

NEW MEXICO OIL CONSERVATION DIVISION

COMMISSION HEARINGFARMINGTON, NEW MEXICOHearing Date SEPTEMBER 23, 1999 Time 10:00 A.M.

| NAME | REPRESENTING | LOCATION |
|---------------------|----------------------------|----------------|
| Fred Hansen | New Mexico Oil & Gas Assn | Santa Fe |
| Rick Foppiano | New Mexico Oil & Gas Assn. | Santa Fe |
| Joanifer Salisbury | EMNED | Santa Fe |
| Pat Sanchez | B-M-G Drilling Corp | Farmington |
| Ernie Busch | NMOCOD | Aztec |
| ED MARTIN | NMOCOD | SANTA FE |
| Frank Gray | Texaco E & P | Midland, TX |
| Denny Foust | NMOCOD | Aztec |
| Don Riggs | Ridgeway Az Oil Corp | ET (Elkin) Az. |
| JOHN BYRON | Univ. of New Mexico, Inc. | Farmington |
| Bob Wierman | ph. Gas Processing | Farmington |
| John Ree | Daguer Prod. | Farmington |
| Frank Chavez | OCOD | Aztec |
| DENNIS Reimers | Marathon | Ignacio, CO. |
| Larry Schlottelback | Texaco | Farmington, NM |
| Diane ... | Bayless | Bayless, NM |
| Tucker Bayless | Bayless | FMT |

NEW MEXICO OIL CONSERVATION DIVISION

COMMISSION HEARINGFARMINGTON, NEW MEXICOHearing Date SEPTEMBER 23, 1999 Time 10:00 A.M.

| NAME | REPRESENTING | LOCATION |
|--|-----------------------------|-----------------------|
| Mr. [unclear] ALAN ALEXANDER | PLM BURNINGTON RESOURCES | local 3535 E. 30TH |
| Sylvia Little | LITTLE OY G | Farm |
| Richard C. [unclear] | LAND OFFICE | Farm |
| Seamus [unclear] | [unclear] | Farm |

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION COMMISSION FOR THE)
PURPOSE OF CONSIDERING:)
APPLICATION OF OIL CONSERVATION DIVISION)
TO AMEND DIVISION RULE 34 REGARDING THE)
NEW WELL TAX INCENTIVE)

CASE NO. 12,248

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN
JAMI BAILEY, COMMISSIONER
ROBERT LEE, COMMISSIONER

59 OCT 28 PM 12:14

OIL CONSERVATION DIV

September 23rd, 1999

Farmington, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Thursday, September 23rd, 1999, at San Juan College, Room 7103, Computer Science Building, Farmington, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

I N D E X

September 23rd, 1999
Commission Hearing
CASE NO. 12,248

| | PAGE |
|------------------------|------|
| APPEARANCES | 3 |
| REPORTER'S CERTIFICATE | 24 |

* * *

E X H I B I T S

| Division | Identified | Admitted |
|-----------|------------|----------|
| Exhibit 1 | 6 | - |

* * *

A P P E A R A N C E S

FOR THE COMMISSION:

LYN S. HEBERT
Deputy General Counsel
Energy, Minerals and Natural Resources Department
2040 South Pacheco
Santa Fe, New Mexico 87505

FOR THE OIL CONSERVATION DIVISION:

RAND L. CARROLL
Attorney at Law
Legal Counsel to the Division
2040 South Pacheco
Santa Fe, New Mexico 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 10:00 a.m.:

3 CHAIRMAN WROTENBERY: We'll go ahead and get
4 started. It's right at ten o'clock at this meeting of the
5 Oil Conservation Commission. We're very happy to be in
6 Farmington for this meeting, San Juan Community College. I
7 want to thank everybody from this area for hosting us here.

8 We've got one main item of business today, and
9 that's going to be our annual Industry Speaks - Commission
10 Listens meeting, but we've got a couple of business items
11 that I don't think will take very long, so we're going to
12 go ahead and get those out of the way first.

13 My name is Lori Wrotenbery, I'm the Chairman of
14 the Oil Conservation Commission, also Director of the Oil
15 Conservation Division.

16 To my right is Commissioner Jami Bailey. She
17 represents Land Commissioner Ray Powell on the Commission.

18 And to my left is Robert Lee, Dr. Robert Lee,
19 from the Petroleum Recovery Research Center in New Mexico
20 Tech, and he is Secretary Salisbury's appointee to the
21 Commission.

22 We also have here Florene Davidson on the end,
23 the Commission secretary; Lyn Hebert, the Commission's
24 legal counsel; and Steve Brenner will be here today as our
25 court reporter, and he'll keep a record of our discussion

1 today.

2 Also, I'd like to point out that we're very happy
3 to have Cabinet Secretary Jennifer Salisbury with us at
4 this meeting. Thank you for coming.

5 And in a few minutes, before we get into the
6 industry speaks meeting, I think I'll ask everybody to
7 introduce themselves. But give us a few minutes, and we'll
8 take care of a couple of items of business.

9 First is the minutes of last month's meeting. It
10 was a seven-day meeting. I think it might have been a
11 record for the Commission. Commissioners, I believe you've
12 reviewed a draft of these minutes; is that right?

13 COMMISSIONER BAILEY: Yes.

14 CHAIRMAN WROTENBERY: Do I hear a motion for
15 approval of those minutes?

16 COMMISSIONER BAILEY: I move that we approve
17 those minutes.

18 COMMISSIONER LEE: I second.

19 CHAIRMAN WROTENBERY: Any discussion? All in
20 favor say "Aye".

21 COMMISSIONER BAILEY: Aye.

22 COMMISSIONER LEE: Aye.

23 CHAIRMAN WROTENBERY: Aye. And I will sign those
24 on behalf of the Commission.

25 * * *

1 CHAIRMAN WROTENBERY: And then next we had one
2 fairly minor amendment to our rules, and I believe Rand
3 Carroll, the Division's legal counsel, is going to describe
4 that proposal to us.

5 MR. CARROLL: Commission, Chairman Wrotenbery,
6 the Division proposes to amend Rule 34, and this is Case
7 Number 12,248. And I've put before you what has been
8 marked as OCD Exhibit Number 1.

9 And what the Division proposes is to amend the
10 new well tax incentive to take care of a problem that we
11 noticed once we started to look at the implementation of
12 this rule. The rule applies to the first 600 wells drilled
13 between January 1st, 1999, and July 1st, 2000.

14 And we've tied the filing date to the completion
15 date. And because the completion date is not a date
16 certain, we're going to have to hold a lot of the
17 applications to see what other applications come in.

18 And without a -- This gets convoluted, but
19 without a firm ending date we're going to have to hold the
20 applications indefinitely to make sure we have the 600 that
21 qualify. In fact, I'm not sure we'll ever have the first
22 600 that qualify, because one well could be commenced on
23 June 30th, 2000, and not completed till years later. Then
24 they'll file an application, and we'll have given away the
25 600 tax credits, so I don't know what we'd do in that

1 situation.

2 So we'd like to tie it to the spud date rather
3 than the completion date.

4 And our proposal is to change the language in
5 34.C(3)(a) from "within 60 days of completion of the well"
6 to -- and we've changed it from 90 to 120, to "within 120
7 days of spudding the well".

8 The other two changes you will notice on Exhibit
9 Number 1 is a typo on C.4(b)(iii). There's two "tests"
10 right in a row. One of those "tests" should be deleted.

11 And then the other change is in 34.D(2), the last
12 sentence, which states, "Any application not acted upon by
13 the division within 30 days from the date it is filed is
14 deemed denied." Because when we're granting the tax credit
15 for about the last 200 wells, we're going to have to hold
16 the wells under a new rule for four months to make sure
17 that they're actually one of the first 600, we're going to
18 be holding the Applications for longer than 30 days, so
19 we'd like to delete that sentence that says they're
20 automatically denied.

21 Now, I've talked to Frank Gray of Texaco just
22 prior to the hearing, and I believe Texaco -- Frank can
23 speak for himself, but Texaco believed 90 days was too
24 short, and Texaco believed 120 days was an improvement on
25 that, but I have a feeling that it wanted even a longer

1 period, which would require the Division to hold
2 applications for longer than four months. And that will be
3 for the Commission to decide.

4 And anyway, these changes should take care of the
5 problem that we noticed.

6 CHAIRMAN WROTENBERY: Did we get any written
7 comments on this proposal?

8 MR. CARROLL: Just Texaco's, which I just
9 received five minutes ago. And I believe you have a copy
10 of that also.

11 MR. GRAY: No, I haven't -- I can give you a copy
12 though.

13 CHAIRMAN WROTENBERY: Okay. Any questions of Mr.
14 Carroll from the Commission?

15 Okay, then I might call for appearances. Is
16 there anybody who would like to comment on this proposal?

17 Mr. Gray?

18 MR. GRAY: Do you want me to come on down here?

19 CHAIRMAN WROTENBERY: It would help if you could
20 come on.

21 MR. GRAY: Good morning, I'm Frank Gray with
22 Texaco, and I'd like to address this issue off Rule 34
23 amendments. Texaco had participated in the promulgation of
24 Rule 34 and later in the development of the Form C-142 that
25 was used to qualify for this incentive.

1 As Rand said, the 120 days rather than the 90
2 days will possibly eliminate one of the problems that I had
3 foreseen with tying to the spud date. My concern is that
4 in many instances, particularly in southeastern New Mexico,
5 there's as many as seven potential producing zones in a
6 well, and if you drill and had the misfortune of having a
7 dry hole in your first effort, you might come up the hole
8 testing and trying to complete a well, and it could very
9 likely take greater than 90 days, and potentially it could
10 take greater than 120 days to get an official completion.

11 Therefore, I would propose that since House Bill
12 280 specified that the incentive be only for those wells
13 that were completed and potential of -- capable of
14 production, that the deadline should remain tied to the
15 completion date rather than to the spud date.

16 Rand mentioned another problem that I have a
17 concern with and needs to be addressed, and that is that
18 any application submitted that does not contain both the
19 C-103 and the C-105, the completion report, should be
20 deemed to be an incomplete application and should be
21 returned without consideration.

22 Rand had mentioned a situation where he has
23 received applications without the completion report, and
24 he's waiting on those to come in. I don't think that's a
25 complete application, because it very clearly states in the

1 rules that it must be accompanied by both a C-103 and a
2 -105, or the applicable federal form.

3 Secondly, on the 34.D(2), the sentence that was
4 put in there stating that an application that had not been
5 approved in 30 days would be deemed to be denied was placed
6 there particularly to ensure that the Commission acted on
7 applications in a timely manner and did not leave an
8 operator hanging out there wondering what was happening
9 with their application. Somebody went on vacation for
10 three weeks or a month or was sick or just got a big stack,
11 an application could sit there for a long time. And we've
12 found that more delays occur if we have to call and ask
13 what the status is and stuff.

14 So we wanted this to be tied to a 30-day period
15 and it would be deemed denied, and then the operator could
16 petition for a hearing.

17 If you would rather not see it labeled -- or
18 stated that it would be deemed denied because of the
19 connotations that might go with "denied", we could change
20 it to where the -- if it were not approved in 30 days, then
21 the operator could petition for a hearing without it being
22 deemed denied, and that would just kick things out of the
23 in box and keep them moving.

24 Appreciate the opportunity to comment, and be
25 glad to answer any questions.

1 CHAIRMAN WROTENBERY: I do have some questions.
2 Commissioners, may I ask your leave to question first?

3 COMMISSIONER BAILEY: Sure.

4 CHAIRMAN WROTENBERY: We do have a predicament
5 here, and we've got to figure out some way to address this.
6 The difficulty with the language that is currently in the
7 rule on the completion date is that that date is really at
8 the full discretion of the operator.

9 MR. GRAY: The completion date.

10 CHAIRMAN WROTENBERY: The completion date.

11 MR. GRAY: Right.

12 CHAIRMAN WROTENBERY: Which means that there is
13 no time limit within which we could expect to receive
14 applications from the first 600 wells, which means, as Mr.
15 Rand explained, we will have to hold applications
16 indefinitely in the worst-case scenario in order for us to
17 determine which were the first 600 wells to be drilled and
18 completed as producers.

19 So there needs to be some type of a time limit
20 incorporated into the rule. You know, I'm open as far as
21 what time limit is reasonable, but we need to have
22 something pretty concrete to shoot for so that at some
23 point we can say, Okay, this is the pool of applicants, of
24 applications, that we have to work with, now we can
25 determine which meet the eligibility criteria, which, in

1 fact, were among the first 600 to be drilled and completed.

2 And there's also another consideration and that
3 is, we wanted to try to keep that time limit a reasonably
4 short length of time, so that people could get the benefit
5 of their tax credit as soon as possible, if we have to hold
6 applications, which we are having to do to some extent till
7 we see what other applications might come in. That can
8 draw the time out for actual receipt of the credit.

9 Do you have a suggestion on -- If, you know, 90
10 days or even 120 that we're now looking at is too short,
11 how would you propose to address those concerns that we've
12 got?

13 MR. GRAY: My interpretation of what you were
14 saying there, if I might build on that a minute, I still
15 think that you have an error in what you were saying in
16 that you would not have application in your hands until the
17 well was completed. In other words, you should not be
18 getting applications for new wells until the well is
19 completed, and therefore the 60-day clock starts the day
20 you get the Application -- or, I mean, from the date that
21 the well is completed.

22 My position is that if you are receiving
23 applications without a C-105 or the appropriate 3160-4 on a
24 federal well, that is an incomplete application and should
25 not be considered. And a complete application is one that

1 consists of a C-103 and a C-105 or the appropriate federal
2 forms. The well has been completed before the Application
3 is submitted, and the 60-day clock starts with the
4 completion date.

5 And I think the intent of the rule was that the
6 600 wells applied for is the magic term, and not 600 wells
7 that are spudded. This is a --

8 CHAIRMAN WROTENBERY: That may be where we depart
9 in our interpretation of the statute.

10 MR. GRAY: But in either case -- You know, there
11 will be cases where an operator, either as a result of not
12 knowing that this opportunity is there or for whatever
13 reason may not choose to ever apply for the incentive and
14 had drilled a well. And so the fact that he submitted a
15 C-103 and drilled a well and completed it but didn't file,
16 that's his choice.

17 And you should not hold up or wait on the first
18 600 wells that were spudded to be submitted. They may
19 never happen. You're going to be holding money that would
20 never get to the people that needed it to create the jobs
21 associated with this bill.

22 I think it was intended that it would be applied
23 to the first 600 applications submitted that were complete,
24 and that should be what the rule is directed toward.

25 You know, I think Rand may have a problem with

1 that, but I think that was the intent, and maybe we need a
2 clarification on the intent before that's addressed or
3 something. I'm concerned that if you were waiting on the
4 first 600 wells that were spudded to be applied for, that
5 you'll leave a lot of money in the tills that should have
6 gone to operators that need the money.

7 MR. CARROLL: Well, Frank, we differ with you.
8 It's not the first 600 applications. It would be the first
9 600 applications that are actually the earliest 600 of the
10 applications we receive, even though there might be 900
11 applications. Application 900 might be one of the first
12 600 wells commenced. So it wouldn't be the first 600
13 applications that get the credit; it would be the first 600
14 applications and the earliest 600 wells of the applications
15 received.

16 MR. GRAY: Again, I'll say that if you keep it
17 tied to the completion date and a short application period
18 following the completion date, you'll prevent such a
19 situation as you're describing.

20 MR. CARROLL: Well, Frank, my question is, what
21 if somebody spuds the well on June 30th, 2000, and
22 completes it in 2010? We're supposed to hold it for nine
23 years and wait for possible completion of that well?

24 MR. GRAY: He didn't complete in the first 600
25 wells completed.

1 MR. CARROLL: Yeah, but the statute refers to the
2 first 600 wells commenced, and it just has to be commenced
3 prior to July 1st, 2000. We've got a different -- we've
4 got a --

5 CHAIRMAN WROTENBERY: -- interpretation --

6 MR. GRAY: -- interpretation difference there,
7 and I think the intent was not what you're describing.

8 MR. CARROLL: Well, it's pretty hard to argue
9 with the language.

10 CHAIRMAN WROTENBERY: Commissioners, do you have
11 any questions of Mr. Gray?

12 COMMISSIONER BAILEY: Is there a copy of the
13 statute available that we can --

14 CHAIRMAN WROTENBERY: I've got one. What was the
15 number of that statute? Which one was that?

16 MR. GRAY: 280, House Bill 280.

17 CHAIRMAN WROTENBERY: 280. Here it is.

18 (Off the record)

19 COMMISSIONER BAILEY: I read the statute that
20 there are three parts to approval. One of them is that it
21 was spudded during this time period, that it was completed,
22 and that it was one of the first 600 drilled. And since we
23 have the three parts, it seems like they have to qualify on
24 all three sections.

25 MR. GRAY: I agree with what you're saying, and

1 that goes along the lines of what I'm saying. It was
2 commenced between that time frame, it was completed as a --
3 capable of production, and it was drilled in that time
4 frame.

5 MR. CARROLL: I think there's a hierarchy of
6 those three parts. The first part would be -- and the most
7 important part, it has to be one of the first 600 wells
8 drilled. And the second part, it must be completed as
9 producers; you don't count dry holes. And then the third
10 part, there must be an application filed.

11 So we would grant 600 applications, but then we'd
12 look at the order the wells drilled of all the applications
13 to see which were the first 600 commenced, with the
14 deadline of July 1st, 2000.

15 MR. GRAY: I think we can solve the problem here,
16 though, in what Commissioner Bailey just read. It states
17 that the well must be drilled; it doesn't say it must be
18 commenced. And "drilled" means drilled and completed, not
19 commenced. So that rule needs to be changed to read it was
20 drilled in that time frame.

21 MR. CARROLL: What -- I don't have the statute --
22 drilled --

23 MR. GRAY: The -- consideration -- one about the
24 drill --

25 CHAIRMAN WROTENBERY: "The operator applying for

1 the tax credit commence drilling the new well after January
2 1st, 1999, and prior to July 1st, 2000." That's number
3 one.

4 Number two, the new well was completed.

5 And number three, the new well was one of the
6 first 600 new wells drilled in the period from January 1st,
7 1999, to July 1st, 2000.

8 MR. GRAY: "Drilled" meaning drilled and
9 completed.

10 CHAIRMAN WROTENBERY: Did you have any other
11 questions of Mr. Gray?

12 COMMISSIONER BAILEY: No.

13 MR. GRAY: Perry was involved in the -- I might
14 yield the floor to Perry, who was involved in this --

15 MR. FOPPIANO: If I may, five minutes of your
16 time?

17 MR. PEARCE: Yes, thank you, it will take less
18 than that.

19 Madame Chairman, members of the Commission, I am
20 Perry Pearce, Director of Government Affairs for Burlington
21 Resources. I'm also the Chairman of the NMOGA Legislative
22 Affairs Committee.

23 Just to weigh in, and I confess I was not
24 prepared to discuss this issue when I arrived, but I think
25 in the discussions of the Legislature, the well being a

1 producing well was critical. There was some concern that a

2 dry hole not be entitled to the incentive.

3 In order for a well, as I understand it in this
4 state, to be a producing well, we must have a completion
5 report filed before the operator can legally produce the
6 well. And I mention that because I think it addresses some
7 of your concern about an operator not timely filing a
8 completion report. If he does not file a completion
9 report, I don't think he has a producing well. And if we
10 doesn't have a producing well, he's not entitled to the tax
11 credit.

12 So I think that issue is not as serious as might
13 be feared. It may be that the statute is not clear. I
14 think I agree with Frank and some others, the well must be
15 drilled, and "drilled" means filing a completion report. I
16 was in Hobbs earlier in the week, and frankly, some members
17 of the Interim Revenue Stabilization Tax Policy Committee
18 expressed some concerns about cutting off operators who
19 might be entitled to the credit, and I certainly don't
20 ignore those legislative concerns.

21 But in thinking about this, prior to this
22 particular discussion coming up, I think the assumption has
23 been floating around the industry that the application
24 process itself was an integral part of the qualifying and
25 that if one well was spudded, drilled, completed, and an

1 application was filed, and all of those steps were
2 completed before a well finished all of those steps but was
3 spudded three months earlier and there was one slot and two
4 wells, the first one to get the application in and complete
5 all of the steps is entitled to the credit.

6 I think that was the sense. I don't know that
7 the language reflects that precisely one way or the other.
8 But I've had some concerns about the Division staff holding
9 applications, waiting to see if something that was spudded
10 earlier comes in. I mean, I think the date you judge is
11 the date the final application with all of the attachments
12 hits your office. And if somebody is late getting all of
13 the steps done, they just lose the credit.

14 CHAIRMAN WROTENBERY: I wish I had raised these
15 questions when we adopted the original rule, because we are
16 pretty far down this road right now. When we did it off
17 the original rule, we did not interpret it as first to file
18 is first to qualify. We looked back at who was the -- We
19 went by spud date and time and set up a process so that we
20 could actually determine which were the first 600 wells,
21 based on spud date time.

22 And we don't disagree, you've got to complete it
23 as a producer, you've got to get your application in in
24 order to be eligible.

25 But if we've got two applications that are

1 complete, you know, all of those steps have been finished
2 and one was spud before the other, and we're down to the
3 600th well, we had set it up so that we would give the
4 credit to the one that was spud first.

5 MR. GRAY: And that would be the tie-breaker?

6 CHAIRMAN WROTENBERY: Uh-huh. Is there anybody
7 else that would like to comment on this particular issue?

8 MR. GRAY: I might just propose that the only
9 thing -- You asked if there was a solution, and I think
10 there might be a solution in that -- where was that where
11 it said commenced in the first 600 -- In Rule 34.C(2)(a),
12 "the operator applying for the tax credit", rather than say
13 "commenced drilling" it should say "drilled the New well"
14 -- well, that wouldn't work, never mind. That's part of
15 it. Must have commenced drilling, the well is a producer,
16 and where's the next -- application is for of the first 600
17 wells drilled. Yeah, change that "commenced" to "drilled
18 after January 1, 1999 and before July 1..." And that puts
19 the emphasis on the fact that it must be drilled and
20 completed during that time frame.

21 CHAIRMAN WROTENBERY: And then how do we define
22 "drilled"?

23 MR. GRAY: "Drilled" has the connotation or the
24 definition that we're talking about that it be spudded, it
25 be drilled and it be completed, all of that, the forms have

1 been submitted during that --

2 CHAIRMAN WROTENBERY: And you're adding also, and
3 that the application is filed, to that list?

4 MR. GRAY: The application -- It reads, the
5 application, which means you've got the application, is for
6 one of the first 600 wells drilled after January 1, 1999,
7 and before July 1, 2000. That brings it all into -- The
8 well has been spudded, completed and applied for, and it
9 was one of the wells completed during that time frame,
10 first 600 wells completed.

11 MR. CARROLL: The only problem with that is, if
12 you spud on June 30th, 2000, and you redrill it as
13 completed, it would actually have to complete before July
14 1st, 2000.

15 MR. GRAY: That's right, that's what the bill
16 says, it will be drilled in that time frame. And you don't
17 wait around and hold them four months, waiting on somebody
18 that's not going to file, because that's not part of the
19 process.

20 I'm taking way too long.

21 MR. PEARCE: Madame Chairman, you've got a
22 complicated issue --

23 CHAIRMAN WROTENBERY: I think --

24 MR. PEARCE: -- and a number of us contributed to
25 your complications, and I apologize.

1 I would like to suggest, if I may, that we leave
2 this record open for 30 days and come back at the next
3 Commission hearing, and industry will try to work with Rand
4 and your staff, and we will try to come back with
5 something. I don't know what it will be.

6 CHAIRMAN WROTENBERY: I definitely think we need
7 to do that. We do have an approaching deadline under the
8 current text of the rule. What do we need to do, Mr.
9 Carroll, to protect everybody's interest in the interim?

10 MR. CARROLL: At first thought, I don't think we
11 have to do anything right now. October 1st is the deadline
12 for wells drilled up to July 1st of this year.

13 CHAIRMAN WROTENBERY: And we'll continue to...

14 MR. CARROLL: And then we'll continue to accept
15 applications if they're filed within 60 days of completion.
16 And then we're going to have to probably extend the -- If
17 we do decide on a period after the spud date, we're going
18 to have to extend that past 120, to cover the wells that
19 may drilled in July.

20 CHAIRMAN WROTENBERY: And we might have to go
21 back and look at the August 1st date as well, perchance?

22 MR. CARROLL: What August 1st date?

23 CHAIRMAN WROTENBERY: The August 1st deadline.
24 That's the thing that's going to happen between now and our
25 next meeting that may have --

1 MR. CARROLL: October 1st.

2 CHAIRMAN WROTENBERY: I'm sorry, October 1st,
3 okay.

4 Commissioners, do you agree with --

5 COMMISSIONER BAILEY: I think that's --

6 CHAIRMAN WROTENBERY: -- the proposal to continue
7 this matter and give the staff and -- Whoever is interested
8 in participating in this particular discussion is welcome.
9 We appreciate your feedback on how we should approach that.

10 Comfortable, Commissioner Lee?

11 COMMISSIONER LEE: (Nods)

12 CHAIRMAN WROTENBERY: Okay, thank you very much.

13 (Thereupon, these proceedings were concluded at
14 10:30 a.m.)

15 * * *

16

17

18

19

20

21

22

23

24

25

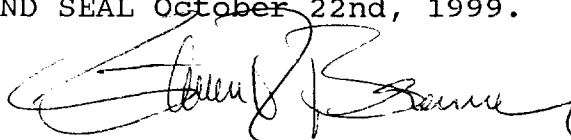
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL ~~October~~ 22nd, 1999.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002

OCD Exhibit No. 1
Case No. 12248
9/23/99

34 NEW WELL TAX INCENTIVE

34.A. Applicability

These rules apply to any new natural gas or oil well for which drilling commenced after January 1, 1999 and before July 1, 2000.

[6-15-99]

34.B. Definitions

"New well" means a crude oil or natural gas producing well for which drilling commenced after January 1, 1999 and before July 1, 2000, or a horizontal crude oil or natural gas well that was recompleted from a vertical well by drilling operations that commenced after January 1, 1999 and before July 1, 2000, that has been approved and certified as such by the Division.

[6-15-99]

34.C. Procedure

- (1) The Division's general rules of procedure shall apply unless altered or amended by these rules.
- (2) The operator must apply for and be granted Division approval of the "new well". A new well shall qualify if the Division certifies that:
 - (a) the operator applying for the tax credit commenced drilling the new well after January 1, 1999 and before July 1, 2000;
 - (b) the new well was completed as a producer; and

- (c) the application is for one of the first six hundred new wells commenced after January 1, 1999 and before July 1, 2000.
- (3) An application must be filed with the Division: (a) within ¹²⁰~~sixty (60)~~ days of ^{spudding}~~completion of~~ the well ~~as a producer~~, or (b) by Oct 1, 1999 for a well commenced after January 1, 1999 and before July 1, 1999.
- (4) All applications shall be filed in triplicate with the Division's Santa Fe office on Form C-142 and shall contain:
- (a) operator's name and address;
 - (b) description of the well:
 - (i) name and footage location;
 - (ii) date and time spudded; and
 - (iii) completion date and production test ~~test~~ results;
 - (c) copies of Division Form C-103 or Federal Form 3160-5 showing spud date and time and Form C-105 or Federal Form 3160-4 showing the well was completed as a producer;
 - (d) a list of all working interest owners in the well along with their percentage interests; and
 - (e) a statement under oath by the operator or its authorized representative having knowledge of the facts contained in the application that the application is complete and correct.

[6-15-99]

34.D. Certification, Notification and Hearing

- (1) Upon approval of the application, the Division shall certify that approval by sending a copy of the approved application to the operator and the Secretary of Taxation and Revenue.
- (2) The Division shall consider applications without a hearing. The Division may request additional information from an operator to support the application. If the Division denies an application, the Division upon the applicant's request shall set the application for hearing. ~~Any application not acted upon by the Division within thirty (30) days from the date it is filed is deemed denied.~~
- (3) The operator shall notify all working interest owners of the approval and certification of the well as a new well.

[6-15-99]



Texaco Exploration
and Production Inc

500 North Loraine
Midland TX 79701

P O Box 3109
Midland TX 79702

September 16, 1999

New Mexico Oil Conservation Commission
2040 Pacheco Street
Santa Fe, New Mexico 87505

RE: **PROPOSED RULE 34 REVISIONS**
NEW WELL INCENTIVE

Dear Commissioners:

Texaco Exploration & Production Inc. (Texaco) wishes to comment on the proposed changes to Rule 34 (New Well Incentive) which will be considered at the Oil Conservation Commission hearing on September 23, 1999 in Farmington, New Mexico. Texaco participated in the promulgation of Rule 34 and the latter development of Form C-142.

Texaco wishes to offer comments concerning the proposed revisions to the rule as follows:

- 34.C.(3)(a) – It is recommended that the filing deadline not be changed from 60 days following completion of the well to 90 days following spud date, since the drilling time varies significantly for wells drilled in New Mexico. Due to the many producing intervals, depths, and current shortage of equipment, it is quite likely that some wells will take longer than 90 days to drill, test and complete, particularly if multiple zones are being tested. In such a case, an operator would not be able collect the \$15,000 job creation incentive because the deadline would have passed. Since HB 280 specified that the well must be completed, it is more appropriate to tie the filing deadline to the completion date rather than the spud date. It should also be noted that an application submitted without the completion report should be considered an incomplete filing and returned without action.
- 34.D.(2) – It is requested that the sentence “Any application not acted upon by the Division within thirty (30) days from the date it is filed is deemed denied.” not be deleted from the rule. This sentence has been placed in this and several other rules in order to ensure that applications are handled in a timely manner. The sentence provides an incentive for the party handling this type application to ensure that the matters are handled in a timely manner to avoid a hearing being called due to lack of action in a given period of time. If the NMOCD does not like the idea of the application being deemed “denied”, the sentence might be changed to read “If an application is not acted upon by the Division within thirty (30) days from the date it is filed, the applicant may request and the Division will set the matter for hearing.”.

This language will continue to provide the incentive for the Division to act on the application in a timely manner.

Again, Texaco appreciates the opportunity to participate with the NMOCD in the improvement of the rules that govern production of oil and gas in New Mexico. Please consider these constructive comments in the modification of Rule 34.

Yours respectfully,

A handwritten signature in cursive script that reads "R. Frank Gray".

R. Frank Gray
Regulatory Compliance Manager

RFG/s

NMOGA – Fred Hanson

NMOGA , Regulatory Practices Committee – Rick Foppiano

Chrono
File