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W. THOMAS KELLAHIN\*

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NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

FACSIMILE COVER SHEET

DATE: November 10, 1992

NUMBER OF PAGES: 2  
(including cover sheet)

TIME:

TO: David Catanach

FROM: W. Thomas Kellahin

OF: Oil Conservation Division

SPECIAL INSTRUCTIONS:

FAX NO.: 827-5741

☐ URGENT

RE: NMOCD Cases 10471 &amp;

☐ FOR YOUR INFORMATION

10560 - Conoco &amp; Southwest

☒ FOR YOUR REVIEW

Royalties

☐ PLEASE REPLY☐ FOR YOUR APPROVAL☐ PER YOUR REQUESTMESSAGE: A letter to you dated today regarding the proposed  
order in the above cases follows.A HARD COPY ☒ WILL ☐ WILL NOT FOLLOW BY U.S. MAIL.

KELLAHIN, KELLAHIN AND AUBREY

ATTORNEYS AT LAW

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W. THOMAS KELLAHIN\*  
KAREN AUBREY†

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW  
†ALSO ADMITTED IN ARIZONA

JASON KELLAHIN (RETIRED 1991)

August 3, 1992

Mr. David R. Catanach  
Hearing Examiner  
Oil Conservation Division  
310 Old Santa Fe Trail  
Santa Fe, New Mexico 87501

*Case 10559*  
**VIA FACSIMILE**  
(505) 827-5741

Re: Division Order R-9673  
NMOCDC Case 10471  
Application of Southwest Royalties  
Inc. for Compulsory Pooling

Dear Mr. Catanach:

In preparing to oppose Southwest Royalties Inc. for a salt water disposal well it proposes in the NE/4 of Section 17, T19S, R25E, NMPM, Eddy County, New Mexico, I have discovered that Southwest Royalties Inc. is drilling another well in this quarter section in violation of the referenced compulsory pooling order.

Our firm represents Conoco Inc. before the New Mexico Oil Conservation Division and appeared in its behalf at the hearing held before you on April 30, 1992 in the referenced case.

On May 6, 1992, the Division issued Order R-9673 which pooled Conoco's interest in the NE/4 of this section for the drilling of a well specifically ordered to be drilled in the SW/4NE/4 of Section 17. Conoco elected to go "non-consent" because the applicant's well location in the SW/4NE/4 was too risky.

Now, in violation of that order and without notice to Conoco and without a Division hearing, Southwest Royalties Inc. has commenced the well not in the SW/4NE/4 but in the NW/4NE/4. A copy of the Oil Reports & Services Inc. weekly report of July 28, 1992 shows the commencement of the subject well in the wrong quarter section.

OIL CONSERVATION DIVISION  
RECEIVED

'92 AUG 13 AM 9 41  
TELEPHONE (505) 982-4200  
TELEFAX (505) 982-2047

David R. Catanach  
August 3, 1992  
Page Two

Conoco is very concerned about the continued drilling of this well and is particularly concerned that Southwest Royalties will use completion techniques that will not give the best opportunity to a successful well. Accordingly, Conoco urges the Division to order that no completion of the well be attempted until all pending issues have been resolved either by the parties or through final orders of the Division.

In addition, the Order required the well to be commenced on August 1, 1992 at the required location. That did not happen and the pooling order is now void. Had Southwest Royalties Inc. proposed to Conoco the well at this new location, Conoco would have participated and would have sought to be operator of the well.

At this point the well is being drilling without a valid pooling order. Southwest Royalties Inc. need to undertake efforts to obtain voluntary agreements as to this well. In the absence of those agreements, then, a new compulsory pooling case must be filed.

Accordingly, Conoco requests the Division to direct Southwest Royalties Inc. not to attempt to complete the subject well pending hearing of these issues before the Division.

Very truly yours,



W. Thomas Kellahin

WTK/kkl  
ltrt803.13

cc: Conoco Inc. (Midland)  
Conoco Inc. (Houston)

cc: Paul Cooter, Esq.  
Attorney for Southwest Royalties, Inc  
Via Facsimile (505) 989-9542

cc: Earnest Carroll, Esq.  
Attorney for Yates, et al.  
Via Facsimile (505) 746-6316



STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

August 7, 1992

Case 10471

W. Thomas Kellahin  
Kellahin, Kellahin and Aubrey  
Attorneys at Law  
P. O. Box 2265  
Santa Fe, New Mexico 87504-2265

***Re: Application for Emergency Order by Conoco Inc. concerning Southwest Royalties Inc.'s Dagger Draw #1 Well, 660 feet FNL and 1980 feet FEL, Sec. 17, T19S, NMPM R25E, North Dagger Draw-Upper Penn Pool, Eddy County, New Mexico***

Dear Mr. Kellahin:

Your application on behalf on Conoco Inc. for an emergency order of the Division directing Southwest Royalties Inc. to immediately cease operations on its Dagger Draw No. 1 Well and not commence completion operations on said well is hereby denied for the following reasons:

1. Southwest Royalties Inc. did drill outside the specified area under Order No. R-9673. Southwest did not have the right under said order to drill the well in the NW/4 NE/4 of Section 17, Township 19 South, Range 25 East, NMPM Eddy County, New Mexico, but that issue is separate from the request to cease operations on said well. The issue of drilling the Dagger Draw Well No. 1 should be the subject of another hearing relating to compulsory pooling of interests under the NW/4 of said Section 17.
2. A separate hearing should take place because under normal prudent operating practices Conoco's decision to elect non-consent status for the location specified in Order No. R-9676 would take into consideration the geology and risks associated with only the approved well location. There was no option granted for the location that was drilled and no agreement was obtained to drill in the NW/4 NE/4 of Section 17.

Mr. W. Thomas Kellahin

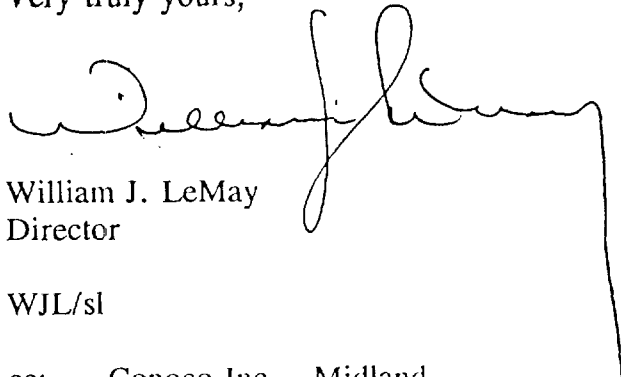
August 7, 1992

Page -2-

3. Your arguments in your August 6, 1992 letter concerning Conoco's preferred location in the NW/4 NE/4 of Section 17 (the location that was drilled) and Conoco's contention that Southwest Royalties Inc. is inexperienced and unqualified to complete their well should have been addressed in the appearance you made before the Division on April 30, 1992 in Case 10471. Obviously had Conoco thought that the NW/4 NE/4 was the location to drill and that Conoco had superior qualifications to be operator of the subject well they had sufficient opportunity to file an opposing compulsory pooling and designation of operator application prior to the April 30th hearing of Case 10471. Conoco chose not to do so and after the fact, is presenting arguments which should have been presented on or before April 30, 1992.
4. Conoco's election to go non-consent means that it is not paying any of the costs including completion of the captioned well. Again, had they wished to be a paying partner in this operation, they would be entitled to a voice in how the well was completed by virtue of industry accepted practices where operations would be conducted under a mutually acceptable joint operating agreement. These agreements provide for among other things, operations by less than all parties, authorization for expenditures beyond prearranged amounts and change of operator provisions.
5. The Oil Conservation Division (OCD) has not in the past expended its authority to second guess completion procedures where there is disagreement among the parties involved.

By copy of this letter to Paul Cooter attorney for Southwest Royalties Inc., I am advising Southwest Royalties, Inc. that Order No. R-9673 is not valid in this case since the well was located in a different quarter-quarter section then specified in said order.

Very truly yours,



William J. LeMay  
Director

WJL/sl

cc: Conoco Inc. - Midland  
Conoco Inc. - Houston  
Paul Cooter  
Ernest Carroll

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FACSIMILE COVER SHEET

DATE: November 9, 1992

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TIME:

TO: David Catanach

FROM: W. Thomas Kellahin

OF: Oil Conservation Division

SPECIAL INSTRUCTIONS:

FAX NO.: 827-5741

RE: NMOCD Cases 10471 and 10560

INFORMATION

Conoco and Southwest

FW

Royalties

MESSAGE: David: Following our meeting with Stovall:

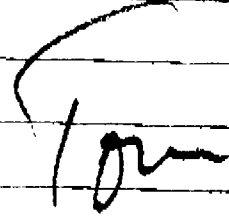
Oct 30th, I have attempted to take the actions  
and draft a possible order. Enclosed is a copy of  
my effort. I have sent a copy to Mr. Cooter. Please  
note, that it has not been approved by my client.

A HARD COPY

WILL

WILL NOT

FOLLOW BY U.S. MAIL



STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY

APPLICATION OF SOUTHWEST ROYALTIES  
INC. FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

CASE NO. 10471 (Reopened)

APPLICATION OF CONOCO INC.  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO.

CASE NO. 10560  
ORDER R-9673-A

CONOCO INC.'S PROPOSED  
ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on  
September 17, and October 15, 1992 at Santa Fe, New  
Mexico, before Examiner David R. Catanach.

NOW, on this \_\_\_\_ day of November, 1992, The  
Division Director, having considered the testimony, the  
recorded and the recommendations of the Examiner, and  
being fully advised in the premises,

FINDS THAT:

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

(2) The Applicant in Case 10471 is Southwest  
Royalty Inc. ("Southwest"),

(3) The Applicant in Case 10560 is Conoco Inc.  
("Conoco").

Case Nos. 10471 (Reopened) & 10560  
Order No. R-9673-A  
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TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY

(4) By stipulation of Southwest and Conoco, both Case 10471 and Case 10560 should be consolidated.

(5) The working interest ownership in the subject 160-acre spacing and proration unit is as follows:

- (a) Conoco Inc 87.75%
- (b) Southwest 12.5%
- (c) Martha L. ("Scarlett") Nunes 1.75%

(6) Southwest sought and obtained from the Division Order R-9763, issued May 6, 1992, which pooled all mineral interests in the Canyon Formation of the North Dagger Draw-Upper Pennsylvanian Pool underlying a spacing and proration unit containing 160 acres, more or less, and consisting of the NE/4 of Section 17, T19S, R25E, NMPM, Eddy County, New Mexico, and named Southwest as operator for purposes of drilling and completing a well to be located in the SW/4NE/4 (Unit G) of said Section 17.

(7) Division Order R-9763 entered in Case 10471 pooled the interests of Conoco and Nunes both of whom failed to join within the notice period and were deemed to have elected not to participate in the well.

(8) On July 17, 1992, Southwest commenced its Dagger Draw #1 Well in the NW/4NE/4 (Unit B) of Section 17 rather than in the SW/4NE/4 (Unit G).

(9) Conoco objected to the relocation of the well from Unit G to Unit B and filed a competing compulsory pooling application for the dedication of the same spacing unit for the well drilled in Unit B and sought, among other things to be designated the operator.

(10) On August 14, 1992, Southwest filed an application before the Division to reopen Case 10471 so that Order R-9673 could be amended to change the well location from Unit G to Unit B.

(11) On September 25, 1992, Southwest and Conoco signed a written settlement of the matters in dispute,



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TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY

which among other things, authorized Conoco to assume operations of the Southwest Dagger Draw #1 Well in Unit B and to proceed with completion and further authorized Southwest to commence the drilling of the Southwest Dagger Draw #2 Well in Unit G.

(12) On October 15, 1992, at the Hearing of Case 10471 (Reopened), in order to implement the terms of the Southwest-Conoco Settlement, Southwest moved to amend its application to modify Order R-9673 so that the pooled spacing unit could be dedicated to a well to be drilled by Southwest at a location within Unit G of Section 17.

---

(13) While the Settlement between Southwest and Conoco contemplates joint operators of the spacing unit with Conoco developing the N/2 of the spacing unit and Southwest operating the S/2 of the spacing unit, such a settlement would be inconsistent with the established practice of the Division to not have joint operators within a single spacing unit.

(14) Both Southwest and Conoco agree that a satisfactory resolution of that issue can be postponed until both wells are drilled, completed and producing capabilities are established for each well.

(15) Towards that end, Southwest and Conoco, with the concurrence of the Division, agree that the following issues should be held in abeyance pending the completion and establishment of accurate producing rates for both wells:

(a) The assignment of an appropriate allowable to both the Dagger Draw #1 and #2 Wells;

(b) A determination of whether the spacing unit should be subdivided into two 80-acre non-standard spacing and proration units consisting of the N/2 and S/2 of the NE/4 of Section 17 and the appropriate allocation of the allowable;

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TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY

(c) The rights, remedies and obligations to and from Scarlett Nunes;

(d) Designation of an operator and/or sub-operator(s) for the spacing unit and the subject wells;

(e) Appropriate amendments to the subject order to accommodate Conoco's operation of the spacing unit for the Unit B well; and

(f) If necessary, appropriate amendments to the subject order to modify the pooling to create two non-standard 80-acre spacing and proration units.

(16) That for purposes of this order, then the following action should be authorized:

(a) Conoco shall operate the well in Unit B and shall receive a temporary test allowable of one-half of a standard 160-acre allowable for a period of not less than 90 days following first production; and

(b) Southwest shall operate the well in Unit G, is authorized to commence the subject well on or before December 31, 1992, and if productive shall receive a temporary test allowable of one-half of a standard 160-acre allowable for a period of not less than 90 days following first production.

(17) Cases Nos. 10471 and 10560 should be consolidated for purpose of issuing an order since the cases involve common acreage and the granting of one application will affect the granting of the other application.

(18) As a result of Conoco and Southwest signing a joint operating agreement for this spacing unit, Nunes is the only working interest owner in the proposed unit who has not agreed to pool her interest.

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(19) The primary objective of both the Conoco well in Unit B and the Southwest Well in Unit G is the North Dagger-Draw Upper Pennsylvanian Pool which is spaced on 160 acres but allows for multiple wells.

(20) Overhead charges for supervision should be set at \$5,184 while drilling and \$485 while producing.

(21) Approval as set forth herein will avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford the owner of each interest in said unit the opportunity to recover or receive without unnecessary expense his just and fair share of the production in any pool resulting from this order.

IT IS THEREFORE ORDERED THAT:

(1) Division Case 10471 and Case 10560 are hereby consolidated.

(2) Division Order R-9673 is hereby amended to be consistent with this order.

(3) All mineral interests, whatever they may be, within the vertical limits of the North Dagger-Draw Upper Pennsylvanian Pool underlying the NE/4 of Section 17, Township 19 South, Range 25 East, NMPM, Eddy County, New Mexico, are hereby pooled to form an 160-acre oil spacing and proration unit to be dedicated to the Southwest Dagger Draw #2 Well to be drilled at a standard oil well location 16500 feet from the North line and 1980 feet from the East line (Unit G) of said Section 17.

PROVIDED HOWEVER THAT, all said mineral interests are also concurrently dedicated to the Conoco operated Southwest Dagger Draw #1 Well located in Unit B of Section 17 and are dedicated to the same proration and spacing unit.

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TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY

PROVIDED FURTHER THAT, Southwest, as operator of the Southwest Dagger Draw #2 Well, shall commence the drilling of said well on or before the 31st day of December, 1992, and shall thereafter continue the drilling of said well with due diligence to a depth sufficient to test the Canyon formation.

PROVIDED FURTHER THAT, in the event Southwest does not commence the drilling of said well within Unit G on or before the 31st day of December, 1992, then those portions of this order pooling this spacing unit for the Southwest Dagger Draw #2 Well shall be null and void and of no effect whatsoever, unless said operator, after notice to Conoco, obtains a time extension from the Division for good cause shown.

PROVIDED FURTHER THAT, should said well not be drilled to completion, or abandonment, within 120 days after commencement thereof, Southwest shall appear before the Division Director and show cause why those portions of this order pooling this spacing unit for said well should not be rescinded.

(4) Southwest is hereby designated the operator of the Southwest Dagger Draw #2 Well to be located in Unit G of Section 17.

(5) After the effective date of this order and prior to commencing said well, Southwest shall furnish the Division and, each known working interest owner in the subject unit an itemized schedule of estimated well costs.

(6) With the exception of Conoco Inc. which has already agreed to be a non-consenting party in the Southwest Dagger Draw #2 Well under the Joint Operating Agreement signed between Southwest and Conoco, any non-consenting working interest owner (Nunes) shall within 30-days from the date the schedule of estimated well costs is furnished to her, have the right to pay her share of the estimated well costs to the operator in lieu of paying her share of reasonable well costs out of production, and any such owner who pays her share of

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Page 7

TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY

estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges.

(7) Southwest shall furnish the Division and each known working interest owner an itemized schedule of actual well costs within 90 days following completion of the well; if no objection to the actual well cost is received by the Division and the Division has not objected within 45 days following receipt of said schedule, the actual well costs shall be the reasonable well costs; provided however, if there is an objection to actual well costs within said 45-day period the Division will determine reasonable well costs after public notice and hearing.

(8) Within 60 days following determination of reasonable well costs, any non-consenting working interest owner who has paid his share of estimated costs in advance as provided above shall pay to the operator his pro rata share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator his pro rata share of the amount that estimated well costs exceed reasonable well costs.

(9) The operator is hereby authorized to withhold the following costs and charges from production:

- A. The pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within 30 days from the date of schedule of estimated well costs is furnished to him; and
- B. As a charge for the risk involved in the drilling of the well, 200 percent of the pro rata share of reasonable well costs attributable to each non-consenting working interest owner who has not paid his share of estimated well costs within

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ITERATIVE AND PRELIMINARY DRAFT  
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30 days from the date the schedule of  
estimated costs is furnished to him.

(10) Southwest shall distribute said costs and  
charges withheld from production to the parties who  
advanced the well costs.

(11) \$5,600 per month while drilling and \$560 per  
month while producing are hereby fixed as reasonable  
charges for supervision (combined fixed rates);  
Southwest is hereby authorized to withhold from  
production the proportionate share of such supervision  
charges attributable to each non-consenting working  
interest, and in addition thereto, Southwest is hereby  
authorized to withhold from production the  
proportionate share of actual expenditures required for  
operating such well, not in excess of what are  
reasonable, attributable to each non-consenting working  
interest.

(12) Any unleased mineral interest shall be  
considered a seven-eighths (7/8) working interest and a  
one-eighth (1/8) royalty interest for the purpose of  
allocating costs and charges to the Southwest Dagger  
Draw #2 Well under the terms of this order.

(13) Any well costs or charges attributed to the  
Southwest Dagger Draw #2 Well which are to be paid out  
of production shall be withheld only from the working  
interest's share of production, and no costs or charges  
shall be withheld from production attributable to  
royalty interests.

(14) All proceeds from production from the  
Southwest Dagger Draw #2 Well which are not disbursed  
for any reason shall be placed in escrow in Eddy  
County, New Mexico, to be paid to the true owner  
thereof upon demand and proof of ownership; the  
operator shall notify the Division of the name and  
address of said escrow agent within 30 days from the  
date of first deposit with said escrow agent.

TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY

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(15) Should all the parties to this force-pooling reach voluntary agreement subsequent to the entry of this order, this order shall thereafter be of no further effect.

(16) That Southwest as operator of the Southwest Dagger Draw #2 Well shall notify the Director of the Division in writing of the subsequent voluntary agreement of all parties subject to the force-pooling provisions of this order.

PROVIDED FURTHER THAT, in the event the Southwest Dagger Draw #2 Well in Unit G is completed, then said well shall be assigned a temporary test allowable of 350 BOPD for 90 days and that after the test period but within 120 days of completion, Southwest and Conoco shall appear before the Division for a determination of the following issues:

- A. The assignment of an appropriate allowable to both the Dagger Draw #1 and #2 Wells;
- B. A determination of whether the spacing unit shall be subdivided into two 80-acre non-standard spacing and proration units consisting of the N/2 and S/2 of the NE/4 of Section 17 and the appropriate allocation of the allowable;
- C. The rights, remedies and obligation to and from Scarlett Nunes;
- D. Designation of an operator and/or sub-operator(s) for the spacing unit and the subject wells;
- E. Appropriate amendments to the subject order to accommodate Conoco's operation of the spacing unit for the Southwest Dagger Draw #2 Well located in Unit B; and

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- F. If necessary, appropriate amendments to the subject order to modify the pooling to create two properly pooled non-standard 80-acre spacing and proration units.

(17) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION  
TENTATIVE AND PRELIMINARY DRAFT  
FOR DISCUSSION PURPOSES ONLY.

WILLIAM J. LEMAY,  
Director

ordp1109.089



## RODEY, DICKASON, SLOAN, AKIN &amp; ROBB, P. A.

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PEARCE C. RODEY (1885-1958)

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DAVID W. DANTING  
JENNIFER L. STONE  
TINA S. BORADIANSKY

## FAX COVER SHEET

To: David CatanachDate: November 10, 1992Fax No: 827-5741From: Paul CooterOperator: Jane CozadNumber of Pages Including Cover Sheet: 3

(If you do not receive the entire document, please call our Santa Fe office as soon as possible at (505) 984-0100)

Documents Sent:

Message: Tom advised me orally that neither he nor Conoco had any objections to these changes.

## IMPORTANT

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Client Matter No:

The attached pages were sent at: 2:55 p.m.

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NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

November 10, 1992

Mr. David Catanach  
Oil Conservation Division  
310 Old Santa Fe Trail  
Santa Fe, New MexicoVIA FACSIMILE  
(505) 827-5741Re: Proposed Order For Cases 10471  
and 10560 (Southwest & Conoco)

Dear David:

I wish to advise you that in order to be consistent with the Conoco-Southwest Settlement Agreement, Conoco requests the following changes in the draft order I submitted to you yesterday:

(1) Page 3 Paragraph (16-A): delete 16-A and substitute: "(a) Conoco shall operate its Julie #2 Well in Unit B and shall receive a temporary test allowable of 100% of a standard 160-acre allowable until such time as the Southwest Dagger Draw A#1 Well is in actual production and then the allowable for the Conoco Julie #2 Well shall be reduced to 50% of a 160-acre allowable pending further order by the Division."

(2) Add an additional Ordering Paragraph consistent with the finding set forth above.

I have the first draft of the order on a floppy disk if you need it. Please call me if you and Bob desire to meet with Mr. Cooter and me to discuss this order.

Very truly yours,

  
W. Thomas Kellahincc: Jerry Hoover  
cc: Paul Cooter, Esq.

**RODEY, DICKASON, SLOAN, AKIN & ROBB, P. A.**

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VIA FACSIMILE

W. Thomas Kellahin, Esq.  
Kellahin and Kellahin  
P.O. Box 2265  
Santa Fe, NM 87504-2265

Re: *NMOCD Cases 10471 and 15060*

Dear Tom:

Your proposed order was received and reviewed. I make the following suggestions:

1. On page 1, paragraph (2), the word "Royalty" should be "Royalties", for that Applicant's correct name is Southwest Royalties Inc., correctly set forth in the caption.
2. On page 2, paragraph (5), the interest of Conoco Inc. is, I believe, 85.75%. The interest of Martha L. ("Scarlett") Nunes may, or may not, be correct. Southwest's interest is correctly set forth as a 12.5% working interest.
3. On that same page 2, in paragraph (8), after Section 17, I would like to add the phrase "after filing its Application for Permit to Drill, Deepen or Plug Back (Form C-101) which was approved by the Division on July 16, 1992," and then end that paragraph as you did.
4. On page 3, paragraph (15)(a), the two wells are now known as (Conoco's) Julie #2 and (Southwest's) Dagger Draw A #1 wells.
5. I would vote to strike paragraph (15)(c) appearing at the top of page 4.
6. On page 5, in paragraph (20), those figures should be \$5,600 and \$560 as set forth in paragraph (11) on page 8.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P. A.

W. Thomas Kellahin, Esq.  
November 10, 1992  
Page 2

7. On that same page, paragraph (3), the well's name should be set forth as Southwest Dagger Draw A #1 Well, and its location 1,650 feet from the North line and 1,880 feet from the East line.
8. I would like to strike the phrase "and prior to commencing said well" from paragraph (5) on page 6; that well has already been commenced, as I related to you.
9. There are other references where the wells' names should be corrected, and in each instance where the Conoco well is mentioned, that should be the Julie #2 Well and the Southwest well is the Dagger Draw A #1 Well.

I complement you on your work product, and with only these minor changes, your draft is fine with me.

With best regards, I am

Very truly yours,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.



By:  
Paul A. Cooter

PAC/jmc

cc: Jon Tate (via facsimile)

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November 17, 1992

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WRITER'S DIRECT NUMBER

HAND-DELIVERED

Mr. David R. Catanach  
Oil Conservation Division  
Santa Fe, New Mexico

Re: Order No. R-9673-A

Dear David:

Your courtesy in forwarding to me a copy of the Division's proposed order was sincerely appreciated. I make the following suggestions:

1. In paragraph (15) on page 3, I would prefer that the phrase "and, for that reason, Division Order No. R-9673 should be rescinded" be deleted and in lieu thereof, the phrase "but it did file its Application for Permit to Drill, Deepen or Plug Back (Form C-101) designating the drill site of that well to be at a standard location in the NW/4NE/4 (Unit B) of Section 17, which was duly approved by the District's Division Office on July 16, 1992."
2. Paragraph (1) on page 4, providing that Division Order No. R-9673 is rescinded be deleted. If reference to that prior Order be made, Southwest would prefer that the prior Order be amended or supplemented by the instant Order, R-9673-A.

Even though Conoco and Southwest have resolved their differences, my suggestions are such that the Division does not resolve the question of whether Southwest's actions in drilling the prior well at the location it was drilled were good or bad - that determination is really not now necessary.

With the suggested changes, I think that the proposed Order would be a good one. It accurately reflects what happened, does not resolve an issue which really is not necessary to resolve at this time and leaves for future determination, the issues which will hereafter be decided, either by agreement or by a subsequent order of the Division.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P. A.

Mr. David R. Catanach  
November 17, 1992

Once again, thanks for your courtesy in permitting me to review it.

Very truly yours,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

A handwritten signature in dark ink, appearing to read 'Paul A. Cooter', enclosed within a large, loopy oval shape.

Paul A. Cooter  
PAC/nom  
cc: Tom Kellahin (by fax)

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TELEPHONE  
(505) 746-3505

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(505) 746-6316

April 28, 1992

**VIA FAX AND FIRST CLASS MAIL**

Mr. William J. LeMay, Director  
New Mexico Oil Conservation Division  
P. O. Box 2088  
Santa Fe, New Mexico 87501


Re: Application of Southwest Royalties, Inc. for  
Compulsory Pooling, Case No. 10471

Dear Mr. LeMay:

Enclosed please find an original and three copies each of an  
Entry of Appearance and a Prehearing Statement of Yateas  
Petroleum Corporation for filing in the above-referenced case,  
which case is scheduled to be heard April 30, 1992.

Very truly yours,

LOSEE, CARSON, HAAS & CARROLL, P.A.

  
Ernest L. Carroll

ELC:kth  
Enclosures

xc w/encl: Paul A. Cooter (by fax)

BEFORE THE OIL CONSERVATION DIVISION

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

IN THE MATTER OF THE APPLICATION  
OF SOUTHWEST ROYALTIES, INC., FOR  
COMPULSORY POOLING, EDDY COUNTY,  
NEW MEXICO

CASE NO. 10471

ENTRY OF APPEARANCE

COMES NOW Ernest L. Carroll, Losee, Carson, Haas & Carroll,  
P. A., and hereby enters his appearance in the above case on  
behalf of Yates Petroleum Corporation.

LOSEE, CARSON, HAAS & CARROLL, P.A.

By: Ernest L. Carroll

Ernest L. Carroll

P. O. Drawer 239

Artesia, New Mexico 88211-0239

(505) 746-3505

Attorneys for Yates Petroleum Corp.

I hereby certify that I caused to be  
mailed a true and correct copy of the  
foregoing to all counsel of record  
this April 28, 1992.

Ernest L. Carroll  
Ernest L. Carroll

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APR 29 1992

OIL CONSERVATION DIVISION



KELLAHIN, KELLAHIN AND AUBREY

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'92 AUG 13 AM 9 41

TELEPHONE (505) 982-4244  
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August 3, 1992

Mr. David R. Catanach  
Hearing Examiner  
Oil Conservation Division  
310 Old Santa Fe Trail  
Santa Fe, New Mexico 87501

VIA FACSIMILE  
(505) 827-5741

Re: Division Order R-9673  
NMOCD Case 10471  
Application of Southwest Royalties  
Inc. for Compulsory Pooling

Dear Mr. Catanach:

In preparing to oppose Southwest Royalties Inc. for a salt water disposal well it proposes in the NE/4 of Section 17, T19S, R25E, NMPM, Eddy County, New Mexico, I have discovered that Southwest Royalties Inc. is drilling another well in this quarter section in violation of the referenced compulsory pooling order.

Our firm represents Conoco Inc. before the New Mexico Oil Conservation Division and appeared in its behalf at the hearing held before you on April 30, 1992 in the referenced case.

On May 6, 1992, the Division issued Order R-9673 which pooled Conoco's interest in the NE/4 of this section for the drilling of a well specifically ordered to be drilled in the SW/4NE/4 of Section 17. Conoco elected to go "non-consent" because the applicant's well location in the SW/4NE/4 was too risky.

Now, in violation of that order and without notice to Conoco and without a Division hearing, Southwest Royalties Inc. has commenced the well not in the SW/4NE/4 but in the NW/4NE/4. A copy of the Oil Reports & Services Inc. weekly report of July 28, 1992 shows the commencement of the subject well in the wrong quarter section.

David R. Catanach  
August 3, 1992  
Page Two

Conoco is very concerned about the continued drilling of this well and is particularly concerned that Southwest Royalties will use completion techniques that will not give the best opportunity to a successful well. Accordingly, Conoco urges the Division to order that no completion of the well be attempted until all pending issues have been resolved either by the parties or through final orders of the Division.

In addition, the Order required the well to be commenced on August 1, 1992 at the required location. That did not happen and the pooling order is now void. Had Southwest Royalties Inc. proposed to Conoco the well at this new location, Conoco would have participated and would have sought to be operator of the well.

At this point the well is being drilling without a valid pooling order. Southwest Royalties Inc. need to undertake efforts to obtain voluntary agreements as to this well. In the absence of those agreements, then, a new compulsory pooling case must be filed.

Accordingly, Conoco requests the Division to direct Southwest Royalties Inc. not to attempt to complete the subject well pending hearing of these issues before the Division.

Very truly yours,



W. Thomas Kellahin

WTK/kkl

ltrt803.13

cc: Conoco Inc. (Midland)  
Conoco Inc. (Houston)

cc: Paul Cooter, Esq.  
Attorney for Southwest Royalties, Inc  
Via Facsimile (505) 989-9542

cc: Earnest Carroll, Esq.  
Attorney for Yates, et al.  
Via Facsimile (505) 746-6316

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August 5, 1992

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FACSIMILE 768-7395

WRITER'S DIRECT NUMBER

Mr. William J. LeMay  
Director, Oil Conservation Division  
State of New Mexico  
Santa Fe, New Mexico

Attention: Mr. Michael E. Stogner

Re: *Case No. 10471*  
*Order No. R-9673*

Dear Mr. Stogner:

The referenced Order (the "Order") dated May 6, 1992 pooled all mineral interests from the surface to the base of the Canyon Formation underlying the NE¼ of Section 17, Township 19 South, Range 25 East, N.M.P.M., Eddy County, New Mexico as a standard 160-acre spacing and proration unit for a well "--- to be drilled at a standard location within the SW¼NE¼ (Unit G) of Section 17." At the time of the hearing on April 30, 1992, that was the proposed location for the well. However, in reply to questions by Mr. Kellahin, appearing on behalf of Conoco, Inc., Richard Masterson, Vice President of Exploration and Acquisitions of the Applicant, Southwest Royalties, Inc., stated (p. 45 of the transcript):

- Q. What caused you not to pick a location in the northeast -- I'm sorry, the northwest of the northeast? That would be an up-structure position.
- A. We possibly might change that bearing the outcome of any information we find in the future. This is an ongoing area of development. The main risk difference is that it is not between two logs where I have control of porosity.
- Q. How are you going to change?

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OIL CONSERVATION DIVISION  
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Mr. William J. LeMay  
August 5, 1992  
Page 2

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- A. Structurally it will be slightly up-dip. It will have higher risk for porosity development. That's my answer.

And again (p. 48 of the transcript):

- Q. If you move up again into the northwest of the northeast, there is a 40-acre tract within that area that appears not to have been exposed prior to depletion by produced wells.
- A. To some extent it would be -- it may be less depleted than this location.
- Q. Wouldn't that reduce your risk?
- A. It's arguable that it might. It does increase the risk on the reservoir development. It reduces risk on drainage. It reduces slightly the risk on structural position.

Subsequent to entry of the Order, Applicant filed its Application for Permit to Drill, Deepen or Plug Back (Form C-101) which set forth the location of the well to be at a standard location within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ . That application was duly approved by this Division on July 16, 1992. A copy of that application, so approved, is attached hereto for your ready reference.

That well has been drilled at that approved location, and is now pending completion.

The Order further provided:

"Jurisdiction is hereby retained for the entry of such further orders as the Division may deem necessary."

Pursuant to the Division's retained jurisdiction, Southwest Royalties, Inc. respectfully requests that Order No. R-9673 be amended nunc pro tunc by striking the "SW $\frac{1}{4}$ " from paragraph (2) on page 1 of the Order and paragraph (1) on page 3 to provide that:

"Said unit shall be dedicated to a well to be drilled at a standard location within the NE $\frac{1}{4}$  (Unit G) of Section 17."


RODEY, DICKASON, SLOAN, AKIN & ROBB, P. A.

Mr. William J. LeMay  
August 5, 1992  
Page 3

Very truly yours,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By:

  
Paul A. Cooter

PAC/jmc

Enclosures

cc: W. Thomas Kellahin, Esq.  
Ernest L. Carroll, Esq.

26 AUG 9 10 42  
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OIL CONSERVATION DIVISION

Submit to Appropriate  
District Office  
State Lease - 6 copies  
Fee Lease - 3 copies

State of New Mexico  
Energy, Minerals and Natural Resources Department

Form C-202  
Revised 1-1-89

OIL CONSERVATION DIVISION

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

DISTRICT I

P.O. Box 1980, Hobbs, NM 88240

DISTRICT II

P.O. Drawer DD, Arisaca, NM 88210

DISTRICT III

1000 Rio Brazos Rd., Alamogordo, NM 87410

API NO. (assigned by O.C.D. on New Wells)

30-015-27847

5. Indicate Type of Lease

STATE ☐ FEE ☒

6. State Oil & Gas Lease No.

APPLICATION FOR PERMIT TO DRILL, DEEPEN, OR PLUG BACK

1a. Type of Work:

DRILL ☒ RE-ENTER ☐ DEEPEN ☐ PLUG BACK ☐

1b. Type of Well:

OIL WELL ☒ GAS WELL ☐ OTHER ☐

SINGLE BORE ☐

MULTIPLE BORE ☐

7. Lease Name or Unit Agreement Name

Dagger Draw

2. Name of Operator

Southwest Royalties, Inc.

8. Well No.

81.

3. Address of Operator

c/o Box 953, Midland, Texas 79702

9. Pool name or Wildcat

Dagger Draw, North (Penn)

4. Well Location

Unit Letter B : 660 Feet From The North Line and 1980 Feet From The East Line

Section 17 Township T-19-S Range 25-E NMPM Eddy County

10. Proposed Depth

8200'

11. Formation

Penn

12. Rotary or CT

Rotary

13. Elevations (Show whether DF, RT, GR, etc.)

3538.3 GL

14. Kind & Status Plug Bond

Blanket Bond

15. Drilling Contractor

Will notify

16. Approx. Date Work will start

July 19, 1992

17.

PROPOSED CASING AND CEMENT PROGRAM

SIZE OF HOLE	SIZE OF CASING	WEIGHT PER FOOT	SETTING DEPTH	SACKS OF CEMENT	EST. TOP
14-3/4"	9-5/8"	36 #	1200'	1000 SX C1 C	surface
8-3/4"	7"	23 & 26 #	8200'	700 SX C1 H	1st stage
				1050 SX Lite	2nd stage

Intend to move rig in by 7-20-92.

Drilling and casing program as stated above.

Intend to test Upper Penn at approximately 7500 - 7700'.

Blowout preventer diagram attached.

APPROVAL VALID FOR 180 DAYS  
PERMIT EXPIRES 1-15-93  
UNLESS DRILLING UNDERWAY

IN ABOVE SPACE DESCRIBE PROPOSED PROGRAM: IF PROPOSAL IS TO DEEPEN OR PLUG BACK, GIVE DATA ON PRESENT PRODUCTIVE ZONE AND PROPOSED NEW PRODUCTIVE ZONE. GIVE BLOWOUT PREVENTER PROGRAM IF ANY.

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE

Regulatory Agent

DATE

7-13-92

6-30-92

TYPE OR PRINT NAME

Ann E. Ritchie

(915)

TELEPHONE NO 684-6381

(This space for State Use)

ORIGINAL SIGNED BY:

MIKE

APPROVED BY

TITLE

DATE

JUL 16 1992

CONDITIONS OF APPROVAL, IF ANY:

SUPERVISOR, DISTRICT I

NOTIFY N.M.O.C.D. IN SUFFICIENT  
TIME TO WITNESS CEMENTING THE

OIL CONSERVATION DIVISION  
RECEIVED

'92 AUG 5 AM 10 42

Submit to Appropriate  
District Office  
State Lease - 4 copies  
Fee Lease - 3 copies

State of New Mexico  
Energy, Minerals and Natural Resources Department

Form C-102  
Revised 1-1-89

# OIL CONSERVATION DIVISION

P.O. Box 2088  
Santa Fe, New Mexico 87504-2088

DISTRICT I  
P.O. Box 1940, Hobbs, NM 88240

DISTRICT II  
P.O. Drawer DD, Aztec, NM 88210

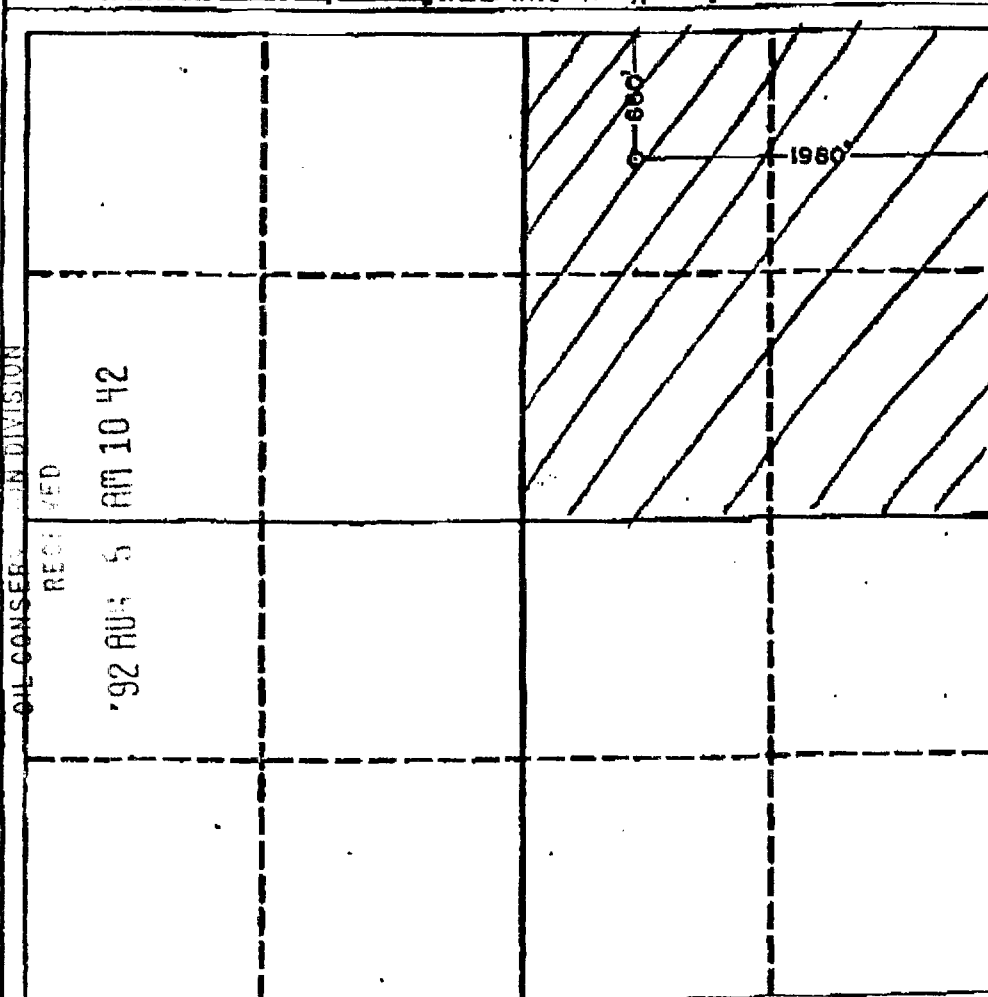
DISTRICT III  
1000 Rio Arriba Rd., Aztec, NM 87410

## WELL LOCATION AND ACREAGE DEDICATION PLAT

All Distances must be from the outer boundaries of the section

Operator <b>Southwest Royalties Inc.</b>			Lease <b>Dagger Draw</b>		Well No. <b>1</b>
Unit Letter <b>B</b>	Section <b>17</b>	Township <b>19 South</b>	Range <b>25 East</b>	County <b>Eddy</b>	
Actual Footage Location of Well: <b>660</b> feet from the <b>North</b> line and <b>1980</b> feet from the <b>East</b> line					
Ground level Elev. <b>3538.3</b>	Producing Formation <b>Penn</b>		Pool <b>Dagger Draw, N. Penn</b>		Dedicated Acreage: <b>160</b> Acres

- Outline the acreage dedicated to the subject well by colored pencil or highlight marks on the plat below.
- If more than one lease is dedicated to the well, outline each and identify the ownership thereof (both as to working interest and royalty).
- If more than one lease of different ownership is dedicated to the well, have the interest of all owners been consolidated by communitization, unitization, force-pooling, etc?  
☐ Yes ☐ No If answer is "yes" type of consolidation \_\_\_\_\_  
 If answer is "no" list the owners and tract descriptions which have actually been consolidated. (Use reverse side of this form if necessary.)  
 No allowable will be assigned to the well until all interests have been consolidated (by communitization, unitization, force-pooling, or otherwise) or until a non-standard unit, eliminating such interest, has been approved by the Division.



### OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.

Signature  
*Ann E. Ritchie*

Printed Name  
**Ann E. Ritchie**

Position  
**Agent**

Company  
**Southwest Royalties, Inc**

Date  
**6-30-92**

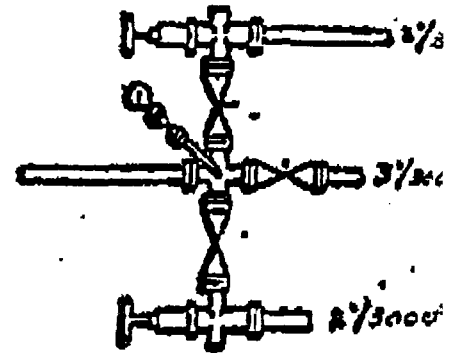
### SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief.

Date Surveyed  
**June 17, 1992**

Signature & Seal of Professional Surveyor

*Donald J. Fugate*  
 Registered Land Surveyor  
 Certificate No. **676**  
**RONALD J. FUGATE**  
**62233**



OIL CONSERVATION DIVISION  
RECEIVED  
92 AUG 5 PM 10 42



OIL CONSERVATION DIVISION  
RECEIVED

'92 NOV 12 AM 8 43

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

# KELLAHIN AND KELLAHIN

ATTORNEYS AT LAW

EL PATIO BUILDING

117 NORTH GUADALUPE

POST OFFICE BOX 2265

SANTA FE, NEW MEXICO 87504-2265

TELEPHONE (505) 982-4285

TELEFAX (505) 982-2047

November 10, 1992

Mr. David Catanach  
Oil Conservation Division  
310 Old Santa Fe Trail  
Santa Fe, New Mexico

VIA FACSIMILE  
(505) 827-5741

Re: Proposed Order For Cases 10471  
and 10560 (Southwest & Conoco)

Dear David:

I wish to advise you that in order to be consistent with the Conoco-Southwest Settlement Agreement, Conoco requests the following changes in the draft order I submitted to you yesterday:

(1) Page 3 Paragraph (16-A): delete 16-A and substitute: "(a) Conoco shall operate its Julie #2 Well in Unit B and shall receive a temporary test allowable of 100% of a standard 160-acre allowable until such time as the Southwest Dagger Draw A#1 Well is in actual production and then the allowable for the Conoco Julie #2 Well shall be reduced to 50% of a 160-acre allowable pending further order by the Division."

(2) Add an additional Ordering Paragraph consistent with the finding set forth above.

I have the first draft of the order on a floppy disk if you need it. Please call me if you and Bob desire to meet with Mr. Cooter and me to discuss this order.

Very truly yours,

  
W. Thomas Kellahin

cc: Jerry Hoover  
cc: Paul Cooter, Esq.



STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION



BRUCE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

May 7, 1992

Mr. Paul Cooter  
Rodney, Dickason, Sloan  
Akin & Ross  
P. O. Box 1357  
Santa Fe, New Mexico 87501

RE: CASE NO. 10471  
ORDER NO. R-9673

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

A handwritten signature in cursive script that reads "Florene Davidson".

Florene Davidson  
OC Staff Specialist

FD/sl

cc: BLM Carlsbad Office  
T. Kellahin  
E. Carroll

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION



BRUCE KING  
GOVERNOR



POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

November 25, 1992

Rodney, Dickason, Sloan  
Akin & Ross  
P. O. Box 1357  
Santa Fe, New Mexico 87501

Attn: Paul Cooter

RE: CASE NO. 10471  
ORDER NO. R-9673-A

Dear Sir:

Enclosed herewith are two copies of the above-referenced Division order recently entered in the subject case.

Sincerely,

A handwritten signature in cursive script that reads "Sally E. Leichtle".

Sally E. Leichtle  
Administrative Secretary

cc: BLM Carlsbad Office  
S. Keene  
T. Kellahin



STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION



BRUCE KING  
GOVERNOR

ANITA LOCKWOOD  
CABINET SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87504  
(505) 827-5800

August 7, 1992

Paul Cooter  
Rodey, Dickason, Sloan,  
Akin & Robb, P.A.  
Attorneys at Law  
P. O. Box 1357  
Santa Fe, New Mexico 87501

Case 10471

**RE: Request for Order No. R-9673 to be amended Nunc Pro Tunc**

Dear Mr. Cooter:

The request for the Nunc Pro Tunc amendment to a location change from the SW/4 NE/4 (Unit G) of Section 17 to the NW/4 NE/4 (Unit B) of Section 17 is hereby denied. Nunc Pro Tunc amendments are used to change orders where there are non-conflicting, non-substantive changes. Your request to change has been objected to by Conoco and should be the subject of another hearing relating to compulsory pooling of interests under its NE/4 of said Section 17 for a well drilled in the NW/4 NE/4 (Unit B).

Very truly yours,

William J. LeMay  
Director

WJL/sl

cc:

Ernest Carroll  
Conoco - Midland  
Conoco - Houston