

LAW OFFICES OF
HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

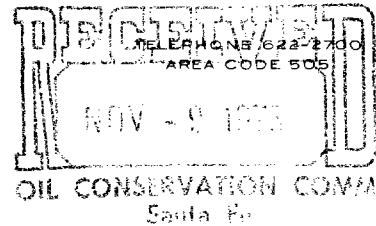
210 HINKLE BUILDING

POST OFFICE BOX 1837

ROSWELL, NEW MEXICO 88201

GEORGE H. HUNKER, JR.
DON M. FEDRIC
RONALD M. HIGGINBOTHAM

November 8, 1973



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

Dear Mr. Porter:

Heretofore and on October 25, 1973, we filed, on behalf of Dan L. Hannifin and Joe Don Cook, an Application for an Order directing the distribution of proceeds withheld by the Escrow Officer, American Bank of Carlsbad, Carlsbad, New Mexico, and for an Order relieving Operator, Michael P. Grace, II, of operations of the Grace-Atlantic Well No. 1 in the S½ of Section 24, Township 22 South, Range 26 East. This Application supplemented an earlier Application filed on or about October 19, covering the same matters and an additional matter which was resolved at the Commission hearing held on October 25 and 26.

On behalf of our clients, D. L. Hannifin and Joe Don Cook, you are respectfully requested to withdraw both of the aforesaid Applications. You are advised that a written agreement was entered into between the Operator and D. L. Hannifin and Joe Don Cook providing for the disbursement of funds held in escrow by the American Bank of Carlsbad. This agreement also provided for the payment by the escrow officer of taxes due the State of New Mexico. The parties also agreed that the Application above referred to would be withdrawn upon request of the Operator, Michael P. Grace, II. John P. Otto, as Attorney for Michael P. Grace, II, has requested that the Application above described be withdrawn, and it is our purpose at this time to request you to withdraw said Application.

Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

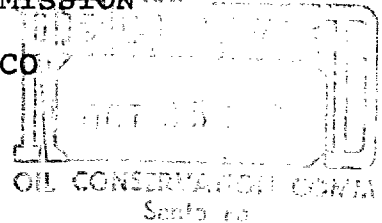
A handwritten signature in dark ink, appearing to read "George H. Hunker, Jr.", written over the typed name.

George H. Hunker, Jr.
Attorneys for D. L. Hannifin
and Joe Don Cook

GHH:dd

cc: Messrs. D. L. Hannifin
and Joe Don Cook
cc: Mr. John P. Otto

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO



IN THE MATTER OF THE
APPLICATION OF DAN L. HANNIFIN
AND JOE DON COOK: FOR AN ORDER
DIRECTING DISTRIBUTION OF WITH-
HELD PRODUCTION FUNDS; FOR AN
ORDER RELIEVING OPERATOR, MICHAEL
P. GRACE, II, AND DESIGNATING
APPLICANTS AS OPERATOR FOR THE
GRACE-ATLANTIC WELL #1, UNIT J.,
SECTION 24, TOWNSHIP 22 SOUTH,
RANGE 26 EAST, SOUTH CARLSBAD,
MORROW POOL, EDDY COUNTY, NEW
MEXICO.

No. _____

COME NOW Dan L. Hannifin and Joe Don Cook, and make application
to the Oil Conservation Commission of the State of New Mexico for
the following relief:

CAUSE I

1. Applicants are the leasehold owners of record of an oil
and gas leasehold estate covering the SE $\frac{1}{4}$ of Section 24, Township
22 South, Range 26 East, N.M.P.M., Eddy County, New Mexico.
Pursuant to Case Nos. R-4819 and R-4836, heard before an examiner
of the Oil Conservation Commission on September 27, 1972, Order
No. R-4432, dated November 8, 1972, was issued which force pooled
the S $\frac{1}{2}$ of Section 24, Township 22 South, Range 26 East, N.M.P.M.,
South Carlsbad, Morrow Gas Pool, Eddy County, New Mexico, which
Order named Michael P. Grace, II the Operator of said Unit, estab-
lished a risk factor of 25% to be assessed against any non-consent-
ing working interest, and authorized the drilling of a well for
the subject unit to be drilled at a standard location for the
South Carlsbad, Morrow Gas Pool.

2. That the SE $\frac{1}{4}$ of said Section is subject to a royalty payment of 18.75%, and that the working interest ownership of said SE $\frac{1}{4}$ is 81.25% and that the SW $\frac{1}{4}$ of said Section is subject to a royalty and overriding royalty payment of 25%, and the working interest ownership of said SW $\frac{1}{4}$ of Section 24 is 75%.

3. That subsequent to the issuance of Order No. R-4432, Applicant, D.L. Hannifin, et ux, filed with the Commission a Statement of Non-Consent in accordance with the Order of the Commission.

4. On January 28, 1973, the Operator caused to be commenced the drilling of a well designated as the Grace-Atlantic Well No. 1 located 1,980 feet from the South line and 1,980 feet from the East line of said Section, to a proposed depth of 12,100 feet to test the Morrow formation, with the S $\frac{1}{2}$ of said Section 24 being dedicated to the well, and with said well being completed as a producible gas well on or about March 15, 1973.

5. That on or about March 29, 1973, said well was tested and found to have a calculated absolute open flow potential of 65,737 mcf per day from perforations in the Morrow formation from 11,424 feet to 11,444 feet, and on or about April 16, 1973, Operator commenced the sale of gas from said well to El Paso Natural Gas Company.

6. On or about July 30, 1973, Applicants Dan L. Hannifin and Joe Don Cook made application to the Commission seeking a determination of the reasonable well costs of the Grace-Atlantic Well, and a determination when Michael P. Grace, II, had been fully compensated for all reasonable well costs and the 25% risk charges and the prorata share of reasonable well costs attributable to Applicants.

7. That by Order of the Commission dated September 28, 1973, (Order No. R-4422-A), it was determined that Applicants' portion of the total well costs, plus the 25% risk factor was paid out at 7:00 A.M., June 26, 1973, and that monies held in escrow by the American Bank of Carlsbad derived from the sale of gas from and after said date, were to be released to Applicants, subject to agreement in writing between Applicants and Michael P. Grace, II, as to future arrangements, escrow, bonding or whatever would be satisfactory to the parties involved, covering the difference, if any, between current sales price of gas from the well and future sales price of gas.

8. Applicants have, as directed by the Commission, made both written and oral requests of Michael P. Grace, II, to enter into an agreement covering future gas sales from said well; however, Michael P. Grace, II, has failed or refused to affirmatively respond to said requests.

9. That escrow funds in the American Bank of Carlsbad to which Applicants are entitled are inaccessible to Applicants as a result of the refusal or failure of Michael P. Grace, II, to enter into an agreement with Applicants as ordered by the Commission, and Applicants require and seek an appropriate Order from the Commission in protection of their interests, and for relief in obtaining withheld funds.

WHEREFORE, Applicants request that the Commission issue an Order directing immediate release of all funds due the Applicants from the sale of gas from said well after 7:00 A.M., June 26, 1973, which may be held by the American Bank of Carlsbad, without requirement of any written agreement between Applicants and Michael P. Grace, II.

CAUSE II

1. Applicants adopt and make a part of this Cause, paragraphs 1 through 8 of Cause I hereinabove set forth.

2. That since being designated as Operator for the Grace-Atlantic No. 1 Well, Michael P. Grace, II has:

(a) From the date of initial well production, over-produced said well approximately six (6) times in excess of Commission fixed monthly allowables, subjecting said well to possible shut-in by the Commission.

(b) Failed, to the best of Applicants' knowledge, to pay oil and gas severance taxes or permitted Applicants' funds with which to pay taxes due the State of New Mexico, as determined by the New Mexico Oil and Gas Accounting Commission, in the sum of Twenty-Two Thousand, Eight Hundred Fifty Dollars, Ten Cents (\$22,850.10) and other sums, unknown to Applicants.

(c) Failed, to the best of Applicants' knowledge, to pay certain royalty monies due and owing to royalty owners under said Grace-Atlantic No. 1 Well, thus subjecting Applicants to potential liability to the royalty owners under Applicants' lease and endangering the status of Applicants' lease with their lease royalty owner.

(d) Caused, on October 23, 1973, royalty owner Merland, Inc., under said well, to file a lien upon the production from said well, in accordance with Section 61-10-1, et seq., N.M.S.A., 1953 Comp., 1973 Supp., for failure of Michael P. Grace, II to pay royalty due Merland, Inc., for the period from April 6, 1973 to June 26, 1973.

(e) Failed to distribute monies due to Applicants after payout of Operator's costs, plus non-consent costs, for drilling and operating said well.

(f) Caused the Applicants to be required to petition the Commission for assistance in connection with distribution of monies due the Applicants from Operator after payout of said well.

(g) Failed or refused to enter into an agreement with Applicants under Order of the Commission with reference to future gas sales, thus preventing the distribution of escrowed funds to which Applicants are entitled.

(h) Caused the Applicants to again, in this proceeding, seek Commission assistance in connection with the distribution of monies due the Applicants, the State and royalty owners from escrow funds held by the American Bank of Carlsbad, and for additional protection of the Applicants' rights.

(i) Caused possible loss of gas pressures under said well, as a result of continuous open flow overproduction of said well.

(j) From overproducing said well, have subjected the Applicants to potential claims of liability for correlative rights injury to owners of leases adjoining the Grace-Atlantic No. 1 Well.

2. That the negligence, malfeasance, intentional acts, omissions and/or imprudent and improper acts of Operator, Michael P. Grace, II reflect a complete and utter disregard by Michael P. Grace, II for the rights of Applicants, for the interest of the State of New Mexico, for the rights of royalty owners under said well, and for the rights of adjoining lease owners.

3. That Applicants are qualified to act as Operator of said well, or will cause said well to be prudently operated with production in accordance with Commission authorized allowables, for the benefit and protection of all interested parties.


4. That Michael P. Grace, II should be relieved as Operator of said well and Applicants should be designated as Operator for

the same.

WHEREFORE, Applicants request that the Commission enter an Order relieving Michael P. Grace, II as Operator of said Grace-Atlantic No. 1 Well, with concurrent appointment by the Commission of Applicants as Operator thereof.

Respectfully submitted,

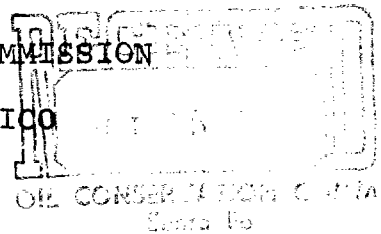
HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

By: 
Attorneys for Applicants
P. O. Box 1837
Roswell, New Mexico 88201

I hereby certify that I have mailed or personally delivered a copy of the foregoing pleading this 25th day of October, 1973, to Michael P. Grace, II, P. O. Box 1418, Carlsbad, New Mexico, 88220, and to his Attorneys, F.B. Howden, Samuel A. Francis and Farrell L. Lines, 400 7th Street, N.W., Albuquerque, New Mexico, 87101.


George M. Hunker, Jr.

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO



IN THE MATTER OF THE
APPLICATION OF DAN L. HANNIFIN
AND JOE DON COOK: FOR AN ORDER
DIRECTING DISTRIBUTION OF WITH-
HELD PRODUCTION FUNDS; FOR AN
ORDER RELIEVING OPERATOR, MICHAEL
P. GRACE, II, AND DESIGNATING
APPLICANTS AS OPERATOR FOR THE
GRACE-ATLANTIC WELL #1, UNIT J.,
SECTION 24, TOWNSHIP 22 SOUTH,
RANGE 26 EAST, SOUTH CARLSBAD,
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the subject unit to be drilled at a standard location for the
South Carlsbad, Morrow Gas Pool.

2. That the SE $\frac{1}{4}$ of said Section is subject to a royalty payment of 18.75%, and that the working interest ownership of said SE $\frac{1}{4}$ is 81.25% and that the SW $\frac{1}{4}$ of said Section is subject to a royalty and overriding royalty payment of 25%, and the working interest ownership of said SW $\frac{1}{4}$ of Section 24 is 75%.

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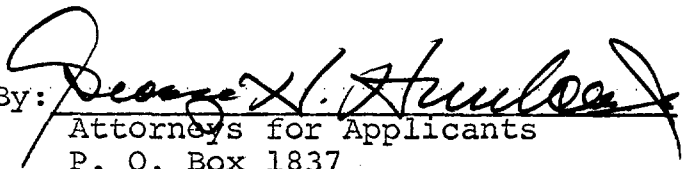
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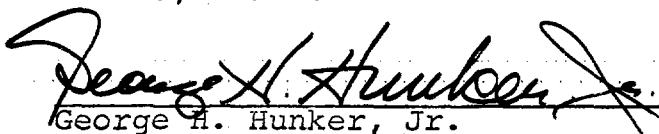
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Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

By: 
Attorneys for Applicants
P. O. Box 1837
Roswell, New Mexico 88201

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George H. Hunker, Jr.

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

October 19, 1973

C
O
P
Y

F. B. Howden, Samuel A. Francis,
and Farrell L. Lines
Attorneys at Law
400 Seventh Street, N.W.
Albuquerque, New Mexico 87101

Re: Michael P. Grace, Grace-Atlantic
Well No. 1, Unit J, Section 24,
Township 22 South, Range 26 East,
NMPM, Eddy County, New Mexico

Gentlemen:

The New Mexico Oil Conservation Commission has received an application from D. L. Hannifin and Joe Don Cook through their attorney, George H. Hunker, Esq. for a hearing before the full Commission concerning the above-captioned well. A copy of this application is attached.

As you will note this application lists a number of grievances against the present operator and requests (inter alia) that:

"...the Commission enter an Order relieving Michael P. Grace, II, as Operator of said Grace-Atlantic No. 1 Well, with concurrent appointment by the Commission of Applicants as Operator thereof."

Mr. Hunker has requested that the Commission contact you as attorneys for Mr. Grace in the hearing before the Commission for declaration of a moratorium on shutting in said well (Case 5085) set for hearing, Thursday, October 25, 1973, and request that you agree in writing to hearing the matters raised in this attached application on that date.

Should you not agree, this matter will be set for hearing by the Commission at a later date.

Sincerely,

WILLIAM F. CARR
Special Assistant Attorney General

WFC/dr
enclosure

L-200-3

OIL CONSERVATION COMMISSION

P. O. BOX 2088

SANTA FE, NEW MEXICO 87501

October 19, 1973

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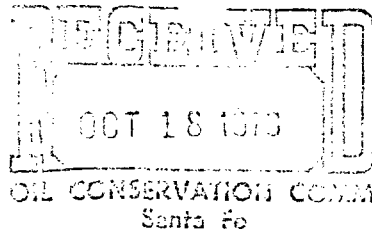
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WILLIAM F. CARR
Special Assistant Attorney General

WFC/dr
enclosure



BEFORE THE OIL CONSERVATION COMMISSION

OF THE STATE OF NEW MEXICO

APPLICATION OF DAN L. HANNIFIN
AND JOE DON COOK FOR INTERVENTION
IN THE REFERENCED MATTER; FOR AN
ORDER DIRECTING DISTRIBUTION OF
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AN ORDER RELIEVING OPERATOR,
MICHAEL P. GRACE, II, AND
DESIGNATING APPLICANTS AS OPERATOR;
AND FOR AN ORDER FOR RELIEF UNDER
COMMISSION RULES 15(d) and 15(e).

No. 5085

Re: In The Matter of The Application
of Michael P. Grace, II, under
Rules 15(d), 15(e), and 15(g)
for a Moratorium on the Shutting-
In of Well No. 1, Unit J, Section
24, Township 22 South, Range 26
East, South Carlsbad, Morrow
Pool, Eddy County, New Mexico.

COME NOW Dan L. Hannifin and Joe Don Cook, Applicants for
Intervention herein, under Motion filed, and make application to
the Oil Conservation Commission of the State of New Mexico for
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(e) Caused the Applicants to be required to petition the Commission for assistance in connection with distribution of monies due the Applicants from Operator after payout of said well.

(f) Failed or refused to enter into an agreement with Applicants under Order of the Commission with reference to future gas sales, thus preventing the distribution of escrowed funds to which Applicants are entitled.

(g) Caused the Applicants to again, in this proceeding, seek Commission assistance in connection with the distribution of monies due the Applicants from escrow funds held by the American Bank of Carlsbad, and for additional protection of the Applicants' rights.

(h) Caused possible loss of gas pressures under said well, as a result of continuous open flow overproduction of said well.

(i) From overproducing said well, have subjected the Applicants to potential claims of liability for correlative rights injury to owners of leases adjoining the Grace-Atlantic No. 1 Well.

2. That the negligence, malfeasance, intentional acts, omissions and/or imprudent and improper acts of Operator, Michael P. Grace, II, reflect a complete and utter disregard by Michael P. Grace, II, for the rights of Applicants, for the interest of the State of New Mexico, for the rights of royalty owners under said well, and for the rights of adjoining lease owners.

3. That Applicants are qualified to act as Operator of said well, or will cause said well to be prudently operated for the benefit and protection of all interested parties.

4. That Michael P. Grace, II, should be relieved as Operator of said well and Applicants should be designated as Operator for the same.

WHEREFORE, Applicants request that the Commission enter an Order relieving Michael P. Grace, II, as Operator of said Grace-Atlantic No. 1 Well, with concurrent appointment by the Commission of Applicants as Operator thereof.

CAUSE III

1. That although Operator, Michael P. Grace, II, has overproduced said Grace-Atlantic No. 1 Well in excess of allowable, Applicants believe that the complete shut-in of said well may possibly result in damage to the productive formation for said well.

2. That the Commission is empowered under Rule 15(e), as amended, to allow overproduction to be made up at a lesser rate, upon a showing at public hearing, that the same is necessary to avoid material damage to a well.

3. That the Secretary-Director of the Commission is authorized under Rule 15(d) of the Oil Conservation Commission Rules to permit a well subject to shut-in to maintain limited production upon proper showing that the same would cause undue hardship.

4. That the Applicants, the royalty owners under said well, and the State of New Mexico, who have suffered as a result of the imprudent operation of said well by Operator, Michael P. Grace, II, should not be penalized and caused further injury by the total shut-in of said well, resulting in undue hardship to the Applicants and other non-responsible parties, and possible economic waste through damage to said well.


5. That under proper operation, said well can be produced at a lesser rate to compensate for overproduction and avoid material damage to said well.

6. That said well can be properly and prudently operated by Applicants at a lesser productive rate to compensate for overproduction and to properly protect the rights of all parties interested therein.

WHEREFORE, Applicants request an Order from the Commission under Rule 15(d) and/or 15(e) allowing overproduction to be made up at a lesser rate, to avoid material damage to said well and to avoid undue hardship to the parties interested therein, but with said well to be operated in a proper fashion, by designation of Applicants as the Operator for said well.

Respectfully submitted,

HUNKER, FEDRIC & HIGGINBOTHAM, P.A.

By 
Attorneys for Applicants 10-12-73
P. O. Box 1837
Roswell, New Mexico 88201

I hereby certify that I have mailed postage prepaid a copy of the foregoing pleading this 17th day of October, 1973, to Michael P. Grace, II, P. O. Box 1418, Carlsbad, New Mexico 88220, and to his Attorneys, F. B. Howden, Samuel A. Francis and Farrell L. Lines, 400 - 7th St., N.W., Albuquerque, New Mexico 87101.

