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MICHAEL J. CONDON

May 1, 1996
(Our File No. 96-1.72)

VIA TELECOPIER

David Catanach
Division Examiner
New Mexico Oil Conservation Division
2040 South Pacheco Street
Santa Fe, NM 87505

Re: Case No. 11528

Dear Mr. Catanach:

I received the Division's Order dated April 30, 1996. Thank you for getting the Order out promptly. I am writing to respond to the Division's request for a revised list of discovery items and to request clarification of the procedure of this case.

With respect to the documents which we seek to have produced prior to the hearing, we stand on the Request for Production, the pleadings, and the arguments advanced at the April 24 motions hearing, except that we will withdraw our Request for Production No. 8 pertaining to the Lineberry "B" Federal No. 1 well.

Our application seeks withdrawal of Administrative Order NSL-3633 on various grounds, including claims that Meridian improperly sought to locate the well to maximize drainage from the SW/4 of Section 23, that Meridian and OCD officials engaged in improper ex parte communications regarding the administrative application after objections were made of record by Texaco, Hartman and Davidson, and that the issuance of Administrative Order NSL-3633 violated Hartman's and Davidson's due process rights. We seek to redefine the boundaries of the Rhodes Gas Pool to coincide with the geological reality so that all wells producing from the pool are treated equally. Meridian has indicated an intent to contest that part of the application even though its records show that it originally believed the No. 7 well to be in the gas pool.

The Commission has ordered a hearing on all these issues. Many involve areas where relevant documents are substantially or solely within Meridian's custody, possession and control. The Division recognizes that Meridian's intent in drilling the No. 7 well is

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"certainly an issue" in this proceeding. Therefore, we believe that all requested documents are relevant to the subject matter of this proceeding and should be produced prior to the hearing.

What we require at this point is a firm order from the Division either granting or denying the specific requests. This will assist all parties in understanding the Division's discovery standard. We assume that there will be two consequences which flow from any order denying a discovery request. First, Hartman and Davidson should not be penalized for failure to offer proof or meet any burden regarding an issue which they could only establish with the requested documents. Second, we assume that Meridian will be precluded from using evidence or offering testimony regarding subject areas of documents which are not produced. This should especially apply on the issue of boundary definition. Meridian should not be allowed to offer evidence at the hearing on this issue if it takes a position contrary to its prior recognition that the No. 7 well is in the gas pool, but contends it would be improper or burdensome for it to produce its internal documents which might contradict any position it takes at the hearing.

Regarding the schedule and procedure in this case, will the Division set the hearing for June 5-6, 1996? All parties have agreed to that date. Has a date for the pre-hearing meeting referenced in the April 30 order been set? We would appreciate receiving notice of these dates as early as possible so that we can prepare for the hearing accordingly.

Thank you for your consideration and attention to these matters. If you have any questions or need any additional information, please feel free to contact me.

Very truly yours,

GALLEGOS LAW FIRM, P.C.

By 
MICHAEL J. CONDON

MJC:sa

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