

BEFORE THE
Oil Conservation Commission

SANTA FE, NEW MEXICO
March 15, 1956

IN THE MATTER OF:

Case Nos. 706 - 712, Incl.

&

CASE NOS. 846 - 852, Incl.

Consolidated

TRANSCRIPT OF PROCEEDINGS

ADA DEARNLEY AND ASSOCIATES

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Foster Morrell	Independent	Roswell, N. M.
F. Norman Woodruff	El Paso Natural Gas Co.	El Paso, Texas

TRANSCRIPT OF HEARING

MR. MACEY: The hearing will come to order, please. I presume the cases this morning will be consolidated for the purpose of testimony. Is that correct or incorrect?

MR. WOODWARD: All of the cases, 706 through 712 and 846 through 852, so far as El Paso is concerned, can be consolidated for the presentation. The individual units involved in Cases 706 and 846, for example, are fully consolidated by agreement of both parties at the last rehearing, as I understand it, so there is consolidation of 706 and so forth. But the presentation on all cases, for convenience, we suggest be consolidated.

MR. MACEY: Any objection?

MR. CAMPBELL: No.

MR. MACEY: If not, we will consolidate all cases for the purpose of testimony.

MR. WOODWARD: El Paso would like to, as one of the applicants for rehearing, make this explanation of why we are here. Essentially El Paso sought a determination of status and appropriate action by Commission, a sort of determination that seven spacing and allocation units in the Blanco-Mesaverde Pool were communitized tracts. If the Commission's information was that they were not communitized tracts, we ask that they be communitized.

The second orders issued in these cases from which rehearing is sought, implied in substance that if the tracts were communitized they were recognized, and if they were not, the Commission thereby

communitized them. We suggest that is a most agreeable order, but it is not very helpful in determining the status of these units.

I realize that case chronology, or history of proceeding is not a very interesting affair, but in view of the time involved, which these cases have been under consideration, we would like to recapitulate as briefly as possible, the history of this controversy.

Cases 706 through 712, and 846 through 852 involve seven spacing and allocation units in the Blanco-Mesaverde Pool. In October, 1953, El Paso applied for compulsory communitization of each of these hearings; the first hearing May 19, 1954, and the first orders issued December 16, 1954. In this order, the Commission found that the working interest owners in each of these units, had agreed to communitize their leases on or before the date the notices of intention to drill the well were approved. The Commission also found the agreement of such owners effectively create a unitized spacing, and allocating units which complied with the Orders R-110, the Commission ordered that each unit was recognized as a communitized, or pool tract, effective on the day the notices of intention to drill was approved. Under the circumstances, this was the only proper order that the Commission could have then entered. El Paso, as we have stated, had asked for compulsory pooling orders, the Commission found the units had already been communitized by agreement of the working interest owners, and appropriately registered them so, no order being necessary to want it. However, following these first orders, the Yager Unit asked for rehearing, and El Paso formally applied for ratification of these. This second series of applications was, as I understand it, Case Numbers 846 through 852.

At the first rehearing, March 17, 1955, as we have stated, Cases

706 and 846 involved the same lands, and were, therefore, consolidated, for the same reason the succeeding cases in both series were likewise consolidated. On January 12, 1956, the Commission superseded its first order in these cases by a new series. In the second series the Commission found that the working interest owners had agreed to communitize their leases in each of these units, that their agreement complied with Order R-110, and such agreement, together with the approval of the notice of intention to drill, which designated the unit area, effectively created and established the units in question. However, the Commission also found there was no evidence in the record as to the precise date the working interest owners had agreed to communitize their leases, prior to May 19, 1954, the date of the first hearing. There was evidence that as of that date the working interests had been communitized. The Commission therefore, found the date of such agreement to be May 19, 1954. Finally the Commission ordered that each unit be recognized as a communitized tract in a duly established drilling unit on that date. But, in the alternate and subsequent event that subsequent adjudication render that inoperative, all units were consolidated and compulsorily pooled effective January 15, 1956. Consequently, the Yager group and, at this hearing it is El Paso's position, first, that the second series of orders are improper and void, for the reasons set forth in El Paso's brief, heretofore filed with the Commission. Second, that the first series of orders are proper orders supported by the law and evidence, and should be reissued in substance. Third, without waiver of the right to stand on the evidence heretofore in these cases, and the benefit of any presumption of fact or law raised by such evidence, El Paso is prepared to go forward in intro-

ducing additional evidence as to the dates, working interests, when these units were consolidated. For that purpose, El Paso would call as its first witness, Mr. Roland L. Hamblin, and ask that he be sworn.

(Witness sworn.)

ROLAND L. HAMBLIN,

called as a witness, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. WOODWARD:

Q Mr. Hamblin, state your full name, please.

A Roland L. Hamblin.

Q By whom are you employed and in what capacity?

A I am employed by the El Paso Natural Gas Company as Manager of their Lease Department.

Q Have you previously testified before the Commission in Cases 706 through 712, and 846 through 852?

A Yes, sir, I have.

(Marked El Paso Natural Gas Exhibits R-706 through 712, for identification.)

Q El Paso's Exhibits R-706 through R-712 have been placed on the board. Are you familiar with these exhibits?

A Yes, sir, I am.

Q Were they prepared under your direction and supervision?

A Yes, sir, they were.

Q State what these exhibits show.

A Exhibits 706 through 712 are plats of seven well spacing and allocation units involved in these cases, showing each and every tract involved in each unit, and showing the unit well and location

of the unit well.

Q Now, directing your attention to Exhibit R-706, when was the notice of intention to drill the unit well first filed?

A A notice of intention to drill a Pictured Cliffs well on the northwest quarter, Section 6 was filed March 17, 1953, and approved by the Oil Conservation Commission on March 23, 1953. A notice of intention to change plans to Mesaverde well covering the west half of Section 6 was filed on May 26, 1953 and approved by the Oil Conservation Commission on July 31, 1953.

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Q You state that the Commission authorized the completion of the Yager Well on May 31, 1953?

A On July 31, 1953.

Q July 31, 1953?

A That is correct.

Q What acreage was then dedicated to the well?

A The entire west half of Section 6, Township 30 North, Range 11 West.

Q Who owned the operating rights in the separate tracts on the west half of Section 6, on the date the Commission authorized completion of the Yager Number 2 Well in the Mesaverde Formation?

A El Paso Natural Gas Company owned the operating rights under each and every tract in the west half of Section 6, Township 30 North, Range 11 West, on or before July 31, 1953.

706

Q Taking each of the separately owned tracts in turn, tell the means by which El Paso acquired the operating rights in them, and the date of such acquisition, Tract 1 colored in yellow on Exhibit R-706.

A This is R-706 right here that we are discussing. El Paso

Natural Gas Company acquired the operating right on Tract Number 1 by an assignment from Delhi Oil Company, dated March 1, 1952.

Q That was an assignment of the leases?

A That was a lease assignment.

Q Did this assignment cover other lands involved in 706 through 712, and et cetera?

A Yes, sir, it did. It covered all lands colored yellow in these attached plats, was covered in that assignment.

Q I hand you what has been marked El Paso Natural Gas Exhibit R-706-A, are you familiar with this exhibit?

A Yes, sir, I am.

Q Will you state what it is, please?

A This is the assignment of oil and gas leases, dated March 1, 1952, from Delhi Oil Corporation to El Paso Natural Gas Company, covering Tract 1, and the other tracts colored in yellow in the attached plats.

Q Is this agreement executed?

A This agreement is duly executed by the Delhi Oil Corporation and El Paso Natural Gas Company.

Q Now, when, and by what means did El Paso acquire the operating rights in Tract 2 in Exhibit R-706?

A El Paso acquired the operating rights under Number 2, which is the pink, by an assignment from the Delhi to El Paso dated October 17, 1952.

Q I hand you what has been marked El Paso Natural Gas Exhibit R-706-B, are you familiar with this exhibit?

A Yes, sir, I am.

Q State what it is, please.

A R-706-B is the assignment of the oil and gas leases from Delhi Oil Corporation to El Paso Natural Gas Company, covering among other tracts, Tract 2, colored in pink.

Q Did that assignment cover other lands included within the unit involved in these cases?

A Yes, sir, it covered all of the tracts colored pink, Tract 2 here, and Tract 1, right here in this Exhibit 711.

Q Turning your attention to Tracts 3 and 4, when and by what means did El Paso acquire the operating rights in these tracts?

A El Paso Natural Gas Company acquired the operating rights in Tracts 3 and 4 by an assignment of operating agreement from Delhi Oil Corporation, dated March 1, 1952.

Q I hand you what has been marked R-706-C. Are you familiar with this exhibit?

A Yes, sir, I am.

Q State what it is, please.

A Exhibit R-706-C is the Assignment of Operating Agreement dated March 1, 1952, from Delhi Oil Corporation to El Paso Natural Gas Company, covering Tracts 3 and 4.

MR. WOODWARD: El Paso's Exhibits R-706, 706-A, B, C, are hereby offered in evidence.

MR. MACEY: Any objection?

MR. CAMPBELL: We have no objection to the exhibits. We question their leading effect, of course, but the exhibits themselves we offer no objection.

MR. MACEY: If there is no objection, the exhibits will be received.

MR. WOODWARD: We ask that the photostats be submitted or substituted for the originals in the record, the photostats before the Commission be substituted for the originals.

MR. MACEY: I think that is in order. Have all the exhibits been so marked?

MR. WOODWARD: They have.

Q Now, Mr. Hamblin, directing your attention to Exhibit R-707.

A This is R-707.

Q When was the notice of intention to drill the unit well approved?

A The notice of intention to drill the Yager Pool Unit Number 1 Well in 707 was approved by the Oil Conservation Commission on February 19, 1953.

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Q What acreage was dedicated to the well by that notice?

A The south half of Section 31, Township 31 North, Range 11 West.

Q Who owned the operating rights in the separate tracts of the south half, on the date the notice of intention was approved by the Commission?

A El Paso Natural Gas Company owned the operating rights under each and every tract under the south half of Section 31, on or before February 19, 1953.

707

Q When and by what means did El Paso Natural Gas acquire the operating rights in Tract Number 1, colored in red?

A El Paso Natural Gas Company acquired the operating rights under Tract Number 1 by an assignment of the operating rights from Aztec Oil and Gas Company to El Paso, dated February 19, 1953.

Q I hand you what has been marked El Paso Natural Gas Exhibit R-707-A, are you familiar with this exhibit?

A Yes, sir, I am.

Q Will you tell us what it is, please?

A R-707-A is the partial assignment of operating rights from Aztec Oil and Gas Company to El Paso Natural Gas Company, dated February 19, 1953.

Q When, and by what means did El Paso Natural Gas acquire the operating rights in Tract 2, colored in yellow?

A El Paso Natural Gas Company acquired the operating rights in Tract 2 by an assignment from Delhi Oil Corporation to El Paso dated March 1, 1952.

Q This is the same assignment heretofore introduced as R-706-A?

A Yes, sir, that is correct.

Q Now, Tract Number 3, colored in gold, when and by what means did El Paso acquire the operating rights in this tract?

A El Paso Natural Gas Company acquired the operating rights under Tract 3 by an assignment of operating agreement from Delhi Oil Corporation, to El Paso, dated March 1, 1952.

Q I hand you what has been marked El Paso Natural Gas Company Exhibit R-707-B, are you familiar with this exhibit?

A Yes, sir.

Q Will you state what it is, please?

A Exhibit R-707-B is the assignment of operating agreement from Delhi to El Paso, dated March 1, 1952, covering Tract 3.

MR. WOODWARD: El Paso's Exhibits R-707, R-707-A, B, are hereby offered into evidence.

MR. MACEY: Is there an objection?

MR. CAMPBELL: No objection.

MR. MACEY: If no objection, the exhibits will be received.
You wish to substitute the photostats?

MR. WOODWARD: In each case we would like to substitute the photostats for the originals.

MR. MACEY: All right.

Q Now, directing your attention to R-708, Mr. Hamblin.

A This is Exhibit R-708.

Q When was the notice of intention to drill the unit well approved?

A The notice of intention to drill the Neal Number 3 Well, which was the unit well, was approved on August 3, 1953 by the Oil Conservation Commission. ep.

Q What acreage was dedicated to the unit well by that notice?

A The west half of Section 15, Township 31 North, Range 11 West was dedicated to this well.

Q Who owned the operating rights in the west half of Section 15 on the date the notice of intention to drill was approved?

A El Paso Natural Gas Company owned the operating rights under each and every tract in the west half of Section 15, Township 31 North, Range 11 West on August 3, 1953.

Q All right. Taking Tract Number 1, colored in blue, or light blue, when and by what means did El Paso acquire the operating rights in this tract?

A El Paso Natural Gas Company acquired the operating rights under Tract 1 by assignment of operating agreement from Delhi to El Paso, dated March 1, 1952.

Q I hand you what has been marked El Paso's Exhibit R-708-A.

are you familiar with this exhibit?

A Yes, sir, I am.

Q Tell us what it is.

A The assignment of operating agreement from Delhi Oil Corporation, to El Paso, dated March 1, 1952, covering Tract 3 and other land in the same Federal lease.

Q Tract 2, colored in yellow, when and by what means did El Paso acquire the operating rights in Tract 2?

A El Paso acquired the operating rights in Tract 2 by a lease assignment from Delhi, dated March 1, 1952.

Q This is the same assignment heretofore introduced as El Paso's Exhibit R-705-A, is that correct?

A Yes, sir, same assignment.

MR. WOODWARD: El Paso's R-708 and R-708-A are hereby offered in evidence.

MR. MACEY: Any objection?

MR. CAMPBELL: No objection.

MR. MACEY: If there is no objection, the exhibits will be received, photostats being substituted for the originals.

Q Directing your attention, Mr. Hamblin, to Exhibit R-709.

A This is Exhibit R-709 right here.

Q All right. When was the notice of intention to drill the unit well approved by the Commission?

A The notice of intention to drill the Calloway Pool Number 1 Well was approved by the Oil Conservation Commission on June 29, 1953. con
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Q What acreage was dedicated to that unit well by that notice?

A The east half of Section 27, Township 31 North, Range 11 West

was dedicated to this unit well.

Q What was the status of the operating rights in the east half of Section 27 on the date the notice of intention to drill was approved by the Commission?

A El Paso Natural Gas Company was authorized to exercise the operating rights upon Tract Number 1, colored in brown, and owned the operating rights under all of the remaining tracts in the east half of Section 27, Township 31 North, Range 11 West.

Q The unit well is drilled on Tract Number 1 colored in brown, is that correct?

A That is correct.

Q By whom was the unit well drilled?

A The unit well was drilled by El Paso Natural Gas Company as unit operator.

Q By virtue of what authority, if any, did El Paso exercise the operating rights in Number 1 by drilling the Calloway Unit Well thereon?

A By virtue of letters from Western Natural Gas, Three States and San Jacinto Petroleum, who owned the operating rights of that tract, at that time.

Q They were the lessees of that tract?

A They were the lessees of that tract.

Q I hand you what has been marked El Paso's Exhibit R-709-A, B and C, are you familiar with these exhibits?

A Yes, sir, I am.

Q Will you state what they are, please?

A Exhibit R-709-A is a letter from Three States Natural Gas Company to El Paso Natural Gas Company, dated February 27, 1953,

by which Three States Natural Gas Company agreed to join in the drilling of the Calloway Pool Number 1 Well.

Q R-709-B?

A R-709-B is a letter from Western Natural Gas Company, dated March 31, 1953, by which Western Natural Gas Company agreed to join in the drilling of the Calloway Pool Number 1 Well.

Q And R-709-C?

A R-709-C is a letter dated April 9, 1953, from San Jacinto Petroleum Corporation, to El Paso Natural Gas Company, returning an approved copy of an AFE to El Paso.

Q And it was by virtue of these three letters from the lessees of Tract Number 1, that El Paso felt authorized to go upon the land and drill the Calloway Pool Unit Number 1?

A That is correct.

Q I hand you what has been marked El Paso's Exhibit R-709-D, are you familiar with this exhibit?

A Yes, sir, I am.

Q Will you state what it is, please?

A Exhibit R-709-D is a duly executed copy of a communitization agreement on the Calloway Pool Unit Number 1, which was exercised by, it is dated and effective June 1, 1953, executed by Three States Natural Gas Company, on March 14, 1955, by San Jacinto Petroleum Corporation on February 19, 1955, and by Western Natural Gas Company on February 17, 1955.

Q Now, this communitization agreement was executed pursuant to the letter agreements marked R-709-A, B, C, is that correct?

A Yes, sir, that is correct.

Q Now, directing your attention to Tract Number 2, when and by

what means did El Paso acquire operating rights in Tract Number 2?

A El Paso acquired the operating rights under Tract Number 2 by an oil and gas lease dated May 26, 1953.

Q I hand you what has been marked El Paso's Exhibit R-709-E, are you familiar with this exhibit?

A Yes, sir, I am.

Q Will you state what it is, please?

A Exhibit R-709-E is the oil and gas lease dated May 26, 1953, from Sarah Myers Hedges to El Paso Natural Gas Company covering Tract Number 2.

Q Now, directing your attention to Tracts Numbers 3, 4, 5, when and by what means did El Paso acquire the operating rights in these tracts?

A El Paso acquired the operating rights in Tracts 3, 4, 5 by virtue of a lease assignment from Delhi to El Paso dated March 1, 1952.

Q These are the tracts colored in yellow?

A Yes, sir, here, here and here (indicating).

Q And this is the same assignment heretofore introduced as El Paso's Exhibit R-706-A?

A Yes, sir, that is correct.

Q Now, directing your attention to Tract Number 6, colored in blue, when and by what means did El Paso acquire the operating rights in this tract?

A El Paso acquired the operating rights under Tract Number 6 by a lease assignment from Primo Oil Company to El Paso, dated August 14, 1952.

Q I hand you what has been marked El Paso's Exhibit R-709-F,

are you familiar with this exhibit?

A Yes, sir.

Q Will you state what it is, please?

A Exhibit R-709-F is the lease assignment from Primo Oil Company to El Paso Natural Gas Company, dated August 14, 1952, covering Tract Number 6.

Q When and by what means did El Paso acquire the operating rights in Tract 7, colored in rose?

A El Paso Natural Gas Company acquired the operating rights under Tract Number 7 by virtue of a lease assignment from Primo Oil Company to El Paso, dated April 20, 1953.

Q I hand you what has been marked El Paso's Exhibit R-709-G, are you familiar with this exhibit?

A Yes, sir, I am.

Q Will you state what it is, please?

A Exhibit R-709-G is the assignment from Primo Oil Company to El Paso, dated April 20, 1953, covering Tract Number 7.

MR. WOODWARD: El Paso's Exhibits Numbers R-709, R-709-A, B, C, D, E, F, and G, are hereby offered into evidence.

MR. MACEY: Any objection?

MR. CAMPBELL: No objection.

MR. MANKIN: Isn't there an error on R-709, shouldn't that be the assignment from Delhi to El Paso, dated 3-1-52, rather than '56?

A Yes, sir, that is correct, Mr. Mankin, it should be 3-1-52 on Tract 5, same as 3 and 4.

MR. MACEY: If there is no objection we will enter the exhibits in evidence, and substitute the photostats for originals.

Q Mr. Hamblin, directing your attention to Exhibit R-710.

A This is Exhibit R-710 right here.

Q When was the notice of intention to drill the unit well approved by the Commission?

A The notice of intention to drill the Marcotte Pool Unit Number 1 Well, which is the unit well on the east half of Section 8, Township 31 North, Range 10 West, was approved by the Oil Conservation Commission on August 25, 1953.

Q What acreage was dedicated to the unit well by that notice?

A The east half of Section 8, Township 31 North, Range 10 West was dedicated to the Marcotte Pool Unit Number 1 Well, which is the unit well.

Q What was the status of the operating rights on the east half of Section 8 on the date notice was approved?

A El Paso was authorized to use the rights on Number 1 and 2 colored in lavender, and owned the operating rights under Tracts Number 3, 4, 5, which are the yellow and green tracts, on August 25, 1953.

Q Taking Tracts 1 and 2 together, the unit well is drilled on Tract 2, is it not?

A That is correct, the unit well is drilled right here on Tract Number 2.

Q By whom was the unit well drilled?

A El Paso Natural Gas Company as unit operator.

Q By virtue of what authority, if any, did El Paso exercise the operating rights on this tract by drilling the Marcotte Well?

A By virtue of a letter from Beaver Lodge Oil Corporation to El Paso, dated August 5, 1953.

Q I hand you what has been marked El Paso's Exhibit R-710-A and R-710-B, are you familiar with these exhibits?

A Yes, sir, I am.

Q Will you state what they are, please?

A Exhibit R-710-A is the letter dated August 5, 1953, from Beaver Lodge Oil Corporation, to El Paso Natural Gas Company, where- by they acknowledge receipt of the copy of the communitization agreement and state they would be happy to execute it.

Q R-710-B?

A R-710-B is the communitization agreement on the Marcotte Pool Number 1 Well, dated August 1, 1953, and executed by Beaver Lodge Oil Corporation on January 20, 1955.

Q The communitization agreement marked R-710-B was executed pursuant to the letter marked R-710-A, is that correct?

A That is correct.

Q And both Exhibits R-710-A and B cover tracts 1 and 2, is that correct?

A That is correct, colored in lavender.

Q All right, now, directing your attention to Tracts 3 and 5, when and by what means did El Paso claim operating rights in Tracts 3 and 5?

A By virtue of an assignment from Delhi to El Paso, dated March 1, 1952.

Q And is this the same assignment heretofore marked El Paso's Exhibit R-706-A?

A Yes, sir, that is correct.

Q All right, now, directing your attention to Tract Number 4, when and by what means did El Paso acquire operating rights in

Tract 4?

A El Paso Natural Gas Company acquired operating rights under Tract Number 4 by virtue of an operating agreement from Brookhaven Company to San Juan Oil Company, which subsequently was assigned by San Juan Company to El Paso Natural Gas Company on January 2, 1952.

Q I hand you what has been marked El Paso's Exhibit Numbers R-710-C and D, are you familiar with these exhibits?

A Yes, sir, I am.

Q Will you state what they are?

A Exhibit R-710-C is the operating agreement from Brookhaven Oil Company to San Juan, dated November 27, 1951, which gave San Juan Production Company the operating rights upon Tract Number 4, and other lands in the same Federal Lease; and Exhibit R-710-D is an assignment of this operating agreement dated January 2, 1952, from San Juan Production Company to El Paso Natural Gas Company, giving El Paso the operating rights under Tract Number 4.

MR. WOODWARD: R-710, A, B, C and D are hereby offered into evidence.

MR. MACEY: Is there any objection?

MR. CAMPBELL: No objection.

MR. MACEY: Without objection the exhibits will be received, and photostats are being substituted for the originals.

Q Now, directing your attention to Exhibit R-711.

A This is Exhibit R-711 right here.

Q Mr. Hamblin, when was the notice of intention to drill the unit well approved?

A Initially, notice of intention to drill a well on the south

half of Section 32, Township 31 North, Range 11 West was filed, and subsequently a notice of intention to change place, changing spacing for the unit well to the west half of Section 32, Township 31 North, Range 11 West was filed with the United States Geological Survey, and approved April 7, 1953.

Q Will you state again the final date of approval of the dedication of the west half to the unit well?

A It was approved by the United States Geological Survey on April 7, 1953.

Q Who owned the operating rights in the west half of Section 32 on the date that notice of intention to drill was approved?

A El Paso Natural Gas Company owned the operating rights under each and every tract in the west half of Section 32, on or before April 7, 1953.

Q When and by what means did El Paso acquire operating rights in Tract Number 1?

A El Paso acquired the operating rights under Tract Number 1, colored in pink, by an assignment from Delhi dated October 17, 1952.

Q This is the same assignment heretofore introduced in evidence as El Paso's Exhibit R-706-B, is that correct?

A That is correct.

Q When and by what means did El Paso acquire the operating rights in Tract 2?

A El Paso acquired the operating rights in Tract Number 2, yellow, by virtue of a lease assignment from Delhi dated March 1, 1952.

Q This is the same assignment heretofore introduced as El Paso's Exhibit R-706-A?

A Yes, sir.

Q When and by what means did El Paso acquire operating rights in Tract 3?

A El Paso acquired the operating rights under Tract Number 3 by virtue of an assignment of operating agreement from Delhi, dated March 1, 1952.

Q This is the same assignment of operating agreement heretofore introduced as El Paso's Exhibit R-707-B, is that correct?

A Yes, sir, that is correct.

MR. WOODWARD: El Paso's Exhibit R-711 is hereby offered in evidence.

MR. MACEY: Any objection?

MR. CAMPBELL: No objection.

MR. MACEY: Without objection the exhibit will be received.

Q Directing your attention, Mr. Hamblin, to Exhibit R-712.

A This is Exhibit R-712, here on the wall, we didn't have room for it on the bulletin board.

Q When was the notice of intention to drill the unit well --

MR. CAMPBELL: (Interrupting) Excuse me, do you have a copy of that 712?

MR. WOODWARD: Here is an extra.

MR. CAMPBELL: Thank you.

Q When was the notice of intention to drill the unit well approved, Mr. Hamblin?

A Notice of intention to drill the unit well, Koch Number 1, was approved by the United States Geological Survey on August 14, 1953.

Q What acreage was dedicated to the unit well by that notice?

A East half of Section 3, Township 30 North, Range 10 West

was dedicated to this unit.

Q What was the status of the operating rights on the east half of Section 3, on the date the unit agreement was approved?

A El Paso Natural Gas Company was authorized to operate the operating rights on Tracts Numbers 2 and 6, and owned the operating rights on each of the remaining tracts in the east half of Section 3, Township 30 North, Range 10 West.

Q When and by what means did El Paso acquire the operating rights in Tracts 1, 4 and 5? A El Paso --

Q Colored in olive.

A El Paso Natural Gas Company acquired the operating rights under Tracts 1, 4 and 5 by virtue of a lease assignment from Sunray Oil Corporation to El Paso, dated January 14, 1953.

Q I hand you what has been marked El Paso's Exhibit R-712-A, are you familiar with this exhibit? A Yes, sir, I am.

Q Will you state what it is, please?

A Exhibit R-712-A is the assignment from Sunray Oil Corporation to El Paso dated January 14, 1953, covering Tracts 1, 4 and 5.

Q All right. Now, directing your attention to Tracts 2 and 6, colored in orange, when did El Paso and by what means did El Paso acquire the operating rights in these tracts?

A El Paso Natural Gas Company was authorized to exercise the operating rights upon Tracts Numbers 2 and 6 by virtue of a letter dated August 5, 1953, from Fred C. Koch.

Q I hand you what has been marked El Paso's Exhibit Numbers R-712-B and C, are you familiar with these exhibits?

A Yes, sir, I am.

Q Will you state what they are, please?

A R-712-B is the letter dated August 5, 1953, from Fred C. Koch to El Paso Natural Gas Company, in which he agreed to the communitization of the Koch Pool Unit Number 1 Well.

Q R-712-C?

A Exhibit R-712-C is the operating agreement covering the Koch Pool Unit Number 1 Well, dated August 1, 1953, and executed by Fred C. Koch on June 27, 1955.

Q All right. Now, Tract Number 3, the unit well is drilled on Tract Number 3, is that correct?

A That is correct, on Tract Number 3, in gray.

Q By whom was the unit well drilled?

A The unit well was drilled by El Paso Natural Gas Company as unit operator.

Q By virtue of what authority did El Paso drill the unit well on Tract Number 3?

A El Paso Natural Gas Company drilled the unit well on Tract Number 3 by virtue of a development contract between Delhi Oil Corporation and Atlantic Refining Company, dated February 27, 1950, which Atlantic granted to Delhi on this, and by virtue of a contract between Delhi, Atlantic and El Paso, dated February 26, 1952, in which Delhi granted the operating rights to El Paso.

Q I hand you what has been marked El Paso's Exhibit R-712-D, E and F, are you familiar with those exhibits?

A Yes, sir, I am.

Q Will you state what they are, please?

A Exhibit R-712-D is the contract for development, dated February 27, 1950, between the Atlantic Refining Company and Delhi Oil Corporation, covering, among other lands, Tract Number 3.

Q Now, the assignment from Atlantic to El Paso, marked R-712-F was executed pursuant to those contracts, is that correct?

A That is correct.

Q Now, directing your attention to Tract Number 7, colored in olive green, when and by what means did El Paso acquire the operating rights in this tract?

A El Paso acquired the operating rights under Tract Number 7 by virtue of an oil and gas lease dated July 2, 1953.

Q I hand you what has been marked El Paso's Exhibit R-712-G, are you familiar with this exhibit?

A Yes, sir, I am.

Q Will you state what it is, please?

A Exhibit R-712-G is the oil and gas lease dated July 2, 1953, from Rose Rosenwein to El Paso Natural Gas Company covering Tract Number 7.

MR. WOODWARD: El Paso's Exhibit Numbers R-712; R-712-A, B, C, D, E, F, and G are hereby offered into evidence.

MR. MACEY: Any objection?

MR. CAMPBELL: No objection.

MR. MACEY: Without objection the exhibits will be received, photostats being substituted for the originals.

Q Now, to summarize your testimony in these cases, what was the status of the operating rights in each unit on the date the notice of intention to drill the unit well was approved?

A Status of the operating rights on the date that the notice of intention on each individual well was approved, was that El Paso either owned all of the operating rights or exercised the operating rights pursuant to authority granted them on or before the date of notice of intention to drill on each unit well was approved.

Q All right. In the exercise of these rights, El Paso drilled the unit well and dedicated all the acreage in the unit to that well.

is that correct?

A That is correct.

Q Now, what was the status of the working interest of the leases of record on the date the notice of intention to drill was approved?

A The entire working interest on the Yager Pool Number 2 Well, R-706; Number 1 Well, R-707; Neal No. 3 Well, R-708, and the Heaton Number 3 Well, R-711, was owned by El Paso Natural Gas Company on or before the date the notice of intention to drill each of the unit wells were approved.

Q Now, they owned this by virtue of the assignments heretofore described, is that correct?

A That is correct, yes, sir. And all of the working interest owners had agreed to communitize their interest in the Calloway Unit Number 1, R-709; Marcotte, Number R-710; and the Koch Pool Number 1 Well, R-712 on the date the notice of intention to drill each well was approved, and pursuant to such agreement have executed communitization agreements communitizing their interest in such wells.

Q Now, Mr. Hamblin, have communitization agreements been circulated on each of these seven units?

A Yes, sir, they have.

Q To whom were these circulators sent?

A To various royalty owners, lessees of record, and working interest owners.

Q Have these agreements been executed?

A I believe they have been executed by all the people to whom they were sent except the Yager Group.

Q Now, when were they executed in relation to the date the notice of intention to drill the unit wells were approved?

A Most of them have been executed subsequent to the date the notices of intention to drill were approved.

Q I see. Now, Mr. Hamblin, in view of your testimony that El Paso either owned, or owned the working interest in four of these units, and obtained agreements to communitize the working interest in the other units on the date the notices of intention to drill were approved, why were these communitization agreements circulated for execution subsequent to the date the notices were approved?

A Well, out of an abundance of precaution by us, and to clarify and define the exact terms of the operating agreement and details, and in accordance with the request of the regulatory bodies of the Federal government to file with them a copy of such communitization agreements.

Q These agreements formalized all the understanding had with respect to the agreements to communitize in some instances, is that correct?

A That is correct.

Q And in others you say they were circulated out of an abundance of precaution?

A Yes, sir.

Q And to comply with the rules of regulatory bodies?

A That they be filed with them, yes, sir.

Q You say rules of regulatory bodies. To whom do you refer?

A The United States Geological Survey.

Q All right. They were circulated under your direction and supervision, is that correct?

A Yes, sir, that is correct.

Q Were they circulated for the purpose of investing El Paso with the operating rights in any of these units?

A No, sir, they were not.

Q Why not?

A Because El Paso Natural Gas Company either owned or had agreement to communitize the operating rights on the dates the notices of intention to drill were approved.

MR. WOODWARD: That is all we have on direct examination.

MR. MACEY: Are there any questions of the witness?

MR. CAMPBELL: Yes, sir.

CROSS EXAMINATION

By MR. CAMPBELL:

Q Mr. Hamblin, I understood you to say that the communitization agreements which were circulated subsequent to the filing of notice of intention to drill were all executed by the working interest owners, or other parties, after that date of notice of intention to drill, is that correct?

A Yes, sir, that is correct.

Q Can you state whether or not any of those communitization agreements were fully executed by the working interest owners prior to September 1, 1953?

A No, sir, I cannot state they were fully executed on that date.

Q To your knowledge, were any of them in any of the units involved here, fully executed by the working interest owners prior to that time?

A ~~No, sir, I cannot state they were fully executed; they were~~

partially executed, some of them.

Q Mr. Hamblin, the reason I am asking that, you have offered in evidence communitization agreements partially executed in Cases 710, 711 and 712, but not 706, 708 and 709. Were communitization agreements prepared and circulated in those cases?

A Yes, sir, they were.

Q Can you state whether any of those agreements were fully executed by other than the Yager interest, prior to September 1, 1953?

A No, sir, I cannot state that.

Q Do you have copies of those communitization agreements in those three cases?

A Yes, sir, we do, copy of the ones that were subsequently executed.

Q Can you obtain copies of those and furnish them as exhibits in these cases?

A Yes, sir, I assume we can.

MR. CAMPBELL: Mr. Woodward, would you have--

MR. WOODWARD: We would have no objection to submitting such communitization agreements. As a matter of fact, the subsequently communitized agreements, wherever they formulized, and uncommunitized have already been submitted as exhibits, and to our understanding, they are substantially in the same form and terms. As I understand the burden of Mr. Campbell's inquiry, it is to the nature of the agreement that, and three of the cases were circulated prior to September 1st, and those that were executed afterwards. We do not have in our possession those agreements circulated prior to September 1st. It is our understanding that they are substantially

the same as the others; but if necessary we will introduce those.

MR. CAMPBELL: Mr. Woodward, it seems to me, to make the records complete, that the same documents should be introduced in the first three cases as in the other cases. And, as I gathered from your introduction of evidence here, you did not submit the formalized communitization agreements in 706, 708 and 709.

MR. WOODWARD: They have not been submitted because they have not been deemed relevant in those cases where El Paso owned outright, the working interest in the working tract. As I say, we have no objection to submitting them, but we do not submit them with the representation that they are relevant.

MR. CAMPBELL: We would like to request, for the purpose of completing the record, that they be offered and submitted to the Commission as additional exhibits in Cases 706, 708 and 709, and simply provide the additional designation that would be appropriate in those cases.

MR. WOODWARD: Weren't those submitted?

A Some of those I know had been submitted at the last hearing.

MR. WOODWARD: We will be very happy to check and submit, to complete the records, at your request, all of the communitization agreements that have been executed, that have not heretofore been introduced as exhibits, either at this rehearing or the previous one.

MR. CAMPBELL: That is satisfactory.

Q (By MR. CAMPBELL) Mr. Hamblin, with regard to the unit involved in Case 706, on which you have commenced a Pictured Cliff well and subsequently deepened it for Mesaverde well, the only document which you have from the Oil Conservation Commission,

relative to the deepening, is your notice of intention to change plans, is that correct?

A That is correct.

Q And you have no notice of intention to drill with regard to that particular Mesaverde well?

A No, sir, just the notice of intention to change plans, which was approved by the Commission.

Q Mr. Hamblin, you stated that in Case Number 711, and the appropriate consolidated case, notice of intention to drill was approved by the United States Geological Survey, is that correct?

A Yes, sir, that is correct.

Q Was any approval of the notice of intention to drill obtained from the New Mexico Oil Conservation Commission?

A To my knowledge, they do not approve notices of intention to drill filed on Federal lands, except the notice approved by the United States Geological Survey.

Q Then your answer is they did not approve the notice of intention to drill, is that correct?

A That is correct, yes, sir.

Q Are there any other units on which the notice of intention to drill was approved by the United States Geological Survey and not by the New Mexico Oil Conservation Commission?

A Yes, sir, there is. There is notice of intention to drill on the Heaton Number 3, it was approved by the United States Geological Survey.

Q What case is that?

A 711.

Q West half of Section 32?

A Yes, sir, 32, 31 North, 11 West.

MR. MACEY: Pardon me. That also applies to the Koch Unit?

A That is correct, the Koch Pool Unit 1 was located on Federal land, and the notice of intention to drill was approved by the United States Geological Survey.

Q Mr. Hamblin, I believe you stated at the conclusion of your testimony that the formalized communitization agreements were prepared and circulated by El Paso Natural Gas Company out of an abundance of precaution, but you considered you had the full operating rights to drill a well and create the unit, is that correct?

A Yes, sir, that is correct.

Q But you considered at the time of the filing of the notice of intention to drill in each of those cases that you, El Paso Natural Gas Company had a right to dedicate all of the acreage, is that correct?

A Yes, sir.

(Marked Yager Exhibit R-4, for identification.)

Q Mr. Hamblin, I hand you a letter which has been identified as Yager Exhibit R-4, and ask you to state if that is a letter which you sent to Mr. Yager?

A Yes, sir, that is correct.

Q And what is the date of that letter?

A November 13, 1953.

Q Is that date subsequent to the date on which the notice of intention to drill was filed in each of these units involved here?

A Yes, sir.

MR. CAMPBELL: I am going to ask the witness to read the letter, and offer it in evidence.

MR. WOODWARD: I would like to look at it.... We note this letter states a number of legal conclusions, but have no objection to its admission, subject to that observation.

Q Mr. Hamblin, you refer in the caption to Saul Yager Lease in San Juan County, New Mexico. By that are you referring to leases involved in 706 through 712, now before the Commission?

A Yes, sir, for file purposes only.

Q Well, does your letter refer to any other leases of the Saul Yager Leases?

A No, sir, I don't believe so.

Q Would you read that letter to the Commission?

(Witness reads letter.)

MR. CAMPBELL: We would like to offer in evidence Yager's Exhibit R-4.

MR. MACEY: Without objection it will be received.

MR. CAMPBELL: I would like to request that we be permitted to obtain a photostatic copy of that letter and substitute it for the original.

MR. WOODWARD: Do we have a copy of that letter?

A We would like to have a copy of it also.

MR. CAMPBELL: I will be glad to obtain an extra copy and send it to counsel for the El Paso Natural Gas Company.

Q Now, Mr. Hamblin, at the time that this letter was written, November 13, 1953, you did not consider that the Yager acreage was consolidated, isn't that correct?

A No, sir, I considered that it was consolidated.

Q If you considered that it had been consolidated, what is the reason for your statement that the leases had expired?

A Well, there is a possibility that they had expired.

MR. CAMPBELL: That is all.

MR. MACEY: Anyone else have a question of the witness?

EXAMINATION

By MR. MACEY:

Q In reference to your Exhibit R-709, and the other documents, you have a number of letters from Three States, Western Natural and San Jacinto Petroleum Corporation, pertaining to this unit, that were introduced in evidence, namely, 709-A, B, C.

A Yes, sir.

Q I would like to know if there is any other agreement between your company and the other parties of interest in the northwest quarter of the northeast quarter of Section 27?

A Yes, sir, Mr. Macey, we had contacted those companies and told them of our intention and desires to drill that well in the east half of Section 27, 31 North, and they had agreed to join in the drilling of the Calloway Pool Unit Number 1 Well, and that is the only thing we have in writing to such agreement, which we can submit as exhibits.

Q I notice that in one of these documents they refer solely to an AFE for the drilling of a well. I presume that the AFE means authorization for expenditure, and you supplied a cost estimate on the well?

A Yes, sir, AFE is commonly known as authority or authorization for expenditure, and when someone executes an authority for that, it is common understanding that they have agreed to the drilling of the well and that the costs are reasonable and they will pay their proportionate cost of such drilling cost.

Q Is there any statement in any of the documents pertaining to the communitizations, or any letters involved that you have had between your company and the other interest owners, working interest owners, that contained any clauses that the leases would be reverted back out of the unit in the event a dry hole was drilled?

A No, sir.

Q In other words, --

A (Interrupting) If a dry hole was drilled, they would still all participate even in, just the same as if it were a commercial well.

MR. MACEY: Does anyone else have a question? If not the witness may be excused.

(Witness excused.)

MR. MACEY: Do you have anything further, Mr. Woodward?

MR. WOODWARD: I have nothing further on direct examination or presentation of evidence. I would like to make a concluding statement when Mr. Campbell is finished.

MR. MACEY: Mr. Campbell, do you have any direct?

MR. CAMPBELL: If the Commission please, we don't intend to offer any additional testimony or evidence in this case. I do have a statement I would like to make and then perhaps Mr. Woodward can make his statement.

MR. MACEY: You wish to have some time to consolidate? We will take a short recess.

(Recess.)

MR. MACEY: The hearing will come to order. Mr. Campbell?

MR. CAMPBELL: If the Commission please, at the outset I would like to allay some concern the Commission may feel and,

perhaps, others in the industry in the State, with regard to some of the principles that are involved in these cases. I would like to call to the attention of the Commission the fact that the pool, gas pool involved here, is covered by Commission Order Number R-110 and it is our position that those pool rules will supercede where they do not conflict, the general statutory provision in the requirement, concerning the establishment of units, proration units and drilling units.

I call the attention of the Commission to the fact that in Order R-110, which is the pool order involved here, there is a specific requirement that the unit is, in effect, not established, that the notice of intention to drill shall not be approved, unless all of the interests are consolidated by pooling agreement or otherwise. That provision is not a part of the gas pool rules in other pools of which I am acquainted, and I think there is a reason for it in this particular type of spacing. Order R-110 pertaining to the Blanco-Mesaverde Gas Pool does not fix the unit. It provides that they be 320 acres, but they may be north and south, or east and west. In other words, they are not square units, they are not 160 acres or 80 acres or 40 acres in the shape of a square. This leaves to the person entitled to drill the wells an option as to the direction in which those units shall go, and, in effect, authorizes him to establish them on bases that may be, perhaps, other than geological. They may be economic, they may be for the purpose of arranging his leasehold so that he may hold short-term leases. There may be any number of reasons why he would make an option to turn the units one way or the other. And, I think in those kind of situations, it is entirely appropriate and I think, perhaps, necessary to protect the

rights of all concerned, that all of the interest, working and royalty, be consolidated before the unit is formed. That situation, in my judgment, may not apply in cases where the units are square, and there is no option left to anyone to decide for themselves where and how the unit shall be shaped.

And so, it is our basic position here that these cases are governed by Order Number R-110; that R-110 is unambiguous in that it requires that all interest be consolidated by pooling or otherwise before the unit, in effect, can be formed. To me that is the first question that the Commission must determine. It is, of course, I realize, largely a question of law, but whatever order the Commission enters, other than simply compulsorily pooling these interests as of the date of the order, necessarily is going to involve that legal determination.

The second question that I think is involved here, is that assuming that only working interests need to be consolidated in order to create the unit, when were those interests consolidated under this Order, R-110? That, of course, is the obvious reason for the exhibits offered here today by El Paso Natural Gas Company. I shall not undertake to argue that question. It is, of course, a legal question, one that, perhaps, cannot even be determined by this Commission. So far as we are concerned, the most recent order that the Commission has issued in these cases, insofar as it requires compulsory pooling as of the date of the order is perfectly satisfactory with us. The principal reason for our filing an application for rehearing was out of an abundance of precaution, so to speak, because we were not certain whether we would preserve our rights on appeal if we failed to file an application for re-

hearing after the Commission's second order was issued.

And, so we are requesting the Commission to issue its order compulsorily pooling the interest of Yager, et al, in these various units, as of the date of the order. We are taking the position that, insofar as units in this area are concerned, the consolidation is not completed until such time as the working interest owners and the royalty owners either agree voluntarily, or until they are compulsorily pooled under the authority of the Statutes. Thank you.

MR. MACEY: Mr. Woodward.

MR. WOODWARD: El Paso would like to state its position on a number of points. There will be no particular continuity between them. First, it is El Paso's position that recognition of these seven tracts as duly established drilling units is completely concise with the Commission Rules and Regulation. R-110 requires that all interest in these units be consolidated by agreement or otherwise, before the notice of intention to drill the unit well is approved. In these cases there was a consolidation of all interests, in our opinion, in the unit, which was accomplished by the consolidation of the operating rights and working interest on the date the notice of intention to drill was filed.

It has been suggested that the legal or statutory effect of the conservation laws of this state may be superceded by regulation. We will concede they may be augmented, but if the effect is provided by statute we do not believe it is in the power of the Commission to supercede that legal effect, or statutory effect.

Now, R-110 provides that these interests, working interests, or all interests, shall be consolidated by agreement or otherwise.

I think "or otherwise" means more than a compulsory pooling order; I think it might occur by reason of a merger of all working interests by reason of common ownership, by assignment, by the formulization of voluntary agreements.

It has also been suggested here that where the unit, the various spacing and allocation units are not fixed by the general field orders, but are, rather, to be determined by dedication of the operators, there is greater need for consolidating through agreement or compulsory integration, the interest of both the working interest owners and the royalty owners. We submit that the location of wells and the dedication of acreage thereto and the formation in which they are to be drilled are primary operating problems.

Now, in the exercise of operating rights as between the lessee and lessor, that is entirely a matter of private contract, and we do not believe this Commission has the obligation or, in fact, the authority to police the private contractual obligation of lessors and lessees. This does not mean that the lessor is without a remedy, or without protection. It has been determined in the recent Tenth Circuit decision, Phillips against Peterson, I believe, that there is an implied obligation to exercise good faith in the operation of operating rights, generally, of leases. If, in dereliction of this obligation the unit is improperly formed, or formed for an improper purpose, I think that is a matter for the Courts and not this Commission. I think the Commission can take official notice that after the well is drilled, the application for a change in plans is the only authorization provided for recomple-
tion of that well in another formation or zone, and serves the same purpose as the notice of intention to drill, designating the unit,

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or the new formation.

For that reason, so far as Case 706 is concerned, the controlling date, we feel, is the date the Commission authorized recompletion of the unit well as a Mesaverde well. I would like to make one comment with respect to Yager Exhibit Number 4, the letter which has been submitted in evidence, which we made no objection to. This letter, we feel, states a number of legal conclusions as to some of the ultimate issues of fact that are now pending before this Commission. And those conclusions and statements are, of course, not determinative of such basic and ultimate issues, so we recognize that is entirely in the province of the Commission to determine at its deliberation.

We would like to state again, that El Paso is not asking for any adjudication of title, which matter is beyond the Commission's authority by both parties. However, the Commission can and must make an initial appraisal on an application for drilling of a well, and it has authority to determine whether the drilling of such wells conform to the rules. By way of analogy, an auto license is necessarily issued upon such an appraisal of title, either through a certificate of title or an affidavit in lieu of it. But, no one, I think, would seriously contend that such appraisal constitutes adjudication of ownership of the automobile to which the tag is affixed. As stated by Mr. Campbell, he thoroughly concurs, and there appears to be two basic issues; one, whether the working interest in these reports were, in fact, consolidated by the Commission Rules on or before the drilling of the well was approved by the appropriate authority. Secondly, whether such consolidation of the working interest in these drilling units accomplishes, as a matter

of law, a communitization of all working interest.

The first question is a question, perhaps, of mixed fact and law. We will make no further comment on it, the evidence is in. As to the second question, in four of these units, El Paso contends that there was a consolidation of the working interest in these units by reason of various assignments of operating rights and leasehold interest, all owned by the same operator, and by reason of such common ownership there is such consolidation. As to that point the operator, of course, could not agree with himself, or such action would have been a vain and useless one. As to the other three there were agreements to communitize, which, by the undisputed testimony of Mr. Utz, was all that the Commission required on the date the notice of intention was approved. On the basis of those agreements to communitize, the unit wells were drilled, the acreage was dedicated, allowables was assigned, and pursuant to those agreements and such action, communitization agreements have actually been executed by all of the working interest owners. For these reasons we ask the Commission to reissue substantially its first order in this case, recognizing each of these seven units as a communitized tract, in accordance with Order R-110, and that the communitization or consolidation of interest in each of these tracts was accomplished by the consolidation of the working interest.

MR. CAMPBELL: If the Commission please, Mr. Woodward made one comment, I am certain, unintentionally, but I would like to ask him if it can't be corrected because it could have a bearing on some of the legal effects of the future. I believe he indicated that after the notice of intention to drill was approved, and the wells drilled, that allowables were assigned. I believe that the

fact is that this field was not subject to prorationing at that time, and as I understand, it was not until October, 1955. Am I correct in that?

MR. MACEY: The date of the start of proration, is that what you are referring to?

MR. CAMPBELL: In the Blanco-Mesaverde Pool.

MR. MACEY: March, 1955.

MR. WOODWARD: We are entirely in agreement with that, and would like to correct our statement to show that as of the date proration was started, the allowable was assigned to the acreage dedicated on the notice of intention to drill.

MR. MACEY: Does anyone have anything further in these cases? If there is nothing further, we will take the cases under advisement, and the hearing is adjourned.

STATE OF NEW MEXICO)
 : SS.
COUNTY OF BERNALILLO)

I, THURMAN J. MOODY, Court Reporter, do hereby certify that the foregoing and attached transcript of proceedings before the Oil Conservation Commission of the State of New Mexico is a true and correct record to the best of my knowledge, skill and ability.

WITNESS MY HAND, this, the 30th day of March, A. D., 1956.


Court Reporter