

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE NO. 5085  
Order No. R-4648

APPLICATION OF MICHAEL P. GRACE II  
AND CORINNE GRACE FOR AN EXCEPTION  
TO ORDER NO. R-1670, AS AMENDED,  
EDDY COUNTY, NEW MEXICO.

APPLICATION FOR RE-HEARING

COMES NOW MICHAEL P. GRACE and CORINNE GRACE, by and through  
their attorneys, and apply to the Commission for a re-hearing of  
the above captioned cause, and hereby set forth the matters in the  
Commission's Order dated the 27th day of October, 1973, which  
applicant's believe to be erroneous: Findings numbered (2), (5),  
(6), (7), (8), (9), (10), (11), (12), (13), and (14). Furthermore,  
applicant's state that paragraphs 1 and 2 of the Order are not  
supported by substantial evidence.

  
\_\_\_\_\_  
FARRELL L. LINES  
500 Second Street, N.W.  
Albuquerque, New Mexico 87101

  
\_\_\_\_\_  
FREDERICK B. HOWDEN  
400 Seventh Street, N.W.  
Albuquerque, New Mexico 87101

*at. order of 11/2/73  
makes this question  
moot. Will be  
withdrawn by Howden*

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

October 29, 1973

C  
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Y

F. B. Howden, Esq.  
400 Seventh Street, N.W.  
Albuquerque, New Mexico 87101

Re: Case No. 5085

Dear Mr. Howden:

This letter is to confirm in writing my decision not to grant a moratorium pursuant to your request in the above-captioned case.

It was my understanding, that from the very outset of this controversy I had made it clear to Mr. Lines that the facts in this case were not such as would allow me to exercise the power to grant a moratorium conferred on me by Rule 15(G) of Order No. R-1670.

This rule reads as follows:

RULE 15 (G). The Secretary-Director of the Commission shall have authority to grant a pool-wide moratorium of up to three months of the shutting in of gas wells in a pool during periods of high-demand emergency upon proper showing that such exists, and that a significant number of the wells in the pool are subject to shut-in pursuant to the provisions of Rules 15 (A) or 15 (B) above. No moratorium beyond the aforementioned three months shall be granted except after notice and hearing.  
(emphasis added)

At the present time, only the Grace-Atlantic No. 1 well is subject to shut-in and therefore the necessary preconditions for my granting administrative approval of a moratorium do not exist.

I have enclosed a copy of Order No. R-4569 which added Rule 15 (G) to Order No. R-1670. As you will note in Finding (5), this rule was designed to meet energy needs during temporary periods of high demand. The type of energy shortage to which

OIL CONSERVATION COMMISSION

P. O. BOX 2088

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F. B. Howden, Esq.

October 29, 1973

Page 2

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you refer in your complaint is not the type of temporary situation for which Rule 15 (G) was promulgated. Granting temporary relief in the present situation would neither assist efforts to supply needed energy in the period of time immediately ahead nor would it be consistent with this Commission's statutorily mandated efforts to protect the correlative rights of the owners of each property in this pool.

I would further call to your attention that paragraph No. 11 of your application in this case requests that a moratorium "...of up to 3 months...." be granted. The last sentence of Rule 15 (G) provides for notice and hearing when a moratorium of more than three months is requested not when one of three months or less is requested. For this reason the Commission did not hear testimony on this point at the hearing on October 25, 1973.

I trust this makes my position clear to you.

Very truly yours,

A. L. PORTER, Jr.  
Secretary-Director

ALP/WFC/dr

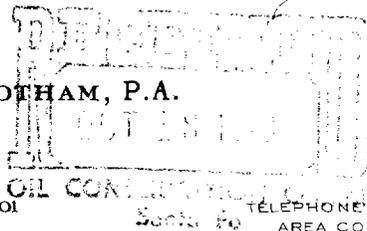
cc: Ferrell Lines  
Michael P. Grace

enclosure

LAW OFFICES OF  
HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

210 HINKLE BUILDING  
POST OFFICE BOX 1837

ROSWELL, NEW MEXICO 88201



GEORGE H. HUNKER, JR.  
DON M. FEDRIC  
RONALD M. HIGGINBOTHAM

October 17, 1973

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

Re: NMOCC 5085  
Grace-Atlantic No. 1  
South Carlsbad-Morrow Gas

Dear Mr. Porter:

In connection with the above matter, we hand you herewith D. L. Hannifin and Joe Don Cook Motion to Intervene, which we ask that you please file. Accompanying the Motion is an Application by D. L. Hannifin and Joe Don Cook for Intervention and for other relief in connection with the pending case. We are sending a copy of the Motion and Application to Michael P. Grace, II, and to his Attorneys of Record in the above styled cause.

Should you have any questions with regard to this Intervention, please do not hesitate to write or call.

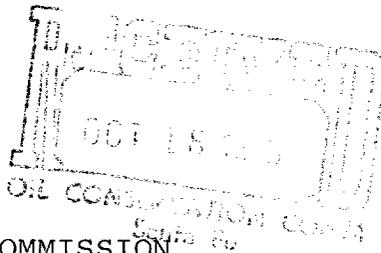
Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

  
George H. Hunker, Jr.

GHH:dd  
Encls.

cc: Messrs. F. B. Howden,  
Samuel A. Francis,  
Farrell L. Lines, w/encls.  
cc: Michael P. Grace, II, w/encls.  
cc: Messrs. D. L. Hannifin,  
Joe Don Cook, w/encls.



BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE )  
APPLICATION OF )  
MICHAEL P. GRACE, II, )  
UNDER RULES 15(d), 15(e) )  
and 15(g) FOR A MORATORIUM )  
ON THE SHUTTING IN OF )  
WELL NO. 1, UNIT J, )  
SECTION 24, TOWNSHIP 22 )  
SOUTH, RANGE 26 EAST, )  
SOUTH CARLSBAD MORROW POOL. )

No. 5085

MOTION TO INTERVENE OF APPLICANTS FOR INTERVENTION,  
DAN HANNIFIN AND JOE DON COOK

COME NOW, Dan Hannifin and Joe Don Cook, Applicants for Intervention, hereinafter referred to as Applicants, and move the Commission for an Order permitting them to intervene in the above captioned matter, and in support thereof, state as follows:

1. That Applicants are the leasehold owners of record of an oil and gas lease covering the SE¼ of Section 24, Township 22 South, Range 26 East, N.M.P.M., South Carlsbad Field, Eddy County, New Mexico, which said tract, together with the SW¼ of Section 24, Township 22 South, Range 26 East, was dedicated to a 320-acre spacing unit for the drilling of the No. 1 Grace-Atlantic Well to test the Morrow formation underlying said tract.

2. That said well was commenced January 28, 1973, by Operator, Michael P. Grace, II, and completed March 15, 1973, as a producing gas well from the South Carlsbad Morrow Gas Pool, Eddy County, New Mexico, with sale of gas production therefrom commencing on or about April 16, 1973.

3. That on or about October 2, 1973, the Oil Conservation Commission by its Order No. SF-302, ordered that said well be totally shut-in as of the date of said Order, as a result of

overproduction of said well in excess of Commission fixed allowable.

4. That Applicants' interest in and to said tract and said well thereon, may be adversely affected by any further Orders or Decisions in this action, and disposition of the claim or claims of Michael P. Grace, II, may impair or impede Applicants' ability to protect that interest, and, therefore, Applicants are entitled as of right to intervene in this matter.

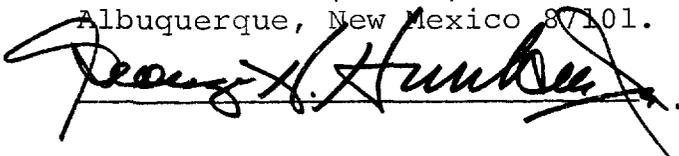
5. That Applicants have claims and matters which have questions of fact and/or law in common with the claims being made herein by Michael P. Grace, II, which claims of the Applicants are more fully set forth in the annexed application attached hereto, which the Applicants submit in connection with this Motion, requesting of the Commission, that an Order be entered allowing the Applicants to intervene herein, and that a date for hearing be set to hear the Applicants' attached application at the same time that the Commission hears the application of Michael P. Grace, II.

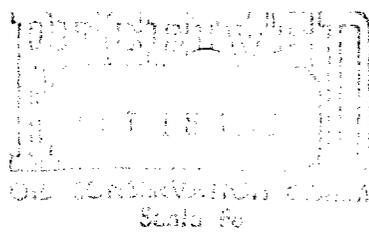
Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

By   
Attorneys for Applicants *10-17-73*  
P. O. Box 1837  
Roswell, New Mexico 88201

I hereby certify that I have mailed postage prepaid a copy of the foregoing pleading this 17th day of October, 1973, to Michael P. Grace, II, P. O. Box 1418, Carlsbad, New Mexico 88220, and to his Attorneys, F. B. Howden, Samuel A. Francis and Farrell L. Lines, 400 - 7th St., N.W., Albuquerque, New Mexico 87101.





BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

APPLICATION OF DAN L. HANNIFIN  
AND JOE DON COOK FOR INTERVENTION  
IN THE REFERENCED MATTER; FOR AN  
ORDER DIRECTING DISTRIBUTION OF  
WITHHELD PRODUCTION FUNDS; FOR  
AN ORDER RELIEVING OPERATOR,  
MICHAEL P. GRACE, II, AND  
DESIGNATING APPLICANTS AS OPERATOR;  
AND FOR AN ORDER FOR RELIEF UNDER  
COMMISSION RULES 15(d) and 15(e).

No. 5085

Re: In The Matter of The Application  
of Michael P. Grace, II, under  
Rules 15(d), 15(e), and 15(g)  
for a Moratorium on the Shutting-  
In of Well No. 1, Unit J, Section  
24, Township 22 South, Range 26  
East, South Carlsbad, Morrow  
Pool, Eddy County, New Mexico.

COME NOW Dan L. Hannifin and Joe Don Cook, Applicants for  
Intervention herein, under Motion filed, and make application to  
the Oil Conservation Commission of the State of New Mexico for  
the following relief.

CAUSE I

1. Applicants are the leasehold owners of record of an oil  
and gas leasehold estate covering the SE $\frac{1}{4}$  of Section 24,  
Township 22 South, Range 26 East, N.M.P.M., Eddy County, New  
Mexico. Pursuant to Case Nos. R-4819 and R-4836, heard before  
an examiner of the Oil Conservation Commission on September 27,  
1972, Order No. R-4432, dated November 8, 1972, was issued which  
force pooled the S $\frac{1}{2}$  of Section 24, Township 22 South, Range 26  
East, N.M.P.M., South Carlsbad, Morrow Gas Pool, Eddy County,  
New Mexico, which Order named Michael P. Grace, II, the Operator  
of said unit, established a risk factor of 25% to be assessed  
against any non-consenting working interest, and authorized the  
drilling of a well for the subject unit to be drilled at a  
standard location for the South Carlsbad-Morrow Gas Pool.

2. That the SE $\frac{1}{4}$  of said section is subject to a royalty payment of 18.75%, and the working interest ownership of said SE $\frac{1}{4}$  is 81.25% and that the SW $\frac{1}{4}$  of said section is subject to a royalty and overriding royalty payment of 25%, and the working interest ownership of said SW $\frac{1}{4}$  of Section 24 is 75%.

3. That subsequent to the issuance of Order No. R-4432, Applicant, D. L. Hannifin, et ux, filed with the Commission a Statement of Non-Consent in accordance with the Order of the Commission.

4. On January 28, 1973, the Operator caused to be commenced the drilling of a well designated as the Grace-Atlantic Well No. 1 located 1,980 feet from the South line and 1,980 feet from the East line of said section, to a proposed depth of 12,100 feet to test the Morrow formation, with the S $\frac{1}{2}$  of said Section 24 being dedicated to the well, and with said well being completed as a producible gas well on or about March 15, 1973.

5. That on or about March 29, 1973, said well was tested and found to have a calculated absolute open flow potential of 65,737 mcf per day from perforations in the Morrow formation from 11,424 feet to 11,444 feet, and on or about April 16, 1973, Operator commenced the sale of gas from said well to El Paso Natural Gas Company.

6. On or about July 30, 1973, Applicants Dan L. Hannifin and Joe Don Cook made application to the Commission seeking a determination of the reasonable well costs of the Grace-Atlantic Well, and a determination when Michael P. Grace, II, had been fully compensated for all reasonable well costs and the 25% risk charges and the prorata share of reasonable well costs attributable to Applicants.

7. That by Order of the Commission dated September 28, 1973 (Order No. R-4432-A), it was determined that Applicants' portion of the total well costs, plus the 25% risk factor was paid out at

7:00 A.M., June 26, 1973, and that monies held in escrow by the American Bank of Carlsbad derived from the sale of gas from and after said date, were to be released to Applicants, subject to agreement in writing between Applicants and Michael P. Grace, II, as to future arrangements, escrow, bonding or whatever would be satisfactory to the parties involved, covering the difference, if any, between current sales price of gas from the well and future sales price of gas.

8. Applicants have, as directed by the Commission, made both written and oral requests of Michael P. Grace, II, to enter into an agreement covering future gas sales from said well; however, Michael P. Grace, II, has failed or refused to affirmatively respond to said requests.

9. That escrow funds in the American Bank of Carlsbad to which Applicants are entitled are inaccessible to Applicants as a result of the refusal or failure of Michael P. Grace, II, to enter into an agreement with Applicants as ordered by the Commission, and Applicants require and seek an appropriate Order from the Commission in protection of their interests, and for relief in obtaining withheld funds.

WHEREFORE, Applicants request that the Commission issue an Order directing immediate release of all funds due the Applicants from the sale of gas from said well after 7:00 A.M., June 26, 1973, which may be held by the American Bank of Carlsbad, without requirement of any written agreement between Applicants and Michael P. Grace, II.

CAUSE II

1. Applicants adopt and make a part of this Cause, paragraphs 1 through 8 of Cause I hereinabove set forth.

2. That since being designated as Operator for the Grace-Atlantic No. 1 Well, Michael P. Grace, II, has:

(a) From the date of initial well production, over-produced said well six (6) times in excess of Commission fixed monthly allowables.

(b) Failed, to the best of Applicants' knowledge, to pay oil and gas severance taxes or permitted Applicants' funds with which to pay taxes due the State of New Mexico, as determined by the New Mexico Oil and Gas Accounting Commission, in the sum of Twenty-Two Thousand, Eight Hundred Fifty Dollars, Ten Cents (\$22,850.10) and other sums, unknown to Applicants.

(c) Failed, to the best of Applicants' knowledge, to pay royalty monies due and owing to royalty owners under said Grace-Atlantic No. 1 Well, from the date of first production to the present date, thus subjecting Applicants to potential liability to the royalty owners under Applicants' lease, and endangering the status of Applicants' lease with this lease royalty owner.

(d) Failed to distribute monies due to Applicants after payout of Operator's costs, plus non-consent costs, for drilling and operating said well.

(e) Caused the Applicants to be required to petition the Commission for assistance in connection with distribution of monies due the Applicants from Operator after payout of said well.

(f) Failed or refused to enter into an agreement with Applicants under Order of the Commission with reference to future gas sales, thus preventing the distribution of escrowed funds to which Applicants are entitled.

(g) Caused the Applicants to again, in this proceeding, seek Commission assistance in connection with the distribution of monies due the Applicants from escrow funds held by the American Bank of Carlsbad, and for additional protection of the Applicants' rights.

(h) Caused possible loss of gas pressures under said well, as a result of continuous open flow overproduction of said well.

(i) From overproducing said well, have subjected the Applicants to potential claims of liability for correlative rights injury to owners of leases adjoining the Grace-Atlantic No. 1 Well.

2. That the negligence, malfeasance, intentional acts, omissions and/or imprudent and improper acts of Operator, Michael P. Grace, II, reflect a complete and utter disregard by Michael P. Grace, II, for the rights of Applicants, for the interest of the State of New Mexico, for the rights of royalty owners under said well, and for the rights of adjoining lease owners.

3. That Applicants are qualified to act as Operator of said well, or will cause said well to be prudently operated for the benefit and protection of all interested parties.

4. That Michael P. Grace, II, should be relieved as Operator of said well and Applicants should be designated as Operator for the same.

WHEREFORE, Applicants request that the Commission enter an Order relieving Michael P. Grace, II, as Operator of said Grace-Atlantic No. 1 Well, with concurrent appointment by the Commission of Applicants as Operator thereof.

CAUSE III

1. That although Operator, Michael P. Grace, II, has overproduced said Grace-Atlantic No. 1 Well in excess of allowable, Applicants believe that the complete shut-in of said well may possibly result in damage to the productive formation for said well.

2. That the Commission is empowered under Rule 15(e), as amended, to allow overproduction to be made up at a lesser rate, upon a showing at public hearing, that the same is necessary to avoid material damage to a well.

3. That the Secretary-Director of the Commission is authorized under Rule 15(d) of the Oil Conservation Commission Rules to permit a well subject to shut-in to maintain limited production upon proper showing that the same would cause undue hardship.

4. That the Applicants, the royalty owners under said well, and the State of New Mexico, who have suffered as a result of the imprudent operation of said well by Operator, Michael P. Grace, II, should not be penalized and caused further injury by the total shut-in of said well, resulting in undue hardship to the Applicants and other non-responsible parties, and possible economic waste through damage to said well.

5. That under proper operation, said well can be produced at a lesser rate to compensate for overproduction and avoid material damage to said well.

6. That said well can be properly and prudently operated by Applicants at a lesser productive rate to compensate for overproduction and to properly protect the rights of all parties interested therein.

WHEREFORE, Applicants request an Order from the Commission under Rule 15(d) and/or 15(e) allowing overproduction to be made up at a lesser rate, to avoid material damage to said well and to avoid undue hardship to the parties interested therein, but with said well to be operated in a proper fashion, by designation of Applicants as the Operator for said well.

Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

By   
Attorneys for Applicants <sup>10-17-73</sup>  
P. O. Box 1837  
Roswell, New Mexico 88201

I hereby certify that I have mailed postage prepaid a copy of the foregoing pleading this 17th day of October, 1973, to Michael P. Grace, II, P. O. Box 1418, Carlsbad, New Mexico 88220, and to his Attorneys, F. B. Howden, Samuel A. Francis and Farrell L. Lines, 400 - 7th St., N.W., Albuquerque, New Mexico 87101.



OIL CONSERVATION COMMISSION

P. O. BOX 2088  
SANTA FE, NEW MEXICO 87501

October 19, 1973

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Y

F. B. Howden, Samuel A. Francis,  
and Farrell L. Lines  
Attorneys at Law  
400 Seventh Street, N.W.  
Albuquerque, New Mexico 87101

Re: Michael P. Grace, Grace-Atlantic  
Well No. 1, Unit J, Section 24,  
Township 22 South, Range 26 East,  
NMPM, Eddy County, New Mexico

Gentlemen.

The New Mexico Oil Conservation Commission has received an application from D. L. Hannifin and Joe Don Cook through their attorney, George H. Hunker, Esq. for a hearing before the full Commission concerning the above-captioned well. A copy of this application is attached.

As you will note this application lists a number of grievances against the present operator and requests (inter alia) that:

"...the Commission enter an Order relieving Michael P. Grace, II, as Operator of said Grace-Atlantic No. 1 Well, with concurrent appointment by the Commission of Applicants as Operator thereof."

Mr. Hunker has requested that the Commission contact you as attorneys for Mr. Grace in the hearing before the Commission for declaration of a moratorium on shutting in said well (Case 5085) set for hearing, Thursday, October 25, 1973, and request that you agree in writing to hearing the matters raised in this attached application on that date.

Should you not agree, this matter will be set for hearing by the Commission at a later date.

Sincerely,

WILLIAM F. CARR  
Special Assistant Attorney General

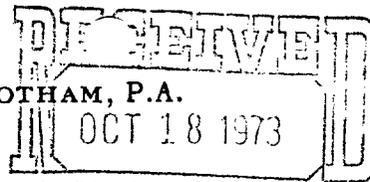
WFC/dr  
enclosure

LAW OFFICES OF  
HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

210 HINKLE BUILDING

POST OFFICE BOX 1837

ROSWELL, NEW MEXICO 88201



OIL CONSERVATION COMM  
Santa Fe TELEPHONE 622-2700  
AREA CODE 505

GEORGE H. HUNKER, JR.  
DON M. FEDRIC  
RONALD M. HIGGINBOTHAM

October 17, 1973

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

Re: NMOCC 5085  
Grace-Atlantic No. 1  
South Carlsbad-Morrow Gas

Dear Mr. Porter:

In connection with the above matter, we hand you herewith D. L. Hannifin and Joe Don Cook Motion to Intervene, which we ask that you please file. Accompanying the Motion is an Application by D. L. Hannifin and Joe Don Cook for Intervention and for other relief in connection with the pending case. We are sending a copy of the Motion and Application to Michael P. Grace, II, and to his Attorneys of Record in the above styled cause.

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Respectfully submitted,

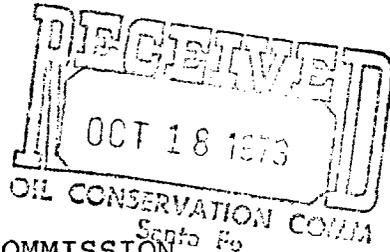
HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

A handwritten signature in cursive script, appearing to read "George H. Hunker, Jr.", written over a horizontal line.

George H. Hunker, Jr.

GHH:dd  
Encls.

cc: Messrs. F. B. Howden,  
Samuel A. Francis,  
Farrell L. Lines, w/encls.  
cc: Michael P. Grace, II, w/encls.  
cc: Messrs. D. L. Hannifin,  
Joe Don Cook, w/encls.



BEFORE THE OIL CONSERVATION COMMISSION

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IN THE MATTER OF THE )  
APPLICATION OF )  
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UNDER RULES 15(d), 15(e) )  
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SECTION 24, TOWNSHIP 22 )  
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SOUTH CARLSBAD MORROW POOL. )

No. 5085

MOTION TO INTERVENE OF APPLICANTS FOR INTERVENTION,

DAN HANNIFIN AND JOE DON COOK

COME NOW, Dan Hannifin and Joe Don Cook, Applicants for Intervention, hereinafter referred to as Applicants, and move the Commission for an Order permitting them to intervene in the above captioned matter, and in support thereof, state as follows:

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2. That said well was commenced January 28, 1973, by Operator, Michael P. Grace, II, and completed March 15, 1973, as a producing gas well from the South Carlsbad Morrow Gas Pool, Eddy County, New Mexico, with sale of gas production therefrom commencing on or about April 16, 1973.

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overproduction of said well in excess of Commission fixed allowable.

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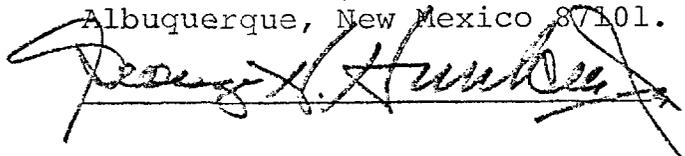
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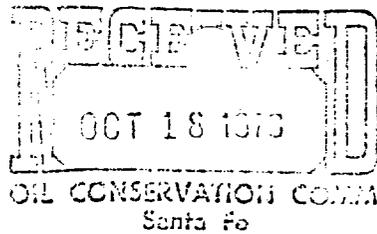
Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

By   
Attorneys for Applicants 10.17.73  
P. O. Box 1837  
Roswell, New Mexico 88201

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BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

APPLICATION OF DAN L. HANNIFIN  
AND JOE DON COOK FOR INTERVENTION  
IN THE REFERENCED MATTER; FOR AN  
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MICHAEL P. GRACE, II, AND  
DESIGNATING APPLICANTS AS OPERATOR;  
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No. 5085

Re: In The Matter of The Application  
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Intervention herein, under Motion filed, and make application to  
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drilling of a well for the subject unit to be drilled at a  
standard location for the South Carlsbad-Morrow Gas Pool.

2. That the SE $\frac{1}{4}$  of said section is subject to a royalty payment of 18.75%, and the working interest ownership of said SE $\frac{1}{4}$  is 81.25% and that the SW $\frac{1}{4}$  of said section is subject to a royalty and overriding royalty payment of 25%, and the working interest ownership of said SW $\frac{1}{4}$  of Section 24 is 75%.

3. That subsequent to the issuance of Order No. R-4432, Applicant, D. L. Hannifin, et ux, filed with the Commission a Statement of Non-Consent in accordance with the Order of the Commission.

4. On January 28, 1973, the Operator caused to be commenced the drilling of a well designated as the Grace-Atlantic Well No. 1 located 1,980 feet from the South line and 1,980 feet from the East line of said section, to a proposed depth of 12,100 feet to test the Morrow formation, with the S $\frac{1}{2}$  of said Section 24 being dedicated to the well, and with said well being completed as a producible gas well on or about March 15, 1973.

5. That on or about March 29, 1973, said well was tested and found to have a calculated absolute open flow potential of 65,737 mcf per day from perforations in the Morrow formation from 11,424 feet to 11,444 feet, and on or about April 16, 1973, Operator commenced the sale of gas from said well to El Paso Natural Gas Company.

6. On or about July 30, 1973, Applicants Dan L. Hannifin and Joe Don Cook made application to the Commission seeking a determination of the reasonable well costs of the Grace-Atlantic Well, and a determination when Michael P. Grace, II, had been fully compensated for all reasonable well costs and the 25% risk charges and the prorata share of reasonable well costs attributable to Applicants.

7. That by Order of the Commission dated September 28, 1973 (Order No. R-4432-A), it was determined that Applicants' portion of the total well costs, plus the 25% risk factor was paid out at

7:00 A.M., June 26, 1973, and that monies held in escrow by the American Bank of Carlsbad derived from the sale of gas from and after said date, were to be released to Applicants, subject to agreement in writing between Applicants and Michael P. Grace, II, as to future arrangements, escrow, bonding or whatever would be satisfactory to the parties involved, covering the difference, if any, between current sales price of gas from the well and future sales price of gas.

8. Applicants have, as directed by the Commission, made both written and oral requests of Michael P. Grace, II, to enter into an agreement covering future gas sales from said well; however, Michael P. Grace, II, has failed or refused to affirmatively respond to said requests.

9. That escrow funds in the American Bank of Carlsbad to which Applicants are entitled are inaccessible to Applicants as a result of the refusal or failure of Michael P. Grace, II, to enter into an agreement with Applicants as ordered by the Commission, and Applicants require and seek an appropriate Order from the Commission in protection of their interests, and for relief in obtaining withheld funds.

WHEREFORE, Applicants request that the Commission issue an Order directing immediate release of all funds due the Applicants from the sale of gas from said well after 7:00 A.M., June 26, 1973, which may be held by the American Bank of Carlsbad, without requirement of any written agreement between Applicants and Michael P. Grace, II.

## CAUSE II

1. Applicants adopt and make a part of this Cause, paragraphs 1 through 8 of Cause I hereinabove set forth.

2. That since being designated as Operator for the Grace-Atlantic No. 1 Well, Michael P. Grace, II, has:

(a) From the date of initial well production, over-produced said well six (6) times in excess of Commission fixed monthly allowables.

(b) Failed, to the best of Applicants' knowledge, to pay oil and gas severance taxes or permitted Applicants' funds with which to pay taxes due the State of New Mexico, as determined by the New Mexico Oil and Gas Accounting Commission, in the sum of Twenty-Two Thousand, Eight Hundred Fifty Dollars, Ten Cents (\$22,850.10) and other sums, unknown to Applicants.

(c) Failed, to the best of Applicants' knowledge, to pay royalty monies due and owing to royalty owners under said Grace-Atlantic No. 1 Well, from the date of first production to the present date, thus subjecting Applicants to potential liability to the royalty owners under Applicants' lease, and endangering the status of Applicants' lease with this lease royalty owner.

(d) Failed to distribute monies due to Applicants after payout of Operator's costs, plus non-consent costs, for drilling and operating said well.

(e) Caused the Applicants to be required to petition the Commission for assistance in connection with distribution of monies due the Applicants from Operator after payout of said well.

(f) Failed or refused to enter into an agreement with Applicants under Order of the Commission with reference to future gas sales, thus preventing the distribution of escrowed funds to which Applicants are entitled.

(g) Caused the Applicants to again, in this proceeding, seek Commission assistance in connection with the distribution of monies due the Applicants from escrow funds held by the American Bank of Carlsbad, and for additional protection of the Applicants' rights.

(h) Caused possible loss of gas pressures under said well, as a result of continuous open flow overproduction of said well.

(i) From overproducing said well, have subjected the Applicants to potential claims of liability for correlative rights injury to owners of leases adjoining the Grace-Atlantic No. 1 Well.

2. That the negligence, malfeasance, intentional acts, omissions and/or imprudent and improper acts of Operator, Michael P. Grace, III, reflect a complete and utter disregard by Michael P. Grace, III, for the rights of Applicants, for the interest of the State of New Mexico, for the rights of royalty owners under said well, and for the rights of adjoining lease owners.

3. That Applicants are qualified to act as Operator of said well, or will cause said well to be prudently operated for the benefit and protection of all interested parties.

4. That Michael P. Grace, II, should be relieved as Operator of said well and Applicants should be designated as Operator for the same.

WHEREFORE, Applicants request that the Commission enter an Order relieving Michael P. Grace, II, as Operator of said Grace-Atlantic No. 1 Well, with concurrent appointment by the Commission of Applicants as Operator thereof.

### CAUSE III

1. That although Operator, Michael P. Grace, II, has overproduced said Grace-Atlantic No. 1 Well in excess of allowable, Applicants believe that the complete shut-in of said well may possibly result in damage to the productive formation for said well.

2. That the Commission is empowered under Rule 15(e), as amended, to allow overproduction to be made up at a lesser rate, upon a showing at public hearing, that the same is necessary to avoid material damage to a well.

3. That the Secretary-Director of the Commission is authorized under Rule 15(d) of the Oil Conservation Commission Rules to permit a well subject to shut-in to maintain limited production upon proper showing that the same would cause undue hardship.

4. That the Applicants, the royalty owners under said well, and the State of New Mexico, who have suffered as a result of the imprudent operation of said well by Operator, Michael P. Grace, II, should not be penalized and caused further injury by the total shut-in of said well, resulting in undue hardship to the Applicants and other non-responsible parties, and possible economic waste through damage to said well.

5. That under proper operation, said well can be produced at a lesser rate to compensate for overproduction and avoid material damage to said well.

6. That said well can be properly and prudently operated by Applicants at a lesser productive rate to compensate for overproduction and to properly protect the rights of all parties interested therein.

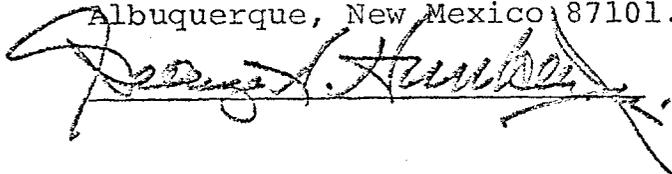
WHEREFORE, Applicants request an Order from the Commission under Rule 15(d) and/or 15(e) allowing overproduction to be made up at a lesser rate, to avoid material damage to said well and to avoid undue hardship to the parties interested therein, but with said well to be operated in a proper fashion, by designation of Applicants as the Operator for said well.

Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

By   
Attorneys for Applicants <sup>10-17-73</sup>  
P. O. Box 1837  
Roswell, New Mexico 88201

I hereby certify that I have mailed postage prepaid a copy of the foregoing pleading this 17th day of October, 1973, to Michael P. Grace, II, P. O. Box 1418, Carlsbad, New Mexico 88220, and to his Attorneys, F. B. Howden, Samuel A. Francis and Farrell L. Lines, 400 - 7th St., N.W., Albuquerque, New Mexico 87101.



Bill

NOTICE OF PUBLICATION  
STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION  
SANTA FE - NEW MEXICO

The State of New Mexico by its Oil Conservation Commission hereby gives notice pursuant to law and the Rules and Regulations of said Commission promulgated thereunder of the following public hearing to be held at 9 o'clock a.m. on OCTOBER 25, 1973, MORGAN HALL, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO.

STATE OF NEW MEXICO TO:

All named parties and persons having any right, title, interest or claim in the following case and notice to the public.

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian, whether or not so stated.)

CASE 5085:

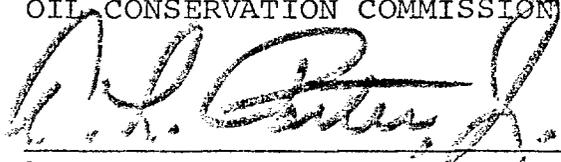
Application of Michael P. Grace and Corinne Grace for an exception to Order No. R-1670, as amended, Eddy County, New Mexico.

Applicants, in the above-styled cause, seek an exception to Rule 15(B) of the Prorated Gas Pool Rules for Southeast New Mexico, as promulgated by Order No. R-1670, as amended, for the Grace-Atlantic Well No. 1, located in Unit J of Section 24, Township 22 South, Range 26 East, NMPM, Eddy County, New Mexico, which well is more than six times overproduced with respect to its average allowable and is subject to shut-in pursuant to said Rule 15(B).

Pursuant to the provisions of Rule 15(E) of said Order No. R-1670, as amended, applicants seek an exception to said Rule 15(B) to permit overproduction to be made-up at a rate less than by complete shut-in, alleging material damage will result to said well if completely shut in.

GIVEN under the seal of the New Mexico Oil Conservation Commission at Santa Fe, New Mexico, on this 5th day of October, 1973.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION



A. L. PORTER, Jr., Secretary-Director

S E A L

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION  
OF MICHAEL P. GRACE, II, UNDER  
RULES 15 (d), 15 (e), and 15 (g)  
for a Moratorium on the shutting-in  
of Well Number 1, Unit j, Section 24,  
TWT 22S, RNG 26 S, South Carlsbad,  
Morrow Pool.

COMES NOW Michael P. Grace, II, by his attorneys Samuel,  
A. Francis, Frederick B. Howden, and Farrell L. Lines, and makes  
application to the Oil Conservation Commission for a moratorium  
of its shut-in order of October 2, Number SF-302, ordering that  
the Grace Atlantic Well, more fully described above, be shut-in  
as of October 2, 1973, and as grounds therefor states to the  
Commission as follows:

1. That the secretary-director of the Commission has  
been empowered under Rule 15 (d) as amended, to permit a well  
subject to shut-in to maintain limited production upon proper  
showing to the secretary-director that complete shut-in would  
cause undue hardship.

2. That attached hereto and made a part hereof is an  
affidavit by Kenneth F. Smith, the consulting engineer who has  
been familiar with the well since its first production, and who  
gives his professional opinion that undue hardship would accrue  
to the operator of the well because of the material damage that  
a complete shut-in will cause to the well.

3. That the Commission is under notice that the President  
of the United States declared this week a shortage of gas, and  
has prescribed drastic measures in an attempt to partially  
alleviate this crises; and that undue hardship will result to  
the general public if one of the largest producing wells in this  
State is shut-in during the very week of the national proclamation  
of gas shortage.

15 (d)  
under hardship  
to MPG

under hardship  
to Public

2(e)  
4. That the Commission is empowered under Rule 15 (e) as amended, to allow overproduction to be made up at a lesser rate, upon a showing of a public hearing that the same is necessary to avoid material damage to the well.

5. That reference is again made to the affidavit attached hereto and made a part hereof, by Kenneth F. Smith, the consulting engineer, who is more familiar with the well than any other person in the State, and has given his professional opinion that material damage will be done to the well if it is shut-in completely.

request hearing  
6. That the applicant requests an immediate public hearing to produce further testimony that material damage will be done to the well if it is complete shut-in, as is authorized in Rule 15 (e) as amended.

N.A.  
7. That the secretary-director of the Commission is empowered under Rule 15 (g), as amended, to grant a pool-wide moratorium of up to 3 months on the shutting in of gas wells in a pool during periods of high demand energy upon proper showing that such emergency exists, and that a significant number of the wells in the pool are subject to shut-in.

8. The secretary-director of the Commission is under notice, after the declaration of the President of the United States, within the last week, that we are currently in a period of high-demand energy and that an emergency gas shortage exists, which is believed by the applicant to be proper showing of the existence of a gas shortage emergency.

redistribute allowables  
9. That the south Carlsbad Morrow pool is at present significantly underproduced, and that all of the wells in the pool except for the subject well herein, and two others, are producing to capacity, and that if the underproduced allowables were not redistributed as they should be, and as they were in June, the subject well would not be more than six times overproduced.

10. That in addition to the subject well herein, that Go Pogo Well, more fully described as Well #2 Sec. 24, Township 225, Range 26E is also borderline subject to shut-in pursuant to the provisions of the Commission's rules, and the subject well herein, the Go Pogo Well, represents 11% of the total production from the pool, and as such represents the significant number of the wells in the pool with regard to production capacity.

11. That because of the above showing, applicant requests that the secretary-director might grant the pool wide moratorium of up to 3 months while allocations are being redistributed, so that the wells can be curtailed to bring them within their allowable.

12. Applicant further requests that the Commission order a stay of its October 2, 1973, shut-in order pending the mandatory public hearing provision of Rule 15 (e), as amended, and such other hearings as are necessary to protect the rights of the applicant under the rules above mentioned, and to protect the interest of the general public during the time of the gas shortage crises.

*Stay requested*

*Samuel A. Francis*  
SAMUEL A. FRANCIS  
FREDERICK B. HOWDEN  
FARRELL L. LINES  
Attorneys for Applicant  
400 Seventh, N.W.  
Albuquerque, New Mexico 87101

A F F I D A V I T

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

COMES NOW KENNETH F. SMITH, having been first duly sworn upon his oath, and deposes and states as follows:

1. That I am an employee of Paul E. Cameron, Jr., Inc., a Petroleum Engineering Consulting firm based in Houston, Texas.

2. That I have been retained for a number of months by Michael Grace as an oil consultant.

3. That I have previously been qualified as an expert witness before the Oil Conservation Commission and have testified before the said Commission on a number of occasions in the past year.

4. That it is my understanding that a Shut-In Order has been issued by the New Mexico Oil Conservation Commission against the M. P. Grace II, Grace-Atlantic well located in Section 24, Township 22 S, Range 26 E, Eddy County, New Mexico.

5. That I have been familiar with the well during its entire production history. I have deliberately reduced the choke size on this well in small steps, testing its reaction along the way.

6. That because of the aggravated energy crises, El Paso Natural Gas requested of the Graces a substantial amount of gas production from this well to assist during the coming winter months.

7. In my opinion, a complete shut in, followed by a return to full production to meet the request of El Paso Natural Gas, would amount to rocking the well and would cause damage to the well.

8. This well has been flowing at its present rate with a surface pressure only 125 pounds per square inch short of 2,000 P.S.I. I have good reason to believe that this is by far the highest pressure of any well in this area and zone with a like amount of production and production rates.

9. If the well is treated as a majority of the other wells in the field, a shut in would have an even more drastic impact on the well, and could create more danger to the well itself than like actions would do to lesser wells in this field.

10. I make these statements based on my knowledge of the expert testimony presented to the New Mexico Oil Conservation Commission proration hearing on April 19, 1972. The extent of the above mentioned damage can only be ascertained in its fullest extent by a complete reservoir study.

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KENNETH F. SMITH

SUBSCRIBED AND SWORN TO before me this 4<sup>th</sup> day of October, 1973.

S/  
NOTARY PUBLIC

My Commission Expires:  

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BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
COMMISSION OF NEW MEXICO FOR  
THE PURPOSE OF CONSIDERING:

CASE NO. 5085  
Order No. R-4648

APPLICATION OF MICHAEL P. GRACE II  
AND CORINNE GRACE FOR AN EXCEPTION  
TO ORDER NO. R-1670, AS AMENDED,  
EDDY COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on October 25, 1973, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 27th day of October, 1973, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That applicants, Michael P. Grace II and Corinne Grace, seek an exception to Rule 15(B) of the Prorated Gas Pool Rules for Southeast New Mexico as promulgated by Order No. R-1670, as amended, for the Grace-Atlantic Well No. 1 located in Unit J of Section 24, Township 22 South, Range 26 East, NMPM, Eddy County, New Mexico, which well is more than six times overproduced with respect to its average monthly allowable and is subject to shut-in pursuant to said Rule 15(B).

(3) Pursuant to the provisions of Rule 15(E) of said Order No. R-1670, as amended, applicants seek an exception to said Rule 15(B) to permit overproduction to be made up at a rate less than by complete shut-in, alleging that material damage will result to said well if completely shut in.

-2-

Case No. 5085

Order No. R-4648

(4) That the applicants have submitted evidence for the purpose of showing that the Grace-Atlantic No. 1 well is not overproduced more than six times its average monthly allowable if proration formulas are calculated in the manner suggested by applicants.

(5) That applicants have failed to show that the Commission's method of calculating well allowables is incorrect or in contradiction or violation of Statutes, Rules, Regulations, or Orders relating to the Commission's prorationing functions and have failed to show why their method of calculating well allowables should be substituted for the Commission's method.

(6) That applicants' suggested method of calculating well allowables contains arithmetical errors which preclude its use in determining the overproduced status of the Grace-Atlantic No. 1 well, even if its use were otherwise appropriate, which it is not.

(7) That applicants' Grace-Atlantic No. 1 well is more than six times overproduced with respect to its average monthly allowable.

(8) That applicants have failed to sustain their burden of proof to show that the well would be materially damaged by a complete shut-in.

(9) That applicants have failed to sustain their burden of proof in suggesting and justifying a minimum production level which would correct the well's overproduced status and prevent the alleged damage to the well.

(10) That substantial evidence has been presented to the effect that material damage would not occur to the well if it were properly shut in.

(11) That the evidence preponderates in favor of the engineering viewpoint that the well will not be materially damaged if it is properly shut in.

(12) That the correlative rights of the owners of other mineral interests in the pool could be adversely affected by the continued overproduction of the subject well.

Case No. 5085

Order No. R-4648

(13) That in order to promote conservation, prevent waste, and protect correlative rights, the subject well should be shut in upon the issuance of this order and should remain shut in until such time that the Commission issues written notification to the applicants that the well is no longer more than six times overproduced with respect to its average monthly allowable according to the records of the Commission.

(14) That the Commission should immediately notify applicants when the well is overproduced in an amount six times or less its average monthly allowable according to the records of the Commission in order that the well may at that time resume production.

IT IS THEREFORE ORDERED:

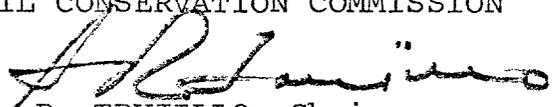
(1) That applicant's Grace-Atlantic Well No. 1, located in Unit J of Section 24, Township 22 South, Range 26 East, NMPM, South Carlsbad-Morrow Gas Pool, Eddy County, New Mexico, be shut in upon the issuance of this order and that it remain shut in until such time as the Commission issues written notification to the applicants that the well is no longer more than six times overproduced with respect to its average monthly allowable according to the records of the Commission.

(2) That the Commission shall immediately notify the applicants when the subject well is overproduced in an amount six times or less its average monthly allowable according to the records of the Commission in order that the well may at that time resume production.

(3) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

  
I. R. TRUJILLO, Chairman

ALEX J. ARMIJO, Member

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

S E A L

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