

1 STATE OF NEW MEXICO  
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
3 OIL CONSERVATION DIVISION  
4 STATE LAND OFFICE BUILDING  
5 SANTA FE, NEW MEXICO

6 6 September 1989

7 EXAMINER HEARING

8 IN THE MATTER OF:

9 Application of Meridian Oil, Inc. for CASE  
10 exemption from the New Mexico Natural 9703  
11 Gas Pricing Act (NMPA), San Juan County,  
12 New Mexico.

13 BEFORE: Michael E. Stogner, Examiner

14 TRANSCRIPT OF HEARING

15 A P P E A R A N C E S

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## I N D E X

ROBERT J. HOPKINS

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1 MR. STOGNER: We'll call now  
2 Case 9703.

3 MR. STOVALL: Application of  
4 Meridian Oil, Inc., for exemption from the New Mexico  
5 Natural Gas Pricing Act, San Juan County, New Mexico.

6 MR. STOGNER: At this time  
7 we'll call for appearances.

8 MR. HALL: Mr. Examiner, Scott  
9 Hall, Campbell & Black law firm on behalf of Meridian Oil,  
10 Inc.

11 I have one witness this after-  
12 noon.

13 MR. STOGNER: Call for any ad-  
14 ditional appearances.

15 MR. GALLEGOS: Mr. Examiner,  
16 I'm J. E. Gallegos, Attorney, Santa Fe, New Mexico, appear-  
17 ing on behalf of Gas Company of New Mexico and will have  
18 one witness sworn. We may or may not call him.

19 MR. STOVALL: Will the wit-  
20 nesses rise to be sworn, please?

21

22

(Witnesses sworn.)

23

24

25

1 ROBERT J. HOPKINS,  
2 being called as a witness and being duly sworn upon his  
3 oath, testified as follows, to-wit:  
4

5 DIRECT EXAMINATION

6 BY MR. HALL:

7 Q For the record please state your name.

8 A Robert J. Hopkins.

9 Q Mr. Hopkins, where do you live, by whom  
10 are you employed and in what capacity?

11 A I live in Farmington, New Mexico. I'm  
12 employed by Meridian Oil, Inc., as a Senior Landman.

13 Q And you've previously been qualified as  
14 an expert petroleum landman before the Oil Commission or  
15 one of its Division Examiners, have you not?

16 A Yes, I have.

17 MR. HALL: Mr. Examiner, we  
18 again tender Mr. Hopkins as a qualified expert landman.

19 MR. STOGNER: Are there any  
20 objections?

21 MR. GALLEGOS: No objections.

22 Q Mr. Hopkins, are you familiar with the  
23 wells which are the subject of this hearing?

24 A Yes, I am.

25 Q And what is it that Meridian is seeking

1 by this application?

2 A We're asking that the Division find that  
3 the drilling of the subject Mesaverde and Dakota infill  
4 well was justified for reasons other than avoiding the  
5 pricing provisions of the Pricing Act, and finally will  
6 allow Meridian to obtain the release of funds that have  
7 been held in suspense by Gas Company of New Mexico since  
8 1983.

9 Q Let me ask you, has the OCC issued an  
10 order authorizing an infill well drilling program on a  
11 poolwide basis for the Basin Dakota Pool?

12 A Yes, they have.

13 Q And is that Order R-1670-T?

14 A Yes, it is.

15 Q Has the OCC also issued a like order for  
16 infill drilling in the Blanco Mesaverde Pool?

17 A Yes, it has.

18 Q And is that Order R-1670-T?

19 A Yes, it is.

20 MR. HALL: At this time, Mr.  
21 Examiner, we would request that the terms of Orders  
22 R-1670-T and 1670 be incorporated by reference into the re-  
23 cord of this case.

24 MR. STOGNER: Mr. Hall, did  
25 Order No. R-8170 rescind those two orders?

1 MR. HALL: I'm sorry?

2 MR. STOGNER: Did Order No.  
3 R-8170, as amended, rescind these two orders?

4 MR. HALL: Not to my know-  
5 ledge, I have no knowledge of that.

6 MR. STOGNER: Mr. Hall, what  
7 portions of R-1670-V and 1670-T are they referring to ?

8 MR. HALL: If you'll give me  
9 just a minute, I'll look those up for you.

10 MR. STOGNER: For the record,  
11 Order No. R-8170, issued March 28th, 1986, did rescind  
12 Order No. R-1670, as amended.

13 MR. HALL: Specifically, Mr.  
14 Examiner, we're referring to the findings in each of those  
15 orders that set out that infill drilling in the respective  
16 pools will substantially increase the recoverable reserves  
17 from each proration unit in the pool and that the infill  
18 drilling will result in greater ultimate recovery of the  
19 reserves under each of the various proration units in the  
20 pool and that the infill drilling will result in more effi-  
21 cient use of reservoir energy and will tend to insure  
22 greater ultimate recovery of gas from the pool, thereby  
23 preventing waste.

24 MR. STOGNER: So you're refer-  
25 ring to Findings 1670-T and V?

1 MR. HALL: Yes, sir.

2 MR. STOGNER: And usually  
3 findings supplement the orders establishing the special  
4 rules and regulations in these two orders, is that correct?

5 MR. HALL: Yes, sir.

6 MR. STOGNER: So with respect  
7 to that, the findings are still valid in these instances,  
8 is that correct?

9 MR. HALL: That's my opinion,  
10 yes, sir.

11 MR. STOGNER: Even though Or-  
12 der No. R-8170 does not actually state that, though it did  
13 rescind the orders but the findings, I believe, are still  
14 valid.

15 Are there any objections to  
16 taking administrative notice to the findings in Order  
17 R-1670-V and R-1670-T, and administrative notice in R-8170,  
18 which is the (unclear) order after R-1670, as amended, were  
19 rescinded and consolidate it into one order?

20 MR. GALLEGOS: A statement of  
21 position, I think, Mr. Examiner, rather than objection.

22 I -- I think that it does not  
23 go as an absolute that the findings in the infill orders  
24 are of any effect, if those orders have been revoked, so I  
25 think that with the administrative notice taken of Order

1 R-8170, then it becomes probably a question to be decided  
2 by the Examiner and maybe a legal question as to what the  
3 -- what remains of the infill orders.

4 MR. STOGNER: Well, there are  
5 still infill orders in the Basin Dakota and Blanco Mesa-  
6 verde established by 1670-V and 1670-T, and Order R-8170  
7 consolidated all those orders into one readable form in-  
8 stead of having, I believe we were up to 1670-W, or even  
9 approaching X or Z, and I believe that these findings are  
10 still valid in these two pools inasmuch as we still have  
11 the, basically, the same pool rules in the Basin Dakota and  
12 Blanco Mesaverde Pool.

13 MR. GALLEGOS: Well, Mr. Exa-  
14 miner, I'm not conversant with 8170, so I basically wanted  
15 to reserve the position or argue the effect of that, but  
16 what you say, Mr. Examiner, I'm sure it's probably a cor-  
17 rect statement of the function of 8170.

18 MR. STOGNER: Mr. Carr --  
19 sorry, Mr. Hall?

20 Q All right, let's look at Exhibit One, if  
21 you would refer to that, please. What does that exhibit  
22 reflect?

23 A Exhibit One reflects in the first column  
24 the subject wells. There are 25 completions indicated.

25 Q And how many wells are referenced on



1 there altogether?

2 A 26.

3 Q Are there in fact 20 wells in there?

4 A 20 wells, 20 wells and 25 different  
5 zones completed.

6 Q All right. Let's go through each of the  
7 columns. What do each of them show?

8 A The next column is the operator of each  
9 of the wells.

10 The next column shows the Meridian own-  
11 ership interest. It should be noted that these wells, the  
12 corporate ownership is in Southland Royalty Company, which  
13 has property -- Meridian manages the properties of South-  
14 land Royalty Company.

15 The next column is the spud date of each  
16 of the wells.

17 The next column is the well location and  
18 the last column is the pool, either Basin Dakota or Blanco  
19 Mesaverde.

20 Q With respect to the application that was  
21 filed in this case, it listed additional wells, the Cane  
22 3-R, the Reed 22-R, and the Arizona Jicarilla B-5-R, those  
23 wells have been eliminated from this application at this  
24 particular time because they are replacement wells, is that  
25 correct?

1 A Yes, it is.

2 Q One additional question with respect to  
3 Exhibit One.

4 A Yes.

5 Q On page two is there is listed the  
6 Martin Gas Com B 1-E and it shows as the pool the Fulcher  
7 Kutz Pictured Cliff. Meridian is not asking for a an ex-  
8 emption for that particular completion interval, are they?

9 A No, they are not, not for that  
10 completion interval.

11 Q That same well is referenced at the bot-  
12 tom of the previous page, is it not?

13 A Yes.

14 Q And that completion is a **Basin Dakota**  
15 completion?

16 A Yes, it is.

17 Q All right, let's refer to what's been  
18 marked as Exhibits Two-A through Two-F -- I'm sorry --  
19 Two-G, and if you would explain those to the hearing exam-  
20 iner, please, sir.

21 A Each of these files contains under Tab 1  
22 a location plat showing the original well, the infill well  
23 and the offset wells in those formations.

24 Under Tab 2 we've indicated the pool and  
25 the purchaser information.

1                   And under Tab 3 we have an operator's  
2 affidavit and each of the books is identical.

3           Q           And each of the books are arranged by  
4 operator, is that correct?

5           A           Yes, each separate operator has its own  
6 book.

7           Q           And each contains an affidavit provided  
8 by a representative of each operator.

9           A           Yes, it does.

10          Q           All right.

11                   MR. GALLEGOS: Wait a minute.  
12 For clarification, what are you referring to as the "books"?

13                   MR. HALL: I'm sorry, Gene.  
14 Your set was not bound like these.

15                   MR. GALLEGOS: It's entitled  
16 Application?

17                   MR. HALL: Yes.

18                   MR. GALLEGOS: And then with-  
19 in that, what you're falling the "book", are the  
20 affidavits, that's part of the same exhibit?

21                   MR. HALL: Correct. This is  
22 Exhibit Three, talking about Two-A through -- yeah.

23                   MR. STOVALL: Gene, that stuff  
24 you handed me is the same stuff. That is your copy, not --  
25 not to us. Here they are back here, again.

1 MR. GALLEGOS: Okay. These  
2 are extras.  
3 MR. HALL: No, they are Two-A  
4 through F.  
5 MR. GALLEGOS: Oh, --  
6 MR. STOVALL: I think those  
7 are what you're looking for.  
8 MR. HALL: This by itself if  
9 Two A-G. See, they're all --  
10 MR. STOVALL: We have copies  
11 and you have copies --  
12 MR. GALLEGOS: Okay, I wasn't  
13 seeing anything you were talking about there. Okay.  
14 MR. STOVALL: -- of (unclear)  
15 and you have copies of --  
16 MR. GALLEGOS: Can I have just  
17 a minute --  
18 MR. HALL: Yes, please do.  
19 MR. GALLEGOS: -- before you  
20 go on with what you were talking about?  
21 Q Let's refer back to Two-A through Two-G.  
22 As indicated by the information contained in those exhi-  
23 bits, and based further on your knowledge about each of the  
24 wells, were any of the infill wells drilled to protect  
25 against uncompensated drainage or otherwise protect corre-

1     lative rights?

2                     MR. GALLEGOS: I object to  
3     that question. There would be no foundation for this wit-  
4     ness testifying as to wells that are not operated by his  
5     employer.

6                     It's apparent that they're  
7     simply non-operating working interest owners in most of  
8     these wells on Exhibit One.

9                     MR. HALL: Would you like a  
10    response, Mr. Examiner?

11                    MR. STOGNER: Yes, Mr. Hall.

12                    MR. HALL: Mr. Examiner, these  
13    applications are being brought at the behest of Gas Company  
14    to Meridian. The procedure for seeking exemptions is  
15    clearly spelled out in Order R-5436. All that is required  
16    in that procedure is that the applicant establish that  
17    there has in fact been an infill order issued for the re-  
18    spective reservoirs for the applicant wells.

19                    In addition to that, the only  
20    other remaining requirements are simply ministerial filing  
21    requirements. You are to file a plat. You are to recite  
22    the number of the order containing findings for infill  
23    blanket drilling and you are to provide certifications that  
24    the existing wells, the original wells, had not had their  
25    production ability restricted in any fashion. There is no

1 further prohibition to prevent any applicant from coming  
2 forward with certificates by other parties, operators or  
3 non-operators for purposes of making an application for the  
4 exemption. In fact, this Commission has received scores,  
5 dozens, I think almost a hundred applications for infill  
6 well exemptions brought by non-operators. There's never  
7 been a question raised about it before. It's not improper.  
8 It's allowed by the order.

9 I think we ought to proceed  
10 with the hearing.

11 MR. GALLEGOS: Mr. Examiner,  
12 first of all this is Meridian's application. I don't know  
13 what this "behest of the Gas Company" means. We're op-  
14 posing the application. I think that should be very clear  
15 in the record here.

16 If there have been prior ap-  
17 plications for these exemptions made and there were some  
18 uncontested proceedings and things were done in a certain  
19 matter, that does not establish that that's the procedure  
20 in case and in the face of an objection, which we have  
21 here.

22 Order 5436 required certain  
23 proof be established in order that the act, even if, you  
24 know, we're not -- we're not making any concession that it  
25 even applies any more but when it did apply, to show that

1 the well was not drilled as a means of avoiding the Pricing  
2 Act, so that it's necessary for somebody with requisite  
3 knowledge, when these wells were drilled in 1980-81-82, as  
4 to the purpose of the drilling of the wells, first of all.  
5 That means that you've got to have a witness that can speak  
6 to what the operator drilling those wells intended at the  
7 time of drilling.

8                                 Number 2, 5436, says it must  
9 be established that there has not been and will not be any  
10 restriction of the old pre-existing well. There's been  
11 nothing to show that this gentleman's able to testify as to  
12 what Union Texas or Mesa or anybody else has done on these  
13 proration units as to the existing well. It may be shut-  
14 in, who knows what's happened on that.

15                                 So there are -- in fact a cer-  
16 tification is supposed to be made to that effect, so that  
17 there is a requisite proof that has to be brought forward,  
18 and the fact that before, maybe this was just sort of an  
19 automatic, routine thing when nobody gave much of a hoot  
20 one way or the other, doesn't mean that that's the way it  
21 has to be proved, because we oppose it at this time and  
22 we're objecting to the lack of proof here and the compe-  
23 tency of the witness to testify as to those facts.

24                                 MR. HALL: Again let me state  
25 that the Gas Company counsel is reading requirements into

1 Order R-5436 that simply are not there. All you are re-  
2 quired to do to make your prima facie showing is to come  
3 forward with an affidavit. There's no requirement that it  
4 first person knowledge. It's simply come forward with an  
5 affidavit, intention (unclear).

6 MR. STOVALL: Do you have a  
7 copy of 5436?

8 MR. STOGNER: We consider the  
9 affidavits admissible at the Division level. Objection  
10 overruled.

11 Mr. Hall?

12 Q Let me restate my question to you. As  
13 indicated by the information contained in Exhibits Two-A  
14 through Two-F, and based further on your knowledge, were  
15 any of the infill wells drilled to protect against uncom-  
16 pensated drainage or otherwise protect correlative rights?

17 A No.

18 MR. GALLEGOS: And we continue  
19 our objection.

20 MR. STOGNER: So noted.

21 Q Are any of the wells replacement wells?

22 A No.

23 Q Have any of the wells had their produc-  
24 tion restricted?

25 A No.



1 MR. GALLEGOS: Can we have a  
2 continuing objection on the basis previously stated, so I  
3 won't have to continue to interrupt?

4 MR. STOVALL: Recognized and  
5 accepted on this whole line of testimony, --

6 MR. GALLEGOS: Yes, please.

7 MR. STOVALL: -- is that what  
8 you're asking?

9 MR. GALLEGOS: Yes, thank you.

10 MR. STOGNER: Mr. Hall.

11 Q Was the drilling of each of the wells  
12 justified for reasons other than avoiding the application  
13 of the New Mexico Pricing Act?

14 A Yes.

15 Q Mr. Hopkins, in your opinion would the  
16 granting of the application be in the interest of conser-  
17 vation, result in the prevention of waste, and the protec-  
18 tion of correlative rights?

19 A Yes.

20 Q And were Exhibits One and Two, Two-A  
21 through Two-G, compiled by you or at your direction?

22 A Yes, they were.

23 Q Do you have anything further you wish to  
24 add?

25 A No.

1 Q All right.

2 MR. HALL: At this time, Mr.  
3 Examiner, we'd move the admission of Exhibits One and Two  
4 and I'd also give you Exhibit Three. Exhibit Three is  
5 counsel's affidavit under Rule 1207 of mailing notice of  
6 this proceeding to interested parties.

7 MR. STOGNER: Are there any  
8 objections?

9 MR. GALLEGOS: I have no ob-  
10 jection to Exhibit One, nor to Exhibit Three, and I object  
11 to Exhibit Two-A through Two-G on the grounds previously  
12 stated.

13 MR. STOGNER: So noted and  
14 overruled.

15 Exhibits One through Three  
16 admitted into evidence.

17 Your witness, Mr. Gallegos.

18

19 CROSS EXAMINATION

20 BY MR. GALLEGOS:

21 Q Mr. Hopkins, let's take before you just  
22 by way of example, Exhibit Two-B.

23 A Yes, sir.

24 Q And Exhibit Two-B, the first well that  
25 it addresses would be the Cornell B-1-E, a well operated by

1       Tenneco in accordance with Exhibit One, is that correct?

2               A           Yes, sir.

3               Q           Who prepared the plats that are here,  
4 beginning with the one for the Cornell B-1-E?

5               A           I did.

6               Q           Would you locate for us the original  
7 well on the proration unit that is now being drained by the  
8 infill well that's the subject of your application?

9               A           That is now being drained by the infill  
10 well?

11              Q           The proration unit that's being drained.  
12 The Tenneco -- the Cornell B-1-E is the infill well, is  
13 that correct?

14              A           Yes, it's assisting in drainage, I be-  
15 lieve, of the north half of Section 14.

16              Q           All right, and then on the north half of  
17 Section 14 does this plat illustrate the -- the original  
18 well on that proration unit?

19              A           Yes, in the northwest quarter of the  
20 section.

21              Q           Okay, and how did you ascertain the  
22 location of that?

23              A           From maps in the company, I believe.

24              Q           Do you have any production data on that  
25 original well? I take that to be -- the Cornell B-1 is the

1 original well.

2 A Yes, sir.

3 Q Okay, do you have any production data on  
4 that well?

5 A I'm sure that the company that I repre-  
6 sent does. It's also probably a public record.

7 Q Meridian?

8 A Yes.

9 Q But I'm talking about you. Have you  
10 studied that? Have you examined that?

11 A No, sir, I'm a landman.

12 Q Well, do you know anything about the  
13 production from this well?

14 A No, sir.

15 Q So you have no personal knowledge of  
16 whether or not that -- the flow from that well has been  
17 restricted or not, correct?

18 A No. My knowledge of the well is re-  
19 stricted to what was shown in the affidavit under Tab 3,  
20 provided by Mr. Mueller.

21 Q Who is an employee of Tenneco Oil Com-  
22 pany.

23 A He was the regional production manager  
24 of Tenneco.

25 Q So any information concerning the pro-

1     duction, restriction of production, or any facts concerning  
2     that as to the original well on these Tenneco proration  
3     units is the knowledge of Mr. Mueller, correct?

4                     MR. HALL:    Do you understand  
5     the question?

6             A             No, I do not.

7                     MR. HALL:    We object to the  
8     question as being vague.

9                     MR. GALLEGOS: All right.

10                    MR. HALL:    Let me also object  
11    as having been asked and answered previously.

12                    MR. GALLEGOS: Well, you can  
13    stipulate that he has no knowledge of these facts.

14                    MR. HALL:    He's previously  
15    answered the question that you asked.

16                    MR. GALLEGOS: All right,  
17    okay.

18             Q             And if I asked you the same questions  
19    concerning Exhibits Two-C through G that concern wells op-  
20    erated by other than Meridian, your answers would be the  
21    same, would they not, Mr. Hopkins?

22             A             Yes, that I'd be relying on the affi-  
23    davits of --

24                    MR. GALLEGOS: Thank you.  
25    That's all the questions that I have.

1 MR. STOGNER: Mr. Hall?

2 MR. HALL: Nothing further.

3 MR. STOGNER: Mr. Gallegos, do  
4 you wish to call your witness at this time?

5 MR. GALLEGOS: Let me tender  
6 some exhibits, Mr. Examiner, if I may. They're Exhibits  
7 One through Five, and I think they can probably be admitted  
8 at this time without the sponsorship of a witness. Mr.  
9 Hall has copies of those, as does the reporter, and I think  
10 all of these can be the subject of administrative notice of  
11 the Division.

12 Exhibit Number One is the  
13 Order of the Commission, R-5436, which was previously re-  
14 ferenced.

15 Exhibit Number Two is the  
16 printed form that was typically used by the Commission and  
17 issued by the Commission for cases of this sort, calling  
18 for exemption from the Natural Gas Pricing Act.

19 MR. STOGNER: Mr. Gallegos, on  
20 Exhibit Number Two you're -- you're just referencing the  
21 order itself, or this particular well, the Mobil Oil Cor-  
22 poration Brainard Gas Com No. 2. Does it have any rele-  
23 vance at this point?

24 MR. GALLEGOS: None whatso-  
25 ever.

1 MR. STOGNER: You're just --

2 MR. GALLEGOS: It could be  
3 blank.

4 MR. STOGNER: Okay.

5 MR. GALLEGOS: We're just  
6 using this as an example --

7 MR. STOGNER: Okay.

8 MR. GALLEGOS: -- of the form  
9 of the order and later on I'll make some comments as to why  
10 that might have some bearing on the decision.

11 MR. STOGNER: Thank you, sir.

12 MR. GALLEGOS: Exhibit Number  
13 Three is an order of the Commission and it is from Case No.  
14 8111, which is a case brought by Southland Royalty Company,  
15 which is now owned by Meridian, and it's an example of ex-  
16 emption cases by that -- by that company; part of the Com-  
17 mission records.

18 Exhibit Number Four is from  
19 the Commission files and records and it concerns exception  
20 cases that were handled administratively by the Commission  
21 and are referred to by Mr. Hall in his memorandum brief for  
22 the Commission.

23 And Exhibit Number Five is a  
24 copy of Laws of 1984, Chapter 123, which is better known as  
25 the New Mexico Natural Price Protection Act, and some cer-

1     tain terms of that are relevant.

2                             So I think all of those might  
3     be admitted as a matter of administrative notice and we  
4     would so move their admission.

5                             MR. HALL: We have no objec-  
6     tion to that.

7                             MR. STOVALL: There are also  
8     briefs in here. They are not submitted as exhibits, is  
9     that correct?

10                            MR. GALLEGOS: That's correct,  
11     Mr. Stovall. Those were in each of the packages. Behind  
12     Exhibit Five there should be a copy of our brief in sup-  
13     port of our motion to dismiss, and then that brief was  
14     followed by a response of Meridian and to that we filed a  
15     reply. Those are there, and probably, because of the late-  
16     ness of the hour, those briefs are going set forth a lot of  
17     argument, should they be read by the Examiner and counsel.

18                            But we have -- we have Mr.  
19     McFearin here from Gas Company of New Mexico in the event  
20     that the Examiner would have any questions of him. Other-  
21     wise, that's all that we care to present by the way of evi-  
22     dence.

23                            MR. STOGNER; On the record,  
24     Gas Company Exhibits One through Five will be taken under  
25     -- I'm sorry, we'll take administrative notice of these,



1 which are, by the way, part of the New Mexico Oil Conser-  
2 vation Division records.

3 MR. STOVALL: I have some  
4 legal questions but I would like to read Mr. Gallegos'  
5 brief, reply brief particularly, because I think I've read  
6 everything else, and I don't want to do that right now  
7 because I wouldn't know what it said. So I'm going to  
8 suggest that there being nothing further in the way of  
9 testimony, I'm going to recommend, Mr. Examiner, that inas-  
10 much as Mr. Gallegos will be here in the morning, anyway,  
11 Mr. Hall will you come over in the morning just in case  
12 there's any --

13 MR. HALL: I can arrange that.

14 MR. STOVALL: -- discussion and  
15 argument. There may not be but is that a problem for you,  
16 to come?

17 MR. HALL: Sure, I'll be  
18 there.

19 MR. STOVALL: That we continue  
20 this case until we reconvene in the morning and give me an  
21 opportunity to read, give you an opportunity to read, if we  
22 have any questions at that time.

23 I don't see any further need  
24 for the witnesses, particularly your witness, I believe,  
25 has to get back to Farmington, Mr. Hall. I don't see any

1 further need for the witnesses, it will just be questions  
2 on some of the legal issues, if we might.

3 MR. GALLEGOS: So perhaps in  
4 the morning, if it please the Examiner, we might make some  
5 closing comments and see if there are any legal questions  
6 or discussion in the legal --

7 MR. STOVALL: Yeah, I'm in-  
8 clined to think that -- that, presumably, the briefs have  
9 covered most of the legal issues and will allow us, if  
10 there are any gaps, that we wish to have answered in terms  
11 of legal argument, we can perhaps have that discussion in  
12 the morning, but I'm sure not ready to do it now.

13 MR. HALL: Do you promise this  
14 will be the first order of business in the morning?

15 MR. STOVALL: This case is  
16 being continued, Mr. Hall, and --

17 MR. HALL: Very good. We'll  
18 show up.

19 MR. STOVALL: It's on the  
20 docket, first thing.

21 MR. STOGNER: And we'll take a  
22 recess at this time until 8:15 in the morning at which time  
23 we will continue with this case at 8:15 tomorrow.

24  
25 (Thereupon the evening recess was taken.)

1  
2 (Thereafter at the hour of 8:15 a. m. on the morning of 7  
3 August 1989 the Oil Conservation Division Examiner Hearing  
4 was reopened at which time the following proceedings were  
5 had, to-wit:)

6  
7 MR. STOGNER: This hearing  
8 will come to order, Day Two.

9 MR. STOVALL: We were discus-  
10 sing, I believe, Case 9703. Is that correct?

11 MR. STOGNER: Yes. Case  
12 Number 9703, application of Meridian Oil for exemption from  
13 the New Mexico Natural Gas Pricing Act, San Juan County,  
14 New Mexico.

15 Mr. Stovall:

16 MR. STOVALL: And I have read  
17 the briefs and really don't have any questions. I think  
18 we're just going to have to make a determination, unless  
19 you have some sort of closing statements at this point.

20 I think we could go on to do  
21 this forever but --

22 MR. HALL: Okay. We don't  
23 have anything further to say than we said in the brief.  
24 We're content to stand on the brief.

25 MR. STOVALL: Okay.

1 MR. GALLEGOS: Mr. Examiner, I  
2 think what I would say would just be largely repetitious of  
3 the brief.

4 I would like to draw a little  
5 attention to the exhibits that we put in because I think  
6 they serve to show that the Commission approach to pro-  
7 viding these exemptions back when this was a live issue,  
8 was to essentially do this on a perspective basis. It was  
9 contemplated that the application for exemption would be  
10 made by a producer and then the Commission would allow it  
11 and then the price would go in effect.

12 Now there was some litigation  
13 and -- and as a result of that retroactive exemptions were  
14 allowed, as the Commission knows, and that's reflected in  
15 some correspondence.

16 But I think, if anything, in  
17 any effort of any kind to obtain such an exemption had to  
18 be at least pending by the expiration of the New Mexico  
19 Price Protection Act on June 30, 1985, to be within the  
20 authority of the Commission, and obviously this application  
21 doesn't fall in that area.

22 But I think other than that  
23 the briefs speak to the law and we have nothing to add.

24 MR. STOGNER; Thank you, Mr.  
25 Gallegos.

1 Mr. Hall?

2 MR. HALL: Well, I agree. I  
3 think the legal issues have been fully discussed in the  
4 briefs of both parties.

5 I just want the Division to  
6 bear one thing in mind and that is the context in which Gas  
7 Company is making its protest. Less there be any doubt,  
8 this proceeding was, in fact, brought at the behest of Gas  
9 Company. If there's any question in the Division's mind  
10 about that, simply refer to Exhibit Three.

11 In our brief that looks like  
12 this, a letter from Gas Company to Meridian saying we have  
13 these monies in suspense. Please get exemptions so we can  
14 release the funds to you.

15 Why Gas Company just changed  
16 its footing all of a sudden, we don't know. I suspect it's  
17 due to a separate, unrelated litigation, but if that is the  
18 case, matters of that kind are not to be considered by the  
19 Division. The Division should just take the application on  
20 its face, process it, and let us go to the District Court.  
21 Let us obtain the release of those monies.

22 MR. GALLEGOS: Well, I'd like  
23 to comment on that, because that is not only inaccurate but  
24 it's an unfair argument, and I think counsel knows that.

25 Somebody deep down in an ac-

1 counting portion of Gas Company, without any consultation  
2 with either management or legal counsel, as a result of an  
3 audit sees something on the books as a contingent liability  
4 and writes Meridian, that -- that does not place the appli-  
5 cation on any better footing than if Meridian in some way  
6 woke up except to say I guess Meridian would still be  
7 asleep at the switch and might come in in 2005 and ask for  
8 this exemption, because that would be the logical conclu=  
9 sion to be drawn from their idea that this is something  
10 that goes on endlessly.

11 So something from the time  
12 standpoint may have awakened them to their neglect and  
13 failure to do it timely but that doesn't reflect management  
14 position in any way whatsoever of Gas Company. In fact if  
15 I'd known that was going to be argued, since it wasn't in  
16 an exhibit in terms of evidence, not put in in evidence, I  
17 would have kept Mr. McFearin here to speak to that, but I  
18 can say as a matter offer of proof, that the president of  
19 Gas Company if called to testify would say that is not  
20 their position and this application is certainly not at he  
21 behest of Gas Company, and in fact, Gas Company opposes  
22 paying the amount sought.

23 MR. STOGNER: Thank you, Mr.  
24 Gallegos.

25 Anything further in this case?

1 MR. HALL: No, sir.

2 MR. STOGNER: Case 9703 will  
3 be taken under advisement.  
4

5 (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

I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 9703,  
heard by me on 6 Sept. 1989.

Michael E. [Signature], Examiner  
Oil Conservation Division