

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

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

FEB - 8 1994

CASE NO. 10771 DENOVO

APPLICATION OF OXY USA INC. TO AUTHORIZE  
THE EXPANSION OF A PORTION OF ITS SKELLY  
PENROSE "B" UNIT WATERFLOOD PROJECT AND  
QUALIFY SAID EXPANSION FOR THE RECOVERED  
OIL TAX RATE, LEA COUNTY, NEW MEXICO.

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by OXY USA INC.  
as required by the Oil Conservation Division.

APPEARANCE OF PARTIES

APPLICANT

Oxy USA Inc.  
P. O. Box 50250  
Midland, Texas 79710  
Attn: Richard Foppiano  
(915) 685-5913

ATTORNEY

W. Thomas Kellahin  
KELLAHIN AND KELLAHIN  
P.O. Box 2265  
Santa Fe, NM 87504  
(505) 982-4285

OPPOSITION OR OTHER PARTY

ATTORNEY

None

**STATEMENT OF CASE**

APPLICANT

Oxy USA, Inc. ("OXY") appeals that portion of Division Examiner Order R-9955 issued September 7, 1993 which deals with the interpretation of "Expanded Use" for qualifying a portion of its Skelly Penrose "B" Unit Waterflood Project for a severance tax reduction on produced oil pursuant to the Enhanced Oil Recovery Act.

The Skelly Penrose "B" Waterflood project is an old waterflood project which had been developed by 80-acre five spot waterflooding and is now depleted such that the project was only producing about 13 BOPD. OXY sought to qualify a portion of that waterflood by reducing the waterflood pattern to 40-acre five spot. That reduction in pattern involves the conversion of old producers to injectors, the equipping of wells for injection, and the drilling of 10 new producers. As of the date of the Examiner's hearing, five of these new producers had been drilled while the remaining five new producers had not yet been drilled.

The Division approved OXY's plan to reduce the waterflood pattern as a significant change in process, BUT in approving the Project Area LIMITED the production which may qualify for the severance tax reduction to the five wells not yet drilled and DENIED the credit to the five producers already drilled.

Oxy contends that this interpretation by the Division is more restrictive than required by Division Order R-9708 or by the Enhanced Oil Recovery Act.

Oxy also contends that the Division has been arbitrary and inconsistent in its interpretation of this issue because since issuing this order, other operators have been granted Project areas WITHOUT the limitation placed upon Oxy.

RELIEF REQUESTED

OXY requests that the Commission determine that:

(1) the reduction of the waterflood pattern from 80-acre five spot to 40-acre five spot within an existing waterflood project area is a significant change in the process for the displacement of crude oil;

(2) the Project Area eligible for the recovered oil tax rate is not defined or limited only to that area that has not been previously infill drilled; and

(3) a Project Area within an existing EOR project is eligible for the recovered oil tax rate even if it contains wells already capable of producing oil.

PROPOSED WITNESSES

APPLICANT

WITNESSES	EST. TIME	EXHIBITS
Scott Gengler (P.E.)	30 Min.	5 exhibits
Richard Foppiano (P.E.)	30 Min.	5 exhibits
William F. Carr, Esq. (legal)	20 Min.	2 exhibits

PROPOSED EVIDENCE

Mr. Gengler will discuss the Skelly Penrose "B" Unit Waterflood Project and describe its history including past production and his forecast of future production. He will describe the engineering aspects of why the reduction from an 80-acre five spot to a 40-acre five spot waterflood pattern constitutes a significant change in process.

Mr. Foppiano will compare the Oxy EOR project with other similar EOR projects which subsequently have been approved by the Division without the limitations imposed upon OXY.

Mr. Carr will describe the legislative history of the EOR act, its legislative intent and render his legal opinion concerning whether the EOR act requires the exclusion of existing producing wells from the Project Area in order to qualify that area for the EOR severance tax reduction.

PROCEDURAL MATTERS

None applicable at this time.

KELLAHIN AND KELLAHIN

By: 

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