

CASE No.

5354

Application,

Transcripts,

Small Exhibits

ETC.

BEFORE THE  
NEW MEXICO OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
October 30, 1974

EXAMINER HEARING

-----  
IN THE MATTER OF: )  
 )  
 )

Application of Mark Production Company )  
for compulsory pooling in an unorthodox )  
location, Eddy County, New Mexico. )  
-----

CASE 5354

BEFORE: Daniel S. Nutter, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the New Mexico Oil                      William Carr, Esq.  
Conservation Commission:                  Legal Counsel for the Commission  
State Land Office Building  
Santa Fe, New Mexico

For the Applicant:                          Tom Kellahin, Esq.  
KELLAHIN & FOX  
500 Don Gaspar  
Santa Fe, New Mexico

I N D E X

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MR. NUTTER: We will call the next Case, 5354.

MR. CARR: Case 5354, application of Mark Production Company for compulsory pooling in an unorthodox location, Eddy County, New Mexico.

MR. KELLAHIN: Tom Kellahin of Kellahin and Fox, Santa Fe, New Mexico appearing on behalf of Mark Production Company, and I have one witness to be sworn.

(Whereupon, the Witness was duly sworn.)

CURTIS W. MEWBOURNE

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Would you please state your name and in what capacity you are appearing in this Case?

A My name is Curtis W. Mewbourne, M-E-W-B-O-U-R-N-E; I'm President of the Mark Production Company.

Q Mr. Mewbourne, have you previously testified before the Commission?

A I have.

Q Have your qualifications as an expert been accepted and made a matter of record?

A They have.

Q Are you familiar with the facts surrounding this particular application by Mark Production Company?

A Yes, sir.

MR. KELLAHIN: If the Examiner please, are the Witness's qualifications acceptable?

MR. NUTTER: Yes, they are.

BY MR. KELLAHIN:

Q Would you refer to the plat that has been marked Exhibit No. 1 and identify it and state briefly what Mark is seeking.

A Exhibit No. 1 outlines the proposed proration unit, being the south half of Section 9, 320 acres. The 40-acre tract colored yellow, the northeast quarter of the southeast quarter of Section 9; the leasehold interest is owned by Gulf Oil Corporation.

Q And, that is the only interest that has not voluntarily committed itself to your drilling?

A That is correct. We have attempted to obtain an agreement from Gulf, but have been unable to as of this date.

Q With regard to your efforts, would you refer to what has been marked Exhibit No. 2 and identify it?

A Yes, Exhibit No. 2 was a letter transmitting to

Gulf copies of the operating agreement and authority for expenditure on the subject well. The same information was sent to all other working-interest owners, all of which agreed to the well, the authority for expenditure and executed the operating agreement, except Gulf.

Q Please refer to Exhibit No. 3 and identify it?

A Exhibit No. 3 is a copy of the authority for expenditure referred to in the transmittal letter.

Q And, what is the total cost?

A The total cost to drill and complete the proposed well would be \$366,819, and it has been agreed upon by all other working-interest owners, except Gulf.

Q Exhibit No. 4, would you please identify it?

A Exhibit 4 is a letter from Gulf Oil Company declining to participate in the well. Gulf has been in good faith, but apparently feels that it is marginal economics, declined to participate in a working interest.

Q Yes, sir, and Exhibit No. 5?

A Exhibit No. 5 is an attempt upon my part to get Gulf Corporation on a farmout, since they did not want to join the well. To this date we have been unable to agree with Gulf on any terms for a farmout agreement.

Q The specific unorthodox well location has been

the subject of a previous hearing before the Commission has it not?

A It has.

Q And, that well location was approved in Case No. 5333, and Commission Order No. R-4884, which was heard before the same Examiner on October 2nd, 1974?

MR. NUTTER: What was the date of the Order?

MR. KELLAHIN: The Order date is 22 October 1974.

MR. NUTTER: And that approved the location?

MR. KELLAHIN: Yes, sir. For purposes of our testimony here, with regards to the geology, Mr. Examiner, we would like to incorporate our testimony of that previous hearing into the hearing of this Case.

MR. NUTTER: And that was Case No.?

MR. KELLAHIN: 5333.

MR. NUTTER: The record in Case No. 5333 will be incorporated in the record of the instant Case No. 5354.

MR. KELLAHIN: For the convenience of the Examiner we are again submitting to you the same exhibits that were submitted in that previous hearing. They are Exhibits 6, 8, 9, and 10.

BY MR. KELLAHIN:

Q Now, let me continue with your testimony, Mr.

Mewbourne. Mark Production Company will be designated the operator of this well, is that correct?

A Yes, sir.

Q Based upon your knowledge and information in this Case, and the geological testimony, do you have any recommendation for a risk factor to be assessed against Gulf?

A I would recommend a risk factor of 200 percent due to the marginal economics in the risk of the location.

Q In addition to the risk factor that the Commission allows you to charge a cost of supervision, that's in addition to your actual cost; this is a supervision cost to be charged against these non-consenting individuals, and would an overhead charge of \$205 per month be a reasonable figure, in your opinion, for cost of supervision?

A Yes, it would, and it has been agreed to by the other working-interest owners in the well.

MR. KELLAHIN: If the Examiner please, we would appreciate the same type of language with regards to cost of supervision as appears in other orders requested by us from the Commission, exemplified by Order R-4721.

MR. NUTTER: What language is that?

MR. KELLAHIN: I thought I had a sample here,

Mr. Nutter.



MR. NUTTER: What does that language relate to?

MR. KELLAHIN: The accounting the adjusted -- I'm trying to think of what it is.

MR. NUTTER: You mean that phrase that ties the combined fixed rates to the Bureau of Labor Statistics Cost of Living Index?

MR. KELLAHIN: No, sir, I don't believe so. If you give me a moment here I can find one.

MR. NUTTER: Oh, you're talking about the phrase that makes a differentiation in the cost of supervision for a drilling well as opposed to a producing well?

MR. KELLAHIN: No, sir, the second part of the paragraph that has to do with the accounting. We want the ability to adjust the combined fixed rates on an annual basis. Perhaps I could submit to you a proposed paragraph after the hearing?

MR. NUTTER: Well, I believe that this in the finding isn't specific as to what this adjustment will be based on. I think if you will turn to the Order, you will see that it is based on the percentage increase or decrease in average weekly earnings of crude petroleum and gas production workers by the Bureau of Labor Statistics; that is the phrase I thought you had in mind.

MR. KELLAHIN: Well, they clarify --

MR. NUTTER: (Interrupting) I know what you mean now.

BY MR. KELLAHIN:

Q Mr. Mewbourne, in your opinion, will approval of this application avoid the drilling of unnecessary wells, the protection of correlative rights, and allow each of the interest owners to recover their just and fair share of the hydrocarbons without unreasonable expense?

A Yes, sir, it will.

MR. KELLAHIN: If the Examiner please, we move the introduction of Exhibits 1 through 10.

MR. NUTTER: Applicant's Exhibits 1 through 10 will be admitted into evidence.

MR. KELLAHIN: That concludes our direct examination.

CROSS EXAMINATION

BY MR. NUTTER:

Q Mr. Mewbourne, as I understand it, Order No. R-4844 approved the location previously; you're seeking a 200 percent risk factor; you're combined fixed rates would be \$205 a month, is this correct?

A Yes, sir.

Q Is this \$205 a month the rate that you have experienced as your cost of overhead on wells in this area?

A Yes, sir, we have seen similar charges, not only in our operation, but other operators in the area.

Q And, the other working-interest owners in the unit have agreed to a 200 percent risk factor, or are they paying their share?

A Everyone else is participating.

Q Everyone else is participating?

A Except Gulf who found the economics to be too marginal to participate.

Q Did you ever receive a reply to your letter to Gulf in which you offered to farmout?

A Not as yet, we discussed it by telephone.

Q And have they indicated they won't?

A We have been unable to agree on terms as of this date.

Q I see.

MR. NUTTER: Are there any further questions of Mr. Mewbourne?

MR. KELLAHIN: No, sir.

MR. NUTTER: He may be excused. Do you have anything further, Mr. Kellahin?

MR. KELLAHIN: Not in this Case, Mr. Nutter.

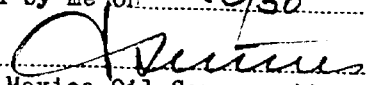
MR. NUTTER: Does anyone have anything they wish to offer in Case 5354? We will take the Case under advisement.

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

I, RICHARD L. NYE, Court Reporter, do hereby certify that the foregoing and attached Transcript of Hearing before the New Mexico Oil Conservation Commission was reported by me, and the same is a true and correct record of the said proceedings, to the best of my knowledge, skill and ability.

  
RICHARD L. NYE, Court Reporter

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 5354, heard by me on 10/30, 19 74.

  
\_\_\_\_\_, Examiner  
New Mexico Oil Conservation Commission

THE NYE REPORTING SERVICE  
STATE-WIDE DEPOSITION NOTARIES  
225 JOHNSON STREET  
SANTA FE, NEW MEXICO 87501  
TEL. (505) 982-0386



## OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO  
P. O. BOX 2088 - SANTA FE  
87501

I. R. TRUJILLO  
CHAIRMAN

LAND COMMISSIONER  
ALEX J. ARMijo  
MEMBER

STATE GEOLOGIST  
A. L. PORTER, JR.  
SECRETARY - DIRECTOR

November 5, 1974

Mr. Tom Kellahin  
Kellahin & Fox  
Attorneys at Law  
Post Office Box 1769  
Santa Fe, New Mexico

Re: CASE NO. 5354  
ORDER NO. R-4906  
Applicant:  
Mark Production Company

Dear Sir:

Enclosed herewith are two copies of the above-referenced  
Commission order recently entered in the subject case.

Very truly yours,

*A. L. Porter, Jr.*

A. L. PORTER, Jr.  
Secretary-Director

ALP/ir

Copy of order also sent to:

Hobbs OCC x  
Artesia OCC x  
Aztec OCC       

Other Gulf Oil Corporation, Midland, Texas

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. 5354  
Order No. R-4906

APPLICATION OF MARK PRODUCTION  
COMPANY FOR COMPULSORY POOLING  
AND AN UNORTHODOX LOCATION,  
EDDY COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on October 30, 1974, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 5th day of November, 1974, the Commission, a quorum being present, having considered the testimony, the record, and the recommendations of the Examiner, 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 the applicant, Mark Production Company, seeks an order pooling all mineral interests of Pennsylvanian age or older underlying the S/2 of Section 9, Township 20 South, Range 25 East, NMPM, Cemetery-Morrow Gas Pool, Eddy County, New Mexico.
- (3) That the applicant has the right to drill and proposes to drill a well at an unorthodox location 660 feet from the South line and 660 feet from the West line of said Section 9 as approved by Order No. R-4884, dated October 22, 1974.
- (4) That there are interest owners in the proposed proration unit who have not agreed to pool their interests.
- (5) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.
- (6) That the applicant should be designated the operator of the subject well and unit.

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CASE NO. 5354  
Order No. R-4906

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 per cent thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(11) That \$205.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates); that this charge should be adjusted annually based upon the percentage increase or decrease in the average weekly earnings of crude petroleum and gas production workers; that the operator should be authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) That upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before February 1, 1975, the order pooling said unit should become null and void and of no effect whatsoever.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the Pennsylvanian formation underlying the S/2 of Section 9, Township 20 South, Range 25 East, NMPM, Cemetery-Morrow Gas Pool, Eddy County, New Mexico, are hereby pooled to form a standard 320-acre gas spacing and proration unit to be dedicated to a



well to be drilled at an unorthodox location 660 feet from the South line and 660 feet from the West line of said Section 9 as approved by Commission Order No. R-4884 dated October 22, 1974.

PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the 1st day of February, 1975, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Pennsylvanian formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the 1st day of February, 1975, Order (1) of this order shall be null and void and of no effect whatsoever;

PROVIDED FURTHER, that should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Commission and show cause why Order (1) of this order should not be rescinded.

(2) That Mark Production Company is hereby designated the operator of the subject well and unit.

(3) That after the effective date of this order and within 30 days prior to commencing said well, the operator shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) That within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operator shall furnish the Commission and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Commission and the Commission has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 45-day period the Commission will determine reasonable well costs after public notice and hearing.

(6) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) That the operator is hereby authorized to withhold the following costs and charges from production:

(A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) That the operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) That \$205.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates), provided that this rate shall be adjusted on the first day of April of each year following the effective date of this order; that the adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of Crude Petroleum and Gas Production Workers for the last calendar year compared to the preceding calendar year as shown by "The Index of Average Weekly Earnings of Crude Petroleum and Gas Production Workers" as published by the United States Department of Labor, Bureau of Labor Statistics, and the adjusted rate shall be the rates currently in use, plus or minus the computed adjustment; that the operator is hereby authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) That any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) That any well costs or charges which are to be paid out of production shall be withheld only from the working interests share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

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CASE NO. 5354  
Order No. R-4906

(12) That all proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

(13) 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 herein-  
above designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

I. R. TRUJILLO, Chairman

ALEX J. ARMIJO, Member

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

S E A L

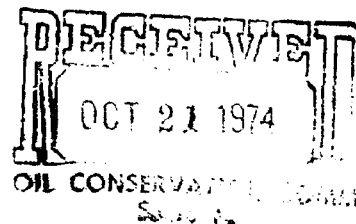
jr/

5-350  
JASON W. KELLAHIN  
ROBERT E. FOX  
W. THOMAS KELLAHIN

KELLAHIN AND FOX  
ATTORNEYS AT LAW  
800 DON GASPAR AVENUE  
POST OFFICE BOX 1788  
SANTA FE, NEW MEXICO 87501

TELEPHONE 982-4315  
AREA CODE 505

October 17, 1974



*Message - Don called 10/21*  
Oil Conservation Commission  
P. O. Box 2008  
Santa Fe, New Mexico 87501

ATTENTION: Mrs. Ida Rodriguez

Dear Ida:

On behalf of Mark Production Company, please dismiss their pending forced pooling application which is now scheduled for hearing on October 30, 1974.

They have advised me that the non-consenting party, Gulf, has extended them a farm-out agreement for the acreage involved.

Very truly yours,

*WTK*  
W. Thomas Kellahin

*OK to be heard*  
WTK:ks

cc: Mr. Curtis Mewbourne

*This dismissal was withdrawn. Case will be heard 10/30/74*

*WTK*



September 12, 1974

Gulf Oil Corporation  
P. O. Drawer 1150  
Midland, Texas 79701

Re: First National Bank of  
Albuquerque A-#1  
S/2 Section 9, T-20-S, R-25-E  
Eddy County, New Mexico

Gentlemen:

The subject well is proposed at a location 660' FWL and 660' FSL of Section 9, T-20-S, R-25-E, Eddy County, New Mexico. Our application for an unorthodox location for this well has been set on the docket of the New Mexico Oil Conservation Commission for October 3.

Attached you will find two (2) copies each of the Operating Agreement and the Authority for Expenditure on the subject well. If these meet with your approval, please execute and return to this office one (1) copy of each instrument.

Very truly yours,

Curtis W. Newbourn

CWM:Bjd

Attachments

BEFORE EXAMINER NUTTER	
OIL CONSERVATION COMMISSION	
<i>msk</i>	EXHIBIT NO. <u>2</u>
CASE NO. <u>5354</u>	

AUTHORITY FOR EXPENDITURE  
 MARK PRODUCTION COMPANY - FIRST NATIONAL BANK OF ALBUQUERQUE A-#1  
 CEMETERY (MORROW) FIELD  
 S/2 SECTION 9, T-20-S, R-25-E  
 EDDY COUNTY, NEW MEXICO

ESTIMATED COST TO CASING POINT:

Survey and stake	\$ 240
Road and location	7,950
Surface damages and clean up	2,000
Drilling: Footage - 9600' @ \$11.50	110,400
Daywork - 4 days @ \$2,600	10,400
- 1 day @ \$2,500	2,500
Sample logging unit - 14 days @ \$140	1,960
Cement and cementing services	5,000
Conduction pipe - 300' of 12-3/4" @ \$10.00	3,000
Surface casing - 1250' of 8-5/8" @ \$9.00	11,250
Mud and chemicals and brine	25,500
Drillstem tests - 3 @ \$1,350	4,050
Geological services	900
Drilling overhead	1,450
Production supervision	1,050
Logging	5,700
Legal services	1,000
Equipment rental	5,000
Welding	630
Travel expense	450
Trucking	1,800
Plug or cement production pipe	3,000
Wellhead	900
New Mexico @ 4%	8,244

\$214,374

ESTIMATED COMPLETION COSTS:

Producing casing - 9700' of 4-1/2" @ \$7.00	67,900
Corrolation log and perforating	2,425
Temperature survey and BHP	400
Treating	6,833
Equipment rental	2,750
Welding	400
Completion unit	3,000
Tubing - 9600' of 2-3/8" @ \$2.00	19,200
Float equipment and centralizers	850
Packer	1,550
Tank battery and flow lines	9,000
Wellhead	7,550
Stakpack - 750 BTU - Separators and heater	13,200
Completion overhead and supervision	2,100
Roustabout work, lines and connections	3,750
Legal services	500
Miscellaneous	1,000
Rig anchors	213
Safety control valves	1,460
Travel expense	400
Trucking	2,100
New Mexico Tax @ 4%	5,864

BEFORE EXAMINER NUTTER  
 OIL CONSERVATION COMMISSION  
 MARK EXHIBIT NO. 3  
 CASE NO. 5354

TOTAL

152,445

\$366,819

COMPANY: \_\_\_\_\_

MARK PRODUCTION COMPANY

BY: \_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

# Gulf Oil Company - U.S.

EXPLORATION DEPARTMENT  
MIDLAND DISTRICT

September 18, 1974

J. A. Hord  
DISTRICT EXPLORATION MANAGER  
R. E. Griffith  
DISTRICT LANDMAN  
Y. B. Newbourn  
DISTRICT EXPLORATION GEOLOGIST

P. O. Drawer 1180  
Midland, Texas 79701

RE: Proposed Unit  
First National Bank of  
Albuquerque A-#1  
S/2 Section 9, T-20-S,  
R-25-E, EDDY COUNTY,  
New Mexico

Mark Production Company  
330 Citizens Bank Building  
Tyler, Texas 75701

Attention: Curtis W. Mewbourne

Gentlemen:

Reference is made to your recent letter of September 12, 1974, in which you proposed the formation of a unit comprised of the captioned acreage for the purpose of drilling subject well.

Your proposal has been carefully considered and it has been decided that we are not interested in joining in the proposed unit at this time.

We wish to thank you for giving us the opportunity of considering your request.

Yours very truly,

*R. E. Griffith*  
R. E. GRIFFITH

FWT:mlb



A DIVISION OF GULF OIL CORPORATION

BEFORE EXAMINER NUTTER	
OIL CONSERVATION COMMISSION	
<i>hmk</i>	EXHIBIT NO. <u>4</u>
CASE NO. <u>5354</u>	



September 20, 1974

Gulf Oil Company-U.S.  
Exploration Department  
P. O. Drawer 1150  
Midland, Texas 79701

Attention: Mr. R. E. Griffith

Re: Mark Production Company - First  
National Bank of Albuquerque A-1  
S/2 Section 9, T-20-S, R-25-E  
Eddy County, New Mexico

Gentlemen:

Thank you for your letter of September 18, in which you inform me of your decision not to join the proposed well.

Mark Production Company is obligated to begin this test well in the near future, and we would appreciate your cooperation in proceeding forward with the drilling of this well. In view of your decision not to join, we are prepared to offer you the best terms on a farmout agreement that have been consummated in this area.

We propose that Gulf farmout the 40-acre tract, NE/4 of the SE/4, and retain a 1/16th of 8/8ths overriding royalty convertible to a 50% working interest after payout, both proportionately reduced to your net interest. Your early consideration of our request will be appreciated.

Very truly yours,

Curtis W. Mewbourne

CWM:BJd

BEFORE EXAMINER NUTTER	
OIL CONSERVATION COMMISSION	
MARK	EXHIBIT NO. 5
CASE NO.	5354

Dockets Nos. 31-74 and 32-74 are tentatively set for hearing on November 13 and November 26, 1974. Application for hearing must be filed at least 22 days in advance of hearing date.

DOCKET: EXAMINER HEARING - WEDNESDAY - OCTOBER 30, 1974

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

The following cases will be heard before Daniel S. Nutter, Examiner, or Richard L. Stamets, Alternate Examiner:

CASE 5349: Application of Corinne Grace for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Bond Draw Unit Area comprising 5123 acres, more or less, of Federal, State, and Fee lands in Township 24 South, Range 27 East, Eddy County, New Mexico.

CASE 5350: Application of Yates Petroleum Corporation for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of its Sullivan DZ Com Well No. 1, to be drilled 990 feet from the North line and 660 feet from the West line of Section 8, Township 18 South, Range 26 East, West Atoka-Morrow Gas Pool, Eddy County, New Mexico, the N/2 of said Section 8 to be dedicated to the well.

CASE 5351: Application of Yates Petroleum Corporation for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of its Ferguson DY Com Well No. 1 to be drilled 1980 feet from the North line and 660 feet from the East line of Section 7, Township 18 South, Range 26 East, West Atoka-Morrow Gas Pool, Eddy County, New Mexico, the N/2 of said Section 7 to be dedicated to the well.

CASE 5352: Application of David Fesken for compulsory pooling and an unorthodox location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests of Pennsylvanian age or older underlying the S/2 of Section 2, Township 18 South, Range 26 East, Eddy County, New Mexico, to be dedicated to a well to be drilled at an unorthodox location 990 feet from the South line and 1650 feet from the East line of said Section 2. Also to be considered will be the cost of drilling and completing said well and the allocation of such costs, as well as actual operating costs and charges for supervision. Also to be considered is the designation of the applicant as operator of the well and a charge for the risk involved in drilling said well.

CASE 5353: Application of Cities Service Oil Company for a dual completion, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the dual completion (conventional) of its Government-Z Com Well No. 1, located in Unit K of Section 23, Township 20 South, Range 28 East, Eddy County, New Mexico, in such a manner as to produce oil from the Wolfcamp formation through tubing and gas from the Morrow formation through the casing-tubing annulus by means of a cross-over assembly.

CASE 5354: Application of Mark Production Company for compulsory pooling and an unorthodox location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests of Pennsylvanian age or older underlying the S/2 of Section 9, Township 20 South, Range 25 East, Eddy County, New Mexico, to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South and West lines of said Section 9. Also to be considered will be the cost of drilling and completing said well and the allocation of such costs, as well as actual operating costs and charges for supervision. Also to be considered is the designation of the applicant as the operator of the well and a charge for risk involved in drilling said well.

CASE 5355: Application of Tesoro Petroleum Corporation for pool contraction and expansion, McKinley County, New Mexico. Applicant, in the above-styled cause, seeks the contraction of the Lone Pine-Dakota "D" Oil Pool by the deletion of the E/2 NW/4 of Section 8, Township 17 North, Range 8 West, McKinley County, New Mexico, and the expansion of the Hospah-Dakota Oil Pool by the addition of such lands.

CASE 5356: Application of Anadarko Production Company for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval of its Artesia State Unit Area comprising 440 acres, more or less, of State lands in Township 18 South, Range 27 East, Eddy County, New Mexico.

CASE 5357: Application of Anadarko Production Company for a waterflood project, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to institute a waterflood project on its Artesia State Unit, Artesia Pool, by the injection of water into the Grayburg and San Andres formations at the following six unorthodox locations in Township 18 South, Range 27 East, Eddy County, New Mexico: Section 13, 1330 feet from the South line and 1310 feet from the West line, and 10 feet from the South and West lines; Section 14, 2630 feet from the South line and 10 feet from the East line and 1310 feet from the South and East lines; Section 23, 1310 feet from the North and East lines and 10 feet from the North line and 2630 feet from the East line. Further to drill two producing wells at unorthodox locations 10 feet from the North line and 1310 feet from the East line of Section 23 and 1330 feet from the South line and 10 feet from the East line of Section 14. Applicant further seeks an administrative procedure whereby the project may be expanded by the drilling of additional injection and producing wells at orthodox and unorthodox locations without further notice and hearing.

CASE 5358: Application of Continental Oil Company for simultaneous dedication and unorthodox gas well locations, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order approving the simultaneous dedication of a standard 640-acre gas proration unit comprising all of Section 26, Township 23 South, Range 36 East, Jalmat Gas Pool, Lea County, New Mexico, to four wells, being the Lynn B-1 Well No. 1, in Unit J and Lynn B-1 Wells Nos. 3, 4, and 16, at unorthodox locations in Units C, M, and A, respectively, of said Section 26.

CASE 5359: Application of Continental Oil Company for simultaneous dedication and unorthodox locations, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the simultaneous dedication of a 320-acre non-standard gas proration unit comprising the N/2 of Section 1, Township 24 South, Range 36 East, Jalmat Gas Pool, Lea County, New Mexico, to its Vaughn B-1 Wells Nos. 1 and 6, located at unorthodox locations in Units H and E, respectively, of said Section 1.

CASE 5360: Application of Continental Oil Company for two non-standard gas proration units, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the two following non-standard gas proration units in the irregular Section 4, Township 21 South, Range 36 East, Eumont Gas Pool, Lea County, New Mexico:

A 480-acre unit comprising all of Lots 1, 2 and 3, 6 through 11, and 14, 15, and 16 of said Section 4 to be dedicated to the Meyer B-4 Well No. 14, located in Unit G;

A 240-acre unit comprising the SE/4 and E/2 SW/4 of said Section 4 to be dedicated to the Meyer B-4 Well No. 4, located in Unit S.

Case 5354

JASON W. KELLAHIN  
ROBERT E. FOX  
W. THOMAS KELLAHIN

KELLAHIN AND FOX  
ATTORNEYS AT LAW  
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SANTA FE, NEW MEXICO 87501

TELEPHONE 982-4315  
AREA CODE 505

September 30, 1974

Oil Conservation Commission  
P. O. Box 2008  
Santa Fe, New Mexico 87501

ATTENTION: Ida Rodriguez

Dear Ida:

Please file the enclosed application by Mark  
Production Company for compulsory pooling for  
hearing before the Commission's Examiner Hearing  
set for October 30, 1974.

Very truly yours,

  
W. Thomas Kellahin

WTK:ks

Enclosure

cc: Mr. Curtis Mewbourne  
w/ encls.

DOCKET MAILED

Date

10-18-74

BEFORE THE  
OIL CONSERVATION COMMISSION OF NEW MEXICO

IN THE MATTER OF THE APPLICATION  
OF MARK PRODUCTION COMPANY FOR  
COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO

A P P L I C A T I O N

COMES NOW MARK PRODUCTION COMPANY and as provided  
by Section 65-3-14, New Mexico Statutes Annotated 1953,  
as amended, applies to the Oil Conservation Commission  
of New Mexico for an order pooling all the mineral  
interests in and under the S/2 of Section 9, Township  
20 South, Range 25 East, Eddy County, New Mexico, and  
in support thereof would show the Commission:

1. Applicant is the owner of the right to drill  
and develop the following described acreage: S/2 of  
Section 9, Township 20 South, Range 25 East, N.M.P.M.,  
Eddy County, New Mexico.

2. Applicant has obtained voluntary agreement for  
pooling from all but the following:

Gulf Oil Corporation  
Box 1150  
Midland, Texas 79701  
With a net working interest of  
1/8th of the unit area and more  
specifically described as the  
NE/4 SE/4 of Section 9, T20S,  
R25E, N.M.P.M.

*OK*

DOCKET MAILED

Date 10-18-74

3. As required by the provisions of Commission Rule 104, Applicant proposes to dedicate the S/2 of Section 9, T20S, R25E, N.M.P.M., Eddy County, New Mexico to the well.

4. Applicant requests that it be designated operator of the pooled unit requested above.

5. Applicant proposes to drill a well to test the Cemetery-Morrow Gas Pool at a well location 660 feet from the South and West lines of said Section.

6. Applicant has been unable to obtain voluntary agreement for the pooling of the unpooled interests indicated in paragraph 2 above, and in order to avoid the drilling of unnecessary wells, to protect correlative rights, and to prevent waste, the commission should pool all interest in the spacing or proration unit as a unit.

WHEREFORE, applicant respectfully requests that the Commission set this matter for hearing before the Commission's duly appointed examiner, and that after notice and hearing as required by law the Commission enter its order pooling all interests underlying the S/2 of said section 9, and designating applicant operator of the pooled unit, together with provisions for applicant to recover its costs out of production including a risk factor to be determined by the Commission and with provisions for the payment of operating costs and costs of supervision out of production to be allocated among the owners as their interest may appear and for further orders as may be proper in the premises.

Respectfully submitted,

MARK PRODUCTION COMPANY

By W. T. Kellahin

KELLAHIN & FOX

P. O. Box 1769

Santa Fe, New Mexico 87501

DRAFT

dr/

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. 5354

Order No. R- 4906

APPLICATION OF MARK PRODUCTION COMPANY  
FOR COMPULSORY POOLING AND AN  
UNORTHODOX LOCATION, EDDY COUNTY,  
NEW MEXICO.

*Handwritten signatures: JSC, TWD, ALP*  
ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on October 30, 1974  
at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this        day of November, 1974, the Commission,  
a quorum being present, having considered the testimony, the record,  
and the recommendations of the Examiner, 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 the applicant, Mark Production Company,  
seeks an order pooling all mineral interests of Pennsylvanian  
age or older underlying the S/2  
of Section 9, Township 20 South, Range 25 East,  
NMPM, Cemetery - Morrow ~~Pool~~ <sup>Gas Pool</sup>, Eddy County, New  
Mexico.



(3) That the applicant has the right to drill and proposes to drill a well at an unorthodox location 660 feet from the South line and 660 feet from the West line of said Section 9 *as shown by plat 22, 1914*

(4) That there are interest owners in the proposed proration unit who have not agreed to pool their interests.

(5) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit.

(6) That the applicant should be designated the operator of the subject well and unit.

(7) That any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(8) That any non-consenting working interest owner that does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200% thereof as a reasonable charge for the risk involved in the drilling of the well.

(9) That any non-consenting interest owner should be afforded the opportunity to object to the actual well costs but that actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(10) That following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

*E*

(11) That \$205.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates); that this charge should be adjusted annually based upon the percentage increase or decrease in the average weekly earnings of crude petroleum and gas production workers; that the operator should be authorized to withhold from production the proportionate share of such supervision charge attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(12) That all proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(13) That upon the failure of the operator of said pooled unit to commence drilling of the well to which said unit is dedicated on or before February 1, 1974, the order pooling said unit should become null and void and of no effect whatsoever.

IT IS THEREFORE ORDERED:

(1) That all mineral interests, whatever they may be, in the Pennsylvanian formation underlying the S/2 of Section 9, Township 20 South, Range 25 East, NMPM, Cambury-Morrow Field Gas Pool Eddy County, New Mexico, are hereby pooled to form a standard 320 acre gas spacing and proration unit to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South <sup>line</sup> and West <sup>line</sup> of said Section 9 <sup>as approved by Commission Order No. R-4884 dated October 22, 1974.</sup> PROVIDED HOWEVER, that the operator of said unit shall commence the drilling of said well on or before the 1<sup>st</sup> day of February, 1975, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Pennsylvanian formation;

PROVIDED FURTHER, that in the event said operator does not commence the drilling of said well on or before the 1<sup>st</sup> day of February, 1975, Order (1) of this order shall be null and void and of no effect whatsoever;

PROVIDED FURTHER, that should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Commission and show cause why Order (1) of this order should not be rescinded.

(2) That Mark Production Company is hereby designated the operator of the subject well and unit.

(3) That after the effective date of this order and <sup>within</sup> ~~at least~~ 30 days prior to commencing said well, the operator shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) That within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and that any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) That the operator shall furnish the Commission and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; that if no objection to the actual well costs is received by the Commission and the Commission has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 45-day period the Commission will determine reasonable well costs after public notice and hearing.

(6) That within 60 days following determination of reasonable well costs, any non-consenting working interest owner that has paid his share of estimated costs in advance as provided

-6-

Case No.

Order No. R-

(10) That any unsevered mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) That any well costs or charges which are to be paid out of production shall be withheld only from the working interests share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) That all proceeds from production from the subject well which are not disbursed for any reason shall be placed in escrow in Eddy County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; that the operator shall notify the Commission of the name and address of said escrow agent within 90 days from the date of this order.

(13) 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.