

Casa No.

850

Application, Transcript,
Small Exhibits, Etc.

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
COMPULSORY COMMUNITIZATION
OF E/2 OF SECTION 8, TOWNSHIP
31 NORTH, RANGE 10 WEST, NMPM,
SAN JUAN COUNTY, NEW MEXICO.

CASE NO. 710) Consolidated
CASE NO. 850)

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
DETERMINATION AND RATIFICATION
OF COMMUNITIZATION OF E/2 OF
SECTION 8, TOWNSHIP 31 NORTH,
RANGE 10 WEST, NMPM, SAN JUAN
COUNTY, NEW MEXICO, CONTAINING
320 ACRES.

APPLICATION FOR REHEARING

Come now Saul A. Yager, Marian Yager, M. E. Gimp,
Morris Mizel and wife, Flora Mizel, and Sam Mizel, by their
attorneys, Campbell & Russell, and make application to the
Commission for rehearing upon Order No. R-549-B, and as a basis
for the application state:

(a) Applicants are the owners of interests in the
SE/4 SE/4 of Section 8, Township 31 North, Range 10 West, N.M.P.M.
San Juan County, New Mexico and are parties affected by Order
No. R-549-B entered by the Commission on January 12, 1956.

(b) Order No. R-549-B is erroneous in the following
respects:

1. Finding No. 10 is erroneous in that Order
No. R-110 was not complied with in the establishment of the
drilling unit.

2. Finding No. 11 is erroneous in that all interests within said unit were not consolidated by pooling agreement or otherwise as required by Order No. R-110.

3. Order No. R-549-B is contrary to Section 1(a) of Order No. R-110 of the Commission.

4. Order No. R-549-B is contrary to Section 13(b) of Chapter 168, Laws of 1949, as amended.

5. Order No. R-549-B is an unreasonable and arbitrary interpretation of the Commission's rules and regulations and deprives Applicants of their correlative rights.

6. Order No. R-549-B deprives Applicants of their property without due process of law.

7. Order No. R-549-B impairs the obligations of a valid lease contract between Applicants and El Paso Natural Gas Company.

WHEREFORE, Applicants request a rehearing in Case No. 710 - 850 Consolidated on Order No. R-549-B.

Respectfully submitted,

Saul A. Yager, Marian Yager,
M. E. Gimp, Morris Mizel and
wife, Flora Mizel, and Sam
Mizel

By _____

for CAMPBELL & RUSSELL
their attorneys

BEFORE THE OIL CONSERVATION COMMISSION
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CASE NO. 710)
CASE NO. 850) Consolidated

Order No. R-549-B

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
DETERMINATION AND RATIFICATION
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SECTION 8, TOWNSHIP 31 NORTH,
RANGE 10 WEST, NMPM, SAN JUAN
COUNTY, NEW MEXICO, CONTAINING
320 ACRES.

APPLICATION FOR REHEARING

Your Applicant, EL PASO NATURAL GAS COMPANY, applies for re-hearing and states:

1. Applicant is the owner of oil and gas leasehold interests in and under the tract of land described in the caption and is a party affected by Order No. R-549-B entered by the Commission on January 12, 1956.

2. Your Applicant would show the Commission that its Order No. R-549-B is erroneous as follows:

a. That the Commission's Finding No. 9, insofar as it finds that the date upon which the working interest owners agreed to communitize their leases of May 19, 1954 is not supported by and is contrary to the credible evidence.

b. That the Commission's Finding No. 11 that the pooling and drilling unit was established on May 19, 1954 is not supported by and is contrary to the weight of the credible evidence.

c. That the portion of Paragraph 1 of the Commission's Order establishing May 19, 1954 as the date the drilling unit upon a pooled and communitized tract became effective is erroneous.

d. That there is no evidence in the record to show that the working interest owners made any agreement on the 19th day of

May, 1954, the date when the original hearing was conducted, and that the evidence shows the agreement to have been made and consummated prior to that date and the selection of that date is arbitrary and unreasonable.

e. That the evidence shows the working interest owners had agreed to communitize and pool their respective interests prior to August 25, 1953, on which date a Notice of Intention to Drill was filed with the Commission.

f. That the finding of the Commission that an agreement was made on May 19, 1954, is an arbitrary and unreasonable finding and not necessary to a determination of the applications.

g. The Commission having held that the working interest owners have the power without the joinder of the lessors to enter an agreement for the communitizing or pooling of tracts of land into drilling units in conformity with Order R-110, the Commission exceeded its jurisdiction by determining the date upon which the working interest owners made such agreement and exceeded its jurisdiction in determining that such agreement did not become effective until the date of the first hearing, which findings were not necessary to a determination of the applications. The Commission, having found that the working interest owners effectively pooled or communitized the tracts of land into a drilling unit, has no further jurisdiction and the Commission's Order is erroneous in attempting to do more than determine the effect of the agreement made by the working interest owners. When that agreement effectively pooled the several tracts into a drilling unit, there remained nothing further for the Commission to do, and those portions of the Commission's Order which attempt to pool or communitize at a later date are invalid and void.

h. Paragraph 2 of the Commission's Order is beyond its jurisdiction and is not supported by the evidence, and is contradictory and contrary to all of the findings and conclusions of the

Application for Rehearing

Cases Nos. 710 and 850

Commission made in the remaining portions of the Order.

WHEREFORE, your Applicant respectfully requests the Commission to grant a rehearing in these consolidated cases and to hear such further evidence as may be material, and to reconsider the Order entered by the Commission.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

By Bruce J. Howell
Attorney

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
COMPULSORY COMMUNITIZATION
OF E/2 OF SECTION 8, TOWNSHIP
31 NORTH, RANGE 10 WEST, NMPM,
SAN JUAN COUNTY, NEW MEXICO.

CASE NO. 710) Consolidated
CASE NO. 850)
Order No. R-549-C

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
DETERMINATION AND RATIFICATION
OF COMMUNITIZATION OF E/2 OF
SECTION 8, TOWNSHIP 31 NORTH,
RANGE 10 WEST, NMPM, SAN JUAN
COUNTY, NEW MEXICO, CONTAINING
320 ACRES.

ORDER OF THE COMMISSION FOR REHEARING

BY THE COMMISSION:

These cases came on for consideration upon the application of
Saul A. Yager, Marian Yager, M. E. Gimp, Morris Misel, Flora Misel,
and Sam Misel, the "Yager Group", through their attorney Jack M. Campbell
and upon the application of El Paso Natural Gas Company through its attorney
Ben R. Howell, for rehearing on Order Number R-549-B heretofore entered
by the Commission.

NOW on this 10th day of February, 1956, the Commission, a
quorum being present, having fully considered said applications for rehearing,

IT IS HEREBY ORDERED:

That a rehearing in said causes be held March 16, 1956, at 9:00
o'clock a. m. on said day at Santa Fe, New Mexico.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JOHN F. SIMMS, Chairman

E. S. WALKER, Member

W. B. MACEY, Member and Secretary

SEAL

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
COMPULSORY COMMUNITIZATION
OF E/2 OF SECTION 8, TOWNSHIP
31 NORTH, RANGE 10 WEST, NMPM,
SAN JUAN COUNTY, NEW MEXICO.

CASE NO. 710) Consolidated
CASE NO. 850)
Order No. R-549-B

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
DETERMINATION AND RATIFICATION
OF COMMUNITIZATION OF E/2 OF
SECTION 8, TOWNSHIP 31 NORTH,
RANGE 10 WEST, NMPM, SAN JUAN
COUNTY, NEW MEXICO, CONTAINING
320 ACRES.

ORDER OF THE COMMISSION

BY THE COMMISSION:

Case No. 710 came on for hearing originally on May 19, 1954 before this Commission, at which time testimony and evidence offered by the interested parties was received by the Commission, and after which time written briefs were submitted by said parties and considered by the Commission.

Thereafter, the Commission signed Order No. R-549 in Case No. 710 on December 16, 1954 (the order being entered in the commission records on December 17, 1954,) declaring that the E/2 of Section 8, Township 31 North, Range 10 West, NMPM, was recognized as a communitized or pooled tract from August 25, 1933.

Thereafter, on January 6, 1955, Saul A. Yager, Marian Yager, M. E. Gimp, Morris Miesel, Flora Miesel, and Sam Miesel, the "Yager Group", filed their application for rehearing, pursuant to which the Commission entered its Order No. R-549-A on January 14, 1955, setting Case No. 710 for rehearing.

Thereafter, on February 2, 1955, El Paso Natural Gas Company filed its application for hearing in Case No. 850.

Thereafter, on March 17, 1955, at 9:00 a. m., Case No. 710 came on for rehearing and Case No. 850 came on for regular hearing, at which time the two cases were consolidated for hearing, it being understood that the entire record on Case No. 710 should be considered applicable to Case No. 850.

NOW, on this 12th day of January, 1956, the Commission, a quorum being present, having considered all the evidence, testimony, exhibits and legal arguments and briefs adduced and presented during the course of these two cases, and being fully advised in the premises,

FINDS:

1. That due public notice having been given as required by law, the Commission has jurisdiction of these cases, and the subject matter covered by the order for rehearing in Case No. 710.

2. That in making these findings and issuing this order, the Commission recognizes that there is a dispute as to whether certain leases involved in these cases remained in force and effect during all times relevant hereto; that the Commission cannot, and will not, attempt in this order to adjudicate the title to any such lease.

3. That by its Order No. R-110 this Commission established a uniform spacing plan for the Blanco-Mesaverde Gas Pool, said plan providing for drilling units of not less than 320 acres of land in the shape of a rectangle, and provided further that "the pooling of properties or parts thereof shall be permitted, and if not agreed upon may be required in any case when and to the extent that the smallness or shape of a separately owned tract would, under the enforcement of the uniform spacing plan of proration units, otherwise deprive or tend to deprive the owner of such tract of the opportunity to recover his just and equitable share of the crude petroleum oil and natural gas in the pool".

4. That by its Order R-110, the Commission provided that "no well shall be drilled, completed or recompleted, and no Notice of Intention to Drill or drilling permit shall be approved, unless such well be located on a designated drilling unit of not less than three hundred twenty (320) acres of land, more or less, according to legal subdivision of the United States Land Surveys, in which unit all the interests are consolidated by pooling agreement or otherwise and on which no other well is completed, or approved for completion, in the pool".

5. That in order for a drilling unit to be established under the terms of Order R-110, it was necessary not only that the Commission approve a notice of intention to drill a well properly located on a designated tract of land, all as required by said order, but also that the leases of the working interest owners first be pooled or integrated before such drilling unit could be so established.

6. That the E/2 of said Section 8, Township 31 North, Range 10 West, NMPM, is situated within the Blanco-Mesaverde Gas Pool as designated by the Commission.

7. That applicant, El Paso Natural Gas Company, Delhi Oil Corporation, Beaver Lodge Oil Corporation and Brookhaven Oil Corporation were, on March 9, 1953 the owners of the entire working interest under oil and gas leases covering E/2 of Section 8, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, containing 320 acres of land, more or less.

8. That on August 25, 1953, a Notice of Intention to Drill (Form C-101) was approved by a Commission Oil and Gas Inspector, said Notice of Intention to Drill having been previously filed by the Applicant, El Paso Natural Gas Company; that permission was granted to drill a well to be known as the Marcotte Pool Unit No. 1 Well and to be located 1650' from the North line and 1650' from the East line of said Section 8, Township 31 North, Range 10 West, NMPM, San Juan County, New Mexico, said well to be drilled to the Mesaverde formation; that said Notice of Intention to Drill designated the E/2 of said Section 8, Township 31 North, Range 10 West, NMPM, as the drilling unit. That drilling operations were commenced in said well on August 30, 1953, and the well completed on October 13, 1953, in the Mesaverde formation with an initial potential of 10,900,000 cubic feet of gas per day.

9. That the said working interest owners agreed to communitize their leases; that the evidence before the Commission is that such agreement had been made by May 19, 1954, the date of the first hearing in Case No. 710, no other competent evidence whatsoever being before the Commission as to when communitization was agreed upon and the consolidation of all interests therefore effected; that the Commission therefore finds that the date El Paso Natural Gas Company, Delhi Oil Corporation, Beaver Lodge Oil Corporation, and Brookhaven Oil Corporation consolidated their leases was May 19, 1954.

10. That the said agreement of the working interest owners to communitize their lease complied with the provisions of Order R-110, and that the unit selected as a drilling unit likewise complied with Order R-110.

11. That the approval of the Notice of Intention to Drill by the Commission's inspector, the designation of the E/2 of said Section 8 as a drilling unit, and the agreement entered into by said working interest owners to pool their oil and gas leases covering said acreage, which agreement consolidated oil interests therein, effectively established and created said drilling unit on May 19, 1954; that the E/2 of said Section 8 has been, and is, an approved drilling unit containing 320 acres at all times thereafter.

12. That the drilling of an additional well or wells lying within the E/2 of said Section 8, Township 31 North, Range 10 West, NMPM, would be wasteful.

IT IS THEREFORE ORDERED:

1. That the E/2 of Section 8, Township 31 North, Range 10 West, NMPM be, and is hereby, recognized as a pooled and communitized tract and a duly formed and established drilling unit, effective May 19, 1954.

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Order No. R-549-B

2. IN THE ALTERNATIVE, and in the event that subsequent adjudication as to the title of the leases herein involved renders the foregoing paragraph null, void, and inoperative from May 19, 1954, it is ordered that in any event all the interests in the E/2 of Section 8, Township 31 North, Range 10 West, be, and they are hereby, consolidated, and the said acreage be, and the same is hereby established as a drilling unit, effective the date of this order.

IT IS FURTHER ORDERED:

That Order No. R-549, in Case No. 710 be, and the same is, hereby superseded by this order.

DONE at Santa Fe, New Mexico on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JOHN F. SIMMS, Chairman

E. S. WALKER, Member

W. B. MACEY, Member and Secretary

SEAL

12/

IN THE MATTER OF THE APPLICATION
OF EL PASO NATURAL GAS COMPANY
FOR DETERMINATION AND RATIFICATION
OF COMMUNITIZATION OF E/2

OF SECTION 8, TOWNSHIP 31 NORTH,
RANGE 10 WEST, N.M.P.M., SAN JUAN
COUNTY, NEW MEXICO, CONTAINING 320
ACRES

NO. 850

TO THE HONORABLE COMMISSION:

Your Applicant, EL PASO NATURAL GAS COMPANY, represents that it is a Delaware corporation with a permit to do business in the State of New Mexico and that it was on August 25, 1953, and at all times thereafter and now is the owner of leasehold rights or gas operating rights to the base of the Mesaverde formation under

- a. Oil and Gas Lease, dated September 1, 1948, from Saul A. Yager and Marian Yager, as Lessors, to Wayne Moore, as Lessee, covering the following described land in San Juan County, New Mexico:

Township 31 North, Range 10 West, N.M.P.M.
Section 8: SE/4 SE/4

containing 40 acres, more or less.

- b. Oil and Gas Lease, dated September 23, 1952, from R. L. Sprott and Edna Sprott, as Lessors, to Delhi Oil Corporation, as Lessee, covering among other lands the W/2 SW/4 NE/4 of said Section 8, containing 20 acres, more or less.

Your Applicant and Brookhaven Oil Company jointly own gas operating rights under the following described oil and gas lease:

United States Oil and Gas Lease, Serial No. Santa Fe 078604, Bonnie Marie McClafferty, Lessee, dated May 1, 1948, covering among other lands the SW/4 SE/4 and N/2 SE/4 of said Section 8, containing 120 acres, more or less.

Beaver Lodge Oil Corporation owns leasehold rights or gas operating rights to the base of the Mesaverde Formation in the following described oil and gas leases:

- a. Oil and Gas Lease dated June 23, 1952, from W. W. McEwen and others, as Lessor, to Beaver Lodge Oil Corporation as Lessee, embracing among other lands the NW/4 NE/4 of said Section 8 excepting that portion of the right of way of The Denver and Rio Grande Western Railroad Company lying in said subdivision, the leased tract containing 39.91 acres, more or less.
- b. Oil and Gas Lease dated October 19, 1952, from Thomas R. Marcotte and Eula Marcotte, as Lessors, to Beaver Lodge Oil Corporation, as Lessee, embracing among other lands the E/2 NE/4, E/2 SW/4 NE/4 of said Section 8 excepting one acre located in the E/2 SW/4 NE/4 of said Section 8, which leased tract contains 99 acres, more or less.
- c. Oil and Gas Lease dated May 18, 1953, from R. L. Sprott and Edna Sprott, as Lessors, to Beaver Lodge Oil Corporation as Lessee, embracing the following land, to wit: One acre in the E/2 SW/4 NE/4 of said Section 8.
- d. Oil and Gas Lease dated January 5, 1953, from The Denver and Rio Grande Western Railroad Company, as Lessor, to Beaver Lodge Oil Corporation, as Lessee, embracing among other lands that portion of the right of way of The Denver and Rio Grande Western Railroad Company lying and being within the NW/4 NE/4 of said Section 8, containing .09 acres, more or less.

Saul A. Yager, 613 Oil Capital Bldg., Tulsa, Oklahoma

Marian Yager, c/o C. H. Rosenstein, McBirney Building,
Tulsa, Oklahoma

M. E. Gimp, c/o Zale's Jewelry, 1606 Main Street,
Dallas, Texas

Morris Mizel and wife, Flora Mizel, 101 We. Cameron Street,
Tulsa, Oklahoma

Sam Mizel, 101 W. Cameron Street, Tulsa, Oklahoma

and that your Applicant has forwarded to Jack M. Campbell, Attorney
for the above named persons, copies of this application.

Your Applicant represents that El Paso Natural Gas Company and
Brookhaven Oil Company, Beaver Lodge Oil Corporation and Delhi Oil
Corporation on August 25, 1953,

and at all times thereafter were and are the owners of the entire
working interest and operating rights under the above described
oil and gas leases covering the E/2 of said Section 8,
Township 31 North, Range 10 West, N.M.P.M. containing 320.00
acres of land in the shape of a rectangle, and that the E/2
of said Section 8, Township 31 North, Range 10 West, N.M.P.M.
was on August 25, 1953, and at all times thereafter located
within the boundary of the Blanco-Mesaverde Gas Pool as designated
by the Commission.

Your Applicant further represents that by its Order No. R-110
the Commission established a uniform spacing plan for the Blanco-
Mesaverde Gas Pool which said plan provided for drilling units of
not less than 320 acres of land in the shape of a rectangle, and
provided further that "the pooling of properties or parts thereof
shall be permitted, and if not agreed upon may be required in any
case when and to the extent that the smallness or shape of a
separately owned tract would, under the enforcement of the uniform
spacing plan of proration units, otherwise deprive or tend to
deprive the owner of such tract of the opportunity to recover his
just and equitable share of the crude petroleum oil and natural
gas in the pool".

Your Applicant further represents that by its Order No. R-110,
the Commission provided that "no well shall be drilled, completed
or recompleted, and no Notice of Intention to Drill or drilling

permit shall be approved unless such well be located on a designated drilling unit of not less than three hundred twenty (320) acres of land, more or less, according to legal subdivision of the United States Land Surveys, in which unit all the interests are consolidated by pooling agreement or otherwise and on which no other well is completed or approved for completion in the pool".

Your Applicant represents that all the working interest owners agreed to communitize and pool their interests to form a drilling unit pursuant to said Order R-1110; that Applicant filed with the Commission a Notice of Intention to Drill a well to the Mesaverde Formation located 1650 feet from the north line and 1650 feet from the east line of said Section 8; that a duly authorized Commission Oil and Gas Inspector on August 25, 1953, approved said Notice and granted Applicant permission to drill a well to be known as the Marcotte Pool Unit No. 1 Well on the drilling unit designated in said Notice, which was the E/2 of said Section 8; that drilling operations were commenced on said well on August 30, 1953, and the well completed in the Mesaverde Formation on October 11, 1953, with an initial potential of 10,900,00 cubic feet of gas per day.

Your Applicant further represents that at all times material Brookhaven Oil Company, Beaver Lodge Oil Corporation, Delhi Oil Corporation

and your Applicant were the only persons who had the right to drill

into the Mesaverde Gas Pool and to appropriate the production for themselves and that all of said working interest owners agreed to pool or communitize their separate oil and gas leases into the above described drilling unit containing 320 acres, and that said Agreement in all things complied with the provisions of Order No. R-110, and the unit selected by the owners as a drilling unit complied with Order No. R-110 and that the rules and regulations of the Commission made no additional requirements for the working interest owners to obtain approval of the creation of a drilling unit.

Your Applicant further represents that the Agreement entered into by said owners to pool or communitize the oil and gas leases covering the E/2 of said Section 8 , and the filing by the owners of Notice of Intention to Drill and approval of such Notice by the Commission on August 25, 1953 , constituted an effective approval of such communitized or pooled tract, and that the E/2 of said Section 8 has been and is an approved drilling unit containing 320 acres at all times thereafter.

Your Applicant represents that the drilling of an additional well or wells lying within the E/2 of said Section 8 , Township 31 North, Range 10 West, N.M.P.M. would be wasteful.

WHEREFORE, Your Applicant prays that the Commission determine by appropriate Order that the E/2 of said Section 8 , Township 31 North, Range 10 West, N.M.P.M., be recognized as a communitized or pooled tract effective August 25, 1953 , and at all times thereafter, and that such pooling or communitization accomplished by the working interest owners having the right to drill into and produce from the Mesaverde Gas Pool be confirmed and ratified.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

By Bruce L. Howell
Attorney