

INFORMATION REPORT

BEFORE EXAMINER STAMETS
OIL CONSERVATION DIVISION

EXHIBIT NO. 1

CASE NO. 8198

Submitted by Eddy County

Hearing Date 6-6-84

May 18, 1984

The following is an accounting of the waste water used by Eddy County from August 1983 through April 1984. There are no figures prior to August 1983 as we were not required to log and report our waste water usage until that date.

<u>MONTH</u>	<u>SOUTH</u>	<u>NORTH</u>
August 1983	12 Loads	73 Loads
September 1983	1 Load	44 Loads
October 1983	2 Loads	18 Loads
November 1983	0	0
December 1983	6 Loads	15 Loads
January 1984	0	7 Loads
February 1984	123 Loads	58 Loads
March 1984	9 Loads	76 Loads
April 1984	<u>27 Loads</u>	<u>32 Loads</u>
Total	227 Loads	323 Loads

Combined Loads = 550 Total Loads of water used
A load will equal 150 barrels, a barrel will equal 42 gallons.

Based on figures obtained from Rowland Trucking, had we had to pay for the waste water that we used during this period, the rate would have been based on 10¢ per barrel plus \$43.74 per hour haulage fee. Average haul time on a load for the county equals two hours, and a load of water equaling 150 barrels at 10¢ per barrel would equal \$15.00, would give the following cost per load.

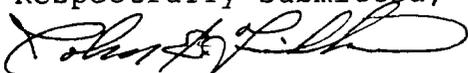
Two barrels @ \$43.74 per hour	\$87.48
150 barrels @ 10¢ per barrel	<u>15.00</u>
	\$102.48

Thus the 550 loads that Eddy County used from August 1983 through April 1984 would have cost \$56,364.00.

If this figure of \$56,364 is divided by 8, the actual number of months that water was hauled, it would give us an average monthly cost of \$7,045.50. (No water was hauled in November as this was our annual clean-up month).

If the average monthly cost of \$7,045.50 is multiplied by 12, the number of months in a year, it would give us an annual average cost of \$84,546.00 for the waste water usage.

Respectfully submitted,



John E. Finkbone
Eddy County Road Department

BEFORE EXAMINER STAMETS, OIL CONSERVATION DIVISION	
EXHIBIT NO.	<u>2</u>
CASE NO.	<u>8198</u>
Submitted by	<u>Eddy County</u>
Hearing Date	<u>6-6-84</u>

RESOLUTION NO: R- 84-17

WHEREAS, Eddy County requires a considerable amount of water for use by the Road Department for the construction of new roads and the repair of existing ones, and

WHEREAS, subject to the approval of the New Mexico Oil Conservation Division, Eddy County can meet its Road Department water requirements at no cost through the use of produced water from oil and gas wells in Eddy County, and

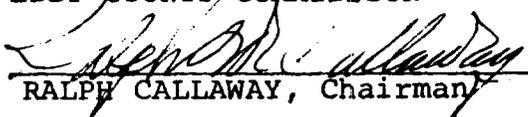
WHEREAS, the use of produced water can be without harm to the environment if the Road Department follows certain procedures, and

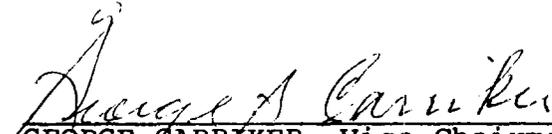
WHEREAS, it is in the best interest of the health, safety, and economy of Eddy County that all departments of Eddy County government cooperate fully with the Oil Conservation Division regarding the use and disposal and other regulation of produced water;

THEREFORE, BE IT RESOLVED BY THE EDDY COUNTY COMMISSION AS FOLLOWS:

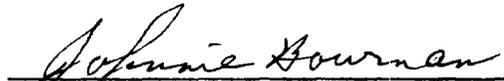
1. Produced water shall be used for the construction of new roads and repair of existing roads whenever practical and only subject to the prior approval of the District Office of the Oil Conservation Division; and
2. Prior to the use of produced water by the Road Department, the Oil Conservation Division shall be informed of each project by location, number of loads, and name of proposed hauler, and any other information it may require, in each instance where the use of produced water is proposed; and
3. A system of documentary records shall be kept which enable each hauler, the County, and the Oil Conservation Division to have a permanent written record of the use of produced water; and
4. Eddy County shall only utilize water haulers licensed, approved, and in good standing with the Corporation Commission and Oil Conservation Division; and
5. All departments of Eddy County government shall cooperate fully with the Oil Conservation Division in the reporting, investigating and prosecution of unauthorized disposal of produced water; and
6. Any Road Department employee violating the above procedures shall be subject to disciplinary action.

MOVED, SECONDED AND PASSED THIS 21st DAY OF MAY, 1984.

EDDY COUNTY COMMISSION

 RALPH CALLAWAY, Chairman

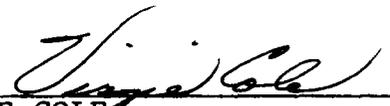


GEORGE CARRIKER, Vice-Chairman



JOHNNIE BOWMAN, Member

ATTEST:



VIRGIE COLE
COUNTY CLERK

BEFORE EXAMINER STANETS
OIL CONSERVATION DIVISION
MINUTES OF REGULAR MEETING OF THE EDDY COUNTY
EXHIBIT NO. 3 BOARD OF COUNTY COMMISSIONERS

COPY

CASE NO. 8/98

Submitted by *Eddy County*

Hearing Date *6-6-84*

May 21st, 1984

~~BE IT REMEMBERED~~ that the Eddy County Board of Commissioners held their regular meeting May 21st, 1984 at 8:35 A.M. in the Commissioners Courtroom, Room 201, Eddy County Courthouse, Carlsbad, New Mexico. The meeting was called to order at 8:35 A.M. by Chairman Callaway. Present were:

Ralph W. Callaway	Chairman
George S. Carriker	Vice Chairman
Johnnie Bowman	Member
Bob Stockwell	County Manager
Virgie Cole	County Clerk
Eastena Gregston	Deputy Clerk
Jeffrey Diamond	County Attorney
Juanita Grube	County Assessor
Louise Greene	County Treasurer
Tom Lee	Road Foreman, South Eddy County
Elizabeth Plourde	Administrative Assistant
Lavenia Jackson	Probate Judge
Margie Alexandre	Chief Deputy Treasurer
Jack Childress	Sheriff

Guests were:

Ernest Thompson	Mayor, Artesia
Bill Kirkes	Commissioner Candidate
Dan Liesner	County Extension Agent

BUDGET: CITY OF ARTESIA: '84-85 BUDGET REQUEST: Mayor Ernest Thompson appeared before the Board to request more money for funding for Artesia in the budget. He stated they were going to have to make certain improvements to the detention center, such as raising the wall, as well as make comparable raises in the salaries of the personnel working at the center whom he considered county employees, and he requested \$35,000 for Bowman Drive which the City of Artesia and State of New Mexico would match. He pointed out \$165,000 was originally requested by Artesia and in the proposed budget, \$145,000 was listed. These were additional requests he was submitting and he thought they were modest requests after looking at what the commissioners were doing for other cities in the county. Callaway asked for comments from the other commissioners and Mr. Bowman gave some of the history on the funding on the various facilities in Artesia which the county had furnished or matched funds, but it was on city land and all the buildings now belonged to the city and not the county. Mayor Thompson replied he never felt that way. Bowman stated again that although the county had furnished the funding, the city owned all of the various facilities. It was his opinion that the county should not provide all of the costs of maintaining the juvenile detention center but that the county should pay for the costs of holding a county juvenile and Artesia should pay the costs necessary for the holding of their city juveniles. He stated that the county paid only the costs of some of the juveniles in the Carlsbad center and he thought there was something wrong when the county paid all the expenses at the Artesia center. He wanted to hear from the

attorney. Mayor Thompson stated that there were county offices located in the Artesia City Hall, and the figure he asked for the juvenile center did not include the maintenance and utility costs for these offices. He did say the juvenile officer had an office in the center. Bowman said the county had used matching funds and furnished grant money to build all of the complex including the juvenile center. He brought out there were only 20 juveniles cared for last year, so that meant \$125,000 a year was being used to care for only 20 juveniles. Carriker corrected the amount to the new figure requested of \$135,470. At that point the Mayor said he came down to present the request, not to argue, and Bowman reiterated he did not think it was justified. Mayor Thompson replied he was trying to represent Artesia to the best of his ability and he felt the requests were modest. Mr. Carriker said the board had done what they could with the money they had, and the Mayor reminded him there was one \$145,000 item in the budget given to another city. He also reminded the board that Artesia was a part of the county "even though some people act like they don't think we are." No decision was made at this time regarding his request.

SUBDIVISIONS: MINERAL RIGHTS: Mr. J. A. Fairey told the board that he had worked with many subdivisions in the county for many years and in every dedication there is a clause saying the streets and alleys are dedicated to the use of the public with no mention of mineral rights. It was not his intent to pass any mineral rights, however, Mr. Dickerson, an attorney for Yates Petroleum, had stated the dedications presented a cloud on the title of the minerals and he was asking for a mineral deed from the county. Callaway stated he had talked with the County Surveyor on the matter after a call from Mr. Fairey. It was Callaway's opinion the dedications are not a dedication of the land but are a dedication of the easements and had nothing to do with the mineral rights as they stayed with the people who had the land. Surveyor John Lewis remarked that this was the first time anyone had questioned the mineral rights under the streets. Bowman did point out that he, Mr. Dickerson and Mr. Diamond had researched the question. Diamond stated that the Penasco Subdivision was the one in question and the attorneys for Yates Petroleum were Losee, Carson & Dickerson in Artesia. He further stated the dedication did provide that the county would receive certain described lands for street purposes. Mr. Dickerson had pointed out a case wherein the public body did receive a fee simple title, and it was his opinion the property in question is the property of the county as it would be when the county received property from tax sales. Mr. Diamond then read §3-20-11, N.M.S.A., 1978 Comp., which states:

"Dedication for public use. The endorsement and filing of a plat is a dedication of the land designated on the plat for public use. Such land is public property. Fee vests in the municipality if the dedicated land lies within the boundaries of a municipality."

It was Mr. Diamond's opinion that if only an easement were given, that was not the municipality's or county's property, only an ease-

ment; but the dedication on a plat made it the property of the county. He did point out that possibly at the time the subdivision plat was dedicated the minerals did not go, but since that time the law had been changed and, "I believe it does go according to the decision in 1974." Mr. Callaway questioned that a right of way given in 1963 would be affected by a test case in 1974, and Mr. Diamond's response was he thought the 1974 case would apply. Callaway's reply was that Diamond should go back and recover all those mineral rights and that the county might be rich. Mr. Fairey remarked that he only gave ingress and egress rights and an alley, nothing more, and that you "can't drill a well on a street." Diamond pointed out that the county would not give permission to drill a well on any property not suitable for such.

Callaway pointed out that Mr. Diamond was the county attorney and had stated his opinion. Callaway did not think the board could override Mr. Diamond at this point but Mr. Callaway did think Mr. Diamond was wrong. Callaway stated that was the way easements had been done in the past and he did not think they could be undone by a new opinion. Mr. Fairey pointed out how many dwellings were in the subdivision that were paying taxes to the county and on all of their deeds it says "surface estate only." Callaway said that if you do not say you are giving the mineral rights, they stay. Mr. Diamond corrected him in that if you do not mention the mineral rights, they go. Carriker stated he did not think the board could give an opinion without studying it further. For the clarification of the news media, Fairey stated again that the attorney for Yates Petroleum requested him to get a mineral deed from the commissioners for the mineral rights because there was a court decision that was retroactive. Surveyor John Lewis stated the only way title to land can be transferred is by deed, however, Mr. Diamond reminded him it can be by dedication of plats as that is how the county gets the right to build roads. When Fairey questioned again if the ruling could be made retroactive, Diamond replied that it could or Yates' attorney would not have considered it a cloud. Mr. Fairey stated to the board that he was not going to lay down and roll over on this item and he asked Mr. Callaway if the county did not have a well in town. After replying that it was pretty close, Callaway recalled that several years ago someone came to him and wanted to know who owned mineral rights on those streets and, "I was interested because I thought the county did but we found out the minerals were retained by the property owners when they gave the easement. That was about 10 years ago so we did nothing about it." Mr. Fairey said that the old plats were worded alike and nothing was said about mineral rights as the purpose and intent was not to convey any minerals. "Yet you come along and say the minerals belong to the county. I am afraid it is going to shut a well down because I am not going to give it away." Callaway replied he understood that they needed the property to make up their plat and that without this, it

would make their plat 3 or 4 acres short. Mr. Fairey said the retro-active action would open up a lot of problems and he named several subdivisions which he personally had subdivided. There was no action taken on the matter until it can be fully reviewed.

BIDS AND SPECIFICATIONS: INSURANCE: COUNTY EMPLOYEES HEALTH: Mr. Stockwell reported on the bids that had been let on health insurance. He said 40 sets of specifications had been sent out and only 3 bids had been received. The only company meeting specs was Aetna Life & Casualty. The bid received from Blue Cross/Blue Shield was slightly lower but it did not meet the specs. TransAmerica Insurance Group's bid had some slight deviations and was slightly higher. The three companies all had local service. Carriker moved, with second by Bowman, to award the bid to Aetna Life & Casualty to provide health insurance for the county employees. Passed 3-0. Invitation to Bid, Specifications, Affidavits of Publication, Minutes to Bid Opening Meeting, and Successful Bid will follow these minutes.

BUDGET: EXPENDITURE LISTING FOR MAY 1st THROUGH MAY 17th, 1984: After presentation by Mr. Stockwell, Carriker moved, with second by Bowman, to approve the expenditure listing. Passed 3-0. Said listing will follow these minutes.

BUDGET: CARLSBAD BATTERED FAMILY SHELTER: Teri Hines and Sherine Rutherford appeared before the board to request \$6,000 for the Carlsbad Battered Family Shelter. Ms. Hines told of the various services offered by the organization and said they had the full support of the police department and law enforcement officers. Callaway told them the request would be considered later in the meeting.

SUBDIVISIONS: MINERAL RIGHTS: Mr. Bill Townsend reported a problem he, too, had with mineral rights under dedications as relating to the Old Vineyard Subdivision. This was the same type of cloud on title as reported by Mr. Fairey earlier and Mr. Townsend was told that more research would be done on the question. When he said the commissioners should sign mineral deeds to the landowners in order to clean up the titles, Mr. Callaway stated he agreed 100% but he would need to talk further with the county's attorney. Townsend remarked it could all lead to one long court case but Mr. Diamond pointed out that the commissioners are trustees of this public land and if in fact the county did get title to the mineral rights, they have to act accordingly in accordance with the law. When Townsend stated it could not be right, Juanita Grube reported on an earlier circumstance when a farmer had given an easement to the county for a road easement on the section line. He asked for it back when oil activity started and the county gave it back. Mr. Diamond stated there is a difference between an easement and a dedication. The attorneys from Artesia would not have brought it out as a cloud if it were not in good faith. "I have to take it that it is the property of the county and we cannot give it back without going about it legally." Fairey asked if the streets are vacated, does not the land go to the property owners on either side

of the street? Townsend stated he owned the property and the minerals under the canal that ran across his property. Mr. Diamond stated he would be glad to review these claims with the attorneys for both Mr. Townsend and Mr. Fairey.

RESOLUTIONS: NUMBER R-84-16: R.U.D.A.T.: Mr. Homer Freeman appeared on behalf of the R.U.D.A.T. program of the American Institute of Architects. He stated that this organization visited a location and did a comprehensive study which would require a lot of interest from the citizens of the community. He did not make a request for funds but he did request cooperation and information from the board from time to time. Mr. Callaway read the resolution aloud and there was a motion by Carriker, with second by Bowman, to adopt Resolution R-84-16. Passed 3-0. The Resolution will follow these minutes.

INSURANCE: PAYROLL DEDUCTION: AMERICAN FAMILY LIFE INSURANCE REQUEST: Jim McGee appeared before the board to request their decision on his prior request to meet with county employees and solicit insurance sales. Mr. Bowman pointed out that, "there are too many of those kinds of deductions" and he recommended "stopping it now." The board questioned Attorney Diamond if they could. Diamond pointed out that if they allowed one agent's presentation, they should allow all. He suggested a time limit and if a presentation was not given within that time frame, it would not be allowed until next year. He also said that some counties charge a fee that reimburses the counties for the costs involved in setting up insurance payroll deductions. Mr. Stockwell stated he had foreseen some of these problems and that was why he had recommended the county not have insurance payroll deductions from the employees. He said it required manual computation and then those figures were put in the computer. He also said there were four people doing supplemental life and, also, four would be coming in to do deferred compensation programs. Colonial Insurance Co. has had a cancer policy and there are other requests. He remarked Colonial had stated it was willing to pay an administrative fee. Stockwell then pointed out that while some counties had selected three companies in each area of insurance, our computer has only one slot and the deductions would be lumped in one space on the employees' check. He stated again there was time involved in the hand computation of each employee's insurance selections which then had to be fed into the computer. When he suggested the board might wish to close it after Mr. McGee's presentation, Mr. Bowman stated he wanted to stop it now and the insurance people could visit each employee on their own time. Mr. Stockwell said he too thought it was growing out of hand but his suggestion was to have the board and their attorney make a policy and it would then be followed. It was agreed that Mr. Diamond and Mr. Stockwell would draft a policy for the board's approval. Mr. Bowman moved that presentations be stopped immediately but the motion died for lack of a second. Mr. McGee stated that his company came two

weeks ago for a decision and if there was much more delay, his company would not have an opportunity for any sales as the other companies have already appeared. Motion by Carriker, with second by Bowman, that the board study the matter, however, Mr. McGee would be allowed to appear before any interested county employees in a group meeting.

The meeting recessed at 9:50 A.M. and reconvened at 10:00 A.M.

RESOLUTIONS: NUMBER R-84-17: ROADS: PRODUCED WASTE WATER: Bowman and Diamond recently attended a meeting regarding produced waste water for county roads. Mr. Diamond presented a proposed resolution granting use of produced waste water for new roads and repair of existing roads. He said the Oil Conservation Division is concerned with enforcement of any illegal dumping of waste products and that if anyone observed a hauler dumping water, it must be reported. Mr. Callaway read the resolution aloud and Mr. Diamond reported that Mr. Stockwell had prepared a written report for the media showing the savings involved. Sheriff Jack Childress addressed the board and stated his department would work with the oil and gas people as well as the state and county on any dumping of the water and waste. He stated, "You can be assured you will have our cooperation in the matter and we will work with the New Mexico State Police and they have worked in this matter previously. If the county vehicles with radios will report to us when they see anything on the road, we will be happy to talk with them." Motion by Bowman, second by Carriker, to approve Resolution R-84-17. Passed 3-0. Said Resolution will be recorded following these minutes.

RESOLUTIONS: NUMBER R-84-15: RURAL ADDRESSING SYSTEM: Mr. Stockwell presented Resolution Number R-85-15 which had already been approved by the board at a prior meeting but was not available for signing until now. The commissioners signed their approval. The Resolution is recorded following these minutes.

RESOLUTIONS: NUMBER R-84-19: BUDGET: PER DIEM AND MILEAGE RATES: Stockwell presented Resolution R-84-19 and reported that after meeting with the department heads, they decided not to go with the top rate as authorized by the new state statute. Callaway read the Resolution to the audience. It was pointed out that the mileage was being increased from \$.22 per mile to \$.25 per mile. There was a motion by Carriker, with second by Bowman, to approve Resolution R-84-19. It passed 3-0. Said Resolution follows these minutes.

AGREEMENTS: NUMBER A-84-25: AETNA INSURANCE: DEFERRED COMPENSATION PLAN: Mr. Stockwell explained this was the deferred compensation plan requested by Mr. Doug Roberts for Aetna and was the standard group contract. Mr. Carriker moved, with second by Bowman, to approve Agreement No. A-84-25. Passed 3-0. Said Agreement will follow.

RESOLUTIONS: NUMBER R-84-18: NEW MEXICO ASSOCIATION OF COUNTIES: P.I.L.T.: Mr. Stockwell presented a letter from the Executive Director of New Mexico Association of Counties requesting support of the Association's efforts to keep control of P.I.L.T. funds within the counties

and not by the state. Virgie Cole commented there would be an amendment that would appear on the ballot in the November general election which would require the State of New Mexico to provide funds for any mandated programs handed down to the counties. Callaway read the resolution as presented by the Association. Motion by Bowman, second by Carriker, to approve the proposition with Stockwell preparing the necessary document for the county's records and the board signing it outside of a meeting. Passed 3-0. Said Resolution R-84-18 will be recorded following these minutes.

BUDGET: BUDGET HEARINGS: After general discussion the following changes were made in the proposed budget No. 5: **M & O DEPARTMENT:** The figure for courthouse repairs was increased to \$50,000 because of possible elevator repair costs and a vault to be built in the voting machine warehouse for storing microfilm. **ROCK CRUSHER:** Mr. Callaway reviewed past costs and stated gravel could be purchased by the county cheaper than producing it. According to the figures it could be purchased for approximately \$5.60 and the budget figures showed it was costing about \$7.00 a yard to manufacture it. For the \$266,520 figure requested in the budget, the county could buy gravel for two years. Mr. Bowman told of repairs that had been necessary for the rock crusher and asked for more time for the crusher as he disagreed with the figures that were given in the reports. Mr. Stockwell told Mr. Bowman that the figures used by him were obtained from the rock crusher crews, the truck drivers and loader operators, as turned in to their supervisor. Mr. Callaway reminded Bowman that he had been told a year ago that the board would review the figures for the crusher at the end of the year and determine if it should be kept or disposed of. The figures showed it was time to get rid of it. The year was up and he wanted to keep it in working order so it would be easier to sell but he did want to sell it. There was a motion by Carriker, with second by Callaway to sell the rock crusher but to continue operating it until sold. A vote was called for and Carriker voted "yes" and Callaway voted "yes." Bowman voted "no." Bowman also advised that the board should put a price on the crusher and not sell it for less. The board agreed that was a good idea. **CITY OF ARTESIA:** The grant monies were increased to \$150,680 and funds for the Juvenile Detention Center were increased to \$143,540. There was discussion as to the number of juveniles being detained in the Detention Center and personnel to manage it. Virgie Cole asked if there was not a previous agreement by the commission that even though the center was on city property and belonged to Artesia, the county would take care of it. Motion by Carriker, second by Bowman, that the monies be increased as stated above making a total of \$294,220 to Artesia for grant and the center, being only \$13,480 less than the original request.

COUNTY EXTENSION SERVICE: Mr. Dan Liesner was told his funds as requested were in the budget and he could begin the preliminary work

with the architect for the addition to the building. Mrs. Cole remarked that she had been given permission by Mr. Liesner to use the new addition for future election schools. Liesner stated he would be happy to work with the board in the use of the new addition.

CARLSBAD BATTERED FAMILY SHELTER: After statements by Carriker and Callaway of their receiving calls from doctors and others in support of the Shelter, the board agreed to grant \$6,000 to the Battered Family Shelter.

Mr. Stockwell then stated he would prepare the final proposed budget for transmittal to the State Department of Finance. There was a motion by Bowman, second by Carriker, to adopt the updated Budget No. 5. Passed 3-0. Said Budget will be recorded upon approval by the Department of Finance and receipt by the County Clerk.

RESOLUTIONS: NUMBER R-84-17: BUDGET APPROVAL: After comment by Mr. Stockwell that he needed a resolution approving and adopting the budget, Carriker moved, with second by Bowman, to adopt the 1984-85 budget. Passed 3-0. Said Resolution will be recorded following these minutes.

RESOLUTIONS: NUMBER R-84-13: MILL LEVY: After explanations by Mr. Stockwell and Louise Greene stating the approved budget would not require increasing the mill levy, there was a motion by Carriker, with second by Bowman, to approve the resolution setting the mill levy at 7.500 for the 1984-85 property tax rate. Passed 3-0. Said Resolution will be recorded following these minutes.

There was a motion by Carriker, with second by Bowmar, to adjourn the meeting. Mr. Callaway adjourned the meeting at 11:55 A.M.

EDDY COUNTY BOARD OF COMMISSIONERS

Chairman

ATTEST:

Eddy County Clerk