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*My*  
~~March~~ 8, 1989

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CLARENCE E. HINKLE (1901-1985)  
W. E. BONDURANT, JR. (1913-1973)  
ROY C. SNODGRASS, JR. (1914-1987)

\*NOT LICENSED IN NEW MEXICO

Mr. Michael E. Stogner, Examiner  
New Mexico Oil Conservation  
Division  
State Land Office Building  
Santa Fe, New Mexico 87503

Re: Application of Benson-Montin-Greer Drilling  
Corporation for Amendment of Order R-8344,  
Which Statutorily Utilized the Canada Ojitos  
Unit, Rio Arriba County, New Mexico,  
Case No. 9671

Dear Mr. Stogner:

Please be advised that our firm has been retained by Mesa Grande Ltd., Hooper, Kimball & Williams, Inc., and Mallon Oil Company to enter their appearance and oppose the application of Benson-Montin-Greer in the above-referenced case set for hearing on next Wednesday, May 10, 1989. In this connection, we respectfully request that you dismiss the application with prejudice for the following reasons.

As you know, the issue of where the proper common boundary lies between the West Puerto Chiquito-Mancos Oil Pool and the Gavilan-Mancos Oil Pool has been debated for more than three years by numerous companies, represented by their retinue of lawyers and their myriad expert witnesses. After weeks of testimony, the Commission entered its various Orders August, 1988 in Case Nos. 7980, 8946, 9113, 9114, 8950 and 9412. Although Mesa Grande, Ltd. had requested in Case No. 9412, that the Gavilan Pool should be expanded and the West Puerto Chiquito Pool be contracted two tiers

Michael E. Stogner  
May 9, 1989  
Page Two

of sections to the east of the present common boundary line separating Range 1 West from Range 2 West, Rio Arriba County, New Mexico, (a position that Commissioner Brostuen supported in his dissenting opinion), the majority of the Commission disagreed and held that the boundary line separating the two pools should remain unaltered cf. Order No. R-8712. Order No. R-8712 was issued on August 4, 1988, barely nine months ago. To now reopen that arduous debate not only constitutes a collateral attack on this recent Order, it is also unnecessary. It is unnecessary because there exists ample precedent within the Gavilan Pool itself for operators to form standard 640 acre sections, or to force pool their way into existing wells that were drilled on 320 acre spacing, the standard spacing prior to Benson-Montin-Greer's request prevailed to change the spacing to 640 acres. (As one example, I refer you to Case No. 9257, Order No. R-8564, a compulsory pooling case successfully brought by Mesa Grande Resources, Inc.)

Moreover, Mesa Grande Ltd., as a working interest owner in the Mallon Oil Company, operated Johnson Federal 12-5 well located in the NW/4 of Section 12, Township 25 North, Range 2 West, and Hooper, Kimball & Williams, Inc., a leasehold owner in the E/2 of Section 12, would not oppose a 640 acre spacing unit comprised of all of Section 12. Although we know of no efforts of Sun Exploration & Production Company or Dugan Production Corporation to communitize a standard 640 acre spacing unit in Section 12, we know of no reasons why the other working interest owners would not consent to forming a standard unit as well. It is apparent that this avenue should be pursued prior to the Division's considering such an exotic remedy of reaching across the established pool boundary and interfering with established pool rules, when a standard procedure is so readily available. It should also be mentioned that Sun and Dugan have the option to drill an offsetting well in the E/2 of Section 12, if it would rather not join in the existing well in the W/2 of Section 12 to form a standard proration unit under the Gavilan Pool rules.

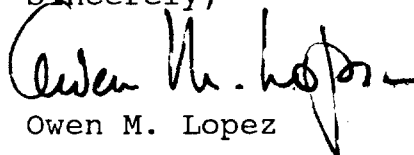
Finally, I call your attention to the fact that under the Statutory Unitization Act, "pool means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both . . . Pool is synonymous with common source of supply and with common reservoir." It is obvious no matter how you choose to view the historical controversy that exists between virtually all operators in the Gavilan Mancos Pool on the one hand, and Benson-Montin-Greer, Sun and Dugan on the other, that whatever the pool

Michael E. Stogner  
May 8, 1989  
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or common source of supply is, it does not begin or end with the E/2 of Section 12. The Gavilan and West Puerto-Chiquito Pools have been defined by Commission Orders and cannot be changed without reopening the cases on which the Orders were based. Consequently, the application and unit on which the application is based necessarily fall by their own weight.

Therefore, we respectfully request that the application in Case No. 9671 be dismissed. In the alternative, if it is not dismissed, we request that the matter be set for a hearing before the full Commission because it raises once again issues with which the Commission is so familiar. Since the Commission apparently no longer automatically sets Examiner hearings for Commission hearings at the request of an affected party, we point out that to our knowledge this is the first time a unit which has been statutorily unitized has sought to be expanded. Consequently, the matter is one of first impression before the Commission and its outcome will set precedent affecting future applications. Moreover, considerable preparation is entailed and no direct notice was provided by the applicant to offset owners. Ironically, however, perhaps revisiting the geology of the area a year later would result in data and testimony that would irrefutably establish that a virtually impermeable boundary exists which separates the Gavilan and West Puerto Chiquito Pools at a point approximately two tiers of sections to the east of the present boundary, a fact that we and Commissioner Brostuen found persuasive at the June hearings almost one year ago.

Sincerely,

  
Owen M. Lopez

OML:frs

cc: William F. Carr  
William J. Lemay  
William R. Humphries  
Erling A. Brostuen  
Larry Sweet  
Kevin Fitzgerald  
Greg Owens  
W. Perry Pearce, Esq.

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Division  
State Land Office Building  
Santa Fe, New Mexico 87503

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Case No. 9671

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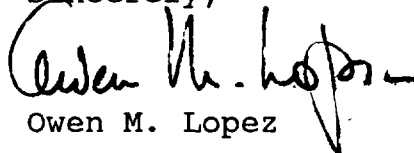
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Erling A. Brostuen  
Larry Sweet  
Kevin Fitzgerald  
Greg Owens  
W. Perry Pearce, Esq.

## CERTIFIED MAIL--RETURN RECEIPT

*Ted C. Findeiss*  
*Counselor at Law*

8 May, 1989

*6300 Classen Center, Suite A-100*  
*Oklahoma City, Oklahoma 73118*

Examiner, Oil & Gas Conservation Division  
Energy and Minerals Office  
State Land Office Bldg.  
P.O. Box 2088  
Santa Fe, NM 87504

*Case No.*  
*9671*

Re: Application of Benson-Montin-Greer Drilling Corp. for  
Amendment of Order R-8344 (Canada Ojitos Federal Unit)

I would like to be a "party of record" in the application noted above. One reason is that on some of the exhibits to earlier requests for expansion of the unit, my interest (S/2 of Sec 1; N/2, SE/4 Sec 12, T24N R1W) is listed as tracts #110 and 112, whereas in the listing of percentage ownership for the 12th expansion this interest is listed as tracts #111 and 113. These are shown on the plat as being entirely different and substantially smaller tracts.

As an oil and gas attorney of some 39 years experience, I feel the question of correct percentage interest to date should be resolved before the unit is expanded further, especially since this affects the estates of the fee mineral owners and thus will have an impact on IRS matters. I also have several other questions regarding unit production and operation.

As an aside, I acquired this interest in 1950 as the landman and house attorney for Big Chief Drilling Co. Big Chief later sold mineral interests to key employees. I have had inquiries from several of these persons as to the unit's status.

Unfortunately, I did not personally learn of this hearing until 1 May, and I regret that I will be unable to appear in person. However, I would be happy to appear later, should this hearing be re-scheduled.

Sincerely,



Ted C. Findeiss  
Attorney, and Pro Bono as Interest Owner

**RECEIVED**

MAY 10 1989

OIL CONSERVATION DIV.  
SANTA FE