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STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING )  
CALLED BY THE OIL CONSERVATION )  
DIVISION FOR THE PURPOSE OF )  
CONSIDERING: )  
 ) CASE NO. 10265  
APPLICATION OF NORTHWEST PIPELINE )  
CORPORATION FOR CLARIFICATION OF )  
DIVISION ORDER NO. R-8332 RELATING )  
TO COMPULSORY POOLING, RIO ARRIBA )  
COUNTY, NEW MEXICO )  
 )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

March 21, 1991  
9:15 a.m.  
Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Division on March 21, 1991, at 9:15 a.m. at Oil Conservation Division Conference Room, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Paula Wegeforth, Certified Court Reporter No. 264, for the State of New Mexico.

FOR: OIL CONSERVATION DIVISION BY: PAULA WEGEFORTH  
Certified Court Reporter  
CSR No. 264

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March 21, 1991  
Examiner Hearing

CASE NO. 10265

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3

APPEARANCES

OPENING STATEMENT  
By Mr. Cooter

5

APPLICANT'S WITNESSES:

WARREN CURTIS

Direct Examination by Mr. Cooter

7

DARRYL GILLEN

Direct Examination by Mr. Cooter

11

REPORTER'S CERTIFICATE

18

\* \* \*

E X H I B I T S

ADMTD

APPLICANT'S EXHIBIT

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A P P E A R A N C E S

FOR THE DIVISION:        ROBERT G. STOVALL, ESQ.  
                              General Counsel  
                              Oil Conservation Commission  
                              State Land Office Building  
                              310 Old Santa Fe Trail  
                              Santa Fe, New Mexico 87501

FOR THE APPLICANT:      RODEY, DICKASON, SLOAN,  
    AKIN & ROBB  
                              Attorneys at Law  
                              BY: PAUL A. COOTER, ESQ.  
                              123 East Marcy Street  
                              Santa Fe, New Mexico 87501  
    AND  
                              PAUL PRATT, ESQ.  
                              Salt Lake City, Utah

FOR NM & O OPERATING    HINKLE, COX, EATON, COFFIELD  
COMPANY:                                & HENSLEY  
                              Attorneys at Law  
                              BY: JAMES BRUCE, ESQ.  
                              Santa Fe, New Mexico 87501

\* \* \*

1 EXAMINER STOGNER: I call Case No. 10265, application  
2 of Northwest Pipeline Corporation for clarification of  
3 Division Order No. R-8332 relating to compulsory pooling in  
4 Rio Arriba County, New Mexico.

5 At this time I'll call for appearances.

6 MR. COOTER: Paul Cooter with the Rodey law firm in  
7 Santa Fe, appearing on behalf of Northwest Pipeline. Also  
8 appearing with me will be Paul Pratt, in-house counsel for  
9 that company in its Salt Lake City office.

10 MR. BRUCE: Mr. Examiner, Jim Bruce from the Hinkle  
11 law firm, representing NM & O Operating Company, which is  
12 the current operator of the subject well.

13 EXAMINER STOGNER: Do you have any witnesses,  
14 Mr. Bruce?

15 MR. BRUCE: No, I do not.

16 EXAMINER STOGNER: Are there any other appearances?

17 Mr. Cooter, how many witnesses do you have?

18 MR. COOTER: We have two witnesses, Mr. Stogner.

19 EXAMINER STOGNER: Will the witness stand and be sworn  
20 at this time?

21 (The witnesses were duly sworn.)

22 EXAMINER STOGNER: Mr. Cooter.

23 MR. COOTER: Mr. Stogner, first let me ask you to take  
24 administrative notice of Order No. R-8332 and I'll hand you  
25 a copy just for convenience.

1 EXAMINER STOGNER: Mr. Cooter, would you like me to  
2 take administrative notice of the order or the case itself?

3 MR. COOTER: Both.

4 EXAMINER STOGNER: Okay. Administrative notice will  
5 be given to Case No. 8985 in this matter.

6 Mr. Cooter, you may proceed.

7 MR. COOTER: First, I'd like to file, not as an  
8 exhibit, but to be included in the file is an affidavit of  
9 mailing of our application.

10 Warren.

11 MR. COOTER: Before we begin the questioning -- and  
12 we're going to be very short -- perhaps I might make a  
13 brief statement explaining why we're here.

14 EXAMINER STOGNER: Please.

15 MR. COOTER: If the examiner recall -- let me hand you  
16 one other thing -- back in the summer of 1986 Northwest  
17 Pipeline filed an application to -- application for  
18 compulsory pooling of the south half of Section 24,  
19 25 north, 2 west, in Rio Arriba County. After notice and  
20 hearing, the commission -- or the division entered its  
21 order, which is the one referred to, R-8332.

22 We thought everything was fairly clear cut,  
23 taken care of and proceeded to act under that order in  
24 making an accounting to the operator, Mesa Grande, for the  
25 impounded funds held on behalf of Mountain States, which

1 was force pooled by that order.

2           Then we were confronted -- Northwest was  
3 confronted with a lawsuit filed in Oklahoma by Mountain  
4 States seeking certain relief, and the question seemed to  
5 be -- and we're back here under paragraph -- the last  
6 paragraph of that order, where the division retained  
7 jurisdiction, paragraph 15 on page 5 of that order, seeking  
8 resolution of two questions that we think are clear, and  
9 yet the learned Oklahoma court does not: One, that the  
10 pooling was effective as of March 1, 1984, which was the  
11 date of -- the effective date of the prior order, R-7407,  
12 which established special rules for the Gavilan Mancos Oil  
13 Pool and created the 320-acre spacing. This well was  
14 drilled prior to that. But that's one question.

15           And the second question is whether or not the  
16 procedure of Northwest Pipeline accounting to the operator  
17 for the impounded funds prior to the time that operations  
18 changed from Northwest Pipeline to Mesa Grande was what was  
19 contemplated by the order. Again, we think that that's  
20 clear, but the Oklahoma judge does not.

21                           WARREN CURTIS,  
22 the Witness herein, having been first duly sworn, was  
23 examined and testified as follows:

24   \* \* \* \* \*

25   \* \* \* \* \*

## 1 DIRECT EXAMINATION

2 BY MR. COOTER:

3 Q. With that, let me ask Mr. Curtis to state his  
4 name for the record.

5 A. My name is Warren Curtis.

6 Q. And by whom are you employed?

7 A. Northwest Pipeline.

8 Q. And your position with Northwest?

9 A. I am the manager of administration in the  
10 production area.11 Q. Relate briefly for Mr. Stogner your education  
12 and professional experience.13 A. I have received a bachelor's degree and a master  
14 of business administration degree, both from the University  
15 of Utah. I have worked for a local utility company in  
16 Salt Lake City prior to beginning employment with Northwest  
17 Pipeline in 1979. I have worked with Northwest Pipeline  
18 since that date in various positions.19 Q. Are you the same Warren Curtis who testified in  
20 Case No. 8985 before Mr. Stogner and which case culminated  
21 in the entry of the Order R-8332?

22 A. Yes, I am.

23 Q. Would you relate briefly the chronology of  
24 events for the well in question, which is, I believe, the  
25 Rucker Lake No. 2 well?

1           A.       The Rucker Lake No. 2 well was spud in mid-1983  
2 and completed on August 25th of 1983. At that time the  
3 dedication was 160-acre dedication.

4           The well actually began first production in  
5 September of 1983. In December of 1983, the commission  
6 issued an order, Order R-7407, which established special  
7 rules for the Gavilan Mancos Oil Pool in which this well is  
8 located, which designated the spacing as 320-acre spacing,  
9 however, effective March 1, 1984.

10          Q.       Let me interrupt you right there for just a  
11 minute, Mr. Curtis.

12          MR. COOTER: Mr. Stogner, may I ask you also to take  
13 administrative notice of that Order No. R-7407 and the  
14 case -- and I don't have that number in front of me.

15          EXAMINER STOGNER: Case No. 7980 was the result -- or  
16 resulted in Order No. R-7407. I'll take administrative  
17 notice on that.

18          Also, there were subsequent orders issued in  
19 7407, specifically being 7407-A, B, C, D and E. I'll also  
20 take administrative notice of those also. They should go  
21 back and relate to this.

22          But also, for the record, I have the date of  
23 order R-7407 as December 20th, 1983.

24          MR. COOTER: All right, sir. My error. Thank you.

25          EXAMINER STOGNER: Thank you, Mr. Cooter.

1 Q. (By Mr. Cooter) After the entry of  
2 Order R-7407, which established the special rules for the  
3 pool and the 320-acre spacing, Northwest Pipeline sold its  
4 interest in the Rucker Lake No. 2 well, did it not?

5 A. That is correct. We --

6 Q. When was that?

7 A. We entered into an agreement with Mesa Grande  
8 Resources. I think the agreement date is August of '84.  
9 However, it took some time to finalize the sale of various  
10 properties; consequently, the sale of the Rucker Lake No. 2  
11 well was finalized in August of '85, although the agreement  
12 had originally been entered into the year previous.

13 Q. When did Mesa Grande take over operations for  
14 the Rucker Lake No. 2 well?

15 A. Mesa Grande took over operations the following  
16 month, September 1, the month after the well -- the sale of  
17 the well was finalized.

18 Q. Even though you sold the interest to Mesa Grande  
19 and Mesa Grande assumed the role of operator, yet Northwest  
20 Pipeline filed the application in that prior case, 8985,  
21 did it not?

22 A. That is correct. And I think it was noted in  
23 that case at that time that we had agreed that if a force  
24 pooling order was required, that we would seek that force  
25 pooling order.

1 Q. And so Mesa Grande was designated operator under  
2 the proposed south half unit?

3 A. That is correct.

4 Q. In that prior case, you testified as to the well  
5 costs, costs of drilling and completing that Rucker Lake  
6 No. 2, and I'll refer to page 9 of the transcript.

7 Did you state what that figure was?

8 A. At that time I did state the figure as \$725,467.

9 Q. Did all other interest owners in the unit sign  
10 the pooling or unitization agreement and join in an  
11 operating agreement?

12 A. That is correct. Most of them had early on  
13 signed an agreement. There was one party that just  
14 previous to the pooling order signed the agreement, so  
15 there was only the one party outstanding at the time of the  
16 forced pooling order.

17 Q. And that party was Mountain States Natural Gas  
18 Corporation?

19 A. That is correct.

20 Q. Has Mountain States Natural Gas Corporation or  
21 any other interest owner ever objected to those costs that  
22 you've testified about, the costs of the drilling and  
23 completing the Rucker Lake No. 2 well?

24 A. Mountain States has questioned various numbers.  
25 However, there is no other party that has objected to those

1 numbers.

2 Q. Mountain States has never signed a joint  
3 operating agreement?

4 A. No, they have not.

5 Q. Nor joined in the pooling or unitization  
6 agreement for this unit?

7 A. They have not.

8 MR. COOTER: That's all the questions I have for this  
9 witness.

10 EXAMINER STOGNER: I don't believe I have any at this  
11 time. I may have some after I hear --

12 MR. COOTER: He'll be here. I'll call him back.

13 EXAMINER STOGNER: Thank you, Mr. Cooter.

14 MR. COOTER: Next let me call Darryl Gillen.

15 DARRYL GILLEN,  
16 the Witness herein, having been first duly sworn, was  
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. COOTER:

20 Q. Would you state your name for the record,  
21 please, sir?

22 A. Darryl Gillen.

23 Q. By whom are you employed, Mr. Gillen?

24 A. Northwest Pipeline.

25 Q. In what position?

1 A. I'm their land manager.

2 Q. Would you relate briefly your education and  
3 professional experience, please, sir?

4 A. Yes. I have a bachelor's degree in business  
5 administration. I've worked with Northwest Pipeline for 16  
6 years. I've worked in their land department for six years.  
7 I've been their land manager for the last two years.

8 Q. You've been in the room while Warren Curtis has  
9 testified and you've heard his testimony?

10 A. Yes, I have.

11 Q. After entry of Order No. R-8332, which is dated  
12 November 4, 1986, did Northwest Pipeline make an accounting  
13 of both the costs of drilling and completion of the Rucker  
14 Lake No. 2 well attributable to the interest of Mountain  
15 States, as well as the income received attributable to that  
16 same interest?

17 A. Yes, they did.

18 Q. When was that accounting made?

19 A. Shortly after the order. The accounting was  
20 made, and then on December 5th, 1986, under my signature, I  
21 sent out that statement to Mountain States -- to Mesa  
22 Grande.

23 Q. Let me hand you what I have marked as  
24 Exhibit No. 1.

25 MR. COOTER: There are two copies of that,

1 Mr. Stogner.

2 EXAMINER STOGNER: Thank you.

3 Q. (By Mr. Cooter) Would you identify that for the  
4 record, please, sir?

5 A. Yes. This is a letter that was drafted by  
6 myself that went to Mesa Grande, who then was the operator  
7 of the Rucker Lake No. 2 well, setting forth a schedule of  
8 revenues, investment expense and also authorizing our  
9 accounting department to release funds that we had in  
10 suspense to Mountain States.

11 Q. Was payment made pursuant to that accounting?

12 A. February the 25th a check went out to Mesa  
13 Grande to settle with Mountain States.

14 EXAMINER STOGNER: February 25th of what year?

15 THE WITNESS: 1987.

16 EXAMINER STOGNER: Thank you.

17 Q. (By Mr. Cooter) Did Northwest Pipeline receive  
18 any of the proceeds from the sale of oil produced from the  
19 well after September 1, 1985, when Mesa Grande became  
20 operator?

21 A. They did not.

22 Q. How about gas proceeds?

23 A. Gas proceeds from September 1986 through January  
24 1987 was still taken by Northwest Pipeline as a pipeline.  
25 They were purchasing gas, and we settled with -- at the

1 time we settled with Mesa Grande for Mountain States with  
2 that check, that gas revenues were a part of that check.

3 Q. Northwest accounted for those proceeds received  
4 attributable to the Mountain States' interest after Mesa  
5 Grande became operator?

6 A. Yes.

7 Q. Now, you said through February of '87.

8 A. Through January of '87. The check went out  
9 February of '87.

10 Q. What happened after that?

11 A. After that Northwest Pipeline, as the pipeline,  
12 was still taking gas for each of the working interest  
13 owners, which included Mountain States. They paid Mountain  
14 States directly for that gas.

15 MR. COOTER: We offer Exhibit No. 1.

16 EXAMINER STOGNER: Exhibit No. 1 will be admitted into  
17 evidence.

18 (Whereupon Exhibit 1 was admitted into evidence.)

19 MR. COOTER: Mr. Stogner, that concludes my  
20 questioning of this witness.

21 \* If I might add a postscript, we haven't gone  
22 into the details of the accounting. We're not asking this  
23 agency to bless or condemn that. What we are asking is  
24 that the procedure used in accounting and making payment  
25 conform to Order No. 8332.

1 EXAMINER STOGNER: Thank you, Mr. Cooter.

2 Mr. Cooter, I'm going to request that the  
3 affidavit of mailing be made Exhibit No. 2 --

4 MR. COOTER: Oh, okay.

5 EXAMINER STOGNER: -- which you handed me earlier on.

6 MR. COOTER: Yes. Yes. I didn't realize that it's as  
7 an exhibit. I wanted it filed, of course. We would offer  
8 it, then.

9 Do you want another copy?

10 EXAMINER STOGNER: If you have one, I'll take it --

11 MR. COOTER: Sure.

12 EXAMINER STOGNER: -- for the record, and I'll mark  
13 this one as Exhibit 2 in Case 10265.

14 (Whereupon Exhibit 2 was admitted into evidence.)

15 MR. COOTER: I'm sorry. I should have done that.

16 EXAMINER STOGNER: Also, before you called  
17 Mr. Warren Curtis on the stand, you gave me a --

18 MR. COOTER: Chronology?

19 EXAMINER STOGNER: -- chronology, and essentially, for  
20 the record, what is this chronology of events that you  
21 handed me, Mr. Cooter?

22 MR. COOTER: Just to -- for your convenience in having  
23 in front of you the dates, pertinent dates, relating to the  
24 drilling, completion of the well in question with the  
25 respective orders and their effective dates.

1 EXAMINER STOGNER: Thank you, Mr. Cooter.

2 MR. COOTER: I don't really offer it as an exhibit.  
3 It can be discarded. It was just -- all of those dates, I  
4 think, appear in the transcript in the record.

5 EXAMINER STOGNER: If they don't appear in the  
6 transcript of that record, they are part of the well file  
7 that is our record, I would assume.

8 MR. COOTER: I would assume so, sir.

9 EXAMINER STOGNER: I just wanted to cover that.

10 Mr. Cooter, I have no questions of either  
11 witness. I will ask you, however, if you will provide me a  
12 draft order in this instance.

13 MR. COOTER: Yes, sir.

14 EXAMINER STOGNER: You referred to an Oklahoma  
15 decision, but I did not remember any number or case for the  
16 Oklahoma. Do you see that as anything pertinent to add in  
17 this particular case?

18 MR. COOTER: No, sir. As part of the record but not  
19 really relevant, I might add that subsequent to the  
20 happening of all of these events that the witnesses have  
21 testified to, Mountain States commenced litigation in  
22 Oklahoma court, and it appears that two contentions are  
23 made, that, one, that it's entitled to revenue as of the  
24 date of first production, possibly even without bearing any  
25 costs of drilling and completing the well; and two, that

1 for some reason the accounting procedure that Northwest  
2 followed in making the detailed accounting to the operator  
3 and remitting to the operator the proceeds attributable to  
4 the Mountain States interest did not conform to the  
5 directive as set forth in Order No. 8332.

6 EXAMINER STOGNER: I don't have anything further in  
7 this case, Mr. Cooter. Would you or Mr. Pratt like to add  
8 anything at this time?

9 Mr. Bruce?

10 MR. BRUCE: No, sir.

11 EXAMINER STOGNER: If not, then this case will be  
12 taken under advisement.

13 As I requested, a rough draft, Mr. Cooter. When  
14 do you think it might be convenient for you to provide me  
15 with that document?

16 MR. COOTER: We'll have it to you by the early part of  
17 this week.

18 EXAMINER STOGNER: Thank you, Mr. Cooter.

19 MR. COOTER: Thank you, sir.

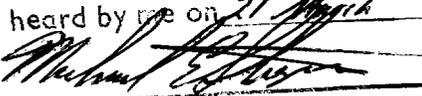
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21 (The foregoing hearing was concluded at the  
22 approximate hour of 9:30 a.m.)

23

24

25

\* \* \*  
I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 10265  
heard by me on 21 March 19 91.  
, Examiner  
Oil Conservation Division

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STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF SANTA FE )

REPORTER'S CERTIFICATE

I, PAULA WEGEFORTH, a Certified Court Reporter and Notary Public, DO HEREBY CERTIFY that I stenographically reported these proceedings before the Oil Conservation Division; and that the foregoing is a true, complete and accurate transcript of the proceedings of said hearing as appears from my stenographic notes so taken and transcribed under my personal supervision.

I FURTHER CERTIFY that I am not related to nor employed by any of the parties hereto, and have no interest in the outcome hereof.

DATED at Santa Fe, New Mexico, this 26th day of March, 1991.

*Paula Wegforth*

PAULA WEGEFORTH  
Certified Court Reporter  
CSR No. 264, Notary Public

My Commission Expires:  
April 25, 1993