

State of New Mexico
ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT
Santa Fe, New Mexico 87503



GARREY CARRUTHERS
GOVERNOR

TOM BAHR
CABINET SECRETARY
ANITA LOCKWOOD
DEPUTY SECRETARY

IN THE MATTER OF THE APPEAL TO
THE SECRETARY OF THE ENERGY,
MINERALS AND NATURAL RESOURCES
DEPARTMENT FOR THE PURPOSES OF
CONSIDERING:

CASES NOS. 7980
8946
8950
9111
9412

THE APPEAL OF OIL CONSERVATION
COMMISSION ORDERS R-8712, R-7407-F,
R-6469-F, and R-3401-B, AFFECTING
THE SPECIAL RULES AND REGULATIONS
OF THE GAVILAN-MANCOS OIL POOL AND
THE WEST PUERTO CHIQUITO-MANCOS
OIL POOL.

**MEMORANDUM DECISION OF THE SECRETARY OF
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**

This matter has come before the Secretary of Energy, Minerals and Natural Resources ("Secretary") on the application of Mallon Oil Company; American Penn Energy, Inc.; Hooper, Kimbell and Williams; Koch Exploration; Kodiak Petroleum, Inc.; Mesa Grande, Ltd.; Mesa Grande Resources, Inc.; Reading and Bates Petroleum Company; and Amoco Production Company ("Applicants") for review of the Commission Orders in the above described matters. The application for review was submitted to the Secretary pursuant to Section 78-2-26, NMSA 1978, which grants the Secretary discretion to convene in public De Novo hearing to review orders of the Oil Conservation Commission ("OCC") on specified grounds. I have considered the OCC's Order, the application for review, the correspondence and pleadings of counsel, the applicable of statutes and the state's energy plan and find no basis for rehearing.

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State Mine Inspector
c/o New Mexico Tech. 835-5460

The matter which is brought before me has been the subject of over 17 days of hearing before the Oil Conservation Commission in the past four years. Many hours of evaluation and study have gone into preparation for the various hearings on both sides of the issue. Renown experts in the field of geology and engineering have presented differing views in the nature of the reservoir.

The applicants for review in this case are attempting to formulate public policy and energy plan issues to argue my jurisdiction to hear this matter. However, in order for me to make public policy decisions as requested by the applicants, I would have to review or rehear much of the technical testimony which has been presented in this case, and I would have to substitute my judgement on the technical evidence for that of the Commission. The allegations of the applicants use the same allegations which they have made before the Commission.

The fact that the Commission Orders were not entered on a unanimous decision, and that the dissenting Commissioner has expressed his views in a separately stated opinion, indicates to me that the Commissioners have thoroughly and carefully examined all of the evidence in this case, and that they have each exercised their own independent analysis in entering a decision. It is not the purpose of the statute authorizing secretarial review to place the Secretary in position of overturning a majority Commission decision, unless that decision is contrary to a statewide energy plan or the public interest. The presence of the dissenting Commission opinion does not establish that the orders entered by the Commission contravene a statewide energy plan or the public interest.

The majority of the Commission made its decision based upon substantial evidence. I therefore decline to exercise my discretion to hear these cases De Novo.

NEW MEXICO ENERGY, MINERALS
AND NATURAL RESOURCES DEPARTMENT



TOM BAHR, Secretary

DATE 9-26-88