

11/9/57  
BEFORE THE  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO

IN THE MATTER OF:

Case No. 1187

December 13, 1956.

DEARNLEY - MEIER & ASSOCIATES  
INCORPORATED  
GENERAL LAW REPORTERS  
ALBUQUERQUE - SANTA FE  
3-6691 2-2211

Application of the New Mexico Oil Conservation Commission upon its own motion for an order changing the name and information required on Form C-128, as established by Rule 1127 of the Commission Rules and Regulations. Applicant, in the above-styled cause, seeks an order changing the name of Form C-128 to "Well Location and Proration Plat" and to change certain of the information required to be reported thereon.

Case 1187

BEFORE:

Mr. A. L. Porter  
Mr. E. S. (Johnny) Walker

## TRANSCRIPT OF PROCEEDINGS

MR. PORTER: We have made another slight change in the docket. Mr. Cooley is our witness in Case No. 1187, and like the Governor, he has been having some trouble with his throat, so we will take up Case 1187.

MR. GURLEY: Case 1187. Application of the New Mexico Oil Conservation Commission upon its own motion for an order changing the name and information required on Form C-128, as established by Rule 1127 of the Commission Rules and Regulations.

WILLIAM JACK COOLEY

a witness, of lawful age, having been first duly sworn on oath,  
testified as follows:

DIRECT EXAMINATION

By MR. GURLEY:

Q State your name and position.

A William Jack Cooley, attorney for the Oil Conservation Commission, New Mexico.

Q Mr. Cooley, in your official capacity as attorney for the Oil Conservation Commission of New Mexico, have you had an opportunity to investigate the proposed changing of the name and the information required on Form C-128?

A I have.

Q What is the results of your investigation and study of that form?

A In perusing the Commission Form C-128 and discussing it with the District Offices who have had more opportunity to determine the efficacy of its use in its present form, we find, first, that that information in the lower left-hand corner of the form concerning dual completions to be superfluous at this time. My first recommendation is, then, that that information just referred to be deleted from the form.

My second recommendation is that the title of the form be changed. It is now entitled "Well Location and/or Gas Proration Plat". I would recommend that the title of the form be changed to "Well Location and Proration Plat", in that we are presently in the process of establishing more and more 80-acre oil pools and it is, of course, necessary to outline the 80-acres dedicated to the particular well drilled on that unit.

It is my recommendation that all oil well units, both 40-acre

and 80-acre units, be outlined, that they merely outline the 40 acres or 80 acres that is to be dedicated to the proposed well. Thus it would actually be a well location and proration plat for both oil and gas.

Further, I have discovered that no place in the Commission records do we have any information as to the ownership of the leases which are dedicated to a given well on our Form C-128. I think it's highly material and desirable for the Commission to have this information. The most convenient place to do so would be in this space which has just been vacated by the dual completion information. I would recommend that we put a statement in this part of the form, something to the effect, "Does the operator own the acreage dedicated as outlined above", possibly with an asterisk and a definition, our statutory definition of owner being placed along the bottom of the form, that being the person having the right to drill into and produce from the oil pool, take the production for himself, or for himself and another. If the answer to the question one, that is, "Do you own the dedicated acreage?" is "No", then the second question would be something to the effect, "Has this acreage been pooled or has it been communitized?" If that question, too, is answered in the negative, then I would require a listing of the ownership and their interest on the back of the form. Thus the Commission would have available to it information concerning the ownership of the leases which have been dedicated to the wells in which they are requesting approval of either 101's or the application for proration. If this information is not made available to the Commission, we can in no way determine

whether the required dedicated acreage is owned by the operator, or whether he is entitled to a full allowable; so with this I terminate my recommendations.

Q Anyone have a question of Mr. Cooley? Mr. Walker.

MR. WALKER: Don Walker, with Gulf Oil.

CROSS EXAMINATION

By MR. WALKER:

Q Mr. Cooley, would you anticipate this form being filed <sup>with</sup> ~~one~~ 101 on all wells, as well as gas wells, and also indicate at that time ownership and whether or not unitized or so forth?

A Yes, sir, it would be my recommendation that it be filed with the 101 and that the acreage for all, all dedicated acreage be outlined and these questions answered.

Q Wouldn't it be possible if you required it be filed with the C-128 for lands to be unitized before you started the well, that sometimes we might lose a well while we are trying to get a royalty owner in California signed up?

A This is a question of Commission policy that I really do not feel is at issue here. The necessity for the information is apparent. Whether Commission policy is to shift to require that the acreage be communitized prior to approval of a 101 is a matter of Commission policy. I think that would be determined henceforth and not in connection with this form. Certain of our rules and regulations require that an operator, that no 101 will be approved unless the acreage has been communitized. An example of that is our order R-110 concerning the Blanco-Mesaverde Pool. Practice, however, has been in many cases not in the pools to require this,

but to make the point of reckoning, so to speak, when the allowable is assigned to the well. Certainly it cannot be later than that date. An allowable cannot be assigned to an operator on land he does not own. Whether the Commission is to take the former or the latter course I believe is not here involved.

Q Certainly we well know that we have gotten in trouble by not having the unitization completed sometimes when we file our plat, but to jump into something without giving it very thorough study, I am a little reluctant to say just what for sure we need in that case.

A This particular hearing would not affect any Commission policy as to whether to or not to approve 101's in the absence of communitization or 100 percent ownership by the operator. This would merely require additional reporting of information.

MR. PORTER: I believe you had a question, Mr. Smith.

MR. SMITH: <sup>Simultaneous</sup> Mr. Walker pretty well covered the same subject matter I had in mind. At this time I think it would be inappropriate to make request for information from the Commission. It would appear to me that the objection that Mr. Walker has voiced was well taken. In some instances we have situations with small mineral interest or small mineral acreage in the unit is owned by someone that cannot be found, which requires forced unitization. In some instances we didn't have information to drill the well until late in the life of the lease. I think the Commission should give serious consideration in allowing acreage to be assigned on acreage ownership. Go ahead and assign the allowable based on the acreage which is owned by the person drilling the well, and then

permit us to go in and attempt to find the owner or to eventually, perhaps, go into forced unitization of that interest with a carried interest representing that mineral ownership until such a time as that person shows up, or perhaps it may be that the person is reluctant to sign and we are negotiating, and those negotiations may be protacted for a period of time. If it requires a formal hearing in order to get a well approved, in order to carry the thing forward, we may be carried past the expiration date of the lease. It may result in losing the lease. I would suggest that the Commission adopt a policy and let the operators know about it, whereby you can get acreage commensurate, that the driller of the well has the time to drill the well, and let us drill the well. You have no objection to that, Mr. Cooley?

A In respect to Order R-110, which is a gas well in Mesaverde that would require a change in R-110. It says no well shall be drilled or no notice of intention to drill will be approved until they have complied with certain conditions, one of which is that all interests have been pooled.

MR. SMITH: I understand that, Mr. Cooley; you recognize the legal implications?

A Yes.

MR. SMITH: From that standpoint, I think they are valid. I believe that perhaps you would agree with me on that. I am suggesting to the Commission while amending R-110 is beyond the scope of the particular hearing, that consideration be given to such an amendment.

A I think that the considerations you have just pointed out

bear out the necessity even for most change in this 128, in that we have no way of knowing what the ownership of the operator is at the present time. He outlines 160 acres or 320 and so far as we know, we can only take him at face value that he owns all of it. Unfortunately, we have found that is not true in many cases. In this case, we could readily determine what acreage is owned by the operator, and if your recommendations are followed, it will be very easy to calculate his allowable then.

MR. SMITH: Stanolind Oil and Gas has no objection to supplying the information, but the hearing did point up a matter which I think the Commission should consider so that we can get some relief in some of the hardship cases without going to the necessity of a formal hearing, and asking for forced unitization which requires appropriate giving of notice and time relationship to it. That is all I have to offer.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: Jason Kellahin. If the Commission please, at this moment speaking for myself, I have had a recent experience in provisions of R-110. I want to strongly second the statement made by Mr. Walker and Mr. Smith, and if the Commission staff feels it is necessary that R-110 or any of the other pool rules be amended to allow approval of the C-101 prior to pooling or unitization, I would strongly urge that the Commission set that for hearing at some future date, in order that the operators can go ahead and drill the acreage when it is necessary for them to do so in order not to lose their leases.

MR. PORTER: Mr. Woodruff.

MR. WOODRUFF: Norman Woodruff with El Paso Natural Gas Company. In this form that will be used as an oil well gas proration plat or gas well proration plat, I think it will be well to designate whether it is an oil or gas well. There is no place to show that on here at this time. In some pools we have both oil and gas wells producing from the same pool.

MR. PORTER: Mr. Mankin, do you have a question?

MR. MANKIN: Mr. Cooley, is it not true that in the northwest most of the pools presently require a submission of the C-128 when the well is intended to drill, or C-101, is that not true?

A I think a great majority of the rules require the submission of the 128 with the 101.

MR. MANKIN: Is it not also true in most of the gas pools of the northwest that is not required, as far as the gas proration plat is concerned, until the 104 is submitted?

A That is right.

MR. MANKIN: Would it be your recommendation, then, that by some future change of rules in those pools, that possibly the C-128, which would be the proration plat and the location plat, be submitted with the 101, rather than with the 104?

A The call of this hearing is to amend 1127 and I think in that rule, in 1127, we should require that the Form C-128 be submitted with the 101 in all cases.

MR. MANKIN: Would it not also require changing certain other rules that relate to the submission, to the C-104 and C-101, in addition to the 1127?

A It might very well. In line with Mr. Woodruff's recommenda-

tion, I wonder if it wouldn't be advisable to, with reference to the top of the form "Well Location and Proration Plat", to leave a blank there, Well Location, and then insert oil or gas at that point.

MR. WOODRUFF: That would be very satisfactory.

MR. BUSHNELL: I wonder if there would be any objections to you proceeding with preparing a form subject to the preparation of the changes you have suggested, and sending copies to the industry and let us examine it and at some future date, we meeting with you and there the suggestions would be considered.

A It would be perfectly agreeable with me.

MR. WALKER: You make that in form of a motion?

MR. BUSHNELL: I would so move.

MR. ARNOLD: I would like to ask Mr. Cooley if it is his recommendation that this plat also be submitted with wildcat oil wells in the acreage dedicated at that time. What I was thinking of is where you don't have pool rules setting up the spacing. Would you recommend that they dedicate forty acres on all wildcats?

A I think the dedication of wildcats is covered by 104, is it not? That a wildcat oil well is dedicated to forty acres.

MR. ARNOLD: In the event that the operator submits 128 on wildcat and dedicates eighty acres, what action would you recommend that the District Office take in that case?

A Well, it is superfluous, it seems to me. You can't dedicate but forty acres to a wildcat oil well.

MR. ARNOLD: Should we return the plat and refuse notice of intention to drill until he corrects the notice of dedication?

A I think it would be necessary to determine which acreage had been dedicated to the well.

MR. ARNOLD: We have had that question arise.

MR. PORTER: Mr. Nutter.

MR. NUTTER: Mr. Cooley, would you recommend that the rule change in 1127 be such as to specifically require the 128 to be submitted with the Federal Form 9331-A, notice of intention to drill?

A Does the Federal Government have any plat they submit at all?

MR. NUTTER: They are using our State form; however, it is not required in the rule at the present time.

A I think it should be so required. I think it should be submitted with every well drilled in the State.

MR. CURRY: Max Curry with Buffalo Oil Company. I would like to ask Mr. Cooley what he would suggest in the way of reallocation of acreage at a later date; what would be the procedure if you wish to readjust the acreage on a wildcat well.

A Readjust the acreage?

MR. CURRY: Yes.

A I don't understand.

MR. CURRY: In drilling a wildcat well, at the time it is drilled, of course, it would be forty acres or whatever the Rule C-104 outlines; then, if at a later date you should get the gas well and you wish to use larger acreage, say either 160 or 320.

A I think you would be required, if it is a wildcat situation, you projected an oil well, you dedicate at the time of your projection

and the filing of your 101 forty acres; however, if you encounter gas rather than the oil, the dedicated acreage for wildcat gas wells leaves 160. I think upon discovery of gas, you would be required to file an amended 128.

MR. CURRY: Many times it is impossible to determine whether you have wished to develop that acreage on 320 or 160. There are many factors involved there which you are able to determine on the first well and possibly the second or third well.

A If I may interrupt you at this point, I don't believe there is any choice in the matter until pool rules would be promulgated, because in the absence of pool rules to the contrary, it would be 160-acre spacing.

MR. CURRY: Then it would not be through administrative approval that this be done, but through a hearing on pool rules?

A That is correct. The only way you could get greater than 160-acre spacing would be through the promulgation of pool rules.

MR. WALKER: Let me ask you, Mr. Cooley, between now and the next regular hearing would it be possible for you to distribute this proposed change to the industry and give them ample time to make a study of it so they can come back next month and discuss it further?

A I think we should be able to have sufficient copies of this proposed change in their hands within, say, ten days, which would give them ample time to peruse the form and make any suggested changes that they have and present them here at our January hearing and possibly this hearing should be continued to that date to receive any suggestions that the industry might have.

MR. PORTER: Will that conform with your motion, Mr. Bushnell?

MR. BUSHNELL: Yes.

MR. WALKER: Don Walker; I would like to second Mr. Bushnell's motion.

MR. PORTER: Mr. Smith.

MR. SMITH: I would like to suggest that if it is continued to the next hearing date that the matter be readvertised and the matters suggested by Mr. Walker and Mr. Kellahin and myself be included within the scope of the hearing at that time, so that it may be explored as to the possibility of changing the rules to permit the assignment of the acreage that the well owner may have and go ahead and let him drill his well so it won't be held up pending complete 100 percent unitization.

MR. BUSHNELL: I would concur in Mr. Smith's proposal.

A You would have no objection to making that a completely separate case?

MR. SMITH: I think the matters are so closely joined together that it should be considered in the one case. The action of the Commission with respect to improving the form or changing the rules could be considered separately or in the same case. I think they ought to be consolidated and considered at the same time.

MR. NUTTER: Are you proposing that the pool rules be considered for change at the next hearing?

MR. SMITH: I am not making any recommendation as to what the change should be made at this time. I think the pool should be considered, to take care of the hardship situations as outlined.

MR. NUTTER: In other words, the pool rule would be considered for change at the same time that the amended form should be considered?

A That could be advertised as another case and consolidated at the next hearing.

MR. MANKIN: I had one other question.

MR. PORTER: Mr. Mankin.

MR. MANKIN: Apparently, from the questions involved here, some of the operators feel there might be hardships brought about by requiring complete communitization prior to approval of 101. Would it not be possible to approve 101 even though the answer to the question was "No" in both cases on 128 -- would it not be possible for the operator to get the approval and the well drilled and in production contingent on certain interpretation --

A (Interrupting) It is my -- this requires interpretation of our orders. My interpretation says it is not possible.

MR. MANKIN: Would you feel that certain orders might, could be changed to allow for the situation to be satisfied?

A Well, they, of course, can be amended as suggested by Mr. Smith.

MR. GURLEY: I would like to recommend at this time that we go ahead and continue the case on the motion as so stated, and rather than trying to include Mr. Smith's points in this particular case, that we make a separate case of the possible change of the rules that he has suggested.

MR. WALKER: Then you don't mean to, intend to do it according to the motion; the man that made the motion agreed with

Mr. Smith. He amended his motion to agree with Mr. Smith.

MR. GURLEY: Recommend, then, that the motion be denied and that we continue the case as it stands now until the next hearing.

MR. BUSHNELL: I will withdraw my motion and go back to my original one, that Mr. Walker suggested, that it be reproduced and set out to the industry and this continued another month to study the forms.

MR. PORTER: The Commission will continue this particular case to the regular January hearing. It may be possible, it may be necessary to advertise our case covering the questions which have been raised here by Mr. Smith and Mr. Walker and others, but I think that possibly should be further considered at the January hearing.

We will recess until 1:15.

(Recess).

C E R T I F I C A T E

STATE OF NEW MEXICO     )  
                              : ss  
COUNTY OF BERNALILLO    )

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

WITNESS my hand and seal this 28th day of December, 1956, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

  
Notary Public

My commission expires:  
June 19, 1959.

Before the  
OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico

In the matter of:

Case No. 1187

January 16, 1957

DEARNLEY - MEIER & ASSOCIATES  
INCORPORATED  
GENERAL LAW REPORTERS  
ALBUQUERQUE - SANTE FE  
3-6691 2-2211

BEFORE THE  
OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
January 16, 1957

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IN THE MATTER OF: )  
 )  
Application of the New Mexico Oil Conservation: )  
Commission upon its own motion for an order )  
changing the name and information required on :  
Form C--128, as established by Rule 1127 of ) Case No.  
the Commission Rules and Regulations. Appli- : 1187  
cant, in the above-styled cause, seeks an )  
order changing the name of Form C-128 to "Well:  
Location and Proration Plat" and to change )  
certain of the information required to be re- :  
ported thereon. )  
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BEFORE:

Honorable Edwin L. Mechem  
Mr. A. L. Porter  
Mr. Murray Morgan.

TRANSCRIPT OF HEARING

MR. PORTER: We will take up the next case, Number 1187.

MR. GURLEY: Application of the New Mexico Oil Conserva-  
tion Commission upon its own motion for an order changing the name  
and information required on Form C-128, as established by Rule 1127  
of the Commission Rules and Regulations. Mr. Cooley will be the  
witness for the Commission.

W. J. COOLEY ,  
called as a witness, having been first duly sworn, testified as  
follows:

DIRECT EXAMINATION

By MR. GURLEY:

Q Would you state your name and occupation, please?

A W. J. Cooley, attorney for the Oil Conservation Commission of New Mexico.

Q Are you the same Mr. Cooley who testified before concerning your Form C-128?

A I am.

Q Have you had an opportunity to further study the situation involving this rule, sir?

A I have in the past month, since this case, the case came on for hearing, and we suggested that the various operators in the state submit their recommendations, and we forwarded a copy of our proposed form to them. We have had very good response and I think the form should possibly be revised somewhat from that form that it took when we sent it out to you. The first recommendation I think would be in the title of it again. It has been suggested that we designate it as "Well Location and/or Acreage Dedication Plat" which would cover both the situation of the drilling block and the proration plat. Acreage dedication I think would probably better depict the precise use of this form rather than proration plat alone. Secondly, it has been suggested, and I think it is a very good idea, to take the registered engineers or surveyors certification off of the front and put it on the back with the rest of this miscellaneous information that we are requiring, make it clear that the surveyors certification of the precise location of the well, as well as the information required concerning the lease ownership be required only once, and that is when the form is submitted with the C-101; that any time that the plat is submitted

subsequently thereto, in accordance with other of the the Commission Rules and Regulations, that this would not be required. Of course, if there is an increased dedication of acreage, why it would be necessary then to again fill out the information concerning lease ownership, but assuming that the acreage dedication remains the same, then there would be no requirement of filling it out again every time the form was submitted.

It has been brought to our attention that we had no place on the form as proposed, for the operators signature. I think that is very definitely necessary. In view of the fact that the form will be submitted, especially with reference to gas wells, as required by Rule 1107, where only the front will be filled in, I think possibly, since we have taken this information off the front, this surveyors certificate, that we possibly should put a place there for the operators to sign on the front. Then, again, after the information concerning lease ownership has been filled in, we should again have a place for the operator to sign and certify that the information is true and correct to the best of his knowledge.

It has also been suggested that the second question appearing on the reverse side of the form which would read "If the answer to question 1 is no, have all the owners entered into communitization agreement", it has been suggested that that be altered in view of the fact that there are other methods of consolidation. First, you can have forced pooling to consolidate which would satisfy the requirement. Secondly, you could have an operating agreement whereby the right to drill has been granted to just one of the

owners, and then there would, consequently, not fall within the true definition of communitization agreement. I thought in terms of revising it to read as follows: "If the answer to Question 1 is no, have the interests of all the owners been consolidated by pooling agreement or otherwise". This terminology is quite similar to that used in our Order R-110, and it seems to be satisfactory in that particular instance.

I have further recommendations regarding this form, but I would certainly appreciate any suggestions that any of you here might have.

Q Mr. Cooley, have you a space there, on that point bring out, has the interest been consolidated by communitization, or otherwise, have you room there to show just how it has been consolidated?

A No, it is just a "Yes" or "No".

Q Would it not be wise to have, perhaps, a short statement as to how it is consolidated?

A Oh, it's my thought that all we're interested in, we are really not interested in how. If the operators feel that would be advantageous, we can certainly provide a space for it.

#### CROSS EXAMINATION

By MR. MANKIN:

Q Is it still your intent to leave the same third question which you previously had on the proposed form as to the ownership?

A That would be my recommendation. It has been suggested, to facilitate the reproduction of this form by the operators, that we identify the ownership of the various leasehold interests by

inserting the name of the owner in the appropriate area on the plat itself. However, there, it still leaves a question, has it been consolidated, unanswered. That's the particular thing that I am interested in.

Q I'll also ask you if, from an operating standpoint, would it not be advisable to have all the information which an operator has to give on one side of a sheet, so that it doesn't require typing on the back, because the operators have to reproduce this, even if it requires a long sheet?

A I think that's probably very advisable. I understand they have a very serious problem in the reproduction of this, that it would require filling out each one individually, while at the present time they fill out one and reproduce them.

Q Would you be agreeable to putting all the information on the front of this sheet that requires filling out, and instructions on the back, so that the operator may have to use only one side?

A All I'm interested in is getting the information. How it appears on the form is quite immaterial as far as I am concerned.

Q Would you be agreeable to presenting this again in a more finished product, with these recommendations sent to the industry for their comments and to finalize it at the next hearing?

A I think that we have had sufficient opportunity for the operators to submit their suggestions and, as I said, we have had a very good response to it. I think we know how they feel about this pretty well, and I would be opposed to postponing it for another month. I think we can make out the form. We realize their

problems and certainly we want to accommodate them to the greatest extent of our ability and still get the information that we are interested in. I think that probably we can accommodate our interest and theirs as well; in the manner of how far this information is going to be presented on the form can be left up to our clerical personnel, who, I am sure, can handle it in a satisfactory manner.

Q It was your recommendation, was it not, to put a certification both as to the well location by the registered surveyor and by the operator as well, was it not?

A It had been suggested by one of the operators and I thought it was a good idea. I realize that we would like to get it all on the front. If there is no objection to using a 13-inch form rather than an 11-inch, I imagine we can get it on the front.

Q Would it not appear to you that it would be necessary to use the long form to get this all on the front page?

A I am sure it would.

MR. PORTER: Does anyone else have a question?

MR. MALONE: Ross Malone, speaking for Ross Malone. I have a long standing allergy to the term "and/or". It seems to me that it is a lazy man's device to get out of a situation that shouldn't exist. If this plat is a well location and an acreage dedication plat, I suggest we strike the slant or and call it that.

A I concur about any lawyer that has come across that tricky little problem is against it.

By MR. COUCH:

Q I have one question. It has occurred to me, and perhaps

you have already considered this matter, that Rule 1127 would probably require an amendment to coincide with the new designation for this form, and I think the call of the hearing is broad enough to include it.

A It was my thought that the recommendations would be incorporated in the writing of a new 1127.

MR. PORTER: Does anyone else have a question? Any comments on the case? We will take it under advisement. The witness may be excused.

(Witness excused.)

STATE OF NEW MEXICO )  
:  
COUNTY OF BERNALILLO )

I, ADA DEARNLEY, Court Reporter, do hereby certify that the foregoing and attached transcript of proceedings before the New Mexico Oil Conservation Commission at Santa Fe, New Mexico, is a true and correct record to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF I have affixed my hand and notarial seal this 31st day of January, 1957.

  
Notary Public - Court Reporter - - -

My Commission Expires:

June 19, 1959