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IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO

PAN AMERICAN PETROLEUM)
CORPORATION, a corporation,)

Petitioner,)

v.)

No. 22060

OIL CONSERVATION COM-)
MISSION OF NEW MEXICO,)

Jack M. Campbell, Chairman,)

E.S. Walker, Member, A.L.)

Porter, Jr., Member and)

Secretary, and POTASH COM-)

PANY OF AMERICA, a corporation,)

Respondents.)

*office of the
Commissioner at
141 Sereno Dr.*

205

NOTICE OF APPEAL

THE STATE OF NEW MEXICO TO: The Oil Conservation Commis-
sion of New Mexico, Jack M. Campbell, Chairman, E.S. Walker,
member, A.L. Porter, Jr., member and Secretary, and Potash
Company of America, a corporation.

YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE
that Pan American Petroleum Corporation, Applicant in Case No.
3029 before the Oil Conservation Commission of New Mexico, has
taken an appeal to the District Court of Eddy County, New Mexico,
by the filing of a Petition for Review of Orders No. R-2772 and No.
R-2772-A, issued in said case. A copy of the Petition for Review
so filed is attached hereto for service herewith.

ATWOOD & MALONE

BY John W. Basatt, Jr.

Attorneys for Petitioner

Post Office Drawer 700

Roswell, New Mexico

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PAN AM
PETITION FOR REVIEW

IN THE DISTRICT COURT OF EDDY COUNTY

STATE OF NEW MEXICO

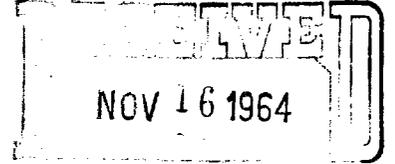
PAN AMERICAN PETROLEUM)
CORPORATION, a corporation,)

Petitioner,)

v.)

OIL CONSERVATION COM-)
MISSION OF NEW MEXICO,)
Jack M. Campbell, Chairman,)
E. S. Walker, Member, A. L.)
Porter, Jr., Member and)
Secretary, and POTASH COM-)
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poration,)

Respondents.)



Sent to Clerk's Office

No. 22060

PETITION FOR REVIEW

COMES NOW Pan American Petroleum Corporation, a corporation, Petitioner herein, and states:

1. Pan American Petroleum Corporation is a corporation organized under the laws of the State of Delaware and duly authorized to do business in the State of New Mexico. Respondent Oil Conservation Commission of New Mexico is an agency of the State of New Mexico whose members are: Jack M. Campbell, Chairman, E. S. Walker, member, and A. L. Porter, Jr., Secretary. Respondent Potash Company of America is a foreign corporation duly authorized to transact business in the State of New Mexico.

2. On April 15, 1964, at 9:00 o'clock A. M., there came on for hearing before the Oil Conservation Commission of New Mexico,

at Santa Fe, New Mexico, the application of Pan American Petroleum Corporation for permission to drill a well for oil and gas within the Potash Oil Area as defined by Commission Order No. R-111-A, as amended, in case No. 3029 on the docket of the Oil Conservation Commission. Prior to the hearing so held by the Commission a copy of the Application of Pan American Petroleum Corporation had been served upon Potash Company of America by registered mail and proof of such service was duly filed with the Oil Conservation Commission of New Mexico. Thereafter, Potash Company of America having filed a written objection to the drilling of said well, the matter was referred to the Secretary-Director of the Commission for arbitration. An arbitration hearing having been held, and no satisfactory settlement having been reached, the Secretary-Director of the Commission referred the matter for hearing before the Commission after due notice to all concerned and said hearing of April 15, 1964, resulted.

3. Thereafter, on or about September 29, 1964, the Commission entered its Order No. R-2772 in Case No. 3029, denying the Application of Pan American Petroleum Corporation for authority to drill a well at either of the proposed locations in the Southwest Quarter of Section 17, Township 20 South, Range 30 East, N. M. P. M., Eddy County, New Mexico. A copy of Order No. R-2772 is attached hereto, by reference made a part hereof and, for purposes of identification, marked Exhibit "A".

4. Within 20 days after the entry of Order No. R-2772,

denied
12/1/64

Petitioner Pan American Petroleum Corporation caused its Application for Rehearing of said proceeding to be filed with the Oil Conservation Commission of New Mexico and thereafter, on or about the 23rd day of October, 1964, the Commission caused to be entered its Order No. R-2772-A in Case No. 3029, denying the Application of Pan American Petroleum Corporation for rehearing in Case No. 3029, Order No. R-2772. A copy of said Application for Rehearing is attached hereto as Exhibit "B". A copy of Order No. R-2772-A is attached hereto, by reference made a part hereof, and for purposes of identification, marked Exhibit "C".

5. Petitioner Pan American Petroleum Corporation is dissatisfied with the Commission's disposition of its Application for Rehearing and with the Commission's original Order No. R-2772 and hereby appeals from both of said orders to the District Court of Eddy County, New Mexico.

6. Petitioner Pan American Petroleum Corporation is the owner of oil and gas leasehold estates located in Eddy County, New Mexico, which are affected by the decision of the Oil Conservation Commission of New Mexico, in Orders No. R-2772 and No. R-2772-A, Case 3029.

7. Petitioners complain and allege that said Orders No. R-2772 and No. R-2772-A are unreasonable, unlawful and invalid by reason of the following:

(a) Finding No. 10 of Order No. R-2772, is erroneous, unreasonable and unlawful in that it determines that the practice of

Potash Company of America in leaving a pillar of the radius of 100 feet around a shallow oil well and 200 feet around a high-pressure gas or oil well, as to primary mining, a pillar of a radius equal to the depth of the potash deposit, as to secondary mining and said findings are contrary to the evidence and are not supported by substantial evidence.

(b) Finding No. 11 of Order No. R-2772 is erroneous, unreasonable and unlawful to the extent that it finds that applicant has not established that the proposed well could be cased and cemented in a manner that would withstand the subsidence experienced in normal potash mining operations, and in holding that damaged casing would ultimately result in waste of oil or gas in the event the Application of Pan American were granted, in that said Finding in those respects is contrary to the weight of the evidence and is not supported by substantial evidence.

(c) Finding No. 12 of Order No. R-2772, is erroneous, unreasonable and unlawful in that it determines that the drilling of a well at either of the locations proposed by Petitioner, at this time, would create a hazard to human life and said finding is contrary to the weight of the evidence and is not supported by substantial evidence; said Finding is further erroneous, unreasonable and unlawful to the extent that it finds that Applicant has not established that the proposed well could be cased and cemented in a manner that would withstand the subsidence experienced in normal potash mining operations and prevent the escape of natural gas into open mine workings for the reason that said Finding is contrary to the weight of the

evidence and not supported by substantial evidence.

(d) Finding No. 13 of Order No. R-2772, is unreasonable, unlawful and invalid in determining that the drilling of an oil well at either of the locations proposed by Petitioner, at this time, would result in undue waste of potash deposits and unduly interfere with the orderly development of such deposits contrary to the provisions of Commission Order No. R-111-A for the reason that said Finding is contrary to the evidence and is not supported by substantial evidence.

(e) Finding No. 14 of Order No. R-2772, is unreasonable, unlawful and invalid in determining that the postponing of the drilling of exploratory wells in the potash-oil area until the potash in said area has been removed and subsidence is substantially complete, will, so far as it is practical to do so, afford to the owner of each property in any pool underlying said area, the opportunity to produce without waste his just and equitable share of the oil and gas in said pool for the reason that said Finding is contrary to the weight of the evidence, is not supported by substantial evidence, is beyond the authority of the Commission in Case No. 3029, and is beyond the issues in said case.

(f) Finding No. 15 of Order No. R-2772, that Petitioner's Application should be denied, is unreasonable, unlawful, and invalid.

8. Orders No. R-2772 and R-2772-A of the Commission are further unreasonable, unlawful and invalid in that the Commission failed to adopt Requested Findings of Fact Nos. 1 to 5 inclusive, of Applicant Pan American Petroleum Corporation, which are set out

in Exhibit "D" which is attached hereto, and by reference made a part hereof, by reason of the fact that the evidence with reference to the facts therein recited is undisputed and the facts are material in the determination of the issues before the Commission in this proceeding.

9. Orders No. R-2772 and R-2772-A are further unreasonable, unlawful and invalid by reason of the failure of the Commission to adopt Applicant Pan American's Requested Findings of Fact Nos. 6 to 12 inclusive, set out in Exhibit "D" attached hereto, for the reason that the evidence in support of the facts recited in said Requested Findings is undisputed and the facts are material to the disposition of this case by the Commission.

10. Orders No. R-2772 and R-2772-A are unreasonable, unlawful and invalid by reason of the failure of the Commission to adopt Applicant's Requested Findings of Fact No. 13 to 18 inclusive, set out in Exhibit "D" attached hereto, in that each of said Requested Findings of Fact was supported by a preponderance of the evidence heard by the Commission and there was not substantial evidence before the Commission to the contrary.

11. Orders No. R-2772 and R-2772-A do not constitute a reasonable exercise of the police power of the State of New Mexico and are beyond the power of the Oil Conservation Commission of New Mexico for the reason that they subordinate the rights of Pan American Petroleum Corporation under its oil and gas lease to the rights of Potash Company of America under a junior potash mining

lease and thereby take the property of Pan American Petroleum Corporation without due process of law.

12. Orders No. R-2772 and R-2772-A are erroneous and unlawful for the reason that the Legislature of New Mexico has not granted to the Oil Conservation Commission of New Mexico power or authority to prohibit or postpone the exercise of rights created by oil and gas leases issued by the Commissioner of Public Lands when there is a possible interference with potash mining operations conducted under a lease which is junior in right to the oil and gas lease embracing the same premises.

13. Orders No. R-2772 and R-2772-A are erroneous and unlawful for the reason that the Application of Pan American Petroleum Corporation in Case No. 3029, as elaborated by the testimony in that case, meets all valid requirements of the statutes of New Mexico and the Orders of the Oil Conservation Commission for the drilling of a well at the alternate location proposed by Pan American, and by reason thereof, said Application should have been granted.

14. Orders No. R-2772 and R-2772-A are unlawful for the reason that they result in the taking of the property of Petitioner Pan American Petroleum Corporation without due process of law and the postponement of the rights of said Petitioner under its lease until the complete exercise of the rights of the potash lessee, whose lease is junior in time and right, to the oil and gas lease held by Petitioner.

WHEREFORE, Petitioner Pan American Petroleum Corporation prays that the Court review Orders No. R-2772 and No. R-2772-A

in Case No. 3029, before the Oil Conservation Commission and
declare that each of said Orders is erroneous, unlawful, invalid
and void, that said Orders be vacated and that Petitioner have such
further relief as to the Court may seem proper.

J. K. Smith
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