

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

CASE 10,621

EXAMINER HEARING

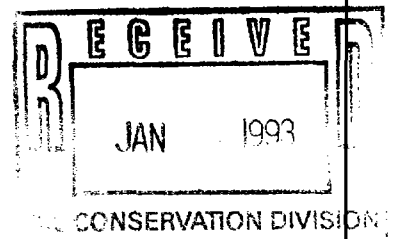
IN THE MATTER OF:

Application of Fortson Oil Company for compulsory  
pooling, Lea County, New Mexico

**ORIGINAL**

TRANSCRIPT OF PROCEEDINGS

BEFORE: DAVID R. CATANACH, EXAMINER



STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

December 3rd, 1992

CUMBRE COURT REPORTING  
(505) 984-2244

## A P P E A R A N C E S

FOR THE DIVISION:

ROBERT G. STOVALL  
Attorney at Law  
Legal Counsel to the Division  
State Land Office Building  
Santa Fe, New Mexico 87504

FOR THE APPLICANT:

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Attorneys at Law  
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Santa Fe, New Mexico 87504-2208

\* \* \*

## I N D E X

## Page Number

Appearances

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RICHARD COATS

Direct Examination by Mr. Carr

4

Examination by Examiner Catanach

15

JOHN TITTL

Direct Examination by Mr. Carr

16

Examination by Examiner Catanach

22

Certificate of Reporter

25

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## E X H I B I T S

## APPLICANT'S EXHIBITS:

Exhibit 1

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Exhibit 2

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Exhibit 3

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Exhibit 4

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Exhibit 5

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Exhibit 6

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Exhibit 7

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Exhibit 8

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1           WHEREUPON, the following proceedings were had  
2           at 11:20 a.m.

3           EXAMINER CATANACH: At this time we'll call  
4           Case 10,621.

5           MR. STOVALL: Application of Fortson Oil  
6           Company for compulsory pooling, Lea County, New Mexico.

7           EXAMINER CATANACH: Are there appearances in  
8           this case?

9           MR. CARR: May it please the Examiner, my  
10          name is William F. Carr with the Santa Fe law firm of  
11          Campbell, Carr, Berge & Sheridan.

12          We represent Fortson Oil Company, and I have  
13          two witnesses.

14          EXAMINER CATANACH: Any other appearances?  
15          Will the two witnesses please stand to be  
16          sworn in?

17          (Thereupon, the witnesses were sworn.)

18                   RICHARD COATS,  
19          the witness herein, after having been first duly sworn  
20          upon his oath, was examined and testified as follows:

21                   DIRECT EXAMINATION

22          BY MR. CARR:

23                  Q. Will you state your name for the record,  
24                  please?

25                  A. My name is Richard Coats.

1 Q. And where do you reside?

2 A. In Midland, Texas.

3 Q. By whom are you employed and in what  
4 capacity?

5 A. I am employed by Fortson Oil Company as an  
6 independent landman.

7 Q. Mr. Coats, have you previously testified  
8 before the Oil Conservation Division?

9 A. Yes, I have.

10 Q. At the time of that testimony, were your  
11 credentials as a petroleum landman accepted and made a  
12 matter of record?

13 A. Yes, they were.

14 Q. Are you familiar with the Application filed  
15 in this case?

16 A. Yes, I am.

17 Q. And are you familiar with the acreage that  
18 Fortson is attempting to force-pool?

19 A. I am.

20 MR. CARR: Are the witness's qualifications  
21 acceptable?

22 EXAMINER CATANACH: they are.

23 Q. (By Mr. Carr) Mr. Coats, would you briefly  
24 state what Fortson seeks with this case?

25 A. Fortson seeks an order pooling all mineral

1 interests from the surface to the base of the Abo  
2 formation in the southwest quarter, southwest quarter  
3 of Section 30, Township 19 South, Range 39 East in Lea  
4 County, New Mexico.

5 Q. Have you prepared certain exhibits for  
6 presentation here today?

7 A. I have.

8 Q. Would you refer to what has been marked as  
9 Fortson Exhibit Number 1, identify that and review it  
10 for Mr. Catanach?

11 A. This is a land plat that shows Fortson's  
12 acreage position, the well locations in this area, the  
13 proration unit for the proposed well, along with the  
14 location for the proposed well.

15 Q. Does it also show the offsetting ownership?

16 A. It does.

17 Q. What is the primary objective in the proposed  
18 well?

19 A. The primary objective is the Abo, Drinkard  
20 formation -- Abo and Drinkard, two separate formations.

21 Q. Let's go to Exhibit Number 2, and would you  
22 first identify this, please?

23 A. Exhibit Number 2 is a breakdown of the  
24 mineral ownership in this -- in the southwest quarter  
25 of Section 30, and it reflects each party's ownership

1 interest or ownership net acreage position, along with  
2 the leasehold status of each respective party.

3 Q. What percentage of the working interest at  
4 this time is voluntarily committed to this well?

5 A. 68.90625 percent is voluntarily committed.

6 Q. And then you are attempting to pool in this  
7 case Texaco?

8 A. That's correct.

9 Q. And then a number of unknown interest owners?

10 A. That's correct.

11 Q. Are the unknown interest owners indicated on  
12 Exhibit Number 2?

13 A. They are. And everywhere where it says  
14 "Address Unknown" under the lease status, that's where  
15 it indicates that I have not been able to locate that  
16 party.

17 Q. Could you generally review for Mr. Catanach  
18 the efforts you've made to identify each of the  
19 interest owners in the subject spacing or proration  
20 unit?

21 A. Okay. Initially another landman checked the  
22 records under this tract -- this has been over a year  
23 ago -- and I began leasing the people I could locate in  
24 this tract.

25 When I got that pretty well situated, I went

1 over to Lea County myself to see if I could get any  
2 more information on the whereabouts of some of these  
3 people who we did not have an address for.

4 At that time I learned that most of these  
5 people acquired their interest in late 1935 or early  
6 1936. And it appeared that this was subsequent to the  
7 discovery of the South Hobbs Grayburg field.

8 And the best I could tell, there was three  
9 different, it looked like, promoter-type companies that  
10 bought some interest in there, took it up to Oneida  
11 County, New York, and started selling off these pieces  
12 of minerals, very small interests, in this tract to a  
13 bunch of different people.

14 Q. What records in Lea County did you review?

15 A. Okay, during that time I looked at the Lea  
16 County -- or the Elliott & Waldron and Abstract Office  
17 records, and I also looked at the indexes in Lea County  
18 to see if there was any clues that I might gain.

19 I did have a few, and I went back to Midland  
20 and went through the library records and looked at the  
21 city directories and the telephone directories for  
22 Utica, New York, and the surrounding areas.

23 During my search it appeared obvious that  
24 most of these people at least at one time had lived in  
25 or around Utica, which is in Oneida County, New York.



1           Q.    Did you then attempt to reach any of these  
2 individuals by telephone?

3           A.    Yes, I did. I was unable to get very many  
4 current phone numbers from anybody, or on anybody.  
5 However, I did go back to my office and call directory  
6 information for all these people in the area code. I  
7 had the operator look at the area code listings for  
8 each of these, and I had various numbers.

9                   In some cases I may have had four or five,  
10 six, seven different last names that were common with  
11 one owner out there, and I called all of those parties  
12 to see if they were related or knew anything about the  
13 whereabouts of the person I was looking for.

14                   In addition to people I was able to locate, I  
15 went through the list of unknown owners with each one  
16 of them. And in some cases, some of the people --  
17 well, they were all in their eighties or, you know,  
18 very elderly -- recognized some of the names. But all  
19 of them indicated they didn't know any of the heirs or  
20 exactly when they died, other than just a long time  
21 ago.

22           Q.    When you were looking at Lea County, you  
23 looked at the direct and indirect indexes, did you not?

24           A.    That's correct.

25           Q.    So your study looked for other conveyances

1 from these people, other than just on the tract which  
2 is involved in this pooling Application?

3 A. That's correct.

4 Q. Did you look in probate records?

5 A. I did.

6 Q. Did you also attempt to look in the probate  
7 records in New York?

8 A. Yes, I did. I called the County Clerk's  
9 office in Oneida County.

10 At that time -- This has been several months  
11 ago, and they indicated to me that they would conduct a  
12 probate search if I could provide them with the  
13 approximate date of death for each of these people.  
14 And of course I have no idea if these people are dead  
15 or when they died, other than just suspicion, so I was  
16 unable to provide them with that information.

17 Q. How long have you actually been trying to  
18 locate each of the individuals whose addresses are  
19 shown as unknown?

20 A. Off and on for approximately a year.

21 Q. And how many times have you been to Lea  
22 County to review records in the County Clerk's office  
23 in an effort to identify these interest owners?

24 A. I've been three times, and each time with  
25 maybe a little bit different mission, you know, just to

1 try to seek out any other clues I might be able to  
2 ascertain.

3 The last time I went was two weeks ago, and  
4 it was at the same time when we had ordered a title  
5 opinion -- or not a title -- abstracts from Lea County  
6 Abstract Office, and at that time compared my notes  
7 with the abstractor, who had also indexed these names.  
8 And there was no new -- I mean, didn't miss anything,  
9 and that was one of the things I wanted to double-check  
10 during that trip.

11 So I feel like that I've done everything I  
12 can to locate these -- to reasonably locate these  
13 people. And my suspicion is that all of them are dead,  
14 just knowing when they acquired their interest.

15 Q. What will Fortson do with the portion of  
16 income from the well, if it is successful, that is  
17 attributable to these interest owners?

18 A. We would hold that in escrow in New Mexico.

19 Q. Would you identify what has been marked as  
20 Fortson Exhibit Number 3?

21 A. Fortson Exhibit Number 3 is an AFE for the  
22 proposed Chance well, and it shows that the dryhole  
23 costs will be \$204,600, the completed-well costs will  
24 be \$160,000, and the total well costs will be \$364,600.

25 Q. Are these costs in line with what's charged

1 for similar wells in the area?

2 A. Yes, they are. Fortson has drilled three  
3 wells just across the state line into Texas, and  
4 incurred costs similar to those reflected on this AFE.

5 Q. I'd ask you now to review the efforts that  
6 you've made to attempt to reach voluntary agreement  
7 with Texaco for the development of this property.

8 A. Okay. On October 12th, 1992, Brett Taylor,  
9 the land manager of Fortson Oil Company went to Denver  
10 where Texaco is located and personally hand-delivered a  
11 letter, of which you have a copy, dated October 12th,  
12 and it's attached behind the letter dated November 5th.

13 That letter set out the terms by which  
14 Fortson was offering Texaco to participate in the well  
15 or lease its interest, and it included an AFE and kind  
16 of a well prognosis report or geologic report.

17 Subsequent to that time, on November 5th, we  
18 sent a letter amending the location slightly and also  
19 revising the AFE to reflect the correct well name and  
20 projected depth and a slightly amended dollar amount.

21 Q. And that AFE attached to the November 5th  
22 letter is the same AFE you've presented here today?

23 A. That's correct.

24 Q. Have you talked with Texaco since the  
25 November 5th letter?

1           A.    Yes, we've talked to them on several  
2 occasions, the latest of which was this morning. And  
3 at that time they indicated that they still had not  
4 made a decision to either join or lease in this well,  
5 and they hoped to do that in the near future.

6           Q.    Is Exhibit Number 4 a copy of the letters to  
7 Texaco that you've just discussed?

8           A.    Yes, it is.

9           Q.    And is Exhibit Number 5 a copy of an  
10 affidavit confirming that notice of today's hearing has  
11 been provided to Texaco as required by OCD rules?

12          A.    Yes.

13          Q.    Has Fortson made an estimate of overhead and  
14 administrative costs to be assessed while drilling this  
15 well and also while producing it if, in fact, it is  
16 successful?

17          A.    We have.

18          Q.    And what are those numbers?

19          A.    Those numbers are \$4500 for drilling well  
20 rate and \$450 for a producing well rate.

21          Q.    Are these costs in line with what's being  
22 charged by other operators?

23          A.    We believe that they are.

24          Q.    How do these compare to the *Ernst & Young*  
25 figures for wells in this area?

1           A.    For the 1991 *Ernst & Young* recommended rates,  
2           they're a little bit higher.  However, those are for,  
3           as I said, 1991.  This well really won't be drilled  
4           until 1993, and the 1992 *Ernst & Young* figures won't be  
5           out for some time.

6                   What we did was escalated the 1991 rates  
7           slightly, by approximately seven percent.

8           Q.    Is that the same percentage escalation that  
9           there was between the 1990 and 1991 rates for this  
10          area?

11          A.    That's correct.

12          Q.    Do you recommend that these figures be  
13          incorporated into any Order which results from this  
14          hearing?

15          A.    I do.

16          Q.    Does Fortson desire to be designated operator  
17          of the proposed well?

18          A.    They do.

19          Q.    Will Fortson also be calling a geological  
20          witness to testify as to the risk associated with the  
21          development of the property?

22          A.    They will.

23          Q.    Were Exhibits 1 through 5 either prepared by  
24          you or compiled under your direction?

25          A.    They all were.

1 MR. CARR: At this time, Mr, Catanach, we  
2 move the admission of Fortson Exhibits 1 through 5.

3 EXAMINER CATANACH: Exhibits 1 through 5 will  
4 be admitted as evidence.

5 MR. CARR: And that concludes my direct  
6 examination of Mr. Coats.

7 MR. STOVALL: No, I have no questions.

8 EXAMINER CATANACH: Just one.

9 EXAMINATION

10 BY EXAMINER CATANACH:

11 Q. You said that the initial research on the  
12 ownership in this tract was done a year ago?

13 A. That's correct.

14 Q. Do you have any reason to believe that  
15 anything has changed in that year?

16 A. Well, that wasn't really the purpose for my  
17 subsequent visits.

18 When the initial landman did that -- You  
19 know, this typically happens. I mean, you know, he's  
20 trying to get the job done as fast as possible and may  
21 not turn over every stone that you might do if you were  
22 really doing an in-depth, diligent search, which was  
23 what I did on three subsequent trips to Lea County, the  
24 latest one of which was within two weeks. It was the  
25 week -- the Thursday before Thanksgiving, and --

1 MR. CARR: The Thursday before Thanksgiving?  
2 THE WITNESS: Right.  
3 MR. STOVALL: That would be a week before.  
4 THE WITNESS: A week before.  
5 MR. CARR: Okay.  
6 THE WITNESS: Yeah. Anyway -- But I'm  
7 confident there is not anything in Lea County to give  
8 us any more direction as to where these people are.  
9 And I feel like given the nature of the size  
10 of these interests, that most of these people never  
11 were listed on any type of probate and probably have  
12 forgotten that they've owned it. You know, that's my  
13 opinion, but...  
14 EXAMINER CATANACH: Okay, I have nothing  
15 further.  
16 MR. CARR: At this time we would call Mr.  
17 Tittl.  
18 JOHN TITTL,  
19 the witness herein, after having been first duly sworn  
20 upon his oath, was examined and testified as follows:  
21 DIRECT EXAMINATION  
22 BY MR. CARR:  
23 Q. Will you state your name for the record,  
24 please?  
25 A. My name is John Tittl.



1 Q. And how do you spell your last name?

2 A. T-i-t-t-l.

3 Q. And where do you reside?

4 A. In Forth Worth, Texas.

5 Q. By whom are you employed?

6 A. By Fortson Oil.

7 Q. And in what capacity?

8 A. As a petroleum geologist.

9 Q. Have you previously testified before this  
10 Division?

11 A. Yes, I have.

12 Q. And at the time of that testimony, were your  
13 credentials as a geologist accepted and made a matter  
14 of record?

15 A. Yes, sir.

16 Q. Are you familiar with the Application filed  
17 in this case?

18 A. Yes.

19 Q. And are you familiar with the subject area?

20 A. Yes.

21 MR. CARR: Are the witness's qualifications  
22 acceptable?

23 EXAMINER CATANACH: They are.

24 Q. (By Mr. Carr) Mr. Tittl, have you made a  
25 geologic study of the area which is the subject of this

1 Application?

2 A. Yes, I've made a study of this area and  
3 surrounding areas.

4 Q. Would you refer to what has been marked as  
5 Fortson Exhibit Number 6 and review that for Mr.  
6 Catanach?

7 A. All right. Exhibit Number 6 again  
8 illustrates our acreage position, the proposed location  
9 and the proration unit.

10 It's a structure map on the top of the Abo  
11 shale, or the base of the Drinkard formation, the Lower  
12 Clear Fork, of which the Drinkard is a member.

13 Q. It shows offsetting Abo formation production?

14 A. Yes, all the Abo penetrations, wells listed.  
15 "NDE" are not deep enough to reach the Abo.

16 Q. And what did you use in constructing this  
17 map? What control information?

18 A. Yes, this was based on well-control reports.

19 Q. How important is structure in actually making  
20 a successful well in the Abo?

21 A. Structure plays some role, but it is not the  
22 primary concern, because you'll note there are nine Abo  
23 penetrations on the map, six dry holes and three  
24 producers. We've got a couple wells high to actual  
25 producers, which were dry, being primarily in the

1 northwest edge of the map.

2 Q. And you have a trace on this map for a  
3 subsequent cross-section, do you not?

4 A. Yes.

5 Q. Let's move to that now, which is marked  
6 Exhibit Number 7, and again I'd ask you to review this  
7 for the Examiner.

8 A. All right, Exhibit 7 shows three relevant  
9 wells.

10 Starting on the west, the Western Reserves  
11 Number 1-25 Nadine, was completed in April of 1991 and  
12 is a dual producer from the Abo formation, which is the  
13 -- beneath the purple horizon, which is, incidentally,  
14 the mapping horizon, the top of the Abo.

15 The well pumped 10 barrels of oil, 33 barrels  
16 of water in 14 hours and subsequently tested the  
17 Drinkard formation, which IP'd for 33 oil, and the two  
18 zones were commingled.

19 The next well, in the middle of the cross-  
20 section, the Crown Central Emerald, was completed in  
21 October of 1987. After testing apparently water in the  
22 Abo formation, they put a bridge plug at 7150 and  
23 produced from the Drinkard formation with an initial  
24 potential of 61 barrels of oil per day.

25 Then the well in the east of the cross-

1 section on the right, Petroleum Technical Number 1  
2 Carter, completed April, 1990, from just the Abo  
3 formation for an initial potential of 28 barrels of oil  
4 per day.

5 Q. What basically does this cross-section show  
6 you about the proposed well?

7 A. The cross-section shows us that you've got a  
8 number of discrete, thin-bedded zones. It shows these  
9 formations are very complex for -- In the Crown Central  
10 we've got water production above oil production in the  
11 two flanking wells on the east and west.

12 In addition, it shows the Lower Clear Fork or  
13 the Drinkard porosity appears to be fairly continuous  
14 across the area.

15 Q. Okay, let's move now to Fortson Exhibit  
16 Number 8. Would you identify that, please?

17 A. Exhibit Number 8 is a production map of the  
18 six producing wells in this specific area of our  
19 interest.

20 Q. What does this tell you about the Abo in this  
21 immediate area?

22 A. Well, a breakdown by production shows the Abo  
23 and Drinkard production is not real good in this  
24 specific area here.

25 I can detail well by well. The Western

1 Reserves, the Nadine -- that was the commingled well on  
2 the cross-section -- made 8575 barrels of oil. Current  
3 production is eight barrels per day.

4 Crown Central well from just the Drinkard  
5 formation has made 23,809 barrels of oil, makes eight  
6 barrels per day.

7 And the Petroleum Technical Carter, on the  
8 right of the cross-section, from just the Abo has made  
9 8461 barrels, and it also makes eight barrels of oil  
10 per day.

11 Q. Each of these would be classified as a fairly  
12 marginal prospect in the Abo?

13 A. Yes, based upon drilling costs in here. The  
14 only well even remotely getting close to paying out  
15 drilling cost would be Crown Central Emerald.

16 Q. Are you prepared to make a recommendation to  
17 the Examiner as to the risk penalty that should be  
18 assessed against any interest which does not  
19 voluntarily participate in this well?

20 A. Yes, I am.

21 Q. And what is that?

22 A. I would like to ask for the 200-percent  
23 penalty in this case.

24 Q. In your opinion, is there a chance that a  
25 well at the proposed location could not be a commercial

1 success?

2 A. There's a very good chance, based upon our  
3 structure map. We have six dry holes, three producers,  
4 of which we just stated that only one well would  
5 eventually pay out the initial drilling cost.

6 Q. In your opinion, will approval of this  
7 Application and the drilling of the proposed well  
8 result in recovery of hydrocarbons that otherwise will  
9 not be recovered?

10 A. Yes.

11 Q. Would its approval be otherwise in the best  
12 interests of conservation, the prevention of waste and  
13 the protection of correlative rights?

14 A. Yes, sir.

15 Q. Were Exhibits 6 through 8 prepared by you?

16 A. Yes, they were.

17 MR. CARR: At this time, Mr. Catanach, we  
18 move the admission of Fortson Exhibits 6 through 8.

19 EXAMINER CATANACH: Exhibits 6 through 8 will  
20 be admitted as evidence.

21 MR. CARR: That concludes my examination of  
22 Mr. Tittl.

23 EXAMINATION

24 BY EXAMINER CATANACH:

25 Q. Mr. Tittl, besides the Drinkard and the Abo,

1 are there any other prospective formations?

2 A. Yeah, Yates, Seven Rivers down in the  
3 southeast corner of the production map, in those three  
4 red wells. The production is stated there, 341  
5 million, 557 million, 583 million.

6 Those wells are decent when you look at the  
7 long-term cum's, but they produce at these low rates  
8 for just a long time. The daily rates are 90,000  
9 76,000 and 78,000 cubic feet per day, respectively.

10 In addition, the gas down there is of very  
11 low BTU value and fairly hard to sell.

12 Q. That's a gas pool, right?

13 A. Yes, those are in the House-Yates-Seven  
14 Rivers Pool.

15 Q. Okay, that's spaced on 160-acre spacing?

16 A. Yes.

17 Q. You're not requesting to pool 160 acres, just  
18 40 at this time?

19 A. Just 40, based upon my studies, I feel are  
20 our main hope for a well in here, would be from the  
21 Drinkard and/or Abo, and it would probably be in the  
22 Nadine East Pool.

23 Q. Do you have reason to believe that you'll  
24 have a better well than the Crown Central Emerald?

25 A. Well, that's why we're drilling now, based

1 upon our regional studies in the House field, which is  
2 approximately two and a half miles to the south, the DK  
3 field about five miles south.

4 In some cases where we know we've got an oil  
5 pool, as here, we've got three producers, we just have  
6 low permeabilities. We've got porosity. We just --  
7 What we're hoping for in this prospect is an enhanced  
8 permeability right at the edge of this structure, by  
9 going between those two wells.

10 EXAMINER CATANACH: I have nothing further of  
11 the witness.

12 MR. CARR: We have nothing further in this  
13 case.

14 EXAMINER CATANACH: There being nothing  
15 further, Case 10,621 will be taken under advisement.

16 (Thereupon, these proceedings were concluded  
17 at 11:43 a.m.)

18 \* \* \*

19  
20 I do hereby certify that the foregoing is  
21 a complete record of the proceedings in  
22 the examiner hearing of Case No. 10621,  
23 heard by me on March 3 1992.

24 David R. Catanach, Examiner  
25 Oil Conservation Division



## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF NEW MEXICO )  
4 ) SS.  
5 COUNTY OF SANTA FE )

6 I, Steven T. Brenner, Certified Court  
7 Reporter and Notary Public, HEREBY CERTIFY that the  
8 foregoing transcript of proceedings before the Oil  
9 Conservation Division was reported by me; that I  
10 transcribed my notes; and that the foregoing is a true  
11 and accurate record of the proceedings.

12 I FURTHER CERTIFY that I am not a relative or  
13 employee of any of the parties or attorneys involved in  
14 this matter and that I have no personal interest in the  
15 final disposition of this matter.

16 WITNESS MY HAND AND SEAL December 26th, 1992.

17 

18 STEVEN T. BRENNER  
19 CCR No. 7

20 My commission expires: October 14, 1994  
21  
22  
23  
24  
25