

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO

20 October 1988

COMMISSION HEARING

IN THE MATTER OF:

In the matter of the hearings called	CASE
by the Oil Conservation Commission on	9502-9495
its own motion to consider the amend-	9503-9496
ment of Rules 1, 4, 1128, 301, 503, 506,	9504-9497
1100, 1123, 1102, 1103, 1104, 1301 and	9505-9498
Division Forms C-101, C-102, C-103,	9506-9499
C-104, C-105, C-115, C-116, C-120-A,	9507-9500
C-123, and the Southeast Packer Leakage	9508-9501
Form.	9509-9502

BEFORE: William J. Lemay, Chairman
Erling Brostuen, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division:	Bridget Jacober Attorney at Law State Land Office Bldg. Santa Fe, New Mexico
For Phillips Petroleum Company:	W. Thomas Kellahin Attorney at Law KELLAHIN, KELLAHIN & AUBREY P. O. Box 2265 Santa Fe, New Mexico 87504

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I N D E X

STATEMENT BY MR. LEMAY

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CASE NO. 9502-9495

JERRY SEXTON

Direct Examination by Ms. Jacober

6

E X H I B I T S

Exhibits One and One-A

7

CASE NO. 9503-9496

JERRY SEXTON

Direct Examination by Ms. Jacober

9

Cross Examination by Mr. Kellahin

11

Redirect Examination by Ms. Jacober

14

Recross Examination by Mr. Kellahin

17

Redirect Examination by Ms. Jacober

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E X H I B I T S

Exhibits One and One-A

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1 MR. LEMAY: Good morning.
2 This is the Oil Conservation Commission, not the Fish &
3 Game Department.

4 We are here for a series of
5 cases, 9502 on through 9396.

6 My name is Bill Lemay. This
7 is Erling Brostuen to my left. Mr. Humphries will not be
8 here today.

9 So what we are going to do is
10 call these cases separately; however, I'd like to announce
11 them all initially, make a brief reference to them, call
12 for witnesses, swear those witnesses in, ask for appear-
13 ances in the case.

14 So the cases we will be consi-
15 dering today are Cases 9502, 9503, 9504, 9505, 9506, 9507,
16 9508, 9509.

17 Case 9396 I'll address later.
18 I think we have correspondence in the record to indicate
19 that that case has been dismissed.

20 Is there anyone who has any-
21 thing to the contrary of that?

22 At the present time Cases 9502
23 through 9509, which deal with rule changes, will be taken
24 up separately.

25 Call now for appearances in

1 these cases.

2 MS. JACOBBER: My name is
3 Bridget Jacobber. I represent the Oil Conservation Divi-
4 sion.

5 MR. KELLAHIN: Mr. Chairman,
6 I'm Tom Kellahin of the Santa Fe law firm of Kellahin,
7 Kellahin & Aubrey. I'm appearing this morning on behalf of
8 Phillips Petroleum Company.

9 MR. LEMAY: Additional appear-
10 ances in Cases 9502 through 9509?

11 Will the witnesses in these
12 cases please stand to be sworn in?

13

14 (Witness Jerry Sexton sworn.)

15

16

17

CASE 9502 (9495)

18

19

20 MR. LEMAY: Case 9502, Ms.
Jacobber, you may begin.

21

22 MS. JACOBBER: The Division
will call Jerry Sexton as its one witness in this case.

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JERRY SEXTON,
being called as a witness and being duly sworn upon his
oath, testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. JACOBBER:

Q Will you please state your name for the
record?

A Jerry Sexton.

Q And your position?

A District Supervisor, Hobbs, New Mexico.

Q Have you previously testified before the
Commission or examiners and had -- have you had your testi-
mony accepted in those cases?

A Yes, I have.

Q And were your credentials accepted in
those cases?

A Yes.

MS. JACOBBER: Are the witness'
credentials acceptable?

MR. LEMAY: They are accept-
able. He is so qualified.

Q Mr. Sexton, turning to Case Number 9502,
In the matter of the hearing called by the Oil Conservation

1 Division on its own motion to consider amendment of Rule 1
2 to reflect the department name change to Energy, Minerals
3 and Natural Resources Department, do you have any exhibits
4 in that case?

5 A Yes, we have two exhibits, Exhibit One
6 and Exhibit One-A.

7 Q Would you explain to the Commission the
8 exhibits and the purpose of the exhibits?

9 A Exhibit One is how the rule will be in
10 its final state after the corrections are made.

11 Exhibit One-A shows what was deleted or
12 what was added, and this is -- this is just a routine mat-
13 ter to bring our rules up to the present department we're
14 in.

15 We changed -- added "and Natural Re-
16 sources Department" instead of New Mexico Energy & Minerals
17 Department, which we were several years ago. It's just an
18 update of our rules to bring us into our present depart-
19 ment.

20 MS. JACOBBER: For the record
21 the Division would like to note that prior to the pub -- or
22 the publication of 9502 stated the correct docket descrip-
23 tion but the case number was published as 9495. It doesn't
24 create any legal infirmity, according to OCD attorneys.

25 Q But, Mr. Sexton, following publication

1 of 9502 were there any comments or suggestions?

2 A No.

3 Q Okay, let's turn to Case Number 95 --

4 MR. LEMAY: Can we close these
5 cases individually at each time?

6 I'll ask for any additional
7 questions of the witness in Case 9502.

8 MR. KELLAHIN: No. questions.

9 MR. LEMAY: Any comments from
10 anyone in the audience?

11 If not, we will take Case 9502
12 under advisement,

13 MS. JACOBBER: I didn't move
14 the admission of those exhibits, is that necessary?

15 MR. LEMAY: It is.

16 MS. JACOBBER: Okay. I move
17 the admission of Exhibit One and one-A.

18 MR. LEMAY: Without objection
19 Exhibits One and One-A will be admitted into the record.
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1 CASE 9503 (9496)

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3 MR. LEMAY: Case 9503.
4

5 JERRY SEXTON,

6 being called as a witness and being duly sworn upon his
7 oath, testified as follows, to-wit:
8

9 DIRECT EXAMINATION

10 BY MS. JACOBBER:

11 Q Mr. Sexton, turning to Case 95 -- to
12 Case Number 9503, in the matter of the hearing called by
13 the Oil Conservation Division on its own motion to consider
14 the amendment of Rules 4 and 1128 to reflect the correct
15 federal name and form numbers required on the federal lands
16 -- required on federal lands, do you have any exhibits in
17 that case?

18 A Yes, we have Exhibit One, which shows as
19 the new rule will stand, is being proposed, and One-A,
20 showing what has been deleted and what has been added.

21 MS. JACOBBER: At this time the
22 Division would move the admission of Exhibit One and One-A
23 in Case Number 9503.

24 MR. LEMAY: Are you going to
25 explain Exhibits One and One-A at all --

1 A Yes.

2 MR. LEMAY: -- before admis-
3 sion into evidence? Why don't you explain it and then if
4 we have any objection, we'll handle that and then admit it
5 into evidence.

6 Q Mr. Sexton, would you explain the
7 changes that have been made and the purpose of those
8 changes?

9 A The BLM changed form numbers several
10 years ago and since we refer to them in our rule, it was
11 needed to update our rule to conform with their present
12 numbers.

13 We changed in the fourth line of the
14 rule USGS Form No. 9 331C, it will now be proposed to BLM
15 Form No. 3160-3.

16 In the next line, USGS Form No. 9 331
17 will be changed to BLM Form No. 3160-5.

18 In the next line, USGS Form No. 9 330
19 will be changed to BLM Form No. 3160-4.

20 And in the last line of the Rule 4 we
21 changed "by" to to the Division.

22 We did have one comment on this that
23 would leave the USGS along with the BLM, but since the BLM
24 -- USGS is not a recognized agency in this part of the
25 country, I believe it's for offshore, they're with the

1 Department of Interior now, we decided not to go with that
2 recommendation.

3 MR. KELLAHIN; Mr. Sexton --
4 is that all, Ms. Jacober?

5 Q Do you have any other?

6 A No.

7 MR. LEMAY: Additional ques-
8 tions of the witness?

9 MR. KELLAHIN: If I may, Mr.
10 Chairman.

11 MR. LEMAY: Yeah.

12 MR. KELLAHIN: Mr. Chairman, I
13 have not separated out Phillips' proposed additional modi-
14 fications of certain rules. They appear on a letter that
15 they sent to me and I'd like to share it with the Commis-
16 sion and then as each subject of a rule comes up for dis-
17 cussion I can address it at that time, if that's all right
18 with you.

19 MR. LEMAY: Fine.

20
21 CROSS EXAMINATION

22
23 BY MR. KELLAHIN:

24 Q Mr. Sexton, let me look at Rule 4 with
25 you. The way it currently stands before the Commission

1 acts on the proposed modification.

2 When we look at the last line in Rule 4,
3 it currently reads that U.S. Government lands -- talking
4 about forms -- U.S. Government land shall be furnished by
5 the Division. That's the way the rule reads now.

6 A Uh-huh.

7 Q What is the practice with regards to the
8 implementation of, or the practice under that rule with the
9 current language?

10 A The current language says we'll furnish
11 forms, but this hasn't been enacted. They go through the
12 BLM. The BLM supplies everything and just sends us a copy
13 of the approved form.

14 Q So that's the reason for the proposed
15 change to delete the word "by" and say "to" the Division?

16 A Yes.

17 Q Would you have any objection, sir, if we
18 modified that particular rule so that we start back up at
19 the beginning of the sentence where it says "copies of" --

20 A Yes.

21 Q -- do you see that? It's about the
22 fourth line, I think, of the rule? It says "Copies of" and
23 then insert "BLM approved" and then the rest of it refers
24 to the forms, and then when we get to the word "Division"
25 to delete the period and add the phrase "by the BLM."

1 When you read that together, then, my
2 understanding of that proposed rule change would be that
3 the approved BLM forms, referring to the permits to drill,
4 the sundry notices, and the completion reports, then would
5 be submitted to the OCD.

6 A I think that is probably a good improve-
7 ment goal for this rule and I recommend that the Commission
8 consider this.

9 Q And that is in fact the practice as it
10 occurs now under the current rule.

11 A Yes.

12 Q And the tracking of this language as
13 I've suggested will simply track the current practice be-
14 tween the BLM and the OCD.

15 A Yes.

16 MR. KELLAHIN: No. further
17 questions on this rule.

18 MR. LEMAY: Thank you, Mr.
19 Kellahin.

20 Additional questions of the
21 witness? If not, he may be excused, and Exhibit One and
22 One-A of Case 9503 will be admitted in the evidence and the
23 record without objection.

24 I will now call Case Number
25 9504.

1 MS. JACOBER: Mr. Sexton --
2 can we open the record in 9503 for one minute?

3 MR. LEMAY: Certainly. We can
4 work back in the record.

5 In fact, I have a question on
6 this. Well, we're back on 9503, yes, but it refers to the
7 recent correspondence here from Phillips.

8 Mr. Kellahin, would you move
9 the admission of this after all cases are --

10 MR. KELLAHIN: I had thought
11 to do that. If you would prefer to have it now, I'll be
12 happy to do that now.

13 MR. LEMAY: Well, since it
14 refers to all cases, I think we can make reference to it at
15 the end as an exhibit which applies to all these cases that
16 we've heard today.

17 MR. KELLAHIN: I would prefer
18 to do it that way.

19 MR. LEMAY: Fine.

20 MR. KELLAHIN: In addition, as
21 long as we're talking about 5903, there also appears in the
22 docket a reference to Rule 1128 under that case number, and
23 we have some comments on that rule, too.

24 Q Mr. Sexton, what changes do you recom-
25 mend in Rule 1128?

1 A Starting at the first paragraph we'll
2 delete USGS and put BLM Form No., and then the first form
3 number will be changed from 9-331C to 3160-3.

4 MR. LEMAY: Excuse me, Mr.
5 Sexton, I am lost. Where are you? Page 2?

6 A Are you -- did you --

7 MS. JACOBBER: We're on Case
8 Number 9503.

9 MR. LEMAY: Right, where it
10 says Rule 1128, Forms Required on Federal Land?

11 A Right. Would you like for me to start
12 over or go ahead and -- and we deleted the May 1963 to
13 November, 1983.

14 The next form is 9-331, which the new
15 form number is 3160-5; deleted the May 1963 and inserted
16 the November, 1983 date.

17 90-330 is deleted and 3160-4 is insert-
18 ed.

19 The revision date of 5-63 is deleted and
20 November, 1983 is included.

21 And I think that's all the comments I
22 have on this.

23 MR. LEMAY: Is there anything
24 additional in Case 9503, Mr. Kellahin?

25 MR. KELLAHIN: Thank you, Mr.

1 Chairman.

2
3 RECROSS EXAMINATION

4 BY MR. KELLAHIN:

5 Q Mr. Sexton, let me direct your attention
6 to page 2 of the Phillips letter and to the last portion of
7 page 2 which refers to Rule 1128.

8 If you'll note, it says Form C-103,
9 that's in fact supposed to be Form C-104. Phillips has
10 proposed, Mr. Sexton, to insert after the word "filed" the
11 phrase "along with a copy of BLM Form No. 3160-4," that
12 would be inserted at that point.

13 Let me ask you, sir, after a well is
14 completed and ready for pipeline connection under the cur-
15 rent practice under this rule prior to any change, the Form
16 C-104 is filed by the operator. At that point, then, does
17 the District Office assign an allowable to the completed
18 well?

19 A Yes.

20 Q Do you wait for the BLM on federal lands
21 to send to you, then, the completion report and the log of
22 the well before you assign the allowable?

23 A No, we don't.

24 Q If we insert -- if we allow the operator
25 the opportunity to file along with the Form C-104 a copy of

1 the BLM Form 3160-4, will that expedite the process by
2 which the operator may be assigned an allowable for the
3 well?

4 A It won't expedite it but what it will do
5 is give additional information that many people wish to
6 look at when the allowable is assigned. There is sometimes
7 as long as a month or more delay and we get the federal
8 form after the allowable has been assigned, so I feel like
9 it would be helpful for the industry to have this form
10 available when we sign the allowable.

11 Q So you wouldn't have any objection on
12 behalf of the staff to the insertion of that phrase as
13 proposed by Phillips Petroleum Company?

14 A No.

15 Q Thank you.

16 MR. LEMAY: Thank you, Mr.
17 Kellahin.

18 Ms. Jacober?

19

20 REDIRECT EXAMINATION

21 BY MS. JACOBER:

22 Q Mr. Sexton, when what is now 9503 was
23 originally published, was it published under the case num-
24 ber 9496?

25 A Yes.

1 Q And you've been advised by Division
2 counsel that that doesn't create a legal infirmity.

3 A I haven't been so counseled but I think
4 people of the Division have.

5 MS. JACOBBER: We have nothing
6 further.

7 MR. LEMAY: Additional ques-
8 tions of the witness?

9 Additional comments from the
10 audience?

11 MR. LEMAY: If not, we will
12 take Case 9503 under advisement and call Case 9504.

13

14

15 CASE 9504 (9497)

16

17 JERRY SEXTON,

18

19 being called as a witness and being duly sworn upon his
20 oath, testified as follows, to-wit:

21

22 DIRECT EXAMINATION

23 BY MS. JACOBBER:

24 Q Mr. Sexton, when Case 9504 was initially
25 published, was it published as 9497?

1 A Yes.

2 Q And that case is entitled, In the matter
3 of the hearing called by the Oil Conservation Division on
4 its own motion to consider the amendments -- amendment of
5 Rules 301, 503 and 506. The Division seeks the amendment
6 of said rules to provide for changes in the oil proration
7 schedule, including issuing said schedule twice a year in-
8 stead of three times a year. Is that correct?

9 A Yes.

10 Q Mr. Sexton, do you have any exhibits in
11 Case 9504?

12 A Yes. We have Exhibit One, which shows
13 how we are proposing the rule to read, and then we have
14 Exhibit Rule One-A, which shows what has been deleted and
15 what has been inserted in -- in the rule.

16 Q Mr. Sexton, I understand there are three
17 rules associated with Case No. 9504, and those are Rules
18 301, Rule 503 and Rule 506, is that correct?

19 A Yes, uh-huh.

20 Q For each one of those rules will you ex-
21 plain the proposed changes and any recommendations that
22 were made and whether they were accepted or rejected?

23 A I think this is one that we might put a
24 little background into the record.

25 Back in February, 1988, the District and

1 Division staffs met to consider changes in the proration
2 schedule. We came up with a new proposal to be submitted
3 to the industry for comments.

4 On March 18th the Division Director sent
5 to the industry the proposed new rules for a comment period
6 extending to May 15th. During this time we had very few
7 comments and the main comment that was submitted was that
8 we leave the gas/oil test in the schedule -- gas/oil ratio
9 test in the schedule.

10 We agreed to do this, and in the meet-
11 ing, crude oil purchasing meeting in June, a discussion was
12 made on the changes, the comments that were given to the
13 Commission, the acceptance of them, and opened the prora-
14 tion schedule back up for comments for another month, and
15 during this time we did not receive comments again, so we
16 have proposed that we bring it to hearing and implement
17 this proposed change effective the first of the year.

18 To be able to do this, we had to change
19 Rule 301, 503 and 506 to allow us to change -- make the
20 changes in the proration schedule, and this is why we ad-
21 dressed the problems.

22 The changes in Rule 301 are in paragraph
23 (d). We deleted "No well shall be assigned an allowable
24 greater than the amount of oil produced on official tests
25 during a 24 hour period."

1 In paragraph (i) we deleted "No well
2 [can] be assigned an allowable greater than the amount of
3 oil produced on [the test] during a 24 hour period."

4 Those just brought it up to where our --
5 we did not -- we could with an M & M designation in the
6 schedule and not have to conform to these rules that said
7 it had to be based on tests.

8 Q Mr. Sexton, did you have any comments
9 concerning those proposed changes?

10 A No, not since the July comment period.

11 Okay, on Rule 503 in paragraph (b) we
12 deleted "Every other month" and inserted, The Division
13 shall have the option, within five days to the end of the
14 month, to make the determination. We inserted the "have
15 the option" and "to".

16 The next paragraph, end of the para-
17 graph, we deleted "for the next two succeeding months."

18 Paragraph (c) we deleted "for the
19 ensuing two months period."

20 In the last paragraph of that page we
21 deleted "the ability of the well to produce up to and in-
22 cluding".

23 On page two, paragraph (e) we deleted
24 "units" in the third from the last line and inserted
25 "rules". The last two lines, we deleted. We deleted

1 "[The] top unit allowable will be assigned only to those
2 units which by tests have demonstrated their ability to
3 produce top unit allowable."

4 In the next to the last paragraph we
5 inserted non-penalized -- "non-marginal" after -- in the
6 opening sentence.

7 We deleted in the third sentence of that
8 paragraph, "is less than top unit allowable for the pool
9 and also less than the ability of the well(s) on the unit
10 to produce" and "Such penalized allowable".

11 In paragraph (f) we deleted "Any change
12 in the allowable assigned to any unit , non-marginal, mar-
13 ginal, or penalized, shall be accomplished through issuance
14 of a new proration schedule or by supplement to a previous-
15 ly issued proration schedule."

16 I believe those are the only changes we
17 made on Rule 503.

18 Q Mr. Sexton, did you receive any comments
19 concerning your proposed changes?

20 A No. Rule 505 --

21 Q 506.

22 A 506, in paragraph (1) we deleted "and
23 has" -- or we inserted "and has the capacity to produce
24 above the top casinghead gas volume calculated by Rule 506
25 (a)".

1 In the last sentence of that paragraph
2 we inserted "and [the proration units] will be designated
3 non-marginal."

4 In paragraph (c) we inserted "non-mar-
5 ginal".

6 Those are the changes that we made in
7 these rules.

8 Q Did you receive any comment on the pro-
9 posed changes to Rule 506?

10 A We did have one comment from El Paso and
11 it's we add the proration unit into this rule, and we went
12 along with it. Since we had the comments early enough, we
13 went ahead and inserted this in our exhibit One-A.

14 Q Why did you feel it was an appropriate
15 comment to accept?

16 A It probably cleared our language.

17 MS. JACOBBER: At this time the
18 Division would move the admission of Exhibits One and One-A
19 in Case Number 9504.

20 MR. LEMAY: Without objection
21 Exhibit One in Case 9504 will be admitted into evidence.

22 Mr. Kellahin?

23 MR. KELLAHIN: Yes, sir, thank
24 you.

25

CROSS EXAMINATION

1
2 BY MR. KELLAHIN:

3 Q Mr. Sexton, might I direct your atten-
4 tion back to Rule 503.

5 A Yes.

6 Q Let me direct your attention also to the
7 first page of the Phillips' letter, to the second portion
8 of it where they talk about Rule 503.

9 As Rule 503 reads now before the Commis-
10 sion acts on it, Mr. Sexton, in the event the capacity of
11 the pool to produce oil exceeds what is anticipated to be
12 the reasonable market demand, then under Rule 503 Sub (b)
13 the Division can set a hearing within twenty days of the
14 following month and then for the next two succeeding months
15 set what is actual, reasonable market demand. That's the
16 process now under this rule, is that not true?

17 A (Not clearly audible.)

18 Q By going to a six months proration
19 schedule, your proposal is to delete not only in Sub (b)
20 but in Sub (c) the reference to this two month succeeding
21 period.

22 A Yes.

23 Q With those two deletions in Sub (b) and
24 (c), as the rule is now proposed, there is no maximum limi-
25 tation upon which the Commission then can set the reduced

1 allowable, if you will, or an allowable that is less than
2 the capacity of the wells to produce, there's no maximum
3 limit?

4 A That's true.

5 Q Would you have any objection, sir, if we
6 followed Phillips' proposal to insert a maximum period, and
7 they have suggested the phrase "up to a maximum of six
8 months", and simply insert that at the end of the sentence
9 under Rule 503 Sub (b) and so that it would read, beginning
10 at the point where it says, "... 20th day of the following
11 month to determine actual reasonable market demand up to a
12 maximum of six months."

13 Would you have any objection to doing
14 that?

15 A I don't have any objection to it. It's
16 somewhat taken care of in paragraph (c) when they had the
17 opportunity to set a date at that hearing for the next
18 market demand hearing, but I certainly wouldn't have any
19 objection to a six months period.

20 Q And that would run consistent, then,
21 with a twice a year or every six month proration oil
22 schedule?

23 A Yes, uh-huh.

24 MR. KELLAHIN: Thank you, Mr.
25 Chairman.

1 MR. LEMAY: Thank you, Mr.
2 Kellahin.

3 Additional questions of the
4 witness?

5 MS. JACOBBER: The Division has
6 none.

7 MR. LEMAY: Any statements
8 from the audience?

9 If not, the Commission will
10 take the case under advisement, and call Case 9505.

11

12

13

CASE 9505 (9498)

14

15

16

17 MR. LEMAY: I understand Case
18 9505 will need to be readvertised in the newspaper in
19 Gallup because of a misprint there and we shall -- we shall
do that.

20

Ms. Jacobber.

21

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23

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25

JERRY SEXTON,
being called as a witness and being duly sworn upon his
oath, testified as follows, to-wit:

DIRECT EXAMINATION

1
2 BY MS. JACOBER:

3 Q Mr. Sexton, in Case 9505, was it orig-
4 inally published as Case Number 9498?

5 A Yes.

6 Q But it is the case in the matter of the
7 hearing called by the Oil Conservation Division on its own
8 motion to consider the amendment of Rules 1100 and 1123.
9 The Division seeks the amendment of said rules to eliminate
10 the requirement to file Form C-123 for pool extensions, is
11 that correct?

12 A Yes.

13 Q Do you have any exhibits for Case Number
14 9505?

15 A Yes, I think we have Exhibit One, which
16 shows what the proposed rule will be, and Exhibit One-A,
17 which shows what was deleted.

18 Q And there are two rules to be addressed
19 in Case Number 9505. They are Rules 1100 and 1123, is that
20 correct?

21 A Yes.

22 Q And can you explain the proposed changes
23 in each rule, the purpose for the changes, and whether
24 there were comments, and whether those comments were
25 accepted or rejected?

1 A Yes. In Rule 1100 -- let me go back and
2 say why we were -- we made these proposed changes.

3 We -- our policy is not that a company
4 has to submit any form for extension. We do this automati-
5 cally, and at one time this was a policy of the Division
6 but for the numerous years, now, the Division will go ahead
7 and treat the extension of a pool on their own accord.

8 This is just to bring our rules up to
9 what the present policy we're using.

10 In Rule 1100, in paragraph D., the
11 second line, we inserted "the use of the" between "the" and
12 "form" in the second line.

13 And on page 2 on Form C-123, the last
14 form, we deleted "the extension of an existing pool or".

15 And on Rule 1123 we eliminated "THE EX-
16 TENSION OF AN EXISTING POOL OR" and in the first sentence
17 we deleted "or extension".

18 And those are the only changes.

19 Q Did you have any comments or suggestions
20 on the proposed changes?

21 A Yes. The change on page one of Rule
22 1100, "the use of the" was recommended by El Paso and did
23 seem to improve the sentence language, so we're recommend-
24 ing that the Commission adopt that.

25 Q Did you have any proposed changes on

1 1123?

2 A No, none other than were --

3 MS. JACOBBER: The Division
4 would move the admission of Exhibit One and One-A in Case
5 Number 9505.

6 MR. LEMAY: Without objection
7 the Exhibits One and One-A will be admitted into the re-
8 cord.

9 Other questions of the wit-
10 ness, Ms. Jacobber?

11 MS. JACOBBER: I have none.

12 MR. LEMAY: Other questions of
13 the witness? Any statements from the audience?

14 We understand the readvertise-
15 ment of this case will require that we do have two --
16 Sally, can we go off the record for a minute here?

17
18 Thereupon a discussion was had off the record.

19
20 MR. LEMAY: Anything further
21 in Case Number 9505?

22 Any statements?

23 If not, we'll take the case
24 under advisement and call Case Number 9506.

25

1 CASE 9506 (9499)

2
3
4 JERRY SEXTON,

5 being called as a witness and being duly sworn upon his
6 oath, testified as follows, to-wit:

7
8 DIRECT EXAMINATION

9 BY MS. JACOBER:

10 Q Mr. Sexton, in Case Number 9506, was
11 that case originally published as Case Number 9499?

12 A Yes.

13 Q But it is correctly published as, In the
14 matter of the hearing called by the Oil Conservation Divi-
15 sion on its own notion to consider the amendment of Rule
16 1102 to eliminate the requirement for certification by a
17 registered engineer on Form C-102?

18 A Yes.

19 Q Mr. Sexton, do you have any exhibits in
20 Case Number 9506?

21 A We have Exhibit One that shows how the
22 proposed rule will read, and we have Exhibit One-A which
23 shows what has been deleted and what has been added.

24 Q Would you please explain the exhibits,
25 the purpose of the changes that you propose, any comments

1 that were tendered, and whether those comments were accep-
2 ted or rejected, and why?

3 A We're proposing this change to update
4 our rules to conform with the State statutes that were
5 passed a year or so ago.

6 In paragraph two we deleted "registered"
7 and then "engineer and/or land" and this makes it conform
8 with the State statutes, and there were no comments on
9 this.

10 MS. JACOBBER: At this time the
11 Division would move the admission of Exhibits One and One-
12 A.

13 MR. LEMAY: Without objection
14 Exhibits One-A and One into the record in 9506.

15 MS. JACOBBER: The Division
16 passes the witness.

17 MR. LEMAY: Any additional
18 questions of the witness?

19 Additional statements in the
20 case?

21 If not, Case 9506 will be
22 taken under advisement, and I'll call Case 9507.

23

24

25

1 CASE 9507 (9500)

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JERRY SEXTON,

5

being called as a witness and being duly sworn upon his
6 oath, testified as follows, to-wit:

7

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DIRECT EXAMINATION

9

BY MS. JACOBBER:

10

Q Mr. Sexton, was Case 9507 originally
11 published as 9500?

12

A Yes.

13

Q But it correctly reads, In the matter of
14 the hearing called by the Oil Conservation Division on its
15 own motion to consider the amendment of Rules 1103 and
16 1104. The Division seeks amendment of said rules to re-
17 flect a change in the language from "ownership" to "opera-
18 tor" of drilling and producing wells, is that correct?

19

A Yes.

20

Q Mr. Sexton, do you have any exhibits in
21 Case Number 9507?

22

A Exhibit One shows how the proposed rule
23 is being recommended to read.

24

Rule One-A, or Exhibit One-A shows what
25 has been deleted or what has been added.

1 Q Would you please explain the changes and
2 the purpose of the changes for both Rule 1103 and Rule
3 1104?

4 A This updates this rule to the present
5 industry standards where the operator may not have any
6 ownership and conforms to the industry standards now. So
7 we made the following proposed changes:

8 On Rule -- page two of Rule 1103, we
9 changed the word "ownership" to "operator".

10 On Rule 1103 in paragraph (7) "owner-
11 ship" was deleted and "operator" inserted.

12 MR. LEMAY: Excuse me, number
13 (6), is there a word change in paragraph (6)?

14 A In paragraph (6)?

15 MR. LEMAY: Yes.

16 A No, not on my copy.

17 MR. LEMAY: In the last sen-
18 tence in paragraph (6) it reads "Forms C-101, C-102, C-104,
19 and C-105 must..." and then the word "also" is crossed out
20 on my copy.

21 A You are correct. In paragraph (6) on
22 page 4 of Rule 1103 we've inserted Form C-101, C-102 and
23 C-105 and deleted "also" in that sentence. We inserted
24 Rules 1101, 1102, 1104 -- excuse me, not 1104 -- and 1105
25 was inserted.

1 MR. LEMAY: At the top of that
2 "Within the Same Pool" is an additional insert?

3 A Yes.

4 And in (7), paragraph (7) we deleted "in
5 Ownership" and inserted "of Operator". In the first sen-
6 tence we deleted "ownership" and inserted "operator".

7 The next sentence, or next line, we
8 deleted "owner" and inserted "operator".

9 The next line we inserted "or responsi-
10 bility".

11 The next line in paragraph (7) we de-
12 leted "owner" and inserted "operator".

13 This is true of the next line, we
14 deleted "owner" and inserted "operator" and inserted "or"
15 into that line.

16 The next line we inserted "responsibi-
17 lity" and deleted "ownership".

18 The next line we inserted "operator" and
19 deleted "owner".

20 The next line "operator" was inserted
21 and we deleted -- and changed "accordance" to "compliance".

22 The next line we deleted "transfer" and
23 inserted "change"; deleted "ownership" and inserted "opera-
24 tor".

25 Rule 1104, paragraph (3), we deleted in

1 the second sentence "owner"; in the third line we inserted
2 "operator".

3 In paragraph (5), line 3 we deleted
4 "ownership" and inserted "operator".

5 In the third from the bottom line we
6 deleted "ownership" and inserted "operator".

7 And I believe that covers the changes
8 we're proposing.

9 Q Did any party have any comment on the
10 proposed changes?

11 A Yes. I believe in Rule 1103, paragraph
12 (7), that El Paso also recommended that we change the word
13 "accordance" to "compliance" and we felt like it did clari-
14 fy it and have proposed that change to you at this time.

15 MS. JACOB: At this time the
16 Division would move the admission of Exhibits One and One-A
17 in Case 9507.

18 MR. LEMAY: Without objection
19 those exhibits will be entered into the record.

20 MS. JACOB: Nothing further.
21 The Division passes the witness.

22 MR. LEMAY: Thank you. Addi-
23 tional questions of the witness?

24 Mr. Kellahin.

25 MR. KELLAHIN: Thank you, Mr.

1 Chairman.

2

3

CROSS EXAMINATION

4

BY MR. KELLAHIN:

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Q Mr. Sexton, with reference to Rule 1103, when we look at the portion of the rule that deals with reports for deepening and plugging back within the same pool, those reports are required to be filed by the operator within 30 days following completion of those operations?

11

A Yes.

12

13

14

15

Q And when we look at the reporting requirements, the time period for remedial work performed on a well, those are also filed within 30 days following completion of that work.

16

A Yes.

17

18

19

Q And if an operator is going to plug a well and file the Form C-103, he has 30 days in which to accomplish that.

20

A Yes.

21

22

23

24

25

Q When we get down to temporary abandonment forms, the operator in that instance must file the report 10 days following completion of the work by which he then determines he will temporarily abandon that well. That's the current rule, is it not?

1 A Yes.

2 Q Would you have any objection to changing
3 the period of time in which the report must be filed for
4 temporarily abandoned wells from the current 10-day period
5 to 30 days, within 30 days following completion of the
6 work?

7 A No, I -- the Division would not have any
8 objection. I think that one reason this may have been
9 changed in the -- is on the lease holdings. They may want
10 to -- the land department may want to know when a well is
11 temporarily abandoned and know in a quicker time to know
12 when the lease expires for no production.

13 As far as the Division policy goes,
14 we're probably not doing anything about any well that isn't
15 submitted within a 30-day period, so it conforms with our
16 policy.

17 Q The current practice among many opera-
18 tors is in fact not to get that form to you within the 10-
19 day period.

20 A Yes, that's true.

21 Q And as a practical matter, it's within
22 the first 30 days of that work that you see the forms being
23 filed.

24 A Yes.

25 MR. KELLAHIN: We would pro-

1 pose that as a rule change, Mr. Chairman, to, in Rule 1103,
2 when we get down to the paragraph number (3), it's on --
3 I'm not sure what draft you have of the proposed rules.

4 MR. LEMAY: The first sentence
5 of that, Mr. Kellahin, states, "A report of temporary aban-
6 donment of a well shall be filed by the operator of the
7 well within 10 days following ...".

8 Is it your recommendation that
9 "10 days" be striked and "30 days" be inserted there?

10 MR. KELLAHIN: Yes, sir,
11 that's the point at which we would propose the rule change.
12 Thank you, Mr. Sexton.

13 MR. LEMAY: Thank you, Mr.
14 Kellahin.

15 Additional questions of the
16 witness? Statements? Comments from the audience?

17 MS. JACOBBER: The Division has
18 none.

19 MR. LEMAY: Thank you, Ms.
20 Jacobber.

21 If not, the Commission will
22 take Case 9507 under advisement and I call Case 9508.

23

24

25

1 CASE 9508 (9501)

2
3
4 JERRY SEXTON.

5 being called as a witness and being duly sworn upon his
6 oath, testified as follows, to-wit:

7
8 DIRECT EXAMINATION

9 BY MS. JACOBBER:

10 Q Mr. Sexton, was Case Number 9508 origi-
11 nally published as Case 9501?

12 A Yes.

13 Q But it is in the matter of the hearing
14 called by the Oil Conservation Division on its own motion
15 to consider the amendment of Rule 1301 to reflect changes
16 in district mailing addresses and to show district phone
17 numbers?

18 A Yes.

19 Q Do you have any exhibits in this case?

20 A Yes. I have Exhibit One which shows
21 what we are proposing and Exhibit One-A, which shows the
22 changes that have been made in the rule.

23 Q Yes. I have Exhibit One that shows what
24 we are proposing and Exhibit One-A which shows the changes
25 that have been made in the rule.

1 Q Would you explain the changes and the
2 purpose of the changes?

3 A Yes. In the opening paragraph we have
4 changed New Mexico Energy and Minerals Department to read
5 our current name, New Mexico Energy, Minerals and Natural
6 Resources. We inserted "and Natural Resources".

7 In -- under District 2, they changed
8 offices, and we deleted "324 West Main Street" and inserted
9 "811 South First Street."

10 In District 4, we deleted the "Post Of-
11 fice Box 2088" and inserted "310 Old Santa Fe Trail, Room
12 206".

13 In the next line we deleted "87504-2088"
14 and inserted "87503".

15 This was done just to clear up obvious
16 changes in addresses.

17 Q Did you receive any comments on these
18 proposed changes?

19 A No.

20 MS. JACOBBER: At this time the
21 Division would move admission of Exhibit One and Exhibit
22 One-A and pass the witness.

23 MR. LEMAY: Without objection
24 Exhibit One and One-A in Case 9508 will be admitted into
25 evidence.

1 Additional questions of the witness?

2 Any comments from the audience?

3 MR. SEXTON: I'd like to have
4 one more comment.

5 MR. LEMAY: Sure, Mr. Sexton.

6 MR. SEXTON: It's something
7 I'm not sure the Division shouldn't take out of the rules.
8 These changes are done quite often and to conduct a full
9 Commission hearing for a change of address, I'm not sure is
10 strictly necessary.

11 MR. LEMAY: Is it your recom-
12 mendation to incorporate a provision for administrative
13 changing of addresses and telephone numbers so we don't
14 have to call Commission hearings to accomplish this?

15 MR. SEXTON: Yes.

16 MR. LEMAY: Let it be noted
17 that that's also a recommendation of the Division.

18 Anything additional, Mr. Sex-
19 ton?

20 We'll take Case 9508 under
21 advisement and call Case 9509.

22

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1 CASE 9509 (9502)

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JERRY SEXTON,

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being called as a witness and being duly sworn upon his
6 oath, testified as follows, to-wit:

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DIRECT EXAMINATION

9

BY MS. JACOBBER:

10

Q Mr. Sexton, was Case 9509 originally
11 published as Case 9502?

12

A Yes.

13

Q But it does read in the matter of the
14 hearing called by the Oil Conservation Division on its own
15 motion to consider the revision of Division Forms C-101,
16 C-102, C-103, C-104, C-105, C-115, C-116, C-120-A, C-123,
17 C-133, and the Southwest (sic) Packer Leakage Form?

18

A Yes.

19

Q Mr. Sexton, do you have any exhibits in
20 Case 9509?

21

A At this time I only have one exhibit,
22 which shows the new forms we are proposing.

23

Q Can you explain the new forms you're
24 proposing and the purpose?

25

A The OCD forms have not been updated

1 since 1978 and at that time it was put together by a cut
2 and paste form, and the forms have gotten old and some
3 revision needed to be done. This has been talked about the
4 Division for several years now.

5 In July, 1987, an OCD committee was
6 formed to consider what changes needed to be made and make
7 these standard in all the Division districts. We decided
8 that we need to insert operators form numbers, insert where
9 to file the forms, install a box where they can put the API
10 numbers on the form for each well and a few other minor
11 changes, and also our printing quality after all these
12 years were getting so poor that we just need to address the
13 new forms.

14 And using this format we came up with
15 the new forms that we are proposing.

16 To go through each one of them and show
17 you each form, those are our major forms. We could submit
18 the previous forms as an exhibit if it was needed for the
19 record to make these changes, but I haven't done this at
20 this time.

21 MS. JACOBER: Mr. Examiner,
22 we'd ask -- Mr. Commissioner, we'd ask that the record be
23 held open to submit the old forms for a comparison to the
24 new forms and that they be made as Exhibit One-A --

25 A Yes.

1 MS. JACOBBER: -- when submit-
2 ted in Case Number 9509?

3 MR. LEMAY: Your request will
4 be granted without objection.

5 For how long a period of time?
6 Do you think seven days is adequate to get the record com-
7 plete?

8 A Yes.

9 MS. JACOBBER: And at this time
10 we would move Exhibit One in Case 9509.

11 Q Mr. Sexton, were there any other com-
12 ments on your proposed changes?

13 A All comments were favorable and no spec-
14 ific comments were obtained.

15 MS. JACOBBER: We'll pass the
16 witness.

17 MR. LEMAY: Thank you, Ms.
18 Jacobber.

19 Any additional questions of
20 the witness in Case 9509 -- or 9509?

21
22 QUESTIONS BY MR. LEMAY:

23 Q I have one question. Your recommenda-
24 tion in Case 9508 to administratively change addresses and
25 phone numbers, would that also apply to changes in forms

1 without substantive changes, but just to clean up the form
2 or change addresses? Do you also recommend that that could
3 be accomplished without a Commission hearing?

4 A Yes.

5 MS. JACOBBER: Mr.
6 Commissioner, could you make ruling on the admission of
7 Exhibit One?

8 MR. LEMAY: Exhibit -- without
9 objection, Exhibits One and One-A -- or Exhibit One, will
10 be admitted into the evidence.

11 Are there any questions or
12 comments concerning this case?

13 We will leave the case open
14 for seven days and then take the case under advisement.
15 The record will be open for seven days.

16 At this point, Mr. Kellahin,
17 would you care to enter into the record your exhibit?

18 MR. KELLAHIN: Mr. Chairman, I
19 have marked Phillips' letter dated October 17th, 1988, as
20 Phillips Exhibit One in the various cases we've discussed
21 today and request the Commission to act favorably on the
22 four items that Phillips requests modifications in the pro-
23 posed rules.

24 MR. LEMAY: Thank you, Mr.
25 Kellahin. Without objection the Commission will admit into

1 evidence Phillips Exhibit One in the cases to which it
2 pertains to.

3 Are there additional comments
4 or questions concerning the cases we're heard here this
5 morning?

6 MS. JACOBBER: The Division has
7 none.

8 MR. LEMAY: Thank you, Ms.
9 Jacobber.

10 If not, we'll take all those
11 cases under advisement that were mentioned earlier.

12

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(Hearing concluded.)

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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 (Commission) 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

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO

16 February 1989

COMMISSION HEARING

IN THE MATTER OF:

In the matter of the hearing called CASE
by the Oil Conservation Division on 9509
its own motion to consider the Res-
cission of Rule 1223.

BEFORE: William J. Lemay, Chairman
William M. Humphries, Commissioner
Erling Brostuen, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division: Robert G. Stovall
 Attorney at Law
 Legal Counsel to the Division
 State Land Office Bldg.
 Santa Fe, New Mexico

For The Applicant:

1 MR. LEMAY: We will now call
2 Case 9609.

3 MR. STOVALL: This is in the
4 matter of the hearing called by the Oil Conservation Div-
5 ision on its own motion to consider the rescission of Rule
6 1223.

7 MR. LEMAY: Appearances in
8 Case 9609.

9 MR. STOVALL: Robert G.
10 Stovall of Santa Fe, appearing on behalf of the Division.

11 MR. LEMAY: Mr. Stovall, do
12 you have any witnesses?

13 MR. STOVALL: I have no
14 witnesses. Again, this is just a legal matter.

15 MR. LEMAY: Are there any
16 other appearances in the case?

17 If not, you may present your
18 case, Mr. Stovall.

19 MR. STOVALL: Rule 1223 of the
20 Division rules requires any change in forms or reports, or
21 rules relating to forms and reports, to be only by order of
22 the Commission or Division issued after due notice and
23 hearing.

24 Because of the presence of
25 this rule, whenever any administrative or substantive or

1 MR. HUMPHRIES: Do you have
2 the bill analysis for the administrative procedures act and
3 both open meetings and open records acts, House bills and
4 Senate bills? They're presently working their way through
5 the --

6 MR. STOVALL: Well, I'm fami-
7 liar with the originals and I've done analysis of the ori-
8 ginal APA, Administrative Procedures Act.

9 I don't -- I understand there
10 may have been some changes made since it was introduced. I
11 haven't seen those.

12 MR. HUMPHRIES: I was
13 wondering if this will somehow or another need to be modi-
14 fied again after either or any of the three of those might
15 make it through. There are companion bills in both houses
16 on open meetings and open records.

17 MR. STOVALL: I have not seen
18 the open meeting or open record bills, but, no, I don't
19 believe it will.

20 MR. HUMPHRIES: The Senate
21 bill or --

22 MR. STOVALL: From what I've
23 seen of the -- the Administrative Procedures Act, it
24 shouldn't affect it.

25 We're still going to be

1 required to have hearings for rules and this just simply
2 doesn't need a new rule.

3 MR. HUMPHRIES: You may want
4 to look at that just to see if somehow or another --

5 MR. STOVALL: Yeah, I've
6 looked at the APA and doubt it. I know (not understood).

7 MR. LEMAY: Mr. Stovall, does
8 this accomplish what you want to accomplish just by the
9 rescission of Rule 1223? Will that allow the Division to
10 make these kind of changes without going to hearings?

11 MR. STOVALL: Yes, and in
12 fact, what happened, I believe, in the last hearing, the
13 last time you made some administrative -- you made some
14 changes in some rules regarding forms, I think you adopted
15 some language in one of the rules which provided for admin-
16 istrative changes to those forms, and after you adopted
17 those -- those rules one of the examiners pointed this out
18 to me, and said you can't go changing forms without a
19 hearing according to Rule 1223, and then I went back and
20 analyzed it and there's no reason for 1223 in the law.

21 So it also, you know, makes
22 the other order for rule change which you've adopted legal
23 now and now in conflict with the Division rules.

24 MR. LEMAY: Okay, thank you.

25 Additional questions of the

1 witness?

2 He may be excused and we'll
3 take the case under advisement.

4

5 (Hearing concluded.)

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C E R T I F I C A T E

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CERTIFY that the foregoing Transcript of Hearing before the
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