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\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

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August 26, 1996

**HAND DELIVERED**

Mr. Michael E. Stogner  
Hearing Examiner  
Oil Conservation Division  
2040 South Pacheco  
Santa Fe, New Mexico 87505

**Re: REQUEST FOR ORDER NUNC PRO TUNC**  
**NMOCD Case 11569 Order No. R-10624**  
**Application of Richardson Operating Company**  
**for Compulsory Pooling and an**  
**Unorthodox Gas Well Location**  
**San Juan County, New Mexico**

Dear Stogner:

At the Examiner hearing held on July 11, 1996, we consolidated Richardson cases 11569 and 11570 for testimony which resulted in the following orders adopting different overhead rates:

(a) Case 11569 (Order R-10624) approved overhead rates of \$4,500 per month while drilling and \$350/month while producing

(b) Case 11570 (Order R-10656) approved overhead rates of \$3,500 per month while drilling and \$450.00/month while producing

On behalf of Richardson Operating Company, I am requesting your assistance in having the Division issue an Order Nunc Pro Tunc to correct a clerical error in Order R-10624.

Michael E. Stogner  
Oil Conservation Division  
August 26, 1996  
Page 2.

In support of our request, I am enclosing an affidavit by Ms. Colby which describes the clerical error which occurred during her testimony when she inadvertently stated the incorrect overhead rates. (See page 26 of transcript enclosed)

The correct overheard rates of \$3,500.00 month while drilling and \$450.00/month while producing are set forth in both the application and in Exhibit 28 (enclosed).

We appreciate your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Thomas Kellahin', with a large, stylized initial 'W'.

W. Thomas Kellahin

cfx: Richardson Operating Company  
Attn: Cathy Colby



NMOCD Case 11569  
Affidavit of Cathy Colby

C. On June 18, 1996, Richardson Operating Company filed a compulsory pooling application with the NMOCD which included a request for overhead rates of \$3,500.00/month while drilling and \$450.00/ month while producing.

D. Exhibit 28 introduced at the hearing on July 11, 1996 correctly reflected the proposed overhead rates of \$3,500.00/month while drilling and \$450.00/ month while producing.

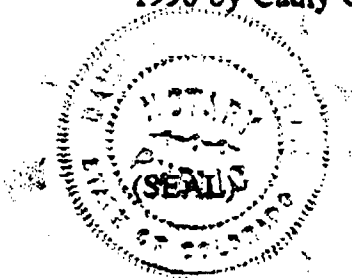
E. However, during my testimony, I mistakenly stated that the proposed overhead rates for drilling were \$4,500.00 per month and the producing well rates were \$350.00 per month (See Transcript page 26) when in fact I meant to testify that the overhead rates for drilling are \$3,500.00/month and the producing well rates are \$450.00/month.

FURTHER AFFIANT SAYETH NOT:

Cathy Colby  
Cathy Colby

State of Colorado )  
County of Denver ) SS

SUBSCRIBED AND SWORN TO before me this 26<sup>th</sup> day of August,  
1996 by Cathy Colby.

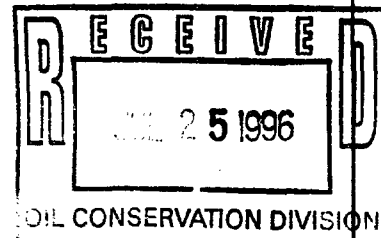


Dawn Marie Huffer  
Notary Public

My Commission Expires: 10-31-98

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



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

APPLICATION OF RICHARDSON OPERATING )  
COMPANY FOR COMPULSORY POOLING AND AN )  
UNORTHODOX WELL LOCATION, SAN JUAN )  
COUNTY, NEW MEXICO )

CASE NOS. 11,569

APPLICATION OF RICHARDSON OPERATING )  
COMPANY FOR COMPULSORY POOLING, DOWNHOLE )  
COMMINGLING AND AN UNORTHODOX GAS WELL )  
LOCATION, SAN JUAN COUNTY, NEW MEXICO )

and 11,570

(Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

July 11th, 1996

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, July 11th, 1996, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

\* \* \*

1 Q. At this point, are you asking the Examiner to  
2 issue a compulsory pooling order?

3 A. Yes, sir.

4 Q. Do you have a recommendation to the Examiner as  
5 to what overhead rate you would like to have him approve  
6 for each of these two wells?

7 A. We're asking for a \$350 monthly operating rate  
8 and a \$4500 drilling rate.

9 Q. And what is the basis of those rates?

10 A. Those are our standard rates in the area.

11 Q. And you've asked your next witness, Dana  
12 Delventhal, the petroleum engineer, to examine your  
13 overhead rates, and she has found that they're consistent  
14 with the *Ernst & Young* rates? In fact, lower than those  
15 rates?

16 A. Yes, sir.

17 Q. All right, let's turn to the package of  
18 correspondence so we can document for the Examiner your  
19 efforts to get these various parties to join you. Let's do  
20 it in a summary fashion. Starting with Exhibit 5, describe  
21 for us what you're doing and show us the result.

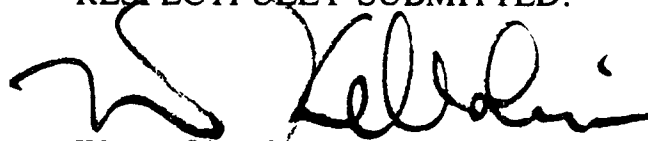
22 A. Okay, Exhibit 5 is the correspondence I've had  
23 with Conoco. Our original proposal was to either take a  
24 farm-in or to purchase their interest.

25 Q. That was going on -- Your proposal was November

WHEREFORE, Richardson, as applicant, requests that this application be set for hearing on July 11, 1996 before the Division's duly appointed examiner, and that after notice and hearing as required by law, the Division enter its order pooling the mineral interest described in this spacing unit for the drilling, completion and operations of the subject well at a potential unorthodox gas well location upon terms and conditions which include:

- (1) Richardson Operating Company be named operator;
- (2) provisions for each working interest owner to participate in any production by reimbursing the applicant for the value of the costs of drilling, completing, equipping and operating said well;
- (3) In the event a working interest owner fails to elect to participate, then provisions be made to recover out of production, reimbursement to the applicant for the costs of drilling, completing, equipping and operating the well, including a risk factor penalty of 200 %;
- (4) Provision for overhead rates of \$3500 per month drilling and \$450 per month operating and a provision providing for an adjustment method of the overhead rates as provided by COPAS; and
- (5) For such other and further relief as may be proper.

RESPECTFULLY SUBMITTED:



W. THOMAS KELLAHIN  
KELLAHIN & KELLAHIN  
P. O. Box 2265  
Santa Fe, New Mexico 87501  
(505) 982-4285

A.A.P.L. FORM 610 - 1989  
MODEL FORM OPERATING AGREEMENT

OPERATING AGREEMENT

DATED

\_\_\_\_\_, 19 \_\_\_\_\_,

OPERATOR Richardson Operating Company

CONTRACT AREA Township 29 North, Range 13 West, NMPM

Section 15: SE/4, insofar, and only insofar, as the Pictured Cliffs formation

COUNTY OR PARISH OF San Juan, STATE OF New Mexico

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AMERICAN ASSOCIATION OF PETROLEUM  
LANDMEN, 4100 FOSSIL CREEK BLVD.  
FORT WORTH, TEXAS, 76137, APPROVED FORM.  
A.A.P.L. NO. 610 - 1989

BEFORE THE  
OIL CONSERVATION DIVISION  
Case No 11570 & 11569 Exhibit No.  
Submitted By:  
*Richardson Oil Company* 28  
Hearing Date: July 11, 1996

## III. OVERHEAD

## 1. Overhead - Drilling and Producing Operations

- i. As compensation for administrative, supervision, office services and warehousing costs, Operator shall charge drilling and producing operations on either:

(X) Fixed Rate Basis, Paragraph 1A, or  
( ) Percentage Basis, Paragraph 1B

Unless otherwise agreed to by the Parties, such charge shall be in lieu of costs and expenses of all offices and salaries or wages plus applicable burdens and expenses of all personnel, except those directly chargeable under Paragraph 3A, Section II. The cost and expense of services from outside sources in connection with matters of taxation, traffic, accounting or matters before or involving governmental agencies shall be considered as included in the overhead rates provided for in the above selected Paragraph of this Section III unless such cost and expense are agreed to by the Parties as a direct charge to the Joint Account.

- ii. The salaries, wages and Personal Expenses of Technical Employees and/or the cost of professional consultant services and contract services of technical personnel directly employed on the Joint Property:

( ) shall be covered by the overhead rates, or  
(X) shall not be covered by the overhead rates.

- iii. The salaries, wages and Personal Expenses of Technical Employees and/or costs of professional consultant services and contract services of technical personnel either temporarily or permanently assigned to and directly employed in the operation of the Joint Property:

( ) shall be covered by the overhead rates, or  
(X) shall not be covered by the overhead rates.

## A. Overhead - Fixed Rate Basis

- (1) Operator shall charge the Joint Account at the following rates per well per month:

Drilling Well Rate \$ 3,500  
(Prorated for less than a full month)

Producing Well Rate \$ 450

- (2) Application of Overhead - Fixed Rate Basis shall be as follows:

## (a) Drilling Well Rate

- (1) Charges for drilling wells shall begin on the date the well is spudded and terminate on the date the drilling rig, completion rig, or other units used in completion of the well is released, whichever is later, except that no charge shall be made during suspension of drilling or completion operations for fifteen (15) or more consecutive calendar days.
- (2) Charges for wells undergoing any type of workover or recompletion for a period of five (5) consecutive work days or more shall be made at the drilling well rate. Such charges shall be applied for the period from date workover operations, with rig or other units used in workover, commence through date of rig or other unit release, except that no charge shall be made during suspension of operations for fifteen (15) or more consecutive calendar days.

## (b) Producing Well Rates

- (1) An active well either produced or injected into for any portion of the month shall be considered as a one-well charge for the entire month.
- (2) Each active completion in a multi-completed well in which production is not commingled down hole shall be considered as a one-well charge providing each completion is considered a separate well by the governing regulatory authority.
- (3) An inactive gas well shut in because of overproduction or failure of purchaser to take the production shall be considered as a one-well charge providing the gas well is directly connected to a permanent sales outlet.
- (4) A one-well charge shall be made for the month in which plugging and abandonment operations are completed on any well. This one-well charge shall be made whether or not the well has produced except when drilling well rate applies.
- (5) All other inactive wells (including but not limited to inactive wells covered by unit allowable, lease allowable, transferred allowable, etc.) shall not qualify for an overhead charge.
- (3) The well rates shall be adjusted as of the first day of April each year following the effective date of the agreement to which this Accounting Procedure is attached. The adjustment shall be computed by multiplying the rate currently in use by the percentage increase or decrease in the average weekly earnings of Crude Petroleum and Gas Production Workers for the last calendar year compared to the calendar year preceding as shown by the Index of average weekly earnings of Crude Petroleum and Gas Production Workers as published by the United States Department of Labor, Bureau of Labor Statistics, or the equivalent Canadian Index as published by Statistics Canada, as applicable. The adjusted rates shall be the rates currently in use, plus or minus the computed adjustment.

~~B. Overhead - Percentage Basis~~

- ~~(1) Operator shall charge the Joint Account at the following rates:~~

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

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

CASE NO. 11569  
ORDER NO. R-10624

APPLICATION OF RICHARDSON OPERATING COMPANY FOR  
COMPULSORY POOLING AND AN UNORTHODOX GAS WELL LOCATION,  
SAN JUAN COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on July 11, 1996, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 22nd day of July, 1996, the Division Director, having considered the testimony, the record and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

- (1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) At the time of the hearing this case was consolidated with Case No. 11570 for the purpose of testimony.
- (3) The applicant, Richardson Operating Company, seeks an order pooling all mineral interests in the Pictured Cliffs formation underlying the SE/4 of Section 15, Township 29 North, Range 13 West, NMPM, San Juan County, New Mexico, thereby forming a standard 160-acre gas spacing and proration unit for either the Undesignated Fulcher Kutz-Pictured Cliffs Pool or the Undesignated West Kutz-Pictured Cliffs Pool.
- (4) Said unit is to be dedicated to its proposed ROPCO "15" GW-PC Well No. 2 to be drilled at an unorthodox gas well location 476 feet from the South line and 1800 feet from the East line (Unit O) of said Section 15.

(5) The proposed 160-acre unit is located within two miles of both aforementioned pools, which are both subject to **Rule 104 C(3)** of the Division's statewide rules and regulations, which currently provides for 160-acre spacing and proration units with wells to be located no closer than 790 feet to any outer boundary of the tract nor closer than 130 feet to any quarter-quarter section or subdivision inner boundary.

(6) The proposed well site is located within the city limits of Farmington, New Mexico and the unorthodox location of said well is necessitated in order to adequately avoid occupied dwellings, streets, and business establishments located within the SE/4 of said Section 15.

(7) The applicant owns an interest in the Pictured Cliffs interval underlying the SE/4 of said Section 15 and as such has the right to drill for and develop those minerals underlying the proposed 160-acre spacing unit.

(8) There are interest owners in the proposed proration unit who have not agreed to pool their interests.

(9) To avoid the drilling of unnecessary wells, to protect correlative rights, to prevent waste and to afford to the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of hydrocarbons in the Pictured Cliffs formation, the subject application should be approved by pooling all mineral interests, whatever they may be, within said unit. In addition, to afford the applicant the opportunity to produce its just and equitable share of the gas in the affected pool therein designated, prevent the economic loss caused by the drilling of unnecessary wells, avoid the augmentation of risk arising from the drilling of an excessive number of wells and otherwise prevent waste and protect correlative rights, the proposed unorthodox gas well location should be approved.

(10) The applicant should be designated the operator of the subject well and unit.

(11) Any non-consenting working interest owner should be afforded the opportunity to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production.

(12) Any non-consenting working interest owner who does not pay his share of estimated well costs should have withheld from production his share of the reasonable well costs plus an additional 200 percent thereof as a reasonable charge for the risk involved in the drilling of the well.

(13) Any non-consenting working interest owner should be afforded the opportunity to object to the actual well costs but actual well costs should be adopted as the reasonable well costs in the absence of such objection.

(14) Following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs should pay to the operator any amount that reasonable well costs exceed estimated well costs and should receive from the operator any amount that paid estimated well costs exceed reasonable well costs.

(15) \$4,500.00 per month while drilling and \$350.00 per month while producing should be fixed as reasonable charges for supervision (combined fixed rates); the operator should be authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator should be authorized to withhold from production the proportionate share of actual expenditures required for operating the subject well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(16) All proceeds from production from the subject well which are not disbursed for any reason should be placed in escrow to be paid to the true owner thereof upon demand and proof of ownership.

(17) Upon the failure of the operator of said pooled unit to commence the drilling of the well to which said unit is dedicated on or before October 15, 1996, the order pooling said unit should become null and void and of no effect whatsoever.

(18) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(19) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

**IT IS THEREFORE ORDERED THAT:**

(1) All mineral interests, whatever they may be, within the Pictured Cliffs formation underlying the SE/4 of Section 15, Township 29 North, Range 13 West, NMPM, San Juan County, New Mexico, are hereby pooled to form a standard 160-acre gas spacing and proration unit for either the Undesignated Fulcher Kutz-Pictured Cliffs Pool or the Undesignated West Kutz-Pictured Cliffs Pool. Said unit shall be dedicated to the proposed ROPCO "15" GW-PC Well No. 2 to be drilled at an unorthodox gas well

location 476 feet from the South line and 1800 feet from the East line (Unit O) of said Section 15.

PROVIDED HOWEVER THAT, the operator of said unit shall commence the drilling of said well on or before the 15th day of October, 1996, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Pictured Cliffs formation.

PROVIDED FURTHER THAT, in the event said operator does not commence the drilling of said well on or before the 15th day of October, 1996, Decretory Paragraph No. (1) of this order shall be null and void and of no effect whatsoever, unless said operator obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, said operator shall appear before the Division Director and show cause why Decretory Paragraph No. (1) of this order should not be rescinded.

(2) Richardson Operating Company is hereby designated the operator of the subject well and unit.

(3) After the effective date of this order and within 90 days prior to commencing said well, the operator shall furnish the Division and each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(4) Within 30 days from the date the schedule of estimated well costs is furnished to him, any non-consenting working interest owner shall have the right to pay his share of estimated well costs to the operator in lieu of paying his share of reasonable well costs out of production, and any such owner who pays his share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(5) The operator shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well costs is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(6) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated well costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(7) The operator is hereby authorized to withhold the following costs and charges from production:

- (A) The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.
- (B) As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date the schedule of estimated well costs is furnished to him.

(8) The operator shall distribute said costs and charges withheld from production to the parties who advanced the well costs.

(9) \$4,500.00 per month while drilling and \$350.00 per month while producing are hereby fixed as reasonable charges for supervision (combined fixed rates); the operator is hereby authorized to withhold from production the proportionate share of such supervision charges attributable to each non-consenting working interest, and in addition thereto, the operator is hereby authorized to withhold from production the proportionate share of actual expenditures required for operating such well, not in excess of what are reasonable, attributable to each non-consenting working interest.

(10) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under the terms of this order.

(11) Any well costs or charges which are to be paid out of production shall be withheld only from the working interest's share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(12) All proceeds from production from the subject well which are not disbursed for any reason shall immediately be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership; the operator shall notify the Division of the name and address of said escrow agent within 30 days from the date of first deposit with said escrow agent.

(13) Should all the parties to this forced pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(14) The operator of the well and unit shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(15) Jurisdiction is hereby 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



WILLIAM J. LEMAY  
Director

S E A L