

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

CASE 10,823

EXAMINER HEARING

IN THE MATTER OF:

Application of Nearburg Producing Company for  
compulsory pooling, Eddy County, New Mexico

**ORIGINAL**

TRANSCRIPT OF PROCEEDINGS

BEFORE: DAVID R. CATANACH, EXAMINER

STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

September 9, 1993

## A P P E A R A N C E S

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1                   WHEREUPON, the following proceedings were had  
2                   at 1:22 p.m.:

3  
4                   EXAMINER CATANACH: Call the hearing back to  
5                   order, and at this time call Case 10,823.

6                   MR. STOVALL: That's the Application of  
7                   Nearburg Producing Company for compulsory pooling, Eddy  
8                   County, New Mexico.

9                   EXAMINER CATANACH: Are there appearances in  
10                  this case?

11                  MR. BRUCE: Mr. Examiner, Jim Bruce from the  
12                  Hinkle law firm representing Nearburg Producing  
13                  Company, and I have two witnesses to be sworn.

14                  EXAMINER CATANACH: Additional appearances?

15                  MR. CARROLL: Yes, Mr. Examiner, I'm Ernest  
16                  Carroll of the Artesia law firm of Losee, Carson, Haas  
17                  and Carroll.

18                  We're here today in opposition to the  
19                  Application of Nearburg, and I represent Yates  
20                  Petroleum, and I have three witnesses.

21                  EXAMINER CATANACH: Okay, any additional  
22                  appearances?

23                  Will the five witnesses please stand to be  
24                  sworn in?

25                  (Thereupon, the witnesses were sworn.)

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

4                                   DIRECT EXAMINATION

5     BY MR. BRUCE:

6             Q.     Will you please state your name and city of  
7     residence for the record?

8             A.     My name is Bob Shelton. I'm from Midland,  
9     Texas.

10            Q.     And who do you work for and in what capacity?

11            A.     I'm a consulting landman for Nearburg  
12     Producing Company.

13            Q.     Have you previously testified before the  
14     Division as a landman?

15            A.     Yes, I have.

16            Q.     And were your credentials as a landman  
17     accepted as a matter of record by the Division?

18            A.     Yes, they were.

19            Q.     And are you familiar with the land matters  
20     involved in this case?

21            A.     I am familiar with them.

22                   MR. BRUCE: Mr. Examiner, I would tender Mr.  
23     Shelton as an expert petroleum landman.

24                   EXAMINER CATANACH: Mr. Shelton is so  
25     qualified.



1           Q.    (By Mr. Bruce) Mr. Shelton, very briefly,  
2           what does Nearburg seek in this case?

3           A.    Nearburg seeks to pool for the purpose of  
4           drilling the Cisco/Canyon test the west half of Section  
5           10, Township 22 South, 24 East, Eddy County, New  
6           Mexico.

7           Q.    Who are the parties that Nearburg seeks to  
8           pool?

9           A.    The parties that we will be pooling will be  
10          Yates Petroleum Corporation, Yates Drilling Company and  
11          Myco Industries and Abo Petroleum Corporation.

12          Q.    In the west half, what interest -- Or what  
13          part of the west half do these parties own?

14          A.    They own each an undivided interest in the  
15          northwest quarter of that tract, and Nearburg  
16          Exploration Company owns the southwest quarter.

17          Q.    Referring to Exhibit 1, would you discuss  
18          Nearburg's experience in this area?

19          A.    Yes, very briefly, this is an activity map  
20          that we -- I know you've seen before. It lists acreage  
21          that Nearburg has held or does now hold in the -- this  
22          area which we refer to as McKittrick Hills.

23                It shows a number of wells that we've re-  
24          entered. It shows a number of wells that are currently  
25          being worked on by Nearburg.

1           Our M-H well in Section 1, 22-24, is a  
2           saltwater disposal well that we're working on, the Big  
3           Walt State. Number 1 is in the northwest quarter of  
4           Section 2.

5           We have -- it shows our leasing activity  
6           began in this area in December of 1978, so we've been  
7           in this area working on the leasing and re-entering  
8           wells, drilling wells and working for some 15 years.

9           Q.    Okay.

10          A.    The only change from this, of course, is  
11          the -- from the last hearing, is that the Red Walt Well  
12          is on there shown as Number 16.

13          Q.    Regarding your efforts to obtain the  
14          voluntary joinder of Yates, would you discuss your  
15          contacts with Yates over the past several months and --

16          A.    We've had several contacts with Yates. they  
17          date back as far as March, 1924.

18          You'll notice in Exhibit Number 2, we have a  
19          letter Dated March 24th, 1993, where we proposed the  
20          formation of a state exploratory unit, including state  
21          oil and gas leases.

22          We proposed this to them, and in April we  
23          came back with another proposal for a state federal  
24          exploratory unit which consists of some -- a large  
25          number of acres; I believe it was 12,000 acres.

1           In that letter, you'll notice even under  
2           number 2 of the April 5th, 1993, letter, in that  
3           proposal we even proposed that Yates Petroleum  
4           Corporation be the operator of the unit. So we made  
5           many contacts with them concerning the area in general.

6           And then as shown on Exhibit 3, we made this  
7           specific proposal to Yates for their participation in  
8           the Red Walt 10 Federal Number 1 well.

9           We sent them along with the proposal letter,  
10          which is dated July 26th, 1993, a copy, an operating  
11          agreement, and an AFE.

12          Q.   And those three items together form Exhibit  
13          3?

14          A.   That's correct, the letter, the operating  
15          agreement and the AFE.

16          Q.   Now, of course early on you were just trying  
17          to form a unit; that wasn't a specific well proposal.

18          But were there also discussions, telephone  
19          discussions, with Yates during this period?

20          A.   Yes, there were several telephone discussions  
21          between myself and Mr. Joe Fitzgerald, another land  
22          person at Nearburg, concerning participation and  
23          general area and these specific -- and other specific  
24          well proposals to determine whether Yates would  
25          entertain any type of joinder or other type of

1 arrangement.

2 Q. In your letters and telephone discussions --  
3 Let me take a step back.

4 On your July 26th letter, it's really just an  
5 offer to join, right?

6 A. That's correct.

7 Q. There's no option there to farm out or sell?

8 A. That's correct. We were aware by previous  
9 correspondence with Yates and by previous telephone  
10 conversations that Yates was very interested in this  
11 area.

12 They're out here, as you know, drilling oil  
13 and gas wells, and they have some productive wells, and  
14 of course they're very interested in participating as a  
15 working-interest owner in these wells.

16 Q. And they've never experienced any -- I should  
17 say, shown any interest in farming out or selling?

18 A. No, they have not.

19 Q. Now, what is the location of the --

20 A. The current location of the Red Walt 10  
21 Federal Number 1 well is 1990 from the west and north  
22 lines of Section 10.

23 Originally it was proposed 990 feet from the  
24 west and 800 from the north. We moved that to 990-990  
25 at the request of the Bureau of Land Management because

1 of topographic reasons.

2 Exhibit 4 is a letter dated August 30, which  
3 gives notice to Yates of our change of location due to  
4 topographic reasons for the BLM.

5 Q. Okay. Now, part of Exhibit 3 was an AFE with  
6 an included well cost of about \$750,000.

7 To the best of your knowledge, is that  
8 comparable to a cost of similar wells drilled to this  
9 depth in this area?

10 A. Yes, we have done -- As the activity map  
11 shows, we've had considerable experience out here. And  
12 this is an AFE prepared by our office which represents  
13 the cost to drill and complete the proposed well.

14 Q. Okay. And briefly, what does Exhibit 5 show?

15 A. Exhibit 5 is an ownership map that sets forth  
16 ownership by tract.

17 In the northwest quarter, Yates Petroleum  
18 Corporation 4 percent, Yates Drilling 32, Abo 32 and  
19 Myco 32 for a total of 100 percent.

20 Southwest quarter ownership is the Nearburg  
21 Exploration Company, 100 percent.

22 And then the west-half unit that we're  
23 proposing, 320 acres is shown there just below the  
24 northwest quarter, Nearburg 50 percent, Yates Petroleum  
25 2, Yates Drilling 16, Abo 16 and Myco 16.

1 Q. Now, before we move off of this map, there's  
2 little dotted lines. Those are the lease boundaries,  
3 are they not?

4 A. That is correct.

5 Q. So --

6 A. There's two oil and gas leases that comprise  
7 the Yates northwest quarter.

8 Q. In your opinion, has Nearburg made a good-  
9 faith effort to obtain the voluntary joinder of Yates  
10 in this well?

11 A. Yes, we have.

12 Q. Now, let's move on. We have a series of  
13 exhibits, and I'd just like to be very brief with each  
14 one of them, Mr. Shelton.

15 What is Exhibit 6?

16 A. Exhibit 6 is the order of the Division for  
17 the creation of a new pool, Indian Basin Associated Oil  
18 and Gas Pool, which Yates Petroleum Corporation  
19 received, which designates 320-acre oil and gas spacing  
20 with the option to drill two wells on the 320, one in  
21 each 160-acre tract, which will become very important  
22 in this hearing later with the testimony of Mr. Elger.

23 But this order was issued by the Division  
24 after a hearing on June 17th, and it will be applicable  
25 to the well that will be drilled under this order.

1 Q. Okay, and what is Exhibit 7?

2 A. Exhibit 7 is an approved permit to drill or  
3 application permit to drill by the Bureau of Land  
4 Management. This authorizes Nearburg Producing Company  
5 to enter onto the Red Walt 10 Federal location 990 from  
6 the north and west of Section 10. We do have the  
7 approval of the BLM to be operator of this well.

8 Q. What is Exhibit -- well, let me -- Rather  
9 than having me introduce you, I think there's a series  
10 of exhibits, 8 through 12. Would you just go through  
11 them serially?

12 A. These are exhibits just -- that signify to  
13 the extent with which Nearburg has gone in getting --  
14 in being prepared to drill this well.

15 Exhibit Number 8 is an archeological survey  
16 done on behalf of Nearburg which clears the drilling of  
17 the well for archeological purposes. It was also  
18 submitted to the Bureau of Land Management.

19 Exhibit 9 is a surveyor's plat of a saltwater  
20 disposal flow line which we have surveyed and  
21 archaeologically cleared, which will connect the Red  
22 Walt into our saltwater disposal system, which is in  
23 the area.

24 Exhibit 10 sets forth a map which shows in  
25 Section 1 the M-H Federal saltwater disposal well by

1 the blue dot. It shows connecting saltwater disposal  
2 lines into the system. You can see five wells that  
3 will be ultimately, we hope, connected to this system.

4 We have, of course, the BLM permit, which  
5 we'll go through in just a minute, which authorizes the  
6 injection of produced fluid into the M-H well.

7 We also have authorization for right of ways  
8 for those pipelines into that well for its operation.

9 Exhibit 11 is an order of this Division from  
10 Nearburg Producing Company's application for the M-H  
11 Saltwater disposal well for injection, which was  
12 approved by this order.

13 Exhibit 12 is the Bureau of the Interior,  
14 BLM, right of way and saltwater disposal well, access  
15 road and pipeline permit, which has been approved by  
16 the Bureau of Land Management for disposal and rights  
17 of way into the M-H well. So that well is now  
18 permitted by all governing bodies and ready for the  
19 injection of water.

20 Q. In short, Nearburg is ready to drill and  
21 produce this well?

22 A. Yeah. Yes, sir, we're ready.

23 We're -- we still -- The only thing we lack  
24 after the Division issues its order, we're given the  
25 opportunity to drill this well, we have to have a BLM



1 permit for the line going to -- connecting into our  
2 other -- all the right of ways, everything are ready to  
3 go, and we're -- I just want to exhibit by these  
4 instruments that we have everything necessary to  
5 operate and produce this well and that we're ready to  
6 go.

7 Q. Okay. And Nearburg does request that it be  
8 named operator?

9 A. Yes, sir, we do.

10 Q. What overhead rates does Nearburg request?

11 A. \$5400 drilling well rate and \$540 producing  
12 well rate.

13 Q. And are these in line with operating charges  
14 for other wells of this type in this area?

15 A. This is the standard percentage that Yates  
16 puts in their operating agreements, we put in ours.  
17 It's -- you know, we're -- I think we're all in  
18 agreement with the rates.

19 Q. And is Exhibit 13 just an affidavit of notice  
20 to Yates, et al.?

21 A. Yes, sir, it is.

22 Q. In your opinion, will the granting of this  
23 Application be in the interests of conservation, the  
24 prevention of waste and the protection of correlative  
25 rights?

1           A.    Yes, sir, the granting of this Application  
2 with this spacing unit is the only way to fairly  
3 protect correlative rights and prevent economic waste.

4           Q.    Were Exhibits 1 through 12 prepared by you or  
5 under your direction or compiled from Nearburg's  
6 business records?

7           A.    Yes, sir, they were.

8           MR. BRUCE:  Mr. Examiner, I'd move the  
9 admission of Nearburg Exhibits 1 through 13 at this  
10 time.

11           EXAMINER CATANACH:  Exhibits 1 through 13  
12 will be admitted as evidence.

13           Mr. Carroll?

14                   CROSS-EXAMINATION

15           BY MR. CARROLL:

16           Q.    Mr. Shelton, if you would, let's look at your  
17 Exhibit Number 1 first.

18           A.    All right.

19           Q.    As I understand Exhibit Number 1, the red --  
20 I mean, excuse me, the yellow and the green outlined  
21 sections deal with leases that Nearburg presently owns  
22 or has owned in the past; is that correct?

23           A.    Yes, sir, that is correct.

24           Q.    Now, if you look at Section 10 where the  
25 large 16 is, that is the Section 10 that we're looking

1 at right about in the middle, isn't it?

2 A. Yes, sir, it is. Yes, sir.

3 Q. And the red with the dark blue line, that's  
4 the proposed location, is it not?

5 A. Yes, sir, that's correct.

6 Q. Now, you are aware that the west -- the  
7 northwest quarter of Section 10 is made up of two  
8 federal leases, are you not?

9 A. I am, sir. I'm aware of that, yes.

10 Q. And in fact, Nearburg Producing owned the  
11 lease where the proposed well is located; isn't that  
12 correct?

13 A. It did quite a few years ago, yes, sir.

14 Q. And you allowed that lease to expire?

15 A. Yes, sir, it did expire. We did bid on it  
16 again. Yates outbid us on it, and it was some years  
17 ago, and it expired before the activity in the area was  
18 to the level it is now.

19 Q. All right. Now, you are aware that before  
20 you can produce -- because you've got more than one  
21 lease, federal lease here; in fact, you have three in  
22 the west half -- you have to have this acreage  
23 communitized; isn't that correct?

24 A. That is correct.

25 Q. Have you filed an application to have this

1 communitized with the BLM?

2 A. Well, we knew we couldn't get a voluntary  
3 agreement and voluntary pooling with Yates, and there  
4 was no reason to try to file one, because we have to  
5 have this hearing format first to have it pooled before  
6 the Division, and then a voluntary communitization  
7 agreement can be filed before the Bureau of Land  
8 Management.

9 Q. Well, you are aware that Yates Petroleum has  
10 already gotten and has approved a communitization  
11 agreement for the north half of Section 10?

12 A. I saw it when you gave us your exhibits; that  
13 is correct.

14 Q. And you're also aware that Yates Petroleum  
15 owns -- In fact, there's another small 40-acre lease  
16 just like it over in the northeast of the northeast?

17 A. That's correct.

18 Q. And so in fact, in the north half of Section  
19 10, there are three federal leases?

20 A. That's correct.

21 Q. And so if Yates has obtained communitized  
22 authority from the BLM at the present time, they've  
23 communitized all three leases?

24 A. In the north half, that's correct.

25 Q. In the north half.

1 A. That's correct.

2 Q. And so you are aware that during the entire  
3 time that you've been proposing this west-half  
4 proration unit, Yates Petroleum has had the intention  
5 of drilling a north-half laydown type proration unit?  
6 You've had notice of that?

7 A. Well, I don't think we've been given notice  
8 of it, no, but I knew that you all were going to do  
9 that, yes --

10 Q. Okay.

11 A. -- or desired to do that. I know --

12 Q. You knew from conversations with Yates --

13 A. Yeah, that's right.

14 Q. -- that that was their intent?

15 A. That's correct. And, you know, we have the  
16 permit to operate the well in this location; you have  
17 the communitization agreement.

18 Q. Well, let's talk about that permit --

19 A. Okay.

20 Q. -- and that's your Exhibit Number 7.

21 In that application to the BLM, you did not  
22 give them notice that you actually at the time you made  
23 application didn't have authority to be operator of the  
24 well in the north half of Section 10, did you?

25 A. We have authority if given so by the Division

1 here.

2 Q. No -- How can you? You haven't -- you filed  
3 this on -- This thing was originally filed on July  
4 29th, 1993, and as I can tell by the calendar, that's  
5 before this hearing.

6 You have no authority to drill a well in the  
7 north half.

8 A. By giving this -- This approval does give us  
9 the authority to be the operator.

10 Q. Well, that's not my question, Mr. Shelton.

11 Where did you inform the BLM that at the time  
12 you made this application you had no authority or no  
13 right to drill a well?

14 In other words, when you say name of  
15 operator, you had no right to be an operator of a well  
16 in the north half of that section.

17 A. This is a request for an application permit  
18 to drill.

19 Q. All right --

20 A. We are requesting operatorship and have so  
21 been granted by the BLM.

22 Q. But at no time did you inform the BLM, so the  
23 BLM has never passed on the fact of whether or not you  
24 should be operator of the well in the north half, have  
25 they?

1 A. I don't know that that's their judgment.

2 Q. Well, that's --

3 A. They obviously approved the permit, so they  
4 will give us operatorship of the well.

5 Q. Mr. Shelton, that's not the question.

6 Where did you notify the BLM that you didn't  
7 have an agreement to be the operator, because you have  
8 none?

9 A. We have no agreement voluntarily with Yates,  
10 that's correct.

11 Q. And you have not given notice to the BLM?

12 A. And that's the reason --

13 Q. Excuse me. You have not given notice to the  
14 BLM that you had no right, did you?

15 A. Well, I don't know that it's required, but  
16 the BLM knew we were not the owner of this oil and gas  
17 lease. They did know that.

18 Q. Where did you give them notice of that fact  
19 or that you had no outside contract?

20 A. I had many conversations with Shannon Shaw,  
21 who was the BLM representative, and they knew full well  
22 that this was -- that the oil and gas lease upon which  
23 the well was located was a Yates lease.

24 Q. Well, let's look in further into this  
25 exhibit, one, two, three -- Go down to the Oil

1 Conservation Division, the well location and acreage  
2 dedication plat.

3 A. That's the C-102?

4 Q. Yes.

5 A. Okay.

6 Q. Do you find that?

7 A. Yes.

8 Q. Okay. You notice that down in the -- there  
9 are three -- There's some blocks down just above the  
10 plat where you locate the well.

11 It says that if more than one lease of a  
12 different ownership is dedicated to the well have --  
13 interest of all owners has been consulted by  
14 communitization, unitization, force-pooling, et cetera.

15 Why didn't you put someone on notice that  
16 that was something that needed to be done here? You  
17 left it blank --

18 A. It should --

19 Q. -- as if it did not need to be done.

20 A. No, it should have -- We didn't check yes, we  
21 didn't check no. It should have been checked no.

22 Q. And that would have put somebody on notice  
23 that there was a problem out there with respect to the  
24 ownership, wouldn't it?

25 A. No, I don't think there's a problem as far as



1 the BLM granting the permit.

2 Q. Well --

3 A. It would have answered the question as number  
4 3 stated, yes.

5 Q. -- Mr. Shelton, you are aware that the BLM  
6 has a policy that they will not allow communitization  
7 like you are proposing under the west half when the  
8 acreage in the south half can be produced or a well be  
9 drilled upon it; you know that, do you not?

10 MR. BRUCE: I would object to him answering  
11 that question to the extent it calls for a legal  
12 conclusion. I don't think -- I think Mr. Carroll is  
13 reading more into that regulation than what it says.

14 MR. CARROLL: My question is directed, does  
15 he know about the policy? I'm not trying to get a  
16 legal interpretation from Mr. Shelton. I want to know  
17 what he knows. If he says no, fine, I'll put on  
18 evidence about it.

19 Q. (By Mr. Carroll) Do you know?

20 MR. STOVALL: I think he can answer that, Mr.  
21 Examiner.

22 EXAMINER CATANACH: Yeah.

23 THE WITNESS: Would you restate the question,  
24 and I'll be glad to answer it.

25 Q. (By Mr. Carroll) Do you know whether -- Do

1 you know that the BLM has a policy against granting  
2 communitization in the situation that you are proposing  
3 it, this west half, when there is the ability to drill  
4 a well on that south --

5 A. My understanding of the BLM policy is that  
6 they will grant it when geologically merited.

7 Q. When you -- just -- That's the only  
8 consideration?

9 A. That is a consideration. When it's  
10 geologically merited, they will grant a permit, as it  
11 has been done here. And obviously they will, they did,  
12 they granted the permit.

13 Q. What is the geological merit, then, that you  
14 are alluding to, then?

15 A. Well, I think Mr. Elger will bring that up.  
16 I'm not a geologist.

17 Q. Well, from a land standpoint, is there  
18 anything that would prohibit the drilling of a well in  
19 the southwest quarter of Section 10?

20 A. Not from a land standpoint, no.

21 Q. Okay, thank you.

22 Now, you have made the statement that --  
23 Well, wait, I want to get one more thing.

24 This application -- In your Exhibit 3, and  
25 apparently there's a number of pieces but I'm talking

1 about the letter that's dated July 26th, 1993 --

2 A. All right.

3 Q. -- and that's the part of Exhibit 3 that I  
4 want to refer you to.

5 A. Okay.

6 Q. This was the letter, the first letter that  
7 you sent to Yates Petroleum proposing to drill the Red  
8 Walt 10 well on their acreage, is it not?

9 A. Yes, I believe it is.

10 Q. And this letter was sent out on the 26th; is  
11 that correct?

12 A. Yes, sir, and we have a return receipt where  
13 it was dated or delivered the 27th.

14 Q. And the date of your APD to the federal  
15 government as shown on Exhibit 7 was July 29th, two  
16 days after receipt of this letter?

17 A. That's correct.

18 Q. Why was an APD submitted without finding out  
19 one way or the other Yates's indication as to whether  
20 or not they would join?

21 A. We want to be operator of the well. We want  
22 to form a west-half unit. We think we're best -- We  
23 have the best expertise out there with our saltwater  
24 disposal system and many other reasons to operate. We  
25 filed the APD for the obvious reason we wanted to

1 operate.

2 Q. Well, let's go back to your Exhibit Number 1,  
3 Mr. Shelton.

4 Now, the lease that you have on the south  
5 half of Section 10, what is the expiration date of that  
6 lease?

7 A. Well, unless production is re-established on  
8 that lease by December 1st, December 1st is the  
9 expiration date.

10 Q. Okay. Now, when you use the term "lease",  
11 the lease that Nearburg holds does not just include the  
12 south half of Section 10, but it includes several other  
13 sections, does it not?

14 A. That's correct.

15 Q. Okay. Why don't you -- So we can look here,  
16 isn't the west half of Section 15 also under that  
17 lease?

18 A. Well, I probably have to look at another map,  
19 but I think it is, yes.

20 Q. All right.

21 A. South half of 11. Excuse me, South half of  
22 10, west half of 15, and the west three-quarters of 11.

23 Q. All right. What about -- let's see --

24 A. And that acreage in 14.

25 Q. What about Section 14 also?

1           A.    Yeah, the acreage in -- I'm looking at  
2 another map now. The acreage in 14.

3           Q.    All right. Now, when you're talking about  
4 this lease expires at the end of this year unless you  
5 re-establish production, you're talking about a well up  
6 in Section 11, aren't you?

7           A.    A well anywhere on the lease. Doesn't matter  
8 where it is.

9           Q.    Well, the well -- This lease has been shown  
10 to be HBP, but that was the well that was holding this  
11 well -- this lease, wasn't it?

12          A.    That's correct, the Chama Federal well was  
13 the well that was holding by production this acreage,  
14 up until it ceased to produce.

15          Q.    When did it cease to produce, Mr. Shelton?

16          A.    I don't know the date. It's been more than a  
17 year ago, because the communitization agreement  
18 terminated when it did.

19                I'm sure you're familiar with the regulations  
20 that give it an extension period of time to re-  
21 establish production on the lease. If that's not done,  
22 then the lease terminates.

23          Q.    All right. So if a well is not drilled  
24 anywhere on this acreage in Sections 10, 15, 14 and 11,  
25 then this lease will go out --

1 A. Yes, sir.

2 Q. -- at the end of the year?

3 A. (Nods)

4 Q. Mr. Shelton, isn't it true that the  
5 motivation that I guess is prompting Nearburg to do  
6 this is that it's trying to get a well drilled to save  
7 this lease, and really the most productive acreage  
8 anywhere in this area just happens to be on the lease  
9 of Yates, and this is merely just an effort of Nearburg  
10 to attach itself to some better acreage than what it  
11 owns?

12 A. That is not correct, no.

13 Q. That is not correct?

14 A. We show geologic merit why this particular  
15 formation of the west half of 10, west half of Section  
16 10, in regard to the drilling of this well, is acreage  
17 that should be dedicated to it.

18 We will and we are attempting -- We will re-  
19 establish production on this lease elsewhere to make  
20 sure the lease is maintained.

21 That is not the purpose of this hearing, and  
22 that's not the reason why we are forming the unit in  
23 the configuration requested.

24 Q. Now, Mr. Shelton, you will agree with me that  
25 the exhibits, that some of the exhibits that you talked

1 about briefly establish that, because of the field  
2 rules in control, that a well can be drilled in each  
3 quarter section of Section 10, could it not?

4 A. That's correct, that's right.

5 Q. So Nearburg can drill a well on each quarter  
6 section of the lease that it has in the south half of  
7 Section 10?

8 A. There's no reason a well can't -- And that's  
9 the purpose of the field rules, the way they're  
10 designed and set up by the Commission, is that a well  
11 can be drilled on each 160.

12 So to the best extent and the reason we're  
13 forming this unit is because the most productive  
14 acreage in Section 10, the west half, is being put  
15 together in a unit, so two wells can be drilled.  
16 That's exactly the purpose --

17 Q. Well, Mr. --

18 A. -- to meet the requirements of the OCD field  
19 rules.

20 Q. Mr. Shelton, you will agree with me, then,  
21 that if we had laydowns rather than standups, you could  
22 still drill two wells, could you not?

23 A. But you -- well, you'd be -- There would be a  
24 great deal of economic waste, because you would be  
25 putting unproductive acreage in both, and this is --

1 Our geologist should address this point, but we'd be  
2 putting unproductive acreage in both those units.

3 Q. Well, that's interesting, because you made  
4 the broad statement that this -- the granting of this  
5 Application would prevent economic waste.

6 A. That's correct.

7 Q. So your definition of economic waste, when  
8 you made that statement as an expert landman, was  
9 that -- was solely that -- because you would be tying  
10 unproductive acreage with productive acreage?

11 A. We will be tying productive acreage with  
12 productive acreage. That conserves economic waste.

13 Q. Mr. Shelton, can you tell me where that  
14 definition of waste occurs anywhere in the statutes or  
15 in any case law?

16 A. In the Division statutes here, as I understand  
17 them -- and I'm not a lawyer -- it says the Division  
18 may establish a proration unit for each pool, such  
19 being the area that can be efficiently and effectively  
20 drained and developed by one well.

21 So it's clearly in the intent of the Division  
22 to have productive acreage put in these units. The  
23 west half will be the productive acreage. It is in the  
24 statutes. That is the purpose of the Division --

25 Q. All right. From a land standpoint --



1           A.    -- as I understand it.

2           Q.    Okay.  From a land standpoint, if you're  
3           saying that the northwest quarter and the southwest  
4           quarter each are the two productive quarter sections in  
5           Section 10, with a laydown proration unit you can still  
6           allow a well in each one of those quarter sections, can  
7           you not?

8           A.    Yes, you can, but then you have unproductive  
9           acreage in each proration unit.

10          Q.    How is that going to be economically  
11          wasteful, Mr. Shelton?  I don't understand.

12          A.    Because if you want to drill two wells in  
13          those proration units, you'd have to drill on  
14          unproductive acreage, and that's economic waste.

15          Q.    Well, Mr. Shelton, the way you've got it  
16          here, that -- You're only going to drill two wells  
17          anyway.

18          A.    We're going to drill two wells and see what  
19          develops, that's right.  That's the best method for  
20          development of this area.

21                If those two wells prove that additional  
22          drilling can be done, two wells may very well be  
23          drilled on an east-half unit, which would give  
24          everybody in the section the same net number of wells.

25                It's just a better, more orderly development,

1 and it is in conformity with the field rules and with  
2 the statutes of the OCD.

3 Q. Well, let's talk for a minute about  
4 correlative rights.

5 What you're really telling me is that you are  
6 well aware that Nearburg takes the position that the  
7 best spot to drill in the entire section is the  
8 northwest quarter, do you not?

9 A. That, I'll have to defer to the geologist.

10 Q. Well, wouldn't you think that if that's where  
11 you proposed the first well, that that would probably  
12 be the place of highest success?

13 A. I would think so, but I'm not a geologist,  
14 and I'd rather leave that explanation to him.

15 Q. You don't even want to venture a guess?

16 A. I'd venture to say that's probably the case,  
17 yes.

18 Q. Probably the case. And if that well shows  
19 there's no productive acreage or gives reason to  
20 believe that there is no production down in the south  
21 half, by force-pooling this in this manner Nearburg  
22 will have been able to take advantage of better acreage  
23 which it did not have a lease on; isn't that true?

24 A. No.

25 Q. Well, if it's -- By drilling this well, let's

1 say we establish production but we also show that it's  
2 on the edge of the field and we show that the entire  
3 south half of Section 10 is nonproductive --

4 A. It would also have to show in that case that  
5 the entire northeast quarter is unproductive.

6 You know, it would result in a finding of  
7 more than just the south half would be unproductive.  
8 And again, I'll have to defer that to our geologist,  
9 but that's --

10 Q. Okay. Well, let's just assume, though, for  
11 purposes of this next question, and then -- so that --  
12 and with respect to a land perspective, and since you  
13 have clearly made known your opinion that you're going  
14 to protect correlative rights, let's just assume that  
15 we drill this well up here 990 out of the north and  
16 west corners of this section, and we make -- establish  
17 production.

18 But we also show that it's right on the edge  
19 and that there probably is no reason to drill further  
20 south, and in fact that there's no -- really no real  
21 contribution of the south half to this northeast corner  
22 or northwest corner well.

23 Assuming those facts, Mr. Shelton -- Assuming  
24 those facts, Mr. Shelton, in effect, what would have  
25 been done by the order granting force-pooling is to

1 give Nearburg something that it did not own to begin  
2 with, and that's part of a productive reservoir?

3 A. If it's right on the edge of the field, it  
4 might likely not be a productive well. I think  
5 you're --

6 Q. Mr. Shelton, just answer your question,  
7 please.

8 A. I think you're asking me to assume something  
9 that it takes a geologic expert to review and look at.  
10 I can't tell you what the effect would be on  
11 the south half if a well is drilled on the edge of the  
12 field. I am not that expert.

13 Q. Mr. Shelton, you're dodging the question. I  
14 don't want you to talk to me about geology. I want you  
15 to talk to me about correlative rights.

16 With respect to the issue of correlative  
17 rights, if you assume the facts that I've just told  
18 you, you would in effect have taken away rights of  
19 Yates and given them to Nearburg, when Nearburg was not  
20 entitled to them because of the ownership of that lease  
21 just in the south half?

22 A. I think my answer to that on the basis of  
23 correlative rights from a land position is, based on  
24 the facts that we now know, showing what is productive  
25 acreage or what is proposed to be productive acreage,

1 correlative rights are being protected in the best  
2 manner by the formation of this unit.

3 Q. How can they be protected, Mr. Shelton? You  
4 have made that broad assumption. How are they  
5 protected?

6 A. They're protected because the west half is  
7 the productive acreage, which I hope will be  
8 demonstrated to your satisfaction by our geologist.

9 If that's the case, correlative rights are  
10 protected by the manner of letting those parties  
11 participate in the proration unit for the wells who own  
12 the productive acreage.

13 We will attempt to show that that is the  
14 productive acreage.

15 Q. All right. Now, if that's your main  
16 consideration, allowing the parties who own under the  
17 acreage to participate in a well draining their  
18 acreage, if you had a laydown and you drilled a well in  
19 the northeast quarter, a northwest quarter and a well  
20 in the southwest quarter, again, the people owning the  
21 acreage are going to get to share in the production  
22 from the well that's on their acreage, are they not?

23 A. That and, you know, depending on what the  
24 drainage is -- You know, the 320 acres is what we're  
25 attempting to drain. 320 acres is the spacing, not

1 160.

2 Q. But you know as well as I do, the field rules  
3 allow basically for 160 spacing, because they say that  
4 there can be two wells drilled for each 320-acre plot.

5 A. That is an option.

6 MR. STOVALL: Mr. Carroll, are you through  
7 with that line of questioning?

8 MR. CARROLL: I think I'm about through with  
9 the man entirely.

10 MR. STOVALL: Okay. Just a minute, let's  
11 make sure he's through.

12 MR. BRUCE: I just have one question.

13 MR. CARROLL: I have no other questions.

14 THE WITNESS: Thank you.

15 REDIRECT EXAMINATION

16 BY MR. BRUCE:

17 Q. Mr. Shelton, just one follow-up question.

18 On your APD you did include a lease plat  
19 which clearly shows the west-half unit, doesn't it?

20 A. Yes, it does. And it --

21 Q. And it also shows the outlines of the  
22 different federal leases involved?

23 A. Yes, sir, it does.

24 Q. And that was also submitted to the BLM?

25 A. Yes. And it shows Yates Petroleum as being

1 an owner on that map.

2 MR. BRUCE: That's all I have, Mr. Examiner.

3 EXAMINATION

4 BY EXAMINER CATANACH:

5 Q. Mr. Shelton, I believe you testified that at  
6 the time you submitted your APD to the BLM they knew  
7 that you did not hold the lease on which the well is  
8 located?

9 A. That's correct.

10 Q. Is it standard policy for them to approve an  
11 APD under those circumstances?

12 A. You know, I don't know what their standard  
13 policy is.

14 I talked to Shannon Shaw and I talked to all  
15 the people there, and they indicated to me that they  
16 would approve our permit and that whoever the OCD --  
17 the format -- They don't have a format for choosing who  
18 the operator is.

19 They will approve a format, they will approve  
20 that, and then defer to the format of the OCD for the  
21 determination of the operator, and that's the result of  
22 the pooling hearing. And that is the direct  
23 communication that I got from Shannon Shaw, who is  
24 their representative who approves the APDs.

25 Q. You've done quite a bit of extensive work in

1 trying to get everything approved that you might need  
2 to drill this well. Was that in anticipation of your  
3 lease expiration in this case or --

4 A. No, it's our high level of activity in this  
5 area.

6 As you can see, you know, our area, with five  
7 wells currently planned to go into that system and the  
8 number of wells that we're planning on drilling out  
9 there, we're trying to get as much done as we can,  
10 primarily because this is a real difficult area for the  
11 BLM.

12 It's a sensitive area for the BLM, and  
13 they're starting to set up an operator's meeting  
14 between all of the people. They're going to try to put  
15 corridors for rights of way and pipelines in.

16 And we feel like it's necessary to get way  
17 ahead at this time because there's going to be a -- the  
18 BLM is going to be very slow in reacting to whatever  
19 they're requested to grant.

20 EXAMINER CATANACH: I don't have anything  
21 else.

22 MR. STOVALL: I do.

23 EXAMINATION

24 BY MR. STOVALL:

25 Q. It's your understanding, based on what you



1 said, that your geologist's opinion is -- and of course  
2 we'll get it from him too -- is that the east half is  
3 fairly nonproductive?

4 A. Yes, sir, that's correct.

5 Q. Does that mean there's absolutely no gas  
6 underlying the east half which could be recovered?

7 A. I think we will demonstrate -- and I'll again  
8 defer to him -- that we will show that that's below  
9 what is now considered to be any productive interval,  
10 structurally.

11 Q. Considering the issue of correlative rights  
12 for a moment, if there is -- Recognizing and accepting  
13 that you wouldn't drill a well on the east half because  
14 it's just not --

15 A. That's correct.

16 Q. -- there's no gas there to justify drilling,  
17 if you're going to drill two wells in the west half --

18 A. Uh-huh.

19 Q. -- let's assume for a moment that there might  
20 be some reservoir that extends over into the east  
21 half --

22 A. Uh-huh.

23 Q. -- and that a well in the northwest and  
24 possibly in the southwest could recover gas, and it  
25 might recover some of that gas from the northeast and

1 the southeast --

2 A. Uh-huh.

3 Q. -- are you protecting the correlative rights  
4 of the east half by doing standup units and therefore  
5 putting the east half in a position where it cannot be  
6 drilled for, yet there's some gas in the east half  
7 which could be recovered if they were laydown units?

8 A. I believe we are, because the maximum amount  
9 of drainage will occur from the reservoir in its  
10 best --

11 Q. I didn't ask you about the maximum amount.  
12 That may be the worst argument you could make, because  
13 if there is some gas in the east half, will it be  
14 recovered and attributed to the owners of the east half  
15 if standup units are used, and no wells are drilled on  
16 the east half?

17 A. I believe it will, because if the gas is  
18 recovered from the east half, the ownership is the same  
19 in the northeast quarter and the southeast quarter as  
20 in the southwest quarter and the northwest quarter. So  
21 the appropriate owners will be given credit for that  
22 gas.

23 Q. But if it were laydowns, then they would be  
24 part of each well, and that would cover the whole  
25 section, right?

1           A.    Well, they would get -- the ownership would  
2   be -- It would be 100 percent instead of 50 percent.

3           Q.    All right.    Then Yates would own the north  
4   half and --

5           A.    We'd own the south half --

6           Q.    -- Nearburg would own the south half, and  
7   you'd each recover --

8           A.    That's correct.

9           MR. STOVALL:   Okay, I have nothing further.

10                               FURTHER EXAMINATION

11   BY EXAMINER CATANACH:

12           Q.    Mr. Shelton, I am fairly confident that  
13   nonproductive acreage is put into proration units on a  
14   pretty standard or common occurrence.

15                    Tell me why you believe it's a waste to do  
16   that in this case.

17           A.    Well, we feel like under the Division's rules  
18   where it's intended for, you know, one well to be  
19   drilled on each 160, this is the only way that we can  
20   correctly follow those rules.

21                    If you have a north-half unit, you're going  
22   to drill one well in the northwest quarter, you're  
23   probably not going to drill one in the northeast.

24                    If you have a south-half unit, you're going  
25   to drill one well in the southwest quarter and not one

1 in the southeast.

2 So if you're going to have a 320-acre tract  
3 and one well on each 160 of that 320, the formation of  
4 a west-half unit would be the only way to do it.

5 Q. Is there something in the rules for this pool  
6 that requires the drilling of a well on each 160?

7 A. No, it doesn't require. It's an option. It  
8 does not require.

9 EXAMINER CATANACH: Thank you. That's all I  
10 have.

11 MR. BRUCE: Call Mr. Elger to the stand.

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

15 DIRECT EXAMINATION

16 BY MR. BRUCE:

17 Q. Would you state your name, please?

18 A. Jerry Elger.

19 Q. And where do you reside?

20 A. Midland, Texas.

21 Q. Who do you work for and in what capacity?

22 A. Nearburg Producing Company as exploration  
23 geologist.

24 Q. Have you previously testified before the  
25 Division as a geologist?

1 A. Yes, I have.

2 Q. And were your credentials as a petroleum  
3 geologist accepted as a matter of record?

4 A. Yes, they were.

5 Q. And are you familiar with the geology in this  
6 area, or in the area of this Application?

7 A. Yes, I am.

8 Q. And does your area of responsibility at  
9 Nearburg include this particular prospect?

10 A. Yes, it does.

11 MR. BRUCE: Mr. Examiner, I would tender Mr.  
12 Elger as an expert petroleum geologist.

13 EXAMINER CATANACH: Mr. Elger is so  
14 qualified.

15 Q. (By Mr. Bruce) Mr. Elger, would you please  
16 refer to Nearburg Exhibit 14 and discuss the reason for  
17 the preferred well location and for the west-half  
18 standup unit?

19 A. This map, Exhibit 14, is a structure map, a  
20 regional structure map, showing the entire township and  
21 range of the subject acreage and the surrounding  
22 township and ranges.

23 And it shows the -- defines basically the  
24 trapping mechanism for the gas in the Indian Basin  
25 field and also the oil and gas field for the Indian

1 Basin East field, and the limits of each of those  
2 reservoirs.

3 The color shading is defined by the legend in  
4 the lower left-hand corner of the map.

5 The green shaded wells are gas-producing  
6 wells in the Indian Basin Upper Penn Field.

7 The orange solid shaded wells are those wells  
8 which are oil- and gas- and water-producing wells from  
9 the recently defined East Indian Basin field, which are  
10 -- basically represent those wells which have  
11 penetrated or are producing from the oil -- downdip oil  
12 leg of the Indian Basin gas field.

13 The blue shaded wells are those wells which  
14 the dolomite reservoir is primarily water-bearing.

15 The brown shaded wells are those wells where  
16 there is no dolomite reservoir present. There's an  
17 area to the north of the Indian Basin field, and to the  
18 south of the Indian Basin field in which dolomite is  
19 absent.

20 The half shaded orange circles represent  
21 those wellbores which have by production testing or  
22 drill stem testing encountered oil or gas -- some sort  
23 of hydrocarbon shows on drill stem tests or production  
24 tests.

25 The subject acreage, Section 10, and the

1 proposed location, 990 of the northwest corner of  
2 Section 10, is shown, was situated structurally to --  
3 Well, it was picked for geological purposes to  
4 encounter the maximum amount of dolomite reservoir rock  
5 above the oil-water contact, which appears to be by  
6 production testing and drill stem testing across this  
7 area at -- be at roughly a subsea datum of minus 4050.

8 As the map indicates, primarily the west half  
9 of Section 10 falls within the updip limits of that  
10 subsea oil-water contact and is therefore shaded orange  
11 and therefore has potential for hydrocarbons.

12 The west half of Section 10, you'll see  
13 primarily blue shaded, represents water-bearing  
14 dolomite reservoir and therefore would be nonproductive  
15 if a well would be drilled in the east half of 10.

16 The reason for Nearburg's Application in  
17 pooling this west half of 10 is because it's our  
18 understanding that to the extent possible, a spacing  
19 unit again should encompass productive acreage, and  
20 geologically that would be the west half of 10.

21 Therefore, the granting of our Application  
22 would be the only way to do that.

23 Q. Mr. Elger, I think you've just testified that  
24 really the optimum initial drill site in all of Section  
25 10 is in the northwest quarter; is that correct?

1           A.    That is correct.

2           Q.    And so what, in your opinion, would be the  
3 second preferred drill site?

4           A.    It would be the southwest quarter of Section  
5 10.

6           Q.    In your opinion, would it be better to drill  
7 both those wells at or about the same time, or would it  
8 be better to drill the northwest-quarter well first?

9           A.    It would be better to drill the northwest-  
10 quarter well first and then follow an orderly  
11 development pattern to see if that well was commercial,  
12 establish the fact that there is commercial production,  
13 and then drill.

14                Plus, you would have the added element of the  
15 geological data from that wellbore and use it to follow  
16 an orderly development pattern out here in drilling in  
17 the west half of 10.

18           Q.    You could use the information from the  
19 northwest-quarter well to select a second drill site?

20           A.    That is correct.

21           Q.    Would you please move on to your Exhibit 15  
22 and discuss that briefly for the Examiner?

23           A.    Exhibit 15 is a structural cross-section  
24 which ties two of the producing wells, the re-entry of  
25 the Pan Am Hickory well in Section 17 on the left side



1 of the cross-section, showing the -- The cross-section  
2 shows the perforations in the dolomite reservoir, and  
3 some of the initial potential and actual production  
4 statistics associated with that well that were  
5 presented in -- by Yates Petroleum in previous  
6 testimony before this Commission.

7 The same is true for the Curtis Inman well in  
8 Section 3, the south half of Section 3, the drill stem  
9 information from the original operations of that  
10 wellbore, the perforations that were used to produce  
11 the dolomite, the Cisco/Canyon dolomite reservoir by  
12 Yates Petroleum in production testing that wellbore,  
13 and again, the potential and production statistics  
14 presented by Yates Petroleum for that well in previous  
15 testimony.

16 Of importance is the fact that that wellbore  
17 has -- makes a significant amount of water, which it's  
18 our understanding the well was worked over and some of  
19 the lower perforations were squeezed and re-perforated  
20 in an effort to try and reduce the amount of formation  
21 water produced in this well.

22 And the suggestion is that the bottom of the  
23 set of perforations in that wellbore are very close to  
24 or define the oil-water contact of minus 4050 subsea  
25 that I alluded to earlier.

1           The well proceeds to the northeast, to the  
2     Antweil Littlewalt well, which is an active location  
3     for Nearburg in terms of re-entry and production  
4     testing of the Cisco/Canyon dolomite reservoir at that  
5     location.

6           Q.    Thank you.  Would you please move on to  
7     Exhibit 16 and identify that for the Examiner?

8           A.    Exhibit 16 is the structure map developed by  
9     Brent May with Yates Petroleum that was utilized in the  
10    hearing, Case Number 10,748, which I believe was the  
11    pooling rules for the East Indian Basin area, including  
12    the Yates Hickory well in Section 17, and we believe,  
13    of course, the subject well in Section 10 would fall  
14    under the same order.

15                Section 10 is noted and its relationship to  
16    the Hickory well on the right side of this particular  
17    map.

18                This is a structure map on the top of the  
19    Canyon dolomite, same unit that I used in generating my  
20    map.  And if you would follow a subsea contour datum of  
21    minus 4050 on Mr. May's contours across Section 10, you  
22    will notice that a good portion of the east half of  
23    Section 10 would fall below that subsea datum and  
24    therefore probably be nonproductive.

25                The optimum location, based on this geology,

1 would be in the northwest quarter where the proposed  
2 drill site has been staked, and again the second most  
3 optimum location out here in Section 10 would be in the  
4 southwest quarter of Section 10.

5 I say "optimum", and I use this with a grain  
6 of salt here because the west half of Section 10,  
7 again, appears to be the productive acreage relative --  
8 and again, is the area that Nearburg is trying to apply  
9 for in this pooling, and would therefore be the most  
10 logical place to pool in regards to incorporating  
11 productive acres into a pooling unit.

12 Q. Mr. Elger, your interpretation agrees pretty  
13 much with Mr. May's, does it not?

14 A. Yes, it does.

15 Q. If there are parties pooled under this order,  
16 based on geological risk, what penalty do you recommend  
17 against any nonconsenting interest owners?

18 A. Cost plus 200 percent.

19 Q. And in your opinion, that's based on the  
20 substantial geological risk in this area?

21 A. Yes, it is.

22 Q. In your opinion, is the granting of  
23 Nearburg's Application in the interest of conservation,  
24 the prevention of waste and the protection of  
25 correlative rights?

1 A. Yes, it is.

2 Q. And were Exhibits 14 and 15 prepared by you?

3 A. Yes, they were.

4 MR. BRUCE: Mr. Examiner, at this time I  
5 would move the admission of Nearburg Exhibits 14, 15  
6 and 16.

7 EXAMINER CATANACH: Exhibits 14, 15 and 16  
8 will be admitted as evidence.

9 CROSS-EXAMINATION

10 BY MR. CARROLL:

11 Q. Mr. Elger, would you mind turning to Exhibit  
12 Number 10, just for a moment?

13 As I understand Exhibit Number 10, Mr. Elger,  
14 this is a -- proposed water lines for injection or  
15 carrying away of produced water, is it not?

16 A. I believe that's correct. Whether it  
17 includes productive fluids such as oil and gas, I --

18 Q. Okay. Well, just for the purpose here, there  
19 are five red wells. Those are wells that might produce  
20 water; is that correct?

21 A. That is correct.

22 Q. And the blue well would be the injection  
23 well, correct?

24 A. That is correct.

25 Q. None of the five red wells are producing

1 right now, are they?

2 A. Yes, they are. The well in Section 12 is a  
3 well operated by Meridian Oil, the Shelby Federal 12  
4 Number 1. That well has been producing for quite a  
5 number of years, and over the years the water cut has  
6 increased in that wellbore, and --

7 Q. But none of the other four are producing, are  
8 they? They're proposed for workovers and that sort of  
9 thing?

10 A. That is correct. They're either workovers  
11 that are proposed or in progress.

12 Q. The water lines that we're looking at here  
13 have not been built, have they?

14 A. No, no, I don't believe they have.

15 Q. If we got production -- Let's just assume for  
16 this question that Nearburg drilled the well up here on  
17 the north half of the northeast quarter of Section 10.  
18 Where would Nearburg take the gas and water -- well, we  
19 know -- The water would go along this proposed route;  
20 is that correct?

21 A. That's correct.

22 Q. Where would the gas go? Do you have any  
23 plans for that?

24 A. I can't address that. I wouldn't know. I'm  
25 not involved in the building of our production

1 facilities.

2 Q. Well, you know that because right now  
3 Nearburg has no production, it has no production lines  
4 out there at the present time?

5 A. Well, I know they have no lines out there;  
6 that's correct.

7 Q. Do you know where Nearburg is going to get  
8 electricity or how it's going to supply electricity to  
9 this well if it drills it?

10 A. Again, that's not my area of expertise.

11 Q. But again, Nearburg has no producing wells  
12 out there, and it would have to start from scratch at  
13 least?

14 A. I believe work is in progress on  
15 accommodating electric -- electricity and so forth. As  
16 Mr. Shelton pointed out, there's a lot of work that's  
17 already gone into these proposed drill sites in Section  
18 10.

19 Q. Now, I believe you -- When you were  
20 discussing your structure map, Exhibit 14, you made the  
21 comment that the proposed well site was picked because  
22 it should strike the thickest part of the dolomite  
23 section?

24 A. Not the thickest, but the highest.

25 Q. The highest.

1           A.    The highest.

2           Q.    Well, is all of the dolomite section in this  
3 area going to be productive of oil and gas? Or is  
4 there --

5           A.    Is all of the dolomite -- No.

6           Q.    If you hit dolomite there, is all of it --  
7 can you expect it to produce?

8           A.    From wherever you encounter the top to a  
9 subsea of minus 4050.

10          Q.    That's where you expect it?

11          A.    That interval would be hydrocarbon-bearing.

12          Q.    All right.

13          A.    It would probably -- it would probably -- The  
14 reservoir characteristics, as I understand them, are  
15 similar to Dagger Draw where you're generally not going  
16 to make a water-free completion, even though you would  
17 encounter dolomite above that subsea datum, but you  
18 would definitely have hydrocarbons incorporated with  
19 the reservoir. And it has something to do with a  
20 multiple porosity system in the dolomite.

21          Q.    The size of the reservoir, the amount of oil  
22 or gas that a reservoir can hold, then, would be  
23 dependent upon the lateral extent of the dolomite and  
24 also the thickness of the dolomite; isn't that correct?

25          A.    That is correct.

1           Q.    And isn't it true, Mr. Elger, that if we  
2           looked at it by -- using a volumetric basis, much more  
3           of this reservoir that you show on your Exhibit 14  
4           would lie in the north half of Section 10 rather than  
5           in the south half?

6           A.    That's possible.

7           Q.    And isn't it true that's the reason you  
8           didn't produce an isolith or an isopach of the dolomite  
9           for presentation to the Commission today?

10          A.    No, that's -- The need for an isolith or an  
11          isopach map of the dolomite is irrelevant to this case.

12                   The sole governing factor of reserves out  
13          here is how much dolomite is encountered above this  
14          oil-water contact, subsea minus 4050.

15          Q.    Well, let's look at that, that comment.  
16          Would you turn to Exhibit 16, which is an exhibit that  
17          was prepared by Yates for an earlier hearing?

18                   Now, you have told us that the bottom, the  
19          cutoff of the dolomite here, the productive part of the  
20          dolomite, would be 4050; is that correct?

21          A.    Yes.

22          Q.    And the 4050 line here, as it's drawn on  
23          Yates's exhibit, would -- cuts across probably in the  
24          northeast quarter, right to the middle of that, does it  
25          not?



1           A.    Yes.

2           Q.    So using -- And apparently you agree with  
3           Yates's geology. And looking at that map, this map  
4           does show that there would be considerable productive  
5           acreage in the northeast quarter. In fact, three-  
6           fourths of the northeast quarter, by this exhibit,  
7           should be productive?

8           A.    I wouldn't say that. Again, it's -- There is  
9           the potential for a small portion of the northeast  
10          quarter to be productive. There's also a portion of  
11          the southeast quarter that it would be potentially  
12          productive, but not very much of it. And not very much  
13          of the northeast quarter.

14                The primary productive acreage would be the  
15          west half of Section 10. Both structure maps indicate  
16          that.

17          Q.    But both structure maps show that in the  
18          north half, that part of that reservoir does extend  
19          over from the northwest quarter over into the northeast  
20          quarter, does it not? Your maps and Yates's maps,  
21          both?

22          A.    That is correct.

23          Q.    Mr. Elger, I believe you made the statement  
24          that a well in Section 10 should be drilled in the  
25          northwest quarter first; is that correct?

1           A.    Yes.

2           Q.    Is that not -- The reason for making that  
3 statement is that that northwest quarter is better,  
4 both from a -- the standpoint of being located within  
5 the oil-bearing part of the dolomite, but also because  
6 it has the better and thicker reservoir qualities?

7           A.    That's the optimum location.

8           Q.    And if we opt for standup proration units, as  
9 opposed to laydown proration units, a party in the  
10 south half would stand to gain by having standups  
11 because he would get to share in admittedly better-  
12 quality reservoir?

13          A.    It would prevent a repeat of the development  
14 pattern that occurred in North Dagger Draw and  
15 elsewhere where there was a competitive situation for  
16 reserves and a virtual drilling panic for reserves down  
17 to 40-acre spacings, which is what Yates testified to  
18 in their pooling hearing they wanted to avoid by the  
19 pooling rulings that they applied for.

20          Q.    Mr. Elger, that was not the question. Let me  
21 repeat the question.

22                By opting for a standup proration unit, based  
23 on the geology as you have drawn it, such -- an  
24 approval of such a proration unit will allow the  
25 ownership in the south half to enjoy a better, more

1 productive part of the reservoir that exists in the  
2 north half, would it not?

3 A. It would be located in the optimum location  
4 in that section for a Cisco/Canyon test.

5 Q. So in effect, you're --

6 A. If you're saying -- If you're asking me  
7 whether that well would be better than a well drilled  
8 in the southwest quarter, there is that potential that  
9 it could be, it could be a better well.

10 Q. Then, Mr. Elger, under that scenario of  
11 facts, how are we protecting the correlative rights in  
12 the northeast quarter by giving away something that  
13 they own to the south half?

14 A. I don't think there's that many reserves  
15 present in the east half of Section 10. There's not  
16 that much dolomite section that's above the oil-water  
17 contact, present across Section 10, or the east half of  
18 10.

19 Q. Well, Mr. Elger, let's just confine ourselves  
20 to the west half.

21 If we have a larger area, volumetric area, in  
22 the northeast quarter than we have in the southeast  
23 quarter, we are taking away from the owners in the  
24 northeast quarter and giving to the owners in the  
25 southeast quarter, aren't we?

1           A.    Well, I'm not a reservoir engineer. I can't  
2 really address that question. I don't know what the  
3 drainage radius is going to be for each of these  
4 individual wells.

5           MR. CARROLL: No other questions.

6           MR. BRUCE: I don't have anything further,  
7 Mr. Examiner.

8                               EXAMINATION

9 BY EXAMINER CATANACH:

10          Q.    Mr. Elger, is it your opinion -- Well, you've  
11 stated that it's your opinion a well in the northwest  
12 quarter would be the preferred location in the west  
13 half; is that correct?

14          A.    Yes, sir.

15          Q.    Do you believe the southwest quarter is  
16 productive in Section 10?

17          A.    Yes.

18          Q.    Would you recommend to your management that a  
19 well -- without the drilling of a northwest quarter  
20 well, would you support the drilling of a well in the  
21 southwest quarter of Section 10?

22          A.    As the first well in that section?

23          Q.    Yes, sir.

24          A.    No.

25          Q.    Why is that?

1           A.   Risk, geological risk. The farther away from  
2 well control you move, the more risky, obviously, that  
3 particular location becomes.

4           We know that there's a structural low that  
5 runs up to the well, the Inman well in Section 3.  
6 That's the reason that Brent May's interpretation shows  
7 the low coming across the east half of Section 10, and  
8 that's the way I've interpreted the same structural low  
9 coming in from the south to accommodate that low point  
10 across the east half of Section 10.

11           The width of that particular low is an  
12 unknown quantity at this time. It could be a lot  
13 wider, it could be a lot lower in the southwest quarter  
14 in Section 10 than what either of us has interpreted.

15           EXAMINER CATANACH: I don't have anything  
16 else.

17           The witness may be excused.

18           MR. BRUCE: That's my side of the case, Mr.  
19 Examiner.

20           EXAMINER CATANACH: Okay. Let's take a short  
21 break here before we start with yours, Mr. Carroll.

22           (Thereupon, a recess was taken at 2:31 p.m.)

23           (The following proceedings had at 2:45 p.m.)

24           EXAMINER CATANACH: Let's call the hearing  
25 back to order.

1 Mr. Carroll?

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

3 JANET RICHARDSON,

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

6 DIRECT EXAMINATION

7 BY MR. CARROLL:

8 Q. Would you please state your name, where you  
9 live and by whom you are employed?

10 A. Janet Richardson. I live in Artesia, New  
11 Mexico, and I'm a landman for Yates Petroleum  
12 Corporation.

13 Q. Have you had an occasion to previously  
14 testify before the Oil Conservation Division and have  
15 your credentials accepted as an expert in the field of  
16 petroleum land work?

17 A. Yes, I have.

18 MR. CARROLL: I tender Ms. Richardson as an  
19 expert in that field.

20 EXAMINER CATANACH: Ms. Richardson is so  
21 qualified.

22 Q. (By Mr. Carroll) Ms. Richardson, you are  
23 fully aware of the Application that's in question here,  
24 the one filed by Nearburg, are you not?

25 A. Yes.

1           Q.   And this area is the area of your  
2 responsibility for Yates Petroleum, is it not?

3           A.   Yes.

4           Q.   You have prepared three exhibits for  
5 presentation to the Division today, have you not?

6           A.   Yes, I have.

7           Q.   Would you turn first to your Exhibit Number 1  
8 and explain what it is?

9           A.   Exhibit Number 1 is a plat showing the nine  
10 sections, including and surrounding our proposed  
11 location.

12                   It shows in yellow the acreage that Yates  
13 Petroleum and its other companies own.

14                   It also shows our proposed proration unit for  
15 drilling our well as the north half of Section 10, and  
16 the well is spotted 990 from the north and west of  
17 Section 10.

18           Q.   This exhibit does show that Yates Petroleum  
19 and the other affiliated companies which are -- we  
20 represent everyone here today -- actually owns the  
21 entire north half; is that correct?

22           A.   Yes.

23           Q.   That north half is comprised of how many  
24 separate leases?

25           A.   Three.

1 Q. All right. So by looking at your diagram or  
2 this plat here, there is a small lease up in the  
3 northwest of the northwest, is there not?

4 A. Yes.

5 Q. That's a federal lease, is it not?

6 A. Yes, it is.

7 Q. Then there's another small lease up in the  
8 northeast of the northeast; is that correct?

9 A. Yes.

10 Q. That is also a federal lease, is it not?

11 A. Yes, it is.

12 Q. And then the remaining half is a third lease,  
13 is it not?

14 A. Yes.

15 Q. Now, is it Yates Petroleum -- or management  
16 of the company's, that you represent, intention to  
17 drill a well on the north half of Section 10?

18 A. Yes, it is.

19 Q. And this proposed proration unit that you  
20 have outlined in red on this is the proration unit  
21 which you have designated for the Atom "ANT" Federal  
22 Com Number 1 well; is that correct?

23 A. Yes, it's the Atom "ANT" Federal Com Number 1  
24 well.

25 Q. I take it, then, you had no choice with



1       respect to the name of this; it was something you  
2       didn't participate in?

3             A.    No, I did not.

4             Q.    All right.  The location that Yates Petroleum  
5       is proposing for its Atom "ANT" well is the same as the  
6       location that's picked by Nearburg; is it not?  990 out  
7       of the north and west corner?

8             A.    Yes, it is.

9             Q.    Would you turn to your Exhibit Number 2?

10            A.    Yes, Exhibit 2 is just our application for  
11       permit to drill the well at a location 990 from the  
12       north and 990 from the west of Section 10 of 22 South,  
13       24 East.

14            Q.    All right.  And with respect to -- This  
15       application is still pending at this time, is it not?

16            A.    Yes, it is.

17            Q.    Now, with respect to the Oil Conservation  
18       Division Form C-102, that's right behind the APD, is it  
19       not?

20            A.    Yes.

21            Q.    On Form C-102, when Yates Petroleum filed  
22       this, it did indicate that there was more than one  
23       lease of different ownership that would have to be  
24       communitized with respect to this particular laydown  
25       proration unit?

1 A. Yes.

2 Q. And on that particular Form C-102 you showed  
3 the three different leases as you described them a  
4 moment ago to the --

5 A. Yes, they are on there.

6 Q. Has Yates Petroleum made application for  
7 communitization of the three leases in the north half  
8 of Section 2?

9 A. Yes, we have, and that is what is Exhibit  
10 Number 3. It is the communitization agreement of the  
11 three leases into the north half as the proration unit,  
12 along with the BLM's approval and determination  
13 certificate.

14 Q. So with respect to the north half, it has  
15 been effectively communitized, the approval having been  
16 already received from the BLM?

17 A. Yes, it has.

18 Q. Now, in your discussions concerning this  
19 particular well, have you learned anything with respect  
20 to the BLM's policy about granting a communitization  
21 agreement for just the west half? Did you inquire of  
22 that?

23 A. Yes, I inquired of the BLM and they said that  
24 unless the south half of Section 10 could not be  
25 independently produced, that they would not be

1 conducive to communitizing the west half.

2 Q. The fact that Yates Petroleum intended to  
3 drill this -- its acreage in Section 10 as a north-half  
4 spacing unit, has that fact been communicated to  
5 Nearburg during all the discussions that you have had  
6 concerning this section?

7 A. I don't know that we've actually told them  
8 about it. I just assume that they're aware of our  
9 interests in the area.

10 Q. At no time has Yates ever been interested in  
11 forming a west-half or farming out or -- working some  
12 agreement with Nearburg; is that correct?

13 A. No, they have not.

14 Q. And the reason for that, is that because  
15 Yates Petroleum held sufficient acreage to drill on  
16 create a proper or a standard proration unit?

17 A. Yes.

18 MR. CARROLL: I pass the witness.

19 First of all, though, I would move admission  
20 of Yates Exhibits 1, 2 and 3.

21 EXAMINER CATANACH: Exhibits 1, 2 and 3 will  
22 be admitted as evidence.

23 CROSS-EXAMINATION

24 BY MR. BRUCE:

25 Q. Ms. Richardson, I just want to confirm

1 something on your map. Sections 3, 9 and 10 are all  
2 federal lands, right?

3 A. Yes.

4 Q. Federal minerals, anyway?

5 A. Yes.

6 Q. Okay. And Sections 3 and 9 are under leases  
7 owned by Yates?

8 A. Yes, they are.

9 Q. And your APD, Exhibit Number 2, that has not  
10 yet been approved by the BLM, has it?

11 A. No, it has not.

12 Q. And regarding communitization, did the BLM  
13 flatly state it would not communitize the west half?

14 A. No, it did not.

15 MR. BRUCE: Thank you.

16 EXAMINATION

17 BY MR. STOVALL:

18 Q. I have a question on the communitization.  
19 They have communitized the north half; is that correct?  
20 "They" being the BLM.

21 A. Yes, they have.

22 Q. Would it be possible to communitize the west  
23 half in this formation at this point?

24 A. Only if they canceled the communitization  
25 agreement on the north half.

1 Q. With respect to the APD application, has the  
2 BLM communicated anything to you with respect to the  
3 effect of the Nearburg APD, as -- how it would affect  
4 yours?

5 A. I have not heard anything on it. I don't  
6 know if they've -- I talked to our permit men. They  
7 did not give me any indication that they have discussed  
8 that.

9 EXAMINATION

10 BY EXAMINER CATANACH:

11 Q. Do you know when your APD was filed?

12 A. I believe it was August 12th, 1993.

13 EXAMINER CATANACH: Okay. Nothing further.

14 MR. CARROLL: I have nothing of this witness.

15 EXAMINER CATANACH: The witness may be  
16 excused.

17 BRENT MAY,

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

20 DIRECT EXAMINATION

21 BY MR. CARROLL:

22 Q. Would you state your name, address and  
23 employment?

24 A. My name is Brent May, I work for Yates  
25 Petroleum in Artesia as a petroleum geologist.

1           Q.    Mr. May, have you previously testified before  
2           the Division and had your credentials as an expert in  
3           the field of petroleum geology accepted?

4           A.    Yes, I have.

5           MR. CARROLL:  I would tender Mr. May as an  
6           expert.

7           EXAMINER CATANACH:  Mr. May is so qualified.

8           Q.    (By Mr. Carroll)  Mr. May, you have prepared  
9           certain exhibits for presentation, have you not?

10          A.    Yes, I have.

11          Q.    Would you turn to your first one, Exhibit 4,  
12          and explain what it is and what you're attempting to  
13          show thereby?

14          A.    This is a structural cross-section, A-A'.  It  
15          runs from the northwest to the southeast.  There's a  
16          location map in the lower right-hand corner.  The datum  
17          is at minus 4000, shown.

18                On the far left-hand side of the cross-  
19          section, let's start with the Atlantic Refining Walt  
20          Canyon Unit Number 2 in Section 4, 22 South, 24 East.

21                This well did encounter the Canyon dolomite.  
22          They did attempt a DST in the upper part and had a  
23          packer failure, and then went ahead and completed the  
24          well.  It made a gas well.  This is updip of the oil  
25          leg.

1           The next well is the Yates Petroleum Walt  
2 Canyon "AMA" Federal Number 1, also the old Curtis  
3 Inman well in Section 3 of 22 South, 24 East.

4           This well Curtis Inman originally drilled  
5 down to the Morrow. On the way down they ran several  
6 DSTs, which are listed beside the log. They did have  
7 oil shows.

8           They did attempt a completion. They shot two  
9 different perf zones. The first one was 7942 to -44.  
10 They acidized, swabbed water with a scum of oil, they  
11 squeezed. Then they went to 7932 to -34. They  
12 acidized, got a show of oil, which was around five  
13 percent. They squeezed again.

14          They re-perfed these perfs. They swabbed dry  
15 and squeezed once again. They re-perfed the 7942 to  
16 -44, swabbed dry, acidized, and swabbed some formation  
17 water with a two-percent oil cut. They then abandoned  
18 the well.

19          Yates in April of 1993 re-entered the well.  
20 We perf'd from 7942 to -64, acidized, swabbed 138  
21 barrels of water, squeezed that.

22          We then attempted an open-hole completion,  
23 because there was several mechanical problems with this  
24 well. It originally had a 4 1/2 casing that was run  
25 down to just about a hundred feet into the top of the

1 Canyon dolomite, I believe, and then was shot off when  
2 Curtis Inman abandoned the well. So we attempted an  
3 open-hole completion below the old casing shoe.

4 We set the packer at 7955, swabbed 377  
5 barrels of water, threw it on pump, which was -- and it  
6 pumped 88 barrels of oil per day plus over 2000 barrels  
7 of water.

8 With the high water, we decided to try to run  
9 a 3-1/2-inch liner. We did this, re-perfed from 7995  
10 to 8008, acidized, swabbed water, put it on pump,  
11 pumped 113 barrels of oil, over 2400 barrels of water  
12 and 65,000 cubic feet of gas. It IP'd for 110 barrels  
13 of oil, 65,000 cubic feet of gas and 2370 barrels of  
14 water.

15 I also might add that this -- these Canyon  
16 wells are -- As has been stated before, this area is  
17 similar to Dagger Draw. Most of these wells, because  
18 of the large volumes of fluid, submersible pumps are  
19 used, and because of the mechanical problems in this  
20 well, I believe -- I could be wrong on this, but the  
21 submersible pump is several hundred feet up the hole.  
22 Thus, it's very hard to pump this well down and pump  
23 all the water off and get a good oil production.

24 So what I'm getting at is that there is  
25 definitely a possibility that this well could be a much



1 better well if we didn't have the mechanical problems.

2 The last well in the cross-section is the  
3 Nearburg McKittrick Federal Com Number 1 in Section 11  
4 of 22 South, 24 East. This, I think -- This well, I  
5 believe, was not originally drilled by Nearburg. I'm  
6 sure you can correct me if I'm wrong.

7 It originally TD'd in the Canyon. A Canyon  
8 DST was run, and there was a show of oil. It was  
9 plugged, and then I believe Nearburg re-entered and  
10 deepened to the Morrow back in 1988 and then plugged  
11 the well.

12 I might also point out, I have an oil-gas-  
13 water contact penciled in, and I call it estimated  
14 oil -- excuse me, not oil-gas-water, oil-water contact.  
15 That is at a minus 4060, which is fairly close to Mr.  
16 Elger's own oil-water contact.

17 I might -- I would like to add though, that  
18 this could be a very conservative oil-water contact.  
19 It is based solely on the lowest perfs in three wells  
20 that are currently producing out of this reservoir, and  
21 currently there have been no perfs below this  
22 structural level.

23 Yates started off in this reservoir taking  
24 the attitude of being very conservative and not getting  
25 too low with their perfs, because if you do get too low

1 you can bring in a lot of water, and it's hard to shut  
2 them off. So there is the possibility this oil-water  
3 contact could go lower down.

4 Q. Do you have anything else that you would like  
5 to point out to the Examiner with respect to your  
6 Exhibit Number 4?

7 A. No, I believe that's all.

8 Q. Okay. Would you turn to Exhibit 5, explain  
9 what that is and your conclusions that you draw  
10 therefrom?

11 A. This is an isolith map that represents the  
12 Canyon dolomite and shows its limits.

13 I just want to point out the values with the  
14 plus sign behind them indicate that the Canyon Dolomite  
15 was not fully penetrated, and thus the true thickness  
16 is unknown.

17 Dolomite thicks appear to the north and the  
18 east of the proposed location, and at the proposed  
19 location there should be approximately 450 feet of  
20 dolomite present, which is a sufficient amount of  
21 dolomite to establish good production.

22 Q. Does this exhibit show that the dolomite  
23 extends throughout the north half of Section 10?

24 A. This exhibit shows that the dolomite extends  
25 throughout all of Section 10 and even further south

1 into 15 and 16.

2 Q. With respect to the relationship of the north  
3 half to the south half, does it show that the dolomite  
4 found in the north half, as opposed to the south half,  
5 is it better, the same or worse?

6 A. There's more dolomite in the north half.

7 Q. Anything else that you would like to point  
8 out to the Examiner?

9 A. That's all.

10 Q. Turn to your Exhibit Number 6.

11 A. This is a structure map with the top of the  
12 Canyon dolomite as a datum, and it's going to be, as  
13 Mr. Elger said, very similar to what he has.

14 It shows a structural nose to the northeast  
15 of the proposed location. The regional dip is  
16 generally to the southeast.

17 I have a red dashed line in Section 10 which  
18 represents the estimated oil-water contact, which is at  
19 a minus 4060, which is very close to the minus 4050  
20 that Nearburg has shown.

21 The proposed location is structurally similar  
22 to the Hickory ALV Federal Number 1 in Section 17 of 22  
23 South, 24 East, which is off of this map just to the  
24 west, and it's also structurally higher to the Walt  
25 Canyon "AMA" Federal Number 1 in Section 3, just to the

1 north.

2 These two wells, plus another one which is  
3 the Yates Petroleum Pan Am Pardue in 27 of 21-24, are  
4 the only wells in the area that currently produce oil  
5 from this Canyon or Upper Penn dolomite.

6 It appears that the proposed location should  
7 be structurally high enough to produce oil, along with  
8 the southwest quarter and part of the northeast  
9 quarter, in my opinion.

10 Probably the northwest quarter is the better  
11 quarter at this moment, because there should be more  
12 dolomite above the oil-water contact. It is better  
13 than the southwest quarter and, in my opinion, the  
14 northeast quarter should be better than the southeast  
15 quarter.

16 In my opinion, the only part of Section 10  
17 that we can completely rule out at this time is the  
18 southeast quarter, and if that oil-water contact -- if  
19 we find more information on that that puts it lower, it  
20 might even be productive.

21 Q. Do you have any other points that you'd like  
22 to make with this particular exhibit, Mr. May?

23 A. I think that's all.

24 Q. Mr. May, with respect to the granting of the  
25 Application of Nearburg Producing, do you have an

1 opinion as to whether or not the granting of that  
2 Application will protect correlative rights?

3 A. The granting of Nearburg's Application, I  
4 don't believe it would.

5 Q. Do you -- With respect to Yates's rights to  
6 produce oil, do you think it would infringe upon its  
7 correlative rights in this section?

8 A. Nearburg's Application, I believe, would,  
9 yes.

10 Q. Mr. May, from a geological standpoint do you  
11 feel that the granting of the Nearburg Application  
12 would prevent waste, or is waste even an applicable  
13 consideration?

14 A. I don't think it's even applicable. It  
15 doesn't matter if you have standups or laydowns; you're  
16 still going to be able to drill in the best part of the  
17 reservoir. It just -- It doesn't even matter here.

18 MR. CARROLL: Mr. Examiner, I would move  
19 admission of Yates Exhibits 4, 5 and 6.

20 EXAMINER CATANACH: Exhibits 4, 5 and 6 will  
21 be admitted as evidence.

22 MR. CARROLL: We'll pass the witness.

23 CROSS-EXAMINATION

24 BY MR. BRUCE:

25 Q. Just a couple of brief questions, Mr. May.

1           Looking at this map, I forget the well name,  
2           but the well in the south half of Section 3 --

3           A.    The Walt Canyon "AMA" operated by Yates.

4           Q.    Correct. Now, that one produced a lot of  
5           water, didn't it?

6           A.    Yes, it did.

7           Q.    So there's a chance that your oil-water  
8           contact line could vary a little more and make most if  
9           not all of the east half unproductive?

10          A.    That's a possibility, yes. It could also go  
11          the other way.

12          Q.    Sure.

13                Now, in Section 9, that's Yates's acreage,  
14          isn't it?

15          A.    I believe so, yes.

16          Q.    Is Yates in the process of proposing any  
17          wells in that section?

18          A.    We have applied for a location in Section 9.

19          Q.    Where is that location?

20          A.    I believe it is in the -- 1980 from the south  
21          and west, but that may not be exactly right, because we  
22          have had to move it because of topographical reasons,  
23          but I believe it's in that -- that's the latest  
24          location we've got.

25          Q.    And this might not be in your area of

1 expertise, Mr. May, but is it possible that the Walt  
2 Canyon "AMA" well in Section 3 could drain the  
3 northeast quarter of Section 10?

4 A. You'd have to ask a reservoir engineer on  
5 that.

6 MR. BRUCE: That's all I have.

7 EXAMINATION

8 BY EXAMINER CATANACH:

9 Q. Mr. May, based on your isolith map and your  
10 structure map, given that the oil-water contact is at  
11 minus 4060, in your opinion, do you think a productive  
12 well could be drilled in the southwest quarter?

13 A. Sure, yes, sure do.

14 EXAMINER CATANACH: Okay, I have nothing  
15 further.

16 EXAMINATION

17 BY MR. STOVALL:

18 Q. Just one question.

19 You and Mr. Elger don't really disagree a  
20 great deal about this, do you?

21 A. No, not really.

22 MR. CARROLL: That's all I have from this  
23 witness.

24 EXAMINER CATANACH: Okay, the witness may be  
25 excused.

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

4                    DIRECT EXAMINATION

5       BY MR. CARROLL:

6            Q.     Would you please state your name, address and  
7       employment for the record?

8            A.     My name is David Francis Boneau. I live in  
9       Artesia, New Mexico where I work for Yates Petroleum  
10      Corporation as a reservoir engineering supervisor.

11          Q.     Mr. Boneau, have you had occasion to testify  
12      before this Division previously and have your  
13      credentials in the field of reservoir engineering  
14      accepted?

15          A.     Yes, sir.

16                MR. CARROLL: I would tender Mr. Boneau as an  
17      expert reservoir engineer.

18                EXAMINER CATANACH: Mr. Boneau is so  
19      qualified.

20          Q.     (By Mr. Carroll) Mr. Boneau, you are  
21      familiar with the Application of Nearburg Producing  
22      Company, are you not?

23          A.     Yes, sir.

24          Q.     You have prepared four exhibits for  
25      presentation to the Commission, have you not?



1           A.    That's correct.

2           Q.    Why don't we start with your exhibit marked  
3           Number 7?  Would you explain what you're attempting to  
4           show thereby?

5           A.    Exhibit Number 7 is intended to be a summary  
6           of the things that I'm trying to say.

7                   Yates obviously wants to drill a well in the  
8           north half itself, and thereby seeks that the Nearburg  
9           Application be denied, and I've tried to outline some  
10          reasons why the Commission might do that.

11                   Actually, I have a following exhibit that  
12          covers item number 3, item number 4 and item number 5.  
13          My reasons, some of them are pretty self-explanatory  
14          there.

15                   Number 1, the proposed location is on the  
16          Yates lease.

17                   And number 2 is that the section naturally  
18          divides into a north half owned by Yates and a south  
19          half owned by Nearburg.

20                   I want to make the point that Yates has  
21          experience with this upper Penn reservoir and talk  
22          about our gas, water and electrical systems that would  
23          handle the production from the well.

24                   And probably the most important argument is  
25          the last one, and it addresses the correlative rights

1 issue a little and the spacing units and the rules.

2 Q. All right. Would you just go ahead and move  
3 at your own pace through your exhibits, but clearly  
4 denote for the record which exhibits you're referring  
5 to as you go through?

6 A. Okay. Exhibit 8 starts with item number 3 in  
7 the Yates Experience. Yates has over a hundred wells  
8 in Dagger Draw, and in Indian Basin and Upper Penn  
9 Associated, the oil pool that we're talking about here,  
10 Yates has the three wells that have been completed as  
11 producers.

12 Exhibit Number 8 is a daily production record  
13 of the one well that is actually on production now, and  
14 you'll see that the other two wells are awaiting gas  
15 and water lines to -- before they can assume full-  
16 scale, full-time production.

17 But the Hickory ALV Number 1 in Section 17  
18 has been producing in its final operating mode, since  
19 August 11th, 1993 -- it's produced about a month, and  
20 it's making about 350 barrels of oil a day, 400 MCF of  
21 gas and about 800 barrels of water a day.

22 Yates does have experience, and we're  
23 actually producing in this pool.

24 Exhibit Number 9 talks about gas, water and  
25 electrical systems that are in place and that are

1 planned to be built.

2 The thing that makes this pool economic to  
3 develop is the handling of the water and the handling  
4 of the sour gas that comes with the oil.

5 So Yates has developed extensive gas and  
6 water handling systems in Dagger Draw, and our overall  
7 plan is to carry the gas and the water back from this  
8 Indian Basin Associated Pool to the Dagger Draw system  
9 and process it there. And Exhibit 9 is a summary of  
10 our plans and accomplishments towards doing that.

11 So before this development started, Yates had  
12 gas and water systems in place that extended from the  
13 north down to the very top of Exhibit 9 where the solid  
14 red line begins.

15 At the same time, there was electrical  
16 service available coming down from the north to the  
17 point in Township 21-23, where it says "Start Yates  
18 Electrical Line".

19 What Yates has done so far is that we have  
20 built a gas and water line to extend from the Hickory  
21 in Section 17 of 22-24, northwest to the point where  
22 they hit the Gas Company of New Mexico line, and the  
23 Hickory well is now selling gas through that Gas  
24 Company of New Mexico line. At the moment, the water  
25 from the Hickory is still being hauled.

1           Yates has also completed construction of an  
2     electrical line from the point where it says "Start  
3     Yates Electrical Line", along that dark, solid red  
4     corridor, down to the Hickory. So we have the  
5     electricity in place at the Hickory. It is producing  
6     on sub-pump. We have an outlet for the gas from the  
7     Hickory, and the water system is still not completed.

8           The solid red line from the Gas Company of  
9     New Mexico line north up to the Dagger Draw system is  
10    about six miles long, and the construction of that is  
11    about 50 percent complete, and it will be completed by  
12    about the end of September.

13          The rest of the lines on Exhibit 9 show how  
14    we are going to -- how we plan to handle the gas and  
15    water and electricity from the other wells in the  
16    field.

17          The blue lines that are kind of hashed do not  
18    exist. They go to the Walt Canyon and they go to the  
19    Pan Am Pardue, and right of ways are applied for those  
20    but those right of ways have not been granted, and  
21    those do not exist at the moment. But those are our  
22    plans.

23          The location that's the subject of this  
24    hearing is shown in Section 10 as an open circle, and  
25    it lies very close to the right of way that Yates has

1 going to the Walt Canyon, and Yates would be able to  
2 connect that Atom well to that Walt Canyon lateral  
3 quite easily.

4 I came here hoping I'd find out how Nearburg  
5 was going to be able to handle the gas, water and  
6 electricity in this area, and they did talk quite a lot  
7 about the water.

8 Maybe I missed it, but I really don't think  
9 they described how they're going to handle the gas or  
10 the electricity. And if I were them, I don't know how  
11 I'd do it, so I was interested in hearing what they  
12 said.

13 But anyway, we do have a plan and we are  
14 capable of handling everything related to developing  
15 our own acreage. So that's the point of Exhibit 9.

16 Do you want me to go to 10?

17 Q. Go to 10, please, sir.

18 A. Okay. After I made Exhibit 10, I stepped  
19 back and looked at it, and it looks like an eye chart  
20 to me, almost. But it's intended to address the waste  
21 and correlative rights issues here.

22 The main point is that in this pool you need  
23 two or more wells to drain 320 acres. The pool rules  
24 were set up in a temporary fashion with one well per  
25 160. In fact, at the hearing Nearburg argued for 40-

1 acre spacing in this pool.

2 I just don't think there's any question but  
3 that the oil wells drain less than 160, probably quite  
4 a bit less than 160.

5 So with that being the case, then a well in  
6 the northwest of the northwest, way up there in the  
7 northwest, you know, no one disputes that it's not  
8 going to drain anything in the southwest of Section 10.

9 To get the oil in the southwest of Section  
10 10, you need a well in the southwest of Section 10.  
11 And the locations and the reservoir performance of  
12 those wells, you know, is independent of how you divide  
13 the section into two spacing units, and that's what the  
14 horizontal and vertical red lines indicate.

15 In my mind, there's no waste issue involved  
16 here at all. You need a well in each quarter section  
17 to get the oil in that quarter section.

18 And in my opinion, the correlative rights  
19 issue, the other half of the equation, you know,  
20 clearly favors Yates and a north half/south half  
21 division.

22 In the west half of the section Yates has the  
23 better acreage on top of the poorer Nearburg acreage,  
24 and in the east half of the section Yates has the  
25 better acreage on top of the poorer Nearburg acreage,

1 and the way to protect correlative rights is to let  
2 Yates operate the north half in its own acreage and let  
3 Nearburg operate the south half in its own acreage.

4 Q. Mr. Boneau, do you agree with the experts  
5 from Nearburg Producing when they state that they feel  
6 that the granting of the Application will prevent  
7 waste?

8 A. No, I don't think that waste is an issue at  
9 all. The well in the northwest quarter of Section 10  
10 is only going to drain oil from the northwest quarter  
11 of Section 10.

12 Q. Mr. Boneau, do you agree with Nearburg's  
13 experts when they state that the granting of the  
14 Application will promote correlative rights -- or  
15 protect correlative rights?

16 A. No, I think I've already stated my opinion  
17 that in order to protect correlative rights, the  
18 Application should be denied.

19 Q. In fact, do you have an opinion that the  
20 granting of this Application will, in fact, infringe  
21 upon the correlative rights of Yates Petroleum?

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

23 MR. CARROLL: I would move admission of  
24 Exhibits 7, 8, 9 and 10, Mr. Examiner.

25 EXAMINER CATANACH: Exhibits 7, 8, 9 and 10

1 will be admitted as evidence.

2 MR. CARROLL: Pass the witness.

3 EXAMINER CATANACH: Mr. Bruce?

4 CROSS-EXAMINATION

5 BY MR. BRUCE:

6 Q. Now, Mr. Boneau, you stated that one well  
7 won't drain more than 160 acres. Have you -- What is  
8 that based on?

9 A. It's based on the analogy with Dagger Draw  
10 and the discussion in the field rules that took place  
11 at that hearing. It comes down to an analogy with  
12 Dagger Draw, and in Dagger Draw the drainage area is  
13 very, very much less than 160, and my opinion is that  
14 this is similar enough that the drainage is not going  
15 to be two or three -- is not going to be three or four  
16 times the drainage in Dagger Draw.

17 Q. Okay. But you haven't done any studies based  
18 on production in this pool?

19 A. No, we have one month of production data in  
20 this pool.

21 Q. Although some of the wells in Dagger Draw may  
22 drain, you know, 130, 140 acres, might they not?

23 A. That's possible, yes.

24 Q. In looking at your Exhibit 10 -- I don't know  
25 if we really need to look at an exhibit for it, but --



1 The proposed well, whether it's drilled by Nearburg or  
2 Yates, you're saying it won't drain the southwest  
3 quarter?

4 A. Yes, sir, that's what I'm saying.

5 Q. And by the same token, it will not drain the  
6 northeast quarter?

7 A. No, I think it will not drain the northeast  
8 quarter.

9 Q. So you're going to have to drill another well  
10 up there, regardless --

11 A. Yes, I expect that we will drill a well --

12 Q. -- in order to drain and if geology permits,  
13 not taking Mr. May's discussion out of this, but...

14 A. You would need another well in the northeast  
15 quarter to drain the reserves in the northeast quarter,  
16 yes, sir.

17 Q. Okay. Now, looking at this exhibit, on the  
18 left-hand side you have north-half and south-half units  
19 under which Nearburg would get one well in which it  
20 owns a hundred percent and Yates would get one well in  
21 which it owns a hundred percent?

22 A. Yes, sir.

23 Q. What's the difference between that and  
24 getting two wells in which each party owns 50 percent?  
25 I mean what's the adverse effect on Yates's correlative

1 rights?

2 A. The only difference -- Well, the only way  
3 that 50 percent ownership of two wells is equivalent is  
4 if the wells are exactly the same performance level,  
5 value, et cetera. That's unlikely. The most likely  
6 scenario is that one is better than the other.

7 If ours is better, if the one in the  
8 northwest is better than the one in the southwest, then  
9 by doing what you want to do, you're stealing from us.

10 If the one in the southwest turns out to be  
11 better than the one in the northwest and we do what you  
12 want to do, we're stealing from you.

13 The way to protect correlative rights is to  
14 -- us own the well on our acreage and you own the well  
15 on your acreage, and then we each get what our well is  
16 capable of producing.

17 I really did try to answer the question.

18 Q. Maybe you did, but I didn't fathom the  
19 answer.

20 Will the northeast quarter, in your opinion,  
21 be drained to any extent by the Walt Canyon "AMA"  
22 Number 1 well?

23 A. My opinion is, very little. And the way the  
24 Walt Canyon is performing now we may drain some water  
25 off the northeast quarter, but we're not going to drain

1 very much oil.

2 No, I don't think so. It looks like --

3 Q. That answers --

4 A. -- the Walt Canyon is pretty low.

5 Q. That answers my question.

6 In looking at your Exhibit 9, I think we  
7 discussed this last time, and I just -- By "last time",  
8 I mean at the prior Nearburg-Yates contested hearing.  
9 Am I understanding your terminology here that the blue  
10 lines -- Those haven't been built yet?

11 A. Those have not been built. The red lines  
12 exist or are under active construction right now.

13 Q. Okay. Now, if these lines are built -- Who  
14 is going to be able to use these lines? I mean, is it  
15 only Yates-operated wells, or is it wells operated by  
16 other parties?

17 A. The lines can only be used by Yates-operated  
18 wells. Otherwise, we have common-carrier problems.

19 Q. So regardless of what happens, Nearburg is  
20 going to have to build lines in here to handle its gas,  
21 water, electricity, anyway?

22 A. Nearburg is going to have to build lines to  
23 do something with the gas from its wells, yes, sir.

24 Q. And I think you're familiar with the wells in  
25 this area. Over in Section 11 there's the Chama

1 Federal well?

2 A. It's in the northeast quarter, as I remember.

3 Q. Correct, correct. Now, that was a gas well  
4 that produced for some time; do you agree? Or do you  
5 recall?

6 A. I know that it produced.

7 Q. Okay. So if it produced, there must have  
8 been a gas hookup over in that area, right?

9 A. Yes, there is another Gas Company of New  
10 Mexico line that is more or less along the right edge  
11 of this exhibit, and a little finger of it sticks out  
12 into this exhibit and goes to the well you're talking  
13 about, yes.

14 MR. BRUCE: I don't have anything further,  
15 Mr. Examiner.

16 EXAMINER CATANACH: I have one question  
17 that's probably not related to -- not completely  
18 related to --

19 MR. STOVALL: It's about oil and gas.

20 EXAMINER CATANACH: Yeah.

21 MR. STOVALL: Okay, it's related.

22 EXAMINATION

23 BY EXAMINER CATANACH:

24 Q. Mr. Boneau, the well in the northwest quarter  
25 of Section 10, do you plan on drilling that just to a

1 depth sufficient to test the Cisco/Canyon?

2 A. That's my understanding, yes, sir.

3 EXAMINER CATANACH: Okay, that's all I have.

4 The witness may be excused.

5 MR. STOVALL: Wait a minute, I have one  
6 question.

7 EXAMINER CATANACH: All right.

8 EXAMINATION

9 BY MR. STOVALL:

10 Q. Mr. Boneau, the -- it seems to me -- It  
11 sounds like all the technical people agree that the  
12 best part of this section is in the northwest quarter,  
13 that the southwest quarter is probably productive and  
14 would justify a well, and that the east half is  
15 marginal and you need a little more information before  
16 anybody can make a decision about drilling a well  
17 anywhere in the east half; is that correct?

18 Would you agree that that's kind of a  
19 consensus, more or less?

20 A. I'd agree with that, with the proviso that my  
21 own personal opinion is that we'll have a well in the  
22 northeast quarter.

23 Q. Okay. Well, that kind of leads to my next  
24 question, then.

25 Okay, if you -- Now, it appears that Yates

1 has more faith in the northeast quarter than Nearburg  
2 does at this point, that there's probably more oil in  
3 the northeast than -- they think there's more oil in  
4 the northeast than Nearburg thinks there is.

5 A. Yes, and that's basically related to the --  
6 where the water-oil contact really is.

7 Q. Okay. If that's the case and a well were  
8 drilled with standup units and, say, Yates elected to  
9 drill a well in the northeast, you would have to bring  
10 Nearburg into that well and then -- either through a  
11 communitization or force-pooling -- and then share that  
12 with them; is that right?

13 A. If you grant the west half, yes, that's  
14 right.

15 Q. Okay. So then --

16 A. And like I mentioned, we'd be -- we'd feel  
17 that in both those standup spacing units that we had  
18 the better 160.

19 Q. And if the laydown units are granted, then  
20 Yates can make a decision out of its own pocketbook and  
21 with its own reserves on the --

22 A. On the north --

23 Q. -- northeast quarter, and then Nearburg can  
24 do the same in the southeast; is that correct?

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

1 Q. Would that constitute waste?

2 Would Nearburg, say, be forced to drill a  
3 well that might not recover sufficient reserves in that  
4 case, an uneconomic well, if the laydowns are granted?

5 A. I don't follow that logic.

6 We would -- Our well in the northeast quarter  
7 would be in the north half of the northeast quarter,  
8 and it would not drain the southeast quarter.

9 We wouldn't be taking any of their oil if  
10 they had any; they would simply have to make a decision  
11 as to whether the oil in the southeast quarter  
12 justified drilling themselves a well in the southeast  
13 quarter.

14 MR. STOVALL: I don't think I have any  
15 further questions.

16 EXAMINER CATANACH: Anything further?

17 MR. CARROLL: I have nothing further from  
18 this witness, and that completes my presentation.

19 EXAMINER CATANACH: Okay, the witness may be  
20 excused.

21 Gentlemen, would you like to give brief  
22 closing statements?

23 (Off the record)

24 MR. CARROLL: I'll be briefer than I'm sure  
25 Mr. Bruce will be.

1           This Commission is empowered to act only in  
2 the interests of preventing waste and protecting  
3 correlative rights.

4           I think the evidence is conclusive beyond all  
5 shadow of any doubt that there is no issue of waste, as  
6 shown by Nearburg in its case today.

7           The only issue for this Commission to look at  
8 is the protection of correlative rights, and what  
9 Nearburg proposes and I think Mr. Boneau in his most  
10 inimitable way -- he said that there's no way you can  
11 win by granting -- The way this reservoir is set up,  
12 there's no way this Commission can win with respect to  
13 correlative rights.

14           If the north half is better than the south  
15 half, then we're stealing from Yates.

16           If the south half is better than the north  
17 half, we're stealing from Nearburg.

18           In no situation can the Commission, by the  
19 granting of this Application, protect correlative  
20 rights. I

21           think by allowing this acreage to be  
22 developed along lease lines, that is how correlative  
23 rights can best be protected, and I think this is how  
24 this case can most -- should be decided on.

25           The one other issue that I had intended to



1 bring up, though I don't think that we even need to  
2 really get to it other than to say that I think this  
3 Application as filed by Nearburg is abuse of the force-  
4 pooling statute.

5 I don't think this statute was ever  
6 encountered when a company has a full proration unit  
7 under lease to be able to bootstrap itself into  
8 somebody else's lease, because the other guys got a  
9 better lease. That was never the intent of this  
10 statute.

11 I think that's what Nearburg is using it for,  
12 and I think that's a second reason to deny the  
13 Application.

14 EXAMINER CATANACH: Thank you, Mr. Carroll.  
15 Mr. Bruce?

16 MR. BRUCE: Let me bootstrap myself up here.

17 Mr. Examiner, the parties generally agree  
18 that the west half contains the productive acreage.  
19 And under the statute, Section 70-2-17 B, to the extent  
20 possible a spacing unit should comprise productive  
21 acreage.

22 The geology shows that the productive acreage  
23 is the west half.

24 We believe the most orderly way to develop  
25 this section is to drill the first well in the

1 northwest quarter and then review the well data and  
2 pick a location for the second well.

3 That location is probably the southwest  
4 quarter.

5 Drilling wells in this manner will prevent  
6 drilling two wells more or less simultaneously, one in  
7 the northwest quarter and one in the southwest quarter,  
8 which may well happen if Nearburg's Application is  
9 denied.

10 Granting Nearburg's Application would protect  
11 each party's correlative rights, it will prevent waste  
12 by preventing the drilling of unnecessary wells, and I  
13 think that's been clear in Nearburg's testimony, and it  
14 will prevent competitive development, as occurred in  
15 Dagger Draw.

16 Thank you.

17 MR. STOVALL: Mr. Bruce, I have one legal  
18 question for you --

19 MR. BRUCE: Sure.

20 MR. STOVALL: -- coming up out of -- a little  
21 bit out of Mr. Carroll's argument.

22 If this Application is denied, from a  
23 lawyer's standpoint, not from an engineering  
24 standpoint, will Nearburg's correlative rights be  
25 protected in that they don't have an opportunity to

1 drill?

2 And the answer is in the context of a force-  
3 pooling, and the force-pooling statute is designed to  
4 ensure that you can consolidate acreage --

5 MR. BRUCE: Sure.

6 MR. STOVALL: -- so that you don't get wells  
7 drilled in a pattern because you can't bring acreage  
8 together.

9 Now, is force-pooling necessary here to  
10 enable Nearburg to form a standard unit in order to --

11 MR. BRUCE: I mean, it's apparent they can  
12 form a standard unit comprised of the south half.

13 But is that the geologically and economically  
14 wise thing to do?

15 MR. STOVALL: Well, I'm not going to ask you  
16 that. I'm not going to venture an opinion on that.  
17 Neither of us --

18 MR. BRUCE: But I -- That's the basic issue,  
19 that's the basic reason behind Nearburg's Application.

20 MR. STOVALL: That's my last question of Mr.  
21 Bruce.

22 EXAMINER CATANACH: Is there anything  
23 further?

24 MR. CARROLL: I have Nothing further.

25 EXAMINER CATANACH: There being nothing

1 further, Case 10,823 will be taken under advisement.

2 (Thereupon, these proceedings were concluded  
3 at 3:35 p.m.)

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CERTIFICATE OF REPORTER

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

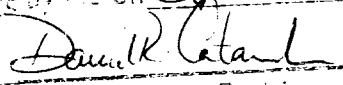
I, Steven T. Brenner, Certified Court  
 Reporter and Notary Public, HEREBY CERTIFY that the  
 foregoing transcript of proceedings before the Oil  
 Conservation Division was reported by me; that I  
 transcribed my notes; and that the foregoing is a true  
 and accurate record of the proceedings.

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 October 2nd, 1993.

  
 STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 1994

I do hereby certify that the foregoing is  
 a complete record of the proceedings before  
 the Examiner hearing of the Oil Conservation  
 Division on September 9 1993  
  
 Oil Conservation Division