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. 12,683
APPLICATION OF YATES PETROLEUM CORPORATION FOR COMPULSORY POOLING, CHAVES COUNTY, NEW MEXICO	ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID BROOKS, Hearing Examiner

July 12th, 2001

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID BROOKS 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. 12,683

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A P P E A R A N C E S

FOR THE APPLICANT:

LOSEE, CARSON, HAAS & CARROLL, P.A.
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Post Office Box 1720
Artesia, New Mexico 88211-1720
By: ERNEST L. CARROLL

ALSO PRESENT:

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Chief Engineer
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DAVID R. CATANACH
Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

* * *

WHEREUPON, the following proceedings were had at 8:20 a.m.:

EXAMINER CATANACH: Call the hearing to order this morning for Docket Number 23-01. I'm going to call the continuances and dismissals first at this time.

(Off the record)

EXAMINER BROOKS: Okay, at this time we'll call Case Number 12,683, the Application of Yates Petroleum Corporation for compulsory pooling, Chaves County, New Mexico.

Call for appearances.

MR. CARROLL: Mr. Examiner, I'm Ernest Carroll of the Artesia law firm of Losee, Carson, Haas and Carroll, and I'm here today on behalf of the Applicant, Yates Petroleum, and I will have three witnesses.

EXAMINER BROOKS: Are there any other appearances?

Very good. Will the witnesses stand to be sworn?

(Thereupon, the witnesses were sworn.)

EXAMINER BROOKS: Okay, you may proceed when ready, Mr. Carroll.

MR. CARROLL: Thank you, Mr. Examiner, take me just a moment.

EXAMINER BROOKS: The witnesses that were sworn, please identify themselves for the record.

MR. MILLER: Tim Miller.

MR. MORAN: Charles Moran.

MR. FREEMAN: George Freeman.

EXAMINER BROOKS: Okay, we'll let the record reflect those are the same individuals who were just sworn.

MR. CARROLL: Apologize, Mr. Examiner, I don't move quite as fast as I have in previous appearances, but I'm getting faster as I control this left side a little bit more.

EXAMINER BROOKS: Well, that's good.

MR. CARROLL: All right, may I proceed?

EXAMINER BROOKS: You may proceed.

MR. CARROLL: Thank you, sir.

CHARLES E. MORAN,

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

DIRECT EXAMINATION

BY MR. CARROLL:

Q. Mr. Moran, would you state your full name for the record?

A. My name is Charles E. Moran and I live in Artesia, New Mexico.

Q. And by whom are you employed?

A. Yates Petroleum Corporation.

Q. And by whom are you employed?

A. Yates Petroleum Corporation.

Q. And in what capacity?

A. As a landman.

Q. Mr. Moran, have you testified previously before the Oil Conservation Division and had your credentials as a petroleum landman accepted?

A. Yes, I have.

MR. CARROLL: Mr. Examiner, I propose to have Mr. Moran testify as a petroleum landman.

EXAMINER BROOKS: Very good, his credentials are acceptable.

MR. CARROLL: Thank you.

Q. (By Mr. Carroll) Mr. Moran, are you familiar with the Application that is before the Division at the present time?

A. Yes, I am.

Q. Would you basically state what Yates Petroleum is seeking to do with respect to this Application?

A. Yates Petroleum Corporation is seeking to force pool a mineral owner that we have been unable to reach an agreement with. It is complicated by the fact that there is a question as to who the mineral owners are, because there is a will contest involving the ownership.

Q. The interest that has -- I guess, who the two differing parties are seeking to control, springs from a

deceased lawyer by the name of Dean Solsbery, does it not?

A. Yes.

Q. He was an oil and gas practitioner in the City of Roswell?

A. Yes.

Q. And different members of his heirs are claiming this interest?

A. Correct.

Q. And how much -- What is that interest?

A. The interest is a 1/16 interest in the northeast quarter.

Q. Of what section?

A. Of Section 3 of Township 8 South, Range 26 East, Chaves County, New Mexico.

Q. Now, you have prepared certain exhibits, have you not?

A. I have.

Q. Would you turn to Exhibit Number 1?

A. Exhibit Number 1 is a plat representing the proposed spacing unit for our well called the Coronet "TI" Number 3. It is also the current spacing unit for our already-drilled Percentage "APR" Number 1.

Q. All right. Actually there have been three previous wells drilled within this east-half spacing unit; is that correct?

A. Correct. The first well is the Coronet "TI" Number 1, located in the northeast northeast quarter of the section, 3.

Q. That would be the gas symbol, and it's got the 1-TI; is that the symbol by it?

A. Correct, that is it.

Q. All right.

A. Then due south, in the southeast of the northeast, is where the Coronet TI Number 2 well was drilled, and the spacing unit for both of those wells is 160 acres.

Q. All right. These are Abo production wells; is that correct?

A. Yes, those are Abo producing wells.

Q. Now, you say the Percentage PR has also been drilled in the south --

A. In the east half, down in the southwest of the southeast, and it's represented there by the gas symbol in the southwest of the southeast.

Q. Now, what formation is that well producing from?

A. I'm not positive at this point. I was going to let the engineer answer that question. I know it is either producing from the Ordovician, or Wolfcamp-Upper Penn, which requires a 320-acre spacing unit.

Q. All right, that's what I was getting to. The

well that is being proposed to be drilled, the Coronet TI Number 3, what is its proposed --

A. The Coronet TI Number 3 is also proposed to be drilled down to the Ordovician formation, seeking other possible formations on the way down that will require a 320-acre spacing unit.

Q. The site for that well is the circle symbol just due west of the TI Number 2 symbol; is that correct? In the northeast quarter?

A. Correct.

Q. Now, these three wells, with respect to the interest that is owned by the Solsbery heirs, is it in the entire east half --

A. No.

Q. -- of Section 3 or --

A. The Solsbery interest is only in the northeast quarter of Section 3, that being Lots 1 and 2 in the south half of the northeast.

Q. The Solsbery interest has not been force pooled with respect to the TI-1, TI-2 or the Percentage well; is that correct?

A. That is correct.

Q. That is also -- Yates seeks to do that with respect to those three wells, in addition to the TI Number 3 by today's proceeding?

A. Yes, because we're not able to reach an agreement with them for any future costs and expenses that we have out there, we would like to have the ability to recoup our costs and potentially get whatever penalty that we are able to achieve.

Q. In other words, you're seeking to force pool the three previously drilled wells from the date of the entry of the order --

A. -- the order --

Q. -- to the future?

A. -- to the future.

Q. All right. Now, why was it that these wells were drilled without seeking a force pooling or having them concur in the drilling?

A. The history behind these wells, the Coronet TI Number 1 was drilled in the early 1980s. A deal was made with Mr. Solsbery when he was still alive for the drilling of the well. That deal encompassed a lease that allowed for a back-in after the payout of the Coronet TI Number 1. Part of that agreement was that we enter into an operating agreement at the time of entering back into the back-in.

Through time that work was never done, and until last year when we started drilling up there again, we did not realize this. We were able to work a deal with everybody but the Solsbery interest. The ownership from

surface down to approximately 4900 feet is partially leased and is partially a working interest pursuant to the original deal for the drilling of the Coronet TI Number 1.

Q. Mr. Moran, basically the lease with Mr. Solsbery had a few clauses --

A. Had a few clauses --

Q. -- so many feet below the depth --

A. -- the depth --

Q. -- the depth, and --

A. -- and --

Q. -- 4698 --

A. Yes, 4698 --

Q. -- is the horizon --

A. Yes.

Q. -- below which there was no lease then?

A. Correct, I'm correct, it is the 4698 --

Q. All right.

A. -- and that Pugh'd out.

Q. Now, would you turn to Exhibit Number 2? What is Exhibit Number 2?

A. Exhibit Number 2 is an excerpt from the title opinion we had prepared for the drilling of the Coronet TI Number 2 well. It was an update of a title opinion we had previously done for the Coronet TI Number 1.

Q. This title opinion is dated November 3rd of

2000 --

A. Yes.

Q. -- is that correct?

A. Yes.

Q. Is this when you discovered the problem with the ownership in having it committed to these wells?

A. This was the time that we discovered the lawsuit involving the difference in the ownership. We became aware of the unleased interest a couple of months earlier, and that was part of what prompted us to get a new title opinion done.

Q. All right, and this shows -- On page 2 of this exhibit, it -- with respect to -- Could you give us the names of the two uncommitted or the two -- or groups of people that are claiming an interest to whom we have given notice of this hearing?

A. The two people -- or there's actually three people that required notice, one being Roxy Burkfield, and then there is a Dean Solsbery and --

Q. -- a Brian --

A. -- a Brian Solsbery. It is my understanding they are his sons from the first marriage, and Roxy is a stepdaughter from a second marriage.

Q. What you've done here is excerpted parts of this title opinion, correct?

A. Yes.

Q. And on page -- it's called page 8, but it's about the fourth page of our exhibit, it does have a requirement that tells the story about the estate of A.D. Solsbery and shows these two competing interests?

A. Yes, it does.

Q. As far -- It's your understanding that those parties have an actual lawsuit filed and that a trial will be sometime in the future?

A. Yes, I do believe it will go to trial. I don't believe the parties will ever be able to solve their differences.

Q. All right. Exhibit Number 3, would you turn to that?

A. Exhibit Number 3 is the title opinion we had prepared for the whole east half for the drilling of the Percentage Number 1 in Township 8 South, 26 East, Section 3.

Q. This likewise shows the interest of the Solsbery heirs, does it not?

A. It does. And on what is labeled as page 10 of the opinion, title requirement 5.

Q. All right. Now, with respect to these interests, Yates Petroleum has tried to reach a deal with these parties in order to get them involved as working interest

owners in the well; is that correct?

A. Yes, we have.

Q. Would you turn to your Exhibit Number 4?

A. Exhibit Number 4 is my first attempt to lease the interest of Roxy Burkfield upon preparing -- getting ready to drill the Percentage well.

Q. All right. You conveyed terms, a lease and a draft, did you not?

A. I did, I conveyed a lease term, a bonus consideration of $100 per acre and a royalty reservation of a quarter.

Q. At this point in time, were you aware of the other two Solsbery heirs?

A. At this point in time I was not.

Q. Were you able to lease this interest from whatever claims Ms. Burkfield had?

A. I was not able to lease it.

Q. Would you turn to Exhibit Number 5, and what is this?

A. Exhibit Number 5 is an additional offer to lease the interest of Roxy Burkfield.

Q. And this occurred what date?

A. September 15th, 2000.

Q. Or is that the 25th, 2000?

A. 25th, yes.

Q. All right, and you were unsuccessful with respect to this effort?

A. Yes.

Q. Would you turn to your Exhibit Number 6? What is this?

A. Exhibit Number 6 is some field notes prepared by another lady in our office. It was -- The project was given to her because they felt I had irritated Ms. Burkfield and was unable to work a deal with her. She was not -- We had since determined it was not me, that we just were unable to get a deal worked with her.

Q. So Ms. Floore, the -- this offer that was conveyed October 6th of 2000 likewise --

A. -- was rejected and never accepted.

Q. -- had nothing that occurred.

Now, apparently you then learned of the Solsbery brothers --

A. Yes --

Q. -- is that correct?

A. -- I did.

Q. And you've had correspondence with them; is that correct?

A. I've had correspondence with their attorney, Lynn Slade.

Q. All right, with the Modrall firm in Albuquerque?

A. Yes.

Q. Would you turn to your Exhibit Number 7 and would you explain what that exhibit is?

A. Exhibit Number 7 is an attempt by me to lease the interest of the two Solsbery gentlemen. Because I was unable to -- One, because the well was already drilled, two because I was not sure who would own it and how long it would take to resolve the lawsuit, I offered them a quarter royalty for a ten-year lease. The ten years was based upon a guess that maybe the lawsuit would be ended within the ten-year period, and thus the lease would vest upon them, establishing their ownership.

Q. Were you able to reach any kind of agreement with the two Solsberys by virtue of this offer?

A. I was not able to reach an agreement by this offer.

Q. Now, you have since learned too that Ms. Burkfield has an attorney --

A. Yes, I have.

Q. -- with respect to this lawsuit? And what is that attorney's name?

A. That attorney's name is Robert Armijo.

Q. With the Civerolo firm in Albuquerque?

A. In Albuquerque, yes.

Q. Would you turn to your Exhibit Number 8 and

explain what this is?

A. Exhibit Number 8 is probably out of order. We probably ought to do Exhibit 9 first.

Q. All right, Exhibit 9 is a letter dated May 18th.

A. May 18th. Exhibit Number 9 is my proposal of drilling of the Coronet TI Number 3 well in an attempt to negotiate a lease term, figure out some way to -- how to account to the owners, either if they want to be a working interest owner or a mineral owner under a lease. We're not opposed to however they participate, we just need to get something figured out so that we know how to account for it.

Q. So by this letter you transmitted a joint operating agreement; is that correct?

A. A joint operating agreement that we propose to operate the well under. We transmitted two operating agreements in the letter, one being the operating agreement we have for the shallow wells that we have with all the other owners that participated in the drilling of the shallow wells, and the other operating agreement is the operating agreement we have put together for the drilling of the deep wells. That was the operating agreement labeled the Percentage "APR" Number 1.

Q. So you have offered these parties the ability to join in, at least through May 18th. You have offered them

to lease their interest or to join in and sign an operating agreement?

A. Yes.

Q. The Exhibit 8 that we had just previously identified that was slightly out of order was a letter that followed four days later. It conveyed something that was left out of the package that you sent?

A. Yes, the actual AFE that was supposed to be included for the drilling of the Coronet TI Number 3 was not in the package. It was mailed out on the 18th, and we subsequently mailed that out on the 22nd of May.

Q. All right. Now, have you had contact with the lawyers that are listed in these mailings?

A. The extent of my conversations with Mr. Armijo were to confirm that he was Ms. Burkfield's attorney. That's the limit of those conversations.

Mr. Slade and I have had a few conversations. I understand what I think his clients wish to be, which are mineral owners, but I can't get them to make a deal, can't get them to sign any paperwork.

MR. CARROLL: Mr. Examiner, I would like to indicate to you that Mr. Armijo has personally called me with respect to this hearing to let me know he had, in fact, received the documents, but -- and at the time I visited with him about a week or so ago, he was not sure

that he was going to show up and he apparently has elected not to.

I can tell you from looking at the record just where this should shake out, is that I suspect, unless there's some other problem, but if you just look at it from a land-title situation, Ms. Burkfield probably does have a claim to one quarter of this interest, and the two Solsberys claim three-quarters. And so that's one of the reasons that Yates has continued to try to do something with both of them, and they just don't want to do it.

So we -- I think that's the reason why they -- I don't think that they're opposed to doing stuff out here, it's just they're not sure the amount of their interest, and there's some complications and allegations of malfeasance by a personal representative, Ms. Burkfield's mother and stuff. And so you know, there's just a lot of issues caught up, and I think that's why they have elected not to. But we have had communications with them.

I would have you turn to Exhibit Number 24, just got a little bit out of order. What is Exhibit Number 24? It's a separate -- Did I give you a copy of that?

A. I don't think I have it, but that should be --

Q. It's sitting there on the --

EXAMINER BROOKS: I don't believe I have it either.

MR. CARROLL: It may have gotten -- Let me get it out. I wanted to pass some out here, I wasn't sure who all got one. This was the compliance with Rule 1207.

EXAMINER BROOKS: Okay, thank you.

Q. (By Mr. Carroll) Would you identify for the record Exhibit 24?

A. Exhibit 24 is a certificate of mailing and compliance with Rule 207 [*sic*], showing that the information required was mailed to the appropriate attorneys representing the people who seek to force pool.

Q. All right. These are to the attorneys for Ms. Burkfield and the attorneys for Brian and Dean Solsbery?

A. -- and Dean Solsbery, yes.

Q. Now, Mr. Moran, with respect to the proposed overhead rates that Yates is doing for this well, do you normally work in this area of Chaves County?

A. Yes, I'm currently working in this area of Chaves County.

Q. What are the rates that Yates proposes with respect to overhead, the drilling rate and the normal monthly rate?

A. The drilling and the overhead rates are in the COPAS attached to the operating agreement, and for this depth of well I want to refer -- I'm thinking of the deep rates, and it's not the deep for these two wells. It is --

Q. Page 3 of the exhibit --

A. Yeah --

Q. -- on mine.

A. -- right, page 3 of the COPAS, and for this depth we are applying for a drilling well rate of $4000 and a producing well rate of $400 per well.

Q. Is this the standard rate that's encountered in this area of Chaves County for these kinds of wells?

A. Yes, we believe this is standard. It may be a little on the low side.

Q. All right. With respect to, now, the -- the penalty provision in the operating agreements that are attached is your Exhibit 9. What are you proposing, though, with respect for this well?

A. The operating agreement has provisions that request a nonconsent penalty of 200 percent and 500 percent for the drilling of the well.

Q. That is not in compliance with the state statute?

A. That is not in compliance with the state statute. The state statutes would give us up to 200 percent -- our cost plus the 200-percent penalty.

Q. And what are you asking for by virtue of this Application of Yates?

A. And by this Application we are asking for those -- to be in compliance with the state statutes, the

100 percent plus 200 percent, and not necessarily what is proposed in the operating agreement.

Q. All right. Your engineers will more develop the need for that --

A. Yes.

Q. -- penalty rate?

Now, Mr. Moran, in addition to seeking the force pooling of these interests with respect to not only the Abo wells but the deeper Penn-Ordovician well that is proposed and the one that's already been drilled, the Percentage, you have asked in you Application that a joint operating agreement be approved or be adopted by the Commission for this half section; is that correct?

A. Yes.

Q. Would you explain to the Examiner why that is being done and the needs that you anticipate that by having an actual -- the provisions of this joint operating agreement without the ownership schedule or the percentage of penalties being adopted by it but the terms, why do you think that that will help and be an advantage to the operator and also likely reduce the workload of the Oil Conservation Division?

A. The operating agreement is an agreement that is used by the industry that sets out how operations will be conducted in the well. Currently with the unleased

interest, if we go out there and conduct an operation, the parties have no agreement and thus are always subject to disagreement over what goes on out there.

Our hope here with establishing an operating agreement, that it will set forth the procedures under which we can operate the well, and it is very -- These are the agreements that we have with the other people out there. It will simplify the work for us in that we know how to account to the people and we know how to proceed with noticing people when we propose to do work out there.

Some of the wells out there have turned out to be good wells, some of the wells may require that additional work be done, and spending of additional money, potentially, to enhance the production. And under the operating agreement there are provisions that require us to notice people, but it also provides us the ability to be compensated for the risks that we take without giving anybody a free ride.

Q. Now, Mr. Moran, with respect to your last statement, the problem that Yates is seeking to avoid deals with the determination of when a well pays out --

A. Yes.

Q. -- and if there are future operations. The joint operating agreement provides that until the last operation or the drilling of the well pays out, you don't get to come

in on the ground floor in future operation; is that correct?

A. Correct.

Q. And that -- If that's not taken care of, then in essence a nonjoining working interest owner can go nonconsent and then come in at a later time because of the later operation?

A. Correct.

Q. And that's what Yates is trying to seek to avoid?

A. Yes.

Q. With respect to these wells, is it anticipated -- in particular with respect to these deeper wells such as the Percentage and the TI Number 3, is it anticipated that there will be operations and moving up the hole to produce these other horizons that are shallower?

A. There is the potential to bring on additional pay zones in the existing wellbore of the Percentage in the future.

Q. And that could lead to the very problem you're just discussing?

A. Yes.

MR. CARROLL: Mr. Examiner, I would move admission of Exhibits 1 through 9 and Number 24 at this time.

EXAMINER BROOKS: Okay, there can't be any

objection because there's nobody here to object. Exhibits 1 through 9 and 24 are admitted.

MR. CARROLL: All right, I would pass the witness at this time, Mr. Examiner.

EXAMINATION

BY EXAMINER BROOKS:

Q. Okay, I need to clarify a few things here. I think you testified to it all, but I'm not sure I have it all in mind at this point.

There are three existing wells on the half-section, correct?

A. There is two existing wells that are spaced on a 160-acre spacing, that being the northeast quarter of Section 3.

Q. And that's the TI --

A. The Coronet TI Number 1 and --

Q. The TI Number 1 is in the northeast quarter, and it's on what spacing?

A. 160 acres.

Q. And what pool is it in?

A. The Abo.

Q. Okay, and then the other --

A. The TI Number 2 is the second well on the spacing unit, and it is also an Abo well.

Q. And it also is on a 160 --

A. 160 --

Q. -- spacing unit. And that one, I see, is in the southeast of the northeast?

A. Correct.

Q. Okay, and then where's the third well?

A. The third well is -- currently existing is the Percentage "APR" well down in the southwest of the southeast.

Q. Yes, I see that.

A. And that is the well that requires the 320-acre spacing.

Q. Okay.

A. And our Coronet TI Number 3 is proposed to be drilled to a depth that will also require the 320-acre spacing unit.

Q. Okay, where is the Coronet TI Number 3? That's to be in the southeast of the southeast?

A. No, it is going to be in the southeast -- southwest of the northeast.

Q. Southwest of the northeast, okay, but it's going to be on 320?

A. Yes, it will be on 320.

Q. And what's the proposed -- What's the objective?

A. We were going to drill it down to the basement in search of the Ordovician, being at the bottom, the

Wolfcamp, the Pennsylvanian, and also the Abo, in the event that we have to plug one of the other wells up in the northeast quarter.

Q. The unleased interest is in the entire northeast quarter?

A. It's an undivided interest in the northeast quarter.

Q. So -- Well, now, there's this depth limitation that's below 5698. You have the lease down to 5698 --

A. They have a original lease that allowed them to back in for a working interest of 50 percent, so only part of the interest in the northeast quarter down to 5600 feet is leased.

Q. We're both misspeaking, 4600.

A. 4600, yes, excuse me.

Q. Well, it's my mistake.

A. Yeah.

Q. And are any of these wells, these existing wells, under that lease?

A. The coronet TI Number 1 and the Coronet TI Number 2 are.

Q. Okay, so they're both covered by that lease --

A. Partially.

Q. -- and there's an unleased 50-percent back-in interest?

A. Yes.

Q. And those wells have paid out, so that back-in is triggered?

A. The Coronet TI Number 1 paid out sometime in the 1980s. I did not verify the date. So when we drilled the Coronet TI Number 2, they had the right to participate at that point.

Q. Right.

A. And the TI Number 2 has not paid out at this point. It still owes over $244,000 to pay out.

Q. And the new well, of course, will be on the 320?

A. Yes.

Q. Now, this interest is a 6.25 or 1/16 mineral interest?

A. It's a 1/16 mineral interest.

Q. Right, okay.

A. On a 320, though, it drops down to a 1/32.

Q. Right, but it's going to be a 1/32 in the northeast-quarter wells too, because they're on 160 acres, but there's only 50-percent --

A. Correct.

Q. -- back-in interest?

A. Correct.

Q. Now, when we get to the penalties involved here, there's some potential for confusion, because the way

operating agreements write them and the way the drafters of the New Mexico statutes write them, they approach them from a little bit different perspective.

A. Yes.

Q. When you say 200 and 500 is provided in the operating agreement, are you talking that -- are you talking 300, 600 in operating-agreement language or 200-500 in operating-agreement language?

A. In operating-agreement language, the operating agreement is drafted for a 200, 500, in accordance -- to translate that into what I perceive to be the statutory language, that would be what you would be allowed to receive on your tangibles, 100-percent penalty, and on your intangibles a 400-percent penalty.

Q. Is that 100-percent -- And the reason I'm concerned with this is because 100-percent, of course, is less than the maximum. Now, we will ignore, obviously, the 500-percent, because --

A. Right.

Q. -- that will bring us way up. So the 100-percent -- above our statutory cap.

But the 100-percent, is that -- of course, I can read the operating agreement, but some of them are drafted different ways -- is that on all equipment or only on service equipment?

A. The operating agreement breaks it out into separate types.

Q. Okay.

A. In the operating agreement it is 200-percent, I believe, for the surface equipment, then 500-percent for downhole equipment, and 500-percent for the intangibles.

Q. Yeah, I'm familiar with that distinction often being made in --

A. Yes.

Q. -- operating agreements, which is the reason why I asked you that question.

A. Yes.

Q. So the only thing that the operating agreement would provide for a lesser amount than our maximum statutory would be for -- Well, no, the 500 percent provided in the operating agreement would cover both intangibles and downhole equipment?

A. Right.

Q. Okay. The request for adopting the operating agreement is interesting because it's somewhat novel and seems like a pretty good approach to a problem we've been dealing with here at the Commission, but of course we'll hear further from you --

MR. CARROLL: Mr. Examiner, I understand, and I will tell you that I have had some lengthy conversations

with Mr. Stogner --

EXAMINER BROOKS: Correct.

MR. CARROLL: -- and this was a proposal that I made to him to solve some of the problems --

EXAMINER BROOKS: Right.

MR. CARROLL: -- that we're having with these, you know, numerous workovers. And I will tell you, I just thought we would bring it to a head and put it in an application, and we did it, with respect to this.

We understand it's novel, and we're not trying to hide the ball on it, but because there are three other wells already on this half section of land, we have this well, a proposed well, coming up, and we anticipate because of the nature of the production that we're going to have numerous workovers and recompletions, and it's going to be one of these headaches for us. And as I understand from Mr. Stogner, that apparently this is a problem that is more often encountered in the northwest corner of the state.

And you know, we offer this as a solution. We haven't done it before. Maybe this is the time to give you a chance to take a step out and do it.

I also -- We know that there's a problem here, because we have a model form operating agreement that we've already used. It's got some terms in it that are not in compliance with the statute. We would offer just to you

that you could strike those provisions and just utilize what we're bound by statute --

EXAMINER BROOKS: Yeah, I would assume we would have to do that --

MR. CARROLL: Certainly --

EXAMINER BROOKS: -- because we can't impose a penalty larger than that provided by statute.

MR. CARROLL: I know that this is going to create a problem because then it's also going to invite every operator to come in with their own standard form of model operating agreement, even though everybody uses the term AAPI 610, whatever year it was adopted, you as well as I know that there millions of --

EXAMINER BROOKS: Many --

MR. CARROLL: -- variations. I know that's a problem.

But maybe for this one -- and what -- You know, the basic language in the 1977 agreement as unaltered would at least cover the problem that we've said that we really need to be addressed, and if -- you know, we would -- any kind of help -- it's like the old -- just shoot up among us, we need help, you know, when you're --

EXAMINER BROOKS: Yes.

MR. CARROLL: -- the wildcat, we need some help here, and maybe the Commission or Division needs to pull up

an industry committee and come up with a form of operating agreement that you can always go back to, but that's -- again, that's kind of outside of the parameters of this Application --

EXAMINER BROOKS: Yeah.

MR. CARROLL: -- but I just want you to know we understand that there are problems with what we ask --

EXAMINER BROOKS: Well, it --

MR. CARROLL: -- and it might set some precedent you might not like, but there's ways of getting around it, but we'd still like some help --

EXAMINER BROOKS: That's correct --

MR. CARROLL: -- if you can --

EXAMINER BROOKS: -- and it certainly is a problem the Division is very much aware of.

MR. CARROLL: I'm well aware of that too, and that's wy we went ahead and put this in maybe part of our Application --

EXAMINER BROOKS: Right.

MR. CARROLL: -- at least to help bring some attention to this --

EXAMINER BROOKS: Okay.

MR. CARROLL: -- problem that I know the Examiners are being faced with more often now than they have in the past.

EXAMINER BROOKS: Okay, well, I have no further questions for Mr. Moran.

Mr. Stogner? I mean Mr. Catanach, sorry.

MR. CATANACH: I have a couple questions, Mr. Moran.

EXAMINATION

BY MR. CATANACH:

Q. The Number 1 well was drilled in the 1980s; is that correct?

A. Yes, in 1981 or 1982.

Q. And at that time the interest, the Solsbery interest, that was voluntarily committed to the well?

A. It was voluntarily committed by Dean Solsbery himself.

Q. Okay.

A. He was alive at that point, and it was leased by him, and the --

Q. Okay. Now -- Go ahead.

A. -- and the provision of the agreement which we made with all the mineral owners there -- they were a very sophisticated bunch -- was that they be allowed to back in for 50 percent upon the well payout.

Q. Okay. Are you seeking a penalty on the Number 1 well?

A. Only as to future operations, not for historical.

Q. And when you say future operations, you're talking about recompletions to a different formation?

A. Correct.

Q. Is that the same for the Number 2 well?

A. For the Number 2 well as well.

Q. Okay. Your overhead rates that you proposed are for the deep Ordovician test, for the new well?

A. Yes.

Q. Okay.

A. But they would also be the same or similar rates for the Abo formations.

Q. Even though there's a difference in depth?

A. The depth we propose is from 4000 to 8000, should cover the Abo formation and the -- It's the same rates for both depths. Upon 8000 we increase our overhead rates, per the schedule in the operating agreement.

Q. From 4000 to 8000 is considered the same depth?

A. Yes.

Q. In your operating agreement?

A. In the operating agreement.

Q. You first attempted to lease the interest of Roxy back in September; is that correct?

A. Yes.

Q. And do you know when the Percentage well was drilled?

A. The Percentage well was drilled -- Originally the Percentage well was slated to be an Abo well, and sometime around September 24th my boss determined he wanted to drill a deep well, so it was right about that time -- the drilling rig was moving within a week. I had about a week to get her leased. That's why there was very generous bonus terms and royalty, was because I had about a week to get it leased.

The other owners, the other 15/16 in the northeast quarter, received the same terms and I was able to get them leased within that week. But the plans changed right as the drilling rig was moving. Instead of drilling an Abo well, we decided to test it deep.

Q. Again, when was that well drilled?

A. Approximately the end of September, first part of October.

Q. Okay. So you drilled the well without having committed the interest of the --

A. Correct.

Q. -- the Solsbery interest?

And are you seeking -- For the Percentage well, are you seeking the 200-percent penalty on that well?

A. Only as to future operations.

Q. Future operations, not for the Ordovician test?

A. Not for the Ordovician test and not for any costs

that we've incurred to date, only costs that we incur from this day forward.

Q. I believe, if I'm not mistaken, the Percentage well is downhole commingled in the Ordovician and another formation?

A. I don't know if it's -- I was going to let the engineer or geologist answer that question. It is scheduled for commingling --

Q. I think I recall --

A. -- we have applied for --

Q. -- having approved an application.

A. It may be approved. I'm not sure the work is done yet. I haven't had time to visit with my engineer and geologist.

There are -- The reason, besides the need to produce, that there are some special lease terms, some of the mineral owners in the northeast quarter are very sophisticated, and they have drafted some very interesting Pugh clauses which require producing all formations that you can, or you lose your lease, and you only maintain the existing producing formation.

Q. With regards to the Percentage well, how is the Solsbery interest being treated in that well? Is it just being held in suspense?

A. I had -- For accounting purposes, I have

attributed it all to Yates Petroleum Corporation and have it set up on a payout status to determine and be able to account for the money. We've treated it as a nonconsent interest, and Yates Petroleum Corporation has paid all the costs associated with that interest.

Q. Are they subject to a penalty on that --

A. No, it's just being tracked to determine if the well has paid out, and the well did pay out in February -- I think the effective date, February 25th of this year.

Q. So they're not subject to any penalty?

A. No, that was just a 100-percent payout.

MR. CATANACH: Okay, I have nothing further.

EXAMINER BROOKS: Mr. Ezeanyim?

MR. EZEANYIM: No.

EXAMINER BROOKS: Okay, I just had one other question clarifying what you were saying to Mr. Catanach.

FURTHER EXAMINATION

BY EXAMINER BROOKS:

Q. On the Percentage well, you are not -- Well, first of all, going back to the older wells, you wouldn't be seeking recovery of original drilling costs because you'd already --

A. No --

Q. -- covered those --

A. -- no --

Q. -- pursuant to your agreement with Mr. Solsbery on that --

A. On the Number 1 we have, on the Coronet Number -- TI Number 1, we have recovered all the cost. That well paid out.

The Coronet TI Number 2 has not paid out. It still owes over $244,000 to pay out. I am not here to ask for a penalty on the payout of that well, but for any future work that we had to do on that well, because it's not necessarily as good a well, a penalty on the future costs that we incur from the date of the order forward.

Q. But what about the costs that you haven't yet recovered?

A. I'm not asking for a penalty -- Other than the recovery of my costs --

Q. You're asking for a recovery of the costs but not for a penalty --

A. Not for a penalty --

Q. -- not for a risk penalty?

A. Not for a risk penalty.

Q. Okay. Now, is the same true of the Percentage well, or what is the status of the Percentage well?

A. The Percentage well has paid itself out.

Q. Okay.

A. It paid out in February of this year.

Q. Must be a barn-burner, September, November --

A. Well, we had some very good gas prices in month of November, December and January.

Q. Yes, I'm aware of that. Okay, very good. So you're not asking for any penalty on the Percentage except for future operations?

A. Except for future operations.

Q. So the penalties you're asking for would apply for future operations on any of the wells and for the drilling cost of the new well?

A. Correct.

EXAMINER BROOKS: Okay, anything further from either of you?

MR. CATANACH: One more.

EXAMINATION

BY MR. CATANACH:

Q. Mr. Moran, are you seeking 200 percent for all formations for future operations?

A. Yes.

MR. CATANACH: Okay.

EXAMINER BROOKS: Very good, the witness may stand down. Thank you.

MR. CARROLL: Call Tim Miller.

May I proceed, Mr. Examiner?

EXAMINER BROOKS: You may proceed.

TIM MILLER,

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

DIRECT EXAMINATION

BY MR. CARROLL:

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

A. My name is Tim Miller, and I reside in Carlsbad, New Mexico.

Q. Mr. Miller, by whom are you employed?

A. I'm employed by Yates Petroleum Corporation.

Q. In what capacity?

A. I'm a geologist with Yates Petroleum.

Q. Have you had an opportunity to testify in the past and have your credentials as a petroleum geologist accepted by the Oil Conservation Division?

A. Yes, I have.

MR. CARROLL: I would tender Mr. Miller as an expert in the field of petroleum geology, Mr. Brooks.

EXAMINER BROOKS: He will be so accepted.

Q. (By Mr. Carroll) All right, now, Mr. Miller, you are familiar with the Application of Yates Petroleum that's presently being heard?

A. Yes, I am.

Q. And have you had occasion to work this area of

Chaves County for Yates Petroleum with respect to the producing formations in this area?

A. Yes, I do.

Q. Did you prepare certain for presentation here at this hearing?

A. Yes, I have.

Q. All right. Mr. Miller, let's turn to your Exhibit Number -- and I'm not sure which one you'd prefer to talk about first, since I numbered these without the aid of your desires. Which exhibit, 10 or 11, would you like to talk about first?

A. Probably ought to do the cross-section first, which is Exhibit 10.

Q. All right, describe it for the Commission and what conclusions are relevant with respect to this Application.

A. Okay, I apologize for the large size of the cross-section. I guess you can call it a tablecloth cross-section. But to be able to see each well and be able to see where the perfs are and the producing formation, this is about the smallest we could reduce it and still be legible to see all the pay zones in all the different wells.

As the cross-section runs, on the left side to A' on the right side, that is basically running, there is a

legend, a plat down on the lower right-hand corner that shows how this cross-section is running, basically trendingwise northwest to the southeast, going through the different wells.

The first well on the left would be up at A. That's the McKay oil well. That is strictly just an Abo test, and you can see the two sands that it is perf'd in. Those are Abo sand zones. And to date it has accumulated around 283 million cubic feet of gas, and it was drilled -- it was completed in 1984 and has produced that much up to the present.

Our proposed well, where the cross-section goes through next, the Coronet Number 3, those are the different sands up on top. The first structural top is the Abo. That's where the Abo starts. And from there down to where you see the top of the Wolfcamp formation, anywhere in that interval you could have prospective Abo sands. And we are projecting in our Coronet 3, coming over from the right to the left, we would have possibly one, two, maybe three different sands that we would intersect in this borehole.

The second well is our Coronet -- the original well that was drilled out there, the Coronet Number 1, and you can see the several Abo sands, it was perf'd in. Yellow -- On the left side of the borehole where it's colored yellow, that is just the coloring of the gamma ray

to show you the sand. And the right side, which is where it's colored red, that is what we call a porosity log. This is a porosity log called a neutron density. And the red color signifies gas effect.

When you have separation in two curves -- and I know it's hard to see on this cross-section, but you have a dashed or dotted line, which is a neutron curve, and a solid line, which is the density. Normally the dashed line is off to the left side, the density or the solid-curve line is off to the right. When they cross over, otherwise they switch roles, when the dashed line goes to the right and the solid line goes left, that means you have what we call gas effect, or natural gas in the formation. That's how you -- that's basically -- That is the main way how you find if you have gas in the Abo sands, by this crossover of the two lines in the neutron density.

As you can see, it is perf'd in two sands. And down at the bottom, to date -- it was completed in 1982 -- it has made 457 million.

Now the Coronet 2, which was completed last August, has several Abo sands in it. And again you can see we've colored where we've completed. And you can probably see a little better over here, the crossover effect, which has natural gas in the sands by the red color on the formation.

Moving down to the southeast, the Percentage well, which is the deep well in the section -- basically what this hearing is about -- we have several Abo sands, as you can see, future recompletions. But we have completed -- and I hope you don't tear my cross-sections like I'm doing, but down at the bottom of the hole, right now what we have been producing, which is the Penn, which is known as Penn clastics, on the Percentage, and you see a colored yellow, and where we have perfs those are Pennsylvania sandstones that we are producing from. It's the fourth well over. Okay.

And we are producing out of the Penn sands, and from what I understand, we have got the okay from the OCD to commingle it with the Ordovician, which is not colored on this one, but you can see where the top of the Ordovician is, there is some perfs down below at -- I think that is 56-, 55- -- or actually those perfs in the Ordovician are down at 5610, -20, 5630 to about -36 -- we have gotten the order to commingle that with the Penn sands, and we just haven't got out there and done the work on it yet.

EXAMINER BROOKS: The Penn is not colored on my copy either.

THE WITNESS: Oh, it isn't?

EXAMINER BROOKS: That's what had me confused

there.

THE WITNESS: Oh, well, I apologize for that. I guess that's an oversight. I was trying to get this done for the hearing. But right now this well will be producing out of the Ordovician and the Penn sands.

The well to the right of it is the newest well -- Well, no, I think I'm wrong here. The well to the right is a well that was drilled here very recently, and I apologize, but the August, 1994, is not right. That was completed in April of this year, and it basically has just gone on line, is by Pecos River Operating.

And as you can see, it has several Abo sands uphole. They're not producing right now, it will be future production. They are producing out of the Ordovician, which is down there at the bottom, and you can see the perfs, 5670 to -77.

And they IP'd it -- I apologize again. We were in a rush to get this done. That should be the IP. What is flowing right now is 3 million cubic feet a day of gas and eight barrels of oil, so it is just brand-new on line.

And then the last well in the cross-section is just an Abo well, and it is Stevens Operating Railroad State Number 1. And once again, it is producing out of the Abo formation, and it has accumulated from 1984 to present 371 million cubic feet of gas.

In our Percentage well, again, we have possibilities. Since we are producing out of the Ordovician and the Penn sands, we have some possibilities that we might be able to complete up what's known as that Cisco zone, and then we might be able to try some zones in that Wolfcamp interval, if the Penn sands and the Ordovician, we deem that we need to have production, then eventually we'll probably add Abo sands uphole.

So this cross section just is a generalized cross-section to show the different productive intervals out there, the Abo, possible production in Wolfcamp, possible production in Cisco, and possible production in Penn and Ordovician sands to where we are proposing to drill our Cornet Number 3.

We have a chance to have basically an Abo-producing interval, a Cisco-producing interval, a Penn clastics and an Ordovician, and a Wolfcamp, basically five different producing intervals in our proposed well.

Now, if we move along to the Exhibit Number 11, which is the more manageable plat to take a look at, all this plat shows us is -- Exhibit Number 11 --

EXAMINER BROOKS: Okay.

THE WITNESS: Okay, Exhibit Number 11, this plat has two different types of geological maps on it. The upper three are the way we view the Abo sands that trend

through this area, and this is what we think our Coronet Number 3 well, the proposed well, where it is positioned right now to drill, what we think the thicknesses of each sand interval we will intersect as -- drilling it down to the certain depth.

What we designate as A zone and B zone and C zone, that's just an internal designation the way we break out the Abo sands. Basically the A zone is from the top of the Abo, the first 100 feet. Then the B zone is basically from the bottom of where we have broken out the A zone, the next about 150 feet. Then the C zone is below that, basically all the way down to the top of the Wolfcamp.

And as you can see, starting from the left in the A zone, we figure we had -- and the contour interval here is basically five feet each. We basically would have, where our proposed location is, around between 15 -- around 15-plus feet of sand in the A zone. The middle picture shows that -- the way I have it mapped -- that we would miss the B zone, we would have zero feet. And the right side, the C zone, we figure we would have somewhere around 35 feet, plus or minus.

We try to position, at least when we're drilling for Abo, we try to position the wells where we hope we can hit two out of three intervals. It just ups your chances for being successful in the Abo.

And it is colored -- The reason why the colors, it's color-coded, means different thicknesses. The lightest color would be the thinnest part of the sand, the darker, the reddish colors, would be the thickest part. Basically you can look at these as the channels, as the stream flowing down basically from the northwest to the southeast over the area.

The bottom map is a structure map, what we think is happening on the Ordovician where the Percentage well was drilled and where the Pecos River Operating Railroad State Number 2 well was drilled. We figure we would be getting updip on a node for our Coronet 1, which would hopefully enhance encountering more pay in the Ordovician and just being structurally updip from it. And we possibly could also have Penn sands, and we could possibly have some Cisco production too.

We have very little control out here because basically in this area the Percentage 1 and the Railroad State are basically the deep wells out in this immediate area, so we are really doing wildcatting exploration where the Coronet 1 is going to be drilled all the way to basement.

Q. (By Mr. Carroll) Now, Mr. Miller, with respect to the three wells previously drilled out here, the Coronet 1 and 2 and the Percentage well, there are still zones

within each of those wells that there may be additional need for workover, recompletions; is that correct?

A. Yes.

Q. And that's why we're seeking to force pool these interests from this time forward with respect to those three already completed wells?

A. Yes.

Q. Now, with respect to any operations that might be done, there is risk associated with those, is there not?

A. Yes, there is.

Q. In your expert opinion and based on your experience working out here in this area, do you feel that the maximum rate allowed by statute to 200-percent penalty would be most appropriate for those kind of workover-type procedures with respect to the three wells that have already been completed?

A. Yes, I do.

Q. With respect to the new well, we are likewise -- you've said there's at least five different possible productive sands that could be hit in that well; is that correct?

A. That's correct.

Q. And that would -- with respect to the risk, and I think based on your statements that this is really the third attempt to go down that deep and obtain production.

Is there significant risk associated with the drilling of this kind of well?

A. Yes, there is.

Q. Do you feel that the 200 percent is appropriate based on your knowledge of the geology out here?

A. Yes, I do.

Q. Mr. Miller, I think, then, in your opinion as a geologist, the drilling of this fourth well, the Coronet TI Number 3, do you feel that it is a reasonable risk that would be taken by a prudent operator to obtain production and properly manage and develop his leases in this area?

A. Yes, I do.

Q. In your opinion, would the granting of this Application by Yates Petroleum, would it be -- would it promote the protection of correlative rights and the prevention of waste?

A. Yes, it would.

Q. Mr. Examiner -- Well, let me ask you this, Mr. Miller: Is there anything further that you would like to tell the Examiner with respect to your area of the testimony and your two exhibits?

A. I have no further --

MR. CARROLL: Okay. Mr. Examiner, I would move the admission of Exhibits 10 and 11 and I would pass the witness.

EXAMINER BROOKS: Okay, Exhibits 10 and 11 are admitted.

I have no questions, so I'll pass the witness to Mr. Catanach.

MR. CATANACH: Just a couple.

EXAMINATION

BY MR. CATANACH:

Q. With regards, Mr. Miller, to the Ordovician formation, in your new well you're moving updip and -- What is the geologic risk associated with drilling that well to the Ordovician? Is it your opinion you're going to be drilling in a better position than the Percentage well?

A. We are hoping, because we're moving updip, that we would be drilling in a better position than the Percentage. The Percentage, as you probably have heard, is a very good well, but we hope that the Coronet will be similar or maybe even better by structurally going updip.

And we could also possibly have -- And like I said, we don't know out there where the Penn sands which are producing a percentage, we possibly can enhance them, because we'd be updip also.

Q. Do you have any -- Is the well control, does that diminish as you go north from the Percentage --

A. Yes, there's basically very few wells north of this. Basically what you see here on this plat is

basically the only control we have for any deeper formations.

Most of the wells out in this area, that I realize you don't see on the plat, they're Abo wells, so they only go down either 600 to 700 feet in the Abo formation or they just TD in the top of the Wolfcamp.

So basically above the Wolfcamp the only control we have out here is our Percentage right now and our Railroad State. So we obviously are projecting for our Coronet 3 that we would be going updip and hopefully structurally enhancing our production gas in the Ordovician and Penn.

Q. Okay. Now, within the Penn and the -- well, the Cisco and the Wolfcamp, is that basically -- are you basically talking about a wildcat situation out here?

A. Yes, we are.

Q. You don't have any production within this area?

A. No, there's no production as of right now. So we're really wildcatting for Cisco and Wolfcamp, but there's a possibility, there might be, but there's no production in the immediate area.

MR. CATANACH: All right, I have nothing further.

EXAMINER BROOKS: Mr. Ezeanyim?

MR. EZEANYIM: (Shakes head)

EXAMINER BROOKS: Very good, the witness may

stand down.

MR. CARROLL: We'd next call George Freeman.

May I proceed, Mr. Examiner?

EXAMINER BROOKS: You may proceed.

GEORGE H. FREEMAN,

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

DIRECT EXAMINATION

BY MR. CARROLL:

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

A. I'm George H. Freeman from Artesia, New Mexico.

Q. How are you presently employed, Mr. Freeman?

A. I'm a reservoir engineer for Yates Petroleum.

Q. Mr. Freeman, have you ever had an opportunity to testify before the New Mexico Oil Conservation Division and had your credentials accepted?

A. No, I have not.

Q. Well, then let's run through your credentials. Would you give the Examiner what your college education consisted of, what degrees you obtained and when?

A. I received a BA in chemical engineering from Rice University in 1978 and a master of chemical engineering from Rice University in 1979. I have also been a graduate student at the University of Tulsa in petroleum

engineering, and I'm a PhD candidate but have not finished that degree yet.

Q. Do you have any registered status with respect to any state in the area of engineering?

A. Yes, I'm a registered professional engineer in Oklahoma.

Q. Have you had any employment within the petroleum industry?

A. Yes.

Q. Would you advise the Examiner what that has been and the areas that worked?

A. Uh-huh, I started working for Texaco in their oil recovery research department and spent three years there doing enhanced oil recovery research and development.

I worked for Amerada Hess Corporation, initially in the special projects and unitization department, working on unitization, and also carbon-dioxide planning and carbon-dioxide supply for enhanced oil recovery projects, and then moved to the reservoir-engineering department, working in reservoir simulation.

Also worked for Wilbrose Butler Engineers as a process engineer on oil and gas pipeline and compressor station engineering projects, and have worked for Yates Petroleum since August as a reservoir engineer.

MR. CARROLL: Mr. Examiner, I would tender Mr.

Freeman as an expert in the field of petroleum engineering, particularly reservoir engineering.

EXAMINER BROOKS: Thank you, his credentials will be accepted.

MR. CARROLL: Thank you.

Q. (By Mr. Carroll) Mr. Freeman, since you've gone to work for Yates, have you had occasion to work in the area that we're concerned with in Chaves County?

A. Yes, I have.

Q. Are you familiar with the Application that is presently pending before the Division this morning?

A. Yes.

Q. Have you prepared exhibits for presentation with respect to that Application?

A. Yes.

Q. All right, I would ask you to turn to Exhibit Number 12. Would you identify what this exhibit is and discuss the information contained thereon with the Examiner?

A. Okay, this is a list of the -- of potential pay zones in the well that we're proposing to drill, the Coronet Number 3, and it also contains comments on the production from these zones in nearby wells.

The first zone listed is the Ordovician, which is a main target, which is a productive in the Percentage APR

Number 1 and also the Railroad State Number 2, as Mr. Miller just told us.

Also there was a noncommercial test in the Jasper ARG Fed Com Number 3, which is south of this area in Section 10.

Q. If you refer to Exhibit Number 1, the land plat, that is shown there in the northeast -- excuse me -- yeah, northeast quarter of Section 10, just due south of the Percentage well; is that correct?

A. Yes.

Q. All right.

A. The next zone is the Penn clastics, which are being produced in the Percentage Number 1 and also the Jasper Number 3, which is the well we just mentioned in Section 10. Those are the only two nearby wells.

The Cisco zone is the next higher zone and has no nearby production.

The Wolfcamp is the next zone listed, and it has been tested in the Marathon State Section 2 Number 1 well, which is to the east, in the northwest corner of Section 2, and it was dry and abandoned in the Wolfcamp, and there is no nearby production from this zone.

And then the last zone listed here is the Abo, which is being produced in several offset wells, which I have a list of several wells here, Coronet Number 1 and 2,

the Witter Number 1, Lauralea Number 2, Railroad State Number 1, the McKay-Winston Number 1 and the Pecos Federal Number 1.

It's already being produced from the two Abo producers in this same 160-acre spacing unit, and could possibly be depleted at the Coronet Number 3 location. There have been some wells where the Abo did no produce in commercial quantities, including the Marathon State Section 2 Number 1 and the Winston Number 1. The Winston Number 1 is in the west half of Section 3.

Q. All right, Mr. Freeman, would you turn to Exhibit Number 13 and would identify what this exhibit is?

A. Yeah, this is a brief history of the Coronet Number 1, located on this. The well was spudded in August of 1982 and drilled to a TD of 4850 feet and perforated in the Abo, acidized and fractured. It tested 1647 MCF per day and has since cum'd 461 million cubic feet of gas, and its current gas production rate, as of May of 2001, is 54 MCF per day.

Q. All right, and what is Exhibit 14, Mr. Freeman?

A. Okay, this is just a plot of the production history from the same well, the Coronet Number 1, from 1982 to 2001, and it shows how the production rate has dropped from 16 million cubic feet per month to 432 million cubic feet per month.

Q. All right. Would you then turn to Exhibit 15 and explain what this is?

A. Okay, this is a history of the Coronet Number 2, the second well drilled on this spacing unit. It was spudded in June of 2000, drilled to a TD of 4760 feet and perforated in the Abo. It was fractured and then tested 250 MCF per day. It has since cum'd about 50 million cubic feet, and its current production rate is 134 MCF per day.

Q. The difference between the TI 1 and the TI 2 is quite significant, is it not, in terms of production capability?

A. Yes, the Number 2 was drilled much later, I guess 18 years later than the Number 1, and found lower pressure in the formation and produced at a much lower rate.

Q. The drilling of subsequent wells in this area of the Abo exemplifies the risk that one encounters in drilling in the Abo field, does it not?

A. That's right, there's a potential that the Abo will be depleted in locations close to the older wells.

Q. All right. Would you tell us what Exhibit 16 is, as this also deals with the Coronet Number 2 well, does it not?

A. Right, it's the production history plot of the Coronet Number 2 from the year 2000 to 2001 and shows that the production rate has been decreasing from 7 million

cubic feet per month to about 30 million cubic feet per month.

Q. All right, would you turn to your Exhibit Number 17 and would you explain what this is?

A. Okay, this is the well history of the Percentage Number 1, which was spudded in September of 2000, drilled to a TD of 5850 feet through the Ordovician. It was perforated in the Ordovician, acidized -- well from -- initially from 5630 to 5636 feet, acidized, and tested at 615 MCF per day. It was then acidized and frac'd and tested at 1.5 million cubic feet per day.

Then a plug was set above the Ordovician in March of 2001, and the Penn clastics were perforated from 5506 to 5587. It was acidized and frac'd and tested 5.5 million cubic feet per day and has since been producing from the Penn formation. And as Mr. Miller told you, we're preparing to commingle the Ordovician and the Penn clastics. The approval has already been obtained but the work hasn't been done yet. But cumulative production as of May was 408 million cubic feet, and the current production rate is 4.6 million cubic feet per day.

Q. All right, Exhibit 18 --

A. Yes.

Q. -- is this not a --

A. Yes.

Q. -- production plot of this well you were just discussing?

A. That's right, and it shows that initially the well was producing around 20 million cubic feet per month and now is producing about 150 million cubic feet per month and has a short history of about six months.

Q. All right, let's turn to your Exhibit 19. Would you explain what this is?

A. Okay, this is a history of another well that I mentioned previously, the Jasper ARJ Federal Com Number 3, which is south of the Coronet area in Section 10. It was spudded in January of 2000 and drilled to a TD of 6025 feet. It was perforated in the Ordovician, acidized and tested, and those initial perfs, from 5990 to 5996 were squeezed in June of 2000, perf'd higher Ordovician zone, 5906 to 5922, acidized and tested.

A plug was set above this -- the Ordovician perfs, and then the Penn clastics were perf'd from 5574 to 5716. It was acidized and frac'd, and because the frac job screened out, it was re-perf'd, re-acidized and re-frac'd and then tested 351 MCF per day. It has since been producing from the Penn clastics. Cumulative production as of May is about 55 million cubic feet, and the current production rate is 135 MCF per day.

Q. This has been a poor well, has it not?

A. Yes, it's fairly disappointing results.

Q. All right --

EXAMINER BROOKS: It's not producing from the Ordovician?

THE WITNESS: No, the Ordovician is plugged right now.

EXAMINER BROOKS: Go ahead.

Q. (By Mr. Carroll) Exhibit 20 is a production history of this well, also a plot?

A. Yes, yeah, this shows several months production in 2000 and 2001 from the Jasper Number 3 and varying from 3.6 to 9 million cubic feet per month.

Q. All right, if you'd turn to Exhibit 21.

A. Okay, this is a brief history of the Railroad State Number 2, a non-Yates Petroleum-operated well in Section 2 to the east, and this well was drilled -- was spudded in March of 2001, this year, drilled to a TD of 5785 feet, perforated in the Ordovician and acidized and tested 3 million cubic feet per day, April 27th.

Q. All right. With respect to the Ordovician formation, the percentage well and this well are really the only two producers in this area, are they not?

A. That's right.

Q. And with respect to the Ordovician, this is the only control that's really available to determine what this

-- or the size or thickness of this formation in this area; is that correct?

A. Well, except that the Jasper well was drilled and did not produce commercial quantities.

Q. But with respect to moving north as the TI Number 3 is, there is no real well control available to Yates? In other words, it's inferred that we're going to see the Ordovician increasing in size and in the direction which was shown on the exhibit given by Mr. Miller; is that correct?

A. Right, as Mr. Miller told you.

Q. In other words, then, there is considerable risk associated with the drilling of this TI Number 3?

A. Yes.

Q. Not only with respect to the Abo but also the Ordovician?

A. That's true.

Q. Let's go ahead and finish your exhibits. Let's turn to 22. What is this?

A. Okay, this is a history of another Abo producer, which is nearby Yates-operated well, which was drilled in February of 1983 to 4850 feet and was perforated in the Abo, acidized and fractured, and tested 2.2 million cubic feet per day. Cum gas production as of May of this year is 965 million cubic feet, and the current production rate

actually has fallen to zero recently, but may be revived again.

Q. All right. Why don't we turn to your last exhibit, Number 23? Would you explain what it is?

A. Okay, this is a summary of histories of other Abo wells in the immediate vicinity, going out a half mile from the 320-acre area that we're considering, and there are two wells on this list which were dry holes in this area, the Winston Number 1 and the Marathon State Section 2 Number 1, both dry and abandoned in the Abo.

Four other wells, the Lauralea Number 2, Railroad State Number 1, McKay-Winston Number 1, Pecos Federal Number 1 were produced from the Abo formation, varying from cums of 283 million cubic feet to 1.3 billion cubic feet, and current rates varying from 16 MCF per day to 80 MCF per day.

Q. The Abo wells in this area tend to vary quite significantly in the total amount of cumulative production, do they not?

A. Yes, they have.

Q. Is that another factor which must be considered as a risk factor?

A. Yes, average wells probably produce somewhere around 400 or 500 million cubic feet. Good wells might produce 1 BCF, and more recently drilled wells in the Abo

tend to produce at lower rates and so would be expected to probably produce less than the average amount for the past wells.

Q. With respect to the drilling of the TI Number 3 and any future operations on the previously drilled wells on this east half of Section 3, do you have an opinion as whether or not the maximum penalty rate, were the Division to impose one, should be applicable?

A. Yes, although this is a good prospect, the Coronet Number 3 is a good prospective well, but there's significant risk that could possibly not encounter commercial quantities of hydrocarbons, and therefore the 200-percent nonconsent penalty would be justified because of the risk in this well.

Q. With respect to this area and the overhead rates, Mr. Moran indicated that Yates was seeking the $4000 rate for drilling wells and $400 rate for producing wells. Do you have an opinion as to whether or not that is a fair and justified rate with respect to this area?

A. Yes, yeah, that is a standard rate for overhead in this area, possibly could be low in the overall range of overhead that might be charged in this type of well, and is justified in this situation.

Q. Mr. Freeman, with respect to the -- do you feel that the granting of this Application by Yates Petroleum

would prevent waste and protect correlative rights?

A. Yes, absolutely.

MR. CARROLL: Mr. Examiner, I would move admission of Yates Exhibits 12 through 23 and would pass the witness at this time.

EXAMINER BROOKS: Okay, Yates Exhibits 12 through 23 will be admitted. I have no questions.

Mr. Catanach, Mr. Ezeanyim?

Very good, the witness may stand down.

MR. CARROLL: Mr. Examiner, that would complete the presentation of Yates Petroleum with respect to this Application.

EXAMINER BROOKS: There being some somewhat unusual requests in this case, we would be obliged, Mr. Carroll, if you would present us with a proposed order.

MR. CARROLL: All right, sir.

EXAMINER BROOKS: And the Division will take Case Number 12,683 under advisement.

(Thereupon, these proceedings were concluded at 9:50 a.m.)

* * *

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 12683, heard by me on July 12, 2001

David K. Brooks, 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 13th, 2001.

STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002

NEW MEXICO OIL CONSERVATION DIVISION

EXAMINER HEARING

SANTA FE, NEW MEXICO

Hearing Date JULY 12, 2001 Time 8:15 A.M.

NAME	REPRESENTING	LOCATION
Jim Miller	Yates Pet Corp	Artesia
Chuck Morgan	Yates Petroleum Corp	Artesia
Mona Binion	McElvain O&G	Denver
Ernest L Padilla	Lowe Burleson Hobbs Padilla	Artesia
Bill Jameson	Self	Carlsbad
Michael Feldewert	Holland + Hart	Santa Fe
Jack Rose	Beach Expl	Midland, Tx
John Stemble	McElvain O&G	Denver, CO
Harvey Taylor	self	Carlsbad
William F. Carr	Holland + Hart LLP	Santa Fe
George Freeman	Yates Pet. Corp.	Artesia
Cal Bloodworth	SW Royalties, Inc.	Midland
Jim Bruce	—	SF
Maggie Gobs	McKay Oil Corp	Roswell

NEW MEXICO OIL CONSERVATION DIVISION

EXAMINER HEARING

SANTA FE, NEW MEXICO

Hearing Date JULY 12, 2001 Time 8:15 A.M.

NAME	REPRESENTING	LOCATION
H.M. Hann.	X/OSECO Corp	Reno, NV
Mary Watta	NOSECO Corp.	SF
Charla Brock	Brock Exp.	Midland, Tx.
Robert Hinson	Beach Expl.	Midland, TX
Mona Binion	McElvain	Denver, CO