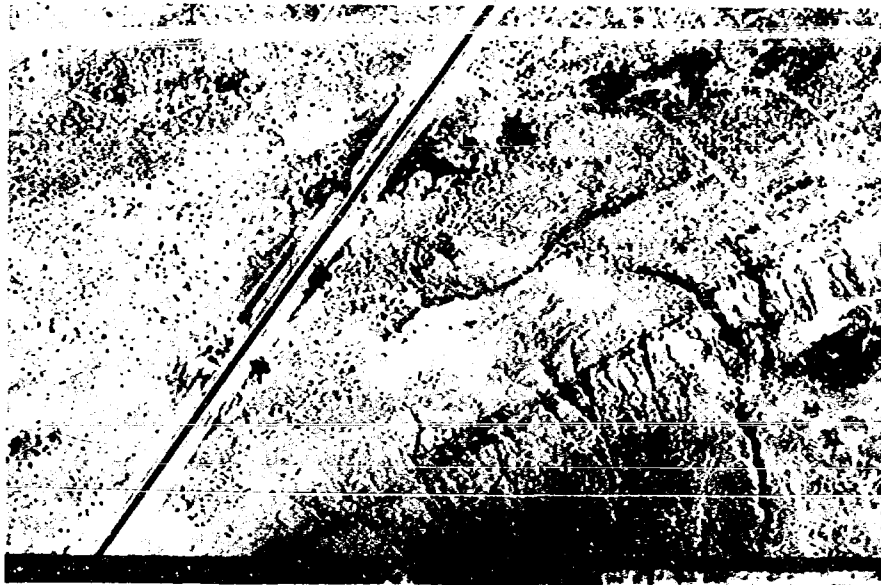


CASE 4767: Application of BALLARD
HESLER, HAYES & HAYES FOR
COMPULSORY POOLING, EDDY COUNTY.

Holding for
Court Decision



JUN

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JUN

71

BEFORE EXAMINER STAMETS
OIL CONSERVATION COMMISSION

App EXHIBIT NO. 3
CASE NO. 4767-4768

Submitted by Grace

Hearing Date 7/12/72

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BEFORE EXAMINER STAMETS
OIL CONSERVATION COMMISSION

App EXHIBIT NO. 4
CASE NO. 4767-4768

Submitted by Grace

Hearing Date 7/12/72

Case Number

4767

Application

Transcripts

Small Exhibits

ETC.

dearnley, meier & mc cormick

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BEFORE THE
NEW MEXICO OIL CONSERVATION COMMISSION
CONFERENCE ROOM, STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO
July 12, 1972

EXAMINER HEARING

IN THE MATTER OF:

Application of Alice Ballard,
Amelia Miller, Thurman Mayes,
and John A. Mayes for compulsory
pooling, Eddy County, New Mexico.

Case No. 4767

VOLUME I

IN THE MATTER OF:

Application of Alice Ballard,
Amelia Miller, Thurman Mayes,
and John A. Mayes for compulsory
pooling, Eddy County, New Mexico.

Case No. 4768

TRANSCRIPT OF HEARING

dearnley, meier & mc cormick

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1 MR. STAMETS: We'll call next Case 4767.

2 MR. HATCH: Case 4767: The application of Michael
3 P. Grace and Corinne Grace, substituted parties for Alice
4 Ballard, Amelia Miller, Thurman Mayes, and John A. Mayes.
5 The application in Case 4767 is for compulsory pooling,
6 Eddy County, New Mexico.

7 MR. COOLEY: William J. Cooley, of Burr and Cooley,
8 Farmington, appearing on behalf of the Applicants. Mr.
9 Watkins of Carlsbad, New Mexico, appearing as additional
10 counsel for Michael P. Grace.

11 MR. HINKLE: Clarence Hinkle, of Hinkle, Bondurant,
12 and Christy, Roswell, appearing on behalf of Black River
13 Corporation.

14 MR. COOLEY: We will have four witnesses in this
15 case.

16 MR. HINKLE: I would like to make a motion, and
17 this motion will also apply to Case 4768 when it is called.
18 It has already been brought out here that a lawsuit is
19 pending in the District Court of Eddy County, New Mexico,
20 which not only involves the Southeast of the Southwest of
21 Section 3, but also involves the West half of the Northeast
22 quarter and the Northwest quarter of Section 10, and involves
23 the Southeast of the Northeast quarter of Section 9. Now,
24 the application in Case 4767 is for forced pooling for a
25 non-standard unit in the East half of Section 9. There is

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1 no well involved here. The only acreage that they have
2 is dependent upon the lawsuit which is pending, and we
3 don't know whether they are going to have title or not, but,
4 of course, the Commission cannot determine the title on
5 these leases, and with that reasoning, I move that this case
6 be either dismissed or continued until such time as this
7 lawsuit is disposed of. You can make it sixty days if you
8 want to, as was Mr. Cooley's suggestion.

9 MR. STAMETS: Mr. Hinkle, are you saying that you
10 do not feel that the Applicant has a valid working interest
11 at this time and until that is resolved, the Commission
12 cannot consider this?

13 MR. HINKLE: Yes. The title is in dispute, the
14 title for this lease ownership is in dispute.

15 MR. STAMETS: Is it your opinion that any
16 individual involved with this acreage, regardless of whether
17 it be Black River or the Graces or whoever, should wait
18 until the Court case is resolved?

19 MR. HINKLE: No, I think others could have valid
20 working interests, but in Section 9. As I understand it,
21 the only working interest that is in dispute is in the
22 Southeast of the Northwest, but they are the ones who have
23 made the application for forced pooling, and this acreage
24 is in dispute.

25 MR. STAMETS: Mr. Cooley, do your clients have a

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1 valid uncontested working interest in the acreage in the
2 section in question where they propose to drill or propose
3 to have the right to drill?

4 MR. COOLEY: The only interest that they own in
5 these two sections as stated by Mr. Hinkle is that which is
6 being contested in the lawsuit that has been discussed here.
7 They do not have any uncontested working interests other
8 than these leases from the Ballard-Miller-Mayes group. The
9 Graces have enough confidence in these leases to pay ten
10 thousand dollars in cash for these leases and have enough
11 confidence to go in and possibly drill a well even before
12 the resolution of this lawsuit. From the testimony that
13 we have heard today about the opinion of the experts as to
14 communication in this field, there is the likelihood of
15 drainage, the very great likelihood of drainage, in the
16 North half of Section 10, and, for that matter, in the East
17 half of Section 9. It seems to me that whatever is good
18 for the goose is good for the gander in this situation, and
19 we battled long and hard about continuing the case with
20 respect to the West half of Section 3, and the Examiner,
21 after due deliberation, considered that that case should
22 go on. I don't feel there is any difference between the
23 two situations, and we are prepared to put on testimony
24 that the acreage involved in the applications in Cases 4767
25 and 4768 overlies the common source of supply and can be

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1 drained whether they have a well on it or whether they
2 don't have a well on it. To drag this out and to deny the
3 application of Mr. Grace is to deny him the right to go
4 ahead and drill. There is no conflicting application so
5 far as these two cases are concerned that are now pending
6 anywhere. Mr. Grace may be very unwise from a business
7 standpoint to spend his dollars on contested leases, but
8 Mr. Grace has every confidence that he is going to win the
9 lawsuit. He has spent a great deal of money already, and
10 is prepared to spend some more. This is no different than
11 the West half of Section 3, it is going to be drained unless
12 a well is drilled.

13 MR. STAMETS: I am trying to clarify in my own
14 mind whether if this case is heard, a valid order could be
15 issued or whether or not it should be continued until such
16 time as there is an owner who has the right to drill.

17 MR. COOLEY: The color of the title, whether it
18 is stained or not, has no bearing on Mr. Grace having the
19 right to drill. I don't think the Commission could issue
20 him a drilling permit if he applied for one, even if the
21 entire half section were not in contest. He has the color
22 of title and the right to drill at this point.

23 MR. HINKLE: Mr. Cooley has already stated that
24 they did not have a lease other than what is in contest.
25 In other words, the question to title is still pending in

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1 the District Court of Lee County, and the title is in question,
2 and I do not think the Commission could issue an order
3 because you will not have an operator who has the right
4 to drill.

5 MR. STAMETS: Let's suppose we hear this today
6 and we wait until the District Court has decided before
7 issuing an order. Would the testimony be considered proper?

8 MR. HINKLE: The District Court might decide
9 adversely to Mr. Grace and that would make it moot.

10 MR. STAMETS: Would we have to go back and do it
11 all over again?

12 MR. COOLEY: If the case is resolved in Mr. Grace's
13 favor, then as of June 23rd, 1972, he had unquestioned and
14 exclusive right to drill. So my answer to your question is
15 that it would be completely proper, and I don't think there
16 is any question about that whatsoever. If the Court's
17 decision is in favor of the plaintiffs, who are the Ballard-
18 Miller-Mayes group, and the intervenor is Mr. Grace, then
19 the prior lease, as we maintain, expired on October 22nd,
20 1971, and the property remained unleased until June 23rd,
21 1972, and from June 23rd, 1972, Mr. Grace has had sole and
22 exclusive right to drill.

23 MR. STAMETS: My question really has to do with
24 whether I have the right to hear this case under the statute,
25 and can an order be issued if these cases are heard today

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1 before the case is adjudicated in District Court?

2 MR. COOLEY: Can an order be issued before the
3 case is adjudicated?

4 MR. STAMETS: Yes, before the Court says, "Yes,
5 this person or persons has had the right to drill since
6 June 23rd, 1972, has had the right to operate this well or
7 drill this well."

8 MR. COOLEY: Yes, I think you have jurisdiction
9 to hear this case.

10 MR. HINKLE: I think that it is absolutely clear
11 that you could not issue an order until the District Court
12 has adjudicated this, and then you also run into the question
13 of whether or not the case is going to be appealed.

14 MR. STAMETS: Mr. Cooley, if Mr. Hinkle's
15 interpretation is correct, it could be a considerable length
16 of time before an order could be issued, and I might get hit
17 by a truck between then and now, and I'm not sure an order
18 could be issued if such a thing should happen, if we had
19 to wait until the case was adjudicated before we could
20 issue an order.

21 MR. COOLEY: As to the question of whether an
22 issuance of an order could precede the final determination
23 of the lawsuit, I must agree that the Commission could not
24 issue such an order, but you could issue an order after
25 the determination of this case without further ado.

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1 MR. HATCH: Mr. Cooley, when does your client
2 propose to drill the well?

3 MR. COOLEY: I would say within the next ninety days.

4 MR. HATCH: Before the decision in the District
5 Court?

6 MR. COOLEY: It's possible-- well, I will have to
7 take that back because they couldn't drill the well until
8 the Commission issued a forced pooling order naming them as
9 operator.

10 MR. HINKLE: I don't believe there is any question
11 that the Commission would not have the authority to issue
12 an order unless they could find in this case that the Graces
13 had title to this particular forty acres.

14 MR. STAMETS: I don't think that is the question
15 anymore, I think there is some agreement that the order
16 could not be issued until the case is adjudicated. I think
17 this boils down to whether I may hear the case before the
18 adjudication of the District Court case, and if I may, whether
19 it is a good idea for all of us who are here to go ahead
20 with it. There are two questions that maybe we can ask the
21 Secretary. One of them would be if an order cannot be
22 issued until after the case is adjudicated, wouldn't it be
23 better for your client to wait until that time before coming
24 on with these cases?

25 MR. COOLEY: We are opposing a continuance, and we

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1 feel that you have unquestioned jurisdiction to hear the case.

2 MR. HINKLE: We think that you would be spinning
3 your wheels because even to hear it and then to have the
4 Court decide against the Graces, it would all be for naught.

5 MR. STAMETS: Mr. Hatch, do you have an opinion?

6 MR. HATCH: I think the case is premature here,
7 and should be continued at least, perhaps even dismissed
8 until the Applicant can come in here and establish the right
9 to drill.

10 MR. COOLEY: I would like to respond to that. Did
11 I understand that to be a ruling?

12 MR. HATCH: The Examiner will make the ruling.

13 MR. COOLEY: I have already stated my position,
14 and I think the Examiner does have the right to hear the case.

15 (Whereupon an off the record discussion was held.)

16 (Hearing continues.)

17 MR. STAMETS: Cases 4767 and 4768 will be continued
18 to nine o'clock tomorrow morning.

19 (Whereupon Cases 4767 and 4768 were recessed at
20 seven-thirty P.M., Wednesday, July 12th, 1972 until nine A.M.,
21 Thursday, July 13th, 1972.)

22

23

24

25

1 STATE OF NEW MEXICO)
 2) SS
 3 COUNTY OF BERNALILLO)

4 I, RICHARD E. McCORMICK, a Certified Shorthand
 5 Reporter, in and for the County of Bernalillo, State of
 6 New Mexico, do hereby certify that the foregoing and
 7 attached Transcript of Hearing before the New Mexico Oil
 8 Conservation Commission was reported by me; and that the
 9 same is a true and correct record of the said proceedings
 10 to the best of my knowledge, skill and ability.

11
 12 *Richard E. McCormick*
 13 CERTIFIED SHORTHAND REPORTER
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I do hereby certify that the foregoing is
 a complete record of the proceedings of
 the Bernalillo hearing of 1919
 held by me on....., 19.....

_____, Secretary
 New Mexico Oil Conservation Commission

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BEFORE THE
NEW MEXICO OIL CONSERVATION COMMISSION
CONFERENCE ROOM, STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO
July 13, 1972

EXAMINER HEARING

IN THE MATTER OF:

Application of Alice Ballard,
Amelia Miller, Thurman Mayes,
and John A. Mayes for compulsory
pooling, Eddy County, New Mexico.

Case No. 4767

VOLUME II

IN THE MATTER OF:

Application of Alice Ballard,
Amelia Miller, Thurman Mayes,
and John A. Mayes for compulsory
pooling, Eddy County, New Mexico.

Case No. 4768

TRANSCRIPT OF HEARING

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NEW MEXICO OIL CONSERVATION COMMISSION

EXAMINER HEARING

SANTA FE, NEW MEXICO

Hearing Date July 12, 1972TIME: 9 A.M.

NAME	REPRESENTING	LOCATION
<i>James E. Sullivan</i>	<i>Shell Oil Co</i>	<i>Midland, Texas</i>
KENNETH L. PETERS	TEXACO INC.	HOBBS, N.M.
C.W. STUMHOFFER	ANADARKO PRODUCTION CO.	HOUSTON, TEXAS
Doyle Butler	Blackrock Oil Co.	Midland, Texas
Warren L. Shafer	Mib-Tex Oil Corp.	Midland, Texas
Serry Tweed	Atlantic Richfield	Midland Texas
KEN BATEMAN	White Kosh Kelly & McCarthy	Santa Fe.
F. H. Hartman	Beard Oil Company	OKLA CITY
JOSEPH H. CASKEY	" " "	"
SG. Buehl	Montgomery, Federin, et al	Santa Fe
J. T. BERRY	BLACK RIVER CORP	Midland
V. Phipps	BLACK RIVER CORP	MIDLAND
WM. P. AYCOCK	Black River Corp	Midland
Jim Lee Wolfe	Ameco Production Company	Denver.
CHARLES F. MALONE	ATWOOD MALONE MANN & COOTER	KOSWELL
Wm J Cooley	Burn & Cooley	Farmington
Jason Kellahi	Kellahi & Fox	Santa Fe
V. T. LYON	Continental Oil Co	Hobbs
JAMES S. JOHNSON	INDEPENDENT	MIDLAND.
Robert & Beckman	U.S.G.S.	Artesia, N.M.

NEW MEXICO OIL CONSERVATION COMMISSION

EXAMINER HEARING

SANTA FE, NEW MEXICO

Hearing Date JULY 12, 1972 TIME: 9 A.M.

NAME	REPRESENTING	LOCATION
A. W. Rutter Jr	Rutter & Wilbanks Corp	Midland
Carl Traywick	U S G S	Roswell
Nina R. Durkovic	RW Byram & Company	S. F.
G. J. Wotter	Cities Service Oil Co	MIDLAND
Charles P. Miller	N. P. Grace	Hobbs

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1 (Whereupon the hearing of Cases 4767 and 4768
2 was continued at nine A.M., Thursday, July 13th, 1972.)
3 MR. STAMETS: The hearing will come to order.
4 Let the record show that the hearing reconvened in the Oil
5 Conservation Commission Conference Room of the State Land
6 Office Building at nine A.M., July 13, 1972.
7 We will call the next case, Case 4767.
8 MR. HATCH: Case 4767: Application of Alice
9 Ballard, Amelia Miller, Thurman Mayes, and John A. Mayes for
10 compulsory pooling, Eddy County, New Mexico.
11 MR. COOLEY: William J. Cooley, of Burr and Cooley,
12 Farmington, appearing on behalf of the Applicant. As in the
13 previous cases, I would move that the Examiner substitute
14 the new lessees, Michael P. Grace and Corinne Grace as
15 substitute parties applicants inasmuch as they have taken
16 over the oil and gas leases from the original applicants
17 who filed the application.
18 MR. STAMETS: The substitution will be approved.
19 MR. HINKLE: Clarence Hinkle, of Hinkle, Bondurant,
20 and Christy, Roswell, appearing on behalf of Black River
21 Corporation.
22 MR. STAMETS: Is there any reason that Cases 4767
23 and 4768 should not be consolidated?
24 MR. COOLEY: No reason at all. I would so move
25 with the same motion with respect to the parties applicants.

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1 MR. STAMETS: The motion is approved in both
2 respects, and the cases will be consolidated for the purpose
3 of hearing.

4 MR. COOLEY: The Applicant has two witnesses,
5 Mr. Steinhorst and Mrs. Grace.

6 MR. STAMETS: Mr. Hinkle, do you anticipate
7 calling witnesses?

8 MR. HINKLE: We have no witnesses at this time,
9 we might have later on.

10 MR. STAMETS: Have the witnesses sworn.

11 (Whereupon Mrs. Grace and Mr. Steinhorst were
12 sworn by Mr. Hatch.)

13 MR. COOLEY: I will call Mr. Steinhorst.

14 * * * *

15 RICHARD STEINHORST,
16 was called as a witness, and having been already duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. COOLEY:

20 Q Mr. Steinhorst, will you state your name for the record,
21 please?

22 A Richard Steinhorst, Jr.

23 Q Where do you reside?

24 A Lafayette, Louisiana.

25 Q By whom are you employed?

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1 A I am a consulting petroleum engineer for the Graces.

2 Q Specifically, have you been employed by Mr. and Mrs.
3 Grace with respect to engineering studies concerning
4 the East half of Section 9 and the North half of
5 Section 10 in the Township and Range involved in this
6 hearing, being Township 26 South, Range 27 East, Eddy
7 County, New Mexico?

8 A That is correct.

9 Q Have you made a study with respect to potential
10 productivity of this acreage in the Washington Ranch-
11 Morrow Gas Pool or similar intervals?

12 A I have.

13 Q First, Mr. Steinhorst, I hand you an acreage plat which
14 has been identified as Exhibit One in this case, and
15 I ask you if it reveals the acreage in question and
16 shows the lease ownership?

17 MR. HINKLE: Do you have a copy?

18 MR. COOLEY: That's the only one. It's the same
19 one as yesterday.

20 MR. HINKLE: Who is C. R. A. Inc.?

21 MR. COOLEY: We had to take that from the Eddy
22 County Abstract Company, which showed a lease to C. R. A.
23 Inc.

24 MR. HINKLE: Are you introducing this for the
25 purpose of showing title?

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1 MR. COOLEY: Yes, as reflected by the records of
2 Eddy County, New Mexico. You may have some later information
3 than the County Clerk does.

4 MR. HINKLE: Did you personally make a check of
5 the records?

6 THE WITNESS: No, Mr. Miller made the check.

7 MR. COOLEY: I personally reviewed the leasehold
8 take-off prepared by the Eddy County Abstract Company, which
9 is the basis of this representation.

10 MR. HINKLE: Go ahead, I will handle this on cross
11 examination.

12 Q (By Mr. Cooley) Without going into detail, the exhibit
13 reflects, does it not, that Mr. Grace is the lessee--
14 claims to be the lessee with respect to the Northwest
15 quarter of the East half of the Northeast quarter of
16 Section 10, is that correct?

17 A That is correct.

18 Q And likewise with respect to the Southeast of the
19 Northeast quarter of Section 9?

20 A That is correct.

21 MR. COOLEY: For the record, Mr. Examiner, these
22 are the tracts that are under lease to Mr. Grace from the
23 Mayes-Ballard-Miller group, the former applicants, and who
24 are the mineral owners of these lands, this being the same
25 acreage that is in controversy with respect to Eddy County

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1 Cause Number 27,600, where Mr. Grace seeks to acquire that
2 acreage. So this acreage is the subject matter of the
3 lawsuit I have described, and title will not be cleared
4 until the lawsuit is resolved.

5 MR. STAMETS: I presume the Applicant in this case
6 will advise the Commission when that is resolved?

7 MR. COOLEY: We will advise the Commission of the
8 outcome of the lawsuit.

9 MR. HINKLE: I take it from your statement that you
10 take the position that as far as this acreage in Sections 9
11 and 10 are concerned, that they will not have good title
12 until such time as the lawsuit is determined, is that correct?

13 MR. COOLEY: That is correct.

14 MR. HINKLE: In view of this, I move at this time
15 that the case be dismissed due to the fact, and it is now
16 clear on the record, that the Graces do not have title to
17 the acreage they claim so they can drill.

18 MR. COOLEY: Mr. Grace will have the right to go
19 out and drill if he chooses to do so from the leases he has
20 from the Ballard-Mayes-Miller group. If he wanted to take
21 that risk of subsequently losing title, that is his
22 prerogative.

23 MR. HINKLE: By the statement of counsel, it clearly
24 shows that title is in dispute, and that this case is pending
25 in the District Court of Eddy County, and the Commission does

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1 not have the authority to determine title or go into it
2 so long as it is in dispute, and I think my motion ought
3 to be sustained.

4 MR. COOLEY: We stipulated yesterday that we felt
5 that the Commission certainly had no jurisdiction whatsoever
6 in determining title. In the past in all the cases I have
7 heard of, the question of title has never come up to my
8 knowledge, and the issue here is whether the Examiner has
9 jurisdiction to hear the matter and to withhold issuance of
10 an order until such time as the question of title has been
11 resolved. If the question is resolved in favor of Mr. Grace,
12 it will be a retroactive decision to the date of the lease,
13 that being June 23rd, 1972.

14 MR. HINKLE: I think the Examiner and the Commission
15 has to look at the record as to the difficulty they will
16 have if the case is heard now and not at some future date.
17 The fact that title is in dispute, and is admitted to be so,
18 is controlling, and the Commission ought to take notice of
19 that as it is shown by the record at this time.

20 MR. HATCH: I think that in view of the testimony
21 that was presented yesterday, or the arguments at the
22 beginning of these two cases yesterday, and on your ruling
23 that you would hear the cases, that you should take Mr.
24 Hinkle's motion to dismiss and reserve your decision on that
25 and hear the cases and perhaps something else will develop

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1 in the cases that you can base your decision to dismiss on
2 at the end of the case. But I would recommend you go ahead
3 and hear the cases.

4 MR. STAMETS: The Examiner is in agreement with
5 that decision. I will hear the complete cases for both
6 applications, and this does not mean that I will not
7 recommend the cases be dismissed or proceed in any particular
8 manner after the cases are over. We will take full
9 consideration of your motion at the conclusion of the cases,
10 Mr. Hinkle.

11 MR. HINKLE: At the conclusion?

12 MR. STAMETS: Yes.

13 MR. HINKLE: Okay.

14 MR. STAMETS: You may proceed, Mr. Cooley.

15 Q (By Mr. Cooley) Mr. Steinhorst, with respect to the
16 engineering studies that you have made concerning the
17 North half of Section 10 and the East half of Section 9
18 in Township 26, Range 24 East, Eddy County, New Mexico,
19 have you prepared an exhibit which reflects your
20 concept of the controlling geological factors of that
21 area?

22 A I have.

23 Q I hand you what has been marked as Exhibit Two, and ask
24 you to explain the same.

25 A This is really a sketch map of some geological data

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1 available from the State of New Mexico. The wells
2 are a little bit of a composite because some of the
3 features on here have already been substantiated by
4 wells that have been drilled in the area. Referring
5 to the map, you will notice it is contoured on the top
6 of the formation that the State Geological people
7 surveyed, which does give a reasonable picture. The
8 yellow line coming down from about the middle-- well,
9 roughly between Sections 3 and 4, is the axis which
10 has already been established-- or pretty well established
11 as being in existence by the wells that have been
12 drilled.

13 Q Is that the top center of Exhibit Two?

14 A Right, the top center of Exhibit Two.

15 The other yellow colored anticlinal axis is the
16 one that Mr. Vance Kelly of the University of New Mexico
17 says is there. I don't believe it has been substantiated
18 yet, but any sub-surface data available, we merely
19 put in there to indicate the dike down in the Southeast
20 quarter of Section 10. The dike has been shown to
21 exist by the State Geological maps, and also by a later
22 exhibit we will illustrate that it is there and that
23 this is the controlling feature in the South part of
24 10 also.

25 Q Let me interrupt you at this point, for what reasons

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1 is the dike in the Southeast quarter of Section 10
2 controlling?

3 A Any time you have a dike intrusion, you get an altering
4 of the formation in the proximity of the dike, and
5 therefore, the possibility is there that you may have
6 no permeability or porosity within some distance of
7 the dike.

8 Q Is the dike a physical factor and does it tend to
9 alter and destroy the permeability and porosity of
10 the producing zone?

11 A Well, the intrusion of the dike itself plus the heat
12 that exists when the dike intrudes does have a marked
13 affect on the adjacent depositional rocks.

14 Q Based upon that, is it desirable to stay away from a
15 dike as much as possible with respect to the well bore?

16 A Well, yes, it's a pretty good idea to stay far enough
17 away that you feel like the formation has not been
18 altered.

19 Q Does the dike to which you refer in the Southeast quarter
20 of Section 10, in your opinion, constitute an effective
21 permeability barrier?

22 A Very definitely.

23 Q Proceed.

24 A Right above the dike is a dash line which indicates a
25 fault. This fault is another controlling factor in the

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1 productivity in the Southern part of Section 10 and
2 the extreme Southeast part of Section 9. Therefore,
3 this could be a very limiting factor in this particular
4 portion of the field.

5 Q Do you have any further comment with respect to Exhibit
6 Two?

7 A No, other than that it is pretty straightforward, and
8 just illustrates that possibly there is a limiting
9 factor there and from the wells in Sections 3 and 4
10 and the geological factors that we have available to
11 us, it is indicative that the location proposed in
12 Sections 10 and 9 are probably productive.

13 Q Have you caused any other geological work to be performed
14 that would tend to confirm the existence of a fault
15 and a dike in the Southeast quarter of Section 10 and
16 this general area?

17 A We took two infrared photographs which I believe you
18 marked as exhibits.

19 Q I hand you what have been marked as Exhibits Three and
20 Four, and ask you if those are the photographs you
21 are referring to?

22 A Those are the photographs. These particular photographs
23 show the dike and they are over in Section 11.

24 Unfortunately, we didn't carry this on over, but it
25 also shows the well in Section 11, one of the photographs

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1 does, and then to the south of that, you can see the
2 dike, and you can see very definitely where the fault
3 cut and dike are.

4 Q Do you have an extra copy of these photographs?

5 A NO, I do not.

6 Q Would you rise, please, and go around to the Examiner
7 and explain the exact area that is in question and
8 how it relates to Exhibit Two?

9 (Whereupon the witness complied with the request
10 of counsel and the dialogue between the Examiner and the
11 witness took place off the record.)

12 Q (By Mr. Cooley) Based upon all of the information
13 available to you at this time and the studies you have
14 made, do you have an opinion as to whether the East
15 half of Section 9 and the North half of Section 10
16 should reasonably be presumed to be productive of gas
17 from the Washington Ranch-Morrow Gas Pool?

18 A Very definitely.

19 Q With respect to the well locations that have been
20 selected by Mr. Grace, do you feel these are the best
21 locations that could have been selected within the
22 limits of the rules and regulations concerning the
23 location of wells in the area?

24 A Yes. To elaborate a little bit, going back to the
25 sketch map, both of these locations are reasonable

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1 distances from the fault trend and the dike trace as
2 to be out of any influence that these two features
3 might have on the alteration of the formation, and
4 you will notice that the anticlinal axis coming down
5 between Sections 3 and 4 indicate that it is trending
6 toward these two locations, therefore, there should be
7 structurally high well placements.

8 Q In your opinion, will the wells, as plotted, effectively
9 and efficiently drain the proration units assigned
10 to them?

11 A They will.

12 Q In your testimony yesterday with respect to the previous
13 case, you expressed some doubt and some concern with
14 respect to the ability of the well in the West half
15 of Section 3 being able to drain that entire half section.
16 Do you have the same concern with respect to the East
17 half of Section 9 and the North half of Section 10?

18 A No, because you are not draining such a long distance.

19 Q I understand then that your feeling of the location of
20 the well with respect to the particular unit involved
21 is that it will effectively drain the proration unit
22 assigned?

23 A That's right.

24 MR. COOLEY: No further questions.

25 * * * *

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2 BY MR. HINKLE:

3 Q Referring to Exhibit One, who prepared the plat?

4 A That actual plat was prepared by Mr. Charlie Miller.

5 Q You had nothing to do with the preparation of that plat?

6 A Not of the plat itself, no.

7 Q You don't know of your own information that the
8 ownership shown is correct?

9 A I have seen the abstract data that Mr. Cooley referred to.

10 Q Do you know whether or not the records in the office
11 of the County Clerk of Eddy County also show the oil
12 and the gas lease of Mr. Miller, J. W. Miller, that
13 covers the Southeast of the Northeast of Section 9?14 A I understand there was such a lease and that lease has
15 expired.16 Q The one that applies to the Northwest quarter of the
17 West half of the Northeast quarter of Section 10?

18 A That's correct.

19 Q Can you state of your own knowledge that there is a
20 suit pending in the District Court of Eddy County that
21 involves title to these particular leases?22 A I have been so informed, I haven't actually seen the
23 suit papers.

24 MR. COOLEY: We will so stipulate, Mr. Hinkle.

25 MR. HINKLE: That's all I have.

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BY MR. STAMETS:

Q Referring to Exhibit Two, these contours of the top of Bell Canyon, which is of considerable thickness and a considerable vertical distance above the Morrow, which is the formation in question, why did you not use the Morrow formation for your contour map?

A The real purpose of this particular map is supposed to be a structural map to demonstrate the regional controlling features which would have influenced any productivity or any possible productivity of the Morrow or any productive zone you might run into in this particular area.

Q These features could just as well have been put on a Morrow map, these features of the dike and the fault?

A This could have been, however, the thing we are really trying to illustrate is the regional situation by other geological data, which is not necessarily available from the well records. We are trying to illustrate this by other geological data because you are getting into an area where we don't have any well control, and anything you did with the Morrow would be completely speculative at that point.

MR. STAMETS: Are there any other questions?

* * * *

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2 BY MR. HATCH:

3 Q The yellow line on here represents a fault?

4 A No, the yellow line represents the anticlinal axis.

5 Q In response to one of Mr. Cooley's questions a moment
6 ago concerning the productivity of the East half of
7 Section 9 and the North half of Section 10, you said
8 it was your belief that they were productive of gas
9 from the Washington Ranch-Morrow Gas Pool.

10 A Yes.

11 Q Is there anything on this Exhibit Two that would
12 indicate that wells drilled in the East half of Section
13 4 or the West half of Section 4 or the East half of
14 Section 3 or the West half of Section 3 are not producing
15 from the same common source of supply?

16 A No.

17 Q Is it your opinion that all of those completed wells
18 and the wells at these proposed locations would be
19 producing from the same common source of supply?

20 A Yes.

21 Q And that would be designated the Washington Ranch-
22 Morrow Gas Pool?

23 A Right.

24 MR. HATCH: I have nothing further.

25 MR. STAMETS: Is there anything further from this

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1 witness?

2 MR. COOLEY: Mr. Examiner, we have a problem.
3 The well cost data which Mr. Steinhorst prepared was typed
4 up last night, and the typist made some errors that are
5 being corrected right now, and at this point, we definitely
6 want to submit this information, but it is being retyped
7 right now.

8 MR. HINKLE: Do you want to wait until the
9 conclusion of the case?

10 MR. COOLEY: Yes.

11 MR. HINKLE: No objection.

12 MR. COOLEY: If we could defer the presentation
13 of that evidence through Mr. Steinhorst to the end of the
14 case and proceed with Mrs. Grace's testimony, I would
15 appreciate it.

16 MR. STAMETS: There being no objection, we will
17 do that.

18 (Witness excused.)

19 * * * *

20 CORINNE GRACE,
21 was called as a witness, and having been already duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. COOLEY:

25 Q Mrs. Grace, you are the wife of Michael P. Grace?

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1 A Yes.

2 Q You are the co-owner or co-operator of the oil and
3 gas leases designated as the Grace leases on Exhibit
4 One in this case?

5 A Well, I'm the co-operator.

6 Q That was my question.

7 A Yes.

8 Q And in connection with these leases, have you caused
9 to be delivered any notices or requests to other
10 operators, working interest owners, or royalty owners
11 in the East half of Section 9 and the North half of
12 Section 10 with respect to voluntarily pooling this
13 acreage for drilling of a well thereon?

14 A Yes, sir.

15 Q Specifically, who did you notify and in what manner
16 and when?

17 A We... sent Western Union telegrams to Black River, Cities
18 Service, and Arapahoe Limited, and furnished the Oil
19 Commission with the addresses-- the known addresses
20 that the people in Eddy County furnished us with.

21 Q When you say Eddy County, you mean the Eddy County
22 Abstract Company?

23 A I'm sorry, yes.

24 Q When were these telegrams sent?

25 A I think approximately June 5th.

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1 Q In this case, you and your husband are seeking to be
2 operators of the well in question?

3 A Yes, we feel we have to-- we're getting telephone calls
4 at midnight and in the middle of the night and
5 everything else. People were telling us that Black
6 River was going to move on to the West half of Section 4,
7 and this gets pretty nerve-racking. Mr. Forest Miller
8 told someone in my presence that they were not going
9 to drill anymore in the Washington Ranch area.

10 Approximately two days later, I heard that they were
11 out there with bulldozers building their locations.

12 MR. STAMETS: Excuse me. We are talking about
13 Section 4 here, and I believe the area in question is
14 Section 9 and Section 10. I would like to be assured that
15 this has some relationship to that before you get into it.

16 THE WITNESS: Well, the relationship is that these
17 are the kind of people that one has to deal with, they're
18 in there taking over your land and operating it. Mr. Porter,
19 I have always heard, is a very fine, sound gentleman, and I'm
20 sure he doesn't stand for that sort of thing.

21 MR. STAMETS: I believe that that will not be
22 one of the causes for forced pooling under the section in
23 question, and I think the testimony should be centered around
24 that if it could be.

25 THE WITNESS: I was giving my reasons.

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1 Q (By Mr. Cooley) Is it your purpose to immediately
2 proceed with the wells in the North half of Section 9
3 and the East half of Section 10 immediately upon the
4 conclusion of the lawsuit referred to?

5 A Yes.

6 MR. COOLEY: No further questions.

7 MR. STAMETS: Are there any questions of this
8 witness?

9 MR. HINKLE: Yes, I think so.

10 * * * *

11 CROSS EXAMINATION

12 BY MR. HINKLE:

13 Q I believe you stated that you are the owners of the
14 oil and gas leases that cover the acreage involved in
15 Sections 9 and 10, is that right?

16 A My husband is the owner of the lease, and he has made
17 me co-operator.

18 Q Now, have you completely paid for the oil and gas lease
19 that you have covering this acreage?

20 A No, sir.

21 Q Isn't it a fact that you agreed to pay a consideration
22 of \$125.00 an acre and put up \$10,000.00 to get title
23 to the leases and then agreed to pay the balance when
24 the lawsuit was terminated?

25 A Well, the amount I don't have in front of me.

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1 MR. COOLEY: You did acknowledge yesterday that
2 you paid \$10,000.00 to the Mayes-Miller-Ballard group.

3 THE WITNESS: Yes, we paid \$10,000.00 already.

4 MR. COOLEY: And there is a balance due upon the
5 conclusion of the lawsuit?

6 THE WITNESS: Yes, sir.

7 Q (By Mr. Hinkle) But you have not paid the balance?

8 A No, sir.

9 Q And will not be obligated to pay it until the conclusion
10 of the lawsuit?

11 A No, but we never get this \$10,000.00 back.

12 Q Now, if you are not successful in the lawsuit, will
13 you or your husband have any leasehold interest in
14 Sections 9 and 10?

15 A We have the lease, it's merely a question of unclouding
16 the title.

17 MR. COOLEY: Mrs. Grace, you must answer the
18 question directly. He said if you are not successful, would
19 you have any other interest.

20 THE WITNESS: We must be successful.

21 Q (By Mr. Hinkle) That's not my question, I asked if you
22 were not successful, do you have any other interest
23 in Sections 9 or 10 except those that are in dispute?

24 A We have no other land except these leases, but we have
25 these leases.

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1 Q Well, all of the testimony as to these leases point
2 to the fact that they are in dispute.

3 A We have better leases than Mr. Miller, Mr. Miller's
4 leases are clouded too.

5 Q Do you have any other interests in Sections 9 and 10?

6 A We have no other land besides the land in these leases.

7 Q That's all I asked you.

8 Now, I believe your testimony was that you do not
9 intend to start these wells until such time as the
10 pending lawsuit is terminated, and then only in the
11 event you are successful.

12 A That is our plan at the moment, because we don't go
13 out and drill on land before we have everything in order.

14 MR. HINKLE: That's all I have.

15 * * * *

16 CROSS EXAMINATION

17 BY MR. HATCH:

18 Q I have one question. You testified as to paying so
19 much for the leases.

20 A Yes.

21 Q And I believe your testimony was that regardless of
22 the outcome of the lawsuit, you would not receive any
23 of that \$10,000.00 back?

24 A That's right. The only reason we are holding up any
25 payment is we want to get perfect title, but we wouldn't

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1 get it back even if we don't get perfect title. I
2 have seen people go and take land and maybe fifty
3 years later-- we have land in Long Island that hasn't
4 perfect title, and my husband's father got it fifty
5 years ago. This is because the people who originally
6 settled out there from England didn't properly
7 establish it.

8 Q Has the \$10,000.00 been paid?

9 A Yes, sir.

10 Q Will any part of that \$10,000.00 be returned if the
11 Ballard-Miller-Mayes group are not successful in their
12 lawsuit?

13 A No, we will never get a penny of that money back.

14 Q Now, there is a balance due, the \$10,000.00 does not
15 represent the entire amount?

16 A No, it doesn't.

17 Q Part of your testimony was that you were paying so much
18 an acre, I believe. Would that be paid in addition
19 to the \$10,000.00?

20 A Yes, sir.

21 Q Mrs. Grace, if the Ballard-Mayes-Miller group is
22 successful in this lawsuit, you will be obligated to
23 pay them some additional money beyond the \$10,000.00
24 for the lease?

25 A Yes, sir.

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1 Q How much is that?

2 A I believe it's \$40,000.00.

3 MR. COOLEY: I think the total contract actually
4 was \$40,000.00, \$10,000.00 of which has been paid.

5 A He says the total was \$40,000.00, so we will owe them
6 \$30,000.00.

7 Q If the Ballard-Mayes-Miller group are not successful
8 in their lawsuit, are you still bound absolutely to
9 pay that \$30,000.00 to them?

10 A No.

11 MR. HATCH: That's all the questions I have.

12 * * * *

13 CROSS EXAMINATION

14 BY MR. STAMETS:

15 Q Mrs. Grace, I have a question concerning your attempts
16 to get together with the other owners in these two
17 half sections in question here. I wasn't quite clear
18 on your answer whether you had attempted to voluntarily
19 communitize with these other owners or whether the
20 original applicants, Alice Ballard et al, had tried to
21 communitize with the other owners in the two half
22 sections.

23 A No, we sent telegrams.

24 Q Was this for voluntary communitization?

25 A Yes, that they join us in the drilling of the well.

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1 The reason we didn't beg them harder is that the
2 people we trusted were telling us that we were going
3 to move on-- a man, in our presence, said that they
4 were not going to drill any more wells. How can you
5 work with people like that?

6 MR. STAMETS: Are there any other questions?

7 MR. COOLEY: Yes.

8 * * * *

9 REDIRECT EXAMINATION

10 BY MR. COOLEY:

11 Q You have taken the leases to the County Clerk in Eddy
12 County and received a receipt for the registration
13 of the leases, have you not?

14 A Yes, sir.

15 Q There is no condition of delivery on those leases,
16 is that right?

17 A Yes.

18 MR. COOLEY: No further questions.

19 MR. STAMETS: Are there any other questions of
20 this witness?

21 MR. HINKLE: May we go off the record?

22 MR. STAMETS: Yes.

23 (Whereupon an off the record discussion was held.)

24 (Hearing continues.)

25 MR. STAMETS: The witness may be excused.

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1 (Witness excused.)

2 MR. COOLEY: May we have a short recess, Mr.
3 Examiner?

4 MR. STAMETS: We will take fifteen minutes.

5 (Whereupon a recess was taken.)

6 (Hearing continues.)

7 MR. STAMETS: The hearing will come to order,
8 please. Mr. Cooley, do you have some more testimony?

9 MR. COOLEY: We would like to proceed with the
10 balance of Mr. Steinhorst's testimony.

11 MR. STAMETS: Okay, he may be recalled.

12 * * * *

13 RICHARD STEINHORST,

14 was recalled as a witness, and having been already duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. COOLEY:

18 Q Mr. Steinhorst, have you prepared an estimate of the
19 approximate well cost that you could expect to encounter
20 in the drilling of the two wells proposed in the East
21 half of Section 9 and the North half of Section 10?

22 A I have.

23 Q Would you tell the Examiner what those estimates are
24 and what they consist of?

25 A Yes, the completed well would be \$139,725.00.

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MR. HINKLE: How much?

THE WITNESS: \$139,725.00.

Q (By Mr. Cooley) Is that with or without service equipment?

A Without.

Q What do you estimate the cost of service equipment would be?

A The completed well on production would be \$154,000.00.

Q Mr. Steinhorst, what experience, to your own personal knowledge, has Mr. Grace had in connection with drilling gas wells in the Carlsbad area?

A He has drilled six wells that I know of.

Q Have you had an opportunity to observe his operations and the manner in which he carries out his responsibilities in connection with the drilling and operating of a well?

A I have.

Q Do you have an opinion with respect to his capability in this regard?

A I would say he has been rather successful, his wells have turned out very well.

Q Do you consider him to be a capable operator?

A I would say he is a capable operator, yes.

Q With respect to the question of operating charges, do you have a figure in mind that you recommend to the Commission to establish monthly operating charges for

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1 the wells in question?

2 A Yes, I think \$135.00 per well per month would be

3 reasonable.

4 MR. STAMETS: One hundred thirty-five dollars?

5 THE WITNESS: That's right, \$135.00.

6 Q (By Mr. Cooley) In your opinion, is there any risk

7 involved in the drilling of the two proposed wells

8 in Sections 9 and 10?

9 A Very definitely. Although we have interpreted that area

10 of production, I feel a risk factor of fifty percent

11 would apply to these wells for taking the risk of

12 stepping out that far.

13 Q How far a step-out is it?

14 A A little over three-quarters of a mile-- nearly a mile

15 actually.

16 Q On what well?

17 A The well in Section 10, and the well in Section 9 is

18 about a mile and a quarter. Even though we have

19 interpreted the area as being productive, it is a pretty

20 long step-out.

21 MR. COOLEY: I have no further questions.

22 MR. STAMETS: Are there any questions of this

23 witness?

24 MR. HINKLE: Yes.

25 * * * *

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CROSS EXAMINATION

BY MR. HINKLE:

Q I believe you stated that the completed well cost of the projected wells would be \$154,000.00, I assume this means both of them in Sections 9 and 10 would each cost approximately \$154,000.00, is that correct?

A Right.

Q Does this include any costs for contingencies?

A It does.

Q How much do you have for contingencies?

A Very nearly \$2,000.00.

Q About \$2,000.00?

A Yes.

Q What are the usual contingencies that you have to provide for?

A Oh, sales taxes, unexpected rental of equipment, and things that you cannot always provide for no matter how thoroughly you plan.

Q Do you intend this to be turn-key or do you intend to seek bids for the contract?

A Well, it could go either way. There's a possibility it could be turn-key.

Q Do Mr. and Mrs. Grace have drilling equipment capable of drilling this well?

A No. Most operators don't have the drilling equipment,

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- 1 and they employ contractors, competent contractors.
- 2 Q By obtaining bids?
- 3 A Right.
- 4 Q Have you obtained any bids to see what the exact cost
- 5 would be?
- 6 A We haven't obtained bids, but we have consulted
- 7 drilling contractors.
- 8 Q What drilling contractors have you consulted?
- 9 A Big West Drilling Company.
- 10 Q Big West Drilling Company?
- 11 A Right.
- 12 Q Where are they located?
- 13 A I believe their headquarters are in Midland or Odessa.
- 14 Q Have there been any others?
- 15 A No.
- 16 Q Have they ever had experience in drilling this area?
- 17 A No direct experience.
- 18 Q They haven't drilled any of the wells so far?
- 19 A They haven't drilled any wells in this immediate area,
- 20 they have been drilling the general area for quite some
- 21 time.
- 22 Q Has Mr. Grace any experience in drilling wells in this
- 23 particular area so far?
- 24 A Not the immediate area.
- 25 Q Not the Washington Ranch area?

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- 1 A Not that I'm aware of.
- 2 Q Are you familiar, or do you know, whether or not Mr.
- 3 or Mrs. Grace are familiar with the particular techniques
- 4 that have been used in the completion of these wells
- 5 in the Washington Ranch area?
- 6 A I am not cognizant of their knowledge of completion
- 7 techniques.
- 8 Q You have no knowledge of it?
- 9 A Of the completion techniques.
- 10 Q I believe you stated that you think they should have
- 11 a risk factor of fifty percent. Does this mean fifty
- 12 percent if the working interest owners decide to pay
- 13 their way?
- 14 A I wouldn't think if the working interest owners decided
- 15 to pay their way that this would apply.
- 16 MR. COOLEY: He said risk factor.
- 17 A I mean, they're taking the same risks that the Graces are.
- 18 Q Do you have any correspondence with the Big West
- 19 Drilling Company in regard to the cost of drilling
- 20 these wells?
- 21 A No, this has been personal contact.
- 22 Q When did you personally contact them?
- 23 A Let me think of the day. Today's the thirteenth, it
- 24 was last Thursday, Thursday of last week.
- 25 Q A week ago?

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1 A A week ago. -- Whatever last Thursday was, the 6th or
2 the 7th.

3 MR. HINKLE: I believe that's all.

4 * * * *

5 CROSS EXAMINATION

6 BY MR. STAMETS:

7 Q Mr. Steinhorst, will you supply the Commission with
8 a completed copy of this estimated well cost?

9 A You would have had it now, but the girl got confused
10 and she didn't get it typed properly.

11 Q Mr. Cooley asked you about "capable operator", I wish
12 you would define for me what you consider a capable
13 operator.

14 A The ability to drill a well with a minimum of problems
15 and with the probability that the well, if it was
16 productive, would be successfully and prudently completed.
17 The ability to negotiate a market for production if
18 the well is produced, and to produce this production
19 in a prudent and workmanlike manner.

20 Q Would this also include complying with the appropriate
21 rules and regulations of the Oil Conservation Commission
22 and the appropriate statutes?

23 A Correct.

24 MR. STAMETS: Are there any other questions?

25 * * * *

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CROSS EXAMINATION

BY MR. HATCH:

Q Mr. Steinhorst, you have testified that in your opinion Mr. Grace would be a capable operator, and you based your opinion on your observations of his operations in six wells in the Carlsbad area, is that correct?

A Yes, it is.

Q Do any of those six wells involve compulsory pooling or voluntary pooling?

A I really have no personal knowledge of this, but I do believe there was one or two.

Q It is your understanding that one or two were force pooled?

A Yes.

Q I assume then from your answer that you don't really have any information as to his capability of seeing that all working partners and overriding royalty interests are taken care of properly?

MR. COOLEY: I don't understand what you mean by "taken care of".

Q (By Mr. Hatch) Well, Mr. Steinhorst, do you know whether or not Mr. or Mrs. Grace, as the case may be, have paid all royalties that are due?

A I have no personal knowledge of this. I am only aware

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1 of their physical operations.

2 Q So your testimony as to the capability of the Graces

3 as operators goes only to the physical and not to the

4 paying of royalties or overriding royalties in the pool?

5 A That's correct.

6 Q Concerning the physical operations, have you observed

7 these six wells quite often?

8 A Yes, sir.

9 Q Is each of the six in the Carlsbad area?

10 A Yes.

11 Q Have you ever observed any gas being flared from any

12 of these wells?

13 A The only time I observed any gas being flared was when

14 the field was shut in and the four point tests were

15 taken.

16 Q Are you aware of any gas being flared from any of those

17 wells?

18 A No, sir, I haven't been there all the time though.

19 Q How often have you been there?

20 A I would say on the average of a week to ten days a month

21 over the past several months.

22 Q Have you ever observed any salt water escaping to the

23 surface of the ground on any of those wells?

24 A No, other than-- no, I don't know of any.

25 Q Have you ever observed any salt water going into surface

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1 pits?

2 A I have seen some going into surface pits-- well, no,

3 except when the well was being completed and the well

4 was being unloaded.

5 Q Where was it going when the well was being unloaded?

6 A Into the pit.

7 Q On which well was that?

8 A The Carlsbad Grace.

9 Q And all of the water was going into the pit?

10 A All of the water I was aware of was going into the pit,

11 right.

12 Q Where is the water going now?

13 A The well is not being produced, it is shut in at the

14 present time.

15 MR. HATCH: That's all the questions I have.

16 * * * *

17 CROSS EXAMINATION

18 BY MR. HINKLE:

19 Q You stated that you are there a week or ten days out of

20 each month, for how many months has that been?

21 A Since early March.

22 Q Then you have been to the Graces' office in Carlsbad?

23 A I have.

24 Q And you have observed their operations from their office

25 standpoint?

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- 1 A I have.
- 2 Q What does their staff consist of?
- 3 A Their staff consists of themselves and two girls.
- 4 Q Do they have a full-time petroleum engineer or a
- 5 superintendent or any other employees that a normal
- 6 field office would have?
- 7 A What do you mean, Mr. Hinkle? I have to question what
- 8 you mean by a normal field office.
- 9 Q Do they have a superintendent who goes out to check
- 10 their wells from time to time or do they do it themselves
- 11 or do they leave it to the girls?
- 12 A No, they have people to do this, they don't do it
- 13 themselves.
- 14 Q How many employees do they have outside of the two girls
- 15 in the office?
- 16 A The only ones I am aware of are the gauger who operates
- 17 the wells.
- 18 Q A gauger? They leave the gauger to operate the wells?
- 19 A No, other than the normal performance functions the
- 20 gauger does.
- 21 Q Just a gauger?
- 22 A And the normal days operations of a well.
- 23 Q In the case of a break-down or breakage in a pipe or
- 24 anything of that sort, do they have-- how do they take
- 25 care of that?

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1 A Well, they hire somebody to do it. They have an
2 individual who is very capable of doing this for them.
3 Q Is he a full-time employee?
4 A No.
5 Q They just have to go out and make a contract for each
6 job to be done, is that right?
7 A No, this man is available on a minute's notice to
8 assist them.
9 Q Is he on a retainer basis with them?
10 A I am not aware of the financial arrangements made with
11 this individual.
12 Q But that only relates to the Carlsbad area?
13 A To my knowledge, he is available and has done work in
14 several areas which they have.
15 Q That is the only person of that kind that they have?
16 A He is the only one I am aware of.
17 Q And he does not work full time?
18 A No.
19 MR. HINKLE: That's all I have.
20 MR. STAMETS: Are there any other questions of this
21 witness?
22 (No response)
23 MR. STAMETS: If not, the witness may be excused.
24 (Witness excused.)
25 MR. STAMETS: Do you have any further testimony,

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1 Mr. Cooley?

2 MR. COOLEY: No further testimony.

3 MR. HINKLE: We have one witness we would like to
4 have sworn.

5 * * * *
6 WILLIAM P. AYCOCK,

7 was called as a witness, and after being duly sworn, testified
8 as follows:

9 DIRECT EXAMINATION

10 BY MR. HINKLE:

11 Q You are William P. Aycock?

12 A Yes, sir.

13 Q And you have previously testified before the Examiner?

14 A Yes, sir.

15 Q In connection with the cases which were heard yesterday?

16 A Yes.

17 Q And you gave your educational background and
18 qualifications as a petroleum engineer?

19 A Yes, sir.

20 MR. HINKLE: Is the witness qualified?

21 MR. STAMETS: The witness is qualified.

22 Q (By Mr. Hinkle) Are you familiar with the lease ownership
23 in the East half of Section 9 and the North half of
24 Section 10, Township 26 South, Range 24 East?

25 A Yes, sir.

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- 1 Q What is the lease ownership as far as the East half
2 of Section 9 is concerned?
- 3 A In the East half of Section 9, the entire working
4 interest is controlled by Black River Corporation with
5 the exception of the Southeast quarter of the Northeast
6 quarter, which is part of the acreage which is in
7 contention in the District Court of Eddy County.
- 8 Q Does Black River Corporation have operating rights
9 under the lease from J. W. Miller that covers the
10 Southeast of the Northeast of Section 9, which is in
11 question?
- 12 A Yes, sir.
- 13 Q Because of the pending suit?
- 14 A Yes.
- 15 Q In Eddy County?
- 16 A Yes.
- 17 Q Now, who owns the acreage with Black River, other than
18 the well, in the East half of Section 9?
- 19 A In the East half of Section 9, I believe, that's
20 Arapahoe. Arapahoe is one-half owner with Black River
21 Corporation. I don't know whether that's in the records
22 or not, but as far as the actual operation is concerned,
23 if Black River is the operator, Arapahoe would be one-
24 half interest owner.
- 25 Q Is there any agreement between Arapahoe and Black River

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1 as to Black River being the operator?

2 A Yes. Mr. Warren Taylor of Arapahoe has told me that
3 he is completely satisfied with Black River's operations.

4 Q Are you authorized to speak for Arapahoe?

5 A Yes, sir.

6 Q What is the title situation in the North half of
7 Section 10?

8 A In the North half of Section 10, all of the North half
9 of Section 10 with the exception of the East half of
10 the Northeast quarter where title to the acreage is
11 now in contest, Black River has the Northeast of the
12 Northeast, and Black River and Arapahoe have a half
13 interest each in the Southeast of the Northeast quarter.

14 Q Does Black River have authority to represent all the
15 interest owners and act as operator in the North half
16 of Section 10?

17 A Yes, sir, and the same situation applies to the entire
18 Northwest quarter of the West half of the Northeast
19 quarter, and that is Black River's position until the
20 District Court finds otherwise. They do have operating
21 rights under the leases of Mr. J. W. Miller.

22 Q Now, what is the desire of Black River as far as being
23 operator of the East half of Section 9 and the North
24 half of Section 10 is concerned?

25 A Well, Black River would-- let's put it this way: The

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1 only way Black River would give up its operations
2 would be under duress by the order of this Commission
3 or some other body with jurisdiction that forces us
4 to give up our operations.

5 Q What experience has Black River had in operating wells
6 in this area?

7 A Black River drilled the discovery well, and has drilled
8 all the additional wells with the exception of the
9 three that Cities Service drilled and are operating
10 to the north. The drilling and completion techniques
11 involved here were specifically designed by Black River
12 at great expense and a great amount of time invested
13 in them. They have obviously been very successful,
14 and this is attested to from the quality of the wells.
15 I am not aware of any other area in the Morrow formation
16 in Southeastern New Mexico with this regularity of
17 good quality wells that have resulted here.

18 Q Has Black River used any particular technique in
19 completing these wells?

20 A Yes, they have used several techniques that are unique
21 in their application. One of them involves fresh water
22 and a solid mud system, because they found that any
23 solids that invade the Morrow formation are very
24 detrimental to completion, and efforts must be made,
25 special efforts, to get the pipe to the bottom and cement

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1 as quickly as possible. In addition to that, the use
2 of such quality cement must be utilized to adequately
3 isolate the pay zone, but they don't use so much that
4 they invade the pay zone with cement and contaminate
5 it. These have resulted in their ability to make
6 excellent quality wells without the use of stimulation.

7 Q What kind of staff does Black River have in connection
8 with handling the wells which are already in operation?

9 A Well, Mr. Forest Miller is the field geologist in charge,
10 and Mr. John Berry is the field engineer, and one or
11 both of them are on location at virtually all times.
12 There is a full-time pumper who is in charge of
13 production, and besides that, El Paso Natural Gas
14 people are on the grounds at all times too.

15 Q What kind of accounting system do you have and is in
16 operation in connection with Black River being the
17 operator of all the wells in the area?

18 A Well, I don't have details, personal knowledge of the
19 accounting system, but Black River is suitable to
20 Arapahoe and Cities Service, and this would indicate
21 that their performance is adequate.

22 Q And you have no problems in this area?

23 A The only problem we have in this area is the problem
24 surrounding the leasehold that is in contention.

25 Q Do you have anything further you would like to bring

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1 before the Commission?

2 A Well, the only thing is I would like to reiterate to
3 the Commission that the people involved in Black River
4 Corporation are all professional oil people of long
5 standing and they are all people that desire to do
6 the right thing at all times for everyone, including
7 conservation of natural resources and obeying to the
8 maximum degree possible the rules of this Commission.

9 Q In your opinion, because of the success Black River
10 has had in this particular area, do you think that
11 Black River can drill and complete these wells and
12 supervise them and maintain them as cheaply as anyone
13 else?

14 A Yes, I think they could do it certainly as cheaply.
15 An example of the contingencies that could be involved
16 here is this is a shallow formation, and I am sure the
17 Commission is aware that there are occasions when
18 cavernous porosity is encountered, which would
19 necessitate a well being drilled dry. Black River has
20 demonstrated their ability to meet and conquer this
21 situation and reasonable contingency costs for this
22 alone is \$45,000.00 over and above the basic drilling
23 and completion costs for the well.

24 Q I take it you do not agree with Mr. Steinhorst's
25 testimony concerning contingencies of \$2,000.00 being

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1 adequate?

2 A Well, it depends on how you look at it. I think if
3 you look at it on the average type basis over the
4 whole thing, it might be adequate, but on any one
5 individual well, you are going to have to be prepared
6 to drill your well dry until you set your surface pipe.

7 Q And there would be this hazard in connection with
8 these two wells because they are step-out wells of a
9 considerable distance?

10 A Very definitely.

11 MR. HINKLE: That's all I have.

12 MR. STAMETS: Are there any questions of this
13 witness?

14 * * * *

15 CROSS EXAMINATION

16 BY MR. COOLEY:

17 Q Is Mr. Berry a full-time employee of Black River
18 Corporation or is he a consultant?

19 A He is what amounts to a full-time employee during the
20 developing phase.

21 Q But he is a consultant just as you are yourself?

22 A Yes.

23 Q And just as Mr. Steinhorst is to Mr. Grace?

24 A Well, I don't have any knowledge of what Mr. Steinhorst
25 is to Mr. Grace.

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1 Q You heard his testimony that he is a consultant?

2 A Yes.

3 Q And you are a consultant and Mr. Berry is a consultant
4 to Black River Corporation?

5 A Yes.

6 Q And the El Paso pipe line people would be available
7 to anybody operating wells, that is the normal operation
8 for them, to provide field personnel in connection with
9 gas wells?

10 A Not in all cases, but it is a frequent occurrence.

11 Q You do not mean to imply that the El Paso people would
12 be available to Black River and would not be available
13 to Mr. Grace?14 A I have no idea what El Paso's relationship is with
15 Mr. Grace.16 Q You do not mean they wouldn't be available to any
17 operator other than Black River Corporation?18 A I'm not applying anything, all I am telling you is I
19 know they are available to Black River Corporation.20 Q You testified that to your knowledge, Black River has
21 always obeyed the rules and regulations of the Oil
22 Conservation Commission.23 A To the greatest degree that an individual situation
24 will allow. I believe we all recognize that there are
25 occasions when decisions have to be made on the ground

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1 and formal clearance cannot be requested from the
2 regulatory body when an instant decision has to be made.

3 Q Do you consider moving on to a location, a well
4 location, before obtaining authorized permits to drill
5 on federal land from the U.S.G.S. to be in compliance
6 with the rules and regulations?

7 A I think it was testified to yesterday-- yes, I would
8 consider it proper under the conditions that the U.S.G.S.
9 has outlined that as long as a federal lease is in
10 effect, they would approve the drilling of a well. I
11 think under these conditions, yes.

12 Q Are you aware that Black River moved onto the West half
13 of Section 4 and made a location and drilled a rat hole
14 prior to having their application to drill approved
15 by the U.S.G.S.?

16 A I am not aware of it, but it is a common occurrence
17 throughout the industry.

18 Q Are you aware of the fact that the U.S.G.S., when it
19 became aware of this, that they instructed Black River
20 to cease and desist?

21 A I am not aware of that.

22 Q But you don't deny it?

23 A I don't have any personal knowledge of it at all, Mr.
24 Cooley. I cannot affirm or deny it.

25 MR. COOLEY: I have no further questions.

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* * * *

CROSS EXAMINATION

BY MR. HATCH:

Q Mr. Aycok, Black River does not at the present time plan to drill a well in the East half of Section 9 or the North half of Section 10, do they?

A No, sir. I think, obviously, they would like to have this title question settled, and I think that if it is settled successfully in a manner favorable to J. W. Miller, then Black River will then proceed to want to drill a well as quickly as possible in the North half of Section 10, but at the present time, they have no plans to develop either portion of the properties.

MR. HATCH: That's all I have.

* * * *

CROSS EXAMINATION

BY MR. STAMETS:

Q Mr. Aycok, it has previously been testified to that Black River was contacted in an effort to voluntarily communitize in this area. Could Black River logically do that?

A No, Black River did not reply to the request that the Graces sent for voluntary communitization on the advice of counsel. Black River's counsel felt this could affect their rights so Black River did not reply.

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1 Q Regardless of the outcome of this case, you have no
2 proposal to drill a well in either section?

3 A Not at this time, no.

4 MR. STAMETS: I believe that's all I have. Are
5 there any additional questions of the witness?

6 * * * *

7 REDIRECT EXAMINATION

8 BY MR. HINKLE:

9 Q As soon as this lawsuit is concluded and in the event
10 J. W. Miller and Black River should be successful, do
11 you then know whether Black River has any intention
12 of drilling wells in Sections 9 and 10?

13 A Black River desires to develop the North half of Section
14 10 as soon as this matter is resolved, and at such time
15 as the North half of Section 10 is developed, the
16 information that will become available then, from that
17 information, a decision would be made as to whether or
18 not they would develop the East half of Section 9.

19 Q Black River desires then that a well in the North half
20 of Section 10 be first drilled before deciding whether
21 a well should be drilled over in Section 9?

22 A Yes, sir.

23 MR. HINKLE: That's all I have.

24 * * * *

25

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1216 FIRST NATIONAL BANK BLDG. EAST ALBUQUERQUE, NEW MEXICO 87108CROSS EXAMINATION

BY MR. STAMETS:

Q I would like it made clear, just briefly outlined, as to why Black River does not want to be force pooled in the East half of Section 9, because in this case, there is a very small portion of acreage which is still contested.

A Basically, Mr. Examiner, the reason revolves around our interpretation of risk. We feel that the risk is much lower in Section 10 of having an unsuccessful well than it is in the East half of Section 9.

Q If the Applicant in this case force pooled you and chose to carry the full risk, your complete risk in this case would seem to be minimal.

A Black River doesn't look at it that way. As I mentioned previously, without going into detail, Black River would prefer to be the operator if at all possible, and they believe they have demonstrated their capability to drill and complete wells in this area at a reasonable cost, and they feel that in their own best interest, they would prefer to be the operator.

MR. STAMETS: Are there any other questions?

* * * *

CROSS EXAMINATION

BY MR. HATCH:

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1 Q Does Black River oppose forced pooling altogether at
2 this time, or do they only oppose the Graces being
3 named as operators?

4 A I think our position is this, Mr. Hatch. We oppose
5 pooling ~~completely~~ because we don't see, if the matter
6 before the District Court turns out in favor of Mr.
7 Miller, we don't see how it will be necessary to force
8 pool. We believe it could be done on a voluntary basis.
9 The Graces have testified that their only interest in
10 these two pieces of property revolve around this
11 lawsuit that is now under consideration. It would not
12 be common sense to say we believe something ought to
13 be force pooled when it may not be necessary once this
14 matter is concluded.

15 MR. HATCH: That's all I have.

16 MR. STAMETS: Are there any other questions of
17 this witness?

18 (No response)

19 MR. STAMETS: If not, the witness may be excused.

20 (Witness excused.)

21 MR. HINKLE: I renew at this time my motion for
22 a dismissal of these two cases. I think that it is eminently
23 clear by the statements of counsel and by all of the evidence
24 here that there is a question, a real question, as to the
25 title the Graces have to these leases which they claim in

dearnley, meier & mc cormick

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1216 FIRST NATIONAL BANK BLDG. EAST ALBUQUERQUE, NEW MEXICO 87108

1 Sections 9 and 10. They do not have any other leasehold
2 interests except those in question, and I do not believe
3 the Commission would have authority to enter an order of
4 forced pooling under these circumstances until they are
5 able to show that they have title and that they can
6 immediately drill on this acreage. I think the critical
7 time for determination is now at the time of this hearing
8 rather than waiting for several months to find out how the
9 lawsuit comes out, because conditions change in these things,
10 and I don't think Black River should be required to sit here
11 and wait for several months until this lawsuit has been
12 determined or decided before doing anything about it. I
13 think now is the time to decide this thing, to dismiss these
14 cases, and then when the lawsuit is determined, if it is
15 determined in favor of Mr. Miller, it will work out as Mr.
16 Aycock has testified, and there probably will be voluntary
17 pooling. If the Graces win, they will have no problem of
18 coming in, if they think forced pooling is necessary to
19 perfect their unit, and go ahead and drill the well. But
20 I just don't think the Commission has the authority under
21 these circumstances where title is in question because the
22 Commission does not have the authority to determine title,
23 and this does involve a real case of title.

24 MR. COOLEY: It is my understanding that it was
25 stipulated yesterday when the cases were first called that

dearnley, meier & mc cormick

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1210 FIRST NATIONAL BANK BLDG. EAST, ALBUQUERQUE, NEW MEXICO 87106

1 there would be no order entered in this case until such
2 time as the question of title has been resolved. If it
3 is resolved in favor of Mr. Grace, as I have indicated
4 several times, the resolution will be such that it would be
5 retroactive back to June 23rd, 1972, and it will then appear
6 that at the time of this hearing that Mr. Grace did have
7 the right to drill.

8 MR. STAMETS: The actions of yesterday did not
9 eliminate the Commission's alternative of dismissing the
10 cases today. The evidence developed here indicates that
11 that was the proper thing to do. We only resolved the question
12 of whether or not we would hear the testimony, and I would
13 like a few minutes for a conference with counsel, and we will
14 rule on Mr. Hinkle's motion.

15 (Whereupon Mr. Stamets conferred with Mr. Hatch.)

16 MR. STAMETS: The hearing will come to order, please.
17 Mr. Hinkle, the Examiner will overrule your motion and take
18 the case under advisement for either the entering of an order
19 denying the application or for just holding the cases open
20 until such time as the Court case has been decided.

21 MR. COOLEY: I would at this time offer into
22 evidence Exhibits One, Two, Three, and Four.

23 MR. STAMETS: Are there any objections?

24 MR. HINKLE: No.

25 MR. STAMETS: Exhibits One through Four will be

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1 admitted.

2 (Whereupon Grace Exhibits One through Four were
3 admitted in evidence.)

4 MR. STAMETS: This hearing is adjourned.
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dearnley, meier & mc cormick

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1 STATE OF NEW MEXICO)
2) ss
3 COUNTY OF BERNALILLO)

4 I, RICHARD E. McCORMICK, a Certified Shorthand
5 Reporter, in and for the County of Bernalillo, State of
6 New Mexico, do hereby certify that the foregoing and
7 attached Transcript of Hearing before the New Mexico Oil
8 Conservation Commission was reported by me; and that the
9 same is a true and correct record of the said proceedings
10 to the best of my knowledge, skill and ability.
11

12 *Richard E. McCormick*
13 CERTIFIED SHORTHAND REPORTER
14
15
16
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21

22 I do hereby certify that the foregoing is
23 a complete record of the proceedings in
24 the Examiner hearing of Case No. A767-4768
25 made by me on July 12, 1972
Richard E. McCormick Examiner
New Mexico Oil Conservation Commission

dearnley, meier & mc cormick

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E X H I B I T SEXHIBITADMITTEDOFFERED

Grace Exhibit #1 Acreage plat

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Grace Exhibit #2 Sketch map

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Grace Exhibit #3 Photograph

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Grace Exhibit #4 Photograph

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dearnley, meier & mc cormick

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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

December 5, 1974

Mr. William J. Cooley
Burr & Cooley
Attorneys at Law
152 Petroleum Center Building
Farmington, New Mexico 87401

Re: CASE NO. 4767 and 4768
ORDER NO. R-4926 and R-4927

Applicant:

Alice Ballard, Amelia Miller,
Thurman Mayes, & John A. Mayes

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 Max Coll, 3220 Draxton SW, Albuquerque, N.M. 87105
Mr. Clarence Hinkle, Roswell, N. M.

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. 4767
Order No. R-4926

APPLICATION OF ALICE BALLARD, AMELIA
MILLER, THURMAN MAYES, AND JOHN A.
MAYES FOR COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on July 12, 1972,
at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this 3rd day of December, 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 this case involves the compulsory pooling of
the E/2 of Section 9, Township 26 South, Range 24 East,
adjacent to the Washington Ranch-Morrow Gas Pool, Eddy County,
New Mexico.

(3) That at the time of the hearing the ownership of
the acreage involved in this application was unclear and the
subject of litigation.

(4) That over two years have passed and no representation
has been made to the Commission as to the resolution of this
title dispute.

(5) That whenever the title is clearly vested in any
party, that party may file such further application for Oil
Conservation Commission actions as are appropriate.

(6) That the application should be dismissed.

-2-
Case No. 4767
Order No. R-4926

IT IS THEREFORE ORDERED:

That Case No. 4767 is hereby dismissed without prejudice.

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



I. R. Trujillo
I. R. TRUJILLO, Chairman

ALEX J. ARMIJO, Member

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

S E A L

dr/

(Case 4763 continued)

Also to be considered will be the costs of drilling said well, a charge for the risk involved, a provision for the allocation of actual operating costs, and the establishment of charges for supervision of said well.

CASE 4764: Application of Black River Corporation for compulsory pooling, and non-standard proration unit, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Morrow formation underlying the W/2 of Section 3, Township 26 South, Range 24 East, adjacent to the Washington Ranch-Morrow Gas Pool, Eddy County, New Mexico, comprising, approximately, a 407.20-acre non-standard proration unit. Said acreage to be dedicated to its Cities "3" Federal Well No. 1 located 1980 feet from the North line and 1980 feet from the West line of said Section 3.

Also to be considered will be the costs of drilling said well, a charge for the risk involved, a provision for the allocation of actual operating costs, and the establishment of charges for supervision of said well.

CASE 4765: Application of Alice Ballard, Amelia Miller, Thurman Mayes, John A. Mayes for compulsory pooling and non-standard proration unit, Eddy County, New Mexico. Applicants, in the above-styled cause, seek an order pooling all mineral interests underlying the W/2 of Section 3, Township 26 South, Range 24 East, adjacent to the Washington Ranch-Morrow Gas Pool, Eddy County, New Mexico comprising, approximately, a 407.20-acre non-standard proration unit. Said acreage to be dedicated to a well to be drilled 1980 feet from the South line and 1980 feet from the West line of said Section 3.

Also to be considered will be the costs of drilling said well, a charge for the risk involved, a provision for the allocation of actual operating costs, and the establishment of charges for supervision of said well.

CASE 4766: Application of Michael P. Grace and Corinne Grace for compulsory pooling and a non-standard proration unit, Eddy County, New Mexico. Applicants, in the above-styled cause, seek an order pooling all mineral interests underlying the W/2 of Section 4, Township 26 South, Range 24 East, adjacent to the Washington Ranch-Morrow Gas Pool, Eddy County, New Mexico comprising approximately a 402-acre non-standard proration unit. Said acreage to be dedicated to a well to be drilled 1980 feet from the North line and 1980 feet from the West line of said Section 4. Also to be considered will be the costs of drilling said well, a charge for the risk involved, a provision for the allocation of charges for supervision of said well.

CASE 4767: Application of Alice Ballard, Amelia Miller, Thurman Mayes, and John A. Mayes for compulsory pooling, Eddy County, New Mexico. Applicants, in the above-styled cause, seek an order pooling all mineral interests underlying the E/2 of Section 9, Township 26 South, Range 24 East, adjacent to the Washington Ranch-Morrow Gas Pool, Eddy County, New Mexico. Said acreage to be dedicated to a well to be drilled 1980 feet from the North line and 660 feet from the East line of said Section 9.

(Case 4767 continued)

Also to be considered will be the costs of drilling said well, a charge for the risk involved, a provision for the allocation and actual operating costs, and the establishment of charges for supervision of said well.

CASE 4768: Application of Alice Ballard, Amelia Miller, Thurman Mayes, and John A. Mayes for compulsory pooling, Eddy County, New Mexico. Applicants, in the above-styled cause, seek an order pooling all mineral interests underlying the N/2 of Section 10, Township 26 South, Range 24 East, adjacent to the Washington Ranch-Morrow Gas Pool, Eddy County, New Mexico. Said acreage to be dedicated to a well to be drilled 660 feet from the North line and 1980 feet from the West line of said Section 10.

Also to be considered will be the costs of drilling said well, a charge for the risk involved, a provision for the allocation of actual operating costs, and the establishment of charges for supervision of said well.

CASE 4723: (THIS CASE WILL BE CONTINUED TO THE FIRST EXAMINER HEARING IN JANUARY, 1973).

Application of Black River Corporation for pool abolishment, creation of two new gas pools, and a dual completion, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks the abolishment of the Washington Ranch-Morrow Gas Pool, Eddy County, New Mexico, and the creation of the Washington Ranch-Upper Morrow and Washington Ranch-Lower Morrow Gas Pools for the production of gas from the upper and lower Morrow formations. Applicant further seeks approval of the dual completion (conventional) of its Cities 3 Federal Well No. 1 located in Unit F of Section 3, Township 26 South, Range 24 East, to produce the lower Morrow through tubing and the upper Morrow through the casing-tubing annulus.

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

Case 4767

June 23, 1972

C
O
P
Y

Mr. Martin L. Allday
201 Wall Towers East
Midland, Texas 79701

Dear Mr. Allday:

In accordance with our telephone conversation
of this date, please find enclosed copies of the
four applications we discussed.

Very truly yours,

GEORGE M. HATCH
Attorney

GMH/dr
enclosure

Memo

From

R. L. STAMETS
Technical
Support Chief

To

Applicant changed
from Ballard et al
to Michel P. Grace II
& Corinne Grace at
hearing

PROJECT

Mayes-Ballard
 LEASE NO. 2 SECTION 26 South TOWNSHIP 24 East STATE New Mexico
 COUNTY Eddy FIELD RUN OF COS. DATE WORK TO BE COMPLETED

DRILLING VENTURE TO EVALUATE PRODUCTION POSSIBILITIES OF (4) Pennsylvania gas zones

WORK DETAIL	CASH OUTLAY NECESSARY	IF DRY HOLE DEDUCT AMOUNTS FROM COST	ACTUAL COST
INTANGIBLES	SINGLE	DUAL (add)	
LOCATION AND ROAD			
Survey and Permit	420		
Land and Mineral Interests	1,200		
Surface Damages	250		
Fencing-Filling Pits-Cleanup	175		
DRILLING TRUCK			
7200 ft. at \$8.00 per foot	57,600		
Days Rig time at			
Days Rig time at			
Drill-Plan-Tool Rental			
Rigs at			
Rigs at			
Reamer Cutters			
Care Barrel-Care Head Rental			
CASING CEMENTING	2,000		
SQUEEZE CEMENTING OR PLUGGING			
LOGGING SIDEWALL CORING Log Suite	3,500		
CORE ANALYSIS			
FORMATION TESTING 5 D.S.T. 's	1,400	1,400	
PERFORATING	2,000	1,000	
ACIDIZING and FRAC			
SPECIAL RIG COMPLETING			
OTHER SERVICES Welding, etc.	400		
TRUCKING	1,000		
GEOLOGY	1,000		
Engineering	2,000	500	
Labor	400		
Logging Unit			
TOOL and EQUIPMENT RENTAL	1,500		
WATER and FUEL	1,000		
CASING and SUPPLIES	1,000		
DRILLING MUD and CHEMICALS	8,000		
COMPANY SUPERVISION xxxxxxxxxxxxxxxx	1,600		
CONTINGENCIES 5%	3,200		
For Dual Completion - add \$28,900.			
Single Completion TOTAL INTANGIBLES	89,645		
Dual Completion TOTAL INTANGIBLES		2,900	
TANGIBLES			
CASING CONTRACT			
CASING SURFACE xxxxxxxxxxxx 600' of 8-5/8"	2,680		
CASING PRODUCTION xxxx 5100' of 9 5/8"			
CASING PRODUCTION xxxxxxxxxxxx 7200' of 5-1/2"	26,350		
CASING OTHER xxxx Ruff Coat	500		
TRUBING xxxxxxxxxxxx 7000' of 2-3/8"	8,050	8,000	
PACKER	2,300		
Flow Line & Surface Equipment	15,000	15,000	
WELL HEAD EQUIPMENT	10,000	5,000	
XXXX SURFACE EQUIPMENT	40,000	8,000	
Single Completion TOTAL TANGIBLES	65,080	28,000	
Single Completion TOTAL ESTIMATED WELL COST	154,725	182,725	

Case No. 4767

Exhibit No. _____

WELL COST &
COMPLETION ESTIMATE

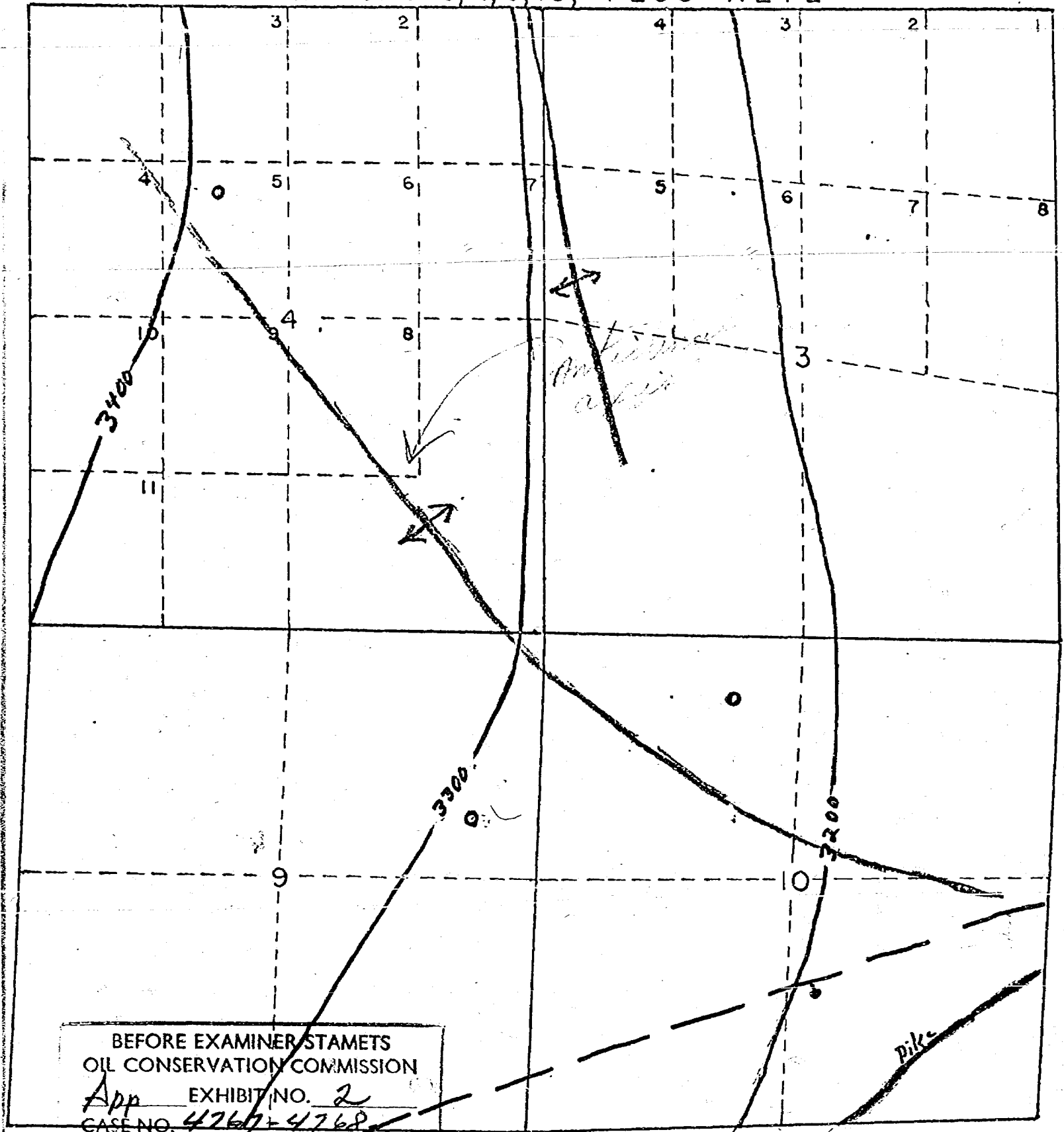
[illegible]

Scale --- 4" = 1 Mile

EXHIBIT NO. 1
4767-4768

Submitted by Grace
Hearing Date 7/12/12

SECTIONS 3, 4, 9, 10; T 26 S - R 24 E



BEFORE EXAMINER STAMETS
OIL CONSERVATION COMMISSION

App EXHIBIT NO. 2

CASE NO. 4767-4768

Subscribed by

Hearing Date

Scale --- 4" = 1 Mile

Contours top of
Bell Canyon

Michael P. Grace II
Corinne Grace
P. O. BOX 2062
SANTA FE, NEW MEXICO 87501

Recd
June 22, 1972

Case 4767

Mr. A. L. Porter, Jr.
Secretary-Director
New Mexico Oil Conservation Commission
P. O. Box 2088
Santa Fe, N. M. 87501

Dear Mr. Porter:

We hereby request a hearing to force pool the following
area in Township 26 South, Range 24 East; adjacent to the
Washington Ranch Morrow Gas Pool in Eddy County:

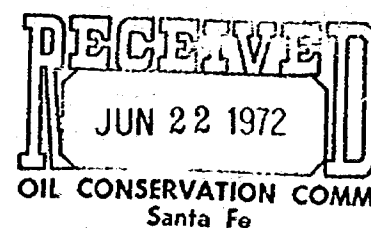
East half of Section 9, Township 26 South, Range
24 East, for a well to be drilled 660 feet from
the East line and 1980 feet from the North line,
Mayes-Ballard Well No. 2, Corinne Grace, Operator.

Very truly yours,

CORINNE GRACE

By *Dorothy Harvey*

Agent for
Alice Ballard
Amelia Miller
Thurman Mayes
John A. Mayes



DRAFT

GMH/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. 4767

Order No. R-

APPLICATION OF ALICE BALLARD,
AMELIA MILLER, THURMAN MAYES,
AND JOHN A. MAYES FOR COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on July 12, 192,
at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this day of July, 192, 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 applicants, Alice Ballard, Amelia Miller, Thurman
Mayes, and John A. Mayes, seek an order pooling all mineral interests
in the Morrow formation underlying the E/2 of Section 9, Town-
ship 26 South, Range 24 East, NMPM, Washington Ranch-Morrow Gas
Pool, Eddy County, New Mexico.

-2-
CASE NO. 4767
Order No. R-

(3) That the applicants have the right to drill and plan to drill a well at a location 1980 feet from the North line and 660 feet from the East line of said Section 9 to the Morrow formation.

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

(5) That the evidence indicates that approximately _____ acres in the E/2 of said Section 9 is not productive of gas from the Morrow formation.

(6) That the evidence indicates that approximately _____ acres in the E/2 of said Section 9 is productive of gas from the Morrow formation.

(7) That to avoid the drilling of unnecessary wells, to protect correlative rights, and to afford to the owner of each interest in the E/2 of said Section 9 the opportunity to recover or receive without unnecessary expense his just and fair share of the gas in said pool, all mineral interest, whatever they may be in the Morrow formation underlying the E/2 of said Section 9 should be pooled.

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

(9) 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.

(10) 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 25% thereof as a reasonable charge for the risk involved in the drilling of the well.

-3-
CASE NO. 4767
Order No. R-

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

(12) 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.

(13) That \$100.00 per month should be fixed as a reasonable charge for supervision (combined fixed rates) for the subject well; 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.

(14) 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.

IT IS THEREFORE ORDERED:

(1) That all mineral interest, whatever they may be, in the Morrow formation underlying the E/2 of Section 9, Township 26 South, Range 24 East, NMPM, Washington Ranch-Morrow Gas Pool, Eddy County, New Mexico, are hereby pooled to form a standard 320-

acre gas proration unit to be dedicated to a well to be located 1980 feet from the North line and 660 feet from the East line of said Section 9.

(2) That Alice Ballard, Amelia Miller, Thurman Mayes, and John A. Mayes are hereby designated the operators of the subject well and unit.

(3) That the operators shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of estimated well costs within 30 days following the date of this order.

(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 operators shall furnish the Commission and each known working interest owner in the subject unit an itemized schedule of actual well costs within 30 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 60 days following completion of the well, the actual well costs shall be the reasonable well costs; provided however, that if there is an objection to actual well costs within said 60-day period, the Commission will determine reasonable well costs after public notice and hearing.

(6) That within 30 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, 25% 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 \$100.00 per month is hereby fixed as a reasonable charge for supervision (combined fixed rates) for the subject well; 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 the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

-6-
CASE NO. 4767
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.

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. 4767

Order No. R-4926

APPLICATION OF ALICE BALLARD, AMELIA
MILLER, THURMAN MAYES, AND JOHN A.
MAYES FOR COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on July 12, 1974
at Santa Fe, New Mexico, before Examiner Richard L. Stamets.

NOW, on this day of December, 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 this case involves the compulsory pooling of
the E/2 of Section 9, Township 26 South, Range 24 East, adjacent
to the Washington Ranch-Morrow Gas Pool, Eddy County, New
Mexico.

-2-

Case No. 4767

Order No. R-

at the time of the hearing
(3) That the ownership of the acreage involved in this application was unclear and the subject of litigation.

(4) That over two years have passed and no representation has been made to the Commission as to the resolution of this title dispute.

(5) That whenever the title is clearly vested in any party, that party may file such further application for Oil Conservation Commission actions as are appropriate.

(6) That the application should be dismissed.

IT IS THEREFORE ORDERED:

That Case No. 4767 is hereby dismissed.

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

CASE 4768: Application of BALLARD
MILLER, MAYES & MAYES FOR COMPUL-
SORY POOLING, EDDY COUNTY