

KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

December 9, 1999

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)

TELEPHONE (505) 982-4285
TELEFAX (505) 982-2047

HAND DELIVERED

Mr. David R. Catanach
Hearing Examiner

Rand L. Carroll, Esq.
Division Attorney
Oil Conservation Division
2040 South Pacheco
Santa Fe, New Mexico 87505

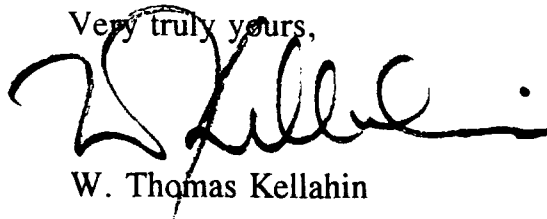
OIL CONSERVATION DN.
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Re: **MOTION TO DISMISS**
NMOCD Case 12312
Application of Texaco Exploration and Production, Inc.
for compulsory pooling, Lea County, New Mexico
S/2 Sec 30, T16S, R32E (Texmack "30" State Com Well No. 1)

Gentlemen:

On behalf of OXY USA Inc., an adversely affected interest owner, please find enclosed our MOTION TO DISMISS the referenced case filed by Texaco Exploration and Production, Inc. This case is currently set on the Examiner's Docket scheduled for December 16, 1999.

Very truly yours,



W. Thomas Kellahin

cc: William F. Carr, Esq.
Attorney for Texaco Exploration and Production, Inc.
OXY USA Inc.
Attn: Richard Foppiano

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

IN THE MATTER OF THE APPLICATION
OF TEXACO EXPLORATION AND PRODUCTION, INC.
FOR COMPULSORY POOLING
LEA COUNTY, NEW MEXICO

CASE NO. 12312

MOTION TO DISMISS

Comes now OXY USA Inc. ("OXY"), by its attorneys, Kellahin and Kellahin, enters its appearance in this case as an interested party in opposition to the applicant and moves the Division to dismiss this case because the applicant, Texaco Exploration and Production, Inc. ("Texaco") seeks to pool acreage a portion of which is already dedicated to and approved by the Division as a spacing unit for OXY's Purple Martin Well No. 1 located in Unit M, Section 30, T16S, R32E, NMPM, Lea County, New Mexico;

And in support states:

RELEVANT FACTS

- (1) OXY controls 100% of the working interest in the W/2 of Section 30, T16S, R32E, NMPM, Lea County, New Mexico.
- (2) Texaco's working interest is confined to the E/2 of this section.
- (3) On November 16, 1999, the Division approved OXY's application for permit to drill its Purple Martin Well No. 1 as a wildcat Morrow gas well to be located at a standard well location in Unit M of this section and to be dedicated to a standard 322.16-acre gas spacing and proration unit consisting of the W/2 of Section 30. **See Exhibits A and B.**

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OXY USA Inc.'s motion to dismiss

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(4) On November 22, 1999, Texaco filed an application with the Division seeking a compulsory pooling order to drill its Texmack "30" State Com Well No. 1 to be located on acreage leased to OXY in the SW/4 of Section 30.

(5) Texaco's application seeks a pooling order for the following spacing units:

- (a) a 320-acre gas spacing and proration unit consisting of the S/2 of this section.
- (b) a 160-acre spacing and proration unit consisting of the SW/4 of this section.
- (c) an 80-acre spacing and proration unit consisting of the S/2SW/4 of this section.
- (d) an 40-acre spacing and proration unit consisting of the SW/4SW/4 of this section.

ARGUMENT

The Division cannot issue a compulsory pooling order for a spacing unit in which Texaco has no interest. Texaco has no interest in the SW/4 of this section and its request to pool for 160-acre, 80-acre and 40-acre units must be dismissed.

In addition, the S/2 of this section is not available to Texaco as a 320-acre spacing unit because the W/2 of this section has already been approved by the Division as a spacing unit for OXY's Purple Martin Well No. 1. Prior to Texaco filing its application for compulsory pooling, OXY obtained the Division's approval to drill its Purple Martin Well No 1 in the SW/4 of this section.

OXY, with 100 % of the working interest ownership in the W/2 of this section, has obtained Division approval to drill its own well on its own acreage. On the other hand, Texaco wants to drill its well on OXY's acreage and has not consolidated 100% of the working interest owners for its proposed spacing unit in the S/2 of this section.

The E/2 of this section is the only remaining 320-acre spacing unit now available in this section. Fortunately for Texaco, its working interest is located in the E/2 of this section and it can pursue efforts to located its well on its own acreage and form a voluntary agreement with the owners in the E/2 of this section.

This is not a circumstance of competing well proposals or competing compulsory pooling applications. This is simply a case where OXY enjoys the opportunity and has exercised its right to drill a well on its own acreage. Texaco now seeks to frustrate that effort and to force its way into OXY's well.

The compulsory pooling statute is available only in the absence of a voluntary agreement. In this case, the Division is precluded from granting Texaco's application because the Division has already acted to approve OXY's application. Section 70-2-17(C) NMSA 1978 is very specific in its requirement that the compulsory pooling authority of the Division can only be exercised in those instances where the parties have not agreed to voluntarily pool their interests in a spacing unit for a specifically proposed well on that unit.

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Failure to dismiss Texaco's application would establish a bad precedent for the Division and for the industry--a precedent which would unfairly allow compulsory pooling to void a previously approved application for permit to drill and to frustrate a company's efforts to drill wells located on their acreage in which they have 100 % of the working interest and have commenced plans to drill and develop their property.

Compulsory pooling was intended only as a remedy of last resort and not as a means for one company to attempt to capture a portion of a well which another company is engaged in drilling.

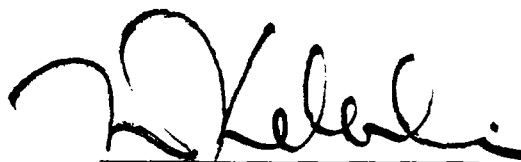
WHEREFORE OXY USA Inc. requests that the Division Hearing Examiner grant this motion and dismiss Oil Conservation Division Case 12312.



W. Thomas Kellahin
Kellahin & Kellahin
P. O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

CERTIFICATE OF SERVICE

I certify that a copy of this pleading was hand delivered to counsel for applicant this 9th day of December, 1999.



W. Thomas Kellahin

District I
1625 N. French Dr., Hobbs, NM 88240
District II
811 South First, Azusa, NM 88210
District III
1000 Rio Grande Road, Azusa, NM 87410
District IV
2040 South Pacheco, Santa Fe, NM 87505

State of New Mexico
Energy Minerals and Natural Resources

Oil Conservation Division
2040 South Pacheco
Santa Fe, NM 87505

Form C-101
Revised March 17, 1999

Submit to appropriate District Office
State Letter - 6 Copies
Fee Letter - 5 Copies

☐ AMENDED REPORT

APPLICATION FOR PERMIT TO DRILL, RE-ENTER, DEEPEN, PLUGBACK, OR ADD A ZONE

Operator Name and Address OXY USA Inc. P.O. Box 50250 Midland, TX 79710-0250		OCED Number 16896
Property Code 23064		APN Number 30-025-34764
Permittee Name OXY Purple Martin		Well No. 1

Surface Location

U.S. or Loc. No.	Section	Township	Range	Lot No.	Section No.	North/South Line	Footage	East/West Line	Other
M	30	16S	32E		660	South	660	West	Line

Proposed Bottom Hole Location If Different From Surface

U.S. or Loc. No.	Section	Township	Range	Lot No.	Section No.	North/South Line	Footage	East/West Line	Other
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Proposed Pool 1

Proposed Pool 2

Well Type Code N	Well Type Code G	Cable/Seal R	Lease Type Code P	Ground Level Elevation 4160'
Multiple No	Proposed Depth 12400'	Formation Morrow	Operator FWA Peterson	Spud Date 12/1/99

Proposed Casing and Cement Program

Hole Size	Casing Size	Casing weight/cft	Setting Depth	Depth of Cement	Estimated TOC
17-1/2"	13-3/8"	48#	625'	500	Surface
11"	8-5/8"	32-36#	4500'	1005	Surface
7-7/8"	5-1/2"	17#	12400'	665	9000'

Describe the proposed program. If this application is to DEEPEN or PLUG BACK, give the data on the present productive zone and proposed new production zone.
Describe the proposed prevention program, if any. Use additional sheets if necessary.

SEE OTHER SIDE

Permit Expires 1 Year From Approval
Date Unless Drilling Underway

I hereby certify that the information given above is true and complete to the best of

my knowledge and belief.

Signature:

Printed name: David Stewart

Title: Regulatory Analyst

Date: 11/10/99

Phone: 915-685-5717

OIL CONSERVATION DIVISION

APPROVED BY: ORIGINAL SIGNED BY CHRIS WILLIAMS
DISTRICT I SUPERVISOR

Title:

Approval Date: NOV 16 1999

Expiration Date:

Conditions of Approval:

Attended ☐

EXHIBIT

A

DISTRICT I
P.O. Box 1980, Hobbs, NM 88241

State of New Mexico

Energy, Mines and Natural Resources Department

Form C-102
Revised February 10, 1984
Instructions on back
Submit to Appropriate District Office
State Lease - 4 Copies
Fee Lease - 3 Copies

DISTRICT II
P.O. Drawer 80, Artesia, NM 88210

DISTRICT III
1000 Rio Grande Rd., Alamosa, NM 87410

OIL CONSERVATION DIVISION

P.O. Box 2088
Santa Fe, New Mexico 87504-2088

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

API Number 30-025-3000	Pool Code -	Pool Name Undesignated Morrow
Property Code 25000	Property Name OXY PURPLE MARTIN	Well Number 1
OGSIS No. 16696	Operator Name OXY USA INC.	Elevation 4180'


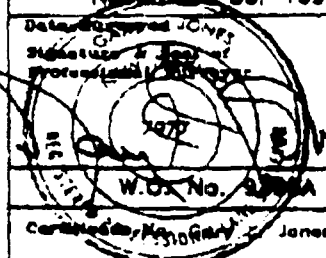
Surface Location

UL or Lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South Line	Feet from the	East/West Line	County
M	30	18 S	32 E		660	SOUTH	680	WEST	LEA

Bottom Hole Location if Different from Surface

UL or Lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South Line	Feet from the	East/West Line	County
Dedicated Acres 120	Joint or Infill N	Consolidation Code	Order No.						

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED
OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION

<p>LAT - N 32°53'13.7"</p> <p>LONG - W 103°48'42.7"</p> <p>J. MELTON DRUG CO. Taylor-2 4180.4' 4180.4'</p> <p>860'</p> <p>4182.8' 4181.0'</p> <p>Taylor-1</p>					OPERATOR CERTIFICATION I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.  Signature David Stewart Printed Name Regulatory Analyst Title 11/10/89 Date
					SURVEYOR CERTIFICATION I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief. November 08, 1989  W.C. No. 3884 Certified by: J. Jones 7877 Ramon Strickland

EXHIBIT

B