

SUMMONS

IN THE FIFTH JUDICIAL DISTRICT COURT,
DIVISION I, COUNTY OF EDDY
STATE OF NEW MEXICO

MICHAEL P. GRACE II and
CORINNE GRACE
Plaintiff(s)

vs.

OIL CONSERVATION COMMISSION
OF NEW MEXICO
Defendant(s)

For Court Use Only
() Not Write In This Space

No 28181

The State of New Mexico

TO OIL CONSERVATION COMMISSION OF NEW MEXICO
DEFENDANT(S)

GREETING:

YOU ARE HEREBY DIRECTED to serve a pleading or motion in response to the complaint within 30 days after service of this summons, and file the same, all as provided by law.

YOU ARE NOTIFIED that, unless you so serve and file a responsive pleading or motion, the plaintiff will apply to the court for the relief demanded in the complaint.

BURR & COOLEY, 152 Petroleum Center Building, Farmington, N.M. 87401
NAME AND ADDRESS OF ATTORNEYS FOR PLAINTIFF (OR OF PLAINTIFF, IF NO ATTORNEY)

WITNESS the Honorable D. D. ARCHER, District Judge of the Fifth Judicial District Court of the State of New Mexico, and the Seal of the District Court of Eddy County, this 18 day of August A. D., 1972

Frances M. Wilcox
FRANCES M. WILCOX, Clerk

By Deputy

(Sheriff's return when service is made personally on defendants)

STATE OF NEW MEXICO
County of ss.

I, Sheriff of County, State of New Mexico, do hereby certify, that I served the within summons on the day of by delivering a copy thereof, with copy of complaint attached, in the county aforesaid, in person to.

Dated: Sheriff

Fees: By Deputy

(Sheriff's return when service is made on defendants by leaving copy at usual place of abode.)

STATE OF NEW MEXICO

County of _____
ss. }

I, _____ Sheriff of _____ County,

State of New Mexico, do hereby certify, that I served the within summons on the _____

day of _____ by delivering a copy thereof, with copy of complaint attached,

in the county aforesaid, to _____

a person over fifteen years of age, residing at the usual place of abode of defendant(s) _____

_____ who at the time of such service was absent therefrom.

Date: _____, Sheriff

Fees: _____ By _____, Deputy

(Return when service is made personally on defendants by other than Sheriff.)

STATE OF NEW MEXICO

County of _____
ss. }

_____ being duly sworn, upon his oath says, I am over the age

of eighteen years, I served the within summons on the _____ day of _____ by

delivering a copy thereof, with copy of complaint attached, in the county aforesaid to _____

Fees: _____

Subscribed and sworn to before me this _____ day of _____, 19 _____

(Out of State)

STATE OF _____

County of _____
ss. }

_____ being by me first duly sworn, upon his oath deposes and says:

That he is a resident of the State of _____ over the age of eighteen years and in no

wise interested in the case of _____, No. _____ on the Civil Docket

of the District Court of Eddy County, New Mexico; that he is not a party to said action; that this writ came

to hand the _____ day of _____, 19 _____, and there was at the same time delivered to

him for service herewith _____ cop. _____ of this summons and _____ cop. _____ of the complaint filed therein;

that he made service herein by delivering one copy of this summons and one copy of the complaint herein to

each of the within named defendants within the said County of _____ and State

of _____, as follows, to wit: _____

_____ was personally served on the _____ day of _____, 19 _____

Affiant

Subscribed and sworn to before me this _____ day of _____, 19 _____
My Commission Expires:

Notary Public

STATE OF NEW MEXICO

COUNTY OF EDDY

IN THE DISTRICT COURT

MICHAEL P. GRACE II and
CORINNE GRACE,

Petitioners,

vs.

OIL CONSERVATION COMMISSION
OF NEW MEXICO,

Respondent.

No. 28181

FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF EDDY

FILED AUG 18 1972 IN MY
OFFICE

FRANCES M. WILCOX
Clerk of the District Court

PETITION FOR REVIEW

COME NOW petitioners in the above styled and numbered cause, and respectfully petition the Court to review Order No. R-1670-L, a copy of which is attached hereto as Exhibit "A", in case no. 4693 before the Oil Conservation Commission of New Mexico, hereinafter referred to as "Commission", pursuant to Section 65-3-22(b), N.M.S.A., 1953 Comp.

1. Commission case no. 4693 was a hearing called by the Commission on its own motion to consider instituting gas pro-rationing in the South Carlsbad-Morrow gas pool in Eddy County, New Mexico.

2. Petitioners are the owners of certain gas wells located within the geological area defined by the Commission as the South Carlsbad-Morrow gas pool, and by reason of such ownership petitioners have been adversely affected by Commission Order R-1670-L.

3. Commission Order No. R-1670-L was entered on June 30, 1972.

4. On July 18, 1972, within the time allowed by Section 65-3-22(a), petitioners filed their Application for Re-Hearing in case no. 4693, out of which Order No. R-1670-L issued. A copy of petitioners' Application for Re-Hearing is attached hereto as Exhibit "B".

5. That the petitioners' Application for Re-Hearing in case no. 4693 was refused by the Commission through failure to act thereon for a period of ten days after filing the same.

6. Petitioners verily believe that Commission Order No. R-1670-L is invalid in that there is no substantial evidence to support the Commission's jurisdictional finding that waste (as defined in Section 65-3-3, N.M.S.A., 1953 Comp.) will occur in the South Carlsbad-Morrow gas pool unless production therefrom is restricted pursuant to Section 65-3-13(c), N.M.S.A., 1953 Comp.

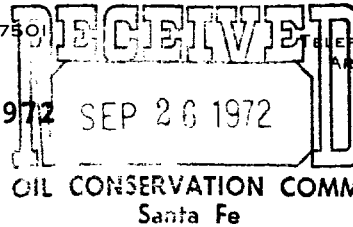
WHEREFORE, Petitioners pray that Commission Order No. R-1670-L be reversed, set aside and held for naught.

BURR & COOLEY
152 Petroleum Center Building
Farmington, New Mexico 87401

By _____
William J. Cooley
Attorneys for Petitioners

JASON W. KELLAHIN
ROBERT E. FOX
W. THOMAS KELLAHIN

KELLAHIN AND FOX
ATTORNEYS AT LAW
500 DON GASPAR AVENUE
POST OFFICE BOX 1769
SANTA FE, NEW MEXICO 87501



TELEPHONE 982-4315
AREA CODE 505

September 25, 1972

Mr. George Hatch
Oil Conservation Commission of New Mexico
P. O. Box 2088
Santa Fe, New Mexico 87501

Dear George:

In connection with District Court Case #28181, Eddy County, New Mexico, the appeal of Michael P. and Corinne Grace from Oil Conservation Commission Order in the South Carlsbad-Morrow Gas Pool. Robert LeBlanc tells me that Gene Motter and the engineering staff say they would not be able to furnish any testimony which would support a request for a bond to be posted by the Grace's if the Operation Commission order is stayed. Apparently they do not feel that the prorationing will make a great deal of difference to their well unless they could establish drainage and that would be apparently quite difficult for them to do.

If you have any ideas on this, please let me know. I will see you when I return from Wyoming.

Sincerely yours,

W. T. Kellahin for -
Jason W. Kellahin

JWK:amr

OIL CONSERVATION COMMISSION

P. O. BOX 2088
SANTA FE, NEW MEXICO 87501

September 26, 1972

C
O
P
Y

Mrs. Frances M. Wilcox
Clerk
District Court of the Fifth
Judicial District
Carlsbad, New Mexico

Dear Mrs. Wilcox:

Enclosed please find Response to Petition for
Review for filing in Eddy County Cause No. 28181.

Very truly yours,

GEORGE M. HATCH
Special Assistant Attorney General
representing the Oil Conservation
Commission of New Mexico
P. O. Box 2088, Santa Fe, New Mexico

GMH/dr

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

September 26, 1972

Mr. William J. Cooley
Burr and Cooley
152 Petroleum Center Building
Farmington, New Mexico 87401

Mr. Lon P. Watkins
Attorney
122 N. Canyon
Carlsbad, New Mexico

Dear Sir:

Please find enclosed a copy of Response to
Petition for Review mailed, this date, to be filed
in Eddy County Cause No. 28181.

Very truly yours,

GEORGE M. HATCH
Special Assistant Attorney General
representing the Oil Conservation
Commission of New Mexico
P. O. Box 2088, Santa Fe, New Mexico

GMH/dr

COUNTY OF EDDY

MICHAEL P. GRACE II and
CORINNE GRACE,

No. 28181

OIL CONSERVATION COMMISSION
OF NEW MEXICO,

Respondent.

Respondent, Oil Conservation Commission of New Mexico,
answering the Petition for Review, states:

1. That Respondent admits the allegations in paragraphs 1, 3, 4, and 5 of the Petition for Review.
2. That Respondent denies each and every allegation in paragraph 6 of the Petition for Review, including all conclusions of fact and law stated therein.
3. As to paragraph 2, the Respondent admits that the Petitioners are the owners of gas wells located within the geological area defined by the Commission as the South Carlsbad Gas Pool but is without knowledge or information sufficient to form a belief as to the truth of the averment concerning "adversely affected" and therefore denies said part.

1. Respondent states that petitioners have failed to state a claim upon which relief can be granted.

2. Respondent states that the petitioners have failed to join indispensable parties.
3. Respondent states that the petitioners have failed to exhaust their administrative remedies and have asked the court to act in derogation of the doctrines of primary jurisdiction and exclusive administrative jurisdiction for the following reasons:


(a) Petitioners have failed to exhaust their administrative remedies in that there is presently pending before the Commission Case No. 4796, the application of Michael P. Grace II and Corinne Grace, petitioners in this cause, for an exception to the pro-rationing orders of the Commission under its Order No. R-1670 for its City of Carlsbad "COM" Well No. 1, one of its wells in the South Carlsbad-Morrow Gas Pool, which case has been continued on the docket of the Commission at the request of the petitioners in this cause.

(b) Petitioners have failed to exhaust their administrative remedies in Commission Case No. 4795, which case directly concerns the subject matter of this appeal in that the petitioners sought in Case No. 4795 contraction of the South Carlsbad-Morrow Gas Pool to eliminate their wells from said pool.

WHEREFORE, Respondent prays:

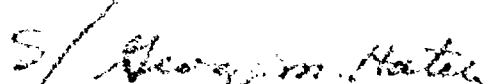
1. That the Petition for Review be dismissed.
2. That Commission Order No. R-1670-L be affirmed.
3. That the Court grant Respondent such other and further relief as the Court deems just.

DAVID L. NORVELL
Attorney General for the
State of New Mexico



GEORGE M. HATCH
Special Assistant Attorney General
representing the Oil Conservation
Commission of New Mexico
P. O. Box 2088, Santa Fe, New Mexico

I hereby certify that on the 26 day of Sept.,
1972, a copy of the foregoing pleading was mailed to opposing
counsel of record.



GEORGE M. HATCH

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

September 13, 1972

Mr. William J. Cooley
Burr and Cooley
152 Petroleum Center Building
Farmington, New Mexico 87401

Mr. Lon P. Watkins
Attorney
122 N. Canyon
Carlsbad, New Mexico

Dear Sir.

Please find enclosed a copy of Response to
Petition for Review mailed, this date, to be filed
in Bddy County Cause No. 29182.

Very truly yours,

GEORGE H. HATCH
Special Assistant Attorney General
representing the Oil Conservation
Commission of New Mexico
P. O. Box 2088, Santa Fe, New Mexico

GHH/ur

ILLEGIBLE

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

September 18, 1972

C
O
P
Y

Mrs. Frances M. Wilcox
Clerk
District Court of the Fifth
Judicial District
Carlsbad, New Mexico

Dear Mrs. Wilcox:

Enclosed please find Response to Petition for
Review for filing in Eddy County Cause No. 28182.

Very truly yours,

GEORGE M. HATCH
Special Assistant Attorney General
representing the Oil Conservation
Commission of New Mexico
P. O. Box 2088, Santa Fe, New Mexico

GMH/dr

STATE OF NEW MEXICO

COUNTY OF EDDY

IN THE DISTRICT COURT

MICHAEL P. GRACE II and
CORINNE GRACE,

Petitioners,

vs.

OIL CONSERVATION COMMISSION
OF NEW MEXICO,

Respondent.

No. 28182

FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF EDDY

FILED AUG 18 1972 IN MY
OFFICE

FRANCES M. WILCOX
Clerk of the District Court

PETITION FOR REVIEW

COME NOW petitioners in the above styled and numbered cause, and respectfully petition the Court to review Order No. R-1670-M, a copy of which is attached hereto as Exhibit "A", in case no. 4694 before the Oil Conservation Commission of New Mexico, herein-after referred to as "Commission", pursuant to Section 65-3-22(b), N.M.S.A., 1953 Comp.

1. Commission case no. 4694 was a hearing called by the Commission on its own motion to consider instituting gas pro-rationing in the South Carlsbad-Strawn gas pool in Eddy County, New Mexico.

2. Petitioners are the owners of certain gas wells located within the geological area defined by the Commission as the South Carlsbad-Strawn gas pool, and by reason of such ownership petitioners have been adversely affected by Commission Order R-1670-M.

3. Commission Order No. R-1670-M was entered on June 30, 1972.

4. On July 18, 1972, within the time allowed by Section 65-3-22(a), petitioners filed their Application for Re-Hearing in case no. 4694, out of which Order No. R-1670-M issued. A copy of petitioners' Application for Re-Hearing is attached hereto as Exhibit "B".

5. That the petitioners' Application for Re-Hearing in case no. 4694 was refused by the Commission through failure to act thereon for a period of ten days after filing the same.

6. Petitioners verily believe that Commission Order No. R-1670-M is invalid in that there is no substantial evidence to support the Commission's jurisdictional finding that waste (as defined in Section 65-3-3, N.M.S.A., 1953 Comp.) will occur in the South Carlsbad-Strawn gas pool unless production therefrom is restricted pursuant to Section 65-3-13(c), N.M.S.A., 1953 Comp.

WHEREFORE, Petitioners pray that Commission Order No. R-1670-M be reversed, set aside and held for naught.

BURR & COOLEY
152 Petroleum Center Building
Farmington, New Mexico 87401

By _____
William J. Cooley
Attorneys for Petitioners

STATE OF NEW MEXICO

COUNTY OF EDDY

IN THE DISTRICT COURT

MICHAEL P. GRACE II and
CORINNE GRACE,

Petitioners,

vs.

OIL CONSERVATION COMMISSION
OF NEW MEXICO,

Respondent.

No. 28182

FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF EDDY

FILED AUG 18 1972 IN MY
OFFICE

FRANCES M. WILCOX
Clerk of the District Court

PETITION FOR REVIEW

COME NOW petitioners in the above styled and numbered cause, and respectfully petition the Court to review Order No. R-1670-M, a copy of which is attached hereto as Exhibit "A", in case no. 4694 before the Oil Conservation Commission of New Mexico, herein-after referred to as "Commission", pursuant to Section 65-3-22(b), N.M.S.A., 1953 Comp.

1. Commission case no. 4694 was a hearing called by the Commission on its own motion to consider instituting gas pro-rationing in the South Carlsbad-Strawn gas pool in Eddy County, New Mexico.

2. Petitioners are the owners of certain gas wells located within the geological area defined by the Commission as the South Carlsbad-Strawn gas pool, and by reason of such ownership petitioners have been adversely affected by Commission Order R-1670-M.

3. Commission Order No. R-1670-M was entered on June 30, 1972.

4. On July 18, 1972, within the time allowed by Section 65-3-22(a), petitioners filed their Application for Re-Hearing in case no. 4694, out of which Order No. R-1670-M issued. A copy of petitioners' Application for Re-Hearing is attached hereto as Exhibit "B".

5. That the petitioners' Application for Re-Hearing in case no. 4694 was refused by the Commission through failure to act thereon for a period of ten days after filing the same.

6. Petitioners verily believe that Commission Order No. R-1670-M is invalid in that there is no substantial evidence to support the Commission's jurisdictional finding that waste (as defined in Section 65-3-3, N.M.S.A., 1953 Comp.) will occur in the South Carlsbad-Strawn gas pool unless production therefrom is restricted pursuant to Section 65-3-13(c), N.M.S.A., 1953 Comp.

WHEREFORE, Petitioners pray that Commission Order No. R-1670-M be reversed, set aside and held for naught.

BURR & COOLEY
152 Petroleum Center Building
Farmington, New Mexico 87401

By _____
William J. Cooley
Attorneys for Petitioners

COUNTY OF EDDY

MICHAEL P. GRACE II and
CORINNE GRACE,

Petitioners,

vs.

OIL CONSERVATION COMMISSION
OF NEW MEXICO,

Respondent.

No. 28182

Respondent, Oil Conservation Commission of New Mexico,
answering the Petition for Review, states:

1. Respondent admits the allegations in paragraphs 1, 3, 4, and 5 of the Petition for Review.
2. Respondent denies each and every allegation in paragraph 2 and 6 of the Petition for Review, including all conclusions of fact and law stated therein.

1. As its first affirmative defense, Respondent states that Petitioners have failed to state a claim upon which relief can be granted.

2. As its second affirmative defense, Respondent states that the Petitioners have failed to join indispensable parties.

3. As its third affirmative defense, Respondent states that the Petitioners have failed to exhaust their administrative remedies.

1. That the Petition for Review be dismissed.
2. That Commission Order No. R-1670-M be affirmed.

3. That the Court grant Respondent such other and further relief as the Court deems just.

DAVID L. NORVELL
Attorney General for the State of
New Mexico

George M. Hatch
GEORGE M. HATCH
Special Assistant Attorney General
representing the Oil Conservation
Commission of New Mexico
P. O. Box 2088, Santa Fe, New Mexico

I hereby certify that on the 18th day of September
1972, a copy of the foregoing pleading was mailed to opposing
counsel of record.

George M. Hatch
GEORGE M. HATCH