



June 21, 2004

HAND DELIVERY

Mr. Michael Stogner, Hearing Examiner
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

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Re: Case No. 13226: Application of OXY USA WTP, Limited Partnership for rescission of the approval of an application for permit to drill and for compulsory pooling, Eddy County, New Mexico.

Dear Mr. Stogner:

On March 4th, 2004 this case came before you for hearing. As you will recall, the case involved a dispute between OXY USA, Inc. and Tom Brown, Inc. concerning the development of the Morrow formation under Section 15, Township 22 South, Range 27 East, NMPM, Eddy County, New Mexico. OXY believes that the geology of the area should control and the W/2 of the section should be dedicated to the well. Tom Brown contends that the S/2 of the section should be dedicated to the well since it owns the entire S/2 of the section. If a S/2 spacing unit is dedicated to the well, the interests of OXY and the other working and royalty interest owners in the NW/4 of the Section will have to be included in a N/2 unit and thereby cut in half. By this action, these owners will be denied the opportunity guaranteed by statute to recover their just and equitable share of the reserves under their property. The arguments of the parties are fully summarized in the proposed order filed in this case by OXY on March 8, 2004.

Instead of waiting for an order, Tom Brown, Inc. ignored the Division and drilled its Forni Well No. 2 (**API No. 30-015-33204**) at a location 660 feet from the South and West lines of the section. Although OXY sought an Emergency Order preventing the drilling of the well, the Division denied OXY's request. The well is now in the final stages of completion and soon will be on production. In the mean time, Tom Brown, Inc. has been acquired by another company.

Recently, in the name of Tom Brown, Inc., another compulsory pooling application has been filed with the Division seeking the compulsory pooling of a N/2 Unit in this



section (Case No. 13271). In that case, OXY has sought information on the Forni Well No. 2 by subpoena, but no data has been produced by Tom Brown, Inc. OXY is preparing a Motion to Compel Production of this data.

We are concerned that, once final orders have been entered in these cases by the Division and Commission, OXY, the other working and their royalty owners may ultimately be forced to recover their shares of the production proceeds from the Forni Well No. 2 through an action filed in the District court.

To avoid this situation, OXY requests that the Division exercise its continuing jurisdiction over this case and require Tom Brown, Inc. place all production proceeds from the Forni Well No. 2 in escrow in a bank located in Eddy County, New Mexico, until this matter is finally resolved and the ownership of these proceeds is determined by the Division, Commission or the Courts.

Very truly yours,

A handwritten signature in black ink, appearing to read "William F. Carr".

William F. Carr

Enclosures

cc: James Bruce, Esq.
Mr. Rick Foppiano