

CASE 2080: Application of SWEARINGEN,  
W. H., FOR AMENDMENT OF ORDER R-1748  
to include additional acreage.

Case No.

2080

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Application, Transcript,  
and Exhibits, Etc.

BEFORE THE  
OIL CONSERVATION COMMISSION  
September 21, 1960

Examiner Hearing

IN THE MATTER OF:

Application of W. H. Swearingen for an amendment of Order No. R-1748. Applicant, in the above-styled cause, seeks an amendment of Order No. R-1748 to include the SE/4 NW/4 of Section 21 with the remainder of the N/2 of said Section 21, both in Township 18 South, Range 26 East, Eddy County, New Mexico, to form a standard 320-acre gas unit in the Atoka-Pennsylvanian Gas Pool. Applicant further seeks a determination of the well costs which are to be paid by the parties.

CASE NO.  
2080

BEFORE:

Daniel S. Nutter, Examiner  
Oliver E. Payne

TRANSCRIPT OF PROCEEDINGS

MR. NUTTER: The hearing will come to order. The next case will be 2080.

MR. PAYNE: Application of W. H. Swearingen for an amendment of Order No. R-1748.

MR. BARKER: Gentlemen, I am Charles B. Barker, attorney of Santa Fe. I represent the applicant W. H. Swearingen. This case, I believe, gentlemen, is before you upon application for a re-hearing upon the order of the Commission, Order Number R-1748, in which order a non-standard unit of 280 acres in the north half



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of Section 21, Township 18 South, Range 26 East, was granted to the applicant, Charles Lovelace. My client, Mr. Swearingen, is the owner of the southeast quarter of the northwest quarter of that section. I do not know that, first I should like to be advised whether this is a hearing before the examiner and not before the Commission as a whole?

MR. PAYNE: It is a hearing before the Examiner, Mr. Barker.

MR. BARKER: In that case I think perhaps there is nothing by way of testimony unless I might be permitted to offer evidence as to the ownership, and to that end I will ask Mr. Swearingen be sworn.

MR. PAYNE: All right, sir.

(Witness sworn.)

W. H. SWEARINGEN

called as a witness, having been previously duly sworn, testified as follows:

# DIRECT EXAMINATION

BY MR. BARKER:

Q Will you state your name?

A W. H. Swearingen.

Q Where do you live?

A Santa Fe.

Q Are you the owner of the southeast quarter of the northeast quarter --



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A Of the northwest.

Q -- quarter of Section 21, South Eddy County, New Mexico?

A Yes, sir.

Q How long have you been the owner of that particular 40 acre tract?

A Twenty some years, I don't know how long.

Q Do you have the deed under which you acquired the ownership?

A Yes.

Q May I have this deed marked for identification, please?

(Whereupon, Applicant's Exhibit Number 1 was marked for identification.)

MR. NUTTER: Exhibit Number 1 in Case 2080. However, we can photostat this.

MR. BARKER: I can, if the deed will be received in evidence, and a photostat be substituted for the original.

MR. NUTTER: This would be fine.

Q (By Mr. Barker) This is the deed by which you acquired title?

A It is.

Q If that can be done, I will leave that to be photostated. Just for the purpose of making it more clear to the Examiner, I would like to have this little diagram entered also.

(Whereupon, Applicant's Exhibit Number 2 was marked for identification.)



MR. NUTTER: This will be identified as Exhibit Number 2, Applicant's Exhibit Number 2 in Case 2080.

MR. BARKER: I have nothing more for testimony.

BY MR. PAYNE:

Q I would like to pin down exactly what you are seeking in this application.

A I am just seeking to join the unit and be in there.

Q You are also seeking a determination as to the proper manner in which well costs are to be attributed?

A MR. BARKER: I think I can answer that perhaps this way. It is our position that we should be permitted to join this unit as we have heretofore requested under the provisions of sub-section C of Section 65-3-4-14. I think we become squarely before it as set forth by the law inasmuch as apparently Mr. Swearingen and Mr. Loveless who I believe is the proposed operator under the non-standard unit granted him, are not able to agree on the terms. I believe it is incumbent upon the Commission to compel the addition of this 40 to the unit and to prescribe the terms.

MR. PAYNE: Our terms were each owner pays his proportionate share of the well cost according to the amount of acreage he has in the unit, and pays them in advance of the drilling of the well, is that satisfactory?

A No, that ain't.

Q (By Mr. Payne) As I understand you are seeking a force pool and ordinarily the one that does the force pooling pays the

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entire cost of the well?

MR. BARKER: That is a point of argument, but as I understand it, it is within the province of the Commission to fix the terms and prescribe the costs and so forth and, of course, that is what we are asking the Commission to do.

Q (By Mr. Payne) Do you own this acreage in fee?

A Yes.

Q You own the surface and minerals by way of tax deed?

A That is right.

Q Well, what I would like to know, how do you want the well cost to be attributed, what is your position?

A I am just leaving that up to the Commission.

MR. NUTTER: It would be helpful if we had a suggestion.

MR. BARKER: Under the circumstances we believe that the proposition we have made heretofore which I assume is in the record, we believe that the, after the costs are fixed, are determined, that the costs should be paid from the production, that portion of the production to be Mr. Swearingen and that the proceeds of the sale of oil or gas or both which should be impounded and held until the costs of the well is paid for.

MR. NUTTER: In the event there wasn't any production how would the cost be paid out?

MR. BARKER: Well, we haven't considered that.

A I believe I can answer that. They are the ones that are pushing the development.



MR. PAYNE: They have a non-standard on which we can drill a well?

A I say they are the ones that are pushing this development.

Q (By Mr. Payne) You wish to work into this unit as a working interest owner. Ordinarily they help put up their proportion of the well cost in advance, they together share the risk of the dry hole?

A You make your decision.

MR. BARKER: I might add, we believe that in the event we should be granted the privilege as I have suggested, that I think Mr. Swearingen should pay interest upon his share of the cost of the well, that is only fair. That is, I think is all that I have to offer this morning. I assume, of course, that the Commission, I might say, gentlemen, I am completely unfamiliar with many of the details which are covered by your rules and regulations, I am requesting that whatever rules and regulations that the Commission has that pertain to the unitization or proration will be considered in reaching a decision in this matter. It, of course, is perfectly obvious I think, I believe the Examiner should take judicial notice of the fact that if the well should be drilled and produced, that location which has been granted, which is 330 feet from the boundary line of Mr. Swearingen's tract, he would not be permitted to drill the well on his own land, certainly not a gas well. I understand this is, if not so designated, that the likelihood is, it is to be designated as a gas pool. So that he would not be permitted and have no way of protecting himself

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unless it would be joined in this unit. It puts him in rather a difficult position, assuming which for the purpose of the argument we can assume that he had no means, not able to advance his share of the cost of the well and this well is permitted to produce, you can see what would happen to him. And I somewhat doubt whether the courts would ever sustain such a proposition. There are so many angles to this thing and many of which I am not particularly familiar, but it does seem obvious to me that if we do know the position and could not advance his proportionate cost of the well and this well was permitted to go ahead and produce, it would be taking his property without due process, and it does not seem to me that could be legally done.

MR. NUTTER: Mr. Barker, are you in the position to answer this question? Was the applicant today present at the hearing at which the non-standard unit was proposed and did he object to the formation of the non-standard unit?

MR. BARKER: Well, he can answer that.

A I offered to join it.

MR. BARKER: Well, the question was, were you present?

A No, I wasn't present at the hearing.

MR. NUTTER: Did you enter any objection to the establishment of the non-standard unit?

A I offered to join by a written notice.

MR. BARKER: I think you will find it in the record.

MR. PAYNE: You are seeking this upon terms that you

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are just and reasonable?

MR. BARKER: That that is true as provided by the statute. I appreciate the Commission has a very wide discretion, more than I think is usually granted to an administrative body, but the statute does say, does give the Commission a very wide discretion in determining this question, and we simply ask that the Commission consider the circumstances and exercise its discretion in such a manner that no injustice can be done to anybody.

MR. NUTTER: Do you have any further question of the witness? Does anyone have any inquiries? Mr. Newmann.

MR. NEWMANN: I am Kirk Newmann, representing Mr. Loveless as operator of the proposed unit.

BY MR. NEWMANN:

Q Mr. Swearingen, were you offered to be permitted to join the unit and pay your own way in the unit as the other operators in the unit are doing?

A Well no, I wasn't offered that opportunity.

Q Were you asked to sign an operating agreement and pay your part of the costs of the well?

A Well, they wanted me to pay my part of the cost of the well.

Q In other words, you weren't offered an opportunity without paying any costs, is that what you are saying?

A No. I am trying to tell you I was offered the opportunity to pay my part of the costs of the well, but not offered the



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opportunity to join the unit.

Q You are hereby offered the opportunity to join the unit if you pay your part of the cost of the well, if you pay a 45% royalty, if would give a lease on that?

A The way that works out, 5.625%, not 45%.

Q That is of the production on 320 acres?

A That is right.

Q Well, I didn't, I don't think they intend to have you pay 45% of the production in a 40 acre lease.

A Let me get a little further here. I was called yesterday evening by one of the partners of this operation, they said the well would never be drilled.

Q I don't know who that partner was, he is in for a rude shock, all the other partners think it will.

MR. LOVELESS: Would you care to tell us who that partner was?

A He represented himself as representing agent.

MR. PAYNE: If the well is never drilled, your property couldn't be drained?

A That is right. The only thing I am trying to do is just protect myself.

Q (By Mr. Newmann) Mr. Swearingen, I think it is more or less customary in the industry that when a participant in the lease has his share of the drilling costs recovered out of production that the person who pays that cost is allowed to recover 150% before the



non-paying partner, participant, would you be willing to do that?

A No. That is, it takes five or six years to pay out. I will agree that they are entitled to interest until they are paid.

Q We would like to go on record on behalf the operator, Mr. Swearingen will be permitted to join the unit provided that he as all the other operators in the unit pay their way or put up their part of the drilling completion equipment costs in advance and sign the operating agreement which has been signed by Yates Petroleum Corporation, the Yates Brothers, Etz T. B. Jackson, Charles, and I understand Harry Olson Development Corporation. We are in the process right now of that group acquiring part of the interest of the Brothers and they have consented to me over the phone to the terms of the operator agreement; and if he will join on the same basis that all the other unit operators he is more than welcome.

A Well, let me state this is just street say, in gossip, Jackson themselves jumped me and said him and Etz weren't interested in that at all.

MR. PAYNE: I don't believe any of this is relevant to the case. Mr. Newmann, on behalf of the operator of the 280 acres, would you have any objection to putting up the entire well costs and Mr. Swearingen come into the unit, his proportionate share taken out of the production plus a reasonable cost for supervision and operation of the unit which can or may or may not be construed as including interest?

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MR. NEWMANN: If the liability, if there are no bonuses for putting up his part of the development cost at all, then their liability for dry hole costs should remain, of course.

MR. PAYNE: Mr. Newmann, we get no bonus for assuming the risk, which our statute does not allow. Incidentally, and that was why you did not attempt to force pool?

MR. NEWMANN: He is attempting to force pool. We will be happy to pay all the costs and pay our share of the position.

MR. PAYNE: I think all the positions of the parties are clear.

MR. BARKER: We have nothing more.

MR. NUTTER: Does anyone have any further questions of Mr. Swearingen?

MR. LOVELESS: His application requested to arrive at a estimated cost for the completed well. I don't know what the purpose of that is as pertaining to that. If he doesn't propose to put up any of the money, I wondered what he had in mind in trying to make that determination.

MR. NUTTER: Mr. Loveless, I don't know if the application actually requests that he be determined the cost of the well or not. The last paragraph of the application reads as follows: "That the Commission enter an order requiring that the said 40 acres of land of the applicant be added to the drilling unit upon such terms and conditions that are just and reasonable to all parts in interest." That is the only place I find he requests anything relative to costs.



MR. LOVELESS: It says --

MR. NUTTER: If there is no further questions of Mr. Swearingen he may be excused.

(Witness excused.)

MR. NUTTER: Do you have anything further, Mr. Barker?

MR. BARKER: Nothing further.

MR. NUTTER: Does anyone have anything further? We will take the case under advisement, and call case 2081.

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STATE OF NEW MEXICO     )  
                                       : ss  
 COUNTY OF BERNALILLO    )

I, LEW NELSON, Notary Public in and for the County of Bernalillo, State of New Mexico, do hereby certify that the foregoing and attached transcript of proceedings before the Oil Conservation Commission was reported by me in stenotype and reduced to typewritten transcript by me and/or under my personal supervision and that the same is a true and correct record to the best of my knowledge, skill and ability.

Witness my hand and seal this the 3 day of September, 1960, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

Lew Nelson  
 NOTARY PUBLIC

My Commission Expires:  
 June 1<sup>st</sup>, 1964

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 2080, heard by me on 9/21, 1960.  
As..., Examiner  
 New Mexico Oil Conservation Commission

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ALBUQUERQUE, NEW MEXICO



I N D E X

WITNESS

W. H. SWEARINGEN  
By Mr. Payne  
By Mr. Newmann

DIRECT

2  
4  
8

CROSS

EXHIBITS

Applicant's No. 1  
Applicant's No. 2

FOR  
IDENTIFICATION OFFERED

3  
3

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ALBUQUERQUE, NEW MEXICO



**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:**

**CASE No. 2080  
Order No. R-1748-A**

**APPLICATION OF W. H. SWEARINGEN  
FOR AN ORDER INCREASING ADDITIONAL  
ACREAGE IN AN ATOKA-PENNSYLVANIAN  
GAS UNIT, EDDY COUNTY, NEW MEXICO.**

**ORDER OF THE COMMISSION**

**BY THE COMMISSION:**

This cause came on for hearing at 9 o'clock a.m. on September 21, 1960, at Santa Fe, New Mexico, before Daniel S. Hutter, Examiner duly appointed by the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission," in accordance with Rule 1214 of the Commission Rules and Regulations.

Now, on this 11th day of October, 1960, the Commission, a quorum being present, having considered the application, the evidence adduced, and the recommendations of the Examiner, Daniel S. Hutter, 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 this cause and the subject matter thereof.

(2) That by Order No. R-1748, the Commission established a 280-acre non-standard gas unit in the Atoka-Pennsylvanian Gas Pool consisting of all of the E/2 of Section 21, Township 18 South, Range 26 East, NMPM, Eddy County, New Mexico, with the exception of the SE/4 NW/4 of said Section 21.

(3) That the applicant, W. H. Swearingen, now seeks an order which will join the said SE/4 NW/4 of said Section 21 with the 280-acre unit described above to form a standard 320-acre gas unit in the Atoka-Pennsylvanian Gas Pool which will be dedicated to a well located 1650 feet from the North line and 2310 feet from the East line of said Section 21.

(4) That the applicant should be given an opportunity to join said 280-acre gas unit upon terms that are just and reasonable to each and every mineral interest owner in the proposed 320-acre gas unit.

CASE No. 2080  
Order No. R-1748-A

(5) That accordingly, the applicant should be allowed to exercise one of the following options:

- (a) That prior to November 1, 1960, the applicant can furnish 40/320ths of the estimated cost of drilling the unit well to Charles C. Loveless, Jr., agent for Ross Brunner, operator of the unit, subject to a subsequent adjustment as to actual costs.
- (b) The applicant can pay 40/320ths of the cost of drilling the well out of production plus twenty-five (25) percent of such figure as a charge for supervision and operation of the well; provided, however, that the applicant shall pay 40/320ths of the cost of drilling the well if it is a dry hole.

(6) That prior to November 1, 1960, the applicant should advise the Commission and Charles C. Loveless, Jr., agent for Ross Brunner, operator of the well, at P. O. Box 5667, Roswell, New Mexico, as to which option, if either, that he is exercising. Failure to exercise either option prior to November 1, 1960, will be construed by the Commission as an expression of the applicant's decision not to join said unit at any time hereafter, since the Commission deems the above-mentioned alternatives as being on terms that are just and reasonable and which give the applicant the opportunity to receive his just and equitable share of the oil or gas, if any, under his 40-acre tract.

IT IS THEREFORE ORDERED:

(1) That the SE/4 NW/4 of Section 21, Township 18 South, Range 26 East, NEM, Eddy County, New Mexico, be and the same is hereby included with the remainder of the N/2 of said Section 21 to form a standard 320-acre gas unit in the Acoma-Pennsylvanian Gas Pool, contingent upon the applicant exercising one of the following options prior to November 1, 1960:

- (a) That prior to November 1, 1960, the applicant furnishes 40/320ths of the estimated cost of drilling the unit well to Charles C. Loveless, Jr., agent for Ross Brunner, operator of the unit, subject to a subsequent adjustment as to actual costs.
- (b) That prior to November 1, 1960, the applicant advises the Commission and

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CASE No. 2080  
Order No. R-1748-A

Charles C. Loveless, Jr., that he will pay 40/120ths of the cost of drilling the unit well out of production plus twenty-five (25) percent of such figure as a charge for supervision and operation of the well. Provided, however, that the applicant must pay 40/120ths of the cost of drilling the well if it is a dry hole.

(2) The 200-acre non-standard gas unit in the North-Punery-Punery Gas Pool, Bddy County, New Mexico, authorized by Order No. R-1748 shall remain in full force and effect unless the applicant exercises one of the above-mentioned options prior to November 1, 1960.

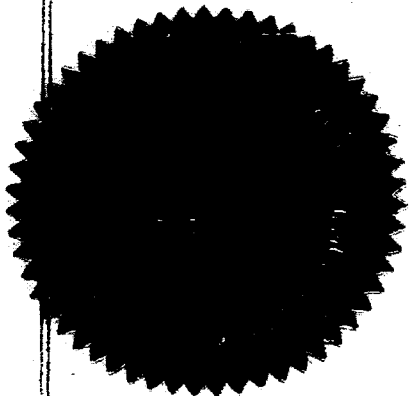
DONE at Santa Fe, New Mexico, on the day and year herein-shown designated.

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

*John T. Burroughs*  
JOHN BURROUGHS, Chairman

*W. E. Morgan*  
WILLIAM E. MORGAN, Member

*A. L. Potter, Jr.*  
A. L. POTTER, JR., Member & Secretary



CSX/

MAIN OFFICE OCC  
1960 AUG 30 AM 8:06

CHARLES B. BARKER  
ATTORNEY AT LAW  
SHELBY BLDG. BOX 141  
SANTA FE, NEW MEXICO

August 29, 1960.

New Mexico Oil Conservation Commission,  
Santa Fe, New Mexico,

Gentlemen:

Re: Case No. 2036, Order No.  
R-1748,  
Application of Charles  
Loveless- Atoka-Pennsyl-  
vanian Gas Pool, Eddy Co.  
New Mexico

Transmitted herewith is an application of W. H. Swearingen  
for a hearing before the Commission, upon the matter above noted,  
the order in the case having been rendered August 10, 1960.

A copy of the application has been mailed this date to  
Mr. Charles Loveless, Petroleum Building, Roswell, New Mexico.

Will you please enter my appearance for Mr. Swearingen  
and send all notices respecting the case to me at the above  
address.

Very truly yours,

*Charles B. Barker*  
Charles B. Barker

*Yocher  
Mailed  
9-9-60*  
CC- Mr. Charles Loveless,  
Petroleum Building,  
Roswell, New Mexico.

MAIN OFFICE OCC

1960 NOV 4 PM 1:25 MAIN 2-1958

CHARLES C. LOVELESS, JR.  
SUITE 211 PETROLEUM BUILDING  
ROSWELL, NEW MEXICO  
November 3, 1960

P. O. BOX 5667

*Can File  
# 2080*

*Olsen*

New Mexico Oil  
Conservation Commission  
107 Mabry Hall  
Capitol Building  
Santa Fe, New Mexico

Attention: Mr. D. S. Nutter, Chief Engineer

Re: Case No. 2080

Gentlemen:

This is to advise that a letter dated October 27, 1960, signed by W. H. Swearingen, applicant in the subject case, notified me that he elected to join the unit on the basis of Option A of subject case. On October 31, Mr. Swearingen deposited to my account in the Security National Bank of Roswell, New Mexico, \$12,500.00, the estimated cost of a dry hole if the Ross Brunner No. 1 Dayton Townsite should happen not to produce and be plugged and abandoned.

Mr. Dan Smith, Petroleum Building, Santa Fe, New Mexico, accountant for Mr. S. W. Swearingen, had previously been advised that the estimated cost of a dry hole would be approximately \$100,000 and that Mr. Swearingen's 1/8 would be \$12,500. Mr. Smith was further advised that Mr. Swearingen would receive timely invoices for additional cost to complete and equip the well if it were completed as a producer in the Atoka-Pennsylvanian gas zone.

I wish to take this opportunity to commend you personally and the Oil Conservation Commission of New Mexico for the manner in which this case was handled.

Yours very sincerely,

*Charles C. Loveless, Jr.*

CCL/bh

cc: Mr. Howard Olsen  
P. O. Box 1744  
Midland, Texas

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO.

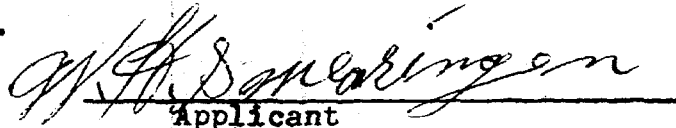
Case No. 2080

APPLICATION OF W. H. SWEARINGEN  
FOR AN ORDER INCLUDING ADDITIONAL  
ACREAGE IN AN ATOKA\*PENNSYLVANIAN  
GAS UNIT, EDDY COUNTY, NEW MEXICO.

NOTICE OF ACCEPTANCE OF ORDER OF THE COMMISSION  
DATED OCTOBER 11, 1960, IN THE ABOVE BOTED CASE.

Notice to all concerned is hereby given that the undersigned W. H. Swearingen, hereby accepts the order of the Oil Conservation Commission of New Mexico, in the above noted case, dated October 11, 1960, and elects to take the option (a) as in the said order set out, which provides for the payment of 40/320ths of the estimated cost of drilling the unit well, subject to a subsequent adjustment as to actual costs.

Request for an estimate of the cost of drilling the unit well has been made of Charles C. Loveless, Jr., agent for Ross Brunner, operator of the unit, and payment will be made as soon as such estimate is received.

  
Applicant

\_\_\_\_\_  
Santa Fe, New Mexico,  
Attorney for Applicant.

COPY

Santa Fe, New Mexico,  
October 27, 1960.

Mr. Charles C. Loveless, Jr.,  
Roswell, New Mexico,

Dear Mr. Loveless:

Re: Case No. 2080, Oil Conserva-  
tion Commission of New Mexico

Inclosed find a copy of a notice of acceptance of the order of the Oil Conservation Commission of New Mexico in the above noted case, and of my election to take option (a) as specified in the said order.

Will you therefore as soon as may be practicable, send me an itemized estimate of the cost of drilling the unit well on the unit composed of the N<sup>1</sup>/<sub>2</sub>, Section 21, Township 18 South, Range 26 East, Eddy County, New Mexico.

Very truly yours,

Signed/ W. H. Swearingen

MAIN OFFICE OCC

1960 OCT 27 AM 11:19

DOCKET: EXAMINER HEARING, WEDNESDAY, SEPTEMBER 21, 1960

The following cases will be heard before Daniel S. Nutter, Examiner, or Oliver E. Payne, Attorney, as Alternate Examiner:

\* Case Nos. 2083 through 2089 will not be heard before 1 p.m.

CASE 2055: (Continued)

Application of Aztec Oil & Gas Company for a gas-gas dual completion utilizing two strings of casing. Applicant, in the above-styled cause, seeks an order authorizing the dual completion of its Hanks Well No. 12-D, located in Unit H, Section 7, Township 27 North, Range 9 West, San Juan County, New Mexico, in such a manner as to permit the production of gas from the Fulcher Kutz-Pictured Cliffs Pool and the production of gas from the Dakota Producing Interval through parallel strings of 2 7/8-inch and 4 1/2-inch casing cemented in a common well bore. Applicant proposes to install 2 3/8-inch tubing to produce the Dakota gas.

NEW CASESCASE 2073:

Application of Aztec Oil & Gas Company for a gas-gas dual completion. Applicant, in the above-styled cause, seeks an order authorizing the dual completion of its Hanks Well No. 18-D, located in Unit B, Section 5, Township 27 North, Range 9 West, San Juan County, New Mexico, in such a manner as to permit the production of gas from the Fulcher Kutz-Pictured Cliffs Pool and the production of gas from the Dakota Producing Interval through parallel strings of 2 7/8-inch and 4 1/2-inch casing cemented in a common well bore. Applicant also proposes to install 2 3/8-inch tubing to produce the Dakota gas.

CASE 2074:

Application of Aztec Oil & Gas Company for a gas-gas dual completion. Applicant, in the above-styled cause, seeks an order authorizing the dual completion of its Hanks Well No. 16-D, located in Unit K, Section 6, Township 27 North, Range 9 West, San Juan County, New Mexico, in such a manner as to permit the production of gas from the Fulcher Kutz-Pictured Cliffs Pool and the production of gas from the Dakota Producing Interval through parallel strings of 2 7/8-inch and 4 1/2-inch casing cemented in a common well bore. Applicant also proposes to install 2 3/8-inch tubing to produce the Dakota gas.

CASE 2075:

Application of Aztec Oil & Gas Company for a gas-gas dual completion. Applicant, in the above-styled cause, seeks an order authorizing the dual completion of its Hanks Well No. 15-D, located in Unit B, Section 6, Township 27 North, Range 9 West, San Juan County, New Mexico, in such a manner as to permit the production of gas from the Fulcher Kutz-Pictured Cliffs Pool and the production of gas from the Dakota Producing Interval through parallel strings of 2 7/8-inch and 4 1/2-inch casing cemented in a common well bore. Applicant also proposes to install 2 3/8-inch tubing to produce the Dakota gas.

CASE 2076:

Application of Aztec Oil & Gas Company for a gas-gas dual completion. Applicant, in the above-styled cause, seeks an order authorizing the dual completion of its Hare Well No. 15-D located in Unit D, Section 10, Township 29 North, Range 10 West, San Juan County, New Mexico, in such a manner as to permit the production of gas from the Aztec-Pictured Cliffs Pool and the production of gas from the Dakota Producing Interval through parallel strings of 2 7/8-inch and 4 1/2-inch cemented in a common well bore. Applicant also proposes to install 2 3/8-inch tubing to produce the Dakota gas.

CASE 2077:

Application of El Paso Natural Gas Company and Sinclair Oil & Gas Company for two non-standard gas proration units. Applicants, in the above-styled cause, seek an order establishing two 191-acre non-standard gas proration units in the South Blanco-Pictured Cliffs Gas Pool, Rio Arriba County, New Mexico, one comprising the NE/4 and lots 1 and 2 of said Section 18, other comprising the SE/4 and lots 3 and 4 of said Section 18, both in Township 24 North, Range 3 West. Said units are to be dedicated respectively to the Tonkin Federal Well No. 3, located 1470 feet from the North line and 1750 feet from the East line of said Section 18 and to the Tonkin Federal Well No. 4, located 1500 feet from the South line and 990 feet from the East line of said Section 18.

CASE 2078:

Application of Chambers & Kennedy for an oil-oil dual completion. Applicant, in the above-styled cause, seeks an order authorizing the dual completion of its Monterey State Well No. 2, Unit D, Section 32, Township 18 South, Range 31 East, Eddy County, New Mexico, in such a manner as to permit the production of oil from an undesignated Yates oil pool and the production of oil from the North Shugard Queen-Grayburg Pool through parallel strings of 1 1/2-inch and 2 3/8-inch tubing respectively.

CASE 2079:

Application of Socony Mobil Oil Company for a "slim-hole" oil-oil dual completion. Applicant, in the above-styled cause, seeks an order authorizing the dual completion of its E. O. Carson Well No. 23, located 760 feet from the South line and

860 feet from the West line of Section 28, Township 21 South, Range 37 East, Lea County, New Mexico, in such a manner as to permit the production of oil from the Paddock Pool and the production of oil from the Wantz-Abo Pool using parallel stings of 2 7/8-inch tubing cemented in a common well bore.

CASE 2080:

Application of W. H. Swearingen for an amendment of Order No. R-1748. Applicant, in the above-styled cause, seeks an amendment of Order No. R-1748 to include the SE/4 NW/4 of Section 21 with the remainder of the N/2 of said Section 21, both in Township 18 South, Range 26 East, Eddy County, New Mexico, to form a standard 320-acre gas unit in the Atoka-Pennsylvanian Gas Pool. Applicant further seeks a determination of the well costs which are to be paid by the parties.

CASE 2081:

Application of Phillips Petroleum Company and Phillips Chemical Company for permission to commingle the production from three separate leases. Applicant, in the above-styled cause, seeks permission to commingle the production from the Vacuum Pool from all wells on the following-described portions of three State leases:

State Lease No. B-2073, SE/4 NE/4 of Section 19

State Lease No. B-2388, NW/4 SE/4 of Section 20

State Lease No. B-1501, NE/4 NW/4 of Section 29

all in Township 17 South, Range 35 East, Lea County, New Mexico.

CASE 2082:

Application of Pan American Petroleum Corporation for off-lease storage of oil. Applicant, in the above-styled cause, seeks an order authorizing it to store the Empire-Abo Pool production from its Malco "N" Lease (NW/4 and N/2 SW/4 of Section 15) in a separate tank battery to be located on its State "BR" Lease (NE/4 NE/4 of Section 16), both in Township 18 South, Range 27 East, Eddy County, New Mexico.

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The following cases will not be heard before 1 p.m. on September 21, 1960.

CASE 2083:

Application of Gulf Oil Corporation for a 160-acre non-standard gas proration unit and for an order force-pooling the mineral interests therein. Applicant, in the above-styled cause, seeks an order force-pooling all mineral interests within the vertical limits of the Tubb Gas Pool in a 160-acre

non-standard gas proration unit consisting of the W/2 E/2 of Section 14, Township 21 South, Range 37 East, Lea County, New Mexico, including the following non-consenting interest owners: J. M. Newton, Ronald J. Byers, Robert E. Byers, and Constance E. Byers. Said unit is to be dedicated to the Naomi Keenum Well No. 2, located 660 feet from the South line and 1980 feet from the East line of said Section 14.

CASE 2084:

Application of Gulf Oil Corporation for permission to commingle the production from several separate pools and for permission to install two automatic custody transfer systems. Applicant, in the above-styled cause, seeks permission to commingle the production from the Brunson-Ellenburger Pool with production from the Hare Pool, and to commingle the production from the Terry-Blinebry Pool with the production from the North Paddock Pool, on its Harry Leonard "F" Lease, consisting of the E/2 of Section 2, Township 21 South, Range 37 East, Lea County, New Mexico. Applicant further seeks permission to install two automatic custody transfer systems to handle the aforesaid commingled production.

CASE 2085:

Application of Gulf Oil Corporation for permission to commingle the production from several separate pools and for permission to install two automatic custody transfer systems. Applicant, in the above-styled cause, seeks permission to commingle the production from the Brunson-Ellenburger Pool with production from the Hare Pool, and to commingle the production from the Wantz-Abo Pool, Paddock Pool, Penrose-Skelly Pool and Drinkard Pool with the gas condensate production from the Tubb Gas Pool and the Blinebry Gas Pool, from all wells on its Eunice King Lease consisting of the N/2 of Section 28, Township 21 South, Range 37 East, Lea County, New Mexico. Applicant further seeks permission to install two automatic custody transfer systems to handle the aforesaid commingled production.

CASE 2086:

Application of Gulf Oil Corporation for an automatic custody transfer system. Applicant, in the above-styled cause, seeks an order authorizing the installation of an automatic custody transfer system to handle the Gladiola (Devonian) Pool production from all wells presently completed or hereafter drilled on the M. M. Harris Lease comprising the NW/4 of Section 8, Township 12 South, Range 38 East, Lea County, New Mexico.

CASE 2087:

Application of Gulf Oil Corporation for an automatic custody transfer system. Applicant, in the above-styled cause seeks an order authorizing the installation of an automatic custody transfer system to handle the Gladiola (Devonian) Pool production from all wells presently completed or hereafter drilled

Docket No. 27-60

-5-

on the Lea-State "AV" Lease comprising the NW/4 of Section 19, Township 12 South, Range 38 East, Lea County, New Mexico.

CASE 2088:

Application of Tennessee Gas Transmission Company for an amendment of Order No. R-1755. Applicant, in the above-styled cause, seeks an order amending Order No. R-1755 to expressly designate the applicant as operator of the unit pooled in said order with all powers incidental to the proper operation of the unit including the power and authority to market the production from the unit well.

CASE 2089:

Application of Val R. Reese & Associates, Inc. for the promulgation of special rules and regulations governing the Escrito-Gallup Oil Pool. Applicant, in the above-styled cause, seeks an order promulgating special rules and regulations governing the drilling, spacing and production of oil and gas wells in the Escrito-Gallup Oil Pool, Rio Arriba County, New Mexico and further, to extend said pool to include all of Section 25, Township 25 North, Range 7 West.

ig/

GOVERNOR  
JOHN BURROUGHS  
CHAIRMAN

State of New Mexico  
Oil Conservation Commission

LAND COMMISSIONER  
MURRAY E. MORGAN  
MEMBER



STATE GEOLOGIST  
A. L. PORTER, JR.  
SECRETARY DIRECTOR

P. O. BOX 871  
SANTA FE

October 11, 1960

Mr. Charles Barker  
Shell Building - Box 141  
Santa Fe, New Mexico

Re: Case No. 2080  
Order No. H-1748-A  
Applicant:  
W. H. Swearingen

Dear Sir:

Enclosed herewith are two copies of the above-referenced  
Commission order recently entered in the subject case.

Very truly yours,

A. L. PORTER, Jr.,  
Secretary-Director

ir/

Carbon copy of order also sent to:

Hobbs OCC x  
Artesia OCC x  
Aztec OCC       

Other Mr. Kirk Newman

MAIN OFFICE OCC  
1960 AUG 30 AM 10 06

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO.

Case No. 2036  
Order No. R-1748

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

APPLICATION OF CHARLES LOVELESS FOR  
A 280 -ACRE NON-STANDAR GAS UNIT IN  
THE ATOKA-PENNSYLVANIAN GAS POOL,  
EDDY COUNTY, NEW MEXICO, AND FOR  
AN UNORTHODOX GAS WELL LOCATION IN  
SAID POOL.

APPLICATION FOR REHEARING

Comes now W. H. Swearingen, and makes application to the  
Commission for a rehearing of the above case, in which order  
was entered on August 10, 1960.

For grounds/<sup>of</sup>rehearing, applicant respectfully shows to the  
Commission as follows:

1. Applicant is the owner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$ , of Section  
21, Township 18 South, Range 26 East, Eddy County, New Mexico.

2. That by its order, the Commission a 280-acre non-standard  
gas unit, consisting of all of the N $\frac{1}{2}$  of the said Section 21,  
except the said forty acre tract owned by applicant.

3. That 320 acres is the standard gas unit for the field in  
which the aforesaid lands lie.

4. That the Commission has approved a location for a well  
on the said non-standard unit at a point 330 feet from the east  
line of the forty acre tract owned by applicant.

5. That by so doing the Commission has in effect granted the  
applicant for the esbalishment of the non-standard unit, authority  
to <sup>deprive</sup> this applicant for a rehearing of the right and opportunity  
to recover his just and equitable share of the natural gas and  
crude petroleum in the pool in which the lands involved lie.

6. That it was made known to the Commission at the hearing,  
that this applicant, and Charles Loveless, the applicant for the  
establishment of a non-standard unit, had no been able to agree  
on a communitization agreement.

7. That the smallness of the tract owned by this applicant is such that under the uniform spacing plan and proration unit, would, if enforced, operate to deprive this applicant of the opportunity to recover his just and equitable share of the natural gas and crude petroleum in the pool.

8. That it would be wholly impracticable, if not indeed impossible, for this applicant to drill a well on his said forty acre tract of land.

9. That it is to obvious distinct advantage to the said Charles Loveless not to have this applicant's land included in the drilling unit, since by the leaving it out of the unit, he will be able to take all of the oil and gas from this applicant's land, and without and remuneration to applicant.

10. That for the above reason, the said Charles Loveless was and is unwilling to enter into a fair and equitable agreement for communitization with this applicant.

11. That the statute, namely, Section 65-3-14 (c), expressly provides for the requirement that this applicant's land be required to be included in the unit, upon terms that are just and equitable, and reasonable, to be prescribed by the Commission.

Upon the above outlined facts and premises, this applicant submits that the order of the Commission, of August 10, 1960, is unjust, unreasonable, and unlawful, and would have the effect of depriving this applicant of his property without due process of law, if permitted to stand.

Applicant therefore prays that a rehearing of the case may be granted, and that upon rehearing, the Commission withdraw its order of August 10, 1960.

That the Commission enter an order, requiring that the said forty acres of land of the applicant be added to the drilling unit, upon such terms and conditions that are just and reasonable as to all parties in interest.

Respectfully submitted,

Charles H. Barker  
Attorney for W. H. Swearingen.

# Deed

BEFORE EXAMINER NUTTER

OIL CONSERVATION COMMISSION

EXHIBIT NO. 1

CASE NO. 2080

THIS INDENTURE made and entered into this 9th day of December, 1937, by and between the State Tax Commission of New Mexico, party of the first part, and W. H. SWEARINGIN, of Santa Fe, New Mexico, party of the second part, WITNESSETH, THAT:

WHEREAS, the hereinafter described real estate was heretofore sold to the State of New Mexico for delinquent taxes as evidenced by Tax Sale Certificate No. (See below), executed by the Treasurer of EDDY County, New Mexico, on the " " day of December, 1934, pursuant to the provisions of Chapter 27 of the Special Session Laws of 1934, and more than two years having elapsed since the date of issuance and sale of said certificate; and

WHEREAS the County Treasurer of said County on the (See below) day of 1937, pursuant to the provisions of Chapter 27 of the Special Laws of 1934, as amended, did execute and deliver to the State of New Mexico, Tax Deed No. (See below) covering said property; said deed being recorded in Book No. (See below), at page of the Deed Records in the office of the County Clerk of said county; and

WHEREAS, by virtue of the Laws of the State of New Mexico, said party of the first part is authorized to sell and convey said real estate, in consideration of the payment of ONE HUNDRED TWENTY ONE AND 71/100 Dollars (\$ 121.71 ), Payment of said sum having been made to the State Tax Commission, receipt of which is hereby acknowledged.

NOW THEREFORE, THIS INDENTURE WITNESSETH: That the party of the first part, for and in consideration of the premises aforesaid, by virtue of the authority in said party vested, does hereby grant, bargain, sell and convey unto W. H. SWEARINGIN, his heirs, successors, executors, administrators and assigns, the following described real estate, situate in the County of EDDY, State of New Mexico, to-wit:

DESCRIPTION	DEED NO.	DATED	RECORDED Book Pgs.	TAX SALE CERT.	DATED
Tract 143 Sec. 1, T. 18 S.R. 26 E.	838	3-6-37	4 158	1205	12-3-36
Tract 145, Sec. 1, T. 18 S.R. 26 E.	843	3-6-37	4 168	1227	12-3-36
Tract 147, Sec. 2, T. 18 S.R. 26 E.	836	3-6-37	4 161	1213	12-3-36
Tract 148, Sec. 1, T. 18 S.R. 26 E.	838	3-6-37	4 161	1213	12-3-36
Tract 149 Sec. 12, T. 18 S.R. 26 E.	839	3-6-37	4 164	1218	12-3-36
Tract 150 Sec. 12, T. 18 S.R. 26 E.	841	3-6-37	4 166	1220	12-3-36
Tract 171 Sec. 12, T. 18 S.R. 26 E.	842	3-6-37	4 167	1222	12-3-36
Tracts 118 & 133-E. of River and Highway Sec. 12 T. 18 S.R. 26 E. ✓	848	3-6-37	4 172	1241	12-3-36
Tract 151 Sec. 21 T. 18 S.R. 26 E.	859	2-24-37	5 545	800	12-3-36
Tract 152, Sec. 1, T. 18 S.R. 26 E.	1511	5-23-37	5 251	2024	12-3-36
Tract 153, Sec. 2, T. 18 S.R. 26 E.	1512	5-23-37	5 252	2025	12-3-36
Tract 155, Sec. 12, T. 18 S.R. 26 E.	1601	1-12-38	5 321	3028	12-6-38
Tract 156 Sec. 12, T. 18 S.R. 26 E.	1602	1-12-38	5 322	3023	12-6-38
Lots 1-3, Block 31, Sec. 6, T. 18 S.R. 26 E.	1602	1-10-39	5 378	4003	12-11-39
Tract 216 Sec. 1, T. 18 S.R. 26 E.	1603	1-12-38	5 323	3043	12-6-38
Lots 10-12, Block 31 West Dayton Lots 1-2-3-10-11-12 Block 3 HW Add. Dayton					
Lots 1-2-3 Block 3, HW Add. Dayton-1651 ✓		1-10-39	5 367	3005	12-11-39
7.61 acres of SE 1/4 Sec. 21, T. 18 S.R. 26 E.	1846	5-23-37	5 67	2819	12-3-36

To Have and To Hold, all and singular, the said premises, together with all the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining unto the said party of the second part, his heirs, successors, executors, administrators and assigns, in fee simple.

IN WITNESS WHEREOF, said party of the first part has executed this indenture according to law this the day and year first above written.

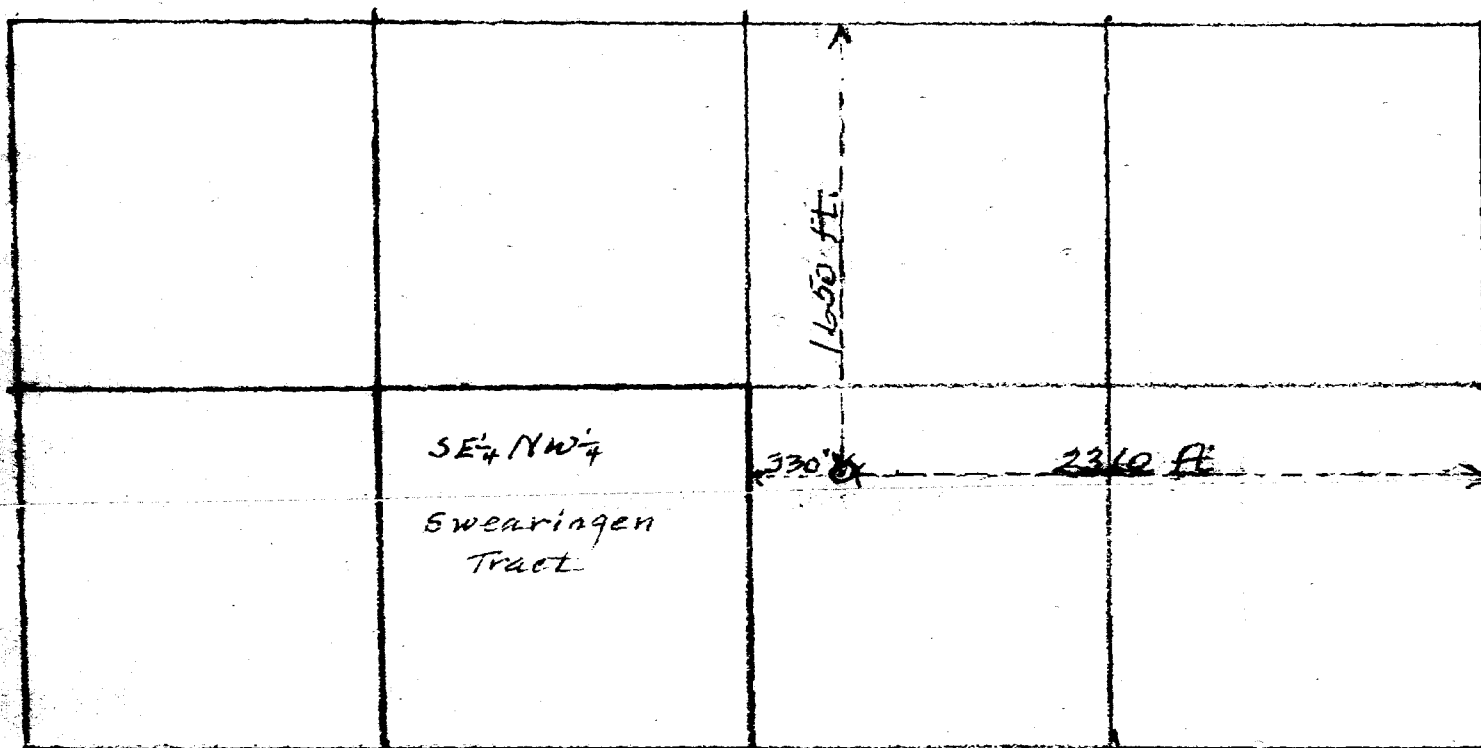
STATE TAX COMMISSION OF NEW MEXICO

By

*J. M. Harris*  
Chief Tax Commissioner

Attest:

*Alfred Arroyo*  
Assistant Secretary

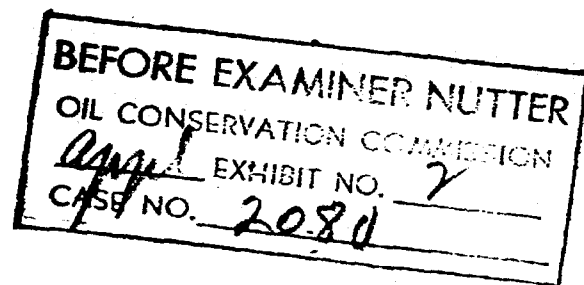


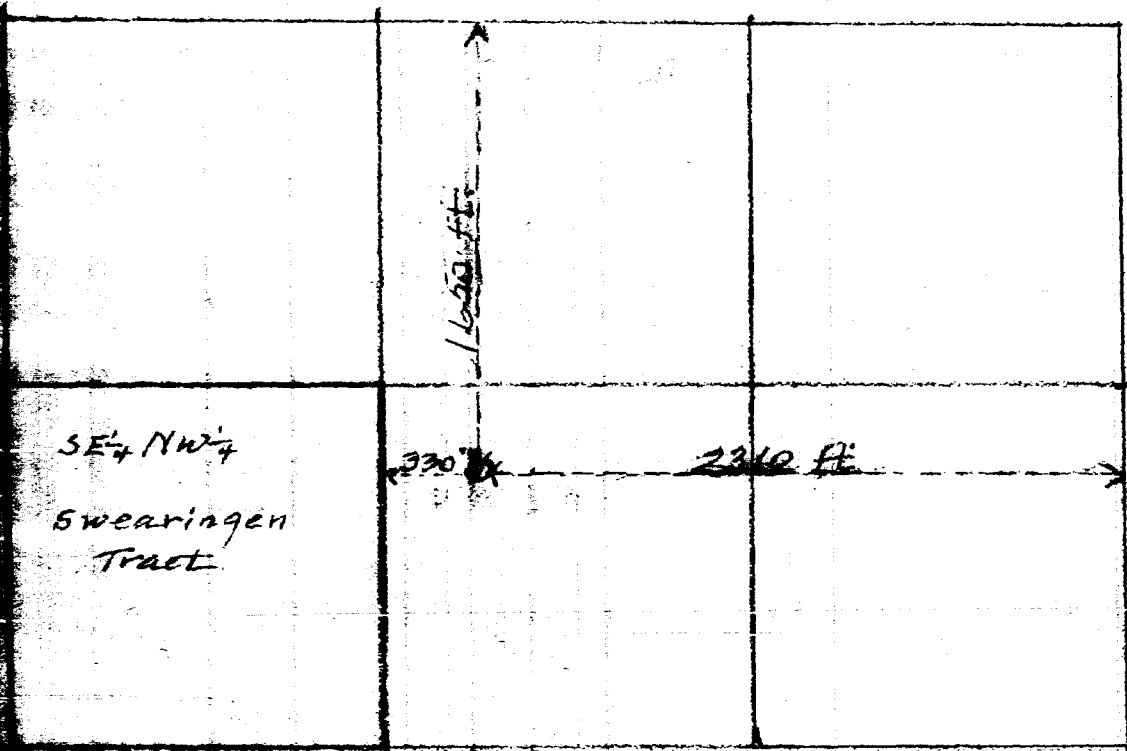
Showing North Half, Section 21, Township 18 South, Range 26 East, N. M. P.M., and location of Brunner No. 1, Dayton Townsite Well, and the forty acres owned by W. H. Swearingen. Atoka-Pennsylvanian Gas Pool.

Oil Conservation Commission  
of the State of New Mexico

Case No. 2036

Order No. R-1748





lf, Section 21, Township 18 South, Range 26 East, N. M. P.M.,  
 Brunner No. 1, Dayton Townsite Well, and the forty acres  
 Swearingen. Atoka-Pennsylvanian Gas Pool.

Oil Conservation Commission,  
 of the State of New Mexico  
 Case No. 2036  
 Order No. R-1748

EXAMINER NUTTER  
 CONSERVATION COMMISSION  
 EXHIBIT NO. 7  
2080

**Breed**

BEFORE EXAMINER NUTTER  
OIL CONSERVATION COMMISSION  
EXHIBIT NO. 1  
CASE NO. 2080

THIS INDENTURE made and entered into this 9th day of April, 1937, by and between the State Tax Commission of New Mexico, party of the first part, and W. H. SWEARINGIN, of Santa Fe, New Mexico, party of the second part, WITNESSETH, THAT:

WHEREAS, the hereinafter described real estate was heretofore sold to the State of New Mexico for delinquent taxes as evidenced by Tax Sale Certificate No. (See below), executed by the Treasurer of EDDY County, New Mexico, on the " " day of December, 1934, pursuant to the provisions of Chapter 27 of the Special Session Laws of 1934, and more than two years having elapsed since the date of issuance and sale of said certificate; and

WHEREAS the County Treasurer of said County on the (See below) day of " ", 1937, pursuant to the provisions of Chapter 27 of the Special Laws of 1934, as amended, did execute and deliver to the State of New Mexico, Tax Deed No. (See below) covering said property; said deed being recorded in Book No. (See below), at page " " of the Deed Records in the office of the County Clerk of said county; and

WHEREAS, by virtue of the Laws of the State of New Mexico, said party of the first part is authorized to sell and convey said real estate in consideration of the payment of

ONE HUNDRED TWENTY ONE AND 71/100 Dollars (\$ 121.71).

Payment of said sum having been made to the State Tax Commission, receipt of which is hereby acknowledged.

NOW THEREFORE, THIS INDENTURE WITNESSETH: That the party of the first part, for and in consideration of the premises aforesaid, by virtue of the authority in said party vested, does hereby grant, bargain, sell and convey unto W. H. SWEARINGIN, his heirs, successors, executors, administrators and assigns, the following described real estate, situate in the County of

EDDY

State of New Mexico, to-wit:

DESCRIPTION	DEED NO.	DATED	RECORDED Book Page	TAX SALE CERT.	DATED
Tract 243 Sec. 1, T. 18 S. R. 26 E.	833	3-6-37	4 158	1205	12-3-34
Tract 215, Sec. 1, T. 18 S. R. 26 E.	843	3-6-37	4 168	1227	12-3-34
Tract 257, Sec. 2, T. 18 S. R. 26 E.					
Tract 222, Sec. 1, T. 18 S. R. 26 E.	836	3-6-37	4 161	1213	12-3-34
Tract 246 Sec. 12, T. 18 S. R. 26 E.	839	3-6-37	4 164	1218	12-3-34
Tract 248 Sec. 12, T. 18 S. R. 26 E.	841	3-6-37	4 166	1220	12-3-34
Tract 271 Sec. 12, T. 18 S. R. 26 E.	842	3-6-37	4 167	1222	12-3-34
Tracts 216 & 233-E. of River and Sec. 12 T. 18 S. R. 26 E.	848	3-6-37	4 172	1241	12-3-34
Tract 222 Sec. 21 T. 18 S. R. 26 E.	559	2-24-37	5 245	800	12-3-34
Tract 215, Sec. 1, T. 18 S. R. 26 E.	1511	5-22-37	5 231	2024	12-3-34
Tract 223, Sec. 2, T. 18 S. R. 26 E.	1512	5-22-37	5 232	2025	12-3-34
Tract 225, Sec. 12, T. 18 S. R. 26 E.	1601	1-12-38	5 321	3026	12-6-38
Tract 226 Sec. 12, T. 18 S. R. 26 E.	1602	1-12-38	5 322	3033	12-6-38
Lots 1-8, Block 3, Sec. 6, T. 18 S. R. 26 E.	1662	1-10-39	5 378	4003	12-11-39
Tract 216 Sec. 1, T. 18 S. R. 26 E.	1603	1-12-38	5 323	3043	12-6-38
Lots 10-12, Block 31 West Dayton Lots 1-2-3-10-11-12 Block 2 HW Add. Dayton					
Lots 1-2-3 Block 3, HW Add. Dayton-1651		1-10-39	5 367	3068	12-11-39
7.01 acres of SE 1/4 Sec. 21, T. 18 S. R. 26 E.	1346	6-22-37	5 67	2419	12-3-34