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STATE OIL AND GAS BOARD OF ALABAMA

Tuscaloosa, Alabama

May 8, 2012

**ORIGINAL**

Testimony and proceedings before the State Oil and Gas Board in Regular Session in the Board Room of the State Oil and Gas Board Building, University of Alabama Campus, Tuscaloosa, Alabama, pursuant to adjournment, on this 8th day of May, 2012 at 10:00 a.m.

STAFF

- Mr. Bob Roark.....Geologist
- Mr. Jacques Chasse.....Geologist
- Mr. Kirk McQuillan.....Geologic Evaluations Manager
- Dr. David E. Bolin.....Deputy Director
- Mr. Marvin Rogers.....Hearing Officer
- Ms. Katie Henson.....Student Aide
- Mr. Butch Gregory.....Engineering Evaluations Manager
- Mr. Elbert Patterson.....Engineer
- Dr. Nick Tew.....Supervisor
- Mr. Randy Oglesby.....Geologist

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1 MR. ROGERS: This hearing is in session.

2 Dr. Tew, have the items for the May 8 and May 10, 2012,  
3 hearing been properly noticed?

4 DR. TEW: The items on the May 8 and May 10,  
5 2012, docket have been properly noticed and the docket is  
6 due to be admitted into the record.

7 MR. ROGERS: The Board's staff has reviewed and  
8 compiled the Proofs of Publication for the items appearing  
9 on the docket for the first time. These Proofs of  
10 Publication for the items on the May 8 and May 10, 2012,  
11 docket are admitted into the record.

12 (Whereupon, the Proofs of Publication for the  
13 items on the May 8 and May 10, 2012, docket were admitted  
14 into the record.)

15 MR. ROGERS: Furthermore, copies of the  
16 information posted on the website of the Alabama Secretary  
17 of State announcing these two meetings of the State Oil and  
18 Gas Board on May 8 and May 10, 2012, and a confirmation of  
19 successful postings from the Secretary of State is also  
20 admitted into the record.

21 (Whereupon, the confirmation of successful  
22 postings were admitted into the record.)

23 MR. ROGERS: I have an Order appointing me -- an  
24 Order of the State Oil and Gas Board appointing me as  
25 Officer to conduct this hearing on behalf of the Board. The

1 Order will be made a part of the record at this time.

2 (Whereupon, the Order was admitted into the  
3 record.)

4 MR. ROGERS: The procedure for this meeting is  
5 as follows: The Hearing Officer and the staff will hear the  
6 uncontested items on the docket today and certain other  
7 items. The State Oil and Gas Board will hear the  
8 recommendations of the Hearing Officer, contested items, and  
9 certain other items beginning at 10:00 a.m. on Thursday, May  
10 10, 2012, here in the office of the State Oil and Gas Board  
11 in Tuscaloosa, Alabama.

12 We want to welcome Katie Henson here.  
13 Katie is a student at the university and she has taken  
14 Rhianna's place at least for the time being. So we're glad  
15 to have Katie Henson with us.

16 I will recommend that the following  
17 Petitions be continued: Item 4, Docket Number 3-27-12-15A,  
18 Petition by Pruet Production Company; Item 5, Docket Number  
19 3-27-12-16, Petition by Ankor E&P Holdings Corporation; Item  
20 6, Docket Number 3-27-12-17, Petition by Ankor; and Item 25,  
21 Docket Number 8-26-08-25A, a motion by the Board.

22 Item 17, Docket Number 5-08-12-07 is a  
23 Petition by Black Warrior Methane Corporation. We will  
24 recommend that this Petition be continued with the  
25 stipulation that the temporarily abandoned status for the

1 subject wells be extended to the next regularly scheduled  
2 hearing of the Board. Item 22, Docket Number 5-08-12-12 is  
3 a Petition by Union Oil Company of California. We will  
4 recommend that this Petition be continued with the  
5 stipulation that the temporarily abandoned status and the  
6 shut-in status for the subject wells be extended to the next  
7 regularly scheduled meeting of the Board. Item 23, Docket  
8 Number 5-08-12-13 is a Petition by Four Star Oil & Gas  
9 Company. We will recommend this Petition be continued with  
10 the stipulation that the temporarily abandoned status and  
11 shut-in status for the subject wells be extended to the next  
12 regularly scheduled meeting of the Board.

13 Dismissals. I will recommend the  
14 following Petitions be dismissed without prejudice: Item 1,  
15 Docket Number 3-27-12-10, Petition by Sklar Exploration  
16 Company, LLC and Item 10, Docket Number 3-27-12-22, Petition  
17 by Geomet, Incorporated.

18 The following items are set for hearing by  
19 the Board: Item 7, Docket Number 3-27-12-18A, Petition by  
20 Ankor E&P Holdings Corporation; Item 8, Docket Number  
21 3-27-12-19, Petition by Ankor; Item 9, Docket Number  
22 3-27-12-20, Petition by Ankor; Item 12, Docket Number  
23 5-08-12-02, Petition by Escambia Operating Company, LLC;  
24 Item 18, Docket Number 5-08-12-08, Petition by Spooner  
25 Petroleum Company; and Item 19, Docket Number 5-08-12-09,

1           Petition by Spooner Petroleum Company.

2                           Any changes or corrections or comments on  
3           all of those recommendations?

4                           (No response.)

5                           MR. ROGERS: All right. That brings us to the  
6           items set for hearing today. The first item is Item 2,  
7           Docket Number 3-27-12-12, Petition by Craft Operating  
8           Company, LLC.

9                           MR. TYRA: Mr. Rogers, I'm John Tyra here on  
10          behalf of Craft. Items 2 and 3 are both matters concerning  
11          risk compensation without -- I'm sorry, forced pooling  
12          without risk compensation. In both of those issues, we have  
13          parties that have not been located. I know that the Board  
14          takes that very seriously, and the testimony and the  
15          exhibits in matters that we're going to be presenting as to  
16          our diligent search and inquiry may take a while. So for  
17          that reason, I would ask if it would accommodate all the  
18          other parties that we just be moved to the end of the  
19          docket.

20                          MR. ROGERS: All right. As you've stated, the  
21          Board and staff take that seriously, the proof required to  
22          show that you made a diligent effort to locate those  
23          parties. Is there any objection to that?

24                          (No response.)

25                          MR. ROGERS: Then we'll put Items 2 and 3 at the

1 end of the docket.

2 MR. TYRA: All right, sir.

3 MR. ROGERS: Okay.

4 MR. TYRA: And also, on Item 18, Docket Number  
5 5-08-12-08, Spooner, a forced pooling without risk  
6 compensation, I request that that matter be dismissed  
7 without prejudice.

8 MR. ROGERS: I'll tell you what we'll do on  
9 that, Mr. Tyra, we just got it for the Board. And since  
10 it's related to the other items, you can just address it on  
11 Thursday.

12 MR. TYRA: Sure. That will be fine. Thank you.

13 MR. ROGERS: All right. Then that brings us to  
14 Item 11, Docket Number 5-08-12-01, Petition by Sklar  
15 Exploration Company, LLC.

16 Good morning, Mr. Coleman.

17 MR. COLEMAN: Mr. Rogers, Mike Coleman for Sklar  
18 Exploration Company, LLC. This is Docket Number 5-08-12-01  
19 by Sklar requesting that the State Oil and Gas Board of  
20 Alabama enter an Order of forced pooling without risk  
21 compensation all tracts and interest in the Northwest  
22 Quarter of Section 34, Township 4 North, Range 12 East,  
23 Conecuh County, Alabama.

24 MR. ROGERS: Why don't you just give us a brief  
25 summary of what's involved here, Mr. Coleman.

1                   MR. COLEMAN: All right. There's been an  
2                   original Petition that was filed and then a first amended  
3                   Petition for forced pooling, wherein Petitioner avers that  
4                   it owns or has control of all of the drilling and  
5                   operational rights in the proposed unit except for an  
6                   approximate 1.1137821 percent mineral interest in the unit  
7                   as a whole, which is approximately 160 acres, more or less,  
8                   or approximately 1.7820513 net mineral acres. The  
9                   outstanding interest is believed to be owned by the six  
10                  persons as set forth in the first amended Petition. The  
11                  first amended affidavit of J. Marshall Jones, III, who is  
12                  the land manager of Sklar, reflects seven such persons;  
13                  however, since that time, upon understanding one of those  
14                  people has actually leased, leaving the six in issue. And  
15                  despite the diligent efforts of Sklar, it's possible that  
16                  there are unknown people who may own or claim an interest in  
17                  the proposed unit, but our research and interviews and legal  
18                  work reveal no such persons.

19                 MR. ROGERS: All right. So this is not a case  
20                 where you're claiming that a diligent effort was made to  
21                 find somebody whose address you don't have?

22                 MR. COLEMAN: Correct.

23                 MR. ROGERS: All right.

24                 MR. COLEMAN: No such person has been  
25                 identified, to my knowledge. Notice by ordinary and first

1 class mail was mailed to five of the said persons on  
2 approximately -- I mean, on April the 17th, 2012, 21 days  
3 prior to the hearing and on April 20th, 18 days prior to the  
4 hearing to Willie James Berry and on April 23rd, 15 days  
5 prior to the hearing to James Berry, who is a person that's  
6 incarcerated and not \*\* a caution. Notices were mailed to  
7 two different names upon which he goes, is my understanding.  
8 And so notice is proper and it's set forth in the affidavit  
9 of Brandon D. Hughey regarding the notice by first class  
10 mail. So all six people in question have been notified in  
11 that. Wherefore, based on this, Mr. Rogers, Sklar submits  
12 this upon the affidavits and the Petition and amended  
13 Petition. I would ask that the affidavit and amended -- the  
14 first amended affidavit of J. Marshall Jones be admitted  
15 into the record as well as the affidavit and first amended  
16 affidavit of Brandon D. Hughey regarding the notice. And as  
17 you noted earlier, the Proofs of Publication have been  
18 submitted, so we will submit this on the --

19 (Whereupon, the affidavits of J. Marshall Jones  
20 and Brandon D. Hughey were offered into the record.)

21 MR. ROGERS: Go ahead. So you want to -- you  
22 want the first amended affidavit of Mr. Jones to be admitted  
23 and the first amended affidavit of Mr. Hughey to be  
24 admitted. Is that right?

25 MR. COLEMAN: Yes. And then I would assume that

1           you would also want to admit the original affidavits of each  
2           of those.

3                       MR. ROGERS:  Then let's admit the original  
4           affidavits also.

5                       MR. COLEMAN:  I think that's everything.

6                       MR. ROGERS:  All right.  So that's four  
7           exhibits.  So Exhibit 1 then will be the affidavit of  
8           Brandon Hughey, Exhibit 2 will be the affidavit of  
9           Mr. Marshall Jones, Exhibit 3 will be the amended affidavit  
10          of Mr. Hughey, and Exhibit 4 will be the amended affidavit  
11          of Mr. Jones.

12                      (Whereupon, the affidavits of J. Marshall Jones  
13           and Brandon D. Hughey were admitted into the record.)

14                      MR. ROGERS:  What was the -- where was -- the  
15           gentleman whose name you stated is incarcerated, where did  
16           you find -- get that address?  Or what is his address,  
17           Mr. Coleman, just so I'll have that clarified?

18                      MR. COLEMAN:  Okay.  There are two addresses.  I  
19           mean, my understanding is -- well, in Atlanta, Georgia.  I  
20           assume it's a federal correctional institute, as I  
21           understand.

22                      MR. ROGERS:  All right.

23                      MR. COLEMAN:  And there's a P.O. box.  The  
24           addresses are -- the address for --

25                      MR. ROGERS:  So it's a federal prison?

1                   MR. COLEMAN: That's correct. That's what it  
2                   appears. But both of the notices went to the same address,  
3                   which is P.O. Box 150160, Atlanta.

4                   MR. ROGERS: All right. You've stated the  
5                   outstanding interest. Anything else, Mr. Coleman?

6                   MR. COLEMAN: No, sir.

7                   MR. ROGERS: All right. And I think we've got a  
8                   proposed Order submitted on this?

9                   MR. COLEMAN: That's right.

10                  MR. ROGERS: All right. All these exhibits are  
11                  admitted. The staff will review the evidence and make a  
12                  recommendation to the Board.

13                  MR. COLEMAN: Thank you.

14                  MR. ROGERS: The next item then is Item 13,  
15                  Docket Number 5-08-12-03, Petition by Saga Petroleum, LLC of  
16                  Colorado.

17                  MR. WATSON: I have one witness, Mr. Rogers. I  
18                  would like to have him sworn in, please, sir.

19                  MR. ROGERS: State your name and address, sir.

20                  MR. RADIGAN: Ken Radigan, Tuscaloosa, Alabama.

21                                   KEN RADIGAN,  
22                  having been first duly sworn, was examined and  
23                  testified as follows:

24                  MR. WATSON: Mr. Rogers, I'm Tom Watson  
25                  representing Saga Petroleum, and I've pre-filed an Affidavit

1 of Notice in this matter. I would like to have it admitted  
2 into the record.

3 (Whereupon, Exhibit A was offered into the  
4 record.)

5 MR. ROGERS: By the way, so that everything  
6 appears clear on the transcript, we're going to try to  
7 always identify each exhibit and the exhibit number.

8 The Affidavit of Notice is admitted. That  
9 will be -- that will be Exhibit A.

10 (Whereupon, Exhibit A was admitted into the  
11 record.)

12 MR. WATSON: This is a Petition by Saga  
13 Petroleum Limited Liability Company of Colorado asking the  
14 Board to enter an Order amending Rule 4A of the Special  
15 Field Rules for the Deerlick Creek Coal Degasification  
16 Field, and we're asking in this amendment that Saga be  
17 allowed to drill a second well in an 80-acre drilling and  
18 production unit in the Deerlick Creek Coal Degasification  
19 Field.

20 MR. ROGERS: Mr. Watson, why don't you give a  
21 little background about -- it's been a long time since we  
22 did that, but we had a statute pass that allowed that under  
23 certain circumstances.

24 MR. WATSON: Yes, sir. The -- it was determined  
25 after a study that that 80-acre spacing may not completely

1 drain the recoverable coalbed methane hydrocarbons in the  
2 unit, so the Board entered into a process of reforming the  
3 40-acre unit -- reforming the 80-acre unit into two 40-acre  
4 units for the purpose of drilling a second well. In many  
5 cases that worked and there have been numerous reformations  
6 along those lines, but -- and in its wisdom, the legislature  
7 felt that if we set up a process to allow a second well in  
8 an existing 80-acre unit complying with the other rules on a  
9 setback, et cetera, that would be a more efficient way to  
10 maximize the production of coalbed methane gas, prevent  
11 waste, and protect correlative rights.

12 The statute, with respect to wells drilled  
13 is pretty clear. It requires a party to affirmatively  
14 demonstrate to the Board after notice of hearing with  
15 substantial evidence that's geological and engineering  
16 evidence, and production information derived from wells in  
17 an established field proving that 80-acre drainage units  
18 will not efficiently and economically drain the entire 80  
19 acres, and we are asking the Board to amend the rules to  
20 allow a second well to be drilled, and we will -- we will  
21 meet the requirements of the statute where we have to show  
22 that the wells -- that two wells will produce more gas than  
23 one well, that the second well is not an unnecessary well,  
24 in that it will produce, and that -- that second well is not  
25 unnecessary. So if we meet those statutory requirements,

1           then upon application to the Board administratively that a  
2           second well can be drilled in an existing 80-acre unit, you  
3           would have ownership of all the rights in that unit, you  
4           would position that second well in a legal location on that  
5           80-acre unit, and the evidence has been that those second  
6           wells produced at least as good as or sometimes better than  
7           the existing well on that unit.

8                       MR. ROGERS: That is an excellent explanation,  
9           Mr. Watson, off the top of your head.

10                      MR. WATSON: Well, I had a little help from  
11           looking at the statute here.

12                      MR. ROGERS: So we -- so that is an amendment, I  
13           believe, to 9-17-12 that was passed by the Legislation  
14           several years ago?

15                      MR. WATSON: That's right.

16                      MR. ROGERS: Thank you, sir.

17                      MR. WATSON: And today we are here -- Saga is  
18           here to amend the Deerlick Creek Coal Degasification Field  
19           for that purpose.

20

21           EXAMINATION BY MR. WATSON:

22           Q.           Mr. Radigan, you have appeared before this Board and  
23           have on file an affidavit of your qualifications, and you're  
24           in charge of the operations for Saga Petroleum Limited  
25           Liability Company of Colorado and the Deerlick Creek Coal

1 Degasification Field?

2 A. Yes, sir.

3 Q. And you have prepared exhibits or exhibits have been  
4 prepared under your supervision and control in response to  
5 the statutory requirements for drilling a second well in an  
6 existing 80-acre unit?

7 A. Yes, sir.

8 Q. All right, sir. I have handed up those exhibits to  
9 the Board's staff. I'd like for you to take the exhibits, if  
10 you would, please, your Exhibit Number 1, which is a plat,  
11 and tell us about the existing 80-acre unit and about the  
12 proposed well on that 80-acre unit. That 80-acre unit will  
13 consist of the north half of the Northeast Quarter of Section  
14 19. Is that right?

15 A. Yes, sir, that is correct.

16 Q. All right.

17 A. Yes, it's in Section 19 and we're moving the well  
18 approximately, you know, a good thousand feet or so away from  
19 the existing well in that 80-acre unit, and, of course, we've  
20 proposed to drill it and drain the rest of that 80 acres.

21 Q. All right. And look at your Exhibit Number 2. What  
22 is that? Does that show the north half of the Northwest  
23 Quarter of that same section, 19, an existing well and a  
24 proposed new well?

25 A. It does, sir.

1 Q. And how far approximately is that new well from the  
2 existing well?

3 A. Again, it's approximately a little over 1,000 feet  
4 from the proposed drill site to the -- to the well in the  
5 original 80.

6 Q. All right, sir. Look at Exhibit Number 3 now, if you  
7 would, Mr. Radigan. That is a cross section through Section  
8 19 with existing wells. Basically, what are you showing  
9 there?

10 A. We're showing the existing coal seams that are in the  
11 existing wells and how these wells, you know, that we're  
12 proposing to drill in the -- in the existing 80 will -- will  
13 getting into these coal seams here that are in the  
14 surrounding well.

15 MR. WATSON: And, Mr. Rogers, part of the  
16 statutory requirement is to demonstrate geologically that  
17 these coal seams exist in the areas, and in a prior docket  
18 in December the 30th of 2008, Docket Numbers 12-9-08-3, 4,  
19 5, 6, 8, and 10 exhibits were presented to this Board  
20 showing cross sections through the various coal  
21 degasification fields in Tuscaloosa County, from Robinson's  
22 Bend all the way to Short Creek, and I'd like for that  
23 geologic exhibit to be incorporated by reference in the  
24 hearing today as an addition to this cross section through  
25 these wells that we're addressing today in Section 19, and I

1           have a copy of those exhibits that we can hand up for  
2           inclusion in this record.

3                         (Whereupon, Exhibit No. 16 was offered into the  
4           record.)

5                         MR. ROGERS: All right. We'll just call all of  
6           this Exhibit 16, Mr. Watson. That will be the exhibits  
7           submitted in December 30th, 2008, and we'll just call this  
8           entire exhibit book Exhibit 16 to this item.

9                         (Whereupon, Exhibit No. 16 was admitted into  
10          the record.)

11                        MR. WATSON: All right, sir.

12          Q.           (MR. WATSON:) Now, your next couple of exhibits,  
13          Mr. Radigan, starting with Exhibit Number 4 is a gas meter  
14          report on the parent well. The parent well being the  
15          22-07-27 Well. Is that correct?

16          A.           Yes, sir, that is correct.

17          Q.           All right. This shows production from April the  
18          17th, two thousand -- from January the 10th, 2012 through  
19          April the 17th, 2012. Is that right?

20          A.           Yes, sir.

21          Q.           And your next exhibit, Exhibit Number 5, is a gas  
22          meter report showing the production MCF for the 22-08-70  
23          Well. Is that right?

24          A.           Yes, sir.

25          Q.           And this is just a daily report showing what each of

1           these wells were producing?

2           A.           Yes, sir.

3           Q.           The first well, being the parent well, was producing  
4           roughly 30 MCF a day. Is that right?

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

6           Q.           And then the second well -- and these are other wells  
7           that were reformed and drilled on 40s and you're trying to  
8           give us some background here --

9           A.           That is correct. These wells are in the Blue Creek  
10          Field.

11          Q.           Blue Creek Field. And then the second well in that  
12          same unit produced about 60 MCF a day. Is that right?

13          A.           That's correct.

14          Q.           So that proved that by reforming and drilling a  
15          second well that you -- that the second well was not an  
16          unnecessary well, that it, in fact, produced additional coal  
17          seem gas that was not being produced by the parent well. Is  
18          that right?

19          A.           That is correct, sir.

20          Q.           All right. Let's look at your Exhibit Number 6 ,  
21          Mr. Radigan. Exhibit 6 is a -- is a tabular rendition of  
22          parent and second wells, four in number. This would be the  
23          parent well. I'm not going to read these wells. They're  
24          evident here. But what you -- what you're trying to show in  
25          the Deerlick Creek Coal Degasification Field is, in these

1 wells where a second well was drilled, you had, if you'll  
2 look over at the far right-hand side, the parent well in the  
3 first case produced 47 MCF; the second well, 71 MCF. And the  
4 next case the parent well produced 67 MCF; the second well,  
5 35 MCF. Are those numbers correct?

6 A. Yes, sir, they are.

7 Q. And the third well, the parent well produced 71 MCF;  
8 the second well, 31 MCF. And yet, in the fourth well, the  
9 parent well produced 70 MCF and the second well produced 187  
10 MCF. Now, it's clear from this exhibit that the second well  
11 was certainly not an unnecessary well. Is that correct?

12 A. That is correct.

13 Q. Because it produced additional gas that had not been  
14 produced by the parent well?

15 A. Yes, sir.

16 Q. Okay. Your next exhibit, Exhibit Number 7, is simply  
17 a graphical depiction of production from the parent well with  
18 22-07-27. Is that right?

19 A. Yes, sir.

20 Q. And then the next exhibit -- on the next page of that  
21 exhibit, Page 2 of Exhibit Number 7 is a second well graph  
22 showing the production, and those graphs correspond with the  
23 numbers on the previous exhibit, Number 6. Is that right?

24 A. Yes, sir. That's correct.

25 Q. Just presenting it -- presenting it in a graphical

1 form?

2 A. Took as an average.

3 Q. Okay. And then Exhibit Number 8 is a parent well for  
4 the 26-07-29 Well, which tracks the tabular rendition. Is  
5 that correct?

6 A. Yes, sir.

7 Q. And Page 2 of that is a -- is a graph for a  
8 production from the second well, is that right, in that same  
9 unit?

10 A. Yes, sir, it is.

11 Q. We go again to Exhibit Number 9 which, again, are  
12 graphs of production, as depicted on Exhibit Number 6. Is  
13 that right?

14 A. Yes, sir.

15 Q. And Page 2 of that exhibit is a graph of production  
16 for the second well on that same -- for that same -- for the  
17 second well, I should say?

18 A. Yes, sir.

19 Q. And finally, Exhibit Number 10 is the parent well --  
20 or graph for the parent well's production for the West  
21 32-12-49 Well and Page 2 of that exhibit is a graph of  
22 production for the 33-05-66 Well. Is that correct?

23 A. Yes, sir.

24 Q. So you're just depicting the production graphically  
25 that's presented in Exhibit 2, and each of these exhibits

1 shows that the second well was not an unnecessary well, that  
2 additional coalbed methane reserves were produced and,  
3 therefore, that would be a prevention of waste and a  
4 protection of correlative rights, would it not?

5 A. Yes, sir.

6 Q. Now, having demonstrated that we have geology  
7 underlying this area with coal seams being present both in  
8 your exhibit and the -- and the prior exhibit from 2008 that  
9 depicts all the fields in the coalbed methane area and having  
10 presented this production information, it's your -- is it  
11 your testimony that the second wells drilled in these prior  
12 units were not unnecessary wells, that they did, in fact,  
13 recover hydrocarbons that would not have otherwise been  
14 recovered; that by going through this process we will prevent  
15 waste, protect correlative rights, and that the second well  
16 in an 80-acre unit would be justified based on these factors  
17 we've just discussed?

18 A. Yes, sir.

19 MR. WATSON: Mr. Rogers, I would ask that you  
20 admit into the record of this hearing Exhibits 1 through --  
21 I think 1 through 10, along with the geological exhibits  
22 that I've handed up to you to the testimony of Mr. Radigan.

23 (Whereupon, Exhibits Nos. 1 through 10 were  
24 offered into the record.)

25 MR. ROGERS: All the exhibits are admitted.

1 (Whereupon, Exhibits Nos. 1 through 10 were  
2 admitted into the record.)

3 MR. WATSON: And I tender him to you and the  
4 members of the staff for any questions you have.

5 MR. ROGERS: Any questions from the staff?

6 DR. BOLIN: No questions.

7 MR. ROGERS: The staff has no questions.  
8 Anything else, Mr. Watson?

9 MR. WATSON: That's all.

10 MR. ROGERS: We will review the evidence and  
11 make a recommendation to the Board.

12 \*\* all right. The next item then is Item  
13 14, Docket Number 5-08-12-04, Petition by W&T Offshore,  
14 Incorporated.

15 MR. WATSON: Tom Watson for W&T Offshore, Inc.  
16 I have pre-filed an Affidavit of Notice in this matter. I'd  
17 like to have it admitted into the record.

18 (Whereupon, Exhibit A was offered into the  
19 record.)

20 MR. ROGERS: That will be admitted as Exhibit A.

21 (Whereupon, Exhibit A was admitted into the  
22 record.)

23 MR. WATSON: I also have pre-filed an Affidavit  
24 of Testimony in support of the request, which I will  
25 describe to you now, and that request is W&T is asking the

1 Board to enter an Order extending the temporary abandonment  
2 status for the State Lease 531 No. 3 Well located in the  
3 Fairway Field unit, Mobile County, Alabama. I have an  
4 affidavit in support of this request by G.C. Slawson, Jr.,  
5 Manager and Counsel for W&T Offshore, Inc. I would like to  
6 introduce his Affidavit of Testimony now.

7 And in keeping with the Board's procedure  
8 for information on wells that we are requesting temporary  
9 abandonment status for, I have the questionnaire that was  
10 completed by W&T Offshore, Inc.'s engineering. I'd like to  
11 have that made part of the record.

12 (Whereupon, Exhibits Nos. 1 and 2 were offered  
13 into the record.)

14 MR. ROGERS: All right. I do have a copy of the  
15 questionnaire. And do you want me to go ahead and admit  
16 this, Mr. Watson?

17 MR. WATSON: Yes, sir.

18 MR. ROGERS: The questionnaire is admitted, the  
19 Affidavit of Testimony is admitted, and the Affidavit of  
20 Notice is admitted.

21 (Whereupon, Exhibits Nos. 1 and 2 were admitted  
22 into the record.)

23 MR. WATSON: All right, sir. And finally, I  
24 notified the Commissioner of Conservation and Natural  
25 Resources of this request, and he has responded to Dr. Tew

1           indicating that based on the information they have reviewed,  
2           they are not opposed to the granting of this request. I'd  
3           like for Commissioner Guy's letter to be made a part of the  
4           record.

5                       (Whereupon, Exhibit No. 3 was offered into the  
6           record.)

7                       MR. ROGERS: The letter from the -- from  
8           Commissioner Gunter Guy is admitted. In that letter, the  
9           Commissioner states he has no objection to the granting of  
10          the Petition. That will be admitted as Exhibit 3.

11                      (Whereupon, Exhibit No. 3 was admitted into the  
12          record.)

13                      MR. WATSON: All right, sir. Basically -- and I  
14          won't go into any detail, as stated in our Petition, but  
15          this well needs to be -- the status needs to be -- the  
16          temporary abandonment status needs to be continued because  
17          this well is on a platform so close to a good producing well  
18          that we can't go in and permanently plug and abandon it at  
19          this time. It's only 15 feet from one of the best wells in  
20          the Fairway unit. So all of that's stated in your Affidavit  
21          of Testimony. That's all I have on this matter, Mr. Rogers.

22                      MR. ROGERS: All right. Just to review, the  
23          Affidavit of Notice was Exhibit A, the Affidavit of  
24          Testimony was Exhibit 1, the questionnaire was Exhibit 2,  
25          and the letter from the Commissioner was Exhibit 3.

1 Anything else, Mr. Watson?

2 MR. WATSON: That's all.

3 MR. ROGERS: We will review the evidence and  
4 make a recommendation to the Board.

5 The next item then is Item 15, Docket  
6 Number 5-08-12-05, Petition by Robinson's Bend Operating II,  
7 LLC.

8 MR. WATSON: Tom Watson for Robinson's Bend  
9 Operating II, LLC. I have one witness. I'd like to have  
10 him sworn in, Mr. Rogers.

11 MR. ROGERS: If you would, stand and state your  
12 name and address, sir.

13 MR. MILLER: I'm Rick Miller from Woodlands,  
14 Texas.

15 RICK MILLER,  
16 having been first duly sworn, was examined and  
17 testified as follows:

18 MR. WATSON: This matter comes to you on  
19 publication of notice, Mr. Rogers. This is a request by  
20 Robinson's Bend to approve the final permanent -- to make  
21 permanent, I'm sorry, the open hole completion for Parham  
22 3-8-537 Well and the Ingram 36-14-725 Well. Both of these  
23 wells are located in the Robinson's Bend Coal Degasification  
24 Field.

25

1 EXAMINATION BY MR. WATSON:

2 Q. Mr. Miller, you have appeared before this Board and  
3 you are responsible for the management of the Robinson's Bend  
4 Coal Degasification Field. Is that correct?

5 A. That's correct.

6 Q. Are you familiar with the request for the two wells  
7 that I've just outlined here today where we're asking the  
8 Board to approve the current completion as a final completion  
9 for the -- for the Parham and Ingram Wells?

10 A. I am.

11 Q. And have you prepared exhibits in support of this  
12 request?

13 A. I have.

14 MR. WATSON: I tender him as an expert witness  
15 for giving testimony, Mr. Rogers.

16 MR. ROGERS: He is so recognized.

17 Q. (MR. WATSON:) All right. Mr. Miller, the staff is  
18 looking at the first exhibit that you've prepared, Exhibit  
19 Number 1, and we have discussion points on here and you reach  
20 a conclusion on these two wells. I'd like for you to go  
21 through those points, if you would, for the staff.

22 A. We have open hole completions. In kind of an analog,  
23 annular completions are common in the Black Warrior Basin for  
24 coalbed methane. It's proven to be safe and to protect  
25 shallow aquifer which may supply drinking water. Open hole

1 completions can be as productive as cased hole with fracture  
2 treatments. Open hole completions offer a substantial  
3 savings in cost to the operator. Savings of 100 to \$200,000  
4 can be expected. There is a potential increase in economic  
5 recovery of coalbed methane in suitable wells. Open hole  
6 completions do not prevent subsequent cased hole with  
7 fracture treatments, if warranted. And in the Robinson's  
8 Bend and the Thornton Creek area there are no productive  
9 conventional zones that might commingle with coalbed methane.

10 The conclusion here is open hole completions  
11 could potentially economically benefit the state, royalty  
12 owners and working interest owners due to higher number of  
13 wells and higher overall economic recovery of coalbed  
14 methane.

15 Q. Now let's qualify everything you just said. First of  
16 all, open hole and annular completions are very common in  
17 areas where we have underground mining. Is that correct?

18 A. That's my understanding, yes.

19 Q. And secondly, the Parham 537 and the Ingram 725 Wells  
20 were anomalies in the Robinson's Bend Coal Degasification  
21 Field, were they not?

22 A. That is correct.

23 Q. When those wells were completed, they were producing  
24 a high volume of gas. Correct?

25 A. That's true.

1 Q. At that point in time, was it safe to run production  
2 casing in either of those wells?

3 A. The gas presented an unsafe condition.

4 Q. And at that point, you applied to the supervisor's  
5 office for an exception for those two wells, not to have to  
6 run production casing in those wells at that point. Is that  
7 correct?

8 A. That is correct.

9 Q. And the supervisor granted that?

10 A. That is correct.

11 Q. All right. And we are here today to ask the Board to  
12 allow those wells to remain in that configuration that  
13 they're completed in today?

14 A. That is correct.

15 Q. And that's all we're asking for?

16 A. That's all we're asking for.

17 Q. We're not asking that this be allowed elsewhere in  
18 this field, the Robinson's Bend Field, or in the Thornton  
19 Creek Field, are we?

20 A. No.

21 Q. All right. But these generalizations that you made  
22 are, in fact, true, in that it would be cheaper not to have  
23 to run production casing, and at some point in time you may  
24 encounter other wells that produce a high volume of gas where  
25 it would be unsafe to run production casing, might you not?

1 A. That's true. We might run into it again.

2 Q. Should that be the case, then you would -- you would  
3 understand that you'd have to apply to the supervisor first  
4 and then possibly to the Board, if you couldn't run  
5 production casing in those wells. But is it your testimony  
6 you would make every effort to complete those wells in  
7 accordance with the Special Field Rules as opposed to asking  
8 for exceptions?

9 A. That is correct.

10 Q. Let's look at your Exhibit Number 2, Mr. Miller. As  
11 I appreciate it, this is a schematic drawing of an open hole  
12 completion versus a cased hole completion. Briefly describe  
13 that for us.

14 A. Okay. The -- you can see the schematic on the left  
15 side is that of an open hole completion. I'll draw attention  
16 to the eight-and-five-eighths casing which is cemented in  
17 place at about 400 feet, and that's typical of both wells.  
18 The blue lines there represent the coal seams, and you can  
19 see the wells drilled through the coal seams. In the open  
20 hole case, we're left with an open hole well drilled to  
21 approximately 3600 feet. You also see that we've run tubing  
22 and -- and a pump inside of the open hole. So protecting the  
23 shallow aquifers is the 400 foot, eight-and-five-eighths  
24 casing cemented in place.

25 On the right side is the cased hole completion

1           where we also have the 400 feet of the eight-and-five-eighths  
2           casing cemented in place. In addition, to the bottom of the  
3           well, we run a 5-and-a-half inch casing and cement it in  
4           place covering up the coalbed methane seams. These are then  
5           perforated and fracture stimulated, and the tubing is run and  
6           completed to produce the well.

7           Q.           The two wells that are the subject of this hearing  
8           today are represented by the schematic diagram on the left.  
9           Is that correct?

10          A.           That is correct.

11          Q.           All right, sir. Let's go to your Exhibit 3. Tell us  
12          what's shown on this exhibit, Mr. Miller.

13          A.           This exhibit compares the Ingram 725, which is one of  
14          the two open hole wells, with a direct offset, the Carpenter  
15          724. We're comparing the production rates of gas and water.  
16          I'll draw your attention to the Ingram Well. The red line  
17          represents the gas rates. You can see initially it peaks at  
18          about 5,000 MCF per month, which is an exceptionally good  
19          well for the Robinson's Bend area. The comparable well  
20          below, the Carpenter 724, which has been on a little longer  
21          and has more history in the graph, you can see its early rate  
22          was around 2,000 MCF per month. The Ingram Well, I'll  
23          draw -- going back to it, you can see the blue line  
24          represents the water production. There was no water  
25          production initially. You can see the gas rate did drop off.

1 This was a managed effort on the part of our operations as  
2 the flowing tubing pressure dropped. You can see towards the  
3 end the last two points show where we ran the production  
4 tubing and put on a rod pump. At that point, we began  
5 producing water and the production rate on the gas jumped  
6 back up to about 6,000 MCF per month. So these are kind of  
7 the signs of a very good productive well in our area. Down  
8 below you can see the Carpenter has been on water production  
9 the whole time and the gas has been coming up as the -- as  
10 the coalbed methane desorbed.

11 Q. All right. And Exhibit Number 4?

12 A. Exhibit Number 4 is attempting to do the same thing  
13 with the Parham 537, the open hole. It's compared to its  
14 nearest offset, the Lee 551. In these cases, these wells  
15 were completed nearly at the same time, and so they're even a  
16 better comparison. They both peaked around 2,000 MCF per  
17 month. The Parham Well has produced slightly more, and you  
18 can see where the water production comes up in October 2010  
19 when we installed the pump. The gas rate increased over 1500  
20 MCF per month. So, again, it compares favorably to Lee 551  
21 in productivity.

22 Q. All right, sir. Let's take a look at your Exhibit  
23 Number 5. Tell us what's shown on that exhibit, Mr. Miller.

24 A. It just -- Exhibit Number 5 is the detailed wellbore  
25 schematic with all the information that goes into the current

1 completion.

2 Q. And that's for the Ingram 36-14-725 Well. Right?

3 A. That's right. That's for the Ingram Well.

4 Q. And your last exhibit, Exhibit Number 6?

5 A. It is the same detailed wellbore schematic for the  
6 Parham 537.

7 Q. All right, sir. Now, Mr. Miller, we had indicated,  
8 or your company had indicated the possibility of going back  
9 and completing these wells with production casing when the  
10 conditions were safe. What is your testimony to this Board  
11 today? Should that be required? What do you see -- what  
12 prognosis do you have for those two wells, the Parham and the  
13 Ingram, should that be required?

14 A. There is a possibility that the productivity of the  
15 wells would go down, if we were to run casing.

16 Q. Would you consider that a strong possibility?

17 A. Yes, I would.

18 Q. Okay. And is it your testimony to this Board that  
19 these wells, the Ingram and the Parham, as they're currently  
20 completed, are safe and pose no environmental threat -- no  
21 threat to the environment?

22 A. That is my testimony, yes.

23 Q. Has your company performed water well surveys around  
24 these two wells and have those reports been filed with the  
25 Board?

1 A. Yes, they have.

2 Q. Do those water well surveys surrounding these two  
3 wells indicate that the ground water resources have not  
4 been -- have not been adversely affected?

5 A. They have not been adversely affected, that's  
6 correct.

7 Q. So we're asking the Board to approve on a permanent  
8 basis the current open hole completions for the Parham and  
9 the -- and the Ingram Wells in the Robinson's Bend Coal  
10 Degasification Field. And is it your testimony that if this  
11 Petition is approved, that correlative rights will be  
12 protected and waste prevented?

13 A. Yes, it is.

14 MR. WATSON: Mr. Rogers, I would ask that you  
15 receive into the record of this hearing Exhibits 1 through 6  
16 to the testimony of Mr. Miller.

17 (Whereupon, Exhibits Nos. 1 through 6 were  
18 offered into the record.)

19 MR. ROGERS: Exhibits are admitted.

20 (Whereupon, Exhibits Nos. 1 through 6 were  
21 admitted into the record.)

22 MR. WATSON: And also I have submitted as a part  
23 of the record the water well surveys performed by Tom Joiner  
24 & Associates for the surrounding wells that Mr. Miller  
25 testified to, and you can incorporate those be reference, or

1 I have copies here, if you'd like to put them in the record  
2 of this hearing today.

3 (Whereupon, Exhibits Nos. 7 and 8 were offered  
4 into the record.)

5 MR. ROGERS: We have a copy. So this will be --

6 MR. WATSON: 7 and 8.

7 MR. ROGERS: We'll make these two water well  
8 surveys Exhibits 7 and 8, and those will be admitted.

9 (Whereupon, Exhibits Nos. 7 and 8 were admitted  
10 into the record.)

11 MR. WATSON: All right, sir. I tender my  
12 witness to you and the members of the staff for any  
13 questions.

14 MR. ROGERS: Any questions from the staff?

15 DR. BOLIN: No questions.

16 MR. ROGERS: All right. Anything else,  
17 Mr. Watson?

18 MR. WATSON: That's all.

19 MR. ROGERS: The staff will review the evidence  
20 and make a recommendation to the Board.

21 MR. WATSON: Thank you.

22 MR. ROGERS: All right. The next item then is  
23 Item 16, Docket Number 5-08-12-06, Petition by Jim Walter  
24 Resources, Incorporated.

25 MR. WATSON: I have one witness, Mr. Rogers.

1 I'd like to have him sworn in, please, sir.

2 MR. ROGERS: State your name and address.

3 MR. HANBY: Ken Hanby, 4904 Lakeview Estates

4 Drive in Northport.

5 KEN HANBY,

6 having been first duly sworn, was examined and

7 testified as follows:

8 MR. WATSON: Tom Watson for Jim Walter

9 Resources, Inc.

10

11 EXAMINATION BY MR. WATSON:

12 Q. Mr. Hanby, you have appeared before this Board on  
13 numerous occasions and have on file an affidavit of your  
14 qualifications as a petroleum engineer. Is that correct?

15 A. That is correct, yes, sir.

16 Q. Are you familiar with the JWR 25-14-04 Well located  
17 in Tuscaloosa County, Alabama?

18 A. Yes, sir, I am.

19 Q. This well is on a 320-acre wildcat drilling unit. Is  
20 that right?

21 A. Yes, sir. It's on 320 acres, yes, sir.

22 Q. And you have prepared an affidavit -- or not an  
23 affidavit. But you have completed a questionnaire on this  
24 well. Is that right?

25 A. That is correct.

1                   MR. WATSON: I tender Mr. Hanby as an expert  
2                   witness for giving testimony on this item, Mr. Rogers.

3                   MR. ROGERS: He is so recognized.

4           Q.       (MR. WATSON:) This Petition is requesting the Board  
5                   to enter an Order approving the temporarily abandonment  
6                   status of this JWR 25-14-04 Well. It's a horizontal well  
7                   located on a 320-acre wildcat drilling unit. It's consisting  
8                   of the west half of Section 25, Township 20 South, Range 8  
9                   West, Tuscaloosa County.

10                   Mr. Hanby, there is some question about the  
11                   activity at this well. Would you tell Mr. Rogers and members  
12                   of the staff what is going on with this well and why we are  
13                   asking the Board to approve the temporary abandonment status.

14           A.       All right, sir. And the questionnaire that you have  
15                   in front of you answers some specific questions and also  
16                   attached is its schematic, if you need to follow. This well  
17                   was spudded in 2009. It was drilled to a -- to a depth of  
18                   5,280 feet where it was kicked off and has a TD of 9,063  
19                   feet. It is a Chattanooga shale horizontal well. There are  
20                   25 intervals that were perforated and hydraulically  
21                   fractured, and currently the -- the well has a pump installed  
22                   and is on a clock where it is run daily pumping water. There  
23                   is a head of water that's filled the tubing that we have been  
24                   attempting ever since the final hydraulic fracturing in 2011  
25                   to remove this water to allow the gas that's in the

1            Chattanooga shale to start entering the wellbore. We are  
2            still pumping water off of the -- out of the well, and the  
3            amount of water has been reduced. We're still attempting to  
4            this get this water head removed so that the well can then  
5            start allowing gas to move into the wellbore and potentially  
6            have a gas reduction from the Chattanooga shale well.

7                            The well is in good condition. There is no  
8            pressure on any of the strings of casing. There is no iron  
9            sulfide. The pressures were read the last two times and  
10          documented on April 9th and 11th that there's no pressure,  
11          and the -- the pump is actually running during the 24-hour  
12          period in intervals that only has a total time of about three  
13          hours a day. Jim Walter Resources owns 100 percent of the  
14          mineral rights to the property that this well is completed  
15          in.

16          Q.            Mr. Hanby, it's been reported to me that on a routine  
17          inspection by the Board's field agent to this well it didn't  
18          appear that there were any ongoing operations, and so the  
19          question was, why temporarily abandon? Why not plug and  
20          abandon this well? Part of your testimony has addressed  
21          that. Is the fact that this pump is on a clock and produces  
22          about three hours a day, would that lead one to the  
23          conclusion it may not be operating continuously?

24          A.            It is not operating continuously, so the -- with 3  
25          hours out of 24, the opportunity for the field agent,

1           whenever that is, to come by there and have the pump not  
2           operating is -- is likely.

3           Q.           But Jim Walter Resources has no present plans to plug  
4           and abandon this well. They're continuing to try to see if  
5           this shale will give up or produce gas. Is that right?

6           A.           That is correct, yes, sir.

7           Q.           So it would be premature to plug and abandon this  
8           well until that process is completed?

9           A.           That is correct.

10          Q.           All right. And you've testified that the well is in  
11          a safe condition. Not a threat to the environment. Is that  
12          correct?

13          A.           That's correct.

14          Q.           And because of the possibility of gas production from  
15          this shale, that it could be wasteful to plug this well at  
16          this time, and, of course, the rights are all owned by Jim  
17          Walter Resources, but those rights would mature into  
18          production income if this well was successfully completed as  
19          a horizontal well in the shale. Is that correct?

20          A.           That is correct, yes, sir.

21          Q.           All right.

22                       MR. WATSON: I'd ask that you receive into the  
23          record of this hearing, Mr. Rogers, the questionnaire  
24          provided by Mr. Hanby on this well.

25                       (Whereupon, Exhibit No. 1 was offered into the

1 record.)

2 MR. ROGERS: The questionnaire is admitted as  
3 Exhibit 1.

4 (Whereupon, Exhibit No. 1 was admitted into the  
5 record.)

6 MR. WATSON: And I tender Mr. Hanby to you and  
7 members of the staff for any questions you have.

8 MR. ROGERS: Just a moment. The staff has no  
9 questions. Anything else, Mr. Watson?

10 MR. WATSON: That's all.

11 MR. ROGERS: The staff will review the evidence  
12 and make a recommendation to the Board.

13 All right. The next item then is Item 20,  
14 Docket Number 5-08-12-10, Petition by Ankor E&P Holdings  
15 Corporation.

16 MR. TURNER: Mr. Rogers, members of the staff,  
17 Hal Turner for the Petitioner, Ankor E&P Holdings  
18 Corporation. We have Number 20 on your docket, which is  
19 Number 5-08-12-10, which is a Petition by Ankor to establish  
20 a nongovernmental 40-acre wildcat drilling unit consisting  
21 of the east half of the Southwest Quarter of the Northwest  
22 Quarter and the west half of the Southeast Quarter of the  
23 Northwest Quarter of Section 14, Township 2 North, Range 8  
24 East in Escambia County, Alabama for the drilling of the  
25 Craft-H.H. Wefel, III Trust 14-5 No. 1 Well and for the

1 Board to also approve the proposed nongovernmental 40-acre  
2 wildcat drilling unit as an exception to Rule  
3 400-1-2-.02(2)A-(a) of the State Oil and Gas Board  
4 Administrative Code relating to the spacing of wells for the  
5 drilling of this particular well.

6 We have one witness to testify. His name  
7 is Mr. Ed Leigh, and we would ask that he'd be sworn at this  
8 time.

9 MR. ROGERS: Would you state your name and  
10 address again, sir.

11 MR. LEIGH: Ed Leigh, 438 Red Maple Drive,  
12 Mandeville, Louisiana.

13 ED LEIGH,  
14 having been first duly sworn, was examined and  
15 testified as follows:

16 MR. TURNER: Mr. Rogers, may I approach and pass  
17 out our exhibits?

18 MR. ROGERS: Yes, sir.

19

20 EXAMINATION BY MR. TURNER:

21 Q. Mr. Leigh, state your full name for the record,  
22 please, sir.

23 A. Leslie Edward Leigh. I go by Ed.

24 Q. Are you currently employed?

25 A. Yes, sir. I'm employed by Ankor Energy in New

1           Orleans, Louisiana.

2           Q.           And what is your occupation or profession?

3           A.           I'm a petroleum geologist.

4           Q.           And what position do you hold with Ankor?

5           A.           Petroleum geologist.

6           Q.           And is your resume on file with the Board?

7           A.           Yes, it is.

8           Q.           Okay.  And have you -- has the Board accepted you as  
9           an expert in petroleum geology on previous occasions?

10          A.           Yes, it has.

11          Q.           Are you the principal geologist at Ankor responsible  
12          for the Old Home prospect, which would include the drilling  
13          of this particular well at issue?

14          A.           I am.

15          Q.           In connection with your work on that well, did you  
16          prepare a booklet of exhibits to be submitted to the Board on  
17          Ankor's Petition?

18          A.           Yes, I have.

19          Q.           And would that be the booklet that I just handed to  
20          the members of the staff and Mr. Rogers?

21          A.           Yes, it is.

22          Q.           And how many exhibits are in that booklet?

23          A.           Five exhibits.

24          Q.           And all of those are dated and signed by you.  Is  
25          that correct?

1 A. That's correct.

2 Q. And did you prepare or did someone under your  
3 supervision prepare all of those exhibits?

4 A. I prepared them.

5 Q. You personally?

6 A. Yes, I did.

7 Q. Okay. Would you flip to Exhibit Number 1, please,  
8 sir.

9 A. (Witness complied.)

10 MR. TURNER: At this time, Mr. Rogers, we would  
11 tender Mr. Ed Leigh as an expert in petroleum geology.

12 MR. ROGERS: He is so recognized.

13 Q. (MR. TURNER:) Mr. Leigh, what does Exhibit 1 depict,  
14 please, sir?

15 A. Exhibit 1 is an area location map over a portion of  
16 Escambia County, Alabama. It shows by the black arrow the  
17 proposed well, the Craft-H.H. Wefel III, Trust 14-5 Number 1  
18 as a red dot and the nongovernmental 40-acre drilling unit --  
19 proposed drilling unit as the dashed red square.

20 Q. And does this exhibit show the proposed drilling unit  
21 in relation to other wells in the area both producing --  
22 shut-in and nonproducing wells?

23 A. Yes, it does. The nearest established field would be  
24 South Wild Fork Creek to the northeast approximately three  
25 miles.

1 Q. And what is the target geological formation for this  
2 proposed well?

3 A. Our target is the Smackover formation.

4 Q. And what is the principal hydrocarbon you expect to  
5 find at this location?

6 A. We're looking for oil.

7 Q. Okay. Would you flip to Exhibit 2 in your exhibit  
8 booklet, please, sir.

9 A. (Witness complied.)

10 Q. The drilling unit for this particular well is a  
11 nongovernmental 40 and it consists of the east half of the  
12 Southwest Quarter of the Northwest Quarter and the west half  
13 of the Southeast Quarter of the Northwest Quarter in Section  
14 14, Township 2 North, Range 8 East. Is that correct?

15 A. That is correct.

16 Q. And is that depicted on Exhibit 2, the proposed  
17 drilling unit location?

18 A. Yes. The proposed unit is depicted as a red square.

19 Q. On Exhibit 2?

20 A. On Exhibit 2, yes, sir.

21 Q. And as proposed, does the bottom hole of the well --  
22 or is the bottom hole of the well located more than 330 feet  
23 from every exterior boundary of the proposed drilling unit?

24 A. Yes, it is.

25 Q. On Exhibit 2, is the surface location of the well 535

1 feet from the west line of the proposed unit and 578 feet  
2 from the north line of the proposed unit?

3 A. Yes, sir, it is.

4 Q. And for this particular well, is the point of  
5 penetration in the Smackover 398 feet from the west line and  
6 458 feet from the south line of the proposed drilling unit?

7 A. Yes, sir, it is.

8 Q. And is the bottom hole of the proposed well 349 feet  
9 from the west line and 352 feet from the south line of the  
10 proposed drilling unit?

11 A. Yes.

12 Q. And those particular distances are all depicted on  
13 Ankor Exhibit 2. Is that correct?

14 A. That's correct.

15 Q. Now, if this well were located on a regular 40-acre  
16 drilling unit consisting of the Southwest Quarter of the  
17 Northwest Quarter, would it be -- would the well be less than  
18 330 feet from the east line of that particular unit?

19 A. Yes. The bottom hole location would be 314 feet from  
20 the nearest boundary of that unit, if that were the case.

21 Q. That would be the east line?

22 A. The east line, yes, sir.

23 Q. And is that distance also depicted on Ankor Exhibit  
24 2?

25 A. Yes, sir, it is.

1 Q. And in your expert opinion, is the proposed location  
2 of the well the optimum position in the unit to strike your  
3 target reservoir and to efficiently and economically drain  
4 hydrocarbons from the unit?

5 A. Yes, it is.

6 Q. Take a look at Plaintiff's Exhibit 3 -- or, excuse  
7 me, Ankor Exhibit 3 and explain to the Board what that  
8 exhibit depicts.

9 A. Exhibit 3 is a structure map derived from a  
10 136-square-mile 3D seismic survey we have in Escambia County,  
11 and it shows the depth structure of the structure we're  
12 targeting to the upper Smackover, that structure being a  
13 four-way dip closure, as shown. Also shown is the proposed  
14 drilling unit, as described earlier, and the proposed well.  
15 Incidentally, this is a directional well and it is  
16 directional for topographic considerations.

17 Q. And is the proposed depth of the well 15,149 feet,  
18 measured depth?

19 A. That is correct.

20 Q. Okay. What are -- please explain to the staff what  
21 Exhibits 4 and 5 are and how they relate to Exhibit 3.

22 A. Exhibits 4 and 5 are arbitrary seismic lines again  
23 derived from that same 3D survey. Incidentally, those -- the  
24 lines of sections for those arbitrary lines, Exhibits 4 and  
25 5, are shown on Exhibit 3. Arbitrary Line 1 is indicated in

1 blue extending from the northwest to the southeast is shown  
2 on Exhibit 4. The purple line, Arb Line 2 due west to east  
3 across the proposed target location is Exhibit 5.

4 Q. And the proposed target location, as I understand it,  
5 is a high point in the middle of a four-way dip closure. Is  
6 that correct?

7 A. It is the crest of the structure, yes, sir.

8 Q. And in your opinion, would granting the Petition in  
9 this matter protect the correlative rights of all owners and  
10 prevent the waste of oil and gas natural resources?

11 A. Yes, it would.

12 MR. TURNER: Mr. Rogers, at this time, we would  
13 offer into the record Exhibits 1 -- Ankor Exhibits 1 through  
14 5.

15 (Whereupon, Exhibits Nos. 1 through 5 were  
16 offered into the record.)

17 MR. ROGERS: The exhibits are admitted.

18 (Whereupon, Exhibits Nos. 1 through 5 were  
19 admitted into the record.)

20 MR. TURNER: In addition to those exhibits that  
21 were contained in the booklet, we would like to offer three  
22 other items into the record. The first would be the Proof  
23 of Publication by the Tri-City Ledger for the approved  
24 notice in this matter, dated April 27, 2012.

25 MR. ROGERS: We already admitted that at the

1 beginning, unless you want to admit another copy,  
2 Mr. Turner.

3 MR. TURNER: No, that's fine. I just wanted to  
4 make sure it's in the record. And we also introduce into  
5 the record the affidavit of Warren Miguez establishing the  
6 actual notice that was given in this case, dated April 19,  
7 2012.

8 (Whereupon, Exhibit A was offered into the  
9 record.)

10 MR. ROGERS: That affidavit is admitted as  
11 Exhibit A.

12 (Whereupon, Exhibit A was admitted into the  
13 record.)

14 MR. TURNER: And then finally, we would also  
15 want to make a part of the record the well file in this case  
16 which contains our permit for application to drill this  
17 well.

18 MR. ROGERS: All right. The -- you just want to  
19 incorporate the well file into the record. We'll  
20 incorporate the well file. It is incorporated into this  
21 hearing.

22 MR. TURNER: And we have no further questions of  
23 Mr. Leigh, unless the staff does.

24 MR. ROGERS: Any questions from the staff?

25 DR. BOLIN: No questions.

1                   MR. ROGERS: The staff has no questions. Just  
2                   to state this for the court reporter. Incorporating the  
3                   well file, we will not actually place it in the record. It  
4                   is in the Board's files and we will just designate that it  
5                   has been incorporated into the record.

6                   Okay. Anything else, Mr. Turner?

7                   MR. TURNER: We have no further -- we have  
8                   nothing else.

9                   MR. ROGERS: The staff will review the evidence  
10                  and make a recommendation to the Board.

11                  The next item then is Item 21, Docket  
12                  Number 5-08-12-11, Petition by Sklar Exploration Company,  
13                  LLC.

14                  MR. COLEMAN: Mr. Rogers, Mike Coleman of  
15                  Tuscaloosa, Alabama for Sklar Exploration Company, LLC.  
16                  This is a Petition for forced pooling in the Northwest  
17                  Quarter of Section 35, Township 4 North, Range 12 East,  
18                  Conecuh County, Alabama. Petitioner avers that it owns or  
19                  has control of all of the drilling and operational rights in  
20                  the unit except for approximately 1.601568 percent of the  
21                  mineral interest in the unit. As a whole, the unit consists  
22                  of 160 acres, more or less, or approximately 2.5625088 net  
23                  mineral acres. The outstanding interest is believed to be  
24                  owned or claimed by those persons and/or entities as set  
25                  forth in the amended Petition, and reference is made to the

1 amended affidavit of J. Marshall Jones, III, who is the land  
2 manager of Sklar, which sets forth this ownership.

3 Furthermore, notwithstanding diligent  
4 efforts by landmen and attorneys for Sklar to try to locate  
5 any and all interest, it is possible that there are some  
6 unknown people out there. However, our work has not  
7 revealed any such person that we don't have an address for.  
8 Notice by ordinary and first class mail was mailed to 29  
9 individuals and/or entities on April 19th, 2012, and this is  
10 set forth in the affidavit of Benjamin Y. Ford of  
11 April 19th, 2012. However, upon understanding subsequent to  
12 the sending of that affidavit one of the people listed in  
13 there, one Mattie Samuel has actually leased to Sklar and it  
14 was later determined that another person, Patrick Samuel,  
15 does not own any interest in the proposed unit. However, it  
16 was also determined that there were three other individuals  
17 who had an interest in the unit. Stacey Samuel, Jr.,  
18 Majinice Samuel, and Maurice Samuel. These people are  
19 included in the amended affidavit of J. Marshall Jones III.  
20 Additionally, after speaking with your office -- rather,  
21 through one of Sklar's attorneys notice of federal express  
22 was sent to said persons on April 24th, 2012 and delivered  
23 on April 25th, 2012, as referenced in the second affidavit  
24 of Benjamin Y. Ford of May 3rd, 2012. And pursuant to the  
25 rules of the Oil and Gas Board, Rule 400-7-1-.11, if the

1           Petitioner shall fail to serve notice in conformity with the  
2           provisions, the Board may nevertheless proceed to hear the  
3           Petition if it has shown to the satisfaction of the Board  
4           that actual notice went to the people at least ten days  
5           prior to the hearing, which according to the delivery slips  
6           from Federal Express indicates that that occurred.

7           Accordingly, it's the position of Sklar that it has complied  
8           with the rules of the Board and the procedures, and we would  
9           submit this, Mr. Rogers, based on the affidavits and the  
10          Petition and amended Petition and would ask that the  
11          affidavit and amended affidavit of J. Marshall -- I'm sorry,  
12          J. Marshall Jones, III be admitted into evidence and also  
13          the affidavit and second affidavit of Benjamin Y. Ford be  
14          admitted. And as you noted, the Proof of Publication has  
15          already been admitted into the record.

16                               (Whereupon, Exhibits Nos. 1 through 4 were  
17          offered into the record.)

18                               MR. ROGERS: All right. The first affidavit of  
19          Benjamin Y. Ford is admitted. The second affidavit of  
20          Benjamin Y. Ford is admitted. That will be -- the first one  
21          will be 1, the second one will be 2. And then -- and then  
22          we have the other -- the affidavit of Marshall Jones. That  
23          will be 3. And the amended affidavit of Marshall Jones will  
24          be Exhibit 4. Those are all the exhibits right there,  
25          Mr. Coleman.

1 (Whereupon, Exhibits Nos. 1 through 4 were  
2 admitted into the record.)

3 MR. COLEMAN: Sklar would submit the matter to  
4 the Board for its consideration based upon these admissions.

5 MR. ROGERS: There are only two affidavits of  
6 Mr. Ford, aren't there, Mr. Coleman?

7 MR. COLEMAN: That's my understanding.

8 MR. ROGERS: There is an original and then it's  
9 called a second. All right. Let me state that again.  
10 We'll say the original affidavit of Mr. Ford, we'll call  
11 that Exhibit 1; the amended affidavit, the second affidavit  
12 of Mr. Ford, that will be 2; the original affidavit of  
13 Marshall Jones, that will be 3; and the amended affidavit of  
14 Mr. Jones, that will be 4.

15 MR. COLEMAN: All right, sir.

16 MR. ROGERS: Anything else, Mr. Coleman?

17 MR. COLEMAN: No, sir.

18 MR. ROGERS: We appreciate that good  
19 explanation. We will review the evidence and make a  
20 recommendation to the Board.

21 Now, I will state that as you said, this  
22 is not a case again where there is someone whose address was  
23 not located and you attempted to make a diligent effort.

24 MR. COLEMAN: Thank you, Mr. Rogers.

25 MR. ROGERS: Thank you.

1                   Then the last -- the item before we get to  
2           the Craft item is Item 24, Docket Number 5-8-12-14, Petition  
3           by Land & Natural Resource Development, Incorporated.

4                   MR. WATSON: Mr. Rogers, I'm Tom Watson  
5           representing Land & Natural Resource Development,  
6           Incorporated in this item. I have one witness. I'd like to  
7           have him sworn in, please, sir.

8                   MR. ROGERS: State your name and address, sir.

9                   MR. MYERS: Claiborne C. Myers, Jr., P.O. Box  
10          716, Stapleton, Alabama.

11                   CLAIBORNE MYERS,  
12          having been first duly sworn, was examined and  
13          testified as follows:

14                   MR. WATSON: Mr. Rogers, I have pre-filed an  
15          Affidavit of Notice in this matter. I would ask that it be  
16          admitted into the record.

17                   (Whereupon, Exhibit A was offered into the  
18          record.)

19                   MR. ROGERS: That will be admitted as Exhibit A.

20                   (Whereupon, Exhibit A was admitted into the  
21          record.)

22                   MR. WATSON: This is a Petition by Land &  
23          Natural Resource Development, Inc. requesting the Board to  
24          enter an Order of forced pooling without the imposition of  
25          the risk compensation fee to all tracts and interest in the

1           160-acre unit previously established for the R.J. Newman  
2           21-11 No. 1 Well, which is 160 acres consisting of the  
3           Southwest Quarter of Section 21, Township 1 South, Range 1  
4           West, Mobile County, Alabama in the Turnerville Field.

5                           My witness, Clay Myers has not appeared  
6           before you.

7                           MR. ROGERS: If you could, briefly state his  
8           background, Mr. Watson.

9  
10                          EXAMINATION BY MR. WATSON:

11           Q.           I will ask you to briefly state your background and  
12           your current position with Land & Natural.

13           A.           I worked in excess of 40 years with the FBI in  
14           various positions and locations. I retired in 1998 and I  
15           have been doing self-employed freelance investigative work,  
16           and I've been working as a landman for the last  
17           two-and-a-half years.

18           Q.           And, Mr. Myers, have you worked with title opinions  
19           and other documents relating to the ownership of this  
20           160-acre unit I've just described?

21           A.           Yes, sir.

22                           MR. WATSON: I tender him as an expert for  
23           giving testimony on this item, Mr. Rogers.

24                           MR. ROGERS: He is so recognized.

25           Q.           (MR. WATSON:) All right. Mr. Myers, is it true that

1           you have examined a title opinion on this unit by the Allred  
2           Jackson Law Firm?

3           A.           Yes, sir.

4           Q.           And has that title opinion been updated by landmen in  
5           the field checking records in the courthouses?

6           A.           Yes, sir.

7           Q.           Have you been able to ascertain all of the owners of  
8           the unleased interest in this 160-acre unit?

9           A.           Yes, sir.

10          Q.           And have you offered all of those unleased owners an  
11          opportunity to lease by sending them leases in the mail or  
12          contacting them in person?

13          A.           Yes, sir.

14          Q.           And is it true that Land & Natural resources owns a  
15          majority of the interest in this proposed 160-acre unit?

16          A.           Yes, sir.

17          Q.           There are, however, outstanding unleased minerals in  
18          this unit as of today. Is that correct?

19          A.           Yes, sir.

20          Q.           What is that outstanding unleased interest?

21          A.           About 9 percent.

22          Q.           Okay. And that would be roughly 14.85 net mineral  
23          acres?

24          A.           Yes, sir.

25          Q.           Have you offered those parties who own those

1 interests terms as good or better than the terms that were  
2 given to those people who did lease their interest?

3 A. Yes, sir.

4 Q. Do we have a list of those unleased owners and their  
5 interest that represents the 14-plus acres, 14.83 net mineral  
6 acres?

7 A. Yes, sir.

8 MR. WATSON: Mr. Rogers, I have handed up a  
9 spreadsheet with those owners and their interest, and I'd  
10 ask that you make that a part of the record of this hearing.

11 (Whereupon, Exhibit No. 1 was offered into the  
12 record.)

13 MR. ROGERS: This is a spreadsheet that is  
14 entitled "List of Unleased Owners." It is admitted into the  
15 record. That will be Exhibit 1.

16 (Whereupon, Exhibit No. 1 was admitted into the  
17 record.)

18 MR. WATSON: All right, sir.

19 Q. (MR. WATSON:) Now, Mr. Myers, there are individuals  
20 on here, some of whom you've contacted, some of whom have  
21 been contacted by other owners. There are no, to your --  
22 best of your knowledge, there are no unknown or unlocated  
23 owners in this 160-acre unit, are there?

24 A. No, sir.

25 MR. WATSON: Mr. Rogers, let's incorporate by

1 reference into this hearing, in the interest of time,  
2 your -- your Order Number 2010-7, when this Board on behalf  
3 of Land & Natural Resources forced pooled this same 160-acre  
4 unit and testimony and evidence presented by Duane Graham  
5 and others, and that gives a history of this unit in the  
6 Turnerville Field. That will also be incorporated in my  
7 proposed Order for this. So if you would incorporate that  
8 Order by reference, or I have a copy if you need to put one  
9 in the file today.

10 MR. ROGERS: If you have a copy, why don't we  
11 just place the one that you have in the record, Mr. Watson.

12 MR. WATSON: All right, sir. And while I am up,  
13 let me also ask you to mark as an exhibit a letter from  
14 Lowell J. Friedman relative to this docket item on behalf of  
15 himself and Peter Klein, his agents and attorneys for their  
16 families. They're in support of this Petition. I think the  
17 record would show that these people own the majority  
18 interest -- royalty interest in this unit.

19 (Whereupon, Exhibits Nos. 2 and 3 were offered  
20 into the record.)

21 MR. ROGERS: All right. The Order is admitted.  
22 This Order 2010-7 is admitted as Exhibit 2 and the letter  
23 from Mr. Lowell Friedman, who we are all familiar, is  
24 admitted as Exhibit 3.

25 (Whereupon, Exhibits Nos. 2 and 3 were admitted

1           into the record.)

2           Q.           (MR. WATSON:) Now, Mr. Myers, I would ask you, if  
3           the Board sees fit to grant this Petition for forced pooling  
4           these outstanding unleased interests, would that prevent  
5           waste and protect correlative rights?

6           A.           Yes, sir.

7                       MR. WATSON: We're prepared to answer any  
8           questions that the Board -- that the staff and you,  
9           Mr. Rogers, have on this item.

10                      MR. ROGERS: Mr. Watson, I was just curious, or  
11           your witness, are the same parties that are shown on the  
12           Affidavit of Notice, are they identical to the parties on  
13           the spreadsheet?

14                      MR. WATSON: Identical.

15                      MR. ROGERS: Identical. All right. If someone  
16           knows, it might be good to have a -- state just a brief  
17           history of the well. It has a history of -- at one time it  
18           was operated by Energy Recovery Group, which was in  
19           bankruptcy, and I believe Land & Natural -- I think this is  
20           right -- obtained that interest through -- from Energy  
21           Recovery Group through bankruptcy. Is that right?

22                      MR. WATSON: Yes, sir.

23                      MR. ROGERS: All right. Do you know who drilled  
24           the original well?

25                      MR. WATSON: Yes, sir.

1                   MR. ROGERS: I think it might be helpful to put  
2                   some of that in the Board Order.

3                   MR. WATSON: It is. It's in the Order. You  
4                   just incorporated that history. I'm looking for the name of  
5                   the company.

6                   MR. ROGERS: That's all right. Let's just  
7                   incorporate -- we'll incorporate the well file, the original  
8                   well file because it's an older well and it's not that  
9                   important we have all that detail in it, but we might put  
10                  that in the Order. So the original -- the well file, even  
11                  though it won't actually be placed in the record is  
12                  incorporated into the record.

13                  MR. WATSON: That's fine. And Mr. Turner just  
14                  told me that PFI drilled the initial well, and we all know,  
15                  those of us who are familiar with that part of Mobile  
16                  County, we didn't see a lot of activity with PFI, and that's  
17                  one of the reasons this well probably was not completed as a  
18                  producer. It had very good indications and, as you pointed  
19                  out, the operator went through bankruptcy and now Land &  
20                  Natural has acquired the rights and interest except for  
21                  these that we are forced pooling today, and their plan is to  
22                  sidetrack this well and go after the one we believe to have  
23                  a fine quantity of hydrocarbons not yet produced.

24                  MR. ROGERS: All right. Any other questions?  
25                  Any questions from the staff?

1 DR. BOLIN: No questions.

2 MR. ROGERS: Good luck.

3 MR. WATSON: Thank you.

4 MR. ROGERS: Anything else, Mr. Watson?

5 MR. WATSON: That's all we have.

6 MR. ROGERS: Then we will review the evidence  
7 and make a recommendation to the Board.

8 Maybe it would be good to state -- if you  
9 would, just state the precise outstanding interest. You  
10 said about 9 percent or close around that. Why don't you  
11 state, so we'll have it in the Order, the precise amount. I  
12 believe it's in the Petition.

13 MR. WATSON: It's in the Petition. Here it is.  
14 Clay, right here, if you'll just read this off.

15 MR. MYERS: 9.286 percent. It's about 14.85  
16 mineral acres.

17 MR. ROGERS: Thank you.

18 (A discussion was held off the record.)

19 MR. ROGERS: We'll take a five-minute recess.

20 (A break was taken.)

21 MR. ROGERS: All right. The hearing is again in  
22 session, and the next item is Item 2, Docket Number  
23 3-27-12-12, Petition by Craft Operating Company, LLC.

24 MR. TYRA: Mr. Rogers, I'm John Tyra here on  
25 behalf of Craft for this docket. The testimony that we're

1 going to be presenting concerning forced pooling interest  
2 will also involve the same owners for Docket 3-27-12-13,  
3 which is Item Number 3. I don't know if you want to  
4 consolidate them or if you want us to present it as to the  
5 first one and then just incorporate it by reference or --

6 MR. ROGERS: Let's do it that way.

7 MR. TYRA: All right, sir. We'll then address  
8 Docket Number 3-27-12-12, which is a request to force pool  
9 without the imposition of risk compensation all tracts and  
10 interest in the wildcat well to be drilled on a proposed  
11 160-acre unit in Covington County, Alabama to consist of the  
12 Northwest Quarter of Section 34, Township 6 North, Range 14  
13 East. And I have two witnesses to be sworn in, please.

14 MR. ROGERS: If you would, both stand and state  
15 your names and addresses.

16 MS. ZITO: Elizabeth Zito. And my address is  
17 Behr Drive, Gulf Breeze, Florida.

18 MR. ROGERS: All right.

19 MR. DEAN: Patrick Dean, Montgomery, Alabama.

20 ELIZABETH ZITO and PATRICK DEAN,  
21 having been first duly sworn, were examined and  
22 testified as follows:

23 MR. TYRA: Mr. Dean, if you will take the  
24 microphone, I'll start with you.

25 Mr. Rogers, Mr. Dean is an associate of

1 mine. He's a graduate of Cumberland Law School, as you  
2 know.

3

4 EXAMINATION OF MR. DEAN BY MR. TYRA:

5 Q. I think when you graduated, Patrick, you established  
6 an office in Montgomery, Alabama. Is that correct?

7 A. That's correct.

8 Q. And also you have been doing work through the years  
9 in Covington County, Alabama. Is that correct?

10 A. That's correct.

11 Q. How much time did you spend in Covington County?

12 A. I spent a total of 14 months, from 2011 into the  
13 first part of 2012.

14 Q. And what were you doing while you were in Covington  
15 County?

16 A. Working as a landman and primarily as a title  
17 researcher.

18 Q. So you worked the records of Covington County  
19 basically every day for 14 months. Is that correct?

20 A. That's correct.

21 Q. You're very familiar with them. Is that correct?

22 A. Yes.

23 Q. So when this project came for us, I asked you to  
24 conduct a research for Craft in Covington County for the  
25 purposes of rendering a preliminary drilling title opinion.

1 Is that correct?

2 A. Yes.

3 Q. And you did do that research. Is that correct?

4 A. Yes.

5 Q. And we issued a title opinion based upon that

6 research. Is that correct?

7 A. Yes.

8 Q. All right, sir.

9 MR. TYRA: We have several parties, Mr. Rogers,  
10 that are unleased at this time.

11 Q. (MR. TYRA:) I'll ask you, Patrick, they're the  
12 results of a couple of mineral conveyances in the '40s. Is  
13 that correct?

14 A. That's correct.

15 Q. And as a result of those -- well, for instance, I  
16 believe one was in 1945 and one in 1947, the original to the  
17 Coffman -- Mr. Coffman and then one to Mr. -- well, that  
18 would be in 1947.

19 A. Well, we have the original conveyance to Mr. Howard  
20 M. Shryock.

21 MR. ROGERS: Let me interrupt. I think we were  
22 going to do -- I think we were going to get into just some  
23 legal title issues, so maybe the best thing to do would be  
24 so that if somebody ever looks at this record, they'll have  
25 this information. Maybe the best thing would be to state

1 the deed book and page --

2 MR. TYRA: Oh, yes, we're definitely going to do  
3 that.

4 MR. ROGERS: State precisely granter/grantee.

5 MR. TYRA: I just --

6 MR. ROGERS: I know we don't normally get that  
7 far, but maybe that would be the best thing here, Mr. Tyra.

8 MR. TYRA: Right. Yeah, we're prepared to do  
9 that. I just wanted to set that up to say that from those  
10 two deeds we now have 79 people that own that mineral  
11 interest because it was sold --

12 MR. ROGERS: Okay. Do you need to state the  
13 granter/grantee or --

14 MR. TYRA: Yeah, we will start with that when  
15 we -- when we go down. We're going to -- of those 79, we  
16 have leases for and -- or in the process of and have  
17 received leases back from most of them. I will give you the  
18 exact number that we're having to force pool at this time  
19 toward the end of the -- of the hearing.

20 MR. ROGERS: All right.

21 MR. TYRA: But we also want to concentrate --  
22 and that's why we have Ms. Zito here to concentrate on four  
23 parties of the 79 that we have not been able to locate.

24 MR. ROGERS: So this is a case where you have  
25 parties whose addresses you don't know?

1 MR. TYRA: Exactly, as of right now.

2 MR. ROGERS: All right. And as we all know, the  
3 Board is aware of this situation. We know that this is the  
4 principal hearing where that will be considered to determine  
5 that you made a diligent effort. The Board is concerned  
6 that when these owners are not located that they may or may  
7 not ever know about their interest, and so it is important  
8 to the Board and to all the parties that you show the  
9 efforts that you've made. And who knows? Maybe at some  
10 point somebody would come back, retrace these steps and find  
11 these parties.

12 MR. TYRA: That's correct.

13 Q. (MR. TYRA:) So I'll start with you again, Mr. Dean.  
14 Would you tell us about the deed to Mr. Shryock, please.

15 A. On August 5th, 1947, T. E. Nielsen executed a mineral  
16 rights transfer to Howard M. Shryock of Harris County, Texas  
17 conveying an undivided one-sixteenth interest in all oil,  
18 gas, and other minerals of every kind in the subject case.

19 Q. And that covered a 20-acre tract in the Northwest  
20 Quarter of Section 34, did it not?

21 A. Yes, it did, and that instrument was recorded on  
22 August 9th, 1947 in Deed Book 124, Page 26 in the records of  
23 Covington County.

24 Q. All right, sir. When you found that deed into Mr.  
25 Shryock, what did you do to determine the current ownership

1 of that?

2 A. I continued running the last name of Shryock. After  
3 finding nothing throughout the rest of the records of  
4 Covington County from 1947 on, I went back and ran from '40  
5 on based off the mineral -- mineral history of Covington  
6 County to make sure that there wasn't a previous recording  
7 and this instrument got recorded later. I also then ran the  
8 name through a different spelling with the Y before the R.  
9 It would be S-H-Y-R-O-C-K, in case the spelling was  
10 incorrect.

11 Q. It is an unusual name. The correct spelling of the  
12 name is S-H-R-Y-O-C-K, but there are possibilities that that  
13 name would be misspelled, so you looked for different  
14 spellings of that name. Is that correct?

15 A. That's correct.

16 Q. And from the time that Mr. Shryock received the deed  
17 in 1949, to the present date, how many instruments of record  
18 are there that deal with that name?

19 A. Zero.

20 Q. Zero. Okay. So at that point, the attorney has it  
21 easy because at that point we're writing the title opinion  
22 and we just make a requirement that says, submit an affidavit  
23 of death and heirship of Howard M. Shryock, including such  
24 information as the date of his death, whether he died testate  
25 or intestate and his heirs under the law. In the event that

1 he died testate, submit for examination a copy of his last  
2 will and testament and estate. Did you make that requirement  
3 in your title opinion?

4 A. Yes, I did.

5 MR. TYRA: That's when we handed it off to the  
6 landmen. At this point, I would like for you to hand the  
7 microphone off to the landperson as well.

8 MR. ROGERS: Mr. Tyra, is this the sole basis  
9 for all of these owners or are there -- this is pretty  
10 simple so far to me.

11 MR. TYRA: So far this is simple. We will  
12 discuss another chain of title to two other owners.

13 MR. ROGERS: Did you say he had two deeds sent  
14 to him?

15 MR. TYRA: No. Just the one.

16 MR. ROGERS: Just one.

17

18 EXAMINATION OF MS. ZITO BY MR. TYRA:

19 Q. Ms. Zito, have you previously testified before this  
20 Board?

21 A. No, I have not.

22 Q. But your statement of your qualifications are on  
23 file. Is that correct?

24 A. Yes.

25 MR. ROGERS: If she'll just briefly state her

1 background.

2 Q. (MR. TYRA:) Briefly state your background for the  
3 record.

4 A. I have worked as a petroleum landman for the last 12  
5 years primarily in South Alabama.

6 Q. All right.

7 MR. ROGERS: Do you have a college degree that  
8 you can tell us about or what kind of education, formal  
9 education? We usually like to have that information.

10 MS. ZITO: I have attended six different  
11 colleges.

12 MR. ROGERS: Do you have a degree?

13 MS. ZITO: No, I do not.

14 MR. ROGERS: Okay. That's good enough. Where  
15 is your hometown?

16 MS. ZITO: I lack three hours.

17 MR. ROGERS: Where is your hometown?

18 MS. ZITO: Greenwood, Mississippi.

19 MR. ROGERS: All right. And I assume you have  
20 worked for different companies. You're an independent  
21 landman?

22 MS. ZITO: I'm independent. I have worked  
23 primarily the last nine years for Midroc Operating.

24 MR. ROGERS: All right. You're recognized as a  
25 petroleum landman.

1 MR. TYRA: Thank you.

2 Q. (MR. TYRA:) Now, you -- and I have worked with you  
3 enough to know that you knew what the requirements were going  
4 to be long before you got it. When did you begin your  
5 research trying to determine the ownership of this Shryock  
6 interest?

7 A. We initially began a brief look into it in 2009 when  
8 it became apparent that this was his only tract and it was on  
9 the edge of our prospect. We put it on the shelf as -- until  
10 recently.

11 Q. All right. Now, what information did you discover in  
12 2009 when he became your first check? Because the only thing  
13 you had to work with was a name and Harris County, Texas. Is  
14 that correct?

15 A. Correct. We began with census information which led  
16 me to believe he had interest in Louisiana as well as Texas,  
17 and I did find a Howard Shryock in Louisiana and contacted  
18 him and determined that he was not the correct party. We  
19 also found several other leads that did not lead us to the  
20 correct party, but at that time we were dealing with in  
21 excess of about 20 -- we had 20 different mineral -- severed  
22 mineral owners, professionals, and he was at the bottom of  
23 that list.

24 Q. All right.

25 MR. ROGERS: Can you continue -- I want to

1 expedite this. Did you ever find anything for him?

2 MS. ZITO: I did. I eventually -- when we  
3 picked it back up when Craft became interested in it, we  
4 found a will for him.

5 MR. ROGERS: Okay. Do you think that this is  
6 the same person?

7 MS. ZITO: And we -- we were able to  
8 determine -- we have a death certificate. We determined it  
9 is the correct person.

10 MR. ROGERS: Where was it probated?

11 MS. ZITO: In Harris County.

12 MR. ROGERS: Have y'all probated that in Alabama  
13 now?

14 MR. TYRA: We have not yet probated it. The  
15 requirement is in the event of production, we will bring it  
16 here and submit it to probate.

17 MR. ROGERS: All right. So you can probably  
18 tell us about the will now and who the devisees were?

19 MR. TYRA: Yes.

20 Q. (MR. TYRA:) If you would, who were the devisees  
21 under the will? You think three children. Is that correct?

22 A. Three children.

23 Q. That would be Herbert M. Shryock, James Lane Shryock,  
24 and Nina E. White. Is that correct?

25 A. That's correct.

1 Q. And we have found all of the heirs of James Lane  
2 Shryock and Nina E. White. Is that correct?

3 A. That's correct.

4 Q. And leases have been submitted to them or either  
5 received from them. Now, the third son, Herbert Shryock, had  
6 three children. Is that correct?

7 A. He had three stepdaughters.

8 Q. All right. And did you find his will as well?

9 A. We did.

10 Q. And his will was probated in Prairie View, Texas. Is  
11 that correct?

12 A. That's correct.

13 Q. And he left everything to those three children,  
14 Sandra Gold --

15 A. Actually, he left it to his wife, Doris Jackson, and  
16 she left it to the three girls.

17 Q. So you found her will as well?

18 A. Yes.

19 Q. And it was also in Prairie View, Texas. Is that  
20 correct?

21 A. Yes.

22 Q. And those three children were Sandra Gold, Virginia  
23 Emery, and Marie Elam. Is that correct?

24 A. That's correct.

25 Q. And the ones that we're concentrating on now, we have

1 located the Gold interest and the Elam interest. We're  
2 concentrating now on Virginia Emery. Is that correct?

3 A. Yes.

4 Q. Now, tell me about Virginia. What were your efforts  
5 to locate her?

6 A. I thought I found her in Houston and spoke to a  
7 Virginia Emery there, but we determined she was not the  
8 correct party. At that time, I was looking primarily in  
9 Texas and not having a lot of luck. At some point -- and I  
10 believe it was Mrs. Elam who gave us an indication that she  
11 had lived in California.

12 MR. ROGERS: Let me interrupt. Now, she is one  
13 of the daughters of whom?

14 MR. TYRA: She is the daughter of Herbert  
15 Shryock, who is the son of Howard Shryock.

16 MR. ROGERS: And this lady's name was what?

17 MR. TYRA: Virginia Emery, E-M-E-R-Y.

18 MR. ROGERS: All right. To summarize, were you  
19 able to -- have you found out anything -- is this one of the  
20 parties you are not able to locate?

21 MR. TYRA: That's correct.

22 MR. ROGERS: Did you talk to her siblings?

23 MS. ZITO: She is deceased. I did a lot of  
24 research --

25 MR. ROGERS: This is -- Virginia Emery is

1           deceased?

2                           MS. ZITO:  Yes.

3                           MR. ROGERS:  And you know that because why?

4                           MS. ZITO:  Through public records -- I mean, not  
5           through public records because she had nothing on file in  
6           public records.  Internet searches.  I found her -- you  
7           know, an indication -- like a death certificate.

8                           MR. ROGERS:  Okay.  Well, do you know where she  
9           lived?

10                          MS. ZITO:  In Hayward, California.

11                          MR. ROGERS:  Did you find any will in  
12           California?

13                          MS. ZITO:  Nothing there.

14                          MR. ROGERS:  Okay.

15                          MS. ZITO:  There were -- she owned a flower  
16           shop.

17                          MR. ROGERS:  I'll let you go ahead, Mr. Tyra.  
18           We're probably pursuing the same information.

19                          MR. TYRA:  All right.

20           Q.           (MR. TYRA:)  And then you did determine, though, that  
21           she is now deceased?

22           A.           Yes.

23           Q.           And she has two daughters.  Is that correct?

24           A.           We -- yes, she had two daughters.

25           Q.           Now, we know she had two daughters and also three --

1 she had five kids altogether?

2 A. Five children altogether.

3 Q. Right.

4 A. We've located the three boys. We -- they are not in  
5 touch with their sisters. We have not been able to locate  
6 the sisters. We have looked through marriage records,  
7 divorce records, things like that because obviously they have  
8 different names. One sister --

9 MR. ROGERS: And so these -- are these going to  
10 be the parties that are -- that you couldn't locate?

11 MR. TYRA: Yes, yes.

12 A. One sister is deceased and we know she has issue, but  
13 we're still --

14 MR. ROGERS: Wait a minute. Do you know when  
15 she died?

16 MS. ZITO: No, I don't.

17 Q. (MR. TYRA:) So you've talked to her brother, Paul  
18 Dean Emery; her brother, Edward Joel Emery; and her brother,  
19 Shawn M. Emery, and none of them could give you any  
20 information concerning the other two sisters. Let's go ahead  
21 and identify those. They're Debra Jean Emery and Valerie  
22 Raye, R-A-Y-E, Emery. Is that correct?

23 A. That's correct.

24 Q. And those three brothers could give you no  
25 information whatsoever?

1           A.           None.

2                       MR. ROGERS:  Let me interrupt.  Isn't there an  
3           affidavit that states some of this information, Mr. Tyra?

4                       MR. TYRA:  We never -- we never filed that.  It  
5           was -- it didn't have books and pages.  It didn't have  
6           testates or intestates at the time, so we did not file it.

7                       MR. ROGERS:  I guess you're going to need to --  
8           maybe you'll need to amend your Petition and state all of  
9           these parties, so I think it would be good to have their  
10          names --

11                      MR. TYRA:  Oh, yes, sir, we'll do a proposed --  
12          I mean, an amended Petition in this proposed Order that will  
13          incorporate all of the testimony of Ms. Zito --

14                      MR. ROGERS:  Okay.  So how many --

15                      MR. TYRA:  -- because it is very confusing.

16                      MR. ROGERS:  How many parties are there that you  
17          could not find?

18                      MR. TYRA:  These two.

19                      MR. ROGERS:  These two?

20                      MR. TYRA:  Debra Jean Emery and Valerie Raye  
21          Emery.

22                      MR. ROGERS:  Okay.  Are there others?

23                      MR. TYRA:  Yes, there's another chain of title  
24          that we will discuss that will bring up two other parties.

25                      MR. ROGERS:  So you need to maybe perhaps tell

1           us now what efforts you've made to find these ladies'  
2           addresses.  Is that what you're going to do, Mr. Tyra?

3                       MR. TYRA:  Exactly.  And we will --

4                       MR. ROGERS:  Okay.  The brothers didn't know --  
5           they didn't know where they were located?

6                       MR. TYRA:  Brothers didn't know anything, and  
7           being daughters, they are probably married now.  We didn't  
8           even have married names of their sisters.

9                       MR. ROGERS:  Okay.

10                      MR. TYRA:  So we did check --

11           Q.           (MR. TYRA:)  You testified that you checked marriage  
12           records and divorce records and found nothing with either of  
13           these two ladies.  Is that correct?

14           A.           That's correct.  We used the same tools that we used  
15           on the other 70-plus.

16                      MR. ROGERS:  Do you know what state they lived  
17           in?

18                      MS. ZITO:  We do not know beyond California  
19           where the mother lived.

20                      MR. ROGERS:  Do you know what -- what state do  
21           the boys live in, the brothers, if you know?

22                      MS. ZITO:  The brothers --

23                      MR. TYRA:  I have that here.  Paul Dean lives in  
24           Lakewood, Colorado; Edward Emery lives in Tracy, California;  
25           and Shawn Emery lives in Boise, Idaho.  So they're spread

1 out.

2 MR. ROGERS: Did they lease?

3 MR. TYRA: Yes.

4 Q. (MR. TYRA:) Did you recently receive information  
5 that Debra Jean Emery may be in Nevada? Is that correct?

6 A. Yes. I just received that information.

7 Q. So we're going to continue the search in Nevada. Is  
8 that correct?

9 A. That's correct.

10 Q. And I will say leases are still coming in and we're  
11 still searching. In the event that this -- any of these  
12 interests are forced pooled, when the leases come in, we're  
13 going to honor the lease rather than the forced pooling  
14 Order. So you will continue looking for Debra Jean Emery and  
15 Valerie Raye Emery after this date. Is that correct?

16 A. That's correct.

17 MR. TYRA: All right. Let's talk about the  
18 second problem area we have, and I'll go back to you,  
19 Mr. Dean; and that is, the deed, the mineral deed into  
20 Loudie Mick --

21 MR. ROGERS: Let me interrupt, Mr. Tyra. I  
22 think the question ought to be addressed to your witness,  
23 did you utilize -- just state the sources you utilized to  
24 find those two ladies. Mr. Tyra, I believe, subscribes to  
25 different Internet services through -- that you can identify

1 people. Did you use those, or did you, Mr. Tyra?

2 MR. TYRA: I used Ancestry.com, Intelius, and  
3 Anywho.com in my search.

4 MR. ROGERS: One other thing. Do you know what  
5 age they might be roughly? I mean, are we talking about  
6 somebody that's 80 or somebody that would be 40?

7 MS. ZITO: I have here a note on her date of  
8 birth, 6 of 1961 and I --

9 MR. ROGERS: Which one is that, ma'am?

10 MS. ZITO: I'm not sure if that was Valerie or  
11 Debra.

12 MR. ROGERS: Okay. So that lady would be around  
13 50. And the other one, if you know, is roughly -- probably  
14 the same age roughly? We're not talking about somebody that  
15 would be 100 years old?

16 MS. ZITO: No, no. We -- in fact, I was  
17 surprised to find that one of them was deceased because of  
18 that --

19 MR. ROGERS: I'm having trouble keeping up. So  
20 one of them is deceased?

21 MR. TYRA: No. Their mother is deceased.

22 MR. ROGERS: Their mother is deceased, okay.  
23 You have a rough opinion, you think she would be about the  
24 same age. Do the brothers know what age they might be, for  
25 example?

1 MS. ZITO: The brothers appear to be, you know,  
2 very much estranged.

3 MR. ROGERS: Do they even know when they were  
4 born?

5 MS. ZITO: Well, I turned my research over to a  
6 landman who actually spoke with them, and I have not spoken  
7 to them. I used the same searches that he used as well as  
8 about five others. I apologize for my notes not being  
9 particularly spiffy on this, but due to the number of people  
10 we were searching for at the time, they have gotten somewhat  
11 convoluted.

12 Q. (MR. TYRA:) So you used the same searches I did,  
13 plus some additional searches that I didn't have?

14 A. Yes.

15 Q. Okay.

16 MR. ROGERS: Back to that. Do you have a  
17 rough -- one of them you said would be about 50. Do you  
18 know -- have any idea what age the other one would be  
19 roughly?

20 MS. ZITO: Um --

21 MR. ROGERS: Not really?

22 MS. ZITO: It was -- it's my belief that they  
23 were all within that -- six born within the 1960s to '70.

24 MR. ROGERS: Okay. All right. So they're  
25 probably still alive, most likely.

1 MR. TYRA: We feel -- I feel like they're alive.

2 MR. ROGERS: All right. So you did the  
3 searches?

4 MR. TYRA: I -- you know how I double up and  
5 recheck myself, yes.

6 MR. ROGERS: Okay.

7 MR. TYRA: I'm thinking that we're going to find  
8 these two.

9 MS. ZITO: And I really think we are. You know,  
10 they -- they were just the last -- we found the others. I  
11 really feel like we will, but it's just a time constraint.

12 MR. TYRA: There's something out there that's  
13 going to tell us where they are.

14 MR. ROGERS: All right. Anyway, you or somebody  
15 that works for you attempted to find out information through  
16 their brothers. Is that what you said?

17 MS. ZITO: Yes.

18 MR. ROGERS: Well, let's go to the other chain  
19 of title then.

20

21 CONTINUED EXAMINATION OF MR. DEAN BY MR. TYRA:

22 Q. Again, Mr. Dean, would you tell us about the Loudie  
23 Mick interest, please.

24 A. In September 1st of 1960 Loudie T. Mick of Wharton,  
25 Texas received a one-sixteenth interest in all oil, gas, and

1 other minerals every kind in nature in the subject lands from  
2 a Mr. John T. Jones, his wife Mary H. Jones, and Doris Cox  
3 Hudgens, and that instrument was recorded some 16 years later  
4 in the real property book of Covington County 689 at Page  
5 630.

6 Q. And that's the same 20-acre tract as the Shryock  
7 interest. Is that correct?

8 A. Yes.

9 Q. Now, you name-checked her as well from that point to  
10 the present. Is that correct?

11 A. Yes, I did.

12 Q. And what --

13 MR. ROGERS: What's that name again, Patrick and  
14 John, the grantee of that deed?

15 MR. DEAN: Loudie, L-O-U-D-I-E, T. Mick,  
16 M-I-C-K.

17 MR. ROGERS: All right.

18 MR. TYRA: And that is a female.

19 MR. ROGERS: All right.

20 Q. (MR. TYRA:) And you checked those records, and what  
21 did you find?

22 A. Nothing.

23 Q. Not one single record from 1964?

24 MR. ROGERS: That was the date of the  
25 conveyance?

1                   MR. DEAN: The date of the conveyance was  
2           September 1st, 1960. The instrument wasn't recorded till  
3           '76. Of course, we began searching for her before 1964.

4                   MR. ROGERS: All right.

5

6           CONTINUED EXAMINATION OF MS. ZITO BY MR. TYRA:

7           Q.       So, Ms. Zito, we turn that one over to you. And what  
8           did you come up with?

9           A.       A lot.

10          Q.       A lot? Okay.

11          A.       We have a last will and testament alluding that she  
12          did not identify this particular property. She did identify  
13          lands that were acquired through her interest in a  
14          partnership with T. J. Hudgens and John T. Jones.

15          Q.       So did you contact them or their heirs? Is that  
16          correct?

17          A.       I -- I did, and we also -- she left this to her  
18          brothers and sisters and her stepdaughter.

19                   MR. ROGERS: That she willed this to her  
20          brothers and sisters?

21                   MS. ZITO: Her brothers and sisters --

22                   MR. ROGERS: How many of them are there? Is  
23          that something we need to know or --

24                   MS. ZITO: There were three, one predeceased  
25          or -- in the process of obtaining wills for the brothers and

1 sisters --

2 MR. ROGERS: Maybe we ought to take it a little  
3 slower here. Do you want to just name them, name the  
4 devisees under the will and then we'll go through them?

5 MS. ZITO: Yes. We have Katherine McInnis, her  
6 stepdaughter; Leta Mae Huebner, her sister; Marguerite  
7 Dickey, her sister; and there is one other sister.

8 MR. ROGERS: So there's four devisees under that  
9 will?

10 MS. ZITO: Yes. There's one other sister that  
11 we haven't received -- gotten the will back on. We don't  
12 have -- I'll have to look for her --

13 Q. (MR. TYRA:) Did you name the McInnis?

14 A. The McInnis, I did. It's the one that -- Betty  
15 Ware's mother.

16 MR. ROGERS: Just state those real quickly  
17 again, the devisees under the will.

18 MS. ZITO: We have Marguerite Dickey and -- I'm  
19 sorry, Ms. Mick had four codicils to her will as well.

20 Q. (MR. TYRA:) She left it to her three sisters and to  
21 a stepdaughter. Is that correct?

22 A. That's correct.

23 Q. All right. So we just need the names of the three  
24 sisters. And the stepdaughter's name was Katherine L.  
25 McInnis. Is that correct?

1 A. McInnis, right.

2 Q. Okay. While you're looking for that, did we find, or  
3 did you find these parties in Wharton, Texas? Is that  
4 correct?

5 A. I did, in Wharton, Texas.

6 Q. And did you hire a landman, Carl King, III of  
7 Wharton, Texas to assist in this matter?

8 A. Yes, I did.

9 MR. ROGERS: Let me interrupt. What was -- when  
10 did she -- when was this -- when did this Loudie Mick die?  
11 She got the deed in '60 and recorded it later. Just kind of  
12 give us an idea on the time period we're dealing with. As  
13 you said earlier, Mr. Tyra, it's probably not recorded here;  
14 it's recorded in another state, but you --

15 MR. TYRA: It is.

16 MR. ROGERS: If the well is successful, then you  
17 will probate it here?

18 MR. TYRA: We'll have to, yes, sir.

19 MS. ZITO: I know I've written these notes 1,000  
20 times, but --

21 MR. ROGERS: Do you want to take a break and  
22 look for it?

23 (A discussion was held off the record.)

24 MR. TYRA: Could you give us just a second,  
25 Mr. Rogers? I apologize.

1 MR. ROGERS: We'll take a brief recess.

2 (A break was taken.)

3 MR. ROGERS: Okay. The hearing is again in  
4 session. If you will, tell us the will about Loudie Mick.

5 MS. ZITO: This is the --

6 MR. ROGERS: I'll just interrupt as I'm doing  
7 them, John, and just -- if I have questions.

8 MR. TYRA: Absolutely, yes, sir.

9 MR. ROGERS: Okay. We'll just try to move  
10 ahead. We'll just keep this as simple as we can.

11 MS. ZITO: Here we go.

12 MR. ROGERS: Okay. Why don't you tell us where  
13 the will is probated, what page, what county, and what  
14 state.

15 MR. TYRA: It was probated in the Probate Court  
16 of Wharton County, Texas.

17 MR. ROGERS: Okay.

18 MR. TYRA: It's a will and some codicils to the  
19 will.

20 MS. ZITO: Book 65, Page 626.

21 MR. ROGERS: Okay. When was it -- when was it  
22 probated? Just give us an idea roughly.

23 MS. ZITO: It was filed January 15th, 1976.

24 MR. ROGERS: All right.

25 Q. (MR. TYRA:) Now, she had a brother, T. Glen Taylor,

1           that predeceased her. Is that correct?

2           A.           That's correct.

3           Q.           And so the will provided in that situation that it  
4           would go to her three sisters, Maye Taylor Baker, Marguerite  
5           Dickey, Leta Belle Huebner as well as the adopted daughter,  
6           Katherine L. McInnis. Is that correct?

7           A.           That's correct.

8                       MR. ROGERS: Let me interrupt. Now, who all is  
9           going to be that you couldn't locate? Is it going to be  
10          some of these people?

11                     MR. TYRA: And that was my next question.

12          Q.          (MR. TYRA:) We have located everyone associated with  
13          them; Ms. Baker, Ms. Dickey, and Ms. Huebner. Is that  
14          correct?

15          A.          That's correct.

16          Q.          But Mrs. Katherine L. McInnis is now deceased. Is  
17          that correct?

18          A.          That's correct.

19          Q.          And she died with a last will and testament. Is that  
20          correct? Sort of.

21          A.          Exactly.

22                     MR. ROGERS: Okay. When did she die and where  
23          is her will probated?

24                     MS. ZITO: Her will was not admitted to probate.

25                     MR. ROGERS: Well, how did you get it then?

1 MS. ZITO: It was contested.

2 MR. ROGERS: What do you want to tell us about  
3 this, John? What do we need to do?

4 Q. (MR. TYRA:) All right. Is it true then that we have  
5 the last will and testament that was filed on November 5th,  
6 1997? Is that correct?

7 A. That is correct.

8 Q. And according to that last will and testament, she  
9 disowned all of her children and left everything to her  
10 caregiver. Is that correct?

11 A. That's correct.

12 MR. ROGERS: All right. Now, where is -- where  
13 is this piece of information? Is this --

14 MR. TYRA: It's in Harris County, Texas.

15 MR. ROGERS: So it was maybe offered but it  
16 wasn't accepted -- admitted to probate?

17 MR. TYRA: Yes. They opened the file and  
18 they've stamped it as the purported will, in that she  
19 disowned all of her children, her sons, and left everything  
20 to a caregiver.

21 MR. ROGERS: Okay. Now, this is who? Who is  
22 the --

23 MR. TYRA: Katherine L. McInnis.

24 MR. ROGERS: Okay.

25 MR. TYRA: M-C-I-N-N-I-S.

1 MR. ROGERS: So they have a dispute?

2 MR. TYRA: The sons disputed the will and it  
3 never was -- it never was probated.

4 Q. (MR. TYRA:) So at that point, we treated the  
5 interest as an intestate interest. Is that correct?

6 A. Yes.

7 Q. And the intestate interest of Katherine McInnis would  
8 vest in her sons, William Edward McInnis, John Cleveland  
9 McInnis, Hue Eugene McInnis, and Kendrick Riley McInnis. Is  
10 that correct?

11 A. Yes.

12 Q. Now, we have a lease from Hue Eugene McInnis. Is  
13 that correct?

14 A. That is correct.

15 Q. And he provided information that his brother,  
16 Kendrick had died and never married, had no issue?

17 A. Correct.

18 Q. So that left the issue of William Edward McInnis and  
19 John Cleveland McInnis. Is that correct?

20 A. Yes.

21 Q. What do you know about those two?

22 A. He -- Mr. Hue McInnis told me that John had a son  
23 named Roman.

24 MR. ROGERS: Let me interrupt. Do you have  
25 leases from these people?

1                   MR. TYRA: We have leases from Hue Eugene  
2                   McInnis, the brother who's alive, yes.

3                   MR. ROGERS: Okay. Back to the other two.

4                   MR. TYRA: The other two are John Cleveland  
5                   McInnis and William Edward McInnis.

6                   MR. ROGERS: Are these the two that you couldn't  
7                   locate?

8                   MR. TYRA: Yes.

9                   MR. ROGERS: All right. So you attempted to  
10                  find these people?

11                  MR. TYRA: Exactly. Exactly.

12                  MR. ROGERS: Tell us what efforts you've made to  
13                  find them.

14                  MS. ZITO: Going on the name Roman McInnis I  
15                  began to do Internet research. I found a phone number in  
16                  Utah which I called with no response. I located an address  
17                  and phone number in Oregon, and the phone number is no  
18                  longer good. It does not work. You know, it doesn't  
19                  connect. And I have mailed a lease to the address along  
20                  with a letter and have not received it back.

21                  Q.           (MR. TYRA:) And we do not know if this is the  
22                  correct Roman McInnis, though, do we?

23                  A.           No, we do not.

24                  Q.           And what about Mr. Hue Eugene McInnis? What  
25                  information has he provided, or has he provided any?

1           A.           He has provided very little information.  When we  
2           initially approached him to lease in 2009, he spoke to us but  
3           he never returned his executed lease and --

4                       MR. ROGERS:  Now, these people that you couldn't  
5           find, how are they related?  They're brothers or they're  
6           heirs of brothers?

7                       MR. TYRA:  They are his brothers.

8                       MR. ROGERS:  Okay.  So you've talked to his  
9           brother and he didn't give you any information about them?

10                      MS. ZITO:  Right.

11           Q.           (MR. TYRA:)  But now, we've just found some  
12           information on this William Edward McInnis.  Is that correct?

13           A.           Yes.

14           Q.           And what is that?

15           A.           Well, thanks to John's research, we found a William  
16           Edward McInnis divorce.  As it turned out, it was a  
17           coincidence and the information he gave me was not correct,  
18           and it led me to the correct person, and we have ordered the  
19           divorce records.  The clerk told me over the telephone about  
20           a son, William Rogers McInnis.  My research led me to his --  
21           he is deceased, in 2010.  I located his widow and have sent  
22           her a lease.

23           Q.           But, now, actually we're waiting to receive that file  
24           from Houston --

25           A.           Correct.

1 Q. -- so that we can sort of verify among ourselves if  
2 we're actually talking to the right party.

3 MR. ROGERS: Then you've got to find a will --  
4 try to find a will and so forth.

5 MR. TYRA: Exactly. Exactly. And I think the  
6 divorce decree -- if it's the right person. There are two  
7 William Edward McInnises out there. I followed one to San  
8 Francisco, where he died, and then Ms. Zito followed another  
9 one to --

10 Q. (MR. TYRA:) Where did yours die at?

11 A. Watertown, New York.

12 MR. TYRA: Watertown, New York. So we're not  
13 sure which of the two is the correct two, and we're hoping  
14 that this divorce decree will have enough information that  
15 we can link it up to one or the other, but we don't have it  
16 yet.

17 MR. ROGERS: All right. Do you want to -- do we  
18 have much more to go through, so you can summarize?

19 MR. TYRA: That is it.

20 MR. ROGERS: I think what you need to do, John,  
21 would be to either in maybe just a letter form just state  
22 what you presented and summarize it and say, these are  
23 the -- these are the others we could not locate. You could  
24 state a little background, you know, they were devisees of  
25 these parties or whatever. And then it's -- I think it's

1 helpful to have those -- the dates of --

2 MR. TYRA: Oh, absolutely.

3 MR. ROGERS: So we know roughly how old these  
4 people would be, because somebody might be able to find it;  
5 if not y'all, then maybe somebody else. Well, that's a good  
6 explanation, and I think you --

7 MR. TYRA: I think we're still on a good lead  
8 with William Edward, and I'm hopeful that either my lead or  
9 Ms. Zito's lead will be the right guy.

10 MR. ROGERS: All right. And then in your  
11 proposed Order you can state some of this, and you ought to  
12 state that you certainly made Internet searches of all the  
13 names of the people that you weren't able to locate --

14 MR. TYRA: Yes, we have.

15 MR. ROGERS: -- and inquiries from relatives,  
16 and then it seems like you've done about all you can. And  
17 maybe they'll -- if you continue, maybe they'll -- it might  
18 be a good idea to state in this letter that you will  
19 continue to attempt to find these people.

20 MR. TYRA: We will. And, again, we will honor  
21 all the leases that come in, even if the forced pooling  
22 Order --

23 MR. ROGERS: Okay. So I guess you need to -- I  
24 suppose in this letter we're talking about, John, you need  
25 to state there what you believe their interest to be.

1 MR. TYRA: I will.

2 MR. ROGERS: And now, what about all the -- I  
3 mean, we have an Affidavit of Notice, and we will admit  
4 that.

5 (Whereupon, the Affidavit of Notice was admitted  
6 into the record.)

7 Q. (MR. TYRA:) And I also have to ask the question, in  
8 your opinion, would the granting of the Petition prevent  
9 waste and protect correlative rights?

10 A. (MS. ZITO:) Yes.

11 MR. ROGERS: Both witnesses, I guess.

12 A. (MR. DEAN:) Yes.

13 MR. ROGERS: All right. Let me -- let's look at  
14 the affidavit now. So all these parties were unleashed at  
15 one time in the --

16 MR. TYRA: They were at one time. We've gotten  
17 several leases in, and we're down to 16 people, it looks  
18 like, that are -- we have not received the leases from.

19 MR. ROGERS: All right. Maybe one of your  
20 witnesses ought to state what your outstanding interest is  
21 as of now, if you have that.

22 MR. TYRA: I have that. And let me just give it  
23 to you because I'm the one marking them off and crediting  
24 them as we go forward.

25 MR. ROGERS: All right. Then what's the --

1 Mr. Tyra, what is the outstanding interest in terms of  
2 mineral acres and percent?

3 MR. TYRA: It's 2.03 acres, which is 1.3 percent  
4 for the Northwest Quarter of Section 34, Township 6 North,  
5 Range 14 East.

6 MR. ROGERS: Do you want to state all the names  
7 of those that are unleased now or maybe put that in the  
8 letter?

9 MR. TYRA: I will put that in the letter to you.

10 MR. ROGERS: Okay. Roughly how many are there  
11 that are unleased? Are you talking about eight or maybe --

12 MR. TYRA: About eight or nine, yes.

13 MR. ROGERS: All right. Do you know, also, the  
14 outstanding interest that will be included in the  
15 outstanding interest of the parties that you couldn't  
16 locate?

17 MR. TYRA: Yes, I do. The outstanding interest  
18 of the Emerys -- I'm sorry, not the -- yeah, Debra Jean  
19 Emery and Valerie Raye Emery, each of them have an interest  
20 of 0.02778 net mineral acres. The interest of the two  
21 McInnis parties, they both have an interest of 0.7838 net  
22 mineral acres.

23 MR. ROGERS: All right. I think that will cover  
24 it, John. So what we'll do is we'll attempt to put all of  
25 this in a pretty good summary in the Order. If you'll have

1 a letter with this information --

2 MR. TYRA: I will.

3 MR. ROGERS: And you might talk to me and we'll  
4 think about -- maybe before you submit the final draft, if I  
5 think there's something else you ought to include in the  
6 letter.

7 MR. TYRA: Absolutely.

8 MR. ROGERS: Because as they say, we want to get  
9 it where as much information as -- there is possible so that  
10 people could -- somebody else might want to find these  
11 people or their relative might try to come find them, so  
12 they can be found.

13 MR. TYRA: Absolutely. And I will also say  
14 we -- on our next docket, these are the same parties and the  
15 same testimony, so I'd ask that it be incorporated --

16 MR. ROGERS: All right. I think we've covered  
17 that one then. And so we'll say that we will review the  
18 evidence and make a recommendation to the Board. And I want  
19 to -- I can tell you the staff here, we are impressed by all  
20 the work that you did, Ms. Zito and Patrick.

21 All right. That brings us to the next  
22 item, so I'll call it. That is Item 3, Docket Number  
23 3-27-12-13, and --

24 MR. TYRA: Mr. Rogers, this is a request for  
25 forced pooling without the imposition of risk compensation

1 all tracts and interest in the Northeast Quarter of Section  
2 34, Township 6 North, Range 14 East, Covington County,  
3 Alabama, which is Docket Number 3-27-12-13. And I'll ask a  
4 couple of questions to Mr. Dean.

5

6 EXAMINATION OF MR. DEAN BY MR. TYRA:

7 Q. And, Mr. Dean, first off, you've testified in a  
8 previous matter about the mineral deed of Mr. Shryock and to  
9 Ms. Mick. Do those deeds also cover interests in the  
10 Northeast Quarter of Section 34?

11 A. Yes, they do. They cover all of the Northeast  
12 Quarter line south of the railroad tracks, which is all but  
13 three acres.

14 Q. All right, sir. And these are the exact same deeds  
15 that were involved in the previous Petition. Is that  
16 correct?

17 A. Yes, same.

18 Q. And so all of your research and all the things that  
19 you did in reference to the Northwest Quarter of Section 34,  
20 you also did it for the Northeast Quarter of 34?

21 A. Yes.

22

23 EXAMINATION OF MS. ZITO BY MR. TYRA:

24 Q. Ms. Zito, I'll ask you the same question. The  
25 parties that we are trying to locate in the Northwest Quarter

1 of 34 are the exact same people that we're trying to locate  
2 in the Northeast Quarter of 34. Is that correct?

3 A. Yes.

4 Q. So all of the work that you did applicable to the  
5 Northwest Quarter is also applicable to the Northeast  
6 Quarter?

7 A. Yes.

8 MR. TYRA: I would ask that her testimony and  
9 the testimony of Mr. Dean be incorporated into this Docket  
10 Number 3-27-12-13 rather than going through the whole thing  
11 again.

12 MR. ROGERS: That's right. All that evidence  
13 is -- the record from the prior item is incorporated into  
14 this record.

15 Q. (MR. TYRA:) In your opinion, both of you, have  
16 you -- are you of the opinion that granting this Petition  
17 would prevent waste and protect correlative rights?

18 Ms. Zito?

19 A. (MS. ZITO:) Yes.

20 Q. Mr. Dean?

21 A. (MR. DEAN:) Yes.

22 MR. TYRA: We submit this matter to you.

23 MR. ROGERS: All right. The Affidavit of Notice  
24 in this matter is admitted also, and I suppose, John, you  
25 ought to send the -- we'll need these interests stated. Why

1           don't you state that in the letter so you don't have to  
2           state it now.

3                       MR. TYRA: I will do that.

4                       MR. ROGERS: And you can -- however you want to  
5           handle that. Just have a letter with the same kind of  
6           information but state the outstanding interest and the  
7           interest of the unleased -- of the parties that you couldn't  
8           find.

9                       MR. TYRA: I will do so, yes.

10                      MR. ROGERS: All right. Well done.

11                      MR. TYRA: Thank you so much.

12                      MR. ROGERS: We will review the evidence and  
13           make a recommendation to the Board.

14                               Hearing is adjourned.

15                               (The hearing was adjourned at 12:03 p.m.)

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C E R T I F I C A T E

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STATE OF ALABAMA:  
COUNTY OF JEFFERSON:

I hereby certify that the above proceedings were taken down by me and transcribed by me and that the above is a true and correct transcript of said proceedings taken down by me and transcribed by me.

I further certify that I am neither kin nor of counsel to any of the parties nor in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Alabama Board of Court Reporting as a Licensed Court Reporter as evidenced by the ACCR number following my name found below.

/s/ Stone Arledge

STONE ARLEDGE

Lic: #TL2019, Exp: 9/9/12

Notary Exp: 3/11/15

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