

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION
4 STATE LAND OFFICE BUILDING
5 SANTA FE, NEW MEXICO

6 6 September 1989

7 EXAMINER HEARING

8 IN THE MATTER OF:

9 Application of Meridian Oil, Inc. for CASE
10 exemption from the New Mexico Natural 9703
11 Gas Pricing Act (NMPA), San Juan County,
12 New Mexico.

13 BEFORE: Michael E. Stogner, Examiner

14 TRANSCRIPT OF HEARING

15 A P P E A R A N C E S

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I N D E X

ROBERT J. HOPKINS

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1 MR. STOGNER: We'll call now
2 Case 9703.

3 MR. STOVALL: Application of
4 Meridian Oil, Inc., for exemption from the New Mexico
5 Natural Gas Pricing Act, San Juan County, New Mexico.

6 MR. STOGNER: At this time
7 we'll call for appearances.

8 MR. HALL: Mr. Examiner, Scott
9 Hall, Campbell & Black law firm on behalf of Meridian Oil,
10 Inc.

11 I have one witness this after-
12 noon.

13 MR. STOGNER: Call for any ad-
14 ditional appearances.

15 MR. GALLEGOS: Mr. Examiner,
16 I'm J. E. Gallegos, Attorney, Santa Fe, New Mexico, appear-
17 ing on behalf of Gas Company of New Mexico and will have
18 one witness sworn. We may or may not call him.

19 MR. STOVALL: Will the wit-
20 nesses rise to be sworn, please?

21

22 (Witnesses sworn.)

23

24

25

1 ROBERT J. HOPKINS,
2 being called as a witness and being duly sworn upon his
3 oath, testified as follows, to-wit:
4

5 DIRECT EXAMINATION

6 BY MR. HALL:

7 Q For the record please state your name.

8 A Robert J. Hopkins.

9 Q Mr. Hopkins, where do you live, by whom
10 are you employed and in what capacity?

11 A I live in Farmington, New Mexico. I'm
12 employed by Meridian Oil, Inc., as a Senior Landman.

13 Q And you've previously been qualified as
14 an expert petroleum landman before the Oil Commission or
15 one of its Division Examiners, have you not?

16 A Yes, I have.

17 MR. HALL: Mr. Examiner, we
18 again tender Mr. Hopkins as a qualified expert landman.

19 MR. STOGNER: Are there any
20 objections?

21 MR. GALLEGOS: No objections.

22 Q Mr. Hopkins, are you familiar with the
23 wells which are the subject of this hearing?

24 A Yes, I am.

25 Q And what is it that Meridian is seeking

1 by this application?

2 A We're asking that the Division find that
3 the drilling of the subject Mesaverde and Dakota infill
4 well was justified for reasons other than avoiding the
5 pricing provisions of the Pricing Act, and finally will
6 allow Meridian to obtain the release of funds that have
7 been held in suspense by Gas Company of New Mexico since
8 1983.

9 Q Let me ask you, has the OCC issued an
10 order authorizing an infill well drilling program on a
11 poolwide basis for the Basin Dakota Pool?

12 A Yes, they have.

13 Q And is that Order R-1670-T?

14 A Yes, it is.

15 Q Has the OCC also issued a like order for
16 infill drilling in the Blanco Mesaverde Pool?

17 A Yes, it has.

18 Q And is that Order R-1670-T?

19 A Yes, it is.

20 MR. HALL: At this time, Mr.
21 Examiner, we would request that the terms of Orders
22 R-1670-T and 1670 be incorporated by reference into the re-
23 cord of this case.

24 MR. STOGNER: Mr. Hall, did
25 Order No. R-8170 rescind those two orders?

1 MR. HALL: I'm sorry?

2 MR. STOGNER: Did Order No.
3 R-8170, as amended, rescind these two orders?

4 MR. HALL: Not to my know-
5 ledge, I have no knowledge of that.

6 MR. STOGNER: Mr. Hall, what
7 portions of R-1670-V and 1670-T are they referring to ?

8 MR. HALL: If you'll give me
9 just a minute, I'll look those up for you.

10 MR. STOGNER: For the record,
11 Order No. R-8170, issued March 28th, 1986, did rescind
12 Order No. R-1670, as amended.

13 MR. HALL: Specifically, Mr.
14 Examiner, we're referring to the findings in each of those
15 orders that set out that infill drilling in the respective
16 pools will substantially increase the recoverable reserves
17 from each proration unit in the pool and that the infill
18 drilling will result in greater ultimate recovery of the
19 reserves under each of the various proration units in the
20 pool and that the infill drilling will result in more effi-
21 cient use of reservoir energy and will tend to insure
22 greater ultimate recovery of gas from the pool, thereby
23 preventing waste.

24 MR. STOGNER: So you're refer-
25 ring to Findings 1670-T and V?

1 MR. HALL: Yes, sir.

2 MR. STOGNER: And usually
3 findings supplement the orders establishing the special
4 rules and regulations in these two orders, is that correct?

5 MR. HALL: Yes, sir.

6 MR. STOGNER: So with respect
7 to that, the findings are still valid in these instances,
8 is that correct?

9 MR. HALL: That's my opinion,
10 yes, sir.

11 MR. STOGNER: Even though Or-
12 der No. R-8170 does not actually state that, though it did
13 rescind the orders but the findings, I believe, are still
14 valid.

15 Are there any objections to
16 taking administrative notice to the findings in Order
17 R-1670-V and R-1670-T, and administrative notice in R-8170,
18 which is the (unclear) order after R-1670, as amended, were
19 rescinded and consolidate it into one order?

20 MR. GALLEGOS: A statement of
21 position, I think, Mr. Examiner, rather than objection.

22 I -- I think that it does not
23 go as an absolute that the findings in the infill orders
24 are of any effect, if those orders have been revoked, so I
25 think that with the administrative notice taken of Order

1 R-8170, then it becomes probably a question to be decided
2 by the Examiner and maybe a legal question as to what the
3 -- what remains of the infill orders.

4 MR. STOGNER: Well, there are
5 still infill orders in the Basin Dakota and Blanco Mesa-
6 verde established by 1670-V and 1670-T, and Order R-8170
7 consolidated all those orders into one readable form in-
8 stead of having, I believe we were up to 1670-W, or even
9 approaching X or Z, and I believe that these findings are
10 still valid in these two pools inasmuch as we still have
11 the, basically, the same pool rules in the Basin Dakota and
12 Blanco Mesaverde Pool.

13 MR. GALLEGOS: Well, Mr. Exa-
14 miner, I'm not conversant with 8170, so I basically wanted
15 to reserve the position or argue the effect of that, but
16 what you say, Mr. Examiner, I'm sure it's probably a cor-
17 rect statement of the function of 8170.

18 MR. STOGNER: Mr. Carr --
19 sorry, Mr. Hall?

20 Q All right, let's look at Exhibit One, if
21 you would refer to that, please. What does that exhibit
22 reflect?

23 A Exhibit One reflects in the first column
24 the subject wells. There are 25 completions indicated.

25 Q And how many wells are referenced on

1 there altogether?

2 A 26.

3 Q Are there in fact 20 wells in there?

4 A 20 wells, **20 wells and 25 different**
5 **zones completed.**

6 Q All right. Let's go through each of the
7 columns. What do each of them show?

8 A The next column is the operator of each
9 of the wells.

10 The next column shows the Meridian own-
11 ership interest. It should be noted that these wells, the
12 **corporate ownership is in Southland Royalty Company, which**
13 **has property -- Meridian manages the properties of South-**
14 **land Royalty Company.**

15 The next column is the spud date of each
16 of the wells.

17 The next column is the well location and
18 the last column is the pool, either Basin Dakota or Blanco
19 Mesaverde.

20 Q With respect to the application that was
21 filed in this case, **it listed additional wells, the Cane**
22 **3-R, the Reed 22-R, and the Arizona Jicarilla B-5-R, those**
23 **wells have been eliminated from this application at this**
24 **particular time because they are replacement wells, is that**
25 **correct?**

1 A Yes, it is.

2 Q One additional question with respect to
3 Exhibit One.

4 A Yes.

5 Q On page two is there is listed the
6 Martin Gas Com B 1-E and it shows as the pool the Fulcher
7 Kutz Pictured Cliff. Meridian is not asking for a an ex-
8 emption for that particular completion interval, are they?

9 A No, they are not, not for that
10 completion interval.

11 Q That same well is referenced at the bot-
12 tom of the previous page, is it not?

13 A Yes.

14 Q And that completion is a **Basin Dakota**
15 completion?

16 A Yes, it is.

17 Q All right, let's refer to what's been
18 marked as Exhibits Two-A through Two-F -- I'm sorry --
19 Two-G, and if you would explain those to the hearing exam-
20 iner, please, sir.

21 A Each of these files contains under Tab 1
22 a location plat showing the original well, the infill well
23 and the offset wells in those formations.

24 Under Tab 2 we've indicated the pool and
25 the purchaser information.

1 And under Tab 3 we have an operator's
2 affidavit and each of the books is identical.

3 Q And each of the books are arranged by
4 operator, is that correct?

5 A Yes, each separate operator has its own
6 book.

7 Q And each contains an affidavit provided
8 by a representative of each operator.

9 A Yes, it does.

10 Q All right.

11 MR. GALLEGOS: Wait a minute.
12 For clarification, what are you referring to as the "books"?

13 MR. HALL: I'm sorry, Gene.
14 Your set was not bound like these.

15 MR. GALLEGOS: It's entitled
16 Application?

17 MR. HALL: Yes.

18 MR. GALLEGOS: And then with-
19 in that, what you're falling the "book", are the
20 affidavits, that's part of the same exhibit?

21 MR. HALL: Correct. This is
22 Exhibit Three, talking about Two-A through -- yeah.

23 MR. STOVALL: Gene, that stuff
24 you handed me is the same stuff. That is your copy, not --
25 not to us. Here they are back here, again.

1 MR. GALLEGOS: Okay. These
2 are extras.

3 MR. HALL: No, they are Two-A
4 through F.

5 MR. GALLEGOS: Oh, --

6 MR. STOVALL: I think those
7 are what you're looking for.

8 MR. HALL: This by itself if
9 Two A-G. See, they're all --

10 MR. STOVALL: We have copies
11 and you have copies --

12 MR. GALLEGOS: Okay, I wasn't
13 seeing anything you were talking about there. Okay.

14 MR. STOVALL: -- of (unclear)
15 and you have copies of --

16 MR. GALLEGOS: Can I have just
17 a minute --

18 MR. HALL: Yes, please do.

19 MR. GALLEGOS: -- before you
20 go on with what you were talking about?

21 Q Let's refer back to Two-A through Two-G.
22 As indicated by the information contained in those exhi-
23 bits, and based further on your knowledge about each of the
24 wells, were any of the infill wells drilled to protect
25 against uncompensated drainage or otherwise protect corre-

1 lative rights?

2 MR. GALLEGOS: I object to
3 that question. There would be no foundation for this wit-
4 ness testifying as to wells that are not operated by his
5 employer.

6 It's apparent that they're
7 simply non-operating working interest owners in most of
8 these wells on Exhibit One.

9 MR. HALL: Would you like a
10 response, Mr. Examiner?

11 MR. STOGNER: Yes, Mr. Hall.

12 MR. HALL: Mr. Examiner, these
13 applications are being brought at the behest of Gas Company
14 to Meridian. The procedure for seeking exemptions is
15 clearly spelled out in Order R-5436. All that is required
16 in that procedure is that the applicant establish that
17 there has in fact been an infill order issued for the re-
18 spective reservoirs for the applicant wells.

19 In addition to that, the only
20 other remaining requirements are simply ministerial filing
21 requirements. You are to file a plat. You are to recite
22 the number of the order containing findings for infill
23 blanket drilling and you are to provide certifications that
24 the existing wells, the original wells, had not had their
25 production ability restricted in any fashion. There is no

1 further prohibition to prevent any applicant from coming
2 forward with certificates by other parties, operators or
3 non-operators for purposes of making an application for the
4 exemption. In fact, this Commission has received scores,
5 dozens, I think almost a hundred applications for infill
6 well exemptions brought by non-operators. There's never
7 been a question raised about it before. It's not improper.
8 It's allowed by the order.

9 I think we ought to proceed
10 with the hearing.

11 MR. GALLEGOS: Mr. Examiner,
12 first of all this is Meridian's application. I don't know
13 what this "behest of the Gas Company" means. We're op-
14 posing the application. I think that should be very clear
15 in the record here.

16 If there have been prior ap-
17 plications for these exemptions made and there were some
18 uncontested proceedings and things were done in a certain
19 matter, that does not establish that that's the procedure
20 in case and in the face of an objection, which we have
21 here.

22 Order 5436 required certain
23 proof be established in order that the act, even if, you
24 know, we're not -- we're not making any concession that it
25 even applies any more but when it did apply, to show that

1 Order R-5436 that simply are not there. All you are re-
2 quired to do to make your prima facie showing is to come
3 forward with an affidavit. There's no requirement that it
4 first person knowledge. It's simply come forward with an
5 affidavit, intention (unclear).

6 MR. STOVALL: Do you have a
7 copy of 5436?

8 MR. STOGNER: We consider the
9 affidavits admissible at the Division level. Objection
10 overruled.

11 Mr. Hall?

12 Q Let me restate my question to you. As
13 indicated by the information contained in Exhibits Two-A
14 through Two-F, and based further on your knowledge, were
15 any of the infill wells drilled to protect against uncom-
16 pensated drainage or otherwise protect correlative rights?

17 A No.

18 MR. GALLEGOS: And we continue
19 our objection.

20 MR. STOGNER: So noted.

21 Q Are any of the wells replacement wells?

22 A No.

23 Q Have any of the wells had their produc-
24 tion restricted?

25 A No.

1 MR. GALLEGOS: Can we have a
2 continuing objection on the basis previously stated, so I
3 won't have to continue to interrupt?

4 MR. STOVALL: Recognized and
5 accepted on this whole line of testimony, --

6 MR. GALLEGOS: Yes, please.

7 MR. STOVALL: -- is that what
8 you're asking?

9 MR. GALLEGOS: Yes, thank you.

10 MR. STOGNER: Mr. Hall.

11 Q Was the drilling of each of the wells
12 justified for reasons other than avoiding the application
13 of the New Mexico Pricing Act?

14 A Yes.

15 Q Mr. Hopkins, in your opinion would the
16 granting of the application be in the interest of conser-
17 vation, result in the prevention of waste, and the protec-
18 tion of correlative rights?

19 A Yes.

20 Q And were Exhibits One and Two, Two-A
21 through Two-G, compiled by you or at your direction?

22 A Yes, they were.

23 Q Do you have anything further you wish to
24 add?

25 A No.

1 Q All right.

2 MR. HALL: At this time, Mr.
3 Examiner, we'd move the admission of Exhibits One and Two
4 and I'd also give you Exhibit Three. Exhibit Three is
5 counsel's affidavit under Rule 1207 of mailing notice of
6 this proceeding to interested parties.

7 MR. STOGNER: Are there any
8 objections?

9 MR. GALLEGOS: I have no ob-
10 jection to Exhibit One, nor to Exhibit Three, and I object
11 to Exhibit Two-A through Two-G on the grounds previously
12 stated.

13 MR. STOGNER: So noted and
14 overruled.

15 Exhibits One through Three
16 admitted into evidence.

17 Your witness, Mr. Gallegos.

18

19

CROSS EXAMINATION

20 BY MR. GALLEGOS:

21 Q Mr. Hopkins, let's take before you just
22 by way of example, Exhibit Two-B.

23 A Yes, sir.

24 Q And Exhibit Two-B, the first well that
25 it addresses would be the Cornell B-1-E, a well operated by

1 Tenneco in accordance with Exhibit One, is that correct?

2 A Yes, sir.

3 Q Who prepared the plats that are here,
4 beginning with the one for the Cornell B-1-E?

5 A I did.

6 Q Would you locate for us the original
7 well on the proration unit that is now being drained by the
8 infill well that's the subject of your application?

9 A That is now being drained by the infill
10 well?

11 Q The proration unit that's being drained.
12 The Tenneco -- the Cornell B-1-E is the infill well, is
13 that correct?

14 A Yes, it's assisting in drainage, I be-
15 lieve, of the north half of Section 14.

16 Q All right, and then on the north half of
17 Section 14 does this plat illustrate the -- the original
18 well on that proration unit?

19 A Yes, in the northwest quarter of the
20 section.

21 Q Okay, and how did you ascertain the
22 location of that?

23 A From maps in the company, I believe.

24 Q Do you have any production data on that
25 original well? I take that to be -- the Cornell B-1 is the

1 original well.

2 A Yes, sir.

3 Q Okay, do you have any production data on
4 that well?

5 A I'm sure that the company that I repre-
6 sent does. It's also probably a public record.

7 Q Meridian?

8 A Yes.

9 Q But I'm talking about you. Have you
10 studied that? Have you examined that?

11 A No, sir, I'm a landman.

12 Q Well, do you know anything about the
13 production from this well?

14 A No, sir.

15 Q So you have no personal knowledge of
16 whether or not that -- the flow from that well has been
17 restricted or not, correct?

18 A No. My knowledge of the well is re-
19 stricted to what was shown in the affidavit under Tab 3,
20 provided by Mr. Mueller.

21 Q Who is an employee of Tenneco Oil Com-
22 pany.

23 A He was the regional production manager
24 of Tenneco.

25 Q So any information concerning the pro-

1 duction, restriction of production, or any facts concerning
2 that as to the original well on these Tenneco proration
3 units is the knowledge of Mr. Mueller, correct?

4 MR. HALL: Do you understand
5 the question?

6 A No, I do not.

7 MR. HALL: We object to the
8 question as being vague.

9 MR. GALLEGOS: All right.

10 MR. HALL: Let me also object
11 as having been asked and answered previously.

12 MR. GALLEGOS: Well, you can
13 stipulate that he has no knowledge of these facts.

14 MR. HALL: He's previously
15 answered the question that you asked.

16 MR. GALLEGOS: All right,
17 okay.

18 Q And if I asked you the same questions
19 concerning Exhibits Two-C through G that concern wells op-
20 erated by other than Meridian, your answers would be the
21 same, would they not, Mr. Hopkins?

22 A Yes, that I'd be relying on the affi-
23 davits of --

24 MR. GALLEGOS: Thank you.
25 That's all the questions that I have.

1 MR. STOGNER: Mr. Hall?

2 MR. HALL: Nothing further.

3 MR. STOGNER: Mr. Gallegos, do
4 you wish to call your witness at this time?

5 MR. GALLEGOS: Let me tender
6 some exhibits, Mr. Examiner, if I may. They're Exhibits
7 One through Five, and I think they can probably be admitted
8 at this time without the sponsorship of a witness. Mr.
9 Hall has copies of those, as does the reporter, and I think
10 all of these can be the subject of administrative notice of
11 the Division.

12 Exhibit Number One is the
13 Order of the Commission, R-5436, which was previously re-
14 ferenced.

15 Exhibit Number Two is the
16 printed form that was typically used by the Commission and
17 issued by the Commission for cases of this sort, calling
18 for exemption from the Natural Gas Pricing Act.

19 MR. STOGNER: Mr. Gallegos, on
20 Exhibit Number Two you're -- you're just referencing the
21 order itself, or this particular well, the Mobil Oil Cor-
22 poration Brainard Gas Com No. 2. Does it have any rele-
23 vance at this point?

24 MR. GALLEGOS: None whatso-
25 ever.

1 MR. STOGNER: You're just --

2 MR. GALLEGOS: It could be
3 blank.

4 MR. STOGNER: Okay.

5 MR. GALLEGOS: We're just
6 using this as an example --

7 MR. STOGNER: Okay.

8 MR. GALLEGOS: -- of the form
9 of the order and later on I'll make some comments as to why
10 that might have some bearing on the decision.

11 MR. STOGNER: Thank you, sir.

12 MR. GALLEGOS: Exhibit Number
13 Three is an order of the Commission and it is from Case No.
14 8111, which is a case brought by Southland Royalty Company,
15 which is now owned by Meridian, and it's an example of ex-
16 emption cases by that -- by that company; part of the Com-
17 mission records.

18 Exhibit Number Four is from
19 the Commission files and records and it concerns exception
20 cases that were handled administratively by the Commission
21 and are referred to by Mr. Hall in his memorandum brief for
22 the Commission.

23 And Exhibit Number Five is a
24 copy of Laws of 1984, Chapter 123, which is better known as
25 the New Mexico Natural Price Protection Act, and some cer-

1 tain terms of that are relevant.

2 So I think all of those might
3 be admitted as a matter of administrative notice and we
4 would so move their admission.

5 MR. HALL: We have no objec-
6 tion to that.

7 MR. STOVALL: There are also
8 briefs in here. They are not submitted as exhibits, is
9 that correct?

10 MR. GALLEGOS: That's correct,
11 Mr. Stovall. Those were in each of the packages. Behind
12 Exhibit Five there should be a copy of our brief in sup-
13 port of our motion to dismiss, and then that brief was
14 followed by a response of Meridian and to that we filed a
15 reply. Those are there, and probably, because of the late-
16 ness of the hour, those briefs are going set forth a lot of
17 argument, should they be read by the Examiner and counsel.

18 But we have -- we have Mr.
19 McFearin here from Gas Company of New Mexico in the event
20 that the Examiner would have any questions of him. Other-
21 wise, that's all that we care to present by the way of evi-
22 dence.

23 MR. STOGNER; On the record,
24 Gas Company Exhibits One through Five will be taken under
25 -- I'm sorry, we'll take administrative notice of these,

1 which are, by the way, part of the New Mexico Oil Conser-
2 vation Division records.

3 MR. STOVALL: I have some
4 legal questions but I would like to read Mr. Gallegos'
5 brief, reply brief particularly, because I think I've read
6 everything else, and I don't want to do that right now
7 because I wouldn't know what it said. So I'm going to
8 suggest that there being nothing further in the way of
9 testimony, I'm going to recommend, Mr. Examiner, that inas-
10 much as Mr. Gallegos will be here in the morning, anyway,
11 Mr. Hall will you come over in the morning just in case
12 there's any --

13 MR. HALL: I can arrange that.

14 MR. STOVALL: -- discussion and
15 argument. There may not be but is that a problem for you,
16 to come?

17 MR. HALL: Sure, I'll be
18 there.

19 MR. STOVALL: That we continue
20 this case until we reconvene in the morning and give me an
21 opportunity to read, give you an opportunity to read, if we
22 have any questions at that time.

23 I don't see any further need
24 for the witnesses, particularly your witness, I believe,
25 has to get back to Farmington, Mr. Hall. I don't see any

1 further need for the witnesses, it will just be questions
2 on some of the legal issues, if we might.

3 MR. GALLEGOS: So perhaps in
4 the morning, if it please the Examiner, we might make some
5 closing comments and see if there are any legal questions
6 or discussion in the legal --

7 MR. STOVALL: Yeah, I'm in-
8 clined to think that -- that, presumably, the briefs have
9 covered most of the legal issues and will allow us, if
10 there are any gaps, that we wish to have answered in terms
11 of legal argument, we can perhaps have that discussion in
12 the morning, but I'm sure not ready to do it now.

13 MR. HALL: Do you promise this
14 will be the first order of business in the morning?

15 MR. STOVALL: This case is
16 being continued, Mr. Hall, and --

17 MR. HALL: Very good. We'll
18 show up.

19 MR. STOVALL: It's on the
20 docket, first thing.

21 MR. STOGNER: And we'll take a
22 recess at this time until 8:15 in the morning at which time
23 we will continue with this case at 8:15 tomorrow.

24

25

(Thereupon the evening recess was taken.)

1
2 (Thereafter at the hour of 8:15 a. m. on the morning of 7
3 August 1989 the Oil Conservation Division Examiner Hearing
4 was reopened at which time the following proceedings were
5 had, to-wit:)

6
7 MR. STOGNER: This hearing
8 will come to order, Day Two.

9 MR. STOVALL: We were discus-
10 sing, I believe, Case 9703. Is that correct?

11 MR. STOGNER: Yes. Case
12 Number 9703, application of Meridian Oil for exemption from
13 the New Mexico Natural Gas Pricing Act, San Juan County,
14 New Mexico.

15 Mr. Stovall:

16 MR. STOVALL: And I have read
17 the briefs and really don't have any questions. I think
18 we're just going to have to make a determination, unless
19 you have some sort of closing statements at this point.

20 I think we could go on to do
21 this forever but --

22 MR. HALL: Okay. We don't
23 have anything further to say than we said in the brief.
24 We're content to stand on the brief.

25 MR. STOVALL: Okay.

1 MR. GALLEGOS: Mr. Examiner, I
2 think what I would say would just be largely repetitious of
3 the brief.

4 I would like to draw a little
5 attention to the exhibits that we put in because I think
6 they serve to show that the Commission approach to pro-
7 viding these exemptions back when this was a live issue,
8 was to essentially do this on a perspective basis. It was
9 contemplated that the application for exemption would be
10 made by a producer and then the Commission would allow it
11 and then the price would go in effect.

12 Now there was some litigation
13 and -- and as a result of that retroactive exemptions were
14 allowed, as the Commission knows, and that's reflected in
15 some correspondence.

16 But I think, if anything, in
17 any effort of any kind to obtain such an exemption had to
18 be at least pending by the expiration of the New Mexico
19 Price Protection Act on June 30, 1985, to be within the
20 authority of the Commission, and obviously this application
21 doesn't fall in that area.

22 But I think other than that
23 the briefs speak to the law and we have nothing to add.

24 MR. STOGNER; Thank you, Mr.
25 Gallegos.

1 Mr. Hall?

2 MR. HALL: Well, I agree. I
3 think the legal issues have been fully discussed in the
4 briefs of both parties.

5 I just want the Division to
6 bear one thing in mind and that is the context in which Gas
7 Company is making its protest. Less there be any doubt,
8 this proceeding was, in fact, brought at the behest of Gas
9 Company. If there's any question in the Division's mind
10 about that, simply refer to Exhibit Three.

11 In our brief that looks like
12 this, a letter from Gas Company to Meridian saying we have
13 these monies in suspense. Please get exemptions so we can
14 release the funds to you.

15 Why Gas Company just changed
16 its footing all of a sudden, we don't know. I suspect it's
17 due to a separate, unrelated litigation, but if that is the
18 case, matters of that kind are not to be considered by the
19 Division. The Division should just take the application on
20 its face, process it, and let us go to the District Court.
21 Let us obtain the release of those monies.

22 MR. GALLEGOS: Well, I'd like
23 to comment on that, because that is not only inaccurate but
24 it's an unfair argument, and I think counsel knows that.

25 Somebody deep down in an ac-

1 counting portion of Gas Company, without any consultation
2 with either management or legal counsel, as a result of an
3 audit sees something on the books as a contingent liability
4 and writes Meridian, that -- that does not place the appli-
5 cation on any better footing than if Meridian in some way
6 woke up except to say I guess Meridian would still be
7 asleep at the switch and might come in in 2005 and ask for
8 this exemption, because that would be the logical conclu=
9 sion to be drawn from their idea that this is something
10 that goes on endlessly.

11 So something from the time
12 standpoint may have awakened them to their neglect and
13 failure to do it timely but that doesn't reflect management
14 position in any way whatsoever of Gas Company. In fact if
15 I'd known that was going to be argued, since it wasn't in
16 an exhibit in terms of evidence, not put in in evidence, I
17 would have kept Mr. McFearin here to speak to that, but I
18 can say as a matter offer of proof, that the president of
19 Gas Company if called to testify would say that is not
20 their position and this application is certainly not at he
21 behest of Gas Company, and in fact, Gas Company opposes
22 paying the amount sought.

23 MR. STOGNER: Thank you, Mr.
24 Gallegos.

25 Anything further in this case?

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MR. HALL: No, sir.

MR. STOGNER: Case 9703 will
be taken under advisement.

(Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C. S. R. DO HEREBY CERTIFY that the foregoing Transcript of Hearing before the Oil Conservation Division (Commission) was reported by me; that the said transcript is a full, true and correct record of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 9703 heard by me on 6 Sept. 1989.

Michael E. [Signature], Examiner
Oil Conservation Division