





1

2

## E X H I B I T S

3

4

Marathon Exhibit One, Land Plat 8

5

Marathon Exhibit One-A 8

6

Marathon Exhibit Two, Telephone Information 12

7

Marathon Exhibit Three, Correspondence 18

8

Marathon Exhibit Four, Correspondence 18

9

Marathon Exhibit Five, Correspondence 19

10

Marathon Exhibit Six, Notes 19

11

Marathon Exhibit Seven, Letter 19

12

Marathon Exhibit Eight, Notes 19

13

Marathon Exhibit Nine, Letter 19

14

Marathon Exhibit Ten, Letter 20

15

Marathon Exhibit Eleven, Letter 20

16

Marathon Exhibit Twelve, Letter 21

17

Marathon Exhibit Thirteen, Letter 21

18

Marathon Exhibit Fourteen Letters 21

19

Marathon Exhibit Fifteen, Letter 22

20

Marathon Exhibit Sixteen, Letter 22

21

Marathon Exhibit Seventeen, Letter 22

22

Marathon Exhibit Eighteen, Document 34

23

Marathon Exhibit Nineteen, Structure Map 38

24

25

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MR. STOGNER: Call next Case  
Number 8960.

MR. TAYLOR: Application of  
Marathon Oil Company for compulsory pooling, Lea County, New  
Mexico.

MR. STOGNER: Call for appear-  
ances.

MR. KELLAHIN: May we pass that  
case for a moment?

I do have the next one, which  
is a very short case that's unopposed, if that's acceptable.

MR. CARR: If they want to move  
the Texaco case ahead --

MR. KELLAHIN: Tenneco.

MR. CARR: -- Tenneco, that's  
fine with us.

MR. STOGNER: At the request of  
interested parties in the room, we will by-pass Case Number  
8960 at this time.

(Thereupon the case was delayed until later  
on the same docket.)

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MR. STOGNER: This hearing will  
come to order.

We will call next Case 8960.

MR. TAYLOR: The application of  
Marathon Oil Company for compulsory pooling, Lea County, New  
Mexico.

MR. STOGNER: Call for appear-  
ances.

MR. KELLAHIN: Mr. Examiner,  
I'm Tom Kellahin of the Santa Fe law firm of Kellahin & Kel-  
lahin. I'm appearing on behalf of the applicant and I have  
two witnesses to be sworn.

MR. STOGNER: Are there any  
other appearances?

MR. CARR: May it please the  
Examiner, my name is William F. Carr, with the law firm  
Campbell & Black P. A., Santa Fe. I represent in this case  
James A. Davidson, an interest owner in the acreage which is  
the subject of this pooling application.

I'd like the record to reflect  
that we requested a two-week continuance of this matter in  
which to prepare for today's hearing; that that request for  
continuance has been denied, and that unless some -- I would  
like to advise the Examiner that unless some agreement is

1 reached by the parties following this hearing, we anticipate  
2 that following entry of an order we will file an application  
3 for hearing de novo.

4 MR. STOGNER: Mr. Kellahin?

5 MR. KELLAHIN: I have no re-  
6 sponse.

7 We're ready to proceed.

8 MR. STOGNER: Okay, we will  
9 proceed at this time.

10 Will all witnesses please stand  
11 and be sworn.

12

13 (Witnesses sworn.)

14

15 STEVE DANIELS,

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

18

19 DIRECT EXAMINATION

20 BY MR. KELLAHIN:

21 Q Mr. Daniels, would you please state your  
22 name?

23 A Steven Daniels.

24 Q Mr. Daniels, by whom are you employed and  
25 in what capacity?

1           A           Marathon Oil Company, Landman.

2           Q           Have you previously testified as a land-

3 man before the Oil Conservation Division?

4           A           No, sir.

5           Q           Would you describe for the examiner what,

6 if any, what professional and educational experience you've

7 had as a landman?

8           A           I graduated from Texas Tech University.

9           Q           In what year was that?

10          A           1983.

11          Q           And what type of degree did you receive

12 from Texas Tech?

13          A           Petroleum Land Management.

14          Q           Subject to graduation, Mr. Daniels, have

15 you been employed as a petroleum landman?

16          A           Yes, sir. I've been employed as a land-

17 man with Marathon Oil Company for three years.

18          Q           As one of your duties for Marathon have

19 you been assigned the responsibility for attempting to nego-

20 tiate and reach voluntary agreements with the working inter-

21 est owners for the formation of a spacing unit for the

22 drilling of the well that's the subject of this hearing?

23          A           Yes, sir.

24                           MR. KELLAHIN: We tender Mr.

25 Daniels as an expert petroleum landman.

1 MR. STOGNER: Mr. Daniels is so  
2 qualified.

3 Q Mr. Daniels, let me direct your attention  
4 to what we've marked as Exhibit Number One, and have you lo-  
5 cate for the examiner the approximate location of the well  
6 to be drilled in the event the examiner enters a forced  
7 pooling order.

8 A The southeast quarter southeast quarter  
9 of Section 14, Township 16 South, Range 38 East, NMPM, Lea  
10 County, New Mexico.

11 Q What is your understanding of the acreage  
12 required to be dedicated to the proposed well?

13 A 40 acres.

14 Q And what type of well do you understand  
15 this to be?

16 A A 13,500-foot Silurian test.

17 Q And this would be an oil well?

18 A Yes, sir.

19 Q All right, sir. Let me show you on Exhi-  
20 bit Number One the area depicted as Section 14 and have you  
21 then use that exhibit, along with a portion of Exhibit Num-  
22 ber One-A.

23 If you'll take Exhibit One-A, turn to the  
24 second page of the application, the application lists some  
25 names and addresses and some percentages.

1 I would like for you, sir, to explain for  
2 us at the time the application was filed back on July 17th  
3 of this year, approximately what percentage of the working  
4 interest did Marathon control or work was committed to Mara-  
5 thon's interest?

6 Approximately what interest did you have?

7 A Approximately 29 percent.

8 Q Okay. At the time the application was  
9 filed were there certain owners that had not yet committed  
10 their working interest to the well?

11 A Yes, sir.

12 Q Are those names, addresses, and interest  
13 owners correctly depicted on page two of the application?

14 A Yes, sir.

15 Q Are the interests involved in the 40-acre  
16 tract undivided interests?

17 A Yes, sir.

18 Q So that those percentages will apply to  
19 the entire 40-acre tract.

20 A Yes, sir, that is correct.

21 Q All right. As of today, Mr. Daniels, let  
22 me go down the list with you and have you tell us what the  
23 current status is of your efforts to obtain voluntary join-  
24 der from each of the parties, starting first of all with  
25 ARCO's interest. It shows a 25 percent interest, is that

1 correct?

2 A Yes, sir, that is correct.

3 Q All right, where do we stand with ARCO?

4 A ARCO Oil and Gas has advised Marathon  
5 that they will either participate or farm-out their interest  
6 to Marathon in our proposed well, and therefore Marathon is  
7 requesting that ARCO's name be taken off the application.

8 Q All right, sir. Let me direct your  
9 attention to the Harvey E. Yates Company interest. That  
10 interest is identified as a 2.8125 percent interest. Is  
11 that an accurate number?

12 A Harvey E. Yates Company has assigned to  
13 four other companies portions of their interest.

14 Q All right, and have you caused to be  
15 notified those four other companies?

16 A Yes, sir, I have.

17 Q And they're all Yates affiliated  
18 companies, are they not?

19 A Yes, sir, they are.

20 Q Okay. What is the current status of your  
21 efforts to obtain voluntary joinder from the Yates  
22 affiliates?

23 A We are presently trying to negotiate  
24 farm-out terms with Harvey E. Yates Company.

25 Q At this point you do not have an agree-

1 agreement with that company and its affiliates?

2 A That is correct, and we request that they  
3 be left on the application.

4 Q All right, sir.

5 We'll skip Mr. Davidson for the moment  
6 and let's go to Mr. and Mrs. Lawrence. Their interest is  
7 shown as a 2.3437 percent interest. Is that accurate?

8 Q Yes, sir.

9 Q And what's the status of your efforts to  
10 obtain a voluntary agreement with the Lawrences?

11 A Marathon has an executed oil and gas  
12 lease with Mr. and Mrs. W. B. Lawrence, and therefore we are  
13 requesting that Mr. and Mrs. W. B. Lawrence be dropped from  
14 the forced pooling application.

15 Q All right, and the last entry is Mrs.  
16 June Speight of Lovington, a 2.3437 percent interest?

17 A Yes, sir. Marathon has come to terms  
18 with Mrs. Speight and requests that her name be dropped from  
19 the New Mexico Oil Conservation bid application.

20 Q All right. Let's go back up to Mr.  
21 Davidson at this point. Is Mr. Davidson's interest as best  
22 you know and understand correctly depicted as a 38.125 per-  
23 cent interest?

24 A Yes, sir, it is.

25 Q Mr. Daniels, I want to direct your atten

1 tion to Exhibit Number Two and first of all ask you to iden-  
2 tify Exhibit Number Two. What is it?

3 A What this is, Mr. Examiner, is telephone  
4 conversations and correspondence with Mr. James A. Davidson  
5 from on or about June 8th, 1984, to on or about July 23rd,  
6 1986.

7 These conversations show that we are at-  
8 tempting to work out a reasonable deal for Mr. Davidson.

9 Q Did you prepare the Exhibit Number Two  
10 based upon your own contacts with Mr. Davidson plus a review  
11 of Marathon's file showing other attempts to work a volun-  
12 tary arrangement with Mr. Davidson?

13 A That is how I prepared the Exhibit Two.

14 Q Would you identify for us on the exhibit  
15 what is the first occasion in which you were personally in-  
16 volved in an effort to get Mr. Davidson on a voluntary basis  
17 into the well?

18 A On or about December 7th, 1984.

19 Q Prior to that occasion are the entries de-  
20 picted on the exhibit based upon information you have re-  
21 viewed in Marathon's file?

22 A Yes, sir.

23 Q And to the best of your knowledge, infor-  
24 mation, and belief, are those entries true and accurate?

25 A Yes, sir.

1           Q           Let's start off with the June 8th of '84  
2 entry, and I don't propose to go through all of these con-  
3 tacts, but let's go back to the June 8th, '84 entry and have  
4 you generally tell us what the proposed offer was originally  
5 to Mr. Davidson in order to encourage him to participate in  
6 the well or to obtain his interest.

7           A           On June 8th, 1984, this is on or about  
8 this date we had found out that Mr. Davidson had top leased  
9 our interest in this Section 14 and therefore we were eval-  
10 uating whether we should possibly make an offer to Mr.  
11 Davidson to acquire his lease.

12           Q           All right, the first contact, then, with  
13 Mr. Davidson, as best you can determine, is August 7th of  
14 '84?

15           A           Yes, sir, this is correct.

16           Q           And that was the result of a letter from  
17 Marathon to Mr. Davidson offering him \$75.00 an acre plus an  
18 \$1.25 net revenue interest.

19           A           That is correct, sir.

20           Q           All right. Let's talk about your invol-  
21 vement now, Mr. Daniels. You said your first contact was  
22 approximately December 7th of '84.

23                        What was offered to Mr. Davidson on or  
24 about that time?

25           A           Our present offer with Mr. Davidson was

1 \$100.00 per acre for an assignment of an 81.25 percent net  
2 revenue interest lease.

3 On December 7th Mr. Davidson called and  
4 wanted to talk to Mr. Wayne Ransbottom concerning Marathon  
5 acquiring this interest and he advised that he would probab-  
6 ly take \$250.00 per acre and a 1/4 royalty to be assigned  
7 his lease.

8 Q Did you advise Mr. Davidson that the for-  
9 mer landman, Wayne, was it?

10 A Wayne Ransbottom.

11 Q Wayne Ransbottom, that you had taken  
12 over this matter from Mr. Ransbottom?

13 A Yes, sir.

14 Q All right. Did you communicate Mr.  
15 Davidson's proposal to your management and receive from them  
16 any authority to make Mr. Davidson any counter-proposal?

17 A Yes, sir, we advised -- I advised my  
18 management of his proposed counter offer and they advised on  
19 or about December 19th, 1984, that we send a letter back to  
20 Davidson for \$100.00 per acre bonus, 3/16ths royalty.

21 Q What is the next contact between Marathon  
22 and Mr. Davidson about the proposed acquisition of his in-  
23 terest?

24 A After which date?

25 Q I believe you've referred us to the Jan-

1 uary, '85 --

2 A Okay.

3 Q -- date. Now that's the \$100.00 an acre  
4 and still 81.25 percent interest.

5 The next entry is March of '85?

6 A Yes, sir. On March 13th, 1985, Marathon  
7 increased our offer to \$175.00 per acre bonus for him to de-  
8 liver a 3/16ths royalty interest lease to Marathon.

9 Q The cash bonus has been increased. Has  
10 there been a change in the royalty interest that Mr. David-  
11 son would retain?

12 A No, sir. Marathon was just interested in  
13 obtaining Mr. Davidson's interest and therefore proceeding  
14 with the possibility of commencing a well on this acreage.

15 Q Do you have an opinion as to whether or  
16 not on this particular date or in this time frame, whether  
17 or not the offers being made to Mr. Davidson were fair and  
18 reasonable?

19 A Yes, sir, they were fair and reasonable.

20 Q Upon what do you base that opinion, Mr.  
21 Daniels?

22 A Because we had leased other mineral own-  
23 ers and leasehold owners in this area for below that \$175.00  
24 amount.

25 Q Your summary shows subsequent contacts

1 between Mr. Davidson and Marathon. At some point in the  
2 contacts did Marathon increase or decrease its offer the  
3 last one we've discussed in March 13th of '85?

4 A No, sir, not until May 23rd, 1986, where  
5 we proposed for Mr. Davidson to either participate in the  
6 drilling of our Benson No. 1 Well or farm out his interest  
7 in the south half south half northeast quarter of Section  
8 14, Township 16 South, Range 38 East, delivering to Marathon  
9 a 75 percent net revenue interest lease with the option to  
10 convert a 1/16th of 8/8ths overriding royalty interest into  
11 proportionate 25 percent working interest at payout.

12 Q So that I understand what you've just  
13 told me, Mr. Daniels, is the offer, then, on May 23rd, '86  
14 to Mr. Davidson an offer that no longer includes a cash  
15 bonus?

16 A That is correct.

17 Q Does that offer include other terms, how-  
18 ever, that are greater than the offer made back in '85?

19 A Yes, sir.

20 Q You had increased what in the offer to  
21 Mr. Davidson?

22 A The royalty to 1/4.

23 Q Do you have an opinion as to whether that  
24 offer in '86 was an offer that was fair and reasonable?

25 A Yes, sir. We feel that that was reason-

1 able.

2 Q All right, sir. As of today, Mr.  
3 Daniels, have you been able to obtain either an assignment  
4 of the lease, acceptable farmout terms, or some other basis  
5 by which Mr. Davidson will either participate in the well or  
6 that you will acquire his interest and you can voluntarily  
7 then drill this well without the need of a compulsory pool-  
8 ing order?

9 A No, sir.

10 Q Are you still willing to discuss, and is  
11 Marathon still willing to discuss with Mr. Davidson, a pos-  
12 sible voluntary agreement between the parties?

13 A Yes, sir, we sure would.

14 Q Are you aware of any time constraints  
15 that preclude you from continuing the negotiations any far-  
16 ther than now?

17 A No, sir.

18 Q What are the -- what are -- what is your  
19 understanding of commitments of drilling monies with regards  
20 to the drilling of the well?

21 A It is my understanding that due to cur-  
22 rent economic times our management is subject to pull our  
23 drilling funds at any time and therefore we would like to  
24 commence this -- the drilling of this test well as soon as  
25 possible.

1 Q So you still have time in which to con-  
2 tinue negotiating with Mr. Davidson?

3 A That is correct.

4 Q But there is a risk that the drilling  
5 funds available for this well may be withdrawn by management  
6 at any time.

7 A That is true.

8 Q All right, and how much money do you un-  
9 derstand we're talking about to drill the well?

10 A Dry hole costs in this well are \$924,000.

11 Q Have you caused an AFE prepared by your  
12 drilling engineers to be circulated among the working inter-  
13 est owners?

14 A Yes, sir, I have.

15 Q I'm going to ask you to identify some of  
16 the correspondence. I don't plan to spend time talking to  
17 you about what you know about the correspondence.

18 First of all Exhibit Number Three, is  
19 that a true and accurate copy of the correspondence from  
20 Marathon to Mr. Davidson on August 7th of '84?

21 A Yes, sir.

22 Q Exhibit Number Four is Mr. Davidson's re-  
23 sponse to Marathon on August 10th of '84?

24 Is that a true and correct copy?

25 A Yes, sir.

- 1 Q And the notes on that page are whose  
2 notes?
- 3 A Wayne Ransbottom's notes.
- 4 Q Exhibit Number Five, Mr. Ransbottom's  
5 letter to Mr. Davidson of November 7th, '84, is that a true  
6 and accurate copy?
- 7 A Yes, sir, it is.
- 8 Q Exhibit Six, whose handwriting is this?
- 9 A Those are mine, sir.
- 10 Q And these represent your notes based upon  
11 a telephone conversation with Mr. Davidson on December 7th  
12 of '84?
- 13 A Yes, sir.
- 14 Q Exhibit Number Seven is a true and  
15 accurate copy of your letter to Mr. Davidson of January 9th  
16 of '85?
- 17 A Yes, sir, it is.
- 18 Q Exhibit Number Eight, is that your  
19 handwriting?
- 20 A Yes, sir, it is.
- 21 Q And this represents your telephone notes  
22 from March 13th in '85 and your telephone call to Mr.  
23 Davidson?
- 24 A Yes, sir.
- 25 Q Exhibit Number Nine is the March 13th

1 letter from you to Mr. Davidson?

2 A Yes, sir.

3 Q And Exhibit Number Ten is Mr. Davidson's  
4 letter back to Marathon on March 25th of '85.

5 A Yes, sir.

6 Q Exhibit Eleven is Mr. Davidson's letter  
7 of April 4th, '85, to Marathon?

8 A Yes, sir, it is.

9 Q And in this letter he's proposing to you  
10 -- he's proposing to you farmout terms?

11 A What he is proposing, Mr. Examiner, is he  
12 would assign us the leasehold which he owns in the south  
13 half of the south half northeast quarter of Section 14,  
14 Township 16 South, Range 38 East, if we would assign to Mr.  
15 Davidson two farmouts in HBP areas which Marathon has ac-  
16 reage.

17 Q All right. On this occasion and on other  
18 occasions Mr. Davidson proposed a trade in acreage of his  
19 interest in the acreage to be pooled with poorer acreage  
20 Marathon had elsewhere?

21 A Yes, sir.

22 Q And your management in each of those in-  
23 stances refused to trade acreage in order to make a volun-  
24 tary agreement?

25 A That is correct, yes, sir.

1 Q All right. The Exhibit Number Twelve is  
2 a May 23rd, '86, letter from you to Mr. Davidson.

3 A Yes, sir.

4 Q All right this is the one you talked  
5 about awhile ago. This is the latest series of efforts to  
6 obtain Mr. Davidson's participation or a farmout from him?

7 A Yes, sir.

8 Q All right. And Exhibit Number Thirteen  
9 is Mr. Davidson's letter back to you on June 4th, '86?

10 A Yes, sir.

11 Q All right. Now, Exhibit Fourteen, this  
12 is your letter of June 23rd, '86.

13 A Yes, sir.

14 Q Did you send a similar letter such as  
15 this including a proposed AFE to the other working interest  
16 owners who at this time had not yet made a decision to par-  
17 ticipate or to farmout in the well?

18 A Yes, sir, I did.

19 Q Was a similar letter sent to Mr. David-  
20 son?

21 A Yes, sir.

22 Q And did you advise Mr. Davidson in that  
23 letter of what Marathon anticipated to be the estimated dry  
24 hole costs and completion costs of the well?

25 A Yes, sir.

1 Q To the best of your knowledge, Mr.  
2 Daniels, is the proposed AFE for a total cost, dry hole  
3 cost, of \$928,000 the cost that your drilling engineers have  
4 estimated for the well?

5 A Yes, sir, that is correct.

6 Q Are these the costs you propose to submit  
7 to the Examiner for inclusion in the forced pooling order?

8 A Yes, sir.

9 Q All right. All right, and Exhibit Number  
10 Fifteen is Mr. Davidson's June 30th, '86 letter to Marathon.

11 A Yes, sir.

12 Q Again proposing some type of trade.

13 A Yes, sir.

14 Q And again this was not acceptable to Mar-  
15 athon's management.

16 A That is correct.

17 Q Exhibit Number Sixteen is your letter  
18 back to Mr. Davidson again renewing your efforts to have him  
19 participate or to acquire a farmout?

20 A Yes, sir.

21 Q All right, and then finally, is Exhibit  
22 Number Seventeen, which is what, sir?

23 A It's a letter from Mr. Davidson advising  
24 that he will oppose us at the New Mexico Oil Conservation  
25 Division as to any pooling action which may be brought up on

1 this acreage.

2 Q All right. Let me ask you, sir, if at  
3 this time you have circulated an operating agreement for the  
4 proposed well?

5 A No, sir.

6 Q Would that be one of the things that you  
7 would prepare or would be prepared by someone under your  
8 direction and control?

9 A Marathon would prepare it.

10 Q What type of form do you understand Mara-  
11 thon would use for purposes of an operating agreement?

12 A The 1982 standard operating agreement.

13 Q Are you familiar, Mr. Daniels, with the  
14 proposed overhead charges that Marathon would use in this  
15 operating agreement?

16 A Yes, sir.

17 Q All right, and in the event there are  
18 parties that would participate in the operating agreement,  
19 what would be the proposed overhead charges on a monthly  
20 basis for a drilling well rate and a producing well rate?

21 A Drilling well rate would be \$4598 and  
22 completed well cost would be \$459.

23 Q Are there other operating agreements for  
24 wells at similar depths for which Marathon has used these  
25 numbers?

1           A           Yes, sir, we used these numbers in our  
2 Philmont Hatfield Well, located in the north half of the  
3 southeast quarter of Section 23 in Township 16 South, Range  
4 38 East.

5           Q           Is that a section that's shown on Exhibit  
6 Number One?

7           A           Yes, sir, it is.

8           Q           All right, show us where the well is on  
9 Exhibit Number One for which those overhead charges were  
10 used.

11          A           It is located in the north half of the  
12 southeast quarter of Section 23, approximately a half a mile  
13 south of the proposed location.

14          Q           And was that also a Siluro-Devonian oil  
15 well?

16          A           Yes, sir.

17          Q           Do you recall approximately when that  
18 well was drilled?

19          A           The operating agreement was signed back  
20 in '81.

21          Q           Okay. It's in '81? Do you know what  
22 depths that operating agreement may have covered?

23          A           No, sir.

24          Q           All right. Best of your information that  
25 is the most recent operating agreement used by Marathon in

1 the immediate area?

2 A That is correct.

3 Q Are you absolutely sure that this was a  
4 Siluro-Devonian well?

5 A Not absolutely sure.

6 Q All right, may have been shallower.

7 A These numbers were provided to me by our  
8 accounting department --

9 Q Okay.

10 A -- and they listed that well as in the  
11 area.

12 Q As of now, so that the Examiner has a  
13 clear understanding, you're requesting compulsory pooling on  
14 behalf of your company of Mr. Davidson's interest.

15 A Yes, sir.

16 Q And of the Yates Company and their affil-  
17 iated companies interests.

18 A That is correct.

19 Q All other interestes have been committed  
20 in some fashion to Marathon.

21 A That is correct.

22 MR. KELLAHIN: That concludes  
23 my examination of Mr. Daniels.

24 MR. STOGNER: Thank you, Mr.  
25 Kellahin.

1 Mr. Carr -- I'm sorry.

2 MR. KELLAHIN: We would request  
3 at this time the introduction of Exhibits One through Seven-  
4 teen.

5 MR. CARR: We have no objec-  
6 tion.

7 MR. STOGNER: Exhibits One  
8 through Seventeen will be admitted.

9 Mr. Carr, if I might clarify  
10 one point.

11

12 CROSS EXAMINATION

13 BY MR. STOGNER:

14 Q Mr. Daniels, on Exhibit Number Two what  
15 is the term top leased?

16 A Marathon had -- already had an existing  
17 lease in the area which was due to expire on June the 15th  
18 of 1984, and Mr. Davidson went in and acquired the lease of  
19 this interest on May 10th, 1984, and May 21st, 1984, which  
20 was within the primary term of our existing lease.

21 Q That would be like purchasing something  
22 before it was due to be given up.

23 A Yes, sir.

24 Q Okay.

25 MR. STOGNER: Mr. Carr, your

1 witness.

2

3

CROSS EXAMINATION

4

BY MR. CARR:

5

6

7

8

Q And when you do that your rights to that property, when you top lease, at best are acquired at the time the prior interest in the property terminates, is that right?

9

10

11

12

A That is correct.

Q Now may I go on?

MR. STOGNER: Mr. Carr, you

may.

13

14

15

16

17

Q Mr. Daniels, at this time you have been able to reach voluntary agreement with all interest owners in the well or in the spacing unit, if I understand it, except for ARCO and certain of Yates groups -- I'm sorry, except for Yates groups and Mr. Davidson.

18

19

20

21

A That is correct.

Q And so at the present time you stand before the examiner representing somewhere in the neighborhood of 59 percent of the interest in this 40-acre tract?

22

23

24

25

A That is correct.

Q Now, in communicating with the individuals in this spacing or proration unit, you are the individual for Marathon who is designated to make the contact with

1 these other interest owners, is that correct?

2 A That is correct?

3 Q So you were in charge of negotiations  
4 with ARCO.

5 A Yes, sir.

6 Q And with the other small interest owners  
7 that have voluntarily come in.

8 A Yes, sir.

9 Q Would anyone else in Marathon have been  
10 talking with these working interest owners or would all  
11 those communications have gone through you?

12 A All of the communications would have gone  
13 through me.

14 Q Now, you also are the person who receives  
15 all communication back from these individuals, I assume;  
16 they come to your attention.

17 A Yes, sir.

18 Q And then you do not have, if I understand  
19 this correctly, the authority to, say, make a decision on a  
20 proposal from another interest owner; you must take that to  
21 your management.

22 A That's correct.

23 Q Who in your management do you take these  
24 proposals to?

25 A Our District Landman.

- 1 Q And who is that?
- 2 A Craig Schrab (sic).
- 3 Q And has Mr. Schrab (sic) been the Dis-
- 4 trict Landman since June, 1984, do you happen to know?
- 5 A No, sir. He has been our --actually it's
- 6 the MidContinent Region Landman, for approximately six
- 7 months.
- 8 Q And then who was his predecessor in that
- 9 position?
- 10 A John P. Duddleston.
- 11 Q Okay, so during this -- the time period
- 12 we're talking about, it would be one of these two indivi-
- 13 duals that you took a recommendation to, is that right?
- 14 A That's right.
- 15 Q And then they tell you what the company's
- 16 decision is.
- 17 A They in turn would take it to their sup-
- 18 eriors.
- 19 Q And then when -- eventually, though, you
- 20 receive word from Mr. Duddleston or Mr. --
- 21 A Schrab.
- 22 Q -- Schrab, and then you convey that to
- 23 the interest owner with whom you're negotiating.
- 24 A That is right.
- 25 Q Now, in terms of preparation of a joint

1 operating agreement, when do you anticipate that that might  
2 be done?

3 A In the very near future.

4 Q And when that's made -- when you actually  
5 draft the operating agreement, would that be made available  
6 -- or available to Mr. Davidson as well as the other inter-  
7 est owners?

8 A Yes, sir, it would.

9 Q Now, do you have any information as to  
10 how long Marathon has actually owned its interest in this  
11 area?

12 A We have been in this area since approxi-  
13 mately 1977.

14 Q And if I look at your Exhibit Number Two,  
15 this exhibit documents your efforts to acquire the interest  
16 of Mr. Davidson in the property which is -- which he owns in  
17 the proration unit which is the subject of today's hearing.

18 A Yes, sir.

19 Q If I look at this, and correct me if I'm  
20 wrong, it was in May of 1986 that you first proposed a well  
21 on the property to Mr. Davidson. Is that correct or had you  
22 done that before that time?

23 A That is correct. May 23rd was the first  
24 day which we proposed a well.

25 Q And prior to that time you were simply

1 attempting to acquire his interest in the property.

2 A That is correct.

3 Q You indicated that you were aware that  
4 drilling funds had been committed by your management for the  
5 development of this property and that might be withdrawn at  
6 any time.

7 Are you aware of any other commitment by  
8 your management to drill additional wells in this area?

9 A There is a possibility pending the out-  
10 come of this well.

11 Q Do you know whether or not drilling funds  
12 are available now for subsequent development in the area?

13 A I do not know that.

14 Q If I understood your testimony, there is  
15 no lease expiration or problem of that nature.

16 A Our lease, we have a lease beginning to  
17 expire in June of 1987.

18 Q Now you testified as to the AFE and as a  
19 landman I'm not going to ask you to justify any of those  
20 figures.

21 This was supplied by cover letter to Har-  
22 vey E. Yates with copies to other individuals, is that how  
23 the AFE was sent to the interest owners in this property?

24 A That is correct.

25 Q And so it would have been that Harvey E.

1 Yates letter that would have been the transmittal letter  
2 that Mr. Davidson received.

3 A Yes, sir.

4 Q The AFE shows a dry hole cost of  
5 \$924,000. What is the completed well cost set out on that  
6 exhibit?

7 A \$1,113,000. Excuse me, it's \$1,311,000.

8 Q And whereabouts is that on this exhibit?  
9 I'm sorry, I'm not seeing that.

10 A That's Exhibit Fourteen.

11 Q Uh-huh. Okay. And that's the total com-  
12 pleted well cost?

13 A Yes, sir.

14 Q If Mr. Davidson doesn't participate nor  
15 do the Yates, and you drill a dry hole out there, you would  
16 be carrying those interests to their proportionate share of  
17 the \$924,000, is that right?

18 A Yes.

19 Q So that's why that figure is the impor-  
20 tant figure here.

21 A Yes, sir.

22 Q I believe you testified, correct me if  
23 I'm wrong, that these are the figures that you're going to  
24 be submitting to Mr. Davidson if in fact the acreage is  
25 pooled and his interest is pooled for the purpose of this

1 well.

2 A That is correct.

3 Q Who prepared the AFE?

4 A Our drilling supervisor.

5 Q Do you happen to know who the individual  
6 is who --

7 A He -- our drilling supervisor's name is  
8 Terry Rivers.

9 Q And would he be the individual who put  
10 this AFE together?

11 A Yes, sir.

12 Q And he would be the proper person to di-  
13 rect questions to concerning the reasonableness of any  
14 figure.

15 A That is correct.

16 MR. CARR: I have no further  
17 questions.

18 MR. STOGNER: Thank you, Mr.  
19 Carr.

20 Mr. Kellahin, any redirect?

21 MR. KELLAHIN: No, sir.

22

23 RECROSS EXAMINATION

24 BY MR. STOGNER:

25 Q Just to know that I'm correct on this,

1 let's refer to Exhibit Number One-A.

2 Mr. Davidson's interest in this 40-acre  
3 unit is 38.125 percent, is that correct?

4 A Yes, sir.

5 Q And Harvey E. Yates Company, which is the  
6 only other party to be force pooled at this time, is the  
7 2.8125 percent?

8 A Harvey E. Yates Company and the other  
9 four subsidiaries total to 2.9125 percent.

10 MR. KELLAHIN: Mr. Examiner, I  
11 can give you that breakdown.

12 MR. STOGNER: Would you please?

13 MR. KELLAHIN: Yes, sir. We'll  
14 mark this as an exhibit.

15 After we were notified by Mr.  
16 Daniels that Yates had assigned its interest among four com-  
17 panies, we've notified those companies and I'll mark this as  
18 an exhibit but they're Explorer's Petroleum Corporation,  
19 Spiral, Inc., Fred G. Yates, Inc., and Yates Energy Corpora-  
20 tion.

21 MR. STOGNER: Do you wish to  
22 offer this as Exhibit Number One, Mr. Kellahin?

23 MR. KELLAHIN: Sir, perhaps we  
24 could number them in sequence and I'll make it Exhibit Num-  
25 ber Eighteen, is that right?

1 MR. STOGNER: Okay. Mr. Carr,  
2 do you have a copy or do you wish to see it?

3 MR. KELLAHIN: Let me give you  
4 one.

5 MR. CARR: We have no objec-  
6 tion.

7 MR. STOGNER: Exhibit Number  
8 Eighteen will be admitted into evidence at this time.

9 Q I will call this the Yates group. The  
10 Yates group and Mr. Davidson are the only two parties being  
11 force pooled at this time.

12 A Yes, sir, Mr. Examiner.

13 Q Thank you.

14 MR. STOGNER: I have no ques-  
15 tions of Mr. Daniels at this time.

16 We may have to recall him at a  
17 later time.

18 If there's no further questions  
19 of this witness, he may be excused.

20 MR. TAYLOR: Tom, do you have a  
21 copy of a letter from Harvey E. Yates Company dated July  
22 5th?

23 MR. KELLAHIN: No, sir.

24 MR. STOGNER: Let's take about  
25 a five minute recess at this time.

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(Thereupon a recess was taken.)

MR. STOGNER: Mr. Kellahein.

MR. KELLAHIN: Yes, sir.

DAVID L. REBENSTORF,

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

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Would you please state your name?

A David Rebenstorf.

Q Mr. Rebenstorf, would you spell your name  
for the record?

A R-E-B-E-N-S-T-O-R-F.

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

A I'm with Marathon Oil Company. I'm a geo-  
physicist.

Q Have you previously testified before the  
Oil Conservation Division of New Mexico?

A No, I have not.

Q Would you summarize your educational

1 background?

2           A           I have a Bachelor of Science degree from  
3 the University of Redlands, California, in geology.

4           Q           In what year?

5           A           In -- graduation date, February of 1979.

6           Q           And do you hold any other degrees?

7           A           No, sir.

8           Q           Would you summarize for us your work ex-  
9 perience as a geologist and as a geophysicist in the oil and  
10 gas business with emphasis on west Texas, southeastern  
11 New Mexico?

12          A           I began my employment in May of 1979 with  
13 Geophysical Services, Incorporated, a seismic company out of  
14 Dallas, collecting seismic data and involved in processing  
15 seismic data.

16                    I was promoted to the rank of Party Chief  
17 in about mid-1980.

18                    I began employment with Marathon Oil Com-  
19 pany in or about November 1st of 1981 and have been with  
20 them ever since.

21          Q           Would you describe for us what it is  
22 that you do for Marathon?

23          A           I interpret seismic data and generate  
24 prospects for them.

25          Q           Were you personally involved in the seis

1 mic work that was developed for the prospect that is the  
2 subject of this application?

3 A Yes, I was.

4 Q Let me show you what we have marked as  
5 Marathon Exhibit Number Nineteen and have you identify that  
6 for us.

7 A This is a structure map on the top of the  
8 Silurian formation from seismic data that I interpreted in  
9 1982, thereabouts; it was the first interpretation made.  
10 This has been updated since for budget purposes and the date  
11 is available on here is 8-8-85, for this exhibit.

12 Q This is your interpretation, your work  
13 product.

14 A Yes, sir, it is.

15 Q Let's have you give us some background  
16 information, Mr. Rebenstorf.

17 First of all, for the record, let's iden-  
18 tify the proposed location of the well. Where do we find  
19 that on the plat?

20 A The proposed location is in the southeast  
21 quarter of Section 14, 990 from the east line and 330 from  
22 the south line.

23 Q Let's locate a few wells or areas to help  
24 orient us.

25 A Okay.

1 Q Let's look to Section 15 to the west.  
2 There's a line of cross section that picks up a well in Sec-  
3 tion 15. It appears to be a Sun Yeager No. 1 Well?

4 A That is correct. That's the closest Sil-  
5 urian test to our prospect.

6 Q And if we look to the south, then,  
7 following that line of cross section, we come into Sections  
8 22 and 23. Where those sections come together there are al-  
9 so some well symbols. Do those have any significance for  
10 you in making your interpretation?

11 A No, not on the Silurian formation. These  
12 wells were shallower tests and have no bearing on this map.

13 Q All right, as we go farther to the south,  
14 then, following the line of cross section, we come to a  
15 structural feature that commences in Sections 27 and 26 and  
16 then we get down into some well locations in 34, 35.

17 Would you describe for us as a geophysi-  
18 cist what is occurring here and what type of wells we're  
19 looking at?

20 A Okay. We have a high structural block on  
21 the Silurian formation. This is the Knowles Field, which is  
22 producing from the same reservoir that our prospect is pro-  
23 posing to drill.

24 Q K-N-O-W-L-E-S?

25 A Knowles, yes.

1           Q           All right, and these, these wells are  
2 producing from the same type of formation --

3           A           That is correct.

4           Q           -- that you propose to test in the sub-  
5 ject well.

6           A           That is correct.

7           Q           All right. I assume that before a geo-  
8 physicist such as you can make an interpretation or evalua-  
9 tion a lot of things have to happen, specifically with re-  
10 gards to the interpretation of structure that you've presen-  
11 ted on Exhibit Nineteen.

12                        Would you describe for us generally what  
13 seismic data you use and how that information is indicated  
14 on the exhibit?

15           Q           Okay. We have several lines which are  
16 located on the map as the SSC Line 10 in the far northwest  
17 corner of the map.

18                        We have SSC Lines 1, 2, 3, 4, and 5, as  
19 well as Line 13 in the middle of the map. We have an  
20 extensive grid throughout the area and the small dots which  
21 appear with values next to them are the actual  
22 interpretations of shot point values from those lines.

23                        So if you -- when you encounter a small  
24 circle, those are control points from the seismic presented  
25 for the interpretation.

1           Q           For the sake of clarity, Mr. Rebenstorf,  
2 if you'll take my yellow marker and let's use your copy of  
3 the exhibit, if you'll connect the seismic lines that immed-  
4 iately affect your interpretation of the well location and  
5 structure at that point.

6                    You've identified on your copy of the ex-  
7 hibit five seismic lines.

8                    All right, let me take a moment.

9           A           There are two north/south lines and one  
10 east/west line, and two diagonal lines that cross the pros-  
11 pect and were critical to interpreting the structure.

12           Q           What is the purpose of the seismic shot  
13 lines? What do you as a geophysicist need them for?

14           A           The seismic data gives us a acoustic re-  
15 flection off of the formation, several formations throughout  
16 the area, and we take those reflections and map them to make  
17 subsurface maps and try to identify any anomalies that the  
18 data present.

19                    In this case these five lines presented a  
20 structure anomaly on the top of the Silurian.

21           Q           For purposes of making an interpretation  
22 and evaluation as a geophysicist, are you satisfied that  
23 there is an adequate number of seismic lines run in reason-  
24 able proximity to the structure from which you can make an  
25 interpretation?

1           A           In this case there's more than adequately  
2 enough data.

3           Q           Okay. In addition did you utilize any of  
4 the geologic information, the logs or wellbore information  
5 that had been acquired for wells to the depth of the pro-  
6 posed well?

7           A           Yes, sir, we tie the seismic data to the  
8 subsurface control which - which is available in that forma-  
9 tion. There are two tests to the Silurian formation in Sec-  
10 tion 15. There are two tests in Section 22 to the west of  
11 our Section 23 there, and there is a test in Section 27 and  
12 the several wells in Sections 34 and 35 to the south, which  
13 is the Knowles field.

14          Q           Do you have an opinion as to how, to what  
15 degree of reliability the seismic data or information you  
16 have interpreted correlates to the geologic information  
17 that's available?

18          A           I believe that we have a very good tie  
19 with the subsurface data. In fact, I would place an accur-  
20 acy of probably plus or minus 50 feet on the map at those  
21 subsurface control points.

22          Q           Would you give us a summary of your in-  
23 terpretation then of Exhibit Number 19 insofar as you have  
24 identified the particular top of this Silurian structure?

25          A           We have a structural block which is on a

1 height -- which is on a faulted trend similar -- on a faulted  
2 trend which is -- which is seen further to the north in  
3 the Denton Field, as well as further to the south here in  
4 Knowles, and even further south into South Knowles Field.

5           We -- these structural complexities continue  
6 into our area, which have given us a high horst block  
7 similar to these other producing fields. This block has approximately  
8 230 feet of closure on it. It is substantially  
9 low to Knowles Field but yet does have closure on it which  
10 we think is prospective.

11           Q           Have you participated in the  
12 recommendation to your management for the drilling of the  
13 well at the proposed location?

14           A           Yes, sir, I have.

15           Q           I want to ask you a question about the  
16 risk factor and when I say "risk factor" I want to ask you a  
17 question about your opinion of that risk factor, the risk  
18 factor being the risk factor the Oil Conservation Division  
19 has authority to assign in the compulsory pooling order.

20                       For purposes of my question you need to  
21 understand that if Mr. Davidson's interest is pooled the  
22 Commission by statute can allow the operator to recover as  
23 compensation for the risk he undertakes to carry Mr.  
24 Davidson's interest anywhere from zero to a maximum of 200  
25 percent risk. That is in addition to allowing the operator

1 to recover the actual costs of the well.

2                   So when I talk to you about a risk fac-  
3 tor, I want to know what percentage risk you would assign as  
4 a geophysicist to this well within that zero to 200 percent  
5 maximum range.

6                   That being the definition, do you have or  
7 can you form an opinion about the risk?

8                   A           I would, in my opinion, give a 200 per-  
9 cent penalty on this for a risk factor here.

10                  Q           Let me ask you the reasons, sir, that you  
11 base that opinion on.

12                  A           Well, in order to complete a well, a  
13 wildcat well, we are looking at four circumstances that have  
14 to be present.

15                               Number one, we have to have permeability  
16 and porosity.

17                               Number two, a structural and stratigra-  
18 phic trap available.

19                               Number three, there must be a source of  
20 oil in that rock formation, available to that rock forma-  
21 tion.

22                               And number four, the well must be commer-  
23 cial to make a well.

24                               And we certainly see the oil in the sys-  
25 tem by the presence of the oilfields to the south in Knowles

1 Field. That's no problem.

2                   The porosity and permeability does enter  
3 a problem. We have recognized that there is around 12, 12  
4 to 15 percent porosity in the Knowles Field production; how-  
5 ever, when we go to the north in the Sun Yeager Well in Sec-  
6 tion 15, the porosity as indicated from the induction logs  
7 and sonic logs would be somewhere in the order of 3 to 4  
8 percent porosity in the dolomite. This, obviously, is fair-  
9 ly tight and poses a risk that our well could be tight, as  
10 well, in the formation.

11                   The fourth factor I mentioned, being com-  
12 mercial, the size of structure is definitely not as large as  
13 some of the production we see in the area, and that poses a  
14 risk as well.

15                   So a combination of the porosity factor  
16 and the size of the feature we could -- we could assign a  
17 substantial penalty -- risk to this prospect.

18                   Q           As a geophysicist with this type of data  
19 available to you, can you determine what the permeability  
20 and porosity will be of a well drilled at this location?

21                   A           No, sir, we cannot. The only thing that  
22 we have been able to do with the seismic data is determine  
23 the presence of a structure at that point at the location.

24                   Q           So of the four necessary elements or fac-  
25 tors that you consider essential to address in assigning a

1 risk or determining whether a well will be drilled --

2 A Uh-huh.

3 Q -- the geophysicist can identify an an-  
4 swer to one of the four.

5 A Well --

6 Q You have found a structure or some trap  
7 that may indicate the presence of hydrocarbons.

8 A That is correct. There is just a struc-  
9 ture available and the second factor concerning oil in the  
10 system, we know that the Silurian formation does oil avail-  
11 able to that formation, and so that is another key -- key  
12 point to make.

13 Q Where is the closest established what  
14 we'll call commercial production? That was your fourth fac-  
15 tor, was the commercial production, and where is the closest  
16 commercial production in this formation located?

17 A It is two and a half miles to the south  
18 in Knowles Field.

19 Q When you make a recommendation to your  
20 management on assessing this prospect in order to drill it,  
21 I often hear people talk about a ratio of success. They'll  
22 assign a percentage number to it; don't see 100 percent very  
23 often, being a sure shot.

24 A No.

25 Q Sometimes they express it in terms of so

1 many wells out of 10 or so many wells out of 100 of being a  
2 commercial well.

3 In that context what, in your opinion, is  
4 the likelihood of encountering a commercial well at this lo-  
5 cation?

6 A Well, I --

7 Q Either in a percentage or in a number?

8 A I feel that this prospect merits no more  
9 risk than the normal average for a wildcat, which is 1 in 8  
10 or 1 in 10, which is roughly 12 to 10 percent likelihood of  
11 a successful well being completed there.

12 Q You identified for us a range of perme-  
13 ability and porosity comparing the area to the south to an  
14 area to the north, and I'll confess to you I'm not sure  
15 exactly where the 3 to 4 percent porosity range was, where  
16 it --

17 A That was in the Sun Yeager Well in the  
18 Silurian formation as determined from the sonic and induc-  
19 tion logs in Section 15 there.

20 Q So down in the area of established com-  
21 mercial production we see porosity in the range of 12 to 15  
22 percent?

23 A Right.

24 Q And what is the permeability ranges down  
25 there?

1           A           No permeability tests have been conduc-  
2   ted.

3           Q           Okay.    So when we look at the porosity  
4   range we're moving from 12 to 15 percent down to 3 or 4 per-  
5   cent.

6           A           That is correct.

7           Q           And that is a factor that you have uti-  
8   lized in reaching your opinion that the risk involved here  
9   justifies the maximum statutory 200 percent.

10          A           That is correct.    Our prospect certainly  
11   would be -- have the possibility of having that poor poro-  
12   sity development in this well.

13          Q           Are there samples or examples on Exhibit  
14   Number Nineteen of where there are good geophysic informa-  
15   tion from which you would locate a well and yet having made  
16   that evaluation can show by actual drilling that the seismic  
17   interpretation has been off or misstated?

18                    Do we have any of those examples on this  
19   kind of exhibit here?

20          A           No, we do not.

21          Q           All right, is that, is what I have con-  
22   veyed to you an incident that occurs in your profession?

23          A           Quite often we can identify structures  
24   and see wells that have penetrated those structures but yet  
25   be nonproductive or noncommercial.    So there are several

1 cases that I have mapped in regional work where structures  
2 of this nature have been dry holes.

3 Q Do you have any knowledge with regards  
4 to Marathon's plans to drill your proposed well in terms of  
5 having it budgeted? I assume that you recommended this  
6 prospect?

7 A Yes, sir, I did.

8 Q This is your well.

9 A That's right.

10 Q You and some others. All right, sir. I  
11 assume you're aware and concerned of having drilling funds  
12 available to you to drill this prospect that you've devel-  
13 oped.

14 A Yes, sir, I'm very concerned about that.  
15 I first began presenting this prospect to our management in  
16 the spring of '82. The initially most of our prospects on  
17 their first presentation are not approved but there are  
18 other ones which are a lot more mature and have more work  
19 done have received approval for drilling.

20 This well, as I understand it, was ap-  
21 proved for 1985 and the drilling funds were pulled that  
22 year, and then again this year, it was approved for this  
23 year and we still stand the risk of losing our drilling  
24 funds for this year.

25 Q Based upon your understanding, how soon

1 would you like to see Marathon commence the well in order to  
2 assure that this well in fact is drilled?

3 A I would like to see it commenced immedi-  
4 ately or if, you know, within the next thirty to sixty days.

5 Q Do you know what additional wells are  
6 still budgeted to be drilled within Marathon's budget in  
7 this particular area?

8 A Well, they're -- not in this immediate  
9 area.

10 Q This is the only one that you're aware of  
11 that's currently budgeted for this specific area?

12 A That is correct, for an exploration point  
13 of standpoint. If a commercial well was completed, oper-  
14 ations then, I believe, would propose a well in the next  
15 year to follow up on the discovery here.

16 Q I'm talking about the wildcat well --

17 A Yes, for exploration.

18 Q -- the wildcat wells that we are --

19 A Right, but there are no other wildcat  
20 wells planned in this area.

21 Q Okay.

22 MR. KELLAHIN: That concludes  
23 my examination of this witness.

24 We move the introduction of Ex-  
25 hibit Number Nineteen.

1 MR. CARR: No objection.

2 MR. STOGNER: Exhibit Nineteen  
3 will be admitted into evidence.

4 Mr. Carr, your witness.

5

6

CROSS EXAMINATION

7 BY MR. CARR:

8 Q Mr. Rebenstorf, Mr. Kellahin asked you to  
9 assure the examiner that there were occasions where seismic  
10 interpretation had been wrong, that you had a good prospect  
11 and it turned out not to be one.

12 But seismic information is a reliable  
13 tool that Marathon relies on in evaluating prospects, isn't  
14 that true?

15 A That is correct.

16 Q And when you undertake to run seismic  
17 work or tests like you have in this area, this is a very  
18 expensive process.

19 A Yes, it is. This process cost \$250,000  
20 for Marathon to shoot these fifty miles of data.

21 Q And this is the -- there really is no  
22 other geological or geophysical data to use in evaluating  
23 this prospect, is there?

24 A No, sir, other than what the existing  
25 wells are in the area and what seismic data that we have.

1           Q           And there are really no close existing  
2 wells, there are no wells that go through the Silurian down  
3 in Section 23.

4           A           No, sir, there are not.

5           Q           And so what we're doing here is we're  
6 relying on your seismic interpretation.

7           A           That's correct.

8           Q           Now is this the same seismic interpreta-  
9 tion that you presented to your management?

10          A           Yes, it is.

11          Q           And you recommended to them that they go  
12 forward with this prospect, did you not?

13          A           Yes, I did.

14          Q           Did you talk to them about a 1 in 10  
15 chance of the well being a success?

16          A           That is always understood as part of a  
17 wildcat well demonstration.

18          Q           Did you talk to them about the porosity  
19 in Section 15?

20          A           Yes, sir, they are aware of that.

21          Q           And so they were aware of both of these  
22 factors.

23          A           Yes, sir.

24          Q           And they elected to commit a substantial  
25 sum of money to still go forward with the prospect.

- 1           A           That is correct.
- 2           Q           They were aware of these risks.
- 3           A           That's correct.
- 4           Q           Were they aware at the time that they  
5 might be carrying some interest owners in the area?
- 6           A           They were not aware of it when it was in-  
7 itially proposed. We did have the acreage in Section 14  
8 leased at that time this was first developed.
- 9           Q           Were they ever made aware of the fact  
10 that Marathon might have as small an interest as 27 percent  
11 in this unit?
- 12          A           It was -- I don't believe that they were  
13 aware at that time and we, of course, are always making an  
14 effort to obtain additional interest such that we could  
15 drill the well with a higher percentage.
- 16          Q           And is there any procedure to re-evaluate  
17 this prospect in view of the fact that you may have less  
18 than 60 percent of the acreage actually committed to the  
19 well?
- 20          A           No, sir. We -- we would like to see  
21 other interest owners come in and share the risk with us in  
22 this area.
- 23          Q           But if they don't there is no -- you're  
24 not aware of anything that would cause this to be re-eval-  
25 uated based on the percent of the well that you're required

1 to carry.

2 A No, sir.

3 Q Now if economic conditions in the indus-  
4 try stay poor, there may be factors which would cause these  
5 drilling funds to be withdrawn.

6 A That is correct.

7 Q That's the situation everybody's faced  
8 with in the business today.

9 When you make this presentation, who goes  
10 with you? Are there land representatives there?

11 A We have a landman and a geologist avail-  
12 able to us.

13 Q Did you pick this particular location  
14 yourself?

15 A Yes, sir, I did.

16 Q Did the land people in Marathon have any  
17 input or work with you on that?

18 A No, sir, they did not.

19 Q Was there any consideration of developing  
20 the north location, say, in the northeast of 23, where you'd  
21 have 100 percent of the acreage instead of having this ac-  
22 reage problem by going into the southeast of 14?

23 A Well, there is always consideration in  
24 drilling 100 percent well but in this case in Section 14 we  
25 felt that it would be a benefit to Marathon to bring in

1 other interest owners to share the risk, being that a well  
2 completed in Section 23 would essentially put a -- if it was  
3 completed in 23, would essentially put a no risk situation  
4 for the landowners in the -- or lease owners in Section 14.

5 So we felt that Section 14 would indeed  
6 aid us in bringing in the risk factor with the other lease-  
7 holders.

8 Q So you drilled the well -- you're propos-  
9 ing a well in 14 so that others will share the risk.

10 A That is correct.

11 Q And then you will derive the benefit in  
12 the acreage to the south. In effect there would be no risk  
13 at that time. You'd have a good reading on porosity and  
14 permeability, things of that nature.

15 A We would have that information, yes, sir.

16 Q So there's an additional benefit to Mara-  
17 thon going in 14.

18 A Yes. Essentially we would prove up our  
19 acreage in Section 23, yes, sir.

20 Q And you'll let other people share in that  
21 risk.

22 A Marathon, to my knowledge, has 100 per-  
23 cent interest in that unit, or that section.

24 Q In 23?

25 A Yes, sir.

1 Q And that would be proved up.

2 In view of the fact that they may be --  
3 that Marathon may be having to carry about 41 percent in the  
4 drilling unit, you still would recommend they go forward.

5 A Yes, sir, I would.

6 Q And you think it's a good enough prospect  
7 for Marathon to invest over half a million dollars, even  
8 with these risks as you've portrayed them.

9 A Yes, sir, I do.

10 MR. CARR: That's all I have.

11 MR. STOGNER: Thank you, Mr.  
12 Carr.

13 Mr. Kellahin?

14 MR. KELLAHIN: Nothing further.

15 MR. STOGNER: Anything further  
16 for you?

17

18

#### CROSS EXAMINATION

19 BY MR. STOGNER:

20 Q Mr. Rebenstorf, does Marathon operate any  
21 Silurian wells in here?

22 A No, sir, Mr. Examiner, we have no Silur-  
23 ian tests in the area.

24 Q Okay, what is the closest Marathon pro-  
25 duction around here?

1           A           We have production about 15 miles to the  
2 north in the Denton Field, which is -- we are not the opera-  
3 tors of that, and probably 30 to 35 miles to the southwest  
4 -- well, excuse me, there is production on the Permian mar-  
5 gins but those are not the same age, but in the Lea Field to  
6 the southwest about 35 miles there would be Silurian produc-  
7 tion there, as well.

8                       We have operated several wells in New  
9 Mexico for many years.

10           Q           Okay, when I refer to Exhibit Number  
11 Nineteen, you have that A-A' line through here.

12           A           Yes, sir, I have that cross section, geo-  
13 logic cross section from three wells. One from just north  
14 outside the map in the South Denton Field, or well, it's an  
15 undesignated field, there's nothing completed there; going  
16 down south to the Knowles Field.

17                       MR. STOGNER: Mr. Kellahin, is  
18 somebody else going to offer that as an exhibit or --

19                       MR. KELLAHIN: Oh, the cross  
20 section?

21                       MR. STOGNER: Cross section,  
22 yes.

23                       MR. KELLAHIN: I hadn't pro-  
24 posed to utilize it. If you'd like to have it in the record  
25 I'll have this witness authenticate it and we'll use it, if

1 you'd like to have the information we'll be happy to do so.

2 MR. STOGNER: Okay, because  
3 what I was getting at was that type log. I just wondered  
4 what that meant and what it was referring back to something,  
5 or was this map prepared for something else.

6 A This map was prepared for budget presen-  
7 tation, Mr. Examiner, and a type log is always put with the  
8 map to show essentially the lithology to management that is  
9 available through that interval that we're seeking to ex-  
10 plore.

11 MR. KELLAHIN: I was just seek-  
12 ing to move the hearing quicker. If you'd like to have that  
13 as a type log and the cross section, I'd be happy to do so  
14 right now.

15 MR. STOGNER: Oh, I don't be-  
16 lieve it's -- I don't believe that will be necessary at this  
17 time.

18 I have no further questions of  
19 Mr. Rebenstorf.

20 Is there anything else for this  
21 witness?

22 MR. KELLAHIN: No, sir.

23 MR. STOGNER: Is there anything  
24 else of the previous witness, Mr. Daniels, at this time?

25 MR. KELLAHIN: I have nothing

1 more.

2 MR. STOGNER: Mr. Rebenstorf  
3 may step down.

4 I believe we're ready for clos-  
5 ing statements. Mr. Carr I will allow you to go first. Mr.  
6 Kellahin, I'll allow you to follow.

7 MR. CARR: Mr. Stogner, just  
8 very briefly, Mr. Davidson, an interest owner in the acreage  
9 which is being pooled, has not been able to reach a volun-  
10 tary agreement committing his lands to the well.

11 I think the testimony presented  
12 here today, particularly the geophysical information, shows  
13 that the structure is well defined. The geophysicist admit-  
14 ted there's no problem with the oil being there. There is  
15 some question as to porosity and permeability.

16 But the interesting thing is he  
17 admitted that the reason the well is located where it is, is  
18 to enable to Mr. Davidson to share the risk so they can  
19 prove up the acreage in 23.

20 I think when you look at the  
21 record that's been made and the evidence before you, clearly  
22 what we have is where Mr. Davidson is being asked to do  
23 something which is, I submit, inappropriate; that the well  
24 should be drilled in Section 23 where Marathon owns all the  
25 acreage and can bear the risk and it cannot be passed to

1 somebody else so somebody else will bear the risk of proving  
2 up their acreage.

3 We would recommend that when  
4 you evaluate this and consider that in assessing a risk pen-  
5 alty, and we'd recommend that no penalty in excess of 100  
6 percent be assessed.

7 MR. STOGNER: Is that all, Mr.  
8 Carr?

9 MR. CARR: That's all.

10 MR. STOGNER: Thank you, Mr.  
11 Carr.

12 Mr. Kellahin.

13 MR. KELLAHIN: Thank you, Mr.  
14 Examiner.

15 Mr. Rebenstorf has demonstrated  
16 to you that the geophysic information he's evaluated shows  
17 that this wildcat prospect has a significant risk. He's on-  
18 ly been able to satisfy one of the four elements that he  
19 identified for you and that the presence of a structure. We  
20 believe that this case justifies the 200 percent risk factor  
21 that the Division continually awards to wildcat wells, which  
22 we believe is to be (not understood.)

23 Mr. Carr would have you believe  
24 that there is somehow some lack of good faith or fair deal-  
25 ing with Mr. Davidson in located the well as proposed.

1 I would invite you to turn to  
2 the very first exhibit we introduced today. Let me show you  
3 something that's real interesting.

4 Mr. Carr would have you believe  
5 that the well ought to be 100 percent on Marathon acreage to  
6 the south so that Mr. Davidson will not have to share in  
7 what is a significant risk. The well is where it ought to  
8 be because that's where the geophysicist wanted it.

9 But there's no disadvantage to  
10 Mr. Davidson. This well is on 40-acre spacing. Look at the  
11 land plat. Mr. Davidson has the same 38 percent interest in  
12 three offset locations to this very same well. He's bene-  
13 fitting as much as anyone by this well location. We are  
14 proving up his interest in the remaining portion of this  
15 lease as well as our own acreage in the area. That is not  
16 unfair; it's done all the time.

17 You see the acreage the way  
18 it's divided? Mr. Davidson has a 38 percent interest in the  
19 entire south half of Section 14, plus the south half of the  
20 northeast quarter. We're only talking about a 40-acre  
21 tract. Mr. Davidson is going to get a significant benefit  
22 whether or not this is a dry hole or a commercial producing  
23 well.

24 If it is a successful well,  
25 then we have improved the quality of his property and made

1 it far much more valuable.

2 In this instance we think he  
3 ought to share the risk for us. We have invited him for  
4 months to participate in this well and we have actively nego-  
5 tiated with him for years to acquire his interest. We think  
6 we've done all that's required to be done for a pooling or-  
7 der, and we would request that you enter it.

8 MR. STOGNER: Thank you, Mr.  
9 Kellahin.

10 Anything further in Case Number  
11 8960 today?

12 If not, this case will be taken  
13 under advisement.

14

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 the foregoing Transcript of Hearing before the Oil  
Conservation Division (Commission) 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 Examiner hearing of Case No. 8960  
heard by me on 6 August 1986.

Mahad S. Stogner, Examiner  
Oil Conservation Division

10/15/86