

CASE 5158: Application of CITIES
SERVICE FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

CASE No.

5158

Application,

Transcripts,

Small Exhibits

ETC.

NEW MEXICO OIL CONSERVATION COMMISSION

COMMISSION HEARING

SANTA FE, NEW MEXICO

Hearing Date APRIL 23, 1974 TIME: 9 A.M.

NAME	REPRESENTING	LOCATION
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JIM GILHAM	USGS	Roswell
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CLYDE BROWN	Continental Oil Co.	Fort Worth
L. O. VAN RYAN	El Paso Natural Gas	Farmington
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John K. [unclear]	Self	Abiqui, N.M.
Robert W. [unclear]	Dr. P. [unclear]	Alto

COMMISSION HEARING

Application of Cities Service Oil Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause seeks an order pooling all mineral interests in the Pennsylvanian Formation underlying the East 1/2 of Section 29, Township 21 South, Range 27 East, Eddy County, New Mexico, to be dedicated to its Simpson Well #1 to be drilled at an orthodox location for said unit. Also to be considered will be the cost of crilling and completing said well.

Also the application of Michael P. Grace and Corinne Grace, this case will be heard de novo pursuant to the provisions of Rule 1220.

TRANSCRIPT OF HEARING

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and
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MR. PORTER: Call for appearances in Case 5158.

MR. KELLAHIN: If it please the Commission, Jason Kellahin, Kellahin & Fox, appearing with Tom Kellahin on behalf of Cities Service Oil Company. We will have two witnesses.

MR. BORKENHAGEN: If the Commission allow, Robert Borkenhagen, Coors, Singer & Broullare, Albuquerque, appearing for Michael P. Grace. I think we will call two witnesses.

MR. PORTER: I would suggest at this time that all four witnesses, or potential witnesses, be sworn.

(Witnesses sworn.)

MR. KELLAHIN: If the Commission please, this is an Application brought as a hearing de novo under New Mexico statutes on the Application of Michael P. Grace in Case 5158. The original Case was heard on January the 30th before Examiner Daniel S. Nutter, and pursuant to that Hearing an order for compulsory pooling, No. R-4721, was entered on February the 13th, 1974, pooling all of the acreage in the area involved in this Application, including the acreage owned by Mr. Grace. Mr. Borkenhagen was present at the Hearing in January and in the interests of saving time I would move that the Transcript and Exhibits offered in the Hearing of January 30th in Case 5158 be

incorporated into this record and we will then supplement it to bring the matter up to date.

MR. PORTER: Is there any objection to Counsel's motion for incorporating the record of January 30th upon which R-4721 was based?

MR. BORKENHAGEN: No, Mr. Chairman.

MR. PORTER: Then the Commission will incorporate the record of January 30th.

MR. KELLAHIN: I would like to call our first witness, Mr. Frank Riney.

FRANK RINEY

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Would you state your name, please?

A Frank Riney, Cities Service Oil Company.

Q What is your position with Cities Service Company, Mr. Riney?

A I'm a Landman in Cities Service Oil Company.

Q Are you the same Mr. Riney who testified in the Hearing on this matter on January 30th, 1974?

A Yes, sir.

RINEY-DIRECT

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Q Are you the Landman who has been involved in negotiations attempting to put together the Unit involved in this Application?

A I am.

Q Mr. Riney, subsequent to the Hearing on January the 30th, 1974, have there been any further negotiations in connection with this Case in an effort to get a voluntary agreement?

A Yes, sir; on February the 14th we wrote Mr. Grace a letter turning down the trade that was offered by them. This information on the trade was included in the previous hearing and at that time we again asked them to participate in the drilling of the proposed test.

Q Referring to what has been marked as Cities Service Exhibit No. 1, is that the letter of February 14th to which you referred?

A That is correct.

Q What was the results of the writing of that letter?

A I received a call from Mr. Borkenhagen and he reiterated that they still would like to make the trade.

Q Now, what trade do they propose to make?

A That was a trade of acreage in Section 29, the proration unit, for some Cities Service acreage in

Section 25 of 21-26.

Q Now, was it ever specified as to what particular acreage and how much was involved in this proposed trade?

A No definite particular lease or tract or any particular amount.

Q Mr. Borkenhagen in his conversation didn't specify so much acreage or anything of that nature?

A No.

Q Did you receive anything in writing in response to your letter of February 14th?

A No, I did not.

Q Were you able to make any agreement at that point?

A No, we were unable to reach any kind of agreement.

Q Now, did you write an additional letter in connection with this matter and attempt to make some agreement?

A On March the 20th, 1974, we wrote another letter making two different offers: One to buy the acreage in the proration unit and another to trade different acreage.

Q Now, were either one of those offers accepted?

A No.

Q Did you hear from Mr. Grace or one of his agents?

A I heard from Mr. Borkenhagen last Friday.

Q What was the tenor of that conversation?

A They did not like either of our proposals and again stated that they wanted to trade acreage in Section 29 for the acreage in 25 of 21-26.

Q Now, again, did he specify what acreage or how much acreage he wanted to trade?

A No definite amount and no particular tract or lease.

Q Did you have any further contact with Mr. Borkenhagen, Mr. Grace, or any of his agents?

A On Friday Mr. Borkenhagen asked if there was a possibility of them coming in on the test without the penalty, payment of a portion of their part on the test. We discussed this several times on Monday by phone with Mr. Borkenhagen and the decision was, "No."

Q Now, about penalty, you have reference to the risk factor that was provided in Order R-4721?

A That's correct.

Q That, I believe, was 50-percent risk factor. Did you have any discussions with Mr. Grace here this morning?

A No.

RINEY-DIRECT

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Q At the time of the hearing in January the 30th, Mr. Riney, there were other interests which at that date had not been proved, is that correct?

A That is correct.

Q Could you tell us what those interests were and what has occurred subsequent to the January Hearing?

A Fred L. O'Cheskey here has owned approximately six acres, and in the last hearing we received a letter from them -- I believe it was February, January 9th -- from Fred L. O'Cheskey speaking for the heirs said that they would participate and pay their proportionate share of the cost of the well.

Q Was that offered as Exhibit No. 4 in the original hearing?

A That is correct.

Q Subsequent to that did the Fred L. O'Cheskey heirs actually join in the well?

A Yes, they did.

Q And, was any risk factor assessed against them?

A There was not.

Q What was the reason no risk factor was assessed against them?

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A Because they had committed to participate in the drilling of the test and pay their proportionate share of the cost in January, and advised us at that time that it would probably be some time before they would furnish us with an executed agreement due to one of the heirs being in a remote area of Africa someplace.

Q And they have all signed at this point, is that correct?

A Fred L. O'Cheskey had a power of attorney and in the partnership executed for all of them.

Q Mr. Riney, were Exhibits 1 and 2 letters taken from your files, being copies of letters addressed to Mr. Grace?

A That is correct.

MR. KELLAHIN: At this time I would like to offer into evidence Exhibits 1 and 2.

MR. PORTER: Without objection, Exhibits 1 and 2 will be entered into the record, these being these two letters.

MR. KELLAHIN: Yes.

(Whereupon, Cities Service Oil Company's Exhibits 1 and 2 were admitted into evidence.)

CROSS EXAMINATION

BY MR. PORTER:

Q Mr. Riney, in your letter of March 20th, my copy isn't very plain, what is that offer for acre under Proposition 1 there?

A March 20th, what was that now?

Q Under Proposition 1, what is the amount offered per acre?

A \$300 per acre.

Q Thank you.

MR. PORTER: Does anyone else have any questions of Mr. Riney?

MR. BORKENHAGEN: Yes, sir, I do.

CROSS EXAMINATION

BY MR. BORKENHAGEN:

Q Mr. Riney, going back to the hearing that was held on January the 30th, at that time we were dealing with, is that Section 29 of 21, of Township 21 South, Range 27 East?

A That's right.

Q At that time do you recall giving me two maps, both prepared by Cities Service -- you should probably still have a copy of them -- outlining the Michael P.

RINEY-CROSS

Grace land and the land that you had indicated as the F.L. O'Cheskey heir's?

A Correct.

Q Is that an accurate description or drawing of the land that we are dealing with here today as far as the objection goes?

A To the best of my knowledge, it is.

Q Now, this is Section 29. Well, the F.L. O'Cheskey map shows a figure of 28. What is that figure? It is right in the center of it.

A Oh, must be Block 28 of where it's a subdivision in Section 29 as near as I'm aware of.

Q Now, going back to that hearing again, as Mr. Kellahin has brought out, we were discussing trading, is this correct?

A Correct.

Q Do you also recall my statement that we did not object to being in the -- I think I used the term "pool," "forced pool"?

A I don't know what the exact wording was, but it is a part of the previous testimony, but I don't know exactly what it was.

Q And also that we did not object to the penalty

RINEY-CROSS

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rate at that point?

A I remember that you did not object to that.

Q Now, in your February 14th letter you asked us to join you in the Cities Service drilling, is this correct?

A Correct.

Q In the March 20th letter you did not ask that but was that correspondence of March 20th still part of this negotiation to try and swap us out?

A I don't understand the question.

Q Was the March 20th letter and your offer to either buy or to trade -- buy in Proposition 1 and to trade in Proposition 2 -- was that a continuation of our effort to swap this land that Mr. Grace has that was in the proposed forced pooling unit?

A No. Now you're talking about our acreage in Section 25 and Mr. Grace's in 29?

Q What I'm asking, is this still an effort to trade out?

A This is still an effort to satisfy Mr. Grace to get him out from under the proration unit, yes, if that's the question.

Q It's not a proration unit, it was a forced pool.

A Well, forced pool, yes.

Q Now then, our efforts to trade were still going on?

A Under this letter, yes.

Q And, were they still going on this morning? Have I approached you?

A You approached me this morning, correct.

Q And made a proposition to you to trade?

A Yes, you gave me a letter, true.

Q And you have turned that down, is that correct?

A That is correct

MR. BORKENHAGEN: At this time, your Honor -- I have not marked these as yet; this is Grace's Exhibit No. 1.

(Whereupon Grace's Exhibit No. 1 was marked for identification.)

BY MR. BORKENHAGEN:

Q As you see it, our really basic argument now is to the penalty; we've indicated a desire to get into the well or go ahead and trade it out, but if we get in we do not want the penalty, is that correct?

A That's my understanding.

Q Now, the O'Cheskey group that you were referring

to, I think you stated that they had not been assessed a penalty, is that true?

A That's correct.

Q Would you please restate why they had not been assessed a penalty?

A We received a letter from them on January the 9th, 1974, saying that they would participate and asked us to send them the necessary forms for execution.

Q Is this a correct statement, that you are not assessing them the penalty solely because of their express intent to join with you on drilling the well?

A I can't say that, no.

Q Well then, what is your basis for not assessing a penalty against them?

A They sent in the fully executed operating agreement and AFE, we received that around the first of April.

Q Around the first of April. Was that signed by all of them at that time?

A It was signed by Fred L. O'Cheskey as a partner and as Power of Attorney for them.

Q Did he enclose the Power of Attorney at that time?

A Yes.

Q He did. Do you have that with you?

A I found that here, yes.

Q Could I see it please?

A That is for whom?

Q And that Power of Attorney is for whom?

A For Lee Thomas.

Q And what date was that?

A It shows February the 12th, I believe.

Q Is this the date that the Power of Attorney was executed?

A And was acknowledged on that date.

Q Okay. Do you have a time as to when you received that?

A It would have been around April 1st.

Q It would have been around April the 1st. The 30 day period for paying your way ran at what date?

A I'm not sure. I believe it was probably the middle of March, wasn't it? I don't know. Thirty days from the date schedule -- let's see -- the Order came out February 13th so I imagine it would have been around March 13th.

Q So that Power of Attorney and all the executed documents were received by you after that 30 days had run, is that correct?

RINEY-CROSS

A That's correct.

Q Now, had they entered into any kind of binding or written relationship with you prior to that March 13th date in which the 30 days would have run?

A Just that letter in January of this year.

Q At that time, Mr. O'Cheskey did not have a Power of Attorney, did he?

A No.

Q So then -- correct me if I'm wrong -- it's at your own discretion that you are exercising to let them in because they had indicated a willingness to be in there earlier but they had not in fact written anything to you or in fact contracted with you at that point?

A I discussed it with him, Mr. Fred O'Cheskey, by phone in addition to the information which we received in the letter, and due to the one person being in a remote area of Africa, they advised me that it would be some time before we would get the executed instrument.

Q But, by my comment at the close of the last hearing, don't you feel that we conditionally accepted also, which is what that was with Mr. O'Cheskey?

A I understood it was on the basis of us making this exchange of acreage that had been proposed.

Q Did you have anything to do with the preparation of this particular map, the one that you were looking at earlier?

A No, I did not.

Q Are you familiar with what it depicts?

A Somewhat, yes.

Q Well then, would you be able to comment on whether this is an accurate depiction of what it is supposed to be?

A No, I can't.

Q You cannot, okay. In your own internal decision-making process within the Company to decide whether or not you would be exchanging with Mr. Grace, were you depending on this particular map that we have just referred to?

A No, other than the amount of acreage and the general location.

Q Now, how much is that O'Cheskey acreage?

A Let's see, I think we estimated at approximately six acres, 5.65; that was an estimate.

MR. BORKENHAGEN: Does the Commission have a copy of this from the last time?

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

RINEY-CROSS

BY MR. BORKENHAGEN:

Q What did you say was the amount of block-out acreage so far as O'Cheskey was concerned?

A O'Cheskey, we estimated 5.65 acres.

Q What was Mr. Grace's estimate?

A Roughly the same.

Q Now, looking to the top of the O'Cheskey block-out, I see the figure 14,594 feet and 1/4 inches. What is that?

A That is our Lease number.

Q That is your Lease number?

A Right.

Q So that in no way goes to indicate size?

A No.

Q In going over this, originally we looked at this and figured out that this would represent something in excess of 200 acres. Now, maybe we had miscalculated, but I don't believe so.

A Oh, no. Actually if you look at this plat on top, there would be a note there that says, "See attached sheet for plat covering the South half, Southeast quarter of Section 29," so that whole thing is only 80 acres.

Q So that whole thing is only 80 acres?

RINEY-CROSS

REDIRECT

A Yes.

Q Mr. Riney, in correspondence on February 21st of 1974, in which Mr. Motter said to the Oil Conservation Commission, re the compulsory pooling, in there he stated that all nonconsenting-working-interest owners are being furnished a copy of the drilling well estimate, and a copy of that went to the heirs of Fred L. O'Cheskey. Now, was your office considering that they were nonconsenting at that particular point?

A I wasn't.

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

BY MR. BORKENHAGEN:

Q Mr. Riney, when that was signed by Mr. Motter, did you have knowledge of that?

A I saw it this morning for the first time.

MR. BORKENHAGEN: I have nothing further.

MR. PORTER: Mr. Kellahin?

REDIRECT EXAMINATION

BY MR. KELLAHIN:

Q Mr. Riney, there were some questions asked about some acreage in connection with Exhibit 1 of the previous hearing; do you know what interest the O'Cheskey heirs

RINEY-REDIRECT
RECROSS

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held in that particular tract shown on the Exhibit?

A They owned a half interest.

Q Is that actually a half interest of the tract shown on the Exhibit?

A That is correct.

MR. KELLAHIN: That's all.

MR. PORTER: Any further questions of Mr. Riney?

RECROSS EXAMINATION

BY MR. BORKENHAGEN:

Q Mr. Riney, what is their half interest, half interest in that --

A (Interrupting) Half interest in the acreage outlined in the orange.

Q In the orange?

A Right.

Q And, again, would you state how much that is, please?

A Roughly, I think roughly six acres; 5.65 estimated.

Q Thank you.

MR. PORTER: Any further questions of Mr. Riney?

The Witness may be excused.

MR. KELLAHIN: I would like to call Mr. E. F. Motter.

MOTTER-DIRECT

(Witness previously sworn.)

E.F. MOTTER

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Would you state your name, please?

A E.F. Motter.

Q By whom are you employed and in what position, Mr. Motter?

A Cities Service Oil Company, Engineering Manager of the Southwestern Region.

Q In connection with your work as Engineer for Cities Service do you have anything to do with the area involved in this Application?

A Yes, I do.

Q Were you a witness in the hearing held before the Commission's Examiner on January 30, 1974?

A Yes, I was.

Q Mr. Motter, at that time did you submit an estimated well cost?

A Yes I did, I believe that was Exhibit No. 6.

I have extra copies if the Commission would like to see them.

MOTTER-DIRECT

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Q I hand you what has been marked as Cities Service Exhibit No. 3 in this Hearing; is that the estimate that was offered at the previous hearing?

A Yes, it is.

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

BY MR. KELLAHIN:

Q Has drilling commenced on the subject well?

A Yes, it has.

Q What is the status of the well at the present time?

A As of 7:00 this morning the well was drilling at 10,404 feet.

Q Mr. Motter, have you encountered any cost you did not anticipate at the time you made your original estimate?

A Yes, we have.

Q What is the nature of those?

A We encountered a high pressure zone at approximately slightly below 9,000 feet. Normally in this area, the wells to the east, which I think were referred to in the previous hearing, have required about 9.3 pound mud; in this particular case we had to go, well actually this morning we were carrying 10.7 pound mud, and

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anyone that's familiar with drilling knows that when you carry heavier muds your penetration rates decrease. As an example, yesterday we made 74 feet in 23 hours of drilling; in the well immediately east of this; in the interval from 9600 to 10,450, was drilled with 9.2 pound mud we averaged better than 400 feet a day. So, although the footage cost of the contract will not go up, the incidental cost, with mud, etc., will probably increase somewhat over the \$329,900 that we gave as the original estimate.

Q Now, at the time of the hearing in January 30th you testified as to the risks involved in the drilling of this well. Do you have any change in your testimony in that connection?

A Well, no sir, because we haven't reached the objectives that we were striving for in that particular hearing.

Q That is the Morrow formation?

A Pennsylvanian.

Q Pennsylvanian. And you have not yet reached it?

A Well, don't put me on the spot; we've run no logs so we can pick tops, but we're probably in the Strawn as of right now, Pennsylvanian.

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MOTTER-DIRECT

Q You don't expect you will be completing the well for some time yet?

A No, it will take some more time, yes.

Q Now, under the terms of Order No. R-4721, you were required to furnish the Commission and each known working-interest owner an itemized schedule of the estimated well costs. Did you do that?

A Yes, I did, and I believe that's the letter that Mr. Borkenhagen and Mr. --

Q (Interrupting) Is that the letter that is marked as Cities Service Exhibit No. 4?

A Yes, that is correct.

Q Are the estimates attached to that Exhibit the same estimates that were offered at the Examiner Hearing on January 30th?

A Yes they were, that is Exhibit No. 6; it was offered at the earlier hearing.

Q Now, Mr. Borkenhagen raised the question as to whether you considered the O'Cheskey interests as nonconsenting owners at the time that was sent out.

A Well, maybe I used a poor choice of words. The Order states that each known working-interest owner in the subject unit shall be furnished an itemized schedule of

MOTTER-DIRECT

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all estimated well costs. We knew -- I may be incorrect in this -- I think there are 9 partners involved in this. Seven of them had been furnished AFE's and signed. We knew that the O'Cheskeys and the Graces had not been furnished copies, and so really as a matter of expedience and be sure I had covered all my tracks I included a copy to the O'Cheskeys.

Q Mr. Motter, the Exhibit No. 3 is the copy of the AFE which was submitted previously, is that correct?

A Yes, it is.

Q And Exhibit No. 4 is a copy of a letter from your files?

A That's correct.

MR. KELLAHIN: At this time I would like to offer into evidence Exhibits 3 and 4.

MR. PORTER: If there are no objections Exhibits 3 and 4 will be offered into evidence.

(Whereupon, Cities Service Exhibits

Nos. 3 and 4 were admitted into evidence.)

MR. KELLAHIN: That's all the questions I have of the Witness.

MR. PORTER: Mr. Borkenhagen?

CROSS EXAMINATION

BY MR. BORKENHAGEN:

Q Mr. Motter, how close is the nearest off-set, do you know?

A Our nearest off-set is approximately a mile east, the Elizando Federal.

Q Have you been handling the correspondence with the O'Cheskeys?

A No, I have not, with the exception of this one particular instance here. I normally take care of the Orders that come from the Commission and see that the correspondence is carried out or if there are other directions in there I will see that they get final cost of the well, etc.

Q Are you familiar with the efforts attempting to swap out this particular matter?

A Well, yes, just office conversations.

Q Have you had any -- for lack of a better term -- input into determining whether they would or would not swap?

A No, I can't say that.

Q Were you here for the close of the hearing that this de novo hearing was taken from?

A Yes, I was.

Q Have you read the transcript?

A Yes, I have a copy of the transcript. Mr. Kellahin has it right now.

Q Now on the last page, my last statement, have you read that?

A Yes, I would be glad to read it if the Commission wants me to. I don't think I can quote it verbatim.

Q Now, in that I state that its opposition and Mr. Grace's position is not going to oppose being in there, and I say "being in on the forced pooling."

MR. KELLAHIN: If the Commission please, I think it would be helpful just to read it into the record.

MR. PORTER: I believe so. We will allow the Witness to read from the transcript, Mr. Borkenhagen.

MR. MOTTER: If I may, this is taken from page 15, Case 5158, and it's a question from Mr. Nutter. (Reading) Does anyone have anything they wish to offer in Case 5158? Mr. Borkenhagen? MR. BORKENHAGEN: Michael Grace is right now actively trying to trade out six acres and we hope to get it completed within the next 30 days. If we can trade it out then it is my understanding that Mr. Grace is not going to oppose being brought in on the

forced pooling. We have no objection to the risk factor.

MR. NUTTER: Thank you. (End of reading.)

MR. BORKENHAGEN: Thank you Mr. Motter.

BY MR. BORKENHAGEN:

Q Do you interpret that to say that Mr. Grace is not going to participate in the well?

A Well, I don't really feel like I am qualified to --

Q (Interrupting) I'm asking for your opinion.

A I would have to turn my attention to the Order that says 30 days after the date of the Order in which penalty is invoked.

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

BY MR. BORKENHAGEN:

Q Referring to Exhibit No. 1 which was introduced today, at the last paragraph, would you please read that into the record?

A (Reading) We again request that you join Cities in the drilling of the proposed 11,000 acre-foot Morrow test located in so and so and so.

Q Did you receive any correspondence, or did anyone to your knowledge, that indicated that Mr. Grace was

refusing to join you at that time?

A I received no correspondence, no communication at any time.

Q At the time, or later, has there been any withdrawal of that offer to participate in the well?

A You mean Cities Service withdrew the offer?

Q Right.

A I can't speak --

Q To your knowledge, that's all we are dealing with.

A I would have to talk to Mr. Riney, he deals with the land department. I'm strictly operations.

Q But as far as you knew then that was still open at that time?

A Yes, I think that letter was dated March 4 --

Q (Interrupting) It was the day after the Order came out which was February 4th.

A February 4th, I'm sorry.

Q Who in your organization had the authority to make those offers, an offer to participate or withdrawal of an offer?

A Well, normally in a major company there are a number of people that do evaluating and then we have

naturally one particular manager who makes the final decisions.

Q Who in your office, that you're familiar with, would make that final decision?

A Well, it's our Region Manager who made the final decision.

Q Was that Mr. Riney?

A Not Mr. Riney.

Q Who is it then?

A It is Mr. Hartwell who is in the room today.

Q Did you have the opportunity to inform either Mr. Grace or myself that the request to join them, to join Cities Service on the pool, on the well, was being withdrawn?

A No, I don't believe I ever heard such a statement.

Q To your knowledge, did Mr. Riney have the authority to continue this offer or request for the Graces to join in that pool or the well?

A Mr. Borkenhagen, I can give you an opinion, but quite frankly you are out of my realm of operations. My

dealings are in operations and drilling and completing and producing of the wells.

Q Well, the rules of evidence here are not that strict.

A Well, I know, but we're talking about something here that is really a land or trading problem in this particular area and I just honestly don't feel like I'm qualified to answer these questions.

Q In your own opinion, my last statement, the statement that you read into the record, does that state that, "No, Mr. Grace will not participate in the drilling of the well"?

A You ask me for my opinion; I'd elaborate a little bit. I can see that if this were left open-ended, negotiations could go on for years and years, and maybe never be solved.

Q That is correct, and Cities Service was in fact negotiating as late as today and yesterday, but by writing they were negotiating as late as March 20th, is that correct?

A That's correct.

Q And that is past the 30-day limit as set out in the February 13th Order, is that not correct?

A Yes.

Q You did say that's correct? What was your answer to that?

MR. KELLAHIN: If the Commission please, I'm going to object to this line of questioning. I think we've gone a little bit far afield from direct testimony and the question whether the offer to Mr. Grace was withdrawn or not I think is moot. The Commission by its Order R-4721 giving 30 days, and 30 days has expired and I think that's the end of it. Now, Cities Service certainly can, in its effort to be a good neighbor, continue to attempt to reach some conclusion, but that in no way invalidates the Commission's Order.

MR. BORKENHAGEN: Your Honor, if you would accept that, then no matter what the good neighbor intent of Cities was, at the moment it passed that 30-day limit then the O'Cheskey heirs are going to be penalized also if we're going to accept what is implicit and what they're arguing that the Commission has ordered that the penalty be imposed on the 31st day, well I think that the testimony has shown that the O'Cheskeys were not in there at that time and that Cities is not going to penalize them the 50 percent. That's all we're asking, and for that I would

say that this line of questioning is relevant.

MR. PORTER: What do you hope to accomplish with this line of questioning as far as the O'Cheskeys are concerned?

MR. BORKENHAGEN: To show, one, that we are not being treated equally. That on one side they are using the Commission as a sword in penalizing us, that 50 percent, whereas if you turn their argument around then the O'Cheskeys should be penalized, but they are not. They said they would join them but there was nothing signed validly binding them at all to join them until after the 30-day period had run. If you take their argument that they can go ahead and penalize us on that magic 31st day, then they're not dealing fairly with penalizing us but not penalizing the O'Cheskeys.

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

MR. PORTER: Bob, is it your position that if this Commission enters an order authorizing--and that is what the Order says--a risk factor of 50 percent, is it your position that the Commission must require the Applicant in this case to assess that risk factor to all parties involved?

MR. BORKENHAGEN: No, with an explanation.

MR. PORTER: Well then, what I'm wondering then is what you are trying to get the Commission to decide here?

MR. BORKENHAGEN: That, one, we feel we have been unfairly treated and that it has gone along, we have been discussing trade and everything else, that now that we have not been able to get to a trade, they say, "All right, at the 30th day the penalty went into effect," that's been the tenor of the conversations with them, 30-day magic number. We were continuing to try to negotiate to get out of it. We even tried today. It is our position that they are treating us unfairly. I don't know whether because maybe Mr. Grace is an independent producer or what, but we've got two people that are basically in the same position and they are treating one totally different. I'm going to make the argument that in closing at the original hearing I did not say "No, we don't want to get into the well, or participate in the well." Maybe it was inartfully worded at that particular point, but he had no opposition to being in the forced pooling at that time, and here my argument -- and -- I'll be frank with you, I'm trying to make a record also --

Cities Service has said that Mr. O'Cheskey said "We want to get in with you; I've got to get the Power of Attorney and all the rest of this stuff." He did that after that period of time. Now, I would argue that what we try to do, saying that we've got no objection to being there but we would like to swap out, essentially the same thing, but they are using the Commission, which is an instrumentality of the State, to go after us where they're not using it on the other side to go after Mr. O'Cheskey.

MR. PORTER: Well then, would it be up to the Commission to determine whether Cities Service would go after the O'Cheskeys in the same manner that they are you?

MR. BORKENHAGEN: What we're --

MR. PORTER: (Interrupting) What I'm trying to find out is what you're asking us to decide here.

MR. BORKENHAGEN: In effect, I want to ask you to not assess a penalty in the Order here because we've only got two people that are really standing up or doing anything. The O'Cheskeys have already signed and said that we're participating; Mr. Grace has said that we will participate, but they say, "No, we want the penalty."

MR. PORTER: Are you going to ask the Commission

to remove the risk factor here?

MR. BORKENHAGEN: I'm sorry?

MR. PORTER: If you're going to ask the Commission to remove the risk factor here, based on the fact that you think it's unjust or unfair or it isn't an appropriate risk factor, are you going to ask us to change that risk factor based on the fact that they are assessing one party and not the other?

MR. BORKENHAGEN: Sum of all of it. I plan to put on Mr. Carlson to show the risk factor -- since this is a hearing de novo and I might say we don't oppose it down there -- the reason we didn't oppose it was that we were going to be in the thing if we couldn't swap it out, and the risk factor would not even have gone in there. It wouldn't have mattered.

MR. PORTER: Do you feel that the Graces, Mr. Grace has been prejudiced, his interests have been prejudiced in any manner by Cities Service not assessing the risk factor against the O'Cheskeys?

MR. BORKENHAGEN: Prejudice, legally he is going to be liable for 50 percent more as far as the money goes. That's a legal obligation that he would not have otherwise. Even if they took it out of production, he's going to have

to pay the 50 percent. Now he tries to get into the well without the 50 percent charge.

MR. KELLAHIN: If the Commission please, I think a lot of important factors are being over looked in this discussion. In the first place, the Order R-4721 9 says that any nonconsenting-working-interest owner shall have the right to pay if he pays it within 30 days. Now, the letter of February 14th, Exhibit No. 1 here today, gives him notice again that we again request you to join and in 30 days he did not join and so he waived the right which Order R-4721 gave him. Now, when we come to O'Cheskeys, in the transcript, Page 6 of the hearing of January 30, Question, Mr. Riney was testifying, Question, would you please refer to your next exhibit which is Exhibit 4 and identify it? Answer, a letter from Fred L. O'Cheskey, he is one of Fred L. O'Cheskey's heirs, in which he states that they wish to join us in drilling the forced pool test. However, there are four or five heirs spread all over the world; it's going to take some time to conclude getting signatures for the operating agreement on this. Now, at the very outset we admitted that the O'Cheskey heirs through their representative here in Santa Fe had agreed to join in the forced pool test. In an abundance

of caution in the event we didn't get the operating agreement signed by the time we started drilling the well, we named them in the forced pooling agreement. That's quite a different situation than the situation of Mr. Grace, whose representative was here and present at this hearing, had the opportunity and knew exactly what has been testified to. He had notice when the order was entered, he got notice of the well cost and he let the 30 days go by and he didn't join and that is just all there is to it. He has no right today to come in here and say that we're trying to do something unfair to him. We're doing exactly what the Statutes and Order says we can do. He waived his right to participate in the well by not responding within the time limit.

MR. PORTER: If I understand you, Mr. Borkenhagen, you are not objecting to the forced pooling order, you are objecting to the risk factor assigned.

MR. BORKENHAGEN: Yes.

MR. PORTER: I believe that the Commission will entertain testimony only as to whether this is an appropriate risk factor in this particular set of circumstances, whether 50 percent is too much, and not, I think the testimony should go to that rather than whether the

Applicant is dealing the same way with the O'Cheskeys as with Mr. Grace.

MR. BORKENHAGEN: What bothers me about the way they are dealing, though, is that they are using an instrumentality of the State in what we suggest is a discriminatory manner, and we would suggest that there is involved a State action here, albeit passive on your part, but still involving the state in what we claim is discriminatory in we -- Mr. Kellahin made that argument again -- we passed that 30 day point. But I would argue that from the outset we have never said that "No, we will not participate in that well."

MR. PORTER: Well I think --

MR. BORKENHAGEN: (Interrupting) From the point of that hearing --

MR. PORTER: (Interrupting) You're not objecting to the forced pooling?

MR. BORKENHAGEN: We're not objecting. We would either want to swap out or get into it, and they want that penalty; we don't want to pay that penalty because, one, we feel that the primrose path, we've been walked right on down it, and that we have been trying to swap it out even up to today.

MR. PORTER: Well that is a matter that you're going to have to work out with Cities Service as far as swapping the acreage, you can't bring the Commission into this action, and I feel that your testimony, and I think it's the feeling of the Commission, that your testimony should go to whether this is a proper risk factor or not, and not as to whether Cities Service is treating one participant here differently from the other.

Then I think that if you would like to question the Witness as to his direct testimony and then you can put on testimony as to whether you feel this risk factor is improper.

MR. BORKENHAGEN: Then to the Commission we would offer our acceptance of the following --

MR. PORTER: (Interrupting) That ruling.

MR. BORKENHAGEN: Of --

MR. PORTER: (Interrupting) You can always register your objections, certainly.

MR. BORKENHAGEN: We would accept getting into the well, but we would like -- we have accepted -- I would like a hearing if you want to turn that into it on the administration of the penalty and also on the basis for the penalty, the facts going to it.

MR. PORTER: You can present testimony to try to show that this risk factor of 50 percent is improper. If you can show that it should be less, then that's fine, but your testimony should go to that point.

MR. KELLAHIN: If the Commission please, we would like to make an objection to the Commission's ruling for the reason that Mr. Borkenhagen, in his statement at the close of the previous case, which has been admitted here without any objection on his part, says, "We have no objection to the risk factor," and certainly I think we have the right to accept that as being a statement of their position then and now since no objection was made when we offered the transcript in this case.

MR. PORTER: This is a de novo hearing, though, Mr. Kellahin, and I feel that Mr. Borkenhagen should be able to offer testimony as to whether or not this is a proper risk factor.

MR. KELLAHIN: We're going to question Mr. Motter further ourselves in order to reiterate our position in connection with the risk factor. We've only touched on it very brierly.

MR. PORTER: You have that privilege because you, I'm sure, because of the Corporation's previous

record you thought that had been satisfactorily covered.

MR. KELLAHIN: That's right.

BY MR. BORKENHAGEN:

Q Mr. Motter, do you have the figures on that well cost to date?

A Well cost to date?

Q Yes.

A Yes, sir, I do have.

Q You also have your detailed-well estimate which you originally passed out or gave to us at the original hearing. Would you please, starting with the first item and going down as far as has been completed, would you give us what those actual costs are?

A Well, no, I cannot do that down to that point, mainly because casing is not priced out normally until about the time that the well is completed, so I cannot give you pricing of casing. I can give approximate figures.

Q Have you bought the casing yet, though?

A Well, we've got the 10-3/4 and the 16 inch in the hole. I'll try to do my best on that.

Q What about the casing that you're going to put in, do you have it purchased under contract?

A We have the casing available, but in the operations

of a major company you do not buy a string of pipe, you buy so much quantity; this is all lumped into all the size of pipe you buy at various times through the month and is averaged out. This is so one party doesn't get discriminated against on one well or another. I can't tell you what that pipe will be charged out at when we run it in the well.

Q Okay, would you go ahead with those figures?

MR. PORTER: He said, I believe --

MR. BORKENHAGEN: (Interrupting) Yes, he said he couldn't go all the way down, well, until he gets to that particular point.

MR. MOTTER: I'll be glad to run through our logs if you would like. All right.

BY MR. BORKENHAGEN:

Q For the sake of order, can you start at --

A I'm going to go on our chronological of our drilling the well; I'm not going by the AFE because that doesn't follow the sequence that you normally --

Q (Interrupting) Okay.

A All right. After we set 13-3/8th inch casing we had spent \$24,600. Bear in mind, this includes rig costs, incidentals, mud, etc. and so on.

Q Do you have a breakdown on that?

A No, I don't have a breakdown.

Q Do you have it all lumped together?

A Lumped together. (Continuing) At the time that we had set the 9-5/8th inch casing at 3100 feet we spent \$68,200.

Q What was that?

A \$68,200.

Q The footnote?

A That was we set 9-5/8ths at 3100 feet. There has been no more casing set in the well that I can give you our running cost today and I want you to understand and I want the Commission to understand that it is very difficult. We try our best to keep these numbers as best we can but we can't pinpoint everything. There are always late charges coming in, but as of this morning, at 10,404 feet, our estimate cost of this well was \$174,150.

Q Do you have a breakdown on that at all?

A I can break it down to days, but I cannot break it down to items.

Q Would you please?

A By day?

A By day.

A If you want me to read all this in the order it's going to take a long time.

MR. PORTER: Actually, are these questions pertinent in determining whether this is a proper risk factor?

MR. BORKENHAGEN: Your Honor, we think so. I think all of this goes to determine whether or not this is a proper risk factor, this among other things.

MR. TRUJILLO: Mr. Motter, this is the cost for how many days?

MR. MOTTER: Just a moment.

MR. TRUJILLO: Just the number of days.

MR. MOTTER: I can tell you, just a moment; 38 days.

BY MR. BORKENHAGEN:

Q As far as the well goes, have you reached your objective yet, and I think that was what, the Morrow?

A Oh no, we're considerably a long distance from the compulsory pool formation.

Q Well, then, the risk is the same today as it was when you started, is that correct?

A Certainly is.

Q So for a person coming in today it's just as much a known or unknown as it was at that time, is that

MOTTER-CROSS
-REDIRECT

correct?

A Well, let me say for the formation of the compulsory pool, yes.

MR. BORKENHAGEN: Nothing further.

MR. PORTER: Mr. Kellahin, do you have any further argument or further questions?

MR. KELLAHIN: Yes, sir, I would like to go into the question of the risk factor since it has been opened up.

MR. PORTER: Go ahead.

REDIRECT EXAMINATION

BY MR. KELLAHIN:

Q Mr. Motter, at the hearing in January you did testify in support of the risk factor of 60 percent?

A That is correct.

Q Now, what did you base this risk factor on?

A We based that on the experience we've had in wells in the area and our, what we think our knowledge of geology, this is a combination, this gets over in the area of geology, but we consider this and, if I might, I may add that in drilling in Eddy County, to my knowledge, I think I have testified in all these cases and there is only one case where we have asked for a risk factor of less than 50 percent.

Q Has the Commission granted a risk factor of 50 percent of wells in the vicinity of this one?

A Yes.

Q Would you name such a well:

A Our Pasley, which we just had here a week or two ago, was down south of here.

Q Now, you take into consideration the problems that are likely to be encountered in drilling a well when you assess the risk factor?

A Yes, we try to take into account the problems of drilling and we anticipated income which we would get on a successful well, and also we throw a factor in if it's unsuccessful.

Q Approximately how many wells has Cities Service drilled in this area?

A Well, in Eddy County, off hand, I'd say we have interests in or drilled approximately 20 wells; well, excuse me, it's more than that, about 35.

Q In assessing a risk factor, do you take into consideration the possibility of drilling a dry hole?

A We certainly do.

Q And, is that a distinct possibility in this particular case?

MOTTER-REDIRECT

A It could very well be.

Q Is there any production immediately off-setting the well location?

A Yes, there is.

Q Where is it?

A We have three wells to the east, one directly to the east approximately a mile away, diagonal to the north-east and diagonal to the southeast.

Q Is the nature of the Pennsylvanian formation which was pooled in this order such that you have any certainty what will extend a mile east or west?

A We feel we have some knowledge of the extent, we do not know the quality of the well.

Q Does it vary considerably from well to well?

A Yes.

Q Is that another factor you take into consideration?

A Yes, it is.

Q Now, in this particular well did you encounter any actual problems which you did not anticipate at the time of the hearing in January?

A Yes, I think that I mentioned that earlier, that at slightly below 9000 feet, and again I'm going to

MOTTER-REDIRECT

explain it from mainly the formation because we do not have the log, but we encountered high pressure and we had to increase the weight of the mud up to 10.3, excuse me, 10.7, and the off-set well to the east was drilled at 9.2 mud so the cost of the mud, plus reduced penetration rate, is going to add considerably to the cost of the well. Right now I couldn't make a real good judgment factor; it may be that we might be able to drill under balance and reduce this mud weight somewhat and increase our penetration rate.

Q Is that a factor you would have considered in January had you known it existed?

A Yes, sir. In fact I believe if you will check the transcript that I even noted in the transcript that there is a possibility at the Strawn, under high pressure, we might have to run an intermediate string of pipe in the well which would probably be 7 inch or 7 and 5/8ths and lighten mud and go on down into the Morrow, which could possibly overrun this estimate, this estimate I gave on provides for 5-1/2 inch casing to the Morrow.

MR. KELLAHIN: That's all I have.

MR. PORTER: Mr. Borkenhagen, do you have anything further?

MR. BORKENHAGEN: Yes, I do.

RECROSS EXAMINATION

BY MR. BORKENHAGEN:

Q The fact that you're going over the well costs really does not change the risk factor at all, does it?

A No, sir.

Q The people in the forced pooling are going to have to pay for it one way or the other, is that correct?

A Yes.

Q Is this an in-field well.

A I honestly don't know how to answer that because the Commission has not put some of our wells in the area in field. You may be aware there is a committee working right now on this particular situation, so, when you call it in-field well, I would have to say, "No."

Q This is not a wildcat is it?

A No, well, if you will explain to me what you mean by wildcat then I'll try to give you an answer.

Q I'll change that to step-out, are you familiar with that term?

A Well, it's what I'd call more than a step-out for the spacing in the area.

Q This is to you a normal step-out?

A It could be closer.

Q Now, this high pressure that you've hit, is it Wolfcamp?

A I don't know.

Q Is there much Wolfcamp in that area?

A No.

Q There's not?

A There's not encountered in the other wells.

Q Now, you say, were there 20 or 35 wells that Cities Service has been in on down there, was that drilling or just --

A (Interrupting) I'm judging we've drilled about 15.

Q Do you have the risk factors well by well on that?

A Not with me because they're not all forced pools; compulsory pools, I should say.

Q What was the average risk factor, if you know, of the forced pool wells there?

A To the best of my knowledge they're all 50 percent with the exception of one which is our State VP and that was set at 25 percent.

Q Now, in what period of time were these drilled?

A What period of time?

Q Yes. When did you start?

A We've been drilling over there since about 1971.

Q 1971? When were the majority of them drilled?

A We've been drilling most of them in the last
two years.

Q The last two years.

MR. BORKENHAGEN: I have no further questions.

FURTHER EXAMINATION

BY MR. KELLAHIN:

Q Mr. Motter, you said on the State CP Well you
got a 25 percent risk factor?

A Yes.

Q Is that the risk factor you asked for?

A Yes, sir.

MR. KELLAHIN: Thank you.

MR. PORTER: If there are no further questions
the Witness may be excused. Mr. Borkenhagen would you
call your first witness, please.

MR. BORKENHAGEN: Could I have about 10 minutes?

(Whereupon, a short recess was
had.)

MR. PORTER: The Hearing will come to order, please. Mr. Borkenhagen, would you call your first witness, please.

MR. BORKENHAGEN: If it please the Commission, I would like to make a very short opening statement first.

It is our position that we are not nonconsenting and that we have in fact consented by my actions at the last hearing; we have tried to trade out. Since that time we have also consented to be in there; that I have used this method to preserve and make sure that I have used all the right administrative remedies and that we do feel that Cities Service has taken the wrong position on this and that we will be able to show that we have in fact consented and that we'll ask the Commission to determine that we have consented to this by my actions at the previous hearing. From that I would call Mr. Dale Carlson

(Witness previously sworn.)

DALE CARLSON

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BORKENHAGEN:

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

A Dale Carlson.

Q And would you state where you work and for whom you work?

A I am working as a geologist with Mr. Grace.

Q Are you on his paid staff or consulting basis?

A Yes, on a consulting basis I'm on his paid staff.

Q On the January 30th hearing that this de novo hearing is taken from, did you attend?

A Yes, I did.

Q Were you there throughout the hearing?

A I did leave one or two times during the hearing but I was there for most of the hearing, yes.

Q Was it your understanding of what transpired that Mr. Grace agreed to try to trade out acreage?

MR. KELLAHIN: If the Commission please, I object to this questioning. The record will speak for itself. What this Witness thinks Mr. Grace was doing or wasn't doing is totally immaterial.

MR. PORTER: Objection sustained

CARLSON-DIRECT
GRACE-DIRECT

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BY MR. BORKENHAGEN:

Q Mr. Carlson, did you testify at that hearing?

A No, I did not.

MR. PORTER: Mr. Borkenhagen, I think that we can save time if we depart from this line of questioning trying to determine whether somebody consented or not and direct our testimony merely to the question of whether this is an appropriate risk factor. I don't believe we should take up anymore time with testimony directed to anything else.

MR. BORKENHAGEN: If we are going to be limited in that regard then I will ask that Mr. Carlson come off the stand for right now and I'll put Mr. Grace on.

MR. PORTER: The Witness may be excused.

(Witness previously sworn.)

MICHAEL P. GRACE

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BORKENHAGEN:

Q Would you please state your name for the record?

A Michael P. Grace.

Q What is your interest here today?

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GRACE-DIRECT

A Well, I believe it's 6-point-plus-or-minus acres in Section 29, and our interest here is that it is our belief that we consented conditionally and that the condition of our nonconsent, so to speak, in other words that we agreed to participate in this well. We have done nothing to not participate in the well and in no way have we had anything tendered to us that could amount to a refusal and, as I understand it, we are here today in case some court of inquiry finds that our conduct has not been that of consent, which we're assured and confirmed it is, and when we tender our check to Cities Service as they have indicated, rattled as they say, **saber** rattled, that they won't accept it. We want to preserve our options because we deliberately did not get in this case; we deliberately tried to be, as they said, "good neighbors," and apparently the independents who are "good neighbors" are penalized, so we're here today to minimize that penalty.

Q The penalty, or the 50-percent risk factor here referred to testimony that all the wells, except for one that Mr. Motter knows of, have been given a 50-percent risk factor and we're talking about the Carlsbad area. Are you familiar with the area that he was referring to

in which these wells that he was referring to have been drilled?

A Yes, I am familiar.

Q Have you drilled wells in that area?

A About eight.

Q About eight. Were any of those wells drilled after a forced pooling order?

A I think about half of them were, maybe more; the record will show, Oil Commission.

Q Do you recall what the risk factor that you were assigned?

A Never more than 25 percent at any time.

Q Never more than 25 percent at any time. How do you explain the difference between what you awarded, the 25 percent, and the 50 percent that Cities Service is asking?

A Well, one would say politics if one weren't in the courtroom, but we are contesting here that they are using the OCC as their agency for power of attorney to collect additional monies from us that we consider are at an exorbitant rate, but I do realize in mitigation of that fact that the penalty factor, and I just checked with Mr. Cooley outside, has been raised from 50 percent to 200

percent, but it did come as a shocker to me to know that Cities Service always got the maximum. They are a very competent company; competent at drilling and minimizing risks --

MR. PORTER: (Interrupting) Mr. Grace, may I interrupt at this point. Please confine your testimony as to this particular well as to whether you think this 50 percent is appropriate risk factor --

MR. GRACE: (Interrupting) I think I would say it is inappropriate.

MR. PORTER: There was a change in the law perhaps since some of your wells were drilled. Now, he asked you the question about what percentage, what risk factor had been assigned to you in your applications. You said most of them were 25 percent. Do you recall what you asked for?

MR. GRACE: We may have probably -- I know one time we asked for 25 percent only, I think in the Annafen Case, but the record will show. I know several times we only asked for 25 and on other occasions I believe the 50 percent factor. He has not asked me these questions but out of the eight wells we drilled, at least one wildcat, maybe two, and I think on those we asked for

the maximum factor. Our argument here today is that though the ceiling on penalties is raised the conditions aren't changed and the Oil Commission cannot legislate God and if the Commission is looking at a risk factor, as a field produces more and more wells, and Mr. Nutter testified that the rattlesnake you know is a rattlesnake that's not dangerous, then I assume the risk factor would be going down, not up. That's my contention in the last statement.

MR. PORTER: Let's confine our testimony to this particular well or wells that might be off-setting this well or in the same situation of this well.

BY MR. BORKENHAGEN:

Q Mr. Grace --

MR. GRACE: In that regard, in answer to Mr. Porter's admonition and request, we have pointed out that our wells have become increasingly cheaper as we drill them; we put that entire dossier into this Commission and show that as you drill more and more wells in the area you become more and more efficient and therefore, in view of that, I feel, as an operator, that they are erroneous, although it may be a precedent, to be given 50 percent. At this time the Commission should look at the area, the number of fields in the area, whether they recognize them

as being in the field, they always recognize us as being in the field, but whether they recognize them or not they should recognize the field and realize therefore they are more efficient and don't need such a big risk factor. I think we should take some consideration of Cities Service experience; they advertise it, why don't we accept it.

BY MR. BORKENHAGEN:

Q Has it been your experience that in known areas of production that to drill a well the risk factor is not as much as in an area where it is an unknown, has not been producing?

A I quote the expert, Daniel Nutter, at the testimony in the Santa Fe Trial, and I repeat again his formula that the known rattlesnake is not the dangerous rattlesnake, and they know all the rattlesnakes, even though one of the gentlemen from Cities Service testified that he did not know about much Wolfcamp, I'm sure somebody in Cities Service organization knows the Wolfcamp is being produced in the Carlsbad area and therefore it is a known rattlesnake, and I don't really see why the rates shouldn't be going down. I think it is a strong argument that they should go down because of experience and because of the size of the field.

Q In your opinion, is this a step-out well, I think that's the term?

A Whether it is a step-out or in-field well I think is semantic. To be honest with you, if they thought it was a step-out well they would have traded.

Q How long have you been drilling wells in this area?

A Oh, I think three, four years.

Q Has it been your experience that the risk does increase the more you drill in a known area?

A Absolutely not. It has always been our testimony in front of this Commission the exact opposite; the more you drill, the easier it gets; the more information you have the easier it gets, conversely, the less risk.

Q An assignment of 50 percent to this particular well -- I'll phrase it in the form of two questions. Do you think it is reasonable, and would you be specific as to why or why not?

A Because I don't think that we ever got it and some of our wells were more than step-out, they were wildcat. We've had blow-outs and a lot of other things and we've never gotten more than 25 percent and we have never taken the Commission to Santa Fe, or to Court,

about our penalty factor. If we had felt it was wrong I assure you we would have gone to court, as apparently we are facing a situation similarly now. I think this is a pretty unfair deal in which we are the only member of the well that we're being traded out of it. They're holding forth, dangling in front of us a trade, and they're saying, "Ha, ha, we've technically got you, you've foot-fault and you can't play in this championship," and so now we have been assessed the full penalty, which I thank you, as a good lawyer, for preserving our option to really tell the truth in front of this Commission for a change, that the factor, even though it got a higher ceiling, in this particular field, should be going down.

Q How long has this field been recognized, how long has it been producing?

A I believe Superior drilled the first well back in '67; I guess that's 9, 7 years.

Q How many wells are in this field?

A How many wells in the field?

Q Right?

A That, again, the Commission does not always apply its rules rapidly. When a well is, I think, less than a mile out or more than a mile out, whatever, they meant it

GRACE-DIRECT

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be included in the field; a lot of Belco wells aren't, a lot of Cities Service wells aren't, so what you described as a field, by Oil Commission rules might be one thing, and whatever people would describe as a field would be something else, and what a geologist might say they are -- it's very semantically ambivalent to say how many wells are in this field. In the Carlsbad area, where gas production is taking place from the Morrow zone, and the Commission has taken the attitude that there are four or five Morrow zones, I'd say there are 35 wells in that field, possibly more. They are drilling constantly.

Q Drawing on your experience as an operator and drilling these, do you think that a risk factor at all is called for in this case?

A Again, I'm not a lawyer, sir. I believe a risk factor is put in as a penalty factor for people not joining and the interest rate is at 10 percent now, and I have always looked at the risk factor really not in the sense of a risk factor but a penalty factor, and the fact that you have to borrow money, and Cities Service I'm sure probably doesn't have to borrow money, but we poor independents do, and I think the Commission does occasionally think of independents in the production of energy, therefore

GRACE-DIRECT
-CROSS

CASE 5158

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they say, "Why should the independents have to go out and borrow this money and wait to get paid back, I think his interests should be protected," and in as such I think a penalty factor from the point of view of high interest rates and fiscal condition of the country. We have a shortage of gas as well as a shortage of energy. I think the Commission is right in raising its ceiling, but again if there is any element of risk involved I think the risk is less and less and less as the field expands.

Q Are you a consenting owner in this particular matter?

A Yes. According to my best legal advice I sure am.

MR. BORKENHAGEN: No further questions.

MR. PORTER: Does anyone have any questions of Mr. Grace?

CROSS EXAMINATION

BY MR. KELLAHIN:

Q Mr. Grace, you say you are a consenting owner; did you ever offer to pay your share of the cost of this well?

A We've never been asked to. As I understand you're swapping with us right now; I can't interfere with a swap.

Have you ever asked us for it?

Q Did you get the letter dated February the 14th, 1974?

A I've seen that letter.

Q Did you get it?

A I didn't get it, no, but I've been shown it, recently.

Q It was addressed to you, who gets your mail?

A Where was it addressed to, Mr. Kellahin.

Q P.O. Box 1418, Carlsbad, New Mexico.

A Well, I've been out in Wyoming, Boston; I haven't been in this area for quite a while, I have not seen it until now; the reason for not having seen it is that I haven't been in this particular area. My wife may have seen it.

Q Well, the letter says, "We again request that you join Cities in the drilling of the proposed test."

A I don't think there -- I think the request was answered. We are in the well with you when you want an assessment we will pay it and that's it.

Q Did you ever indicate to Cities Service in writing that you were willing to pay it?

A Nor did they ever withdraw that in writing. That's an open invitation and when you send a bill you'll get paid. I don't feel I have to write to you from some

far-off place, hopefully not San Francisco, but that we are accepting your invitation because you haven't sent me a bill yet.

Q You never accept an invitation until you get the bill?

A I'd rather not.

Q You got an AFE did you not?

A Yes, sir.

Q But you never notified Cities Service that that was acceptable or not acceptable, did you?

A We have, I believe, a period of time to oppose it and we definitely did not oppose it. If you want my opinion it is a low AFE and I won't be shocked if you come out a third higher; I wouldn't be angry.

Q At the hearing in January Mr. Borkenhagen, and I'm quoting Page 15 of the transcript, Mr. Borkenhagen stated, "We have no objection to the risk factor." Was he speaking for you?

A Mr. Borkenhagen was, at that time, accepting the forced pooling on my behalf, as Mr. Carlson was going to testify to, and as such he wanted to show that he had no opposition to anything. I think he has pointed out to this Board or Commission here that the only reason for

today's de novo is that in case some court of competent jurisdiction does not interpret our conduct as acceptance we want to preserve our right, and I think very kindly the Commission has accepted it, our right to oppose the penalty factor.

MR. KELLAHIN: That's all the questions I have, thank you.

MR. PORTER: Anyone else have a question of Mr. Grace? You may be excused.

MR. BORKENHAGEN: Mr. Chairman, in the light of the limitations you placed on us as going into the risk factor, I would make the following tender of proof: That Mr. Dale Carlson, who has been on the stand, would have testified that we accepted, that we were not opposed to the risk factor, that we were in there, we wanted to trade out, if the trade-out could not work we were in it, and if the Commission will allow me I will put him on and elicit that or I will submit that as a tender of proof for purposes of preserving my record.

MR. PORTER: Mr. Borkenhagen, the Commission will deny your request.

Is there anything further to be presented in the Case now? Closing arguments.

MR. BORKENHAGEN: Members of the Commission, in closing I would again set out my purpose in taking this position in this Commission Hearing. The Commission has limited us to dealing with the question of the risk factor and we feel that is not the question here, that the question is whether or not we did consent. We maintain we did consent, therefore the penalty question really is no question. But, the ruling of the Commission that we go into the factors going into the risk factor, I would simply state that this is a known area, there are a lot of wells drilled there, a lot of success; there are wells in the immediate area that are producing; this is a paying zone, not a wildcat area; that in light of all of this, 50 percent is high, very high. I would ask the Commission to take another look at it in the light of where it is located, all of the other conditions going in it. By making this argument I in no way intend to waive the question that I think was presented to the Commission, and that was whether or not the fact we had consented, which we maintain we did consent. Thank you very much.

MR. KELLAHIN: If the Commission please, the question of consent I think the Commission, in effect, has more or less ruled on already, and I think it is amply

supported by the record in this case. If Mr. Grace had consented it would have been incumbent on him to have testified that Yes, he had offered verbally or in writing to pay his proportionate share of the well costs as provided in Order R-4721, and he just plain didn't do it. We offered testimony to the effect that we attempted to negotiate with him, yes, but that doesn't preclude Mr. Grace's duty that if he wanted to alert the Commission of tendering, or at least making the offer to tender his proportionate share of the well costs as provided by the Order, and he didn't do it. When we get to the risk factor, I think the record in the previous case and that offered here today by Mr. Motter, amply supports the 50-percent risk factor. While it is true that a number of wells were drilled down there at a 25-percent risk factor, this was at a time when the maximum which this Commission granted was 50 percent and a 25-percent risk factor, when seen in that light, is a considerable more of a risk factor granted than when you say 50 percent as compared to 200. The maximum the Commission will grant today to a wildcat well or a well of high degree risk is 200, and the Commission has always adjusted the risk factor in the light of the maximum it could grant, and 50 percent is a

reasonable risk factor when you are talking about drilling to a Pennsylvanian formation in the Carlsbad area, and it has been granted by this Commission on many previous occasions and I think it should be in this case.

MR. BORKENHAGEN: For purposes of the record, I would ask Cities Service when and where they would like their check because we are prepared to tender it, to tender an offer of payment, and I would like to settle it so we could get it over with.

MR. KELLAHIN: The time for tendering the check expired under the terms of the Order. We stand on the Order of the Commission and ask that it be sustained.

MR. PORTER: Is there anything further to be offered in the Case 5158? If there is nothing further, the Case will be taken under advisement.

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE) SS.

I, RICHARD L. NYE, Court Reporter, do hereby certify that the foregoing and attached Transcript of Hearing before the New Mexico Oil Conservation Commission was reported by me, and the same is a true and correct record of the said proceedings, to the best of my knowledge, skill and ability.



RICHARD L. NYE, Court Reporter

BEFORE THE
NEW MEXICO OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
January 30, 1974

EXAMINER HEARING

IN THE MATTER OF:

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

Case No. 5158

BEFORE: Daniel S. Nutter, Examiner.

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the New Mexico Oil
Conservation Commission:

William Carr, Esq.
Legal Counsel for the Com-
mission
State Land Office Building
Santa Fe, New Mexico

For the Applicant:

Tom Kellahin, Esq.
KELLAHIN & FOX
500 Don Gaspar
Santa Fe, New Mexico

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MR. NUTTER: Call Case 5158.

MR. CARR: Case 5158. Application of Cities Service Oil Company for compulsory pooling, Eddy County, New Mexico.

MR. KELLAHIN: Tom Kellahin, Kellahin and Fox, Santa Fe, New Mexico, appearing on behalf of the Applicant, Cities Service Oil Company. I have two witnesses to be sworn for this case.

MR. NUTTER: Are there any other appearances in Case 5158?

MR. BORKENHAGEN: Robert Borkenhagen for Michael Grace.

(Witnesses sworn.)

FRANK RINEY

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q State your name, by whom you are employed and in what capacity?

A Frank Riney, Cities Service Oil Company.

Q Mr. Riney, have you previously testified before this Commission?

RINEY-DIRECT

Page.....4.....

A I have.

Q Are you familiar with the facts surrounding the Application by Cities Service Oil Company?

A I am.

MR. KELLAHIN: If the Examiner, please, are the witness' qualifications acceptable?

MR. NUTTER: Yes, they are.

BY MR. KELLAHIN:

Q Mr. Riney, would you please refer to what has been marked as Applicant Exhibit No. 1 and describe briefly what Cities Service Oil Company is seeking?

A This is our oil and gas lease ownership plat of Township 21 South, Range 27 East. It shows our proposed proration unit for wells covering the east half of Section 29. There is an attached plat showing the south half of the southeast quarter. It's a large-scale plat showing more detail the lease ownership.

Q What is the proposed acreage to be compulsory pooled?

A The east half of Section 29, Township 21 South, Range 27 East.

Q What interests have not voluntarily agreed to participate in the unit?

A The Michael B. Grace Oil and Gas Lease, covering

RINEY-DIRECT

Page.....5

approximately six acres and the Fred L. O'Cheskey heirs, covering approximately the same amount of acreage.

Q And that acreage is indicated on the attachment to Exhibit 1?

A That's correct.

Q Mr. Riney, what, if any, correspondence have you had between either Mr. Grace and/or the O'Cheskey heirs concerning their interests?

A On December 4th, we wrote Mr. Grace asking him to participate in the drilling of these tests.

Q That is identified as Exhibit 2, is it not?

A I believe that's correct.

Q All right, sir, and Exhibit 3?

A Exhibit 3 is a letter to the heirs of Fred L. O'Cheskey. This was sent out on September 21st, 1973, asking them to participate in the drilling of the test.

Q With regard to Exhibit No. 2, your letter to Michael P. Grace, what, if any, response did you receive?

A I received a call from Mrs. Corrine Grace, suggesting a change of farm out for the six acres for six acres in another location.

Q Those negotiations are still going on are they not, Mr. Riney?

RINEY-DIRECT

Page..... 6

A That's correct.

Q As of this date they have not agreed to pool their interest?

A That's correct.

Q Would you please refer to the next Exhibit, which is Exhibit 4 and identify it?

A A letter from Fred L. O'Cheskey -- one of Fred L. O'Cheskey heirs -- in which he states that they wish to join us in drilling the four proposed tests. However, there are four or five heirs spread all over the world. It's going to take some time to conclude getting signatures for the operating agreement on this.

Q Please refer to Exhibit No. 5 and identify it?

A No. 5 is a letter to Fred L. O'Cheskey heirs dated January 25th, 1974, in which we forwarded a copy of the operating agreement and a copy of the consent and ratification papers to the operating agreement and a detailed well estimate. We requested that they execute the consent and ratification papers and the detailed well estimate and return it to us.

Q As of this date, however, Fred L. O'Cheskey heirs have not voluntarily joined?

A They have not.

RINEY-CROSS

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MR. KELLAHIN: Thank you, Mr. Riney. That concludes our examination of this witness.

CROSS EXAMINATION

BY MR. NUTTER:

Q Is it expected, Mr. Riney, that you will be able to contact all these heirs all over the world and get them signed up or do you feel forced pooling action is necessary so that you can dedicate the acreage and get the well started?

A That is correct. To get the well started. Fred L. O'Cheskey has assured us they can get it done, but it's a matter of time.

Q It's a matter of time?

A That is correct.

Q Then, negotiations are still going on as far as the exchange of the acreage with the Grace's?

A That is correct.

Q Now, as I look at this little plat here attached to Exhibit 1, you stated that that Grace lease was about six acres and that the O'Cheskey acreage was approximately the same size, just looking at it, it looks like the orange is bigger than the blue.

A The Fred L. O'Cheskey acreage is 5.65 acres and Michael P. Grace acreage, we estimate was what here -- 6. something.

RINEY-CROSS

Page.....8

This was rather a large-scale plat here. Oh, I'm sorry. This is half-interest on the O'Cheskey acres. I'm sorry.

Q The acreage is larger, but it's only half interest that you're concerned with?

A That's correct.

Q 5.65 net acres then?

A That is correct.

Q Everything else then in the east half of that Section 29 is either under lease or committed to the unit?

A That is right.

Q Are there any further questions of the witness?

A The other witness I suppose will testify as to cost?

MR. KELLAHIN: Yes.

MR. NUTTER: If there are no further questions, the witness may be excused.

E. F. MOTTER

called as a witness, having been previously sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Would you please state your name, by whom you are employed and in what capacity?

A E. F. Motter, M-o-t-t-e-r, Cities Service Oil Company, Engineering Manager, A&P Division, Southwestern Region.

Q Have you previously testified before this Commission?

A Yes, numerous times.

Q Are you familiar with the facts surrounding this particular Application?

A Yes, I am.

MR. KELLAHIN: Are the witness' qualifications acceptable?

MR. NUTTER: Yes, they are.

BY MR. KELLAHIN:

Q Mr. Motter, let me refer you to what has been marked as Applicant's Exhibit No. 6 and have you identify and explain what information it contains?

A This is our detailed well estimate for Simpson No. 1. I don't know if this was previously indicated, but that would be the name of this well. It is set out at total costs of \$329,900. The casing program on that well provides some flexibility in that we have problems in Wolfcamp-Strawn, that we can run additional string of casing in there. Other than that, it's pretty straight forward. We've had considerable

MOTTER-DIRECT

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experience in this particular area. In fact, I have closed job orders of other wells we recently drilled and they have been real close to this cost. I might say this has increased over those in some are problems of tubular goods and some other things nowadays.

Q From your examination of the facts surrounding this particular Application, are you now in position where you can make a recommendation as to a proposed risk factor to be applied to the non-consenting interests?

A Yes. We're asking for a risk factor of 50 percent.

Q What is the basis for your asking for 50 percent risk factor?

A Well, we take into consideration the geology of the area and the wells in the near vicinity and also the cost involved and problems that may be encountered in drilling.

Q You don't anticipate any particular problems in this area?

A Probably not.

Q You anticipate the risk factor of 50 percent should be sufficient enough to insure the risk involved here?

A Right.

Q I'd like to direct your attention now to your recommendations with regard to cost of supervision. Do you

have any recommendations as to cost for supervision?

A We do have. We've been over this numerous times up here before. Our recommendation now is, as this is a cost that Cities Service has used since 19th of November, 1973. It comes from the Copas '62 form by and fixed rates which include salary expenses of all production foremen at \$205 per month.

Q I want to show you what has been marked as Applicant's Exhibit No. 7 and ask you to explain this particular item.

A This basically is an excerpt from Copas 62, Section 3 on Indirect Charges and we, again, would like to ask the Commission for their consideration of this particular paragraph which provides that this rate of \$205 be adjusted in April of each year as provided in this particular contract. It's based upon the average income of the crude petroleum and gas workers for the previous calendar year. When these rates are figured by the Commission, we have no alternative but to utilize the figured rate throughout the life of the well and most projects, in fact, most people that are willing to sign an agreement, sign this particular agreement, and then the rates are adjusted and the price index goes up or down.

MOTTER-DIRECT

Page.....12

Q Under the previous orders of the Commission, the provision in the Order that provides for cost of supervision did not have this particular flexibility built into it?

A That's correct.

Q By adopting this particular proposed provision for an Order, you are putting the non-consenting owners on an equal par to those individuals that have voluntarily agreed?

A That's our purpose and, also, perhaps an extreme, we all know that the cost of living is going up every year and in the event that this was a long-term project we could conceivably see that this would be only half enough or what our normal charges would be, say, eight or ten years, don't know. The only out that I would see would be to come back and ask for it to be changed. This, we would like to avoid.

Q Was Exhibit 6 either prepared by you or under your direct supervision?

A Yes, it was.

Q In your opinion, Mr. Motter, the approval of this Application would prevent waste and not impair the correlative rights of others?

A Yes, I do.

MR. KELLAHIN: If the Examiner please, we move for

MOTTER-DIRECT
CROSS

Page.....13

the introduction of Applicant's Exhibits 1 through 7.

MR. NUTTER: Applicant's Exhibits 1 through 7 will
be admitted in evidence.

(Whereupon, Applicant's Exhibits
1 through 7 were admitted in
evidence.)

MR. KELLAHIN: That concludes our Direct Examination.

CROSS EXAMINATION

BY MR. NUTTER:

Q Mr. Motter, I believe Cities Service has two wells
in the immediate vicinity of this project?

A Yes, sir, we have the Cawley No. 1 which is a
discovery well in the La Huerta Field now producing to El
Paso. The Elizando Federal has been completed immediately
north of that and it is now waiting connection to El Paso
and over the weekend we spotted Tracy No. 1 in the north
half of Section 33, which offsets the Cawley to the south.

Q What location is it, Mr. Motter?

A It's 1980 from the west and 660 from the north.

Q It's indicated there with a little 1(a). What's
that Tracy?

A No. 1. We have forced pooling on that two weeks ago.

MOTTER-CROSS

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Q Do you have a proposed location yet for that?

A Yes, sir, I'm sorry. It's 1980 from the north and 660 from the east, Section 29.

Q That would be where that dry hole is approximately?

A That's a very shallow well.

Q It's about the same site?

A About the same site.

Q Is that Simpson No. 1?

A Simpson No. 1.

Q Is this \$329,900 for a completed well the approximate cost of the two previously completed wells?

A Yes, I have. The Elizando Federal which was north of there was completed at a little higher cost than that, although it was within our estimate and entailed another thing that we don't think will occur in this well. It was completed for \$353,000.

Q What did the Cawley cost?

A I'm sorry. I don't have those with me, but it was not far from our estimate. I think, again, it was forced pooled.

I might comment the tubular goods was the reason for the overrun on this. We now have a day-to-day price on this. I'm sure you're well aware.

Q Yes, sir.

NOTTER-CROSS

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MR. NUTTER: Are there any further questions of Mr. Motter? You may be excused.

(Witness excused.)

MR. NUTTER: Is there anything further in Case 5158, Mr. Kellahin?

MR. KELLAHIN: Nothing.

MR. NUTTER: Does anyone have anything they wish to offer in Case 5158? Mr. Borkenhagen?

MR. BORKENHAGEN: Michael Grace is right now actively trying to trade out about six acres and we hope to get it completed within the next 30 days. If we can trade it out, then, it's my understanding that Mr. Grace is not going to oppose being brought in on the forced pooling. We have no objection to the risk factor.

MR. NUTTER: Thank you.

MR. KELLAHIN: I don't know if my testimony reflected that or not, but Cities Service wants to be designated operator.

MR. NUTTER: Anyone else in Case 5158? If there's nothing further in this case, we'll take it under advisement.

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss.

I, RICHARD L. NYE, Court Reporter, do hereby certify that the foregoing and attached Transcript of Hearing before the New Mexico Oil Conservation Commission was reported by me, and the same is a true and correct record of the said proceedings, to the best of my knowledge, skill and ability.


RICHARD L. NYE, Court Reporter

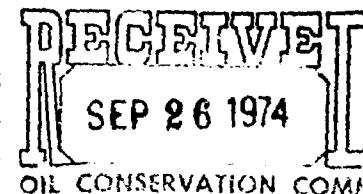
I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. **5158** heard by me on **1-30**, 19**74**.


New Mexico Oil Conservation Commission Examiner

THE NYE REPORTING SERVICE
STATE-WIDE DEPOSITION NOTARIES
225 JOHNSON STREET
SANTA FE, NEW MEXICO 87501
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100-57018

CITIES SERVICE OIL COMPANY



Box 1919
Midland, Texas 79701
Telephone: 915 684-7131

September 24, 1974

New Mexico Oil Conservation Commission
P. O. Box 2088
Santa Fe, New Mexico 87501

Re: Compulsory Pooling - S/2, Section
29, 21-S, 27-E, Eddy County,
New Mexico, Dedicated to Cities
Service Simpson No. 1

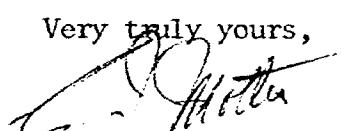
Gentlemen:

New Mexico Oil Conservation Commission Order R-4721 authorized the pooling of all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 29, T-21-S, R-27-E, NMPM, Eddy County, New Mexico, to be dedicated to the Cities Service Simpson well No. 1.

After taking drill stem tests from 11,434-556' and 11,618-801' it was concluded the Pennsylvanian formation was not commercial. The well has been completed in the Wolfcamp (Lower Permian) 9794-9808' and flowed 369 barrels distillate in 7 hours and 40 minutes on test June 21, 1974. At the present time the well is shut in waiting on a gas connection. A request for the classification of a new pool (La Huerta Wolfcamp) was submitted June 25, 1974.

Since this well was dry in the pooled Pennsylvanian, no itemized schedule of actual well costs is being furnished.

Very truly yours,


E. F. Motter
Engineering Manager
Southwest Region
E & P Division

EFM:mfg

cc: Mr. C. R. Mitchell



OIL CONSERVATION COMMISSION

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

April 30, 1974

I. R. TRUJILLO
CHAIRMAN

LAND COMMISSIONER
ALEX J. ARMIJO
MEMBER

STATE GEOLOGIST
A. L. PORTER, JR.
SECRETARY - DIRECTOR

Mr. Robert H. Borkenhagen
Attorney at Law
1100 American Bank of Commerce Building
Albuquerque, New Mexico 87102

CASE NO. 5158
ORDER NO. R-4721-A

Mr. Jason Kellahin
Kellahin & Fox
Attorneys at Law
Post Office Box 1769
Santa Fe, New Mexico

Applicant:
Cities Service 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	<u>X</u>
Artesia OCC	<u>X</u>
Aztec OCC	

Other _____

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. 5158 DE NOVO
Order No. R-4721-A

APPLICATION OF CITIES SERVICE
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 April 23, 1974, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 30th day of April, 1974, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, 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 applicant, Cities Service Oil Company, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico.

(3) That the matter came on for hearing at 9:00 a.m. on January 30, 1974, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter, and, pursuant to this hearing, Order No. R-4721 was issued on February 13, 1974, which granted Cities Service's application and compulsorily pooled all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico.

(4) That on February 26, 1974, application for Hearing De Novo was made by Michael P. Grace and Corinne Grace and the matter was set for hearing before the Commission.

(5) That the matter came on for hearing de novo on April 23, 1974.

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Case No. 5158 De Novo
Order No. R-4721-A

(6) That the evidence adduced at said hearing indicates that Commission Order No. R-4721, entered February 13, 1974, should be affirmed.

IT IS THEREFORE ORDERED:

(1) That Commission Order No. R-4721, entered February 13, 1974, is hereby affirmed.

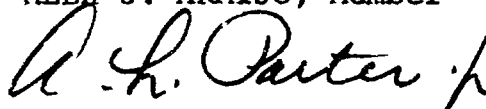
(2) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

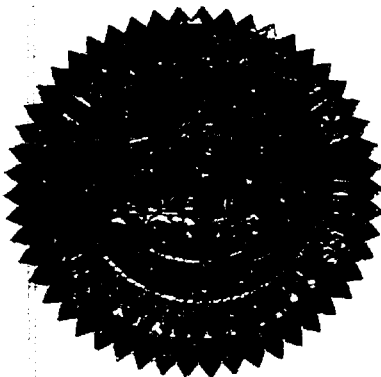
DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


I. R. TRUJILLO, Chairman

ALEX J. ARMIJO, Member


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



S E A L

dr/



OIL CONSERVATION COMMISSION

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

February 13, 1974

GOVERNOR
BRUCE KING
CHAIRMAN
LAND COMMISSIONER
ALEX J. ARMJO
MEMBER
STATE GEOLOGIST
A. L. PORTER, JR.
SECRETARY - DIRECTOR

Mr. Tom Kellahin
Kellahin & Fox
Attorneys at Law
Post Office Box 1769
Santa Fe, New Mexico

Re: Case No. 5158
Order No. R-4721
Applicant:
Cities Service 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 _____
Artesia OCC _____
Aztec OCC _____

OTHER _____

~~Mr. Robert Borkenhagen, Mr. Fred L. O'cheskey,~~
Mr. Michael P. Grace

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. 5158
Order No. R-4721

APPLICATION OF CITIES SERVICE 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 January 30, 1974,
at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 13th day of February, 1974, 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, Cities Service Oil Company, seeks an
order pooling all mineral interests in the Pennsylvanian formation
underlying the E/2 of Section 29, Township 21 South, Range 27
East, NMPM, Eddy County, New Mexico.

(3) That the applicant has the right to drill and proposes
to drill its Simpson Well No. 1, to be located at a standard
location for said unit.

(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.

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs 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.

(9) 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.

(10) 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.

(11) That \$205.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates); that this charge should be adjusted annually based upon the percentage increase or decrease in the average weekly earnings of crude petroleum and gas production workers; 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.

(12) 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 of said pooled unit to commence drilling of the well to which said unit is dedicated on or before May 1, 1974, 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 Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit to be dedicated to its Simpson Well No. 1, to be drilled at a standard location for said unit.

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CASE NO. 5158
Order No. R-4721

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the first day of May, 1974, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Pennsylvanian formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the first day of May, 1974, Order (1) of this order shall be null and void and of no effect whatsoever;

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 Cities Service Oil Company is hereby designated the operator of the subject well and unit.

(3) That after the effective date of this order and within 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.

(4) That within 30 days from the date the schedule of 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 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.

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CASE NO. 5158
Order No. R-4721

(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 30 days from the date the schedule of estimated well costs is furnished to him.
- (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 30 days from the date the schedule of estimated well costs is furnished to him.

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

(9) That \$205.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates), provided that this rate shall be adjusted on the first day of April of each year following the effective date of this order; that the adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of Crude Petroleum and Gas Production Workers for the last calendar year compared to the preceding calendar year as shown by "The Index of Average Weekly Earnings of Crude Petroleum and Gas Production Workers" as published by the United States Department of Labor, Bureau of Labor Statistics, and the adjusted rate shall be the rates currently in use, plus or minus the computed adjustment; 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 the adjusted charge for supervision (combined fixed rates) shall be filed with the Commission on or before the first day of May of each year.

(11) 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.

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CASE NO. 5158
Order No. R-4721

(12) 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.

(13) 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.

(14) 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. ARMIJO, Member

A. L. PORTER, JR., Member & Secretary

SEAL

jr/

Applicant, Cities Service Oil
Company for Consolidating Pooling,
Eddy County, New Mexico

Case No. 51586 de Novo
Order No. R-4721-A

Before Commission - April 23, 1974

(1) Jurisdiction

(2) That applicant, Cities Service Oil Company, seeks
an order pooling all mineral interests in the
Pennsylvanian formation underlying the E1/2 of
Section 29, Township 21 South, Range 27
East, N14PM, Eddy County, New Mexico.

(3) That the matter came on for hearing at
9:00 AM on January 20, 1974, at Santa Fe, New
Mexico before Examiner Daniel S. Mutter,
and pursuant to this hearing, order No.
R-4721 was issued on February 11, 1974,
which granted Cities Service's application
and gave said all mineral interests in
the Pennsylvanian formation underlying the
E1/2 of Section 29, Township 21 South,
Range 27 East, N14PM, Eddy County, New
Mexico,
de novo on April 23, 1974.

(4) That the evidence adduced at said hearing
indicates that Commission Order No. R-4721,
dated February 11, 1974, should be dissolved

Simmons

Ordered January 1, 1974 by R 4721.
Production

COLE

OIL CONSERVATION COMMISSION

P. O. BOX 2089

SANTA FE, NEW MEXICO 87501

March 6, 1974

DOCKET MAILED

Date 4-11-74

Robert H. Borkenhagen, Esq.
Attorney
1100 American Bank of Commerce Bldg.
Albuquerque, New Mexico 87102

Re: Application for hearing de novo
in Case No. 5153, Order No. R-4721

Dear Bob:

Enclosed you will find the copy that you sent us of your application for hearing de novo in the above-captioned case. In the future no application will be accepted unless filed in triplicate in accordance with the rules of the Commission.

This matter cannot be heard until early in April as we will not be able to have a quorum of the Commission until that time.

A docket will be mailed to you for this hearing later this month.

Very truly yours,

WILLIAM F. CARR
General Counsel

WFC/dr
enclosure

C
O
P
Y

DOCKET: COMMISSION HEARING - TUESDAY - APRIL 23, 1974

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

CASE 5216: In the matter of the hearing called by the Oil Conservation Commission upon its own motion to consider the amendment of Rule 1203 of the Commission Rules and Regulations to simplify the method of initiating a hearing before the Commission or its examiners, and to include a provision for the acceptance of verbal applications for hearing when such is necessary to permit the meeting of deadlines for publication of legal notice, provided that a subsequent written application would be required.

CASE 5217: In the matter of the hearing called by the Oil Conservation Commission upon its own motion to consider the adoption of a Commission definition for "Temporary Abandonment" of wells, and further to consider the amendment of Rule 202 of the Commission Rules and Regulations to adopt an administrative procedure for abandonment of wells in this state for a limited period of time only, and for the adoption of a requirement for an individual one-well plugging bond for the continued temporary abandonment of any well after the expiration of the administrative period of time in which such well could be temporarily abandoned.

CASE 5158: (De Novo)

Application of Cities Service Oil Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, Eddy County, New Mexico, to be dedicated to its Simpson Well No. 1 to be drilled at an orthodox location for said unit. 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.

Upon application of Michael P. Grace and Corinne Grace, this case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 5167: (De Novo)

Application of Fluid Power Pump Company and Petro-Lewis Corporation for compulsory pooling, Sandoval County, New Mexico. Applicants, in the above-styled cause, seek an order pooling all mineral interests underlying two non-standard proration units in Township 19 North,

Commission Hearing - Tuesday - April 23, 1974

Docket No. 10-74

(Case 5167 continued from Page 1)

Range 3 West, Media-Entrada Oil Pool, Sandoval County, New Mexico,
described as follows:

Unit No. 1, the S/2 SW/4 of Section 14 and N/2 NW/4
of Section 23, dedicated to applicants' Media Well
No. 1 located in Unit M of said Section 14; and

Unit No. 2, the S/2 SE/4 of Section 15 and N/2 NE/4
of Section 22, to be dedicated to applicants' Media
Well No. 2 located in Unit P of said Section 15.

Upon application of John K. Reimer and R. E. McKenzie, Jr., this
case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 5218: Application of John K. Reimer and R. E. McKenzie, Jr. for 40-acre
spacing, revocation of non-standard proration units, and re-
establishment of 40-acre allowables, Sandoval County, New Mexico.
Applicants, in the above-styled cause, seek an order rescinding
that portion of Order No. R-4277 which established 160-acre spacing
units for the Media-Entrada Oil Pool, Sandoval County, New Mexico,
alleging the existence of reservoir information now available, but
not available at the time of the spacing hearing. Applicants further
seek the revocation of orders numbers R-4274 and R-4287 which estab-
lished four 160-acre non-standard oil proration units in said pool,
and the revocation of Order No. R-4713 which established a special
depth bracket allowable of 750 barrels of oil per day for said pool.

DOCKET: EXAMINER HEARING - WEDNESDAY - JANUARY 30, 1974

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

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

CASE 5153: In the matter of the hearing called by the Oil Conservation Commission on its own motion to consider the amendment of Commission Form C-113, Refiner's Monthly Report.

CASE 5154: In the matter of the hearing called by the Oil Conservation Commission on its own motion, at the recommendation of the Commission's "Pictured Cliffs Gas Proration Committee," to consider the amendment of Commission Order No. R-1670 for the purpose of elimination of gas prorationing in the Aztec-Pictured Cliffs, Ballard-Pictured Cliffs, Fulcher Kutz-Pictured Cliffs, and West Kutz-Pictured Cliffs Gas Pools in San Juan, Rio Arriba, and Sandoval Counties, New Mexico.

CASE 5128: (Continued from the January 3, 1974, Examiner Hearing)
Application of Gulf Oil Corporation for a non-standard gas proration unit and simultaneous dedication, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for a 160-acre non-standard gas proration unit comprising the NE/4 SW/4 and W/2 SE/4 of Section 28 and the NW/4 NE/4 of Section 33, both in Township 21 South, Range 37 East, Blinberry Gas Pool, Lea County, New Mexico, to be simultaneously dedicated to its J. N. Carson Wells Nos. 4 and 9 located in Units O and K, respectively, of Section 28.

CASE 5132: (Continued from the January 3, 1974, Examiner Hearing)
Application of American Quasar Petroleum Company of New Mexico for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval of the White City Unit Area comprising 5,120 acres, more or less, of Federal, State and fee lands in Township 25 South, Ranges 25 and 26 East, Eddy County, New Mexico.

CASE 5155: Application of Harding Oil Company for directional drilling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks to re-enter an existing well, the surface location of which is 2310 feet from the South line and 1650 feet from the West line of Section 34, Township 13 South, Range 32 East, adjacent to the old Gross-Devonian Pool, Lea County, New Mexico, and to directionally drill said well in such a manner as to bottom the well in the Devonian formation within 100 feet of a point 430 feet South 60 degrees West of the surface location.

- CASE 5156: Application of Franklin, Aston & Fair 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 Morrow production for its McIntyre Well No. 6-A located in Unit 0 of Section 20, Township 17 South, Range 30 East, Eddy County, New Mexico, and for the promulgation of special pool rules therefor including a provision for 640-acre spacing.
- CASE 5159: Application of Petroleum Reserve Corporation for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Wood Canyon Unit Area comprising 2,560 acres, more or less, of Federal and fee lands in Township 24 South, Range 25 East, Eddy County, New Mexico.
- CASE 5160: Application of Randolph M. Richardson for a unit agreement, Eddy and Chaves Counties, New Mexico. Applicant, in the above-styled cause, seeks approval for the West Hope Unit Area comprising 13,448 acres, more or less, of Federal, State and Fee lands in Townships 17 and 18 South, Ranges 20 and 21 East, Eddy and Chaves Counties, New Mexico.
- CASE 5161: Application of Depco, Inc. for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for its Northwest Artesia Unit Area comprising 640 acres, more or less of State lands in Sections 31 and 32, Township 17 South, Range 28 East, and Section 6, Township 18 South, Range 28 East, Eddy County, New Mexico.
- CASE 5144: (Continued and Readvertised)
- Application of Depco, Inc. for a waterflood project, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to institute a waterflood project by the injection of water into the Grayburg-San Andres formation through six wells located in its Northwest Artesia Unit Area, Artesia Pool, Eddy County, New Mexico.
- CASE 5162: Application of Western Oil Producers, Inc. for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to drill an undesignated Morrow gas well at an unorthodox location 1980 feet from the South line and 660 feet from the East line of Section 34, Township 17 South, Range 26 East, Eddy County, New Mexico, the S/2 of said Section 34 to be dedicated to the well.
- CASE 5163: Application of Western Oil Producers, Inc. for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to drill an undesignated Morrow gas well at an unorthodox location 660 feet from the South and East lines of Section 27, Township 17 South, Range 26 East, Eddy County, New Mexico, the S/2 of said Section 27 to be dedicated to the well. As an alternative, applicant seeks approval for a location 1980 feet from the South line and 660 feet from the East line of said Section 27.

- CASE 5158: Application of Cities Service Oil Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, Eddy County, New Mexico, to be dedicated to its Simpson Well No. 1 to be drilled at an orthodox location for said unit. 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 5157: Application of Cities Service Oil Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the S/2 of Section 9, Township 21 South, Range 27 East, Burton Flats Field, Eddy County, New Mexico, to be dedicated to its State C-P Well No. 1 to be drilled at an orthodox location for said unit. 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 5164: Application of Jake L. Hamon for compulsory pooling and for an unorthodox location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order force pooling all mineral interests in the Strawn and Morrow formations underlying the E/2 of Section 9, Township 21 South, Range 27 East, Burton Flats Field, Eddy County, New Mexico, to be dedicated to a well to be drilled at an unorthodox location 1650 feet from the North line and 660 feet from the East line of said Section 9. 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.

February 14, 1974

Mr. Michael P. Grace
P. O. Box 1413
Carlsbad, New Mexico 88220

Subject: Proposed Cities of Simpson Well
11,000' Morrow Test
SE/4 NE/4 Section 29
T-21-S, R-27-E
Eddy County, New Mexico
E/2 Section 29

Gentlemen:

We have studied at great length your proposal for a trade of your oil and gas lease interest in Section 29, T-21-S, R-27-E for a Cities' oil and gas lease interest in Section 25 of T-21-S, R-26-E, and have been unable to arrive at any kind of equitable trade.

We again request that you join Cities in the drilling of the proposed 11,000' Morrow test in the SE/4 NE/4 Section 29, T-21-S, R-27-E.

Yours very truly,

CITIES SERVICE OIL COMPANY

J. Frank Ricey
Landman

JFR:1

cc - Mr. Robert H. Borkenhagen
Suite 1100
American Bank of Commerce Complex
200 Losos Boulevard, N. W.
Albuquerque, New Mexico 87102

BEFORE THE OIL CONSERVATION COMMISSION Santa Fe, New Mexico	
Case No. <u>5158</u>	Exhibit No. <u>1</u>
Submitted by <u>Robert Borkenhagen</u>	
Hearing Date <u>April 23, 1974</u>	

OP 69

DETAILED WELL ESTIMATE

WELL NUMBER 1 LEASE Simsen
 CONTRACTOR _____ LOCATION 1980' FNL and 660' FFL
 DATE 11-13-73 SECTION 29, T-21-S, R-27-E
 J. O. NO. _____ DEPTH 11,800' COUNTY Eddy STATE New Mexico
 (Morrow)

DESCRIPTION	GRADE	SIZE	QUAN.	W	ESTIMATE PRODUCER	ESTIMATE DRY HOLE	REVISED ESTIMATE	ACTUAL COST
TANGIBLES								
Casing @ 400' H-40 ST&C 16"	A		405	65	5,100	5,100		
Surface								
H-40 ST&C 10-3/4"	A		1,100	32	6,200	6,200		
K-55 ST&C 10-3/4"	A		1,515	40	10,500	10,600		
@ 3100' K-55 ST&C 10-3/4"	A		515	45	4,050	4,050		
N-80 LT&C 5-1/2"	A		9,629	17	36,900	-		
@ 11800' N-80 LT&C 5-1/2"	A		2,269	20	10,200	-		
Well head connections					10,000	2,000		
Tubing Imp. Buttress N-80 2-7/8"	A		11,300	6	19,200	-		
Sucker rods								
Bottom hole pump								
Engine or motor								
Pumping unit								
Electrical equip. inc. Labor & Trans.								
Line pipe, fittings inc. Labor & Trans.								
Packer	A				1,300	-		
TANK BATTERY								
Stock tanks Coated	A	210	1		2,500	-		
G. B., settler, free water K. O. tank								
Separator, heater treater, etc.					9,500	-		
Cost to install T. B.					1,500	-		
INTANGIBLES								
Contract Drlg. labor (footage) \$10.50/ft.					123,500	123,900		
Rotary day work 6 Days @ \$1750/day					10,500	10,500		
Cable tool work 7 Days					3,500	-		
Subsurface casing equipment					3,500	2,000		
D. S. T., electric logs, etc.					12,500	12,000		
Acidizing, fracing					3,500	-		
Perforating					2,500	-		
Misc. company and contract labor					3,500	2,000		
Road building, location					4,000	4,000		
Cement & cementing service					11,500	10,000		
Cement squeeze jobs								
Drilling mud, chemicals					14,000	14,000		
Drilling bits, coreheads, reamers								
Mud logging unit					3,500	3,000		
Rental of miscellaneous equip.					2,500	2,500		
Company, contract hauling					3,500	2,000		
Water, fuel					8,000	8,000		
Miscellaneous incidentals					5,500	3,000		
Total estimated cost + 10%					329,500	224,850		
Total estimate C. S.								

CITIES SERVICE OIL COMPANY



Box 4906
Midland, Texas 79701
Telephone: 915 684-7131

February 21, 1974

New Mexico Oil Conservation Commission
P. O. Box 2088
Santa Fe, New Mexico 87501

Re: Compulsory Pooling - E/2 Section
29, T-21-S, R-27-E, Eddy County,
New Mexico, Dedicated to Cities
Service Simpson No. 1

Gentlemen:

Attached hereto is a Drilling Well Estimate in the amount of \$224,850 for a dry hole and \$329,900 for a producer as required by N.M.O.C.C. Order R-4721 for the Cities Service Oil Company Simpson No. 1 to be drilled 1980' FNL and 660' FEL, Section 29, T-21-S, R-27-E, N.M.P.M., Eddy County, New Mexico. Proration unit to be dedicated to the Simpson No. 1 will be composed of E/2 Section 29.

All non-consenting working interest owners are being furnished a copy of the Drilling Well Estimate. Those working interest owners joining voluntarily were furnished a Drilling Well Estimate along with the Operating Agreement at an earlier date.

Very truly yours,

E. F. Motter
Engineering Manager
Southwest Region
E & P Division

EFM:mfg

Enc.

cc: Mr. Michael P. Grace
P. O. Box 1418
Carlsbad, New Mexico 88220

Heirs of Fred L. O'Chesky
c/o Mr. Fred L. O'Chesky
412 San Mateo, West
Santa Fe, New Mexico 87501

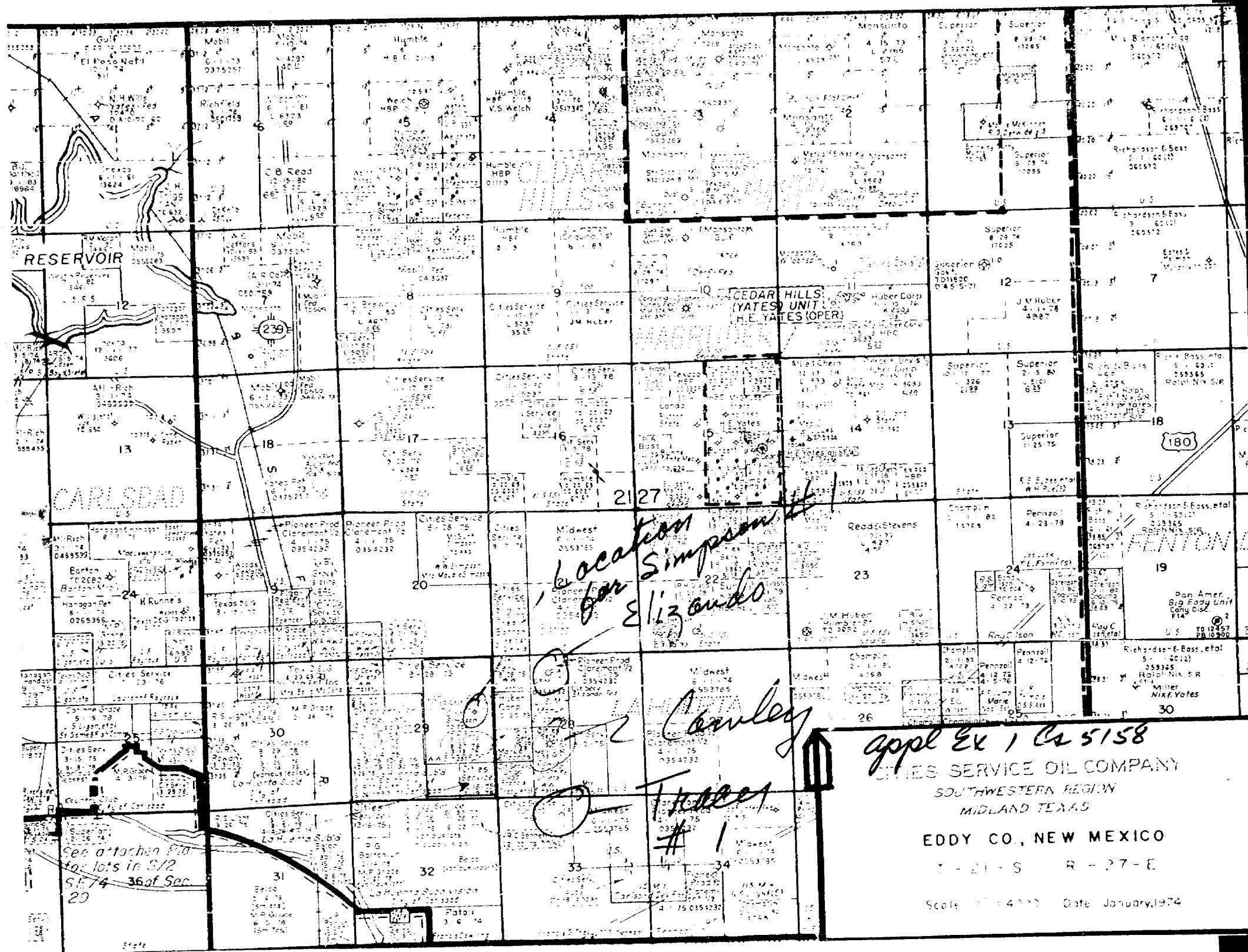
BEFORE THE	
OIL CONSERVATION COMMISSION	
Santa Fe, New Mexico	
Case No. <u>5158</u>	Exhibit No. <u>4</u>
Submitted by <u>Cities Service</u>	
Hearing Date <u>April 23, 1974</u>	

OP 69

DETAILED WELL ESTIMATE

WELL NUMBER 1 LEASE Simsen
 CONTRACTOR _____ LOCATION 1989' ENL and 660' FEL
 DATE 11-13-73 SECTION 29. T-21-S. R-27-E
 J. O. NO. _____ DEPTH 11,800' COUNTY Eddy STATE New Mexico
 (Morrow)

DESCRIPTION	GRADE	SIZE	QUAN.	W	ESTIMATE PRODUCER	ESTIMATE DRY HOLE	REVISED ESTIMATE	ACTUAL COST
TANGIBLES								
Casing @ 400' H-40 ST&C 16"	A		405	65	5,100	5,100		
Surface								
H-40 ST&C 10-3/4"	A		1,100	32	6,200	6,200		
K-55 ST&C 10-3/4"	A		1,515	40	10,500	10,600		
@ 3100' K-55 ST&C 10-3/4"	A		515	45	4,050	4,050		
N-80 LT&C 5-1/2"	A		9,629	17	36,900	-		
@ 11800' N-80 LT&C 5-1/2"	A		2,269	20	10,300	-		
Well head connections					10,500	2,000		
Tubing Imp. Buttress N-80 2-7/8"	A		11,300	6	19,200	-		
Sucker rods								
Bottom hole pump								
Engine or motor								
Pumping unit								
Electrical equip. inc. Labor & Trans.								
Line pipe, fittings inc. Labor & Trans.								
Packer	A				1,300	-		
TANK BATTERY								
Stock tanks Coated	A	210	1		2,200	-		
G. B., settler, free water K. O. tank								
Separator, heater treater, etc.					9,500	-		
Cost to install T. B.					1,500	-		
INTANGIBLES								
Contract Drln. labor (footage) \$10.50/ft.					123,900	123,900		
Rotary day work 6 Days @ \$1750/day					10,500	10,500		
Cable tool work 7 Days					3,150	-		
Subsurface casing equipment					3,500	2,000		
D. S. T., electric logs, etc.					12,000	12,000		
Acidizing, fracing					3,000	-		
Perforating					2,500	-		
Misc. company and contract labor					3,000	2,000		
Road building, location					4,000	4,000		
Cement & cementing service					11,000	10,000		
Cement squeeze jobs								
Drilling mud, chemicals					14,000	14,000		
Drilling bits, coreheads, reamers								
Mud logging unit					3,000	3,000		
Rental of miscellaneous equip.					2,500	2,500		
Company, contract hauling					3,500	2,000		
Water, fuel					8,000	8,000		
Miscellaneous incidentals					5,000	3,000		
Total estimated cost - 100%					329,500	224,850		
Total estimate C. S.								



14 Ac.

etal

(19944)
10-29-75)

29


10.31.00
H. Petree
670

tr 4

14164
6-2-76
1-10 ac
R. Cornett
14354
8-4-77
P. J.
H. D. K.

M. P. Grace Oil & Gas Lease

F. L. O'Chesky
Heirs - 1/2
Mineral Interest


S.W. REGION

W. W. Simpson

DF LA HUERTA

13984
2-8-75

5.264 ac
V B 55

14595
10-7-77

14596
10-11-77

14597
10-11-77

14598
10-11-77

14599
10-11-77

14600
10-11-77

14601
10-11-77

14602
10-11-77

14603
10-11-77

14604
10-11-77

14605
10-11-77

14606
10-11-77

14026
1-14-76

tot. 12 Ac

W. W. Simpson

M. P. Grace
Felipe S. Hernandez
4-6-78

14539
6-9-77

14033
1-18-76

4.752 ac

Elizabeth Bruhl

N. Pickens

14228
4-19-76

tot. 8.254 ac

R. G. Monk

14590
10-11-77

14591
10-11-77

14592
10-11-77

14593
10-11-77

14594
10-11-77

14595
10-11-77

14596
10-11-77

14597
10-11-77

14598
10-11-77

14599
10-11-77

14600
10-11-77

14601
10-11-77

14602
10-11-77

14603
10-11-77

14604
10-11-77

14605
10-11-77

14026
1-14-76

W. K. Simpson

14594 1/4
SA 10-5-77
tot. 10.528 ac
(H. B. Wooley)
14606 1/4
10-31-77
J. R. Coleman
(L. B. Wooley)

14017
1-14-76

tot. 13.255 Ac

F. Russell

14590
10-11-77

14591
10-11-77

14592
10-11-77

14593
10-11-77

14594
10-11-77

14595
10-11-77

14596
10-11-77

14597
10-11-77

14598
10-11-77

13996
12-16-75

tot. 17.525 Ac
1st

tot. 15.528 ac

R. Melvin

15254
5-20-78

tot. 11.242 ac

M. R. Ricardo

14588
9-27-77

B. B. B. B.

14220 8-1-75	14701	15266	15727
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CITIES SERVICE OIL COMPANY

800 Vaughn Building
Midland, Texas 79701
Telephone: 915 684-7131

December 4, 1973

Mr. Michael P. Grace
P. O. Box 1418
Carlsbad, NM 88220

Subject: Proposed Cities #1 Simpson
11,800' Morrow test
SE/4 NE/4 Section 29, T21S, R27E,
Eddy County, New Mexico

Dear Mr. Grace:

We propose to drill an 11,800' Morrow Test at a location in the SE/4 NE/4 Section 29, T21S, R27E, Eddy County, New Mexico, shortly after the first of the year. We estimate the cost of a producer at \$329,900.00 and the cost of a dry hole at \$224,850.00. As you are the owner of an Oil and Gas Lease covering an estimated 6.89680 acres in the proposed Unit covering the E/2 Section 29, we request that you join Cities in the drilling of this proposed test. We estimate your Oil and Gas Lease covers approximately 2.155250% of the proposed production unit.

Please advise us of your decision in this matter at your earliest convenience so that we may proceed with the preparation for the drilling of this test. We are enclosing a self-addressed, stamped envelope for your convenience.

Yours very truly,

CITIES SERVICE OIL COMPANY

J. Frank Riney
Landman

JFR:1

Encl.

CITIES

5158

No. 816608

POD Form 3200
Sep. 1958

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See other side)

PLEASE FURNISH SERVICE(S) INDICATED BY CHECK	BLOCK(S)
(Additional charges required for these services)	

☐ Show address where delivered

☐ Deliver ONLY
to addressee

Received the numbered article described below

REGISTERED NO.

A SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

CERTIFIED T.O.

816608

INSURED NO.

DATE DELIVERED

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

12/5/75

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300

#1 Simpson

Postmark of Delivering Office

SENDER INSTRUCTIONS

SENDER INSTRUCTIONS

Print in the space below your name, address, including ZIP Code.

☒ If special services are desired, check block(s) on other side.

☒ Indicate numerical ends and attach to back of article.

RETURN
TO

PS Form 3811 Sep. 1972

Cities Service Oil Company
Attn: J. Frank Riney
JO Vaughn Building
Midland, TX 79701

CITIES SERVICE OIL COMPANY



800 Vaughn Building
Midland, Texas 79701
Telephone: 915 684-7131

December 21, 1973

Heirs of Fred L. O'Cheskey
% Fred L. O'Cheskey, Jr.
412 San Mateo West
Santa Fe, New Mexico 87501

Gentlemen:

We propose to drill an 11,800' Morrow Test at a location in the SE/4 NE/4 Section 29, T21S, R27E, Eddy County, New Mexico, shortly after the first of the year. We estimate the cost of a producer at \$329,900.00 and the cost of a dry hole at \$224,050.00. As you are the owner of an estimated 5.65 acre mineral interest in the proration unit covering the E/2 Section 29, we request that you join Cities in the drilling of this proposed test. We estimate your mineral interest covers 1.765625% of the proposed proration unit.

Please advise us of your decision in this matter at your earliest convenience so that we may proceed with the preparation for the drilling of this test. We are enclosing a self-addressed, stamped envelope for your convenience.

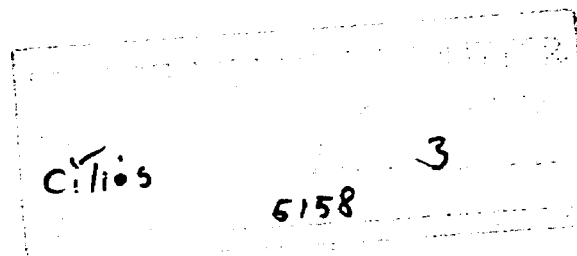
Yours very truly,

CITIES SERVICE OIL COMPANY

J. Frank Riney
Landman

JFRde

Enclosure



John E 505
983/7856

331 SEP 1972 PS Form 3800-10-01077-2

RECEIPT

Received the numbered article described below

REGISTERED NO. _____

CERTIFIED NO. **635942**

INSURED NO. _____

DATE DELIVERED **12/15/73**

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in) _____

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY _____

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code) _____

PLEASE PRINT SERVICE(S) INDICATED BY CHECKED CHECK(S)
☒ Show address where delivered ☐ Deliver ONLY to addressee

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$500



Postmark of Delivering Office

SENDER INSTRUCTIONS

Print in the space below your name, address, including ZIP Code.
 • If special services are desired, check blank(s) on other side.
 • Fasten pinned ends and attach to back of article.

RETURN
TO

Cities Service Oil Company
J. Frank Riney
800 V ghn Building
Midland, Texas 79701

RECEIPT FOR CERTIFIED MAIL—3 (plus postage)

SENT TO	Fred L. O'Cheskey, Jr.	POSTMARK OR DATE	12-21-73
STREET AND NO.	412 San Mateo West		
P.O., STATE AND ZIP CODE	Santa Fe, New Mexico 87501		
OPTIONAL SERVICES FOR ADDITIONAL FEES			
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered	15c	
	With delivery to addressee only	65c	
	2. Shows to whom, date and where delivered	35c	
	With delivery to addressee only	85c	
	DELIVER TO ADDRESSEE ONLY	50c	
	SPECIAL DELIVERY (extra fee required)		

PS Form 3800 Apr. 1971 NO INSURANCE COVERAGE PROVIDED— (See other side)
NOT FOR INTERNATIONAL MAIL GPO : 1972 O - 460-743

No. 635942

412 San Mateo Road
Santa Fe, New Mexico

January 9, 1974

Cities Service Oil Company
800 Vaughn Building
Midland, Texas 79701

Attention: J. Frank Riney
Landman

Dear Mr. Riney:

This is in reply to your letter of December 21, 1973,
concerning your firm's proposal that my brother, sisters
and myself join Cities in drilling a Morrow Test.

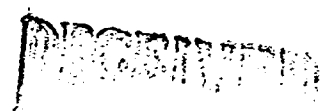
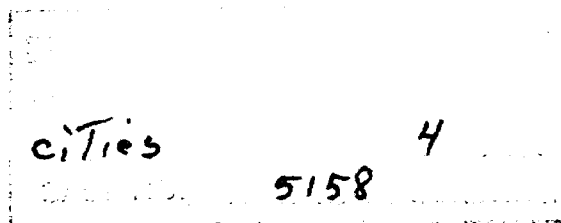
It is our intention to form a partnership and join with
Cities in the drilling of this test. Please send the
necessary forms for execution.

Sincerely,

Fred L. O'Cheskey, Jr.

Fred L. O'Cheskey, Jr.

FLO:sd



JAN 14 1974

Cities Service Oil
Southern Region



CITIES SERVICE OIL COMPANY

800 Vaughn Building
Midland, Texas 79701
Telephone: 915 684-7131

January 25, 1974

The Heirs of Fred L. O'Cheskey
% Mr. Fred L. O'Cheskey, Jr.
412 San Mateo West
Santa Fe, New Mexico 87501

Dear Mr. O'Cheskey:

As requested in your letter of January 9, 1974, we are enclosing the following items for each of the Fred L. O'Cheskey heirs:

1. Copy of Unit Agreement dated September 22, 1972. Please note this Operating Agreement covers lands other than the E/2 Section 22, the Proration Unit for our proposed #1 Simpson test.
2. Five (5) copies of Consent and Ratification pages to the above mentioned Operating Agreement. Please note this Ratification specifies that you will be ratifying the above mentioned Operating Agreement only in so far as it pertains to the E/2 Section 22, T-21-S, R-27-E.
3. Detailed Well Estimate "The prices shown for material on the attached Detailed Well Estimate are estimates only. The material needed will be acquired at the best price and under the best circumstances obtainable, and the Joint Account will be charged the actual cost of the material, the cost of making it suitable for use, and the cost of moving it to the location."

Please have each of the heirs execute four (4) copies of the Consent and Ratification pages and one (1) copy of the Detailed Well Estimate and return them to this office at your earliest convenience.

We hope to commence operations on this test in the very near future; therefore your cooperation in expediting this matter will be greatly appreciated.

Yours very truly,

CITIES SERVICE OIL COMPANY

J. Frank Riney
Landman

Cities
5158 5

OP 69

DETAILED WELL ESTIMATE

WELL NUMBER 1 LEASE Simpson
 CONTRACTOR _____ LOCATION 1980' ENL and 660' FEL
 DATE 11-13-73 SECTION 29, T-21-S, R-27-E
 J. O. NO. _____ DEPTH 11,800' COUNTY Eddy STATE New Mexico
 (Morrow)

DESCRIPTION	GRADE	SIZE	QUAN.	W	ESTIMATE PRODUCER	ESTIMATE DRY HOLE	REVISED ESTIMATE	ACTUAL COST
TANGIBLES								
Casing @ 400' H-40 ST&C 16"	A		405	65	5,100	5,100		
Surface								
H-40 ST&C 10-3/4"	A		1,100	32	6,200	6,200		
K-55 ST&C 10-3/4"	A		1,515	40	10,600	10,600		
@ 3100' K-55 ST&C 10-3/4"	A		515	45	4,050	4,050		
N-80 LT&C 5-1/2"	A		9,629	17	36,900	-		
@ 11800' N-80 LT&C 5-1/2"	A		2,269	20	10,200	-		
Well head connections					10,000	2,000		
Tubing Imp. Buttress N-80 2-7/8"	A		11,300	6	19,800	-		
Sucker rods								
Bottom hole pump								
Engine or motor								
Pumping unit								
Electrical equip. inc. Labor & Trans.								
Line pipe, fittings inc. Labor & Trans.								
Packer	A				1,300	-		
TANK BATTERY								
Stock tanks Coated	A	210	1		2,200	-		
G. B., settler, free water K. O. tank								
Separator, heater treater, etc.					9,500	-		
Cost to install T. B.					1,500	-		
INTANGIBLES								
Contract Drlg. labor (footage) \$10.50/ft.					123,900	123,900		
Rotary day work 6 Days @ \$1750/day					10,500	10,500		
Cable tool work 7 Days					3,150	-		
Subsurface casing equipment					3,500	2,000		
D. S. T., electric logs, etc.					12,000	12,000		
Acidizing, fracing					3,000	-		
Perforating					2,500	-		
Misc. company and contract labor					3,000	2,000		
Road building, location					4,000	4,000		
Cement & cementing service					11,000	10,000		
Cement squeeze jobs								
Drilling mud, chemicals					14,000	14,000		
Drilling bits, coreheads, reamers								
Mud logging unit					3,000	3,000		
Rental of miscellaneous equip.					2,500	2,500		
Company, contract hauling					3,500	2,000		
Water, fuel					8,000	8,000		
Miscellaneous incidentals					5,000	3,000		
Total estimated cost - 100%					329,900	224,850		
Total estimate C. S.				%				

That \$ _____ per month is hereby fixed as a reasonable charge for supervision (combined fixed rates), provided that this rate shall be adjusted on the first day of April of each year following the effective date of this order; that the adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of Crude Petroleum and Gas Production Workers for the last calendar year compared to the preceding calendar year as shown by "The Index of Average Weekly Earnings of Crude Petroleum and Gas Production Workers" as published by the United States Department of Labor, Bureau of Labor Statistics, and the adjusted rate shall be the rates currently in use, plus or minus the computed adjustment; 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.

appl. Ex. No. 7
Cs. 5158

ROUTE 9, BOX 8252
ALBUQUERQUE, NEW MEXICO 87105

PHONE (505) 877-9596

Dale H. Carlson
CONSULTING GEOLOGIST

Albuquerque, New Mexico
April 20, 1974

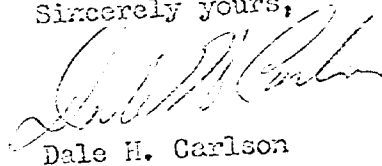
Mr. M. P. Grace
P. O. Box 2062
Santa Fe, New Mexico 87501

Dear Mr. Grace,

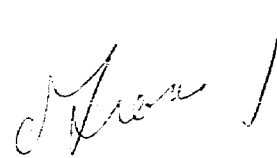
At your request, I have been trying to find a competent exchange for your acreage in Section 29, where Mr. Borkenhagen tells me Cities Service is trying to make an on and off exchange. Not being a lawyer, I can only advise you of what I consider equal acreage in value in other sections.

I saw the letter in which Cities Service offered you \$300.00 an acre for your interest in Section 29. I, therefore, suggest you offer them \$300.00 per acre for 25 acres in Section 1, Township 22S, Range 26E, plus your 6 or 7 acres exchange or a similar deal for 30 acres, Section 6, Township 22S, Range 27E. The acreage they offered you in Section 2 which is almost double your acreage is not even worth half the value of your acreage, per acre, in my opinion.

Sincerely yours,


Dale H. Carlson

DHC/33



March 20, 1974

Mr. Michael P. Grace
Post Office Box 1418
Carlsbad, New Mexico 88220

Subject: Proposed Cities #1 Simpson Well
11,000' Morrow Test
SE/4 NE/4 Section 29
T-21-S, R-27-E
Eddy County, New Mexico
E/4 Section 29

Dear Mr. Grace:

We wish to submit the following proposals in an attempt to arrive at a mutually satisfactory solution to our problem in the subject Production Unit.

1. We submit an offer of ^{300.00} \$300.00 per acre for an assignment covering your leases in the subject Production Unit and your leases covering approximately 3.5 acres in Lot 10, Block 11, Llameta Subdivision in the NE/4 of Section 30, T-21-S, R-27-E.
- or -
2. Cities will trade leases covering approximately 10 acres in the SE/4 of Section 2, T-21-S, R-26-E for your leases set out in the first proposal. The tracts covered by Cities leases contain from approximately .25 acres to 3 acres.

Both of the above mentioned proposals are subject to approval of title. If you are interested in either of these proposals, we would be glad to furnish you with more detailed information on the Cities service leases involved.

Yours very truly,

CITIES SERVICE OIL COMPANY

J. Frank Riney

JFR/ba

cc: Mr. Robert H. Borkenhagen
Suite 1100
American Bank of Commerce Complex
200 Lomas Boulevard, N. W.
Albuquerque, NM 87102

HENRY G. COORS, IV
ROBERT N. SINGER
PETER J. BROULLIRE III
ROBERT H. BORKENHAGEN

GOORS, SINGER & BROULLIRE
Attorneys and Counselors at Law

SUITE 1100
AMERICAN BANK OF COMMERCE BUILDING
200 LOMAS BOULEVARD, N.W.
ALBUQUERQUE, NEW MEXICO 87102

TELEPHONE 243-3547
AREA CODE 505

March 5, 1974

Mr. A.L. Porter, Jr.
P.O. 2088
Santa Fe, New Mexico 87501

Re: Application for Hearing DE NOVO

Dear Mr. Porter:

Enclosed please find an Application for Hearing DE
NOVO in case number 5158, Order No. R-4721.
Please let me know when the hearing will be held.

Sincerely,

Robert H. Borkenhagen
Robert H. Borkenhagen

DOCKET MAILED

RHB/tap

Enclosure

P.S.

Please enclose the copy and return
it to me.

RHB

*cc sent to Manuel J. Linares
& Manuel Linares*

DOCKET MAILED

Date 4-11-74

BEFORE THE OIL CONSERVATION
COMMISSION OF THE STATE OF NEW MEXICO

In the Matter of the Hearing called by the Oil Conservation
Commission of the State of New Mexico for the purpose of:

Application of Cities Service Oil Company for compulsory pool-
ing, Eddy County, New Mexico. Case No. 5158, Order NO. R-4721

APPLICATION FOR HEARING DE NOVO

Comes now MICHAEL P. GRACE and CORRINNE GRACE,
owners of mineral interests who are adversely affected by
order No. R-4721, and make application pursuant to Rule 1220
of the Rules and Regulations of the Oil Conservation Commission
of the State of New Mexico to have the subject matter of
Case No. 5158 heard DE NOVO before this Commission as is allowed
pursuant to the above referred to rule of this Oil Conservation
Commission, and as grounds therefore would state:

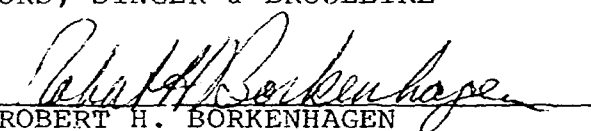
That they are owners of mineral interests within the
area affected by Case No. 5158, Oil Conservation Commission
Order No. R-4721.

That order No. R-4721 was issued by the Oil Conserva-
tion Commission on the 13th day of February, 1974.

This application for hearing DE NOVO is made this
26th day of February, 1974.

COORS, SINGER & BROULLIRE

BY


ROBERT H. BORKENHAGEN
Attorneys for Applicants
100 American Bank of Commerce
Albuquerque, New Mexico 87102

JASON W. KELLAHIN
ROBERT E. FOX
W. THOMAS KELLAHIN

KELLAHIN AND FOX
ATTORNEYS AT LAW
500 DON GASPAR AVENUE
POST OFFICE BOX 1769
SANTA FE, NEW MEXICO 87501

TELEPHONE 982-4315
AREA CODE 505

January 4, 1974

Mr. A. L. Porter
New Mexico Oil Conservation Commission
P. O. Box 2008
Santa Fe, New Mexico 87501

Re: Applications of
Cities Service Oil Company

Dear Mr. Porter:

In behalf of Cities Service Oil Company, I am enclosing originals and copies of two separate applications both involving force poolings in Eddy County, New Mexico.

We would appreciate having these cases heard at the examiner's hearing scheduled for January 30, 1974.

Very truly yours,

WTK
W. Thomas Kellahin

WTK:ks

Enclosures

cc: Mr. Gene Motter
w/ encls.

*Borghagen - Attempting to trade
acreage - If trade out is not
worked out - Grace has
no objection and no
obj to risk factor.*

DOCKET MAILED

Date 1-18-74

BEFORE THE
OIL CONSERVATION COMMISSION OF NEW MEXICO

IN THE MATTER OF THE APPLICATION
OF CITIES SERVICE OIL COMPANY FOR
COMPULSORY POOLING, EDDY COUNTY,
NEW MEXICO

Case 2158

A P P L I C A T I O N

COMES NOW Cities Service Oil Company and as provided
by Section 65-31-4, New Mexico Statutes, 1953, as amended,
applies to the Oil Conservation Commission of New Mexico
for an order pooling all the mineral interests in and under the
E/2 of Section 29, Township 21 South, Range 27 East, N.M.P.M.,
Eddy County, New Mexico and in support thereof would show
the Commission:

1. Applicant is the owner of the right to drill and
develop the following described acreage: E/2 of Section 29,
Township 21 South, Range 27 East, N.M.P.M.

DOCKET MAILED

2. Applicant has obtained voluntary agreement for
pooling from all but the following:

Date 4-11-74

The O'Cheskey heirs
attention: Mr. Fred L. O'Cheskey, Jr.
412 W. San Mateo
Santa Fe, New Mexico 87501

DOCKET MAILED

Date 1-18-74

with an undivided one-half mineral interest in the
following tracts:

- a) Lot 7, Block 28 of the La Huerta subdivision,
City of Carlsbad, New Mexico
- b) A Tract of land in Lot 8, Block 28, La Huerta
subdivision, City of Carlsbad, New Mexico and
more particularly described as follows:

Beginning at the SW corner of said lot, a distance of 60'; thence East parallel to the South line a distance of 150'; thence South parallel to the West line of said lot to the South line of said lot; thence West along South line of said lot to the point of beginning.

- c) a tract of land being the North 100' of lot 8, Block 28 of the La Huerta Subdivision City of Carlsbad, New Mexico.
- d) Lot 9, Block 28 of the La Huerta Subdivision, City of Carlsbad, New Mexico.

Michael P. Grace with ownership of the mineral interest underlying lot 7 and the west one acre of the North one and one-half acres of lot 9, Block 25 of La Huerta Subdivision, city of Carlsbad, New Mexico, comprising 6 acres, more or less.

3. As required by the provisions of Commission Rule 104, applicant proposes to dedicate the E/2 of Section 29, Township 21 South, Range 27 East, N.M.P.M., Eddy County, New Mexico to a well to be drilled at a standard location and designated the Cities Service Simpson #1.

4. Applicant requests that it be designated operator of the pooled unit requested above.

5. Applicant has been unable to obtain voluntary agreement for the pooling of the unpooled interests indicated in paragraph 2 above, and in order to avoid the drilling of unnecessary wells to protect correlative rights, and to prevent waste, the Commission should pool all interests in the spacing or proration unit as a unit.

WHEREFORE, applicant respectfully requests that the Commission set this matter for hearing before the Commission's duly appointed examiner, and that after notice and hearing as required by law the Commission enter its order pooling all interest underlying the E/2 of Section 29, Township 21

South, Range 27 East, N.M.P.M., Eddy County, New Mexico, and designating applicant operator of the pooled unit, together with provision for applicant to recover its costs out of production including a risk factor to be determined by the Commission and with provisions for the payment of operating costs and costs of supervision out of production to be allocated among the owners as their interest may appear and for further orders as may be proper in the premises.

Respectfully submitted,

CITIES SERVICE OIL COMPANY

BY


KELLAHIN & FOX

P. O. Box 1769

Santa Fe, New Mexico 87501

ATTORNEYS FOR APPLICANT

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. 5158 DE NOVO
Order No. R-4721-A

APPLICATION OF CITIES SERVICE
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 April 23, 1974, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this _____ day of April, 1974, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, 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 applicant, Cities Service Oil Company, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico.

(3) That the matter came on for hearing at 9:00 a.m. on January 30, 1974, at Santa Fe, New Mexico before Examiner Daniel S. Nutter, and, pursuant to this hearing, Order No. R-4721 was issued on February ¹³~~11~~, 1974, which granted Cities Service's application and ~~force~~ ^{Compulsorily} pooled all mineral interests in the Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico.

(4) That on ~~March 5~~ ^{February 26}, 1974, application for Hearing De Novo was made by Michael P. Grace and Corinne Grace and the matter was set for hearing before the ~~full~~ Commission.

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CASE NO. 5158 De Novo
Order No. R-4721-A

(5) That the matter came on for hearing de novo on April 23, 1974.

(6) That the evidence adduced at said hearing indicates that Commission Order No. R-4721, entered February 13, 1974, should be affirmed.

IT IS THEREFORE ORDERED:

(1) That Commission Order No. R-4721, entered February 13, 1974, is hereby affirmed.

(2) 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 herein-
above designated.

DRAFT

dr/

(W)



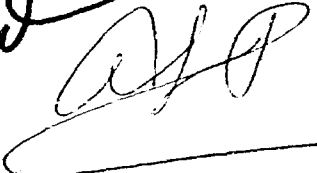
BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

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

CASE NO. 5158

Order No. R-4721

APPLICATION OF CITIES SERVICE 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 January 30, 1974
at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this day of February, 1974, 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, Cities Service Oil Company,
seeks an order pooling all mineral interests in the
Pennsylvanian formation underlying the E/2
of Section 29, Township 21 South, Range 27 East,
NMPM, , Eddy County, New
Mexico.

its Simpson well No. 1, to be located

(3) That the applicant has the right to drill and proposes to drill ~~a well~~ at a standard location for said unit.

(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.

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs 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.

(9) 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.

(10) 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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Case No.
Order No. R

that this charge should be adjusted annually based upon the percentage increase or decrease in the average weekly earnings of crude petroleum and gas production workers;

(11) That \$205.00 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.

(12) 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 of said pooled unit to commence drilling of the well to which said unit is dedicated on or before May 1, 1974, 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 Pennsylvanian formation underlying the E/2 of Section 29, Township 21 South, Range 27 East, NMPM, Eddy County, New Mexico, are hereby pooled to form a standard 320- acre gas spacing and proration unit to be dedicated to ~~xxxxxxx~~ its Simpson Well No. 1, to be drilled at a standard location for said unit.

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the first day of May, 1973, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Pennsylvanian formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the first day of May, 1973, Order (1) of this order shall be null and void and of no effect whatsoever.

Case No.
Order No. R-

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 Cities Service Oil Company is hereby designated the operator of the subject well and unit.

(3) That after the effective date of this order and ^{within} ~~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.

(4) That within 30 days from the date the schedule of 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 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 30 days from the date the schedule of estimated well costs is furnished to him.

(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 30 days from the date the schedule of estimated well costs is furnished to him.

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

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(10) That the adjusted charge for supervision (combined fixed rates) shall be filed with the Commission on or before the first day of May of each year