

IN THE DISTRICT COURT FOR EDDY COUNTY

STATE OF NEW MEXICO

PHILLIPS PETROLEUM COMPANY,
a Corporation,

Petitioner,

vs.

NO. 28718

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO,

Respondent,

INTERNATIONAL MINERALS &
CHEMICAL CORPORATION,

Intervenor.

MOTION TO DISMISS

COMES NOW Petitioner, Phillips Petroleum Company, and moves the Court for an order dismissing the above captioned case with prejudice, and as grounds therefor states that a decision by the United States Geological Survey has rendered the case moot.

Joe V. Peacock
Frank Phillips Building
Odessa, Texas 79760

Jason W. Kellahin
Kellahin & Fox
P. O. Box 1769
Santa Fe, New Mexico 87501

BY Jason W. Kellahin

ATTORNEYS FOR PETITIONER PHILLIPS
PETROLEUM COMPANY

IN THE DISTRICT COURT FOR EDDY COUNTY

STATE OF NEW MEXICO

PHILLIPS PETROLEUM COMPANY,
a Corporation,

Petitioner,

vs.

NO. 28718

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO,

Respondent,

INTERNATIONAL MINERALS &
CHEMICAL CORPORATION,

Intervenor.

O R D E R

THIS MATTER coming regularly before the Court on
the motion of the petitioner for an order dismissing
this case with prejudice, and good cause therefore appear-
ing,

It is therefore ORDERED that this case be dismissed
with prejudice, the parties hereto to bear their own costs.

DISTRICT JUDGE

APPROVED:

Jason W. Kellaher
Attorney for Petitioner

/s/ William L. Carr
Attorney for Oil Conservation
Commission of New Mexico

Attorney for Intervenor
International Minerals & Chemical
Corporation

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE NEW MEXICO 87501

September 12, 1974

The Honorable D. D. Archer
District Judge
District I
Fifth Judicial District
P. O. Box 98
Carlsbad, New Mexico 88220

Re: Phillips Petroleum Co. v.
Oil Conservation Commission;
International Minerals &
Chemical Corporation, Intervenor;
No. 28718, Eddy County, New Mexico

Dear Judge Archer:

I have received your order calling the Civil Docket on September 23, 1974, which includes the above-captioned case.

My records indicate that this case was originally set for hearing before you on October 9, 1973, but at the request of Mr. Jason Kellahin the setting was vacated pending a ruling by the director of the United States Geological Survey, Department of the Interior. Should this ruling be adverse to the interest of Phillips, the case pending in your court would become moot. A decision has still not been reached by the United States Geological Survey.

I regret this long delay but, after discussing this matter with Mr. Kellahin, I am certain that all parties would agree to continuing this matter until after the United States Geological Survey has ruled.

It would cause the Commission some inconvenience to appear on September 23, 1974, as we have a meeting on that date concerning proposed legislation for the 1975 Legislature. We, therefore, request that this letter serve as our response to you: call of the docket.

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE NEW MEXICO 87501

The Honorable D. D. Archer

-2-

September 12, 1974

Should you desire a personal appearance by the Commission,
please advise.

Very truly yours,

WILLIAM F. CARR
General Counsel

C
WFC/dr

O cc: Jason Kellahin, Esq.
Jerome Matkins, Esq.
Joe V. Peacock, Esq.

P

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L

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

KELLAHIN AND FOX
ATTORNEYS AT LAW
500 DON GASPAR AVENUE
POST OFFICE BOX 1769
SANTA FE, NEW MEXICO 87501
September 12, 1974

TELEPHONE 982-4315
AREA CODE 505

Honorable D. D. Archer
District Judge, Fifth Judicial District
P. O. Box 98
Carlsbad, New Mexico 88220

Re: Phillips Petroleum Co. -vs-
Oil Conservation Commission
No. 28718, Eddy County, NM.

Dear Judge Archer:

C
O
P
Y
The above case is on your docket call, set for Monday, September 23, 1974 at 9:30 A.M. We are aware that this case has been pending for a long time, but a companion case, which could well resolve the dispute in this case, is still pending before the Board of Land Appeals, Department of the Interior.

I have inquired into the status of this appeal, and I am informed that decision had been withheld by the Board of Land Appeals, pending adoption of new regulations for the development of oil and gas in the potash area. A decision should be forthcoming in the next few months.

For this reason we again ask your indulgence in excusing us from attending the docket call, and continuing the above case until the U.S.C.S. appeal has been resolved. Once we receive a decision from the U.S.C.S., I will inform you immediately.

I have checked this request with Mr. William F. Carr, attorney for the Oil Conservation Commission, and he has no objection and also wishes to be excused from attending the docket call.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jason W. Kellahin

JWK:ksh

cc: Messrs. William F. Carr
Jerome D. Matkins
Joe V. Peacock

MATKINS AND MARTIN

ATTORNEYS AT LAW

601 NORTH CANAL STREET

P. O. DRAWER N

CARLSBAD, NEW MEXICO 88220

JEROME D. MATKINS
W. T. MARTIN, JR.

AREA CODE 505
885-2445
885-2312

December 9, 1974

Mr. Jason W. Kellahin
Kellahin and Fox
Attorneys at Law
P. O. Box 1769
Santa Fe, New Mexico 87501

✓ Mr. William C. Carr
General Counsel
Oil Conservation Commission
P. O. Box 2088
Santa Fe, New Mexico 87501

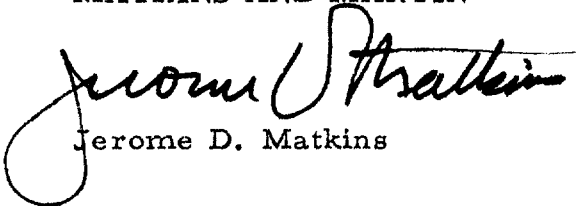
Re: Phillips Petroleum vs. OCC, et al.,
No. 28718, Eddy County

Gentlemen:

This is to advise that the Order of Dismissal has been signed by
Judge Archer and the Motion and Order duly filed with the Clerk
of the Court.

Yours very truly,

MATKINS AND MARTIN


Jerome D. Matkins

JDM/cw

cc: Mr. James E. Wolber
Patent Attorney
IMCC
IMC Plaza
Libertyville, Illinois 60048

IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO

IN RE: DOCKET CALL

ORDER

IT IS HEREBY ORDERED BY THE COURT that you be present for a Civil Docket Call in the District Courtroom of the Eddy County Courthouse in Carlsbad, New Mexico, on Monday, September 23, 1974 at 9:30 A.M., if your name appears in the cases listed below, OR present an ORDER to the Court disposing of the case before September 23, 1974.


DISTRICT JUDGE

J U R Y

27347	Emory Champion	Personal Injury	Girand & Richards
	vs.		Montgomery, Federici,
	El Paso Natural Gas		et al, Williams,
			Johnson, et al
28247	State of New Mexico, ex rel		
	State Highway Commission		C. V. Beimfohr
	vs.	Condemnation	
	Floyd E. Sherrell, et al		Edward R. Pearson
28567	Southwestern General Hospital		
		Foreign Judg. Dom.	Dick A. Blenden
	vs.	(6 man jury)	
	George Straub		Matkins & Martin
			Paul Kelly, Jr.
28635	Norma Lee Ewers	Personal Injury	Dick A. Blenden
	vs.		
	Roberta J. Horton		R. E. Thompson
28798	Francis X Phelan, et ux	Pers. Inj.	Jerome D. Matkins
	vs.		
	Frank Sowell, et al		Lowell Stout
28806	Renate Stone, et al	Personal Injury	McCormick, et al
	vs.		
	David K. Robinson, et al		Sam Laughlin, Jr.
			R. D. Mann
28916	Ruby Holt Schamel, next friend		Easley, Reynolds, et al
	vs.	Personal Injury	
	H. W. Eppers, et al		Lowell Stout
28918	J. B. Buffington, et ux	Pers. Inj.	Lon P. Watkins
	vs.		
	Dick Forrest, et ux		Lowell Stout

28993	Robert Ferguson, d/b/a Ferguson Real Estate & Ins vs. John W. Funk	Ins. Premiums (6 man jury)	Edward R. Pearson Samuel H. Loeffler
29009	John O. Jameson vs. Graydon H. May, et al	Personal Injury	McCormick, et al Sanders, Bruin, Baldo
29099	John Doe I vs. John Doe II	Malpractice	Thomas L. Marek Shipley, Durrett, et C. A. Feezer
29108	Beatrice Blocker vs. Norman Pete Smile, et al	Personal Injury	A. J. Losee R. D. Mann
29120	Henry Fuentez, et al vs. Delia Sillas, et al	Personal Injury	Edward E. Triviz Tom Cherryhomes Buford L. Norrid Carbajal,Cherpelis, e
29310	Otilia Chavez vs. Larry Aguilar	Personal Injury	C. A. Feezer Bob F. Turner
29351	Charles C. Powell, et al vs. R. W. Keesee	Subrogation	W. T. Martin, Jr. Robert E. Sabien
29373	Jewell Dodrill, et al vs. Thomas Tyler	Pers. Inj.	M. Rosenberg Shipley, Durrett, et
29445	Verna Polk vs. Paul M. Garcia, et al	Personal Injury	M. Rosenberg R. D. Mann
29497	Cleva K. Kubiski, Administratrix vs. Laddie D. Slusser	Wrongful Death	Tom Cherryhomes John B. Walker
29678	Chester Walker vs. Edward Paul Kerrigan, et al	Property Damage	Lon P. Watkins W. T. Martin, Jr.

27584	Lee Olin Miller vs. Naomi Ruth Miller	Divorce	Matkins & Martin Dow & Feezer
27656	In re: Tillery Estate	Probate	Jerome D. Matkins
27955	G.F.C. Loan Co. vs. K. C. Cartwright, et al	Promissory Note	Leonard T. May
28043	Leon C. Bustamante vs. Mermes Const. Co., et al	Workmen's Comp.	Matteucci, Franchini, et al Lowell Stout
28121	Guy Chevrolet Co. vs. Phillip Hefner	Parts & Services	Joel M. Carson Atwood, Malone, et al Samuel H. Loeffler Girand & Richards Neal & Neal
28176	Humble Oil vs. Lee A. Walker	Open Acct	Paul Kelly, Jr. Dick A. Blenden
28356	Joseph T. Humphreys vs. Amax Corp.	Workmen's Comp	Michael F. McCormick C. A. Feezer
28510	Joe Carrasco, Jr. vs. Carmel M. Carrasco	Divorce	Lon P. Watkins
28612	El Paso Natural Gas Co. vs. Robt. A. Rubenstein	Condemnation	William J. Mounce Matkins & Martin S. S. Koch Wm. O. Jordan Phil R. Lucero
28629	Farmers Ins. Exchange, et al vs. Thomas E. Moore, Jr.	Subrogation	W. T. Martin, Jr. No service
28689	Clarence Miller vs. Guadalupe F. Amalla	Property Damage	Paul Kelly, Jr.
28718	Phillips Petroleum vs. Oil Conservation Comm.	Review	<u>Jason W. Kellahin</u> <u>William F. Carr</u>
28722	Maxine Farmer vs. Glen Farmer	Div. of Property	Edward R. Pearson
28724	City of Artesia vs. Lela Cornett	Municipal Appeal	Watson & Watson Gerald R. Bloomfield
28725	City of Artesia vs. Lonnie Rodriguez	Municipal Appeal	Watson & Watson Gerald R. Broomfield

THE FOLLOWING ARE MUNICIPAL APPEALS PENDING IN THE DISTRICT COURT WITH WATSON & WATSON APPEARING FOR THE CITY OF ARTESIA AND GERALD R. BLOOMFIELD APPEARING FOR THE DEFENDANTS:

28726	City of Artesia vs. Joe F. Garay		
28727	City of Artesia vs. Ernest Gutierrez		
28728	City of Artesia vs. Sonny Molina		
28729	City of Artesia vs. Feliciana Huerta		
28730	City of Artesia vs. Helen Molina		
28731	City of Artesia vs. Juana Garay		
28732	City of Artesia vs. Frances Cortez		
28733	City of Artesia vs. Bennie Morales		
28734	City of Artesia vs. Frank Sanchez		
28735	City of Artesia vs. Flavia Burgess		
28748	City of Artesia vs. Manuel Huerta		

28758	Frank Huerta vs. City of Artesia, et al	Workmen's Comp.	C. A. Feezer
			Jay W. Forbes
28774	Claudia Jones vs. Clyde L. Jones	Divorce	Dewie B. Leach
			No service
28802	In re: Guardianship of minors	Guardianship	James L. Dow Dick A. Blenden
28805	Lynn Basham vs. Harley Ballard	Breach of Contract (Judge Reese)	McCormick, et al Dick A. Blenden
28892	State of New Mexico vs. Kenneth Dozier	Magistrate Appeal	David L. Hoglund Dick A. Blenden
28893	State of New Mexico vs. James Dozier	Magistrate Appeal	David L. Hoglund Dick A. Blenden

28919	Tom P. Schell vs. Lola M. Schell	Divorce	Edward R. Pearson

28921	Jon W. Solt vs. Christine Solt	Divorce	Wm. M. Siegenthaler

28940	City of Carlsbad vs. Stephen M. Richards	Municipal Appeal	Michael F. McCormick

28954	State of New Mexico vs. George Reid	Magistrate Appeal	Jerome D. Matkins

28960	James B. Aho vs. James Tomblin	Magistrate Appeal	David L. Hoglund

28967	Ramon Gomez, et ux vs. Unknown Heirs	Quiet Title	Tom Cherryhomes

28970	Rachel Munoz vs. Alvaro Munoz	RESL	Buford L. Norrid

28977	Bales Equip. Corp. vs. Keith Hills, et al	Open Acct.	Dick A. Blenden

28995	Ila Marie Cox vs. Joe Mack Cox	Divorce	Michael F. McCormick

28998	City of Carlsbad, ex rel Carlsbad Urban Dev. Agency vs. Felix Briones, et al	Condemnation	David L. Hoglund

28999	City of Carlsbad, ex rel Carlsbad Urban Dev. Agency vs. Bernardo Martinez	Condemnation	Buford L. Norrid

29000	City of Carlsbad, ex rel Carlsbad Urban Dev. Agency vs. Ysidro M. Dominguez	Condemnation	C. A. Feezer

29001	City of Carlsbad, ex rel Carlsbad Urban Dev. Agency vs. Michael P. Grace, et al	Condemnation	Buford L. Norrid

29067	City of Carlsbad vs. Pete Parraz	Municipal Appeal	Samuel A. Francis
29066	City of Carlsbad vs. Burl Roberts	Municipal Appeal	F. B. Howden

29082	State of New Mexico vs. Jesse J. Morgan	Magistrate Appeal	David L. Hoglund Michael F. McCormick

29083	State of New Mexico vs. Ronald D. Taber		David L. Hoglund W. T. Martin, Jr.

29100	In re: The Will & Estate of James E. Taylor, deceased (Judge Snead) Probate Transfer		Merrill L. Norton Watson & Watson James L. Dow

29127	In re: Petition of Jerome J. Eickhoff to adopt a minor	Adoption	Edward R. Pearson

29136	Pedro Fuentes vs. McVean & Barlow, Inc., et al	Workmen's Comp.	Michael F. McCormick Lowell Stout

29141	Manuel Y. Martinez vs. Warton Drilling Co., et al	Workmen's Comp.	C. A. Feezer C. Fincher Neal

29142	Barbara Stark vs. William Stark	Divorce	Samuel H. Loeffler

29143	Felix Canales vs. Mack Chase, d/b/a Salt Well Service, et al	Workmen's Comp.	Samuel H. Loeffler C. Fincher Neal

29166	Internationalites Federal Credit Union vs. Robt. Yturralde, et al	Promissory Note	Harold N. Olive Matkins & Martin Lon P. Watkins

29173	Jack Plemons vs. Otto Jones, d/b/a Jones Oil Company	(Judge Reese) Property Damage	Robt. W. Ward A. J. Losee

29187	American Petrofina Oil vs. Roy Joe Dewey	Account	Dan E. Sheehan

29188	Norma Jean Wade vs. James Pat Wade, Jr.	Divorce	Buford L. Norrid

29190	First Nat'l Bank of Artesia vs. Ralph Juarez	Promissory Note	Watson & Watson

29197	John C. Allison, et al vs. Charles E. Tidwell, et al	(Judge Reese) Fraud	Lon P. Watkins Wm. M. Siegenthaler

29201	In the Matter of the Winston Lovelace, Jr. Testamentary Trust	Trust	Buford Norrid W. T. Martin, Jr.

29224	Ernest Granado vs. Erminia Granado	Divorce	Dow & Feezer Donald C. Cox

29232	Trine P. Chavez vs Hector Valdez, et al	Personal Injury & Property Damage	W. T. Martin, Jr. C. A. Feezer

29242	Guadalupe M. Nunez vs. Ernest Nunez	Divorce	James L. Dow

29245	Mickey L. Jackson vs. Mitzi Jackson	Divorce	Leonard T. May

29251	Delia sillas vs. Carlsbad National Bank	Declaratory Judgment	Carriojal, Cherpelis & Parker Walker & Estill Edward E. Triviz

29280	Jeanne A. Gray vs. Robt. Wm. Gray	RESL	David L. Hoglund

29287	L. P. McKee Whittenburg, et al vs. James H. Mendez	Personal Injury & Property Damage	James D. Durham

29289	Dorothy L. Pelletier vs. Joseph J. Pelletier	Divorce	Jay W. Forbes John W. Bassett

29290	Howard Everett, et ux vs. Transwestern Pipeline Co.	Royalty Payments	Don G. McCormick James W. McCartney & Modrall, Sperling, Roehl, et al

29296	American Bank vs. Albert L. Jones, et al	Foreclosure	Jerome D. Matkins Vernon O. Henning Victor R. Ortega Don J. Salt

29302	City of Artesia vs. John N. Brown	Municipal Appeal	Watson & Watson

29312	Manuel R. Martinez vs. Josephine Martinez	Divorce	Tom Cherryhomes Morris Stagner

29315	Bill Speights, et al vs. John R. Joyce	(Judge Reese) Pers. Inj. & Prop. Damage (Partially heard)	Tom Cherryhomes Pro se

29317	Karen G. Bowen vs. James W. Bowen	Legal Separation	Jay W. Forbes Jerome D. Matkins
29324	State of New Mexico vs. Gary Don Pinson	Magistrate Appeal	David L. Hoglund
29325	State of New Mexico vs. Gary Don Pinson	Magistrate Appeal	David L. Hoglund
29333	Rodger Kincaid vs. Sylvia Kincaid	Divorce	John B. Walker Michael F. McCormick
29336	Lee Voight vs. Glen Terry	Magistrate Appeal	Michael F. McCormick
29337	Mildred D. Burke vs. John D. Burke	Divorce	Jay W. Forbes
29338	Walter Craft Fertilizer & Chemical Co. vs. Henry Grandi	Account	Jay W. Forbes
29340	Bessie F. Wynn vs. Virgil L. Wynn	Divorce	Harold N. Olive
29341	Montgomery Agency vs. Carlsbad Textiles, Inc.	Open Account	Sam Laughlin, Jr.
29342	In re: Adoption	Adoption	James S. McCall
29345	Theresa M. Shields vs. Artesia General Hospital	Workmen's Comp. (Judge Reese)	Matkins & Martin Girand & Richards
29354	In re: William Mary Bryant	Guardianship	Don G. McCormick Michael F. McCormick
29355	Allstate Ins. Co. vs. Buryll Reed	Subrogation	Paul Kelly, Jr.
29357	State of New Mexico vs. Jacky L. King	Magistrate Appeal	David L. Hoglund W. T. Martin, Jr.
29359	Allstate Ins. Co., et al vs. Jack R. Fults, et al	Subrogation	Jacob Carian Pro se Don G. McCormick
29360	Treta Noe vs. Thomas Reece Noe	RESL	David L. Hoglund

29364	Betty Louise Beeman vs. Joe H. Beeman	Divorce	Joseph E. Gant, III Tom Cherryhomes
29376	Ruben Escandon vs. General American Oil Co.	Workmen's Comp.	Samuel H. Loeffler Sam Loughlin, Jr.
29377	Jeanette Connell vs. Michael Connell	Divorce	Michael F. McCormick
29378	Steven Rodriquez vs. Arvida Rodriquez	Divorce	J. S. McCall
29382	Carlsbad Reginal Med. Center vs. Bobby J. Wilkinson, et ux	Open Acct.	M. Rosenberg
29384	In re: Cheairs Estate	Probate	John B. Walker
29385	City of Carlsbad vs. Ray Valenzuela	Municipal Appeal	Michael F. McCormick Lon P. Watkins
29386	Billie Mae Williams vs. Gerald Williams	Separate Maintenance	Dick A. Blenden
29390	Patsy Wordell vs. Robert Wordell	Divorce	Michael F. McCormick
29391	Rodney James Dean vs. Patricia Ann Dean	Divorce	Michael F. McCormick
29398	Louis Ruiz vs. Anastacia Ruiz	Divorce	Michael F. McCormick
29399	In re: Adoption	Adoption	Charles A. Feezer
29401	Antonia Rojo vs. Celia Rojo	Divorce	Jerome D. Matkins
29402	Dawone L. Boss vs. Alvin J. Lambert	RESL	David L. Hoglund
29405	John Deme vs. Western States Broadcasters, Inc., et al	Breach of Agreement	Carl J. Schmidt M. Rosenberg
29407	Maurice Don Young vs. Mary K. Young	Divorce	Dick A. Blenden Thomas L. Marek
29410	Coquina Oil Corp. vs. Gertrude Alston, et al	Quiet Title (Partial Judgment Entered)	Joel M. Carson R. B. Hayes, et al, Pro se

29415	Bob Wilkinson, et al vs. Oliver Holmes Randell	Personal Injury	Jerome D. Matkins James L. Bruin

29423	In re: Petition of Donald W. Lynch	Adoption	Jerome D. Matkins

29424	State of New Mexico vs. Bobby Duran	Magistrate Appeal	David L. Hoglund Dick A. Blenden

29425	Elmer L. Skinner vs. Samuel L. Bowers	Breach of Contract	Don G. McCormick Graden W. Beal Darden, Sage & Darden

29433	Vanita Yarbrough vs. Arlie Yarbrough	Divorce	Harold N. Olive

29434	David G. Mendoza vs. Stevenson Tank Co.	Workmen's Comp.	Matkins & Martin Modrall, Sperling, et

29435	In Re: D & N Child	D & N	David L. Hoglund

29438	Harmon Bush vs. Peggy Bush	Divorce	Edward R. Pearson Samuel H. Loeffler

29439	In re: Adoption	Adoption	Buford L. Norrid

29442	Grattan E. Judkins, Sr., and Juanita L. Judkins vs. Montgomery Ward & Co.	Trespass	James L. Dow Thomas L. Marek

29456	In re: Zettie Hill Estate	Petition to sell Real Estate	Buford L. Norrid

29457	First Nat'l Bank of Artesia vs. James A. Parker	Promissory Note	Fred A. Watson

29463	In re: Adoption	Adoption	Harold N. Olive

29469	City of Carlsbad vs. William R. Beeman	Municipal Appeal	Michael F. McCormick Thomas L. Marek

29471	Valente Morales vs. Rita Morales	Divorce	J. S. McCall Michael F. McCormick

29474	Marjorie W. Armstrong vs. Glenn W. Armstrong	Divorce	Dick A. Blenden

29484	In Re: D & N Children	D & N	David L. Hoglund

29486	Valley Savings & Loan vs. Ramon L. Hernandez, et al	Foreclosure	Losee & Carson

29488	State of New Mexico vs. Ernest Granado	Magistrate Appeal	David L. Hoglund Dick A. Blenden
29503	In re: Adoption	Adoption	Dick A. Blenden
29505	Grace F. Henley vs. Edward L. Henley	RESL	David L. Hoglund
29509	Stanley Mulliniks, et ux vs. Floyd Sherrell, et ux	Breach of Contract	Thomas L. Marek Edward R. Pearson
29519	Inez Morahan vs. Buddy J. Morahan	Divorce	Dick A. Blenden M. Rosenberg
29524	Valley Savings & Loan vs. Jose Luis Aguilar	Foreclosure	Joel M. Carson
29525	State of New Mexico vs. Virginia A. Gregory	Magistrate Appeal	David L. Hoglund Buford L. Norrid
29528	R. C. Brooks vs. Cactus Drilling Co.	Claim for Wages	David L. Hoglund Girand & Richards
29533	City of Carlsbad vs. Connie Fennell	Municipal Appeal	Michael F. McCormick Joseph E. Gant, III
29538	Farmers Ins. Exchange vs. Eleanor C. Hopkins	Magistrate Appeal (Civil)	W. T. Martin, Jr. Harold N. Olive
29542	In re: Adoption	Adoption	Wm. M. Siegenthaler
29543	Jo Lynn Smilanich vs. Danny Smilanich	Divorce	Jerome D. Matkins
29545	In re: Adoption	Adoption	W. T. Martin, Jr.
29550	City of Carlsbad vs. Roger Short	Municipal Appeal	Michael F. McCormick Lon P. Watkins
29553	Elpidia V. Peacock vs. Marvin W. Peacock	Divorce	Buford L. Norrid
29557	Frank Van Curen vs. Helen Van Curen	Divorce	John B. Walker Thomas L. Marek
29564	Fabiola Castaneda vs. Aureilo F. Castaneda	RESL	David L. Hoglund

29567	Benjamin F. Northam vs. Peggy Joy Northam	Petition	Wm. M. Siegenthaler
29568	Vivian R. Wright vs. Jesse Wright	Divorce	Wm. M. Siegenthaler
29569	Carol M. Tolle vs. Ray W. Tolle	Divorce	Joel M. Carson
29571	Troy L. Crabtree vs. Bobbie J. McGonagill	Child Visitation	Michael F. McCormick
29572	City of Carlsbad vs. Jaronn Clark	Municipal Appeal	Michael F. McCormick Joseph E. Gant, III
29575	Oil Conservation Comm vs. Corinne Grace	Vio. of OCC Order	<u>Thomas W. Derryberry</u> <u>William F. Carr</u> <u>No Return</u>
29579	Juana Garcia vs. Louis C. Garcia	Divorce	Harold N. Olive Jerome D. Matkins
29582	Interstate Securities vs. Earl Boulden	Promissory Note	Edward R. Pearson
29586	In re: Willie L. Pierce Estate	Probate	John B. Walker
29589	Jack L. McClellan vs. Hal M. Stierwalt	Breach of Agreement (Judge Reese)	Donald Brown Hinkle, et al
29594	Ralph Nix, et al vs. Church of Christ	Quiet Title	Joel M. Carson
29596	Naomi M. Arlington vs. Bruce M. Arlington	Divorce	W. T. Martin, Jr.
29598	State of New Mexico vs. Ronnie R. Perry	Magistrate Appeal	David L. Hoglund James F. Warden
29599	Keith Likins vs. Karen M. Likins	Legal Separation	McCormick, et al Dick A. Blenden
29600	Sharon L. Hurst vs. Jimmy N. Hurst	Divorce	Harold N. Olive No service
29604	City of Carlsbad vs. Michael W. Rich	Municipal Appeal	Michael F. McCormick Dick A. Blenden

Tom

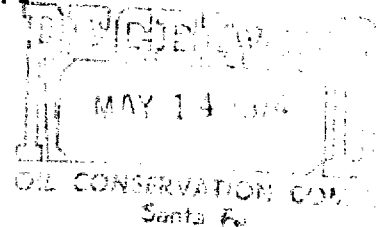
29605	City of Carlsbad vs. Terry Jennings	Municipal Appeal	Michael F. McCormick Dick A. Blenden
29607	Eddie M. Sapien vs. Esperanza Sapien	Divorce	Harold N. Olive
29609	Thunderbird Stores, Inc. vs. Lois Stevens	Open Acct.	Fred A. Watson
29611	Eddy Federal Credit Union vs. Isabel A. Garcia	Promissory Note	Buford L. Norrid
29612	In re: Adoption	Adoption	Buford L. Norrid
29613	In re: Adoption	Adoption	Buford L. Norrid
29614	Andrea K. Solt vs. Michael W. Solt	Divorce	Joel M. Carson No service
29616	Lona Beck vs. Sidney Beck	Divorce	Charles A. Feezer
29618	Efren G. Valdez, Jr. vs. Anita M. Valdez	Divorce	Tom Cherryhomes Charles A. Feezer
29619	Doris M. Murray vs. Racine L. Murray	Divorce	Harold N. Olive
29620	City of Carlsbad vs. Wilson Brazeal	Municipal Appeal	Michael F. McCormick Pro se
29625	Ellen N. Stewart, et al vs. Harold Higday, et al	Quiet Title	A. J. Losee
29626	Melba Jameson vs. David Jameson	Divorce	J. S. McCall
29632	Navajo Refining Co. vs. Southern Union Gas Co.	Declaratory Judgment	Joel M. Carson
29636	Lupe Rodriquez vs. Raul Rodriquez	Divorce	Jerome D. Matkins Michael F. McCormick
29637	In re: Adoption	Adoption	Dick A. Blenden
29639	Karen Kinsey vs. Randall V. Kinsey	Divorce	Edward R. Pearson

MATKINS AND MARTIN
ATTORNEYS AT LAW
601 NORTH CANAL STREET
P. O. DRAWER N
CARLSBAD, NEW MEXICO 88220

JEROME D. MATKINS
W. T. MARTIN, JR.

AREA CODE 505
885-2445
885-2312

May 13, 1974



Mr. Jason W. Kellahin
Kellahin and Fox
Attorneys at Law
P. O. Box 1769
Santa Fe, New Mexico 87501

Re: Phillips Petroleum Company vs. Oil Conservation
Commission, No. 28718, Eddy County

Dear Jason:

I am informed that the issues between Phillips and IMC in this case may have been resolved by an agreement on an alternate well location.

I am wondering if you can confirm this with your client and advise me if this case may be settled.

Yours very truly,

MATKINS AND MARTIN

Jerome D. Matkins

cw

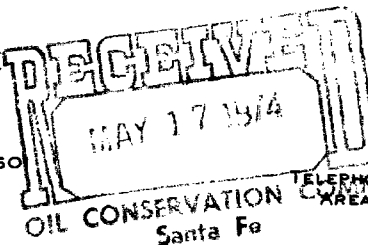
cc: Mr. James E. Wolber, Patent Attorney
International Minerals & Chemical Corp.
IMC Plaza
Libertyville, Illinois 60048

✓ Mr. William C. Carr
General Counsel
Oil Conservation Commission
P. O. Box 2088
Santa Fe, New Mexico 87501

C
O
P
Y

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

KELLAHIN AND FOX
ATTORNEYS AT LAW
500 DON GASPAR AVENUE
POST OFFICE BOX 1769
SANTA FE, NEW MEXICO 87501
May 15, 1974



TELEPHONE 982-4315
AREA CODE 505

Mr. Jerome D. Matkins
Matkins & Martin
P. O. Drawer N
Carlsbad, New Mexico 88220

Re: Phillips Petroleum Company
vs. Oil Conservation Commission,
No. 28718, Eddy County,
New Mexico.

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Dear Jerry:

In connection with the above case, it is my understanding that Phillips has received approval to drill at a location in a different section than the one involved in our application before the Oil Conservation Commission. I have not discussed this with Phillips for several weeks, however, the last time I discussed it with Joe Peacock, Attorney for Phillips at Odessa, he told me he wanted to go ahead with the appeal to the Board of Land Appeals. As you know we had an application for approval of this location with the United States Geological Survey and upon their ruling that the location would not be approved we took an appeal to the Board of Land Appeals. We have heard nothing on this but in my opinion a ruling by the Board of Land Appeals one way or another would dispose of the case pending in Eddy County. Certainly if the Board of Land Appeals upheld the U.S.G.S. ruling, the matter of the approval of the Oil Conservation Commission would be moot.

I will check this again with Joe Peacock, and if I am not correct, I will let you know at once.

Yours very truly,

Jason W. Kellahin

JWK:ks
cc: Joe V. Peacock
William F. Carr

D. D. ARCHER
DISTRICT JUDGE
P. O. Box 98
CARLSBAD, NEW MEXICO
88220

January 23, 1974

William F. Carr, General Counsel
Oil Conservation Commission
State of New Mexico
P. O. Box 2088
Santa Fe, New Mexico 87501


Re: Phillips Petroleum Company vs. Oil
Conservation Commission; International
Minerals & Chemical Corporation,
Intervenor; No. 28718, Eddy County,
New Mexico

Dear Mr. Carr:

In reference to your letter of January 21, 1974, you
are excused from attendance at the docket call on January 28,
1974.

The above case will be continued pending the U.S.G.S.
decision and if necessary set for a later date. You will
be notified of same.

Respectfully,


D. D. Archer
District Judge

DDA:GC

cc: Jason W. Kellahin
Jerome D. Matkins

January 23, 1974

Jason W. Kellahin
Kellahin and Fox
Attorneys At Law
P. O. Box 1769
Santa Fe, New Mexico 87501

Re: Phillips Petroleum Company
vs. Oil Conservation Commission
Case No. 28718, Eddy County, N.M.

Dear Mr. Kellahin:

Pursuant to your letter of January 21, 1974 and the information contained therein, you will be excused from attendance at the docket call on January 28, 1974.

The above case will be continued pending the U.S.C.S. decision and case set for a later date if necessary of which you will be notified.

Respectfully,



D. D. Archer
District Judge

DDA:GC

cc: William F. Carr ✓
Jerome D. Matkins

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

January 21, 1974

C
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Y
The Honorable D. D. Archer
District Judge, Division I
Fifth Judicial District
P. O. Box 98
Carlsbad, New Mexico 88220

Re: Phillips Petroleum Company vs. Oil Conservation
Commission; International Minerals & Chemical
Corporation, Intervenor; No. 28718, Eddy
County, New Mexico

Dear Judge Archer:

I have received your order calling the Civil Docket on
January 28, 1974, which includes the above-captioned case.

My records indicate that this case was originally set for
hearing before you on October 9, 1973, but at the request of
Mr. Jason Kellahin the setting was vacated pending a ruling by the
Director of the United States Geological Survey, Department of the
Interior. Should this ruling be adverse to the interest of
Phillips the case pending in your court would become moot. A
decision has not yet been reached by the U.S.G.S.

I understood that this case would not be reset for hearing
until after the U.S.G.S. had ruled and I am sure that all parties
would agree to continuing this matter pending their action.

It would cause the Commission considerable inconvenience
to appear on January 28, 1974, and we request that this letter
serve as our response to your call of the docket.

Should you desire a personal appearance by the Commission,
please advise.

Very truly yours,

WILLIAM F. CARR
General Counsel

WFC/dr

cc: Jason W. Kellahin, Esq.
Jerome D. Matkins, Esq.
Joe V. Peacock, Esq.

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

KELLAHIN AND FOX
ATTORNEYS AT LAW
500 DON GASPAR AVENUE
POST OFFICE BOX 1769
SANTA FE, NEW MEXICO 87501
January 21, 1974'

TELEPHONE 982-4315
AREA CODE 505

Honorable D. D. Archer
District Court Judge
Fifth Judicial District
P. O. Box 98
Carlsbad, New Mexico 88220

Re: Phillips Petroleum Company
vs. Oil Conservation Commission
Case No. 28718, Eddy County, N.M.

C
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Dear Judge Archer:

The above case appears on your docket call for Monday, January 28, 1974. We previously asked that this case be continued pending disposal of a companion appeal affecting U. S. Government Lease No. N.M. 0532516, to the director of the United States Geological Survey Department of Interior.

The appeal to the Director of the U.S.G.S., was filed May 4, 1973. To date, no decision has been received from U.S.G.S.

The U.S.G.S. decision could dispose of the issues involved in the appeal to Eddy County Case No. 28717 and for that reason we ask that you again continue the Eddy County case until the director of U.S.G.S. has acted on Phillips' appeal.

Your cooperation on this will be appreciated.

Yours very truly,

Jason W. Kellahin

JWK:ks

cc: William F. Carr ✓
Jerome D. Matkins

IN THE DISTRICT COURT OF EDDY COUNTY
STATE OF NEW MEXICO



IN RE: DOCKET CALL

ORDER

IT IS HEREBY ORDERED BY THE COURT that you be present for a Civil Docket Call in the District Courtroom of the Eddy County Courthouse in Carlsbad, New Mexico, on Monday, January 28, 1974, at 9:30 A.M., if your name appears in the cases listed below, OR present an ORDER to the Court disposing of the case before January 28, 1974.


District Judge

25928	In Re: Estate of Robert Edward McCoy, Deceased	Probate	Iden & Johnson

26743	Rex Wheatley vs. Cecil F. Fletcher	Promissory Note	D. D. Archer No Service

27315	Vanda Rhodes vs. Clifford Rhodes	Divorce	D. D. Archer Sanders, et al

27347	Emory Champion vs. El Paso Natural Gas	Personal Injury (JURY)	Williams, et al Girand, et al

27773	In Re: Petition of Robert Lee Marshall, et ux, to adopt minor child		Lon P. Watkins

27892	Auto Owners Insurance Co. vs. Guadalupe C. Aranda, et al	Subrogation	W. T. Martin Dick Blenden

27955	GFC Loan Co. of Columbia vs. K. C. Cartwright, et al	Promissory Note	Leonard T. May Service-No answer

28017	J. G. Laxson, et al vs. Tom Granger, et al	Personal Injury	Paul Kelly C. A. Feezer

28043	Leon C. Bustamante vs. Mermes Construction Co., et al	Workmen's Comp.	Matteucci, et al Lowell Stout

28612	El Paso Natural Gas Co. vs. Robert A. Rubenstein Alex J. Armijo, Intervenor	Condemnation 	Matkins & Martin William J. Mounce S. S. Koch William O. Jordan Phil R. Lucero
28622	In Re: D & N Children		David Hoglund
28629	Farmers Insurance Exchange, et al vs. Thomas Elija Moore, Jr.	Subrogation 	W. T. Martin No Service
28635	Norma Lee Ewers, et al vs. Roberta Jeannette Horton	Personal Injury (JURY)	Dick A. Blenden R. E. Thompson
28649	City of Carlsbad vs William Ray McGuire	Appeal from Municipal Court 	Michael McCormick <u>Easley</u> , et al
28669	Grover D. Norris vs Corine N. Norris	Divorce 	Edward R. Pearson Lon P. Watkins
28676	Jeanetta Mae Ackison vs. Robert L. Ackison	RESL 	David Hoglund None
28689	Clarence Miller vs. Guadalupe F. Amalla	Property Damage 	Paul Kelly Service-No answer
28694	Fabian E. Forni, Jr. vs. Suzanne Forni	Divorce 	Leonard T. May No Service
28697	Charles C. Powell vs. Mari H. Powell	Divorce 	<u>Walker</u> & Estill No Service
28718	Phillips Petroleum Co. vs. Oil Conservation Commission International Mining & Chem. - Intervenor	Petition for Review 	Jasson W. Kellahin William F. Carr Montgomery, et al Matkins & Martin
28722	Maxine Farmer vs. Glen Farmer	Division of Property 	Edward R. Pearson Service-No answer
28724	City of Artesia vs. Lela Cornett	Appeals from Municipal Court	Watson & Watson Gerald R. Bloomfield
28725	Lonnie Rodriguez		"
28726	Joe F. Garay		"
28727	Ernest Gutierrez		"
28728	Sonny Molina		"

Morris Federal Practice - vol 2A (8.27[4])

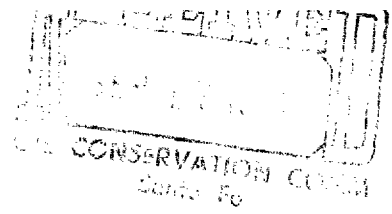
Matters listed in 8(c) = Aff Δ

at least possible
"any matter which does not tend to contravert the opposing party's prima facie case as determined by applicable substantive law should be pleaded and is not put in ~~the~~ issue by a denial made pursuant * to Rule 8(b). < failure to state a claim >

"a defense is good unless it appears to a certainty that the claimant would succeed despite any state of facts which ~~would~~ could be proved to support the defense.

< ✓ Jason time — Aff Δ > APPEAL TAKEN MAY 2 —

< ✓ on raising matters not raised before commission — Jason and Dick could argue this and try to put on evidence >



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

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

TELEPHONE 982-4315
AREA CODE 505

September 14, 1973

Hon. D. D. Archer
District Judge, Fifth District
P. O. Box 98
Carlsbad, New Mexico 88220

Re: Phillips Petroleum Company vs. Oil Conservation
Commission; International Minerals & Chemical
Corporation, Intervenor; No. 28718, Eddy County,
New Mexico

Dear Judge Archer:

The above case is presently set for hearing as the
eighth case on a trailing docket on October 9, 1973.

This is to request that this setting be vacated. The
same matter is the subject of an appeal to the Director,
United States Geological Survey, Department of the Interior,
and no ruling has been obtained on this appeal to date.
A ruling adverse to Phillips by the U.S.G.S. Director would
render the appeal in your court moot for all practical
purposes, and would appreciate it if the case could be re-
set after the Department of the Interior ruling, assuming
Phillips prevails.

Your consideration of this request will be appreciated.

Sincerely,

Jason W. Kellahin

JWK:ks

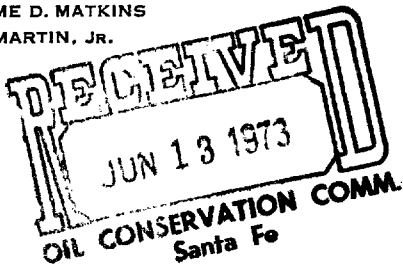
cc: Joe V. Peacock, Esq.
William F. Carr, Esq. ✓
Jerome D. Matkins, Esq.
Richard S. Morris

C
O
P
Y

MATKINS AND MARTIN
ATTORNEYS AT LAW
601 NORTH CANAL STREET
P. O. DRAWER N
CARLSBAD, NEW MEXICO 88220

JEROME D. MATKINS
W. T. MARTIN, JR.

AREA CODE 505
885-2445
885-2312



June 12, 1973

Mr. Jason W. Kellahin
Kellahin and Fox
Attorneys at Law
P. O. Box 1769
Santa Fe, New Mexico 87501

Mr. William Carr
Special Assistant - Attorney General
State of New Mexico
P. O. Box 2083
Santa Fe, New Mexico 87501

Re: Philips Petroleum Company v. Oil Conservation Commission
No. 28718 District Court - Eddy County, New Mexico

Gentlemen:

Enclosed to each of you is a copy of the Order Allowing Intervention
on the part of International Minerals and Chemical Corporation.

I appreciate your cooperation in consenting to the intervention.

Yours very truly,

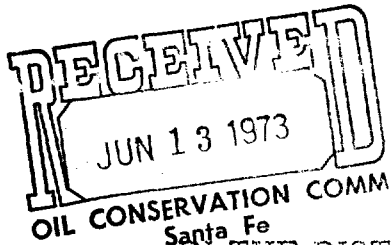
MATKINS AND MARTIN


Jerome D. Matkins

In
Enc.

cc: Mr. Joe V. Peacock
Mr. Richard S. Morris
Mr. James E. Wolber
Mr. C. E. Childers

C
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IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO
FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF EDDY

PHILLIPS PETROLEUM COMPANY, :
a corporation, :

Petitioner, :

vs. :

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

Respondent. :

FILED JUN 12 1973 IN MY
OFFICE

FRANCES M. WILCOX
Clerk of the District Court

No. 28718

ORDER ALLOWING INTERVENTION

THIS MATTER having come on the motion of International Minerals and Chemical Corporation to intervene in the above entitled and numbered cause and the Court being fully advised in the premises, FINDS:

1. International Minerals and Chemical Corporation is a proper party to intervene in this action pursuant to the statutes of the State of New Mexico.

2. All parties to this action have consented to the intervention of International Minerals and Chemical Corporation.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that International Minerals and Chemical Corporation be, and it hereby is, allowed to intervene in this action.

S/ D. D. ARCHER
District Judge

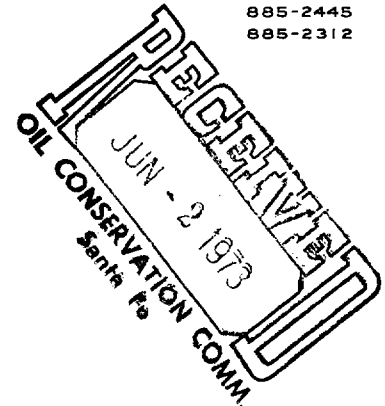
MATKINS AND MARTIN
ATTORNEYS AT LAW

JEROME D. MATKINS
W. T. MARTIN, JR.

601 NORTH CANAL STREET
P. O. DRAWER N
CARLSBAD, NEW MEXICO 88220

AREA CODE 505
885-2445
885-2312

June 1, 1973



Mr. Joe V. Peacock
Attorney at Law
Phillips Building
Odessa, Texas 79760

Mr. Jason W. Kellahin
Kellahin and Fox
Attorneys at Law
P. O. Box 1769
Santa Fe, New Mexico 87501

Mr. William F. Carr
Special Assistant Attorney General
State of New Mexico
P. O. Box 2088
Santa Fe, New Mexico 87501

Re: Phillips Petroleum Company v. Oil Conservation
Commission, #28718, District Court Eddy County, NM

Gentlemen:

Enclosed herewith is a Motion to Intervene and Response of Intervenor International Minerals & Chemical Corporation to Petition for Review which we have filed for IMC in the referenced cause.

Although IMC was served with notice of Phillips' appeal as required by Section 65-3-22, N.M.S.A., 1953 Comp., it was not named as a respondent in the petition. For this reason Mr. Morris and I concluded that our proper procedure was probably a Motion to Intervene rather than a mere response. I have enclosed to appropriate parties copies of a Consent to Intervention on behalf of Phillips and the Oil Conservation Commission. If there is no objection to the intervention, I would appreciate the execution of the Consents by Mr. Kellahin for Phillips and Mr. Carr for the OCC. They may be returned to this office and I will see to their filing.

Mr. Joe V. Peacock
Mr. Jason W. Kellahin
Mr. William F. Carr

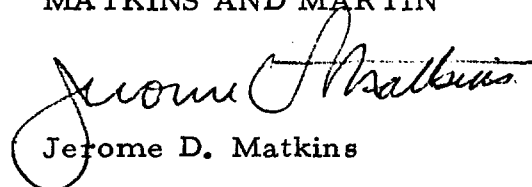
-2-

June 1, 1973

If, on the other hand, there is objection to the intervention, I would appreciate your notifying me as promptly as possible. I will then obtain a hearing on the motion. Thank you for your attention to this matter.

Yours very truly,

MATKINS AND MARTIN



Jerome D. Matkins

ebg

Encs.

cc w/Encs.:

Mr. Richard S. Morris
Montgomery, Federici, Andrews,
Hanna & Morris
Attorneys and Counselors at Law
P. O. Box 2307
Santa Fe, New Mexico 87501

Mr. James E. Wolber
Patent Counsel
IMCC
Libertyville, Illinois 60048

Mr. C. E. Childers
IMCC
P. O. Box 71
Carlsbad, New Mexico 88220

STATE OF NEW MEXICO

IN THE DISTRICT COURT

COUNTY OF EDDY

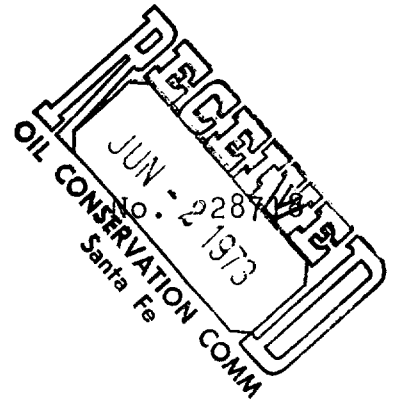
PHILLIPS PETROLEUM COMPANY,
a corporation,

Petitioner,

vs.

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO,

Respondent.



MOTION TO INTERVENE

Comes now International Minerals & Chemical Corporation pursuant to Rule 24 of the Rules of Civil Procedure and moves the Court to enter an Order permitting it to intervene in this Review proceeding, and in support of its Motion states:

1. Movant is the owner of potash mining leases in the immediate vicinity of a well which Phillips Petroleum Company has proposed to drill in Section 13, Township 23 South, Range 30 East, Eddy County, New Mexico. Movant participated as a party in Case No. 4906 before the New Mexico Oil Conservation Commission, which case resulted in Order No. R-4500 denying Phillips Petroleum Company permission to drill the said well.

2. Movant is so situated that the disposition of this Review proceeding may as a practical matter impair or impede its ability to protect its potash mining leases unless it is permitted to intervene in this proceeding, either as a matter of right or as a matter of permissive intervention.

3. Attached to this Motion is a copy of the Response to the Petition for Review for which intervention is sought.

WHEREFORE, movant prays the Court to enter an Order permitting movant to intervene in this Review proceeding and permitting

it to file a response in the form of the Response attached to this Motion.

MONTGOMERY, FEDERICI, ANDREWS,
HANNAHS & MORRIS
P.O. Box 2307
Santa Fe, New Mexico 87501

MATKINS AND MARTIN

By Jerome Matthews
P.O. Drawer N
Carlsbad, New Mexico 88220

Attorneys for International
Minerals & Chemical Corporation.

CERTIFICATE OF MAILING

I hereby certify that I caused to be mailed a true and correct copy of the foregoing Motion to Intervene to MR. JOE V. PEACOCK, Phillips Building Odessa, Texas 79760, and MR. JASON W. KELLAHIN, of KELLAHIN & FOX, P.O. Box 1769, Santa Fe, New Mexico 87501, Attorneys for Petitioner Phillips Petroleum Company, and to MR. WILLIAM F. CARR, Special Assistant Attorney General, P.O. Box 2088, Santa Fe, New Mexico 87501, this 1st day of June, 1973.

Jerome Matthews

STATE OF NEW MEXICO

IN THE DISTRICT COURT

COUNTY OF EDDY

PHILLIPS PETROLEUM COMPANY,)
a Corporation,)

Petitioner,)

vs.)

No. 28718

OIL CONSERVATION COMMISSION)
OF THE STATE OF NEW MEXICO,)

Respondent.)

RESPONSE OF INTERVENOR INTERNATIONAL MINERALS
& CHEMICAL CORPORATION TO PETITION FOR REVIEW

Comes now Intervenor International Minerals & Chemical Corporation and for its response to the Petition for Review states:

FIRST DEFENSE

1. Intervenor admits the averments contained in paragraphs 1 through 10 of the Petition for Review.

2. Intervenor denies the averments contained in paragraphs 11 and 12 of the Petition for Review and further denies the averments contained in Petitioner's Application for Rehearing before the New Mexico Oil Conservation Commission in connection with the said Order No. R-4500.

SECOND DEFENSE

The Petition for Review fails to state a claim upon which relief can be granted.

WHEREFORE, Intervenor prays that the Petition for Review be dismissed, that New Mexico Oil Conservation Commission Order No. R-4500 be affirmed and that the Court grant Intervenor such further relief as may be proper.

MONTGOMERY, FEDERICI, ANDREWS,
HANNAHS & MORRIS
P.O. Box 2307
Santa Fe, N.M. 87501

MATKINS AND MARTIN

By _____
P.O. Drawer N
Carlsbad, N.M. 88220
Attorneys for International
Minerals & Chemical Corporation.

CERTIFICATE OF MAILING

I hereby certify that I caused to be mailed a true and correct copy of the foregoing Response of Intervenor International Minerals & Chemical Corporation to Petition for Review in Cause No. 28718 Eddy County District Court to MR. JOE V. PEACOCK, Phillips Building, Odessa, Texas 79760, and MR. JASON W. KELLAHIN, of KELLAHIN & FOX, P.O. Box 1769, Santa Fe, New Mexico 87501, Attorneys for Petitioner Phillips Petroleum Company; and to MR. WILLIAM F. CARR, Special Assistant Attorney General, P.O. Box 2088, Santa Fe, New Mexico 87501, this _____ day of _____, 1973.

IN THE DISTRICT COURT FOR EDDY COUNTY

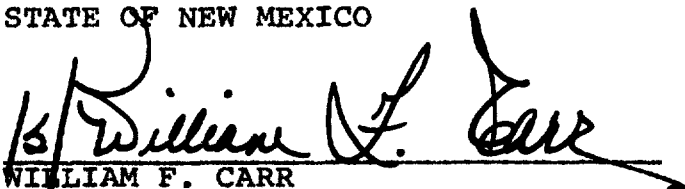
STATE OF NEW MEXICO

PHILLIPS PETROLEUM COMPANY)
a corporation,)
)
 Petitioner,)
)
vs.)
)
OIL CONSERVATION COMMISSION)
OF THE STATE OF NEW MEXICO,)
)
 Respondent,)
)
INTERNATIONAL MINERALS &)
CHEMICAL CORPORATION,)
)
 Intervenor.)

CONSENT TO INTERVENTION

Comes now Respondent, Oil Conservation Commission of the State of New Mexico, and consents to the intervention of International Minerals & Chemical Corporation in the above entitled and numbered cause.

OIL CONSERVATION COMMISSION OF THE
STATE OF NEW MEXICO


WILLIAM F. CARR
Special Assistant Attorney General
P. O. Box 2088
Santa Fe, New Mexico 87501

COUNTY OF EDDY

PHILLIPS PETROLEUM COMPANY,
a Corporation,

Petitioner,

vs.

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO,

Respondent.

15/William F. Carr
WILLIAM F. CARR
Special Assistant Attorney General
representing the Oil Conservation
Commission of New Mexico, P. O.
Box 2088, Santa Fe, New Mexico 87501

I hereby certify that on the
24th day of May, 1973, a copy
of the foregoing pleading was mailed
to opposing counsel of record.

1/2/ William L. Bass

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

May 24, 1973

Mr. Richard Morris
Montgomery, Federici, Andrews,
Hannahs & Morris
P. O. Box 2307
Santa Fe, New Mexico

Dear Dick:

Enclosed herewith is a copy of the Oil Conservation Commission's answer to Phillips' Petition for Review of Order No. R-4500.

I am unable to certify the record to the court at this time as I only have one copy of International Minerals and Chemical Corporation's Exhibits Nos. 7, 8, 19, 20 and 21. If you can send me copies of these, it will be greatly appreciated.

Very truly yours,

WILLIAM F. CARR
Special Assistant Attorney General
Oil Conservation Commission

WFC/dr

enclosure

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

May 24, 1973

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

Re: Phillips Petroleum Company
vs. Oil Conservation Commission
Cause No. 28718 in the District
Court of Eddy County, New Mexico

Dear Mrs. Wilcox:

I transmit herewith the Oil Conservation
Commission's Answer to Petition for Review in
the above-entitled case.

Very truly yours,

WILLIAM F. CARR
Special Assistant Attorney General
Oil Conservation Commission

WFC/dr

enclosure

STATE OF NEW MEXICO

COUNTY OF EDDY

IN THE DISTRICT COURT

PHILLIPS PETROLEUM COMPANY,
a Corporation,

Petitioner, No. 28718

-vs-

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

Respondent.

ACCEPTANCE OF SERVICE

The undersigned acknowledges receipt of Notice of Appeal, with a copy of Petition for Review attached, in the above captioned case, and accepts service thereof for and on behalf of the Oil Conservation Commission of New Mexico.

/s/ William F. Carr
General Counsel

Date May 4, 1973

STATE OF NEW MEXICO

COUNTY OF EDDY
FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO
COUNTY OF EDDY

IN THE DISTRICT COURT

FILED MAY - 2 1973 IN MY OFFICE

PHILLIPS PETROLEUM COMPANY,
a Corporation,

FRANCES M. WILCOX
Clerk of the District Court

Petitioner,

-vs-

No. 28718

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO,

Respondent.

NOTICE OF APPEAL

STATE OF NEW MEXICO TO THE FOLLOWING NAMED ADVERSE PARTIES:

OIL CONSERVATION COMMISSION OF NEW MEXICO
INTERNATIONAL MINERALS & CHEMICAL CORPORATION

NOTICE IS HEREBY GIVEN that the above named Petitioner being dissatisfied with the Oil Conservation Commission of New Mexico's promulgation of Order No. R-4500 entered in Case No. 4906 on the docket of the Commission, has appealed therefrom in accordance with the provisions of Sec. 65-3-22, New Mexico Statutes, Annotated, having filed their Petition for Review in the District Court for the Fifth Judicial District, Eddy County, New Mexico.

The attorney representing Petitioner in said cause is:

JASON W. KELLAHIN
KELLAHIN & FOX
P. O. Box 1769
Santa Fe, New Mexico 87501

(SEAL)

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, New Mexico,
this 2nd day of May, 1973.

Frances M. Wilcox Clerk

By: M. B. Foster
Deputy

STATE OF NEW MEXICO

COUNTY OF EDDY

IN THE DISTRICT COURT

PHILLIPS PETROLEUM COMPANY,
a Corporation,

Petitioner,

-vs-

No. 28718

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO,

Respondent.

PETITION FOR REVIEW

COMES NOW Phillips Petroleum Company, hereinafter called Petitioner, and pursuant to the provisions of Section 65-3-22, New Mexico Statutes Annotated, 1953 Compilation, as amended, respectfully petitions the Court for review of the action of the Oil Conservation Commission of New Mexico in Case No. 4906, on the docket of the Commission, and its order No. R-4500, issued therein, and states:

1. Petitioner is a corporation duly organized under the laws of the State of Delaware, and duly admitted to do business in the state of New Mexico. The Respondent Oil Conservation Commission of the State of New Mexico is a statutory body created and existing under the provisions of the laws of the State of New Mexico, and vested with jurisdiction over all matters relating to the conservation of oil and gas in the State of New Mexico, and the prevention of waste, the protection of correlative rights, and the enforcement of the Conservation Act of the State of New Mexico, being Chapter 65, Article 3, New Mexico Statutes Annotated, 1953 Compilation, as amended, which act vests

in said Oil Conservation Commission limited jurisdiction over the prevention of waste of potash resources.

2. Petitioner filed its application to drill a well, to be located 1980 feet from the West line, and 660 feet from the South line of Section 13, Township 23 South, Range 30 East, N.M.P.M., on December 26, 1972.

3. Said location is within an area defined by the Oil Conservation Commission, through its Order No. R-111-A, known as "The Rules and Regulations Governing the Exploration of Oil and Gas in Certain Areas Herein Defined, which are Known to Contain Potash Reserves," as said order was extended by Oil Conservation Commission Order No. R-111-G. A copy of Order No. R-111-A is attached hereto, marked Exhibit "A" and made a part hereof. A copy of Order R-111-G is attached hereto marked Exhibit "B" and made a part hereof.

4. Objection was filed to the drilling by Phillips Petroleum Company, and pursuant to Oil Conservation Commission Order No. R-111-A, an arbitration meeting was held in the offices of the United States Geological Survey, Roswell, New Mexico, on January 26, 1973, at which time International Minerals and Chemical Corporation appeared, and opposed the drilling of a well at the location proposed, or at any location in Section 13.

5. As provided by Order No. R-111-A, the application of Petitioner was set down for hearing before the Oil Conservation Commission on February 21, 1973, as Case No. 4906 on the Docket of the Commission.

6. International Minerals and Chemical Corporation appeared in opposition to Petitioner at said hearing before the Oil Conservation Commission, and after hearing before a quorum of the Commission, the Commission entered its Order No. R-4500, which denied Petitioner's application for a permit to

drill. A copy of Order No. R-4500 is attached hereto, marked Exhibit "C", and made a part hereof.

7. Petitioner timely filed its application for rehearing which application stated the grounds of the invalidity of Commission Order No. R-4500. The application was not acted upon by the Commission within ten days, and was therefore, as provided by law, denied.

8. A copy of Petitioner's application for rehearing, filed with the Commission, is attached hereto, marked Exhibit "D", and made a part hereof.

9. Petitioner is the owner of properties in the area affected by Order No. R-111-A, Exhibit "A", and is affected by Commission Order No. R-4500, Exhibit "C", attached hereto. Petitioner is dissatisfied with the disposition of its application for rehearing and with the provisions of Order No. R-4500, and by this proceeding seeks a review as provided by law.

10. The only party adverse to petitioner in the proceedings before the Oil Conservation Commission in Case No. 4906 was International Minerals & Chemical Corporation.

11. Petitioner alleges that Order No. R-4500, entered in Case No. 4906 on the docket of the Oil Conservation Commission of New Mexico is unreasonable, unlawful, arbitrary and capricious and is therefore invalid and void on the grounds raised in Petitioner's application for rehearing before the Oil Conservation Commission, which application is attached hereto as Exhibit "D" which statement of the grounds of the invalidity of Order No. R-4500 are adopted by reference, as though fully set out herein.

12. Commission Order No. R-4500 is invalid, arbitrary and capricious and deprives Petitioner of its property without due process of law in violation of the 14th Amendment to the Constitution of the United States and in violation of Article II,

Section 18, of the Constitution of the State of New Mexico. Order No. R-4500 is unlawful, arbitrary and capricious in that it is not supported by substantial evidence, will result in waste of oil and gas, and fails to recognize or protect the correlative rights of Petitioner, all contrary to the provisions of law.

WHEREFORE, Petitioner respectfully prays the Court as authorized by Section 65-3-22, New Mexico Statutes Annotated, 1953 Compilation, as amended, that:

1. Notice of this Petition for Review be served in the manner provided for the service of summons in civil proceedings upon the Oil Conservation Commission of New Mexico, and upon International Minerals & Chemical Corporation.
2. That this Petition be set for trial in the manner provided by law, and that this Court review the action of the Oil Conservation Commission herein complained of.
3. That this Court enter its order vacating and setting aside New Mexico Oil Conservation Commission Order No. R-4500.
4. That the Court enter such other and further orders as may be proper in the premises.
5. That Petitioner have such other and further relief as may be proper.

Respectfully submitted,

PHILLIPS PETROLEUM COMPANY

Joe V. Peacock
Phillips Building
Odessa, Texas 79760

Jason W. Kellahin
KELLAHIN & FOX
P. O. Box 1769
Santa Fe, New Mexico 87501

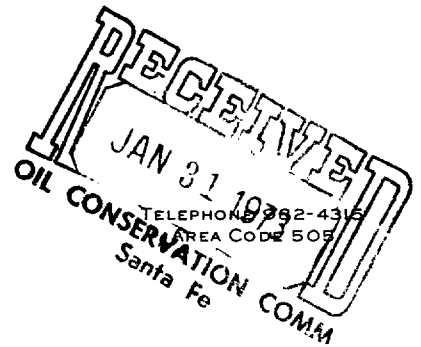
By Jason W. Kellahin
Jason W. Kellahin

ATTORNEYS FOR PETITIONER
PHILLIPS PETROLEUM COMPANY

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

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

January 30, 1973



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

Re: Application of Phillips Petroleum Company
to Drill in Potash Area

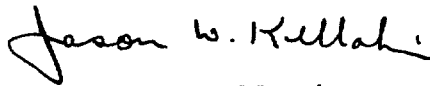
Dear Mr. Porter:

This will confirm our request on behalf of Phillips Petroleum Company that their application to drill their Dunes-A well in an undesignated pool, Eddy County, New Mexico, at a location 1980 feet from the West line and 660 feet from the South line of Section 13, Township 23 South, Range 30 East, N.M.P.M., as a Morrow gas test, be set for hearing before the Oil Conservation Commission.

This request confirms our request made at the close of the arbitration hearing in Roswell, New Mexico, January 26, 1973, and is made in accordance with Commission Order No. R-111-A.

It is my understanding that the hearing will be scheduled for February 21, 1973, at 9:00 a.m., at the Land Office Conference Room.

Yours very truly,


Jason W. Kellahin

JWK:ks

cc: Mr. Joe V. Peacock
Mr. E. M. Gorence

DOCKET MAILED

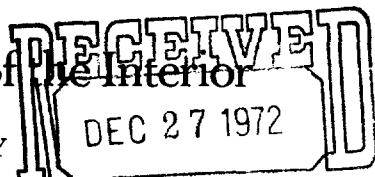
Date 2-1-73



United States Department of the Interior

GEOLOGICAL SURVEY

P. O. Drawer U
Artesia, New Mexico 88210



OIL CONSERVATION COMM
Santa Fe

December 26, 1972

Mr. A. L. Porter, Jr.
New Mexico Oil Conservation Commission
Post Office Box 2088
Santa Fe, New Mexico 87501

Re: Oil-Potash Area

Dear Mr. Porter:

Attached is an "Information Copy" of a Notice of Intention to Drill a well to a depth of 14,300 feet to test the Morrow formation in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ sec. 13, T. 23 S., R. 30 E., N.M.P.M., Eddy County, New Mexico, filed by Phillips Petroleum Company, Room 711, Phillips Building, Odessa, Texas 79761. The location is on Federal oil and gas lease New Mexico 0532516.

Sincerely yours,

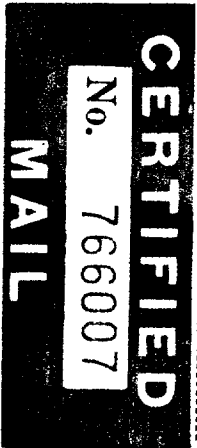
James A. Knauf
District Engineer

Attachment

Copy w/notice to: N.M.O.C.C., Artesia
U.S.G.S., Roswell
U.S.G.S., Carlsbad



PHILLIPS PETROLEUM COMPANY
EXPLORATION & PRODUCTION DEPARTMENT
PHILLIPS BUILDING, FOURTH & WASHINGTON
ODESSA, TEXAS 79760



U. S. Potash & Chemical Company
Box 101,
Carlsbad, New Mexico
88220



PHILLIPS PETROLEUM COMPANY
EXPLORATION & PRODUCTION DEPARTMENT
PHILLIPS BUILDING, FOURTH & WASHINGTON
ODESSA, TEXAS 79760



International Minerals & Chemical Company
C/O Neal & Matkins, Attnys.
Drawer N,
Carlsbad, New Mexico
88220

FLITE-FUEL



Trop-Artic

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

☒ Show to whom, date and address ☐ Deliver ONLY to addressee where delivered

RECEIPT

Received the numbered article described below

REGISTERED NO.

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

CERTIFIED NO.

INSURED NO.

DATE DELIVERED

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

FLITE-FUEL



Trop-Artic

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

☒ Show to whom, date and address ☐ Deliver ONLY to addressee where delivered

RECEIPT

Received the numbered article described below

REGISTERED NO.

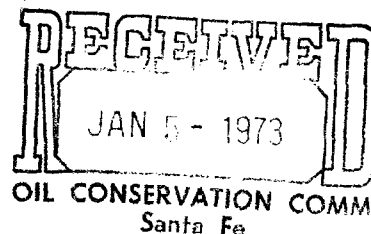
SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

CERTIFIED NO.

INSURED NO.

DATE DELIVERED

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



INTERNATIONAL MINERALS & CHEMICAL CORPORATION

January 3, 1973

Mr. A. L. Porter, Jr.
Secretary, NM Oil Conservation Commission
P. O. Box 2088
Santa Fe, NM 87501

Dear Mr. Porter:

This is to confirm my telephone conversation with Mr. Nutter on this date concerning the Phillips Petroleum Company application for permission to drill a gas well in Section 13, Township 23 South, Range 30 East.

International Minerals & Chemical Corporation does hereby file an objection to the drilling of said well.

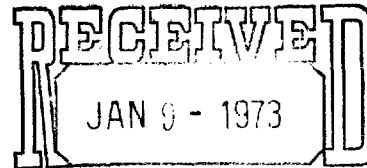
Mr. Nutter informed me he would request that you telephone me upon your return to your office on Thursday, January 4, so we will probably have had a conversation by the time you receive this letter. In the interest of time, however, I felt written confirmation of my verbal protest to Mr. Nutter should be mailed today.

Yours very truly,

C. E. Childers
General Superintendent
Engineering & Maintenance

CEC:jw

cc: R. W. Hougland
J. D. Matkins
Phillips Petroleum Company
Regional Oil and Gas Supervisor, USGS



BOX 101
CARLSBAD, NEW MEXICO 88220
MINE & OFFICE
(505) 887-5591
TWX (910) 986-0048
REFINERY
(505) 745-3541

OIL CONSERVATION COMM
Santa Fe

January 8, 1973

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

Dear Mr. Porter:

This is to advise you that Teledyne Potash wishes to protest the application for the permit to drill which has been filed by Phillips Petroleum Company, and was received in our office on January 3, 1973. The proposed drill location is in Section 13, Township 23 South, Range 30 East. This area is covered by Rule R-111A.

Very truly yours,

W. N. Stanley
Vice President of Operations

WNS:ns

c.c. Mr. R. S. Fulton, U.S.G.S.
Phillips Petroleum Company

Copy of Phillips letter sent to Mr. Stanley on 1/9/73



OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO
P. O. BOX 2088 - SANTA FE
87501

GOVERNOR
BRUCE KING
CHAIRMAN

LAND COMMISSIONER
ALEX J. ARMJO
MEMBER

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

January 8, 1973

Phillips Petroleum Company
Room 711, Phillips Building
Odessa, Texas 79761

Gentlemen:

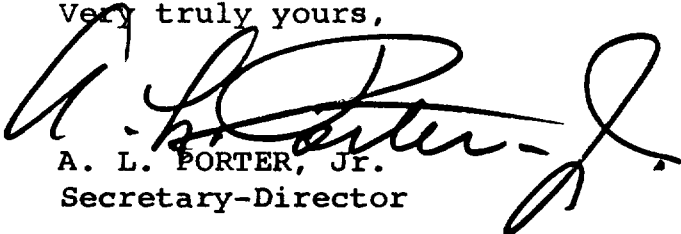
This is to advise that Mr. C. E. Childers of International Minerals & Chemical Corporation has filed an objection to the drilling of a well as you propose in the SE/4 SW/4 of Section 13, Township 23 South, Range 30 East, NMPM, Eddy County, New Mexico.

If it is your desire to pursue the matter, I will be happy to proceed in accordance with the provisions of Commission Order No. R-111-A to set up an arbitration meeting between the parties at a time that will be convenient for all concerned.

Since the acreage involved is under the jurisdiction of the United States Geological Survey, I believe it would be appropriate to hold the meeting in the offices of that agency in Roswell.

Further action in this matter will be delayed until I have received your reply.

Very truly yours,


A. L. PORTER, Jr.
Secretary-Director

ALP/ir

cc: Mr. C. E. Childers
U. S. Geological Survey - Roswell, New Mexico
U. S. Geological Survey - Artesia, New Mexico
Mr. Bill Gressett, Oil Conservation Commission, Artesia, N.M.

Handwritten notes:
Mr. Gressett will
P.L. 1-8-73



OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO
P. O. BOX 2088 - SANTA FE
87501

January 15, 1973

GOVERNOR
BRUCE KING
CHAIRMAN

LAND COMMISSIONER
ALEX J. ARMIJO
MEMBER

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

Phillips Petroleum Company
Room 711 - Phillips Building
Odessa, Texas 79761

Attention: Mr. Gorens

Gentlemen:

With further reference to my letter of January 8, 1973, I have contacted Mr. Carl Traywick of the U. S. Geological Survey in Roswell and have decided to have an arbitration meeting, having to do with your proposed well location, in Roswell at the U. S. Geological Survey offices at 10:30 a.m. on Friday, January 26, 1973.

By copies of this letter the other interested parties are being notified of the meeting.

Very truly yours,

A. L. PORTER, Jr.
Secretary-Director

ALP/ir

cc: Mr. C. E. Childers
U. S. Geological Survey - Roswell, New Mexico
U. S. Geological Survey - Artesia, New Mexico
Mr. Jason Kellahin - Attorney at Law, Santa Fe, N. M.
Mr. Bill Gressett, Oil Conservation Commission, Artesia, N.M.
Mr. W. N. Stanley, Vice President of Operations - Teledyne
Potash - Box 101, Carlsbad, New Mexico 88220



OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO
P. O. BOX 2088 - SANTA FE
87501

January 29, 1973

GOVERNOR
BRUCE KING
CHAIRMAN

LAND COMMISSIONER
ALEX J. ARMIJO
MEMBER

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

Mr. E. M. Gorence
Phillips Petroleum Company
Room 711 - Phillips Building
Odessa, Texas 79761

Dear Mr. Gorence:

Pursuant to our discussion in Roswell last Friday, we will advertise a hearing to be held in the Conference Room of the State Land Office at 9 a.m. on February 21, 1973. The case to be docketed will concern the disputed location of your proposed well in Section 13, Township 23 South, Range 30 East, Eddy County, New Mexico.

Very truly yours,

A. L. PORTER, Jr.
Secretary-Director

ALP/ir

cc: Mr. C. E. Childers - Carlsbad, New Mexico
U. S. Geological Survey - Roswell, New Mexico
U. S. Geological Survey - Artesia, New Mexico
Mr. Jason Kellahin - Attorney at Law, Santa Fe, N.M.
Mr. Bill Gressett, Oil Conservation Commission, Artesia
Mr. W. N. Stanley, Vice President of Operations - Teledyne
Potash - Box 101, Carlsbad, New Mexico 88220
Mr. Robert S. Fulton - U. S. Geological Survey, Carlsbad,
New Mexico



United States Department of the Interior

GEOLOGICAL SURVEY

Drawer 1657
Roswell, New Mexico 88201

February 2, 1973

Memorandum

To: File

From: Carl C. Traywick

Subject: Notes on N.M.O.C.C. Arbitration Meeting, R-111-A Procedure, held by Mr. A. L. Porter, Jr., Secretary Director, N.M.O.C.C. in the Roswell U. S. G. S. Area Office at 10:30 a.m., January 26, 1973

The subject meeting was occasioned by Phillips filing a notice of intention to drill a Pennsylvania (Morro) well in the SE $\frac{1}{4}$ sec. 13, T. 23 S., R. 30 E., Eddy County, New Mexico, Federal lease New Mexico 0532516 located within the Secretary's Oil/Potash Area of southeastern New Mexico and the State oil potash area covered by N.M.O.C.C. Order No. R-111-A which provides for an arbitration hearing when an objection is received to the drilling of an oil or gas well in such area to attempt to resolve the objection to the mutual acceptance of both parties involved. In this case, International Mining and Chemical Corporation filed an objection to the drilling of the proposed oil and gas test well. An attendance list is attached. Also attached is a map showing the location under consideration with respect to other Pennsylvania wells drilled in the area. The following notes are a casual summary of the discussion and results of the meeting.

Mr. VanSickle discussed the classification standards for langbeinite and sylvite ore. Mr. Childers with International stated that the presence of a high pressure gas well in section 13 would prevent second mining within 1400 feet of the well and prevent the recovery of langbeinite ore with a gross value of about \$9,000,000. The presence of langbeinite ore in commercial quantities underlying section 13 is established by two core holes provided that the number and location is adequate to justify this conclusion. Mr. Childers made the definite point that the langbeinite ore is a tangible portion of International's reserves and that it would be mined, however, he was unable to predict the approximate time that actual mining operations of the ore body underlying section 13 would be commenced, whether a separate shaft would be required, or if such ore would be mined from International's present mining operations located approximately seven miles north and north-westerly from section 13.

Phillips' attorney asked if the \$9,000,000 loss estimate would be reduced if the proposed well were drilled, completed, produced to depletion and plugged before the potash mining operations reached the vicinity of the drillsite, and International stated the loss would be less but were rather indefinite as to how much less.

The proposed Pennsylvania test would look at the Morrow at about 14,000 feet. The cost of the well is estimated at about \$1,000,000. Project life of well approximately 8 years with good market facilities. Spacing anticipated to be 640 acres. Reserves in the order of 10 billion cubic feet. The success ratio of Pennsylvania wells in this area has been exceptionally good (report prepared by Aguilar, November 1972). The Federal lease involved has an expiration date of May 1, 1974.

Mr. Porter asked Area Mining Supervisor Mr. Fulton as to his opinion as to whether section 13 was underlain by commercial ore, and Mr. Fulton's opinion was that such determination is adequately established by the core analysis available from the three test wells in section 13 and in the adjoining area. Phillips indicated that it was amenable to considering a compromise location in section 13 but that the proposed location was the optimum geologic selection. International advised that it would not agree to any location in section 13.

The dates involved as to the prospecting permit and subsequent potash lease versus the date of the oil and gas lease was discussed as to whatever legal effect might be established by prior rights. It was brought out that this is the only langbeinite deposit in the United States and the value of the langbeinite is stable and exceeds that of sylvite ore.

Mr. Porter asked the U.S.G.S. representatives if we had anything else to contribute or any further questions of Phillips or International and after receiving a negative answer summed up with the following conclusions:

1. The presence of potash ore underlying section 13 has been established.
2. Phillips has indicated a willingness to discuss a compromise location mutually acceptable to both parties even though this would increase the risk factor of the proposed Pennsylvania oil and gas test.
3. International is adamant as to its objection to any location in section 13.
4. It appears the life of the proposed well, if completed as a producing Morrow gas well, would be in the order of 8 to 9 years.
5. The time involved for the potash company to initiate and complete mining operations under section 13 would be in the order of 40 years, and that we are looking at perhaps 20 years past such point for subsurface effect caused by the mining operations to achieve equilibrium to the point that a well could be drilled through such area.

6. Under the circumstances, the adjudication meeting required by R-111-A is the next step in the procedure and this will be set as a full Commission meeting rather than a trial examiner hearing - Mr. Porter asked Phillips if it so desired. Answer - Affirmative. Mr. Porter concluded the meeting by advising that the next meeting would be set and advertised in due course.

We have been subsequently advised that the meeting will be set for February 21 in Santa Fe, which was previously cleared as acceptable with the U.S.G.S. representatives involved.

(ORIG. SGD.) CARL C. TRAYWICK

CARL C. TRAYWICK

cc:

VanSickle

Fulton

Reg. Mgr., Denver

Washington

OS&D

Artesia

N.M.O.C.C. - Santa Fe ✓

CCTraywick:lh

Standard SUL-PO-MAG

2772

COMPUTERIZED
Quality Control System

chemical specifications

	RANGE	TYPICAL	GUARANTEE
K ₂ O, %	22.0 —22.9	22.3	22.0
MgO, %	18.0 —18.8	18.5	18.0
S, %	22.3 —22.6	22.4	
Cl, %	1.0 — 2.3	1.5	maximum 2.5 %
H ₂ O, %	0.12— 0.15	0.14	

physical specifications, % cumulative
(Tyler standard sieve sizes)

+ 8 Mesh	0—3	2
+10 Mesh	3—16	10
+14 Mesh	16—38	27
+20 Mesh	39—63	51
+28 Mesh	60—83	71
+35 Mesh	75—92	83
+48 Mesh	85—96	90
+65 Mesh	94—100	97

Typical bulk density, 88-92 lbs/ft³

Angle of repose, 32-34 degrees

typical chemical analysis Percent

K	18.5
Mg	11.1
Ca	0.05
Na	0.76
SO ₄	67.4
Br	0.005
Insol.	0.33

IMC # 1 476- 2/21/72



NORTH AMERICAN POTASSIUM MAGNESIUM SULFATE SHIPMENTS TRENDS
(Thousand Short Tons of Product, 22% K₂O and 18.5% MgO Content)

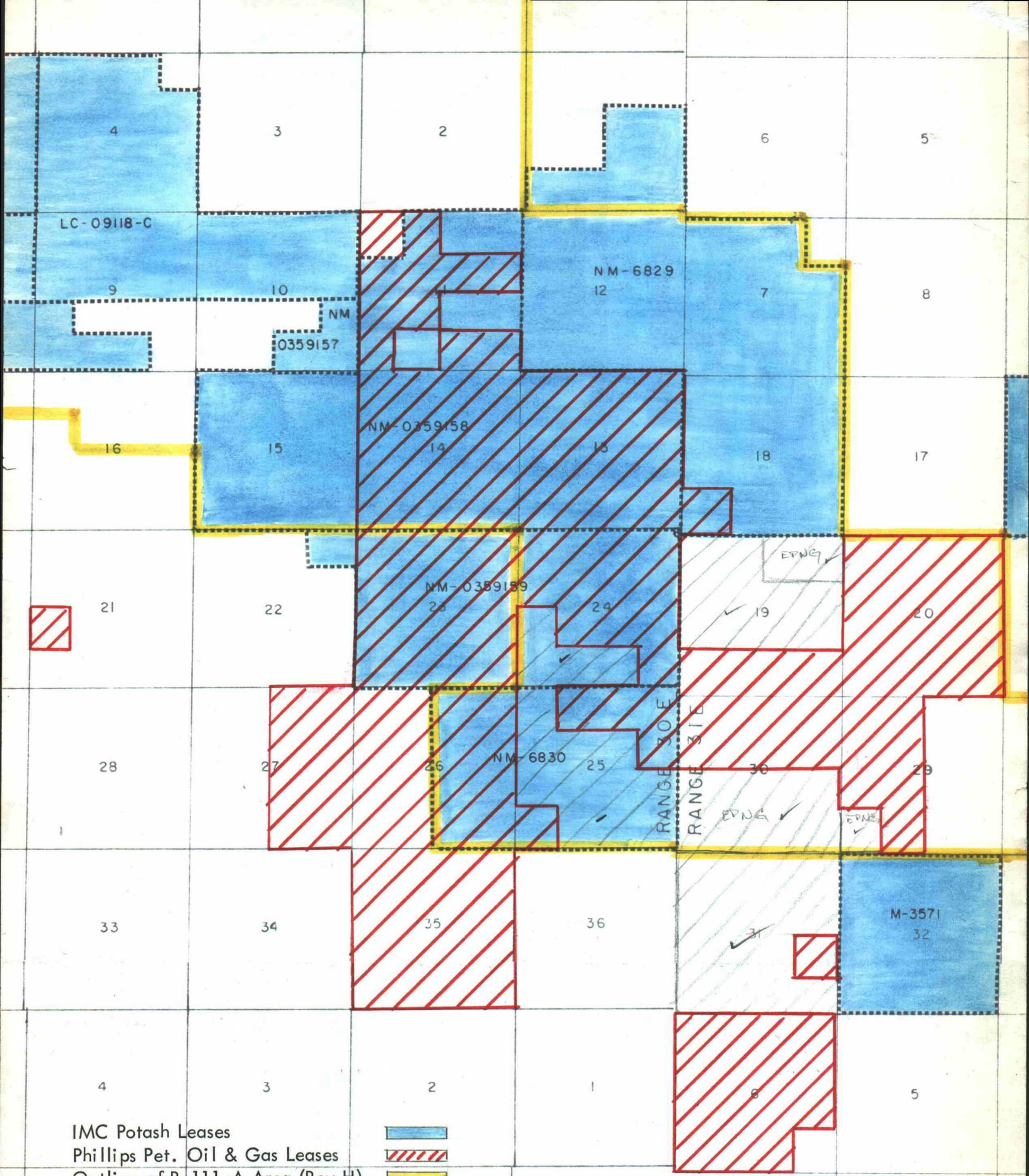
Fiscal Year	Shipments to U.S. & Canada				Overseas Exports				Total Shipments			
	Ind. ¹ (tons)	Duval (tons)	IMC (tons)	IMC Share (%)	Ind. ² (tons)	Duval (tons)	IMC (tons)	IMC Share (%)	Ind. (tons)	Duval (tons)	IMC (tons)	IMC Share (%)
1969/70	360	170	190	53%	35	10	25	71%	395	180	215	54%
1970/71	354	171	183	52%	49	6	43	88%	403	177	226	56%
1971/72	391	185	206	53%	66	18	48	73%	457	203	254	56%
1972/73 ^{e-3}	430	179	251	58%	70	19	51	73%	500	198	302	60%
1973/74 ^{f-4}	470	205	265	56%	80	25	55	69%	550	230	320	59%
1974/75 ^{f-4}	510	226	284	56%	80	19	61	76%	590	245	345	58%
1975/76 ^{f-4}	550	244	306	56%	80	16	64	80%	630	260	370	59%

- 1 Domestic wholesale demand has grown at a rate of 8.0% per year from 63/64 to 71/72. If stimulated by IMC's feed grade S-P-M and agronomic programs, the growth rate should be about 9% per year from 1971/72 to 1975/76.
- 2 Exports have responded to IMC promotional programs in the past and now Duval is aggressive in the Singapore area. The Texada venture in Australia, will, however, reduce U.S. exports to the Asia/Pacific area.
- 3 Based on D. Teleki market estimate and sales divisional IMC tonnage estimates as of 12-12-72.
- 4 Based on D. Teleki market estimate and preliminary Three Year Plan IMC sales estimates as of 12-12-72.

Source: Historical data based on IMC sales records and PINA potash shipments reports.

DT
12-13-72

IMC # 2
4906
2/21/73



IMC #3
4906
7/21/73

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico

Case No. 4906 Exhibit No. #3

Submitted by IMC

Hearing Date 2/21/73



42/12/12
90611 to
5 # 2W1

BEFORE THE	
OIL CONSERVATION COMMISSION	
State of New Mexico	
Case No. 4906	Exhibit No. 9
Submitted by	IMC
Hearing Date	2/21/73



IMG 3

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
Case No. 4906 Sub. No. #8
Submitted by IMC
Hearing Date 2/21/73

INTERNATIONAL MINERALS & CHEMICAL CORP.

CARLSBAD, N. M.

28

L. 62W1



BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
Case No. 4906 Exhibit No. #7
Submitted by IMC
Hearing Date 2/21/73

INTERNATIONAL MINERALS & CHEMICAL CORP.

CARLSBAD, N. M.

MATKINS AND MARTIN

ATTORNEYS AT LAW

601 NORTH CANAL STREET

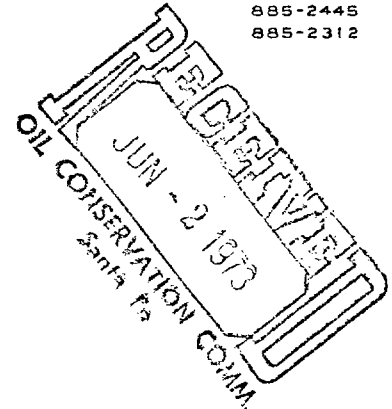
P. O. DRAWER N

CARLSBAD, NEW MEXICO 88220

JEROME D. MATKINS
W. T. MARTIN, JR.

AREA CODE 505
885-2445
885-2312

June 1, 1973



Mr. Joe V. Peacock
Attorney at Law
Phillips Building
Odessa, Texas 79760

Mr. Jason W. Kellahin
Kellahin and Fox
Attorneys at Law
P. O. Box 1769
Santa Fe, New Mexico 87501

Mr. William F. Carr
Special Assistant Attorney General
State of New Mexico
P. O. Box 2088
Santa Fe, New Mexico 87501

Re: Phillips Petroleum Company v. Oil Conservation
Commission, #28718, District Court Eddy County, NM

Gentlemen:

Enclosed herewith is a Motion to Intervene and Response of Intervenor International Minerals & Chemical Corporation to Petition for Review which we have filed for IMC in the referenced cause.

Although IMC was served with notice of Phillips' appeal as required by Section 65-3-22, N.M.S.A., 1953 Comp., it was not named as a respondent in the petition. For this reason Mr. Morris and I concluded that our proper procedure was probably a Motion to Intervene rather than a mere response. I have enclosed to appropriate parties copies of a Consent to Intervention on behalf of Phillips and the Oil Conservation Commission. If there is no objection to the intervention, I would appreciate the execution of the Consents by Mr. Kellahin for Phillips and Mr. Carr for the OCC. They may be returned to this office and I will see to their filing.

Mr. Joe V. Peacock
Mr. Jason W. Kellahin
Mr. William F. Carr

-2-

June 1, 1973

If, on the other hand, there is objection to the intervention, I would appreciate your notifying me as promptly as possible. I will then obtain a hearing on the motion. Thank you for your attention to this matter.

Yours very truly,

MATKINS AND MARTIN



Jerome D. Matkins

ebg

Encs.

cc w/Encs.:

Mr. Richard S. Morris
Montgomery, Federici, Andrews,
Hanna & Morris
Attorneys and Counselors at Law
P. O. Box 2307
Santa Fe, New Mexico 87501

Mr. James E. Wolber
Patent Counsel
IMCC
Libertyville, Illinois 60048

Mr. C. E. Childers
IMCC
P. O. Box 71
Carlsbad, New Mexico 88220

RESERVE CALCULATIONS

USGS 4th ORE ZONE (NO. 3 BED)

Section 13	Area *	Thickness	% Lang	% Syl.	Tons Ore	Prod Tons Lang	Prod Tons Syl.
Polygon around	#369	8.58	11.8	9.0	4.8 749955 7,499,550	3,068,000	600,000
	#370	15.18	8.4	11.3	0.2 944533 9,445,330	4,851,450	31,500
	#371	3.86	7.3	6.3	5.4 205725 2,087,260	597,730	18,800
	#384	0.26	4.4	8.8	4.8 84771 84,740	33,910	6,800
Total	27.88				19,116,880	8,551,090	657,100

1400 Ft. Radius Circle Around Proposed Location of Phillips Well

Segment around	#369	0.05	11.8	9.0	4.8 43703 43,700	17,860	3,500
	#370	3.80	8.4	11.3	0.2 236444 2,364,440	1,214,450	7,880
	#371	1.75	7.3	6.3	5.4 946296 946,300	270,990	85,170
	#386	0.56	8.7	0.2	0.1 360583 360,900	3,280	600
Total	6.16				3,715,340	1,506,580	97,150

IME 11

Note (*) Area x 10⁶ = ft²

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico

Case No. 4906 Exhibit No. 11

Submitted by IMC

Hearing Date 2/21/73

TONNAGE & VALUE CALCULATIONS

SECTION 13

$$\text{Area} = 640 \text{ acres} = 27,878,400 \text{ ft}^2 \quad (\text{one acre} = 43,560 \text{ ft}^2)$$

$$\text{Volume} = \text{Area} \times \text{Thickness} = 223,027,200 \text{ ft}^3 \quad (\text{for } 8' \text{ thickness})$$

$$\text{Tons Ore} = \text{Volume} \div 13.5 = 16,520,533 \text{ tons}$$

150' RADIUS CIRCLE

$$\text{Area} = 70,686 \text{ ft}^2$$

$$\text{Volume} = 565,488 \text{ ft}^3 \quad (\text{for } 8' \text{ thick bed})$$

$$\text{Tons Ore} = 41,888 \text{ tons}$$

1400' RADIUS CIRCLE

$$\text{Area} = 6,157,536 \text{ ft}^2$$

$$\text{Volume} = 49,260,288 \text{ ft}^3 \quad (\text{for } 8' \text{ thick bed})$$

$$\text{Tons Ore} = 3,648,910 \text{ tons}$$

$$\text{TONS LOST} = (50\% \text{ Small Circle} + 40\% \text{ Large Circle}) .85 \times \frac{\text{Ore Grade}}{\text{Prod. Grade}}$$

$$\text{TONS LOST} = (20,944 + 1,459,564) .85 \times \frac{9.4}{22.0} = \underline{537,694 \text{ Tons}}$$

$$\text{VALUE} = 537,694 \times \$18.50 = \underline{\underline{\$9,947,339.00}}$$

THE
OIL COMMISSION COMMISSION
San Antonio, Texas

Case No. 4906 Sub No. 12

Submitted by IMC

Hearing Date 2/21/73



4/2/57 25' EAST OF POINT R6, S13

Ex. "H"

111C
15

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico

Case No. 42-1 Exhibit No. 13

Submitted by INC

Hearing Date 2/21/73



#558

2/21/57

5.7'

Exhibit "A"

19
ME

THE
OIL CONTAMINATION COMMISSION
San Francisco, Mexico

Case No. 4906 Exhibit No. 14

Submitted by MC

Hearing Date 2/21/73

#558 2/28/57

5.2'

Exhibit "N"

558

1945

MC
15

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico

Case No. 1006 Exhibit No. 15

Witnessed by IMC

Hearing Date 5/21/73



#558 3/7/57 4.4'

Exhibit "O"

MC
1/16

OFFICE THE
OIL COMMISSION
Santa Fe, New Mexico

Case No. 12 Serial No. 16

Submitted by 114

Hearing Date 2/21/53

558

3/14/57

3.2'

Exhibit "P"

ME
17



BEFORE THE
OIL CONSERVATION COMMISSION

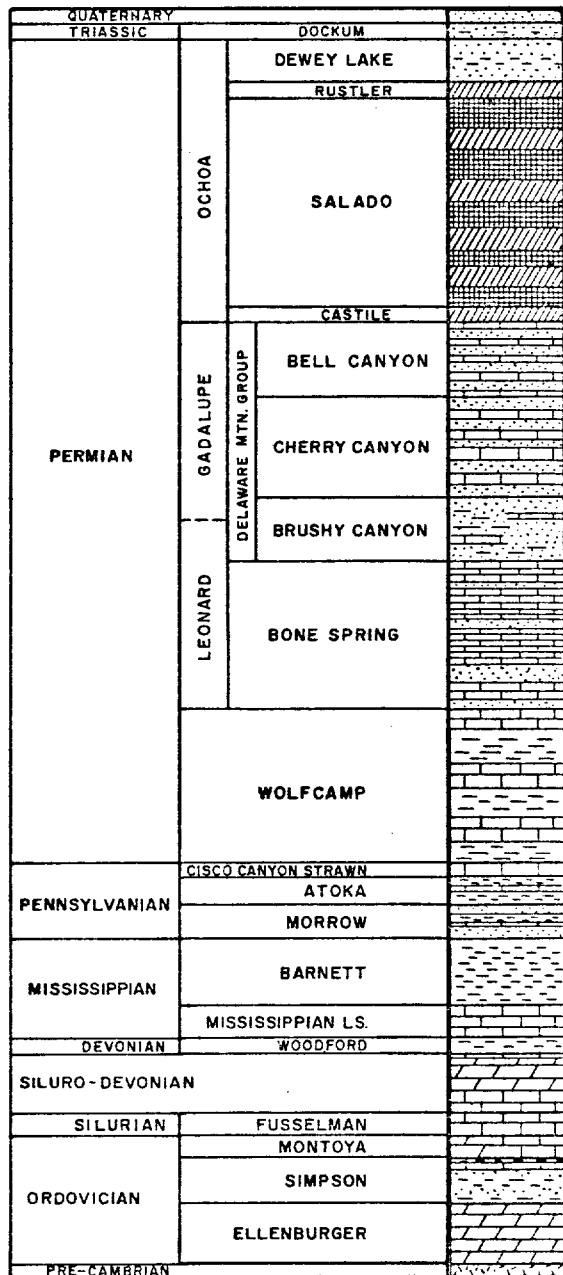
State of, New Mexico

Case No. 782 Exhibit No. 17

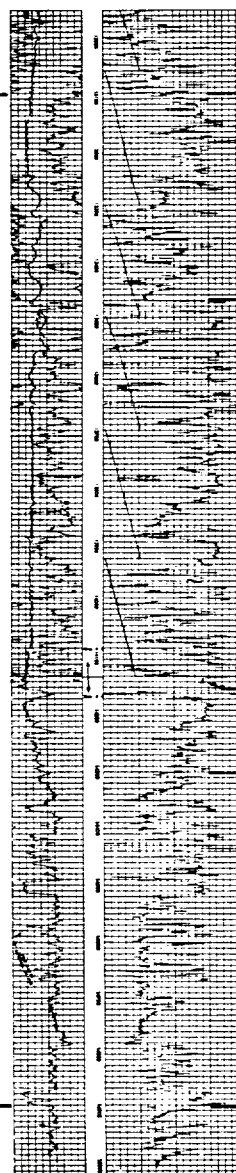
Submitted by

Hearing Date 2/21/73

GENERALIZED SECTION - DELAWARE BASIN



EL PASO
No. 1
Arco - St.



Top of STRAWN

ATOKA

MORROW SANDS

Top of BARNETT SHALE

BEFORE THE
OIL CONSERVATION COMMISSION

Santa Fe, New Mexico

Case No. 4906 Exhibit No. 18

Submitted by IMC

Hearing Date 2-21-73

TYPE LOG

IMC 18

FIELD SAND DUNE		County EDDY		State NEW MEX.	
Engineer T. S. H.	Drwn. By Del	Date 2-19-73	File IMC		
SIPES, WILLIAMSON, RUNYAN & AYCOCK, INC.			Ref. No.	FIGURE NO.	
Consulting Engineers			3.578		
Midland - Houston, Texas					

STATE OF NEW MEXICO

IN THE DISTRICT COURT

COUNTY OF EDDY

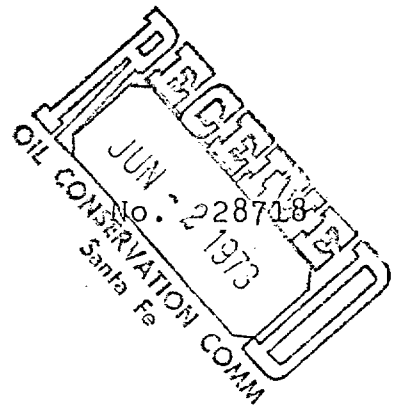
PHILLIPS PETROLEUM COMPANY,
a corporation,

Petitioner,

vs.

OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO,

Respondent.



MOTION TO INTERVENE

Comes now International Minerals & Chemical Corporation pursuant to Rule 24 of the Rules of Civil Procedure and moves the Court to enter an Order permitting it to intervene in this Review proceeding, and in support of its Motion states:

1. Movant is the owner of potash mining leases in the immediate vicinity of a well which Phillips Petroleum Company has proposed to drill in Section 13, Township 23 South, Range 30 East, Eddy County, New Mexico. Movant participated as a party in Case No. 4906 before the New Mexico Oil Conservation Commission, which case resulted in Order No. R-4500 denying Phillips Petroleum Company permission to drill the said well.

2. Movant is so situated that the disposition of this Review proceeding may as a practical matter impair or impede its ability to protect its potash mining leases unless it is permitted to intervene in this proceeding, either as a matter of right or as a matter of permissive intervention.

3. Attached to this Motion is a copy of the Response to the Petition for Review for which intervention is sought.

WHEREFORE, movant prays the Court to enter an Order permitting movant to intervene in this Review proceeding and permitting

it to file a response in the form of the Response attached to this Motion.

MONTGOMERY, FEDERICI, ANDREWS,
HANNAHS & MORRIS
P.O. Box 2307
Santa Fe, New Mexico 87501

MATKINS AND MARTIN

By *Jerome Matthews*
P.O. Drawer N
Carlsbad, New Mexico 88220

Attorneys for International
Minerals & Chemical Corporation.

CERTIFICATE OF MAILING

I hereby certify that I caused to be mailed a true and correct copy of the foregoing Motion to Intervene to MR. JOE V. PEACOCK, Phillips Building Odessa, Texas 79760, and MR. JASON W. KELLAHIN, of KELLAHIN & FOX, P.O. Box 1769, Santa Fe, New Mexico 87501, Attorneys for Petitioner Phillips Petroleum Company, and to MR. WILLIAM F. CARR, Special Assistant Attorney General, P.O. Box 2088, Santa Fe, New Mexico 87501, this 1st day of June, 1973.

Jerome Matthews

STATE OF NEW MEXICO

IN THE DISTRICT COURT

COUNTY OF EDDY

PHILLIPS PETROLEUM COMPANY,)
a Corporation,)

Petitioner,)

vs.)

No. 28718

OIL CONSERVATION COMMISSION)
OF THE STATE OF NEW MEXICO,)

Respondent.)

RESPONSE OF INTERVENOR INTERNATIONAL MINERALS
& CHEMICAL CORPORATION TO PETITION FOR REVIEW

Comes now Intervenor International Minerals & Chemical Corporation and for its response to the Petition for Review states:

FIRST DEFENSE

1. Intervenor admits the averments contained in paragraphs 1 through 10 of the Petition for Review.

2. Intervenor denies the averments contained in paragraphs 11 and 12 of the Petition for Review and further denies the averments contained in Petitioner's Application for Rehearing before the New Mexico Oil Conservation Commission in connection with the said Order No. R-4500.

SECOND DEFENSE

The Petition for Review fails to state a claim upon which relief can be granted.

WHEREFORE, Intervenor prays that the Petition for Review be dismissed, that New Mexico Oil Conservation Commission Order No. R-4500 be affirmed and that the Court grant Intervenor such further relief as may be proper.

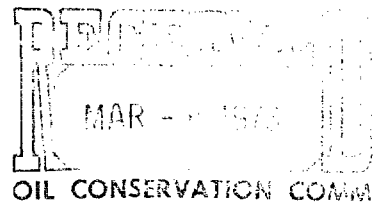
MONTGOMERY, FEDERICI, ANDREWS,
HANNAHS & MORRIS
P.O. Box 2307
Santa Fe, N.M. 87501

MATKINS AND MARTIN

By _____
P.O. Drawer N
Carlsbad, N.M. 88220
Attorneys for International
Minerals & Chemical Corporation.

CERTIFICATE OF MAILING

I hereby certify that I caused to be mailed a true and correct copy of the foregoing Response of Intervenor International Minerals & Chemical Corporation to Petition for Review in Cause No. 28718 Eddy County District Court to MR. JOE V. PEACOCK, Phillips Building, Odessa, Texas 79760, and MR. JASON W. KELLAHIN, of KELLAHIN & FOX, P.O. Box 1769, Santa Fe, New Mexico 87501, Attorneys for Petitioner Phillips Petroleum Company; and to MR. WILLIAM F. CARR, Special Assistant Attorney General, P.O. Box 2088, Santa Fe, New Mexico 87501, this _____ day of _____, 1973.



BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

In the Matter of the Application of
Phillips Petroleum Company for a
drilling permit in the potash-oil
area, Eddy County, New Mexico.

Case No. 4906

CLOSING STATEMENT OF INTERNATIONAL
MINERALS & CHEMICAL CORPORATION

By Section 65-3-5 NMSA 1953, the Commission is given jurisdiction not only to effect conservation of oil and gas but also to prevent "waste of potash as a result of oil or gas operations", such waste being defined in Section 65-3-3F NMSA 1953 as:

"Drilling or producing operations for oil or gas within any area containing commercial deposits of potash where such operations would have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered in commercial quantities or where such operations would interfere unduly with the orderly commercial development of such potash deposits."

Pursuant to its statutory jurisdiction to prevent waste of potash, the Commission has entered Order No. R-111-A which sets forth those areas containing proven potash deposits of commercial grades and which prescribes procedures for disposition of applications to drill for oil and gas in those areas.

The application of Phillips Petroleum Company in this case concerns an area which the Commission, over Phillips' objection, previously determined to contain commercial potash reserves (Order No. R-111-G, dated August 1, 1969). Although Phillips was a party to the case in which such determination was made, no appeal was taken and the Commission's order is final. In addition to being governed by Order No. R-111-A, the lands upon which Phillips proposes to drill also are included in the

"Secretary's Area" specified by the Secretary of the Interior and in the "Known Potash Area" specified by the United States Geological Survey.

With the sole exception of the El Paso Natural Gas Company's Mobil Federal Well No. 1 located in Section 29 of the township to the east of Phillips' proposed well (concerning which peculiar circumstances relating to lease expiration precluded compliance with the hearing procedures of Order No. R-111-A), no oil and gas wells have been drilled within this portion of the protected area defined by Order No. R-111-A. The present application of Phillips is an attempt to "break" the protection of R-111-A in this area and to establish a precedent under which many additional wells could be drilled through the potash deposits. That Phillips is primarily interested in establishing this well as a precedent is amply demonstrated by its refusal to locate immediately outside the boundary of R-111-A in the extreme corner of the NE/4 of Section 23 or to drill directionally from that surface location to the proposed bottom hole location in such manner as to penetrate beneath the potash deposits in Section 13.

The potash deposits jeopardized by Phillips' proposed well contain langbeinite in commercial quantities and constitute the heart of the ore body in this particular area of IMC's leasehold. The langbeinite ore in Eddy County, New Mexico, is the only known commercial source of water-soluble magnesium, which is particularly useful in fertilizing citrus crops, and is not competitive with the sylvanite ores which are produced in Canada as well as in the potash mines of New Mexico. Only two potash companies (IMC and Duval) mine langbeinite ore whereas sylvanite ore is mined by all potash companies in New Mexico and Canada.

In contrast to the proven body of commercial langbeinite ore underlying Section 13, the presence of oil and gas in commercial quantities is unproven and speculative. Insufficient data exists to classify the proposed Phillips well as anything other than a "wildcat", which is the characterization imposed by Phillips' own witnesses. Phillips presented only the most general evidence concerning the nature of the gas-bearing formation it hopes to encounter at its proposed location or the reserves that could be anticipated if the formation should be present; however, IMC's witness Scott Hickman, based upon a detailed study of all area wells, concluded that Phillips has a poor chance of making a good well at the proposed location.

Drilling of the proposed Phillips well through the potash deposit, regardless of the success or failure of the well, would constitute an undue hazard to the IMC mine and would result in the waste of commercial potash ore. Although the well's chances are poor, if a successful well is made it will be productive for many years, and IMC would be required to leave a protective pillar of commercial ore, having an estimated value of approximately \$10 Million, surrounding the well bore. Even if the well is not commercial and has been plugged before this area is mined, the protective pillar may be required in order to provide complete protection against gas seepage into the mine. The safety hazard, as well as the hazard to property, obviously would dictate that the most cautious procedures be followed.

Denial of the Phillips application is the only way to prevent waste of potash deposits, yet denial will not preclude Phillips from pursuing other alternatives to explore for, to

develop and to produce whatever oil and gas reserves may be present in this area. Preferably, Phillips could defer drilling until mining in Section 13 has been completed. Less preferable to IMC, although it would be without recourse to prevent it, would be the drilling of a well in Section 23 or in any other adjoining area lying outside the boundaries of R-111-A, and IMC could offer no opposition to the directional drilling of a well from such adjoining lands provided the well did not penetrate the potash deposit under Section 13. The additional cost of directional drilling is more than outweighed by the waste of potash that otherwise would occur.

IMC respectfully submits that the application in this case should be denied.

Respectfully submitted,

MATKINS AND MARTIN

By Jerome D. Matthews
JDM

MONTGOMERY, FEDERICI, ANDREWS,
HANNAHS AND MORRIS

By Richard J. Morris

Attorneys for International
Minerals & Chemical Corporation

CERTIFICATE OF MAILING

This will certify that a true and correct copy of the foregoing Closing Statement of International Minerals & Chemical Corporation was mailed this 8th day of March, 1973 to Kellahin and Fox, P.O. Box 1769, Santa Fe, New Mexico, 87501.

Richard J. Morris

BEFORE THE
OIL CONSERVATION COMMISSION OF NEW MEXICO

IN THE MATTER OF THE APPLICATION
OF PHILLIPS PETROLEUM COMPANY FOR
A DRILLING PERMIT IN THE POTASH-
OIL AREA, EDDY COUNTY, NEW MEXICO

CASE No. 4906

CLOSING STATEMENT
OF PHILLIPS PETROLEUM COMPANY

This case was heard by the Oil Conservation Commission of New Mexico on February 21, 1973, on the application of Phillips Petroleum Company for a drilling permit in the Potash-Oil Area, Eddy County, New Mexico. Phillips, as applicant in the above case, seeks authority to drill its proposed Dunes-A well to test the Morrow formation at a location 660 feet from the South line, and 1980 feet from the West line of Section 13, Township 23 South, Range 30 East, N.M.P.M., Eddy County, New Mexico.

Phillips' proposed location is within the limits of the Potash-Oil Area as defined by New Mexico Oil Conservation Commission Order No. R-111-A, and classified as lands subject to the potash leasing provisions of the Mineral Leasing Act of 1920, as amended, by Secretary's Order No. 2563, amended by order of the Director, November 3, 1971.

The application was protested by International Minerals & Chemical Corporation, and by Teledyne Potash, and pursuant to the provisions of Order R-111-A, an arbitration meeting was held in Roswell, New Mexico, on January 26, 1973. Being unable to resolve the matter at the Roswell meeting, the case was set for hearing before the Oil Conservation Commission, and heard in Santa Fe, New Mexico, on February 21, 1973, at which time International Minerals and Chemical Corporation appeared and presented testimony.

The lands involved in this dispute are federally owned and are leased for both oil and gas, and for potash, being designated

for multiple use. The Federal regulations which govern the Potash-Oil Area generally provide that no potash operations shall be conducted that would constitute a hazard to oil or gas production, or that would unreasonably interfere with the orderly development and production under any oil or gas lease issued for the same land. (Secretary's Order, May 11, 1965). The same order further provides that no wells will be drilled for oil or gas at a location which, in the opinion of the Regional Oil and Gas Supervisor of the Geological Survey, would result in undue waste of potash deposits or would constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits. (Emphasis supplied.) Thus, basically, the problem is one governed by the regulations of the Department of the Interior.

The Commission, in cooperation with the United States Geological Survey, has adopted its Order No. R-111-A, and it is this order under which this hearing was conducted.

The problem is quite a simple one. Phillips Petroleum Company, owner of the oil and gas lease covering the lands involved, wants to drill and develop the acreage for anticipated gas production from the Morrow formation at a depth of approximately 14,300 feet. International Minerals and Chemical Corporation, as owner of the undeveloped potash lease covering the same lands, objects to the drilling on the grounds that it will interfere with its future mining of the properties.

Phillips, through its witnesses, E. M. Gorence, B. C. Largent, and Joe Woodson, showed that it is ready and willing to immediately commence a well at the proposed location, complying in all respects with the provisions of Order No. R-111-A as to the casing and cementing program for the well, which casing and cementing program was adopted by the Commission as a means of protecting the potash deposits in the area.

In contrast, International, through its General Superintendent in charge of Maintenance and Supervision, Charles Childers, showed that it had no present plans for the development of the potash reserves underlying the area. When pressed for a date when operations would commence he would only say that certainly they would be mining within fifteen years, maybe in ten, and as a possibility, five years. He admitted, however, that the area had not been included in any five year development plan filed with the Oil Conservation Commission under the provisions of Order R-111-A.

Considerable doubt is cast on the testimony of Mr. Childers when it is remembered that he testified that, on the basis of the core information available, eight cores in some seven sections, and relying on only one core in the subject section although another was available, he was ready to commence mining either by digging a shaft or extending present workings. His own witness, John T. Boyd, a recognized mining engineer, and consultant, stated he would not consider mining without further information, probably about eight cores to the section.

Mr. Childers ignored the information on the one core obtained closest to the Phillips proposed location, the Duval D-5-A, because the core did not agree with his findings on the presence and quality of langbeinite ore. He did offer the information on this particular core when he testified before the Commission in Case No. 4175, and it should be considered by the Commission in this proceeding.

Mr. Childers also paid little attention to the information from his core No. 386, taken in Section 24, southwest of the proposed Phillips location, but admitted that the core information obtained there showed the area to be barren. Coupled with the information from the Dubal core, the situation at least casts doubt on Mr. Childers conclusions.

His methods of determining reserves, covering such a large area far removed from any potash development, was based on scant information and is of questionable value. At a minimum, it casts considerable doubt on his testimony that his company is ready to mine the area on the basis of presently available information -- a conclusion not even agreed to by his own witness, Mr. Boyd.

The most crucial matter involved in this case, however, is the element of time. Assuming that International will eventually mine the section involved, they flatly refused to say when, and their best estimate ranges up to fifteen years from the present time. The witness declined to put any date on mining plans for his company, and said that he could not do so. He said he did not know how the area would be mined, whether by a new shaft, or by extension of present workings. He would give no estimate on how long it would take to complete mining in the area once it was commenced. In other words, we are completely in the dark as to when International will occupy the area, how long they will be there, and when Phillips could come in after them, if ever.

If potash is to be developed first, mining will possibly start in fifteen years. Some forty years would have to be allowed as an estimate for mining operations and pulling of the pillars after first mining. Then, according to the witnesses, another five years for subsidence to occur before any drilling operations could be conducted. Phillips, assuming it could get its lease suspended, would be looking at sixty years before it could develop the area for gas production. There could well be no market for gas at that date.

There is no certainty that the area will ever be mined. The only thing we could get from International was that they intended to mine the area, didn't know when, but didn't want Phillips drilling before they mined it.

On the other hand, Phillips states it is ready to commence drilling operations immediately at the proposed location. In addition, while Phillips prefers to drill at this proposed location as stated in the application, it is willing to drill at a location 330 feet from the South line and 980 feet from the West line of Section 13, Township 23 South, Range 30 East, N.M.P.M., Eddy County, New Mexico. Further, Mr. Largent offered considerable testimony, supported by data from existing Morrow wells both in the vicinity and in the South Carlsbad Pool, to show that the gas reserves would be depleted within three to five years, or at a maximum, in eight years.

Some effort was made to discount this testimony, with figures on the poorer wells in the area. This testimony did not give weight to the history of the Shell No. 1 James Ranch well, Section 36, T. 22 S., R. 30 E., which produced in only four years, a total of 8,083,463 MCF, as compared to an accumulated production of 4,051,264 MCF for the preceding ten years. In other words, it is necessary to give consideration to the increasing market demand for gas that has occurred in the last few years, as evidenced by this and other wells. This demand will increase in the future, with lower line pressures to be anticipated as the demand increases.

There was also some testimony to the effect that drilling in the area poses a danger of gas entering the potash mine. No instance of this ever occurring was cited by the witnesses. With a properly plugged well, such a danger should be minimal. It is also a risk assumed where there is multiple use of lands, as is the situation here, and not a reason for denying the oil and gas lease owner the right to drill.

It should also be pointed out that the time factor has no bearing on the potash lease, which has no term, although the government reserves the right to reconsider it after twenty years.

Phillips has a right to drill for and develop the oil and gas underlying its lease. To postpone this right until some indefinite date many years in the future would effectively deny Phillips its rights under the lease.

As has been shown Phillips can develop its acreage, produce its gas, and plug and abandon its well long before International is ready on the basis of any testimony heard at this hearing, to commence mining operations. Admittedly Phillips bought its lease subject to the potash stipulations required by the government. International likewise purchased its lease subject to the rights of the oil and gas lessee.

In considering the equities involved in this situation, consideration should be given to the all-important question of time. Which owner can produce its minerals with the least delay and least damage to the other, where admittedly both have a right to be there.

The gas can be produced with little damage to the potash owner. Mining can commence immediately after the well has been plugged and abandoned. If the potash owner were ready to commence operations, or had commenced operations, something might be said for requiring the oil and gas production to wait. But with no such operations in sight in the predictable future, Phillips Petroleum Company should be permitted to immediately commence its well.

The Commission should further bear in mind that this is Federal land. No objection has been voiced by the U.S.G.S. to the drilling of the proposed well.

The test that should be applied by the Commission is the same one laid down by Federal regulations. Will the well "result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits."

We submit that there will be no undue waste of potash deposits; no mining operations are being conducted and Phillips operations will not interfere with or pose any undue interference with any future operations.

The application of Phillips Petroleum Company for approval of its location for the Dunes-A well should be in all respects approved, and

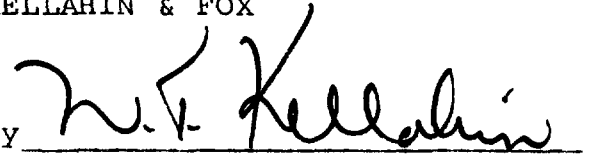
Phillips should be permitted to drill the well at the proposed site.

Respectfully submitted,

JOE V. PEACOCK

KELLAHIN & FOX

By

A handwritten signature in dark ink, appearing to read "N. F. Kellahin", written over a horizontal line.

ATTORNEYS FOR PHILLIPS PETROLEUM CO.

KELLAHIN & FOX
P. O. Box 1769
Santa Fe, New Mexico

cc: Mr. Richard Morris and the
U.S.G.S., Roswell
New Mexico