

BEFORE THE
OIL CONSERVATION COMMISSION OF NEW MEXICO

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

CASES NOS. 4764 and 4765
Order No. R-4354

CONSOLIDATED CASES:

APPLICATION OF BLACK RIVER CORPORATION
FOR COMPULSORY POOLING AND NON-STANDARD
PRORATION UNIT, EDDY COUNTY, NEW MEXICO.

APPLICATION OF MICHAEL P. GRACE AND
CORINNE GRACE FOR COMPULSORY POOLING
AND NON-STANDARD PRORATION UNIT, EDDY
COUNTY, NEW MEXICO.

APPLICATION FOR REHEARING

COMES NOW Rutter & Wilbanks Brothers, and pursuant to the provisions of Section 65-3-22, New Mexico Statutes, Annotated, 1953 Compilation, as amended, apply to the Oil Conservation Commission of New Mexico for rehearing of the above captioned Cases Nos. 4764 and 4765 and Order No. 4354 issued pursuant thereto, and in support thereof would show the Commission:

1. Applicants are the owners of royalty interests underlying the W/2 of Section 3, Township 26 South, Range 24 East, N.M.P.M., Eddy County, New Mexico, which are the subject matter of the hearing before the Commission and Order No. R-4354.

2. The Commission, by its Order No. 4354, approved a non-standard unit for gas production from the Washington Ranch-Morrow Gas Pool consisting of said W/2 of Section 3, Township 26 South, Range 24 East, said non-standard unit consisting of 407.20 acres.

3. By virtue of Rule 104, II (a) of the Rules and Regulations of the Oil Conservation Commission of New Mexico, revised

December 1, 1971, the normal spacing for the Washington Ranch-Morrow Gas Pool is 320 acres.

4. The Commission has never complied with the provisions of Section 65-3-14 (b), New Mexico Statutes, Annotated, 1953 Compilation, as amended, in establishing a proration unit for said Washington Ranch-Morrow Gas Pool.

5. Findings Nos. (7), (8), and (10) of Commission Order No. R-4354 are not supported by substantial evidence.

6. The evidence shows that the S/2 S/2 of Section 3, Township 26 South, Range 24 East is non-productive from the Lower Morrow formation, and is probable non-productive from the Upper Morrow formation, the Commission Order therefore attributing non-productive acreage to the well to which the non-standard unit has been dedicated.

7. The Commission has included in the unit, and thereby pooled royalty interests owned by applicant with royalty under acreage which the testimony and evidence shows will not be productive from the Lower Morrow formation, and is of questionable productivity in the Upper Morrow, resulting in economic loss to applicant.

8. The Commission has disregarded its own rules in dedicating a total of 407.20 acres to a well in the Washington Ranch-Morrow Gas Pool.

9. Order No. R-4354 will result in irreparable injury to the correlative rights of applicant and deprives applicant of its property without due process of law in that it will permit owners of royalty underlying acreage which is shown to be non-productive by the testimony and evidence to share in production from productive acreage underlying the non-standard unit, including that acreage under which applicant owns royalty interests.

10. The non-standard unit approved by the Commission has no reasonable relation to a 320-acre unit required by Rule 104, II (a), and in that respect is arbitrary and capricious.

11. Order No. R-4354 is not supported by substantial evidence, is arbitrary and capricious, and is therefore unlawful, invalid and void.

WHEREFORE applicant prays that the Commission grant a re-hearing in the above captioned cause, and that after rehearing as provided by law, the Commission vacate and set aside its Order No. R-4354 and enter its order approving a unit consisting of 310.43 acres comprising Lots 3, 4, 5 and 6, and N/S SW/4 of Section 3, Township 26 South, Range 24 East, N.M.P.M., Eddy County, New Mexico, or such other unit as more nearly conforms to the requirements of Rule 104, II (a) of the Commission's Rules.

Respectfully submitted,

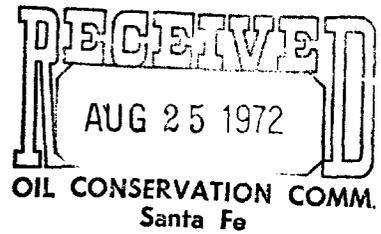
RUTTER & WILBANKS BROTHERS

BY Jason W. Kellahin
KELLAHIN & FOX
P. O. Box 1769
Santa Fe, New Mexico 87501

ATTORNEYS FOR APPLICANT FOR
REHEARING

BEFORE THE
OIL CONSERVATION COMMISSION OF NEW MEXICO

IN THE MATTER OF THE APPLICATION
OF RUTTER AND WILBANKS CORPORATION
FOR A HEARING DO NOVO AS TO
OIL CONSERVATION COMMISSION ORDERS
R-4353 AND R-4354.



A P P L I C A T I O N

Comes now RUTTER AND WILBANKS CORPORATION, and
applies to the Oil Conservation Commission of New
Mexico for a Hearing De Novo with regards to the Oil
Conservation Commission Orders R-4353 and R-4354 which
force pool E/2 of Section 3 and the W/2 of Section 3,
Township 26 South, Range 24 East, N.M.P.M.

Respectfully submitted,

RUTTER AND WILBANKS CORPORATION

BY W. F. Kellahin

KELLAHIN & FOX
P. O. Box 1769
Santa Fe, New Mexico 87501