STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARINGS CALLED BY THE OIL CONSERVATION COMMISSION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF WILTON SCOTT TO VACATE AND VOID DIVISION ORDER NO. R-7983, LEA COUNTY, NEW MEXICO, — Case No. 8678 DE NOVO

AND

APPLICATION OF UNION TEXAS PETROLEUM FOR A NON-STANDARD SPACING AND PRORATION UNIT, LEA COUNTY, NEW MEXICO. — Case No. 8793

BRIEF OF WILTON SCOTT IN OPPOSITION TO RETROACTIVE EFFECT OF AN 80-ACRE SPACING ORDER AND IN OPPOSITION TO CREATION OF A 40-ACRE NON-STANDARD SPACING UNIT

INTRODUCTION

By Farmout Agreement dated December 6, 1982, Wilton Scott ("Scott") farmed out to Robert Edsel ("Edsel") the SW¼ of Section 1, 15S, 36E, in Lea County. Union Texas Petroleum Corporation ("Union Texas") is a successor-in-interest to Edsel of rights under the Farmout. The Farmout mandated a continuous drilling program, and required the farmoutee to "reassign...all acreage not contained within a producing proration or spacing unit" if the continuous drilling obligation was not satisfied.

In July 1983, the Scott No. 1 well was completed by Enstar Petroleum (now Union Texas) as a producer in the Wolfcamp formation in the NW¼SW¼ of Section 1. In 1984, APC Operating

Partnership ("APC") completed the Gilliam No. 1 well as a producer in the Wolfcamp formation, located in the NE¼SE¼ of Section 2.

In April 1985 APC applied to the Oil Conservation Division ("OCD") in Case No. 8595 for pool creation and special pool rules (including 80 acre spacing) for the Wolfcamp formation underlying portions of Sections 1 and 2. APC admits that this case was brought at the request of Union Texas, because Union Texas had "problems" with certain interest owners in the Scott No. 1 Well. A hearing took place May 8, 1985. Scott received no notice of the hearing and remained completely unaware of the case. On July 12, 1985 the OCD promulgated its Order No. R-7983, denying pool creation but granting temporary 80 acre spacing. Although Order No. R-7983 was dated July 12, 1985, it was made effective retroactive to June 1, 1985. A retroactive effective date was not requested in the Application and no evidence was presented at the hearing to support a retroactive effective date.

It is relevant to note that Edsel had previously brought Case Nos. 8070 and 8124 to obtain a non-standard 80 acre spacing unit and a compulsory pooling order for the NE¼SW¼ and SE¼NW¼ of Section 1 for the last well drilled in the subject pool. The abandonment of this well triggered the reversion of the SW¼SW¼ under the Farmout. [1/] Scott had voiced his objection and the

---

1 The Scott No. 2 Well, a direct offset to the Scott No. 1, was drilled at a standard location in the NE¼SW¼; it indicated that the reef was to the north and was sidetracked to a northern location in the same 40 acre proration unit; it was re-entered and sidetracked a second time and the bottom hole was to extend under the SE¼NW¼ of Section 1; it

cases were dismissed when, after four attempts, the last of which was terminated more than 120 days prior to June 15, 1985, Edsel had come up dry on the subject 80 acre tract.

Under the terms of the Farmout Agreement, Scott was entitled to a reassignment of the SW¼SW¼ of Section 1 if no well was commenced on that 40 acres, or if that 40 acres was not assigned to a spacing unit, on or before June 15, 1985. No well was commenced on or before June 15th and no proration unit larger than 40 acres was formed before September 11, 1985 when Union Texas filed a Form C-102 dedicating the W½SW¼ as an 80 acre proration unit pursuant to the order.

On June 19, 1985 Scott requested a reassignment of said SW¼SW¼ from Edsel. Not until after July 12 was his request denied, for the reason that the SW¼SW¼ of Section 1 was included in a spacing unit as of the June 1 effective date in Order No. R-7983 and thus reassignment was not required. Union Texas has also refused to reassign the SW¼SW¼ of Section 1 to Scott.

Scott then filed Case No. 8678 [2/] to vacate Order No. R-7983, claiming deficient notice of the hearing in Case No. 8595 and that 80 acre spacing was improper. All interested parties

---

1 (Cont'd)

was at this time that Edsel's attorney, Mr. Kellahin, brought the spacing and pooling cases of which Scott was directly notified. Mr. Kellahin on behalf of APC, at Union Texas' urging since "Union Texas had problems with some of its working interests," brought Case No. 8595, but Scott received no notice of it.

2 Scott also represents F. M. Late, a working interest owner, and the three royalty interest owners in the Scott No. 1 well.

were given written notice of this case. After hearing, the OCD entered Order No. R-7983-B which retained temporary 80 acre spacing, but which changed the order's effective date to July 12 because no evidence was presented to support a retroactive date. Union Texas appealed this order de novo, as did Scott. Union Texas requests that Order No. R-7983 be reinstated, or alternatively that it be granted a non-standard unit for the Scott No. 1 Well consisting of the NW¼SW¼ of Section 1. Scott has dismissed his appeal and now supports 80 acre spacing, but contends that the effective date should remain July 12, 1985, and that Order No. R-7983-B should be affirmed, because the June 1 retroactive effective date of Order No. R-7983 is improper as a matter of law and fact. Scott also opposes a non-standard unit because it will violate his correlative rights.

ARGUMENT

A. RETROACTIVITY

There is no justification for a retroactive effective date prior to July 12, 1985, when Order R-7983 was first issued.

1. Retroactivity Is not Justified By The Commission's Statutory Mandate.

It is undisputed that the Commission has the authority to fix the spacing of wells. N.M. Stat. Ann. § 70-2-12(B)(10) (1978). However, any order or rule fixing the spacing of wells, including a provision for retroactive effect, must be based upon the prevention of waste, the protection of correlative rights, and preventing the drilling of unnecessary wells. See N.M. Stat. Ann. §§ 70-2-11, 17(B) (1978); Continental Oil Co. v. Oil

Conservation Com'n, 70 N.M. 310, 373 P.2d 809 (1962); Manufacturers National Bank v. Dept. of Natural Resources, 402 Mich. 123, 362 N.W.2d 572 (1984). A retroactive provision in the subject spacing order serves none of these purposes.

Retroactivity will not prevent waste, because as the case now stands, all the recoverable hydrocarbons under the W½SW¼ of Section 1 have been and will be produced from the Scott No. 1 Well, the only well drilled or to be drilled on the subject 80 acre spacing unit, regardless of the effective date of the spacing rules. In short, the effective date of the spacing order will not "reduce the total quantity of crude petroleum oil or natural gas ultimately recovered" from the pool. N.M. Stat. Ann. § 70-2-3(A) (1978). For the same reason, retroactivity will not prevent the drilling of unnecessary wells; there is one well on the unit and no others are to be drilled.

The question remains then whether retroactivity will protect correlative rights. There is no dispute that if the July 12, 1985 effective date of the order is retained, Scott will be entitled to an increased share of production from the Scott No. 1 Well by virtue of his Farmout. It provides that wells must be continuously drilled within 120 days of each other and failure to do so or failure to have the acreage dedicated to a proration unit results in abandonment of the interest. June 15, 1985 was the critical date by agreement of all the affected parties. Consequently, depending on the effective date of the 80 acre spacing order, Scott will or will not be entitled to reclaim his interest in the SW¼SW¼ of Section 1. Union Texas claims that

ownership in the production from the Scott No. 1 Well is a correlative rights issue. Scott disagrees.

"Correlative rights" [3] in New Mexico are determined from the common law principle which allows a mineral owner to produce his fair share of the oil and gas from a pool underlying his land without wasteful conduct which injures other interest owners in the common reservoir. [4] 1 H. Williams & C. Meyers, Oil and Gas Law, § 204.6. See Baumgartner v. Gulf Oil Corp., 184 Neb. 384, 168 N.W.2d 510 (1969); Pan American Petroleum Corp. v. Wyoming Oil & Gas Conservation Com'n, 446 P.2d 550 (Wyo. 1968). The correlative rights of owners of a common source of supply have been described as follows:

(1) The right against waste of extracted substances;

(2) The right against spoilage of the common source of supply;

---

3 Correlative rights is defined in N.M. Stat. Ann. § 70-2-33(H) (1978):

> "correlative rights" means the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practicably determined, and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for such purpose to use his just and equitable share of the reservoir energy.

This is a commonly accepted definition. See 8 H. Williams & C. Meyers, Oil and Gas Law, p. 178.

4 The most common situation involving correlative rights determinations are unorthodox well locations which result in drainage from adjacent interest owners. See e.g., Chevron Oil Co. v. Oil & Gas Conservation Com'n, 150 Mont. 351, 435 P.2d 781 (1967).

(3) The right against malicious depletion of the common source of supply; and

(4) The right to a fair opportunity to extract oil or gas.

E. Kuntz, "Correlative Rights in Oil and Gas," 30 Miss. L.J. 1 (1958). Correlative rights can only be determined on the basis of scientific evidence respecting the physical facts of the common source of supply. 1 Summers, Oil and Gas, § 63, pp. 166-168. Accord, Continental Oil Co. v. Oil Conservation Com'n, supra, 70 N.M. at 319 (correlative rights is determined by the amount of recoverable oil and gas under a person's land which can be produced without waste). Retroactivity is unrelated to any of these concepts.

Moreover, the main purpose of well spacing determinations by a conservation body is to prevent waste, although proper well spacing has the effect of protecting correlative rights by preventing drainage. 1 Summers, Oil and Gas, §§ 63, 83. The issue of the retroactive date as it affects contractual rights under the Farmout is clearly not one of waste since all parties are in agreement that one well will effectively and efficiently drain 80 acres. Nor is it a correlative rights issue because it does not concern the disproportionate taking or the waste of hydrocarbons from a common source of supply. Interest owners under the NW¼SW¼ of Section 1 will still recover their equitable share of hydrocarbons. There is no drainage issue. Rather, the issue is that Union Texas' share of production may be diluted

depending on the effective date of the order as it interacts with the terms of the Farmout.

Clearly, the issue is solely a matter of private contractual rights. The Commission cannot enter an order whose sole purpose is to alter private contractual rights. See Harris, "Modification of Corporation Commission Orders Pertaining to a Common Source of Supply," 11 Okla. L. Rev. 125, 130 (1958). "Indeed, the ownership of the land involved is not even considered when determining the proper size for drilling units in a pool." Manufacturers National Bank v. Dept. of Natural Resources, supra, 362 N.W.2d at 578.

Each time the Commission creates special pool rules which increase the size of spacing and proration units, there is often an adjustment of participation to include the interests of owners in the expanded unit. See, e.g., Ward v. Corporation Commission, 501 P.2d 503 (Okla. 1972) (spacing increased from 160 to 640 acres, and Tenneco's interest in well production increased from zero to 55%); Desormeaux v. Inexco Oil Co., 298 So.2d 897 (La. App.), writ denied 302 So.2d 37 (La. 1974). The present case is no different, except that the effective date of the spacing order becomes meaningful under the terms of the Farmout.

The Commission will indeed be treading on thin ice if it decides to adjust the effective dates of its orders based on their effect on contractual rights. It could be opening its doors to a parade of diverse contract disputes when a spacing order is entered increasing the size of the proration units. It will be deviating from its charge of overseeing a regulatory

system which allows mineral owners the opportunity to fairly produce their hydrocarbons based on the physical characteristics of a reservoir, independent of contract.

2. If The Equities Do Not Favor The Party Seeking Retroactivity An Order Should Not Be Made Retroactive.

At the hearing de novo, Union Texas requested the effective date of 80 acre spacing be made retroactive to June 1, 1985. Union Texas argued that timely application for 80 acre spacing was made by APC in April, 1985, that a hearing was held May 8, 1985, and if the OCD had not been dilatory an order would have issued before June 15, 1985 and the issue of retroactivity would be moot. The argument continues that the only way for the Commission to remedy the harm caused by the OCD is by entering an order with a retroactive date of June 1.

Administrative rules cannot be made retroactive if the equities do not favor the party requesting the retroactive relief. Application of Farmers Irrigation District, 187 Neb. 825, 194 N.W.2d 788 (1972); Tennessee Gas Pipeline Co. v. F.E.R.C., 606 F.2d 1094, 1116 (D.C. Cir. 1979), cert. denied 445 U.S. 920. The original hearing (Case No. 8595) proceeded without constitutionally sufficient notice to Scott. Union Texas Petroleum v. Corporation Com'n, 651 P.2d 652 (Okla. 1981). Thus the order in that case is void as against Scott, Louthan v. Amoco Production Co., 652 P.2d 308 (Okla. App. 1982, cert. denied), and no order should have been effective against Scott until his right to be heard was respected.

In addition to lack of notice of Case No. 8595, Scott was informed that none of the partners to the Farmout were going to

drill the SW¼SW¼ of Section 1 by June 15, 1985. As a result, he commenced preparations for drilling his own well. When June 15 passed, Scott exercised his rights under the Farmout and requested reassignment of the SW¼SW¼. Mr. Bahlberg, a working interest owner, did actually reassign his interest. It was this same Mr. Bahlberg who learned that Order R-7983 was entered July 12, 1985, [5/] first made Scott aware of this fact, and requested that the reassignment be returned.

Immediately after receiving this information, Scott applied to vacate Order R-7983. He could not take an appeal de novo, not having been a party to the original suit. Case No. 8678 was heard August 14 and the only evidence presented was by Scott and his geologist, William McCoy. Mr. Kellahin appeared for APC and Mr. Carr appeared for Union Texas; both supported 80 acre spacing. The Commission took administrative notice of the record in Case No. 8595. The only evidence presented regarding retroactivity in either case was by Scott at the August 14 hearing, where he opposed retroactivity. No evidence was ever presented to support a June 1, 1985 effective date. Furthermore, the August 14 hearing was continued to August 28 to allow rebuttal testimony, but none was offered.

It is undisputed that an administrative agency's rule or order must be based upon the pleadings or evidence in the record. McWood Corp. v. State Corporation Com'n, 78 N.M. 319, 431 P.2d 52

---

5 Apparently, Edsel was unaware of the spacing order. It was his attorneys who discovered the order as a result of examining Union Texas' files in Midland during the course of discovery in the Lea County litigation related to these cases.

(1967); General Electric Co. v. Wisconsin Employment Relations Bd., 3 Wis. 2d 227, 88 N.W.2d 691. Since neither Union Texas nor APC presented evidence at either the May or August hearings to support a June 1 retroactive effective date, the OCD properly chose July 12 since it was the date the original order issued.

In addition, it is clear that the law will not grant relief to those who are victims of their own circumstance, or otherwise stated, where the party seeking retroactivity is having to do so because of its own delay. Reichold Energy Corp. v. Division of State Lands, 73 Or. App. 708, 700 P.2d 282 (1985). What justification is there for laying the blame on a heavily burdened, understaffed administrative agency if the problem could have been alleviated by having brought the case one or two months earlier? Since Union Texas could have brought the spacing case before the last possible moment, the law will not now hear its complaint.

Finally, administrative rule changes should not be made retroactive if one party has detrimentally relied on the previous rule. Heckler v. Community Health Services of Crawford, 104 S.Ct. 2218, 2224 (1984); Cartwright v. Civil Service Com'n, 80 Ill.App. 3d 787, 400 N.E.2d 581 (1980). The evidence shows that Scott clearly relied on existing statewide 40 acre spacing rules: Six wells had been drilled in the pool (as defined by the Commission) pursuant to 40 acre spacing; Scott had objected to Edsel's 80 acre spacing case and forced pooling case and expended time and money to that end; Scott manifested his intent to drill the SW¼SW¼ when it was made clear to him that no one intended to

drill it by June 15, 1985; Scott obtained lease extensions of one year to March 11, 1986 for the NW¼ of Section 12 at considerable cost by representing to the owners that their minerals lay in the direction of an orderly step-out development program commencing with a well in SW¼SW¼ of Section 1; and, consistently, Scott demonstrated his reliance by taking immediate steps after June 15 to have his acreage returned so that he could drill it.

Union Texas in effect claims that Scott is taking advantage of the situation to increase its share of well production. However, Union Texas purchased its farmout interest with knowledge of the reassignment obligation and drilled the Scott No. 1 Well based upon 40 acre spacing. Union Texas urged APC to bring the 80 acre spacing case in order to sidestep problems with Scott, and was aware of the ramifications involved when well spacing is increased. Union Texas is only entitled to the share of production to which it is entitled by its contract. Cabot Carbon Corp. v. Phillips Petroleum Co., 287 P.2d 675 (Okla. 1955). Its request to be protected from its own actions rings hollow.

3. The July 12 Date Is Consistent With The Commission's Traditional Practice.

The July 12 date should stand not only for the reasons discussed above, but also because such result would be consistent with the traditional practice of the Commission which is to make special pool rules effective the date the order is issued or on the first of the month following the date of the order. The reasons for the practice are to allow affected parties to make necessary ownership adjustments to existing wells as a result of

increased size of spacing units, and to make allowable changes required by the Commission subject to more orderly adjustment. The Commission should not depart from this tradition and permit retroactivity unless there is a compelling reason based upon the physical characteristics of the reservoir. However, no such reason has been given.

4. The SW¼SW¼ Of Section 1 Reverted To Scott Regardless Of The Effective Date Of The Spacing Order.

Assuming the effective date of the spacing rules to be June 1, 1985, Union Texas still cannot prevail because there was no 80 acre spacing unit under the rules promulgated by Order R-7983 until September 11, 1985 when Union Texas filed with the OCD the appropriate documents identifying and dedicating the spacing unit. The order provides in paragraph 4:

> Until...Form C-102 has been filed or until a non-standard unit has been approved...each well presently...completed...shall receive no more than one-half of a standard allowable for the pool.

Under the express language of the order, it is clear that until Union Texas filed a C-102 dedicating the acreage as a stand up or lie down unit, or until it requested a non-standard 40 acre unit, there existed no 80 acre proration unit. The Scott No. 1 well was considered a non-standard 40 acre unit with only one-half an 80 acre allowable until Union Texas acted pursuant to the order. Union Texas filed a C-102 dedicating the W½SW¼ on September 11, 1985 within 60 days of July 12, the effective date of Order R-7983-B, but not within 60 days of Order R-7983, the effective date of which was made retroactive to June 1. There is

no provision in the order or evidence in the record to suggest any justification for making the September 11 date retroactive. Therefore, by operation of the very order Union Texas seeks to reinstate, the SW¼SW¼ was not included in an 80 acre proration unit until September 11, 1985.

B. NON-STANDARD UNIT

The Creation Of A 40 Acre Non-Standard Spacing Unit Is Not Justified By The Commission's Statutory Mandate.

Scott and APC oppose the application of Union Texas for a 40 acre non-standard spacing and proration unit comprised of the NW¼SW¼ of Section 1. The basis for such opposition is that APC applied for 80 acre spacing in Case No. 8595, and Order R-7983 granting the request issued on July 12, 1985. APC and Union Texas jointly supported 80 acre spacing at the hearing in Case No. 8678 brought by Scott. Although Scott supported 40 acre spacing at the second hearing, based on the evidence, he has changed his position and now supports 80 acre spacing. As a result, there exists no opposition to 80 acre spacing. Consequently, the 80 acre spacing order should remain in effect by unanimous consent of the interested parties which negates any basis for establishing a non-standard 40 acre spacing unit.

The only difference between Order R-7983 and Order R-7983-B is the effective date. Union Texas admitted in the de novo hearing that the only reason it seeks a non-standard 40 acre unit for the NW¼SW¼ as an exception to the 80 acre spacing order is in the event the July 12 date is not made retroactive to June 1. As has been discussed at length under our argument in Section A.1.

above, the effective date issue does not fall under considerations of the prevention of waste, protection of correlative rights, and preventing the drilling of unnecessary wells. To avoid repetition, Scott directs the Commission's consideration to the aforesaid argument.

In addition, based on the uncontested evidence before the Commission, there exists no more than approximately 200 acres of productive reservoir in the Northeast Caudill-Wolfcamp Pool. The subject applications cover 160 acres of this productive acreage. With only two producing wells in the subject 160 acre tract, and based upon the shape of the subject field, there are logically only two 40 acre units that can be combined with the producing proration units, namely the SE¼SE¼ with the NE¼SE¼ where the Gilliam No. 1 Well is located in Section 2, and the SW¼SW¼ with the NW¼SW¼ where the Scott No. 1 Well is located in Section 1. Particularly, in the case of the Scott No. 1 Well, there clearly is no alternative since the well is directly offset to the North by a depleted well, to the East by a dry hole, and to the west by a producer across the section line. The only direction left is south. 6/

Furthermore, the testimony establishes that the field is a water drive from the southwest to the northeast, which propels the oil under the SW¼SW¼ toward the NW¼SW¼. Granting a 40-acre non-standard unit would permit Union Texas to recover Scott's hydrocarbons from the Scott No. 1 Well without permitting him to

---

6 If Scott received back his 40 acres he would clearly have no where to go but East to form an 80 acre proration unit and that acreage has already been condemned by a dry hole.

share in production. Union Texas has already admitted that the Scott No. 1 has drained at least 54 acres, that the dranage is updip from the southwest, and a well cannot be economically drilled in the SW¼SW¼. Therefore, it is clear that a non-standard unit would violate Scott's correlative rights.

Moreover, since Scott has dismissed his application for a 40 acre non-standard spacing unit comprised of the SW¼SW¼ of Section 1, if the Commission were to grant Union Texas' request for a non-standard unit, as just discussed Scott would be left with a 40 acre spacing unit and no offset 40 acre unit with which to combine his acreage. The inevitable result will be that Scott shall be forced to bring a compulsory pooling case, force pooling his acreage with the NW¼SW¼ to protect his entitlement to a just and fair share of the oil underlying his tract. Therefore, in the interest of judicial economy, especially when it is manifestly clear that there is no basis for creating any non-standard spacing unit under the facts, the Commission should deny Union Texas' application.

CONCLUSION

Therefore, for the reasons stated, Scott respectfully requests the Commission to affirm its present Orders R-7983 and R-7983-B, which provide for 80 acre spacing with a July 12 effective date. Scott also respectfully requests the Commission to deny Union Texas' application for a non-standard 40 acre spacing unit in Case No. 8793.

Respectfully submitted,

HINKLE, COX, EATON,
COFFIELD & HENSLEY

By 

Owen M. Lopez
James Bruce
Post Office Box 2068
Santa Fe, New Mexico 87504-2068
(505) 982-4554

Attorneys for Wilton Scott

Called in by Ernie Padilla
7/23/85

August 14, 1985

Memo

From

FLORENE DAVIDSON

Staff Specialist

To

Wilton Scott

Rescind, Void, and Vacate

Order R-7983

- farmed out properties

to

Oil Conservation Santa Fe, New Mexico

HINKLE, COX, EATON, COFFIELD & HENSLEY

ATTORNEYS AT LAW

218 MONTEZUMA

POST OFFICE BOX 2068

SANTA FE, NEW MEXICO 87504-2068

(505) 982-4554

200 BLANKS BUILDING
POST OFFICE BOX 3580
MIDLAND, TEXAS 79702
(915) 683-4691

1700 TEXAS AMERICAN BANK BUILDING
POST OFFICE BOX 12118
AMARILLO, TEXAS 79101
(806) 372-5569

700 UNITED BANK PLAZA
POST OFFICE BOX 10
ROSWELL, NEW MEXICO 88201
(505) 622-6510

LEWIS C. COX
PAUL W. EATON
CONRAD E. COFFIELD
HAROLD L. HENSLEY JR.
STUART D. SHANOR
C. D. MARTIN
PAUL J. KELLY JR.
OWEN M. LOPEZ
DOUGLAS L. LUNSFORD
T. CALDER EZZELL, JR.
WILLIAM B. BURFORD*
RICHARD E. OLSON
RICHARD A. SIMMS
DEBORAH NORWOOD*
RICHARD R. WILFONG*
STEVEN D. ARNOLD
JAMES J. WECHSLER
NANCY S. CUSACK

JEFFREY L. FORNACIARI

JEFFREY D. HEWETT*
JAMES BRUCE
JERRY F. SHACKELFORD*
ALBERT L. PITTS
THOMAS D. HAINES, JR.
THOMAS M. HNASKO
MICHAEL F. MILLERICK
GREGORY J. NIBERT
JUDY K. MOORE*
DAVID T. MARKETTE*
BRUCE R. ROGOFF
JAMES M. HUDSON
DONALD R. FENSTERMACHER
DAVID B. GROCE*
ROBERT M. BRISTOL
MACDONNELL GORDON
REBECCA J. NICHOLS
PAUL R. NEWTON

OF COUNSEL
ROY C. SNODGRASS, JR.
O. M. CALHOUN
MACK EASLEY

CLARENCE E. HINKLE (1901-1985)
W. E. BONDURANT, JR. (1913-1973)
ROBERT A. STONE (1905-1981)

*NOT LICENSED IN NEW MEXICO

January 17, 1986

Case File

Mr. R. L. Stamets, Secretary
New Mexico Oil Conservation Commission
State Land Office Building
Santa Fe, New Mexico 87501

HAND DELIVERED

Re: Case Nos. 8678 De Novo and 8793

Dear Mr. Stamets:

Pursuant to the Commission's request at hearing, enclosed are an original and one (1) copy of the brief of Wilton Scott, and copies of Mr. Scott's proposed orders, regarding the above cases.

Very truly yours,

James Bruce for
Owen M. Lopez

OML:jr
Enclosure

cc: Wilton E. Scott w/enc.
Thomas A. Simons IV w/enc.
William F. Carr w/enc.
W. Thomas Kellahin w/enc.

May 3, 1985

MR. Stamets

The original copy of the enclosed letter is being sent to you via conventional mail service. Unfortunately the attached logs were not attached to the original letter. I have enclosed a copy of the letter with the original logs discussed in the letter. If there are any questions do not hesitate to call.

Thank you

Dwight V. Smith
(303) 825-6434

STATE OF NEW MEXICO

ENERGY AND MINERALS DEPARTMENT

OIL CONSERVATION DIVISION

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

Case 8678
Order No. R-7983-B

APPLICATION OF WILTON SCOTT TO VACATE AND VOID DIVISION ORDER NO. R-7983, AS AMENDED, LEA COUNTY, NEW MEXICO.

RECEIVED

OCT 3 1985

OIL CONSERVATION DIVISION

APPLICATION OF UNION TEXAS PETROLEUM CORPORATION FOR A HEARING DE NOVO

Pursuant to Rule 1220 of the Rules and Regulations of the New Mexico Oil Conservation Division, Union Texas Petroleum Corporation, as an adversely affected party, applies for a De Novo hearing in this matter before the full Commission.

CAMPBELL & BLACK, P.A.

By William F. Carr

William F. Carr
Post Office Box 2208
Santa Fe, New Mexico 87501
(505) 988-4421

ATTORNEYS FOR UNION TEXAS PETROLEUM CORPORATION

Jeff

My recollection on this is as follows:

Shortly before the order came out Gilbert came in and said Tom Kellogin had asked for a June 1 retroactive date on the order. I asked Gilbert when the case was filed, when it was heard and if there was opposition (April, May 8, No). I told him under the circumstances it could be made retroactive and that it had been done before.

Dick