

Entered July 10, 1979  
JLR

STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 6365  
Order No. R-6052

APPLICATION OF MICHAEL P. GRACE II  
FOR COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on October 25, 1978, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 10th day of July, 1979, the Division Director, 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 Division has jurisdiction of this cause and the subject matter thereof.
- (2) That the applicant, Michael P. Grace II, seeks an order pooling all mineral interests in the Wolfcamp and Pennsylvanian formations underlying the W/2 of Section 25, Township 21 South, Range 26 East, NMPM, Burton Flat Field, Eddy County, New Mexico.
- (3) That at the time of the hearing of this case, applicant Michael P. Grace II and his wife, Corinne Grace, claimed ownership of 38.6 percent and 21.9 percent, respectively, of the lands included in the proposed 320-acre gas proration unit.
- (4) That the 38.6 percent ownership which Michael P. Grace II claimed was contained in an oil and gas lease covering 123.5 acres held in fee by the Riverside Country Club, a corporation, and the 21.9 percent ownership which Corinne Grace claimed was contained in an oil and gas lease covering 70 acres in the W/2 of the aforesaid Section 25 held by the State Game Commission of the State of New Mexico.

-2-

Case No. 6365  
Order No. R-6052

(5) That at the hearing there was considerable discussion to the effect that the validity of both of the aforesaid leases was in question, and that the lessors of both leases were seeking to have their respective leases declared invalid.

(6) That on June 6, 1979, in the District Court of the United States for the District of New Mexico, Judge Edwin L. Mechem handed down his Memorandum Opinion and Judgment, holding that the Oil and Gas Lease between Michael P. Grace II and the Riverside Country Club is invalid, having expired April 3, 1978.

(7) That considering the aforesaid determination by the United States District Court, the applicant is no longer the owner of any lands in the W/2 of Section 25, although his wife, Corinne Grace, may own some 70 acres in the W/2 of Section 25, under the contested State Game Commission lease.

(8) That the applicant was not the owner of any lands in the W/2 of Section 25 at the time of the hearing of this case on October 25, 1978.

(9) That Section 70-2-17, NMSA 1978, provides that an "owner" who has the right to drill, and proposes to drill, may bring an action before the Division to pool lands to form a spacing or proration unit.

(10) That inasmuch as the applicant is not an "owner" in the lands proposed to be pooled, as defined in Section 70-2-33, Subsection E, NMSA 1978, this case should be dismissed.

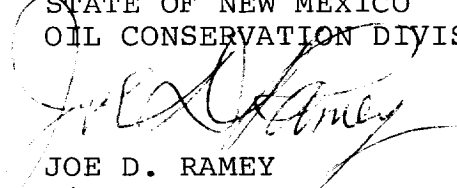
IT IS THEREFORE ORDERED:

(1) That Case No. 6365 is hereby dismissed.

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

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

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

  
JOE D. RAMEY  
Director

S E A L  
fd/