

1 STATE OF NEW MEXICO  
2 ENERGY AND MINERALS DEPARTMENT  
3 OIL CONSERVATION DIVISION  
4 STATE LAND OFFICE BLDG.  
5 SANTA FE, NEW MEXICO

6 14 November 1984

7 EXAMINER HEARING

8 IN THE MATTER OF:

9 Application of J. M. Huber Cor-  
10 poration for compulsory pooling  
11 and an unorthodox location, Eddy  
12 County, New Mexico.

~~CASE~~  
8401

13 BEFORE: Gilbert P. Quintana, Examiner

14 TRANSCRIPT OF HEARING

15 A P P E A R A N C E S

16 For the Oil Conservation  
17 Division:

18 Jeff Taylor  
19 Attorney at Law  
20 Legal Counsel to the Division  
21 State Land Office Bldg.  
22 Santa Fe, New Mexico 87501

23 For the Applicant:

24 James T. Jennings  
25 Attorney at Law  
JENNINGS & CHRISTY  
P. O. Box 1180  
Roswell, New Mexico 88201

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I N D E X

BILL LAWRENCE

Direct Examination by Mr. Jennings	5
Cross Examination by Mr. Quintana	11

BILL HORN

Direct Examination by Mr. Jennings	12
Cross Examination by Mr. Quintana	20

E X H I B I T S

Huber Exhibit One, Plat	6
Huber Exhibit Two, Correspondence	7
Huber Exhibit Three, Structure Map	13
Huber Exhibit Four, Operating Agreement	16
Huber Exhibit Five, AFE	10

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3 MR. QUINTANA: We'll call next  
4 case 8401.

5 MR. TAYLOR: The application of  
6 J. M. Huber Corporation for compulsory pooling and an unorthodox  
7 location, Lea County, New Mexico.

8 MR. JENNINGS: I'm James T. Jennings of Jennings and Christy,  
9 Roswell, appearing on behalf of the applicant, J. M. Huber Corporation,  
10 and we will have two witnesses, Mr. Bill Lawrence and Mr. Bill Horn.

11 MR. QUINTANA: Are there other  
12 appearances in Case 8401?

13 If not, will the witnesses  
14 please stand up and be sworn in at this time.

15 (Witnesses sworn.)

16  
17 MR. JENNINGS: Mr. -- I'll take  
18 Mr. Lawrence first.

19 MR. QUINTANA: You might want  
20 to state --

21 MR. JENNINGS: No, but I would  
22 state for the record that on I believe it was October 17th  
23 we had a hearing in this case and I don't recall the number.  
24 I have it, but --

25 MR. QUINTANA: That was 8384.

MR. JENNINGS: 8384.

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MR. QUINTANA: So that unorthodox portion has been granted.

MR. JENNINGS: Yes, it was advertised, yes, but the unorthodox portion was -- has been and is now pending final adjudication before the Commission, but it is -- this well we're talking about is the same well.

MR. TAYLOR: What case number was that?

MR. JENNINGS: 8384.

MR. QUINTANA: Sally, in this case we're just going to deal with the compulsory pooling portion of it. The unorthodox portion of it was heard in Case 8384.

MR. REPORTER: Thank you, Mr. Quintana.

MR. QUINTANA: We'll deal with the compulsory pooling portion of it only. I don't know how that got on the docket.

So the record will show that.

THE REPORTER: All right.

MR. QUINTANA: You may proceed, Mr. Jennings.

BILL LAWRENCE,

being called as a witness and being duly sworn upon his oath, testified as follows, to-wit:

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DIRECT EXAMINATION

BY MR. JENNINGS:

Q Would you state your name and your occupation?

A My name is Bill Lawrence. I'm a landman for J. M. Huber Corporation in Midland, Texas.

Q How long have you been employed by J. M. Huber Corporation?

A Three years.

Q Have you heretofore testified as a landman before this Commission and particularly in Case Number 8384 which was held on or about October 17th?

A Yes, I have.

MR. JENNINGS: Are Mr. Lawrence's qualifications acceptable as a landman for J. M. Huber?

MR. QUINTANA: Mr. Lawrence's qualifications are acceptable.

Q Mr. Lawrence, are you familiar with the application which has been filed herein in connection with the south half of Section 12 -- or 32, Township 12 South, Range 36 East?

A Yes, sir, I am.

Q And what in general is the nature of that application?

A We are seeking to force pool a 1/24th mineral interest under the -- it would be the south half of

1  
2 the southwest quarter of Section 32, Township 12 South, 36  
3 East.

4 Q And that is for the well for which we had  
5 the unorthodox location hearing and that's 1326 feet from  
6 the west line and 669 feet from the south line of Section  
32?

7 A That's correct.

8 Q Now, Mr. Lawrence, would you refer to  
9 what has been marked as Huber Exhibit Number One and ident-  
10 ify that and tell me and the Commission -- the Examiner bas-  
11 ically what it reflects?

12 A Exhibit One is a -- it's a land plat de-  
13 picting Huber's leasehold interest under our Tatum prospect,  
14 which is located in Township 12 South, 36 East, Lea County,  
New Mexico.

15 It contains Huber's -- it contains ap-  
16 proximately 1300 net acres under these tracts.

17 Q Referring then particularly to Section  
18 32, I notice that is cross hatched in -- in gold. Does that  
19 have any significance?

20 A The cross hatched, it just strictly means  
21 that it's not 100 percent Huber mineral interest. There are  
some unleased interests under 32.

22 Q What -- under the proposed location and  
23 the proration unit requesting the south half southwest quar-  
24 ter, what efforts have you made to obtain any working inter-  
25 est participation or farm-in the acreage?

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2           A           We've acquired 40 acres under the 80-acre  
3 proration unit from Harvey E. Yates Company for the farm-  
4 out.

5           Q           If you -- if you could, to expedite it,  
6 what percentage of the acreage have you been successful in  
7 acquiring?

8           A           Approximately 95 percent.

9           Q           And I believe there is some outstanding  
10 and what is the nature of that interest?

11          A           There's a 1/24th mineral interest which  
12 would consist of approximately three acres under the prora-  
13 tion unit which we have been unable to lease or the mineral  
14 owner has not agreed to participate.

15          Q           Do you feel that you have made a diligent  
16 effort to lease all of the outstanding mineral interest?

17          A           Yes, sir, I do.

18          Q           Please refer to what has been marked as  
19 Exhibit A -- I'm sorry, Exhibit Two, and please relate your  
20 efforts in connection to the Exhibit Two in connection with  
21 the Mr. Nygaard.

22          A           Exhibit Two is just simply five separate  
23 letters dating back to April 24th, '84, at which time we  
24 proposed to lease Mr. Nygaard's interest.

25                       We've made offers to start him with  
3/16ths royalty, three year term, \$150 an acre.

                      We later offered to increase the royalty  
to --

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Q On what date -- on what date was that?

A Okay. September 17th we wrote Mr. Nygaard again and increased the royalty to a quarter royalty; still no reply.

October the 5th we furnished Mr. Nygaard a copy of our AFE and requested that he consider joining in the proposed well.

October 30th Mr. Nygaard was furnished with a copy of our application for compulsory pooling and November 8th Mr. Nygaard again was furnished with a our copies of AFE's along with an operating agreement dated November 6th, '84.

Q Have you personally attempted to contact Mr. Nygaard?

A I have talked with both Mr. Nygaard and his wife on several occasions. He just flat indicated he did not lease any of his mineral interest, that if we would furnish him with an operating agreement and an AFE, he would take a look at it and consider his options.

I have talked with him -- when I called Monday, was the latest call, and his wife answered the phone and said that he was unavailable.

So I have not had a chance to discuss the agreement with him any further.

Q Mr. Lawrence, have you personally checked the records to determine that the ownership is as reflected in the office of the County Clerk of Eddy County in connec-

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2 tion with this particular interest?

3 A Yes, I have.

4 Q Who have you determined to be, the best  
5 you can determine, the owners of the interest?

6 A The best I can determine the owners are  
7 Thomas Max Nygaard, his wife, Shirley Nygaard, and daughter  
8 Alicia A. Nygaard.

9 Q Now these all are relatives of Mr. Ny-  
10 gaard?

11 A Yes. Shirley Nygaard is Mr. Nygaard's  
12 wife; Alicia is his daughter, and they all live in Dallas,  
13 Texas.

14 Q Is there a person by the name of Keith?

15 A Initially our records indicated that  
16 Daisy Keith had an interest under this --this tract, or to  
17 this specific acreage. She would have been, as I can deter-  
18 mine, an aunt, but in one of my prior conversations with the  
19 Nygaard family Alicia told me that her aunt, or Mr. Ny-  
20 gaard's aunt had passed away. I have no idea at what date  
21 that might be.

22 Q Have you sought to get additional data  
23 from him?

24 A Yes, sir, I sure have. I've tried on  
25 several different occasions to track down either a probate  
or will or something to -- of record, but I have been unable  
to do so. They haven't been cooperative, I'll put it that  
way.

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Q To say the least?

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A To say the least, you're right.

4

Q You spoke of the AFE which you sent to  
5 Mr. Nygaard.

5

A Yes, sir.

6

7

Q Is that what has been marked as Exhibit A  
-- or Exhibit Five?

8

A That's correct.

9

Q Mr. Lawrence, are you familiar with the  
10 order which was previously entered in Case Number 8047 and  
11 that is Order Number 7460 of this Commission, which was en-  
12 tered on March 7th of 1984?

13

A Yes, I am.

14

Q Was that order -- did that order force  
pool this same land?

15

A Yes, sir, it did.

16

17

Q Being the -- and the applicant therein  
was Ray H. Haskins?

18

A Yes, sir.

19

20

Q Have you acquired the same leases or have  
leases on the same property that Mr. Haskins had?

21

A I sure do.

22

23

24

Q Do you know of your own knowledge that he  
had the same problems and did not -- was not able to obtain  
any lease or any cooperation whatsoever from this outstand-  
ing interest?

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A That's correct. We've talked to him and

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had the same problem with the Nygaards.

Q Were Exhibits Numbers One and Two either prepared by you or correspondence written by you and directed -- written by you in connection with the ordinary course of business in connection with this matter?

A Yes, sir, they were.

MR. JENNINGS: We have nothing further of this witness at this time.

CROSS EXAMINATION

BY MR. QUINTANA:

Q Mr. Lawrence, who did you say had force pooled some -- pooled the Nygaards prior to you?

A Ray H. Haskins. He is an operator out of Midland, Texas.

Q And he had the same exact problem that you're --

A Exactly.

Q -- running into?

A Yes, sir.

MR. JENNINGS: Mr. Examiner, I will request that that order be considered later. I have a copy of it.

MR. QUINTANA: Is there any further questions of Mr. Lawrence? If not, he may be excused.

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BILL HORN,

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being called as a witness and being duly sworn upon his  
oath, testified as follows, to-wit:

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DIRECT EXAMINATION

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BY MR. JENNINGS:

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Q           Would you please state your name and  
place of residence and present occupation?

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A           My name is Bill Horn. I live in Midland,  
Texas, and I work as a petroleum engineer for J. M. Huber  
Corporation.

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13

Q           How long have you been employed by J. M.  
Huber Corporation, Mr. Horn?

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A           Just over four years.

16

17

Q           What is your current job description?

A           I'm titled a Senior Petroleum Engineer  
and I work with production, reservoir drilling.

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19

Q           What is your educational background?

A           I received a Bachelor of Science degree  
from New Mexico State University in 1975 in civil engineer-  
ing.

21

22

Q           And immediately upon your graduation from  
New Mexico State by whom were you employed?

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A           I was employed by Texaco, Incorporated,  
in Hobbs, New Mexico.

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Q           What was the general nature of your

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duties in connection with that employment?

A           The immediate was field engineering and area engineer concerning, again, production, reservoir, and some drilling.

Q           Basically all of your experience in the Permian Basin in Texas and New Mexico?

A           Yes, sir.

MR. JENNINGS:   Are Mr. -- the witness' qualifications acceptable as a petroleum engineer?

MR. QUINTANA:   Mr. Horn, did Texaco, they sent you to many training schools in field of petroleum engineering?

A           Yes, sir, they did.

MR. QUINTANA:   And you worked for them from 1975 to 1980?

A           That's correct.

MR. QUINTANA:   Then from 1980 to 1984 you worked for J. M. Huber Corporation.

A           That's correct.

MR. QUINTANA:   The witness' qualifications are acceptable.

Q           Mr. Horn, would you please refer to what has been marked as Huber's Exhibit Number Three and tell just what that is and explain and point out the wells that are on production and the dry holes, if any?

A           This is a structure map that covers the prospect that we're concerned with today and it shows the

1  
2 structure of the top of the lower Wolfcamp Bursum, which is  
3 our target zone in the proposed well, and on the map we have  
4 the wells spotted from the Tatum Wolfcamp Field, which this  
5 well is basically a north extension, and we also have shown  
6 on there the cumulative production and current production  
7 status of the wells within that field.

8 Q For the purpose of the transcript would  
9 you kind of point out exactly the location of the wells and  
10 the cumulative production and also the present status and  
11 producing capabilities of the wells?

12 A Okay. The -- there is a well in Section  
13 5. It would be Unit letter D, has produced 133,653 barrels  
14 of oil and as of 5-84 was producing about 7 barrels of oil  
15 per day and about 70 barrels of water per day.

16 There's a well to the east of that with a  
17 cumulative production of 844 barrels of oil, which is plug-  
18 ged and abandoned, and this well was not an economical well.

19 To the southwest of that well is another  
20 well which is the best well in the field with a cumulative  
21 production of 291,892 barrels of oil and this has been de-  
22 pleted and is currently plugged and abandoned.

23 To the south, in Section 5, you can see  
24 another well which was drilled in the field which was a dry  
25 hole upon initial drilling.

26 And farther south, in Section 6, there's  
27 a well with cumulative production of 185,818 barrels of oil,  
28 which is, as of 5-84 was producing about 5 barrels of oil

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2 per day.

3 Also in this field you'll notice in Sec-  
4 tion 6 at the extent of where that letter "A" shows on the  
5 plat there's another dry hole that was drilled, and going  
6 north, Section 31, there was a dry hole that was drilled  
7 just recently.

8 And not shown on the map, there is also  
9 another producer in Section 7 to the south which produced  
10 but was not economical and next to that there's another dry  
11 hole.

12 So the total for this field, there was  
13 basically three producers that were economical and there was  
14 about -- there were three, or two, I should -- there were  
15 six wells that were drilled that could be classified as dry  
16 holes that were not economical completions, and basically  
17 that's -- that's the picture of that field right now. It's  
18 basically depleted.

19 Q Mr. Horn, has your company, the J. M.  
20 Huber Corporation, drilled wells such as the proposed well  
21 to the -- to this same objective depth in this area or in  
22 Lea County?

23 A Yes, sir, we have.

24 Q Recently?

25 A We drilled four such wells in 1984 in the  
Morton Wolfcamp Field and just north of there one was in the  
Morton North Field, and they were all to the same basic  
depth, about 10,500 feet total depth.

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Q And you are familiar with these wells and you've performed engineering duties in connection with the wells.

A Yes, sir, I have.

Q Mr. Horn, would you now refer to what has been marked as Huber's Exhibit Number Four and explain -- tell us what that is?

A This is a model form operating agreement that Huber has drawn up for this particular well, which we call the Whatley Trust No. 1.

Q And referring to this operating agreement, would you advise the Commission as to the provisions of the nonconsent clause of operations by less than all operators?

A I believe that is 200 percent.

Q You might review them at the bottom of page five, the last paragraph B on page five, line 69, to be specific.

A Okay, I was incorrect. That's 300 percent.

Q Is this the figure that Huber and other (not clearly understood) would use in connection with their nonconsent clauses at this time?

A Yes, sir.

Q Does it cover any more than that?

A Not to my knowledge.

Q Any more than 300 percent?

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A No, sir, not to my knowledge.

Q Would you also refer to the overhead expenditures reflected in the exhibit attached to this operating and examine that and state what the overhead expenditure during the time that the drilling the well is and also the overhead expenditure provided in the event the well is a producer?

A Yes. The drilling well rate is \$4000 and the producing well rate is \$400. And these are rates per month.

Q In your experience, Mr. -- in engineering in the field, do you have an opinion as to whether or not these figures are in line with what you've generally experienced in the past?

A Yes, sir.

Q Do you -- is there any -- do you have any other documents or basis for figures such as these for overhead expenses during drilling and producing?

A Basically we operate several leases within this area and this is consistent with what we use and what others have used in properties which are operated by others in which we have participated.

Q Do you feel that these -- in light of your experience, do you feel that figures such as this \$4000 during drilling -- a month during drilling, and \$400 a month during -- after production would be a realistic and reasonable figures in connection with this well?

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A Yes, sir.

Q Are these figures generally right in line with the Ernest and Williams publication reflecting cost in this area for wells of this depth?

A Yes, sir, they are.

Q Mr. Horn, please refer to Huber Exhibit Number Five and identify that for the Commission, if you would, please, and tell us what it is.

A This is an AFE worksheet which I prepared for the drilling of this well, the Whatley Trust No. 1, and it shows the total completed well cost of \$878,000 and a dry hole cost of \$410,000.

Q Is this the AFE which was submitted to all -- to the Nygaard group and to other operators?

A Yes, sir, it is.

Q In light of your experience do you feel that these are reasonable costs to be anticipated in connection with this well?

A Yes, sir.

Q Mr. Horn, in light of your past experience and in light of the -- your examination for the possible production in this area, what figure do you feel would be a reasonable risk factor to be allowed in this case?

A I believe the maximum risk factor would be effective for this.

Q What is it? What is that risk factor? Do you know?

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A It would be 300 percent.

Q By that you're referring to the actual cost plus 200 percent penalty.

A Yes, sir.

Q Mr. Horn, do you feel that granting of this application would be in the interest of conservation and protect the correlative rights of all the owners in this proration unit?

A Yes, sir.

Q Would it impair the correlative rights of any of the owners?

A No, sir.

Q Were Exhibits Three, Four, and Five prepared by you or under your supervision?

A Exhibit Five was prepared by myself. Which was Number Three?

Q That was a plat showing existing wells.

A Okay, this one was not prepared under my supervision.

Q Are you familiar with all the wells and production figures shown thereon?

A Yes, sir, I am.

Q And Number Four was the operating agreement which was prepared by J. M. Huber Corporation in the ordinary course of business.

A Yes, sir.

MR. QUINTANA: Are you ten-

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dering?

MR. JENNINGS: We tender these, yes, sir.

MR. QUINTANA: Exhibits Three, Four, and Five will be admitted into evidence.

MR. JENNINGS: Mr. Examiner, do you have any further questions of this witness?

MR. QUINTANA: I have a couple.

MR. JENNINGS: Okay.

CROSS EXAMINATION

BY MR. QUINTANA:

Q Mr. Horn, what is the expected initial production on this well?

A I'm anticipating initial production at approximately 140 barrels a day, and I would anticipate an average first year production of approximately 110 barrels per day.

Q What type of payout would you expect using these figures, in years?

A In years I would expect approximately two years on our payout calculation.

Q Are you familiar with the Case 8407 that was previously mentioned?

A Yes, sir.

Q For the previous force pooling of these same lands?

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A Yes, sir.

Q Isn't the risk penalty factor in that Case 8407 similar to the one that you ask for?

A I believe it was.

Q Now I have a question dealing with the AFE. In that previous force pooling case, are these costs for this AFE in line with the costs for that previous one?

A I don't recall what the other one was. I don't recall seeing the AFE costs on that particular well.

Q These costs of drilling this well are current costs in that area?

A Yes, sir.

Q Okay. That will be all.

MR. QUINTANA: Is there any further questions of Mr. Horn? If not, Mr. Horn, you may be excused.

A Thank you.

MR. JENNINGS: Mr. Examiner, I would like to move the Commission take judicial notice of the Order No. 7460 entered in Case Number 8047 on March 7th, 1984 covering this same acreage and I have a copy of it, of the order and would like to tender it or the Commission can take judicial notice of it.

MR. QUINTANA: Yes. Case Number 8047 will be -- notice will be taken of Case Number 8047.

And I'd like to comment for the

1  
2 record that I've previously asked Mr. Lawrence about Case  
3 8407 and I meant to say Case Number 8047.

4 Is there anything further?

5 MR. JENNINGS: We have nothing  
6 further to offer in this case.

7 MR. QUINTANA: Is there any-  
8 thing further in Case 8401?

9 If not, Case 8401 will be taken  
10 under advisement.

11 (Hearing concluded.)  
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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is a complete record of the proceedings in the hearing of Case No. 8401 heard by me on Nov. 14 1984.

Silbert P. Quintana Examiner  
Oil Conservation Division

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION  
State Land Office Building  
Santa Fe, New Mexico

31 July 1985

EXAMINER HEARING

IN THE MATTER OF:

Application of J. M. Huber Corpor-      CASE  
ation for compulsory pooling, Lea      8657  
Lea County, New Mexico.

BEFORE: Gilbert P. Quintana, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation      Jeff Taylor  
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   State Land Office Bldg.  
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## I N D E X

STATEMENT BY MR. BREWER	5
BILL LAWRENCE	
Direct Examination by Mr. Brewer	6
Cross Examination by Mr. Quintana	16
Redirect Examination by Mr. Brewer	16
BILL HORNE	
Direct Examination by Mr. Brewer	18
Questions by Mr. Nygaard	22
Redirect Examination by Mr. Brewer	23
Cross Examination by Mr. Quintana	24
Questions by Mr. Nygaard	26
STATEMENT BY MR. NYGAARD	28

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E X H I B I T S

Huber Exhibit One, Plat	8
Huber Exhibit Two, Correspondence	10
Huber Exhibit Three, Letter	12
Huber Exhibit Four, Operating Agreement	13
Huber Exhibit Five, Structure Map	18
Huber Exhibit Six, AFE	20

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MR. QUINTANA: We'll call Case 8657.

MR. TAYLOR: Application of J. M. Huber Corporation for compulsory pooling, Lea County, New Mexico.

MR. BREWER: Mr. Examiner, I am Phil Brewer, with Jennings and Christy. We represent the applicant, J. M. Huber Corporation, and I have two witnesses, Mr. Bill Lawrence and Mr. Bill Horne.

MR. QUINTANA: Are there other witnesses? Are there other people appearing in this matter?

MR. NYGAARD: Yes, sir. I'm Max Nygaard from Dallas.

MR. QUINTANA: And what is your position? Are you with a company or who do you represent?

MR. NYGAARD: I represent myself --

MR. QUINTANA: General interest owner?

MR. NYGAARD: -- my wife and my daughter's mineral ownership, yes.

MR. QUINTANA: Would all the witnesses please stand at this time and be sworn in?

1 (Witnesses sworn.)

2  
3 MR. QUINTANA: You may proceed.

4 MR. BREWER: Mr. Examiner,  
5 prior to calling either of my two witnesses, I'd like to  
6 make a brief opening remark that I believe will help clarify  
7 where we are in this matter.

8 MR. QUINTANA: You may proceed.

9 MR. BREWER: Mr. Examiner, this  
10 application has to do with the north half southwest quarter  
11 of Section 32 in Township 12 South, Range 36 East.

12 On November 14th, 1984, a hear-  
13 ing was held in Case Number 8401 before the Division, invol-  
14 ving the south half southwest quarter of Section 32 in which  
15 J. M. Huber Corporation was the applicant and in which  
16 Thomas Max Nygaard, et al, were parties sought to be force  
17 pooled.

18 Order No. R-7744 was entered by  
19 the Division granting compulsory pooling in this prior case  
20 and this case involves the same applicant, the same parties  
21 sought to be force pooled; in fact, just another 80-acre  
22 subdivision within the same lease and it involves very simi-  
23 lar issues.

24 We would ask that the Examiner  
25 and the Division take judicial notice of the prior cases and

1 if that is the case and acceptable to you, our witnesses  
2 will only testify as to land and geological matters which  
3 have occurred since the date of the prior hearing.

4 MR. QUINTANA: I think for pur-  
5 poses of -- administrative notice will be taken of Case 8401  
6 but for my purposes, since I don't think I've ever seen this  
7 before, I'd like to see the total data that you have pre-  
8 sented on this one well.

9 MR. BREWER: Okay. All right.

10 MR. QUINTANA: But I will take  
11 administrative notice of that case.

12 You may proceed.

13 MR. BREWER: Okay. I'd like to  
14 first call Mr. Bill Lawrence.

15

16 BILL LAWRENCE,

17 being called as a witness and being duly sworn upon his  
18 oath, testified as follows, to-wit:

19

20 DIRECT EXAMINATION

21 BY MR. BREWER:

22 Q Would you please state your name and oc-  
23 cupation for the record, please?

24 A My name is Bill Lawrence. I'm a District  
25 Landman for J. M. Huber Corporation in Midland, Texas.

1           Q           Are you same Bill Lawrence that testified  
2 in Case Number 8401 before this Commission in November of  
3 last year?

4           A           Yes, I am.

5           Q           Were your qualifications as a landman ac-  
6 cepted at that time?

7           A           Yes, they were.

8                       MR. BREWER: Mr. Examiner, are  
9 Mr. Lawrence's qualifications as a landman acceptable to --

10                      MR. QUINTANA: Yes, they are.

11           Q           Are you familiar with the application on  
12 file in this present case, Mr. Lawrence?

13           A           Yes, sir.

14           Q           Okay. What is the purpose of that appli-  
15 cation?

16           A           J. M. Huber Corporation is seeking to  
17 force pool an undivided 1/24th mineral interest under the  
18 north half of the southwest quarter of Section 32, Township  
19 12 South, 36 East, in Lea County, New Mexico.

20           Q           I'm going to hand you what has been mar-  
21 ked as Exhibit One.

22                      MR. QUINTANA: Do you have a  
23 copy for Mr. Nygaard?

24                      MR. BREWER: No, but I will  
25 give him --

1 MR. QUINTANA: We'll share this  
2 one with Mr. Nygaard.

3 MR. BREWER: Okay.

4 MR. BREWER: I don't know, I  
5 may be getting slightly out of order, Mr. Examiner, to the  
6 extent that you may wish to look at it.

7 We mentioned prior Case Number  
8 8401 and there's a transcript of that case.

9 Q Going back to where I was, Mr. Lawrence,  
10 would you please identify what Exhibit Number One is,  
11 please?

12 A Exhibit Number One is land plat setting  
13 out Huber's leasehold interest under our Tatum prospect,  
14 which is located in Township 12 South, 36 East, and covers  
15 approximately 1300 acres.

16 We have also -- the plat also depicts our  
17 proposed well in the north half of the southwest quarter, as  
18 well as the 80-acre proration unit being the north half  
19 south --

20 Q Proposed prorationing.

21 A Yes, sir.

22 Q What does the area outlined in yellow in-  
23 dicate on Exhibit One?

24 A The area outlined in yellow is strictly  
25 an undivided -- means that Huber does not own 100 percent of

1 the leasehold.

2 Q All right.

3 A The solid yellow is 100 percent leasehold  
4 interest.

5 Q All right, all of this is the area which  
6 you call your Tatum prospect.

7 A That is correct.

8 Q Okay. There is a solid red dot on Exhi-  
9 bit One. Would you please identify what that indicates,  
10 please?

11 A This is our Wadley Trust No. 1 Well,  
12 which was drilled sometime ago, approximately six months  
13 ago.

14 Q Was the Wadley Trust 1 Well the subject  
15 of this prior Case Number 8401?

16 A That's correct.

17 Q Okay. The red dot with -- the red and  
18 white dot, we'll call it, is that your proposed well loca-  
19 tion?

20 A That's correct.

21 Q Insofar as the compulsory pool proceed-  
22 ings here and now, what interests are uncommitted to the  
23 drilling of your Wadley Trust 2 Well, which you propose to  
24 drill?

25 A An undivided 1/24th, being approximately

1 3 acres under the unit.

2 Q The 1/24th is mineral interest or working  
3 interest?

4 A Mineral interest.

5 Q And who do your records reflect own that  
6 1/24th mineral interest?

7 A Thomas Max Nygaard, Alicia Nygaard, and  
8 also Mr. Nygaard's wife, Shirley.

9 Q Okay. Did prior records and opinions  
10 submitted to you indicate that anyone else was the owner of  
11 a portion of this 1/24th interest?

12 A Our records indicated that Daisy Keith,  
13 who I believe was Mr. Nygaard's aunt, also owned a portion  
14 of this 1/24th. It has come to our attention recently that  
15 she has -- is deceased.

16 Q How did that come to your attention?

17 A Through Mr. Nygaard.

18 Q Have you seen anything in the records  
19 which you have examined that would indicate Daisy Keith's  
20 demise, other than your conversation with Mr. Nygaard?

21 A No, sir.

22 Q Mr. Lawrence, I've handed you what's been  
23 marked as Exhibit Two and I would ask you what efforts you  
24 have made to commit the 1/24th Nygaard, et al, mineral in-  
25 terest to the drilling of your proposed well and I would ask

1 to utilize Exhibit Number Two in so explaining your efforts,  
2 please.

3 A Starting in May 15th of 1985 we had writ-  
4 ten Mr. Nygaard requesting that he lease his interest. The  
5 terms were 150 -- we asked \$150 an acre bonus, 3/16ths roy-  
6 alty, 3-year primary term and \$1.00 an acre rentals.

7 Following that letter we recontacted Mr.  
8 Nygaard.

9 Q When was that, Mr. Lawrence?

10 A This would be on, let me see here. There  
11 are several letters.

12 On June 4th we recontacted Mr. Nygaard  
13 under the same terms. We increased our royalty to 1/4. We  
14 also asked that if he was not interested in leasing this  
15 mineral interest would he consider joining as to his 4 per-  
16 cent working interest in our well, and at that time he was  
17 also submitted with an AFE worksheet.

18 Q Okay.

19 A Later, when we -- July the 17th Mr. Ny-  
20 gaard was furnished with a copy of the application of J. M.  
21 Huber for this compulsory pooling, and on the 29th of July  
22 he was furnished with a copy of our operating agreement  
23 along with another copy of our AFE.

24 Q Okay.

25 A It was mailed out on the 29th of July,

1 which was -- that was the time we received it.

2 Q Okay. You say Mr. Nygaard was sent all  
3 these things. Were -- were mailings also made to other mem-  
4 bers of Mr. Nygaard's family that you indicate are owners of  
5 this --

6 A Copies of the same letter were also  
7 mailed to Shirley Nygaard, Alicia Nygaard, and Daisy Keith.

8 Q Prior to the time that you determined  
9 that Daisy Keith was deceased.

10 A Yes, sir, we did not know that until  
11 several days ago.

12 Q Okay. Regarding the lease terms which  
13 you offered to Mr. Nygaard and to others, how do these lease  
14 terms compare with other leases which J. M. Huber has in the  
15 area?

16 A They are as good or better than any other  
17 leases we have under this section.

18 Q Okay. Mr. Lawrence, I'm going to hand  
19 you what's been marked Exhibit Three and ask you what re-  
20 sponse you have received from the various members of the Ny-  
21 gaard family, and in that regard ask you to identify Exhibit  
22 Three.

23 A Exhibit Three is a letter from Mr. Ny-  
24 gaard dated July the 24th, that is simply a proposal he --  
25 it is a response to our lease offer and he proposes to de-

1 liver a 75 percent net revenue lease to Huber retaining an  
2 option to back in at well payout for a 50 percent working  
3 interest.

4 Q Okay. Have you had any other dealings  
5 with Mr. Nygaard regarding proposals by him with regard to  
6 this proposed well?

7 A Mr. Nygaard and I discussed this letter,  
8 this matter, on the 29th of this month. At such time as Mr.  
9 Nygaard did agree to come up with a 50 percent back-in to a  
10 40 percent, still retaining the 1/4 royalty into a payout.

11 Q All right. Have you received any re-  
12 sponse from the other mineral interest owners other than  
13 Thomas Max Nygaard?

14 A No, sir.

15 Q Is Mr. Nygaard's counter proposal commer-  
16 cially acceptable or reasonable in the area?

17 A No, sir.

18 Q Is it, in fact, acceptable to J. M. Huber  
19 Corporation?

20 A No, it is not.

21 Q Mr. Lawrence, would you please -- I've  
22 handed you what's been marked Exhibit Four. Would you  
23 please identify that, please?

24 A Exhibit Four is a 1982 model form oper-  
25 ating agreement which was prepared by J. M. Huber Corpora-

1 tion for this specific well.

2 Q How is this operating agreement prepared,  
3 Mr. Lawrence?

4 A The District Office, being the District  
5 Landman, being myself, negotiates the terms and at such time  
6 as they are worked out we have our Legal Department in Hous-  
7 ton plug in the numbers and send us the agreement.

8 Q All right, but are you directly involved  
9 in the drafting of the operating agreement?

10 A Yes, I am.

11 Q Okay. I'd like you to refer to Exhibit  
12 Four, please, Mr. Lawrence, and particularly tell the Exa-  
13 miner what risk penalty is provided for in the operating  
14 agreement.

15 A Actual cost plus 200 percent.

16 Q Okay. I'd like for you to further refer  
17 to this exhibit and tell the Examiner what overhead rate is  
18 provided for, both drilling and producing.

19 A The drilling well rate is \$4000 per  
20 month. The producing well rate is \$400 per month.

21 Q All right. Are these provisions in terms  
22 of risk penalty and overhead consistent with the operating  
23 agreement which was introduced in the prior cause No. 8401?

24 A Yes, they are.

25 Q As regards Exhibits One through Four, Mr.

1 Lawrence, were they prepared by you or with your direct in-  
2 put, or sent or received by you in the normal course of your  
3 business?

4 A Yes, they were.

5 MR. BREWER: I have no further  
6 questions of the witness and would move for the admission of  
7 Huber Exhibits One through Four.

8 MR. QUINTANA: Exhibits One  
9 through Four will be accepted in evidence.

10 Mr. Nygaard, do you have any  
11 questions of the witness?

12 MR. NYGAARD: Is this the only  
13 witness you will present?

14 MR. BREWER: No, we will have  
15 Mr. Bill Horne, who will present geologic testimony follow-  
16 ing Mr. Lawrence.

17 MR. NYGAARD: All right, if I  
18 may, thank you.

19 MR. QUINTANA: Do you mean you  
20 will ask questions at a later time?

21 MR. NYGAARD: If I may.

22 MR. QUINTANA: I have a couple  
23 of questions.

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CROSS EXAMINATION

BY MR. QUINTANA:

Q Mr. Lawrence, Mr Nygaard's offer for farming out his interest to you, what is a standard farmout?

A Well, if I may, I think what he was trying to say was that the mineral interests, he would lease his mineral interest under a -- delivering a 75 percent lease, which specifically states that he's retaining a 1/4 royalty. That is -- that is standard, or not standard, that is probably the top royalty retained in the area, a 1/4.

Most of our leases under this section are anywhere from 3/16ths to 20 percent, so in that regard we feel that 1/4 royalty is more than fair.

So if you add a 50 percent backin on top of that, we feel it's unreasonable.

MR. QUINTANA: Thank you. I have no more questions of the witness.

MR. BREWER: I have one more questions which may help the Examiner as regards farmout counter proposal.

## REDIRECT EXAMINATION

BY MR. BREWER:

Q Has J. M. Huber obtained any other farmouts in this area?

1           A           We do have one farmout from Harvey E.  
2 Yates Company, who owned an undivided 1/2 mineral interest  
3 under the north half of the southwest quarter of this sec-  
4 tion.

5           Q           Excuse me, you said mineral interest.  
6 Did you mean --

7           A           Leasehold interest, I'm sorry.

8           Q           Okay.

9           A           And under this farmout they delivered 100  
10 percent under the initial well with 1/3 backin at payout.

11          Q           But that was of working interest?

12          A           That is correct.

13          Q           Okay, and it provided for no burden until  
14 payout and 1/3 after payout.

15          A           That is correct.

16                   MR. BREWER:   That's all the  
17 questions I have at this time.

18                   MR. QUINTANA:   You may be  
19 seated. You may be excused, excuse me.

20                   MR. BREWER:   I would next like  
21 to call Mr. Bill Horne.

22                   MR. QUINTANA:   Fine.

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BILL HORNE,

being called as a witness and being duly sworn upon his  
oath, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. BREWER:

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

A My name is Bill Horne and I work as a Senior Petroleum Engineer for J. M. Huber Corporation in Midland, Texas.

Q Are you the same Bill Horne that offered testimony in prior cause No. 8401 before the Division?

A Yes, sir.

Q Were your qualifications as a petroleum engineer accepted by that -- by the Division?

A Yes, sir.

MR. BREWER: Are Mr. Horne's qualifications acceptable at this time?

MR. QUINTANA: They are. You may proceed.

Q Mr. Horen, I hand you what's been marked as Exhibit Number Five and I would ask if you would identify that, please.

1           A           This is a copy of a structure map that  
2 was presented in the previous hearing that has been men-  
3 tioned in this case on the Wadley Trust No. 1.

4                    It's a structure map showing the contour  
5 horizon of the top of the Lower Wolfcamp of the Bursum pay,  
6 which is the main pay objective for these wells that we've  
7 been drilling here.

8                    On this plat I have updated the monthly  
9 production figures on here to show more current numbers, and  
10 this plat simply shows J. M. Huber's interpretation of the  
11 geology in that particular field.

12           Q           Okay. J. M. Huber drilled a well, the  
13 well which was the subject of prior cause No. 8401, is that  
14 not correct?

15           A           Yes, sir.

16           Q           What, if any, change to the structure map  
17 which you submitted to the Commission in Case No. 8401 has  
18 the drilling of that Huber well made?

19           A           The interpretation is essentially the  
20 same with the exception that the Wadley Trust No. 1 is ap-  
21 proximately 16 feet lower than shown on the map that was  
22 previously drawn.

23           Q           Was the Wadley Trust No. 1 Well being --  
24 which was the subject of the prior case, a productive well?

25           A           Yes, sir, it is.

1 Q And are those production figures re-  
2 flected by Exhibit Five?

3 A Yes, sir, they are.

4 Q And what are those production figures?

5 A The production figures shown for the Wad-  
6 ley Trust No. 1 for the month of June, 1985, the well was  
7 producing approximately 20 barrels of oil per day and ap-  
8 proximately 70 barrels of water per day.

9 Q Is that, in your opinion, production in  
10 paying quantities?

11 A Yes, sir.

12 Q Is that, in your opinion, an outstanding  
13 well?

14 A No, sir, not for this depth and expense  
15 to drill the well.

16 Q We'll get to this later, Mr. Horne. You  
17 heard Mr. Bill Lawrence testify as to risk penalty and over-  
18 head provided for in the operating agreement which is before  
19 the Examiner as Exhibit Number Four, is that not correct?

20 A Yes, sir.

21 Q I've handed you what's been marked Exhi-  
22 bit Six and would ask that you identify that, please.

23 A This is an AFE worksheet that was pre-  
24 pared by myself for the drilling of the Wadley Trust No. 2,  
25 showing the actual -- or excuse me, showing the anticipated

1 dry hole cost and completed well costs.

2 Q And what are those costs?

3 A Dry hole cost is \$408,000 and completed  
4 well cost is \$775,000.

5 Q Are those figures consistent with the AFE  
6 previously submitted to the Division in cause -- Case No.  
7 8401?

8 A Yes, sir, they are. There is a slight  
9 reduction on this one due to the fact that the tank battery  
10 has already been constructed and that has been taken out of  
11 this AFE.

12 Q Okay. Was a copy of this AFE sent to  
13 Thomas Max Nygaard and other members of his family?

14 A Yes, sir.

15 Q In light of your experience, Mr. Horne,  
16 and in light of your having reviewed production in the area  
17 of the proposed proration unit, do you have an opinion as to  
18 whether the 200 percent risk penalty and the figures which  
19 you have testified to as to -- or heard testified to as to  
20 overhead and total well cost, clear and reasonable in the  
21 area?

22 A Yes, I believe they are.

23 Q Yes, do you have the opinion?

24 A Yes, I have the opinion, yes.

25 Q And what is that opinion?

1           A           They are fair and reasonable.

2           Q           Would you ask for similar relief from the  
3 Division in this case?

4           A           Yes, sir, I would.

5           Q           Were Huber Exhibits Five and Six prepared  
6 by you or at your direction?

7           A           Yes, sir.

8                       MR. BREWER: I have no further  
9 questions of the witness and would move for the admission of  
10 Huber Exhibits Five and Six.

11                      MR. QUINTANA: Exhibits Five  
12 and Six will be entered into evidence.

13                      Mr. Nygaard, do you have ques-  
14 tions of this witness?

15

16 QUESTIONS BY MR. NYGAARD:

17

18           Q           If I may, yes, sir, I would like to ask  
19 this fine gentleman one question, and that is, is this con-  
20 sidered to be an offset well?

21           A           An offset well to --

22           Q           Yes, sir.

23           A           -- Wadley Trust No. 1, I assume that's  
24 the question.

25           Q           Yes.

1           A           I think it definitely is an offset well.

2           Q           Are you -- do you personally believe that  
3 the risk of an offset well is identical to the original  
4 wildcat well?

5           A           In this case, yes, sir, I do. I would  
6 like to point out in support of it --

7                           MR. BREWER: Well, I'll ask you  
8 the question for that.

9           A           Oh, excuse me.

10                          MR. NYGAARD: No further ques-  
11 tions.

12

13

REDIRECT EXAMINATION

14 BY MR. BREWER:

15           Q           Do you have any kind of explanation that  
16 you would like to offer the Examiner as to the risk factors  
17 involved in this particular well?

18           A           Yes, sir, I do. In this particular field  
19 there have been a total of twelve wells that have been  
20 drilled and out of these total of twelve wells there have  
21 been only three wells that have produced in quantities with  
22 an estimated ultimate recovery of greater than 50,000 bar-  
23 rels of oil.

24                           There were six wells that were dry holes  
25 in that they were never completed. No production casing was

1 run and they were considered dry holes upon drilling, and  
2 there have been three of those within the last two years  
3 that have been drilled.

4 And I'd also like to point out that the  
5 Wadley Trust No. 1 also offset a producing well and --

6 Q I'd ask you to refer to Exhibit Number  
7 Five and looking in Section 31, which appears to be in the  
8 proximity to the Wadley Trust 1 and Wadley Trust 2 Wells,  
9 whether there is any indication of any well having been  
10 drilled in Section 31.

11 A Yes, sir, in Section 31 there is a dry  
12 hole that was drilled in 1984, and it also offsets pro-  
13 ducing wells, or a producing well and wells that did produce  
14 in paying quantity.

15 And there was also two other wells, one  
16 of which was drilled by J. M. Huber Corporation in Section  
17 8, which was drilled in 1985, which was a dry hole, which  
18 also offset production.

19 MR. BREWER: I have no further  
20 questions, Mr. Examiner.

21

22

#### CROSS EXAMINATION

23 BY MR. QUINTANA:

24 Q I have a couple of questions for you, Mr.  
25 Horne.

1 I notice to the south of the Wadley Trust  
2 No. 1 there is a well in Section 5, two wells in Section 5,  
3 one producing a cumulative of 133,653 barrels and one pro-  
4 ducing, what is it, 844 barrels.

5 And then in Section there is two, one  
6 producing 291,892 barrels of oil and one producing 185,818  
7 barrels.

8 Out of those four wells, you know, there  
9 are three -- with the exception of the one in Section 5  
10 which has produced 844 barrels, they look like they may pro-  
11 duce sufficient quantities to pay out the well, and I notice  
12 that one in the upper lefthand corner of Section 5, the  
13 northwest of the northeast -- northwest of the northwest  
14 quarter of Section 5 is on the same structure as your pro-  
15 posed location.

16 Do you anticipate possible -- recovering  
17 the same amount of reserves?

18 A Yes, sir, that's the anticipation.

19 Q Would you consider that well to be cap-  
20 able -- would you consider 133,653 barrels be a sufficient  
21 amount of reserves to pay out for a cost of \$775,000?

22 A Yes, sir.

23 Q One other question. What is your antici-  
24 pated reserves recovery on the Wadley Trust No. 1? You must  
25 have some type of decline curve analysis on it?

1           A           Approximately 50,000 barrels.

2           Q           Do you happen to know what the payout in  
3 that one would be, approximate payout would be?

4           A           It was between five and six years.

5                       MR. QUINTANA: I have no fur-  
6 ther questions of the witness.

7                       Do you have a further question,  
8 sir?

9  
10 QUESTIONS BY MR. NYGAARD:

11  
12           Q           Well, sir, I'm just having a little  
13 trouble understanding one thing here, if you don't mind ex-  
14 plaining it to me again, because I'm not that sophisticated  
15 with it.

16                       In other words, it takes five or six  
17 years for that to pay out on the well that you've just dril-  
18 led, and if that's the case, I was just wondering how you  
19 folks could recommend, if that's all you expect, how you can  
20 recommend going forward.

21                       MR. BREWER: I'm going to ob-  
22 ject to that as asking for an opinion outside of the parti-  
23 cular skill of this witness in terms of decisions made to  
24 drill or not to drill.

25                       MR. QUINTANA: Do you make di-

1 rect recommendations to your direct supervisors as to the  
2 profitability of a well? Ultimate --

3 A Okay, would you repeat that, please?

4 Q Well, sir, I was simply wondering if this  
5 first well was not that good, why would you recommend to  
6 your folks that they go back for another dose, if it is not  
7 expected to be a better well, or the economics will take  
8 five or six years for it to even wash out?

9 A Okay. Our decision to drill a well, or  
10 my recommendation and my opinion as to whether a well is  
11 profitable has to be based upon production in the area of  
12 interest that we're looking at.

13 And when we -- when I recommend a well, I  
14 am rendering an opinion as to the probable profitability of  
15 the well with an associated risk factor involved for that  
16 particular location, and in this prospect it's my opinion  
17 that there is reasonable expectation for drilling a profit-  
18 able well, but I also believe along with that recommendation  
19 that there is considerable risk based on the evidence of the  
20 wells which have been drilled in the field.

21 And so when I make a recommendation,  
22 that's the things that are considered, and yes, I believe  
23 there is a reasonable possibility of a profitable well pay-  
24 ing out, and yet I assume in that opinion that it can also  
25 be a dry hole, which in this case the risk is considerable.

1 MR. QUINTANA: Any other ques-  
2 tions of the witness, sir?

3 MR. MYGAARD: No, sir. Thank  
4 you very, very much.

5 MR. QUINTANA: I have no fur-  
6 ther questions of the witness.

7 Are there other questions of  
8 the witness?

9 If not, he may be excused.

10 Is there anything else in Case  
11 8657?

12 MR. NYGAARD: If I may, I would  
13 like to simply make one little statement.

14 MR. QUINTANA: You may proceed.

15 MR. NYGAARD: And please under-  
16 stand I'm not that sophisticated in this area and I very  
17 much respect these gentlemen that have been presented here  
18 prior to me, but personally, and this is a personal belief  
19 only, I cannot actuarially (sic) see how the cost of a second  
20 well in a field could or should have the same penalty as the  
21 first well.

22 A 200 percent on a wildcat  
23 well, cost plus 200 percent, I think is fair. I certainly  
24 do, and I'm just having trouble understanding there not  
25 being a separate risk factor for Well No. 2, which this well

1 is called, and personally I just thought that cost plus 50  
2 percent or whatever this board decides is a reasonable risk,  
3 is certainly acceptable to me, but I'm simply saying that I  
4 cannot believe that the risk -- and cost plus 50 percent, or  
5 in the alternative, whatever you folks think is really cor-  
6 rect, well, I'm just happy to go with that.

7 I very much appreciate you  
8 giving me the opportunity to present my thoughts.

9 MR. QUINTANA: Thank you, Mr.  
10 Nygaard.

11 If there are no further -- if  
12 there is nothing further in Case 8657, Case 8657 will be  
13 taken under advisement.

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15 (Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is a complete record of the proceedings in the Oil Conservation hearing of Case No. 8657 heard by me on July 31 1985.  
Gilbert P. Quintana Examiner  
Oil Conservation Division