

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY )  
THE OIL CONSERVATION DIVISION FOR THE )  
PURPOSE OF CONSIDERING: )

CASE NO. 13,399

APPLICATION OF DUGAN PRODUCTION )  
CORPORATION FOR AN UNORTHODOX COAL )  
GAS WELL LOCATION, SAN JUAN COUNTY, )  
NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

February 17th, 2005

Santa Fe, New Mexico

2005 MAR 3 AM 8 07

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, February 17th, 2005, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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## I N D E X

February 17th, 2005  
Examiner Hearing  
CASE NO. 13,399

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APPLICANT'S WITNESS:	
<u>KURT FAGRELIUS</u> (Geologist)	
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\* \* \*

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## A P P E A R A N C E S

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR  
 110 N. Guadalupe, Suite 1  
 P.O. Box 2208  
 Santa Fe, New Mexico 87504-2208  
 By: WILLIAM F. CARR

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:25 a.m.:

3  
4  
5 EXAMINER CATANACH: Okay, we're going to skip a  
6 couple of cases.

7 The Yates case, 13,415, we're going to hear that  
8 a little bit later today.

9 And also the next case, 13,395, the Chiso case,  
10 we're going to skip over, and we will hear that a little  
11 bit later on as well.

12 At this time I'll call Case 13,399, the  
13 Application of Dugan Production Corporation for an  
14 unorthodox coal gas well location, San Juan County, New  
15 Mexico.

16 Call for appearances.

17 MR. CARR: May it please the Examiner, my name is  
18 William F. Carr with the Santa Fe office of Holland and  
19 Hart, L.L.P.

20 We represent Dugan Production Corporation in this  
21 matter, and I have one witness.

22 EXAMINER CATANACH: Any additional appearances?  
23 Okay, will the witness please stand to be sworn  
24 in?

25 (Thereupon, the witness was sworn.)

1                                    KURT FAGRELIUS,  
2    the witness herein, after having been first duly sworn upon  
3    his oath, was examined and testified as follows:

4                                    DIRECT EXAMINATION

5    BY MR. CARR:

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

7                    A.    My name is Kurt Fagrelus.

8                    Q.    Mr. Fagrelus, where do you reside?

9                    A.    I live in Farmington, New Mexico.

10                  Q.    By whom are you employed?

11                  A.    I'm employed by Dugan Production Corporation.

12                  Q.    And what is your position with Dugan Production  
13    Corporation?

14                  A.    I'm vice president of exploration.

15                  Q.    Have you previously testified before the New  
16    Mexico Oil Conservation Division?

17                  A.    Yes, I have.

18                  Q.    At that time were your credentials accepted and  
19    made a matter of record?

20                  A.    Yes, they were.

21                  Q.    And how were you qualified at that time? As a  
22    petroleum geologist?

23                  A.    Yes, sir.

24                  Q.    Are you familiar with the Application filed in  
25    this case on behalf of Dugan Production Corporation?

1           A.    Yes, I am.

2           Q.    And are you familiar with the status of the lands  
3 and also Dugan's efforts to drill the subject well?

4           A.    Yes, I am.

5           MR. CARR: May it please the Examiner, we tender  
6 Mr. Fagrelus as an expert witness in petroleum geology.

7           EXAMINER CATANACH: He is so qualified.

8           Q.    (By Mr. Carr) Initially, would you briefly state  
9 for the Examiner what it is that Dugan seeks with this  
10 Application?

11          A.    We would like approval for our proposed Federal  
12 "I" Com Number 103 at an unorthodox location, located in  
13 Section 12 of 29 North, 14 West, 1775 feet from the north  
14 line and 10 feet from the west line.

15          Q.    Are we going to be dedicating to this well a  
16 standard 320-acre spacing unit, more or less?

17          A.    Yes, it's a standard 320-acre proration unit that  
18 we're dedicating the west half to the well.

19          Q.    There's a slight survey variation, but it is just  
20 a portion of an acre; isn't that right?

21          A.    That's correct.

22          Q.    I'd like to ask you initially to review with me  
23 the conditions concerning this location and the history of  
24 your efforts to develop this acreage. Could you just  
25 initially identify the rules that govern the Basin

1 Fruitland Coal in the area?

2 A. There are special rules that regulate the Basin  
3 Fruitland Coal Pool. 320-acre spacing is required. A  
4 setback of 660 feet from the outer boundary of the spacing  
5 unit and 10 feet from the quarter-quarter section line or  
6 subdivision inner boundary. Wells are to be located no  
7 closer than 660 feet from the outer boundary of the  
8 dedicated spacing unit.

9 Q. Mr. Fagrelus, in this case we're here because  
10 the location you are proposing is, in fact, only 10 feet  
11 from the outer boundary of the spacing unit; isn't that  
12 right?

13 A. That's correct.

14 Q. And Dugan initially filed an administrative  
15 application seeking approval of this location, and it was  
16 set for hearing because of concern about how close to the  
17 outer boundary of the spacing unit you were proposing to  
18 drill?

19 A. That's correct.

20 Q. Would you go first to what has been marked as  
21 Dugan Exhibit Number 1, identify that for Mr. Catanach, and  
22 review the exhibit on this exhibit [sic].

23 A. Exhibit Number 1 is a map that shows the west  
24 half, 320 acres dedicated to the Federal "I" Com Number 103  
25 in Section 12 of 29 North, 14 West.

1           It also shows the Federal Lease SF-078110, which  
2           is outlined with a small stippled pattern, and includes the  
3           east half of the proration unit.

4           Also shown on this exhibit are the royalty  
5           interest owners. There's several fee leases, and they are  
6           depicted also. There's a State of New Mexico lease up in  
7           Section 2.

8           Also shown is the proration unit to the west in  
9           Section 11, Township 29 North, 14 West, that was set up for  
10          the King Com Number 90.

11          And what you should note from this is the royalty  
12          interest owners that participate in the King Com 90 will  
13          also participate in the Federal "I" Com Number 103. In  
14          fact, their interests, most of whom -- their interests will  
15          increase in the Federal "I" Com 103.

16          Q.    If we look at the fee leases that are in the  
17          center and basically straddle the two spacing units, one in  
18          11 and one in 12, the interest owners -- these are royalty  
19          owners, are they not, McSparron, Schenck, Sterling and  
20          Akins?

21          A.    That's correct, they will participate in both  
22          wells.

23          Q.    And they have one 40-acre dedicated to the well  
24          in Section 11, but in fact there are three 40-acre tracts  
25          dedicated to the well that you're proposing to drill in



1 Section 12?

2 A. That's correct.

3 Q. And then you go south of that and you have  
4 another spacing unit, and you've identified on that the  
5 royalty interest owners in that tract; is that right?

6 A. Yes, that's the Johnston, Gooding, King, Jenson,  
7 et al.

8 Q. And they will have exactly the same number of  
9 acres dedicated to each of the wells that are involved?

10 A. Again, that is correct.

11 Q. And we also have federal acreage in both of those  
12 spacing units, that is, it springs from the same federal  
13 lease?

14 A. Correct.

15 Q. Let's go to the second page of Exhibit 1. Would  
16 you identify what that is?

17 A. That's a chronology of the King Com Number 90.  
18 This was one of the first wells that we drilled in the  
19 area. It was spudded back in March of 1999, completed in  
20 June, and first delivered in August of the year 2000.

21 It's producing from the Fruitland Coal. It's  
22 cumulative production is 31 million cubic feet of gas, and  
23 it averages 20 MCF a day and six barrels of water.

24 This is one of the poorest wells we have in the  
25 area. All the surrounding wells average about 100 to 150,

1 some up to 200 MCF a day. Since this well was drilled,  
2 we've refined our completion practices such that we are  
3 completing better wells now.

4 Our future plans are to refracture the King Com  
5 90 in the next two months.

6 Page 3 --

7 Q. After you do that, what do you anticipate? Are  
8 you going to be able to greatly improve the producing  
9 capability of that well?

10 A. We have refractured three other wells in this  
11 general area within about two miles, and all three were  
12 making 15 to 20 MCF a day. Now one is doing 150 a day and  
13 the other is doing 225 a day, and the third is about 130  
14 MCF a day. So we've improved our production considerably  
15 by refracturing old completions.

16 Q. And you're planning to do that work on the King  
17 Com 90 within the next two months?

18 A. Correct.

19 Q. What is the last page on Exhibit 1?

20 A. The last page is a production decline curve that  
21 is current through -- I believe it's August of the year  
22 2004, and you'll see that production has stayed, oh,  
23 between 20 and 30 MCF a day for quite some time.

24 Q. Mr. Fagrelus, let's go now to Dugan Exhibit  
25 Number 2. Would you identify and review that, please?

1           A.   Exhibit Number 2 is a city plat map of the area  
2   in question.  It shows, first off, the location of the  
3   proposed well with the red arrow.  And it also shows the  
4   proration unit boundary.  This map shows the northwest  
5   quarter and also the north half of the southwest quarter of  
6   Section 12, 29 North, 14 West.

7           Everything that is colored in white is developed  
8   either with a business or a residence.  The lots that are  
9   highlighted in yellow are undeveloped.

10           And it also shows on the south end US Highway 64,  
11   which is a corridor of about -- well, the right-of-way is  
12   about 400 feet, and the highway is about 150 feet in width.

13           Q.   All right, review for Mr. Catanach what you went  
14   through trying to get a location on this spacing unit.

15           A.   I have been permitting five wells within the city  
16   limits, all within a one- or two-mile area of this, for the  
17   last three and a half years.  Four of those wells have been  
18   approved.  Four of the five required nonstandard locations,  
19   three of which have been approved.  This is the last one  
20   requiring a nonstandard location that I need to get  
21   approved.

22           I have staked this well three times.  Initially,  
23   I staked it way up in the northeast of the northwest  
24   quarter on that rectangular, yellow-shaped block.  And the  
25   surface owners, two brothers by the name of Dumas,

1 adamantly opposed it. I met with them twice in the field  
2 and three or four times on the phone, and they said no way.  
3 They've got a pipeyard up there, and they had plans to  
4 develop.

5 So I backed up and I came down, and if you'll  
6 look at where the tail of my red arrow is, that is Lot 13.  
7 I staked a location there, began discussions with the  
8 surface owner, and he decided to put in a pipeyard and a  
9 warehouse instead.

10 So we backed up and we looked at some of the  
11 other lots. And one of the difficulties of working in the  
12 City is that there are certain regulation that -- there are  
13 setback regulations that you have to follow. We cannot  
14 locate within 200 feet of an existing residence or  
15 building, nor can we locate within 300 feet of an existing  
16 social gathering place.

17 Well, lots 1 through 6 all border along the  
18 trailer park, and those were precluded from locating on any  
19 of them. Section 9 and 18 were too close to existing  
20 buildings to locate on them.

21 Lot Number 8 is owned by what's referred to as  
22 the Jenson Family Trust. There's two executors or owners  
23 of the trust, one in Phoenix, the other's in Las Cruces.  
24 Numerous phone calls were unable to come to terms with  
25 them.

1           So Lot 7 where we're located on was the only  
2 available place to locate a well. Dugan Production  
3 purchased this lot and then staked the well that we're now  
4 talking about.

5           Q. And so it's a combination of being in the Harper  
6 Hill Industrial Subdivision and the City regulations, and  
7 also federal stipulations attached to the federal lease?

8           A. Correct. I did attach stipulations that are  
9 attached to both the fee and federal leases that again  
10 preclude me from locating within 200 feet of an existing  
11 building or residence.

12          Q. Could you identify what has been marked Dugan  
13 Exhibit 3?

14          A. Exhibit Number 3 Is the C-102 that we filed,  
15 showing the west-half 320-acre dedication.

16          Q. I'd now like to, for a minute, ask you to review  
17 for Mr. Catanach your efforts to obtain the approval of  
18 this location from the City of Farmington and its various  
19 component agencies, and in doing that I'd ask you to refer  
20 to Exhibit 4.

21          A. Okay, Exhibit 4 is the final outcome of our  
22 permit efforts with the City of Farmington. The City of  
23 Farmington has a -- what I would call a three-tiered  
24 process of obtaining a license or permit to drill within  
25 the city limits.

1           You first make application for a special-use  
2 permit from the planning and the zoning department. The  
3 planning and zoning department looks at certain  
4 requirements of -- concerning landscaping, the setbacks,  
5 impact to existing utilities and infrastructure, setbacks  
6 from streets.

7           And you go to the planning and zoning and you get  
8 your special-use permit, which we received, following which  
9 you go to what is referred to as the Oil and Gas  
10 Commission, or better known as the Geologic and Engineering  
11 Hazards and Safety Committee, and that committee reviews  
12 technology, concerns with pressures, BOP's, the quality and  
13 grade of pipe that you use in the wellbore, and also safety  
14 issues.

15           Following the hearing with the Geologic and  
16 Engineering Committee, you go before the Farmington City  
17 Council, and they will approve the requirements of the  
18 development services, or planning and zoning, or amend  
19 them, after which you receive your license for a permit to  
20 drill.

21           This was about a four-month process and is  
22 ongoing. We have certain time lines that we have to meet  
23 and -- I think that covers about all of that.

24           Q. As to this well, you were able to obtain a  
25 favorable vote from the City Council on December the 14th;

1 is that correct?

2 A. Yes, I did. On November 11th I got through the  
3 planning and zoning hearing.

4 November 23rd I was through the Oil and Gas,  
5 Geologic and Engineering Hazards Advisory Commission  
6 Hearing.

7 December 14th I went before the City Council.

8 And on January 10th I received the final decision  
9 from the City for my permit and license to drill.

10 Q. Mr. Fagrelus, what additional cost does this  
11 approval process impose on an operator trying to develop  
12 within the city limits?

13 A. We estimate that it is costing us approximately  
14 \$30,000 per well to meet the requirements of the City.

15 Q. Would you just identify what has been marked as  
16 Dugan Exhibit Number 5?

17 A. That's the APD that we filed with the State on  
18 September 21st, 2004.

19 Q. And what is Exhibit Number 6?

20 A. Exhibit Number 6 is the application for  
21 administrative approval of the unorthodox location for the  
22 federal "I" Com Number 103 that we filed on November 3rd,  
23 2004.

24 Q. And what response did you get from the Oil  
25 Conservation Division?

1           A.    On December 14th we got a response back from the  
2 NMOCD where this issue had been set for hearing.

3           Q.    And the reason it was set for hearing was because  
4 of concern of the impact on the affected interest owners of  
5 the well this close to the spacing unit boundary; is that  
6 correct?

7           A.    That's correct.  Although we had notified all  
8 working interest owners, the concern was mainly, I believe,  
9 for royalty interest owners.

10          Q.    Let's go to Exhibit Number 8.  Would you identify  
11 that, please?

12          A.    Exhibit 8 is a working interest owners map, and  
13 it shows that -- all the working interest owners, whether  
14 they be for fee leases or federal leases.  And as you can  
15 see, Dugan Production is the impacted working interest  
16 owner.

17          Q.    And then the next exhibit, Exhibit 9, what is  
18 this?

19          A.    Exhibit 9 is the offsetting royalty interest  
20 owners map.  It shows the proration unit, it shows the  
21 royalty interest owners that will be impacted.

22                And I might refer you back to one of my earlier  
23 exhibits.  Those same royalty interest owners participate  
24 in the east half of Section 11.

25          Q.    If we look at this map and we look at the spacing



1 unit in 12 and the spacing unit in 11, is it fair to say we  
2 have the same affected interest owners in each?

3 A. Yes, we do.

4 Q. As to the royalty interest owners on the fee  
5 tracts, that royalty interest will either stay the same or  
6 go up?

7 A. Yes, in most cases it increases by a factor of  
8 three.

9 Q. As to the federal government, they have 120 acres  
10 in the spacing unit that's going to be dedicated to the  
11 well that's the subject of today's hearing, and 200 acres,  
12 slightly more, in the offsetting spacing unit to the west;  
13 is that correct?

14 A. They have 200 in the proration unit to the west,  
15 but they have 160 in this proration unit.

16 Q. Have you reviewed this proposal with the Bureau  
17 of Land Management?

18 A. Yes, I have. First, they have received it by  
19 mail twice, and I also hand-carried it over and spoke with  
20 Mr. David Mankiewicz about the issue.

21 Q. And they're the only royalty owner that actually  
22 will have a reduced royalty share in the well that you're  
23 proposing here today?

24 A. I don't know if it's reduced. I think it remains  
25 the same.

1 Q. They have 200 acres in one and 160 acres in the  
2 other one.

3 A. Oh, okay, I follow, yes.

4 Q. What response have you received from them?

5 A. They gave me a positive response, which is  
6 Exhibit 10. They wrote a letter of support for us and --

7 Q. So they do not object to this location?

8 A. There's no objection at all from the BLM.

9 Q. Is Exhibit Number 11 an affidavit from Holland  
10 and Hart confirming that notice of this Application has  
11 been provided in accordance with the Rules of the Division?

12 A. Yes, it is.

13 Q. And to whom was notice provided?

14 A. All affected working and royalty interest owners.

15 Q. Is Exhibit Number 12 -- it may be attached as the  
16 last page of Exhibit Number 11 -- affidavits confirming  
17 that notice of this hearing has been published in the  
18 Farmington newspaper?

19 A. Yes, it is.

20 Q. Have you received a response from any of the  
21 affected royalty interest owners?

22 A. The only response we've received was from the  
23 BLM. Like I mentioned earlier, there's been no other  
24 response, and no negative response.

25 Q. In your opinion, will granting this Application

1 be in the best interest of conservation, the prevention of  
2 waste and the protection of correlative rights?

3 A. Yes, it will.

4 This location is located inside the city limits  
5 of Farmington. It's needed due to the existing development  
6 and regulations of the City that exist, it minimizes impact  
7 to existing and planned utilities in the area, it provides  
8 the best route for a pipeline from a well out of the area,  
9 and it has been approved by the City.

10 Without approval of this unorthodox location, the  
11 well will not be drilled and royalty interests will not be  
12 developed. It will facilitate proper mineral resource  
13 development and recovery and is in the best interest of  
14 conservation, prevention of waste and protection of  
15 correlative rights.

16 Q. Were Dugan Exhibits 1 through 12 prepared by you  
17 or compiled under your direction?

18 A. Yes, they were.

19 MR. CARR: Mr. Examiner, at this time we'd move  
20 the admission into evidence of Dugan Production Corporation  
21 Exhibits 1 through 12.

22 EXAMINER CATANACH: Exhibits 1 through 12 will be  
23 admitted.

24 MR. CARR: And that concludes my direct  
25 examination.

## EXAMINATION

BY EXAMINER CATANACH:

Q. Mr. Fagrelus, going over the working interest owner map, is Dugan the only working interest owner in these two -- in the unit in question and the unit to the west?

A. Lance Petroleum has a working interest in the southwest-southwest 40-acre parcel of Section 12, and they have been notified twice.

Q. Okay. And then in Section 11, Dugan is the only working interest owner?

A. That's correct.

Q. Okay. As I understand it, the east half of the proration unit that you plan to dedicate to the well, that's federal acreage?

A. Correct.

Q. East half of the west half of Section 12?

A. Uh-huh.

Q. The west half of the proration unit is comprised of two separate fee leases; is that right?

A. That's correct.

Q. Okay. And those leases cross over back into Section 11, to the west?

A. That's correct.

Q. Okay. So all of those interest owners have been

1 notified of this Application?

2 A. Yes, they have.

3 Q. And they share production from both units?

4 A. Yes, they will.

5 Q. Okay. The lease that the King Com well is on, is  
6 that -- what type of lease is that?

7 A. That is a King -- a Rilla King fee lease. And  
8 Rilla King is also one of the royalty owners in the -- in  
9 Section 12. She's in the lowermost 80-acre tract also.  
10 And she has been notified also.

11 Q. Okay. So all of the royalty interest owners in  
12 the west half -- I'm sorry, the east half of Section 11,  
13 are going to share in production from the proposed well?

14 A. Correct.

15 Q. Okay. Nobody's expressed any objection or  
16 concern over your location?

17 A. None whatsoever.

18 Q. Okay. Your map, Exhibit Number 2, shows the  
19 northwest quarter and the north half of the southwest  
20 quarter of Section 12. You did not show the south half of  
21 the southwest quarter. Is there any possible locations in  
22 that area?

23 A. It drops off a cliff. There's -- Everything on  
24 the map has been developed that you can see. It drops off  
25 a cliff down into some fee acreage. And to pipeline up

1 over the cliff and over the highway at this time would be a  
2 pretty formidable process for us. Our pipeline  
3 infrastructure is all to the north. Plus my rights-of-way  
4 would have to cross all of this developed land.

5 Q. So basically south of the highway it just drops  
6 off?

7 A. Right, there's a cliff there of approximately 200  
8 feet. It's a rather big cliff.

9 Q. And is that where you get the river --

10 A. Uh-huh.

11 Q. -- down in that area --

12 A. Right.

13 Q. -- the San Juan River?

14 This will be the first well on this proration  
15 unit; is that correct?

16 A. Yes, sir.

17 Q. Is Dugan going to take any measures to ensure  
18 that the bottomhole location of this well is actually on  
19 Section 12, or is that going to be a problem?

20 A. I went back and reviewed deviation surveys that  
21 we've got. We've drilled a lot of wells in this area, 40  
22 to 50 wells, and our deviations are very small. We're  
23 talking a half degree to three-quarters of a degree. And  
24 at 1200-foot depth, I will still be in Section 12.

25 Q. Do you plan on running any kind of surveys to

1 make sure or determine that?

2 A. We will run deviation surveys.

3 Q. No directional survey?

4 A. Not unless asked to.

5 Q. Is there any chance of directional drilling the  
6 well? Have you guys considered that?

7 A. These wells make high volumes of water and need  
8 to be pumped, and at their shallow depth we could not reach  
9 that angle, nor would we be able to pump the water from  
10 them.

11 Q. What are the prospects for drilling an additional  
12 well on this unit?

13 A. There aren't any. I see no chance of finding  
14 another location.

15 I drove out there early this week and drove lot  
16 to lot to lot, and I just don't see how I can get a  
17 location out there. Everything is developed. Everything  
18 in white has got a residence or a business already located  
19 on it, and to the west in Section 11 there's a residential  
20 neighborhood that's going up, and there's approximately 10  
21 to 15 new houses already, and there's more projected. This  
22 area is experiencing very fast growth.

23 EXAMINER CATANACH: Okay, I think that's all I  
24 have, Mr. Carr.

25 MR. CARR: That concludes our presentation in

1 this case.

2 EXAMINER CATANACH: Okay, there being nothing  
3 further, Case 13,399 will be taken under advisement.

4 (Thereupon, these proceedings were concluded at  
5 8:53 a.m.)

6 \* \* \*

7  
8  
9  
10 I do hereby certify that the foregoing is  
11 a complete record of the proceedings in  
12 the Examiner hearing of Case No. 13388,  
13 heard by me on February 17, 2005.  
14 David R. Catnach Examiner  
15 Oil Conservation Division  
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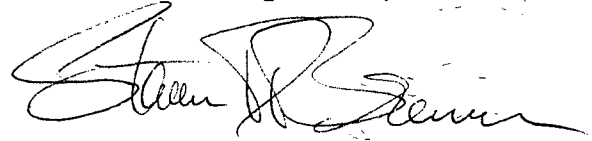
## CERTIFICATE OF REPORTER

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

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL February 18th, 2005.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006