

Entered May 22 1975
A.L.P.

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. 4865
Order No. R-4444-A

APPLICATION OF DAVID FASKEN
FOR SPECIAL ALLOWABLES, EDDY
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on November 21, 1972, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 22nd day of May, 1975, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(A) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(B) That after hearing, Commission Order No. R-4444, dated December 6, 1972, was entered in Case No. 4865 denying the application of David Fasken for an exception to the general rules and regulations governing prorated gas pools in Southeast New Mexico, promulgated by Order No. R-1670, as amended, to permit the production of his Ross Federal Well No. 1, located 1980 feet from the South line and 1980 feet from the West line of Section 4, and his Shell Federal Well No. 1, located 1980 feet from the South line and 1980 feet from the West line of Section 5, both in Township 21 South, Range 24 East, Indian Basin-Morrow Gas Pool, Eddy County, New Mexico, at the capacity of the wells to produce, or in the alternative, to permit the production of said wells at a rate in excess of the allowables assigned to said wells.

(C) That David Fasken filed an Application for Rehearing of the decision in Case No. 4865 on December 22, 1972.

(D) That the Commission took no action on the Application for Rehearing thereby denying it.

(E) That David Fasken appealed this decision of the Commission to the District Court of Eddy County.

(F) That the Commission moved for Summary Judgment.

(G) That on November 29, 1973, the Commission's Motion for Summary Judgment was granted by the District Court.

(H) That David Fasken appealed this decision to the Supreme Court of New Mexico in December, 1973.

(I) That the Supreme Court reversed the District Court and remanded the cause back to the Commission on February 28, 1975.

(J) That in reaching its decision, the Supreme Court stated it did not want for theories in this case but that the problem with the theories advanced by counsel was that they were not bolstered by the expertise of the Commission.

(K) That in reversing the District Court, the Supreme Court found that sufficient findings to disclose the reasoning of the Commission were lacking and reversal was thereby required.

(L) That the case was "...remanded to the Commission for the making of additional findings of fact based upon the record as it presently exists, and the entry of new orders."

(M) That pursuant to this decision of the New Mexico Supreme Court and upon further review of the record the Commission finds:

(1) That the Commission is empowered by Subsection (12) of Section 65-3-11 NMSA, 1953 Comp., as amended, "To determine the limits of any pool or pools producing crude petroleum oil or natural gas or both, and from time to time to redetermine such limits;"

(2) That on June 1, 1969, the Commission entered Order No. R-3758 which pursuant to its statutory powers abolished the North Indian Hills-Morrow Gas Pool and extended the Indian Basin-Morrow Gas Pool to include acreage formerly included in said North Indian Hills-Morrow Gas Pool because the Commission concluded that this area comprised a single source of supply.

(3) That the evidence showed that the withdrawal of gas from a well in the north part of the Indian Basin-Morrow Gas Pool affects the pressure and gas migration in the south part

of the pool and that the withdrawal of gas in the south part of the pool affects pressure and gas migration in the north part of this pool.

(4) That communication therefore exists throughout the pool.

(5) That communication throughout a reservoir is one of the means used to determine that a pool constitutes a single source of gas supply.

(6) That the Indian Basin-Morrow Gas Pool constitutes a single source of gas supply.

(7) The Commission is empowered by Section 65-3-10 NMSA, 1953 Comp., as amended, to prevent waste and protect correlative rights.

(8) That pursuant to the provisions of Section 65-3-10 NMSA, 1953 Comp., as amended, it is the duty of the Commission to protect the correlative rights of all mineral interest owners in an oil or gas pool.

(9) That Section 65-3-29 H. NMSA, 1953 Comp., as amended, defines correlative rights as the opportunity afforded, so far as it is practicable to do so, to the owner of each property in the pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool...." (Emphasis added)

(10) That Fasken is seeking with this application higher rates of production from each of his wells in the northern portion of the Indian Basin-Morrow Gas Pool.

(11) That the wells in the northern portion of the pool could produce at higher rates if their production was no longer prorated in accordance with the allowables set for the Indian Basin-Morrow Gas Pool and they received larger or capacity allowables.

(12) That the allocation of allowables in the Indian Basin-Morrow Gas Pool is on a straight acreage basis.

(13) That because of variations in the United States Public Lands Surveys, more acreage is dedicated to each of Fasken's wells in the northern portion of the pool than is dedicated

to other wells in the pool, and he therefore receives larger allowables for his two wells and is authorized to produce considerably more from each of these wells than are other operators in the pool.

(14) That ten wells produce from the Indian Hills Morrow Gas Pool.

(15) That the two Fasken wells in the northern portion of said pool constitute 20 percent of the wells producing from the pool.

(16) That the two Fasken wells in the north of said pool have produced almost 40 percent of the gas from the pool.

(17) That Fasken has an opportunity equal to that of other producers in the pool to produce his just and equitable share of gas from said pool.

(18) That granting the application of David Fasken for special allowables would increase the amount of gas Fasken could withdraw, giving him an advantage over other operators producing from this single source of supply thereby impairing their correlative rights.

(19) That granting the application of David Fasken for capacity allowables would authorize production practices which would impair the correlative rights of other mineral interest owners and, therefore, is contrary to the duties of the Commission as set out in Section 65-3-10 NMSA, 1953 Comp., as amended.

(20) That in order to protect correlative rights, the application should be denied.

(21) That Section 65-3-3 E NMSA, 1953 Comp., as amended, defines waste as follows:

"The production in this state of natural gas from any gas well or wells, or from any gas pool, in excess of the reasonable market demand from such source for natural gas of the type produced or in excess of the capacity of gas transportation facilities for such type of natural gas...."
(Emphasis added)

(22) That Fasken's witness testified that the entire pool has a greater capacity to produce gas than the producers in said pool are able to sell to the pipeline.

(23) That this limited ability to sell gas from the pool may be termed a "restricted demand."

(24) That this restricted demand for gas from the pool must logically be concluded to result from either:

- (a) a limited demand for gas from the pool because of market conditions; or
- (b) a limited demand for gas from the pool because of limited physical facilities to handle and transport the gas.

(25) That this restricted demand may be considered the "reasonable market demand" for gas from the pool.

(26) That production of gas from the pool in excess of the reasonable market demand imposed by either of the conditions described in Finding No. (24) above would cause waste. (See Finding No. (21) above.)

(27) That the other producers in the pool are entitled to produce their just and equitable share of the gas in the pool and to be permitted their just and equitable share of the reasonable market demand for gas from the pool.

(28) That granting the application of Fasken for special allowables would authorize production in excess of his share of the reasonable market demand for gas from the pool and would by definition (Section 65-3-3 E NMSA 1953 Comp.) cause waste.

(29) That in order to prevent waste, the application should be denied.

IT IS THEREFORE ORDERED:

(1) That the application of David Fasken for special allowables for his Ross Federal Well No. 1 and his Shell Federal Well No. 1, both in the Indian Basin-Morrow Gas Pool, Eddy County, New Mexico, be and the same is hereby denied.

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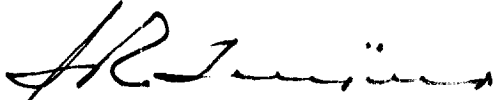
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(2) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


I. R. TRUJILLO, Chairman


A. L. PORTER, Jr., Member & Secretary

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