

LAND OFFICE 000

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF)
EL PASO NATURAL GAS COMPANY FOR)
COMPULSORY COMMUNITIZATION OF LOTS) Case No. 707
3 AND 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ (S $\frac{1}{2}$) OF SECTION)
31, TOWNSHIP 31 NORTH, RANGE 11 WEST,)
N.M.P.M., SAN JUAN COUNTY, NEW MEXICO)

APPLICATION FOR REHEARING

Come now Applicants, Saul A. Yager, Marian Yager,
M. E. Gimp, Morris Mizel and wife Flora Mizel, and Sam Mizel,
by their attorney, and state:

(a) Applicants are the owners of Lot 4, Section 31,
Township 31 North, Range 11 West, N.M.P.M., San Juan County,
New Mexico and are parties affected by Order No. R-546 entered
by the Commission on December 17, 1954.

(b) Order No. R-546 is erroneous in the following
respects:

1. The order neither grants nor denies the relief sought and is therefore not within the call of the hearing.
2. Findings No. 7, 8 and 9 are contrary to law.
3. The order is contrary to Section 1(a) of Order No. R-110 heretofore issued by the Commission.
4. The order is contrary to Section 13(b) of Chapter 168, Laws of 1949, as amended.
5. The order is an unreasonable and arbitrary interpretation of the Commission's rules and deprives Applicants of their correlative rights.
6. The Order deprives Applicants of their property without due process of law.
7. The order impairs the obligations of valid contract between Applicants and El Paso Natural Gas Company.
8. The order bears no relation to prevention of waste.

9. The order renders meaningless pooling clauses in leases referred to in the original application and the testimony and renders meaningless the application in the instant case.

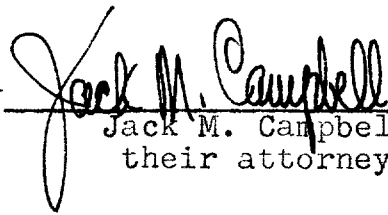
WHEREFORE, Applicants request a rehearing in Case No. 707 before the Commission.

Respectfully submitted,

Saul A. Yager, Marian Yager,
M. E. Gimp, Morris Mizel and
wife Flora Mizel, and Sam
Mizel

1-4-55

By



Jack M. Campbell
their attorney

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION
OF EL PASO NATURAL GAS COMPANY FOR
COMPULSORY COMMUNITIZATION OF LOTS
3, 4, E/2 SW/4, SE/4 (S/2) OF
SECTION 31, TOWNSHIP 31 NORTH,
RANGE 11 WEST, N.M.P.M., SAN JUAN
COUNTY, NEW MEXICO

NO. 707

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TO THE HONORABLE COMMISSION:

Your Applicant, EL PASO NATURAL GAS COMPANY, represents that it is a Delaware corporation with a permit to do business in the State of New Mexico, and that it is the present owner and holder of leasehold rights or gas operating rights to the base of the Mesaverde formation under the following described oil and gas leases.

- a. United States Oil and Gas Lease Serial Number Santa Fe 078097, Raymond H. Heaton, Lessee, embracing among other lands the following described land in San Juan County, New Mexico, to wit:

Township 31 North, Range 11 West, N.M.P.M.
Section 31: E/2 SW/4, SE/4

containing 240 acres, more or less.

- b. Oil and Gas Lease dated September 1, 1948, executed by Saul A. Yager and wife, Marian Yager, as Lessors, to Wayne Moore, as Lessee, embracing among other lands the following described land in San Juan County, New Mexico:

Township 31 North, Range 11 West, N.M.P.M.
Section 31: Lot 4 (SW/4 SW/4)

containing 41.52 acres, more or less.

- c. United States Oil and Gas Lease Serial Number Santa Fe 078115, Roy L. Flood, Lessee, embracing among other lands the following described land in San Juan County, New Mexico, to wit:

Township 31 North, Range 11 West, N.M.P.M.
Section 31: Lot 3 (NW/4 SW/4)

containing 41.38 acres, more or less.

Your Applicant represents that all of the owners of working interests and overriding royalty interests in the tracts described under a. and c. above have joined or agreed to join in the execution of a Communitization Agreement (unexecuted copy of which is attached hereto) dated February 19, 1953, and that your Applicant, as working interest owner of the tract described under subdivision b. above, has joined and entered such Communitization Agreement.

Your Applicant represents that the royalty interest on Lot 4 (SW/4 SW/4) of said Section 31, containing 41.52 acres, is owned by the following named persons:

Saul A. Yager, 613 Oil Capitol Building, Tulsa, Oklahoma -1/4;

Marian Yager, c/o C. H. Rosenstein, McBirney Building, Tulsa, Oklahoma - 1/4;

M. E. Gimp, c/o Zales Jewelry Company, 1606 Main Street, Dallas, Texas - 1/4;

Morris Mizel and wife, Flora Mizel, 101 West Cameron Street, Tulsa, Oklahoma - 1/8;

Sam Mizel, 101 West Cameron Street, Tulsa, Oklahoma - 1/8.

Your Applicant further represents that the lease from Saul A. Yager and Marian Yager was for a five-year term which would have expired on August 31, 1953, and that Saul A. Yager and Morris Mizel represented to your Applicant that the above named owners of royalty interests would join in the execution of a communitization agreement and that your Applicant completed a commercial well producing gas from the Mesaverde formation located on said Lot 4 in said section, and that said well was completed March 25, 1953.


Your Applicant further represents that the royalty owners named have refused to join in the execution of a communitization agreement although all of the working interest owners and all overriding royalty owners in the communitized tract, as hereinafter described, have joined or agreed to join such communitization agreement.

Your Applicant represents that, pursuant to the terms and provisions of Order No. R-110 made by this Commission, spacing of 320 acres has been established for drilling gas wells to the Mesaverde formation in San Juan County, New Mexico, and that Lots 3 and 4, E/2 SW/4 and SE/4 comprise the S/2 of said Section 31, containing approximately 320 acres, constitutes a proper spacing unit for drilling a Mesaverde well, and that all persons except Saul A. Yager, Marian Yager, M. E. Gimp, Morris Mizel and wife, Flora Mizel, and Sam Mizel have agreed to communitize and pool the above described oil and gas leases in so far as said leases cover the S/2 of said Section 31 in order to form one tract or

drilling unit for the production of dry gas and liquid hydrocarbons extracted therefrom from the surface to the base of the Mesaverde formation. Your Applicant represents that it has made diligent efforts to negotiate an agreement with the royalty owners who have refused to join the communitization agreement, and that your Applicant and the other owners of oil and gas leasehold rights who desire to communitize or pool the leases into a uniform spacing unit will be deprived of their opportunity to recover their just and equitable share of the natural gas in the gas pool lying under the tracts of land covered by their leases unless this Commission requires the owners of all interests in oil and gas leases, royalties or mineral rights who have not joined in the communitization agreement to communitize or pool their interests to form a proper spacing unit.

Your Applicant respectfully requests that an appropriate order be entered by the Commission directing Saul A. Yager, Marian Yager, M. E. Gimp (also known as Morris E. Gimp), Morris Mizel and wife, Flora Mizel, and Sam Mizel to communitize or pool their interests pursuant to the terms of the attached Communitization Agreement, partially executed copies of which have been delivered to and are now in the possession of one or more of said persons.

Respectfully submitted,


of Jones, Hardie, Grambling & Howell
El Paso, Texas
Attorneys for El Paso Natural Gas
Company

COMMUNITIZATION AGREEMENT

THIS AGREEMENT, made and entered into this 19th day of February, 1953, by and between EL PASO NATURAL GAS COMPANY, a Delaware corporation, whose address is P. O. Box 1492, El Paso, Texas (hereinafter sometimes referred to as "El Paso"); DELHI OIL CORPORATION, a Delaware corporation, whose address is Corrigan Tower, Dallas, Texas; AZTEC OIL & GAS COMPANY, a corporation, whose address is Burt Building, Dallas, Texas; SAUL A. YAGER, whose address is 613 Oil Capitol Building, Tulsa, Oklahoma; MARIAN YAGER, whose address is c/o C. H. Rosenstein, McBirney Building, Tulsa, Oklahoma; M. E. GIMP, whose address is c/o Zales Jewelry Company, 1606 Main Street, Dallas, Texas; MORRIS MIZEL and wife, FLORA MIZEL, whose address is 101 West Cameron Street, Tulsa, Oklahoma; SAM MIZEL, whose address is 101 West Cameron Street, Tulsa, Oklahoma; D. R. ZACHRY and wife, ERNA H. ZACHRY, whose address is 2519 Cambria, Dallas, Texas; SUSAN DIGGLE HORTON and husband PAUL B. HORTON, whose address 3524 Centenary, Dallas, Texas;

W I T N E S S E T H:

WHEREAS, by a decision dated July 23, 1952, Susan Diggle Horton is the present owner and holder of United States Oil and Gas Lease bearing Serial Number Santa Fe 078097, executed in favor of Raymond H. Heaton as Lessee, by the United States of America as Lessor, under date of February 1, 1948, embracing among other lands the following described land in San Juan County, New Mexico, to wit:

Township 31 North, Range 11 West, N.M.P.M.
Section 31: E/2 SW/4, SE/4
containing 240 acres, more or less; and

WHEREAS, by an Operating Agreement dated October 1, 1951, and approved by a decision dated July 23, 1952, Susan Diggle Horton, et vir, granted the operating rights in the above described tract to Delhi Oil Corporation; and

WHEREAS, by an Assignment dated March 1, 1952, which assignment was filed with the Bureau of Land Management for approval, Delhi Oil Corporation assigned the gas operating rights down to and including the base of the Mesaverde formation on the above described tract to "El Paso"; and

WHEREAS, El Paso Natural Gas Company is the present owner and holder of the gas rights down to and including the base of the Mesaverde formation under that certain oil and gas lease executed in favor of Wayne Moore as Lessee, by Saul A. Yager and wife, Marian Yager as Lessors, under date of September 1, 1948,

embracing among other lands the following described land in San Juan County, New Mexico, to wit:

Township 31 North, Range 11 West, N.M.P.M.
Section 31: SW/4 SW/4
containing 41.52 acres, more or less; and

WHEREAS, Saul A. Yager is no longer the owner of the full royalty interest under the last above described lease but has conveyed an undivided one-fourth ($\frac{1}{4}$) interest in said royalty to Morris Mizel and Sam Mizel jointly, an undivided one-fourth ($\frac{1}{4}$) interest in said royalty to M. E. Gimp, and an undivided one-fourth ($\frac{1}{4}$) interest in said royalty to Marian Yager; and

WHEREAS, Delhi Oil Corporation is the present owner and holder of the oil rights, the gas rights below the base of the Mesaverde formation and certain gas overriding royalties on the two tracts described above; and

WHEREAS, D. R. Zachry is the present owner and holder of that certain United States Oil and Gas Lease bearing Serial Number Santa Fe 078115, executed in favor of Roy L. Flood as Lessee under date of February 1, 1948, by the United States of America as Lessor, embracing among other lands the following described land in San Juan County, New Mexico, to wit:

Township 31 North, Range 11 West, N.M.P.M.
Section 31: NW/4 SW/4
containing 41.38 acres, more or less; and

WHEREAS, by an Operating Agreement dated September 15, 1952, and filed with the Bureau of Land Management for approval, D. R. Zachry, et ux, granted the operating rights in the last above described tract to Aztec Oil & Gas Company; and

WHEREAS, by an Assignment dated February 19, 1953, and filed with the Bureau of Land Management for approval, Aztec Oil & Gas Company assigned the gas operating rights on the last above described tract down to and including the base of the Mesaverde formation to "El Paso"; and

WHEREAS, Aztec Oil & Gas Company is the present owner of the oil rights, and the gas rights below the base of the Mesaverde formation on the last above described tract; and

WHEREAS, in order to expedite the execution of this Agreement all of the overriding royalty owners on each of the above described tracts are ratifying this Agreement; and

WHEREAS, it is the desire of the parties hereto to communitize their

respective interests in the above described Oil and Gas Leases in order to form one tract or drilling unit as follows:

Township 31 North, Range 11 West, N.M.P.M.
Section 31: S/2
containing 322.90 acres, more or less; and

WHEREAS, in order to be consistent with the existing rules and regulations covering well spacing and production allowables, all of the parties to this Agreement desire to operate the communitized unit for the purpose and intention of developing and producing dry gas and liquid hydrocarbons extracted therefrom, in accordance with the terms and provisions of this Agreement;

NOW, THEREFORE, in consideration of the premises and mutual advantages resulting from this Agreement, it is mutually covenanted and agreed by and between the parties hereto that the land subjected to this Agreement shall be developed and operated for dry gas and liquid hydrocarbons extracted therefrom producible from the Mesa Verde formation as an entirety, with the understanding and agreement that the dry gas and liquid hydrocarbons extracted therefrom so produced from the communitized area from such formation shall be allocated among the leaseholds comprising said area in the proportion that the acreage interest of each leasehold bears to the entire acreage interest committed hereto. The royalties payable on the dry gas and liquid hydrocarbons extracted therefrom so allocated to the lands comprising the leaseholds and the rentals provided for in said leases shall be determined and paid on the basis respectively prescribed in the individual leases. There shall be no obligation on the parties hereto to offset any dry gas well or wells completed in the Mesa Verde formation on separate component tracts into which said communitized tract is now or may hereafter be divided, nor shall either party be required to separately measure said dry gas or liquid hydrocarbons extracted therefrom by reason of the diverse ownership of the dry gas or liquid hydrocarbons extracted therefrom in or under said tract, but the parties hereto shall not be released from their obligation to protect said communitized tract from drainage by a dry gas well or wells which may be drilled offsetting said tract. Payment of the rentals under the terms of the leases hereinabove mentioned and described shall not be affected by this Agreement except as provided for under the terms and provisions of said leases or as may herein be otherwise provided.

Except as herein modified and changed, said oil and gas leases hereinabove described shall remain in full force and effect as originally made and issued. It is further agreed that the commencement, completion, continued operation or production of a well or wells for dry gas on the communitized tract from the Mesa Verde formation shall be construed and considered as the commencement, completion, continued operation or production as to each lease committed thereto.

It is further agreed that all production of dry gas and disposal thereof shall be in conformity with allocations, allotments and quotas made or fixed by any duly authorized person or regulatory body under applicable federal or state statutes. The provisions of this Agreement shall be subject to all applicable federal and state laws, executive orders, rules and regulations which affect performance of any of the provisions of this Agreement, and no party hereto shall suffer a forfeiture or be liable in damage for failure to comply with any of the provisions of this Agreement if such compliance is prevented by, or if such failure results from compliance with any such laws, orders, rules or regulations.

"El Paso" shall be the unit operator of said communitized tract, and all matters of operation, adjustments between the parties hereto, and payment of royalties shall be determined and performed by "El Paso".

This Agreement shall be effective as of the date hereof, upon approval by the Director of the Geological Survey and shall remain in full force and effect for a period of two (2) years and so long thereafter as dry gas is produced from any part of said communitized tract in paying quantities; provided, that, upon fulfillment of all requirements of the Director of the Geological Survey with respect to any dry hole or abandoned well, and prior to production in paying quantities of gas and liquid hydrocarbons extracted therefrom from said communitized tract, this Agreement may be terminated at any time by mutual agreement of the parties hereto.

The unit operator ("El Paso") agrees to furnish the Secretary of the Interior, or his authorized representatives, with a log and history of any well or wells, the monthly report of operations and the statement of all oil and gas runs and royalties, together with such other reports as are deemed necessary to compute monthly the royalty due the United States as specified in the applicable oil and gas operating regulations for any well completed within the communitized

tract. The unit operator shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin, and shall require an identical provision to be inserted in all subcontracts.

It is further agreed between the parties hereto that the Secretary of the Interior, or his representatives, shall have the right of supervision over all operations within the communitized tract to the same extent and degree as provided in each of said oil and gas leases under which the United States of America is Lessor, and in the applicable oil and gas regulations of the Department of the Interior.

This Agreement shall be binding upon the parties hereto and shall extend and be binding upon their heirs, executors, administrators, successors and assigns, and may be executed in one or more counterparts by any of the parties hereto, and all counterparts so executed shall be taken as a single agreement and shall have the same force and effect as if all parties had in fact executed a single instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year hereinabove written.

ATTEST:

Assistant Secretary

ATTEST:

Assistant Secretary

ATTEST:

Assistant Secretary

EL PASO NATURAL GAS COMPANY

By _____
Vice President

DELHI OIL CORPORATION

By _____
Vice President

AZTEC OIL & GAS COMPANY

By _____
Vice President

Saul A. Yager

Marian Yager

M. E. Gimp

Gimp (his wife)

Morris Mizel

Sam Mizel

Mizel (his wife)

D. R. Zachry

Erna H. Zachry

Susan Diggle Horton

Paul B. Horton

STATE OF TEXAS

COUNTY OF EL PASO

On this _____ day of _____, 1953, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the Vice President of EL PASO NATURAL GAS COMPANY, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires:

Notary Public in and for El Paso
County, State of Texas

STATE OF TEXAS

COUNTY OF DALLAS

On this _____ day of _____, 1953, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the Vice President of DELHI OIL CORPORATION, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said _____

_____ acknowledged said instrument to be the free act and deed of
said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal on the day and year in this certificate first above written.

My commission expires:

Notary Public in and for Dallas
County, State of Texas

STATE OF OKLAHOMA |
 |
COUNTY OF TULSA |

On this _____ day of _____, 1953, before me appeared
Saul A. Yager, to me known to be the person described in and who executed the
foregoing instrument, and acknowledged to me he executed the same as his free
act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.

My commission expires:

Notary Public in and for Tulsa
County, State of Oklahoma

STATE OF OKLAHOMA |
 |
COUNTY OF TULSA |

On this _____ day of _____, 1953, before me appeared
Marian Yager, a feme sole, to me known to be the person described in and who executed
the foregoing instrument, and acknowledged to me she executed the same as her free
act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.

My commission expires:

Notary Public in and for Tulsa
County, State of Oklahoma

STATE OF TEXAS |
 |
COUNTY OF DALLAS |

On this _____ day of _____, 1953, before me appeared M. E.
Gimp and _____ Gimp, his wife, to me known to be the persons des-
cribed in and who executed the foregoing instrument, and acknowledged to me they
executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.

My commission expires:

Notary Public, Dallas County, Texas

STATE OF TEXAS :
COUNTY OF DALLAS :

On this _____ day of _____, 1953, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the Vice President of AZTEC OIL & GAS COMPANY, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires: _____
Notary Public in and for Dallas County,
State of Texas

STATE OF OKLAHOMA :
COUNTY OF TULSA :

On this _____ day of _____, 1953, before me appeared Morris Mizel and Flora Mizel, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged to me they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires: _____
Notary Public in and for Tulsa County,
State of Oklahoma

STATE OF TEXAS :
COUNTY OF DALLAS :

On this _____ day of _____, 1953, before me appeared D. R. Zachry and Erna H. Zachry, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged to me they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires: _____
Notary Public in and for Dallas County,
State of Texas

STATE OF TEXAS

COUNTY OF DALLAS

On this _____ day of _____, 1953, before me appeared Susan Diggle Horton, and Paul B. Horton, her husband, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged to me they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires:

Notary Public in and for Dallas
County, State of Texas

STATE OF OKLAHOMA

COUNTY OF TULSA

On this _____ day of _____, 1953, before me appeared Sam Mizel and _____ Mizel, his wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged to me they executed the same as their free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires:

Notary Public in and for Tulsa
County, State of Oklahoma