Mr. Morrow if prorationing had any material effect on how much gas was produced from individual gas proration units, and I believe it's his opinion that it had very little, probably. Do you agree with that opinion?

A. I agree with him on that, it has very little effect today in the Jalmat and Eumont.

Q. Okay. Now, I want to talk about two phrases we hear a lot about here at the Oil Conservation Division, prevention of waste and protection of correlative rights. Do you agree again with Mr. Morrow -- and I'm going to skip over some of the things here about the history, because I asked Mr. Morrow these questions and I don't want to repeat myself too much here and wear out the Examiner's patience, but do you agree with Mr. Morrow that in the present market situation and at the present production levels, that prorationing is not necessary in the Jalmat and Eumont fields for the prevention of waste?

A. I agree with that. I don't believe gas prorationing -- no longer is applicable in these pools.

Q. For the prevention of waste?

A. For the prevention of waste.

Q. We're going to talk further about correlative rights.

A. Yes, sir.

Q. With all these marginal units and the high minimum allowable, would it be fair to say that what's actually happening out there is that everybody's got the tap open, and it's producing what it can, and so that -- and still not getting up to these minimum allowables?

A. That is correct.

Q. Now, talking about correlative rights, that is one of our responsibilities here at the Oil Conservation Division, is to protect correlative rights, right?

A. Yes, sir.

Q. And the Legislature has given us a definition of the term "correlative rights"?

A. Yes, they have.

Q. And that definition is -- and I have a cheat sheet here or I probably couldn't state it -- but that is the opportunity afforded, so far as it is practicable to do so, for the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas or both in the pool, being so far as can be practicably determined and as can be practicably obtained without waste substantially in proportion that the quantity of recoverable -- gas, is what we're talking about -- under the property bears to the total recoverable gas in the pool. Correct?

A. That is correct. That's in the statutes, as I

understand.

Q. Right. Well, that's a mouthful, but what it means, basically, is that everyone should be able to draw out of the common source an amount basically equivalent to what was underneath their land to begin with as recoverable. I understand it's not all recoverable, but whatever is recoverable should be in proportion to what was there in the first place before they started producing from it.

A. That is correct.

Q. Now, in what situation -- Well, let me back up a bit.

One of the purposes of prorationing, historically, certainly as it's been practiced in other states and also as it's been practiced in New Mexico historically, has been to protect correlative rights; is that correct?

A. That's correct.

Q. And in what situation is prorationing necessary to protect correlative rights in the pool? What would give rise to that need?

A. A large number of nonstandard proration units or acreage dedications and perhaps nonstandard locations or where locations were closer than normal or required by the pool rules to the proration unit boundary line.

Q. And would it not also be true that if the wells were draining a larger area than the normal proration unit you would need prorationing to protect correlative rights?

A. That is correct.

Q. Now, the first situation that you described, a lot of nonstandard units and strange-shaped units, that is characteristic of Jalmat and Eumont Pools, right?

A. That is the rule in these two pools, yes.

Q. And even if -- Well, let me go back. The policy of the Oil Conservation Division is, their interpretation of our rules has been historically that in a prorated pool an operator could drill as many wells as he chose to drill, so long as they were at standard locations; is that correct?

A. If there were no additional requirements within the pool's rules limiting the number of wells, that is correct.

Q. And that is the situation for the Jalmat and Eumont Pools, correct?

A. Yes, sir.

Q. And the reason for that is what -- was what? The reason for that interpretation?

A. In the Jalmat and the Eumont Pool rules, there is no limitation contained within those pool rules that states how many -- what the density of the wells, or the maximum

density or the maximum number of wells, or for that matter minimum number of wells, and there was a memorandum sent out by the Director back in about 1989 or something that also stated that for unprorated pools a limit of one for those proration units is applicable, which also verified about what I just said, if the particular pool rules do not state what the maximum number is, then theoretically and technically you can have additional wells.

Q. Well, I don't understand, because if you can drill additional wells on your tract, can't you go out there and drill wells that will drain from other tracts and produce -- an operator that drills a large number of wells will produce more than his fair share, and wouldn't that violate correlative rights?

A. If those wells produce more than the allowable assigned that particular acreage factor or proration unit.

Q. And isn't that why the Division said you can drill as many wells as you want to in a prorated unit, because however many wells you've got, you still can produce more than the allowable for the unit?

A. That is correct.

Q. But that doesn't work if you're dealing with a marginal unit and a unit that is so far marginal that however many wells you drill on it, it's still a marginal unit, correct?

A. If that's the situation, that is correct.

Q. Well, the prorationing doesn't do anything to protect correlative rights in that situation?

A. No, it does not.

Q. Now, based on your experience and knowledge of the Jalmat and Eumont fields and the exception requests you've worked on and so forth, is not that a fairly realistic scenario in the Jalmat-Eumont area?

A. That's a very realistic scenario out here.

Q. In other words, while they're drilling a lot of wells, or at least they're re-entering a lot of wells, they're still not bucking those shadow allowables?

A. That's what I understand, there are no overproduced pools as I know.

Q. Now, let us suppose that the Division were to decide -- well, no, let me -- one other question before I get there.

Assuming Mr. Morrow's conclusions are correct and assuming also that there are a lot of new wells or new completions being brought in in these pools, then does it not appear to be a fair statement that prorationing as it is currently practiced in the Jalmat and Eumont Pools is not effective to protect correlative rights in those pools?

A. That is correct.

Q. Now, I said assuming there are a lot of new

completions within the period of time covered by Mr. Morrow's report, and so let me ask you because you're the one that deals with these exception requests and so forth, is it not true that there are a lot of new completions being made within those pools?

A. There are many exceptions that come through, and there are many additions to existing proration units in both the Jalmat and the Eumont gas pools.

Q. And this has been going on over the period of the 1990s, has it not?

A. Yes, and even further back than that.

Q. Beginning at least in the early 1990s?

A. Yes.

Q. And so what we've got -- what it appears we've got, if we've got a prorationing system that is not protecting correlative rights and we're relying on proration to protect correlative rights, we've got a mismanaged regulatory scheme; is that not a fair statement?

A. It's one that's deservant of review, yes, sir.

Q. Okay. Suppose we decided, suppose the honorable Examiner and the honorable Director decided that prorationing was necessary to protect correlative rights in the Jalmat and Eumont Pools, what would they have to do to make it effective to protect correlative rights?

A. To make it effective, they'd have to lower the

allowable.

Q. They'd have to lower those minimum allowables, perhaps fairly substantially, right?

A. Yes.

Q. And would that significantly reduce production from these pools?

A. Oh, yes, I think you'd see quite a bit of a reduction out there.

Q. There would be a lot of operators who would be -- pull back how much they produced, would there not?

A. Yes, if prorationing was instituted then they would be required, then, to probably shut those wells in. I would visualize some overproduction occurring, yes.

Q. Now, the Jalmat and Eumont Pools are a fairly significant contributor to the gas production in southeastern New Mexico, are they not?

A. Yes, it is. In fact, according to the 1999 production records -- that was what I had as a whole -- both the Jalmat and Eumont contribute 10 percent of the dry gas production from southeast New Mexico and 28 percent of Lea County's dry gas production is attributed. And this is just the gas wells and the dry gas production. That doesn't include the associated casinghead gas.

Q. Well, it's beginning to sound to me like when they're having brownouts and blackouts in California and

we've got these big gas pools down here, that throttling back on production, if there's any alternative to it, that doesn't sound to me like that's very good natural resource management, would you agree with that?

A. I would agree with that, yes, sir.

Q. And yet if you don't do that, you cannot protect correlative rights in these pools by prorationing, correct?

A. That is correct.

Q. That is your opinion, that's your professional opinion?

A. That's my opinion, yes, sir.

Q. Is there an alternative in your opinion, is there an alternative regulatory approach that you believe would be effective to protect correlative rights in these pools without throttling back on production?

A. Yes, sir, I believe there is, and there would have to be.

Q. And just give me in general-concept terms, because we're going to get to the specifics here in just a second, what is that approach?

A. By adopting rules and regulations that address well densities and well locations, while allowing the spacing units that exist and even adjustments for those spacing units, to allow for oil production. And also you'd have to address the oil production out here in these pools.

But to shorten this, address the well density and well locations.

Q. Before I go into your specific proposals, I'm going to ask one other thing too. Have you made a study of the trends of production in the Jalmat and Eumont Gas Pools over the life of those pools?

A. Yes, sir, I have.

Q. And have you prepared Exhibits 3A, 3B, 4A and 4B that were submitted with the exhibit set for this hearing?

A. Yes, I have prepared these four exhibits.

Q. Explain to us -- Exhibit 3A and 3B are prepared on a -- are similar projections for the Jalmat and Eumont Gas Pools, correct, respectively, right?

A. That is right.

Q. And would you explain what these drafts depict?

A. Okay, I started -- This is an annual production report of both the Jalmat and the Eumont Gas Pool. What is shown on the left-hand side is annual production, and what's depicted, of course, are the years. And the latest year I had was the year 2000, and I extended on out at least 20 years.

And if you noticed, about the last eight to ten years of production for both pools, I have extended or extrapolated a decline curve, and roughly the Jalmat decline curve comes out to about 5 percent, while the

Eumont is showing about a 15-percent decline. And they're also on a logarithmic scale, as far as the production goes.

Q. All right. Now, would you explain what Exhibits 4A and 4B, respectively, depict?

A. Okay, 4A and 4B, 4A being the Jalmat Prorated Gas Pool and 4B being the Eumont production, gas production is depicted on the vertical axis, on the far left side, and the number of producing wells on the right-hand side, and this goes from January of 1993 to about the first part or the first quarter of the year 2001.

Now, I'd like to point out to the Examiner that if you look on the information or the data on the far right-hand side, that's sort of a misnomer, because this is prepared with incomplete production data. I think if you start backwards from December of 2000, back, you're going to get an accurate depiction.

What stands out, I believe, in 4A, we have -- the number of producing wells stays pretty consistent and constant while our production is declining. We have -- and I have stated before, we do have lots of new Jalmat completions. We also have a lot of Jalmat abandonments out there. So we do have -- depicted on here is some infill wells, but yet we have wells that are being abandoned.

If you look over at 4B, there was a large push for infill drilling in 1993, and this is depicted from

about 1993 until 1997, you can see the number of wells have increased, so has the production. But it reached a point of about 575 wells, the production has declined. There again, not only do we have additional wells being drilled, we also have abandonments of Eumont gas completions out here in this pool.

Q. Now, looking at Exhibits 3A and 3B, it would appear that there was a substantial dip in the production from these pools in the middle to late 1980s. To what do you attribute that dip?

A. Mr. Morrow also alluded to that in his testimony today. It starts about 1981 and extends to about 1990, 1991. That was when our demand exceeded -- well, we were producing more than what we could sell. Also I attribute that to our market infrastructure at that point in these pools. All of the production was going west at the same time that California was getting additional production from Canada and other parts of the country. And by 1990 and 1991 we finally got a good infrastructure out there, the industry did, and some of the gas now was being more diverse and going back to the east.

That shows up really well, I believe, on the Jalmat gas production. If you look at the decline from about 1993 on, and if you go back to about 1972 to 1984, it just sort of moves over and skews. We had a gas marketing

bureau chief, and I'm sure if he was here, Mr. Ron Merrett, he would attribute all of this good production in 1991 to his good works.

Q. Well, it looks like from about 1992 on in both of these pools there's been a fairly steady decline in production up to the present time.

A. That even surprised me. I mean, this is a nice, steady -- well, I won't say a "nice" steady -- it is a steady decline. No decline is nice, don't get me wrong, but it is a very steady decline.

Q. And you have projected that decline out over the coming years?

A. Yes, I have, and to no point in particular. All operators have their own ideas about that. I'm just offering this as some raw data, so let the operators come to their own conclusions.

Q. Well, based on your professional experience, do you think that a projection along those lines is realistic?

A. I think it's very realistic. I think the two pools still have a lot of life left into them before they deplete, fully deplete.

Q. But they will continue, in your opinion, probably to decline?

A. Yes, I feel -- Yes, sir, I feel they will decline, at least at these rates, if not more.

Q. And if the production from the pool is probably going to continue to decline and we have proration with a fixed minimum allowable, then there's really virtually no chance that the existing proration is ever going to become relevant to either prevention of waste or protection of correlative rights, right?

A. That is correct, I don't see the market coming back to where it would demand such a scheme to be enacted.

Q. Okay, and as a field or a pool is produced dying, so that there's less production from the pool, is it correct to say that the area that is drained by a well tends to become smaller?

A. Yes, I think that's true out here as this pool -- It's a very mature pool, and we're still far from total depletion, but we've declined to such a point that, yes, I believe the drainage radius is definitely reduced out here in both these pools.

Q. Would you think that it would be realistic to suggest that the area that could be efficiently drained by one well in this pool would be 640 acres?

A. No, that's not realistic at all.

Q. What about 160 acres?

A. Yes, definitely. I think 160 acres is very applicable to the gas wells out here in this area.

Q. Is there not a probability that drilling wells in

a density greater than one per 160 acres might increase production further?

A. Definitely, there is still a large area out here, I believe, that would require as little as 40-acre spacing to fully deplete the pool without interfering with the other quarter quarter sections.

Q. Are there operators that are aggressively pursuing development on 40-acre density within the Jalmat Pool specifically?

A. Currently yes, and even in the past. In fact, Order -- I believe, what, 8170-J also helped to institute infill development in this pool.

Q. And have you recently had occasion to hear as a hearing officer applications by Raptor Resources to do 40-acre development in the Jalmat?

A. Yes, sir, in the last two months Cases 12,623, 12,624 and 12,625 were presented for me for essentially 40-acre development in the Jalmat Pool.

Q. And did they make a convincing enough case that you granted these applications?

A. Yes, sir, two have been approved, one is off my desk and is pending final approval.

Q. Now, Raptor has a fairly large block of acreage in the Jalmat, do they not?

A. Yes, sir, they do.

Q. And among the evidence that they offered, did they offer evidence that recompletions of wells on a density of less than 160 acres has resulted in significant increases in production from their acreage?

A. Yes, they've got quite a bit of -- I shouldn't say quite a bit. They have introduced new production by infill drilling on 40-acre spacing out there.

Q. Now, if the acreage -- Well, let's put it this way: There are a lot of small units in the Jalmat and Eumont, right?

A. Small units below 160 acres, yes, there are.

Q. But the predominance are at least 160, right?

A. At least, yes, sir.

Q. Most of them are not 640?

A. No, there's very few 640 that's in existence out there. And even the ones that are have been infill drilled.

Q. Right. But most of them are at least 160?

A. That is correct.

Q. Now, if one was to make a case that it's necessary to prorate this pool for protection of correlative rights, would they base that on the existence of small units, do you suppose?

A. Yes, that would be the only thing I think they could base it on.

MR. BROOKS: May I approach the easel?

EXAMINER CATANACH: Certainly.

Q. (By Mr. Brooks) For example, let's say you had a 160-acre unit here, or a 160-acre subdivision here, and you had a 40-acre unit down here, and the rest of this is a 120-acre unit. The guy with the 40-acre unit, if you assume that he can drain 160 acres, he drills a well here. Then that essentially forces the guy with this 120-acre unit to drill a well up in here, a well up over in here, and a well over in here, right? Because otherwise he may be drained?

A. The way I understand it, you have depicted a quarter section --

Q. Correct.

A. -- with a 40-acre tract being in the southeastern portion.

Q. Correct.

A. That would indeed -- If he had a good well there, that would indeed encourage the operator with the 120 acres, the remaining 120 acres, to drill at least one well in each quarter quarter section.

Q. So if we were persuaded that we had to have at least 160 acres to make a well efficient, then we might come to the conclusion that at least there was some case for prorationing within this field, right?

A. That is right.

Q. But we're actually not persuaded of that, are we?

A. No, we're not.

Q. We believe there's a fairly distinct possibility that development of this area on density at least as high as one per 40 acres may be justified, at least in large parts of this area?

A. That is correct, by the number of exceptions that have been granted over the years.

Q. Okay. Now, you had suggested that regulation of well density and well spacing might well provide an alternative that would enable the Division to protect correlative rights in the Jalmat and Eumont without the reduction in production which would necessarily be entailed in effective prorationing.

Have you and I developed a set of proposed pool rules that we think would give us a point of departure for developing such a regulatory approach?

A. Yes, we have.

Q. And I call your attention to Exhibits -- the 1A and 1B in my set is not numbered.

A. Yes, up in the top portion of both exhibits is a shaded area. One is labeled 1-A for the Jalmat, and the other one is labeled 1-B for the Eumont.

Q. And are these the proposed pool rules that we

have developed?

A. Yes.

Q. Are they identical with the exception of the pool definition and the name?

A. In both instances, until you get down to Rule 2, from Rule 2 on everything is identical except the Jalmat and the Eumont, the words as they appear.

Q. Now, in Rule 3 you have a shaded section where you have two "(A)"s. What is the significance of that?

A. Okay. I offer these two variances for review by the operators. One is a very liberal well location request, or a well location assignment per 160 acres, but it would be applicable to the whole pool, so everybody would have the chance to drill the same distance from their proration unit line as this is being depicted. That would afford a larger flexibility for the operators to locate wells that are considered standard, and the would not have to seek -- come to me for exceptions. You would probably get everybody to agree that that's probably not one of the best things they would like to do, is write Mr. Stogner for an exception. Also it takes time on our part also.

I offer that as a possibility, at least for review, by the operators.

The second alternative sets limits for oil wells, and that's still 330, that has not changed. But the second

part of that, part (A) (2), Rule 3 (A) (2), sets regulations that are clear and concise. This gets away from what we presently have, which is very confusing, I'll have to admit. The current Jalmat/Eumont Pool Rules, to find each and every rule that is applicable to the Jalmat you must go to about five -- at least five or six places. That is very confusing. It's confusing for me. It's got to be confusing for the operators when they come to me. I still have to go back and look at them.

What I've tried to offer here is something that's clear and concise and also -- I don't want to use the word "limit", but I think I'll have to in this portion, that sets the setback requirements to the outer boundary of a proration unit for obvious reasons -- I'm sorry, a spacing unit. Let me get away from the word GPU and proration unit. Let's talk strictly spacing units. For gas spacing units it sets you an applicable distance back that I think is fair.

Also, it addresses what's the difference between the outer boundary of a proration or a spacing unit and the outer boundary of a quarter section? Well, it gives the same thing. If the spacing unit size changes, I think it's more realistic.

It also addresses the 330 foot for the internal governmental quarter quarter section. I hope that's clear

in there.

Q. Yes. I notice also that you have a limit, 330 acres to a quarter quarter section even within a unit, 330 feet to a quarter quarter section line even within a unit. Now, if people own the same -- you've got the same ownership on both sides of a quarter quarter section line, which after all is just an imaginary line drawn by the government, why do we need to have a setback from the quarter quarter section line?

A. To still address the issues of oil well locations. A lot of these wells that are gas wells can become oil wells and vice versa. You will still keep the integrity of the spacing and the distance between oil wells. And yes, a lot of instances that's an imaginary line, but the mineral interests may be owned by two different sets of parties, like one federal, one state. And even though the operator has leased both areas, they find themselves within 10 feet of some state land, that's still a violation of correlative rights.

Q. Very good. One of the things that we've done here also is that we have provided for people who want substandard -- nonstandard units, I shouldn't say substandard units -- nonstandard -- nobody wants that. For people that want nonstandard units or for people who want greater density down to, or up to one well per 40 acres, we

have provided them an opportunity to obtain that through an administrative process without the necessity of coming to Santa Fe for a hearing, basically if nobody objects; is that correct?

A. Yes, basically if nobody objects, and sufficient evidence -- I'm sorry, sufficient information is provided that the well density, the increased well density is acceptable in this situation, and also that notification is followed.

Q. Right. Now, Rule 3 (C) addresses this issue of the scientific and geological or engineering evidence, right, that has to be filed with these exception requests?

A. 3 (C) or 4 (C)?

Q. 4 (C), I'm sorry.

A. 4 (C) addresses what I believe is acceptable.

Q. Now, let me be sure here I'm on the right location.

A. Or maybe we need to look at 4 (B) --

Q. 4 (B) --

A. -- talks about exceptions to the wells --

Q. -- 4 (B) says what you have to -- says the proof that you have to make with your application.

A. That is correct.

Q. And 4 (D) addresses the manner in which you give notice?

A. That is correct.

Q. And now -- I quoted Shakespeare in a brief in Colorado a little while ago and got a lot of flak from the court for it, but today I'm going to quote the Bible in the hearing and maybe I'll get by with it. The Bible says, if the man of the house had known in what hour the thief would appear he would have set a watch and he would not have allowed his goods to be despoiled.

And is the philosophy of this scheme that if everybody has notice of what their neighbors are doing and they think, after they know what they're doing and why they're doing it, that there's something wrong with it, then they can be their own best protection against any kind of improper attempt to drain them by coming down here or -- and telling us why we ought to do something different or whatever they can do to prevent -- to bring --

MR. GALLEGOS: Can we have that question read back? I'm just kidding.

MR. BROOKS: Would it be better --

MR. GALLEGOS: That wins the length award.

MR. BROOKS: Would it be better if I restated it?

MR. GALLEGOS: Might be.

THE WITNESS: Sure, go ahead and restate it.

Q. (By Mr. Brooks) Is the philosophy of these rules that if offset operators have notice that there's a

proposal to drill additional wells with greater density, and if they are aware of the geology on which that proposal is based, then they can decide whether they think it's going to injure their interests?

A. That is correct, and take proper action from that point to work something out or object. There's all sorts of possibilities.

Q. And is that philosophy further that that would seem to be more efficient than the Division trying to make a poolwide assessment of what ought to be done in a pool this complex and this large?

A. I believe it is, yes.

Q. Well, I will ask you, then, my final questions. Do you have an opinion as to whether or not the approach developed in these rules is a viable alternative to prorationing as a means of protection of correlative rights in the Jalmat and Eumont Gas Pools?

A. Yes, I definitely have an opinion.

Q. And what is that opinion?

A. To adopt the special rules and regulations that will address the management of this mature pool and both -- do two things: adequately protect correlative rights and at the same time abolish prorationing in this pool, and at the same time I think we can enjoy some simpler rules and regulations for both the operators and the Division.

Q. And in view of the alternatives that are available to the Division, as represented by these rules or some appropriate modification thereof, do you believe that prorationing at this point would be a reasonable means of adjusting correlative rights in this pool?

A. I don't believe it's -- No, I believe prorationing is no longer applicable out here. That meets that stipulation.

MR. BROOKS: Pass the witness.

EXAMINATION

BY MR. GALLEGOS:

Q. Mr. Stogner, just a little bit on the prorationing history, and then we can get over to the rules, which I think are probably the most important subject, but...

Do you have a recall of the practices of the Division when there was active supervision of the prorationing system?

A. About the prorationing or about the exceptions?

Q. No, what were the practices when there was active supervision?

A. Oh, okay, a proration schedule, a gas proration schedule was printed, and I believe the operators were notified through this means, this schedule, and also by letters that they had to shut a -- There was a lot of

interaction between the operators and the Division, to let everybody know what the production was doing.

Q. There was actual monitoring if the well, let's say, was six times over in the southeast or 12 times over in the northwest, and letters warning the operators that they were overproduced and such as that?

A. That is correct.

Q. Okay. And about what was the last year that that supervision actually was in practice?

A. I'm just guessing about 1994. 1993, 1994.

Q. Now, let's go right to the proposed special pool rules, and let me state as I open my questioning that this isn't meant to challenge these rules -- I think you definitely have a good product -- but just want some clarification so we make sure we all understand what we have here. And let me go first to your alternative on the location of the well.

As I understand it, in this shaded area you can either have just sort of what I'd call an open rule of 330 feet from any boundary, or the A (2) rule, which would be your 660 outer boundary and so forth?

A. Yes, one is more simple than the other, and also closer.

Q. Do you see any problems in application -- the administration of the more liberal rule?

A. From a regulatory standpoint?

Q. Well, and even from the field application standpoint. If I'm not incorrect, you'd have the same location as oil wells potentially, correct?

A. That is correct. This would be very similar to our thinking whenever the deep gas in southeast New Mexico, when we allowed infill drilling and more liberal well locations. It's along those same lines. In some instances, the 330 foot could be close for a drainage of 160 acres, and even in oil pools where we have adopted 160-acre spacing, this is somewhat unusual, being this close. We usually require at least 660 feet from the outer boundary of any proration unit spaced on 160.

This also mirrors what we have in Rule 104 (B), the 160-acre statewide spacing. We require 660 feet from the outer boundary of the proration unit. So this varies off of that, yes.

Q. And if we're getting down to 40-acre spacing and then 330 feet, you can, you know, almost virtually be on your quarter quarter line or on your lease line. I mean, you can really be up against the offsetting lease.

A. Three hundred and -- Well, you'd be a minimum of 330 feet --

Q. 330 feet.

A. Yes.

Q. Yeah. Do you have a recommendation? Do you recommend to the Examiner one or the other?

A. Oh, I'd recommend the first one, because that would sure reduce my paperwork.

Q. But looking at it aside from that, aside from your workload, from the standpoint of correlative rights and what would be probably -- you know, more reasonable, would you still recommend the 330?

A. Only if all of the operators agreed to it.

Q. So in the light of some opposition by operators, then the A (2) would probably be the choice?

A. Yes, but I wanted to offer it out.

Q. All right, okay. This would allow a common -- or a sharing of the location, an oil well and a gas well, I would presume, the (A), the 330?

A. Actually, I'm glad you brought that up. The Jalmat Pool has historically and has a rule currently in it that acreage dedicated to an oil state proration unit cannot be simultaneously dedicated to a gas spacing unit. The Eumont Pool has been silent on that for many, many years.

I do have a rule in here that will not allow that to happen in either pool for oil acreage and acreage dedicated -- and that's under Rule 2 (C), "Acreage dedicated to a gas well in the Jalmat Gas Pool shall not be

simultaneously dedicated to an oil well in the Jalmat Gas Pool, and the dual..." and vice-versa for Jalmot/Eumont "...and the dual completion of a well so as to produce oil from the Yates formation and oil from the Seven Rivers formation is prohibited."

To make this rule similar and clarify it, I have included that in here.

Q. Okay.

A. I can remind you, you can always get exceptions.

Q. Okay. So on a 40 occupied by an oil well, there cannot be a gas well, and vice-versa?

A. That's right.

Q. Okay. Now, let's turn over to Rule 4 (A) and (B). 4 (A) is your location rule, and as I read it, the Applicant is required to present proof of consent or of notice to all operators, and that language that I've just read, then, would have one refer over to 4 (D) for the notice practice, correct?

A. That is correct.

Q. Okay. Now, I thought I understood your testimony to be that Rule 4 (B) as to well density also required notice to offset operators. In fact, I think that was the intent of the rather lengthy question of attorney Brooks. But I don't see anything in 4 (B) that requires proof of consent or of notice.

A. Okay, Rule 4 (B), let's -- First of all, Rule 4 (A) is for a well-location exception.

Q. Right, unorthodox location.

A. Right, and 4 (B) is an exception to the well density provision.

Q. Correct.

A. Let's kind of go back --

Q. 4 (B), Mr. Stogner, 4 (B) is saying if you want a well on less than 160 acres, this rule applies?

A. That is correct.

Q. And you have to make -- showing the various evidences you -- evidentiary conditions that you mentioned?

A. That is right, and there's also another condition where this jumps in. If you have nonstandard spacing units, that will come into the development of less than one well per quarter section. This also applies.

Q. Okay, understood. My question, then, though, is, is it your intent in this rule that if an application is sought for this kind of an exception, a 4 (B) exception, that notice or consent is required or is not required?

A. Oh, it's definitely required.

Q. Where does it say that?

A. Well, get out your red pen.

(Laughter)

MR. GALLEGOS: And insert it?

MR. BROOKS: Well, I would suggest, Mr. Gallegos, if I may, that it probably does need to be clarified, and yet I believe the first sentence of Rule 4 (D) covers the matter. I do agree it needs to be clarified.

MR. GALLEGOS: Well, and I'm not saying it needs to be one way or the other, it's just that I -- the direct testimony of Mr. Stogner indicated that his understanding was, it did require consent or notice, and yet the language doesn't call for that.

MR. BROOKS: What I was saying was, my understanding is that the language does call for it and that it's found in the first sentence of 4 (D) which says, for the record, "...any exception which may be granted administratively without hearing as provided by any provision of this Rule 4".

MR. GALLEGOS: Well, and then it goes on to say, "Any required proof of consent...Any required notice..." and Rule 4 (A) clearly requires consent or notice. Rule 4 (B) is silent on the subject.

MR. BROOKS: To the extent there's any ambiguity, I agree it should be corrected.

THE WITNESS: That was not my intent, to leave that out. In fact, if anything, it was to make sure that not only these additional requirements were met, but also these requirements, and -- This is on the record, I guess I

goofed, but I --

MR. GALLEGOS: I think the author is actually Mr. Brooks.

EXAMINER CATANACH: I'm sorry, what did you say, Mr. Stogner?

THE WITNESS: I -- Yes, I goofed, that was not my intent. And I offer these -- These are definitely going to have -- And I'm also going to suggest to Mr. Catanach that we hold the record open for at least four weeks for everybody, the operators' review and comment. This is just a model draft order for all the operators to review and make comments on. That was definitely not my intent. If anything, the well density exception is taken -- has no restrictions on it within the location.

Q. (By Mr. Gallegos) Okay, and as I say, my questions are meant just for the purpose of trying to be sure we all understand what these rules are intended to do.

So let me also ask this for clarification. Then you say, you know, the operator has to make a showing, number (1), that "the proposed well is needed", and then you have an (a), "...effectively and efficiently drain" comma, (b), "to adequately protect the subject unit from offset acreage or, (c) to recover.

Is (b) an and or an or? Doesn't it need a -- Is it a separate condition? In other words, Mr. Stogner, if

you don't show (a) but you can show (b), have you made the requisite showing?

A. It's intended to be an "or" situation, because in some of these instances one may only apply.

Q. Okay, and we're going to present some testimony through Dr. Van Kirk that maybe -- that suggests that there should be a (d) also, another condition that might justify the well. Okay?

Then let me just point out, in (C) (1), in the fourth line, it starts at the left with "...standard gas spacing..." Are you with me?

A. No, I'm not. Where are you at again?

Q. I'm on page 3.

A. Page 3 --

Q. 4 (C), subparagraph (1) --

A. -- subparagraph (1) --

Q. -- fourth line --

A. -- fourth line --

Q. -- "...standard gas spacing unit by that consists of..." I think maybe just "by" should not be there, just a typo?

A. Yes.

Q. Read that to yourself.

A. Which consists or "that consists of two, three or four complete quarter sections..." By the way, that's

"...non-standard gas spacing unit..." --

Q. Uh-huh.

A. -- "...that consists..."

Q. Right. And then if you go over to page 3 [*sic*], which is a carryover from the subparagraph (2), you have some language in brackets, and probably, if I understand your testimony, that should not be in the rule, right?

A. Okay, which one are you looking at?

Q. Well, it reads, "The Director may grant an exception..." blah, blah, blah, and you go over to page 4, no "...smaller than a quarter section..." and then in brackets you have "...[quarter-quarter section(s) or lots]..."

A. Okay, what that meant, "The Director may grant an exception to the requirements of Rule 2 (A) above to establish a nonstandard gas-spacing unit containing legal subdivisions smaller than a quarter section..." i.e., a quarter quarter section or lots.

Q. Oh.

A. What that is intended to imply and mean is that we're not going to take portions of a quarter quarter section, you can't just take this line running from -- diagonally across. It's got to be a full quarter quarter section or lot.

Q. I get you. Okay, so it's saying if it's smaller

than a quarter section it still has to be a lot or a quarter quarter?

A. Right, no metes and bounds.

Q. Okay. So you want it in that way, in those brackets?

A. If anybody can clarify that even more, I will --

Q. All right. All right, then over on (D) --

A. Over on (D) as in dog?

Q. Right, on page 5 --

A. Page 5.

Q. -- this tells us that when you want an exception location or spacing, you either get the consent of the offset operators, or you give them notice. And if they don't protest you can get administrative approval, right?

A. That is correct.

Q. But it doesn't say what happens if they do protest?

A. Well --

Q. Presumably then it goes to hearing or something, but doesn't -- We don't know that.

A. Don't necessarily presume that all the time. There's been some applications I've gotten and parties have objected, I've just out and out denied it to let them work it out, or perhaps I didn't even let them take the ball then.

Q. Okay. Well, what is your intent, because it says that it can be "...granted without hearing unless a protest is filed with the Santa Fe office..." blah, blah, blah, "...twenty (20) days..."

Let's say, now, notice goes out, you don't have consent, notice goes out, you get protests --

A. That administrative application would not get approved. It can either be set to hearing -- That's my intent. It's not to be ignored. It's not to be ignored, it's either to be set to hearing or even set aside, but definitely not an order issued on it.

Q. Okay, so you might agree that that could call for some clarification --

A. I welcome --

Q. -- if there's a protest?

Okay, thank you, Mr. Stogner, that's all the questions I have.

Oh, no wait a minute, I do have one other matter that I want to take up with you, because as you know, in our packet a copy of the stipulated declaratory judgment, Hartman vs. Oil Conservation Division, is Exhibit 6.

A. Okay.

Q. And you're cognizant of the existence of that judgment, of course?

A. Yeah, I think I've seen it, yes.

Q. Okay. Well, the point is, and I'm not belaboring it, is that for these rules to go into effect, we're going to need to do something about the judgment, otherwise we have a conflict.

A. That I'm not sure. I'm just offering substitute for special pool rules to eliminate proration out here.

Q. Okay. Well, we'll leave that as a matter, then, to the legal personnel. But I think we don't have --

A. Or somebody other than me, yes.

Q. I'm not suggesting we have a problem with it, it's just that if we adopt the rules and then we have this judgment, we're going to have at least an ambiguity and probably a conflict. So I'll deal with counsel on that.

Thank you, Mr. Stogner.

A. And along those same lines, if I may --

Q. Go ahead.

A. -- this would serve, the new rules would serve to eliminate all other existing spacing and special pool rules. This would be a set of rules, simplified, set aside by themselves. And again I apologize for omitting that. That was not my intent.

Q. But what you're suggesting, I think, is, there'd have to be an order that says these rules are adopted and all the others, this mess of five or six other rules, are all terminated or superseded?

A. That is correct.

MR. GALLEGOS: Okay, thank you.

EXAMINER CATANACH: Mr. Carr?

EXAMINATION

BY MR. CARR:

Q. Mr. Stogner, I'd like to ask you a couple questions about where we go from here. You have a draft of rules that have been presented here today that contains an alternative for paragraph 3 (A), and you indicated that it was your intention to leave the record open for four weeks for comment; is that correct?

A. That's my suggestion, yes, sir, so that these rules and regulations, everybody will have -- all the operators, I should say, will be -- or anybody, for that matter -- to review them. And it is my intention after today, is, post these on the New Mexico Oil and Gas Conservation Division website so everybody can review, and provide enough copies for the Division District Office in Hobbs to hand out, and I welcome anybody to call or write.

Q. Will that be noted on the docket? I notice that you sent notice of the hearing to all the operators, I guess that's who it was, all operators in the pool, and no draft of the rules was provided to those operators. Can the docket indicate that the drafts of the rules are available for interested operators?

A. Yeah, I don't see why not.

Q. And when they go out, will there be an explanation what 3 (A) is?

A. I would welcome any comments, yes.

Q. Having notified all operators in the pool -- you've had five operators just enter appearances in the case here today, and one is presenting testimony -- depending on the comments that are received, is it possible that four weeks from today this matter could be taken under advisement and rules adopted?

A. I'm sorry, do you want to run that by me again?

Q. I'm just trying to figure out where we are in terms of this process. I mean, having notified all the operators in the pool, you have five operators who have appeared in the case and only one who's intending to present testimony. And my question is, depending on the nature of those comments, is it reasonable to think that four weeks from now when the case comes back it might be taken under advisement and rules entered at that time?

MR. BROOKS: Mr. Examiner, may I ask leave to address that issue?

EXAMINER CATANACH: Yes, sir.

MR. BROOKS: Mr. Carr, it's my intention at the conclusion of all the testimony to ask the Examiner to take it under advis- -- or not to take it under advisement this

afternoon but to keep the record open for a period of time that the Examiner thinks appropriate. We're going to suggest at least four weeks, possibly longer, possibly as long as eight weeks. But I think we would expect that would be a decision that would be made by the Examiner, as to exactly where we go from here.

MR. CARR: That's all I have, thank you.

EXAMINER CATANACH: Mr. Bruce, any questions?

Mr. Ezeanyim?

EXAMINATION

BY EXAMINER CATANACH:

Q. Mr. Stogner --

A. Yes, Mr. Catanach.

Q. -- do you know on what basis the minimum allowable for the Jalmat and Eumont Pool was established?

A. I'm assuming you're talking about R-8170-J and -G -- what do you mean the -- I guess I don't understand.

Q. The minimum allowable that was established by those orders of 600 MCF per day, do you know, was that based on some kind of engineering data, or was it an arbitrary number that was proposed by the operators, do you have knowledge of what it was based on?

A. No, I do not. Nor do I remember, for that matter. I was not the hearing examiner --

Q. I believe I heard both cases.

Okay, Mr. Stogner, you testified that if the Division were to lower the minimum allowable so as to effectively prorate again, you might have the possibility of reducing substantially the production in both of those pools. Can you elaborate on that statement?

A. Okay, if we brought the minimum allowable down to, say, 400, and with some of these wells with an acreage factor of one or less, I believe then you would see some production that would become overproduced, and in some cases maybe six times overproduced. But that's pure speculation at this point.

Q. The Division has not done any analysis to determine whether or not it's feasible to reduce the minimum allowable in the pool?

A. No, there has not been any reservoir work done, no, sir.

Q. You are here today suggesting that we essentially space the Jalmat and Eumont Pools on 160-acre effective spacing; is that correct?

A. That, and also the rules encourage development on 160-acre increments. There's provisions in this rule, in these rules, that push this development of things on 160 acres, as opposed to the quarter quarter section, there are some notification procedures which are lessened, and -- because anytime you form anything less than a 160-acre -- a

nonstandard spacing unit of anything less than 160 acres, you have essentially created the environment where infill drilling on less than 160 acres is either mandatory or encouraged.

It may not be a bad thing, but I think it needs to be addressed and looked at and exceptions taken properly.

Q. You're not suggesting that that is the determining spacing in these pools; that is just a starting point, as far as you can tell?

A. It's a starting point, and anything after that is an exception in which parties then are allowed -- or required to notify their offsets about what is going on, yes.

Q. Okay.

A. There may be a time when we will be back in here and say that 40-acre spacing is the applicable and lessen the rules, but not at this time.

Q. Okay, what do we do with the gas proration units that are out there now, that have a well density greater than 160 acres? Are those grandfathered in, according to your procedures?

A. Yes. In fact, Rule 6 (B), Miscellaneous, "All existing administrative exceptions and orders in effect on the issuance date of this order shall be

'grandfathered'..."

And also, that would also affect some -- these instances where you have an well and a gas well on the same quarter quarter section. They would have to grandfather those in, I believe.

Q. Are there some of those in existence in the Eumont?

A. I think there may be.

Q. Okay. All right, with regard to the rules, if you would refer to 3 (B), for an oil well in the Jalmat and Eumont Gas Pool your proposed rule says that "...no more than one well per unit shall be allowed."

A. That is correct. Rule 3 (B), "For any 40-acre...oil-spacing and proration unit..." there be "...no more than one well." An exception could be granted, but it would have to be after hearing.

Q. Why are we proposing that, Mr. Stogner?

A. I think encouraging or even having exceptions for administrative procedures of anything less than 40, either oil or gas, is not applicable out here. Nor have I seen that many exceptions out here, except where there are waterfloods, of course. But I haven't seen very many exceptions to that rule for oil spacing out here.

Q. Well, let me ask you this. The Jalmat Oil Pool is subject to -- it will under your proposed rule still

have an oil allowable and a casinghead gas allowable?

A. That is correct.

Q. So it would be treated just like any other oil pool in the state --

A. Yes.

Q. -- spaced on 40 acres.

A. I agree with that, but the situations that could occur where a well is being drilled in the same quarter quarter section, and for some reason, either on purpose or accidental, it comes in a gas well, then we're going to have this situation where you have gas spacing and oil spacing overlapping each other. And this essentially will address that -- enclose that loophole, if it is a loophole. I see it as a loophole.

Q. Okay. Let me ask you this. In terms of enforcing the well-density provisions of your rules, it's pretty simple and straightforward if I have a 320-acre unit, for example, comprising two quarter sections, it's simple to enforce that. You have one well per quarter section, and that's all that's allowed.

A. That is correct.

Q. Okay, if I have a nonstandard proration unit that's 320 acres that comprises, say, four quarter sections down and four quarter sections across -- it's an odd-sized spacing unit -- you would still be allowed to have two

wells in that proration unit; is that correct? You still have 320 acres?

A. Yes, that is correct. But then you would fall into a category where you are including partial quarter sections, which would require additional notification. We're encouraging quarter-section development. In your situation there are partial quarter sections in three of the quarter sections. That is still allowed here, but additional notification would then be required.

There again, if anybody would object to something like this, then I would see an instance like that that would require a hearing, but I really wonder what the standing by the offset would be. But everybody needs to have their day in court.

Q. Okay, so as I understand it, I would not automatically be allowed to drill a second well on that nonstandard unit?

A. Not automatically, no.

Q. I would have to provide notice?

A. That is correct.

Q. So the only time you'd be able to drill a second well is if you had standard quarter sections, or a third or fourth well is if you had standard quarter sections?

A. That is correct.

Q. Odd-sized units, even though they have 320 acres,

you would still have to provide notice to offset operators?

A. If there are partial quarter sections involved, yes. That would -- Still, no matter how you cut it, you have a partial quarter section where you're going to have more than one well in that quarter section. For that development to occur, you have already created a situation where more than one well in a quarter section is either required or needed.

Q. If you would refer to 4 (A) for location requirements, location exceptions, "The Director may grant an exception to the well location requirements... administratively, without hearing, when, due to unusual circumstances..." Would you please explain that? What is an unusual circumstance?

A. Oh, I've seen a lot of them, if I don't agree with them whenever I get the application in. Okay, unusual circumstances is the usual topography, geological exceptions. Those are the unusual circumstances. This is wording I stole from somewhere, and I can't remember.

Q. I'm not sure that it's wise to keep this wording in there, Mr. Stogner.

A. Well, this is -- Okay.

Q. I mean, it's kind of ambiguous.

A. I wanted to send a warming out there. It better be a good reason.

Q. Okay, 4 (B), as I understand your answer to Mr. Gallegos' questions, there should be an "or" inserted before the small letter (b) in that paragraph?

A. Or it's implied, yes.

Q. I'm sorry, or it's implied?

A. Yes, you can either insert it or imply that it's there.

Q. So as long as you met the requirements of (a), (b) or (c), you would be okay?

A. Yes.

Q. As long as you met the requirements of one of those provisions you could get an exception?

A. That's right.

Q. And what about (2)? (2) is just -- Is that another one, should that be (d)?

A. That is an "and": "and...the proposed well will not violate correlative rights.

Q. Okay, I got you.

The bold writing in the bottom of that paragraph, "It is further provided however that, in no event shall any Eumont gas spacing unit be allowed more than one well per quarter-quarter section." Now, that's administratively; is that correct?

A. That is correct.

Q. Now, is there any provisions for granting an

excess of that at a hearing, that you envision?

A. That would be -- that's the intent of that. You can't get an administrative exception to go past one well per quarter quarter section. It would then have to go to hearing.

Q. Okay. I want to follow up, again, on Mr. Gallegos' question about when you get an application and you get an objection, you said it will either be set aside or set for hearing. How are you going to administer that?

A. Or denied.

Q. Okay, or denied.

A. Uh-huh. How would I administer it?

Q. How are you going to make that choice on which direction to take on that application?

A. It would be up to the Examiner of that administrative application to determine the severity of the objection and what course of action might be appropriate. In many instances I see an objection that could be handled if the two parties got together and no need of filling the docket up, or perhaps the objection would lead to the applicant automatically withdrawing the application. Yeah, there are still many that we set for hearing, but I thought it would give us a little bit of leeway.

Q. But it wouldn't be up to the Applicant, at least initially, which direction he would have to go in?

A. That's right. He would be notified that an objection has been filed.

Q. Could he at that point request that a hearing be set?

A. Oh, definitely, yes.

EXAMINER CATANACH: I believe that's all I have. Are there any other questions of Mr. Stogner?

MR. BROOKS: Well, I just have one follow-up.

FURTHER EXAMINATION

BY MR. BROOKS:

Q. I think Mr. Gallegos covered this, but it was definitely your intent, Mr. Stogner, was it not, that an exception to the well-density regulations pursuant to Rule 4 (B) would require either consent or notice of all offset operators; is that correct?

A. That is correct, and that --

Q. If the rules don't say that -- and after reviewing it again, I believe Mr. Gallegos is correct, they do not, and it was I that goofed by the way I wrote these notice provisions, correct?

A. Well, I missed it too, and I thought I had included it, but --

Q. That was definitely your intent.

A. That was definitely my intent.

Q. And it was not my intent to change the substance

of these rules when I edited them?

A. That's right, nor was it mine.

MR. BROOKS: Okay, nothing further, Mr. Examiner.

EXAMINER CATANACH: Okay.

MR. GALLEGOS: Mr. Examiner, may I have leave to ask one more question?

FURTHER EXAMINATION

BY MR. GALLEGOS:

Q. Mr. Stogner, is there any rationale in 2 (A), that standard spacing unit is 640 acres?

A. Yes, sir, I believe there is.

Q. Is there?

A. Because you've got to read on. "A standard gas spacing unit in the Eumont Gas Pool shall be 640 acres, more or less, and shall comprise a single governmental section." I believe any gas pool, any pool in this state needs to have some sort of set spacing.

And besides, this mirrors what we already have, and it is not to be construed or any way misinterpreted that we're downspacing. Downspacing creates a whole set of problems, and nowhere do we intend that to occur. This way it confirms that if you have one of these 640-acre spacing units, that that is still applicable.

Also, if you have the amount of acreage, you can form a 640-acre standard spacing unit. I think it needs to

be there, you need to have a start. Because who knows, somebody may put three sections together and hold acreage.

MR. GALLEGOS: Thank you.

EXAMINER CATANACH: This witness may be excused. Let's take a ten-minute break here.

MR. BROOKS: That concludes my presentation, Mr. Examiner.

EXAMINER CATANACH: Thank you, Mr. Brooks.

(Thereupon, a recess was taken at 3:36 p.m.)

(The following proceedings had at 3:56 p.m.)

EXAMINER CATANACH: Okay, let's call the hearing back to order.

MR. BROOKS: Mr. Examiner, before we -- I said that I had concluded my presentation, but it's been pointed out to me during the interim by my witness that I neglected to offer Exhibits 1, 2A, 2B, 3A, 3B and 4 in evidence, so I request permission at this time to do so.

EXAMINER CATANACH: Any objection?

MR. GALLEGOS: No objection. Don't you want to offer 2 also?

MR. BROOKS: Let's see --

MR. GALLEGOS: That's your notice.

MR. BROOKS: Yes, I want to offer 1, 2, 3A, 3B, 4A and 4B. I said 1, 2A, 2B, 2, but there is not 2A and -B. There is 1, 2, 3A, 3B, 4A and 4B. I've already

offered 5.

MR. GALLEGOS: No, there's 1A and 1B and 2, et cetera.

MR. CARR: I have no objection.

(Laughter)

MR. BROOKS: 1A and 1B, 2, 3A and 3B, 4A and 4B --

MR. GALLEGOS: There you go.

MR. BROOKS: -- are offered in evidence.

EXAMINER CATANACH: I hate to repeat this, I'm not sure I have it. Exhibit Numbers 1A, 1B, 2, 3A, 3B, 4A and 4B will be admitted as evidence in this case.

MR. BROOKS: Thank you. That concludes my presentation.

EXAMINER CATANACH: Okay, Mr. Gallegos?

MR. GALLEGOS: Yes, we call Dr. Craig Van Kirk to the stand.

CRAIG VAN KIRK,

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

DIRECT EXAMINATION

BY MR. GALLEGOS:

Q. State your name, please.

A. Craig Van Kirk.

Q. Where do you live?

A. Parker, Colorado.

Q. What's your business or profession?

A. Professor and head of the petroleum engineering department at Colorado School of Mines.

Q. Dr. Van Kirk, you're a professional petroleum engineer?

A. Yes.

Q. And have you previously testified before the New Mexico Oil Conservation Division, the Oil Conservation Commission and various other regulatory agencies and courts?

A. Yes.

MR. GALLEGOS: Mr. Examiner, we ask that Dr. Van Kirk be permitted to state expert opinions in this proceeding.

EXAMINER CATANACH: Any objection?

MR. CARR: No objection.

MR. BRUCE: No objection.

EXAMINER CATANACH: Dr. --

Q. (By Mr. Gallegos) Are you acquainted with the Application in this case?

A. Yes.

Q. And your understanding of it is what, Dr. Van Kirk?

A. The Application in this case is to deprorate the

Eumont and Jalmat Pools and to start some new special pool rules.

Q. What is your experience, professional experience with the Eumont and Jalmat Gas Pools?

A. Thirty years ago when I worked for Shell Oil Company, I was first introduced to the area, but not in a big way.

Approximately 15 years ago I began working with Mr. Doyle Hartman, oil operator in this area, and have relatively continuously since then over about the last 14 or 15 years.

Q. All right. And more recently in the last, oh, I'd say two, two and a half years, has there been occasion for you to study two subjects in particular, and that is the comparison of the production level of those pools to the gas allowables that have been set periodically by the Commission?

A. Yes.

Q. And have you also during that same period of time made some studies concerning the gas migration characteristics of the reservoirs that constitute those pools?

A. Yes.

Q. Now, do you agree, at least generally, with witness Stogner's description of what geologic formations

make up those pools?

A. Yes.

Q. Now, what I'd like to do to move this along is have you address some exhibits you have that go to the part of your testimony concerning the continuation or discontinuation of prorationing for these pools, and since we already have quite a bit of testimony in the record what I'd like to ask you to do is just go through your exhibits that you have sequentially and explain to the Examiner what they show, and I think that would be exhibits 1 through 5.

A. Yes. And I believe, Mr. Examiner, you have a copy of the exhibits?

EXAMINER CATANACH: I do.

THE WITNESS: Exhibit 1 is an excerpt from the State of New Mexico Statutes, Section 70-2-16, allocation of allowable production in field or pool. I think we're all very familiar with that excerpt.

Exhibit 2 is titled "Total Jalmat Gas Pool Production", and this is a history going back to 1976, up to very recent months of actual production from the Jalmat Gas Pool, and Mr. Stogner presented this same kind of information earlier today.

Exhibit 3 again is for the Jalmat Gas Pool, and this would be the nonmarginal acreage allocation factor history since 1976. Mr. Stogner discussed this at some

great length earlier today, so I don't think that I need to describe this or define this any more, unless you would have any questions. If you would prefer that I clarify this, I'll be glad to.

I think the most important thing would be to notice on the right-hand side of this graph the solid -- heavy solid line represents a nonmarginal acreage allocation factor, and for some years now at 18,300 MCF per month. You can see that on the graph.

And then the actual production levels in the lower right-hand portion of the curve, the average production per acreage factor, wide divergence between the two, the actual production much less than the allowable levels.

Exhibit 4 is a bar chart, Jalmat Pool, 1996 to August, 2000, again comparing annually the actual pool production in the green little block, relative to the pool allowable in the very large, very high allowable amounts, again demonstrating a significant difference between the allowables and the actual production.

Q. (By Mr. Gallegos) And do you also draw an observation from that concerning market demand as compared to the capability of supply from this pool?

A. Yes, capability is consumed. The wells are producing at capacity, the gas proration units are max'd

out, and they're not near allowable. There market is there and has been for some years.

Exhibit 5, then, is a very similar bar chart comparison for the Eumont Pool. Exhibit 5 is very similar to Number 4, but 5 is for the Eumont Pool. And the same conclusion can be reached.

Q. Okay, do you have an opinion whether or not prorationing is any longer appropriate or fitting for these pools and serves any purpose in terms of preventing waste and protecting correlative rights?

A. I'm in agreement with earlier testimony today that prorationing, for some years and today, is doing nothing in the Jalmat and Eumont Pools. It serves no purpose.

Q. Okay. Let's turn your attention then, Dr. Van Kirk, to the issue of any observations or opinions you have concerning appropriate well spacing for these pools, given the present conditions of the gas reservoirs.

A. Well, as I said earlier, through the years, over the last 14, 15 years, I have studied this area on numerous occasions for different reasons, sometimes single-well studies, sometimes studies of groups of wells, 10, 20, 100 wells, log analysis, economic calculations, decline curve analysis, reservoir simulation, forecasting futures, and also considering well spacing and migration and drainage,

for example, 40-acre-spaced wells up against 160-acre-spaced wells.

And as Mr. Stogner testified and as he has presented in the proposed new pool rules, I believe I agree with the stipulations that have been offered up in the new pool rules. 160s make sense, blanket 40-acre spacing does not make sense, but there are lots of opportunities out here for 80s or 40s to be applied in the right place at the right time, to prevent waste, to efficiently and effectively drain the reservoir and to protect correlative rights.

Q. And what is it about the pools or the formations comprising those pools that in certain circumstances present those opportunities?

A. Well, this area is typical of a lot of reservoirs, a lot of big fields on earth, relatively thick gross intervals of sedimentary rock with a large number of different pay zones, some of the zones being highly porous and permeable and other zones being tighter. So the big field or the pool depletes not uniformly, and not all of the areas are uniform characteristics.

So as the field produces as it has for so many years, and down near depletion, it becomes clearer that there are some locations, some places that need custom design and custom wells drilled, 40s or 80s, whatever. The

geology is a significant factor. It's not homogeneous, it doesn't have the same character every place, it's not clean and highly porous and permeable every place.

Also the nature of the development of the field. There are some gas proration units that have been produced by 160s for some time and others that have had closer well spacing for some time. Different drainage due to operator drilling and production practices.

And also the fact that there are older wells. Some of these wells are 67 years old out here, and their existence has influenced the development and production and levels of depletion in different parts of the field.

Also water problems, encroaching waters from the natural aquifer and also from waterfloods of different zones perhaps getting out of zone or pushing oil or water updip into the gas formation.

So there's a combination of natural geology, heterogeneities, and also people practices through the years and operators' observations of these phenomena, and also operators choosing and receiving permission to drill on closer spacing or recomplete wells and produce at higher rates than they had enjoyed in the past.

Operators in recent years have been looking more carefully at the reservoir and natural geology and practices than they had 10, 20, 30, 40 years ago, realizing

that there are some areas that require and deserve closer spacing, but not every place.

Q. Okay. Do you have an opinion whether blanket downspacing to one well per 40 acres is justified?

A. I have an opinion, and I --

Q. What is it?

A. -- would say it's not justified.

Q. Okay. In your opinion, is the case-by-case approach reflected in proposed Rule 4 (B) more fitting, given the circumstances of these pools?

A. Certainly more fitting, absolutely.

Q. Is there another circumstance beside the (a), (b) and (c) conditions that are described in Rule 4 (B) that you'd like to call to the Division's attention that might be included or probably should be included in the conditions that would justify denser well spacing?

A. Yes, I would suggest for your serious consideration the insertion in 4 (B) -- and I think since there's already an (a), (b), (c), I would suggest for your consideration a part (d) as in David, and it would be the granting of closer well spacing, reflecting some of the older wells that are decades old, 30, 40, 50, 60 years old, perhaps have been shut in for a while or temporarily abandoned for a while, and operators spending moneys to get those wells back into beneficial use should be permitted to

produce those wells, then, if they are brought back on production, without any penalty whatsoever, certainly not from prorationing, and no penalty also from the well-spacing standpoint.

So I would suggest to you for your serious consideration to consider a part (d) as in David, in 4 (B), to reflect the fact that there are a lot of old wellbores out there that perhaps aren't doing anything useful today, but based on years of experience some of those old wellbores can be brought back into beneficial use and production, and if they're going to be on a 160 spacing unit along with another well or two, I would highly recommend that they be given serious consideration to be allowed to produce.

Q. Are you acquainted with the Commission's Rule R-9210?

A. Yes.

Q. And also are you acquainted with recent policies and notices by the Bureau of Land Management to operators in the southeast concerning wells that are not productive but have not been plugged and abandoned?

A. Yes.

Q. Do both of those circumstances have a bearing on the circumstance that you're describing?

A. Absolutely. In fact, my description over the

last five minutes or so does relate exactly to the Rule 9210 and the pressure for operators to do something with those wells sooner rather than later.

And my recommendation is to have some flexibility with the operator so that the can address those old-well issues in a timely manner, because some of those wellbores can be made to be very useful and productive.

Q. And rather than plugging and abandoning a wellbore, instead of returning it to beneficial use, would you consider that to be a factor for prevention of waste?

A. Absolutely.

MR. GALLEGOS: That's all the questions that I have.

I move the admission of Exhibits 1 through 5, Hartman Exhibits 1 through 5.

EXAMINER CATANACH: Hartman Exhibits 1 through 5 will be admitted as evidence.

Any questions, Mr. Brooks?

EXAMINATION

BY MR. BROOKS:

Q. Well just one about that last consideration that you suggested, because I want to understand it fully.

You are suggesting that if there is an existing wellbore that is capable of producing from these formations, that it should be eligible for an

administrative exception without hearing to reduce -- even if it's on an existing 160 that has an existing well on it, without the necessity of showing either that it's needed to effectively drain the 160 or that it's necessary to prevent drainage or that it's necessary to recover additional reserves that cannot be recovered from the existing well; is that what you're saying?

A. The way 4 (B) has been presented to us in writing and with Mr. Stogner clarifying it for us today, seems like (a), (b) and (c) were "or's".

Q. Yes, I understand, they are.

A. I think we're all understanding that (a), (b) and (c), you only had to satisfy one of those in order to --

Q. Right.

A. -- get the exception.

Q. And your proposed (d) would be on the same basis?

A. Yes, at this time yes, I would say that, yes, but I'm not so positive. I haven't offered up a final clear verbiage for you today, I'm just bringing up the subject and describing it as many different ways as I can, waving my arms as much as I can. That is the point to address, but I don't offer final verbiage.

But I think the way you're asking the question, my answer would be yes, in front of the letter (d) as in David --

Q. Yeah.

A. -- the word "or".

Q. That was my question, was where there was an existing well you would think that we should not have to require showing of any -- either (a), (b) or (c).

A. Well, when I described this a few minutes ago, I used the word "old wells". Now, you're using the word "existing", and I'm not sure they're the same.

Q. Well, a well that has previously produced but is not currently producing --

A. For some period of time.

Q. -- whether or not it's temporarily abandoned --

A. Yeah.

Q. -- or whether it's been plugged or what the situation is, but where it's capable of being restored to production, but it is not producing at the present time.

A. And honestly, I don't have a time period or an age of the wells that I could tell you today that it should be at least 25 years old. I can't say that today, because I don't have an opinion.

But for example, the way you just described it, if a well just had a mechanical problem a month ago and was off production for a month or two and it was a new well, only a couple of years old, I would not put that well in the category that I've described over the last five or ten

minutes.

Q. Yes, I believe the Division considers a well inactive if it's been off production for as much as two years.

A. Okay, now I think we're talking similar neighborhood. An old well that has been shut in for a long time.

Q. Okay. Well, I would just ask you, why would that be something that standing alone should entitle someone to an exception, even if it's not going to produce additional reserves that cannot be produced from the existing well in the unit?

A. Well, I can't imagine why it would not produce existing reserves.

Imagine the old well, wherever it's located, and then there's another existing well someplace --

Q. Right.

A. -- some hundreds of feet way. There's lots of circumstances out here, and I think plenty of evidence produced today and in prior months and recent years that closer well spacing does make some sense in some areas.

So I would say statistically, probably these old wellbore locations that haven't produced anything for some years, there are going to be some reserves underneath those wellbores that are not going to be produced from some other

wellbore on that acreage, some few hundred feet away at least.

Q. So you're saying basically that in your opinion any well that -- proposed completion that would satisfy your proposed (d) would probably also satisfy (c) of the existing proposed rule also?

A. I would say it's likely a large number of them would, but I would not say in every case. Personally, for me to vote, I'd want to see every case.

MR. BROOKS: Okay, I believe that's all my questions.

EXAMINER CATANACH: Anything else of this witness?

MR. GALLEGOS: No questions.

EXAMINATION

BY EXAMINER CATANACH:

Q. Just a couple, Mr. Van Kirk. Following along that same line, would your proposal be that this would have been a Jalmat- or Eumont-producing well that has been abandoned?

A. A Jalmat or Eumont well that had produced from older pools in the past, and it's been idle, shut-in for a long time or temporarily abandoned --

Q. Okay, just so I under- --

A. -- but not plugged and abandoned.

Q. Just so it's clear, now, you're not talking about recompletions from wells that are deeper or shallower, you're not talking about recompletions to the Jalmat and Eumont?

A. Well, I hadn't been thinking about that until you asked the question, but now that we bring that point up, think about the alternatives.

If it truly is an old well that's been shut in for a long time but had not ever produced from the Jalmat or Eumont, and if there is pressure these days from BLM or the State to do something with those wellbores, if they're plugged and abandoned, then they would never again have any potential use.

And that is one of the serious considerations I'm suggesting for you guys today, is before the pressure is put on the operators to very soon plug and abandon those large numbers of wells, keep in mind that they -- I think there's plenty of evidence in recent years that some of these old wellbores can be put back to good use. It takes some money and it takes some planning, but some of them are very useful.

So I would suggest work carefully with the operators and give them some flexibility as to before those wells are forced to be plugged and abandoned, see if they might have some use in the Jalmat or Eumont zones, whether

or not they've ever produced from the Jalmat or Eumont before.

EXAMINER CATANACH: Okay. Mr. Gallegos, can I get you guys to submit some proposed language on that --

MR. GALLEGOS: Yes.

EXAMINER CATANACH: -- so we'll know exactly what you're talking about?

MR. GALLEGOS: Yes.

Q. (By Examiner Catanach) Dr. Van Kirk, were you involved in the minimum allowable hearings for these pools?

A. Are we talking about approximately 1993?

Q. I believe so.

MR. BROOKS: 1992 and 1993.

EXAMINER STOGNER: 1990 and -- Oh.

THE WITNESS: I believe I was.

Q. (By Examiner Catanach) Okay. Do you recall what the minimum allowables for these pools was based upon?

A. No, I'd have to go back in my records and files, but I don't recall today. You asked the question earlier, and --

Q. Yeah.

A. -- sorry, I don't know.

Q. Okay. Is it your opinion that lowering the minimum allowables for these pools, would that not be an alternative in this case?

A. In order to accomplish what?

Q. Protect correlative rights.

A. I'm glad you asked the question, because you asked Mr. Stogner earlier, and I was hoping you'd ask me too.

I think that kind of logic goes to, if you reduce the production rates to zero on all the wells, then nobody has any correlative-rights problems. So by reducing production levels, you do reduce correlative-rights problems. And why not go to zero, because then there will be no correlative-rights problems.

And I think the answer is obvious, that is not the direction to go. That is a waste of time and money and God's given natural resources.

Q. Well, certainly I'm not suggesting that we reduce the allowable to zero.

A. I appreciate, you didn't suggest anything, you simply asked my opinion, and I'm telling you.

Q. But is it your opinion that reducing the allowables to any point, is this not beneficial? It's not going to do anybody any good?

A. It would not be beneficial, it would not do -- I hate to say it wouldn't do anybody any good. It might serve to financially benefit somebody, but it would not be more optimum for the group of operators, State of New

Mexico and the citizens of the earth. That would not be optimum, that would be going in the wrong direction.

Q. Given the alternatives that the Division has to choose from at this point, is it your testimony that reducing well density would be better than trying to effectively prorate the pool?

A. Well, I think Mr. Stogner's proposal addresses the issue just about just right. As I said earlier, I agree very well -- I'm not sure it's 100 percent but it's in the high 90s percent, I agree with Mr. Stogner's special pool rule proposal that the well density approach is the way to go, rather than prorationing, and with the standard spacing being 160 acres, with opportunities for people to request closer spacing, I believe that is the way to go.

EXAMINER CATANACH: Okay, I have nothing further.

MR. BROOKS: Nothing further.

MR. GALLEGOS: I have nothing further.

EXAMINER CATANACH: This witness may be excused.

You have nothing further, Mr. Gallegos?

MR. GALLEGOS: We have nothing further, Mr. Examiner. Thank you.

EXAMINER CATANACH: Okay.

MR. BROOKS: I would like to make a brief statement, not in the way of argument but just as to what you're asking me to do at this point.

The Division considers Exhibits 1A and 1B as tentative rules, and since this is a proceeding that affects a large volume of acreage and a lot of operators, we would suggest proceeding somewhat in the manner of rulemaking than done this in judicare proceeding because it applies only to a specific pool, but we would suggest as Mr. Stogner did on the witness stand that we publish these rules and give the industry an opportunity to comment, and of course you as Examiner control the proceedings.

We would request, since there obviously are some corrections that have to be made to the current draft, that you give us a date to submit a corrective draft of the proposed rules, after which they will be published to the industry in an appropriate manner, and that this hearing be continued until a date certain, at which time a decision would be made to take the matter under advisement or whatever.

EXAMINER CATANACH: Mr. Brooks, do you know approximately how many operators we have in these pools?

MR. BROOKS: I would have to defer to my witness. I think it's about five or six. It's not a real large number, is it? Maybe I'm -- Yes, I can see it is a real large number, I was mistaken. It's just that we have a small number of large operators that operate a lot of units, and we have a large number of small operators that

operate a very small number of units.

EXAMINER STOGNER: If it may -- Exhibit Number 2, attachment "A", page 1 and 2, page 1 being the operators in the Eumont Pool, page 2 being the operators in the Jalmat Pool, that gives you the number and who they are.

EXAMINER CATANACH: Mr. Brooks, would it be a substantial burden to actually send the proposed rules to each of these operators in these pools by mailing?

MR. BROOKS: I don't see why that it would if -- to the extent that we have valid addresses for them.

EXAMINER CATANACH: Well, I believe you sent notice to these operators of this hearing today?

MR. BROOKS: We did.

EXAMINER CATANACH: So I assume that --

MR. BROOKS: Some of them may have been returned, I'm not sure, but most of them were not.

EXAMINER CATANACH: I think that would be appropriate. I think I'd like to see the operators get personal notice of what you guys are proposing, because otherwise I don't know how many of them are going to be aware of it or are going to look at our website and try and find these. I think if we give personal notice to these operators it gives them more of a chance to submit comments, and I would prefer that.

MR. BROOKS: Okay.

EXAMINER CATANACH: As far as a corrected draft, can you have that for me in a week?

MR. BROOKS: I think so.

EXAMINER CATANACH: And at that point I would see if we could get the mailing out to these operators.

MR. BROOKS: Okay, would you want this to be by certified mail with return receipt requested or just ordinary mail?

EXAMINER CATANACH: How did you send notice for the hearing?

MR. BROOKS: Certified mail, return receipt requested.

EXAMINER CATANACH: I think that would be appropriate, certified mail.

MR. BROOKS: Okay.

EXAMINER CATANACH: Also as far as the time frame, you might suggest or you might advise the operators that they have some time to submit comments to the Division, in a --

MR. BROOKS: Yes, sir.

EXAMINER CATANACH: -- letter or on the draft rules you might state that somewhere and --

MR. BROOKS: Did you want for us to make comments due, say, a week before the continued hearing?

EXAMINER CATANACH: I think that would be

appropriate. Yeah, we can determine a time frame. I'm not entirely sure at this point when to continue this hearing to. I think four weeks is not sufficient.

MR. BROOKS: I was thinking it might be more on the order of eight weeks, although I thought we'd -- Mr. Stogner and I concluded to ask for at least four weeks.

EXAMINER CATANACH: Okay, I think four weeks is not time enough, and six weeks would put it on Mr. Stogner's docket, so I don't think we want that.

MR. BROOKS: No, I don't think so, be a slight disqualification there.

(Laughter)

MR. BRUCE: Mr. Catanach, could Mr. Gallegos and Mr. Carr and myself also get copies of the revised rule?

EXAMINER CATANACH: Certainly, we can provide you with that.

So let's tentatively continue it for eight weeks. Well, not tentatively, let's go ahead and continue it for eight weeks. And as soon as you can get the mailing out to the operators, you can give them a time frame which would have a deadline to submit comments a week before the hearing or something to that effect?

MR. BROOKS: Okay, and I believe that would be to the September -- Would that be to the September 20 docket? I guess that would be --

EXAMINER CATANACH: I don't have a calendar with me.

MR. BROOKS: Maybe it's the September 4 docket.

MR. BRUCE: Sixth.

MR. BROOKS: Sixth docket. I guess it is -- Eight weeks is the September 6th docket. September 20th would be ten weeks.

EXAMINER CATANACH: Okay.

MR. BROOKS: So the September 6th docket.

EXAMINER CATANACH: So September 6th, okay.

Okay, I think that takes care of all the business. If there's nothing further, we will continue this case to the September 6th docket.

Thank you, gentlemen.

(Thereupon, these proceedings were concluded at 4:30.m.)

* * *

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 12503, heard by me on Feb 12, 2001.

David K. Catanach, Examiner
Oil Conservation Division

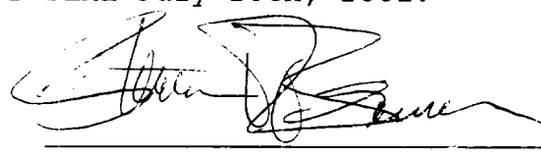
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL July 20th, 2001.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002