

**BEFORE THE
OIL CONSERVATION DIVISION
NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES**

**IN THE MATTER OF THE APPLICATION
OF DOYLE HARTMAN AND MARGARET
HARTMAN D/B/A DOYLE HARTMAN, OIL
OPERATOR, AND JAMES A. DAVIDSON
FOR EXTENSION OF THE RHODES GAS
POOL BOUNDARY, AND CONTRACTION
OF RHODES OIL POOL BOUNDARY IN
SECTION 26, T26S, R37E, LEA COUNTY,
NEW MEXICO, FOR WITHDRAWAL
OF ADMINISTRATIVE ORDER NSL-3633
ONLY INsofar AS IT GRANTED AN
UNORTHODOX WELL LOCATION TO
MERIDIAN OIL INC., FOR ITS RHODES
"B" FEDERAL WELL NO. 7, LEA COUNTY,
NEW MEXICO, AND FOR DENIAL OF
MERIDIAN'S APPLICATION FOR APPROVAL
OF AN UNORTHODOX WELL LOCATION.**

NO. 11528

**HARTMAN'S RESPONSE TO MERIDIAN'S
MOTION FOR PROTECTIVE ORDER**

Applicants Doyle Hartman and Margaret Hartman, d/b/a Doyle Hartman, Oil Operator and James A. Davidson (collectively "Hartman") offer this response in opposition to Meridian's Motion for Protective Order, For Denial of Hartman's Request for a Stay of Order NSL-3633, and for a Continuance of Hearing ("Motion for Protective Order"). This pleading is also offered as a Reply in Support of Hartman's Motion for Discovery. Hartman has agreed to a continuance of the pending May 2, 1996 hearing date and has agreed that the parties should use that date as a motions hearing date to consider and resolve all pending motions. Meridian's request for a continuance should be moot.

I.

INTRODUCTION

Meridian's Motion for Protective Order is a testament to issue avoidance, misdirection,¹ and argument by fiat as a substitute for analysis. Meridian believes that all it need do to preclude discovery and convince the Division to grant its request for relief is to throw out stock objections (i.e., relevance, burden, confidentiality) and assume what it has the burden to prove. Meridian offers no substantive evidence or analysis in support of any of its arguments and contentions, yet it pretends it has somehow met its burden as a movant. The Division should not be swayed by Meridian's unsubstantiated claims in ruling on these pending motions.

Meridian seeks the protection of the Oil Conservation Division to allow Meridian to stonewall necessary discovery Hartman has requested in order to prosecute its Amended Application. Hartman only filed the Amended Application because the Division ignored its own rules and regulations, as well as minimum due process requirements, in granting an amended administrative application filed by Meridian requesting administrative approval for an unorthodox location for its Rhodes "B" Federal Com Well No. 7 ("No. 7 well").

Had Meridian and the Division recognized the rights and interests of Hartman, Davidson and Texaco Exploration and Production Inc. ("Texaco") before the

¹ For instance, Meridian seeks to mischaracterize Hartman's Motion as one to "void" Administrative Order NSL-3633. This is untrue. Hartman would not have to "void" the order in any event because the Commission has stayed that Order by its March 19, 1996 Order. Hartman seeks a stay of the Order and to have the Order withdrawn.

Division issued Administrative Order NSL-3633, this entire procedure could have been avoided. Hartman has been unfairly forced to pursue an application for de novo hearing and to request discovery from Meridian on issues relevant to the subject matter of this application precisely because of the conduct of Meridian. Meridian deserves no further protection from the Division. The Rules of Civil Procedure and discovery procedures were specifically developed to avoid the type of miscarriage of justice Meridian seeks to perpetuate by advancing its sporting theory of justice to deprive Hartman access to information solely within the custody and control of Meridian.

Meridian is not content, however, to preclude Hartman from gaining access to information over which it has sole possession, custody, and control. Meridian additionally asks the Division to overrule the Order of the Oil Conservation Commission dated March 19, 1996, which stayed Administrative Order NSL-3633 pending a hearing on the merits of Hartman's Application. Meridian confirms that it has ignored the Commission's Order of March 19 and continues to operate and produce the No. 7 well absent authorization. Motion for Protective Order, p. 5. The March 19 Order required that the No. 7 well be shut in pending a final resolution of Hartman's Application, since there is presently no operative order authorizing or approving the No. 7 well, which is in reality a gas well in the Rhodes Gas Pool, at its unorthodox location.

Meridian's Motion seeks to have the Division expressly authorize its ultra vires violation of the Commission's ruling. This the Division cannot do. Meridian offers no justification or authority which even tangentially supports the Division's ongoing violation of the Order of the Commission. The fact that Meridian would even advance such a request

is, however, symptomatic of the problems which have been created by Meridian in this proceeding.

Meridian's Motion is especially instructive on several points. The Motion confirms the following facts:

1. Meridian failed to give proper notice of its administrative application for the No. 7 well under either the prior or newly amended Rule 104 of the OCD Rules and Regulations;
2. Meridian never gave notice to Hartman, Davidson or Texaco of its amended application for the No. 7 well which was, in fact, the application upon which the OCD ultimately acted in issuing Administrative Order NSL-3633;
3. Meridian employees had ex parte communications with Michael Stogner, the OCD examiner to whom Meridian's application and amended application were assigned, notwithstanding written objections of record from Hartman, Davidson and Texaco;²
4. Meridian continues to ignore the overwhelming evidence, generated largely by its own wells and production in Section 26, and recognized in its original application, that the No. 7 well is and should be treated as a gas well in the Rhodes Gas Pool;

² The full nature, scope and timing of such contacts remain unknown to Hartman, are known to Meridian, and are the subject of Hartman's discovery requests.

5. Meridian persists in its complete failure to offer actual, substantive evidence which allegedly supports its request for an unorthodox location for the No. 7 well based upon topographic conditions; and
6. Meridian and the Division are apparently privy to a private arrangement whereby Meridian and the Division have decided that they are entitled to ignore the Commission's Order of March 19, 1996.

II.

ARGUMENT AND AUTHORITIES

In the face of the record evidence and the admissions in Meridian's Motion, Meridian asks the Division to prohibit Hartman from securing necessary discovery and sanction Meridian's ongoing failure and refusal to comply with the Commission's March 19 Order. The requested discovery is necessary for Hartman to establish at hearing the full extent of the due process violations which resulted from Meridian's actions in prosecuting the amended administrative application, as well as the full scope of Meridian's misconduct.³ Hartman will not repeat here the arguments already advanced in the Motion for Discovery, but incorporates that pleading by reference. The Division has no authority to override or violate the Commission's March 19 Order.

³ The evidence strongly suggests that Meridian chose the location for its No. 7 well to maximize drainage from the SW/4 of Section 23. Meridian's documents and witnesses will confirm this. This evidence is clearly relevant to the Division's ultimate determination on the location of the No. 7 well.

1. **Meridian failed to give proper notice under OCD Rule 104 in connection with its application and amended application for the No. 7 well.**

Meridian begins its argument with the frivolous and legally bankrupt contention that it was not required to give Hartman notice of its administrative application for the No. 7 well.⁴ As Texaco has previously pointed out in its April 12 letter, Hartman, Davidson, and Texaco, are "operators" under the OCD Rules which define operator as "any person or persons who, duly authorized, is in charge of the development of a lease or the operation of a producing property." Even Donna Williams of Meridian recognized that Meridian had failed to properly give notice to Hartman by her letter of January 29, 1996, attached as Exhibit H to Hartman's Amended Application filed April 9, 1996. Meridian's attempt at this stage of the proceedings to contradict itself would be comical were it not for the due process violations inherent in Meridian's argument.

Meridian wholly ignores the fact that the Division, in issuing Administrative Order NSL-3633, did not act upon Meridian's original application, which was not served upon Hartman until January 29, 1996. Instead, the Division acted upon and granted Meridian's amended application which changed the application as one for a gas well in the Rhodes Gas Pool on 160-acre spacing (original) to an application for a gas well in the Rhodes Oil Pool based upon 40-acre spacing (amended). The uncontradicted evidence in this record is that the amended application was never served upon Hartman, Davidson or Texaco by Meridian.

⁴ Meridian ignores the fact that the "notice" it belatedly gave, of the application which was not the focus of Administrative Order NSL-3633, was fatally defective on its face for failure to comply with Rule 104.

Hartman does not know when Meridian's application was amended, the circumstances surrounding the amendment, the Meridian personnel involved in the amendment, or the Division personnel involved in the amendment. If the application was amended after January 18, 1996, then the amended application falls under new Rule 104 which requires notice to "affected parties" and would refute Meridian's "no notice" argument. This is another of the issues on which discovery is necessary in order to determine the circumstances surrounding the amendment to the application.

It does not take a constitutional scholar to understand that the location and operation of Meridian's No. 7 well adversely affects Hartman, Davidson and Texaco as adjoining property owners who plan to develop their property in the SW/4 of Section 23 from the same common source of supply as Meridian's No. 7 well. Hartman, Davidson and Texaco are affected parties for notice purposes. Due process concerns were obviously behind the amendment of Rule 104 in order to assure that the notice requirements of the Division's rules and regulations in these matters conformed with the due process requirements articulated by the New Mexico Supreme Court in Uhden v. New Mexico Oil Conservation Commission, 112 N.M. 528, 817 P.2d 721 (1991). Meridian was required to give proper notice of its application and amended application and failed to do so.

Texaco has pointed out that in any event, once an objection is noted of record to an administrative application, administrative approval under Rule 104 of a proposed unorthodox location may not be granted. Numerous objections were filed of record prior to the Division's action granting administrative approval in Administrative Order NSL-3633. By February 28, by the Division's own admission, Meridian's application was no

longer an administrative application because there was a dispute involving constitutionally protected property rights. A hearing should have been ordered and held prior to the issuance of Administrative Order NSL-3633.

2. Hartman's requested discovery is relevant and necessary.

Hartman has requested limited discovery in the form of depositions of Meridian personnel responsible for the application, discrete requests for production and limited interrogatories. In response, Meridian raises, but fails to substantiate, a litany of stock objections designed solely to hide the truth in these proceedings. Meridian has failed to justify or support any of its objections to discovery.

Meridian objects to Hartman's requested discovery on grounds that it is unreasonably cumulative, duplicative, or obtainable from some other source that is more convenient, less burdensome or less expensive. What? Where? Meridian offers no support for or analysis of this bald proposition.

Meridian objects to some of the information sought as irrelevant, but fails to identify a single interrogatory or request for production which seeks irrelevant information. Relevance is interpreted liberally to allow the parties to obtain the fullest possible knowledge of the facts relating to a controversy. Marchiondo v. Brown, 98 N.M. 394, 649 P.2d 462 (1982). Under any definition of relevance, the discovery requests Hartman has propounded are relevant to the subject matter of this proceeding. Meridian has failed to meet its burden to establish that these discovery requests are objectionable. Lackey v. Mesa Petroleum Co., 90 N.M. 65, 559 P.2d 1192 (Ct. App. 1976).

Meridian also asserts without support that the requested discovery is unduly burdensome, expensive and time consuming. Meridian has utterly failed to substantiate any objection on this basis. A mere conclusory statement that a request is burdensome is not adequate to voice a successful objection to a discovery request. Josephs v. Harris Corp., 677 F.2d 985 (3rd Cir. 1982). That the production of documents in discovery would be burdensome and expensive and would hamper a party's business operations is not in itself a reason for refusing to order discovery which is otherwise appropriate. Baine v. General Motors Corp., 141 F.R.D. 328 (M.D. Ala. 1991).

Meridian offers a conclusory, unsupported and unsupportable contention that "much of the information sought is confidential and proprietary the disclosure of which to Hartman would be adverse to Meridian." No specific analysis is offered, no discovery request is cited, and no specific harm, real or imagined, is addressed in Meridian's pleading. In fact, this claim is a smokescreen offered by Meridian in support of its attempt to suppress Hartman's right to discover the facts. Meridian cannot articulate unsubstantiated objections and preclude relevant, necessary discovery.

Meridian throws up one final smoke screen in its attempt to defeat Hartman's discovery requests. Meridian contends that if discovery is allowed in this case, the Division would be opening up a pandora's box which would require litigation-style discovery in every Division proceeding. This contention is so absurd that it should be rejected out of hand. Most proceedings before the Division do not require the type of discovery Hartman has requested here, simply because the typical case does not involve the due process violations established in this record.

This is an unusual case. The Division need not commit itself to allow litigation-style discovery in all cases. It need only decide, under the circumstances of this case, given the record which makes Meridian's motivation in its placement of the No. 7 well highly suspect, and given the procedural and due process irregularities which have already occurred, that the only way the Division can insure a fair and procedurally adequate hearing on Hartman's application is to authorize the requested discovery. The Division would, of course, retain its authority to consider discovery requests in other administrative proceedings on a case-by-case basis.

Finally, there is absolutely no reason for the Division or the Commission to go through the time-consuming process of adopting formal rules and regulations Meridian has suggested before authorizing discovery in this case. The Division already has authority to authorize discovery. NMSA 1978 § 70-2-8 (1995 Repl.); Rule 1211 of the OCD's Rules and Regulations; Matter of Miller, 88 N.M. 492, 542 P.2d 1182 (Ct. App.), cert. denied, 89 N.M. 5, 546 P.2d 70 (1975). To delay this proceeding as Meridian has suggested would only allow Meridian to continue to produce gas reserves from Section 23 through the operation of its No. 7 well before Hartman, Davidson and Texaco can rectify the problems Meridian has itself created.

3. Pre-Hearing Discovery is a Necessity Here.

Pre-Hearing discovery is a necessity in this case. While Hartman believes that the identity of the Meridian witnesses with knowledge of this matter are and have previously been identified, there may be additional Meridian witnesses with relevant knowledge. Hartman does not know which Meridian documents which are responsive to

the discovery request will or will not be relevant to the issues presented. Only a thorough review of Meridian's files will allow Hartman access to the knowledge already within Meridian's sole custody and control, in order to allow Hartman a full and fair opportunity to prosecute the amended application.

If the Division does not authorize pre-hearing discovery, but instead requires Hartman to essentially conduct the discovery at the substantive hearing, a massive waste of administrative and private resources will result. What would otherwise be a one (1) day hearing will turn into a three to four day hearing. Because the Division has put Hartman in the position of having to prosecute this application, the Division must give Hartman a pre-hearing opportunity to discover information within Meridian's sole possession, custody and control which is relevant to the issues presented.

4. The Division has No Authority to Overrule a Proper Order of the Oil Conservation Commission.

Meridian requests that the Division deny Hartman's request for a stay of Administrative Order NSL-3633. This is a matter that is the subject of Hartman's Application, which Meridian has asked be continued. Until the hearing, the Commission's March 19 Order governs. The Commission Order stayed Administrative Order NSL-3633 pending the outcome of Hartman's application for de novo hearing. Texaco has previously established by its letter of April 12, 1996, that Meridian has no authorization to produce the No. 7 well at its unorthodox location, and that the Division has no authority to ignore or overrule the Commission's March 19 Order. The Division and Meridian are obligated to recognize and comply with the Commission's Order.

Meridian whines that its due process rights would be violated if it is required to shut in the No. 7 well pending resolution of Hartman's application for de novo hearing. The Division should shed no tears for Meridian. Meridian will suffer no harm, much less substantial harm, if the No. 7 well is shut in pending a final resolution of this case at the Commission level or in the courts. If the ultimate outcome of this dispute results in a determination that Meridian is not entitled to operate the No. 7 well at its unorthodox location and under the circumstances, then Hartman, Davidson and Texaco are the only parties which stand to suffer substantial harm if Meridian is allowed to continue to operate the No. 7 well illegally. If, on the other hand, the ultimate disposition of this matter is that Meridian is entitled to produce the No. 7 well at its present location, with or without restrictions, Meridian will at that point in time be entitled to commence production and will have suffered no harm.

5. **Meridian's Motion, if Granted, Would Discourage a Private Resolution of these Disputes.**

As the Division is well aware, there are several pending matters in dispute between Hartman and Meridian. The Division has a stated policy of encouraging private resolution of such disputes. Hartman has, on several occasions over recent weeks, approached Meridian about a global resolution of all pending disputes. Meridian has not formally responded. Buddy Davidson has attempted to contact Meridian representatives to follow up on the correspondence, but Meridian personnel have not returned his calls. Now, Meridian seeks the protection of the Division in its attempt to continue to stonewall the

discovery and dispute resolution processes. The Division should not countenance such behavior.

It is little wonder that Meridian feels it has no incentive to compromise, negotiate or settle its ongoing disputes with Hartman. To date, it has received everything it has requested from the Division, even though the Division has had to stretch its own rules and regulations and ignore geological reality in approving the location for the No. 7 well.⁵ The only way to encourage a private resolution of these disputes is to require Meridian to open its files to the light of day, and allow Hartman and Davidson full access to information which is relevant to the amended application for de novo hearing and to establish Meridian's misconduct in this matter.

III.

CONCLUSION

Procedural and due process irregularities attended Meridian's application and the issuance of Administrative Order NSL-3633. The Commission has partially rectified the problem by staying Administrative Order NSL-3633, but neither Meridian nor the Division have complied with that Order. Ex parte communications have been confirmed between Meridian personnel and Division representatives.⁶ Meridian has no right to ask the Division to shield its misconduct from discovery.

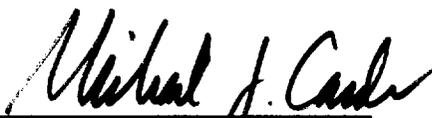
⁵ Meridian contends that its application "is based upon and justified by topographical conditions," Motion for Protective Order, p. 4, but characteristically offers no evidence in support of its conclusory statement.

⁶ Hartman's complaint about the ex parte contacts is advanced, not as a general indictment of the Division's practice of informal contact for problem resolution in a typical, uncontested application. Hartman's complaint is limited to the handling of this particular case, where there were objections of record from affected parties to Meridian's application, but the Division ignored the objections and approved the application administratively on the basis of the ex parte contacts.

Based upon the foregoing points and authorities, and based upon the points and authorities set forth in Hartman's Motion for Discovery, Hartman respectfully requests that the Division (1) grant Hartman's Motion for Discovery, (2) deny Meridian's Motion for Protective Order, (3) comply with and obey the Commission's March 19, 1996 Order and stay Administrative Order NSL-3633 pending the outcome of Hartman's application for de novo hearing, and (4) order Meridian to shut in the No. 7 well pending hearing on the merits of Hartman's application.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By 

J. E. GALLEGOS
MICHAEL J. CONDON

460 St. Michael's Drive - Bldg. 300
Santa Fe, New Mexico 87505
(505) 983-6686

Attorneys for Applicants

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing to be hand-delivered on this 19th day of April, 1996, to the following counsel of record:

William F. Carr, Esq.
Campbell, Carr & Berge, P.A.
110 N. Guadalupe, Suite 1
Santa Fe, New Mexico 87501

Thomas W. Kellahin, Esq.
Kellahin & Kellahin
117 N. Guadalupe
Santa Fe, New Mexico 87501


MICHAEL J. CONDON

DOCKET: EXAMINER HEARING - THURSDAY - MAY 2, 1996

8:15 A.M. - 2040 S. Pacheco
Santa Fe, New Mexico

Dockets Nos 14-96 and 15-96 are tentatively set for May 16, 1996 and May 30, 1996. Applications for hearing must be filed at least 23 days in advance of hearing date. The following cases will be heard by an Examiner:

CASE 11470: (Readvertised)

Application of Energy Development Corporation for salt water disposal and designation of a portion of the Menefee Member of the Mesaverde Formation as an "Exempted Aquifer", Sandoval County, New Mexico. Applicant seeks authority to inject produced water into the Menefee interval through perforations from 2,438 - 2,624 feet in its existing San Isidro (Shallow) Unit Well No. 7-11, located 2074 feet from the South line and 1,650 feet from the West line (Unit K) of Section 7, Township 20 North, Range 2 West. Applicant also seeks to designate the Menefee interval underlying the W/2 E/2 and W/2 of Section 7 and the N/2 NW/4 of Section 18, Township 20 North, Range 2 West and the E/2 E/2 of Section 12, Township 20 North, Range 3 West, as an "Exempted Aquifer" pursuant to Division Rule No. 701.E. and applicable Federal Underground Injection Control Program Rules and Regulations, as contained within the Code of Federal Regulations, 40 CFR Parts 145 and 146, thereby enabling the injection of produced water, for purpose of disposal, into said interval. Said area is located approximately 8 miles southwest of Cuba, New Mexico.

CASE 11520: Application of Mewbourne Oil Company to increase injection pressure, Lea County, New Mexico. Pursuant to the terms of Division Order No. R-9737-A, applicant seeks to increase, from 2000 psi to 2320 psi, the surface injection pressure in fourteen injection wells within its Querecho Plains Bone Spring Sand Waterflood Project, located in Township 18 South, Range 32 East. Said project is located approximately 8 miles south of Maljamar, New Mexico.

CASE 11521: Application of Nearburg Exploration Company for compulsory pooling, Eddy County, New Mexico. Applicant seeks an order pooling all mineral interests from the surface to the base of the Morrow formation underlying the N/2 of Section 4, Township 18 South, Range 28 East, forming a standard 320-acre spacing and proration unit for any and all formations and/or pools developed on 320-acre spacing within said vertical extent, which presently includes but is not necessarily limited to the Illinois Camp-Morrow Gas Pool. Said unit is to be dedicated to its Hummer State "4" Com Well No. 1 to be drilled and completed at a standard well location in Unit B of said Section 4. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 14 miles east-southeast of Artesia, New Mexico.

CASE 11522: Application of Phillips Petroleum Company for approval of a unit agreement, Lea County, New Mexico. Applicant seeks approval of its proposed State-35 Unit for a tertiary recovery project for an area comprising 560 acres, more or less, of state lands consisting of portions of Section 35, Township 17 South, Range 34 East. Said unit is located approximately 2 miles southwest of Buckeye, New Mexico.

CASE 11523: Application of Phillips Petroleum Company for approval of a pressure maintenance project, to qualify said project for the recovered oil tax rate pursuant to the Enhanced Oil Recovery Act, and for 3 unorthodox well locations, Lea County, New Mexico. Applicant seeks approval to institute a tertiary recovery project in its proposed State-35 Unit Pressure Maintenance Project by the injection of water and carbon dioxide ("CO₂") into the Grayburg and San Andres formations in the Vacuum Grayburg-San Andres Pool, encompassing 560 acres of State lands comprising portions of Section 35, Township 17 South, Range 34 East, including the drilling of three producing oil wells at unorthodox well locations within said Section 35. Applicant further seeks to qualify this expansion area for the recovered oil tax rate pursuant to the "New Mexico Enhanced Oil Recovery Act" (Law 1992, Chapter 38, Sections 1 through 5). Said project is located approximately 2 miles southwest of Buckeye, New Mexico.

CASE 11512: (Continued from April 18, 1996, Examiner Hearing.)

Application of Marathon Oil Company, Kerr-McGee Corporation and Santa Fe Energy Resources Inc. to terminate gas prorationing, to infill drill and to amend the special pool rules and regulations for the Indian Basin-Morrow Gas Pool, Eddy County, New Mexico. Applicants seek the termination of gas prorationing in the Indian Basin-Morrow Gas Pool including the cancellation of all accumulated over and under production. Applicants also seek the promulgation for said pool of a special pool rule authorizing infill drilling of a second well on a standard 640-acre spacing unit. In addition, applicants seek to amend Rule 4 of the current special pool rules for this pool to provide for standard well locations not closer than 660 feet to the outer boundary of a spacing unit. Said pool is located in portions of Township 21 South, Range 23 East and Township 21 South, Range 24 East, the center of which is located approximately 18.5 miles west of Carlsbad, New Mexico.

CASE 11493: (Readvertised)

Application of Bonneville Fuels Corporation for pool contraction, pool creation, and special pool rules, Lea County, New Mexico. Applicant, seeks contraction of the S/2 and NW/4 of Section 14 and the W/2 SW/4 of Section 13, Township 17 South, Range 37 East, from the South Humble City-Strawn Pool and the creation of a new pool for the production of oil from the Strawn formation to be comprised of this acreage and the promulgation of special pool rules therefor including provisions for 80-acre spacing units, a special depth bracket allowable provision, and a limiting gas-oil ratio for the pool of 8000 cubic feet of gas for each barrel of oil produced. Said area is located approximately 8.5 miles northwest of Hobbs, New Mexico.

CASE 11524: **Application of ARCO Permian, a unit of Atlantic Richfield, for compulsory pooling and unorthodox well location, Eddy County, New Mexico.** Applicant seeks an order pooling all mineral interests in the W/2 of Section 23, Township 17 South, Range 28 East, for all formations developed on 320-acre spacing. Said unit is to be dedicated to its Dinah 23 Federal Com Well No. 1 to be drilled at an unorthodox location 1077 feet from the South line and 660 feet from the West line of said Section 23, to a depth sufficient to test the Morrow formation, South Empire-Morrow Gas Pool. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for the risk involved in drilling said well. Said unit is located approximately 13 miles east-southeast of Artesia, New Mexico.

CASE 11525: **Application of Yates Petroleum Corporation for amendment of the Special Pool Rules and Regulations for the North Dagger Draw-Upper Pennsylvanian Pool and for the cancellation of overproduction, Eddy County, New Mexico.** Applicant seeks amendment of the Special Pool Rules and Regulations for the North Dagger Draw-Upper Pennsylvanian Pool located in portions of Townships 19 and 20 South, Ranges 24 and 25 East, to provide for a special depth bracket allowable of 4000 barrels of oil per day for each 160-acre proration unit. Applicant also seeks the cancellation of all overproduction in the pool on the date the requested depth bracket allowable becomes effective. This pool is located approximately 18 miles south-southwest of Artesia, New Mexico.

CASE 11526: **Application of Yates Petroleum Corporation for amendment of the Special Pool Rules and Regulations for the South Dagger Draw-Upper Pennsylvanian Pool and for the cancellation of overproduction, Eddy County, New Mexico.** Applicant seeks amendment of the Special Pool Rules and Regulations for the South Dagger Draw-Upper Pennsylvanian Pool located in portions of Townships 20 and 21 South, Ranges 23 and 24 East, to provide for a special depth bracket allowable of 8000 barrels of oil per day for each 320-acre proration unit. Applicant also seeks the cancellation of all overproduction in the pool on the date the requested depth bracket allowable becomes effective. This pool is located approximately 19 miles south-southwest of Artesia, New Mexico.

CASE 11527: **Application of Texaco Exploration and Production Inc. for an unorthodox oil well location for a lease line production well and simultaneous dedication, Lea County, New Mexico.** Applicant seeks approval to drill its proposed Vacuum-Grayburg San Andres Well No. 159 as a lease line production well at an unorthodox location 572 feet from the North line and 78 feet from the East line (Unit A) of Section 1, Township 18 South, Range 34 East, to be dedicated to a standard 40-acre spacing unit consisting of the NE/4 NE/4 of said Section 1 in the Vacuum-Grayburg San Andres Pool. Said well is to be simultaneously dedicated with the existing Vacuum Grayburg San Andres Unit Wells 50, 58, 122, and 158. Said unit is located approximately 2 miles south of Buckeye, New Mexico.

CASE 11514: (Continued from April 18, 1996, Examiner Hearing.)

Application of Read & Stevens, Inc. for an unorthodox infill gas well location and simultaneous dedication, Chaves County, New Mexico. Applicant seeks approval of an unorthodox infill gas well location in the Buffalo Valley-Pennsylvanian (Prorated) Gas Pool for a well to be drilled 990 feet from the South line and 1980 feet from the West line (Unit O) of Section 26, Township 15 South, Range 27 East. Said well is to be simultaneous dedicated with the existing Harris Federal Well No. 4, located at a standard gas well location in Unit "P" of said Section 26, to a standard 320-acre gas spacing and proration unit comprising the S/2 of said Section 26. Said unit is located approximately 9.5 miles southeast of Lake Arthur, New Mexico.

CASE 11475: (Readvertised)

Application of Texaco Exploration and Production Inc. for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests in the SW/4 of Section 23 for all formations developed on 160-acre spacing, in the W/2 SW/4 of Section 23 for all formations developed on 80-acre spacing and in the NW/4 SW/4 of Section 23 for all formations developed on 40-acre spacing in Township 26 South, Range 37 East. Said unit is to be dedicated to its Rhodes "23" Fed. Com Well No. 1 to be drilled at a standard location in the NW/4 SW/4 of said Section 23 and drilled to the Rhodes Yates-Seven Rivers Gas Pool. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling said well. Said area is located approximately 5 miles south-southwest of Jal, New Mexico.

CASE 11476: (Continued from April 18, 1996, Examiner Hearing.)

Application of Doyle Hartman and Margaret Hartman, d/b/a Doyle Hartman, Oil Operator, for compulsory pooling, Lea County, New Mexico. Applicant seeks an order pooling all mineral interests in the SW/4 of Section 23, Township 26 South, Range 37 East for all formations developed on 160-acre spacing. Said unit is to be dedicated to a well to be drilled at a standard location 1980 feet from the South line and 660 feet from the West line of said Section 23 and drilled to the Rhodes Yates-Seven Rivers Gas Pool. Also to be considered will be the cost of drilling and completing said well and the allocation of the costs thereof, as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for the risk involved in drilling said well. Said area is located approximately 5 miles south-southeast of Jal, New Mexico.

CASE 11528: Application of Doyle Hartman and Margaret Hartman, d/b/a Doyle Hartman, Oil Operator, and James A. Davidson to rescind Division Administrative Order NSL-3633, as amended, and for an order contracting the Rhodes (Oil) Pool and extending the Rhodes Yates-Seven Rivers Gas Pool, Lea County, New Mexico. The applicants, in the above-styled cause, seek to contract the boundaries of the Rhodes (Oil) Pool by deleting therefrom the NE/4, NE/4 NW/4, and NE/4 SE/4 of Section 26, Township 26 South, Range 37 East, and the concomitant extension of the Rhodes Yates-Seven Rivers (unprorated) Gas Pool to include the W/2 NE/4 and NE/4 NW/4 of said Section 26. The applicants further seek an order from the Division rescinding those provisions of Division Administrative Order NSL-3633, as amended, approving the unorthodox location of the Meridian Oil, Inc. Rhodes "B" Federal Well No. 7 located 330 feet from the North line and 1470 feet from the West line (Unit C) of said Section 26. Said well and area described above is located approximately 7 miles south-southeast of Jal, New Mexico.

CASE 11529: Application of Doyle Hartman and Margaret Hartman, d/b/a Doyle Hartman, Oil Operator for (i) an amendment to Division Order No. R-5448, (ii) an acreage rededication, (iii) the formation of two non-standard gas proration units, (iv) an unorthodox gas well location, (v) compulsory pooling, and (vi) an order requiring Meridian Oil, Inc. to compensate applicant for certain revenues received by Meridian corresponding to the 320-acre non-standard gas proration unit previously approved by Division Order No. R-5448, Lea County, New Mexico. Applicant seeks to amend Division Order No. R-5448, dated June 8, 1977, which authorized the formation of a 320-acre non-standard gas proration unit in the Eumont Gas Pool comprising the W/2 E/2 and E/2 W/2 of Section 7, Township 20 South, Range 37 East, and had dedicated thereon the Britt Well Nos. 3 and 12, located in Units "G" and "C", respectively, of said Section 7 (both wells are now operated by Meridian Oil, Inc.), by rededicating to said wells a 200-acre non-standard gas proration unit to comprise the W/2 NE/4, E/2 NW/4, and NE/4 SW/4 of said Section 7 and the formation of a 120-acre non-standard gas proration unit to comprise the SE/4 SW/4 and W/2 SE/4 of said Section 7. The applicant further seeks an order pooling all mineral interests within said Eumont Gas Pool underlying the proposed 120-acre non-standard gas spacing and proration unit, which is to be dedicated to a well to be drilled and completed at an orthodox location within said unit. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as the operator of the well and unit and a charge for risk involved in drilling and completing said well. Further, the applicant seeks an order from the Division directing Meridian Oil, Inc. to compensate Doyle Hartman, Oil Operator its proportional share of revenues, for the period September 1, 1991 to the present, corresponding to the 320-acre non-standard unit previously approved under Order No. R-5448. Said 320-acre tract is located approximately 3 miles south southwest of Monument, New Mexico.

CASE 11448: (Continued from March 21, 1996, Examiner Hearing.)

In the matter of the hearing called by the Oil Conservation Division ("Division") on its own motion to permit Rhonda Operating Co., owner/operator, American Employers' Insurance Company, surety, and all other interested parties to appear and show cause why the State 29 Well No. 2, located 1977 feet from the North line and 670 feet from the East line (Unit H) of Section 29, Township 8 South, Range 33 East, Chaves County, New Mexico (which is approximately 17 miles southeast of Kenna, New Mexico), should not be plugged and abandoned in accordance with a Division-approved plugging program. Should the operator fail to properly plug said well, the Division should then be authorized to take such action as is deemed necessary to have the well properly plugged and abandoned and to direct the owner/operator to pay the costs of such plugging.

CASE 11507: (Continued from April 4, 1996, Examiner Hearing.)

In the matter of the hearing called by the Oil Conservation Division ("Division") on its own motion to permit the operator Petroleum Development Corporation, United New Mexico Bank, Albuquerque, New Mexico, and all other interested parties to appear and show cause why the El Poso Ranch Well Nos. 8 and 11, located in Unit N of Section 14 and Unit K of Section 14, both in Township 28 North, Range 1 East, Rio Arriba County, New Mexico, should not be plugged and abandoned in accordance with a Division-approved plugging program, authorizing the Division to plug said well, and ordering a forfeiture of the plugging bond. Said wells are located approximately 4 miles northwest of El Vado, New Mexico.

CASE 11508: (Continued from April 4, 1996, Examiner Hearing.)

In the matter of the hearing called by the Oil Conservation Division ("Division") on its own motion to permit the operator Spur Oil Inc., Old Republic Insurance Company, and all other interested parties to appear and show cause why the Samantha Well No. 1 located in Unit L of Section 26, Township 28 North, Range 1 East; Samantha Well No. 2 located in Unit K of Section 26, Township 28 North, Range 1 East; Samantha Well No. 3 located in Unit N of Section 26, Township 28 North, Range 1 East; Gonzales 13 Well No. 1 located in Unit I of Section 13, Township 31 North, Range 1 East; Gonzales 18 Well No. 1 located in Unit M of Section 18, Township 31 North, Range 2 East; Quinlan Ranch Well No. 1 located in Unit H of Section 23, Township 32 North, Range 2 East; and the Quinlan Ranch Well No. 2 located in Unit N of Section 19, Township 31 North, Range 3 East; Rio Arriba County, New Mexico, should not be plugged and abandoned in accordance with a Division-approved plugging program, authorizing the Division to plug said well, and ordering a forfeiture of the plugging bond. The three Samantha wells are located approximately 5 miles west-northwest of El Vado, New Mexico. The Gonzales 13 Well No. 1 and Gonzales 18 Well No. 1 are located approximately 4 and 6 miles east of Monero, New Mexico, respectively. The Quinlan Ranch Well Nos. 1 and 2 are located approximately 6 miles northwest and 6 miles north-northwest of Chama, New Mexico, respectively.

CASE 11509: (Continued from April 4, 1996, Examiner Hearing.)

In the matter of the hearing called by the Oil Conservation Division ("Division") on its own motion to permit the operator Chuza Operating, Underwriters Indemnity Co., and all other interested parties to appear and show cause why the El Poso Ranch Wells Nos. 1, 2, 3, 4, 7, 9 and 10, located in Units E of Section 26, P of Section 22, F of Section 14, C of Section 23, J of Section 14, N of Section 11, and O of Section 14, respectively, all in Township 28 North, Range 1 East, Rio Arriba County, New Mexico, should not be plugged and abandoned in accordance with a Division-approved plugging program, authorizing the Division to plug said well, and ordering a forfeiture of the plugging bond. Said wells are located approximately 4 miles northwest of El Vado, New Mexico.

CASE 11467: (Reopened)

Application of the Oil Conservation Division for a show cause hearing requiring Southwest Water Disposal, Inc. (SWD) to appear and show cause why it should not be ordered to comply with its permit requirements and close its commercial clay lined surface evaporation pond located in the SE/4 SW/4, Section 32, Township 30 North, Range 9 West, San Juan County, New Mexico. Said facility is located approximately 3 miles north-northeast of Blanco, New Mexico.

CASE 11510: (Continued from April 4, 1996, Examiner Hearing.)

Application of Branko, Inc. et al to reopen Case No. 10656, Lea County, New Mexico. Applicant seeks approval to reopen Case No. 10656 (Order No. R-9845) regarding the compulsory pooling of certain interests in a standard 320-acre gas spacing and proration unit comprising the W/2 of Section 28, Township 20 South, Range 33 East, which is dedicated to Mitchell Energy Corporation's Tomahawk "28" Federal Com Well No. 1 located in Unit F of said Section 28. Said unit is located approximately 20 miles south-southeast of Maljamar, New Mexico.

CASE 11530: In the matter of the hearing called by the Oil Conservation Division upon its own motion for an order creating and extending certain pools in Chaves and Eddy Counties, New Mexico.

- (a) CREATE a new pool in Eddy County, New Mexico, classified as an oil pool for Delaware production and designated as the Northwest Corral Canyon-Delaware Pool. The discovery well is the Santa Fe Energy Resources, Inc. Corral Fly Unit Well No. 1 located in Unit G of Section 2, Township 25 South, Range 29 East, NMPM. Said pool would comprise:

TOWNSHIP 25 SOUTH, RANGE 29 EAST, NMPM

Section 2: E/2
Section 11: NE/4

- (b) CREATE a new pool in Chaves County, New Mexico, classified as a gas pool for Pennsylvanian production and designated as the Elkins-Pennsylvanian Gas Pool. The discovery well is the Walter Exploration, Inc. J. G. O'Brien Well No. 4 located in Unit L of Section 31, Township 7 South, Range 29 East, NMPM. Said pool would comprise:

TOWNSHIP 7 SOUTH, RANGE 29 EAST, NMPM

Section 31: W/2

- (c) CREATE a new pool in Eddy County, New Mexico, classified as an oil pool for Bone Spring production and designated as the Happy Valley-Bone Spring Pool. The discovery well is the Pennwell Energy, Inc. Rookie State Well No. 1 located in Unit B of Section 7, Township 22 South, Range 26 East, NMPM. Said pool would comprise:

TOWNSHIP 22 SOUTH. RANGE 26 EAST. NMPM

Section 7: NE/4

- (d) EXTEND the East Burton-Delaware Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 20 SOUTH. RANGE 29 EAST. NMPM

Section 4: E/2

Section 9: E/2

- (e) EXTEND the East Burton Flat-Strawn Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 20 SOUTH. RANGE 29 EAST. NMPM

Section 22: S/2

Section 27: N/2

- (f) EXTEND the East Burton Flat-Wolfcamp Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 20 SOUTH. RANGE 29 EAST. NMPM

Section 27: N/2

Section 28: N/2

- (g) EXTEND the South Carlsbad-Strawn Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 22 SOUTH. RANGE 27 EAST. NMPM

Section 20: W/2

- (h) EXTEND the Cedar Canyon-Delaware Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 24 SOUTH. RANGE 29 EAST. NMPM

Section 21: SE/4

- (i) EXTEND the Cedar Canyon-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 24 SOUTH. RANGE 29 EAST. NMPM

Section 11: W/2

- (j) EXTEND the South Dagger Draw-Upper Pennsylvanian Associated Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 20 SOUTH. RANGE 24 EAST. NMPM

Section 34: W/2

- (k) EXTEND the Happy Valley-Delaware Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 22 SOUTH. RANGE 26 EAST. NMPM

Section 32: NE/4

- (l) EXTEND the Loco Hills-Atoka Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 17 SOUTH. RANGE 30 EAST. NMPM

Section 35: N/2

Section 36: N/2

- (m) EXTEND the Nash Draw-Brushy Canyon Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 23 SOUTH. RANGE 30 EAST. NMPM

Section 30: SW/4

- (n) EXTEND the West Parkway-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 19 SOUTH. RANGE 29 EAST. NMPM

Section 30: S/2

- (o) EXTEND the Southeast Quahada Ridge-Delaware Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 22 SOUTH, RANGE 30 EAST, NMPM

Section 36: NE/4

- (p) EXTEND the Sand Tank-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 30 EAST, NMPM

Section 7: E/2

Section 8: W/2

- (q) EXTEND the Turkey Track-Atoka Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM

Section 16: N/2

IN THE ABSENCE OF OBJECTION, THIS CASE WILL BE TAKEN UNDER ADVISEMENT.



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION
2040 South Pacheco Street
Santa Fe, New Mexico 87505
(505) 827-7131

April 17, 1996

J.E. Gallegos
Michael J. Condon
Gallegos Law Firm
460 St. Michael's Drive-Building 300
Santa Fe, NM 87505
Attorneys for Hartman et al.

William F. Carr
Campbell, Carr, Berge & Sheridan, P.A.
P.O. Box 2208
Santa Fe, NM 87504-2208
Attorneys for Texaco Exploration and Production, Inc.

W. Thomas Kellahin
Kellahin and Kellahin
P.O. Box 2265
Santa Fe, NM 97504-2265
Attorneys for Meridian Oil, Inc.

RE: Motions/Requests regarding Case No. 11528 - Application of Hartman et al. for (i) de novo hearing, (ii) order authorizing discovery, (iii) withdrawal of Administrative Order NSL-3633, (iv) denial of Meridian application, (v) and redefinition of Rhodes Gas Pool boundary

Dear Messrs. Gallegos, Condon, Carr and Kellahin:

Reference is made to the above-described application as well as all the motions and requests that have been filed with the Commission/Division.

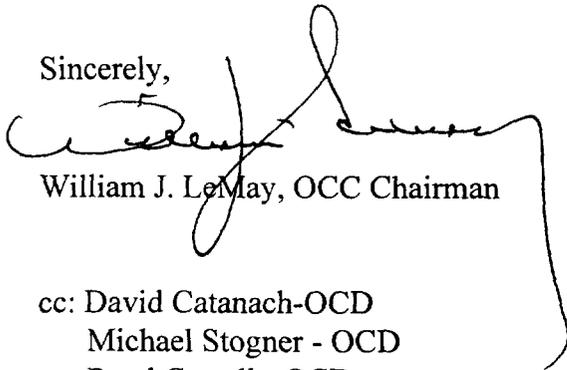
The New Mexico Oil Conservation **Commission** reiterates that it does not hear direct appeals of administrative orders and has directed that the Division set this matter for an examiner hearing. All applications/requests for a de novo hearing before the Commission at this time are therefore denied. Motions/requests regarding (i) discovery, (ii) removal of any particular Division examiner to hear this matter, and (iii) a stay, will be entertained at the Division level. A Division hearing on all such motions/requests has been set for Thursday, April 25, at 10:00 a.m. in the OCD hearing room.

The Commission also directed the Division to stay Administrative Order NSL-3633 pending the outcome of the examiner hearing. Since the effect of such stay would be to shut-in the well and

Commission/Division policy is against shutting in wells where any subsequent order could correct any overproduction or impairment of correlative rights, the directive to the Division to stay the Order is rescinded and the Order will not be stayed unless the Examiner at the April 25 hearing determines that such action is warranted in this case.

If you have any questions regarding this matter, please feel free to contact the Division.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. LeMay", with a large, stylized flourish extending from the end of the signature.

William J. LeMay, OCC Chairman

cc: David Catanach-OCD
Michael Stogner - OCD
✓ Rand Carroll - OCD
Jerry Sexton - OCD Hobbs