Case No. 2504

Application, Transcripts, Small Exhibits, Etc.

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE No. 2504
Order No. R-2259

APPLICATION OF CONSOLIDATED OIL & GAS, INC.
FOR AN AMENDMENT OF ORDER NO. R-1670-C,
CHANGING THE ALLOCATION FORMULA FOR THE
BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA
AND SANDOVAL COUNTIES, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on April 18, 1962, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 7th day of June, 1962, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That by Order No. R-1670-C, entered in Case No. 2095 effective February 1, 1961, the Basin-Dakota Gas Pool was created and prorated under an allocation formula based on seventy-five (75) percent acreage times deliverability plus twenty-five (25) percent acreage.

(3) That the applicant, Consolidated Oil & Gas, Inc., seeks the amendment of said Order No. R-1670-C to establish an allocation formula for the Basin-Dakota Gas Pool based on forty (40) percent acreage times deliverability plus sixty (60) percent acreage.

(4) That the evidence presented at the hearing of this case concerning recoverable gas reserves in the subject pool is insufficient to justify any change in the present allocation formula.

IT IS THEREFORE ORDERED:

(1) That the subject application is hereby denied.

(2) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

EDWIN L. MECHEM, Chairman

E. S. WALKER, Member

A. L. PORTER, Jr., Member & Secretary

esr/

BEFORE THE OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED OIL & GAS, INC., FOR AN ORDER ESTABLISHING A SPECIAL FORMULA FOR THE DETERMINATION OF ALLOWABLES IN THE BASIN DAKOTA GAS POOL.

Case No. 2516

APPLICATION

TO THE HONORABLE COMMISSION:

Comes now Consolidated Oil & Gas, Inc., 2112 Tower Building, 1700 Broadway, Denver 2, Colorado, hereinafter referred to as "Applicant", by its undersigned Attorneys, and alleges and states as follows:

I.

Applicant is a Colorado corporation with a permit to do business in the State of New Mexico.

II.

Applicant has developed and will continue to develop various lands and leases for the drilling of oil and gas wells in the Basin Dakota gas pool in Northwest New Mexico.

III.

By virtue of Order No. R-1670-C, the Commission provided among other things that the General Rules applicable to prorated gas pools in Northwest New Mexico, as set forth in Order No. 1670, shall apply to the Basin Dakota gas pool. Rule 9-C of said General Rules provides in substance that the gas allocation formula for the gas pools of Northwest New Mexico shall be based on seventy-five percent (75%) acreage times deliverability plus twenty-five (25%) acreage.

IV.

Applicant submits that because the wells in the Basin Dakota

gas pool have an abnormally high deliverability and because the present Rule 9-C creates waste, does not properly recognize correlative rights, and permits and will increasingly permit non-ratable taking of gas from the pool and drainage between producing tracts in the pool which is not equalized by counter drainage, a special formula should be adopted pertaining to the Basin Dakota gas pool, reading as follows:

> "The pool allowable remaining each month after deducting the total allowable assigned to marginal wells shall be allocated among the non-marginal wells entitled to an allowable in the following manner:
>
> "1. Forty percent (40%) of the pool allowable remaining to be allocated to non-marginal wells shall be allocated among such wells in the proportion that each well's 'AD Factor' bears to the total 'AD Factor' for all non-marginal wells in the pool.
>
> "2. Sixty percent (60%) of the pool allowable remaining to be allocated to non-marginal wells shall be allocated among such wells in the proportion that each well's acreage factor bears to the total acreage factor for all non-marginal wells in the pool."

V.

The granting of the relief sought in this Application will prevent waste and will distribute the allowable production among the producers in the pool on a reasonable basis and will not violate or prejudice correlative rights and will prevent premature abandonment of wells which are uneconomic under the present formula established by Rule 9-C.

VI.

The Commission has jurisdiction to hear and determine this cause.

WHEREFORE, Applicant respectfully requests:

That this matter be set for hearing before the Commission as soon as possible, since Applicant, as well as other operators in the Basin Dakota gas pool, is suffering and will increasingly suffer economic hardships as a result of the present formula; and

That, upon due notice and hearing, the Commission issue its Order establishing a gas allocation formula for the Basin Dakota gas pool based on forty percent (40%) acreage times deliverability plus sixty percent (60%) acreage.

Respectfully submitted this 23rd day of February, 1962.

HOLME, ROBERTS, MORE & OWEN
and TED P. STOCKHAR
1700 Broadway
Denver 2, Colorado

KELLAHIN & FOX

By /s/ Jason W. Kellahin
54½ East San Francisco Street
Santa Fe, New Mexico

BEFORE THE OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED OIL & GAS, INC., FOR AN ORDER ESTABLISHING A SPECIAL FORMULA FOR THE DETERMINATION OF ALLOWABLES IN THE BASIN DAKOTA GAS POOL.

Case No. 2504

RESPONSE TO APPLICATION

Comes now PUBCO PETROLEUM CORPORATION by W. A. Keleher, its Attorney, and in response to the Application herein, alleges and says:

Pubco objects to the granting of the order prayed for by the Applicant, Consolidated Oil & Gas, Inc., and respectfully submits to the Commission:

1.

That the granting of the order in whole or in part will seriously affect Pubco in and about its operation, present and future, in the Basin Dakota Gas Pool, and will result in Pubco's abandonment in whole or in part of the drilling of scheduled wells for 1962. That Pubco respectfully objects and excepts to consideration by the Commission of any contemplated establishment of minimum and maximum allowables for such Pool.

2.

That the proration formula presently in effect is a just and workable formula and gives each well its fair share of the existing market commensurate with the recoverable gas reserves of the individual wells.

3.

That any refinement or change in the existing formula should be in favor of deliverability and a reduction in the acreage factor in that it is Pubco's position that well deliverability more truly reflects recoverable reserves.

4.

That it is Pubco's position that an increase in the acreage factor at the expense of deliverability would in effect violate correlative rights and permit the weaker wells with less reserves to ultimately produce gas from the common source of supply in amounts in excess of their actual reserves.

5.

That the existing formula provides a 25 percent acreage factor, which in effect allocates a basic allowable to all wells regardless of their deliverabilities merely because of their existence.

6.

That it has been demonstrated that major changes occur within the Basin Dakota pool in porosity, permeability, connate water saturation, and sand thickness, all of which are the major and important factors in determining the actual recoverable reserves within a given Dakota drillsite. Pubco proposes to undertake to demonstrate the direct relationship between deliverability and recoverable reserves.

7.

Pubco contends that if the Commission should consider any change in the proration formula, that such a change should be in favor of 100 percent deliverability.

8.

Pubco objects to the introduction of minimum or maximum allowables in the field because such introduction would result in substantially changing the proration formula in favor of a straight acreage allocation of market and would be a violation of correlative rights.

9.

That the Applicant acquired the acreage complained of, and has drilled its wells with full knowledge of then and now existing Commission orders governing the field.

Respectfully submitted,

PUBCO PETROLEUM CORPORATION

By _____
EXECUTIVE VICE-PRESIDENT

_____
ATTORNEY for PUBCO PETROLEUM CORP.
First National Bank Building
Albuquerque, New Mexico

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

CASE No. 2504
Order No. R-2259-A

APPLICATION OF CONSOLIDATED OIL & GAS, INC. FOR AN AMENDMENT OF ORDER NO. R-1670-C, CHANGING THE ALLOCATION FORMULA FOR THE BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA AND SANDOVAL COUNTIES, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for reconsideration upon the petition of Consolidated Oil & Gas, Inc. for a rehearing in Case No. 2504, Order No. R-2259, heretofore entered by the Commission on June 7, 1962.

NOW, on this 7th day of July, 1962, the Commission, a quorum being present, having considered the petition for rehearing,

FINDS:

(1) That petitioner, Consolidated Oil & Gas, Inc., in its petition for rehearing proposes that rehearing in the subject case consist of two parts: (a) a preliminary hearing before an examiner to take evidence concerning basic factual data relating to each well in the Basin-Dakota Gas Pool, and (b) a subsequent hearing before the Commission itself at which time additional testimony, evidence and expert opinions would be received.

(2) That a rehearing in the subject case should be granted, and that the scope of such rehearing should be limited to matters concerning recoverable gas reserves in the pool.

(3) That the rehearing should be held before the full Commission; the referral of any matter to an examiner should be at the Commission's discretion upon motion made at such rehearing.

IT IS THEREFORE ORDERED:

(1) That a rehearing in the subject case is hereby granted, and is set for the regular Commission hearing on August 15, 1962.

(2) That the scope of such rehearing shall be limited to matters concerning recoverable gas reserves in the Basin-Dakota Gas Pool.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

EDWIN L. MECHEM, Chairman

E. S. WALKER, Member

A. L. PORTER, Jr., Member & Secretary

esr/

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE No. 2504
Order No. R-2259-B

APPLICATION OF CONSOLIDATED OIL & GAS, INC.,
FOR AN AMENDMENT OF ORDER NO. R-1670-C,
CHANGING THE ALLOCATION FORMULA FOR THE
BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA
AND SANDOVAL COUNTIES, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for rehearing at 9 o'clock a.m. on February 14, 1963, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 3rd day of July, 1963, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That Order No. R-1670-C, entered by the Commission on November 4, 1960, established Special Rules and Regulations for the Basin-Dakota Gas Pool and adopted, by reference, Rule 9(C) of the General Rules applicable to prorated gas pools in Northwest New Mexico, as set forth in Order No. R-1670.

(3) That Rule 9(C) of the General Rules applicable to prorated gas pools in Northwest New Mexico, as set forth in Order No. R-1670, allocates production on the basis of 25 percent acreage plus 75 percent acreage times deliverability, hereinafter referred to as the 25-75 formula.

(4) That the applicant, Consolidated Oil & Gas, Inc., seeks amendment of the Special Rules and Regulations for the Basin-Dakota Gas Pool to allocate production on the basis of 60 percent acreage plus 40 percent acreage times deliverability.

(5) That the initial recoverable gas reserves in the Basin-Dakota Gas Pool, insofar as can be determined, total approximately 2.255 trillion cubic feet, of which approximately 96 billion cubic feet is attributed to marginal wells, which are permitted to produce at capacity.

(6) That the initial recoverable gas reserves underlying each non-marginal tract in the Basin-Dakota Gas Pool are as shown in Column C, Tract Reserves, of Exhibit A attached hereto and made a part hereof.

(7) That the percent of the total pool reserves attributable to each non-marginal tract in the Basin-Dakota Gas Pool is as shown in Column D, Percent of Pool Reserves, of Exhibit A.

(8) That it is impracticable to allocate production solely on the basis of the percentage of pool reserves due to the continuous fluctuation in reserve computations resulting from new completions in the pool and re-evaluation of reserves of existing wells.

(9) That the tract acreage factor for each non-marginal well in the Basin-Dakota Gas Pool is as shown in Column A of Exhibit A; that the deliverability for each non-marginal well, insofar as can be determined, is as shown in Column B of Exhibit A.

(10) That in the Basin-Dakota Gas Pool there is no direct correlation between deliverability and reserves, or acreage and reserves, and that, therefore, neither should be used as the sole criterion for distributing the total pool allowable among the tracts.

(11) That the most reasonable basis for allocating production in the Basin-Dakota Gas Pool is to determine, for each proposed formula, the percentage of total pool allowable apportioned to each non-marginal tract as compared to its percentage of total pool reserves, said relationship hereinafter referred to as the tract's A/R Factor, and to select the allocation formula that will allow the maximum number of wells in the pool to produce with an ideal tract A/R Factor of 1.0, or with a tract A/R Factor of from 0.7 to 1.3, which, due to inherent variance in interpreting and computing reserves, is within a reasonable tolerance.

(12) That the percentage of deliverability and the percentage of acreage included in the allocation formula affect the percentage of the total pool allowable assigned to each non-marginal well in the pool, thereby affecting the number of wells in the pool producing with a tract A/R Factor of from 0.7 to 1.3.

(13) That under the present 25-75 formula, correlative rights are not being adequately protected; that the protection of correlative rights is a necessary adjunct to the prevention of waste, and that waste will result unless the Commission acts to protect correlative rights.

(14) That, based upon the December 1962 pool allowable, a comparison of the number of non-marginal wells producing with a tract A/R Factor of from 0.7 to 1.3 under each formula as identified by an asterisk in Columns G and J of Exhibit A, and of the total volume of gas allocated to the wells in the 0.7 to 1.3 range under each formula, establishes that the proposed formula of 60 percent acreage plus 40 percent acreage times deliverability will more adequately protect correlative rights and prevent waste by permitting more wells to receive their just and equitable share of the gas in the pool, insofar as can be determined.

(15) That numerous wells in the Basin-Dakota Gas Pool are capable of draining more than their just and equitable share of the gas in the pool, and that an allocation formula of 60 percent acreage plus 40 percent acreage times deliverability will, insofar as is practicable, prevent drainage between producing tracts which is not equalized by counter drainage.

(16) That an allocation formula of 60 percent acreage plus 40 percent acreage times deliverability will, insofar as it is practicable to do so, afford to the owner of each property in the pool the opportunity to use his just and equitable share of the reservoir energy.

(17) That Order No. R-1670-C should be amended to provide an allocation formula for the Basin-Dakota Gas Pool in San Juan, Rio Arriba, and Sandoval Counties, New Mexico, based 60 percent on acreage and 40 percent on acreage times deliverability.

(18) That, due to the time required to administer a new allocation formula for a prorated gas pool, this order should not be effective until August 1, 1963, the beginning of the next six-month proration period for the Basin-Dakota Gas Pool.

IT IS THEREFORE ORDERED:

(1) That the Special Rules and Regulations for the Basin-Dakota Gas Pool, as promulgated by Order No. R-1670-C, are hereby amended by adoption of the following:

RULE 9(C): The pool allowable remaining each month after deducting the total allowable assigned to marginal wells shall be allocated among the non-marginal wells entitled to an allowable in the following manner:

1. Forty percent (40%) of the pool allowable remaining to be allocated to non-marginal wells shall be allocated among such wells in the proportion that each well's "AD Factor" bears to the total "AD Factor" for all non-marginal wells in the pool.

2. Sixty percent (60%) of the pool allowable remaining to be allocated to non-marginal wells shall be allocated among such wells in the proportion that each well's acreage factor bears to the total acreage factor for all non-marginal wells in the pool.

(2) That Order No. R-2259 is hereby superseded.

(3) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

(4) That this order shall be effective August 1, 1963, the beginning of the next six-month proration period for the Basin-Dakota Gas Pool.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Jack M. Campbell
JACK M. CAMPBELL, Chairman

E. S. WALKER, Member

A. L. Porter, Jr.
A. L. PORTER, Jr., Member & Secretary

esr/

EXHIBIT A

ORDER NO. R-2259-B

ALLOCATION FORMULAE 25 PERCENT ACREAGE 75 PERCENT ACREAGE TIMES DELIVERABILITY AND 60 PERCENT ACREAGE 40 PERCENT ACREAGE TIMES DELIVERABILITY

BASIN DAKOTA TRACT/POOL RESERVES AND ALLOCATION

ARRANGED IN THE ORDER OF PIPELINE AND OPERATOR

DESCRIP. WELL	S	T	R	COL A AF	COL B DAILY DELIV	COL C TRACT RES. MMCF	COL D PCT. POOL RES.	25-75 FORMULA COL E MCF ALLOW	COL F PCT. POOL ALLOW	COL G A/R FACTOR	60-40 FORMULA COL H MCF ALLOW	COL I PCT. POOL ALLOW	COL J A/R FACTOR
EL PASO NATURAL GAS PIPELINE SYSTEM													
ADOBE OIL COMPANY													
1 G	22	31	13	2	3	947	.043866	3874	.056229	* 1.28	6322	.091772	2.09
1 GQ	9	31	11	1	2	3780	.175008	9477	.137955	* .79	9680	.140555	* .80
1 NZ	22	31	13	1	2	950	.044006	4111	.059977	1.36	6448	.093626	2.13
1 NZ	8	31	13	1	0	1735	.080366	5434	.078929	* .98	7524	.109292	1.36
1 AK	5	31	10	1	0	2093	.096939	5538	.078033	* .81	7557	.110895	* 1.20
1 AK	22	31	11	1	0	1578	.073009	5534	.080933	* 1.10	7557	.110895	* 1.50
1 K	14	31	11	1	0	2051	.095002	4778	.069933	* .73	7174	.104161	* 1.06
1 K	11	31	11	9	8	2303	.106652	3267	.047744	* .44	6276	.091156	* .86
1 K	13	31	11	3	3	1000	.098366	4447	.064555	* .65	6998	.101558	* 1.03
1 G	21	31	11	3	1	1000	.046332	5371	.077999	1.68	7491	.108715	2.35
AINSLIE PETROLEUM INVESTMENT COMPANY													
1 M	20	25	9	1	0	1200	.055588	7361	.106882	1.92	3552	.124116	2.23
AMERADA PETROLEUM CORPORATION													
3 N	22	32	5	5	1	1000	.233561	3360	.048821	.21	6418	.093211	.40
6 E	22	32	5	5	1	1000	.120228	4552	.056141	.55	7054	.102461	* .85
9 D	16	22	5	5	1	1000	.115799	5474	.079411	7.20	3380	.049096	4.45
9 A	20	24	5	5	1	1000	.069477	1474	.021400	3.08	1248	.018122	2.61
AZTEC OIL AND GAS COMPANY													
3 D	34	29	13	1	0	458	.146555	3164	.048833	.48	7230	.104996	* .72
4 D	34	29	13	1	0	1231	.156322	3375	.051298	* .83	9395	.136395	* .87
2 D	22	28	13	1	0	2588	.143330	3094	.047067	1.63	13195	.191515	1.34
BAYVIEW OIL CORPORATION													
1 M	7	27	12	4	8	1866	.172588	3726	.056581	.14	3105	.045101	.26
BENSON MONTIN GREER DRILLING CORPORATION													
1 A	18	27	12	1	0	1226	.106622	3302	.050176	* .43	6300	.091446	* .86
X 1 E	12	27	13	1	0	1662	.167766	3692	.056106	* .95	10487	.152232	* .91
1 A	34	28	13	1	0	6600	.122038	2595	.039444	* .72	7796	.113141	* .94

DESCRIPTION WELL	S	T	R	COL A	COL B	COL C	COL D	COL E	COL F	COL G	COL H	COL I	COL J
2 D	2	8	2	1	3	1 0 0	1 7 6	1 5	.0 2 8 5 5	9 0	.0 4 8 2	.5 6	6 3 9 6	.0 8 2 6	* 1 . 0 0
1 A	2	1	1	3	3	1 0 0 0	1	2 2	.1 0 7 6 7	1 1 6 7	.0 4 8 7	.6 7	1 9 8 8 9	.1 1 7 9	.6 4
2 J	2	1	1	3	3	1 0 0 0	1 7 6	1 5	.1 8 5 5	7 1 7 9	.0 4 7 2	.7 9	6 3 9 4	.0 9 5 5	.6 1
1 D	1	1	2	3	3	1 0 0 0	1 4	1 5	.1 0 3 7	4 1 2 6	.0 4 2 9	.7 5	6 3 9 4	.1 1 9 4	.6 0
1 O	1	1	2	7	1	1 0 0	1 7	2 2	.1 3 5 4	1 1 7 0	.1 0 2 0	* 1 . 0 5	1 0 2 6	.1 5 7 7	* 1 . 1 6

BLACKWOOD													
1H	2	3	1	7	1 0 0	1 5 7	2 2	3 0 3 2	.1 3 6 0	3 0 2 2	.0 4 7 9	.3 3	6 3 8 7	.0 9 2 7	.6 3
5 A	1	3	1	7	1 0 0	1 1 7	2 2	3 0 3 2	.1 3 6 0	3 0 2 2	.0 4 4 9	.3 3	6 3 7 5	.0 9 1 1	.6 7

M. J. BRANNON													
1 D	2	2	2	9	1 0 0	4 1 6	1 2 2 6	.0 5 8 7 3	4 6 6 2	.0 6 7 7	* 1 . 1 5	7 1 1 2	.1 0 3 2	1 . 7 6
1 A	2	8	2	5	1 0 0	2 4 0	1 2 2 6	.1 1 0 6 1	3 7 3 6	.0 5 4 2	.4 9	6 6 2 0	.0 9 6 1	* .6 7

THE BRITISH AMERICAN OIL PRODUCING COMPANY													
1 M	3	4	2	7	1 1 1 0	2 9 6	1 8 2 9	.0 8 4 7 1	1 8 2 1 0	.2 6 4 3	.1 2	1 4 3 3 8	.2 0 8 1	2 . 4 6
6 E	1	1	2	7	1 1 1 0	1 7 1 1	1 3 2 0	.1 4 3 8	1 1 4 3	.1 6 6	* 1 . 1 2	1 0 7 3 9	.1 5 5 8	* 1 . 0 5
7 K	1	1	2	7	1 1 1 0	1 2 1 1	3 1 7 0	.1 4 6 8	3 2 3 7	.1 2 8	* .2 7	9 3 3 9	.1 3 5 5	* .9 2

A. N. BROWN													
2	3	4	2	7	1 0 5 0	2 7 4	4 5 1 5	.2 0 9 1 2	1 0 5 8	.0 2 8 4	.1 4	3 3 5 7	.0 4 8 7	.2 3
3	3	4	2	7	1 0 5 0	1 5 4	3 8 4 3	.1 7 8 0 7	1 6 4 3	.0 2 2 8	.1 3	3 1 8 9	.0 4 6 3	.2 6
4	3	4	2	7	1 0 0	2 6 1	5 5 7 2	.2 5 8 0 7	3 8 4 8	.0 5 5 8	.2 2	6 6 7 8	.0 9 6 9	.3 8

ALEX N. CAMPBELL													
1 D	2	3	2	7	1 2 1 0 0	4 4 2	1 7 5 4	.0 8 1 2 4	4 7 0 9	.0 6 9 6	* .8 6	7 1 8 5	.1 0 4 3	* 1 . 2 8

CAULKINS OIL COMPANY													
1 D	2	4	2	6	6 1 0 0	1 3 5 9	5 9 4 2	.2 7 5 2 2	9 6 1 4	.1 3 9 5	.5 1	9 7 5 3	.1 4 1 5	.5 1

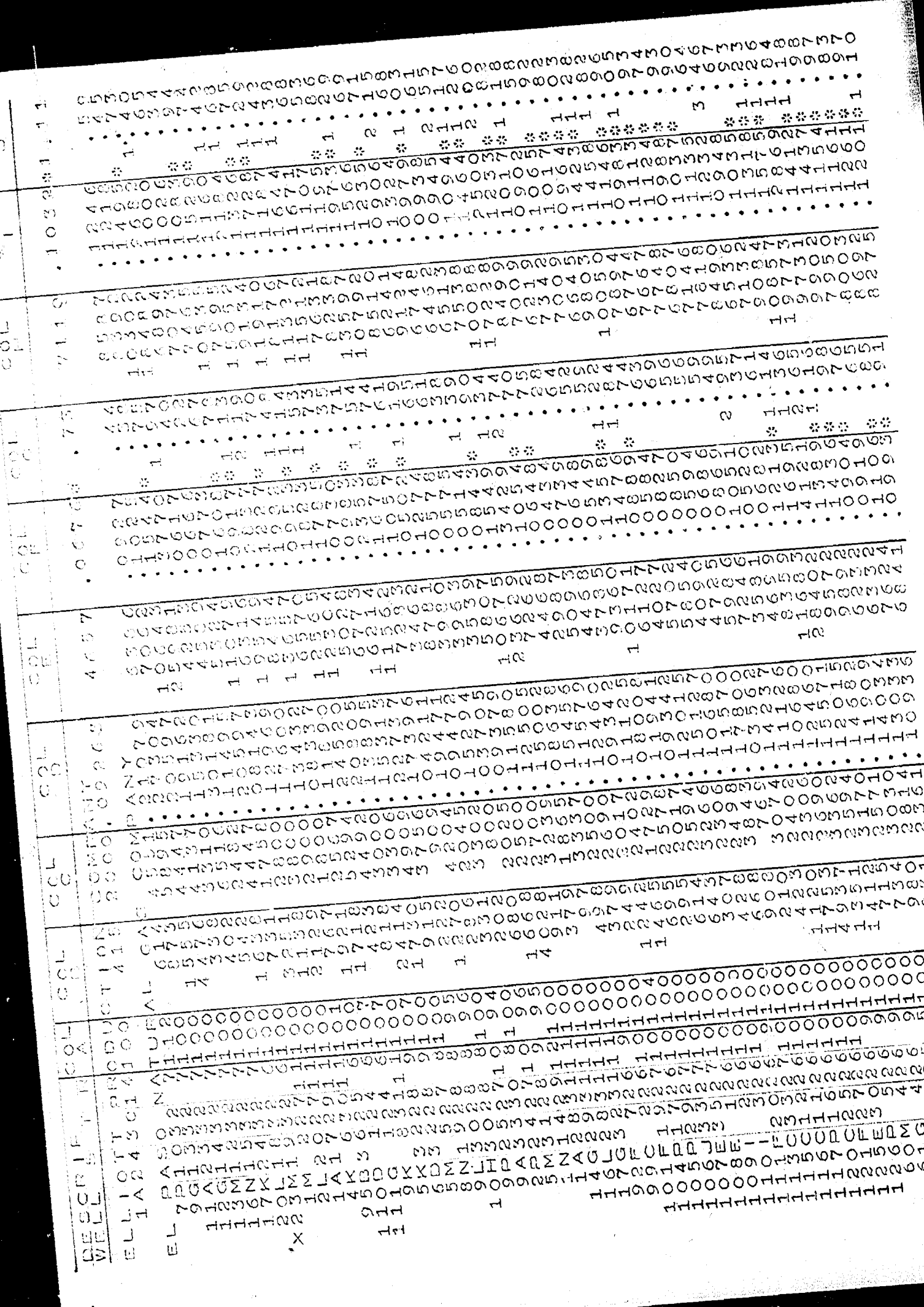
COMPASS EXPLORATION INCORPORATED													
2	3	3	5	3	0 1 4 1	1 4	2 1 1 4	.0 6 5 1 2	8 8 8 0	.4 1 8 0	6 . 4 2	1 9 9 8 9	.2 9 0 1	4 . 4 5
1	3	3	1	3	0 1 4 1	1 5 8	2 1 4 0	.0 9 7 2 6	3 3 0 8	.0 4 8 0	.4 9	6 3 9 0	.0 9 2 7	* .9 5
1	1	3	3	0	1 3 1 0	3 4 7	1 5 0 0	.0 6 9 4 8	4 3 0 0	.0 6 2 4	* .9 0	6 9 1 9	.1 0 0 4	1 . 4 5
1	1	2	3	0	1 3 1 0	6 6 4	2 5 0 7	.1 1 6 1 2	5 9 6 5	.0 8 6 6	* .7 5	7 8 0 7	.1 1 3 3	* .9 8
1	K	3	3	0	1 0 0 0	5 9 6	3 0 0 0	.1 3 8 9 5	5 5 6 0 8	.0 8 1 4	.5 9	7 6 1 7	.1 1 0 5	* .8 0
1	O	2	5	3	0 1 4 1	2 5 0 9	1 5 0 0	.0 6 9 4 7	1 5 6 5 2	.2 2 7 1	3 . 2 7	1 2 9 7 4	.1 8 8 3	2 . 7 1

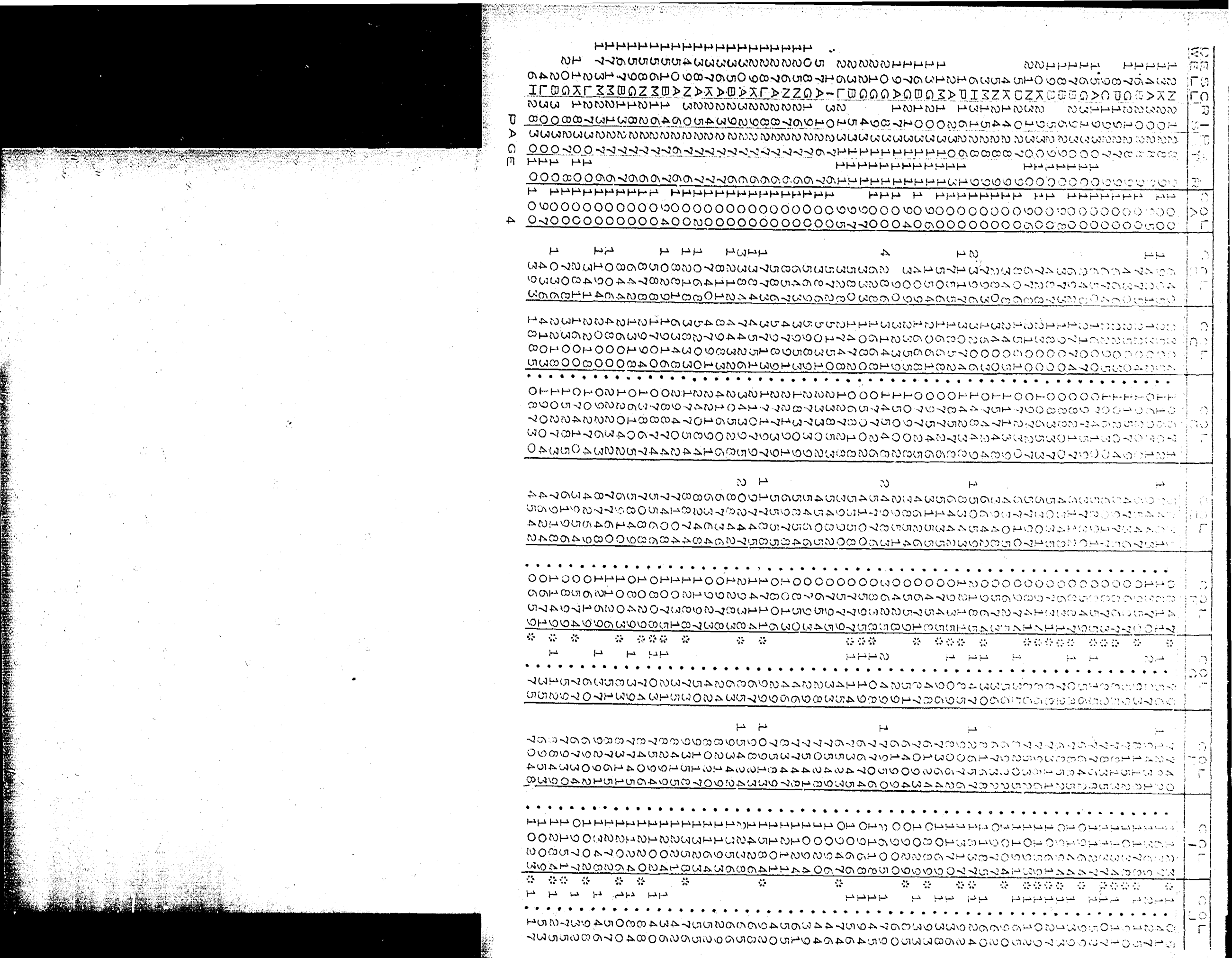
CONSOLIDATED OIL AND GAS INCORPORATED													
1	N	2	2	1	3 0 1 2	1 0 0	2 7 3	1 8 0 0 0	.0 8 3 3 7	3 9 1 2	.0 5 5 8	.6 8	6 7 1 2	.0 9 7 4	* 1 . 1 7
1	1	1	3	3	1 1 1 3	1 0 0 0	1 4 3	2 2 0 0 0	.1 0 1 9 0 7	3 2 2 9	.0 4 6 9	.4 6	6 3 4 8	.0 9 2 1	* .9 0
1	1	5	3	3	1 1 1 2	1 0 0 0	9 3 4	1 8 0 0 0	.1 0 8 3 3 7	7 3 8 2	.1 0 7 1	* 1 . 2 8	8 5 6 3	.1 2 4 3	1 . 4 9
1	1	7	3	3	1 1 1 1	1 0 0 0	3 0 0	9 5 0 0	.0 4 4 5 0 9	4 1 0 1	.0 5 9 5	1 . 3 5	6 8 1 3	.0 9 8 9	2 . 2 5
1	6	2	2	6	3 1 0 0	4 2 8	3 1 0 0	.1 4 3 5 9	4 5 7 8	.0 6 6 4	.4 6	7 0 6 8	.1 0 9 6	* .7 1
1 2	E	8	2	6	3 1 0 0	2 2 8	2 5 0 0	.1 1 5 7 9	3 6 7 5	.0 5 3 3	.4 6	6 5 8 6	.0 9 5 6	* .8 3

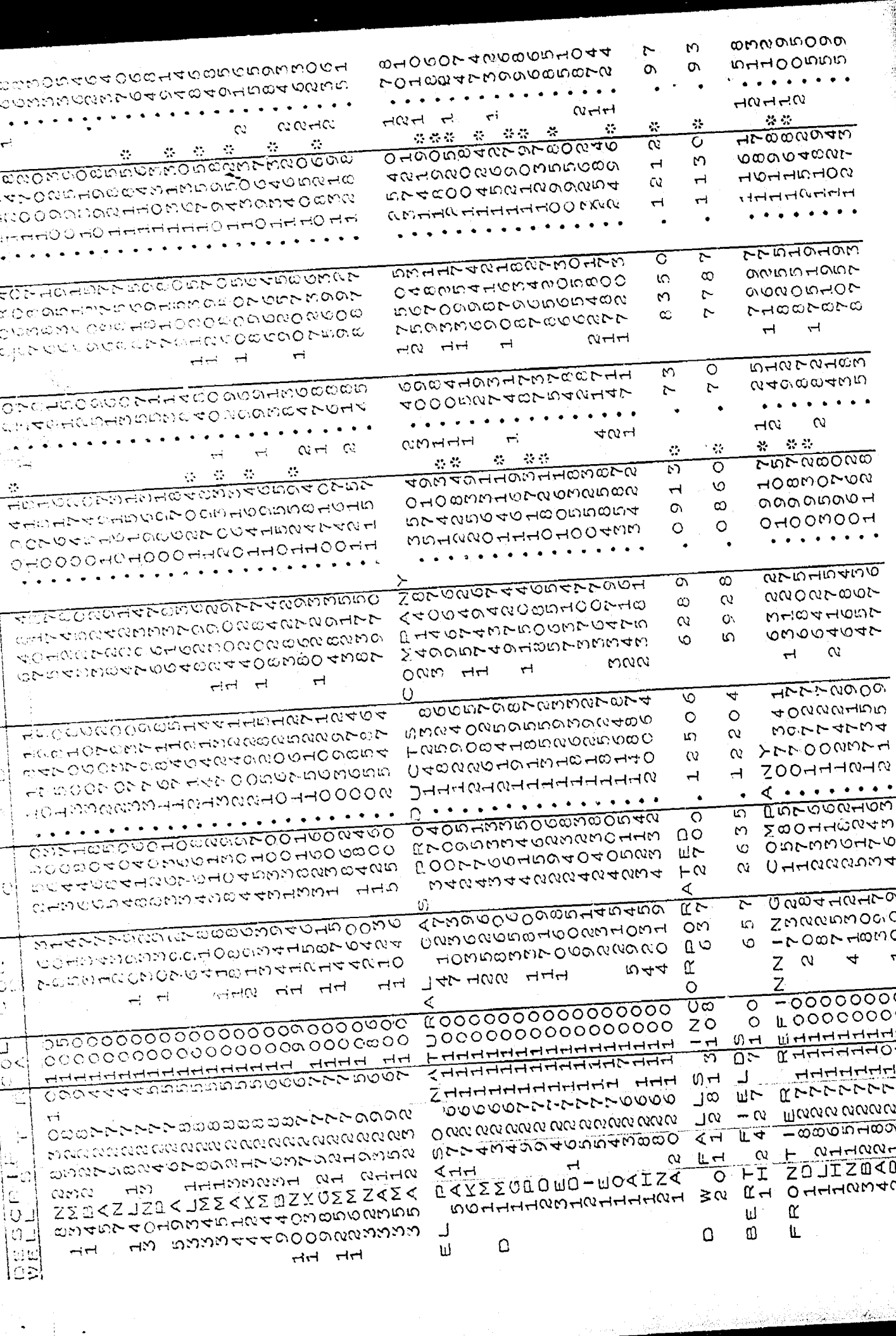
CONTINENTAL OIL COMPANY													
1	D	2	2	4	5 1 0 0	6 1 7	7 8 0 0	.0 3 6 1 2	5 7 1 3	.0 8 3 0	2 . 3 0	7 6 7 5	.1 1 1 4	3 . 0 8
2	D	1	2	4	5 1 0 0	1 0 0 4	7 5 0 0	.0 3 7 0 5	7 7 2 9	.1 1 2 7	3 . 2 3	8 7 4 8	.1 2 6 9	3 . 6 5
3	D	1	2	4	5 1 0 0	1 3 7 4	8 0 0	.0 6 9 4 7	9 6 9 3	.1 4 0 7	3 . 8 0	9 7 9 5	.1 4 2 1	3 . 8 3
4	E	2	1	2	4 5 1 0 0	1 8 2 2	1 5 0 0	.0 6 9 4 7	1 2 0 4 5	.1 7 4 8	2 . 5 2	1 1 0 5 0	.1 6 0 4	2 . 3 1

DELHI TAYLOR OIL CORPORATION													
1	I	2	8	2	6 1 1 0 0	6 4 9	3 0 7 4	.1 4 2 3 8	5 8 8 6	.0 8 5 4	.6 0	7 7 6 5	.1 1 2 7	* .7 9
1	H	1	3	3	0 1 3 1 0 0	8 0 3	8 8 6	.0 4 1 0 4	6 6 9 4	.0 9 7 1	2 . 3 7	8 1 9 6	.1 1 8 9	2 . 9 0
2	D	2	8	2	6 1 1 0 0	5 7 9	3 4 9 4	.1 6 1 8 3	5 5 1 8	.0 8 0 1	.4 9	7 5 6 9	.1 0 9 6	.6 8

STELLA DYSART													
3 1	K	3	6	3	0 1 4 1 0 4	1 0 3 2	1 4 0 0	.0 6 4 8 4	8 2 1 3	.1 1 9 2	1 . 8 4	9 1 9 1	.1 3 3 4	2 . 0 6







DESCRIPTION
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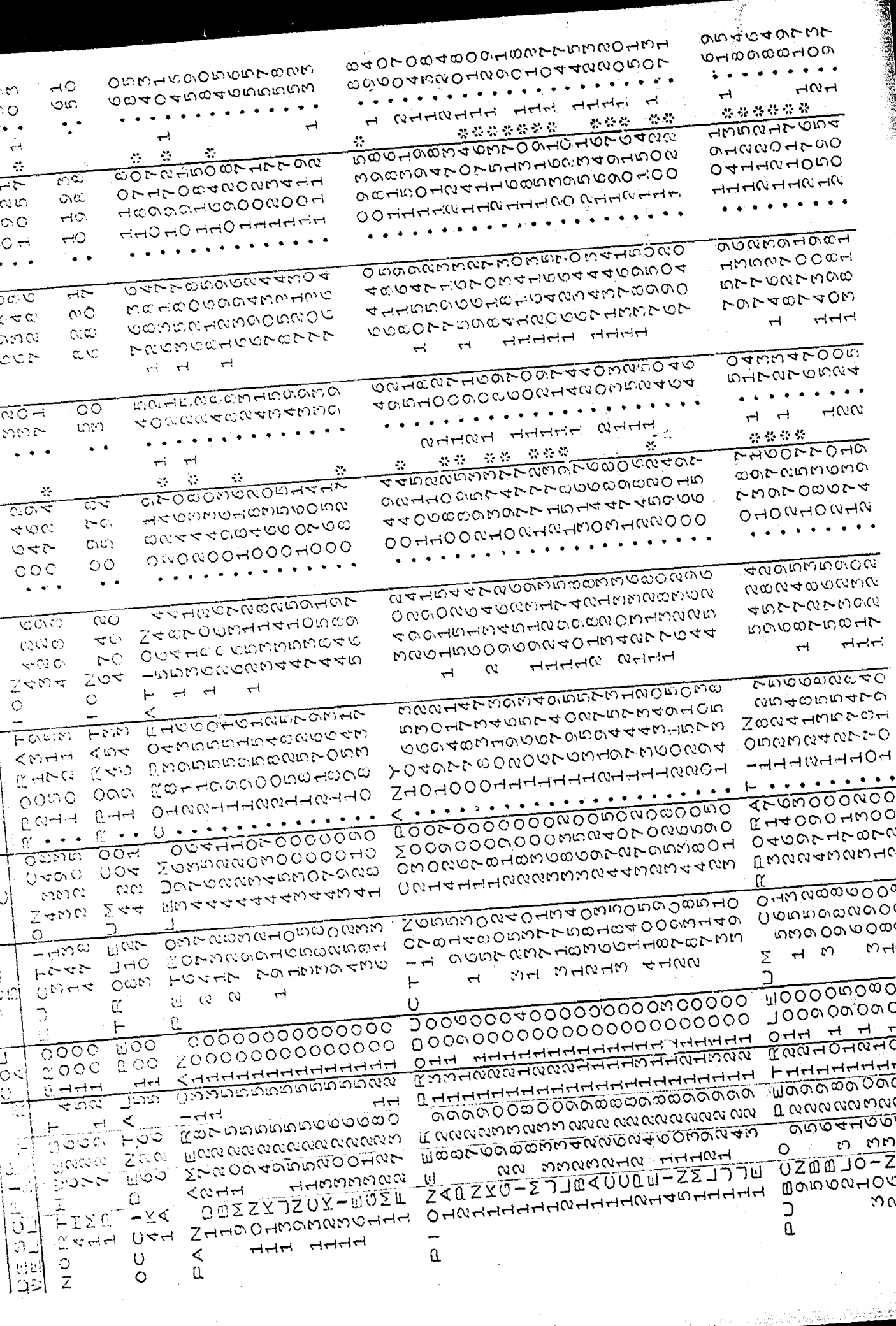
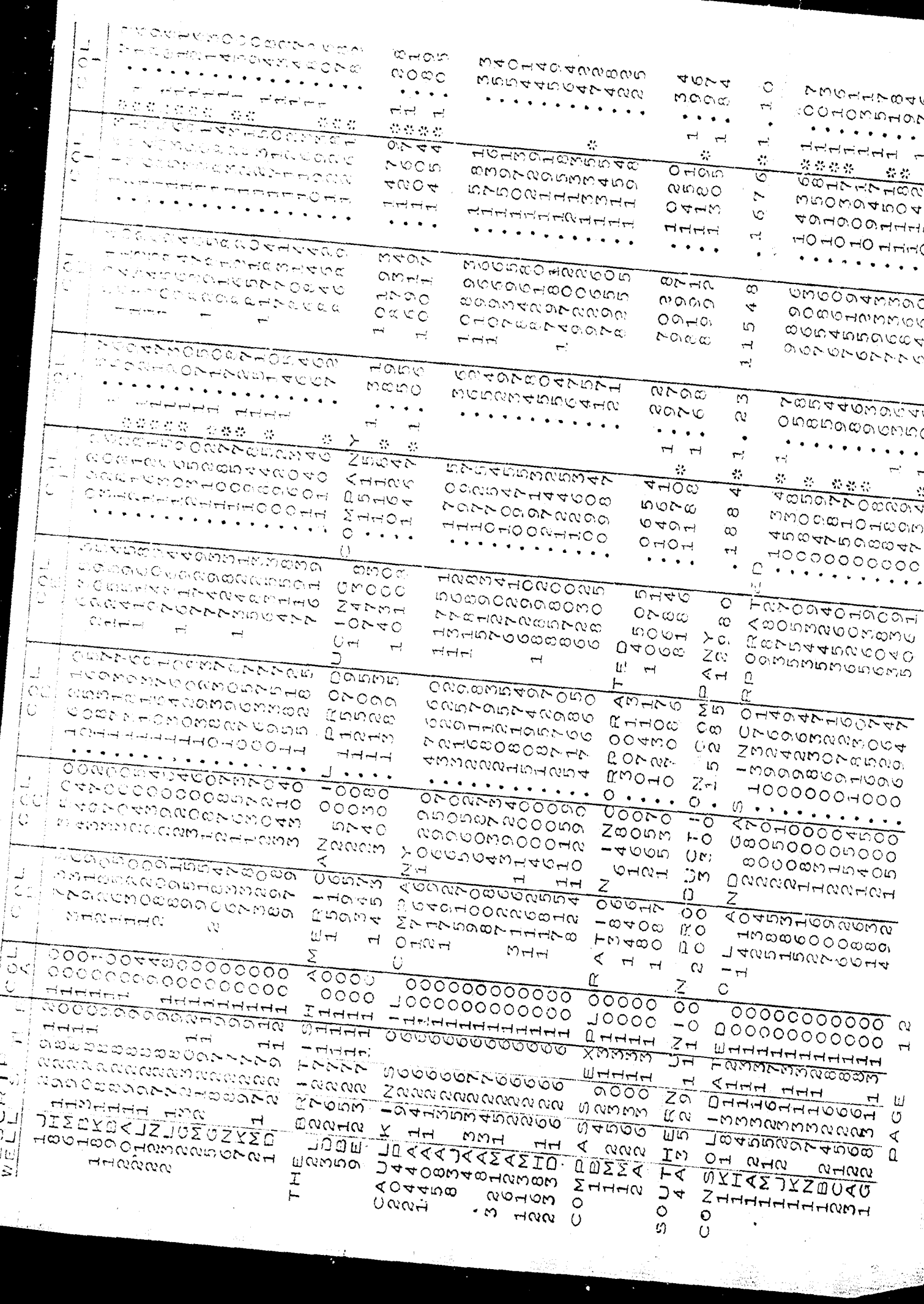
FORMATION
WELL
PAGE 5

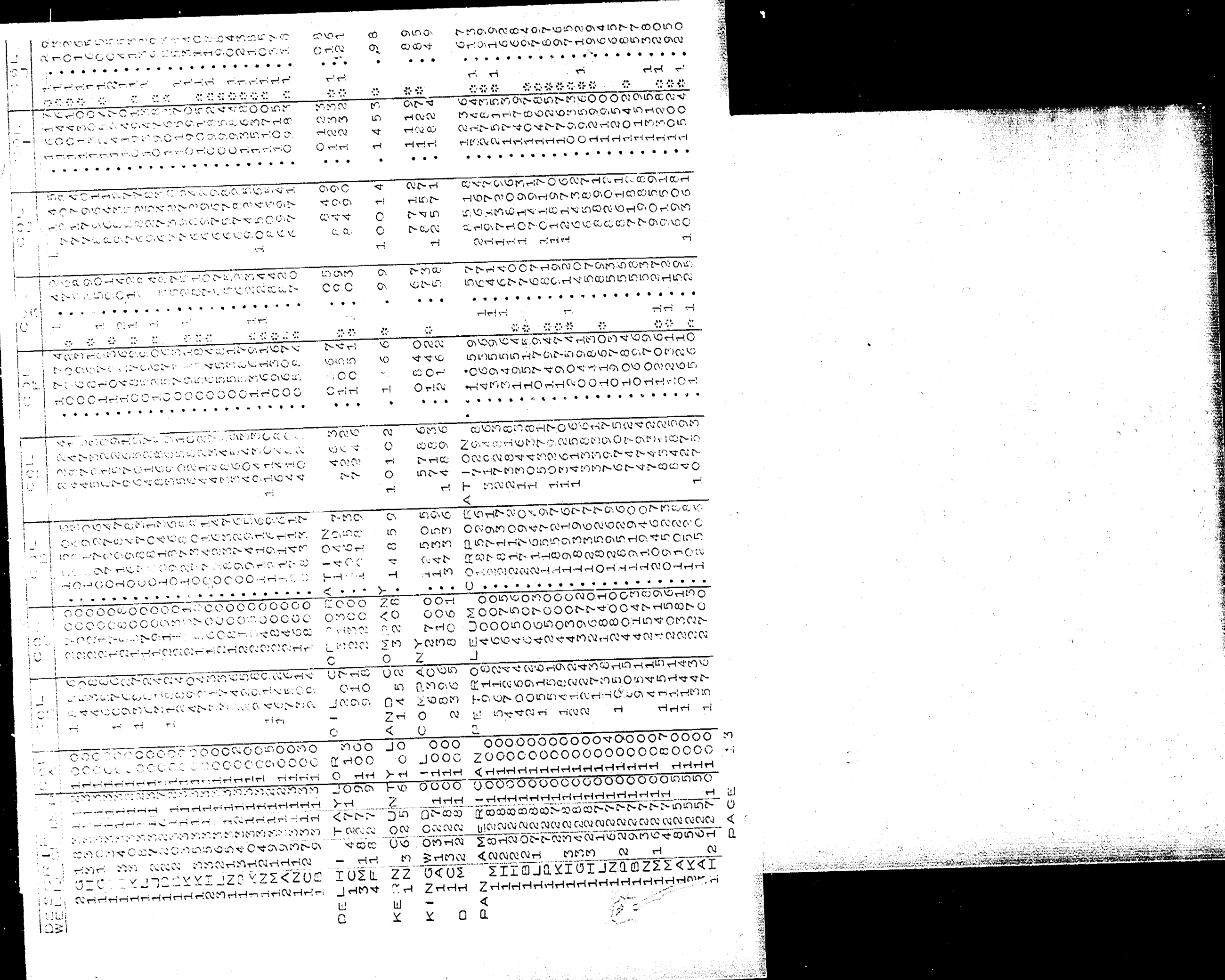


	DESCRIP WELL S T R	COL A	COL B	COL C	COL D	COL E	COL F	COL G	COL H	COL I	COL J
	1 A 3 1 27 1 1	100	856	2100	.09722	6973	.1012*	1 .04	8345	.1211*	1 .25
	2 I 3 1 27 1 1	100	5696	1800	.08337	32787	.4700	5 .64	21899	.3178	3 .81
	3 A 6 26 1 1	100	3735	1700	.07874	22090	.3206	4 .07	16407	.2381	3 .02
	4 I 6 26 1 1	100	2355	2000	.09264	14096	.2162	2 .33	12571	.1824	1 .97
	1 A 2 3 30 1 2	100	3206	2500	.11579	3560	.0517	.45	6524	.0947*	.82
D	1 A 7 30 1 1	94	323	1725	.07997	2024	.0569*	.71	6441	.0935*	1 .17
	1 G 1 1 26 8	100	29	2100	.09727	2630	.0382	.39	6039	.0875*	.90
	1 P 4 30 1 1	100	611	3558	.16480	25686	.0882	.50	7655	.1111	.67
	1 J 5 26 1 1	100	4609	2500	.11579	26679	.3872	3 .34	18855	.2736	2 .36
	1 A 3 02 7 1 1	100	1664	2200	.09601	11215	.1628	1 .70	10607	.1539	1 .60
	2 G 2 92 7 1 1	100	12894	2073	.09602	70183	1 .0185	10 .61	42057	.6103	6 .36
	3 K 2 92 7 1 1	100	5995	2804	.12987	33057	.4922	3 .79	22736	.3299	2 .54
	4 D 3 32 7 1 1	100	6194	2924	.13543	35002	.5079	3 .75	23294	.3380	2 .50
	5 O 3 32 7 1 1	100	3129	1463	.06776	10908	.2744	4 .05	14710	.2135	3 .15
	6 B 3 22 7 1 1	100	3572	2500	.11579	21234	.3081	2 .66	15951	.2315	2 .00
	1 M 1 73 1 1 2	100	2438	2688	.12450	15280	.2217	1 .78	12775	.1854	1 .49
	1 K 3 02 7 1 1	100	1108	3536	.16377	8296	.1204*	.74	9050	.1313*	.80
D	1 L 2 63 0 1 2	100	341	1800	.08337	4269	.0619*	.74	6902	.1002*	1 .20
	1 B 2 63 0 1 2	100	1013	1900	.08800	7797	.1131*	1 .29	8784	.1275	1 .45
	1 A 1 83 0 1 1	100	495	4744	.21973	5077	.0737	.34	7334	.1064	.48
	8 B 2 22 7 1 1	100	844	3000	.13895	6910	.1003*	.72	8311	.1206*	.87
	1 K 1 03 0 1 1	100	449	3500	.16211	4836	.0702	.43	7205	.1046	.65
	1 C 3 22 7 1 1	100	12683	2300	.10653	69075	1 .0024	9 .41	41466	.6017	5 .65
	1 J 1 23 0 1 2	100	1112	4100	.18990	8317	.1207	.64	9062	.1315	.69
	1 A 2 23 0 1 2	100	970	1200	.05558	7571	.1099	1 .98	8664	.1257	2 .26
	1 N 83 0 1 1	100	1113	2000	.09263	8322	.1208*	1 .30	9064	.1315	1 .42
	1 A 32 7 1 2	100	550	1800	.08337	5366	.0779*	.93	7488	.1087*	1 .30
	2 G 1 02 7 1 2	100	1273	2800	.12969	9162	.1330*	1 .03	9512	.1380*	1 .06
	1 N 1 43 0 1 2	100	435	1161	.05377	4762	.0691*	.29	7166	.1040	1 .93
	1 A 1 72 7 1 2	100	104	1315	.06091	3024	.0473*	.72	6239	.0905	1 .49
	1 A 1 43 0 1 2	100	491	2200	.10190	5056	.0734*	.72	7322	.1063*	1 .04
	1 A 1 62 7 1 2	100	457	3069	.14214	4878	.0708	.50	7227	.1049*	.74
	SUNRAY DX OIL COMPANY										
	1 B 22 9 1 3	100	832	3000	.13896	6847	.0994*	.72	8277	.1201*	.86
	3 D 12 9 1 4	100	865	2466	.11421	7020	.1019*	.89	8370	.1215*	1 .06
	1 J 22 9 1 4	100	158	1000	.04632	3308	.0480*	1 .04	6390	.0927	2 .00
	SUNSHINE ROYALTY COMPANY										
	18 32 9 1 3	100	491	4752	.22010	5056	.0734	.33	7322	.1063	.48
	TENNECO CORPORATION										
	1 D 1 29 1 2	100	1146	3000	.13895	8496	.1233*	.89	9157	.1329*	.96
	2 D 2 32 6 1 1	100	2315	4192	.19416	14634	.2124*	1 .09	12431	.1804*	.93
	3 I 2 22 6 1 1	100	716	2935	.13594	6238	.0905	.67	7953	.1154*	.85
	4 C 2 22 6 1 1	100	1329	3494	.16183	9456	.1372*	.85	9669	.1403*	.87
	5 O 1 42 6 1 1	100	1218	3074	.14238	8874	.1288*	.90	9358	.1358*	.95
	1 J 2 12 6 1 1	100	407	2376	.11005	4615	.0670	.61	7087	.1028*	.93
	1 B 22 7 1 1	100	3547	2195	.10166	21103	.3062	3 .01	15881	.2305	2 .27
	1 J 2 72 6 1 1	100	636	2500	.11579	5818	.0844*	.73	7729	.1122*	.97
	8 Q 2 72 9 1 3	100	4293	3672	.17008	25020	.3631	2 .13	17970	.2608	1 .53
	9 I 2 82 9 1 3	100	1845	3888	.18008	12166	.1765*	.98	11114	.1613*	.90
	11 F 2 82 9 1 3	100	173	3348	.15507	3386	.0491	.32	6432	.0933	.60
	12 C 3 32 9 1 3	100	891	3348	.15507	7157	.1039	.67	8443	.1225*	.79
	1 D 2 72 9 1 3	100	30511	3800	.17600	16288	.1360	1 3 .41	91393	1 .3262	7 .54
	1 O 1 29 1 2	100	11565	3500	.16211	10695	.1552*	.96	10330	.1499*	.92
	1 D 1 02 9 1 2	100	12933	3500	.16211	9266	.1345*	.83	9568	.1389*	.86
	1 D 1 42 9 1 2	100	6643	3000	.13895	37360	.5421	3 .90	24551	.3563	2 .56
	1 D 1 12 9 1 2	100	776	3300	.15285	6553	.0951	.62	8121	.1178*	.77

DESCRIP WELL	S	T	R	COL A	COL B	COL C	COL D	COL E	COL F	COL G	COL H	COL I	COL J
1P	25	29	11	100	2159	3600	.16674	13815	.2005	* 1.20	11994	.1740	* 1.04
1D	27	26	11	100	2789	4192	.19416	17123	.2485	* 1.28	13758	.1956	* 1.03
1E	21	29	13	100	119	1900	.08800	3103	.0450	.51	6221	.0911	* 1.04
1C	19	29	10	100	1013	2263	.10482	7797	.1131	* 1.08	8784	.1275	* 1.22
1A	9	27	9	100	747	2500	.11579	6400	.0929	* .80	8039	.1167	* 1.01
1C	25	29	11	100	2214	2671	.12371	14103	.2047	1.65	12148	.1763	1.43
1D	30	29	10	100	2146	2600	.12042	13746	.1995	1.66	11957	.1735	1.44
D 1I	24	29	11	100	1880	3832	.17749	12350	.1792	* 1.01	11212	.1627	* .93
TEXACO INC													
1F	12	30	12	100	191	3500	.16211	3481	.0505	.31	6482	.0941	.58
TEXAS EASTERN TRANSMISSION CORPORATION													
1P	35	30	12	100	767	2900	.13432	6505	.0944	* .70	8095	.1175	* .87
1M	20	30	12	100	758	1800	.08337	6458	.0937	* 1.12	8070	.1171	1.40
1M	21	30	12	100	321	1742	.08068	4164	.0604	* .75	6846	.0994	* 1.23
TIDEWATER OIL COMPANY													
1E	24	29	11	100	2157	6141	.28443	13804	.2003	* .70	11968	.1740	.61
1F	18	29	10	100	1047	6141	.28444	7976	.1157	.41	8880	.1289	.45
1A	19	29	10	100	1979	3663	.16966	12870	.1868	* 1.10	11490	.1667	* .98
1J	12	29	11	100	1293	2439	.11296	9267	.1345	* 1.19	9558	.1389	* 1.23
1H	13	29	11	100	826	5000	.23159	6815	.0989	.43	8261	.1199	.52
J. GLENN TURNER													
11D	15	26	9	100	570	1700	.07874	5471	.0794	* 1.01	7544	.1095	1.39
12J	15	26	9	100	1562	1700	.07873	10680	.1550	1.97	10322	.1498	1.90
13E	14	26	9	100	969	1700	.07874	7566	.1098	1.39	8661	.1257	1.60
14L	14	26	9	100	1197	1700	.07874	8763	.1272	1.62	9300	.1350	1.71
1N	17	29	10	100	2317	4310	.19963	14644	.2125	* 1.06	12436	.1805	* .90
1L	8	29	10	100	1010	6572	.30439	7781	.1129	.37	8776	.1274	.42
2G	8	29	10	100	1185	2909	.13474	8700	.1263	* .94	9266	.1345	* 1.00
2H	17	29	10	100	1410	3017	.13974	9882	.1434	* 1.03	9896	.1436	* 1.03
WESTERN NATURAL GAS CO.													
1M	32	28	11	100	1175	3300	.15284	8648	.1255	* .82	9238	.1341	* .88
1C	10	27	11	100	810	3414	.15813	6731	.0977	.62	8216	.1192	* .75
2M	3	27	11	100	1400	3000	.13895	9829	.1426	* 1.03	9868	.1432	* 1.03
WILSHIRE OIL CO OF TEXAS													
1D	27	25	9	102	296	2400	.11116	4113	.0597	.54	6912	.1003	* .90
2N	21	25	9	100	413	2000	.09263	4647	.0674	* .73	7104	.1031	* 1.11
PAN AMERICAN GAS COMPANY PIPELINE SYSTEM													
PAN AMERICAN PETROLEUM CORPORATION													
960	18	29	12	100	3227	5735	.26563	19423	.2819	* 1.06	14985	.2174	* .82
102C	13	29	13	100	838	5700	.26401	6878	.0998	.38	8294	.1204	.46
106A	24	29	13	100	2627	5700	.26400	16272	.2361	* .89	13304	.1931	* .73
107D	19	29	12	100	997	5700	.26401	7713	.1119	.42	8740	.1268	.48
108J	13	29	13	100	1797	5800	.26864	11914	.1729	.64	10980	.1593	.59
109M	18	29	12	100	337	5735	.26562	4248	.0616	.23	6891	.1000	.38
110G	19	29	12	100	2916	4900	.22696	17790	.2582	* 1.14	14114	.2048	* .90
111K	20	29	12	100	1956	3800	.17600	12749	.1850	* 1.05	11425	.1658	* .94
PAN AMERICAN PETROLEUM CORP. PIPELINE SYSTEM													
PAN AMERICAN PETROLEUM CORPORATION													
1L	9	26	11	100	4119	2700	.12506	24106	.3498	2.80	17483	.2537	2.03

DESCRIPTION WELL S T R	COL A	COL B	COL C	COL D	COL E	COL F	COL G	COL H	COL I	COL J
2N1026111	100	247	3000	.13895	3775	.0548	.39	6639	.0963	.69
PLATEAU INCORPARTED GAS PIPELINE SYSTEM										
PAN AMERICAN PETROLEUM CORPORATION										
1 1 27 29 11	100	1858	3700	.17137	12234	.1775	*1.04	11151	.1618	* .94
SOUTHERN UNION GAS PIPELINE SYSTEM										
ASPEN CRUDE PURCHASING COMPANY										
1U 5311 3	100	76	900	.04169	2877	.0418	*1.00	6160	.0894	2.14
ATLANTIC REFINING COMPANY										
1N16 29 11	100	1109	1900	.08800	8301	.1205	1.37	9053	.1314	1.49
1G36 29 11	100	1676	3700	.17137	11278	.1637	* .96	10641	.1544	* .90





DESCRIP WELL S T R	COL A	COL B	COL C	COL D	COL E	COL F	COL G	COL H	COL I	COL J
1A272810	100	2332	5141	.23811	14723	.2177*	.90	12478	.1911*	.76
1A152710	100	629	6776	.31385	5781	.0539	.27	7709	.1119	.36
1F242610	50	235	4995	.23135	1856	.0269	.12	3303	.0479	.21
1H203013	100	115	1369	.06341	3082	.0447*	.70	6269	.0910	1.44
A 1D102710	100	570	1841	.08527	5471	.0794*	.93	7544	.1095*	1.28
5B362811	100	924	3407	.15780	7330	.1064	.67	8535	.1239*	.79
6M362811	100	1596	4000	.18526	10858	.1576*	.85	10417	.1512*	.82
7H352811	100	3109	4502	.20852	18803	.2729	1.31	14654	.2127*	1.02
9N352811	100	1741	3285	.15215	11620	.1686*	1.11	10823	.1571*	1.03
10E 122711	100	1132	3780	.17508	8422	.1222*	.70	9118	.1323*	.76
11M122711	100	495	1829	.08472	5077	.0737*	.87	7334	.1064*	1.26
12G122711	100	935	1463	.06776	7388	.1072	1.58	8560	.1243	1.83
R AND G DRILLING COMPANY										
61A 63013	100	1732	1100	.05095	11573	.1679	3.30	10798	.1567	3.08
62A183013	100	2969	2700	.12505	18068	.2622	2.10	14262	.2070	1.66
63A 73013	100	722	1500	.06948	6269	.0910	1.31	7969	.1155	1.66
64M 53013	100	1517	1600	.07410	10444	.1516	2.05	10196	.1480	2.00
65K 83013	100	783	1800	.08337	6589	.0956*	1.15	8140	.1181	1.42
66L173013	100	2285	3100	.14359	14476	.2101	1.46	12347	.1792*	1.25
REDFERN DEVELOPMENT CORPORATION										
1J1824 6	100	96	3000	.13895	2982	.0433	.31	6216	.0902	.65
VAL R. REESE AND ASSOCIATES INCORPORATED										
1C1924 6	100	543	2600	.12042	5329	.0773	.64	7468	.1084*	.90
PAUL F. RUTLEDGE										
1A1324 7	100	824	1683	.07795	6805	.0987*	1.27	8255	.1198	1.54
5N1224 7	100	987	2693	.12473	7661	.1112*	.89	8712	.1264*	1.01
SOUTHERN UNION PRODUCTION COMPANY										
21P122811	100	2633	2920	.13525	16304	.2366	1.75	13331	.1933	1.43
20A242811	100	7969	5475	.25358	44322	.6432	2.54	28264	.4102	1.62
1A152811	100	2299	3500	.16211	14550	.2111*	1.30	12386	.1797*	1.11
1M183012	100	400	1548	.07170	4578	.0664*	.93	7068	.1026	1.43
1J312911	100	4599	2787	.12909	26627	.3864	2.99	18827	.2732	2.12
1M153013	100	194	1449	.06711	3497	.0507*	.76	6491	.0942	1.40
2L343013	100	319	4750	.22001	4153	.0603	.27	6841	.0993	.45
3B343013	100	425	3100	.14358	4710	.0683	.48	7138	.1036*	.72
1M203112	100	1006	2688	.12450	7760	.1126*	.90	8765	.1272*	1.02
2A342910	100	2917	3300	.15284	17795	.2582	1.69	14116	.2048	1.34
1A 13013	100	558	886	.04104	5408	.0785	1.91	7510	.1090	2.66
1K312910	100	901	2300	.10653	7209	.1046*	.98	8471	.1229*	1.15
2G312910	100	1730	1900	.08800	11562	.1678	1.91	10792	.1566	1.78
2M311312	100	825	1891	.08759	6810	.0988*	1.13	8258	.1198	1.37
14M102810	100	3549	5725	.26516	21113	.3064*	1.16	15886	.2305*	.87
15N332910	100	3369	4500	.20843	20168	.2927	1.40	15382	.2232*	1.07
16H332910	100	3687	4500	.20842	21838	.3169	1.52	16273	.2361*	1.13
17M352910	100	2400	4000	.18527	15080	.2188*	1.18	12669	.1838*	.99
18M112810	102	1600	5700	.26401	11097	.1610	.61	10637	.1544	.58
19N122810	100	2578	3500	.16211	16015	.2324	1.43	13167	.1911*	1.18
SOUTHWEST PRODUCTION COMPANY										
1I132712	100	244	2000	.09263	3759	.0546	.59	6631	.0962*	1.04
1L342910	100	2348	5064	.23455	14807	.2149*	.92	12523	.1817*	.77
SUNRAY DX OIL COMPANY										
1M2123 5	100	320	700	.03242	4158	.0603	1.86	6844	.0993	3.06

DESCRIPTION WELL	COL A	COL B	COL C	COL D	COL E	COL F	COL G	COL H	COL I	COL J
[illegible]										
SUNSET INTERNATIONAL PETROLEUM CORPORATION										
[illegible]										
					6890	.1000	.70	8208	.1191	.83
J. GLENN TURNER 867 3100 .14358										
1L302911 98										
SOUTHERN UNION GATHERING SYSTEM										
SOUTHERN UNION GAS COMPANY										
AZTEC OIL AND GAS										
[illegible]										
		1962	3250	.11157	12399		.97	7280	.1057	1.43
SOUTHERN UNION PRODUCTION COMPANY 4977 .0722										
1A35311 2100 476 1600 .07411										
INTERNATIONAL OIL AND GAS CORPORATION										
[illegible]										

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

CASE No. 2504
Order No. R-2259-C

APPLICATION OF CONSOLIDATED OIL & GAS, INC., FOR AN AMENDMENT OF ORDER NO. R-1670-C, CHANGING THE ALLOCATION FORMULA FOR THE BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA AND SANDOVAL COUNTIES, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for reconsideration upon Applications of El Paso Natural Gas Company, Pan American Petroleum Corporation, Marathon Oil Company, Sunset International Petroleum Corporation, and Southwest Production Company for Rehearing in Case No. 2504, Order No. R-2259-B,

NOW, on this 1st day of August, 1963, the Oil Conservation Commission, a quorum being present, having considered the Applications for Rehearing,

FINDS:

(1) That the Applications for Rehearing do not allege that the applicants for rehearing have new or additional evidence to present in this case.

(2) That the Commission has carefully considered the evidence presented in this case and is fully advised in the premises.

(3) That Order No. R-2259-B is proper in all respects.

(4) That the Applications for Rehearing should be denied.

IT IS THEREFORE ORDERED:

That the Applications of El Paso Natural Gas Company, Pan American Petroleum Corporation, Marathon Oil Company, Sunset International Petroleum Corporation, and Southwest Production Company for Rehearing in Case No. 2504, Order No. R-2259-B, are hereby denied.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Jack M Campbell
JACK M. CAMPBELL, Chairman

E. S. WALKER, Member

A. L. PORTER, Jr., Member & Secretary

BEFORE THE OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF PAN AMERICAN PETROLEUM CORPORATION, MARATHON OIL COMPANY, AND SUNSET INTERNATIONAL PETROLEUM CORPORATION FOR A REHEARING BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO TO RECONSIDER CASE NO. 2504, ORDER NO. R-2259-B OF SAID COMMISSION, BEING THE APPLICATION OF CONSOLIDATED OIL AND GAS, INC. FOR AN AMENDMENT OF ORDER NO. R-1670-C, CHANGING THE ALLOCATION FORMULA FOR THE BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA AND SANDOVAL COUNTIES, NEW MEXICO.	Case No. 2504

APPLICATION FOR REHEARING

Come now PAN AMERICAN PETROLEUM CORPORATION, a Delaware corporation, MARATHON OIL COMPANY (formerly THE OHIO OIL COMPANY), an Ohio corporation, and SUNSET INTERNATIONAL PETROLEUM CORPORATION, a Delaware corporation, all licensed to do business in the State of New Mexico, hereinafter collectively referred to as "Applicants," and apply to the New Mexico Oil Conservation Commission for rehearing in the above styled cause, and for grounds therefor state:

I.

Hearing was held on this case before the Commission on April 18 through April 21, 1962. By Order No. R-2259, dated June 7, 1962, the Commission denied the Application. Consolidated Oil and Gas, Inc. filed an application for rehearing which was heard by the Commission on February 14, 1963, and by Order No. R-2259-B dated July 3, 1963, and entered on July 9, 1963, the Commission granted the application changing the proration formula for the Basin-Dakota Gas Pool from 25 percent acreage plus 75 percent acreage times deliverability to 60 percent acreage plus 40 percent acreage times deliverability by amending the Special Rules and Regulations for the Basin-Dakota Gas Pool, as promulgated by Order No. R-1670-C.

Commission Order R-2259, dated June 7, 1962, did not affect applicants in that no part of that Order was believed by applicants to be erroneous; Applicants are affected by Order No. R-2259-B issued by the Commission as a result of the rehearing in that said Order is believed by applicants to be erroneous as hereinafter set forth.

II.

Finding No. 6 of Order No. R-2259-B, which adopts by reference certain figures as being the initial recoverable gas reserves underlying each non-marginal tract in the Basin-Dakota Gas Pool, is erroneous in that (a) these figures do not represent the best evidence or the most recent evidence available to the Commission and to the proponents of the change in the proration formula at the time of the rehearing; and (b) these figures were derived from evidence submitted by El Paso Natural Gas Company at the original hearing of this case, which evidence was suitable to show total pool reserves and for establishing the general relationship between well reserves and well deliverabilities in the pool but which was not designed for or accurate to determine the reserves underlying any particular tract.

III.

Inasmuch as the Commission has based Finding No. 6 upon erroneous data, all findings and conclusions, including Findings Nos. 7 and 10, which follow upon Finding No. 6, are necessarily erroneous also. No independent evidence exists in the record upon which Findings Nos. 7 and 10 can be based.

IV.

Inasmuch as the figures adopted by the Commission as the initial recoverable gas reserves for each individual tract are in error, the percentages of pool reserves attributable to each non-marginal tract and the tract acreage factors listed in Exhibit A are also in error; accordingly, said Order No. R-2259-B is unsupported by substantial evidence showing that the 60-40 formula, which it promulgates, will protect the correlative rights of operators in the Basin-Dakota Gas Pool.

V.

Findings Nos. 10, 12, 13 and 14 of said Order are not supported by substantial evidence in that the Commission has based said Findings upon a comparison of initial reserves with current, rather than initial, deliverabilities, such comparison being clearly discriminatory.

VI.

The Commission's order, which the statute requires be predicated upon the prevention of waste, is not based upon any evidence in the record that waste is occurring under the present 25-75 formula or that waste will be prevented by the 60-40 formula proposed by Consolidated and adopted by the Commission. The Commission's effort to predicate its Order upon waste in Finding No. 13 proceeds upon the erroneous theory, unsupported by evidence, that waste is being caused wherever a violation of correlative rights is found to exist. Finding No. 14 that waste will be prevented by the 60-40 formula is unsupported by any evidence in the record.

VII.

The Commission in its Order has failed to make a finding which under the law must be made in order to change an existing proration order, to wit: the portion of each tract's proportion of the total pool reserves which can be recovered without waste. The record contains no evidence upon which such a finding can be made.

VIII.

The rights acquired by the owners and operators of tracts in the Basin-Dakota Gas Pool who have developed their properties under the existing 25-75 formula are prejudiced and violated by the Commission's Order No. R-2259-B changing the basis of allocation without any evidence that waste is occurring under the existing formula or that waste will be prevented by the new formula.

IX.

Findings Nos. 15, 16 and 17 of said Order No. R-2259-B are erroneous in that they are not supported by substantial evidence and are based upon other findings which are without support in evidence as hereinbefore stated.

WHEREFORE, Applicants request that the Commission grant a rehearing in Case No. 2504 and that following such rehearing the Commission set aside its Order No. R-2259-B and in all respects deny the application of Consolidated Oil and Gas, Inc. to amend Order No. R-1670-C. Applicants further request that the Commission grant an opportunity for all interested parties to present oral argument upon this application for rehearing prior to taking action thereon.

ATWOOD & MALONE

By: Ross L. Malone
Ross L. Malone
Roswell, New Mexico
Attorneys for Pan American Petroleum Corporation

KENT B. HAMPTON
Division Attorney
Marathon Oil Company
Casper, Wyoming

ATWOOD & MALONE

By: Ross L. Malone
Ross L. Malone
Roswell, New Mexico
Attorneys for Marathon Oil Company

SETH, MONTGOMERY, FEDERICI & ANDREWS

By: Wm. R. Federici
Wm. R. Federici
Attorneys for Sunset International Petroleum Corporation

BEFORE THE OIL CONSERVATION COMMISSION

OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 2504

APPLICATION OF CONSOLIDATED OIL & GAS, INC.
FOR AN AMENDMENT OF ORDER NO. R-1670-C,
CHANGING THE ALLOCATION FORMULA FOR THE
BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA
AND SANDOVAL COUNTIES, NEW MEXICO.

APPLICATION FOR REHEARING

Comes now Southwest Production Company, one of the protestants to the application of Consolidated Oil & Gas, Inc. for an amendment to Order R-1670-C of this Commission, and requests that a rehearing be granted in such cause and in support thereof would show to the Commission the following:

1. That this Commission has entered its Order No. R-2259-B wherein it granted the prayer of the application of Consolidated Oil & Gas, Inc. for an amendment to Order R-1670-C and thereby changed the proration formula for the Basin-Dakota Gas Pool.

2. That Order No. R-2259-B was improperly entered by the Commission contrary to the rules of the Commission and the law of the State of New Mexico.

3. That Order No. R-2259-B determines in Finding #10 that there is no direct correlation between acreage and reserves and yet such order, irrespective of such finding, bases the proration formula 60% upon acreage. That this manifestly demonstrates the invalidity of such order. That Finding #11 specifically determines that the formula in the order is merely a makeshift so that the average tract in the pool will receive an allowable relatively close to that to which it is entitled and thereby manifestly demonstrates that the order is invalid as to all tracts which do not happen to fit the average norm of the pool. That it is improper for the Commission to promulgate an order based on a determined improper factor and that a statement that the application of such improper factor will do justice in the average instance, does not lend validity to the order based on such admitted improper factors.

4. That Order No. R-2259-B was entered by the Commission without proper findings as required by law and that such order is not supported by evidence required to give the Commission power and authority to enter and promulgate such order.

5. That Order No. R-2259-B was entered by the Commission changing a previous proration order for the Basin-Dakota Pool without any showing that there was any change of condition between

the entry of Order No. R-1670-C and the entry of said Order No. R-2259-B, or any showing that would justify the Commission in changing a proration order previously entered by the Commission after application and hearing. That it is improper for the Commission to promulgate a proration order after due and proper notice to all parties and hearing upon the merits and then later set such order aside without any showing of change of condition or any other grounds to justify the Commission in changing an order previously entered.

6. That this Commission improperly conducted the rehearing upon which Order No. R-2259-B was founded, in that it admitted improper evidence and testimony over the objection of Protestant, all of which renders said order invalid and entitles this Protestant to a rehearing.

7. That Order No. R-2259-B promulgates a proration order which will result in waste being committed and which does not protect the correlative rights of all producers in the Pool but to the contrary, destroys correlative rights and interferes with and destroys the correlative rights of this Protestant.

8. That after considering the allegations herein contained, this Commission should withdraw and set aside Order No. R-2259-B, thereby once again giving effect to Order No. R-1670-C.

Respectfully submitted,

VERITY, BURR, COOLEY & JONES

By _____
Geo. L. Verity

Attorneys for Protestant,
Southwest Production Company

CC: [illegible]

Mr. Tom [illegible]
Holme, Roberts, Owen and Stedman
Attorneys at Law
1700 Broadway - 1110 Yosemite Building
Denver 2, Colorado

Consolidated Oil & Gas, Inc.
Western Building
5150 East Mexico Avenue
Denver 22, Colorado

Mr. Jason Kellahin
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P. O. Box 1713
Santa Fe, New Mexico

Mr. J. J. Lacey
Tennaco Oil Company
P. O. Box 1714
Durango, Colorado

Mr. Howard Bratton
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P. O. Box 10
Roswell, New Mexico

Mr. George Selinger
Skelly Oil Company
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101 University Boulevard
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Mr. Roy C. Jeter
Western Natural Gas Company
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Mr. William Federici
Seth, Montgomery, Federici & Andrews
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Mr. Ben Howell
El Paso Natural Gas Company
P. O. Box 1492
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920 Mercantile Securities Building
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Mr. Guy Buell
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Mr. W. . K[illegible]her,
[illegible]ttorney at Law
First National Bank Building
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Mr. Bob Wynn
Delhi-Taylor Oil Corporation
Fidelity Union Tower
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Mr. George [illegible]ton
Pan American Petroleum Corporation
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Mr. George Mills
The Atlantic Refining Company
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Mr. Booker Kelly
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Mr. Phil McGrath
U. S. Geological Survey
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Mr. John [illegible]. Cameron, Jr.
Tidewater Oil Company
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Houston 1, Texas

Bruce Anderson Oil and Gas Properties
Suite 930
The Petroleum Club Building
Denver 2, Colorado

The Frontier Refining Company
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Pioneer Production Corporation
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Mr. John J. Roff-an
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Midland, Texas

BEST AVAILABLE COPY

Mr. Carl W. Smith
Southwest Production Company
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Farmington, New Mexico

Mr. Bob Black
Texaco Inc.
P. O. Box 3109
Midland, Texas

Mr. H. D. Bushnell, Attorney
Amerada Petroleum Corporation
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Mr. Ross Malone
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Verity, Burr & Cooley
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Driscoll & Llewellyn, Attorneys at Law,
3110 Southland Center
Dallas, Texas

The British American Oil Producing Company
P. O. Box 330
Farmington, New Mexico

Mr. Kent B. Hampton
Attorney
Marathon Oil Company
P. O. Box 120
Casper, Wyoming

Mr. Bill Lear
Sunray Mid-Continent Oil Company
P. O. Box 2039
Tulsa 2, Oklahoma

Mr. Frank Gorham
Pubco Petroleum Corporation
First National Bank Building
Albuquerque, New Mexico

Continental Oil Company
P. O. Box 3312
Durango, Colorado
Attn: Mr. H. L. Kelly

Beard Oil Company
600 Cameron Building
Oklahoma City, Oklahoma

KAY KIMBELL
OIL OPERATOR
BOX 1540
FORT WORTH, TEXAS

August 7, 1963

Land Department

State of New Mexico
Oil Conversation Commission
Sante Fe, New Mexico

Atten: Mr. A. L. Porter, Jr., Secretary

Gentlemen:

As one of the operators in the Basin-Dakota Gas Pool, we wish to commend the Commission for the action taken on Order No. R-2259-B dated July 3, 1963, by which order changed the proration formula to 60% acreage and 40% deliverability.

We feel that this action was necessary and will better serve the needs of the majority interested in the Basin.

Yours very truly,

Kay Kimbell

By:
Sam W. Sims, Jr.

SWS:me

AMERADA PETROLEUM CORPORATION
P. O. BOX 2040
TULSA 2, OKLAHOMA

LEGAL DEPARTMENT

August 1, 1963

New Mexico Oil Conservation Commission
P. O. Box 871
Santa Fe, New Mexico

Re: Basin-Dakota Proceedings
(Case No. 2504)

Gentlemen:

El Paso Natural Gas Company, Pan American Petroleum Corporation, Marathon Oil Company, and Sunset International Petroleum Corporation have filed applications for rehearing in the captioned matter.

These applications for rehearing neither claim the existence of new evidence, nor offer any arguments which were not made or could not have been made at the February hearing. They do make much of the fact that the Commission did not base its order on the "prevention of waste" as a matter wholly independent of the "protection of correlative rights." But applicants ignore the plain language of Section 65-3-13(c), New Mexico Statutes Annotated (1953). That section specifically provides that the total gas production from a pool may be restricted to prevent waste, but the allocation of the total pool allowable among the wells may be based on the protection of correlative rights (i. e., prevent uncompensated drainage between tracts). This the Commission has done.

Order No. R-2259-B in the captioned case is clearly supported by proper findings and substantial evidence. A rehearing would be no more than a rehash of what has already been done. We therefore respectfully submit that the above-described applications for rehearing be denied.

Very truly yours,

AMERADA PETROLEUM CORPORATION

By Thomas W. Lynch
Thomas W. Lynch, Attorney

TWL:ac

Memo

From
A. L. Porter, Jr.
Secretary-Director

July 25, 1963

To GOVERNOR CAMPBELL

Here is El Paso's application for rehearing in Case 2504.

Please note that they only attack our findings. They do not offer to present new or additional evidence.

What do you think of their request for oral arguments prior to our taking action on their ~~request~~ application?

Will follow our lawyers advice
Jack

VERITY, BURR, COOLEY & JONES
ATTORNEYS AND COUNSELORS AT LAW
SUITE 152 PETROLEUM CENTER BUILDING
FARMINGTON, NEW MEXICO

GEO. L. VERITY
JOEL B. BURR, JR.
WM. J. COOLEY
RAY B. JONES

TELEPHONE 325-1702

July 26, 1963

Certified
Air Mail

New Mexico Oil Conservation Commission
State Capitol Building
Santa Fe, New Mexico

In re: Case No. 2504
Consolidated Oil & Gas, Inc.

Gentlemen:

Enclosed herewith are original and two copies of Application for Rehearing in captioned matter.

Will you please file such application for rehearing.

Yours truly,

VERITY, BURR, COOLEY & JONES

By: Geo. L. Verity

GLV/ph
encl/3

cc: Southwest Production, Dallas
Mr. Ben R. Howell, El Paso
Mr. W. A. Keleher, Albuquerque
Seth, Montgomery, Federici & Andrews, Santa Fe
Kellahin & Fox, Santa Fe

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FRED C. HANNAHS
GEORGE A. GRAHAM, JR.
RICHARD S. MORRIS

J. O. SETH
COUNSEL

POST OFFICE BOX 828
TELEPHONE YU 3-7315

July 31, 1963

New Mexico Oil Conservation Commission
Post Office Box 871
Santa Fe, New Mexico

Attention: Mr. Jim Durrett
General Counsel

Re: OCC Case #2504

Dear Jim:

Enclosed for filing are two Affidavits of Service in connection with the rehearings in Case 2504.

Very truly yours,

Dick

RSM:bd
Enclosures

BEFORE THE OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF EL PASO NATURAL GAS COMPANY FOR A REHEARING BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO TO RECONSIDER CASE NO. 2504, ORDER NO. R-2259-B OF SAID COMMISSION, BEING THE APPLICATION OF CONSOLIDATED OIL AND GAS, INC. FOR AN AMENDMENT OF ORDER NO. R-1670-C, CHANGING THE ALLOCATION FORMULA FOR THE BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA AND SANDOVAL COUNTIES, NEW MEXICO.	Case No. 2504

APPLICATION FOR REHEARING

Comes now EL PASO NATURAL GAS COMPANY, a Delaware Corporation, with license to do business in the State of New Mexico, hereinafter called "Applicant," and files this, its application for rehearing before the New Mexico Oil Conservation Commission, hereinafter called "Commission," in the above styled and numbered cause, and, for grounds therefor, would respectfully show:

I.

Hearing was held on this case before the Commission on April 18 through April 21, 1962. By Order No. R-2259, dated June 7, 1962, the Commission denied the Application. Consolidated Oil and Gas, Inc. filed an application for rehearing which was heard by the Commission on February 14, 1963, and by Order No. R-2259-B dated July 3, 1963, and entered on July 9, 1963, the Commission granted the application changing the proration formula for the Basin-Dakota Gas Pool from 25 percent acreage plus 75 percent acreage times deliverability to 60 percent acreage plus 40 percent acreage times deliverability by amending the Special Rules and Regulations for the Basin-Dakota Gas Pool, as promulgated by Order No. R-1670-C.

The Commission's Order No. R-2259 did not affect applicant in the sense of Rule 1222 of the Statewide Rules of the Commission (Rehearings) in that there was no part of that Order believed by applicant to be erroneous. Applicant is affected in the sense of Rule 1222 for the first time by Order No. R-2259-B issued by the Commission as a result of the rehearing in that said order is believed by applicant to be erroneous in many particulars hereinafter set forth.

II.

Finding 6 of said Order No. R-2259-B, which Finding is to the effect that the initial recoverable gas reserves underlying each non-marginal tract are the reserves shown in Column C of Exhibit A attached to said Order, is erroneous for the following reasons:

A. The evidence in the record does not support such Finding and the Commission's determinations of individual tract figures is apparently obtained from calculations made on rehearing by Consolidated Oil & Gas, Inc. which were based upon data as to average reserves obtained at the time of the original Hearing by Consolidated Oil and Gas, Inc. from estimates in the files of El Paso Natural Gas Company, which data is shown by the undisputed evidence to have been revised and replaced by different data as more information became available from drilling of additional wells, resulting in changing the estimates of average reserves. The parameters used in making estimates for entire townships were often based upon core data obtained from one well which data was shown by core data obtained from subsequent wells not to be representative of the entire area.

B. The conclusions offered by Consolidated Oil and Gas, Inc., which have been adopted as Findings by the Commission, were based upon estimates made by El Paso Natural Gas Company as a portion of a continuing reserve study of reserves underlying the entire Basin, which studies, as testified by the witness David H. Rainey, are the best

available for determining total pool reserves and for establishing the general relationship between well reserves and well deliverabilities for the pool but are not designed for or accurate to determine the reserves underlying any particular tract.

C. The determinations of fact are based solely upon the conclusions of Consolidated Oil & Gas, Inc.; are not supported by evidence in the record and such determinations are erroneously used by the Commission by reaching the further conclusions contained in Findings No. 7 and No. 10, thus basing one set of conclusions upon another set of conclusions without direct support in the record.

III.

Since the initial recoverable gas reserves for each individual tract are in error, the percentages of pool reserves attributable to each nonmarginal tract and the tract acreage factors listed in said Exhibit A are also in error; accordingly, said Order No. R-2259-B fails to afford to the owner of each property in the pool the opportunity to produce his just and equitable share of the gas in the pool, insofar as this can be done without waste, and for such purpose to use his just and equitable share of the reservoir energy, and is therefore violative of correlative rights.

IV.

Findings Nos. 10, 12 and 13 of the Commission's Order are not supported by the evidence for the reason that the deliverabilities shown in Column B of Exhibit A of the Commission's Order are the most recent deliverabilities while the reserves shown in Column C of said Exhibit A are estimates of initial reserves and a comparison of the relationship between reserves and deliverability is discriminatory when the ratio of initial reserves to current deliverability of one tract which has produced over a period of several years is compared with the ratio of initial reserves to initial deliverability of

another tract. Since the Commission has obviously used initial reserves in comparison with current deliverabilities in making its Findings Nos. 10, 12 and 13, such Findings are clearly erroneous and are in conflict with undisputed evidence that such comparison is discriminatory.

V.

The Commission's Order, which the statute requires be predicated upon the prevention of waste, is not based upon any evidence in the record that waste is occurring under the present 25-75 formula or that waste will be prevented by the 60-40 formula proposed by Consolidated and adopted by the Commission. The Commission's effort to predicate its order upon waste in Finding No. 13 proceeds upon the erroneous theory, unsupported by evidence, that waste is being caused wherever a violation of correlative rights is found to exist. Finding No. 14 that waste will be prevented by the 60-40 formula is unsupported by any evidence in the record.

VI.

The Commission in its Order has failed to make a finding which under the law must be made in order to change an existing proration order, to wit: the portion of each tract's proportion of the total pool reserves which can be recovered without waste. The record contains no evidence upon which such finding can be made.

VII.

The record does not contain evidence upon which the findings required by the statute to be made before changing the existing proration order can be based, and the rights acquired by the owners of tracts who have developed their properties under an existing order have been prejudiced by changing the basis of allocation without evidence to support such changes. Specifically, there is no evidence to support the Commission's finding as to the reserves underlying each individual tract; there is no evidence to support a finding, and none was made,

of the portion of each tract's proportion of the total pool reserves which can be recovered without waste; there is no evidence to support the Commission's finding that the protection of correlative rights is a necessary adjunct to the prevention of waste and that waste will result unless the Commission acts to protect correlative rights; and there is no evidence in the record that waste is occurring or will occur under the existing allocation formula.

WHEREFORE, Applicant requests that, pursuant to Rule 1222 of the Rules and Regulations of the New Mexico Oil Conservation Commission and Section 65-3-22(a), New Mexico Statutes Annotated, 1953 Compilation, that the Commission grant a rehearing in Case No. 2504 and that, following such rehearing the Commission set aside its Order No. R-2259-B and in all respects deny the application of Consolidated Oil and Gas, Inc. to amend Order No. R-1670-C. Your Applicant further requests that the Commission grant an opportunity for interested parties to present oral argument upon this application for rehearing prior to taking action thereon.

/S/ Ben R. Howell
Ben R. Howell

/S/ Garrett C. Whitworth
Garrett C. Whitworth

SETH, MONTGOMERY, FEDERICI & ANDREWS

By /S/ Wm. Federici
Attorneys for El Paso Natural Gas Company

VERITY, BURR, COOLEY & JONES
ATTORNEYS AND COUNSELORS AT LAW
SUITE 152 PETROLEUM CENTER BUILDING
FARMINGTON, NEW MEXICO

GEO. L. VERITY
JOEL B. BURR, JR.
WM. J. COOLEY
RAY B. JONES

TELEPHONE 325-1702

March 6, 1963

New Mexico
Oil Conservation Commission
Post Office Box 871
Santa Fe, New Mexico

Re: Application of Consolidated Oil & Gas, Inc., for an amendment of Order No. R-1670-C, changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba, and Sandoval Counties, New Mexico
Case No. 2504 - Rehearing
Our File No. 1320-L-19

Gentlemen:

Enclosed herewith is the original and two copies of Statement which we would appreciate your filing in behalf of Southwest Production Company in the captioned matter.

Very truly yours,

VERITY, BURR, COOLEY & JONES

By Geo. L. Verity
Geo. L. Verity

GLV/dh
Enclosures

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 2504
REHEARING

APPLICATION OF CONSOLIDATED OIL & GAS,
INC., FOR AN AMENDMENT OF ORDER NO.
R-1670-C, CHANGING THE ALLOCATION FORMULA
FOR THE BASIN-DAKOTA GAS POOL, SAN JUAN
RIO ARRIBA, AND SANDOVAL COUNTIES, NEW MEXICO

STATEMENT OF SOUTHEAST
PRODUCTION COMPANY

This statement is submitted pursuant to the Commission's ruling at the hearing in the above styled and numbered cause held at Santa Fe, New Mexico on February 14, 1963.

Although there are many facets of this case that warrant comment, we have limited this statement to a rebuttal of the attack made by counsel for Applicant in closing argument against the legality of the Commission's existing proration order in the Basin Dakota Gas Pool.

First, we wish to point out that throughout the voluminous record of the many hearing and rehearings in this case, the Applicant has made no allegation whatsoever that the Commission's existing proration order in the Basin Dakota Gas Pool might be illegal or invalid. Not until the waning moments of final argument in the last hearing was this point raised.

Section 65-3-22, N.M.S.A., (1953 Comp.) requires that a person who makes application for rehearing on a Commission order set forth the respect in which such order is believed to be erroneous. The same statute goes on to provide that "the questions reviewed on appeal shall be only questions presented to the commission by the application for rehearing."

The application of Consolidated Oil and Gas Company for rehearing in this case makes no attack whatsoever on the sufficiency or legality of the Commission's findings in its existing proration order in the Basin Dakota Gas Pool and hence it must necessarily follow from the above referenced statutory language that it cannot, at this late date, be heard to complain of the validity of the order on this ground.

Counsel for Applicant would have the Commission believe that all its proration orders which do not strictly comply with the standards set out by the New Mexico Supreme Court in Continental Oil Company vs. Oil Conservation Commission, 70 NM 310, 378 P2d 809, are void ab initio. This is not the case. In paragraph 4 of that very decision the Court announced the rule that a Commission order will be assumed to be valid until it is successfully attacked, citing Hester v Sinclair Oil and Gas Company (Okl. 1960), 351 P2d 751. Certainly the Commission's existing proration order has not yet been <u>successfully</u> attacked thus far. The mere assertion of the order's invalidity by by counsel in closing argument cannot by any stretch of the

imagination be considered as a legally proper procedure by which to raise this issue.

This issue is not properly before the Commission and it should therefore be completely disregarded in the present proceeding.

Although it goes beyond the immediate question before the Commission, we wish to point out that there is a wealth of authority for the proposition that the Commission's presently existing proration order in the Basin Dakota Gas Pool, having long since become final, is not now subject to attack in any proceeding that applicant might hereafter see fit to institute in the Courts.

In nearly every jurisdiction where the question has arisen in recent years, the Courts have held that where an administrative agency acts constitutionally and has jurisdiction over the parties and the subject matter (which cannot be denied in this case) its final decisions cannot be subjected to collateral attack.[1] A collateral proceeding is defined as any proceeding outside the purview of the statute which provides for judicial review.[2]

The fact that the administrative agency's power to promulgate the order in question emanates from the legislative or executive branch of government has made the judiciary even more reluctant to permit a collateral attack than in the case where the order is wholly judicial in character.[3] In this context the term

"collateral attack" is analogous to the doctrine of res judicata and it is accorded the same degree of finality.

This point has not been ruled upon in New Mexico; however, we find nothing inconsistent with the foregoing contained in Continental Oil Company v Oil Conservation Commission, supra, since the Oil Commission's order was before the Court in that case on a direct appeal timely taken under Section 65-3-22, N.M.S.A., (1953 Comp.). In fact it might well be argued that the New Mexico Supreme Court tacitly approved the "no collateral attack doctrine" outlined above in the Continental case when it held that the former proration formula in the Jalmat Gas Pool would be assumed to be valid until it is "successfully attacked", despite the fact that it was clear from the record before the Court that the former order was subject to the same objections as was Order No. R-1092-A.

In summary we take the position that the Commission's existing proration order in the Basin Dakota Gas Pool is valid since it has not been successfully attacked and further that it cannot, at this late date, be collaterally attacked in the Courts.

Respectfully submitted,

SOUTHWEST PRODUCTION COMPANY

By _____

Geo. L. Verity
Its Attorney

For footnotes see page 5.

FOOTNOTES

1. Flemmin v Nestor, 363 US 603, 4 L ed 2d 1435, 80 S Ct. 1367; Andrew G. Nelson, Inc. v United States, 355 US 554, 2 L ed 2d 484, 78 S Ct 496, reh den 356 US 934, 2 L ed 2d 763, 78 S Ct. 770; Securities & Exch. Com. v Central-Illinois Secur. Corp. 338 US 96, 93 L ed 1836, 69 S Ct 1377; Adams v Nagle, 303 US 532, 82 L ed 1000, 58 S Ct 687; Davis Trust Co. v Hardee, 66 App DC 168, 85 F2d 571, 107 ALR 1425; De Groot v Sheffield (Fla) 95 So 2d 912; Martin v Wolfson, 218 Minn 557, 16 NW2d 884; Leeman v Vocelka, 149 Neb 702, 32 NW2d 274; Hardin v Jordan, 140 US 371, 35 L ed 428, 11 S Ct 808, 838; Sanford v Sanford, 139 US 642, 35 L ed 290, 11 S Ct 666; Davis v Wiebbold, 139 US 507, 35 L ed 238, 11 S Ct 628; Valier Coal Co. v Department of Revenue, 11 Ill 2d 402, 143 NE2d 35, 64 ALR2d 763; Foy v Schechter, 1 NY2d 604, 154 NYS2d 927, 136 NE2d 883; Ottinger v Arenal Realty Co. 7 NY 371, 178 NE 665; State Tax Commission v Katsis, 2 Utah 406, 32 P2d [illegible], 107 ALR 1477; Borax Consolidated v Los Angeles, 296 US 10, 80 L ed 9, 56 S Ct 23, reh den 296 US 664, 80 L ed 473, 56 S Ct 30.
Annotations: 14 ALR2d 59, 69, 41 ALR 922.

2. Albuquerque Nat. Bank v Perea, 147 US 87, 37 L ed 91, 13 S Ct 194; Palmer v McMahon, 133 US 660, 33 L ed 772, 10 S Ct 324; Miller v Railroad Commission, 9 Cal 2d 256, 70 P2d 164, 112 ALR 221; Harrington v Glidden, 179 Mass 486, 61 NE 54 affd 189 US 255, 47 L ed 798, 23 S Ct 574; Application of Hvidsten (ND) 72 NW2d 524; Alexander v Com. 137 Va 477, 120 SE 296; Craig v Leitensdorfer (Downs v Hubbard) 123 US 189, 31 L ed 114, 8 S Ct 85; Seaboard Air Line R. Co. v Daniel, 333 US 118, 92 L ed 580, 68 S Ct 426.

3. Thomas v Ramberg, 240 Minn 1, 60 NW2d 18; Pearson v Walling (CA8 Ark) 138 F 2d 655, cert den 321 US 775, 88 L ed 1069, 64 S Ct 616; White Way Pure Milk Co. v Alabama State Milk Control Board, 265 Ala 660, 93 So 2d 509; Foy v Schechter, 1 NY2d 604, 154 NYS2d 927, 136 NE2d 883.

A STATEMENT OF POSITION OF SUNRAY DX OIL COMPANY

SUNRAY DX OIL COMPANY, after reviewing the evidence and exhibits submitted at this hearing and at the April, 1962 hearing, feels that the basic issue that splits the companies represented in the hearing is whether acreage or deliverability most accurately reflects reserves. Both groups admit that with the proper data reasonably accurate estimates of reserves on a tract by tract basis can be made.

It is Sunray's position therefore, that the best estimate of reserves is not some other factor that is attempted to be equated with a given estimate, but the best estimate of reserves is simply the reserve estimate itself. Reserves should therefore be used to allocate gas production.

Sunray also feels that deliverability has been shown to be a completely unreliable guide to reserves on an individual tract basis, the only basis the Commission can use under the Jalmat Decision.

It is therefore, Sunray's position that since acreage and the thickness of the production zone more nearly reflects reserves than deliverability and since Consolidated Oil and Gas Company's formula relies more heavily on acreage than the present formula we would urge the Commission to adopt Consolidated's formula.

On behalf of Sunray DX Oil Company

STATEMENT OF TEXACO INC.

CASE NO. 2504

SANTA FE, NEW MEXICO

March 7, 1963

Texaco Inc. does not operate any producing wells in the Basin-Dakota Pool. However, Texaco owns six wells completed in the Basin-Dakota Pool, currently shut in. Texaco owns an interest in several producing wells in the Basin-Dakota Pool, and also owns considerable undeveloped acreage in the immediate area.

It is Texaco's opinion that deliverability does not have a direct correlation to revocable gas reserves in place under any particular tract, and therefore should not be used as a factor in the prorating of gas production. It is believed that to include deliverability as a factor increases the tendency to perforate longer intervals and stimulate with larger fracture treatments, which results not in an increase in reserves for a particular well but merely in an increase in the wells' deliverability. We believe such practices, in an effort to increase deliverability, cause both physical and economic waste. Texaco believes that to protect the correlative rights of all parties concerned, the most ideal proration formula would be one based on reserves in place. We also believe this type would be the most difficult to administer. With the great strides made within industry in the past, and those which will be made in the future, we believe that one day such proration will be possible. Until that time arrives, we recommend a proration formula where acreage is heavily weighted. Texaco recognizes the application of Consolidated Oil and Gas as a step in this direction and concurs with their application.

On behalf of Texaco, Inc.

AMERADA PETROLEUM CORPORATION
P. O. BOX 2040
TULSA 2, OKLA.

1963 MAR 6 PM 1 31

LEGAL DEPARTMENT

March 4, 1963

New Mexico Oil Conservation Commission
P. O. Box 871
Santa Fe, New Mexico

Re: Case No. 2504; application of
Consolidated Oil and Gas, Inc.

Gentlemen:

The basic issue in this case is how much weight should be given to deliverability in a gas allocation formula. The answer should now be obvious.

If the evidence presented shows anything, it shows that there is no consistent or reliable relationship between the deliverability of a well and the recoverable gas reserves in place under the acreage assigned to the well. Nevertheless, and despite the experience of the Jalmat Case, this nonexistent relationship is resurrected and used to support a formula with a large deliverability factor.

The Supreme Court of New Mexico has clearly stated that this Commission "... must determine, insofar as practicable, (1) the amount of recoverable gas under each producer's tract; (2) the total amount of recoverable gas in the pool; (3) the proportion that (1) bears to (2); and (4) what portion of the arrived-at portion can be recovered without waste." Continental Oil Co. et al. v. Oil Conservation Commission et al., 373 P. 2d 809, 815 (1962).

An effort was made in this proceeding to link deliverability to reserves by using averages for groups of wells. But such an approach cannot stand close examination. For example, El Paso's Exhibit No. 2 shows that for groups of wells with different average reserves, the group having the highest average deliverability had an average deliverability of less than six times as great as the group with the lowest average deliverability. Yet, within each group, variations in deliverabilities of individual wells ranged from 10 to 100 times greater than the average variations between groups. An order based on this kind of meaningless statistical manipulation could hardly satisfy the mandate of the Supreme Court.

In order to follow the decision of the Court and in order to protect correlative rights, the Commission will have to make a finding that the formula it chooses

is related to the ratio which the recoverable gas under the acreage assigned to each well bears to the total recoverable gas in the pool. It is also necessary that the evidence support such a finding. Since there is no evidence to support a proper finding with respect to the existing allocation formula (75% of which consists of deliverability times acreage), we urge the Commission to set it aside.

It is Amerada's position that the smaller the deliverability factor, the closer a formula will come to the standard established by the Court in the Jalmat Case. We have already advocated a formula based solely upon acreage. If the Commission declines to adopt such a formula, we ask that the Commission adopt the formula proposed by Consolidated.

Very truly yours,

H. D. Bushnell
Thomas W. Lynch

Attorneys for
AMERADA PETROLEUM CORPORATION

By _____

TWL:hac

LAW OFFICES
OF
W. A. KELEHER
A. H. McLEOD
ATTORNEYS AND COUNSELLORS AT LAW
FIRST NATIONAL BANK BUILDING
ALBUQUERQUE, NEW MEXICO

W. A. KELEHER
A. H. McLEOD
T. B. KELEHER
JOHN B. TITTMANN
RUSSELL MOORE
WILLIAM B. KELEHER
MICHAEL L. KELEHER

February 27, 1963

Oil Conservation Commission
Santa Fe, New Mexico

Gentlemen:

Enclosed please find original and three copies of Statement being filed on behalf of Pubco Petroleum Corp. in case No. 2504, the original and two copies being for members of the Commission and one copy for the staff.

Yours very truly,

WAK:cp
Enclosure

BEFORE THE OIL CONSERVATION COMMISSION

OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

Case No. 2504
Rehearing

APPLICATION OF CONSOLIDATED OIL & GAS, INC., FOR AN AMENDMENT OF ORDER NO. R-1670-C, CHANGING THE ALLOCATION FORMULA FOR THE BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA, AND SANDOVAL COUNTIES, NEW MEXICO.

STATEMENT

At the conclusion of the rehearing in the above entitled case at Santa Fe on February 15, 1963, the Commission announced that permission would be granted to any interested parties to file, within twenty days thereafter, a statement for consideration by the Commission. Hence, this statement is now being filed on behalf of PUBCO PETROLEUM CORP.

On February 23, 1962, Consolidated Oil & Gas, Inc. filed its Application for an order establishing a special formula for the determination of allowables in the Basin-Dakota Gas Pool. The case was docketed as No. 2504. Briefly, the Applicant asked the Commission to abandon the formula for the gas pools of Northwestern New Mexico based on 75 X 25, and adopt a 40 X 60 formula. PUBCO PETROLEUM CORP. filed a response to the Application, objecting to the granting of the order prayed for, alleging that the granting of the order, in whole or in part, would seriously affect PUBCO in and about its operation, present and future, in the

Basin-Dakota gas field, alleging further that the proration formula presently in use was a just and workable formula and gave each well its fair share of the existing market commensurate with the ratio of recoverable gas reserves of the individual wells, as compared to the total recoverable reserves of the pool. PUBCO further alleged that if the Commission should consider any change in the proration formula, that such a change should be in favor of 100% deliverability. PUBCO further alleged, in its response, that changing the proration formula would be a violation of correlative rights; and directed the attention of the Commission to the fact that the Applicant had acquired the acreage complained of, and had drilled its wells with full knowledge of the then and now existing Commission orders governing the field.

Many pleadings were filed by oil companies, and others interested, and the case was tried before the Commission on April 18, 19, 20 and 21, 1962.

On June 7, 1962 the Commission entered its order denying the Application by Consolidated to amend Order No. R-1670-C to establish an allocation formula for the Basin-Dakota Gas Pool based on 40% acreage X deliverability plus 60% acreage. In paragraph 4 of the order of the Commission, it was stated on behalf of the Commission as follows:

> "(4) That the evidence presented at the hearing in this case concerning recoverable gas reserves in the subject pool is insufficient to justify any change in the present allocation formula."

Thereafter, and on June 27, 1962, Consolidated filed its petition for a rehearing upon the grounds therein stated, all of which will appear therein, reference thereto being had.

On July 7, 1962, the Commission acted upon the petition for rehearing, but provided as follows:

> "(2) That the scope of such hearing shall be limited to matters concerning recoverable gas reserves in the Basin-Dakota Gas Pool."

The action of the Commission in limiting the scope of the rehearing probably stemmed from a desire on the part of the Commission to take into consideration the decision of the Supreme Court in the so-called Jalmat case. In the third paragraph on page 6 of the Jalmat case, the court declared that the Commission had failed to make a finding as to the amounts of recoverable gas in the pool or under the various tracts, and as to the amount of gas that could be practicably obtained without waste. In addition, it was the opinion of the Supreme Court that the Commission should have made findings as to drainage, that correlative rights were not being protected under the old formula or at least being protected under the new formula to the extent, "insofar as practicable". It may be speculated upon that the Supreme Court would not have reversed the case had the Commission and proponents of deliverability specifically estimated the reserves in the wells in the Jalmat pool and compared its recoverable reserves to deliverability insofar as practicable.

At the outset it may be said that the burden of proof rested squarely on Consolidated to prove its case on rehearing, as well as the original hearing. Pubco contends that Consolidated failed to sustain the burden of proof. No new evidence was introduced to cause the Commission to reverse its decision of June 7, 1962. Consolidated failed to submit to the Commission any independent engineering or testimony of any

Petroleum engineer or geologist whose testimony was based on an independent investigation and study in the field. Instead, Consolidated submitted before the Commission several exhibits built up on graphs and the statistics introduced in evidence at the hearing on April 18, 1962 by El Paso Natural Gas Co., based on the number of wells in the field as of April, 1962.

Testimony was introduced before the Commission on February 14, 1963 to prove that since April 1, 1962 some 200 additional wells have been built in the pool. Consequently, any testimony offered by Consolidated, even based on El Paso Natural Gas Company's exhibits, introduced at the April, 1962 hearing, would be obsolete and of no probative value whatever to the Commission and its staff.

It is contended here that Consolidated failed to comply with the order of the commission granting a new hearing; that the exhibits introduced were not based on independent engineering or geology, but on hearsay entirely. Consolidated rested its entire case on exhibits numbered 3 and 4. Exhibit 4 was an I.B.M. calculation of 70 pages, containing 2,870 items, with thousands of figures, all based on an assumed state of facts and sets of figures prepared by El Paso Natural Gas Company for the April, 1962 hearing.

On February 14th and 15th, Pubco submitted extensive testimony by two expert witnesses: Dan Cleveland, a Petroleum Engineer, and Frank Gorham, a geologist, accompanied by carefully prepared maps and graphs, demonstrating that the present existing formula should be continued, but that if there should be any change in the formula now being used in the pool, it should be in the direction of deliverability, for the primary

reason that most of the 72 wells now in the pool have been drilled on 320-acre tracts.

It was pointed out by several witnesses before the Commission that a number of small operators in the pool have been financed by bankers and others on the assumption that there would be no change in the formula and that wells were being drilled and acres were being leased on that basis.

At the conclusion of the statement and testimony of February 19, the following statement was made on behalf of Pubco:

> "It is respectfully submitted to the Commission that we have produced here competent testimony to show and to determine the recoverable reserves on a tract basis for each well and tract in the field; we have also offered evidence before the Commission to show the recoverable reserves under the developed portion of the entire pool. Pubco's conclusion from the work done, exhibits and data submitted, have demonstrated, in our opinion, beyond a question of doubt, that if each well is to receive its fair share of the market in proportion to the reserves under the tract as related to the whole, that the existing formula should be left where it is, but if there is to be any change made, it should be 100% deliverability times acreage."

The testimony of Messrs. Cleveland and Gorham for Pubco and Mr. Rainey for El Paso Natural Gas Co. furnished the Commission with all necessary data to make a determination in this case, such data being of invaluable assistance to the Commission and its staff. It is contended by Pubco that Consolidated failed utterly to carry out the promises implied in its petition for rehearing, and that in all justice, the Commission should enter its order confirming and reiterating its order of June 7, 1962. Any other course by the Commission

would inevitably lead to chaos in the Basin-Dakota Pool.

Respectfully submitted,

PUBCO PETROLEUM CORPORATION

By _____
ITS ATTORNEY
First National Bank Bldg.
Albuquerque, New Mexico

BEFORE THE OIL CONSERVATION COMMISSION

OF NEW MEXICO

APPLICATION OF CONSOLIDATED OIL AND GAS, INC. For an Admendment of Order No. R-1670-C Changing the Allocation Formula in the Basin-Dakota Gas Pool

CASE 2504

WRITTEN STATEMENT OF EL PASO NATURAL GAS COMPANY

It is always proper to keep in mind the nature of the proceedings under consideration. This hearing grew out of an application by Consolidated Oil and Gas, Inc. (Consolidated) for a revision of Order No. R-1670-C, an order which went into effect without appeal. The burden of presenting evidence lies upon Consolidated. It goes without saying that the evidence must be clear and convincing to justify any change in property rights and relationships which have been entered in reliance upon the existing proration order.

Consolidated's attorney argues that the existing order is completely void. The great majority of operators in the Basin-Dakota Pools, do not agree with this position and here urge continuation of the present order. Consolidated relies upon the Jalmat Case as authority for this startling statement. The Commission is well aware that the original order in the Jalmat Case contained substantially the same findings as Order No. R-1670-C. The Supreme Court left intact

the original order, holding that the Commission must make certain specific findings to change that order. The original order in the Jalmat Case is in effect today just as Order No. R-1670-C will remain in effect until changed by the Commission. The Commission's acceptance of Consolidated's position on this issue would, in effect, condemn every proration order entered prior to Jalmat, none of which contained the specific findings. Other companies supporting the Commission's order are briefing this legal point and we do not wish to duplicate their work.

It is El Paso's position that the critics of Order No. R-1670-C have failed to produce evidence justifying or supporting any change in the existing order. In addition, we believe that the group supporting the existing order have produced evidence that compels the Commission to find that only acreage and deliverability are practicable factors to consider in making an allocation formula. The statute authorizes the Commission to give "equitable consideration to acreage, pressure, open flow, porosity, permeability, deliverability and quality of the gas and to such other pertinent factors as may from time to time exist, and so far as is practicable, shall prevent drainage between producing tracts in a pool which is not equalized by counter-draniage." A reading of the record in this case can lead only to the conclusion that there is not sufficient evidence of pressure, of open flow, of porosity, of permeability or quality of gas to make a practicable determination of recoverable gas reserves underlying each individual

tract or proration unit. No evidence supports the use of any factors other than "deliverability" and "acreage." No operator has introduced testimony to support use of any other factors.

The issue then boils down to the relative weight given to acreage and deliverability in making an equitable and practicable allocation formula. Many companies advocate use of straight acreage as a desirable formula because of the small-tract problem which exists in some areas. The San Juan Basin, and particularly the Basin-Dakota Gas Pool has substantially the same acreage dedicated to every well, with only five wells varying substantially from the 320 acre pattern. In many pools the acreage attributable to one well will vary from 320 acres to a fraction of one acre. Under conditions here existing acreage is merely a "per well" factor. To apply acreage here is in effect to use the "per well" factor which is so bitterly criticized in formulas combining an acreage allowance and a "per well" allowance. The use of 100% acreage in the Basin-Dakota Pool would in effect give every well the same allowable, disregarding undisputed evidence in the record as to great differences in thicknesses of net effective pay, porosity, water content, pressure, and (communication into the well bore). The use of a 25% acreage factor does provide a minimum to prevent premature abandonment of the poorer wells.

Continuing studies, as testified by D. H. Rainey, reveal that correction of the parameters used in estimating recoverable

reserves by additional data as new wells are drilled is bringing the estimate of recoverable gas reserves closer to the measured deliverability for the average well. While admittedly there are a few wells where the deliverability does not closely correlate with the current estimate of the new recoverable reserves, nevertheless for the great majority of wells, the use of deliverability is the best yardstick available to the Commission to estimate the recoverable reserves underlying each tract. The record is clear that "determinations of recoverable reserves" are but estimates, using the best data available, of the volumes of gas that will be produced from a tract prior to the operator abandoning the well located on the tract. The economic factors which compel abandonment are brought out in Pubco's studies. Corrections of reserve estimates, as additional data were obtained, demonstrates that deliverability may be a better indication of recoverable reserves than volumetric estimates obtained by averaging the available data upon a township-wide basis.

The proponents of an amended order have obtained core analysis and well log data from many of their opponents. The proponents did not see fit to introduce at the rehearing any testimony based upon such data. Proponents made no attempt to allocate reserves to each tract as a result of their own work. Proponents merely adopted El Paso's work presented at the April, 1962 hearing and urged the Commission to use this work as a basis

for finding the recoverable reserves under each tract. The testimony shows that El Paso regards its work as appropriate for determining the over-all reserves in the pool but as inadequate to furnish valid recoverable reserves underlying each tract except in averaging the data as was done in El Paso's exhibits. Futhermore, the uncontradicted testimony shows that as a result of new information and of El Paso's continuing study, the reserve estimates made in April, 1962 have been revised and were changed before Consolidated introduced its exhibits based on such estimates. It is crystal clear that a finding by the Commission of individual tract recoverable reserves based upon estimates, which the estimator says are out of date; would not withstand attack. But as to a number of wells El Paso did not have sufficient information even to estimate. Proponents attempted to cover this unexplored area by extrapolation of reserve contours. D. H. Rainey's testimony shows that this method of extrapolation can be used to determine pool-wide reserves but is inadequate as the method of determining gas reserves underlying any particular tract. A finding based upon out of date estimates and insufficient information could not survive a court's scrutiny.

The exhibits offered by Consolidated are subject to attack for many reasons. Their Exhibit 3 is based upon out of date estimates and uses extrapolation to fill in gaps. This unreliability is carried forward into Exhibit 4, which compounds inaccuracies by

comparing original reserve estimates against current deliverabilities. It is obvious that comparisions must be made at comparable times. The use of current deliverability against original reserves will give a distortion. The evidence shows that both reserves and deliverabilities decline as well produces. All of Consolidated's conclusions and their Exhibits 5, 6 and 7 depend upon the accuracy of Exhibit 4. When Exhibit 4 is shown to be inaccurate, then all the conclusions drawn and Consolidated's remaining exhibits also fall.

It is apparent when considering the averages that differences in recoverable reserves are best reflected by differences in deliverability. Any allocation formula must be based upon the practicable. If it is not practicable, for lack of core data and other information, to make a volumetric calculation of recoverable gas reserves under each tract then the only practical tool to use to reflect admitted differences is that of deliverability. In this pool the acreage under each well is practically identical. We contend that no specific findings are required to maintain validity of the original allocation order. If the Commission desires to make findings, then there is sufficient evidence from which the Commission can find that (1) the amount of recoverable gas under each producing tract can be estimated by using the deliverability of the well located on that tract; (2) the total amount of recoverable gas in the Basin-Dakota Pool is approximately 2.25 trillion cubic feet;

(3) The proportion that the recoverable gas under each tract bears to the total amount of recoverable gas in the pool is the proportion of the deliverability of the well located on that specific tract to the total deliverability of all wells in the pool; and (4) by using the formula prescribed by Order No. R-1670-C, the recoverable gas underlying each tract can be recovered without waste. There is also evidence to support a finding that under Order No. R-1670-C the drainage from one tract to another is equalized by counter drainage from the other tract.

Ben R. Howell

Ben R. Howell

SETH, MONTGOMERY, FEDERICI & ANDREWS

By William R. Federici
William R. Federici
Attorneys for El Paso Natural Gas Company

SETH, MONTGOMERY, FEDERICI & ANDREWS
ATTORNEYS AND COUNSELLORS AT LAW
P. O. BOX 828
SANTA FE, NEW MEXICO

February 25, 1963

New Mexico Oil Conservation Commission
P. O. Box 871
State Land Office Building
Santa Fe, New Mexico

Subject: Statement of Sunset International Petroleum Corporation and Caulkins Oil Company Re Case 2504.

Gentlemen:

Sunset International Petroleum Corporation and Caulkins Oil Company again wish to state their opposition to any change of the allocation formula for the Basin-Dakota Gas Pool which would give more weight to acreage or less weight to deliverability.

The testimony and exhibits presented at the rehearing of Case 2504, and at previous hearings, prove conclusively that there is a direct relationship between deliverability and reserves in the Basin-Dakota Gas Pool, and that if deliverability is given at least 75 percent weight in the allocation formula, the protection of correlative rights will be achieved.

Even if the Commission should be of the belief that the formula should be changed to give less weight to deliverability, it is submitted that the record of Case 2504 does not contain sufficient evidence of a substantial nature upon which an order could be based. At the rehearing of this case, the proponents of the change in formula purported to supply information from which the Commission could make findings as required by the Jalmat decision (Continental Oil Company v. Oil Conservation Commission, 70 N.M. 310, 373 P.2d 809). As pointed out in the record, however, this evidence, and particularly the exhibit from which recoverable reserves were estimated, cannot be considered substantial because it is based on conjecture and surmise. That a Court or administrative body cannot base its findings upon conjecture or surmise is clearly settled by the decisions of the New Mexico Supreme Court (See, e.g., Stambaugh v. Haney, 44 N.M. 443, 103 P.2d 540). Nor can an expert base his

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SANTA FE, NEW MEXICO

testimony on facts which do not afford a basis for a reasonably accurate conclusion. The rule is stated in 20 Am. Jur., Evidence, Sec. 795, as follows:

> ". . .the facts upon which the expert bases his opinion or conclusion /must/permit reasonably accurate conclusions as distinguished from mere guess or conjecture. Expert opinion testimony should not be allowed to extend to the field of baseless conjecture concerning matters not susceptible of reasonably accurate conclusions."

To the same effect, see 32 C.J.S., Evidence, Sec. 522.

We submit that Consolidated Oil & Gas, Inc. failed to use good engineering practices in arriving at its estimates of recoverable reserves in the pool and that this evidence, and any testimony or exhibit based thereon, is without substantial basis.

In this case Consolidated Oil & Gas, Inc. and the other proponents of the change in formula have the burden of proving that the change is justified; the burden of proof is not on the opponents of a change to prove that the present formula is correct. The proponents have failed to meet this burden of proof.

In view of the foregoing, it is submitted that the applicants have made no case for a change in the allocation formula for the Basin-Dakota Gas Pool. Accordingly, the Commission should enter its order reaffirming Order No. R-2259, denying the application.

Respectfully submitted,

SETH, MONTGOMERY, FEDERICI & ANDREWS

By: Wm Federici

Attorneys for Sunset International Petroleum Corporation and Caulkins Oil Company.

RSM:t

SKELLY OIL COMPANY

P. O. Box 1650

TULSA 2, OKLAHOMA

PRODUCTION DEPARTMENT
C. L. BLACKSHER, VICE PRESIDENT
W. P. WHITMORE, MGR. PRODUCTION
W. D. CARSON, MGR. TECHNICAL SERVICES
ROBERT G. HILTZ, MGR. JOINT OPERATIONS
GEORGE W. SELINGER, MGR. CONSERVATION

February 21, 1963

Re: Case No. 2504 - Re-Hearing
Order No. R-1670-C

Mr. A. L. Porter, Jr.
New Mexico Oil and Gas Conservation Commission
P. O. Box 871
Santa Fe, New Mexico

Dear Mr. Porter:

In line with the announcement made by the Commission that they would accept statements or briefs within twenty days after the close of the hearing on February 15, 1963, we wish to file this statement on behalf of Skelly Oil Company having an interest in thirty-five wells in the Basin Dakota Gas Pool.

We believe that the granting of the application is a step in the right direction which is away from total or partial use of deliverability in the allocation of gas for proration purposes on the part of the State. Those familiar with the gas business understand that deliverability is generally the ability of a gas well to produce into a line for marketing purposes, and such deliverability tests usually involve three consecutive and continuous periods, such as pre-flow and conditioning, test flow, and shut-in pressure. It is evident that the line pressure of various purchasers or takers enter into the amount of gas producible of respective wells connected thereto, and such variation makes it impossible to have satisfaction in such formula. Additionally the continuous requirement of deliverability periodically finds a great many wells unable to comply with the periodic testing, and hence supervisory control on the part of the State is greatly handicapped. We believe that a formula simple in nature is most easily supervised by the State, and despite the continuous efforts by opponents in this Case, that as Pubco states "there is a relationship between deliverable and recoverable reserves," and as stated by El Paso "there exists a direct and constant relationship between deliverable and recoverable reserves in the Basin Dakota Pool," nevertheless the State Supreme Court has stated in the Jalmat Case that there is no relationship between the two, and therefore we believe this Commission

should follow this edict until otherwise changed.

The difficulties of the Oil Conservation Commission have greatly increased in the past few years due mainly to the proration of gas in the State both in Southeast and Northwest New Mexico. It is the writer's feeling that these great many difficulties in administration encountered by the Oil Conservation Commission are due to an effort to attempt to please the purchasers and transporters of gas, whereas in truth and fact the main and sole purpose of the Commission is to regulate the production. Deliverability as a factor in allocation is exclusively for the benefit of the purchaser or transporter, and for their convenience only. It is felt by this writer that the Commission should return to their main objective of regulating the production of gas from the wells in a reservoir, and if this is done we believe that the many burdensome problems encountered by the Commission would gradually be eliminated in the near future. By keeping the formula simple and restraining the supervisory control of the Commission over production, in line with the dominant duty of this Commission under the Act, we believe that the many problems now encountered would evaporate.

Respectfully submitted,

(Signed) GEORGE W. SELINGER

GWS:br

cc-Consolidated Oil & Gas, Inc.
4150 East Mexico Ave.
Denver 22, Colorado

Mr. Jason Kellahin
Santa Fe, New Mexico

Statement made on behalf of Sunray Mid-Continent - Re: New Mexico Oil Conservation Commission, Case 2504, Application Formula Basin-Dakota Gas Pool

Sunray Mid-Continent Oil Company believes that gas should be allocated on the basis of reserves. We do not believe that deliverability reflects reserves. We believe that acreage and the thickness of the production formation more nearly reflect reserves. Since acreage more nearly reflects reserves than deliverability and Consolidated Gas and Oil, Inc. formula contains a heavier factor of acreage than the present formula we would urge the Commission to adopt the Consolidated formula.

P. O. Box 2542
Amarillo, Texas

New Mexico Oil Conservation Commission
Santa Fe
New Mexico

Attention: Mr. A. L. Porter, Director

Gentlemen:

Pioneer Production Corporation presently operates twenty-two wells in the basin Dakota pool and has varying interests in twelve other wells in the same pool that are operated by others.

We do not believe that on the basis of the testimony presented at this hearing there is any justification for a change in the allocation formula from that provided by Rule 9(c) of Commission Order No. R-1670, dated May 20, 1960, as amended by order No. R-1670-c, dated November 4, 1960.

Accordingly, we recommend that the Commission deny the application of Consolidated Oil and Gas, Inc.

Yours very truly,

Pioneer Production Corporation

E. S. Morris,
Vice President

ESM:jt

For Commission Records: Basin-Dakota Hearing
Case #2504

Roy Jeter, Assistant Division Superintendent, on behalf of Western Natural Gas Company urges the Commission to retain the rules in the present form, believing that deliverability bears a reasonable relationship to recoverable gas reserves and that the present allocation formula furnishes a practical measuring device to permit each operator to produce his fair share of the reservoir.

WESTERN NATURAL GAS COMPANY

Roy C. Jeter

By: Roy C. Jeter

STATEMENT FOR CASE NO. 2504 - APPLICATION OF CONSOLIDATED OIL AND GAS INC. TO CHANGE THE BASIN DAKOTA ALLOCATION FORMULA

It is Texaco's opinion that deliverability does not have a direct correlation to the recoverable gas reserves in place under any particular tract and, therefore, should not be considered as a factor in the prorating of gas production. It is believed that to include deliverability as a factor increases the tendency to perforate longer intervals and fracture with larger treatments which results not in an increase in the reserves for any particular well but merely in an increase in the well's deliverability. We believe that such practices as this in an effort to increase deliverability can cause both physical and economic waste. Texaco believes that, to protect the correlative rights of all parties concerned, the most equitable proration formula for the Basin Dakota Gas Pool would be a formula based upon 100 per cent acreage.

Texaco will always strongly urge that both oil and gas proration formulas be based upon 100 per cent acreage; however, we are in favor of any change in the Basin Dakota allocation formula which tends to place more emphasis on acreage and would, therefore, recognize this as a step in the right direction.

At the present time Texaco does not operate any producing wells in the Basin Dakota Gas Pool, however, we are the operators of five wells completed in the Basin Dakota Reservoir but are currently shut-in. We do own an interest in several wells that are currently producing in the Basin Dakota Pool and we anticipate that our shut-in wells will be producing in the near future. Texaco also owns considerable undeveloped acreage in the immediate area of the Basin Dakota Pool. Therefore, Texaco Inc. as a very interested party recommends that the proration formula for the Basin Dakota Gas Pool be based upon 100 per cent acreage; however, we recognize the application of Consolidated Oil and Gas Inc. as a step in the right direction and, therefore, concur with their application.

Subpoenas Duces Tecum were served on the following:

Aztec Oil & Gas Company, L. M. Stevens in lieu of Joe Salmon.

British American Oil Producing Company, Frank Renard.

Southwest Production Company, Leon Wiederkehr in lieu of Carl Smith.

Pan American Petroleum Corporation, George Eaton

El Paso Natural Gas Company, David H. Rainey.

Pubco Petroleum Corporation, Frank D. Gorham

Joe Salmon was served on 9-11-62.
Frank Renard was served on 9-8-62.
Carl Smith was served on 9-8-62. Leon Wiederkehr was served 9-11-62.
George Eaton was served on 9-11-62.
David H. Rainey was served on 8-14-62.
Frank D. Gorham was served on 8-15-62.

Appearances in Case 2504 - April 18, 1962 hearing.

Mr. Ted Stockmar
Holme, Roberts, More, Owen and Stockmar
Attorneys at Law
1700 Broadway - 2112 Tower Bldg.
Denver 2, Colorado

Mr. Jason Kellahin
Kellahin & Fox
Attorneys at Law
Box 1713
Santa Fe, New Mexico

Mr. J. J. Lacey
Tenneco Oil Company
P. O. Box 1714
Durango, Colorado

Mr. Howard Bratton
Hervey, Dow & Hinkle
P. O. Box 10
Roswell, New Mexico

Mr. George Selinger
Skelly Oil Company
P. O. Box 1650
Tulsa 2, Oklahoma

Mr. P. J. Farrelly
Compass Exploration Company
101 University Boulevard
Denver 6, Colorado

Mr. Roy C. Jeter
Western Natural Gas Company
823 Midland Tower
Midland, Texas

Mr. Oliver Seth
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Santa Fe, New Mexico

Mr. Hume Everett
Legal Department
The Ohio Oil Company
P. O. Box 120
Casper, Wyoming

Mr. Ben Howell
El Paso Natural Gas Co.
Box 1492
El Paso, Texas

Mr. Kenneth Swanson
Aztec Oil & Gas Co.
920 Mercantile Securities
Building - Dallas, Texas

Mr. Guy Buell
Pan American Petroleum Corp.
P. O. Box 1410
Fort Worth, Texas

Mr. W. A. Keleher, Attorney
Pubco Petroleum Corporation
First National Bank Bldg.
Albuquerque, N. Mex.

Mr. Bob Wynn
Delhi Oil Corporation
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Mr. George Eaton
Pan American Petroleum Corp.
P. O. Box 480
Farmington , New Mexico

Mr. George E. Mills
The Atlantic Rfg. Co.
P. O. Box 379
Durango, Colorado

Mr. Booker Kelly
Gilbert, White & Gilbert
P. O. Box 787
Santa Fe, New Mexico

Mr. Phil McGrath
U. S. Geological Survey
Box 959
Farmington, New Mexico

Appearances in Case No. 2504 - April 18, 1962 Regular Hearing

Mr. A. F. Holland
Caulkins Oil Company
1130 First National Bank Bldg.
Denver, Colorado

Mr. John S. Cameron, Jr.
Tidewater Oil Company
P. O. Box 1404
Houston 1, Texas

Bruce Anderson Oil Operators
and Beard Oil Company
Suite 930
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Mr. E. B. Granville
The Frontier Refining Company
4040 East Louisiana Avenue
Denver 22, Colorado

Mr. Sam Sims
Kay Kimbell Oil Operator
P. O. Box 1540
Fort Worth, Texas

Mr. E. S. Morris, Vice President
Pioneer Production Corporation
P. O. Box 2542
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Mr. John J. Redfern
1203 Wilco Building
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Mr. Carl W. Smith
Southwest Production Company
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Mr. Thomas M. Hogan
District Superintendent
The British-American
Oil Producing Company
P. O. Box 180
Denver 1, Colorado

Mr. Bob Black
Proration Department
Texaco Inc.
P. O. Box 3109
Midland, Texas

Mr. H. D. Bushnell, Attorney
Amerada Petroleum Corporation
P. O. Box 2040
Tulsa 2, Oklahoma

Mr. Paul Cooter
Atwood & Malone
Attorneys at Law
P. O. Drawer 700
Roswell, New Mexico

Extra copies of Exhibits
Received in Case #2504

1.	El Paso Natural Gas Co.	1	copy	of Exhibit	1
		1	"	" "	2
2.	Pubco	1	"	" "	2
		1	:	" "	7
		1	"	" "	6
		1	"	" "	1
3.	Southern Union	1	"	" "	1
		1	"	" "	2

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION
SANTA FE - NEW MEXICO

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED OIL & GAS, INC. FOR AN AMENDMENT OF ORDER NO. R-1670-C, CHANGING THE ALLOCATION FORMULA FOR THE BASIN-DAKOTA GAS POOL, SAN JUAN, RIO ARRIBA AND SANDOVAL COUNTIES, NEW MEXICO.

CASE NO. 2504
(Rehearing)

To the following named attorneys and parties who have entered an appearance in the above entitled and numbered case and to the respective interests they represent:

Mr. Ted Stockman
Mr. Jason Kellahin
Mr. J. J. Lacey
Mr. Howard Bratton
Mr. George Selinger
Mr. P. J. Farrelly
Mr. Roy C. Jeter
Mr. Oliver Seth
Mr. Hume Everett
Mr. Ben Howell
Mr. Kenneth Swanson
Mr. Guy Buell
Mr. W. A. Keleher
Mr. Bob Wynn
Mr. George Eaton
Mr. George E. Mills
Mr. Booker Kelly
Mr. Phil McGrath
Mr. A. P. Holland
Mr. John S. Cameron, Jr.
Bruce Anderson Oil and Gas Properties
Mr. E. B. Granville
Mr. Sam Sims
Mr. E. S. Morris
Mr. John J. Redfern
Mr. Carl W. Smith
Mr. Thomas M. Hogan
Mr. C. R. Black
Mr. H. D. Bushnell
Mr. Paul Cooter
Mr. George L. Verity

N O T I C E

PLEASE TAKE NOTICE THAT THE ABOVE CASE HAS BEEN CONTINUED BY THE COMMISSION TO THE SEPTEMBER 13, 1962 REGULAR HEARING, AT 9 O'CLOCK A.M., MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO.

A. L. Porter, Jr.

A. L. PORTER, Jr.
Secretary-Director

I hereby certify that I have mailed a copy of this Notice to the above-named attorneys and parties on this 24th day of July, 1962.

James M. Durrett Jr.

JAMES M. DURRETT, Jr.
General Counsel

EXHIBITS RECEIVED IN CASE #2504

1.	Aztec	1 copy of Exhibit 1
		1 copy of Exhibit 2
2.	Caulkins	2 copies of Exhibit 1
3.	Consolidated Oil Co.	1 copy of Exhibit 1
		2 copies of Exhibit 2
		2 " " " 3
		3 " " " 4
		1 copy of Exhibit 5
		1 " " " 6
		1 " " " 7
		1 " " " 8
4.	El Paso Natural Co.	2 copies of Exhibit 1
		2 " " " 2
		1 " " " 3
5.	Pubco	3 " " " 5
		3 " " " 3
		3 " " " 4
		3 " " " 2
		3 " " " 7
		2 " " " 6
		2 " " " 1
6.	Southern Union Gas Co.	2 " " " 1
		2 " " " 2
7.	Sunset International	1 copy of Exhibit 1
		1 copy of Exhibit 2

No. 8-62

DOCKET: REGULAR HEARING - WEDNESDAY - MARCH 14, 1962

OIL CONSERVATION COMMISSION - 9 A.M. - MORGAN HALL, STATE LAND OFFICE BUILDING SANTA FE, NEW MEXICO

ALLOWABLE: (1) Consideration of the oil allowable for April, 1962.

(2) Consideration of the allowable production of gas for April, 1962, from ten prorated pools in Lea and Eddy Counties, New Mexico, also consideration of the allowable production of gas from nine prorated pools in San Juan, Rio Arriba, and Sandoval Counties, New Mexico, for April, 1962.

CASE 2469: (Rehearing):
Application of El Paso Natural Gas Company for special rules and regulations for the Lusk-Strawn Pool, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order establishing special rules and regulations for the Lusk-Strawn Pool, Lea County, New Mexico, including a provision for 160-acre oil proration units.

CASE 2504: Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C to establish an allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico, which will differ from the allocation formula prescribed for the prorated gas pools of Northwest New Mexico by Rule 9 (C) of Order No. R-1670. Applicant recommends an allocation formula based 60 percent on acreage and 40 percent on acreage times deliverability. The Commission also may consider the establishment of minimum and maximum allowables for the Basin-Dakota Gas Pool.

CASE 2505: Southeastern New Mexico nomenclature case calling for an order creating new pools, extending and abolishing certain existing pools in Eddy, Lea, Roosevelt and Chaves Counties, New Mexico.

(a) Create a new pool classified as an oil pool for Cisco production, designated as the Baish-Cisco Pool, and described as:

TOWNSHIP 17 SOUTH, RANGE 32 EAST, NMPM
Section 21: SE/4

(b) Create a new pool classified as an oil pool for San Andres production, designated as the Pecos-San Andres Pool, and described as:

TOWNSHIP 7 SOUTH, RANGE 26 EAST, NMPM
Section 32: NE/4
Section 33: NW/4

(c) Create a new pool classified as an oil pool for Pennsylvanian production, designated as the East Prairie-Pennsylvanian Pool, and described as:

TOWNSHIP 8 SOUTH, RANGE 36 EAST, NMPM
Section 23: SW/4

(d) Create a new pool classified as an oil pool for Bone Springs production, designated as the Quahada Ridge-Bone Springs Pool, and described as:

TOWNSHIP 21 SOUTH, RANGE 29 EAST, NMPM
Section 27: SW/4

(e) Create a new pool classified as an oil pool for Bone Springs production, designated as the Scharb-Bone Springs Pool, and described as:

TOWNSHIP 19 SOUTH, RANGE 35 EAST, NMPM
Section 6: SW/4

(f) Create a new pool classified as an oil pool for Wolfcamp production, designated as the South Tulk-Wolfcamp Pool, and described as:

TOWNSHIP 15 SOUTH, RANGE 35 EAST, NMPM
Section 18: NW/4

(g) Abolish the Baish-Pennsylvanian Pool described as:

TOWNSHIP 17 SOUTH, RANGE 32 EAST, NMPM
Section 21: SE/4

(h) Abolish the East Vacuum-Abo Pool described as:

TOWNSHIP 17 SOUTH, RANGE 35 EAST, NMPM
Section 35: S/2 & NE/4
Section 36: SW/4 & S/2 NW/4

(i) Extend the Allison-Pennsylvanian Pool to include:

TOWNSHIP 8 SOUTH, RANGE 37 EAST, NMPM
Section 33: SW/4

(j) Extend the Atoka-Pennsylvanian Gas Pool to include:

TOWNSHIP 18 SOUTH, RANGE 26 EAST, NMPM
Section 28: SW/4

(k) Extend the Blinebry Pool to include:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 30: SE/4

(l) Extend the Crosby-Devonian Gas Pool to include:

TOWNSHIP 26 SOUTH, RANGE 37 EAST, NMPM
Section 3: NW/4

(m) Extend the North Hackberry-Yates Pool to include:

TOWNSHIP 19 SOUTH, RANGE 30 EAST, NMPM
Section 25: S/2 SE/4

(n) Extend the West Henshaw-Grayburg Pool to include:

TOWNSHIP 16 SOUTH, RANGE 30 EAST, NMPM
Section 2: W/2 SE/4

(o) Extend the Justis Tubb-Drinkard Pool to include:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 14: NE/4 NE/4

(p) Extend the North Justis-Ellenburger Pool to include:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 2: NE/4

(q) Extend the North Justis-Tubb-Drinkard Pool to include:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 1: SW/4

(r) Extend the Maljamar-Strawn Pool to include:

TOWNSHIP 17 SOUTH, RANGE 32 EAST, NMPM
Section 22: NW/4

(s) Extend the Paddock Pool to include:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 19: E/2 SW/4

TOWNSHIP 22 SOUTH, RANGE 37 EAST, NMPM
Section 24: E/2
Section 25: N/2 NE/4

(t) Extend the Pearl-Queen Pool to include:

TOWNSHIP 19 SOUTH, RANGE 35 EAST, NMPM
Section 31: SW/4

TOWNSHIP 20 SOUTH, RANGE 35 EAST, NMPM
Section 6: N/2 NW/4

(u) Extend the Sand Springs-Devonian Pool to include:

TOWNSHIP 11 SOUTH, RANGE 34 EAST, NMPM
Section 11: E/2 NE/4
Section 12: NW/4

(v) Extend the Shugart (Yates-Seven Rivers-Queen-Grayburg) Pool to include:

TOWNSHIP 18 SOUTH, RANGE 30 EAST, NMPM
Section 25: N/2 SE/4

(w) Extend the North Square Lake-Grayburg-San Andres Pool to include:

TOWNSHIP 16 SOUTH, RANGE 31 EAST, NMPM
Section 4: SW/4
Section 8: NW/4
Section 11: NW/4

(x) Extend the Vacuum-Abo Pool to include:

TOWNSHIP 17 SOUTH, RANGE 35 EAST, NMPM
Section 34: S/2 N/2
Section 35: S/2 & NE/4
Section 36: SW/4 & S/2 NW/4

CASE 2506: Northwestern New Mexico nomenclature case calling for an order extending certain existing pools in Rio Arriba and San Juan Counties, New Mexico.

(a) Extend the South Blanco-Pictured Cliffs Pool to include:

TOWNSHIP 26 NORTH, RANGE 7 WEST, NMPM
Section 25: NW/4
Section 26: NE/4

(b) Extend the Otero-Chacra Pool to include:

TOWNSHIP 25 NORTH, RANGE 6 WEST, NMPM
Section 13: NE/4

(c) Extend the Table Mesa-Dakota Oil Pool to include:

TOWNSHIP 28 NORTH, RANGE 17 WEST, NMPM
Section 34: S/2

iqg/

No. 12-62

DOCKET: REGULAR HEARING - WEDNESDAY - APRIL 18, 1962

OIL CONSERVATION COMMISSION - 9 A.M. - MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

ALLOWABLE (1) Consideration of the oil allowable for May, 1962.

(2) Consideration of the allowable production of gas for May, 1962 from ten prorated pools in Lea and Eddy Counties, New Mexico, also consideration of the allowable production of gas from nine prorated pools in San Juan, Rio Arriba, and Sandoval Counties, New Mexico, for May, 1962.

CASE 2504: (Continued)
Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C to establish an allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico, which will differ from the allocation formula prescribed for the prorated gas pools of Northwest New Mexico by Rule 9 (C) of Order No. R-1670.

Applicant recommends an allocation formula based 60 percent on acreage and 40 percent on acreage times deliverability. The Commission also may consider the establishment of minimum and maximum allowables for the Basin-Dakota Gas Pool.

CASE 2049: (Reopened)
Application of the Oil Conservation Commission on its own motion to reconsider the special rules and regulations for the Devils Fork-Gallup Pool, Rio Arriba County, New Mexico.

Case 2049 will be reopened pursuant to Order No. R-1670-B to permit interested parties to appear and present testimony relative to the effectiveness of the special rules and regulations for the Devils Fork-Gallup Pool.

CASE 1641: (Reopened)
Application of the Oil Conservation Commission on its own motion to reconsider the special rules and regulations for the Angels Peak-Gallup Oil Pool, San Juan County, New Mexico.

Case 1641 will be reopened pursuant to Order No. R-1410-C to permit interested parties to appear and present testimony relative to the effectiveness of the special rules and regulations for the Angels Peak-Gallup Oil Pool.

CASE 2530: Southeastern New Mexico nomenclature case calling for an order creating new pools and extending, contracting and changing the vertical limits of certain existing pools in Eddy, Lea and Roosevelt Counties, New Mexico.

(a) Create a new oil pool for Grayburg production, designated as the West Anderson Ranch-Grayburg Pool, and described as:

TOWNSHIP 16 SOUTH, RANGE 32 EAST, NMPM
Section 7: NW/4

(b) Create a new oil pool for Queen-Grayburg-San Andres production, designated as the Bear Draw Queen-Grayburg-San Andres Pool, and described as:

TOWNSHIP 16 SOUTH, RANGE 29 EAST, NMPM
Section 28: E/2

(c) Create a new oil pool for Delaware production, designated as the U. S. Delaware Pool, and described as:

TOWNSHIP 21 SOUTH, RANGE 29 EAST, NMPM
Section 27: SW/4

(d) Create a new oil pool for Abo production, designated as the Double A-Abo Pool, and described as:

TOWNSHIP 17 SOUTH, RANGE 36 EAST, NMPM
Section 20: NE/4

(e) Create a new oil pool for Delaware production, designated as the Salado Draw-Delaware Pool, and described as:

TOWNSHIP 26 SOUTH, RANGE 33 EAST, NMPM
Section 15: NW/4

(f) Create a new oil pool for Blinebry production, designated as the East Weir-Blinebry Pool, and described as:

TOWNSHIP 20 SOUTH, RANGE 37 EAST, NMPM
Section 11: NE/4

(g) Change the Vertical Limits of the Mescalero-Pennsylvanian Pool from Pennsylvanian to Permo-Pennsylvanian inasmuch as several wells are presently completed in both the Wolfcamp and Pennsylvanian formations.

(h) Contract the High Lonesome Pool by the deletion of the following described area:

TOWNSHIP 16 SOUTH, RANGE 29 EAST, NMPM
Section 20: NE/4
Section 21: All
Section 28: All

(i) Extend the Allison-Pennsylvanian Pool to include:

TOWNSHIP 9 SOUTH, RANGE 36 EAST, NMPM
Section 2: W/2 NW/4

(j) Extend the North Benson-Queen Pool to include therein; and extend the vertical limits to include the Grayburg formation as the result of a completion in the Grayburg formation.

TOWNSHIP 18 SOUTH, RANGE 30 EAST, NMPM
Section 27: S/2 S/2
Section 34: SW/4 NE/4 & E/2 NE/4
Section 35: NW/4

(k) Extend the Double X-Delaware Pool to include:

TOWNSHIP 24 SOUTH, RANGE 32 EAST, NMPM
Section 22: SE/4

(l) Extend the Eumont Gas Pool to include:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 8: NE/4
Section 16: SW/4

(m) Extend the South Eunice Pool to include:

TOWNSHIP 22 SOUTH, RANGE 36 EAST, NMPM
Section 24: SW/4

(n) Extend the Henshaw-Wolfcamp Pool to include:

TOWNSHIP 16 SOUTH, RANGE 30 EAST, NMPM
Section 13: SW/4

(o) Extend the Jackson-Abo Pool to include:

TOWNSHIP 17 SOUTH, RANGE 30 EAST, NMPM
Section 23: S/2

(p) Extend the North Justis-Blinebry Pool to include:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 1: SW/4

(q) Extend the Lazy J (Pennsylvanian) Pool to include:

TOWNSHIP 13 SOUTH, RANGE 33 EAST, NMPM
Section 26: W/2 NE/4

(r) Extend the Maljamar Pool to include:

TOWNSHIP 17 SOUTH, RANGE 33 EAST, NMPM
Section 32: SW/4

(s) Extend the Milnesand-San Andres Pool to include:

TOWNSHIP 8 SOUTH, RANGE 35 EAST, NMPM
Section 19: N/2 NW/4

(t) Extend the South Prairie-Pennsylvanian Pool to include:

TOWNSHIP 8 SOUTH, RANGE 36 EAST, NMPM
Section 15: SW/4
Section 16: SE/4

(u) Extend the East Red Lake-Queen Pool to include:

TOWNSHIP 17 SOUTH, RANGE 28 East, NMPM
Section 12: SW/4

(v) Extend the Square Lake Pool to include:

TOWNSHIP 16 SOUTH, RANGE 31 EAST, NMPM
Section 27: N/2 NW/4

CASE 2531: Northwestern New Mexico nomenclature case calling for an order extending existing pools in Rio Arriba and San Juan Counties.

(a) Extend the South Blanco-Pictured Cliffs Pool to include:

TOWNSHIP 23 NORTH, RANGE 1 WEST, NMPM
Section 6: NW/4

(b) Extend the Flora Vista-Mesaverde Pool to include:

TOWNSHIP 30 NORTH, RANGE 12 WEST, NMPM
Section 28: S/2

(c) Extend the Boulder-Mancos Oil Pool to include:

TOWNSHIP 28 NORTH, RANGE 1 WEST, NMPM
Section 23: W/2

(d) Extend the Cha Cha-Gallup Oil Pool to include:

TOWNSHIP 28 NORTH, RANGE 13 WEST, NMPM
Section 15: S/2 NW/4
Section 24: S/2 SE/4
Section 25: E/2 NE/4

(e) Extend the Puerto Chiquito-Gallup Oil Pool to include:

TOWNSHIP 27 NORTH, RANGE 1 EAST, NMPM
Section 29: N/2 SW/4 (partial)

(f) Extend the Totah-Gallup Oil Pool to include:

TOWNSHIP 28 NORTH, RANGE 12 WEST, NMPM
Section 18: N/2 NW/4

iqg/

NO. 24-62

DOCKET: REGULAR HEARING - WEDNESDAY - AUGUST 15, 1962

OIL CONSERVATION COMMISSION - 9 A.M. - MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

ALLOWABLE: (1) Consideration of the oil allowable for September, 1962.

(2) Consideration of the allowable production of gas for September, 1962, from ten prorated pools in Lea and Eddy Counties, New Mexico, also consideration of the allowable production of gas from nine prorated pools in San Juan, Rio Arriba and Sandoval Counties, New Mexico, for September, 1962.

CASE 2504: (REHEARING)
Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C, changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico.

NOTICE

CASE 2504 has been continued by the Commission to the September 13, 1962 regular hearing, at 9 o'clock a.m., Morgan Hall, State Land Office Building, Santa Fe, New Mexico. All parties who entered a formal appearance have been notified of the continuation by certified mail.

CASE 2561: (Continued)
In the matter of the hearing called on the motion of the Oil Conservation Commission to consider revising Rule 111, Deviation Tests and Whipstocking. The Commission will consider the report and recommended rule of the Industry Committee appointed by the Commission after the May, 1962 hearing. The proposed rule, as stated in the Committee Report, reads in its entirety as follows:

Rule 111. Deviation Tests and Directional Drilling

(a) Any well which is drilled or deepened with Rotary Tools shall be tested at reasonably frequent intervals not to exceed 500 feet or at the next subsequent bit change to determine the deviation from the vertical. A sworn notarized tabulation of all tests run shall be filed with Form C-105, Well Record. When such deviation averages more than five degrees in any 500 foot interval, the Commission may request that a directional survey be run to establish the location of the producing interval(s).

Rule 111. Deviation Tests and Directional Drilling (Cont.)

The Commission, at the request of an offset operator, may require any operator to make a directional survey of any well. Said directional survey and all associated costs shall be at the expense of the requesting party and shall be secured in advance by a $5,000 indemnity bond posted with and approved by the Commission. The requesting party may designate the well survey company, and said survey shall be witnessed by the Commission.

(b) No well shall be intentionally deviated in a predetermined direction without special permission from the Commission. Permission to deviate toward the vertical to straighten an excessively deviated well bore as defined in (a) above; or to sidetrack junk in the hole in an indeterminate direction or toward the vertical; or to drill a relief well to control a blow-out shall be obtained from the appropriate District Office of the Commission on Commission Form C-102 with copies of said Form C-102 being furnished to all offset operators. Permission to deviate a well in any other manner or for any other reason will be granted only after notice and hearing. Upon completion of any well that was deviated in a predetermined direction, except toward the vertical, a directional survey of the entire well bore must be run and filed with the Commission. In addition, all directional surveys run on any well that was intentionally deviated in any manner for any reason must be filed by the operator with the Commission upon completion of the well. Prior to the assignment of an allowable, operator shall submit a sworn notarized statement to the effect that all directional surveys run on the well have been filed.

CASE 2618: Application of El Paso Natural Gas Company for a revision of Rule 314. Applicant, in the above-styled cause, seeks the revision of Rule 314 pertaining to the gathering, transporting and sale of drip to provide for the redefinition of drip also to include condensate; to further regulate the transportation of drip, as redefined; and to require the reporting of such transportation on Forms C-110-A and C-110-B.

CASE 2503: Application of the Oil Conservation Commission, on its own motion, to consider the establishment of minimum gas allowables in the Blanco-Mesaverde, Aztec-Pictured Cliffs, Ballard-Pictured Cliffs, Fulcher Kutz-Pictured Cliffs, South Blanco-Pictured Cliffs, and West Kutz-Pictured Cliffs Gas Pools, San Juan, Rio Arriba and Sandoval Counties, New Mexico.

CASE 2619: Southeastern New Mexico nomenclature case calling for an order creating new pools and extending certain existing pools in Lea and Roosevelt Counties, New Mexico.

(a) Create a new oil pool for Montoya production, designated as the North Justis-Montoya Pool, and described as:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 1: NW/4

(b) Create a new oil pool for Waddell production, designated as the North Justis-Waddell Pool, and described as:

TOWNSHIP 24 SOUTH, RANGE 37 EAST, NMPM
Section 35: SE/4

(c) Extend the Allison-Pennsylvanian Pool to include:

TOWNSHIP 8 SOUTH, RANGE 36 EAST, NMPM
Section 25: NW/4

TOWNSHIP 9 SOUTH, RANGE 37 EAST, NMPM
Section 4: NW/4
Section 8: SW/4

(d) Extend the Blinebry Pool to include:

TOWNSHIP 22 SOUTH, RANGE 37 EAST, NMPM
Section 5: N/2

(e) Extend the South Crossroads-Devonian Pool to include:

TOWNSHIP 10 SOUTH, RANGE 36 EAST, NMPM
Section 15: W/2

(f) Extend the Hobbs Pool to include:

TOWNSHIP 19 SOUTH, RANGE 38 EAST, NMPM
Section 22: N/2 NW/4

(g) Extend the Justis-Blinebry Pool to include:

TOWNSHIP 26 SOUTH, RANGE 37 EAST, NMPM
Section 1: NE/4

(h) Extend the North Justis-Blinebry Pool to include:

TOWNSHIP 24 SOUTH, RANGE 37 EAST, NMPM
Section 35: SW/4

(i) Extend the North Justis-Ellenburger Pool to include:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 2: SE/4

(j) Extend the North Justis-Fusselman Pool to include:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 2: SE/4

(k) Extend the North Justis Tubb-Drinkard Pool to include:

TOWNSHIP 25 SOUTH, RANGE 37 EAST, NMPM
Section 2: SE/4

(l) Extend the Lea-Pennsylvanian Gas Pool to include:

TOWNSHIP 20 SOUTH, RANGE 34 EAST, NMPM
Section 11: E/2
Section 12: All

(m) Extend the South Lane-Pennsylvanian Pool to include:

TOWNSHIP 10 SOUTH, RANGE 33 EAST, NMPM
Section 35: NW/4

(n) Extend the Medicine Rock-Devonian Pool to include:

TOWNSHIP 15 SOUTH, RANGE 38 EAST, NMPM
Section 23: NW/4

(o) Extend the Saunders Permo-Pennsylvanian Pool to include:

TOWNSHIP 14 SOUTH, RANGE 33 EAST, NMPM
Section 21: SW/4

(p) Extend the East Saunders Permo-Pennsylvanian Pool to include:

TOWNSHIP 14 SOUTH, RANGE 34 EAST, NMPM
Section 17: NW/4

(q) Extend the Sawyer-San Andres Gas Pool to include:

TOWNSHIP 10 SOUTH, RANGE 38 EAST, NMPM
Section 5: NE/4

(r) Extend the East Weir-Blinebry Pool to include:

TOWNSHIP 20 SOUTH, RANGE 37 EAST, NMPM
Section 12: NW/4

iqg/

RULE 314: GATHERING, TRANSPORTING, AND SALE OF DRIP OR CONDENSATE
(As proposed by El Paso Natural Gas Company)

(a) For the purpose of this Rule, condensate is defined as any liquid hydrocarbon which is produced at the wellhead incidental to the production of gas well gas and separated from the gas by conventional separation methods; drip includes condensate, as defined above, or any liquid hydrocarbon incidentally accumulating in a gas gathering or transportation system, or any mixture of such hydrocarbons.

(b) The waste of drip is hereby prohibited when it is economically feasible to salvage same.

(c) Transportation and sale of drip is hereby authorized provided the provisions of this Rule are complied with and Commission Form C-110 has been completed and filed in compliance with the provisions of Statewide Rule 1109.

(d) Every person transporting drip within the State of New Mexico shall file Commission Form C-112 in compliance with the provisions of Statewide Rule 1111.

(e) The owner during transportation and all persons transporting drip by truck or other vehicle shall make report of such transportation on Commission Form C-110-A. When the owner is also the transporter, the owner shall complete Sections I and II of the Form, furnish one copy to the driver of the vehicle and, when the trip has been completed, file one completed copy with the Commission. When the owner is not the transporter, the owner shall complete Section I of Form C-110-A and deliver the Form to the transporter, who shall complete Section II of Form C-110-A and furnish the driver of the vehicle with one copy and, when the trip has been completed, file one completed copy with the Commission. The driver of the vehicle shall complete Section III of Form C-110-A. The person driving or operating a vehicle transporting drip shall have in his possession a copy of Form C-110-A signed by the owner and transporter, or an authorized agent, in the appropriate Section thereof, showing the name and address of the owner, the source and destination of the drip, the name and address of the owner of the vehicle, type of vehicle, license number of vehicle, name and address of driver of vehicle, quantity of drip transported, and date and time and places loaded.

(Over)

If the owner of said drip is not the producer thereof, each and every operator of such truck or other vehicle shall have in his possession, in addition to the above requirements, a completed copy of Commission Form C-110-B, signed and certified by the producer and the purchaser of said drip, or their agents, in the appropriate Section thereof, showing the name and address of the producer, the name and address of the purchaser, the source of the drip and the expiration date of the authority of the purchaser to transport drip from the producer's system or other facility Commission Form C-110-B shall be prepared in sufficient number by the purchaser. One copy shall be retained by the producer, one copy by the purchaser, one copy shall be filed by the purchaser with the Commission, and one copy shall be given to each vehicle driver having need thereof.

(f) Every gas transporter in the State of New Mexico shall, on or before the first day of November of each year, file with the Commission maps of its entire gas gathering and transportation systems within the State of New Mexico, locating and identifying thereon each drip trap and/or tank in said systems, said maps to be accompanied by a report, on a form prescribed by the Commission, showing the disposition being made of the drip from each of such facilities.

NEW MEXICO OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO
DRIP TRANSPORTATION REPORT

FORM C-110-A
(As proposed by El Paso Natural Gas Company)

PRODUCER'S IDENTIFICATION NO. _____
(To Be Inserted by Owner of Drip)

TICKET NO. _____

SECTION I

1. NAME OF OWNER OF DRIP _____

a. PRODUCED BY OWNER [ ] PURCHASED FROM PRODUCER [ ]
(Check one. If b. is checked, attach copy of Form 110-B showing transfer of title)

2. ADDRESS OF OWNER _____

3. SOURCE OF DRIP _____

4. DESTINATION _____
(Name of Person and Physical Place to Which Delivery Authorized)

I hereby certify that on this _____ day of _____ 19____, I have authorized the below-named transporter to gather and transport to the above destination the quantity of drip specified below and that I have authority to sell the same.

_____
Signature of Owner or Agent

SECTION II

1. NAME AND ADDRESS OF OWNER OF VEHICLE _____

_____

2. TYPE OF VEHICLE _____ 3. LICENSE NO. OF VEHICLE _____

4. NAME OF OWNERS AGENT ORDERING TRIP _____

5. DATE ORDERED _____

6. FACILITIES TO BE SERVICED _____

The undersigned accepts drip for delivery in accordance with the above directions.

_____
Signature of Transporter or Agent

SECTION III

1. NAME AND ADDRESS OF DRIVER _____

Source	Gauge (Top)	Gauge (Bottom)	Barrels	Date and Hour
	Ft. ___ In. ___	Ft. ___ In. ___		
	Ft. ___ In. ___	Ft. ___ In. ___		
	Ft. ___ In. ___	Ft. ___ In. ___		
	Ft. ___ In. ___	Ft. ___ In. ___		
	Ft. ___ In. ___	Ft. ___ In. ___		
		Total		

I hereby certify that drip transported by me was obtained by me from the source described in Section I and loaded as described in Section III.

_____
Signature of Driver

FORM C-110-B

(As proposed by El Paso Natural Gas Company)

NEW MEXICO OIL CONSERVATION COMMISSION

SANTA FE, NEW MEXICO

DRIP SALE AND PURCHASE REPORT

I

NAME OF PRODUCER _____

ADDRESS OF PRODUCER _____

SOURCE OF DRIP _____

EXPIRATION DATE OF THIS AUTHORIZATION _____

I certify that I have transferred title to the drip from the above source or sources to the below-named purchaser and he is hereby authorized to obtain drip from such source or sources until the expiration of this authorization.

_____
Producer

II

NAME OF PURCHASER _____

ADDRESS OF PURCHASER _____

I certify that I am the purchaser and owner of the drip from the source or sources indicated above and am authorized to remove the same until the expiration date set out in Section I above.

_____
Purchaser

No 27-62

DOCKET: REGULAR HEARING - THURSDAY - SEPTEMBER 13, 1962

OIL CONSERVATION COMMISSION - 9 A.M., MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

ALLOWABLE: (1) Consideration of the oil allowable for October, 1962.

(2) Consideration of the allowable production of gas for October, 1962, from ten prorated pools in Lea and Eddy Counties, New Mexico, also consideration of the allowable production of gas from nine prorated pools in San Juan, Rio Arriba, and Sandoval Counties, New Mexico, for October, 1962.

CASE 2636: In the matter of the application of the Oil Conservation Commission upon its own motion to change the time and place of certain hearings. The Commission proposes to change the date and place of the October regular hearing to 9:00 o'clock a.m., OCTOBER 18, 1962, at the FARMINGTON CITY HALL, 800 MUNICIPAL DRIVE, FARMINGTON, NEW MEXICO.
The Commission further proposes to change the date of the December regular hearing to 9:00 o'clock a.m., December 19, 1962, Morgan Hall, State Land Office Building, Santa Fe, New Mexico.

CASE 2049: (Reopened and Continued)
Application of the Oil Conservation Commission on its own motion to reconsider the special rules and regulations for the Devils Fork-Gallup Pool, Rio Arriba County, New Mexico. Case 2049 will be reopened pursuant to Order No. R-1670-B to permit interested parties to appear and present testimony relative to the effectiveness of the special rules and regulations for the Devils Fork-Gallup Pool.

CASE 2504: (Rehearing)
Application of Consolidated Oil & Gas Inc., for an amendment of Order No. R-1670-C, changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico. Applicant seeks an amendment of Order No. R-1670-C to establish an allocation formula based 60% on acreage and 40% on acreage times deliverability. The Commission will hear opening statements and under the provisions of Rule 1214, and Rule 1215, may refer the presentation of evidence concerning recoverable reserves in the Basin-Dakota Gas Pool to Daniel S. Nutter, duly appointed examiner, or A. L. Porter, Jr., alternate examiner. The Commission would then hear all closing arguments.

Docket No. 27-62

CASE-2637: Southeastern New Mexico nomenclature case calling for an order creating, changing vertical limits, changing pool name and extending certain pools in Lea, Eddy, Chaves and Roosevelt Counties, New Mexico.

(a) Create a new oil pool for Upper-Pennsylvanian production designated as the North Bagley Upper-Pennsylvanian Pool and described as:

TOWNSHIP 11 SOUTH, RANGE 33 EAST, NMPM
Section 15: SE/4

Special Vertical Limits, Top pool at -4783 feet subsea, bottom of pool at -5727 feet subsea, as in Texas Pacific Coal and Oil Company's J. P. Collier Well No. 1, Unit F of Section 10, Township 11 South, Range 33 East, NMPM.

(b) Create a new pool classified as an oil pool for Lower-Pennsylvanian production, designated as the North Bagley Lower-Pennsylvanian Pool, and described as:

TOWNSHIP 11 SOUTH, RANGE 33 EAST, NMPM
Section 10: W/2
Section 15: W/2
Section 16: S/2

Special Vertical Limits, top pool at -5727 feet subsea, bottom of pool at the base of the Pennsylvanian Formation, as in Texas Pacific Coal and Oil Company's J. P. Collier Well No. 1, Unit F of Section 10, Township 11 South, Range 33 East, NMPM.

(c) Create a new oil pool for Seven Rivers production, designated as the Car-Seven Rivers Pool, and described as:

TOWNSHIP 18 SOUTH, RANGE 29 EAST, NMPM
Section 21: NE/4

(d) Create a new oil pool for Paddock production, designated as the Fren-Paddock Pool, and described as:

TOWNSHIP 17 SOUTH, RANGE 31 EAST, NMPM
Section 21: NE/4

(e) Create a new oil pool for Queen production, designated as the West Hume-Queen Pool, and described as:

TOWNSHIP 16 SOUTH, RANGE 33 EAST, NMPM
Section 15: NE/4

(f) Create a new oil pool for San Andres production, designated as the Round Tank-San Andres Pool, and described as:

TOWNSHIP 15 SOUTH, RANGE 29 EAST, NMPM
Section 30: NW/4

(g) Abolish the North Bagley-Pennsylvanian Pool, described as:

TOWNSHIP 11 SOUTH, RANGE 33 EAST, NMPM
Section 10: W/2
Section 15: W/2
Section 16: S/2

(h) Abolish the North Double X-Delaware Pool, described as:

TOWNSHIP 24 SOUTH, RANGE 32 EAST, NMPM
Section 11: SE/4

(i) Extend the vertical limits of the North Burton-Atoka Gas Pool to include the Pennsylvanian formation and change the Pool name to North Burton-Pennsylvanian Pool inasmuch as pool is producing from the Morrow and Pennsylvanian formations, and described as:

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM
Section 32: NW/4

(j) Extend the Double X-Delaware Pool to include:

TOWNSHIP 24 SOUTH, RANGE 32 EAST, NMPM
Section 11: SE/4
Section 14: N/2
Section 15: NE/4

(k) Extend the Drinkard Pool to include:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 2: SE/4

(l) Extend the Empire-Abo Pool to include:

TOWNSHIP 17 SOUTH, RANGE 29 EAST, NMPM
Section 29: SE/4

(m) Extend the Grayburg-Jackson Pool to include:

TOWNSHIP 17 SOUTH, RANGE 29 EAST, NMPM
Section 30: SE/4

(n) Extend the North Hackberry-Yates Pool to include:

TOWNSHIP 19 SOUTH, RANGE 31 EAST, NMPM
Section 31: NW/4 NW/4

(o) Extend the Jackson-Abo Pool to include:

TOWNSHIP 17 SOUTH, RANGE 30 EAST, NMPM
Section 22: S/2 NE/4

(p) Extend the Lea-Devonian Pool to include:

TOWNSHIP 20 SOUTH, RANGE 34 EAST, NMPM
Section 13: NE/4

(q) Extend the Medicine Rock-Devonian Pool to include:

TOWNSHIP 15 SOUTH, RANGE 38 EAST, NMPM
Section 14: SW/4
Section 15: SE/4
Section 22: NW/4

(r) Extend the Mescalero-San Andres Pool to include:

TOWNSHIP 10 SOUTH, RANGE 32 EAST, NMPM
Section 14: W/2
Section 23: W/2

(s) Extend the Milnesand-San Andres Pool to include:

TOWNSHIP 8 SOUTH, RANGE 35 EAST, NMPM
Section 18: SE/4

(t) Extend the Paduca-Delaware Pool to include:

TOWNSHIP 25 SOUTH, RANGE 32 EAST, NMPM
Section 10: SE/4

(u) Extend the Salado Draw-Delaware Pool to include:

TOWNSHIP 26 SOUTH, RANGE 33 EAST, NMPM
Section 10: SE/4
Section 15: E/2

(v) Extend the Vacuum-Abo Pool to include:

TOWNSHIP 17 SOUTH, RANGE 35 EAST, NMPM
Section 25: S/2
Section 26: S/2 NE/4

TOWNSHIP 18 SOUTH, RANGE 34 EAST, NMPM
Section 12: E/2 SE/4

TOWNSHIP 18 SOUTH, RANGE 35 EAST, NMPM
Section 7: N/2 SW/4

CASE 2638: Northwestern New Mexico Nomenclature case calling for an order extending existing pools in Rio Arriba, Sandoval and San Juan Counties, New Mexico.

(a) Extend the South Blanco-Pictured Cliffs Pool to include:

TOWNSHIP 23 NORTH, RANGE 1 WEST, NMPM
Section 6: SW/4
Section 7: All
Section 18: All
Section 19: NW/4

TOWNSHIP 23 NORTH, RANGE 2 WEST, NMPM
Section 1: NE/4

TOWNSHIP 24 NORTH, RANGE 1 WEST, NMPM
Section 31: All
Section 33: S/2

(b) Extend the Tapacito-Pictured Cliffs Pool to include:

TOWNSHIP 26 NORTH, RANGE 3 WEST, NMPM
Section 6: E/2
Section 7: NE/4

(c) Extend the Bisti-Lower Gallup Oil Pool to include:

TOWNSHIP 25 NORTH, RANGE 13 WEST, NMPM
Section 2: NE/4

iqg/

No. 33-62

DOCKET: REGULAR HEARING - WEDNESDAY - NOVEMBER 14, 1962

OIL CONSERVATION COMMISSION - 9 A.M. - MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

ALLOWABLE: (1) Consideration of the oil allowable for December, 1962.

(2) Consideration of the allowable production of gas for December, 1962, for ten prorated pools in Lea and Eddy Counties, New Mexico, and also presentation of purchaser's nominations for the six-month period beginning January 1, 1963 for that area. Consideration of the allowable production of gas for nine prorated pools in San Juan, Rio Arriba, and Sandoval Counties, New Mexico for December, 1962.

CASE 2504: (Rehearing Continued)
Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba, and Sandoval Counties, New Mexico. In accordance with the Commission's Ruling of October 18, 1962, on Motions to Quash Subpoenas Duces Tecum, the Commission will receive evidence concerning custody and/or control of core analysis, reports, and electric and radioactivity logs concerning wells that have cored in the Basin-Dakota Gas Pool. The case will then be continued to the regular hearing on December 19, 1962.

CASE 2623: (DE NOVO)

Application of Mrs. Alma Goodwin, Mrs. Nell M. De Forrest, and Mrs. Aulena M. Jennings for a hearing de novo of Case No. 2623, Order No. R-2317, application of W. K. Byrom for compulsory pooling, Lea County, New Mexico.

CASE 2696: Application of Texas Pacific Coal & Oil Company for 40-acre spacing, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order rescinding Commission Order No. R-69-D, which order provides for 80-acre spacing and proration units, Bagley Siluro-Devonian Pool, Lea County, New Mexico.

CASE 2697: Southeastern New Mexico nomenclature case calling for an order creating new pools, and extending certain existing pools in Eddy, Lea and Roosevelt Counties, New Mexico.

(a) Create a new oil pool for San Andres production, designated as the Diablo-San Andres Pool, and described as:

TOWNSHIP 10 SOUTH, RANGE 27 EAST, NMPM
Section 16: SE/4

(b) Create a new oil pool for Abo production, designated as the Goodwin-Abo Pool, and described as:

TOWNSHIP 18 SOUTH, RANGE 37 EAST, NMPM
Section 30: SW/4

(c) Extend the Bronco-Wolfcamp Pool to include:

TOWNSHIP 13 SOUTH, RANGE 38 EAST, NMPM
Section 2: NE/4

(d) Extend the Elliott-Abo Pool to include:

TOWNSHIP 21 SOUTH, RANGE 38 EAST, NMPM
Section 9: NW/4

(e) Extend the North Hackberry-Yates Pool to include:

TOWNSHIP 19 SOUTH, RANGE 31 EAST, NMPM
Section 28: NW/4 NW/4

(f) Extend the Henshaw-Wolfcamp Pool to include:

TOWNSHIP 16 SOUTH, RANGE 30 EAST, NMPM
Section 23: NE/4

(g) Extend the Milnesand-San Andres Pool to include:

TOWNSHIP 8 SOUTH, RANGE 34 EAST, NMPM
Section 24: N/2 NE/4

(h) Extend the Monument-McKee Gas Pool to include:

TOWNSHIP 20 SOUTH, RANGE 37 EAST, NMPM
Section 5: SW/4

(i) Extend the Pearl-Queen Pool to include:

TOWNSHIP 20 SOUTH, RANGE 35 EAST, NMPM
Section 3: E/2 SW/4

(j) Extend the Shugart Pool to include:

TOWNSHIP 18 SOUTH, RANGE 30 EAST, NMPM
Section 25: N/2 SW/4

(k) Extend the Vacuum-Queen Pool to include:

TOWNSHIP 18 SOUTH, RANGE 34 EAST, NMPM
Section 7: NE/4

(l) Extend the Vacuum-Grayburg San Andres Pool to include:

TOWNSHIP 18 SOUTH, RANGE 36 EAST, NMPM
Section 6: NE/4

CASE 2698: Northwestern New Mexico nomenclature case calling for an order extending certain existing pools in Rio Arriba, San Juan, and Sandoval Counties, New Mexico.

(a) Extend the Blanco-Pictured Cliffs Pool to include:

TOWNSHIP 30 NORTH, RANGE 9 WEST, NMPM
Section 21: SW/4

(b) Extend the South Blanco-Pictured Cliffs Pool to include:

TOWNSHIP 24 NORTH, RANGE 2 WEST, NMPM
Section 36: SW/4

(c) Extend the Bisti-Lower Gallup Oil Pool to include:

TOWNSHIP 24 NORTH, RANGE 9 WEST, NMPM
Section 15: S/2 NW/4

(d) Extend the Cha Cha-Gallup Oil Pool to include:

TOWNSHIP 29 NORTH, RANGE 14 WEST, NMPM
Section 18: S/2 SW/4 & SW/4 SE/4

TOWNSHIP 29 NORTH, RANGE 15 WEST, NMPM
Section 13: S/2 SE/4

(e) Extend the Devils Fork-Gallup Pool to include:

TOWNSHIP 24 NORTH, RANGE 6 WEST, NMPM
Section 7: E/2 SE/4
Section 8: W/2 SW/4

(f) Extend the Verde-Gallup Oil Pool to include:

TOWNSHIP 31 NORTH, RANGE 14 WEST, NMPM
Section 22: SE/4 NW/4

(g) Extend the Rattlesnake-Pennsylvanian Oil Pool to include:

TOWNSHIP 29 NORTH, RANGE 18 WEST, NMPM
Section 18: SW/4 & S/2 NW/4
Section 19: N/2 NW/4 & W/2 NE/4

TOWNSHIP 29 NORTH, RANGE 19 WEST, NMPM
Section 2: E/2 SW/4
Section 11: NE/4 & E/2 NW/4
Section 12: NW/4, E/2 SW/4 & SE/4
Section 13: NE/4

iqg/

No. 37-62

DOCKET: REGULAR HEARING - WEDNESDAY - DECEMBER 19, 1962

OIL CONSERVATION COMMISSION - 9 A.M., MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

ALLOWABLE: (1) Consideration of the oil allowable for January, 1963.

(2) Consideration of the allowable production of gas for January, 1963, for ten prorated pools in Lea and Eddy Counties, New Mexico. Consideration of the allowable production of gas for nine prorated pools in San Juan, Rio Arriba and Sandoval Counties, New Mexico, for January, 1963, and also presentation of purchaser's nominations for the six-month period beginning February 1, 1963, for that area.

CASE 2628: (De Novo)
Application of Marathon Oil Company for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval of an unorthodox gas well location in the Atoka-Pennsylvanian Gas Pool at a point 990 feet from the North line and 990 feet from the East line of Section 30, Township 18 South, Range 26 East, Eddy County, New Mexico. This case will be heard de novo under the provisions of Rule 1220.

CASE 2118:) Consolidated (Reopened)
2459:) Application of The Ohio Oil Company (now Marathon Oil Company), for 160-acre proration units in the Lea-Devonian Pool, Lea County, New Mexico.

CASE 2721: Application of Continental Oil Company for a triple completion, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to complete its State A-2 Well No. 2, located in Unit J of Section 2, Township 25 South, Range 37 East, Lea County, New Mexico, as a triple completion (tubingless) to produce oil from the North Justis Tubb-Drinkard Pool, an undesignated Abo Pool, and the North Justis-Devonian Pool through parallel strings of casing cemented in a common well bore.

CASE 2504: (Rehearing - Continued)
Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba, and Sandoval Counties, New Mexico. In accordance with the Commission's Ruling of October 18, 1962, on motions to Quash Subpoenas

Duces Tecum, George Eaton, David R. Rainey, Frank Renard, and L. M. Stevens will be required to produce all core analysis reports and all electric and radioactivity logs concerning any and all wells that have been cored in the Basin-Dakota Gas Pool by their respective companies, if they have not filed the same with the Commission prior to December 19, 1962. The Case will then be continued to the regular hearing on February 14, 1963.

CASE 2722: Southeastern New Mexico nomenclature case calling for an order creating new pools and extending certain existing pools in Chaves, Eddy, Lea and Roosevelt Counties, New Mexico.

(a) Create a new pool in Chaves County, New Mexico, classified as an oil pool for San Andres production, designated as the Diablo-San Andres Pool, and described as:

TOWNSHIP 10 SOUTH, RANGE 27 EAST, NMPM
Section 16: SE/4

(b) Create a new oil pool for Wolfcamp production, designated as the South Anderson-Wolfcamp Pool, and described as:

TOWNSHIP 16 SOUTH, RANGE 32 EAST, NMPM
Section 23: NW/4

(c) Create a new gas pool for Wolfcamp production, designated as the Big Eddy-Wolfcamp Gas Pool, and described as:

TOWNSHIP 20 SOUTH, RANGE 31 EAST, NMPM
Section 3: SE/4

(d) Create a new oil pool, for San Andres production, designated as the South Prairie-San Andres Pool, and described as:

TOWNSHIP 8 SOUTH, RANGE 36 EAST, NMPM
Section 16: SE/4

(e) Extend the Allison-Pennsylvanian Pool to include:

TOWNSHIP 8 SOUTH, RANGE 37 EAST, NMPM
Section 33: E/2 SE/4

(f) Extend the West Anderson Ranch-Grayburg Pool to include:

TOWNSHIP 16 SOUTH, RANGE 32 EAST, NMPM
Section 5: SW/4
Section 6: S/2

(g) Extend the Arkansas Junction-Queen Gas Pool to include:

TOWNSHIP 18 SOUTH, RANGE 36 EAST, NMPM
Section 23: NE/4

(h) Extend the Blinebry Pool to include:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 19: W/2 SW/4

(i) Extend the Brushy Draw-Delaware Pool to include:

TOWNSHIP 26 SOUTH, RANGE 29 EAST, NMPM
Section 14: E/2 SE/4

(j) Extend the Corbin-Abo Pool to include:

TOWNSHIP 18 SOUTH, RANGE 33 EAST, NMPM
Section 2: NE/4

(k) Extend the Double A-Abo Pool to include:

TOWNSHIP 17 SOUTH, RANGE 36 EAST, NMPM
Section 21: NW/4

(l) Extend the Double X-Delaware Pool to include:

TOWNSHIP 24 SOUTH, RANGE 32 EAST, NMPM
Section 14: SW/4

(m) Extend the Drinkard Pool to include:

TOWNSHIP 21 SOUTH, RANGE 36 EAST, NMPM
Section 24: E/2 SE/4

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 2: Lot 10
Section 19: W/2 SW/4

(n) Extend the West Hume-Queen Pool to include:

TOWNSHIP 16 SOUTH, RANGE 33 EAST, NMPM
Section 15: SE/4

(o) Extend the South Lane-Pennsylvanian Pool to include:

TOWNSHIP 10 SOUTH, RANGE 33 EAST, NMPM
Section 23: S/2
Section 26: NW/4

(p) Extend the Loco Hills Pool to include:

TOWNSHIP 18 SOUTH, RANGE 29 EAST, NMPM
Section 19: N/2 SW/4

(q) Extend the Mesa-Queen Pool to include:

TOWNSHIP 16 SOUTH, RANGE 32 EAST, NMPM
Section 16: NE/4

(r) Extend the East Millman-Seven Rivers Pool to include:

TOWNSHIP 19 SOUTH, RANGE 28 EAST, NMPM
Section 22: W/2 SW/4

(s) Extend the Monument-Tubb Pool to include:

TOWNSHIP 20 SOUTH, RANGE 37 EAST, NMPM
Section 22: NW/4

(t) Extend the Paddock Pool to include:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 19: W/2 SW/4

(u) Extend the Round Tank-San Andres Pool to include:

TOWNSHIP 15 SOUTH, RANGE 28 EAST, NMPM
Section 25: E/2

TOWNSHIP 15 SOUTH, RANGE 29 EAST, NMPM
Section 19: SW/4

(v) Extend the Salado Draw-Delaware Pool to include:

TOWNSHIP 26 SOUTH, RANGE 33 EAST, NMPM
Section 10: NE/4

(w) Extend the East Turkey Track-Queen Pool to include:

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM
Section 1: SW/4

(x) Extend the Vacuum-Abo Pool to include:

TOWNSHIP 17 SOUTH, RANGE 35 EAST, NMPM
Section 26: NW/4 NE/4

TOWNSHIP 18 SOUTH, RANGE 35 EAST, NMPM
Section 7: S/2 SW/4

CASE 2723: Northwestern New Mexico nomenclature case calling for an order extending certain existing pools in Rio Arriba, San Juan, and Sandoval Counties, New Mexico.

(a) Extend the Aztec-Pictured Cliffs Pool to include:

TOWNSHIP 30 NORTH, RANGE 10 WEST, NMPM
Section 14: NW/4

(b) Extend the Ballard-Pictured Cliffs Pool to include:

TOWNSHIP 24 NORTH, RANGE 6 WEST, NMPM
Section 5: All
Section 6: All
Section 7: N/2
Section 8: N/2

TOWNSHIP 25 NORTH, RANGE 6 WEST, NMPM
Section 31: S/2

(c) Extend the South Blanco-Pictured Cliffs Pool to include:

TOWNSHIP 27 NORTH, RANGE 5 WEST, NMPM
Section 7: E/2

(d) Extend the Tapacito-Pictured Cliffs Pool to include:

TOWNSHIP 26 NORTH, RANGE 3 WEST, NMPM
Section 5: W/2

(e) Extend the Angels Peak-Gallup Oil Pool to include:

TOWNSHIP 26 NORTH, RANGE 9 WEST, NMPM
Section 4: W/2
Section 5: S/2
Section 6: SE/4

(f) Extend the Boulder-Mancos Oil Pool to include:

TOWNSHIP 28 NORTH, RANGE 1 West, NMPM
Section 14: W/2 NE/4, NW/4 SE/4
Section 23: W/2 E/2

(g) Extend the Cha Cha-Gallup Oil Pool to include:

TOWNSHIP 28 NORTH, RANGE 12 WEST, NMPM
Section 30: NW/4

TOWNSHIP 29 NORTH, RANGE 14 WEST, NMPM
Section 17: S/2 NW/4 & N/2 SW/4

(h) Extend the Devils Fork-Gallup Pool to include:

TOWNSHIP 24 NORTH, RANGE 6 WEST, NMPM
Section 7: NE/4
Section 16: E/2 NW/4, W/2 NE/4 & W/2 SW/4

(i) Extend the Puerto Chiquito-Gallup Oil Pool to include:

TOWNSHIP 27 NORTH, RANGE 1 EAST, NMPM
Section 29: N/2 NW/4

iqg/

No. 6-63

DOCKET: REGULAR HEARING - THURSDAY - FEBRUARY 14, 1963

OIL CONSERVATION COMMISSION - 9 A.M. - MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

ALLOWABLE: (1) Consideration of the oil allowable for March, 1963.

(2) Consideration of the allowable production of gas for March, 1963, from ten prorated pools in Lea and Eddy Counties, New Mexico, also consideration of the allowable production of gas from nine prorated pools in San Juan, Rio Arriba, and Sandoval Counties, New Mexico, for March, 1963.

CASE 2694: (De Novo)
Application of Southern Union Production Company for an amendment to the Northwest New Mexico Gas Proration Rules and Regulations. Applicant, in the above-styled cause, seeks an amendment to Order No. R-1670 as amended by Order No. R-2086, Rules and Regulations for prorated gas pools, San Juan, Rio Arriba, McKinley and Sandoval Counties, New Mexico, to permit wells ordered shut-in for extended periods to make up accumulated overproduction to produce not more than 500 MCF each month during such shut-in. Upon application of Southern Union Production Company, this case will be heard de novo under the provisions of Rule 1220.

CASE 2504: (Rehearing - Continued from December 19, 1962)

Application of Consolidated Oil & Gas Inc., for an amendment of Order No. R-1670-C, changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico. Applicant seeks an amendment of Order No. R-1670-C to establish an allocation formula based 60% on acreage and 40% on acreage times deliverability. The Commission will hear opening statements and under the provisions of Rule 1214, and Rule 1215, may refer the presentation of evidence concerning recoverable reserves in the Basin-Dakota Gas Pool to Daniel S. Nutter, duly appointed examiner, or A. L. Porter, Jr., alternate examiner. The Commission would then hear all closing arguments.

CASE 2753: Southeastern New Mexico nomenclature case calling for an order renaming, creating, abolishing and extending certain pools in Lea, Eddy, and Chaves Counties, New Mexico.

(a) Rename the Vacuum-Abo Pool, classified as an oil pool for Abo production, to the Vacuum-Abo Reef Pool with the vertical limits of said pool changed from the entire Abo formation to the Abo Reef formation and the horizontal limits the same. This change is necessary to correct for geologic nomenclature.

(b) Create a new oil pool for Bone Spring production, designated as the Greenwood-Bone Spring Pool, and described as:

TOWNSHIP 19 SOUTH, RANGE 31 EAST, NMPM
Section 12: NE/4

(c) Create a new oil pool for Strawn production, designated as the Greenwood-Strawn Pool, and described as:

TOWNSHIP 19 SOUTH, RANGE 31 EAST, NMPM
Section 12: NE/4

(d) Create a new oil pool for Glorieta production, designated as the Vacuum-Glorieta Pool, comprising the SE/4 of Section 26, Township 17 South, Range 34 East, with the vertical limits thereof described as being from the top of the Glorieta as depicted at 5840 feet on the log of Socony Mobil Oil Company's State Bridges Well No. 95, located in Unit P of said Section 26, to a point 275 feet above the Blinebry marker found at 6510 feet on said log.

(e) Create a new oil pool for Blinebry production, designated as the Vacuum-Blinebry Pool, comprising the SE/4 of Section 26, Township 17 South, Range 34 East, with the vertical limits thereof described as being from 275 feet above the Blinebry marker at 6510 feet on the above described log to the top of the Tubb formation at 7238 feet on said log.

(f) Create a new oil pool for Abo production, designated as the North Vacuum-Abo Pool, with vertical limits defined as the Abo formation, and described as:

TOWNSHIP 17 SOUTH, RANGE 34 EAST, NMPM
Section 26: SE/4

(g) Create a new oil pool for Wolfcamp production, designated as the Vacuum-Wolfcamp Pool, with vertical limits defined as the Wolfcamp formation, and described as:

TOWNSHIP 17 SOUTH, RANGE 34 EAST, NMPM
Section 26: SE/4

(h) Abolish the South Benson-Yates Pool, described as:

TOWNSHIP 19 SOUTH, RANGE 30 EAST, NMPM
Section 23: E/2
Section 24: SW/4, SW/4 NW/4 and W/2 SE/4

(i) Abolish the Hackberry-Yates Pool, described as:

TOWNSHIP 19 SOUTH, RANGE 30 EAST, NMPM
Section 36: SE/4 and S/2 NE/4

(j) Extend the Bishop Canyon-San Andres Pool, to include:

TOWNSHIP 18 SOUTH, RANGE 38 EAST, NMPM
Section 10: SW/4

(k) Extend the Corral Canyon-Delaware Pool, to include:

TOWNSHIP 25 SOUTH, RANGE 30 EAST, NMPM
Section 8: SE/4 and E/2 NE/4
Section 9: SW/4

(l) Extend the Double X-Delaware Pool, to include:

TOWNSHIP 24 SOUTH, RANGE 32 EAST, NMPM
Section 11: N/2

(m) Extend the Drinkard Pool to include:

TOWNSHIP 22 SOUTH, RANGE 37 EAST, NMPM
Section 17: N/2 NW/4

(n) Extend the Fowler-Paddock Gas Pool, to include:

TOWNSHIP 24 SOUTH, RANGE 37 EAST, NMPM
Section 15: SW/4
Section 23: W/2

(o) Extend the North Hackberry-Yates Pool, to include:

TOWNSHIP 19 SOUTH, RANGE 30 EAST, NMPM
Section 23: E/2
Section 24: W/2 and SE/4
Section 25: N/2 NE/4
Section 36: E/2

(p) Extend the North Justis-Waddell Pool, to include:

TOWNSHIP 24 SOUTH, RANGE 37 EAST, NMPM
Section 36: SW/4

(q) Extend the Lusk-Strawn Pool, to include:

TOWNSHIP 19 SOUTH, RANGE 32 EAST, NMPM
Section 20: SE/4
Section 30: NE/4

(r) Extend the Monument-Tubb Pool, to include:

TOWNSHIP 20 SOUTH, RANGE 37 EAST, NMPM
Section 16: NE/4

(s) Extend the Paddock Pool, to include:

TOWNSHIP 21 SOUTH, RANGE 37 EAST, NMPM
Section 19: S/2 NW/4
Section 21: S/2 SE/4

(t) Extend the Pearl-Queen Pool, to include:

TOWNSHIP 19 SOUTH, RANGE 35 EAST, NMPM
Section 23: SE/4

(u) Extend the Red Lake Pool, to include:

TOWNSHIP 17 SOUTH, RANGE 28 EAST, NMPM
Section 31: SE/4

(v) Extend the Round Tank-San Andres Pool, to include:

TOWNSHIP 15 SOUTH, RANGE 29 EAST, NMPM
Section 30: NE/4 and SW/4

(w) Extend the South Tonto-Yates Pool, to include:

TOWNSHIP 19 SOUTH, RANGE 32 EAST, NMPM
Section 24: SE/4 SE/4
Section 25: E/2 NE/4

(x) Extend the Weir-Blinebry Pool, to include:

TOWNSHIP 20 SOUTH, RANGE 37 EAST, NMPM
Section 16: E/2 NE/4

CASE 2754: Northwestern New Mexico nomenclature case calling for an order extending existing pools in Rio Arriba, Sandoval, and San Juan Counties, New Mexico.

(a) Extend the South Blanco-Pictured Cliffs Pool to include:

TOWNSHIP 23 NORTH, RANGE 2 WEST, NMPM
Section 1: W/2
Section 6: W/2
Section 7: NW/4
Section 13: W/2

TOWNSHIP 23 NORTH, RANGE 3 WEST, NMPM
Section 12: NE/4

TOWNSHIP 24 NORTH, RANGE 2 WEST, NMPM
Section 31: W/2

(b) Extend the Tapacito-Pictured Cliffs Pool to include:

TOWNSHIP 26 NORTH, RANGE 3 WEST, NMPM
Section 5: SE/4

TOWNSHIP 26 NORTH, RANGE 4 WEST, NMPM
Section 17: NW/4
Section 18: NE/4

(c) Extend the Otero-Chacra Pool to include:

TOWNSHIP 25 NORTH, RANGE 5 WEST, NMPM
Section 5: All
Section 6: E/2
Section 8: All
Section 9: W/2
Section 10: SW/4
Section 14: SW/4
Section 15: SE/4
Section 22: NE/4
Section 23: NW/4

TOWNSHIP 26 NORTH, RANGE 5 WEST, NMPM
Section 31: E/2

(d) Extend the Blanco-Mesaverde Pool to include:

TOWNSHIP 27 NORTH, RANGE 8 WEST, NMPM
Section 31: W/2

TOWNSHIP 27 NORTH, RANGE 9 WEST, NMPM
Section 14: S/2
Section 24: All

(e) Extend the Flora Vista-Mesaverde Pool to include:

TOWNSHIP 30 NORTH, RANGE 12 WEST, NMPM
Section 21: W/2

(f) Extend the Boulder-Mancos Oil Pool to include:

TOWNSHIP 28 NORTH, RANGE 1 WEST, NMPM
Section 26: E/2 SW/4

(g) Extend the Devils Fork-Gallup Pool to include:

TOWNSHIP 24 NORTH, RANGE 6 WEST, NMPM
Section 16: E/2 SW/4 & SE/4

(h) Extend the Escrito-Gallup Oil Pool to include:

TOWNSHIP 24 NORTH, RANGE 7 WEST, NMPM
Section 36: N/2 NW/4

(i) Extend the South Blanco-Tocito Oil Pool to include:

TOWNSHIP 26 NORTH, RANGE 7 WEST, NMPM
Section 4: All

iqg/

OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
December 19, 1962

REGULAR HEARING

IN THE MATTER OF: (Rehearing-Continued)

Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba, and Sandoval Counties, New Mexico. In accordance with the Commission's Ruling of October 18, 1962, on motions to Quash Subpoenas Duces Tecum, George Eaton, David H. Rainey, Frank Renard, and L. M. Stevens will be required to produce all core analysis reports and all electric and radioactivity logs concerning any and all wells that have been cored in the Basin-Dakota Gas Pool by their respective companies, if they have not filed the same with the Commission prior to December 19, 1962. The Case will then be continued to the regular hearing on February 14, 1963. Case 2504

BEFORE: Honorable Thomas Bolack
Mr. A. L. "Pete" Porter
Mr. E. S. "Johnny" Walker

TRANSCRIPT OF HEARING

MR. PORTER: We are going to change the order of the docket and take up Case 2504.

MR. DURRETT: Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba,

and Sandoval Counties, New Mexico.

If the Commission please, I would like to state for the record that all of the parties subpoenaed by the Commission have now complied with the subpoenas and the Commission has on deposit with it all of the subpoenaed information.

MR. PORTER: That is in accordance with the order of the Commission issued as a result of our Farmington meeting?

MR. DURRETT: Yes, sir, that is in accordance with the ruling on the motions to Quash the Subpoenas Duces Tecum.

MR. PORTER: You'll notice attached to the docket a memorandum from the Director of the Commission which has stated that this case will be continued to the regular Commission hearing to be held on February 14, 1963. That case will be continued.

We will take a ten-minute recess.

(Whereupon, a recess was taken.)

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

I, ADA DEARNLEY, Court Reporter, do hereby certify that the foregoing and attached transcript of proceedings before the New Mexico Oil Conservation Commission at Santa Fe, New Mexico, is a true and correct record to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF I have affixed my hand and notarial seal this 8th day of January, 1963.

Ada Dearnley
Notary Public-Court Reporter

My commission expires:

June 19, 1963.

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
November 14, 1962

REGULAR HEARING

IN THE MATTER OF: (Rehearing Continued)

Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba, and Sandoval Counties, New Mexico. In accordance with the Commission's Ruling of October 18, 1962, on Motions to Quash Subpoenas Duces Tecum, the Commission will receive evidence concerning custody and/or control of core analysis, reports, and electric and radioactivity logs concerning wells that have cored in the Basin-Dakota Gas Pool. The case will then be continued to the regular hearing on December 19, 1962.

Case 2504

BEFORE: Honorable Edwin L. Mechem
Mr. A. L. "Pete" Porter
Mr. E. S. "Johnny" Walker

TRANSCRIPT OF HEARING

MR. PORTER: We will proceed to Case 2504.

MR. DURRETT: Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba, and Sandoval Counties, New Mexico. In accordance with the Commission's Ruling of October 18, 1962, on Motions to Quash

Subpoenas Duces Tecum, the Commission will receive evidence concerning custody and/or control of core analysis, reports, and electric and radioactivity logs concerning wells that have cored in the Basin-Dakota Gas Pool. The case will then be continued to the regular hearing on December 19, 1962.

May the Commission please, we have some correspondence in the file that I would like to read into the record at this time.

MR. PORTER: You may proceed to read the communications which we have received, Mr. Durrett.

MR. DURRETT: The Commission has in its official file a telegram received on November 13 reading as follows: "Re:Case 2504, this is to inform you that Mr. Frank Renard is authorized to furnish the data as ordered concerning Basin-Dakota wells that have been cored by British American Oil Producing Company. British American Oil Producing Company, Thomas M. Hogan."

We also have in our file a letter received October the 31st from Mr. Kenneth A. Swanson on behalf of Aztec Oil and Gas Company, and I would like to read that letter at this time. "Re: New Mexico Oil Conservation Commission Case 2504, Rehearing. Gentlemen: Receipt is acknowledged of the Commission's ruling with respect to the motions to Quash Subpoenas Duces Tecum. As required by Order in paragraph 2, Mr. L. M. Stevens will appear before the Commission at 9:00 A.M. on December 19, 1962 and

will there produce all core analyses reports and all electric and radioactivity logs concerning any and all wells that have been cored in the Basin-Dakota Pool by Aztec Oil and Gas Company. Mr. Stevens has been given custody and control of such logs and reports for such purpose. Therefore, Aztec Oil and Gas Company does not plan to argue that some party other than Mr. Stevens actually has custody and control of this date at the November 14, 1962 hearing."

The Commission also has in its files a stipulation entered into by Jason W. Kellahin, attorney for Consolidated Oil and Gas, Inc. and William J. Cooley of the law firm of Verity, Burr and Cooley, attorneys for Southwest Production Company. I would like to ask the Commission to take administrative notice of this stipulation as it appears in full in the file rather than read the entire stipulation into the record.

The stipulation in general states that Consolidated waives objection to the non-appearance of Leon Wiederkehr at the hearing on December 19 as Southwest Production Company does not have any of the required information to be produced.

MR. PORTER: The Commission will take note of the stipulation as requested by counsel. I believe from the communications that you have just made part of the record that we have heard from Mr. Stevens, Mr. Wiederkehr and Mr. Frank Renard,

representing Aztec and British American, Southwest Production Company.

MR. DURRETT: Yes, that is correct.

MR. PORTER: That leaves Mr. Eaton, Mr. Frank D. Gorham and Mr. David H. Rainey. Mr. Malone.

MR. MALONE: May it please the Commission, Charles Malone, Atwood, Malone, Roswell, counsel for George Eaton. I am also authorized to make a statement for Pan American Petroleum Corporation, Mr. Eaton's employer. Pan American feels that the Commission ruling and Order of October 18, 1962 is a very fair and appropriate disposition of the Subpoena Duces Tecum and Motions to Quash directed to those Subpoenas.

Pan American wishes to cooperate with the Commission in carrying out the ruling. To that end while the core analyses reports and electric and radioactivity logs specified by the Order are not in the custody or control of Mr. Eaton, who merely has access to them in the performance of his duties, Pan American will nevertheless furnish to the Commission all core analyses reports and all electric and radioactivity logs covering any and all wells in New Mexico in the Basin-Dakota Gas Pool which are owned and operated by Pan American.

Pan American will be prepared to produce these reports and logs at the Commission's hearing on December 19, 1962, or at such

another time and place as the Commission may direct.

MR. PORTER: Thank you, Mr. Malone.

MR. FEDERICI: If the Commission please, Bill Federici of Seth, Montgomery, Federici and Andrews on behalf of El Paso Natural Gas Company, and Dave Rainey personally. I want to show an entry of appearance also for Mr. Garrett Whitworth, attorney, El Paso, Texas. With reference to the subpoena which was served on Dave Rainey and although Dave Rainey does not have the custody or control of the electric and radioactivity logs and the core analyses reports, El Paso Natural Gas Company will none the less make this information available to Mr. Dave Rainey to produce that information and that data at the hearing on December 19, 1962.

If the Commission please, my understanding of the order is that it requires Dave Rainey to produce the core analyses reports and the electric and radioactivity logs on wells owned and operated by El Paso Natural Gas Company which have been cored.

MR. PORTER: That is correct, Mr. Federici. Mr. Kelleher.

MR. KELLEHER: May it please the Commission, we also concur in the thought that the ruling of the Commission was fair on the question of Subpoenas Duces Tecum. I was in hopes that some lawyer would start another argument about the Subpoena Duces

quorum today, but apparently the Commission would like to have that dispensed with.

Everything that Pubco has belongs to Mr. Gorham personally, everything we have is a public record excepting the core analyses. We have an interest in thirteen wells in the Basin-Dakota, ten of which we operate. We have no wells that have been cored. However, Mr. Gorham will be here in person on December 19 and will obey the order of the Commission with reference to any testimony that he should give, but at this time we would like it clear that we do not have core analyses of our wells.

MR. PORTER: The Commission is happy, of course, that all of the people have indicated that they will comply with the ruling that the Commission made on October 18, I believe it was, that they will be here with the information desired and the case then, unless somebody else has something to offer at this time, the case will be heard on the 19th of December as scheduled. Mr. Kellahin.

MR. KELLAHIN: Just for the sake of the record, I think everybody has concurred that they will bring forth this evidence and the stipulation between Consolidated and Southwest Production was based upon an affidavit which was signed by the witness subpoenaed to the effect that they do not have this information, and for the sake of the record I wish to say that we concur

with the statement that has been made by Mr. Kelleher. If he says they don't have any cores, we accept it.

MR. PORTER: We will take the case up at the regular hearing on the 19th of December. Any questions anyone has concerning this matter? If not we'll proceed to the next case.

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

I, ADA DEARNLEY, Court Reporter, do hereby certify that the foregoing and attached transcript of proceedings before the New Mexico Oil Conservation Commission at Santa Fe, New Mexico, is a true and correct record to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF I have affixed my hand and notarial seal this 27th day of November, 1962.

Ada Dearnley
Notary Public-Court Reporter

My commission expires:

June 19, 1963.

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
September 14, 1962

REGULAR HEARING

IN THE MATTER OF:

Application of Consolidated Oil & Gas Inc., for an amendment of Order No. R-1670-C, changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba, and Sandoval Counties, New Mexico. Applicant seeks an amendment of Order No. R-1670-C to establish an allocation formula based 60% on acreage and 40% on acreage times deliverability. The Commission will hear opening statements and under the provisions of Rule 1214, and Rule 1215, may refer the presentation of evidence concerning recoverable reserves in the Basin-Dakota Gas Pool to Daniel S. Nutter, duly appointed examiner, or A. L. Porter, Jr., alternate examiner. The Commission would then hear all closing arguments.

CASE 2504
(Rehearing)

BEFORE:
A. L. (Pete) Porter
E. S. (Johnny) Walker

TRANSCRIPT OF HEARING

MR. PORTER: The hearing will come to order, please. The case to be heard this morning is Case 2504.

MR. DURRETT: Case 2504: Application of Consolidated Oil & Gas Inc., for an amendment of Order No. R-1670-C, changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico.

MR. KELLAHIN: If the Commission please, Jason Kellahin,

Kellahin and Fox, Santa Fe, appearing in behalf of Applicant. I have associated with me Mr. Ted P. Stockman, a member of the Colorado Bar. I would like at this time to also enter an appearance in behalf of Harry A. Trueblood and Associates, as owners of working and oil interests in the Pool involved.

MR. FEDERICI: May it please the Commission, William Federici of Seth, Montgomery, Federici and Andrews for El Paso Natural Gas Company, and associated with me Mr. Ben Howell, attorney, and Mr. Garrett Whitworth. Also making an appearance for Aztec Oil and Gas Company, and also Mr. Ken Swanson for Aztec Oil and Gas Company. Also making an appearance for Calkins Oil Company and Sunset International, Mr. Tom Pope, also present.

MR. SANCHEZ: Manuel A. Sanchez, attorney at law, Santa Fe, New Mexico, appearing for Southern Union Gas Company. Associated with me is Mr. Oran Haseltine of Dallas, Texas.

MR. PORTER: Are there other appearances to be made in this case?

MR. VERITY: George L. Verity of Verity, Burr and Cooley for Southwest Production, and associated with me is Mr. Gordon Llewelyn of the Dallas, Texas, Bar.

MR. PORTER: Mr. Keleher.

MR. KELEHER: W. A. Keleher, Pubco Petroleum Corporation, Albuquerque.

MR. PORTER: Mr. Kelly.

MR. KELLY: Booker Kelly, Gilbert, White and Gilbert.

appearing for Sunray, DX, and Texaco.

MR. PORTER: Mr. Everett.

MR. EVERETT: W. Hume Everett for Ohio Oil Company.

MR. PORTER: Is that Marathon?

MR. EVERETT: If you please, that's what I was going to ask you, if the name would be changed in the record to Marathon Oil Company. Also I appear in the record as Division Attorney for the Ohio Oil Company. The same day they changed their name, two things happened, the name was changed and I was retired, and I am now in private practice and I would like the record to show me as an attorney in general practice, the address being Suite 504, Consolidated Royalty Building, Casper. I would also like at this time, first, to introduce to the Commission and to those present the new Division Attorney of Marathon Oil Company, Mr. Kent B. Hampton. Stand up, Kent, let them see what you look like -- and to ask that his appearance be entered in this case along with mine, and that of Atwood and Malone, who initially entered an appearance for all of us except Mr. Hampton herein.

MR. SELINGER: George W. Selinger for Skelly Oil Company.

MR. CAMERON: John Cameron for Tidewater Oil Company.

MR. WYNN: R. C. Wynn, Delhi Taylor Oil Corporation.

MR. MILES: George Miles for Atlantic Refining.

MR. PORTER: Anyone else desire to make an appearance? We have two motions before us this morning, one filed by Mr. Keleher for Pubco Petroleum Corporation. It's not a motion,

it's objection to the Commission granting the rehearing. We have a motion filed by Mr. Hume Everett for Marathon Oil Company to vacate Order No. R 2259 A, which is the order granting the rehearing. Do you desire to argue the motion?

MR. KELEHER: May it please the Commission, I would like to state our position.

MR. PORTER: Mr. Keleher, at this time I just wanted to determine whether or not arguments are to be made, and I intend to set a time limit on the arguments.

MR. KELEHER: I would like to argue briefly.

MR. EVERETT: Yes, sir, I would like to argue my motion.

MR. PORTER: We are going to combine the objections and the motions for the purpose of argument. We will limit each side to twenty minutes. You can divide that time any way you see fit.

MR. KELEHER: I will take five minutes, Mr. Everett can have fifteen. May it please the Commission --

MR. PORTER: Mr. Keleher. Mr. Kellahin.

MR. KELLAHIN: We have not been served a copy of Mr. Keleher's motion. I ask if we could have a copy.

MR. KELEHER: I don't have an extra copy.

MR. PORTER: You can take a look at this one. The Commission recognizes Mr. Keleher at this time.

MR. KELEHER: If it please the Commission, our objections are as follows: That the Petitioner, Consolidated Oil and

Gas, Inc., had ample opportunity to present its case at the time of the hearing. The preamble of this respectfully objects to the Order of Commission granting the rehearing in this above-entitled cause, and in support of this hereby says that Petitioner Consolidated had ample opportunity to present its case at the time of the hearing; that the matters and things that have been submitted to the Commission by all parties before the Commission have been decided, and that said cause was res adjudicata.

Our Motion to Quash Subpoena Duces Tecum, we move to quash the Subpoena Duces Tecum heretofore served upon Frank D. Gorham, and respectfully shows to the Commission: Number 1, That at the hearing in taking testimony in this cause, Consolidated, which requested the issuance of such subpoena --

MR. PORTER: Mr. Keleher, we intend to grant time for the argument on the Motion to Quash at a later time. Right now we would like to confine this to the Motion to Vacate Order, or your objection to granting the rehearing.

MR. KELEHER: Our objection is just that this case was tried before the Commission on the merits, and at that time the so-called Jalmat case had been decided by the Supreme Court, and all lawyers in New Mexico know that the Supreme Court never grants a motion for rehearing, so it might have been anticipated that the Supreme Court wouldn't do anything toward a rehearing in the Jalmat case; that at that time all parties before the Commission presented their case and tried it.

Now the question now is going to be, are we going to try this case over again and take up the time of the Commission and of the companies and of the lawyers and everybody involved, or are we going to stand on the Order of the Commission? We believe that the rehearing was inadvertently granted without notice to counsel, and we object to it and don't believe that the Commission should retry this case.

MR. PORTER: Mr.Everett.

MR. EVERETT: May it please the Commission, W. Hume Everett, representing Marathon Oil Company. I will endeavor to meet the time limit set by the Chairman, but we feel that this is a very serious matter, so much so that after we read the petition for rehearing which I saw for the first time in the Commission files here day before yesterday, we recognized that we were in serious procedural trouble.

We would feel remiss if we did not call the Commission's attention to that situation which we feel the Commission may have gotten itself into inadvertently. So that what we have to say is not to be taken in any spirit of criticism, but we would like to be helpful if we can, to orderly procedure and orderly process.

I know the lawyers are all familiar with the Statute. I would refer to two Sections thereof, Section 65-3-20, and Section 65-3-22 of the New Mexico Statutes Annotated. Very briefly, 20 says that before any order shall be made under the provisions of this act, that a public hearing shall be held at such time, place

and manner as prescribed by the Commission. It has an exception in that paragraph for emergency orders, which I think it's admitted this rehearing order is not. It provides notice in no case less than ten days, except in emergency, and that any person having an interest in the subject matter of the hearing shall be entitled to be heard.

Then we look at 65-3-22, which has two time elements in it, one twenty days after an order is entered by the Commission within which any interested party may file a petition for rehearing, and then it provides that in that petition they should set forth the respect in which the order or decision is believed to be erroneous and requires the Commission to grant or refuse that application in whole or part within ten days. It has no provision with reference to hearing.

After viewing this petition for the first time, I then prepared a Motion to Vacate the Order granting the rehearing, inasmuch as no one had any notice of the hearing, which is required by the Statute, and inasmuch as no one was afforded an opportunity to be heard, to voice any objection they might have with reference to the form of petition or with reference to the matter of rehearing. This was the only procedure left to any of us who rejected rehearing which I could think of. As a matter of fact, it's the only way that I know of to present the matter.

Very briefly, the law with reference to such items, and I have not had an opportunity to brief this extensively, but -

think it's very well summarized in 73 Corpus Juris Secundum, Paragraph 158 at Page 495, under Public Administrative Bodies and Procedure, C, where it is said, and I am quoting just a part that is applicable to this matter, as I view it: "Where an order is void for lack of due process, as where there was no hearing, the aggrieved party is entitled, if he has been prejudiced, to have the order set aside and the case reopened; and the agency has the power to do so."

Further, Paragraph 130, Page 453, "Where administrative action is taken in an adversary proceeding without affording adequate notice and opportunity to defend to interested parties, basic rights are invaded. The quality of the act rather than the character of the agency exercising the authority is determinative of the need for notice and hearing."

Then at Page 453, still quoting from 73 Corpus Juris Secundum, "The fact that the legislature may direct the doing of a certain act does not mean that an administrative body may be empowered without notice or hearing to direct the doing of such act."

Gentlemen, I submit that the order granting the rehearing in this case is void, and to proceed would be highly prejudicial to Marathon and other interested parties who are opposed to the application in this case. I have done my utmost to comply with the rule of the Commission with reference to service of copies of motions, and if there's any attorney or anyone else present to whom I have not already given a copy of the Motion, I wish they would

please raise their hand and I'll see that they get one at this time. I have handed out about twenty of them to as many of the attorneys and parties I know who have entered appearances in this case. If there are any others, would you please raise your hand and I'll be delighted to give you a copy of the Motion at this time. It was impossible to get it to anyone by mail, having not seen the petition for rehearing until the day before yesterday, and having prepared my Motion which I filed yesterday afternoon. I see no hands raised, so I assume that everyone here in attendance, at least, has a copy of the Motion.

The Motion itself I would like to review very briefly. Then I wish to offer some correspondence and ask the Commission to take judicial notice of some items in its file in support of the Motion.

That Consolidated Oil and Gas, Inc. is the applicant herein, and I will refer to them in my argument and I also refer to them in the Motion as Consolidated. In October of 1960, Consolidated appeared in opposition to the allocation formula which was then adopted on November 4th, 1960, effective February 1, 1961. At that time they offered no evidence or testimony in support of this opposition to the formula.

Then herein, in this case, on February 23, 1962, they filed their application requesting the Commission to adopt a special formula "pertaining to the Basin Dakota gas pool," in which they did not object to acreage and deliverability as proper factors

in the formula, but simply asked that the percentage of weight given to those two factors be changed. So after proper notice was given and this case was set, and as the Commission well remembers and the rest of us here, it started on April 18, 1962, and it was continued without interruption for several days and nights and was concluded on April 21, 1962. At that time Consolidated,and those joining with them in supporting their position,failed to prove the allegations of their application. They failed to discharge the burden of proof which was upon them, wanting to upset an order of this Commission. They were afforded every opportunity to make the best case they could make. Those parties who appeared in opposition to Consolidated's application offered evidence in support of Order No. R-1670-C which established the present formula, and opposed the application of Consolidated. At that time all of the witnesses, their exhibits, were available for complete cross examination by anyone at that hearing, including Consolidated and those supporting it, and they were thoroughly cross examined by Consolidated and those supporting it.

The Commission on July 7th, by its Order No. R-2259, found that the evidence presented at the hearing of the case concerning the recoverable gas reserves in the pool"is insufficient to justify any change in the present allocation formula", and then proceeded to deny Consolidated's application.

On June 27, 1962, Consolidated filed its petition for rehearing in this case, not specifying, as required by Section

65-3-22, any error which might have been committed, but submitted that application to the Commission with a request for rehearing, and I'm quoting from the petition for hearing, "on any basis agreeable to the Commission." In that petition and in their subsequent action have sought to compel, as if they could, opposition witnesses and parties to furnish expert opinion evidence favorable to Consolidated's already denied application.

The Commission, prior to then, I think inadvertently, and prior to the time that Marathon had any opportunity or even knew about this petition, prior to the time we had any opportunity to object to it, and without any hearing whatever, entered its Order R-2259-A granting a rehearing in this case. I think that Consolidated's correspondence, its subpoenas duces tecum, prove beyond question they are not seeking a rehearing on any newly discovered evidence of anything which occurred prior to the close of the hearing on April 21, 1962. I don't think Consolidated, or any of those supporting them, can truthfully claim prejudice by reason of not having had a full and complete hearing on their application.

Consolidated has not alleged in its petition for rehearing nor has it proven that any competent evidence it now seeks in this so-called rehearing could not, with the exercise of reasonable diligence on its part, have been obtained prior to the close of the hearing on April 21,1962.

Consolidated has failed to take timely action in connection with Order No. R-1670-C and is guilty of laches as far as now

attacking that order is concerned. They have failed to show in support of their application herein (1) the amount of recoverable gas under each producer's tract; (2) the total amount of recoverable gas in the pool; (3) the proportion that (1) bears to (2); and (4) what portion of the arrived at proportion can be recovered without waste; and (5) just how under such determinations the correlative rights of producers will be better protected than under the present formula.

They failed to sustain the burden of proof by failing to present sufficient evidence to justify this Commission in making a change in Order No. R-1670-C, and they have failed in their endeavor to discredit any opposition exhibit or witness, or to make their case therefrom.

No doubt Consolidated is disappointed with its failures and with the Commission Orders R-1670-C and 2259, but that is not either legally or equitably sufficient to warrant the granting of a rehearing or any further proceedings under the order which has been granted. We think that to permit Consolidated to proceed under this rehearing order and at great expense and inconvenience to those who are opposed to it, and to again rehash and rehash and rehash a valid order of this Commission which was entered after a full and complete hearing two years ago and after another full and complete hearing a few weeks ago would be unconscionable, inequitable, and highly irregular procedure and would tend to violate due process of law.

Therefore we filed our Motion to Vacate. In support of that Motion to Vacate, I wish to ask the reporter to mark this as Marathon's Exhibit 1, these exhibits as Exhibits 1, 2, and 3.

(Whereupon, Marathon's Exhibits Nos. 1, 2 & 3 marked for identification.)

MR. EVERETT: I have here marked for identification -- I'm sorry I don't have copies of these, I will ask that the reporter make copies of these so I may have them in my file. Exhibit 1 is a letter dated July 6, 1962, which was received in the Casper Division, Office of the Division Manager, on July 9th, 1962, on the letterhead of Consolidated Oil and Gas, Inc., signed by Mr. J. B. Ladd. I would like to read very briefly from this letter, because to me it simply emphasizes the point which I have tried to make throughout this hearing, that Consolidated is not concerned with conservation, they are concerned with promotion; and they would have this Commission, in my opinion, act as a tool to aid them in that regard.

I want to read this letter to you. This is addressed: "Memorandum to Participants, In Re: --

MR. STOCKMAR: May we see the thing so we may decide if we want to object to it, so we can do so before you read it in evidence?

MR. EVERETT: If you don't count your reading time as my time.

MR. STOCKMAR: No objection.

EVERETT: "Memorandum to Participants, In Re: Dakota Proration Formula, San Juan Basin. We have previously informed you of the New Mexico Oil & Gas Conservation Commission denial of our request for a change in the method by which Dakota gas withdrawals are allocated. Our hearing in April resulted in what is reported to be the longest Commission session in history - the hearing consumed four days."

"In essence, it is obvious that we won the battle but lost the war. The famous New Mexico Supreme Court Jalmat decision handed down recently said in principal that the Commission could not consider changing a proration formula unless detailed engineering reserve and performance data were included on each and every well in order that reservoir exploitation efficiency, and the always important issue of correlative rights, might be thoroughly and objectively defined."

"The impact of this on our proposal is indicated when one realizes that there are over 600 wells in the San Juan Basin Dakota reservoirs. We have now approached the Commission with the formal request that they require all operators to submit sufficient information regarding their particular wells such that the requirements of the Jalmat decision could be met. We are confident that a thorough engineering review, with objective conclusions based on all available data, would prove our proposed allocation formula more valid than the original formula which is now in effect. It is possible (and even quite probable) that while we may not be able

to generate approval for our proposed new formula, we will succeed in invalidating the original formula. The net effect of this would be no proration at all. This would be good since we would then undeniably be governed by the unqualified intent of the contractual minimum-take guarantee; i.e., 50% of each well's ability rather than being limited to a lesser volume as suggested by the existing proration formula." This last part I certainly don't agree with, but it's part of the letter and it's going to be introduced in evidence.

"In any event, Consolidated Oil & Gas, Inc. is being heard from and we have gained respect in both our administrative and technological profiles."

I offer that in evidence in support of our Motion.

The second item is a letter addressed to Participants, dated July 17, 1962. It has been marked for identification as Marathon's Exhibit 2.

MR. STOCKMAR: No objection.

MR. EVERETT: This simply advised the Participants, whoever they are, that this letter is going to keep them up-to-date. It's on the letterhead of Consolidated again, and signed by Robert B. Tenison, to keep them up-to-date on changes in the data. It's dated July 17, 1962.

"We are preparing our own information and sincerely hope that all other interested companies will supply the necessary information for the reserve study required for a commission decision."

I offer that in evidence in support of this Motion. The next item --

MR. STOCKMAR: No objection.

MR. EVERETT: -- is a letter and two attached sheets on the letterhead of Consolidated Gas and Oil, Inc. dated August 24, 1962, which shows it was received on August 24, 1962, Casper Division, Office of the Division Manager, marked Marathon Exhibit 3. It refers to and tells us that there has been a rehearing granted in this matter on September 13, 1962, and then with that they enclose a list of wells, they enclose a blank data sheet listing reservoir information needed for the determination of recoverable gas reserves. Then they respectfully request that as to the wells designated on the first list that we provide to them at our earliest convenience and prior to September 10th all the information suggested by the data sheet. "This should include, if you have made the calculations, your determinations of recoverable gas reserves. If you do not have any particular item of information, we would appreciate your furnishing all that you do have."

They want us to advise them whether we will attend the hearing or not. This last was unanswered.

I refer to the second page of it, which is the data sheet. There are eleven items listed on this sheet, and of the eleven, eight of them call for expert engineering interpretation and advice which, whether Marathon has it or not, it comes under the heading

of none of their business, since it's confidential information which they could not get a Court to force anyone to disclose, and we think that this is entirely out of line; and further emphasize the point that they do not make a case and we do not propose to be beat over the back because we think no one can legally force us to present reserve determinations which were made in the course of our business and which were made at great expense to us and which are confidential information for the sole use of our management.

I offer this Exhibit 3 in support of our Motion.

MR. DURRETT: Deducting the time opposing counsel spent examining the evidence for objection, you have two minutes left.

MR. EVERETT: Thank you. I'll try and finish. I would ask the Commission to take judicial notice of a letter in its files, copy of a letter in its files, particularly the second paragraph, the letter dated September 7, 1962, addressed to Mr. Whitworth, Attorney for El Paso, by Mr. Stockmar, Attorney for Consolidated.

In that letter, in that paragraph, Mr. Stockmar expresses his willingness to cooperate "so long as the desired information is made available at the rehearing of Case 2504 as expert testimony." There again, we get in the realm of the very thing I'm talking about in this Exhibit 3, and that is expert opinion which the Ohio Oil Company or the Marathon Company, its successor, has obtained and has in its file. It's the same thing with every other operator in this room, and I think that Consolidated has failed miserably to make its case and wants to rehash and rehash.

There has been no showing made whatever that they weren't afforded a full hearing; and that they weren't given every opportunity to cross examine every expert and the basis of his decision. I would also ask the Commission to take judicial notice of the subpoenas duces tecum which were issued upon the request of Consolidated in this case. Items one and two of each of those reports call for evidence which was already presented to this Commission or was available to Consolidated upon cross examination prior to the conclusion of the hearing on April 21st; and I understand from the Chairman that there's going to be some arguments about those motions so I will not take further time talking about them, but if you will just take judicial notice of items one, two, and three in each of those, I think it becomes manifestly apparent that Consolidated does not want a rehearing, it wants a rehash; and it would like to endeavor, if it could get the strong arm of this Commission to help it, to get into the confidential files of each operator in hopes that it can make a case.

We think this is highly irregular procedure. They have had their day in Court, and as a matter of fact, in their own petition or in their own statements they have had four days in Court, and we don't think the matter should go any further, that it should stop here; and if Consolidated feels that it can make a case from its own evidence and testimony, let them file another application and we'll take off on another one, but let's not just go on and on and on in this case.

We respectfully request that the order granting the rehearing be vacated. Thank you very kindly.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: If the Commission please, I would like to divide my time with Mr. Stockmar. On that basis, how much time do we have?

MR. PORTER: You have twenty minutes.

MR. KELLAHIN: Twenty minutes for our side?

MR. PORTER: Yes, sir.

MR. KELLAHIN: Of course, some of the matters presented by Mr. Everett actually pertain to the subpoenas which were issued by the Commission at the request of Consolidated. That will be fully discussed later, I am sure.

In Mr. Keleher's motion, he has based it on actually one thing. He says we have had full opportunity to present our case and it has been decided, and it is now res adjudicata. He further made the statement that the Jalmat case was available at the time. I would like to put the dates in the Commission's mind on that score. The hearings in the Consolidated application in the Basin Dakota Pool were April 18th to April 21st. The Jalmat decision of the State Supreme Court came down on May 16th. Certainly the reasoning the Court was going to follow was not available to us at the time hearings were held.

There has been some inference by Mr. Everett that we should have notified him forthwith when we filed our petition for

rehearing, and he should have had a full hearing on that petition. Rule 1208 of the Commission's Rules and Regulations provides that: "When any party to a hearing files any pleading, plea or motion of any character (other than application for hearing) which is not by law or by these rules required to be served upon the adverse party or parties, he shall at the same time either deliver or mail to the adverse party or parties who have entered their appearance therein, or their respective attorneys of record, a copy of such pleading, plea or motion."

Now the Commission well knows that in many, many cases numerous appearances are made which are in effect just pro forma appearances for the purpose of making a statement or taking a nominal interest in the proceedings.

For that reason, they added this further provision: "For the purposes of these rules, an appearance of any interested party shall be made either by letter addressed to the Commission, or in person at any proceeding before the Commission or before an Examiner, with notice of such appearance to the parties from whom such pleadings, pleas, or motions are desired."

Consolidated received no notice from any party or parties that they desired pleadings from us. Had they given us that notice, they would certainly have been furnished with them. Now it is true that Section 65-3-20 of the New Mexico Statutes provides that orders of the Commission be entered after notice of hearing. It also says, however, "except as provided for herein." Now, the

rehearing statute, 65-3-22, provides that: "Within twenty days after entry of any order or decision of the Commission, any person affected thereby may file with the Commission an application for rehearing." The Commission must either grant or deny it within ten days. That statute doesn't contemplate any hearing on the petition for rehearing. It's an administerial act on the part of the Commission. It's within their discretion as to whether they are going to grant a rehearing or not. The refusal of the rehearing has laid the foundation for an appeal to the Court.

In this instance, the Commission granted a rehearing. They did it by an order. It could have been done in the same manner as the original order was done, by application and advertising, notice that a rehearing be held. A notice is not necessary for this, and for that reason I couldn't conceive that 65-3-20 requires a hearing on a petition for rehearing. It's a little absurd to expect the Commission to do that all within ten days.

In regard to this question of res adjudicata, that is something which just has no application to the proceedings before this Commission. 2 American Jurisprudence 2d at 531 states: "The power of a court --" Now this is in the Public Administrative Law Section -- "The power of a court to open, modify, or vacate its own judgments exists despite the doctrine of res judicata, and a proceeding to open or modify a judgment of a court is generally regarded as a further proceeding in the original action. Accordingly, the doctrine may not properly be applied to restrict

the power of an administrative tribunal to reconsider or modify its own determinations, and in many cases the power of redetermination has been upheld against objections based on the res judicata doctrine." I think it is pretty clear that res judicata has no place in this hearing.

Now, Mr. Everett referred to the application for rehearing or the petition for rehearing, stating in effect that it set forth no grounds for the invalidity of the order. Without burdening the Commission by reading the whole matter, I would refer them to paragraphs 5, 6, 7, and 8 of the petition for rehearing, in which that was asserted at that time. We took issue with the Commission's finding, but in addition to that, available data can be provided, and we sought the Commission, if they saw fit, to present the further data. That is exactly what the Commission did in its order.

Now that asserts the grounds on which the order was invalid, the original order, and the Commission, fully within its jurisdiction, restricted this hearing to matters relating solely to reserves, basing it entirely upon the single finding of the order that there was insufficient information to enter an order on that basis.

Now the Motion filed in behalf of Marathon seems to assert that the Commission can grant a rehearing only on the basis of newly discovered evidence, that the Order 1670-C is a final order, and the Commission is without jurisdiction to review it or at this time receive additional evidence; and that rehearing violates the

due process of law. I don't know what the reasoning on that is. It wasn't discussed in the argument, to my knowledge, so I don't really have an answer to due process of law. It should be borne in mind, when the Commission acts to prorate gas in the gas pool, it's excess gas, and that is the finding in the Jalmat case that will be discussed a little further by Mr. Stockman.

Among the statutory powers of the Commission is the power to grant a rehearing, which we have already discussed, and the powers of this Section are relatively broad. The Commission may grant or refuse any application, either in whole or in part, and in the instant case, the Commission did grant the rehearing only in part.

2 American Jurisprudence 2d, 522, "Even apart from any statutory provision expressly authorizing modification," and New Mexico has such a statute, "administrative determinations are subject to reconsideration and change where they have not passed beyond the control of the administrative agency, as where the determinations are not final, but interlocutory, incomplete, provisional, or not yet effective, or where the powers and jurisdiction of the administrative agency are continuing in nature."

Section 526, The power to review has been received in the order in this instant case, and the reservation of such authority is effective. I refer to the order that was entered by the Commission at the conclusion of the original hearing. At the end of the order, the Commission said, Paragraph 2, that "jurisdiction of this cause is to be retained for such further order...." As

the American Jurisprudence 2d says, that's a valid reservation of authority.

In Section 537 of the same reference, same work, "A rehearing may be granted even though the evidence claimed as the basis for the application is not newly discovered and could, in the exercise of due diligence, have been offered at the original hearing." That is an answer to Mr. Everett and Mr. Kelehe r's contention that this evidence was available. Granted it was available, that does not affect the rehearing. "The discretion to grant or deny a rehearing may be exercised by granting a rehearing but by limiting the scope of the matters to be considered thereon." That's a quotation from the textbook. That is what the Commission has done here. We have no quarrel with their order. We may have wished a little broader hearing than has been granted us, but we're ready to go forward under the terms of the Commission's order.

MR. STOCKMAR: Gentlemen of the Commission.

MR. PORTER: Mr. Stockmar.

MR. STOCKMAR: I would first like the record to show that Ohio's Exhibit 1 just entered does contain a notification that a formal petition for rehearing had been granted. That letter is dated July 6, 1962. I think Ohio's own exhibit again rebuts its statement that just now has it learned that there was a formal application filed, or just recently has it had an opportunity to see it, or something of that nature.

I will be very brief. I do want to state briefly what

might be a philosophical view of my own, but I think it arises out of the law, and that is with respect to the nature of the power that this Commission has. As an administrative body, it has been delegated certain legislative powers by the New Mexico Legislature. Matters of prevention of waste for the benefit of the people, the protection of the correlative rights of interested operators is a matter which the Legislature can act upon and has acted upon in enacting the Oil Conservation Statute.

It could have, case by case, reviewed the matters which are presented to you each month, and could have legislated the solution for each one. It is not technically equipped to do this, and this power has been delegated to you.

Also among your powers are certain judicial-type functions. These together constitute what we call administrative power. There's a great difference between a legislative function and a judicial function. It relates to the question of jurisdiction.

Now a Court and any body exercising a strictly judicial function acquires jurisdiction in accordance with the law. It acts upon the matters in that case. After its decision and after the expiration of all appeal rights and so forth, its jurisdiction terminates and it can no longer review or revise that decision.

The legislative function, however, is entirely different, and this is the function which you exercise in preventing waste and protecting correlative rights. It is continuing jurisdiction, is never lost. If you have made an order, the following day or at

least soon thereafter, pursuant to the reasonable requirements of notice and hearing, you may change that order. You may alter it; if an order is bad or invalid, you can recognize this and make a good order.

In this case, or in this State the so-called Jalmat decision states this principle very clearly, that the power that you have in these matters is a continuing legislative function. So without respect to the formalities for petitions for rehearing, for anything else, this body has the power at any time to hear and rehear, and in its discretion, permits it to hash and rehash these matters and to do its utmost to come up with valid orders.

I could easily drift into my opening statement, and I think that is all I need to say at this time.

MR. PORTER: Mr. Everett.

MR. EVERETT: If it please the Commission, very briefly I would call Mr. Kellahin's attention, he referred to 65-3-20, and would have the Commission think that the exception applies to everything in the Act. It applies to that paragraph. I noted the exception in my opening statement. I didn't burden the Commission by reading the entire statute, but I would call the Commission's attention to that. "Except as provided for herein, before any rule, regulation or order, including revocation, change, renewal or extension thereof, shall be made under the provisions of this act, a public hearing shall be held at such time, place and manner as may be prescribed by the Commission."

MR. PORTER: May I have yours? The Commission considers this rebuttal argument. If each side wishes, they may have five minutes.

MR. EVERETT: I won't need that long. Thank you very kindly, though. In referring to 65-3-22, the rule that I cited to the Commission, whether it provides for notice or hearing or not, whether this is a legislative or judicial function, a legislative body is still governed by due process, and that means notice and hearing; and if Mr. Kellahin didn't know what I meant by it -- Suppose they tell you to grant a rehearing, it doesn't mean that you can do so without notice or hearing, but with due process.

I cite in support of that statement 73 Corpus Juris Secundum, page 453. Unfortunately, the time element being such as it was in this case, I didn't have an opportunity to exhaustively brief the law points involved, but if Mr. Kellahin had read a little further in 2 American Jurisprudence 2d, if he had gone on to page 337, he would have found a statement which I quote: "The primary purpose of a continuing jurisdiction is to give the tribunal power to change a decision or order to do justice in the light of newly discovered evidence or to meet changed conditions." Then it goes on with a discussion, a discussion of other items which he might cite to you as authority for going ahead with changing your order, whether newly discovered evidence or changed conditions or not, but that still does not get around due process of law, which any body sitting in a hearing must extend to those who might be

adversely affected by their action.

I again submit that our motion is the only way we could proceed to advise the Commission of something which we honestly and earnestly believe was inadvertent but which would put a very serious cloud upon everything that might be done from this minute on unless that order is vacated. That would not preclude your jurisdiction, but it would put it back in orderly procedure where if Consolidated is disappointed, it is in not having presented evidence. As the counsel told me this morning, "We didn't present evidence, we presented cartoons." They now want to file some exhibits. Let them file their application and follow through with notice of hearing. They have a right to file an application and come in and present their exhibits and testimony, and this is squarely upon them. I don't think they can meet it, but certainly it would be highly irregular to proceed further in this hearing.

MR. PORTER: Mr. Kellahin, do you desire your five minutes?

MR. KELLAHIN: I would just like to make this observation. The argument that has been presented is directed to the order granting the rehearing, and it's based on a lack of due process for the reason it was entered without a hearing on the petition for rehearing. Now that reaches the point of absurdity, to say that they don't have their day in court, because they are being heard on whether they will have a rehearing right now. Due process has been fully accorded.

MR. STOCKMAR: If the Commission please, it may be my last breakfast with Mr. Everett. I referred to a rather artistic

drawing made by Mr. Trueblood. I think you recall the cube that received so much attention. In jest, I may have indicated that that was more likely a cartoon than an exhibit. I think if Mr. Everett will read the record, he will find that we did not dignify that explanatory thing by making it an exhibit. Thank you.

MR. EVERETT: If you please, you may strike any reference that I made to the cartoon business. I certainly didn't mean to be out of line. I enjoyed your remark very much indeed, because I thought it was so true. Just strike that from the record.

MR. PORTER: We'll take a ten minute recess at this time.

(Whereupon, a short recess was taken.)

MR. PORTER: The hearing will come to order, please. The Commission has decided to deny the objections to granting of the order for rehearing and the Motion to Vacate, and we will take up next the Motions to Quash the Subpoenas. We have three Motions, one from El Paso, one from Pubco Petroleum Corporation, and one from George Eaton with Pan American. At this time I would like to ask if there is any objection to consolidating the arguments on these Motions to Quash?

MR. EVERETT: Before you reach that question,may the record show the exception of Marathon to your action in overruling or denying its Motion to Vacate?

MR. PORTER: Let the record show Marathon's exception.

MR. KELEHER: Pubco offers no objection to that procedure.

MR. VERITY: Southwest Production Company would object to

consolidating our position, in that I feel quite sure our Motion to Quash the Subpoena will be on an entirely different basis than any others and should be heard separately.

MR. PORTER: Mr. Malone.

MR. MALONE: If the Commission please, George Eaton is in a somewhat different position than Pubco or El Paso. Pan American, by whom he was employed, was not an active participant in the previous case, has not entered an appearance in this case, and has not participated in this case. The subpoena that was served on him was served on him individually. We feel that under those circumstances, we are in a somewhat different position.

It may or may not develop in the course of the hearing that Consolidated, who issued the subpoena, will wish to insist on the production of the information called for by it. If they do not insist on it, why,there would be no occasion to deal with the questions that are presented by the subpoena served on Mr. Eaton.

On the other hand, if the Commission feels in the orderly handling of the matter that they would like to hear everyone on this issue at once, we would certainly present our position in whatever time the Commission directs.

MR. FEDERICI: We have no objection to the consolidation, but I would like to call the Commission's attention to the fact that there has been a Motion to Quash on behalf of Mr. Rainey, himself, personally.

MR. PORTER: Mr. Swanson.

MR. SWANSON: I would like to move, on behalf of Aztec Oil and Gas, at whatever time is appropriate, to quash the subpoenas that have been served on two of its representatives. We feel that it could be properly consolidated for hearing. With respect to the first subpoena served, we would like the record to show that the second one will be in substitution of the original one, and that the counsel will agree that the Motion to Quash will be okay with him. For that reason, we would like for the first subpoena to be separated.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: Consolidated has no objection to hearing the argument on these Motions to Quash the Subpoenas. I might ask if Mr. Keleher has a copy of his Motion he could give us. I assume it's a written Motion; we were not furnished with one. The rest of them -- El Paso filed its Motion, of which we have copies, and Pan American filed one.

MR. MALONE: Mr. Eaton.

MR. KELLAHIN: Mr. Eaton. As to Aztec, we originally subpoenaed Joe Salmon. They requested that they be permitted to substitute L. M. Stevens, to which we agreed, on the assumption that he, if required to do so, is the right man to testify in this case.

MR. SWANSON: That's right.

MR. KELLAHIN: On that basis, we will not call for Mr. Salmon, although a return of service is in the file. For Southwest Production Company, we subpoenaed Mr. Smith. By telephone

we were advised that Mr. Smith's wife was ill, and thereupon they asked to substitute Leon Wiedeikehr. We obtained service from Mr. Wiedeikehr, and a service is in the file on Mr. Wiedeikehr and Carl Smith. This again is on the assumption that, if required to do so, that Mr. Wiedeikehr is the proper man to testify.

MR. VERITY: That's correct.

MR. KELLAHIN: On that basis, then, we will not call for the appearance of Carl Smith. In addition, if the Commission please, we have no objection to the consolidation of the argument and response on these subpoenas; however, for the sake of the record, we would request that a separate ruling be made on each of the witnesses subpoenaed.

MR. PORTER: The Commission has decided to hear the arguments on the Motions separately. I would like to get your ideas as to how long it will take you to argue each Motion. How much time would you like?

MR. KELEHER: Pubco, five minutes.

MR. FEDERICI: El Paso Natural, it will take me twenty to twenty-five minutes.

MR. MALONE: I think for George W. Eaton I would request fifteen minutes.

MR. SWANSON: For Aztec Oil and Gas Company, approximately ten to fifteen minutes.

MR. VERITY: Since the appearance of Mr.Smith is not now required, Southwest will have no argument.

MR. PORTER: The Commission has decided to allot fifteen minutes to each side on each Motion. We will consider the Motion by George Eaton first.

MR. MALONE: If the Commission please, we are perfectly prepared to proceed. In the discussions that we had had, it had been anticipated that El Paso Natural would proceed, and I think maybe we were going to try not to duplicate what we are saying. It might be more orderly if El Paso proceeded, unless the Commission prefers; we're glad to proceed for Mr. Eaton if you do.

MR. FEDERICI: That's satisfactory with us.

MR. PORTER: Then the Commission will proceed with hearing the argument from El Paso.

MR. MALONE: Thank you.

MR. FEDERICI: If the Commission please, the Commission allotted us two motions. The first one is directed to the subpoena which was served upon Dave Rainey personally. The other was the Motion on behalf of El Paso Natural Gas. If I do run a little overtime, it is because I have two Motions to argue.

MR. PORTER: The time will be granted, Mr. Federici.

MR. FEDERICI: With reference to the subpoena that was issued upon Dave Rainey, I represent Dave Rainey here personally and in his own personal capacity for the object of arguing this particular Motion. Now Consolidated Gas Company apparently requested of the Commission that it issue a subpoena duces tecum, or however you want to pronounce it, it's spelled the same. That means,

of course, that the witness is directed not only to bring himself, but certain records, books, and papers with him. This subpoena was served upon Dave Rainey, who is an employee of El Paso Natural Gas Company in the capacity of Administrative Assistant. He is not an officer of the corporation, and the subpoena did not name El Paso Natural Gas Company. Rainey has filed with this Commission a notice to modify this subpoena insofar as paragraph 3 of the subpoena is concerned. There are three paragraphs in the subpoena in the request for production. The first two paragraphs relate to certain data which had been previously submitted in the hearing, and there has been no objection filed to those two paragraphs, but paragraph 3 is objected to.

That paragraph reads as follows: "To bring with him any reports, determinations, or tabulations of initial and subsequent reserve calculations made by,or in the possession of,El Paso Natural Gas Company concerning the recoverable gas reserves in the Basin Dakota Gas Pool not included in the eight data sheets subpoenaed above."

Well, that's just a shotgun request. It's a request to go on a fishing expedition, and in the first place, Dave Rainey is not an officer of the corporation, he does not have custody of these documents. He has no control over them. He has no possession over them, and he has no authority to deliver them if he wanted to. If the Commission please, these files which are requested, many of them contain confidential matters or privileged matters which Mr.

Rainey would not be at liberty to produce if he could do so. I believe the answer to the question is fairly obvious, since he cannot produce them, since the records are not in his possession or control, he cannot possibly submit them at this time.

Let's take a brief look at the law just for a moment here. With reference to subpoena duces tecum, the rule is set forth in 97 C.J.S., Witnesses, Section 25, and is as follows: "The person who has the control of and the ability to produce the desired books or papers is the proper person to be subpoenaed."

Let's go to the Federal cases. You might ask, why do I go to the Federal cases? Sometimes you don't have a local State case applicable, and we go to the Federal cases because the Federal Rules of Procedure are quite applicable to the situation, because the State rules are quite similar or substantially the same as the Federal rules. In Moore's Federal Practice, Volume 5, at Section 45.05, the author states the rule as follows: "A subpoena duces tecum should be quashed and set aside where it has been served on a person not having possession and not being authorized to take possession of the documents, records, or things demanded."

Now if the Commission please, we do not contend that the Commission does not have the right to issue the subpoenas or subpoenas duces tecum. The Statute gives the Commission that right; but the exercise of that power by the Commission is governed by the general law applicable to subpoenas. There's one further practical matter that I think might be discussed at this time,

although it relates to the Motion by El Paso Natural Gas Company.

Suppose that Rainey is ordered to bring these records; what do they consist of? You would have five filing cabinets weighing 500 pounds or more, with documents in each of the files, some of which may be confidential, some pertaining to third persons who are not party to this proceeding, and what would happen would be this, and this is the way the rule is set forth in the cases when this subject comes up. These documents would be brought up here and not delivered to the opposite parties. The Commission would have to go through documents to determine whether there are any confidential matters which the Commission will not let the other party see. The Commission would have to go through these files to determine whether the matters contained therein are material and whether they're relevant to the hearing, and this Commission would spend all of its time checking files instead of proceeding on with cases.

With reference to Mr. Rainey's subpoena, the main argument, of course, is that he doesn't have the custody and control and possession of the records; therefore, he just can't bring them with him.

If the Commission please, with reference to the Motion filed by El Paso Natural Gas Company, although El Paso is not named as a party, I think these matters should be brought to the attention of the Commission. Their reasons for objecting to the subpoena are set forth in their Motion to Quash, and I think I'll read

them because they are pertinent to this discussion.

Paragraph III states: "The reports, determinations and tabulations called for in said subpoena duces tecum have been accumulated over a period of several years and constitute records constantly used by El Paso comprising a bulk in excess of five hundred pounds."

"Transportation of these reports, determinations and tabulations from El Paso, Texas to Santa Fe, New Mexico and return would constitute an unnecessary and expensive interference with El Paso's business operations."

Paragraph IV: "Said reports, determinations and tabulations contain some items which are the property of some parties, are confidential in nature, relating to the properties of such other parties. To require production of all such material instead of specifying and identifying documents and papers which are easily distinguished and clearly described and which are shown to be relevant, is violative of the constitutional prohibition of unreasonable searches and seizures."

Paragraph V: "Said subpoena duces tecum is oppressive and unreasonable and should be quashed."

Paragraph VI: "In the event any subpoena issue to El Paso the party or parties on whose behalf it was issued should be required to specify and describe the particular reports, determinations or tabulations required."

That's what I was talking about a while ago. If the

party does not specify with some certainty what they want out of those files, we would have to bring those files to this Commission, and this Commission would have to go through the files to determine, are certain portions of it confidential and therefore not subject to inspection, is the material in the first place, and then is it relevant to the hearing? Just how long that would take the Commission, I don't know, but as I say, there are five cabinets of files involved.

Now with reference to the law on the subject, insofar as what a party should specify and in general what is required with reference to subpoenas duces tecum, there are cases which support this, and I think this is true without too much doubt.

"Where the production of information demanded by a subpoena duces tecum is a burden in that a mass of documents is demanded without specifying and identifying the exact material sought, the subpoena duces tecum may be quashed as being unreasonable," citing U. S. v. Woerth, 130 F. Supp. 930, 231 F.2d 822. That case was affirmed in a Federal Second and also another citation, 2 American Jurisprudence 2d, Administrative Law, Section 264, page 95.

Now we go back again to Moore's Federal Practice. As I stated before, we do that because the rules are simpler, and this is a text written by a well-known professor, and it collects the cases and gives you the views expressed in those cases without going through the cases individually. Section 45.02, the author

states the rule to be as follows: "A subpoena is unreasonable or oppressive if it is too broad and sweeping. It should normally be limited to a reasonable period of time and should designate the documents desired, or the subjects to which the documents relate with reasonable particularity..."

Now I was talking to the Commission about this procedure that follows if the subpoena is complied with and you bring the documents up. Here is a case that sets forth fairly well what's involved here, Hermann v. Civil Aeronautics Board, 237 F.2d 359. In the course of its decision the Court said: "In order to prevent their action from being arbitrary and oppressive, the Board should call the individuals and take testimony as to the existence and quantity of the documents. Materiality and relevancy to the issues before the Board can be established in this method without the necessity of bringing truck loads of records to the hearing officer." What happens there is the burden is put on the Commission to go through these documents. The Commission doesn't have the time to do that.

There are other methods that the parties can use. They can ask for inspection of them, we can object to the inspection of them. There are methods by way of written interrogatories. They don't have to come in and give a shotgun request that would bring everything. They are not entitled to that. They are not entitled to go on a fishing expedition, and I don't think this Commission should give them a license to fish in our files.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: If the Commission please, I would like to preface my remarks with some background on just why Consolidated took the route it did in connection with this case before getting into legal arguments which are involved here, because I feel that our position is material to the validity of our request for issuance of subpoenas duces tecum.

As the Commission well knows, subsequent to the original hearing, the Supreme Court of New Mexico issued its decision in the Jalmat case. On the basis of that decision, the Commission, accepting the ruling of the Supreme Court, held that there was insufficient evidence of reserve information in the record in Consolidated's case upon which to base a change in the proration formula. Basically, the information required under the ruling of the Jalmat case is the information set forth in the Statute, and that is, the Commission must determine, insofar as it may be practicably done, the reserves under the pool, the reserves under the individual tracts in the pool, the relation between the two, and the portion that can be produced without waste and with the protection of correlative rights; and the real basis of the Jalmat case on that particular point was that without knowing what the reserves were, the Commission was powerless to protect correlative rights.

For that reason, Consolidated has, insofar as it may practicably do so, prepared its information on reserves; but we felt

it incumbent on us to go a step further and make every possible effort to get the reserve figures in the Basin Dakota Pool before this Commission.

Now the operators in the pool have reserve figures, admittedly. They are apparently extremely reluctant to produce them. If the Commission rules on their objection, they do not have to produce these reserve figures, I don't believe that they can later be heard to complain on the lack of reserve information in the record in this case.

Now El Paso's Motion to Quash, I don't have much quarrel with most of Mr. Federici's legal arguments. Basically, the Motion to Quash is directed to the discussion that the Commission, if the Commission finds that our subpoena duces tecum is burdensome, then under the law it shall be quashed, and so far as paragraph 3 is concerned, and apparently that is the only paragraph subject to attack, paragraph 3 calls for "Any reports, determinations or tabulations of initial and subsequent reserve calculations made by or in the possession of El Paso Natural Gas Company concerning recoverable gas reserves in the Basin-Dakota Gas Pool not included in the eight data sheets subpoenaed above," the eight data sheets being the eight data sheets which were utilized by Mr. Rainey as a witness for El Paso in the original hearing in this case. Apparently they do not object to reproducing the eight data sheets.

Now it has been asserted that in regard to the subpoena directed to Dave Rainey the reason that it should be quashed is that

he has no control over the documents. That may well be, but it is strange indeed that he was able to obtain all this information from his company in the original hearing, and now says he cannot obtain it. Perhaps he doesn't have custody of the documents; they haven't told us who does. In any event, whoever does have custody, I assume is not present in this hearing room. If they are we would like to know it. We would indeed like to know it. I will ask that question, if that be the case.

MR. HOWELL: I'll answer that, that there is no one from the Reservoir Department of the company present in the hearing room today, and these are in the custody of the Reservoir Department.

MR. KELLAHIN: They are not officers of the corporation, either. They are, presumably, then, in El Paso within the State of Texas, which is beyond the subpoena power of this Commission. If we can't secure it by a subpoena within the State of New Mexico, then of course we can't obtain the data we need.

There's also the argument that the information contained in these files is confidential. They don't cite any law in support of withholding any information being confidential. I don't believe they have got any law on that.

This is from American Jurisprudence, Volume 58, Section 31, regarding the production of papers. "A party to an action may be compelled to produce books or papers in his possession or under his control to be inspected by the opposite party, and a witness or a party may be required to produce books or papers to be used

as evidence on the trial, and this, notwithstanding the papers may be private. A corporation may be compelled to produce books and papers in like manner as if it were a natural person. Thus, the officers of a corporation cannot refuse to produce its books in court or before an officer authorized to take a deposition, in response to a subpoena, on the theory that the privacy with which its business is carried on is a trade secret which it is entitled to protect from the inspection of strangers."

Certainly there is no basis to say that this information is confidential and that is grounds upon which the subpoena should be quashed.

Now they accuse us of "shotgunning" in connection with this, and yet they can identify with great precision just what records we are calling for, and they say they weigh five hundred pounds. I think there's some confusion there, and I think they well know that our subpoena, in calling for reports, determinations or tabulations of initial and subsequent reserve calculations, does not include everything in five filing cabinets. Certainly they presented the same identical information at the previous case, and we are calling for the same thing as to the wells not covered in the previous case. It was no burden for them to go forward on it on their own. They cannot say that it is a burden to go forward with the same information on the wells not covered in the original hearing.

Mr. Federici said we had a right to inspect documents and

identify these instruments that we want, and call for them in that fashion, and we can take interrogatories. I think Mr. Federici is under some illusion that the Oil Conservation Commission of New Mexico has adopted Rules of Civil Procedure, and the rule of practice before the Commission, that is not the case, but it is with other agencies within the State of New Mexico. I think that's the basis of his statement that we do have the right of inspection. I submit we do not have the right of inspection except by a witness brought before this Commission and placed on the witness stand.

Now they talk about the bulk of the exhibits that we have called for, and the fact that they are used in the daily operations of El Paso Natural Gas Company, and it's unduly burdensome to be called upon to produce these documents. 58 American Jurisprudence, Section 26, it says that "A person served with a subpoena duces tecum is bound to produce the document or documents called for unless he has a reasonable excuse for withholding it or them. The sufficiency of the excuse is a matter for determination by the court. A witness cannot excuse disobedience to the writ on the ground that the evidence called for is irrelevant, or, it has been held, that it would be inconvenient to produce the documents and compliance would entail great expense."

In other words, there's no basis for El Paso to refuse to produce these documents on the grounds they're confidential. There's no reason for El Paso to refuse to produce these documents

on the ground that it is inconvenient and expensive; and those, basically, are the only two arguments they have advanced other than the fact that they say our subpoena duces tecum is so broad they don't know what to bring, all they know is that it's all in five filing cabinets.

It has just been called to my attention that Mr. Rainey has brought some material to this hearing. If the Commission sees fit to quash this subpoena, it should be only partial and as to paragraph 3 to which the Motions have been directed, and we certainly would expect a production of the other material. Any order quashing the subpoena in part should be limited in order to insure the production of the matters and the material which Mr. Rainey has brought to the hearing.

MR. PORTER: Mr. Federici.

MR. FEDERICI: Do I have some time left?

MR. PORTER: Yes.

MR. FEDERICI: I would like to answer Mr. Kellahin just briefly on the first last, and the last first.

Mr. Kellahin mentioned we didn't cite any authority on the matter of confidential documents and private papers. I'll be glad to accommodate you,however, at this point, Mr. Kellahin. Cases hold that the privacy of third persons should not be invaded by the use of subpoena duces tecum directed to a party having in his possession confidential material. Hermann v. Civil Aeronautics Board, 237 F.2d 359, Floriden Co. v. Attapulgus Clay Co.,

26 F. Supp. 968. "And discretion should be exercised to avoid unnecessary disclosure of such material, particularly where the action is between competitors." 4 Moore's Federal Practice, Section 34.15.

Mr. Kellahin mentioned this Jalmat case. Well, the Jalmat case just put the burden directly on Consolidated Gas Company. They had it and they've still got it. They're still limited to the proper methods of obtaining this information. In other words, they still have to follow the rules which are applicable.

We haven't questioned too strongly what the reserves figures are so far as may be on certain data sheets here, but what we have objected to is they call for everything, "Bring all your reports, bring all your records, bring all your files and let us look through them." That's what we object to and that's why we have come to the Commission for some relief.

We might point out at this time that the company may file a motion in the event that, say, its Reservoir Department is served with a subpoena. I think that in all fairness we should be raising the issue now so at least the Commission can tell us, "Well, what can you ask for and what are we going to give you," if that happens. I didn't want to be caught here by surprise and have the Commission feel that I was going around the bushes now. The Commission might know it now, that we will object unless they follow the proper procedures there, also.

MR. PORTER: The Commission will not rule on any of the

Motions until we have heard arguments on all Motions. At this time we will hear the arguments on Rubco's Motion.

MR. KELLAHIN: We still have not been furnished a copy of Mr. Keleher's Motion.

MR. KELEHER: I don't have one for you, Mr. Kellahin. I'm more or less doing the same thing inadvertently that Consolidated did to me. It was two weeks before I got a copy of the order granting a Motion for Rehearing in this case. I had to make a special request to get a copy of the Motion for Rehearing, but I will send you a copy. It's very brief and to the point, and we're deadly serious about it.

First I would like to comment very briefly on these Exhibits 1, 2, and 3 admitted by Mr. Hume Everett on behalf of Marathon. It seems a shocking thing, it's the first time in my experience in practicing before administrative boards, while litigation was in process and the Commission was considering these matters and things, that a memorandum has been distributed to participants in which it apparently discloses an entire lack of good faith on the part of Consolidated.

"We are confident," reading from one exhibit, "that a thorough engineering review, with objective conclusions based on all available data, would prove our proposed allocation formula more valid than the original formula which is now in effect. It is possible (and even quite probable) that while we may not be able to generate approval for our proposed new formula, we will

succeed in invalidating the original formula. The net effect of this would be no proration at all. This would be good since we would then undeniably be governed by the unqualified intent of the contractual minimum-take guarantee; i.e., 50% of each well's ability rather than being limited to a lesser volume as suggested by the existing proration formula."

If that isn't playing fast and loose with this Commission, and overwhelming evidence that the Consolidated is not in good faith in connection with this matter, it is indeed strange.

The Commission will recall that day after day we sat here waiting for Consolidated to prove its case. How did it prove its case? It attempted to prove its case on cross examination of the witnesses produced by El Paso, by Pubco, by the other defendants in the case. That was the technique they used then. It was certainly an inexpensive and a very economical technique and procedure, but I was dismayed at that because it was contrary to every undertaking I had ever seen before any administrative body. Now they're using the same technique here. They come in here, and Mr. Kellahin let the cat out of the bag a minute ago by confessing to the Commission that they were confronted with a dilemma, "What are we going to do in the face of the decision of the Commission based," as he says, "on the Jalmat decision of the Supreme Court of New Mexico?" "What are we going to do?" "Are we going to the expense of hiring DeGaullier or Naughton or some other nationally known concern, which will cost us a great deal of money, which will make

an examination of the Basin and bring in their returns and take it to the Commission, or are we going to ask the Commission to resort to its statutory power of issuing subpoenas duces tecum and get every oil company that we can to come in and lay the cards on the table and see everything that they have, and let's try to prove our case by that back door method?"

I'm only saying to this Commission that that isn't within the jurisdiction of this Commission. This Commission is not going to lend itself and be a party to that sort of a procedure. Based on that, we have filed very briefly here a Motion to Quash Subpoena Duces Tecum. When I dictated that to my stenographer, "What do you mean, 'quash'? Don't you think that word should be 'squash'?", and I think perhaps we should say "Motion to Squash."

We respectfully show to the Commission in our Motion:

"1. That at the hearing in taking testimony in this cause, Consolidated Oil & Gas, Inc., which requested the issuance of such subpoena, had ample opportunity to examine the reports placed in evidence by Pubco and to cross-examine the witnesses who identified such exhibits." That is correct. They had their day in court. They examined and they examined and they cross examined and re-cross examined and I thought the Commission was extraordinarily lenient in allowing and extending the scope of the examination and the cross examination so as to get all the facts before the Commission.

"2. That all reports have been filed with the Commission

and are available and have been available to Consolidated since the time of filing." All of these exhibits, all those reports are here. All they need to do is to study them. We gave them copies of most of them.

"3. That the subpoena is general in terms and not specific, and in substance and effect is nothing more than a 'fishing expedition'." That's a trade mark of lawyers when they can't think of anything else to say, they say that a demur is like a Mother Hubbard, it covers everything and touches nothing, or that it is a fishing expedition. That's what this is. They are casting a line into the water to see if they can catch something, and if we will produce before them our confidential reports and all our data that we've gathered together at great cost and expense, and which is our property, we think it manifestly unfair that this Commission should say we should bring in everything. It's impossible for us to do it.

Now this very same question is up before a sub-committee of the United States Senate now, in which they are attempting to get the steel companies to produce their cost records. Well, manifestly that's an extraordinary request being made by that sub-committee. If the steel companies disclose their costs of making steel, producing steel in the United States, that will be telegraphed and telephoned and cabled all over the world. Our German competitors or English competitors, our competitors in Japan will know the cost of producing steel. So, rightly I think, the steel

companies have said, "Gentlemen, that's hitting below the belt; you can't do it." We are in somewhat a similar situation. We have our own idea of estimates in the San Juan Basin on the wells in which we are interested, but supposing that some one of those well owners, with us joint owners, has got a sale on right now for the well or their interest in it, based on some idea of estimated reserves; and the deal is proceeding and we come before this Commission and say, "No, that isn't right, that guy is way off, here's what it really is, here is our estimate of it," we are in for a lawsuit. While I love to be employed by Pubco in lawsuits, I don't particularly fancy defending in that kind of a case.

"4. That the matters and things referred to in the item described in the subpoena have been fully submitted and presented to the Commission at the hearing, and the Commission should not now give Consolidated an opportunity to re-try its case in an attempt to cure any defects or omissions which could have been avoided by the exercise of reasonable diligence." If they had proven their case in the first instance, if they could prove it, they wouldn't be here today. What they're trying to do is to come within the decision in the Jalmat case and try to impress upon this Commission that they've done that job, and they want to do it at our expense, not at their own expense, and we don't think that the Commission will tolerate it.

MR. STOCKMAR: If the Commission please.

MR. PORTER: Mr. Stockman.

MR. STOCKMAR: I would like to make it clear that the letter Mr. Keleher referred to, which is Ohio Exhibit No. 1 in this rehearing, entitled Memorandum to Participants, was not directed as such to the participants at the prior hearing. The participants to whom this went are those who are participants in wells which Consolidated operates. I didn't want any confusion to arise there.

You will also recall the testimony of Mr. Trueblood, who repeated many times that the reason that Consolidated precipitated the prior hearing, and I started to say that again the reason is the same, was for the benefit of and the protection of these participants. It does not seem unusual to me, then, that they would be keeping these people advised, and I really don't know what Mr. Keleher meant by "flagrant thing", but it does not seem to me to be flagrant to send out a report to your partners that are helping you pay the cost of operation.

I also would like to note that the letter was written by Mr. Ladd of Consolidated, who is not a lawyer. If it should contain his construction of the Jalmat case, it certainly ought to be viewed as that, even among lawyers, there seems to be reasonable differences of opinion as to what the case may mean.

In his statement that "while we may not be able to generate approval for our proposed new formula, we will succeed in invalidating the original formula," I'm sure this arose out of discussions about the Jalmat case which casts -- well, it's not even serious

doubt to me, the Jalmat case is clear that the existing proration order for the Basin Dakota Pool is subject to attack as being founded on improper findings, and that it can be attacked and can be set aside. This may be what Mr. Ladd meant.

When he said that the net effect of this would be no proration at all, and said that this would be good since we will then go under our contracts, I don't think it can be a construction on his part that this situation would last forever. I think we can all agree that legal and practical chaos would result if there was not a good and valid order issued by this Commission to allocate production in the field. The point is that if the existing order is invalidated and we have certainly attacked it in our petition for rehearing, and intend to attack it -- if it is invalidated or found void or if it is void, which it may be under one construction of the Jalmat case, with the eminent chaos of having no proration and no order, then this Commission will be compelled to find the right answer, the best answer.

I hate to bring up Goliath and David again here, but that situation still obtains. Our efforts made at the last hearing were not inexpensive to Consolidated. The efforts that we hope to make here are not inexpensive to it, and for its size relatively, they are quite expensive. We don't consider it a back door approach to try to present to you the best and most available data so that you have it and can make up your minds and produce the best order possible.

Now as far as these particular subpoenas are concerned, we are not asking the Commission to do something unlawful, to bring a man forward illegally to capture documents and papers that you are not entitled to have. We are simply asking you, and we do so request and we hope your rulings on this, that insofar as it is lawful for these people to be brought here to testify, to bring reserve data and calculations, that that be done; and certainly to the extent that they have it here, that that be made available. I hope that if something is unlawful that it would also be under the law of New Mexico impracticable to obtain. That is the test that we are seeking to meet. If it can be lawfully brought forward, we are making lawful efforts to obtain it. If it's unlawful, then they need not be compelled to bring it forward. Thank you.

MR. PORTER: At this time we'll hear arguments on Aztec's Motion. Mr. Swanson.

MR. SWANSON: Assuming the Commission is satisfied with the agreement reached between Consolidated and Aztec as to the production of Mr. Joe Salmon at this time, we have no further comments on that subpoena.

Aztec's primary concern in this matter is that the subpoena served on L. M. Stevens was in three parts. It required the production of, in substance, all available information dealing with the reserves in the Dakota Basin Pool in Aztec's possession with respect to wells which it owned or operated. The second portion

was a list of some thirty wells that they specifically wanted this information on. The third part was the shotgun category that's been discussed before.

We object primarily to the production of expert opinion as it relates to Aztec's reserve studies. This information has been gathered over a period of years at considerable expense. We have a trained staff that that's their primary purpose -- to develop reserves of the company. We feel it would be a serious handicap to us to have any party interested in an area where we have reserves be able to come before this body and compel us to produce those reserve studies. For one thing, they point to other adjoining areas of interest. It would be a good way to decide what your exploratory program might be in that area. We feel that this would be a real burden on us.

Rule 1212 of the Conservation Commission's Rules and Regulations provides that the rules of evidence to be followed in hearings before it shall essentially be those that prevail at the trial before a court without a jury. Of course, these rules can be relaxed at the Commission's discretion. These rules that apply in New Mexico are patterned after the Federal rules. There are several that are very important here. Rule 33 deals with the interrogatories, which of course are written questions propounded to an opponent for his answers. The case of Bugen v. Friedman holds that "Interrogatories as to opinions, conclusions, and legal contentions are improper."

Rule 34 deals with the production of documents for an opposing party's examination in the hope that he can obtain information that he would use as his evidence in the trial of a case. Colonial Airlines v. Janas says: "Good cause for the production of an expert's report is not shown where the documents on which the report was based are available to the moving party." Rule 43 deals with evidence at the trial itself. Under this Rule, the case of Miller v. Sun Chemical Corporation holds that a party will not be required to compile information from his records.

Back again to Rule 33, dealing with interrogatories, the case of Zenith Radio Corporation v. Radio Corporation of America, 106 Federal Supplement 561, states that: "Interrogatories need not be answered where the information sought is otherwise available to interrogating party."

Attached to a letter Aztec received from Consolidated was the schedule that I believe Mr. Keleher referred to and that Mr. Everett also pointed out. I think we're all familiar, basically, with what it required. We examined that schedule; of course, that is the same schedule that was attached to their application for rehearing. All the matters that they asked for, with the exception of reserve calculations, are available to Consolidated from other easily accessible sources. Aztec has released its logs to the Well Reproducing Service, and it would be possible for Consolidated to order them if they desire to.

The information with regard to pressures and initial

deliverabilities, present deliverabilities, all the other items on that list are available from several sources. With respect to federal wells, they are a part of the public record of the Geological Survey. I'm confident that most of that information is a part of the public record of the Commission itself.

There's possibly one category that's not covered. That's average permeability data. That's only available from an analysis of a core. If Consolidated should feel that their study essentially must include this information, I don't think Aztec would have any serious objection to furnishing the information they have with respect to the wells that have been cored.

In substance, it's our feeling that Consolidated rather has elected not to make an independent study of their own of the reserves in this area, and is hopeful of establishing it in evidence by requiring us to come forward. We resist very strenuously their attempt to have us testify as to what our reserve calculations are. With respect to some of our wells, we don't own them one hundred percent and we do not feel that we are at liberty to deliver any of this information without the permission of the parties who do own an interest.

One other case I would like to call the Commission's attention to, this was under Rule 33, and in my opinion it sums up this whole situation. This is the case of Drake v. Pycope, Inc., 96 Fed.Supp. 331. It says simply, "A party may not require his

opponent to prepare his case for him."

MR. PORTER: Mr. McGrath.

MR. McGRATH: I just want to correct Mr. Swanson's statement. Our records are not public. They are confidential. Our well files and logs are confidential, they're not public.

MR. KELEHER: Are they subject to subpoena by this Commission?

MR. McGRATH: I don't know, I'm not a lawyer. You'll have to go to Washington.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: If the Commission please, much of what has been said by Mr. Swanson, I think the argument that we made in response to the other arguments covers it. We keep coming back to this confidential and private information. I would like to call the attention of the Commission further to 58 American Jurisprudence, Section 32, under the subject of Witnesses, where it says that: "It is a general rule that a witness possessing knowledge of facts material to the vindication of the rights of another may be compelled by judicial process to appear and give evidence in behalf of that other party, notwithstanding the evidence thus coerced may uncover the witness's private business."

We are talking about vindicating the rights of Consolidated under the contention that under the present formula our correlative rights are not being protected.

"This rule is also generally held applicable when the

information sought is contained in books and papers. Accordingly, it has been held that it is no ground for the refusal of a witness to produce books and papers, when required by lawful authority, that they are private. The duty of witnesses to disclose the details of their private business for the benefit of third persons, when required in the administration of justice, is one devolving on them as members of a civilized community."

I think Mr. Stockmar stated that we are legally entitled to this information; we want it. If we are not legally entitled to it, that is the determination that must be made by the Commission. If we are not legally entitled to it, we don't need it. We are prepared to go forward with testimony in this case despite the observations that have been made that we're trying to get somebody else to build our case. It is our position that we must make every possible effort, every lawful effort to get before this Commission the reserve information upon which it must make its finding. If that information is not lawfully obtainable, then we have discharged our duty in attempting to bring everything to the attention of the Commission insofar as it may practicably be done, and it certainly is impractical to do it if it's unlawful.

Mr. Swanson seems to confuse the subpoena with the letters that were sent out by Consolidated asking for some voluntary information. The subpoena doesn't go into the question as to core analysis or any of that other information. They keep talking about what we asked for. We asked for reports, determinations or

tabulations of initial and subsequent reserve calculations. That doesn't include the well file. It doesn't include the core analysis, it doesn't include any of those things that they are talking about as being secret and confidential information. The only thing we asked for was their reserve calculations.

MR. SWANSON: Have I another moment?

MR. PORTER: Yes, you have, Mr. Swanson.

MR. SWANSON: Mr. Kellahin related that the list of information I referred to that was attached to the application for rehearing and the letter that Aztec got was not requested in their subpoena. I neglected to take a copy of our subpoena with us when I moved to that position.

Item 1 of the subpoena lists the specific items that are set in that schedule. I will read that into the record if that's necessary, I don't believe it is. Each of the headings are specifically asked for in item 1 of Aztec's subpoena. The only other comment I think appropriate is that Mr. Kellahin has suggested that we are inferring the big objection is that they expect us to prepare their case for them. The point there to be considered, I think, is that it's completely within their prerogative to advance whatever evidence they choose in this hearing. It may be necessary if they put into evidence figures with regard to Aztec's reserves, or any other party's, we'd feel compelled to rebut them with testimony of our own. We do not feel it is appropriate at this time for us to produce whatever testimony we might wish to make at a later

date.

MR. PORTER: We have one more Motion to consider which we will immediately after the recess. The hearing is now recessed until 1:00 P.M.

(Whereupon, the hearing was recessed at 12:00 o'clock.)

AFTERNOON SESSION

(Whereupon, the hearing was resumed at 1:00 o'clock P.M.)

MR. PORTER: The hearing will come to order. At this time we will hear argument on the Motion on behalf of Mr. Eaton. Mr. Malone.

MR. MALONE: May it please the Commission, Ross Malone, Atwood and Malone, Post Office Box 700, Roswell, New Mexico, appearing on behalf of George Eaton, to whom a subpoena duces tecum was directed; and during the noon hour I was requested also to enter an appearance on behalf of Frank Renard of British American Oil Producing Company, who is an engineer in the Farmington Office of that company, to whom a subpoena duces tecum was likewise directed, and to say on his behalf that he adopts the Motion to Quash filed on behalf of George Eaton in support of his position.

If it please the Commission, there are two preliminary matters I would like to mention first. It's apparent from the argument we have heard already that there are a great many matters of fact which will enter into the Commission's determination which up to now and now, attorneys have been testifying to, not under oath. Should this question become of sufficient importance, it, of

course, would be necessary for these facts that have been stated by counsel to appear in the record through a sworn witness. I assume, if we should ever reach that point, the Commission would afford us an opportunity to put a witness on the stand to substantiate the statements which I would make.

We would like to just know that that could be done if it should ever be necessary.

MR. PORTER: Mr.Malone, if there is any question of facts which the Commission feels it should consider, then we'll take sworn testimony.

MR. MALONE: I don't expect to make any further statements than the other counsel who have argued, but I do think we should have that in the record.

Secondly, I would request the Commission to modify my Motion to show that service was made on Mr. Eaton on September 11, which is disclosed by the return on file with the Commission, rather than September 10th which was the date on which I thought service was made at the time the Motion was filed.

Finally, I would say that Pan American and its employees, as well as British American and its employees, are in somewhat a different position here than the employees of the El Paso Natural and the Pubco and the other companies that actively participated in the prior hearing and presented evidence, and intend to present evidence in this case. Pan American entered an appearance solely for the purpose of making a statement at the conclusion of the last

hearing and has entered no appearance in this rehearing. In other words, we are somewhat more in the position of an innocent bystander than the actual protagonists who were involved in the controversy actively and putting on testimony from their records.

As we view it, the question here is not, does the Commission have the power to reach the type of information these subpoenas duces tecum attempt to reach. As far as Pan American is concerned, we recognize that the Commission has that power. There is required for the exercise of it valid action on the part of the parties who seek to initiate the use of the Commission's power, and the questions before the Commission here, as we view it, are (1), has valid action been taken by Consolidated to exercise the power of the Commission in this respect, and (2), as agreed by counsel in its statement, shall the Commission exercise its discretion in this situation to require the production of this material.

Now the first ground stated in our Motion is directed to the fact that examination of the subpoena duces tecum served on these two men, and the file of the Commission, indicates that these subpoenas were issued by the Commission at the request of Consolidated in blank, that is to say, at the time they went out of the possession of the Commission, they were blank subpoenas, not directed to anybody and not specifying any material which was to be produced. Those portions of the subpoenas appear to have been and I believe were filled in by counsel for Consolidated after the subpoenas had left the possession of the Commission. We believe that under the

law this does not constitute a valid exercise of the subpoena power of the Commission, and that for that reason the subpoenas are void.

The statute, 65-3-7, which gives this Commission power to issue subpoenas, says: "The Commission, or any member thereof, is hereby empowered to subpoena witnesses, to require their attendance and giving of testimony before it, and to require the production of books, papers, and records in any proceeding before the Commission." The Commission, or any member, shall issue a subpoena to any person, but at the time these subpoenas were signed at the request of counsel and delivered out of the possession of the Commission, they were perfectly blank. They were not a subpoena directed to anybody, and the subsequent completion of them by counsel cannot, as we view it, make them a valid exercise of the authority of the Commission.

We rely for that proposition on the fact that there is a specific rule of the District Courts of New Mexico specifically authorizing the Clerk to issue a blank subpoena. Mr. Kellahin agreed in argument that those rules are not applicable to this Commission. The Federal Rules of Civil Procedure, Rule 81 (e), from which this rule is copied, has an express provision as follows:-- To what proceedings these rules are applicable, and the Federal Rules say in 81 (e), "These rules apply, (1), to proceedings to compel the giving of testimony or the production of documents in accordance with a subpoena issued by an officer or agency of the

United States."

There is no provision in the New Mexico Statute saying these rules shall be applicable to action by any administrative agency of the State of New Mexico. The Legislature gave this power to the Commission. They did not give counsel the power to issue a subpoena duces tecum. At the time this subpoena left the Commission it was blank and void. The subsequent filling in of it by counsel does not constitute the issuance by the Commission of a subpoena. As we view it, for that reason the subpoena is void and should be quashed.

Secondly, we have alleged that the subpoena is unreasonable in that Mr. Eaton, and I believe I'm correct in saying Mr. Renard also were allowed forty-eight hours from the time the subpoena was served in Farmington within which to comply with the blanket shotgun provisions of this subpoena and to present themselves in Santa Fe to deliver the material. Now even if they had had it in their custody and been able to do it, which they did not, this would not have constituted a reasonable exercise of the subpoena power. The law in that connection at 97 C.J.S., page 369, is stated as follows: "However, a witness is not punishable for failure to attend in obedience to a subpoena where it is served so late that sufficient time to comply with it is not afforded him; and, in general, where the service of a subpoena is so delayed as not to give the witness reasonable time to prepare to attend the trial, his nonattendance will be excused on comparatively slight

grounds, although the shortness of the notice is not per se an excuse."

We respectfully submit, with the Commission's knowledge of the material that was included in the shotgun subpoena that was served on the witnesses, that forty-eight hours in which to assemble and present that in Santa Fe is an unreasonable exercise of the subpoena power and runs afoul of the constitutional prohibition against unreasonable searches and seizure.

The third ground which we assert is that the subpoena itself does not meet the requirements of, the established legal requirements of a subpoena duces tecum. That exercise of the authority of a court or Commission is for the purpose of requiring the production of specific documents, it is required that there be a description of the documents to be produced in order that when the person comes in, it can be determined with certainty that he has or he has not complied with the subpoena.

I respectfully suggest that it's impossible to read these subpoenas and ever determine whether a man has complied with it, because of their broad shotgun character. Whether the subpoenas are reasonable or unreasonable in this respect is to be established in the light of some well-established standards to which I would like to refer briefly.

In 97 C.J.S. 377 this statement appears: "...the constitution requires that the forced production of documents by subpoena be not unreasonable, and the production of records may not

be required under such circumstances as to contravene such constitutional provisions. In determining whether a subpoena duces tecum is invalid as unreasonable and oppressive, each case must be judged according to the peculiar facts arising from the subpoena itself and other proper sources."

At 381, "A subpoena duces tecum may be used to compel the production of any proper documentary evidence, such as books, papers, documents, accounts and the like, which is desired for the proof of an alleged fact relevant to the issue before the court or officer issuing the subpoena; but such subpoena may not be used for the purpose of discovery, either to ascertain the existence of documentary evidence or to pry into the case of the adverse party."

We respectfully submit that you cannot read the three paragraphs of this subpoena without determining that it does not specify any particular documents and is just a shotgun demand that you go out and collect up anything that might be in this general area and present it all to the Commission.

It says at page 382 of the same authority, "A subpoena duces tecum may not be used for the purposes of discovery....nor can it lawfully be employed for a mere fishing expedition, or general inquisitorial examination of books, papers, or records, with a view to ascertaining whether something of value may not show up therefrom...."

It seems pretty apparent that that's exactly what Consolidated is doing. They want all this material brought in here so they

can look at it and see whether something of value may not show up therefrom.

Finally, a requirement which is recognized in all cases that I have read is that a subpoena duces tecum must be for a limited time. In other words, you can't just go in and say,"Well, produce everything you ever owned on a certain subject," because it is oppressive and unreasonable. It's impossible to determine whether the subpoena has been complied with. There's no limitation on the time of these subpoenas. These companies or these individuals, if they had it in their possession, are required to produce anything that they ever had dealing with these questions that are outlined on the subpoena.

On that subject, it has been said, "The limitation with respect to time in a subpoena duces tecum is sufficient if, where it specifies documents, a reasonable period of time is specified and it states with reasonable particularity the subjects to which the documents relate". I believe I gave you that citation, it is from 97 C.J.S. at page 396.

Referring to the East Sixty-fifth Street Corporation v. Ford Motor Company, 27 Fed. Supp. 37, "Some time limitation is usually required to prevent a subpoena duces tecum from being too broad in respect to the period covered."

I respectfully suggest to the Commission that this subpoena is fatally defective in that additional respect.

My time is almost up, and without reading additional

authorities which I have, I would like to point out only two additional things. The first is that I did not include in the return of Mr. Eaton, or in Mr. Renard's oral return the statement that these documents are not in his possession. I had assumed that would be a subject of testimony whenever the witness was called, but I will state and am prepared to prove that these documents specified are not and were not at the time the subpoena was served in the custody of either of these men, both of whom are engineers employed in the offices of their companies at Farmington. Each has access to these for the performance of his duties with the company. He does not have the custody of them or the responsibility for them.

Under the authorities read by Mr. Federici, the subpoena duces tecum must be directed to the person who has the responsibility for the records and the power to deliver them.

Finally, I would say that I'd like to suggest to the Commission that this is an extremely important decision that is to be made on these applications. I've heard some of the counsel in the case say, and I know it's true, that this is the first time the power of this Commission to issue a subpoena duces tecum has ever been exercised. Certainly it is the first time on the scale it is here sought to be used. The decision as to how that power is to be exercised is going to establish some precedents that are going to be awfully important to the industry and to the Commission.

The Commission knows and every man that's employed by an oil company who is in this room, I believe, would get on the witness stand and testify that the stock in trade of an oil company, the most important information that they use, once discovery has been obtained, is the reserve calculations, because on those they determine whether to buy or sell properties, whether to develop or not to develop properties; they make the decisions which are crucial to the existence of the companies. Because of that, these reserve figures are the most highly confidential information that is in the possession of the Engineering and Production Departments of every oil company.

In the case of Pan American, that information cannot be disclosed to anyone other than an employee of the company requiring them for the performance of his duties without the consent of the Vice President in charge of the West Texas-New Mexico Division. That's how secret these reserve figures are.

For the Commission to here establish a precedent in a situation of this kind requiring the production of this information would invite every person who has any desire to enter into a financial transaction with an oil company on some acreage to file a motion on the proration formula to establish a new formula, and immediately issue a subpoena such as has been issued here, and get all the information that all the companies have in that area on that highly secret question.

Finally, that information, as has been pointed out by

some of the other companies, is information that belongs not alone to us, but to us jointly with our partners in a great many wells. We are under strict limitation as to what we can do with it as far as our partners are concerned. They have not been subpoenaed in here to have a word in saying what should be done.

I would say to the Commission that power to issue the subpoena is not the important question here, but whether under all of the circumstances that I have suggested, the exercise of this power on a broad shotgun subpoena like this in circumstances like this constitutes a reasonable search and seizure, because certainly it is a search and a seizure if these subpoenas are enforced.

Thank the Commission very much.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: If the Commission please, it would seem that Pan American is in for one purpose and out for another, but I don't think that's material here. We're really not talking about Pan American's records but whether George Eaton has them and is willing to produce them.

The attack having been made on the subpoena power of the Commission, the section of the Statute referred to by counsel and quoted in that connection, this is substantially the same power to issue subpoenas which is vested in District Courts in the State of New Mexico to subpoena witnesses and compel their attendance and production of evidence; the same power that is

vested in the other administrative agencies of the State and the lower courts as well. In the exercise of that power, there is a statute governing, I mean something more than just a rule of court governing the issuing of subpoenas in blank, which statute is called to the attention of the Commission and the Assistant Attorney General, who was present at the time before the subpoenas were issued.

Admittedly, two of the subpoenas bore the names and the information requested at the time they were executed by the Commission. The remainder were issued in blank, simply for the reason that there was no way of knowing on whom we could get service within the State of New Mexico; and for that reason we had to make inquiry and get them served.

Now this question of sufficient time in which to prepare the material required may or may not be a valid argument. It is, in fact, one of the arguments that Mr. Malone has advanced at this stage. I don't think it's necessary to inquire into it, but in regard to the defense and certainty of the subpoena itself, I think we should first remember that we're not dealing with lay persons in this field. Every person we have subpoenaed is an expert. He knows exactly the meaning of every item specified in the subpoena duces tecum. This is particularly true in the case of the subpoena served on George Eaton, in that in addition to the reports, data sheets, and other information that was required, all of which he knows and can identify, we also

require any reports, determinations and tabulations on reserve calculations for specified wells. The reason for specifying those wells, as will come out later in the hearing, is to supplement evidence which is already in the record.

We have been accused of going on a fishing expedition constantly in the argument on these subpoenas. That is, of course, a normal argument on the subpoena duces tecum. What we have done here, what we have consistently tried to present to this Commission is, the subpoenas were issued for the sole purpose of getting before this Commission the information that New Mexico Statutes require the Commission to have in order to make a valid proration order prorating gas in the Basin Dakota Pool. That's the reason for the subpoenas and that's the basis for, the sole approach to this rehearing. We have taken this approach as a means of getting all of the valid information that we can get for the benefit of the Commission.

Now if the Commission is going to give way to the arguments that it will not require this information because of its secret and confidential nature, certainly that must be done on the basis that it is immaterial for the Commission to get this information before it for consideration in prorating gas in the pool.

MR. PORTER: That concludes the arguments on the Motions before the Commission. We are going to take a thirty-minute recess.

(Whereupon, a recess was taken.)

MR. PORTER: The hearing will come to order, please. I hope you will excuse us for taking a little longer than thirty minutes. The Commission has been in session and present with our legal counsel. We realize the importance of the Motions that have been made here today, Motions that the Commission has never had an opportunity to consider prior to this time, at least since I have been a member. We would, therefore, like some time to make a ruling on the Motions to Quash, but we'd also like to have the full participation, that is, the participation of the full membership of the Commission in rendering a decision so we can make a ruling on it. So I have a statement to read, which is the Commission's ruling at this time.

The Commission has considered the arguments of counsel present concerning the Motions, and feels that the importance of its decision precludes a ruling at this time. The Commission feels that it therefore should take this matter under advisement and continue the case to the regular November hearing. The Commission will permit all interested parties to file Memorandum Briefs within the next fifteen days. A formal ruling on the Motion will be made by the Commission as soon hereafter as is possible, and a copy of the same will be mailed to all interested parties.

The briefs are to be filed within the next fifteen days from this date. If nothing else to come before the Commission, the hearing is adjourned.

(Whereupon, the hearing was adjourned.)

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

I, ADA DEARNLEY, Notary Public in and for the County of Bernalillo, State of New Mexico, do hereby certify that the foregoing and attached Transcript of Hearing was reported by me, and that the same is a true and correct record of said proceedings, to the best of my knowledge, skill and ability.

WITNESS my Hand and Notarial Seal this 27th day of September, 1962, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

Ada Dearnley

NOTARY PUBLIC

My Commission Expires:

June 19, 1963.

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
August 15, 1962

IN THE MATTER OF:

(REHEARING)
Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C, changing the allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico.

Case 2504

NOTICE

CASE 2504 has been continued by the Commission to the September 13, 1962 regular hearing, at 9 o'clock a.m., Morgan Hall, State Land Office Building, Santa Fe, New Mexico. All parties who entered a formal appearance have been notified of the continuation by certified mail.

BEFORE: Honorable Edwin L. Mechem
Mr. A. L. "Pete" Porter
Mr. E. S. "Johnny" Walker

TRANSCRIPT OF HEARING

MR. PORTER: We will take up next Case 2504.

MR. PAYNE: Case 2504 has been continued until September 16, 1962 at the regular hearing to be held at Morgan Hall. All parties who entered a formal appearance have been notified of this continuance by certified mail.

MR. PORTER: In that case, we will move on to Case 2561.

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

I, ADA DEARNLEY, Court Reporter, do hereby certify that the foregoing and attached transcript of proceedings before the New Mexico Oil Conservation Commission at Santa Fe, New Mexico, is a true and correct record to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF I have affixed my hand and notarial seal this 23rd day of August, 1962.

Ada Dearnley
Notary Public-Court Reporter

My commission expires:
June 19, 1963.

BEFORE THE
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO

March 14, 1962

REGULAR HEARING

IN THE MATTER OF:

Application of Consolidated Oil & Gas, Inc. for an amendment of Order No. R-1670-C to establish an allocation formula for the Basin-Dakota Gas Pool San Juan, Rio Arriba and Sandoval Counties, New Mexico, which will differ from the allocation formula prescribed for the prorated gas pools of Northwest New Mexico by Rule 9(C) of Order No. R-1670. Applicant recommends an allocation formula based 60 percent on acreage and 40 percent on acreage times deliverability. The Commission also may consider the establishment of minimum and maximum allowables for the Basin-Dakota Gas Pool.

CASE NO. 2504

BEFORE: Edwin L. Mechem, Governor
E.S. "Johnny" Walker, Land Commissioner
A.L. "Pete" Porter, Secretary-Director of Commission

TRANSCRIPT OF HEARING

MR. PORTER: Case 2504.

MR. MORRIS: In the matter of application of Consolidated Oil & Gas, Inc., for an amendment of Order No. R-1670-C to establish an allocation formula for the Basin-Dakota Gas Pool, San Juan, Rio Arriba and Sandoval Counties, New Mexico, which will differ from the allocation formula prescribed for the prorated gas pools of Northwest New Mexico by Rule 9(C) of Order No.

P-1670.

MR. KELLAHIN: If the Commission please, Jason Kellahin, Kellahin and Fox, appearing for the applicant. I have with me Mr. Ted Stockman from the Colorado Bar who will present the case for Consolidated. I would like to also enter my appearance for Southern Union Gas Company and R. & G. Drilling Company; and could we ask that the Comaission at this time call for other appearances in support of and in opposition to the application?

MR. PORTER: We'll call for appearances and they can state their position.

MR. KELLAHIN: Yes, sir.

MR. PORTER: Southern Union, you say?

MR. KELLAHIN: Yes, sir, and R.G. Drilling Company.

MR. PORTER: Mr. Everett.

MR. EVERETT: I would like the record to show that Atwood and Malone and Mr. Charles Atwood have entered an appearance for the Ohio Oil Company by letter dated March 12th, addressed to the Commission; and at that time Mr. Malone introduced me as a member of the Bar of Wyoming, also representing and being associated with him in the case and to handle it for the Ohio Oil Company. My name is W. Hume Everett, my address is Post Office Box 120, Casper, Wyoming.

MR. PORTER: Do you care to state your position in the case at this time?

MR. EVERETT: I don't know whether I could briefly or

not, Mr. Porter. I would say we are opposed to the application.

MR. PORTER: Mr. Seth.

MR. SETH: Mr. Ben Howell, Garrett Whitworth, and Oliver Seth for the El Paso Natural Gas Company, and I'm appearing for Aztec also, and also for Sunset Production Company. All those parties are opposed to the application.

MR. COOTER: Paul Cooter of Atwood and Malone, Roswell, appearing for Pan American. Pan American is in favor of a continuation of the present allocation formula and is opposed to the application.

MR. PORTER: Mr. Kelly.

MR. KELLY: Booker Kelly of Gilbert, White and Gilbert, representing SunRay Midcontinent Oil Company. SunRay is basically in favor of the application.

MR. MILLS: I am George Mills, an operation engineer with Atlantic Refining out of Durango. We will wish to make a statement at the end of the hearing in favor.

MR. CAMERON: John Cameron, representing Tidewater. We concur in the application.

MR. BLACK: C.R. Black, representing Texaco Inc.. We wish to make a statement at the conclusion of the hearing concurring with the application.

MR. SETH: I have another appearance for Calkins Oil Company. We are opposed to the application.

MR. DUGAN: Tom Dugan, representing Pioneer Production

Corporation, opposed to the application.

MR. PORTER: That was Pioneer?

MR. DUCAT: Pioneer Production Corporation.

MR. KELLAHER: W.A. Kelleher, Albuquerque.

MR. PORTER: W. Kelleher.

MR. KELLAHER: Kelleher, K-e-l-l-e-h-e-r. I would like to make a brief statement if the Commission please, of our position in connection with Case 2504. The last sentence of the synopsis of the order, quote the following, "The Commission also may consider the establishment of minimum and maximum allowables for the Basin-Dakota Gas Pool." Now, we do not interpret the application to include that within the scope of the prior, and assume that that was added or injected into the order on the Commission's own motion.

Therefore, we would like to submit the following in opposition: It is the opinion of Pubco Petroleum Corporation that the current proration formula now in effect is a just and workble formula, and gives each well its fair share of the existing market commensurate with the recoverable gas reserves in the individual wells.

Two, any refinement or change in the existing formula should be in favor of deliverability and the reduction in the acreage factor, in that it is our belief that well deliverability more truly reflects recoverable reserves.

Three, an increase in the acreage factor at the expense

of deliverability in our opinion would in effect violate the correlative rights and permit the weaker wells with less reserves to ultimately produce far from their proper share of supply in amounts in excess of their actual reserves.

Four, the current spacing set presently provides a 25 per-cent acreage factor which in effect allocates a basic allowable to all wells regardless of their deliverabilities merely because they exist.

Five, we believe that it has been demonstrated that major changes occur within the Basin-Dakota Pool porosities, permeability, connate water, saturation and sand thickness, all of which are the major and important factors in determining the actual recoverable reserves within a given Dakota drilled section. We hope to propose to demonstrate direct relationship between deliverability and recoverable reserves.

Six, it is our contention before your honorable body that if any changes are to be made in the proration formula such a change should be in favor of one hundred per cent deliverability. Pubco's position is that it objects to the introduction of minimum or maximum allowables, their reduction would actually in effect substantially change the proration formula in favor of a straight acreage allocation of market and would be a violation of correlative rights.

MR. MORRIS: If the Commission please, Richard Morris appearing for the Commission Staff. We will have one witness to

[illegible] concerning the establishment of [illegible] pools.

MR. [illegible]: Are there any other appearances? Mr. Stockmar, if you are ready.

MR. [illegible]: Yes.

MR. HOWELL: If the Commission please, it appears from the number of appearances and the divergence of opinion that we are about to step forth on another of the hassles regarding proration in the Basin with which so many of us are familiar in the past; and in fairness to the proponents here, I think that I should tell them now that I would move for a continuance after their testimony is completed and ask that if possible, this case be set at a date other than the regular hearing date, because it looks very much as if we can run into two or three days. Now, unfortunately for a lot of us there is a hearing tomorrow in Texas that requires the presence of some people there; that is the hearing at which they want the executives to speak and many of the executives want some of their hands around there with them before they talk and we do run into somewhat of an embarrassing conflict. I think it's only fair that we tell you now that we will propose to make that motion for a continuance at the end of your testimony.

MR. STOCKMAR: Ted Stockmar, appearing for the applicant. Thank you for your candid statement, Mr. Howell. In immediate response to it, I would like the Commission to hear a

little history in connection with this matter. Under date of January 19th, Consolidated, the applicant, invited all of the operators in the Basin of the names originally appeared on exhibit in the proration schedule, to attend a meeting in Denver to discuss this very important problem. There was very substantial representation there which to me is evidence that there is a problem. Only one party absolutely declined to attend and that was Pubco who has just made a statement. I make this statement because as part of that invitation, and at that meeting, Consolidated made it very clear that as soon as possible it would seek this application which it has done. I feel that ample time in the five to six weeks that has passed since that time, ample time has been made available to parties to prepare themselves for this hearing. Consequently when the motion is made we will certainly resist any continuance of the matter.

We believe that the problem is a paramount one and it should be solved as soon as possible. I don't know that I need to restate too much the existing situation. As you know, under the existing order R-1670-C, the Basin-Dakota Gas Pool is spaced on three hundred and twenty acre spacing and the allowable is allocated on the basis of a formula which gives 25 per cent weight to acreage and 75 per cent weight to acreage times deliverability. Our application is to alter that substantially in favor of acreage and we are asking for a 60 per cent weight for acreage alone and a 40 per cent weight for acreage times deliverability.

We believe in addition that the revisions called by the Commission on its own motion [illegible] to maximum and minimum allowables might be substantially reduced if our proposal is adopted. There is a lot of history also behind this particular formula. I'm sure that members of this Commission will recall the many difficult hearings that were held in 1961 and early in 1959 concerning spacing, in fact proration as it and the allowable formula, I would like to recall to your attention that at least in some of the fields involved there is a substantial problem created by a hundred and sixty acre spacing in certain areas and three hundred and twenty acre drilling in other areas. This also creates a very complicated allowable problem and it is, it has always been my view that this formula as it was initiated gave some weight to the disparity in acreage in drilling areas that then existed. I'm glad that Mr. Howell raised the question of Texas because this now gives me an opportunity to do the same.

I would like to call to the Commission's attention the February 19, 1962 issue of the Oil and Gas Journal. On Page 62 thereof, there is an analysis of the dramatic change that has taken place in Texas in the last eight months concerning the allocation of allowables in fields. Of the thirty-one gas fields they are spaced over 70 per cent, or twenty-two, where the allowables were allocated on the basis of one hundred per cent acreage; three of them were 75 per cent acreage; three of them were two-thirds acreage; one was fifty-fifty, none was twenty-five seventy-

five; and only two were on the basis of the Texas equivalent of deliverability. I think this dramatic change will be of interest to you; it shows that Texas at least is making some progress in the right direction here.

We recognize the difficulty of strict engineering proof with respect to the Basin-Dakota Pool in this early stage of its development. The volumetric reserve studies are very difficult. The pressure withdrawal history is very limited. None the less, it is clear to us that this Basin-Dakota Pool is substantially different from the Pictured Cliffs reservoir or the Mesaverde, and it does seem obvious that this formula is a carry-over from those considerably different pools.

We also recognize that the deliverability concept as such is a difficult one. It certainly has a value in terms of measuring the relative capacities of the wells to produce into the pipeline, as you will see. We'll resist the impression that deliverability measures reserves. There are certain limitations inherent in the deliverability concept itself.

We recognize and applaud the work that Mr. Utz has done in determining deliverabilities with precision, but I feel sure that he would be the first to recognize that the same standards do not necessarily apply in all reservoirs; and we do have here inherent in the present system a use of a common back pressure curve which is admittedly different for the various horizons. We recognize these defects; the deliverability is still useful, no question of

[illegible] and enlarge the [illegible]

There's also in the [illegible] very important. We recognize [illegible] existing under this present formula [illegible] allocation formula [illegible] that the deliverability idea, if we had a hundred per cent deliverability formula, this would be the right method of the rule of capture without surface waste. Now, the Commission is charged first with preventing waste. This it can accomplish with any formula. Its secondary responsibility is to protect correlative rights. This we submit has not been done, and experience to date has shown that the present formula does not do this. We have no quarrel with three hundred and twenty acre spacing. We believe this has been established, that it provides the right mechanism for getting ultimate recovery. We think it sets the appropriate economic atmosphere for the development of this pool, but we submit that the allocation formula must protect correlative rights and this is what we are here asking for.

I would like at this time to call a witness, Harry Trueblood.

MR. PORTER: I believe we have another statement.

MR. EVERETT: Having just come from Texas, I will not undertake at this point to answer your illusions thereto, Mr. Stockmar, but I would say that whatever is purported in the Oil

[illegible] Colorado [illegible] Texas Lands, but what the [illegible] and since the facts in that be different, as all [illegible] to Mr. Stockmar and his client, I wanted to make a very brief state and before I join in the motion that is going to be made by Mr. Morrill later on, I'd understand it.

We were the only operator who was not notified of the Denver meeting, through no fault of Mr. Stockmar or his client, but we have about three per cent interest in the gas allocated in the Basin-Dakota Pool as does his client, so our interest there is about the same, percentagewise, of the total allowable. We read in Nancy Royall's report the latter part of February of this case, whereupon Mr. Spiello of our company telephoned someone with Consolidated in Denver and they very graciously sent to us some of the material which was presented to the operators at that meeting in Denver.

A day or two after that I called the Commission and we actually received a notice of this hearing on March 5th together with the copy of the application; and in all fairness to Mr. Stockmar, I wouldn't want him to proceed, and I thought it might be helpful both to him and his client and certainly so far as I'm concerned, my client. We just haven't had time to get ready to put on the kind of a defense we feel is demanded in this instance, so that we would join in the request for the continuance; but I wonder if Mr. Stockmar wanted to go ahead with his testimony, exhibits and

[illegible] to grant the motion. If they would do that, why, I think it might save some of us and save all of us a good deal of time to proceed in that fashion so that we [illegible] and then [illegible] and [illegible]. Now that is not normal procedure except for the Federal Power Commission, and I don't want to imply it's precedential anything to this Commission that might follow that one, but that is the effect of it and I just wonder what Mr. Everett's view with reference to that procedure is, because you might prefer to wait and have us be prepared to cross examine at a later date. We are not prepared to do complete cross examination today. What are your views?

MR. BROCKWAY: Well, gentlemen of the Commission, we would, of course, much prefer to complete the entire hearing at this time. We are ready to proceed, others have had ample time. It would seem a waste of our time and yours at this time to present our case in full when it would largely have to be done again. If you are of a mind to continue the entire matter I think our position must be that if you elect to continue it that we will not proceed beyond this point.

MR. PORTER: Mr. Everett, do you have something further?

MR. EVERETT: Well, I have tried to state our position. We are certainly not ready with any defense today although we are opposed to the motion. When you consider there are approximately

five hundred seventy-five wells in this field, and we are considering a rule that has been in effect by the Commission for a number of years statewide and for more than a year in this pool, I think we have to consider the whole pool and it's going to take our engineers some time to study all the wells and see the effect of this. I can go this far in my defense today, that the net effect of what the applicants seek here is to increase their income about $12,000.00 a month and decrease my client's income by $12,000.00 a month, so we take more than a passing interest in it. We think the economics are involved more than any correlative rights and maybe they are measured by dollars and if they are, they are measured by our dollars.

MR. STOCKMAR: I would like to correct one statement Mr. Hume Everett made, and that is that Consolidated is higher, has interest in wells exceeding 10 per cent of those drilled in the pool at this time, and then another implication at the last, said "our dollars." We are not trying to get Ohio's dollars, we are trying to get Consolidated's dollars.

MR. EVERETT: A point of view, Mr. Stockmar.

MR. HOWELL: Mr. Stockmar, might I ask one question? How long do you think it will take you to put your case in chief?

MR. STOCKMAR: Certainly less than one hour, Mr. Howell.

MR. KELLAHIN: Southern Union will also have a witness that would take approximately thirty minutes, I would estimate.

MR. PORTER: Sir?

MR. KELLAHIN: I say Southern Union will also have a witness that will take twenty to thirty minutes.

MR. PORTER: Mr. Davis.

MR. DAVIS: Oullman Davis, representing Aztec Oil and Gas Company. I did not join in the discussion about a continuance motion that will be offered at a later time. I would be very happy for Consolidated to put on their case today and listen to them, but Aztec, it so happens, is in the same position. We did have notice of the meeting in Denver but we were not able to send anyone up there. We have not had the opportunity to prepare any witnesses for the opposition of this application and in view of the apparent motion to be made, I would like to move now that this case be continued to a date certain, either after the regular meeting, say in the next month or in between, to start off in the morning with this case because I personally think that it will take more than one day to finish this.

MR. PORTER: Mr. Davis, as I understand your motion, it's just a simple motion to continue with this case until a special date or the next regular hearing date or something that might be convenient by the Commission to be heard in its entirety, that is the case to be heard in full at that time.

MR. DAVIS: Well, I don't think--if I did go that far I didn't intend to. I always want to reserve the right to ask for any additional continuance if I was surprised.

MR. PORTER: After that time is what I had reference to.

MR. HOWELL: Yes, and the idea is to continue this case over to either the regular meeting or as Mr. Howell suggested, maybe a separate date for it would be legal.

MR. PORTER: Anyone care to comment?

MR. EVERETT: I would like to join in that motion and make this little statement. The reason I rushed before and asked Mr. Stockman what his view would be because I have always been under the impression, in any this sort of a case of any sort, that both the applicant and those opposed to the application should go into the courthouse prepared to fight it out; and that it's unfair to ask Mr. Stockman to put on his testimony and witnesses today and let me have a month to go and dig it apart and work up cross examination and so forth, so I would join in the gentleman's motion to continue to a day certain. I would hope that we could have at least thirty days so that we could make an adequate study of the facts concerning this pool and this rule so as to formulate our defense and then we will not make our case on the failure of the applicant to make its case. We make our case on our own defense; so I join in your motion and ask the Commission to continue the matter for a complete hearing commencing sometime not less than thirty days from date.

MR. PORTER: Anyone else care to comment concerning the motion?

MR. STOCKMAR: I appreciate the attitude shown by Mr. Everett. It so happens that our particular witness is very

important to our [illegible], and if the Commission does not be pressed with the entire case at this time, then we would prefer not to do it at present and would like something less than thirty days because this the middle of April he will be very busy, already is very busy, obligated for the rest of that month and through May. It would seem that sometime in the forepart of April would be adequate time for the others to prepare.

MR. PORTER: The Commission has decided to continue the case and will not hear any testimony today, but to continue the case to the regular hearing date, the 16th of April. It is hoped that we can get to the case fairly early that day and the Commission will be prepared or we hope we can be prepared to spend another day if necessary at that time.

The case will be continued to the regular April hearing, which is the allowable hearing day.

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

I, MARIANNA MEIER, NOTARY PUBLIC in and for the County of Bernalillo, State of New Mexico, do hereby certify that the foregoing and attached transcript of hearing was reported by me in stenotype and that the same was reduced to typewritten transcript under my personal supervision and contains a true and correct record of said proceedings, to the best of my knowledge, skill and ability.

NOTARY PUBLIC

My Commission Expires:

April 8, 1964