

ATWOOD & MALONE
LAWYERS

JEFF D. ATWOOD
ROSS L. MALONE
CHARLES F. MALONE
E. KIRK NEWMAN
RUSSELL D. MANN
PAUL A. COOTER

TELEPHONE MAIN 2-6221
ROSWELL PETROLEUM BUILDING
ROSWELL, NEW MEXICO

February 17, 1958

Oil Conservation Commission
State Capitol
Santa Fe, New Mexico

Re: Case No. 1327, Order No. R-1092-A

Gentlemen:

We enclose herewith, in triplicate, the Applications of Tidewater Oil Company and Pan American Petroleum Corporation for Rehearing on Order No. R-1092-A.

Very truly yours,

ATWOOD & MALONE

By: 

RLM:bc
Encls.
cc: Mr. Jack M. Campbell

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

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

CASE NO. 1327
Order No. R-~~1902-A~~
1092-A

APPLICATION OF TEXAS PACIFIC COAL &
OIL COMPANY FOR AN ORDER IMMEDIATELY
TERMINATING GAS PRORATIONING IN THE
JALMAT GAS POOL; OR IN THE ALTERNATIVE,
REVISING THE SPECIAL RULES AND REGULA-
TIONS FOR THE JALMAT GAS POOL IN LEA
COUNTY, NEW MEXICO.

APPLICATION FOR REHEARING

COMES NOW Tidewater Oil Company, herein referred to as
"Applicant", and states to the Commission:

(1) Applicant is a corporation owning and operating
oil and gas leases and gas wells within the limits of the Jalmat
Gas Pool in Lea County, New Mexico.

(2) Applicant participated in, and presented testimony
to the Commission in, the hearings on the Application of Texas
Pacific Coal & Oil Company in the above styled and numbered case
and as an Operator in the Jalmat Gas Pool was affected by Order
No. R-1092-A entered by the Commission under date of January 29,
1958.

(3) Applicant believes and therefore alleges that Order
No. R-1092-A aforesaid was erroneous, illegal and is invalid and
by reason thereof a rehearing is requested in respect to that por-
tion of said Order which provides that effective July 1, 1958, a
deliverability factor shall be included in the gas proration for-
mula of the Jalmat Pool and the succeeding portions of said Order
carrying into effect the decision of the Commission that deliver-
ability shall be included in the proration formula subsequent to
July 1, 1958, and as grounds therefor states:

(a) The Application of Texas Pacific Coal & Oil Company in Case No. 1327, to the extent that it sought the inclusion of a deliverability factor in the proration formula of the Jalmat Gas Pool, constituted a collateral attack upon Order No. 520 in Case No. 6731 of this Commission entered on the 12th day of August, 1954, and, therefore, should not have been entertained by the Commission and cannot be made the basis of a valid Order in Case No. 1327 insofar as the inclusion of deliverability in the proration formula is concerned.

(b) The evidence introduced in this proceeding provides no basis upon which a valid order could be entered by the Commission changing the basis for the allocation of production from the Jalmat Gas Pool from a 100% acreage basis to the basis provided in Order No. R-1092-A for the reason that Order No. R-520 entered by this Commission in Case No. 673 constituted a final determination that deliverability should not be included in the proration formula of the Jalmat Gas Pool. Texas Pacific Coal & Oil Company was a party to Case No. 673 and supported the inclusion of deliverability in the proration formula, which request was considered by the Commission, and Order No. 520 was entered denying the request of said Texas Pacific Coal & Oil Company for the inclusion of deliverability in said formula. No appeal was taken by Texas Pacific Coal & Oil Company from the final decision of the Commission so ordered. On the basis of the record in this case, the Commission is without authority to modify or change the decision so reached in Case No. 673.

(c) The inclusion of deliverability in the Jalmat Gas proration formula as ordered by Order No. R-1092-A is predicated on a finding by this Commission "That the applicant has proved that there is a general correlation between the deliverabilities of the gas wells in the Jalmat Gas Pool and the gas in

place under the tracts dedicated to said wells." Applicant respectfully alleges that this finding of the Commission is contrary to, and wholly without support in, the evidence and is, therefore, invalid and void. In further support of the grounds here alleged, Applicant attaches hereto as Exhibit "A" a vertical bar graph depicting the relationship between the recoverable gas in place under the 58 tracts which were the subject of testimony and exhibits presented by this applicant and other operators before the Commission on December 9, 1957, and the deliverability of the 58 gas wells located on said tracts. Said exhibit is based upon the testimony in the record in this case and clearly demonstrates the total absence of correlation between the deliverabilities of gas wells in the Jalmat Gas Pool and gas in place under the tracts dedicated to said wells. If afforded an opportunity to do so, Applicant will present further evidence in this regard but asserts that on the evidence heard by the Commission it is clearly shown that no such correlation exists.

(d) The order of the Commission is invalid in that even though it be assumed that as found by the Commission it has been proved that "there is a general correlation between the deliverabilities of the gas wells in the Jalmat Gas Pool and the gas in place under the tracts dedicated to said wells", said finding provides no basis authorized by the statutes of New Mexico for modification of the pre-existing acreage formula for proration of gas produced from said pool.

(e) That the Commission has considered factors not permitted by the statutes of New Mexico in arriving at its decision which was the basis of Order No. R-1092-A. It is apparent from said Order that it was predicated in part upon, (1) a finding that the inclusion of a deliverability factor in the Jalmat proration formula would result in the production of a

greater percentage of the pool allowable, and (2) that it would more nearly enable various gas purchasers to meet the market demand for gas in the Jalmat Gas Pool. Neither of said considerations provides any legal basis for the allocation of production under the statutes of New Mexico.

(f) The Order of the Commission results in economic waste in that it will require the expenditure of hundreds of thousands of dollars by the operators in the Jalmat pool, including this operator, in an effort to increase the deliverability of the gas wells in said pool and thereby to protect their respective correlative rights, although the ultimate recovery of gas from said pool will not be appreciably increased by such expenditure.

(g) The Order of the Commission will result in underground waste in that many of the wells in the Jalmat Gas Pool have been completed for some ten to twenty years and their condition is such that the action required of a prudent operator under the Order of the Commission will necessarily result in the underground waste of natural gas and the abuse of correlative rights of the owners of many of said wells.

(h) Even if it be assumed that the Commission had jurisdiction and authority in this proceeding to change the basis on which production from said pool is allocated as between the operators thereof, such a change could be made only upon establishment by a preponderance of the evidence in this case, either that waste would be reduced or eliminated, or that the correlative rights of the operators in the Jalmat pool would be protected to a greater degree by such a change in the allocation formula. The burden of proof so assumed by Applicant Texas Pacific Coal & Oil Company was not discharged in this case and by reason thereof the Commission's Order is without support in the evidence.

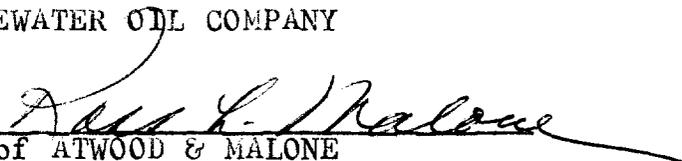
(i) Order No. R-1092-A results in irreparable injury to the correlative rights of Applicant and deprives this Applicant of its property without due process of law in that,

1. It will permit production by offset operators of natural gas underlying the tracts owned by this Applicant without affording compensating counter-drainage from other adjoining tracts, and will prevent this Applicant from producing the recoverable gas in place in the Jalmat Pool underlying the tract upon which the wells of Applicant are located, and

2. Substantial expenditures have been made by this operator and other operators in said pool upon the basis of Order R-520, and in reliance upon the allocation of the production of said pool by this Commission on a 100% acreage basis, the benefits of which are destroyed by said Order.

WHEREFORE, Applicant respectfully prays the Commission that a rehearing be granted in the above styled and numbered case as to that portion of the Order and Decision of the Commission providing for the inclusion of a deliverability factor in the allocation formula of the Jalmat Gas Pool subsequent to July 1, 1958.

TIDEWATER OIL COMPANY

By: 
of ATWOOD & MALONE
One of its Attorneys
Roswell Petroleum Building
Roswell, New Mexico