

1 STATE OF NEW MEXICO  
2 ENERGY AND MINERALS DEPARTMENT  
3 OIL CONSERVATION DIVISION  
4 STATE LAND OFFICE BLDG.  
5 SANTA FE, NEW MEXICO  
6 16 February 1984

7 COMMISSION HEARING

8 IN THE MATTER OF:

9 Application of E. Alex Phillips for  
10 compulsory pooling, Rio Arriba  
11 County, New Mexico.

CASE 8038

12 BEFORE: Commissioner Joe Ramey, Chairman  
13 Commissioner Ed Kelley

14 TRANSCRIPT OF HEARING

15 A P P E A R A N C E S

16 For the Oil Conservation  
17 Division:

18 W. Perry Pearce, Esq.  
19 Legal Counsel to the Division  
20 State Land Office Bldg.  
Santa Fe, New Mexico 87501

21 For the Applicant:

22 James G. Bruce, Esq.  
23 HINKLE LAW FIRM  
24 P. O. Box 2265  
25 Santa Fe, New Mexico 87501

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

For Benson-Montin-Greer: Ernest L. Padilla, Esq.  
P. O. Box 2523  
Santa Fe, New Mexico 87501

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3 MR. RAMEY: We'll call next  
4 Case 8038.

5 MR. PEARCE: That case is on  
6 the application of E. Alex Phillips for compulsory pooling,  
7 Rio Arriba County, New Mexico.

8 MR. BRUCE: Gentlemen, my name  
9 is Jim Bruce from the Hinkle Law Firm in Santa Fe, and we  
10 have three witnesses to be sworn.

11 MR. PEARCE: Are there other  
12 appearances in this matter at this time?

13 (Witnesses sworn.)

14 MICHAEL WALLACE,  
15 being called as a witness and being duly sworn upon his  
16 oath, testified as follows, to-wit:

17  
18 DIRECT EXAMINATION

19 BY MR. BRUCE:

20 Q Would you please state your name, city of  
21 residence, occupation, and employer?

22 A Yes. My name is Michael L. Wallace. I'm  
23 from Tulsa, Oklahoma. I'm employed by Mesa Grande  
24 Resources, Inc., and I'm appearing here as a landman.

25 Q Have you previously testified before the  
New Mexico OCC?

1  
2 A No, I have not.

3 Q Would you please give a summary of your  
4 educational and work background?

5 A I graduated with an undergraduate degree  
6 from MacMurray College in Jacksonville, Illinois, majoring  
7 in business economics and political science.

8 I went on from there and got a law degree  
9 from the University of Tulsa, where I concentrated on energy  
10 law.

11 I have worked in the oil and gas industry  
12 for approximately five and a half years, working for such  
13 firms as Cities Service, in Tulsa Helmerich and Payne, and I  
14 have been an independent landman myself, and I am presently  
15 land manager and general counsel for Mesa Grande Resources,  
16 Inc.

17 Q And in your position in those companies  
18 you have served as both an attorney and a landman?

19 A Yes, I have.

20 Q And you have also previously been  
21 admitted to testify before the Oklahoma and Arkansas  
22 Corporation Commissions as an expert witness as a landman?

23 A The Oklahoma Corporation Commission; the  
24 Arkansas Commission is, I believe, just the oil -- Oil and  
25 Gas Commission, but yes.

26 Q And are you familiar with Case Number  
27 8038 and the land matters pertaining to this case?

28 A Yes, I am.

1  
2 MR. BRUCE: Mr. Chairman, is  
3 the witness considered qualified as a landman?

4 MR. RAMEY: Yes, he is, Mr.  
5 Bruce.

6 Q Would you please, oh, to begin with,  
7 briefly, what does E. Alex Phillips seek by this  
8 application?

9 A Okay. E. Alex Phillips seeks to  
10 compulsory pool the south half of Section 26, Township 25  
11 North, Range 2 West, of Rio Arriba County, pooling those  
12 formations from the base of the Mesaverde to the base of the  
13 Dakota formation.

14 We also, in the alternative, wish to have  
15 the Commission consider a nonstandard unit, that being the  
16 southeast quarter of Section 26.

17 Q And would you please -- now this  
18 application was originally entered in the name of E. Alex  
19 Phillips and I believe you seek to have Mesa Grande  
20 Resources named as the operator in this case. Would you  
21 please explain why?

22 A Yes. Mr. Phillips had -- owns and had  
23 negotiated particular agreements with parties on a personal  
24 basis and when the original leases were taken they were  
25 taken in E. Alex Phillips' name personally.

26 Mr. Phillips is President and Chairman of  
27 the Board of Mesa Grande Resources and he owns that 100  
28 percent. So we felt that at the time we would like to have

1 that changed so that when an order comes out we have Mesa  
2 Grande Resources, Inc., named as the operator.

3 Q And --

4 MR. RAMEY: Excuse me, Mr.  
5 Bruce, may I ask a question here?

6 MR. BRUCE: Sure.

7 MR. RAMEY: I notice the ad  
8 says pooling all mineral interest from the top of the  
9 Mesaverde --

10 MR. BRUCE: Yes, we --

11 MR. RAMEY: -- and you said  
12 from the base.

13 MR. BRUCE: I was just going to  
14 bring that up.

15 MR. RAMEY: Okay.

16 MR. BRUCE: We had, Owen Lopez  
17 had sent the letter to the OCD on January 9th and it's in  
18 the OCD's files, requesting the change from the top to the  
19 base, and had also requested in the alternative that the  
20 order be approved for a 160-acre nonstandard unit.

21 The case was misadvertised.  
22 Therefore it will have to be readvertised to include those  
23 two items, plus the fact that Mesa Grande Resources seeks to  
24 be the operator of this well.

25 Q Mr. Wallace, would you please state  
briefly why Mesa Grande in the alternative seeks the 160-  
acre nonstandard unit?

1  
2 A Well, we seek the unit in order to -- to  
3 try to develop the area in such a way that we do not have to  
4 come in and pool the additional parties which we are now  
5 presently at this hearing to pool.

6 In other words, we're trying to get away  
7 from that particular position.

8 Also, too, there are two additional wells  
9 in the north half of this unit and to protect, in our judg-  
10 ment, for correlative rights, we felt that it would be to  
11 the advantage to have a 160-acre nonstandard unit in that  
12 area.

13 Q Thank you. Would you please turn to Ex-  
14 hibit Number One now and describe that?

15 A Exhibit Number One is a land plat which I  
16 had made or made --

17 Q Have you handed out the exhibits?

18 MR. RAMEY: I don't think we  
19 have any.

20 A I'm sorry, can we take a break. I kind  
21 of wondered why I was looking at that one.

22 Q Sorry about that.

23 A Exhibit One is a land plat showing the  
24 area in question, that being the south half of Section 26,  
25 as well as the balance of Section 26 and eight contiguous  
sections.

You will note on the plat that there is  
an area, being the north half of Section 26, in blue, and



1  
2 there is also an area, areas designated in what we'll call  
3 orange, which is the southeast quarter, and yellow, which is  
4 the southwest quarter of Section 26.

5 Also, in addition to this, there is a, in  
6 Section 26 in the northwest of the southeast there is a --  
7 the proposed location of our well.

8 At this time I would like to make one  
9 correction which should appear on the plat. In Section 23  
10 you will note in the northwest quarter that that well there,  
11 which is a -- which is our well, it should be Mesa Grande  
12 and not Mesa Gande. So we need to have that corrected.

13 Q And the north half of the Section 26 is  
14 the acreage that was involved in Case 8042 by Northwest Ex-  
15 ploration?

16 A Yes, that was heard on January 18th of  
17 this year.

18 Q And the orange colored unit in the south-  
19 east quarter of Section 26 is the unit that would be dedi-  
20 cated under the nonstandard alternative.

21 A That is correct, and the whole south half  
22 would be in the alternative.

23 Q Would you please now turn to Exhibit Two  
24 and describe that?

25 A Okay. Exhibit Two is -- consists of ac-  
tually three -- three items, although we have it as Two-A  
and Two-B.

Exhibit Two-A shows Form C-102, which is

1 required by the Conservation Division, showing that there  
2 are two wells in the north half of Section 26. Both wells  
3 are by -- were drilled by Northwest Exploration.  
4

5 And I think that the rest of that is  
6 pretty much self-explanatory.

7 Item Two-B is a plat used in hearing  
8 8042, which was the hearing by Northwest, showing their --  
9 what they had proposed as their dedication of the acreage in  
10 the north half of Section 26.

11 Q Thank you. Would you please now turn to  
12 Exhibit Number Three and describe that for the Commission?

13 A Exhibit Three is a compilation of letters  
14 and responses involving certain parties which we have at-  
15 tempted to communicate with.

16 You'll note under Exhibit Three-A, these  
17 were letters sent to interested parties who appeared in the  
18 south half of Section 26. These include Northwest Pipeline,  
19 Jerome P. McHugh, Dugan Production Corp., Gulf Oil Explora-  
20 tion and Production, and additional letters thereafter dis-  
21 cussing farmout terms and other items. Some of these let-  
22 ters under Three-A, as you can readily tell from the exhi-  
23 bit, were sent by certified mail. The last, being the most  
24 important, I think, was a letter sent to Jerome P. McHugh  
25 and Associates and Dugan Production Corporation on January  
26 25th, asking them to please respond to us before we moved on  
27 to this hearing.

28 Item Three-B shows support letters from

1 Northwest and Gulf, stating that they would be willing --  
2 the first letter shows that Northwest Pipeline Corporation  
3 would be willing to, well how shall I put it, would be will-  
4 ing to have us drill a well in the south half of Section 26.

5 The second letter is from Gulf Oil, which  
6 states that they are willing to join or farmout. Since the  
7 writing of this letter they have indeed agreed to join our  
8 well, as has Northwest.

9 Item Three-C is just my response at this  
10 time stating that as of the date of this hearing, neither  
11 Dugan Production Corporation nor Jerome P. McHugh and Asso-  
12 ciates have responded in writing, by telephone, or in any  
13 other fashion, to our request that they participate or farm  
out their interest in the south half of Section 26.

14 Q Were Exhibits One and Three prepared by  
15 you or under your direction?

16 A Yes, they were.

17 Q And was Exhibit Two compiled by you from  
18 the public records of the OCD?

19 A Yes, they were. Yes, it was.

20 Q In your opinion will the granting of this  
21 application be in the interest of conservation, prevention  
of waste, and the protection of correlative rights?

22 A Yes.

23 MR. BRUCE: Mr. Chairman, I  
24 move for the introduction of Exhibits One through Three.

25 MR. RAMEY: Exhibits One

1 through Three will be admitted.

2 MR. BRUCE: And I have no fur-  
3 ther questions of this witness.

4 MR. RAMEY: Does anyone have  
5 any questions of Mr. Wallace?

6  
7 CROSS EXAMINATION

8 BY MR. RAMEY:

9 Q Have you tried to telephone Mr. McHugh or  
10 Mr. Dugan?

11 A Yes, we've called them on several occa-  
12 sions but the response has been, well, we'll get back to you  
13 or we haven't made up our mind yet. And so that prompted me  
14 to begin to send them certified letters asking them to  
15 please respond some way to us, because we needed to know,  
16 you know, in order to tell the Commission what the situation  
17 was.

18 We have received very little response  
19 from them under any circumstances.

20 Q Thank you, Mr. Wallace.

21 MR. RAMEY: Mr. Padilla, did  
22 you have anything?

23 MR. PADILLA: Mr. Ramey, I  
24 think it would be appropriate for me to enter an appearance  
25 now in light of the amendment to the nonstandard proration  
unit of 160 acres.

As I understand the call of the

1 hearing is only for compulsory pooling and consideration of  
2 a nonstandard proration unit would have to be readvertised.

3 We have no objection to the  
4 compulsory pooling portion, and if it has to be readvertised  
5 then we would obviously wait to formalize any objection on  
6 behalf of Benson-Montin-Greer at the appropriate time pur-  
7 suant to proper advertisement.

8 MR. RAMEY: You're representing  
9 Benson-Montin-Greer?

10 MR. PADILLA: Yes, sir.

11 MR. RAMEY: Thank you, Mr.  
12 Padilla.

13 You may be excused, Mr. Wal-  
14 lace.

15 A Thank you.

16 DANIEL J. ACQUAVIVA,  
17 being called as a witness and being duly sworn upon his  
18 oath, testified as follows, to-wit:

19 DIRECT EXAMINATION

20 BY MR. BRUCE:

21 Q Will you please state your name, city of  
22 residence, occupation, and employer?

23 A My name is Daniel Joseph Acquaviva, and  
24 here's my card so I don't have to spell that.

25 I'm employed by E. Alex Phillips and Mesa

1 Grande Resources, which also --

2  
3 MR. RAMEY: Will you spell it  
4 for me, please, sir.

5 A Sure. A-C-Q-U-A-V-I-V-A. I'm employed  
6 by E. Alex Phillips and Mesa Grande Resources in Tulsa, Ok-  
7 lahoma.

8 Q And you are a geologist?

9 A I am a petroleum geologist, that's cor-  
10 rect.

11 Q Have you previously testified before the  
12 New Mexico OCC?

13 A No, sir, I have not.

14 Q Will you please give a summary of your  
15 educational and work experience?

16 A I graduated from the University of  
17 Massachusetts in 1975 with a Bachelor of Science degree in  
18 geology.

19 After I worked for a year in Alaska as a  
20 technical engineer on the TransAlaska Pipeline, I returned  
21 to school and received a Master of Science degree in geology  
22 from the University of Kentucky.

23 I was employed by Texaco, Incorporated,  
24 for two and a half years; subsequently employed by Supron  
25 Energy for two and a half years; and in the last ten months  
employed by E. Alex Phillips as a petroleum geologist.

Q Okay, are you familiar with Case Number  
8038 and the geological matters pertaining to this case?

1  
2 A Yes, sir, I am.

3 MR. BRUCE: Mr. Ramey, is the  
4 witness considered qualified?

5 MR. RAMEY: Yes, he is consid-  
6 ered qualified, Mr. Bruce.

7 Q Would you please turn to Exhibit Number  
8 Four, Mr. Acquaviva, and describe that?

9 A Okay. Basically Exhibit Number Four is a  
10 summary of the producing wells in the Gavilan area.

11 Included on the summary are the location,  
12 the operator, well name, date of completion of the well, in-  
13 itial production of the well, and latest production, and let  
14 me just point out at this time that the latest production, I  
15 compiled this exhibit in late December and the latest pro-  
16 duction is the latest available figures at that point in  
17 time.

18 Also included on this exhibit will be the  
19 allowables for the wells, current allowables, and this will  
20 change when the spacing order goes into effect on March 1st.  
21 The allowable at that time for a 320-acre unit will be 702  
22 barrels per day.

23 As you can see from this exhibit, all six  
24 of J. P. McHugh's wells are commingled in the Gallup and Da-  
25 kota. The two Northwest Pipeline wells, located in Section  
26 24 and Section 25 produce from the Niobrara or Gallup for-  
27 mations solely.

28 The two wells in Section 26, operated by

1  
2 Northwest Exploration, are mechanically capable of producing  
3 from the -- from both the Gallup and Dakota, but for most of  
4 their production histories have produced from either one or  
5 the other with Northwest Exploration No. 1-E, this is on  
6 page two, No. 1-E Gavilan Well producing mainly from the  
7 Niobrara and the Northwest Exploration No. 1 Gavilan Well  
8 switching back and forth about equally, and we understand  
9 that right now that Northwest Exploration No. 1 Gavilan Well  
10 in the northeast of the northeast of Section 26 is producing  
11 from both formations.

12 Also let me point out that the No. 1 Ga-  
13 vilan Well in the northeast of the northeast of Section 26  
14 was the discovery well for this field and has a discovery  
15 allowable of 47 barrels per day, and that is, of course, a  
16 two year allowable, and that, I believe, expires in either  
17 March or April of this year.

18 What this exhibit was mainly -- is meant  
19 mainly to supplement Exhibit Number Five, but I would like  
20 to point out one thing, and that is two wells in 26 which  
21 directly affect our case, the two Northwest Exploration  
22 wells.

23 If you combine the production from these  
24 two wells, 19 barrels of oil per day from the No. 1 Gavilan  
25 Well and 50 barrels per day from the No. 1-E Gavilan Well,  
you come up with 69 barrels per day. That is not even close  
to the 702 barrels per day plus the 47 barrels per day dis-  
covery allowable that will be in effect on March 1st.



1  
2 Q Okay, well, in connection with that, why  
3 don't you turn to Exhibit Five.

4 A Okay, Exhibit Five is a subsurface struc-  
5 ture map contoured on the top of the Greenhorn formation.  
6 The contour interval is 25 feet. The scale is one inch  
7 equals 2000 feet.

8 Let me just point out the proposed E.  
9 Alex Phillips location in the northwest of the southeast of  
10 Section 26. This location, as you can see from the struc-  
11 ture map, is located down dip from the Northwest Exploraiton  
12 No. 1 Gavilan Well but on the same local plunging anticlinal  
nose.

13 Q How does Exhibit Number Five relate to  
14 the risk involved in drilling this well?

15 A Okay, we feel that there's basically two  
16 types of risk involved in this area.

17 The first is a mechanical risk. These  
18 wells, as John Roe, Dugan Production's engineer, testified  
19 in Cases 7979 and 7980 in November of 1983, are fairly ex-  
20 pensive wells for the San Juan Basin. The average well in  
this area costs about \$625,000.

21 The mechanical risk is a possibility of  
22 losing circulation and lost circulation is very common in  
23 this area due to extensive fracturing in the formations from  
the base of the Mesaverde to the base of the Dakota.

24 This fracturing can also occur above that  
25 stratigraphic -- in the stratigraphic interval above that,

1  
2 as well.

3 I'd just like to point out that lost cir-  
4 culation zones in these wells in this area do not occur in  
5 exactly the same interval in every well. It can occur any  
6 place, so we can drill our well and lose circulation at any  
7 time and this accounts for the higher costs of the wells.

8 The last well drilled in this area, the  
9 No. 2 Native Son, drilled by J. P. McHugh, lost circulation  
10 in one zone for five days in section -- that's in the south  
11 half of Section 27.

12 In Section 26, the southwest of the  
13 northwest, Northwest Exploration No. 1-E Gavilan Well, had a  
14 deviation of 11 degrees by the time it got to the Lower Man-  
15 cos. This well had to be sidetracked after intermediate  
16 casing was set at the base of the Mesaverde.

17 So that's another consideration regarding  
18 mechanical risk.

19 The most expensive well in this area was  
20 in Section 26 in the northeast of the northeast, the discov-  
21 ery well cost Northwest Exploration \$1.2 million.

22 When we consider the cost of the wells  
23 with the potential reserves that can be recovered in this  
24 area, I think it's very apropos to again mention the testi-  
25 mony of John Roe, Dugan's production engineer, who was re-  
presenting J. P. McHugh in Case 7979/7980 in November of  
1983.

John Roe testified that it was his opin-

1 ion that the ultimate recoveries in this area would be  
2 40,000 barrels of oil from the Gallup, 13,700 barrels from  
3 the Dakota, for a combined total of 53,700 barrels of oil,  
4 and I think it's readily apparent that if you're only going  
5 to recover 53,700 barrels of oil and you're spending  
6 \$625,000 to do that, that's a very marginal situation.

7 We, or I feel, that the recoveries will  
8 be higher, so I don't totally agree with that, but we have  
9 to recognize that that's a possibility, and Dugan has been  
10 operating in this Basin for quite a long time.

11 Q Do you have an opinion as to the risk  
12 factor which should be assessed against the nonconsenting  
13 parties in this case?

14 A We -- I feel, because of the -- both me-  
15 chanical and the economic risk, that the maximum penalty  
16 should be imposed on the nonconsenting parties, and just for  
17 the record let me state that the net acreage of the two non-  
18 consenting parties, J. P. McHugh is 27.5 net acres. Dugan  
19 Production is 20 net acres out of the 320 acre spacing unit.

20 Q Thank you. Were Exhibits Four and Five  
21 prepared by you or under your direction?

22 A Yes, sir, they were.

23 Q And in your opinion will granting of this  
24 application be in the interest of conservation, the preven-  
25 tion of waste?

A Yes, sir, it will.

MR. BRUCE: I move the admis-

sion of Exhibits Four through Five.

MR. RAMEY: Exhibit Four and Five will be admitted.

MR. BRUCE: I have no further questions.

#### CROSS EXAMINATION

BY MR. RAMEY:

Q Mr. Acquaviva.

A Yes, sir.

Q The two wells of Northwest Exploration to the north of you are now making a combined rate of 69 barrels of oil per day?

A That was as of the latest figures in December. I haven't been to Aztec lately to update my figures. I would suspect that the Northwest No. 1 Gavilan Well in the northeast of the northeast of Section 26, now it is back to being commingled, is producing a little bit more. I would suspect around 60 barrels from that well right now, 60 to 75 barrels.

Q And that, you think that's a restricted rate or is that --

A No, I do not.

Q -- not capable of making production?

A I think, again, another case that would be applicable to this would be Northwest Exploration's Case 8042, asking for the dedication of the north half of this

1 section as one 320-acre spacing unit.

2  
3 Larry Van Ryan, I believe, testified to  
4 the production of these two wells and he basically agrees  
5 with what I've said here today, that those two wells will  
6 never be able to make an allowable for the 320-acre spacing.

7 Q Thank you, sir.

8 A Sure.

9 MR. RAMEY: Any other questions  
10 of Mr. Acquaviva? He may be excused.

11 DANIEL S. NUTTER,  
12 being called as a witness and being duly sworn upon his  
13 oath, testified as follows, to-wit:

14  
15 DIRECT EXAMINATION

16 BY MR. BRUCE:

17 Q Would you please state your name, ad-  
18 dress, occupation, and relationship to E. Alex Phillips and  
19 Mesa Grande Resources?

20 A My name is Dan Nutter. I'm a consulting  
21 engineer in Santa Fe, New Mexico. I've been employed by Mr.  
22 Phillips in this case.

23 Q And are you familiar with Case 8038?

24 A Yes, sir, I am.

25 Q And have you previously testified before  
the New Mexico OCC or OCD?

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A Yes, I have.

MR. BRUCE: Mr. Ramey, is the witness considered qualified?

MR. RAMEY: Just barely.

Q Mr. Nutter, would you please look at Exhibit Number Six and describe that for the Commission?

A Exhibit Number Six is the AFE which was submitted to the parties having an interest in the south half of Section 26 of 25 North, Range 2 West.

Total estimated costs for this well would be \$273,000 for a dry hole; \$570,000 for a flowing producer; and \$631,000 for a pumping producer.

It is anticipated that the well would probably be commingled in the Gallup and the Dakota formations; that it probably would be a pumping well and that the total cost would be in the neighborhood of \$631,000.

Now I would like to point out that these costs exceed the costs that Mr. Acquaviva just testified to, where in the November Case 7979 and 7980, I believe it was, it was testified that the average well cost in here was \$625,000, including a \$1.2 million discovery well.

The costs excluding the \$1.2 million well would be substantially less than \$625,000. Now we have an estimated cost of \$631,000. I'd like to explain why.

Mr. Phillips is a very conscientious and prudent operator and he believes in completing a well in such a manner that he'll have a producing well that will

1  
2 produce for a long period of time without excessive amounts  
3 of monies having to be spent for workovers, and such.

4 You'll notice that the contract drilling  
5 rate on Exhibit Six is listed as \$18.50 per foot.

6 Now normally you can get a contract drill-  
7 ling rate for less than this in the San Juan Basin; however,  
8 you'll also notice that he has a maximum 1200 psi pump, mud  
9 pump pressure listed here with his drilling contract.

10 Mr. Phillips believes that it's very es-  
11 sential to keep a straight hole in the area. Mr. Acquaviva  
12 just mentioned a well that had to be plugged back and  
13 straightened up because of an 11 degree deviation from the  
14 vertical.

15 Also Mr. Acquaviva mentioned the lost  
16 circulation problems that had been encountered in the area.  
17 We feel that keeping a maximum of 1200 psi maximum pump  
18 pressure and keeping bit weight down will do two things: It  
19 will kekeep the hole straight and that it will alleviate the  
20 problem of lost circulation to a great extent.

21 You'll also note in the casing completion  
22 area for a completed well, at the bottom of page one of Ex-  
23 hibit Six, that we're running 5-1/2 inch casing. Most of  
24 the wells in this area have 4-1/2 inch casing; however, Mr.  
25 Phillips believes that 5-1/2 inch casing is easier to work  
in. It costs more but you get a better well in the long run  
than with the smaller diameter casing.

Also you'll note that the fracing is

1 being -- or before I go on to the fracing, note that he is  
2 also doing a three stage cement job on these wells. He  
3 brings the cement from the shoe all the way back up into the  
4 Nacimiento formation so that the well in the future could be  
5 perforated as far back up as the Pictured Cliffs. There is  
6 Pictured Cliffs production in this area.

7 So we've got the Dakota, the Niobrara,  
8 and the other various members in the Mancos area, the Green-  
9 horn, and such as that. We've got the Gallup. We've got  
10 the Mesaverde, and ultimately the Pictured Cliffs that can  
11 be produced from this well.

12 You have large enough casing and if you  
13 have a good enough cement job, you can do these plugbacks at  
14 a later date.

15 Now to the fracing, normally, most of the  
16 wells in this area are water fraced; however, it has been  
17 found that foam fracing has less formation damage to the  
18 clays that are existent in the formations in the area and  
19 that if you use a foam frac you will get a better job with  
20 less formation damage. Therefore, all three of these zones  
21 are proposed to be foam fraced, which is more expensive than  
22 water fracing.

23 These account for the "excessive costs"  
24 that Mr. Phillips would encounter here. Now these costs are  
25 actually based on the costs of Mesa Grande's No. 1 Gavilan  
Howard Well, which was recently drilled in Section 23 to the  
north, the well that Mr. Wallace referred to awhile ago as



1 being called Mesa Gande in the section to the north there.  
2 The well has not been completed yet. It's practically com-  
3 plete and these drilling costs and completion costs are  
4 final costs on that well with the exception of the very  
5 final completion costs that will have to be spent on the  
6 well.

7 So they're actual, real costs, almost to  
8 the last dollar.

9 Q Thank you, Mr. Nutter. Would you now  
10 turn to Exhibit Number Seven and describe that?

11 A Exhibit Number Seven is the communitiza-  
12 tion agreement. On page five of the operating agreement, at  
13 the bottom of the page you'll notice that 200 percent of the  
14 cost for nonconsent has been established and agreed to by  
15 the parties that are communitizing in this area. We've also  
16 asked for 200 percent, which is the maximum penalty under  
17 law for nonconsent operators in this pooling action.

18 On page three of Exhibit C, I believe it  
19 is, to the operating agreement we have the combined fixed  
20 rates, which would be \$3,147 per month for a drilling well  
21 and \$485 per month for a producing well.

22 We would recommend that the 200 percent  
23 be established as the penalty and that those figures I just  
24 gave be established as the overhead operating costs in any  
25 order of the Commission approving the compulsory pooling;  
however, we'd like to stress that the compulsory pooling is  
not the main, primary concern that we're after here today.

1  
2 We would prefer the nonstandard unit comprising the south-  
3 east quarter of Section 26.

4 The case has already been heard. There  
5 was no objection in Northwest Production Company's Case Num-  
6 ber 8042, where they asked that the north half of Section 26  
7 be dedicated to the two wells that are drilled in that half  
8 of the section.

9 They also asked for the commingling of  
10 the wells in the wellbore from the Niobrara down through the  
11 Dakota. As I mentioned, there's no order been entered but  
12 the case is pending and there was no objection raised at the  
13 time of the hearing.

14 Now we feel that in order to protect the  
15 south half of Section 26 from drainage in the north half,  
16 and also you'll note on Exhibits One and Five of this hear-  
17 ing, there's a well going to be drilled in the northeast  
18 quarter of the northwest quarter of Section 35, which di-  
19 rectly offsets the southwest quarter of Section 26.

20 We feel that ultimately the south half of  
21 Section 26 is going to have to have two wells on it. Now,  
22 all of the parties in the southeast quarter of Section 26  
23 have agreed to drill in that -- in that quarter. It's only  
24 the parties in the southwest quarter of Section 26 who have  
25 not agreed to pool.

26 If we're required to dedicate the entire  
27 south half to the well, we would have to have the communiti-  
28 zation, the compulsory pooling. If we're allowed a nonstand-

1  
2 ard 300 -- 160-acre unit in the pool, comprising the south-  
3 east quarter of Section 26, we would not need the compulsory  
4 pooling, because, as I mentioned before, all parties have  
5 agreed to that well.

6 We do believe that two wells will be ne-  
7 cessary to protect the entire south half and the southeast  
8 is the first step in that direction.

9 Q Thank you, Mr. Nutter. Were Exhibits Six  
10 and Seven prepared by you or under your direction?

11 A No.

12 Q But have you reviewed them and do you  
13 agree with them?

14 A Yes, I do. I've gone over the Authority  
15 for Expenditure. I'm in complete agreement with the figures  
16 that have been cited in here and, of course, the communiti-  
17 zation agreement is a standard communitization agreement.  
18 The COPAS operating agreement attached to the back of it is  
19 the standard operating agreement. The figures that have been  
20 inserted have been agreed to by all parties and I'm in ac-  
21 cordance with those figures.

22 Q Do you believe that the granting of this  
23 application, either -- either alternative is in the interest  
24 of conservation and the prevention of waste?

25 A Yes, I do.

MR. BRUCE: Mr. Ramey, I move  
for the admission of Exhibits Six and Seven.

MR. RAMEY: Exhibits Six and

1  
2 Seven will be admitted.

3 MR. BRUCE: I have no further  
4 questions.

5 CROSS EXAMINATION

6 BY MR. RAMEY:

7 Q Mr. Nutter, the two wells that were drilled  
8 in the north half of Section 26 were drilled under then  
9 existing either Dakota Pool rules or statewide 40-acre spacing?  
10

11 A Yes, sir, they were, and as a matter of  
12 fact, we're still under existing rules, because the orders  
13 that came out of the hearing on November 18th prescribed  
14 that the pool rules would be 300 -- will create this Gavilan  
15 Mancos Pool with 320-acre spacing effective March 1st, so  
16 actually we're still under statewide rules, I would presume,  
17 of 40 acres for the Mancos or Gallup and 320-acres for the  
18 Dakota because it's a gas pool; however, these are not gas  
wells in this area, they are all oil wells.

19 Q That time limit, I presume, was put in  
20 there to enable 320-acre spacing of proration and drilling  
21 units to be formed.

22 A I believe that's probably correct.

23 Q Probably it has not been possible in Section 26.

24 A That's right. Yes, Mr. Wallace testified  
25 as to the efforts to form a 320-acre unit here, and it's

1  
2 been unsuccessful. We have got the consent of everyone in  
3 the southeast quarter, however.

4 Q Did Northwest Exploration try to form two  
5 standard 320-acre units in Section 26?

6 A I couldn't testify to that.

7 MR. BRUCE: Mr. Wallace could,  
8 if necessary.

9 MR. WALLACE: No. They only  
10 moved to form one 320-acre unit in the north half.

11 A Of course, Northwest did in Case 7980 ask  
12 for 160-acre spacing in the area, which would have created  
13 their 160-acre unit; however, their application in that case  
14 was denied.

15 Q Mr. Nutter, what if Mr. Phillips or Mesa  
16 Grande drills a well at this location and, say, the well po-  
17 tentials for 200 barrels a day. Do you still feel that with  
18 the combined production of the two Northwest Exploration  
19 wells that you would then need a second well?

20 A Well, I would imagine so, because when  
21 the well in the northeast of the northwest of Section 35 is  
22 drilled, that well would be much closer to the southwest  
23 quarter of Section -- of the south half of the southwest  
24 quarter of Section 26 than the well that we're proposing at  
25 this time, and there will undoubtedly be other wells drilled  
in Sections 27 and 34 ultimately.

I believe that the south half of Section  
26 will ultimately have to have two wells in it to protect

1 that acreage from offsetting drainage.

2 The rates of potential, the initial po-  
3 tentials on the wells, if the well should come in for 200  
4 barrels, it would be short lived. It's the history of these  
5 wells that they come in and rapidly experience an exponen-  
6 tial decline and then level off to a rather stable rate of  
7 production.

8 So I doubt if any well would sustain any  
9 200 barrels a day for a long period of time, even it should  
10 be encountered on initial potential.

11 Q Then if the Commission permitted a second  
12 well in the south half of 26 would not then other opertors  
13 come in and say, we need another well to offset the advan-  
14 tage that Phillips was given?

15 A We hope ultimately to see this pool deve-  
16 loped on 160-acre spacing and there's no plans for immediate  
17 drilling of this well in the southwest quarter. We'd of  
18 course have to wait and see what we get in the southeast  
19 quarter, and then possibly we would come back in for compul-  
20 sory pooling action to create a nonstandard -- to pool a  
21 nonstandard unit in the southwest quarter, but at the pre-  
22 sent time we're only, interested in the well in the south-  
23 east quarter.

24 MR. RAMEY: Any other questions  
25 of Mr. Nutter? He may be excused.

26 Do you have anything further,  
27 Mr. Bruce?

1  
2 MR. BRUCE: No, I don't, sir.

3 MR. RAMEY: Does anyone have  
4 anything further in Case 8038?

5 If not, we'll take the case un-  
6 der advisement and we'll have to readvertise it. This will  
7 have to be readvertised then for a Commission hearing which  
8 will probbly -- the next one will probably be April.

9 MR. NUTTER: If it's at all pos-  
10 sible, Mr. Ramey, we would like to see a hearing sometime  
11 sooner than that because Mr. Phillips has been delayed for  
12 months now in drilling this well and it's unfortunate that  
13 we had this error in the advertisement of the hearing today,  
14 but we're already losing another month.

15 If we could have the hearing in  
16 March some time, schedule it for the latter part of March.

17 MR. RAMEY: I think we're faced  
18 with a problem of getting a quorum of the Commission.

19 MR. NUTTER: I realize that you  
20 have problems.

21 MR. RAMEY: We'll readvertise  
22 this as soon as possible.

23 MR. NUTTER: That's all we can  
24 ask.

25 MR. RAMEY: Thank you, the  
hearing is adjourned.

(Hearing concluded.)

## C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY  
CERTIFY that the foregoing Transcript of Hearing before the  
Oil Conservation Division was reported by me; that the said  
transcript is a full, true, and correct record of the  
hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR