

APPL. of SUPERIOR OIL
COMPANY, NEW MEXICO,
NEW MEXICO, NEW MEXICO.

and
of
New Mexico

CASE No.

5091

Application,

Transcripts,

Small Exhibits

ETC.

BEFORE THE
NEW MEXICO OIL CONSERVATION COMMISSION
CONFERENCE ROOM, STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO
October 31, 1973

IN THE MATTER OF:

Case No. 5091

Application of Superior Oil Company
for compulsory pooling, Eddy County,
New Mexico.

BEFORE: RICHARD L. STAMETS,
Examiner.

TRANSCRIPT OF HEARING

1 MR. STAMETS: Call next case 5091.

2 MR. DERRYBERRY: Case 5091, Application of
3 Superior Oil Company for compulsory pooling, Eddy County,
4 New Mexico.

5 MR. STAMETS: Appearances?

6 MR. BUELL: Mr. Examiner, Sumner Buell of Montgomery,
7 Federici and Andrews, appearing on behalf of Superior
8 Oil Company. We have two witnesses, Mr. Clay and Mr.
9 Lewis.

10 MR. STAMETS: Are there other appearances in this
11 case?

12 MR. LOSEE: A.J. Losee, appearing on behalf of
13 Yates Petroleum Company. I have one witness.

14 MR. STAMETS: All witnesses stand and be sworn.
15 (Whereupon, all witnesses were duly sworn.)

16 MR. STAMETS: You may proceed.

17 MR. LOSEE: Mr. Examiner, I think before Mr. Buell
18 starts I would ask that I obtain a ruling on a subpoena
19 that we had issued and I say so at the inception because,
20 one, it may change the position of the protestant and
21 only in the interest of time do I make this request at
22 this time.

23 MR. STAMETS: Mr. Losee, I assume you are referring
24 to your letter to Mr. Carr of October 18?

25 MR. LOSEE: Yes, and Mr. Buell advises that the

1 data that is available in answer to the subpoena is here
2 with Superior but without a ruling from the Examiner, they
3 will not present it. That is a correct statement.

4 MR. BUELL: I advised Bill Carr yesterday,
5 Mr. Examiner, we would have the information in the room,
6 that we would invoke your ruling. I do not believe that
7 a subpoena has been issued for this material. At least
8 I am not aware of any being served upon us and I would
9 propose that if Mr. Losee would like to cross-examine and
10 inquire into the material, that at that time we will raise
11 our objections depending upon what he is asking for and
12 we would invoke your ruling at that time when he has his
13 part of the case.

14 MR. STAMETS: Mr. Buell, let me clarify some points
15 here. Are you familiar with the contents of Mr. Losee's
16 letter of October 18?

17 MR. BUELL: As I understand it, he wanted a
18 subpoena duces tecum.

19 MR. STAMETS: Do you agree or disagree that the
20 Commission has the right to issue this subpoena and have
21 the documents presented?

22 MR. BUELL: They certainly have the right, however,
23 it has not been issued.

24 MR. STAMETS: Are you familiar with Mr. Carr's
25 letter of October 24, letter addressed to you?

1 MR. BUELL: We would have the instruments here that
2 we have.

3 MR. STAMETS: The wording of this letter -- I am
4 going to read the letter into the record and this is
5 Mr. Carr's letter to Mr. Buell. Quote: This will confirm
6 our telephone conversation of October 23, 1973, in which
7 we agreed that it would be unnecessary for the Oil
8 Conservation Commission to issue a subpoena duces tecum
9 in the above captioned case, that case being 5091. I
10 appreciate Superior Oil Company providing the oil documents
11 by A. J. Losee from the Commission, October 18, 1973,
12 without requiring a subpoena. End quote. And there is
13 another part that is not important.

14 My interpretation of the wording of this letter is
15 there was an agreement between yourself and Mr. Carr that
16 these things would be furnished without the necessity of
17 the subpoena.

18 MR. BUELL: This is correct, however, it would
19 depend upon your interpretation of the word furnished.
20 We have them in the room what we have available at a
21 later time. Mr. Losee would like them on his cross-
22 Examination. If it is your ruling at that time that we
23 produce them, we, of course, will abide by your ruling.
24 However, to give them an opportunity to sit here and
25 peruse confidential information without first having heard

arguments on the matter I think would be highly improper.

MR. LOSEE: I am ready to present the arguments on the matter at this point. I treated them --

MR. STAMETS: Let me ask my attorney here. The hearing will resume in about 15 minutes at which time the Examiner will rule on this question.

MR. BUELL: I hope before the Examiner rules on the question we will have an opportunity to argue the point.

MR. STAMETS: I thought that you already had.

MR. BUELL: No, sir, we haven't warmed up yet.

MR. STAMETS: Okay, we will recess for about 15 minutes.

(Whereupon, a 15-minute recess was taken.)

MR. STAMETS: The hearing will come to order, please. Are there some additional arguments on the point in question?

MR. BUELL: On behalf of Superior Oil, Mr. Examiner, I would like to point out several things. First of all, we recognize the right of the Oil Commission to issue a subpoena and a subpoena duces tecum and enforcement powers to enforce the subpoena. The subpoena has not been issued in this case because we have arrived in the room with the information that was requested by Mr. Losee. We have not produced it on the table yet so to speak. We would like to oppose being required to produce it and we would like

1 to point out the reasons. We do oppose it and to do this
2 we have to go into some of the background giving rise to
3 this hearing and I will anticipate some of the evidence
4 that would normally come out in due course.

5 We think the evidence will show that on August 23
6 a letter was written to the working interest owners in
7 this proration unit which included Yates' interest and
8 Coquina Oil Company. The letter was a request for them
9 to voluntarily join in the pooling arrangement and in
10 five days we heard from Coquina Oil Company and they had
11 agreed to the AFE that was attached to the letter and had
12 joined. They had approximately 10 percent interest.
13 Superior has approximately a 60 percent interest and there
14 is a little better than 35 percent interest in the various
15 Yates interest. The well was spudded on August 3. On
16 commenced drilling there was some contact with the Yates
17 and they were given what information was then available
18 on other wells and there was an inquiry made of one of
19 the Yates representatives whether they thought they could
20 go along with it. The Yates representative said they
21 should know after the weekend. There has been no further
22 response from Yates.

23 On or about September 12 a dry hole turned up
24 immediately offsetting this well to the south. At that
25 point in time the risk increased. The testimony is going

1 to show that drilling in this area is chancy at best. That
2 there is a channel that people try to find. The only way
3 to know whether you are in the sand channel is to pay your
4 money and drill the well. Throughout September there was
5 no response from Yates. There were several more contacts
6 and inquiries with no response of any type and finally on
7 October 3 their application was filed all the while the
8 well was drilling.

9 Now, first of all, we believe that the law in this
10 case is entirely irrelevant to the matters before the
11 Commission, before this Examiner in the force pooling
12 hearing. What is at the bottom of that hole has no bearing
13 whether there should be forced pooling. We would also
14 point out the testimony will show that while the well was
15 drilling some \$2,000 was expended by Superior and by
16 Coquina to obtain the information. That the Yates now
17 wants to walk in and pick up the table all the time the
18 well was drilling when they could have contributed their
19 share to find the information. They were getting a free
20 ride and lying behind the log so to speak.

21 The log will now show after the fact, whether there
22 had been any risk involved. We feel the risk is
23 determined at the time the well is drilled, not after the
24 fact. One of the other things that makes it very material
25 whether we must produce the log is that in the last

1 Superior application for compulsory pooling the
2 Commission order said there would be 15 days after the
3 entry of the order at which time the non-consenting interest
4 owner could join the pooling voluntarily by paying his
5 prorata share of the cost without a risk factor. We feel
6 that Yates, to get a free ride at this time with that
7 15-day delay, if that is in this order, we are anticipating,
8 would be highly unfair after all the risks have been taken.
9 They have additional information on which to make that
10 decision, information we did not have available when the
11 well started. We feel also that, should point out, that
12 when a final decision has been made by the Commission on
13 this matter or otherwise determined that the log will be
14 made public, and we feel there is absolutely no necessity
15 for Mr. Losee or his client at this time to have the log
16 for free when they have really freeloader on this whole
17 well.

18 MR. LOSEE: Mr. Examiner, without deleting the
19 conversations and offers Yates made in connection with it
20 which we will do on our testimony, if risk becomes a
21 question, I would point out the Superior well was -- this
22 offset dry hole was spudded on August 18, the Coquina
23 Hoffman. It was drilling at the time Yates received the
24 AFE which was the first communication from Superior. That
25 was on August 24, six days, frankly, before Superior's

1 lease was running out and they were going to obtain no
2 information on the Hoffman well. There was recently
3 completed what is called the Coquina Superior to the east
4 of it and which I think that information was available
5 to Superior, but not to Yates at that point in time.

6 Now, I grant you the well is down and it is equipped.
7 It has a pipe run in it, and, as I understand it, I think
8 the information filed with the Commission so indicates,
9 but had Superior looked a little bit ahead and contacted
10 Yates six days before they had to start the well, they
11 might have been furnished what information they had on
12 the Coquina Superior farm-out. Number one, Yates might
13 have made a decision or to have farmed-out to participate
14 or to farm-out. To the contrary they went ahead and
15 spudded and actually the dates, which I will give, I don't
16 think are particularly important. The well is down. The
17 question of the risk involved and the geology in the area,
18 to confirm or not to confirm, what is risked for what is
19 available from this log. I would point out to the
20 Commission that its power to subpoena and also the section
21 of the Commission's regulation 1105 which says, "attachments
22 will not be kept confidential on Form C105 and company
23 attachments which would be a log unless so requested."
24 That is the last paragraph. "Upon such request the
25 Commission will keep this data confidential from 90 days to

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2 information on the Hoffman well. There was recently
3 completed what is called the Coquina Superior to the east
4 of it and which I think that information was available
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15 spudded and actually the dates, which I will give, I don't
16 think are particularly important. The well is down. The
17 question of the risk involved and the geology in the area,
18 to confirm or not to confirm, what is risked for what is
19 available from this log. I would point out to the
20 Commission that its power to subpoena and also the section
21 of the Commission's regulation 1105 which says, "attachments
22 will not be kept confidential on Form C105 and company
23 attachments which would be a log unless so requested."
24 That is the last paragraph. "Upon such request the
25 Commission will keep this data confidential from 90 days to

1 to the date of completion provided, however, that the
2 report logs and other attached data may, when pertinent,
3 be introduced in any public hearing before the Commission
4 or its Examiners or any Court of Law regardless of their
5 request that they be kept confidential." And it is Yates'
6 provision in connection with the request for subpoena that
7 the data requested on the drilling of this well is
8 important to this application and that we are entitled to
9 examine.

10 MR. STAMETS: Mr. Buell, Mr. Losee's letter sets
11 out about four different things. Daily drilling report,
12 logs, perforations and drill stem tests. Now, you have
13 directed your argument to this stage only, two of the
14 logs. Is there any --

15 MR. BUELL: There are, to our knowledge, at this
16 time no perforations in the well. There are no drill
17 stem or other tests on the well that we know of, so what
18 we are fighting about are the drill reports and the logs.

19 MR. STAMETS: These are the two things under
20 consideration?

21 MR. BUELL: Right.

22 MR. STAMETS: And you object at this time to those?

23 MR. BUELL: Being required to produce them.

24 MR. STAMETS: I would like to ask Mr. Derryberry
25 to read a couple of pertinent parts of the statute.

1 MR. DERRYBERRY: Section 6537, New Mexico Statutes
2 Annotated, and I will sort of condense this section to
3 the parts which are pertinent here. "The Commission is
4 empowered to subpoena witnesses to require their
5 assistance in giving testimony before it and to require
6 the production of books, papers, and records in any
7 proceeding before the Commission." It goes on to say
8 that "Nothing herein contained shall be construed as
9 requiring any person to produce any books, papers or
10 records or to testify in response to any inquiry not
11 pertinent to some question lawfully before such
12 Commission or Court before determination."

13 MR. STAMETS: The Examiner will consider the records
14 that you have brought, Mr. Buell, in the same light as
15 if they had been subpoenaed. However, they will have to
16 be shown pertinent before they will be introduced, before
17 they may be introduced at any stage, and we will accept
18 arguments, further arguments at that time.

19 MR. BUELL: Shall we go ahead?

20 MR. STAMETS: You may proceed.

21 *****

22 TERRY CLAY,

23 a witness, having been first duly sworn upon his oath
24 according to law, testified as follows:

25 DIRECT EXAMINATION

1 **BY MR. BUELL:**

2 Q Would you state your name, by whom employed, and what
3 capacity?

4 A My name is Terry Clay. I am employed by Superior Oil
5 Company in Midland, Texas, and my title is senior engineer.

6 Q Have you previously testified before this Commission and
7 had your qualifications accepted?

8 A Yes, I have.

9 Q Is it correct or do I understand correctly that you hold
10 degrees both in geology and in engineering and have
11 practiced in both areas?

12 A Yes, I have. I received a geology degree in 1958 from
13 Oklahoma State and worked as a geologist for five years
14 and went back to school and received an engineering
15 degree from Oklahoma University in May of 1960 and have
16 been working as an engineer, geological engineer since
17 that time. In the last seven years I have worked in
18 West Texas, Southeast New Mexico and the Panhandle,
19 primarily the development drilling which includes reservoir
20 work, economic evaluation, working with rocks, drawing
21 structure maps, and reaming two management development
22 wells that should be drilled or should not be drilled.
23 I also worked on the drilling programs as well as the
24 completion program.

25 MR. BUELL: Are the witness's qualifications

1 acceptable?

2 MR. LOSEE: No objection.

3 MR. STAMETS: They are.

4 Q Are you familiar with what Superior Oil Company seeks in
5 its application in Case 5091?

6 A Yes, sir, I am.

7 Q Would you briefly outline for the record and the Examiner
8 what it is?

9 A In Case 5091 Superior Oil Company is asking -- has made
10 application for compulsory pooling in the east half of
11 Section 2, Township 18 South, Range 25 East, West Atoka-
12 Morrow Gas Pool, Eddy County, New Mexico, to be dedicated
13 to the well presently being drilled at a point or a
14 location that is 2080 feet from the south line and 660 feet
15 from the east line of said Section 2.

16 Q I refer you to what has been marked for identification as
17 Exhibit 1 and would you explain what that shows?

18 A Exhibit 1 is an ownership map, the best of our records,
19 of how the east half of Section 2 is broken up. To be
20 noted there are 319.44 acres in the east half of Section 2
21 of which Superior Oil has 62.5 percent of that acreage.
22 Coquina Oil Corporation has 10.9 percent. Yates Petroleum
23 Corporation has 4.69 percent. Spee Yates and Martin Yates
24 III have 12.4 percent and Martin Yates, Jr. has 9.39 percent,
25 of which, to the best of our records, are unleased minerals.

1 MR. BUELL: I would like to correct my argument.
2 I think I represented Yates interest at about 37. It is
3 27.
4 Q Now, I refer to you what has been marked as Exhibit 2 and
5 would you please explain what this shows?
6 A This is a structure map. This is contoured on the Morrow
7 zone, what I consider the Morrow zone, including the
8 West Atoka-Morrow field. Also included, of course, is the
9 northend, the east half of Section 2 in question. The wells
10 will be noted that are colored red are recognized as being
11 Atoka-Morrow completion are carried on the production,
12 monthly production books as being in the Atoka-Morrow field.
13 MR. STAMETS: That is the West Atoka-Morrow?
14 A West Atoka-Morrow field, correct, and it will also be
15 noted that in this area there has been several wells drilled
16 at which a large portion of them has been completed as
17 either dry holes or non-commercial wells. Now, as mentioned
18 previously, the Johnson Com was spudded on August 30. At
19 that point in time there were two wells that had not been
20 completed that are on this map. One of those wells is the
21 Coquina Hoffman well in the northeast quarter of Section 11
22 and the David Fasken well in the southwest quarter of
23 Section 7 of 1826. Also being noted on this map, since
24 those wells were completed in both cases, have been
25 completed as dry holes. The Coquina Hoffman well was

1 plugged on the approximate date of September 14. When
2 the Johnson well was drilled at approximate depth of
3 1,300 feet which is the depth where the immediate casing,
4 8 5/8 casing is run, of course at that point in time we
5 had an election either to discontinue the drilling of that
6 operation based on the new data of the Hoffman well or
7 continue to head the risk and we recognize the risk had
8 gone up substantially upon the abatement of the Coquina
9 Hoffman well to the south.

10 It will also be noted that by running a trace down
11 the minus 5,200 feet contour and looking north of the
12 5,200 feet contour this would include all of the purported
13 wells that completed in the West Atoka-Morrow field. And
14 counting the number of wells that have been drilled at
15 such time prior to the Coquina Hoffman and the David Fasken
16 Vandiver there were 14 wells that had been drilled and
17 these were the wells that we had to make an analysis of
18 and determine whether we should drill the Johnson Com
19 Number One. Of these 14 wells it would be noted that
20 five of these wells are relatively good wells and could
21 be considered commercial and in my judgment are
22 commercial and three wells which were completed are very
23 marginal, low volume and non-commercial wells. The rest
24 of which were plugged. In the Atoka-Morrow section
25 completion was never attempted. So the ratio of the

1 4,000 feet away from the Johnson that the Cisco Penn had
2 drill-stem tested water. So the Cisco Penn, in our
3 judgment, was not considered as an objective.

4 The only objective that we really considered from
5 an economic standpoint of finding reserves was the
6 Atoka-Morrow zone.

7 Q Is this sand channel that you were drilling for in the
8 Atoka-Morrow, is this easily delineated or the boundaries
9 of it determined?

10 A In my judgment it is very difficult to delineate it as
11 exhibited from the wells that have been drilled and the
12 success of those wells, the percent of those wells that
13 have found good sand development and commercial production.

14 Q Basically in the industry what is the method that is used
15 to find the channel sand?

16 A Number one, as an idea of which way the channel might run,
17 but about the only way that you can really find one and
18 find where it is or isn't is to drill a well.

19 Q Is there anything else you would like to add about Exhibit
20 2?

21 A I might also point out, denoted at all wells, the drill
22 stem test of the zone in question, West Atoka-Morrow zone,
23 is recorded on the map to the best of our information.

24 Also the cumulative production to September 1st is
25 recorded on the map as well as the average daily production

1 through or during the month of August. So they can be
2 seen from the map. For instance, the Pennzoil-Vandiver
3 Federal in the northwest corner of 13 had some low quality
4 Morrow pay in it. It only produced 44 million cubic feet
5 of gas prior to being plugged back and attempted completion.
6 The Cisco Penn, in my judgment, is a non-commercial well.
7 To be noted that the Morrow zone was drill-stem tested
8 in the Coquina 5-Mile Unit northwest corner of 14 tested
9 low volume gas and also denoted that the Coquina Clancy
10 well in the southeast quarter of 11 tested non-commercial
11 gas and also denoted that the David Fasken-Pennzoil Federal
12 in the southeast corner of 13, low quality Morrow sand
13 completed, is currently only producing 70 mcf a day. In
14 my judgment is is marginal non-commercial. Also be noted
15 that in the southwest quarter of 24 that Morrow was tested
16 low volume gas as well as the well located in the southwest
17 corner of 18.

18 Q I refer you to what has been marked as Exhibit 3. Would
19 you explain that, please?

20 A Exhibit 3 is a cross section. On the left side is a
21 Coquina Superior Federal well in Section 1 and the next
22 well to that well is the Coquina Hoffman well. It will be
23 noted that if the Johnson well were on here and pulled in
24 the line of section, it would lie between those two wells.
25 The Coquina Superior Federal well is 10 feet of Morrow sand

1 and was completed for calculated open flow of 4,817 mcf
2 a day. The Coquina Hoffman well was, from previous
3 testimony, drilled down through the Atoka-Morrow section
4 and plugged and abandoned approximate date of September 14.
5 It will be noted on this cross section the drill stem tests
6 are shown in the wells as well as any completion that might
7 result.

8 The next well is the Coquina Clancy Federal well
9 which is located in the southeast corner of 11. It will
10 be noted that the Atoka-Morrow section was perforated. It
11 was acidized with 2,000 gallons and forming with 23,000
12 gallons and slowed gas too small to measure at the bottom
13 part of the log. This particular well was later perforated
14 in the Canyon as well as the Cisco Penn interval and
15 completed in the Shore Penn section.

16 The next well on the cross section is the Coquina
17 5-Mile Unit located in the northeast quarter of 14. It
18 will be noted that in the Atoka-Morrow section that this
19 well was drill-stem tested, recovery of flow 100 mcf a day.
20 The pressures indicated that it was tight, no further
21 completion attempted in the Atoka-Morrow section, and the
22 well was plugged back and completed in the Shore Penn.

23 The next well is the Pennzoil-Vandiver well which is
24 located in the northwest corner of Section 13. It will be
25 noted from the cross section this well was perforated

1 at several intervals in the Atoka-Morrow section. It was
2 acidized originally completed for calculated open flow
3 of 920 mcf a day in November of '69 and it will be noted
4 from the structure map that well produced approximately
5 44 million cubic feet of gas in the Atoka-Morrow section
6 prior to giving up on that particular zone. Cabs were
7 made to come back up the hole and completed in Shore Penn,
8 but were unsuccessful and the well was finally plugged and
9 abandoned on September 1, 1973. The log on the far right
10 is the David Fackin -Pennzoil Federal well. It was very
11 warm in the Atoka-Morrow section. It was fracked, indicating
12 the zone was tight as opposed to the commercial wells in
13 this area which require very low treatment. It was
14 completed for calculated open flow of 31.5 million cubic
15 feet of gas per day. That well is currently, as of August,
16 was making 70 mcf per day and in my judgment is marginal
17 and non-commercial, marginal to non-commercial.

18 It will also be noted from the section that the dip
19 is from left to right indicating what the structure map
20 is indicating, that there is a southeasterly dip in the
21 West Atoka-Morrow field area.

22 So this is the information you had available when
23 you started this well, is that correct?

24 A Well, all the information except the Coquina Hoffman well.

25 The Coquina Hoffman well, as mentioned, was drilling at

1 the time we spudded the Johnson well and was plugged when
2 the Johnson well was approximately 1,300 feet. We had
3 the Coquina Hoffman data shortly thereafter. So we had
4 the Hoffman data after drilling had commenced. And some
5 depth was reached on the Johnson well.

6 Q I am referring you to what has been marked as Exhibit 4.
7 Incidentally, why were these wells chosen for this cross
8 section?

9 A These wells were chosen for two reasons. Number one is
10 they are the closest wells to the proposed Johnson well,
11 and number two, my idea at the time and prior to drilling
12 was this sand channel ran in a northerly direction and it
13 was my purpose at the time and my intent at the time to
14 try to define the western extremity of that channel to
15 evaluate and see what kind of risk we had involved in
16 drilling this Johnson Com well.

17 Q I am now referring you to Exhibit 4. Would you please
18 explain what that shows?

19 A Exhibit 4 is an estimate of the cost involved to drill
20 the Johnson Com well and should be pointed out at this
21 time the location which is reported on here as 1,830 from
22 the south line and 660 from the east line of Section 2 was
23 changed to conform with the statewide rules and the well
24 was drilled 2,080 feet from the south line and 660 from
25 the east line. The estimated producing costs at that time

1 and prior to drilling was 173,000 and an estimated dry
2 hole cost of \$128,000. It might also be pointed out at
3 this time that the best estimate that we have of the cost
4 on this well at this date is about \$200,000.

5 Q I am referring you to Exhibit 5 which purports to be a
6 letter dated October 9. Would you explain the purpose
7 of that Exhibit?

8 A The purpose of this letter on October 9 that was written
9 by Mr. Lewis at my asking was to correct the location
10 that was reported on the original invitation and AFE that
11 was sent out to the working interest owners and to correct
12 the date of our signing of the AFE which would be noted
13 on Exhibit 4. The date was in error and should have been
14 August 17 rather than October 17. So the purpose of this
15 letter was to correct those two oversights.

16 Q Was the AFE attached to the document that would be later
17 introduced as an exhibit?

18 A Yes, it was.

19 Q And you are referring to the yet unrepresented exhibit 6?

20 A That is correct.

21 Q Are you asking that the Commission establish a supervision
22 charge if they grant this application?

23 A Yes, we are. We have a tentative operating agreement
24 between Superior and Coquina which would include a

25 supervision charge, after a well is completed, of \$159.00

1 per month, and while the well is drilling I believe that
2 is \$950 as reported in this operating agreement between
3 Superior and Coquina.

4 Q Now, you asked that a risk be assessed and we have
5 requested 200 percent. Would you explain to the Examiner
6 why this 200 percent is justified in this instance?

7 A As mentioned previously, the number of wells that have
8 been drilled in there indicates that the success ratio
9 is approximately 30 percent and in my judgment this is
10 the best indication of the success ratio we are looking
11 at by drilling new wells of the ones that have already
12 been drilled granting there is some delineation of the
13 channel at each additional well. It is pretty evident
14 from the last two wells that were drilled in there that
15 the Coquina Hoffman as well as the Pasken well that were
16 plugged and abandoned the channel has not been defined.
17 This 30 percent success ratio that has been exhibited in
18 the area is a low success ratio as far as we are concerned
19 in the development well drilling. It is certainly higher
20 than what we normally see as far as success ratio. We
21 drilled wildcats, but it is low for development or field
22 wildcat-type drilling and that being the case we feel like
23 that this risk factor should be close to the maximum of
24 150 to 200 percent.

25 Q Would you briefly outline the contacts that you have had

1 with the other interest owners in this unit and the
2 approximate date of those contacts and the general nature
3 of the contacts?

4 A We had the data on the Superior Coquina Federal well. Then
5 there were bottom-hole pressure runs at the time they
6 were running, even-flow bottom-hole pressures and a shut-in
7 pressure during that period of time. Of course we had the
8 data before it was reported to other parties and it might
9 be pointed out that the Coquina Hoffman well was --excuse
10 me, the Coquina Superior Federal well was completed on
11 August 7, 1973. So this data was the data -- the Coquina
12 Superior Federal pressure data was the data that we used
13 in addition to the data of the wells to the south to
14 determine if we should or should not drill the Johnson Com
15 location. This data was made available to the Yates on
16 approximate date of September 7. It was made available
17 to Mr. Payton Yates, the bottom-hole pressures, and I
18 personally called him, a shut-in tubing pressure, and this
19 was at a time when there was some, to our invite, to the
20 working interest owners that was sent out on August 23
21 inviting them to participate. The data we are talking
22 about on the Superior Federal was provided on approximate
23 date of September 7.

24 Q Let me interrupt you just a minute. You say it was made
25 available. Did you give him the information?

1 A The data, as I understand it, was given and made available
2 and given to them.

3 Q In other words, they had possession of the information?

4 A That is correct.

5 Q Go ahead.

6 A Also it might be pointed out at this time on September 7
7 or thereabouts that the Johnson Com well was drilling,
8 was spudded on August 30, and was drilling the surface
9 part of the hole. It was also pointed out previously
10 that the Coquina Hoffman well was determined dry and
11 plugged in and abandoned on September 14 when the Johnson
12 well was at 1,300 feet.

13 MR. STAMETS: Its birthdate was August 30?

14 A Yes.

15 MR. STAMETS: Thank you.

16 A It was my understanding and conversation with Payton we
17 would have a reply from the Yates for the coming relative
18 to their position relating to their interest in the
19 Johnson Com Number One well, but this is the last
20 conversation I had with any of the Yates was providing
21 data -- was the only conversation I had with them providing
22 data on the offset Coquina Superior well.

23 Q To your knowledge do you know if there have been any
24 perforations performed in the Johnson Com well?

25 A As of yesterday, there were no perforations.

1 Q Do you know if there are any drill-stem tests or similar
2 tests on the Johnson Com Number 1?

3 A There are no drill-stem tests and no other tests that
4 would give the measure of oil and gas.

5 Q Is it your opinion that the granting of this application
6 would prevent waste and protect relative rights?

7 A It is my opinion and judgment that granting this application
8 would prevent waste and protect relative rights.

9 Q And were Exhibits 1-6 prepared by you or under your
10 supervision?

11 A Yes, they were.

12 MR. BUELL: We move the introduction of Exhibits
13 1 through 5.

14 MR. STAMETS: Without objection these Exhibits will
15 be admitted into evidence.

16 (Whereupon, Exhibits 1 through 5 were offered and
17 admitted.)

18 Q Is there anything else you would like to add to your
19 testimony?

20 A I believe that is all.

21 MR. BUELL: Pass the witness.

22 MR. STAMETS: Mr. Clay, why did Superior drill this
23 well without an operating agreement?

24 A Well, it would be noted there on the map Superior's lease
25 has an expiration date of September 12, '73 and the

1 Coquina acreage involved had an expiration date of
2 midnight August 31. So the well was purposely spudded
3 prior to midnight of August 31 prior to the expiration
4 of the leases and we were in hopes we could work out
5 these agreements and differences as the well progressed.

6 MR. STAMETS: Were these new leases for Coquina or
7 Superior?

8 A New in the sense we had just picked them up or in the
9 sense --

10 MR. STAMETS: Could you drill this well last year?

11 A Yes, sir, these leases -- in other words, we had it under
12 lease last year so they were not new.

13 MR. STAMETS: Could Superior have filed a forced
14 pooling application subsequent to the spudding of this
15 well?

16 A Yes, we could have.

17 MR. STAMETS: Why did you choose not to interrupt?

18 A We have space in the industry that these things can be
19 worked out between parties. We, oftentimes, operate where
20 the final agreement is not agreed on before a well is
21 drilling, in the process of drilling, and we wanted, and
22 I might add, that we waited until October 3 to file a
23 force pooling agreement. We waited long enough to
24 determine whether there was a willing party there we could
25 get together with prior to filing that forced pooling

1 application.

2 MR. STAMETS: I believe you indicated you had some
3 conversation with the Yates or their representatives about
4 September 14?

5 A Approximately September 7, as I recall. It was only
6 relative to providing them data primarily.

7 MR. STAMETS: After that they did not contact you
8 or you did not contact them until this application was
9 filed?

10 A To the best of my understanding I did not.

11 MR. BUELL: Mr. Examiner, let me clarify something.
12 This is his personal contact. We have another witness
13 that will testify to additional --

14 MR. STAMETS: I see. That is fine. It is my
15 understanding the well had reached total depth and
16 production, casing even though unperforated has been run
17 in the well?

18 A That is correct. The well's total depth is 8,650 feet
19 and five and one half inch casing was run to that
20 depth.

21 I am looking at the most recent C103 form that
22 I filed as of yesterday. It was dated October 29. When
23 it actually went out, we ran 5 1/2 inch casing to TDV
24 8,650 feet and cemented 360 sacks of light weight cement,
25 full bed, 250 sacks of N4C. The top of the cement is,

1 is by temperature surveyor, is 6,240 feet outside of
2 5 1/2 inch casing.

3 MR. STAMETS: Did Coquina pay their share of the
4 estimated well costs?

5 A Yes, Coquina agreed to the drilling of the well very
6 shortly after we invited them to participate.

7 MR. STAMETS: As a matter of fact, haven't Coquina
8 and Superior actually shouldered the risk of this well
9 to this time?

10 A That is correct, we have paid the costs to this point in
11 time.

12 MR. STAMETS: There are risks remaining at this
13 time, are there not?

14 A Yes, there are, as a matter of fact. Of course, we have,
15 obviously, taken some of the risk out of it when the well
16 was drilled, but there are risks involved in what type
17 of well, if any, can be made, whether it will produce
18 gas or oil in a commercial quantity and since there have
19 been no drill-stem tests, no tests that would give us any
20 indication of that, there are some risks or is some risk
21 even at this point in time.

22 MR. STAMETS: Now, you have requested a risk factor
23 of 200 percent and yet you have stated you have already
24 taken some of the risk to this stage and some risk remains.
25 Based on your experience as an engineer, could you and

1 your experience in this area, tell me how much within
2 reason is the risk Superior has already taken and how
3 much risk remains?

4 MR. BUELL: Mr. Examiner, if I can interpose an
5 objection, and then he can answer the question, before
6 the record, it is our contention here that the risk factor
7 should be determined as of the date the well is spudded
8 based upon the information at that time.

9 MR. STAMETS: I appreciate your objection. I do
10 think we must deal with the realities of the situation and
11 the time limit of Superior's application in this case, I
12 think dictates this.

13 MR. BUELL: Fine. I wanted to make it clear for
14 the record.

15 A Would you mind restating the question now?

16 MR. STAMETS: You have indicated that Superior has
17 already shouldered a portion of the risk and some risk
18 remains. I wish you would give me your opinion as to how
19 much of the risk has already been taken and how much of
20 the risk remains.

21 A When we talk about risk, we are talking about, in my
22 definition of risk, we are talking about a dry hole as
23 opposed to commercial well. Is this your definition now?

24 MR. STAMETS: Commercial well getting your money
25 back at least.

1 A Commercial well getting your investment back.

2 MR. STAMETS: I think this is the area you are
3 talking about, likelihood of getting your money back.

4 A In my judgment the risk that we have shouldered to this
5 point is approximately -- I use approximately -- cause
6 is about 75 percent.

7 MR. STAMETS: Are there any other questions of
8 this witness?

9 MR. LOSEE: Yes.

10 MR. STAMETS: Mr. Losee.

11 CROSS-EXAMINATION

12 BY MR. LOSEE:

13 Q Mr. Clay, I believe you mentioned that Superior had
14 farmed-out the acreage in Section 1 upon which Coquina
15 completed its Superior Federal well.

16 A No, I did not mention that we farmed-out the acreage. I
17 did recognize that Coquina Superior Federal well and if
18 you put that in the form of a question, we did farm it
19 out.

20 Q And under that farm-out you were entitled to the customary
21 information with respect to the drilling of that well?

22 A That is correct.

23 Q Did you take a drill-stem test on that Coquina Superior
24 well?

25 A Yes.

1 Q What was the result of that test?

2 A It is shown on this cross section which is Exhibit 3.
3 And relative to the Atoka-Morrow section?

4 Q Yes.

5 A Drill-stem tests I had from 8,405 to 66 and slowed at a
6 stabilized rate of 9.5 million cubic feet of gas. One
7 hour initial shut-in was 3,290, the flow pressure is
8 1,102 to 1,872. Our final shut-in pressure was 3,290.

9 Q When was that drill-stem test taken?

10 A That drill-stem test was taken -- was reported on the
11 drilling report of July 24, 1973, and probably occurred
12 on July 23. That drill-stem test was also reported and
13 made public to the District Office in Artesia with the
14 figure of the open flow potential and that occurred on
15 the approximate date of August 7.

16 Q Did they log that well? Was it logged, and if so, what
17 date?

18 A Logs were run and recorded on the report of July 26, 1973.

19 Q Did you furnish that log to Yates?

20 A Did I personally give a copy of the log to Yates? No,
21 I personally did not.

22 Q Did Superior?

23 A I can only speak for myself in that particular instance.

24 Q You didn't know whether anybody did? Was there a depth
25 meter run on this Coquina Superior Federal well?

1 A No. I don't know at the present time. I believe there
2 was, but I would have to look at the log and see if there
3 is a depth meter on. I do not have a copy of the depth
4 meter with me.

5 Q Did you furnish that to Yates?

6 A I did not, no.

7 Q Did anybody in Superior to your knowledge?

8 A To my knowledge, no.

9 Q Would that have been information upon which the Yates
10 could have based the necessity to participate or not
11 participate in the well?

12 A Well, I think anybody will accept any additional piece of
13 information, information that will get you closer to the
14 answer and depth meters are not the final answer. A depth
15 meter is another tool used in evaluation to determine where
16 to drill additional wells, what direction the sand trend
17 is. So I would say, in my judgment, a depth meter is
18 sometimes helpful, but I also say that depth meter data
19 is not the type of data that is released and traded in
20 the industry. Like log data, depth meter data is considered
21 a little more confidential in nature and it is not thrown
22 around real loose like --

23 Q So if you were asking somebody to participate and pay
24 their money in a well at an offset location or one location
25 away, if available, you would not furnish a depth meter

1 to him?

2 A My answer was: I do not know whether a depth meter was
3 made available. I did not personally make it available
4 to Yates and I do not know whether someone else did.

5 Q It is your testimony that a depth meter was run?

6 A You might restate the question.

7 Q Was a depth meter run on the Coquina Superior?

8 A I am going to have to say I really don't know. I am
9 looking at the heading of the log and it doesn't mention
10 a depth meter. I personally did not use the depth meter
11 in the evaluation of the Johnson Com. For some reason
12 it seems like there may have been one run. I guess my
13 answer is I really -- I don't know. It is not recorded
14 on the log as being run or having been run and I do not
15 remember, to the best of my recollection, that I looked
16 at any depth meter data.

17 Q What date did you reach total depth in your Johnson Com
18 well?

19 A Total depth was reached on approximate date of October 8.

20 Q Is it equipped for production at this point in time?

21 A The well has production equipment installed or almost
22 installed. We have run 2 1/2 inch tubing in the well.

23 It is located at approximate depth of -- let me see, there
24 is 2 1/2 inch tubing in the well. The well has been
25 swabbed down, but to the best of my knowledge has not been

1 perforated.

2 Q Did you have it equipped for production? How did you
3 account for the remaining risk factor of 25 percent?

4 A As I mentioned, there have been no tests taken on the
5 well to provide us a quantity of oil and gas or water.
6 So what we are using right now primarily is an evaluation
7 tool or those logs. We have already, and so testified,
8 in my judgment, I think we have already shouldered 75
9 percent of the risk, but we do have some risk remaining.

10 Q And you arrive with one of the tools that your remaining
11 risk is 25 percent with the use of the log?

12 A Yes, that is correct, there is some risk involved in
13 evaluation. It is not an exact science.

14 MR. LOSEE: Mr. Examiner, I think the log furnished
15 the basis for the witness' testimony as to the remainder
16 of the risk involved in completing the well in order that
17 we may be in a position to offer an opinion and evaluate
18 the logs I, again, renew my demand. They are pertinent
19 to this hearing.

20 MR. BUELL: Mr. Examiner, we would oppose his demand.
21 We do not believe they are pertinent. The well is down
22 and in place and we think the logs are a thing or
23 evaluation tool that was created at Coquina and Superior's
24 expense and they have come into being after the risk has
25 been assumed and we do not think they are pertinent to

1 the hearing.

2 MR. STAMETS: It would appear that at this stage,
3 based on the testimony and the cross section which has
4 been heard, the log is, indeed, pertinent at this point.
5 However, Mr. Losee, I think another question being
6 considered at this point is risk and what your client's
7 position will be as to the risk. After looking at the
8 logs, it may well be that if your client examines the
9 logs, if these logs are brought out and determinations
10 are made from these logs today, that your client may not
11 have the opportunity to avoid any risk factor assessed in
12 the order and that is the ruling of the Examiner.

13 MR. LOSEE: Now, let me make sure I understand what
14 the Examiner is saying. You are saying if we secured the
15 logs, then we are going to have to suffer the risk penalty?

16 MR. STAMETS: I said you may subject Yates to
17 whatever risk factor is assessed.

18 MR. LOSEE: Well, let me ask the Examiner this
19 question: Isn't that a change in the position of the
20 Commission with respect -- have there been any such orders
21 issued?

22 MR. STAMETS: There have been no such orders issued.
23 I don't know of any order that was issued after -- where
24 the person being pooled had the option to determine whether
25 the well was commercial well or looked commercial to

1 decide whether or not they would join.

2 MR. LOSEE: I think the Commission's first
3 utilization of the pooling rules and most of the force
4 pooling basis in the Dakota Basin were after the completion
5 of the well and in those, at least, that I had any
6 experience with, they still allowed 30 days to pay up
7 or suffer the risk. The risk, of course, on that basis
8 was not the same risk as the Morrow, but if it is such
9 a change in position, we believe, as I said, they are
10 pertinent. The position of Yates or anybody else with
11 7 days notice of the drilling of the well, all the
12 information furnished at the date of this hearing, and
13 the filing of the application to pool five days before
14 the well was completed would put some non-participating
15 owner in a precarious position by reason of the delay
16 of the applicant which I think is unfair, but if that is
17 the Examiner's ruling, I would like to visit with my
18 client before we give the logs out.

19 MR. DERRYBERRY: Just so you know our position,
20 could you tell the Commission, in these cases in the
21 Dakota formation, if you are aware of the information you
22 are seeking to have produced. This hearing was produced
23 in connection with those forced pooling proceedings.

24 MR. LOSEE: Tom, I can't tell you. I have no
25 recollection one way or the other. I wouldn't want to

1 mislead you. I don't really know.

2 MR. BUELL: I wanted to add that I don't know where
3 we stand in this. There was not seven days notice. That
4 was from August 24 clear up through October 3 where anytime
5 a deal could have been made.

6 MR. LOSEE: Give me a recess.

7 MR. STAMETS: We will take a short recess.

8 (Whereupon, a short recess was taken.)

9 MR. STAMETS: Back on the record.

10 MR. LOSEE: Mr. Examiner, in view of the Examiner's
11 statement that the Commission may not permit Yates to
12 pay their share of the cost of the well we are not going
13 to ask for the logs. We believe that at this point in
14 time and considering the filing of the application the
15 data shown on that log is pertinent to the entire hearing,
16 to the maps presented, and to the supporting data of the
17 cross section and that having waited until this point in
18 time to file the application, we are entitled to that
19 without any so-called penalty. That may be an erroneous
20 statement in view of the possible penalty. We can no
21 longer ask for it and we do take exception to the possible
22 condition.

23 MR. STAMETS: Does that conclude your cross-examination?

24 MR. LOSEE: No, sir.

25 Q Mr. Clay, turning to your Exhibit 1 I noticed you pointed

1 out some marginal wells --

2 MR. BUELL: I believe you are pointing to Exhibit 2.

3 MR. LOSEE: Okay, Exhibit 2.

4 Q -- that were drilled in that area. Let me call your
5 attention to some that I am sure you classified as
6 non-marginal. The discovery well was the Mountain States
7 McCaw Gas Com. Was it not in the West Atoka-Morrow field
8 in Section 19?

9 A According to my information, the wells colored in red,
10 that that was completed in October '70, and was the first
11 well.

12 Q And the cumulative on that well has been what production?

13 A Through August the cumulative, according to my information,
14 is 4.3 bcf.

15 Q The second well drilled was the David Fasken-Brown-Yates
16 which was completed in February, 1971.

17 A I don't know that that was the second well drilled. That
18 appears to be the second commercial completion.

19 Q How much production has it had? The cumulative on the
20 Brown-Yates, if you will.

21 A The Brown-Yates cumulative through August is 5.6 bcf
22 million cubic feet.

23 Q In two and one half years. The CK Vandiver in the
24 southwest quarter of Section 18, when was it completed?

25 A According to my information that well was completed in

- 1 March of '73.
- 2 Q What is the cumulative through August?
- 3 A Cumulative is 1.15 billion feet of gas.
- 4 Q Would you say those were good, average or excellent
- 5 Morrow wells?
- 6 A I would say that based on the producing history of
- 7 Mountain States and Fasken-Brown-Yates wells they are
- 8 better than average considerably.
- 9 Q Don't you think that is also true of CK Vandiver?
- 10 A As we see it today, it looks like it is going to be
- 11 a good well. Now, so far it has held up quite nicely.
- 12 Obviously it doesn't have the cumulative or history that
- 13 the Mountain States --
- 14 Q Well, a billion and one-tenth cubic feet in six months
- 15 is pretty fair production?
- 16 A Yes.
- 17 Q What about the Yates-Vandiver CN which has just been
- 18 placed on production?
- 19 A Based on the information that I have that well is a very
- 20 good well.
- 21 Q Those wells I just talked about are they in a channel,
- 22 in your opinion?
- 23 A They are in a poor section of the Atoka-Morrow sand.
- 24 Q Do you think it is the channel?
- 25 A Possibly is a channel. I know there has been previous

1 testimony referring to it as a channel and it very likely
2 could be.

3 Q Is that channel present or any channel present in the
4 Johnson Com Number One?

5 MR. BUELL: Mr. Examiner, with the very long distress
6 on my witness' face, I will object. We are, obviously,
7 going back down for those logs again to bring up the
8 downhole structure that was encountered and we don't
9 think it is pertinent to the hearing at this time.

10 MR. STAMETS: Mr. Losee, the question you did ask
11 seemed innocuous enough. I see that line of questioning,
12 if carried further, could certainly result in the witness
13 giving his opinion as to the productive capacity of the
14 well which gets back, again, to the log situation.

15 MR. LOSEE: Sure.

16 MR. STAMETS: It might be better to stay away from
17 that line of questioning. I don't think that this question
18 is improper. I will allow it as to whether the channel
19 exists in this well or not.

20 A What was the question?

21 Q Does this or a similar channel exist in the Johnson Com
22 well?

23 A In my judgment, a. I previously testified, 75 percent of
24 that risk has been borne and the other 25 percent is tied
25 up in -- the 25 percent or less is tied up in the evaluation on

1 of the logs if they were right. There is some porosity.
2 There is porosity sufficient enough that we did run
3 productive casing and --

4 MR. STAMETS: I don't believe Mr. Losee's question
5 was as to porosity or permeability, but only as to the
6 existence of the channel and I believe in other cases
7 the channel has been shown to be present with various
8 porosities.

9 A Well, I am a little fuzzy on how you define a channel.
10 What I think in terms of channel I am thinking of terms
11 of porosity or permeabilities or the middle of it or on
12 the edge as in, such as, some of these other wells are
13 not commercial. Do I not understand what a channel is?
14 I have been on several rivers.

15 Q Well, you are familiar with the channel that exists or
16 that has been testified to exist in the wells that I
17 earlier called your attention to that were better-than-
18 average wells, and my question was: Is the channel present
19 in those wells or a similar channel present in your
20 Johnson Com? Isn't that my question?

21 MR. STAMETS: It is not the way I understood your
22 question. Let's go off the record a minute.

23 (Whereupon, a discussion was held off the record.)

24 MR. STAMETS: It is either yes or no.

25 A Yes.

1 MR. LOSEE: No further questions.

2 MR. BUELL: Just a few things on redirect.

3 REDIRECT EXAMINATION

4 BY MR. BUELL:

5 Q There was some discussion about a depth meter, a log on
6 Superior Federal. Did any of the Yates representatives
7 ask you for those materials?

8 A No, they did not.

9 Q You also discussed with Mr. Losee several of the better
10 producing wells down in Sections 18 and 19 and 24, Section
11 24 being Township 13, Range 25. How far is the nearest
12 one of that group of wells from your Johnson Com Number 1?

13 A The group of wells in question that are considered better
14 than average are Morrow wells.

15 Q Just the closest well.

16 A The Yates-Vandiver well in the northwest quarter of
17 Section 18 and 18 South, 26 East, is the closest well of
18 the group in question and that well is 11,000 feet or
19 almost slightly over two miles distance from the Johnson
20 Com Number 1.

21 Q And how far is the Coquina Hoffman? There was a dry hole
22 in the Atoka-Morrow.

23 A The Coquina Hoffman well is 3,000 feet southwest of the
24 Johnson Com Number 1 and was mentioned previously. The
25 Coquina Superior Federal which has a thin 10 feet of

1 Morrow section is 4,200 feet away, but the wells that
2 appear to be -- at least the production history today
3 are better-than-average wells in excess of two miles away.

4 MR. BUELL: I have nothing else.

5 MR. STAMETS: Mr. Clay, what was the completion
6 date on the Johnson well? I know it is not really
7 completed, but, let's say, when was the tubing run in
8 the well?

9 A We moved the work-over rig on October 21, completion rig,
10 and released that rig on October 24, and the tubing was
11 run on approximate date of October 23.

12 MR. STAMETS: You have asked for a 200 percent risk
13 factor. In your opinion, are there more risk places to
14 drill a Morrow test in Eddy County?

15 A Let me answer by saying this: We have drilled wells in
16 the South Carlsbad field and we have drilled wells in the
17 White City field and participated in the Burton Flat field
18 and along with the East Catclaw field and of these fields
19 there are none of them that carry as high risk of a
20 commercial well than this Atoka well field. We have
21 not drilled wells in every field in Eddy County, or
22 participated, but the ones that I am closely familiar with,
23 this field is by far a higher risk area to be drilling to
24 get a commercial Morrow well.

25 MR. STAMETS: There were indications of gas production

1 in the Morrow in the vicinity even within two miles. It
2 wasn't a 10 or 20 mile step-out or a 10 or 20 miles wide?

3 A That is correct.

4 MR. STAMETS: You could conceive of wells being
5 drilled that are riskier?

6 A Yes. As I mentioned previously, a wildcat well that we
7 are talking about getting away five or so miles from
8 existing production certainly would carry a higher risk
9 based on the success and industry over a several-year
10 period.

11 MR. STAMETS: Are there any other questions of the
12 witness?

13 MR. LOSEE: One question.

14 RE CROSS-EXAMINATION

15 BY MR. LOSEE:

16 Q I thought, Mr. Clay, you told me the well had been completed
17 on October 8. Was that the date you reached total depth?

18 A Right.

19 Q It was sometime after that that you logged before you
20 moved in your completion rig?

21 A Yes. As I recall, the question was: When was the well--
22 when did it reach TD and I believe my answer was: Approxi-
23 mately October 8, and we moved the completion rig on
24 October 21.

25 Q Would you classify this as a wildcat or development well,

1 Mr. Clay?

2 A I would classify it as a field wildcat.

3 Q In a field?

4 A It is not, as I mentioned, not as high risk as a wildcat,
5 but certainly higher than most development wells.

6 MR. LOSEE: That is all.

7 MR. STAMETS: The witness may be excused. You may
8 proceed.

9 *****

10 W. R. LEWIS,

11 a witness, having been first duly sworn according to law,
12 upon his oath testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BUELL:

15 Q Would you state your name, please?

16 A W. R. Lewis.

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

18 A I am employed by Superior Oil Company as a land man.

19 Q How long have you worked for Superior in that capacity
20 or similar capacity?

21 A I worked for Superior for 20 years and have been in the
22 land department in Midland for over two.

23 Q Are you familiar, basically, with the contacts that have
24 been made with the other interest owners concerning this
25 Johnson Com No. 1 well in the associated pooling?

1 A I am.

2 Q I hand you what has been marked for identification as
3 Superior Oil Company's Exhibit 6 and ask you to tell
4 me what that shows?

5 A This was a letter which I wrote on August 23, 1973, which
6 was approximately two weeks after the completion of the
7 Coquina Superior Federal. It was an invitation to Yates
8 Petroleum Corporation and others along with Coquina Oil
9 Corporation to join in the drilling of our proposed
10 venture in the east half of Section 2.

11 Q And attached to that letter was there an AFE which is
12 now an exhibit to Mr. Clay's testimony?

13 A Yes, sir, there was.

14 Q What responses did you have to that invitation?

15 A I got an immediate response from Coquina within five days
16 and they had executed the AFE. I did not hear from Yates
17 until about the first week in September when Mr. Payton
18 Yates came to my office inquiring about some bottom-hole
19 pressures on the Coquina Superior Federal in Section 1.

20 Q And were those bottom-hole pressures supplied to Mr. Yates?

21 A Yes, sir, I referred him to our district engineer whom I
22 talked with and he so furnished this information to
23 Mr. Yates.

24 Q And did you have any other conversations with Mr. Yates
25 at that time?

1 A No, sir, other than he indicated that as soon as he got
2 the bottom-hole pressures, that he could make his
3 recommendation to the Yates as far as this well was
4 concerned.

5 Q Did he indicate to you what that recommendation could or
6 would be?

7 A Well, without seeing the bottom-hole pressures, his
8 recommendation would be after he saw the bottom-hole
9 pressures.

10 Q And what was the next contact you had with the Yates?

11 A On or about September 20 I received a call from Mr. Jack
12 McCall who is a land man with Yates Petroleum Corporation
13 informing me that they had decided not to join us in the
14 drilling of the well, that would farm-out.

15 MR. STAMERS: What was this date?

16 A Approximately September 20.

17 Q And did he quote you some terms of the farm-out?

18 A Yes, sir, he said that Yates would farm-out on the
19 following basis: They would retain a 37.5 percent
20 overriding royalty until pay-out and then convert to a
21 one-half of 75 percent working interest.

22 Q And did you have any additional conversation with Mr.
23 McCall at that time?

24 A Yes, I asked him if he would write me a letter so I could
25 present it to the management for their acceptance or not

1 not to accept a farm-out from Yates on their proposal.

2 Q And did Mr. McCall write you that letter?

3 A No, sir, he did not.

4 Q What was the next contact you had with Mr. McCall?

5 A Since I did not receive the letter over the weekend I
6 waited until Tuesday which was the 25th, I believe. Yes,
7 sir, the 25th of September. I called Mr. McCall and
8 asked him about the letter that he was going to prepare
9 outlining the particular override that they wanted to
10 keep and back in for working interest since it was not
11 clear over the phone exactly what total interest they
12 wanted to keep at the time. He restated his original
13 proposal to retain a 37.5 percent override until pay-out
14 with a back in of half of 75 percent working interest.
15 Now, he said that it would be easier for him to write
16 the farm-out agreement and have it executed by Yates
17 and then present it to Superior than it would be for him
18 to write this letter.

19 Q Did you consider this proposal of 37.5 percent override
20 with the back in of one half of 75 percent a reasonable
21 proposal?

22 A No, sir, I did not, and I indicated that management would
23 probably want to come back with a counter offer less than
24 37.5 percent, and he said, "We are not interested in
25 hearing any counter proposal."

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1 Q So, in other words, it was either do it on his terms or
2 not do it at all?

3 A That is correct.

4 Q There were no negotiations or room for negotiations?

5 A No, sir. Now, on this assumption I wrote my letter, my
6 interoffice memo, stating, to the best of my knowledge,
7 on what terms he would farm-out and I indicated to Mr.
8 Collins that apparently this other 25 percent was the
9 unleased minerals which they would retain a quarter royalty
10 on.

11 MR. STAMETS: What was the date of your memo?

12 A Memo was the same date of 9-25-73.

13 Q Did Superior, to your knowledge, make a farm-out of their
14 acreage in Section 1 immediately to the east of the
15 area in question?

16 A Yes, sir, we did to Coquina.

17 Q Just very generally what were the retained override and
18 back in provisions, if any?

19 A We retained one-eighth of eighth-eighths overriding royalty
20 with no back in provision.

21 MR. BUELL: I have nothing further.

22 MR. STAMETS: Mr. Losee, do you have some questions?

23 MR. LOSEE: Yes, sir, a couple.

24 CROSS-EXAMINATION

25 BY MR. LOSEE:

- 1 Q As I understand it, Mr. Lewis, Superior only made one
- 2 proposal to Yates: Either participate and that was to
- 3 participate in drilling the well?
- 4 A No, sir, in my letter of the 23rd I also stated what
- 5 form of operating agreement we would use and I will read
- 6 from my letter, "If you are unable to participate in this
- 7 venture, we will negotiate a farm-out."
- 8 Q Did you ever submit a farm-out that was acceptable to
- 9 Superior?
- 10 A I submitted what Mr. McCall told me that Yates would
- 11 farm-out on and they were not interested in a counter-offer.
- 12 Q Well, at any time up, as I recall your testimony, the
- 13 farm-out question was delivered to you on September 20
- 14 of '73 or 21st my notes indicate --
- 15 A Okay.
- 16 Q --prior to that time did you submit any terms at which
- 17 Superior would accept a farm-out from Yates?
- 18 A No, sir, other than my original letter.
- 19 Q Your original letter was participate or we will negotiate?
- 20 A That is correct.
- 21 Q When Coquina Superior Federal was drilled on your farm-out
- 22 terms, it was a 2-mile step-out, was it not, to the field?
- 23 A Approximately, yes, sir.
- 24 Q Do you know the terms of the farm-out by which David
- 25 Fasken drilled the Vandiver No. 7 dry hole in the southwest,

1 southwest section ??

2 A No, sir, I do not.

3 MR. LOSEE: I think that is all.

4 MR. STAMETS: Are there any other questions of this
5 witness?

6 MR. BUELL: I have none.

7 MR. STAMETS: You may be excused.

8 REDIRECT EXAMINATION

9 BY MR. BUELL:

10 Q Was Exhibit 6 prepared by you or under your supervision,
11 August 23 letter?

12 A Yes.

13 MR. BUELL: I move the introduction of Exhibit 6.

14 MR. STAMETS: Without objection Exhibit 6 will be
15 so admitted.

16 (Whereupon, Exhibit 6 was offered and admitted.)

17 MR. LOSEE: No objection.

18 MR. STAMETS: Does that conclude your redirect?

19 MR. BUELL: Yes, we might have some rebuttal.

20 MR. STAMETS: Mr. Losee, do you have any witnesses
21 to present?

22 MR. LOSEE: Yes, one witness very shortly.

23 *****

24 PEYTON YATES,

25 a witness, having been first duly sworn according to law,

1 upon his oath testified as follows:

2 DIRECT EXAMINATION

3 BY MR. LOSEE:

4 Q You are Payton Yates?

5 A Yes, I am.

6 Q Live in Artesia?

7 A Yes.

8 Q What is your capacity with Yates Petroleum Corporation?

9 A I have never completely figured it out. I am an engineer.
10 Primarily I serve in engineering and exploration.

11 Q You discussed with Jack McCall the terms of the farm-out
12 over to Superior, did you not?

13 A Yes, I was in on all those discussions concerning it.

14 Q Was the offer 3/8ths or 37 1/2 percent overriding royalty?

15 A No, sir, the offer was just as we have had in some wells
16 that has been pointed out, 3/8ths total royalty until
17 pay-out and then a quarter total royalty after pay-out.
18 There may have been some confusion. We do have unleased
19 mineral interest in there and an overriding royalty on
20 unleased -- I guess it constitutes the same. It was 3/8ths
21 total royalty.

22 MR. STAMETS: I would like to get some things
23 clarified at this point.

24 MR. LOSEE: Sure.

25 MR. STAMETS: You are a graduate engineer?

1 A Oh, yes, sir.

2 MR. STAMETS: And you also are a member of the
3 Yates family and participate in a variety of operations
4 in Yates Petroleum as do the brothers and yourself?

5 A Yes, sir.

6 MR. STAMETS: So you have knowledge of all these
7 things?

8 A Yes, sir.

9 MR. STAMETS: Now, could you make it clear for me,
10 once again, what your understanding of the offer made to
11 Superior was?

12 A The offer was a 3/8ths total royalty until pay-out.

13 MR. STAMETS: Total royalty?

14 A Yes. In other words, whatever royalty was on the lease
15 would be taken out of the 3/8ths. If it was unleased
16 mineral rights, it would be 3/8ths going to Yates. If it
17 was 1/8th to somebody else, it would be quarter going
18 to Yates. The total royalty was 3/8ths until pay-out.
19 After pay-out, it would revert to one-quarter total
20 royalty and one-half working interest.

21 MR. STAMETS: Okay.

22 Q (By Mr. Losee) Now, Mr. Yates, that would have left
23 Superior with a 62.5 percent of Yates' interest until
24 pay-out and 37.5 percent after pay-out, is that right?

25 A No. I think after pay-out would be slightly larger because

1 you would have reduced the total royalty by an eighth,
2 would you not? I haven't computed it.

3 Q Twenty-five percent is royalty and half of the working
4 interest would be less 37.5?

5 A Okay.

6 Q So after pay-out the interest would be 37.5 percent?

7 A Yes.

8 Q Has Yates farmed-out any other acreage in this field
9 on that basis?

10 A Yes, sir, we farmed-out -- if I may look at the map, their
11 exhibit.

12 MR. LOSEE: Sure.

13 A We have farmed-out the south half of 18 on that basis and
14 we farmed-out the entire section 70 on that basis.

15 Q And did not Bob, one of your brothers, farm-out an interest
16 in the Vandiver on that? What section?

17 A That is right, in the north half of 18.

18 Q So there are three instances in this field where that
19 acreage has been farmed-out by Yates on exactly the same
20 terms you offered your Superior?

21 A If I may point out, the Yates Vandiver had not been drilled
22 at the time we farmed-out the acreage of Section 7. In
23 other words, that was a mile step-out to the party that
24 was farming.

25 Q That was David Fasken?

1 A Yes.

2 MR. LOSEE: I think that is all.

3 MR. STAMETS: Any other questions?

4 MR. BUELL: I would like to ask a few.

5 CROSS-EXAMINATION

6 BY MR. BUELL:

7 Q Mr. Yates, you dealt with different officials in Superior
8 during this period of time after you got the August 24
9 letter?

10 A Yes, sir, I had personal contact with one official
11 concerning this and a telephone conversation with one
12 other or possibly two others.

13 Q We have been able, with our precedents, to pin down four
14 contacts and I notice you had a summary with eight entries
15 in it. Since you have had about twice the number of
16 contacts with Superior, read those into the record.

17 A It may be somewhat presumptuous whether these are contacts
18 or not. They are summary of events.

19 Q You have been testifying from that I take it?

20 A Refer to my memory I have written down 3/8ths total royalty.

21 MR. LOSEE: They are the same you have testified to?
22 A Same contacts.

23 MR. LOSEE: Go ahead and read them into the record.

24 A First of all, 24th of August we received an AFE, 30th of
25 August I was in Midland, Texas, for a meeting. I visited

1 Mr. Lewis for Superior's engineers were not in at the
2 time and I asked for information on the well. They said
3 they would mail it and they did so and we received it
4 on the 31st of August.

5 Q Do you know what that information was?

6 A On the Coquina Superior and I asked for any pertinent
7 pressure information and I received some four-point tests
8 that is sent into the State of New Mexico. However, there
9 was some data missing on this and we had some phone calls.
10 I believe one of the parties was out on vacation from
11 Coquina. I am not certain who it was communicated by.
12 A phone call to me on the 7th of September. That was
13 the shut-in tubing pressure of the Coquina Superior well,
14 was after the four-points. This had not been provided
15 initially. I don't know that Superior had the information
16 at the time we asked for it. I think they had to get
17 hold of Coquina.

18 Then on the 11th of September, Superior had given
19 us a phone call and we had not -- we said we had not
20 made up our minds exactly what we wanted to do because
21 we were waiting on the Coquina Hoffman well to go down.
22 We felt, as a prudent measure, that we would see what
23 the offset well was going to do before we made up our
24 minds.

25 On the 21st of September we talked with Superior.

1 I believe this conversation has been referred to and
2 this is when we said we would farm-out because our reason
3 was because of the Hoffman well was dry. They said to
4 write them a letter. At this point we did not write a
5 letter. We felt all this could be solved verbally over
6 the phone. They could take our deal or come back with
7 some other numbers, farm-out terms, and, again, they
8 called on the 26th. We, again, reiterated it wasn't time
9 for a letter to be processed and we could process this
10 verbally through their objection. We had not heard
11 anything from them after the 26th, and from the 5th of
12 October we got concerned that the well that they were
13 drilling was about to drill into the pay. Now, our
14 farm-out offer had been in effect all during this time
15 and it turned out we were very close to being correct. We
16 called them up on the 5th of October. We felt they were
17 riding our farm-out offer after we made it and withdrew
18 the farm-out offer on the 5th of October.

19 Q So you never reduced your farm-out offer to writing as
20 requested?

21 A No, we did not.

22 Q And made a firm offer?

23 A We made a firm offer over the phone.

24 Q You did not want to make any commitment to this well until
25 you found out the results on the Coquina Hoffman?

- 1 A That is what we decided to do.
- 2 Q When you found out that it was a dry hole --
- 3 A We decided to farm-out.
- 4 Q Avoid that risk at that time?
- 5 A Well, we did not want to take the risk.
- 6 Q And so you decided to go on down with the risk that was
- 7 being borne by the Coquina Oil Company and Superior at
- 8 that time?
- 9 A Well, we decided we would offer them a farm-out. We told
- 10 them we would do one thing or the other and we had three
- 11 different occasions in that field we offered the same
- 12 thing. Two different parties had taken it and we thought
- 13 it was a fair offer and we told them at the time this
- 14 offer had been offered to us.
- 15 Q By the way, did you have the logs on the Coquina Superior
- 16 Federal?
- 17 A We got them at some time. I don't know when we got them.
- 18 During the drilling of this well we arranged a trade with
- 19 a party.
- 20 Q They were made available to you?
- 21 A Not all the logs. We just got one log which was a
- 22 porosity log.
- 23 Q Did you have a depth meter?
- 24 A No, sir, we did not have a depth meter and this is why
- 25 we asked about it.

1 Q Do your notes reflect who you talked to on October 5?

2 A No.

3 MR. BUELL: I have nothing else.

4 MR. STAMETS: Mr. Yates, could Yates Petroleum
5 have joined in this agreement at any time after it was
6 made by -- after the letter that was received on August 24
7 from Superior?

8 A Yes, I suppose it could have.

9 MR. STAMETS: And in the long run why did Yates
10 not choose to join as a consenting or non-consenting
11 interest worker in this unit?

12 A We felt it was a sense of priority to us. That with the
13 Hoffman well become dry as it was there was obviously
14 an increased risk instead of having within 2.5 million
15 radius of wells drilled. In 1973, there were only
16 22 percent dry holes counting this one and we felt that
17 we wanted to put our money elsewhere. We felt we could
18 farm-out. For this reason we felt it was a relatively
19 low risk. We had other places to put our money.

20 MR. STAMETS: After the issuance of this order, you
21 still have that choice to make whether or not to join.

22 A I hope so.

23 MR. STAMETS: Are there any other questions of
24 this witness?

25 MR. BUELL: I have no further questions.

1 MR. LOSEE: No further questions.

2 MR. STAMETS: Do you have any other witnesses?

3 MR. BUELL: I have no other witnesses.

4 MR. STAMETS: Any other appearances in this case?

5 MR. BUELL: Just briefly, Mr. Examiner, I would
6 like to sum up the situation here. We have a situation
7 where they were invited to join and a week later the
8 well was spudded. The invitation stood open all the
9 time the well was drilling. They did not join at any
10 time. Mr. Yates has testified that their attitude became
11 more negative after the dry hole came in and the risk
12 went up and they just decided to ride it down and see
13 what they could collect or what the Oil Commission could
14 give them in the end.

15 The Examiner has indicated that the order will
16 contain a grace period in it. We would urge reconsideration
17 of that position, a grace period where they may be allowed
18 to join. After the day of the order, a risk penalty is
19 imposed upon them. We felt that in this situation they
20 have moved the risk to the other participants and have
21 gotten a free ride. It is not of record, but they offered
22 to join this morning, pay their cost at this point in
23 time. We think this method of doing business wasn't --
24 isn't that how I understood your offer?

25 MR. LOSEE: No, sir, it was not my statement to you

1 this morning. It was the statement I attempted to make
2 last week. If you furnish the logs, we might well avoid
3 the hearing and join.

4 MR. BUELL: I stand corrected. Back to the grace
5 period. We think this is something that just lends itself
6 to a long -- the non-consenting people to get a free ride
7 in this type of thing and we would ask the Commission to
8 eliminate that from any order. That is all the comments
9 I have.

10 MR. STAMETS: Mr. Buell, the grace period has only
11 more or less been eluded to.

12 MR. BUELL: I realize that.

13 MR. STAMETS: I know you do not wish one. If a
14 grace period is granted, do you recommend a maximum period
15 of time that should be in existence?

16 MR. BUELL: No, not at all.

17 MR. STAMETS: You recommend it should not be more
18 than 15 days?

19 MR. BUELL: That tomorrow is too long.

20 MR. STAMETS: Okay.

21 MR. LOSEE: I have just a short statement. Mr. Buell
22 has eluded to our client drying the well down. He has
23 not eluded to the lack of diligence on behalf of his
24 client and, one, either notifying our client of the
25 proposal to drill the acreage or in filing the application,

1 both of which placed us, obviously, under a short fuse.
2 Superior wasn't able to respond to the farm-out under that
3 short fuse. The well that provided the information, oh,
4 I suppose, caused Superior to drill, reached its total
5 depth on July 24. It was drill-stemmed on that date,
6 logged about 2 days later, and completed on the 7th. On
7 the 17th they signed their AFE, but they didn't bother
8 to call, still hadn't notified Yates, they mailed it to
9 them and it arrived on the 24th nearly 30 days after the
10 information was available to them. Then, thereafter, in
11 seven days spudded the well and still waited until the
12 well was three days off bottom before they filed the
13 application before the Commission. And if that subjects
14 Yates to, by reason of their lack of diligence, to any
15 penalty, it is an unfair treatment of the forced pooling
16 law.

17 As I earlier mentioned, the data that is presently
18 available would have allowed a reasonable conclusion and
19 actually conceivably avoided the hearing. With respect
20 to the log it is hard for me to assume that the remaining
21 risk involved in completing this well is only 25 percent
22 when the production string has been run and the tubing
23 and surfacing equipment connected to the line, and I feel
24 like the most the penalty ought to be and Yates ought to
25 have a reasonable time to say whether they will pay up or

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suffer the penalty in view of Superior's lack of diligence
in starting the operation or in filing the application
for forced pool.

MR. STAMETS: We will take the case under advisement
(whereupon, the case was concluded at 5:30 P.M.)

REPORTER'S CERTIFICATE

I, PEGGY COLLAROS, a Court Reporter, in and for the
County of Bernalillo, State of New Mexico, do hereby certify
that the foregoing and attached Transcript of Hearing before
the New Mexico Oil Conservation Commission was reported by me;
and that the same is a true and correct record of the said
proceedings to the best of my knowledge, skill and ability.

Peggy Collaros
COURT REPORTER

Richard L. Hammett 509/73
New Mexico Oil Conservation Commission

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WITNESS:PAYTON YATES

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E X H I B I T SOfferedAdmitted

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OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO
P. O. BOX 2088 - SANTA FE
87501

I. R. TRUJILLO
CHAIRMAN
LAND COMMISSIONER
ALEX J. ARMILLO
MEMBER
STATE GEOLOGIST
A. L. PORTER, JR.
SECRETARY - DIRECTOR

November 16, 1973

Mr. Sumner Buell
Montgomery, Federici, Andrews,
Hanna & Buell
Attorneys at Law
Post Office Box 2307
Santa Fe, New Mexico

Re: CASE NO. 5091
ORDER NO. R-4667

Applicant:
Superior Oil Company

Dear Sir:

Enclosed herewith are two copies of the above-referenced
Commission order recently entered in the subject case.

Very truly yours,

A. L. Porter, Jr.

A. L. PORTER, Jr.
Secretary-Director

ALP/ir

Copy of order also sent to:

Hobbs OCC x
Artesia OCC x
Aztec OCC

Other Mr. A. J. Losee

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 5091
Order No. R-4667

APPLICATION OF SUPERIOR OIL COMPANY
FOR COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on October 31, 1973, at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this 16th day of November, 1973, the Commission, a quorum being present, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, Superior Oil Company, seeks an order pooling all mineral interests underlying the E/2 of Section 2, Township 18 South, Range 25 East, NMPM, West Atoka-Morrow Gas Pool, Eddy County, New Mexico.

(3) That the applicant has the right to drill and has commenced the drilling of a well at a point 2080 feet from the South line and 660 feet from the East line of said Section 2.

(4) That there are interest owners in the proposed proration unit who have not agreed to pool their interests.

(5) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) That the applicant should be designated the operator of the subject well and unit.

Case No. 5091
Order No. R-4667

(7) That estimated well costs are \$128,000.00 for a dry hole and \$173,000.00 for a well completed as a West Atoka-Morrow producing well.

(8) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator within 15 days after the date of this order in lieu of paying his share of reasonable well costs out of production.

(9) That any non-consenting working interest owner that does not pay his share of estimated well costs within 15 days after the entry of this order should have withheld from production his share of the reasonable well costs plus an additional 50 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(10) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(11) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(12) That \$159.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates); that the operator should be authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(13) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the Morrow formation underlying the E/2 of Section 2, Township 18 South, Range 25 East, NMPM, West Atoka-Morrow Gas Pool, Eddy County, New Mexico, are hereby pooled to form a standard 320 acre gas spacing and proration unit to be dedicated to a well currently being drilled and completed at a point 2080 feet from the South line and 660 feet from the East line of said Section 2.

PROVIDED HOWEVER, that the operator shall continue the drilling and completion of said well with due diligence in order to test the Morrow formation.

PROVIDED FURTHER, should said well not be drilled to completion, or abandonment, within 90 days after the commencement thereof on August 31, 1973, said operator shall appear before the Commission and show cause why Order (1) of this order should not be rescinded.

(2) That Superior Oil Company is hereby designated the operator of the subject well and unit.

(3) That \$128,000 is hereby established as the estimated well costs of a dry hole to the Morrow formation, and \$173,000 is hereby established as the estimated well costs of a well completed to produce from the Morrow formation.

(4) That within 15 days from the date of this order, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operator shall furnish the Commission and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Commission and the Commission has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 45-day period the Commission will determine reasonable well costs after public notice and hearing.

(6) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) That the operator is hereby authorized to withhold the following costs and charges from production:

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 15 days from the date of this order.

Case No. 5091
Order No. R-4667

(B) As a charge for the risk involved in the drilling of the well, 50 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 15 days from the date of this order.

(8) That the operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$159.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates); that the operator is hereby authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) That any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

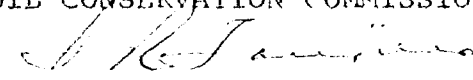
(11) That any well costs or charges which are to be paid out of production shall be withheld only from the working interests share of production, and no costs or charges shall be withheld from production attributable to royalty interests.


(12) That all proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

(13) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


I. R. TRUJILLO, Chairman


ALEX J. ARMISTE, Member


A. H. PORTER, Jr., Member & Secretary



YATES BUILDING - 207 SOUTH 4TH ST.
ARTESIA, NEW MEXICO - 88210

November 14, 1973

S. P. YATES
PRESIDENT
MARTIN YATES, III
VICE PRESIDENT
JOHN A. YATES
VICE PRESIDENT
B. W. HARRER
SEC. TREAS.

The Superior Oil Company
P. O. Box 1900
Midland, Texas 79701

Attention: Mr. Bill Lewis

Re: New Mexico Oil Conservation Commission Case No. 5091,
Application of Superior Oil Company for Compulsory
Pooling, Eddy County, New Mexico

Gentlemen:

Please be advised that the undersigned, on behalf of itself, Yates Brothers, S. P. Yates, Martin Yates III and Scout Oil Company, hereby agree to pool their several mineral and oil and gas leasehold interests in the E/2 Section 2, Township 18 South, Range 25 East, with you and the other interest owners, as the spacing or proration unit for your Johnson No. 1 Com Well that has been drilled and completed in the Morrow formation on said lands.

You have heretofore furnished us with an AFE which we have not signed, but inasmuch as the well has already been drilled and completed, please furnish us with a statement showing the actual expenditures incurred in drilling and completing this well and we will promptly remit our proportionate part of these expenses. At the same time, we should appreciate receiving an operating agreement reflecting the reasonable costs of operation of the well.

Very truly yours,

YATES PETROLEUM CORPORATION

By: 

cc: Mr. Richard L. Stamets
Mr. Sumner Buell



OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO
P. O. BOX 2088 - SANTA FE
87501

October 24, 1973

I. R. TRUJILLO
CHAIRMAN
LAND COMMISSIONER
ALEX J. ARMIJO
MEMBER
STATE GEOLOGIST
A. L. PORTER, JR.
SECRETARY - DIRECTOR

Sumner Buell, Esq.
Montgomery, Federici, Andrews and
Hannahs
350 E. Palace
Santa Fe, New Mexico 87501

Re: Application of Superior Oil
Company for Compulsory Pooling,
Eddy County, New Mexico,
Case No. 5091

Dear Sumner:

This letter confirms our telephone conversation of October 23, 1973, in which we agreed that it would be unnecessary for the Oil Conservation Commission to issue Subpoena Duces Tecum in the above-captioned case.

I appreciate Superior Oil Company providing the documents requested by Mr. A. J. Losee in his letter to the Commission of October 18, 1973, without requiring a subpoena.

Should drillstem and any other tests of the Superior No. 1 well be completed prior to the date of hearing, the Commission expects a complete report showing in detail the complete results of such tests.

very truly yours,

WILLIAM F. CARR
General Counsel

WFC/dr

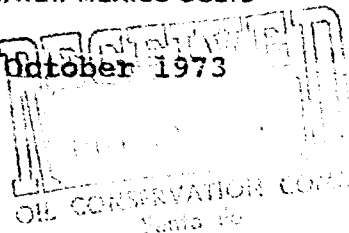
cc: Mr. A. J. Losee

A. J. LOSEE
JOEL M. CARSON

LAW OFFICES
LOSEE & CARSON, P.A.
300 AMERICAN HOME BUILDING
P. O. DRAWER 239
ARTESIA, NEW MEXICO 86210

AREA CODE 505
746-3508

18 October 1973



Mr. William F. Carr, Attorney
Oil Conservation Commission
P. O. Box 2088
Santa Fe, New Mexico 87501

Re: Application of Superior Oil Company
for Compulsory Pooling, Eddy County,
New Mexico, Case No. 5091

Dear Mr. Carr:

The captioned case is set for hearing on October 31, 1973. We represent Yates Petroleum Corporation, one of the parties sought to be force pooled by this application.

You will please consider this letter as a praecipe for subpoena duces tecum, pursuant to § 65-3-7 N.M.S.A., 1953 Comp., directed to an authorized officer of the applicant requiring the production of the following documents:

1. Complete daily reports showing the footage and drilling time in all operations on the Superior Johnson Com. No. 1 Well located 1,830 feet from the South line and 660 feet from the East line of Section 2, Township 18 South, Range 25 East, N.M.P.M. (the "Superior No. 1 Well"), from the top of the Pennsylvanian down to the total depth drilled at the date of hearing.
2. Copies of any and all logs run upon the Superior No. 1 Well.
3. The record made of any perforations in the pipe on the Superior No. 1 Well.
4. The complete report, showing in detail the complete results of all drillstem and other tests of the Superior No. 1 Well.

Mr. William F. Carr, Attorney
Oil Conservation Commission
-2-

18 October 1973

I am advised that Sumner Buell represents the applicant, and it may be that he can assure you that the above documents will be available at the hearing. If so, it will not be necessary to issue the subpoena duces tecum. I attempted to call Sumner on the telephone today, and was advised that he would be out of the office until sometime the first of next week.

Very truly yours,

LOSEE & CARSON, P.A.



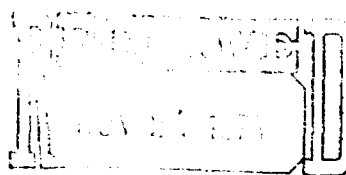
A. J. Losee

ATL:jw

cc: Yates Petroleum Corporation
Mr. Sumner Buell



YATES BUILDING - 207 SOUTH 4TH ST.
ARTESIA, NEW MEXICO - 88210



OIL CONSERVATION COMM.

Santa Fe

November 26, 1973

S. P. YATES
PRESIDENT
MARTIN YATES, III
VICE PRESIDENT
JOHN A. YATES
VICE PRESIDENT
B. W. HARPER
SEC. - TREAS.

The Superior Oil Company
P. O. Box 1900
Midland, Texas 79701

ATTENTION: Mr. W. R. Lewis
Land Department

Re: Superior-Johnson Com #1
E/2 Section 2-T18S-R25E
Eddy County, New Mexico

Gentlemen:

In compliance with the State of New Mexico Oil Conservation Commission Order No. R-4667 dated November 16, 1973, concerning Case No. 5091, we are herewith enclosing three (3) checks in payment of our proportionate part of the \$173,000 established by the Commission as the estimated well costs for the completed well.

The checks cover the following Working Interest Ownerships in the well.

<u>Firm or Individual</u>	<u>Working Interest %</u>	<u>Amount</u>
Martin Yates III	6.20461%	\$10733.97
Yates Drilling Co.	6.20461%	10733.98
Yates Petroleum Corp.	<u>14.08715%</u>	<u>24370.77</u>
	26.49637%	\$45838.72

We have not received a copy of the Operating Agreement and would appreciate your sending same to us, attention Mr. Jack McCaw. Notices to be sent under the terms of the Operating Agreement should be sent to:

Yates Drilling Co.	Martin Yates III	Yates Petroleum Corp.
207 South 4th Street	207 South 4th Street	207 South 4th Street
Artesia, N.M. 88210	Artesia, N.M. 88210	Artesia, N.M. 88210

Page - 2 -

November 26, 1973

The Superior Oil Company

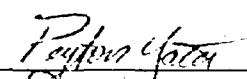
Re: Superior-Johnson Com #1
E/2 Section 2-T18S-R25E
Eddy County, New Mexico

All Geologic and well data should be sent to Yates Petroleum Corporation, Artesia, New Mexico, attention Mr. Ray Beck, Geologist. A tabulation of our standard requirements for geologic and well data is enclosed.

Monthly production reports should be sent to Yates Petroleum Corporation, Artesia, New Mexico, attention Mrs. Juanita Goodlett, Production Clerk.

Yours truly,

YATES PETROLEUM CORPORATION
YATES DRILLING COMPANY
MARTIN YATES III



Peyton Yates
Engineer

PY/jg
Attachments

cc: Mr. Dick Staments, NMOCC, Santa Fe
Mr. Sumner Buell, Santa Fe

YATES PETROLEUM CORPORATION
207 South 4th Street
Artesia, New Mexico

Geologic and Well Data Requirements

- 2 copies of each type of log or downhole survey run in the well
- 1 copy of each DST chart
- 1 copy of each fluid analysis run
- 1 copy of drilling time
- 1 copy of any mud log run on well
- 1 copy of any paleontological report
- 1 copy of all notices and reports made by you and furnished to any governmental body
- 1 copy of any core analysis
- Daily production reports for the first 60 days of production
- 1 copy of any well pressure data

Docket No. 31-73

DOCKET: EXAMINER HEARING - WEDNESDAY - OCTOBER 31, 1973

9 A.M. - OIL CONSERVATION COMMISSION CONFERENCE ROOM,
STATE LAND OFFICE BUILDING - SANTA FE, NEW MEXICO

The following cases will be heard before Richard L. Stamets, Examiner, or Daniel S. Nutter, Alternate Examiner:

CASE 5076: (Continued from the October 17, 1973, Examiner Hearing)

Application of David Fasken for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to drill a well at an unorthodox location 1980 feet from the North line and 660 feet from the West line of Section 7, Township 18 South, Range 26 East, West Atoka-Morrow Gas Pool, Eddy County, New Mexico, the N/2 of said Section 7 to be dedicated to the well.

CASE 5086: Application of Skelly Oil Company for a unit agreement, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Myers Langlie-Mattix Unit Area comprising 9924 acres, more or less, of Federal, State, and Fee lands in Townships 23 and 24 South, Ranges 36 and 37 East, Lea County, New Mexico.

CASE 5087: Application of Skelly Oil Company for a waterflood project, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to institute a waterflood project in its Myers Langlie-Mattix Unit Area, Langlie-Mattix Pool, Lea County, New Mexico, by the injection of water into the Queen formation through 84 injection wells in said unit area.

CASE 5088: Application of Amini Oil Company for compulsory pooling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the surface of the ground down to and including the Pennsylvanian formation underlying the S/2 of Section 32, Township 20 South, Range 33 East, South Salt Lake-Morrow Gas Pool, Lea County, New Mexico, to be dedicated to a well to be drilled at a standard location in Unit N of said Section 32. Also to be considered will be the cost of drilling and completing said well and the allocation of such costs, as well as actual operating costs and charges for supervision. Also to be considered is the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 5089: (This case will be dismissed)

Application of Coquina Oil Corporation for an unorthodox oil well location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to drill its proposed Cities Service State Well No. 3, at an unorthodox location 1325 feet from the South line and 660 feet from the East line of Section 27, Township 14 South, Range 34 East, High Plains-Pennsylvanian Pool, Lea County, New Mexico.

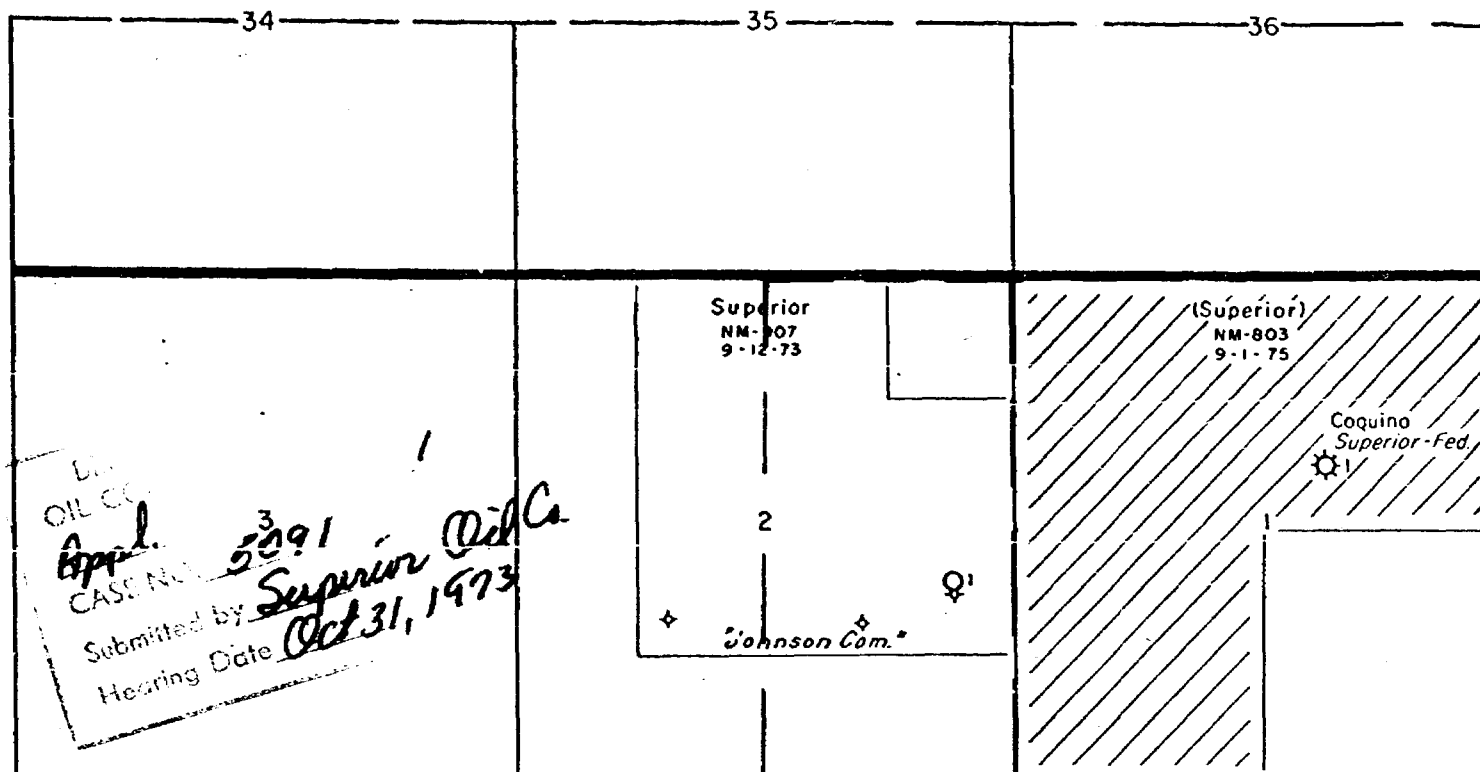
- CASE 5090: Application of Atlantic Richfield Company for lease commingling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an exception to Commission Rule 309-A to permit the commingling of unitized and non-unitized production within applicant's Seven Rivers-Queen Unit Area, Langlie-Mattix Pool, Lea County, New Mexico.
- CASE 5091: Application of Superior Oil Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests underlying the E/2 of Section 2, Township 18 South, Range 25 East, West Atoka-Morrow Gas Pool, Eddy County, New Mexico, to be dedicated to a well presently being drilled at a point 2080 feet from the South line and 660 feet from the East line of said Section 2. Also to be considered will be the cost of drilling and completing said well and the allocation of such costs, as well as actual operating costs and charges for supervision. Also to be considered is the designation of applicant as operator of the well and a charge for risk involved in drilling said well.
- CASE 5092: Application of Gulf Oil Corporation for compulsory pooling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests from the base of the Wolfcamp formation to the base of the Morrow formation underlying the E/2 of Section 9, Township 16 South, Range 35 East, Townsend-Morrow Gas Pool, Lea County, New Mexico, to be dedicated to its Hulda Townsend Well No. 2 located in Unit I of said Section 9. Also to be considered will be the present value of said well and the cost of deepening and completing same and the allocation of such values and costs, as well as actual operating costs and charges for supervision. Also to be considered is the designation of applicant as operator of the well and a charge for risk involved in deepening said well.
- CASE 5093: Application of Morris R. Antweil for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests underlying the N/2 of Section 17, Township 22 South, Range 27 East, South Carlsbad Field, Eddy County, New Mexico, to be dedicated to a well to be drilled at a standard location in Unit B of said Section 17. Also to be considered will be the cost of drilling and completing said well and the allocation of such costs, as well as actual operating costs and charges for supervision. Also to be considered is the designation of applicant as operator of the well and a charge for risk involved in drilling said well.
- CASE 5094: Application of Cities Service Oil Company for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval of the Azotea Mesa Unit Area comprising 5686 acres, more or less, of Federal and State lands in Township 23 South, Range 24 East, Eddy County, New Mexico.
- CASE 5095: Application of Cities Service Oil Company for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval of the Loafer Draw Unit Area comprising 5844 acres, more or less, of Federal, Fee, and State lands in Township 21 South, Ranges 21 and 22 East, Eddy County, New Mexico.

CASE 5096: Application of H. L. Brown, Jr. for a non-standard gas proration unit and unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for a 320-acre non-standard gas proration unit comprising the SE/4 of Section 15 and the E/2 NE/4, SW/4 NE/4, and NE/4 SE/4 of Section 22, all in Township 17 South, Range 29 East, Grayburg-Morrow Gas Pool, Eddy County, New Mexico, to be dedicated to a well to be drilled at an unorthodox gas well location 330 feet from the South and East lines of said Section 15.

CASE 5097: Application of Dorchester Exploration Company for pool creation and special pool rules, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks the creation of a new gas pool for Wolfcamp production for its well located in Unit F of Section 35, Township 19 South, Range 28 East, and the promulgation of special rules therefor including a provision for 320-acre spacing and standard 320-acre well locations.

CASE 5073: (Continued and Readvertised)

Application of Belco Petroleum Corporation for a non-standard gas proration unit and unorthodox gas well location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for a 320-acre non-standard gas proration unit comprising the E/2 SW/4 and SE/4 of Section 30 and the N/2 NE/4 of Section 31, all in Township 20 South, Range 33 East, South Salt Lake Field, Lea County, New Mexico, to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South line and 1300 feet from the East line of said Section 30.



OWNERSHIP OF 319.44 ACRES IN E/2 SECTION 2, T-18-S, R-25-E

COMPANY	ACREAGE DESCRIPTION	NO.	ACRES	PERCENT OF TOTAL
The Superior Oil Company P. O. Box 1900 Midland, Texas Attn: T. D. Clay	Lot No. 2 (NW 1/4 NE 1/4), S 1/2 NE 1/4, and N 1/2 SE 1/4		199.80	62.54696
Coquina Oil Corp. 200 Bldg. of Southwest Midland, Texas 79701 Attn: Mr. Farrell Davis	7/16 Interest Under Coquina S 1/2 SE 1/4 Clancy-Fed.		35.00	10.95667
Yates Petroleum Corp. 207 South 4th Artesia, New Mexico 88210	3/16 Interest Under S 1/2 SE 1/4		15.00	4.69572
S. P. Yates and Martin Yates III % Yates Petroleum Corp. 207 South 4th Artesia, New Mexico 88210	Lot 1 (NE 1/4 NE 1/4) 14		39.64	12.40922
Martin Yates, Jr. % Yates Petroleum Corp. 207 South 4th Artesia, New Mexico 88210	6/16 Unleased Mineral Interest in S 1/2 SE 1/4		30.00	9.39143
TOTAL			319.44	100.00000%

- Son Andres-Yeso
- Penn (Cisco)
- Atoka (Penn)
- Atoka-Morrow

THE SUPERIOR OIL COMPANY
ENGINEERING
MIDLAND

W/ATOKA-MORROW FIELD AREA
EDDY COUNTY, NEW MEXICO

SCALE 1" = 2000'

THE SUPERIOR OIL COMPANY
AUTHORITY FOR EXPENDITURE
AFE NO. F-329-1

WELL: Johnson Com. No. 1
FIELD: Atoka-Morrow, West
COUNTY & STATE: Eddy County, New Mexico

LOCATION: ~~1230~~ 2086 FSL & 660' FEL Section 2, T-18-S, R-25-E

ESTIMATED TOTAL DEPTH: 8,800' ESTIMATED COMPLETION STATUS: Gas

INTANGIBLES:

Drilling Contractor Fees	\$ 67,000
Preparing Location and Roads	5,000
Equipment and Tool Rental	500
Tubular Inspection	2,000
Drilling Mud	12,500
Cementing and Cementing Services	5,500
Electrical Surveys	5,000
Perforating and Testing	6,500
Formation Fracturing	5,000
Completion Expense	2,500
Miscellaneous	9,500

TOTAL ESTIMATED INTANGIBLES \$121,000

TANGIBLES:

Casing: 11-3/4"	500'	\$ 3,500
8-5/8"	1,300'	5,500
5-1/2"	3,800'	23,000
Tubing: 2-1/2"	8,600'	10,000
Xmas Tree		7,500
Packers and Downhole Equipment		2,500

TOTAL ESTIMATED TANGIBLES \$ 52,000

TOTAL PRODUCING WELL COST \$173,000

ESTIMATED DRY HOLE COST \$128,000

APPROVED: (NON-OPERATOR)

BY: _____

DATE: _____

WCM/jf
8-16-73

APPROVED: (OPERATOR)

THE SUPERIOR OIL COMPANY

BY: R. S. Brasile

DATE: 10-17-73

BEFORE EXAMINER STANDS
OIL CONSERVATION COMMISSION

Appl. EXHIBIT NO. 4

5091

Superior Oil

Exhibit Date Oct 31, 1973

✓ location corrected to 2086

now cost
200,000
23,000

October 9, 1973

Coquina Oil Corporation
200 Building of the Southwest
Midland, Texas 79701
Attn: Mr. Farrell Davis

Yates Petroleum Corporation
Messrs. S. P. Yates & Martin Yates, III
207 South 4th
Artesia, New Mexico 88210
Attn: Mr. Jack McCaw & Mr. Payton Yates

Re: Johnson Com. No. 1
AFE No. F-329-1
Eddy County, New Mexico

Gentlemen:

Reference is made to our letter dated August 23, 1973, and the captioned AFE attached. Subject AFE, when executed by Superior, was inadvertently dated 10/17/73. This should be corrected to 8/17/73.

As per our prior conversations, the location was amended to conform with the State of New Mexico Oil Conservation Commission's Rules and Regulations. The correct location is 2030' FSL & 660' FEL of Section 2, T-18-S, R-25-E.

Yours very truly,

THE SUPERIOR OIL COMPANY

W. R. Lewis
Land Department

WRL:nd

FILE EXAMINER STAMP
CONSERVATION COMMISSION
Appl. EXHIBIT NO. 5
CASE NO. 509!
Submitted by Superior Oil Co.
Hearing Date Oct 31, 1973

THE SUPERIOR OIL COMPANY

P.O. BOX 1900
MIDLAND, TEXAS 79701

August 23, 1973

Yates Petroleum Corporation
Messrs. S. P. Yates & Martin Yates, III
207 South 4th
Artesia, New Mexico 88210

Coquina Oil Corporation
200 Building of the Southwest
Midland, Texas 79701
Attn: Mr. Farrell Davis

Re: Proposed Joint Venture
Johnson Com. No. 1
Penn Gas Trend No. 217-A
Eddy County, New Mexico

Gentlemen:

The Superior Oil Company proposes the drilling of an 8800 foot Morrow test as a joint venture in the E/2 of Section 2, T-18-S, R-25-E. Tentative location of this proposed venture is 1830' FSL and 660' FEL of Section 2. As reflected in the attached A.F.E., the estimated cost of a dry hole is \$128,000.00 and a completed well is \$173,000.00.

According to our records, the leasehold interest in this proposed proration unit is as follows:

<u>Company</u>	<u>Acreage</u>	<u>Percentage</u>
The Superior Oil Company	199.80	62.54696
Yates, et al	84.64	26.49637
Coquina Oil Company	35.00	10.95667
	319.44	100.00000%

It is our plan to use the A.A.P.L. Form of Operating Agreement and the Copas "68" Form of Accounting Procedure with The Superior Oil Company designated Operator.

We propose to commence operations in the immediate future, and it will be appreciated if you will advise us at your earliest convenience if you will participate. If you are unable to participate

BEFORE EXAMINER
CONSERVATION COM
Appl. REGISTRATION NO. 6
5091
Submitted by Superior Oil
Date Oct 31, 1973

Yates Petroleum Corporation, et al
August 23, 1973
Page 2

in this venture, we will negotiate a farmout. If this is agreeable, please execute one copy of the attached A.F.E. and return to this office.

Yours very truly,

THE SUPERIOR OIL COMPANY

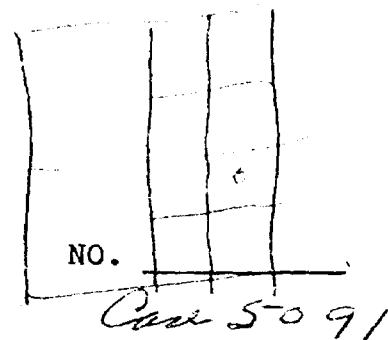
W. R. Lewis
Land Department

WRL:nd
atts.

cc: Mark D. Wilson
c/o Robert Boling
202 American Home Building
Artesia, New Mexico 88210

BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

APPLICATION OF SUPERIOR OIL COMPANY
FOR COMPULSORY POOLING IN AN
UNDESIGNATED WEST ATOKA-MORROW GAS
POOL IN SECTION 2, TOWNSHIP 18
SOUTH, RANGE 25 EAST, EDDY COUNTY,
NEW MEXICO.



A P P L I C A T I O N

Comes now the Superior Oil Company, by its attorneys,
and applies for an order pooling all mineral interests in the
E.1/2 of Section 2, T. 18 S., R. 25 E., Eddy County, New Mexico,
for the purpose of forming a 319 acre proration and spacing
unit in an undesignated west Atoka-Morrow gas pool in Eddy
County, New Mexico, and in support of its application states:

1. Applicant is the operator and a working interest
owner of certain interests in the East one-half of Section 2,
T. 18 S., R. 25 E., said applicant's interest comprising 199.80
acres.

2. Applicant is presently drilling a well on the aforesaid
acreage, the well being located 660 feet from the East line and
2,080 feet from the South line of said Section 2, in Unit I,
which well is presently projected to a depth of 8,800 feet in
a West Atoka-Morrow gas pool.

3. Applicant proposes to dedicate the entire East one-half
of Section 2, comprising 319 acres, to the well and has sought
joinder of all other mineral interest owners in the East one-
half of Section 2 for said purpose. Attached hereto is a list
of the other mineral interest owners and the approximate
acreage owned by each of them.

RECEIVED

Date: 12-19-13

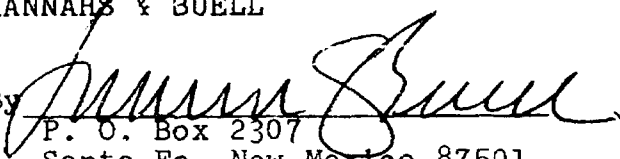
4. Although applicant attempted to obtain voluntary agreements of all mineral interests in the drilling of the well, there are still some mineral interests who have refused to join in dedicating their acreage and applicant seeks an order from the Commission pooling all mineral interests in the East one-half of Section 2, pursuant to § 65-3-14, N.M.S.A., 1953 Comp.

5. The Commission's order, to be entered pursuant to this application, should designate applicant as operator of the proposed well and should provide a reasonable charge for supervision and for the risk involved in drilling this well. Applicant requests that 200 per cent of the non-consenting working owners' pro rata share of the cost of drilling and completing this well be fixed as the charge for the risk involved in its drilling.

6. Approval of this application will prevent the drilling of unnecessary wells, protect correlative rights and prevent waste.

MONTGOMERY, FEDERICI, ANDREWS,
HANNAH & BUELL

By


P. O. Box 2307
Santa Fe, New Mexico 87501
Attorneys for Applicant

THE SUPERIOR OIL COMPANY

FORCED POOLING APPLICATION
E. 1/2, SECTION 2, T. 18 S.,
R. 25 E., EDDY COUNTY,
NEW MEXICO

INTEREST OWNER	NO. ACRES
✓ The Superior Oil Company	199.80
✓ Coquina Oil Company	35.0
✓ Yates, et al.	<u>84.64</u>
TOTAL	319.44

W. D. Doherty
M. L. Doherty
10-19-13

DRAFT

dr/

*Call Losse and Buell when
This order signed Finding (7)(8)(9) Order (3)*
BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 5091

Order No. R- 4607

APPLICATION OF SUPERIOR OIL COMPANY FOR
COMPULSORY POOLING, EDDY COUNTY, NEW
MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on October 31, 1973
at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this _____ day of November, 1973, the Commission,
a quorum being present, having considered the testimony, the record,
and the recommendations of the Examiner, and being fully advised
in the premises,

FINDS:

(1) That due public notice having been given as required by
law, the Commission has jurisdiction of this cause and the subject
matter thereof.

(2) That the applicant, Superior Oil Company,
seeks an order pooling all mineral interests _____
_____ underlying the E/2
of Section 2, Township 18 South, Range 25 East,
NMPM, West Atoka-Morrow Gas Pool, Eddy County, New
Mexico.

(17) That estimated well costs are \$128,000.00 for a dry hole and \$193,000.00 for a ~~producing~~ well ~~from~~ completed as a West Atoka-Marrow producing well.

(3) That the applicant has the right to drill and ^{Commenced} ~~propose~~ ^{has drilled} the drilling of a well at a point 2080 feet from the South Line and 660 feet from the East line of said Section 2.

(4) That there are interest owners in the proposed proration unit who have not agreed to pool their interests.

(5) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) That the applicant should be designated the operator of the subject well and unit.

(8) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs ^{within 15 days after the date of this order} to the operator in lieu of paying his share of reasonable well costs out of production.

(9) That any non-consenting working interest owner that does not pay his share of estimated well costs ^{within 15 days after the entry of this order} should have withheld from production his share of the reasonable well costs plus an additional 50 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(10) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(11) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

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(12) That \$159.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates); that the operator should be authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(13) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

~~(13) That upon the failure of the operator or said pooled unit to commence drilling of the well to which said unit is dedicated on or before _____, the order pooling said unit should become null and void and of no effect whatsoever.~~

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the Morrow formation underlying the E/2 of Section 2, Township 18 South, Range 25 East, NMPM, West Atoka-Morrow Gas Pool, Eddy County, New Mexico, are hereby pooled to form a standard 320 acre gas spacing and proration unit to be dedicated to a well currently being drilled and completed at a point 2080 feet from the South line and 660 feet from the East line of said Section 2.

~~PROVIDED FURTHER, that the operator shall commence the drilling of said well on or before the _____ day of _____, 1973, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Morrow formation.~~
~~PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the _____ day thereof on _____, 1973, said operator shall appear before the Commission and show cause why Order (1) of this order should be null and void and of no effect whatsoever.~~
~~PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the _____ day thereof on _____, 1973, said operator shall appear before the Commission and show cause why Order (1) of this order should be null and void and of no effect whatsoever.~~

PROVIDED HOWEVER, that the operator shall continue the drilling and completion of said well with due diligence in order to test the Morrow formation.

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(3) That \$128,000 is hereby established as the estimated well costs of a dry hole to the Morrow formation, and \$173,000 is hereby established as the estimated well costs of a well completed to produce from the Morrow formation.

~~PROVIDED FURTHER, that should said well not be drilled to completion or abandonment, within 120 days after commencement thereof, said operator shall appear before the Commission and show cause why Order (1) of this order should not be rescinded.~~

(2) That Superior Oil Company is hereby designated the operator of the subject well and unit.

~~(3) That after the effective date of this order and at least 30 days prior to commencing said well, the operator shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs.~~

order. (4) ~~That within 30~~¹⁵ days from the date ~~the schedule of~~ ^{of this} ~~estimated well costs is furnished to him,~~ any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) ~~That~~ That the operator shall furnish the Commission and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Commission and the Commission has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 45-day period the Commission will determine reasonable well costs after public notice and hearing.

(6) ~~That~~ That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs in advance as provided

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above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) ~~That~~ That the operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within ¹⁵~~30~~ days from the date ~~the schedule of estimated well costs is furnished to him~~ of This order.

(B) As a charge for the risk involved in the drilling of the well, 50 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within ¹⁵~~30~~ days from the date ~~the schedule of estimated well costs is furnished to him~~ of This order

(8) ~~That~~ That the operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) ~~That~~ That \$159.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates); that the operator is hereby authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

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(10) ~~9~~ That any unsevered mineral interest shall be considered a seven-eighths ($7/8$) working interest and a one-eighth ($1/8$) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) ~~10~~ That any well costs or charges which are to be paid out of production shall be withheld only from the working interests share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) ~~11~~ That all proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

(13) ~~12~~ That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.