

**DOYLE HARTMAN**

*Oil Operator*

3811 TURTLE CREEK BLVD., SUITE 200  
DALLAS, TEXAS 75219

(214) 520-1800  
(214) 520-0811 FAX

**Via Certified Mail, Return Receipt Requested**

June 3, 1997

OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

Attn: Donald Romine, V.P. Western Region  
Robert Hunt, Asset Team Leader  
T. Kent Wooley, Senior Landman

Re: Hearing Concerning OXY USA, Inc.'s Failure  
to Honor the Non-Consent Provision Contained  
in MLMU Statutory Unitization Order No. R-6447

Gentlemen:

Reference is made to OXY USA, Inc.'s (OXY) Authority for Expenditure (AFE), Detail of Estimated Cost, and AFE approval list (copies enclosed) pertaining to OXY's substantial, costly and unsuccessful 20-acre spacing Myers Langlie Mattix Unit (MLMU) infill drilling program, which information was included as Exhibit No. 15 to OXY's May 23, 1997 *Motion to Dismiss* pertaining to our June 30, 1997 hearing before the New Mexico Oil Conservation Commission corresponding to MLMU Statutory Unitization Order No. R-6447, dated August 27, 1980.

From a review of OXY's herein-enclosed October 25, 1994 AFE approval list, the name of Doyle Hartman is not recognized therein as a non-consent working interest owner. However, on August 19, 1994, Ms. Carol Farmer, of our office, by telephone, informed Mr. Jerry Crew, of OXY's Tulsa office, of our non-consent position as to OXY's substantial 20-acre spacing MLMU infill drilling program, as is evidenced by the following documents enclosed herewith:

1. Telephone log and telephone bills documenting August 19, 1994 telephone communications between Ms. Carol Farmer and Mr. Jerry Crew.

2. OXY's August 19, 1994 letter, from Mr. Crew to Ms. Farmer, verifying that Ms. Farmer clearly did discuss with Mr. Crew our decision to go non-consent with regard to OXY's proposed MLMU redevelopment program.
3. Copy of OXY's June and July, 1994 Joint Interest Billing Statements to Doyle Hartman containing an August 19, 1994 handwritten note, by Carol Farmer, stating "...pay all except MLMU".

Moreover, in addition to the foregoing, by follow-up letters to OXY dated August 23, 1994 and August 24, 1994, we again informed OXY of our opposition to OXY's proposed redevelopment of the MLMU, with our August 24, 1994 letter to OXY stating:

...More than one year has transpired since we first informed Oxy of our desire not to participate in substantial new Myers Langlie Mattix Unit development drilling...

Notwithstanding our notices to OXY in 1993 and 1994, by means of our letters of June 11, 1991 and September 17, 1991, Texaco, Inc. (OXY's predecessor-in-interest), along with all other MLMU working interest owners, was also previously put on notice of our opposition to a large-scale redevelopment of the MLMU. For example, in our letter to Texaco, Inc. (Texaco) of June 11, 1991, we stated:

...Any change in such development plan must be approved by these regulatory bodies as well as the working interest owners of the unit...

...Nevertheless, to date, the extremely high cost and economically questionable redevelopment plan has not been submitted by Texaco to, nor formally approved by, the working interest owners of the unit, or by the appropriate regulatory agencies, which we believe to be in obvious violation of the provisions of the Unit Agreement, the Statutory Unitization Act of the State of New Mexico and the Statutes of the Code of Federal Regulations governing the unit (emphasis added)...

In our letter to Texaco of September 17, 1991, our position was again made clear when we stated:

...For the obvious financial reasons previously discussed above, we have no intention of voluntarily participating in the new unit development plan being promoted by Sirgo and Texaco...

As a result of Statutory Unitization Order No. R-6447, which order created a new statutory unit covering 9326.56 acres situated in T-23-S and T-24-S, R-36-E and R-37-E, Lea County, New Mexico, all MLMU working interest owners, by virtue of (1) Commission Order No. R-6447 and (2) the amended and modified MLMU Unit Operating Agreement approved by Commission Order No. R-6447, were provided with the right to go non-consent as to newly proposed MLMU expenditures. However, as is demonstrated by OXY's herein-enclosed AFE approval list dated October 25, 1994, as well as OXY's letter to us of August 19, 1994, OXY has violated its fiduciary and legal duty to MLMU interest owners by failing to recognize the right of MLMU working interest owners to go non-consent, if such owners so elect. Consequently, OXY has a duty to immediately refund any and all applicable monies to those MLMU working interest owners that have, to date, been coerced into paying for OXY's ill-conceived redevelopment plan as a result of OXY's improper misrepresentations that "...there is no non-consent provision for this unit...".

In that certain January, 1997 paper by Mr. William F. Carr (copy enclosed) entitled *Pooling and Unitization in New Mexico — The Role of the Oil Conservation Division*, Mr. Carr (one of OXY's two regulatory attorneys) recently stated to the Rocky Mountain Mineral Law Foundation the following concerning provisions required by New Mexico statute to be contained in New Mexico statutory unitization orders:

...The statutory unitization order will contain a legal description of the unit area including the vertical limits of the unitized interval and a description of the nature of the operations contemplated thereon. The order will also contain provisions which: (1) allocate unit production to the separate tracts therein; (2) provide for credits and charges for wells and other material and equipment contributed to the unit; (3) govern how the working interest costs for unit operations will be charged and paid; and (4) provide for carrying certain working interest owners on a limited, carried or net profits basis, payable out of production. The order also designates the unit operator, sets forth the working interest voting procedures, sets the time for unit operations to commence and terminate, and contains such other provisions as are appropriate for carrying on unit operations. NMSA 1978, § 70-7-7 (emphasis added)...

From a review of Commission Order No. R-6447, it can be ascertained that Commission Order No. R-6447 clearly does provide:

...a provision for carrying any working interest owner on a limited, carried, or net-profits basis, payable out of production, upon such terms and conditions which are just and reasonable, and which allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Commission to be just and reasonable, and allowing an appropriate charge for

OXY USA, Inc.

June 3, 1997

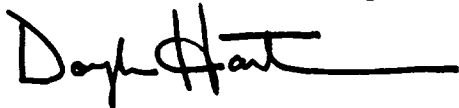
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interest for such service payable out of such owner's share of production, providing that any nonconsenting working interest owner being so carried shall be deemed to have relinquished to the Unit Operator all of his operating rights and working interests in and to the unit until his share of the costs, service charge, and interest are repaid to the Unit Operator;...

However, to date, OXY has improperly refused to recognize the indisputable "non-consent" provision contained in Commission Order No. R-6447 and, as a result, has improperly denied MLMU interest owners an important contractual and statutory right. Now OXY is exerting all possible pressure in an attempt to prevent its violation of Order R-6447 from going before the Commission, despite the fact that the Commission, in Order R-6447, clearly "...retained jurisdiction of this cause...for the entry of such further orders as the Commission may deem necessary..."

Very truly yours,

DOYLE HARTMAN, Oil Operator



Doyle Hartman

enclosures

rcp/rjr  
wpdocs\corresp.dh\mlmu.5

cc: William J. LeMay, Director  
New Mexico Oil Conservation Division  
2040 S. Pacheco  
Santa Fe, NM 87505

Rand Carroll, Division Attorney  
New Mexico Oil Conservation Division  
2040 S. Pacheco  
Santa Fe, NM 87505

David R. Catanach, Engineer  
New Mexico Oil Conservation Division  
2040 S. Pacheco  
Santa Fe, NM 87505

Ray B. Powell  
Commissioner of Public Lands  
New Mexico State Land Office  
310 Old Santa Fe Trail (87501)  
P.O. Box 1148  
Santa Fe, NM 87504-1148

OXY USA, Inc.  
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Jami Bailey, Director  
Oil/Gas and Minerals Division  
New Mexico State Land Office  
310 Old Santa Fe Trail (87501)  
P.O. Box 1148  
Santa Fe, NM 87504-1148

Pete Martinez  
Oil/Gas and Minerals Division  
New Mexico State Land Office  
310 Old Santa Fe Trail (87501)  
P.O. Box 1148  
Santa Fe, NM 87504-1148

Armando Lopez  
Asst. Dist. Manager, Minerals  
United States Geological Survey  
Bureau of Land Management  
1717 W. Second  
Roswell, NM 88201

Rocky Mountain Mineral Law Foundation  
7039 East 18th Avenue  
Denver, CO 80220-1826

Interstate Oil and Gas Compact Commission  
900 NE 23rd Street  
Oklahoma City, OK 73105-7937

Dr. Ray R. Irani, Chairman and CEO  
Occidental Petroleum Corporation  
10889 Wilshire Blvd.  
Los Angeles, CA 90024

Dr. Dale R. Laurance  
President and Senior Operating Officer  
Occidental Petroleum Corporation  
10889 Wilshire Blvd.  
Los Angeles, CA 90024

Donald P. Debrier, Executive V.P. and  
Senior General Counsel  
Occidental Petroleum Corporation  
10889 Wilshire Blvd.  
Los Angeles, CA 90024

P.N. "Pat" McGee, Manager, Land  
Western Region  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

Jerry Crew, Joint Interest Contracts  
OXY USA, Inc.  
P.O. Box 300  
Tulsa, OK 74102

Scott E. Gengler, Petroleum Engineer  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

John Thoma, Financial Consultant  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

Tim Keys  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

Jim Maury, Finance  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

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Mike Gooding  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

Carol Glass, Landman  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

Armando Morales, Jr.  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

Charles Pollard  
Operations Engineering Supervisor  
OXY USA, Inc.  
P.O. Box 50250  
Midland, Texas 79710

**MLMU Working Interest Owners:**

Ron J. King  
Vice President Land  
Collins & Ware  
508 W. Wall, Suite 1200  
Midland, TX 79701

Thomas J. Erling  
742 N. E. 20th Lane  
Boynton Beach, FL 33435

Ann Clay Brown  
1541 Princeton Dr.  
Corsicana, TX 75110

F. Duane Lortscher  
12151 Cattle King Dr.  
Bakersfield, CA 93306

James C. Brown  
P.O. Box 10621  
Midland, TX 79702

Weslynn McCallister  
6929 N. Hayden Road C-4 #229  
Scottsdale, AZ 85250

Joan M. Clay  
26242 Via Mistral  
San Juan Capistrano, CA 92675-4452

Arlene S. Anthony  
450 Elm Street  
Glenview, IL 60025

Susan Marie Clay Maier  
2547 Stadium Drive  
Ft. Worth, TX 76109

Charles H. Brown, Jr.  
1541 Princeton Dr.  
Corsicana, TX 75110

CME Oil & Gas, Inc.  
P.O. Box 10621  
Midland, TX 79702

James E. Burr  
P.O. Box 8050  
Midland, TX 79708-8050

OXY USA, Inc.

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John W. Clay III  
2624 Putnam  
Ft. Worth, TX 76112

Adele Combs Clough  
6926 Midbury Drive  
Dallas, TX 75230

Margaret Couch Trust  
James C. Brown, Trustee  
P.O. Box 10621  
Midland, TX 79702

Mary Ellen Gilbert  
2808 O'Dell Court North  
Grapevine, TX 76015

Ron Crosby  
Brooks Purnell, Vice President  
Headington Minerals Inc.  
7557 Rambler Road South, #1150  
Dallas, TX 75231

John D. Lortscher  
661 San Mario Dr.  
Solana Beach, CA 92075

Larry A. Nermeyr  
HC-57  
Box 4106  
Sidney, MT 59270

Margie P. Bentley Estate  
Paul Midkiff, Trustee, TX1-1263  
Bank One Texas  
P.O. Box 2605  
Ft. Worth, TX 76113

Elizabeth Ann Brown  
449 Acequia Madre Street  
Santa Fe, NM 87501-2802

Jennifer Ann Cather  
6343 Edloe  
Houston, TX 77005

Rufus Clay, Jr. Trust  
James C. Brown, Trustee  
P.O. Box 10621  
Midland, TX 79702

Michael Clough  
7717 Meadowhaven Drive  
Dallas, TX 75240-8105

James A. Davidson  
214 W. Texas, Suite 710  
Midland, TX 79701

Nancy Lee Harrison  
3001 Maple Ave.  
Waco, TX 76707

Lamar Hunt  
c/o Petroleum Financial  
1025 Ft. Worth Club Bldg.  
306 West 7th Street  
Ft. Worth, TX 76102

R.A. Lowery, Production Manager  
Maralo, Inc.  
P.O. Box 832  
Midland, TX 79702

Evelyn Clay O'Hara Trust  
5608 Westcreek Dr.  
Fort Worth, TX 76133-2245

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P.C. Limited  
P.O. Box 911  
Breckenridge, TX 76024

The Honorable Robert C. Scott  
2400 NE 26th Avenue (33305)  
P.O. Box 24226  
Ft. Lauderdale, FL 33307

Marilyn L. Tarlton  
561 Orange Avenue  
Los Altos, CA 94022

Edythe Clay Prikryl  
5403 Ceran  
Arlington, TX 76016

Louise Summers  
L. Summers Oil Company  
P.O. Box 278  
Hobbs, NM 88241-0278

Christen Leigh Schutte  
2624 Putnam Street  
Ft. Worth, TX 76112-5034

Ruth Sutton  
2826 Moss  
Midland, TX 79705

G.A. Baber  
Bovina Ltd. Liability Co.  
P.O. Box 1172  
Hobbs, NM 88241

Thomas J. Erling  
742 NE 20th Lane  
Boynton Beach, FL 33435

Cross Timbers Oil Company  
810 Houston Street, Suite 2000  
Ft. Worth, TX 76102-6298

Jerry Brannon  
Davoil, Inc.  
P.O. Box 122269  
Ft. Worth, TX 76121-2269

Parker & Parsley  
Development Partner, L.P.  
P.O. Box 3178  
Midland, TX 79702

Joint Interest Manager  
American Exploration Co.  
1331 Lamar, Suite 900  
Houston, TX 77010

LTV Energy Productions Company  
c/o Continental-EMSCO  
P.O. Box 930  
Kilgore, TX 75662

T.J. and Mary Ray Sivley  
Katherine E. Rugen, Trustee  
Sunwest Bank of Albuquerque  
P.O. Box 26900  
Albuquerque, NM 87125-6900

J.T. Hampton  
Great Western Drilling Co.  
P.O. Box 1659  
Midland, Texas 79702

Primary Fuels, Inc.  
P.O. Box 201682  
Houston, TX 77216-1682



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Dimitri Mataragas  
14114 Dallas Parkway, Suite 435  
Dallas, TX 75240

Continental-EMSCO Company  
P.O. Box 930  
Kilgore, TX 75662

Crown Central Petroleum Corporation  
One North Charles  
Box 1168  
Baltimore, MD 21203

Management Trust Company 8057-06  
P.O. Box 10621  
Midland, TX 79702

Samedan Oil Corporation  
P.O. Box 909  
Ardmore, OK 73402

DOYLE HARTMAN, Oil Operator  
(Midland)

Don Mashburn  
Steve Hartman  
Linda Land  
Cindy Brooks  
Sheila Potts



**OXY USA INC.**  
**AUTHORITY FOR EXPENDITURE**

Region: Western

AFE NO:

Lease/Plant Name: Myers Langlie Mattix Unit													
Description : Install 40 Acre Five Spot Waterflood Pilot													
Partnership/Funding: Funded													
Location : Lea County, New Mexico													
Field: Langlie Mattix	Region AFE No: 5518												
Operator Name: OXY USA INC.	PF/Plant/Loc Code: 1424												
Oper. AFE No:	Lease/Plant CC No: 73050700-6												
State/County No: 30025	Co./Div No: 327 77												
Capital Proj. No: 99999	Sec Rec Proj. No: 040												
Budget Appr No: 940700	Offshore Zone:												
<b>Remarks:</b> <p>It is proposed to install a 40 acre fivespot waterflood pilot project on the Myers Langlie Mattix Unit. The Myers Langlie Mattix Unit is currently producing on an 80 acre fivespot waterflood pattern. Due to poor sweep efficiencies and lateral discontinuity, it is believed that a high amount of mobile oil saturation is recoverable by reducing the 80 acre fivespot waterflood to a 40 acre fivespot waterflood. To help quantify the amount of mobile oil saturation that is recoverable by the 40 acre fivespot waterflood pattern, it is proposed to drill and equip 18 producers, convert 16 wells to water injection, and replace the injection tubing in three current water injection wells.</p> <p>The recovery of 1,606,000 barrels of incremental reserves from the pilot area will result in net cash production of \$8,726,000 which will payout the \$4,094,426 OXY USA Inc. capital expenditure 371% (BFIT). Payout period is 3.0 years.</p>													
<b>Estimated Cost Detail</b> <table border="1"> <thead> <tr> <th></th> <th>Materials</th> <th>Labor Incidentals</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Gross Cost</td> <td>1,852,250</td> <td>3,222,400</td> <td>5,074,650</td> </tr> <tr> <td>Net Cost@ 80.68390 % W.I.</td> <td>1,494,468</td> <td>2,599,958</td> <td>4,094,426</td> </tr> </tbody> </table>			Materials	Labor Incidentals	Total	Gross Cost	1,852,250	3,222,400	5,074,650	Net Cost@ 80.68390 % W.I.	1,494,468	2,599,958	4,094,426
	Materials	Labor Incidentals	Total										
Gross Cost	1,852,250	3,222,400	5,074,650										
Net Cost@ 80.68390 % W.I.	1,494,468	2,599,958	4,094,426										

**CONCURRENCES**

Geol.	Geop.	Land	Exploit.	Engr.	Oper. Prod	Oper. G.P.	FP&A	Acctg.
OXY APPROVAL: _____						Date: _____		
PARTNER APPROVAL: _____						Date: _____		
COMPANY: _____								

Prepared By: Scott E. Gengler  
Phone #: 915-685-5825

Date: 11-MAR-94

April 28, 1994

Dear Working Interest Owners:

This AFE recommends performing work on our jointly owned property. The estimates shown on this AFE are based on current costs for materials and services and the actual charges may vary from these estimates.

If the work performed meets with your approval, please sign on the "Partner Approval" line and return this AFE to OXY USA INC., Attn: Armando Morales Jr., P.O. BOX 50250, Midland, Texas 79710.

PHONE (915) 685-5716 FAX (915) 685-5754



## Detail of Estimated Cost

Reg AFE No	5518
Asset name	Myers Langlie Mattix Unit
Activity	Install 40 Acre Five Spot Waterflood Pilot

Description	Material	Labor and Inci.	Total
MLMU #72 Convert to Water Injection	12,650	17,000	29,650
MLMU #94 Convert to Water Injection	18,400	18,500	36,900
MLMU #96 Convert to Water Injection	18,500	17,000	35,500
MLMU #97 Replace Injection Tubing	14,100	16,500	30,600
MLMU #98 Convert to Water Injection	18,500	17,000	35,500
MLMU #99 Deepen, Run Liner, and Replace Inj Tbg	44,500	36,500	81,000
MLMU #106 Convert to Water Injection	12,900	17,000	29,900
MLMU #133 Convert to Water Injection	18,650	17,000	35,650
MLMU #134 Reenter and Complete As A Wtr Inj Well	19,000	23,000	42,000
MLMU #135 Convert to Water Injection	12,700	17,000	29,700
MLMU #137 Convert to Water Injection	12,500	17,000	29,500
MLMU #141 Convert to Water Injection	12,450	17,000	29,450
MLMU #143 Convert to Water Injection	12,250	17,000	29,250
MLMU #170 Convert to Water Injection	12,250	17,000	29,250
MLMU #176 Convert to Water Injection	12,750	17,000	29,750
MLMU #177 Replace Injection Tubing	14,100	16,500	30,600
MLMU #178 Convert to Water Injection	12,350	17,000	29,350
MLMU #251 Convert to Water Injection	18,600	17,000	35,600
MLMU #252 Convert to Water Injection	18,800	17,000	35,800
MLMU #258 Drill and Equip Producer	78,700	137,700	216,400
MLMU #259 Drill and Equip Producer	78,700	137,700	216,400
MLMU #260 Drill and Equip Producer	78,700	137,700	216,400
MLMU #261 Drill and Equip Producer	78,700	137,700	216,400
MLMU #262 Drill and Equip Producer	79,150	138,150	217,300
MLMU #263 Drill and Equip Producer	79,150	138,150	217,300
MLMU #264 Drill and Equip Producer	79,150	138,150	217,300
MLMU #265 Drill and Equip Producer	78,700	137,700	216,400
MLMU #266 Drill and Equip Producer	79,150	138,150	217,300
MLMU #267 Drill and Equip Producer	44,000	138,600	182,600
MLMU #268 Drill and Equip Producer	44,000	138,600	182,600
MLMU #269 Drill and Equip Producer	78,700	137,700	216,400
MLMU #270 Drill and Equip Producer	44,000	138,600	182,600
Gross Expense Cost			
Net Expense Cost			

Working Interest	0.806839
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Prepared by	Scott E. Gengler
Phone	915-685-5825

Date	Mar-11-94
------	-----------

WORKING INTEREST OWNER ACCUMULATED AFE APPROVAL

Lease/Facility: MYERS LANGLIE MATTIX  
 Proposed Work: CONVERT D: E, INSTALL W/F PILOT  
 Required Approval: 65/3  
 OXY USA Inc.'s Interest: 8068392  
 Add: 3 808264  
6 8082805  
7 8096844  
8 8096915  
9 8096986  
10 8117781  
12 8805652  
               
             

From: Tim Keys 10/25/94 2:32PM  
 To: Jim Maury, Mike Gooding  
 Subject: MYERS LANGLIE MATTIX UNIT

## ----- Message Contents -----





TO DATE, THIRTEEN WIO'S FOR A TOTAL OF .8805652 HAVE APPROVED THE  
 INSTALLATION OF THE 40 ACRE FIVE SPOT WATERFLOOD PILOT FOR THE SUBJECT  
 UNIT:

WIO	INTEREST
OXY USA INC.	.8068390
LOWE PARTNERS	. ?
SAMPSON RESOURCES	.0010297
AMERADA HESS	.0638753
MARALO INC.	.0059616
JAMES A. DAVIDSON	.0013410
JAMES E. BURR	.0000838
MICHAEL CLOUGH	.0000022
CHARLES H. BROWN JR.	.0000071
ANN CLAY BROWN	.0000072
P.C. LIMITED	.0014039
NANCY HARRISON	.0000071
MARY ELLEN GILBERT	.0000071
LAMAR HUNT	ELECTED NON-CONSENT*
HEADINGTON MINERALS	ELECTED NON-CONSENT *

\* THERE IS NO NON-CONSENT PROVISION FOR THIS UNIT.

Aligner An Avery International Company

ecutive Line

Date	8.19.94	Hour	9:55
To	C7		
WHILE YOU WERE OUT			
From	Johnny Chisler		
Of	DXY		
Phone	1918-561-2693		
			
Please Call	Returned Call	Will Call Again	Please See Me
Message			
You have already			
traded to to			
America			
Signed <u>Chisler</u>			

ALIGNER RECORDER NO. 48502

DATE	TIME	RATE	TO	NUMBER	MINUTES	AMOUNT
08/17/94	01:43 PM	D	JAL	505 395-3555	0.5	0.11
08/17/94	01:50 PM	D	JAL	505 395-3557	1.7	0.35
08/17/94	01:52 PM	D	MOBBS	505 393-4202	0.5	0.11
08/17/94	01:53 PM	D	MOBBS	505 393-4202	0.5	0.11
08/17/94	02:05 PM	D	BELLEVUE	206 635-7070	5.4	1.19
08/17/94	02:20 PM	D	CARROLLTON	214 306-2114	0.5	0.11
08/17/94	04:34 PM	D	ODESSA	915 377-6868	12.2	2.55
08/17/94	05:04 PM	E	JAL	505 395-3557	1.3	0.20
08/17/94	05:06 PM	E	MOBBS	505 395-3557	1.3	0.20
08/17/94	05:17 PM	E	DEHYER	303 870-9940	1.5	0.25
08/17/94	05:17 PM	E	VIENNA	703 757-7487	0.5	0.09
08/17/94	05:21 PM	E	VIENNA	703 757-7487	3.7	0.8
08/18/94	05:28 AM	D	TULSA	918 581-2693	0.4	0.1
08/18/94	05:28 AM	D	TULSA	918 581-2693	0.4	0.1
08/18/94	05:28 AM	D	TULSA	918 581-2693	0.4	0.1
08/18/94	11:28 AM	D	DALLAS	214 520-1800	0.5	0.11
08/18/94	11:36 AM	D	ENGLEWOOD	303 799-5058	2.9	0.61
08/18/94	03:05 PM	D	ODESSA	915 366-0283	0.5	0.11
08/18/94	04:12 PM	D	DIR ASST	214 555-1212	0.5	0.11
08/18/94	04:59 PM	M	ODESSA	915 367-5715	0.5	0.11
08/18/94	05:02 PM	E	ODESSA	915 362-9777	1.6	0.29
08/18/94	05:08 PM	E	HOUSTON	713 977-0581	1.8	0.37
08/19/94	05:35 AM	D	TULSA	918 581-2708	1.8	0.37
08/19/94	10:03 AM	D	TULSA	918 581-2693	0.5	0.11
08/19/94	10:17 AM	D	DALLAS	214 520-1800	0.5	0.11
08/19/94	10:37 AM	D	DIR ASST	505 555-1212	0.5	0.11
08/19/94	11:02 AM	D	BETHANY	405 720-5713	2.1	0.44
08/19/94	11:03 AM	D	LUBBOCK	806 788-7500	1.0	0.21
08/19/94	02:04 PM	D	ENGLEWOOD	303 799-5058	0.5	0.11
08/19/94	02:04 PM	D	AUSTIN	512 471-1662	16.9	3.54
08/19/94	02:55 PM	D	DENVER	303 757-7487	0.5	0.11
08/19/94	03:48 PM	D	JAL	505 395-3557	1.0	0.21
08/19/94	05:12 PM	E	WASHINGTON DC	202 737-4982	4.1	0.89
08/19/94	05:14 PM	E	WASHINGTON DC	202 737-4982	4.1	0.89
08/19/94	05:16 PM	E	WASHINGTON DC	202 737-4982	0.5	0.09
08/19/94	05:16 PM	E	WASHINGTON DC	202 737-4982	0.5	0.09
08/19/94	05:17 PM	E	AUSTIN	512 471-1662	1.4	0.24
08/19/94	09:13 AM	N	VIENNA	703 757-7487	0.5	0.07
08/22/94	06:25 AM	D	ODESSA	915 366-5759	2.1	0.44
08/22/94	10:24 AM	D	ARVADA	303 421-2185	4.7	1.02
08/22/94	11:04 AM	D	DALLAS	214 520-1800	0.5	0.11
08/22/94	01:14 AM	D	GRENSPOINT	713 874-3342	1.3	0.28
08/22/94	01:54 PM	D	ODESSA	915 366-5759	0.9	0.19
08/22/94	01:57 PM	D	ODESSA	915 367-8428	4.9	1.03
08/22/94	02:10 PM	D	MINTERS	915 754-5310	16.8	3.52
08/22/94	03:06 PM	D	SAN ANGELO	915 942-8081	0.8	0.13
08/22/94	04:11 PM	D	DALLAS	214 827-3988	1.4	0.30
08/22/94	04:36 PM	D	GRENSPOINT	713 874-3407	0.5	0.11
08/22/94	04:37 PM	D	GRENSPOINT	713 875-1101	1.8	0.38
08/22/94	04:40 PM	D	GRENSPOINT	713 874-3324	1.2	0.26
08/22/94	05:06 PM	E	AZTEC	505 334-2210	0.5	0.08
08/22/94	05:07 PM	E	AZTEC	505 334-2210	2.8	0.40
08/22/94	05:10 PM	E	FARMINGTON	505 325-8126	3.3	0.50
08/22/94	05:28 AM	D	LUBBOCK	806 788-7500	0.6	0.13
08/22/94	05:29 AM	D	LUBBOCK	806 788-7500	3.1	0.65
08/22/94	05:33 AM	D	FORT MORTH	817 336-8611	0.5	0.11
08/22/94	05:34 AM	D	MINTERS	915 754-4945	0.5	0.11
08/22/94	05:36 AM	D	COLEMAN	915 625-3607	12.0	2.58
08/22/94	10:02 AM	D	LUBBOCK	806 745-4454	5.5	1.16

LEGEND  
D-DAY  
S-STANDARD  
X-ORIGINATING  
INTERNATIONAL  
DISCOUNT  
NUMBER UNAVAILABLE  
N-NIGHT/WEEKEND  
E-EVENING  
I-INTERNATIONAL  
M-MULTIPLE RATE PERIOD

DATE	TIME	RATE	TO	NUMBER	MINUTES	AMOUNT
08/18/94	10:06 AM	D	DALLAS	214 520-1800	1.2	0.12
08/18/94	12:07 PM	D	DALLAS	214 520-1800	3.8	0.36
08/18/94	12:25 PM	D	HOUSTON	713 877-1400	0.2	0.02
08/18/94	01:02 PM	D	HARLINGEN	210 423-8772	0.3	0.03
08/18/94	01:10 PM	D	ARILENE	915 690-9552	17.5	3.75
08/18/94	01:16 PM	D	RALLS	806 253-2974	2.8	1.25
08/18/94	01:53 PM	D	HOUSTON	713 877-1400	22.5	2.25
08/18/94	02:17 PM	D	RENNER	214 520-1800	2.3	0.23
08/18/94	02:18 PM	D	DALLAS	214 520-1800	1.1	0.11
08/18/94	02:19 PM	D	DALLAS	214 520-1800	0.9	0.09
08/18/94	02:19 PM	D	CLINTON	MS 601 924-7654	0.5	0.03
08/18/94	02:20 PM	D	DALLAS	214 520-1800	2.9	0.2
08/18/94	02:23 PM	D	ORLANDO	FL 407 451-0882	0.1	0.01
08/18/94	02:42 PM	D	DALLAS	214 520-1800	0.5	0.05
08/18/94	02:45 PM	D	DALLAS	214 520-1800	0.8	0.08
08/18/94	02:51 PM	D	HOUSTON	713 877-1400	4.1	0.41
08/18/94	03:03 PM	D	DALLAS	214 520-1800	1.1	0.11
08/18/94	03:05 PM	D	DALLAS	214 520-1800	18.5	1.85
08/18/94	03:16 PM	D	DALLAS	214 520-1800	0.5	0.05
08/18/94	03:17 PM	D	DALLAS	214 520-1800	0.5	0.05
08/18/94	03:22 PM	D	DALLAS	214 520-1800	0.6	0.06
08/18/94	03:30 PM	D	HOUSTON	713 877-1400	42.9	4.29
08/18/94	03:54 PM	D	DALLAS	214 520-1800	2.1	0.21
08/18/94	04:29 PM	D	RENNER	214 733-0020	0.8	0.08
08/18/94	04:23 AM	D	JAL	505 395-3557	25.5	1.28
08/18/94	04:28 AM	D	JAL	505 395-3557	0.4	0.02
08/18/94	04:39 AM	D	JAL	505 395-3557	1.1	0.06
08/18/94	04:49 AM	D	JAL	505 395-3557	10.3	0.52
08/18/94	05:06 AM	D	RALLS	806 253-2974	12.2	1.22
08/18/94	05:06 AM	D	HOUSTON	713 877-1400	26.1	2.61
08/18/94	05:12 AM	D	RALLS	806 253-2974	1.2	0.12
08/18/94	05:31 AM	D	TULSA	918 581-2693	3.5	0.73
08/18/94	05:38 AM	D	RALLS	806 253-2974	3.1	0.31
08/18/94	05:39 AM	D	BROOKFIELD	CO 303 451-0122	11.4	0.57
08/18/94	05:53 AM	D	TULSA	918 581-2693	1.7	0.09
08/18/94	05:53 AM	D	FORT MORTH	TX 817 336-8611	21.5	2.15
08/18/94	10:13 AM	D	BROOKFIELD	CO 303 451-0122	0.8	0.04
08/18/94	10:27 AM	D	RALLS	806 253-2974	0.8	0.08
08/18/94	10:42 AM	D	JAL	505 395-3557	0.8	0.03
08/18/94	11:01 AM	D	ODESSA	915 322-9581	2.9	0.29
08/18/94	11:10 AM	D	LORENZO	MM 505 395-3555	0.5	0.05
08/18/94	11:47 AM	D	JAL	505 395-3555	0.7	0.04
08/18/94	12:07 PM	D	AUSTIN	512 454-3234	7.8	0.78
08/18/94	12:44 PM	D	HOUSTON	713 877-1400	3.1	0.01
08/18/94	01:11 PM	D	ENGLEWOOD	CO 303 799-5058	1.9	0.16
08/18/94	01:23 PM	D	JAL	505 395-3555	1.9	0.10
08/18/94	01:26 PM	D	ENGLEWOOD	CO 303 799-5058	1.2	0.08
08/18/94	01:23 PM	D	ENGLEWOOD	CO 303 799-5058	4.8	0.24
08/18/94	01:45 PM	D	ENGLEWOOD	CO 303 799-5058	0.7	0.04
08/18/94	02:37 PM	D	HOUSTON	713 877-1400	14.8	1.48
08/18/94	02:00 PM	D	AUSTIN	512 473-2458	20.0	2.00
08/18/94	03:06 PM	D	GRANT SHLS	TX 210 598-5248	19.4	1.94
08/18/94	03:47 PM	D	HOUSTON	713 877-1400	1.4	0.14
08/18/94	03:59 PM	D	ODESSA	TX 915 381-6447	6.0	0.60
08/18/94	04:02 PM	D	HOUSTON	713 877-0704	2.9	0.29
08/18/94	04:27 PM	D	MOBBS	MM 505 393-3557	10.2	0.51
08/18/94	04:28 AM	D	JAL	505 395-3557	12.3	0.52
08/18/94	04:46 AM	D	JAL	505 395-3557	11.8	0.58
08/18/94	10:10 AM	D	RALLS	806 253-2974	9.8	0.98
08/22/94	10:17 AM	D	DALLAS	214 520-1800	0.7	0.07

LEGEND  
D-DAY  
S-STANDARD  
X-ORIGINATING  
INTERNATIONAL  
DISCOUNT  
NUMBER UNAVAILABLE  
N-NIGHT/WEEKEND  
E-EVENING  
I-INTERNATIONAL  
M-MULTIPLE RATE PERIOD



OXY USA INC.  
Box 300, Tulsa, OK 74102

August 19, 1994

Doyle Hartman  
Attention Ms. Carol Farmer  
P.O. Box 10426  
Midland, TX 79702

Re: Myers Langlie Mattix Unit  
7-3050700-6, Contract # 3730  
Lea Co., NM  
OXY USA Inc. - Operator

Dear Ms. Farmer:

This letter comes as a follow-up and confirmation of our phone call earlier today. As we discussed, OXY is currently conducting numerous capital improvement projects on the captioned unit. You questioned what options Doyle Hartman has regarding participation in these projects.

Under terms of the Unit Operating Agreement dated January 1, 1993, working interest owners do not have a non-consent option for such capital projects. Rather, the agreement provides the following:

1. Article 3.2.4 states that the operator must seek working interest owner approval of any single expenditure in excess of \$15,000. OXY has done this through the AFE balloting process.
2. Article 4.3.2 defines "approval" as an affirmative vote of three or more owners having a combined interest of at least 65%. Each AFE project currently being billed by OXY has received such approval. Once approved, the financial responsibility for such projects becomes the obligation of each working interest owner, regardless of their vote.
3. Article 17 does provide that a working interest owner may withdraw from the unit (and any future obligations) by assigning its interest to the other working interest owners. However, the assigning of interest does not relieve the owner from any obligation incurred prior to the date of execution and delivery of the assignment.

[REDACTED]

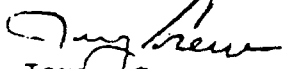
/Page 2 ...

AUG 25 1994

To Doyle Hartman  
August 19, 1994  
Page 2 ...

For your convenience, I have attached copies of the Agreement Articles I have referenced. I trust this will address the questions you have raised, but do not hesitate to contact me should you have further questions.

Sincerely,



Jerry Crew

Joint Interest Contracts

JC/mw  
Attachments

xc: Pat McGee, MID Land (w/attachment)  
Jim Maury, MID Finance "



jection or for other purposes.

3.2.4 Expenditures. The making of any single expenditure in excess of Fifteen Thousand Dollars (\$15,000.00); provided that, approval by Working Interest Owners of the drilling, reworking, deepening, or plugging back of any well shall include approval of all necessary expenditures required therefor, and for completing, testing, and equipping the same, including necessary flow lines, separators, and lease tankage.

3.2.5 Disposition of Unit Equipment. The selling or otherwise disposing of any major item of surplus Unit equipment, if the current list price of new equipment similar thereto is Three Thousand and Five Hundred Dollars (\$3,500.00) or more.

3.2.6 Appearance Before a Court or Regulatory Agency. The designating of a representative to appear before any court or regulatory agency in matters pertaining to Unit Operations; provided that, such designation shall not prevent any Working Interest Owner at its own expense from appearing in person or from designating another representative in its own behalf.

3.2.7 Audits. The auditing of the accounts of Unit Operator pertaining to unit operations hereunder; provided that, the audits shall:

- (a) not be conducted more than once each year except upon the resignation or removal of Unit Operator.
- (b) be made at the expense of all Working Interest Owners other than the Working Interest Owner designated as Unit Operator; and
- (c) be made upon not less than thirty (30) days' written notice to Unit Operator.

3.2.8 Inventories. The taking of periodic inventories under the terms of Exhibit E.

3.2.9 Technical Services. The authorizing of charges to the joint account for services by consultants or Unit Operator's technical personnel not covered by the overhead charges provided by Exhibit E.

3.2.10 Assignments to Committees. The appointment of committees to study any problems in connection with Unit Operations.

3.2.11 Removal of Unit Operator and the Selection of a Successor.

AUG 25 1960

- 3.2.12 Enlargement of the Unit Area.
- 3.2.13 Adjustment and Readjustment of Investments.
- 3.2.14 Termination of the Unit Agreement.

#### ARTICLE 4

##### MANNER OF EXERCISING SUPERVISION

4.1 Designation of Representatives. Each Working Interest Owner shall in writing inform Unit Operator of the names and addresses of the representative and alternate who are authorized to represent and bind such Working Interest Owner with respect to Unit Operations. The representative or alternate may be changed from time to time by written notice to Unit Operator.

4.2 Meetings. All meetings of the Working Interest Owners shall be called by Unit Operator upon its own motion or at the request of one or more Working Interest Owners having a total Unit Participation of not less than ten percent (10%). No meeting shall be called on less than fourteen (14) days' advance written notice, with agenda for the meeting attached. Working Interest Owners who attend the meeting shall not be prevented from amending items included in the agenda or from deciding the amended item or other items presented at the meeting. The representative of Unit Operator shall be chairman of each meeting.

4.3 Voting Procedure. Working Interest Owners shall decide all matters coming before them as follows:

4.3.1 Voting Interest. Each Working Interest Owner shall have a voting interest equal to its Unit Participation in effect at the time such vote is taken.

4.3.2 Vote Required. Except as may otherwise be provided herein or in the Unit Agreement, Working Interest Owners shall act upon and determine all matters coming before them by the affirmative vote of three (3) or more Working Interest Owners having a combined Voting Interest of at least sixty-five percent (65%), provided that, should any one Working Interest Owner own more than thirty-five percent (35%) Voting Interest, its negative vote or failure to vote shall not defeat a motion and such motion shall pass if such motion is approved by a majority of the Voting Interest, and such affirmative vote shall be controlling on all parties.

applicable state laws, regulations, and rulings now in effect or hereafter enacted that have an effect similar to the federal provisions referred to herein.

#### ARTICLE 16

##### NOTICES

16.1 Notices. All notices required hereunder shall be in writing and shall be deemed to have been properly served when sent by mail or telegram to the address of the representative of each Working Interest Owner as furnished to Unit Operator in accordance with Section 4.1 hereof.

#### ARTICLE 17

##### WITHDRAWAL OF WORKING INTEREST OWNER

17.1 Withdrawal. If any Working Interest Owner so desires, it may withdraw from this agreement by conveying, assigning and transferring, without warranty of title either express or implied, to the other Working Interest Owners who do not desire to withdraw herefrom, all of the former's right, title and interest in and to its lease or leases or other operating rights in the Unit Area insofar as said lease, leases or rights pertain to the Unitized Formation, together with the withdrawing Working Interest Owner's interest in all wells, pipe lines, casing, injection equipment, facilities and other personal property used in conjunction with the development and operation of the Unit Area; provided, however, that such transfer, assignment or conveyance shall not relieve said Working Interest Owner from any obligation or liability incurred prior to the date of the execution and delivery thereof. The interest so transferred, assigned and conveyed shall be taken and owned by the other Working Interest Owners in proportion to their respective Phase II Unit Participations. After the execution and delivery of such transfer, assignment or conveyance, the withdrawing Working Interest Owner shall be relieved from all further obligations and liability hereunder and under the Unit Agreement. Thereupon, the right of such Working Interest Owner to any benefits subsequently accruing hereunder and under the Unit Agreement shall cease; provided, that upon delivery of said transfer, assignment or conveyance, the assignees (in the ratio of the respective interests so acquired) shall pay to the assignor for its interest in all jointly owned equipment, casing and other personal property the fair net salvage value thereof, less its proportionate share of the costs of terminating the Unit, as same are

determined and fixed by Working Interest Owners. This Section shall not prevent a Working Interest Owner from assigning, conveying or otherwise transferring its interest, in whole or in part, provided such assignment, conveyance or transfer is made subject to the terms of this agreement and the Unit Agreement.

#### ARTICLE 18

##### CREATION OF NEW INTEREST

18.1 Creation of New Interest. If any Working Interest Owner shall, after executing this agreement, create any overriding royalty, production payment, or other similar interest, hereafter referred to as "new interest", out of its interest subject to this agreement, such new interest shall be subject to all the terms and provisions of this agreement. In the event the Working Interest Owner owning the interest from which the new interest was created withdraws from this agreement under the terms of Article 17, or fails to pay any expenses and costs chargeable to it under this agreement and the production to the credit of such Working Interest Owner is insufficient for that purpose, the owner of the new interest will be liable for the pro rata portion of all costs and expenses for which the original Working Interest Owner creating such new interest would have been liable by virtue of his ownership of the new interest had the same not been transferred. In this event, the lien provided in Section 11.3 may be enforced against such new interest. If the owner of the new interest bears a portion of the costs and expenses or the same is enforced against such new interest, the owner of the new interest will be subrogated to the rights of the Unit Operator with respect to the interest primarily chargeable with such costs and expenses.

#### ARTICLE 19

##### ABANDONMENT OF WELLS

19.1 Rights of Former Owners. If Working Interest Owners decide to abandon permanently any well within the Unit Area prior to termination of the Unit Agreement, Unit Operator shall give written notice thereof to the Working Interest Owners of the Tract on which the well is located, and they shall have the option for a period of ninety (90) days after the sending of such notice to notify Unit Operator in writing of their election to take over and own the well. Within ten (10) days after the Working Interest Owners of the Tract have notified Unit Operator of their election to take over the well, they shall pay Unit Operator, for credit to the



27-609787

OXY USA INC. - E&P  
TULSA, OKLAHOMA

0-0379120-01-4

## INVOICE

## ADDRESS ALL INQUIRIES TO:

OXY USA INC  
ATTN JT INT ADMIN 2652 OTOP  
P O BOX 300  
TULSA OK 74102

## TO:

DOYLE HARTMAN  
P O BOX 10426  
MIDLAND TX 79702

ACCOUNTING PERIOD: JULY 1994

OWNER NUMBER 0-0379120-01-4

SHIP THIS INVOICE NO. ON CHECK

MAKE PAYMENT TO:

INVOICE  
DATE 08/05/94 NUMBER 27-609787OXY USA INC  
P O BOX 845508  
DALLAS TX 75284*Handwritten:*  
Bathy part record  
7/5/94

ENTERED AUG 30 1994

27-609787

0-0379120-01-4

REFERENCE	DESCRIPTION	GROSS AMOUNT	W.I. DECIMAL	AMOUNT
7-3088200	EXPENSE	1,122.78	00.1562500	175.4
	COST CENTER SUBTOTAL	2542		175.4
7-3088475	EXPENSE	3,227.61	00.0312500	100.0
	COST CENTER SUBTOTAL	4278		100.0
	CURRENT INVOICE AMOUNT			19,361.0
	TOTAL BALANCE DUE			41,230.5

\*\*\*\*\*  
AMOUNT IS DUE 15 DAYS AFTER RECEIPT  
\*\*\*\*\*  
INTEREST WILL BE CHARGED  
\*\*\*\*\*  
FOR LATE PAYMENTS  
\*\*\*\*\*

## AMOUNT

## W.I. DECIMAL

## GROSS AMOUNT

## DESCRIPTION

07/08/94 INV # 606110  
TOTAL PRIOR BALANCE

21,069.55  
21,069.55 \*\*  
111.12  
85.33  
621.85  
80.62  
1,639.36  
105.78  
263.32  
257.70  
107.13  
3,235.81  
55.46  
55.46  
1,635.63  
55.46  
1,573.64  
55.46  
55.46  
55.46  
55.46  
55.46  
1,773.24  
7,125.99  
19,084.74 \*

2,282.02 00.0486908  
1,752.42 00.0486908  
12,771.15 00.0486908  
1,655.75 00.0486908  
33,668.68 00.0486908  
2,172.46 00.0486908  
5,407.79 00.0486908  
5,292.35 00.0486908  
3,843.17 00.0486908  
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32,319.19 00.0486908  
1,139.05 00.0486908  
1,139.05 00.0486908  
1,139.05 00.0486908  
1,139.05 00.0486908  
36,418.31 00.0486908  
146,352.76 00.0486908  
COST CENTER SUBTOTAL

AUG 11

DOYLE HARTMAN

*Oil Operator*

3811 TURTLE CREEK BLVD., SUITE 730

DALLAS, TEXAS 75219

(214) 520-1800

(214) 520-0811 FAX

August 24, 1994

VIA FEDERAL EXPRESS

Mr. Charles Pollard

Operations Engineering Supervisor and

Mr. Scott Gengler

Oxy USA, Inc.

#6 Desta Drive, Suite 6002

Midland, TX 79705-5505

Gentlemen:

Reference is made to Oxy's proposed \$7.36 million budget for the Myers Langlie Mattix Unit for fiscal year 1995. Reference is also made to our letter to Oxy of June 9, 1993 wherein we informed Oxy that we were not agreeable to participating in a large redevelopment of the Myers Langlie Mattix Unit and therefore proposed to assign to Oxy Doyle Hartman, Oil Operator's 4.8691% working interest in the Myers Langlie Mattix Unit, in exchange for Oxy assigning to Doyle Hartman, Oil Operator its 160-acre Eumont tract situated in the SW/4 Section 2, T-22-S, R-36-E.

More than one year has transpired since we first informed Oxy of our desire not to participate in substantial new Myers Langlie Mattix Unit development drilling. During the past twelve months, our 4.8691% Myers Langlie Mattix Unit working interest has suffered a net operating loss of \$36,010.89 (7/93 - 6/94), and on a 100% basis, the unit has suffered a net operating loss of \$739,580.74 over the same time period.

Obviously, based on the financial performance of the Myers Langlie Mattix Unit over the past twelve months, it is highly questionable (under the terms of the Unit Agreement for the Myers Langlie Mattix Unit) whether the Myers Langlie Mattix Unit is still a viable secondary recovery unit, especially in consideration of the fact that the oil recovery to date from the Myers Langlie Mattix Unit is nearing the total of primary plus secondary oil reserves initially expected from the Myers Langlie Mattix Unit.

Mr. Charles Pollard  
Operations Engineering Supervisor and  
Mr. Scott Gengler  
August 24, 1994  
Page Two

The Myers Langlie Mattix Unit has been in existence for approximately twenty years and was unitized for the purpose of conducting secondary recovery operations that would have been impractical without the formation of a waterflood unit. The unit was not conceived of and formed for the purpose of recovering substantial and previously undeveloped primary reserves. The anticipated secondary oil reserves envisioned in the early 1970's to be recoverable from the Myers Langlie Mattix Unit have now been produced and the Hickman study of February 15, 1991 (commissioned by Oxy's predecessor) justified an extensive new Myers Langlie Mattix Unit development program based solely upon the recovery of substantial and previously unanticipated and undeveloped primary reserves.

The currently effective Myers Langlie Mattix Unit participation factors were not approved for the purpose of developing substantial and previously undeveloped primary reserves. If substantial primary oil reserves still exist within the Myers Langlie Mattix Unit, Doyle Hartman and James A. Davidson possibly desire to develop their own primary reserves, or at least contend that new and more equitable unit participation factors must be accurately computed and approved by the proper regulatory authorities and current working interest owners before any newly proposed development work can proceed. It is mandatory that new and equitable participation factors be utilized for developing any substantial and previously unanticipated primary reserves with the new participation factors being mathematically proportional to the reserves underlying those leases from which any new primary reserves are to be derived.

Consequently, it is the position of Hartman and Davidson that Oxy most certainly has not taken the necessary step of computing and obtaining approval for new and more equitable unitization factors and without doubt does not possess the proper authority for proceeding with its proposed development program. However, since we would prefer not to interfere with Oxy's future plans for the Myers Langlie Mattix Unit, we respectfully suggest that both parties sit down and work out a mutually agreeable exchange of properties whereby Oxy can proceed with its desired plans for infill drilling in the Myers Langlie Mattix Unit and Hartman and Davidson can receive from Oxy an exchange property or properties that we ourselves can develop.



Mr. Charles Pollard  
Operations Engineering Supervisor and  
Mr. Scott Gengler  
August 24, 1994  
Page Three

Since it is imperative that a resolution be immediately reached corresponding to the future development of the Myers Langlie Mattix Unit, we ask that you promptly make contact with James A. Davidson (915-682-6482) about setting up a meeting to initiate a mutual exchange of property.

Very truly yours,

DOYLE HARTMAN, OIL OPERATOR

  
Doyle Hartman

DH/ao  
Enclosures

cc:  
VIA FACSIMILE: (915) 682-6504  
Mr. James A. Davidson  
214 W. Texas, Suite 710  
P.O. Box 494  
Midland, Texas 79702

Mr. Donald Romine  
Vice President - Western Region  
Oxy USA, Inc.  
#6 Desta Drive, Suite 6002  
Midland, TX 79705-5505

Mr. Robert Hunt  
Operations Manager - Western Region  
Oxy USA, Inc.  
#6 Desta Drive, Suite 6002  
Midland, TX 79705-5505

Mr. Tim A. Keys  
Oxy USA, Inc.  
#6 Desta Drive, Suite 6002  
Midland, TX 79710

Mr. Charles Pollard  
Operations Engineering Supervisor and  
Mr. Scott Gengler  
August 24, 1994  
Page Four

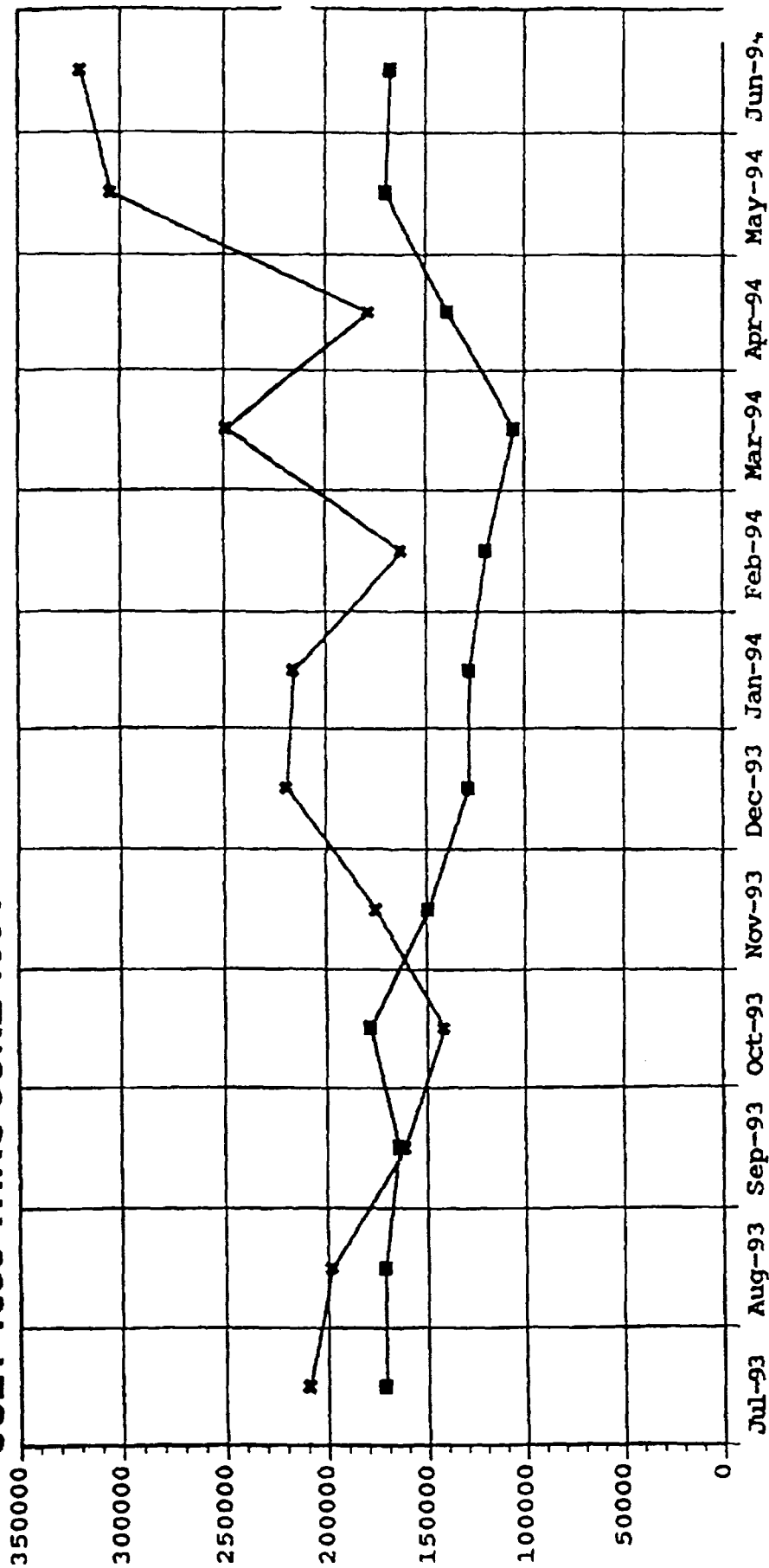
Mr. John Thoma  
Financial Consultant  
Oxy USA, Inc.  
#6 Desta Drive, Suite 6002  
Midland, TX 79705-5505

Mr. Patrick N. McGee  
Land Manager  
Oxy USA, Inc.  
#6 Desta Drive, Suite 6002  
Midland, TX 79705-5505

Ms. Carol Glass  
Landman  
Oxy USA, Inc.  
#6 Desta Drive, Suite 6002  
Midland, TX 79705-5505

Mr. Don Mashburn  
Ms. Carolyn Sebastian  
Mr. Steven Hartman  
Ms. Lisa Holderness  
Doyle Hartman, Oil Operator  
500 Main Street  
Midland, TX 79701

# MYERS LANGLEIE MATTIX UN NET REVENUE VS. BILLINGS JULY 1993 THRU JUNE 1994



—■— 6/8THS REVENUE —x— GROSS BILLINGS

Financial Performance  
Myers Langlie Matix Unit  
For the Period July 93 to June 94

Month/ Year	8/8th's Net Revenue	Gross Billing	Net Income (Loss)	Cumulative	Hartman's Net Revenue	Hartman's Billing	Hartman's Net Income (Loss)	CUMULATIVE
Jul-93	171,415.75	208,774.35	-37,358.60	-37,358.60	8,346.38	10,165.39	-1,819.03	-1,819.03
Aug-93	171,165.94	197,834.70	-26,668.77	-64,027.38	8,334.20	9,632.73	-1,298.53	-3,117.56
Sep-93	164,099.65	160,767.54	3,332.11	-60,695.25	7,990.13	7,827.90	162.23	-2,955.33
Oct-93	178,171.44	141,029.52	37,141.93	-23,553.32	8,675.30	6,886.84	1,808.46	-1,146.87
Nov-93	148,974.22	174,930.99	-25,956.78	-49,510.10	7,253.66	8,517.53	-1,263.87	-2,410.74
Dec-93	128,518.22	219,130.10	-90,611.88	-140,121.98	6,257.65	10,689.62	-4,411.97	-6,822.71
Jan-94	128,168.82	215,647.51	-87,480.69	-227,602.67	6,240.54	10,500.05	-4,259.51	-11,082.22
Feb-94	119,604.46	161,980.58	-42,356.12	-269,958.79	5,823.63	7,885.99	-2,062.36	-13,144.58
Mar-94	104,992.46	246,728.10	-143,735.63	-413,694.42	5,112.16	12,110.77	-6,998.61	-20,143.19
Apr-94	138,748.10	176,379.28	-39,631.19	-453,325.61	6,755.75	8,685.43	-1,929.68	-22,072.87
May-94	169,839.73	304,448.07	-134,608.34	-587,933.94	8,269.62	14,823.82	-6,554.20	-28,627.07
Jun-94	167,419.64	319,086.44	-151,666.80	-739,580.74	8,151.79	15,535.60	-7,383.81	-36,010.89
Totals	1,791,116.44	2,530,697.17	-739,580.74		87,210.78	123,221.67	-36,010.89	

800X 312 OCT 365

irrigat ditch of a surface owner, provided th. nothing herein shall be construed as leasing or otherwise conveying to Working Interest Owners a site for a water, gas injection, processing or other plant or camp site. Working Interest Owners shall pay the owner for damages to growing crops, timber, fences, improvements, and structures on the Unit Area that result from Unit Operations.

SECTION 14. TRACT PARTICIPATION. Participation of each Tract is shown in Exhibit "C" and has been computed in accordance with the following:

(a) Phase I Participation. Phase I begins the effective date hereof and continues until the first day of the month next following the date that the cumulative volume of oil produced after January 1, 1969, from the Unitized Formation underlying all of the Tracts in the Unit Area totals 299,013 barrels. The Tract Participation of each Tract during Phase I, shown on Exhibit "C", is based upon the following formula:

Tract Participation Percentage

Phase I equals

$$100 \frac{A}{B}$$

Where: "A" equals total income from oil and gas produced from such Tract from the Unitized Formation during the period January 1, 1968, through December 31, 1968.

"B" equals the summation of the total income from oil and gas produced from all qualified Tracts from the Unitized Formation during the period January 1, 1968, through December 31, 1968.

(b) Phase II Participation. Phase II shall begin the first day of the month next following the date on which the last of the 299,013 barrels referred to in (a) above is produced and shall continue for the remainder of the term of this agreement. The Participation of each Tract during Phase II, shown on Exhibit "C", is based upon the following formula:

Tract Participation Percentage.

Phase II equals

$$85 \frac{E}{F} \text{ plus } 10 \frac{G}{H} \text{ plus } 5 \frac{I}{J}$$

Where: "E" equals the estimated quantity of oil ultimately recoverable from the Unitized Formation by primary recovery operations credited to each Tract.

"F" equals the summation of the estimated quantity of oil ultimately recoverable from the Unitized Formation by

primary recovery operations credited to all qualified Tracts.

"G" equals the cumulative oil produced from the Unitized Formation underlying each Tract as of July 1, 1966.

"H" equals the summation of the cumulative oil produced from the Unitized Formation underlying all qualified Tracts as of July 1, 1966.

"I" equals the number of acres contained in each Tract.

"J" equals the summation of the number of acres contained in all qualified Tracts.

If less than all Tracts within the Unit Area qualify for participation hereunder as of the effective date hereof, Unit Operator shall file with the Supervisor, the Commissioner and the Commission a schedule showing the qualified Tracts as of said effective date, which schedule shall be designated Revised Exhibit C and considered for all purposes as a part of this agreement. Said revised Exhibit C shall set forth opposite each qualified Tract the revised Tract Participation therefor which shall be calculated by using the same factors and formula which were used to arrive at the Tract Participations set out in Exhibit C attached hereto, but applying the same only to the qualified Tracts. Said revised Exhibit C, upon approval by the Supervisor and the Commissioner, shall supersede, effective as of the effective date hereof, the Exhibit C attached hereto.

The Tract Participations shown on Exhibit C attached hereto, or as may be shown on the Revised Exhibit C as above provided, shall govern the allocation of unitized substances on and after the effective date of this Unit Agreement, and until the Tract Participations are revised pursuant to this agreement and such revised Tract Participations are approved by the Supervisor and the Commissioner.

(c) Within Sixty (60) days after the requirements for commencement of Phase II have been met, the Operator will notify the Oil and Gas Department of the New Mexico State Land Office of such conversion to Phase II.

SECTION 15. TRACTS QUALIFIED FOR PARTICIPATION. On and after the effective date hereof, and until expansion as provided in Section 4 hereof, the tracts within the Unit Area which shall be entitled to participation (as provided in Section 14, Tract Participation, hereof) in the production of Unitized Substances shall be composed of the Tracts shown on Exhibit A and listed in Exhibit "B" which qualify as follows:

KF111  
.29511  
1975

1975

LEGAL REPORT OF  
OIL AND GAS CONSERVATION ACTIVITIES

A Project of  
The Legal Committee  
Interstate Oil Compact Commission

Published and Distributed  
by the  
Interstate Oil Compact Commission  
P. O. Box 53127  
Oklahoma City, Oklahoma 73105

## FOREWORD

When the Interstate Oil Compact Commission was formed in 1935, it was for the purpose of promoting the conservation of oil and gas and the prevention of physical waste. Over the years, the Commission has taken every opportunity to fulfill this purpose.

One of the most important functions of the Interstate Oil Compact Commission is the dissemination of information in the form of printed reports, pamphlets and books for general distribution to state conservation agencies, the public and members of the industry. This Legal Report of Oil and Gas Conservation Activities has long been recognized as an outstanding vehicle for this purpose, as it provides a means of reporting legal activities which have taken place throughout the United States and in Canada during the prior year.

This report for the year 1975 is the twenty-seventh annual issue. It includes articles from thirty-one states and the Canadian provinces of Alberta and British Columbia. Some states are not included in this publication, since those reporters stated that their states had no significant legal activities dealing with oil and gas conservation during the year 1975 on which to report.

These annual Legal Reports are, in effect, supplements to the books, Conservation of Oil and Gas - A Legal History, 1948, and Conservation of Oil and Gas - A Legal History, 1948 - 1958. Both books were published by the Mineral Section of the American Bar Association and are available from the office of the American Bar Association in Chicago, Illinois.

The Interstate Oil Compact Commission is indebted to the various reporters who have prepared the articles for this publication. Many of these reporters have served in this capacity for many years. Each has performed this service willingly and without remuneration.

Primary responsibility for obtaining the individual reports rests with the Legal Committee of the Interstate Oil Compact Commission and its chairman, Judge Jim C. Langdon of Texas. Editing and compilation is done in the Headquarters Office.

Additional copies are available upon request to the Headquarters Office to anyone desiring them.

W. TIMOTHY DOWD  
Executive Director

June, 1976



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## NEBRASKA

### Legislative

The 1975 session of the Nebraska Unicameral Legislature considered only one bill which involved oil and gas. This bill included oil well service contractors under a water well registration bill. The bill was amended in Committee to exclude oil and gas, and was then killed.

### Production

As of December, 1975, there were a total of 1,209 active oil and gas wells and 450 shut-in wells. During 1975, Nebraska wells produced 6,119,671 barrels of oil, 2,311,821 Mcf casinghead gas and 1,572,814 Mcf dry gas.

A total of 377 drilling permits were approved during the year in 23 of Nebraska's 93 counties. At this time, there are 65 secondary recovery and pressure maintenance projects in operation.

### Commission

During 1975, the Commission heard 31 cases at public hearing. Twenty-one matters involved unorthodox locations; one was a ratable take; two involved commingling of production; two revised the Rules and Regulations of the Commission; one reduced the conservation mill levy from three to two mills; three involved unitization agreements and secondary recovery by waterflood, two of which were involuntary unitization; and one sought permission to hold geological information confidential for a period longer than twelve months.

### Administrative

Reed Gilmore, Kimball, Nebraska; John A. Mason, Sidney, Nebraska; and Ray L. Smith, Chappell, Nebraska, are members of the Nebraska Oil and Gas Conservation Commission. Mr. Gilmore is presently serving as Chairman. Paul H. Roberts is Director and Jack T. Fish is Administrative Assistant.

Reporter: Ray L. Smith, Member, Nebraska Oil and Gas Conservation Commission, Box 245, Chappell, Nebraska 69129; Official Representative, Interstate Oil Compact Commission.

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## NEW MEXICO

### Legislative

#### Energy Resources Act

In 1975, the New Mexico Legislature enacted Senate Bill 186 which created an Energy Resources Board composed of the Governor's Energy Resources Administrator, the Commissioner of Public Lands, the Director of the Bureau of Mines, the State Petroleum Engineer, the State Geologist, someone knowledgeable in nuclear, geothermal, solar or coal energy and a citizen who is not directly involved in energy business.

This law changes the membership of the Oil Conservation Commission to the Commissioner of Public Lands, the State Petroleum Engineer and the State Geologist. Under this act, the Director of the OCC staff is the State Petroleum Engineer, a new position replacing the present State Geologist. A new office of State Geologist is created and assigned responsibility for collecting geological data on energy resources in New Mexico.

Although the Commission's jurisdiction is not changed, there are provisions for a new appeal

procedure in this law. Whenever two or more members of the Energy Resources Board believe a decision of the Commission contravenes the statewide energy plan adopted by the Board or the public interest, they may file a motion with the Board to call the decision before it. The Board may, by a majority vote, adopt the motion and thereby call the Commission's decision, or any part thereof, before it for review. The Board, after a de novo hearing, issues such orders as are appropriate and the OCC must modify its orders to conform therewith.

The act increased the Oil Conservation Tax to eighteen one-hundredths of one percent of taxable value of sold products and extended its applicability to uranium, coal and geothermal resources.

#### Statutory Unitization Act

The Commission proposed the Statutory Unitization Act to the New Mexico Legislature and it passed all committees and both houses with no dissenting votes. The Act is limited to secondary and tertiary recovery operations and pressure maintenance projects. It provides that any working interest owner may file an application for compulsory unitization. If all the prerequisites set out in the statute are met by the applicant, the Commission is required to issue an order creating the unit and providing for its unitized operation and management. The order does not become effective, however, until it has been ratified by those persons who will initially be required to pay at least 75 percent of the costs of unit operations and by the owners of at least 75 percent of the production or proceeds thereof that will be credited to interests which are free of costs. If the persons owning the required percentages of interest in the unit area do not approve the plan for unit operations within six months, the unitization order ceases to be of further force or effect.

#### Geothermal Resources Conservation Act

In 1973 the Legislature conferred jurisdiction over geothermal resources on the Commission. Since this statute was legislation by reference and thereby unconstitutional, the Commission prepared a comprehensive geothermal bill to correct this problem.

The geothermal statutes closely parallel New Mexico's oil and gas statutes and provide a sound legal basis for this state's Geothermal Rules and Regulations which became effective on October 1, 1974.

#### Oil and Gas Industry Study Interim Committee

The 1975 Legislature created an Oil and Gas Industry Study Interim Committee. Its duty is to study New Mexico's oil and gas statutes, constitutional provisions, regulations, court decisions, and the policies and valuations used by the oil and gas industry. The Committee is to make recommendations to the Legislature on energy legislation.

#### Administrative

In October, the Commission entered Order No. R-5113 which amended Rules 104 B.1(a) and 104 C. II(a) to include the Wolfcamp formation under the standard 320-acre gas spacing and well location requirements for Southeast New Mexico. These new spacing rules apply to development wells for defined gas pools in the Wolfcamp formation which were created and defined after November 1, 1975.

In November, the Commission approved the application of Texas West Oil and Gas Corporation for compulsory pooling of a 320-acre tract located within the boundaries of the Bell Lake Unit. Texas West had the operating rights to an undivided working interest which was not committed to the unit and proposed to drill a well at an orthodox location for the development of this tract. Commission Order No. R-5039-B pooled the 320-acre spacing unit which included Texas West's 7/32 uncommitted, undivided working interest and a 25/32 undivided working interest committed to the unit.

In 1975, 258 cases were docketed before the Commission or its examiners including the first case for statutory unitization. The Commission issued 218 administrative orders.

## Judicial

The Commission was involved in no major court activity during 1975.

Reporter: William F. Carr, General Counsel, Oil Conservation Commission, Box 2088, Santa Fe, New Mexico 87501; Member, Legal Committee, Interstate Oil Compact Commission.

## NEW YORK

### Legislative

Two amendments were proposed to the New York State Oil, Gas and Solution Mining Law during the 1975 legislative session. Both would have extended regulatory authority into New York's "old fields" (those discovered prior to October 1, 1963). One would have required a permit from the Department of Environmental Conservation for all oil, gas or solution salt mining wells and the second would require the filing of a well spacing plan for the development of old field areas. Although neither proposal was acted upon, there is an automatic reintroduction provision for both bills for 1976.

### Administrative

The Department of Environmental Conservation conducted two public hearings concerning spacing in Oriskany gas fields. Both were amendments to existing spacing orders and resulted in minor adjustments in the location or size of existing spacing units.

### Judicial

There was no activity in the New York State courts during 1975 regarding oil and gas conservation matters.

Reporter: John J. Dragonetti, Chief, Bureau of Minerals, 50 Wolf Road, Albany, New York 12233; Associate Official Representative, Interstate Oil Compact Commission.

## NORTH CAROLINA

### Legislative

The 1975 session of the North Carolina General Assembly amended the Oil Pollution Control Act of 1973 to provide for the permitting of oil terminal facilities. "Oil Terminal Facilities" are defined to include all refineries, oil storage facilities, and oil transport or processing facilities that have a capacity of 500 barrels or more. The Secretary of NER is responsible for developing rules, regulations and administrative procedures concerning the siting of oil terminal facilities.

### Administrative

During the 1974-1975 fiscal year, the Petroleum Division issued one drilling permit for a test well in Lee County, North Carolina. The well was drilled in the Deep River Triassic Basin and represents the first oil and gas exploration attempt in the Triassic rocks of North Carolina. The well was plugged and abandoned as a dry well on November 1, 1974.

No drilling permits were issued during the first half of the 1975-1976 fiscal year.

The rules and regulations pertaining to the plugging and capping of abandoned oil and gas

Dockets Nos. 26-80 and 27-80 are tentatively set for August 20 and September 3, 1980. Applications for hearing must be filed at least 22 days in advance of hearing date.

DOCKET: COMMISSION HEARING - TUESDAY - AUGUST 5, 1980

OIL CONSERVATION COMMISSION - 9 A.M. - ROOM 205  
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

CASE 5848: (DE NOVO)

Application of Petroleum Development Corporation for pool contraction and creation, Lea County, New Mexico. Applicant, in the above-styled cause, seeks the contraction of the Querecho Plains-Bone Spring Pool to comprise the Upper Bone Spring formation only, from 8390 feet to 8680 feet on the top of its McKay West Federal Well No. 1 located in Unit F of Section 34, Township 18 South, Range 32 East, and the creation of the Querecho Plains-Lower Bone Spring Pool to comprise said formation from 8680 feet to the base of the Bone Spring underlying the NW/4 of said Section 34.

Upon application of Petroleum Development Corporation this case will be heard De Novo pursuant to the provisions of Rule 1220.

CASE 6987: Application of Getty Oil Company for statutory unitization, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an order unitizing, for the purpose of continued secondary recovery operations, all mineral interests from a point 100 feet above the base of the Seven Rivers formation down to the base of the Queen formation underlying the Myers Langlie Mattix Unit Area, which encompasses 9360 acres, more or less, being all or portions of the following lands in Lea County, New Mexico: Sections 25 and 36, Township 23 South, Range 36 East; Sections 28 thru 34, Township 23 South, Range 37 East; Sections 1 and 12, Township 24 South, Range 36 East; and Sections 2 thru 11, Township 24 South, Range 37 East.

Among the matters to be considered at the hearing will be the necessity of unit operations; the designation of a unit operator; the determination of the horizontal and vertical limits of the unit area; the determination of a fair, reasonable, and equitable allocation of production and costs of production, including capital investment, to each of the various tracts in the unit area; the determination of credits and charges to be made among the various owners in the unit area for their investment in wells and equipment; and such other matters as may be necessary and appropriate for carrying on efficient unit operations, including, but not necessarily limited to, unit voting procedures, selection, removal, or substitution of unit operator, and time of commencement and termination of unit operations.

Docket No. 25-80

DOCKET: EXAMINER HEARING - WEDNESDAY - AUGUST 6, 1980

9 A.M. - OIL CONSERVATION DIVISION CONFERENCE ROOM,  
STATE LAND OFFICE BUILDING, SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or Richard L. Stamets, Alternate Examiner:

CASE 6988: In the matter of the hearing called by the Oil Conservation Division on its own motion to permit Bennett Petroleum Corporation, The Travelers Indemnity Company, and all other interested parties to appear and show cause why the Phelps Dodge Well No. 2 in Unit J of Section 4 and Wells Nos. 3 in Unit P and 3Y in Unit I of Section 9, all in Township 28 North, Range 21 East, and No. 5 in Unit P of Section 24, Township 28 North, Range 20 East, Colfax County, should not be plugged and abandoned in accordance with a Division-approved plugging program.

CASE 6989: Application of Read & Stevens, Inc. for a unit agreement, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks approval for the Lancaster Spring Unit Area, comprising 960 acres, more or less, of State, Federal, and fee lands in Township 22 South, Range 26 East.

CASE 6990: Application of Read & Stevens, Inc. for a unit agreement, Chaves County, New Mexico. Applicant, in the above-styled cause, seeks approval for the North Haystack Unit Area, comprising 4800 acres, more or less, of State, Federal, and fee lands in Township 5 South, Range 26 East.

CASE 6991: Application of Amoco Production Company for salt water disposal, Lea County, New Mexico. Applicant, in the above-styled cause, seeks authority to dispose of produced salt water into the San Andres formation in a 100 foot perforated interval between 4400 feet and 4800 feet in its South Hobbs Unit Well No. 103 in Unit B of Section 15, Township 19 South, Range 38 East, Hobbs Grayburg-San Andres Pool.

RECEIVED  
OIL CONSERVATION DIVISION  
SANTA FE  
BEFORE THE

OIL CONSERVATION COMMISSION

NEW MEXICO DEPARTMENT OF ENERGY AND MINERALS

APPLICATION OF GETTY OIL COMPANY  
FOR APPROVAL OF STATUTORY UNITIZA-  
TION, LEA COUNTY, NEW MEXICO

CASE 6982

APPLICATION

Comes now, GETTY OIL COMPANY, by and through its under-  
signed attorneys and pursuant to the provisions of the Statutory  
Unitization Act (Sections 70-7-1 through 70-7-21, N.M.S.A., 1978  
Comp.) hereby applies to the New Mexico Oil Conservation Commis-  
sion for an Order unitizing the Myers Langlie-Mattix Unit, Lea  
County, New Mexico, and in support of its application states:

1. Getty Oil Company (Getty) is a Delaware corporation  
authorized to transact business in the State of New Mexico,  
and is engaged in the business of, among other things,  
producing and selling oil and gas.
2. The Proposed Unit Area for which this application is  
made consists of 9,360 acres, more or less, of Federal,  
State and Fee land in Lea County, New Mexico, and is  
more particularly described on Exhibit A attached hereto  
and incorporated herein by reference. Getty proposes to  
seek an order pursuant to the Statutory Unitization Act  
providing for unitized management, operation and further  
development of the Project Area. A plat of the Project  
Area is attached hereto as Exhibit B and incorporated  
herein by reference.
3. The vertical limits of the formation to be included  
within the proposed unit area means that interval which

extends from a point 100 feet above the base of the Seven Rivers formation to the base of the Queen formation; said interval having been heretofore found to occur in the Texas Pacific Oil Company's Blinebry "B" No. 3 well (located 2310 feet from the west line and 330 feet from the north line of Section 34, Township 23 South, Range 37 East, Lea County, New Mexico) at an indicated depth interval of 3168 feet to 3570 feet, as recorded on the Schlumberger Electrical log Run No. 1 taken December 26, 1952, said log being measured from a derrick floor elevation of 3300 feet above sea level.

4. The portion of the reservoir involved in this application has been reasonably defined by development.

5. The type of operations being conducted in this unit is secondary recovery by means of water flooding.

6. Attached to this application as Exhibit C and incorporated herein by reference is a copy of the proposed plan of statutory unitization which Getty considers fair, reasonable and equitable.

7. Attached to this application as Exhibit D and incorporated herein by reference is a copy of the proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid.

8. Getty further states:

a. That the unitized management, operation and further development of the portion of the Langlie-Mattix pool which is the subject of this application

is reasonably necessary in order to effectively carry on secondary recovery operations and to substantially increase the ultimate recovery of oil from the unitized portion thereof.

b. That unitized methods of operations applied to the portion of the Langlie-Mattix pool which is the subject of this application are feasible, will prevent waste and will result with reasonable probability in the increased recovery of substantially more oil from the unitized portion of the pool than would otherwise be recovered.

c. That the estimated additional costs, if any, of conducting such operations will not exceed the estimated value of additional oil so recovered plus reasonable profit.

d. That such unitization and adoption of unitized methods of operation will benefit the working interest owners and the royalty owners of the oil and gas rights within the portion of the pool directly affected.

e. That Getty Oil Company, as operator, has made a good faith effort to secure voluntary unitization within the portion of the pool affected by this application.

f. That the participation formula contained in the unitization agreement allocates the produced and saved unitized hydrocarbons to the separately owned tracts in the unit area on a fair, reasonable and equitable basis.

9. Approval of the statutory unitization of the Myers Langlie-Mattix unit sought hereunder is in the interest



of conservation, the prevention of waste and the protection of correlative rights.

WHEREFORE, Getty Oil Company respectfully requests that this application be set for hearing before the full Commission at the earliest practicable date and that the Commission enter its order granting this application.

Respectfully submitted,

CAMPBELL AND BLACK, P.A.

By 

William F. Carr

Attorneys for Applicant

Post Office Box 2208

Santa Fe, New Mexico 87501

PROPOSED UNIT AREA  
MYERS LANGLIE-MATTIX UNIT  
LEA COUNTY, NEW MEXICO

TOWNSHIP 23 SOUTH, RANGE 36 EAST, N.M.P.M.

Section 25: N/2 NE/4, SE/4 NE/4, E/2 SW/4,  
SW/4 SW/4, and SE/4  
Section 36: N/2, SE/4, and E/2 SW/4

TOWNSHIP 23 SOUTH, RANGE 37 EAST, N.M.P.M.

Section 28: SW/4  
Section 29: W/2, W/2 E/2, and E/2 SE/4  
Section 30: N/2, SW/4, N/2 SE/4, and SW/4 SE/4  
Section 31 through 33: All  
Section 34: W/2

TOWNSHIP 24 SOUTH, RANGE 36 EAST, N.M.P.M.

Section 1: NE/4 NE/4  
Section 12: S/2 N/2, N/2 S/2, and SE/4 SE/4

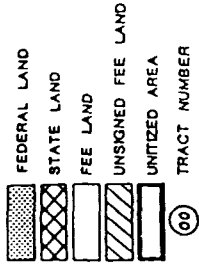
TOWNSHIP 24 SOUTH, RANGE 37 EAST, N.M.P.M.

Section 2: W/2 NE/4 and W/2  
Section 3: NE/4, E/2 SE/4, and W/2 SW/4  
Sections 4 and 5: All  
Section 6: E/2, E/2 W/2, and NW/4 NW/4  
Section 7: N/2, SE/4, S/2 SW/4  
Section 8: N/2, N/2 S/2, and SW/4 SW/4  
Section 9: NW/4, N/2 SW/4, N/2 NE/4, SE/4 NE/4  
Section 10: NW/4, W/2 NE/4, SE/4 NE/4, E/2  
SW/4, and W/2 SE/4  
Section 11: SW/4 NW/4

The "Unitized Formation" shall mean that subsurface portion of the Proposed Unit Area known as the Langlie-Mattix Pool in the interval which extends from a point 100 feet above the base of the Seven Rivers formation to the base of the Queen formation; said interval having been heretofore found to occur in the Texas Pacific Oil Company to Blinebry "B" No. 3 well (located 2310 feet from the west line and 330 feet from the north line of Section 34, Township 23 South, Range 37 East, Lea County, New Mexico) at an indicated depth interval of 3168 feet to 3570 feet, as recorded on the Schlumberger Electrical log Run No. 1 taken December 26, 1952, said log being measured from a derrick floor elevation of 3300 feet above sea level.

EXHIBIT A

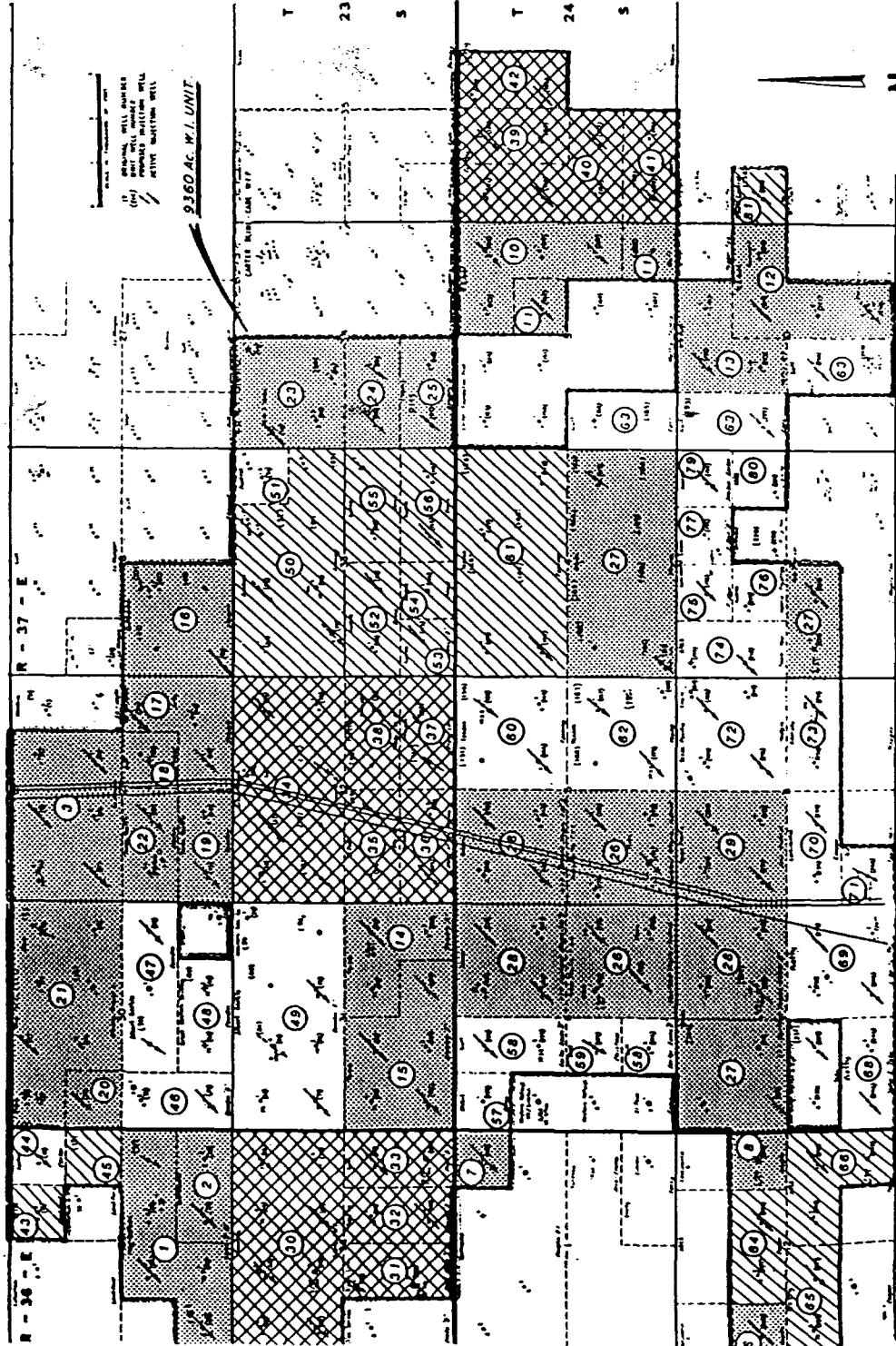
**LEGEND**



**EXHIBIT B**

GETTY OIL COMPANY  
PLAT OF  
MYERS LANGLE MATTX UNIT  
LEA COUNTY, NEW MEXICO

JUNE, 1980





STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

JOSE KING  
GOVERNOR  
LARRY KEHOE  
SECRETARY

January 5, 1981

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-2434

Case 6987

Mr. William F. Carr  
Campbell and Black, P.A.  
P. O. Box 2208  
Santa Fe, New Mexico 87501

Re: Myers Langlie-Mattix  
Unit, Lea County,  
New Mexico

Dear Mr. Carr:

The Oil Conservation Commission is in receipt of the sworn affidavit of Raymond W. Blohm, District Production Manager for the Midland Exploration and Production District of Getty Oil Company, wherein Mr. Blohm swears that Getty Oil Company has received written approval or ratification of the plan for unit operations from more than 75 percent of those who would be required initially to pay the costs of unit operations and from more than 75 percent of the interest owners of production proceeds from the unit that will be credited to interests which are free of costs.

The above percentages of ratification or approval of the plan for unitized operations meet the criteria set forth by Section 70-7-8, NMSA, 1978 Comp., and were also within the time limit prescribed by said Section 70-7-8. It is therefore hereby determined that Commission Order No. R-6447 unitizing all interests in the Myers Langlie-Mattix Unit Area, Lea County, New Mexico, is in full force and effect.

Very truly yours,

JOE D. RAMEY  
Division Director and  
Secretary, Oil Conservation  
Commission

JDR/DSN/fd

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**APPLICATION FOR STATUTORY UNITIZATION**  
**MYERS LANGLIE MATTIX UNIT AREA**  
**(Filed June 19, 1980)**

Article 7 Statutory Unitization Act	Application of Getty Oil Company
<p><b>70-7-1. Purpose of act.</b></p> <p>The legislature finds and determines that it is desirable and necessary under the circumstances and for the purposes hereinafter set out to authorize and provide for the unitized management, operation and further development of the oil and gas properties to which the <u>Statutory Unitization Act [70-7-1 to 70-7-21 NMSA 1978]</u> is applicable, to the end that greater ultimate recovery may be had therefrom, waste prevented, and correlative rights protected of all owners of mineral interests in each unitized area. It is the intention of the legislature that the Statutory Unitization Act apply to any type of operation that will substantially increase the recovery of oil above the amount that would be recovered by primary recovery alone and not to what the industry understands as exploratory units.</p>	<p>Before the Oil Conservation Commission New Mexico Department of Energy and Minerals</p> <p>Application of Getty Oil Company for Approval of Statutory Unitization, Lea County, New Mexico, Case No. 6987</p>
<p><b>70-7-5. Requisites of application for unitization.</b></p> <p>Any working interest owner may file an application with the division requesting an order <u>for the unit operation of a pool or any part thereof</u>. The application shall contain:</p>	<p>Comes now, GETTY OIL COMPANY, by and through its undersigned attorneys and pursuant to the provisions of the Statutory Unitization Act (Sections 70-7-1 through 70-7-21, N.M.S.A., 1978 Comp.) hereby applies to the New Mexico Oil Conservation Commission for an Order <u>unitizing</u> the Myers Langlie-Mattix Unit, Lea County, New Mexico, and in support of its application states:</p>
<p>A. a description of the <u>proposed unit area</u> and the vertical limits to be included therein with a map or plat thereof attached;</p>	<p>1. Getty Oil Company (Getty) is a Delaware corporation authorized to transact business in the State of New Mexico and is engaged in the business of, among other things, producing and selling oil and gas.</p> <p>2. The Proposed Unit Area for which this application is made consists of 9,360 acres, more or less, of Federal, State and Fee land in Lea County, New Mexico, and is more particularly described on Exhibit A attached hereto and incorporated herein by reference. Getty proposes to seek an order pursuant to the Statutory Unitization Act providing for unitized management, operation and further development of the <u>Project Area</u>. A plat of the Project Area is attached hereto as Exhibit B and incorporated herein by reference.</p> <p>3. The vertical limits of the formation to be included within the <u>proposed unit area</u> means that interval which extends from a point 100 feet above the base of the Seven Rivers formation to the base of the Queen formation; said interval having been heretofore found to occur in the Texas Pacific Oil Company's Blinbry "B" No. 3 well (located 2310 feet from the west line and 330 feet from the north line of Section 34, Township 23 South, Range 37 East, Lea County, New Mexico) at an indicated depth interval of 3168 feet to 3570 feet, as recorded on the Schlumberger Electrical log Run No. 1 taken December 26, 1952, said log being measured from a derrick floor elevation of 3300 feet above sea level.</p>
<p>B. a statement that the reservoir or portion thereof involved in the application has been reasonably defined by development;</p>	<p>4. The portion of the reservoir involved in this application has been reasonably defined by development.</p>
<p>C. a statement of the type of operations contemplated for the unit area;</p>	<p>5. The type of operations being conducted in this unit is secondary recovery by means of water flooding.</p>
<p>D. a copy of a proposed plan of unitization which the applicant considers fair, reasonable and equitable;</p>	<p>6. Attached to this application as Exhibit C and incorporated herein by reference is a copy of the proposed plan of statutory unitization which Getty considers fair, reasonable and equitable.</p>
<p>E. a copy of a proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid; and</p>	<p>7. Attached to this application as Exhibit D and incorporated herein by reference is a copy of the proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid.</p>
<p>F. an allegation of the facts required to be found by the division under Section 70-7-6 NMSA 1978.</p>	<p>8. Getty further states:</p>
<p><b>70-7-6. Matters to be found by the division precedent to issuance of unitization order.</b></p> <p>A. After an application for unitization has been filed with the division and after notice and hearing, all in the form and manner and in accordance with the procedural requirements of the division, and prior to reaching a decision on the petition, the division shall determine whether or not each of the following conditions exists:</p>	
<p>(1) that the unitized management, operation and further development of the oil or gas pool or a portion thereof is reasonably necessary in order to effectively carry on pressure maintenance or secondary or tertiary recovery operations, to substantially increase the ultimate recovery of oil and gas from the pool or the unitized portion thereof;</p>	<p>a. That the unitized management, operation and further development of the portion of the Langlie-Mattix pool which is the subject of this application is reasonably necessary in order to effectively carry on secondary recovery operations and to substantially increase the ultimate recovery of oil from the unitized portion thereof.</p>
<p>(2) that one or more of the said unitized methods of operations as applied to such pool or portion thereof is feasible, will prevent waste and will result with reasonable probability in the increased recovery of substantially more oil and gas from the pool or unitized portion thereof than would otherwise be recovered;</p>	<p>b. That unitized methods of operations applied to the portion of the Langlie-Mattix pool which is the subject of this application are feasible, will prevent waste and will result with reasonable probability in the increased recovery of substantially more oil from the unitized portion of the pool than would otherwise be recovered.</p>
<p>(3) that the estimated additional costs, if any, of conducting such operations will not exceed the estimated value of the additional oil and gas so recovered plus a reasonable profit;</p>	<p>c. That the estimated additional costs, if any, of conducting such operations will not exceed the estimated value of additional oil so recovered plus reasonable profit.</p>
<p>(4) that such unitization and adoption of one or more of such unitized methods of operation will benefit the working interest owners and royalty owners of the oil and gas rights within the pool or portion thereof directly affected;</p>	<p>d. That such unitization and adoption of unitized methods of operation will benefit the working interest owners and the royalty owners of the oil and gas rights within the portion of the pool directly affected.</p>
<p>(5) that the operator has made a good faith effort to secure voluntary unitization within the pool or portion thereof directly affected; and</p>	<p>e. That Getty Oil Company, as operator, has made a good faith effort to secure voluntary unitization within the portion of the pool affected by this application.</p>
<p>(6) that the participation formula contained in the unitization agreement allocates the produced and saved unitized hydrocarbons to the separately owned tracts in the unit area on a fair, reasonable and equitable basis.</p>	<p>f. That the participation formula contained in the unitization agreement allocates the produced and saved unitized hydrocarbons to the separately owned tracts in the unit area on a fair, reasonable and equitable basis.</p>
<p>C. When the division determines that the preceding conditions exist, it shall make findings to that effect and <u>make an order creating the unit</u> and providing for the unitization and unitized operation of the pool or portion thereof described in the order, all upon such terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners.</p>	<p>9. Approval of the statutory unitization of the Myers Langlie-Mattix unit sought hereunder is in the interest of conservation, the prevention of waste and the protection of correlative rights.</p> <p>WHEREFORE, Getty Oil Company respectfully requests that this application be set for hearing before the full Commission at the earliest practicable date and that the Commission <u>enter its order granting this application</u>.</p>

# **ONSHORE POOLING AND UNITIZATION**

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**POOLING AND UNITIZATION  
IN NEW MEXICO -  
THE ROLE OF THE OIL CONSERVATION  
DIVISION**

By

**William F. Carr**

**Campbell, Carr, Berge & Sheridan, P.A.  
Santa Fe, New Mexico**

**Paper 5B**

## Biographical Sketch

### WILLIAM F. CARR

William F. Carr is a partner in the Santa Fe law firm of Campbell, Carr, Berge & Sheridan, P. A., where he has an active oil and gas litigation and administrative practice. From 1973 to 1976 he served as Chief Counsel to the New Mexico Oil Conservation Commission at which time he drafted the Statutory Unitization Act and was the principal witness in the legislative hearings when it was adopted. He has been recognized by the New Mexico State Bar as a Specialist in Natural Resources Law, Oil and Gas, since 1991. Mr. Carr is admitted to the bars of New Mexico, U. S. District Court for the District of New Mexico, U. S. Court of Appeals and U. S. Supreme Court.



POOLING AND UNITIZATION IN NEW MEXICO  
THE ROLE OF THE OIL CONSERVATION DIVISION

William F. Carr  
Campbell, Carr, Berge  
& Sheridan, P.A.  
Santa Fe, New Mexico

This paper examines the role of the New Mexico Oil Conservation Division<sup>1</sup> in approving and supervising voluntary and statutory unitization projects.

VOLUNTARY UNITIZATION

In 1935 the New Mexico legislature adopted the Oil and Gas Act which created the Oil Conservation Division, vested it with jurisdiction over "all matters relating to the conservation of oil and gas", NMSA 1978, Section 70-2-6, and imposed on it the duties to "prevent waste"<sup>2</sup> prohibited by this act and to protect **correlative rights**.<sup>3</sup> NMSA 1978. §

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1. In 1977 the New Mexico legislature created the Department of Energy and Minerals. The Oil Conservation Commission was subsumed by and became a Division of the new Department. Prior to this legislation, the agency, its Director and the three member Oil Conservation Commission were referred to as the "Commission." After 1977, the agency and its Director are referred to as the "Division" and actions of the three member Commission are referred to as the "Commission." The Commission has concurrent jurisdiction with the Division as necessary to carry out its duties. NMSA 1978, § 70-2-6. As used in this paper, the term "Division" refers to both the Division and the Commission. "Commission" is used only as necessary to identify actions or decisions of only the full Commission.
  2. ... "waste," in addition to its ordinary meaning, shall include:
    - (a) Underground Waste as those words are generally understood in the oil and gas business, and in any event to embrace the inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, of any pool. and the locating, spacing, drilling, equipping, operating, or producing, of any well or wells in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool, and the use of inefficient underground storage of natural gas.

The New Mexico Supreme Court has observed that the Division "is a creature of statute" whose powers are expressly defined and limited by the laws creating it. *Continental Oil Company v. Oil Conservation Comm'n*, 70 N.M. 310, 315, 373 P.2d 809, 814 (1962). Even though no statute addresses approval of voluntary units or otherwise expressly authorizes Division review of these contracts, *see*, NMSA 1978, § 70-2-12 B, throughout most of its history the Division has reviewed voluntary unit agreements. These reviews include agreements which include state, fee and often federal lands<sup>1</sup> and are undertaken by the Division pursuant to its general statutory duties to do all things reasonably necessary to prevent the waste of oil and gas and protect correlative rights, and in response to the requirements of private unitization contracts.

Prior to 1950, units agreements were reviewed only when the operator of a proposed unit submitted the agreement to the Division. Since that time, however, primarily in response to actions by the New Mexico Commissioner of Public Lands ("Commissioner"), most unit agreements have been submitted for review and approval.

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(b) Surface Waste as those words are generally understood in the oil and gas business, and in any event to embrace the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of natural gas of any type or in any form, or crude petroleum oil, or any product thereof, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage, or fire, especially such loss or destruction incident to or resulting from the manner of spacing, equipping, operating or producing a well or wells, or incident to or resulting from the use of inefficient storage or from the production of crude petroleum oil or natural gas, in excess of the reasonable market demand . . . . NMSA 1978, § 70-2-3.

3. "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 the 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. NMSA 1978, § 70-2-33(H).
4. Unit agreements that include no state or fee lands are approved only by the Bureau of Land Management.

There is no formal relationship between the Division and either the Commissioner or the Bureau of Land Management ("BLM") concerning approval of unit agreements. However, the Division's review of proposed unit agreements is affected by the nature of the lands involved and the scope of the review of proposed units by other government agencies. To understand Division approval procedures, a brief review of the approval conditions of the Commissioner of Public Lands and the BLM is required.

### COMMISSIONER OF PUBLIC LANDS

The Commissioner of Public Lands, to conserve the oil and gas resources of the state, may consent to and approve the development and operation of state lands under agreements made by lessees of state lands with other state, federal or fee lessees or interest owners. NMSA 1978, § 19-10-45. The Commissioner has adopted rules which govern applications for approval of unit agreements and specify what data must be presented in support of these applications (N.M. State Land Office Rule 1.045 *et seq.* (*hereinafter* "N.M. SLO Rule \_\_")). These rules do not contain provisions for a hearings before the Commissioner on proposed unit agreements and when lessees of state lands raised concerns about the impact of proposed units on their correlative rights, no forum existed in which they could present their objections to a proposed unit plan.

In the early 1950's, the Commissioner was approached by the lessees of certain state lands concerning the boundaries of a proposed voluntary unit. Since there were no provisions in State Land Office Rules for hearings on proposed units, the Commissioner<sup>5</sup> asked the Director to call a Division hearing on this proposed unit to determine if the unit boundaries had been gerrymandered so as to impair the correlative rights of the lessees of state land. The case was set for hearing, the Commissioner gave preliminary approval to the proposed unit but made Division approval a condition precedent to his final approval. The applicant amended the unit boundaries, and the unit was approved by the Division and the Commissioner. Thereafter, most proposed units involving state leases were referred by the Commissioner to the Division for hearing and soon all units involving fee lands were also being reviewed. This practice continues to the present.<sup>6</sup>

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5. The Commissioner or his representative has always been a member of the Oil Conservation Commission. NMSA 1978, § 70-2-4.
  6. Interview with R. L. Stamets, former Director of the New Mexico Oil Conservation Division, in Santa Fe, N.M. (Jan. 10, 1997).

This procedure was formalized in the State Land Office Rules when it adopted Rule 1.047. This rule provides that the Commissioner will give preliminary approval as to the form and content of a Unit Agreement when an application and attached data meet certain requirements, *see* N.M. SLO Rules 1.044 through 1.051, but that the Commissioner may defer final approval of the Unit Agreement pending approval of the Oil Conservation Division<sup>7</sup>.

The Commissioner's preliminary approval of a unit agreement should be obtained prior to submitting the agreement to the Division.

### THE BUREAU OF LAND MANAGEMENT

The Bureau of Land Management's review of unit agreements affects the procedures before the Oil Conservation Division. The Mineral Leasing Act of February 25, 1920, authorizes federal lessees and their representatives to unite and adopt an operating plan for unit development and operation of an oil and gas pool, or portion thereof, to conserve natural resources when the Secretary of the Interior determines the unitization will be necessary or advisable in the public interest. 30 U.S.C. § 181 *et seq.*

When the federal lands in a voluntary expansion unit aggregate more than 10% of the Unit Area, applicants must use the federal Model Form of Unit Agreement and follow the federal procedures for the designation of the proposed area. BLM rules contain specific procedures for unit approval and specific requirements for the supporting data that must accompany an application. The BLM reviews the proposed unit boundary and applicants must show that the unit outline is consistent with the submitted geological information. The applicant must show that every operator of an interest in the unit area was given an opportunity to join the unit agreement and that the operator has sufficient voluntary commitment to the unit plan to provide the operator with effective control of unit operations.

Once an operator meets the BLM requirements, the Bureau of Land Management will give its preliminary approval of the unit agreement and designate the proposed unit area as an area logically suited for development under a unit plan. If state and fee lands are included in the unit area, final approval is withheld pending approval of the Division. Operators should obtain preliminary approval from the BLM prior to bring the

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7. Several unit agreements which included state lands were approved by the Commissioner without Division review in the early 1980's. With this exception, since the early 1950's, all Commissioners have withheld final approval of unit agreements until Division approval has been obtained.

proposed unit to the Division.

### OIL CONSERVATION DIVISION

After an operator obtains preliminary approvals of a proposed unit plan from the Commissioner, where state lands are involved, and the Bureau of Land Management, where federal lands are involved, the operator should file an application for approval of the unit agreement with the Oil Conservation Division.

#### A. Applications

There are no statutes or rules which specify what should be included in an application for approval of a voluntary unit agreement. Typically, the application describes the unit area and the proposed unitized interval and identifies the character of the land in the unit area and any approvals obtained from other government agencies. The application states that sufficient voluntary commitment has been, or will be, obtained to provide effective control of unit operations and requests that the application be set for hearing. Applications must be filed 22 days prior to a scheduled hearing date. Currently, Examiner hearings are held approximately twice each month.

#### B. Notice

The notice requirements for Division hearings are set out in Division Rules 1204 through 1207. Rule 1204 provides for notice by publication once "... in a newspaper of general circulation in the county, or each of the counties if there be more than one, in which any land, oil, gas, or other property which is affected may be situated." The Division publishes notice of all matters set for hearing before the Division or Commission. This notice is based on the proposed legal advertisement the applicant provides at the time the application is filed. N.M. Oil Conservation Division Rule 1205 (hereinafter "N.M. OCD Rule \_\_"). The Division's publication of notice satisfies the requirements of N.M. OCD Rule 1204.

N.M. OCD Rule 1207 contains additional notice requirements for specific types of cases. Although there are no additional requirements for unit agreements, N.M. OCD Rule 1207(11) provides that in cases not otherwise addressed by this rule where the outcome may affect a property interest of other individuals or entities, "[a]ctual notice shall be given to such individuals or entities by certified mail (return receipt requested)." Because an application for approval of a unit agreement seeks approval of a voluntary contract, the Division does not require notice under N.M. OCD Rule 1207. The basis for this approach

is that if an owner has committed its interests to the unit plan, it has protected its correlative rights and has availed itself of the opportunity to produce its share of the reserves under its lands by joining the unit. If an owner has not committed its interests to the unit plan, unit development should not affect its mineral interests because it will be able to produce its minerals pursuant to the provisions of the relevant lease. Unitization should not impair its correlative rights.

Under current rules, publication of the Division's hearing Docket is the only notice provided of most applications for approval of voluntary unit agreements. Although there are circumstances in which royalty owners, owners of adjoining tracts or others may have property interests that will be affected by unit operations and therefore are entitled to notice of the proposed unit, the adequacy of the Division's notice provisions has never been challenged.

### C. Hearings

Since there are no statutes or rules that specify what information to present at the hearing before the Division, applicants generally present the same information to the Division they present to the Commissioner and the BLM. If not required by the Unit Agreement, the applicant should commit to file all plans of development with the Division at the same time they are filed with other affected agencies.<sup>8</sup>

At the hearing, the applicant presents the unit agreement<sup>9</sup> and reviews the status of the voluntary commitment of the interests to the unit plan. The applicant should describe the efforts it made to reach a voluntary agreement with all interest owners in the unit area and have obtained sufficient voluntary joinder to have effective control of unit operations. The operator should present copies of the preliminary approvals of the Commissioner and the BLM. If these approvals have not been received, the status of review by these agencies should be reviewed. Finally, a geological witness should present evidence to justify the unit boundaries and the location of the initial test well on the unit area.

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8. Although, as part of the Division's continuing supervision of units, it requires that all Plans of Development be filed with it at the same time they are filed with other agencies, in most cases the Division does not review these Plans.
  9. The Commissioner has adopted form unitization agreement for proposed units containing various types of land. These forms are available from the Oil and Gas Division of the New Mexico State Land Office.

After the proposed operator obtains Division approval, the Commissioner of Public Lands will give final approval to the unit and the BLM's authorized officer will approve the Unit Agreement by executing an Approval--Certification--Determination.

**D. Effect of Unitization on Other Division Rules**

Although the operator of a unit has the exclusive right to explore and develop the unitized minerals, this activity remains subject to the applicable Division rules governing spacing and wells locations. These requirements are necessary to prevent waste and assure that the interests of the non committed owners are protected. If a new spacing pattern is needed within a unit or a portion thereof, the operator must file an application for special pool rules in the same manner as for a non-unitized reservoir.

In January, 1996, the Division adopted new statewide rules which govern spacing and well locations. N.M. OCD Rule 104. These rules have relaxed well spacing requirements and have established administrative procedures for the approval of unorthodox locations. When these rules are applied to wells in field-wide units, it should be much easier for operators to obtain approval of unorthodox well locations without the necessity of hearings. If there are tracts within a spacing unit that have not been committed to a unit plan, these tracts can be the subject of a compulsory pooling hearing like any other mineral property as long as the statutory standards for compulsory pooling are met.

**E. Significance of Division Approval of Unit Agreements**

Not only does the oil and gas industry rely on Division review of proposed unitization agreements, the industry also relies on the continuing role that the Division plays in monitoring the development and production of oil and gas from unitized lands. In certain situations where unitization proposals cover large areas or involve unique circumstances, operators have made Division approval a condition precedent to unitization. Although the Division may be only one of three governmental authorities approving a unit plan, it is the only governmental agency expressly charged with protecting the correlative rights of all interest owners in the unit area. Furthermore, the Division is the only agency which approves unit agreements in proceedings that meet state and federal due process standards which include: notice to adversely affected parties; the ability of such adversely affected parties to institute hearings and make their objections known; the ability of such adversely affected parties to present evidence and cross-examine witnesses in the context of a hearing that generally complies with the rules of evidence and that is held in public on the record; and required Commission findings of fact that are sufficiently supported by the record.

In *Amoco Production Co. v. Heimann*, 904 F.2d 1405 (10th Cir. 1990), certain royalty owners challenged the formation of the Bravo Dome Unit in northeastern New Mexico on various grounds. Their claims included arguments that the unitization had been in bad faith, and that unit operations and the allocation of the proceeds of unitized operations diluted the owners' interests in unitized substances. Although Division rules did not require the owners of interests in the unit area be given actual notice of the hearing on this unit, the royalty owners in *Heimann* had received notice, appeared at the Division hearing, presented testimony, cross examined Amoco's witnesses, appealed the decision to the Commission and then appealed the Commission's disposition through the New Mexico state courts. Following trial, the United States District Court entered judgment for the royalty owners and removed their lands from the unit. In reversing the trial court, the Tenth Circuit found that New Mexico Oil Conservation Commission proceedings are valid proceedings and because the royalty owners participated in the proceedings, they were collaterally estopped from re-litigating the same issues in federal court. *Heimann*, 904 F.2d 1405, 1415-17 (10th Cir. 1990). Although not required by statute or rule, operators proposing a voluntary unit should consider providing actual notice of the Division's unitization hearing to all interest owners in the unit area. Accordingly, under *Heimann*, a Division decision approving a unit agreement which was entered following notice and hearing can limit subsequent attacks by owners who, at a later date, may not be satisfied with a unitization project.

The role of the Division does not end with its order approving the unit agreement. Many Division orders contain a paragraph which provides:

(N)otwithstanding any of the provisions contained in said unit agreement this approval shall not be considered as waiving or relinquishing in any manner any right, duties obligations which are now, or may hereafter, be vested in the New Mexico Oil Conservation Commission by law relative to the supervision and control of operations for the exploration and development of any lands committed to said Unit, or relative to the production of oil or gas therefrom. See N.M. Oil Conservation Comm'n Order No. R-279 (March 17, 1953).

Even if a Division order does not expressly retain jurisdiction over the future unit operations, in all its orders, the Division retains continuing jurisdiction over the subject matter of the case. If an operator conducts unit operations contrary to the unit plan or in a manner which causes waste or impairs the correlative rights, any interest owner in the unit area has a right to bring this matter back to the Division for review to assure that waste is prevented and its correlative rights are protected.



## F. Recent Voluntary Unitization Issues in New Mexico

Although the Oil Conservation Division has traditionally limited its consideration of voluntary units to a review of what has been presented to it by the applicant to assure that it is a proper conservation measure, in a recent case the Division took an aggressive role and reduced pool allowables until the interest owners in the reservoir agreed to unitize. *Santa Fe Exploration Co. v. Oil Conservation Comm'n*, 114 N.M. 103, 113, 835 P.2d, 819, 829 (1992). *Santa Fe* involved a small Devonian oil pool comprised of approximately 177 productive acres located in southeastern New Mexico. The pool was discovered by Santa Fe Exploration with a well drilled at a standard location. Although one well could have drained the entire reservoir, the Santa Fe well was structurally low and, in this bottom water drive reservoir, was unable to recover the producible reserves from the pool. Stevens Operating Corporation, an offsetting interest owner, drilled a second well into the reservoir at an approved unorthodox location. Although there were few productive acres in the tract dedicated to this well, it was completed at the top of the structure. Regardless of the penalty that was imposed on the producing rate because of its unorthodox location, Stevens' well would ultimately recover most of the pool's producible reserves. After numerous hearings, the Division approved the location of the Stevens well, imposed restrictions on the volumes it was authorized to produce and reduced the entire pool allowable from 1,030 barrels to 235 barrels per day. This reduced pool allowable was to remain in effect until "all interest owners in the pool reach voluntary agreement to provide for unitized operation of the pool." Oil Conservation Division Order No. R-9035 (Nov. 2, 1989).

All parties appealed this decision. Stevens contended that since the legislature, through the Statutory Unitization Act, only authorized the Commission to unitize acreage for secondary and tertiary recovery operations, it exceeded its statutory authority by attempting to force the parties into a voluntary unit. The Supreme Court rejected this argument, noting that the Commission is given a broad grant of power to prevent waste and protect correlative rights which allows it "to require wells to be drilled, operated and produced in such a manner as to prevent injury to neighboring leases or properties." NMSA 1978, Sec. 70-2-12 (B) (7). It also observed that "the Division and the Commission are' empowered to make and enforce rules, regulations and orders, and do whatever may be necessary to carry out the purpose of this act, whether or not indicated or specified in any section hereof.' " *Santa Fe*, 114 N.M. at 113, 835 P.2d at 829.

Since the decision in *Santa Fe*, the Division has focused on unitization as a method of resolving difficult waste and correlative issues brought before it. Instead of deciding the questions presented to it, it has a tendency to create operator committees and

direct them to study the reservoir and make recommendations to the Division on how future development of the pool should be conducted. These directives have specifically required the operators to study the feasibility of unitization of the reservoir for primary production.<sup>10</sup>

### STATUTORY UNITIZATION

In 1975 the New Mexico Legislature adopted the Statutory Unitization Act ("the Act"). NMSA 1978, §§ 70-7-1 *et. seq.* The Act expands the authority of the Division by permitting it to compel the unitized management, operation and development of reservoirs, or portions thereof, in specific circumstances and under certain conditions. The Act, however, limits statutory unitization to only secondary and tertiary recovery operations.<sup>11</sup>

At the time the Act was being considered by the legislature, small operators expressed concern that it would be used by large companies to deprive them of control over their property interests. The legislation provides that any working interest owner may apply for statutory unitization no matter how small an interest it owns in the proposed unit area. NMSA 1978, § 70-7-5. To initiate statutory unitization, the operator files an application with the Division. However, prior to filing, the applicant must make a good faith effort to secure the voluntary unitization of all owners within the proposed unit area. NMSA 1978, § 70-7-6 (5).

#### A. Notice

Since a statutory unitization order affects the property interests of mineral owners who are not voluntarily committed to the unit plan, the operator must provide actual notice to all these owners by certified mail pursuant to the provisions of N.M. OCD Rule 1207(11). The Division interprets this requirement to include only the owners of interest within the proposed unit boundaries. Operators should exercise caution and include within the proposed unit area all of the reservoir necessary to efficiently conduct unit operations

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10. Oil Conservation Commission Order No. R-4691-G and R-5353-L-4 (Nov. 14, 1996).

11. The first section of this legislation provides, *inter alia*:

"It is the intention of the legislature that the Statutory Unitization Act apply to any type of operation that will substantially increase the recovery of oil above the amount that would be recovered by primary recovery alone and not to what the industry understands as exploratory units." NMSA § 70-7-1 (1978).

and then provide notice to all interest owners therein.

**B. Applications**

The Act contains specific requirements for an application for statutory unitization. It must contain the following information:

- (1) a description of the lands to be included in the proposed unit area, the vertical limits of the unitized interval and a plat of the proposed unit area;
- (2) a statement that the reservoir or portion thereof involved in the application has been reasonably defined by development;
- (3) a statement of the type of unit operations contemplated for the unit;
- (4) a copy of the unit agreement;
- (5) a copy of the unit operating agreement which covers how the unit will be supervised and managed and how costs will be allocated and paid; and
- (6) additional matters the Division must determine pursuant to NMSA 1978, § 70-7-6.

NMSA 1978, § 70-7-5.

The additional matters that the Division must determine prior to issuance of a unitization order include:

- (1) a determination that Unitized operation of the reservoir or portion hereof is necessary to carry on secondary or tertiary recovery operations which will substantially increase the recovery of oil and gas from the unit area;
- (2) that the proposed enhanced recovery methods are feasible;
- (3) that the additional costs of enhanced recovery operations will not exceed the value of the additional oil and gas to be recovered from the unit area;
- (4) Unitization and the use of the proposed enhanced recovery methods will benefit the working interest owners and the royalty interest owners in the unit area;
- (5) that a good faith effort has been made to secure voluntary unitization of the proposed unit area; and
- (6) the participation formula contained in the unit agreement allocates the

produced and saved unitized hydrocarbons to the separately owned tracts in the unit area on a fair, reasonable and equitable basis.

NMSA 1978, § 70-7-6A(1)-(6).

#### C. Hearings

The hearing should address all matters contained in the application, NMSA 1978, § 70-7-5, and all statutory requirements for a unitization order NMSA 1978, § 70-7-7.

The Division must ensure that the unitization will prevent the waste of oil and gas and protect the correlative rights of all interest owners in the unitized area. In reviewing the participation formula, the Division must determine that the unitized substances will be allocated to the separately owned tracts in the unit on a "fair, reasonable and equitable basis." NMSA 1978, § 70-7-6 (B). If the Division finds that the allocation of unitized substances does not meet this test, it may, and has, entered orders creating the unit but allocating the unit production among the interest owners under a different formula which the Division determines protects the respective rights of these owners. NMSA 1978, § 70-7-6 (C).

#### D. The Order

The statutory unitization order will contain a legal description of the unit area including the vertical limits of the unitized interval and a description of the nature of the operations contemplated thereon. The order will also contain provisions which: (1) allocate unit production to the separate tracts therein; (2) provide for credits and charges for wells and other material and equipment contributed to the unit; (3) govern how the working interest costs for unit operations will be charged and paid; and (4) provide for carrying certain working interest owners on a limited, carried or net profits basis, payable out of production.

The order also designates the unit operator, sets forth the working interest voting procedures, sets the time for unit operations to commence and terminate, and contains such other provisions as are appropriate for carrying on unit operations. NMSA 1978, § 70-7-7.

#### E. Ratification

No statutory unitization order can become effective until: (1) it has been ratified by at least those who will be required initially to pay at least 75% of the costs of unit operations and by the owners of at least 75% of the production or proceeds thereof that will be credited to interests which are free of costs; and (2) the Division has found in the original order or in a supplemental order that sufficient approval has been obtained. The act provides

that if one working interest owner owns in excess of 75% of the working interest in the unit area, it must be joined by at least one additional working interest owner in ratifying the unit plan. Conversely, if one owner will be required to pay between 25% and 50% of the costs of unit operation, that owner must be joined by at least one other cost bearing owner to defeat the unit plan. NMSA 1978, § 70-7-8 (A).

#### F. Amendment of the Unit Plan

The Statutory Unitization Act permits amendment of orders approving unit operations if the operator obtains the amendment in the same manner and under the same conditions as the original order. If only working interest rights are affected, approval of the royalty or non-cost bearing interest owners is not required. *Id.* These amendments, however, may not change the percentage for the allocation of oil and gas to any tract as established by the original order, ~~unless 100% of the working and royalty owners of the tract agree to the~~ amendment. NMSA 1978, § 70-7-9.

An operator can expand an approved unit in the same manner as is utilized for the formation of the original statutory unit. However, production from the expanded unit will be allocated to the previously unitized area as a single tract, among the separately owned tracts in the prior unit area, in accordance with the original order. NMSA 1978, § 70-7-10.

#### G. Recent Statutory Unitization Issues in New Mexico

Two current issues may require the amendment of the a New Mexico Statutory Unitization Act. The first concern is the adequacy of the notice provided for statutory unitization hearings. If the operator of a proposed unit has accurately defined the area to be unitized, i.e., an area reasonably defined by development--then notice to only those within the unit is adequate. The problem is that to define the unit so as to enable operations to proceed without interference from offsetting development, a buffer zone is often included around the productive acreage within the unitized area. Inclusion of additional acreage as a buffer zone can impact ownership in the unit area and to justify the inclusion of this acreage, some production may need to be allocated to it. Furthermore, an operator may need to limit the unit area to assure that there will be the sufficient support for the unit when it seeks ratification of the division order. These circumstances can cause unit boundaries that are too narrowly drawn. When this occurs, the proposed unit may affect offsetting owners who must have notice of the proposed hearing to protect their property interests. This situation may cause a revision in the notice requirements for statutory unitization applications.

The second concern relates to the limitation of statutory unitization to secondary and tertiary recovery operations. Much of the recent development in New Mexico involves either very small pools which often contain less than 320 acres or very complex reservoirs that cannot be efficiently developed with competitive operations. To assure that waste does not occur, the Division may need to seek legislative authorization to expand the Statutory Unitization Act to include primary development.

### CONCLUSION

As New Mexico moves into the later stages of the development of its oil and gas resources, unitization--both voluntary and statutory--is becoming an increasingly important part of that effort. As the only agency that reviews unit proposals in the context of public hearings, the Oil Conservation Division and Commission remain the only forum where affected parties can be heard on the issues of the prevention of waste and the protection of correlative rights. Division approval and supervision of unitization efforts will remain an important part of New Mexico's regulatory scheme.