

A. J. LOSEE
JOEL M. CARSON

LAW OFFICES
LOSEE & CARSON, P.A.
300 AMERICAN HOME BUILDING
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ARTESIA, NEW MEXICO 88210

AREA CODE 505
746-3508

31 December 1973

Mr. William F. Carr, Attorney
Oil Conservation Commission
P.O. Box 2088
Santa Fe, New Mexico 87501

Re: Morris R. Antweil and Michael P. Grace II et al vs. Oil
Conservation Commission, District Court, Eddy County
No. 28180 Consolidated.

Dear Bill:

Enclosed herewith you will find a xerox copy of the Judgment entered in the above case on December 29, 1973, setting aside as null and void Commission Order No. R-1670-M prorating the South Carlsbad Strawn Gas Field.

You will note that the case has been remanded to the Commission for such further proceedings as may be consistent. I do not construe this remand to require the Commission to take any action on its own initiative unless under the circumstances it feels a hearing is necessary. In view of my conversations with Paul Cooter, I doubt that the Antweils will take any action to ask that the field be prorated. I do not wish to guess as to the action of Michael P. Grace II.

If you have any questions in connection with the enclosure, do not hesitate to let me know.

Very truly yours,

LOSEE & CARSON, P.A.



A. J. Losee

AJL/dae

Enclosure

FIFTH JUDICIAL DISTRICT,
STATE OF NEW MEXICO
COUNTY OF EDDY

IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO

FILED DEC 28 1973 IN MY
11:48 AM OFFICE
FRANCIS M. BILCOX
Clerk of the District Court

MORRIS R. ANTWEIL,
DELTA DRILLING COMPANY and
MABEE PETROLEUM COMPANY,

Petitioners,

OIL CONSERVATION COMMISSION OF NEW MEXICO,

Respondent,

MICHAEL P. GRACE II and
CORINNE GRACE,

Petitioners,

vs.

OIL CONSERVATION COMMISSION OF NEW MEXICO,

Respondent.

No. 28180

CONSOLIDATED

J U D G M E N T

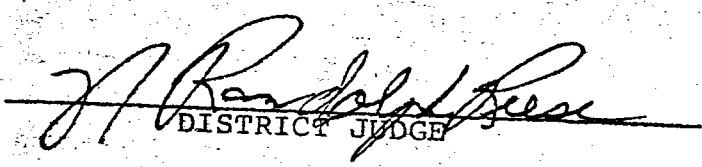
THIS CAUSE on to be heard by the Court on September 24, 1973, all parties being present in person and through their attorneys of record. The Court reviewed the Transcript of Proceedings had before the Oil Conservation Commission and the exhibits received by the Oil Conservation Commission at its hearing, and heard argument of counsel. After so doing, the Court rendered its Opinion, filed herein; pursuant thereto,

IT IS, ORDERED, ADJUDGED AND DECREED that Findings Nos. 66, 69, 73, 74, 78, 80 and 82 of the Oil Conservation Commission, as set forth in its Order No. R-1670-M dated June 30, 1972, are not supported by substantial evidence, but are unreasonable, unlawful, arbitrary and capricious.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Order No. R-1670-M of the Oil Conservation Commission of June 30, 1972, be, and it hereby is, therefore, set aside and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this case be remanded to the Oil Conservation Commission for such further proceedings as may be consistent herewith.

DATED this 27th day of December, 1973.


DISTRICT JUDGE

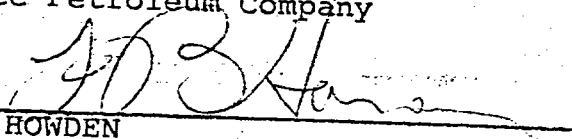
APPROVED AS TO FORM:

ATWOOD, MALONE, MANN & COOTER

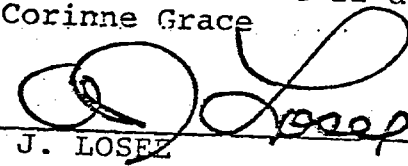
BY 

P. O. Drawer 700
Roswell, New Mexico 88201

Attorneys for Petitioners
Morris R. Antweil,
Delta Drilling Company and
Mabee Petroleum Company


F. B. HOWDEN
P. O. Box 718
Los Lunas, New Mexico 87301

Attorneys for Petitioners
Michael P. Grace II and
Corinne Grace


A. J. LOSEZ
P. O. Drawer 239
Artesia, New Mexico 88210

Special Assistant Attorney General for the
Oil Conservation Commission of New Mexico

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

December 17, 1973

Conrad E. Coffield, Esq.
521 Midland Tower
Midland, Texas 79701

Re: Morris R. Antweil et al vs. Oil
Conservation Commission of New Mexico,
Eddy County No. 28180, Consolidated

Dear Mr. Coffield:

You will find enclosed the Judgment which has been approved by all counsel of record in the above-captioned case. As you will note, it remands this to the Commission "...for such further proceedings as may be consistent herewith." This particular language has been the source of the delay in getting the Judgment signed in that the first Judgment circulated remanded the case to the Commission so that it could "...establish by appropriate Order, a lawful gas proration formula for the South Carlsbad-Strawn Gas Pool." It was felt that the Court could void prorationing of the Strawn on a straight acreage basis but could not order the Commission to adopt a formula to prorate this pool.

I have enclosed a copy of the Opinion of the Court in this case and have sent copies of the Judgment and Opinion to Paul Eaton in your Roswell office pursuant to your request.

If I can be of any further assistance to you, do not hesitate to call on me.

Very truly yours,

WILLIAM F. CARR
General Counsel

WFC/dr
enclosure

cc: Mr. Paul Eaton

A. J. LOSEE
JOEL M. CARSON

LAW OFFICES
LOSEE & CARSON, P.A.
300 AMERICAN HOME BUILDING
P. O. DRAWER 239
ARTESIA, NEW MEXICO 88210

AREA CODE 505
746-3508

4 December 1973

Mr. Paul Cooter
Atwood, Malone, Mann & Cooter
P. O. Drawer 700
Roswell, New Mexico

Re: Morris P. Antweil et al vs. Oil Conservation
Commission of New Mexico, Eddy County No.
28130, Consolidated

Dear Paul:

Enclosed is Judgment upon which I have indicated approval as
to form, on behalf of the Oil Conservation Commission.

Very truly yours,

LOSEE & CARSON, P.A.


A. J. Losee

AJL:jw
Enclosure

cc: Mr. Bill Carr

C
O
P
Y

COPY

ATWOOD, MALONE, MANN & COOTER
LAWYERS

JEFF D. ATWOOD [883-960]

P. O. DRAWER 700
SECURITY NATIONAL BANK BUILDING
ROSWELL, NEW MEXICO 88201
[505] 622-6221

CHARLES F. MALONE
RUSSELL D. MANN
PAUL A. COOTER
BOB F. TURNER
ROBERT A. JOHNSON
JOHN W. BASSETT
ROBERT E. SABIN
RUFUS E. THOMPSON

November 30, 1973

A. J. Losee, Esquire
Losee & Carson
P. O. Drawer 239
Artesia, New Mexico 88210

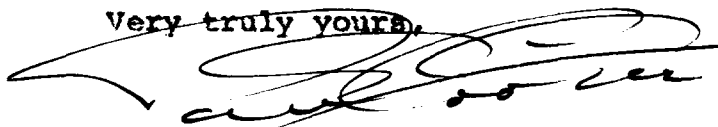
RE: South Carlsbad-Strawn Gas Pool

Dear Jerry:

After our telephone discussion of last Tuesday, I believe that I must concur with your conclusion that the only alternatives of Judge Reese are to affirm the Commission's Order or to set the same aside "in toto". Accordingly, I have re-drafted the Judgment and enclose the original and one copy herewith. If this meets with your approval, would you please so indicate on the original and return it to me. I shall forward it on to Ted Howden for his approval prior to submitting the same to Judge Reese.

With regards, I am,

Very truly yours,



Paul Cooter

PC:sas

cc: F. B. Howden, Esquire
William F. Carr, Esquire

COUNTY

[illegible]

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J U D G M E N T

THIS CAUSE on to be heard by the Court on September 24, 1973, all parties being present in person and through their attorneys of record. The Court reviewed the Transcript of Proceedings had before the Oil Conservation Commission and the exhibits received by the Oil Conservation Commission at its hearing, and heard argument of counsel. After so doing, the Court rendered its Opinion, filed herein; pursuant thereto,

IT IS, ORDERED, ADJUDGED AND DECREED that Findings Nos. 66, 69, 73, 74, 78, 80 and 82 of the Oil Conservation Commission, as set forth in its Order No. R-1670-M dated June 30, 1972, are not supported by substantial evidence, but are unreasonable, unlawful, arbitrary and capricious.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Order No. R-1670-M of the Oil Conservation Commission of June 30, 1972, be, and it hereby is, therefore, set aside and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this case be remanded to the Oil Conservation Commission for such further proceedings as may be consistent herewith.

DATED this ____ day of December, 1973.

DISTRICT JUDGE

APPROVED AS TO FORM:

ATWOOD, MALONE, MANN & COOTER

BY

P. O. Drawer 700
Roswell, New Mexico 88201

Attorneys for Petitioners
Morris R. Antweil,
Delta Drilling Company and
Mabee Petroleum Company

F. B. HOWDEN
P. O. Box 718
Los Lunas, New Mexico 87301

Attorneys for Petitioners
Michael P. Grace II and
Corinne Grace

A. J. LOSEE
P. O. Drawer 239
Artesia, New Mexico 88210

Special Assistant Attorney General for the
Oil Conservation Commission of New Mexico

N. RANDOLPH REESE
DISTRICT JUDGE
FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
LEA COUNTY COURTHOUSE
LOVINGTON, NEW MEXICO 88260

November 2, 1973

Mr. Paul Cooter
Attorney at Law
Atwood, Malone, Mann & Cooter
P.O. Box 700
Roswell, New Mexico 88201

Mr. Frederick B. Howden
Attorney at Law
Howden and Francis
P. O. Box 718
Los Lunas, New Mexico 87031

Mr. A. J. Losee
Attorney at Law
Losee & Carson
P. O. Drawer 239
Artesia, New Mexico 88210


RE: Morris R. Antweil, Delta Drilling Company and Mabee Petroleum Company, Petitioners, -vs- Oil Conservation Commission of New Mexico, Respondent, No. 28180 and Michael P. Grace II and Corinne Grace, Petitioners, -vs- Oil Conservation Commission of New Mexico, Respondent, No. 28182 (Consolidated)

Gentlemen:

I enclose, herewith, my Opinion in the above entitled consolidated causes. The Petitioners will prepare an Order for me to sign based upon the Opinion and circulate the same to Mr. Losee.

In the event it is necessary that an additional hearing or meeting be had between the Court and counsel in order to effectuate the Order, or ancillary matters, please contact me and we will arrange a date.

Very truly yours,


N. RANDOLPH REESE
District Judge

NRR/ml

OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

P. O. BOX 2088 - SANTA FE

87501

I. R. TRUJILLO
CHAIRMAN

LAND COMMISSIONER
ALEX J. ARMIJO
MEMBER

STATE GEOLOGIST
A. L. PORTER, JR.
SECRETARY - DIRECTOR

MEMORANDUM

**TO: ALL PURCHASERS AND PRODUCERS IN THE SOUTH CARLSBAD-
STRAWN POOL.**

FROM: A. L. PORTER, JR., SECRETARY-DIRECTOR

SUBJECT: PRORATION OF SOUTH CARLSBAD-STRAWN GAS POOL.

On June 30, 1972, the Oil Conservation Commission entered its Order No. R-1670-M which, among other things, prorated the South Carlsbad-Strawn Gas Pool.

The Honorable N. Randolph Reese, District Judge, handed down an opinion on November 2, 1973, which held void prorationing of the South Carlsbad-Strawn Gas Pool on a 100% surface acre allocation.

Prorationing of this Pool is, therefore, suspended and will so remain pending further hearing of the Commission to fix an alternative allocation formula.

November 9, 1973

ALP/WFC/dr

El Paso Natural Gas Company
P. O. Box 1492
El Paso, Texas

Corinne Grace
P. O. Box 1418
Carlsbad, New Mexico 88220

Llano Incorporated
P. O. Box 1320
Hobbs, New Mexico 88240

Morris R. Antweil
P. O. Box 1058
Hobbs, New Mexico 88240

The Superior Oil Company
P. O. Box 4013
Midland, Texas 79701

Transwestern Pipeline Company
P. O. Box 1502
Houston, Texas 77001

Cities Service Oil Co.
P. O. Box 97
Hobbs, New Mexico 88240

Pennzoil Company
P. O. Drawer 1828
Midland, Texas 79701

LAW OFFICES

LOSEE & CARSON, P.A.

300 AMERICAN HOME BUILDING

P. O. DRAWER 239

ARTESIA, NEW MEXICO 88210

A. J. LOSEE

JOEL M. CARSON

AREA CODE 505

746-3508

6 November 1973

Mr. A. L. Porter, Jr., Secretary-Director
New Mexico Oil Conservation Commission
P. O. Box 2088
Santa Fe, New Mexico 87501

Re: Michael P. Grace II et ux vs. OCC -
Cities Service and City of Carlsbad,
Supreme Court No. 9821;
Morris R. Antweil et al vs. OCC, District
Court Eddy County, No. 28180 Consolidated

Dear Pete:

In connection with the captioned appeal to the Supreme Court,
please find its order denying the motion of petitioners for
rehearing and for evidentiary hearing on motion for stay of
judgment.

In connection with the consolidated Strawn cases, please find
Judge Reese's opinion, holding the prorationing order on a 100%
surface acre allocation void. In this case the petitioners will
prepare and send to me a judgment for approval and filing. Upon
filing of this judgment we will have 30 days within which to
take an appeal if it is deemed advisable. Prior to the expira-
tion of this 30-day time I will discuss the matter at some
length with you, but my present feeling is that an appeal would
probably not change the result.

Very truly yours,

LOSEE & CARSON, P.A.


A. J. Losee

AJL:jw
Enclosures



OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

P. O. BOX 2088 - SANTA FE

87501

I. R. TRUJILLO

CHAIRMAN

LAND COMMISSIONER

ALEX J. ARMIJO

MEMBER

STATE GEOLOGIST

A. L. PORTER, JR.

SECRETARY - DIRECTOR

TO: I. R. TRUJILLO, Chairman
ALEX J. ARMIJO, Member
A. L. PORTER, Jr., Member & Secretary

FROM: WILLIAM F. CARR, General Counsel *WFC*

SUBJECT: COURT ACTION CONCERNING PRORATIONING

Enclosed herewith is the opinion of District Judge N. Randolph Reese rendered on November 2, 1973, on Eddy County Cause Nos. 28180 and 28182. This is the appeal of Morris R. Antweil and Michael P. Grace challenging the Commission's prorationing of the Strawn formation.

As you will note, the Court set aside a portion of Oil Conservation Commission Order No. R-1670-M. Prorationing of this formation has, therefore, been suspended and will so remain pending further hearing of the Commission to fix an allocation formula in compliance with the applicable provisions of law.

Order on Strawn -
jury cited

Am. Jur. 2d

Ad Law 764-p. 664

Transcontinental v. Carmody

53 N.M. 367

thinks we cannot avoid a remand
will research further and
✓ w/ Reese to see if we
may issue a new order
on the previous record.

if we merely have the order declared
void Antwidil will make application
to prolate the Strawn

Booker prefers a new order
based on the previous record.



IN THE DISTRICT COURT OF EDDY COUNTY
STATE OF NEW MEXICO

MORRIS R. ANTWEIL,
DELTA DRILLING COMPANY and
MABEE PETROLEUM COMPANY,

Petitioners,

vs.

OIL CONSERVATION COMMISSION OF NEW MEXICO,

Respondent,

MICHAEL P. GRACE II and
CORINNE GRACE,

Petitioners,

vs.

OIL CONSERVATION COMMISSION OF NEW MEXICO,

Respondent.

No. 28180

CONSOLIDATED

J U D G M E N T

THIS CAUSE came on to be heard by the Court on September 24, 1973, all parties being present in person and through their attorneys of record. The Court reviewed the Transcript of Proceedings had before the Oil Conservation Commission and the exhibits received by the Oil Conservation Commission and heard argument of counsel. After so doing, the Court rendered its Opinion, filed herein; pursuant thereto,

IT IS ORDERED, ADJUDGED AND DECREED that Findings Nos. 66, 69, 73, 74, 78, 80 and 82 of the Oil Conservation Commission, as set forth in its Order No. R-1670-M dated June 30, 1972, are not supported by substantial evidence, but are unreasonable, unlawful, arbitrary and capricious, and are, therefore, set aside and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that that portion of such Order No. R-1670-M promulgating Special Rules and Regulations for the South Carlsbad-Strawn Gas Pool, incorporating in part, Order No. R-1670, as amended, being the General Rules and Regulations for the Prorated Gas Pools of Southeastern New Mexico, which established the gas proration formula for the South Carlsbad-Strawn Gas Pool to be a 100% surface acreage formula is hereby set aside and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this case be remanded to the Oil Conservation Commission, so that it may establish by appropriate Order, a lawful gas proration formula for the South Carlsbad-Strawn Gas Pool.

DATED this ____ day of November, 1973.

DISTRICT JUDGE

APPROVED AS TO FORM:

ATWOOD, MALONE, MANN & COOTER

BY

P. O. Drawer 700
Roswell, New Mexico 88201

Attorneys for Petitioners
Morris R. Antweil,
Delta Drilling Company and
Mabee Petroleum Company

F. B. HOWDEN
P. O. Box 718
Los Lunas, New Mexico 87301

Attorneys for Petitioners
Michael P. Grace II and
Corinne Grace

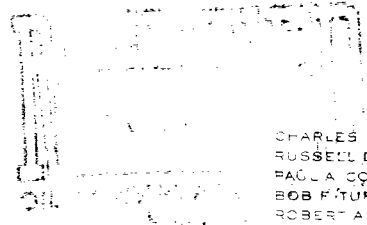
A. J. LOSEE
P. O. Drawer 239
Artesia, New Mexico 88210

Special Assistant Attorney General for the
Oil Conservation Commission of New Mexico

COPY

ATWOOD, MALONE, MANN & COOTER
LAWYERS

JEFF D. ATWOOD 883-3667



CHARLES F. MALONE
RUSSELL D. MANN
PAULA COOTER
BOB F. TURNER
ROBERT A. JOHNSON
JOHN W. BASSETT
ROBERT E. SABIN
RUFUS E. THOMPSON

P. O. DRAWER 700
SECURITY NATIONAL BANK BUILDING
ROSWELL, NEW MEXICO 88201
(505) 622-6221

November 8, 1973

A. J. Losee, Esquire
Losee & Carson
P. O. Drawer 239
Artesia, New Mexico 88210

RE: South Carlsbad-Strawn Gas Pool

Dear Jerry:

Pursuant to Judge Reese's letter of November 2 and his Opinion enclosed therewith, I have drafted a Judgment and enclose the original and two copies herewith. If this meets with your approval, would you please so indicate on the original and return it to me.

With regards, I am,

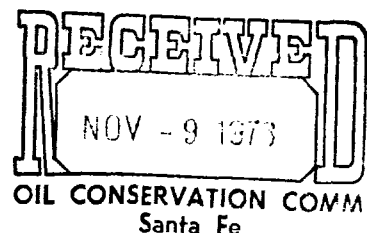
Very truly yours,

Paul Cooter

PC:sas

Encl.

cc: F. B. Howden, Esquire
William F. Carr, Esquire



IN THE DISTRICT COURT OF EDDY COUNTY
STATE OF NEW MEXICO

| | | |
|--------------------------------------------|---|--------------|
| MORRIS R. ANTWEIL, |) | |
| DELTA DRILLING COMPANY and |) | |
| MABEE PETROLEUM COMPANY, |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF NEW MEXICO, |) | |
| |) | |
| Respondent, |) | No. 28180 |
| |) | |
| MICHAEL P. GRACE II and |) | CONSOLIDATED |
| CORINNE GRACE, |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |

J U D G M E N T

THIS CAUSE came on to be heard by the Court on September 24, 1973, all parties being present in person and through their attorneys of record. The Court reviewed the Transcript of Proceedings had before the Oil Conservation Commission and the exhibits received by the Oil Conservation Commission and heard argument of counsel. After so doing, the Court rendered its Opinion, filed herein; pursuant thereto,

IT IS ORDERED, ADJUDGED AND DECREED that Findings Nos. 66, 69, 73, 74, 78, 80 and 82 of the Oil Conservation Commission, as set forth in its Order No. R-1670-M dated June 30, 1972, are not supported by substantial evidence, but are unreasonable, unlawful, arbitrary and capricious, and are, therefore, set aside and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that that portion of such Order No. R-1670-M promulgating Special Rules and Regulations for the South Carlsbad-Strawn Gas Pool, incorporating in part, Order No. R-1670, as amended, being the General Rules and Regulations for the Prorated Gas Pools of Southeastern New Mexico, which established the gas proration formula for the South Carlsbad-Strawn Gas Pool to be a 100% surface acreage formula is hereby set aside and held for naught.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this case be remanded to the Oil Conservation Commission, so that it may establish by appropriate Order, a lawful gas proration formula for the South Carlsbad-Strawn Gas Pool.

DATED this ____ day of November, 1973.

DISTRICT JUDGE

APPROVED AS TO FORM:

ATWOOD, MALONE, MANN & COOTER

BY

P. O. Drawer 700
Roswell, New Mexico 88201

Attorneys for Petitioners
Morris R. Antweil,
Delta Drilling Company and
Mabee Petroleum Company

F. B. HOWDEN
P. O. Box 718
Los Lunas, New Mexico 87301

Attorneys for Petitioners
Michael P. Grace II and
Corinne Grace

A. J. LOSEE
P. O. Drawer 239
Artesia, New Mexico 88210

Special Assistant Attorney General for the
Oil Conservation Commission of New Mexico

IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO

MORRIS R. ANTWEIL, DELTA)
DRILLING COMPANY and MABEE)
PETROLEUM COMPANY,)

Petitioners,)

-vs-)

No. 28180

OIL CONSERVATION COMMISSION)
OF NEW MEXICO,)

Respondent.)

and

MICHAEL P. GRACE II and)
CORINNE GRACE,)

Petitioners,)

-vs-)

No. 28182

OIL CONSERVATION COMMISSION)
OF NEW MEXICO,)

Respondent.)

OPINION OF THE COURT

The Oil Conservation Commission, in consolidated cases, heard testimony of their employees and of the parties and their witnesses in connection with the prorationing of gas under both the Carlsbad-Morrow and the Carlsbad-Strawn Pools at and near Carlsbad, New Mexico.

This opinion deals solely with the Carlsbad-Strawn and it is the Opinion of the Court that the Oil Conservation Commission

acted unreasonably, unlawfully, arbitrarily and capriciously in allocating the production from the Carlsbad-Strawn solely upon the basis of the surface acreage involved in the Oil Conservation Commission's definition of the pool, and therefore, that portion of Commission Order R-1670-M is void and should be set aside.

The Oil Commission, in said hearing, wholly failed to carry out the law under which they were setting the allowables for said field in that, Section 65-3-14A of the 1953 New Mexico Statutes Annotated, requires the Commission to afford to the owner of each property in a pool the opportunity to produce his just and equitable share of the oil and gas, or both, in the pool, being an amount, so far as can be practically determined, in so far as can be practically obtained without waste, substantially in proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for this purpose to use his just and equitable share of the reservoir energy.

The Oil Commission, in posting its 100% Surface Acreage formula, called attention to the fact that other fields in the State were operating on a Surface Acreage formula without stating whether or not any of such fields had been so established over the objection or protest of any operators or owners therein; together with the testimony of one of the Oil Conservation Commission's employees that it would be difficult to obtain a fair reservoir and tract gas reserve figure. The undisputed evidence of the Petitioners was that the foundationary facts as required by both the above

quoted statute and Section 65-3-29H, 1953 NMSA, and the cases of Continental Oil Company versus Oil Conservation Commission, 70 New Mexico 310, 373 Pacific Second 809 and El Paso Natural Gas Company versus Oil Conservation Commission, 76 New Mexico 268, 414 Pacific Second 496, could be ascertained by standard geological and engineering practices. These Statutes and cases, definitely require the Oil Commission, in carrying out its duty, to find:

- (1) The amount of recoverable gas under each producers' tract;
- (2) The total amount of recoverable gas in the pool; (3) The proportion that the total amount of recoverable gas under each producers' tract bears to the total amount of recoverable gas in the pool and; (4) What proportion of the arrived at proportion can be recovered without waste.

The El Paso case relaxed the Continental Oil Company case to the extent that it held the foundationary facts, or their equivalents, are necessary requisites to the validity of an order replacing a formula in current use and, in the mind of the Court, such requirements would be necessary to establish a new order in the first instance. The witness Stametz having testified to the conclusion that it would not be practical to determine the foundationary facts in this case, did admit that under engineering and geological principles that the reservoir capacity could be determined and the tract reserves for each producing tract could also be determined after expenditures and work. It is the opinion of the Court that this conclusion of impracticability will not stand as substantial evidence in the face of such an admission and of the undisputed testimony of the witnesses Williams and Raney who


both testified at length as to the manner of determining the reservoir reserves and the tract reserves and the manner of allowing each producer to produce his fair share of the reserves and for his use of a fair share of the reservoir energy in so producing. The undisputed testimony is that the wells in the Carlsbad-Strawn vary greatly as to productibility and reserves and that a Surface Acreage allocation would violate, instead of protecting, correlative rights; in that the wells within the tracts having the greatest amount of reserves, would only be allowed to produce an equal amount to the wells with a great deal less reserves and energy so that, according, to the findings of the Commission, there would be drainage uncompensated from the higher capacity wells to the weaker wells which could still produce the allowable.

From the foregoing, it follows that the Commission's Findings of Fact, numbered 66, 69, 73, 74, 78, 80 and 82, are not supported by substantial evidence.

IT IS THEREFORE ORDERED by the Court that Findings of Fact, numbered 66, 69, 73, 74, 78, 80 and 82, are null and void and the same are vacated and held for naught, and;

IT IS FURTHER ORDERED by the Court that that portion of Oil Conservation Commission Order R-1670-M, denominated Special Rules C.8(A) be, and the same is hereby, set aside as null and void as a result of unreasonable, unlawful, arbitrary and capricious action on the part of the Oil Conservation Commission and that this case be remanded to the Oil Conservation Commission with directions to fix an allocation formula in compliance with the applicable provisions of law.

DONE this 2nd day of November, 1973.


District Judge

LAW OFFICES

LOSEE & CARSON, P.A.

A. J. LOSEE
JOEL M. CARSON

300 AMERICAN HOME BUILDING
P. O. DRAWER 239
ARTESIA, NEW MEXICO 88210

AREA CODE 505
746-3508

17 October 1973

Honorable R. Randolph Reese
District Judge
Lea County Courthouse
Lovington, New Mexico

Re: Antweil et al and Grace et ux vs.
Oil Conservation Commission,
No. 28180 Consolidated

Dear Judge Reese:

We have received Mr. Howden's letter memorandum of October 9. Except for the brief comments hereinafter made, we do not intend to file a response.

We take issue with the statement that prorationing on a pure acreage factor alone has long since gone by the boards. The evidence in this case showed that the 15 prorated gas fields in Southeastern New Mexico are all on pure acreage.

Sinclair Oil & Gas Company vs. Corporation Commission is found at 378 P.2d 847. As noted in this case, the Oklahoma prorationing or allowable statute is based on natural flow of the wells. The Oklahoma Supreme Court held that under its allowable statute, the Commission did not have to find the number of acre feet of productive gas formation in the field involved and its respective spacing units, if there is substantial evidence that application of the formula therein adopted, will allow production of each unit's recoverable reserves in the proportion or ratio which such reserves bears to the total recoverable reserves in the field.

The Sinclair case intervened Between Continental Oil Company vs. Oil Conservation Commission, 70 N.M. 310, and El Paso Natural Gas Company vs. Oil Conservation Commission, 76 N.M. 268. We

Honorable N. Randolph Reese

17 October 1973

-2-

cited Sinclair to show that the Supreme Court of Oklahoma rejected any requirement that its Commission, before the adoption of a proration or allowable order, must determine the exact amount of gas in the proposed pool and the exact amount of gas under each producer's tract. The Supreme Court of New Mexico, in the El Paso case, explained what it meant in the Continental case, and agrees with the reasoning of the Oklahoma Supreme Court in the Sinclair case.

Respectfully submitted,

LOSEE & CARSON, P.A.



A. J. Losee

AJL:jw

cc: Mr. Frederick B. Howden
Mr. Paul L. Cooter
Mr. William F. Carr

FREDERICK B. HOWDEN

ALBUQUERQUE OFFICE
400 SEVENTH STREET, N.W.
ALBUQUERQUE, NEW MEXICO 87101

ATTORNEY AT LAW
P. O. BOX 718
LUNA AND SANTA FE
LOS LUNAS, NEW MEXICO 87031

TELEPHONE
AREA 505
LOS LUNAS - 865-9643
ALBUQUERQUE - 247-8891

*South
Shaw*

9 October 1973

Honorable N. Randolph Reese
District Judge
Lea County Court House
Lovington, New Mexico

Re: ANTWEIL, et al, and GRACE v. OIL CONSERVATION COMMISSION

Dear Judge Reese:

Careful consideration of the Sinclair Oil Case, the case cited by Mr. Losee on behalf of the OCC at the hearing on review on September the 24th (373 Pacific Reporter 847) for which case the Court specifically or particularly deferred its decision has brought me to the point of submitting to the Court this letter memorandum in the place of a lengthy and more formal brief.

As I am sure the Court has learned in reviewing that particular case from the Oklahoma Supreme Court, which I hereinafter refer to as the Sinclair case, rather than supporting the position of the respondent OCC in the case at bar, the Sinclair case in fact supports and strengthens the position taken by the petitioner in this matter. Prorating on a pure acreage factor alone has long since gone by the boards. The law in the case of Continental Oil Company v. Oil Conservation Commission, 70 NM 310, referred to at some length on all argument on behalf of petitioner Antweil still is the law in the State of New Mexico and more specifically in the case before the Court, and that is that there is after all required of the OCC certain things to be determined before prorating is enforced. The OCC must take action to prevent waste and to protect the correlative right of the respective owners in a proposed pool area. In making or in taking action to protect correlative rights, the Commission must make four basic determinations: 1) the total amount of recoverable gas in the proposed pool area; 2) the amount of gas which can be recovered under each producer's tract; 3) the proportionate relationship between item 1 and 2 above; and 4) the amount of each producer's gas which can be

Honorable N. Randolph Reese

Page 2

9 October 1973

recovered without waste. This is the law and as I have stated, I am so thoroughly convinced after repeated reading of the Sinclair case that it is supported and strengthened by the Sinclair case that I urge upon the Court that the Sinclair case upon which the respondent has so heavily relied in fact is a case for the petitioner.

The Sinclair case, as I am sure the Court recognizes, had before it three far more sophisticated factors for prorationing than the one with which we are confronted, and in that case there is argued the import of as "natural flow" and "potential", and the Court there decides that they are interchangeable and ascertainable by the three factors including pressure potential in addition to acreage.

In its reference to the Continental case, the Court in the Sinclair case stated as follows:

"We reject as inapplicable to allowable formula orders of the Corporation Commission of this State (as hereinbefore indicated) any inference, or conclusion, that may be drawn from the cited New Mexico case that it is necessary for said Commission, in a valid order changing a formula already in force to make specific findings that the superseded formula does not protect correlative rights."

It would appear to demand of the commission the use of the best formula available without having to disprove or disabuse it of the right to a prior formula.

With this letter memorandum, I am enclosing for the Court certain quotes from the Sinclair case which I regard as pertinent and in fact supportive of the petitioners' position. First, there is the discussion of the Court found in Column 1 on page 850. Next, I direct the Court's attention to the following quote from that opinion, which appears at page 851.

Honorable N. Randolph Reese
Page 3
9 October 1973

"It is also obvious that such use of such hypothesis constituted, in no manner whatsoever, our approval or endorsement of a formula based solely on production acreage, over one that might employ other factors."

"In the present consolidated cases, there was an abundance of substantial and competent evidence to the effect that the formula proposed by the Director, and adopted in the order appealed from, would allow the well on each spacing unit in the Laverne Field to recover all of said well's "recoverable reserves"."

Next, the Court's attention is drawn to the language of the Oklahoma Court found at page 852,

"It was shown, and we know, as a matter of more or less common knowledge, that drainage patterns of oil and gas wells do not conform to, nor coincide with, section lines, especially as to wells penetrating a common reservoir, whose drainage patterns are subject to shaping by changing conditions in the reservoir, and the interplay of these conditions with those in and around the bottom of the well bore."

Next, we draw the Court's attention to the discussion of the Oklahoma Court found on page 853 of the opinion in which the Court considers the argument from another case, Anderson-Prichard Oil corp. v. Corporation Commission, from which it quotes the following:

"In the body of the opinion (252 P.2nd p. 453), we said:
"* * * Under Sec. 239 supra, the Commission is authorized to establish rules and regulations for determining the natural flow of the wells * * *."

(252 P.2d p. 454) "it will be observed that applicant's formula is based upon certain 'potentials' of its

Honorable N. Randolph Reese

Page 4

9 October 1973

wells, which means no more than 'the daily rate of flow.' The statute does not base allowables upon potentials, but bases them upon the natural flow of the wells. Natural flow, as that term is employed in the Act, means the total volume of gas which a given well will produce. Moreover, the Statute does not delineate the course the Commission must take to determine the natural flow of a gas well, or wells, as they bear to the total natural flow of the common source of supply. As we have seen, the statute authorizes and directs the Commission to prescribe rules and regulations for the determination of the natural flow of wells producing from a common source of supply to the end that the rights of all producers be protected. As we have heretofore indicated, applicant's position is untenable in that it bases its asserted rights upon the 'potentials' of its wells, which means no more than 'the daily rate of flow' and as we have seen the statute does not limit the take of gas to the natural flow of the well per day but is based upon its 'natural flow'.

"To determine this volume of gas the Commission may properly consider the ascertained area of the reservoir, based upon productive acres underlying each lease, the thickness of the producing formation, and the percentage of effective porosity and its permeability. * * *."

"As we have already indicated, there was an abundance of competent and substantial evidence showing that this "natural flow" can most accurately be ascertained, with reference to the common reservoirs, or sources of supply, involved herein, by use of a formula which includes the factors of both potential and pressure. There is substantial support in the record for the conclusion that, under the particular conditions existing in this field, uncompensated drainage and water saturation (which terms are definitely related to correlative rights and waste) can best be kept at a minimum by limiting the operation of the potential factor, and including pressure as

Honorable N. Randolph Reese
Page 5
9 October 1973

a factor, like the adopted formula does. The considerations involved, figured in the testimony of both the Director, the Conservation Department's engineer, and others."

In addition to forwarding to the Court for the Court's convenience the foregoing excerpts from the Sinclair case, I also attach herewith xerox copies of some definitions taken from Williams and Meyers Manual of Terms, Oil and Gas Law with which I am sure the Court is familiar. This volume has proved exceedingly helpful in attempting to understand the findings and conclusions of the OCC in this case. It may well be that this volume is readily available to the Court and there are needless to say many definitions to which the Court might well have reference as a result of the findings of the OCC. However, I have enclosed with this letter copies of some definitions.

I am sure the Court has noted the inconsistencies in the findings and conclusions. For example, those in findings 5 and 6 against those in findings 13, 18, 21 and 70. Also the inconsistencies between findings 12 and 18. The Court's attention is drawn to the term "combined capacity", "combined producing capacity", and "absolute open flow" which are the basis for findings 25 through 38 and a comparison of these terms with these definitions as set out in Williams and Meyers clearly indicates a failing on the part of these findings as being totally contrary to law and lacking support in the record.

Findings 39 and 40, I note that the OCC decides to "consider the fact" not the facts; in findings 42 to 47, these are based on "reasonable market demand" another term readily referred to in Williams and Meyers and which are involved and concerned with findings 42 through 47. Next, I draw the Court's attention to the term, "daily deliverability" as found in findings 52 to 54. Daily deliverability and production capacity are best defined in my opinion at page 433 of Williams and Meyers and a reading of these definitions and a comparing of the definitions and their use in the findings and conclusions demonstrates graphically the total failure of the findings to meet the necessary requirements as the law as it has been set out for us.

There is no testimony in the record regarding any of these subjects. There is no evidence. Even more unfortunate, is the

Honorable N. Randolph Reese

Page 6

9 October 1973

fact that figures have been dragged up from some source other than the record in an effort to substantiate certain terms. For example, see the term "open flow" and "open flow capacity" as used in the findings and conclusions and compare it with the definition at page 256 of Williams and Meyers. And note the use of PSI figures with these definitions and the obvious contradiction. Again, consider "prorationing" and "drainage" and their definitions in Williams and Meyers and see findings 71 on the conclusions of law and facts drawn there are equally erroneous. Again, let us note the term and its use "practical" or conversely "impractical". These terms are contradicted by the very nature of the Sinclair case. I cannot close without calling the Court's attention to the definitions of the term "reserve" at page 303 and 335 of the above Williams and Meyers and the term "established reserves" at page 136 of the same volume.

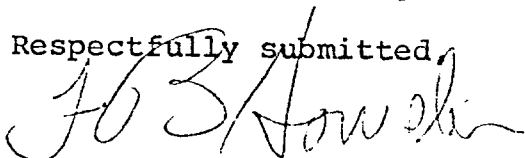
Equally important, the Court's attention must be drawn to the fact that witnesses Thomas and Montgomery gave testimony before the OCC as did witnesses Stamets, Utz, Raney and Tailor and I would like to call the Court's attention to this testimony simply in passing. It is extremely important that I will not burden this document with quotes, only references. There is the testimony of Mr. Stamets to the effect that the amount of gas in place in the proposed pool could be determined. See the transcript, pages 25 to 27, and page 29. There is the testimony of Mr. Utz that no correlation of geologic or engineering facts was made, transcript 53, 54, 57, 62, 69, 72, and 73. There is the testimony of Mr. Thomas of Transwestern to the effect that his pipeline company could take all available gas, transcript 84 to 86, and page 92. There is the testimony of Mr. Tailor of Cities Service that the amount of gas in place could be determined, transcript 108. Finally, there is the testimony of Mr. Raney to the effect that the pipeline could take all available gas, transcript 190 and 191, transcript 92 and 93 Mr. Montgomery corroborates.

In short, and in conclusion, there is no finding as to the amount of recoverable gas in the pool. There is no finding as to the amount of recoverable gas under the individual tracts, and there is no finding as to the gas recoverable without waste.

Honorable N. Randolph Reese
Page 7
9 October 1973

Therefore, there is simply no jurisdiction on the part of the Commission to establish prorationing and the action of the Commission should be set aside and the Petition here before the Court should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "F B Howden", written over the typed name.

F. B. Howden

FBH:eh

Enclosure

Downstream

A mode of expressing location on a gas pipeline. Downstream denotes a location further removed from the source of supply. See Upstream.

Down-structure

Below the high point of a formation; down-dip. Since oil and gas rise in any structural formation, the most favorable place for discovering them is on the high point of the formation. As movement is away from this high point, the chances of successful production diminish.

Drag bit

See BIT, DRAG

Drainage

Migration of oil or gas in a reservoir due to a pressure reduction caused by production from wells bottomed in the reservoir. Local drainage is the movement of oil and gas toward the well bore of a producing well. Field drainage (q.v.) is a reservoir-wide migration. Under the Rule of capture (q.v.) there is no liability for producing oil or gas drained from beneath the land of another, absent negligent waste and destruction of the product drained. *Elliff v. Texon Drilling Co.*, 146 Tex. 575, 210 S. W. 2d 558, 4 A. L. R. 2d 191 (1948).

Under the offset well covenant (q.v.), a lessee may be liable for local drainage away from the leasehold if he fails to drill offset wells to prevent the drainage.

See Fraudulent drainage, Uncompensated drainage.

Drainage unit

The maximum area in a pool which may be drained efficiently by one well so as to produce the reasonably maximum amount of recoverable oil or gas in such area. Ariz. Code Ann. § 11-1702.

Draw works

The collective name for the hoisting drum, shaft, clutches, and other operating machinery used in the drilling of a well.

Draw works are situated at one side of the derrick floor, con-

Marginal well statute (cont.)

See, e.g., Tex. Rev. Civ. Stat. Ann. Art. 6049b. This statute defines a marginal well in terms both of production and depth of the well, and declares that "To artificially curtail the production of any 'Marginal Well' below the marginal limit as set out above prior to its ultimate plugging and abandonment is hereby declared to be waste, and no rule or order of the Railroad Commission of Texas, or other constituted legal authority, shall be entered requiring restriction of the production of any 'Marginal Well' as herein defined." Statutes of this type are designed, in part at least, to discourage premature abandonment of low production wells, which abandonment might be hastened by a very low allowable for the wells. The statute may have the effect of making the "per well" factor a major factor in the fixing of well allowables. Regulatory commissions are reluctant to fix the allowable for a non-marginal well at a lower figure than the required allowable for a marginal well. Hence the allowable on a per well basis is equivalent, at least, to the marginal well allowable. If the total allowable for a field is relatively small, and the number of wells great, the per well allowable so calculated may largely consume the total field allowable, leaving little to be allocated on the basis of such factors as potential, acreage, etc. See *Railroad Commission v. Rowan & Nichols Oil Co.*, 310 U. S. 573 (1940), as amended, 311 U. S. 614 (1940).

Marketable oil or gas

Oil or gas sufficiently free from impurities that it will be taken by a purchaser. See Merchantable oil.

Market demand

The actual demand for oil from any particular pool or field for current requirements for current consumption and use within or without the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of oil or the products thereof, or both such oil and products, and not less than the actual purchasing commitments for oil from such pool or field. Comp. Laws Mich., § 319.2 (m). For a discussion of varied definitions of this term and of the calculation of market

Reservation

That which is newly created and reserved from a grant, e.g., an easement reserved in the grant of land. See Exception. In Alberta, Canada, the term "reservation" is used to describe a permit from the provincial government for geological and geophysical surveys. The holder of a reservation who complies with applicable regulations may convert a part of the holdings under the reservation to leases. See Crown reserve drilling reservation.

Reserved oil payment

An oil payment (q.v.) which is reserved in the transfer of an interest in oil and gas. For example, a reserved oil payment may be created when executing a lease, or when assigning a working interest in a lease. The reserved oil payment is entitled to the depletion allowance. *Comm'r v. Fleming*, 82 F. 2d 324 (5th Cir. 1936). The use of reserved oil payments is essential in the A.B.C. transaction (q.v.). Compare also the tax treatment of carved-out oil payments (q.v.).

Reserve life index

A measure of the estimated life of reserves calculated by dividing the proven reserves at the end of a year by the production during that year. *Northern Natural Gas Co. v. O'Malley*, 174 F. Supp. 176, 10 O. & G. R. 423 (D. Neb. 1959), rev'd, 277 F. 2d 128, 12 O. & G. R. 335 (8th Cir. 1960).

Reserves

The unproduced but recoverable oil and/or gas in place in a formation which has been proven by production.

See Dedication of Reserves, Proven reserves, Established reserves, Probable reserves.

Reserve added realization method

A method of allocating exploratory costs between different products. See Joseph, "Background and Analysis of Trial Examiner's Decision in Phillips Case," Southwestern Legal Foundation, *Eleventh Annual Institute on Oil and Gas Law and Taxation* 1, 19 (1960).

since he is getting the value of oil in the ground that may be produced in the future. This case allowed as damages the amount of interest on the sum that would have been due the lessor if the wells had been drilled. *Grass v. Big Creek Development Co.*, 75 W. Va. 719, 84 S. E. 750 (1915). But see *Cotiga Development Co. v. United Fuel Gas Co.*, 128 S. E. 2d 628, 16 O. & G. R. 583 (W. Va. 1962).

See generally TREATISE §§ 831-835.3.

Reasonable market demand

The amount of oil reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks. In a number of producing states, the regulatory commissions are authorized and/or directed to prorate production on the basis of reasonable market demand. By a technique developed by the Federal Oil Conservation Board during the Hoover administration, consumption during short periods of time is forecast by the Bureau of Mines. This is broken down among the producing states by tracing the past history of crude oil from producing states to refineries and finally to consumers. The state prorationing authorities, guided by the estimates furnished by the Bureau of Mines, fix the allowables—the amount which may be produced per day from the various fields, pools and wells in the state—in order that the production from the state shall not exceed a reasonable estimate of market demand. The authority to fix allowables on the basis of a reasonable estimate of market demand is common in the several state regulatory agencies with the exceptions of: California, which lacks statutory prorationing procedures; Mississippi, where market demand may not be a basis of prorationing; Illinois, where production may not be limited to prevent or control economic waste or on the basis of market demand; and Colorado and Wyoming, where the Commissions are prohibited from restricting production of any pool or well to an amount less than can be produced without waste in accordance with sound engineering practices. See Hardwicke, "Market Demand as a Factor in the Conservation of Oil," *Southwestern Legal Foundation, First Annual Institute on Oil and Gas Law and Taxation* 149 (1949). See Allowable, Prorationing, Market demand.

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

TO WHOM IT MAY CONCERN:

I, A. L. PORTER, Jr., Secretary-Director of the New Mexico Oil Conservation Commission, do hereby certify that the enclosed are true and correct copies of the Transcript and all Exhibits in Oil Conservation Commission Case No. 4694.

A. L. PORTER, Jr.
Secretary-Director

September 13, 1973

IN WITNESS WHEREOF, I have affixed my hand and notarial seal this 13th day of September, 1973.

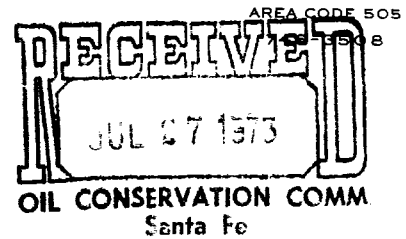
Notary Public

My Commission Expires:

A. J. LOSEE
JOEL M. CARSON

LAW OFFICES
LOSEE & CARSON
300 AMERICAN HOME BUILDING
P. O. DRAWER 239
ARTESIA, NEW MEXICO 88210

25 July 1973



Mr. F. B. Howden
Attorney at Law
P. O. Box 718
Los Lunas, New Mexico 87031

Re: Morris R. Antweil et al vs. Oil Conservation
Commission, District Court of Eddy County,
No. 28180 Consolidated

Dear Mr. Howden:

Enclosed is proposed Order of Consolidation. If this meets
with your approval, please so signify on the original and
one copy and send them to Mr. Cooter for his approval and
transmittal to Judge Reese for filing in the cases.

Very truly yours,

LOSEE & CARSON, P.A.

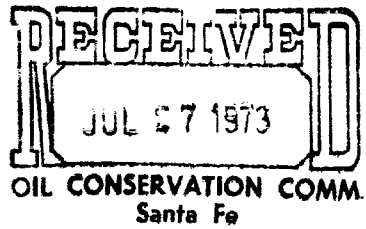
A handwritten signature in cursive script, appearing to read "A. J. Losee".

A. J. Losee

ANL:jw
Enclosure

cc. Mr. Paul A. Cooter
Mr. Bill Carr

C
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IN THE DISTRICT COURT OF EDDY COUNTY
STATE OF NEW MEXICO

| | | |
|--------------------------------------|---|--------------|
| MORRIS R. ANTWEIL, DELTA DRILLING |) | |
| COMPANY and MABEE PETROLEUM COMPANY, |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | NO. 28180 |
| Respondent. |) | |
| |) | CONSOLIDATED |
| MICHAEL P. GRACE II and CORINNE |) | |
| GRACE, |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |

ORDER OF CONSOLIDATION

THIS MATTER came on for hearing upon the motion of respondent for consolidation of the captioned cases, petitioners and respondent being present by their respective attorneys of record, and after hearing the arguments and being fully advised in the premises,

IT IS THEREFORE ORDERED that Case 28180 be consolidated with Case 28182, and henceforth the consolidated case be designated under file number 28180.

District Judge

APPROVED AS TO FORM:

ATWOOD, MALONE, MANN & COOTER

By: _____
P. O. Drawer 700
Roswell, New Mexico 88201

Attorneys for Petitioners
Morris R. Antweil, Delta
Drilling Company and Mabee
Petroleum Company

F. B. HOWDEN
SAMUEL FRANCIS

By: _____
P. O. Box 718
Los Lunas, New Mexico 87031

Attorneys for Petitioners
Michael P. Grace II and
Corinne Grace



A. J. Losee, Special Assistant
Attorney General Representing
the Oil Conservation Commission
of New Mexico

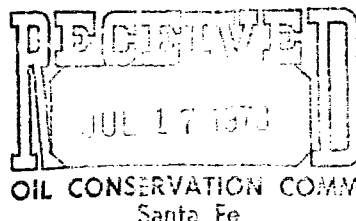
P. O. Drawer 239
Artesia, New Mexico 88210

A. J. LOSEE
JOEL M. CARSON

LAW OFFICES
LOSEE & CARSON, P.A.
300 AMERICAN HOME BUILDING
P. O. DRAWER 239
ARTESIA, NEW MEXICO 88210

AREA CODE 505
746-3508

16 July 1973



Honorable N. Randolph Reese
District Judge
Lea County Courthouse
Lovington, New Mexico 88260

Re: District Court Eddy County No. 28180 and 28182

Dear Judge Reese:

Enclosed, you will please find Notice of Hearing on the Motion for Consolidation in the captioned cases, which has been set in accordance with your recent letter for 10:00 A.M. July 24, 1973. I have both of the original court files in my possession and I will bring them with me to Lovington.

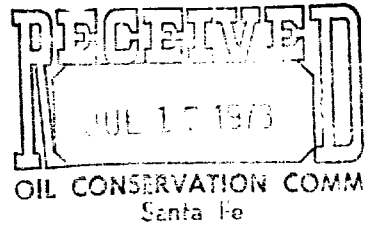
Please note that I have served Mr. and Mrs. Grace with a copy of this motion, because I understand that William J. Cooley, attorney of record in Case No. 28182, has been discharged, although his withdrawal is not shown in the court file.

Very truly yours,

LOSEE & CARSON, P.A.

A. J. Losee

AJL:jw
Enclosure



IN THE DISTRICT COURT OF EDDY COUNTY


STATE OF NEW MEXICO

| | | |
|--------------------------------------|---|-----------|
| MORRIS R. ANTWEIL, DELTA DRILLING |) | |
| COMPANY and MABEE PETROLEUM COMPANY, |) | |
| |) | |
| Petitioners, |) | No. 28180 |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |
| |) | |
| MICHAEL P. GRACE II and CORINNE |) | |
| GRACE, |) | |
| |) | |
| Petitioners, |) | No. 28182 |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |

NOTICE OF HEARING

TO: MESSRS. PAUL A. COOTER AND WILLIAM J. COOLEY,
Attorneys of Record for Petitioners, and
MICHAEL P. GRACE II AND CORINNE GRACE, Petitioners.

Please take notice that the Motion for Consolidation
of the captioned cases has been set for hearing before Honorable
N. Randolph Reese, District Judge in the District Court of Lea
County, New Mexico, at Lovington, New Mexico, at 10:00 A.M. on
July 24, 1973.


A. J. Losee, Special Assistant
Attorney General Representing
the Oil Conservation Commission
of New Mexico

P. O. Drawer 239
Artesia, New Mexico 88210

I certify that I mailed a true copy of the foregoing
pleading to opposing counsel of record and to Michael P.
Grace II and Corinne Grace, this July 16, 1973.



A. J. Losee

LAW OFFICES

LOSEE & CARSON, P.A.

300 AMERICAN HOME BUILDING

P. O. DRAWER 239

ARTESIA, NEW MEXICO 88210

A. J. LOSEE

JOEL M. CARSON

AREA CODE 505

746-3508

16 April 1973

Mr. Paul Cooter
Atwood, Malone, Mann & Cooter
P. O. Drawer 700
Roswell, New Mexico

Re: Eddy County, New Mexico, Nos. 28180 and 28182

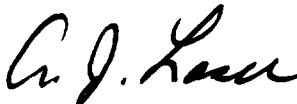
Dear Paul:

As requested in your letter of April 9, I have executed the agreement designating Judge Zinn to hear the captioned cases.

Also enclosed is Motion for Consolidation which I have approved as to form. Please approve the same and secure Harry Bigbee's approval so that it can be submitted to the Judge at the time the agreement is filed.

Very truly yours,

LOSEE & CARSON, P.A.


A. J. Losee *in*

AJL:jw
Enclosures

cc: Mr. Bill Carr

C
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P
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
COUNTY OF EDDY, STATE OF NEW MEXICO

MICHAEL P. GRACE II and
CORINNE GRACE,

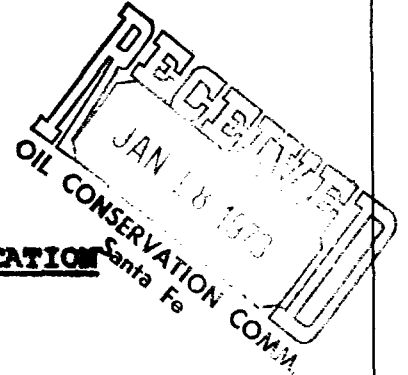
Petitioners,

vs.

OIL CONSERVATION COMMISSION
OF NEW MEXICO,

Respondent.

No. 28182



PROVISIONAL AFFIDAVIT OF DISQUALIFICATION

STATE OF NEW MEXICO)
) ss.
COUNTY OF)

MICHAEL P. GRACE II, being first duly sworn, on oath
deposes and states:

1. That the Honorable D. D. Archer has heretofore been disqualified as resident judge by the respondent Oil Conservation Commission of New Mexico in the above styled and numbered cause.
2. That neither of the remaining judges in the Fifth Judicial District have been designated to preside over said case as of the date hereof.
3. That in the event the Honorable Kermit E. Mash is designated or otherwise selected as judge before whom the above styled and numbered cause is to be tried, then according to affiant's belief such judge cannot preside over said case with impartiality.


Michael P. Grace II
MICHAEL P. GRACE II

SUBSCRIBED AND SWORN to before me this 17th day of January, 1973.

My Commission Expires:
4-23-73

Jimmie E. [Signature]
NOTARY PUBLIC

I hereby certify that on January 17, 1973, a copy of the foregoing Provisional Affidavit of Disqualification was mailed to opposing counsel of record.

Signed: 
William J. Cooley
Attorney for Petitioners

A. J. LOSEE
JOEL M. CARSON

LAW OFFICES
LOSEE & CARSON
300 AMERICAN HOME BUILDING , P.A.
P. O. DRAWER 239
ARTESIA, NEW MEXICO 88210

AREA CODE 505
746-3508

10 January 1973

Honorable Kermit E. Nash
District Judge
P. O. Box 2099
Hobbs, New Mexico 88240

Re: Eddy County District Court Cases
Nos. 28180 and 28182

Dear Judge Nash:

In accordance with our telephone conversation of yesterday, we enclose the Motion of the Oil Conservation Commission of New Mexico to consolidate the captioned cases, together with the Notice of Hearing set for 11:00 A.M. on January 19, 1973, in Lovington, New Mexico. We have furnished Messrs. Cooley and Cooter, attorneys for petitioners, with copies of the Notice and Motion.

We also enclose herewith the original complete Court files in each of the captioned cases.

Thank you for your consideration to our request for a hearing on this motion.

Very truly yours,

LOSEE & CARSON, P.A.



A. J. Losee

AJL:jw
Enclosures

cc: Mr. Paul A. Cooter w/enclosures
Mr. William J. Cooler w/enclosures
Mr. A. L. Porter, Jr. w/enclosures

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IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO

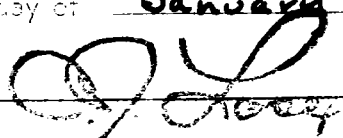
| | | |
|--------------------------------------|---|-----------|
| MORRIS R. ANTWEIL, DELTA DRILLING |) | |
| COMPANY and MABEE PETROLEUM COMPANY, |) | |
| |) | |
| Petitioners, |) | No. 28180 |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |
| |) | |
| MICHAEL P. GRACE II and CORINNE |) | |
| GRACE, |) | |
| |) | |
| Petitioners, |) | No. 28182 |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |

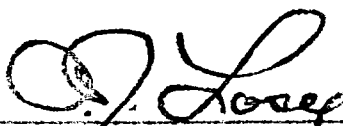
MOTION FOR CONSOLIDATION

Respondent moves, under 21-1-1 (42) (a), N.M.S.A., 1953 Comp., as amended, for consolidation into one action of the captioned cases, and as grounds therefor states the two causes of action are Petitions for Review of the same Order No. R-1670-M of the Oil Conservation Commission of New Mexico, and both causes of action involve a common question of law or fact pending before this Court.

WHEREFORE, Respondent prays that Case No. 28180 be consolidated with Case No. 28182, and henceforth be designated under File No. 28180.

I certify that I mailed a true copy of the foregoing pleading to opposing counsel of record on this

10 day of January
1973



A. J. Losee, Special Assistant
Attorney General Representing
the Oil Conservation Commission
of New Mexico

P. O. Drawer 239

ATWOOD, MALONE, MANN & COOTER

P. O. Drawer 700
Roswell, New Mexico 88201

BIGGEE, BYRD, CARPENTER & CROUT

P. O. Box 669
Santa Fe, New Mexico 87501

Attorneys for Petitioners
Michael P. Grace II and
Corinne Grace

IN THE DISTRICT COURT OF EDDY COUNTY

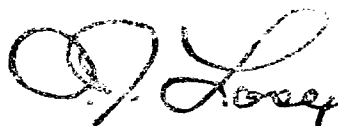
STATE OF NEW MEXICO

| | | |
|--------------------------------------|---|-----------|
| MORRIS R. ANTWEIL, DELTA DRILLING |) | |
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| Respondent. |) | |
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| MICHAEL P. GRACE II and CORINNE |) | |
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| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |

NOTICE OF HEARING

TO: MESSRS. PAUL A. COOTER AND WILLIAM J. COOLEY,
Attorneys for Petitioners

Please take notice that the Motion for Consolidation
of the captioned cases has been set for hearing in the District
Court of Lea County, New Mexico, at Lovington, New Mexico, at
11:00 A.M. on January 19, 1973.



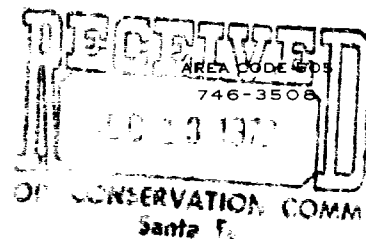
A. J. Losee, Special Assistant
Attorney General Representing
the Oil Conservation Commission
of New Mexico

P. O. Drawer 239
Artesia, New Mexico 88210

A. J. LOSEE
JOEL M. CARSON

LAW OFFICES
LOSEE & CARSON
300 AMERICAN HOME BUILDING
P. O. DRAWER 239
ARTESIA, NEW MEXICO 88210

12 December 1972



Mr. William J. Cooley
Carr & Cooley
152 Petroleum Center Building
Farmington, New Mexico 87401

Re: Michael P. Grace II et ux vs. Oil Conservation
Commission of New Mexico, Eddy County, No. 28182
Our File 15-007-001(c)

Dear Jack:

I have prepared and herewith enclose original and two copies of proposed Motion for Consolidation. If the same meets with your approval, please sign it and send it to Paul Cooter for like approval and return to me.

It is my understanding that you will attempt to secure the approval to the designation of Judge Kermit Nash in the consolidated cases. If such approval is not given by your clients, then I will take up with Paul Cooter the possibility of trying the consolidated cases to Judge Snead. In any event, I will not submit the order to either judge until such time as you have advised me whether Judge Nash will be acceptable.

Very truly yours,

LOSEE & CARSON

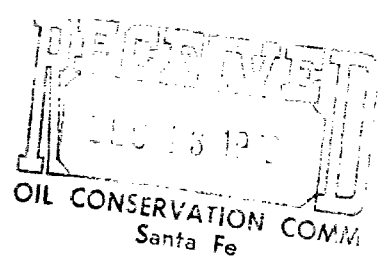

A. J. Losee

AJL:jw
Enclosures

cc w/enclosure: Mr. A. L. Porter, Jr.

Mr. Paul A. Cooter
Atwood, Malone, Mann & Cooter
P. O. Drawer 700
Roswell, New Mexico 88201

C
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IN THE DISTRICT COURT OF EDDY COUNTY


STATE OF NEW MEXICO

| | | |
|--------------------------------------|---|-----------|
| MORRIS R. ANTWEIL, DELTA DRILLING |) | |
| COMPANY and HAMIL PETROLEUM COMPANY, |) | |
| |) | |
| Petitioners, |) | No. 28180 |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |
| |) | |
| MICHAEL P. GRACE II and CORINNE |) | |
| GRACE, |) | |
| |) | |
| Petitioners, |) | No. 28182 |
| |) | |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION OF |) | |
| NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |

MOTION FOR CONSOLIDATION

Respondent moves, under 21-1-1 (42) (a), N.M.S.A., 1953 Comp., as amended, for consolidation into one action of the captioned cases, and as grounds therefor states the two causes of action are Petitions for Review of the same Order No. R-1670-M of the Oil Conservation Commission of New Mexico, and both causes of action involve a common question of law or fact pending before this Court.

WHEREFORE, Respondent prays that Case No. 28180 be consolidated with Case No. 28182, and henceforth be designated under File No. 28180.


A. J. Losee, Special Assistant
Attorney General Representing
the Oil Conservation Commission
of New Mexico

P. O. Drawer 239
Artesia, New Mexico 88210

THE PETITIONERS HAVE NO OBJECTION
TO THE ABOVE AND FOREGOING MOTION.

ATWOOD, MALONE, MANN & COOTER

By: _____

P. O. Drawer 700
Roswell, New Mexico 88201

Attorneys for Petitioners
Morris R. Antweil, Delta Drilling
Company and Mabco Petroleum
Company, Case No. 26160

THE PETITIONERS HAVE NO OBJECTION
TO THE ABOVE AND FOREGOING MOTION.

BURR & COOLLY

By: _____

152 Petroleum Center Building
Farmington, New Mexico 87401

Attorneys for Michael P. Grace II
and Corinne Grace, Case No. 26162

ATWOOD, MALONE, MANN & COOTER
LAWYERS

JEFF D. ATWOOD [1883-1960]

CHARLES F. MALONE
RUSSELL D. MANN
PAUL A. COOTER
BOB F. TURNER
ROBERT A. JOHNSON
JOHN W. BASSETT
ROBERT E. SABIN
RUFUS E. THOMPSON

P. O. DRAWER 700
SECURITY NATIONAL BANK BUILDING
ROSWELL, NEW MEXICO 88201
[505] 622-6221

October 19, 1972

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

Re: Antweil v. Oil Conservation Commission
Eddy County No. 28180

Dear George:

Supplementing our recent telephone discussion, please be advised that during a recent trial before Judge Nash in Lovington, I discussed with him during one of the recesses our Petition for Review of Commission Order No. R-16-70-M, the proration order of the South Carlsbad-Strawn gas pool.

First as to the consolidation of the two appeals, that is ours and the Graces, Judge Nash did not believe that the same must be consolidated but that he could proceed in hearing our appeal. He expressed the thought that the best manner to proceed would be to have the Court file forwarded to him (and this I have done) after which he will set the matter for hearing on a preliminary statement by the lawyers, after which he would read the transcript of the testimony presented at the OCC hearing and then set the matter once again for final argument of counsel.

Judge Nash is commencing a jury docket, and so the earliest date for the preliminary hearing would be in November. He thought that he could give us each a week or ten days notice, and I told him that I thought this was fine and would convey the same information to you.

I assume that the hearings will be in Lovington or Hobbs.

Before the transcript is filed, I would like to review it and since there is but one copy I guess your office in Santa Fe would be the appropriate place to do so. If this meets with

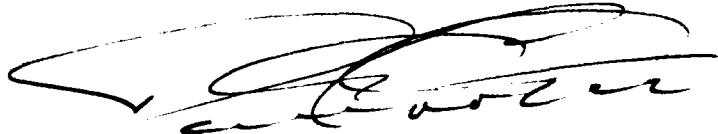
George M. Hatch, Esquire -2-

October 19, 1972

your approval, please let me know and I shall plan to do this the latter part of the month.

With kind regards, I am,

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul Cooter". The signature is written in dark ink and is positioned above the printed name.

Paul Cooter

PC/sc

ATWOOD, MALONE, MANN & COOTER
LAWYERS

JEFF D. ATWOOD [883-1960]

P. O. DRAWER 700
SECURITY NATIONAL BANK BUILDING
ROSWELL, NEW MEXICO 88201
[505] 622-6221

RECEIVED
OCT 21 1972
OIL CONSERVATION COM.
Santa Fe

CHARLES F. MALONE
RUSSELL D. MANN
PAUL A. COOTER
BOB R. TURNER
ROBERT A. JOHNSON
JOHN W. BASSETT
ROBERT E. SABIN
RYAN E. THOMPSON

October 19, 1972

Mrs. Frances Wilcox
Clerk of the District Court
Eddy County Courthouse
Carlsbad, New Mexico 88220

Re: No. 28180
Antweil v. Oil Conservation Commission

Dear Mrs. Wilcox:

By agreement between the lawyers in the captioned case, Judge Nash was designated to hear it. Would you please forward the Court file to him.

Appreciating your courtesy, and with our kind regards, I am,

Very truly yours,


Paul Cooter

PC/sc
cc: George M. Hatch, Esquire

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

September 26, 1972

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

Dear Mrs. Wilcox:

Enclosed please find Answer to Petition for
Review for filing in Eddy County Cause No. 29180.

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. Don Stevens
Attorney
P. O. Box 1797
Santa Fe, New Mexico 87501

Mr. Paul Cooter
Atwood, Malone, Mann & Cooter
P. O. Drawer 700
Roswell, New Mexico 88201

Dear Sir:

Please find enclosed a copy of Answer to Petition
for Review mailed, this date, to be filed in Eddy
County Cause No. 28180.

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

C
O
P
Y

Send to Legal
OCC.

SUMMONS

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

MORRIS R. ANTWEIL, DELTA DRILLING

COMPANY and MABEE PETROLEUM COMPANY,

Petitioners,
Plaintiff(s)

vs.

OIL CONSERVATION COMMISSION OF NEW MEXICO,

Respondent.
Defendant(s)

For Court Use Only
Not Write In This Space

No. 28180

The State of New Mexico

TO The Honorable David Norvell
Attorney General of New Mexico
Santa Fe, New Mexico 87501



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.

Atwood, Malone, Mann & Cooter, P. O. Drawer 700, Roswell, N. M. 88201

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 6th day of September 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. }

That he is a resident of the State of _____, being by me first duly sworn, upon his oath deposes and says: _____, 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

IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO

| | | |
|-----------------------------|---|------------------|
| MORRIS R. ANTWEIL, DELTA |) | |
| DRILLING COMPANY and MABEE |) | |
| PETROLEUM COMPANY, |) | |
| |) | |
| Petitioners, |) | |
| |) | No. <u>28180</u> |
| vs. |) | |
| |) | |
| OIL CONSERVATION COMMISSION |) | |
| OF NEW MEXICO, |) | |
| |) | |
| Respondent. |) | |

PETITION FOR REVIEW

COME NOW Morris R. Antweil, Delta Drilling Company and Mabee Petroleum Company, hereinafter referred to as Petitioners and respectfully state to the Court:

1. Morris R. Antweil is a resident of El Paso, Texas; Delta Drilling Company and Mabee Petroleum Company are foreign corporations, duly admitted to do business in the State of New Mexico. Petitioners are the owners, and Morris R. Antweil the operator, of gas properties and gas wells situate within the exterior boundaries of the South Carlsbad-Strawn Gas Pool located in Eddy County, New Mexico.

2. On June 30, 1972, the Oil Conservation Commission of New Mexico entered its Order No. R-1670-M in Case No. 4694 on the docket of said Commission. By the provisions of such Order, the South Carlsbad-Strawn Gas Pool was prorated, and the gas proration formula was established to be a 100% surface acreage formula. A copy of the Commission Order No. R-1670-M is attached hereto marked Exhibit "A".

3. Within twenty days after the entry of Order No. R-1670-M, Petitioners filed an Application for Rehearing directed thereto. A copy of such Application for Rehearing is attached hereto, marked Exhibit "B". The Commission took no action upon Petitioners' Application for Rehearing within the time provided by law, Section 65-3-22 (a), N.M.S.A., 1953, and so such failure to act thereon within such period was deemed a refusal and final disposition thereof.

4. Petitioners were affected by the provisions of Order No. R-1670-M and are dissatisfied with the disposition of their Application for Rehearing, and by this proceeding seek review thereof as provided by law.

5. The South Carlsbad-Strawn Pool located in Eddy County, New Mexico, was established by Order No. R-3922 and the horizontal limits thereof were thereafter extended from time to time by order of the Commission.

6. Case No. 4694 came on to be heard before the Oil Conservation Commission of New Mexico on April 19, 1972. The case was regularly advertised and heard, and all owners or operators afforded an opportunity to present their views with respect to the institution of proration and the allocation formula to be used for the distribution of allowable among the various wells in the pool. After hearings were held, the Commission entered its Order No. R-1670-M on June 30, 1972.

7. Petitioners allege that Order No. R-1670-M is unreasonable, unlawful, arbitrary and capricious, and therefore invalid and void, on the following grounds, all of which were presented by Petitioners' Application for Rehearing before the Commissioner:

(a) The Commission made no Findings as to the amount of recoverable gas in the pool, or under the various tracts, or the amount of gas that could be practicably obtained without waste - factors necessary to ascertain the correlative rights of the various owners.

(b) Absent such necessary Findings aforementioned, the Commission determined:

"(61) That drainage is occurring between tracts in the pool which is not equalized by counter-drainage.

"(62) That the correlative rights of some producers in the pool are being violated.

"(63) That waste is occurring in the subject pool."

Petitioners allege that these Findings are without support in the evidence as the Commission's Order lacks any mention of the necessary findings set forth in the preceding paragraph.

(c) The Commission's Finding No. 74 to the effect that "a proration formula based upon surface acreage will afford the owner of each property in the pool the opportunity to produce his just and equitable share of the gas in the pool so far as can be practicably obtained without waste substantially in the proportion that the recoverable gas under such property bears to the total recoverable gas in the pool," as well as its Findings Nos. 78, 80 and 82 adopting a 100% surface acreage formula for gas proration are contrary to and without support in the evidence.

(d) The Commission's Finding No. 66 that the South Carlsbad-Strawn Pool "has not been completely developed" is contrary to and without support in the evidence.

(e) The Commission's Finding No. 69 that "due to the marked and sometimes rapid variations, the effective feet of pay, porosity and water saturation underlying each tract cannot be practicably determined" and No. 71 that "due to the nature of reservoir, the amount of recoverable gas under each producer's tract cannot be practicably determined by formula which considers effective feet of pay, porosity and water saturation" are contrary to and without support in the evidence.

(f) The uncontradicted evidence before the Commission showed that the only method of determining (i) the amount of recoverable gas under each producer's tract, (ii) the total amount of recoverable gas in the pool, (iii) the proportion that the first amount bore to the second and (iv) the proportion of that proportion which could be recovered without waste, could only be determined by the volumetric calculation of reserves, taking into consideration effective feet of pay, porosity and water saturation.

(g) The Commission's Finding No. 73:

"That the amount of gas that can be practicably obtained without waste by the owner of each property of the subject pool substantially in the proportion that the recoverable gas under his tract bears to the total recoverable gas in the pool can be practicably determined best by allocating the allowable production among

the wells on the basis of developed tract acreage compared to total developed tract acreage in the pool."

is unreasonable and impossible of comprehension, and contrary to and without support in the evidence.

(h) The Commission's Order No. R-1670-M not only fails to protect the correlative rights of the various owners of gas within the South Carlsbad-Strawn Pool, but actually impairs their correlative rights by permitting production of gas underlying offsetting tracts which is not equalized by counterdrainage and without affording each owner the opportunity to produce his just and equitable share of the gas underlying his lands.

(i) The Commission's Order No. R-1670-M is unreasonable, arbitrary and discriminatory, the effect of which is to confiscate and deprive Petitioners of their property without due process of law, contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States, and Article II Section 18 of the Constitution of the State of New Mexico in that (i) the order does not rest upon an authorized statutory basis, (ii) the order is not supported by substantial evidence, and (iii) the order is incomplete.

WHEREFORE, Petitioners respectfully pray that:

1. Order No. R-1670-M be reviewed by this Court and upon review be adjudicated to be unlawful, erroneous and void as to the Commission's Findings and Conclusions heretofore set forth and that an appropriate order be entered by this

Court vacating and holding for naught that portion thereof which established the gas proration formula to be a 100% surface acreage formula and directing the entry of such order establishing a gas proration formula as prescribed by law, or, in the alternative that such Order No. R-1670-M be vacated in its entirety and held for naught, and

2. Petitioners have such further relief as the Court may deem just and proper.

ATWOOD, MALONE, MANN & COOTER

BY 

Post Office Drawer 700
Roswell, New Mexico

Attorneys for Petitioners

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
ON ITS OWN MOTION TO CONSIDER
INSTITUTING GAS PRORATIONING IN
THE SOUTH CARLSBAD-STRAWN GAS POOL,
EDDY COUNTY, NEW MEXICO.

RECORDS CENTER

CASE NO. 4694
Order No. R-1670-M

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on April 19, 1972, at Hobbs, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 30th day of June, 1972, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That by Order No. R-3922, dated February 20, 1970, the Commission created the South Carlsbad-Strawn Gas Pool, Eddy County, New Mexico, for the production of gas from the Strawn formation.

(3) That the horizontal limits of said pool have been extended from time to time by order of the Commission.

(4) That the horizontal limits of the South Carlsbad-Strawn Pool, as defined by the Commission, at the time of hearing this case comprise the following described area:

EDDY COUNTY

TOWNSHIP 22 SOUTH, RANGE 27 EAST, NMPM

Section 30: S/2

Section 31: All

TOWNSHIP 23 SOUTH, RANGE 26 EAST, NMPM

Section 1: E/2

TOWNSHIP 23 SOUTH, RANGE 27 EAST, NMPM

Section 6: All

(5) That in February, 1972, there were four wells completed in the Strawn formation within the above-described area and connected to gas transportation facilities.

(6) That in February, 1972, one of the wells was connected to the Transwestern Pipeline Company gas gathering system and that three of the wells were connected to the Llano, Inc. gas gathering system.

(7) That the South Carlsbad Field comprises the South Carlsbad-Atoka, South Carlsbad-Strawn, and South Carlsbad-Morrow Gas Pools.

(8) That the capacity of the Transwestern system serving the South Carlsbad Field is 90,000 MCF of gas per day.

(9) That the capacity of the Llano system serving the South Carlsbad Field is 30,000 MCF of gas per day.

(10) That the Transwestern system that takes gas from the South Carlsbad-Strawn Gas Pool also takes gas from the South Carlsbad-Morrow and South Carlsbad-Atoka Gas Pools.

(11) That the Llano system that takes gas from the South Carlsbad-Strawn Gas Pool also takes gas from the South Carlsbad-Morrow Gas Pool.

(12) That at the time of this hearing, the most recent month for which production figures were available was February, 1972.

(13) That there is evidence that additional wells have been connected to gas transportation facilities in the South Carlsbad-Morrow Gas Pool and South Carlsbad-Strawn Gas Pool after February 1, 1972, and prior to the time of this hearing.

(14) That there is no substantial evidence that the manner of producing the wells in the South Carlsbad-Strawn Gas Pool has been substantially altered after February, 1972.

(15) That it can reasonably be inferred that the manner of producing the wells in the South Carlsbad-Strawn Gas Pool is substantially the same as it was in February, 1972.

(16) That at the time of the hearing of this case, the Transwestern system was purchasing approximately 41,000 MCF of gas per day from the three pools combined.

(17) That in February, 1972, the Transwestern system purchased an average of 1815 MCF of gas per day from the one well in the South Carlsbad-Strawn Gas Pool connected to its system.

(18) That at the time of this hearing Transwestern was

purchasing gas from thirteen wells producing from the South Carlsbad-Morrow Gas Pool, three wells producing from the South Carlsbad-Strawn Gas Pool, and one well producing from the South Carlsbad-Atoka Gas Pool.

(19) That considering the fact that Transwestern's system is taking gas from thirteen wells in the South Carlsbad-Morrow Gas Pool and from one well in the South Carlsbad-Atoka Gas Pool, its capacity to take gas from the South Carlsbad-Strawn Gas Pool is substantially less than 90,000 MCF of gas per day.

(20) That in February, 1972, the Llano system purchased 10,393 MCF of gas per day from three wells producing from the South Carlsbad-Strawn Gas Pool.

(21) That at the time of this hearing Llano was purchasing gas from three wells producing from the South Carlsbad-Strawn Gas Pool and three wells producing from the South Carlsbad-Morrow Gas Pool.

(22) That considering the fact that Llano's system is presently connected to three wells in the South Carlsbad-Morrow Gas Pool, its capacity to take gas from the South Carlsbad-Strawn Gas Pool is substantially less than 30,000 MCF of gas per day.

(23) That the combined capacity of the two systems for gas from the South Carlsbad-Strawn Gas Pool is substantially less than 120,000 MCF of gas per day.

(24) That the shut-in pressures of the four wells in the South Carlsbad-Strawn Gas Pool connected to gas transportation facilities in February, 1972, ranges from a low of 3421 psi to a high of 3955 psi; that the average of said pressures is 3742 psi.

(25) That considering the nature of the South Carlsbad-Strawn Gas Pool reservoir and the high pressures existing in the pool, the daily deliverability of a well at 850 psi is essentially the same as it would be at 870 psi or 900 psi.

(26) That the producing capacity of the one South Carlsbad-Strawn well connected to the Transwestern system in February, 1972, at 850 psi is approximately 22,500 MCF of gas per day; that the capacity of said well at absolute open flow is approximately 23,012 MCF of gas per day.

(27) That the combined producing capacity of the three South Carlsbad-Strawn wells connected to the Llano system in February, 1972, at 850 psi is approximately 51,500 MCF of gas per day; that the capacity of said wells at absolute open flow is approximately 59,350 MCF of gas per day.

(28) That the combined producing capacity of the four South Carlsbad-Strawn wells connected to gas transportation facilities in February, 1972, at 850 psi is approximately 74,000 MCF of gas per day; that the capacity of said wells at absolute open flow is approximately 82,362 MCF of gas per day.

(29) That since February, 1972, Transwestern has connected to its system two additional wells producing from the South Carlsbad-Strawn Gas Pool.

(30) That wells in the subject pool connected to the Transwestern system and as described in Findings (26) and (29), above, are capable of producing gas substantially in excess of Transwestern's capacity to take gas from the South Carlsbad-Strawn Gas Pool.

(31) That wells in the subject pool connected to the Llano system as described in Finding No. 22, above, are capable of producing gas substantially in excess of Llano's capacity to take gas from the South Carlsbad-Strawn Gas Pool.

(32) That the combined capacity of the wells connected to both systems is substantially in excess of the capacity of the combined gas transportation facilities in the pool.

(33) That the Transwestern system is currently purchasing approximately 41,000 MCF of gas per day at an average pipeline pressure of 870 psi from the seventeen wells in the South Carlsbad-Atoka, South Carlsbad-Strawn and South Carlsbad-Morrow Gas Pools connected to its system.

(34) That the Llano system is currently purchasing from the South Carlsbad-Strawn and South Carlsbad-Morrow Gas Pools substantially less than 25,000 MCF of gas per day at an average pipeline pressure of 900 psi.

(35) That in February, 1972, Transwestern purchased approximately 1815 MCF of gas per day from the one well connected to its system producing from the South Carlsbad-Strawn Gas Pool.

(36) That at the time of this hearing Transwestern was purchasing gas from thirteen wells producing from the South Carlsbad-Morrow Gas Pool, three wells producing from the South Carlsbad-Strawn Gas Pool, and one well producing from the South Carlsbad-Atoka Gas Pool.

(37) That in February, 1972, Llano purchased approximately 10,393 MCF of gas per day from the three wells connected to its system producing from the South Carlsbad-Strawn Gas Pool.

(38) That at the time of this hearing Llano was connected to three wells producing from the South Carlsbad-Morrow Gas Pool and three wells producing from the South Carlsbad-Strawn Gas Pool.

(39) That considering the fact that Transwestern is taking gas from thirteen wells in the South Carlsbad-Morrow Gas Pool and one well in the South Carlsbad-Atoka Gas Pool, it must be taking substantially less than 41,000 MCF of gas per day from the South Carlsbad-Strawn Gas Pool.

(40) That considering the fact that Llano is connected to three wells in the South Carlsbad-Morrow Gas Pool, it must be taking substantially less than 25,000 MCF of gas per day from the South Carlsbad-Strawn Gas Pool.

(41) That both systems combined are currently purchasing substantially less than 66,000 MCF of gas per day from the South Carlsbad-Strawn Gas Pool.

(42) That the reasonable market demand for gas from the wells in the South Carlsbad-Strawn Gas Pool connected to the Transwestern system is substantially less than 41,000 MCF of gas per day.

(43) That the reasonable market demand for gas from the wells in the South Carlsbad-Strawn Gas Pool connected to the Llano system is less than 25,000 MCF of gas per day.

(44) That the reasonable market demand for gas from the wells in the South Carlsbad-Strawn Gas Pool connected to both systems is less than 66,000 MCF of gas per day.

(45) That the wells in the South Carlsbad-Strawn Gas Pool connected to the Transwestern system are capable of producing gas in excess of Transwestern's reasonable market demand for gas from those wells.

(46) That the wells in the South Carlsbad-Strawn Gas Pool connected to the Llano system are capable of producing gas in excess of Llano's reasonable market demand for gas from those wells.

(47) That the wells in the South Carlsbad-Strawn Gas Pool are capable of producing gas in excess of the combined reasonable market demand for gas from the South Carlsbad-Strawn Gas Pool.

(48) That the daily deliverability of the wells connected to Llano's system in February, 1972, ranges from a low of 10,500 MCF of gas per day to a high of 21,000 MCF of gas per day; that the deliverability of the well connected to Transwestern's system in February, 1972, is 22,500 MCF of gas per day.

(49) That in February, 1972, gas was taken from the well in the South Carlsbad-Strawn Gas Pool connected to Transwestern's system at an average take per connection day of 1815 MCF.

(50) That in February, 1972, gas was taken from the wells in the South Carlsbad-Strawn Gas Pool connected to Llano's system at an average take per connection day of 3464 MCF.

(51) That gas is being taken from the wells in the subject pool at a rate varying from approximately 14.9% of the monthly market for gas from the pool to 29.2% of the monthly market for gas from the pool.

(52) That in February, 1972, gas was taken from the well in the subject pool connected to Transwestern's system at a rate of 8.1% of its daily deliverability.

(53) That in February, 1972, gas was taken from the wells in the subject pool connected to Llano's system at a rate varying from 16.3% of a well's daily deliverability to 32.5% of a well's daily deliverability.

(54) That in February, 1972, gas was taken from the wells in the subject pool at a rate varying from 8.1% of a well's daily deliverability to 32.5% of a well's daily deliverability.

(55) That the reasonable market demand for gas from a well is that well's fair share of the total market demand for gas from that pool that can be produced without waste.

(56) That gas is being produced from some wells in the subject pool in excess of the reasonable market demand for gas from those wells.

(57) That gas is being produced from some wells in the subject pool in an amount less than the reasonable market demand for gas from those wells.

(58) That gas is not being taken ratably from the various producers in the pool.

(59) That there are owners of property in the subject pool who are being denied the opportunity to produce without waste their just and equitable share of the gas in the pool.

(60) That there are owners of property in the subject pool that are producing more than their just and equitable share of the gas in the pool.

(61) That drainage is occurring between tracts in the pool which is not equalized by counter drainage.

(62) That the correlative rights of some producers in the pool are being violated.

(63) That waste is occurring in the subject pool.

(64) That in order to prevent waste and to ensure that all owners of property in the subject pool have the opportunity to produce their share of the gas, the subject pool should be prorated in order to limit the amount of gas to be recovered from each tract to the reasonable market demand for gas from that tract that can be produced without waste.

(65) That to ensure that each owner of property in the subject pool has the opportunity to produce that amount of gas that can be practicably obtained without waste substantially in the proportion that the recoverable gas under his tract bears to the total recoverable gas in the pool, the subject pool should be prorated in order to limit the amount of gas to be produced from the pool to the reasonable market demand and the capacity of the gas transportation facilities.

(66) That the subject pool has not been completely developed.

(67) That no cores of the Strawn formation are available in the South Carlsbad-Strawn Gas Pool.

(68) That there are logs available of said wells and that the logs indicate a marked and sometimes rapid variation between wells in thickness of pay, porosity, net effective feet of pay, and water saturation.

(69) That due to the above-described variations the effective feet of pay, porosity, and water saturation underlying each developed tract cannot be practically determined from the data available at the wellbore.

(70) That there are recoverable gas reserves underlying each of the developed 320-acre tracts within the horizontal limits of the subject pool; that there are 6 developed 320-acre tracts in the pool as defined by the Commission.

(71) That due to the nature of the reservoir the amount of recoverable gas under each producer's tract cannot be practically determined in the subject pool by a formula which considers effective feet of pay, porosity, and water saturation.

(72) That due to the nature of the reservoir the amount of recoverable gas under each producer's tract cannot be practically determined in the subject pool by a formula which considers only the deliverability of a well.

(73) That the amount of gas that can be practicably obtained without waste by the owner of each property in the subject pool substantially in the proportion that the recoverable gas under his tract bears to the total recoverable gas in the pool can be practically determined best by allocating the allowable production among the wells on the basis of developed tract acreage compared to total developed tract acreage in the pool.

(74) That considering the nature of the reservoir and the known extent of development, a proration formula based upon surface acreage will afford the owner of each property in the pool the opportunity to produce his just and equitable share of the gas in the pool so far as such can be practicably obtained without waste substantially in the proportion that the recoverable gas under such property bears to the total recoverable gas in the pool.

(75) That in order to prevent waste the total allowable production from each gas well producing from the subject pool should be limited to the reasonable market demand for gas from that well.

(76) That in order to prevent waste the total allowable production from all gas wells producing from the subject pool should be limited to the reasonable market demand for gas from the pool.

(77) That in order to prevent waste the total allowable production from gas wells in the subject pool should be limited to the capacity of the gas transportation system for the subject pool's share of said transportation facility.

(78) That considering the available reservoir information, a 100% surface acreage formula is presently the most reasonable basis for allocating the allowable production among the wells delivering to the gas transportation facilities.

(79) That in order to prevent drainage between tracts that is not equalized by counter drainage the allowable production from the pool should be prorated to the various producers upon a just and equitable basis.

(80) That the adoption of a 100% surface acreage formula for allocating the allowable production in the subject pool will, insofar as is presently practicable, prevent drainage between producing tracts which is not equalized by counter-drainage.

(81) That in order to ensure that each operator is afforded the opportunity to produce his property ratably with all other operators connected to the same gas transportation facility, allowable production from the pool should be prorated to the various producers upon a just and equitable basis.

-9-

CASE NO. 4694

Order No. R-1670-M

(82) That the adoption of a 100% surface acreage formula for allocating the allowable production in the subject pool will, insofar as is presently practicable, allow each operator the opportunity to produce his property ratably with all other operators connected to the same transportation facility.

(83) That the subject pool should be governed by the General Rules and Regulations for the Prorated Gas Pools of Southeastern New Mexico promulgated by Order No. R-1670, as amended, insofar as said General Rules and Regulations are not inconsistent with this order or the Special Rules and Regulations for the subject pool promulgated by this order.

IT IS THEREFORE ORDERED:

(1) That the South Carlsbad-Strawn Gas Pool in Eddy County, New Mexico, is hereby prorated, effective September 1, 1972.

(2) That the subject pool shall be governed by the General Rules and Regulations for the Prorated Gas Pools of Southeastern New Mexico promulgated by Order No. R-1670, as amended, insofar as said General Rules and Regulations are not inconsistent with this order or the Special Rules and Regulations for the subject pool as hereinafter set forth, in which event the Special Rules shall apply.

SPECIAL RULES AND REGULATIONS
FOR THE
SOUTH CARLSBAD-STRAWN GAS POOL

A. WELL LOCATION AND ACREAGE REQUIREMENTS

RULE 2. Each well completed or recompleted in the South Carlsbad-Strawn Gas Pool shall be located no closer than 660 feet to the nearest side boundary of the dedicated tract nor closer than 1980 feet to the nearest end boundary nor closer than 330 feet to any governmental quarter-quarter section line.

RULE 5(A). Each well completed or recompleted in the South Carlsbad-Strawn Gas Pool shall be located on a standard proration unit consisting of any two contiguous quarter sections of a single governmental section, being a legal subdivision (half section) of the United States Public Land Surveys. For purposes of these rules, a standard proration unit shall consist of 316 through 324 contiguous surface acres.

C. ALLOCATION AND GRANTING OF ALLOWABLES

RULE 8(A). The allowable production in the South Carlsbad-Strawn Gas Pool shall be allocated as follows:

-10-
CASE NO. 4694
Order No. R-1670-M

The pool allowable remaining each month after deducting the total allowable assigned to marginal wells shall be allocated among the non-marginal wells entitled to an allowable in the proportion that each well's acreage factor bears to the total of the acreage factors for all non-marginal wells in the pool.

C. GENERAL

RULE 25. The vertical limits of the South Carlsbad-Strawn Gas Pool shall be the Strawn formation.

RULE 26. The first proration period for the South Carlsbad-Strawn Gas Pool shall commence September 1, 1972, and shall terminate December 31, 1973. Subsequent proration periods shall be the twelve-month periods as provided in the General Rules.

IT IS FURTHER ORDERED:

(1) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Bruce King
BRUCE KING, Chairman

Alex J. Armijo
ALEX J. ARMILJO, Member

A. L. Porter, Jr.
A. L. PORTER, Jr., Member & Secretary

S E A L

dr/

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
ON ITS OWN MOTION TO CONSIDER
INSTITUTING GAS PRORATIONING IN
THE SOUTH CARLSBAD STRAWN GAS POOL,
EDDY COUNTY, NEW MEXICO

CASE NO. 4694
Order No. R-1670-M

APPLICATION FOR REHEARING

TO THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO:

COMES NOW MORRIS R. ANTWEIL, an operator in the above-captioned field joined by Delta Drilling Company and Mabee Petroleum Company, non-operators, hereinafter sometimes referred to as "Applicant," and applies for a rehearing in the above-entitled and numbered case and in support thereof would respectfully show unto the New Mexico Oil Conservation Commission, (Commission), the following:

1. Applicant owns and operates oil and gas leases and gas wells within the limits of the South Carlsbad Strawn Pool in Eddy County, New Mexico.

2. Applicant participated in and presented testimony to the Commission in the hearing called by the Commission to institute gas prorationing in the South Carlsbad Strawn Pool.

3. Applicant believes and therefore alleges that Order No. R-1670-M which provides a 100% surface acreage formula for allocating the allowable production in the subject pool is void, illegal and unenforceable and as grounds therefore states:

a) In its order the Commission failed to determine the following:

- (1) The amount of recoverable gas under each producers' tracts.
- (2) The total amount of recoverable gas in the pool.
- (3) The proportion that (1) bears to (2).
- (4) What proportion of the arrived at proportion can be recovered without waste. Section 65-3-14 New Mexico Statutes 1953, as amended, and the New Mexico Supreme Court cases of Continental Oil Co. v. Oil Conservation Commission, 70 N.M. 310, 373 P. 2d 809 and El Paso Natural Gas Co. v. Oil Conservation Commission, 76 N.M. 268, 414 P. 2d 496 require the Commission to make the above findings in prorating the total allowable of natural gas from a pool in order to recognize correlative rights. The Commission's failure to determine the reserves as set out above renders said order void, illegal and unenforceable under the above New Mexico Supreme Court cases and statute.

b) Commission finding 74, to the effect that an allocation formula based on surface acreage will afford correlative rights to each property owner is a naked conclusion unsupported by evidence or fact inasmuch as the Commission made no findings of reserves and therefore is in no position to determine whether a surface acreage allocation will protect correlative rights or not. Commission findings numbered 58, 59, 60, 61, 62, 63, 79, 80, and 82 are likewise invalid conclusions for the same reason, since the Commission has not determined the proportion of gas under each owner's tract as compared with the total gas in the pool.

c) Commission finding 66 that the subject pool has not been completely developed is not supported by substantial evidence in that the overwhelming majority of testimony was to the effect that the pool was developed at the time of the hearing, considering the

Grace #1 Carlsbad-Grace Well in Unit I, Section 36-22-26, then testing, to have been capable of Strawn gas production. The Commission can take Administrative Notice that since said hearing, some three months ago, the Grace well has been completed and that no new Strawn wells have been staked, drilled or completed in the immediate area of the field.

d) The Commission's finding No. 69 to the effect that effective feet of pay porosity and water saturation necessary to determine reserves cannot be practically determined on the data available at the well bore directly conflicts with the evidence on that point presented to the Commission and is not supported by substantial evidence.

e) Commission finding 71 is unsupported by the evidence presented by all witnesses. Mr. R. M. Williams, expert witness for applicant, presented testimony as to the volumetric determination of reserves, taking into consideration effective feet of pay, porosity, and water saturation. He testified, and no witness refuted, that the only method of determining tract reserves and their proportion to total pool reserves is the volumetric method of reserves determination. Mr. Williams testimony, again unrefuted, established that other available methods of reserve determination, such as material balance or pressure decline extrapolation, are applicable only to the determination of the reserves of the total field and are not applicable to individual tracts.

f) Commission finding 73 to the effect that the best method of practically determining reserves in the field is by allocating on the basis of tract acreage is not only not a fact but is illogical, unreasonable, and impossible of comprehension. Under no circumstances could one determine reserves by allocating production by any method. Baldly stated, allocation of production is

not determination of reserves as stated in said findings. The determination of reserves must be made using modern engineering principles and practices, not by Administrative fiat.

g) Order No. R-1670-M fails to protect the correlative rights of owners within the South Carlsbad Strawn Gas Pool, but instead impairs the correlative rights of owners in the pool in that it will permit production of gas underlying offsetting tracts without affording compensating counter-drainage, and without affording each operator the opportunity to produce his just and equitable share of the gas underlying his lands, as required by law.

h) The Commission refused to grant the motion of Applicant to hear Case No. 4694 separately from Case 4693. Said motion was based upon Applicant's objection to the merging of said cases by the Commission for purposes of hearing. Case 4693 was concerned with the South Carlsbad Morrow Pool proration allocation and Case 4694 with the South Carlsbad Strawn Pool proration. The characteristics of the fields are vastly dissimilar and testimony established conclusively that the determination of reserves in the Morrow pool is difficult while determination of reserves in the Strawn pool is relatively simple. Applicant contends that this merging of testimony might well have confused the record and influenced the Commission to deny Applicants' request for allocation of allowables based on reserves in the South Carlsbad Strawn Field, thus denying him of his property without the due process of law in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18 of the Constitution of the State of New Mexico.

i) Order No. R-1670-M is unreasonable, arbitrary and discriminatory and the effect of said order is to confiscate and

deprive this applicant of his property without the due process of law contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18, of the Constitution of the State of New Mexico, in that:

(1) The order does not rest upon an authorized statutory basis;

(2) The order is not supported by substantial evidence; and

(3) The order is incomplete.

WHEREFORE, Applicant prays that this Application for Rehearing be granted for the purpose of reconsidering that portion of Order No. R-1670-M providing for the allocation of allowable based upon 100% acreage, and that after notice as required by law, and upon rehearing of the South Carlsbad Strawn Pool separate and distinct from the South Carlsbad Morrow Pool Proration, the Commission modify said order by striking and removing therefrom each and every erroneous and invalid finding referred to hereinabove and each and every provision of said order relating to allocation of allowable based upon 100% acreage in the South Carlsbad Strawn Pool, and in lieu thereof, enter its order basing its allowable on the proportion that the reserves underlying each tract in said pool bears to the total reserves in said pool, as directed by law.

Respectfully submitted,

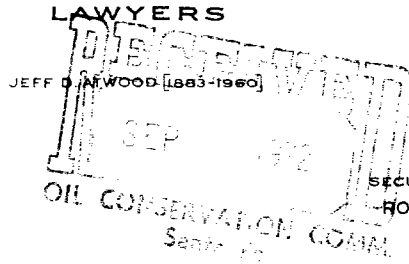
MORRIS R. ANTWEIL, OPERATOR

DELTA DRILLING CO., and
MAYBEE PETROLEUM CO, NON-OPERATORS

By: 

Donald G. Stevens, Attorney for
Applicant

ATWOOD, MALONE, MANN & COOTER



P. O. DRAWER 700
SECURITY NATIONAL BANK BUILDING
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CHARLES F. MALONE
RUSSELL D. MANN
PAUL A. COOTER
BOB F. TURNER
ROBERT A. JOHNSON
JOHN W. BASSETT
ROBERT E. SABIN
RUFUS E. THOMPSON

September 22, 1972

JMA

Mrs. Frances Wilcox
Clerk of the District Court
Eddy County Courthouse
Carlsbad, New Mexico 88220

RE: No. 28180 - Antweil v. Oil Conservation
Commission

Dear Mrs. Wilcox:

Would you please note and file the enclosed Agreement Designating Judge Nash in the captioned case.

With kind regards, I am,

Very truly yours,

Paul Cooter

PC:sah
Encl.

cc: George M. Hatch, Esquire
Donald G. Stevens, Esquire
Mr. R. M. Williams

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

September 13, 1972

**Mr. Paul A. Cooter
Attorney
P. O. Drawer 700
Roswell, New Mexico 88201**

Dear Mr. Cooter:

**Enclosed please find a copy of the Affidavit
of Disqualification mailed, this date, to be filed
in Eddy County Cause No. 28180.**

Very truly yours,

**DAVID L. NORVELL
Attorney General**

**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

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OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

September 13, 1972

C
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Y

Mr. Donald G. Stevens
Attorney
P. O. Box 1904
Santa Fe, New Mexico 87501

Dear Mr. Stevens:

Enclosed please find a copy of the Affidavit
of Disqualification mailed, this date, to be filed
in Eddy County Cause No. 28180.

Very truly yours,

DAVID L. NORVELL
Attorney General

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 13, 1972

C
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The Honorable D. D. Archer
District Judge
District Court of the Fifth
Judicial District
Carlsbad, New Mexico

Dear Sir:

Enclosed please find a copy of the Affidavit
of Disqualification mailed, this date, to be filed
in Eddy County Cause No. 28180.

Very truly yours,

DAVID L. NORVELL
Attorney General

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 13, 1972

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

Dear Mrs. Wilcox:

Enclosed please find the original Affidavit of
Disqualification to be filed in Eddy County Cause
No. 28180.

Very truly yours,

DAVID L. NORVELL
Attorney General

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

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

MORRIS R. ANTWEIL, DELTA
DRILLING COMPANY and MABEE
PETROLEUM COMPANY,

Petitioners,)

No. 28180

vs.)

OIL CONSERVATION COMMISSION
OF NEW MEXICO,

Respondent.)

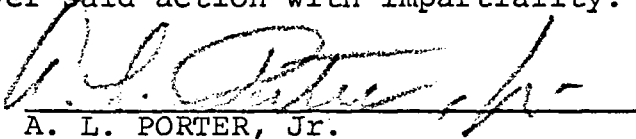
AFFIDAVIT OF DISQUALIFICATION

STATE OF NEW MEXICO)

) ss.

COUNTY OF SANTA FE)

A. L. PORTER, Jr. being first duly sworn, deposes, and says:
That affiant is the Secretary-Director of the New Mexico Oil
Conservation Commission, the Respondent in the above-entitled cause;
that said cause is to be or may be tried and heard before the
Honorable D. D. Archer; that according to the belief of affiant
said Judge cannot preside over said action with impartiality.


A. L. PORTER, Jr.
Secretary-Director

Subscribed and sworn to before me this 14th day of

September, 1972.



NOTARY PUBLIC

My Commission Expires:

10-28-73

I hereby certify that on the 14th day of September,
1972, copies of the above Affidavit of Disqualification were
mailed, postage prepaid, to the judge of record and to opposing
counsel of record.

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

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
ON ITS OWN MOTION TO CONSIDER
INSTITUTING GAS PRORATIONING IN
THE SOUTH CARLSBAD STRAWN GAS POOL,
EDDY COUNTY, NEW MEXICO

CASE NO. 4694
Order No. R-1670-M

APPLICATION FOR REHEARING

TO THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO:

COMES NOW MORRIS R. ANTWEIL, an operator in the above-captioned field joined by Delta Drilling Company and Mabee Petroleum Company, non-operators, hereinafter sometimes referred to as "Applicant," and applies for a rehearing in the above-entitled and numbered case and in support thereof would respectfully show unto the New Mexico Oil Conservation Commission, (Commission), the following:

1. Applicant owns and operates oil and gas leases and gas wells within the limits of the South Carlsbad Strawn Pool in Eddy County, New Mexico.
2. Applicant participated in and presented testimony to the Commission in the hearing called by the Commission to institute gas prorationing in the South Carlsbad Strawn Pool.
3. Applicant believes and therefore alleges that Order No. R-1670-M which provides a 100% surface acreage formula for allocating the allowable production in the subject pool is void, illegal and unenforceable and as grounds therefore states:

a) In its order the Commission failed to determine the following:

(1) The amount of recoverable gas under each producers' tracts.

(2) The total amount of recoverable gas in the pool.

(3) The proportion that (1) bears to (2).

(4) What proportion of the arrived at proportion can be recovered without waste. Section 65-3-14 New Mexico Statutes 1953, as amended, and the New Mexico Supreme Court cases of Continental Oil Co. v. Oil Conservation Commission, 70 N.M. 310, 373 P. 2d 809 and El Paso Natural Gas Co. v. Oil Conservation Commission, 76 N.M. 268, 414 P. 2d 496 require the Commission to make the above findings in prorating the total allowable of natural gas from a pool in order to recognize correlative rights. The Commission's failure to determine the reserves as set out above renders said order void, illegal and unenforceable under the above New Mexico Supreme Court cases and statute.

b) Commission finding 74, to the effect that an allocation formula based on surface acreage will afford correlative rights to each property owner is a naked conclusion unsupported by evidence or fact inasmuch as the Commission made no findings of reserves and therefore is in no position to determine whether a surface acreage allocation will protect correlative rights or not. Commission findings numbered 58, 59, 60, 61, 62, 63, 78, 80, and 82 are likewise invalid conclusions for the same reason, since the Commission has not determined the proportion of gas under each owner's tract as compared with the total gas in the pool.

c) Commission finding 66 that the subject pool has not been completely developed is not supported by substantial evidence in that the overwhelming majority of testimony was to the effect that the pool was developed at the time of the hearing, considering the

Grace #1 Carlsbad-Grace Well in Unit I, Section 36-22-26, then testing, to have been capable of Strawn gas production. The Commission can take Administrative Notice that since said hearing, some three months ago, the Grace well has been completed and that no new Strawn wells have been staked, drilled or completed in the immediate area of the field.

d) The Commission's finding No. 69 to the effect that effective feet of pay porosity and water saturation necessary to determine reserves cannot be practically determined on the data available at the well bore directly conflicts with the evidence on that point presented to the Commission and is not supported by substantial evidence.

e) Commission finding 71 is unsupported by the evidence presented by all witnesses. Mr. R. M. Williams, expert witness for applicant, presented testimony as to the volumetric determination of reserves, taking into consideration effective feet of pay, porosity, and water saturation. He testified, and no witness refuted, that the only method of determining tract reserves and their proportion to total pool reserves is the volumetric method of reserves determination. Mr. Williams testimony, again unrefuted, established that other available methods of reserve determination, such as material balance or pressure decline extrapolation, are applicable only to the determination of the reserves of the total field and are not applicable to individual tracts.

f) Commission finding 73 to the effect that the best method of practically determining reserves in the field is by allocating on the basis of tract acreage is not only not a fact but is illogical, unreasonable, and impossible of comprehension. Under no circumstances could one determine reserves by allocating production by any method. Baldly stated, allocation of production is

not determination of reserves as stated in said findings. The determination of reserves must be made using modern engineering principles and practices, not by Administrative fiat.

g) Order No. R-1670-M fails to protect the correlative rights of owners within the South Carlsbad Strawn Gas Pool, but instead impairs the correlative rights of owners in the pool in that it will permit production of gas underlying offsetting tracts without affording compensating counter-drainage, and without affording each operator the opportunity to produce his just and equitable share of the gas underlying his lands, as required by law.

h) The Commission refused to grant the motion of Applicant to hear Case No. 4694 separately from Case 4693. Said motion was based upon Applicant's objection to the merging of said cases by the Commission for purposes of hearing. Case 4693 was concerned with the South Carlsbad Morrow Pool proration allocation and Case 4694 with the South Carlsbad Strawn Pool proration. The characteristics of the fields are vastly dissimilar and testimony established conclusively that the determination of reserves in the Morrow pool is difficult while determination of reserves in the Strawn pool is relatively simple. Applicant contends that this merging of testimony might well have confused the record and influenced the Commission to deny Applicants' request for allocation of allowables based on reserves in the South Carlsbad Strawn Field, thus denying him of his property without the due process of law in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18 of the Constitution of the State of New Mexico.

i) Order No. R-1670-M is unreasonable, arbitrary and discriminatory and the effect of said order is to confiscate and

deprive this applicant of his property without the due process of law contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18, of the Constitution of the State of New Mexico, in that:

(1) The order does not rest upon an authorized statutory basis;

(2) The order is not supported by substantial evidence; and

(3) The order is incomplete.

WHEREFORE, Applicant prays that this Application for Rehearing be granted for the purpose of reconsidering that portion of Order No. R-1670-M providing for the allocation of allowable based upon 100% acreage, and that after notice as required by law, and upon rehearing of the South Carlsbad Strawn Pool separate and distinct from the South Carlsbad Morrow Pool Proration, the Commission modify said order by striking and removing therefrom each and every erroneous and invalid finding referred to hereinabove and each and every provision of said order relating to allocation of allowable based upon 100% acreage in the South Carlsbad Strawn Pool, and in lieu thereof, enter its order basing its allowable on the proportion that the reserves underlying each tract in said pool bears to the total reserves in said pool, as directed by law.

Respectfully submitted,

MORRIS R. ANTWEIL, OPERATOR

DELTA DRILLING CO., and
MAYBEE PETROLEUM CO, NON-OPERATORS

By:


Donald G. Stevens, Attorney for
Applicant

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
ON ITS OWN MOTION TO CONSIDER
INSTITUTING GAS PRORATIONING IN
THE SOUTH CARLSBAD STRAWN GAS POOL,
EDDY COUNTY, NEW MEXICO

CASE NO. 4694
Order No. R-1670-M

APPLICATION FOR REHEARING

TO THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO:

COMES NOW MORRIS R. ANTWEIL, an operator in the above-captioned field joined by Delta Drilling Company and Mabee Petroleum Company, non-operators, hereinafter sometimes referred to as "Applicant," and applies for a rehearing in the above-entitled and numbered case and in support thereof would respectfully show unto the New Mexico Oil Conservation Commission, (Commission), the following:

1. Applicant owns and operates oil and gas leases and gas wells within the limits of the South Carlsbad Strawn Pool in Eddy County, New Mexico.
2. Applicant participated in and presented testimony to the Commission in the hearing called by the Commission to institute gas prorationing in the South Carlsbad Strawn Pool.
3. Applicant believes and therefore alleges that Order No. R-1670-M which provides a 100% surface acreage formula for allocating the allowable production in the subject pool is void, illegal and unenforceable and as grounds therefore states:

a) In its order the Commission failed to determine the following:

(1) The amount of recoverable gas under each producers' tracts.

(2) The total amount of recoverable gas in the pool.

(3) The proportion that (1) bears to (2).

(4) What proportion of the arrived at proportion can be recovered without waste. Section 65-3-14 New Mexico Statutes 1953, as amended, and the New Mexico Supreme Court cases of Continental Oil Co. v. Oil Conservation Commission, 70 N.M. 310, 373 P. 2d 809 and El Paso Natural Gas Co. v. Oil Conservation Commission, 76 N.M. 268, 414 P. 2d 496 require the Commission to make the above findings in prorating the total allowable of natural gas from a pool in order to recognize correlative rights. The Commission's failure to determine the reserves as set out above renders said order void, illegal and unenforceable under the above New Mexico Supreme Court cases and statute.

b) Commission finding 74, to the effect that an allocation formula based on surface acreage will afford correlative rights to each property owner is a naked conclusion unsupported by evidence or fact inasmuch as the Commission made no findings of reserves and therefore is in no position to determine whether a surface acreage allocation will protect correlative rights or not. Commission findings numbered 58, 59, 60, 61, 62, 63, 78, 80, and 82 are likewise invalid conclusions for the same reason, since the Commission has not determined the proportion of gas under each owner's tract as compared with the total gas in the pool.

c) Commission finding 66 that the subject pool has not been completely developed is not supported by substantial evidence in that the overwhelming majority of testimony was to the effect that the pool was developed at the time of the hearing, considering the

Grace #1 Carlabad-Grace Well in Unit I, Section 36-22-26, then testing, to have been capable of Strawn gas production. The Commission can take Administrative Notice that since said hearing, some three months ago, the Grace well has been completed and that no new Strawn wells have been staked, drilled or completed in the immediate area of the field.

d) The Commission's finding No. 69 to the effect that effective feet of pay porosity and water saturation necessary to determine reserves cannot be practically determined on the data available at the well bore directly conflicts with the evidence on that point presented to the Commission and is not supported by substantial evidence.

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h) The Commission refused to grant the motion of Applicant to hear Case No. 4694 separately from Case 4693. Said motion was based upon Applicant's objection to the merging of said cases by the Commission for purposes of hearing. Case 4693 was concerned with the South Carlsbad Morrow Pool proration allocation and Case 4694 with the South Carlsbad Strawn Pool proration. The characteristics of the fields are vastly dissimilar and testimony established conclusively that the determination of reserves in the Morrow pool is difficult while determination of reserves in the Strawn pool is relatively simple. Applicant contends that this merging of testimony might well have confused the record and influenced the Commission to deny Applicants' request for allocation of allowables based on reserves in the South Carlsbad Strawn Field, thus denying him of his property without the due process of law in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18 of the Constitution of the State of New Mexico.

i) Order No. R-1670-M is unreasonable, arbitrary and discriminatory and the effect of said order is to confiscate and

deprive this applicant of his property without the due process of law contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18, of the Constitution of the State of New Mexico, in that:

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Respectfully submitted,

MORRIS R. ANTWEIL, OPERATOR

DELTA DRILLING CO., and
MAYBEE PETROLEUM CO, NON-OPERATORS

By:


Donald G. Stevens, Attorney for
Applicant

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
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INSTITUTING GAS PRORATIONING IN
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CASE NO. 4694
Order No. R-1670-M

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TO THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO:

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1. Applicant owns and operates oil and gas leases and gas wells within the limits of the South Carlsbad Strawn Pool in Eddy County, New Mexico.
2. Applicant participated in and presented testimony to the Commission in the hearing called by the Commission to institute gas prorationing in the South Carlsbad Strawn Pool.
3. Applicant believes and therefore alleges that Order No. R-1670-M which provides a 100% surface acreage formula for allocating the allowable production in the subject pool is void, illegal and unenforceable and as grounds therefore states:

a) In its order the Commission failed to determine the following:

- (1) The amount of recoverable gas under each producers' tracts.
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h) The Commission refused to grant the motion of Applicant to hear Case No. 4694 separately from Case 4693. Said motion was based upon Applicant's objection to the merging of said cases by the Commission for purposes of hearing. Case 4693 was concerned with the South Carlsbad Morrow Pool proration allocation and Case 4694 with the South Carlsbad Strawn Pool proration. The characteristics of the fields are vastly dissimilar and testimony established conclusively that the determination of reserves in the Morrow pool is difficult while determination of reserves in the Strawn pool is relatively simple. Applicant contends that this merging of testimony might well have confused the record and influenced the Commission to deny Applicants' request for allocation of allowables based on reserves in the South Carlsbad Strawn Field, thus denying him of his property without the due process of law in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18 of the Constitution of the State of New Mexico.

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deprive this applicant of his property without the due process of law contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States and of Article 2, Section 18, of the Constitution of the State of New Mexico, in that:


- (1) The order does not rest upon an authorized statutory basis;
- (2) The order is not supported by substantial evidence;
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WHEREFORE, Applicant prays that this Application for Rehearing be granted for the purpose of reconsidering that portion of Order No. R-1670-M providing for the allocation of allowable based upon 100% acreage, and that after notice as required by law, and upon rehearing of the South Carlsbad Strawn Pool separate and distinct from the South Carlsbad Morrow Pool Proration, the Commission modify said order by striking and removing therefrom each and every erroneous and invalid finding referred to hereinabove and each and every provision of said order relating to allocation of allowable based upon 100% acreage in the South Carlsbad Strawn Pool, and in lieu thereof, enter its order basing its allowable on the proportion that the reserves underlying each tract in said pool bears to the total reserves in said pool, as directed by law.

Respectfully submitted,

MORRIS R. ANTWEIL, OPERATOR

DELTA DRILLING CO., and
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By: 
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BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION COMMISSION
ON ITS OWN MOTION TO CONSIDER
INSTITUTING GAS PRORATIONING IN
THE SOUTH CARLSBAD-STRAWN GAS POOL,
EDDY COUNTY, NEW MEXICO.

RECORDS CENTER

CASE NO. 4694
Order No. R-1670-M

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on April 19, 1972, at Hobbs, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 30th day of June, 1972, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That by Order No. R-3922, dated February 20, 1970, the Commission created the South Carlsbad-Strawn Gas Pool, Eddy County, New Mexico, for the production of gas from the Strawn formation.

(3) That the horizontal limits of said pool have been extended from time to time by order of the Commission.

(4) That the horizontal limits of the South Carlsbad-Strawn Pool, as defined by the Commission, at the time of hearing this case comprise the following described area:

EDDY COUNTY

TOWNSHIP 22 SOUTH, RANGE 27 EAST, NMPM

Section 30: S/2

Section 31: All

TOWNSHIP 23 SOUTH, RANGE 26 EAST, NMPM

Section 1: E/2

TOWNSHIP 23 SOUTH, RANGE 27 EAST, NMPM

Section 6: All

(5) That in February, 1972, there were four wells completed in the Strawn formation within the above-described area and connected to gas transportation facilities.

(6) That in February, 1972, one of the wells was connected to the Transwestern Pipeline Company gas gathering system and that three of the wells were connected to the Llano, Inc. gas gathering system.

(7) That the South Carlsbad Field comprises the South Carlsbad-Atoka, South Carlsbad-Strawn, and South Carlsbad-Morrow Gas Pools.

(8) That the capacity of the Transwestern system serving the South Carlsbad Field is 90,000 MCF of gas per day.

(9) That the capacity of the Llano system serving the South Carlsbad Field is 30,000 MCF of gas per day.

(10) That the Transwestern system that takes gas from the South Carlsbad-Strawn Gas Pool also takes gas from the South Carlsbad-Morrow and South Carlsbad-Atoka Gas Pools.

(11) That the Llano system that takes gas from the South Carlsbad-Strawn Gas Pool also takes gas from the South Carlsbad-Morrow Gas Pool.

(12) That at the time of this hearing, the most recent month for which production figures were available was February, 1972.

(13) That there is evidence that additional wells have been connected to gas transportation facilities in the South Carlsbad-Morrow Gas Pool and South Carlsbad-Strawn Gas Pool after February 1, 1972, and prior to the time of this hearing.

(14) That there is no substantial evidence that the manner of producing the wells in the South Carlsbad-Strawn Gas Pool has been substantially altered after February, 1972.

(15) That it can reasonably be inferred that the manner of producing the wells in the South Carlsbad-Strawn Gas Pool is substantially the same as it was in February, 1972.

(16) That at the time of the hearing of this case, the Transwestern system was purchasing approximately 41,000 MCF of gas per day from the three pools combined.

(17) That in February, 1972, the Transwestern system purchased an average of 1815 MCF of gas per day from the one well in the South Carlsbad-Strawn Gas Pool connected to its system.

(18) That at the time of this hearing Transwestern was

purchasing gas from thirteen wells producing from the South Carlsbad-Morrow Gas Pool, three wells producing from the South Carlsbad-Strawn Gas Pool, and one well producing from the South Carlsbad-Atoka Gas Pool.

(19) That considering the fact that Transwestern's system is taking gas from thirteen wells in the South Carlsbad-Morrow Gas Pool and from one well in the South Carlsbad-Atoka Gas Pool, its capacity to take gas from the South Carlsbad-Strawn Gas Pool is substantially less than 90,000 MCF of gas per day.

(20) That in February, 1972, the Llano system purchased 10,393 MCF of gas per day from three wells producing from the South Carlsbad-Strawn Gas Pool.

(21) That at the time of this hearing Llano was purchasing gas from three wells producing from the South Carlsbad-Strawn Gas Pool and three wells producing from the South Carlsbad-Morrow Gas Pool.

(22) That considering the fact that Llano's system is presently connected to three wells in the South Carlsbad-Morrow Gas Pool, its capacity to take gas from the South Carlsbad-Strawn Gas Pool is substantially less than 30,000 MCF of gas per day.

(23) That the combined capacity of the two systems for gas from the South Carlsbad-Strawn Gas Pool is substantially less than 120,000 MCF of gas per day.

(24) That the shut-in pressures of the four wells in the South Carlsbad-Strawn Gas Pool connected to gas transportation facilities in February, 1972, ranges from a low of 3421 psi to a high of 3955 psi; that the average of said pressures is 3742 psi.

(25) That considering the nature of the South Carlsbad-Strawn Gas Pool reservoir and the high pressures existing in the pool, the daily deliverability of a well at 850 psi is essentially the same as it would be at 870 psi or 900 psi.

(26) That the producing capacity of the one South Carlsbad-Strawn well connected to the Transwestern system in February, 1972, at 850 psi is approximately 22,500 MCF of gas per day; that the capacity of said well at absolute open flow is approximately 23,012 MCF of gas per day.

(27) That the combined producing capacity of the three South Carlsbad-Strawn wells connected to the Llano system in February, 1972, at 850 psi is approximately 51,500 MCF of gas per day; that the capacity of said wells at absolute open flow is approximately 59,350 MCF of gas per day.

(28) That the combined producing capacity of the four South Carlsbad-Strawn wells connected to gas transportation facilities in February, 1972, at 850 psi is approximately 70,000 MCF of gas per day; that the capacity of said wells at absolute open flow is approximately 82,362 MCF of gas per day.

(29) That since February, 1972, Transwestern has connected to its system two additional wells producing from the South Carlsbad-Strawn Gas Pool.

(30) That wells in the subject pool connected to the Transwestern system and as described in Findings (26) and (29), above, are capable of producing gas substantially in excess of Transwestern's capacity to take gas from the South Carlsbad-Strawn Gas Pool.

(31) That wells in the subject pool connected to the Llano system as described in Finding No. 22, above, are capable of producing gas substantially in excess of Llano's capacity to take gas from the South Carlsbad-Strawn Gas Pool.

(32) That the combined capacity of the wells connected to both systems is substantially in excess of the capacity of the combined gas transportation facilities in the pool.

(33) That the Transwestern system is currently purchasing approximately 41,000 MCF of gas per day at an average pipeline pressure of 870 psi from the seventeen wells in the South Carlsbad-Atoka, South Carlsbad-Strawn and South Carlsbad-Morrow Gas Pools connected to its system.

(34) That the Llano system is currently purchasing from the South Carlsbad-Strawn and South Carlsbad-Morrow Gas Pools substantially less than 25,000 MCF of gas per day at an average pipeline pressure of 900 psi.

(35) That in February, 1972, Transwestern purchased approximately 1815 MCF of gas per day from the one well connected to its system producing from the South Carlsbad-Strawn Gas Pool.

(36) That at the time of this hearing Transwestern was purchasing gas from thirteen wells producing from the South Carlsbad-Morrow Gas Pool, three wells producing from the South Carlsbad-Strawn Gas Pool, and one well producing from the South Carlsbad-Atoka Gas Pool.

(37) That in February, 1972, Llano purchased approximately 10,393 MCF of gas per day from the three wells connected to its system producing from the South Carlsbad-Strawn Gas Pool.

(38) That at the time of this hearing Llano was connected to three wells producing from the South Carlsbad-Morrow Gas Pool and three wells producing from the South Carlsbad-Strawn Gas Pool.

(39) That considering the fact that Transwestern is taking gas from thirteen wells in the South Carlsbad-Morrow Gas Pool and one well in the South Carlsbad-Atoka Gas Pool, it must be taking substantially less than 41,000 MCF of gas per day from the South Carlsbad-Strawn Gas Pool.

(40) That considering the fact that Llano is connected to three wells in the South Carlsbad-Morrow Gas Pool, it must be taking substantially less than 25,000 MCF of gas per day from the South Carlsbad-Strawn Gas Pool.

(41) That both systems combined are currently purchasing substantially less than 66,000 MCF of gas per day from the South Carlsbad-Strawn Gas Pool.

(42) That the reasonable market demand for gas from the wells in the South Carlsbad-Strawn Gas Pool connected to the Transwestern system is substantially less than 41,000 MCF of gas per day.

(43) That the reasonable market demand for gas from the wells in the South Carlsbad-Strawn Gas Pool connected to the Llano system is less than 25,000 MCF of gas per day.

(44) That the reasonable market demand for gas from the wells in the South Carlsbad-Strawn Gas Pool connected to both systems is less than 66,000 MCF of gas per day.

(45) That the wells in the South Carlsbad-Strawn Gas Pool connected to the Transwestern system are capable of producing gas in excess of Transwestern's reasonable market demand for gas from those wells.

(46) That the wells in the South Carlsbad-Strawn Gas Pool connected to the Llano system are capable of producing gas in excess of Llano's reasonable market demand for gas from those wells.

(47) That the wells in the South Carlsbad-Strawn Gas Pool are capable of producing gas in excess of the combined reasonable market demand for gas from the South Carlsbad-Strawn Gas Pool.

(48) That the daily deliverability of the wells connected to Llano's system in February, 1972, ranges from a low of 10,500 MCF of gas per day to a high of 21,000 MCF of gas per day; that the deliverability of the well connected to Transwestern's system in February, 1972, is 22,500 MCF of gas per day.

(49) That in February, 1972, gas was taken from the well in the South Carlsbad-Strawn Gas Pool connected to Transwestern's system at an average take per connection day of 1815 MCF.

(50) That in February, 1972, gas was taken from the wells in the South Carlsbad-Strawn Gas Pool connected to Llano's system at an average take per connection day of 3464 MCF.

(51) That gas is being taken from the wells in the subject pool at a rate varying from approximately 14.9% of the monthly market for gas from the pool to 29.2% of the monthly market for gas from the pool.

(52) That in February, 1972, gas was taken from the well in the subject pool connected to Transwestern's system at a rate of 8.1% of its daily deliverability.

(53) That in February, 1972, gas was taken from the wells in the subject pool connected to Llano's system at a rate varying from 16.3% of a well's daily deliverability to 32.5% of a well's daily deliverability.

(54) That in February, 1972, gas was taken from the wells in the subject pool at a rate varying from 8.1% of a well's daily deliverability to 32.5% of a well's daily deliverability.

(55) That the reasonable market demand for gas from a well is that well's fair share of the total market demand for gas from that pool that can be produced without waste.

(56) That gas is being produced from some wells in the subject pool in excess of the reasonable market demand for gas from those wells.

(57) That gas is being produced from some wells in the subject pool in an amount less than the reasonable market demand for gas from those wells.

(58) That gas is not being taken ratably from the various producers in the pool.

(59) That there are owners of property in the subject pool who are being denied the opportunity to produce without waste their just and equitable share of the gas in the pool.

(60) That there are owners of property in the subject pool that are producing more than their just and equitable share of the gas in the pool.

(61) That drainage is occurring between tracts in the pool which is not equalized by counter drainage.

(62) That the correlative rights of some producers in the pool are being violated.

(63) That waste is occurring in the subject pool.

(64) That in order to prevent waste and to ensure that all owners of property in the subject pool have the opportunity to produce their share of the gas, the subject pool should be prorated in order to limit the amount of gas to be recovered from each tract to the reasonable market demand for gas from that tract that can be produced without waste.

(65) That to ensure that each owner of property in the subject pool has the opportunity to produce that amount of gas that can be practicably obtained without waste substantially in the proportion that the recoverable gas under his tract bears to the total recoverable gas in the pool, the subject pool should be prorated in order to limit the amount of gas to be produced from the pool to the reasonable market demand and the capacity of the gas transportation facilities.

(66) That the subject pool has not been completely developed.

(67) That no cores of the Strawn formation are available in the South Carlsbad-Strawn Gas Pool.

(68) That there are logs available of said wells and that the logs indicate a marked and sometimes rapid variation between wells in thickness of pay, porosity, net effective feet of pay, and water saturation.

(69) That due to the above-described variations the effective feet of pay, porosity, and water saturation underlying each developed tract cannot be practically determined from the data available at the wellbore.

(70) That there are recoverable gas reserves underlying each of the developed 320-acre tracts within the horizontal limits of the subject pool; that there are 6 developed 320-acre tracts in the pool as defined by the Commission.

(71) That due to the nature of the reservoir the amount of recoverable gas under each producer's tract cannot be practically determined in the subject pool by a formula which considers effective feet of pay, porosity, and water saturation.

(72) That due to the nature of the reservoir the amount of recoverable gas under each producer's tract cannot be practically determined in the subject pool by a formula which considers only the deliverability of a well.

(73) That the amount of gas that can be practicably obtained without waste by the owner of each property in the subject pool substantially in the proportion that the recoverable gas under his tract bears to the total recoverable gas in the pool can be practically determined best by allocating the allowable production among the wells on the basis of developed tract acreage compared to total developed tract acreage in the pool.

(74) That considering the nature of the reservoir and the known extent of development, a proration formula based upon surface acreage will afford the owner of each property in the pool the opportunity to produce his just and equitable share of the gas in the pool so far as such can be practicably obtained without waste substantially in the proportion that the recoverable gas under such property bears to the total recoverable gas in the pool.

(75) That in order to prevent waste the total allowable production from each gas well producing from the subject pool should be limited to the reasonable market demand for gas from that well.

(76) That in order to prevent waste the total allowable production from all gas wells producing from the subject pool should be limited to the reasonable market demand for gas from the pool.

(77) That in order to prevent waste the total allowable production from gas wells in the subject pool should be limited to the capacity of the gas transportation system for the subject pool's share of said transportation facility.

(78) That considering the available reservoir information, a 100% surface acreage formula is presently the most reasonable basis for allocating the allowable production among the wells delivering to the gas transportation facilities.

(79) That in order to prevent drainage between tracts that is not equalized by counter drainage the allowable production from the pool should be prorated to the various producers upon a just and equitable basis.

(80) That the adoption of a 100% surface acreage formula for allocating the allowable production in the subject pool will, insofar as is presently practicable, prevent drainage between producing tracts which is not equalized by counter-drainage.

(81) That in order to ensure that each operator is afforded the opportunity to produce his property ratably with all other operators connected to the same gas transportation facility, allowable production from the pool should be prorated to the various producers upon a just and equitable basis.

(82) That the adoption of a 100% surface acreage formula for allocating the allowable production in the subject pool will, insofar as is presently practicable, allow each operator the opportunity to produce his property ratably with all other operators connected to the same transportation facility.

(83) That the subject pool should be governed by the General Rules and Regulations for the Prorated Gas Pools of Southeastern New Mexico promulgated by Order No. R-1670, as amended, insofar as said General Rules and Regulations are not inconsistent with this order or the Special Rules and Regulations for the subject pool promulgated by this order.

IT IS THEREFORE ORDERED:

(1) That the South Carlsbad-Strawn Gas Pool in Eddy County, New Mexico, is hereby prorated, effective September 1, 1972.

(2) That the subject pool shall be governed by the General Rules and Regulations for the Prorated Gas Pools of Southeastern New Mexico promulgated by Order No. R-1670, as amended, insofar as said General Rules and Regulations are not inconsistent with this order or the Special Rules and Regulations for the subject pool as hereinafter set forth, in which event the Special Rules shall apply.

SPECIAL RULES AND REGULATIONS
FOR THE
SOUTH CARLSBAD-STRAWN GAS POOL

A. WELL LOCATION AND ACREAGE REQUIREMENTS

RULE 2. Each well completed or recompleted in the South Carlsbad-Strawn Gas Pool shall be located no closer than 660 feet to the nearest side boundary of the dedicated tract nor closer than 1980 feet to the nearest end boundary nor closer than 330 feet to any governmental quarter-quarter section line.

RULE 5(A). Each well completed or recompleted in the South Carlsbad-Strawn Gas Pool shall be located on a standard proration unit consisting of any two contiguous quarter sections of a single governmental section, being a legal subdivision (half section) of the United States Public Land Surveys. For purposes of these rules, a standard proration unit shall consist of 316 through 324 contiguous surface acres.

C. ALLOCATION AND GRANTING OF ALLOWABLES

RULE 8(A). The allowable production in the South Carlsbad-Strawn Gas Pool shall be allocated as follows:

-10-
CASE NO. 4694
Order No. R-1670-M

The pool allowable remaining each month after deducting the total allowable assigned to marginal wells shall be allocated among the non-marginal wells entitled to an allowable in the proportion that each well's acreage factor bears to the total of the acreage factors for all non-marginal wells in the pool.

C. GENERAL

RULE 25. The vertical limits of the South Carlsbad-Strawn Gas Pool shall be the Strawn formation.

RULE 26. The first proration period for the South Carlsbad-Strawn Gas Pool shall commence September 1, 1972, and shall terminate December 31, 1973. Subsequent proration periods shall be the twelve-month periods as provided in the General Rules.

IT IS FURTHER ORDERED:

(1) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

BRUCE KING, Chairman

ALEX J. ARMIJO, Member

A. L. PORTER, JR., Member & Secretary

S E A L

dr/

No. 003638

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

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|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| SENT TO Transwestern Pipeline Co. | | POSTMARK OR DATE |
| STREET AND NO. P.O. Box 1502 | | |
| P.O., STATE AND ZIP CODE Houston, Texas 77001 | | |
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| RETURN RECEIPT SERVICES | 1. Shows to whom and date delivered With delivery to addressee only 2. Shows to whom, date and where delivered With delivery to addressee only | 15¢ 65¢ 35¢ 85¢ |
| DELIVER TO ADDRESSEE ONLY | | 50¢ |
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INSURED NO.

James Earl Rife
SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

SHOW WHEN DELIVERED (Only if requested, and include ZIP Code)

NOV 12 1973

No. 003637

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

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| SENT TO | Llano Incorporated | POSTMARK OR DATE |
| STREET AND NO. | | |
| P.O. BOX | Box 1320 | |
| P.O., STATE AND ZIP CODE | | |
| Hobbs, New Mexico 88240 | | |
| OPTIONAL SERVICES FOR ADDITIONAL FEES | | |
| RETURN | 1. Shows to whom and date delivered | 15¢ |
| RECEIPT | With delivery to addressee only | 65¢ |
| SERVICES | 2. Shows to whom, date and where delivered | 35¢ |
| DELIVER TO ADDRESSEE ONLY | With delivery to addressee only | 85¢ |
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So. Cal. St.

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| SENT TO | Hartford Life Insurance Gr. | POSTMARK OR DATE |
| STREET AND NO. | P.O. Box 3615 | |
| P.O., STATE AND ZIP CODE | San Francisco, Calif. 94119 | |
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| RETURN | 1. Shows to whom and date delivered | 15¢ |
| RECEIPT | 2. Shows to whom, date and where delivered | 65¢ |
| SERVICES | With delivery to addressee only | 35¢ |
| DELIVER TO ADDRESSEE ONLY | With delivery to addressee only | 85¢ |
| SPECIAL DELIVERY (extra fee required) | | 50¢ |

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NAME OF ADDRESS (If any)

DATE DELIVERED

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NOTES

No. 003636

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

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|---------------------------------------|-----------------------------------------------|
| SENT TO | POSTMARK OR DATE |
| E1 Paso Natural Gas Company | |
| STREET AND NO. | |
| P. O. Box 1492 | |
| P.O. STATE AND ZIP CODE | |
| E1 Paso, Texas | |
| OPTIONAL SERVICES FOR ADDITIONAL FEES | |
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| RECEIPT | With delivery to addressee only |
| SERVICES | 2. Shows to whom, date and where delivered .. |
| DELIVER TO ADDRESSEE ONLY | With delivery to addressee only |
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☐ Show address
where delivered

☐ Deliver ONLY
to addressee

RECEIPT

Received by addressee within described period

REGISTERED NO.

SIGNATURE OR NAME OF ADDRESSEE (Must always be given in)

CERTIFIED NO.

003636

INSURED NO.

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

NOV 12 1978

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No. 635883

State of New Mexico
Oil Conservation Commission

P. O. BOX 2088

NAME
OCT 1973

87501

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| SENT TO Transwestern, Pipe Line Co | POSTMARK OR DATE |
| STREET AND NO. | |
| CITY, STATE, AND ZIP CODE Midland, Texas 79701 | |
| <input type="checkbox"/> If you want a return receipt, check which 10¢ shows to whom, and when delivered <input type="checkbox"/> 35¢ shows to whom, when, and address where delivered <input type="checkbox"/> If you want delivery only to addressee, check here 50¢ fee | |
| FEES ADDITIONAL TO 20¢ FEE | |

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JULY 1963

Trans Pipe Line Co.
Texas 79701

NAME
1st N. OCT 15 1973
2nd N. OCT 15 1973
Return

MONDAY, SEPTEMBER 1, 1941

New Mexico Press Clipping Bureau
Albuquerque, N. M.

Nash To Hear Gas Flow Case

22
An agreement designating Fifth Judicial District Judge Kermit Nash of Lovington to hear a gas prorationing case was filed in the district division one offices here, Court Clerk Frances Wilcox said today.

The agreement was filed by attorneys in the case of Morris B. Antwell, Delta Drilling Co. and Mabee Petroleum Co. vs. the Oil Conservation Commission of New Mexico.

Division one judge D.D. Archer was disqualified by the commission last week, prohibited from hearing any of three such cases concerning the temporary stay order he issued in connection with the planned prorationing of gas and oil in this area.

Michael P. and Corrine Grace had filed similar motions to stay the commission's proration order which was to have gone into effect Sept. 1. The Graces' attorney, Lon P. Watkins, filed an affidavit disqualifying Judge Nash in the case involving his clients, but attorneys for the commission and Antwell agreed to accept Nash.

Hearings are expected to take place in the Eddy County Courthouse, but no definite announcement to that effect have been made by Judge Nash.

If the commission wins its bid to vacate Judge Archer's temporary stay order, oil and gas operators in the area will be limited in the amount of production per day.