

**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. 11634

**APPLICATION OF INTERCOAST OIL AND GAS
COMPANY FOR COMPULSORY POOLING AND AN
UNORTHODOX WELL LOCATION,
EDDY COUNTY, NEW MEXICO.**

**MOTION TO DISMISS
PRE-HEARING STATEMENT**

**This pre-hearing statement is submitted by OXY USA INC., as required by
the Oil Conservation Division.**

APPEARANCE OF PARTIES

APPLICANT

**InterCoast Oil
and Gas Company**

ATTORNEY

**William F. Carr, Esq.
P. O. Box 2208
Santa Fe, New Mexico 87504
(505) 988-4421**

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

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W. THOMAS KELLAHIN*

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

JASON KELLAHIN (RETIRED 1991)

October 8, 1996

VIA FACSIMILE

(505) 827-8177

Mr. David R. Catanach
Hearing Examiner
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

Re: NMOCD Case 11634
Application of InterCoast Oil & Gas Company
For Compulsory Pooling
Eddy County, New Mexico

Dear Mr. Catanach:

On behalf of OXY USA INC., please find enclosed our Motion to Dismiss and Pre-Hearing Statement filed in the referenced case which is currently set for hearing on October 17, 1996.

Very truly yours,



W. Thomas Kellahin

cfx: William F. Carr, Esq.
Attorney for Applicant
cfx: OXY USA INC.
Attn: Richard Foppiano

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INTERESTED PARTY

OXY USA INC.
Box 50250
Midland, Texas 79710
Attn: Rick Foppiano
(915) 68505913

ATTORNEY

W. Thomas Kellahin
KELLAHIN AND KELLAHIN
P.O. Box 2265
(505) 982-4285

STATEMENT OF CASE

INTERESTED PARTY

OXY USA INC. is the current operator of the oil and gas minerals underlying the N/2 of Section 20, T20S, R28E, Eddy County, New Mexico, and is an interested party in this matter whose interest cannot be affected by a pooling order in this case.

The Division lacks jurisdiction to enter a compulsory pooling order affecting OXY USA INC. because OXY USA INC. and InterCoast Oil and Gas Company have already had their respective interests in this spacing unit committed to a Joint Operating Agreement designating OXY USA INC. as the operator.

PROPOSED EVIDENCE

INTERESTED PARTY:

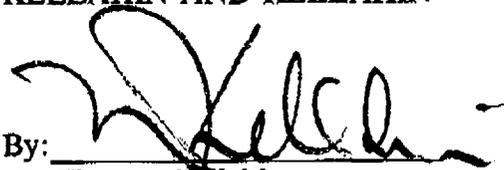
WITNESSES	EST. TIME	EXHIBITS
T. Kent Woolley (landman)	20-30 min.	est. 4 exhibits

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PROCEDURAL MATTERS

Motion to dismiss case because this spacing unit is committed to a voluntary contractual agreement thereby precluding the Division from exercising jurisdiction all as set forth in the New Mexico compulsory pooling provision of Section 70-2-17(c) NMSA 1978.

KELLAHIN AND KELLAHIN

By: 

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