

Copy of transcript

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BEFORE THE OIL CONSERVATION COMMISSION OF THE
STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF
AMERADA PETROLEUM CORPORATION FOR
THE ESTABLISHMENT OF PRORATION UNITS
AND UNIFORM SPACING OF WELLS FOR THE
COMMON SOURCE OF SUPPLY DISCOVERED
IN THE W.W. HAMILTON NO. 1 WELL,
NE/4 SW/4 of SEC. 35, TOWNSHIP 16 SOUTH,
RANGE 38 EAST, LEA COUNTY, NEW MEXICO.

CASE NO. 204A P P L I C A T I O N

COMES, NOW, Amerada Petroleum Corporation, of
Tulsa, Oklahoma, and alleges and states:

1. That applicant has drilled and completed on
May 4, 1949, a well known as "W.W. Hamilton No. 1", located
in the center of NE/4 SW/4 of Section 35, Township 16 South,
Range 38 East, Lea County, New Mexico, and discovered a new
common source of supply, found in said well below the depth
of 12,000 feet, as hereinafter alleged.

2. That said discovery well was drilled to a
depth of 12,656 feet and encountered the top of the Devonian
formation at 12,451 feet. It was then plugged back to 12,600
feet and 5½" casing set to 12,518 feet, and is producing
through the open hole. The well tested 935.31 barrels of oil
in 24 hours through a ½" choke, with a gravity of 46.9 and
gas-oil ratio of 180, and B.S. and W. of 0.4%.

3. That the probable productive limits of said
new common source of supply include the following described
area, to wit:

All of Sections 34, 35 and 36, Township
16 South, Range 38 East, and All of Sections 1,
2 and 3, Township 17 South, Range 38 East,
Lea County, New Mexico,

Said common source of supply being commonly referred to as
the "Knowles Pool".

4. That in addition to the discovery well re-
ferred to above, the following wells have been drilled or
are now being drilled to said common source of supply within
the area described above, to wit:

(a) Amerada-Stella Rose #1 Well, located in the SE/4 NW/4 of Sec. 35-16S-38E, which well has now been completed.

(b) Amerada-Rose Eaves #1 Well, located in the SE/4 SW/4 of Sec. 35-16S-38E.

(c) Amerada-Rose Eaves "A" #1 Well, located in the NW/4 NE/4 of Sec. 2-17S-38E.

5. That in addition to the above described wells, the following well is also now being drilled in the vicinity, but outside of the six-section area described above for which this spacing order is requested, to wit:

Texas Company-Bennett Estate Well, located in the NE/4 NW/4 of Sec. 27-16S-38E.

6. That in order to bring about the orderly and proper development of said common source of supply, prevent waste and to avoid the drilling of unnecessary wells, and to secure the greatest ultimate recovery therefrom, and to protect the correlative rights of the interested parties therein, it is necessary and proper for the Commission to enter its order providing for proration units of 80 acres each, such being the area which may be efficiently and economically drained and developed by one well, and to provide for the uniform spacing of wells drilled into said common source of supply.

7. That all wells drilled into said common source of supply should be located in the center of the Northwest and Southeast forty-acre tracts of each quarter section, with a tolerance of 150 feet to avoid surface obstructions.

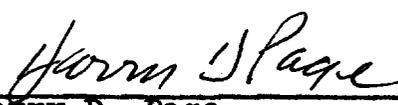
8. That the discovery well referred to above, known as the "W.W. Hamilton No. 1 Well", located in the NE/4 SW/4 of Sec. 35-16S-38E, is located off of the spacing pattern herein requested and should be granted an exception to the spacing order established by the Commission hereunder, and should be considered the well for the proration unit on which it is located.

9. That the order herein prayed for should cover all of the common source of supply discovered in the producing formation of the W.W. Hamilton No. 1 Well, and any well drilled to said common source of supply should be drilled on the spacing pattern herein requested.

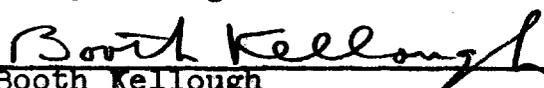
10. A plat showing the area described above and the location of all wells drilled or drilling in said area and in the vicinity is attached hereto, marked "EXHIBIT A" and made a part hereof.

WHEREFORE, applicant respectfully requests that the Commission set this application for public hearing at a time and place to be fixed by the Commission, and due and proper notice be given as required by law, and that at the conclusion of said hearing the Commission make and enter an order determining and defining the probable productive limits of the common source of supply referred to above to include all of Sections 34, 35 and 36, Township 16 South, Range 38 East, and Sections 1, 2 and 3, Township 17 South, Range 38 East, naming said pool or common source of supply, establishing proration units of eighty (80) acres each, designating the location of all wells drilled to said common source of supply to be the center of the Northwest and Southeast forty-acre tracts of each quarter section, with a tolerance of 150 feet in any direction from said described location to avoid surface obstructions, and to provide for an exception in the case of the well known as "Amerada-W.W. Hamilton #1 Well", referred to above, and to further provide that said order shall apply to all of said common source of supply.

DATED this 4th day of November, 1949.



Harry D. Page



Booth Kellough

Attorneys for
Amerada Petroleum Corporation.

LARGE FORMAT
EXHIBIT HAS
BEEN REMOVED
AND IS LOCATED
IN THE NEXT FILE

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF
AMERADA PETROLEUM CORPORATION FOR THE
ESTABLISHMENT OF PRORATION UNITS AND
UNIFORM SPACING OF WELLS IN THE
KNOWLES POOL IN LEA COUNTY,
NEW MEXICO.

CASE NO. 204
ORDER NO. R-3

MEMORANDUM BRIEF
IN SUPPORT OF APPLICATION FOR REHEARING

Amerada Petroleum Corporation filed its application for the establishment of eighty-acre proration units and uniform spacing of wells in the Knowles Pool, Lea County, New Mexico. The case came on for hearing before the Oil Conservation Commission on November 22, 1949. No one opposed the application. A representative of Magnolia Petroleum Company stated that his company concurred in the recommendations made by Applicant. (See Transcript, P-29) On January 11, 1950, the Commission entered its order finding Applicant's evidence insufficient and denied the application. Applicant is now asking for a rehearing pursuant to the procedure set forth in Sec. 19(a) of Chapter 168 of the 1949 Session Laws of New Mexico.

THE EVIDENCE:

Applicant presented the testimony of its geologist and its engineer, together with the Schlumberger logs of the wells drilled in the pool and a map showing the location of

the proration units and spacing pattern requested. The proration units requested were the South Half and the North Half of each quarter section, except in certain instances where exceptions were requested and proration units consisting of the East Half and the West Half of quarter sections were asked for in order to avoid the unnecessary pooling of separately owned tracts within a quarter section. Applicant also asked that all wells be located in the center of the Northwest and Southeast quarters of each quarter section.

The geologist for Applicant testified that this pool has vugular and good vein porosity comparable to the Jones Ranch Field approximately 12 miles away, which is being satisfactorily developed on eighty-acre spacing. Applicant's engineer testified that in his opinion this pool has an effective water drive and that the productivity index indicates good permeability and productivity. Both the geologist and the engineer testified that in their opinion one well in this pool would effectively drain an area of at least eighty acres.

It was further shown by the evidence that this pool is located at a depth below 12,500 feet and the discovery well cost \$351,000.00. Future wells are estimated to cost approximately \$260,000.00 to \$270,000.00. (R-28)

(The letter "R" stands for Record, followed by the page number of the transcript of all proceedings heard before the Commission on November 22, 1949.)

The pertinent testimony on the above point is as follows:

"Q. Mr. Veeder, in your opinion based on your knowledge as a geologist and conditions that these wells disclose, would you recommend spacing be put on 80-acre spacing?

"A. I would.

"Q. You believe that this 80-acre spacing put in and pattern range be so alternated would result in the ultimate recovery of larger amounts of oil?

"A. I believe all recoverable oil would be obtained by that method." (R-24)

Applicant's geologist further explained his opinion as follows:

"Q. Mr. Veeder, *** in your opinion based on your experience, training, and knowledge of this particular area, do you recommend that an order be entered fixing spacing of 80 acres?

"A. I do, essentially because of type of porosity in Devonian formation we have vugular and good vein porosity, and we would compare this field with the Jones Ranch Field approximately 12 miles to the north which we have production history on.

"Q. In what way?

"A. That is just northeast and is of same type of production. The production is from the Devonian dolomite of same texture and character. The porosity is very similar.

"Q. Has that been developed on 80-acre spacing?

"A. Yes.

"Q. Is it working out satisfactorily?

"A. It is." (R-25)

Applicant's engineer then testified:

"Q. In your opinion, will the 80-acre spacing as set out in Amerada's Exhibit 4 and the location of wells as shown thereon result in the ultimate recovery of the recoverable oil in the pool?

"A. Based on the engineering information that we have, I believe that is correct. We have production index on discovery well, Hamilton No. 1, and north offset to the Hamilton, which is the Rose No. 1. The productivity index of Hamilton No. 1 is as shown to be 1.03 barrels per pound drop flowing at the rate of 40 barrels per hour, which indicates good permeability productivity. Production index on Rose No. 1 was .444 barrels per pound drop flowing at the rate of 20.5 barrels for 25 hours test period. While it is not as good a well from productivity standpoint as Hamilton, it is still a good well in our opinion and has fair permeability. It is lower on structure- the lowest well drilled to date. Furthermore, we believe we have a water drive in discovery well. It tested approximately 12 barrels per hour of salt water with fair permeability. We think one well will drain at least 80 acres."

Applicant also introduced a map showing the proposed location of the proration units and the well spacing pattern, and the witnesses explained that the exceptions to the proration units were asked for as indicated on the map in order that there would not be any separately owned royalty in any single proration unit requiring pooling, and that the units were arranged in that manner in order to protect the royalty owners. (R-30).

ARGUMENT AND AUTHORITIES:

Sec. 13(b), Chapter 168, 1949 Laws of New Mexico, is as follows:

"No owner of a property in a pool shall be required by the Commission, directly or indirectly, to drill more wells than are reasonably necessary to secure his proportionate part of the production. To avoid the drilling of unnecessary wells a proration unit for each pool may be fixed, such being the area which may be efficiently and economically drained and developed by one well. The drilling of unnecessary wells creates fire and other hazards conducive to waste, and unnecessarily increases the production cost of oil or gas or both to the operator, and thus also unnecessarily increases the cost of the products to the ultimate consumer."

Sec. 10, Chapter 168, Laws of 1949, provides that the Commission is authorized to make orders: "(10) To fix the spacing of wells".

It is Applicant's contention that under the New Mexico Statutes quoted above, when it has established by competent evidence that eighty acres in the Knowles Pool is the area which may be efficiently and economically drained and developed by one well, and if the well spacing plan presented appears fair and equitable so that the correlative rights of all parties in the pool, lessee and royalty owners, will be protected, then Applicant is entitled to an order establishing eighty-acre proration units and uniform spacing. Applicant has clearly met this burden of proof. Its technical witnesses directly testified that one well would drain at least eighty acres in the Knowles Pool and recover all of the oil ultimately recoverable therefrom. There are no facts or inferences of facts from other testimony indicating a contrary conclusion. Furthermore, the well spacing and plan for location of the proration units proposed by Applicant is sufficient

and adequate to protect the correlative rights of all the owners of the pool. There is no evidence or inferences from evidence presented at the hearing indicating a contrary conclusion. If one well in this pool will drain an area of at least eighty acres as testified to by Applicant's witnesses, then an additional well drilled on the eighty-acre tract at a cost of approximately \$260,000.00 to \$270,000.00 would be an unnecessary well and would result in waste under the statutory provision quoted above.

The order finds that Applicant's evidence is insufficient. It is significant to note that the order does not find that one well will not effectively drain eighty acres, nor that the proposed spacing plan will cause waste or is unfair to the royalty owners. Such a finding could not be made since there is no evidence upon which it could be based. All of the testimony is to the contrary. The Commission simply found in its order that Applicant has failed in its proof. The testimony was uncontradicted. The witnesses were unimpeached. There was positive evidence on all essential points referred to in the order as insufficient. It follows that the Commission, in finding as it did in the order, disregarded the uncontradicted evidence of unimpeached witnesses presented by Applicant.

It is a well established rule in New Mexico, and throughout the United States generally, that the uncontradicted

testimony of an unimpeached witness can not be arbitrarily disregarded by the trier of the facts.

In 32 C.J.S., Sec. 1038, Page 1089, the rule is stated as follows:

"Uncontradicted or undisputed evidence should ordinarily be taken as true. More precisely evidence which is not contradicted by positive testimony or circumstances and is not inherently improbable, incredible or unreasonable can not arbitrarily or capriciously be discredited, disregarded or rejected, even though the witness is a party or interested, and, unless shown to be untrustworthy, is to be taken as conclusive, and binding on the triers of fact."

The same rule is stated in 20 Am.Jur. Sec. 1180, Page 1030, and in the Annotation in 8 A.L.R., page 809.

This is the well established law of New Mexico. In Citizens Finance Company vs. Cole, (1943) 47 N.M., 73, 134 P(2) 550, Syl. #3 is as follows:

"Uncontradicted testimony of a witness interested or disinterested can not be arbitrarily disregarded by the trier of facts."

The same rule is stated in Medler vs. Henry (1940) 44 N.M., 275, 101 P(2) 398.

In Walker vs. Smith, (1935) 39 N.M., 148, 42 P(2) 768, Syl. #1 is as follows:

"In examination of testimony of witness, if he stands unimpeached, either by direct evidence or lack of verity, or of bad moral character, or by equivocal character of testimony, or inherent improbability therein, or by some other legal method of impeachment, court must assume that his evidence is true."

The same rule applies to an administrative board, such as the New Mexico Oil Conservation Commission. One case setting forth the general law on this point and applying it to an administrative board (the Industrial Accident Board of Idaho in that case) is Pierstorff vs. Gray's Auto Shop, (1937), 58 Idaho, 438, 74 P(2) 171, where the court at Page 175 said:

"The rule applicable to all witnesses, whether parties or interested in the event of an action, is, that either a board, court, or jury must accept as true, the positive, uncontradicted testimony of a credible witness, unless his testimony is inherently improbable, or rendered so by facts and circumstances disclosed at the hearing or trial."

The Oil Conservation Commission in entering the order in this case acted in at least a quasi judicial capacity and is bound by rules of evidence and its orders must be based on the competent evidence presented at the hearing. This proposition was decided by the Oklahoma Supreme Court in connection with the orders of the Conservation Division of the Corporation Commission. In H.F. Wilcox Oil & Gas Co., vs. State, (1933) 162 Okla., 89, 19 P(2) 347, Syl. #6 is as follows:

"When the corporation commission acts in a legislative capacity for the purpose of making rules, it may ascertain in any manner it sees fit what rules should be made, and it may make such rules without the hearing of evidence or without regard to the evidence heard, but when it attempts to apply those rules in order to prevent waste or to regulate production, it acts in a capacity at least quasi judicial, and it must act either under rules of procedure and evidence provided by the Legislature, or under rules of procedure and evidence provided by itself, and it may not then act without evidence or upon incompetent, irrelevant, and immaterial evidence."

The same rule is stated in Skelly Oil Company vs. Corporation Commission (1938), 183 Okla., 364, 82 P(2) 1009. There is no reason to believe that the New Mexico court will not follow Oklahoma on this point.

A finding which disregards uncontradicted, unimpeached evidence will not be sustained on appeal. In 3 Am. Jur. #902, page 471, it is said:

"If the undisputed evidence admits of only one conclusion, an opposite finding will not be permitted to stand by the reviewing Court."

From the above authorities it is evident that the Commission in this case is acting in a quasi judicial capacity and that under well established rules of law it can not disregard uncontradicted and unimpeached testimony when it is not contrary to physical facts or inherently improbable under the other testimony. The evidence in this case by Applicant established every essential point necessary to entitle it to an order creating eighty-acre proration units and the uniform spacing pattern requested. Only by disregarding the uncontradicted and unimpeached testimony quoted above could the Commission enter the order it did finding that Applicant's evidence is insufficient.

For these reasons Applicant respectfully contends that the Commission erred as a matter of law and, therefore, a rehearing should be granted. Applicant requests that the Commission enter its order in accordance with the uncontradicted

testimony presented at the hearing, establishing eighty-acre proration units and uniform spacing of wells in the Knowles Pool, as requested by the application.

Respectfully submitted,

SETH & MONTGOMERY

By

J. S. Seth
Oliver J. Eck

Harry D. Page
Harry D. Page

Booth Kellough
Booth Kellough

Attorneys for
Amerada Petroleum Corporation

March 10, 1950

Mr. Glenn Staley
Hobbs, New Mexico

Case 204

RE: In the matter of the application of Amerada Petroleum Corporation for an order establishing proration units and uniform spacing of wells for the common source of supply discovered in the W. W. Hamilton No. 1 well, NE SW section 35, T.16 S, R. 38 E, N.M.P.M., Knowles pool, Lea County, New Mexico.

You are hereby notified that the record of the Commission hearing, held in Santa Fe, New Mexico, on February 21, 1950, in the matter of Case 204, was continued to March 21, 1950, 10:00 o'clock a. m., House of Representatives.

OIL CONSERVATION COMMISSION

R. R. SPURRIER
Secretary & Director

LEA COUNTY OPERATORS COMMITTEE
HOBBS, NEW MEXICO
March 13, 1950

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF
AMERADA PETROLEUM CORPORATION FOR
THE ESTABLISHMENT OF PRORATION UNITS
AND UNIFORM SPACING OF WELLS IN THE
KNOWLES POOL IN LEA COUNTY,
NEW MEXICO.

}
CASE NO. 204
}
ORDER NO. R-3
}

JOINDER IN APPLICATION FOR REHEARING

COMES, NOW, the GULF OIL CORPORATION, being interested in the above styled case, and joins amicus curiae with Amerada Petroleum Corporation in its application for rehearing filed in said case, and requests the Commission to enter its order establishing eighty-acre proration units and uniform spacing of wells in the Knowles Pool, Lea County, New Mexico, as requested by the application filed in this case.

GULF OIL CORPORATION

By Russell G. Low

Attorneys.

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION
OF AMERADA PETROLEUM CORPORATION
FOR THE ESTABLISHMENT OF PRORATION
UNITS AND UNIFORM SPACING OF WELLS
IN THE KNOWLES POOL IN LEA COUNTY,
NEW MEXICO.

} CASE NO. 204
} ORDER NO. R-3

JOINDER IN APPLICATION FOR REHEARING

COMES, NOW, the Magnolia Petroleum Company, being interested in the above styled case, and joins amicus curiae with Amerada Petroleum Corporation in its application for rehearing filed in said case, and requests the Commission to enter its order establishing eighty-acre proration units and uniform spacing of wells in the Knowles Pool, Lea County, New Mexico, as requested by the application filed in this case.

MAGNOLIA PETROLEUM COMPANY

By D. E. Austin

William D. McKellar, Jr.
Attorneys.

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

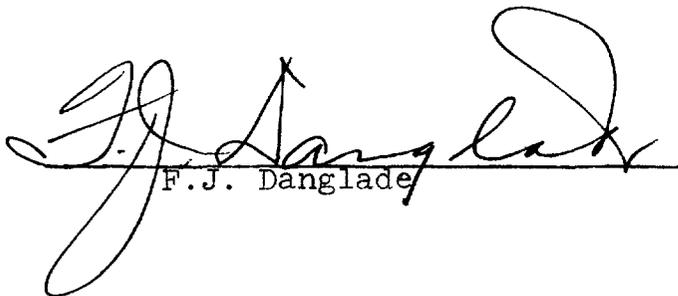
IN THE MATTER OF THE APPLICATION
OF AMERADA PETROLEUM CORPORATION
FOR THE ESTABLISHMENT OF PRORATION
UNITS AND UNIFORM SPACING OF WELLS
IN THE KNOWLES POOL IN LEA COUNTY,
NEW MEXICO.

CASE NO. 204

ORDER NO. R-3

JOINDER IN APPLICATION FOR REHEARING

COMES, NOW, F.J. Danglade, being interested in the above styled case, and joins amicus curiae with Amerada Petroleum Corporation in its application for rehearing filed in said case, and requests the Commission to enter its order establishing eighty-acre proration units and uniform spacing of wells in the Knowles Pool, Lea County, New Mexico, as requested by the application filed in this case.


F.J. Danglade

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF AMERADA PETROLEUM CORPORATION FOR THE ESTABLISHMENT OF PRORATION UNITS AND UNIFORM SPACING OF WELLS IN THE KNOWLES POOL IN LEA COUNTY, NEW MEXICO.	}	CASE NO. 204 ORDER NO. R-3
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APPLICATION FOR REHEARING

COMES, NOW, Amerada Petroleum Corporation,
 Applicant herein, and alleges that on January 11, 1950, the
 Commission entered its order in the above styled case after
 due notice and hearing held on November 22, 1949, which said
 order denied the application heretofore filed herein by
 Amerada Petroleum Corporation for eighty-acre proration units
 and uniform spacing of wells in the Knowles Pool, Lea County,
 New Mexico, and that such order is believed by Applicant to
 be erroneous in the following particulars, to wit:

1. That the Commission erred in finding the evidence
 insufficient to prove that the proposed plan of spacing would
 avoid the drilling of unnecessary wells, secure the greatest
 ultimate recovery from the pool, or protect correlative rights.

2. That the Commission erred in finding the evidence
 insufficient to prove that one well drilled on each eighty-acre
 tract would efficiently drain the recoverable oil from the
 pool.

3. That the Commission erred in finding the evidence
 insufficient to prove that the proposed plan of spacing would
 prevent waste.

4. That the Commission erred in finding the evidence
 insufficient to prove that the proposed plan is fair to the
 royalty owners in said pool.

5. That the Commission erred in disregarding
 uncontradicted evidence of unimpeached witnesses introduced

in the uncontested hearing of this case that eighty acres, or one-half of a governmental quarter section, is the area that may be efficiently and economically drained and developed by one well, and that the establishment of eighty-acre proration units and uniform spacing of wells as requested by Applicant will prevent waste, avoid the drilling of unnecessary wells and protect the correlative rights of all parties interested in said pool.

WHEREFORE, Applicant respectfully requests that a rehearing be granted and after rehearing that the Commission enter its order establishing eighty-acre proration units and uniform spacing of wells in the Knowles Pool, as requested by the application filed herein.

SETH & MONTGOMERY

By

Oliver Seth
Oliver Seth

Harry D. Page
Harry D Page

Booth Kellough
Booth Kellough

Attorneys for Applicant
Amerada Petroleum Corporation.