

BEFORE THE  
NEW MEXICO OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
28 September, 1977

EXAMINER HEARING

IN THE MATTER OF:

Application of Atlantic Richfield  
Company for a unit agreement, Lea  
County, New Mexico.

CASE  
5999

BEFORE: Daniel S. Nutter

TRANSCRIPT OF HEARING

A P P E A R A N C E S

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| For the New Mexico Oil<br>Conservation Commission: | Lynn Teschendorf, Esq.<br>Legal Counsel for the Commission<br>State Land Office Building<br>Santa Fe, New Mexico |
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| For the Applicant,<br>Atlantic Richfield: | Clarence L. Hinkle, Esq.<br>HINKLE, COX, EATON, COFIELD &<br>HENSLEY<br>Roswell, New Mexico |
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| For El Paso Natural Gas: | H. L. Kendrick, Esq.<br>El Paso Natural Gas<br>El Paso, Texas |
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| For Texaco: | Kenneth Bateman, Esq.<br>WHITE, KOCH, KELLY & MCCARTHY<br>220 Otero Street<br>Santa Fe, New Mexico |
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| For J. R. Cone and<br>Summit Energy, Inc.: | W. Thomas Kellahin, Esq.<br>KELLAHIN & FOX<br>500 Don Gaspar<br>Santa Fe, New Mexico |
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10-10-68

[illegible]

1. *Journal of the American Medical Association*, 1997; 278: 1039-1044.

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

1 MR. NUTTER: Call Cases Numbers 5997 and 5999,  
2 which have the same caption.

3 MS. TESCHENDORF: Those are both the applications  
4 of Atlantic Richfield Company for a unit agreement, Lea County,  
5 New Mexico.

6 MR. NUTTER: And we'll call Case Number 5998 and  
7 6000, both of which have the same caption.

8 MS. TESCHENDORF: Applications of Atlantic Richfield  
9 Company for a waterflood project, also in Lea County, New  
10 Mexico.

11 MR. NUTTER: I'll call for appearances at this time  
12 in these cases.

13 MR. KENDRICK: H. L. Kendrick, El Paso Natural Gas.

14 MR. BATEMAN: Kenneth Bateman of White, Koch, Kelly  
15 and McCarthy, appearing for Texaco.

16 MR. KELLAHIN: Tom Kellahin, appearing for J. R.  
17 Cone and for Summit Energy, Inc..

18 MR. NUTTER: Any other appearances?

19 MR. HINKLE: Clarence L. Hinkle, Hinkle, Cox, Eaton,  
20 Cofield, and Hensley, Roswell, New Mexico, appearing on behalf  
21 of Atlantic Richfield.

22 (Witnesses sworn.)

23 MR. NUTTER: Now, Mr. Hinkle, did you want to con-  
24 solidate these cases?

25 MR. HINKLE: Yes. These four cases are all inter-

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1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 26

1. *Journal of the American Medical Association*, 1997; 277: 1033-1037.

© 2004 Blackwell Publishing Ltd, *Journal of Internal Medicine* 255: 105–112

1 related and I'd like to move that they be consolidated, be  
2 called and consolidated for the purpose of the hearing.

3 MR. NUTTER: Cases 5997, 5998, 5999, and 6000 will  
4 be consolidated for the purpose of hearing. Separate orders  
5 will be entered in each case.

6 MR. BATEMAN: Mr. Examiner, excuse me, before we  
7 proceed there's a preliminary matter I'd like to bring up.

8 MR. NUTTER: All right, an opening remark.

9 MR. BATEMAN: Not an opening remark, Mr. Examiner,  
10 but I'd like to draw your attention to the advertisement in  
11 5997 and 5999, I believe. There's some confusion, at least on  
12 the part of my client, and I think the others, with respect  
13 to the advertisement.

14 I believe that is a form of advertisement used for  
15 a voluntary unit approval, and as I understand the application,  
16 I have a copy of the application in 5997. Paragraph 9 of the  
17 application indicates that the application was filed under and  
18 pursuant to the statutory unitization act.

19 Obviously, there's a considerable difference be-  
20 tween a voluntary unit approval and a statutory unitization  
21 act proceeding. And it is our position, Mr. Examiner, that the  
22 application was not properly advertised and that there is no  
23 jurisdiction to proceed at this point.

24 MR. HINKLE: Mr. Examiner, I don't think there's  
25 anything in the statutory unitization act that requires that

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1 you give specific notice of a statutory unitization.

2 MR. BATEMAN: Mr. Examiner, Article 65-3-6 requires  
3 a notice of hearings, and including, the notice, if pub-  
4 lished, shall briefly state the nature of the order, or  
5 orders, sought -- I'm paraphrasing -- by the applicant.

6 The form of application -- excuse me, the form of  
7 advertisement used in previous cases that I am familiar with  
8 in connection to statutory unitization, of course, have  
9 been rather specific about the compulsory aspect of the  
10 application, and the fact that interests are -- there's an  
11 attempt being made to force interests in the unit, which  
12 have not voluntarily complied or ratified the operating  
13 agreement.

14 There's no indication in this application -- ex-  
15 cuse me, this notice that that is the case here. It may  
16 well be additional opposition to this application if that  
17 were specified.

18 MR. HINKLE: Mr. Examiner, I think all of those who  
19 have entered an appearance here are the only ones who have  
20 expressed any opposition. I think the evidence will show  
21 that over eighty percent of the working interest owners and  
22 royalty owners have agreed to unitization, and those who have  
23 entered an appearance here are the only ones that have not  
24 consented to it, so there couldn't be prejudice whatsoever  
25 because you're here before the Commission.

10/10/1918

Dear Sir,  
I have the pleasure to acknowledge the receipt of your letter of the 10th inst. in relation to the above matter.  
The same has been forwarded to the proper authorities for their consideration.  
I am, Sir, very respectfully,  
Yours truly,  
J. H. [Name]  
[Title]  
[Address]  
[City, State, and Zip]

RECEIVED  
[Date]  
[Time]  
[Initials]



1 MR. NUTTER: Mr. Hinkle, do we know that everyone  
2 is here, and how would we ascertain that fact?

3 MR. HINKLE: Because we do, we know that everybody  
4 that is represented here who has not agreed to it.

5 MR. RAMEY: Royalty owners, too?

6 MR. HINKLE: Royalty owners, well, there's one or  
7 two royalty owners that I never have been able to get in  
8 touch with; never have heard from them.

9 MR. NUTTER: Well, if we can't get in touch with  
10 them, we depended on the notice nailed on the old oak tree,  
11 you know.

12 MR. KELLAHIN: If the Examiner please, on behalf of  
13 J. R. Cone and Summit Energy, Inc., we would concur in  
14 Texaco's motion that the Commission lacks jurisdiction to  
15 proceed in this matter. There's a substantial difference in  
16 appearing in response to an advertisement that indicates the  
17 approval of a voluntary unit agreement as opposed to the  
18 statutory notification with regards to forced unitization.

19 MR. NUTTER: I'm afraid you're right and I don't  
20 think we can proceed. I'm sorry, Mr. Hinkle, but probably  
21 it's the error of the Commission. I'm afraid we can't pro-  
22 ceed on this.

23 MR. HINKLE: I had it in the application.

24 MR. NUTTER: We've had only two previous statutory  
25 unitization hearings and in each of those we've been very

1. *Phragmites* (Common reed)

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[illegible]
$$D_{\text{eff}} = \frac{1}{2} \left( \frac{1}{D_1} + \frac{1}{D_2} \right) \quad (1)$$

1 specific in the notice that it is a statutory unitization,  
2 and I think by having set that precedent on those cases, it  
3 would be unwise for us to proceed with the standard notice  
4 for a voluntary unit agreement here.

5 MR. HINKLE: Well, let me ask this. When can these  
6 be set now?

7 MR. NUTTER: They can be set for the second hearing  
8 in October.

9 MR. HINKLE: That will be when?

10 MR. NUTTER: There's a hearing on the 12th and I  
11 don't -- October 26th.

12 MR. HINKLE: October the 26th. Okay, put them  
13 right up at the top so we can start early.

14 MR. NUTTER: With that I think we have to dismiss  
15 Cases Numbers 5997 and 5999, and continue Cases Numbers 5998  
16 and 6000 to the Examiner Hearing, which will be held at this  
17 same place at 9:00 a.m. October 26, 1977.

18 MR. HINKLE: Now, it will not be necessary to file  
19 a new application, as I understand it.

20 MR. NUTTER: No, sir, we'll accept these applica-  
21 tions. I haven't looked at the application but I presume  
22 it's --

23 MR. HINKLE: Because it's specific.

24 MR. NUTTER: Okay, well, it's the error of the Com-  
25 mission. We're sorry for it but those things do happen.

Handwritten notes in the right margin, oriented vertically, including the words "Handwritten" and "Notes".

The hearing is adjourned.

(Hearing concluded.)

**sid morrish reporting service**  
*General Court Reporting Service*  
825 Calle Mejia, No. 122, Santa Fe, New Mexico 87501  
Phone (505) 982-9212

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# REPORT

1. Introduction

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2. Methodology

REPORTER'S CERTIFICATE

I, SALLY WALTON BOYD, a Certified Shorthand Reporter,  
DO HEREBY CERTIFY that the foregoing and attached Transcript  
of Hearing before the New Mexico Oil Conservation Commission  
was reported by me, and the same is a true and correct record  
of the said proceedings to the best of my knowledge, skill,  
and ability.

Sally Walton Boyd  
Sally Walton Boyd, C. S. R.

**sid morrish reporting service**

General Court Reporting Service  
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[Signature]  
New Mexico Oil Conservation Commission

