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Chronological Order of Events

Regarding San Juan Property Litigation

DATE	SUBJECT
Feb. 15, 1966	Guy Anderson et al leases property to O.L. Hill.
Nov. 23, 1966	Guy Anderson et al leases property to Phelan Sulfur Co.
March 10, 1967	Phelan Sulfur assigned lease to E.T. Scruggs.
April 10, 1967	Guy Anderson et al modified and resigned Scruggs lease.
July 29, 1967	O.L. Hill releases his interest to Scruggs.
Oct. 7, 1968	E.T. Scruggs uses lease as collateral for mortgage loan from Medical Center Bank, Houston.
Sept. 18, 1969	E.T. Scruggs assigns lease to Chemical Producers Corp.
Oct. 23, 1969	Helmick lien placed on property.
Nov. 14, 1969	CPC assigns lease to Producers Minerals Corp.
April 30, 1970	E.T. Scruggs assigns lease on Horseshoe claims to Producers Mineral Corp.
May 28, 1970	Guy Anderson et al assents to assignment of lease from E.T. Scruggs to PMC.
Mar. 25, 1971	Guy Anderson sent letter to Scruggs giving Notice of Breach of Lease Agreement - Helmick lien.
June 1, 1971	Guy Anderson sent certified letter to PMC returning check for $1500 and giving formal notice of cancellation of lease agreement.
June 5, 1971	Meeting in Safford between PMC represented by counsel Mr. Sloman, Moulds and others, and Guy Anderson, John Anderson and Charles Jones. See Sloman's letter of June 7th regarding PMC's understanding of the outcome of the meeting - (a) Until the depositions of Helmick and Scruggs are taken in the Helmick lien suit, no formal legal action will be taken by either PMC or Anderson regarding notice of termination. (b) Anderson may examine all PMC accounts which have been audited by a CPA.

(c) An escrow account will be established to hold monthly payments of $1500 due to Anderson until resolutions of the differences.

This interpretation of the results of the meeting differs from that held by Guy Anderson and John Anderson.

July 10, 1971 — Moulds deposition in the Helmick lien case.

Nov. 10, 1971 — Guy Anderson wrote PMC saying, "You did not make payment when same was due." "You are hereby given notice of cancellation of your matters pertaining to me." - Copy to Mr. Sloman.

Nov. 9, 1971 — By letter Sloman advises Anderson that payments are being deposited into the escrow account at Valley National Bank.

Nov. 17, 1971 — Eimon and Guy Anderson had meeting in Anderson's office at which time Anderson advised Eimon that he had taken steps to cause the PMC lease to be forfieted and that Anderson et al were starting litigation to establish the fact of forfeiture.

Jan. 4, 1972 — Meeting in Verity and Smith office betweenAnderson family and Eimon.

Feb. 25, 1972 — Exploration and option agreement between Guy Anderson et al and Essex.
Mineral lease between Guy Anderson et al and Essex.
Essex obtained option to purchase interest in property
1-2/3% from Guy Anderson et al
1-2/3% to Claridge
2/3% to Maloy

Mar. 16, 1972 — Essex purchased 1% interest in property from Claridge

Mar. 17, 1972 — Essex purchased 2-3/4% interest in property from Claridge

Mar. 24, 1972 — Essex purchased 2/3% interest in property from Maloy

Mar. 30, 1972 — Essex purchased 1-2/3% interest in property from Claridge

Mar. 31, 1972 — Essex purchased 1-2/3% interest in property from Anderson

Apr. 3, 1972 — Guy Anderson et al complaint vs PMC.

Apr. 3, 1972 — Guy Anderson et al Notice of Suit to PMC.

Apr. 3, 1972 — Guy Anderson et al Summons to PMC.

May 5, 1972	PMC answer to complaint and counterclaim.
May 12, 1972	Scruggs answer to complaint.
May 15, 1972	Essex reply to PMC counterclaim.
May 31, 1972	Notice of Withdrawal of Snell and Wilmer from representation of PMC.
June 5, 1972	Guy Anderson et al respond to Notice of Withdrawal of Snell and Wilmer.
July 10, 1972	Guy Anderson et al sent interrogations to PMC.
Aug. 1, 1972	Notice of association of O'Connon, Cavanagh et al as counsel for PMC.
Aug. 9, 1972	PMC sent interrogations to Guy Anderson et al.
Aug. 25, 1972	Motion of Guy Anderson for order compelling an answer to interrogations of July 10, 1972.
Aug. 29, 1972	Withdrawal of Dallas attorneys, Carrington, Sloman et al from PMC.
Oct. 4, 1972	PMC answers interrogations of Anderson requested July 10, 1972.
Oct. 13, 1972	Guy Anderson deposition.
Oct. 13, 1972	John Anderson deposition.
Oct. 21, 1972	Guy Anderson answers interrogations of PMC requested Aug. 9, 1972.
Oct. 25, 1972	Notice of Assignment of Judge Mahoney to case.
Oct. 31, 1972	Request to Produce directed to Essex by PMC.
Dec. 8, 1972	Request for Sanctions against Essex for failure to respond to request to produce of Oct. 31, 1972.
Jan. 8, 1973	Essex gives PMC the material referred to in PMC request to produce dated October 31, 1972.
Feb. 14, 1973	Guy Anderson requests PMC to produce documents - also Request to permit entry to Property.

Feb. 23, 1973	Graham County offered San Juan property for sale for non-payment of 1971 taxes. Evans Gust bought up the property at the tax sale by paying 1971 taxes and not requiring interest on his payment - he also paid first half of 1972 taxes which were due.
Mar. 22, 1973	Guy Anderson et al - Motion for partial summary judgment - Affidavits of Bhappu and Lacy.
Mar. 22, 1973	Guy Anderson et al - Motion for Dismissal of Counterclaim.
Mar. 23, 1973	PMC approval to enter property and take samples - also agree to provide some records.
Mar. 30, 1973	Guy Anderson et al perused and copies certain records at mine office.
Apr. 4, 1973	PMC request for admission of facts re tax payment by Gust.
Apr. 27, 1973	PMC replies to Guy Anderson request for partial summary judgment - Affidavits of Mitchell, Boss, Johnson and Roseveare.
Apr. 28, 1973	PMC replies to Guy Anderson request for dismissal of counterclaim.
May 8, 1973	Deposition of H. Lanier.
May 8, 1973	Essex replies to PMC response of April 28 for dismissal of counterclaim
May 10,1973	Deposition of P. Eimon
May 10, 1973	Deposition of C. Chase.
May 25, 1973	PMC supplemental response to Guy Anderson request for dismissal of counterclaim.
May 25, 1973	Scruggs supplemental response to Guy Anderson request for dismissal of counterclaim.
May 25, 1973	Hearing in Florence on motions for summary judgment and dismissal submitted March 22, 1973 by Anderson.
	Judge Mahoney denied motions and set tentative trial date.
July 13, 1973	PMC requests jury trial.

July 18-31, 1973	Sampling program by Mountain States Engineering personnel at the property.
July 30, 1973	Judge Mahoney sets trial date for November 13, 1973 at Safford.
Aug. 17, 1973	Bhappu deposition - not completed due to report not being finished - will be rescheduled.
Agu. 20, 1973	Boss deposition.
Aug. 20, 1973	Mitchell deposition.
Aug. 22, 1073	Parton deposition.
Aug. 31, 1973	Guy Anderson requests PMC to produce documents
Sept. 7, 1973	Johnson deposition
Sept. 11, 1973	Ruling from Arizona Attorney General that land and improvement taxes could be paid separate from personal property taxes.
Sept. 13, 1973	Judge Mahoney changed trial date to November 14, 1973.
Sept. 20, 1973	Redemption of property by payment of taxes applicable to land and improvements only, for years 1971 and 1972, by owners Guy Anderson et al.
Sept. 24, 1973	New York Supreme Count order for Moulds to appear for deposition.
Sept. 27, 1973	Moulds served a subpoena by P. Grabow.
Sept. 28, 1973	Claridge deposition.
Oct. 3, 1973	Guy Anderson et al filed motion for protective order on Bhappu files.
Oct. 3, 1973	Guy Anderson et al filed motion to compel production of documents requested August 31, 1973.
Oct. 3, 1973	PMC motion to compel Bhappu to give up files he had with him at the deposition.
Oct. 3, 1973	Judge Mahoney signs protective order re Bhappu files.

Oct. 3, 1973 — PMC filed motion for protective order re Mitchell's deposition.

Oct. 4, 1973 — Copy of Mountain States Engineering report given to PMC.

Oct. 5, 1973 — PMC filed objection to request to produce of August 31, 1973.

Oct. 5, 1973 — PMC response to request to produce of August 31, 1973.

Oct. 5, 1973 — PMC motion for postponement of trial for 120 days.

Oct. 5, 1973 — PMC motion for protective order re daily property inspections by Essex.

Oct. 5, 1973 — PMC filed objection to motion of Guy Anderson et al to shorten time within which to hear their motion for order compelling discovery.

Oct. 5, 1973 — Hearing in Judges chambers.
No orders issued but court made following verbal rulings:

(a) PMC to deliver such documents requested by Guy Anderson on August 31, 1973 as he had in his possession prior to Essex' counsels' trip to New York and remaining documents to be delivered as soon as possible - Shannon's interpretation of the verbal order is not as above.

(b) PMC motion of postponement to be taken up at Pretrial Hearing Nov. 2, 1973.

(c) PMC motion for protective order regarding daily inspections by Essex was granted subject to counsel's joint agreement as to time and manner of inspections, and if counsel cannot agree, court will rehear the matter.

(d) PMC motion for protective order on Mitchell deposition denied for time being - may be reconsidered.

Oct. 11, 1973 — Moulds deposition scheduled - He did not show up.

Oct. 12, 1973 — Grabow deposition - testified he did serve a subpoena on Moulds

Oct. 16, 1973	Essex filed order in New York court to show cause as to why Moulds should not be held in contempt - hearing set for Oct 25 but unable to serve order on Moulds - postponed.
Oct. 19, 1973	Warren deposition
Oct. 19, 1973	PMC requests Guy Anderson produce all samples and their analysis, taken during July 18-31, 1973.
Oct. 19, 1973	PMC notice of service of non-uniform interrogatories.
Oct. 25, 1973	Guy Anderson, Essex et al served with civil suit in Federal court under Clayton and Sherman Acts.
Oct. 26, 1973	Guy Anderson et al filed motions for sanctions against Moulds appearance at trial and also to compel PMC to produce documents requested August 31, 1973.
Oct. 26, 1973	PMC amends answers to interrogatories.
Oct. 26, 1973	Scruggs deposition.
Oct. 29, 1973	Guy Anderson et al give notice of hearing Nov. 2, 1973.
Oct. 29, 1973	Guy Anderson et al reply to supplemental interrogatories re eavesdropping.
Oct. 31, 1973	Guy Anderson et al filed pre-trial memorandum which sets forth the breaches in the lease agreement and requests damages of $4,500,000 to property and payment for copper removed since June 1971 amounting to approximately $1,400,000.
Oct. 31, 1973	Essex filed reply to Scruggs Motion for Summary Judgment.
Nov. 5, 1973	Essex filed supplemental answers to interrogatories.

November 2, 1973 — Plaintiffs, except Essex International, respond to Scruggs' motion for partial summary judgment of May 25, 1973.

November 5, 1973 — PMC response to Guy Anderson request to compel discovery of documents.

November 5, 1973 — PMC response to Guy Anderson request for sanctions against Moulds - copy of PCC minutes of shareholders meetings dated March 20, April 4 and 6, 1973, attached.

November 5, 1973 — Hearing in Courthouse, Florence, at 2:45 pm.

Present

Judge Mahoney, court clerk and court reporter

for Guy Anderson et al

Leo Smith, Ken Allen, Dudley Welker, John Anderson

For PMC et al

R. Shannon, R. Cannon (for Scruggs)

In the audience

Guy Anderson, George Anderson, Mr. & Mrs. A. Claridge, L.J. Lichty

Items

(a) Motion for Production of addicional documents. PMC given 10 days to produce all documents requested except Chevron-CPC acid contract, which was given to Judge Mahoney who will rule if Guy Anderson et al should have it.

(b) Sanctions against Moulds.
Judge Mahoney ruled that if Moulds was not deposed in Arizona by Guy Anderson et al at least 30 days before trial, he could not appear at the trial.

(c) Motion for partial summary judgment by Scruggs - Welker argued case well for Guy Anderson and the court reserved judgment.

(d) Motion for 120 days continuance of trial - Shannon said he needed 120 days to have his new expert study Bhappu's report - Allen argued well

Against this as did John Anderson - The judge gave 60 days continuance to January 14, 1974 or at earliest date thereafter that the calendar in Safford would allow.

November 7, 1973 Guy Anderson et al notice PMC for any officers, directors, managing agents, or persons designated by PMC for deposition on November 27, 1973.

November 13, 1973 Essex motion to Federal Court to dismiss complaint re: Anti-trust Laws or in alternative to stay proceedings until Safford litigation is completed.

November 15, 1973 PMC response to court order regarding Guy Anderson et al request to produce documents.

November 19, 1973 Judge Mahoney sets trial date for Feb. 26, 1974.

November 20, 1973 Essex answers supplemental interrogatories re: Surveillance.

November 23, 1973 PMC complaint (Cause 8091 PMC vs Gallo et al) for recovery of drill cores and damages.

November 26, 1973 Hearing re Prior Motions - Judge's Chambers, Florence. Present - Allen, Smith - Shannon not present.
Judge's order:
(1) Roseveare's report be made available to opposing counsel by Nov. 28, 1973 prior to Roseveare's deposition.
(2) Coolbaugh report be transferred to opposing counsel within 10 days from Nov. 26.
(3) Production of records which are in El Paso office be made available within 10 days - including worksheets used to prepare 1970 and 1971 income tax returns to be executed by an officer of the company.
(4) Failure to produce above subject to sanctions of $1,000.00.
(5) Acid contract between Chevron and CPC - with pages 10-16 detached - given to Allen.

November 26, 1973 PMC motion for protective order regarding deposition of a managing agent of PMC first noticed Nov. 7, 1973.

November 28, 1973 Affidavit by Leo Smith re failure of Shannon to bring as agent of PMC to deposition Nov. 26, 1973.

November 28, 1973 Essex submitted opposition to PMC and CPC motion for protective order and counter-motion for sanctions.

November 28, 1973 — Affidavit of Cathy Pitts re mail reception of Shannon.

November 28, 1973 — PMC motion to set aside court order of Nov. 26, 1973.

November 29, 1973 — Deposition of George Roseveare.

December 6, 1973 — Essex's answer to PMC motion to set aside court order.

December 6, 1973 — Depositions of Tears and Robertson.

December 7, 1973 — Depositions of Warren and Keatting.

December 10, 1973 — Essex motion to produce engineering files and reports sent from CPC Dallas to CPC El Paso.

December 10, 1973 — Court hearing before Judge Mahoney at Florence - Present

For owners - Allen, Smith, Lichty, Mr. and Mrs. Claridge.
For PCM - Shannon, Ward, McShane.
Arguments were heard and the following rulings were made on motions before the court:

(1) Coolbaugh report - Shannon said they did not have it. Ward agreed to use his best effort to have it at his deposition Dec. 18.

(2) Daily Summary Reports - Shannon agreed to give Essex copies at 10¢/page - approximately 1,000 pages - to be delivered forthwith.

(3) Income tax worksheets to be delivered to Verity & Smith office no later than Thursday, Dec. 13.

(4) Sanctions will be held in abeyance.

(5) Feasibility Studies Report File 18 - Peacock Mine as testified by Robertson and Tears will be furnished to Essex by Ward on express stipulations that Essex will keep the contents confidential and not use any trade secrets contained in the report.

The judge chastised Ward for not keeping his attorney fully informed and giving him the data to comply with the court's orders.

December 11, 1973 — Deposition of Kay Foote by PMC.

December 12, 1973 — Deposition of R. Bhappu by PMC (to be continued).

December 12, 1973 — Deposition of R. Fisher by PMC.

December 12, 1973 — PMC gave Essex the PCC income tax worksheets but without attached schedules. We advised Ward we would immediately return to the court to get them unless they were forthcoming.

December 17, 1973 — Essex (on behalf of Gallo) filed motion to dismiss PMC complaint regarding loss of drill core.

December 17, 1973 — PMC produced income tax schedules as well as the CPC files containing the feasibility studies and Coolbaugh report.

December 17, 1973 — Deposition of George Ward by Essex.

December 17, 1973 — Deposition of Derek Ottley by Essex.

December 21, 1973 — Guy Anderson et al motion to permit the serving of Supplemental Pleadings.

December 21, 1973 — Guy Anderson et all Supplemental Complaint and Request for Additional $2,000,000 damages.

December 27, 1973 — Deposition of Gallo and his attorney, Brammer, by Gary Case in the complaint against Gallo et al for the loss of PMC drill core.

January 7, 1974 — Hearing in Federal Court, Tucson, Judge Frey presiding - regarding civil suit filed by PMC vs Essex and other owners (Oct. 25, 1973).

Present

For Owners - Charles Jones, Rex Lee, Leo Smit
For PMC - R. Shannon, Gary Case.

Leo Smith and Rex Lee gave a concise statement giving the highlights of their written answer to the complaint and asking for dismissal or postponement of the action until the litigation in Graham County Superior Court was settled.

Shannon gave a rambling re-hash of his complaint and argued with the judge at length (1½ hours).

The judge was obviously displeased with Shannon and his case but said he would study the matter and render a decision in two to three days.

January 11, 1974 — Judge Frey dismissed the suit in Federal Court.

January 11, 1974 — PMC filed opposition to motion to permit plaintiffs to serve supplemental pleadings.

January 14, 1974 — Deposition of Fred Glass by Leo Smith in Phoenix. Present - George Ward, H. Lanier, L.J. Lichty.

January 14, 1974 — Hearing in courthouse, Florence, at 4:00 PM, concerning motion by Owners for supplemental complaints.

Present

Judge Mahoney, Court Clerk

For Essex

Leo Smith, H. Lanier, L.J. Lichty.

For PMC

R. Shannon, George Ward.

Judge Mahoney heard arguments from Leo Smith and R. Shannon and reserved judgment until he had studied the matter.

January 15, 1974 — Continued deposition of R. Bhappu (No. 3) by Shannon in presence of Messrs Ward, Smith, Lanier & Lichty.

January 16, 1974 — Deposition of George Ward by Allen in presence of Shannon, Smith, Lanier and Lichty - not finished.

January 17, 1974 — Deposition of H. Lanier by Shannon in presence of Ward, Allen, Smith, Lichty.

January 17, 1974 — Concluding deposition of George Ward by Allen in presence of Shannon, Smith, Lichty and for a short period, H. Lanier.

January 21, 1974 — Hearing in Judge's Chambers, Courthouse, Safford - Judge Lyons presiding, concerning complaint filed by PMC regarding their loss of drill cores.

Present

For PMC - Gary Case.

For Essex - Leo Smith, Helming, and Lichty.

The judge said he could not properly hear the case and would, if possible, transfer it to Judge Mahoney. He declined to dismiss the case but asked Gary Case to amend the complaint and properly identify the core referred to.

January 28, 1974 — Court entered an order denying plaintiff's motions of December 21, 1973 to permit supplemental pleadings.

January 29, 1974 — PMC filed motion for summary judgment contending that Helmick lien had been paid off and the tax certificate had been redeemed.

February 4, 1974 — Scruggs joined motion for summary judgment.

February 8, 1974 — Plaintiff, including Essex, responded to motion for summary judgment.

February 10, 1974 — PMC amends complaint vs Gallo et al regarding drill cores.

February 11, 1974 — PMC filed reply to plaintiff's response for summary judgment.

February 11, 1974 — Hearing in courthouse, Florence, at 4:00 p.m. concerning motion for summary judgment.

Present
Judge Mahoney, Court Clerk
For Essex
Ken Allen, Leo Smith, L.J. Lichty
For other owners
D. Welker
For PMC
R. Shannon, George Ward
For Scruggs
Romley
Also present: Mr. & Mrs. Claridge, Mrs. Ward, L.J. Lichty.

Judge Mahoney heard arguments from Shannon, Allen and Welker. He asked several questions concerning the Helmick lien, and requested copies of letters between Guy Anderson and Scruggs which Welker supplied.

Finally he denied the motion for summary judgment for the time being and said it could be brought up again at pre-trial.

February 12, 1974 — Deposition of A.C. Melting - Note: Frank Coolbaugh present but not deposed. -- by Ken Allen in presence of Ward, Lanier, Smith, Lichty and Eimon.

February 12, 1974 — Deposition of H. Lanier (third one) by R. Shannon in presence of Ward, Smith, Lichty and Eimon.

February 14, 1974	Essex, Gallo et al answer amended complaint of PMC regarding drill cores.
February 15, 1974	Deposition of L. Dudas by Shannon in presence of Ward, Smith, Lichty, Wadsworth and Bhappu.
February 15, 1974	Deposition of M. Wadsworth by Shannon in presence of Ward, Smith, Lichty and Bhappu (to be continued next morning after Wadsworth had read Bhappu deposition No. 3)
February 16, 1974	Concluding deposition of M. Wadsworth by Shannon in presence of Allen, Smith, Lichty and Ward.
February 18, 1974	Deposition of C. Osborne by Shannon in presence of Smith, Lichty and Helming.
February 18, 1974	Deposition of Lichty by Shannon in presence of Ward, Allen, Smith and Helming - adjourned to Essex office to conclude deposition.
February 18, 1974	Deposition of Helming by Shannon in presence of Ward, Allen, Smith, Lichty and Ralph Morrow.
February 20, 1974	PMC filed motion to exclude testimony of Seby, Dudas, Bhappu, Melting, Brammer and Gallo.
February 20, 1974	PMC filed motion for change of venue.
February 21, 1974	Plaintiffs filed motion to compel production of PMC income tax returns.
February 22, 1974	Telephone conference between counsel and Judge Mahoney, at which time he denied the motion for change of venue.
March 5, 1974	Judge Mahoney changes pretrial date to May 28, 1974 and trial date to May 29, 1974.
March 6, 1974	PMC filed motion to change suit from Essex to United Aircraft of Michigan.
March 6, 1974	PMC filed motion requiring plaintiffs to list exhibits to be used at trial.
March 6, 1974	PMC filed supplemental interrogatory requesting data on any additional tests.
March 6, 1974	PMC filed motion to compel production of additional Bhappu data.

March 6, 1974	PMC filed motion to compel plaintiffs to answer additional interrogations.
March 6, 1974	PMC filed motion giving notice of service of non-uniform interrogatories.
March 6, 1974	PMC filed motion to request admissions and request to produce.
March 7, 1974	Deposition of Norman Weiss by Smith in presence of Shannon, Lanier and Lichty.
March 8, 1974	Deposition of P. Eimon and for the production of Essex files and maps by Shannon in presence of Smith, Lanier and Lichty.
March 8, 1974	Plaintiffs filed motion for injunction to stop use of excessive acid and to stop shipment of copper.
March 14, 1974	PMC transmitted copies of PCC income tax returns for 1970 and 1971.
March 14, 1974	Response to defendant's motion of March 6 to compel answers to interrogatories.
March 15, 1974	Response to defendant's motion to amend the counterclaim.
March 15, 1974	Filed answer to interrogatories regarding exhibits.
March 15, 1974	Response to defendant's motion to compel production of Bhappu data.
March 28, 1974	PMC response to Plaintiff's motion for preliminary injunction.
April 1, 1974	Hearing on various motions before Jodge Mahoney who made following decisions and adjourned hearing until April 4, 1974. (a) This is a simple case of breach of a lease and the various counsel should not lose sight of this fact. (b) Denied motion for continuance. (c) Acid price in Utah has no bearing on litigation. (d) Essex will produce certain documents and maps for the Court's scrutiny on April 4, 1974. (e) PMC can take supplemental deposition of Guy Anderson if questions are not repetitive.

April 4, 1974 — Hearing in Judge Mahoney's chambers (actually informally in courtroom).

Present

For Owners

Ken Allen
Leo Smith
D. Welker

For PMC

R. Shannon
G. Case
a paralegal (name unknown)

For part of hearing Lichty, Claridge and Lanier were present.

Judge Mahoney requested PMC to submit motion as to why the trial should not be separated into (1) simple breach of lease and (b) the PMC counterclaim against Essex. The PMC memorandum was to include whether or not there was interference with the business relationship as distinct from the contractual relationship.

Essex was to respond to motion of PMC and a hearing on the matter was scheduled for May 6,1974.

April 10, 1974 — Harvey Ferrer deposition in Omaha

Present for Owners

Allen, Smith, and Lanier

For PMC

R. Shannon

April 17, 1974 — Deposition of Guy Anderson

Present for Owners

Allen, Smith, Welker, Lichty, Mrs. Anderson

For PMC

R. Shannon

April 17, 1974 — Deposition of L. Maloy

Present for Owners

Allen, Smith, Welker, Lichty

For PMC

R. Shannon

April 17, 1974 — Motion and memorandum from PMC regarding hearing of April 4, 1974 received.

April 17, 1974 — Motion of PMC for the production of personal papers of R. Bhappu.

April 22, 1974 — Deposition of Billy Ross, accountant for PMC
Present for Owners
Allen, Smith, Lichty
For PMC
R. Shannon

April 23, 1974 — Deposition of G. McCoy, lawyer in Dallas who represented PMC in 1969-70
Present for Owners
Allen
For PMC
Shannon

April 29, 1974 — Response of Essex to PMC motion and memorandum re April 4, 1974 hearing.

April 29, 1974 — Response of Essex to PMC motion for production of personal data of R. Bhappu.

April 30, 1974 — Deposition of Charles "Bud" Jones
Present for Owners
Allen, Smith, Welker, Lichty
For PMC
Shannon

April 30, 1974 — Deposition of Warren Platt, lawyer for PMC during 1969-1971
Present for Owners
Allen, Smith, Welker, Lichty
For PMC
Shannon

May 1, 1974 — Deposition of M.J. Seby, certified accountant hired by Essex and Owners.
Present for Owners
Allen, Lichty
For PMC
Shannon, Daily (Main-Lafrenz accountant)

May 1, 1974 — Deposition of R. Morrow, formerly mine supt. of PMC and still in their employ.
Present for Owners
Allen, Smith, Lichty
For PMC
Shannon

May 6, 1974

Hearing before Judge Mahoney at Florence Courthouse, 3:30 p.m.

Present for Owners

Welker, Allen Smith, Lichty

For PMC

G. Case

The judge had read the memoranda submitted by each side concerning his suggestion to separate the litigation into (a) simple breach of the lease and (b) PMC counterclaim against Essex.

Case spoke briefly but Judge Mahoney interrupted to say that if lease was breached it was immaterial what Owners and Essex did. Case said that PMC remained on the property as tenants at will.

The judge ruled that the trial would start May 28 and would concern only the breach of the lease. However, he agreed that in cross-examination, material might be revealed which was relevant to the counterclaim. The judge gave Case permission to submit a motion to amend the counterclaim and said he would rule on whether this could be done during or immediately after the breach of the lease part of the litigation. He gave Case until May 14 to submit the motion to amend the counterclaim in order that counsel of the OWNERS could know what PMC was claiming as interference in the relationship.

Judge Mahoney will look at the Bhappu report to determine if he thinks sufficient detailed material has been given to PMC.

May 14, 1974

Motion by PMC to amend counterclaim and proposed amendment to counterclaim.

May 14, 1974

Motion by PMC to exclude Brammer and Gallo as witnesses.

May 14, 1974

Motion by PMC to prohibit admission of evidence regarding non-payment of taxes which became due after April 1972 (filing of lawsuit).

May 14, 1974

Motion by PMC to compel answers to supplemental interrogatories re Dudas samples.

May 15, 1974

Motion by PMC to exclude evidence regarding accountings because (they say) no notice was given.

May 15, 1974 — Motion by PMC to exclude evidence regarding spent acid because (they say) no notice was given.

May 20, 1974 — Motion by PMC for continuance of trial until June 11, 1974.

May 21, 1974 — Response by Essex opposing motion by PMC to amend the counterclaim.

May 28, 1974 — Pre-trial hearing at Safford court house

(1) Judge Mahoney denied motion by PMC for continuance.
(2) The owners filed covenant between them and Scruggs not to execute - Court approved Scruggs and his attorney not taking part in trial - Scruggs will testify if requested by either party.
(3) Argument about giving notice for unminer-like manner of leaching and mining.
(4) Judge allows filing of counterclaim.
(5) Judge allows Essex to remain in primary action.
(6) Judge approves list of witnesses.
(7) Judge allows accounting to be part of breach.
(8) Judge allows spent acid to be part of breach for time being.
(9) Judge says there will be 8 jurors and 2 alternates.
(10) Judge allows PMC motion to eliminate Brammer and Gall[illegible] from trial.
(11) Judge allows PMC motion to eliminate taxes from breach.
(12) Judge holds in abeyance the PMC motion for supplemental interrogatories re drilling ES holes, until breach is decided.

May 29, 1974 — Jury picked in morning session.

May 29, 1974 — Opening statement by D. Welker.
Opening statement by R. Shannon.
Alf Claridge on stand for 45 minutes - referred to mine model and after objection by Cavanaugh the part of model showing acid ponds was covered and the rest of the exhibit was allowed.

May 30, 1974 — Alf Claridge on stand in morning session recounting history of San Juan property until lien comes up. Jury recess while Cavanaugh and Allen argue before the judge re posting of the non-liability notice.

Jury back and lien testimony continued. March 1971 letter advising of breach of lease re Helmick lien. June 1, 1971 letter giving notice of termination. June 5, 1971 meeting between owners, Moulds and two of his attorneys. Testimony

regarding accountings to owners. Cavanaugh objects but is overruled.

In afternoon session Alf Claridge still on stand - recounts June 5, 1971 meeting. After 45 minutes jury recess while conference took place in judge's chambers re notice of breach.

May 30, 1974 — Deposition of Guy Scott by Cavanaugh in presence of Shannon, Allen, Smith and Welker.

June 3, 1974 — Met Jackson in Houston. Welker, Allen and Lichty present.

June 4, 1974 — Second deposition of Bud Jones by Shannon with Welker, Allen and Lichty present.

June 12, 1974 — Trial resumes after short conference in judges chambers with all lawyers present.

John Anderson on stand - questioned by Allen - recounts his interest in mining and his interpretation of June 5, 1971 meeting - who was there - what was said - Shannon on cross examination did not shake Anderson's testimony - Allen on redirect - Shannon questions why a responding letter to McCoy was not sent - Allen asks if Scruggs relies on PMC to run property.

Charles "Bud" Jones on stand at 3:20 pm. D. Welker questions him - goes over sequence of events leading up to June 5, 1971 meeting - also re-accountings - Shannon on cross examination - only few questions and got nothing.

Alf Claridge back on stand at 4:12 pm. Allen questions him. He backs up John Anderson and Bud Jones testimony - also testifies re his knowledge of accountings and his disappointment with the Garner report.

June 13, 1974 — Alf Claridge on stand - Allen questioning - what was intent of parties when lease was drawn up - Shannon on cross-examination - much discussion on spent acid - when Essex was first contacted - Allen on redirect - more on spent acid and accountings - dealings with Essex.

June 13, 1974 — Guy Anderson on stand 11:19 am - Allen questions him re history of San Juan property - Scruggs lease - no lien notice - how CPC got lease.

Afternoon recess Guy Anderson continued on stand with Allen questioning him for additional 20 minutes mainly about lien, spent acid, and accounting.

At 2:15 pm long conference in judge's chambers with all lawyers present - mainly discussing notices of non-liability and of the breaches.

June 14, 1974

One-hour conference in judge's chambers discussing the law regarding the case and whether or not a directed verdict should not be given in favor of PMC.

At 10:54 am Cecil Warren on stand - Allen questions him - his employment with CPC and PMC - how and where books of PMC and various bank accounts were kept - how accountings to owners were prepared - he describes meeting between himself and owners on Dec. 9, 1970.

Afternoon recess, a further short conference in judge's chambers after which the jury was excused until further notice while judge reviews the transcripts and makes a ruling.

June 21, 1974

Telephone conference call between Judge Mahoney, Leo Smith, Ken Allen, D. Welker, R. Shannon and J. O'Connor - the judge ruled that the only questions that would be decided by the jury was whether or not proper accountings had been furnished to the owners and thus a breach of the lease occurred and whether or not proper notice of the breach was given to PMC.

June 26, 1974

Trial resumes with Cecil Warren on the stand and Allen questioning. Warren testifies as to the method and details of PMC accounting - preparation of statement for owners - tax worksheets and tax reports. Still on the stand in all afternoon session - decisions by Moulds - Sales of acid - prices of spent acid.

June 27, 1974

Cecil Warren still on stand, Allen questioning. Long recess while judge ruled that only 1970 accounting is admissible. In afternoon session Allen questions Warren re Dec. 9, 1970 meeting at which Warren says he gave explanations of the accounting to the owners. Allen finishes questioning at 2:45 pm. After recess when impeachment witnesses were discussed, Shannon started cross examination of Warren.

June 28, 1974

Cecil Warren still on stand, Shannon cross-examining - royalty payments to Guy Anderson - phone call from Guy Anderson re Gardner visit - what Gardner did at the mine - Letter from Guy Anderson asking for Peat, Marwick, Mitchell audit - Allen on Redirect at 10:36 am - company

run by Moulds - reconciliation sheet from McNamara - rental of acid - June 1971 royalty check not accepted by Guy Anderson - Dec. 9 meeting. He does not want to change his testimony. Shannon on redirect - development costs in July 1969 fair in Warren's opinion. Allen on redirect - pre-assignment costs on CPC books never shown to owners.

June 28, 1974 Continued — Parton to stand at 11:45 am - Allen questioning him - 1968-1971 Moulds was his direct supervisor - black acid Chevron contract - continued in afternoon session - spent acid customers - engineering services in 1969 - no questions by Shannon.

June 28, 1974 Continued — Walter Gardner to stand at 3:20 pm - D. Welker questioning him - employed by Spalsbury - visited PMC on June 21, 1971 - all boods were not kept at the mine - he was informed a Peat, Marwick, Mitchell audit was available for 1970 and recommended to Guy Anderson that this audit be obtained - Shannon on cross-examination asked only if he was given all he asked for at the mine.

July 2, 1974 — Allen submits covenants showing Essex is part owner of San Juan. Mel Seby to stand - Allen questioning - "Proper accounting" - disclosures - methods of depreciation - development costs of CPC cannot be transferred to PMC but must be capitalized - insufficient data given to decide whether it is proper accounting or not. Shannon on cross-examination - yes, owners accounting is misleading - Seby doesn't know if it is false or not - "Proper accounting" definition - code of ethics - Allen on redirect - figures which need explanation - CPC overhead - development costs - amortization costs - administrative overhead - depreciation - Shannon on redirect - if PMC were to file federal income tax format it would be partly the same.

July 2, 1974 Continued — At start of afternoon session long conference in judges chambers during which Shannon asked for a directed verdict because no notice was given - denied by Judge Mahoney.

Warren Platt on stand for defense - Shannon questioning - June 5 meeting, participants and items discussed - no animosity - Moulds doing everything he could to placate owners - absolutely nothing said about 60 days to cure or any other deadline. Allen on cross-examination - June 5, 1970 meeting - CPC or PMC had no interest in Helmick lien. Platt acting for Scruggs had this lien as his only reason for

being at meeting - Reuben Moulds did not say it would require a court order to get him off the property - Shannon on redirect - Moulds said it was common knowledge in New York circles that Essex wanted the San Juan property - Allen on redirect - Platt prepared the counterclaim - Moulds gave no names or agreements to show interference by Essex - Shannon on redirect - Platt never questioned the integrity of Moulds - Allen on redirect - PMC debts to Platt's law firm were finally paid.

July 2, 1974 Continued

Duane Spalsbury to stand - questioned by Shannon - Spalsbury reviewed the work of Roger Gardner and it appeared to him there were no ledgers at the mine - Welker on cross-examination - Gardner recommended that the Peat, Marwick, Mitchell audit be obtained - Gardner was honest and competent. Shannon on redirect - work sheets on shipments and reconciliation were at the mine.

July 3, 1974

Cecil Warren to the stand - Shannon questioning - April 1970 records moved to mine - Main-Lafrenz did audit of PMC books for period Nov. 1, 1969 through May 31, 1970 - Shannon attempted to put on Peat Marwick Mitchell audit as an exhibit but was restrained from doing so by Judge Mahoney after Allen's objection - Dec. 9, 1970 meeting with owners - description of Greenwood - description of Crockett - Shannon introduces general ledgers, etc., for years 1969, 1970 and 1971 and Warren says all were given to Gardner - remittances of CPC to PMC and the return of money - Allen on cross-examination - no inventory of iron on his books - Warren does not wish to change his testimony re the Dec. 9 meeting - purchase of Safford Drilling Company - Warren did not tell Gardner of Main-Lafrenz audit.

Betty Reed to stand at 2:10 pm - Shannon questioning - bookkeeper for PMC - remembers Gardner coming to the mine - Allen on cross-examination - she was concerned with day-to-day operations only - books were always kept at the mine.

July 3, 1974

1:20 pm - Billie Ross to stand - Shannon questioning him - accounting must have disclosures in order not to make it misleading but only with full set of financial statements - owners statements are a "special report" - Form 1120 federal tax report comparison to owners statements - development costs prior to Sept. 1969 would be "exploration costs" - income tax laws re depreciation - in his opinion proper accounting was given to the owners under the lease agreement. Allen on cross-examination - special report

follows IRS Code - elections and disclosures necessary under IRS Code - Form 1120 has reconciliation sheet or balance sheet - he could not reconcile owners sheets without documents - Peat, Marwick, Mitchell audit used for his reconciliation.

July 9, 1974

Trial resumes with conference in judges chamber during which Judge Mahoney rules that no Essex employee could testify in this part of trial.

Alf Claridge to the stand - Shannon questioning - payments received to date from Essex detailed - $229,500 in four years - Dec. 9, 1970 meeting re accountings - Claridge thinks meeting between Anderson, himself, Maloy, and Warren might have taken place - Claridge did not bring his accountant to the meeting - Shannon tried to establish a waiver of right of termination. Allen on cross-examination - Essex will not pay him for lawsuit - before June 5, 1971 he had received $22,500 from Essex - now says no one ever explained PMC accountings to him - Warren did not have control of the books.

Shannon on redirect - June 5, 1971 meeting - PMC did not make a profit is probably his greatest concern - Augie Greenwood was never present at a meeting when PMC accountings were discussed.

July 9, 1974

Ted Scruggs to stand - Shannon questioning - history of how he acquired the lease - never gave accountings to owners nor had any complaints - lost $600,000 to $700,000 - Reuben Moulds is a hard negotiator - obnoxious to some people - Guy Anderson did not tell Moulds lease would be terminated for improper accountings.

Allen on cross-examination - lost money - not happy in Arizona - acid bill with CPC was cancelled - other debts were taken over by CPC - spent acid was warranted good by Moulds but Scruggs did not check - he did not check on going price for spent acid elsewhere - after assignment he depended on CPC - was not informed about June 5, 1971 meeting.

Leo Smith on cross-examination in place of Allen - after assignment to CPC he retained 38% of net profits - agreement has now been renegotiated (in last 60 days) so that he now receives 2% of gross sales rather than a percentage of net profits.

Shannon on redirect - Scruggs entered new agreement because of reimbursement of lien - Scruggs had a number of discussions with other companies in 1969 but only CPC made a firm offer for the assignment of the lease - accountings of his operation were sent to Anderson by Crady in Sept. 1969 and no complaint was received about the figures or the format.

July 10, 1974

Gene McCoy on the stand - Shannon questioning - formerly PMC attorney - McCoy and Moulds met with Guy Anderson and perhaps Claridge probably in Sept. 1969 to discuss CPC as an acid company - also present in Feb. 1970 in connection with purchase of Safford Drilling Co. - June 5, 1971 meeting he was present - reason for meeting was June 1 letter - time for a face to face meeting - not a harmonious meeting but no mention of 60 days notice - discussion about accountings had more to do with dollar losses than specifically accountings - he did not recognize any oral notice - does not agree with John Anderson or Bud Jones who say 60 days notice was given orally - owners did not say they wanted owners off the property - McCoy's June 7 letter introduced - also Anderson's letter of Nov. 4, 1971 - also Sloman's letter of Nov. 9 to Guy Anderson - McCoy was at Safford Drilling meeting of Feb. 17, 1970 and sent letter to Guy Anderson Feb. 18, 1970.

Allen on cross-examination - McCoy doesn't know whether Moulds negotiated for Safford Drilling purchase or not - on the June 5 meeting - primary purpose was the Helmick suit - he does not recall the 60 days notice and left meeting with a happy impression - litigation was discussed at the meeting - acid and accountings were not important - Sloman was officer and director of some of the group - McCoy only officer of Safford Drilling - no knowledge of payments into escrow account - his main impression of June 5 meeting was that there was no basis to cancel lease.

Shannon on redirect - did John Anderson say they had 60 days? No.

Allen on redirect - did anyone say that in 60 days they would be back where they started? No.

July 10, 1974

Shannon reads about 25 pages of the John Anderson deposition.

July 10, 1974
Continued

Guy Anderson on the stand - Shannon questioning - letter from Scruggs to Guy regarding accounting - why did Guy not complain to Scruggs? - Guy denies that Warren brought PMC accountings and explained them to him - in Dec. 1970 he optioned Morenci property to Essex - questions regarding

Charles Smith - Guy does not think Warren was introduced to John Greenwood - Guy said he was always dissatisfied with accountings - June 5 meeting - everyone was talking but Moulds was going to fix everything up.

Allen on cross-examination - Guy did not agree that McCoy's letter of June 7 was complete or true - re audit - Spalsbury and Gardner told him he needed the Peat Marwick audit - re escrow account - he has never paid federal income taxes on interest in this account because he did not consider the money his - Nov. 9 letter - following June 5 meeting they were back where they started on June 1 - re March 15, 1972 letter to Guy Scott - it was hand delivered to the bank by Leo Smith and Guy. Did Guy ever discuss the account with Scott? Yes, to determine what monies were there and if the payments were being made - Guy Anderson said the owners were not claiming the money.

July 10, 1974 — Shannon reading from Guy Anderson's deposition (second) pages 43 through 60.

July 10, 1974 Continued — Gary Case to stand - questioned by Shannon re Guy Scott's deposition (he is a Valley Bank official and could not be present because of vacation) - Allen objected to the reading of Scott's deposition but was overruled - Shannon in witness box acting as Scott and reading Scott's deposition, with Cavanaugh questioning him - Scott was not able to find a copy in the bank files of the March 15, 1972 letter from Guy Anderson - Shannon reads entire Scott deposition.

July 10, 1974 Continued — Tracy Melan to stand - questioned by Shannon (Melan is Valley Bank manager) - he was not able to find March 15, 1972 letter - he did find a signature card on the escrow account signed by Guy Anderson - the amount of interest was sent annually to Guy Anderson on the IRS form.

Dudley Welker on cross-examination - the letter might have been filed in several places and he cannot testify that the bank did or did not receive the letter - if he had the letter of March 15, 1972 would he transfer the funds to PMC? - Not necessarily because there was no time in the letter - if Anderson instructed them to do so they would do it.

Shannon on redirect - if there was no letter there could have been no return of funds? Yes.

Dudley Welker on redirect - if someone walked in with letter the funds could be transferred? Yes.

July 10, 1974 Continued

Cecil Warren to stand - Shannon questioning - accounting procedures - Shannon distributes copies of trial balance (1970 figures) to jury who follow Warren's explanation in some detail - Warren identifies items on trial balance to those on owners statements.

Allen on cross-examination - required two days over past week-end to prepare the trial balance but it was never prepared for the owners. Warren explained Dec. 9, 1970 meeting as very cordial - Warren's instructions from McNamara were to deliver accountings to Anderson and to give whatever explanations were required - Allen suggested this meeting did not take place but that Warren only wrote the self-serving memorandum of Dec. 9, 1970 - Warren says this is not true.

Shannon on redirect - did you give owners proper accountings in your opinion? Yes!

July 11, 1974

Long conference of lawyers in judges chambers re questions to present to jury - Kenneth Crockett to the stand - Allen questioning - bookkeeper for Claridge for 10 years - 10% ownership in Safford Drilling - re Dec. 9, 1970 memo of Warren - he was never at a meeting as described in the memo. No meeting with described persons in 1970 or 1971 - John Greenwood was a driller with no legal training to his knowledge - he was never at a meeting when PMC accounting was explained by Warren.

Shannon on cross-examination - Crockett does not know where he was on Dec. 9, 1970 - he first saw PMC report to owners around first part of 1971 - he does not think he was ever at a meeting when Warren explained accountings of PMC - meeting could have occurred.

July 11, 1974

John A. Greenwood to the stand - Allen questioning him - 20 years diamond core drilling - now in marketing Dept. of Longyear - he ran Safford Drilling but negotiated with Moulds and sold Safford Drilling to PCC on March 25, 1970 - has never met Cecil Warren - saw Dec. 9, 1970 Warren memo for first time several nights ago - it was impossible for him to have been at that meeting Dec. 9, 1970 since his expense accounts show he was in Portland, Oregon - Shannon had called him asking for the records and Greenwood forwarded a copy of them to Shannon.

Shannon on cross-examination - Greenwood has never seen Cecil Warren - Greenwood did not make the statements attributed to him in the Warren memo.

Allen on redirect - Do you receive any compensation or interest from owners for testifying? No.

July 12, 1974

Cecil Warren on stand - Shannon questioning - was Crockett at the meeting? Yes. Warren has not seen Greenwood (the previous man on the stand) before but another man was introduced as John Greenwood.

Allen on cross-examination - How did Warren know the mysterious man was Greenwood? He was introduced as such - did the meeting Dec. 9, 1970 actually take place? Yes.

July 12, 1974
Continued

Long conference in judges chambers re jury misconduct and instructions to the jury - in open court the judge admonished the jury but no one admitted to any wrong doing.

Allen summation 10:58 am - 12:05 pm

(1) Was PMC in breach of its lease by failure to give proper accountings?
(2) Did the owners give clear notice that if proper accounting was not given in 60 days then the lease was terminated?
(3) Did the owners waive termination?

Shannon summation 12:30 pm - 2:25 pm

(1) Burden of proof is on the owners.
(2) Shannon reads lease clause on termination.
(3) Spent acid and lien no longer issues - Allen objects and is sustained but the point got to the jury.
(4) Dec. 9, 1970 meeting - Claridge testimony of July 9, 1974.
(5) Waiver of termination by accepting minimum royalty - evidenced by Anderson signing the signature card on the escrow account.
(6) At June 5, 1971 meeting, Platt said no 60 day notice was given re accounting - also McCoy said no notice was given - from John Anderson's deposition no 60 day notice was given - an expression of dissatisfaction only.

(7) Roger Gardner letter re accountings and Betty Reed testimony that all books were available to Gardner.
(8) Guy Anderson did not complain about Scruggs' accounting.
(9)

Dec. 11, 1970	Warren memo
June 7, 1971	McCoy letter to Anderson
June 21, 1971	Spalsbury report
Nov. 4, 1971	Anderson letter to PMC
March 25, 1972	Anderson letter to Valley Bank

(10) Goes over enterrogatory to jury

Allen final summation 2:40 pm - 3:25 pm

(1) Interrogatory to jury (using printed poster boards)
(2) Gardner letter mentions audit which was not received even to date
(3) No waiver.

July 12, 1974 Continued

3:10 pm
Judges Instructions to Jury
(1) Spent acid and lien to be disregarded.
(2) Accountings only will be subject of their decision.
(3) They must consider only the testimony of witnesses and of exhibits - what lawyers say is not evidence - depositions are the same as testimony.
(4) Described special interrogatory.
(5) Six or more must agree before a verdict is brought in.

July 12, 1974 Continued

6:30 pm
Jury back and unanimous verdict in favor of PMC.

July 16, 1974

PMC files form of judgment.

July 22, 1974

PMC files notice of taking depositions of George Anderson, J. Willis, C. Osborn, Robert Helming, Managing Agent and Records Custodian of Boyles Bros. Drilling Co., and same of Hugh Harris Drilling Co.

July 26, 1974

Guy Anderson et al filed objection to form of judgement on basis it was premature and inaccurate.

July 27, 1974

Guy Anderson et al filed a motion to quash subpoenas and notices of above depositions.

July 29, 1974	Judge Mahoney enters order quashing subpoenas and vacating the depositions until further court order.
July 29, 1974	Welker, on behalf of Anderson, filed a motion to quash subpoenas.
July 30, 1974	PMC files notices for subpoenas for Messrs O'Malley, Probst and Downing
August 2, 1974	PMC files motion to vacate the protective order of July 29, 1974, or in the alternative a motion for leave of court to take depositions.