

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. 11,838

APPLICATION OF PREMIER OIL AND GAS,)
INC., TO HAVE THE DIVISION ORDER EXXON)
COMPANY, USA, TO APPEAR AND SHOW CAUSE)
WHY ITS AVALON (DELAWARE) UNIT OPERATING)
AGREEMENT SHOULD NOT BE AMENDED TO)
CONFORM TO THE REQUIREMENTS OF THE)
STATUTORY UNITIZATION ACT, EDDY COUNTY,)
NEW MEXICO)

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Oil Conservation Division

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

August 21st, 1997

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, August 21st, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, 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

August 21st, 1997
Examiner Hearing
CASE NO. 11,838

PAGE

REPORTER'S CERTIFICATE

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A P P E A R A N C E S

FOR THE DIVISION:

RAND L. CARROLL
Attorney at Law
Legal Counsel to the Division
2040 South Pacheco
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

KELLAHIN & KELLAHIN
117 N. Guadalupe
P.O. Box 2265
Santa Fe, New Mexico 87504-2265
By: W. THOMAS KELLAHIN

* * *

1 WHEREUPON, the following proceedings were had at
2 12:50 p.m.:

3 EXAMINER STOGNER: At this time I'll call Case
4 Number 11,838.

5 MR. CARROLL: Application of Premier Oil and Gas,
6 Inc., to have the Division order Exxon Company, USA, to
7 appear and show cause why its Avalon (Delaware) unit
8 operating agreement should not be amended to conform to the
9 requirements of the statutory unitization act, Eddy County,
10 New Mexico.

11 EXAMINER STOGNER: At this time I will call for
12 appearances.

13 MR. KELLAHIN: Mr. Examiner, I'm Tom Kellahin of
14 the Santa Fe law firm of Kellahin and Kellahin, appearing
15 on behalf of the Applicant.

16 MR. CARROLL: Mr. Examiner, my name is Rand
17 Carroll, appearing on behalf of the Oil Conservation
18 Division.

19 MR. KELLAHIN: Mr. Examiner, we had filed this
20 case, it was docketed for hearing today. On Friday of last
21 week Mr. Bruce, on behalf of Exxon, filed a Motion to
22 Dismiss. Late on Monday Mr. Carr filed a Motion to Dismiss
23 on behalf of Yates Petroleum Corporation, which I received
24 on Tuesday.

25 In response to the issues raised by Mr. Carr and

1 Mr. Bruce, I asked Mr. Bruce and Mr. Carr's associate --
2 Mr. Carr was gone at that time -- to concur and let me
3 continue this case so that I could respond in writing to
4 the Motions to Dismiss.

5 I obtained that concurrence and on Tuesday filed
6 for a continuance, requesting this case be continued to
7 September 4th so I could file a response.

8 In the meantime, yesterday I received from you
9 and Mr. Carroll a letter decision by the Division
10 dismissing this case, and I would like to have an
11 opportunity to file a written reply asking you to
12 reconsider the Motion to Dismiss and let me advance on the
13 record my arguments in support of my position.

14 And that's why I'm here today, to ask permission
15 to give me time to file such a written response and let you
16 decide if you want to reconsider your letter and take such
17 action as you deem appropriate after I've had a chance to
18 respond.

19 EXAMINER STOGNER: Mr. Carroll?

20 MR. CARROLL: Mr. Examiner, the Division assents
21 to Mr. Kellahin being allowed to file a Motion to
22 Reconsider the Dismissal.

23 As you are aware, Mr. Examiner, this case was put
24 on the docket without review of the Application or the
25 advertisement by either myself or the Hearing Examiner.

1 It was the Division's intent to move to dismiss
2 this case on its own, but like I said, we will agree to
3 have Mr. Kellahin file his motion and then review it and
4 act accordingly.

5 MR. KELLAHIN: I appreciate that. I'd like to
6 have until September 4th to file that. I don't see any
7 reason to put it on the docket for hearing on that date,
8 but you would just give me time to file by then, I'd
9 appreciate it.

10 EXAMINER STOGNER: Okay, at that time I will --
11 at this point I'll leave -- well --

12 MR. KELLAHIN: What are we going to do?

13 EXAMINER STOGNER: Well, yeah. Until September
14 4th, give you time to submit written statements concerning
15 the dismissal in that matter.

16 MR. KELLAHIN: All right.

17 EXAMINER STOGNER: And --

18 MR. CARROLL: Do you want oral argument on the
19 4th or --

20 MR. KELLAHIN: Let's leave that open. You can
21 decide.

22 I'll try to get my motion filed, and Mr. Carr and
23 Mr. Bruce, I'll try to give them time to see what I've
24 said. And it may be worth spending half an hour talking
25 about it. That would be on Mr. Catanach's docket, but

1 maybe we could find time to visit.

2 And if that's not a good time, we could come and
3 talk to you at a more appropriate time. So...

4 I just don't want to have the case formally
5 dismissed until I have a chance to advance on the record my
6 position.

7 MR. CARROLL: Okay, so we'll stay the dismissal
8 and leave it on the docket --

9 MR. KELLAHIN: I think that's an appropriate
10 answer.

11 MR. CARROLL: -- with the understanding that it
12 will not be heard on the 4th?

13 MR. KELLAHIN: That's right, I think that's a
14 good way to do it.

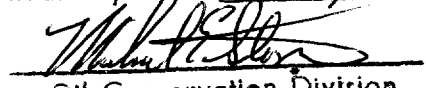
15 EXAMINER STOGNER: So be it.

16 MR. KELLAHIN: All right, sir. Thank you.

17 (Thereupon, these proceedings were concluded at
18 12:55 p.m.)

19 * * *

20 I do hereby certify that the foregoing is
21 a complete record of the proceedings in
22 the Examiner hearing of Case No. 11838,
heard by me on 21 August 1987.

23  , Examiner
24 Oil Conservation Division
25

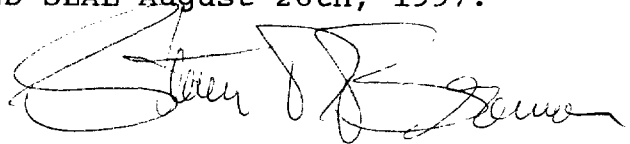
CERTIFICATE OF REPORTER

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 August 26th, 1997.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 1998