

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

CASE 10,759

EXAMINER HEARING

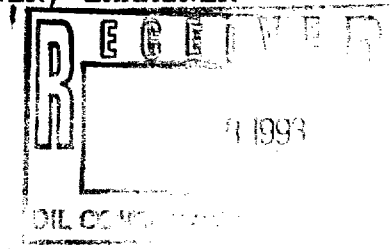
IN THE MATTER OF:

Application of Santa Fe Energy Operating Partners,  
L.P., for compulsory pooling, Eddy County, New  
Mexico

**ORIGINAL**

TRANSCRIPT OF PROCEEDINGS

BEFORE: MICHAEL E. STOGNER, EXAMINER



STATE LAND OFFICE BUILDING

SANTA FE, NEW MEXICO

July 29, 1993

## 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:

HINKLE, COX, EATON, COFFIELD & HENSLEY  
Attorneys at Law  
By: JOHN R. KULSETH, JR.  
218 Montezuma  
P.O. Box 2068  
Santa Fe, New Mexico 87504-2068

\* \* \*

## I N D E X

## Page Number

## Appearances

2

## CURTIS D. SMITH

Direct Examination by Mr. Kulseth

5

Examination by Mr. Stovall

12

Examination by Examiner Stogner

13

## GENE DAVIS

Direct Examination by Mr. Kulseth

16

Examination by Mr. Stovall

21

Examination by Examiner Stogner

21

## Certificate of Reporter

24

\* \* \*

## 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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1           WHEREUPON, the following proceedings were had  
2           at 8:58 a.m.:

3           EXAMINER STOGNER: With that, are we ready to  
4           call Case Number 10,759 at this point?

5           MR. STOVALL: Are you ready, Mr. Kulseth? We  
6           caught you on short prep here.

7           MR. KULSETH: I am.

8           MR. STOVALL: Application of Santa Fe Energy  
9           Operating Partners, L.P., for compulsory pooling, Eddy  
10          County, New Mexico.

11          EXAMINER STOGNER: Call for appearances.

12          MR. KULSETH: Mr. Examiner, John Kulseth from  
13          the Hinkle Law Firm representing the Applicant.

14          We have two witnesses to be sworn, although I  
15          believe they both have been sworn.

16          EXAMINER STOGNER: Let the record show that  
17          the witnesses -- Mr. Smith and Mr. White; is that  
18          correct?

19          MR. DAVIS: Mr. Davis.

20          MR. KULSETH: Gene Davis.

21          EXAMINER STOGNER: And Mr. Gene Davis, and  
22          who's the other one? Smith?

23          MR. KULSETH: Curtis Smith.

24          EXAMINER STOGNER: -- Curtis Smith, have  
25          previously been sworn in today's hearing.

1                   Are there any other appearances in this  
2                   matter?

3                   Mr. Kulseth?

4                   MR. KULSETH: Thank you Mr. Examiner. Call  
5                   Curtis Smith.

6                               CURTIS D. SMITH,  
7                   the witness herein, after having been first duly sworn  
8                   upon his oath, was examined and testified as follows:

9                               DIRECT EXAMINATION

10                  BY MR. KULSETH:

11                  Q.    Please state your name and city of residence.

12                  A.    My name is Curtis Smith. I live in Midland,  
13                  Texas.

14                  Q.    And your occupation and employer?

15                  A.    I'm a landman for Santa Fe Energy.

16                  Q.    And it's true that you have previously  
17                  testified before the OCD?

18                  A.    That's correct.

19                  Q.    And your credentials were accepted as a  
20                  matter of record?

21                  A.    That's correct.

22                  Q.    Are you familiar with the land matters  
23                  involved in this case?

24                  A.    Yes, I am.

25                  MR. KULSETH: Mr. Examiner, I tender Curtis

1 Smith as an expert petroleum landman in this case.

2 EXAMINER STOGNER: Curtis Smith is so  
3 qualified.

4 MR. KULSETH: Thank you.

5 Q. (By Mr. Kulseth) Mr. Smith, please state  
6 briefly what Santa Fe seeks in this case.

7 A. Santa Fe seeks an order pooling all mineral  
8 interests from the surface to the base of the Strawn  
9 formation underlying the north half of Section 9 of  
10 Township 24 South, Range 25 East, Eddy County, New  
11 Mexico.

12 Q. And referring to Exhibit 1, can you describe  
13 that?

14 A. Exhibit 1 -- Excuse me?

15 Q. Will you describe Exhibit 1?

16 A. Exhibit 1 is a land plat showing the proposed  
17 unit, the north half of Section 9, 320-acre proration  
18 unit, and the well is to be located 1980 feet from the  
19 east line and 660 feet from the north line of Section  
20 9.

21 Q. And who does Santa Fe seek to pool?

22 A. Santa Fe seeks to pool James M. Alexander,  
23 Martha Jane Rhodes, Jeri Alexander Lott. They have a  
24 combined 1.5 percent mineral interest in the spacing  
25 unit, which is derived from a 1/16th combined mineral

1 interest in the east half of the northwest quarter of  
2 Section 9.

3 Q. Will you describe your efforts for the  
4 Commission to obtain a voluntary joinder of these  
5 people?

6 A. Yes, Mr. Lyle Cannon, one of our land lease  
7 brokers, began negotiations with the -- what's known as  
8 the Pardue Guitar Family Mineral Owners, and he had  
9 previously purchased leases from the Pardue Guitar  
10 Family, which the Alexanders -- or Mr. Alexander and  
11 Ms. Rhodes and Lott are part of this family.

12 He had previously purchased leases from them  
13 in 1988 for \$152 per acre, three-year permit term, 3/16  
14 royalty.

15 In 1991 he had contacted the same group, made  
16 offers of \$151 per acre, two-year primary term, not  
17 three year, quarter royalty.

18 At that time he did not contact -- he did not  
19 document his contacts with Mr. Alexander.

20 And by the way, Mr. Alexander has told our  
21 broker, and also Martha Rhodes and Jeri Lott has told  
22 our broker, that Mr. Alexander speaks for those two  
23 individuals whenever they negotiate leases.

24 But in 1991 he did not document his phone  
25 conversations with them. He thought that he would be

1     able to purchase leases on the same terms as he had in  
2     the past.

3             In August of 1992, we had a title opinion  
4     rendered for this proration unit, for this well, and it  
5     came to our attention that we still had these unleased  
6     mineral interest owners in the proration unit.

7             At that point, Mr. Cannon documented his  
8     calls made to Mr. Alexander's office. He made calls to  
9     his office on August 13th, August 14th, August 18th,  
10    and August 19th of 1992, each time leaving a message  
11    asking him to call Mr. Cannon back.

12            On the 19th, Mr. Alexander's secretary -- her  
13    name is Kay -- advised that Mr. Cannon sent another set  
14    of leases, which he did at that time.

15            On September 8th, Mr. Cannon called and  
16    finally talked to Mr. Alexander personally. Mr. Cannon  
17    tells me that he was -- Mr. Alexander was uncooperative  
18    and did not show an interest in leasing to Mr. Cannon  
19    and did not give a reason why he did not want to lease.  
20    He was very short on the telephone, and it was a very  
21    short conversation.

22            Mr. Cannon called him back on September 14th,  
23    September 15th and September 23rd, and also October  
24    13th of 1992, each time leaving a message for him to  
25    call, for Mr. Alexander to call Mr. Cannon back.



1           On November 11th, Mr. Cannon sent a letter  
2           explaining to Mr. Alexander that Santa Fe Energy  
3           intended to drill a well, and discussed in his letter  
4           the options that Mr. Alexander had. I did not enter  
5           those as exhibits because at that time those letters  
6           were not sent certified mail. We -- When it became  
7           clear to us at a later date that Mr. Alexander was not  
8           going to lease to us, that's when we started sending  
9           things certified mail.

10           In early February, I instructed Mr. Cannon to  
11           send Mr. Alexander a letter setting out the lease terms  
12           once again and the option to participate in the well,  
13           and Mr. Cannon sent him an operating agreement and an  
14           AFE.

15           Once again on July 7th, we sent Mr. Alexander  
16           and Martha Jane Rhodes and Jeri Alexander Lott by  
17           certified mail, we sent them a letter with the lease  
18           terms, an operating agreement attached and an AFE, and  
19           those are my Exhibit 2 and Exhibit 3.

20           Q.    In your opinion, has Santa Fe made a good-  
21           faith effort to obtain the voluntary joinder of those  
22           three parties?

23           A.    Yes.

24           Q.    Okay. Does Santa Fe request that it be named  
25           operator of the well?

1           A.    Yes, we do.  We have 98.44 percent working  
2 interest in this well.

3           Q.    Referring back to Exhibit 3, will you discuss  
4 the cost of the proposed well?

5           A.    It's \$416,000 dryhole cost, \$742,000  
6 completed well cost.

7           Q.    And are those proposed well costs in line  
8 with those normally encountered --

9           A.    Yes, they are.

10          Q.    -- in drilling to this depth in Eddy County?

11          A.    Yes, they are.

12          Q.    Do you have a recommendation as to the  
13 amounts which Santa Fe should be paid for the  
14 supervision and administrative expenses?

15          A.    \$5500 per month for drilling and overhead,  
16 \$550 per month for producing well rate.

17          Q.    And do you request that the operating charges  
18 be adjusted annually?

19          A.    Yes, pursuant to the COPAS procedures.  The  
20 COPAS procedure and a schedule of the annual  
21 adjustments are submitted as Exhibit 4.

22          Q.    Are the amounts that you have just  
23 recommended in line with the amounts normally charged  
24 by Santa Fe and other operators for wells of this type  
25 in this area?

1           A.    Yes, I used the main range from the *Ernst and*  
2   *Young's* 1992 overhead survey for eastern New Mexico and  
3   west Texas.

4           Q.    And that 1992 overhead survey is the most  
5   current --

6           A.    Yes.

7           Q.    -- recent?   Okay.

8                   Have all parties been notified of this  
9   Application?

10          A.    Yes, they have, and Exhibit 5 is my affidavit  
11   notice.

12          Q.    What penalty do you recommend against  
13   nonconsenting interest owners?

14          A.    We recommend cost plus 200 percent, and our  
15   geologist, Mr. Gene Davis, will discuss the  
16   reasonableness of the proposed penalty.

17          Q.    And were Exhibits 1 through 5 prepared by you  
18   or under your supervision?

19          A.    Yes, they were.

20                   MR. KULSETH:   Mr. Examiner, I move that  
21   Exhibits 1 through 5 be admitted.

22                   EXAMINER STOGNER:   Exhibits 1 through 5 will  
23   be admitted into evidence at this time.

24                   MR. KULSETH:   Thank you.

25          Q.    (By Mr. Kulseth)   In your opinion, will the

1 granting of this Application be in the interests of  
2 conservation, the prevention of waste and the  
3 protection of correlative rights?

4 A. Yes, it will.

5 MR. KULSETH: Thank you. Mr. Examiner, I  
6 have no further questions of this witness.

7 EXAMINATION

8 BY MR. STOVALL:

9 Q. The first question, Exhibit Number 2,  
10 that's -- Who's Mr. Dwyer?

11 A. Mr. Cannon works for Mr. Dwyer. Mr. Dwyer is  
12 a land broker in Midland, and Mr. Dwyer does land  
13 brokerage work for us.

14 Q. He is operating, at least with respect to  
15 this particular operation, under your supervision and  
16 direction; is that correct?

17 A. Yes, Mr. Dwyer is in our office on a daily  
18 basis and in particular on this case.

19 Q. Now, this particular letter was in fact sent  
20 after the Application was filed and the notice was  
21 given, right?

22 A. That's correct.

23 Q. But you have testified that there were some  
24 previous letters sent?

25 A. Yes, sir.

1 Q. Do you have those?

2 A. I can get those. They weren't sent certified  
3 mail.

4 Q. That does not affect their validity as  
5 instruments --

6 A. I can get those --

7 MR. STOVALL: -- evidence before this -- So  
8 if you would provide us, because that solves the  
9 problems that were addressed in the previous case, and  
10 in fact, you did correspond and provide a written  
11 opportunity.

12 And let me explain just for your information  
13 that the certification goes to the validity of notice  
14 in the sense of the legal sense of the fail- -- not  
15 having them certified does not affect their value,  
16 evidentiary value, to show your efforts.

17 So those exhibits, Mr. Kulseth, if you would  
18 just cover them with an affidavit verifying they're  
19 solving the basic foundational issues and get those  
20 letters in, showing the previous correspondence with  
21 Mr. Alexander in behalf of these interests.

22 I have no further questions.

23 EXAMINATION

24 BY EXAMINER STOGNER:

25 Q. All right, Mr. Smith, in looking at Exhibit

1 Number 1, it appears that this proration unit is cut up  
2 in about three segments, I guess you would call it.

3 A. Yes, sir, that's correct.

4 Q. The parties which you're force-pooling today,  
5 what lease do they fall under?

6 A. They're in the east half of the northwest  
7 quarter, and they have a 1/16th mineral interest in  
8 that 80 acres.

9 Q. Is this still a state lease?

10 A. Yes. If you'll recall, Case Number 10,690,  
11 we brought before you the Mosley Canyon State Unit  
12 covering the south half, north half of Section 3, south  
13 half of Section 3, all of Section 4, all of Section 9,  
14 all of Section 10, and we spud the Mosley Canyon State  
15 Unit Well Number 1 yesterday.

16 Q. Okay.

17 A. And I have submitted the \$120 filing fee and  
18 all the necessary paperwork to Mr. Pete Martinez for  
19 final approval.

20 Q. So the royalty is the State under this  
21 acreage, is what I'm getting at.

22 A. 160 acres for the northeast quarter of the  
23 proration unit. The -- all of the northwest quarter --  
24 That's fee land.

25 MR. STOVALL: I'm sorry, say that -- I

1 didn't --

2 THE WITNESS: The northwest quarter is fee  
3 land, and the northeast quarter of Section 9 is state  
4 lands.

5 Q. (By Examiner Stogner) When you began your  
6 testimony today, you said that the force-pooling was  
7 from the surface to the base of the Strawn?

8 A. That's correct.

9 Q. Okay. Now, the advertisement was to the base  
10 of the Morrow. Am I to assume that this is to be  
11 amended or changed?

12 A. That's to be amended.

13 Q. Okay. And you gave a surface location or a  
14 location for this well. What was that again?

15 A. 1980 feet from the east line, 660 feet from  
16 the north line.

17 We have that spotted on my exhibit 1 with a  
18 footage location, description.

19 EXAMINER STOGNER: And that is constant  
20 throughout the other exhibits. I thought I heard  
21 something different.

22 I have no other questions of this witness.

23 MR. STOVALL: I have none.

24 EXAMINER STOGNER: Mr. Kulseth?

25 MR. KULSETH: Call Gene Davis.

1                                   GENE DAVIS,  
2       the witness herein, after having been first duly sworn  
3       upon his oath, was examined and testified as follows:

4                                   DIRECT EXAMINATION

5       BY MR. KULSETH:

6               Q.     Please state your name and city of residence.

7               A.     My name is Gene Davis. I live in Midland,  
8       Texas.

9               Q.     And your occupation and your employer?

10              A.     I'm employed by Santa Fe Energy Resources as  
11       a geologist.

12              Q.     Have you previously testified before the New  
13       Mexico Oil Conservation Division?

14              A.     Yes, I have.

15              Q.     And were your credentials accepted as a  
16       matter of record?

17              A.     Yes, they were.

18              Q.     Are you familiar with the geology in this  
19       case?

20              A.     Yes, I am.

21                   MR. KULSETH: Mr. Examiner, I would tender  
22       Mr. Davis as an expert petroleum geologist in this  
23       case.

24                   EXAMINER STOGNER: Mr. Davis is so qualified.

25                   MR. KULSETH: Thank you.



1 Q. (By Mr. Kulseth) Mr. Davis, please refer to  
2 Exhibit 6 and describe what that shows.

3 A. Could you have a copy of that marked -- a  
4 copy that will mark -- the exhibit number. Thank you.

5 Q. It should be the isopach.

6 A. Exhibit 6 is an isopach map of the Middle and  
7 Lower Strawn net clean carbonate in a portion of Eddy  
8 County, New Mexico, surrounding our Mosley Canyon  
9 Prospect.

10 It basically depicts the Strawn formation as  
11 it comes across this portion of the area.

12 It also shows a line of cross-section, B-B',  
13 which is Exhibit 7.

14 Q. And referring to Exhibit 7, will you describe  
15 what that shows?

16 A. Exhibit 7 is a stratigraphic cross-section  
17 across the Mosley Canyon Prospect showing our proposed  
18 location in Section 9.

19 Q. Based upon your understanding of the geology  
20 and the geological risk, what penalty do you recommend  
21 against nonconsenting interest owners?

22 A. May I discuss the geology briefly first?

23 Q. Absolutely.

24 A. Mr. Examiner, we propose to drill a well in  
25 Section 9, as Mr. Smith has talked about, on that

1 approved state unit, that 10,300-foot exploratory test.

2 What we're looking at here is the Strawn  
3 shelf-edge trend that tends northeast/southwest across  
4 this portion of the southeast New Mexico. We're  
5 looking for an algal mound buildup such as that is  
6 found by HNG in a well drilled in Section 32 of  
7 Township 23 South, Range 25 East, on the north end of  
8 the cross-section. It has a number, 280 feet,  
9 associated with it. There was an algal mound  
10 penetrated in that well, and it's productive currently.

11 To the south of us in Section 17, in 24  
12 South, 25 East, is a well was drilled by Santa Fe  
13 Energy Resources; it was the Lambchop 17 State Com  
14 Number 1 well. That well also penetrated a Strawn  
15 algal mound. It encountered 300 feet of clean  
16 carbonate.

17 If you look at the cross-section that is  
18 Exhibit 7, you will note that we show a large blue mass  
19 in the middle of that, and that is the hoped-for mound  
20 that we will drill into in our well in Section 9.

21 Our regional mapping suggests that the Strawn  
22 shelf edge trends this way across southeast New Mexico  
23 and that we should have a very good opportunity in  
24 Section 9 to encounter another one of these type of  
25 mounds.

1           We have provided written testimony and also  
2           geologic testimony with regards to this prospect in  
3           Case Number 10,690, and I would refer you to that  
4           information as well in your examination of this  
5           proceeding.

6           As far as risk is concerned, this is an  
7           exploratory well and therefore has the normal risk  
8           associated with it as being an exploratory well.

9           The two things, of course, would be first off  
10          that the reservoir isn't present, we drill the well and  
11          don't find what we're looking for. And secondly, we  
12          could encounter a mound buildup as depicted. However,  
13          the mound could be tight and be basically noneconomic.

14          The well we drilled in Section 17 that I just  
15          alluded to, the Lambchop State 17 Com Number 1 well,  
16          encountered 300 feet of a nice, clean carbonate  
17          buildup, but the well basically had very little  
18          porosity in it -- there was a little bit of porosity in  
19          the top -- and it proved to be basically noncommercial.

20          So we're basically looking at that as being a  
21          risk as well. So there is a substantial amount of risk  
22          involved in drilling this well.

23               Q.   And do you have a recommendation for the  
24               penalty against nonconsenting interest owners?

25               A.   I think the penalty should be the maximum

1 allowed by state statute.

2 Q. And that is --

3 A. -- 200 percent, cost plus 200 percent.

4 Q. Thank you. Were Exhibits 6 and 7 prepared by  
5 you or under your supervision?

6 A. Yes, they were.

7 MR. KULSETH: Mr. Examiner, I move that  
8 Exhibits 6 and 7 be admitted.

9 EXAMINER STOGNER: Exhibits 6 and 7 will be  
10 admitted into evidence at this time.

11 MR. KULSETH: Thank you.

12 EXAMINER STOGNER: Also, I'll take  
13 administrative notice of all reference to Case Number  
14 10,690, since we did allude to that quite a bit today.

15 THE WITNESS: Thank you.

16 MR. KULSETH: Thank you, Mr. Examiner.

17 Q. (By Mr. Kulseth) Mr. Davis, in your opinion  
18 is the granting of this Application in the interests of  
19 conservation, the prevention of waste and the  
20 protection of correlative rights?

21 A. Yes, sir, I believe it is.

22 MR. KULSETH: Thank you.

23 Mr. Examiner, I believe I have no other  
24 questions of this witness.

25 EXAMINER STOGNER: No questions.

## EXAMINATION

BY MR. STOVALL:

Q. Let me ask one --

A. Yes, sir.

Q. -- and it's -- I think you testified that you -- that under the unit you've spudded a well; is that correct?

A. The well has been spudded, that's correct.

Q. Which well is that?

A. That is the well in Section 9. It would be the square that you see in Section 9 there, in the northeast quarter. That is the Mosley Canyon State Unit Number 1 well.

Q. I may have missed that before. Is that the subject well?

A. That is the subject well, yes, sir.

MR. STOVALL: Okay. That answers my question that I was going to ask as far as geology.

THE WITNESS: Okay, thank you.

## EXAMINATION

BY EXAMINER STOGNER:

Q. So that is currently drilling?

A. It is currently drilling, that's correct.

Q. Do you know what the depth is today?

A. I haven't called for a morning report, but

1 I'd say it's somewhere around 500 or 600 feet. We  
2 spudded in yesterday.

3 MR. STOVALL: So you don't have any geologic  
4 information on the Strawn yet?

5 THE WITNESS: Shortly.

6 EXAMINER STOGNER: I won't even ask about the  
7 karst.

8 THE WITNESS: I haven't talked to the rig  
9 this morning.

10 MR. STOVALL: No lost circulation reports.

11 EXAMINER STOGNER: No people running out of  
12 Carlsbad Caverns in a panic?

13 THE WITNESS: None that I'm aware of.

14 EXAMINER STOGNER: Okay. No other questions  
15 of Mr. Davis.

16 THE WITNESS: Thank you.

17 EXAMINER STOGNER: You may be excused.  
18 Counsel?

19 MR. KULSETH: Mr. Stogner, at Mr. Stovall's  
20 request we will submit an affidavit from Curtis Smith,  
21 attaching those other letters that he referred to.

22 EXAMINER STOGNER: Okay. I'll assume -- When  
23 did you think you might have them?

24 MR. KULSETH: Early next week or sooner.

25 EXAMINER STOGNER: Okay, thank you.

1                   If there's nothing further in Case Number  
2           10,759, I won't take it under advisement at this time;  
3           I will take it under advisement subsequent to our  
4           receiving the additional information.

5                   MR. KULSETH: Thank you, Mr. Examiner.

6                   (Thereupon, these proceedings were concluded  
7           at 9:35 a.m.)

8   \* \* \*

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## 1 CERTIFICATE OF REPORTER

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


5  
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 August 10, 1993.

17  
18   
19 STEVEN T. BRENNER  
CCR No. 7

20 My commission expires: October 14, 1994  
21

22 I do hereby certify that the foregoing is  
23 a complete record of the proceedings in  
the Examiner hearing of Case No. 10759,  
24 heard by me on 29 July 1993.  
25  Examiner  
Oil Conservation Division