Case No.

6889

Application

Transcripts

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ETC

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

RECEIVED
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OIL CONSERVATION DIVISION
SANTA FE

In The Matter Of Hearing De Novo
On Case 6889, September 4, 1980 -
Application of Belco Petroleum
Corporation For Directional Drilling
Eddy County, New Mexico

Case 6889
Order No. R-6369

MEMORANDUM OF DUVAL CORPORATION
IN SUPPORT OF ITS STANDING

STATEMENT OF THE CASE AND ISSUE

Belco Petroleum Corporation ("Belco") applied to the Division for an order to directionally drill a Marrow test well from an unorthodox surface location on Section 36, T.22S., R.30E. The application recited an orthodox surface location was not available "because of the Federal Government operations."[1/] Belco's application was considered by the Division on May 7, 1980, but reheard on June 4, 1980 because of a defect in the legal notice.

Duval Corporation ("Duval") appeared at the June 4, 1980 hearing to object to the granting of the application because of its adverse effect on its commercial potash deposits on the same section.

Duval is lessee from the State under a Potash Mining Lease No. M-2618-2 (Renewal).

1/ Belco did not mention the Federal Government operations to which it alluded was the condemnation by DOE of surface use and oil and gas rights of the upper most 6000 feet. Belco and other entities received several million dollars of compensation. An award was also made to compensate for additional costs incurred to directionally drill. Potash rights were not condemned.

Duval maintained at the June 4, 1980 hearing the potash reserves on Section 36 should be protected from Belco's drilling under the authority of Section 70-2-3 F. (Tr. 7) The hearing examiner acknowledged that Duval had a witness present to testify on the commercial mineability of potash reserves on Section 36. (Tr. 19) But Duval was not allowed at the June 4, 1980 hearing to present its evidence. (Tr. 19)

An order by the Division was entered on June 9, 1980, authorizing Belco Petroleum Corporation's application. The order found the surface location of the proposed Belco well "is on lands not included in the Oil-Potash Area as defined by Order No. R-111-A, as amended,..."

Duval, pursuant to Section 70-2-13, N.M.S.A. 1978 and Rule 1220 of the Division, filed an application with the Oil Conservation Commission ("Commission") for a hearing de novo on the Division's order granting Belco's application. The Commission held a limited hearing on September 4, 1980. The Commission in the notice for hearing provided:

> "Evidence and testimony or arguments in this hearing shall be limited to the issue of whether Duval Corporation has standing to object to the application of Belco Petroleum Corporation."

Accordingly argument was heard. Duval made a tender of testimony to the effect that commercial deposits of potash are leased by Duval on Section 36 and the adverse effect drilling by Belco will have on these deposits. The Commission has asked the parties to brief their respective positions on Duval's standing to object to Belco's application.

Belco argues that a potash operator only has standing to object to its application if the property involved has been specifically included in the R-111 orders of the Commission, even if the property does in fact contain a commercial deposit which will be unduly reduced or interferred with by the granting of the application. To be accorded standing Belco argues Duval

must ask for hearing to expand the R-111 Orders to include Section 36.

Duval submits that because Section 70-2-23, N.M.S.A. 1978 provides "any person having an interest in the subject matter" of a hearing on an order "is entitled to be heard," Duval has standing to present evidence on the commercial deposits of potash in Section 36. Since the Commission is to prohibit waste of commercial deposits of potash "within any area", and since the granting of Belco's application will result in waste of Duval's commercial potash deposit, Duval has standing under Sections 70-2-2, 70-2-3 F., 70-2-6, 70-2-13 and 70-2-23, N.M.S.A. 1978 to object. The Commission's R-111 orders do not provide a potash operator must seek inclusion in the R-111 orders in order to have his deposit protected, and the statutes now specifically provide for the protection of potash deposits "within any area."

ARGUMENT

Duval maintains the Legislature has provided in the clearest possible language that when an order is sought, there must be a public hearing, and "at any such hearing any person having an interest in the subject matter of the hearing shall be entitled to be heard." Section 70-2-23 N.M.S.A. 1978. The basic charter of this Commission is the prevention of waste resulting from oil or gas production operations. Section 70-2-2, N.M.S.A. 1978 provides:

> "The production or handling of crude petroleum oil or natural gas of any type or in any form, or the handling of products thereof, in such manner or under such conditions or in such amounts as to constitute or result in waste is each hereby prohibited."

The Commission's and Division's powers and duties, as set forth in Section 70-2-6 are:

> "A. The division shall have, and is hereby given, jurisdiction and authority over all matters relating to the conservation of oil and gas and the prevention of waste of potash as a result of oil or gas operations in this state. It shall have jurisdiction, authority and control of and over all persons, matters or things necessary or proper to enforce effectively the provisions of this act or any other law of this state relating to the conservation of oil or gas and the prevention of waste of potash as a result of oil or gas operations.

B. The commission shall have concurrent jurisdiction and authority with the division to the extent necessary for the commission to perform its duties as required by law. In addition, any hearing on any matter may be held before the commission if the division director, in his discretion, determines that the commission shall hear the matter." (emphasis supplied)

The Legislature has also spoken in language free from ambiguity that waste includes undue reduction or interference with commercial potash "within any area". Section 70-2-3 provides "waste" shall include:

"F. drilling or producing operations for oil or gas within any area containing commercial deposits of potash where such operations would have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities or where such operations would interfere unduly with the orderly commercial development of such potash deposits." (emphasis supplied)

With this statutory mandate in mind, Duval stated in its Application For Hearing De Novo an application granted to Belco will result in "waste of potash which may reasonably be recovered by Duval in commercial quantities" and "will interfere unduly with the orderly commercial development of the potash deposit on Section 36." Belco did not dispute Duval's statements. Accordingly, Duval's allegations must be considered as true for the purposes of according standing.[2/]

Thus, Duval has claimed it will be adversely affected by Belco's drilling. Substantially those factors contained in Section 70-2-3 F. have been alleged by Duval. Also, by such assertions Duval should unquestionably be accorded standing under Section 70-2-13 N.M.S.A. 1978 and the Division's Rule 1220 providing for de novo hearings before the Commission. Standing is

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2/ If Duval's undisputed allegations are not considered by the Commission as true for standing purposes, Duval's tender of testimony at the September 4, 1980 hearing establishes the allegations conferring standing on Duval. Duval's tender of testimony was to the effect that commercial deposits of potash are leased by Duval on Section 36; further, Belco's proposed drilling would reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities and Belco's operations would interfere with the orderly commercial development of such potash deposits. (Tr. 28-29)

there contemplated for evidentiary presentations in cases such as the instant one. Section 70-2-13, N.M.S.A. 1978 provides, in part:

> "When any matter or proceeding is referred to an examiner and a decision is rendered thereon, any party adversely affected shall have the right to have said matter heard de novo before the commission upon application filed with the Division within thirty days from the time any such decree is rendered." (emphasis supplied)

The language of Rule 1220 is also unequivocal:

> "When any order has been entered by the Division pursuant to any hearing by an examiner, any party adversely affected by such order shall have the right to have such matter or proceeding heard de novo before the Commission,..." (emphasis supplied)[3/]

This language closely resembles that contained in a judicial review statute involved in New Mexico's leading case on standing, DeVargas Savings and Loan Assn. of Santa Fe v. Campbell, 87 N.M. 469, 535 P.2d 1320 (1975). A statute provided judicial review to "any association or person aggrieved and directly affected" by an order of the supervisor. Similarly, here, Section 70-2-13 N.M.S.A. 1978 and Rule 1220 accords a de novo hearing to "any party adversely affected" by the Division's Order.

The instant case parallels the DeVargas case in several striking respects. In fact, because 70-2-23 and 70-2-13 N.M.S.A. 1978 specifically grant Duval standing, this case is even a stronger case for standing than DeVargas. In DeVargas four savings and loan associations located in Santa Fe sought judicial review of the Savings and Loan Supervisor's order approving a new branch office in Santa Fe for which application had been made by a Los Alamos savings and loan institution. In DeVargas, no statute specifically allowed the complaining savings and loans to appear before the supervisor. Here, Duval, which had an interest in the subject matter of the hearing, was entitled to be heard in the first instance. 70-2-33, N.M.S.A. 1978. The Supreme Court of

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3/ Of significance is the use of the word "shall" in Section 70-2-13 N.M.S.A. 1978 and Rule 1220. The general rule in New Mexico dictates "shall" as being mandatory and not discretionary. State v. Lujan, 90 N.M. 103, 560 P.2d 167 (1977); Montano v. Williams, 89 N.M. 86, 547 P.2d 589 (Ct.App. 1976), affirmed 89 N.M. 252, 550 P.2d 264 (1976).

New Mexico held in DeVargas:

> "To attain standing in a suit arguing the unlawfulness of governmental action, the complainant must allege that he is injured in fact or is imminently threatened with injury, economically or otherwise...." Id. at 1324.

The Court discussed the assertions of the four savings institutions in light of the review statute as well as another statute requiring the Supervisor to consider various factors, §48-15-61(A) N.M.S.A. 1953 (Repl. Vol. 7, Supp. 1972). One of the factors was whether the public demand was sufficient to maintain the solvency of the existing institutions. In holding the four existing institutions had standing, the Court reasoned:

> "In this case, appellants clearly have standing to seek review of the supervisor's order as associations "aggrieved and directly affected" by the order. Appellants assert they will suffer from undue competitive injury if another branch is permitted in Santa Fe because there is not sufficient business and demand to assure and maintain the solvency of existing associations. They also assert another branch will not be to the advantage of the community. These claims are sufficient. In fact, the protection of these interests is explicitly recognized in §48-15-61(A) N.M.S.A. 1953 (Repl. Vol. 7, Supp. 1972)....
>
> "If there is arbitrary and capricious action on the part of the supervisor in considering these matters, who could complain if not those directly affected by the allegedly illegal action?" Id. at 1324.

Further, DeVargas cited with approval several highly significant United States Supreme Court cases. See, Data Processing Service v. Camp, 397 U.S. 150, 90 S.Ct. 827, 25 L.Ed. 2d 184 (1970); Sierra Club v. Morton, 405 U.S. 727, 92 S.Ct. 1361, 31 L.Ed. 2d 636 (1972).

As it relates to the instant case Data Processing Services sets forth a test for standing relating to the zone of interest regulated by a statute. As stated in DeVargas this test involves:

> "....whether the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question."
> 535 P.2d at 1323.

However, the New Mexico Supreme Court in DeVargas viewed the statutory "zone of interest" test as much too limiting. It observed:

> "It seems fundamental that a plaintiff has standing to protect himself against injury as a result of unlawful governmental action, even in the absence of a controlling statute or constitutional provision." 535 P.2d at 1323.

In its discussion, the Court in DeVargas noted that in Sierra Club, supra, standing was not confined to those alleging economic harm but to those claiming harm to their "aesthetic and environmental well-being." Finally, in DeVargas the Court said it was compelled to follow Scanwell Laboratories, Inc. v. Shaffer, 424 F.2d 859 (D.C. Cir. 1970), in which it was held 'one who has a prospective beneficial relationship has standing to challenge the illegal grant of a contract to another.' 535 P.2d at 1320.

The DeVargas case has been discussed at length here merely to emphasize how concrete Duval's claim to standing is. Duval according to the controlling case authority would be conferred standing under each test except perhaps the aesthetic test of Sierra Club. Duval certainly meets the Data Processing test since it is unquestionably within the zone of interest to be protected by statutes, §§70-02-2 and 70-2-3 F. Clearly Duval has more in its leased potash deposits than a beneficial relationship, the minimum required in Scanwell. Finally, Duval has irrefutably met the DeVargas test by alleging in its Application for De Novo Hearing and in its tender it will be injured in fact or imminently threatened with injury by Belco's proposed drilling. Equally important, the Legislature has specified Duval has standing in 70-2-23 N.M.S.A. as a person who has "an interest in the subject matter of the hearing" and, as a party "adversely affected" by a decision of the hearing officer, is entitled to a de novo hearing under 70-2-13 N.M.S.A. 1953 and Rule 1220.

The zone of interest to be protected by the statutes, §§70-2-2 and 70-2-3 F, specifically covers Duval's potash interests in

Section 36. The statute clearly states commercial potash deposits within any area must be protected from waste. It is a well known rule of statutory construction in New Mexico that words in a statute are to be given their ordinary and usual meaning. State ex rel. Bird v. Apodaca, 91 N.M. 279, 573P.2d 213 (1978); Bettina v. City of Las Cruces, 82 N.M. 663, 485 P.2d 967 (1971). Moreover, a statute must be given effect as written. Hutchinson v. State, 89 N.M. 521, 557 P.2d 663 (1976). Most certainly, the usual meaning of "any area" would include Section 36 if it contained commercial potash deposits.

Further, the clear language of §70-2-3 F., says nothing about limiting standing to (or prohibiting waste only within) those areas within Orders No. R-111 or R-111-A, and their amendments. Nor does this statute refer to R-111 or R-111-A orders or the amendments at all. The Legislature enacted Section 70-2-3 F. in 1965, ten years after the Order No. R-111-A was set forth by the Commission and fourteen years after the R-111 adoption. See annotation to §65-3-3 N.M.S.A. 1953 Comp.. At the time the Commission adopted the R-111 and R-111-A orders, the Legislature had not clearly stated minerals other than oil and gas were to be protected by the Commission against waste.[4/]

[4/] R-111 and R-111-A recite in their findings that promulgation of regulations for development of oil and gas in an area known to be productive of potash is within the authority of the commission for the protection of correlative rights, the promotion of conservation and prevention of waste. Undoubtedly the statutory authority claimed for the R-111 Orders was Section 70-2-11 which was included in the 1941 compilation of New Mexico Statutes. See, Annot. of History §65-3-10 N.M.S.A. 1953 Comp.. Section 70-2-11 reads:

> "A. The division is hereby empowered, and it is its duty, to prevent waste prohibited by this act and to protect correlative rights, as in this act provided. To that end, the division is empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out the purpose of this act, whether or not indicated or specified in any section hereof.
>
> B. The commission shall have concurrent jurisdiction and authority with the division to the extent necessary for the commission to perform its duties as required by law."

The Legislature addressed the authority of the Commission to prohibit waste to potash deposits in 1965 when it enacted Section 70-2-3 F. The Legislature could have limited the prohibition against waste to potash only to the areas the Commission had listed in its R-111 and R-111-A orders. The Legislature clearly did not do so. Rather, it stated unequivocally in Section 70-2-3 F. the area to be protected from waste is "....any area containing commercial deposits of potash...." If any other meaning was intended it could have been very easily provided for in the statute. Hutchinson v. State, supra. It is a well recognized rule that the Legislature is assumed to be well informed as to existing law. State ex rel. Bird v. Apodaca, supra; Bettina v. City of Las Cruces, supra.

Accordingly the Legislature in 1965 was assumed to have known about the R-111, R-111-A orders and other amendments of the Commission existing then. The Legislature could have stated the only potash deposits to be protected would be those designated by the Commission. But it refused to do so. It is presumed the Legislature in enacting a statute intended to change the law as it previously existed and that it does not intend to enact useless statutes. State ex rel. Bird v. Apodaca, supra; Bettina v. City of Las Cruces, supra. Such evidence of change in the law is apparent from the language "within any area" included in the 1965 amendment, §70-2-3 F.

To stress the Legislature's breadth of protection for potash in 70-2-3 F. that statute might be compared with a statute in which the subject was not to be protected without administrative action. For example, the Legislature has provided protection for underground waters only when the State Engineer declares the waters are in underground basins. The pertinent statute, §72-12-20 N.M.S.A. 1978, reads:

> "No permit and license to appropriate underground waters shall be required except in basins declared by the State Engineer to have reasonably ascertainable boundaries."

Belco argues the R-111 orders are comprehensive and are the only appropriate procedures for handling objections by potash operators protesting applications to drill wells for oil and gas. Belco's argument is specious. It is also untentable. The language of the statutes and the orders fully disprove Belco's argument.

The R-111 orders clearly and exclusively relate to only those areas listed therein. Belco claims too much for the orders. They do not deal at all with areas not included within them. Similarly they do not presume to cover any other area which might contain commercial deposits of potash. Moreover, the R-111 orders do not notify an operator it must seek inclusion in the orders to be protected. Nor does the Division have a regulation which mandates the expansion of the R-111 orders to protect commercial deposits of potash from waste. For example, R-111-A provides it "may be revised." Most importantly, the statutes, Sections 70-2-2 and 70-2-3, require "any area containing commercial deposits of potash" be protected from waste.

Duval submits the R-110 orders are not in conflict with the statutes, Sections 70-2-2 and 70-2-3. The R-111 orders relate to certain areas only. The statute relates to "any area." Belco's argument suggests the two are in conflict and the regulatory scheme should prevail because for some thirty years the Division has exclusively handled all disputes between oil and gas and potash operators under the orders. However, Belco also concedes the Duval objection here is the first instance in which a potash operator has claimed the right to object to a proposed well for oil and gas outside the areas listed in the R-111 orders. However, even if a conflict is construed to exist between the statutes and the R-111 orders, there is no question as to which must prevail. A regulation in conflict with a statute is invalid. Scofield v. Lewis, 251 F.2d 1288 (5th Cir. 1958); 2 Am.Jur.2d Administrative Law §§289, 300. In Scofield a regulation

of the Internal Revenue Service was held invalid since it was in conflict with an amendment to the statute. As stated in Scofield:

> "...A regulation which is in conflict with or restrictive of the statute is, to the extent of the conflict or restriction, invalid. A regulation, valid when promulgated, becomes invalid upon the enactment of a statute in conflict with Regulation...." 251 F.2d at 132.

The intention of the Legislature to protect potash in adopting its 1965 amendment, Section 70-2-3 F., is reflected in the title to the act containing the amendments. In the annotation to Section 65-3-3 N.M.S.A. 1953 Comp., the title to the act is set out as:

> "Title to Act.
>
> An act relating to the oil conservation commission; providing for the prevention by the oil conservation commission of waste of potash as a result of oil or gas operations and protection of potash deposits; and amending sections 65-3-3, 65-3-5, 65-3-11, and 65-3-29, New Mexico Statutes Annotated, 1953 Compilation...."

In New Mexico, one of the few aids permitted to determine legislative history is the title of an act. State v. Richardson, 48 N.M. 544, 154 P.2d 224 (1944); State v. Moore, 40 N.M. 344, 59 P.2d 902 (1936).

The title to the act confirms the clear meaning of 70-2-3 F. It discloses the Legislature intended to protect potash deposits. It does not limit its application to certain areas only.

Belco also argues that according standing to Duval would depart from the established precedents of the Division and would be unreasonable, arbitrary and discriminatory against Belco. This argument is likewise unsupportable. Belco admits that since the 1965 amendments the Commission has not previously dealt with a situation where an oil and gas application would interfere with a commercial potash deposit not included within Orders No. R-111 and R-111-A, as amended. Thus, no precedents have been made by the Commission. In the face of the controlling statutory authority, failure to confer standing to Duval would discriminate not against Belco but against Duval.

Belco's argument is equally unpersuasive that to allow Duval standing will result in a proliferation of objections from potash operations outside of the R-111 orders. This argument is far from compelling in view of the statutory mandate. An administrative body cannot avoid its statutory duty simply because doing so may expand the case load. As a practical matter, it is doubted a proliferation will occur since the objection here is the first objection to surface in some thirty years. It should be noted a similar argument was made in DeVargas, supra. The Court rejected the argument out of hand by stating:

> "Proponents of a limited or no right of judicial review in administrative matters cite the theory that a multitude of cases will arise as a result. This does not seem to have developed." [numerous citations ommitted] 535 P.2d at 1324.

Duval submits that requiring Duval to apply to expand the R-111 orders at this time will completely fustrate the Legislature's intention to protect potash. Assuming only for purposes of argument that the Commission did have a regulation requiring Duval to request expansion of the R-111 orders to protect potash, such a regulation would be inconsistent with Section 70-2-3 F. to the extent commercial potash deposits were wasted while the request was being considered. Sections 70-2-3 and 70-2-3 F. make no exceptions or allowances. They require the protection against waste of commercial potash deposits "within any area" according to their terms. Accordingly, they confer standing on one seeking to protect such deposits from waste.

Finally, it should be realized Duval does not seek to prohibit all oil and gas drilling. Indeed, Duval's parent company is a large petroleum company. Rather it merely seeks to invoke the Commission's authority to protect potash in an instance in which granting an application for oil and gas drilling will result in waste to potash. Belco was compensated handsomely for its condemned interest at the orthodox location and was also compensated for directional drilling costs. Now Belco seeks to drill where

waste to a commercial potash deposit will result. The Legislature felt the Commission was the administrative body with the necessary expertise to provide protection to potash. Indisputably the Legislature has directed the Commission to protect any commercial potash deposit. Duval is merely following the procedure adopted by the Legislature for resolving a conflict between a large potash deposit and a potentially valuable oil and gas well.

CONCLUSION

Duval has alleged, and offered proof, that it has a commercial deposit of potash on Section 36 which will be unduly reduced and interferred with by an order granting Belco's application to directionally drill an oil or gas well from an unorthodox surface location. As such, it was "a person having an interest in the subject matter of the hearing" before the examiner. As such, it was a person "adversely affected" by the decision of the examiner, and is entitled to a de novo hearing before the Commission. It has standing under the DeVargas case. The Legislature in the clearest terms has provided this Commission and the Division with both the power and the duty to protect commercial potash "within any area" from waste. The application of Belco will result in waste of commercial potash "within any area." Order R-111 and its amendments in no manner purport to limit protection of commercial potash to the area described therein. The statutes in any event require that protection be accorded to all commercial potash deposits.

It is respectively submitted the Commission should reject Belco's claim, and proceed to hearing to determine the method of protecting Duval's deposit.

BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED

By W. Stanley Crout

Sunny T. Nichols

Attorneys for Duval Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum of Duval In Support Of Its Standing was mailed this 18th day of September, 1980 to W. Thomas Kellahin, Kellahin & Kellahin, 500 Don Gaspar, Santa Fe, New Mexico, 87501.

Sunny T. Nixon

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October 24, 1980

RECEIVED
OCT 24 1980
OIL CONSERVATION DIVISION
SANTA FE

Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

Attention: Joe D. Ramey

Re: Application For Rehearing Case No. 6889, Order No. R-6369-A

Dear Mr. Ramey:

Please find enclosed for filing with the Oil Conservation Commission in the above referenced case the original and three copies of an Application For Rehearing of Duval Corporation in the case.

Sincerely yours,

Sunny J. Nixon

Sunny J. Nixon

SJN/tcg

Enclosures

cc: W. Thomas Kellahin(w/encl.)

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

IN THE MATTER OF ORDER NO. R-6369-A OF THE OIL CONSERVATION COMMISSION DATED OCTOBER 6, 1980, ON DUVAL CORPORATION'S APPLICATION FOR DE NOVO HEARING ON THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY, COUNTY, NEW MEXICO

CASE NO. 6889
ORDER NO. R-6369-A

RECEIVED
OCT 24 1980
OIL CONSERVATION DIVISION
SANTA FE

APPLICATION FOR REHEARING

Comes now Duval Corporation ("Duval"), by and through its attorneys, and applies to the Oil Conservation Commission ("Commission") for a rehearing of Order No. R-6369-A generally, rehearing of the Commission's Order No. R-6369-A of October 6, 1980, which denied Duval's Application for Hearing De Novo on the Application of Belco Petroleum Company for Directional Drilling Eddy County, New Mexico, a rehearing of affirmation of Order No. R-6369 which was affirmed by Order No. R-6369-A, and a rehearing on Findings Number 5-12 of Order R-6369-A. Duval maintains Order No. R-6369-A erroneously denies Duval's Application For Hearing De Novo, erroneously affirms R-6369, and erroneously makes findings Numbered 5-12, in the following respects:

1. Duval appeared at the June 4, 1980 hearing on Belco Petroleum Corporation's (Belco) application for an order to grant Belco the authority to directionally drill a Morrow test well from an unorthodox surface location on Section 36, T.22S., R.30E. Duval is lessee from the State under a Potash Mining Lease No. M-2618-2 (Renewal). Duval maintained at the June 4, 1980 hearing that the potash reserves on Section 36 should be protected from Belco's drilling under the authority of Section 70-2-3 F. Duval was not allowed to present evidence on commercial mineability of potash reserves on Section 36 at the June 4, 1980 hearing,

or at the de novo hearing on Belco's application of September 4, 1980. Duval was also excluded from presenting evidence as to other matters affecting waste, including those specified in 70-2-3 F. N.M.S.A. 1978.

2. Duval has standing under Sections 70-2-13 and 70-2-23 N.M.S.A. 1978 as "any person having an interest in the subject matter" of a hearing on an order and "entitled to be heard" to present evidence on the commercial deposits of potash on Section 36 and the waste to them from Belco's drilling operations.

3. Duval has standing to object to Duval's application under Section 70-2-2, 70-2-3 F., 70-2-6, 70-2-13 and 70-2-23 N.M.S.A. since the Commission is to prohibit waste of commercial deposits of potash "within any area".

4. The granting of Belco's requested application to drill will result in waste of commercial deposits of potash leased by Duval in that the Belco operations outlined in its application will have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities or the Belco operations will interfere unduly with the orderly commercial development of such potash deposits.

5. Duval has standing to present evidence as set forth above and to object to Belco's application in that it is injured in fact or is imminently threatened with injury by waste to its leased potash.

6. Duval has been adversely affected by Order No. R-6369A in that it has been denied standing to object to the Belco application and to present

evidence as set forth above, its Application For Hearing De Novo has been denied and Order No. R-6369 granting Belco's application has been affirmed.

7. Duval is injured in fact or is imminently threatened with injury by waste of its leased potash in that Belco proceeded to drill the well, the authority for which was requested in its application, after the September 4, 1980 hearing on Duval's Application For Hearing De Novo but prior to the Commission's Order on the Application For Hearing De Novo.

8. Belco proceeded to drill the well on Section 36 without an effective order granting it the authority to drill the well, in that the Commission was considering the matter of the application of Belco de novo as expressed in the public notice, albeit the issue was limited to Duval's standing to object to Belco's application.

9. Duval's standing has been denied improperly on the basis that the "surface and bottom hole locations" of Belco's well "are not on lands included in the Potash-Oil Area, nor which will encounter potash deposits within the Potash-Oil Area" of R-111-A, as amended, as set forth in paragraph 12 of Order No. R-6369-A.

10. The Commission has not fulfilled its statutory duty of prohibiting waste of commercial potash in this matter. The adoption and administration of Commission Order No. R-111-A, as amended, in that Sections 70-2-2 and 70-2-3 F. N.M.S.A. 1978 require the Commission to prohibit waste "within any area" and do not limit protection of potash against waste to the Order R-111-A and amendments. Section 70-2-3 F.

was enacted after the promulgation of Orders R-111 and R-111-A.

11. Sections 70-2-12 (16) and (19) N.M.S.A. 1978 do not limit protection of commercial deposits of potash to regulations adopted under them but expressly recognize they are in addition to other authority.

12. The Orders, R-111-A and amendments, do not presume to restrict protection of commercial deposits of potash in locations, such as Section 36, that are not included in the Orders. The Orders cover only those lands listed in them.

13. There exists no statute or regulation mandating the expansion of the R-111 orders to protect commercial deposits of potash, which is recognized in Order R-6369-A in paragraph (9) by the discretionary phrase, "potash operators may apply for expansion of the Potash-Oil Area."

14. Order No. R-6369 A is contrary to Sections 70-2-2, 70-2-3 F., 70-2-6, 70-2-13 and 70-2-23, N.M.S.A. 1978, and to the law of standing generally, and is accordingly erroneous.

15. Findings 5-12 of Order No. R-6369-A and Order No. R-6369-A are not supported by substantial evidence.

16. Order No. R-6369-A is not supported by proper findings or reasons.

17. The Commission erroneously admitted evidence of Belco at the September 4, 1980 de novo hearing, to which Duval objected, and erroneously refused evidence of Duval at the June 4 and September 4, 1980 hearings, at

which tenders were made by Duval.

Respectfully submitted,

BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED

By _____

_____

Attorneys for Duval Corporation

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing Application For Rehearing was mailed this 24th day of October, 1980 to W. Thomas Kellahin, Kellahin & Kellahin, 500 Don Gaspar, Santa Fe, New Mexico, 87501

Sunny T. Mayo

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

OCT 30 1980
OIL CONSERVATION COMMISSION
SANTA FE

IN THE MATTER OF ORDER NO. R-6369-A OF THE OIL CONSERVATION COMMISSION DATED OCTOBER 6, 1980, ON DUVAL CORPORATION'S APPLICATION FOR DE NOVO HEARING ON THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO

CASE NO. 6889
ORDER NO. R-6369-A

CORRECTION TO
APPLICATION FOR REHEARING

COMES NOW Duval Corporation ("Duval"), by and through its attorneys, and corrects an inadvertent mistake and an inadvertent omission in its Application For Rehearing, as follows:

1. In paragraph number 3, first line, the words "Duval's application" should be "Belco's application".
2. In paragraph number 10, line four the words "do not fulfill the Commission's duty to protect potash" should be inserted following the word "amended,"

Respectfully submitted,

BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED

By _____

Attorneys for Duval Corporation

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing Correction To Application For Rehearing was mailed this 30th day of October, 1980 to W. Thomas Kellahin, Kellahin & Kellahin, 500 Don Gaspar, Santa Fe, New Mexico, 87501.

Sammy J. Nixon

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

IN THE MATTER OF ORDER NO. R-6369-A OF THE OIL CONSERVATION COMMISSION DATED OCTOBER 6, 1980, ON DUVAL CORPORATION'S APPLICATION FOR DE NOVO HEARING ON THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY, COUNTY, NEW MEXICO

CASE NO. 6889
ORDER NO. R-6369-A

RECEIVED
OCT 24 1980
OIL CONSERVATION DIVISION
SANTA FE

APPLICATION FOR REHEARING

Comes now Duval Corporation ("Duval"), by and through its attorneys, and applies to the Oil Conservation Commission ("Commission") for a rehearing of Order No. R-6369-A generally, rehearing of the Commission's Order No. R-6369-A of October 6, 1980, which denied Duval's Application for Hearing De Novo on the Application of Belco Petroleum Company for Directional Drilling Eddy County, New Mexico, a rehearing of affirmation of Order No. R-6369 which was affirmed by Order No. R-6369-A, and a rehearing on Findings Number 5-12 of Order R-6369-A. Duval maintains Order No. R-6369-A erroneously denies Duval's Application For Hearing De Novo, erroneously affirms R-6369, and erroneously makes findings Numbered 5-12, in the following respects:

1. Duval appeared at the June 4, 1980 hearing on Belco Petroleum Corporation's (Belco) application for an order to grant Belco the authority to directionally drill a Morrow test well from an unorthodox surface location on Section 36, T.22S., R.30E. Duval is lessee from the State under a Potash Mining Lease No. M-2618-2 (Renewal). Duval maintained at the June 4, 1980 hearing that the potash reserves on Section 36 should be protected from Belco's drilling under the authority of Section 70-2-3 F. Duval was not allowed to present evidence on commercial mineability of potash reserves on Section 36 at the June 4, 1980 hearing,

or at the de novo hearing on Belco's application of September 4, 1980. Duval was also excluded from presenting evidence as to other matters affecting waste, including those specified in 70-2-3 F. N.M.S.A. 1978.

2. Duval has standing under Sections 70-2-13 and 70-2-23 N.M.S.A. 1978 as "any person having an interest in the subject matter" of a hearing on an order and "entitled to be heard" to present evidence on the commercial deposits of potash on Section 36 and the waste to them from Belco's drilling operations.

3. Duval has standing to object to ~~Duval's~~ Belco's application under Section 70-2-2, 70-2-3 F., 70-2-6, 70-2-13 and 70-2-23 N.M.S.A. since the Commission is to prohibit waste of commercial deposits of potash "within any area".

4. The granting of Belco's requested application to drill will result in waste of commercial deposits of potash leased by Duval in that the Belco operations outlined in its application will have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities or the Belco operations will interfere unduly with the orderly commercial development of such potash deposits.

5. Duval has standing to present evidence as set forth above and to object to Belco's application in that it is injured in fact or is imminently threatened with injury by waste to its leased potash.

6. Duval has been adversely affected by Order No. R-6369A in that it has been denied standing to object to the Belco application and to present

evidence as set forth above, its Application For Hearing De Novo has been denied and Order No. R-6369 granting Belco's application has been affirmed.

7. Duval is injured in fact or is imminently threatened with injury by waste of its leased potash in that Belco proceeded to drill the well, the authority for which was requested in its application, after the September 4, 1980 hearing on Duval's Application For Hearing De Novo but prior to the Commission's Order on the Application For Hearing De Novo.

8. Belco proceeded to drill the well on Section 36 without an effective order granting it the authority to drill the well, in that the Commission was considering the matter of the application of Belco de novo as expressed in the public notice, albeit the issue was limited to Duval's standing to object to Belco's application.

9. Duval's standing has been denied improperly on the basis that the "surface and bottom hole locations" of Belco's well "are not on lands included in the Potash-Oil Area, nor which will encounter potash deposits within the Potash-Oil Area" of R-111-A, as amended, as set forth in paragraph 12 of Order No. R-6369-A.

10. The Commission has not fulfilled its statutory duty of prohibiting waste of commercial potash in this matter. The adoption and administration of Commission Order No. R-111-A, as amended, in that Sections 70-2-2 and 70-2-3 F. N.M.S.A. 1978 require the Commission to prohibit waste "within any area" and do not limit protection of potash against waste to the Order R-111-A and amendments. Section 70-2-3 F.

Commission Rec'd 10/30

do not fulfill the Commission's duty to protect potash

was enacted after the promulgation of Orders R-111 and R-111-A.

11. Sections 70-2-12 (16) and (19) N.M.S.A. 1978 do not limit protection of commercial deposits of potash to regulations adopted under them but expressly recognize they are in addition to other authority.

12. The Orders, R-111-A and amendments, do not presume to restrict protection of commercial deposits of potash in locations, such as Section 36, that are not included in the Orders. The Orders cover only those lands listed in them.

13. There exists no statute or regulation mandating the expansion of the R-111 orders to protect commercial deposits of potash, which is recognized in Order R-6369-A in paragraph (9) by the discretionary phrase, "potash operators may apply for expansion of the Potash-Oil Area."

14. Order No. R-6369 A is contrary to Sections 70-2-2, 70-2-3 F., 70-2-6, 70-2-13 and 70-2-23, N.M.S.A. 1978, and to the law of standing generally, and is accordingly erroneous.

15. Findings 5-12 of Order No. R-6369-A and Order No. R-6369-A are not supported by substantial evidence.

16. Order No. R-6369-A is not supported by proper findings or reasons.

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which tenders were made by Duval.

Respectfully submitted,

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Sammy T. Nixon

Where the hearing on review is had before an examiner and the board of review denies an application for further review, the board adopts the decision of the examiner.[20]

§ 550. Administrative review by court proceedings.

In some instances, courts are not called upon to exercise their ordinary judicial powers and functions in connection with their supervision or correction of administrative determinations, but are themselves made a part of the administrative scheme by statutes which permit resort to the courts after an administrative decision, whereupon the court may try the matter anew and exercise its independent judgment on matters of fact or discretion, may re-examine the evidence and affirm, modify, or reverse the action of the administrative agency, substituting for the original determination such a determination as it deems proper, either directly,[1] as in a "suit in equity,"[2] or in a proceeding denominated an "appeal."[3] But such statutes may be held to contravene the doctrine of separation of powers by attempting to bestow nonjudicial powers on courts which may not exercise such powers, and some federal courts are precluded from exercising powers of administrative review.[4]

§ 551. Effect of appeal or failure to appeal.

Particular statutes provide that in the absence of administrative review the decision of the hearing officer becomes the decision of the agency.[5] The Federal Administrative Procedure Act provides that in adjudication type proceedings in which the initial decision is made by officers other than the agency itself,[6] such decision, in the absence of either an appeal to the agency or review upon motion of the agency within time provided by rule, shall without further proceedings then become the decision of the agency.[7]

The filing of an application for appeal does not relieve the appellant from the duty of observing the order appealed from where it is operative in the absence of a stay,[8] an

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in the absence of a finding that the initial determination was arbitrary or capricious. Horvat v Corsi, 275 App Div 442, 19 NYS2d 505, affd 300 NY 704, 91 NE2d 726.

Where a medical board had found that an applicant was not qualified to take an examination and contended that an appeal board which found to the contrary exceeded its jurisdiction unless it found that the act of the medical board in refusing to permit the examination was arbitrary and capricious, the court said that the granting of the license is made mandatory when the requirements of the statute are met. The appeal board found that such requirements had been met. Application of State Board of Medical Examiners, 201 Okla 365, 206 P2d 211.

20. Moen v Director of Division of Employment Security, 324 Mass 216, 85 NE2d 779, 8 ALR2d 429.

1. Jaffe v State Department of Health, 135 Conn 339, 64 A2d 330, 6 ALR2d 664.

2. Keller v Potomac Electric Power Co. 261 US 428, 67 L ed 731, 43 S Ct 445.

The capacity in which the court acts is none the less administrative because the proceeding is designated a "suit" instead of an "appeal." Porter v Investors Syndicate, 286 US 461, 76 L ed 1226, 52 S Ct 617, affd on reh 287 US 346, 77 L ed 354, 53 S Ct 132.

3. Federal Radio Commission v General Electric Co. 281 US 464, 74 L ed 969, 50 S Ct 389; Butterworth v United States, 112 US 50, 28 L ed 656, 5 S Ct 25; Jaffe v State Department of Health, 135 Conn 339, 64 A2d 330, 6 ALR2d 664.

4. § 579, infra.

5. United States v Abilene & S. R. Co. 265 US 274, 68 L ed 1016, 44 S Ct 565 (order of division of commission has same force and effect as if made by commission); Sweitzer v Industrial Com. 394 Ill 141, 68 NE2d [illegible] (upon expiration of time for administrative review where no petition is filed).

6. § 436, supra.

7. 5 USC § 1007(a).

8. United States v Abilene US 274, 68 L ed 1016, 44 S v Riverdale Manor, Inc. (C 75 (denying injunctive relie

9. Aircraft & D. Equipmen 331 US 752, 91 L ed 1796, 6 nying injunctive relief).

10. Stuart v Board of Supe 1, 11 So 2d 212.

11. United States ex rel. 135 US 200, 34 L ed 105, 1

Where the action of a boa approving a determination termination under review w in final force and effect. S Supervisors, supra.

12. Meridian v Davidson, 2 So 2d 48.

Under most revenue syste new are given much larger final assessing officers, an in any sense be deemed final assessors, so that fr al assessors does not require an assessment made by a the honest exercise of its TAXATION (1st ed §§ 745, 74

13. § 608, infra.

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1007(a).

absence of a stay,[8] and some statutes provide that the filing of a petition for review shall not operate to stay the execution of the order.[9]

If an appeal is taken or review is had, the general rule is that it is then the decision on review which is thereafter material.[10] A valid decision on review must be obeyed,[11] and it is the act and decision of the tribunal on administrative review, and not that of the initial agent, which is reviewed by the court on judicial review.[12]

§ 552. — On right to judicial review.

The courts may, under the doctrine of exhaustion of administrative remedies[13] or otherwise,[14] deny judicial relief or review where there has been a failure to take or pursue to the end an appeal to an administrative review tribunal; under some statutes a petition for administrative review of an initial determination is made a condition precedent to a review by a court, the court's jurisdiction being limited to review of decisions made upon administrative review.[15] Normally, however, the jurisdiction of a court is not so circumscribed and the court has power to review a final decision whether it is an initial decision or a decision on review.[16]

The fact that administrative review has been had does not in itself affect the judicial power of the court to hear an authorized appeal,[17] and does not preclude judicial review which is otherwise warranted.[18]

Where a statute provides for both administrative and judicial review the provisions may be construed together to limit the judicial review to the matters authorized to be reviewed on the administrative appeal.[19]

8. United States v Abilene & S. R. Co. 265 US 274, 68 L ed 1016, 44 S Ct 565; Osmond v Riverdale Manor, Inc. (CA4 Va) 199 F2d 75 (denying injunctive relief).

9. Aircraft & D. Equipment Corp. v Hirsch, 331 US 752, 91 L ed 1796, 67 S Ct 1493 (denying injunctive relief).

10. Stuart v Board of Supervisors, 195 Miss 1, 11 So 2d 212.

11. United States ex rel. Miller v Raum, 135 US 200, 34 L ed 105, 10 S Ct 820.

Where the action of a board on review disapproving a determination was void the determination under review was held to stand in final force and effect. Stuart v Board of Supervisors, supra.

12. Meridian v Davidson, 211 Miss 683, 53 So 2d 48.

Under most revenue systems boards of review are given much larger powers than the original assessing officers, and their acts cannot in any sense be deemed the acts of the original assessors, so that fraud of the original assessors does not require the setting aside of an assessment made by a reviewing board in the honest exercise of its judgment. See TAXATION (1st ed §§ 746, 749).

13. § 608, infra.

14. Schoenfeld v Hendricks, 152 US 691, 38 L ed 601, 14 S Ct 754, holding exclusive and administrative remedy as to appraisement of goods for customs duties.

A claim that a layoff was not in conformity to civil service rules could not be raised in a mandamus proceeding where no appeal was taken to the Civil Service Commission. State ex rel. Ausburn v Seattle, 190 Wash 222, 67 P2d 913, 111 ALR 418.

15. Sweitzer v Industrial Com. 394 Ill 141, 68 NE2d 290.

16. See Brownell v We Shung, 352 US 180, 1 L ed 2d 225, 77 S Ct 252.

As to necessity for final decision, see § 584, infra.

17. Floyd v Department of Labor & Industries, 44 Wash 2d 560, 269 P2d 563.

18. People ex rel. Uvalde Asphalt Paving Co. v Seaman, 217 NY 70, 111 NE 482.

Resort to an appeal authorized by law or ordinance does not in itself preclude an attack upon the validity of that law or ordinance in a subsequent independent proceeding. Carter v Bluefield, 132 W Va 881, 54 SE2d 747.

19. § 640, infra.

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Larry D. Maddigan

Sunny J. Nixon
William P. Templeman
C. Matt Wesley
Robert L. Rivera
Jon J. Indall
Stephen J. Lauer

October 30, 1980

RECEIVED
OCT 30 1980
OIL CONSERVATION DIVISION
SANTA FE

Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

Attention: Joe D. Ramey

RE: Correction To
Application For Rehearing Case
No. 6889, Order No. R-6369-A

Dear Mr. Ramey:

Please find enclosed for filing with the Oil Conservation Commission in the above referenced case the original and three copies of a Correction To Application For Rehearing of Duval Corporation in the case.

Sincerely yours,

Sunny J. Nixon

Sunny J. Nixon

SJN/tcg

Enclosures

cc: W. Thomas Kellahin(w/encl.)

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

IN THE MATTER OF ORDER NO. R-6369-A OF THE OIL CONSERVATION COMMISSION DATED OCTOBER 6, 1980, ON DUVAL CORPORATION'S APPLICATION FOR DE NOVO HEARING ON THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO

CASE NO. 6889
ORDER NO. R-6369-A

RECEIVED
OCT 30 1980
OIL CONSERVATION DIVISION
SANTA FE

CORRECTION TO APPLICATION FOR REHEARING

COMES NOW Duval Corporation ("Duval"), by and through its attorneys, and corrects an inadvertent mistake and an inadvertent omission in its Application For Rehearing, as follows:

1. In paragraph number 3, first line, the words "Duval's application" should be "Belco's application".

2. In paragraph number 10, line four the words "do not fulfill the Commission's duty to protect potash" should be inserted following the word "amended,"

Respectfully submitted,

BIGBEE, STEPHENSON, CARPENTER, CROUT & OLMSTED

By _____

Attorneys for Duval Corporation

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing Correction To Application For Rehearing was mailed this 30th day of October, 1980 to W. Thomas Kellahin, Kellahin & Kellahin, 500 Don Gaspar, Santa Fe, New Mexico, 87501.

Sunny J. Nielsen

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
4 June 1980

EXAMINER HEARING

IN THE MATTER OF:

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

CASE 6889

BEFORE: Daniel S. Nutter

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation Division: Ernest L. Padilla, Esq.
Legal Counsel to the Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

For Belco Petroleum: W. Thomas Kellahin, Esq.
KELLAHIN & KELLAHIN
500 Don Gaspar
Santa Fe, New Mexico 87501

SALLY W. BOYD, C.S.R.
Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

A P P E A R A N C E S

For Duval Potash:

G. Stanley Crout
and
Ms. Sunny Nixon
BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED
Post Office Box 669
Santa Fe, New Mexico 87501

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MR. NUTTER: We'll next call Case Number 6889.

MR. PADILLA: Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

MR. NUTTER: Case Number 6889 was originally heard on May 7th, 1980, at which time it was noted there was an error in the newspaper advertisement of the case. It has been re-advertised for hearing today.

Are there any appearances to be made in Case Number 6889?

MR. KELLAHIN: If the Examiner please, I am Tom Kellahin of Santa Fe, New Mexico, appearing on behalf of the applicant.

MR. CROUT: Stanley Crout of Bigbee, Stephenson, Carpenter, Crout, Santa Fe, New Mexico, appearing on behalf of Duval Corporation in opposition to the application, and Sunny Nixon of the same firm.

MR. NUTTER: Your first name is Stanley, you say?

MR. CROUT: Yes, Stanley Crout.

MR. NUTTER: Mr. Kellahin?

MR. KELLAHIN: Mr. Nutter, we have presented our testimony on May 7th, 1980, and we have no further testimony to present on behalf of the applicant in this case.

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At this time, though, I believe it's appropriate to enter my objection to the opposition of Duval Company. It is my understanding that Duval is a potash operator and that they hold a potash lease for Section 36, which is the section involved in this application, and if the Examiner will take administrative notice of Commission Order R-111 and any of the amendments and extensions thereto, the Examiner will note that Section 36 is outside the R-111 area.

It is our position that Duval Company lacks standing to enter an objection as a potash operator to an oil and gas operation, and in substance, Mr. Nutter, I think I can direct your attention to justification as to why you should not allow Duval to present any opposition in this case.

You'll note the general rule under the Rules and Regulations of the Commission, and I believe it's somewhere under Rule 1212, or perhaps there is another one, generally speaking, the Commission affords all interested parties at an hearing an opportunity to present evidence and cross examine witnesses.

It's our position, if you'll look at Commission Order R-111 and 111-A, those rules for -- well, at least since 1951, in the area of potash operations in conjunction with oil and gas operations, have set forth specific

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rules and regulations on how these cases are to be handled.

It is my contention that the language found in Orders R-111 and R-111-A, specifically sub-paragraph X, I believe, and I'll read it in its entirety, says all general statewide rules and regulations of the Oil Conservation Commission governing the development, operation, production of oil and gas in the State of New Mexico not inconsistent or in conflict herewith are hereby adopted and made applicable to the area described herein.

My point is that the statewide rules and regulations of the Commission, including those concerning interested parties, have been specifically modified by R-111 and specifically delineate and determine how potash operations, or operators are to provide protests to oil and gas operations in a potash area.

In conclusion, Mr. Nutter, it is our position that to allow a protestant in this type of case, involving acreage outside the R-111-A or any extensions thereof, opens the door to a circumvention of the R-111-A and any modification. Therefor, we would object that Duval Company lacks standing to present any objection to our application.

MR. CROUT: Mr. Nutter, in response we believe the applicant is trying to have both sides of the issue. First, they didn't comply with Rule 111, or Order

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R-111 in this case by giving us the requisite notice. If they're contending it applies in this area then they didn't comply with the order.

If the order isn't applicable to us, then of course, we should not proceed under it. We'd proceed under the general rules, and the statute does specifically provide that the protection of potash may be regulated and may be accomplished by regulation of drilling or where necessary, a prohibition against drilling, in Section 72-12, and other sections provide for orders. The fact that this area is outside Order R-111, extended over the years, simply leaves you back under the statutes and it's one of the things -- potash is one of the things the statutes specifically require be protected.

MR. NUTTER: Mr. Crout, may I ask you this. Section 70-2-3, subparagraph F, in the definition of waste, states that drilling or producing operations for oil or gas within any area containing commercial deposits of potash, where such operations would have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities, or where such operations would interfere unduly with the orderly commercial development of such potash deposits, this is talking about commercial deposits of potash, and how do we know we have commercial deposits of potash

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here if we haven't had a case to include these lands under R-111-A?

MR. CROUT: Simply by the testimony of expert witnesses.

MR. NUTTER: Well, that would be the subject matter of a case to include these lands under R-111-A.

MR. CROUT: But the statute does not provide -- that you just read -- as defined by an order. It says if there's commercial potash there it should be protected.

MR. NUTTER: Don't we have to have a starting point some place that we would have a hearing to determine where the commercial deposits are and then define -- the purpose of R-111-A was to outline the area which includes commercial deposits of potash.

MR. CROUT: As known, of course, at the time of the hearing.

MR. NUTTER: As known at the time of the hearing.

MR. CROUT: Yes.

MR. NUTTER: The hearing or the hearing for the extension of R-111-A.

MR. CROUT: Well, I don't think that's -- that would have been one way for the Legislature to elect to go; that is, to require a definition of where the commer-

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cial potash is ahead of time, but they do not require that. They simply provide that it's one of the matters to be protected if it's commercial. So whether it's commercial or not can be established, we think, in this case on the expert witness testifying as to what exploratory drilling in the area has shown.

MR. NUTTER: How near to this particular area -- now, we're in Section 36. Our well is located --

MR. CROUT: When 36 --

MR. NUTTER: The well is located, the surface location of the well, is 1980 feet from the north line and 920 feet from the west line of Section 36.

Now where is the nearest boundary of R-111-A as has been previously defined by the Commission or the Division?

MR. CROUT: According to my copy of the R-111-A, as amended, Sections 26 through 35 in Township 22 South, 30 East, are all in R-111-A, as amended, so it would be adjacent.

MR. NUTTER: So Section 35 immediately to the west is in the potash area.

MR. CROUT: Yes. Now, I think there may also be some to the north and other directions, too. That's the first one I spotted.

MR. NUTTER: The nearest part to it, so

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the well --

MR. KELLAHIN: If the Examiner please, it's the east half of Section 35. It's Order R-11-C.

MR. NUTTER: And the east half of Section 35 is in it, so the potash area is 920 feet from the surface location of the well.

Now, let me ask you another question, Mr. Crout. If this location, if the applicant had chosen to dedicate the west half of Section 36, the location of the well would have been a standard location for a gas well for that half section to be dedicated, and assuming he had drilled a straight well at that point, there would have been no requirement under any statute or rule that he give notice to any potash operator or anyone else, and it's a ministerial function of the Commission to approve those drilling permits providing everything else is in order.

MR. CROUT: If it's in R-111, which I'm saying it's not.

MR. NUTTER: No, if it were not in R-111-A, and this is -- the location would not have been, and the applicant would have filed his drilling permit and it would have been approved providing everything else was in order.

MR. CROUT: Well, but --

MR. NUTTER: We wouldn't have had a hearing on it. The purpose for the hearing was for the

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directional drilling because of the WIPP project.

MR. CROUT: Yes.

MR. NUTTER: You have to drill straight down 6000 feet and then turn to the east.

MR. CROUT: Yes. Of course, not if it resulted in waste and someone made objection to it.

MR. NUTTER: How would they have brought it to anyone's attention, because the drilling permit would have been filed with the Division and not with Duval, because it wouldn't have been a requirement to file with Duval if it's outside of R-111-A.

MR. CROUT: Yes, but it would probably have been discovered the same way as it in fact was, when we saw a drillsite on the location.

MR. NUTTER: But we would have been powerless to withhold the drilling permit because, as I say, it's a ministerial function to approve a drilling permit providing everything is in order.

MR. CROUT: I don't think that's quite correct. Not if it involves waste of a potash resource, and that can be raised in several ways. For one, assuming they saw the site location and then came in and protested that the approval would result in waste.

MR. NUTTER: Well, I think it would have been up to Duval in that event if the well had been permitted

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as a straight hole down at that location, I think it would have been Duval's obligation then to have gone to the courts and got a restraining order prohibiting the further drilling of the well.

I don't think we could have withheld the drilling permit.

And then, of course, while the well was being withheld from drilling, perhaps they could have come in and asked for an extension to the R-111-A.

MR. CROUT: By analogy, you know, under the State Engineer practice, there is a -- one cannot drill a well for the use -- his particular once an area is declared an underground basin.

MR. NUTTER: Well.

MR. CROUT: Mr. Reynolds proceeds to declare an underground basin, then that sets the boundary that the particular rules relating to declared underground basin rules.

MR. NUTTER: But if you got your drilling permit before he declares a basin, you can drill the well.

MR. CROUT: But not if the other -- not if someone comes in and attempts to stop it; at least according to Mr. Reynolds. And here our statute in this particular case doesn't provide for the area to be declared, in effect, a potash area prior to that. The statute itself

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simply provides that encompassed within the meaing of waste is a situation where the potash reserves could be commercial.

MR. NUTTER: Where you waste commercial deposits of potash.

MR. CROUT: I certainly agree that it may have been a wiser approach for the Legislature to have adopted a scheme similar to what's involved in the State Engineer's practice, but I don't think they did that.

MR. NUTTER: To tell you the truth, we wrote R-111-A before we ever had any statutory authority, anyway. That came way far later.

Do ycu have anything else, Mr. Kellahin?

MR. KELLAHIN: With all due respect to Mr. Crout, I don't have any faith that his argument has merit.

The Commission has operated since 1951 with rules promulgated for the potash area involved with conflicts with oil and gas operations and potash operations.

If you'll look at Order No. R-111-C you'll find that Duval has used those very rules and regulations when they sought to have the potash area extended to the east half of Section 35. They're familiar in the process and we believe that the policy and rules and regulations established for some thirty years are significant in controlling, and so long as this area, Section 36, remains outside the R-111 area, we believe that Duval lacks the standing to com-

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plain and the permit to Belco for the drilling of a directional Morrow test ought to now be approved as requested.

MR. NUTTER: We'll take a 10-minute recess.

(Thereupon a recess was taken.)

MR. NUTTER: The hearing is called to order, please.

Mr. Crout, were you planning today, if permitted to do so, to present evidence that you have commercial potash in Section 36?

MR. CROUT: Yes, we are.

MR. NUTTER: Well, I don't think Mr. Kellahin is prepared to refute your testimony. I think under the call of the hearing today it would be improper for us to take testimony or evidence as to commercial potash. He might want to get a mining engineer to refute the commerciality of this potash that's present.

MR. CROUT: We certainly have no objection to being continued until he has time to --

MR. NUTTER: Well, I think this -- we have heard the case as it relates to the subject matter that was advertised. We've already heard that, and we have juris-

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diction now because we do have proper legal notice for the hearing, for the subject matter as advertised, so it's going to be the recommendation of the Examiner that the Division enter an order approving the directional drilling.

Now you've got certain remedies left to you. If Duval is interested in pursuing the matter further, they can, one, ask for a hearing de novo of the matter and the second remedy would be to seek a restraining order against Belco proceeding with the drilling of the well. If you do that, you'll have to post a bond to cover Belco for any financial losses that they sustain as a result of having to shut down.

Then you would also have to file an application for extension of the R-111-A area.

MR. CROUT: Well, we don't agree with filing the extension, that a filing for extension of the area is necessary.

MR. NUTTER: Well I think under Commission and Division policy over many years here, we've established that -- we have enough trouble with drilling in potash /oil areas as it is.

MR. CROUT: Surely.

MR. NUTTER: And if we started entertaining objections on account of potash outside of the R-111-A area, if it hasn't been shown previously to contain commercial

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potash, we would really be in trouble. I think this would be a wide departure from our previous practice and policy to start doing this at this time.

MR. CROUT: Well, without quarreling, I don't think you've ever had a case that I could come across where you had a situation where an area not in R-111-A, as amended, involved a protest at all.

MR. NUTTER: No, I don't recall -- I don't recall a protest on account of potash outside of R-111-A. Like I say, we have enough trouble with the drilling disputes inside of R-111-A without getting into them where we're outside of R-111-A.

But I think that those four points, the hearing de novo, the restraining order, posting the bond, and filing an application for extension of the area, would be Duval's remedy here.

So I think with that, we'll take the case under advisement.

MR. KELLAHIN: Excuse me, may I ask for a little clarification, I misunderstood.

Are you saying that Duval Company has standing to complain in this particular case against Belco?

MR. NUTTER: I think they can ask for a de novo hearing in the matter. I think they can ask for a de novo hearing and it will be up to the Commission at that

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time to decide whether they have standing or not. They certainly have the right to ask for a de novo hearing because they are adversely affected by the order. There's prima facie evidence of that.

MR. KELLAHIN: Thank you.

MR. NUTTER: And we will make a recommendation to enter an order approving the directional drilling.

Now, did you -- you mentioned the other day, Tom, that they were talking about keeping the target area to within 100 feet of the original point. Do they want to amend the application back to 100 feet or do they want to just leave it at 660 feet?

MR. KELLAHIN: Yes, sir, let me review my notes for a moment to see what I am to do.

MR. NUTTER: This wouldn't affect Duval one way or the other, what the target area is, because this is all going to occur at a depth of 13,000 feet. The first 1500 feet of the well is what concerns Duval.

MR. CROUT: Right. As I understand it the deviation will be less than one degree to the -- for the first 1500 feet, is that correct?

MR. NUTTER: Right, they're just going to drill an essentially straight hole through the first 6000 feet, I think, isn't it, Tom?

MR. KELLAHIN: Yes, sir, at a depth of

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6000 feet then we'll deviate the hole, so as it goes through the potash there is --

MR. NUTTER: Essentially a straight hole.

MR. KELLAHIN: I'm authorized, Mr. Nutter, to return the application to its original status and we will hit 100-foot radius target.

In addition, so that Duval knows, Belco Petroleum is proceeding to build the pad and will commence drilling of that well based upon our oral conversation with you, Mr. Nutter, on the 20th of May, which was subsequent to the hearing.

Now, that was done without knowledge that there was a potash protest or that there was any potash difficulty.

MR. NUTTER: The only question we had at that time was whether we should advertise it as 100-foot target or a 660-foot target.

MR. KELLAHIN: Yes, sir, and I don't want to get crossways with my client nor with the potash company, and if you -- if it's your direction that we not proceed with the drilling of that well pending a final order, we'll abide by those rules, but we are now proceeding under our oral communication of May 20th, indicating that we could commence the well. The reason for doing so, and I tell you, is that the rig availability is very difficult.

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MR. NUTTER: Well, I think -- I think on the advice we're giving you here today, it's going to be up to Belco to make their decision as to whether they want to proceed further.

Like I say, we will recommend that an order be entered approving the drilling of the well and the directional drilling of the well, and then from there on, it's up to what you hear from Duval.

MR. KELLAHIN: All right, sir.

MR. CROUT: And just so the record is clear that we were prepared to present a witness here today on the commercial mineability of the potash reserves on Section 36.

MR. NUTTER: Yes, sir, that will be in the record.

And your appearance here today assures you of the right to ask for a hearing de novo.

With that, we'll take the case under advisement and the hearing is adjourned.

(Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd C.S.R.

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I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 6889 heard by me on 6/4 19 80.

Examiner
Oil Conservation Division

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
4 September 1980

COMMISSION HEARING

IN THE MATTER OF:

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico. CASE 6889

BEFORE: Commissioner Ramey
Commissioner Armijo

TRANSCRIPT OF HEARING

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MR. RAMEY: The hearing will come to order. We have one case on the docket, Case Number 6889.

MR. PADILLA: Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

And the hearing today is restricted to evidence and testimony or arguments to the issue of whether Duval Corporation has standing to object to the application of Belco Petroleum Corporation.

MR. KELLAHIN: I'm Tom Kellahin, Santa Fe, New Mexico, appearing on behalf of Belco Petroleum Corporation.

MS. NIXON: I'm Sunny Nixon from Bigbee, Stephenson, Carpenter, Crout, and Olmsted; Mr. Stan Crout from the same firm, appearing for Duval Corporation.

MR. RAMEY: Sunny Nixon?

MS. NIXON: Yes.

MR. RAMEY: Let's see, I think -- do you want to go first, Mr. Kellahin?

MR. KELLAHIN: It's my motion, Mr. RAmey.

MR. RAMEY: All right.

MR. KELLAHIN: Mr. RAmey, Mr. Commissioner, the case here today originally commenced with an application by Belco Petroleum Corporation to directionally drill a well which had a surface and bottom hole location outside of the

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oil/potash area, and if you'll turn to Exhibit Number Seven in the exhibit book, and the third page of that exhibit gives you a plat.

As a preface, the exhibits indicated in the exhibit book, One through Fifteen, have been compiled from the Commission's records and transcripts involving potash/oil area and potash/oil protests. There is a certificate authenticating the accuracy of those records in my possession and I will submit that to you, if you desire.

But that's the source of all the exhibits.

Exhibit Number Seven shows you that, on page four of that exhibit, and you might turn to four first, you can see the locations of the surface and bottom hole of the Belco well.

The testimony at the Examiner Hearing conducted by Mr. Nutter on May 7th, 1980, showed that Section 36 is a State of New Mexico lease for oil and gas, and that a substantial portion of Section 36 has been condemned by the WIPP condemnation.

Page three of the exhibit, if you'll flip back over, you can see outlined the area that's included within the WIPP condemnation. It is the north half of the north half of 36. It's the -- well, it's all that portion you see the stairstep line, it's all that portion to the north and east in 36, a substantial portion of 36.

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And if you flip back over on page four of the exhibit, you'll see that the surface location is immediately adjacent to the WIPP project, but outside it. It's located in the southwest quarter of the northwest quarter, and the testimony before Examiner Nutter was that the well would be surfaced there; to be drilled vertically down some 6000 feet and then a whipstock set and it would be directionally drilled to a bottom hole location up to the northeast.

That case was concluded on Belco's part on the May 17th hearing, and as a result of an error in the advertisement, the case was re-advertised and came on for hearing on June 4th, I believe, of 1980, and it was at that time that Duval Corporation appeared and attempted to introduce evidence of a potash protest.

The testimony of Duval was precluded by Examiner Nutter. He deferred the objection I made about their standing to object to the Division here today. He went ahead and entered the order approving the directional drilling. That order is in the exhibit book and it's Exhibit Number Four.

Staying with the plat for a moment, the surface and bottom hole location it's been testified, are outside of the potash/oil area, and outside any of the extensions of the original R-111 orders; however, it's immediately adjacent to an area in which Duval Corporation had the R-111-A

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extended to it back in 1959.

The order extending the potash/oil area is R-111-C, and it is Exhibit Number Three. The transcript upon which that decision was based is Exhibit Number Twelve and that case was held in August 13th of '59.

The application applied for a slightly larger area than was approved. The final order approved the inclusion of the east half of Section 35 in the R-111-A area and that is the section immediately east of the surface location of the well.

As you proceed north on the plat, the west half of the west half of Section 25 is included. The east half of 26, as well as the east half of the west half of 26 is also included. And then up into 24, the west half of the west half of that section is included, and then a portion of Section 23.

The point is that the surface location is outside of that area and it is one that is immediately adjacent to the oil/potash area as extended by Duval Corporation.

To the best of my understanding and the extent of my research indicates that this is the first attempt by a potash operator ever to interject a potash protest outside of the R-111-A area. The application for a de novo hearing filed by Duval raises the same questions that we believe and contend are comprehensibly covered by the R-111-A

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order.

It is our contention that they lack standing to complain upon the basis of being a potash operator when we're dealing with areas outside of the oil/potash area. The basis for that contention is analyzed for you in our memorandum. I'll summarize some of the points that support our position and you're welcome to ask me questions and I'll be happy to answer them if I can.

What I have done is simply set forth in a chronological order what I believe is documents to demonstrate that the Division over some thirty years has established a comprehensive and complete set of rules and regulations to govern the potash/oil operating areas.

The case first started with Mr. Guy Shepherd, who was the Land Commissioner back in '51, and about that time he set forth four or five or six state leases, or areas to be leased for oil and gas operations. There was an objection raised by potash operators that there was known or semi-known potash available in the areas in which the leases were to be issued.

The Commissioner withdrew those lands from the lease and appointed an oil and gas and potash operators industry committee. They made recommendations back to the Land Commissioner to include some 180,000 acres in Eddy County to be protected in some fashion from oil and gas oper-

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ations so that when oil and gas operations were conducted within that known potash area it would be done in such a way that it would not constitute waste of potash.

The Commissioner brought a case, I believe it was 278, back in '51, and out of that case came the first R-111 order setting forth casing and cementing programs and policies, and what we contend to be a comprehensive set of rules and regulations to handle objections.

Subsequently, that's been amended some thirteen times over the course of the last thirty years, including one by Duval Corporation.

In 1965 the Legislature first incorporated into the statute defining the general statutory authority of the Commission to include the protection of potash. The prior orders had been entered and the orders themselves reflect, as well as the transcripts, that the Commission acted under its general statutory authority to prevent waste, protect correlative rights, and promote conservation. That statutory -- the implementation of those rules and regulations have never been contested for -- on the grounds that they lacked appropriate statutory authority or that the Division exceeded its statutory authority with those potash rules and regulations.

It's my understanding that the '65 legislation was simply an effort to remove any technical defect in the fact that the rules had now covered potash operations.

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The Commission, even after '65, has never sought to implemant and kind of different way to protect the potash. They have never entertained hearings outside of the potash area.

It is our contention that the general statutory authority, whether it's the original one from '35 or the one originating in 1965, gave the Division broad statutory authority to control oil and gas operations and in doing so, you have set forth specific rules and regulations in the potash area that comprehensively handle the problem and that thereby, any attempt to go outside of those rules to raise a potash protest, is strictly prohibited; that you are absolutely bound by those rules that you have now developed.

To state again, the matters raised by Duval in attempt to protest an oil well outside of those areas are no different than the questions raised and handled under the R-111-A orders, and in that application for a hearing de novo they have made no indication that there is unusual circumstances arising that would require the Division to any way treat this case differently from those that they handle under the R-111-A authority. I don't believe that there is any justification to make the substantial departure from the procedures used to handle those cases, and to do so undercuts and circumvents the R-111-A orders and you might as well throw them away, and that, I think, is the question you have to decide today, whether you want to take those thirty years

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area which contains commercial potash.

MR. PADILLA: Mr. Kellahin, did you say that these things were all taken from the Division's records?

MR. KELLAHIN: A certificate dated September 2nd, 1980, certifies the source of all the documents.

The purpose of the exhibits are to document the extensive history and the time and effort the Commission has developed to handle potash protests, and I think it's necessary in order to support whatever action the Division elects to take with regard to the standing issue.

MR. PADILLA: What are these Sawyergrams (sic) that are in there?

MR. KELLAHIN: They're not submitted as an exhibit.

MR. PADILLA: Ms. Nixon, is your objection related to the relevancy of these exhibits or how specific is your objection?

MS. NIXON: I believe my objection goes to the relevancy to them on this particular hearing which deals with a part of the contention of Duval that there's commercial potash in Section 36.

These exhibits do not relate to potash and that the particular hearing is limited to the standing of Duval to contest the application of Belco, and for that reason we would object to these being outside the ambit of

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of time, effort, and expense to develop these rules and forget about them, because once you open the door to the first one of these kinds of cases, you're going to have a lot more of them.

In conclusion, I think the record indicates very clearly that Examiner Nutter invited Duval Corporation to go ahead and file an application for the extension of the R-111-A order to include this area if they believed it had commercially mineable potash. They have not done so.

The letter issued by the Commission establishing the hearing today again, as I read it, invited them to come under the rules and regulations of R-111-A, and they have not done so. The fact that they have elected to protest here despite the opportunity to go ahead and proceed under the R-111-A orders, I think, precludes them from going forward; that in fact they lack standing.

That concludes my presentation and I would submit Exhibits One through Fifteen as support for the memorandum I've submitted to you, Mr. Ramey.

MR. RAMEY: Okay, Mr. Kellahin, we accept those.

MS. NIXON: Mr. Commissioner, I'd like to object to the exhibits in that they do not relate to the issue of potash, which is the subject of this hearing, Duval's contest of Belco's application to drill for oil and gas in an

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the particular hearing today.

MR. RAMEY: We're going to accept these exhibits tendered by Mr. Kellahin.

Mr. Kellahin, let me ask you a question, if I could please.

The area where your surface location is proposed, is that in the application of Duval at one time for an extension?

MR. KELLAHIN: Exhibit Three shows that it was not, Your Honor, Mr. Ramey, sir.

MR. RAMEY: Okay, thank you. I thought you stated that it was in an application for extension that had not been approved.

MR. KELLAHIN: No, sir. I may have mis-spoke. The application itself included areas greater than those actually approved but neither the application nor the order included Section 36.

MR. RAMEY: Thank you.

Ms. Nixon?

MS. NIXON: Duval Corporation appears here today to contest the application of Belco Petroleum Corporation in its application in their Case Number 6889.

In view of Mr. Kellahin's review of some of the history of the regulations of the Commission, and a statutory review, Duval would like to give some history to

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this particular controversy between Belco and Duval, and how it arose.

The controversy arose from the fact that Belco has asked for an exception to the spacing rules to drill in an unconventional location in the north half of Section 36, Township 22 South, Range 30 East. The have requested this unconventional location due to the fact that a conventional location would be precluded by an agreement which Belco, along with other parties, entered into with the Federal government, for the proposed WIPP project, and in this agreement Belco received, along with other parties, compensation worth many millions of dollars for their right in the area which has been condemned for the proposed WIPP project.

Because of this agreement, then, Belco, in order to drill, had to move to an unconventional location and has requested permission from the Commission to do so.

Had Belco remained in the conventional location, it's Duval's position that Duval's potash reserves or deposits would not have been interferred with nearly to the extent that they're going to be interferred with if the Commission grants Belco's application to drill in this unconventional location some 900 feet from the west line of Section 36.

It's Duval's contention that Belco has been compensated handsomely for its rights in the -- at the

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conventional location, and now it seeks to drill and interfere with the commercial potash deposits leased by Duval Corporation from the State of New Mexico, under lease renewal twenty-six eighteen two, from the surface location of which the hole would be with the -- some 900 feet from the west line of Section 36, where Duval contends that its commercial potash deposits are extensive.

It's Duval's position that Belco is -- really wants to have its cake and eat it too, and that for the Commission to grant its application would be highly inequitable in view of the effect it would have on Duval.

Duval is contending that under the statute 70-2-2 and 70-2-3, that it has commercial potash deposits which will be reduced, unduly reduced in the total quantity of the potash deposits which may be reasonably recovered in commercial quantities by Duval, and that the operations of Belco would interfere unduly with the orderly commercial development of such potash deposits.

It is Duval's contention that the Commission is required under these two statutes to prohibit waste and as one of the statutes, 70-2-3 provides, waste is defined in part, in sub-part F, as the drilling or producing operations for oil and gas within any area containing commercial deposits of potash, where such operations would have the affect unduly to reduce the total quantity of such commercial deposits of

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potash which may reasonably be recovered in commercial quantities, or where such operation would interfere unduly with the orderly commercial development of such potash deposits.

It's Duval's contention that this statute enacted in 1965 covers any area, and let me emphasis any area, containing commercial deposits of potash.

It is not limited to the areas which may be covered under the Commission's Rule 111 and its amendments, but it covers any area, and any area where an operator can prove there are deposits of commercial potash, as set forth in this particular sub-section of the statute, deserve, and indeed, require the protection by this Commission from an operation of oil drilling.

So Duval is here today proceeding under these two statutes, which mandate the Commission's protection.

In turning to the regulation referenced by Mr. Kellahin as being the comprehensive regulation which contains any Commission action, R-111-A, Duval would note and contend that this regulation only governs those areas which are defined within the regulation, and on the first page you will note that it relates only to those certain areas herein defined which are known to contain potash reserves.

We would note that this particular regulation was adopted by the Commission in 1955, some ten years prior to the statute amendment of 70-2-3F, which requires the

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Commission to protect and prohibit waste in all -- any area containing potash deposits.

It's indeed Duval's contention, as opposed to Belco's contention, that this particular regulation is comprehensive and was -- and is intended to cover all areas of potash. It's clear that it only relates to those defined therein. It does not preclude other areas of potash being shown outside of it, and these areas of potash, if they are shown to contain commercial deposits of potash do, indeed, require the protection by the Commission.

We believe that Mr. Kellahin is right when he asserts in his memorandum that this is the first case in which -- coming before the Commission, of a protest by a potash operator outside of the potash area defined in R-111-A. And it is the first case that we know of, of an unconventional application to drill for oil in such an instance, but it is no less deserving of protection by the Commission than is one contained in the potash area defined in Regulation 111-A. Indeed, the criteria is, as the statute so well put forth, that there be commercial deposits of potash.

It is Duval's position, then, that they do have standing under these particular statutes, 7-2-2 and 70-2-3, to protest and contest the application of Belco to drill as set forth in Case 6889; that Belco has not met its burden of proof in this particular case opposing standing,

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because it has only addressed its argument to R-111-A, which it contends to be comprehensive and inclusive. It has not disputed the part of those paragraphs of Duval's application for hearing de novo, in which Duval asserts that there is potash under its lease in Section 36, Township 22 South, Range 30 East, and that the application granted to Belco will result in waste of the potash which may be reasonably recovered by Duval in commercial quantities.

Nor has it disputed the -- that the application granted to Belco will interfere unduly with the orderly commercial development of potash deposits on said Section 36.

In fact, Mr. Kellahin has not referred at all to whether there could be potash in Section 36 or whether his -- Belco's operations will interefere with that.

It is for this reason that Duval contends Belco has not met its burden of proof in this particular hearing on standing.

Duval also asserts that it has standing under the statute because of the DeVargas Savings and Loan case, versus Campbell, cited at 87 New Mexico 469-535 consec 1320 in that it is within the zone of interest to be protected by the two statutes I recited earlier, and that it will -- Duval is contending that it will injured in fact or imminently threatened with injury, which is the test in the DeVargas Savings and Loan case.

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It is for these reasons that Duval contends it has standing and we believe that -- that our standing argument has not been disputed by Belco, and that the allegation set forth in our motion for hearing de novo will stand undisputed; however, if it is the desire of the Commission, we have here today a witness who will present testimony, he's here to present testimony, on the interference that Belco will cause with Duval's potash deposits, and the reduction that they would cause in the commercial potash deposit, which might be reasonably removed and will be reasonably removed by Duval Corporation.

We note that the notice of hearing states that evidence and testimony or arguments on this hearing will be presented and in accordance with this notice we have provided a witness to so testify on interference of Belco with Duval's potash deposits.

And at this time, if it's the pleasure of the Commission, we would like to introduce this testimony through our witness.

MR. KELLAHIN: If the Commission please, I would object to the taking of expert testimony on the issue of potash. I believe that's specifically precluded by the hearing notice here today.

The intent was to avoid the expense of both parties hiring and retaining expert witnesses to develop

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a potash protest case until the Commission first determined whether or not they wanted to hear a potash protest case outside of the R-111-A orders.

So we would object to the taking of testimony.

MR. CROUT: I'll respond to that.

Mr. Kellahin has brought this situation on himself. He said that he wanted to have this hearing and the order we have says the evidence and testimony in this hearing shall be limited to the issue of whether Duval Corporation has standing to object to the application. And the Commission itself said that evidence would be received on this issue. Mr. Kellahin has failed to come forward with it. It's his burden to do so. He's failing in his burden of proof that there is no potash reserve and that we will not be unduly interfered with, and further, we're prepared to present the witness on it.

Further, under the Commission's previous ruling here, you have allowed Mr. Kellahin to introduce exhibits which do not even relate to the issue of whether there is potash there and whether Duval has standing.

And once he's done that, he's opened up the hearing to any evidence, and for that reason, we're here to present Mr. -- the witness' testimony on the existence of the commercial potash reserves under Section 36, and the inter-

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ference that will be occasioned by the granting, if it should occur, of an unconventional location on this property.

MR. RAMEY: We're going to take a little recess.

(Thereupon a recess was taken.)

MR. RAMEY: The hearing will come to order.

Did you have a question, Mr. Padilla?

MR. PADILLA: Yes, Mr. Chairman. I have questions for both counsel, both sides here.

As I understand your argument, Ms. Nixon, is that essentially you're saying that standing arises from the mandate of the Commission to protect and preserve and prevent waste of potash, irrespective of R-111-A. Is that essentially your argument, is that is a supervening duty irrespective of any procedural rules that the Commission may have promulgated?

MS. NIXON: That's correct. If, particularly if there was a conflict between R-111-A and the statute. If there was a conflict, certainly the statutes will prevail and mandate that the Commission protect potash under the provisions of the statute.

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It's also our contention, however, that there is no conflict between R-111-A and the statute. The regulation, R-111-A, merely relates to those areas under it. It does not presume to go beyond the areas and govern other sections which are not defined in it, or not listed in it. Were it to do so, there would be a conflict, but there is no conflict, and the statute governs because there is no conflict.

MR. PADILLA: Mr. Kellahin, you're saying that R-111-A is the exclusive procedural method by which the Commission can extend or preserve potash. In other words, unless an applicant would extend the area, the potash area, he would not have a -- well, he would not fall within the zone of interest as you mentioned previously -- as Ms. Nixon mentioned previously on that point in the citation, case citation.

MR. KELLAHIN: That's a correct characterization of my point. To amplify it slightly further, I think it's typical of any statutory mandate to any administrative agency, you get a specific grant of authority from the Legislature. Then you take the next step and you implement rules and regulations governing the particular problems for which you're required to administer.

My point is, I'm saying that with the potash mandate we have rules and regulations developed by the Commission that we ought to abide by, and -- yes, sir.

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MR. ARMIJO: Didn't I understand correctly that the statute actually superseded the rules and regulations?

MR. KELLAHIN: The statute originally in '35 just had the broad definition to protect conservation -- promote conservation, prevent waste, and protect correlative rights. It was in that context that the original rule, R-111-A was developed. It was not until 1965 that the phrase prevent waste of potash, whatever it is in the statute, was specifically enacted as part of your duties of the Commission, that is correct.

MR. PADILLA: So essentially what we have are just two different -- differing interpretations of standing or how standing arises in this case; that is, as far as they're more legally, there are two legal interpretations of how standing arises here.

Irrespective of whether or not -- even assuming that he would say that in Section 36 there are commercial deposits of potash.

MR. CROUT: Yes. I think -- we have alleged in the petition that there are commercial deposits of potash, and we have also alleged that they'll be unduly interfered with, and our position is that Rule 111 simply states that in the sections listed there, there is potash. It does not say, Rule 111 does not say that there is not potash elsewhere. In fact, the Commission has never even had

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a hearing, a general hearing, to determine the extent of the potash reserves in this state. All it does is say as to a section in Rule 111, here is what you do, and we're not quarreling with that. If we were -- if you had included this particular property in Rule 111, you would know what to do. What happens is that you didn't include it and it does have commercial reserves, and when you're -- when you've done that, one can -- the Commission could have gone and had its own hearing and extended Rule 111-A as a way of protecting it, but it hasn't done that to this property, and so the Commission is now left with just a statute.

Now we would have no desire to present the evidence on the commercial reserves and undue interference, as long as the Commission accepts the allegations of the petition that our reserves are there. It's much like a motion to dismiss in court; you assume the truth of that in ruling on the -- on your matter, and as long as it's assumed to be true that the allegations in the petition are correct, there would be no need to present the testimony, and after that it's a question of law, of whether the statute governs or not.

MR. PADILLA: Whether -- whether standing arises by virtue of 70-2-3F or whether it arises by following R-111-A, as Mr. Kellahin suggests.

MR. CROUT: Sure. Once it's accepted,

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once this is accepted for the purpose of the argument that there are commercial reserves there and that they will be unduly interfered with, then there would be no -- and I don't think there would even be -- it would just be taking up the Commission's time to hear the actual evidence, once you've accepted that for the purpose of determining the legal issue, we would have no desire to present the witness, but as long as that's the assumption that you're going under.

MR. RAMEY: Yes, do you have something to say?

MR. KELLAHIN: May I respond briefly? My understanding is slightly different.

The contention has been made that there's commercial potash but in order to protest the oil and gas operations of Belco it needs to be predicated by having them take their belief and prove it in an R-111-A hearing, and that would give them sufficient standing to complain in this case.

I see it the other way around, is my point.

MR. CROUT: You haven't set an R-111-A hearing. We'll be glad to show up if you set one, but until you --

MR. RAMEY: Well, Mr. Crout, these are normally set at the request of an operator. We normally don't -- we don't -- we don't pick out an area and say we're,

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you know, we're considering this for R-111-A.

MR. CROUT: Right.

MR. RAMEY: It's normally the operator, as Duval has done before.

MR. CROUT: That's true.

MR. RAMEY: They come in and apply to --

MR. CROUT: But before the statute was enacted that we're talking about here. Since the statute's enacted, the statute no longer leaves it up to the Commission how they're going about protecting it. The statute says the the Commission will protect, and that's a change in the law that occurred back in, as I recall, 1965. The Legislature no longer left it for the Commission to try to solve the problems. It said the Commission has to, and R-111 had a history long before that and the Commission trying to come up with the solution to the problem and whether it's been a good one or a bad one is -- is neither here nor there, but that was the way they started until the Legislature in '65 made it mandatory.

MR. RAMEY: It seems under your broad interpretation this Commission couldn't authorize any wells in any area that might have commercial potash.

MR. CROUT: Oh, no, I don't think that's true at all. You may authorize a well. What you have to do is protect against the waste and the two are not necessarily

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inconsistent. In fact, I think the Commission be -- I would be very surprised if the Commission took the position of drilling a well under any circumstances always causing undue interference. It's still providing the method of protection of the potash and of course there are methods that can be accomplished here.

Again, why we're having this hearing is someone has not just applied to drill a well. It's the application for an unconventional location that's caused this whole matter, because it's our position that had they filed a conventional location procedure, the interference with us would be a great deal less because of the geology of the area, and it's because they've selected an unconventional location after they made a settlement, and by the way, the State of New Mexico made the same settlement with the Federal government on WIPP to preclude their drilling of that well. It wasn't just Belco, it was the State Land Office that was a party to that proceeding, and that's how this situation arose.

So it would not always follow that drilling an oil well is going to always cause a legal interference with potash.

MR. KELLAHIN: Small point, Mr. Ramey. The application was not for a location that is not acceptable or is in any way unorthodox. The application was to approve a directional drilling of a well; slightly different.

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MR. ARMIJO: That was done through court order, wasn't it?

MR. KELLAHIN: It was required by court order, yes.

MR. ARMIJO: When the condemnation was made.

MR. KELLAHIN: And a demand made upon us by the State Land Office.

MR. ARMIJO: I just learned about this during coffee, and I think Ray wanted to make some kind of a statement to that effect.

MR. CROUT: We don't -- there was no court order requiring this well to be drilled here at all. What they're saying is that they made a deal with the Federal government. They gave them some money so they could step off and --

MR. ARMIJO: Who is they?

MR. CROUT: The State and Belco; State Land Office. But the court order doesn't require them to drill this well at all.

MR. KELLAHIN: The -- our lessor, our common lessor, the Land Commission of the State of New Mexico has made demand upon us to drill the well.

MR. ARMIJO: That's what I understood. Is that correct, Ray?

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MR. GRAHAM: Yes, sir, Commissioner. I'll make a statement at the appropriate time.

MR. RAMEY: Well, I really don't think that testimony on commercial potash would be appropriate for the call of the hearing today, which was to hear arguments, which we have heard, and with that I would -- I would request that both -- both sides submit briefs within fifteen days. Would that be appropriate?

MR. KELLAHIN: It's acceptable to me.

MR. CROUT: Well, Mr. Chairman, may we just tender for the record that the witness' testimony, I can either do it by statement, if that's acceptable, Mr. Kellahin, or I could tender the witness and make a record of his testimony so that we will have a record of what he would have testified to had he been permitted to.

MR. RAMEY: Do you have any objection to that, Mr. Kellahin?

MR. KELLAHIN: I will accept Mr. Crout's tender of proposed testimony from his statement.

MR. CROUT: Yes. And the tender would simply be that Duval leases the Section 36 in question from the State of New Mexico for potash; that the witness would testify -- considered to have testified that there exists on Section 36 a commercial deposit of potash, particularly, and that the mining is approximately a mile from the section line

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at this time. This is the largest langbeinite mine in the world; that the location of the well in the area -- the site proposed by Belco, will interfere with the development of that particular potash deposit in that a pillar of approximately 200 foot radius will have to be left around the well to protect it from the gas getting into the mine, or water coming into the mine; and that the area is expected to be mined in the next several years; and that in addition to that, that the originally more conventional location would not interfere with the mining nearly so greatly because the reserves increase in an easterly direction across Section 36.

MR. RAMEY: Did you want to make a statement, Mr. Graham?

MR. GRAHAM: Yes, sir, Mr. Ramey.

I'm Ray Graham, Director of the Oil and Gas Division for the New Mexico State Land Office, and I just want to make a few facts available for the record.

We are the lessee -- lessor of both of the lessees involved in this case. The minerals belong to us and we've had no qualms with either of the parties. We feel like we have valuable minerals of even more than oil and gas and potash under that particular section.

Some two or three years ago the U. S. Government condemned the greater part of Section 36, Town-

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ship 22 South, Range 30 East, which is State lands. They condemned the uppermost 6000 feet. They condemned the use of the surface for that uppermost 6000 feet.

We do have all minerals below 6000 feet in the condemned portion. The application for this well is probably the only logical location in the section in which the directional drilling would not have to deviate to some great distance.

The north half of the section in which the well is to be bottomed out is the only logical and legal proration unit left for the well in that particular field. That one well that is already in Section 36 is one of the better wells that's been drilled in New Mexico, a gas well.

The court, and it was not by consent or agreement as the gentleman spoke of, it was by a court order that they awarded our lessee almost half a million dollars with which to do directional drilling to remove our minerals from underneath this section. We joined with our lessee in asking for additional money to be awarded from the Federal government to our lessee in order to make this -- to drill this well. There was no protest of any nature at that time for the drilling of the well, and the plan of development -- incidentally, we did not make any agreement with Belco, either, or anyone, in connection with this. Our lessee is Mr. Perry R. Bass. We joined him in requesting that the court award

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additional money for the directional drilling, which the court did.

This money was set aside in escrow for this well. This area is unitized. It's in the James Ranch Unit. In their 1980 plan of development, merely because the money was set aside to do directional drilling in a specified amount, almost a half a million dollars, we felt like that the money must be spent now in order to drill this well. As time goes on, obviously, costs are going up, and in some two or three or five or ten or fifteen years from now those costs will not be adequate to do -- or to foot the bill on additional cost to do the directional drilling.

We would not approve any plan of development that did not call for the drilling of this well. In other words, they have to drill it this year. We have made that demand on them.

Now then, while we have no qualms with either of our lessees here, we are in a position to withdraw that request on the unit operator to drill that well if the potash lessee wants to go in and mine it this year. We have valuable minerals and we have one operator ready to go after his portion of them. If the potash people want to mine it in 1980, we are in a position to withdraw or give an extension on the other.

On the other hand, if the potash people

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are in jeopardy of losing their lease or anything, there's a statute providing for getting extensions on their lease, also, to delay the lease until after the oil and gas operations are out.

On the other hand, if the oil and gas people -- if they want to mine it, we can give our lessee an extension in which to drill this well at a later date.

That's all I have. Thank you.

MR. RAMEY: Thank you, Mr. Graham.

MR. CROUT: In the extent that exceeded far beyond the scope of the hearing, which was simply on standing, we would of course expect the Commission not to consider that and we have not cross examined because we don't agree the gentleman said, although I'm sure it was in good faith. We don't agree that --

MR. RAMEY: I tend to agree with you, Mr. Crout. It was interesting but we won't -- we won't consider it. Interesting statement.

Anything further?

If not, we'll take the case under advisement and the hearing is adjourned.

(Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

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R. L. Stamets

Ernie
7-2-11

Provides for OCD-OCC
to make rules
to prevent waste
prohibited in the
Act

Seems like this
contradicts Duval's
major argument

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
4 September 1980

COMMISSION HEARING

IN THE MATTER OF:

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico. CASE 6889

BEFORE: Commissioner Ramey
Commissioner Armijo

TRANSCRIPT OF HEARING

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MR. RAMEY: The hearing will come to order. We have one case on the docket, Case Number 6889.

MR. PADILLA: Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

And the hearing today is restricted to evidence and testimony or arguments to the issue of whether Duval Corporation has standing to object to the application of Belco Petroleum Corporation.

MR. KELLAHIN: I'm Tom Kellahin, Santa Fe, New Mexico, appearing on behalf of Belco Petroleum Corporation.

MS. NIXON: I'm Sunny Nixon from Bigbee, Stephenson, Carpenter, Crout, and Olmsted; Mr. Stan Crout from the same firm, appearing for Duval Corporation.

MR. RAMEY: Sunny Nixon?

MS. NIXON: Yes.

MR. RAMEY: Let's see, I think -- do you want to go first, Mr. Kellahin?

MR. KELLAHIN: It's my motion, Mr. RAmey.

MR. RAMEY: All right.

MR. KELLAHIN: Mr. RAmey, Mr. Commissioner, the case here today originally commenced with an application by Belco Petroleum Corporation to directionally drill a well which had a surface and bottom hole location outside of the

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oil/potash area, and if you'll turn to Exhibit Number Seven in the exhibit book, and the third page of that exhibit gives you a plat.

As a preface, the exhibits indicated in the exhibit book, One through Fifteen, have been compiled from the Commission's records and transcripts involving potash/oil area and potash/oil protests. There is a certificate authenticating the accuracy of those records in my possession and I will submit that to you, if you desire.

But that's the source of all the exhibits. Exhibit Number Seven shows you that, on page four of that exhibit, and you might turn to four first, you can see the locations of the surface and bottom hole of the Belco well.

The testimony at the Examiner Hearing conducted by Mr. Nutter on May 7th, 1980, showed that Section 36 is a State of New Mexico lease for oil and gas, and that a substantial portion of Section 36 has been condemned by the WIPP condemnation.

Page three of the exhibit, if you'll flip back over, you can see outlined the area that's included within the WIPP condemnation. It is the north half of the north half of 36. It's the -- well, it's all that portion you see the stairstep line, it's all that portion to the north and east in 36, a substantial portion of 36.

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And if you flip back over on page four of the exhibit, you'll see that the surface location is immediately adjacent to the WIPP project, but outside it. It's located in the southwest quarter of the northwest quarter, and the testimony before Examiner Nutter was that the well would be surfaced there; to be drilled vertically down some 6000 feet and then a whipstock set and it would be directionally drilled to a bottom hole location up to the northeast.

That case was concluded on Belco's part on the May 17th hearing, and as a result of an error in the advertisement, the case was re-advertised and came on for hearing on June 4th, I believe, of 1980, and it was at that time that Duval Corporation appeared and attempted to introduce evidence of a potash protest.

The testimony of Duval was precluded by Examiner Nutter. He deferred the objection I made about their standing to object to the Division here today. He went ahead and entered the order approving the directional drilling. That order is in the exhibit book and it's Exhibit Number Four.

Staying with the plat for a moment, the surface and bottom hole location it's been testified, are outside of the potash/oil area, and outside any of the extensions of the original R-111 orders; however, it's immediately adjacent to an area in which Duval Corporation had the R-111-A

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extended to it back in 1959.

The order extending the potash/oil area is R-111-C, and it is Exhibit Number Three. The transcript upon which that decision was based is Exhibit Number Twelve and that case was held in August 13th of '59.

The application applied for a slightly larger area than was approved. The final order approved the inclusion of the east half of Section 35 in the R-111-A area and that is the section immediately east of the surface location of the well.

As you proceed north on the plat, the west half of the west half of Section 25 is included. The east half of 26, as well as the east half of the west half of 26 is also included. And then up into 24, the west half of the west half of that section is included, and then a portion of Section 23.

The point is that the surface location is outside of that area and it is one that is immediately adjacent to the oil/potash area as extended by Duval Corporation.

To the best of my understanding and the extent of my research indicates that this is the first attempt by a potash operator ever to interject a potash protest outside of the R-111-A area. The application for a de novo hearing filed by Duval raises the same questions that we believe and contend are comprehensibly covered by the R-111-A

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order.

It is our contention that they lack standing to complain upon the basis of being a potash operator when we're dealing with areas outside of the oil/potash area. The basis for that contention is analyzed for you in our memorandum. I'll summarize some of the points that support our position and you're welcome to ask me questions and I'll be happy to answer them if I can.

What I have done is simply set forth in a chronological order what I believe is documents to demonstrate that the Division over some thirty years has established a comprehensive and complete set of rules and regulations to govern the potash/oil operating areas.

The case first started with Mr. Guy Shepherd, who was the Land Commissioner back in '51, and about that time he set forth four or five or six state leases, or areas to be leased for oil and gas operations. There was an objection raised by potash operators that there was known or semi-known potash available in the areas in which the leases were to be issued.

The Commissioner withdrew those lands from the lease and appointed an oil and gas and potash operators industry committee. They made recommendations back to the Land Commissioner to include some 180,000 acres in Eddy County to be protected in some fashion from oil and gas oper-

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ations so that when oil and gas operations were conducted within that known potash area it would be done in such a way that it would not constitute waste of potash.

The Commissioner brought a case, I believe it was 278, back in '51, and out of that case came the first R-111 order setting forth casing and cementing programs and policies, and what we contend to be a comprehensive set of rules and regulations to handle objections.

Subsequently, that's been amended some thirteen times over the course of the last thirty years, including one by Duval Corporation.

In 1965 the Legislature first incorporated into the statute defining the general statutory authority of the Commission to include the protection of potash. The prior orders had been entered and the orders themselves reflect, as well as the transcripts, that the Commission acted under its general statutory authority to prevent waste, protect correlative rights, and promote conservation. That statutory -- the implementation of those rules and regulations have never been contested for -- on the grounds that they lacked appropriate statutory authority or that the Division exceeded its statutory authority with those potash rules and regulations.

It's my understanding that the '65 legislation was simply an effort to remove any technical defect in the fact that the rules had now covered potash operations.

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The Commission, even after '65, has never sought to implement and kind of different way to protect the potash. They have never entertained hearings outside of the potash area.

It is our contention that the general statutory authority, whether it's the original one from '35 or the one originating in 1965, gave the Division broad statutory authority to control oil and gas operations and in doing so, you have set forth specific rules and regulations in the potash area that comprehensively handle the problem and that thereby, any attempt to go outside of those rules to raise a potash protest, is strictly prohibited; that you are absolutely bound by those rules that you have now developed.

To state again, the matters raised by Duval in attempt to protest an oil well outside of those areas are no different than the questions raised and handled under the R-111-A orders, and in that application for a hearing de novo they have made no indication that there is unusual circumstances arising that would require the Division to any way treat this case differently from those that they handle under the R-111-A authority. I don't believe that there is any justification to make the substantial departure from the procedures used to handle those cases, and to do so undercuts and circumvents the R-111-A orders and you might as well throw them away, and that, I think, is the question you have to decide today, whether you want to take those thirty years

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of time, effort, and expense to develop these rules and forget about them, because once you open the door to the first one of these kinds of cases, you're going to have a lot more of them.

In conclusion, I think the record indicates very clearly that Examiner Nutter invited Duval Corporation to go ahead and file an application for the extension of the R-111-A order to include this area if they believed it had commercially mineable potash. They have not done so.

The letter issued by the Commission establishing the hearing today again, as I read it, invited them to come under the rules and regulations of R-111-A, and they have not done so. The fact that they have elected to protest here despite the opportunity to go ahead and proceed under the R-111-A orders, I think, precludes them from going forward; that in fact they lack standing.

That concludes my presentation and I would submit Exhibits One through Fifteen as support for the memorandum I've submitted to you, Mr. Ramey.

MR. RAMEY: Okay, Mr. Kellahin, we accept those.

MS. NIXON: Mr. Commissioner, I'd like to object to the exhibits in that they do not relate to the issue of potash, which is the subject of this hearing, Duval's contest of Belco's application to drill for oil and gas in an

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area which contains commercial potash.

MR. PADILLA: Mr. Kellahin, did you say that these things were all taken from the Division's records?

MR. KELLAHIN: A certificate dated September 2nd, 1980, certifies the source of all the documents.

The purpose of the exhibits are to document the extensive history and the time and effort the Commission has developed to handle potash protests, and I think it's necessary in order to support whatever action the Division elects to take with regard to the standing issue.

MR. PADILLA: What are these Sawyergrams (sic) that are in there?

MR. KELLAHIN: They're not submitted as an exhibit.

MR. PADILLA: Ms. Nixon, is your objection related to the relevancy of these exhibits or how specific is your objection?

MS. NIXON: I believe my objection goes to the relevancy to them on this particular hearing which deals with a part of the contention of Duval that there's commercial potash in Section 36.

These exhibits do not relate to potash and that the particular hearing is limited to the standing of Duval to contest the application of Belco, and for that reason we would object to these being outside the ambit of

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the particular hearing today.

MR. RAMEY: We're going to accept these exhibits tendered by Mr. Kellahin.

Mr. Kellahin, let me ask you a question, if I could please.

The area where your surface location is proposed, is that in the application of Duval at one time for an extension?

MR. KELLAHIN: Exhibit Three shows that it was not, Your Honor, Mr. Ramey, sir.

MR. RAMEY: Okay, thank you. I thought you stated that it was in an application for extension that had not been approved.

MR. KELLAHIN: No, sir. I may have mis-spoke. The application itself included areas greater than those actually approved but neither the application nor the order included Section 36.

MR. RAMEY: Thank you.

Ms. Nixon?

MS. NIXON: Duval Corporation appears here today to contest the application of Belco Petroleum Corporation in its application in their Case Number 6889.

In view of Mr. Kellahin's review of some of the history of the regulations of the Commission, and a statutory review, Duval would like to give some history to

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this particular controversy between Belco and Duval, and how it arose.

The controversy arose from the fact that Belco has asked for an exception to the spacing rules to drill in an unconventional location in the north half of Section 36, Township 22 South, Range 30 East. The have requested this unconventional location due to the fact that a conventional location would be precluded by an agreement which Belco, along with other parties, entered into with the Federal government, for the proposed WIPP project, and in this agreement Belco received, along with other parties, compensation worth many millions of dollars for their right in the area which has been condemned for the proposed WIPP project.

Because of this agreement, then, Belco, in order to drill, had to move to an unconventional location and has requested permission from the Commission to do so.

Had Belco remained in the conventional location, it's Duval's position that Duval's potash reserves or deposits would not have been interferred with nearly to the extent that they're going to be interferred with if the Commission grants Belco's application to drill in this unconventional location some 900 feet from the west line of Section 36.

It's Duval's contention that Belco has been compensated handsomely for its rights in the -- at the

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conventional location, and now it seeks to drill and interfere with the commercial potash deposits leased by Duval Corporation from the State of New Mexico, under lease renewal twenty-six eighteen two, from the surface location of which the hole would be with the -- some 900 feet from the west line of Section 36, where Duval contends that its commercial potash deposits are extensive.

It's Duval's position that Belco is -- really wants to have its cake and eat it too, and that for the Commission to grant its application would be highly inequitable in view of the effect it would have on Duval.

Duval is contending that under the statute 70-2-2 and 70-2-3, that it has commercial potash deposits which will be reduced, unduly reduced in the total quantity of the potash deposits which may be reasonably recovered in commercial quantities by Duval, and that the operations of Belco would interfere unduly with the orderly commercial development of such potash deposits.

It is Duval's contention that the Commission is required under these two statutes to prohibit waste and as one of the statutes, 70-2-3 provides, waste is defined in part, in sub-part F, as the drilling or producing operations for oil and gas within any area containing commercial deposits of potash, where such operations would have the affect unduly to reduce the total quantity of such commercial deposits of

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potash which may reasonably be recovered in commercial quantities, or where such operation would interfere unduly with the orderly commercial development of such potash deposits.

It's Duval's contention that this statute enacted in 1965 covers any area, and let me emphasis any area, containing commercial deposits of potash.

It is not limited to the areas which may be covered under the Commission's Rule 111 and its amendments, but it covers any area, and any area where an operator can prove there are deposits of commercial potash, as set forth in this particular sub-section of the statute, deserve, and indeed, require the protection by this Commission from an operation of oil drilling.

So Duval is here today proceeding under these two statutes, which mandate the Commission's protection.

In turning to the regulation referenced by Mr. Kellahin as being the comprehensive regulation which contains any Commission action, R-111-A, Duval would note and contend that this regulation only governs those areas which are defined within the regulation, and on the first page you will note that it relates only to those certain areas herein defined which are known to contain potash reserves.

We would note that this particular regulation was adopted by the Commission in 1955, some ten years prior to the statute amendment of 70-2-3F, which requires the

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Commission to protect and prohibit waste in all -- any area containing potash deposits.

It's indeed Duval's contention, as opposed to Belco's contention, that this particular regulation is comprehensive and was -- and is intended to cover all areas of potash. It's clear that it only relates to those defined therein. It does not preclude other areas of potash being shown outside of it, and these areas of potash, if they are shown to contain commercial deposits of potash do, indeed, require the protection by the Commission.

We believe that Mr. Kellahin is right when he asserts in his memorandum that this is the first case in which -- coming before the Commission, of a protest by a potash operator outside of the potash area defined in R-111-A. And it is the first case that we know of, of an unconventional application to drill for oil in such an instance, but it is no less deserving of protection by the Commission than is one contained in the potash area defined in Regulation 111-A. Indeed, the criteria is, as the statute so well put forth, that there be commercial deposits of potash.

It is Duval's position, then, that they do have standing under these particular statutes, 7-2-2 and 70-2-3, to protest and contest the application of Belco to drill as set forth in Case 6889; that Belco has not met its burden of proof in this particular case opposing standing,

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because it has only addressed its argument to R-111-A, which it contends to be comprehensive and inclusive. It has not disputed the part of those paragraphs of Duval's application for hearing de novo, in which Duval asserts that there is potash under its lease in Section 36, Township 22 South, Range 30 East, and that the application granted to Belco will result in waste of the potash which may be reasonably recovered by Duval in commercial quantities.

Nor has it disputed the -- that the application granted to Belco will interfere unduly with the orderly commercial development of potash deposits on said Section 36.

In fact, Mr. Kellahin has not referred at all to whether there could be potash in Section 36 or whether his -- Belco's operations will interefere with that.

It is for this reason that Duval contends Belco has not met its burden of proof in this particular hearing on standing.

Duval also asserts that it has standing under the statute because of the DeVargas Savings and Loan case, versus Campbell, cited at 87 New Mexico 469-535 consec 1320 in that it is within the zone of interest to be protected by the two statutes I recited earlier, and that it will -- Duval is contending that it will injured in fact or imminently threatened with injury, which is the test in the DeVargas Savings and Loan case.

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It is for these reasons that Duval contends it has standing and we believe that -- that our standing argument has not been disputed by Belco, and that the allegation set forth in our motion for hearing de novo will stand undisputed; however, if it is the desire of the Commission, we have here today a witness who will present testimony, he's here to present testimony, on the interference that Belco will cause with Duval's potash deposits, and the reduction that they would cause in the commercial potash deposit, which might be reasonably removed and will be reasonably removed by Duval Corporation.

We note that the notice of hearing states that evidence and testimony or arguments on this hearing will be presented and in accordance with this notice we have provided a witness to so testify on interference of Belco with Duval's potash deposits.

And at this time, if it's the pleasure of the Commission, we would like to introduce this testimony through our witness.

MR. KELLAHIN: If the Commission please, I would object to the taking of expert testimony on the issue of potash. I believe that's specifically precluded by the hearing notice here today.

The intent was to avoid the expense of both parties hiring and retaining expert witnesses to develop

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a potash protest case until the Commission first determined whether or not they wanted to hear a potash protest case outside of the R-111-A orders.

So we would object to the taking of testimony.

MR. CROUT: I'll respond to that.

Mr. Kellahin has brought this situation on himself. He said that he wanted to have this hearing and the order we have says the evidence and testimony in this hearing shall be limited to the issue of whether Duval Corporation has standing to object to the application. And the Commission itself said that evidence would be received on this issue. Mr. Kellahin has failed to come forward with it. It's his burden to do so. He's failing in his burden of proof that there is no potash reserve and that we will not be unduly interfered with, and further, we're prepared to present the witness on it.

Further, under the Commission's previous ruling here, you have allowed Mr. Kellahin to introduce exhibits which do not even relate to the issue of whether there is potash there and whether Duval has standing.

And once he's done that, he's opened up the hearing to any evidence, and for that reason, we're here to present Mr. -- the witness' testimony on the existence of the commercial potash reserves under Section 36, and the inter-

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ference that will be occasioned by the granting, if it should occur, of an unconventional location on this property.

MR. RAMEY: We're going to take a little recess.

(Thereupon a recess was taken.)

MR. RAMEY: The hearing will come to order.

Did you have a question, Mr. Padilla?

MR. PADILLA: Yes, Mr. Chairman. I have questions for both counsel, both sides here.

As I understand your argument, Ms. Nixon, is that essentially you're saying that standing arises from the mandate of the Commission to protect and preserve and prevent waste of potash, irrespective of R-111-A. Is that essentially your argument, is that is a supervening duty irrespective of any procedural rules that the Commission may have promulgated?

MS. NIXON: That's correct. If, particularly if there was a conflict between R-111-A and the statute. If there was a conflict, certainly the statutes will prevail and mandate that the Commission protect potash under the provisions of the statute.

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It's also our contention, however, that there is no conflict between R-111-A and the statute. The regulation, R-111-A, merely relates to those areas under it. It does not presume to go beyond the areas and govern other sections which are not defined in it, or not listed in it. Were it to do so, there would be a conflict, but there is no conflict, and the statute governs because there is no conflict.

MR. PADILLA: Mr. Kellahin, you're saying that R-111-A is the exclusive procedural method by which the Commission can extend or preserve potash. In other words, unless an applicant would extend the area, the potash area, he would not have a -- well, he would not fall within the zone of interest as you mentioned previously -- as Ms. Nixon mentioned previously on that point in the citation, case citation.

MR. KELLAHIN: That's a correct characterization of my point. To amplify it slightly further, I think it's typical of any statutory mandate to any administrative agency, you get a specific grant of authority from the Legislature. Then you take the next step and you implement rules and regulations governing the particular problems for which you're required to administer.

My point is, I'm saying that with the potash mandate we have rules and regulations developed by the Commission that we ought to abide by, and --yes, sir.

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MR. ARMIJO: Didn't I understand correctly that the statute actually superseded the rules and regulations?

MR. KELLAHIN: The statute originally in '35 just had the broad definition to protect conservation -- promote conservation, prevent waste, and protect correlative rights. It was in that context that the original rule, R-111-A was developed. It was not until 1965 that the phrase prevent waste of potash, whatever it is in the statute, was specifically enacted as part of your duties of the Commission, that is correct.

MR. PADILLA: So essentially what we have are just two different -- differing interpretations of standing or how standing arises in this case; that is, as far as they're more legally, there are two legal interpretations of how standing arises here.

Irrespective of whether or not -- even assuming that he would say that in Section 36 there are commercial deposits of potash.

MR. CROUT: Yes. I think -- we have alleged in the petition that there are commercial deposits of potash, and we have also alleged that they'll be unduly interfered with, and our position is that Rule 111 simply states that in the sections listed there, there is potash. It does not say, Rule 111 does not say that there is not potash elsewhere. In fact, the Commission has never even had

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a hearing, a general hearing, to determine the extent of the potash reserves in this state. All it does is say as to a section in Rule 111, here is what you do, and we're not quarreling with that. If we were -- if you had included this particular property in Rule 111, you would know what to do. What happens is that you didn't include it and it does have commercial reserves, and when you're -- when you've done that, one can -- the Commission could have gone and had its own hearing and extended Rule 111-A as a way of protecting it, but it hasn't done that to this property, and so the Commission is now left with just a statute.

Now we would have no desire to present the evidence on the commercial reserves and undue interference, as long as the Commission accepts the allegations of the petition that our reserves are there. It's much like a motion to dismiss in court; you assume the truth of that in ruling on the -- on your matter, and as long as it's assumed to be true that the allegations in the petition are correct, there would be no need to present the testimony, and after that it's a question of law, of whether the statute governs or not.

MR. PADILLA: Whether -- whether standing arises by virtue of 70-2-3F or whether it arises by following R-111-A, as Mr. Kellahin suggests.

MR. CROUT: Sure. Once it's accepted,

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once this is accepted for the purpose of the argument that there are commercial reserves there and that they will be unduly interfered with, then there would be no -- and I don't think there would even be -- it would just be taking up the Commission's time to hear the actual evidence, once you've accepted that for the purpose of determining the legal issue, we would have no desire to present the witness, but as long as that's the assumption that you're going under.

MR. RAMEY: Yes, do you have something to say?

MR. KELLAHIN: May I respond briefly? My understanding is slightly different.

The contention has been made that there's commercial potash but in order to protest the oil and gas operations of Belco it needs to be predicated by having them take their belief and prove it in an R-111-A hearing, and that would give them sufficient standing to complain in this case.

I see it the other way around, is my point.

MR. CROUT: You haven't set an R-111-A hearing. We'll be glad to show up if you set one, but until you --

MR. RAMEY: Well, Mr. Crout, these are normally set at the request of an operator. We normally don't -- we don't -- we don't pick out an area and say we're,

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you know, we're considering this for R-111-A.

MR. CROUT: Right.

MR. RAMEY: It's normally the operator, as Duval has done before.

MR. CROUT: That's true.

MR. RAMEY: They come in and apply to --

MR. CROUT: But before the statute was enacted that we're talking about here. Since the statute's enacted, the statute no longer leaves it up to the Commission how they're going about protecting it. The statute says the the Commission will protect, and that's a change in the law that occurred back in, as I recall, 1965. The Legislature no longer left it for the Commission to try to solve the problems. It said the Commission has to, and R-111 had a history long before that and the Commission trying to come up with the solution to the problem and whether it's been a good one or a bad one is -- is neither here nor there, but that was the way they started until the Legislature in '65 made it mandatory.

MR. RAMEY: It seems under your broad interpretation this Commission couldn't authorize any wells in any area that might have commercial potash.

MR. CROUT: Oh, no, I don't think that's true at all. You may authorize a well. What you have to do is protect against the waste and the two are not necessarily

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inconsistent. In fact, I think the Commission would be -- I would be very surprised if the Commission took the position of drilling a well under any circumstances always causing undue interference. It's still providing the method of protection of the potash and of course there are methods that can be accomplished here.

Again, why we're having this hearing is someone has not just applied to drill a well. It's the application for an unconventional location that's caused this whole matter, because it's our position that had they filed a conventional location procedure, the interference with us would be a great deal less because of the geology of the area, and it's because they've selected an unconventional location after they made a settlement, and by the way, the State of New Mexico made the same settlement with the Federal government on WIPP to preclude their drilling of that well. It wasn't just Belco, it was the State Land Office that was a party to that proceeding, and that's how this situation arose.

So it would not always follow that drilling an oil well is going to always cause a legal interference with potash.

MR. KELLAHIN: Small point, Mr. Ramey. The application was not for a location that is not acceptable or is in any way unorthodox. The application was to approve a directional drilling of a well; slightly different.

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MR. ARMIJO: That was done through court order, wasn't it?

MR. KELLAHIN: It was required by court order, yes.

MR. ARMIJO: When the condemnation was made.

MR. KELLAHIN: And a demand made upon us by the State Land Office.

MR. ARMIJO: I just learned about this during coffee, and I think Ray wanted to make some kind of a statement to that effect.

MR. CROUT: We don't -- there was no court order requiring this well to be drilled here at all. What they're saying is that they made a deal with the Federal government. They gave them some money so they could step off and --

MR. ARMIJO: Who is they?

MR. CROUT: The State and Belco; State Land Office. But the court order doesn't require them to drill this well at all.

MR. KELLAHIN: The -- our lessor, our common lessor, the Land Commission of the State of New Mexico has made demand upon us to drill the well.

MR. ARMIJO: That's what I understood. Is that correct Ray?

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MR. GRAHAM: Yes, sir, Commissioner. I'll make a statement at the appropriate time.

MR. RAMEY: Well, I really don't think that testimony on commercial potash would be appropriate for the call of the hearing today, which was to hear arguments, which we have heard, and with that I would -- I would request that both -- both sides submit briefs within fifteen days. Would that be appropriate?

MR. KELLAHIN: It's acceptable to me.

MR. CROUT: Well, Mr. Chairman, may we just tender for the record that the witness' testimony, I can either do it by statement, if that's acceptable, Mr. Kellahin, or I could tender the witness and make a record of his testimony so that we will have a record of what he would have testified to had he been permitted to.

MR. RAMEY: Do you have any objection to that, Mr. Kellahin?

MR. KELLAHIN: I will accept Mr. Crout's tender of proposed testimony from his statement.

MR. CROUT: Yes. And the tender would simply be that Duval leases the Section 36 in question from the State of New Mexico for potash; that the witness would testify -- considered to have testified that there exists on Section 36 a commercial deposit of potash, particularly, and that the mining is approximately a mile from the section line

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at this time. This is the largest langbeinite mine in the world; that the location of the well in the area -- the site proposed by Belco, will interfere with the development of that particular potash deposit in that a pillar of approximately 200 foot radius will have to be left around the well to protect it from the gas getting into the mine, or water coming into the mine; and that the area is expected to be mined in the next several years; and that in addition to that, that the originally more conventional location would not interfere with the mining nearly so greatly because the reserves increase in an easterly direction across Section 36.

MR. RAMEY: Did you want to make a statement, Mr. Graham?

MR. GRAHAM: Yes, sir, Mr. Ramey.

I'm Ray Graham, Director of the Oil and Gas Division for the New Mexico State Land Office, and I just want to make a few facts available for the record.

We are the lessee -- lessor of both of the lessees involved in this case. The minerals belong to us and we've had no qualms with either of the parties. We feel like we have valuable minerals of even more than oil and gas and potash under that particular section.

Some two or three years ago the U. S. Government condemned the greater part of Section 36, Town-

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ship 22 South, Range 30 East, which is State lands. They condemned the uppermost 6000 feet. They condemned the use of the surface for that uppermost 6000 feet.

We do have all minerals below 6000 feet in the condemned portion. The application for this well is probably the only logical location in the section in which the directional drilling would not have to deviate to some great distance.

The north half of the section in which the well is to be bottomed out is the only logical and legal proration unit left for the well in that particular field. That one well that is already in Section 36 is one of the better wells that's been drilled in New Mexico, a gas well.

The court, and it was not by consent or agreement as the gentleman spoke of, it was by a court order that they awarded our lessee almost half a million dollars with which to do directional drilling to remove our minerals from underneath this section. We joined with our lessee in asking for additional money to be awarded from the Federal government to our lessee in order to make this -- to drill this well. There was no protest of any nature at that time for the drilling of the well, and the plan of development -- incidentally, we did not make any agreement with Belco, either, or anyone, in connection with this. Our lessee is Mr. Perry R. Bass. We joined him in requesting that the court award

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additional money for the directional drilling, which the court did.

This money was set aside in escrow for this well. This area is unitized. It's in the James Ranch Unit. In their 1980 plan of development, merely because the money was set aside to do directional drilling in a specified amount, almost a half a million dollars, we felt like that the money must be spent now in order to drill this well. As time goes on, obviously, costs are going up, and in some two or three or five or ten or fifteen years from now those costs will not be adequate to do -- or to foot the bill on additional cost to do the directional drilling.

We would not approve any plan of development that did not call for the drilling of this well. In other words, they have to drill it this year. We have made that demand on them.

Now then, while we have no qualms with either of our lessees here, we are in a position to withdraw that request on the unit operator to drill that well if the potash lessee wants to go in and mine it this year. We have valuable minerals and we have one operator ready to go after his portion of them. If the potash people want to mine it in 1980, we are in a position to withdraw or give an extension on the other.

On the other hand, if the potash people

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are in jeopardy of losing their lease or anything, there's a statute providing for getting extensions on their lease, also, to delay the lease until after the oil and gas operations are out.

On the other hand, if the oil and gas people -- if they want to mine it, we can give our lessee an extension in which to drill this well at a later date.

That's all I have. Thank you.

MR. RAMEY: Thank you, Mr. Graham.

MR. CROUT: In the extent that exceeded far beyond the scope of the hearing, which was simply on standing, we would of course expect the Commission not to consider that and we have not cross examined because we don't agree the gentleman said, although I'm sure it was in good faith. We don't agree that --

MR. RAMEY: I tend to agree with you, Mr. Crout. It was interesting but we won't -- we won't consider it. Interesting statement.

Anything further?

If not, we'll take the case under advisement and the hearing is adjourned.

(Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd C.S.R.

SALLY W. BOYD, C.S.R.
Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

NEW MEXICO OIL CONSERVATION COMMISSION

COMMISSION HEARING

SANTA FE, NEW MEXICO

Hearing Date SEPTEMBER 4, 1980 Time: 9:00 A.M.

NAME	REPRESENTING	LOCATION
W. T. Kellahin	Kellahin & Kellahin	Santa Fe
Brian Parker	Byram	Santa Fe

CASE 6889: DE NOVO SEPTEMBER 4, 1980 (NOMENCLATURE)
BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO

Case 6888

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501
(505) 827-2434

BRUCE KI
GOVERNOR
LARRY KE
SECRETA

Re: CASE NO. 6889
ORDER NO. R-6369-A

Ms. Sunny Nixon
Bigbee, Stephenson, Carpenter,
Crout & Olmsted
Attorneys at Law
Post Office Box 669
Santa Fe, New Mexico

Applicant:

(Duval Corporation)
Belco Petroleum Corporation

Dear Sir:

Enclosed herewith are two copies of the above-referenced Commission order recently entered in the subject case.

Yours very truly,

JOE D. RAMEY
Director

JDR/fd

Copy of order also sent to:

Hobbs OCC x
Artesia OCC x
Aztec OCC

Other Mr. Thomas Kellahin

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 6889
Order No. R-6369-A

APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL DRILLING,
EDDY COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for a limited hearing at 9 a.m. on September 4, 1980, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 6th day of October, 1980, 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 Order No. R-6369 was entered in Case No. 6889 on June 9, 1980, authorizing Belco Petroleum Corporation to directionally drill a well, the surface location of which shall be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

(3) That an application for a De Novo hearing in Case No. 6889 by Duval Corporation was received by the Commission within the period prescribed by law.

(4) That Belco Petroleum Corporation filed for the Commission's consideration a Motion in Opposition to the application of Duval Corporation for a De Novo hearing on the basis that Duval Corporation lacked standing to object to the drilling of a Morrow test well the surface and bottom hole locations of which lie outside the boundaries of the Potash-Oil Area as defined by Commission Order No. R-111-A, as amended.

(5) That pursuant to Section 70-2-12 (17) NMSA, 1978 Compilation, the Commission has statutory authority to promulgate rules, regulations and orders for the protection of commercial potash within areas containing potential oil and gas reserves.

(6) That the Commission has fulfilled that statutory authority by the adoption and administration of Commission Order No. R-111-A, as amended, which:

(a) delineated an area (Potash-Oil Area) including and containing potential oil and gas reserves, within which are commercial potash deposits, and

(b) promulgated special rules and regulations for the comprehensive and orderly development of oil and gas reserves within the Potash-Oil Area.

(7) That the area in controversy herein is immediately adjacent to but outside the Potash-Oil Area as defined by Order No. R-111-A, as amended.

(8) That in Case No. 278, Order No. R-111-C entered on August 13, 1959, by the Commission, Duval Sulphur and Potash Company requested and was granted an expansion of the Potash-Oil Area for acreage immediately adjoining the area in controversy herein.

(9) That when potash deposits are found outside the Potash-Oil Area, as defined by Commission Order No. R-111-A, as amended, potash operators may apply for expansion of the Potash-Oil Area.

(10) That upon notice and hearing and a determination, pursuant to Section 70-2-12 (16) NMSA, 1978 Compilation, and Commission Order No. R-111-A, as amended, that commercial deposits exist outside the Potash-Oil Area, the Potash-Oil Area is expanded to include such commercial deposits of potash.

(11) That Duval Corporation has failed to apply for an expansion of the Potash-Oil Area to include the area in controversy herein.

(12) That Duval Corporation lacks standing to object to the drilling of a Morrow test well, the surface and bottom hole locations of which are not on lands included in the Potash-Oil Area, nor which will encounter potash deposits within the Potash-Oil Area.

IT IS THEREFORE ORDERED:

(1) That the Application of Duval Corporation for a de novo hearing is hereby denied, and that the Order No. R-6369 entered in Case No. 6889 on June 9, 1980, is hereby affirmed.

(2) 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

ALEX J. ARMIJO, Member

EMERY C. ARNOLD, Member

JOE D. RAMEY, Member & Secretary

S E A L

fd/

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

BRUCE KING
GOVERNOR

LARRY KEHOE
SECRETARY

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501
(505) 827-2434

July 23, 1980

Bigbec, Stephenson, Carpenter,
Crout & Olmsted
Attorneys at Law
Post Office Box 669
Santa Fe, New Mexico 87501

Attention: Sunny Nixon
G. Stanley Crout

Kellahin and Kellahin
Attorneys at Law
Post Office Box 1769
Santa Fe, New Mexico 87501

Attention: W. Thomas Kellahin

Re: OCD Case 6889
Order No. R-6369
Application for De Novo
Hearing

Ladies and Gentlemen:

This letter addresses issues arising from Duval Corporation's application for a de novo hearing and Belco Petroleum Corporation's motion in opposition to Duval's application for de novo hearing.

We believe that the motion of Belco Petroleum Corporation has merit in that an initial hearing before the Commission, limited in scope to the issue of whether or not Duval has standing to apply for a de novo hearing, should be held. This decision is based on Order R-111-A which outlines and establishes the boundaries of the Potash-Oil Area as well as the procedures for revising the Potash-Oil Area.

A literal interpretation of Order R-111-A appears to allow an extension of the Potash-Oil Area only after notice and hearing. To date, Duval has not applied for inclusion of Section 36, Township 22 South, Range 30 East, in Eddy County within the Potash-Oil Area in accordance with Order R-111-A. Consistent with Section 70-2-12 (B)(16) NMSA, 1978 Compilation, the Commission has historically treated the rules promulgated by Order R-111-A as the vehicle for extending the Potash-Oil Area.

Accordingly, the Commission agrees with the motion filed by Belco and will limit an initial hearing before the Commission to the standing issue. An additional hearing on the remaining issues will be scheduled, if necessary, after resolution of the standing question.

After scheduling a hearing date, the parties to this proceeding will be notified as to the time and place of an initial hearing limited to the standing issue.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JOE D. RAMEY
Secretary

JDR/fd

Dockets Nos. 29-80 and 30-80 are tentatively set for September 17 and October 1, 1980. Applications for hearing must be filed at least 22 days in advance of hearing date.

DOCKET: EXAMINER HEARING - WEDNESDAY - SEPTEMBER 3, 1980

9 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM,
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or Richard L. Stamets, Alternate Examiner:

CASE 7015: Application of Tenneco Oil Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp-Pennsylvanian formations underlying the S/2 of Section 36, Township 18 South, Range 29 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 7016: Application of Harvey E. Yates Company for compulsory pooling, Chaves County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp thru Mississippian formations underlying the E/2 of Section 18, Township 15 South, Range 27 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 7006: (Continued from August 20, 1980, Examiner Hearing)

Application of Harvey E. Yates Company for a unit agreement, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Northwest Gladiola Unit Area, comprising 1,280 acres, more or less, of State and fee lands in Townships 11 and 12 South, Range 37 East.

CASE 7007: (Continued from August 20, 1980, Examiner Hearing)

Application of Harvey E. Yates Company for downhole commingling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the downhole commingling of Morrow and Atoka production in the wellbore of its North Travis 12 Deep Well No. 1 located in Unit O of Section 12, Township 18 South, Range 28 East.

CASE 7017: Application of Bass Enterprises Production Company for pool creation, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks the creation of a new Bone Spring gas pool for its Big Eddy Unit Well No. 60 located in Unit J of Section 20, Township 21 South, Range 28 East, with classification of wells with a GOR of 20,000 or more as gas wells.

CASE 7018: Application of Shell Oil Company for an exception to Division Rule No. 202(B), San Juan County, New Mexico. Applicant, in the above-styled cause, seeks a one year extension to the exception to Rule 202(B) previously approved by Order No. R-5655 for certain of its Carson Unit wells in the Bisti Pool. Applicant further requests an administrative procedure for any future extensions.

CASE 7019: Application of Amoco Production Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the W/2 of Section 30, Township 23 South, Range 25 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 6991: (Continued from August 6, 1980, Examiner Hearing)

Application of Amoco Production Company for salt water disposal, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to dispose of produced salt water into the San Andres formation in a 100 foot perforated interval between 4400 feet and 4800 feet in its South Hobbs Unit Well No. 103 in Unit P of Section 15, Township 19 South, Range 38 East, Hobbs Grayburg-San Andres Pool.

CASE 7000: (Continued from August 20, 1980, Examiner Hearing)

Application of Cavalcade Oil Corporation for an unorthodox oil well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of its McClay Well No. 11 2385 feet from the South line and 1834 feet from the West line of Section 33, Township 18 South, Range 30 East, the NE/4 SW/4 of said Section 33 to be dedicated to the well.

CASE 7020: Application of Mesa Petroleum Co. for pool creation, special pool rules and an oil discovery allowable, Rio Arriba and San Juan Counties, New Mexico. Applicant, in the above-styled cause, seeks the creation of a new Gallup oil pool for its South Blanco Federal Well No. 1-6 located in Unit A of Section 6, Township 23 North, Range 7 West, and special rules therefor, including a provision for 80-acre spacing units. Applicant further seeks a discovery allowable for the aforesaid well.

CASE 6822: (Reopened and Readvertised)

In the matter of Case 6822 being reopened pursuant to the provisions of Order No. R-6293 which order created the West Double X-Wolfcamp Gas Pool as a retrograde gas condensate pool and set special production limitations therein. Operator(s) may appear and present evidence to establish the true nature of the reservoir and proper rates of withdrawal therefrom.

CASE 6996: (Continued from August 20, 1980, Examiner Hearing)

Application of John E. Schalk for compulsory pooling, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Blanco Mesaverde Pool underlying the NE/4 of Section 8, Township 25 North, Range 3 West, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

****

Docket No. 28-80

DOCKET: COMMISSION HEARING - THURSDAY - SEPTEMBER 4, 1980

OIL CONSERVATION COMMISSION - 9 A.M. - ROOM 205
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

CASE 6889: (DE NOVO)

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to directionally drill a well, the surface location of which is 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

Upon application of Duval Corporation this case will be heard De Novo pursuant to the provisions of Rule 1220.

Evidence and testimony or arguments in this hearing shall be limited to the issue of whether Duval Corporation has standing to object to the application of Belco Petroleum Corporation.

BIGBEE, STEPHENSON, CARPENTER, CROUT & OLMSTED
Attorneys at Law
Bokum Building, 142 W. Palace Avenue
Post Office Box 669
Santa Fe, New Mexico 87501

Damon Stephenson
Richard N. Carpenter
G. Stanley Crout
Charles D. Olmsted
Michael R. Comeau
Larry D. Maldegen

Sunny J. Nixon
William P. Templeman
C. Matt Woolley
Robert L. Rivera
Jon J. Indall

Harry L. Bigbee
Of Counsel

Telephone 982-4611
Area Code 505

July 8, 1980

Oil Conservation Commission
State Land Office Building
Old Santa Fe Trail
Santa Fe, New Mexico 87501

RE: Application For Hearing De Novo

Dear Sirs:

Please find enclosed for filing in triplicate an Application For Hearing De Novo by Duval Corporation in the matter of Order No. R-6369.

Sincerely yours,

Sunny J. Nixon

SJN/tcg

Enclosure

cc: Thomas Kellahin(w/encl.)
Fred Owen(w/encl.)
Walter Ellis(w/encl.)
G. Stanley Crout(w/encl.)

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OIL CONSERVATION DIVISION
SANTA FE

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JUL 07 1980
OIL CONSERVATION DIVISION
SANTA FE

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

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JUL 0 3 1980
OIL CONSERVATION DIVISION
SANTA FE

IN THE MATTER OF ORDER NO. R-6369 OF THE OIL CONSERVATION DIVISION DATED JUNE 9, 1980, ON THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO, CASE NO. 6889.

RECEIVED
JUL 9 1980
OIL CONSERVATION DIVISION
SANTA FE

APPLICATION FOR HEARING DE NOVO

COMES NOW Duval Corporation ("Duval"), by and through its attorneys, and applies to the Oil Conservation Commission for a hearing de novo of In The Matter of The Hearing Called By the Oil Conservation Division For The Purpose Of Considering Application of Belco Petroleum Corporation For Directional Drilling, Eddy County, New Mexico in which Order No. R-6369 of the Division was entered on June 9, 1980, and states:

1. Duval Corporation is adversely affected by Order No. 6369.

2. Duval Corporation appeared at the hearing of June 4, 1980 on the Application of Belco Petroleum Corporation ("Belco") Before the Oil Conservation Division and opposed the Application.

3. The transcript of the June 4, 1980 hearing reflects a statement by Hearing Examiner Nutter that "they [Duval] are adversely affected by the order. There's prima facie evidence of that." (Tr. 17).

4. Duval Corporation is the lessee of Section 36, Township 22 South, Range 30 East, Eddy County, New Mexico, under a potash lease issued by the State of New Mexico.

5. The application granted to Belco will result in waste of potash which may reasonably be recovered by Duval in commercial quantities.

6. The application granted to Belco will interfere unduly with the orderly commercial development of the potash deposit on said Section 36.

WHEREFORE, Duval Corporation requests that its application for hearing de novo be granted and set for hearing at the first available hearing date.

BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED

By G. Stanley Crout
G. Stanley Crout

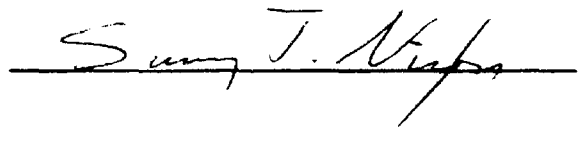
Sunny J. Nixon
Sunny J. Nixon

142 West Palace Avenue
P. O. Box 669
Santa Fe, New Mexico 87501

Attorneys for Duval Corporation

CERTIFICATE OF SERVICE

I hereby certify I served a copy of the Application For Hearing De Novo upon Kellahin and Kellahin, attorneys for Belco Petroleum Corporation, by depositing a copy in the United States mail, postage prepaid addressed to W. Thomas Kellahin, Kellahin and Kellahin, P. O. Box 1769, Santa Fe, New Mexico 87501, this 8th day of July, 1980.



STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

RECEIVED
JUL 03 1980
OIL CONSERVATION DIVISION
SANTA FE

IN THE MATTER OF ORDER NO. R-6369 OF THE OIL CONSERVATION DIVISION DATED JUNE 9, 1980, ON THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO, CASE NO. 6889.

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BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED

By G. Stanley Crout
G. Stanley Crout

Sunny J. Nixon
Sunny J. Nixon

142 West Palace Avenue
P. O. Box 669
Santa Fe, New Mexico 87501

Attorneys for Duval Corporation

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Sam J. Nichols

STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

RECEIVED
JUL 0 8 1980
OIL CONSERVATION DIVISION
SANTA FE

IN THE MATTER OF ORDER NO. R-6369 OF THE OIL CONSERVATION DIVISION DATED JUNE 9, 1980, ON THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO, CASE NO. 6889.

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OIL CONSERVATION DIVISION
SANTA FE

APPLICATION FOR HEARING DE NOVO

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1. Duval Corporation is adversely affected by Order No. 6369.

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3. The transcript of the June 4, 1980 hearing reflects a statement by Hearing Examiner Nutter that "they [Duval] are adversely affected by the order. There's prima facie evidence of that." (Tr. 17).

4. Duval Corporation is the lessee of Section 36, Township 22 South, Range 30 East, Eddy County, New Mexico, under a potash lease issued by the State of New Mexico.

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WHEREFORE, Duval Corporation requests that its application for hearing de novo be granted and set for hearing at the first available hearing date.

BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED

By G. Stanley Crout
G. Stanley Crout

Sunny J. Nixon
Sunny J. Nixon

142 West Palace Avenue
P. O. Box 669
Santa Fe, New Mexico 87501

Attorneys for Duval Corporation

CERTIFICATE OF SERVICE

I hereby certify I served a copy of the Application For Hearing De Novo upon Kellahin and Kellahin, attorneys for Belco Petroleum Corporation, by depositing a copy in the United States mail, postage prepaid addressed to W. Thomas Kellahin, Kellahin and Kellahin, P. O. Box 1769, Santa Fe, New Mexico 87501, this 8th day of July, 1980.

Sumy J. Nichols

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 6889
Order No. R-6369

APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL
DRILLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on June 4, 1980, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 9th day of June, 1980, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

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

(2) That the applicant, Belco Petroleum Corporation, seeks authority to directionally drill a well, the surface location of which would be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said section to be dedicated to the well.

(3) That the surface location of the proposed well is on lands not included in the Oil-Potash Area as defined by Order No. R-111-A, as amended, nor is it in the area withdrawn for drilling by the United States Nuclear Regulatory Commission for the Waste Isolation Pilot Project.

(4) That the applicant proposes to drill said well as a straight hole from the aforesaid surface location to a depth of approximately 6000 feet beneath the surface, and to then

directionally drill the well in an east-northeast direction to a true vertical depth of 14,400 feet, bottoming said well at the above-described location in the Morrow formation.

(5) That the applicant should be required to determine the subsurface location of the kick-off point prior to directional drilling, and to determine the subsurface location of the bottom of the hole by means of a continuous multi-shot directional survey conducted subsequent to said directional drilling, if said well is to be completed as a producing well.

IT IS THEREFORE ORDERED:

(1) That the applicant, Belco Petroleum Corporation, is hereby authorized to directionally drill a well, the surface location of which shall be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

PROVIDED HOWEVER, that prior to directional drilling, the operator shall determine the subsurface location of the kick-off point; and

PROVIDED FURTHER, that subsequent to the above-described directional drilling, should said well be a producer, a continuous multi-shot directional survey shall be made of the wellbore from total depth to the kick-off point with shot points not more than 100 feet apart; that the operator shall cause the surveying company to forward a copy of the survey report directly to the Santa Fe office of the Division, P. O. Box 2088, Santa Fe, New Mexico, and that the operator shall notify the Division's Artesia District Office of the date and time said survey is to be commenced.

(2) That Form C-105 shall be filed in accordance with Division Rule 1105 and the operator shall indicate thereon true vertical depths in addition to measured depths.

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

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

JOE D. RAMEY
Director

S E A L

ea/

STATE OF NEW MEXICO

DEPARTMENT OF ENERGY AND MINERALS

OIL CONSERVATION DIVISION

IN THE MATTER OF ORDER NO. R-6369
OF THE OIL CONSERVATION DIVISION
DATED JUNE 1, 1980, GRANTING THE
APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL
DRILLING, EDDY COUNTY, NEW MEXICO

Case: 6889
Order No. R-6369

MEMORANDUM OF BELCO PETROLEUM CORPORATION

This Memorandum with attached exhibits supports BELCO PETROLEUM CORPORATION's Motion to Dismiss Duval Corporation's Application for a DeNovo Hearing on the grounds that Duval Corporation as a potash lessee lacks standing to complain of Belco's drilling an oil and gas well outside the R-111-A Oil-Potash Area.

BELCO's Motion to Dismiss Duval's Application is based upon the premise that the New Mexico Oil Conservation Division (herein called Division) has developed a set of Special Rules and Regulations that comprehensively govern and control objections by Potash Operators protesting the drilling of oil and gas wells in known potash areas.

It is BELCO's contention that the establishment of the Special Rules and Regulations for the Oil-Potash Area (also called by its order number "R-111-A") by the Division and the consistent application of those rules to all potash objections including the repeated expansion of that area over some twenty six years has effectively precluded objections outside the "Oil-Potash Area".

HISTORICAL BACKGROUND

On January 10, 1951, the Commissioner of Public Lands for the State of New Mexico, Guy Shepard, had put up for oil and gas sale several tracts of State lands. Prior to the sale, representatives of the potash industry objected to the sale of State lands which covered area they believed to contain known or semi-known potash deposits. The Commissioner withdrew the acreage from sale and on February 27, 1951, called a Hearing of the oil and gas industry and the potash industry to discuss the matter. That hearing was continued and another hearing was held on March 29, 1951. (Exhibit 8)

The Transcript of the March 29, 1951 (Exhibit 8) indicates that four representatives of Duval Sulphur and Potash Company, the predecessor of the Duval Corporation, were present. The hearing discussed the technical and mechanical aspects of drilling for oil and gas production in areas of known potash deposits and the development of specific rules and regulations applicable to those areas. The potash operators took the general position that no oil and gas drilling should take place in areas of proven potash reserves. (Exhibit 8, Page 30 and 50)

Following the March 29, 1951 hearing, the Land Commissioners appointed a Committee composed of potash and oil and gas operators to recommend regulations for the "proper exploration and development of the State lands within the Delaware Basin of Eddy County, New Mexico simultaneously by both the Potash and Oil Industries." (Exhibit 9, Page 6)

The Land Commissioner's Committee reported a plan for the casing of oil wells within the Potash Area and for the establishment of special procedural regulations for such an area. (Exhibit 9, Page 7-10)

The Land Commissioner then applied to the Oil Conservation Division of New Mexico for a hearing for the establishment of those rules and regulations. (See Exhibit 10)

On June 21, 1951 (Exhibit 9) and on July 10, 1951 (Exhibit 11), the Division held hearings on the Land Commissioner's Application pursuant to the Division's authority to protect correlative rights, promote conservation, and to prevent waste. The transcript reflects the attendance of two Duval representatives at the July 10, 1951 hearing.

On November 9, 1951, the Division entered Order No. R-111 (Exhibit 1). The stated objectives of that order were to:

> "assure maximum conservation of oil and gas resources of New Mexico and permit the simultaneous economic recovery of potash minerals in the area...."

The Land Commissioner's Committee continued to meet and make further recommendations concerning the Oil-Potash Area. (See Exhibits 14 and 15). Those recommendations resulted in another hearing by the Division.

On October 13, 1955, the Division by Order No. R-111-A (Exhibit 2) revised the original R-111 order rules concerning the casing and cementing programs and practices in the State Oil-Potash Area. Those rules are still in effect today.

On August 13, 1959, Duval Corporation's application to extend the Oil-Potash Area was heard by the Division in Case 278 (Exhibit 12). The Division entered Order No. R-111-C extending the Oil-Potash Area to include acreage immediately

adjacent to the West and North boundaries of the tract involved in this Application by Belco. (See Exhibit 3).

On May 7, 1980, the Division's Examiner, Mr. Dan Nutter, heard Belco's application for directional drilling at a surface and bottom hole location outside the Oil-Potash Area. (See Exhibit 5). Because of an error in the advertisement for the case, the case was recalled at the Examiner Hearing held on June 4, 1980. (See Exhibit 6). At that time, Duval Corporation appeared and sought to introduce evidence in opposition to Belco's application for directional drilling.

Examiner Nutter refused to allow Duval Corporation to proceed with the presentation of evidence (Exhibit 6, Page 14-15) and recommended that an order be entered approving Belco's application.

On June 9, 1980, the Oil Conservation Division entered Order No. R-6369 approving BELCO'S application for authority to directionally drill a well, at a surface location in the SW/4 NW/4 of Section 36 and to bottom that well under the NE/4 of Section 36, T22S, R30E, N.M.P.M., Eddy County, New Mexico. (See Exhibit 4).

The surface and bottom hole locations of the Belco well are on lands not included in the Oil-Potash Area as defined by New Mexico Oil Conservation Division Order No. R-111-A or any of its extensions. (See Exhibits 3 and 7).

The State of New Mexico Potash Lease which Duval now bases its objections on is one that has been held or renewed by Duval Corporation since 1954. (See Exhibit 13).

DUVAL Corporation has filed an application for a DeNovo Hearing to which BELCO has objected.

The Division has called a hearing for September 4, 1980, to hear arguments and take evidence on the question of DUVAL's standing in this case.

A R G U M E N T

The Special Rules and Regulations initially contained in Order No. R-111 and subsequently revised by Order No. R-111-A provided for a comprehensive and orderly procedure for the handling of matters involving oil and gas operations and potash operations within the known potash areas of Eddy County, New Mexico.

Order No. R-111 originally embraced approximately 180,000 acres and has been expanded some thirteen times over the years by various potash operators including DUVAL.

For almost thirty years, the Division has exclusively handled all disputes between oil and gas and potash operators by following the Special Rules and Regulations the Division adopted in R-111 and R-111-A.

DUVAL's Application for a Hearing DeNovo is the first attempt by a potash operator claiming a right to object to oil and gas operations outside of the Oil-Potash Area.

DUVAL's Application for a Hearing DeNovo states, in paragraph 5 and 6, that the granting of BELCO's application will result in waste of potash and undul, interfere with the orderly commercial development of the potash deposit in Section 36. That is the very argument that should have caused DUVAL to seek an extension of the Oil-Potash Area to include Section 36.

DUVAL has attempted to raise questions concerning the protection of potash outside the Division's declared Oil-Potash Area. The Division has never considered such a case

and to do so now will constitute a wide departure from previous established practice and policy of the Division.

Having established specific rules and regulations for the protection of known and semi-known potash deposits, the Division is now strictly bound to abide by those rules when dealing with the identical subject matter intended to be covered by the rules and regulations.

To allow DUVAL to protest the BELCO Application will circumvent the R-111-A rules and regulations, will result in a proliferation of potash objections free of the Oil-Potash Area rules and regulations and will constitute a wide departure from established Division policy, practice and rules.

Rules and regulations of an administrative agency governing proceedings before it, duly adopted and within the authority of the agency, are as bindings as if they were statutes enacted by the legislature. People ex rel. Jordan v. Martin, 152 NY 311, 46 NE 484 (1897).

Procedural rules are binding not only upon the parties but also upon the agency and the agency does not have the discretion to waive, suspend, or disregard in a particular case a validly adopted rule so long as such rule remains in force. Service v. Dulles. 354 US 363 (1957).

This is true even though the adoption of the rule was a discretionary function. State ex rel. Independent School Dist. v. Johnson, 242 Minn 539, 65 NW2d 688 (1954).

To be valid, the action of the agency must conform to its rules which are in effect at the time the action is taken

particularly those designed to provide procedural safeguards for fundamental rights. Vitarelli v. Seaton 359 US 535 (1959) Bridges v. Wixon 326 US 135 (1945).

The statutory authority for the Divisiions regulation of the oil and gas industry is found in Chapter 70, Article 2, New Mexico Statutes Annotated 1978.

This Article was originally enacted by the New Mexico Legislature in 1935. It was not until 1965 that the Legislature amended Section 70-2-6 NMSA-1978, to include the phrase: "and the prevention of waste of potash as a result of oil or gas operations in this state."

Prior to 1965, the Division had for some eleven years prevented "the waste of potash as a result of oil or gas operations" under the Division's general 1935 statutory authority to "protect correlative rights, promote conservation and to prevent waste."

There apparently was some concern in 1965 that the Division had exceeded its statutory authority by the adoption of the R-111-A orders. That potential defect was cured by the 1965 legislation.

Even though it was not until 1965 that the New Mexico Legislature got around to "giving" the Division's statutory authority to "prevent waste of potash", the Division has actively and consistently applied its general statutory authority toward that end. The 1965 legislation adds nothing and subtracts nothing from the diligent efforts of the Division in regulating oil and gas production in the potash area.

See 73 C.J.S. Public Administrative Bodies and Procedures §92-§94.

The application for a DeNovo Hearing filed by DUVAL Corporation has not raised issues in any way different from those previously administered by application of Division Order R-111-A. There is no justification for the Division to now make a substantial departure from the procedures used to handle potash protests.

Such a departure from the established precedents set by the Division in these cases would be unreasonable, arbitrary and would discriminate against BELCO. The doctrine of stare decisis states that when a question of law has once been settled by a judicial decision, it forms a precedent which is not afterward to be departed from or lightly overruled. The doctrine of stare decisis is applicable to administrative agencies. See 79 ALR2d 1126. The Special Rules and Regulations of the Division for the administration of the Oil-Potash Area constitute decisions of the Division on fundamental questions of law concerning the rights of the potash operators and oil and gas operators in the potash areas of the State of New Mexico.

S U M M A R Y

For almost thirty years, the Oil Conservation Division has administered and regulated the oil and gas operations within the known Potash Areas of Eddy County, New Mexico in accordance with Rule R-111-A. The Application of DUVAL for a potash protest outside the R-111-A Area constitutes a

substantial and unjustified departure from those rules and regulations. Accordingly, DUVAL's application for a Hearing DeNovo should be denied for lack of standing.

KELLAHIN & KELLAHIN

By: _____

W. Thomas Kellahin
P.O. Box 1769
Santa Fe, New Mexico 87501
(505) 982-4285

KELLAHIN and KELLAHIN
Attorneys at Law
500 Don Gaspar Avenue
Post Office Box 1769
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Jason Kellahin
W. Thomas Kellahin
Karen Aubrey

Telephone 982-4285
Area Code 505

July 11, 1980

Mr. Joe V. Ramey
Oil Conservation Division
P.O. Box 2088
Santa Fe, New Mexico 87501

re: Belco Petroleum Corporation
NMOCD Case No. 6089
Order No. R-6369

Dear Mr. Ramey:

On behalf of Belco Petroleum Corporation, please find enclosed our Motion in Opposition to Duval Corporation's Application for De Novo Hearing.

Very truly yours,

W. Thomas Kellahin

encl.
cc: Bigbee, Stepheson Caprtern & Crout
cc: Belco Petroleum Corporation.

RECEIVED
JUL 11 1980
OIL CONSERVATION DIVISION
SANTA FE

STATE OF NEW MEXICO

DEPARTMENT OF ENERGY AND MINERALS

OIL CONSERVATION DIVISION

IN THE MATTER OF ORDEK NO R-6369
OF THE OIL CONSERVATION DIVISION
DATED JUNE 9, 1980. GRANTING
THE APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL DRILLING,
EDDY COUNTY, NEW MEXICO

RECEIVED
JUL 11 1980
OIL CONSERVATION DIVISION
SANTA FE

Case 6889

Order No. R-6369

MOTION OF BELCO PETROLEUM CORPORATION

IN OPPOSITION TO DUVAL CORPORATION APPLICATION

FOR DE NOVO HEARING

COMES NOW BELCO PETROLEUM CORPORATION, by and through its attorneys, Kellahin & Kellahin, and requests the Oil Conservation Division to call a hearing before the Full Commission limited to the specific question of whether Duval Corporation has standing to proceed with a De Novo Hearing in this Matter, and in support thereof states:

1. On June 9, 1980, the Oil Conservation Division entered Order No. R-6369 approving Belco's application for authority to directionally drill a well, at a surface location in the SW/4 NE/4 of Section 36, T22S, R30E, NMPM, Eddy County New Mexico.

2. That the surface and bottom hole locations of the subject well are on lands not included in the Oil-Potash Area as defined by New Mexico Oil Conservation Division Order No. R-111-A.

3. Duval Corporation appeared at the Examiner Hearing on June 4, 1980 as the potash lessee of the SW/4NE/4 of Said Section 36 and sought to introduce evidence in opposition of Belco's application.

4. That Examiner Nutter refused to allow Duval to proceed

with presentation of evidence (TR p14,-15) and recommended that an order be entered approving Belco's directional drilling (TR p17).

5. That the transcript of the June 4, 1980 hearing reflects a statement by Hearing Examiner Nutter that "they (Duval) can ask for a de novo hearing and it will be up to the Commission at that time to decide whether they have standing or not." (TR 16-17).

6. That Division Order R-111 and its amendments and extensions have set forth a specific procedure to handle objections by Potash Operators for protesting the drilling of oil & gas wells in known potash areas.

7. That Division Order R-111, as amended, has modified Division Rule 1220, concerning De Novo hearings by "any party adverseley affected..." so that potash operators have no standing to object to the drilling of oil gas wells outside the R-111 areas.

8. That to grant Duval a hearing in this matter will lead to a circumvention of the R-111-A process for potash protest hearings, will result in a proliferation of potash objections outside the known potash areas, and will constitute a wide departure from previous practice and policy of the New Mexico Oil Conservation Division.

9. That if Duval's application for De Novo hearing is granted Belco will be required to employ a potash mining expert and to otherwise devote time and money to the preparation of a potash protest case.

10. That in order to provide an equitable resolution to this matter, Belco requests that the Commission set a De Novo Hearing limited to the question of Duval's standing in the matter and that if Duval is allowed to proceed that the De Novo Hearing be continued for not less than thirty days thereafter to allow

Belco sufficient time to properly prepare its case in opposition to the Potash protest.

WHEREFORE, Belco respectfully requests that the Commission Grant a De Novo Hearing and to thereafter grant Belco's Motion first raised in the Examiner hearing on June 4, 1980 and deferred by the Examiner to the Commission.

KELLAHIN & KELLAHIN

By _____
W. Thomas Kellahin
P.O. Box 1769
Santa Fe, New Mexico 87501
(505) 982-4285

CERTIFICATE OF SERVICE

I hereby certify I served a copy of the foregoing upon attorneys for Duval Corporation, by depositing a copy in the United States mail, postage prepaid addressed to Stanley Crout, P.O. Box 669, Santa Fe, New Mexico 87501, this 11th day of July, 1980.

_____
W. Thomas Kellahin

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W. Thomas Kellahin

STATE OF NEW MEXICO

DEPARTMENT OF ENERGY AND MINERALS

OIL CONSERVATION DIVISION

RECEIVED
JUL 11 1980
OIL CONSERVATION DIVISION
SANTA FE

IN THE MATTER OF ORDER NO R-6369
OF THE OIL CONSERVATION DIVISION
DATED JUNE 9, 1980, GRANTING
THE APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL DRILLING,
EDDY COUNTY, NEW MEXICO

Case 6889
Order No. R-6369

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FOR DE NOVO HEARING

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KELLAHIN & KELLAHIN

By W. Thomas Kellahin

W. Thomas Kellahin
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W. Thomas Kellahin

ROUGH

dr/

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION COMMISSION

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

CASE NO. 6889

Order No. R-6369-A

APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL DRILLING,
EDDY COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for a limited hearing at 9:00 a.m. on September 4, 1980, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this _____ day of _____, 19____, 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 Order No. R-6369 was entered in Case No. 6889 on June 9, 1980.

(3) That an application for a De Novo hearing in Case No. 6889 by Duval Corporation was received by the Commission within the period prescribed by law.

(4) That Belco Petroleum Corporation filed for the Commission's consideration a Motion in Opposition to the application of Duval Corporation for a De Novo hearing on the basis that Duval Corporation lacked standing to object to the drilling of a Morrow test well the surface and bottom hole locations of which lie outside the boundaries of the Potash-Oil Area as defined by Commission Order No. R-111-A, as amended.

~~(5) That Commission Order No. R-111-A, as amended~~:

authorizing Belco Petroleum Corporation to directionally drill a well, the surface location of which shall be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, NMPM Eddy County, New Mexico, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well,

(5) ~~(4)~~ That pursuant to Section ~~7~~ 70-2-12 (17) NMSA, 1978 Compilation, the Commission has statutory authority to promulgate ~~rules,~~ regulations and orders for the protection of commercial potash within areas containing ~~oil and gas~~ potential oil and gas reserves.

~~(6)~~ That the Commission has fulfilled that statutory authority by the adoption and administration of Commission Order R-111-A, as amended which:

(a) delineated an area (Potash-Oil Area) including and containing potential oil and gas reserves, within which are commercial potash deposits, and

(b) promulgated special rules and regulations for the comprehensive and orderly development of oil and gas reserves within the Potash-Oil Area.

(7) ~~That the subject portion of~~ That the area in controversy herein is immediately adjacent to but outside the Potash-Oil Area as defined by ~~the above~~ Order No. R-111-A, as amended

8. That in Case No. 278, Order No. R-111-C entered on August 13, 1959 by the Commission ~~Sulphur and Potash Company~~ Duval ~~Corporation~~ requested and was granted an expansion of the Potash-Oil Area for acreage immediately adjoining the area in controversy herein.

9. That when potash deposits are found outside the Potash-Oil Area, as defined by Commission Order R-111-A, as amended, ~~the~~ potash operators may apply for ~~expansion~~ ~~extension action~~ expansion of the Potash-Oil Area. (Section 70-2-12 (16) NMSA 1978 Comp. and)

10. That upon notice and hearing and a determination, pursuant to ~~the~~ Commission Order R-111-A, as amended, that commercial deposits exist outside the Potash-Oil Area, the Potash-Oil Area is ~~extended~~ expanded to include such commercial deposits of potash.

11. That Duval Corporation has failed to apply for an ~~extension~~ expansion of the Potash-Oil area to include the area in controversy herein.

(2) ~~(1)~~ That Duval Corporation lacks standing to object to the drilling of a Morrow test well, the surface and bottom hole locations of which are not on lands included in the Potash-Oil Area, nor which will encounter potash deposits within the Potash-Oil Area.

IT IS THEREFORE ORDERED:

(1) That the Application of Duval Corporation for a de novo hearing is hereby denied, and that the Order No. R-6369 entered in Case No. 6889 on June 9, 1980, is hereby affirmed.

(2) 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

ALEX J. ARMIJO, Member

EMERY C. ARNOLD, Member

JOE D. RAMEY, Member & Secretary

from which the time to perform a condition commences to run after appeal has been variously stated as the date of the issuance of the mandate by the appellate court,[12] the time of the receipt of the mandate for filing in the lower court,[13] and the time of the overruling of a suggestion of error in the appellate court.[14]

3. Supersedeas or Stay of Proceedings

§ 364. Generally; definitions.

A supersedeas, properly speaking, is a suspension of the power of the court below to issue an execution on the judgment or decree appealed from; or, if a writ of execution has issued, it is a prohibition emanating from the court of appeal against the execution of the writ,[15] an auxiliary process designed to supersede the enforcement of the judgment of the court below brought up for review.[16] Originally supersedeas was a writ directed to an officer, commanding him to desist from enforcing the execution of another writ which he was about to execute or which might come into his hands.[17] It is now often used synonymously with a stay of proceedings, and is employed to designate the effect of an act or proceeding which of itself suspends the enforcement of a judgment.[18]

§ 365. Operation of appeal or error proceedings as supersedeas.[19]

While under the earlier practice, a writ of error[20] or an appeal in chancery[1] operated per se as a supersedeas and prevented the issuance of execution to enforce the judgment or decree, the general rule under modern statutes in most jurisdictions in this country is that the writ of error or appeal does not of itself operate as a supersedeas.[2] In certain cases, the taking of an appeal

Fla 219, 95 So 611, 28 ALR 1020; Burton v Redmond, 220 Miss 704, 71 So 2d 772.

12. Borrow v El Dorado Lodge, supra, where a certain time was given within which plaintiff was obliged to comply with the trial court's order of remittitur or to submit to a new trial.

13. Morgan v Williams, 85 Fla 219, 95 So 611, 28 ALR 1020, where the payment of a stated sum is made the condition of the right to redeem lands from a mortgage.

14. Burton v Redmond, 220 Miss 704, 71 So 2d 772, where plaintiff in ejectment, having appealed unsuccessfully from a judgment requiring him to pay a sum certain within specified period of time to obtain a deed of the property in question, then filed a suggestion of error and was overruled, and on disposal of the suggestion of error, the judgment on the appeal became final and time for making payment began to run.

Annotation: 28 ALR 1029.

15. Hovey v McDonald, 109 US 150, 27 L ed 888, 3 S Ct 136; Monks v Hemphill, 119 Colo 378, 203 P2d 503.

Stay of execution of judgment in criminal case, pending review, see CRIMINAL LAW (1st ed §§ 492 et seq.).

16. Williams v Bruffy, 102 US 248, 26 L ed 135; Barron v Phelps (Ky) 238 SW2d 1016.

17. Monks v Hemphill, 119 Colo 378, 203 P2d 503.

18. Dulin v Pacific Wood & Coal Co. 98 Cal 304, 33 P 123; Monks v Hemphill, supra; Powers v Fidelity & Deposit Co. 42 Del 577, 41 A2d 830.

19. Self-executing judgments, see § 368, infra.

20. Omaha Hotel Co. v Kountze, 107 US 378, 27 L ed 609, 2 S Ct 911; Owens v Watkins, 189 Ga 311, 5 SE2d 905; State ex rel. Dean v Douglas, 236 Mo App 1284, 165 SW2d 304.

1. Hovey v McDonald, 109 US 150, 27 L ed 888, 3 S Ct 136; Doughty v Somerville & E. R. Co. 7 NJ Eq 629.

While an appeal does not vacate a judgment, it serves to stay the enforcement of the rights acquired by the successful litigant. Saunders v Saunders, 140 Conn 140, 98 A2d 815.

2. Slaughter-house Cases, 10 Wall (US) 273, 19 L ed 915.

In Missouri, appeals in all cases, whether at law or in equity, are statutory. There-

in itself may operate as a supersedeas, under statutes declaring that in cases not otherwise provided for by statute, the notice of appeal stays proceedings in the trial court until the appeal is decided, dismissed, or abandoned,[3] and also under statutes specifically designating a limited number of cases in which the appeal operates as a supersedeas.[4] On the other hand, the rule has been announced that statutory enumeration of various types of judgments as to which a supersedeas bond is required to effect a suspension serves only to remove those judgments specified from the operation of the general rule that an appeal from a judgment ordinarily suspends it without bond.[5]

§ 366. Power to order supersedeas; nature of right.

In the absence of express statutory authorization, it is apparent that the appellant is not entitled to a supersedeas or stay of proceedings as a matter of right.[6] However, where a statute provides that a supersedeas may be obtained by taking certain prescribed steps, a supersedeas follows, as a matter of law, from a strict compliance with the procedure prescribed by the statute.[7]

Statutes sometimes make the allowance of supersedeas a matter for the discretion of the court,[8] and, aside from any specific statutory provision, an

fore, in determining whether any right to supersedeas exists as an incident of the appeal, the wording of the statute controls rather than any decisions construing the effect of writs of error under the common law or appeals in chancery. State ex rel. Dean v Douglas, 236 Mo App 1281, 165 SW2d 304.

3. Melton v Walker, 209 SC 330, 40 SE2d 161.

There is split of authority as to whether a fiduciary's appeal has the effect of suspending an order of removal. Union Sav. & T. Co. v Eddingfield, 78 Ind App 286, 134 NE 497 (order not suspended); Cuendet v Henderson, 166 Mo 657, 66 SW 1079 (order suspended). Annotation: 37 ALR2d 890, § 12.

4. State ex rel. Baker v Bird, 253 Mo 569, 162 SW 119 (appeals from certain orders affecting executors, administrators, and guardians); Blair v Blair, 199 Or 273, 247 P2d 883, 260 P2d 960.

It has been held that where a statute deals with the question of supersedeas by specifically providing in clear language where the appeal will operate as a supersedeas, that class cannot be extended by construction, but rather, in such cases, the statute impliedly negatives the right in other cases. State ex rel. Dean v Douglas, 236 Mo App 1281, 165 SW2d 304.

5. Riley v Wilkinson, 247 Ala 579, 25 So 2d 384.

6. Bannister v Shepherd, 191 SC 165, 4 SE 2d 7.

Supersedeas is available in civil cases as a matter of right in Mississippi only in the following classes of cases: (1) where there is a money decree or judgment; (2) where there is a decree or judgment for the recovery or against the retention of specific property; or (3) where the decree directs the sale or delivery of real estate, in which cases a supersedeas is allowed as a matter of right where the requisite bond is given. Mississippi Power & Light Co. v Coldwater, 234 Miss 615, 106 So 2d 375, 99 So 2d 443, 112 So 2d 222.

Compelling issuance of supersedeas, see MANDAMUS (1st ed § 306).

7. Goddard v Ordway, 94 US 672, 24 L ed 237; Grand Cent. Min. Co. v Mammoth Min. Co. 36 Utah 361, 104 P 573.

8. Private Investors v Homestake Mining Co. 11 Cal App 2d 488, 54 P2d 535.

In California, although an appeal is provided for from an order adjudging a person to be a ward of the juvenile court, and from any subsequent order made after judgment, it is specifically provided that no such order or judgment shall be stayed by such appeal, unless suitable provision is made for the maintenance, care, and custody of such person pending the appeal, and unless such provision is approved by an order of the juvenile court. Re Magnuson, 110 Cal App 2d 73, 242 P2d 362.

A supersedeas in a juvenile delinquency proceeding is not a matter of right, but within the discretion of both the trial and appellate courts under a statute which provides that an appeal shall not suspend the order of the juvenile court or discharge the child from the custody of that court or of the person, institution, or agency to whose care such child shall have been committed, unless that court shall so order, but that the appellate court may provide for a recognizance bond. Ex parte Espinosa, 144 Tex 121, 188 SW2d 576, 160 ALR 284.

appellate court has inherent power, in the exercise of a proper discretion,[9] to order supersedeas to maintain the status quo pending review[10] and to preserve the subject matter of the appeal.[11] In certain circumstances, even the trial court may, in the exercise of its discretion, allow a supersedeas or stay although the statute makes no provisions for a supersedeas or a stay of the judgment or final order as a matter of right.[12]

§ 367. Application for and allowance of supersedeas.

A duly perfected appeal or writ of error is a condition precedent to a supersedeas.[13] Under local statutes or rules, a proper application, petition, or motion for supersedeas is ordinarily a precondition of its allowance also.[14]

9. Blair v Blair, 199 Or 273, 247 P2d 883, 260 P2d 960.

Factors considered in exercising discretionary power, see § 367, infra.

10. Terminal R. Asso. v United States, 266 US 17, 69 L ed 150, 45 S Ct 5; Alabama Power Co. v Scottsboro, 238 Ala 230, 190 So 412; Blair v Blair, 199 Or 273, 247 P2d 883, 260 P2d 960; State v Board of Education, 19 Wash 8, 52 P 317.

Even where appellant is not entitled to a writ of supersedeas as a matter of right, the appellate court has inherent power to issue the writ if such action is necessary or proper to the complete exercise of its appellate jurisdiction. Food & Grocery Bureau v Garfield, 18 Cal 2d 174, 114 P2d 579.

Inasmuch as the purpose of the supersedeas is to maintain the status quo existing before the entry of the judgment from which an appeal has been taken, the writ is not available where the judgment does not purport to change the status quo, but confirms it. Solorza v Park Water Co. 80 Cal App 2d 809, 183 P2d 275, holding that pending appeal from a judgment denying rescission of the sale of a water system to defendant water company, the appellate court may not issue a writ of supersedeas purporting to restrain the company from discontinuing its service to nonpaying dissident shareholders where the effect would be to grant an injunction which the lower court refused to grant, and especially where the petitioner has not succeeded in showing that, in the absence of a supersedeas, he or the shareholders he represents will be deprived of the fruits of a successful appeal.

The appellate court may prevent any proceedings on execution although levy has been accomplished where appellant files an uncontroverted affidavit, to the effect that the respondent is insolvent, that the moneys obtained upon an execution would immediately be entirely dissipated either by respondent or his creditors, and that, should the case be reversed, the appellant's appeal would even then be fruitless as the parties could not again be placed in status quo. Daly v Wolfard Bros., Inc. 204 Or 241, 261 P2d 679, 262 P2d 917.

11. Where an appellate court has the power to issue such original and remedial writs as are necessary to the proper exercise of its appellate jurisdiction, it may, although it lacks statutory authorization to issue a supersedeas in a given case, issue a writ barring further proceedings in the trial court in order to guarantee the fruits of the appeal. Haaland v Verendrye Electric Co-op. (ND) 66 NW2d 902.

Where the threatened enforcement by execution of the judgment, which is the subject of the appeal, would operate to satisfy the judgment, and thus nullify any decree the appellate court might render relating thereto or at least render such a decree difficult of enforcement, the appellate court may stay proceedings on execution. Daly v Wolfard Bros., Inc. 204 Or 241, 261 P2d 679, 262 P2d 917.

Self-executing judgments, see § 368, infra.

12. Merchants Warehouse Co. v United States, 283 US 501, 75 L ed 1227, 51 S Ct 505; Palmer v Harris, 23 Okla 500, 101 P 852.

In England the chancery court has a wide discretion in staying execution while an appeal is pending. Merry v Nickalls (Eng) LR 8 Ch 205; Wilson v Church (Eng) LR 12 Ch Div 454.

A trial court having the power to issue restraining orders also has the power to issue orders of supersedeas to preserve the subject matter of an appeal and avoid the imposition of irreparable damage upon the parties, and it may exercise this power even though the appeal is taken from a self-executing judgment or decree. Re Workman, 156 Or 333, 65 P2d 1395, 68 P2d 479.

13. A supersedeas cannot be allowed, except as an incident to an appeal actually taken or a writ of error actually sued out. Re Ralston, 119 US 613, 30 L ed 506, 7 S Ct 317.

However, a review proceeding is not dependent upon the existence of supersedeas. Ex parte French, 100 US 1, 25 L ed 529; Monks v Hemphill, 119 Colo 376, 203 P2d 503; Horn v Horn (Fla) 73 So 2d 905.

14. *Practice Aids.* — Forms of lands to stay execution upon judgment or to suspend decree pending allowance of appeal and supersedeas. 1 Am Jur Pl & Pr Forms, 1:1276, 1:1277.

— Forms of notices of motions and orders

In exercising a discretionary power[15] to order supersedeas, the court will consider a variety of relevant factors,[16] and if it determines to allow the stay, it may impose such terms and conditions as are reasonably necessary for the protection of the parties pending the appeal.[17]

§ 369. Judgment, order, or decree subject to supersedeas.

As a general rule, under statutory authorization or in the exercise of the court's inherent power, proceedings upon most appealable judgments or orders may be superseded upon the filing of a sufficient undertaking.[18] However, it has sometimes been said that self-executing judgments[19] are not affected by a supersedeas or a stay of proceedings,[20] on the theory that supersedeas operates only to prevent action by the trial court and not to suspend the effect of the judgment, and as a self-executing judgment requires no process for its enforcement, there is nothing upon which a supersedeas could operate.[1] The courts in some jurisdictions, however, have construed the power of supersedeas as extending even to cases involving self-executing judgments.[2] Even where the rule is generally recognized that supersedeas is not ordinarily applicable to self-executing judgments as to which no process of, or action by, the court below was involved, certain exceptions are also recognized.[3]

relating to stay and supersedeas. 1 Am Jur Pl & Pr Forms, 1:1385-1:1392.

15. § 366, supra.

16. A motion for stay of execution pending appeal will be denied where no attempt has been made to enforce the execution except as against property not involved in the suit. Lanier v Nash, 122 US 630, 30 L ed 1244.

In determining whether the appellate court should exercise its discretionary power to grant supersedeas, the test is not a balancing of conveniences or hardships, but a consideration of the respective rights of the litigants, which contemplates the possibility of an affirmance of the decree as well as of a reversal. Food & Grocery Bureau v Garfield, 18 Cal 2d 174, 114 P2d 579.

Where, on application for a supersedeas order to suspend the operation of an injunction, the merits of the cause are fully argued and the granting or refusal of a supersedeas will virtually dispose of the cause in which the people of the state are mutually interested, the court may, for the public welfare, consider the cause on its merits in adjudicating the application for a supersedeas, questions of law only being involved. Crawford v Gilchrist, 64 Fla 41, 59 So 963.

17. Palmer v Harris, 23 Okla 500, 101 P 852.

18. Puckette v Hicks, 39 La Ann 901, 2 So 801; Escritt v Michaelson, 73 Neb 634, 103 NW 300, 106 NW 1016; Gilbert v Lebanon Valley Street R. Co. 303 Pa 213, 154 A 302; Aetna Casualty & S. Co. v Warren County, 160 Va 11, 168 SE 617.

19. Self-executing judgments are those which are enforceable without action or issuance of process by the trial court. Solorza v Park Water Co. 80 Cal App 2d 809, 183 P2d 275; Mississippi Power & Light Co. v Coldwater, 234 Miss 615, 106 So 2d 375, 99 So 2d 443, 112 So 2d 222.

20. Hovey v McDonald, 109 US 150, 27 L ed 888, 3 S Ct 136; Solorza v Park Water Co. 80 Cal App 2d 809, 183 P2d 275; People v Reinberg, 263 Ill 536, 105 NE 715; Willis v Willis, 165 Ind 332, 75 NE 655; First Nat Bank v Dutcher, 128 Iowa 413, 104 NW 485; Houtchens v Mercer, 119 Tex 431, 29 SW 2d 1031, 69 ALR 1103.

1. Mississippi Power & Light Co. v Coldwater, 234 Miss 615, 106 So 2d 375, 99 So 2d 443, 112 So 2d 222; Re Workman, 156 Or 333, 65 P2d 1395, 68 P2d 479.

Supersedeas operates only against the enforcement of the decree, and not against the decree itself. Where the decree dismisses complaint and thus requires no enforcement the only purpose accomplished by the supersedeas is to stay the enforcement of so much of the decree as allows costs in the circuit court. Gumberts v East Oak Street Realty Co. 401 Ill 386, 88 NE2d 883.

2. Houtchens v Mercer, 119 Tex 431, 29 SW2d 1031, 69 ALR 1103 (attorney appealing from judgment revoking license entitled to stay upon filing supersedeas bond).

Statutes providing for supersedeas as a right in certain cases, but not otherwise, make it discretionary in the trial court to grant supersedeas in all cases not specifically provided for, including cases involving self-executing judgments. Gandy v State, 31 Neb 243, 4 NW 1019; Palmer v Harris, 23 Okla 500, 101 P 852; Re Workman, 156 Or 333, 65 P2d 1395, 68 P2d 479.

3. Mississippi Power & Light Co. v Coldwater, 234 Miss 615, 106 So 2d 375,

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19 ALR 927; Re Crowell,
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to effect a stay by a representative even though he appeals in his official capacity.[3]

§ 371. Operation and effect of supersedeas, generally.[4]

The function of a supersedeas is to stay the enforcement of a judgment or decree of the court below brought up for review by appeal to effect a suspension of the power of the lower court to issue execution or other process or to execute such process if already issued. Its effect is to restrain the successful party and the lower court from taking affirmative action to enforce the judment or decree.[5] The supersedeas does not operate against the judgment itself,[6] but against its enforcement.[7] As a general rule the supersedeas prevents all further proceedings in the subordinate court[8] in the suit in which the judgment, order, or decree is rendered or made,[9] except such as are necessary to preserve the rights of the parties.[10]

3. The curator ad hoc of an absentee was held to possess no greater rights in the matter of taking a suspensive appeal than the defendant himself would have had. Charvanel v Esvard, 150 La 305, 90 So 658.

The taking of an appeal without bond by an executor, from an order appointing a receiver of the testator's personal estate, did not operate as a stay of further proceedings under the order, where the statute expressly provided that if the judgment appealed from should direct the delivery of documents or personal property, the execution of such judgment should not be stayed by appeal unless the things in question were brought into court or an undertaking entered into. Harmon v Wagener, 33 SC 487, 12 SE 98.

Annotation: 119 ALR 938.

4. Effect of supersedeas on judgment lien, see § 359, supra.

5. Mississippi Power & Light Co. v Goldwater, 234 Miss 615, 106 So 2d 375, 99 So 2d 443, 112 So 2d 222; McKee v Board of Elections, 173 Tenn 276, 116 SW2d 1033, 117 SW2d 755; Thompson v Haney (Tex Civ App) 191 SW2d 491.

Supersedeas may be given the same broad function and effect even where the statute providing for supersedeas on appeal refers to staying the "execution." This does not limit the availability of supersedeas to those judgments enforceable by fieri facias, but on compliance with the statute, the process appropriate and necessary to carry into effect the judgment or decision appealed from, whatever it may be, is superseded. State ex rel. Dean v Douglas, 236 Mo App 1284, 165 SW 2d 304.

Operation of an appeal to divest lower court's jurisdiction, see § 352, supra.

6. While appeal with proper supersedeas stays execution of the judgment, it does not detract from its decisiveness and finality. Huron Holding Corp. v Lincoln Mine Operating Co. 312 US 183, 85 L ed 725, 61 S Ct 513, reh den 313 US 598, 85 L ed 1550, 61 S Ct 840.

The judgment is not vacated by an appeal and supersedeas. Walker v State, 137 Ark 402, 209 SW 86, 3 ALR 968 (criminal conviction).

A supersedeas bond does not annul the judgment appealed from but merely supersedes its operation and prevents execution until the cause is entirely disposed of. The object and effect of a supersedeas bond are to stay further proceedings but not to undo what has already been done. Thompson v Haney, supra.

7. Supersedeas restrain the respondent from taking affirmative action to enforce his judgment and constitutes notice to strangers to the action that all proceedings on the judgmen are stayed until the appeal is disposed of by he court of review. Gumberts v East Oak Street Hotel Co. 401 Ill 386, 88 NE2d 883.

Where an appeal has been perfected and a supersedeas given, the court below is without jurisdiction to enforce, by contempt proceedings or otherwise, its judgment quieting title and restraining the defendant from interfering with the plaintiff's decreed rights. Smith v Kimball, 76 Utah 350, 289 P 588, 70 ALR 101.

8. Slaughter-house Cases, 10 Wall (US) 273, 19 L ed 915; Lindsey v Lindsey, 219 Miss 720, 69 So 2d 844; Smith v Kimball, supra.

9. Where, in an action in which the defendant sets up a counterclaim, an appeal is taken from the judgment dismissing the counterclaim before the issues raised by the complaint are determined, a writ of error from the federal to the state supreme court, upon the latter's affirmance of the judgment appealed from, removes to the federal court only the proceedings involving the judgment on the counterclaim, so that the pendency of the writ of error does not stay proceedings in the trial court to determine the issues raised by the original complaint, especially where its action is not stayed by a supersedeas bond or otherwise. Grand Central Min. Co. v Mammoth Min. Co. 36 Utah 364, 104 P 573.

Under a rule provision that on an appeal from an order sustaining a plea of

Supersedeas operates only from the completion of those acts which are statutory requisites to its existence[11] until the return of mandate to the lower court.[12]

Attempts to violate the bar of a supersedeas may be enjoined or restrained, actual violations may be vacated or set aside, and persons violating or attempting to violate a supersedeas are punishable for contempt.[13]

§ 372. Effect upon execution, levy, or sale already made.

Generally speaking, supersedeas does not affect enforcement proceedings already taken.[14] Accordingly, it has been stated that the levy of an execution is not defeated by a subsequent writ of supersedeas.[15] A supersedeas is held not to terminate the lien on personal property obtained by levy of execution.[16] But it has also been held that the effect of a supersedeas upon an execution which has been levied is not only to stay all further proceedings, but also to release from levy all the property levied upon and to restore it to the owner.[17]

At common law the rule was that the supersedeas, in order to stay proceedings on an execution, must come before levy made, since otherwise the officer could proceed with a sale of the property.[18] However, the common-law rule has been widely abrogated by statute and the rule in most jurisdictions now is that a proper supersedeas becomes effective notwithstanding a levy, and stays further proceedings under the execution.[19] The inherent power of an

privilege, transfer of the venue and trial upon the merits shall be suspended pending the appeal, where the appeal is from an order overruling a plea of privilege, notwithstanding a supersedeas bond, the trial on the merits is not suspended pending the appeal. Magnolia Petroleum Co. v State (Tex Civ App) 218 SW2d 855, error ref n r e.

10. Grubbs v Slater (Ky) 266 SW2d 85; Cralle v Cralle, 81 Va 773.

11. Foster v Kansas, 112 US 201, 28 L ed 629, 5 S Ct 8, 97.

12. Rock Island Nat. Bank v Thompson, 173 Ill 593, 50 NE 1089.

13. Gumoerts v East Oak Street Hotel Co. 404 Ill 386, 88 NE2d 833.

14. A supersedeas bond executed after an erroneous judgment has been carried into effect by sale of property, under an order of sale issued thereunder, has no legal effect on the sale. State Nat. Bank v Ladd, 65 Okla 14, 162 P 684.

If the enforcement of a money judgment has been commenced a supersedeas arrests the proceedings at the stage in which they were when the supersedeas was perfected by the due execution, approval, and filing of the required bond. Henry v Whitehurst, 66 Fla 567, 64 So 233.

15. Freeman v Dawson, 110 US 264, 28 L ed 141, 4 S Ct 94; Thalheim v Camp Phosphate Co. 48 Fla 190, 37 So 523; First Nat. Bank v Rogers, 13 Minn 407; Grayson v Harris, 102 Miss 57, 58 So 775, 59 So 1.

16. Thalheim v Camp Phosphate Co., supra.

However, in a case applying the rule that a supersedeas does not discharge a lien attaching to real property by reason of the prior issuance and levy of an execution thereon, it is stated that many courts hold to the contrary where the levy is on personal property. Grayson v Harris, supra.

17. Sam Yuen v McMann, 99 Cal 497, 34 P 89. See First Nat. Bank v McCoy, 112 Cal App 665, 297 P 571, calling attention to a partial modification of this holding by reason of a subsequent statutory provision under which a sheriff is authorized to release property in his possession upon which he has regularly levied execution, only if the judgment creditor fails for 5 days after the filing of the supersedeas to object to the sufficiency of the sureties.

18. United States v Dashiel, 3 Wall (US) 688, 18 L ed 268.

This rule was based on the theory that the levy under the execution and the sale was entire and indivisible and the execution was fully executed from the time of the levy. Daly v Wolfard Bros., Inc. 204 Or 241, 261 P2d 679, 262 P2d 917.

19. Henry v Whitehurst, 66 Fla 567, 64 So 233; Sherwood v Porter, 58 Idaho 523, 76 P2d 928, 115 ALR 593; Daly v Wolfard Bros., Inc. 204 Or 241, 261 P2d 679, 262 P2d 917; August v Gilmer, 53 W Va 65, 44 SE 143.

Under some statutory provisions supersedeas must be obtained within a certain time after judgment in order to supersede an execution, but if so obtained the execution is superseded although already levied or executed. Tremont Twp. School Dist. v Western Anthracite Coal Co. 75 Pa D & C 225.

appellate court to issue supersedeas includes the power to supersede an execution even after levy is made.[20]

Supersedeas is usually held not to prevent a judicial sale until proceedings to obtain it are perfected.[1]

§ 373. Modification or vacation of supersedeas; counterbond.

On proper motion[2] on the ground that it was obtained by fraud,[3] mistake,[4] or inadvertence,[5] or because the bond was not filed in time[6] or not filed at all,[7] a supersedeas may be modified or vacated. Where the supersedeas bond is defective in not truly describing the judgment of the lower court, it will only be vacated in case the plaintiff in error fails to file a new bond in such suit, within such time as directed by the appellate court.[8]

Under the practice in some states, the stay or supersedeas may be avoided by giving a counterbond to secure the party appealing in case judgment or decree is reversed.[9]

B. Particular Actions or Proceedings

§ 374. Writ of assistance.

An appellate court may, in its discretion, allow a writ of assistance to be

20. Craig v Stansbury, 37 Cal App 668, 174 P 404.

The appellate court may stay proceedings on execution although levy has been made where appellant filed affidavit that respondent was insolvent and that any moneys obtained on the execution would be dissipated so that if the case was reversed it would not be possible to reachieve the status quo. Daly v Wolfard Bros., Inc., supra.

Where the perfecting of an appeal by a plaintiff from a judgment rendered against him for costs only has the effect of automatically staying execution thereon until the appeal is determined, the appellate court has the inherent power to order that a writ of execution and all proceedings thereunder be recalled and quashed, despite the refusal of the trial court to recall and quash the writ of execution of the judgment. California Standard Finance Corp. v Cornelius Cole, Ltd. 132 Cal App 105, 22 P2d 520.

1. Felker v Johnson, 189 Ga 797, 7 SE2d 668.

Under a statute permitting a court to order property freed from execution upon subsequent appeal with stay bond, property levied upon under an execution is subject to sale until a court order is issued freeing it from the levy. People v Cornell, 65 Misc 452, 121 NYS 972, affd 138 App Div 915, 123 NYS 1134.

2. A motion to vacate a supersedeas, made before the record is printed, must be accompanied by a statement of the facts on which it rests, agreed to by the parties, or supported by printed copies of so much of the record as will enable the appellate court to act understandingly without reference to the transcript on file. Power v Baker, 112 US 710, 28 L ed 825, 5 S Ct 361.

3. Florida C. R. Co. v Schulte, 100 US 644, 25 L ed 605; McClintock v Powley, 210 Cal 333, 291 P 833; Bonde v Stern, 72 ND 476, 8 NW2d 457; Gamet v Allender, 50 SD 150, 208 NW 782.

If the appeal was obtained by fraud, the court will refuse to accept a new supersedeas bond. Florida C. R. Co. v Schulte, supra.

4. McClintock v Powley, Bonde v Stern, Gamet v Allender, all supra.

5. Bonde v Stern, 72 ND 476, 8 NW2d 457; Gamet v Allender, 50 SD 150, 208 NW 782.

6. Patterson v Hoa's Exrx. (Patterson v De La Ronde) 131 US lxxxviii, Appx 18 L ed 884.

A motion to vacate a supersedeas will be denied where it is shown that the bond was presented, approved, allowed, and filed in the cause within due time, and that thereafter an order allowing an appeal was entered nunc pro tunc as of the date of the presentation of the bond. Power v Baker, 112 US 710, 28 L ed 825, 5 S Ct 361.

7. Cherry v Sharp, 164 Okla 266, 23 P2d 699; Inter-Ocean Oil Co. v Marshall, 164 Okla 134, 23 P2d 151.

8. Knox County v United States, 131 US clxvi, Appx 25 L ed 191.

9. Rogue River Fruit & Produce Asso. v Gillen-Chambers Co. 85 Or 113, 151 P 728, 165 P 679, 1183; Phillips v Bruton, 128 SC 369, 122 SE 514.

The bond in question must be adequate to protect defendant from negligence in the care and management of the building which is the subject of suit. Barron v Myers, 145 Mich 342, 108 NW 712.

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September 18, 1980

RECEIVED
SEP 18 1980
OIL CONSERVATION DIVISION
SANTA FE

Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

RE: In The Matter Of Hearing De Novo On Case 6889, September 4, 1980 -- Application of Belco Petroleum Corporation

Gentlemen:

Please find enclosed for filing, pursuant to the Oil Conservation Commission's request, three copies of the Memorandum Of Duval Corporation In Support Of Its Standing.

Very truly yours,

Sunny J. Nixon

Sunny J. Nixon

SJN/tcg

Enclosures

cc: W. Thomas Kellahin(w/encl.)

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RECEIVED
SEP 25 1980
OIL CONSERVATION DIVISION
SANTA FE

September 25, 1980

Mr. Joe D. Ramey
Oil Conservation Division
P.O. Box 2088
Santa Fe, New Mexico 87501

HAND DELIVERED

Re: OCD Case 6889
Order No. R-6369

Dear Mr. Ramey:

On behalf of Belco Petroleum Corporation I am responding to a letter sent you by Mr. Stanley Crout, attorney for Duval Corporation, dated September 23, 1980.

In accordance with Examiner Order R-6369, Belco has commenced the subject well and as of 7:00 A.M., September 24, 1980, was at a drilling depth of 3,541 feet, drilling at the rate of 300-400 feet a day.

Mr. Crout assumes that the Belco Application is under DeNovo consideration. In fact, that action is pending a decision on the standing of Duval in this case. The Commission Hearing on September 4, 1980, was not a DeNovo Hearing. As outlined in your letter to Counsel dated July 23, 1980, the hearing was limited to the question of whether Duval had standing to file an application for a DeNovo Hearing in this case.

It is Belco's understanding that the Examiner Order remains in effect until the Commission alters, stays or revokes the Examiner Order.

The Commission has historically applied Section 70-2-25(C) not only to Commission Orders but to Examiner Orders as well.

The Commission's action is analogous to Section 12-8-18 NMSA-1978 "Administrative Procedures Act" which provides:

> "The filing of a notice of appeal does not itself stay enforcement of the agency decision but the agency may grant, or the court of appeals may order a stay upon appropriate terms it deems necessary."

A similar arrangement is also found in Section 19-7-67 through 19-7-69 NMSA-1978 when dealing with Decision of Commissioner of Public Lands. And, further, an appeal from a Magistrate Court Judgment for a hearing DeNovo in District Court will not stay the execution of the Magistrate Court Judgment unless the appellant posts the necessary bond.

If Duval wanted the Examiner Order stayed either by the Commission or by the Court, they have not yet taken the appropriate action to accomplish that result.

If the Commission believes that Belco has no authority to continue drilling under the Examiner Order R-6369, please advise immediately as drilling operations are continuing.

Very truly yours,

W. Thomas Kellahin

cc: G. Stanley Crout
Pat Miller

WTK:jm

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September 26, 1980

Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

Attention: Mr. Joe D. Ramey

Re: In the Matter of Hearing De Novo on Case 6889, September 4, 1980 -Application of Belco Petroleum Corporation for Directional Drilling, Eddy County, New Mexico

Gentlemen:

On behalf of Duval Corporation, we wish to respond briefly to Mr. Kellahin's letter of September 25, 1980.

Contrary to Belco's assertion that the Commission Hearing on September 4, 1980, was not a de novo hearing, it should be emphasized the September 4, 1980 hearing was advertised on the Commission's docket as a de novo hearing. In pertinent part it provided:

> "Upon application of Duval Corporation this case will be heard De Novo pursuant to the provisions of Rule 1220. Evidence and testimony or arguments in this hearing shall be limited to the issue of whether Duval Corporation has standing to object to the application of Belco Petroleum Corporation."

Accordingly, since the Commission is considering an aspect of a de novo proceeding, Order No. R-6369 upon which Belco relies is no longer in effect.

Suffice it to say, the references to appeals upon which Belco relies are inapposite. Each involve a statute by the Legislature or a Court Rule in which a stay or a bond is explicitly mentioned. This is unlike Section 70-2-13 as explained in our previous letter.

Belco has proceeded with drilling at its own risk since it was on notice the Commission was engaged in a de novo proceeding.

In view of Belco's reported drilling, under what is now an ineffective order, Duval again urges the Commission to take the appropriate measures to insure Belco does not present the Commission with an accomplished fact while the Commission is considering the matter.

Very truly yours,

Sunny J. Nixon

SJN:rm

cc: W. Thomas Kellahin

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September 23, 1980

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OIL CONSERVATION DIVISION
SANTA FE

Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

ATTENTION: Mr. Joe D. Ramey

RE: In The Matter Of Hearing De Novo On Case 6889, September 4, 1980 - Application of Belco Petroleum Corporation For Directional Drilling Eddy County, New Mexico

Gentlemen:

As you know, Duval Corporation ("Duval") has requested a hearing de novo in case No. 6889 in which Order No. R-6369 was entered by the Oil Conservation Division. The Order granted Belco Petroleum Corporation's ("Belco") application to directionally drill from an unorthodox surface location. The Oil Conservation Commission held a limited hearing on September 4, 1980 on Duval's standing to object to the Belco application. Duval has submitted a brief on its standing as requested by the Commission. It is Duval's understanding no ruling has been issued by the Commission on Duval's standing to so object. It is Duval's position that since the matter of Belco's application is under de novo consideration pursuant to Section 70-2-13, N.M.S.A., 1978 and Rule 1220, Order No. R-6369 is not in effect. The well known meaning of "de novo" is "anew." See Black's New Dictionary, Rev. 4th Ed. (1968). Accordingly, it is as though no hearing was had in the first instance and no order has issued granting Belco's application.

Yet a field observation discloses Belco has probably initiated drilling a well in Section 36, T.22S., R.30E., Eddy County, at the location to which Duval has objected, which is the subject of the hearing de novo and at which Belco has no authority to drill the well.

Duval believes that the Legislature intended that an order of a hearing examiner does not remain in effect when a party has petitioned for a de novo hearing to the Commission pursuant to §70-2-13 N.M.S.A. 1978. This intent is shown in §70-2-25, N.M.S.A. 1978 where the Legislature provided that when judicial review of an order of the Commission is sought, the pendency of the appeal does not of itself stay or suspend the operations of the order of the Commission. If the Legislature had intended the order of the hearing examiner to remain in effect while the de novo proceeding was pending, it would have said so. The fact that the Legislature specifically provided the Commission's order would ordinarily remain in effect during an appeal, but did not do so for hearing examiner orders where a de novo petition is filed indicates the Legislature did not intend the hearing examiner's order would remain in effect while the Commission considers the matter. This rule of statutory construction is sometimes expressed as "expressio unius est exclusio alterius." See In re Attorney General, 2 N.M. 49 (1881).

Duval submits the Commission should take appropriate measures to insure Belco does not attempt to present the Commission with an accomplished fact while the Commission is considering the matter.

Sincerely yours,

G. Stanley Crout

GSC/tcg

cc: W. Thomas Kellahin, Esq.

STATE OF NEW MEXICO

DEPARTMENT OF ENERGY AND MINERALS

OIL CONSERVATION DIVISION

IN THE MATTER OF ORDER NO. R-6369
OF THE OIL CONSERVATION DIVISION
DATED JUNE 1, 1980, GRANTING THE
APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL
DRILLING, EDDY COUNTY, NEW MEXICO

Case: 6889
Order No. R-6369

MEMORANDUM OF BELCO PETROLEUM CORPORATION

This Memorandum with attached exhibits supports BELCO PETROLEUM CORPORATION's Motion to Dismiss Duval Corporation's Application for a DeNovo Hearing on the grounds that Duval Corporation as a potash lessee lacks standing to complain of Belco's drilling an oil and gas well outside the R-111-A Oil-Potash Area.

BELCO's Motion to Dismiss Duval's Application is based upon the premise that the New Mexico Oil Conservation Division (herein called Division) has developed a set of Special Rules and Regulations that comprehensively govern and control objections by Potash Operators protesting the drilling of oil and gas wells in known potash areas.

It is BELCO's contention that the establishment of the Special Rules and Regulations for the Oil-Potash Area (also called by its order number "R-111-A") by the Division and the consistent application of those rules to all potash objections including the repeated expansion of that area over some twenty six years has effectively precluded objections outside the "Oil-Potash Area".

HISTORICAL BACKGROUND

On January 10, 1951, the Commissioner of Public Lands for the State of New Mexico, Guy Shepard, had put up for oil and gas sale several tracts of State lands. Prior to the sale, representatives of the potash industry objected to the sale of State lands which covered area they believed to contain known or semi-known potash deposits. The Commissioner withdrew the acreage from sale and on February 27, 1951, called a Hearing of the oil and gas industry and the potash industry to discuss the matter. That hearing was continued and another hearing was held on March 29, 1951.(Exhibit 8)

The Transcript of the March 29, 1951 (Exhibit 8) indicates that four representatives of Duval Sulphur and Potash Company, the predecessor of the Duval Corporation, were present. The hearing discussed the technical and mechanical aspects of drilling for oil and gas production in areas of known potash deposits and the development of specific rules and regulations applicable to those areas. The potash operators took the general position that no oil and gas drilling should take place in areas of proven potash reserves. (Exhibit 8, Page 30 and 50)

Following the March 29, 1951 hearing, the Land Commissioners appointed a Committee composed of potash and oil and gas operators to recommend regulations for the "proper exploration and development of the State lands within the Delaware Basin of Eddy County, New Mexico simultaneously by both the Potash and Oil Industries." (Exhibit 9, Page 6)

The Land Commissioner's Committee reported a plan for the casing of oil wells within the Potash Area and for the establishment of special procedural regulations for such an area. (Exhibit 9, Page 7-10)

The Land Commissioner then applied to the Oil Conservation Division of New Mexico for a hearing for the establishment of those rules and regulations. (See Exhibit 10)

On June 21, 1951 (Exhibit 9) and on July 10, 1951 (Exhibit 11), the Division held hearings on the Land Commissioner's Application pursuant to the Division's authority to protect correlative rights, promote conservation, and to prevent waste. The transcript reflects the attendance of two Duval representatives at the July 10, 1951 hearing.

On November 9, 1951, the Division entered Order No. R-111 (Exhibit 1). The stated objectives of that order were to:

> "assure maximum conservation of oil and gas resources of New Mexico and permit the simultaneous economic recovery of potash minerals in the area...."

The Land Commissioner's Committee continued to meet and make further recommendations concerning the Oil-Potash Area. (See Exhibits 14 and 15). Those recommendations resulted in another hearing by the Division.

On October 13, 1955, the Division by Order No. R-111-A (Exhibit 2) revised the original R-111 order rules concerning the casing and cementing programs and practices in the State Oil-Potash Area. Those rules are still in effect today.

On August 13, 1959, Duval Corporation's application to extend the Oil-Potash Area was heard by the Division in Case 278 (Exhibit 12). The Division entered Order No. R-111-C extending the Oil-Potash Area to include acreage immediately

adjacent to the West and North boundaries of the tract involved in this Application by Belco. (See Exhibit 3).

On May 7, 1980, the Division's Examiner, Mr. Dan Nutter, heard Belco's application for directional drilling at a surface and bottom hole location outside the Oil-Potash Area. (See Exhibit 5). Because of an error in the advertisement for the case, the case was recalled at the Examiner Hearing held on June 4, 1980. (See Exhibit 6). At that time, Duval Corporation appeared and sought to introduce evidence in opposition to Belco's application for directional drilling.

Examiner Nutter refused to allow Duval Corporation to proceed with the presentation of evidence (Exhibit 6, Page 14-15) and recommended that an order be entered approving Belco's application.

On June 9, 1980, the Oil Conservation Division entered Order No. R-6369 approving BELCO'S application for authority to directionally drill a well, at a surface location in the SW/4 NW/4 of Section 36 and to bottom that well under the NE/4 of Section 36, T22S, R30E, N.M.P.M., Eddy County, New Mexico. (See Exhibit 4).

The surface and bottom hole locations of the Belco well are on lands not included in the Oil-Potash Area as defined by New Mexico Oil Conservation Division Order No. R-111-A or any of its extensions. (See Exhibits 3 and 7).

The State of New Mexico Potash Lease which Duval now bases its objections on is one that has been held or renewed by Duval Corporation since 1954. (See Exhibit 13).

DUVAL Corporation has filed an application for a DeNovo Hearing to which BELCO has objected.

The Division has called a hearing for September 4, 1980, to hear arguments and take evidence on the question of DUVAL's standing in this case.

A R G U M E N T

The Special Rules and Regulations initially contained in Order No. R-111 and subsequently revised by Order No. R-111-A provided for a comprehensive and orderly procedure for the handling of matters involving oil and gas operations and potash operations within the known potash areas of Eddy County, New Mexico.

Order No. R-111 originally embraced approximately 180,000 acres and has been expanded some thirteen times over the years by various potash operators including DUVAL.

For almost thirty years, the Division has exclusively handled all disputes between oil and gas and potash operators by following the Special Rules and Regulations the Division adopted in R-111 and R-111-A.

DUVAL's Application for a Hearing DeNovo is the first attempt by a potash operator claiming a right to object to oil and gas operations outside of the Oil-Potash Area.

DUVAL's Application for a Hearing DeNovo states, in paragraph 5 and 6, that the granting of BELCO's application will result in waste of potash and unduly interfere with the orderly commercial development of the potash deposit in Section 36. That is the very argument that should have caused DUVAL to seek an extension of the Oil-Potash Area to include Section 36.

DUVAL has attempted to raise questions concerning the protection of potash outside the Division's declared Oil-Potash Area. The Division has never considered such a case

and to do so now will constitute a wide departure from previous established practice and policy of the Division.

Having established specific rules and regulations for the protection of known and semi-known potash deposits, the Division is now strictly bound to abide by those rules when dealing with the identical subject matter intended to be covered by the rules and regulations.

To allow DUVAL to protest the BELCO Application will circumvent the R-111-A rules and regulations, will result in a proliferation of potash objections free of the Oil-Potash Area rules and regulations and will constitute a wide departure from established Division policy, practice and rules.

Rules and regulations of an administrative agency governing proceedings before it, duly adopted and within the authority of the agency, are as bindings as if they were statutes enacted by the legislature. People ex rel. Jordan v. Martin, 152 NY 311, 46 NE 484 (1897).

Procedural rules are binding not only upon the parties but also upon the agency and the agency does not have the discretion to waive, suspend, or disregard in a particular case a validly adopted rule so long as such rule remains in force. Service v. Dulles. 354 US 363 (1957).

This is true even though the adoption of the rule was a discretionary function. State ex rel. Independent School Dist. v. Johnson, 242 Minn 539, 65 NW2d 688 (1954).

To be valid, the action of the agency must conform to its rules which are in effect at the time the action is taken

particularly those designed to provide procedural safeguards for fundamental rights. Vitarelli v. Seaton 359 US 535 (1959) Bridges v. Wixon 326 US 135 (1945).

The statutory authority for the Divisiions regulation of the oil and gas industry is found in Chapter 70, Article 2, New Mexico Statutes Annotated 1978.

This Article was originally enacted by the New Mexico Legislature in 1935. It was not until 1965 that the Legislature amended Section 70-2-6 NMSA-1978, to include the phrase: "and the prevention of waste of potash as a result of oil or gas operations in this state."

Prior to 1965, the Division had for some eleven years prevented "the waste of potash as a result of oil or gas operations" under the Division's general 1935 statutory authority to "protect correlative rights, promote conservation and to prevent waste."

There apparently was some concern in 1965 that the Division had exceeded its statutory authority by the adoption of the R-111-A orders. That potential defect was cured by the 1965 legislation.

Even though it was not until 1965 that the New Mexico Legislature got around to "giving" the Division's statutory authority to "prevent waste of potash", the Division has actively and consistently applied its general statutory authority toward that end. The 1965 legislation adds nothing and subtracts nothing from the diligent efforts of the Division in regulating oil and gas production in the potash area.

See 73 C.J.S. Public Administrative Bodies and Procedures §92-§94.

The application for a DeNovo Hearing filed by DUVAL Corporation has not raised issues in any way different from those previously administered by application of Division Order R-111-A. There is no justification for the Division to now make a substantial departure from the procedures used to handle potash protests.

Such a departure from the established precedents set by the Division in these cases would be unreasonable, arbitrary and would discriminate against BELCO. The doctrine of stare decisis states that when a question of law has once been settled by a judicial decision, it forms a precedent which is not afterward to be departed from or lightly overruled. The doctrine of stare decisis is applicable to administrative agencies. See 79 ALR2d 1126. The Special Rules and Regulations of the Division for the administration of the Oil-Potash Area constitute decisions of the Division on fundamental questions of law concerning the rights of the potash operators and oil and gas operators in the potash areas of the State of New Mexico.

S U M M A R Y

For almost thirty years, the Oil Conservation Division has administered and regulated the oil and gas operations within the known Potash Areas of Eddy County, New Mexico in accordance with Rule R-111-A. The Application of DUVAL for a potash protest outside the R-111-A Area constitutes a

substantial and unjustified departure from those rules and regulations. Accordingly, DUVAL's application for a Hearing DeNovo should be denied for lack of standing.

KELLAHIN & KELLAHIN

By: W. Thomas Kellahin

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STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

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OIL CONSERVATION DIVISION
SANTA FE

In The Matter Of Hearing De Novo
On Case 6889, September 4, 1980 -
Application of Belco Petroleum
Corporation For Directional Drilling
Eddy County, New Mexico

Case 6889
Order No. R-6369

MEMORANDUM OF DUVAL CORPORATION
IN SUPPORT OF ITS STANDING

STATEMENT OF THE CASE AND ISSUE

Belco Petroleum Corporation ("Belco") applied to the Division for an order to directionally drill a Marrow test well from an unorthodox surface location on Section 36, T.22S., R.30E. The application recited an orthodox surface location was not available "because of the Federal Government operations."[1/] Belco's application was considered by the Division on May 7, 1980, but reheard on June 4, 1980 because of a defect in the legal notice.

Duval Corporation ("Duval") appeared at the June 4, 1980 hearing to object to the granting of the application because of its adverse effect on its commercial potash deposits on the same section.

Duval is lessee from the State under a Potash Mining Lease No. M-2618-2 (Renewal).

1/ Belco did not mention the Federal Government operations to which it alluded was the condemnation by DOE of surface use and oil and gas rights of the upper most 6000 feet. Belco and other entities received several million dollars of compensation. An award was also made to compensate for additional costs incurred to directionally drill. Potash rights were not condemned.

Duval maintained at the June 4, 1980 hearing the potash reserves on Section 36 should be protected from Belco's drilling under the authority of Section 70-2-3 F. (Tr. 7) The hearing examiner acknowledged that Duval had a witness present to testify on the commercial mineability of potash reserves on Section 36. (Tr. 19) But Duval was not allowed at the June 4, 1980 hearing to present its evidence. (Tr. 19)

An order by the Division was entered on June 9, 1980, authorizing Belco Petroleum Corporation's application. The order found the surface location of the proposed Belco well "is on lands not included in the Oil-Potash Area as defined by Order No. R-111-A, as amended,..."

Duval, pursuant to Section 70-2-13, N.M.S.A. 1978 and Rule 1220 of the Division, filed an application with the Oil Conservation Commission ("Commission") for a hearing de novo on the Division's order granting Belco's application. The Commission held a limited hearing on September 4, 1980. The Commission in the notice for hearing provided:

> "Evidence and testimony or arguments in this hearing shall be limited to the issue of whether Duval Corporation has standing to object to the application of Belco Petroleum Corporation."

Accordingly argument was heard. Duval made a tender of testimony to the effect that commercial deposits of potash are leased by Duval on Section 36 and the adverse effect drilling by Belco will have on these deposits. The Commission has asked the parties to brief their respective positions on Duval's standing to object to Belco's application.

Belco argues that a potash operator only has standing to object to its application if the property involved has been specifically included in the R-111 orders of the Commission, even if the property does in fact contain a commercial deposit which will be unduly reduced or interferred with by the granting of the application. To be accorded standing Belco argues Duval

must ask for hearing to expand the R-111 Orders to include Section 36.

Duval submits that because Section 70-2-23, N.M.S.A. 1978 provides "any person having an interest in the subject matter" of a hearing on an order "is entitled to be heard," Duval has standing to present evidence on the commercial deposits of potash in Section 36. Since the Commission is to prohibit waste of commercial deposits of potash "within any area", and since the granting of Belco's application will result in waste of Duval's commercial potash deposit, Duval has standing under Sections 70-2-2, 70-2-3 F., 70-2-6, 70-2-13 and 70-2-23, N.M.S.A. 1978 to object. The Commission's R-111 orders do not provide a potash operator must seek inclusion in the R-111 orders in order to have his deposit protected, and the statutes now specifically provide for the protection of potash deposits "within any area."

ARGUMENT

Duval maintains the Legislature has provided in the clearest possible language that when an order is sought, there must be a public hearing, and "at any such hearing any person having an interest in the subject matter of the hearing shall be entitled to be heard." Section 70-2-23 N.M.S.A. 1978. The basic charter of this Commission is the prevention of waste resulting from oil or gas production operations. Section 70-2-2, N.M.S.A. 1978 provides:

> "The production or handling of crude petroleum oil or natural gas of any type or in any form, or the handling of products thereof, in such manner or under such conditions or in such amounts as to constitute or result in waste is each hereby prohibited."

The Commission's and Division's powers and duties, as set forth in Section 70-2-6 are:

> "A. The division shall have, and is hereby given, jurisdiction and authority over all matters relating to the conservation of oil and gas and the prevention of waste of potash as a result of oil or gas operations in this state. It shall have jurisdiction, authority and control of and over all persons, matters or things necessary or proper to enforce effectively the provisions of this act or any other law of this state relating to the conservation of oil or gas and the prevention of waste of potash as a result of oil or gas operations.

B. The commission shall have concurrent jurisdiction and authority with the division to the extent necessary for the commission to perform its duties as required by law. In addition, any hearing on any matter may be held before the commission if the division director, in his discretion, determines that the commission shall hear the matter." (emphasis supplied)

The Legislature has also spoken in language free from ambiguity that waste includes undue reduction or interference with commercial potash "within any area". Section 70-2-3 provides "waste" shall include:

"F. drilling or producing operations for oil or gas within any area containing commercial deposits of potash where such operations would have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities or where such operations would interfere unduly with the orderly commercial development of such potash deposits." (emphasis supplied)

With this statutory mandate in mind, Duval stated in its Application For Hearing De Novo an application granted to Belco will result in "waste of potash which may reasonably be recovered by Duval in commercial quantities" and "will interfere unduly with the orderly commercial development of the potash deposit on Section 36." Belco did not dispute Duval's statements. Accordingly, Duval's allegations must be considered as true for the purposes of according standing.[2/]

Thus, Duval has claimed it will be adversely affected by Belco's drilling. Substantially those factors contained in Section 70-2-3 F. have been alleged by Duval. Also, by such assertions Duval should unquestionably be accorded standing under Section 70-2-13 N.M.S.A. 1978 and the Division's Rule 1220 providing for de novo hearings before the Commission. Standing is

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2/ If Duval's undisputed allegations are not considered by the Commission as true for standing purposes, Duval's tender of testimony at the September 4, 1980 hearing establishes the allegations conferring standing on Duval. Duval's tender of testimony was to the effect that commercial deposits of potash are leased by Duval on Section 36; further, Belco's proposed drilling would reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities and Belco's operations would interfere with the orderly commercial development of such potash deposits. (Tr. 28-29)

there contemplated for evidentiary presentations in cases such as the instant one. Section 70-2-13, N.M.S.A. 1978 provides, in part:

> "When any matter or proceeding is referred to an examiner and a decision is rendered thereon, any party adversely affected shall have the right to have said matter heard de novo before the commission upon application filed with the Division within thirty days from the time any such decree is rendered." (emphasis supplied)

The language of Rule 1220 is also unequivocal:

> "When any order has been entered by the Division pursuant to any hearing by an examiner, any party adversely affected by such order shall have the right to have such matter or proceeding heard de novo before the Commission,..." (emphasis supplied)[3/]

This language closely resembles that contained in a judicial review statute involved in New Mexico's leading case on standing, DeVargas Savings and Loan Assn. of Santa Fe v. Campbell, 87 N.M. 469, 535 P.2d 1320 (1975). A statute provided judicial review to "any association or person aggrieved and directly affected" by an order of the supervisor. Similarly, here, Section 70-2-13 N.M.S.A. 1978 and Rule 1220 accords a de novo hearing to "any party adversely affected" by the Division's Order.

The instant case parallels the DeVargas case in several striking respects. In fact, because 70-2-23 and 70-2-13 N.M.S.A. 1978 specifically grant Duval standing, this case is even a stronger case for standing than DeVargas. In DeVargas four savings and loan associations located in Santa Fe sought judicial review of the Savings and Loan Supervisor's order approving a new branch office in Santa Fe for which application had been made by a Los Alamos savings and loan institution. In DeVargas, no statute specifically allowed the complaining savings and loans to appear before the supervisor. Here, Duval, which had an interest in the subject matter of the hearing, was entitled to be heard in the first instance. 70-2-33, N.M.S.A. 1978. The Supreme Court of

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3/ Of significance is the use of the word "shall" in Section 70-2-13 N.M.S.A. 1978 and Rule 1220. The general rule in New Mexico dictates "shall" as being mandatory and not discretionary. State v. Lujan, 90 N.M. 103, 560 P.2d 167 (1977); Montano v. Williams, 89 N.M. 86, 547 P.2d 589 (Ct.App. 1976), affirmed 89 N.M. 252, 550 P.2d 264 (1976).

New Mexico held in DeVargas:

> "To attain standing in a suit arguing the unlawfulness of governmental action, the complainant must allege that he is injured in fact or is imminently threatened with injury, economically or otherwise...." Id. at 1324.

The Court discussed the assertions of the four savings institutions in light of the review statute as well as another statute requiring the Supervisor to consider various factors, §48-15-61(A) N.M.S.A. 1953 (Repl. Vol. 7, Supp. 1972). One of the factors was whether the public demand was sufficient to maintain the solvency of the existing institutions. In holding the four existing institutions had standing, the Court reasoned:

> "In this case, appellants clearly have standing to seek review of the supervisor's order as associations "aggrieved and directly affected" by the order. Appellants assert they will suffer from undue competitive injury if another branch is permitted in Santa Fe because there is not sufficient business and demand to assure and maintain the solvency of existing associations. They also assert another branch will not be to the advantage of the community. These claims are sufficient. In fact, the protection of these interests is explicitly recognized in §48-15-61(A) N.M.S.A. 1953 (Repl. Vol. 7, Supp. 1972)....
>
> "If there is arbitrary and capricious action on the part of the supervisor in considering these matters, who could complain if not those directly affected by the allegedly illegal action?" Id. at 1324.

Further, DeVargas cited with approval several highly significant United States Supreme Court cases. See, Data Processing Service v. Camp, 397 U.S. 150, 90 S.Ct. 827, 25 L.Ed. 2d 184 (1970); Sierra Club v. Morton, 405 U.S. 727, 92 S.Ct. 1361, 31 L.Ed. 2d 636 (1972).

As it relates to the instant case Data Processing Services sets forth a test for standing relating to the zone of interest regulated by a statute. As stated in DeVargas this test involves:

> "....whether the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question."
> 535 P.2d at 1323.

However, the New Mexico Supreme Court in DeVargas viewed the statutory "zone of interest" test as much too limiting. It observed:

> "It seems fundamental that a plaintiff has standing to protect himself against injury as a result of unlawful governmental action, even in the absence of a controlling statute or constitutional provision." 535 P.2d at 1323.

In its discussion, the Court in DeVargas noted that in Sierra Club, supra, standing was not confined to those alleging economic harm but to those claiming harm to their "aesthetic and environmental well-being." Finally, in DeVargas the Court said it was compelled to follow Scanwell Laboratories, Inc. v. Shaffer, 424 F.2d 859 (D.C. Cir. 1970), in which it was held 'one who has a prospective beneficial relationship has standing to challenge the illegal grant of a contract to another.' 535 P.2d at 1320.

The DeVargas case has been discussed at length here merely to emphasize how concrete Duval's claim to standing is. Duval according to the controlling case authority would be conferred standing under each test except perhaps the aesthetic test of Sierra Club. Duval certainly meets the Data Processing test since it is unquestionably within the zone of interest to be protected by statutes, §§70-02-2 and 70-2-3 F. Clearly Duval has more in its leased potash deposits than a beneficial relationship, the minimum required in Scanwell. Finally, Duval has irrefutably met the DeVargas test by alleging in its Application for De Novo Hearing and in its tender it will be injured in fact or imminently threatened with injury by Belco's proposed drilling. Equally important, the Legislature has specified Duval has standing in 70-2-23 N.M.S.A. as a person who has "an interest in the subject matter of the hearing" and, as a party "adversely affected" by a decision of the hearing officer, is entitled to a de novo hearing under 70-2-13 N.M.S.A. 1953 and Rule 1220.

The zone of interest to be protected by the statutes, §§70-2-2 and 70-2-3 F, specifically covers Duval's potash interests in

Section 36. The statute clearly states commercial potash deposits within any area must be protected from waste. It is a well known rule of statutory construction in New Mexico that words in a statute are to be given their ordinary and usual meaning. State ex rel. Bird v. Apodaca, 91 N.M. 279, 573P.2d 213 (1978); Bettina v. City of Las Cruces, 82 N.M. 663, 485 P.2d 967 (1971). Moreover, a statute must be given effect as written. Hutchinson v. State, 89 N.M. 521, 557 P.2d 663 (1976). Most certainly, the usual meaning of "any area" would include Section 36 if it contained commercial potash deposits.

Further, the clear language of §70-2-3 F., says nothing about limiting standing to (or prohibiting waste only within) those areas within Orders No. R-111 or R-111-A, and their amendments. Nor does this statute refer to R-111 or R-111-A orders or the amendments at all. The Legislature enacted Section 70-2-3 F. in 1965, ten years after the Order No. R-111-A was set forth by the Commission and fourteen years after the R-111 adoption. See annotation to §65-3-3 N.M.S.A. 1953 Comp.. At the time the Commission adopted the R-111 and R-111-A orders, the Legislature had not clearly stated minerals other than oil and gas were to be protected by the Commission against waste.[4/]

[4/] R-111 and R-111-A recite in their findings that promulgation of regulations for development of oil and gas in an area known to be productive of potash is within the authority of the commission for the protection of correlative rights, the promotion of conservation and prevention of waste. Undoubtedly the statutory authority claimed for the R-111 Orders was Section 70-2-11 which was included in the 1941 compilation of New Mexico Statutes. See, Annot. of History §65-3-10 N.M.S.A. 1953 Comp.. Section 70-2-11 reads:

"A. The division is hereby empowered, and it is its duty, to prevent waste prohibited by this act and to protect correlative rights, as in this act provided. To that end, the division is empowered to make and enforce rules, regulations and orders, and to do whatever may be reasonably necessary to carry out the purpose of this act, whether or not indicated or specified in any section hereof.

B. The commission shall have concurrent jurisdiction and authority with the division to the extent necessary for the commission to perform its duties as required by law."

The Legislature addressed the authority of the Commission to prohibit waste to potash deposits in 1965 when it enacted Section 70-2-3 F. The Legislature could have limited the prohibition against waste to potash only to the areas the Commission had listed in its R-111 and R-111-A orders. The Legislature clearly did not do so. Rather, it stated unequivocally in Section 70-2-3 F. the area to be protected from waste is "....any area containing commercial deposits of potash...." If any other meaning was intended it could have been very easily provided for in the statute. Hutchinson v. State, supra. It is a well recognized rule that the Legislature is assumed to be well informed as to existing law. State ex rel. Bird v. Apodaca, supra; Bettina v. City of Las Cruces, supra.

Accordingly the Legislature in 1965 was assumed to have known about the R-111, R-111-A orders and other amendments of the Commission existing then. The Legislature could have stated the only potash deposits to be protected would be those designated by the Commission. But it refused to do so. It is presumed the Legislature in enacting a statute intended to change the law as it previously existed and that it does not intend to enact useless statutes. State ex rel. Bird v. Apodaca, supra; Bettina v. City of Las Cruces, supra. Such evidence of change in the law is apparent from the language "within any area" included in the 1965 amendment, §70-2-3 F.

To stress the Legislature's breadth of protection for potash in 70-2-3 F. that statute might be compared with a statute in which the subject was not to be protected without administrative action. For example, the Legislature has provided protection for underground waters only when the State Engineer declares the waters are in underground basins. The pertinent statute, §72-12-20 N.M.S.A. 1978, reads:

> "No permit and license to appropriate underground waters shall be required except in basins declared by the State Engineer to have reasonably ascertainable boundaries."

Belco argues the R-111 orders are comprehensive and are the only appropriate procedures for handling objections by potash operators protesting applications to drill wells for oil and gas. Belco's argument is specious. It is also untentable. The language of the statutes and the orders fully disprove Belco's argument.

The R-111 orders clearly and exclusively relate to only those areas listed therein. Belco claims too much for the orders. They do not deal at all with areas not included within them. Similarly they do not presume to cover any other area which might contain commercial deposits of potash. Moreover, the R-111 orders do not notify an operator it must seek inclusion in the orders to be protected. Nor does the Division have a regulation which mandates the expansion of the R-111 orders to protect commercial deposits of potash from waste. For example, R-111-A provides it "may be revised." Most importantly, the statutes, Sections 70-2-2 and 70-2-3, require "any area containing commercial deposits of potash" be protected from waste.

Duval submits the R-110 orders are not in conflict with the statutes, Sections 70-2-2 and 70-2-3. The R-111 orders relate to certain areas only. The statute relates to "any area." Belco's argument suggests the two are in conflict and the regulatory scheme should prevail because for some thirty years the Division has exclusively handled all disputes between oil and gas and potash operators under the orders. However, Belco also concedes the Duval objection here is the first instance in which a potash operator has claimed the right to object to a proposed well for oil and gas outside the areas listed in the R-111 orders. However, even if a conflict is construed to exist between the statutes and the R-111 orders, there is no question as to which must prevail. A regulation in conflict with a statute is invalid. Scofield v. Lewis, 251 F.2d 1288 (5th Cir. 1958); 2 Am.Jur.2d Administrative Law §§289, 300. In Scofield a regulation

of the Internal Revenue Service was held invalid since it was in conflict with an amendment to the statute. As stated in Scofield:

> "...A regulation which is in conflict with or restrictive of the statute is, to the extent of the conflict or restriction, invalid. A regulation, valid when promulgated, becomes invalid upon the enactment of a statute in conflict with Regulation...." 251 F.2d at 132.

The intention of the Legislature to protect potash in adopting its 1965 amendment, Section 70-2-3 F., is reflected in the title to the act containing the amendments. In the annotation to Section 65-3-3 N.M.S.A. 1953 Comp., the title to the act is set out as:

> "Title to Act.
>
> An act relating to the oil conservation commission; providing for the prevention by the oil conservation commission of waste of potash as a result of oil or gas operations and protection of potash deposits; and amending sections 65-3-3, 65-3-5, 65-3-11, and 65-3-29, New Mexico Statutes Annotated, 1953 Compilation...."

In New Mexico, one of the few aids permitted to determine legislative history is the title of an act. State v. Richardson, 48 N.M. 544, 154 P.2d 224 (1944); State v. Moore, 40 N.M. 344, 59 P.2d 902 (1936).

The title to the act confirms the clear meaning of 70-2-3 F. It discloses the Legislature intended to protect potash deposits. It does not limit its application to certain areas only.

Belco also argues that according standing to Duval would depart from the established precedents of the Division and would be unreasonable, arbitrary and discriminatory against Belco. This argument is likewise unsupportable. Belco admits that since the 1965 amendments the Commission has not previously dealt with a situation where an oil and gas application would interfere with a commercial potash deposit not included within Orders No. R-111 and R-111-A, as amended. Thus, no precedents have been made by the Commission. In the face of the controlling statutory authority, failure to confer standing to Duval would discriminate not against Belco but against Duval.

Belco's argument is equally unpersuasive that to allow Duval standing will result in a proliferation of objections from potash operations outside of the R-111 orders. This argument is far from compelling in view of the statutory mandate. An administrative body cannot avoid its statutory duty simply because doing so may expand the case load. As a practical matter, it is doubted a proliferation will occur since the objection here is the first objection to surface in some thirty years. It should be noted a similar argument was made in DeVargas, supra. The Court rejected the argument out of hand by stating:

> "Proponents of a limited or no right of judicial review in administrative matters cite the theory that a multitude of cases will arise as a result. This does not seem to have developed." [numerous citations ommitted] 535 P.2d at 1324.

Duval submits that requiring Duval to apply to expand the R-111 orders at this time will completely fustrate the Legislature's intention to protect potash. Assuming only for purposes of argument that the Commission did have a regulation requiring Duval to request expansion of the R-111 orders to protect potash, such a regulation would be inconsistent with Section 70-2-3 F. to the extent commercial potash deposits were wasted while the request was being considered. Sections 70-2-3 and 70-2-3 F. make no exceptions or allowances. They require the protection against waste of commercial potash deposits "within any area" according to their terms. Accordingly, they confer standing on one seeking to protect such deposits from waste.

Finally, it should be realized Duval does not seek to prohibit all oil and gas drilling. Indeed, Duval's parent company is a large petroleum company. Rather it merely seeks to invoke the Commission's authority to protect potash in an instance in which granting an application for oil and gas drilling will result in waste to potash. Belco was compensated handsomely for its condemned interest at the orthodox location and was also compensated for directional drilling costs. Now Belco seeks to drill where

waste to a commercial potash deposit will result. The Legislature felt the Commission was the administrative body with the necessary expertise to provide protection to potash. Indisputably the Legislature has directed the Commission to protect any commercial potash deposit. Duval is merely following the procedure adopted by the Legislature for resolving a conflict between a large potash deposit and a potentially valuable oil and gas well.

CONCLUSION

Duval has alleged, and offered proof, that it has a commercial deposit of potash on Section 36 which will be unduly reduced and interferred with by an order granting Belco's application to directionally drill an oil or gas well from an unorthodox surface location. As such, it was "a person having an interest in the subject matter of the hearing" before the examiner. As such, it was a person "adversely affected" by the decision of the examiner, and is entitled to a de novo hearing before the Commission. It has standing under the DeVargas case. The Legislature in the clearest terms has provided this Commission and the Division with both the power and the duty to protect commercial potash "within any area" from waste. The application of Belco will result in waste of commercial potash "within any area." Order R-111 and its amendments in no manner purport to limit protection of commercial potash to the area described therein. The statutes in any event require that protection be accorded to all commercial potash deposits.

It is respectively submitted the Commission should reject Belco's claim, and proceed to hearing to determine the method of protecting Duval's deposit.

BIGBEE, STEPHENSON, CARPENTER,
CROUT & OLMSTED

By _____

_____
Attorneys for Duval Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum of Duval In Support Of Its Standing was mailed this 18th day of September, 1980 to W. Thomas Kellahin, Kellahin & Kellahin, 500 Don Gaspar, Santa Fe, New Mexico, 87501.

Sunny T. Nixon

CASE 6689: BELCO PETROLEUM CORPORATION - FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

BRUCE KING
GOVERNOR

LARRY KEHOE
SECRETARY

POST OFFICE BOX 2088
STATE LAND OFFICE BUILDING
SANTA FE, NEW MEXICO 87501
(505) 827-2434

June 13, 1980

Mr. Thomas Kellahin
Kellahin & Kellahin
Attorneys at Law
Post Office Box 1769
Santa Fe, New Mexico

Re: CASE NO. 6889
ORDER NO. R-6369

Applicant:

Belco Petroleum Corporation

Belco Petroleum Corporation

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Yours very truly,

JOE D. RAMEY
Director

JDR/fd

Copy of order also sent to:

Hobbs OCD x
Artesia OCD x
Aztec OCD

Other Stanley Crout

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. 278
Order No. R-111-C

APPLICATION OF DUVAL SULPHUR
AND POTASH COMPANY FOR AN
AMENDMENT OF ORDER NO. R-111-A
TO INCLUDE ADDITIONAL ACREAGE
IN THE POTASH-OIL AREA, EDDY
COUNTY, NEW MEXICO

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on August 13, 1959, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 3rd day of September, 1959, 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 the applicant, Duval Sulphur and Potash Company, is the owner of certain potash leases in Townships 18, 22, and 23 South, Range 30 East, NMPM, Eddy County, New Mexico.

(3) That the applicant seeks an amendment of Order No. R-111-A as amended by Order No. R-111-B to extend the Potash Oil Area as set forth in said orders to include the following described acreage:

Township 18 South, Range 30 East, NMPM

Section 22:	W/2 W/2
Section 27:	N/2 NW/4

Township 22 South, Range 30 East, NMPM

Section 13:	SE/4 SW/4
Section 23:	SE/4 and SE/4 NE/4
Section 24:	W/2
Section 25:	W/2
Section 26:	E/2 W/2 and E/2
Section 35:	E/2

TOWNSHIP 23 South, Range 30 East, NMPM

Section 2:	S/2 and NE/4

(4) That the evidence presented indicates that the above-described acreage contains potash deposits in commercial quantities with the following exceptions:

Township 18 South, Range 30 East, NMPM

Section 27:	NW/4 NW/4

Township 22 South, Range 30 East, NMPM

Section 13:	SE/4 SW/4
Section 24:	E/2 W/2
Section 25:	E/2 W/2

all in Eddy County, New Mexico.

(5) That to promote orderly development of the natural resources in the area, Order No. R-111-A as amended by Order No. R-111-B should be further amended to include the acreage in the Potash-Oil Area as proposed by the applicant with the above-mentioned exceptions.

IT IS THEREFORE ORDERED:

That Order No. R-111-A as amended by Order No. R-111-B be and the same is hereby further amended to include the following-described acreage within the confines of the Potash-Oil Area in Eddy County, New Mexico:

Township 18 South, Range 30 East

Section 22:	W/2 W/2
Section 27:	NE/4 NW/4

Township 22 South, Range 30 East, NMPM

Section 23:	SE/4 and SE/4 NE/4
Section 24:	W/2 W/2
Section 25:	W/2 W/2
Section 26:	E/2 W/2 and E/2
Section 35:	E/2

Township 23 South, Range 30 East, NMPM

Section 2:	S/2 and NE/4

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JOHN BURROUGHS, Chairman

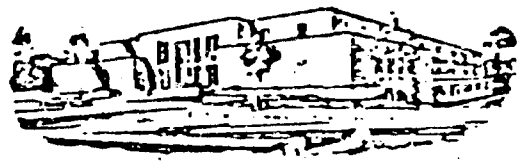
SEAL

MURRAY E. MORGAN, Member

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

lcr/

State of New Mexico



RECEIVED
APR 02 1979
LAND
WAM
DG
JTW
MA

Commissioner of Public Lands

ALEX J. ARMIJO
COMMISSIONER

P. O. BOX 1148
SANTA FE, NEW MEXICO 87501

March 29, 1979

BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Bass EXHIBIT NO. 1
CASE NO. 6889

Bass Enterprises Production Company
Fort Worth National Bank Building
Fort Worth, Texas 76102

Re: 1979 Plan of Development
James Ranch Unit
No. 14-08-001-558
Eddy County, New Mexico

ATTENTION: Mr. Jens Hansen

Gentlemen:

By our letter of March 23, 1979, this office approved your Amended Plan of Development for 1979.

In view of the settlement in the Federal District Court in Albuquerque, New Mexico, wherein, the Department of Energy condemned your leasehold interest for the surface use and upper most 6000 feet of a portion of Section 36, Township 22 South, Range 30 East, you were granted an award to compensate for additional cost which might be inccured to directionally drill this acreage.

In order for your company to make the proper arrangements this is to advise that your Plan of Development for 1980 must include the drilling of a well to a depth sufficient to test the Morrow formation with a bottom hole location to be in the N/2 of Section 36-T22S-30E. Any plan not including this commitment for development of this acreage will not be approved by this office for the year 1980.

Very truly yours,

ALEX J. ARMIJO
COMMISSIONER OF PUBLIC LANDS

BY: Ray D. Graham
RAY D. GRAHAM, Director
Oil and Gas Division

AJA/RDG/s
cc: OCD-Santa Fe, New Mexico
USGS-Roswell, New Mexico
USGS-Albuquerque, New Mexico

WILSON DOWNHOLE SERVICES
A DIVISION OF WILSON INDUSTRIES INC
POST OFFICE BOX 1492 HOUSTON, TEXAS 77001

April 23, 1980

Belco Petroleum Corp.
411 Petroleum Bldg.
Midland, Texas 79701

Dear Sir:

The following is a cost estimate to drill your proposed directional well. This estimate is based on our current price book. This estimate is meant to be used as a guideline since actual well bore conditions may dictate some procedure changes.

Well to be drilled: Belco Petroleum Corp.
J. R. #11 to be drilled
in the James Ranch Area
Eddy County, New Mexico

Surface Location: 920' from the West Line 1980' from the North Line
Bottom Hole Location to be 1320' from North Line
2640' from the East Line

The well should be drilled from surface to 6000' in the normal fashion. At this point a non magnetic drill collar will be picked up and directional surveys taken. We feel for an accurate BHA Location to be determined. A multishot should be ran @ 100 intervals back to surface pipe.

A dyna drill and 2 degrees deflecting sub will be used to make the initial kick off. This will be accomplished by drilling the necessary amount of hole needed to obtain 4 to 6 degrees of inclination, from vertical, in the proper direction. These tools will be oriented with a magnetic single shot instrument. An angle building assembly will then be picked up and the angle will be increased 2°degrees/100' to a total of 12°degrees 51'. This angle will be held in the proper direction until vertical depth of 14,400' is reached.

Yours Truly,
Burke LeMay
Burke LeMay
West Texas District Manager

BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 2
CASE NO. 6889

drill straight hole
with std tolerance
to 6000' run multishot
run bent motor &
drill to target area

NEW MEXICO OIL CONSERVATION COMMISSION

WELL LOCATION AND ACREAGE DEDICATION PLAT

Form C-102
Supersedes C-128
Effective 1-1-65

All distances must be from the outer boundaries of the Section.

Operator	Lease	Well No.
BELCO PETROLEUM COMPANY	James Ranch	11

Unit Letter	Section	Township	Range	County
	36	22-S	30-E	Eddy

Actual Footage Location of Well:
1980' feet from the North line and 920' feet from the West line

Ground Level Elev.	Producing Formation	Pool	Dedicated Acreage:
3306'	Morrow	Los Medanos	320 Acres

1. Outline the acreage dedicated to the subject well by colored pencil or hachure marks on the plat below.

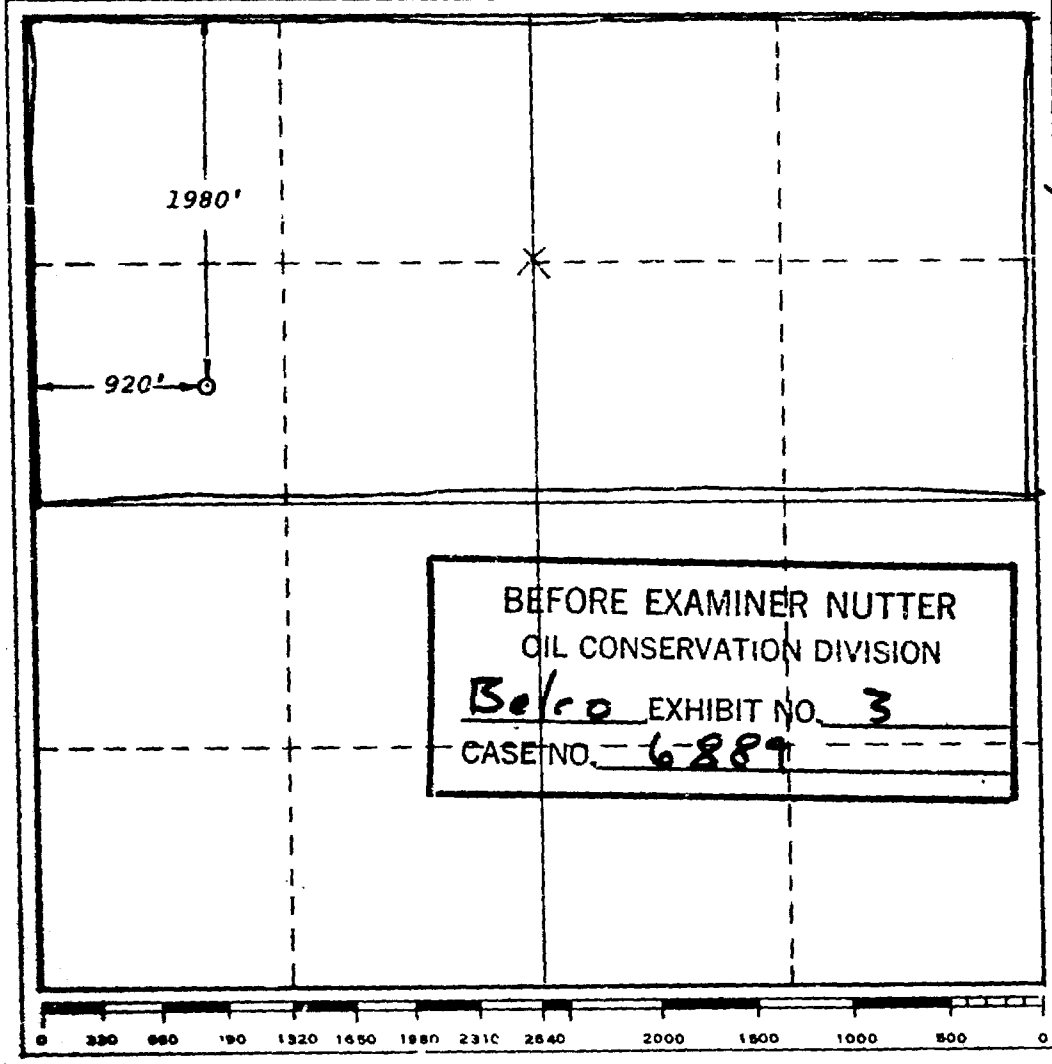
2. If more than one lease is dedicated to the well, outline each and identify the ownership thereof (both as to working interest and royalty).

3. If more than one lease of different ownership is dedicated to the well, have the interests of all owners been consolidated by communitization, unitization, force-pooling. etc?

☐ Yes ☐ No If answer is "yes," type of consolidation _____

If answer is "no," list the owners and tract descriptions which have actually been consolidated. (Use reverse side of this form if necessary.) _____

No allowable will be assigned to the well until all interests have been consolidated (by communitization, unitization, forced-pooling, or otherwise) or until a non-standard unit, eliminating such interests, has been approved by the Commission.



CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.

M. E. Moore

Name: M. E. Moore

Position: District Engineer

Company: Belco Petroleum Corp.

Date: May 2, 1980

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief.

NEW MEXICO
GARY D. BOSWELL
NO. 6689
REGISTERED LAND SURVEYOR

April 22, 1980

Date Surveyed

Gary D. Boswell

Registered Professional Engineer and/or Land Surveyor

Gary D. Boswell

Certificate No. 6689

EDDY

EDDY

INTERNATIONAL MINERALS CHEMICAL CORP.

CRAWFORD LONDON

CABIN LAKE, 67

HILL TANK

J BAR

QUAHADA RIDGE, 54

LOS MEDANOS, 58

NINER RIDGE, 74

NASH

JONES

SAND DUNES

STATE LAND

LAND WITHDRAWAL BOUNDARY-ERDA

POKER LAKE

EAST POKER LAKE

UNNAMED, 72

JENNINGS, 56(ABND)

COTTON DRAW, 59

JAMES

EDDY

26 25 30

R-30-E R-31-E

35 36 31

PROPOSED MORROW TEST

100' RADIUS CIRCLE

1980'

920'

Bottom Hole Loc.

2640'

JAMES RANCH #1

Surface Loc.

T 22 S

Shell J James Rch Unit TD 17555

Wants to amend target area to 660' radius would have 20-25000 ft longer target

2 1 6

Belco J-Hudson

10 James Rch.

Belco 3 James Rch. TD 15595

Belco 4 James Rch

Comanche James Rch

T 23 S

T 23 S 11 12 7

R-30-E R-31-E

R 30 E

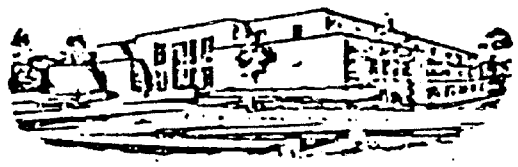
BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 5
CASE NO. 6887

LEGEND

BELCO PETROLEUM CORP
JAMES RANCH AREA
Eddy Co. New Mexico

DEAN BOUNDY SCALE 1" = 2000'

State of New Mexico



LAND
RECEIVED
APR 02 19
WAR
JTW
DG
MA
DRL

Commissioner of Public Lands

ALEX J. ARMIJO
COMMISSIONER

March 29, 1979

P. O. BOX 1148
SANTA FE, NEW MEXICO 87501

BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Bolce EXHIBIT NO. 1
CASE NO. 6889

Bass Enterprises Production Company
Fort Worth National Bank Building
Fort Worth, Texas 76102

Re: 1979 Plan of Development
James Ranch Unit
No. 14-08-001-558
Eddy County, New Mexico

ATTENTION: Mr. Jens Hansen

Gentlemen:

By our letter of March 23, 1979, this office approved your Amended Plan of Development for 1979.

In view of the settlement in the Federal District Court in Albuquerque, New Mexico, wherein, the Department of Energy condemned your leasehold interest for the surface use and upper most 6000 feet of a portion of Section 36, Township 22 South, Range 30 East, you were granted an award to compensate for additional cost which might be inccured to directionally drill this acreage.

In order for your company to make the proper arrangements this is to advise that your Plan of Development for 1980 must include the drilling of a well to a depth sufficient to test the Morrow formation with a bottom hole location to be in the N/2 of Section 36-T22S-30E. Any plan not including this commitment for development of this acreage will not be approved by this office for the year 1980.

Very truly yours,

ALEX J. ARMIJO
COMMISSIONER OF PUBLIC LANDS

BY: Ray D. Graham
RAY D. GRAHAM, Director
Oil and Gas Division

AJA/RDG/s
cc: OCD-Santa Fe, New Mexico
USGS-Roswell, New Mexico
USGS-Albuquerque, New Mexico

WILSON DOWNHOLE SERVICES
A DIVISION OF WILSON INDUSTRIES INC
POST OFFICE BOX 1492 HOUSTON, TEXAS 77001

April 23, 1980

Belco Petroleum Corp.
411 Petroleum Bldg.
Midland, Texas 79701

Dear Sir:

The following is a cost estimate to drill your proposed directional well. This estimate is based on our current price book. This estimate is meant to be used as a guideline since actual well bore conditions may dictate some procedure changes.

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J. R. #11 to be drilled
in the James Ranch Area
Eddy County, New Mexico

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Bottom Hole Location to be 1320' from North Line
2640' from the East Line

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A dyna drill and 2 degrees deflecting sub will be used to make the initial kick off. This will be accomplished by drilling the necessary amount of hole needed to obtain 4 to 6 degrees of inclination, from vertical, in the proper direction. These tools will be oriented with a magnetic single shot instrument. An angle building assembly will then be picked up and the angle will be increased 2°degrees/100' to a total of 12° degrees 51'. This angle will be held in the proper direction until vertical depth of 14,400' is reached.

Yours Truly,
Burke LeMay
Burke LeMay
West Texas District Manager

BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 2
CASE NO. 6889

NEW MEXICO OIL CONSERVATION COMMISSION

WELL LOCATION AND ACREAGE DEDICATION PLAT

Form C-102
Supersedes C-128
Effective 1-1-65

All distances must be from the outer boundaries of the Section.

Operator	Lease	Well No.
BELCO PETROLEUM COMPANY	James Ranch	11

Unit Letter	Section	Township	Range	County
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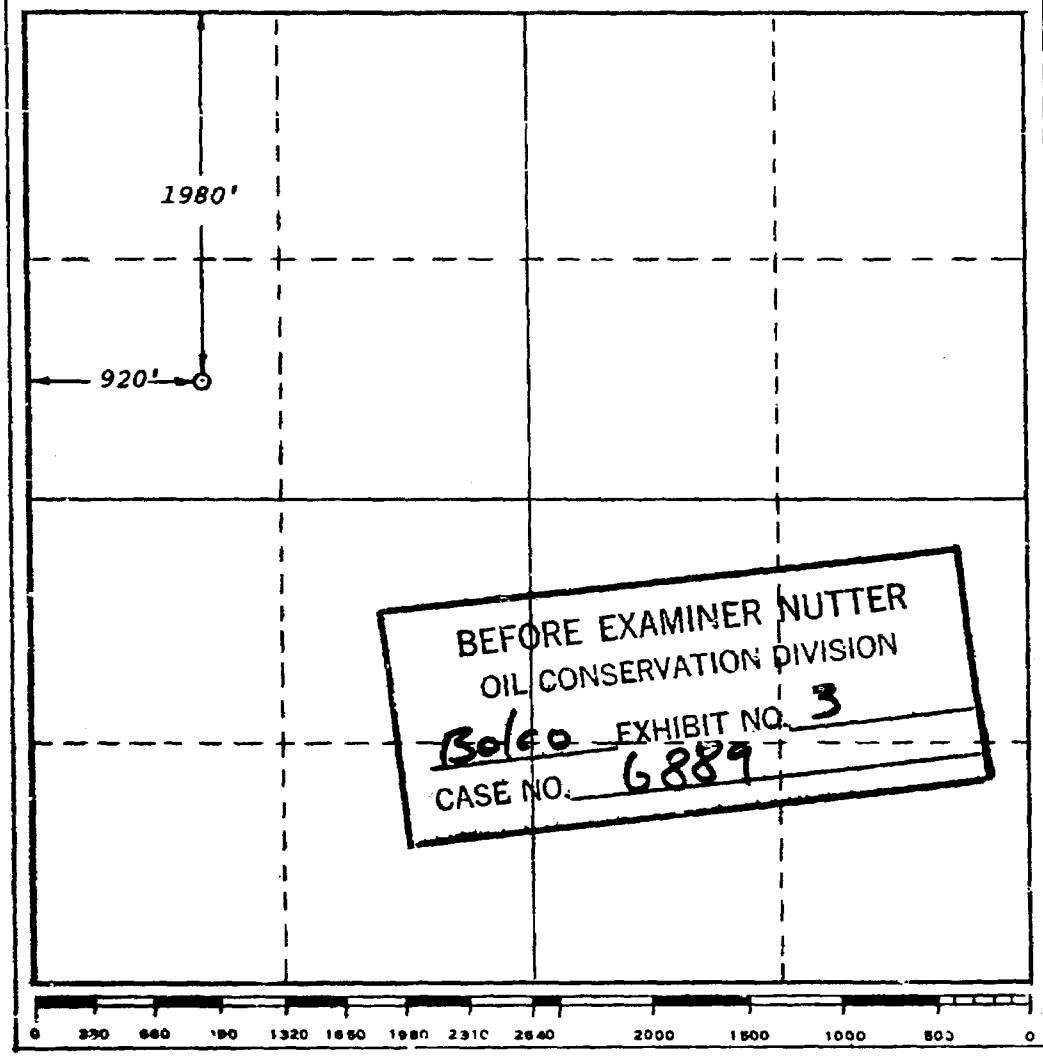
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3. If more than one lease of different ownership is dedicated to the well, have the interests of all owners been consolidated by communitization, unitization, force-pooling. etc?

☐ Yes ☐ No If answer is "yes," type of consolidation _____

If answer is "no," list the owners and tract descriptions which have actually been consolidated. (Use reverse side of this form if necessary.) _____

No allowable will be assigned to the well until all interests have been consolidated (by communitization, unitization, forced-pooling, or otherwise) or until a non-standard unit, eliminating such interests, has been approved by the Commission.



BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 3
CASE NO. 6889

CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.

M. E. Moore

Name: M. E. Moore

Position: District Engineer

Company: Belco Petroleum Corp.

Date: May 2, 1980

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief.

NEW MEXICO
GARY D. BOSWELL
NO. 6689
REGISTERED LAND SURVEYOR

April 22, 1980

Date Surveyed

Gary D. Boswell

Registered Professional Engineer and/or Land Surveyor

Gary D. Boswell

Certificate No. 6689

EDDY

EDDY

INTERNATIONAL MINERALS CHEMICAL CORP.

CRAWFORD LONDON

CABIN LAKE, 67

HILL TANK

J BAR

QUAHADA RIDGE, 54

LOS MENDANOS, 58

NINER RIDGE, 74

NASH

JONES

60

STATE LAND

LAND WITHDRAWAL BOUNDARY-ERDA

POKER LAKE

EAST POKER LAKE

JENNINGS, 56(ABND)

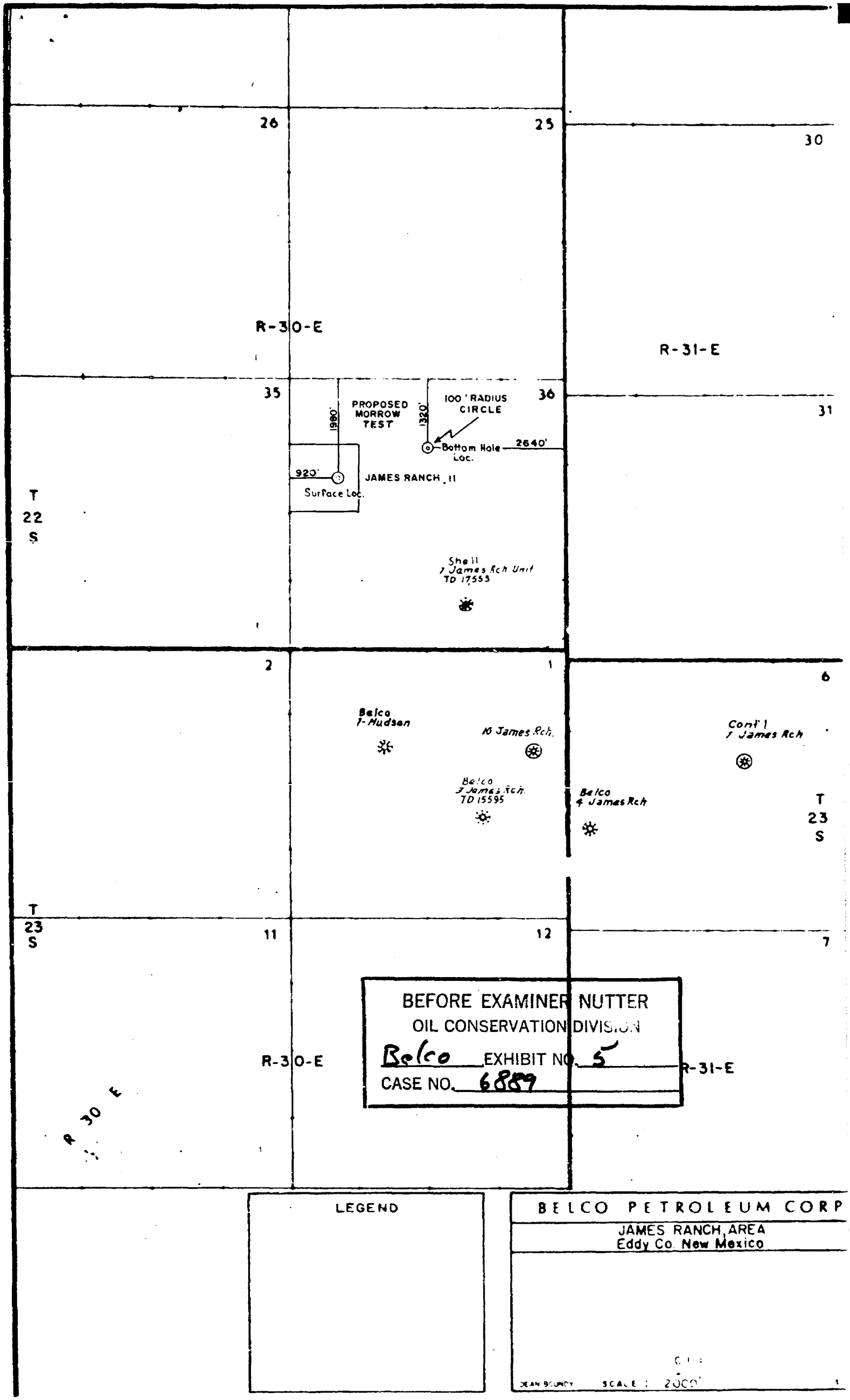
UNNAMED, 72

JAMES

SAND DUNES

COTTON DRAW, 59

BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 4
CASE NO. 6889


26
25
30
R-30-E
R-31-E
35
36
31
PROPOSED MORROW TEST
1980'
1320'
100' RADIUS CIRCLE
Bottom Hole Loc.
2640'
920'
JAMES RANCH #1
Surface Loc.
T 22 S
Shell 1 James Rch Unit TD 17553
2
1
6
Belco 1-Hudson
#6 James Rch.
Belco 3 James Rch. TD 15595
Cont'l 1 James Rch
Belco 4 James Rch
T 23 S
T 23 S
11
12
7
R-30-E
R-31-E
R 30 E
BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 5
CASE NO. 6889
LEGEND
BELCO PETROLEUM CORP
JAMES RANCH AREA
Eddy Co. New Mexico
DEAN BOUNDY
SCALE : 2000'

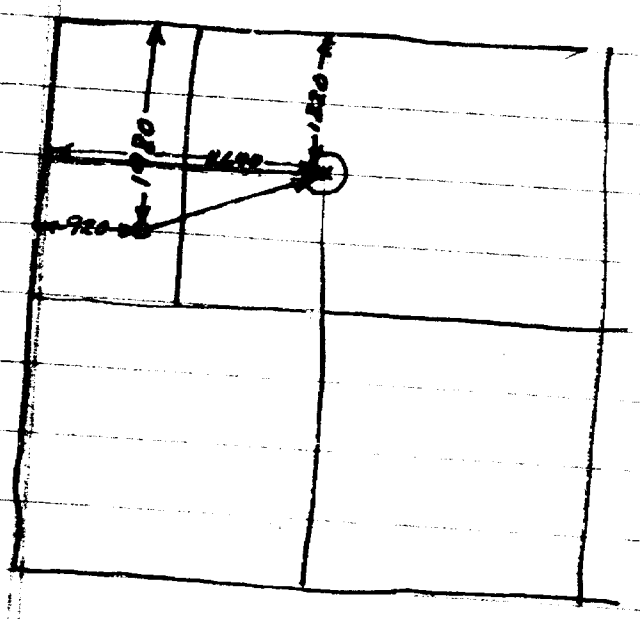
May 7

Belco Petroleum Corp.

to be directionally drilled from a surf loc
1980' FNL
920' FWL 36-22S-30E Eddy
to a bottom hole location within
100-feet of a point
1320 FNL
2640 FWL

Morrow 14400 TVD

Gene Moore 915 683 6366
2:10 pm 4/17 Midland TX
written appl to follow



Dockets Nos. 14-80 and 15-80 are tentatively set for May 21 and June 4, 1980. Applications for hearing must be filed at least 22 days in advance of hearing date.

DOCKET: EXAMINER HEARING - WEDNESDAY - MAY 7, 1980

9 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM, STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or Richard L. Stamets, Alternate Examiner:

CASE 6880: Application of Union Oil Company of California for a unit agreement, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the West Lynch Deep Unit Area, comprising 1,280 acres, more or less, of fee and federal lands in Township 20 South, Range 34 East.

CASE 6857: (Readvertised)

Application of Holly Energy, Inc. for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of a Wolfcamp-Pennsylvanian test well to be drilled 660 feet from the South line and 990 feet from the East line of Section 14, Township 18 South, Range 28 East, the E/2 of said Section 14 to be dedicated to the well.

CASE 6881: Application of Yates Petroleum Corporation for an unorthodox gas well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of a Morrow test well to be drilled 1980 feet from the North line and 660 feet from the East line of Section 30, Township 17 South, Range 26 East, the N/2 of said Section 30 to be dedicated to the well.

CASE 6843: (Continued from April 9, 1980, Examiner Hearing)

Application of Yates Petroleum Corporation for two compulsory poolings, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Yeso formation underlying two 40-acre proration units, the first being the SE/4 SE/4 and the second being the SW/4 SE/4 of Section 6, Township 19 South, Range 25 East, Penasco Draw Field, each unit to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said wells and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the wells and a charge for risk involved in drilling said wells.

CASE 6882: Application of Amoco Production Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the W/2 of Section 1, Township 19 South, Range 25 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6883: Application of Amoco Production Company for a waterflood project, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to institute a waterflood project in the Indian Draw-Delaware Pool by the injection of water into the Delaware formation through its Old Indian Draw Unit Wells Nos. 4 located in Unit I of Section 18 and 11 located in Unit A of Section 19, both in Township 22 South, Range 28 East.

CASE 6884: Application of Supron Energy Corporation for compulsory pooling and a dual completion, San Juan County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Mesaverde and Dakota formations underlying the N/2 of Section 4, Township 30 North, Range 11 West, to be dedicated to a proposed dual completion to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6885: Application of Supron Energy Corporation for compulsory pooling and a dual completion, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Mesaverde and Pictured Cliffs formations underlying the E/2 of Section 8, Township 25 North, Range 3 West, to be dedicated to a proposed dual completion to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6876: (Continued from April 23, 1980, Examiner Hearing)

Application of Maurice L. Brown Co. for compulsory pooling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Vada-Pennsylvanian Pool underlying the SW/4 of Section 5, Township 9 South, Range 34 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6886: Application of Aminoil USA, Inc. for compulsory pooling and an unorthodox location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp and Pennsylvanian formations underlying the S/2 of Section 10, Township 24 South, Range 28 East, to be dedicated to a well to be drilled at an unorthodox location 2080 feet from the South line and 1773 feet from the East line of said Section 10. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6887: Application of General Crude Processing for an oil treating plant permit, San Juan County, New Mexico. Applicant, in the above-styled cause, seeks authority for the construction and operation of an oil treating plant for the purpose of treating and reclaiming sediment oil at a site in the SE/4 SE/4 of Section 21, Township 30 North, Range 12 West.

CASE 6888: Application of Conoco Inc. for a non-standard gas proration unit and an unorthodox gas well location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval of a 120-acre non-standard Eumont gas proration unit comprising the S/2 SE/4 and NE/4 SE/4 of Section 12, Township 19 South, Range 36 East, to be dedicated to its State KN-12 Well No. 7 drilled at an unorthodox location 330 feet from the South line and 1650 feet from the East line of said Section 12.

CASE 6889: Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to directionally drill a well, the surface location of which is 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

CASE 6861: (Continued from April 23, 1980, Examiner Hearing)

Application of Zia Energy, Inc. for pool creation, special pool rules, and an NGPA determination, Lea County, New Mexico. Applicant, in the above-styled cause, seeks the creation of a new San Andres oil pool for its State "C" Well No. 1 located in Unit F of Section 17, Township 22 South, Range 37 East, and special rules therefor, including a provision for a limiting gas-oil ratio of 10,000 to 1. Applicant further seeks a new onshore reservoir determination for said State "C" Well No. 1.

CASE 6890: Application of Tenneco Oil Company for a thermal enhanced recovery project, McKinley County, New Mexico. Applicant, in the above-styled cause, seeks authority to initiate a pilot in situ combustion enhanced recovery project in the South Hospah Upper Sand and South Hospah Lower Sand Oil Pools by the completion of an injection/ignition well at a point 1474 feet from the North line and 2725 feet from the East line of Section 12, Township 17 North, Range 9 West, and by the drilling of up to six producing wells, all at unorthodox locations in close proximity to the injection/ignition well, and all located in Units F or G of said Section 12.

Docket No. 17-80

Dockets Nos. 19-80 and 20-80 are tentatively set for June 25 and July 9, 1980. Applications for hearing must be filed at least 22 days in advance of hearing date.

DOCKET: COMMISSION HEARING - THURSDAY - JUNE 5, 1980

OIL CONSERVATION COMMISSION - 9 A.M. - ROOM 205
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

CASE 6927: Application of Doyle Hartman for compulsory pooling and an unorthodox location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the S/2 of Section 24, Township 17 South, Range 28 East, to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South and West lines of said Section 24. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 6928: Application of ARCO Oil and Gas Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the S/2 of Section 24, Township 17 South, Range 28 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

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Docket No. 16-80

DOCKET: EXAMINER HEARING - WEDNESDAY - JUNE 4, 1980

9 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM,
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or Richard L. Stamets, Alternate Examiner:

CASE 6803: (Continued from April 23, 1980, Examiner Hearing)

In the matter of the hearing called by the Oil Conservation Division on its own motion to permit EPROC Associates, Hartford Accident and Indemnity Company, and all other interested parties to appear and show cause why its Monsanto State H Well No. 1 located in Unit E of Section 2, Township 30 North, Range 16 West, San Juan County, should not be plugged and abandoned in accordance with a Division-approved plugging program.

CASE 6906: Application of Amoco Production Company for a dual completion, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the dual completion (conventional) of its South Mattix Unit Well No. 39 located in Unit G of Section 15, Township 24 South, Range 37 East, to produce oil from the Fowler-Upper Yeso and Fowler-Drinkard Pools thru parallel strings of tubing.

CASE 6907: Application of Amoco Production Company for a dual completion, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the dual completion (conventional) of its Myers B Federal Well No. 28 located in Unit M of Section 9, Township 24 South, Range 37 East, to produce gas from the Jalmat and Langlie Mattix Pools thru parallel strings of tubing.

CASE 6908: Application of Estoril Producing Corporation for an unorthodox gas well location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of its Curry State Well No. 1, a Pennsylvanian test to be drilled 660 feet from the North and East lines of Section 22, Township 23 South, Range 34 East, Antelope Ridge Field, the N/2 of said Section 22 to be dedicated to the well.

CASE 6909: Application of El Paso Natural Gas Company for downhole commingling, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks approval for the downhole commingling of Basin-Dakota and Largo-Gallup production in the wellbore of its Rincon Unit Well No. 164 located in Unit L of Section 2, Township 26 North, Range 7 West.

CASE 6886: (Continued from May 21, 1980, Examiner Hearing)

Application of Aminoil USA, Inc. for compulsory pooling and an unorthodox location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp and Pennsylvanian formations underlying the S/2 of Section 10, Township 24 South, Range 28 East, to be dedicated to a well to be drilled at an unorthodox location 2080 feet from the South line and 1773 feet from the East line of said Section 10. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision. Also to be considered will be the designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6910: Application of Grace Petroleum Corporation for four compulsory poolings, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Gallup formation underlying four 40-acre proration units, being the SE/4 NE/4, the SE/4 NW/4, and the NW/4 NW/4 of Section 28, and the SW/4 SE/4 of Section 29, all in Township 24 North, Range 7 West, each to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said wells and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the wells, and a charge for risk involved in drilling said wells.

CASE 6911: Application of Grace Petroleum Corporation for compulsory pooling, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Gallup formation underlying the NE/4 NW/4 of Section 11, Township 23 North, Range 7 West, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 6912: Application of Southland Royalty Company for a dual completion, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the dual completion of its State "14" Comm. Well No. 1 located in Unit E of Section 14, Township 19 South, Range 29 East, Turkey Track Field, to produce gas from the Morrow and Atoka formations thru tubing and the casing-tubing annulus, respectively

CASE 6913: Application of Kerr-McGee Corporation for an unorthodox well location, Chaves County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of its State F Well No. 14 to be drilled 1310 feet from the North line and 1330 feet from the West line of Section 2, Township 8 South, Range 33 East, Chaveroo-San Andres Pool.

CASE 6914: Application of Wilson Oil Company for a non-standard proration unit and unorthodox location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval of a 320-acre non-standard gas proration unit comprising the S/2 of Section 29, Township 20 South, Range 36 East, North Osudo-Morrow Gas Pool, to be dedicated to its State JD Well No. 1 at an unorthodox location 1650 feet from the South line and 1980 feet from the West line of said Section 29.

CASE 6915: Application of Jake L. Hamon for a non-standard gas proration unit and an unorthodox well location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval of a 320-acre non-standard gas proration unit comprising the S/2 of Section 8, Township 20 South, Range 36 East, North Osudo-Morrow Gas Pool, to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South line and 1980 feet from the West line of said Section 8.

CASE 6916: Application of Petro-Lewis Corporation for downhole commingling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the downhole commingling of the Drinkard and Blinebry production in the wellbore of its State DC Well No. 1, a quadruple completion located in Unit F of Section 19, Township 21 South, Range 37 East.

CASE 6917: Application of Yates Petroleum Corporation for an NGPA determination, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks a new onshore reservoir determination for its Goat Roper "LP" Com. Well No. 1 located in Unit P of Section 30, Township 17 South, Range 26 East.

CASE 6918: Application of Yates Petroleum Corporation for downhole commingling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to commingle Upper Penn and Morrow gas production in the wellbore of its Kennedy "JQ" Com. Well No. 1 located in Unit H of Section 33, Township 17 South, Range 26 East, Kennedy Farms Field.

CASE 6919: Application of Yates Petroleum Corporation for downhole commingling or consolidation of two pools, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the downhole commingling of Wolfcamp and Penn gas production in the wellbore of its Anderson State "CS" Com. Well No. 1-Y located in Unit G of Section 14, and its Fordinkus State "HZ" Com. Well No. 1 located in Unit G of Section 22, both in Township 18 South, Range 24 East, or, in the alternative, the consolidation of the Fordinkus-Cisco Gas Pool and the Penasco Draw Permo-Penn Gas Pool into one Permo-Penn gas pool to include the above-described wells.

CASE 6920: Application of Yates Petroleum Corporation for a dual completion and unorthodox well location, Chaves County, New Mexico. Applicant, in the above-styled cause, seeks approval for the dual completion (conventional) of its 5 Mile Draw Federal Well No. 1 to produce from the Pennsylvanian and Abo formations thru the tubing and casing-tubing annulus, respectively; applicant also seeks approval for the unorthodox location of said well in the Abo formation 800 feet from the South line and 2100 feet from the East line of Section 34, Township 6 South, Range 25 East, the SE/4 of the section to be dedicated to the well.

CASE 6903: (Continued from May 21, 1980, Examiner Hearing)

Application of Harvey E. Yates Company for an unorthodox gas well location, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of a Pennsylvanian-Mississippian test well to be drilled 660 feet from the South line and 990 feet from the East line of Section 33, Township 13 South, Range 36 East, the S/2 of said Section 33 to be dedicated to the well.

CASE 6904: (Continued from May 21, 1980, Examiner Hearing)

Application of Harvey E. Yates Company for a unit agreement, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the McDonald Unit Area, comprising 1,440 acres, more or less, of fee lands in Townships 13 and 14 South, Range 36 East.

CASE 6921: Application of Harvey E. Yates Company for compulsory pooling, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp-Mississippian formations underlying the S/2 of Section 33, Township 13 South, Range 36 East, to be dedicated to a well to be drilled at an unorthodox location 660 feet from the South and East lines of Section 33. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 6922: Application of Harvey E. Yates Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp-Pennsylvanian formations underlying the E/2 of Section 24, Township 18 South, Range 28 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well and a charge for risk involved in drilling said well.

CASE 6923: Application of Harvey E. Yates Company for a unit agreement, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Cayton-Austin Unit Area, comprising 960 acres, more or less, of State and fee lands in Township 14 South, Range 36 East.

CASE 6924: Application of Caribou Four Corners, Inc. for two unorthodox oil well locations, San Juan County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of two wells to be drilled, the first being 860 feet from the North line and 2090 feet from the West line, and the second being 910 feet from the North line and 395 feet from the West line, both in Section 13, Township 29 North, Range 15 West, Cha Cha-Gallup Oil Pool, the E/2 and the W/2, respectively, of the NW/4 of said Section 13 to be dedicated to the wells.

CASE 6925: Application of Caribou Four Corners, Inc. for two exceptions to Rule 306, San Juan County, New Mexico. Applicant, in the above-styled cause, seeks an exception to Rule 306 of the Division Rules and Regulations to permit the permanent flaring of gas from its Kirtland Wells Nos. 1 and 2, located in Units A and B, respectively, of Section 13, Township 29 North, Range 15 West.

CASE 6889: (Readvertised)

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to directionally drill a well, the surface location of which is 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 660 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

CASE 6896: (Continued from May 21, 1980, Examiner Hearing)

Application of John E. Schalk for a non-standard gas proration unit and an unorthodox gas well location, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks approval of a 160-acre non-standard Blanco Mesaverde gas proration unit comprising the NE/4 of Section 8, Township 25 North, Range 3 West, to be dedicated to his Gulf Well No. 2 to be drilled at an unorthodox location 1925 feet from the North line and 790 feet from the East line of said Section 8.

CASE 6926: In the matter of the hearing called by the Oil Conservation Division on its own motion for an order creating, contracting vertical limits, and extending horizontal limits of certain pools in Chaves, Eddy, and Lea Counties, New Mexico:

(a) CREATE a new pool in Lea County, New Mexico, classified as an oil pool for Pennsylvanian production and designated as the Arkansas Junction-Pennsylvanian Pool. The discovery well is Rex Alcorn Bobbi Well No. 1Y located in Unit J of Section 20, Township 18 South, Range 36 East, NMPM. Said pool would comprise:

TOWNSHIP 18 SOUTH, RANGE 36 EAST, NMPM
Section 20: SE/4

(b) CREATE a new pool in Eddy County, New Mexico, classified as an oil pool for Delaware production and designated as the Avalon-Delaware Pool. The discovery well is MWJ Producing Company State GW Well No. 1 located in Unit K of Section 36, Township 20 South, Range 27 East, NMPM. Said pool would comprise:

TOWNSHIP 20 SOUTH, RANGE 27 EAST, NMPM
Section 36: SW/4

(c) CREATE a new pool in Eddy County, New Mexico, classified as an oil pool for Delaware production and designated as the East Burton-Delaware Pool. The discovery well is J. C. Williamson TOG Federal Well No. 1 located in Unit F of Section 16, Township 20 South, Range 29 East, NMPM. Said pool would comprise:

TOWNSHIP 20 SOUTH, RANGE 29 EAST, NMPM
Section 16: NW/4

(d) CREATE a new pool in Eddy County, New Mexico, classified as a gas pool for Strawn production and designated as the Dog Canyon-Strawn Gas Pool. The discovery well is Harvey E. Yates Company Gates Federal Deep Well No. 1 located in Unit P of Section 6, Township 17 South, Range 28 East, NMPM. Said pool would comprise:

TOWNSHIP 17 SOUTH, RANGE 28 EAST, NMPM
Section 6: S/2

(e) CREATE a new pool in Chaves County, New Mexico, classified as an oil pool for San Andres production and designated as the South Double L-San Andres Pool. The discovery well is McClellan Oil Corporation Mark Federal Well No. 1 located in Unit I of Section 30, Township 15 South, Range 30 East, NMPM. Said pool would comprise:

TOWNSHIP 15 SOUTH, RANGE 30 EAST, NMPM
Section 30: SE/4

(f) CREATE a new pool in Eddy County, New Mexico, classified as a gas pool for Grayburg production and designated as the Empire-Grayburg Gas Pool. The discovery well is Carl A. Schellinger West Federal Well No. 1 located in Unit G of Section 14, Township 17 South, Range 27 East, NMPM. Said pool would comprise:

TOWNSHIP 17 SOUTH, RANGE 27 EAST, NMPM
Section 14: NE/4

(g) CREATE a new pool in Lea County, New Mexico, classified as a gas pool for Morrow production and designated as the North Hume-Morrow Gas Pool. The discovery well is Bass Enterprises Production Company Bass 36 State Well No. 1 located in Unit E of Section 36, Township 15 South, Range 34 East, NMPM. Said pool would comprise:

TOWNSHIP 15 SOUTH, RANGE 34 EAST, NMPM
Section 36: W/2

(h) CREATE a new pool in Lea County, New Mexico, classified as a gas pool for Atoka production and designated as the Lusk-Atoka Gas Pool. The discovery well is Phillips Petroleum Company Lusk Deep Unit A Com Well No. 13 located in Unit K of Section 18, Township 19 South, Range 32 East, NMPM. Said pool would comprise:

TOWNSHIP 19 SOUTH, RANGE 32 EAST, NMPM
Section 18: S/2

(i) **CREATE** a new pool in Eddy County, New Mexico, classified as a gas pool for Morrow production and designated as the Milepost-Morrow Gas Pool. The discovery well is Exxon Corporation Scheidt Federal Well No. 1 located in Unit L of Section 30, Township 26 South, Range 26 East, NMPM. Said pool would comprise:

TOWNSHIP 26 SOUTH, RANGE 25 EAST, NMPM
Section 36: N/2 N/2 and Lots, 1, 2, 3, and 4

TOWNSHIP 26 SOUTH, RANGE 26 EAST, NMPM
Section 30: S/2
Section 31: N/2 NW/4 and Lots 3 and 4

(j) **CREATE** a new pool in Eddy County, New Mexico, classified as a gas pool for Atoka production and designated as the Turkey Track-Atoka Gas Pool. The discovery well is Tenneco Oil Company State HL 11 Well No. 1 located in Unit N of Section 11, Township 19 South, Range 29 East, NMPM. Said pool would comprise:

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM
Section 10: E/2
Section 11: S/2

(k) **CONTRACT** the vertical limits of the East Grama Ridge-Bone Springs Pool to the interval from 10,472 feet to 10,900 feet as found on the type log for the Getty Oil Company State 35 Well No. 1 located in Unit K of Section 35, Township 21 South, Range 34 East, NMPM, and redesignate said pool as the East Grama Ridge-Lower Bone Springs Pool.

(l) **EXTEND** the Airstrip-Upper Bone Springs Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 34 EAST, NMPM
Section 25: W/2 SW/4
Section 26: SE/4

(m) **EXTEND** the Atoka-Yeso Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 26 EAST, NMPM
Section 33: NW/4 and N/2 S/2

(n) **EXTEND** the Brunson-Fusselman Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 22 SOUTH, RANGE 37 EAST, NMPM
Section 8: SE/4

(o) **EXTEND** the Buckeye-Abo Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 35 EAST, NMPM
Section 9: NW/4

(p) **EXTEND** the Burton Flat-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 21 SOUTH, RANGE 26 EAST, NMPM
Section 13: W/2
Section 14: E/2

(q) **EXTEND** the Catclaw Draw-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 20 SOUTH, RANGE 26 EAST, NMPM
Section 34: S/2

TOWNSHIP 21 SOUTH, RANGE 25 EAST, NMPM
Section 2: Lots 1 through 8

(r) **EXTEND** the Chaveroo-San Andres Pool in Chaves County, New Mexico, to include therein:

TOWNSHIP 7 SOUTH, RANGE 32 EAST, NMPM
Section 34: NE/4

TOWNSHIP 8 SOUTH, RANGE 32 EAST, NMPM
Section 3: SW/4

(s) EXTEND the Cinta Roja-Morrow Gas Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 24 SOUTH, RANGE 35 EAST, NMPM
Section 4: All

(t) EXTEND the South Corbin-Strawn Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 33 EAST, NMPM
Section 29: N/2
Section 30: N/2

(u) EXTEND the South Corbin-Wolfcamp Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 33 EAST, NMPM
Section 28: W/2

(v) EXTEND the Crooked Creek-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 24 SOUTH, RANGE 24 EAST, NMPM
Section 8: S/2

(w) EXTEND the South Empire-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 29 EAST, NMPM
Section 17: All

(x) EXTEND the East Grama Ridge-Morrow Gas Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 22 SOUTH, RANGE 34 EAST, NMPM
Section 12: W/2

(y) EXTEND the Hat Mesa-Morrow Gas Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 21 SOUTH, RANGE 32 EAST, NMPM
Section 10: W/2

(z) EXTEND the Henshaw Queen-Grayburg-San Andres Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 16 SOUTH, RANGE 30 EAST, NMPM
Section 11: SW/4 SW/4
Section 14: S/2 and W/2 NW/4
Section 15: E/2 SE/4

(aa) EXTEND the Hobbs-Drinkard Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 19 SOUTH, RANGE 38 EAST, NMPM
Section 4: SE/4

(bb) EXTEND the Indian Flats-Delaware Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 22 SOUTH, RANGE 28 EAST, NMPM
Section 2: N/2 NE/4

(cc) EXTEND the South Kemnitz Atoka-Morrow Gas Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 16 SOUTH, RANGE 34 EAST, NMPM
Section 29: W/2

(dd) EXTEND the Logan Draw-San Andres Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 17 SOUTH, RANGE 27 EAST, NMPM
Section 19: N/2 NE/4 and SE/4 NE/4

(ee) EXTEND the Middle Lynch Yates-Seven Rivers Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 20 SOUTH, RANGE 34 EAST, NMPM
Section 21: E/2 SW/4

(ff) EXTEND the Penasco Draw San Andres-Yeso Associated Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 25 EAST, NMPM
Section 31: SW/4

(gg) EXTEND the East Red Lake Queen-Grayburg Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 16 SOUTH, RANGE 28 EAST, NMPM
Section 25: S/2 S/2
Section 26: S/2 SE/4 and SE/4 SW/4
Section 36: N/2 NW/4

(hh) EXTEND the North Shugart-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 18 SOUTH, RANGE 31 EAST, NMPM
Section 17: S/2

(ii) EXTEND the Tomahawk-San Andres Pool in Chaves County, New Mexico, to include therein:

TOWNSHIP 7 SOUTH, RANGE 31 EAST, NMPM
Section 25: SE/4

(jj) EXTEND the Turkey Track Seven Rivers-Queen-Grayburg Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM
Section 9: E/2 NE/4

(kk) EXTEND the North Vacuum-Abo Pool in Lea County, New Mexico, to include therein:

TOWNSHIP 17 SOUTH, RANGE 35 EAST, NMPM
Section 17: NW/4

(ll) EXTEND the Winchester-Morrow Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 20 SOUTH, RANGE 28 EAST, NMPM
Section 3: All

(mm) EXTEND the Winchester-Upper Pennsylvanian Gas Pool in Eddy County, New Mexico, to include therein:

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM
Section 30: W/2

****

Docket No. 18-80

DOCKET: EXAMINER HEARING - THURSDAY - JUNE 19, 1980

9 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM,
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or Richard L. Stamets, Alternate Examiner:

ALLOWABLE: (1) Consideration of the allowable production of gas for July, 1980, from fifteen prorated pools in Lea, Eddy, and Chaves Counties, New Mexico.

(2) Consideration of the allowable production of gas for July, 1980, from four prorated pools in San Juan, Rio Arriba, and Sandoval Counties, New Mexico.

KELLAHIN and KELLAHIN
Attorneys at Law
500 Don Gaspar Avenue
Post Office Box 1769
Santa Fe, New Mexico 87501

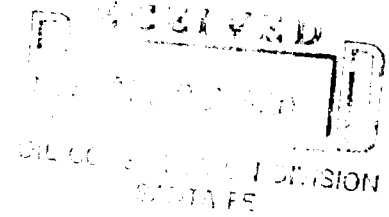
Jason Kellahin
W. Thomas Kellahin

Karen Aubrey

Telephone 982-4285
Area Code 505

Case 6889

April 21, 1980



Mr. Dan Nutter
Oil Conservation Division
P. O. Box 2088
Santa Fe, New Mexico 87501

re: Belco Petroleum Corporation
Directional Drilling Case

Dear Dan:

Enclosed is the written application for the Belco case which has been set for hearing on the May 7th, 1980 docket.

Very truly yours,

W. Thomas Kellahin

WTK:mmr
encl.
cc: Gene Moore (Belco)

Case 6884

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY AND MINERALS
OIL CONSERVATION DIVISION

IN THE MATTER OF THE APPLICATION OF
BELCO PETROLEUM CORPORATION FOR
DIRECTIONAL DRILLING AND UNORTHODOX
LOCATION, EDDY COUNTY, NEW MEXICO

APPLICATION

COMES NOW, BELCO PETROLEUM CORPORATION, by and through its attorneys, Kellahin & Kellahin, and applies to the Oil Conservation Division of New Mexico for authority to directionally drill a Morrow test in Eddy County, New Mexico at an unorthodox well location and in support thereof states:

1. Applicant is the operator of the N/2 of Section 36, Township 22 South, Range 30 East, NMPM, Eddy County, New Mexico.

2. Applicant proposes to directionally drill a Morrow test from an unorthodox surface location 1980 feet from the North line and 920 feet from the West line of Section 36, T22S, R30E, NMPM, and to bottom said well at a depth sufficient to test the Morrow formation within a 100 foot radius of a point 1320 feet from the North line and 264[illegible] feet from the West line of said Section 36.

3. Applicant proposes to dedicate the N/2 of said Section 36 to the Morrow well.

4. An orthodox surface location is not available to applicant because of Federal Government operations.

5. The application is in the best interests of conservation, the prevention of waste, and the protection of correlative rights.

WHEREFORE, applicant requests that this matter be set for hearing before the Division's examiner and that after notice and

hearing the application be granted as requested.

BELCO PETROLEUM CORPORATION

By _____
W. Thomas Kellahin

Kellahin & Kellahin
P. O. Box 1769
Santa Fe, New Mexico 87501
(505) 982-4285
ATTORNEYS FOR APPLICANT

Case 6889

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY AND MINERALS
OIL CONSERVATION DIVISION

IN THE MATTER OF THE APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING AND UNORTHODOX LOCATION, EDDY COUNTY, NEW MEXICO

RECEIVED
OIL CONSERVATION DIVISION
STATE

APPLICATION

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BELCO PETROLEUM CORPORATION

By _____
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(505) 982-4285
ATTORNEYS FOR APPLICANT

Case 6889

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY AND MINERALS
OIL CONSERVATION DIVISION

IN THE MATTER OF THE APPLICATION OF
BELCO PETROLEUM CORPORATION FOR
DIRECTIONAL DRILLING AND UNORTHODOX
LOCATION, EDDY COUNTY, NEW MEXICO

APPLICATION

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WHEREFORE, applicant requests that this matter be set for hearing before the Division's examiner and that after notice and

hearing the application be granted as requested.

BELCO PETROLEUM CORPORATION

By _____
W. Thomas Kellahin
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P. O. Box 1769
Santa Fe, New Mexico 87501
(505) 982-4285
ATTORNEYS FOR APPLICANT

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
7 May 1980

EXAMINER HEARING

IN THE MATTER OF:

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

CASE 6889

BEFORE: Daniel S. Nutter

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation Division: Ernest L. Padilla, Esq.
Legal Counsel to the Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

For the Applicant: W. Thomas Kellahin, Esq.
KELLAHIN & KELLAHIN
500 Don Gaspar
Santa Fe, New Mexico 87501

SALLY W. BOYD, C.S.R.
Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

GENE MOORE

Direct Examination by Mr. Kellahin 4

Cross Examination by Mr. Nutter 11

E X H I B I T S

Applicant Exhibit One, Letter 5

Applicant Exhibit Two, Letter 8

Applicant Exhibit Three, Plat 8

Applicant Exhibit Four, Plat 6

Applicant Exhibit Five, Map 8

Applicant Exhibit Six, Drawing 8

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MR. NUTTER: We'll call next Case Number 6889, which is in the matter of the application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

We might note at the outset of this case that the Santa Fe New Mexican badly goofed in the legal notice of this case. It will have to be readvertised. It will be advertised for the hearing of June 4th, 1980. We'll have to withhold any order in the case until after that date and after it's been called for hearing again.

MR. KELLAHIN: If the Examiner please, because the error in the publication of the application in the newspaper, we would like to present testimony today to request, perhaps, a larger target area for the subject well than the 100-foot radius indicated on the application, and I'd like to direct your attention to that point, because it will be the subject of some of our testimony and would require a further change in the application.

(Witness sworn.)

GENE MOORE

being called as a witness and having been duly sworn upon his oath, testified as follows, to-wit:

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DIRECT EXAMINATION

BY MR. KELLAHIN:

Q. Mr. Moore, would you please state your name, by whom you're employed, and in what capacity?

A. I'm Gene Moore. I'm employed by Belco Petroleum. I'm in charge of the drilling and the engineering section of our district office in Midland, Texas.

Q. Do you hold a professional degree in geology or petroleum engineering?

A. I attended the University of Oklahoma and I do not hold a degree. I have -- well --

Q. Where have you been employed in the oil and gas industry and in what capacity?

A. For the last 2-1/2 years I've been employed by Belco of Midland, Texas. Prior to that I was with a consulting firm in the Gulf Coast area. Prior to that I worked Australia, Africa.

Q. Describe in general terms the kinds of jobs that you've been responsible for in the oil and gas industry.

A. I've been responsible for drilling and completing oil and gas wells.

Q. During your employment with Belco Petroleum Corporation what have been your general areas of re-

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sponsibility?

A. The entire Permian Basin. We've drilled approximately 45 wells in the last 2-1/2 years.

Q. Pursuant to that employment have you made a specific study of the facts surrounding this particular application?

A. Yes, I have.

Q. Has Belco been involved in previous directional drilling cases which were under your direct supervision and control?

A. That is correct, yes.

Q. All right.

MR. KELLAHIN: We tender Mr. Moore, Mr. Nutter, as a practical oil man and consequently, as an expert witness.

MR. NUTTER: Mr. Moore is qualified in this case.

Q. Mr. Moore, would you refer to what we've marked as Exhibit Number One and identify that for us?

A. Exhibit Number One is a letter pertaining to the plan of development of the James Ranch Unit.

Q. This is the basis, is it not, upon which this application is filed?

A. Yes, that's correct.

Q. Would you summarize for the Examiner what

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Belco intends to do?

A. Belco intends to set a surface location outside of the condemned lands for the WIPP project and directional drill the well underneath the north half of Section 36.

Q. Let's turn for a moment to your Exhibit Number Four, which shows an outline of that WIPP project, and would you identify what's indicated by the orange line?

A. The orange line outlines the lands that were condemned by -- for the WIPP project, condemned by ERDA.

Q. Where is the subject acreage located?

A. The subject surface location of the subject acreage is the north half of Section 36 of 22 South, 30 East.

Q. What was the condemned interval which precluded oil and gas production from surface to what particular depth?

A. The depth which precluded any production to the depth of 6000 feet.

Q. What will be the surface location of the proposed well in relation to this exhibit?

A. The location will be put on the southwest quarter of the northwest quarter of Section 36; specifically the call will be 920 from the west line and 1980 from the north line.

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Q. It will be outside of the WIPP designated area?

A. Yes, sir.

Q. And where will the approximate bottom hole location be?

A. The approximate bottom hole location, the target for the bottom hole location will be 1320 feet from the north line and 2640 feet from the east line.

Q. Summarize for us how you will directionally drill this well.

A. We intend to drill a straight hole and stay on the 40 acres where the surface location is situated, and we've given ourselves 400 feet leeway from that 40 acres on the east side.

At 6000 feet we will install a degree or a degree and a half bent sub and use a downhole motor and by doing this we intend to build our angle until we encounter the target area.

Q. May we conclude from your testimony that at no point will the well intrude into the WIPP area within the condemned interval?

A. That is correct. We will run a multi-shot every 100 feet for the well to the 6000 foot depth.

Q. Would you refer to Exhibit Number Two and identify that for us?

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A. Exhibit Number Two is a brief letter from a directional company in Midland outlining the procedure that they would use in directionally drilling this well.

Q. Is this the directional drilling contractor that will be used on this well?

A. Yes, it is.

Q. And would you identify Exhibit Number Three for us?

A. Exhibit Number Three is a plat that was surveyed for us by Topographic Surveys out of Midland, Texas, locating the surface location of the well.

Q. We've already discussed Exhibit Number Four. Would you turn to Exhibit Number Five and identify that?

A. This is the map that I had drawn up at the office showing the surface location and the bottom hole location, as well as the requested 100-foot radius circle.

Q. In relation to that exhibit, now, would you turn to Exhibit Number Six and describe this exhibit for us?

A. This is a drawing that was performed by Wilson, which is a directional drilling company, indicating to us our proposed angle increase and the distance from the surface location to the proposed bottom hole target.

Q. Now, Exhibits Numbers Five and Six indicate 100-foot radius as the proposed bottom hole target.

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Could you describe for the Examiner your thoughts concerning that radius target and what recommendations, if any, you would make to him on increasing that target area?

A. The target radius will not be difficult to -- it would not be difficult to adhere to. It would cost us money and time to hit a 100-foot radius target.

Since the north half of the section would be dedicated to this gas well, or anticipated gas well, it was my feeling that a larger radius could be -- could be given, whereby reducing our total drilling cost.

Q. Could you -- you said you could hit this target area; the difference was cost. Could you give us an indication of the kinds of revenue saved from increasing the target area?

A. By increasing the target area we anticipate a savings of somewhere around to $20 to $25,000. Currently it looks as if to kick off and to make one correction going down, we're looking at a neighborhood of around 65,000. By increasing the target area the radius of the target, then this would probably eliminate this one correction, which amounts to running in a downhole motor and a bent sub and surface electronic equipment to monitor them.

Q. Do you have a recommendation to the Examiner as to what that radius, target radius, could be increased to without impairing anyone's correlative rights?

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A. Without impairing anyone's rights with this bottom hole location, the producing interval being on the north half of the section, I would recommend a radius of 660 feet.

Q. If that radius, target area, is increased to 660 feet, Mr. Moore, the extreme north edge of that circle of radius would still be some 660 feet from the north section line.

A. That's correct. It would still be some 660 feet from the south -- the line of the south half of the section, which is -- belongs to another company. It will still be an orthodox location.

Q. Now, to summarize for us, Mr. Moore, this directionally drilled well is necessitated as the result of a settlement of litigation involving the State of New Mexico, concerning how this acreage could be developed.

A. Yes, it was. It was several years ago, or a few years ago, that litigation was on the condemning of the land, and leases taken away, and money was placed in deposit with a bank in the City of Ft. Worth for the additional drilling costs of directionally drilling a well.

Q. And you're drilling this well pursuant to the Commissioner of Public Lands, State of New Mexico, letter of March 29th, 1979, which has been introduced as an exhibit?

A. That's correct.

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Q. And in your opinion, Mr. Moore, will approval of this application be in the best interests of conservation, the prevention of waste, and the protection of correlative rights?

A. Yes.

Q. And except for Exhibit Number One, which is the Commissioner's letter, were Exhibits One through Six compiled under your direction and supervision?

A. They were.

MR. KELLAHIN: We move the introduction of Exhibits One through Six.

MR. NUTTER: Applicant's Exhibits One through Six will be admitted in evidence.

CROSS EXAMINATION

BY MR. NUTTER:

Q. Mr. Moore, now looking at your Exhibit Number Five, which shows the surface location and the bottom hole location, now where does the condemned land for WIPP come to here?

A. The condemned land for WIPP, where our surface, where the 40 acres is outlined on the surface location, the condemned lands would make a stairstep along the top edge of that 40 acres and down the east side of the 40 acres. Then continue south for 40 acres and then east for

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40 acres and then back south again for 40 acres on Section 36.

Q. So everything in Section 36 is in the WIPP condemned land except for the 40 where the well is.

A. Yes.

Q. The west half of the southwest quarter and the southeast of the southwest quarter.

A. Yes.

Q. So there's four 40-acre tracts in there that aren't condemned.

A. Yes, sir.

Q. Now, when you mentioned that you had to drill a straight hole with a 400-foot tolerance, what you meant was that your surface location is going to be 400 feet--since the surface location is 920 from the west line, that would put the well 400 feet from the west boundary of WIPP?

A. No. No, that would put the well 400 feet--west, yes, sir, from the west boundary.

Q. 400 feet from the west boundary?

A. Yes.

Q. And you'd drill a straight hole down to 6000 feet and then take off to the east/northeast.

Now, you say that you could save $20 to $25,000 if you had a 660-foot radius rather than 100-foot radius. Now, I notice from the Exhibit Number One, and also from your testimony, Exhibit Number One, the letter states

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you were granted an award to compensate for additional cost which may be incurred to directionally drill this acreage. If you save money, does whoever granted you this additional fund get their money back, if you save the money?

A. I don't know.

Q. Or is this money in Belco's pocket if you save it?

A. No, this is in an escrow account at the, I believe it's the First National Bank of Ft. Worth. I don't know who is looking after the funds, but it's not in Belco's --

Q. Now, the award was made by the Nuclear Regulatory Commission, wasn't it?

A. Yes, sir.

Q. So what I want to know is if you save money does it save NRC money.

A. I would hope so. I do not know.

Q. Or do you get to keep the change?

MR. KELLAHIN: We'll find that out for you, Mr. Nutter. I have the settlement agreements. We'll have to check it and let you know.

MR. NUTTER: I'd like to know that.

A. What this will save -- this will very well save me running back in the hole and making a correction because the bed dipping is only about 3 degrees, so once we --

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Q. Oh, I understand how you could save considerable money by a much larger target like that. That surface location on Exhibit Number Four looks like that it would be probably right under the "H" of the word Shell, somewhere in that neighborhood, wouldn't you say?

Or maybe right above the letter "H", possibly.

A. No, sir, the surface location is marked as James Ranch 11. It's to the left of the James Ranch 11. Oh, oh, I'm looking at the wrong exhibit.

Q. Exhibit Four. It would be immediately above the "H" in the word Shell.

A. Yes. Yes, that is correct.

Q. So you are outside of WIPP, then.

MR. NUTTER: Are there any other questions of Mr. Moore? He may be excused.

Do you have anything further, Mr. Kellahin?

MR. KELLAHIN: We'll have to advise you after the hearing, Mr. Nutter, what happens to the proceeds. It's not apparent in the settlement agreement.

MR. NUTTER: Thank you. Do you have anything further?

MR. KELLAHIN: No, sir.

MR. NUTTER: Does anyone have anything they wish to offer in Case Number 6889? We'll take the case under advisement. (Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing and attached Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd C.S.R.

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 6889. heard by me on 5/7 19 80.

Examiner
Oil Conservation Division

SALLY W. BOYD, C.S.R.
Rt. 1 Box 193-B
Santa Fe, New Mexico 87501
Phone (505) 455-7409

ROUGH

dr/

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 6889

Order No. R-6364

APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL DRILLING,
EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on June 4, 19 80, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this day of June, 1980, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

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

(2) That the applicant, Belco Petroleum Corporation, seeks authority to directionally drill a well, the surface location of

which ~~is~~ would be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within ~~660~~ 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section to be dedicated to the well.

(3) and (4) (5) That the applicant should be required to determine the subsurface location of the kick-off point prior to directional drilling, and to determine the subsurface location of the bottom of the hole by means of a continuous multi-shot directional survey conducted subsequent to said directional drilling, if said well is to be completed as a producing well.

IT IS THEREFORE ORDERED:

(1) That the applicant, Belco Petroleum Corporation, is hereby authorized to directionally drill a well, the surface location of which ~~is~~ shall be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within ~~660~~ 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

PROVIDED HOWEVER, that prior to directional drilling, the operator shall determine the subsurface location of the kick-off point; and

PROVIDED FURTHER, that subsequent to the above-described directional drilling, should said well be a producer, a continuous multi-shot directional survey shall be made of the wellbore from total depth to the kick-off point with shot points not more than 100 feet apart; that the operator shall cause

(2) That the surface location of the proposed well is on lands not included in the Old-Potash Area as defined by Order No. R-111-A, as amended, nor is it in the area withdrawn for drilling by the United States Nuclear Regulatory Commission for the Waste Isolation Pilot Project.

(3) That the applicant proposes to drill a directional well with a surface location 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, to a depth of approximately 6000 feet above the Morrow formation, and to then directionally drill in an East-northeast direction to a true vertical depth of 14,400 feet, bottoming in the Morrow formation at the same described location.

the surveying company to forward a copy of the survey report directly to the Santa Fe office of the Division, P. O. Box 2088, Santa Fe, New Mexico, and that the operator shall notify the Division's Artesia District Office of the date and time said survey is to be commenced.

(2) That Form C-105 shall be filed in accordance with Division Rule 1105 and the operator shall indicate thereon true vertical depths in addition to measured depths.

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

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

STATE OF NEW MEXICO

DEPARTMENT OF ENERGY AND MINERALS

OIL CONSERVATION DIVISION

IN THE MATTER OF ORDER NO. R-6369
OF THE OIL CONSERVATION DIVISION
DATED JUNE 1, 1980, GRANTING THE
APPLICATION OF BELCO PETROLEUM
CORPORATION FOR DIRECTIONAL
DRILLING, EDDY COUNTY, NEW MEXICO

Case : 6889
Order No. R-6369

BELCO PETROLEUM CORPORATION

EXHIBITS FOR

OIL CONSERVATION DIVISION HEARING

ON SEPTEMBER 4, 1980

STATE OF NEW MEXICO

DEPARTMENT OF ENERGY AND MINERALS

OIL CONSERVATION DIVISION

IN THE MATTER OF ORDER NO. R-6369
OF THE OIL CONSERVATION DIVISION
DATED JUNE 1, 1980, GRANTING THE
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MEMORANDUM OF BELCO PETROLEUM CORPORATION

This Memorandum with attached exhibits supports BELCO PETROLEUM CORPORATION's Motion to Dismiss Duval Corporation's Application for a DeNovo Hearing on the grounds that Duval Corporation as a potash lessee lacks standing to complain of Belco's drilling an oil and gas well outside the R-111-A Oil-Potash Area.

BELCO's Motion to Dismiss Duval's Application is based upon the premise that the New Mexico Oil Conservation Division (herein called Division) has developed a set of Special Rules and Regulations that comprehensively govern and control objections by Potash Operators protesting the drilling of oil and gas wells in known potash areas.

It is BELCO's contention that the establishment of the Special Rules and Regulations for the Oil-Potash Area (also called by its order number "R-111-A") by the Division and the consistent application of those rules to all potash objections including the repeated expansion of that area over some twenty six years has effectively precluded objections outside the "Oil-Potash Area".

HISTORICAL BACKGROUND

On January 10, 1951, the Commissioner of Public Lands for the State of New Mexico, Guy Shepard, had put up for oil and gas sale several tracts of State lands. Prior to the sale, representatives of the potash industry objected to the sale of State lands which covered area they believed to contain known or semi-known potash deposits. The Commissioner withdrew the acreage from sale and on February 27, 1951, called a Hearing of the oil and gas industry and the potash industry to discuss the matter. That hearing was continued and another hearing was held on March 29, 1951. (Exhibit 8)

The Transcript of the March 29, 1951 (Exhibit 8) indicates that four representatives of Duval Sulphur and Potash Company, the predecessor of the Duval Corporation, were present. The hearing discussed the technical and mechanical aspects of drilling for oil and gas production in areas of known potash deposits and the development of specific rules and regulations applicable to those areas. The potash operators took the general position that no oil and gas drilling should take place in areas of proven potash reserves. (Exhibit 8, Page 30 and 50)

Following the March 29, 1951 hearing, the Land Commissioners appointed a Committee composed of potash and oil and gas operators to recommend regulations for the "proper exploration and development of the State lands within the Delaware Basin of Eddy County, New Mexico simultaneously by both the Potash and Oil Industries." (Exhibit 9, Page 6)

The Land Commissioner's Committee reported a plan for the casing of oil wells within the Potash Area and for the establishment of special procedural regulations for such an area. (Exhibit 9, Page 7-10)

The Land Commissioner then applied to the Oil Conservation Division of New Mexico for a hearing for the establishment of those rules and regulations. (See Exhibit 10)

On June 21, 1951 (Exhibit 9) and on July 10, 1951 (Exhibit 11), the Division held hearings on the Land Commissioner's Application pursuant to the Division's authority to protect correlative rights, promote conservation, and to prevent waste. The transcript reflects the attendance of two Duval representatives at the July 10, 1951 hearing.

On November 9, 1951, the Division entered Order No. R-111 (Exhibit 1). The stated objectives of that order were to:

> "assure maximum conservation of oil and gas resources of New Mexico and permit the simultaneous economic recovery of potash minerals in the area...."

The Land Commissioner's Committee continued to meet and make further recommendations concerning the Oil-Potash Area. (See Exhibits 14 and 15). Those recommendations resulted in another hearing by the Division.

On October 13, 1955, the Division by Order No. R-111-A (Exhibit 2) revised the original R-111 order rules concerning the casing and cementing programs and practices in the State Oil-Potash Area. Those rules are still in effect today.

On August 13, 1959, Duval Corporation's application to extend the Oil-Potash Area was heard by the Division in Case 278 (Exhibit 12). The Division entered Order No. R-111-C extending the Oil-Potash Area to include acreage immediately

adjacent to the West and North boundaries of the tract involved in this Application by Belco. (See Exhibit 3).

On May 7, 1980, the Division's Examiner, Mr. Dan Nutter, heard Belco's application for directional drilling at a surface and bottom hole location outside the Oil-Potash Area. (See Exhibit 5). Because of an error in the advertisement for the case, the case was recalled at the Examiner Hearing held on June 4, 1980. (See Exhibit 6). At that time, Duval Corporation appeared and sought to introduce evidence in opposition to Belco's application for directional drilling.

Examiner Nutter refused to allow Duval Corporation to proceed with the presentation of evidence (Exhibit 6, Page 14-15) and recommended that an order be entered approving Belco's application.

On June 9, 1980, the Oil Conservation Division entered Order No. R-6369 approving BELCO'S application for authority to directionally drill a well, at a surface location in the SW/4 NW/4 of Section 36 and to bottom that well under the NE/4 of Section 36, T22S, R30E, N.M.P.M., Eddy County, New Mexico. (See Exhibit 4).

The surface and bottom hole locations of the Belco well are on lands not included in the Oil-Potash Area as defined by New Mexico Oil Conservation Division Order No. R-111-A or any of its extensions. (See Exhibits 3 and 7).

The State of New Mexico Potash Lease which Duval now bases its objections on is one that has been held or renewed by Duval Corporation since 1954. (See Exhibit 13).

DUVAL Corporation has filed an application for a DeNovo Hearing to which BELCO has objected.

The Division has called a hearing for September 4, 1980, to hear arguments and take evidence on the question of DUVAL's standing in this case.

A R G U M E N T

The Special Rules and Regulations initially contained in Order No. R-111 and subsequently revised by Order No. R-111-A provided for a comprehensive and orderly procedure for the handling of matters involving oil and gas operations and potash operations within the known potash areas of Eddy County, New Mexico.

Order No. R-111 originally embraced approximately 180,000 acres and has been expanded some thirteen times over the years by various potash operators including DUVAL.

For almost thirty years, the Division has exclusively handled all disputes between oil and gas and potash operators by following the Special Rules and Regulations the Division adopted in R-111 and R-111-A.

DUVAL's Application for a Hearing DeNovo is the first attempt by a potash operator claiming a right to object to oil and gas operations outside of the Oil-Potash Area.

DUVAL's Application for a Hearing DeNovo states, in paragraph 5 and 6, that the granting of BELCO's application will result in waste of potash and unduly interfere with the orderly commercial development of the potash deposit in Section 36. That is the very argument that should have caused DUVAL to seek an extension of the Oil-Potash Area to include Section 36.

DUVAL has attempted to raise questions concerning the protection of potash outside the Division's declared Oil-Potash Area. The Division has never considered such a case

and to do so now will constitute a wide departure from previous established practice and policy of the Division.

Having established specific rules and regulations for the protection of known and semi-known potash deposits, the Division is now strictly bound to abide by those rules when dealing with the identical subject matter intended to be covered by the rules and regulations.

To allow DUVAL to protest the BELCO Application will circumvent the R-111-A rules and regulations, will result in a proliferation of potash objections free of the Oil-Potash Area rules and regulations and will constitute a wide departure from established Division policy, practice and rules.

Rules and regulations of an administrative agency governing proceedings before it, duly adopted and within the authority of the agency, are as bindings as if they were statutes enacted by the legislature. People ex rel. Jordan v. Martin, 152 NY 311, 46 NE 484 (1897).

Procedural rules are binding not only upon the parties but also upon the agency and the agency does not have the discretion to waive, suspend, or disregard in a particular case a validly adopted rule so long as such rule remains in force. Service v. Dulles. 354 US 363 (1957).

This is true even though the adoption of the rule was a discretionary function. State ex rel. Independent School Dist. v. Johnson, 242 Minn 539, 65 NW2d 688 (1954).

To be valid, the action of the agency must conform to its rules which are in effect at the time the action is taken

particularly those designed to provide procedural safeguards for fundamental rights. Vitarelli v. Seaton 359 US 535 (1959) Bridges v. Wixon 326 US 135 (1945).

The statutory authority for the Divisiions regulation of the oil and gas industry is found in Chapter 70, Article 2, New Mexico Statutes Annotated 1978.

This Article was originally enacted by the New Mexico Legislature in 1935. It was not until 1965 that the Legislature amended Section 70-2-6 NMSA-1978, to include the phrase: "and the prevention of waste of potash as a result of oil or gas operations in this state."

Prior to 1965, the Division had for some eleven years prevented "the waste of potash as a result of oil or gas operations" under the Division's general 1935 statutory authority to "protect correlative rights, promote conservation and to prevent waste."

There apparently was some concern in 1965 that the Division had exceeded its statutory authority by the adoption of the R-111-A orders. That potential defect was cured by the 1965 legislation.

Even though it was not until 1965 that the New Mexico Legislature got around to "giving" the Division's statutory authority to "prevent waste of potash", the Division has actively and consistently applied its general statutory authority toward that end. The 1965 legislation adds nothing and subtracts nothing from the diligent efforts of the Division in regulating oil and gas production in the potash area.

See 73 C.J.S. Public Administrative Bodies and Procedures §92-§94.

The application for a DeNovo Hearing filed by DUVAL Corporation has not raised issues in any way different from those previously administered by application of Division Order R-111-A. There is no justification for the Division to now make a substantial departure from the procedures used to handle potash protests.

Such a departure from the established precedents set by the Division in these cases would be unreasonable, arbitrary and would discriminate against BELCO. The doctrine of stare decisis states that when a question of law has once been settled by a judicial decision, it forms a precedent which is not afterward to be departed from or lightly overruled. The doctrine of stare decisis is applicable to administrative agencies. See 79 ALR2d 1126. The Special Rules and Regulations of the Division for the administration of the Oil-Potash Area constitute decisions of the Division on fundamental questions of law concerning the rights of the potash operators and oil and gas operators in the potash areas of the State of New Mexico.

S U M M A R Y

For almost thirty years, the Oil Conservation Division has administered and regulated the oil and gas operations within the known Potash Areas of Eddy County, New Mexico in accordance with Rule R-111-A. The Application of DUVAL for a potash protest outside the R-111-A Area constitutes a

substantial and unjustified departure from those rules and regulations. Accordingly, DUVAL's application for a Hearing DeNovo should be denied for lack of standing.

KELLAHIN & KELLAHIN

By: _____

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BELCO PETROLEUM CORPORATION

EXHIBITS

EXHIBITS

1. New Mexico Oil Conservation Division Order No. R-111 creation of Oil-Potash Area

2. New Mexico Oil Conservation Division Order No. R-111-A amended Oil-Potash Area

3. New Mexico Oil Conservation Division Order No. R-111-C approving Duval Corporation application to extend Oil-Potash Area

4. New Mexico Oil Conservation Division Order No. R-6369 approving Belco's application to directionally drill

5. Transcript from May 7, 1980 Examiner Hearing in Case 6889 which approved Belco's application for directional drilling

6. Transcript from June 4, 1980 Examiner Hearing in Belco Case 6889

7. Plat showing Belco surface and bottom hole location for Case 6889 and relation to the Oil-Potash Area

8. Transcript of March 29, 1951 Land Commissioner Hearing on Oil-Potash Area

9. Transcript of June 21, 1951 Oil Conservation Commission Hearing in case 278.

10. Application of Land Commissioner for establishment of Rules and Regulations for Oil-Potash Area

11. Transcript of July 10, 1951 Oil Conservation Commission Hearing in Case 278

12. Transcript of Oil Conservation Commission Hearing on DUVAL Application to extend R-111-A Area

13. Tabulation from State Land Office Tract book showing Potash lessees for Section 36, T22S, R30E

14. August 24, 1951, State Land Commissioner Committee Oil-Potash Report

15. September 4, 1951 State Land Commissioner Committee Oil-Potash Report

Exhibit 1

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF DEFINING BOUNDARIES OF POTENTIAL OIL PRODUCING AREAS IN EDDY AND LEA COUNTIES, NEW MEXICO, WITHIN WHICH POTASH MINERALS ARE BEING PRODUCED OR POTENTIAL POTASH PRODUCING LANDS ARE LOCATED.

CASE No. 278
Order No. R-111

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission," on June 21, 1951, and for further hearing on July 10, 1951, and the Commission, a quorum being present, having considered the testimony adduced and the exhibits introduced in evidence and arguments presented and being fully advised in the premises,

FINDS, (1) That due notice having been given, according to law, and all interested parties having appeared, the Commission has jurisdiction of this cause, and the subject matter thereof.

(2) That an area defining potential oil and gas reserves within which are proved and potential potash deposits, and the promulgation of rules and regulations for the orderly development of oil and gas resources in such an area known to be productive of potash is within the authority of the Commission for the protection of correlative rights, the promotion of conservation, and the prevention of waste.

IT IS THEREFORE ORDERED:

That this order shall be known as THE RULES AND REGULATIONS GOVERNING THE EXPLORATION AND PRODUCTION OF OIL AND GAS IN CERTAIN AREAS AND SUB-AREAS HEREIN DEFINED AND KNOWN TO CONTAIN PROVED AND SEMI-PROVED POTASH MINERALS IN THE AREA AND SUB-AREAS HEREINAFTER SET OUT.

I

OBJECTIVE

The objective of these Rules and Regulations is to prevent waste, protect correlative rights, assure maximum conservation of oil and gas resources of New Mexico and permit the simultaneous economic recovery of potash minerals in the area hereinafter defined.

II

THE POTASH-OIL AREAS

(1) These Rules and Regulations are applicable to oil and gas operations and to exploration for and production of oil and gas in proven or potential Potash-Oil areas herein as "Area A" and "Area B."

(a) The potash-oil area represents the area in various parts of which potash mining operations are now in progress, or in which core tests indicate potential potash reserves are located and is described, as follows:

T. 19 S, R. 29 E
Sec. 11 - SE/4
Sec. 12 - S/2
Sec. 13 and 14 - all
Sec. 23 - N/2
Sec. 24 - N/2

T. 20 S, R. 29 E
Sec. 12 - NE/4 SE/4 and S/2 SE/4
Sec. 13 - NE/4 and S/2
Sec. 22 to 27, inclusive
Sec. 34 to 36, inclusive

T. 21 S, R. 29 E.
Sec. 1 and 2, all
Sec. 3 - E/2
Sec. 10 - E/2
Sec. 11 to 14, inclusive
Sec. 15 - E/2
Sec. 23 - N/2
Sec. 24 and 25 - all
Sec. 35- E/2
Sec. 36 - All

T. 22 S, R. 29 E
Sec. 1 and 2 - all
Sec. 3 - S/2
Sec. 9 - E/2
Sec. 10 to 16, inclusive
Sec. 17 - E/2
Sec. 20 - E/2
Sec. 21 to 28, inclusive
Sec. 33 to 36, inclusive

T. 23 S, R. 29 E
Sec. 1 to 3, inclusive
Sec. 4 - E/2
Sec. 9 - E/2
Sec. 10 to 15, inclusive
Sec. 22 to 27, inclusive
Sec. 34 to 36, inclusive

T. 18 S, R. 30 E
Sec. 12 - S/2
Sec. 13 and 14 - all
Sec. 15 - SE/4
Sec. 21 - SE/4
Sec. 22 to 24, inclusive
Sec. 25 - W/2
Sec. 26 to 28, inclusive
Sec. 29 - SE/4
Sec. 32 - SW/4 and E/2
Sec. 33 and 34 - all
Sec. 35 - W/2

T. 19 S, R. 30 E
Sec. 2 to 5, inclusive
Sec. 6 - SE/4
Sec. 7 - NE/4 and S/2
Sec. 8 to 30, inclusive
Sec. 32 to 36, inclusive

T. 20 S, R. 30 E
Sec. 1 to 36, inclusive

T. 21 S, R. 30 E
Sec. 1 to 11, inclusive
Sec. 12 - S/2
Sec. 13 to 22, inclusive
Sec. 23, - N/2
Sec. 24 - N/2
Sec. 27 to 34, inclusive
Sec. 35 - S/2

T. 22 S, R. 30 E
Sec. 1 to 24, inclusive
Sec. 25 - W/2
Sec. 26 to 35, inclusive
Sec. 36 - W/2

T. 23 S, R. 30 E
Sec. 1 - S/2
Sec. 2 to 36, inclusive

T. 24 S, R. 30 E
Sec. 1 - N/2
Sec. 2 - N/2
Sec. 3 - N/2

T. 18 S, R. 31 E
Sec. 18 - W/2

T. 19 S, R. 31 E
Sec. 9 and 10 - all
Sec. 11 - W/2
Sec. 14 - W/2
Sec. 15 to 17, inclusive
Sec. 19 to 22, inclusive
Sec. 23 - W/2
Sec. 25 - S/2
Sec. 26 to 36, inclusive

T. 20 S, R. 31 E
Sec. 1 to 36, inclusive

T. 21 S, R. 31 E
Sec. 1 - N/2
Sec. 2 - N/2
Sec. 4 - W/2
Sec. 5 and 6 - all
Sec. 18 - S/2
Sec. 19 - N/2

T. 22 S, R. 31 E
Sec. 4 to 9, inclusive
Sec. 17 and 18 - all
Sec. 19 - N/2

T. 23 S, R. 31 E
Sec. 7 - all
Sec. 8 - S/2
Sec. 16 - SW/4
Sec. 17 to 20, inclusive
Sec. 21 - W/2
Sec. 28 to 33, inclusive

T. 24 S, R. 31 E
Sec. 4 to 6, inclusive

T. 19 S, R. 32 E.
Sec. 23, S/2
Sec. 24 to 27, inclusive
Sec. 28 - S/2
Sec. 31 S/2
Sec. 32 - S/2
Sec. 33 to 36, inclusive

T. 20 S, R. 32 E
Sec. 1 to 36, inclusive

T. 21 S, R. 32 E
Sec. 1 to 17, inclusive
Sec. 21 to 27, inclusive
Sec. 35 and 36 - all

T. 19 S, R. 33 E
Sec. 19 - all
Sec. 30 and 31 - all

T. 20 S, R. 33 E
Sec. 5 to 9, inclusive
Sec. 15 to 23, inclusive
Sec. 25 to 36, inclusive

T. 21 S, R. 33 E
Sec. 4 to 9, inclusive
Sec. 16 to 21, inclusive
Sec. 28 to 33, inclusive

T. 22 S, R. 33 E
Sec. 4 to 6, inclusive

T. 20 S, R. 34 E
Sec. 31 - all

(b) Area "A" represents the area in various parts of which potash mining operations are now in progress and is described, as follows:

T. 19 S, R. 30 E
Sec. 9-SE/4 NW/4, E/2 SW/4, S/2 NE/4, SE/4
Sec. 10 - SW/4 NW/4, W/2 SW/4
Sec. 15 - NW/4 NW/4
Sec. 16 - N/2 NE/4, NE/4 NW/4
Sec. 26 - S/2 NW/4, SW/4 NE/4, W/2 SE/4, SW/4
Sec. 27 - S/2 NE/4, SE/4 NW/4, NE/4 SW/4, S/2 SW/4, SE/4
Sec. 28 - SE/4 SE/4

Sec. 33-SE/4 NW/4, NE/4 NE/4, S/2 NE/4, E/2 SW/4 SE/4
Sec. 34-All
Sec. 35-NW/4, W/2 NE/4, NW/4 SE/4, N/2 SW/4, SW/4 SW/4

T. 20 S, R. 30 E
Sec. 2-W/2 NW/4, NW/4 SW/4
Sec. 3-N/2, SW/4, N/2 SE/4, SW/4 SE/4
Sec. 4-E/2, SW/4, E/2 NW/4, SW/4 NW/4
Sec. 5-SE/4 NE/4, E/2 SE/4, SW/4 SE/4, SE/4 SW/4
Sec. 7-SE/4 SE/4
Sec. 8-E/2, E/2 NW/4, E/2 SW/4, SW/4 SW/4
Sec. 9-N/2 SW/4, N/2 SE/4 SW/4, SE/4
Sec. 10-NW/4, W/2 NE/4, NW/4, NW/4 SE/4, N/2 SW/4
Sec. 16-N/2 NW/4, NW/4 NE/4
Sec. 17-W/2, N/2 NE/4, SW/4 NE/4, W/2 SE/4
Sec. 18-E/2 NE/4, E/2 SE/4

T. 20 S, R. 30 E
Sec. 19-NE/4 NE/4
Sec. 20-N/2 NW/4, NW/4 NE/4
Sec. 25-SW/4 SW/4
Sec. 26-SE/4 SW/4, S/2 SE/4
Sec. 35-E/2 NW/4, NE/4, N/2 SE/4, NE/4 SW/4
Sec. 36-W/2 NW/4, NW/4 SW/4

T. 21 S, R. 29 E
Sec. 1-SE/4, S/2 NE/4, SE/4 NW/4, NE/4 SW/4, S/2 SW/4
Sec. 2-SE/4 SE/4
Sec. 11-NE/4 NE/4, S/2 NE/4, SE/4 NW/4, E/2 SW/4, SE/4
Sec. 12-all
Sec. 13-N/2 SE/4, N/2 SW/4, SE/4 SW/4
Sec. 14-E/2 NW/4, NE/4, NE/4 SE/4, N/2 SE/4
Sec. 24-NE/4 NW/4, N/2 NE/4
Sec. 25-SE/4 SW/4, S/2 SE/4
Sec. 36-E/2 NW/4, E/2 SW/4, E/2

T. 22 S, R. 29 E
Sec. 1-E/2 NW/4, SW/4 NW/4, SW/4, E/2
Sec. 2-SE/4 NE/4, E/2 SE/4
Sec. 11-E/2 NE/4, NE/4 SE/4
Sec. 12 N/2, N/2 SW/4, N/2 SE/4

T. 21 S, R. 30 E
Sec. 6-SE/4 NW/4, W/2 SW/4
Sec. 7-NW/4 NW/4, S/2 NW/4, SW/4 NE/4, SW/4, W/2 SE/4
Sec. 18-NW/4 W/2 NE/4, N/2 SW/4, SW/4 SW/4, NW/4 SE/4
Sec. 19-NW/4 NW/4

T. 21 S, R. 30 E
Sec. 29 - S W/4 SW/4
Sec. 30 - S/2 SW/4, S/2 SE/4
Sec. 31 - all
Sec. 32-W/2 NW/4, W/2 SW/4

T. 22 S, R. 30 E
Sec. 5-W/2 NW/4, NW/4 SW/4
Sec. 6-N/2, SW/4, N/2 SE/4, SW/4 SE/4
Sec. 7-N/2 NW/4, SW/4 NW/4, NW/4 NE/4, NW/4 SW/4

(c) Area "B" is defined as that area in which core tests indicate potential potash reserves and includes the entire potash-oil area as described under "The Potash-Oil Areas" Sec. (1) (a), of this order, except and excluding lands defined and described as area "A" in "The Potash-Oil Areas," Sec. (1) (b) of this order.

(2) Area "A" and "B" as hereinabove defined may be contracted or expanded by the Commission from time to time as circumstances or conditions may warrant, after due notice and hearing.

III
EXPLORATION OF AREAS

(1) Area "A"

(a) Drilling of oil and gas exploratory test wells shall not be permitted in Area "A" except upon leases outstanding as of the effective date of these regulations, provided, that oil and gas exploratory test wells shall not be drilled through any open potash mines or within 1,320 feet thereof unless agreed to in writing by the potash lessee involved.

(b) Any oil or gas leases hereafter issued for lands within Area "A" shall be subject to these regulations.

(c) All future drilling of oil and gas exploratory test wells in Area "A" shall be further subject to these rules and regulations.

(d) Where oil and gas wells are in production in Area "A", no potash mine opening shall be driven to within less than 100 feet of such wells so that protection of both wells and mine can be afforded.

(e) Proposals to unitize with respect to land within Area "A", as herein defined and described, will be considered on their merits.

(2) Area "B"

(a) Oil and gas exploratory test wells may be drilled in Area "B" in accordance with these rules and regulations.

(3) Upon the discovery hereafter of oil and gas in Areas "A" or "B" the Oil Conservation Commission shall promulgate field or pool rules for the affected area after due notice and hearing.

(4) Nothing herein shall be construed to prevent unitization agreements involving lands in Areas "A" or "B", or both.

IV
DRILLING AND CASING PROGRAM

(1) For the purpose of the regulations and the drilling of oil and gas exploratory test wells, shallow and deep zones are defined, as follows:

(a) The shallow zone shall include all formations above the base of the Delaware sand or above a depth of 5,000 feet, whichever is the lesser.

(b) The deep zone shall include all formations below the base of the Delaware sand or below a depth of 5,000 feet, whichever is the lesser.

(2) Surface Casing String:

(a) A surface casing string of new, second-hand, or reconditioned pipe shall be set in the "Red Bed" section of the basal Rustler formation immediately above the salt section, or in the anhydrite at the top of the salt section, as determined necessary by the regulatory representative approving the drilling operations and shall be cemented with not less than one hundred and fifty percent (150) percent of calculated volume necessary to circulate cement to the ground surface.

(b) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(c) Casing and water-shut-off tests shall be made both before and after drilling the plug and below the casing seat as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of six hundred (600) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole, and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(d) The above requirements for the surface casing string shall be applicable to both the shallow and deep zones.

3. Salt Protection String:

(a) A salt protection string of new, second-hand, or reconditioned pipe shall be set not less than one hundred (100) feet nor more than two hundred (200) feet below the base of the salt section.

(b) The salt protection string shall be cemented, as follows:

(i) For wells drilled to the shallow zone, the string may be cemented with a nominal volume of cement for testing purposes only. If the exploratory test well is completed as a productive well, the string shall be recemented with sufficient cement to fill the annular space back of the pipe from the top of the first cementing to the surface or to the bottom of the cellar, or may be cut and pulled if the production string is cemented to the surface as provided in sub-section IV (5), (a), (i) below.

(ii) For wells drilled to the deep zone, the string must be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(c) If the cement fails to reach the surface or the bottom of the cellar, where required, the top of the cement shall be located by a temperature or gamma ray survey and additional cementing shall be done until the cement is brought to the point required.

(d) The fluid used to mix with the cement shall be saturated with the salts common to the zones penetrated and with three (3 percent) percent of calcium chloride by weight of cement.

(e) Centralizers shall be spaced on at least every one hundred fifty (150) feet of the salt protection string below the surface casing string.

(f) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four hours (24) before drilling the plug or initiating tests.

(g) Casing tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of one thousand (1000) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hold does not remain dry for a period of one hour, corrective measures shall be applied.

(h) The above requirements for the salt protection string shall be applicable to both the shallow and deep zones except for sub-section IV (3), (b), (i) and (ii) above.

(4) Intermediate String:

(a) In the drilling of oil and gas exploratory test wells to the deep zone, an intermediate string shall be set at sufficient depth to case-off all formations in the shallow zone and shall be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(b) Cementing procedures and casing tests for the intermediate string shall be the same as provided under sub-sections IV (3), (c), (f) and (g) for the salt protection string.

(5) Production String:

(a) A production string shall be set on top or through the oil or gas pay zone and shall be cemented as follows:

(i) For wells drilled to the shallow zone the production string shall be cemented to the surface if the salt protection string was cemented only with a nominal volume for testing purposes, in which case the salt protection string can be cut and pulled before the production string is cemented; provided, that if the salt protection string was cemented to the surface, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone.

(ii) For wells drilled to the deep zone, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone; provided, that if no intermediate string shall have been run and cemented to the surface, the production string shall be cemented to the surface.

(b) Cementing procedures and casing tests for the production string shall be the same as provided under sub-sections IV (3) (c), (f) and (g) for the salt protection string.

V

DRILLING FLUID FOR SALT SECTION

The fluid used while drilling the salt section shall consist of water, to which has been added sufficient salts of a character common to the zone penetrated to completely saturate the mixture. Other admixtures may be added to the fluid by the operator in overcoming any specific problem. This requirement is specifically intended to prevent enlarged drill holes.

VI

PLUGGING AND ABANDONMENT OF WELLS

All wells heretofor and hereafter drilled within Areas "A" and "B" shall be plugged in a manner that will provide a solid cement plug through the salt section and prevent liquids or gases from entering the hole above or below the salt section.

VII

LOCATIONS FOR TEST WELLS

Before drilling for oil or gas on lands in Areas "A" or "B", a map or plat showing the location of the proposed well shall be prepared by the well operator and copy sent by registered mail to the potash lessee involved, if any. Upon proper showing of such notice and if no objection to the location of the proposed well is made by the potash lessee within ten days, a drilling permit may be issued and the work may proceed. If, however, the location of the proposed well is objected to by the potash lessee on the grounds that the location of the well is not in accordance with the foregoing regulations, the potash lessee may file a written objection within ten days for consideration and decision by the Oil Conservation Commission.

VIII

INSPECTION OF DRILLING AND MINING OPERATIONS

A representative of the potash lessee may be present during drilling, cementing, casing and plugging of all oil or gas wells on his lease to observe conformance with these regulations. Likewise, a representative of the oil and gas lessee may inspect mine workings on his lease to observe conformance with these regulations.

IX

FILING OF WELL AND MINE SURVEYS

Each oil and gas lessee shall furnish not later than January 31st of each year to the Oil Conservation Commission and to the potash lessees involved certified directional surveys from the surface to a point below the lowest known potash-bearing horizon for each oil or gas well drilled in Area "A" during the preceding calendar year. Each potash lessee shall furnish not later than January 31st of each year to the Oil Conservation Commission and to each oil and gas lessee involved, certified plat of survey of the location of open mine workings underlying outstanding oil and gas leases.

X

APPLICABILITY OF STATEWIDE RULES AND REGULATIONS

All general statewide rules and regulations of the Oil Conservation Commission governing the development, operation, and production of oil and gas in the State of New Mexico not inconsistent or in conflict herewith, are hereby adopted and made applicable to the areas described herein.

XI

ADOPTION

The foregoing Rules and Regulations are hereby adopted by the Oil Conservation Commission and adopted, ratified and confirmed by the Commissioner of Public Lands of the State of New Mexico this 9th. day of November, 1951.

DONE at Santa Fe, New Mexico this 9th day of November, 1951.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

EDWIN L. MECHEM, Chairman

GUY SHEPARD, Member

R. R. SPURRIER, Secretary

GUY SHEPARD
Commissioner of Public Lands

Exhibit 2

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

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

CASE NO. 278
Order No. R-111-A

THE APPLICATION OF THE OIL CONSERVATION COMMISSION UPON ITS OWN MOTION FOR AN ORDER REVISING ORDER R-111 ISSUED IN CASE 278, PERTAINING TO THE POTASH-OIL AREAS OF EDDY AND LEA COUNTIES, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on July 14, 1955, August 17, 1955 and September 15, 1955, at Santa Fe, New Mexico, before the Oil Conservation Commission, hereinafter referred to as the "Commission".

NOW, on this 13th., day of October, 1955, the Commission, a quorum being present, having considered the records and testimony adduced, and being fully advised in the premises;

FINDS:

(1) That due notice of the time and place of hearing and the purpose thereof having been given as required by law, the Commission has jurisdiction of this case and the subject matter thereof.

(2) That the delineation of an area including and containing potential oil and gas reserves, within which are commercial potash deposits, and the promulgation of rules and regulations for the orderly development of oil and gas resources in such area known to be productive of potash is within the authority of the Commission for the protection of correlative rights, the promotion of conservation, and the prevention of waste.

IT IS THEREFORE ORDERED:

That this order shall be known as The Rules and Regulations Governing the Exploration of Oil and Gas in Certain Areas Herein Defined, which are Known to contain Potash Reserves.

I.

OBJECTIVE

The objective of these Rules and Regulations is to prevent waste, protect correlative rights, assure maximum conservation of the oil, gas and potash resources of New Mexico, and permit the economic recovery of oil, gas and potash minerals in the area hereinafter defined.

II.

THE POTASH-OIL AREA

(1) The Potash-Oil Area, as outlined in Exhibit A attached hereto and made a part hereof, represents the area in various part of which potash mining operations are now in progress, or in which core tests indicate commercial potash reserves.

(2) The Potash-Oil Area, as outlined herein, may be revised by the Commission after due notice and hearing.

III.

DRILLING IN THE POTASH AREA

(1) All drilling of oil and gas wells in the Potash Area shall be subject to these Rules and Regulations.

(2) No wells will be drilled for oil or gas at a location which, in the opinion of the Commission or its duly authorized representative, would result in undue waste of potash deposits or constitute a hazard to or interfere unduly with potash deposits.

No mining operations will be conducted in the Potash Area that would, in the opinion of the Commission or its duly authorized representative, constitute a hazard to oil or gas production, or that would unreasonably interfere with the orderly development and production from any oil or gas pool.

(3) Upon discovery of oil or gas in the Potash Area, the Oil Conservation Commission shall promulgate pool rules for the affected area after due notice and hearing.

IV.

DRILLING AND CASING PROGRAM

(1) For the purpose of the regulations and the drilling of oil and gas exploratory test wells, shallow and deep zones are defined, as follows:

(a) The shallow zone shall include all formations above the base of the Delaware sand or above a depth of 5,000 feet, whichever is the lesser.

(b) The deep zone shall include all formations below the base of the Delaware sand or below a depth of 5,000 feet, whichever is the lesser.

(2) Surface Casing String:

(a) A surface casing string of new or used oil field casing in good condition shall be set in the "Red Bed" section of the basal Rustler formation immediately above the salt section, or in the anhydrite at the top of the salt section, as determined necessary by the regulatory representative approving the drilling operations, and shall be cemented with not less than one hundred and fifty percent (150) percent of calculated volume necessary to circulate cement to the ground surface.

(b) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(c) Casing and water-shut-off tests shall be made both before and after drilling the plug and below the casing seat as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of six hundred (600) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole, and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(d) The above requirements for the surface casing string shall be applicable to both the shallow and deep zones.

(3) Salt Protection String:

(a) A salt protection string of new or used oil field casing in good condition shall be set not less than one hundred (100) feet nor more than six hundred (600) feet below the base of the salt section; provided that such string shall not be set below the top of the highest known oil or gas zone.

(b) The salt protection string shall be cemented, as follows:

(i) For wells drilled to the shallow zone, the string may be cemented with a nominal volume of cement for testing purposes only. If the exploratory test well is completed as a productive well, the string shall be re-cemented with sufficient cement to fill the annular space back of the pipe from the top of the first cementing to the surface or to the bottom of the cellar, or may be cut and pulled if the production string is cemented to the surface as provided in sub-section IV (5), (i) below.

(ii) For wells drilled to the deep zone, the string must be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar; however, where the base of the Delaware Mountain Group is definable the casing rules in (IV) (3b) (i) shall apply even if the depth of the bottom of the Delaware Mountain Group is greater than 5,000 feet. For the purpose of identification, the base of the Delaware Mountain Group is hereby identified as the equivalent of the base of such formation as found at a depth of 7485 feet in the Richardson and Bass No. 1 Rodke well in Section 27, Township 20 South, Range 31 East, NMPM, Lea County, New Mexico, immediately overlying the Bone Springs formation.

(c) If the cement fails to reach the surface or the bottom of the cellar, where required, the top of the cement shall be located by a temperature or gamma ray survey and additional cementing shall be done until the cement is brought to the point required.

(d) The fluid used to mix with the cement shall be saturated with the salts common to the zones penetrated and with suitable proportions but not less than 1% of calcium chloride by weight of cement.

(e) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(f) Casing tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of one thousand (1000) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(g) The Commission, or its duly authorized representative, may require the use of centralizers on the salt protection string when in their judgment the use of such centralizers would offer further protection to the salt section.

(h) The above requirements for the salt protection string shall be applicable to both the shallow and deep zones except for sub-section IV (3), (b), (i) and (ii) above.

(4) Intermediate String:

(a) In the drilling of oil and gas exploratory test wells to the deep zone, the operator shall have the option of running an intermediate string of pipe, unless the Commission requires an intermediate string.

(b) Cementing procedures and casing tests for the intermediate string shall be the same as provided under sub-sections IV (3), (c), (e) and (f) for the salt protection string.

(5) Production String:

(a) A production string shall be set on top or through the oil or gas pay zone and shall be cemented as follows:

(i) For wells drilled to the shallow zone the production string shall be cemented to the surface if the salt protection string was cemented only with a nominal volume for testing purposes, in which case the salt protection string can be cut and pulled before the production string is cemented; provided, that if the salt protection string was cemented to the surface, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone.

(ii) For wells drilled to the deep zone, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone; provided, that if no intermediate string shall have been run and cemented to the surface, the production string shall be cemented to the surface.

(b) Cementing procedures and casing tests for the production string shall be the same as provided under sub-section IV (3), (c), (e) and (f) for the salt protection string; however if high pressure oil or gas production is discovered in any area, the Commission shall promulgate the necessary rules to prevent the charging of the salt section.

V.

DRILLING FLUID FOR SALT SECTION

The fluid used while drilling the salt section shall consist of water, to which has been added sufficient salts of a character common to the zone penetrated to completely saturate the mixture. Other admixtures may be added to the fluid by the operator in overcoming any specific problem. This requirement is specifically intented to prevent enlarged drill holes.

VI.

PLUGGING AND ABANDONMENT OF WELLS

(1) All wells heretofore and hereafter drilled within the Potash Area shall be plugged in a manner and in accordance with field rules established by the Commission that will provide a solid cement plug through the salt section and any water bearing horizon and prevent liquids or gases from entering the hole above or below the salt section.

(2) The fluid used to mix the cement shall be saturated with the salts common to the salt section penetrated and with suitable proportions but not more than three (3) percent of calcium chloride by weight of cement being considered the desired mixture whenever possible.

VII.

LOCATION FOR WELLS

Before commencing drilling operations for oil or gas on any lands within the Potash Area, the well operator shall prepare a map or plat showing the location

of the proposed well, said map or plat to accompany each copy of the Notice of Intention to Drill. In addition to the number of copies required by the Commission, the well operator shall send one copy by registered mail to all potash operators holding potash leases within a radius of one mile of the proposed well, as reflected by the plats submitted under paragraph IX (2).

The well operator shall furnish proof of the fact that said potash operators were notified by registered mail of his intent by attaching return receipt to the copies of the Notice of Intention to Drill and plats furnished the Commission.

The Commission, or its authorized representative, may approve such Notice of Intention to Drill if no objection to the location of the proposed well is made by a potash operator within ten days after receipt. If the location of the proposed well is objected to by the potash operator, the matter shall be referred to the Secretary-Director of the Commission for arbitration. If a satisfactory settlement cannot be reached, the Secretary-Director of the Commission shall refer the matter to a hearing before the Commission after due notice and a decision either approving or denying the operator's plans to drill shall be entered by the Commission.

VIII.

INSPECTION OF DRILLING AND MINING OPERATIONS

A representative of the potash operator may be present during drilling, cementing, casing, and plugging of all oil or gas wells within a radius of one mile of the well location to observe conformance with these regulations. Likewise, a representative of the oil and gas lessee may inspect mine workings on his lease to observe conformance with these regulations.

IX.

FILING OF WELL SURVEYS, MINE SURVEYS AND POTASH DEVELOPMENT PLANS

(1) Directional Surveys:

The Commission may require an operator to file a certified directional survey from the surface to a point below the lowest known potash bearing horizon on all wells drilled within the Potash Area. These surveys may be required where, in the Commission's judgment, the exact location of the well-bore must be determined in order to aid mining operations.

(2) Mine Surveys:

Within 30 days after the adoption of this order, and thereafter on or before January 31st of each year, each potash operator shall furnish two copies of a

plat of a survey of the location of his leaseholdings and all of his open mine workings, which plat shall be available for public inspection.

(3) Potash Development Plan:

Within 30 days after adoption of this order and thereafter on or before January 31st of each year, each potash operator shall furnish two copies of a projection of development plans in the form of a plat, which plat shall be for the confidential use of the Commission and for inspection by any affected oil or gas operator. The projection shall cover not less than 3 nor more than a 5 year development program.

X.

APPLICABILITY OF STATEWIDE RULES AND REGULATIONS

All general statewide rules and regulations of the Oil Conservation Commission governing the development, operation, and production of oil and gas in the State of New Mexico not inconsistent or in conflict herewith, are hereby adopted and made applicable to the areas described herein.

EXHIBIT "A"

POTASH-OIL AREA

TOWNSHIP 18 SOUTH, RANGE 30 EAST

Section 13:	SW/4
Section 14:	S/2, NW/4, W/2 NE/4
Section 15:	SE/4
Section 22:	E/2, E/2 W/2
Section 23:	All
Section 24:	NW/4
Section 26:	N/2
Section 27:	N/2 NE/4

TOWNSHIP 19 SOUTH, RANGE 29 EAST

Section 11:	SE/4
Section 12:	S/2, S/2 NE/4
Section 13:	N/2, N/2 S/2, S/2 SW/4
Section 14:	E/2, E/2 W/2
Section 23:	N/2 NE/4

TOWNSHIP 19 SOUTH, RANGE 30 EAST

Section 3:	S/2
Section 4:	S/2, NW/4, SW/4 NE/4
Section 5:	E/2, E/2 W/2, SW/4 SW/4

EXHIBIT "A" (Continued)

TOWNSHIP 19 SOUTH, RANGE 30 EAST (continued)

Section 7:	S/2, S/2 N/2, N/2 NE/4
Section 8:	All
Section 9:	All
Section 10:	All
Section 11:	SW/4, W/2 SE/4
Section 14:	W/2, W/2 SE/4
Section 15:	All
Section 16:	All
Section 17:	All
Section 18:	E/2, NW/4
Section 19:	NE/4
Section 20:	N/2, SE/4 SE/4
Section 21:	All
Section 22:	All
Section 23:	W/2
Section 26:	W/2, SE/4
Section 27:	All
Section 28:	All
Section 29:	E/2
Section 32:	SE/4, NE/4 NE/4
Section 33:	All
Section 34:	All
Section 35:	All
Section 36:	SW/4, S/2 NW/4, S/2 SE/4

TOWNSHIP 19 SOUTH, RANGE 31 EAST

Section 36:	SE/4

TOWNSHIP 19 SOUTH, RANGE 32 EAST

Section 31:	W/2 SW/4
Section 33:	SE/4, E/2 SW/4
Section 34:	S/2
Section 35:	S/2
Section 36:	SW/4, SE/4 SE/4

TOWNSHIP 19 SOUTH, RANGE 33 EAST

Section 22:	SE/4 SE/4
Section 23:	SW/4
Section 25:	SW/4
Section 26:	All
Section 27:	E/2
Section 31:	S/2
Section 32:	SW/4
Section 34:	NE/4 NE/4
Section 35:	All
Section 36:	S/2, NW/4 W/2 NE/4

EXHIBIT "A" (continued)

TOWNSHIP 19 SOUTH, RANGE 34 EAST

Section 31: SW/4 SW/4

TOWNSHIP 20 SOUTH, RANGE 29 EAST

Section 13: SW/4 SW/4
Section 14: SE/4 SE/4
Section 22: SE/4, S/2 NE/4
Section 23: S/2, NE/4
Section 24: W/2, W/2 SE/4
Section 25: N/2, N/2 S/2
Section 26: All
Section 27: E/2
Section 34: NE/4, N/2 SE/4
Section 35: NW/4

TOWNSHIP 20 SOUTH, RANGE 30 EAST

Section 1: All
Section 2: All
Section 3: All
Section 4: All
Section 5: S/2, NE/4
Section 6: S/2, S/2 NE/4
Section 7: NW/4, E/2
Section 8: All
Section 9: All
Section 10: All
Section 11: All
Section 12: All
Section 13: All
Section 14: All
Section 15: All
Section 16: All
Section 17: All
Section 18: E/2
Section 19: E/2
Section 20: All
Section 21: All
Section 22: All
Section 23: All
Section 24: All
Section 25: All
Section 26: All
Section 27: All
Section 28: All
Section 29: All
Section 30: All

EXHIBIT "A" (continued)

TOWNSHIP 20 SOUTH, RANGE 30 EAST (continued)

Section 31:	E/2
Section 32:	All
Section 33:	All
Section 34:	All
Section 35:	All
Section 36:	All

TOWNSHIP 20 SOUTH, RANGE 31 EAST

Section 1:	E/2, E/2 W/2
Section 6:	SW/4, S/2 NW/4, W/2 SE/4
Section 7:	W/2, SE/4, W/2 NE/4
Section 8:	S/2, S/2 N/2
Section 9:	SW/4, S/2 NW/4
Section 11:	SE/4, E/2 SW/4
Section 12:	All
Section 13:	All
Section 14:	E/2, SW/4, E/2 NW/4
Section 16:	W/2
Section 17:	All
Section 18:	All
Section 19:	All
Section 20:	All
Section 21:	NW/4, S/2
Section 22:	S/2, S/2 NE/4
Section 23:	All
Section 24:	All
Section 25:	All
Section 26:	All
Section 27:	All
Section 28:	All
Section 29:	All
Section 30:	All
Section 31:	All
Section 32:	All
Section 33:	All
Section 34:	All
Section 35:	All
Section 36:	All

TOWNSHIP 20 SOUTH, RANGE 32 EAST

Section 1:	All
Section 2:	All
Section 3:	All
Section 4:	E/2, SW/4, E/2 NW/4

EXHIBIT "A" (continued)

TOWNSHIP 20 SOUTH, RANGE 32 EAST, (Continued)

Section 5:	S/2 SE/4
Section 6:	W/2, SW/4 SE/4
Section 7:	All
Section 8:	All
Section 9:	All
Section 10:	All
Section 11:	All
Section 12:	All
Section 13:	All
Section 14:	All
Section 15:	All
Section 16:	All
Section 17:	All
Section 18:	All
Section 19:	All
Section 20:	All
Section 21:	All
Section 22:	All
Section 23:	All
Section 24:	All
Section 25:	All
Section 26:	All
Section 27:	All
Section 28:	All
Section 29:	All
Section 30:	All
Section 31:	All
Section 32:	All
Section 33:	All
Section 34:	All
Section 35:	All
Section 36:	All

TOWNSHIP 20 SOUTH, RANGE 33 EAST

Section 1:	All
Section 2:	E/2, E/2 W/2
Section 5:	W/2
Section 6:	All
Section 7:	All
Section 8:	W/2, SW/4 NE/4, SE/4
Section 9:	S/2 S/2, NW/4 SW/4
Section 10:	S/2
Section 11:	E/2, E/2 NW/4, SW/4
Section 12:	All
Section 13:	All
Section 14:	All

EXHIBIT "A" (continued)

TOWNSHIP 20 SOUTH, RANGE 33 EAST (continued)

Section 15:	All
Section 16:	All
Section 17:	All
Section 18:	All
Section 19:	All
Section 20:	All
Section 21:	W/2 SW/4, NW/4, N/2 NE/4
Section 22:	N/2 N/2
Section 23:	N/2 N/2, SE/4 NE/4
Section 24:	N/2, N/2 SE/4, SE/4 SE/4
Section 29:	W/2, NE/4, N/2 SE/4, SW/4 SE/4
Section 30:	All
Section 31:	N/2, W/2 SW/4

TOWNSHIP 20 SOUTH, RANGE 34 EAST

Section 6:	W/2, W/2 SE/4
Section 7:	All
Section 8:	SW/4
Section 16:	SW/4, SW/4 NW/4, SW/4 SE/4
Section 17:	All
Section 18:	All
Section 19:	All
Section 20:	All
Section 21:	All
Section 22:	SW/4
Section 27:	W/2
Section 28:	All
Section 29:	N/2, SE/4, NE/4 SW/4
Section 30:	NE/4 NW/4, N/2 NE/4, SE/4 NE/4
Section 32:	N/2 NE/4, SE/4 NE/4
Section 33:	N/2, SE/4, N/2 SW/4, SE/4 SW/4
Section 34:	W/2

TOWNSHIP 21 SOUTH, RANGE 29 EAST

Section 1:	All
Section 2:	Lots 1-16, incls., SE/4, NE/4 SW/4
Section 3:	Lots 1-9, incl.
Section 4:	Lots 1-8 incl., Lots 10 and 11
Section 11:	E/2, E/2 SW/4
Section 12:	All
Section 13:	All
Section 14:	E/2, E/2 W/2, SW/4 NW/4, NW/4 SW/4
Section 15:	SE/4 NE/4, NE/4 SE/4
Section 23:	N/2 NE/4

EXHIBIT "A" (continued)

TOWNSHIP 21 SOUTH, RANGE 29 EAST (continued)

Section 24:	NE/4, NE/4 SE/4, N/2 NW/4, SE/4 NW/4
Section 35:	S/2 NE/4, SE/4, E/2 SW/4
Section 36:	S/2 SW/4, SE/4, S/2 NE/4, NE/4 NE/4

TOWNSHIP 21 SOUTH, RANGE 30 EAST

Section 1:	All
Section 2:	All
Section 3:	All
Section 4:	All
Section 5:	All
Section 6:	All
Section 7:	All
Section 8:	All
Section 9:	N/2, SW/4
Section 10:	N/2, SE/4, N/2 SW/4, SE/4 SW/4
Section 11:	All
Section 12:	All
Section 13:	All
Section 14:	All
Section 15:	NE/4, NE/4 NW/4, N/2 SE/4, SE/4 SE/4
Section 16:	NW/4 NW/4
Section 17:	All
Section 18:	All
Section 19:	All
Section 20:	NW/4, N/2 NE/4
Section 22:	E/2 E/2
Section 23:	All
Section 24:	All
Section 25:	N/2, SE/4, N/2 SW/4, SE/4 SW/4
Section 26:	N/2, N/2 S/2
Section 27:	NE/4, N/2 SE/4, SE/4 SE/4
Section 29:	NW/4, N/2 SW/4
Section 30:	E/2, E/2 W/2
Section 31:	All
Section 32:	S/2, NW/4, NW/4 NE/4, S/2 NE/4
Section 36:	E/2

TOWNSHIP 21 SOUTH, RANGE 31 EAST

Section 1:	All
Section 2:	All
Section 3:	All
Section 4:	All
Section 5:	All
Section 6:	All
Section 7:	All
Section 8:	All

EXHIBIT "A" (continued)

TOWNSHIP 21 SOUTH, RANGE 31 EAST (continued)

Section 9:	All
Section 10:	W/2
Section 12:	N/2, SE/4, N/2 SW/4, SE/4 SW/4
Section 13:	N/2 NE/4
Section 15:	W/2
Section 16:	E/2, NW/4, E/2 SW/4
Section 18:	NW/4, W/2 NE/4, NE/4 NE/4, W/2 SW/4 NE/4 SW/4
Section 21:	E/2, NE/4 NW/4
Section 22:	W/2
Section 27:	W/2, SW/4 NE/4, W/2 SE/4
Section 28:	E/2
Section 30:	SW/4, W/2 NW/4, SE/4 NW/4
Section 31:	W/2
Section 33:	NE/4 NE/4
Section 34:	NW/4, NW/4 NE/4

TOWNSHIP 21 SOUTH, RANGE 32 EAST

Section 6:	Lots 1-7 incls., Lots 10-15, incls., SW/4
Section 7:	W/2
Section 22:	E/2
Section 23:	All
Section 24:	All

TOWNSHIP 21 SOUTH, RANGE 33 EAST

Section 3:	Lots 1, 2, 3
Section 17:	S/2 S/2
Section 18:	SE/4 SE/4
Section 19:	All
Section 20:	All
Section 21:	W/2, SE/4, S/2 NE/4
Section 22:	S/2, S/2 N/2
Section 23:	S/2, S/2 N/2, NE/4 NE/4
Section 24:	All
Section 25:	NW/4, N/2 NE/4, SW/4 NE/4, N/2 SW/4
Section 26:	W/2, NE/4, N/2 SE/4, SW/4 SE/4
Section 27:	All
Section 28:	All
Section 29:	N/2, SE/4, NE/4 SW/4
Section 30:	N/2 NE/4, SE/4 NE/4
Section 33:	N/2 N/2
Section 34:	N/2 N/2

EXHIBIT "A" (continued)

TOWNSHIP 21 SOUTH, RANGE 34 EAST

Section 19:	W/2

TOWNSHIP 22 SOUTH, RANGE 29 EAST

Section 1:	All
Section 2:	E/2, E/2 NW/4, SW/4
Section 3:	S/2 SE/4, NE/4 SE/4
Section 10:	E/2, E/2 W/2, SW/4 SW/4
Section 11:	All
Section 12:	All
Section 13:	All
Section 14:	All
Section 15:	All
Section 16:	SE/4, SE/4 NE/4, SE/4 SW/4
Section 20:	E/2 E/2
Section 21:	All
Section 22:	All
Section 23:	All
Section 24:	All
Section 25:	All
Section 26:	All
Section 27:	All
Section 28:	NE/4, N/2 NW/4, SE/4 NW/4, SE/4
Section 33:	NE/4 NE/4
Section 34:	NW/4, W/2 E/2, N/2 SW/4, SE/4 SW/4
Section 35:	E/2, SW/4, SE/4 NW/4
Section 36:	All

TOWNSHIP 22 SOUTH, RANGE 30 EAST

Section 1:	E/2
Section 5:	N/2, N/2 S/2, SW/4 SW/4
Section 6:	All
Section 7:	W/2, W/2 E/2, SE/4 SE/4
Section 8:	S/2 SW/4
Section 12:	NE/4 NE/4
Section 13:	NW/4, N/2 SW/4, SW/4 SW/4
Section 14:	SE/4, S/2 NE/4, E/2 SW/4, SW/4 SW/4
Section 17:	NW/4
Section 18:	All
Section 19:	All
Section 20:	All
Section 21:	S/2, SW/4 NW/4
Section 22:	S/2, S/2 N/2, NE/4 NE/4
Section 23:	W/2, W/2 NE/4, NE/4 NE/4
Section 26:	W/2 W/2
Section 27:	All

EXHIBIT "A" (continued)

TOWNSHIP 22 SOUTH, RANGE 30 EAST (continued)

Section 28:	All
Section 29:	All
Section 30:	All
Section 31:	All
Section 32:	All
Section 33:	All
Section 34:	All
Section 35:	W/2

TOWNSHIP 22 SOUTH, RANGE 31 EAST

Section 6:	W/2, W/2 NE/4, NW/4 SE/4
Section 7:	N/2 NW/4

TOWNSHIP 23 SOUTH, RANGE 29 EAST

Section 1:	All
Section 2:	E/2, NW/4, NE/4 SW/4
Section 11:	NE/4 NE/4
Section 12:	N/2 N/2

TOWNSHIP 23 SOUTH, RANGE 30 EAST

Section 2:	NW/4
Section 3:	All
Section 4:	All
Section 5:	All
Section 6:	All
Section 7:	NE/4, N/2 NW/4, SE/4 NW/4
Section 8:	N/2 N/2, S/2 NE/4
Section 9:	N/2, NE/4 SW/4, N/2 SE/4
Section 10:	N/2, SW/4

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JOHN F. SIMMS, Chairman

E. S. WALKER, Member

W. B. MACEY, Member & Secretary

SEAL

jh

Exhibit 3

[redacted]

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. 278
Order No. R-111-C

APPLICATION OF DUVAL SULPHUR
AND POTASH COMPANY FOR AN
AMENDMENT OF ORDER NO. R-111-A
TO INCLUDE ADDITIONAL ACREAGE
IN THE POTASH-OIL AREA, EDDY
COUNTY, NEW MEXICO

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on August 13, 1959, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 3rd day of September, 1959, 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 the applicant, Duval Sulphur and Potash Company, is the owner of certain potash leases in Townships 18, 22, and 23 South, Range 30 East, NMPM, Eddy County, New Mexico.

(3) That the applicant seeks an amendment of Order No. R-111-A as amended by Order No. R-111-B to extend the Potash Oil Area as set forth in said orders to include the following described acreage:

Township 18 South, Range 30 East, NMPM

Section 22:	W/2 W/2
Section 27:	N/2 NW/4

Township 22 South, Range 30 East, NMPM

Section 13:	SE/4 SW/4
Section 23:	SE/4 and SE/4 NE/4
Section 24:	W/2
Section 25:	W/2
Section 26:	E/2 W/2 and E/2
Section 35:	E/2

TOWNSHIP 23 South, Range 30 East, NMPM

Section 2:	S/2 and NE/4

(4) That the evidence presented indicates that the above-described acreage contains potash deposits in commercial quantities with the following exceptions:

Township 18 South, Range 30 East, NMPM

Section 27:	NW/4 NW/4

Township 22 South, Range 30 East, NMPM

Section 13:	SE/4 SW/4
Section 24:	E/2 W/2
Section 25:	E/2 W/2

all in Eddy County, New Mexico.

(5) That to promote orderly development of the natural resources in the area, Order No. R-111-A as amended by Order No. R-111-B should be further amended to include the acreage in the Potash-Oil Area as proposed by the applicant with the above-mentioned exceptions.

IT IS THEREFORE ORDERED:

That Order No. R-111-A as amended by Order No. R-111-B be and the same is hereby further amended to include the following-described acreage within the confines of the Potash-Oil Area in Eddy County, New Mexico:

Township 18 South, Range 30 East

Section 22:	W/2 W/2
Section 27:	NE/4 NW/4

Township 22 South, Range 30 East, NMPM

Section 23:	SE/4 and SE/4 NE/4
Section 24:	W/2 W/2
Section 25:	W/2 W/2
Section 26:	E/2 W/2 and E/2
Section 35:	E/2

Township 23 South, Range 30 East, NMPM

Section 2:	S/2 and NE/4

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JOHN BURROUGHS, Chairman

SEAL

MURRAY E. MORGAN, Member

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

lcr/

Exhibit 4

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

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

CASE NO. 6889
Order No. R-6369

APPLICATION OF BELCO PETROLEUM CORPORATION FOR DIRECTIONAL DRILLING, EDDY COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 9 a.m. on June 4, 1980, at Santa Fe, New Mexico, before Examiner Daniel S. Nutter.

NOW, on this 9th day of June, 1980, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS:

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

(2) That the applicant, Belco Petroleum Corporation, seeks authority to directionally drill a well, the surface location of which would be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said section to be dedicated to the well.

(3) That the surface location of the proposed well is on lands not included in the Oil-Potash Area as defined by Order No. R-111-A, as amended, nor is it in the area withdrawn for drilling by the United States Nuclear Regulatory Commission for the Waste Isolation Pilot Project.

(4) That the applicant proposes to drill said well as a straight hole from the aforesaid surface location to a depth of approximately 6000 feet beneath the surface, and to then

directionally drill the well in an east-northeast direction to a true vertical depth of 14,400 feet, bottoming said well at the above-described location in the Morrow formation.

(5) That the applicant should be required to determine the subsurface location of the kick-off point prior to directional drilling, and to determine the subsurface location of the bottom of the hole by means of a continuous multi-shot directional survey conducted subsequent to said directional drilling, if said well is to be completed as a producing well.

IT IS THEREFORE ORDERED:

(1) That the applicant, Belco Petroleum Corporation, is hereby authorized to directionally drill a well, the surface location of which shall be 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

PROVIDED HOWEVER, that prior to directional drilling, the operator shall determine the subsurface location of the kick-off point; and

PROVIDED FURTHER, that subsequent to the above-described directional drilling, should said well be a producer, a continuous multi-shot directional survey shall be made of the wellbore from total depth to the kick-off point with shot points not more than 100 feet apart; that the operator shall cause the surveying company to forward a copy of the survey report directly to the Santa Fe office of the Division, P. O. Box 2088, Santa Fe, New Mexico, and that the operator shall notify the Division's Artesia District Office of the date and time said survey is to be commenced.

(2) That Form C-105 shall be filed in accordance with Division Rule 1105 and the operator shall indicate thereon true vertical depths in addition to measured depths.

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

DONE at Santa Fe, New Mexico, on the day and year herein-above designated.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

JOE D. RAMEY
Director

S E A L

fd/

Exhibit 5

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
7 May 1980

EXAMINER HEARING

IN THE MATTER OF:

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

CASE 6889

BEFORE: Daniel S. Nutter

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation Division: Ernest L. Padilla, Esq.
Legal Counsel to the Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

For the Applicant: W. Thomas Kellahin, Esq.
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GENE MOORE

Direct Examination by Mr. Kellahin 4

Cross Examination by Mr. Nutter 11

E X H I B I T S

Applicant Exhibit One, Letter 5

Applicant Exhibit Two, Letter 8

Applicant Exhibit Three, Plat 8

Applicant Exhibit Four, Plat 6

Applicant Exhibit Five, Map 8

Applicant Exhibit Six, Drawing 8

MR. NUTTER: We'll call next Case Number 6389, which is in the matter of the application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

We might note at the outset of this case that the Santa Fe New Mexican badly goofed in the legal notice of this case. It will have to be readvertised. It will be advertised for the hearing of June 4th, 1980. We'll have to withhold any order in the case until after that date and after it's been called for hearing again.

MR. KELLAHIN: If the Examiner please, because the error in the publication of the application in the newspaper, we would like to present testimony today to request, perhaps, a larger target area for the subject well than the 100-foot radius indicated on the application, and I'd like to direct your attention to that point, because it will be the subject of some of our testimony and would require a further change in the application.

(Witness sworn.)

GENE MOORE

being called as a witness and having been duly sworn upon his oath, testified as follows, to-wit:

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Phone (505) 455-7409

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q. Mr. Moore, would you please state your name, by whom you're employed, and in what capacity?

A. I'm Gene Moore. I'm employed by Belco Petroleum. I'm in charge of the drilling and the engineering section of our district office in Midland, Texas.

Q. Do you hold a professional degree in geology or petroleum engineering?

A. I attended the University of Oklahoma and I do not hold a degree. I have -- well --

Q. Where have you been employed in the oil and gas industry and in what capacity?

A. For the last 2-1/2 years I've been employed by Belco of Midland, Texas. Prior to that I was with a consulting firm in the Gulf Coast area. Prior to that I worked Australia, Africa.

Q. Describe in general terms the kinds of jobs that you've been responsible for in the oil and gas industry.

A. I've been responsible for drilling and completing oil and gas wells.

Q. During your employment with Belco Petroleum Corporation what have been your general areas of re-

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sponsibility?

A. The entire Permian Basin. We've drilled approximately 45 wells in the last 2-1/2 years.

Q. Pursuant to that employment have you made a specific study of the facts surrounding this particular application?

A. Yes, I have.

Q. Has Belco been involved in previous directional drilling cases which were under your direct supervision and control?

A. That is correct, yes.

Q. All right.

MR. KELLAHIN: We tender Mr. Moore, Mr. Nut[illegible], as a practical oil man and consequently, as an expert [illegible]ness.

MR. NUTTER: Mr. Moore is qualified in this case.

Q. Mr. Moore, would you refer to what we've marked as Exhibit Number One and identify that for us?

A. Exhibit Number One is a letter pertaining to the plan of development of the James Ranch Unit.

Q. This is the basis, is it not, upon which this application is filed?

A. Yes, that's correct.

Q. Would you summarize for the Examiner what

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Belco intends to do?

A. Belco intends to set a surface location outside of the condemned lands for the WIPP project and directional drill the well underneath the north half of Section 36.

Q. Let's turn for a moment to your Exhibit Number Four, which shows an outline of that WIPP project, and would you identify what's indicated by the orange line?

A. The orange line outlines the lands that were condemned by -- for the WIPP project, condemned by ERDA.

Q. Where is the subject acreage located?

A. The subject surface location of the subject acreage is the north half of Section 36 of 22 South, 30 East.

Q. What was the condemned interval which precluded oil and gas production from surface to what particular depth?

A. The depth which precluded any production to the depth of 6000 feet.

Q. What will be the surface location of the proposed well in relation to this exhibit?

A. The location will be put on the southwest quarter of the northwest quarter of Section 36; specifically the call will be 920 from the west line and 1980 from the north line.

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Q It will be outside of the WIPP designated area?

A Yes, sir.

Q And where will the approximate bottom hole location be?

A The approximate bottom hole location, the target for the bottom hole location will be 1320 feet from the north line and 2640 feet from the east line.

Q Summarize for us how you will directionally drill this well.

A We intend to drill a straight hole and stay on the 40 acres where the surface location is situated, and we've given ourselves 400 feet leeway from that 40 acres on the east side.

At 6000 feet we will install a degree or a degree and a half bent sub and use a downhole motor and by doing this we intend to build our angle until we encounter the target area.

Q May we conclude from your testimony that at no point will the well intrude into the WIPP area within the condemned interval?

A That is correct. We will run a multi-shot every 100 feet for the well to the 6000 foot depth.

Q Would you refer to Exhibit Number Two and identify that for us?

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A. Exhibit Number Two is a brief letter from a directional company in Midland outlining the procedure that they would use in directionally drilling this well.

Q. Is this the directional drilling contractor that will be used on this well?

A. Yes, it is.

Q. And would you identify Exhibit Number Three for us?

A. Exhibit Number Three is a plat that was surveyed for us by Topographic Surveys out of Midland, Texas, locating the surface location of the well.

Q. We've already discussed Exhibit Number Four. Would you turn to Exhibit Number Five and identify that?

A. This is the map that I had drawn up at the office showing the surface location and the bottom hole location, as well as the requested 100-foot radius circle.

Q. In relation to that exhibit, now, would you turn to Exhibit Number Six and describe this exhibit for us?

A. This is a drawing that was performed by Wilson, which is a directional drilling company, indicating to us our proposed angle increase and the distance from the surface location to the proposed bottom hole target.

Q. Now, Exhibits Numbers Five and Six indicate 100-foot radius as the proposed bottom hole target.

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Could you describe for the Examiner your thoughts concerning that radius target and what recommendations, if any, you would make to him on increasing that target area?

A. The target radius will not be difficult to -- it would not be difficult to adhere to. It would cost us money and time to hit a 100-foot radius target.

Since the north half of the section would be dedicated to this gas well, or anticipated gas well, it was my feeling that a larger radius could be -- could be given, whereby reducing our total drilling cost.

Q. Could you -- you said you could hit this target area; the difference was cost. Could you give us an indication of the kinds of revenue saved from increasing the target area?

A. By increasing the target area we anticipate a savings of somewhere around to $20 to $25,000. Currently it looks as if to kick off and to make one correction going down, we're looking at a neighborhood of around 65,000. By increasing the target area the radius of the target, then this would probably eliminate this one correction, which amounts to running in a downhole motor and a bent sub and surface electronic equipment to monitor them.

Q. Do you have a recommendation to the Examiner as to what that radius, target radius, could be increased to without impairing anyone's correlative rights?

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A. Without impairing anyone's rights with this bottom hole location, the producing interval being on the north half of the section, I would recommend a radius of 660 feet.

Q. If that radius, target area, is increased to 660 feet, Mr Moore, the extreme north edge of that circle of radius would still be some 660 feet from the north section line.

A. That's correct. It would still be some 660 feet from the south -- the line of the south half of the section, which is -- belongs to another company. It will still be an orthodox location.

Q. Now, to summarize for us, Mr. Moore, this directionally drilled well is necessitated as the result of a settlement of litigation involving the State of New Mexico, concerning how this acreage could be developed.

A. Yes, it was. It was several years ago, or a few years ago, that litigation was on the condemning of the land, and leases taken away, and money was placed in deposit with a bank in the City of Ft. Worth for the additional drilling costs of directionally drilling a well.

Q. And you're drilling this well pursuant to the Commissioner of Public Lands, State of New Mexico, letter of March 29th, 1979, which has been introduced as an exhibit?

A. That's correct.

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Q And in your opinion, Mr. Moore, will approval of this application be in the best interests of conservation, the prevention of waste, and the protection of correlative rights?

A Yes.

Q And except for Exhibit Number One, which is the Commissioner's letter, were Exhibits One through Six compiled under your direction and supervision?

A They were.

MR. KELLAHIN: We move the introduction of Exhibits One through Six.

MR. NUTTER: Applicant's Exhibits One through Six will be admitted in evidence.

CROSS EXAMINATION

BY MR. NUTTER:

Q Mr. Moore, now looking at your Exhibit Number Five, which shows the surface location and the bottom hole location, now where does the condemned land for WIPP come to here?

A The condemned land for WIPP, where our surface, where the 40 acres is outlined on the surface location, the condemned lands would make a stairstep along the top edge of that 40 acres and down the east side of the 40 acres. Then continue south for 40 acres and then east for

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40 acres and then back south again for 40 acres on Section 36.

Q So everything in Section 36 is in the WIPP condemned land except for the 40 where the well is.

A Yes.

Q The west half of the southwest quarter and the southeast of the southwest quarter.

A Yes.

Q So there's four 40-acre tracts in there that aren't condemned.

A Yes, sir.

Q Now, when you mentioned that you had to drill a straight hole with a 400-foot tolerance, what you meant was that your surface location is going to be 400 feet--since the surface location is 920 from the west line, that would put the well 400 feet from the west boundary of WIPP?

A No. No, that would put the well 400 feet west, yes, sir, from the west boundary.

Q 400 feet from the west boundary?

A Yes.

Q And you'd drill a straight hole down to 6000 feet and then take off to the east/northeast.

Now, you say that you could save $20 to $25,000 if you had a 660-foot radius rather than 100-foot radius. Now, I notice from the Exhibit Number One, and also from your testimony, Exhibit Number One, the letter states

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you were granted an award to compensate for additional cost which may be incurred to directionally drill this acreage.

If you save money, does whoever granted you this additional fund get their money back, if you save the money?

A. I don't know.

Q. Or is this money in Belco's pocket if you save it?

A. No, this is in an escrow account at the, I believe it's the First National Bank of Ft. Worth. I don't know who is looking after the funds, but it's not in Belco's --

Q. Now, the award was made by the Nuclear Regulatory Commission, wasn't it?

A. Yes, sir.

Q. So what I want to know is if you save money does it save NRC money.

A. I would hope so. I do not know.

Q. Or do you get to keep the change?

MR. KELLAHIN: We'll find that out for you, Mr. Nutter. I have the settlement agreements. We'll have to check it and let you know.

MR. NUTTER: I'd like to know that.

A. What this will save -- this will very well save me running back in the hole and making a correction because the bed dipping is only about 3 degrees, so once we --

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Q. Oh, I understand how you could save considerable money by a much larger target like that. That surface location on Exhibit Number Four looks like that it would be probably right under the "H" of the word Shell, somewhere in that neighborhood, wouldn't you say?

Or maybe right above the letter "H", possibly.

A. No, sir, the surface location is marked as James Ranch 11. It's to the left of the James Ranch 11. Oh, oh, I'm looking at the wrong exhibit.

Q. Exhibit Four. It would be immediately above the "H" in the word Shell.

A. Yes. Yes, that is correct.

Q. So you are outside of WIPP, then.

MR. NUTTER: Are there any other questions of Mr. Moore? He may be excused.

Do you have anything further, Mr. Kellahin?

MR. KELLAHIN: We'll have to advise you after the hearing, Mr. Nutter, what happens to the proceeds. It's not apparent in the settlement agreement.

MR. NUTTER: Thank you. Do you have anything further?

MR. KELLAHIN: No, sir.

MR. NUTTER: Does anyone have anything they wish to offer in Case Number 8991? We'll take the case under advisement. (Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing and attached Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 6889 heard by me on 5/7, 1980.

, Examiner
Oil Conservation Division

Exhibit 6

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO
4 June 1980

EXAMINER HEARING

IN THE MATTER OF:

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

CASE 6889

BEFORE: Daniel S. Nutter

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Oil Conservation Division: Ernest L. Padilla, Esq.
Legal Counsel to the Division
State Land Office Bldg.
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For Belco Petroleum: W. Thomas Kellahin, Esq.
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A P P E A R A N C E S

For Duval Potash:

G. Stanley Crout
and
Ms. Sunny Nixon
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CROUT & OLMSTED
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MR. NUTTER: We'll next call Case Number 6889.

MR. PADILLA: Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico.

MR. NUTTER: Case Number 6889 was originally heard on May 7th, 1980, at which time it was noted there was an error in the newspaper advertisement of the case. It has been re-advertised for hearing today.

Are there any appearances to be made in Case Number 6889?

MR. KELLAHIN: If the Examiner please, I am Tom Kellahin of Santa Fe, New Mexico, appearing on behalf of the applicant.

MR. CROUT: Stanley Crout of Bigbee, Stephenson, Carpenter, Crout, Santa Fe, New Mexico, appearing on behalf of Duval Corporation in opposition to the application, and Sunny Nixon of the same firm.

MR. NUTTER: Your first name is Stanley, you say?

MR. CROUT: Yes, Stanley Crout.

MR. NUTTER: Mr. Kellahin?

MR. KELLAHIN: Mr. Nutter, we have presented our testimony on May 7th, 1980, and we have no further testimony to present on behalf of the applicant in this case.

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At this time, though, I believe it's appropriate to enter my objection to the opposition of Duval Company. It is my understanding that Duval is a potash operator and that they hold a potash lease for Section 36, which is the section involved in this application, and if the Examiner will take administrative notice of Commission Order R-111 and any of the amendments and extensions thereto, the Examiner will note that Section 36 is outside the R-111 area.

It is our position that Duval Company lacks standing to enter an objection as a potash operator to an oil and gas operation, and in substance, Mr. Nutter, I think I can direct your attention to justification as to why you should not allow Duval to present any opposition in this case.

You'll note the general rule under the Rules and Regulations of the Commission, and I believe it's somewhere under Rule 1212, or perhaps there is another one, generally speaking, the Commission affords all interested parties at an hearing an opportunity to present evidence and cross examine witnesses.

It's our position, if you'll look at Commission Order R-111 and 111-A, those rules for -- well, at least since 1951, in the area of potash operations in conjunction with oil and gas operations, have set forth specific

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rules and regulations on how these cases are to be handled.

It is my contention that the language found in Orders R-111 and R-111-A, specifically sub-paragraph X, I believe, and I'll read it in its entirety, says all general statewide rules and regulations of the Oil Conservation Commission governing the development, operation, production of oil and gas in the State of New Mexico not inconsistent or in conflict herewith are hereby adopted and made applicable to the area described herein.

My point is that the statewide rules and regulations of the Commission, including those concerning interested parties, have been specifically modified by R-111 and specifically delineate and determine how potash operations, or operators are to provide protests to oil and gas operations in a potash area.

In conclusion, Mr. Nutter, it is our position that to allow a protestant in this type of case, involving acreage outside the R-111-A or any extensions thereof, opens the door to a circumvention of the R-111-A and any modification. Therefor, we would object that Duval Company lacks standing to present any objection to our application.

MR. CROUT: Mr. Nutter, in response we believe the applicant is trying to have both sides of the issue. First, they didn't comply with Rule 111, or Order

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R-111 in this case by giving us the requisite notice. If they're contending it applies in this area then they didn't comply with the order.

If the order isn't applicable to us, then of course, we should not proceed under it. We'd proceed under the general rules, and the statute does specifically provide that the protection of potash may be regulated and may be accomplished by regulation of drilling or where necessary, a prohibition against drilling, in Section 72-12, and other sections provide for orders. The fact that this area is outside Order R-111, extended over the years, simply leaves you back under the statutes and it's one of the things -- potash is one of the things the statutes specifically require be protected.

MR. NUTTER: Mr. Crout, may I ask you this. Section 70-2-3, subparagraph F, in the definition of waste, states that drilling or producing operations for oil or gas within any area containing commercial deposits of potash, where such operations would have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities, or where such operations would interfere unduly with the orderly commercial development of such potash deposits, this is talking about commercial deposits of potash, and how do we know we have commercial deposits of potash

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here if we haven't had a case to include these lands under R-111-A?

MR. CROUT: Simply by the testimony of expert witnesses.

MR. NUTTER: Well, that would be the subject matter of a case to include these lands under R-111-A.

MR. CROUT: But the statute does not provide -- that you just read -- as defined by an order. It says if there's commercial potash there it should be protected.

MR. NUTTER: Don't we have to have a starting point some place that we would have a hearing to determine where the commercial deposits are and then define -- the purpose of R-111-A was to outline the area which includes commercial deposits of potash.

MR. CROUT: As known, of course, at the time of the hearing.

MR. NUTTER: As known at the time of the hearing.

MR. CROUT: Yes.

MR. NUTTER: The hearing or the hearing for the extension of R-111-A.

MR. CROUT: Well, I don't think that's -- that would have been one way for the Legislature to elect to go; that is, to require a definition of where the commer-

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cial potash is ahead of time, but they do not require that. They simply provide that it's one of the matters to be protected if it's commercial. So whether it's commercial or not can be established, we think, in this case on the expert witness testifying as to what exploratory drilling in the area has shown.

MR. NUTTER: How near to this particular area -- now, we're in Section 36. Our well is located --

MR. CROUT: When 36 --

MR. NUTTER: The well is located, the surface location of the well, is 1980 feet from the north line and 920 feet from the west line of Section 36.

Now where is the nearest boundary of R-111-A as has been previously defined by the Commission or the Division?

MR. CROUT: According to my copy of the R-111-A, as amended, Sections 26 through 35 in Township 22 South, 30 East, are all in R-111-A, as amended, so it would be adjacent.

MR. NUTTER: So Section 35 immediately to the west is in the potash area.

MR. CROUT: Yes. Now, I think there may also be some to the north and other directions, too. That's the first one I spotted.

MR. NUTTER: The nearest part to it, so

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the well --

MR. KELLAHIN: If the Examiner please, it's the east half of Section 35. It's Order R-11-C.

MR. NUTTER: And the east half of Section 35 is in it, so the potash area is 920 feet from the surface location of the well.

Now, let me ask you another question, Mr. Crout. If this location, if the applicant had chosen to dedicate the west half of Section 36, the location of the well would have been a standard location for a gas well for that half section to be dedicated, and assuming he had drilled a straight well at that point, there would have been no requirement under any statute or rule that he give notice to any potash operator or anyone else, and it's a ministerial function of the Commission to approve those drilling permits providing everything else is in order.

MR. CROUT: If it's in R-111, which I'm saying it's not.

MR. NUTTER: No, if it were not in R-111-A, and this is -- the location would not have been, and the applicant would have filed his drilling permit and it would have been approved providing everything else was in order.

MR. CROUT: Well, but --

MR. NUTTER: We wouldn't have had a hearing on it. The purpose for the hearing was for the

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directional drilling because of the WIPP project.

MR. CROUT: Yes.

MR. NUTTER: You have to drill straight down 6000 feet and then turn to the east.

MR. CROUT: Yes. Of course, not if it resulted in waste and someone made objection to it.

MR. NUTTER: How would they have brought it to anyone's attention, because the drilling permit would have been filed with the Division and not with Duval, because it wouldn't have been a requirement to file with Duval if it's outside of R-111-A.

MR. CROUT: Yes, but it would probably have been discovered the same way as it in fact was, when we saw a drillsite on the location.

MR. NUTTER: But we would have been powerless to withhold the drilling permit because, as I say, it's a ministerial function to approve a drilling permit providing everything is in order.

MR. CROUT: I don't think that's quite correct. Not if it involves waste of a potash resource, and that can be raised in several ways. For one, assuming they saw the site location and then came in and protested that the approval would result in waste.

MR. NUTTER: Well, I think it would have been up to Duval in that event if the well had been permitted

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as a straight hole down at that location, I think it would have been Duval's obligation then to have gone to the courts and got a restraining order prohibiting the further drilling of the well.

I don't think we could have withheld the drilling permit.

And then, of course, while the well was being withheld from drilling, perhaps they could have come in and asked for an extension to the R-111-A.

MR. CROUT: By analogy, you know, under the State Engineer practice, there is a -- one cannot drill a well for the use -- his particular once an area is declared an underground basin.

MR. NUTTER: Well.

MR. CROUT: Mr. Reynolds proceeds to declare an underground basin, then that sets the boundary that the particular rules relating to declared underground basin rules.

MR. NUTTER: But if you got your drilling permit before he declares a basin, you can drill the well.

MR. CROUT: But not if the other -- not if someone comes in and attempts to stop it; at least according to Mr. Reynolds. And here our statute in this particular case doesn't provide for the area to be declared, in effect, a potash area prior to that. The statute itself

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simply provides that encompassed within the meaing of waste is a situation where the potash reserves could be commercial.

MR. NUTTER: Where you waste commercial deposits of potash.

MR. CROUT: I certainly agree that it may have been a wiser approach for the Legislature to have adopted a scheme similar to what's involved in the State Engineer's practice, but I don't think they did that.

MR. NUTTER: To tell you the truth, we wrote R-111-A before we ever had any statutory authority, anyway. That came way far later.

Do you have anything else, Mr. Kellahin?

MR. KELLAHIN: With all due respect to Mr. Crout, I don't have any faith that his argument has merit.

The Commission has operated since 1951 with rules promulgated for the potash area involved with conflicts with oil and gas operations and potash operations.

If you'll look at Order No. R-111-C you'll find that Duval has used those very rules and regulations when they sought to have the potash area extended to the east half of Section 35. They're familiar in the process and we believe that the policy and rules and regulations established for some thirty years are significant in controlling, and so long as this area, Section 36, remains outside the R-111 area, we believe that Duval lacks the standing to com-

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plain and the permit to Belco for the drilling of a directional Morrow test ought to now be approved as requested.

MR. NUTTER: We'll take a 10-minute recess.

(Thereupon a recess was taken.)

MR. NUTTER: The hearing is called to order, please.

Mr. Crout, were you planning today, if permitted to do so, to present evidence that you have commercial potash in Section 36?

MR. CROUT: Yes, we are.

MR. NUTTER: Well, I don't think Mr. Kellahin is prepared to refute your testimony. I think under the call of the hearing today it would be improper for us to take testimony or evidence as to commercial potash. He might want to get a mining engineer to refute the commerciality of this potash that's present.

MR. CROUT: We certainly have no objection to being continued until he has time to --

MR. NUTTER: Well, I think this -- we have heard the case as it relates to the subject matter that was advertised. We've already heard that, and we have juris-

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diction now because we do have proper legal notice for the hearing, for the subject matter as advertised, so it's going to be the recommendation of the Examiner that the Division enter an order approving the directional drilling.

Now you've got certain remedies left to you. If Duval is interested in pursuing the matter further, they can, one, ask for a hearing de novo of the matter and the second remedy would be to seek a restraining order against Belco proceeding with the drilling of the well. If you do that, you'll have to post a bond to cover Belco for any financial losses that they sustain as a result of having to shut down.

Then you would also have to file an application for extension of the R-111-A area.

MR. CROUT: Well, we don't agree with filing the extension, that a filing for extension of the area is necessary.

MR. NUTTER: Well I think under Commission and Division policy over many years here, we've established that -- we have enough trouble with drilling in potash /oil areas as it is.

MR. CROUT: Surely.

MR. NUTTER: And if we started entertaining objections on account of potash outside of the R-111-A area, if it hasn't been shown previously to contain commercial

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potash, we would really be in trouble. I think this would be a wide departure from our previous practice and policy to start doing this at this time.

MR. CROUT: Well, without quarreling, I don't think you've ever had a case that I could come across where you had a situation where an area not in R-111-A, as amended, involved a protest at all.

MR. NUTTER: No, I don't recall -- I don't recall a protest on account of potash outside of R-111-A. Like I say, we have enough trouble with the drilling disputes inside of R-111-A without getting into them where we're outside of R-111-A.

But I think that those four points, the hearing de novo, the restraining order, posting the bond, and filing an application for extension of the area, would be Duval's remedy here.

So I think with that, we'll take the case under advisement.

MR. KELLAHIN: Excuse me, may I ask for a little clarification, I misunderstood.

Are you saying that Duval Company has standing to complain in this particular case against Belco?

MR. NUTTER: I think they can ask for a de novo hearing in the matter. I think they can ask for a de novo hearing and it will be up to the Commission at that

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time to decide whether they have standing or not. They certainly have the right to ask for a de novo hearing because they are adversely affected by the order. There's prima facie evidence of that.

MR. KELLAHIN: Thank you.

MR. NUTTER: And we will make a recommendation to enter an order approving the directional drilling.

Now, did you -- you mentioned the other day, Tom, that they were talking about keeping the target area to within 100 feet of the original point. Do they want to amend the application back to 100 feet or do they want to just leave it at 660 feet?

MR. KELLAHIN: Yes, sir, let me review my notes for a moment to see what I am to do.

MR. NUTTER: This wouldn't affect Duval one way or the other, what the target area is, because this is all going to occur at a depth of 13,000 feet. The first 1500 feet of the well is what concerns Duval.

MR. CROUT: Right. As I understand it the deviation will be less than one degree to the -- for the first 1500 feet, is that correct?

MR. NUTTER: Right, they're just going to drill an essentially straight hole through the first 6000 feet, I think, isn't it, Tom?

MR. KELLAHIN: Yes, sir, at a depth of

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6000 feet then we'll deviate the hole, so as it goes through the potash there is --

MR. NUTTER: Essentially a straight hole.

MR. KELLAHIN: I'm authorized, Mr. Nutter, to return the application to its original status and we will hit 100-foot radius target.

In addition, so that Duval knows, Belco Petroleum is proceeding to build the pad and will commence drilling of that well based upon our oral conversation with you, Mr. Nutter, on the 20th of May, which was subsequent to the hearing.

Now, that was done without knowledge that there was a potash protest or that there was any potash difficulty.

MR. NUTTER: The only question we had at that time was whether we should advertise it as 100-foot target or a 660-foot target.

MR. KELLAHIN: Yes, sir, and I don't want to get crossways with my client nor with the potash company, and if you -- if it's your direction that we not proceed with the drilling of that well pending a final order, we'll abide by those rules, but we are now proceeding under our oral communication of May 20th, indicating that we could commence the well. The reason for doing so, and I tell you, is that the rig availability is very difficult.

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MR. NUTTER: Well, I think -- I think on the advice we're giving you here today, it's going to be up to Belco to make their decision as to whether they want to proceed further.

Like I say, we will recommend that an order be entered approving the drilling of the well and the directional drilling of the well, and then from there on, it's up to what you hear from Duval.

MR. KELLAHIN: All right, sir.

MR. CROUT: And just so the record is clear that we were prepared to present a witness here today on the commercial mineability of the potash reserves on Section 36.

MR. NUTTER: Yes, sir, that will be in the record.

And your appearance here today assures you of the right to ask for a hearing de novo.

With that, we'll take the case under advisement and the hearing is adjourned.

(Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division was reported by me; that the said transcript is a full, true, and correct record of the hearing, prepared by me to the best of my ability.

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 6889, heard by me on 6-4 19 80.

Examiner
Oil Conservation Division

Exhibit 7

WILSON DOWNHOLE SERVICES
A DIVISION OF WILSON INDUSTRIES INC
POST OFFICE BOX 1492 HOUSTON, TEXAS 77001

April 23, 1980

Belco Petroleum Corp.
411 Petroleum Bldg.
Midland, Texas 79701

Dear Sir:

The following is a cost estimate to drill your proposed directional well. This estimate is based on our current price book. This estimate is meant to be used as a guideline since actual well bore conditions may dictate some procedure changes.

Well to be drilled: Belco Petroleum Corp.
J. R. #11 to be drilled
in the James Ranch Area
Eddy County, New Mexico

Surface Location: 920' from the West Line 1980' from the North Line
Bottom Hole Location to be 1320' from North Line
2640' from the East Line

The well should be drilled from surface to 6000' in the normal fashion. At this point a non magnetic drill collar will be picked up and directional surveys taken. We feel for an accurate BHA Location to be determined. A multishot should be ran @ 100 intervals back to surface pipe.

A dyna drill and 2 degrees deflecting sub will be used to make the initial kick off. This will be accomplished by drilling the necessary amount of hole needed to obtain 4 to 6 degrees of inclination, from vertical, in the proper direction. These tools will be oriented with a magnetic single shot instrument. An angle building assembly will then be picked up and the angle will be increased 2°degrees/100' to a total of 12°degrees 51'. This angle will be held in the proper direction until vertical depth of 14,400' is reached.

Yours Truly,

Burke LeMay

Burke LeMay
West Texas District Manager

BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 2
CASE NO. 6889

NEW MEXICO OIL CONSERVATION COMMISSION

WELL LOCATION AND ACREAGE DEDICATION PLAT

Form C-102
Supersedes C-128
Effective 1-1-65

All distances must be from the outer boundaries of the Section.

Operator	Lease	Well No.
BELCO PETROLEUM COMPANY	James Ranch	11

Unit Letter	Section	Township	Range	County
	36	22-S	30-E	Eddy

Actual Footage Location of Well:
1980' feet from the North line and 920' feet from the West line

Ground Level Elev.	Producing Formation	Pool	Dedicated Acreage:
3306'	Morrow	Los Medanos	320 Acres

1. Outline the acreage dedicated to the subject well by colored pencil or hachure marks on the plat below.

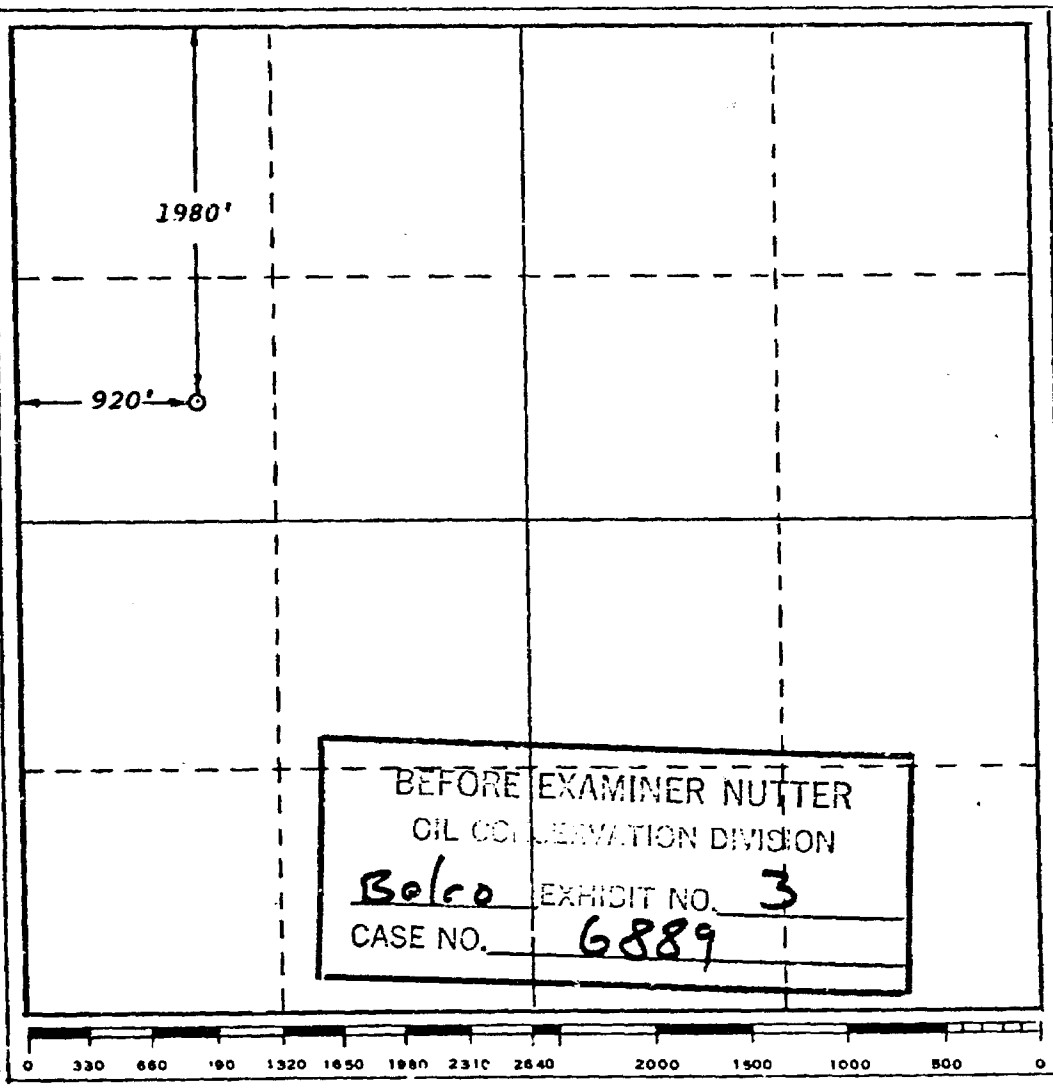
2. If more than one lease is dedicated to the well, outline each and identify the ownership thereof (both as to working interest and royalty).

3. If more than one lease of different ownership is dedicated to the well, have the interests of all owners been consolidated by communitization, unitization, force-pooling. etc?

☐ Yes ☐ No If answer is "yes," type of consolidation _____

If answer is "no," list the owners and tract descriptions which have actually been consolidated. (Use reverse side of this form if necessary.) _____

No allowable will be assigned to the well until all interests have been consolidated (by communitization, unitization, forced-pooling, or otherwise) or until a non-standard unit, eliminating such interests, has been approved by the Commission.



BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 3
CASE NO. 6889

CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.

M. E. Moore

Name: M. E. Moore

Position: District Engineer

Company: Belco Petroleum Corp.

Date: May 2, 1980

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief.

GARY D. BOSWELL
NO. 6689
REGISTERED LAND SURVEYOR
STATE OF NEW MEXICO

April 22, 1980

Date Surveyed

Gary D. Boswell

Registered Professional Engineer and/or Land Surveyor

Gary D. Boswell

Certificate No. 6689

EDDY

INTERNATIONAL MINERALS CHEMICAL CORP.

CRAWFORD LONDON

CABIN LAKE, 67

HILL TANK

J BAR

QUAHADA RIDGE, 54

LOS MENDANOS, 58

JAMES

NASH

JONES

SAND DUNE

STATE LAND

LAND WITHDRAWAL BOUNDARY -ERDA

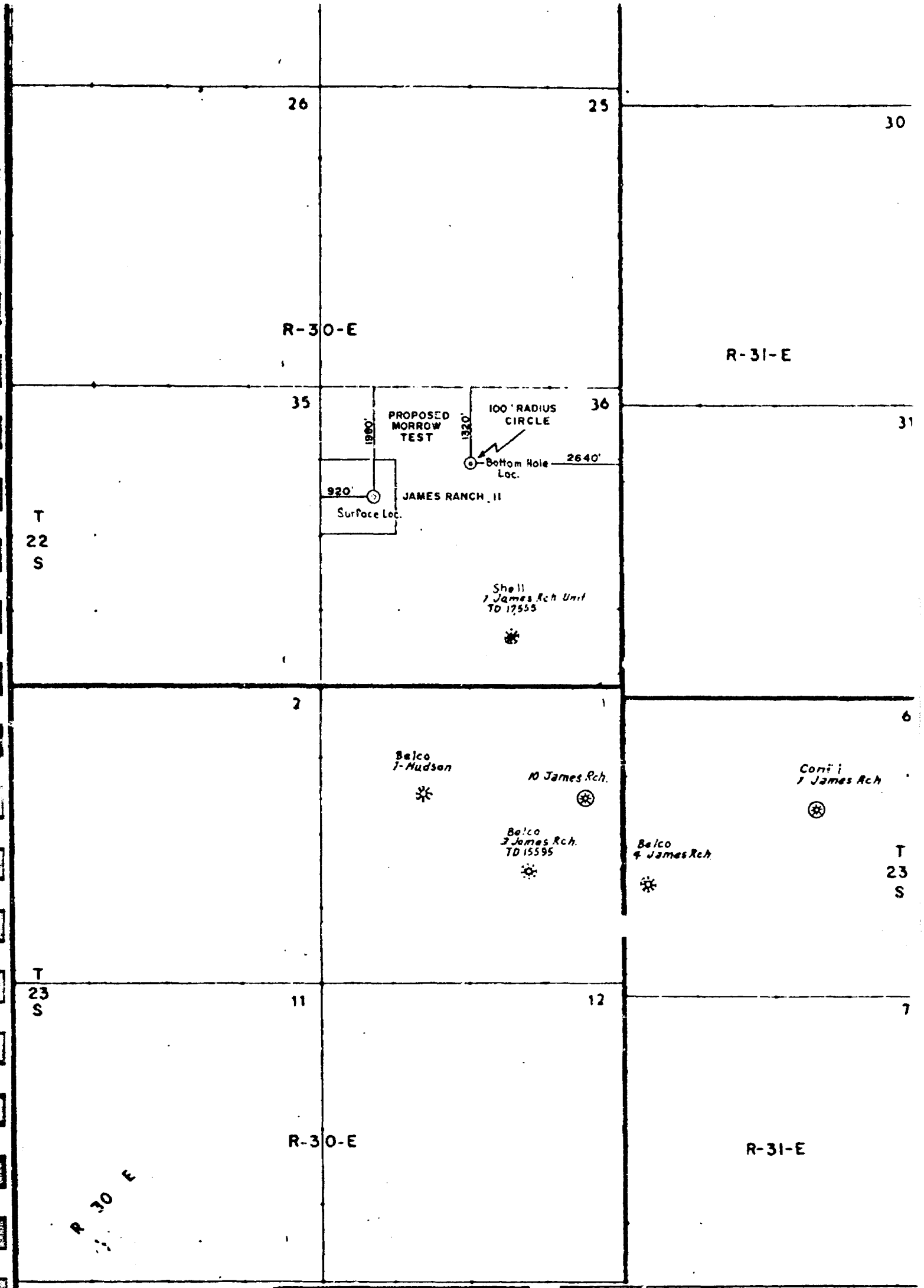
UNNAMED, 72

JENNINGS, 56(ABND)

EAST POKER LAKE

POKER LAKE

COTTON DRAW, 59


26
25
30
R-30-E
R-31-E
35
36
31
PROPOSED MORROW TEST
1980'
1320'
100' RADIUS CIRCLE
Bottom Hole Loc.
2640'
920'
JAMES RANCH, II
Surface Loc.
T 22 S
Shell 1 James Rch Unit TD 17555
2
1
6
Belco 1-Hudson
10 James Rch.
Conti 1 James Rch
Belco 3 James Rch. TD 15595
Belco 4 James Rch
T 23 S
T 23 S
11
12
7
R-30-E
R-31-E
R 30 E
LEGEND
BELCO PETROLEUM COR
JAMES RANCH, AREA
Eddy Co. New Mexico

BEFORE EXAMINER NUTTER
OIL CONSERVATION DIVISION
Belco EXHIBIT NO. 5
CASE NO. 6889

Exihibit 8

COMMISSIONER OF PUBLIC LANDS

STATE OF NEW MEXICO

- - - -

TRANSCRIPT OF RECORD

OIL-POTASH MEETING

Held at Santa Fe, New Mexico

Thursday, March 29, 1951

COMMISSIONER OF PUBLIC LANDS

STATE OF NEW MEXICO

- - - -

OIL-POTASH MEETING

Held at Santa Fe, New Mexico, March 29, 1951

BEFORE: Hon. Guy Shepard, State Commissioner of Public Lands, Chairman

Hon. R. R. Spurrier, Secretary and Director of Oil Conservation Commission

Hon. George A. Graham, Attorney

REGISTER:

F. H. Stewart
Southwest Potash Corporation
Carlsbad, New Mexico

Thomas G. Moore
Southwest Potash Corporation
61 Broadway
New York, New York

T. M. Cramer
United States Potash Company
Carlsbad, New Mexico

Oliver Seth
United States Potash Company
Santa Fe, New Mexico

L. H. Freedman
United States Potash Company
C/o James H. Snowden
Fort Worth, Texas

Joe P. Smith
United States Potash Company
Carlsbad, New Mexico

R. G. Haworth
Potash Company of America
Carlsbad, New Mexico

D. E. Protz
Potash Company of America
Carlsbad, New Mexico

F. O. Davis
Potash Company of America
Carlsbad, New Mexico

G. C. Weaver
Duval Sulphur and Potash Company
Carlsbad, New Mexico

R. A. Shepherd
Duval Sulphur and Potash Company
Carlsbad, New Mexico

Eugene German
Duval Sulphur and Potash Company
Houston, Texas

W. P. Morris
Duval Sulphur and Potash Company
Carlsbad, New Mexico

Caswell Neal
International Minerals & Chemical Corporation
Carlsbad, New Mexico

Ralph Nix
Artesia, New Mexico

Jerry Curtis
Artesia, New Mexico

John M. Kelly
Roswell, New Mexico

S. B. Christy
Sun Oil Company
Roswell, New Mexico

Frank O. Elliott
L. E. Elliott
Roswell, New Mexico

William M. Taylor
Sinclair Oil & Gas Company
Tulsa, Oklahoma

James K. Smith
Stanolind Oil & Gas Company
Fort Worth, Texas

W. M. Jones
Stanolind Oil & Gas Company
Lubbock, Texas

H. S. Cave
Phillips Petroleum Company
Midland, Texas

R. F. Rood
Phillips Petroleum Company
Midland, Texas

Emmett D. White
Leonard Oil Company
Roswell, New Mexico

T. L. Dean
Richardson & Bass
Midland, Texas

Howard W. Jennings
Roswell, New Mexico

J. E. Hill
Richardson & Bass
Fort Worth, Texas

Raymond Lamb
Wilson Oil Company
Santa Fe, New Mexico

J. S. Griffith
Humble Oil & Refining Company

Sid Richardson
Richardson & Bass
Fort Worth, Texas

Ora R. Hall, Jr.
Santa Fe, New Mexico

H. E. Harrington
Malco Refineries, Inc.
Roswell, New Mexico

Harve H. Mayfield
Magnolia Petroleum Company
Midland, Texas

E. S. Grear
Gulf Oil Corporation
Roswell, New Mexico

E. E. Merkt, Jr.
Gulf Oil Corporation
Fort Worth, Texas

John H. Bevan
Gulf Oil Corporation
Fort Worth, Texas

R. E. L. Batts
Gulf Oil Corporation
Fort Worth, Texas

R. L. Hughston
Shell Oil Company
Midland, Texas

M. A. Sherwood
Shell Oil Company
Midland, Texas

G. R. Carter
Texas-Pacific Coal & Oil Co.
Midland, Texas

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Jack N. Campbell
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Charles G. Loveless, Jr.
New Mexico Oil & Gas Association
Santa Fe, New Mexico

R. J. Mullins
New Mexico Education Association
Santa Fe, New Mexico

Hon. John E. Miles
Santa Fe, New Mexico

Foster Morrell
United States Geological Survey
Roswell, New Mexico

R. E. Canfield
United States Geological Survey
Roswell, New Mexico

R. H. Allport
United States Geological Survey

D. C. Abernethy
United States Geological Survey
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W. H. Burnett
Bureau of Land Management
Albuquerque, New Mexico

E. E. Kinney
New Mexico Bureau of Mines
Artesia, New Mexico

Frank C. Barnes
State Oil Conservation Commission
Santa Fe, New Mexico

Henry H. Bruhn
United States Potash Company
Carlsbad, New Mexico

Paul J. Weaver
Houston, Texas

CHAIRMAN SHEPARD: The meeting will please come to order. This meeting is a continuation of the meeting of February 27th, held for the purpose of determining whether or not certain lands should be withdrawn from oil and gas drilling; and at that time the potash people asked for a continuation of time to allow them to assemble additional material for presentation. The time for this meeting was then set for March 9th, and later set for this date to give every one enough time to prepare for it. The potash people will proceed. Mr. Seth.

do you wish to open the questioning for the potash industry?

MR. SETH: I would like to ask if the testimony at the other hearing held February 27th is to be considered as a part of that to be given today?

CHAIRMAN: Yes, it is a continuation of the other meeting.

MR. SETH: I may then refer to my testimony given at the beginning of that hearing. We come desirous of working out with the Commissioner some procedure which will permit the solution of the technical and mechanical aspects of the problem. We appreciate the action of the Commissioner in having given us time to consult people having experience in this matter. Consultation with engineers and geologists leads us to the conclusion that the matter is of such importance and has ramifications so serious that we appreciate, much more than at the other hearing, the importance of the problem. I believe Mr. Caswell Neal would like to make a statement.

MR. NEAL: My name is Caswell Neal, of Carlsbad, New Mexico, representing the International Minerals & Chemical Corporation. Do I understand that the Commissioner would like to have some proof of what would happen if drilling for oil and gas were permitted in the potash area?

COMMISSIONER: Yes, we want to hear any witnesses you would like to present.

MR. NEAL: I would like to make a preliminary statement. I believe the Commissioner has a copy of the letter dated March 16, 1951, submitted by each of the five potash companies operating in the area under consideration, which generally states the position of the industry in connection with the matter before the Commissioner. We feel that both the federal and

state lands in the area should be withdrawn from the development of oil and gas because of the extreme danger of damage we feel can occur to the potash beds. This is from the danger of overhead water and also from the possibility of oil and gas escaping into the formation. This is a danger not only to the potash formation but also creates a great hazard to the men working in the mines. It is the thought of the potash industry that this matter should be given thorough study, to be made by a board appointed by the Commissioner consisting of representatives from the potash industry and from the oil and gas industry, and also of experts from both the United States Geological Survey and the State organizations; and after such study has been made, to formulate rules and regulations applicable to the lands in the area. Would the Commissioner like to have witnesses sworn?

COMMISSIONER: No, it is unnecessary.

MR. SETH: Some of the witnesses are representatives of certain companies, and think they would like to speak for their own companies. There are others who will give testimony of a general nature.

MR. NEAL calls Mr. Cramer to the stand.

Q Please state your name.

A T. M. Cramer.

Q Where do you reside?

A Carlsbad, New Mexico.

Q What company are you with?

A The United States Potash Company.

Q How long have you been familiar with the potash mines in the Carlsbad Area?

A Nineteen years.

Q Will you describe the formation in which potash deposits are

found in southeastern New Mexico?

A The potash lies in the form of soluble salt in beds 750 to 1500 feet below the surface. The beds are in layers of common salt or sodium chloride. All of the potash is recovered by mining. We go down to the beds with a shaft and then, by means of tunnels, we go out into the area where the potash is extracted. The extraction runs on the first mining from 40% to 75%. A certain amount of the potash is allowed to remain in place to support the roof above the mine. It is planned to eventually extract the greater part of the potash salt which is at the present time allowed to remain in place in the form of pillars or supports.

Q How much of the potash is extracted?

A From 40% to 75% is removed in the first mining. The quantity varies with different conditions within the mine. In some cases as low as 40% is removed, on up to 75%.

Q What remains is left in pillars?

A Yes, sir.

Q These pillar supports are left to hold up the overburden?

A Yes.

Q Will you describe in connection with your mining operations what the conditions of the overlying strata are, the danger of intrusion of water in the mine?

A In general we go down to what is known as consolidated ground. We encounter one brine formation at the surface and deposits of various sorts as we go on down. At several hundred feet we arrive at a dolomite stratum which contains water.

Q Is that what is known as the Rustler formation?

A Yes.

Q Is that general throughout the area?

A Yes.

Q What methods are used for shutting off the water?

A Sometimes we arrange to pump it out if it is found in small volumes, and sometimes we shut it off with solid concrete, and in some places drainage is provided to take care of the water.

Q Have other methods been used that you know of?

A In one recent case they have employed freezing methods, and have gone down through the frozen ground.

Q Are you familiar with the quicksand encountered in the water bearing formation?

A Yes, sir.

Q Will you state the position of your company and the industry, as best you can, relative to the possibility of water getting into the potash formation, and describe the effect of water on the deposits?

A First water would start to work on the salt and dissolve it and if there is no outlet for the water it will remain as stagnant brine; if there were fractures in the salt which would permit that water to come on through in the area in which we are mining, more and more brine would find its way through until we had water in the mine.

Q If the situation developed to where the salt beds above became soluble, or became wet, what would be the effect on your operations?

A It could be very serious. In some of the European operations they have lost mines entirely through this cause.

Q I believe these are not the only deposits found in salt beds.

A Yes sir.

Q Are there beds similar to these in Germany and Russia?

A Yes, sir, with the difference that in America they lie

almost flat, whereas in Europe they almost stand on end in places.

Q You stated that mines have been lost in Europe through the intrusion of water?

A Yes, sir.

Q Will you also describe the feeling of the industry with regard to the production of oil and gas from underlying strata?

A Speaking for our own company, we feel that both the oil and potash industries are custodians of natural resources, that our duty is the conservation of these resources, and we would feel very derelict if we did anything which would cause or contribute to the loss of the mines. We feel the approach to this problem should be open minded and that the best knowledge of producers of both industries should be brought into the efforts toward solution of the question.

Q Have you had any difficulty with gas, explosive or otherwise?

A I can only speak from our experience. We have encountered some gas but that encountered within the mine itself has been so small that our mine is considered non-gaseous. We have had what we call high pressure ore from seams in the mines.

Q What would be the effect if oil and gas operations were undertaken in the area and proper precautions not taken to protect the potash mines?

A The result of escaping gas is incalculable. We might have to abandon the mine if much of such gas were encountered.

Q It is your feeling, I believe, that experts should give their thought to the question and submit the results of their study before action is taken by the Commissioner in this highly important matter?

A Yes sir.

Q Is there any further statement you care to make?

A I believe the state and federal governments have experts who can act in this matter and we are very anxious to have uniform regulations in respect to this problem more particularly because we are operating on both state and federal land between which there are no existing barriers. It would be almost fatal to our operations if we were obliged to carry on under two sets of rules. So that one thing we urge is a uniform policy of state and federal governments, and another thing is that both oil and potash companies be heard before the Commission reaches a decision.

Q I believe the federal government has withdrawn from all oil and gas development certain lands in this area and that is the policy with regard to federal lands in this area?

A Yes, sir.

Q The area contains how many townships?

A I would guess somewhere around 75,000 acres.

Q Which would be something like three townships?

A Yes sir.

Q Of course a very substantial investment is necessary to open a potash mine?

A Yes sir.

Q Can you approximate a figure?

A I would say somewhere between 8 and 10 million dollars.

Q In the event drilling is permitted in any part of the area what is your feeling with reference to requiring a very substantial bond to protect the potash mines from damage which might occur?

A I believe a person who came close to a mining operation should be in position to protect the mine and provide proper

indemnity.

Q I believe there are a few outstanding leases in the area; is it your feeling that in order to protect the industry drilling for oil should not be permitted there?

A With reference to our particular problem, I would say Yes.

Q Mr. Davis, have you any questions?

MR. CAMPBELL: Q Do your statements in regard to the position of your company include everything in the letter to the Commissioner submitted by the other potash companies?

A No, I would say that all representatives of the five potash companies are here and can make their own statements.

Q When were the operations for your company started?

A In 1931.

Q You actually started in 1931?

A Yes sir.

Q Do you know how much ore has been mined?

A I am very sure it is more than 10 million tons.

Q That is crude ore?

A Yes sir.

Q Do you know how much is being mined in a year?

A I would say a million tons a year.

Q How far from your shaft do your tunnels generally extend?

A Some of them from a mile to a mile and a half; others not so great a distance.

Q Like spokes on a wheel?

A They extend out in eliptical form.

Q You say they extend no more than a mile or a mile and a half in the workings?

A Yes.

Q And you have been in continuous operation since 1931?

A Yes.

Q Do you have any estimate as to what has been set aside by the federal government as potash land?

A There is the one general potash area and, I believe an oil reserve.

Q Where is it?

A Northeast of our mine and southeast of the Potash Company of America.

Q Do you know how many sections?

A Four, I believe.

Q Do you know whether the state has withdrawn any land in that area?

A The policy of the state has been pretty well understood to this time, and it was that potash and oil be not taken from any place under the same area. Once in a while we have picked up an oil lease, both state and federal, and we have turned them back. At the January sale an 800 acre tract was placed for lease which lay directly over our mines.

Q You have purchased leases?

A Yes.

Q You now have some?

A Yes, I would say we have purchased them for the general good of the potash industry.

Q Could you tell how much your company has in potash land?

A About 35,000 acres.

Q How much of that is federal land?

A That is fixed by law at 15,000 acres.

Q Is it the intention of your company or what you intend to

mine out -- that entire acreage?

A Yes, we ultimately intend to mine all of it.

Q At your present rate of production that would take considerable time, wouldn't it?

A It would be.

Q I think you have stated in your mining operations that some of the potash remains in the mine in the form of pillars?

A Yes, sir.

Q Which bed is your company mining now?

A The lower bed.

Q Where are the lower beds situated?

A Relatively two hundred feet below the upper.

Q What is the comparison in thickness of those now being mined? Comparison to the upper beds?

A They vary from thicker to thinner.

Q Are they as extensive as the upper beds?

A They are less extensive.

Q You intend to mine out the upper beds after the lower beds?

A Yes, sir.

Q You feel you could not safely subside the upper level before the lower beds are mined out?

A That is right.

Q How far has this method actually progressed -- the technique of it?

A It is a very well known and established practice, not only in potash but in coal and metal mining.

Q How is subsidence avoided?

A I don't say the room and pillar method avoids subsidence altogether. Say a 10 foot subsidence would not necessarily

reach the surface. In the European mines a 200 foot subsidence filled the stopes.

Q Your mines, being flat, present no such problem?

A That is right. We can expect a 10 foot maximum.

Q Has the Bureau of Mines approved any definite plan?

A In 1933-34 a cooperative plan was approved but was never carried through because further investigation seemed desirable.

Q What is the danger of fractures allowing water to come into the mines, regardless of oil and gas drilling?

A We think at the present time it will be possible to bring a roof down in a very substantial area without cracking the area above.

Q You don't think existing fractures have given cause for alarm?

A Up to the present time we have not encountered any substantial amount of water in our mine.

Q Where do you obtain your water for use in your operations?

A From our shaft and by other means.

Q How much of it do you obtain from the shaft?

A I would say a third or a fourth.

Q You just pump it out?

A Yes sir.

Q I would like to ask about your core drilling operations generally.

A We drill down to the surface of the salt with cable tools and then take the core on down.

Q What do you do about water infiltration?

A The common practice is the use of cement. In some instances a certain amount of mud is used.

Q Coming back to the matter of removal of the pillars:

You leave, I presume, a larger pillar in some areas?

A Yes, that is correct.

Q And you would eventually remove them right up to the shaft?

A No, not to the shaft. The work would be done so as not to endanger life underground.

Q Is it your thought there would be any extensive movement when this is in process?

A We don't have a complete answer. We do know there is lateral movement. We have movement in two directions, that is vertical as well as lateral. We also know we have encountered so-called heavy ground.

Q You speak of lateral movement -- Does that extend into the areas now reserved and not actually mined?

A I am not competent to say how far you might have migration of air or gas. Some one else here can testify as to the lateral movement of hydro carbons.

Q You do feel that the danger is remote?

A I would say there is a calculated risk within a certain distance of an open oil well.

Q With regard to the bond mentioned in connection with drilling operations: How much would it be?

A It would have to be shown that the person undertaking the work was financially responsible but I don't think any one would know what amount should be set up.

COMMISSIONER: Are there any more questions? Mr. Protz, Mr. Morrell?

Q (Cont.) Are you actually doing any subsidence work?

A In limited areas we are actually removing parts of the pillars. As we remove the pillars there is a certain amount of what is called convergence and as we go on with the extraction we can determine what convergence takes place and when.

From the work done by the Bureau of Mines, we feel that we can safely make these tests as we work on the pillars, and learn what to expect.

Q What is your subsidence procedure? Do you work toward the shaft?

A We go out to commence, and work toward the center.

Q Suppose the ground gave way?

A If the ground below gave way and broke there might be but very little subsidence at the top.

COMMISSIONER: Are there any further questions?

MR. NEAL: I have some further questions.

Q How much of a pillar do you leave around your core test wells?

A Certainly up to 100 feet.

Q On all sides?

A Yes, in diameter.

Q That is 100 feet in all directions?

A Yes, sir.

Q In the event of oil and gas well drilling operations, what is your feeling as to the necessary area to be left for proper protection of the mine?

A I don't feel competent to estimate on that. Of course the pressure in an oil well would be a factor to be considered.

Q Would it be a dangerous operation?

A I would say so.

Q Do you know of any way to protect the mine in case of lateral movement?

A No.

Q What would occur if the casings were sheared or broken?

A The result would be intrusion of oil or gas into the mine or into the beds.

Q Do you leave the pillars where core tests have been drilled?

A Yes, sir.

Q How many of those are there?

A I believe there are ten in the coring area.

TESTIMONY OF MR. G. C. WEAVER

MR. NEAL: Q State your name, please.

A G. C. Weaver.

Q What is your business and profession?

A Consulting engineer, mining and petroleum.

Q Your education?

A I am a graduate of the Colorado School of Mines.

Q What has been your experience?

A I have had sixteen years experience; eight with one company, the Potash Company of America and four with International Minerals & Chemical Corporation and four as an independent.

Q Are you familiar with the Carlsbad potash area?

A Yes, sir.

Q In connection with your experience in potash mining, are you familiar with all of the known beds in the Carlsbad area?

A Yes, sir.

Q Please state what the beds consist of and the approximate area they cover?

A We generally think of four mineralized beds. Number four is the sylvanite bed.

Q What is the bed being worked by International Minerals & Chemical Corporation?

A That is the No. Two bed, the langanite bed.

Q Mr. Weaver, I believe you have seen the letter addressed to the Commissioner of Public Lands, dated March 16, 1951, in which the views of the potash industry are set out in regard to oil and gas drilling in the potash area?

A Yes, sir.

Q Is it your feeling that oil and gas drilling operations can be carried on without danger to the potash mines?

A I think there is great danger in such operations.

Q Will you please state to the Commissioner your feeling as to the danger from a geological and mining standpoint?

A Well, the thing that worried me more than any other factor is subsidence. I don't know of any way in the world to control that in the event of a drilling operation in that area. Subsidence is not a controllable factor, and it is unpredictable. There is a certain condition known as bumping and if it happened to shear the casing it would cause the loss of the mine.

Q What is your feeling as to endangering the mine by water encroachment if drilling operations were started?

A I think you would have a better chance of controlling that, but it still would be a very serious hazard. It would be a problem which would take a long time to solve, and great expense.

Q Is it your feeling that no matter what precautions were taken in drilling for oil and gas in the potash area, there is no manner in which positive assurance can be had that the wells will not cause destructive subsidence?

A I do not think any oil and gas wells could be drilled and be absolutely certain that there would not be some escape

of gas or oil either through corrosion or faulty threads in the pipe, or some other cause. These things happen every day in drilling wells, and strange and unforeseen things have already happened, and will continue from now on.

Q Do you know of the existence of any oil or gas wells in any part of the area being mined for potash?

A Yes.

Q Where?

A In the holdings of the Potash Company of America. It is within their projected area.

Q Has any oil or gas been encountered in the area?

A The Potash Company of America did encounter some oil and gas.

Q Fugitive?

A Yes.

Q Where did it come from?

A I would rather have some one else answer that question.

MR. CAMPBELL:

Q I gather your primary concern in the matter of oil well drilling in this area is subsidence?

A That is right.

Q You speak from an operational point of view?

A Yes.

Q How many levels are there in the International Minerals & Chemical mines?

A Three.

Q How extensive are the workings in the lower bed?

A

Q That is away from the shaft?

A That is right.

Q What is the general movement from the shaft?

A They have worked on all sides of the shaft.

Q Can you state the length of the various beds?

A No, sir, I could not answer that. They have done a great deal of exploration work, but what the findings are I could not tell you.

Q The pillars in any lower bed could not be removed safely until those in the upper beds have been removed; is that correct?

A The general practice is to work down.

Q It hasn't been there, has it?

A They don't overlie there.

Q From the time element point of view, what is your estimate of the time when these pillars could be removed?

A I will say we are working under the directions of the geological survey and we submit all plans to them for approval, and it would be difficult to estimate the time.

Q Does the Bureau of Mines have to approve any subsidence program?

A A gentleman by the name of George Rice carried on some sort of study, but it was not in the nature of a long range program.

Q In other words, there is no definite program?

A All of the companies are thinking about it.

Q Are you acquainted with European block tailing (?) ?

A I think you are probably thinking of stope mining.

Q Is there a way you can back fill to avoid subsidence?

A Yes, it is possible to do that but it is not practicable.

Q But as a matter of engineering, it can be done?

A Yes, sir.

Q Are you acquainted with the location of the shaft of the

Southwest Potash Company?

A Yes, sir.

Q Where is that?

A In Section 9.

Q The shaft is being put in there, isn't it?

A Yes.

Q Have they located the shaft?

A Yes.

Q Are there abandoned oil wells in that area?

A Yes.

COMMISSIONER: Are there any further questions? If not, you are excused, Mr. Weaver.

MR. NEAL: I believe Mr. Thomas G. Moore of Southwest Potash Corporation would like to make a statement.

MR. MOORE: Our position in New Mexico is unique in that we are not now in operation and, therefore, have the opportunity to develop a mining system on a proven ore body from the outset. It is also true that our position is somewhat different from the operating mine owners in that our land is covered by oil and gas leases. I have here a prepared written statement which I would like to have made a part of the record:

"STATEMENT OF SOUTHWEST POTASH CORPORATION"

Southwest Potash Corporation has 13,082 acres under lease for potash from the State of New Mexico. On November 10, 1950, the company made application to the state to withdraw and exclude 320 acres of this land, not now held under oil or gas leases, from leasing and, to provide that the non-producing oil and gas leases on 1,440 acres of the above lands not be renewed or extended. No application was made,

nor is one intended to be made, on the remaining 11,322 acres still held under State lease. Copy of the application of November 10, 1950, was read into the record of the hearing held before the Commissioner of Public Lands on February 27, 1951. The Company also holds 7,678 acres under three Federal Potassium Leases and on November 10, 1950, made application to the Bureau of Land Management, Department of the Interior, not to renew or extend the oil and gas leases which now cover all of this acreage. Southwest Potash Corporation has therefore made application for a total of 9,438 acres to be excluded from further oil or gas leasing.

The above total acreage covers proven commercial potash ore with only a reasonable margin at the edges of this ore to provide for irregularities in its outline.

Southwest Potash Corporation contemplates the early extraction of pillars with a mining system designed to work toward a complete extraction of the ore body. The removal of pillars or a high initial extraction of the ore will cause subsidence of the overlying formations. A study of the longwall mining methods and consequent subsidence of overlying formations at various potash mines in France and Germany, which practice has been carried out in these countries for many years, has been made by Southwest Potash Corporation in connection with the designing of its mining system. Strong horizontal movement as well as vertical is inevitable in such subsidence and

precludes the maintenance of operating oil wells in areas subject to subsidence.

The success of these mining systems, as practiced abroad and as contemplated by Southern Potash Corporation, is based on virtually complete extraction of the potash ore. Even and unbroken subsidence of the overlying formations is necessary to prevent the influx of overlying water. Pillars around producing oil wells would prevent such unbroken and uniform subsidence and cause rupture of the overlying formations allowing water to flood the mine. Therefore, the choice is between total extraction and complete subsidence or the maintenance of full pillar support and the prevention of any subsidence whatsoever. Adequate pillars to support the overlying formations and prevent subsidence, would necessitate leaving up to 40% of the Southwest Potash ore body in the form of pillars. Consequently, the existence of even a few producing oil wells within the limits of the known potash ore body could prevent the extraction of the above large percentage of the ore.

The major part of the 9,438 acres stated above are covered by either State or Federal oil and gas leases. However, they have not yet been drilled and are non-productive, whereas the Southwest Potash Corporation has diligently developed the State and Federal potash leases granted to it and are committed and entitled, under such leases, to extract the proven ore to its fullest extent in accordance with good mining practice.

It is therefore reasonable to ask for protection of this ore body and the large capital investment required to bring it into production by withdrawal of the aforesaid 9,438 acres from further oil or gas leasing.

Southwest Potash Corporation submits that:

1) The mining of potash ores and the production of oil or gas from identical acreage is wholly incompatible.

2) It is not to the best interests of conservation of natural resources to prevent the extraction of up to 40% of the proven Southwest Potash ore body by allowing oil well drilling within it.

3) The exclusion of 1,760 acres of State land and 7,678 acres of Federal land containing proven potash ore from further oil and gas leasing is not only reasonable, as no productive oil or gas structures are known within this area, but essential in the best interests of conservation, the State and the general public.

Southwest Potash Corporation therefore respectfully requests that its application to the State, submitted November 10, 1950, be acted upon favorably.

Southwest Potash Corporation recognizes that any policy decision with respect to oil and potash in this area will have far-reaching effects and that for the good of all, the policy to be followed by the State and Federal Government ~~Government~~ should be coordinated. It hopes that this question will be given complete and detailed study by a joint commission of the appropriate State and Federal authorities and a policy developed only after thorough consideration.

Southwest Potash Corporation will be glad to submit

to the Commissioner of Public Lands or to a joint commission such information, in regard to subsidence and in regard to the effect of subsidence on producing wells, as it now has or may be able to obtain.

March 29, 1951."

(MR. MOORE, CONT.) Mr. Campbell has brought up the matter of the production of oil in Section 16, which is adjacent to our present shaft. The production in that area is on the edge of our commercial ore body. Furthermore, if you will trace the production of that field you will find it has been decreasing rapidly for the last few years. Apparently, from the oil records, within a reasonable time, the wells in that field will be non-productive. Only three are now producing.

MR. NEAL: Q From your statement do I understand that you expect to employ different mining practices from the other potash companies operating in the area?

A The only difference would be that the other companies have left their pillars and are now working toward their removal. We expect to initiate a different pillar extraction program.

Q As I understand it you expect to develop the mine from the outside in.

A Yes.

Q And in your operations you would expect to go from the edge of the ore body toward the center?

A Yes, and subsidence would begin at the edge.

MR. CAMPBELL:

Q What effect do you think your operations would have on the adjoining potash areas?

A There are none adjoining.

Q Isn't there a reserve in 19 - 30?

A Not so far as potash is concerned.

Q Wouldn't the effect be adverse?

A Frankly, I don't believe so. We would not expect subsidence to have any great effect other than as stated.

Q It would have an effect on oil and gas wells?

A Yes.

Q Do you say you would commence potash mining operations in Section 16?

A The first potash mined would not come out of Section 16.

Q The danger to oil wells is true whether the well is producing or abandoned, isn't it?

A The abandoned well can be plugged.

Q You plan to plug these wells?

A There is a well which we would expect to plug.

Q How do you plan to plug it?

A I think Mr. Stewart can tell you.

MR. STEWART: We have talked to several oil people and the procedure would probably be to pull the casing and plug.

Q You will rely on the opinion of a good oil man in that respect?

A We would. We hope when we have to mine Section 16 we can obtain the right to go in and plug these wells. If water has got through to the outside of the casing, we would want to be sure it was plugged off.

Q There is an abandoned well in Section 10, isn't there?

A Yes, and we have tried to get the log of that well.

Q Do you plug your core test holes?

A Yes, our core tests are plugged from the bottom to the top.

Q How many beds of potash do you encounter?

A One main bed.

Q How extensive are your core drilling operations?

A We have drilled 66 holes.

Q What is the thickness of the beds?

A It varies from 9 to 4 feet.

Q How much of an area have you tested?

A Nine thousand acres.

Q Do you plan to mine all this out immediately?

A Depending on conditions.

Q You figure the wells in this area are wearing out fast?

A The records so indicate.

Q What will be the effect of subsidence in this area upon the surface?

A You have asked that question, and I say again subsidence doesn't break up the surface when it is evenly distributed.

Q What would be the effect of a general subsidence?

A The whole question of mining method and extracting is one of development to meet conditions as the work progresses. Mining has not yet been done in the Carlsbad area by the method we propose to follow although it has been done in Europe successfully. Different methods have been developed for particular areas.

Q Your method has been approved by the United States Geological Survey?

A It has been discussed.

Q You do not know that it will be approved?

A Yes, sir, but you don't make a blueprint until you have developed a method to meet the conditions encountered. We are not yet underground in our operations.

COMMISSIONER: Are there any further questions? If not, we are in recess until 1:15 P. M.

TESTIMONY OF MR. R. G. HAWORTH

MR. NEAL: Q Will you please state your name?

A R. G. Haworth.

Q Where do you live?

A Carlsbad, New Mexico.

Q What is your business?

A Potash mining.

Q What company are you connected with?

A The Potash Company of America.

Q What position do you hold with the Company?

A Assistant resident manager.

Q How long have you been familiar with the potash operations in that area?

A Since 1942 when I started work there.

Q How long has the Potash Company of America been in operation?

A Since 1934.

Q Can you give us an estimate of the approximate underground miles you have worked through your tunnels?

A The lineal extent is about 200 miles.

Q What area does it cover?

A Our operation is in approximately four sections.

Q Are you able to tell how many sections of state land there are in your lease?

A We have approximately six sections in that area.

Q Have you been operating some of the state lands?

A Yes, we have.

Q In connection with your operation of the mine have you encountered any difficulty with running into fugitive oil or gas of some sort?

A Yes, we did encounter some oil and gas, I believe, in 1947.

Q Where was it encountered?

A In what we call the main south tunnel.

Q As a result of encountering this oil and gas did you make any changes in your operation of the mine?

A We abandoned part of the entries we had driven and offset our main entry about 300 feet.

Q Are you able to say how much production of potash had to be abandoned on account of the situation encountered?

A I cannot say because the oil and gas we encountered was not in contact with the potash formation; it was some distance above it. We were driving this tunnel in about 9,000 feet and about this distance we found a sinclinal fold and above that fold there was a zone of broken material and some clay beds which showed evidence of movement, and that was where we encountered the oil and gas.

Q Did you form an opinion as to the source of it?

A The only source we could agree upon was an abandoned oil well about 1200 feet from this tunnel, because we had not come across any in any other place.

Q: Is it your opinion that the presence of oil and gas within the area of your operations creates a hazard?

A It creates a hazard and each oil well is a hazard. Each oil well means more potash we will have to leave in pillars, as well as the precautions we will have to take in avoiding

a major disaster of some kind.

Q You say in this tunnel you found some evidence of shifting in these formations?

A Yes, the beds were folded down this way, and across, and when the tunnel encountered this particular clay bed we came across the oil and gas. There was no evidence of a fissure; it came in along that particular trough. I think the circumstance does indicate that oil and gas can migrate laterally.

Q You have heard the statements of Mr. Weaver and other gentlemen as to the danger not only from seeping oil and gas into the mine itself, but the danger of water, or flooding the mine. Are you in agreement with them?

A Certainly if the drilling operations were done the way most of them do it, I would not want to have any drilling done through our mine, because there would be a good possibility of getting water in.

Q Do you have any other statement you would like to make?

A I do not believe that our company problems are identical with those of other potash companies. I think there is such variation in conditions that come up, and probably in the operations of the oil people as well, that the only solution would be to settle each one as it comes up, more or less, and perhaps arrange for regulations which would be agreeable to every one.

Q Is it your opinion, with reference to the oil and gas leases within the potash area, that some sort of regulations should be made with relation to the potash mining?

A Yes, I do not think they should drill in any of the proven potash reserves.

MR. NEAL: I believe Mr. Davis has some questions.

MR. F. O. DAVIS : Q Isn't it a fact that because we ran into this migratory oil and gas that we found it necessary to do our exploratory work all over, and had to back off and move our entry several hundred feet, all at a cost of $40,000 to $50,000?

A Yes, it cost us approximately that. We had to plug off any seeps that continued; we managed to back away from it before we broke into it completely.

MR. NEAL: Q How many shafts have you sunk?

A We have started and abandoned two on account of quicksand and we are now sinking another by means of freezing the ground.

Q Is there a very heavy stratum of water there?

A Yes.

Q If it should go into the potash beds it could do an extreme amount of damage, couldn't it?

A It would be very difficult to shut it off. One fracture or one leaky casing would allow water to come down and make a larger opening all the time. It is not quite the same situation in a metal or coal mine. If they have water in a mine they can pump it out. We have to seal out all the water because potash beds are soluble.

COMMISSIONER: Mr. Campbell, do you have any questions?

MR. CAMPBELL: Q What did you state your position is with the company?

A Assistant resident manager.

Q Are you familiar with the production history of the company?

A Yes sir.

Q You started operations in 1934?

A Yes, sir.

Q What has been your total production, approximately?

A About 15 million tons, or better.

Q What is your present operation per year?

A It will exceed one million, quite a little -- maybe 1½ million.

Q What do you consider is your acre ton production?

A The recovery in the first mining will average somewhere in the neighborhood of 60%.

Q Do you have any estimate how much you recover per acre?

A That depends on the thickness of the ore.

Q Can you give me an average?

A I never worried about acre tonnage.

Q Couldn't you approximate a figure?

A Possibly 10,000 an acre, gross. That is very thin ore.

Q That is about a hundred acres a year?

A I think that would be about the figure.

Q Do you know the extent of your potash state leases?

A Somewhere in excess of 50,000 acres.

Q Do you know what the amount is on federal land?

A The maximum allowable -- 15,000 acres.

Q Then you would have at least 65,000 acres of these leases?

A Yes.

Q Then it would take you 650 years to develop the area you have under lease?

A That would depend on how much of it was productive and on increased production.

MR. NEAL: Q There is a great deal of your acreage that is not productive, isn't there?

A We have some which we are prospecting. Most of that is wildcat.

Q You spoke of having to take extra precautions in that area.

Are you familiar with the precautions that would have to be taken if any oil well drilling was done there?

A We know we would have to take the precaution that the driller knows what to do.

Q Are you acquainted with this core test drilling operation?

A Yes.

Q Do you drill your core holes on a pattern?

A Normally, yes.

Q How frequent would they be?

A It depends on what the problem is. Sometimes we might drill on every 40 acres. In other cases we might drill on section corners.

Q You use cable tools to drill down to the salt?

A Sometimes cable tools are used and sometimes rotary.

Q What do you do then?

A They case and cement in the top of the salt.

Q After you have taken your core what do you do?

A We have the drillers run the rods in the hole and pump in the cement.

Q That is in the salt section?

A Yes.

Q What do you do in plugging a core test hole?

A We are required by the United States Geological Survey to seal off the water with cement and then use mud in between.

Q How about casing?

A Well, we don't have any casing for one thing. Casing might tend to pull away, if it were used, and possibly break through at the water zone.

Q I understand your view was that each case should be decided on its merits. Is that your idea?

A I should think so. There might be areas in which oil men would not think of drilling and there would be no conflict; and there might be cases of state and federal land which would have to be regulated by officials.

Q That would pretty well eliminate the drilling of a large acreage?

A That would depend on the fact of such acreage being withdrawn. I do think where potash is found no wells should be drilled.

MR. CAMPBELL: I don't have any questions but I believe Mr. Weaver has.

MR. PAUL J. WEAVER: Q You mentioned, I believe that at the point where you found this oil there was clay?

A Yes, sir.

Q You also stated that this oil was migratory.

A Yes sir, that was a question and I answered yes.

Q Do you have evidence that this oil was under pressure? When you say "migratory" that indicates it was moving.

A When we found this seepage we drilled a small hole about 1½" in diameter, and we had a man there with an axe and he drove a plug in. It was not pressure such as is found in our mine. We found gas somewhere else under pressure.

Q Where was that?

A I believe one of our cores did show some oil, but it was very difficult to determine the source.

Q Was that in the area of abandoned oil wells?

A I believe it was.

Q Now about subsidence: I don't believe anybody has decided about how subsidence in an area corresponds with the cavity underneath. Isn't it true that practically all the evidence is that when you have an area letting down onto a cavity that

the break takes place at about a 45° angle. Wasn't this established in an issue of the Independent Engineer -- that subsidence does not affect an area more than about the distance out?

A I may not have read that article. I have had some experience with subsidence. I know if you have an area that is moving, it can affect something not directly over it.

Q But isn't the distance to which it goes at an angle of about 45°?

A I should think it could be much greater.

Q Isn't it a fact that the removal of areas in this mining area should not be expected to move installations laterally?

A That would depend on the mine.

COMMISSIONER: If there are no further questions you may be excused.

TESTIMONY OF MR. F. O. DAVIS

MR. NEAL: Q Will you state your name?

A F. O. Davis.

Q What is your business?

A I am Vice President and Treasurer of Potash Company of America, residing at Carlsbad, New Mexico.

Q How long have you been with that company?

A About fifteen years.

Q Are you familiar with its operations?

A In a general way; of course I am not an engineer, but as a director of the company reports of our activities come to me.

Q There has been some discussion regarding cave-ins and back filling? Will you please tell us your ideas?

A We have made extensive studies in regard to back filling

and pumping back any foreign product which may be used. Our estimates are so far that it cannot be done within our margin of profit. In connection with the margin of profit, in New Mexico our competition is with several foreign companies. They can lay down here at our market cost and they are doing it, and we would have to absorb any back filling expense incurred. Another problem in back filling is the replacement of material and consequent double handling of it.

Q Is there anything further?

A One thing is the area under lease by the potash companies. Reference has been made to holdings of 65,000 acres. Actually the majority of that acreage is held for exploration. We do not anticipate that all of it is going to be underlaid with potash.

Q Are you familiar with the holdings of International Minerals & Chemical Corporation?

A I understand they also have approximately 15,000 acres under federal lease, which is the maximum. A further point in regard to acreage held for exploratory purposes is that if you have not developed it within a certain time it reverts to the state.

MR. CAMPBELL: Q Will you make a restatement regarding exploratory holdings?

A In addition to your federal lease you have the possibility of holding lands under prospecting permits. If no ore has been developed, the lands revert. Under the state leases you have a ten year period to carry on your initial exploratory work; a certain minimum amount of work is required and if no commercial quantities of potash are found, it reverts to the state after ten years.

Q Do you know of any exploratory lands having been withdrawn?

A Only supplementary withdrawals would have been made since 1939. When we took our leases the withdrawal order of 1939 had already been issued.

MR. NEAL: Mr. Cramer would like to have a correction recorded of a statement he made this morning.

MR. CRAMER: Our company has very close to 30,000 acres in state potash leases, a little over 15,000 acres in federal leases and about 45,000 acres in so-called reserve, which were withdrawn for oil and gas leases. That 45,000 acres cover three potash companies.

Q You do not mean proven potash lands?

A No, sir.

Q Does that mean you automatically seek withdrawal when oil and gas leases are issued?

A No sir, not that I ever heard of.

Q You said the leases and withdrawals were about the same time?

A Our leases were issued in 1932. The federal withdrawal order was in 1939. I don't know about the International leases. There were four sections withdrawn subsequent to 1939 for all leases. The government prospected it and found potash.

MR. CAMPBELL: One phase of this matter we did not get to on that prior hearing, and that is in relation to the migratory possibilities of oil and gas. Mr. Hill, you have previously testified in that prior hearing that you have had considerable experience in oil fields in Texas?

A Yes, sir.

Q Have you had any experience in the Texas fields where wells have been drilled close to each other and were producing from different horizons?

A We have some in the Keystone formation in Winkler County which were drilled five wells to forty-acre spacing. The deepest well is 660 feet location in the centre, and the other wells vary in distance from 110 ft. to 220 ft. from this centrally located well. The deepest well produces from the Ellenberger, which is 10,000 feet, and came in originally with a pressure of 4250 pounds to the square inch. At no time has there been any migratory evidence due to any faulty cementing or channeling that would have allowed such migration to occur.

Q You drilled through a salt section?

A Some 1200 or 1300 ft. of salt.

Q And you drilled subsequent wells in the immediate vicinity?

A Yes, sir.

Q What is the result if there is any migration?

A You have a blowout, and in no case did we encounter one.

Q In other words, you are convinced there is no migration of oil or gas between wells drilled 100 to 200 feet of each other?

A Yes, sir.

MR. NEAL: Q It is true, isn't it, that in drilling in salt areas you do hit areas of gas, either natural or nitrogen?

A We have had some of these instances, but we believe they are accumulations and not migratory from adjoining wells.

Q They blow out all around the well?

A There is no way to control that.

Q But they do occur, however, and if something of that kind occurred over a potash bed there would be extreme damage to the mine, wouldn't there?

A I don't think so.

Q Why?

A I don't think if you ran into this sort of accumulation of gas, unless it was a migratory condition, which I doubt that it would be, that it would have sufficient force to damage anything.

Q I have in mind a well immediately south of Lovington which blew out. Do you remember that?

A No, sir.

Q It blew out a large area around the well.

A I am not very familiar with the Lovington area.

Q But you have seen that occur?

A But not petroleum gases.

Q Whatever damage it did do over a potash bed could be serious?

A You could have the same condition in core drilling.

Q But it would be more likely to occur in drilling for oil, wouldn't it?

A There is no casing used in core holes and we would not have that hazard.

Q The well near Lovington was some 4,000 feet deep.

A You have not stated whether they were drilling with cable tools or rotary?

Q Well, whatever they are, if a well blows out and gets away from you it could be extremely damaging if it were over a potash mine.

A I don't believe an operator would allow himself to get in that position.

COMMISSIONER: Are there any further questions? Mr. Seth, do you have a witness?

TESTIMONY OF JOSEPH P. SMITH

MR. SETH Q Please state your name?

A Joseph P. Smith.

Q And what is your business?

A I am employed by the United States Potash Company as geologist.

Q How long have you been so employed?

A Almost twenty-two years.

Q Were you so employed when the potash development was started in the Carlsbad area?

A Just before the operation was started.

Q What is your training?

A I am a graduate of Louisiana State University and have done graduate work at Stanford.

Q You have been at Carlsbad since 1929?

A Yes, sir.

Q Are you generally familiar with the geology of this particular area?

A Yes, sir.

Q You have had an opportunity to observe underground conditions, formations and potash deposits by way of core tests and other means?

A Yes, sir.

Q Are there layers within the United States Potash leases where the water bearing beds are in direct contact with the salt?

A Yes.

Q Is the amount of water in these beds of large magnitude?

A It is a little difficult to tell. We have never made an attempt to bail or run pumping tests, but I would say there is considerable.

Q Do you know whether there are water bearing beds under

the salt?

A:No, I don't know, but recently a well near Malaga found considerable water underneath the salt section.

Q Do you have available some cores from the various core drilling tests in this area? Do you have some with you that you would like to show the Commissioner?

(Mr. Smith produces a section of core test material)

A This core is from the salt section. Not at the top, but at 100 foot depth. This is a core that goes all the way through. You can see it is extremely fragile, and only by chance is it preserved as well as it is. That proves that the salt is porous . . . . This is not a core but a piece of mudstone . . . . The interesting thing about this are the curves, which indicate a lateral movement. It underlies the salt, and the slope is something like 2 degrees. The direction of these curves is this way -- and if turned over another set of curves is different. Not only one lateral movement, but two.

Q Can you say this is fairly representative of conditions throughout the salt section?

A Certainly much more so than most of us have realized. An open crevice was found in one of the International levels.

Q How would you describe it?

A It certainly is a very positive bit of evidence.

Q When they speak of salt beds aside from the salt, are they comparable in porosity?

A By salt we don't mean homogeneous. We have salt of this character and some extremely tight, and others in which streaks of clay, anhydrite, etc., occur. I have a core in which the clay seams have been invaded by the salt. These are occasional occurrences, but this, by and large, is

characteristic of salt. Although I would not say these zones of porosity are found uniformly, it is odd chances that you will get this.

Q Is there anything else, Mr. Smith?

A I would like to say that in our processes, when we get through coring we fill our hole with cuttings, granular salt and sand and then put in a wooden plug and then a cement plug on top of that.

Q What is the effect of fresh water in these beds?

A It would take it up very rapidly until satisfied.

Q Are they readily soluble in water?

A Yes.

MR. CAMPBELL: Q Are you acquainted with the procedures in drilling oil and gas wells to protect against water encroachment?

A A well operator in Artesia approached us about drilling a well and after considerable negotiation we found he was intending to drill, at least in part, without benefit of casing.

Q I take it you didn't allow him to drill the well?

A No, sir.

Q In connection with your coring operations, have you found the salt is not a very uniform formation?

A I would say not. It is interrupted by clays, anhydrites, etc.

Q How does that affect your views of subsidence?

A I know very little about subsidence. If you are dealing with a homogeneous salt it would behave uniformly. The salt will not bond with clay or anhydrite. In my very limited point of view you would get subsidence clear to the top.

Q You have heard Mr. Weaver's comments on subsidence?

A If you want me to express an opinion, I think it depends on the character of the section and the mine.

MR. NEAL Q It is true that you have encountered areas where the potash has been eroded away, isn't it?

A The surface of the salt going from west to east is something like this (illustrating). The salt has been eroded and removed.

MR. CAMPBELL: Q Isn't it true there are areas where they have endeavored to induce secondary recovery by the use of back filling methods?

A Yes, back filling was used as an additional prop but not in entirety.

Q Isn't it true that the cost of back filling is greater than would justify its use?

A I rather think that is true. We have made some experiments with bulldozers and found settling takes place to the extent of twenty per cent very quickly.

COMMISSIONER: Are there any further questions? If not, you are excused.

TESTIMONY OF MR. HENRY H. BRUHN

MR. SETH: Q Please state your name and occupation.

A Henry H. Bruhn, resident manager of the United States Potash Company at Carlsbad.

Q Are you a mining engineer?

A Yes, I graduated from the University of Arizona, where I majored in mining and geology.

Q You have heard the testimony already given. Will you please discuss the matter of subsidence, whether or not it entails the fracturing of the beds or whether means and devices used can prevent the fracturing of the overlying beds?

A So far complete tests in the removal of pillars have not

been carried out. We have tried some back filling to find out what the results would be. It is my own opinion that even with packed in material there would be a foot of space. The back filling material would also have a tendency to close down and you would get possibly three feet of when you robbed the pillars in between. Some experiments have been tried in what I call pin or spindle pillars, and if a large enough area is robbed the area would tend to spring down and close up. One thing I think has not been brought out is that any time you take out masses of material under a 1000 ft. overburden you have a terrific load. We also find places where the back is very heavy and has to be supported until we get out of the area. When the supports are removed it will drop. With that type of movement I would be very nervous if we had an oil well casing even through a thick pillar, and I would be concerned about gas getting into the workings.

Q Then there is movement resulting from your own operations?

A We have heavy ground in our No. 1 shaft and sometimes we notice as much as 6" movement.

Q Isn't it a fairly common occurrence to have a shifting of two or three inches?

A I have seen much greater.

Q And these result from the mining operation?

A We have all of this weight above, and it is hard to say just where it occurs or why in some cases.

Q Have you encountered any gases which have injured lives or interfered with the operation of the mine?

A We do find pockets of air or nitrogen both above and below and sometimes within the potash beds. We have found cracking

at the back and have drilled up to release the gas and stop the cracking.

Q What would be the effect if natural gas were permitted to enter the workings?

A It would be a terrible hazard. We have men at six or seven thousand feet, and if any amount of gas got in there it would certainly create a serious condition.

Q How many men work on an ordinary shift?

A I would say 90 or 100 men.

Q What would be the effect of the introduction of crude oil or gas into the workings?

A It is mainly a fire hazard. You don't have to have very much fire to fill an underground cavity with smoke, and the results are very dangerous.

Q Is there any way of controlling water in a mine?

A It would depend on the water. I would state you cannot bulkhead it. It just cuts and channels its way into the salt. If you attempted to pump it out, and it was saturated with brine, I don't know where we could put the brine without damaging the surface lands.

Q Is there anything else?

A I have seen a great deal of caving in mining in Arizona and I think your break is about 45°. But I seriously question whether the results in metal mining would be comparable in salt beds such as ours. Our experience with that plastic formation was that it would spring down or pinch right at the top. Our problem is to take down enough of the area so it would spring down. However, some of the geological survey men might be able to give some better information. In the case of the United States Potash company we are very hesitant about putting bail holes through the workings. We

have considered them for power, but have given it up because we are fearful that one of these movements might cause shearing of the casing, and we have large quantities of water which we don't want in the mine.

MR. CAMPBELL: Q I understood Mr. Cramer to say that you will not remove the pillars around the core holes in the mine?

A Yes, sir.

Q And if you did, as I understand, you run the risk of vertical movement?

A Yes.

Q You saw the core shown here. Have you come across similar indications of fracturing underground?

A I have definitely encountered them in cores, but I have never found any underground.

Q Your comment that there is risk of shearing pipe is based on the assumption that it is a single pipe, isn't it?

A Yes.

Q Suppose there were four strings of pipe?

A I have never seen a horizontal movement that would not shear a pipe.

Q Your principal concern is oil wells in an actual mining area, isn't it?

A Yes.

MR. SETH: Q This horizontal movement -- you assume it would have sufficient force to shear a number of strings of pipe?

A It would be quite possible to shear four or five strings. I have seen movement in metal mines where it was as much as forty or fifty feet.

MR. WEAVER: Are you familiar with the subsidence

that takes place when sulphur is removed from a mine? There are extensive records of these operations. This is perhaps analagous to that situation. There are areas where there are as many as 100 wells in close proximity to mines having such deposits, the surface is subsiding and the wells producing.

A I am familiar with those operations in only a general way. Are you absolutely sure that there is never any fracturing due to that subsidence?

Q What I would really like to have you express is the diatance out from the area to which you think the movement would reach rocks. Do they move a mile -- about the same distance out as is the depth?

A There is some limit there. I think it is probable we can only go on supposition.

MR. NEAL Q Of course in your sulphur mines you have no men.

A That is always in my mind.

COMMISSIONER: Any questions? If not you are excused.

TESTIMONY OF MR. L. H. FREEDMAN

MR. SETH Q Please state your name?

A L. H. Freedman.

Q What is your business?

A We have our own producing company: James H. Snowden, Fort Worth, Texas.

Q Have you had considerable experience in drilling for oil and gas?

A Yes, sir.

Q Approximately how long?

A I have been around oil wells since about 1918.

Q Were you connected with some drilling operations at the

place where the potash deposits were discovered?

A Yes, sir. It was our wildcat well, drilled by Snowden & McSweeney, that resulted in the finding of this potash.

Q Have you more or less kept in touch with the development there?

A Yes. I have been in touch with all the coring and various phases of the operations prior to the actual mining.

Q Have you also had experience with cementing techniques?

A Quite a great deal.

Q In your opinion, in using commonly accepted methods of cementing, are there still substantial possibilities of error or failure?

A Yes, I consider the handling of cement as one of the uncertain factors in completing an oil well.

Q The results are erratic then?

A Yes, sir.

Q As I understand it there is no way of telling whether you have been successful until a test is made?

A No, you don't know whether you have accomplished your purpose until you test.

Q What pressure would you expect to encounter in an 8,000 to 12,000 ft. well?

A It would vary with the amount of gas. I would expect around 5,000 or 6,000 pounds.

Q Do you have any experience in this particular area?

A No, not in this area. We have drilled some shallow wells there, but no deep wells.

Q What means must be taken to prevent the intrusion of water and gas in drilling in the potash area?

A I would think it would be very dangerous to drill through a mine where men are working in shafts and tunnels because

you are disturbing the rock underneath; you have water above and below; you have no assurance that you can always shut that water off after drilling because that rock is salt, and it crumbles and a cement job is not as good as where it has something solid to stick to; furthermore, you don't always get a shutoff.

Q If drilling by ordinary methods, what would be the procedure in the initial stages?

A If you were drilling with a rotary system, the weight would have to be balanced to any pressure underneath.

Q And that would mean several thousand pounds to counterbalance the pressure while drilling over this salt bed?

A It would be a very substantial pressure, besides the weight of the fluid.

Q Are there chemical difficulties encountered in cementing?

A Yes, there are a lot of things to be encountered.

Q Are there occasions when you find a cementing job unsatisfactory?

A Yes, sir.

Q Is there anything further you would like to say?

A No, except that it is not a certain thing at all.

MR. CAMPBELL: Q Your company is also in the potash business, isn't it?

A They own part of it, but have nothing to do with the operation.

COMMISSIONER: Are there any further statements or questions? If not, the witness will be excused.

MR. NEAL: We do feel that the Commissioner should give consideration to the appointment of a committee from both industries, federal and state agencies and the Commission itself to get together and work out something in the way of

regulations to best serve the requirements of all concerned. We request that the letter of March 16th addressed to the Commissioner be read into the record of this meeting and be made a part thereof.

COMMISSIONER: It is so ordered.

The letter follows:

Carlsbad, New Mexico
March 16, 1951

Honorable Guy Shepard
Commissioner of Public Lands
State Land Office
Santa Fe, New Mexico

Dear Mr. Shepard:

On February 27, 1951 a meeting was held in the office of the State Land Commissioner with a view to reconciling the proposition that potash and oil can be produced from the same land. Witnesses from both the potash and oil industries appeared and gave evidence which left matters in such an uncertain status that the Commissioner of Public Lands proposed a further hearing, the date for which was set for March 29th. In the notice of March 2nd, advising of this meeting, the Commissioner stated that it was his desire to make a ruling and dispose of the matter promptly.

This situation is of such vital importance and the final decision may be so serious that it is respectfully proposed by the potash companies that no final decision be made until a full study has been made of the harmful conditions which could occur by reason of dual operations on the same land. In the hearing of February 27th a large number of competent experts, representing the potash industry, voiced their fears with regard to any drilling in or immediately adjacent to the present potash workings. It is assumed that both the Commissioner and the other interested parties

will want to take advantage of the best technical advice available from all sources before any decision is announced.

Production of potash in the United States is of relatively recent origin and it has been conslusively demonstrated in the last two world wars that the mineral is of the utmost importance to the economy and the war efforts of the United States. In both wars the importation of any potash was effectively barred by the fact either that the foreign producing country was an enemy or shipment was made impossible by submarine warfare, etc. The nation was made dependent solely on the production from within the United States. Of the domestic production between 85% and 90% of all of the product is produced in the Carlsbad, New Mexico area. About 10% of the national production comes from brine lakes in California and a very small production is secured from brine lakes in Utah. For all practical purposes, therefore, it can be stated that the nation is completely dependent upon the potash produced in the Carlsbad, New Mexico area and anything which might be done to endanger this production could create serious consequences.

It can be granted that the production of oil is also important to the national economy but the points at which oil can be produced are wide-spread throughout the nation and the small area involved in the potash district would in no sense endanger the nation's oil position. Furthermore, the fact that there might be some restriction placed on the production of oil in the potash area would not hurt the position of either the state, the nation or any interested oil producers. The oil would remain available in the ground until such time as production could be secured without danger to the potash reserves.

During the past several decades it has become increasingly evident that the major factor to be considered in mineral production of any type is the conservation of such minerals

so that they may be produced in an orderly manner and in the best interests of the nation or the state where the minerals are located. If, as a result of comprehensive study, it should be decided that the best interests of conservation could be served by not permitting production of oil from known potash lands, this would not serve as a barrier to oil production but would merely represent a deferment of such production. Such action would permit orderly development of and production from the relatively small acreage of known potash lands, the product of which is so important to the agricultural and general economy of the United States.

Danger exists in more ways than one if unrestricted development of oil in the potash area should be permitted. The first bedded deposit of potash found in the world is located in the Permian Basin in Germany, in similar conditions to those which exist in the Permian Basin in New Mexico. Early in the 20th Century haphazard development of the German deposits was permitted with the result that a number of mines in that country were lost because of improper protection against overhead water. All of the currently producing New Mexico potash mines have a tremendous amount of water contained in the strata above the salt bed and it is necessary to maintain constant vigilance so that no breakthrough will occur in the area of the potash deposits. It is not at all far-fetched to assume that a potash operating area could be destroyed by a breakthrough of water and even with the most stringent type of regulations it is still possible that a breakthrough could occur in the event of subsidence or convergence due to mining which could, in a moment, result in the rupture of casings and the destruction of any protective devices which had been undertaken. Coincidentally, the oil well would be destroyed with consequent heavy capital loss.

Second, a real point of danger exists through the possible migration of gases or oil into the potash working areas. This condition could arise either through the failure of casing from subsidence or other causes, the corrosion of casing penetrating the potash beds, or through natural fracturing of the salt beds and underlying strata. The hazard in this instance is not solely restricted to the proposition that a mine could be irremediably damaged but an extremely important factor of safety is involved. To date, the potash mines of New Mexico have been relatively free from any dangerous gases but if any condition should permit the entrance of such gases into the working areas it would result in hazardous conditions, perhaps leading to either explosions or poisonous effects on the workmen. Therefore, a serious condition of personal safety is involved as well as safety to the operation.

The importance of arranging proper conservation of the potash deposits was recognized by the Federal government in 1939, when the Department of the Interior issued an Order withdrawing certain of the known potash lands from oil or gas development. The suspension of the granting of oil and gas leases on these lands was in the following form:

> For the purposes of protecting and conserving the potash deposits belonging to the United States, it is hereby ordered that, until further notice, no lease under the oil and gas provisions of the Act . . . will be issued for the following described lands, and no application for oil and gas lease will be accepted . . .

Informally, Department of Interior Officials have advised various potash company representatives that certain proposals for removal of the restrictions have been made, and that the Department considers the situation of great importance and proposes to undertake a complete study to ascertain what the future course will be. It is felt by the potash producers that similar study should be undertaken by the state authorities and that the important decision as to permitting concurrent production of oil and potash from the same lands

should not be made until it is determined what the overall effect would or could be.

At the hearing of February 27th, in the State Land Office, representatives of the oil industry gave as their opinion that the concurrent production of the two minerals was not incompatible but none of the oil representatives could state what would happen, despite the most stringent regulations, if any failure should occur in the oil or gas casings by reason of subsidence in the potash properties. The whole question of safe mining, both from the standpoint of working personnel and conservation of the potash deposits has been a matter of study by engineers at the potash companies for many years. Without exception, all of these engineers advise that there is a grave danger if oil exploration and development should be permitted on the potash lands. With such a wide divergence of stated opinion by the two interested groups, the need for complete and unbiased study is further pointed up. Expert advice is available to both the state and federal departments which are charged with conservation and supervision of production of minerals and every effort should be made to make use of such expert advice.

It is important that not only the potash deposits be protected but that if any oil or gas drilling is undertaken in the Permian Basin this should be done under regulations which would protect any possible future deposits of potash which might be found. The intermingling of state and federal lands in the potash district make it important that uniform regulations, insofar as possible, be adopted by both the state and federal authorities and a joint study by the two bodies would be most desirable. Discussions with Department of Interior officials have been carried on recently and these officials indicated that a joint study would be agreeable so that a full measure of conservation and protection could be afforded to all.

The Carlsbad potash companies have met together in this situation in order to give serious consideration to the problems involved. It is urgently recommended by these companies that the State Land Office proceed most cautiously in making its determination and that no endeavor be made to immediately render a decision following the hearing of March 29th. A great responsibility devolves upon the Department official charged with making the decision as to the propriety of concurrent production of oil and potash inasmuch as not only the interests of the state are involved but also the interests of all citizens of the United States who must look to continued production from and development of the New Mexico potash deposits as an insurance for their continued well being.

The potash industry will be glad to join in any study which might be undertaken and will furnish members for any deliberative or consultative body which might be formed to review the situation. It is recommended that an advisory board be set up to make not only an initial study and recommendations but to act as a continuing board to formulate policy and protective measures to the end that the interests of both the oil and gas and the potash industries will be recognized and protected. Also, we are of the firm belief that the problem should be considered jointly by Federal and State authorities and any regulations found necessary should apply uniformly to both Federal and State lands. This procedure would result in the formulation of the best possible policy for the conservation and protection of the mineral resources of the State of New Mexico.

Yours very truly,

UNITED STATES POTASH COMPANY

_____
President

POTASH COMPANY OF AMERICA

_____
Vice President

DUVAL SULPHUR & POTASH COMPANY

INTERNATIONAL MINERALS & CHEMICAL CORP.

President

SOUTHWEST POTASH CORP.

General Superintendent

MR. CAMPBELL: I would just like to say a word for the forgotten man -- Mr. Ralph Nix, whose application started all this. I realize that the matter is one of wide importance and that it will have to be worked out from an operational point of view. I also feel that nothing has been brought out at these hearings to indicate that the State of New Mexico should not lease available lands. Mr. Nix requests that his application be granted.

MR. NEAL: To which we certainly object, because we have endeavored to bring out at this hearing that additional lands in the potash area should not be leased for oil and gas exploration and production. There are some leases in effect which nothing can be done about, but we still feel that the state has benefited very greatly by this potash and that all potash deposits now known or to be discovered should be reserved for potash development.

COMMISSIONER: Is there anything further? At this time I believe that both oil and potash can live together there but I cannot render a decision right now because there will have to be some special provisions in these leases. I am going to appoint a committee of both potash and oil representatives for this area. This committee will be appointed tomorrow. The federal government will sit in and will appoint their men. This will be done immediately as I don't have any desire to have the matter drag on indefinitely. We hope to arrive at a decision as quickly as possible. If there is nothing further, the meeting will stand adjourned.

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Exhibit 9

BEFORE THE

OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

TRANSCRIPTION OF HEARING

CASE NO. 278

June 21, 1951

(DATE)

E. E. GREESON
COURT REPORTER
UNITED STATES COURT HOUSE
TELEPHONE 3-0873
ALBUQUERQUE, NEW MEXICO

BEFORE THE
OIL CONSERVATION COMMISSION
STATE OF NEW MEXICO

Case 278: Called upon the application of Land Commissioner Guy Shepard, this case is concerned with the establishment of a casing program and other special procedural regulations in the potash areas of Lea and Eddy counties.

MR. SPURRIER: The next case is 278.

(Mr. Graham reads the notice of publication.)

MR. SETH: If the Commission please, the committee that the Land Commissioner appointed to consider this matter for his office has never had a final meeting and never had a chance to consider the casing program recommended. After all, the matter is primarily one for the Land Commissioner rather than this Commission. And I suggest the case be postponed until that committee can get together and make its recommendation to the Land Commissioner. I find no evidence as to the casing program to be submitted here today. But there is so many things involved to be determined by this Commission. And after all, this Commission's authority in the premises is rather limited in my judgment.

MR. SPURRIER: Thank you, Judge. Do you have a definite date to suggest to which it can be continued?

MR. SETH: I don't know. Who is the chairman of the committee?

A VOICE: Mr. Shepard is chairman of the committee.

MR. SETH: Is he in town?

MR. SPURRIER: No, he isn't.

MR. SETH: I think it should be continued not very long. I think regulations should be gotten out by the first of july.

(Off the record discussion.)

MR. SETH: I move to recess this matter after hearing whatever evidence you want. When will Guy be back, George?

MR. GRAHAM: I understood Monday.

MR. SETH: Why not recess until next Tuesday?

MR. CAMPBELL: May I say a word? I represent Richardson and Bass of Fort Worth, Texas. This matter was called up by the Commission, and the ordinary notice was given that is given in hearings before this Commission. While we recognize that apparently the potash people do not have personal information as to the meeting and have -- we have -- no intention of trying to get the Commission to act at this time, we have present here a considerable number of people who have come up for the purpose of attending this meeting and testifying and listening to what is presented. We feel there should be no objection -- with the understanding that any witness that testifys today will be available for cross-examination at a future date -- for us to present to the Commission some background as to this particular proposal, and also to make our suggestions; which, even as far as the oil operators are concerned, are not in final form by any means. But we believe it is of sufficient important to the state and the Commission and the oil operators to begin to get the ball rolling on this matter and offer some background to the Commission at this time. It is quite true this committee isn't ready to report, but at the same time, I can't see any objection to presenting some suggestions at this time, which will be subject to comment by the oil operators as well as the potash companies in the future, and leaves the matter open to continue at a future date additional testimony, objections to the casing program by potash and oil people and any other matters that should be brought before the Commission. I would like to request we be allowed to put these things in the record for whatever they may be worth, subject to leaving the matter open for the future.

MR. SETH: We haven't the slightest objection.

MR. SPURRIER: Mr. Campbell, do you have a date in mind to which we could continue this?

MR. CAMPBELL: Not a set date. I think it is incum-

bent upon all of us to do it as expeditiously as possible. It has dragged on for about five months. It is of interest to the oil operators and to the State of New Mexico that the thing be resolved in one way or another as soon as possible in order if there can be joint development it can be undertaken if the people are ready to spend the money to do it. And I think any reasonable time to give the potash people and the oil operators who are not all acquainted with the suggestions to be made today an opportunity to examine them carefully and submit comments to the Commission -- I think it should be at least ten days before we undertake to have another meeting. Any date is satisfactory to us as long as it isn't unreasonably delayed.

MR. SPURRIER: Well, gentlemen, suppose we consider two dates; June 28 or July 10. The Commission would like to have an indication of which date is more suitable to all of your concerned.

MR. CAMPBELL: I believe that the July date would be more satisfactory as far as we are concerned. It is as I indicated to the Commission, some of the suggestions to be made today haven't been subjected to close examination by the oil operators, and they want a sufficient length of time to examine them and make their comments. We prefer the July 10 date.

A VOICE: We agree to that.

MR. SPURRIER: All right. Without objection, we will continue the case, or we will hear more testimony on that July 10 date. In the meantime, you may proceed, Mr. Campbell, to put on your testimony.

MR. SETH: Before we forget it, there were two hearings before the Commissioner of Public Lands, which have been transcribed, and I think they are in the Commission's files. And Mr. Campbell was present at both of them. We offer them in evidence as a part of this hearing at this time.

MR. SPURRIER: Without objection, they will be received.

MR. CAMPBELL: Yes, I think they should be before this Commission. If the Commission please, I would like to make

a brief preliminary statement to supplement what I have already said about the presentation of this evidence today. We intend to present to the Commission evidence relative first to the backbround of this particular problem as it affects the decision that this Commission may be ultimately called upon to make relative to any special regulations in this area within its jurisdiction. And we also are going to present two suggested casing and cementing programs. I want to emphasize to the Commission and to those present who are interested that these two programs, one of which involves deep drilling using a rotary method, and the other involves cable-tool drilling of shallow wells, are entirely in the way of suggestions and to place something in the record for further action by the Commission, of comment by oil and potash people in the area. They do not represent the recommendation of the oil operators nor do they amount to a recommendation of the oil industry. They are suggestions, and the matter should be left open for comments and testimony, if needed, by oil operators as well as by people in the potash industry. So, these should be taken into the record and considered solely as suggestions by particular individuals or companies in connection with operations in this area. In order to provide the Commission with some background, in addition to the transcript of testimony of the previous hearings before the Land Commissioner which are already offered in evidence, I would like to call as a witness John M. Kelly of Roswell.

JOHN M. KELLY, having been first duly sworn, testified as follows:

Direct Examination by MR. CAMPBELL:

(Off the record discussion.)

Q Will you state your name, please?

A John M. Kelly.

Q Where do you live?

A Roswell, N. M.

Q What is your business, Mr. Kelly?

A Independent oil operator.

Q And how long have you been in the oil business?

A Since '37.

Q Will you briefly state for the record here your background in the oil business?

A From '37 to '41 I was connected with the proration office, then known as the Lea County Operators Committee, in Hobbs, N. M., as an engineer. From '41 to 1945 I was state geologist of the State of New Mexico, and during that time I was director of the Bureau of Mines and Mineral Resources of the State of New Mexico. In 1945 I was superintendent of production for Geo. P. Livermore, independent operator. And since September 1945 I have been in business for myself as an independent operator.

Q Mr. Kelly, have you been appointed as a member of the committee of the Commissioner of Public Lands to investigate the possibility of special rules and regulations in the area involved in this hearing?

A I was.

Q Can you state for the benefit of the Commission and the record before this Commission the background of this particular problem as it relates to the Oil Conservation Commission?

A In order to present to this Commission an historical background, I would like to go back to January 10 when I believe the problem first came to the attention of the Commissioner of Public Lands. At that time he, in his monthly notice of sale, advertised several tracts of land in southern Eddy County for oil and gas lease bid. It is my understanding that representatives of the potash industry protested this advertisement and requested he withdraw these tracts from this sale. And also I understand that they requested that he not put the tracts up at any time in the future. Representatives of the oil industry asked the Commissioner for a hearing on this matter. And a hearing was held in the La Fonda Hotel on February 27, 1951. At that time, members of both the oil and potash people presented some testimony, which will show in the transcript of that hearing and which I understand has been introduced in the record, and in which the oil companies stated they thought

development of oil and gas could be carried on simultaneously with the development of potash in the area. At that time the potash people requested a continuance in order to prepare additional testimony. And the Commissioner of Public Lands continued the hearing until March 29, 1951. On this date the Commissioner took additional testimony from the potash people and from some oil people, and that record will be made available to this Commission, the complete record. And at the end of that hearing the Commissioner announced he would appoint a committee composed of oil members, potash members, and governmental authorities to study the entire problem and to make recommendations to him. His letter is as follows:

(Letterhead of the State Land Office)

March 30, 1951

Following the hearing March 29, 1951, I, as Commissioner of Public Lands, announced that I would appoint a Committee to recommend regulations for the proper exploration and development of the State lands within the Delaware basin, Eddy County, New Mexico simultaneously by both the Potash and Oil Industries. In keeping with this announcement, I have appointed:

Mr. Fred O. Davis, a Director of Potash Company of America, Carlsbad, New Mexico,

Mr. Emory Carper, President, New Mexico Oil and Gas Association, Artesia, New Mexico,

Mr. Tom Cramer, Vice-President, United States Potash Company, Carlsbad, New Mexico,

Mr. John M. Kelly, Independent Oil Operator, Roswell, New Mexico, and

Mr. R. R. Spurrier, Director, New Mexico Oil Conservation Commission, Santa Fe, New Mexico.

May I ask that each of you advise me at your earliest convenience of your willingness to serve on this Committee. It is my intention that such Committee meet at the earliest possible time and submit its recommendations to me.

I would be grateful, because of the considerable Federal Acreage in the area, if Messrs. Foster Morrell and R. H. Allport of the United States Geological Survey would sit in an advisory or unofficial capacity with the Committee if they may do so under regulations.

I sincerely trust that each of you will accept and make reasonable recommendations to me in order that I may the sooner promulgate and publish regulations as required by law.

Very truly yours,
/s/ Guy Shepard
GUY SHEPARD
Commissioner of Public Lands

Q What was the date of that letter, Mr. Kelly?

A That letter is dated March 30, 1951. So, following receipt of this letter and the acknowledgement by all members so named, the first meeting was called in Santa Fe on April 16, 1951; at which time the Commissioner of Public Lands, Mr. Shepard, presided. Discussions were carried out during that meeting concerning the simultaneous developm ent of operations. And the oil people stated that in their opinion they thought operations could be carried out with the potash people provided certain safeguards were given the potash industry, certain protections to the potash deposits. This meeting was just a general meeting, and nothing specific came out of the meeting due to the fact that it was really an introductory meeting. At the conclusion of the meeting, Mr. Shepard requested the committee meet again as soon as possible in order that they might present to him something specific in the way of recommendations. After that date and before May 1, he published in his monthly notice of sale for May 10 six tracts to be sold that were in the Delaware basin potash area. And members of his committee -- the potash members of his committee -- requested he call a meeting of the committee before he held a sale in order that recommendations be made to him as to the method of sale. On May 4, 1951, the committee met in Carlsbad, N. M., with Mr. Tom Cramer, Mr. Fred O. Davis, and myself present -- and Mr. R.R. Spurrier -- as members of the committee. And Mr. Allport and Mr. Morrell of the U.S.G.S. present as observers. We discussed the subject matter, and the oil people told the potash people at that time they were prepared -- they were

not prepared -- to present a casing program, that their engineering committee had not prepared one to that date. The potash people were perturbed about the leases going up for sale without any regulation or regulations; and the following came out of that meeting. This, incidentally, is the only report made to the Commissioner of Public Lands by the oil-potash committee, and I will read this letter.

May 4, 1951

Honorable Guy Shepard
Commissioner of Public Lands
Santa Fe, New Mexico

Dear Mr. Shepard :

Your Oil-Potash Committee, following a meeting in Carlsbad on May 4, wishes to recommend that prior to the sale on May 10, 1951, of oil and gas leases for Tracts O-2, O-3, O-4, O-5 and O-6 listed in your advertisement, the following announcement be made:

(1) The leases will be subject to special rules and regulations to be adopted by the Commissioner and the Oil Conservation Commission, governing the drilling for oil and gas within the designated known potash area, including, among other pertinent provisions:

(a) No wells for oil and gas shall be drilled through mine workings or in such additional areas as designated hereafter by the Commissioner.

(b) Special rules will hereafter be adopted for the spacing, casing and cementing of wells drilled for oil and gas within the designated potash areas.

(2) There shall be no drilling for oil and gas on Tract O-6. However, the acreage may be committed to any unit plan that may be approved in the future. On Tracts O-2, O-3, O-4, and O-5 the special rules and regulations will govern and certain acreage therein may be restricted as to drilling.

(3) The special rules and regulations are being worked out by the Land Office in connection with a study under way by a special Oil-Potash Committee and the regulations which will govern in these lease areas will be made available for adoption by July 1, 1951.

(4) The issuance of leases sold at the sale of May 10 will be delayed until the special rules and regulations are adopted by the Commissioner and the Oil and Gas Commission. A successful bidder has the right of refund of the amount of the bid if he does not desire to execute the lease after announcement of the special rules and regulations.

It is further recommended that the Commissioner prepare this announcement in mimeographed form available for distribution to the bidders at the sale, and that such notice advise the bidders that subject to these conditions state oil and gas leases will be granted to the successful bidder following the May 10 sale.

/s/ F. O. Davis /s/ John M. Kelly

/s/ T. M. Cramer

Q Mr. Kelly, you state that is the only report that has been made to date by this committee?

A That is the only report made to date to the Commissioner.

Q And at that time it was your estimate these regulations could be available by July first?

A That is what we so stated in this report.

Q And there was likewise a suggestion there be no drilling within actual mine workings or within a new area ?

A That is one of the conditions stated in the report.

Q Have you had information available since that time of the set-up of the actual mine workings now there?

A No, sir.

Q. Have you sought that information?

A Yes, sir.

Q Will you go ahead and state what has taken place?

A At that meeting it was simply agreed between the parties concerned that the oil people would furnish the potash people with a proposed casing program for their study, and that in turn they would furnish the oil people what critical area; that is, in actual mine working area and the area they wished to have complete protection on. On May 23, 1951, I submitted to the two potash members of the committee the following letter and enclosure.

(Undated)

Mr. T. M. Cramer
Mr. Fred O. Davis
Carlsbad, New Mexico

Gentlemen:

As per our agreement made at the last meeting of the Oil-Potash Committee, I am enclosing herewith the "Casing and Cementing Programs for Oil and Gas Test wells in the Defined Areas in Eddy County, New Mexico." Please distribute these programs to the operating potash companies for their study and comments.

To date I have not received from you an outline of the areas that the Potash Companies consider as critical and in which area the Potash Companies will request that drilling for oil and gas be prohibited.

It is my suggestion that the next meeting of the Oil-Potash Committee be held 10 days after you submit for study by the oil representatives the above described area map. In no case should the next meeting be later than June 10, 1951.

I will appreciate receiving your comments on both the above casing program and my suggestions as to the

time of the next meeting.

Kindest personal regards,
/s/ John M. Kelly
John M. Kelly

cc. Mr. Guy Shepard
Mr. R. R. Spurrier
Mr. Emery Carper
Mr. Foster Morrell
Mr. R. H. Allport

Q Mr. Kelly, in connection with that letter you submitted a suggestion as to casing and cementing programs in that area. Is that correct?

A That is correct.

Q Have you received any comments relative to that to date?

A From the potash people, no, sir.

Q Have you received any information as to what they consider to be critical areas where they recommend there be no drilling for oil and gas?

A No, sir. We have not had a meeting since that date.

Q Mr. Kelly, I hand you what has been identified as Exhibit A in Case 278, and ask you to state what that is?

A It is an exhibit entitled "Casing and Cementing Programs for Oil and Gas Test Wells in the 'Defined Areas' in Eddy County, New Mexico."

Q Is that a copy of the document which you sent with that letter of May 23?

A It appears to be

Q Now, that is not a recommendation of the oil operators, is it?

A As a whole, no, sir. It is just a program to be submitted for study.

Q And have all of the oil operators in the area as yet had an opportunity to study and make comments upon this particular program?

A To my knowledge they haven't had that opportunity.

Q You submitted that as a basis for the discussion of this problem?

A It was submitted as a basis for the discussion of the problem, and also with regard to our verbal agreement to get this ball rolling by both the potash people and the oil people.

Q And who made this suggestion to you? Who prepared this? This exhibit I .....

A It was prepared by a sub committee of the New Mexico Oil and Gas Engineering Committee of Hobbs, N. M.

Q And it is being circulated to all oil operators and is subject to their comment and suggestions to the Commission with reference to this program?

A That is my knowledge. To my knowledge, yes, sir.

Q In other words, you, as an oil representative of this committee, are not recommending to the Commission this be the program?

A No, sir. It is only submitted for study.

Q And this particular suggestion covers only the deep-test wells in the area, doesn't it?

A No. I believe this recommendation covers wells in the area. I don't believe it differentiates between deep and shallow.

Q With your knowledge of the oil business and your knowledge of this particular suggestion, is it your opinion it would apply to deep rotary wells?

A I would say it is too stringent for shallow wells. It would apply more to rotary wells than to shallow cable-tool wells.

MR. CAMPBELL: I believe that is all. Do you have any other statement you want to make?

A That finishes my historical summary. I would be glad to answer any questions of the Commission and also any recommendations Mr. Cramer or Mr. Carper might have.

CROSS-EXAMINATION BY MR. SETH:

Q. Do you know the federal land, in area, is about ten times more extensive than the state land?

A Do I know?

Q Yes.

A I assume it is.

Q And the state land is rather small and disconnected tracts?

A With the esception of the school sections.

Q I mean by that there is scarcely a location where there is more than a section of state land in one body?

A I don't know, Judge. I haven't studied the map in detail, but the state has the minority interest in lands in the area.

Q Really the federal government has much more at stake drilled in the potash than the state does?

A Not necessarily because the state receives quite a bit of royalty back from the government.

Q I mean as far as area is concerned. The federal government is much more interested than the state in the potash area down there?

A In an area extent, but not a money extent.

RE-DIRECT EXAMINATION BY MR. CAMPBELL:

Q Isn't it a fact that federal representatives have been present and discussed these matters with the committee?

A They have been present at both meetings of the committee. Both representatives of the oil and gas branch of the U.S. G.S.

Q And isn't it correct since the submission of this matter to this committee on the state level that no additional action has been taken by federal authorities?

A No additional action has been taken to date, no, sir.

Q In other words, the matter so far as you know up to date has been held in abeyance pending the state committee's report?

A It is my understanding the federal government will hold in abeyance any action on federal land until the state has a chance to act on this matter, and a final report made by the committee.

MR. CAMPBELL: Mr. Seth, Mr. Kelly will not be available on July 10. Do you think you will find it necessary to cross-examine him further on July 10?

MR. SETH: Not at all.

MR. CAMPBELL: It will not be necessary to continue at a future time.

(Witness excused.)

(Recess.)

J. E. HILL, having been first duly sworn, testified as follows :

DIRECT EXAMINATION BY MR. CAMPBELL:

Q Will you state your name?

A J. E. Hill.

Q Where do you live?

A Fort Worth.

Q By whom are you employed?

A Richardson and Bass.

Q In what capacity?

A Superintendent of production and drilling.

Q And how long have you been so employed?

A It will be 12 years the first of July.

Q And you were in the oil business prior to that time?

A Yes, sir.

Q For how many years?

A Eleven years.

Q Were you engaged in the same type of work?

A Yes, sir.

Q Mr. Hill, you have testified before the Commissioner of Public Lands at a hearing on February 27 and at a hearing in March in connection with this matter, have you not?

A Yes, sir.

Q And you have heard the testimony here relative to a suggestion as to casing and cementing programs for deep-test wells in areas later to be determined in Eddy County, N. M., have you not?

A Yes, sir.

Q Were you a member of the committee which discussed and drew up these suggestions?

A I was.

Q Can you state for the Commission the understanding among the members of the committee as to what type of wells these particular rules could be more properly applied?

A They were definitely drawn up for deep-test wells in the defined area. There was some mention made of the use of

cable tools down to the shallow depths of their various capacities, and then setting probably the first two strings. And the method of testing the casing after those strings are set. Actually, that was the only reference made to cable tool usage.

Q Based upon discussions which you had, the committee made this suggestion as a basis for any special rules that might be promulgated by this Commission.

A We felt that would not only safeguard the potash operators but the oil operator who had wanted to drill deep test wells in the area.

Q It is your understanding that isn't a final recommendation but only a suggested .....

A It is only a recommendation of the committee for serving to promulgate this suggested set of rules.

Q To your knowledge, is it now to be circulated to all oil operators for any comments or recommendations they may have before the Commission issues any rules based on this suggestion?

A That is my understanding.

Q Is your company interested in this area financially?

A Yes, sir.

Q Isn't it correct they are the owner of state oil and gas leases sold in a state sale recently in this area?

A I think we were successful on all but one.

Q And isn't it correct the public records will show the investment for these state leases is in the approximate amount of $300,000 to $350,000?

A Yes, sir.

Q Is your company interested in exploratory activity in this area, if it can be reasonably done, in conjunction with the potash industry?

A We definitely are.

Q And your company is prepared to drill deep-test wells in this area when these rules are promulgated?

A Yes, sir.

Q So far as your company is concerned with the particular suggestions in this casing and cementing program, are those satisfactory to your company? So far as your company only is concerned?

A Yes, sir.

MR. CAMPBELL: I think that is all.

MR. SPURRIER: Does anyone have a question of this witness?

MR. CAMPBELL: Mr. Hill, will you be available on July 10?

MR. HILL: Yes, sir.

(Witness excused.)

S. P. YATES, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CAMPBELL:

Q Will you state your name?

A S. P. Yates.

Q Where do you reside?

A In Artesia.

Q What is your business?

A I am in the oil business; oil producing.

Q How long have you been in that business?

A About 12 years.

Q Are you with a company?

A No.

Q Individually?

A Individually, yes, sir.

Q Are you interested in this area which is involved in this hearing?

A Yes.

Q Are you now producing oil from some of these areas?

A Yes. We have production -- well, of course, when you say areas, I am not quite sure .....

Q Where generally is your production?

A We have production in 19-30 that I believe is involved. We have the Benson Pool. That is only half a mile from where Southwest is now digging shaft.

Q Mr. Yates, has your company been engaged primarily in drilling wells with cable tools?

A Yes, sir.

Q Have you read the suggested program introduced as Exhibit A?

A Yes, sir, I have.

Q Is it your understanding that is intended to apply primarily to deep-test wells drilled with rotary tools?

A That is my understanding, yes, sir.

Q Do you have any suggestions to make to the Commission at this time with reference to possible rules and regulations affecting shallow wells in whatever area may subsequently be defined with cable tools?

A Yes, sir. We have a proposal here to submit.

Q I hand you what has been identified as Exhibit B, and ask you to state what that is, if you know?

A This is a suggested casing and cementing program for shallow oil and gas test wells in the known potash area.

Q And state to the Commission the background of the preparation of this suggestion here with reference to the operation your are suggesting.

A About three days ago I got ahold of one of these suggested casing programs. And we thought that if we carried such a casing program out on a shallow well it would make the drilling of shallow wells in that area prohibitive in cost. Particularly in view of the shorage of casing. So, we have here submitted an alternative program for shallow wells.

Q Will you state briefly to the Commission how this differs in any essential respect from the suggestions as to deep wells in the area?

A The only major difference is in the salt protection string, referred to in this Exhibit A. We have made a provision that we may set a salt protection string depending, of course, upon whether -- and cement it from top to bottom if we want to. If we don't -- we often cement production anywhere from 200 feet to maybe 1,000 feet below the salt zone. And we could see no reason to cement two strings of pipe so close together. You might have them right on top of one another.

Q Shallow wells usually are not large potentially producing wells in that area?

A That's right.

Q You are undertaking to save some pipe in the cost of drilling your wells?

A That is correct.

Q Is it your opinion this casing and cementing program which you recommend as to shallow cable-tool wells in that area will adequately protect the potash deposits?

A That is my opinion, yes.

Q You have already drilled wells in the northern part of

this area, have you not?

A Oh, yes, we have drilled wells, yes, in the northern part.

Q Have you received any complaints from potash operators that your wells are giving them any difficulty?

A No, sir.

Q Is this suggestion your own, or is it agreed to by other people?

A It was made up by a group of operators, and then circulated among most of the operators in Eddy County, and submitted for their approval. And with the exception of one or two everyone signed it. Those that didn't sign it thought this was too stringent.

Q Thought this recommendation you suggest here was too stringent?

A Yes.

MR. CAMPBELL: I believe that is all.

CROSS-EXAMINATION BY MR. SETH:

Q Mr. Yates, how deep is a shallow well?

A Anywhere from -- well, you mean the ones we have?

Q Yes, the ones you are talking about.

A About 1,800 or 2,000 feet.

Q All the shallow wells down there go through the potash-producing strata?

A Yes, sir.

Q And go through just as effectively as the deep wells?

A That's right.

MR. SPURRIER: Are there any other questions of this

witness?

MR. CAMPBELL: (To the witness.) Do you have anything?

A I might say the production we get down there is of low potential. It produces practically no gas. We have to buy butane to produce it. And there is practically no pressure exerted against the casing whatsoever.

MR. CAMPBELL: In other words, based upon your producing experience you feel these suggestions you have made will amply protect the potash on the cable-tool wells in that area?

A Yes, sir.

MR. CAMPBELL: I think that is all. Will you be available on July 10 in the event it is necessary to ask you more questions?

Mr. YATES: As far as I know.

MR. CAMPBELL: Mr. Commissioner, at this time that is all we have to offer. I would like to make a closing remark here. As I understand these two suggestions; one as to deep wells and one as to cable-tool wells; are offered to the Commission at this time as suggestions and as a basis for further comments by the oil industry and the potash industry in the hearing on July 10. And we feel that since we have made these suggestions, at least as a basis for discussion, that we should at the July 10 hearing, in addition to any objections that the potash industry may have to these particular programs, we should like to have some information from them as to the approximate area in which it would apply, and the present areas they are now mining for potash or intend to mine within a reasonably foreseeable future; in order that we can determine, or the Commission can determine, just exactly what our problem is. It is difficult to evaluate this situation in the absence of information as to what the generally projected arrangements are for the mining of potash in this area. And we assume at the July 10 hearing that some information will be available in order that we may properly determine where we stand in this matter, and the state may have the information it requires. I also want to repeat once more these suggestions are to be circulated to the oil operators, and they may sub-

mit comment to the Commission either by letter or by evidence at the hearing on July 10. In other words, it is held open for the potash members as well as the oil industry. It provides for some basis on which to proceed to get the matter resolved in the near future, if it is possible to resolve it. And we would like to ask the Commission to ask from the potash people the areas in which this problem will apply. We have no information as to where those areas are, and the Commission has none. And we think we are entitled to have that information at the earliest possible time in order that we can evaluate whether this type of program, being more expensive than the normal drilling program, is justified in this particular area.

MR. SPURRIER: Do you have facilities for distributing this casing program to all operators?

MR. CAMPBELL: I understand that there are copies available. And our first one, the one proposed for deep wells is ready. The one proposed for shallow wells will have to be prepared by someone and distributed to the potash people as well as the oil operators for their comment prior to July 10. We can undoubtedly find some facilities if the Commission wants us to do it.

MR. SPURRIER: The Commission will be glad to do it. All we want to know is if we might do it or not.

MR. CAMPBELL: I feel in fairness to everyone the one suggested by Mr. Yates on the shallow wells should be prepared. And if the Commission will undertake to do it, I feel confident Mr. Yates will leave a copy of it here. If you will circulate it to the oil operators and representatives of the potash industry as soon as possible so that we can have some reaction by July 10?

MR. SPURRIER: All right. I have one more thing, for the record here. It is a telegram from the Phillips Petroleum Co. received in the Commission office this morning. I will read it in order to introduce it into the record.

(Reporter's note: This exhibit, as well as other exhibits introduced in this case, are not reproduced in this record as copies have been furnished to the operators by the Commission.)

MR. SPURRIER: Is that memorandum Exhibit A?

MR. CAMPBELL: I presume it is. It isn't denominated as a memorandum but I think that is what they are referring to. Incidentally, I would like to have the record show Exhibit A and B offered in evidence. And I would like to ask at this time if the announcement here of the July 10 meeting is sufficient so far as the potash representatives are concerned, or if they want someone to correspond with the other companies and notify them personally of this meeting.

A VOICE: We will take care of that.

MR. SPURRIER: Is that all? The exhibits will be accepted. Judge Seth?

MR. SETH: Nothing at this time.

MR. CAMPBELL: There may be someone else that has comments to make.

MR. SPURRIER: Does anyone else have a comment to make in this case?

MR. PRESSLER: I represent the Humble Oil and Refining Co. We would like to endorse these rules proposed by Mr. Hill as a basis for the formulation of a program that would give adequate protection to the potash operators. It is our feeling that these proposed rules are very stringent and rather burdensome on the oil operators. But we believe we are going to have to accept rules of that kind in order to provide adequate protection to the potash operators. It is our feeling that both of these natural resources are most important to the welfare of the country, and that it is incumbent upon both potash operators and oil operators to assist governmental agencies in working out a program where the area can be developed simultaneously for oil and potash. And we think that can be done without any undue interference one with the other.

MR. SPURRIER: Does anyone else have a comment?

MR. STANLEY JONES: I am drilling out in the Turkey Track area of 19-29, of which the west side -- some of the wells which we have drilled in the area have a certain amount of water, and have quite a bit of salt section while others don't have. I have a prospective pipe program outlined which I would like to introduce at this time on what we

would call the edge of the potash basin. And as the areas have different problems, and geological problems, which we need to discuss at the next meeting, I would like to present this proposed program as an exhibit to be studied by the committee, if possible.

MR. CAMPBELL: Mr. Jones, have you defined the area in there in which this would apply?

MR. JONES: Not particularly.

MR. CAMPBELL: You feel these rules proposed by Mr. Yates are too stringent insofar as these areas are concerned?

A. That's right.

MR. CAMPBELL: Your objection is they are too rigid?

A. They are sofar as my district is concerned and other districts on the edge of the basin. You see in this district we have very little potash, and we drilled our wells with cable tools and they are shallow. Only about 2,200 feet. Some 1,700 and some 2,200 feet. And they have no gas pressure to speak of, and they are all pumping wells. Therefore, I feel that the program Mr. Yates has introduced is somewhat strenuous for us, and because of the scarcity of pipe and so forth.

MR. CAMPBELL: May I ask if the Commission is willing to circularize this particular proposal too ?

MR. SPURRIER: Yes, we will.

A VOICE: I would like to ask also that the telegram from Phillips Petroleum be circularized.

MR. SPURRIER: Yes, it can. It will be part of the record, Mr. Hill.

(Off record discussion.)

MR. CAMPBELL: I think it is of advantage to the Commission that all this be made available as soon as possible and as much as possible. The transcript may not be available for sometime, and if it possible to circularize these suggestions and the telegram I think it will be of benefit to the other operators in arriving at their conclusions about the proposed operations.

MR. SPURRIER: We can do that, Mr. Campbell; and we will do it just as soon as we can get it out. We will mail this to our general mailing list, and also to the members of the Potash-Oil Committee.

MR. CAMPBELL: Mail them sufficient copies so that they can circularize the potash companies?

MR. SPURRIER: Yes.

MR. CAMPBELL: Unless someone else has something, that is all we have at this time. There are a few copies of the deep-well suggestions here now if some want to take them rather than wait their arrival in the mail. Probably not enough for everyone, but there are some here.

MR. SPURRIER: Is there anyone else to be heard in this case at this time?

(No response.)

STATE OF NEW MEXICO
ss
COUNTY OF BERNALILLO

I HEREBY CERTIFY That the foregoing transcript of hearing in Case 278 is a true record of the same to the best of my knowledge, skill, and ability.

DONE at Albuquerque, N. M., July 3, 1951.

E. E. Greeson
Notary Public

My Commission Expires: Aug. 4, 1952.

Exhibit 10

BEFORE THE OIL COMMISSION
STATE OF NEW MEXICO, SANTA FE, NEW MEXICO

IN RE: APPLICATION OF GUY SHEPARD, COMMISSIONER OF PUBLIC LANDS, FOR AN ORDER ESTABLISHING AND SETTING UP A CASING PROGRAM AND OTHER PROCEDURAL REQUIREMENTS FOR THE DRILLING OF OIL WELLS IN THE POTASH AREA IN EDDY COUNTY COMPRISING STATE OWNED LANDS IN TRACTS 0-2, 0-3, 0-4, 0-5 and 0-6 AS SET FORTH IN THE MAY 10, 1951 NOTICE OF PUBLIC SALE, COPY OF WHICH IS HERETO ATTACHED.

CASE NO. 278

ORDER NO. _____

APPLICATION

Comes now Guy Shepard as Commissioner of Public Lands for the State of New Mexico and makes application for the establishment of a casing program for oil wells within the heretofore established potash area in Eddy County, New Mexico and for other special procedural regulations in such area as may be proper for the development of said area, both for potash and oil.

That the applicant herein requests the Oil Commission to set a date for a hearing and after such testimony as may be adduced, issue its proper order as aforesaid.

Guy Shepard

GUY SHEPARD
Commissioner of Public Lands
State of New Mexico

	Sec.	Twp.	Rge.	Acres
Tract No. 35				
S½NE¼	16	29N	8W	80.00
N½, N½SW¼, SE¼SW¼, E½SE¼	32	29N	8W	520.00
N½NE¼, SE¼NE¼, N½SW¼	36	29N	8W	200.00

Total Acreage 800.00
Minimum Rental 25c per acre
Filing fee $5.00

	Sec.	Twp.	Rge.	Acres
Tract No. 36				
NW¼SW¼	2	22S	35E	40.0

Total Acreage 40.00
Minimum rental 25c per acre
Filing fee $5.00

FURTHER PUBLIC NOTICE is hereby given that, pursuant to the rules and regulations of the State Land Office, the Commissioner of Public Lands of the State of New Mexico will hold a sale at PUBLIC AUCTION of oil and gas leases as described hereinbelow, at his office in the Capitol Building, Santa Fe, New Mexico, immediately at the conclusion of the sale of Tracts offered at sealed bid.

This sale will be governed by the provisions of Chapter 8-1110, New Mexico Statutes, Compilation of 1931, being an Act of the Legislature of New Mexico, approved March 10, 1931, and the rules and regulations of the State Land Office, pertaining to sale of oil and gas leases upon State Lands.

No sealed bids will be received, accepted or considered in the disposition of the hereinbelow described tracts. The Commissioner of Public Lands reserve the right to reject any and all bids.

	Sec.	Twp.	Rge.	Acres
Tract 0-1				
SW¼SW¼	3	14S	33E	40.00
W½W½	11	14S	33E	160.00

Total Acreage 200.00
Minimum Rental 25c per acre
Filing fee $5.00

	Sec.	Twp.	Rge.	Acres
Tract 0-2				
All	36	22S	30E	640.00
Lots 1, 2, 3, 4, S½N½, N½SE¼, S½SW¼, NW¼SW¼	2	23S	30E	520.56
All	16	23S	30E	640.00
Lots 1, 2, 3, 4, SE¼NW¼, E½SW¼	19	23S	30E	280.80
NE¼NE¼, E½NW¼, NE¼SW¼	21	23S	30E	160.00
S½, NW¼, S½NE¼, NW¼NE¼	22	23S	30E	600.00
NE¼NE¼	28	23S	30E	40.00
Lots 1, 2, 3, 4, E½W½	30	23S	30E	321.36
Lots 1, 2, 3, 4, E½W½	31	23S	30E	322.72
All	32	23S	30E	640.00
All	36	23S	30E	640.00
All	2	24S	30E	640.66

Total Acreage 5,446.10
Minimum Rental 25c per acre
Filing fee $5.00

	Sec.	Twp.	Rge.	Acres
Tract 0-3				
NW¼, W½NE¼, S½SE¼	2	20S	31E	315.66
SW¼, W½NW¼	16	20S	31E	240.00
W½NE¼, SE¼NE¼, N½SE¼	32	20S	31E	200.00
S½, W½NW¼, NE¼	36	20S	31E	560.00
NW¼, E½NE¼	16	20S	32E	240.00
All	32	20S	32E	640.00
E½NW¼	36	20S	30E	80.00
Lot 2	2	21S	30E	35.97
SE¼NE¼, SE¼, S½SW¼	14	21S	30E	280.00
N½, SW¼, N½SE¼	16	21S	30E	560.00
NE¼SE¼	20	21S	30E	40.00
E½	21	21S	30E	320.00
All	22	21S	30E	640.00
N½	23	21S	30E	320.00
NW¼	24	21S	30E	160.00
N½	27	21S	30E	320.00
NE¼, NW¼NW¼, S½NW¼, SW¼, S½SE¼, NE¼ SE¼	28	21S	30E	560.00
N½, SE¼, NE¼SW¼	36	19S	31E	520.00

Total Acreage 6,031.63
Minimum Rental 25c per acre
Filing fee $5.00

	Sec.	Twp.	Rge.	Acres
Tract 0-4				
Lots 1, 4, SW¼NW¼, N½SW¼	2	20S	32E	199.80
NE¼	13	20S	32E	160.00
E½NE¼, N½SE¼, SE¼SE¼, SW¼	36	20S	32E	360.00
Lots 3, 4, S½NW¼, SW¼NE¼, SW¼, N½SE¼	4	20S	33E	400.92
Lots 1, 2, 3, 4, E½W½, S½SE¼	18	20S	33E	399.88
W½NE¼	19	20S	33E	80.00
Lot 1, NE¼NW¼, N½NE¼, SE¼NE¼, NE¼SE¼	31	20S	33E	240.26
S½	2	21S	31E	320.00
N½, E½SE¼, E½SW¼	32	21S	31E	480.00

Total Acreage 2,640.86
Minimum Rental 25c per acre
Filing fee $5.00

	Sec.	Twp.	Rge.	Acres
Tract 0-5				
SW¼SW¼, S½NE¼, NW¼NE¼	16	21S	28E	160.00
SW¼NW¼	18	21S	28E	39.67
S½NE¼, SE¼NW¼, S½SE¼, SE¼SW¼	32	21S	28E	240.00
All	36	21S	28E	640.00
N½, N½SE¼	32	21S	29E	400.00
All	36	21S	29E	637.12
E½, NW¼, N½SW¼, SW¼SW¼	2	22S	29E	600.24
S½NW¼, N½SW¼	11	22S	29E	160.00
All	16	22S	29E	640.00
NW¼NW¼	25	22S	29E	40.00
NE¼, E½NW¼	26	22S	29E	240.00
All	32	22S	29E	640.00
All	36	22S	29E	640.00
All	2	23S	29E	638.78

Total Acreage 5,715.81
Minimum Rental 25c per acre
Filing Fee $5.00

	Sec.	Twp.	Rge.	Acres
Tract 0-6				
Lots 9, 10, SE¼	2	21S	29E	240.00
SE¼NE¼, SW¼NW¼, SW¼	11	21S	29E	240.00
N½NW¼, SE¼NW¼, NE¼SW¼	13	21S	29E	160.00
NW¼, N½NE¼, NW¼SE¼	14	21S	29E	280.00
SW¼NE¼, SW¼SE¼	16	21S	29E	80.00
NW¼NW¼	8	21S	30E	40.00

Total Acreage 1,040.00
Minimum Rental 25c per acre
Filing fee $5.00

Exhibit 11

BEFORE THE

OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

- - - -

TRANSCRIPTION OF HEARING

CASE NO. 278

10 July, 1951
(Date)

BEFORE THE
OIL CONSERVATION COMMISSION
STATE OF NEW MEXICO

Case 278: (Continued from the June 21, 1951, hearing.)

BEFORE: Hon. Ed. L. Mechem, Chairman
Hon. R. R. Spurrier, Member

R E G I S T E R:

Dwight H. Blackard, New Mexico Miners Association, Albuquerque, N. M.

G. R. Griswold, Mining Engineer, Albuquerque, N. M.

Homer Dailey, Continental Oil Co., Midland, Texas.

M. A. Sherwood, Shell Oil Co., Midland, Texas.

G. E. Cameron, Humble Oil & Refining Co., Houston, Texas.

J. W. House, do. do. , Midland, Texas.

Emery Carper, Carper Drilling Co., Artesia, N. M.

W. M. Jones, Stanolind Oil & Gas Co., Lubbock, Texas.

Ralph L. Gray, Buffalo Oil Co., Artesia, N. M.

Harvey E. Yates, do. do. do. do.

H. S. Cave, Phillips Petroleum Co., Roswell, N. M.

S. B. Christy, Sun Oil Co., Roswell, N. M.

E. L. Shafer, Continental Oil Co., Hobbs, N. M.

Charles C. Lawless, Jr., New Mexico Oil & Gas Association, Roswell, N. M.

F. O. Davis, Potash Company of America, Carlsbad, N. M.

T. M. Cramer, U. S. Potash Co., Carlsbad, N. M.

Oliver Seth, U. S. Potash Co., Santa Fe, N. M.

G. C. Weaver, Duval Sulphur & Potash Co., Carlsbad, N.M.

W. R. Morris, do. do. do.

H. L. Gardner, International Minerals & Chemical Corp., Carlsbad, N. M.

J. E. Hill, Richardson and Bass, Fort Worth, Texas.

R. H. Steinart, Southwest Potash Corporation, Carlsbad, N. M.

Claude E. Upchurch, Gulf Oil Corporation, Fort Worth, Texas.

Foster Morrell, U.S.G.S., Roswell, N. M.

R. S. Fulton, U.S.G.S., Carlsbad, N. M.

R. H. Allport, U.S.G.S., Carlsbad, N. M.

R. L. Boss, Gulf Oil Corporation, Roswell, N. M.

P. D. Grommon, Jr., The Texas Co., Fort Worth, Texas.

G.R. Brown, The Texas Co., Midland, Texas.

Harve H. Mayfield, Magnolia Petroleum Co., Midland, Texas.

E. E. Kinney, New Mexico Bureau of Mines, Artesia, N. M.

Glenn Staley, New Mexico Oil and Gas Engineering Committee, Hobbs, N. M.

Justin Newman, O.C.C., Artesia, N. M.

George W. Selinger, Skelly Oil Co., Tulsa, Okla.

Jack M. Campbell, Richardson and Bass, Roswell, N.M.

L. C. White, O.C.C., Santa Fe, N. M.

George Graham, O.C.C., Santa Fe, N. M.

MR. SPURRIER: The meeting will come to order, gentlemen. This is a continuation from the last hearing of this case. And I believe that Judge Seth, or an attorney representing the potash people, were to put their case on at this time.

MR. CAMPBELL: Mr. Commissioner, it might be a little more orderly -- we have a few suggested changes in the casing program that was submitted the last time. And in order to complete our presentation, it might be proper for us to make those suggested changes at this time so that the potash people know what we have in mind. If we could just put Mr. Hill back on again, and have him get into the record those changes, and then go ahead with the potash presentation.

MR. SPURRIER: Is that agreeable with the potash people?

A VOICE: Yes.

J. E. HILL, having been sworn at the prior hearing on June 21, 1951, testified as follows:

DIRECT EXAMINATION BY MR. CAMPBELL:

MR. SPURRIER: You are reminded you have been sworn, Mr. Hill.

MR. HILL: Yes, sir.

Q (By Mr. Campbell) You are Mr. J. E. Hill? ---A. Yes, sir.

Q Employed by Richardson and Bass, Fort Worth, Texas? ---A. Yes, sir.

Q You previously testified in this hearing? ---A. Yes, sir.

Q At the time you testified previously, Mr. Hill, I believe you put into the record Exhibit A, which was a casing program suggested by a subcommittee of the New Mexico Oil and Gas Engineering Committee, is that correct? ---A. That is correct, sir.

Q And since that hearing do you have any suggestions to make as to proposed changes in that suggested casing and cementing program shown as Exhibit A in the record here? ---A. We have, sir.

Q Would you state to the Commission for the record what those changes are? ---A. In Exhibit A, par. 4 of the No. 1 section, title "Subsurface Casing String", we propose the following change to be made, and that par. 4 begin with the following sentence: "This casing string shall be tested with a hydraulic pressure of 600 lbs psi. If a drop of 100 lbs psi or more should occur within 30 minutes, corrective measures should be applied." That is our recommended 4th paragraph under Section 1. And in doing that we have deleted any reference to cable tools and the testing of a string under a cable-tool method.

Under Section 2, title "Salt Protection String", we propose that the first word of par. 1 be changed to "a", to read, "A salt protection string shall be set at least 100 ft. and not more than 200 ft. below the base of the salt section. This string may consist of new, secondhand, or reconditioned pipe. New pipe shallhave received a mill test of not less than 1,000 lbs psi; secondhand and reconditioned pipe shall be retested to 1,000 lbs psi before being run." We also propose that par. 2, which is a single sentence, be changed to read as follows: "Centralizers shall be used on at least every 150 ft. of casing below the surface casing." This change was made at the instance of a telegram that was received at the last hearing which called for a definite distance between centralizers on the salt protection string. Par. 3 of Section 2 will be the same for the first sentence. The parentheses sentence and the third sentence. We propose to change the fourth sentence of that paragraph to read as follows: "If the cement fails to reach the surface, the top of the cement shall be located by a temperature or gamma ray survey; and additional cement jobs done until cement is brought to the surface."

Q Will you state the reason for that? ---A. The reason for that change was that if we did have full circulation under the previous written rule there would be no reason to run a gamma ray or temperature survey, and this just clarifies the responsibility if the cement does fail to reach the surface.

Q Isn't it true it gives the operator some option as to the method he shall use in seeing it does reach the surface? ---A. That's right.

We propose the fifth sentence be deleted from the original third paragraph to read as follows -- be deleted and this

sentence inserted, "The Oil Conservation Commission shall be furnished with proof that the salt string is cemented to the surface; either by having a Commission representative witness the job or by affidavits or logs filed with the Commission."

In par. 4 of Section 2 we propose to eliminate the first two sentences and substitute this sentence, "This casing string shall be tested with a hydraulic pressure of 1,000 lbs psi." The third sentence shall remain as written; which is, "If a drop of 100 lbs psi or more should occur within thirty minutes, corrective measures shall be applied." We propose to delete the next sentence, which begins with, "If cable tools are used ....."

Section 3, "Intermediate String." We propose to introduce the first paragraph with this portion of a sentence, "If the operator runs an intermediate string, this string may be a drilling protection string for deep drilling objectives or may be an oil string for testing medium depth zones."

This sub "a" under par. 3, the first sentence is to be left as written and the next sentence deleted, and this substitute sentence added, "The operator shall furnish proof to the Oil Conservation Commission that this cementing requirement has been fulfilled, either by having a representative of the Commission witness the job or by affidavits or logs filed with the Oil Conservation Commission." And this sentence shall be added -- these two sentences are to be added under subsection "a" of this Section 3 -- "Cement shall be allowed to stand a minimum of 12 hours under pressure, and a total of 24 hours before drilling the plug or initiating tests. Casing shall be tested with a hydraulic pressure of 1,000 lbs. psi. If a drop of 100 lbs psi or more should occur within 30 minutes, corrective measures shall be applied."

Sub-paragraph "b" under Section 3. The first sentence of "b" shall read the same; with the addition at the end of the sentence of this statement, "... and the Oil Conservation Commission satisfied that this requirement has been fulfilled either by a representative of the Commission witnessing the job or by affidavits or logs filed with the Commission. Cement time and testing rules shall apply similarly in the case of this string as is written for the above string." The last sentence of sub-par. "b" under 3 is deleted.

Sec. 4, " Oil and Production Strings (deep wells)" There

is no change in this section with the exception that the following sentence is recommended to be added: "Cement shall be allowed to stand a minimum of 12 hours under pressure and a total of 24 hours before drilling the plug or initiating tests. Hydraulic pressure tests shall he applied to this string as above."

Section 5, "Drilling Fluid for Salt Section," remains the same.

Q Mr. Hill, are these suggested changes concurred in by the members of the subcommittee who formed the original suggestions? ---A. Yes, sir.

Q And in your opinion does this proposed program with the changes that you have suggested give adequate protection to the salt section, which we are seeking here to protect? ---A. We believe it does, yes, sir.

Q This recommendation remains that of the individual members of this sub committee, is that correct? ---A. That is true; and also as the recommendation of Richardson and Bass as an individual operator.

Q As far as your company is concerned, you are willing to comply with this particular casing and cementing program in a critical potash area, is that correct? ---A. Yes, sir.

Q Mr. Hill, I believe you testified in the previous hearing that your company owned leases in this area, and you were prepared to drill deep tests in the general area. Can you state whether your company, whether there are any areas, which your company would not consider drilling oil wells in? ---A. We do not anticipate drilling on any of the lands presently being worked by the potash companies; specifically, in or on their mine workings areas, or in any of the areas in which they plan to explore in the future. And as a normal distance, we believe that one-half mile outside of the known or contemplated workings should be restricted.

Q And in that regard, would you be willing to give consideration to the fact that there are two new companies in that area now drilling shafts? ---A. Yes, sir.

Q And be willing to give consideration to the fact that they have not as yet undertaken any mine workings in determining

the area in which you would not drill? ---A. That is true.

MR. CAMPBELL: I believe that is all.

MR. SPURRIER: Does anyone have any question of this witness? Mr. Morrell.

MR. MORRELL: Mr. Spurrier, I would like to ask Mr. Hill one question with the thought of clarifying the record for the Commission. Section No. 3 refers to testing medium depth or medium depth zones. I think probably that should be defined by a depth or formation so that there will be a distinction between that and the reference to the cable tool Exhibit B to shallow.

MR. CAMPBELL: Mr. Hill, did the committee consider that at the time Section 3 was prepared? ---A. This section, of course, refers to either a drilling protection string for deep drilling objectives, or maybe an oil string for testing medium-depth zones. I would say that a medium depth zone as far as depth is concerned would be approximately a 5,000 ft. depth, or it could be 4,000 ft.

MR. MORRELL: I was merely noting that Exhibit B spoke of shallow wells above 5,000 ft.

MR. HILL: I think 5,000 ft. could be a critical depth point to clarify both jobs.

MR. MORRELL: Your medium depth zone would be below 5,000?

MR. HILL: Above 5,000.

MR. MORRELL: So, it would be synonymous to shallow?

MR. HILL: Yes, sir.

MR. MORRELL: That is all.

MR. SPURRIER: Thank you. Anyone else?

MR. SETH: May I ask one question? About the rule for plugging. Will that be considered separately or does this cover that?

MR. HILL: The Engineering Committee did not write up

any rules for plugging or abandonment of wells. But I think they can be set up and agreed to mutually very easily. And I would suggest, as your potash companies have certain rules for abandonment, they be presented, and they statements can be made and suggestions or criticism. I would suggest that be entered into the record as part of this thing, as to the rules, or a discussion can be had on it.

MR. SETH: That is part of the picture, isn't it?

MR. HILL: Definitely, but we haven't --

MR. SETH: Have you prepared any recommendations for plugging or abandonment? ---A. No, sir, but I am prepared to approve any you might submit with reasonable good operating practice. And I would be willing to approve them or discuss them as they are presented.

MR. SETH: May we have a copy of these proposed changes? Do you have any, Jack?

MR. CAMPBELL: We have, unfortunately, only one which has been interlined. You may have it to make a copy. We do not have a full set of the changes. Mr. Hill, in connection with the plugging and abandonment matter, could you state generally insofar as your company is concerned what procedure you follow normally in the salt areas in the plugging or abandonment of wells? ---A. Under the conditions of these casing rules, there would be no effort made to recover any of the strings now; surface, salt protection string, or intermediate string or drilling protection string. Because they will have been cemented to the surface, and the drilling protection string will have been cemented from 1,000 ft. below the bottom of the salt protection string to the surface. Any known or discovered shows below a protection string would normally be cemented off by cement placed at least 100 ft below to a point at least 100 ft. above; and the normal practice would be to set a plug from 500 ft. below the protection string on up into the protection string some 2 to 300 ft. That would preclude any possible migration. And with your casing remaining intact, an upper plug of some 1,000 ft. could be set in the upper part of the hole, or it wouldn't be impractical to even put a column of cement equal to your salt section in the last, or your smallest string, left in the well.

MR. SPURRIER: The Commission would like to remind

those present that Mr. Hill is available at this time for cross-examination, and I presume he will be later.

MR. CAMPBELL: Yes. He will be here throughout the hearing for questions he can answer.

MR. SPURRIER: If you desire to cross-examine, now is the time to do it; before the potash people put on their testimony. Are there any more questions? If not, the witness may be excused.

(Witness excused.)

MR. CAMPBELL: Mr. Commissioner, that is all at this time. It may be we may want to call additional witnesses following presentation of some information by the potash industry.

MR. SPURRIER: Well, it occurs to me that the changes you have made here -- you and Mr. Hill have read into the record -- may be quite difficult to follow, and some of these people may have either comment or questions after they have been able to see exactly what those changes are.

MR. CAMPBELL: Mr. Hill will be available all day, and if they can go over the changes sometime during the course of the day, he will be available for the discussion of them.

MR. HILL: The changes are actually of no material moment. Just more for clarification and for testing some of the strings presented in the original rules. For example, one of the changes just directly places the centralizer rather than leaves it at the free joints.

MR. YATES: Mr. Commissioner, I would like to know in advance if it is clearly understood this program he is presenting is for rotary only, for deep-well zones.

MR. SPURRIER: Mr. Hill, can you answer that?

MR. HILL: That is the way that the -- I think the rules that were first introduced were for -- may I have that copy just a second? Oil and gas casing and cementing programs for oil and gas test wells in the defined areas in Eddy County, N. M. And the point brought up by Mr. Yates referring to cable tools. We purposely deleted any reference to cable-tool

methods and testing, and as a consequence the entire set of fules refers only to rotary drilling.

MR. SPURRIER: Does that answer the question?

MR. YATES: That's right.

A VOICE: Pardon me, Mr. Hill. Does that say only Eddy County? The area shown on the map goes into Lea County.

MR. HILL: It should be applied to Lea County then.

A VOICE: You removed all reference to cable-tool drilling. Why was that?

MR. HILL: It was suggested by cable-tool drillers and shallow operators, inasmuch as we were attempting to describe rules for deeper drilling, particularly on the rotary drilling, and they preferred it should be confined to that under this particular program.

A VOICE: Is it contemplated there be a separate set of regulations for cable-tool drilling?

MR. HILL: There were separate rules presented at the last meeting, marked Exhibit B and Exhibit C, which covered as I believe medium depth tests -- well, by rotary or cable tool-- and then one exclusively cable tools. And we didn't feel we could speak for every operator in the state, and we didn't feel the responsibility of attempting to secure casing and cementing programs for deeper test wells in this general area, and as a consequence we couldn't see how we, as individual operators, could force every body to drill different type wells to follow the same set of rules.

MR. MORRELL: In that connection, the heading as now printed says, "Casing and Cementing Programs for Oil and Gas Test Wells." Following your expression just now, would it clarify it to insert "rotary-drilled" before "test Wells"?

MR. HILL: That would be all right, sir.

MR. MORRELL: In the defined areas of Eddy and Lea Counties.

MR. CAMPBELL: I would like to have the record show that Exhibit A, B, and C were offered in evidence, and that the

suggested amendments were -- to Exhibit A -- were also offered in evidence.

MR. SPURRIER: Did everyone hear that? These exhibits A, B, C, and D have been offered in evidence, and without objection they will be accepted.

MR. CAMPBELL: Exhibit A is amended.

MR. SPURRIER: That includes the Exhibit A as amended this morning. Does anyone have any further question or comment before the potash people put their testimony on? If not, Mr. Seth, will you proceed?

MR. SETH: Well, Mr. Commissioner, I am here not as a spokesman for all the industry. I came for U. S. Potash. And as far as they are concerned these proposed regulations are acceptable to them for all wells drilled. This Exhibit A, as amended by the testimony of Mr. Hill this morning. I think the other companies would like to make a comment on it.

MR. DAVIS: We will concur in that, and we have no objections to the amendments to Exhibit A. And Southwestern Potash, and Potash Company of America, and the International Minerals and Chemical Corporation, and Duvall Sulphur and Potash all concur in the fact that we have no objections to the amendments proposed in Exhibit A.

MR. SPURRIER: Now, is there another company? Are there any more potash companies?

MR. DAVIS: We both represent them all. Mr. Seth spoke for U.S. Potash Co. And that represents the five companies who are involved. Mr. Cramer raises the point, Mr. Commissioner, that there are other companies who have been or are drilling in the area, and we, of course, do not speak for them. Exploratory work that may be going on or carried on by independents or others. But they are not present at this hearing.

MR. SETH: We represent all the established operators.

MR. SPURRIER: One more question. To make the record clear now; does any potash company have any testimony to present at this time on this case?

MR. SETH. As I understand the procedural situation at

this time, we will consider Exhibit A, as modified, which is limited to rotary drilling. And we stand ready to hear any proposals that may be presented for cable-tool drilling. The testimony Mr. Hill has presented this morning has split the thing into two questions now. We have the rotary regulations and we have the cable regulations. That was done by these amendments. And we stand ready to hear the proposals on the cable tools.

(Off the record discussion.)

MR. CAMPBELL: Mr. Commissioner, I believe at the last hearing a proposal was presented -- I do not represent the people that presented it -- but there is in the record a proposal for cable-tool-medium-depth well protection which was submitted at the last hearing. I presume that is the recommendation of the cable-tool operators.

MR. SETH: Are they standing on that proposal?

MR. CAMPBELL: That I don't know. I presume they have representatives here.

MR. YATES: We have submitted the program. If there is any objection -- we submitted that program at the last hearing -- and if the potash companies have objections to it, we would like to hear them.

MR. SPURRIER: The way the Commission understands it, now is the time for the potash people, or anyone else, to object to the cable-tool proposal. This is the one which was signed by several operators.

MR. SETH: I believe there are two of them in the record.

MR. SPURRIER: Yes. This one was signed by the representatives of several companies.

MR. CRAMER: Weren't there two proposals submitted at the last meeting by the cable-tool operators?

MR. SPURRIER: Yes, sir, there were. I am merely trying to take one at a time. I have another one which I will bring up when we see what is going to happen to this one. We have one here that is in effect signed by Stanley Jones. But I am talking about the one that is signed by American Republics, Buffalo, and on down the list.

MR. SETH: That is Exhibit B?

MR. SPURRIER: That is Exhibit B.

MR. CRAMER: I believe the potash companies are of the opinion there was to be one set of casing and regulatory rules having to do with drilling. At this time, this division having been made, it puts the potash companies where they would have to do some talking among themselves to see where the second group would fit. It didn't occur to us there would be two sets of rules.

(Off the record discussion.)

MR. SETH: May we have a short recess and talk this over among ourselves? This was split up by the testimony of Mr. Hill.

MR. SPURRIER: You may have that time I think. Before you take that time, I would like to say these exhibits have been on file, one as long as the other. And the Commission is bound to consider all of them. And the Commission will consider all of them. What we are trying to get is the objections of the potash people to any of them.

MR. SETH: Of course, the matter started originally with recommendations of the committee, which presumably covered all casing programs, no matter how drilled and to what depth.

MR. SPURRIER: Yes.

MR. SETH: And we have devoted our attention to that. That has been amended this morning by Mr. Hill, and the situation is quite different this morning. We would like to talk it over. Maybe we can arrive at a satisfactory conclusion.

MR. CAMPBELL: When this Exhibit A was presented Mr. Hill definitely testified it was to apply to deep-test wells in a defined area. And I think that was made somewhat clear, although there were some references previously to cable tools in that Exhibit A. It is definitely in the record it was to apply only to deep-test wells.

MR. SPURRIER: Well, let's say for clarification from the Commission's point of view that we will have to issue one set of rules or regulations for drilling in this area, which will necessarily include both types of drilling, rotary or cable.

MR. CRAMER: Mr. Commissioner, speaking as a member of the committee, the casing and cementing program as it was worked out by a sub-committee made up of engineers of the oil industry was considered by the appointed committee and approved by it. Now these various things that are being done modifies the approved committee action. So that it is somewhat of a change. We had thought, in the first place, that one set of rules could cover all types of drilling. And the committee, as such, has not made recommendations on any of the modifications.

MR. SETH: To clarify the record, I believe on behalf of U.S. Potash we accepted Exhibit A, as amended, for all drilling, no matter what type or what depth. Now if I can, to review the situation a little bit, at the end of the last hearing, the potash companies were confronted by this division also in the oil industry. There are three separate and distinct proposals, and which, as originally presented, are not consistent with one another. The testimony of Mr. Hill has taken one group out of it. For that reason we are put at a little disadvantage in meeting this exhibit which was put forward as a minority report more or less.

(Off the record discussion.)

MR. SETH. There is one question involved in here. Some of these regulations as far as we are concerned are applicable to certain areas and others are not. We have that additional fact to consider. We would like before very long to read into the record a written proposal which includes the variations in methods in different areas. That might clarify the procedural situation.

(Off the record discussion.)

MR. CRAMER: Mr. Commissioner, speaking as a member of the commettee and also as a representative of the Potash Company of America, there would be one very pronounced objection to Exhibit B which would have to be clarified, I am sure, before we could get together on the thing. That is what is designated as par."b"of Exhibit B, reading as follows: That the casing and cementing program herein suggested apply only to the areas embraced in proven commercial deposits of potash. The remainder are designated potash areas to be drilled in accordance with standard existing practices. That is the end of the quotation. Up to this time all the discussion before the committee, before your Commission, and before the Land

Office has been to the effect that there would be certain acreage within a broad defined area in which drilling would be completely barred, and that the intent of any drilling regulations within that defined area is to protect the state and the potash operators in the event of any future finds of deposits of potash minerals in the delineated area. And it would appear that Exhibit B, as proposed here, would throw wide open the actual presently operating area.

(Off the record discussion.)

MR. CAMPBELL: Mr. Commissioner, in connection with this area, may I state we would be delighted to have the potash industry present whatever suggestions they have as to the areas in whatever rules the Commission promulgates will apply. Insofar as this division of rotary and cable tools, may I state our position on that? The Commission has power under the statute to issue rules and regulations for the drilling of any oil wells in any area in New Mexico, dependent upon particular conditions. There are now three suggestions; one of which applies solely to deeptest rotary wells, and two of which apply to cable-tool shallow wells. I take it that the potash industry feels Exhibit A should apply to all wells, whether cable tool or rotary, deep or shallow. Of course, that is a position they are entitled to take. There is in the record, however, two suggestions by people who drill shallow wells. And if the Commission, in its order, wishes to follow the potash industry suggestion and apply Exhibit A to all wells, they can do so; but if they desire to differentiate, they can do so. It seems to me objections to Exhibit A shouldn't be offered on shallow wells. Since they were offered at the last hearing. It may be the proper thing to do would be to present the data as to areas, which would clarify some of the matters objected to in Exhibit B. I don't represent those people, but in order to keep the matter straight, there is certainly no intention to mislead as to what they have to offer based on the presentation of these two programs because they were both presented at the last hearing. And I thought it was made clear this proposal in Exhibit B was the proposal of the shallow-well people, to be incorporated in whatever the Commission puts out insofar as those particular wells are concerned.

MR. SPURRIER: Well, you have asked for a recess. Do you still want the recess ?

MR. SETH: Yes. Let us discuss it among ourselves for a few minutes, and we will also present our proposal which includes

the plugging.

MR. SPURRIER: The Commission is just about prepared to give you until 1:30 or 2 o'clock to get your discussion over and be prepared to present -- to outline the area when you come back. Is there an objection to that time?

MR. SETH: One thirty would be fine.

MR. SPURRIER: Mr. Morrell?

MR. MORRELL: Mr. Commissioner, I think it might be appropriate at this point to read into the record an attempted definition of shallow and deep, since that is the procedure that is appearing to be worked out this morning. For the benefit of the Commission, I would like to read into the record an interpretation that is now currently being used by the Geological Survey. We have been called on to define what is shallow and what is deep. And we find that a depth figure alone is not entirely satisfactory, because of the differences in depths within the designated area. Possibly the potash companies would like to consider this in connection with the matters they want to take up under advisement during recess. A Survey report reads as -- to Washington from Roswell -- reads as follows:

> "Definitions of shallow and deep zones are essential to the present discussion. The area is complex stratigraphically inasmuch as it extends from north to south from the shelf or back-reef area across the Capitan Reef into the Delaware Basin. The permian Tansill, Yates, Seven Rivers, Queen, and Grayburg formations, comprising the White Horse group of the back reef are transitional into and equivalent in age to the Capitan limestone of the reef. The Capitan limestone is in turn transitional into the Bell Canyon formation of the Delaware Basin. The base of the shallow zone and top of the deep zone is, for practical purposes, defined as the base of the Grayburg, Capitan, or Bell Canyon formation, depending on the location. The shallow zone production includes that of the Tansill, Yates, Seven Rivers, Queen and Grayburg formations of the back reef area. And the so-called Delaware sand near the top of the Bell Canyon formation of the Delaware Basin. The Capitan limestone is untested in this area, and has so far yielded no production. The maximum depth of the shallow zone in the northern

part of the area is from 1,600 to 3,500 feet. The shallow zone in the Delaware portion of the area has not yet been found productive, and few wells have been drilled to it. The base of the shallow zone is here estimated at from 4 to 5000 feet. The deep zone so defined includes the older permian formations below those of the shallow zone and the Capitan-permian formations down to the granitic basement."

I thought it might be helpful to have that in your record.

MR. SPURRIER: Thank you, Mr. Morrell. As a matter for the record, these exhibits A and B were offered in evidence at the last hearing by Mr. Campbell and were accepted at that time. The Commission, as I said before, is bound to consider them when it promulgates the casing rules. So if the potash people find objections to Exhibit B, I suggest you offer them as such. Although I understand that by saying you accept the conditions of Exhibit A that you automatically register a protest against B.

MR. SETH: We will prepare our comments on B and C also. They were presented as alternatives. There were three alternatives presented.

MR. SPURRIER: All right, gentlemen, we will recess until 1:30.

(Noon recess.)

(Note: Full Commission present for the afternoon session.)

MR. SPURRIER: The meeting will come to order, please. Mr. Seth.

MR. SETH: We appreciate the opportunity of having the recess and we have modified our written proposal in accordance with the matters developed by Mr. Hill, and set up two separate categories. Mr. Davis will read the modified proposal into the record. And as soon as possible we will prepare complete copies, and have 25 or 30 in the hands of the Commission for distribution. The modifications were necessary by reason of the situation which developed this morning. If Mr. Davis may come forward, he will read it into the record. If the Com-

mission please, this is a statement to be read into the record. Mr. Davis, if there are questions to be asked, will be sworn and we will provide also Mr. Weaver, a geologist and engineer, to answer questions.

MR. DAVIS: In that connection, in order not to confuse the record, because this jumps around, I think it would be clearer if notes could be made and the questions not asked while the statement is being read.

This is a statement captioned, "PROPOSED REGULATIONS TO GOVERN EXPLORATION FOR AND EXTRACTION OF OIL AND GAS AND POTASH MINERALS ON NEW MEXICO STATE LANDS INCLUDED IN PROVEN OR POTENTIAL POTASH PRODUCTION AREAS." The objective of these regulations is to assure maximum conservation and economic recovery of oil, gas and potash minerals.

"I. These regulations are applicable to the area shown on the accompanying map." (Off the record.)

At the moment, we have only one copy of the map. Additional copies will be supplied at the time copies of the text is given to you.

MR. SETH: We offer that as an exhibit, if the Commission please.

MR. SPURRIER: Without objection, this may will be accepted as Exhibit A.

MR. DAVIS: " .... hereinafter referred to as the 'defined area.' The lands within this area presently fall within one of the following classifications:

"AREA A. Areas which are underlain by proven commercial potash deposits.

"AREA B. Areas under which commercial potash deposits are indicated but not delineated.

"II. The following procedures shall apply to oil and gas exploration and extraction within the defined area:

"AREA A. Drilling for oil and gas shall not be permitted within this area except upon leases where there is presently production in commercial quantities. Upon such leases, further drilling shall only be conducted pursuant to the provisions of

paragraph 2,AREA B herein, covering deep wells.

"Further leases may issue upon lands within the A area, but such leases shall contain the proviso that no drilling may be conducted thereon; however, the acreage included in such leases may be committed to unit agreements. Where oil and gas wells are in production within this area, no mine opening shall be driven to within less than 100 ft. of such wells so that pillar protection will be afforded.

"AREA B. Spacing of oil and gas wells in this area shall be limited to one per quarter-section. All such wells shall be located in the center of the quarter-section unless relocated by mutual agreement of the oil and gas lessee, the potash lessee, and the State Land Commissioner. All wells drilled within this area in exploration for and production of oil or gas shall be drilled, cased, and cemented according to the following procedure:

"Deep Drilling." At this point we would like to incorporate by reference the provisions covering drilling as read into the record this morning by Mr. Hill, or as amended by him, from a previous filing. This morning we agreed to Mr. Hill's setup, but it should be subject to plugging requirements, which will be brought in at a later time.

"Shallow Drilling. The suggested casing and cementing program is as follows:

"(1) Surface Casing String. In order to protect against intrusion of water, the surface casing string shall be set in the 'red bed' section of the basal Rustler formation immediately above the top of the salt section; and shall be cemented back to the ground surface or to the bottom of the cellar.

"The surface string shall consist of new, secondhand, or reconditioned pipe. New pipe shall have received a mill test of not less than 600 lbs psi; secondhand or reconditioned pipe shall be retested to 600 lbs psi before being run.

"Cement shall be allowed to stand a minimum of 12 hours under pressure and a total of 24 hours before drilling the plug or initiating tests.

"Tests of casing shall vary with drilling method. If rotary is used, the mud shall be displaced with water or with the proposed saturated water solution, and a hydraulic pressure of 600 lbs psi shall be applied. If a drop of 100 lbs psi

or more shall occur within 30 minutes, corrective measures shall be applied. If cable tools are used, the mud shall be bailed from the hole, and if the hole doesn't remain dry for a period of one hour, corrective measures shall be applied.

"(2) Salt Protection String. The salt protection string shall be set at least 100 ft. and not more than 200 ft. below the base of the salt section. This string may consist of new, secondhand or reconditioned pipe capable of meeting the manufacturer's test specifications.

"The string may be cemented with a normal cement volume for testing purposes only; and if commercially productive, the string must be recemented with not less than 150 per cent of the calculated volume necessary to circulate cement to the surface. The fluid used to mix with the cement shall be saturated with the salts common to the zones penetrated and with proper amounts of calcium chloride.

"Cement shall be allowed to stand a minimum of 12 hours under pressure, and a total of 24 hours before drilling the plug or initiating tests. If the cement fails to reach the top of the salt, the salt protection casing shall be perforated just above the top of the cement and additional cement jobs done until cement is brought to that point. One or more temperature or gamma ray surveys supporting complete cementation shall be filed with the Oil Conservation Commission.

"Tests of casing shall vary with the drilling method. If rotary is used, the mud shall be displaced with water and a hydraulic pressure of 1,000 lbs psi shall be applied. If a drop of 100 lbs psi or more should occur within 30 minutes, corrective measures shall be applied. If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

"(3) Oil or Production String. This string may be set on top or through the pay zone and cemented with a volume adequate to protect the pay zone and the casing above such zone; provided however, if no salt protection casing shall have been run and commercial production obtained, that string shall be cemented to the surface as provided by (2) above or as provided by 3, a, in the deep well program.

"(4) Drilling Fluid for Salt Section. This fluid shall consist of water to which has been added sufficient salts of a

character common to the zone penetrated to completely saturate the mixture. Other admixtures may be added to the system by the operator in overcoming any specific problem."

This requirement is specifically inserted in order to prevent enlarged drill holes. Off the record for just a moment. (Off the record.)

"All holes drilled either under the deep or shallow-well programs which are abandoned shall be plugged in accordance with the following procedure:

"(a) Upon completion of production from wells which were drilled prior to the date upon which these regulations became effective, such wells shall be plugged in a manner that will provide a solid plug through the salt section and prevent liquids or gases from entering the hole above or below the salt section. Details of the plugging procedure shall be approved in advance by the Oil-Potash Committee.

"(b) Upon completion of production from wells drilled in accordance with these regulations, the wells shall be plugged by filling the casing cemented through the salt with cement.

"(c) If a well is dry or if the oil operator cannot complete a well and must abandon the hole, such well shall be plugged as provided in (a) above."

To digress for a moment here. What has just been read covers the specific casing and cementing requirements for both the deep and shallow drilling. In the main, the proposed regulations for shallow drilling are the same as those proposed by the group of operators and submitted to the Commission as Exhibit B. The balance of the material which will now be read would apply to the area restrictions and would be applicable to both deep and shallow drilling.

"III. Before drilling for oil and gas on lands within the "defined area" a map showing the location of the proposed well shall be prepared by the well operator and copies shall be sent to the State Land Commissioner and the potash lessee involved. If no objections to the location of the proposed well are made by the potash lessee in ten days, a drilling permit may be issued and the work may proceed. However, if the location of the proposed well is objected to by the potash lessee on the grounds that the location of the well is not in accordance with the foregoing regulations, the potash lessee may file

a written objection with the State Land Commissioner. If the well operator and the potash lessee cannot agree on a suitable location for the proposed well, or on any other questions which may arise in connection with the application of these regulations, then either party may demand a hearing before the State Land Commissioner, who will decide the issues in dispute. Nothing herein shall prevent either party -- strike that.

"A representative of the potash lessee may be present during drilling, cementing, casing, and plugging of all oil and gas wells on his lease to observe conformance with these regulations.

"A representative of the oil and gas lessee may inspect mine workings on his lease to observe conformance with these regulations.

"Each oil and gas lessee shall furnish to the State Land Commissioner and to the potash lessee involved certified directional surveys from the surface to a point below the lowest potash-bearing horizon for each oil and gas well drilled during the year. Each potash lessee shall advise the oil and gas lessee who is conducting drilling operations of the location of underground workings in the area adjacent to drilling locations.

"A bond of not less than $10,000, payable to the State of New Mexico, shall be posted by the well operator, to be forfeited by him for any infraction of these regulations.

"The State Land Commissioner shall add to the "defined area" any lands which subsequently are shown to be within a new potash area or an extension of the presently classified "defined area". Lands within the "defined area" shall be reclassified by the State Land Commissioner upon proper showing by the potash lessee that further commercial ore has been proven. If any lands are transferred to the AREA A classification, the AREA A regulations, contained herein, shall automatically apply to such lands."

That, Mr. Commissioner, is the end of our proposal. In our consideration of the drilling and casing regulations, it having been stated this morning that there were three proposals before the Commission, it was our belief that the Exhibit B more probably reflected the feeling of the majority of the small operators, or those who are interested in shallow drilling. And we slightly modified that exhibit, and are suggesting it as

being proper to cover shallow drilling. That, in our opinion, would automatically bar Exhibit C as it was filed at the previous hearing.

MR. SELINGER: Mr. Davis, are you through with your statement?

MR. DAVIS: Yes.

MR. SELINGER: Back up in AREA A in which you stated no drilling in AREA A unless the lease is now on production, and then you said something about further leases may be issued. Would you mind repeating that one sentence? I didn't get it.

MR. DAVIS: "Further leases may issue upon the lands within the AREA A, but such leases shall contain the proviso that no drilling may be conducted thereon; however, the acreage embraced in such leases may be committed to unit agreements." The purpose of that is to permit any operator who is now gathering acreage together to include in such acreage the lands within the AREA A. So that any oil or gas lying thereunder may be extracted, or at least the area will be protected to the operator who is undertaking the drilling operation at that point.

MR. CAMPBELL: I have a few questions I would like to ask Mr. Davis.

MR. SETH: I believe that is all of the statement. Mr. Davis will be sworn if he is going to be a witness. That presents our proposal.

MR. DAVIS: I would like to say one more thing, Mr. Spurrier, before I go on with that. It had been the intention of the potash members of the Oil-Potash Committee that this general statement and the provisions therein be submitted as a recommendation of the full committee. Because of the way the thing came around today, it was hardly possible to do that; and this really represents the feeling or the consensus of the potash group. It is my intention following this meeting to bring this up before our complete Oil-Potash Committee for its study.

MR. SPURRIER: You have no more direct?

MR. SETH: No.

MR. F. O. DAVIS, having been first duly sworn, testified as follows:

CROSS-EXAMINATION BY MR. CAMPBELL:

Q. Mr. Davis, would you state for the record approximately the size of AREA A? ---A. May I digress just a moment again there, Mr. Campbell? I just thought of something. AREA A, as it is shaded in on this map presented to the Commission, is slightly different from the legal description which was presented to the Commission at the last hearing. At that time, you may recall, we put that in by metes and bounds. When we started putting in the actual land holdings of each company which they considered AREA A, it extended slightly outside that metes and bounds description to the northwest.

Q I don't believe you put it in in the hearing before this Commission. There may have been some evidence submitted to the Land Commissioner hearing, but to my knowledge it wasn't here. I believe this is the first presentation of an area to the Oil and Gas Conservation Commission. ---A. Then there may be no question of a conflict. The heavily bordered area on the map presented as an exhibit should govern and not the metes and bounds description, which may be kicking around the territory somewhere.

Q Is that smaller than this particular area? ---A. Only by a few hundred acres. It is just a matter of straightening out some corners. To answer the question, Mr. Campbell, the area within the AREA A, as shaded on the map, is something in the neighborhood of 80,000 acres.

Q Does that correspond generally, Mr. Davis, with the external boundaries of the area which has previously been withdrawn from oil and gas leasing on federal lands plus the leases of the two new companies that are coming into the area? ---A. Yes. Plus certain state lands which have not previously been withdrawn.

Q And how large is AREA B? ---A. I was told this morning by someone who had scaled off the entire map that it was 300,000 acres -- within the outline. So that would leave AREA B approximately 220,000 acres.

Q Now, how did you arrive at the size of AREA A generally? ---A. Generally, it represents areas of each of the companies where extensive core testing has been done and the presence of

a commercial body of potash ore determined.

Q And it includes all of the present mine workings, of course, of the various companies? ---A. It represents the present mine workings plus the proposed workings of the two new companies who are presently contemplating entry into the field.

Q Did you undertake to or did you project your future plans on any yearly basis or anything of that kind in arriving at this area A? ---A. Broadly, I would say it probably takes in our known plans for the next 6 or 8 years. It does not take in any highly speculative territory whatsoever. It is what we consider commercially proven territory.

Q And you have extensively cored all of AREA A to your knowledge? ---A. Yes, sir.

Q How dense, normally, are your cores in those areas? ---A. When we get into an area where we find what appears to be commercial ore, we will drill several core tests to a section.

Q By several do you mean one every 160 acres or one to every 30 acres? ---A. There is no general rule on it. It could be as many as 6 or 8 to a section. But the probability is it is more likely to be in the neighborhood of 3 or 4.

Q How did you arrive at AREA B? ---A. The AREA B outlinewas prepared by representatives of the U.S. Geological Survey in a meeting of the Oil-Potash Committee in Carlsbad a few weeks ago. And it was based upon information in the hands of Mr. Allport of the U.S.G.S.; which incorporates material received from all sources and from all companies over the years. The area, therefore, represents what I believe he called the area of great promise insofar as possible potash possibilities are concerned.

Q But you have not cored that AREA B extensively? ---A. Not extensively. It has been cored. At least four companies to my knowledge, including my own company, have put down a number of holes, and the result of those holes has been attractive enough that some of us are continuing with rather expensive programs there to see if we can delineate another body of ore in connection with AREA B.

Q It is my understanding your proposal is: any oil operator desiring to drill anywhere within that 220,000 acres must file

a map with the Land Commissioner, and potash lessee, indicating the proposed location? --- A. Yes.

Q And if the potash lessee doesn't agree or if they cannot come to terms, then it will have to be heard in hearing, and then at that time you will undertake to establish there should be no oil or gas well in that particular spot. Is that correct? ---A. Roughly, Mr. Campbell, but not exactly.

Q Wherein am I wrong? That is a very important point and I would like to know what it is. ---A. The proposed regulation there states, "If, however, the location of the proposed well is objected to by the potash lessee on the grounds that the location of the well is not in accordance with the foregoing regulations ... " Now, if through an error in the records of the Commission or through an error in surveying or something of that sort, it would be determined that the location of the well was placed in an area that is not in accordance with the regulations, we could then object. We could only object, the way this is worded, on that basis.

Q You could only object, assuming the Commission's order complying with your suggestion that there be one well in the center of each 160-acre tract. If it was elsewhere, you could object? ---A. Yes.

Q Or any other provision of the Commission's order? ---A. That's right.

Q You couldn't object just because there was potash below? ---A. That, or we couldn't object just captiously.

Q The only purpose of the provision is to satisfy you there hasn't been an erroneous survey or an improper location under the Commission's order, whatever it may be? --- A. That is correct. It is assumed if we in our future work find other areas of potash, we will apply to the Commissioner to reclassify that as A, which would undoubtedly involve rather comprehensive examination by the Commissioner before he would recognize it. The mere fact we thought there was some potash underlying a B area would not give us the right to such.

Q So far as oil and gas operators are concerned, under your suggestion, provided he complies with casing and cementing programs, suggested as Exhibit A, there will be no restriction on hil drilling in AREA B except non-compliance with the Commission's order? --- A. That's right.

Q In other words, you are not asking the potash (?) lessee be called upon to prove the drilling of a well in AREA B? --- A. Not at all.

Q Now, there is one point I want to get straight about AREA A. Am I correct in my understanding that your suggestion is that the potash industry doesn't object to the leasing for oil and gas in that area, provided there is no drilling and provided it is committed to a unit plan? ---A. That was our thought in suggesting that provision.

Q May I ask if that just applies to federal as well as state lands in AREA A? ---A. I should think so. But we gave that no consideration, of course. We were here in a state hearing.

Q I realize that, but, of course, in the over-all problem we have got to consider they are contiguous. But that would be your general position as to AREA A? ---A. I should think so. As far as I could personally state. I haven't talked to the other members.

Q Then you are not in a position to state as part of your report? ---A. No, not the report.

Q That it would apply to federal areas. What was the reason, Mr. Davis, for attempting to establish a spacing program at this stage of the game, that 160-acres, one well in the center of each 160 acres? ---A. That is a follow-up on a discussion that has been carried on in every meeting held to date; whether it was the first meeting called by the Land Commissioner or the meeting held in his office subsequently or the meeting of the Oil-Potash Committee. The matter of spacing has been brought up on each occasion. And it was the consensus that the spacing should probably be a wide one. It would seem that the time to set it up is in the initial stages rather than later.

Q You don't feel, once you obtain production if you do, is the proper time, depending upon pool conditions, to determine what spacing should be? Wouldn't you be satisfied with such an arrangement as that if you had an opportunity to be heard on the spacing program? ---A. Well, we would certainly not like to contemplate the fact that we would look forward in future years to potash mining under some of the very close spacing that has been permitted in certain oil fields in the past. Not necessarily in New Mexico, but in many oil fields.

Q But you don't feel you would be satisfied with a hearing on that question at the time a discovery is made? ---A. Offhand I wouldn't like to answer the question without discussing it with the rest of the industry members.

Q You can see, can you not, that as far as the oil and gas operator is concerned that is a considerable commitment insofar as doesn't know at this time what reservoir conditions may be in a particular pool discovered. It may result in waste since he doesn't know what the condition will be until it arrives. There is a problem that bears consideration by the potash industry. ---A. Yes.

Q It is my understanding, from listening to your recommendations, that you suggest that this casing and cementing program as to the deeper wells and to the shallow wells, which you have read into the record here, shall apply both to test wells and producing wells? ---A. In the matter of the deep wells, what we have done consistently is to accept the recommendation of the oil industry itself. In the previous filing of a few weeks ago we said that was acceptable. This morning we said that the recommended program for deep drilling was as proposed by the industry itself, the oil industry itself, was acceptable.

Q I appreciate that fact, Mr. Davis, what I am asking you -- I don't believe you understand -- the casing program suggested today and one suggested previously was labeled "Test Wells and Exploratory Wells in the Area." ---A. Yes.

Q And your reading led me to believe that you intended to apply that to all wells? In other words, there would be no modification within this B area on a field rule basis once a discovery was made by an exploratory well? ---A. That's right.

Q You take the position it should apply to all wells within AREA B, exploratory or producing, is that right? ---A. Actually, the proposed program for shallow wells differentiates between a non-producer and a producer.

Q I am not referring to a non-producer or a producer. ---A. Or exploratory.

Q I am referring to a wildcat well, a test well. Exhibit A was originally intended to apply to that well with the possibility if production was obtained and a field discovered, then as is the customary procedure, field rules could be developed.

It could be the rules would need to be more stringent, perhaps less. But I would like to understand clearly what your position is on that particular phase of the matter. ---A. It is our belief that the need for the stringent casing regulations would occur if a deposit of oil or gas was found at any depth. And that the regulations that are proposed here are the minimum that should apply under any conditions.

Q To an exploratory or any other well in the area? ---A. Yes, sir.

Q Now, for just a moment on your abandonment program. I believe you stated you have drilled a considerable number of core holes in this A and some in the B area? ---A. Yes.

Q Is it your feeling that the abandoned core holes should be treated in the same manner by way of plugging regulations as an abandoned oil well, Mr. Davis? ---A. Mr. Weaver, who I think will follow me here, has had personal contact with the plugging of dozens or perhaps hundreds of our core tests, and I think he is much more competent to pass on matters there than I am.

Q Now, one other question, Mr. Davis. In connection with this request for a bond, are you acquainted with the bonds that are presently required under state leases in New Mexico? ---A. Not particularly, no.

Q Was your recommendation on the assumption that there is none, or do you feel there should be additional bond? As a matter of fact, I believe there is a $5,000 per well and a $10,000 blanket bond on state leases already. ---A. It was my understanding there was a plugging bond.

Q What is your recommendation? ---A. This would be a separate and distinct bond requiring compliance with the regulations and which would be forfeitable --

Q If it were true that the bond presently required in the amount of $5,000 per well and $10,000 for the -- $10,000 statewide blanket bond --- applied to all violations of any regulation of the State of New Mexico, would that change your views in connection with the bond? ---A. That would suffice, in our opinion, although we think possibly the penalty should be greater than $5,000. In that connection I would like to state it isn't our thought that there should be anything punitive here insofar as the potash companies are concerned. To us

MR. YATES: I wonder if I could have Mr. Davis read that back about drilling on presently existing oil and gas leases in A area.

MR. DAVIS: Drilling for oil and gas shall not be permitted within this area -- the A AREA -- except upon leases where there is presently production in commercial quantities. Upon such leases further drilling shall only be conducted pursuant to the provisions of paragraph 2, AREA B, contained herein, for deep wells. The thought there is that wheredrilling is continued in AREA A under existing leases, that the casing requirements for deep drilling should be required for shallow holes also in the A AREA.

MR. YATES: That doesn't sound like what you read. Will you read it again.

(Whereupon Mr. Davis read the language again.)

MR. YATES: What is your proposal on existing oil and gas leases on which there isn't commercial drilling?

MR. DAVIS: There is no provision for drilling them.

MR. YATES: Don't you think that is kind of in conflict with the existing oil and gas leases? Wherein the operator is given a specific right there?

MR. DAVIS: I will let you answer that, Mr. Seth.

MR. SETH: That is really a legal question for the Land Commissioner to decide. I don't know the answer myself.

A VOICE: Mr. Davis, did I understand correctly A AREA is about 800,000 acres?

MR. DAVIS: I didn't get your question.

A VOICE: Did I understand correctly that A AREA is about 800,000 acres?

MR. DAVIS: No, about 80,000 acres.

A VOICE: About 80,000 acres?

MR. DAVIS: Yes. I haven't scaled that off. I just roughly counted the sections here at noon. But it is in that

neighborhood.

A VOICE: And you also stated, I believe, that your company and others involved there would probably mine that area in 6 to 8 years?

MR. DAVIS: No, I didn't say that. Mr. Campbell's question in that connection was as to what determined our selection of that area. And I stated that it covered the area that we reasonably expect to get into within the next 6 to 8 years. We certainly hope we don't have it all mined out in 6 or 8 years because we will be disappointed in our reserves.

BY MR. MARTIN YATES III:

Q (By Mr. Yates) You say there is 80,000 acres in this AREA A. How long do you think it will take you to mine out the 80,000 acres? ---A. That is a rather difficult question to answer. But it will be several decades.

Q That is what I thought. Well, I for one would like to go on record protesting your proposal whereby you do not permit any drilling in the A AREA, whether it is under an existing oil and gas lease that has production or is without production. I think that that is confiscation. I certainly object. ---A. I would like to make a little explanation, it having been brought up once before when Mr. Campbell tried to show 500 years around here. When you say it takes several decades to completely deplete a mining property, that doesn't mean that you may not be in every section of your mine within 5 or 6 years. Your natural program of mining is to drift out, very often to the extreme outline of your deposits, and to do your working from there; so that this is an area we reasonably expect we will be operating in to some degree within this coming decade.

Q Here is the difference between your lease and ours. Once you establish commercial production, you can perpetrate your lease, but our lease, where we don't have production, is only for 5 years; and so long thereafter as oil and gas is produced. If we are not permitted to drill on our leases in the A AREA, we will lose those leases. We don't have a chance to ever perpetrate by production. ---A. That same requirement is in the potash lease. That only perpetrates in the event you continue operating in commercial production.

Q But under your proposal we are not permitted to operate ours.

I don't believe that is right. I think that the potash company has a right, and I think the oil company has a right. Both are sale leases, and I don't believe one should be precluded from operating their oil and gas lease while the other is permitted to operate potash.

MR. HARVEY YATES: I would like to register my disapproval. I am opposed to confiscation whether in the United States or Russia.

MR. WHITE: What proportion does your present mine operation bear to the total 80,000 acres?

MR. DAVIS: I can speak only for my own company, Mr. White. I would say that presently we have an area that extends approximately 4 miles north and south by something in the neighborhood of 3 miles east and west; which, if you squared it off, is 12 square miles, or 12 sections. Our immediate plans for the next two years contemplate the entry into about 4 more sections to the south. Our total holdings under both state and federal leases within this area that is covered here is something in the neighborhood of 20,000 acres on the part of our company. So that our present workings would be roughly in the neighborhood of one-half of the A AREA set down on the map by our company.

MR. CAMPBELL: You include in your description of areas you now mine or contemplate mining areas that might be -- where you might be having to drift out to a new mining area?

MR. DAVIS: That is correct.

MR. CAMPBELL: And you include those within those 80,000 acres?

MR. DAVIS: Yes.

MR. CAMPBELL: Where there is a possibility it drifts out to take in a deposit?

MR. DAVIS: Yes.

MR. YATES: I wonder if we could see that may, please, Exhibit A?

MR. SPURRIER: Does anyone have a question of this witness?

BY MR. MORRELL:

Q Mr. Davis, I would like to ask one or two questions for clarification of the presentation you have made on the proposed regulations. Following them, Mr. Davis, they appear to be based on the ones previously prepared by the potash operators. ---A. Primarily so; modified slightly in the light of the discussion this morning.

Q As I recall your presentation, you refer to the water to be mixed with the cement, that it shall be saturated with salts common to the zone penetrated with proper amounts of calcium chloride added. I have heard it informally discussed and I was wondering if it wouldn't be informative to ask of the other parties present at this hearing if they have any suggestions as to what the proper amount of calcium chloride additive should be? ---A. A bit earlier I suggested anything having to do with plugging could be better covered by Mr. Weaver.

Q It merely referred to proper amounts, and I wanted to get your idea. ---A. I believe in the neighborhood of three per cent, but Mr. Weaver can tell you definitely.

Q He will enlarge on that. That is three per cent of the volume and weight of cement? ---A. Yes.

Q We would like to have that clarified. The next point I have; you referred to a map to be prepared by the well operator. I was wondering if you would be willing to have a slight modification of that to provide for a map or plat of survey of the well location? ---A. I would think that would be all we meant by that.

Q The oil operators are now furnishing that to the Commission. ---A. That is all we require, is the location.

Q Is a survey of the location? ---A. Yes.

Q With respect to the point Mr. Campbell raised on your suggestion that exploratory wells be drilled in the center of each quarter-section, I would like to raise a little objection to that specific wording, inasmuch as within your defined area there are state lands that do not comprise an entire quarter-section. I gathered that your intention is you would like to limit exploratory development to rate or number of one per quarter-section? ---A. Yes. And for the reason the location

is, if you will notice, isn't inflexible in here. So that future plans of development could be worked out by the potash operators in the event that additional potash ore was found in that area and they wouldn't have to corkscrew around a bunch of holes placed hit or miss over an entire district.

Q That same result could be accomplished by merely stating exploratory wells would be limited to one well per quarter-section without specifying the location. I mention that because we do not approve wells in the center of a quarter-section on federal acreage, and present regulations of the Oil Conservation Commission do not. ---A. As a non-operating official, I wouldn't think it would occasion any difficulty as long as we reasonably in advance knew where it was. We can skirt any known hole if we know it far enough in advance, which we would do.

Q My thought was to take out the specific reference to a particular location to avoid that complication. ---A. I don't think it would cause any difficulty at all.

BY MR. CAMPBELL:

Q Did I understand you before as to this well in the center of 160 acres, that it applies only to exploratory wells? I didn't understand it that way. ---A. I don't think it stated that. I believe Mr. Morrell --

Q That is a considerable difference, of course. The original exploratory well, the spacing and location, is all different than it is in a developing well. ---A. That really isn't our proposal.

Q You thought it should apply to all wells? ---A. Yes.

Q That is the basis on which I questioned you. ---A. Yes, sir.

MR. SPURRIER: Do you also intend that this applies only to state land?

MR. DAVIS: In connection with the original purpose of the hearings and the establishment of a group to study this, it was our thought that very probably this would continue on to cover both federal and state lands. And as you know, there have been representatives of the federal government here at all discussions.

Q (By Mr. Campbell) You understand, don't you, Mr. Davis, that the Oil Conservation Commission issues rules and regulations which govern both state and federal lands within New Mexico? ---A. That is my understanding, regardless of the ownership --

Q They have the right to issue operating rules? ---A. Yes.

BY MR. GRONMON:

Q Mr. Davis, I believe you stated that in AREA A you recommended no development whatsoever. ---A. Yes.

Q In this 220,000 acres, AREA B, the proposal A that was submitted by the committee, engineer committee, was for test wells, exploratory wells, and it was my thought, as a representative of the operators, that that casing program was very rigid and should be reviewed if a discovery was found, and the field rules set up for the new field. I think that should apply to the spacing rule as well. In other words, this casing program presented today, which you and the other potash people presented thismorning, should apply to exploratory wells and new wells; and if an oil field is discovered, the Commission should hold a hearing to consider proper spacing for the development of the field and a proper casing program. In all probability, in my opinion, the proper casing program would include the two strings of pipe above and below the salt. But for proper development of an oil field, it might be advisable to alternate any casing program below that. It should be considered in view of the information and knowledge of the oil field at that time. ---A. Well, that is the first time I have heard any distinction made between exploratory wells and subsequently developing wells, let us say. Again, to reiterate, the casing and drilling program as stated to be acceptable to us was developed by the oil industry itself. I believe that, without change, the potash industry at the last hearing stated that the sub-committee's recommendation for a drilling and casing program was acceptable to the potash companies. This morning, as you know, we stated that the modifications as proposed by Mr. Hill were acceptable. So we have felt that right along it was the oil industry's own idea of what it took to properly protect its own wells and the potash deposits. And until Mr. Campbell started asking questions about exploratory wells, I didn't know there was any distinction.

MR. SETH: May I make a comment on that point? I think a hearing of this nature is all we can do now. Is do the best we can, knowing the circumstances. The Commission is always

open to anyone to come in at a later date and seek a modification of orders. We can't anticipate everything at this point. All we can do is to do the best we can on what we know of the situation. If something develops during the program, and might at a later date, any person that has sufficient interest can come in and seek a modification upon the basis of the facts as they are then known. That would certainly be true in this case, wouldn't it, Mr. Spurrier?

MR. SPURRIER: Certainly.

MR. GRAMMON: I believe it would be impossible for the Commission at this time to write proper regulations for oil development in a field that they wouldn't know whether it was 5, 7 or 10 thousand feet deep and about a spacing and casing program below a salt development.

MR. SETH: To think of spacing in connection with reservoir conditions and drainage. But you have here an agency in between those wells that has to guard its underground workings and has to leave pillars or a certain size. You have to take into consideration this new and additional factor in spacing. It isn't spacing only for drainage of the oil, it is spacing to conserve the potash reserve also there. If you get oil wells too close together in the section, there won't be any room for anybody else to work underground. You have to consider someone else in there.

MR. GRAMMON: Of course, we have never had what we consider real close spacing in New Mexico. 40 acres. You would have no objection to a rehearing if a discovery was made to consider proper regulations for the field?

MR. SETH: I don't think there is any question about it.

MR. GRAMMON: Very well, that is all I have.

(Recess.)

MR. SPURRIER: Does anyone have any further question of Mr. Davis?

BY MR. YATES:

Q Mr. Chairman, I would like to ask Mr. Davis about this 80,000 acres in the A district. Just how many acres have you mined by the various potash companies in the last 25 years?

Can you answer that? ---A. I don't believe you could answer the question directly, Mr. Yates. It has very little bearing on what determines the outline of the 80,000 acres. As I stated previously, the amount of acreage that you have actually mined out doesn't determine the area of your mine workings. You may have mine workings under 10 square miles and have mined out only one square mile completely.

Q Wasn't it previously testified at one of these hearings there has been approximately 10,000 acres mined in the last 25 years by the various potash companies? ---A. I don't recall that. But for one thing your American potash industry today is about 10 times as big as it was 12 or 14 years ago. The first potash operation I think got into -- got going commercially -- in 1929. The second operation didn't get in there until 1935. The third operation didn't get started until 1940; and each one of them started on a fraction of the basis it now operates under. So, anything that occurred in the past would be no criteria as to what might come in the future. Past performance on the removal of ore has nothing really to do with the case.

Q I kind of think it might have something to do with it. It looks to me, just from a layman's viewpoint, to that 80,000 acres I believe it will take anywhere from 150 to 200 years to mine out the rest of the potash ore. I think that is an unreasonable length of time. ---A. Unfortunately, Mr. Yates, you are not familiar with the potash properties or potash authorities or potash reserves. I can state unequivocally right now insofar as any known potash reserves occur down there there is nothing like 150 years of ore. Or insofar as I know today no one can positively state that at the present rate of production there is 50 years of ore supply.

Q All right. Now, isn't it likely -- as I understand it, the potash companies are continuing to core and they are prospecting from time to time -- isn't it likely they will make more discoveries? ---A. We certainly hope so.

Q Then I think in view, in the light of that, it is unreasonable for the potash companies to try and set aside an area that large and expect the oilman not to drill wells in those areas. This thing will keep growing and growing. ---A. Relatively, the area is infinitesimal, as I think you will agree when you spot it down on a map of the state or county, as the case may be. And it is the only place known in New Mexico where potash occurs, and it is something of vital importance to the state and to the nation.

Q I agree it is vital to the state and the nation, and I think the potash companies should be permitted to mine; but at the same time, I think the oil companies could protect the potash beds, and I think both could work in cooperation in the same areas at the same time. ---A. In the event now you speak of the entire defined area, in the event you should find oil deposits in the B AREA and develop the B AREA, it wouldn't make any difference what the potash companies found in the next 10 to 20 years. It would still be concurrent production of oil and potash.

Q But you set one area aside and don't permit any drilling, and permit drilling in B. Suppose a man has a lease in the B and A AREAS, which we have. All right. Then we have some neighbors that have offset leases that offset our lease in the A AREA. We couldn't protect ourselves from drainage where a man drills an offset to our 80 acres. We would have to wait, if your proposal went through, and have the oil go out from under us even though we could perpetrate our lease in the A and B AREA through production on the B AREA. That would certainly be an unjust case. (No response from the witness.)

MR. YATES. Mr. Chairman, I would like to register a complaint against the proposal made here just a minute ago, and that is on the spacing of 160 acres. As I understand it, their proposal is on the B AREA. It has been established by precedent, generally speaking, that the spacing in New Mexico has been one well to 40 acres. And I don't think one to 160 acres is just and right. I don't believe it is to the interest of the state or the federal government either.

MR. SPURRIER: Does anyone have a question of Mr. Davis? Or a comment? If not, the witness may be excused.

(Witness excused.)

MR. SPURRIER: Do you have another witness?

G. C. WEAVER, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SETH:

Q Will you state your name, please? ---A. G. C. Weaver.

Q With which company are you associated, Mr. Weaver, and in what capacity? ---A. I am a consultant for Duval Sulphur and

Potash.

Q Would you state briefly your qualifications? ---A. I graduated from Colorado School of Mines in 1926. I have been in the mining game ever since. I have had eight years with the Potash Company of America, four with International Minerals and Chemical, and I have done consulting work for the last five years.

Q Have you examined and considered the proposed regulations as presented to the Commission by Mr. Davis? ---A. I have.

Q Would you wish to make any comments on them, generally, or anything specific for the benefit of the Commission? ---A. I think the major point to be considered in any approach that we take to this problem is conservation; conservation of both oil and gas and potash..

Q As far as the casing requirements are concerned, both for the deep wells and shallow wells, what comments do you have to make on those?---A. Well, these regulations that are set forth now I don't believe should be construed as final. If there is an oil and gas discovery made, the casing program will have to be worked out after the pool has been discovered. These regulations that we have here are a starting point. But it is provided for in these regulations to alternate the programs after due consideration has been given by the Commission and others concerned.

Q Now, as far as specific questions are concerned, I believe Mr. Foster Morrell asked about the fluid to be mixed with the cement, as to the proportion of calcium chloride. What do you recommend? ---A. The normal practice is to use three per cent clacium chloride, three per cent of the weight of the cement used.

Q You believe that would be a reasonable requirement in this connection? ---A. Yes. There has been considerable research work done on that.

Q The question was also asked as to the method of plugging core holes drilled by the potash companies in their exploratory work. What recommendation for closing core holes do you have? ---A. The practice followed in plugging core holes is to cement through the salt section with Portland cement and three per cent calcium chloride and mixed with saturated sodium chloride and potassium chloride brine. It is a continuous plug all

through the salt section.

Q That would be comparable to the plugging requirement recommended in this proposal? ---A. Yes.

Q There has been some discussion about the spacing as proposed in these recommendations? What comments would you have to make on the spacing as an initial proposal, knowing what we know about reservoir conditions at the present time? ---A. I don't think it was the purpose or intent to insist that wells be drilled in the center of each quarter. The thing in mind there was to limit the number of holes per section so that too many pillars wouldn't have to be left upon the extraction of potash.

Q These proposals contemplate that no workings will be driven to within a distance of less than 100 ft. from any such wells. That would mean you would have to leave a pillar with a radius of 100 ft. around each well? ---A. That, or adequate support, yes.

Q As the density of the wells increased in the section, it would mean substantial reduction in the recoverable potash in the area? ---A. Yes, that's right.

Q In your opinion, is that a reasonable requirement as recommended for a starting place, at least? ---A. Yes. There again, I believe it takes into consideration and is set up in this proposal where that spacing can be changed.

Q Is there anything else of general comment on technical matters you would like to bring out? ---A. I may say this. I can appreciate the position of the operator in wanting to recover all casing possible. And it would be my opinion that the potash companies would not object to recovering all that casing in case of a dry hole.

Q These regulations, do they not contemplate on the shallow wells that the salt protection string be recovered if the well isn't a producing well? ---A. That's right.

Q Is there anything else you would like to comment on? ---A. No, I believe not.

MR. SETH: That is all the direct questioning.

CROSS-EXAMINATION BY MR. CAMPBELL:

Q Mr. Weaver, I believe you stated that you felt the primary consideration of everybody in this matter was conservation. I presume by that you mean the production of these resources under proper conservation practices? ---A. Yes, sir.

Q We are all concerned with producing both oil and gas and potash? ---A. That is correct.

Q And making it available. I have one question to ask you about the spacing matter. Do you have a particular objection to presenting your views with regard to spacing of these wells before this Commission at such time as a discovery is made? And your advice would be the same then, and the Commission's consideration of those views be better balanced at that time than it would be at this time? ---A. Yes, I think you are correct. No one knows where a discovery is going to be made.

Q That's right. ---A. And I don't think there is anyone here that can foresee where alarge salt horse would enter in. And I think that if that could be handled on its own merits, it would be very satisfactory that way.

Q There is one other thing that has come up in our discussions with reference to your proposal about the use of the various brines in the plug. ---A. Yes.

Q I believe your porposal, which I think is taken from the one suggested by the sub-committee of the engineering committee of the oil and gas operators ... ? ---A. Yes.

Q Uses the terms "salts common to the area." ---A. Yes, sir.

Q Would the suggestion you made with reference to your three per cent solution there plus the other ingredients eliminate the necessity of that provision? In other words, some of the operators raise the question as to whether you might in all cases be able to determine with accuracy the salt common to that particular area. Would that be a particular problem so far as you are concerned? ---A. No. I am sure in plugging any of those wells that the potash companies would cooperate fully in furnishing a saturated brine for the mixing.

Q It would be to their advantage to do it? ---A. Yes, certainly.

Q If they had it available? ---A. Yes, certainly.

MR. CAMPBELL: That is all.

MR. SPURRIER: Does anyone have a question of this witness? If not, the witness may be excused.

(Witness excused.)

MR. CAMPBELL: If the Commission please, I would like to call one witness for a very brief presentation, and I would like to explain the reason for the presentation of this evidence. It isn't to minimize the understanding of most of the oil operators. The necessity of using every effort to have a proper program of casing and cementing in this area, but to make clear to the Commission the background of oil and gas drilling in this area so that they may evaluate the problem involved in connection with this casing and cementing. And I would like to call for that purpose Mr. H. S. Cave.

H. S. CAVE, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CAMPBELL:

Q State your name, please. ---A. H. S. Cave.

Q By whom are you employed? ---A. Phillips Petroleum Co.

Q Where are you stationed? ---A. Roswell, N. M.

Q In what capacity are you employed? ---A. Well, just senior geologist.

Q Will you state for the Commission very briefly your professional background? ---A. I did undergraduate work in geology at the University of Missouri; one year of postgraduate work in geology at the University of Missouri; and two years postgraduate work at Harvard University; two field seasons with the U.S. Geological Survey; a year and a half with the Geological Survey of Georgia; subsequent to that time, with the exception of time in the service, I have been engaged in geological work for oil companies and industries.

Q Mr. Cave, when did you first become acquainted with the geological situation in the area that is here under discussion? ---A. That was very late in 1926 or early in 1927, at which time I was employed by the Disbee Oil Co., at which time said company acquired state leases for potash exploration in

the amount of approximately 49,000 acres.

Q What was your connection with that -- in exploratory work? ---A. Subsequent to that, in order to validate those leases and to see what we might have gotten, we drilled four core holes, and atthat time it was my duty to check such cores and describe them, and that was done in conjunction with Walter Lang of the U. S. Geological Survey, who was in charge of potash investigation for the Survey and hence for the Department of the Interior in New Mexico.

Q You, yourself, assisted in the analysis of those cores? ---A. Yes, sir.

Q Mr. Cave, through the course of the years since that time have you had occasion to obtain records concerning the drilling of oil wells in this particular area? ---A. Yes, sir, I have.

Q And have you recently made a study of wells which were drilled and have been drilled in that area since the initial discovery of oil? ---A. I have made a compilation of the date pertaining to those wells.

Q What area does the compilation cover? ---A. It primarily covers Township 19S, Range 29 and 30E; Township 20S, Range 29 and 30E; Township 21S, Range 29 and 30E; and Township 22S, Range 29E.

Q That is six townships, is that correct? ---A. Yes, sir. Seven townships.

Q Seven townships in the immediate area under consideration here? ---A. Yes, sir.

Q And what did your compilation show as to the number of oil and gas wells which have already been drilled in that area? ---A. These records were taken from the status sheets of the Geological Survey and set forth in T. 19S, 29E to have been a total of 45 test holes drilled. In total depths these ranged from 503 ft. to 3,096 ft. Through their range in years for this drilling they range from 1925 into the year 1951. In T. 19S, R. 30E, as of approximately one month ago, 22 tests had been drilled, with a range in total depth with a minimum of 1,722 ft. to a maximum of 4,022 ft. In years, range from 1929 up until a period of about one month ago in the current year 1951. In T. 20S, R. 29E during the same dates there have been drilled a total of 30 wells that range in total depth

from a minimum of 505 ft. to a maximum of 6,683 ft. In years, they range from 1925 to 1948. In T. 20S, R. 30E, a total of 47 wells, with ranges in total depth from 1,250ft. to 3,500 ft. In years, the range covers from 1925 to 1948. That gave in those four townships, for which we were supposedly reaching, a total of 144 tests. In T. 21S, R. 29E there have been drilled 2 tests, one to 430 ft. in the year '41 and one to a total depth of 3,334 ft. in the year 1950. In T. 21S, R. 30E there have been a total of 5 holes drilled. They range in total depth from 503 ft. to a maximum depth of 1,934 ft. They were drilled between the years 1925 to 1934. In T. 22S, R. 29E 2 tests have been drilled. One to a total depth of 3,322 ft. The other to a total depth of 3,260 ft. The former was drilled in 1937 and the latter in the year 1926. It gives within the general area under discussion a total of 153 tests of one class or another that have been drilled.

Q And these records you obtained from the reports of the U.S. Geological Survey? ---A. Yes.

Q And those are available, as to location, and all the information is available at that source? ---A. Yes, they are. I might add, on this current gological survey the accurate location is shown, and I merely tabulated this to give more concrete figures.

Q To your knowledge, within that area where those 153 wells between 1925 to date have been drilled, do you know of any instances in that particular area where there have been complaints as to leakage and so forth? ---A. Personally, I do not. But I have no record what damage the potash people might have suffered, if any.

Q But this area we are referring to isn't virgin country so far as oil and gas holes are concerned? ---A. By no means. It is one of the oldest areas for prospecting in the state as far as southeastern New Mexico is concerned.

MR. CAMPBELL: That is all.

MR. SPURRIER: Does anyone have a question of this witness?

MR. SETH: We have no questions.

MR. CAMPBELL: That is all we have.

MR. SPURRIER: Do you have any other witnesses, Mr. Seth?

MR. SETH: We, we have no further testimony.

MR. SPURRIER: Do you have anything further, Mr. Campbell?

MR. CAMPBELL: Mr. Commissioner, just this. I think this hearing today has brought the problem here into focus more than any we have previously had, and so far as Richardson and Bass, whom I represent,are concerned, we wish to state we appreciate the information furnished by the potash companies and we feel, based on the information that has been furnished and their recommendations and our recommendations that, speaking for that company, we feel that the matter can definitely be worked out to our satisfaction, and we hope to the satisfaction of the potash companies.

MR. SETH: On behalf of the potash companies, I would just like to express our appreciation for this additional hearing that was had after the recess this noon. We feel that the matter is one of some substantial importance to the state and it should be decided on the basis of the interest of the state itself. The potash deposits, as has been testified several times during these previous hearings, are probably the only ones in the western hemisphere. The state should look at the proposition with a long-range view. The potash beds can be developed in the immediate future, and they should be. It is just a matter of time. The oil will be there when the potash is mined out. And I believe the matter, as the witness has stated, is one of conservation. It not only means production and realization of these resources, but it means protection of the adjoining ones. If the oil can be produced in a manner to protect the potash beds, that is all we are interested in. The state, in the potash, has a unique resource that is in need of protection and is in considerable danger of damage, and I think the matter as presented during the several hearings has brought that out much better than I can state it. It transcends any interest of any individual or any individual company. In a situation of this nature, just as in these condemnation cases on the bombing range and other things that have happened in the state, someone is bound to get hurt. It happens when the state takes into consideration an action like this. A decision has to be made which will insure to the state the best realization of this resource. We will be very happy to furnish any additional maps or information that the Commission may wish at any time.

MR. SPURRIER: Thank you. The meeting is adjourned, gentlemen.

STATE OF NEW MEXICO

COUNTY OF BERNALILLO ss

I HEREBY CERTIFY That the foregoing transcript of hearing before the Oil Conservation Commission in Santa Fe on July 10, 1951, is a true record of the same to the best of my knowledge, skill, and ability.

DONE at Albuquerque, N. M., this_____day of July, 1951.

E. E. Greeson
Notary Public - Court Reporter

My Commission Expires: 8-4-52

Mailed:
July 20, 1951

Exhibit 12

BEFORE THE
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO

IN THE MATTER OF:

CASE 278

TRANSCRIPT OF HEARING

AUGUST 13, 1959

DEARNLEY - MEIER & ASSOCIATES
GENERAL LAW REPORTERS
ALBUQUERQUE, NEW MEXICO
Phone CHapel 3-6691

BEFORE THE
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO
AUGUST 13, 1959

IN THE MATTER OF

CASE 278 Application of Duval Sulphur and Potash Company for an extension of the Potash-Oil Area as set forth in Order R-111-A. Applicant, in the above-styled cause, seeks an order extending the Potash-Oil Area as defined in Order R-111-A, to include additional acreage in Townships 18, 22 and 23 South, Range 30 East, Eddy County, New Mexico.

BEFORE:

A. L. Porter
Murray Morgan

T R A N S C R I P T O F P R O C E E D I N G S

MR. PORTER: Take up next Case 278.

MR. PAYNE: Case 278. Application of Duval Sulphur and Potash Company for an extension of the Potash-Oil Area as set forth in Order R-111-A.

MR. McCORMICK: If the Commission please, my name is Don G. McCormick, and I appear here as attorney for the Duval Sulphur and Potash Company. We have filed our application in this case for an extension of the Potash-Oil Area. On the 13th of November, 1955, this Commission entered its Order No. R-111-A establishing the Potash-Oil Area, and in June of this year

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entered a supplemental Order No. R-111-B enlarging this area in some respects. We have applied for the addition of 240 acres in Township 18 South, Range 30 East, and 240 acres in Township 22 South, Range 30 East, including a small one-tract in Township 23, Range 30.

I would like to have sworn as witnesses Mr. Ben F. Maguire and Mr. J. E. Tong.

(Witnesses sworn)

MR. McCORMICK: Mr. Maguire, will you take this seat right here, please?

We ask the Reporter to mark these maps as Applicant's Exhibit 1. There are four copies.

(Thereupon, Applicant's Exhibit No. 1 was marked for identification.)

MR. McCORMICK: I now hand the Commission Applicant's Exhibit 1 and Mr. White a copy by request.

BEN F. MAGUIRE,

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

DIRECT EXAMINATION

BY MR. McCORMICK:

Q Mr. Maguire, I hand you Applicant's Exhibit 1 and ask you to state what that is, please.

A This is a general area map showing the outline of the present Oil Potash Area and showing, by shading, the potash leases

owned by the Duval Sulphur and Potash Company.

Q Now, the solid but rambling line shows the boundaries of the present Oil Potash Area?

A Yes.

Q And the purple -- the areas shown in purple are the leases or permits owned by the Duval Sulphur and Potash Company?

A That's correct.

Q Now, I notice in Township 18 South, Range 32 East an area marked in red. Is that the area that you seek to add to the Potash Area in that Township?

A It is.

Q And in Township 22 South, Range 30 East there is a similarly marked area that designates the additional acreage requested?

A Yes.

Q Please tell the Commission where the present mining operations of Duval are carried on.

A Duval's present mining operations are located within Township 20 South, Range 30 East, the small four-section lease shown in the SE corner of that Township.

MR. McCORMICK: I ask the Reporter to mark these maps as Applicant's Exhibit 2.

(Thereupon, Applicant's Exhibit No. 2 was marked for identification.)

MR. McCORMICK: I now hand the Commission copies of

Applicant's Exhibit 2,and also I hand Mr. White a copy.

Q (By Mr. McCormick) Mr. Maguire, I hand you Applicant's Exhibit 2 and I'll ask you if that map shows the holdings of Duval Sulphur and Potash Company in Township 18 South, Range 30 East?

A It does.

Q Now, the area shown in an orange color, what is that, please?

A That is the area of Federal Potash mining leases.

Q And the area shown in yellow is what?

A Those are the State potassium leases owned by Duval.

Q Now, on the west appear three 80's that are hatched. Please state what that is.

A That is the area being applied for inclusion within the Oil Potash Area.

Q Now, the broken line that appears on this map around the orange, I'll ask you if that does not designate the limits of the present Potash-Oil Area?

A Yes, it does.

Q Now, there appear to be a number of core hole tests designated on this map by numbers, such as D-209 and so forth. Do you observe those?

A Yes, sir.

Q Before going further, let me ask you, Mr. Maguire, what is your position with Duval Sulphur and Potash Company?

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A I'm chief engineer of the Potash Division of the Duval Sulphur and Potash Company.

Q What is your training?

A I am a graduate mining engineer, Bachelor of Science from the University of Kansas in 1942.

Q How long have you been employed by Duval Sulphur and Potash Company?

A Seven years and eight months.

Q Please tell the Commission what your duties are as Chief Engineer?

A Supervise the engineering department. We take care of all potash prospecting, including the logging of drill cores, sampling, compilation of reports based on the results of the sampling, preparation of oil reserve estimates. We are responsible for the mine engineering, surveying, sampling, laying out of maps, also take care of the design engineer involved, in addition to modifications of existing facilities.

Q Now, as a part of your duties, did you check the results of all the core tests that are revealed on this map, Applicant's Exhibit 2?

A Yes.

Q And did you calculate the ore reserves that were disclosed by those core tests?

A I did.

Q Now, without going into minute detail as to each core

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[illegible]

test, I'll ask you whether or not as a result of those core tests and your research into this area you reached any conclusion as to whether or not the three 80-acre tracts shown in the hashed area, shown as hashed, whether or not those tracts, in your opinion, contain commercial deposits of potash?

A To the best of my knowledge, substantial mineable potash reserves are contained in each of the 80-acre tracts.

Q Now, you have, do you not, the exact results of several core tests there?

A Yes.

Q And your testimony is that each of those 80-acre tracts probably contains substantial ore reserves.--

A It is.

Q -- of a commercial quantity?

A Yes.

Q Has the U. S. G. S. made a definition of commercial quantities of potash?

A They have.

Q And your testimony is based upon their definition, is that correct?

A Yes, it is.

Q In your opinion, would it serve to prevent waste if these three 80-acre tracts were added to the existing Potash-Oil Area?

A Yes, it would.

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MR. McCORMICK: I have no other questions of this witness.

Pardon me, Mr. Commissioner, I will take up at this time also the second area, and then I will call the next witness.

MR. PORTER: Is that on the application of U. S. Borax?

MR. McCORMICK: Well, we have two separate areas for which we are making application.

MR. PORTER: Yes, sir.

(Thereupon, Applicant's Exhibit No. 3 was marked for identification.)

MR. McCORMICK: I now hand a copy to Mr. White and the Commission a copy of Applicant's Exhibit 3.

Q (By Mr. McCormick) Mr. Maguire, I hand you Applicant's Exhibit 3, and I'll ask you if that is not a map similar to Applicant's Exhibit 2, but covering the area in Township 22 South, Range 30 East and 23 South, Range 30 East?

A Yes, it is.

Q In like manner, the hatched area shown on this map on the east side represents the lines which we seek to have added to the Potash-Oil Area?

A Yes, they do.

Q A number of core holes are designated on this map. I'll ask you if you studied the results of those core tests?

A Yes, I did.

Q Based on your analysis and study of those core tests

and your research in this area, did you reach a conclusion as to whether or not the area, shown in the hatched manner, as to whether or not that area probably contains commercial quantities of potash ore?

A Yes, sir. To the best of my opinion, there are substantial areas of commercial potash ore within that area.

Q Now, are there any oil and gas wells being drilled in any of the area covered by this application?

A No, there are not.

Q Are there different ore zones that are present in these two different areas?

A Yes, there are.

Q How are ore zones numbered?

A The nomenclature used in our presentation is that devised by the United States Geological Survey whereby the potassium zones are numbered from the deepest bed as No. 1 to the shallower beds in ascending order.

Q Now, in the area shown on Applicant's Exhibit 2, which is Township 18 South, Range 30 East, what ore zone is present there?

A That is the first ore zone.

Q Now, that means that is the lowest, doesn't it?

A Yes, sir.

Q At what depth is that ore zone encountered?

A The average depth in 18, 30 is about 1,000 feet.

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Q What is the thickness of the ore body?

A Average thickness of the ore body is two and a half feet.

Q Do the cores indicate the quality of the ore?

A Yes, they do.

Q And how do you describe that quality?

A You mean the grade of the ore?

Q Yes, the K_2O content.

A The average percentage as sylvite is about 29 percent.

Q Is that considered a high grade ore?

A It is considerably above the minimum.

Q Now, the area revealed on Applicant's Exhibit 3, what ore bodies were penetrated in the core test conducted there?

A Potash ores are present in both the fourth and tenth ore zones in Township 22, 30 South.

Q What is the average depth of the tenth ore zone?

A Average depth of the tenth ore zone is about 1,050 feet.

Q And the average depth of the fourth ore zone?

A Fourth ore zone is about 1200 feet deep.

Q Are there some areas shown on this map where both ore zones are present?

A Yes, there are.

Q And then there are some in which only one of those ore zones is present?

A Yes, that's right.

Q What was the average thickness of the tenth ore zone?

A Average thickness of the tenth ore zone in this area is 4.7 feet.

MR. PORTER: What was that again?

A 4.7 feet.

Q And the quality of the ore in that zone?

A The average grade of the bed at that thickness is 17.5 percent K_2O as sylvite.

Q That is some lower grade than the area in Township 18 South, Range 30 East?

A A little lower.

Q What was the average thickness of the fourth ore zone?

A 6.3 feet.

Q And what was the quality of that ore?

A The fourth ore zone averages 9.6 percent K_2O as langbeinite.

Q Mr. Maguire, is there a subsidence problem in connection with the mining of potash?

A Yes, there is.

Q Will you describe that briefly to the Commission?

A In connection with high extraction mining, which has been introduced in recent years, the mine pillars are reduced to such a small size that they are crushed by the overlying beds. Subsidence of these beds is reflected at the surface in a

ratio of about two-thirds of the amount of the subsidence observed under ground.

Q That means, Mr. Maguire, does it not, that if you should mine out a seam of ore nine feet thick that you would expect the surface to subside six feet?

A That's about right.

Q And where does this subsidence occur? Does it occur just over the mined out area?

A Oh, it also extends beyond the mined out area on an angle, averages about forty-five degrees.

Q Does that mean that if you should be mining at a depth of 1,000 feet that the subsidence would occur laterally, would start a thousand feet away from the edge of your workings?

A It does.

Q Is it necessary, then, to leave pillars around any producing oil wells?

A Yes. In the case of high extraction milling, pillars must be left to protect it from subsidence.

Q How large must the pillar be, for instance, at a depth of 1,000 feet?

A We commonly accept the depth equal to the radius. In other words, you would have to have 2,000 foot diameter pillar.

Q And that would be ore that would have to be left there as a safety precaution around each well, is it not?

A Yes.

MR. McCORMICK: I have no further questions. The Commission may cross examine.

CROSS EXAMINATION

BY MR. PORTER:

Q First, on your No. 2 Exhibit, I failed to get the percentage of K_2O in that two and a half foot thickness.

A We just have the drill hole locations indicated on the maps, and I have a separate sheet showing the status of the drill hole.

Q Does that reflect the percentage?

A No, just shows whether they are commercial bearing or mineralized.

REDIRECT EXAMINATION

BY MR. McCORMICK:

Q You testified, did you not, Mr. Maguire, that it was 29 percent K_2O in the area in Township 18 South, Range 30 East?

A That's the average for the entire ore body, yes, sir.

RECROSS EXAMINATION

BY MR. PORTER:

Q What constitutes a commercial ore body?

A In a sylvite type ore, the minimum limit is four feet of fourteen percent K_2O, and a langbeinite type ore, it is established at four feet of eight percent K_2O langbeinite.

MR. PAYNE: That is the U. S. G. S. that established that?

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A Yes, sir.

MR. PORTER: Anyone have any questions of the witness?

MR. WHITE: Charles White of Gilbert, White & Gilbert, appearing on behalf of the Texaco, Inc.

QUESTIONS BY MR. WHITE:

Q Mr. Maguire, you say this is an average of 29 percent, and is it not true that percentage varies from 14 percent up; 29 percent in this area?

A We have no -- some holes are actually higher than 29 percent. That's the average for the entire ore body.

Q Do you have any concrete facts as to what the average of the ore body is from Section 22? I'm referring to Exhibit No. 2.

A Yes, we have drill holes in that area.

Q And what did they show?

A To the best of my knowledge, I think 209 and 212 showed about two and a half feet of 25 percent, being out near the edge of the ore body.

Q What did D-135 show?

A D-135 is barren.

Q With no phosphate?

A No potash, no.

Q What did D-133 show?

A D-133 is mineralized; it is about a foot of high grade mineralization, 133, so it is close to the edge of the ore.

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Q It is marginal, then?

A Yes.

Q Can you tell us what the value of that ore might be per ton?

A The ore figured in the ore body is about eight dollars a ton for the whole ore body.

Q That particular part as to the coring in D-133, what would that be?

A 133 would not be mineable. It is classified just as mineralized.

Q How about 135?

A That's barren.

Q Then you don't expect to get any profit from mining that portion of it, do you?

A We are certain that the outline of the ore body is very irregular in that area, and that two barren holes a mile or so apart are not necessarily indicative of the cutoff, the ore body, there may be ore in between those holes.

Q Do you have any core analysis that would show it would be economical to mine?

A 209 and 212 are the nearest.

Q That is already within the area, is it not?

A Yes, but 209 is very close to the edge of the area; it is only 700 feet in size.

Q What coring you have taken in this particular area that

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you wish to extend shows to be non-productive, is that correct, not commercial?

Q No, we don't have a commercial hole within those three holes in there.

Q Then why should this area be extended to include this in jeopardy on the drilling of oil and gas?

A Because we know from experience that ore will extend a reasonable distance beyond a commercial hole.

Q But your findings so far show this to be non-commercial, is that correct?

A There is -- there are only two tests there. One is just below commercial grade, the other one -- test is barren. That is not enough drilling to write off the area.

Q Isn't it true that the thickness of two and a half feet is a pretty thin stringer?

A Yes, it is.

Q Did you attend the informal hearing in Roswell June 30th, 1959?

A Yes, I did.

Q Do you know whether or not it was stated at that hearing that a pillar a thousand square feet would be sufficient to furnish lateral support?

A I don't believe that it was.

Q Well, you claim that you need 2,000 feet diameter, is that right, to furnish lateral support?

A Yes.

Q What would the value of that ore be if you permit it 2,000 feet to stand as a pillar for an oil well? How much actual potash would you lose in dollars and cents?

A Well, you'd have about five hundred thousand tons of ore tied up there involved in the pillar.

Q So far, this ore that you are tying up is non-commercial, is it not?

A We are referring to commercial ore.

Q I'm referring to the ore so far that you found in this Section 22 and 27. There would be no loss?

A Anything that is non-commercial would have no value, my definition.

Q Isn't it a fact that three out of ten wells in this area have produced some forty thousand barrels of oil?

A I think that's about the figure, over some twenty years.

Q Roughly one hundred twenty thousand dollars. If this application is granted, would you object to the drilling of any oil in this area, any oil wells?

A Yes, we would.

Q What steps, if any, have you taken to protect the correlative rights of the oil operators in this area?

A I fail to follow your question.

Q Has Duval taken any steps to pick up the oil leases that are outstanding within this area that you wish to extend?

A I think it has been investigated.

Q Have they done anything about it?

A None have been picked up so far, to the best of my knowledge.

Q What recommendations would you make to the Commission to solve these inequities to the oil operators? I have in mind, say, an oil operator spends several thousands of dollars in acquiring the lease, money in engineering data, and assuming that you protest the drilling of a well in that area and he leases his leases, what recommendations to cure such inequities would you make to the Commission?

A I don't see that the Commission could do anything. Looks like it is up to the Federal Government.

Q In other words, that is something that the operator is going to have to work out the best he can, is that right?

A I am afraid so.

Q When did you acquire the leases on the W/2 of Section 22 and extended area of 27?

A Well, the whole area was acquired at the same time. Let's see, 1954, I believe it was.

Q At that time you owned -- there were gas leases outstanding, is that correct?

A Yes, there were.

Q Have you fully mined the acreage within the existing potash area?

A Would you repeat that, please?

Q Have you fully mined or removed all the potash on your acreage within the existing potash area?

A In our present mine?

Q Yes.

A No, we still have ore reserves here.

Q How many years would it take to mine out the potash that you have within the present potash area?

A That's impossible to say.

Q Would you say years or months?

A That will be a few years.

Q Many, many years?

A No, I wouldn't say many years either.

Q Well, one year, five years or fifteen years?

MR. McCORMICK: If the Commission please, we object to that as being irrelevant. The matter of reserves in some other mines is not relevant to the reserves in this area here that we are seeking to have included. The reserves in the mine now being mined are not reflected on either one of these maps; they are two additional reserves. I might say also that comes under the heading of classified information.

MR. PORTER: Objection sustained.

Q How soon do you intend to actually mine the extended acreage in Section 22?

A We filed with the Oil Conservation Commission and with

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the United States Geological Survey plans for mining in this area. We might say that within the next several months we will be mining in that area.

Q How long would it take you to mine the area that's shown on Exhibit 3?

A Well, this doesn't come into the plans until after the 18, 30 area.

Q After what?

A After mining all of the ore in the 18, 30 area.

Q In other words, as to the other extensions you don't contemplate any immediate development?

A No, not immediate.

Q You say it will be several years before you undertake to develop that?

A That's difficult to say; probably would be.

Q You say it probably would be?

A Yes.

Q Is there only one ore zone in Sections 22 and 27?

A Yes, first ore zone only.

MR. WHITE: I believe that's all.

QUESTIONS BY MR. PORTER:

Q How much of this 2,000-foot diameter pillar would you anticipate that you would recover by secondary mining operations, or do you conduct your mining in that manner?

A Well, it is difficult to say because we'd have to adopt

a different mining system to the pillar than we would to the rest of the ore body where we hope to take out considerably more than 90 percent, but we might take out half of the pillar eventually.

Q In your entire mining operations, you plan to remove somewhere upwards of 90 percent of the commercial ore?

A Yes, sir.

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

QUESTIONS BY MR. NUTTER:

Q Mr. Maguire, does the present five-year plan that Duval has filed with the Commission include mining operations in that 18, 30 area?

A Yes, sir, it does.

Q Did you state what the core results on your No. D-212 revealed?

A D-212 is a commercial hole.

Q In other words, that core yielded more than four feet of 14 percent K_2O sylvite?

A Yes, sir.

Q And your 133, you stated, was mineral, it showed mineralization in that core?

A Yes, sir.

Q Did you take a percentage of the sylvite in there?

A It is about one foot of 30 percent, something like that.

Q How about 206 to the west, did it show anything?

A 206 was barren.

Q Now, your 209, what did that show?

A 209 is commercial.

Q It was four feet or 14 percent sylvite or better?

A Yes, sir.

Q How about 62 down south of there?

A 62 is barren.

Q Are you acquainted with the criteria that the Commission used in establishing the Potash-Oil Area limits as defined in Order 111-A after the hearings in 1955?

A My understanding is that they used the same limits as the United States Geological Survey.

Q In other words, the area was defined as being four feet of 14 percent K_2O sylvite or 4 feet of 8 percent K_2O langbeinite?

A Yes, sir.

Q And now you are suggesting that in 18, 30 the Commission extend that area --

A Yes, sir.

Q -- and use a criteria of potash deposit of less than the original criteria that was used?

A No, we are still abiding by the original limits, but this is based on new discoveries.

Q Well, now, your discovery indicates this D-135 was barren, and 133 is one percent or one foot of ore. Is that in accordance with the same terms that the original area was defined?

A Yes. We have additional ore holes; 209 and 212 were drilled subsequent to R-111-A.

Q Well, they are already included in the area, aren't they, 209 and 212?

A They are within the area just a little ways, but we feel that this ore is further west than, oh, by at least half a mile, and commercial ore had been found at the time of the establishment of R-111-A, and, therefore, our application is valid.

Q Well, what would you define as the limit of the commercial deposit of ore, along the west side -- in the west side of Section 22?

A Well, it isn't shown on the map. It has been guessed at a time or two. It is rather hard to pick out because of the condition where you have a commercial hole on one side and a completely barren hole on the other side.

Q So the line of commercial deposit would run some place in between a line drawn vertically through 209 and 212 and a line drawn between 135 and 133?

A Not necessarily. The commercial limit may be an embayment and extend a good deal beyond the line 133 and 135; that's very common in that area.

Q No drilling in the cross-hatched area, which is the proposed extension,has revealed commercial ore, has it?

A No.

Q Now, turning to the other area as shown on your Exhibit No. 3, Mr. Maguire. What did No. D-104 in Section 24 show?

A D-104 is mineralized in both the fourth and tenth ore zones.

Q Is that a commercial mineralization?

A No, it is sub-commercial.

Q Is D-207 commercial?

A No, 207 is non-commercial.

Q Was there any mineralization in it?

A There are two commercial holes drilled which are of very great significance, and those two are Duval 202 and 203. 202 is located in the SW/4 of Section 23.

Q What did it show, Mr. Maguire?

A It is commercial in the tenth ore zone, mineralized on the fourth.

Q Was the fourth present there?

A It was mineralized but not commercial. And 203 was the same situation, commercial in the tenth ore zone, mineralized in the fourth.

Q Now, how about D-160 in 36?

A 160 is mineralized in the fourth, barren in the tenth. What was the other one,please?

Q That was all I had gotten to so far. Barren in the tenth?

A Yes.

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Q Was it commercial in either zone, then?

A No.

Q How about 179?

A 179?

Q Yes, sir.

A Commercial in the fourth ore zone, but barren in the tenth ore zone.

Q Do you believe that your proposed -- how about D-1 down there, Mr. Maguire?

A D-1 was mineralized in the fourth zone, barren in the tenth.

Q And E-18?

A E-18 was mineralized in both zones, but below commercial limit.

Q Do you believe, Mr. Maguire, that your proposed extension in the southeastern area here includes any non-commercial deposit?

A We can be sure that there will be areas that are non-commercial, but the outline is very difficult to determine at this stage of drilling. We feel that most of the area will contain commercial deposits in one zone or the other or both.

Q Mr. Maguire, if the Commission should decide that perhaps the Potash-Oil Area should be extended to some degree but not to the full extent that you have requested here, would you accept that extension?

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A Well, it is hard to say; it depends on what the final outline was.

Q You'd rather have a portion of it than none of it, wouldn't you?

A We'd rather have it all.

MR. NUTTER: That's all. Thank you.

QUESTIONS BY MR. WHITE:

Q Mr. Maguire, on direct examination you testified that the ore in Sections 22 and 27, I believe, averaged out 29 percent, is that correct?

A Well, that was the entire ore body.

Q How did you arrive at that 29 percent? Was that a weighted arithmetic average?

A Yes.

Q It was?

A Yes.

MR. WHITE: That's all I have.

MR. PORTER: Anyone else have a question?

MR. McCORMICK: If the Commission please, I would like to ask a few on redirect examination.

REDIRECT EXAMINATION

BY MR. McCORMICK:

Q Do I understand that the definition of commercial ore as established by the United States Geological Survey is four feet of 14 percent K_2O sylvite?

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A Yes.

Q Now, that means that much or its equivalent, does it not?

A Yes, it does.

Q So, if you had two and a half feet of K_2O, that would be considerably above the U. S. G. S. minimum requirement, would it not?

A It would.

Q I'll ask you this, were these deposits set down in an old sea, these potash deposits?

A Yes, they were sedimentary evaporates.

Q And as you get to the edge of the old sea, you have inlets and arms and that sort of thing which make the periphery very irregular?

A Yes, the surface upon the -- which the salt was deposited was quite irregular, and that has complicated in a varying degree the outline of commercial deposits.

Q I'll ask you if -- in actual mining -- if it isn't often necessary to run a drift through a barren area to get to a commercial area?

A Yes, it is.

Q Have you had that experience in the mining at your present place?

A We certainly have.

Q Now, this pillar which you mentioned, at a thousand

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foot depth, it would need to have a radius of a thousand feet in order to safeguard against subsidence as to a producing well, is that true?

A Yes.

Q And how much ore does a thousand foot pillar contain, or not necessarily ore, but how much substance does it contain?

A Depends on the thickness of the bed.

Q Well, I'm referring now to 18, 30, the thickness of that bed?

A Two and a half feet, the entire pillar would involve about five hundred thousand tons.

Q Now, if that were all commercial ore, that would represent, then, about four million dollars worth of ore in that pillar?

A Yes.

Q If it were half commercial ore, it would be half that amount?

A Yes, sir.

MR. McCORMICK: I have no other questions of this witness.

MR. PORTER: Any further questions? The witness is excused.

(Witness excused)

MR. PORTER: Call your next witness.

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J. E. TONG,

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

DIRECT EXAMINATION

BY MR. McCORMICK:

Q Your name is J. E. Tong?

A Yes, sir.

Q Where do you live, sir?

A Carlsbad, New Mexico.

Q What is your position with the Duval Sulphur and Potash Company?

A I am resident manager of Potash Division.

Q How long have you been engaged in the potash industry?

A About twenty-nine years.

Q And how long have you been with Duval Sulphur and Potash Company?

A Since January 1, 1950.

Q As resident manager, do you also supervise planning and development of new ore bodies?

A Yes, that's part of my duties.

Q You have heard the testimony of Mr. Maguire here as to the ore body in Section -- in Township 18 South, Range 30 East. Do you concur with him as to his opinion that the hatched area probably contains potash ore in commercial quantities?

A I do concur.

Q Now, restricting the questions entirely to Township 18 South, Range 30 East, what are the plans of the company to develop that area?

A As Mr. Maguire stated, we have filed our letter of intent and also our projection of our plans for five years, and we expect to be sinking a shaft in that area during this year and bring the area into production perhaps in mid-year or perhaps a little later of 1960.

Q You actually need to sink two shafts, will you not?

A Yes, we will.

Q And can you tell the Commission approximately the cost, the capital you'll need to invest in that venture?

A In our plans we have estimated that we will have to invest in the neighborhood of three hundred and -- or three million five hundred thousand dollars.

Q In order to place this area into production?

A Yes, sir.

Q You actually now have your blueprints and plans all ready to go?

A Yes, we have.

Q Is it going to be necessary to extend a highway and a railroad up to this area?

A That is all included in the plan. We will have to put in five and a half miles of highway and about six miles of railroad.

Q Now, speaking, for instance, of this drill hole 209 which was -- according to the testimony of Mr. Maguire -- showed ore in commercial quantities, that's quite close to the actual boundaries of the present potash-oil area, is it not?

A Yes, it is.

Q Within a few hundred feet?

A Yes.

Q Now, is it reasonable, in your experience, to assume that that ore body actually extends beyond that point a considerable distance?

A That is an accepted principle in the potash basin, that the ore doesn't necessarily cut off right on the edge of the core test that you find it in, and that we are able to project the area. In the past we have been able to project it beyond the holes more accurately.

Q Well, do you feel that it is necessary in order to prevent waste that the three 80-acre areas in Township 18 South be added to the potash-oil area?

A I think if they are not added there is a very strong likelihood that there will be potash ores lost in that area.

Q Now, with regard to the area in Township 22 South, Range 30 East, will you please state what your company has done in the way of planning and development and research?

A Our company has spent something over a million dollars in obtaining, doing research work in the ores, on exploratory

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drilling, and in preliminary design for a mine and a plant in this area.

Q It is true, is it not, that this being located about thirteen miles from your present plant would necessitate the building of a complete new plant and refinery down there?

A Yes, it would.

Q What will dictate the exact time which you will undertake that expansion?

A Economic conditions.

Q That means the price of ore and the market generally?

A Price of potash chiefly.

Q With regard to Applicant's Exhibit 3, based upon your knowledge of that area and the research that has been done, state whether or not it is your opinion that the hatched area should be added to the potash-oil area in order to prevent waste?

A I feel that very strongly.

Q Now, you and Mr. Maguire did not mean to state that every square foot of land covered by this application contains commercial ore?

A No. I think Mr. Maguire outlined that very reasonably in the deposition of this ore that it was not laid down in a perfect circle or oblong or any other shape, and that it has irregular lateral around the periphery.

Q What have you to say about the matter of a pillar? Anything that you wish to add to that?

A Well, having to leave a pillar around an oil producing -- producing oil well with a diameter equal to the depth down to the zone of ore is going to result in appreciable loss of valuable potassium minerals, particularly on this southeast area here where it is just compounded by the fact that we have two commercial ore zones.

Q Now, one of these ore zones in the south area, 23, 30, is at a depth of about 1200 feet, is it not?

A Yes.

Q Now, that means that the pillar there would have to have a radius of 1200 feet, doesn't it?

A Yes.

Q And a diameter of 2400 feet?

A Yes.

Q Did you compute the number of tons that would have to be left in a pillar in this south area?

A In the south area, depending upon the -- two beds were present, and the pillar, it would run from a million to two and a half million tons of ore [illegible] in place.

Q In each pillar?

A Yes, sir.

Q That would mean around each producing oil well?

A Yes.

Q What is the present market value of the ore in the tenth ore zone?

A Tenth ore zone is worth about four and a half a ton.

Q And the fourth ore zone?

A The fourth ore zone, it is estimated around five and a half a ton.

Q Now, actually, if oil wells were drilled in there on either a 40-acre basis or 80-acre basis, you just could not mine?

A It would just about wipe out that area there.

Q All you would have left is pillar?

A It would also extend down into the present potash-oil, potash area. If you drilled a well here in Section 35, somewhere near the center dividing line, why your pillar would overlap into the present potash-oil area.

MR. McCORMICK: You may cross examine.

CROSS EXAMINATION

BY MR. WHITE:

Q Mr. Tong, you stated, in your opinion, that Sections 22 and 27, the extended area would be commercially productive. Is your opinion based upon the same facts as the opinion given by Mr. Maguire?

A My opinion is based on experience, Mr. White.

Q Did you consider the core analysis?

A Yes.

Q The core tests?

A Yes.

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Q If they were to drill an oil well in your -- where you locate your core in your D-133, would there be any waste?

A Very likely could be. 133, I believe, as I recall, is mineralized.

Q How about D-135?

A 135,in my opinion, it is almost a cinch that there would be some waste there, leaving a pillar of a two thousand foot diameter.

Q But you cannot base that on any physical fact, by examination of a core up to date?

A I can base that on experience in the basin, Mr. White.

Q But you haven't had any experience as to the mining of this particular tract, have you?

A No, but that tract is similar to the tracts that are being mined in the basin.

Q Well, it shows to be barren as to 135 and 35 shows to be commercial?

A In the present ore body that we are mining today, there could have been a hole drilled that could have been barren and we would have had high grade ore up within 50 feet of that particular barren hole.

MR. WHITE: I have no further questions.

QUESTIONS BY MR. MORGAN:

Q Mr. Tong, does your company practice primary and secondary mining in various deposits?

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A We are not doing secondary mining at the operation in 20, 30, but the economics of this mining in 18, 30 demands that it -- we practice total mining and get an extraction of better than 90 percent.

Q You don't dare go into primary operation and then leave it and come back into secondary?

A No, we will develop that with the idea that when we get to the extremity, ore will start back.

MR. PORTER: Is that a new development, or is it a policy of the company?

A That depends on the company operating. Some companies do use both methods. At the same time there are companies down there that are going in and pulling the old pillars now, and the same company has gone out into a new area with the same mine and developed a method for going out to the extremities of the ore and retreating.

Q Could depend on what is there? I say your procedure could depend on your ore bodies?

A Yes, it could.

Q (By Mr. Morgan) If that tract is primary mining and then secondary mining, what size pillar do you ordinarily use when thereis one thousand foot of overburden in preventing subsidence between the period of primary mining and secondary mining, what diameter of pillar?

A Well, we take about 60 percent extraction on the first

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A We are not doing secondary mining at the operation in 20, 30, but the economics of this mining in 18, 30 demands that it -- we practice total mining and get an extraction of better than 90 percent.

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A Yes, it could.

Q (By Mr. Morgan) If that tract is primary mining and then secondary mining, what size pillar do you ordinarily use when thereis one thousand foot of overburden in preventing subsidence between the period of primary mining and secondary mining, what diameter of pillar?

A Well, we take about 60 percent extraction on the first

pass and then on the second pass -- I'm speaking from what the other companies are doing now. They will extract up to, I have been told, around 90 percent of the total amount of oil in place.

Q That doesn't directly answer my question, so I can't understand it. I was asking you what diameter of pillar is left between the time of primary mining and secondary mining? What is the minimum pillar that is left?

A What kind of a pillar, Mr. Morgan, around the hole?

Q To prevent subsidence?

A To prevent subsidence. I intended to answer that when I said 60 percent.

Q That isn't intelligible to me because I don't know anything about mining.

A I'll put it this way, then. In our mines, our openings are twenty feet wide, and we leave a forty-two by fifty-six foot pillar.

Q Forty-two by fifty-six?

A Yes.

Q And that does prevent subsidence with a given burden of a thousand feet?

A It prevents appreciable subsidence. We still get some subsidence.

Q That's what I wanted to know.

MR. PORTER: Anyone have a question of Mr. Tong? You may be excused.

(Witness excused)

MR. PORTER: Mr. McCormick, maybe I was rushing you on the other witness. I don't believe you offered your Exhibits.

MR. McCORMICK: We offer in evidence Applicant's Exhibits 1 to 3 inclusive.

MR. PORTER: Were these Exhibits prepared by you or under your supervision?

MR. Maguire: Yes, they were.

MR. PORTER: Any objection to the admission? They will be admitted.

(Whereupon, Applicant's Exhibits 1, 2 and 3 were received in evidence.)

MR. McCORMICK: That's our case.

MR. WHITE: I would like to call Mr. Robinson to the stand, if I may.

MR. PORTER: You may proceed, Mr. White.

(Witness sworn)

JOSEPH E. ROBINSON,

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

DIRECT EXAMINATION

BY MR. WHITE:

Q Mr. Robinson, will you state your full name for the record, please?

A Joseph E. Robinson, Jr.

Q And by whom are you employed and in what capacity?

A Texaco, Incorporated, as division drilling and development engineer in our Midland division.

Q Have you previously testified before this Commission?

A No, sir, I have not.

Q Will you briefly state your educational background and your professional qualifications and experience?

A I was graduated from Oklahoma State University in January of 1952 with a B. S. degree in mechanical engineering with an option in petroleum production. I was employed by Texas -- the Texas Company at that time as a petroleum engineer, where I had field experience in Oklahoma, Illinois and Kansas. I served one year as a reservoir engineer and one year as a secondary recovery engineer until such time as I was transferred to our Midland district in May of this year.

Q Are you acquainted with the Texaco, Incorporated holdings in Sections 22 and 27 covering the proposed extension of this potash area?

A Yes, I am.

Q Will you describe the locations of these leases, please?

A Within the present boundary of the potash area we have the W/2 of the SE/4 of Section 14, and Section 23, we have the SW/4 and the W/2 of the SE/4 and the W/2 of the NW/4 in Section 22.

Q As to Section 23, will you be able to develop those

leases?

A No, sir, we will not.

Q Will you lose the leases?

A Yes, sir, we will lose these leases in January of 1960.

Q How much did that particular lease cost initially?

A It cost twenty-nine thousand one hundred fifty dollars and some odd cents.

Q Now, will you continue as to your holdings in Sections 22 and 27?

A All right, sir. In Section 22 we have the E/2 of the NE/4, we have the SW of the NE, we have the SW of the -- excuse me -- we have the SE of the NW, we have the SW of the SE, we have the SE of the SW, and we have the W/2 of the W/2 of Section 22. In Section 27 we have the W/2 of Section 27.

Q What was the cost of this particular lease?

A For sections in Lease No. 163970, we paid thirty-four thousand three hundred and sixty-five dollars and seventy-four cents, and for our lease No. 163971 we paid fifty-seven thousand three hundred and forty-six dollars and twenty-six cents.

Q In your opinion, is this acreage reasonably productive of commercial ore?

A It is so, in my opinion.

Q Are there any producing wells within the area?

A Yes, sir. In the Leo Pool there are presently ten

producing wells.

Q What is the approximate production of some of the wells?

A These ten wells have recovered as of, I believe, as of last month, two hundred and thirty-three thousand barrels plus.

Q And what is the production of the better wells within the area? Have any of them produced in excess of 40,000 barrels?

A There have been three wells that have produced in excess of 40,000 barrels.

Q They are still producing?

A Yes, sir, that is correct.

Q Is it Texaco's intention to develop this acreage that they propose to include within the potash area?

A It is so our intention before they expire.

Q And you believe that acreage would be reasonably productive?

A We believe so.

Q Do you have any further statement you care to make to the Commission?

A We feel that extension of the potash area will prevent Texaco, Incorporated from developing our wells in a normal course, and we feel that this is an encouragement upon our correlative rights.

MR. WHITE: That's all we have.

MR. PORTER: Anyone have a question of the witness?

MR. BOLTON: I would like to ask the witness a few

questions. R. S. Fulton, mining supervisor of Geological Survey.

MR. PORTER: Would you state your name, Mr. Fulton?

MR. FULTON: R. S. Fulton.

CROSS EXAMINATION

BY MR. FULTON:

Q Were the Texaco oil leases in the 18, 30 area issued or extended after 1951?

A They have not been extended. To my knowledge, no, sir.

Q Were they issued after 1951?

A No, sir. They were issued -- we acquired these leases from a Mr. Manning and others in 1955.

MR. WHITE: When were the leases issued?

A The leases were issued in 1939, as a twenty-year lease.

Q (By Mr. Fulton) What I'm driving at is, by production, do these leases carry a potash stipulation?

A The leases within the potash area carry potash stipulations.

Q Does that potash stipulation not say that drilling will not be permitted on these leases unless approved by the Director of the Geological Survey?

A That is, I believe, the correct wording for that.

Q Insofar as the amount of money that Texaco has paid for those leases, didn't you know exactly what you were buying when you took them, that you might not be permitted to develop them?

A With these leases within the potash area --

MR. PORTER: Mr. Robinson, when you speak of potash area, are you referring to that area defined by Commission Order R-111-A?

A Yes, sir, I am. The lease within the potash area, as referred to by this Order R-111-A, we were aware of the potash stipulation, but the leases on the outside of the present area do not have potash stipulations.

Q (By Mr. Fulton) Are any of those leases outside of the R-111-A in the Secretary of the Interior area designated?

A I can't answer that.

Q If so, they probably carry a potash stipulation?

A To the best of my knowledge, they do not.

MR. FULTON: No more questions.

MR. PORTER: Anyone else have a question of Mr. Robinson?

QUESTIONS BY MR. McCORMICK:

Q Mr. Robinson, you described land in Sections 14 and 23 as being within the -- a lease that you have. Now, actually, Sections 14 and 23 were included in potash-oil area at the time the original order was issued, was it not?

A Yes, sir.

Q And so that those leases are not affected by the application which we now have, isn't that true?

A That is correct.

Q Now, you stated that your leases in Sections 23 would expire January, 1960?

A Yes, sir.

Q And is that true also of the lease W/2 SE of Section 14?

A That lease expires February 1, 1960.

Q Does the base -- do either of those base leases cover lands other than which you described?

A The leases within the potash area do not.

Q In other words, there is no way for you to vacate this lease which expires in January, 1960 unless you would get production between now and that date?

A We have applied for a suspension of the lease. However, it is my understanding that the Director in Washington says that with a potash stipulation that they will not be extended. But I also understand that the U. S. G. S. is in sympathy with us in asking for a suspension.

Q Then, if your leases are suspended, you will suffer no economic loss immediately in there, isn't that true?

A We will suffer a loss of approximately $30,000 by having it invested with these leases.

Q Well, I'm referring to Sections 14 and 23. If that were suspended, you would suffer no loss?

A None other than having our money tied up.

Q All right. Now, this lease in Section 22 that you

described, does it cover any land other than in Section 22?

A Yes, sir.

Q What?

A It covers 640 acres.

Q Where?

A It covers the E/2 of Section 21, the N/2 of the NW of 21, and the SW of 21, and the N/2 of the N/2 of Section 28.

Q Then, by drilling on some other parts of that lease, you could vacate your lease even though the part in Section 22 was included in the potash-oil area, isn't that true?

A Not necessarily.

Q Well, you would vacate the entire lease if you got production on any part of the base lease, would you not?

A No, sir.

Q Why? What is your explanation of that?

A This is a lease that is not held by production.

Q I say if you obtain production on some other part of the base lease, that is outside the potash-oil area, your lease would -- entire lease would then be perpetuated so long as production --

A No, sir. We have two wells on this lease right now.

Q Oh, it is already perpetuated?

A This lease is not held by production.

Q Well, do you have producing wells on it?

A Yes, sir.

Q Well, then, it is held by production, isn't it?

A No, sir.

Q Will you explain that to me, please?

A I'm not fully familiar enough with our legal problems or leasing to give a complete explanation of that.

Q Well, you don't mean to tell the Commission that these leases will expire, that is, the one in Section 22 and the one in Section 27, unless you get further production, do you?

A It is my understanding --

MR. WHITE: I think the witness has answered the question to the best of his knowledge and ability.

MR. McCORMICK: I want to get the record straight.

Q . (By Mr. McCormick) These base leases that you mention, do they now have producing oil wells on them?

A Yes, sir, they do. Excuse me. Lease -- our lease 163970 has two wells on it.

Q And in what section does that lease lie?

A Well, I have -- excuse me -- both of these leases have wells on them. There is -- no -- only lease 163971. Our lease 163970 has two wells on it.

Q And does that cover the land you described in Sections 22, 21 and 28?

A The base lease? Yes, sir.

Q That lease will not be lost as long as those wells produce, isn't that true, or if you are not qualified, don't feel

capable to answer, you don't need to.

A As I understand it, a royalty payment can be paid toward the rental of the undeveloped acreage.

Q But as far as the Government is concerned, and these are Government leases, aren't they?

A That's correct.

Q As far as the Federal Government is concerned, your lease will remain in effect so long as those present wells produce?

A I've stated before I don't feel that I'm qualified to answer that because I am not a lease man.

Q Now, in regard to the W/2 of Section 27, is that a separate lease?

A Yes, sir, it is.

Q And it covers only the W/2 of Section 27?

A No, sir.

Q What else does it cover?

A It covers -- I read this before. Would you like for me to --

Q Is that the area in 21 and 28 you referred to?

A Yes, sir.

Q Does any part of that base lease now have production on it?

A No, it doesn't.

Q Then, 80 acres out of that entire base lease is covered

by this application?

A That's correct.

Q So you would have -- you have 960 acres in the lease? You said the W/2 of Section 27 and another 640, --

A Yes, sir.

Q -- so you would still have 880 acres to drill to perpetuate your lease, isn't that true?

A I believe 960, sir.

Q If you took out the 80 that we have included in this application, you still have 880, would you not?

A No, sir, we would have 960.

Q You would still have 960?

A Yes, sir.

MR. McCORMICK: That's all the questions I have.

QUESTIONS BY MR. PAYNE:

Q Mr. Robinson, do these leases contain a force majeure clause?

A Sir?

Q Do these leases contain a force majeure clause?

A I am not qualified to answer that, sir.

Q Are you qualified to answer whether -- if you are prohibited from drilling by either the United States Geological Survey, the State Land office, or this Commission, whether that continues your lease in effect because you were precluded from drilling by order of an administrative agency?

A We have asked that our leases be suspended. We have not received an answer on it.

Q Are you sure it was necessary to get formal approval?

A I believe so.

Q Does the gentleman from the United States Geological Survey have sufficient information to advise us of what these leases provide?

MR. FULTON: No, sir, I do not. I'm not familiar with the oil leasing branch; I'm with the mining. My understanding is that they carry a potash stipulation.

MR. PAYNE: Even the ones that cover acreage outside the present potash-oil area?

MR. FULTON: I couldn't positively say because I don't know, but I understood that they all had.

MR. PORTER: You don't know whether or not the leases are held by production or otherwise?

MR. FULTON: No, sir.

MR. WHITE: We will be glad to furnish copies of the leases to the Commission.

MR. PAYNE: I wish you would, Mr. White.

MR. PORTER: Anyone else have a question of Mr. Robinson?

QUESTIONS BY MR. NUTTER:

Q Mr. Robinson, I think you referred to three separate leases that The Texas Company owns, is that correct?

A Only two; two leases on the outside.

Q You mentioned three leases. You mentioned one lease that covers certain acreage in Section 14, --

A Yes, sir.

Q -- 23, and a portion of 22, --

A Yes, sir.

Q -- which is the presently defined potash area?

A Yes, sir.

Q And then you mentioned the lease that covers the W/2 of the W/2 of 22, --

A Yes, sir.

Q -- and some acreage in 21?

A Yes, sir.

Q And the N/2 of the N/2 of 28?

A Yes, sir.

Q Now, that is the second lease?

A Texaco has two leases within the potash boundary, and then two other leases that this extension is being applied for. This extension will also cover parts of two other Texaco leases.

Q Mr. Robinson, do you have a map that shows The Texas Company leases in this area?

A Yes, sir, I do.

Q Would you offer this map as an exhibit in this hearing and perhaps we might shorten the thing and not have to describe all the acreage?

A Yes, sir, I will be glad to.

Q You have certain producing wells on one or more of these leases at the present time, do you not?

A Yes, sir, we have two producing wells.

Q Are those wells indicated on your map?

A Yes, sir, they are.

Q Do you have present plans for additional wells?

A Yes, sir. We are presently working on a development program.

Q Do you have any locations firm encugh that you could state what those locations would be?

A No, sir.

Q What is the producing horizon in this area, Mr. Robinson?

A It is the Grayburg.

Q And what depth is that?

A Approximately 3200 feet.

MR. NUTTER: I believe that's all, if you will submit that map as an exhibit.

MR. PORTER: Anyone else have a question of Mr. Robinson?

MR. WHITE: I have one other question.

REDIRECT EXAMINATION

BY MR. WHITE:

Q Do you anticipate that there will be deeper production

than the Grayburg?

A I believe that our company bought these leases with that idea.

MR. WHITE: Thank you.

MR. PORTER: Any further questions? Mr. White, would you call for the Exhibit as requested by Mr. Nutter?

MR. WHITE: Yes, sir. We offer Texaco's Exhibit No. 1 in evidence.

MR. PORTER: Without objection, it will be admitted. Does anyone have anything further to offer in this case?

MR. WHITE: I would like to make one brief statement.

MR. PORTER: Mr. White.

MR. WHITE: If the Commission please, we strenuously urge that the Commission deny that part of the request extending the potash limits further into Sections 22 and 27. From the core drilling that they have taken on which they can only base accurate information as to whether or not there is any ore there, it is all negative, it is non-commercial, all the rest is wholly speculative, as Mr. Maguire stated in answer to Mr. Nutter's question. He asked him how far did he think that the ore body extended west into the proposed extended area, and he said, "We've guessed at it a time or two," and think it would be wholly speculation for the Commission or the applicant to claim that there is an ore body in commercial quantities under this particular area.

MR. McCORMICK: If the Commission please, I want to

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3-6691 5-9546

point out that Texaco has had these leases for a long -- number of years, several of them, and have not seen fit to drill on them up to date.

MR. WHITE: There are two wells on it right now.

MR. McCORMICK: I'm speaking of the area which is covered by our application, and I am not clear just -- as to whether or not all of the leases are perpetuated. I'm sure one of them is perpetuated that is being held by production now. Actually, the three 80 acres that we are seeking to add to the potash-oil area covers only a portion of each of their leases, leaving other parts of their leases outside the area, which they could drill and develop and perpetuate their leases. As to the areas in Sections 14 and 23, I might say that that is res judicata now because although they have leases there, the order was issued including those in the potash-oil area in 1955, and it is not now before the Commission. For instance, you take the W/2 of Section 27, there are still 240 acres there that they could drill on, complying with this Order R-111-A, and only 80 acres is affected by our application. I also point out that this core hole No. 209, which is just a few hundred feet from the edge of the potash-oil area indicated potash in commercial quantities, and under known mining practices it is reasonable to assume that that extends a considerable distance beyond that point and would necessarily encroach into this area that we are seeking to add, and all that without regard to the requirement of a pillar which must be

maintained, As long as their leases are perpetuated, I see that they have no quarrel to make. Lots of companies are glad to have leases perpetuated, just held by production for years, and then come back later. I don't see that this will interfere with their immediate plans at all, but it certainly would interfere with the Duval plans. They are going to invest three and a half million dollars in this particular area, and they should not be restricted in their development procedures by the speculative possibility that The Texaco Company may at some later date want to drill a well on one of these places.

MR. PORTER: Anyone else have a statement to make in this case? Take the case under advisement.

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

I, J. A. Trujillo, Notary Public in and for the County of Bernalillo, State of New Mexico, do hereby certify that the foregoing and attached Transcript of Proceedings before the New Mexico Oil Conservation Commission was reported by me in Stenotype and reduced to typewritten transcript by me, and that the same is a true and correct record to the best of my knowledge, skill and ability.

WITNESS my Hand and Seal this, the 25th day of August, 1959, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

Joseph A. Trujillo
NOTARY PUBLIC

My Commission Expires:

October 5, 1960

DEARNLEY - MEIER & ASSOCIATES
INCORPORATED
GENERAL LAW REPORTERS
ALBUQUERQUE NEW MEXICO
3-6691 5-9546

Exhibit 13

STATE LAND OFFICE

EDDY County, New Mexico.

COMMON SCHOOL LAND

Section
Township
Range
Acres

CAUSE OF LOSS	RESERVATIONS Sub-division	Acres	LANDS USED AS BASE Sub-division	Acres	Selection No.	C. L. No.	C. L. Acres	STATE LAND Sub-division	Acres	Acquired Under Act of
	None							All	640.00	June 21,1898

1-22-60
1204161 ag

all
N. James Ranch
UNIT AGREEMENT

ABSTRACT OF ENTRIES

Application No.	Contract or Lease No.	Assignment No.	NAME	ADDRESS	LOTS 1 2 3 4 5 6 7 8	NE NE NW SW SE	NW NE NW SW SE	SW NE NW SW SE	SE NE NW SW SE	Acres	Date Expiration	Ca Relin
	A-2005		Geo N Eaga	Santa Fe N M						40	3 11-34	
		1	Ge Midwest Refining Co	Denver, Colo.						40	3 11 34	2
	B 39		Magnolia Petr Co	Dallas Texas						600	6-41	6-
	B-669		Ge Midwest Refining Co	Box 246 Denver, Colo.						40	2-2-42	
	M-338		O. H. Lindquist	Boonton, N. J.						640	3-1-33 12-1-32	7
	B 669	1	Standard Oil Gas Co.	Pilcade Bldg. Tulsa, Okla.						40	3-2-42	2-
	05971		Ralph Gallinger	Hollywood Calif						40	2-2746	
		3	John H Wise et al	Los Angeles Calif.						40	2-2746	
	B6586		Magnolia Petro Co	Dallas Tex						600	6-12-46	
	M-2571		John H. Dallas	Houston, Texas						640	10-17-1947	12
	M 2571		Houston Texas Oil Co,							640	10-17-1947	12-
	M-2618		Davis Texas Oil Co	Houston, Texas						640	12-19-1947	12
	E5229		Mabee Petroleum Co.	Roswell, N. M.						640	5-10-61	
	E-5229	1	S. W. Richardson, et al	Fort Worth, Texas						640	5-10-61	
	M-2618	1	S. L. Harrison	Carlsbad, N. M.						640	12-19-1947	12
Tran Line	M-2618		S. L. Harrison	Carlsbad, N. M.	THIS ENTRY TRANSFERRED TO UNITARIAN TRACT BOOK					640	12-18-37	
	M-12651		C. Cartwright III et al	Dallas, Texas						640	3-1-55	3-
	M-2618	1	Magnolia Petr Co	Petroleum Bldg Houston, Tex	THIS ENTRY TRANSFERRED TO UNITARIAN TRACT BOOK					640	1-15-55	
	E-5229	2	Shell Oil Co.	Midland, Texas						640	5-10-61	
	E-5229-3		S. W. Richardson, et al,	Fort Worth, Texas						480	5-10-61	
	E-5229	4	Richardson Oils Inc. et al	Ft. Worth, Texas						480	5-10-61	
	AS-60		Eastern N M University	Portales, N. M.						X 40	9-4-77	9-

COMMON SCHOOL LAND

DDY County, New Mexico.

Section 36
Township 22S
Range 30E
Acres 640.00

RESERVATIONS		LANDS USED AS BASE					STATE LAND		
Sub-division	Acres	Sub-division	Acres	Selection No.	G. L. No.	G. L. Acres	Sub-division	Acres	Acquired Under Act of
None							All	640.00	June 21, 1898

1-22-60
1204161 alf

all
N. M. James Ranch
UNIT AGREEMENT

ABSTRACT OF ENTRIES

Assignment No.	NAME	ADDRESS	LOTS 1 2 3 4 5 6 7 8	NE NE NW SW SE	NW NE NW SW SE	SW NE NW SW SE	SE NE NW SW SE	Acres	Date Expiration	Date Cancellation or Relinquishment	Remarks
	Geo. N. Cage	Santa Fe N. M.						40	3-11-34		
1	Ft. Midwest Refining Co	Denver, Colo.						40	3-11-34	2-14-22	Rel'd
	Magnolia Petro Co.	Dallas Texas						600	7-6-41	6-11-36	"
	Ft. Midwest Refining Co	1700 Denver, Colo.						40	3-2-42		
	O. H. Lindquist	Boonton, N. J.						640	3-17-33 12-17-37	7-13-38	Potash Permit
1	Standard Oil Gas Co.	Philadelphia Bldg. Philadelphia						40	3-2-42	2-26-36	Relinquishment
	Ralph Gallinger	Hollywood Calif.						40	2-2746		
3	John H. Wise et al	Los Angeles Calif.						40	2-2246		
	Magnolia Petro Co	Roller Tex						600	6-12-46	Expired	
	John H. Pallus	Houston, Texas						640	10-17-1947 Amended	12-18-1947	Assignment
	Texas Texas Inspiration Co,							640	10-17-1947 Corrected	12-18-1947	Assignment
	Douglas Texas Corporation Leg.	Houston, Texas						640	12-18-1947	12/18/57	Expired
	Malco Refineries Inc.	Roswell, N. M.						640	5-10-61		
1	S. W. Richardson, et al	Fort Worth, Texas						640	5-10-61		Unit
1	S. L. Harrouse	Carlsbad, N. M.						640	12-17-1947	12/18/57	Expired
	S. L. Harrouse	Carlsbad, N. M.						640	Date 12-18-54		Assignment
	C. Candelaria III et al	Dallas, Texas						640	1-20-55 3-1-55	3-1-56	Partial
1	Magnolia Petro Co	Patrick & Houston, Tex.						640	1-15-55		Assignment
2	Shell Oil Co.	Midland, Texas						640	5-10-61		
3	S. W. Richardson, et al,	Fort Worth, Texas						480	5-10-61		
4	Richardson Oil Inc. et al	Ft. Worth, Texas						480	5-10-61		
	Eastern N.M. University	Portales, N.M.						X 40	9-4-77	9-4-77	Rel'd Expired

STATE LAND OFFICE

EDDY County, New Mexico

COMMON SCHOOL LAND

Section
Township
Range
Acres

CAUSE OF LOSS	RESERVATIONS SUB-DIVISIONS	RESERVATIONS ACRES	LANDS USED AS BASE SUB-DIVISIONS	LANDS USED AS BASE ACRES	SELECTION NO.	S. L. NO.	S. L. ACRES	STATE LAND SUBDIVISION	STATE LAND ACRES	ACQUIRED UNDER ACT OF
	None							All	640.00	June 21, 1898

"Patent Approved" 1204161 - dated 1/22/60

ABSTRACT OF ENTRIES

APPLICATION NO.	CONTRACT OR LEASE NO.	ASSIGNMENT NO.	NAME	ADDRESS	LOTS 1	2	3	4	5	6	7	8	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	ACRES	DATE EXPIRATION
	M-2618		D.S. Mawson	Carlsbad N M																									640	Patent 12-18-54
	M-2618	1	Duval Sulphur & Potash Co	Houston TX	Consolidated in error								X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	640	Patent 1-18-55
	M-2618	1	Duval Sulphur & Potash Co	" "																									640	1-18-55
	M-2618	1	DUVAL CORPORATION	Houston, TEXAS									X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	640	12-18-74
	M-2618		Duval Corporation	Houston, Texas																									640	12-13-84
	AS-60		Section N.M. University	Portales, N.M.																									40	4-4-77

COMMON SCHOOL LAND

IDY County, New Mexico

Section 36
Township 22S
Range 30E
Acres 640.00

RESERVATIONS		LANDS USED AS BASE					STATE LAND		ACQUIRED
SUB-DIVISIONS	ACRES	SUB-DIVISIONS	ACRES	SELECTION NO.	C. L. NO.	C. L. ACRES	SUBDIVISION	ACRES	UNDER ACT OF
None							All	640.00	June 21, 1898

"Patent Approved" 12-04161 - dated 1/22/60

ABSTRACT OF ENTRIES

NAME	ADDRESS	LOTS 1 2 3 4 5 6 7 8	NE NE NW SW SE	NW NE NW SW SE	SW NE NW SW SE	SE NE NW SW SE	ACRES	DATE EXPIRATION	DATE CANCELLATION OR RELINQUISHMENT	REMARKS
D.L. Harrison	Carlsbad N.M.						640	Patent 12-18-54		Patent ? Lease Held
Duval Sulphur & Potash Co	Houston Tex	Committed in error					640	Patent 1-15-55	4/29/57	Relinquishment
Duval Sulphur & Potash Co	" "						640	1-15-55		Patent
DUVAL CORPORATION	HOUSTON, TEXAS						640	12-18-74	E&P	RENEWAL Potash
Duval Corporation	Houston, Texas						640	12-13-84		Patent
Eastern N.M. University	Portales, N.M.						X 40	4-4-77	9-4-77	Min E&P

Exhibit 14

Mr. Spurrier

RECEIVED
STATE LAND OFFICE
AUG 27 1 27 PM '51
SANTA FE, N. M.

Carlsbad, New Mexico
August 24, 1951

Mr. Guy Shepard,
Commissioner of Public Lands
State of New Mexico
Santa Fe, New Mexico

Dear Mr. Shepard:

On August 13, 1951 your committee, appointed to make a study of concurrent exploration for potash and oil and gas on lands underlaid by potash deposits or thought to be susceptible of future potash development,, met in Artesia, New Mexico. It was hoped that this meeting would be the final one necessary for the committee members to make a joint recommendation to you covering future rules and regulations to govern leasing and drilling for oil or gas in this area.

A meeting had previously been held in Santa Fe, before the Oil Conservation Commission, on July 10, 1951, where recommendations had been made by both the potash and the oil and gas interests. It was, naturally, the desire of your committee to arrive at some agreement, based on information presented at the July 10th and previous meetings; however, in the meeting of your committee in Artesia on August 13th there was a divergence of opinion with reference to the matter of restricting certain acreage and the only point on which accord was reached was on the proposed drilling and casing regulations, both for deep and shallow drilling. It is, therefore, the desire of the potash representatives on your committee to express concurrence in the drilling and casing program (which was prepared by the oil members of the committee, together with representatives of the United States Geological Survey), a copy of which is attached hereto, but to also advise you of the opinion of the potash industry with reference to the need for restricting development completely in portions of the known or potential potash area in Eddy and Lea Counties, New Mexico.

In the hearing in Santa Fe on July 10th a map of the known and potential potash area was submitted. This map, showing an outline of the probable potash area, was prepared from information compiled by the United States Geological Survey. The outline on the map delineated the district which the United States Geological Survey representative advised was the zone of known or probable potash minerals. The United States Geological Survey has access to the core drilling records of anyone ex-

ploring in the district and the map represents a correlation of all information received from all exploratory drilling since the inception of operations in the Carlsbad potash district.

In the hearing on July 10th the recommendation of the potash industry was that the mineralized district shown on the map be broken down as follows:

AREA "A" - Areas which are underlain by proven commercial potash deposits.

AREA "B" - Areas under which commercial potash deposits are indicated but not delineated.

Representatives of the potash industry, at the hearing, recommended that:

> Future leases may issue upon the lands within "Area A" but such leases shall contain the proviso that no drilling may be conducted thereon; however, the acreage embraced in such leases may be committed to unit agreements.

It is realized that valid existing lease rights of the oil lessees must be considered in Area A but every possible protection to potash reserves in that area should be afforded. The district comprising Area A was arrived at by having each company show on the map the lands comprising its ore body. A very fair appraisal was made by each company and any lands which were not felt to contain proven commercial potash ore, even though such lands were held under lease, were eliminated from the A Area.

In the course of various discussions, both in committee meetings, and in public hearings in Santa Fe, the representatives of the oil industry advised that it was not their desire to drill in an "active mine area." The definition of what comprises a proven deposit has been about the only point of difference in the presentation by representatives of both industries. Naturally, what is an active mine working today is no indication of where the mining operation will be in progress two or three years hence. Consequently, it is necessary to protect against encroachment on the proven ore bodies of the potash companies, which will be the source of potash in future years. It is felt that this has been accomplished by designating

the A Area and it is believed by the potash representatives of your committee that any rules or regulations promulgated by either the State Land Office or the Oil Conservation Commission should give every protection to the ore bodies of the potash operators without regard to the present mine area.

The acreage comprised in Area A is extremely small in relation to what is considered the potential oil producing district of southeastern New Mexico. In light of the fact that the Carlsbad district represents the only point in the United States where potash is mined and in view of the fact that approximately 90% of all potash produced in the United States now comes from the Carlsbad district, it is extremely important to the State and the Nation, as well as to the potash operators, that every protection be provided and that no action be taken which might in any way endanger these deposits. It is, therefore, the opinion of the potash members of your committee that any action taken by you should incorporate provisions that future oil leases may not issue upon the lands within Area A unless issued under conditions which bar any drilling thereon. This would permit the Area A acreage to be committed to unit agreements while at the same time protecting against any possible damage to the potash deposits.

Respectfully submitted,

F. C. Davis

T. M. Cramer

P.S.

As was stated several times for the record, by the potash representatives, it is our belief that procedure should be set up whereby a periodic review (perhaps each five or ten years) will be made of the acreage embodied in Area "A". If it is determined that any lands of the potash operators are barren of potash such lands can be transferred to the "B" Area; conversely, if any acreage in the "B" area is found to contain commercial potash ores such acreage can be transferred to the "A" Area, subject to the then valid existing oil rights.

MvC

I. DRILLING AND CASING PROGRAM:

(1) For the purpose of the regulations and the drilling of oil and gas exploratory test wells, shallow and deep zones are defined as follows:

(a) The shallow zone shall include all formations above the base of the Delaware sand or above a depth of 5000 feet, whichever is the lesser.

(b) The deep zone shall include all formations below the base of the Delaware sand or below a depth of 5000 feet, whichever is the lesser.

(2) Surface Casing String:

(a) A surface casing string of new, second-hand or reconditioned pipe shall be set in the "Red Bed" section of the basal Rustler formation immediately above the salt section, or in the anhydrite at the top of the salt section, as determined necessary by the regulatory representative approving the drilling operations, and shall be cemented with not less than one hundred and fifty percent (150%) of calculated volume necessary to circulate cement to the ground surface.

(b) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(c) Casing and water shut-off tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of six hundred (600) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measure shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(d) The above requirements for the surface casing string shall be applicable to both the shallow and deep zones.

(3) Salt Protection String:

(a) A salt protection string of new, second-hand or reconditioned pipe shall be set not less than one hundred (100) feet nor more than two hundred (200) feet below the base of the salt section..

(b) The salt protection string shall be cemented as follows:

(i) For wells drilled to the shallow zone, the string may be cemented with a nominal volume of cement for testing purposes only. If the exploratory test well is completed as a productive well, the string must be recemented with sufficient cement to fill the annular space back of the pipe from the top of the first cementing to the surface or to the bottom of the cellar, or (*)

(ii) For wells drilled to the deep zone, the string must be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(c) If the cement fails to reach the surface or the bottom of the cellar, where required, the top of the cement shall be located by a temperature or gamma ray survey and additional cementing shall be done until the cement is brought to the point required.

(d) The fluid used to mix with the cement shall be saturated with the salts common to the zones penetrated and with three percent (3%) of calcium Chloride by weight of cement.

(e) Centralizers shall be spaced on at least every one hundred fifty (150) feet of the salt protection string below the surface casing string.

(*) may be cut and pulled if the protection string is cemented to the surface as provided in sub-section (5), (a), (i).

(f) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(g) Casing tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of one thousand (1000) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(h) The above requirements for the salt protection string shall be applicable to both the shallow and deep zones except for sub-section (3) (b) (i) and (ii) above.

(4) Intermediate String:

(a) In the drilling of oil and gas exploratory test wells to the deep zone an intermediate string shall be set at sufficient depth to case-off all formations in the shallow zone and shall be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(b) Cementing procedures and casing tests for the intermediate string shall be the same as provided under sub-sections (3), (c), (f), and (g) for the salt protection string.

(5) Production String:

(a) A production string shall be set on top or through the oil or gas pay zone and shall be cemented as follows:

(i) For wells drilled to the shallow zone the production string shall be cemented to the suface if the salt protection string was cemented only with a nominal volume for testing purposes, in which case the salt protection string can be cut and pulled before the production string is cemented; provided, that

If the salt protection string was cemented to the surface, the production string may be cemented with a volume adequate to protect the pay zone and the casing above such zone.

(ii) For wells drilled to the deep zone the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zones; provided that if no intermediate string shall have been run and cemented to the surface, the production string shall be cemented to the surface.

(b) Cementing procedures and casing tests for the production string shall be the same as provided under sub-sections (3), (c), (f), and (g) for the salt protection string.

III. DRILLING FLUID FOR SALT SECTION:

The fluid used while drilling the salt section shall consist of water to which has been added sufficient salts of a character common to the zone penetrated to completely saturate the mixture. Other admixtures may be added to the fluid by the operator in overcoming any specific problem. This requirement is specifically to prevent enlarged drill holes.

III. PLUGGING AND ABANDONMENT OF WELLS:

All wells heretofore and hereafter drilled within the potash area shall be plugged in a manner that will provide a solid cement plug through the salt section and prevent liquids or gases from entering the hole above or below the salt section.

Exhibit 15

Roswell, New Mexico
September 4, 1951

Mr. Guy Shepard
Commissioner of Public Lands
State of New Mexico
Santa Fe, New Mexico

Dear Mr. Shepard:

Your Oil-Potash Committee which is studying ways and means for concurrent production of oil and potash from the basin area of Lea and Eddy County, met on August 13, 1951. At this meeting there was full agreement by committee members on drilling and casing rules and regulations; however, the members could not agree as to acreage restrictions. It was the thought of your oil members that another meeting be held to further discuss acreage limitations. We have been furnished, however, with a report mailed to you by the potash members in which they outline their views of the entire problem. In order to complete your committee's work the oil members respectfully submit this letter which outlines their views:

1. We submit a proposed casing and drilling program (attached) which is to cover and protect the potash area during the drilling of exploratory test wells.

2. If and when discoveries of oil and/or gas are made then the Oil Conservation Commission should call an open hearing within 45 days to set up drilling, casing and spacing rules and regulations in the area or areas immediately around the discovery. These rules and regulations may or may not follow the proposed rules covering exploratory wells but they should be tailored to fit the case of field development and full protection of potash deposits.

3. We recommend that no drilling be allowed over the open or active mine workings and for ½ mile around such workings, with all areas set out to nearest 40 acre subdivisions as per U.S.G.S. surveys. We suggest that you obtain from the potash companies an outline of their active mine workings and then project the area as suggested above. For new mines that are in the shaft sinking stage then an area ½ miles in radius from the shafts. These restricted areas should be reviewed annually and enlarged or subtracted according to the advance of potash mining.

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4. These restricted drilling areas however are to be held open to leasing for oil and gas as well as potash and are to be advailable to join unit plan agreements in order to protect the interests of the State.

5. All lands in the potash area are to be open for leasing as to oil and gas as well as to potash. No restricted areas are to be set up and if at present there are such restricted areas then they should be abolished and the lands made available to potash and oil leasing and development.

6. We request that you confer with the United States Government representatives in order that the regulations when set up will be the same for operations on either state and federal lands. This will avoid needless duplication from both the oil and potash operational standpoint on regulations.

It is the opinion of your oil members that oil and potash development may take place concurrently in the potash basin area of Eddy and Lea Counties. We call to your attention that proper conservation of natural resources means development of these resources as needed and to prevent needless waste. Certainly both oil and potash are needed at this time to aid our National defense effort and they both should be developed and produced to the maximum consistant with proper conservation safeguards.

Should you need further information the oil members and I feel sure the potash members of your committee would be pleased to meet with you and to try to supply you with the desired material.

Respectfully submitted

ERNEST CARPER

JOHN M. KELLY

By John M. Kelly
John M. Kelly

SEP 6 1951

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I. DRILLING AND CASING PROGRAM:

(1) For the purpose of the regulations and the drilling of oil and gas exploratory test wells, shallow and deep zones are defined as follows:

(a) The shallow zone shall include all formations above the base of the Delaware sand or above a depth of 5000 feet, whichever is the lesser.

(b) The deep zone shall include all formations below the base of the Delaware sand or below a depth of 5000 feet, whichever is the lesser.

(2) Surface Casing String:

(a) A surface casing string of new, second-hand or reconditioned pipe shall be set in the "Red Bed" section of the basal Rustler formation immediately above the salt section, or in the anhydrite at the top of the salt section, as determined necessary by the regulatory representative approving the drilling operations, and shall be cemented with not less than one hundred and fifty percent (150%) of calculated volume necessary to circulate cement to the ground surface.

(b) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(c) Casing and water shut-off tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of six hundred (600) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measure shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(d) The above requirements for the surface casing string shall be applicable to both the shallow and deep zones.

(3) Salt Protection String:

(a) A salt protection string of new, second-hand or reconditioned pipe shall be set not less than one hundred (100) feet nor more than two hundred (200) feet below the base of the salt section.

(b) The salt protection string shall be cemented as follows:

(i) For wells drilled to the shallow zone, the string may be cemented with a nominal volume of cement for testing purposes only. If the exploratory test well is completed as a productive well, the string must be recemented with sufficient cement to fill the annular space back of the pipe from the top of the first cementing to the surface or to the bottom of the cellar, or (*)

(ii) For wells drilled to the deep zone, the string must be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(c) If the cement fails to reach the surface or the bottom of the cellar, where required, the top of the cement shall be located by a temperature or gamma ray survey and additional cementing shall be done until the cement is brought to the point required.

(d) The fluid used to mix with the cement shall be saturated with the salts common to the zones penetrated and with three percent (3%) of calcium Chloride by weight of cement.

(e) Centralizers shall be spaced on at least every one hundred fifty (150) feet of the salt protection string below the surface casing string.

(*) may be cut and pulled if the production string is cemented to the surface as provided in sub-section (5), (a), (i).

(f) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(g) Casing tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of one thousand (1000) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(h) The above requirements for the salt protection string shall be applicable to both the shallow and deep zones except for sub-section (3) (b) (i) and (ii) above.

(4) Intermediate String:

(a) In the drilling of oil and gas exploratory test wells to the deep zone an intermediate string shall be set at sufficient depth to case-off all formations in the shallow zone and shall be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(b) Cementing procedures and casing tests for the intermediate string shall be the same as provided under sub-sections (3), (c), (f), and (g) for the salt protection string.

(5) Production String:

(a) A production string shall be set on top or through the oil or gas pay zone and shall be cemented as follows:

(i) For wells drilled to the shallow zone the production string shall be cemented to the suface if the salt protection string was cemented only with a nominal volume for testing purposes, in which case the salt protection string can be cut and pulled before the production string is cemented; provided, that

If the salt protection string was cemented to the surface, the production string may be cemented with a volume adequate to protect the pay zone and the casing above such zone.

(ii) For wells drilled to the deep zone the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone; provided that if no intermediate string shall have been run and cemented to the surface, the production string shall be cemented to the surface.

(b) Cementing procedures and casing tests for the production string shall be the same as provided under sub-sections (3), (c), (f), and (g) for the salt protection string.

II. DRILLING FLUID FOR SALT SECTION:

The fluid used while drilling the salt section shall consist of water to which has been added sufficient salts of a character common to the zone penetrated to completely saturate the mixture. Other admixtures may be added to the fluid by the operator in overcoming any specific problem. This requirement is specifically to prevent enlarged drill holes.

III. PLUGGING AND ABANDONMENT OF WELLS:

All wells heretofore and hereafter drilled within the potash area shall be plugged in a manner that will provide a solid cement plug through the salt section and prevent liquids or gases from entering the hole above or below the salt section.

CASE 7020: Application of Mesa Petroleum Co. for pool creation, special pool rules and an oil discovery allowable, Rio Arriba and San Juan Counties, New Mexico. Applicant, in the above-styled cause, seeks the creation of a new Gallup oil pool for its South Blanco Federal Well No. 1-6 located in Unit A of Section 6, Township 23 North, Range 7 West, and special rules therefor, including a provision for 80-acre spacing units. Applicant further seeks a discovery allowable for the aforesaid well.

CASE 6822: (Reopened and Readvertised)

In the matter of Case 6822 being reopened pursuant to the provisions of Order No. R-6293 which order created the West Double X-Wolfcamp Gas Pool as a retrograde gas condensate pool and set special production limitations therein. Operator(s) may appear and present evidence to establish the true nature of the reservoir and proper rates of withdrawal therefrom.

CASE 6996: (Continued from August 20, 1980, Examiner Hearing)

Application of John E. Schalk for compulsory pooling, Rio Arriba County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Blanco Mesaverde Pool underlying the NE/4 of Section 8, Township 25 North, Range 3 West, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

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Docket No. 28-80

DOCKET: COMMISSION HEARING - THURSDAY - SEPTEMBER 4, 1980

OIL CONSERVATION COMMISSION - 9 A.M. - ROOM 205
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

CASE 6889: (DE NOVO)

Application of Belco Petroleum Corporation for directional drilling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to directionally drill a well, the surface location of which is 1980 feet from the North line and 920 feet from the West line of Section 36, Township 22 South, Range 30 East, in such a manner as to bottom it at an unorthodox location within 100 feet of a point 1320 feet from the North line and 2640 feet from the West line of said Section 36 in the Morrow formation, the N/2 of said Section 36 to be dedicated to the well.

Upon application of Duval Corporation this case will be heard De Novo pursuant to the provisions of Rule 1220.

Evidence and testimony or arguments in this hearing shall be limited to the issue of whether Duval Corporation has standing to object to the application of Belco Petroleum Corporation.

Dockets Nos. 29-80 and 30-80 are tentatively set for September 17 and October 1, 1980. Applications for hearing must be filed at least 22 days in advance of hearing date.

DOCKET: EXAMINER HEARING - WEDNESDAY - SEPTEMBER 3, 1980

9 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM,
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or Richard L. Stamets, Alternate Examiner:

CASE 7015: Application of Tenneco Oil Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp-Pennsylvanian formations underlying the S/2 of Section 36, Township 18 South, Range 29 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 7016: Application of Harvey E. Yates Company for compulsory pooling, Chaves County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Wolfcamp thru Mississippian formations underlying the E/2 of Section 18, Township 15 South, Range 27 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 7006: (Continued from August 20, 1980, Examiner Hearing)

Application of Harvey E. Yates Company for a unit agreement, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Northwest Gladiola Unit Area, comprising 1,280 acres, more or less, of State and fee lands in Townships 11 and 12 South, Range 37 East.

CASE 7007: (Continued from August 20, 1980, Examiner Hearing)

Application of Harvey E. Yates Company for downhole commingling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the downhole commingling of Morrow and Atoka production in the wellbore of its North Travis 12 Deep Well No. 1 located in Unit O of Section 12, Township 18 South, Range 28 East.

CASE 7017: Application of Bass Enterprises Production Company for pool creation, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks the creation of a new Bone Spring gas pool for its Big Eddy Unit Well No. 60 located in Unit J of Section 20, Township 21 South, Range 28 East, with classification of wells with a GOR of 20,000 or more as gas wells.

CASE 7018: Application of Shell Oil Company for an exception to Division Rule No. 202(B), San Juan County, New Mexico. Applicant, in the above-styled cause, seeks a one year extension to the exception to Rule 202(B) previously approved by Order No. R-5655 for certain of its Carson Unit wells in the Bisti Pool. Applicant further requests an administrative procedure for any future extensions.

CASE 7019: Application of Amoco Production Company for compulsory pooling, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an order pooling all mineral interests in the Pennsylvanian formation underlying the W/2 of Section 30, Township 23 South, Range 25 East, to be dedicated to a well to be drilled at a standard location thereon. Also to be considered will be the cost of drilling and completing said well and the allocation of the cost thereof as well as actual operating costs and charges for supervision, designation of applicant as operator of the well, and a charge for risk involved in drilling said well.

CASE 6991: (Continued from August 6, 1980, Examiner Hearing)

Application of Amoco Production Company for salt water disposal, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to dispose of produced salt water into the San Andres formation in a 100 foot perforated interval between 4400 feet and 4800 feet in its South Hobbs Unit Well No. 103 in Unit B of Section 15, Township 19 South, Range 38 East, Hobbs Grayburg-San Andres Pool.

CASE 7000: (Continued from August 20, 1980, Examiner Hearing)

Application of Cavalcade Oil Corporation for an unorthodox oil well location, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the unorthodox location of its McClay Well No. 11 2385 feet from the South line and 1834 feet from the West line of Section 33, Township 18 South, Range 30 East, the NE/4 SW/4 of said Section 33 to be dedicated to the well.