

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO

17 August 1988

EXAMINER HEARING

IN THE MATTER OF:

Application of Mallon Oil Company for      CASE  
compulsory pooling, Eddy County, New      9458  
Mexico.

BEFORE: David R. Catanach, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division:                      Robert G. Stovall  
  Attorney at Law  
  Legal Counsel to the Division  
  State Land Office Bldg.  
  Santa Fe, New Mexico

For the Applicant:

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MR. CATANACH: Call next Case  
Number 9458.

MR. STOVALL: Application of  
Mallon Oil Company for compulsory pooling, Eddy County,  
New Mexico.

The applicant has requested  
that Case No. 9458 be continued.

MR. CATANACH: Case No. 9458  
will be continued to the Examiner Hearing August 31, 1988.

(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 (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. 9458, heard by me on August 17 1988.

David R. Cotnam, Examiner  
Oil Conservation Division

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO

14 September 1988

EXAMINER HEARING

IN THE MATTER OF:

Application of Mallon Oil Company                   CASE  
for compulsory pooling, Eddy County,               9458  
County, New Mexico.

BEFORE: David R. Catanach, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division:

For the Applicant:

1 MR. CATANACH: Call next 9458,  
2 Application of Mallon Oil Company for compulsory pooling,  
3 Eddy County, New Mexico.

4 At the request of the appli-  
5 cant this case will be continued to the Examiner hearing  
6 scheduled for October 12th, 1988.

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8 (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 (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. 9458,  
heard by me on September 16 19 88.

David R. Calant, Examiner  
Oil Conservation Division

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO

31 August 1988

EXAMINER HEARING

IN THE MATTER OF:

Application of Mallon Oil Company for      CASE  
compulsory pooling, Eddy County, New      9458  
Mexico.

BEFORE: Michael E. Stogner, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division:

For the Applicant:

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MR. STOGNER: Call next Case Number 9458. The application of Mallon Oil Company for compulsory pooling, Eddy County, New Mexico.

The applicant has requested that this case be continued to September 14, 1988. Case No. 9458 will be so continued.

(Hearing concluded.)

*Salley W. Boyd CSR*

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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 (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.

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I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 9458, heard by me on 31 August 1988.

[Signature] Examiner  
Oil Conservation Division

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO

12 October 1988

EXAMINER HEARING

IN THE MATTER OF:

Application of Mallon Oil Company for      CASE  
compulsory pooling, Eddy County, New      9458  
Mexico.

BEFORE: David R. Catanach, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division:                      Robert G. Stovall  
  Attorney at Law  
  Legal Counsel to the Division  
  State Land Office Bldg.  
  Santa Fe, New Mexico

For the Applicant:                     Ernest L. Padilla  
  Attorney at Law  
  PADILLA & SNYDER  
  P. O. Drawer 2523  
  Santa Fe, New Mexico 87504

For Red Bluff Water Power             James T. Jennings  
Control District:                       Attorney at Law  
  JENNINGS & CHRISTY  
  P. O. Box 1180  
  Roswell, New Mexico 88201

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1 MR. CATANACH: Call next Case  
2 9458.

3 MR. STOVALL: Application of  
4 Mallon Oil Company for compulsory pooling, Eddy County, New  
5 Mexico.

6 MR. CATANACH: Are there ap-  
7 pearances in this case?

8 MR. PADILLA: Mr. Examiner, my  
9 name is Ernest L. Padilla, Santa Fe, New Mexico, for the  
10 applicant in this case.

11 I have three witnesses.

12 MR. CATANACH: Any other ap-  
13 pearances?

14 MR. JENNINGS: My name is  
15 James T. Jennings of Roswell, and I'm appearing on behalf  
16 of the Red Bluff Water Power Control District.

17 And I have no witnesses.

18 MR. CATANACH: Can I get the  
19 witnesses to stand and be sworn in at this time?

20

21 (Witnesses sworn.)

22

23 KAREN McCLINTOCK,  
24 being called as witness and being duly sworn upon her oath,  
25 testified as follows, to-wit:

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DIRECT EXAMINATION

BY MR. PADILLA:

Q Ms. McClintock, for the record would you please state your name and by whom you're employed?

A My name is Karen McClintock and I'm employed by Mallon Oil Company.

Q And where are you from?

A Denver, Colorado.

Q Ms. McClintock, have you previously testified before the Oil Conservation Division and had your credentials accepted as a matter of record?

A Yes.

Q As what?

A Landman.

Q As a landman? What are your duties with Mallon Oil Company?

A I'm the land department. I'm responsible for all the land work. I handle the land records; responsible for payment of all rentals. I also am responsible for the Division orders; any type of opinions, legal contracts for the company.

Q Are you familiar with the purpose of the hearing today?

A Yes, I am.

1 Q Tell us briefly what that entails.

2 A Mallon Oil Company is operator of the --  
3 what we call the Pecos River Prospect and Mallon Oil Com-  
4 pany proposed to drill a well in Section 27, the northwest  
5 of the southwest quarter. That's in Township 26 South,  
6 Range 29 East.

7 Mallon Oil Company's acreage for the  
8 40-acre spacing unit is not 100 percent; therefore we would  
9 like to force pool the remaining acres that Mallon Oil  
10 Company does not control.

11 MR. PADILLA: Mr. Examiner, we  
12 tender Ms. McClintock as an expert landman.

13 MR. CATANACH: She is so qual-  
14 ified.

15 Q Ms. McClintock, let me refer you to what  
16 we have marked as Exhibit Number One and have you identify  
17 that for the examiner.

18 A You bet. Exhibit Number One is an out-  
19 line of Mallon -- in orange is an outline of Mallon Oil  
20 Company's federal lease, which is NM-38636.

21 What is outlined in the pink is the Red  
22 Bluff Reservoir and that acreage is dedicated to Federal  
23 Lease NM-71599.

24 Mallon Oil Company controls what is out-  
25 lined in the orange.

1 Q In other words, what you're saying is  
2 that the Red Bluff lease underlies the water, is that --

3 A That's correct.

4 Q Okay. What is that little square over  
5 to the righthand side of that exhibit?

6 A That is acreage that is exempt from our  
7 federal lease.

8 Q Is that covered by another lease?

9 A Yes, it is.

10 Q Where is your proposed location in rela-  
11 tion to this plat?

12 A Okay. Our proposed location is identi-  
13 fied as identified as the 12 in Section 27 and that's in  
14 the northwest of the southwest of Section 27. It's identi-  
15 fied as the No. 12. That was the original well name but it  
16 is now known as the Amoco Red Bluff No. 1 Well.

17 Q Let me hand you what we have marked as  
18 Mallon Exhibit Number Two and have you tell the Examiner  
19 what that is.

20 A This the lease for NM NM-71599, the  
21 lease that was given to Red Bluff Water Power Control Dist-  
22 rict.

23 Q Does that lease describe the acreage  
24 covered under the Red Bluff lease?

25 A Yes, it does.

1 Q Can you tell the Examiner where that  
2 acreage is described?

3 A On the second page there's a map and in  
4 Section -- Parcel No. 2 is identified with the acreage in  
5 Section 27 that we would like to force pool.

6 Q Okay. Is there a further description of  
7 that lease?

8 A I believe so. It is found under Field  
9 Notes for Red Bluff Reservoir Parcel No. 2.

10 Q And is that a metes and bounds descrip-  
11 tion?

12 A Yes, it is.

13 Q Is that -- to your understanding what  
14 does that metes and bounds description purport to describe?

15 A It purports to describe in my under-  
16 standing the acreage found in Section 27 that will be --  
17 what we have -- what we would like to force pool.

18 Q Okay. Ms. McClintock, what plans does  
19 Mallon currently have to drill this well? In other words,  
20 how soon do you have to drill this well?

21 A Mallon Oil Company's Lease NM-38636, we  
22 obtained for a farmout from Amoco. We are under a contin-  
23 uous drilling contract with Amoco and we have an October  
24 24th, 1988 deadline.

25 Q Have you requested an extension of that

1 time limit?

2 A Yes, we have.

3 Q Have you had other extensions in the  
4 past?

5 A Yes, we have.

6 Q And what -- why have you had to request  
7 other extensions in the past?

8 A For various reasons.

9 Q Can you -- can you tell us what those  
10 reasons are?

11 A I think Mr. Cox could be better able to  
12 describe the reasons. They are mostly based on engineering  
13 and geology.

14 Q Okay. You have no assurance at this  
15 time that your extension request is going to be granted?

16 A No, we don't.

17 Q What -- are you familiar with the type  
18 of overhead charges that you customarily use in this area  
19 for -- in operating agreements that Mallon charges?

20 A Yes, I am.

21 Q What are those for a producing well?

22 A For a producing well the operating for  
23 NM-38636 lease that we have, our operating agreement pro-  
24 vides for \$325 for a producing well rate.

25 Q And for a drilling well, what would that

1 be, the overhead charge?

2 A In the operating agreement it states  
3 \$3100. Of course both of these overhead charges are sub-  
4 ject to increase or decrease as deemed by the COPAS, so  
5 they have changed from those figures.

6 Q Can you give us a figure today, what  
7 you're currently using?

8 A Yes, I can. Right now it looks like we,  
9 for drilling and completion, we charge \$3056.60 a month and  
10 production is \$334.88 a month.

11 Q Okay. What type of nonconsent penalty  
12 provisions do you incorporate for operating agreements in  
13 this area?

14 A Our operating agreement that we have in  
15 effect today calls for 400 percent (unclear).

16 Q How many wells are you operating in that  
17 area now?

18 A Right now we are operating 13. I  
19 believe Mr. Cox might be able to correct me on that; 13.

20 Q In other words, then your nonconsent  
21 penalty provision on operating agreements is 400 percent,  
22 is that correct?

23 A That's correct.

24 Q That's higher than what the Commission  
25 is authorized to authorize by its orders, is that correct?

1           A           That's correct.

2           Q           Ms. McClintock, have you -- what other  
3 people in your organization have dealt with Red Bluff in  
4 connection with trying to obtain voluntary pooling in this  
5 case?

6           A           I -- Mr. Joe Cox in our office has con-  
7 tacted Red Bluff directly. I, myself, have not contacted  
8 Red Bluff. I have elected to have a Mr. Les Oppermann  
9 handle the negotiations on behalf of Mallon Oil Company.

10          Q           And is it my -- does that mean you've  
11 generally just supervised the voluntary -- or just super-  
12 vised negotiations?

13          A           That's correct. I've supervised Mr. Les  
14 -- and directed Mr. Les Oppermann on his negotiation.

15          Q           Okay.

16                   MR. PADILLA: I believe that's  
17 all the questions I have of Ms. McClintock.

18                   MR. CATANACH: Mr. Jennings?  
19 Any questions of the witness?

20                   MR. JENNINGS: Yes, I have.

21

22

CROSS EXAMINATION

23 BY MR. JENNINGS:

24          Q           First off, Ms. McClintock, you've been  
25 talking about your operating agreement. Some time ago I

1 was furnished with a copy of an operating agreement and it  
2 showed substantially different figures than you just testi-  
3 fied to. Have they been changed or --

4 A I believe, Mr. Jennings, you have a copy  
5 of what I wanted to mail to you, which was our standard  
6 operating agreement and those are the overhead charges I  
7 was just speaking about, 4,400, and the change -- the  
8 reason for the change is I did not send you a copy of the  
9 actual Red Bluff operating agreement -- I mean, I'm sorry,  
10 Red Bluff -- Pecos River operating agreement. What I sent  
11 you was an example of an operating agreement we have used.

12 Q Well, I mean, we have been -- Red Bluff  
13 has been led to believe that the drilling, well drilling  
14 operations are essentially 4000 and the monthly operating  
15 expenses was 400 --

16 A Uh-huh, that --

17 Q -- and you never have given them any  
18 other information, have you?

19 A It was never requested until such time  
20 that you requested an example of an operating agreement,  
21 which I did mail to you.

22 Q Do you generally furnish the non-opera-  
23 tors copies of the proposed operating agreement?

24 A All of our non-operators in the Pecos  
25 River Prospect have executed an operating agreement.

1 Q Well, do you have any other properties,  
2 Ms. McClintock, in your 13 wells where you have another --  
3 have a non-operator who owns part of the acreage, not one  
4 who just received his interest through you?

5 A I'm not quite sure what you're asking,  
6 Mr. Jennings.

7 Q Well, I'm asking if you have any other  
8 oil and gas operators, other than your investors, who are  
9 parties to those operating agreements?

10 A All of our non-operators have executed  
11 operating agreements. They did not receive their interest  
12 through Mallon, though.

13 Q Who did --

14 A Not necessarily. Mallon Oil Company  
15 originally started out as a working interest owner in the  
16 Pecos River Prospect and Worth Petroleum was the operator.

17 Mallon Oil Company, on October 1, 1986,  
18 took over operation and as far as I know, every non-ope-  
19 rator of record is -- received their interest through Worth  
20 Petroleum Company.

21 Q But that was all under the same farmout.

22 A We were all subject to the Amoco Federal  
23 Harry Bettis farmout.

24 Q You don't have any -- any other interest  
25 or any other leases involved in the drilling program there,

1 other than the Amoco lease.

2 A We do not have any leases, title to any  
3 leases, that is correct.

4 Q Well, now, you -- in your exhibit here  
5 you referred to your -- your acreage being all that was --  
6 Exhibit One, I believe -- included in the orange in  
7 Sections 27, 28 and 29.

8 A With the pink being the Red Bluff that  
9 was exempt from our leases.

10 Q Well, you referred to Mallon Oil Company  
11 as a lessee of those leases. That is not a true statement,  
12 is it?

13 A No, I did not refer to Mallon Oil Com-  
14 pany as a lessee. I referred to Mallon Oil Company as one  
15 that controls the lease.

16 Q Well, you said they owned the lease, I  
17 thought.

18 A If I did, I made a mistake.

19 Q I'm sorry.

20 A We control the lease through the farm-  
21 out.

22 Q Through the farmout. Does the farmout  
23 have the -- cover all the acreage?

24 A The farmout covers this particular  
25 federal lease and additional leases that expired.

1 Q Who is -- who is -- who obtained that  
2 original farmout?

3 A Harry Bettis.

4 Q Is he associated with Mr. Oppermann in  
5 this operation?

6 A I believe you'll have to ask Mr. Opper-  
7 mann that.

8 Q All right. Ms. McClintock, when was the  
9 decision to drill this well originally made?

10 A Actually, the exact date I'm sure Mr.  
11 Cox would be a little bit more accurate, but we had elected  
12 to drill this well some time ago prior to the issuance of  
13 the federal lease, NM NM-71599. We had originally staked  
14 the location and when we realized that there would be some  
15 possible delay in terms of the acreage situation, we elec-  
16 ted to drill another well in its place.

17 Q Well, couldn't you tell me, what's the  
18 status of the well and when did you first file your appli-  
19 cation for the --

20 A I believe Mr. Cox would be much better  
21 answering that question.

22 Q Well, maybe Mr. Cox can hand you a copy  
23 of the notice, your notice of intention to drill. Do you  
24 have one available?

25 MR. COX: Yes.

1 Q What -- could it have been on or about  
2 August 19th, 1987, when you learned that you didn't have a  
3 lease on that acreage?

4 A No. We knew all along we didn't have a  
5 lease on the acreage. That was never in question; the  
6 lease meaning NM NM-71599. We were aware that we did not  
7 have a lease.

8 Q Were you -- were you -- when did you  
9 first become aware that you didn't receive or obtain this  
10 acreage under your farmout from Amoco?

11 A I guess we have to back up a little bit  
12 here.

13 Mallon Oil Company was not able to par-  
14 ticipate in a bidding process for the royalty. Only Amoco,  
15 as record title owner of NM-38636, that lease, they were  
16 the only ones electing -- or were able to bid on the lease.  
17 Mallon Oil Company did not have an opportunity. Mallon Oil  
18 Company contacted Amoco, wanted to know what their proce-  
19 dure was in terms of bidding on this particular lease, and  
20 they could not give me any information whether they would  
21 or would not bid on the lease.

22 So Mallon Oil Company never had an op-  
23 portunity. We found out after the bids were returned, that  
24 Amoco had not actually bid on the lease, or submitted a  
25 royalty bid.

1           Q           Well, do you remember having a conver-  
2 sation with me on or about August 19th, 1987, when I called  
3 to advise you that -- after I'd seen a notice of intention  
4 to drill this well in a Roswell paper, that there was part  
5 of that acreage that you didn't have a lease on?

6           A           I was aware of that, Mr. Jennings, and  
7 because prior to committing the application Mallon Oil Com-  
8 pany contacted the proper authorities and we were told to  
9 take several -- possibly we could take several directions.

10                    At that time we were not informed that  
11 the lease would be put out for royalty bid. We were told  
12 possibly that we could even file for a sub-standard prora-  
13 tion unit. There were, what we thought were several oppor-  
14 tunities and it would be worthwhile for Mallon to submit  
15 the application.

16                    But we, prior to your phone conversa-  
17 tion, I was well aware that we did not have a lease, but  
18 that was not the issue, and that was not -- when we filed  
19 the application we were not any type of illusion that we  
20 had the lease.

21           Q           Well, after you filed that notice of  
22 intention to drill, did you build a -- build a pad?

23           A           I -- any kind of detail like that Mr.  
24 Cox will be much better at answering.

25           Q           All right. Do you know if there's a pad

1 down there in, well, in a position so you could start a  
2 well tomorrow?

3 A Again I have to ask you to ask Mr. Cox.

4 Q You've never been out there?

5 A No, I have not.

6 Q Now, do you know anything about the  
7 terms of -- of the Amoco farmout? Are you familiar with  
8 the terms of it?

9 A Yes, I am.

10 Q What net working interest did Mallon  
11 acquire -- does it acquire under the terms of the farmout  
12 and any other burdens that you might be aware of?

13 A Mallon Oil Company received its interest  
14 through Worth Petroleum, which was made subject to the  
15 farmout, and Mallon Oil Company's net revenue interest was  
16 70 percent.

17 Q That's right, and were you proposing to  
18 drill this well, No. 10 Well, knowing that your net revenue  
19 interest would be 70 percent?

20 A The No. 10 Well? You mean --

21 Q Yes.

22 A The No. 10 or the Amoco Red Bluff No. 1?

23 Q Well, just take both of them.

24 A Okay. The Amoco Federal No. 10 Well was  
25 a well that was drilled 100 percent on Amoco Federal

1 acreage.

2 Q All right.

3 A Therefore the net revenue interest to  
4 Mallon was 70 percent.

5 Q Okay.

6 A The Amoco Red Bluff No. 1 Well, when we  
7 originally --

8 MR. PADILLA: Now that's the  
9 proposed well, isn't it?

10 Q Yes.

11 MR. PADILLA: Okay.

12 A That is -- that is the proposed well.  
13 We knew that the net revenue interest for -- on NM-38636  
14 lease would be 70 percent.

15 Q Well, when you acquired all of these  
16 interests in the various wells, were you familiar with the  
17 -- did you recognize that you only had a 70 percent working  
18 interest in all these wells?

19 A When we acquired our interest --

20 Q Yes.

21 A -- from Worth? We were well aware of  
22 the net revenue interest, yes.

23 Q And do you -- do you know who owns all  
24 of the outstanding burdens on the lease?

25 A Yes, I do.

1 Q Could you enumerate those parties,  
2 please?

3 A Certainly, may I -- there's still 1/8th  
4 royalty on the lease to the Minerals Management.

5 Don and Micki Carol Wright have a 5 per-  
6 cent; JSM Oil and Gas, Inc. have a 2.5; Harry Bettis has a  
7 2.5; Les Oppermann has a 2.5; and Amoco Production Company  
8 has a 5 percent.

9 Q Well, was the Amoco farmout (unclear)  
10 with Mr. Bettis?

11 A Yes, it was.

12 Q After -- when he conveyed it to -- these  
13 leases to -- drill sites to Mallon, did he reserve an addi-  
14 tional 5 percent?

15 A Mr. Bettis?

16 Q Yes.

17 A Yes.

18 Q Are you aware of any -- any propositions  
19 which were made to Red Bluff to acquire their acreage?

20 A Yes, I am.

21 Q Would you tell me just what proposal you  
22 made to Red Bluff?

23 A I did not make any proposals personally.  
24 Mr. Oppermann, at our direction, and I believe he'll be  
25 testifying to that.

1 Q Was it made under your supervision?

2 A Yes, I was.

3 Q Well, then, maybe you can tell us what  
4 it was, whatever you told him to do, I imagine he did.

5 A Uh-huh. Mr. Oppermann and I discussed  
6 various possible overriding royalties.

7 The first we initially proposed, without  
8 the copy of the letter, I do apologize, Mr. Oppermann will  
9 be testifying to that. I believe it was 6 percent over-  
10 riding royalty and then a 5 percent overriding royalty to  
11 be reserved by Red Bluff Water Power Control District.

12 Q I didn't quite follow you on that. What  
13 was the 6 percent? What was that?

14 A I believe that was a letter --

15 MR. PADILLA: Well, Mr. Exa-  
16 miner, Mr. Oppermann is much more familiar. He made the  
17 offer in writing and I think we'll be having Mr. Oppermann  
18 testify concerning this subject area.

19 MR. CATANACH: That will be  
20 fine.

21 Q Well, let me ask you, getting back to  
22 the lease, do you have an assignment of all of the acreage  
23 in the farmout?

24 A No, we earn 40-acre proration units for  
25 drilling the wells and completing the wells.

1 Q Did these come direct to you or did they  
2 come through Mr. Oppermann?

3 A No. Mr. Bettis --

4 Q Mr. Bettis, Mr. Bettis.

5 A Mr. Bettis requested the assignments or  
6 Mr. Oppermann at Mr. Bettis' direction. The assignments go  
7 from Amoco to Mr. Bettis. Mr. Bettis makes an assignment  
8 to Mallon and then Mr. Bettis also makes an additional  
9 assignment to Mr. Oppermann for his proportionate share of  
10 the overriding royalty reserves.

11 Q Are you familiar with the -- I think you  
12 spoke something about the survey of this acreage. Are you  
13 familiar with it or is somebody else?

14 A Mr. Cox is a little bit more familiar.  
15 I am aware that a survey was prepared by West Engineering,  
16 and that there was an error found in the survey that was  
17 corrected by West.

18 Q It was what?

19 A It was corrected at our request.

20 Q At your request?

21 A Mallon Oil Company, because there was an  
22 obvious discrepancy in -- from the metes and bounds des-  
23 cription.

24 Q Has that ever been officially approved  
25 by the Bureau of Land Management and accepted as their ac-

1 reage?

2 A We do have a letter from the Bureau of  
3 Land Management and I believe it's going to be admitted as  
4 an exhibit.

5 Q And I believe you stated that your  
6 latest extension expires in October?

7 A October 24th.

8 Q Do you have pending an application to  
9 extend it?

10 A I put in a request with Amoco to get an  
11 extension there.

12 MR. JENNINGS: That's all.

13

14 REDIRECT EXAMINATION

15 BY MR. PADILLA:

16 Q One follow-up question here.

17 Ms. McClintock, Mr. Jennings asked you  
18 some questions concerning the overhead charges. He basic-  
19 ally asked you -- stated that the overhead charges on the  
20 operating agreement which he has are different from the one  
21 that you propose. In fact, what you are proposing now is  
22 that -- is actually lower charges, is that correct?

23 A That is correct.

24 Q And those are based on your latest  
25 figures?

1           A           Those are based on our latest figures  
2 and also what was agreed to by our Pecos River working in-  
3 terest partners.

4                           MR. PADILLA:     No further  
5 questions.

6                           MR. CATANACH:   Hold on, Ms.  
7 McClintock.

8

9

CROSS EXAMINATION

10 BY MR. CATANACH:

11           Q           From the testimony that we have received  
12 up to this point, I am totally confused as to what the own-  
13 ership interest is in this 40 acres.

14                           Could you give us a history of what's  
15 going on here?

16           A           Certainly. From what we have gathered  
17 through the survey prepared by West Engineering approxi-  
18 mately on this particular location in the northwest of the  
19 southwest of Section 27, our proposed location on the Amoco  
20 Red Bluff No. 1 Well, Mallon Oil Company, et al. controls  
21 approximately 75 percent and Red Bluff Water Power Control  
22 District, approximately 25 percent.

23                           MR. STOVALL:   We're going to  
24 play team tag here.

25                           Do you have exact numbers on

1 -- on those allocations?

2 A I believe Mr. Cox has some exact num-  
3 bers for you.

4 Q So the parties that are being pooled  
5 today are the Red Bluff Power --

6 A That is correct. We have been unable to  
7 negotiate what we feel are reasonable terms; therefor, we  
8 feel that in order to drill the well we need to force pool  
9 them.

10 Q And is that the only party that is being  
11 pooled?

12 A Yes, they are on the only -- they are  
13 the ones that own the NM NM-71599 lease.

14 Those are the only two federal leases  
15 involved in this particular location.

16

17

CROSS EXAMINATION

18 BY MR. STOVALL:

19 Q My turn. You've -- let's make sure we  
20 get some numbers clarified. I'm not sure that --

21 A Certainly.

22 Q You indicated in the Amoco lease, which  
23 Mallon has control of, when you say "control", are you  
24 talking about working interest, operating rights and desig-  
25 nated operator

1 designated operator of that lease?

2 A Correct. Mallon Oil Company has oper-  
3 ating rights on the locations that we have drilled and com-  
4 pleted and Mallon Oil Company has the opportunity to ob-  
5 tain operating rights on this location by drilling and com-  
6 pleting this well.

7 Q And when you were discussing with Mr.  
8 Jennings the 70 percent interest of Mallon Oil, what you  
9 were referring to was the net revenue interest in -- as a  
10 result of those operating rights as they are in the lease.  
11 Is that correct?

12 A That is correct. Mallon Oil Company, et  
13 al, or Mallon -- to Mallon Oil Company there is a 70  
14 percent net working interest; there is a 30 percent burden  
15 on that lease.

16 Q And the burdens you described, are they  
17 overriding royalty interest or are any of those working in-  
18 terest in that 30, other than the royalty?

19 A Okay, the royalty, of the 12-1/2 all the  
20 rest are overriding royalty. There are no working inter-  
21 ests.

22 Q And when you're referring to the 75 per-  
23 cent 25 percent ratio between Mallon and Red Bluff, that  
24 would be the percentage of working interest in the 40-acre  
25 tract.

1           A           That is correct.

2           Q           And let also, just to make sure that  
3 it's clear in the record, exactly what number are you  
4 asking for as an operating overhead cost both for drilling  
5 and -- I think you recited two different numbers, one --

6           A           Right.

7           Q           -- being a base number and one being an  
8 adjusted number. Which one are you asking for?

9           A           We would use the 3056.60 a month for  
10 drilling and completion and 334.88 for production, and the  
11 reason that would vary is because in the COPAS on our oper-  
12 ating agreement with our original working interest partners  
13 in the Pecos River Prospect that was adjusted so we would  
14 like to have any other partners, so our Accounting Depart-  
15 ment doesn't have to bill two different overhead charges,  
16 we would keep them the same, and that would be our -- that  
17 did -- these numbers we would put in our operating  
18 agreement subject to adjustment as per the COPAS allows us  
19 to do.

20          Q           In other words, you're asking that this  
21 order provide for adjustment in accordance with that COPAS?

22          A           The adjustment is already in the COPAS.  
23 The language is already in the COPAS.

24          Q           The COPAS won't necessarily be a part of  
25 this forced pooling order, though, is that correct?

1           A           That, I don't know. I would assume that  
2 Red Bluff would have to sign an operating agreement; per-  
3 haps I'm wrong, and the COPAS would be attached as our  
4 exhibit to the operating agreement, which is standard in  
5 the oil and gas industry.

6           Q           And if Red Bluff did not sign an oper-  
7 ating agreement how would you propose to deal with that?

8           A           If Red Bluff elects not to participate,  
9 at this point if the Commission rules for a nonconsent  
10 penalty, there's no need for an operating agreement until  
11 such time as they participate.

12                   MR. STOVALL: Mr. Padilla, I  
13 might suggest that you review a recent order which was  
14 entered by the Commission in which the issue of escalating  
15 operating costs was addressed, and if you -- you might add  
16 anything to the record that you think might be necessary.

17                   MR. JENNINGS: (Not clearly  
18 understood). We --

19                   MR. STOVALL: If that's what  
20 you want.

21                   MR. JENNINGS: -- an operating  
22 agreement that's what they proposed. The only one, this is  
23 the only one that we've seen and this is a model or  
24 something.

25                   MR. PADILLA: Mr. Examiner, I

1 think that -- well, we'll stand with the numbers given at  
2 this point as fixed rate, fixed overhead charges.

3 I don't think that we'd want to get into  
4 a situation where we have an escalating type of -- or con-  
5 fuse the Examiner or the Division with the escalating  
6 figures to where we would vary from a standard order of the  
7 Division.

8 MR. CATANACH: All right.  
9 That's all we have of the witness at this time. She may be  
10 excused.

11  
12 L. E. OPPERMAN,  
13 being called as a witness and being duly sworn upon his  
14 oath, testified as follows, to-wit:

15  
16 DIRECT EXAMINATION

17 BY MR. PADILLA:

18 Q Mr. Oppermann, for the record would you  
19 please state your full name and where you reside?

20 A L. E. Oppermann, Midland, Texas.

21 Q Mr. Oppermann, have you previously tes-  
22 tified before the Oil Conservation Division as a petroleum  
23 landman?

24 A Yes, sir.

25 Q And have your credentials been accepted

1 as a matter of record?

2 A Yes, sir.

3 Q Are you familiar with the efforts that  
4 have been made by Mallon Oil Company to seek voluntary  
5 joinder in the drilling of the proposed well under con-  
6 sideration today?

7 A Yes, sir.

8 MR. PADILLA: Mr. Examiner, we  
9 tender Mr. Oppermann as a petroleum landman.

10 MR. CATANACH: He is so qual-  
11 ified.

12 Q Mr. Oppermann, first of all I want to  
13 ask you what -- whether you're familiar with the lands in  
14 question here today, and if so, would you tell the Examiner  
15 what your familiarity with those lands are -- is?

16 A Yes, sir. I'm very familiar with them.  
17 I'm a landman and I have a partner in this operation by the  
18 name of Harry Bettis, Junior, who is a geologist, and about  
19 1962, I mean 1982 we were aware that Amoco had the lease  
20 that was colored in orange that was discussed earlier, and  
21 two other leases to the west --

22 Q Is that the -- is that shown on Exhibit  
23 Number One?

24 A Right, that were -- that Amoco was  
25 soliciting for farmout. We obtained a farmout from Amoco;

1 with the geology available we sold the deal to Worth Petro-  
2 leum Company out of Ft. Worth, Texas.

3 And that was in February of 1982.

4 Q You mentioned some other leases to the  
5 west. What were those leases?

6 A Those were, I think they were in Section  
7 30 or 31 and they were also federal leases which have since  
8 expired by nonperformance.

9 Q What efforts did you make, well, let me  
10 ask you, how did your association with Mallon Oil Company  
11 come about?

12 A We sold a deal to Worth Petroleum.  
13 Worth Petroleum had a number of investors, one being Mallon  
14 Oil Company, and my association came about when Mallon Oil  
15 Company in '86, when they took operations over from Worth  
16 Petroleum.

17 Q How is that you were contacted by Mallon  
18 Oil Company to negotiate this with Red Bluff Water Power  
19 District?

20 A Back in 1983 when the deal was sold,  
21 there was an NRI, an area of mutual interest, in the letter  
22 agreement from Bettis, et al, to Worth, which provided that  
23 L. E. Oppermann, at the time Worth did not have a landman,  
24 would do all the land work at a certain rate, which is set  
25 out in the letter agreement, and being familiar with it,

1 Mallon, when they took operations over, and myself, being  
2 acquainted with several members of the Red Bluff Water  
3 District, they asked me to contact them in regard to a  
4 farmout or a purchase of the lease that had not been is-  
5 sued. I might add that when we obtained a farmout from  
6 Amoco in 1983 we were aware that this acreage was not under  
7 lease and through the efforts of Joe Schultz here, a local  
8 abstractor, Schultz Abstract Company, he inquired about  
9 this and then it took a long time to get the federal gov-  
10 ernment to put the lease up, which they finally did, where  
11 I understand that Amoco and Red Bluff were the only two to  
12 make a bid on it.

13 Q Are you sure that Amoco made a bid on  
14 it?

15 A I was told that Red Bluff was the only  
16 ones that did.

17 Q Okay. Let's go on now to what we have  
18 marked as Exhibit Number Three and have you identify that  
19 for the Examiner.

20 A Yes. Exhibit Number Three is two let-  
21 ters that I wrote to Red Bluff, the first being written on  
22 April 22nd, 1987, whereby in correspondence with Mallon Oil  
23 Oil Company at that time we were worried that some sort of  
24 lease was possibly being issued, and in talking with Ms.  
25 McClintock, I think oil was selling approximately \$18-19 a

1 barrel at that time, we were assuming that the -- we were  
2 assuming that the lease to be issued would be a net 1/8th  
3 royalty to the BLM, and we wrote a letter offering Red  
4 Bluff to sell us assignment on their lease if issued at 80  
5 percent net revenue.

6 Q What was the -- what was the royalty on  
7 the Red Bluff lease to the federal government?

8 A The one issued? The one that was dis-  
9 cussed before?

10 Q Yes.

11 A It is 80 -- it's 14 percent of the 86 in  
12 (unclear), yes.

13 Q So how much royalty Red Bluff have ac-  
14 quired under your proposal?

15 A They would have acquired 6 percent.

16 Q Okay. At the time you made this offer,  
17 did you consider 6 percent to be fair?

18 A Yes.

19 Q Why is that?

20 A Well, with the terms of the letter  
21 agreement that Harry Bettis and myself had with the 6 per-  
22 cent to Red Bluff in our agreement, that would give to  
23 Mallon the 75 percent NRI.

24 Q How did you you evaluate the 75 percent  
25 NRI on the Red Bluff lease and the 70 percent NRI on the

1 Amoco lease?

2 A Well, in 1983 when the Amoco lease, the  
3 70 percent, at that time oil was selling at about \$28.00 a  
4 barrel and the economics would allow an operator to drill  
5 the wells at a 70 percent.

6 Whereby in 1987, when this was made, the  
7 price of oil was approximately #17-\$18.00, somewhere in  
8 that range.

9 Q I notice on this exhibit you have  
10 another letter dated July 7th. Can you tell us about that  
11 letter?

12 A The letter of June 7th, 1988, was after  
13 further conversation and this kind of a lease had been is-  
14 sued and they knew what the royalty was, which was 14 per-  
15 cent to the federal government, Ms. McClintock told me that  
16 she would like me to contact Red Bluff and make them an  
17 offer and offer them a 5 percent override.

18 I visited with Red Bluff. I visited  
19 with Mr. Dub Forrest (sic), who is President of Red Bluff,  
20 and John Hayes, who's their office manager, on May the  
21 24th.

22 Q How many times have you talked with Red  
23 -- officials or representatives of Red Bluff?

24 A Well, since May the 25th I have talked  
25 to them eight times by telephone, according to my telephone

1 messages, and I talked to them numerous times before, but  
2 they were off and on every two or three months, but I have  
3 made eight calls to Red Bluff and talked to them.

4 Q What was your -- what was the contents  
5 of your June 7th, 1988 letter?

6 A I wrote Red Bluff offering them a 5  
7 percent override in two sections which were for the pro-  
8 posed -- at the time it was called the 12 Well, which is  
9 the well in question we're talking about an additional  
10 location. What I was asking for was an assignment on two  
11 locations, or their proportionate interest in these two  
12 quarter quarter sections.

13 Q What happened as a result of your com-  
14 munications with Red Bluff?

15 A The results have been -- I had high  
16 hopes of, when I left, that we had a deal on this basis,  
17 but nothing was ever finalized.

18 I had a number of counter proposals  
19 which were -- ranged anywhere from delivering them a 30  
20 percent NRI to -- and I thought at one point in time we had  
21 a deal at this basis -- on the basis of my June 7th letter.  
22 In fact, when I wrote the letter I was very confident that  
23 we had a deal on that basis, as -- as to these two prora-  
24 tion units. We weren't talking about the entire acreage in  
25 27 and 28. We were just talking of these two.

1 Q As to the northwest quarter of the  
2 southwest quarter of Section 27, what was your final offer  
3 to Red Bluff?

4 A 5 percent override.

5 Q Why is that 5 percent significant? Why  
6 is it your understanding that Mallon would not increase  
7 that 5 percent?

8 A Because of the price of oil today and  
9 the economics and the cost of drilling the well. The  
10 geology, which is getting more risky as you're going to the  
11 west, as I understand it, but the main thing is the econo-  
12 mics. The price, posted price of oil yesterday, I think,  
13 was \$13.00, where this would be a 76, which is very -- you  
14 can compare it to 1983 when this field was original sold at  
15 \$28.00 oil.

16 Q When you say "this would be a 76", what  
17 do you mean, a "76"?

18 A It would be a 76 NRI to Mallon under  
19 current commitments honored as such.

20 Q Okay.

21 MR. PADILLA: I have no fur-  
22 ther questions.

23 MR. CATANACH: Mr. Jennings.

24

25

CROSS EXAMINATION

1 BY MR. JENNINGS:

2 Q Mr. Oppermann, --

3 A Yes, sir.

4 Q -- since it would be a 76 net revenue  
5 interest to Mallon, where would the rest go?

6 A The rest would go -- let me see my map  
7 right here -- 14 percent to the government; 5 percent to  
8 Red Bluff; and 5 percent to Harry Bettis and L. E. Opperr-  
9 mann.

10 Q Well, how do you get some overriding  
11 royalty on this acreage? You don't own any part of the  
12 lease, do you?

13 A Due to the fact that an AMI, area of  
14 mutual interest, was agreed to in February of 1983, whereby  
15 the whole Township 26, 29, in Eddy County was included in  
16 an AMI, which provided that if we would as geologist and  
17 landman try to acquire various acreage in this township,  
18 and if we were successful, we would offer it to Worth, and  
19 if not, it would go to our own account, and this is some-  
20 thing that falls into area of interest.

21 Q Well, how could an AMI cover acreage  
22 that you -- or how could you spread that to acreage that  
23 you don't have any interest in?

24 A That's what an AMI covered; just in case  
25 one party of the other, we're protecting each party, they

1 wouldn't be in competition to each other at the time when  
2 the deal was made.

3 Q I -- I -- is that common in the oil  
4 business?

5 A Very common.

6 Q When you can take -- put an override on  
7 one of your deals on somebody's lease?

8 A Yes, in an area of mutual interest if  
9 they -- they're honoring the override to us.

10 Q They don't have to, though.

11 A Well, they do under the terms of the  
12 agreement if they wish to --

13 Q Well, I've made the request in the past  
14 to see that agreement. Could I please see it?

15 A I assume a copy is here. Is it?

16 MS. McCLINTOCK: Yes, it is.

17 Q Is it your testimony that you feel that  
18 you're entitled as a landman or as a partner of another  
19 landman --

20 A He's a geologist.

21 Q -- geologist, that you're entitled to  
22 get the same override that Red Bluff Reservoir is because  
23 -- due to their ownership of the lease?

24 A We feel like we're entitled to it  
25 because of the work we did in developing the prospect and

1 we think that we -- if not through our efforts, this --  
2 these wells to the west would never have been drilled, due  
3 to the work we've put in it and the things we did to get  
4 the stuff drilled. It would never be an issue right now if  
5 we didn't do this in the first place in 1983.

6 Q Well, it's your -- I haven't had a  
7 chance to review this yet, but I might just have you under-  
8 score the language in there on which you feel that you're  
9 entitled to an override on this oil and gas lease that Red  
10 Bluff obtained from the government under its right-of-way.

11 A Okay. You want me to do that right now?

12 Q Yes, sir, and then you might read it.

13 A Okay. I'll read it you. It's paragraph  
14 4. "Worth and Bettis, et al, hereby agree to form an Area  
15 of Mutual Interest hereafter called the AMI, to cover all  
16 of Township 26 South, Range 29 East, Eddy County, New Mexi-  
17 co.

18 Bettis, et al, shall attempt to acquire  
19 additional farmouts and purchase leases in the AMI at  
20 Worth's request. If Bettis, et al, is successful in  
21 acquiring farmouts and/or leases in the AMI, Bettis, et al,  
22 shall obtain a 2 percent of 8/8 override in any acreage  
23 having a 75 percent net revenue interest, or less, and a 5  
24 percent of 8/8 override in any acreage having a 77 net  
25 revenue interest or greater.

1                   Worth shall pay 100 percent of all costs  
2 in securing said additional acreage. Said override shall  
3 apply to all rights acquired and shall not be limited to  
4 depth. Worth shall pay L. E. Oppermann \$200 a day per diem  
5 plus expenses to handle all land work in the AMI. Said  
6 land work shall include acquiring farmouts, purchasing  
7 leases, curing titles, ordering abstracts, and any other  
8 related work which Worth may require.

9                   Worth shall also pay to Harry M. Bettis,  
10 Jr., \$200 per diem plus expenses to handle all geological  
11 work Worth may require in the AMI. If Bettis, et al,  
12 should acquire additional acreage in the AMI, Worth shall  
13 have the right to acquire said acreage on the terms set out  
14 above. If Worth does not wish to acquire the acreage,  
15 Worth shall have ten days after the acreage is presented to  
16 it to advise Bettis, et al, in writing that it does not  
17 wish to acquire the acreage.

18                   Bettis, et al, shall then have the right  
19 to retain the acreage for its own account or assign the ac-  
20 reage to a third party."

21                   Q           Then you have the -- let me ask you  
22 this. Have you obtained the rights to this government  
23 lease No. 71599?

24                   A           No, but I'm trying to --

25                   Q           Then you haven't earned anything.

1 MR. JENNINGS: I'd like to  
2 have a copy of that --

3 A Sure.

4 MR. JENNINGS: -- for my  
5 clients, or I will if you --

6 Sally, just so we won't be  
7 confused, you might mark this as Red Bluff's Exhibit Num-  
8 ber One or something so we can identify it.

9  
10 (Thereupon the reporter marked RBWPCD  
11 Exhibit One for identification.)

12  
13 Q Didn't you testify, Mr. Oppermann, that  
14 you knew at all times that Amoco didn't -- this lease,  
15 acreage under this lease was not covered by the Amoco  
16 lease?

17 A Yes, sir.

18 Q If you knew that, why did -- is not  
19 this acreage excepted from your assignments covering this  
20 acreage; assignments that Mr. Bettis executed or that Mr.  
21 Bettis, I don't believe the assignment from Mr. Bettis to  
22 Mallon excepted this Red Bluff acreage.

23 A Certainly did. The acreage assigned by  
24 Amoco is assigned on a produce to earn basis. By that I  
25 mean every time a well is completed as a commercial well,

1 we request or Bettis requests a farmout -- I mean an as-  
2 signment of operating rights on a proration unit formed  
3 around such well.

4 Q And then did you -- did Bettis in turn  
5 assign this to -- this acreage to Mallon?

6 A Yes.

7 Q Has it already been assigned?

8 A Yes.

9 Q Well, then, has this acreage been  
10 earned?

11 A Which acreage are you talking about?

12 Q The northwest quarter southwest quarter  
13 of Section 27.

14 A No.

15 Q Well, has that acreage been assigned to  
16 Mallon?

17 A No. It will not be earned by Mallon  
18 until such time as the well is completed that is proposed,  
19 and the well is a commercial well.

20 That is standard procedure of companies  
21 is to earn by --

22 Q And it hasn't been assigned, though,  
23 not yet, and if it is assigned, well, it will be -- this  
24 acreage, the Red Bluff acreage will be excepted from the  
25 description.

1           A           Yes, because Amoco cannot assign it  
2 since they do not have a lease on it.

3           Q           Would you recognize Mr. Bettis' signa-  
4 ture?

5           A           Yes, sir.

6           Q           I hand you what's been marked -- or it  
7 hasn't been marked but it's a transfer of operating rights  
8 in oil and gas lease, and it shows to be filed with the  
9 Bureau of Land Management July 10th, 1978 -- or 1987.

10          A           This is Mr. Bettis' signature.

11                       MR. CATANACH: Mr. Padilla,  
12 can you make some copies of these exhibits that are being  
13 entered?

14                       MR. PADILLA: Right.

15          A           That's the southwest of the northwest.  
16 I think we're talking about the northwest of the  
17 southwest. I don't know.

18                       MR. PADILLA: This is not my  
19 exhibit. I don't know if Mr. Jennings wants to introduce  
20 it or not.

21          Q           Southwest. Well, does this except any  
22 of the acreage?

23          A           No, that's not -- that's 100 percent  
24 Amoco lease, there.

25          Q           Okay. That is Mr. Bettis.

- 1           A           Sir?
- 2           Q           And that did reserve a 5 percent over-
- 3 ride.
- 4           A           Yes, sir.
- 5           Q           And then, then I assume that any
- 6 assignment -- when this acreage is earned, the assignment
- 7 will only cover that portion of the proration unit that is
- 8 owned by Bettis or Amoco.
- 9           A           Yes, The only thing that's owned by
- 10 Amoco will go to Bettis and then be assigned to Mallon.
- 11          Q           And then -- but notwithstanding that,
- 12 you will expect a 5 percent overriding royalty, you and
- 13 Mr. Bettis.
- 14          A           Yes, sir.
- 15          Q           Now, can you tell me from whence that
- 16 would come?
- 17          A           Sir?
- 18          Q           Where would it come from?
- 19          A           It would come from Mallon Oil Company.
- 20          Q           Out of that -- then would that reduce
- 21 their working interest?
- 22          A           No.
- 23          Q           Net revenue interest?
- 24          A           Yes.
- 25          Q           And they would have a 65 percent inter-

1 est.

2 A No.

3 Q They only own 3/4ths of the acreage in  
4 there.

5 A That will be proportionately reduced.

6 Q Well, then, whatever it will be reduced  
7 to, 3/4ths of 5 percent, 375, is that right?

8 A That's right.

9 Q Well, then they would have less than 70  
10 percent on this --

11 A No. They would have a -- if -- as far  
12 as this acreage is concerned, we're taking about 76 per-  
13 cent NRI. It would be 16 percent to the government, I  
14 mean 14 percent to the government, 5 percent to Red Bluff,  
15 and 5 percent to Bettis and Oppermann, which would be 24  
16 percent --

17 Q But where does the -- I can't under-  
18 stand where the instrument is other -- that involves Red  
19 Bluff, in any way obligates them to pay you an overriding  
20 royalty.

21 A It doesn't. It's the instrument that  
22 you just looked at between Worth and Oppermann -- Worth  
23 and Bettis, which is now owned by Mallon.

24 Q And the government was not a party to  
25 that agreement.

1           A           No.

2           Q           Have you ever been requested, Mr.  
3 Oppermann, or you and Mr. Bettis, to reduce your over-  
4 riding royalty burden on --

5           A           No.

6           Q           -- any of this acreage?

7           A           No, sir.

8           Q           Would you do so if requested?

9           A           No, sir. When I say no, sir, I'm  
10 speaking for myself. I have an equal partner in there and  
11 I can not speak for him.

12          Q           Do you have any title opinions on this  
13 property?

14          A           We have title opinions on the property  
15 that are in the files of Mallon. I -- I had title work  
16 done on all of the first nine wells which were drilled by  
17 Worth Petroleum which were done for Worth to have, which  
18 were turned over to Mallon at the time they took over  
19 operations of this lease.

20          Q           How many wells has Mallon drilled since  
21 it took over?

22          A           I think it's four.

23          Q           And when did it take over?

24          A           It was sometime in 1986. I think it  
25 was November.

1 Q Was in 1986? Wasn't that about the  
2 time when oil had gone down to \$10 a barrel?

3 A It was sometime in there. I know it  
4 was sometime after '85 or '86. Now I think it was a  
5 little later than that.

6 Q But it hasn't changed substantially  
7 since '86, then, has it? It's increased it.

8 A What's that?

9 Q The price of oil.

10 A The price of oil? I really don't know.  
11 I can't tell you.

12 Q But Mallon did drill four wells with  
13 all this burden on it, the 30 percent burden on it.

14 A Yes, sir.

15 Q And if they earn any more, will all  
16 these other wells likewise have a 30 percent burden on  
17 them?

18 A Anything drilled on the -- under the  
19 Amoco lease will.

20 Q You're not familiar with the survey or  
21 anything, are you?

22 A I've seen the survey. I'm not familiar  
23 with it.

24 MR. JENNINGS: I believe  
25 that's all.

1 MR. PADILLA: Can I ask some

2 --

3 MR. CATANACH: Sure.

4

5 REDIRECT EXAMINATION

6 BY MR. PADILLA:

7 Q Mr. Oppermann, does the Amoco farmout  
8 contain continued drilling obligations?

9 A Yes, sir, it does.

10 Q So from 1986 on to the present time  
11 Mallon was under the obligation to drill those wells?

12 A Right. They were on the obligation  
13 from Getty (not clearly understood) farmout.

14 Q Mr. Oppermann, if Red Bluff were to  
15 participate in the drilling of this well as a working in-  
16 terest owner, would you earn an interest in this --  
17 through the AMI?

18 A I would not earn an interest in Red  
19 Bluff's acreage, no.

20 Q It only comes by -- your interest comes  
21 by virtue of what?

22 A By obtaining a farmout or assignment or  
23 a lease from Getty.

24 Q Does that include compulsory pooling of  
25 the Red Bluff interest?

1           A           I don't know. What -- can you rephrase  
2 the question --

3           Q           Well, if Mallon were to earn the inter-  
4 est, force pool the interest pursuant to a compulsory  
5 pooling order, would you then participate under your --  
6 under the AMI? In other words, if Red Bluff did not  
7 participate in drilling the well.

8           A           You're saying, I'm trying to read this  
9 right, you're saying that Red Bluff does not participate  
10 and Mallon is awarded a penalty and they pay 100 percent  
11 of drilling the well, is that correct?

12          Q           Correct.

13          A           Then, yes, I think we would.

14          Q           Does that trigger the AMI?

15          A           Then I think, yes, it does.

16          Q           Okay.

17                           MR. PADILLA: I don't believe  
18 I have any further questions.

19

20                           CROSS EXAMINATION

21 BY MR. STOVALL:

22          Q           Did I understand you correctly, what  
23 you've said is by the terms of the farmout between Amoco  
24 and Mr. Bettis, Mr. Bettis is required to drill or cause  
25 to be drilled ~~well~~ Mallon a continuing basis --

1 A Right.

2 Q -- with some sort of interval, I  
3 assume, between the wells.

4 A Yes, 90 days is what the original  
5 farmout agreement read.

6 Q And Bettis has assigned in effect his  
7 contract rates under that farmout agreement to Mallon.

8 A Right.

9 Q Does --

10 A Through Worth Petroleum. It went bas-  
11 ically first to Worth Petroleum in February of '83, and  
12 then in 1986 Mallon I mean Worth assigned their rights to  
13 Mallon, and since then Mallon is in the same shoes as  
14 Worth Petroleum was in the original agreement.

15 Q Okay. That -- I think that answered my  
16 next question but I'll ask it anyway.

17 Does that mean that the agreement be-  
18 tween Worth and Bettis or between Mallon and Worth does  
19 not contain any greater obligation than was convened with  
20 the original farmout? In other words, Mallon could could  
21 elect not to drill and as a result the farmout would ter-  
22 minate, is that correct?

23 A That is correct. That is why we're  
24 talking about the October the 24th date, which is the --  
25 due to the price, due to economic conditions, there has

1 several -- as you can tell, there's only been 13 wells  
2 drilled from 1983 to 1988, which is a period of five years,  
3 and these wells have a have a 90-day continuance drilling  
4 operation, and back when the price of oil was \$28.00 these  
5 commitments were being made readily, but as the price of  
6 oil went down, hopefully, you know, these parties have  
7 hoped to see increase of oil in this and the reason for the  
8 delays are the extensions, as such.

9 MR. CATANACH: I have no ques-  
10 tions. The witness may be excused.

11 MR. JENNINGS; May we offer  
12 this?

13 MR. PADILLA: I have no objec-  
14 tion.

15 MR. CATANACH: Red Bluff Exhi-  
16 bit Number One will be admitted into evidence.

17  
18 JOE H. COX, JR.,  
19 being called as a witness and being duly sworn upon his  
20 oath, testified as follows, to-wit:

21

22 DIRECT EXAMINATION

23 BY MR. PADILLA:

24 Q Mr. Cox, would you please state your  
25 full name?

- 1           A           Joe Cox. Joe H. Cox, Junior.
- 2           Q           Where do you live, Mr. Cox?
- 3           A           I live in Littleton, Colorado.
- 4           Q           And what is your relationship to Mallon
- 5 Oil Company?
- 6           A           I'm on a full time retainer with Mallon
- 7 as an engineering geologist for their Production Depart-
- 8 ment.
- 9           Q           And what are your duties with Mallon?
- 10          A           I look after producing properties one of
- 11 the primary of which has been this Amoco federal lease for
- 12 this Pecos River Prospect.
- 13          Q           Are you involved in all phases of this
- 14 prospect?
- 15          A           Yes. I've done development geology work
- 16 around this lease, area including the lease, involved with
- 17 the day-to-day operations and have, because of the nature
- 18 of the small company, I've been involved to some extent
- 19 with the land dealings regarding the drilling of the wells.
- 20          Q           Okay. Have you ever testified before
- 21 the Oil Conservation Division?
- 22          A           No, I haven't.
- 23          Q           Can you tell us where you were educated?
- 24          A           Yes. I got a Bachelor of Science degree
- 25 in geology, minor in petroleum engineering, at the Univer-

1 sity of Wyoming in 1975.

2 Q What has been your work experience in  
3 the oil and gas fields since that time?

4 A I spent the first two years out of  
5 school working for Dowell, then a division of Dow Chemical  
6 Company.

7 I went to work for Gulf Research and  
8 Development, which is part of Gulf Oil Company, in Houston  
9 for about three years; worked in their Reservoir Character-  
10 ization Group; and then I went to work for Juniper Petro-  
11 leum, spent about five years at Juniper and Damson Oil Com-  
12 pany as a result of Damson's acquisition of Juniper.

13 And I was an independent consulting en-  
14 gineer for about six months prior to getting on a full time  
15 retainer with Mallon, and have effectively been an employee  
16 of Mallon for the last two years.

17 MR. PADILLA: Mr. Examiner, we  
18 tender Mr. Cox as an expert.

19 MR. CATANACH: He is so qual-  
20 ified.

21 Q Mr. Cox, let's get on to what we have  
22 marked as Exhibit Number Four and have you identify that  
23 for the examiner. What is contained in that exhibit?

24 A This is a collection of correspondence  
25 from myself to Mr. John Hayes with Red Bluff Power Control

1 District, and I think the last of the documents had an  
2 enclosure to Mr. Jennings, as well.

3 Q Can you briefly run through this exhibit  
4 and tell us what it contains?

5 A Uh-huh. First, dated July 26th, is --  
6 after --

7 Q Now you're starting from the bottom up,  
8 is that correct?

9 A Right. I'm just going chronologically  
10 from the earliest date.

11 This was, after several weeks, actually  
12 several months of negotiation with Red Bluff trying to  
13 establish a farmout on their acreage that lay under the re-  
14 servoir, Red Bluff Reservoir, we offered them an  
15 opportunity to participate in the well as a working inter-  
16 est partner, and the first letter has attached an AFE for  
17 that well, which Amoco Red Bluff Federal No. 1 in the  
18 northwest/southwest of Section 27.

19 Q What are the figures contained on that  
20 AFE?

21 A Well, the first page is just a summary  
22 of the -- of the cost.

23 The second page is a detailed sheet of  
24 costs as well, and they're based on the four previous wells  
25 we drilled out there and include building a tank battery

1 for this well and subsequent Amoco Red Bluff shared wells  
2 and also includes drilling below the primary field pay, the  
3 Williamson, and testing some deeper sands if we had shows  
4 that were worth testing.

5 Q What are the -- what are the dry hole  
6 costs?

7 A Okay, dry hole cost in this well is  
8 \$108,400.

9 Q How about the completed well costs?

10 A Completed well costs with the battery  
11 and everything is \$313,600.

12 Q Did Red Bluff ever make an indication  
13 that they were willing to sign that AFE or any other AFE?

14 A At one point in our discussion Mr.  
15 Hayes, who is the primary contact we've had at Red Bluff,  
16 said that he was going to recommend to the board that they  
17 do participate. It turned out after their meeting that  
18 they decided not to participate, and really up to that date  
19 when he said that he was going to recommend they partici-  
20 pate, they have indicated that they would not.

21 Q Were you ever told that the well costs  
22 as expressed on that AFE were too high?

23 A No, that's never been mentioned.

24 Q What are the -- what are the contents of  
25 the other communications that you have attached to that ex-

1     hibit?

2                   A            Okay.    The   second   letter,   also   dated  
3   July   26th,   was   written,   as   the   letter   states,   with   the   as-  
4   sumption   that   --   yeah,   with   the   assumption   that   Red   Bluff  
5   would   not   participate   as   a   working   interest   partner   in   the  
6   well,   that   we   would   schedule   a   hearing   to   pool   their   inter-  
7   est.

8                    At   the   time   we   were   not   sure   that   --  
9   neither   Mallon   or   Red   Bluff   was   certain   what   that   interest  
10   acreage-wise   would   be.   Mr.   Hayes   had   submitted   the   metes  
11   and   bounds   survey   to   John   West   Engineering   for   their   review  
12   for   just   a   cost   estimate   for   making   plats   for   the   --   off  
13   the   survey.

14                   Q            Mr.   Hayes   made   that   request   of   John  
15   West?

16                   A            Yes.

17                   Q            Okay.    What   other   letter   --   could   you  
18   move   on   to   the   next   letter   you   have   here?

19                   A            Okay.    It   turned   out   that   our   applica-  
20   tion   to   --   for   the   hearing   to   get   on   the   docket   didn't   get  
21   in   early   enough   and   we   had   to   reschedule   the   date,   so   we  
22   moved   it   from   --   to   August   17th,   it   looks   like.

23                   Q            Have   you   extended   this   hearing   a   number  
24   of   times?

25                   A            Yes.    We   --   the   next   letter,   the   August

1 16th letter, was a rescheduling again. I'm sorry. I'm  
2 sorry. That's an attachment to this -- this -- the last  
3 rescheduling was in response to a call two days before the  
4 scheduled hearing from Mr. Jennings, and that was the first  
5 we heard from Mr. Jennings, saying that he felt like he  
6 could help straighten out the negotiations with Red Bluff.  
7 So we granted some additional time since he had just become  
8 involved, to our knowledge, anyway, for him to do that.

9 Q Did you have any success in negotiating  
10 with Mr. Jennings?

11 A No. I called Mr. Jennings, well, the  
12 end of that same week that he contacted us and discussed it  
13 with him and it was pretty clear that he didn't agree with  
14 our 5 percent override offer for the farmout and that was  
15 what lead to my writing the final letter, the September 6th  
16 letter, in which I just outlined the economic and geologi-  
17 cal reasons why we felt like we couldn't give a higher  
18 overriding royalty interest on the acreage, and justify  
19 drilling the wells.

20 Q At any material time did -- were you  
21 given an indication, since July 26th, that Red Bluff might  
22 be interested in participating in the well?

23 A Not since the one -- since what date,  
24 I'm sorry?

25 Q July 26th.

1           A           Well, the August 8th meeting was -- of  
2 the Red Bluff board was the one that Mr. Hayes said he  
3 would propose that they participate. After that date he  
4 was sure they would not participate.

5           Q           Okay. Let's go on now to what we have  
6 marked as Exhibit Number Five and have you identify that  
7 for the examiner.

8           A           This is some economics based on what I  
9 felt the well spacing in question should perform under as  
10 far as producing rates.

11          Q           When did you make this analysis?

12          A           Okay, it looks like it was run September  
13 23rd, 1988.

14          Q           Okay, and this applies to the well, the  
15 proposed well.

16          A           Right.

17          Q           Okay. Now go ahead and tell us what  
18 this is.

19          A           Okay. It's the basic cost economics of  
20 the well based on performance, basically combining the  
21 Amoco Federal No. 10, which is the north offset to this  
22 site, and the Amoco Federal No. 13, which is in the north-  
23 east northeast of Section 28, and assuming that the well  
24 would perform somewhere between those two wells, just based  
25 on the geology we have.

1                   The economic assumptions made going into  
2 this was that oil would be \$15.00 per barrel and not esca-  
3 late.

4                   Q           Is that accurate considering today's oil  
5 prices?

6                   A           It's higher than today's price to start  
7 out with.

8                   Q           Okay.

9                   A           And we also used the -- what has been  
10 our average gas price down there, 90 cents per MCF, for  
11 that assumption, and then since the oil and gas prices were  
12 held flat, we did not escalate lease operating expense, and  
13 lease operating expense figures are based on our actual  
14 costs we've been experiencing there.

15                  Q           What net revenue interest do you have  
16 attributed to this analysis?

17                  A           I made two runs. The first one is based  
18 on a 70 percent net revenue interest. That's the top, top  
19 one.

20                               The second one, the third page, is based  
21 on 82-1/2, which was hypothetical maximum we could expect  
22 to get from Amoco, Red Bluff, all royalties aside from the  
23 Federal royalty and the first 5 percent removed.

24                  Q           Okay. What -- what conclusions did you  
25 reach in this analysis at 70 percent net revenue interest

1 and the 82-1/2 percent?

2 A A discounted gas flow on the 70 percent  
3 run showed a slight negative number after the reserves had  
4 been produced. We'd lose about \$13,000. It was a near  
5 break even case.

6 Q Where do you show that on this page, on  
7 page one?

8 A Okay, the bottom righthand figure on the  
9 page would give you that final discounted cash flow.

10 Q The negative 13.292?

11 A Right.

12 Q Go ahead now to the next one.

13 A Okay, on the 82-1/2 percent case, the  
14 final profit on that case would be \$65,506, discounted at  
15 15 percent. That would give us a 1.21 discounted return on  
16 investment, which is, with any risk factor applied to this,  
17 would be a poor investment, generally considered.

18 Q Well, why is Mallon drilling the well in  
19 the first place?

20 A Well, that's a good question. That's a  
21 question we ask at our office each time we drill (not un-  
22 derstood) wells and optimistically thinking that oil prices  
23 might go up, we want to keep the farmout in effect and have  
24 been beginning to drill wells down there, but it's a well  
25 by well decision that has to be made.

1           Q           Okay. Let's go on now to what you have  
2 marked as Exhibit Number -- or what we have marked as Ex-  
3 hibit Number Six and tell us what that is and what it  
4 contains.

5           A           Okay. This is a -- a map, an isocumu-  
6 lative production map based on cumulative production from  
7 the wells out of the Williamson Sand and Brushy Draw Field  
8 through December, 1987, and the numbers next to the wells  
9 are in thousands of barrels.

10                   The newer wells, of course, have some-  
11 what lower numbers but except for the very latest wells,  
12 all the wells have recovered their flush production period,  
13 fairly representative of what -- what they would be making.

14           Q           I notice the No. 11 Well on the same  
15 contour line as the proposed well. Is that a 9.5? Is that  
16 what that --

17           A           Right, that would be 9,500 barrels.

18           Q           And since when has that well been pro-  
19 ducing?

20           A           Okay, it was drilled in October, 1986.  
21 That was as soon as Mallon took over the lease, we had to  
22 drill a well to meet the Amoco drilling commitment.

23           Q           In terms of a good or a bad well, what  
24 would you say, how would you characterize that well?

25           A           It's -- had we known the reserves poten-

1 tial of the well prior to drilling, we wouldn't have  
2 drilled it.

3 Q How about the No. 10 Well to the -- to  
4 the north of the proposed location. I'm in Section 27.

5 A Yeah, that No. 10 is probably a marginal  
6 well. It's reserve potential is about 37,000 barrels ulti-  
7 mate recovery. Some of that oil was a little higher priced  
8 than what we have now, so it -- it will do well to pay out.

9 Q How many, going back to your Exhibit  
10 Number Six, and I'm not sure whether this information re-  
11 lates to your Exhibit Number Six, how -- how does this  
12 cumulative production, how is this reflected in your  
13 Exhibit Number Six, or Number Five, I should say?

14 A All right. Well, the No. 5 Well which  
15 -- or the Number Five Exhibit are -- are typical case of  
16 anticipated reserve recovery from the well under discussion  
17 here, the Amoco Red Bluff Federal No. 1. It shows it re-  
18 covered about 52,000 barrels of oil.

19 Q What -- is that how much oil we need to  
20 make money on a well?

21 A Yeah, that would be break even. That's  
22 at a flat \$15.00 pricing scenario.

23 Q So comparing the cumulative production  
24 on wells that I've asked you questions about on Exhibit  
25 Number Six, the offset wells aren't doing too well in terms

1 of your break even point.

2 A No. Out of the four wells that Mallon  
3 has drilled, we have one well that we feel confident will  
4 give us some return on our investment. The others will  
5 either lose money or come close to breaking even.

6 Q Which is that well?

7 A Okay, the No. 13 Well in the northeast  
8 northeast of 28.

9 Q Where is that located in relation to the  
10 proposed location?

11 A About a half mile northwest of the pro-  
12 posed location. In the No. 13 we picked an anomalous sand.  
13 In all other respects it -- an anomalous interval of  
14 porosity within the sand and in all other respects it fol-  
15 lowed the trends of thinning reservoir and although we're  
16 encouraged a little bit by it, it hasn't lead us to believe  
17 that we're (unclear) improving odds as we drill westward.

18 Q Okay. Let's go on now to Exhibit Number  
19 Seven and have you tell the Examiner what that is?

20 A Okay. This is a cross section running  
21 from west to east as you go left to right across the page.  
22 The No. 13 Well we just mentioned is the lefthand well and  
23 the No. 4 Amoco Federal is the righthand well, and they're  
24 pretty much a straight line across the space between the  
25 two.

1                   And basically it's -- it illustrates the  
2 regular thinning of the gross sand interval as we go to-  
3 wards the west, and generally considered by most geologists  
4 it shows we're approaching the channel boundary and al-  
5 though it's been a gradual decrease, it could abruptly end  
6 as we hit the channel boundary.

7                   Q            Okay. Do you have anything else con-  
8 cerning that exhibit, Mr. Cox?

9                   A            No, I think that covers it.

10                  Q            Let's go on now to what we have marked  
11 as Exhibit Number Eight and have you identify that for the  
12 Examiner.

13                  A            Okay, this is a letter from John E.  
14 Gumert at the Bureau of Land Management (unclear) Mr.  
15 Padilla. Mr. Gumert had done some review work of the John  
16 West Engineering plats.

17                               First of all, the last page of this  
18 letter is the first plat submitted that was done by John  
19 Gumert at the request of Red Bluff.

20                               And then the second plat is a plat done  
21 at our request, at Mallon Oil Company's request, that  
22 matched the section corner from the metes and bounds survey  
23 with the section corner on the modern stratigraphic base  
24 that's used for the mapping in the area now.

25                               And basically what it accomplishes is it

1 forces closure on that old survey that did not close on the  
2 modern base to give us some idea of what a split of acreage  
3 against the two wells.

4 Q How much acreage is attributable to the  
5 Red Bluff lease under the adjusted plat?

6 A Okay, the Red Bluff lease in that  
7 40-acre spacing is -- would receive 9.727 acres out of 38  
8 and a half.

9 Q And how much -- what percentage is that  
10 of the total working interest?

11 A It would be 25.27 percent.

12 Q And the remaining interest belongs to  
13 Mallon?

14 A Right, the 74.73 percent of the acreage  
15 would be on the Amoco Federal lease.

16 Q What does Mr. Gumert's letter say?

17 A Well, basically it says that he reviewed  
18 the revised copy and agreed that this was a reasonable ad-  
19 justment and he thought that was a reasonable approach to  
20 correcting the survey that was in their records.

21 Q Mr. Cox, I imagine that Mallon Oil Com-  
22 pany under a forced pooling order would be want to be the  
23 operator, is that correct?

24 A Yes, I think just on a time basis scale,  
25 we feel like we could operate the well cheaper than another

1 operator coming in could.

2 Q Were Exhibits Four through Eight  
3 prepared by you or under your direction and supervision?

4 A Yes, they were.

5 MR. PADILLA: We offer Mallon  
6 Exhibits One through Eight.

7 MR. CATANACH: Exhibits One  
8 through Eight will be admitted as evidence.

9 Mr. Jennings?

10

11

CROSS EXAMINATION

12 BY MR. JENNINGS:

13 Q Mr. Cox, looking at what is attached to  
14 Exhibit Eight, which is a survey, a West survey, why don't  
15 you read that last, that addendum, he's got a little de-  
16 scription there, I don't know what you would call it, but  
17 it's a saving grace for a surveyor, that paragraph about  
18 the drawing, what he says about the drawing?

19 A Okay. Since -- since a correction was  
20 made to the actual surveying notes to come up with this  
21 revised plat, his note says, "A drawing was prepared for a  
22 tract in Section 27, Township 26 South, Range 29 East, by  
23 platting the field notes furnished by Red Bluff Water Power  
24 Control District on a section plat made by U. S. General  
25 Land Office. These notes were prepared by Mr. M. R. Estes

1 and were approved by the U. S. Bureau of Land Management.  
2 Due to an error or errors in the survey or the typed de-  
3 scription of the survey, the tract with 18 sides did not  
4 close by an error of 320.26 feet." And that error is re-  
5 flected on the last page of this exhibit.

6 "The drawing shown on this page is an  
7 office attempt to graphically portray what was intended in  
8 those original field notes. We have made the last two  
9 calls in the description fall on the section lines and have  
10 attempted to force a closure that will contain the 38.5  
11 acres. Obviously, we cannot certify that the drawing is  
12 correct." Because of the fact that they have parted from  
13 the field notes in their last two calls.

14 Q Has Mallon ever made an attempt to try  
15 to get someone to survey the land just to see exactly how  
16 much acreage is in it?

17 A Well, the expense of surveying is not  
18 something we would like to bear, since the error was in the  
19 BLM's survey to begin with; however, I think the intent of  
20 the BLM survey is clear that they were following a topo-  
21 graphic contour that made the boundary of this right-of-way  
22 and when I made the shift graphically in my office, took  
23 Mr. West's first survey and overlaid it on a topographic  
24 map of the same scale, the boundary lines overlaid the  
25 topographic contour quite well when we shifted it over and

1 that led me to the belief that this correction would fit  
2 with the original intention of the survey.

3 Q I enjoyed all your explanation but now I  
4 wish you'd answer the question.

5 A Repeat the question, please.

6 Q I asked if Mallon had ever made an  
7 effort to have the tract surveyed?

8 A No, we have not. I think I --

9 Q Has the -- has the survey ever been ap-  
10 proved by the Bureau of Land Management?

11 A The original survey?

12 Q All -- the survey, any survey that you  
13 have?

14 A Yes. The original survey notes from  
15 1938 were accepted in the BLM records.

16 Q Okay, and that's -- that's the ones that  
17 are mistaken.

18 A That's correct. That's the ones that  
19 would not close when put on the modern base.

20 Q And how can you tell -- how can you tell  
21 us that the United States will accept those -- those fig-  
22 ures for royalty settlement purposes and how are we going  
23 to be able to know how much interest in there we have to  
24 pay. These are forced figures, are they not?

25 A In my conversations with John Gumert at

1 BLM --

2 Q I think we can get Mr. Gumert to testi-  
3 fy. I think it's proper to have him --

4 A Would you like for me to answer that  
5 question?

6 Q You can.

7 A Okay. Well, the conversations I've had  
8 at BLM indicated they have this problem frequently and that  
9 generally where both parties will agree to some sort of  
10 revision in the -- in the error, that looks reasonable, the  
11 BLM will go along with their revision and they have typi-  
12 cally occur.

13 Q He didn't write that in a letter,  
14 though, did he?

15 A No, it's only conversation. I have the  
16 phone notes on it.

17 Q Now, in the figures here about the wells  
18 you're drilling down there, you must have some good asso-  
19 ciates, but it looks like this well is headed for a loss,  
20 if this calculation on the 7 percent net revenue interest  
21 is correct.

22 A That's right.

23 Q Now, that would be -- could you tell me  
24 just where it would end up if you recalculate your figures,  
25 what happens if you have to carry Red Bluff's interest?

1 How far down do you go then?

2 A Well, the only thing that will change in  
3 that case, this is based on 100 percent working interest  
4 case with the full net revenue, 8/8ths net revenue inter-  
5 est, so whatever the net revenue interest would change to  
6 during that recoupment period would be what would affect  
7 the economics; otherwise, everything else would stay the  
8 same.

9 Q Well, would your figures be substan-  
10 tially changed from the original figure, \$13,000, if some  
11 -- if you were to take a lease, a consignment direct from  
12 Red Bluff and not elect to honor Mr. Oppermann's 5 percent?

13 A Well, I don't have that exact scenario  
14 done but if you went to a greater net revenue interest than  
15 we'd receive under that scenario, the 82-1/2, the profit is  
16 still not tremendous. It would fall somewhere in between  
17 those two but -- and it might put us at a break even. I'm  
18 not sure what that would give us.

19 Q Mr. Cox, how many of these wells are  
20 producing less than 15 barrels per well per day?

21 A The last time I checked that was July  
22 and we had five wells below the 15 barrels.

23 Q Overall the whole lease. do you average  
24 more than 15 barrels per well per day on the entire lease?

25 A At that time it was about 19-1/2 barrels

1 per well for the lease.

2 Q When was that, in July?

3 A July of '88, yes.

4 Q Is it -- has it decreased?

5 A It's decreased some but we're all -- the  
6 wells have gotten fairly stable and I don't think we'd see  
7 much difference at this point.

8 Q And you have given some thought to  
9 having the government and other parties reduce their over-  
10 riding royalty.

11 A We've been looking into it, right.

12 Q Have you actually taken any effort --  
13 made any effort?

14 A We've spent quite a bit of time, had a  
15 couple of legal opinions on what exposure to liability from  
16 our royalty owners and whatnot Mallon will put itself in if  
17 we took any action, but we have not taken any action as of  
18 yet.

19 Q How long will it take for these wells to  
20 pay out?

21 A Well, at \$15.00 flat pricing it -- we  
22 just barely reach payout in about looks like seven years  
23 here.

24 Q Assume 100 percent penalty clause, would  
25 Red Bluff ever receive anything from this property here?

- 1           A           Not under this economic scenario, no.
- 2           Q           But you still want to force pool them.
- 3           A           We want to drill a well, right, and we
- 4 haven't been able to do it any other way.
- 5           Q           And is it my understanding that the best
- 6 offer of override that you've ever made to Red Bluff is 5
- 7 percent, which would give you -- that would be a 19 percent
- 8 basic royalty, 81 percent working interest that you would
- 9 have out of which you have to take care of the other over-
- 10 riding royalty.
- 11          A           That would be correct.
- 12          Q           Have you ever submitted this letter of
- 13 February 23rd which you marked as Red Bluff's Exhibit Num-
- 14 ber One to counsel to obtain an opinion as to whether or
- 15 not that binds you to pay overriding royalty on this Red
- 16 Bluff lease in the event you obtain a farmout from them?
- 17          A           Which exhibit is that?
- 18          Q           It's this Bettis, Jr. letter -- it's Red
- 19 Bluff's Exhibit Number One, dated February 23, 1983.
- 20          A           Well, I'm not really sure. I'm not,
- 21 although I get involved in land matters, I'm not the land
- 22 person involved and I have not myself, no.
- 23          Q           Well, could you ask Ms. McClintock if
- 24 she has?
- 25          A           She may answer that question.

1 MR. CATANACH: She may.

2 MS. McCLINTOCK: I have not  
3 submitted that exhibit (inaudible) to counsel.

4 MR. JENNINGS: I believe  
5 that's -- I would like to offer this exhibit, Red Bluff  
6 Number One.

7 Well, it's already been of-  
8 fered but I would like to tender it at this time.

9 MR. CATANACH: Red Bluff's  
10 Exhibit Number One will be admitted into evidence.

11

12 CROSS EXAMINATION

13 BY MR. STOVALL:

14 Q Just one question for clarification. I  
15 think it's -- the operating costs, the drilling costs which  
16 are part of your Exhibit that you probably remember better  
17 than I, the AFE?

18 A Right.

19 Q Is that what you're proposing as reason-  
20 able drilling costs in your opinion?

21 A Yes, and I think, we took over opera-  
22 tions, as I mentioned, from Worth in '86, and we cut our  
23 drilling and completion costs, as I recall, about 45 per-  
24 cent over what they were before and that was -- this re-  
25 flects our reduced costs. I think it's about as low as we

1 can expect to get.

2

3

CROSS EXAMINATION

4 BY MR. CATANACH:

5 Q For further clarification, you are re-  
6 questing a 200 percent penalty on the well?

7 A That's correct.

8 MR. CATANACH: That's all the  
9 questions --

10 MR. JENNINGS: Well, let me --  
11 let me ask him one (not clearly understood.)

12 MR. CATANACH: Go ahead, Mr.  
13 Jennings.

14

15

RE CROSS EXAMINATION

16 BY MR. JENNINGS:

17 Q Mr. Cox, hasn't Red Bluff indicated or  
18 advised you that they would be more than willing to assign  
19 the acreage to Mallon on -- with the same net revenue in-  
20 terest as we're now receiving from -- under the farmout  
21 agreement?

22 A Right. Of course, the 1983 agreement,  
23 we're not real happy with in 1988, so we weren't willing to  
24 accept that.

25 MR. CATANACH: The witness may

1 be excused.

2                   Would either counsel like to  
3 make any closing statements at this time or -- Mr.  
4 Jennings?

5                   MR. JENNINGS: Well, I would  
6 like to make some type of statement.

7                   I think it's basically unfair  
8 for someone to come in here and have -- to seek to force  
9 pool a lease which is owned by a third party under these  
10 circumstances. I think that they have one lease under  
11 which it has a 30 percent burden and then another, the most  
12 that there (not understood) 19 percent. That doesn't seem  
13 equitable and I don't see any reason for that. I think  
14 it's basically unfair and I would certainly think that if  
15 the Commission should -- the Division should see fit to  
16 force pool this acreage, there would certainly not be any  
17 penalty because these people have indicated their willing-  
18 ness to participate on some basis, and if they took this  
19 other acreage knowing that all these burdens were there,  
20 and they got it and the deal was executed in 1983, and we  
21 know that it was, they've tacked another 5 percent on there  
22 and now they're seeking to tack that 5 percent for people  
23 who got the deal from Amoco for which they were paid a sub-  
24 stantial sum according to that exhibit, the letter of 1983  
25 that was the only exhibit which we offered, they were paid

1 in cash, and I just can't see how you can legally burden  
2 this acreage with any -- with that burden.

3                   And I would challenge them to  
4 get me an opinion of counsel and I've asked for this for  
5 some explanation to that before. It's grossly unfair and I  
6 think that the well really (unclear) doesn't deserve to be  
7 drilled be- cause it looks like it's a losing deal unless  
8 they force Red Bluff, who is not in the oil business, it's  
9 a semi-public utility that just happened to be adjoining  
10 this other acreage and they have substantial other acreage  
11 in that, and I think it's gross to seek that.

12                   If the Commission in its wis-  
13 dom could set a fair override, or one -- we'd be more than  
14 willing to go with 14 percent royalty on this lease, and  
15 we'd be more than willing to sign an operating agreement or  
16 consignment of operating rights similar to the Amoco, but I  
17 don't think we should have to be faced with the fact of  
18 having to do with all these burdens which they hope to push  
19 over on Red Bluff.

20                   MR. CATANACH: Mr. Padilla.

21                   MR. PADILLA: Mr. Examiner,  
22 I have -- I'm very sympathetic with what Mr. Jennings is  
23 saying with regard to the Red Bluff Water Power District.  
24 In that regard Mr. Jennings clients don't seem to under-  
25 stand the reality of drilling oil wells and maybe they --

1 for that reason they ought to be force pooled.

2 To suggest that there would be  
3 no penalty would be ludicrous, especially when you're  
4 carrying 25 percent of a well. I think Mr. Jennings would  
5 like to have us drill -- or like to have Mallon drill a  
6 free well. I think I would love to have that myself, but  
7 that also is not realistic.

8 The question of whether or not  
9 this is losing deal or not, is something that has to be  
10 assessed on a field-wide basis by Amoco in maintaining and  
11 keeping the farmout in good standing.

12 Considering the price of oil  
13 today at testimony -- there's been testimony that it's at  
14 \$13.00 a barrel, I don't see how we can equate both leases.  
15 We have to take the Amoco lease and leave the burdens the  
16 way they are, and take a lease the way it is, and I think  
17 it would be foolish at this point for Mallon to go and  
18 burden the other lease to the tune of a 70 percent net  
19 revenue interest. I suppose that what Mr. Jennings is  
20 really arguing is that we give him -- he signs the lease on  
21 a 70 percent net revenue interest and Red Bluff gets almost  
22 equivalent to the difference between 14 and 30, I guess,  
23 which would be a 16 percent override. That, by the testi-  
24 mony, is not acceptable. 5 percent is acceptable and 5 per-  
25 cent is fair under the circumstances, considering the eco-

1 nomics in the oil and gas field; considering the geology,  
2 the cumulative production and the recoveries that have  
3 experienced by Mallon in the field.

4 So the only thing that I can  
5 submit and suggest at this point is that the Division enter  
6 an order expeditiously to meet the October 24th deadline in  
7 the event that Mallon is unable to secure an extension by  
8 that time, and to impose a 200 percent risk factor penalty.

9 Thank you.

10 MR. CATANACH: Anything fur-  
11 ther in this case?

12 If not, it will be taken under  
13 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 that 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. 9458, heard by me on October 12, 1988.

David R. Catant, Examiner  
Oil Conservation Division