

Entered September 28, 1973
W.L.P.

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. 5054
Order No. R-4432-A

APPLICATION OF D. L. HANNIFIN AND
JOE DON COOK FOR DETERMINATION OF
REASONABLE WELL COSTS AND FOR AN
ORDER TERMINATING OPERATOR'S
WITHHOLDING PERIOD.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on August 28 and 29, 1973, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 28th day of September, 1973, 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 pursuant to Cases Nos. R-4819 and R-4836, heard before an examiner of the Oil Conservation Commission on September 27, 1972, Order No. R-4432 was issued which force pooled the S/2 of Section 24, Township 22 South, Range 26 East, NMPM, South Carlsbad-Morrow Gas Pool, Eddy County, New Mexico.

(3) That Order No. R-4432 created a standard communitized unit comprising 320 acres, named Michael P. Grace II the operator of said unit, established a risk factor of 25 percent to be assessed against any non-consenting working interest, and authorized the drilling of a well for the subject unit to be drilled at a standard location for the South Carlsbad-Morrow Gas Pool.

(4) That the SE/4 of Section 24, Township 22 South, Range 26 East, NMPM, Eddy County, New Mexico, is subject to a royalty payment of 18.75 percent, and the working interest ownership of said SE/4 of Section 24 is 81.25 percent; that the SW/4 of said Section 24 is subject to a royalty and overriding royalty payment of 25.0 percent, and the working interest ownership of said SW/4 of Section 24 is 75.0 percent.

(5) That subsequent to the issuance of Order No. R-4432, D. L. Hannifin, as Non-Consenting Working Interest Owner, and Barbara E. Hannifin, his wife, filed with the Commission a "Statement of Non-Consent" executed January 4, 1973, wherein D. L. Hannifin and Barbara E. Hannifin, his wife, stipulated that D. L. Hannifin is the working interest owner under an Oil and Gas Lease covering the SE/4 of Section 24, Township 22 South, Range 26 East, NMPM, South Carlsbad Field, Eddy County, New Mexico, which said tract, together with the SW/4 of said Section 24, has been dedicated to a 320-acre standard location for the drilling of a test well in the Morrow formation underlying the S/2 of said Section 24; and that Michael P. Grace II has been designated by the New Mexico Oil Conservation Commission as the operator of the proposed well and unit. The Statement of Non-Consent stipulated further:

"The undersigned, D. L. Hannifin, non-consenting working interest owner, joined herein by his wife, Barbara E. Hannifin, hereby expressly elects not to pay his share of estimated well costs to Operator and in lieu thereof, hereby elects to pay his share of reasonable well costs out of production. The undersigned further certifies and agrees that \$135.00 per month should be fixed as a reasonable charge for the supervision (combined fixed rates) for the subject well; agrees to the 25% prorata risk share charge described in finding (7)(B); and agrees that Operator is authorized to withhold from production the proportionate share of such supervision charge attributable to the undersigned non-consenting working interest owner's interest, and Operator is 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 non-consenting working interest owner, all as more particularly defined in Order R-4432."

(6) That on January 28, 1973, Michael P. Grace II as Operator of the S/2 of Section 24, Township 22 South, Range 26 East, caused to be commenced the drilling of a well designated the Grace-Atlantic Well No. 1, located 1980 feet from the South line and 1980 feet from the East line of said Section 24, to a proposed depth of 12,100 feet to test the Morrow formation, the S/2 of said Section 24 being dedicated to the well.

(7) That on March 1, 1973, Michael P. Grace II and Corinne Grace, as "Seller," entered into a contract with El Paso Natural Gas Company, as "Buyer," for the sale of gas produced from those formations between the surface of the ground and the base of the Morrow formation underlying Seller's properties comprising certain lands, including the S/2 of Section 24, Township 22 South, Range 26 East, NMPM, Eddy County, New Mexico; that said

contract provides that Buyer shall pay Seller for gas purchased thereunder at the rate of \$0.52 per MCF commencing on the date of first deliveries and continuing through the month of December, 1973, subject to adjustment for the heating value of the gas produced, either more or less than 1,000 BTU's per MCF; and subject to certain escalations after December, 1973.

(8) That on March 15, 1973, the above-described Grace-Atlantic Well No. 1 was completed and ready to produce; that on March 29, 1973, said well was tested and found to have a calculated absolute open flow potential of 65,737 MCF per day from perforations in the Morrow formation from 11,424 feet to 11,444 feet.

(9) That said Grace-Atlantic Well No. 1 was actually connected to the El Paso Natural Gas Company pipeline system April 16, 1973, and that gas production since that date has yielded, including the BTU adjustment described in Finding No. (7) above, \$0.62036 per MCF.

(10) That on July 30, 1973, D. L. Hannifin and Joe Don Cook, through their attorney, made application to the Commission seeking a determination of the reasonable well costs of the Grace-Atlantic well, and a determination of when Michael P. Grace II had been fully compensated for all reasonable well costs and the 25 percent risk charges and the pro rata share of reasonable well costs attributable to Hannifin and Cook on the well.

(11) That at the hearing the parties stipulated to the following facts:

(a) That the original cost of the well is \$439,986.35, one-half of which is subject to the 25 percent risk factor provided in Order No. R-4432.

(b) That additional charges have been incurred by the operator in the amount of \$25,694.75 and should be divided equally between the parties.

(c) That the Grace share of these costs (50 percent of the original costs and 50 percent of the additional costs) is \$232,840.56.

(d) That the Hannifin and Cook share of these costs (50 percent of the original costs, a 25 percent penalty thereon and 50 percent of the additional costs) is \$287,838.84.

(e) That the total well costs are \$520,679.40.

(f) That each party should pay 50 percent of the reasonable charge for supervision (combined fixed rates).

(g) That the reasonable charge for supervision pursuant to Commission Order No. R-4432, is \$135 per month which totals \$405 for the months of April, May and June, 1973, \$202.50 of which should be paid by each of the two parties.

(h) That the Grace total share of all costs is \$233,043.06.

(i) That the Hannifin and Cook share of all costs is \$288,041.34.

(12) That each of the 160-acre tracts communitized by Commission Order No. R-4432 should stand on its own insofar as royalty and overriding royalty payments are concerned; that accordingly, the working interest attributable to the SE/4 of Section 24, Township 22 South, Range 26 East, NMPM, Lea County, New Mexico, is 40.625 percent of the pooled unit interests as a whole; that the royalty interest underlying said SE/4 of Section 24 is 9.375 percent of the pooled unit interests as a whole; that the working interest attributable to the SW/4 of said Section 24 is 37.5 percent of the pooled unit interests as a whole; and the combined royalty interests and overriding royalty interests underlying said SW/4 of Section 24 total 12.5 percent of the pooled unit interests as a whole.

(13) That the current sales price for gas produced from the subject well is \$0.52 per MCF plus \$0.10036 per MCF BTU adjustment for a total of \$0.62036 per MCF. That the royalty under the SE/4 of Section 24, Township 22 South, Range 26 East, NMPM, Eddy County, New Mexico, is 18.75 percent of the production attributable to said tract. That the current rate of taxation on the production from the subject well is 6.419 percent of the value received for said production. That these are the proper factors to be used in determining the date on which production, less royalty and taxes, attributable to the subject SE/4 of Section 24 has paid out the stipulated costs chargeable to Hannifin and Cook through June, 1973, which total \$288,041.34.

(14) That from April 16, 1973, through 7 o'clock a.m. on June 26, 1973, the subject Grace-Atlantic Well No. 1 produced a total of 1,243,813 MCF of gas. That applying the factors described in Finding No. (13) above to this production indicates that at 7 o'clock a.m. on June 26, 1973, the portion of production attributable to the subject SE/4 of Section 24, less royalty and taxes, had paid out the costs attributable to Hannifin and Cook plus an additional \$661.09, or a total of \$288,702.43.

(15) That according to the evidence, gas is currently being sold from the subject well under a contract signed pursuant to the Federal Power Commission's Order No. 428-428 A dealing with Small Producer sales; that the sale of gas under such contracts is currently in litigation; that depending upon the outcome of such litigation, the sales price for gas from the subject well could be changed.

(16) That the Commission is in no position to determine what the final sales price for gas from the subject well will be, and can only rely upon the current price.

(17) That certain monies derived from the sale of gas from the subject well have been placed in escrow with the American Bank of Carlsbad, Carlsbad, New Mexico, pending the determination of payout of the well.

(18) That inasmuch as it has been determined that the Hannifin and Cook portion of total well costs was paid out at 7 o'clock a.m. June 26, 1973, plus \$661.09, it would appear that monies held in escrow from production after that date should be released to the applicants, Hannifin and Cook.

(19) That it should be up to the working interest owners in the subject well to arrive at a suitable arrangement regarding payment of funds derived from sale of gas from the subject well which may be excessive should the sales price of gas be adjusted retroactively and be subject to refund.

IT IS THEREFORE ORDERED:

(1) That the 18.75 percent royalty of the Hannifin portion of the subject unit, being the SE/4 of Section 24, Township 22 South, Range 26 East, NMPM, Eddy County, New Mexico, and the 25.0 percent royalty for the Grace portion of the subject unit being the SW/4 of said Section 24, are independent and separate from each other and cannot be pooled or averaged at the discretion of the operator into a uniform royalty percentage for the purpose of determining the payout date of the Michael P. Grace II Grace-Atlantic Well No. 1, located 1980 feet from the South line and 1980 feet from the East line of said Section 24.

(2) That the 18.75 percent royalty applicable to the SE/4 of said Section 24 shall be applied to one-half of the total production from the well, and the 25 percent royalty and overriding royalty applicable to the SW/4 of said Section 24 shall be applied to the other half of the total production from the well.

(3) That a tax rate of 6.419 percent of the production attributable to the SE/4 of said Section 24 shall be used in determining date of payout for the total share of well costs attributable to Hannifin and Cook through June, 1973.

(4) That the gas price to be used in determining the date of payout for the subject well shall be \$0.52 per MCF plus \$0.10036 per MCF BTU adjustment, for a total of \$0.62036 per MCF of gas.

(5) That the original well costs for the subject well are \$439,986.35, one-half of which, or \$219,993.18, are to be borne by Michael P. Grace II and one-half of which plus a 25 percent charge for risk, or \$274,991.47, are to be borne by D. L. Hannifin and Joe Don Cook.

(6) That additional costs incurred, totalling \$25,694.75, are not subject to any charge for risk, and shall be shared equally by the two parties to this hearing, Michael P. Grace II, and Hannifin and Cook.

(7) That Michael P. Grace II's total share of original well costs and additional costs incurred shall be \$232,840.56.

(8) That Hannifin and Cook's share of original well costs plus the 25 percent charge for risk, and their share of additional costs incurred, shall be \$287,838.84.

(9) That \$135.00 per month is a reasonable charge for supervision (combined fixed rates) for the subject well and totals \$405.00 for the months of April, May, and June, 1973. That this charge for supervision shall be borne equally by Michael P. Grace II and by Hannifin and Cook, thereby making each party's share \$202.50.

(10) That Michael P. Grace II's total share of reasonable well costs (defined as original well costs and additional costs incurred) and charge for supervision through June, 1973, shall be \$233,043.06.

(11) That Hannifin and Cook's total share of reasonable well costs (as defined above) plus a 25 percent penalty on the original well costs, and charge for supervision through June, 1973, shall be \$288,041.34.

(12) That \$288,041.34, being the total share of reasonable well costs (as defined above) plus a 25 percent penalty on the original well costs, and charge for supervision through June, 1973, attributable to Hannifin and Cook, is hereby determined to have been paid out by production attributable to the SE/4 of Section 24, Township 22 South, Range 26 East, NMPM, Eddy County, New Mexico, less royalty and taxes, at 7 o'clock on June 26, 1973, with an additional overpayment attributable to Hannifin and Cook of \$661.09.

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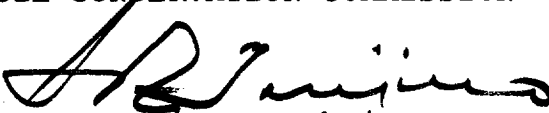
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(13) That any funds derived from the sale of gas from the subject well after 7 o'clock a.m. June 26, 1973, attributable to D. L. Hannifin and Joe Don Cook, and held in escrow by American Bank of Carlsbad shall be released to said Hannifin and Cook subject to agreement in writing between Hannifin and Cook and Michael P. Grace II as to future arrangements, escrow, bonding or whatever may be satisfactory to the parties involved, covering the difference, if any, between the current sales price of gas from the subject well and the future sales price of gas.

(14) 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



I. R. TRUJILLO, Chairman

ALEX J. ARMIJO, Member



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

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