

BEFORE THE

OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

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

THE APPLICATION OF PHILLIPS PETROLEUM
COMPANY, FOR A DETERMINATION
OF PROPORTIONATE SHARE OF RECOVERABLE
HYDROCARBONS AND FOR A SPECIAL
DEPTH BRACKET OIL ALLOWABLE FOR THE
SOUTH PETERSON-FUSSELMAN OIL POOL,
ROOSEVELT COUNTY, NEW MEXICO.

CASE NO. 11334

OIL CONSERVATION DIVISION

MOTION FOR CONTINUANCE

COMES NOW ENSERCH EXPLORATION INC. ("ENSERCH") through its undersigned attorneys, and hereby moves for a continuance of the hearing on this application from July 13, 1995 to July 27, 1995 and in support of this motion states:

1. Enserch, an operator in the South Peterson-Fusselman Oil Pool, was the applicant in Case 10994 in which it sought to replace the pools depth bracket allowable of 267 BOPD with a Special Oil Allowable of 500 BOPD. On April 18, 1995, the Oil Conservation Commission entered Order No. R-5771-C granting the application of Enserch effective June 1, 1994.

2. Phillips Petroleum Company ("Phillips") also operates wells in this pool and appeared at the Commission hearing in opposition to the application of Enserch for a Special Oil Allowable for the South Peterson-Fusselman Pool.

3. On or about May 10, 1995, Phillips filed an Application for Rehearing in Case R-5771-C asserting among other things that:

"Subsequent to the Commission hearing, Phillips obtained new production data upon which petroleum engineering studies were conducted to determine if the Commission's Order as set forth in Order No. R-5771-C will result in the loss of remaining recoverable reserves to Phillips. In addition, based upon this new data, Phillips also has conducted engineering studies to determine if the Commission's Order will result in increasing ultimate oil recovery from the pool." (Emphasis added)

The Commission took no action on Phillips' Application for Rehearing thereby denying it. Phillips appealed this decision to the District Court of Lea County, New Mexico and served its Petition for Review on Enserch on June 21, 1995.

4. On June 19, 1995, two days prior to serving its Petition for Review of Order No. R-5771-C on Enserch, Phillips filed its application in this case asking the Division Examiner to reverse the Commission's decision seeking a return of the allowable for this pool to 267 BOPD effective January 1, 1995. Phillips states as a basis for its application that:

"(7) Subsequent to the Commission hearing, Phillips has obtained new data upon which petroleum engineering studies have been conducted...".

5. Phillips' application was served on Enserch by letter dated June 19, 1995 which provided that parties who appear in this case are requested to file a Pre-Hearing Statement with the Division no later than 4:00 p.m. on Friday, July 7, 1995.

6. On July 6, 1995, Phillips was contacted by Enserch and asked to provide Enserch with copies of the "new data" upon which the Phillips application rests.

7. Phillips was also advised on July 6, 1995 that Enserch would need a two week continuance to review Phillips' "new data" and otherwise prepare for this hearing.

8. Phillips advised that it would attempt to provide the new data without subpoena.

9. On Friday, July 7, 1995, no Pre-Hearing Statement was filed with the Oil Conservation Division by Phillips nor served on Enserch.

10. On Tuesday, July 11, 1995, Enserch contacted Phillips concerning (1) its request for the "new data," (2) whether a subpoena would be necessary to obtain this information and (3) continuance of the July 13, 1995 hearing.

11. After 2:00 p.m. on July 11, 1995, less than two days before the scheduled July 13, 1995 Examiner hearing, Phillips provided monthly production data on three wells covering the time period from April, 1991 through April, 1994, filed a Pre-Hearing Statement identifying the witness and issues it intends to present in this case and advised Enserch it would oppose a continuance of the July 13, 1995 Oil Conservation Division Examiner hearing on its application.

12. On receipt of the Phillips letter and Pre-Hearing Statement on July 11, 1995, Enserch obtained and served on Phillips a Subpoena Duces Tecum for all "new data" upon which it bases its new application and for additional information necessary for Enserch to adequately prepare its opposition to the Phillips application.

13. Due to the short notice afforded Enserch that Phillips would oppose the requested continuance, Mark Burkett, engineering witness for Enserch is unable to appear and testify on July 13, for Enserch.

14. Phillips failure to:

- (a) timely respond to requests of Enserch for the "new data" upon which its case rests;
- (b) timely respond to Enserch's request for a continuance; and
- (c) timely file a Pre-Hearing Statement which would have put Enserch on notice of Phillips intention to proceed with a hearing on July 13, 1995,

have caused substantial prejudice to Enserch and deny it the opportunity to be adequately prepared to respond to the application of Phillips or otherwise fully participate in the Examiner hearing on this application.

WHEREFORE, Enserch Exploration Inc. requests that the Examiner hearing is Case 11334 be continued to the Examiner hearing scheduled for July 27, 1995.

Respectfully submitted,

CAMPBELL, CARR & BERGE, P.A.

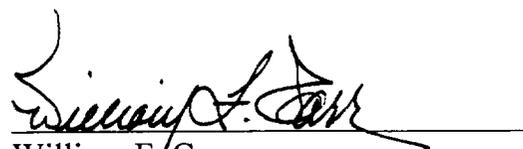
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ATTORNEYS FOR ENSERCH
EXPLORATION INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of July, 1995, I have caused to be hand-delivered a copy of our Motion for Continuance in the above-captioned case to:

W. Thomas Kellahin, Esq.
Kellahin & Kellahin
117 North Guadalupe Street
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William F. Carr