

THE RAILROAD COMMISSION OF TEXAS

OIL AND GAS DOCKET
NO. 126 #8-11,513

IN RE: CONSERVATION & PREVENTION
OF WASTE OF CRUDE PETROLEUM AND
NATURAL GAS IN RAILROAD COMMISSION
DISTRICT NO. 8, TEXAS.

Hearing held in Midland, Texas,

December 10, 1947.

TRANSCRIPT OF TESTIMONY

Peggy Nicholson,
Official Reporter.

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T E X A S.

HEARING HELD IN MIDLAND, TEXAS, DECEMBER 10, 1947

B E F O R E

HONORABLE W. J. MURRAY, JR., COMMISSIONER
MR. JACK K. BAUMEL, CHIEF ENGINEER
MR. CLARK LLOYD, DIRECTOR OF PRODUCTION
MR. JOE GREER, DEPUTY SUPERVISOR, MIDLAND,
TEXAS.

A P P E A R A N C E S

NAME	ADDRESS	REPRESENTING
Neal & Girand	Hobbs, New Mexico	Hardin-Houston Company
Spurrier, R. R.	Santa Fe, New Mex.	Oil Conservation Comm.
Yarbrough, Rog. O.	Hobbs, New Mex.	State of N. M. Oil Con- servation Commission
Crothers, W. L.	Midland, Texas	Humble Oil & Refg. Co.
Murray, H. D.	Midland, Texas	The Texas Company
Puett, Nelson		Federal Petroleum Board
Denton, R. L.	Midland, Texas	Magnolia Pipe Line Co.
Corbett, E. T.	Midland, Texas	Humble Pipe Line Co.
Abel, M. D.	Midland, Texas	Plymouth Oil Company

APPEARANCES
(Continued)

NAME	ADDRESS	REPRESENTING
Wistrand, Betty	Santa Fe, New Mex.	N. M. Oil Conserva- tion Commission
Canfield, R. E.	Roswell, N. Mex.	U. S. Geological Survey
Gardner, Frank D.	Midland, Texas	Sinclair-Prairie Oil Co. -
Morrell, Foster	Roswell, New Mex.	U. S. Geological Survey
Graham, George A.	Santa Fe, New Mex.	Oil Conservation Comm. of New Mexico
Callaway, J. T.	Odessa, Texas	The Atlantic Refg. Co.

TRANSCRIPT OF PROCEEDINGS

MR. BAUMEL: Call for hearing Oil and Gas Docket No. 126 #8-11,513, in re: conservation and prevention of waste of crude petroleum and natural gas in Railroad Commission District No. 8, Texas. The hearing notice reads as follows:

"Notice is hereby given to the public and all interested parties that the Railroad Commission of Texas will, at ten, a. m., December 10, 1947, hold a Hearing in the Commission's office in the Petroleum Building, in Midland, Texas, for the purpose of permitting the Hardin-Houston Company and/or any other interested party to place before the Commission such evidence as may be desired to be presented in connection with and bearing upon whether or not the Commission's permit heretofore granted said company

to operate a plant, located at Denver City, in Yoakum County, Texas, for the purpose of treating and/or reclaiming tank bottoms should be revoked.

"This hearing is called pursuant to the provisions of Section IV of Commission Order No. 20-11,302, dated Sept. 29, 1947, titled 'Special Order Regulating Tank Cleaning, Plants Processing Tank Bottoms, and Reclaiming of Waste Oil'; and by reason of the fact that sampling, by Commission representatives, of the unprocessed stock, classified by Hardin-Houston Company as BS&W and reported on Commission Form RP as stock on hand at the close of September, 1947, operations, disclosed that the actual BS&W content thereof approximated only twenty-two per cent (22%) of such total volume reported as BS&W stock."

MR. GIRAND: I would like to have two or three minutes to talk to Mr. Spurrier and Mr. Yarbrough.

MR. BAUMEL: All right, we will recess for five minutes.

(WHEREUPON, THE HEARING WAS
RECESSED FOR FIVE MINUTES.)

MR. GIRAND: If the Commission please, I would like to make an introductory statement for the record, realizing of course that it is hearsay in nature, but it will throw considerable light on the matter here.

The notice is the record against Hardin-Houston Company to show cause why their present temporary permit should not

be revoked, based on violation of Rule IV of your Order No. 20-11,302.

Rule IV, as I just recently scanned over it, provides for the filing of certain forms and designations of locations of source of the tank bottoms which are being processed and which are in storage, the number of barrels that have been disposed of during the calendar month, the number of tank bottoms and the character of tank bottoms. The facts, as I understand them, are simply this: The Hardin-Houston Company obtained tenders from the State of New Mexico to move certain tank bottoms, designated in the tender as BS&W from the Texas-New Mexico Pipe Line Company, Lynch Tank Station in Lee County, New Mexico. These bottoms were treated, that is steamed, in New Mexico to do away with as much water as possible for transportation purposes, and in turn moved to Texas. There were other oils or bottoms commingled with that in the storage of the Hardin-Houston Company at Hobbs, New Mexico, approximately one-fifth of the total bottoms moved would be other than the Lynch Station bottoms. The plant at Denver City had not been completed and to this day has not been completed because upon the first report of the Hardin-Houston Company to the Railroad Commission of Texas the request was rejected on the grounds of the basis of this show-cause order.

New Mexico has been laboring for some five months on

the problem of regulating reprocessing plants for the processing of tank bottoms. There have been numerous hearings - four, I believe, to be exact - in Santa Fe before the Oil Conservation Commission, in which the interested parties, being the producer and the processor, have met and discussed at length what should be contained in an Order. The Texas Order prior to your order of the 29th of September, 1947, was used to some extent as a pattern for a proposed Order that was submitted that Commission.

After four hearings in Santa Fe, the Commission appointed a Committee of producers and processors to meet and submit to the Committee a proposed Order covering the general rules of practice and procedure to be followed by a processor, including the report and such checkmates as they might be able to make to insure the least possible violation of the Order possible.

This Committee met and did report and up to this time I have not been notified that the Commission has adopted the proposed Orders. Mr. Spurrier, have they adopted those proposed Orders?

MR. SPURRIER: No.

MR. GIRAND: The serious question that is presented here by this hearing is that an individual or company armed with the legal right to move in interstate commerce a commodity authorized to be moved from without a State

into another State, finds that upon its arrival in the sister State, it is in violation of the laws of that State, although the commodity started in legal means. It had all the covering of a legal shipment. This is the same oil that was moved from New Mexico; it hasn't been touched. I speak of oil, I mean the same tank bottoms that started in New Mexico. It hasn't been touched or treated since that time in Texas. It is a New Mexico product for which a C-110, being our transportation Order in New Mexico, was approved. We take the position in answer to the Commission's Order, that the oil located in the storage tanks of Hardin-Houston Company at Denver City, Texas, is legal, for the reason that it was legal in its inception and that after being brought into this State for further processing because it is not in its present state suitable to go into a common carrier pipe line, it requires further treating to bring it down to pipe line specification; that this emulsion in storage there is legal; that they should have a right to continue or further the process and dispose of the reclaimed pipe line oil; that the filing of the C-110 issued by the Conservation Commission of New Mexico should be sufficient proof to the Railroad Commission of Texas that the oil was legally produced and legally put in commerce; and that the permit of Hardin-Houston Company should not be cancelled.

MR. BAUMEL: Mr. Girand, I don't think that the question here is whether or not the Commission has authority to stop the importation of legally produced oil from New Mexico or any other State into Texas. The Commission has never questioned any import tender on crude oil which has been imported by producers or pipe line operators into the State of Texas. The question here is on your tender which you filed in September, 1947, you stated that the import was for tank bottoms to be moved to a treating plant. Of course, if it was actually tank bottoms, then there would not have been any question as to the legality of it; but when we went out and gauged the tank, it had about 470-some barrels of pure pipe line oil out of 530 barrels of so-called tank bottoms.

MR. GIRAND: I might state this, that we do not deny the result of the test. As a matter of fact, we admit it because we don't know to the contrary. The State of New Mexico recognizes only one crude oil under its present law, and that is pipe line oil of a content of less than two per cent; over two per cent the common carriers will not carry it and the oil either has to be treated down to that content of BS&W or it has to be poured out on the lease premises or disposed of in some way. There has been no regulation by the Conservation Commission of New Mexico covering what is BS&W. That is, these tank bottoms for years have been used on the lease premises, for fire walls

for the tank batteries; they have been used on the lease roads; they have been put in burn pits and burned. Now, in every instance there is a few inches of good oil between your BS&W content and your pipe line outlet. There is a bleeder below the pipe line outlet and it is below the base of the bleeder that the pipe line gauger takes or rejects the oil.

COMMISSIONER MURRAY: I believe that you can rest assured that we are well acquainted with those conditions. The point that Mr. Baumel was making here was that over 70 per cent of this oil met what you have just defined as the New Mexico's condition of being pipe line oil. In a tank of 530 barrels, all of which contained two per cent or more of BS&W, there was calculated to be 70 per cent of pipe line oil; but actually 70 per cent of the liquids in the tank were in the state in which they were tested, pure pipe line oil and there was only 160 barrels or so in the bottom, which itself contained oil that could be through treating made into pipe line oil but did contain more than two per cent BS&W. You understand the difficulty under which we are laboring here and you also understand that this is not in the slightest a question of whether the oil was legally produced or the right of you or anyone else to move under tenders into Texas, but it is a question of whether liquids labeled BS&W for, as we understand, treating at this plant

for which a temporary permit had been granted, were, in fact, preponderantly actually pipe line oil as received.

I thought that would save you difficulty. We understand the accumulation of bottoms, unless they are treated, must be wasted. We don't object to your developing that, but I wanted you to know that we are acquainted with it.

MR. GIRAND: These bottoms were steamed in New Mexico and treated to an extent there before moving to the Denver City plant. How long they have been there, I am not absolutely sure, but I will venture to say they had set in the tank for possibly a month or more.

COMMISSIONER MURRAY: You have a treating plant in New Mexico?

MR. GIRAND: We have a portable steamer, if the Commission please, that they attach to a tank and treat there. They do it for many of the producers. They take these tops of these tank bottoms and the tank bottoms and steam those and where they are requested, or where they purchase those bottoms, they carry them off the lease and treat those bottoms.

COMMISSIONER MURRAY: After you treat them, and as a result of the treating, a major portion of it comes to have less than two per cent BS&W, then under the New Mexico regulations, as I understand it, that is pipe line oil and it also is in Texas, so it could no longer move as BS&W or it must move as a product of tank bottoms or as a crude

petroleum.

MR. GIRAND: I will admit the error in the operator in doing any treating to the commodity before it was brought into Texas.

COMMISSIONER MURRAY: We certainly don't object to them treating it in New Mexico.

MR. GIRAND: The error was in this particular case. But if the Commission please, as I stated earlier, there is only one commodity in New Mexico that is authorized to be placed in transportation in the way of crude production, and that is pipe line oil. They don't even have a regulation for the reclaiming of oil. The individual producer on his lease can treat his oil and run it on his allowable, but where it is not profitable for an individual to treat his own oil and where he is required to clean his own tanks, that salvage in there has been lost all through the years. That is the oil that New Mexico has entirely overlooked for some years; and that is what they have been trying and we have been trying to get New Mexico to recognize in the last few months, and they have. In trying to determine what kind of a tender could be granted so that this oil could be sent to Texas for re-processing, through the Commission and myself we worked out a description of the commodity as BS. We had just as well have called it tank bottom. We just as well have called it emulsion, but we settled on the term "BS". We can call it a white horse, if it had any similarity, but

we didn't; we just used the term "BS".

COMMISSIONER MURRAY: You can't call a cow a white horse when it is in fact a white cow; and that is our difficulty here. 470 barrels of this oil, as I understand it, 492 out of 530, was pipe line oil. We have definitions in New Mexico and definitions in Texas of pipe line oil, so you can't call pipe line oil which is already defined in both States as BS&W.

MR. GIRAND: You are correct, sir, and I make no argument; but you can take the skimmings of many tanks and move the better of it in here to Texas, which was done in this case. And it isn't - you are right, it isn't tank bottoms; yet it would still require a further treatment than settling.

MR. BAUMEL: By the same token, I believe you stated that this was treated in New Mexico and assuming you went to the New Mexico Commission and got a tender for 530 barrels of BS&W and treated it on your lease there and by taking his orders for BS, you end up with 320 and applied to us for a 500 barrel import tender, it looks like if it was good pipe line oil, somebody over-produced somebody's well to make that up, doesn't it?

MR. GIRAND: No, because this is from a tank farm, a pipe line carrier.

MR. BAUMEL: Then the pipe line carrier must have made up the difference to make this 530 barrels which came

into Texas?

MR. GIRAND: I don't know how they can make it up. They pay on the basis of the gauger at the well. It is their oil; it is the pipe line carrier's loss.

MR. BAUMEL: If the New Mexico Commission gave you a tender for 530 barrels of BS&W and you treated it in New Mexico, then when you apply to the Railroad Commission of Texas for a tender, it wouldn't have been 530 barrels; it should have been less; but when we checked Denver City it was pure pipe line of 492 barrels, so the difference between what you shook out in New Mexico and what you imported to Texas must have been made up of pure oil then.

MR. GIRAND: Mr. Baumel, I don't know. I take this position, that even with the 22 per cent BS&W on shake-out, the pipe line carrier wouldn't take it. They would require a treating out of the tank before they would run it. I may be in error - I am just a country lawyer; but my understanding is if you have by volume over two per cent BS&W, and even less than that in New Mexico now, the switcher will turn down your tank and require you to treat it out. This oil, I believe I will be able to develop, has been in this tank settling out for some time.

COMMISSIONER MURRAY: Probably our questions would be better withheld until you have your witness on the stand.

MR. GIRAND: That's correct.

WHEREUPON, MR. J. B. HARDIN, after
being duly sworn, testified as follows:

EXAMINATION

BY MR. GIRAND:

Q State your name.

A J. B. Hardin.

Q Where do you reside?

A Hobbs, New Mexico.

Q Are you a member of the firm of the Hardin-Houston Company?

A Yes.

Q Who is your partner in that firm?

A R. O. Hardin.

Q That is your father?

A That's correct.

Q Mr. Hardin, you have procured a permit from the Railroad Commission of Texas on May 19, 1947 to operate a processing plant for reclaiming tank bottoms and waste oil in Denver City, Texas?

A Yes.

Q I hand you a notification from the Railroad Commission. Will you identify this --

MR. BAUMEL: Be marked Exhibit 1.

(Whereupon, the instrument was received in evidence, marked as Hardin-Houston Company Exhibit No. 1, and made a part of this record.)

Q I hand you Exhibit 1 and ask you if that is the authority under which you operate?

A Yes, sir.

Q Tell the Commission how far you had progressed in the construction of the plant authorized by that order?

A Well, we were practically ready to operate there. We had our tanks set, our pump and our treater. All we lacked was installing a treating tube in the treater and a couple of tank clean-out plates.

Q Is that the condition of the plant at the time you filed your Railroad Commission of Texas Form R.P., dated September, 1947?

A Yes, sir.

MR. BAUMEL: That will be marked Exhibit No. 2. We have some copies in our file and we can refer to them.

(Whereupon, the instrument was received in evidence, marked as Hardin-Houston Company Exhibit No. 2 and made a part of this record.)

Q Is that a copy of that report?

A Yes, sir.

Q Mr. Hardin, you described the storage on hand at that time as BS&W; is that right?

A That's right.

Q State to the Commission on what basis you define the commodity and storage as BS&W?

A What was your question?

Q Just state why you describe the commodity in storage as BS&W?

A Well, it was in there, and the tank would need further treatment before it could be sold to a pipe line.

Q Do you know, Mr. Hardin, whether or not the State of New Mexico authorizes the transportation of tank bottoms or BS, under any general order at this time?

A No.

Q They do not?

A That's right.

Q Have you made requests for authority to transport crude oil or BS&W and tank bottoms in the last year?

A Yes.

Q The volumes of BS&W as set out in your Form R.P., where did those volumes originate?

A Principally from tank cleaning job at Lynch Station, pipe line station.

Q At the time you requested the job to clean the Texas-New Mexico Pipe Line Company tank at the Lynch station, did you file an application with the Oil Conservation Commission of New Mexico for a tender to move those tank bottoms?

A Yes, sir.

Q I hand you here Oil Conservation Commission Form C-103, marked Exhibit No. 3.

COMMISSIONER MURRAY: You want to withdraw that?

MR. GIRAND: No; I have a copy of this.

Q I hand you here Exhibit 3 and ask you, is that the application that you filed in regard to the cleaning of that tank bottom?

A Yes.

Q And was it under the tender granted on that application that the

Oil Conservation Commission of New Mexico issued and granted a Form C-110 marked Exhibit 4?

A That's right.

Q I will read this: "This authorizes the transportation of 12,000 barrels of tank and burn pit oil and emulsion from Texas-New Mexico Pipe Line Company, Lynch Station, and particularly from tank No. 1087, and the burn pit adjacent thereto, to the Hardin-Houston Processing Plant located at Denver City, Texas." We offer those two.

MR. BAUMEL: We accept them.

(Whereupon the instruments were received in evidence, marked as Hardin-Houston Exhibits 3 and 4, respectively, and made a part of this record.)

Q Mr. Hardin, in the movement of those tank bottoms, just relate to the Commission what transpired from the time the bottoms were removed from the tank 1087 to their arrival at your plant at Denver City, Texas?

A Some of that top part of the tank bottom is good oil, and we hauled that in to our tank at Hobbs.

Q Referring to that oil that is good oil, state to the Commission whether or not that is the oil lying immediately on top of the BS&W settlement?

A That's right; it is.

Q And the pipe line outlet?

A Yes, sir.

Q And that oil has always been extracted?

A That's right.

Q Go ahead.

A This was hauled into our storage at Hobbs and we treated it there to eliminate any extra hauling to Denver City.

Q At the time you did that, Mr. Hardin, was there any intent on your part to be misleading or violate the authority granted by the Oil Conservation Commission of the State of New Mexico, as shown by their tender, C-110?

A No.

Q That tender was granted on July 25, 1947; when did you start that oil in movement to your Denver City plant?

A It was, I believe in September, sometime the first of September.

Q Around the first of September of this year?

A Yes.

Q And had any processing of that emulsion been conducted?

A No.

Q Your plant is still incomplete?

A That's right.

MR. GIRAND: I believe, for the record --

COMMISSIONER MURRAY: Mr. Hardin, before making application for the temporary permit for tank cleaning plant at Denver City, I believe that's one of several that you requested?

A Yes, sir.

COMMISSIONER MURRAY: You acquainted yourself with the

Commission Orders relating to processing tank bottoms?

A Yes, sir.

COMMISSIONER MURRAY: And you noted in those Orders our definition of BS&W?

A Yes, sir.

COMMISSIONER MURRAY: Which is, I believe, the generally accepted definition of BS&W. I will read from our Order: "The phrase 'tank bottom' or 'tank bottoms' where used in Section II, Section III, Section IV, or Section V hereof shall mean that accumulation of hydrocarbon material and other substances which settle naturally below crude oil in tanks and receptacles that are used in the handling and storing of crude oil, and which accumulation contains in excess of two (2%) per cent of basic sediment and water;.." It was clear to you what our definition, which I believe is the commonly accepted one, was for BS&W?

A Yes. (Indicated by nodding his head)

COMMISSIONER MURRAY: And so you understand that oil which does not contain two per cent BS&W, even though moved with other oil which contains more than two per cent BS&W, cannot under this definition be considered as tank bottoms?

A Yes, sir.

COMMISSIONER MURRAY: That's all.

MR. GIRAND: I would like for the record to show the date of the test made by the Commission on this tank.

COMMISSIONER MURRAY: That test was October 13, 1947.

The man who made the test is here, Mr. Hall, if you desire to question him.

MR. GIRAND: We don't deny that; I want to know the interim of time in there from the time of storage to the time of the test.

Q (By Mr. Girand) Mr. Hardin, you have been advised as to the rules and regulations of the Oil Conservation Commission of the State of New Mexico relative to tank bottoms?

A Yes, sir.

Q Are there any rules and regulations regulating the processing of tank bottoms?

A No, there is not.

Q Do you know of any definition for BSSW as made by the Oil Conservation Commission of New Mexico?

A No.

MR. GIRAND: I believe that's all.

COMMISSIONER MURRAY: This may be an irregular line of questioning, Mr. Hardin, but counsel has asked you and you have stated that you had no intention of misrepresenting the true products that were moved?

A Yes.

COMMISSIONER MURRAY: I would like to ask you, suppose that we were doing this thing all over today, and you are preparing yourself to move this identical substance that was here tested and moving it to your Denver City plant; what do you now consider would be the proper method of handling

that?

A Well, it's oil that came from cleaning jobs, tank cleaning jobs; I guess that --

COMMISSIONER MURRAY: That is not a question to trap you. Since we have movement from New Mexico into Texas with no rules as yet, as I understand it, in New Mexico, I am seeking information as to how you would obtain tenders on this and how you could define it correctly.

A It would be oil derived from tank cleaning operations; processed from the tank cleaning jobs. It would be oil.

COMMISSIONER MURRAY: Can you get a tender from New Mexico for such a product?

A Yes.

MR. GIRAND: Off the record, if you please --

(Off-Record Discussion)

MR. GIRAND: As I understand it, from talking to my client and others, between the pipe line bleeder, from four to six inches below the pipe line outlet, there will be oil that is, or that might be pipe line oil.

COMMISSIONER MURRAY: Surely; that is generally understood.

MR. GIRAND: But the rules and regulations in the State of New Mexico, which is not made in any criticism of that State because we are coming along and we are covering up everything and covering all parts of our industry as fast as they come to us, but there has been no occasion for any

rules and regulations regarding tank bottoms up to the present time. There would be none were it not for the price of crude at the present time. That gauger of the pipe line company that comes in there and turns down a tank and says we won't take any more oil from this tank until you clean the bottom, so far his word has been law and order. The producer has to do something with that tank bottom; he has to clean that tank. There is possibly that little bit of oil in there; but our Commission has control over production of crude oil. If it is processed in a processing plant, it ceases to be crude oil; it is a processed oil. There is no regulatory body or agency to grant the right of movement of this processed product because our Oil Conservation Commission fails to have any authority over the movement of processed products. They are solely a safeguard against the actual production of the crude oil. There was no pattern, if the Commission please, to go by; there were no rules and regulations and still are none, whereby this commodity could be put into commerce. If it was moved to Texas after some processing and put in the Hardin-Houston Company tank there, the fact that it was called BS&W here in our report would be of small consequence as to how we could explain the oil setting there in the tank without anything behind it. We had nothing to call it but tank bottoms. If the applicant the Hardin-Houston Company, has misled the Commission or misrepresented the facts, which apparently they have in the eyes

of the Texas authorities, it was --

COMMISSIONER MURRAY: Because you felt you had no choice in the matter?

MR. GIRAND: There was no other way to get in here, and New Mexico has not authorized to this good day the creation of a tank processing plant.

MR. BAUMEL: Is that also true with the amount of oil that you sent to the Petrolite Company at Kilgore that is under another permit, the definition that you outline here, the BS&W that you ship from Jal, New Mexico; has it already been treated in New Mexico?

MR. GIRAND: As to water content.

MR. BAUMEL: As far as our definition of BS&W is concerned, it wouldn't be BS&W; it would be treated pipe line oil.

MR. GIRAND: No, sir, it is still not pipe line oil; it is just our --

COMMISSIONER MURRAY: Excuse me; another thing we want to go into is this matter of movement to Petrolite Company at Kilgore. We have a copy here of a tender for 26,500 barrels.

MR. GIRAND: Mr. Commissioner, I understand this is an informal hearing and we didn't anticipate going into that matter; we didn't think it should be considered in the matter of the cancellation of this permit.

COMMISSIONER MURRAY: That's correct.

MR. GIRAND: Because this did not originate --

COMMISSIONER MURRAY: You have a right to say it is not under the scope of this hearing, but if we could develop that, it might save the necessity of another hearing, and the manner of how you handled the movement to Kilgore could clarify how you could have handled the movement to Denver City.

MR. GIRAND: Since this is a hearing as to these operations, we have no objection to going into the matter, but we want to reserve the right to withdraw our announcement of ready as far as the hearing is concerned and consider the hearing open for the presenting of further information. I have no idea how far you are going or where you are going.

MR. BAUMEL: The definition you stated, that in New Mexico you have no way in which products, or processed oil could be tendered. As to whether or not this 26,000 barrels you are sending to Kilgore would come under the same definition that it had already been treated in New Mexico; I am pretty sure our Kilgore office, if they should check it, would run up against the same situation that you now have at Denver City. It would be pure pipe line oil and you would be stymied again.

MR. GIRAND: We are going to offer this -- I don't want to offer it for the case in chief. I will hand you that application for tender, which I believe will explain and show -- That is a copy of it -- Will show there was a full

disclosure to our Commission as to what was being done.

COMMISSIONER MURRAY: But now, there is no accusation, you understand; will all of this 26,500 barrels, and you have stated that there may be some more, which is moved by tank car from Jal to Kilgore, will all of that upon arrival in Kilgore meet our definition of BS&W?

MR. GIRAND: That, I can't say.

COMMISSIONER MURRAY: Can you, Mr. Hardin?

A The water content will vary. It won't be below one per cent or even as low as one per cent. The water content may run up to 10 or 15 or 20 per cent. Our purpose at Jal is to heat and try to take out --

COMMISSIONER MURRAY: Will any portion of this 26,500 barrels when received and placed in storage in Kilgore, if we tested it in similar manner to the test made at Denver City, will any portion of that then be pipe line oil?

A No, sir, it will not.

COMMISSIONER MURRAY: You said a minute ago the percentage might run as low as one per cent and under our definition --

MR. GIRAND: That is as to water.

COMMISSIONER MURRAY: I see; but it would have more than two per cent BS?

A Yes, sir.

MR. GIRAND: Here is the copy of the letter of that Petrolite Corporation to Hardin-Houston Company, stating

the specifications of the shipment. The only removal there is water.

COMMISSIONER MURRAY: Then apparently we will not run into similar difficulty there because all of this will fit our definition of BS&W.

MR. GIRAND: If the Commission please, in the State of New Mexico, I think our Oil Conservation Commission has two field employees; is that right, Mr. Graham?

MR. GRAHAM: Yes.

MR. GIRAND: They service our oil producing areas. We are not equipped like the State of Texas where we can furnish adequate supervision from the standpoint of sending men out to check a tank or take a test here or there.

COMMISSIONER MURRAY: We understand that. We lack a lot of having adequate supervision in Texas. We are not under any allusion that we are in any better position here in Texas than there. You have gathered these products; you are now shipping them. How much has been shipped --

MR. HARDIN: There is between 5 and 6,000 barrels.

COMMISSIONER MURRAY: That was shipped -- I believe you have answered me -- all of that will meet our definition of BS&W?

MR. HARDIN: Yes, sir.

COMMISSIONER MURRAY: So I don't believe we need worry about the matter of supervision, if we are going to find this BS&W at Kilgore meets our requirements and there would

be no questions raised about it; and had the same situation existed here now, had all the products come into Denver City and met our requirements, there would have been no question; or had you had a tender for 470 barrels of crude oil, and 30 barrels or 60 barrels, whatever it was, of BS&W, then there would have been no question about that.

MR. GIRAND: I can readily see the error here and the misleading error, but I want the Commission to understand it was an unintentional error.

COMMISSIONER MURRAY: I don't mean to confuse your case, but could you, starting from now, correctly define any produce you brought into Texas, - you now understand our definitions - you have explained to me the difficulty you face in New Mexico, but could you get around that and tender the oil into Texas, correctly defining it?

MR. GIRAND: If the Commission please, so far our Commission does not require shake-down tests. As I read the proposed definition of tank bottoms, it just required two per cent or greater, and that substance below the pipe line outlet, that is tank bottom emulsion. The C-110's from here on will call for the removal of tank bottom emulsion, as defined in the New Mexico Order. Now, that won't necessarily comply with your definition of BS&W. If the Orders require on import tank bottoms that there be a shake-down test and that the percentage of pipe line oil be disclosed before the oil is allowed to enter, I am sure the applicant will com-

ply with it, as well as anyone else and I think it would be good. But right now we go to one Commission to get authority to move it and when it gets to the next Commission, the same commodity has a different definition.

MR. BAUMEL: Couldn't you in assuming that the New Mexico Commission did not define tank bottoms, which you went out and took from the New Mexico pipe line, 5,000 barrels of BS&W tank bottoms, which, under New Mexico is tank bottoms; and then you treated it in New Mexico, but still then you took the total product, treated and untreated and shipped it to Texas on the import tender which you supplied to Texas, why couldn't you say the total BS&W which you got in New Mexico and show the actual amount recovered in New Mexico, the percentage, so when you add up the percentage of sour and bad oil --

MR. GIRAND: That could be done, but we are up against this. Up to the present time there is no authority for the cleaning of tank bottoms in New Mexico, but there are no rules and regulations. As soon as the Commission in New Mexico authorizes treating plants, then that treating plant can make their tender speak the truth. But if we go to our Commission today and say that we want a permit to transport so much oil, their statutory background is such they can't say here is your tender. They say, where did you produce it, where is the lease and where is the well. We have no well. If we can, as these proposed rules provide, if they

are adopted by our Commission, then our Commission will know from where the tank bottoms came, the amount of pipe line oil or derivatives which we got from those tank bottoms. Then they will issue tenders on our processed product and there will be a full disclosure to the States as to what was actually done.

COMMISSIONER MURRAY: What do you desire to do from now on? You have not constructed or completed the construction of your Denver City plant; you desire to do so?

MR. GIRAND: Yes, sir.

COMMISSIONER MURRAY: You desire to treat tank bottoms gathered in Texas in this plant?

MR. GIRAND: Yes, sir.

COMMISSIONER MURRAY: In full compliance with our rules and regulations?

MR. GIRAND: That's correct, sir.

COMMISSIONER MURRAY: Do you desire to continue to move from New Mexico to your Denver City plant?

MR. GIRAND: Mr. Commissioner, the occasion for that arising will be very slight in the event the New Mexico Commission grants plants for processing in the State of Texas.

COMMISSIONER MURRAY: Then you would process it?

MR. GIRAND: Naturally. The transportation cost would be prohibitive.

COMMISSIONER MURRAY: We have just about covered the case.

MR. GIRAND: I think we understand each other. We just misunderstood what happened before.

MR. LLOYD: This 530 barrels that was taken from New Mexico to your Denver City plant, was it taken there with the idea that further processing would have to be done?

MR. GIRAND: That's correct, to recover the maximum that we could out of it. I believe you had a pipe line connection at Denver City?

MR. HARDIN: Yes, we have a purchaser that agreed to take that oil.

MR. LLOYD: Is your position that no part of that 530 barrels would be accepted by that pipe line prior to further processing of it?

MR. GIRAND: I don't know, sir. I don't know the physical contents at all.

MR. LLOYD: You know whether or not your pipe line that is connected to your plant at Denver City would have accepted any part of this 530 barrels without further processing of it by you?

MR. HARDIN: No, we didn't know whether they would or not. It was the intention of re-processing it there.

COMMISSIONER MURRAY: There would be no necessity of re-processing this oil that now meets the requirements of the pipe line?

MR. HARDIN: No.

COMMISSIONER MURRAY: You would simply move out the

460 barrels of pipe line oil out that could be moved out as it was, and the remaining 60 barrels would have to be processed?

MR. HARDIN: Yes, sir.

Questions by Mr. Lloyd:

Q You didn't intend to further process this 460 barrels?

A At the time we moved it we thought we would have to.

MR. GIRAND: I want the record clear, I don't believe there has been an actual connection to this tank battery or plant that is set up, but there has been an agreement of a common purchaser to purchase the processed oil.

Q This 530 barrels was moved in by truck?

A Yes.

Q What is the status of your plant at Denver City at this time?

Is it in the state of completion as much so as it was two months ago?

A No, we have moved the treating equipment out of there.

Q Moved the treating equipment?

A Yes, sir.

Q For what purpose was that moved?

A That was moved to New Mexico for use over there.

Q Just as temporary use?

A Yes.

Q Going a little further, as a matter of fact you hadn't had approval of your first report to the Railroad Commission of Texas, had you?

A No.

Q The plant you do propose to finish at Denver City has never been in such state of completion that it was ever equipped to reclaim tank bottoms; is that correct?

A Yes, sir.

Questions by Mr. Greer:

Q Mr. Hardin, I believe on April 23 of this year you made application for permit to operate this reclamation plant. In this application, from which I quote, you state: "In this connection applicant would show that there is recoverable from tank bottoms approximately 30 per cent merchantable oil from the total volume contained therein". You recall making that statement in this application, do you?

A Yes, sir.

Q Have you changed your opinion now about the amount of percentage of recoverable oil in the average tank bottom? You still believe the average tank bottom has 30 per cent recoverable oil?

A I believe it does, yes.

Q What would be your estimate of the recoverable oil in this stock on hand at Denver City; would you be in position to estimate that?

A No, sir, I wouldn't.

Q Did you construct ladders on your tank at this plant, your pipeline storage tanks at the plant?

A Yes.

Q Did you construct ladders on your receiving tank at the plant?

A No, sir, there has been none placed on that plant.

MR. GREER: I believe that's all at the present time.

COMMISSIONER MURRAY: Are there any questions of anyone in the audience of this witness? We will excuse the witness in a moment and invite any statements from anyone in the group.

MR. W. L. CROTHERS: I would like to ask one question if I might. I am not quite clear on this thing. In the State of New Mexico where you recover pipe line oil from these operations, can permission be obtained to move that oil in the State of New Mexico?

MR. BAUMEL: I understand from the statement made by the attorney here, New Mexico has authority only to grant tenders on oil produced from oil wells and not that reclaimed from reclamation plants.

COMMISSIONER MURRAY: We have some of the members of the New Mexico Commission here; would you feel free to answer that question?

MR. SPURRIER: Certainly. Let's have the question clearly stated first.

COMMISSIONER MURRAY: Surely; will you repeat your question?

MR. CROTHERS: The reclaiming plant in New Mexico, and I thought from the testimony perhaps it was impossible to remove this oil reclaimed in New Mexico through a pipe line. I wanted to be certain that the oil that was reclaimed could

not be moved.

MR. SPURRIER: I think there is a contradiction there, according to my understanding. Mr. Girand may be able to clear that up. Mr. Girand has shown before the Commission of Texas what may be called a tender; Oil Conservation Form C-110 is his authority, as far as New Mexico is concerned, to move BS&W, with no regard to percentage, that is, whether it is 22 or 75 or 56. If I confuse the matter further, that's all right, because I am confused myself, and I want to know what the contradiction is here.

MR. GERAND: I believe I understand Mr. Crothers' question. Unless you are a producer in the State of New Mexico, at the present time there is no provision for making application for a tender of crude oil because we operate under the assumption that the only place you can get crude oil is out of the ground. So a company can process its own oil and put it in on their allowable and get tenders. But an independent processor, taking non-commercial oil and bringing it to a commercial state, cannot show how we got that oil under our own present rules and regulations. The only way -- And Mr. Spurrier and I had lengthy conferences on that matter, and the only way we could show this in commerce was to call it BS&W, and then what could be reclaimed from it, so that the man seeking to place the reclaimed oil or good oil, would be able to show title to the product. Otherwise he couldn't. He had no producing oil --

MR. CROTHERS: You cannot put BS&W through a pipe line?

MR. GIRAND: For processing, no. We can turn over the processed product if we are a producer and charge it back against our well allowable. But the State of New Mexico has not authorized a reclaiming plant, so if we tendered a company pipe line oil and didn't have any well to charge it to, they wouldn't take it; and if we just said we have so many barrels of oil we want a tender on, they would say, "Where did you get it?" We don't have any oil wells, so we couldn't say, "We got it from this tank bottom and this tank bottom." That is what the Commission of New Mexico has been working on for about four months trying to arrive at a suitable way to handle this matter so there will be adequacy of reports from the processor to the Commission to reduce the hazard of hot oil or any illegal operations.

COMMISSIONER MURRAY: You have any further questions, sir?

MR. WEYEL: I would like to ask a question. Did you say you treated out approximately 10 per cent water in New Mexico, these tank bottoms?

MR. HARDIN: I wouldn't know just how much was treated out. We removed all we could.

MR. WEYEL: In these tanks you have in New Mexico, if there is any free water in the bottom of these tanks, do they drain that off, or is there a tremendous amount of

water?

MR. HARDIN: We bleed off what we can.

MR. WEYEL: These bleed-offs, where they test them, how many inches are these bleed-offs below the pipe line?

MR. HARDIN: I wouldn't know. The bleed-off is on the bottom and the connection is 10 to 12 inches.

MR. WEYEL: I thought you said there was a bleed-off 3 or 4 inches below the pipe line connection and when it reached that point the pipe line would reject the oil?

MR. HARDIN: I think there is a rule that the pipe line company won't run it when this BS builds up within a certain distance of their connection.

MR. WEYEL: That is what I want to know. What is that distance?

MR. HARDIN: I think it is four inches.

MR. WEYEL: The reason I asked that question is that I didn't understand how there could be such a large percentage of oil in this tank at Denver City. If it was four inches and you took in that four inches of oil along with the tank bottoms which settled over a long period of time, then you would have about 33 per cent pipe line oil in with that; and if you had only taken out about 10 or 15 per cent water in New Mexico, I didn't see how the oil in the tank at Denver City could amount to approximately 80 per cent.

MR. GIRAND: You are confusing the two -- The oil at

Kilgore about which he made the statements of the water content did not have any regard to the oil at Denver City.

MR. WEYEL: Since they do bleed off the free water -- I should think he would have some idea of approximately how much water he would have removed from this oil that he treated, should have some idea of the volume of the tank bottoms that he took in from various tanks and how much would be left over for transport. He doesn't have that information?

COMMISSIONER MURRAY: This 530 barrels in question at the Denver City plant came from a tank farm in New Mexico, is that correct?

MR. GIRAND: Yes, sir, Lynch Station.

COMMISSIONER MURRAY: So the discussion we have had with regard to field producing tanks would not apply to a tank farm. This is already owned by a pipe line; it has already been tendered to the pipe line from the producer. Why wouldn't you simply treat that at the tank farm, put the pipe line oil right back in the pipe line tanks? They already had tenders on it.

MR. GIRAND: That is a policy on the pipe lines' part that I can't answer, Mr. Commissioner. They authorized taking of the bottoms along with the cleaning as a part of the consideration for the cleaning.

COMMISSIONER MURRAY: They are regular purchasers of crude oil and if this is pipe line oil, it ought to be as

valuable to them as anyone else; it looks like you could eliminate the shipment of all this oil and work out something where you can turn it back to them.

MR. GIRAND: We can't show where we got the oil.

COMMISSIONER MURRAY: You don't get it.

MR. GIRAND: They would have to show picking it up again. They would have to show picking it up again, because they would have to show running it into Texas. These bottoms don't build up in a day; it takes over a period of sometimes two and three years to build up a bottom, and then you run out of tank, and you put an extra -- one of these big tanks, an extra 10,000 barrels of oil in that month on that pipe line company and they can't show where they got it, your settling out being over a period of months.

COMMISSIONER MURRAY: So you bring it to Texas.

MR. GIRAND: So we bring it to Texas.

MR. LLOYD: Is your inability to deliver it back to the pipe line at the tank bottom where you did the initial processing of it, does that inability arise from the fact that there has been a change in custody of that oil -- that is, the pipe line company had it and referred it to you for reclaiming and it is yours and your inability to transport it back to them at that point arises by virtue of the fact you have no --

MR. GIRAND: Of their source, yes. It sounds silly

and it is, but you see all this oil has already been offered by tender. It has, but they take oil with a content of less than two per cent BS&W, so it stands to reason that their tank bottoms didn't build up in a day; it takes possibly two or three years for them to build up a tank bottom.

COMMISSIONER MURRAY: They have a loss over two or three years greater than the accumulation of bottoms, don't they?

MR. GIRAND: No.

COMMISSIONER MURRAY: Are they one of these companies that can have bottoms accumulate and still have 100 per cent oil tendered? We have some that way in Texas.

MR. GIRAND: That came up before the Commission in New Mexico a few years ago and the report showed that we had at that time an arbitrary 98 per cent tank table strata in New Mexico.

COMMISSIONER MURRAY: When was that?

MR. GIRAND: Oh, about 1940; and they followed Texas again on what they did, and the reports filed by the carriers showed that the greatest loss was about one-fourth of one per cent. They didn't lose that two per cent that they were arbitrarily taking out. Off the record, please --

(Off-Record Discussion)

COMMISSIONER MURRAY: Are there any further questions of this witness? You are excused, Mr. Hardin.

(Witness Excused)

COMMISSIONER MURRAY: Are there any statements that anyone would care to make? Do you have another witness?

MR. GIRAND: I don't care to offer any more proof. I would like to furnish the Commission with a copy of our C-103 relative to the shippings to the Petrolite Corporation at Kilgore, purely for informative purposes to the Commission. I would like to show the withdrawal of Exhibits 1 and 2.

COMMISSIONER MURRAY: I believe there were no statements from anyone else? The hearing is adjourned. Thank you, gentlemen.

HEARING CLOSED

THE STATE OF TEXAS |
 :
COUNTY OF TRAVIS |

I, Peggy Nicholson, Official Reporter, Oil and Gas Division, Railroad Commission of Texas, hereby certify that the above and foregoing 39 pages constitute a true and correct transcription of the testimony and proceedings heard in Oil and Gas Dkt. No. 126 #8-11,513, hearing held in Midland, Texas, December 10, 1947, to the best of my ability.

Witness my hand on this the 20th day of December, A. D., 1947.

OFFICIAL REPORTER, OIL AND GAS
DIVISION, RAILROAD COMMISSION
OF TEXAS.

OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

Minutes of
Special Meeting
held
September 17, 1947
at
Santa Fe, New Mexico

Cases: No. 101
 " 109
 " 110
 " 111

NOTICE OF PUBLICATION
STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

"The Oil Conservation Commission of New Mexico, pursuant to law, hereby gives public notice of the following hearings to be had at a special meeting of the Commission to be held September 17, 1947, beginning at 10:00 A. M. on said date at Santa Fe, New Mexico:

STATE OF NEW MEXICO TO:

All named parties in the following cases,
and notice to the public:

"Case 101

In the matter of the application of American Employers Insurance Company for an order directed to Frank Griggs, Lubbock, Texas, John Darden, Lubbock, Texas, and John H. Hawkins, Fort Sumner, New Mexico to show cause why a well located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 4 North, Range 26 East, DeBaca County, New Mexico should not be declared abandoned and ordered plugged.

"Case 109

In the matter of the application of Leonard Oil Co., Roswell, New Mexico for an order approving an unorthodox location for the Leonard State No. 6 well in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, Township 17 South, Range 29 East, Eddy County, New Mexico, the allocation of production of said described tract and unconditional approval of a C-110 for the well.

"Case 110

In the matter of the application of Hardin-Houston, a partnership, Hobbs, New Mexico for a general order regulating tank cleaning, plants processing tank bottoms and recleaning of waste oil and transportation of tank bottoms and waste oil.

"Case 111

In the matter of application of G. B. Suppes to unitize the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 33, Township 16 South, Range 31 East, N. M. P. M., Eddy County, New Mexico and for approval of two unorthodox locations thereon, (1) 330 ft. from the East line and 1270 ft. from the North line of Section 33, (2) Located 990 ft. from the East line and 1370 ft. from the North line of said Section 33, in Township 16 South, Range 31 East, N. M. P. M.

"Given under the seal of the Oil Conservation Commission of New Mexico, at Santa Fe, New Mexico on August 29, 1947.

OIL CONSERVATION COMMISSION

BY:(SGD) R. R. SPURRIER

R. R. SPURRIER, Secretary

LEA COUNTY OPERATORS COMMITTEE
September 2, 1947"

Said meeting was called at 10:00 o'clock A. M., Wednesday, September 17, 1947, in the Coronado Room of La Fonda Hotel, Santa Fe, New Mexico.

MEMBERS OF THE COMMISSION PRESENT:

Hon. John E. Miles, State Land Commissioner, Member
Hon. R. R. Spurrier, Secretary, Oil Conservation
Commission, Member
Hon. Luke J. Frazier, Attorney
Hon. George Graham, Attorney

<u>Name</u>	<u>REGISTER</u> <u>Company</u>	<u>Location</u>
Chuck Aston	Consulting Petroleum Geologist	Artesia, N.M.
Donald S. Bush	Lawyer	Artesia, N.M.
Robert B. Kennedy	Petroleum Engineer	Artesia, N.M.
Roy D. Yarbrough	Oil Conservation Commission	Hobbs, N.M.
W. D. Girand, Jr.	Lawyer	Hobbs, N.M.
J. B. Hardin	Hardin-Houston	Hobbs, N. M.
Glen Staley	Lea County Operators	Hobbs, N.M.
W. B. Macey	Oil Conservation Commission	Artesia, N.M.
J. N. Dunlevey	Skelly Oil Company	Hobbs, N.M.
Walter Famariss, Jr.		Hobbs, N.M.
L. E. Slagle	Shell Oil Company	Hobbs, N.M.
H. D. Murray	The Texas Company	Midland, Tex.
Paul C. Evans	Gulf Oil Corporation	Hobbs, N.M.
Henry Forbes	Continental Oil Company	Midland, Tex.
N. R. Lamb	New Mexico Bureau of Mines	Artesia, N.M.
J. W. House	Humble Oil Co	Midland, Tex.
W. E. Hubbard	" " "	Houston, Tex.
John M. Kelly	Independent	Roswell, N.M.
Emmett D. White	Leonard Oil Company	Roswell, N.M.
Oliver Seth	American Employers Insurance Company and Leonard Oil Co.	Santa Fe, N.M.
Otis Ramsey		

PROCEEDINGS

The meeting was called to order by Commissioner Miles,
Presiding Member. Case No. 101 was called by Attorney
George Graham.

Case No. 101

BY MR. OLIVER SETH:

The testimony concerning the abandonment of this well was taken at a hearing of the Commission held on the 15th day of July, 1947, and if there is no objection we would like to have the record show that there has been no change since that time, and that the testimony taken at that time is submitted at this time, as there are no new developments.

MR. SPURRIER:

That is Okey.

COMMISSIONER MILES:

That is Okey.

Case No. 109

BY MR. OLIVER SETH:

This application for an order approving an unorthodox location concerns the deepening of a well heretofore drilled under authority of the State Land Office and the State Geologist, and I would like to call Mr. Emmett White, of the Leonard Oil Company to the stand.

TESTIMONY OF MR. EMMETT D. WHITE, after having
been duly sworn:

MR. SETH:

Q. Please state your name.

A. My name is Emmett D. White.

Q. You are with the Leonard Oil Company?

A. Yes, sir.

Q. You are familiar with the petition concerning State Well No. 6?

A. Yes.

Q. Would you state to the Commission when the well was first drilled?

A. This well was first drilled as a gas well in 1931, late in the year.

Q. It was drilled under authority of the then State Geologist?

A. Yes.

Q. Approximately how deep was the well?

A. It was drilled to a total depth of 2343 feet.

Q. At the time it was drilled what was the location believed to be?

A. The well was believed to be in the center of the NW $\frac{1}{4}$ of Section 28, Township 17 South, Range 29 East.

Q. Has a subsequent survey shown that it is otherwise located?

A. Yes. We had a survey of this location made at the time we were considering deepening the well and a careful check by a registered surveyor showed that it was 1317 feet east of the west line and 1317 feet south of the north line of the section.

Q. Do you state that the well was originally drilled as a gas well?

A. Yes.

Q. And it produced gas in commercial quantities over a period of time?

A. Yes, until about eighteen months ago.

Q. Then you desired to deepen it as an oil producing well?

A. Yes.

Q. Did you apply to the Commission at that time for authority to so deepen the well?

A. Yes.

Q. To what forty do you desire the allowable to be allocated?

A. We only want the allowable to be allocated to the forty the well is in:- the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28.

MR. SETH:

That is all, unless there are any further questions by the Commission.

COMMISSIONER MILES:

There are no further questions.

Case No. 111

BY MR. DONALD S. BUSH:

This is an application by C. B. Suppes for approval of two unorthodox locations, No. 2 well to be located 380 feet from the east line and 1370 feet from the north line of Section 33, and No. 1 well to be located 990 feet from the east line and 1370 feet from the north line of said Section 33, in Township 16 South, Range 31 East, N. M. P. M. All of this acreage is located approximately in the Square Lake Field, in Eddy County, New Mexico. It is all federal acreage and is under lease bearing Las Cruces Serial No. 056,302-B.

The reason for the application is to enact conservation measures in that upper area and in the petition to the Commission we have alleged that the unit will not produce from either 40-acre tract more than ten barrels above the current top allowable assigned to the 40-acre unit.

I would like to call Mr. Chuck Aston as witness, if the Commission please.

TESTIMONY OF MR. CHUCK ASTON, after having been duly sworn:

MR. BUSH:

Q. Have you qualified as a consulting petroleum geologist before the Commission?

A. Yes.

Q. How long have you practiced as a consulting geologist in Artesia?

A. Approximately six years.

Q. Are you acquainted with the Square Lake field?

A. Yes.

Q. Will you tell the Commission why you believe these two unorthodox locations, and approval of the unit agreement for proration purposes would be advisable?

A. It is my considered opinion that with the relative permeability and periodicity of the producing horizons in this portion of the Square Lake field, the spacing pattern of one well to each 40-acre unit does not allow for proper drainage or maximum drainage of that 40-acre unit; and that because of this center location in the forty, the locations requested are the only equitable manner in which the operator in question can drill additional wells on these two 40-acre units.

Q. Has the U. S. D. I., through the Geological Survey, offered any objections, or have they waived any objections?

A. They have waived all objections, subject to the approval of the Commission, in a letter signed by Foster Morrell.

Q. Have the owners of the acreage adjacent to these two forties containing the two unorthodox locations waived any objections?

A. They have.

Q. And this is evidenced by their signatures to the application itself?

A. Yes.

MR. SPURRIER: Has the Department of the Interior, through the Geological Survey, made any provision for the assigning, or not assigning, of any part of this lease where this fifth well is drilled? I understand that the U. S. G. S. has that authority -- they can refuse to let any part of this lease be assigned.

A. Mr. Morrell has made a stipulation that in the event these two locations are not approved by the Commission he will not approve drilling operations; that these two forty-acre units will be considered as one for the life of this lease. Whether that is all that will ultimately be required by Mr. Morrell we do not know at present, but those stipulations are being signed now.

MR. GRAHAM: Would production from this eighty acres ever exceed the allowable for the two forties?

MR. BUSH:

No, it is not the desire of the petitioner to request any excess above the top allowable for either of these forties.

MR. SPURRIER:

Are there any further questions from anyone else in this case?

(No response)

Case No. 110

BY MR. GIRAND for Neal and Girand:

We enter our appearance for the petitioner, and call Mr. J. B. Hardin to the stand.

TESTIMONY OF MR. J. B. HARDIN, after having been duly sworn:

MR. GIRAND:

If the Commission please, at the regular hearing of the Oil Conservation Commission held July 15, 1947, the application of Walter Famariss, in Case No. 104 was heard; and testimony was adduced at that hearing pertinent to the subject matter of this application. For the purpose of shortening the record and in order not to encumber it unnecessarily by going over the testimony given at that hearing, the petitioner adopts the record in Case No. 104 as if presented here, if that meets the Commission's approval and there are no objections.

Q. State your name.

A. J. B. Hardin.

Q. You are a member of the firm of Hardin-Houston?

A. Yes. It is a partnership composed of myself and Earl Hardin.

Q. You are located at Hobbs, New Mexico.

A. Yes.

Q. Your business is tank cleaning and treating of waste oils in that area.

A. Yes.

Q. You are the petitioner in Case No. 110, being a request for a general order regulating tank cleaning, plants processing tank bottoms, and the processing and transportation incident thereto?

A. Yes.

Q. You signed that petition on behalf of the partnership?

A. Yes.

Q. You are familiar with the statements of fact made in that petition?

A. Yes.

Q. Are these true and correct to your own knowledge?

A. Yes, they are.

MR. GIRAND:

In the application I failed to suggest that the processor be placed under bond. Upon consideration of the matter since filing the application, I do believe that a bond of \$5,000 or \$10,000 would be adequate. Of course the amount could be governed by the extent of the processors operations, but a treater of this oil should be placed under some bond inna penal sum to insure compliance with the laws of the state and the regulations of this Commission.

MR. SPURRIER:

Are there any questions from anyone?

BY MR. W. E. HUBBARD of the Humble Oil Company.

I would like to ask the Commission if it has any intention of issuing a general order governing tank cleanings?

MR. SPURRIER:

The Commission has now received an application to write one, and I think with the testimony that we have in the record at this time there is no alternative except to write an order. We have written an order for Walter Famariss based upon his application presented here before the Commission on July 15, 1947.

MR. HUBBARD:

As there are very few of the operators and representatives of the different oil companies here today, I was wondering if it would not be wise to let each one have a look at a suggested order you might draft, and come back for a hearing after a chance had been given us to look more fully into the matter.

MR. SPURRIER:

To put it in other words: Are you asking for a continuance of this case to give further time for study by the operators?

MR. HUBBARD:

Not so much this case as a state wide order. I understood from some of the testimony this morning that this is what is up for discussion.

MR. SPURRIER:

I think Mr. Girand might explain

that this application is for a general order which would, naturally, be state wide.

MR. GIRAND:

This was the intention of this application. There was no precedent for tank cleaners' operations, and that is why we asked for a general order under which all cleaners could operate.

MR. SPURRIER:

Maybe I can clarify the situation by reading from Case No. 104, application by Mr. Walter Famariss: "In the matter of the application of Walter Famariss, Jr., for permission to purchase and process tank bottoms, pit oil, gasoline plant "catchings" and other oil or waste not otherwise merchantable, and to sell the merchantable crude derived therefrom." Now perhaps Mr. Girand can explain more fully the difference between his petition for Hardin-Houston requesting a general order and the application of Mr. Famariss.

MR. HUBBARD:

Do you have a copy of a draft of an order that you would like to have the Commission issue?

MR. GIRAND:

There was a proposed order filed with the application.

COMMISSIONER MILES:

Do you think the producers are interested in suggesting some form?

MR. HUBBARD:

Yes.

MR. GIRAND:

Whether they enter the proposed order or not, the docket could be kept open for further orders of this Commission from time to time as it may see fit to issue such orders; and if the provisions of that order are not workable, the Commission can amend it so as to make it workable.

MR. HUBBARD:

I think it is a very important question, and would say our company has no objection to the entering of an order. We feel a proper order should provide for permits for the operation of plants and that they should be under the close supervision of the Commission; and the order should provide for

permits for tank cleaners and for an accounting of the oil treated and certainly for adequate reports to the Commission; and it should also provide for exceptions for company cleaners on its own runs and tanks on lease; and I should think the pipe line companies should be excepted from the order and tank farms. I will say this -- that there is some disagreement as to the pipe line companies. Some of us feel that the pipe line company should submit a request for permit to clean tanks along with the operator because they are a very important element in this state when it comes to proration. But some of our pipe lines do not think so. In any event we should like to have a chance to look over any proposed general order of the Commission and know there are a great many others who would like to do the same. It is for this reason that I suggested a full hearing on the question.

MR. GIRAND:

The application has been on file for the required period of time and notice has been given according to law and I think that if the Humble Oil Company has a protest to make, the Commission should hear it and the protest of any other companies. But to delay this man who is trying to get permits and handle this oil in a legitimate way on account of protests which may be made in the future, I submit is unjustifiable, and I do not think the Commission should grant that extension.

MR. HUBBARD:

I do have some ideas of what I think should be incorporated in the order and would like to have a chance to present them at some future date.

COMMISSIONER MILES:

I do not want to delay any procedure or operations that may be necessary to anyone interested; but as new and unfamiliar as I am with this question, I would certainly like to have all the suggestions presented to the Commission before we pass on it.

MR. GIRAND:

I appreciate that, and I am not being arbitrary, but am just trying to be a help to the Commission, and would like to say that if any order the Commission enters based on this hearing is not satisfactory to any of the operators or any of the parties of government, then we will all have an opportunity to come back before the Commission. But for a non-protestant to come in and delay an application on which due notice has been given just on the supposition that there may be a protest presented later on I think is not justifiable.

MR. SPURRIER:

May I ask you a question? This is a suggestion rather than a question: We have already scheduled a hearing for the 15th of October. We have issued just

recently an order for Mr. Famariss under Case No. 104. It is Mr. Staley's custom to mimeograph these orders and publish them to all operators. Would it be agreeable to you, Mr. Girand, if this case could be continued until that time, when the Humble Oil Company or anyone else could bring in evidence which they care to bring forward? It would be for the purpose of gathering more evidence. I can assure you we have no intention to delay unnecessarily.

MR. GIRAND:

One effect of an extension is that until a general order is granted all tank cleaners and operators have nothing to go by. However, if the Commission would grant Hardin-Houston a temporary permit to operate during the pendency of this case, we are perfectly agreeable to the continuance.

COMMISSIONER MILES:

Would any of the other companies like to talk on this matter?

BY MR. GLENN STALEY, representing Lea County Operators:

We have three classes of so-called waste product. That oil which is waste caught in the traps of the gas plants serving the various pools; the waste tank bottoms on tank farms of pipe lines on which the royalty has been paid and the tank bottoms of field tanks belonging to the operators; and I am wondering if the petition presented to the Commission by Hardin-Houston has any provision in it pertaining to regulation by the Commission of the cleaning of the tanks, that is when, how, or by whom.

MR. GIRAND:

The only way that question is covered is that the tank cleaner, transporters and processors are all regulated under the proposed order so that they would all have to report to this Commission the source of the B. S. that they pick up, where delivered and recovery from that B. S. As a practical matter your lease tanks will not have enough to be processed alone -- that is, just one tank at a time. To be on a sound financial basis quantities of 100 bbls. or more should be processed. But the order itself does provide for control over the tank cleaner, processor and transporter.

MR. STALEY:

I believe that the majority of the Lea County Operators would appreciate it if the Commission would hold this over until October 15th, to give them a chance to study the matter and, if the Commission sees fit, it could grant a temporary order to relieve any stress the applicant might be under in regard to moving oil already on hand. I do not think there is any objection to this on the part of the other companies.

COMMISSIONER MILES:

Is there anyone else?

BY MR. OTIS RAMSEY:

I have a plant in operation down there at Maljamar, and if this is not issued as a general order today I am wondering what status I would be in.

COMMISSIONER MILES:

What status are you in now?

MR. RAMSEY:

I am shut down.

MR. SPURRIER:

Answering the question to my mind, Mr. Ramsey: I am not going to point at you, but what is the opinion among those present? Should an order be written as a general statewide order, under which any one may participate without any further appearance before the Commission, in either formal or executive session? Or should the Commission continue to hear each case as in the case of Walter Famariss and now Hardin-Houston?

MR. GIRAND:

I think this question is answered in our proposed order. It requires an applicant to come before the Commission to show the nature of installation, its location, its capacity, and get a permit from the Commission to operate.

COMMISSIONER MILES:

You are operating now?

MR. RAMSEY:

We built sometime in June and you were at that time allowing people to go ahead and gather oil and we have been operating since then, but we have no oil now and will not run until something is done.

COMMISSIONER MILES:

You have not presented an application to the Commission?

MR. RAMSEY:

I have never made application for permit because at the time I started treating no permit was required.

MR. GIRAND:

You understand the proposed order submitted with our application does not open the door wide. It would still be necessary for an applicant for a permit to come before the Commission before it was granted. What I was trying to get over to the Commission was that one general order should apply to all.

MR. SPURRIER:

You mean processors, tank cleaners and transporters?

MR. GIRAND:

Yes, all processors under the same rules, and all tank cleaners and all transporters.

MR. GRAHAM:

You made a statement a while ago that if Hardin-Houston could have a temporary order to enable them to continue operations it would be agreeable?

MR. GIRAND:

It certainly will.

MR. GRAHAM:

Do you intend to amend your petition by that statement so as to allow not only Hardin-Houston but others to be included?

MR. GIRAND:

If they are in business at the present time and if they meet the qualifications under that order, yes. But I do not believe that these men should be jeopardized for a period of thirty days on the supposition that some one may object, because they have had the notice required by law, and I am a firm believer that everyone is entitled to his day in court, but when notice has been given and the day has arrived, they should be ready to present their case. At least if the Commission enters an order it could be changed if it is wrong.

MR. GRAHAM:

You mean enter a temporary order?

MR. GIRAND:

Yes, and if it does not apply it could be amended.

MR. RAMSEY:

Would I have to make application for a permit before I could go ahead?

COMMISSIONER MILES:

Yes.

MR. RAMSEY:

Would it be considered in the next few days? I have a considerable investment.

COMMISSIONER MILES:

We want to help you all we can.

MR. SETH: (for Shell Oil Company)

On behalf of the Shell Oil Company: We do not want to oppose the application and do not want to delay the proceedings, but we are somewhat disturbed as to what effect an order would have on operators in cleaning their tanks. There seem to be two entirely different situations between the operator cleaning his own tanks and those engaged solely in that business. We are interested only in the former and if the general order contemplates regulation of all operators in the operation of their own leases we would like to join in the request for a continuance; because I am of the opinion that the majority did not believe this hearing would cover cleaning of tanks by themselves.

MR. GIRAND:

I do not see where the proposed order places any additional regulation on any operator of his lease. He has a right to process as he wants to.

MR. SETH:

I just wanted to clarify our position if anything was contemplated which would affect the operator.

MR. GIRAND: While it may do so, it was not intended to; but that comes back to the very thing that I am asking for -- some kind of an order now. If the order entered is in error it can be amended.

COMMISSIONER MILES:

Mr. Ramsey, may I ask if you are familiar with the order presented by Hardin-Houston with their application?

MR. RAMSEY:

No, sir. I would like to see it so I could know what we are doing.

COMMISSIONER MILES:

Anybody else?

MR. J. N. DUNLEVEY, for the Skelly Oil Company:

We feel that possibly this case should be continued until

October 15th by the Commission, granting Hardin-Houston temporary relief in the meantime. This would give time for further study of the matter and determine the feasibility of a state-wide order.

COMMISSIONER MILES:

Anybody else?

BY MR. H. D. MURRAY, for the Texas Company:

We are not opposed to the granting of a temporary order to Hardin-Houston if the Commission sees fit, but would like an opportunity to study whatever might be proposed in the way of a general order, and for that reason would appreciate a continuance of the hearing.

COMMISSIONER MILES:

Is there anyone else?

BY MR. PAUL C. EVANS, for the Gulf Oil Corporation:

We heartily agree with Mr. Hubbard and the other oil companies in asking for a continuance of this case in so far as it concerns the writing of a general order. We have no objection to Hardin-Houston operating under the same privileges as Mr. Famariss under his order; but we would like to have some time to study, and possibly to present suggestions, in connection with the writing of a complex order of this nature by the Commission.

COMMISSIONER MILES:

Thank you. Is there anyone else?

BY HENRY FORBES, for the Continental Oil Company:

If the Commission please, we, as the rest of the operators here, feel that a temporary order to allow the Hardin-Houston treating plant to operate is all right. We would not like to see a general order written at this time, and would like to have a continuance of the hearing, giving us an opportunity to present any suggestions or objections after a study of the matter.

COMMISSIONER MILES:

When you speak of the Hardin-Houston application --- have you read that order?

MR. FORBES:

No, sir.

COMMISSIONER MILES:

But you would not object to a temporary order?

MR. FORBES:

No, sir.

COMMISSIONER MILES:

But you have not studied the Hardin-

Houston order?

MR. FORBES:

No, sir.

COMMISSIONER MILES:

Thank you.

Mr. Girand, your order is different from the one issued to Mr. Famariss?

MR. GIRAND:

Yes, sir. It is general in its terms and does not cover just one operation, but the entire field. If the Commission please, I do not want to be arbitrary in insisting, but I hate to have this case continued with no objections as a matter of principle. But if it is continued until October 15th we will be glad to appear at that time.

COMMISSIONER MILES:

I have not studied this order. Mr. Spurrier and George have; but your company could not operate under the order issued to Mr. Famariss?

MR. GIRAND:

Yes, under one similar to it. However we do not want to put up a \$25,000 bond. We don't think it takes that much to make a man honest. I think a \$5,000 bond is sufficient.

MR. DUNLEVEY:

If it please the Commission, I would like to suggest that the operators be furnished copies of the order issued to Walter Famariss and the proposed order of Hardin-Houston, so that we may have time to study them. I have not seen either, and doubt whether others have. We believe this to be vital enough to the operators to have this case postponed until the 15th of October, to give us sufficient opportunity to file any objections and prepare testimony.

COMMISSIONER MILES:

You have no objection to the issuance of a temporary order?

MR. DUNLEVEY:

No.

MR. GRAHAM:

Mr. Dunlevey, what about Mr. Ramsey and other tank cleaners who have not made application? Would you object to temporary relief for them?

MR. DUNLEVEY: I personally assume that he has some kind of order, since I am told he has been operating over a period of some months.

MR. GRAHAM:

The point I wanted to clear up is that Hardin-Houston has filed a general order to apply to everybody. Would there be any objection to a temporary order of that kind?

MR. GIRAND:

There would be on the part of Hardin-Houston. That is the very purpose of the general order, so that when an application is made the Commission can go into the question of whether or not he is prepared to meet the requirements.

MR. DUNLEVEY:

We believe it is important enough to necessitate study, as all orders in the past have shown, and that the matter should be given every consideration on the part of the Commission before issuing any order; and we know what has happened in other states in the handling of waste products and we certainly do not want that condition in New Mexico; and we believe it can be avoided if the operators are given sufficient time to come here and put on the necessary testimony.

MR. GIRAND:

I would like to ask how any one can be injured by the issuance of an order at this time, when the Commission can amend its own orders if there are objections and an application for a change is filed?

MR. SPURRIER:

Mr. Girand, I may be wrong, but I think there is a slight misunderstanding here, and if I am wrong, let me know: In the Commission's legal processes, with which Mr. Graham and Mr. Frazier are more familiar than I am, at least ten days' notice is required for a hearing. Now if Mr. Dunlevey's company, or any other company, were to petition the Commission for a hearing on October 15th they would have about a week --- less than a week to prepare that petition to the Commission from this date. However, by reading it into the record we can continue the case to a later date without any further publication. At the moment it seems the Commission is somewhat on the spot; that we must either tell the operators that we will continue or tell you that we will not. Now

it is a convenience to us to have the recorder record the continuance of the case rather than to advertise it. However, if any oil company wishes to be heard on the 15th of October or any other date they may file a petition.

MR. GIRAND:

As I stated, we are not trying to shove anything down the Commission's throat, but I still would like to have the protesters tell what their protests are, and think we are entitled to that.

BY MR. LAKE FRAZIER:

You will be able to operate under a temporary permit?

MR. GIRAND:

Yes, but I do think the Commission should require them to state what protests they make.

COMMISSIONER MILES:

I appreciate your stand. However I am not thoroughly convinced on this matter myself and I do welcome any suggestions and any testimony. But we do not want to inconvenience you so if we can issue a permit to you and then continue this case, it would seem to be the best way to handle it.

BY MR. WALTER FAMARISS, Jr.:

I was the original petitioner in this case before the Commission and was granted an order to operate. Mr. Hardin has come as a second petitioner, and I wish to enter my objections with those of Attorney Girand to the granting of any other permits than to those petitioning the Commission for them. Certainly we feel that if, after we have followed that procedure, anyone may receive a permit without doing so, it seems to me we have defeated the purposes we set out to accomplish. It is therefore my recommendation that no temporary permit be issued to other than Hardin-Houston; and also that this case be continued until the 15th of October hearing; and I wish to place myself available to the Commission, and my order also which you have issued, for amendment, if you find it is not the proper thing.

COMMISSIONER MILES and

MR. SPURRIER:

Thank you.

(A short recess was here called after which the hearing was resumed)

COMMISSIONER MILES:

I have this suggestion to make: That before we issue any order Mr. Glenn Staley have mimeographed copies made of both of

these orders, to Mr. Famariss and the Hardin-Houston proposed order, and send them to all operators, and let them study them both before the cases are reopened on October 15th for discussion.

MR. STALEY:

We will be very glad to do that.

MR. GIRAND:

I will furnish Mr. Staley with a copy of the proposed order and a copy of the application.

COMMISSIONER MILES:

Anybody else who wants to be heard in this matter?

(No response)

COMMISSIONER MILES:

Mr. Famariss, we have just stated that your order and the proposed order in the Hardin-Houston case would be re-opened on October 15th.

MR. FAMARISS:

Yes, sir. If you think it advisable I would like to have it re-opened.

MR. SETH:

May I ask if it is contemplated by the Commission that this temporary order will follow the form of the one attached to the petition? And, if so, if it requires a permit for the removal of any tank bottoms, whether for sale or use on fire walls or lease roads or anything of that nature? If it is contemplated that the order will prevent removal of tank bottoms during this period there will not be any order whereby an operator can clean out without a special permit, for which no machinery has been set up.

MR. GIRAND:

The general order proposed applies to the tank cleaner and not to the operators. The only check on the operator will be the check on the B. S. removed from tanks from each lease so the source of the oil can be traced.

MR. SPURRIER:

Mr. Seth, The Commission has taken Mr. Girand's order as part of the evidence in this case for a guide, you might say; and I am sure that our final order will not contain anything unfair to the operator or the tank cleaner, or anyone else.

MR. GRAHAM:

It will be followed only as a suggestion.

MR. GIRAND:

It was intended as something to go on.

COMMISSIONER MILES:

Is there anything else to discuss in this matter?

MR. SPURRIER:

Gentlemen, I would like the record to show, and I think we have an agreement now between all parties that this case, meaning Case No. 110, and also Case No. 104, for which an order has already been written, but in which the Oil Conservation Commission retained jurisdiction, shall be continued to October 15, 1947, at 10:00 A. M., for the purpose of taking further testimony from anyone who may be interested. Also, in connection with Case No. 110 the Commission will issue a temporary order as requested by the attorney for Hardin-Houston. And I might add that the Commission feels at this time that in view of the Hardin-Houston and Walter Famariss applications, and in view of what is a general opinion, that no order of this nature shall be issued without application by an individual to the Commission for an open hearing.

COMMISSIONER MILES :

Is there anybody else to be heard?
(No response)

Case No. 101 will be granted.

Case No. 109 will be granted.

Case No. 110 has been continued to October 15th.

Case No. 111 is taken under advisement.

The hearing was adjourned.

Register

Name	Residence	Company
J. J. Miller	Artesia, N.M.	Grayling Oil Co of N.M.
John E. Johnson, Jr.	Artesia, N.M.	attorney for Grayling Oil Co.
J. B. Hudson	Hobbs, N.M.	
Frank D. Parker	Midland, Texas	Singclair Prairie Oil Co.
Harry Harrison		Std of Tex
Foster Morrell	Roswell, N.M.	U. S. G. S.
Lloyd L. Gray	Tulsa Okla	Gulf Oil Corp
Ray O. Yachrough	OCC	Hobbs N.M.
W. P. Brunner	Shell Oil Co	Hobbs, N.M.
L. E. Slagle	"	"
Walter Tamm		Hobbs
Raymond A. Lynch	Midland Texas	Phillips Pet. Co. (Legal Dept)
H. P. Markley	Odessa Texas	Phillips Pet. Co.
John M. Kelly	Roswell N.M.	Independent
W. L. Leander	Hobbs N.M.	
W. W. Hubbard	Houston Tex	Humble
W. S. Dwyer	Midland Tex	Humble
Nelson Jones	Houston Tex	Humble
Guy Shepherd	Santa Fe, N.M.	State of N.M.
R. J. Reed	Seco Field	Grayling oil co
Joe W. Lackey	Roswell, N.M.	Males Refineries, Inc.
Mac Bates	Midland Texas	The Texas Co
E. D. Doebert	Midland Texas	Humble Pipe Line Co
W. H. Skelton	Midland, Tex.	Standard Oil Purchasing Co.
Glenn Haley	Lea County Operators	Hobbs N.M.
N. Raymond Lamb	N.M. Bureau of Mines & Mineral Re.	Artesia, N.M.
William B. Macey	N.M. Oil Conservation Comm.	Artesia, N.M.
J. A. Smith	Hauselers	Law & Co
John D. Culp	Stanolind	Hobbs, N.M.
W. E. Willis	The Texas Co.	F. Worth, Tex
J. H. Murray	The Texas Co.	Midland, Texas
Frank E. Pitt	Ray H. King	Dallas, Texas
Henry Hobbes	Continental Oil Co.	Midland, Texas
G. H. GRAY	Reposito Oil Co.	Midland, Texas