

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

MALLON OIL COMPANY and
MESA GRANDE RESOURCES, INC.,

Petitioners,

vs.

No. RA 87-1572 (C)

OIL CONSERVATION COMMISSION OF
THE STATE OF NEW MEXICO,

Respondent,

BENSON-MONTIN-GREER DRILLING
CORPORATION, DUGAN PRODUCTION
CORPORATION, and SUN EXPLORATION
AND PRODUCTION COMPANY,

Applicants for Intervention.

**MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO INTERVENE**

Benson-Montin-Greer Drilling Corporation, Dugan Production Corporation, Sun Exploration and Production Company ("Applicants") have moved this Court for an Order granting them leave to intervene in this case.

The Petition for Review of Commission Action filed by Petitioners, Mallon Oil Company ("Mallon") and Mesa Grande Resources ("Mesa") names the New Mexico Oil Commission (the "Commission") as Respondent. It requests that the Court reverse or amend two orders

EMPOWERED

AUG 13 1987

CLERK OF DISTRICT COURT
SANTA FE COUNTY, N.M.
P.O. Box 2528
Santa Fe, N.M. 87501

issued by the Commission, R-7407-E and R-6469-D. These orders were the result of five different contested Commission cases. The Applicants herein were all parties to those cases. (Exhibit A) Applicants each own and/or operate leases in the Gavilan-Mancos and/or West Puerto Chiquito Oil Pools, which oil pools are the subject of the Commission's orders. The orders establish rules, allowables and boundaries in these pools which affect Applicants as well as Petitioners.

Applicants submit that any amendments to the Commission's orders cannot equitably be made by this Court without their interests in this matter being represented. As operators and working interest owners in the two pools, Applicants are affected by the Commission's orders just as Mallon and Mesa are.

Under Rule 1-024(A)(2), N.M.R.Civ.P., 1986 Recomp., any party having an interest in property or a transaction which is the subject of an action pending in District Court, which interest may be impeded or impaired by the outcome of such action, has a right to intervene. Applicants fall squarely into this category of parties entitled to intervention of right.

Rule 1-024 (A)(2) also contains the requirement that such parties not be adequately represented by existing parties. Since the only other party besides Petitioners is the Commission, it is clear that Applicants are not and cannot be adequately represented. The Commission is an administrative agency with a statutory mandate to protect the public interest and could not, as such, even attempt to represent the interest of private owners and operators in the subject oil pools.

Clearly the Applicants satisfy the requirements for intervening, as a matter of right, in the action pending before this Court and their motion should be granted.

Respectfully submitted,

KELLAHIN, KELLAHIN & AUBREY

By 

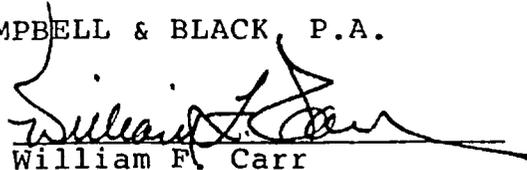
W. Thomas Kellahin
Post Office Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285

Attorneys for Dugan
Production Company
and Sun Exploration
& Production Company

- and -

CAMPBELL & BLACK, P.A.

By

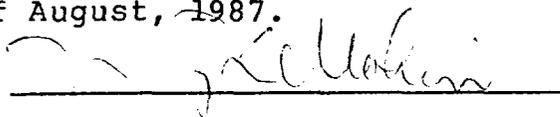


William F. Carr
John H. Bemis
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Santa Fe, New Mexico 87504
(505) 988-4421

Attorneys for
Benson-Montin-Greer
Drilling Corp.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Memorandum in Support of Motion for Leave to Intervene to be mailed to opposing counsel this 13th day of August, 1987.



STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO

30 March, 1987

COMMISSION HEARING

VOLUME I of 5 VOLUMES

IN THE MATTER OF:

Case 7980 being reopened pursuant to the provisions of Commission Order No. R-7407. . . Rio Arriba County. CASE 7980

and

Case 8946 being reopened pursuant to the provisions of Commission Order No. R-7407-D. . . Rio Arriba County. CASE 8946

and

Case 8950 being reopened pursuant to the provisions of Commission Order No. R-2565-E (R-6469-C) and No. R-3401-A. . . Rio Arriba County. CASE 8950

and

Case 9113, application of Benson-Montin-Greer Drilling Corporation, Jerome P. McHugh & Associates, and Sun Exploration and Production Company to abolish the Gavilan-Mancos Oil Pool, to extend the West Puerto Chiquito -Mancos Oil Pool, and to amend the special rules and regulations for the West Puerto Chiquito-Mancos Oil Pool, Rio Arriba County, New Mexico. CASE 9113

and

Application of Mesa Grande Resources, Inc. for the extension of the Gavilan-Mancos Oil Pool and the contraction of the West Puerto Chiquito-Mancos Oil Pool, Rio Arriba County, New Mexico. CASE 9114

BEFORE: William J. LeMay, Chairman
Erling A. Brostuen, Commissioner
William R. Humphries, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

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For the Commission: Jeff Taylor
Legal Counsel for the Division
Oil Conservation Division
State Land Office Bldg.
Santa Fe, New Mexico 87501

For Benson-Montin-Greer: William F. Carr
Attorney at Law
CAMPBELL & BLACK P.A.
P. O. Box 2208
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For Sun Exploration,
Dugan Production, &
Jerome P. McHugh: W. Thomas Kellahin
Attorney at Law
KELLAHIN, KELLAHIN & AUBREY
P. O. Box 2265
Santa Fe, New Mexico 87501
and Mr. Robert Stovall
and Mr. Alan R. Tubb

For Mesa Grande Resources: Owen M. Lopez
Paul Kelly
Attorneys at Law
HINKLE LAW FIRM
P. O. Box 2068
Santa Fe, New Mexico 87501

For Mallon Oil Co. &
Mobil Producing Texas
& New Mexico: W. Perry Pearce
Attorney at Law
MONTGOMERY & ANDREWS P.A.
P. O. Box 2307
Santa Fe, New Mexico 87504

For Amoco: Kent J. Lund
Attorney at Law
Amoco Production Company
P. O. Box 800
Denver, Colorado 80201

1st JUDICIAL DISTRICT COURT
COUNTY OF RIO ARRIBA
STATE OF NEW MEXICO

RECEIVED
SEP - 8 1987
OIL CONSERVATION COMMISSION
FIRST JUDICIAL DISTRICT COURT
SANTA FE, RIO ARRIBA &
LOS ALAMOS COUNTIES
P.O. Box 2268
Santa Fe, NM 87504-2268
NO. RA 87-1572 (C)
ENDORSED
SEP 03 1987

MALLON OIL COMPANY, ETAL

vs.

OIL COSERVATION COMMISSION OF
THE STATE OF NM

NOTICE OF JUDGE ASSIGNMENT

The above-referenced cause has been reassigned to ART ENCINIAS,
District Judge, Division V, effective SEPTEMBER 2, 1987, due to the
(Recusal) (Excusal) of PETRA JIMENEZ MAES,
District Judge, Division I.

MARTHA A. FRANK, ACTING
CLERK OF THE DISTRICT COURT

By: Janet M. Montoya
Deputy

CERTIFICATE

I hereby certify that a true and correct copy of the foregoing was mailed to counsel
on this 3 day of SEPTEMBER, 19 87.

MARTHA A. FRANK, ACTING
CLERK OF THE DISTRICT COURT

(SEAL)

By: Janet M. Montoya
Deputy

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF RIO ARRIBA

NO. RA 87-1572(c)

MALLON OIL COMPANY and

MESA GRANDE RESOURCES, INC.

Petitioners,

vs.

OIL CONSERVATION COMMISSION OF

THE STATE OF NEW MEXICO,

Respondents.

PREEMPTORY EXCUSAL OF JUDGE MAES

COMES NOW Petitioner, Mallon Oil Company, pursuant to Rule 1-088.1, Rules of Civil Procedure for the District Courts, and preemptorily elects to excuse First Judicial District Judge Petra Jimenez Maes from hearing, presiding over or participating in any manner whatsoever as District Judge in this case.

MALLON OIL COMPANY

By

President

MONIGOMERY & ANDREWS, P.A.

W. Perry Pearce

Post Office Box 2307

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(505) 982-3873

Attorneys for Petitioner

Mallon Oil Company

D.C.

RIO ARRIBA COUNTY

1987 SEP 2 11 5 05

FILED IN CLERK'S OFFICE

DIV. IV

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Preemptory Excusal of Judge Maes to be mailed to the following persons this 2nd day of September, 1987.

Jeff Taylor

Legal Counsel for the Division

Oil Conservation Division

State Land Office Bldg.

Santa Fe, New Mexico 87501

W. Thomas Kellahin, Esquire

Kellahin, Kellahin & Aubrey

Post Office Box 2265

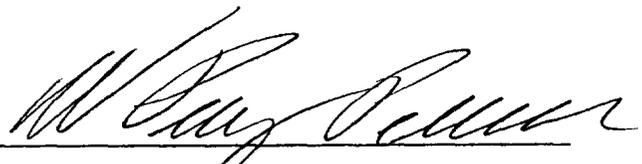
Santa Fe, New Mexico 87501

William F. Carr, Esquire

Campbell & Black, P.A.

Post Office Box 2208

Santa Fe, New Mexico 87501



W. Perry Pearce

FIRST JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

COUNTY OF RIO ARriba

NO. RA 87-1572(c)

MALLON OIL COMPANY and
MESA GRANDE RESOURCES, INC.

Petitioners,

vs.

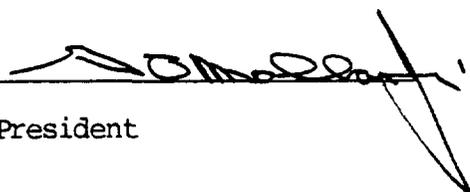
OIL CONSERVATION COMMISSION OF
THE STATE OF NEW MEXICO,

Respondents.

PREEMPTORY EXCUSAL OF JUDGE MAES

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MALLON OIL COMPANY

By 
President

MONTGOMERY & ANDREWS, P.A.

W. Perry Pearce

Post Office Box 2307

Santa Fe, New Mexico 87504-23-7

(505) 982-3873

Attorneys for Petitioner

Mallon Oil Company

CERTIFICATE OF SERVICE

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Jeff Taylor

Legal Counsel for the Division

Oil Conservation Division

State Land Office Bldg.

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Kellahin, Kellahin & Aubrey

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Campbell & Black, P.A.

Post Office Box 2208

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W. Perry Pearce

J. Douglas Foster, Esq.
August 21, 1987
Page 2

However, I do believe that Mr. McHugh has a duty to tender interest from March 1, 1984, to the present, for the accrual of royalties calculated on the basis of 320 acres spacing. This is because no matter what the result would have been in the case, Mr. McHugh would have at least owed the Edwards that amount. Accordingly, it appears to me that Mr. McHugh has used the Edwards' money free of charge, for about 3½ years. I believe I have explained my position on what royalties Mr. McHugh would owe under any circumstances in my letter dated May 19, 1987.

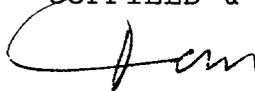
I should advise you that, in the event a final settlement cannot be reached, we will file a motion for pre-judgment interest on the minimum amount of royalty which should have been paid. Presumably, this motion would be heard at the damage hearing.

I trust you understand my need to set forth our position in this matter. However, I would like to state that I appreciate your recent efforts to amicably resolve this matter.

Thank you for your continuing cooperation.

Very truly yours,

HINKLE, COX, EATON,
COFFIELD & HENSLEY



Thomas M. Hnasko

TMH:jr

cc: Mr. and Mrs. Floyd Edwards
Kester C. Oman, Esq.
J. Douglas Foster, Esq.
Marla Williams, Esq.
Mary Ann Green, Esq.
Paul Cooter, Esq.
Robert G. Stovall, Esq.
Jeffrey Taylor, Esq.

STATEMENT ON BEHALF OF MALLON OIL COMPANY

May it please the Commission, my name is Frank Douglass with the Austin-Houston law firm of Scott, Douglass & Luton. I appear on behalf of Mallon Oil Company. Mallon operates seven wells in the Gavilan-Mancos Oil Pool. As you are aware, there has been a series of hearings involving production rates and consolidation issues for the Gavilan-Mancos Pool and the West Puerto Chiquito Mancos Pool, with another hearing scheduled for May of 1988 in this regard.

Mallon has no objection to the proposal by Mesa Grande with reference to a buffer zone between the West Lindreth and the Gavilan. However, by not objecting to these proceedings, Mallon in no way waives its rights to request that any future hearing involving the consolidation and production rates of the Gavilan-Mancos Pool with the West Puerto Chiquito Pool also consider the West Lindreth Pool and the corresponding producing rates. As Mesa Grande will show, the gas limits in the West Lindreth are substantially greater than the current Gavilan gas limits. Mallon has been participating in the production tests and pressure surveys being conducted in the Gavilan and the West Puerto Chiquito. However, the reason for agreeing to and the need for restricted production rates for the Gavilan insofar as the test periods are concerned will end in January 1988. There is substantially more evidence for consideration of consolidation between the West Lindreth and the Gavilan than there is between Gavilan and West Puerto Chiquito. As it will stand now, Gavilan

would have its gas production severely curtailed versus the West Lindreth area and versus the statewide allowables. We want the Commission to be aware of this inequitable condition. Mallon wishes to reserve the right to (1) request an advancement of the May, 1988 hearing, (2) the immediate reinstatement of statewide allowables in Gavilan pending a decision in that advanced hearing, and (3) whether the advanced hearing should consider the inclusion of the West Lindreth and other areas, if Gavilan is going to be consolidated with West Puerto Chiquito or if restricted allowables are imposed in Gavilan for any reason.

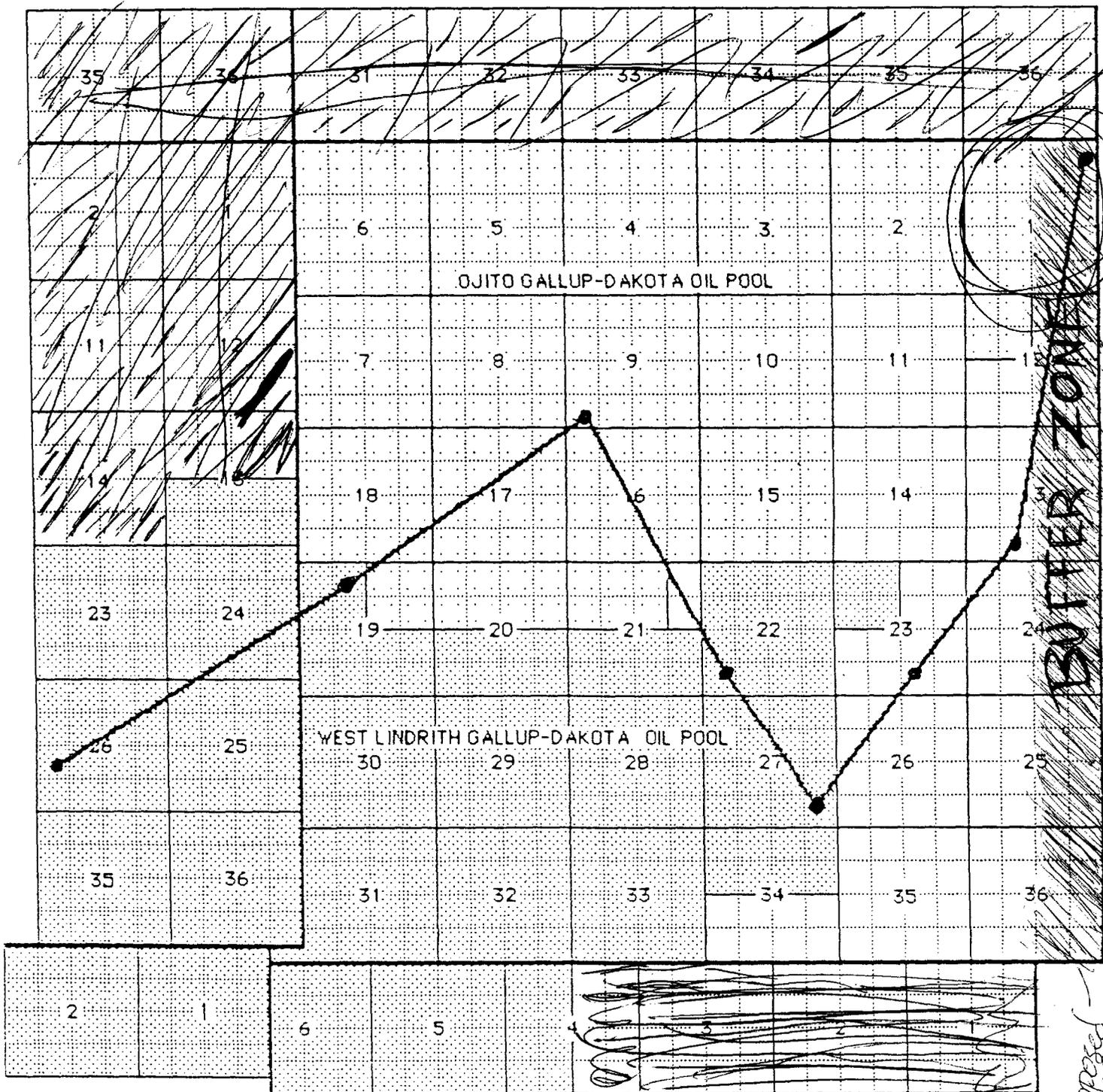
Let me add, I have always had great respect for the New Mexico conservation laws and this Commission. Texas has had the pleasure of copying several of your statutes and regulations in their effort to update its conservation actions. Guy Buell of our Austin office has had the pleasure of practicing before this Commission for many years, and he sends his regards. Thank you.



TRACE OF CROSS-SECTION P

P

TOWNSHIP 25 NORTH, RANGE 3 WEST



GAUILAN-MANCOS OIL POOL

BUTTER ZONE

 OJITO GALLUP-DAKOTA OIL POOL
 WEST LINDRITH GALLUP-DAKOTA OIL POOL

Proposed
butter zone

(x-1)

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF RIO ARRIBA

ENDORSED

SEP 14 1987

SEP 10 1987

MALLON OIL COMPANY AND
MESA GRANDE RESOURCES, INC.,

FIRST JUDICIAL DISTRICT COURT
SANTA FE, RIO ARRIBA &
LOS ALAMOS COUNTIES
P.O. Box 2268
Santa Fe, NM 87504-2268

Petitioners,

vs.

RA-87-1572 (C)

OIL CONSERVATION COMMISSION OF
THE STATE OF NEW MEXICO,

Respondent,

BENSON-MONTIN-GREER DRILLING
CORPORATION, JEROME P. MCHUGH
& ASSOCIATES, DUGAN PRODUCTION
CORPORATION AND SUN EXPLORATION
AND PRODUCTION COMPANY,

Applicants for Intervention.

ORDER Allowing Intervention

This cause having come before the Court on Benson-Montin-Greer Drilling Corporation, Dugan Production Corporation and Sun Exploration and Production Company's Motion for Leave to Intervene and all parties concurring in the Motion,

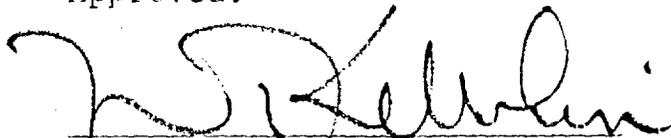
The Court finds that the Motion is well taken and is hereby GRANTED.

Entered this 8th day of September, 1987.

ART ENCINIAS

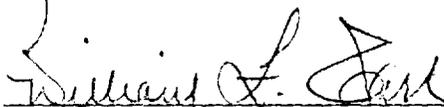
District Judge

Approved:



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Attorneys for Dugan Production
Corporation and Sun Exploration
and Production Company



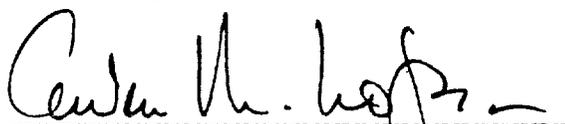
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Jeffery Taylor, Esq.
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ENDORSED
FILED IN MY OFFICE THIS

JAN 08 1987

FIRST JUDICIAL DISTRICT COURT

COUNTY OF RIO ARRIBA

STATE OF NEW MEXICO

IN THE MATTER OF THE APPEAL
TO THE DISTRICT COURT FOR
THE COUNTY OF RIO ARRIBA
STATE OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

THE APPEAL OF OIL CONSERVATION
COMMISSION ORDER R-7407-D
AMENDING THE SPECIAL RULES
AND REGULATIONS OF THE GAVILAN
MANCOS OIL POOL

RA 86-2371(C)

**BENSON-MONTIN-GREER DRILLING CORP'S
MOTION TO STRIKE PETITION FOR REVIEW
OR, IN THE ALTERNATIVE, TO DISMISS**

Benson-Montin-Greer Drilling Corp. (hereinafter "Benson-Montin-Greer") moves to strike in its entirety the Petition for Review filed by Mallon Oil Company and Mesa Grande Resources, Inc. (hereinafter "Petitioners"), or, in the alternative, to dismiss the Petition because Petitioners have failed to exhaust their administrative remedies. This Motion is made pursuant to Rule 12, N.M.R.Civ.P., 1978.

For cause, Benson-Montin-Greer states:

1. Petitioners have failed to comply with Rules 8 (a) and (e), N.M.R.Civ.P., 1978;

2. Benson-Montin-Greer is unable as a result of this non-compliance to formulate a meaningful response to the Petition for Review.

3. Petitioners have failed to exhaust their administrative remedies at the New Mexico Oil Conservation Commission;

4. A Motion to Strike Petition for Review, Or, In the Alternative, to Dismiss and supporting Memorandum has previously been filed with this Court by Jerome P. McHugh & Associates on December 2, 1986. The grounds for Benson-Montin-Greer's present Motion are the same as those previously raised by McHugh and therefore, Benson-Montin-Greer incorporates and reurges the supporting authority and argument cited by McHugh in its Memorandum in support of its Motion.

WHEREFORE, for the above-stated reasons and in concurrence with the Motion previously filed in this cause by McHugh, Benson-Montin-Greer prays that its Motion to Strike Petition For Review or, In the Alternative, to Dismiss be granted.

Respectfully submitted,

CAMPBELL & BLACK, P.A.

BY John H Bemis
William F. Carr
John H. Bemis
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Santa Fe, NM 87501
(505) 988-4421

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing document to be mailed to Robert G. Stovall, Esq., Dungan Production Company, Post Office Box 208, Farmington, New Mexico 87499; Ernest L. Padilla, Esq., Padilla & Snyder, Post Office Box 2523, Santa Fe, New Mexico 87501; Jeff Taylor, Esq., Oil Conservation Division, Post Office Box 2088, Santa Fe, New Mexico 87504; W. Thomas Kellahin, Kellahin, Kellahin & Aubrey, Post Office Box 2265, Santa Fe, New Mexico 87501; Kent Lund, Esq., Amoco Production Company, Post Office Box 800, Denver, Colorado 80201; Robert D. Buettner, Esq., Koch Exploration Company, Post Office Box 2256, Wichita, Kansas 67201; Paul Cooter, Esq., Rodey, Dickason, Sloan, Akin & Robb, P.A., Post Office Box 1357, Santa Fe, New Mexico 87504 and Owen Lopez, Esq. Hinkle, Cox, Eaton, Coffield & Hensley, Post Office Box 2068, Santa Fe, New Mexico 87504, on this 8th day of January, 1987.

John H Bemis
John H. Bemis