

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

CASE 9933

EXAMINER HEARING

IN THE MATTER OF:

Application of Amerind Oil Company Limited
Partnership for Compulsory Pooling, Lea County,
New Mexico

TRANSCRIPT OF PROCEEDINGS

BEFORE: DAVID R. CATANACH, EXAMINER

STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

May 2, 1990

ORIGINAL

A P P E A R A N C E S

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* * *

1 WHEREUPON, the following proceedings were had
2 at 1:20 p.m.:

3 EXAMINER CATANACH: We'll call the hearing
4 back to order at this time and call Case 9933, the
5 Application of Amerind Oil Company Limited Partnership
6 for compulsory pooling, Lea County, New Mexico.

7 Are there appearances in this case?

8 MR. CARR: May it please the Examiner, my
9 name is William F. Carr with the law firm Campbell and
10 Black, P.A., of Santa Fe.

11 I represent Amerind, and I have two
12 witnesses.

13 EXAMINER CATANACH: Any other appearances?

14 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin
15 of the Santa Fe law firm of Kellahin, Kellahin and
16 Aubrey.

17 I'm appearing today on behalf of Grand
18 Production Company and TEX/CON Oil and Gas Company.
19 That's T-E-X slash C-O-N.

20 EXAMINER CATANACH: TEX/CON --

21 MR. KELLAHIN: -- Oil and Gas Company.

22 EXAMINER CATANACH: Any other appearances?

23 Will the witnesses please stand and be sworn
24 in?

25 (Thereupon, the witnesses were sworn.)

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BILL SELTZER,

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

DIRECT EXAMINATION

BY MR. CARR:

Q. Would you state your full name and place of
residence?

A. My name is Bill Seltzer, Midland, Texas.

Q. Mr. Seltzer, by whom are you employed and in
what capacity?

A. I'm employed by Amerind Oil Company as a land
consultant.

Q. Have you previously testified before this
Division?

A. Yes, I have.

Q. Were your credentials as a landman accepted
at that time and made a matter of record?

A. Yes.

Q. Are you familiar with the Application filed
in this case on behalf of Amerind Oil Company?

A. Yes, I am.

Q. Are you familiar with the subject area?

A. Yes.

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

1 EXAMINER CATANACH: They are.

2 Q. (By Mr. Carr) Mr. Seltzer, would you briefly
3 state what Amerind seeks with this Application?

4 A. Amerind seeks an Order to pool all the
5 mineral interests -- all oil interest -- from the
6 surface to the base of the Strawn Formation, covering
7 the west half of the southeast quarter of Section 5,
8 Township 17 south, Range 37 East, Lea County, New
9 Mexico.

10 Q. Have you prepared certain exhibits for
11 presentation in this hearing?

12 A. Yes, we have.

13 Q. Would you refer to what has been marked as
14 Amerind Exhibit Number 1, identify this exhibit and
15 then review it for the Examiner?

16 A. This is a land plat showing Section 5, the
17 south half of Section 5, together with a -- the
18 proration unit dedicated to the proposed well as
19 outlined in yellow, also showing the footage of the
20 well.

21 Q. And is this well at a standard location?

22 A. This is a standard location.

23 Q. What is the primary objective in this well?

24 A. To test Strawn Formation.

25 Q. Would you now refer to what has been marked

1 Amerind Exhibit Number 2, identify and review that,
2 please?

3 A. This is a list of the owners of record who
4 own an interest in the proration unit.

5 Q. And you do not indicate on that exhibit that
6 Grand Production Company is a record owner; is that
7 correct?

8 A. No, they are not a record owner.

9 Q. What is the percentage of acreage that has
10 been voluntarily committed to the drilling of this well
11 at this time?

12 A. About 71 percent.

13 Q. Could you refer to what has been marked as
14 Amerind Exhibit Number 3 and identify that, please?

15 A. That's an AFE for the drilling of the
16 proposed test well.

17 Q. And what are the dryhole and completed well
18 costs as reflected on this AFE?

19 A. We have a dryhole of \$335,000 for completion
20 costs of \$285,000.

21 Q. Are these costs in line with what's being
22 charged by other operators in the area for similar
23 wells?

24 A. Yes, sir, it is.

25 MR. KELLAHIN: Objection, Mr. Examiner, to

1 the question and to the answer. There's no foundation
2 laid that this witness as a landman can qualify about
3 the accuracy of Mr. Leibrock's AFE that he has
4 submitted to the parties.

5 Q. (By Mr. Carr) Mr. Seltzer, I'll ask a few
6 other questions on that if Mr. Kellahin wants.

7 Mr. Seltzer, in your work as a landman are
8 you called upon to become familiar with AFE's for not
9 only Amerind but other operators in the area?

10 A. Yes, I am.

11 Q. And in your work in the area have you also
12 been involved with putting together the land portion of
13 cases that involved not only Amerind wells but other
14 wells that are drilled to the Strawn Formation?

15 A. Yes, I have.

16 Q. And in your efforts to obtain the voluntary
17 joinder of other interest owners in these wells, are
18 you called upon to provide and submit AFE's to other
19 operators as part of your effort to obtain their
20 joinder?

21 A. That's correct.

22 Q. And in doing that, have you become familiar
23 with the figures in those operating agreements, both
24 for dryhole costs and completed well costs?

25 A. I am.

1 Q. And do these figures compare -- How do these
2 figures compare to the costs that are utilized in other
3 AFE's that have been sent -- utilized for Strawn wells
4 in the area?

5 MR. KELLAHIN: Objection, Mr. Examiner, same
6 foundation -- There's a lack of foundation to support
7 this witness testifying on this element.

8 MR. CARR: Mr. Examiner, all I would state is
9 that Mr. Seltzer is testifying that to his knowledge
10 these figures are in line with what other operators are
11 using, he's testified that he has worked for other
12 operators and supplied AFE's, and I think he's
13 qualified to answer the question.

14 EXAMINER CATANACH: He's not testifying as to
15 the accuracy of these figures, or just a basis of
16 comparison?

17 MR. CARR: He's testifying that these figures
18 are in line with what other interest owners in the area
19 are utilizing.

20 EXAMINER CATANACH: I'll allow the question.

21 Q. (By Mr. Carr) Mr. Seltzer, will you refer to
22 what has been marked as Exhibit Number -- would you --
23 Before we go to the exhibits, could you summarize for
24 Mr. Catanach the efforts you have made to obtain
25 voluntary joinder in these wells, other interest owners

1 in this well?

2 A. I have been putting this acreage together
3 since 1986. Some leases I have renewed three times.
4 In my efforts to put these together, I have recently
5 purchased oil and gas leases on 20 separate items,
6 interest owners in there.

7 In compiling these leases, I ran into BP, who
8 is now TEX/CON, owning a quarter interest in this
9 section, south half of Section 5. I started contacting
10 TEX/CON back in November of 1989, asking them what they
11 were going to do with their acreage, and they said they
12 can't talk to me about it.

13 I talked to Mr. Jim Sikes with BP, and Mr.
14 George Banich of BP, and they couldn't talk to me in
15 this regard, that they had something working in the
16 hold area, not particularly this one, but this came up
17 in a section of 20 of 17 South, Range 37 East, where
18 I'm also putting together another farmout agreement for
19 Osborn Oil Company, Osborn heirs, out of San Antonio,
20 Texas.

21 I have been trying to get them to do
22 something since November, and they keep putting me off.
23 They say, Well, call back in 30 days. I call back in
24 30 days. They say, Well, we still can't talk to you.

25 This goes on up until around November --

1 March of this year. Well, my leases are going to
2 expire. We've spent good money buying these leases,
3 and I've got some short-term leases in there that I'm
4 going to need to protect.

5 So I checked the records, and according to my
6 counsel I am to give notice to the record owner in Lea
7 County. Grand Production is not a record owner in the
8 south half of Section 25, and TEX/CON is.

9 Q. Mr. Seltzer, how recently have you checked
10 the records in Lea County concerning the record title
11 owners in the tract which is the subject of today's
12 pooling hearing?

13 A. As of seven o'clock yesterday morning.

14 Q. Now, does Exhibit Number 2 identify the
15 interest owners as reflected by the -- by the records
16 of Lea County?

17 A. Yes.

18 Q. What efforts have you made to obtain
19 voluntary joinder of the interest owners set out on
20 that exhibit? And in this regard, I would ask you to
21 refer to what has been marked as Amerind Exhibit Number
22 4.

23 A. I've written letters to the owners who I have
24 not -- who I have not -- to the oil and gas leases.

25 Mr. Charles Read is one. That letter went

1 out on the -- April 18th. I also talked to Charlie
2 on -- by phone on March the 23rd, offered to lease,
3 join or farm out, and he wasn't interested.

4 I talked to Mr. Bill Sanders who's
5 representing his mother who is now deceased, Doris
6 Sanders, who runs a liquor store in Midland, on that
7 same date.

8 I talked to Norm Stevens in Roswell, the
9 representative of Don Blackmore Estate in Roswell, on
10 that date, and the Currys who -- Mr. Curry down in
11 Houston, who represents his mother-in-law, his wife and
12 her twin sister, without any response.

13 And I followed those up with certified
14 letters, return receipt requested, which are -- which
15 is this Exhibit 4.

16 Q. Have you also communicated in writing with
17 TEX/CON?

18 A. Yes, it's here. And on April the 4th is a
19 certified letter to TEX/CON requesting them to join or
20 farm out.

21 Q. Now, in your opinion, Mr. Seltzer have you
22 made a good-faith effort to locate the individuals that
23 are record title owners in this tract?

24 MR. KELLAHIN: Objection to the question, Mr.
25 Examiner. He's asked this witness to reconfirm whether

1 or not his efforts are in good faith. I suggest to you
2 that is what you decide in this case, and a self-
3 serving answer such as Mr. Carr attempts to solicit
4 from this witness serves no useful purpose in this
5 hearing.

6 MR. CARR: I will stand on the question as
7 asked him and ask you to rule on Mr. Kellahin's
8 objections. Mr. Seltzer has been in the business for
9 years, and we're asking him to state whether or not he
10 has made a good faith-effort to find these individuals.

11 (Off the record)

12 MR. CATANACH: We'll just go ahead and allow
13 the question, allow the point.

14 Q. (By Mr. Carr) That question was, Have you
15 made a good-faith effort to obtain voluntary joinder of
16 interest owners in the well?

17 A. Yes, sir.

18 Q. Would you refer back to Exhibit Number 2 and
19 advise the Examiner who has not at this time
20 voluntarily committed to the well?

21 A. TEX/CON Oil and Gas, Doris Sanders Estate,
22 Charles B. Read, Margaret Fitzgerald, Anne Fitzgerald
23 Dechant, Joan Fitzgerald Curry.

24 Q. Has an operating agreement been prepared for
25 those who have voluntarily joined?

1 A. We are in the process of preparing that now.

2 Q. And does that operating agreement reflect
3 overhead and administrative costs to be incurred while
4 drilling the well?

5 A. Yes.

6 Q. And what are those numbers?

7 A. It's \$5000 for drilling the well, \$500 for
8 producing.

9 Q. Have you been called upon in your role as a
10 landman to review other operating agreements for
11 drilling Strawn wells in this area?

12 A. Yes, I have.

13 Q. And how do these figures compare with the
14 figures in those operating agreements?

15 A. These figures are in line with those figures
16 on other operating agreements.

17 Q. Do you recommend that these figures be
18 incorporated into any Order which results from this
19 hearing?

20 A. Yes.

21 Q. Does Amerind seek to be designated operator
22 of the subject well?

23 A. Yes.

24 Q. Were Exhibits -- Let me also hand you what
25 has been marked as Exhibit Number 5, and I'd ask you if

1 that is an affidavit from Campbell and Black which
2 confirms that notice of today's hearing has been
3 provided to those interest owners identified on Exhibit
4 2 who have not joined in the well?

5 A. This is.

6 Q. Were Exhibits 1 through 5 either prepared by
7 you or compiled under your direction and supervision?

8 A. Yes, they were.

9 MR. CARR: At this time, we'd move the
10 admission of Exhibits 1 through 5.

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

13 MR. CARR: That concludes my direct
14 examination of Mr. Seltzer.

15 EXAMINER CATANACH: Mr. Kellahin?

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

17 CROSS-EXAMINATION

18 BY MR. KELLAHIN:

19 Q. Mr. Seltzer, let me direct your attention,
20 sir, to Exhibit Number 4. Do you have that?

21 Am I correct in understanding that this
22 package of correspondence represents all of your
23 written efforts with the various working-interest
24 owners in the west half of the southeast of 5 to create
25 on a voluntary basis their commitment for the drilling

1 of this specific well?

2 A. As pertaining to those people who are cited
3 in this case.

4 Q. Okay. Are there other interest owners for
5 which you have already received an agreement?

6 A. Yes.

7 Q. And those interest owners, then, are included
8 in the 71 percent?

9 A. Yes.

10 Q. As shown on Exhibit Number 2?

11 A. Yes.

12 Q. When we look specifically at this 80-acre
13 tract, can you approximate for me how many different
14 individuals have working interests in that tract?

15 A. About 25.

16 Q. And that's specific as to this 80-acre tract?

17 A. Well, the title is common throughout the
18 south half, except for that part which lies on the west
19 side of the railroad track, which is about 52 acres.

20 Q. With the exception --

21 A. Go ahead.

22 Q. When I look only at the 80 acres that would
23 be dedicated to this well --

24 A. It includes that.

25 Q. Yes, sir. When I look at that 80-acre tract,

1 are we dealing with interest owners that have an
2 undivided interest in that 80 acres?

3 A. Yes, sir.

4 Q. As opposed to various portions?

5 A. Well, let me put it -- There's about 25
6 different mineral owners in that 80-acre tract. Is
7 that what you want?

8 Q. Yes, sir. The follow-up question, though, is
9 whether or not they derive their title from the same
10 base ownership, or whether the -- Are they sharing
11 undivided in the 80 acres or --

12 A. Yes, it's all undivided.

13 Q. Okay.

14 A. I thought that was understood, Tom.

15 Q. Exhibit Number 4, then, represents the
16 correspondence as it applies to those parties as of
17 today who have a working interest for whom you do not
18 have agreement?

19 A. Record owner, yes.

20 Q. Okay. In doing your work, Mr. Seltzer, do
21 you not often deal with parties that have a farmout
22 interest from somebody that has a record title
23 interest?

24 A. Well, I don't -- Run that by again, Tom?

25 Q. Yes, sir. You know, when -- If you're made

1 aware --

2 A. Uh-huh.

3 Q. -- that a lessee or a working-interest owner
4 has by contract committed his interest, his working
5 interest, to someone else by a farmout agreement --

6 A. Uh-huh.

7 Q. -- what then do you do?

8 A. Well, I try to get them to join.

9 Q. Who do you try to get to join?

10 A. Well, I either get the record owner to join
11 or the other people to join.

12 Q. The other people in this instance would be
13 Grand --

14 A. I don't know they have a farmout.

15 Q. They've told you that, haven't they?

16 A. No, they haven't. They said they're working
17 on something in the area.

18 Q. Who's "they"?

19 A. A guy named Tony Villa, I believe his name
20 is.

21 But I have talked to George Banich and Jim
22 Sikes, and I can't get any answers from them. They
23 said, Well, we can't talk to you about this thing.

24 Q. When we look at your letter in the package
25 Exhibit 4 --

1 A. Uh-huh.

2 Q. -- the one that you addressed to TEX/CON --

3 A. Uh-huh.

4 Q. -- there's a penciled-in date.

5 A. Uh-huh.

6 Q. Is that your handwriting?

7 A. Yes, it is.

8 Q. That represents the date that you sent the

9 letter?

10 A. Yes.

11 Q. This is your first written proposal, then, to

12 TEX/CON --

13 A. Yes.

14 Q. -- for the formation of this spacing unit in

15 this 80-acre tract for the well as proposed, the Strawn

16 test?

17 A. Uh-huh. You will also notice that the slip

18 over here is also marked that date by my secretaries.

19 Q. Yes, sir.

20 A. And you'll notice when they received it, the

21 9th, too.

22 Q. They received it the 9th, didn't they?

23 A. Uh-huh.

24 Q. Let's look at Mr. Carr's affidavit of May

25 1st. It's Exhibit Number 5. Do you see that? If

1 you'll turn and his exhibit says that on the 10th, one
2 day later, he's sending them notification that he's
3 going to force-pool. Do you see that?

4 A. Uh-huh.

5 Q. Does that represent to you a good-faith
6 effort to get TEX/CON to commit their working interest
7 to this property when you force-pool them one day after
8 they've received the letter by which you asked them to
9 participate?

10 A. Well, they were aware of all of this going
11 on, Tom. I think six months is sufficient time.

12 Q. With this letter, did you provide them with
13 an AFE for the well?

14 A. Yes.

15 Q. That's the same AFE that's shown --

16 A. Same AFE --

17 Q. -- as Exhibit Number 3?

18 A. Yes. Everybody got the same AFE.

19 Q. Is there a drilling contract to commit a
20 contractor to the drilling of the well to the 11,000-
21 foot depth at \$13 a foot?

22 A. Is there a drilling contract?

23 Q. Yes, sir.

24 A. I will have to defer that question to Mr.
25 Leibrock, because I don't let the contracts.

1 Q. Do you have any involvement in the
2 negotiation of and the selection from various drillers
3 of the --

4 A. No, I do not.

5 Q. Okay. Can you compare this to any of the
6 actual costs of any other well drilled to this depth in
7 the immediate area in the last 24 months?

8 A. Yes, we can. But I want to defer that to Mr.
9 Leibrock, but I think you'll find Amerind's AFE and
10 actual cost are way below the -- any other operator in
11 this area, and they have drilled some 20 to 25 wells in
12 this area and have been pretty successful. Probably
13 one of the most active operators in the Strawn
14 formation in south -- in this Lovington area.

15 Q. Within which percentage of degree of accuracy
16 do the AFE's meet the actual cost expenditures for
17 those wells?

18 A. Pretty close to what it will be.

19 Q. A hundred percent?

20 A. Uh-huh.

21 Q. So that my clients can rely upon this AFE as
22 representing the actual cost of this well for drilling
23 and completing and cannot expect, nor should you
24 anticipate, that they will pay in excess of this
25 amount?

1 A. I don't think you can answer that question.

2 Q. Well, if this is like the others that your
3 company has done --

4 A. Well, you're looking at unforeseen things,
5 Tom. You know that.

6 Q. Well, that's what I'm trying to ask, Mr.
7 Seltzer.

8 A. No, but this is reasonable. You know that's
9 reasonable.

10 Q. And I'm testing the reasonableness of --

11 A. It is reasonable.

12 Q. But you can't quantify it in terms of a
13 percent?

14 A. Well, I'd say it is reasonable in the area.

15 Q. Your letter goes on and describes that if the
16 party desires to join, they'll execute the AFE and
17 return it to you, and then you'll prepare the operating
18 agreement for execution?

19 A. That's right.

20 Q. Is that your practice?

21 A. Yes.

22 Q. You don't tender to a party that you're --

23 A. No.

24 Q. You don't even know what the question is, Mr.
25 Seltzer; you need to wait for it.

1 A. Well, I know what you're going to ask.

2 Q. All right, what was I going to ask?

3 A. You were going to ask, Don't you send an
4 operating agreement with the AFE? and I said no. I'll
5 do it later.

6 Q. Well, why do you do that?

7 A. That's my practice.

8 Q. What happens if there's a disagreement
9 between you and this party?

10 A. We'll resolve it.

11 Q. And what if you can't resolve it? What
12 happens then?

13 A. Well, we'll usually come right up here.

14 Q. You're here too soon.

15 A. I know.

16 Q. How can you be here when you haven't
17 submitted them an operating agreement by which you can
18 determine if there's any disagreement?

19 A. I don't anticipate one.

20 Q. So then, can we delete TEX/CON from the
21 operation of this forced-pooling?

22 A. If they show us where they have that
23 interest. But nobody has showed me anything, and
24 there's nothing on the record showing that Grand has
25 any record title.

1 Q. I didn't make myself clear. I said in
2 reference to TEX/CON --

3 A. Okay.

4 Q. -- can we dismiss them now from this forced-
5 pooling hearing?

6 A. No.

7 Q. Why not?

8 A. No, they're record owners.

9 Q. I concede they're a record owner. You've
10 submitted to them an AFE. If they execute the AFE, is
11 that all you require in order to avoid putting them
12 under the forced-pooling order? Is that all you want?

13 A. No.

14 Q. What else do you want?

15 A. I want them to join.

16 Q. And how will they indicate to you a voluntary
17 agreement and their joinder in the well?

18 A. They can write me a letter and say they've
19 joined, and sign the AFE.

20 Q. And that's all they need to do?

21 A. That's all they need to do.

22 Q. You don't require them to execute an
23 operating agreement?

24 A. No.

25 Q. When is this well proposed to be commenced,

1 Mr. Seltzer?

2 A. Before the expirations of my leases, which
3 will start going out in the latter part of the summer.

4 Q. What's your soonest expiration on a lease?
5 Do you recall?

6 A. I'm going to say probably the last part of
7 August.

8 Q. How big a percentage interest in the spacing
9 unit would you lose if you failed to spud the well by
10 that date?

11 A. I haven't figured that out, Tom.

12 Q. In terms of other choices, other than
13 joining, I believe you have offered to TEX/CON the
14 opportunity to farm out their interest?

15 A. If they want to.

16 Q. On a 75/25 percent?

17 A. That's right.

18 Q. Is that the same --

19 A. -- that we did everybody else.

20 Q. Yes, sir. You're pretty good at this, Mr.
21 Seltzer, you --

22 A. I've been in the business 40 years, Tom.

23 Q. Yes, sir. And do you find other companies
24 doing that, that they'll give you an AFE --

25 A. Yeah.

1 Q. -- and want you to sign that, and not expect
2 you to sign an operating agreement?

3 A. I haven't had any trouble so far.

4 Q. Describe for me, Mr. Seltzer, what if any
5 conversations that you recall that occurred between you
6 and anyone involved with TEX/CON subsequent to them
7 receiving your proposal.

8 A. None.

9 Q. Okay.

10 A. They haven't called me. They haven't
11 returned any of my calls.

12 Q. Who first proposed the drilling of this well
13 in this spacing unit? Do you remember?

14 A. We did.

15 Q. And how did you do that?

16 A. By this letter right here.

17 Q. Okay. You don't recall receiving a letter
18 from Grand in March of 1990 proposing the formation of
19 this spacing unit for the drilling of the well?

20 A. I don't believe I do.

21 Q. And have you had any further correspondence
22 or telephone conversations or other contacts with the
23 Doris Sanders Estate since sending the letter?

24 A. I have tried to reach Bill Sanders by phone
25 on about three occasions, and he had -- On one occasion

1 he said, I will call you back. He has not called me
2 back.

3 Q. And since your letter to Charlie Read, have
4 you had any further contacts with Mr. Read?

5 A. No, I haven't.

6 Q. And the Fitzgerald-Curry interests that are
7 shown since your letter, have you had any contacts --

8 A. No.

9 Q. -- with any of them?

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

11 MR. CARR: Nothing further on redirect.

12 EXAMINATION

13 BY EXAMINER CATANACH:

14 Q. Mr. Seltzer, it's your testimony that you've
15 had extensive conversation with TEX/CON prior to the
16 April 4th letter; is that correct?

17 A. Yes, sir. I've been trying to get TEX/CON to
18 do something since November of last year in Section 20,
19 and they brought up other areas. They said, We can't
20 talk to you about it.

21 Q. Now, in your conversation with TEX/CON, did
22 you advise them what you wanted to do, what you planned
23 to do?

24 A. I planned on drilling -- getting farmouts in
25 the north half of Section 20 to drill four San Andres

1 wells. And they said, Well, we can't do anything about
2 it.

3 Q. But did you advise them that you wanted to
4 form this 80-acre proration unit for this well?

5 A. I had talked to them about -- They said, What
6 are you going to do with your acreage in the south half
7 of Section 5? You beat us to it all.

8 And I said, Well, I've been leasing this
9 stuff for the last -- since 1986. I just bought over
10 half of it since August of last year. I said, We're
11 going to drill a well up there. What are you all going
12 to do with your acreage? Do you want to join us or
13 farm out?

14 Well, we'll have to wait till that time. We
15 can't talk about it now.

16 Q. Now, their interest is all the same in the
17 south half of that section?

18 A. Yes, sir.

19 Q. So they were aware that you wanted to drill a
20 well in the south half of that section?

21 A. Yes, sir.

22 EXAMINER CATANACH: I have no further
23 questions of the witness.

24 He may be excused.

25 MR. CARR: At this time we call Mr. Leibrock.

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ROBERT C. LEIBROCK,

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

DIRECT EXAMINATION

BY MR CARR:

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

A. My name is Robert C. Leibrock.

Q. Mr. Leibrock, where do you reside?

A. Midland, Texas.

Q. By whom are you employed, and in what
capacity?

A. I'm a partner in Amerind Oil Company Limited
Partnership.

Q. Have you previously testified before the Oil
Conservation Division?

A. Yes, sir.

Q. And in that prior testimony, were you
qualified as an expert witness?

A. Yes, sir.

Q. And how were you qualified? As an engineer?

A. Yes, as a petroleum engineer.

Q. Are you familiar with the Application filed
in this case on behalf of Amerind Oil Company?

A. Yes, sir.

1 Q. And are you familiar with the area and the
2 proposed well?

3 A. Yes, sir.

4 MR. CARR: Are the witness's qualifications
5 acceptable?

6 EXAMINER CATANACH: They are.

7 Q. (By Mr. Carr) Mr. Leibrock, have you
8 prepared certain exhibits for presentation in this
9 hearing?

10 A. Yes, I have.

11 Q. Would you refer to what has been marked for
12 identification as Amerind Exhibit Number 6?

13 A. Yes, Amerind Exhibit 6 is the montage showing
14 the structure map on top of the Strawn Lime on the
15 right-hand side and a cross-section on the remainder of
16 the exhibit.

17 Q. Would you refer to this exhibit and, using
18 this exhibit, explain to the Examiner what you perceive
19 to be the risk involved in drilling a Strawn well at
20 this location?

21 A. Yes, if I could direct your attention to the
22 structure map, you will note first, down in the lower
23 left-hand corner, the Midway Strawn Field, which is not
24 labeled as such but consists of the wells in Section 8
25 only, and the wells are denoted as shown on the legend

1 by concentric circles with a solid center, and Strawn
2 dry holes with the dryhole symbol.

3 Then the remainder of the Strawn producers
4 shown on the map are in several different fields in the
5 Lovington Strawn trend from the northeast Lovington
6 Penn Field on the northwest, the West Casey Strawn and
7 the Shipp Strawn Fields.

8 The Midway Field which I noted a moment ago
9 in Section 8 was originally developed as a Devonian
10 Field, primarily, a structural Devonian trap. And in
11 the course of drilling through Devonian Fasken,
12 discovered the Strawn Reservoir on the way down, and
13 several of these wells were subsequently plugged back
14 to the Strawn.

15 But the main point I would like to make here
16 is that the Midway Field, the Midway Strawn Field, is
17 unique in this area in that it is a structural trap,
18 whereas the other Strawn fields shown on this map and
19 extending quite some distance off this map are all
20 stratigraphic in nature.

21 Now, the area that we propose to drill in you
22 might say is in somewhat of a no-man's-land in the
23 sense that you'll note between the minus 7000-foot
24 contour and the 7100-foot contour, to date there is no
25 Strawn production. There is one -- in the immediate

1 area, I should say, there is no Strawn production. And
2 the nearest test is the Read and Stevens Blackmar,
3 which was completed as a dry hole.

4 Q. And that's down south and east of the
5 proposed location?

6 A. That's correct. So I say it's somewhat of a
7 no-man's-land because we're drilling in an area downdip
8 from a structural trap but not far enough downdip to
9 where Strawn production has been established to date
10 from any of the stratigraphic reservoirs.

11 The basis for our location is almost totally
12 seismic. The seismic line indicates a Strawn anomaly
13 near this location, and we think that supports the
14 drilling of a well.

15 But in the absence of other production at a
16 comparable subsea position, we think it's highly risky.
17 Also because the lime, the Strawn lime in this area, is
18 relatively thin. And there's a pretty good general
19 correlation with overall lime thickness and quality of
20 production. That is, wells that are a mile or more
21 downdip from our location generally tend to be good
22 producers. But the Fasken Well, for example, in the
23 northwest of 9, the Fasken Number 3, has a relatively
24 thin Strawn section and is only a mediocre producer.
25 We think there's a direct connection there.

1 So in addition to the normal risk in drilling
2 a Strawn well in this area, we think there's added risk
3 due to the location of this particular test.

4 I might also add that on this map, if my
5 count is correct, I show 13 -- aside from the Midway
6 Field itself, I show 13 Strawn dry holes and 20
7 producers.

8 Amerind's record is about the same. We've
9 drilled about 15 Strawn producers and 10 dry holes, not
10 all of which are shown on this map. But that gives you
11 some idea of the success ratio in the area. So there's
12 considerable risk.

13 Q. Why don't we go to the cross-section portion
14 of the exhibit --

15 A. Okay.

16 Q. -- and briefly just explain what that shows.

17 A. Yes. Basically just to further help you see
18 what I'm trying to say on the left-hand side, the two
19 wells in the Midway Strawn Field, showing the
20 structural dip off the side of the -- opposite side of
21 the structure.

22 And then based on our seismic interpretation,
23 we're showing there's probably an area of dense lime
24 between the Midway Field and where we propose to drill
25 downdip. And then the Read and Stevens Blackmar, which

1 had no porosity indicated at all.

2 Q. Are you prepared to make a recommendation to
3 the Examiner as to the risk penalty that should be
4 assessed against interest owners who do not voluntarily
5 participate in the well?

6 A. Yes.

7 Q. And what would that be?

8 A. Two hundred percent.

9 Q. Do you believe that there is a chance that
10 you would be unable to drill a commercially successful
11 well at this location?

12 A. Definitely.

13 Q. And do you believe your risk in drilling this
14 well would be consistent with the risk taken in the
15 other Strawn wells that you've drilled in that area?

16 A. Yes.

17 Q. Was Exhibit Number 6 prepared by you?

18 A. Yes.

19 MR. CARR: At this time, Mr. Catanach, we
20 would move the admission of Amerind Exhibit Number 6.

21 EXAMINER CATANACH: Exhibit Number 6 will be
22 admitted as evidence.

23 Q. (By Mr. Carr) Mr. Leibrock, in your opinion
24 would granting this Application and the imposition of a
25 200-percent risk penalty be in the best interests of

1 conservation, the prevention of waste and the
2 protection of correlative rights?

3 A. Yes.

4 MR. CARR: That concludes my direct
5 examination of Mr. Leibrock.

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

7 CROSS-EXAMINATION

8 BY MR. KELLAHIN:

9 Q. Mr. Leibrock, go with me, if you will, sir,
10 to the Strawn structure map. I see some of the
11 Pennzoil Shipp wells and the Vierson wells in Section
12 4.

13 A. Uh-huh.

14 Q. My recollection is that's part of the Shipp
15 Strawn Pool?

16 A. Right, yes.

17 Q. Can you show me approximately what are the
18 current western boundaries of the Shipp Strawn Pool?

19 A. The approximate western boundary would be
20 just downdip from the minus 7200 contour. Well, no, it
21 should include also the -- I believe the Fasken State
22 3, there, is also in that pool.

23 Q. Do you recall the spacing unit for the Fasken
24 State 3 -- That's in section 9, is it, looking in the
25 northwest quarter?

1 A. Whether it's a laydown or standup?

2 Q. Yes, do you remember?

3 A. I don't recall.

4 Q. But that, to your recollection, is in the
5 Shipp Strawn?

6 A. Yes.

7 Q. The northwest corner of 4, Tidewater State --

8 A. Yes.

9 Q. -- Tipperary wells, are those in the Shipp
10 Strawn?

11 A. The Tipperary wells are. The Tidewater is an
12 older well that I believe was in the East Lovington
13 Strawn Field.

14 Q. Where do we make the transition as we move
15 north and west into the northeast Lovington Strawn?

16 A. In Section 32, the Wiser -- Amerind Wiser "C"
17 and the Texaco 14-P, I believe, are both in the
18 northeast Lovington Pool.

19 Q. Okay. Now, when we look at Section 8, that
20 is in the Midway Strawn?

21 A. Yes.

22 Q. Are there special pool rules that apply to
23 the Midway Strawn?

24 A. Yes, and I believe they're the same as the
25 other Strawn fields.

1 Q. My recollection of the Strawn, and
2 particularly the Shipp Strawn, is that they were
3 attempting to penetrate algal mounds --

4 A. Yes.

5 Q. -- that had significant oil trapped in those
6 mounds?

7 A. Yes.

8 Q. Is that the kind of oil production you're
9 looking for in the Midway?

10 A. Yes. Well, not in the Midway field as it
11 exists now, but in our location, yes.

12 Q. You're looking for another one of these algal
13 mounds?

14 A. Right, we're looking for a stratigraphic
15 trap, like the rest of this and different from the
16 Midway in Section 8.

17 Q. Are you satisfied that the Midway in Section
18 8 has been well defined to a degree that you know the
19 limits, the northern limits of that Midway pool?

20 A. Yes, within pretty close proximity.

21 Q. So you expect that this location in Section 5
22 is going to be separate and apart from the existing
23 Midway?

24 A. We expect that, but I will acknowledge that
25 it's possible that this porosity could continue all the

1 way down to our location. We just do not think it
2 does.

3 Q. My recollection also is that your company and
4 others rely pretty heavily and extensively on seismic
5 information by which to interpret the structure and
6 help minimize the risk of picking the best location for
7 these wells?

8 A. Yes.

9 Q. Have you integrated seismic information in
10 trying to pick the location for this well?

11 A. Yes.

12 Q. Can you share for me, as best you recall,
13 what the line or orientation of the lines are that
14 you've used to find this location?

15 A. We've primarily got one seismic line, which
16 goes through or near our proposed location,
17 approximately parallel to the highway there.

18 Q. If you wouldn't taking my red pen, on my copy
19 of the display, and just show me the line that you've
20 utilized to help you pick your location.

21 A. Again, this is approximate.

22 Q. Have you used any other seismic information
23 by which to make your decision about the location of
24 the well?

25 A. Just in a general sense. That's the only

1 direct data that we have.

2 Q. Okay. Have you received correspondence or
3 communications from Grand proposing to you and your
4 company a slightly different location?

5 A. Yes, I believe their location was slightly
6 different.

7 Q. Would it be correct that they proposed to you
8 a location 1850 from the east line and 800 feet from
9 the south line?

10 A. That sounds right.

11 Q. Okay. And have you made a study, Mr.
12 Leibrock, to determine why you have preferred not to
13 use that location?

14 A. Well, we do not have any specific objection
15 to their location. However, we feel that the center
16 standard location is just as suitable in this case.

17 Q. Their location would be slightly to the north
18 and east of your location?

19 A. Uh-huh.

20 Q. Okay.

21 A. Yes, we would prefer ours, but --

22 MR. KELLAHIN: Mr. Examiner, to aid you and
23 to move the hearing along, let me show you where Mr.
24 Leibrock has put the line for his seismic information.

25 Q. (By Mr. Kellahin) Have you made a decision

1 yet, Mr. Leibrock, about when to commence this well?

2 A. No, we haven't. We thought there were so
3 many things up in the air on this matter before us here
4 that we have not.

5 Q. Do you have a framework or a time or some
6 sequence in which you will make decisions about when to
7 commence the well?

8 A. I would say soon after we receive a decision
9 here we could make a decision on when to drill the
10 well. And as Mr. Seltzer testified, that would
11 probably be sometime this summer.

12 Q. Have you selected a drilling contractor for
13 the well?

14 A. No. We do have a bid, we do have one bid.

15 Q. Would that bid be for the same amounts as
16 shown on Exhibit Number 3, the AFE for the drilling --

17 A. No, I got the bid after preparing this, and
18 as you probably know, costs have gone up some. The bid
19 that I have -- and as I say, it's just one -- is for
20 \$13.45, so there would be a slight additional cost
21 there based on this footage. However, I do have some
22 allowance for contingency at the bottom to take care of
23 that sort of thing.

24 Q. This AFE is one that's prepared by you, or
25 it's signed by you, is it not?

1 A. It's prepared by me.

2 Q. Okay. Would you go through the entries on
3 those and tell me to what degree you're satisfied that
4 those items are still current and accurate?

5 A. I think the bottom line is, I feel
6 comfortable with that. I think within the distribution
7 here there's going to be a few items a little over and
8 a few a little under.

9 Q. When we get to the bottom amount, are we
10 within 10 percent of what you anticipate to be the
11 actual cost, or is it a different percentage?

12 A. No, it would -- It should certainly be well
13 within that variance, unless there's some significant
14 drilling problems.

15 Q. Have you factored in an amount of money to
16 deal with whether or not the well drifts during
17 drilling?

18 A. No, we're not concerned about that.

19 Q. That has not -- You don't --

20 A. No.

21 Q. -- anticipate that to be a problem for this
22 well?

23 A. Right.

24 Q. Some of these wells in this area will
25 deviate, will they not?

1 A. Yes. And this one probably will too, but we
2 don't think that that's a matter that has to be
3 controlled, unless it gets off, you know, six degrees
4 or something.

5 Q. So you don't anticipate having to spend
6 additional money to steer the well or to control the
7 deviation?

8 A. No, we don't. In fact, we've never done
9 that.

10 Q. Are there any other components of the AFE,
11 other than the drilling rate which is 13 -- What?
12 1340, you said?

13 A. Or -45, I forget which.

14 Q. Okay. Are there any other entries on the AFE
15 that are subject to possible change?

16 A. Nothing significant.

17 Q. Okay.

18 A. On the casing point cost --

19 Q. Yes, sir?

20 A. -- on the pumping completion, I think we can
21 actually do it for quite a bit less than that.

22 Q. In looking at access to the site, do you have
23 satisfactory arrangements to get to the surface
24 location for the well?

25 A. Uh-huh.

1 Q. How long do you anticipate it to take you to
2 drill and complete the well?

3 A. To drill, probably 20 to 25 days; and to
4 complete, five days or less.

5 Q. Does your company utilize a -- the model form
6 operating agreement?

7 A. Yes.

8 Q. Hence the current one in use is the 1987, is
9 it? I've forgotten the date --

10 MR. SELTZER: No, 1982.

11 Q. (By Mr. Kellahin) 1982? You use the 1982
12 form?

13 A. Predominantly. We use both, but --

14 Q. As a matter of practice, do you have language
15 that you've modified that you have found acceptable for
16 your company?

17 A. Yes, the primary modification that we've put
18 in is a security agreement.

19 Q. Apart from the display that you've shown us
20 on Exhibit Number 6 and the seismic information
21 generated by that seismic line, are there any other
22 data, technical information, calculations that you've
23 utilized to help you locate the well and judge the
24 risk?

25 A. No, I think the main comment I would have in

1 that regard is that I wish I had more data.

2 Q. Are you aware of any other seismic lines in
3 this area that might be utilized to help you --

4 A. Yes.

5 Q. -- reduce the risk?

6 A. I think there are some, but we feel like on
7 balance that it's not worth going to the expense. We
8 feel confident enough with the one line.

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

10 EXAMINER CATANACH: Okay, any other
11 questions?

12 MR. CARR: No further questions.

13 EXAMINER CATANACH: I have no questions of
14 the witness. He may be excused.

15 Would you like to read closing statements,
16 Mr. Kellahin?

17 MR. KELLAHIN: We'll waive closing arguments,
18 Mr. Examiner.

19 MR. CARR: We have no closing statement, Mr.
20 Examiner.

21 EXAMINER CATANACH: There being none, Case
22 9933 will be taken under advisement.

23 (Thereupon, these proceedings were concluded
24 at 2:08 p.m.)

25

CERTIFICATE OF REPORTER

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

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

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

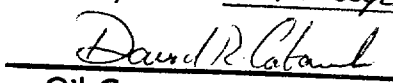
WITNESS MY HAND AND SEAL May 22, 1990.



STEVEN T. BRENNER
CSR No. 106

My commission expires: October 14, 1990

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 9933, heard by me on May 19 90.

, Examiner
Oil Conservation Division