

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

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

CASE NO. 11633

**APPLICATION OF INTERCOAST OIL AND GAS
COMPANY FOR COMPULSORY POOLING AND AN
UNORTHODOX WELL LOCATION,
EDDY COUNTY, NEW MEXICO.**

**MOTION TO DISMISS
PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by OXY USA INC., as required by the Oil Conservation Division.

APPEARANCE OF PARTIES

APPLICANT

InterCoast Oil
and Gas Company

ATTORNEY

William F. Carr, Esq.
P. O. Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421

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INTERESTED PARTY

OXY USA INC.
Box 50250
Midland, Texas 79710
Attn: Rick Foppiano
(915) 68505913

ATTORNEY

W. Thomas Kellahin
KELLAHIN AND KELLAHIN
P.O. Box 2265
(505) 982-4285

STATEMENT OF CASE

INTERESTED PARTY

OXY USA INC. is the current operator of the oil and gas minerals underlying the N/2 of Section 16, T20S, R28E, Eddy County, New Mexico, and is an interested party in this matter whose interest cannot be affected by a pooling order in this case.

The Division lacks jurisdiction to enter a compulsory pooling order affecting OXY USA INC. because OXY USA INC. and InterCoast Oil and Gas Company have already had their respective interests in this spacing unit committed to a Joint Operating Agreement designating OXY USA INC. as the operator.

PROPOSED EVIDENCE

INTERESTED PARTY:

WITNESSES

T. Kent Woolley (landman)

EST. TIME

20-30 min.

EXHIBITS

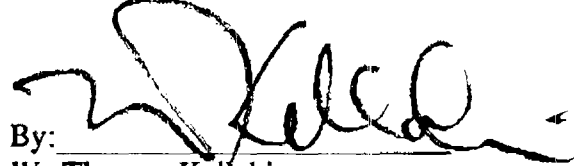
est. 4 exhibits

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PROCEDURAL MATTERS

Motion to dismiss case because this spacing unit is committed to a voluntary contractual agreement thereby precluding the Division from exercising jurisdiction all as set forth in the New Mexico compulsory pooling provision of Section 70-2-17(c) NMSA 1978.

KELLAHIN AND KELLAHIN

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', is written over a horizontal line.

By:

W. Thomas Kellahin

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