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JASON KELLAHIN (RETIRED 1991)

April 27, 1999

**VIA FACSIMILE**

Mr. David R. Catanach  
Hearing Examiner  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

Re: NMOCD Case 12137  
Application of Phillips Petroleum Company for approval of a  
downhole commingling reference case for its San Juan 32-7  
Unit

Dear Mr. Catanach:

At the hearing of the referenced case held on March 18, 1999, Phillips Petroleum Company (Phillips) presented uncontested evidence that substantial economic savings will result if Phillips is allowed to downhole commingle production. In order to realize those savings and to protect all interest owners, Phillips submitted a detailed allocation formula so that production is properly allocated to each owner.

At that hearing Mr. Larry Simmons, represented by Mr. James Bruce, appeared but failed to introduce any evidence that Phillips' proposed formula was inaccurate or flawed in any way.

Also at the hearing held on March 18, 1999, Phillips agreed to identify for Mr. Simmons the unit tracts which formed the basis for his interests in the unit.

On April 13, 1999, I provided Mr. Bruce with a summary of what Phillips' records showed concerning Mr. Simmons' interest:

(a) In the Fruitland Participating Area he owns 0.089957 % royalty interest which is based upon his ownership interest in Unit Tracts 21, 21B, 22A, 22B, 22X and 24W.

## Oil Conservation Division

April 27, 1999

-Page 2-

(b) In the Mesaverde Participating Area he owns 0.113675 % royalty interest which is based upon his ownership interest in Unit Tracts 21, 21A, 22B and 24B.

Despite the lack of any evidence in the record to support his contention, on April 16, 1999, Mr. Bruce wrote you a letter complaining that downhole commingling of production in this unit may affect Mr. Simmons interest and therefore he wants Phillips to notify Mr. Simmons each time a well is commingled so he can "verify that production is properly allocated."

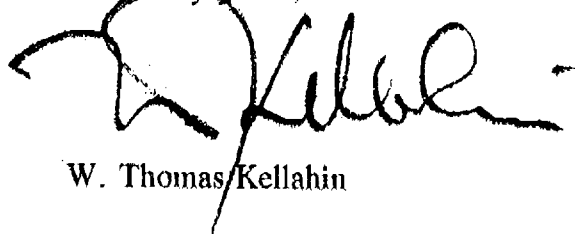
Phillips urges you to deny Mr. Simmons' request because he has:

- (a) failed to provide you any evidence either at the hearing or afterwards that demonstrates the Phillips' formula is flawed;
- (b) failed to demonstrate how his correlative rights are harmed;
- (c) failed to show how notice to him each time a downhole commingling application is submitted will provide anything more than what was provided at the March 18th hearing.

Finally, contrary to his assertion, Phillips did not agree to provide Mr. Simmons with production data. Frankly, that data is public information which Mr. Simmons already has access to by obtaining copies of the operator's monthly reports filed with the OCD-Aztec.

What Mr. Bruce's letter should have addressed is any flaw in the allocation formula submitted at the hearing held on March 18, 1999. There being none, you have no alternative but to deny Mr. Simmons' request.

Very truly yours,



W. Thomas Kellahin

cc: James Bruce, Esq.

Attorney for Larry Simmons  
Phillips Petroleum Company  
Attn: Scott Prather