

Entered April 14, 1978

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STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

CASE NO. 6198
ORDER NO. R-5709

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION ON ITS OWN MOTION TO CONSIDER THE ADOPTION OF THE RULES, REGULATIONS, ORDERS, PERMITS, CONTRACTS, BONDS, FORMS, MANUALS, MEMORANDA, AND NUMBERING SYSTEMS OF THE NEW MEXICO OIL CONSERVATION COMMISSION AS THEY RELATE TO THE CONSERVATION OF OIL, GAS, POTASH, AND GEOTHERMAL RESOURCES, AS ITS OWN RULES, REGULATIONS, ORDERS, PERMITS, CONTRACTS, BONDS, FORMS, MANUALS, MEMORANDA, AND NUMBERING SYSTEMS. FURTHER, TO CONSIDER SUCH AMENDMENTS AS MAY BE NECESSARY TO THE AFORESAID RULES, REGULATIONS, ORDERS, PERMITS, CONTRACTS, BONDS, FORMS, MANUALS, AND MEMORANDA.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on April 14, 1978, at Santa Fe, New Mexico, before Joe D. Ramey, Director of the Oil Conservation Division of the New Mexico Energy and Minerals Department, sitting as Examiner to hear this matter.

NOW, on this 14th day of April, 1978, the Division Director, having considered the testimony presented and the exhibits offered at said hearing, and being fully advised in the premises,

FINDS:

- (1) That due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) That the Thirty-Third State Legislature of New Mexico, at its First Session, enacted Chapter 255, Laws of 1977, approved April 7, 1977, being An Act RELATING TO THE ESTABLISHMENT OF AN ENERGY AND MINERALS DEPARTMENT; ABOLISHING CERTAIN AGENCIES; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF NMSA 1953.
- (3) That the effective date of the provisions of said act was at 5:01 p.m. March 31, 1978.
- (4) That said act created the New Mexico Energy and

Minerals Department, among the divisions of which is the Oil Conservation Division, charged by the act with administering the laws and regulations relating to oil, gas, potash, and geothermal resources except those laws specifically administered by another authority.

(5) That said act amended numerous sections of the statutes relating to the conservation of oil, gas, and potash (specifically, Sections 65-3-4 through 65-3-11, N.M.S.A., 1953 Comp., Section 65-3-11.1, Sections 65-3-12 through 65-3-14, Sections 65-3-14.5 and 65-3-15, Sections 65-3-17 through 65-3-21, 65-3-23 through 65-3-25, 65-3-27, 65-3-28, 65-3-31, 65-9-2, and 65-9-4 through 65-9-7) while repealing one section, 65-3-16, and enacting two new sections, 65-3-4.1 and 65-3-22.1.

(6) That said act also amended numerous sections of the statutes relating to the conservation of geothermal resources (specifically, Sections 65-11-2 and 65-11-3, N.M.S.A., 1953 Comp., Sections 65-11-6 through 65-11-11, Sections 65-11-13 through 65-11-21, and Sections 65-11-23 and 65-11-24).

(7) That the Thirty-Third State Legislature of New Mexico, at its Second Session, enacted Chapters 58, 59, 71, and 117, Laws of 1978, each with the emergency clause, and that the first three of said chapters were approved February 24, 1978, and the fourth was approved March 6, 1978.

(8) That the aforesaid Chapter 58, Laws of 1978, repealed Section 65-3-28, N.M.S.A., 1953 Comp., as amended, and enacted a new Section 65-3-28.

(9) That the aforesaid Chapter 59, Laws of 1978, repealed Section 65-9-4, N.M.S.A., 1953 Comp., as amended, and enacted a new Section 65-9-4.

(10) That the aforesaid Chapter 71, Laws of 1978, repealed Section 65-3-11, N.M.S.A., 1953 Comp., as amended, and enacted a new Section 65-3-11.

(11) That the aforesaid Chapter 117, Laws of 1978, amended Sections 65-3-11.2, 65-3-37, 65-3-38, and 72-20-14, N.M.S.A., 1953 Comp.

(12) That the purpose of all the aforesaid changes to the statutes relating to the conservation of oil, gas, potash, and geothermal resources was to transfer the administration of these laws from the New Mexico Oil Conservation Commission to the Oil Conservation Division of the New Mexico Energy and Minerals Department.

(13) That in order for there to be an unbroken transition of the administration of oil, gas, potash, and geothermal resources conservation laws from the Oil Conservation Commission to the Oil Conservation Division of the Energy and Minerals Department the said Oil Conservation Division should adopt the rules, regulations, orders, permits, contracts, bonds, forms, manuals, and memoranda of the Oil Conservation Commission as its own rules, regulations, orders, permits, contracts, bonds, forms, manuals, and memoranda.

(14) That at 5:01 p.m. March 31, 1978, the Division Director entered Emergency Order No. E-32, adopting for the Oil Conservation Division as its rules, regulations, orders, permits, contracts, bonds, forms, manuals, and memoranda, the rules, regulations, orders, permits, contracts, bonds, forms, manuals, and memoranda previously adopted, issued, promulgated, or published by the Oil Conservation Commission.

(15) That said Emergency Order No. E-32 also amended Section N, Rules On Procedure, of the New Mexico Oil Conservation Commission Rules and Regulations (for oil and gas) and Section I, Rules On Procedure, of the New Mexico Oil Conservation Commission Rules and Regulations, Geothermal Resources, and adopted the same as its own, in order to provide the administrative procedure for hearing the instant case.

(16) That said Emergency Order No. E-32 further amended Sections B through M, inclusive, and Sections O and P of the New Mexico Oil Conservation Commission Rules and Regulations (for oil and gas) and Sections B through H, inclusive, of the New Mexico Oil Conservation Commission Rules and Regulations, Geothermal Resources, so that any reference therein to "Commission" or "Oil Conservation Commission" would read "Division" or "Oil Conservation Division" and any reference to "Secretary-Director" or "Secretary-Director of the Commission" would read "Division Director."

(17) That by said Emergency Order E-32, all effective bonds, including plugging bonds and treating plant bonds, issued by surety companies on forms promulgated by the New Mexico Oil Conservation Commission, and running to the benefit of the State of New Mexico for the use and benefit of the Oil Conservation Commission of New Mexico, were adopted by the Oil Conservation Division of the New Mexico Department of Energy and Minerals as the successor agency to the New Mexico Oil Conservation Commission charged with administering the oil, gas, potash, and geothermal conservation laws of this state.

(18) That by said Emergency Order No. E-32, the numbering system heretofore adopted by the New Mexico Oil Conservation Commission for its rules, regulations, orders, forms, permits,

and memoranda was adopted by the Oil Conservation Division to be carried forward pending further order.

(19) That at the hearing of the instant case, the testimony presented and the exhibits received establish that the provisions of Emergency Order No. E-32 should be made permanent, and:

(20) That Section A, DEFINITIONS, of the Division Rules and Regulations (for oil and gas) and Section A, DEFINITIONS, of the Division Rules and Regulations, Geothermal Resources, should be amended by the addition of the definition "DIVISION shall mean the Oil Conservation Division of the New Mexico Energy and Minerals Department," and further by the deletion from said definitions of all parenthetical statutory reference numbers.

(21) That Rule 1 of the Division Rules and Regulations (for oil and gas) should be amended to read in its entirety as follows:

"RULE 1. SCOPE OF RULES AND REGULATIONS

"(a) The following General Rules of statewide application have been adopted by the Oil Conservation Division of the New Mexico Energy and Minerals Department to conserve the natural resources of the State of New Mexico, to prevent waste, and to protect correlative rights of all owners of crude oil and natural gas. Special rules, regulations and orders have been and will be issued when required and shall prevail as against General Rules, Regulations and Orders if in conflict therewith. However, whenever these General Rules do not conflict with special rules heretofore or hereafter adopted, these General Rules shall apply.

"(b) The Division may grant exceptions to these rules after notice and hearing, when the granting of such exceptions will not result in waste but will protect correlative rights or prevent undue hardship."

(22) That Rule 1 of the Division Rules and Regulations, Geothermal Resources, should be amended to read in its entirety as follows:

"RULE 1. SCOPE OF RULES AND REGULATIONS

"(a) The following Geothermal Rules and Regulations are of statewide application and have been adopted by the Oil Conservation Division of the New Mexico Energy and Minerals Department to conserve the natural geothermal resources of the State of New Mexico, to prevent waste, and

to protect the correlative rights of all owners of geothermal resources. Special rules, regulations, and orders may be adopted from time to time when required for a particular geothermal resources area, and shall prevail over the Geothermal Rules and Regulations if in conflict therewith. However, when these Geothermal Rules and Regulations do not conflict with special rules hereafter adopted, these Geothermal Rules and Regulations will apply.

"(b) The Division may grant exceptions to these rules and regulations after notice and hearing, when the granting of such exceptions will not result in waste but will protect correlative rights or prevent waste."

(23) That Rule 1216 of the Division Rules and Regulations (for oil and gas) should be amended to read in its entirety as follows:

"RULE 1216. HEARINGS WHICH MUST BE HELD BEFORE COMMISSION

"Notwithstanding any other provisions of these rules, the hearing on any matter shall be held before the Commission (1) if it is a hearing de novo, or (2) if the Division Director in his discretion desires the Commission to hear the matter."

(24) That Rule 1301 of the Division Rules and Regulations (for oil and gas) should be amended to read as shown on Exhibit C attached hereto and made a part hereof.

(25) That wherever in the Division Rules and Regulations, Geothermal Resources, there is reference to the Geothermal "Division," the rule should be amended to read Geothermal "Section."

(26) That Section N, Rules On Procedure, of the Division Rules and Regulations (for oil and gas) and Section I, Rules On Procedure, of the Rules and Regulations, Geothermal Resources, should be amended to read in their entirety as shown by Exhibits "A" and "B", respectively, attached hereto and made a part hereof.

(27) That this order should become effective immediately, but should be only the first of two orders entered in this case.

(28) That the second order which should be entered in this case should have attached thereto a copy of the Division Rules and Regulations (for oil and gas) and the Division Rules and Regulations, Geothermal Resources, reflecting all of the changes to said rules described above, as well as to have attached thereto a copy of each of the Division's several forms for reporting oil

and gas and geothermal operations, with the name of "Oil Conservation Division of the New Mexico Energy and Minerals Department" imprinted thereon in lieu of the name "New Mexico Oil Conservation Commission."

IT IS THEREFORE ORDERED:

(1) That the effective rules, regulations, orders, permits, contracts, bonds, forms, manuals, and memoranda heretofore issued, published, promulgated, and/or approved by the New Mexico Oil Conservation Commission, as amended herein, are hereby adopted by the Oil Conservation Division of the New Mexico Energy and Minerals Department as its own rules, regulations, orders, permits, contracts, bonds, forms, manuals, and memoranda to be used by said Oil Conservation Division in the performance of its duties in administering the laws and regulations relating to oil, gas, potash, and geothermal resources except those laws specifically administered by another authority.

(2) That Section N, Rules on Procedure, of the New Mexico Oil Conservation Commission Rules and Regulations (for oil and gas), adopted by the Oil Conservation Division as described above, is hereby amended to read in its entirety as shown on Exhibit "A" attached hereto and made a part hereof.

(3) That Section I, Rules on Procedure, of the New Mexico Oil Conservation Commission Rules and Regulations, Geothermal Resources, adopted by the Oil Conservation Division as described above, is hereby amended to read in its entirety as shown on Exhibit "B" attached hereto and made a part hereof.

(4) That Sections B through M, inclusive, and Sections O and P of the New Mexico Oil Conservation Commission Rules and Regulations (for oil and gas) and Sections B through H, inclusive, of the New Mexico Oil Conservation Commission's Rules and Regulations, Geothermal Resources, all as adopted above, are hereby amended so that any reference therein to "Oil Conservation Commission" shall read "Oil Conservation Division" and any reference therein to "Commission" shall read "Division." Further, that the aforesaid Sections are hereby amended so that any reference therein to "Secretary-Director" or "Secretary-Director of the Commission" shall read "Division Director."

(5) That Section A, DEFINITIONS, of the Division Rules and Regulations (for oil and gas) and Section A, DEFINITIONS, of the Division Rules and Regulations, Geothermal Resources, are each hereby adopted by the Division as its own and are hereby amended by the addition of the following definition:

"DIVISION shall mean the Oil Conservation Division of the New Mexico Energy and Minerals Department."

Further that each of said Sections A is hereby further amended by the deletion therefrom of any statutory reference numbers.

(6) That Rule 1 of the Division Rules and Regulations (for oil and gas) is hereby amended to read in its entirety as follows:

"RULE 1. SCOPE OF RULES AND REGULATIONS

"(a) The following General Rules of statewide application have been adopted by the Oil Conservation Division of the New Mexico Energy and Minerals Department to conserve the natural resources of the State of New Mexico, to prevent waste, and to protect correlative rights of all owners of crude oil and natural gas. Special rules, regulations and orders have been and will be issued when required and shall prevail as against General Rules, Regulations and Orders if in conflict therewith. However, whenever these General Rules do not conflict with special rules heretofore or hereafter adopted, these General Rules shall apply.

"(b) The Division may grant exceptions to these rules after notice and hearing, when the granting of such exceptions will not result in waste but will protect correlative rights or prevent undue hardship."

(7) That Rule 1 of the Division Rules and Regulations, Geothermal Resources, is hereby amended to read in its entirety as follows:

"RULE 1. SCOPE OF RULES AND REGULATIONS

"(a) The following Geothermal Rules and Regulations are of statewide application and have been adopted by the Oil Conservation Division of the New Mexico Energy and Minerals Department to conserve the natural geothermal resources of the State of New Mexico, to prevent waste, and to protect the correlative rights of all owners of geothermal resources. Special rules, regulations, and orders may be adopted from time to time when required for a particular geothermal resources area, and shall prevail over the Geothermal Rules and Regulations if in conflict therewith. However, when these Geothermal Rules and Regulations do not conflict with special rules hereafter adopted, these Geothermal Rules and Regulations will apply.

"(b) The Division may grant exceptions to these rules and regulations after notice and hearing, when the granting of such exceptions will not result in waste but will protect correlative rights or prevent waste."

(8) That Rule 1216 of the Division Rules and Regulations (for oil and gas) is hereby amended to read in its entirety as follows:

"RULE 1216. HEARINGS WHICH MUST BE HELD BEFORE COMMISSION

"Notwithstanding any other provisions of these rules, the hearing on any matter shall be held before the Commission (1) if it is a hearing de novo, or (2) if the Division Director in his discretion desires the Commission to hear the matter."

(9) That Rule 1301 of the Commission Rules and Regulations (for oil and gas) is hereby amended to read in its entirety as shown on Exhibit "C" attached hereto and made a part hereof.

(10) That any reference to the Geothermal "Division," in the Rules and Regulations, Geothermal Resources, is hereby changed to Geothermal "Section."

(11) That all effective bonds, including plugging bonds and treating plant bonds, issued by surety companies on forms promulgated by the New Mexico Oil Conservation Commission, and running to the benefit of the State of New Mexico for the use and benefit of the Oil Conservation Commission of New Mexico, are hereby adopted by the Oil Conservation Division of the New Mexico Department of Energy and Minerals as the successor agency to the New Mexico Oil Conservation Commission charged with administering the oil, gas, potash, and geothermal conservation laws of this state.

(12) That the numbering system heretofore adopted by the New Mexico Oil Conservation Commission for its rules, regulations, orders, forms, permits, and memoranda is hereby adopted by the Oil Conservation Division and shall be carried forward pending further order.

(13) That the effective date of this order shall be April 15, 1978, and it shall be the first of two orders to be entered in this case. The second order to be subsequently entered shall have attached thereto a copy of the Division Rules and Regulations (for oil and gas) and the Division Rules and Regulations, Geothermal Resources, each as amended as described herein, and also a copy of each of the Division's forms and reports for reporting oil and gas and geothermal operations, said reports amended to bear the name "Oil Conservation Division, Energy and Minerals Department, State of New Mexico."

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

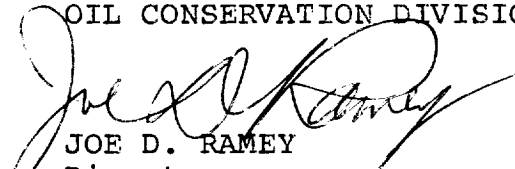
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Case No. 6198

Order No. R-5709

DONE at Santa Fe, New Mexico, on the day and year herein-
above designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


JOE D. RAMEY
Director

S E A L

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N - RULES ON PROCEDURE

RULE 1201. NECESSITY FOR HEARING

Except as provided in some general rule herein, before any rule, regulation or order, including revocation, changes, renewal or extension thereof, shall be made by the Division, a public hearing before the Commission or a legally appointed Division Examiner shall be held at such time and place as may be prescribed by the Division.

RULE 1202. EMERGENCY ORDERS

Notwithstanding any other provision of these rules, in case an emergency is found to exist by the Division, which, in its judgment, requires the making of a rule, regulation, or order without a hearing having first been had or concluded, such emergency rule, regulation, or order when made by the Division shall have the same validity as if a hearing with respect to the same had been held before the Division after due notice. Such emergency rule, regulation, or order shall remain in force no longer than 15 days from its effective date, and in any event, it shall expire when the rule, regulation, or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation, or order becomes effective.

RULE 1203. METHOD OF INITIATING A HEARING

The Division upon its own motion, the Attorney General on behalf of the State, and any operator or producer, or any other person having a property interest may institute proceedings for a hearing. If the hearing is sought by the Division it shall be on motion of the Division and if by any other person it shall be by application. The application shall be in triplicate and shall state (1) the name of the applicant, (2) the name or general description of the common source or sources of supply or the area affected by the order sought, (3) briefly the general nature of the order, rule, or regulation sought, and (4) any other matter required by a particular rule or rules, or order of the Division. The application shall be signed by the person seeking the hearing or by his attorney.

When conditions are such as to require verbal application to place a matter for hearing on a given docket, the Division will accept such verbal application in order to meet publishing deadlines. However, if written application, filed in accordance with the procedures outlined above, has not been received by the Division's Santa Fe office at least ten days before the date of the hearing, the case will be dismissed.

RULE 1204. METHOD OF GIVING LEGAL NOTICE FOR HEARING

Notice of each hearing before the Commission and notice of each hearing before a Division Examiner shall be given by personal service on the person affected or by publication once in a newspaper of general circulation published at Santa Fe, New Mexico, and once in a newspaper of general circulation published in the county or each of the counties, if there be more than one, in which any land, oil or gas, or other property which may be affected is situated.

RULE 1205. CONTENTS OF NOTICE OF HEARING

Such notice shall be issued in the name of "The State of New Mexico" and shall be signed by the Director of the Division, and the seal of the Commission shall be impressed thereon.

The notice shall specify whether the case is set for hearing before the Commission or before a Division Examiner and shall state the number and style of the case and the time and place of hearing and shall briefly state the general nature of the order or orders, rule or rules, regulation or regulations to be promulgated or effected. The notice shall also state the name of the petitioner or applicant, if any, and unless the contemplated order, rule, or regulation is intended to apply to and affect the entire state, it shall specify or generally describe the common source or sources of supply which may be affected by such order, rule, or regulation.

RULE 1206. PERSONAL SERVICE OF NOTICE

Personal service of the notice of hearing may be made by any agent of the Division or by any person over the age of 18 years in the same manner as is provided by law for the service of summons in civil actions in the district courts of this state. Such service shall be complete at the time of such personal service or on the date of publication, as the case may be. Proof of service shall be by the affidavit of the person making personal service or of the publisher of the newspaper in which publication is had. Service of the notice shall be made at least 10 days before the hearing.

RULE 1207. PREPARATION OF NOTICES

After a motion or application is filed with the Division the notice or notices required shall be prepared by the Division and service and publication thereof shall be taken care of by the Division without cost to the applicant.

RULE 1208. FILING PLEADINGS: COPY DELIVERED TO ADVERSE PARTY OR PARTIES

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. For the purposes of these rules, an appearance of any interested party shall be made either by letter addressed to the Division 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.

RULE 1209. CONTINUANCE OF HEARING WITHOUT NEW SERVICE

Any hearing before the Commission or an Examiner held after due notice may be continued by the person presiding at such hearing to a specified time and place without the necessity of notice of the same being again served or published. In the event of any continuance, a statement thereof shall be made in the record of the hearing which is continued.

RULE 1210. CONDUCT OF HEARINGS

Hearings before the Commission or any Examiner shall be conducted without rigid formality. A transcript of testimony shall be taken and preserved as a part of the permanent record of the Division. Any person testifying in response to a subpoena issued by the Commission or any member thereof, or the authorized representative of the Division Director, and any person seeking to testify in support of an application or motion or in opposition thereto shall be required to do so under oath. However, relevant unsworn comments and observations by any interested party will be designated as such and included in the record. Comments and observations by representatives of operators' committees, the United States Geological Survey, the United States Bureau of Mines, the New Mexico Bureau of Mines, and other competent persons are welcomed. Any Examiner legally appointed by the Division Director may conduct such hearings as may be referred to such Examiner by the Director.

RULE 1211. POWER TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE

The Commission or any member thereof, or the authorized representative of the Division Director has statutory power to subpoena witnesses and to require the production of books, papers, and records in any proceeding before the Commission or Division. A subpoena will be issued for attendance at a hearing upon the written request of any person interested in the subject matter of the hearing. In case of the failure of a person to comply with the subpoena issued, an attachment of the person may be issued by the district court of any district in the state, and such court has powers to punish for contempt. Any person found guilty of swearing falsely at any hearing may be punished for contempt.

RULE 1212. RULES OF EVIDENCE

Full opportunity shall be afforded all interested parties at a hearing to present evidence and to cross-examine witnesses. In general, the rules of evidence applicable in a trial before a court without a jury shall be applicable, provided that such rules may be relaxed, where, by so doing, the ends of justice will be better served. No order shall be made which is not supported by competent legal evidence.

RULE 1213. EXAMINERS' QUALIFICATIONS AND APPOINTMENT

The Division Director shall, by ex parte order, designate and appoint not more than four individuals to be examiners. Each Examiner so appointed shall be a member of the staff of the Division, but no Examiner need be a full time employee of the Division. The Director may, by ex parte order, designate and appoint a successor to any person whose status as an Examiner is terminated for any reason. Each individual designated and appointed as an Examiner must have at least six years practical experience as a geologist, petroleum engineer or licensed lawyer, or at least two years of such experience and a college degree in geology, engineering, or law; provided however, that nothing herein contained shall prevent any member of the Commission from being designated as, or serving as, an Examiner.

RULE 1214. REFERRAL OF CASES TO EXAMINERS

The Division Director may refer any matter or proceeding to any legally designated and appointed Examiner for hearing in accordance with these rules. The Examiner appointed to hear any specific case shall be designated by name.

RULE 1215. EXAMINER'S POWER AND AUTHORITY

The Division Director may, by ex parte order, limit the powers and duties of the Examiner in any particular case to such issues or to the performance of such acts as the Director deems expedient; however, subject only to such limitations as may be ordered by the Director, the Examiner to whom any matter or proceeding is referred under these rules shall have full authority to hold hearings on such matter or proceeding in accordance with and pursuant to these rules. The Examiner shall have the power to regulate all proceedings before him and to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing, including the swearing of witnesses, receiving of testimony and exhibits offered in evidence subject to such objections as may be imposed, and shall cause a complete record of the proceedings to be made and transcribed and shall certify same to the Director as hereinafter provided.

RULE 1216. HEARINGS WHICH MUST BE HELD BEFORE COMMISSION

Notwithstanding any other provisions of these rules, the hearing on any matter shall be held before the Commission (1) if it is a hearing de novo, or (2) if the Division Director in his discretion desires the Commission to hear the matter.

RULE 1217. EXAMINER'S MANNER OF CONDUCTING HEARING

An Examiner conducting a hearing under these rules shall conduct himself as a disinterested umpire.

RULE 1218. REPORT AND RECOMMENDATIONS, EXAMINER'S HEARINGS

Upon the conclusion of any hearing before an Examiner, the Examiner shall promptly consider the proceedings in such hearing, and based upon the record of such hearing the Examiner shall prepare his written report and recommendations for the disposition of the matter of proceeding by the Division. Such report and recommendations shall either be accompanied by a proposed order or shall be in the form of a proposed order, and shall be submitted to the Division Director with the certified record of the hearing.

RULE 1219. DISPOSITION OF CASES HEARD BY EXAMINERS

After receipt of the report and recommendations of the Examiner, the Division Director shall enter the Division's order disposing of the matter or proceeding.

RULE 1220. DE NOVO HEARING BEFORE COMMISSION

When any order has been entered by the Division pursuant to any hearing held by an Examiner, any party adversely affected by such order shall have the right to have such matter or proceeding heard de novo before the Commission, provided that within 30 days from the date such order is rendered such party files with the Division a written application for such hearing before the Commission. If such application is filed, the matter or proceeding shall be set for hearing before the Commission at the first available hearing date following the expiration of fifteen days from the date such application is filed with the Division. Any person affected by the order or decision rendered by the Commission after hearing before the Commission may apply for rehearing pursuant to and in accordance with the provisions of Rule 1222 and said Rule 1222 together with the law applicable to rehearing and appeals in matters and proceedings before the Commission shall thereafter apply to such matter or proceeding.

RULE 1221. NOTICE OF COMMISSION AND DIVISION ORDERS

Within ten days after any order, including any order granting or refusing rehearing, or order following rehearing, has been rendered, a copy of such order shall be mailed by the Division to each person or his attorney of record who has entered his appearance of record in the matter of proceeding pursuant to which such order is rendered.

RULE 1222. REHEARINGS

Within 20 days after entry of any order or decision of the Commission any person affected thereby may file with the Division an application for rehearing in respect of any matter determined by such order or decision, setting forth the respect in which such order or decision is believed to be erroneous. The Commission shall grant or refuse any such application in whole or in part within 10 days after the same is filed and failure to act thereon within such period shall be deemed a refusal thereof and a final disposition of such application. In the event the rehearing is granted, the Commission may enter such new order or decision after rehearing as may be required under the circumstances.

RULE 1223. CHANGES IN FORMS AND REPORTS

Any change in the forms and reports or rules relating to such forms and reports shall be made only by order of the Commission or Division issued after due notice and hearing.

I. RULES ON PROCEDURE

RULE 701. NECESSITY FOR HEARING

Except as provided in some general rule herein, before any rule, regulation or order, including revocation, changes, renewal or extension thereof, shall be made by the Division, a public hearing before the Commission or a legally appointed Division Examiner shall be held at such time and place as may be prescribed by the Division.

RULE 702. EMERGENCY ORDERS

Notwithstanding any other provision of these rules, in case an emergency is found to exist by the Division, which, in its judgment, requires the making of a rule, regulation, or order without a hearing having first been had or concluded, such emergency rule, regulation, or order when made by the Division shall have the same validity as if a hearing with respect to the same had been held before the Division after due notice. Such emergency rule, regulation, or order shall remain in force no longer than 15 days from its effective date, and in any event, it shall expire when the rule, regulation, or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation, or order becomes effective.

RULE 703. METHOD OF INITIATING A HEARING

The Division upon its own motion, the Attorney General on behalf of the State, and any operator or producer, or any other person having a property interest may institute proceedings for a hearing. If the hearing is sought by the Division it shall be on motion of the Division and if by any other person it shall be by application. The application shall be in triplicate and shall state (1) the name of the applicant, (2) the name or general description of the common source or sources of supply or the area affected by the order sought, (3) briefly the general nature of the order, rule, or regulation sought, and (4) any other matter required by a particular rule or rules, or order of the Division. The application shall be signed by the person seeking the hearing or by his attorney.

When conditions are such as to require verbal application to place a matter for hearing on a given docket, the Division will accept such verbal application in order to meet publishing deadlines. However, if written application, filed in accordance with the procedures outlined above, has not been received by the Division's Santa Fe office at least ten days before the date of the hearing, the case will be dismissed.

RULE 704. METHOD OF GIVING LEGAL NOTICE FOR HEARING

Notice of each hearing before the Commission and notice of each hearing before a Division Examiner shall be given by personal service on the person affected or by publication once in a newspaper of general circulation published at Santa Fe, New Mexico, and once in a newspaper of general circulation published in the county or each of the counties, if there be more than one, in which any geothermal resource or other property which may be affected is situated.

RULE 705. CONTENTS OF NOTICE OF HEARING

Such notice shall be issued in the name of "The State of New Mexico" and shall be signed by the Director of the Division, and the seal of the Commission shall be impressed thereon.

The notice shall specify whether the case is set for hearing before the Commission or before a Division Examiner and shall state the number and style of the case and the time and place of hearing and shall briefly state the general nature of the order or orders, rule or rules, regulation or regulations to be promulgated or effected. The notice shall also state the name of the petitioner or applicant, if any, and unless the contemplated order, rule, or regulation is intended to apply to and affect the entire state, it shall specify or generally describe the common source or sources of supply which may be affected by such order, rule, or regulation.

RULE 706. PERSONAL SERVICE OF NOTICE

Personal service of the notice of hearing may be made by any agent of the Division or by any person over the age of 18 years in the same manner as is provided by law for the service of summons in civil actions in the district courts of this state. Such service shall be complete at the time of such personal service or on the date of publication, as the case may be. Proof of service shall be by the affidavit of the person making personal service or of the publisher of the newspaper in which publication is had. Service of the notice shall be made at least 10 days before the hearing.

RULE 707. PREPARATION OF NOTICES

After a motion or application is filed with the Division the notice or notices required shall be prepared by the Division and service and publication thereof shall be taken care of by the Division without cost to the applicant.

RULE 708. FILING PLEADINGS: COPY DELIVERED TO ADVERSE PARTY OR PARTIES

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. For the purposes of these rules, an appearance of any interested party shall be made either by letter addressed to the Division 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.

RULE 709. CONTINUANCE OF HEARING WITHOUT NEW SERVICE

Any hearing before the Commission or an Examiner held after due notice may be continued by the person presiding at such hearing to a specified time and place without the necessity of notice of the same being again served or published. In the event of any continuance, a statement thereof shall be made in the record of the hearing which is continued.

RULE 710. CONDUCT OF HEARINGS

Hearings before the Commission or any Examiner shall be conducted without rigid formality. A transcript of testimony shall be taken and preserved as a part of the permanent record of the Division. Any person testifying in response to a subpoena issued by the Commission or any member thereof, or the authorized representative of the Division Director, and any person seeking to testify in support of an application or motion or in opposition thereto shall be required to do so under oath. However, relevant unsworn comments and observations by any interested party will be designated as such and included in the record. Comments and observations by representatives of operators' committees, the United States Geological Survey, the United States Bureau of Mines, the New Mexico Bureau of Mines, and other competent persons are welcomed. Any Examiner legally appointed by the Division Director may conduct such hearings as may be referred to such Examiner by the Director.

RULE 711. POWER TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF EVIDENCE

The Commission or any member thereof, or the authorized representative of the Division Director has statutory power to subpoena witnesses and to require the production of books, papers, and records in any proceeding before the Commission or Division. A subpoena will be issued for attendance at a hearing upon the written request of any person interested in the subject matter of the hearing. In case of the failure of a person to comply with the subpoena issued, an attachment of the person may be issued by the district court of any district in the state, and such court has powers to punish for contempt. Any person found guilty of swearing falsely at any hearing may be punished for contempt.

RULE 712. RULES OF EVIDENCE

Full opportunity shall be afforded all interested parties at a hearing to present evidence and to cross-examine witnesses. In general, the rules of evidence applicable in a trial before a court without a jury shall be applicable, provided that such rules may be relaxed, where, by so doing, the ends of justice will be better served. No order shall be made which is not supported by competent legal evidence.

RULE 713. EXAMINERS' QUALIFICATIONS AND APPOINTMENT

The Division Director shall, by ex parte order, designate and appoint not more than four individuals to be examiners. Each Examiner so appointed shall be a member of the staff of the Division, but no Examiner need be a full time employee of the Division. The Director may, by ex parte order, designate and appoint a successor to any person whose status as an Examiner is terminated for any reason. Each individual designated and appointed as an Examiner must have at least six years practical experience as a geologist, petroleum engineer or licensed lawyer, or at least two years of such experience and a college degree in geology, engineering, or law; provided however, that nothing herein contained shall prevent any member of the Commission from being designated as, or serving as, an Examiner.

RULE 714. REFERRAL OF CASES TO EXAMINERS

The Division Director may refer any matter or proceeding to any legally designated and appointed Examiner for hearing in accordance with these rules. The Examiner appointed to hear any specific case shall be designated by name.

RULE 715. EXAMINER'S POWER AND AUTHORITY

The Division Director may, by ex parte order, limit the powers and duties of the Examiner in any particular case to such issues or to the performance of such acts as the Director deems expedient; however, subject only to such limitations as may be ordered by the Director, the Examiner to whom any matter or proceeding is referred under these rules shall have full authority to hold hearings on such matter or proceeding in accordance with and pursuant to these rules. The Examiner shall have the power to regulate all proceedings before him and to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing, including the swearing of witnesses, receiving of testimony and exhibits offered in evidence, subject to such objections as may be imposed, and shall cause a complete record of the proceedings to be made and transcribed and shall certify same to the Director as hereinafter provided.

RULE 716. HEARINGS WHICH MUST BE HELD BEFORE COMMISSION

Notwithstanding any other provisions of these rules, the hearing on any matter shall be held before the Commission (1) if it is a hearing de novo, or (2) if the Division Director in his discretion desires the Commission to hear the matter.

RULE 717. EXAMINER'S MANNER OF CONDUCTING HEARING

An Examiner conducting a hearing under these rules shall conduct himself as a disinterested umpire.

RULE 718. REPORT AND RECOMMENDATIONS, EXAMINER'S HEARINGS

Upon the conclusion of any hearing before an Examiner, the Examiner shall promptly consider the proceedings in such hearing, and based upon the record of such hearing the Examiner shall prepare his written report and recommendations for the disposition of the matter of proceeding by the Division. Such report and recommendations shall either be accompanied by a proposed order or shall be in the form of a proposed order, and shall be submitted to the Division Director with the certified record of the hearing.

RULE 719. DISPOSITION OF CASES HEARD BY EXAMINERS

After receipt of the report and recommendations of the Examiner, the Division Director shall enter the Division's order disposing of the matter or proceeding.

RULE 720. DE NOVO HEARING BEFORE COMMISSION

When any order has been entered by the Division pursuant to any hearing held by an Examiner, any party adversely affected by such order shall have the right to have such matter or proceeding heard de novo before the Commission, provided that within 30 days from the date such order is rendered such party files with the Division a written application for such hearing before the Commission. If such application is filed, the matter or proceeding shall be set for hearing before the Commission at the first available hearing date following the expiration of fifteen days from the date such application is filed with the Division. Any person affected by the order or decision rendered by the Commission after hearing before the Commission may apply for rehearing pursuant to and in accordance with the provisions of Rule 722, and said Rule 722 together with the law applicable to rehearing and appeals in matters and proceedings before the Commission shall thereafter apply to such matter or proceeding.

RULE 721. NOTICE OF COMMISSION AND DIVISION ORDERS

Within ten days after any order, including any order granting or refusing rehearing, or order following rehearing, has been rendered, a copy of such order shall be mailed by the Division to each person or his attorney of record who has entered his appearance of record in the matter of proceeding pursuant to which such order is rendered.

RULE 722. REHEARINGS

Within 20 days after entry of any order or decision of the Commission any person affected thereby may file with the Division an application for rehearing in respect of any matter determined by such order or decision, setting forth the respect in which such order or decision is believed to be erroneous. The Commission shall grant or refuse any such application in whole or in part within 10 days after the same is filed and failure to act thereon within such period shall be deemed a refusal thereof and a final disposition of such application. In the event the rehearing is granted, the Commission may enter such new order or decision after rehearing as may be required under the circumstances.

RULE 723. CHANGES IN FORMS AND REPORTS

Any change in the forms and reports or rules relating to such forms and reports shall be made only by order of the Commission or Division issued after due notice and hearing.

RULE 1301. DISTRICT OFFICES

To expedite administration of the work of the Oil Conservation Division of the New Mexico Energy and Minerals Department and the enforcement of its rules and regulations, the state shall be divided into four districts as follows:

DISTRICT 1 Lea, Roosevelt, and Curry Counties,
 and that portion of Chaves County
 lying east of the North-South line
 dividing Ranges 29 and 30 East, NMPM.

Office at 1000 West Broadway, Hobbs.

Mailing Address:

Oil Conservation Division
P. O. Box 1980
Hobbs, New Mexico 88240

DISTRICT 2 Eddy, Otero, Dona Ana, Luna, Hidalgo, Grant,
 Sierra, Lincoln, and De Baca Counties, and
 that portion of Chaves County lying west
 of the North-South line dividing Ranges 29
 and 30 East, NMPM.

Office at 10th and Dallas Streets, Artesia.

Mailing Address:

Oil Conservation Division
Drawer DD
Artesia, New Mexico 88210

DISTRICT 3 San Juan, Rio Arriba, McKinley, and
 Sandoval Counties.

Office at 1000 Rio Brazos Road, Aztec.

Mailing Address:

Oil Conservation Division
1000 Rio Brazos Road
Aztec, New Mexico 87410

DISTRICT 4 Remainder of State.

Office in State Land Office Building, Santa Fe.

Mailing Address:

Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87501

Each district office shall be under the charge of a district supervisor, an oil and gas inspector, or a deputy oil and gas inspector. Unless otherwise specifically required, all matters pertaining to the Division shall be taken care of through the district office of the district in which the affected land is located.

Exhibit "C"
Order No. R-5709