

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

IN THE MATTER OF THE HEARING CALLED BY)	
THE OIL CONSERVATION DIVISION FOR THE)	
PURPOSE OF CONSIDERING:)	
)	
APPLICATION OF NEARBURG EXPLORATION)	CASE NOS. 12,661
COMPANY, L.L.C., FOR AN UNORTHODOX GAS)	
WELL LOCATION, EDDY COUNTY, NEW MEXICO)	
)	
APPLICATION OF NEARBURG EXPLORATION)	and 12,662
COMPANY, L.L.C., FOR COMPULSORY POOLING,)	
EDDY COUNTY, NEW MEXICO)	
)	(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

ORIGINAL

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

May 17th, 2001

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, May 17th, 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.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

OIL CONSERVATION DIV.
01 MAY 31 AM 10:23

I N D E X

May 17th, 2001
Examiner Hearing
CASE NOS. 12,661 and 12,662 (Consolidated)

	PAGE
EXHIBITS	3
APPEARANCES	3
APPLICANT'S WITNESSES:	
<u>DUKE ROUSH</u> (Landman)	
Direct Examination by Mr. Carr	5
Examination by Examiner Stogner	13
<u>JERRY B. ELGER</u> (Geologist)	
Direct Examination by Mr. Carr	17
Examination by Examiner Stogner	26
REPORTER'S CERTIFICATE	32

* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	6	12
Exhibit 2	7	12
Exhibit 3	10	12
Exhibit 4	10	12
Exhibit 5	10	12
Exhibit 6	11	12
Exhibit 7	18	26
Exhibit 8	20	26
Exhibit 9	22	26
Exhibit 10	23	26

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A P P E A R A N C E S

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
 110 N. Guadalupe, Suite 1
 P.O. Box 2208
 Santa Fe, New Mexico 87504-2208
 By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 9:50 a.m.:

3
4 EXAMINER STOGNER: This hearing will come to
5 order. I'm going to go out of sequence and call Case
6 12,661, which is the Application of Nearburg Exploration
7 Company, L.L.C., for an unorthodox gas well location.

8 I believe, Mr. Carr, this is going to be
9 consolidated with another case?

10 MR. CARR: Yes, sir, we'd request that you also
11 at this time call Case Number 12,662, which is a pooling
12 Application. The first case involves an unorthodox
13 location, the second case is a pooling case for the spacing
14 unit on which that well will be located.

15 EXAMINER STOGNER: Companion case 12,662 is
16 hereby called, which is the Application of Nearburg
17 Exploration Company, L.L.C., for compulsory pooling, Eddy
18 County, New Mexico.

19 Are there any other appearances in this matter
20 besides Nearburg?

21 Okay, how many witnesses do you have?

22 MR. CARR: Mr. Stogner, we have two witnesses.

23 EXAMINER STOGNER: Will both witnesses please
24 stand to be sworn?

25 (Thereupon, the witnesses were sworn.)

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DUKE ROUSH,

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

DIRECT EXAMINATION

BY MR. CARR:

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

A. Duke Roush.

Q. Mr. Roush, where do you reside?

A. Midland, Texas.

Q. By whom are you employed?

A. Nearburg Producing Company.

Q. And what is your position with Nearburg Producing
Company?

A. Senior landman.

Q. Have you previously testified before this
Division and had your credentials as an expert in petroleum
land matters accepted and made a matter of record?

A. Yes, sir, I have.

Q. Are you familiar with the Applications filed in
these consolidated cases on behalf of Nearburg?

A. Yes.

Q. Are you familiar with the status of the lands in
the area which is the subject of these cases?

A. I am.

MR. CARR: Are Mr. Roush's qualifications

1 acceptable?

2 EXAMINER STOGNER: They are.

3 Q. (By Mr. Carr) Initially, could you summarize for
4 the Examiner what it is that Nearburg Exploration Company
5 seeks with these Applications?

6 A. The first Application would be approval of an
7 unorthodox gas location, located 1980 from the south line,
8 2400 from the west line of Section 26, Township 18 South,
9 Range 24 East.

10 The second case, 12,662, would be a pooling of
11 all minerals that would be dedicated to a 320-acre spacing
12 unit.

13 Q. And the name of the well is the Poco Mesa "26"
14 State Com Well Number 1?

15 A. Yes, it is.

16 Q. What rules govern the development of this
17 acreage?

18 A. Statewide rules for 320-acre spacing.

19 Q. And the setbacks from the quarter-section
20 boundaries are what?

21 A. 660.

22 Q. Let's go to what has been marked for
23 identification as Nearburg Exhibit Number 1, and I'd ask
24 you to identify that and review it for Mr. Stogner.

25 A. It's a locator map showing the south-half

1 proration unit in Section 26, the location of the well, and
2 provides some of the offsetting information.

3 Q. It also shows the unorthodox well location, does
4 it not?

5 A. Yes, it does.

6 Q. On whom is this location encroaching?

7 A. On us, on Nearburg.

8 Q. It only encroaches on the central of the 320-acre
9 unit; is that correct?

10 A. That's correct.

11 Q. What is the primary objective in the well?

12 A. The Morrow formation.

13 Q. Would you go to Exhibit Number 2 and review that
14 for the Examiner?

15 A. Yes. Exhibit Number 2 is showing the ownership
16 of the 320-acre spacing unit. Nearburg owns 75 percent of
17 it. The remaining balance is owned by Chevron/Pioneer
18 Minerals, which we're trying to clear up, which we'll go
19 over in a minute.

20 Q. What is the nature of that question?

21 A. Pioneer is claiming an interest by virtue of an
22 old sublease that was granted from Gulf to Mesa,
23 predecessors in interest. I have talked with both Chevron
24 and Pioneer. They're going to work it out amongst
25 themselves and see who owns it. It will be owned 50-50 by

1 Pioneer, and Chevron will be -- 100 percent by Chevron.

2 Q. All right, what percentage of the working
3 interest now is committed to this well?

4 A. 75 percent.

5 Q. Could you summarize for Mr. Stogner the efforts
6 that you have made to obtain the voluntary joinder of all
7 working interest owners in the proposed spacing unit?

8 A. Yes, we've sent offers to acquire their interest.
9 By virtue of a letter dated February 7th, we wrote Chevron
10 to the attention of Ray Vaden, offering to acquire their
11 interest on a term-assignment basis. This was denied.

12 We subsequently proposed the well on March 12th
13 to both Chevron and Pioneer. Pioneer's was March 27th.
14 With that we sent a certified mail, accompanied by an AFE
15 estimating the cost and expenses to drill and complete this
16 well, and numerous phone calls to both parties.

17 As of yet we have been unable to obtain voluntary
18 joinder.

19 Q. And when did you last communicate with Chevron
20 concerning this matter, or hear from them?

21 A. By a letter dated April 25th, they sent us a
22 letter that basically said that at this time they did not
23 desire to join in the drilling of the well, they turned
24 down the request for term assignment, sale or farmout.

25 It says in the event you elect to force-pool

1 Chevron's interest in this well, Chevron will then decide
2 to either farm out, join or accept a nonconsent penalty for
3 the well.

4 I've talked to Ray Vaden since then by phone. As
5 of last week, the voluntary joinder has not changed.
6 However, they are working out the title issue amongst
7 themselves.

8 Q. The Application for an unorthodox well location
9 for this well was originally addressed in an administrative
10 application, was it not?

11 A. That is correct.

12 Q. And there was an objection to that application
13 filed with the Division by Gaylord and Shirley Hopper; is
14 that right?

15 A. That's correct.

16 Q. Could you advise Mr. Stogner on what is the
17 status of the Hooper interest and the concerns raised in
18 that letter of objection?

19 A. Yeah, the Hoopers were concerned not so much with
20 the location -- in fact, the weren't concerned with the
21 location; they were concerned with whether or not their
22 ownership or their override covered all depths.

23 The original title documents that came in from
24 our field landman had limited this to a formation.

25 I spoke with the Hoopers, they provided us with

1 some additional title information, and the examining title
2 attorney with Turner Davis looked at them, and we have now
3 determined that they do, in fact, own from all depths and
4 will be paid accordingly.

5 Q. And so that concern has been addressed and
6 resolved?

7 A. Yes, it has.

8 Q. In your opinion, have you made a good-faith
9 effort to locate all individuals in this spacing unit and
10 obtain their voluntary participation in the well?

11 A. Yes, I have.

12 Q. Is Nearburg Exhibit 3 copies of the letters that
13 you have sent to Pioneer and to Chevron attempting to
14 obtain their voluntary participation?

15 A. Yes.

16 Q. Is Nearburg Exhibit Number 4 an affidavit with
17 attached letters and return receipts confirming that notice
18 of today's hearing has been provided to Chevron and to
19 Pioneer?

20 A. Yes.

21 Q. What is Exhibit Number 5?

22 A. Exhibit Number 5 is the application to get
23 approval for the unorthodox location. It was filed
24 administratively.

25 Q. And then attached to that is the letter from the

1 Oil Conservation Division setting the matter for hearing
2 and advising all interest owners of that action; is that
3 correct?

4 A. That's correct.

5 Q. Has Nearburg drilled other Morrow wells in this
6 area?

7 A. Yes, we have. In fact, we drilled a well about a
8 mile and a half northeast, in the southwest quarter of
9 Section 24. It's called the Mucho Mesa State Number 1
10 well.

11 Q. Could you identify what has been marked for
12 identification as Nearburg Exhibit Number 6?

13 A. Yes, it's an AFE.

14 Q. Review the totals on that exhibit, please?

15 A. The dryhole cost is \$675,474, your completion
16 costs associated with it are \$320,123, for a grand total of
17 \$995,596.

18 Q. Are these estimates in line with the actual costs
19 incurred by Nearburg in drilling similar wells in the area?

20 A. To the best of my knowledge, yes.

21 Q. Have you made an estimate of the overhead and
22 administrative costs to be incurred while drilling the well
23 and also while producing it if, in fact, it is successful?

24 A. Yes, we would like to see \$5400 a month, \$540
25 monthly. This is within line with the well currently

1 drilling, with David Arrington, the Yellow Stonefly in the
2 north half of Section 26.

3 Q. And do you recommend that these figures be
4 incorporated into the order which results from today's
5 hearing?

6 A. Yes, I do.

7 Q. The Application was brought in the name of
8 Nearburg Exploration Company. Do you request that Nearburg
9 Producing Company, L.L.C., be designated operator of the
10 well?

11 A. Yes, I do.

12 Q. Will Nearburg call a geological witness to review
13 the risk associated with the drilling of the well and the
14 need for the unorthodox location?

15 A. Yes, they will.

16 Q. Were Exhibits 1 through 6 prepared by you or
17 compiled at your direction?

18 A. Yes, they were.

19 MR. CARR: May it please the Examiner, at this
20 time we would move the admission into evidence of Nearburg
21 Exhibits 1 through 6.

22 EXAMINER STOGNER: Exhibits 1 through 6 will be
23 admitted into evidence.

24 MR. CARR: And that concludes my direct
25 examination of Mr. Roush.

EXAMINATION

BY EXAMINER STOGNER:

Q. Okay, Mr. Roush, when I review Exhibit Number 2 --

A. Okay.

Q. -- it lists the interests over on the east half of the southeast quarter, and then there's a footage separation. But I understand from your testimony this is not the case. The Hooper interest is from the surface down?

A. That is correct.

Q. Okay, so this needs to be changed. How about the Pioneer Natural Resources interest? Is that just from 5000 to 6673?

A. That's what we're still trying to determine. Until they can provide -- It's an old sublease, there's a lot of old documentation in files that I don't have access to. They amongst themselves are going to review the files that each has and see if they can determine whether or not proper notifications were made pursuant to the plugging of the well, which will determine the ownership.

Q. The plugging of what well?

A. There's a well drilled called the Four Mile Unit Number 1 well. It's been subsequently plugged and abandoned. What happened under the sublease is that the

1 sublease required a reassignment in the event of a plugging
2 and abandonment, and the well was plugged and abandoned.
3 Our title attorney, although they have not seen a
4 reassignment, felt that the ownership was owned by Chevron
5 due to the fact that there was a requirement in the
6 sublease to reassign. That is the disagreement that
7 Pioneer and Chevron are currently trying to resolve.

8 Q. Okay, but the well is plugged and abandoned, and
9 I thought that would have settled it. What's the --

10 A. Well, it would, but the interpretation of the
11 agreement requires that -- Pioneer's interpretation is,
12 unless Mesa had -- Mesa would have had to give notice, and
13 Gulf would have had to have taken over the well in order
14 for the reassignment to take place.

15 MR. CARR: And Gulf and Mesa are the predecessors
16 to --

17 THE WITNESS: Right.

18 MR. CARR: -- Pioneer and to Chevron --

19 THE WITNESS: Right --

20 MR. CARR: -- and so that --

21 THE WITNESS: -- and so it's -- I think it is
22 resolvable, and I think they will resolve it.

23 Q. (By Examiner Stogner) Okay. Now, as it stands,
24 as far as the Hooper interest, then if I looked at their
25 interest between 5000 and 663 [sic] that should read, 5

1 percent belong to them and 95 percent belong to Chevron; is
2 that correct?

3 A. No, that -- If you'll look to the side, the
4 designation is the overriding royalty, and that has now
5 been resolved in that it is not from 5000 to 6673.

6 And I apologize, we should have corrected this
7 exhibit. I will resubmit an exhibit that properly reflects
8 that they own an overriding royalty from surface to all
9 depths, and --

10 Q. Okay, just the override --

11 A. Yes, sir.

12 Q. They are just -- Okay.

13 A. They're just an override, they have no working
14 interest at all.

15 Q. Okay, okay.

16 A. And I will clarify that for you and provide you
17 with a --

18 Q. Okay, I won't turn that down, but I've got it
19 straight in my mind.

20 A. No, it's -- that's what's confusing you.

21 Q. Okay, so we've got that dispute refused [sic], we
22 just don't know how the Pioneer -- But regardless, they're
23 going to be force pooled because of the depth in which you
24 are force pooling; is that correct?

25 A. Correct. And Chevron has just basically said,

1 You'll have to force pool us for us to make an answer. And
2 they're going to have an interest in this property
3 regardless of the outcome of the title dispute.

4 Q. Well, have you got a feel how Pioneer feels about
5 this?

6 A. Neither one of them wants to participate in a
7 Morrow well.

8 Q. Even if this dispute wasn't there?

9 A. They would not participate. They're not Morrow
10 payers *per se*. I mean, I'm not saying they don't ever
11 drill one, but they do not want to drill this one. I've
12 talked to Steve Owens, their land manager. If we can ever
13 resolve the title problem I think I can get voluntary
14 approval from Steve to grant us a term assignment or farm
15 out on reasonable terms.

16 Q. But you just got through telling me Pioneer
17 doesn't want -- or not interested in --

18 A. No, Chevron. Chevron does not.

19 Q. Okay, how -- I'm talking about Pioneer now.

20 A. Okay. I've spoken with Pioneer. In the event
21 title does remain in Pioneer, I think I will be able to
22 obtain a voluntary -- at least be granted a term assignment
23 or a farmout on reasonable terms.

24 Q. And the only interest for this well is the
25 Morrow; is that correct?

1 A. That is correct.

2 Q. There's no other interest in any other shallower
3 zones?

4 A. No, sir.

5 Q. Morrow is the primary zone of interest, and no
6 other zones are secondary?

7 A. That's correct.

8 EXAMINER STOGNER: Okay, I have no other
9 questions.

10 MR. CARR: Thank you, Mr. Stogner.

11 At this time we call Jerry Elger.

12 JERRY B. ELGER,

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

15 DIRECT EXAMINATION

16 BY MR. CARR:

17 Q. Would you state your full name for the record,
18 please?

19 A. Jerry Elger.

20 Q. Mr. Elger, where do you reside?

21 A. In Midland, Texas.

22 Q. By whom are you employed?

23 A. By Nearburg Producing Company.

24 Q. And what is your position with Nearburg?

25 A. Exploration geologist.

1 Q. Have you previously testified before this
2 Division and had your credentials as an expert in petroleum
3 geology accepted and made a matter of record?

4 A. Yes, I have.

5 Q. Are you familiar with the Applications filed in
6 each of these consolidated cases?

7 A. Yes, I am.

8 Q. Have you made a geological study of the area
9 which is involved in this matter?

10 A. Yes.

11 Q. Are you prepared to share the results of that
12 work with Mr. Stogner?

13 A. Yes.

14 MR. CARR: Are the witness's qualifications
15 acceptable?

16 EXAMINER STOGNER: They are.

17 Q. (By Mr. Carr) Initially, Mr. Elger, could you
18 generally describe the characteristics of the Morrow
19 formation in this area?

20 A. The Morrow was deposited geologically across this
21 area in a series of stream channels, the orientation of
22 which is mostly from the northwest towards the southeast.

23 Q. Let's go to Exhibit Number 7. Would you identify
24 that and review it for Mr. Stogner?

25 A. Exhibit Number 7 is a production map in the

1 vicinity of the proposed well. The spacing unit for the
2 well in the south half of 26 is the green box. The map
3 scale is one inch equals 2000 feet.

4 Production is from two zones in particular. The
5 Permo-Penn zone, which is really a Cisco carbonate, those
6 wells that have been productive from that unit are
7 indicated by the blue-shaded hexagons.

8 The Pennsylvanian-Morrow production, which is the
9 primary objective for this test, are the wells that are
10 shaded in red, of which there are five identified on this
11 map.

12 The production history from the Permo-Penn zone
13 is basically one that -- if you look at the number of wells
14 that were productive from the Permo-Penn across this mapped
15 area and you took an overall average, the Permo-Penn zone
16 ends up being a noncommercial or non-primary target zone.
17 It is considered a secondary target. The depth on this
18 particular zone is roughly 7000 feet in most of these
19 wells.

20 The Pennsylvanian-Morrow formation is commercial
21 in a number of wells, including a well in the south half of
22 35 and two wells in Section 36, to the south of the
23 proposed spacing unit.

24 Q. There's been recently a well drilled by Concho in
25 Section 22, has there not?

1 A. That's correct, and that's indicated with the
2 lettering "New Morrow" in the northeast quarter of Section
3 22. That well should be indicated both half red and half
4 blue. That well was drilled in the mid-portion of last
5 year and was completed as a Morrow producer. It produced a
6 cumulative of about one-third of a BCF before it eventually
7 depleted, and the well was plugged back to the Permo-Penn
8 section. And that well has recently initiated sales
9 production from the Permo-Penn section.

10 Q. The legend indicates that there may be Atoka
11 production in the area. Is there any Atoka production in
12 the immediate area?

13 A. No, there is not.

14 Q. Okay, let's go now to Exhibit Number 8. Identify
15 and review that, please.

16 A. Exhibit Number 8 is a 1-to-1000-scale map
17 centering on Section 26. The contours you see here are
18 time -- This is an isochron map, which is an isochron of
19 travel time based on some seismic that was made available
20 to Nearburg across a small portion of Section 26 and a
21 portion of -- actually a portion of Section 24.

22 This is from a 3-D, this is our geophysical
23 interpretation that was done by our geophysicist over a
24 portion of a 3-D that was shot by Concho, a much more broad
25 3-D. We had access to a limited section. But in his work

1 with the Morrow he was able to identify a travel time thick
2 which extends across the northwest portion of Section 26
3 through the proposed location and extends off to the
4 southeast from section -- the adjacent sections to the
5 southeast.

6 We believe that this travel-time thick, which is
7 really the thickness of the overall Morrow clastics, is
8 partially responsible, based on the channel systems which I
9 addressed earlier, extending from the northwest to the
10 southeast across this acreage area, and hopefully that this
11 channel system would contain reservoir-quality sands.

12 Q. And you can see that our location in the south
13 half of Section -- What is that?

14 A. 26.

15 Q. -- 26, is in fact in the thickest portion of the
16 channel as it runs across our acreage?

17 A. That is correct.

18 Q. If you go to the north half of the section,
19 there's also a well location indicated in the southwest of
20 the northeast. Who's the operator of that well?

21 A. That's a well that was proposed to Nearburg
22 Producing Company by David Arrington out of Midland, Texas.
23 They independently, working the same 3-D seismic, came up
24 with an unorthodox location in the north half of 26, which
25 was consistent with one of these seismic Morrow thicks, and

1 we believe that their interpretation and our interpretation
2 are probably the same, and that they elected to drill in
3 the thickest portion of the Morrow in the north half of
4 Section 26, and we're opting to drill at the thickest
5 portion of the Morrow that's been identified on the 3-D in
6 the south half of 26.

7 Q. If you were required to move this location to a
8 standard location, what impact could that have on
9 Nearburg's plans to, in fact, drill a Morrow well on this
10 acreage?

11 A. Any movement along to an orthodox location would
12 result in a thicker overall Morrow interval, based on this
13 3-D, a thinner overall.

14 Q. By doing that, would you still go forward with
15 the well if you were required to drill it at a standard
16 location?

17 A. Very possibly not.

18 Q. Let's go to the isopach map, Nearburg Exhibit
19 Number 9. Would you review that, please?

20 A. The isopach map is one of the Morrow sands in
21 particular that pays to the southeast of our proposed
22 location in Section 36. It also paid in the Concho well
23 that I alluded to earlier, off the production map, in the
24 northeast corner of Section 22.

25 Those two wells both encountered an upper "C"

1 Morrow sand, which is what I've isopach'd on this exhibit.
2 I incorporated the Morrow thickening from the 3-D seismic
3 into my interpretation of the sand orientations across
4 Section 26, and of course where we did not have 3-D seismic
5 the interpretation is strictly based on subsurface geology
6 only.

7 Again, the our proposed location in the south
8 half of 26, we believe, is related to a Morrow thick, which
9 is again related to the deposition of sands within the
10 lower Morrow, and hence the location was picked based off
11 of the 3-D, and the projection of this sand trend across 26
12 from the northwest to the southeast.

13 Q. Mr. Elger, let's now go to the cross-section,
14 Exhibit Number 10. Do you have an index map on that
15 exhibit?

16 A. Yes, I do.

17 Q. Would you refer to that, the cross-section, and
18 review the information on the exhibit?

19 A. Exhibit Number 10 is a Morrow stratigraphic
20 cross-section. It is hung on the top of the Morrow
21 clastics. It incorporates, again, two well logs, one to
22 the north -- that was drilled to the northeast [sic] of our
23 proposed spacing unit by Concho in June of 2000.

24 Q. And that's to the northwest?

25 A. Yes, it is. I might add that on this isopach

1 map, Exhibit 9, if wells that were drilled to the Morrow or
2 through the Morrow did not encounter any sand whatsoever in
3 the upper "C" interval, those wells are shaded gray on this
4 display. So you can see, for instance, a well immediately
5 in the same quarter section as this Concho well had
6 encountered no sand in what ended up being the main pay in
7 the Concho well.

8 Main pay is identified by the perforation section
9 in the depth column on the well log. They encountered a
10 very highly porous sand, with 24 feet of sand in the upper
11 "C". The well completed for a flow of 8 1/2 million cubic
12 feet per day, natural. And again the well ended up being
13 noncommercial because it appears that it's a limited
14 reservoir.

15 That same sand appears in a productive well that
16 was drilled by Mesa Petroleum to the southeast of our
17 spacing unit in the west half of Section 36. That well
18 drilled and completed in May of 1979.

19 Their upper "C" sand was also perforated, and
20 that well ended up producing a cumulative during its life
21 of 2.4 BCF, which we consider at these depths to be
22 commercial volumes.

23 Again, the projection of this channel trend that
24 was encountered in the Concho well and the Mesa well
25 extends across Section 26, and we believe that utilizing

1 the 3-D seismic we've identified where the trace of that,
2 or the channel, extends across our acreage and spacing
3 unit.

4 Q. Mr. Elger, are you prepared to make a
5 recommendation to the Examiner as to the risk penalty that
6 should be assessed against any nonparticipating working
7 interest owner?

8 A. Yes, I am.

9 Q. And what is that?

10 A. That's 200 percent.

11 Q. In your opinion, could you drill a well at the
12 proposed location that would not be a commercial success?

13 A. Yes, you could.

14 Q. Would you just briefly summarize the basis for
15 your recommendation and your geological conclusion?

16 A. Well, one of the main conclusions is, just
17 because you encounter reservoir-quality sands in the case
18 of the Concho well doesn't assure that you'll be able to
19 obtain commercial quantities of gas. They encountered a
20 spectacular sand which ended up being a limited reservoir.
21 That's one of the main risks.

22 Another risk is that you could encounter sand
23 within this upper "C" fairway, and it would be
24 nonreservoir-quality sand. You'd be off to the edge, one
25 side or the other of the main channel system, so you could

1 have a nonreservoir-quality sand and a noncommercial well.
2 So those are the two main -- Or you could even miss the
3 sand completely, as the well that already exists in the
4 south half of 26.

5 Q. Mr. Elger, in your opinion will approval of this
6 Application and the drilling of the proposed well at the
7 unorthodox location which you're requesting be in the best
8 interest of conservation, the prevention of waste and the
9 protection of correlative rights?

10 A. Yes.

11 Q. Were Nearburg Exhibits 7 through 10 prepared by
12 you?

13 A. Yes, they were.

14 MR. CARR: Mr. Stogner, at this time we move the
15 admission into evidence of Nearburg Exhibits 7 through 10.

16 EXAMINER STOGNER: Exhibits 7 through 10 will be
17 admitted into evidence at this time.

18 MR. CARR: And that concludes my examination of
19 Mr. Elger.

20 EXAMINATION

21 BY EXAMINER STOGNER:

22 Q. Okay, so there is a primary objective and a
23 secondary objective, and that would be the Cisco and the
24 Atoka?

25 A. Well, more so the Cisco than the Atoka, but that

1 is correct.

2 Q. And the Atoka being just between them,
3 therefore --

4 A. That's correct.

5 Q. And they're all on 320-acre spacing; is that
6 correct?

7 A. I believe that's correct.

8 Q. Okay, when I'm looking at the -- on Exhibit
9 Number 10, your map down at the bottom, in Section 23, is
10 that a proposed Nearburg well?

11 A. Exhibit 23 --

12 Q. I'm sorry, Exhibit 10, Section 23.

13 A. Yes, it is.

14 Q. Okay.

15 A. That's a location that was proposed some time
16 ago.

17 Q. Okay. To the Morrow, I assume?

18 A. Yes.

19 Q. And that would correlate to what you're showing
20 on Exhibit Number 9, with the thick in the Morrow channel?

21 A. More or less, that's correct.

22 Q. How far along is the Arrington well to the north?

23 A. That well should be basically just about at TD.

24 In fact, I believe it's at TD, but they're in the process
25 of obtaining open-hole logs as we speak.

1 Q. Does Nearburg have an interest in that well?

2 A. Yes, we do.

3 EXAMINER STOGNER: Mr. Carr, do you know, by
4 chance, what order number approved -- and I assume that was
5 compulsory pooled, the north half, since Chevron has some
6 acreage into that area.

7 MR. CARR: I don't know the order number, but
8 I'll provide it to you today.

9 EXAMINER STOGNER: If you would. Just reference
10 it to me, and I can go get a copy of it.

11 Q. (By Examiner Stogner) Okay, again, the old well
12 in the south half of this section, did that have production
13 in the --

14 A. Yes.

15 Q. -- in the Morrow at all, or --

16 A. No.

17 Q. -- is that shown on Exhibit 10?

18 A. No, in Exhibit 7, the production map, that well
19 was placed in an Eddy Undesignated Group 3. It made a
20 cumulative of 1,050,000 cubic feet and 3302 barrels of oil,
21 and that was from the Permo-Penn section.

22 Q. That was in the Cisco. Now, did it penetrate the
23 Morrow?

24 A. Yes, it did. And no completion was attempted.

25 The sand -- there was no reservoir-quality sands.

1 Q. Which verified your information that you're
2 showing on Exhibit Number 9?

3 A. Yes.

4 Q. Is there any history of shallower production
5 above the Wolfcamp in this area?

6 A. There is -- I would qualify it as probably a show
7 well.

8 The well that's uncolored but shows as an oil
9 symbol in the southeast quarter of the southeast quarter of
10 27 produced a cumulative of 550 barrels of oil. I believe
11 that was out of the Glorieta-Yeso.

12 Q. If this well did encounter any of this shallow
13 oil production, you're within your own lease, according to
14 Exhibit Number 2, so nobody would be affected in an
15 unorthodox location; is that correct?

16 A. I believe that's correct.

17 Q. Not like the Arrington well up in the north half
18 where they're on Arrington's property, but if it turned
19 into an oil they would be offsetting you by about a few
20 feet?

21 A. Right.

22 Q. So that limits their unorthodox location to only
23 the deep rights and would probably plug and abandon. But
24 you don't have that problem; is that correct?

25 A. I believe that's correct.

1 EXAMINER STOGNER: Good. I don't have anything
2 further in this case.

3 MR. CARR: Mr. Stogner, I can advise you now that
4 there is no pooling order as to the north half of Section
5 26.

6 The acreage that's held by -- originally by Gulf,
7 now by Chevron, they assigned that interest to Nearburg,
8 and Nearburg and Arrington were able to voluntarily combine
9 that north-half spacing unit.

10 EXAMINER STOGNER: Okay. Well, in that case,
11 would you still provide me the unorthodox location?

12 MR. CARR: I will do that.

13 EXAMINER STOGNER: And I'm sure that NSL order is
14 only for the deep zone.

15 Surely it wouldn't be for the shallow zone where
16 they're only just a feet from Nearburg's property. Surely
17 you wouldn't want that, I wouldn't think.

18 But that does not -- That same problem does not
19 affect --

20 MR. CARR: -- the south half.

21 EXAMINER STOGNER: -- the south half --

22 MR. CARR: Correct.

23 EXAMINER STOGNER: -- because it's all one lease,
24 unlike the north half.

25 MR. CARR: Correct.

1 EXAMINER STOGNER: Okay, good. If there's
2 nothing further in Consolidated Cases 12,661 and 12,662,
3 this matter will be taken under advisement.

4 MR. CARR: Thank you, Mr. Stogner.

5 (Thereupon, these proceedings were concluded at
6 10:27 a.m.)

7 * * *

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10
11 I do hereby certify that the foregoing is
12 a complete record of the proceedings in
13 the Examiner hearing of Case Nos. 12661 and 12662
14 heard by me on 17 May 2001
15 Matthew J. Carr, Examiner
16 Of Conservation Division
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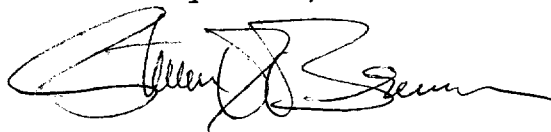
CERTIFICATE OF REPORTER

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 May 19th, 2001.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002