

CASE 2381: Application of SOUTHWEST  
PROD. CO. for an order pooling all  
mineral interests in Baskin-Dakota.

105a / 10.

2381

Application, Transcript,  
and Exhibits, Etc.

July 19, 1962

The Citizens Bank of Artec which maintains offices in both Artec and Farmington has been designated as the escrow agent by Southwest Production Company. Any ~~proceeds~~ from production from forced pooled property which are not disbursed for any reason will be placed in escrow in this bank.

See letter from Joseph P. Driscoll, Southwest Production Company, Dallas, Texas, dated July 16, 1962, and filed in Case No. 2600.

(Cases Nos. 2415, 2416, 2446, 2452, 2453, 2600, and in Nos. 2343 and 2381)

BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

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

CASE No. 2381  
Order No. R-2068

APPLICATION OF SOUTHWEST PRODUCTION  
COMPANY FOR A POOLING ORDER, SAN  
JUAN COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on September 20, 1961, at Santa Fe, New Mexico, before Daniel S. Nutter, Examiner duly appointed by the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission," in accordance with Rule 1214 of the Commission Rules and Regulations.

NOW, on this 29th day of September, 1961, the Commission, a quorum being present, having considered the application, the evidence adduced, and the recommendations of the Examiner, Daniel S. Nutter, and being fully advised in the premises,

FINDS:

- (1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.
- (2) That the applicant, Southwest Production Company, is the operator of the E/2 of Section 22, Township 30 North, Range 12 West, NMPM, San Juan County, New Mexico, by virtue of having under oil and gas lease most of the acreage therein and by having secured communitization agreements with the owners of the mineral interests in the remaining acreage.
- (3) That the applicant seeks an order pooling all mineral interests in the Basin-Dakota Gas Pool in said E/2 of Section 22.
- (4) That the only interests to be pooled which are not under lease to applicant or communitized would be unascertained contingent interests which might arise due to title disputes or due to applicant's failure to have leased the entire area intended to have been leased.
- (5) That inasmuch as there appear to be no non-consenting mineral interests to be pooled at the present time, the subject

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CASE No. 2381  
Order No. R-2068

application should be denied, without prejudice, however, to applicant's right to request Commission action if, and when, outstanding interests are determined to exist.

IT IS THEREFORE ORDERED:

That the subject application is hereby denied.

PROVIDED HOWEVER, That denial of the subject application shall be without prejudice to applicant's right to request Commission action at such time as it is determined that outstanding mineral interests exist in the E/2 of Section 22, Township 30 North, Range 12 West, NMPM, San Juan County, New Mexico.

IT IS FURTHER ORDERED:

That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

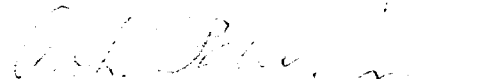
STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION



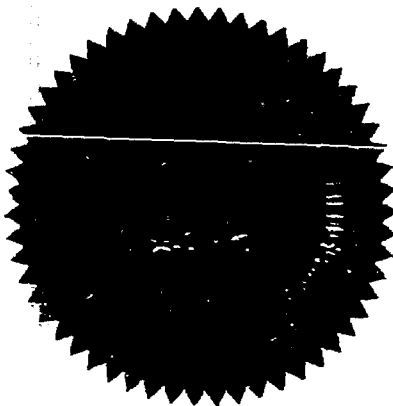
EDWIN L. MECHEM, Chairman



E. S. WALKER, Member



A. L. PORTER, Jr., Member & Secretary



BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

IN THE MATTER OF:

THE APPLICATION OF  
SOUTHWEST PRODUCTION COMPANY  
FOR AN ORDER FORCE POOLING THE  
EAST HALF (E½) OF SECTION 22,  
TOWNSHIP 30 NORTH, RANGE 12 WEST,  
N.M.P.M., IN SAN JUAN COUNTY,  
NEW MEXICO.

No. 235

A P P L I C A T I O N

Comes now the applicant, Southwest Production Company,  
a co-partnership consisting of Joseph P. Driscoll and John H.  
Hill, and for its application alleges and states:

1. That it is the owner of numerous oil and gas leases  
covering portions of the East Half (E½) of Section 22, Township  
30 North, Range 12 West, N.M.P.M., in San Juan County, New  
Mexico, the validity of which is uncontested, and that it has  
entered into communitization agreements with the owners of lease-  
hold and fee estates in certain other lands situated in the East  
Half (E½) of said Section 22, under the terms of which communiti-  
zation agreements the applicant is constituted as the "Operator"  
thereof.

2. That it is the owner of certain other oil and gas  
leases covering various tracts of land situated in the East Half  
(E½) of said Section 22 wherein applicant is informed and believes,  
and on the basis of such information and belief alleges that person  
or persons unknown to the applicant claim some right, title and  
interest adverse to applicant's lessors. Applicant contends that  
the claims of interest of said person or persons adverse to appli-  
cant's lessors would, if asserted, be of no force or effect, but

upon a contingency that such claims might be made and be found valid, applicant desires that the interest of any and all said persons be force pooled in accord with the Statutes of the State of New Mexico and the Rules and Regulations of the Oil Conservation Commission of New Mexico.

3. That the mineral ownership in the East Half ( $E\frac{1}{2}$ ) of said Section 22 has been divided into numerous small and irregular tracts and although applicant verily believes the leases which it holds, together with the interests of other persons with which it has entered into communitization agreements comprise the total mineral interests underlying the East Half ( $E\frac{1}{2}$ ) of said Section 22, there is a possibility that all of said mineral interests are not either under lease to or communitized with the interests of applicant, and, upon such contingency, applicant desires that any such unleased or uncommunitized tract also be force pooled under this application.

4. That applicant is planning to drill a well to the Dakota formation in the Northeast Quarter of the Northeast Quarter ( $NE\frac{1}{4}NE\frac{1}{4}$ ) of said Section 22 and to dedicate the entire East Half ( $E\frac{1}{2}$ ) of said section to said well, and in view of this and the further fact that it owns the great majority of the leasehold rights therein, the Commission should appoint applicant as the "Operator" of said pooled unit.

5. That there will be considerable risk involved in the drilling of the above referenced well and that under the Statutes of the State of New Mexico and the Rules and Regulations of the Oil Conservation Commission applicant is entitled to and should be allowed to take and receive for its own use  $7/8$ ths of any and all production had from the above referenced well until such time as it has been reimbursed in an amount equal to 125% of its actual cost of drilling, completing, equipping and operating said well plus reasonable compensation for the supervision thereof.

6. That the force pooling order herein requested is necessary in order to prevent waste and in order to protect the correlative rights of applicant.

WHEREFORE, applicant prays that this application be set down for hearing at the earliest possible date; that due notice thereof be given in accord with the Rules of this Commission and the Laws of the State of New Mexico; and that after hearing, and from the evidence to be adduced thereat, this Commission enter its order granting the application as above stated.

Respectfully submitted,

VERITY, BURR & COOLEY

By

  
William J. Cooley

ATTORNEYS FOR APPLICANT,  
SOUTHWEST PRODUCTION COMPANY

GOVERNOR  
EDWIN L. MECHEM  
CHAIRMAN

*State of New Mexico*  
**Oil Conservation Commission**

LAND COMMISSIONER  
E. S. JOHNNY WALKER  
MEMBER



STATE GEOLOGIST  
A. L. PORTER, JR.  
SECRETARY - DIRECTOR

P. O. BOX 871  
SANTA FE

September 22, 1961

**MEMORANDUM**

TO: Members of the Oil Conservation Commission  
Governor Edwin L. Mechem, Chairman  
Land Commissioner E. S. Johnny Walker, Member  
A. L. Porter, Jr., Secretary-Director

FROM: Richard S. Morris, General Counsel

SUBJECT: Case No. 2381, Application of Southwest Production  
Company for an order pooling all mineral interests  
in a 320-acre gas proration unit, Basin-Dakota Gas  
Pool, San Juan County, New Mexico

Attached to this memorandum is a proposed order to be entered in the subject case. Since denial of the application is recommended and since Commission action in this case will establish a policy to be followed in future cases of similar nature, the reasons for recommending denial should be fully explained.

Under the provisions of Section 65-3-14(c) of the New Mexico Statutes Annotated, 1953 Compilation, as amended by the Laws of the State of New Mexico, 1961, the Commission is authorized to force-pool non-consenting working and royalty interests with consenting interests to form proration units where otherwise waste would occur, where correlative rights would be violated, or where the drilling of unnecessary wells would be caused. The Commission has been cautious in its exercise of this force-pooling power and has recognized it as an extraordinary power to be used only where the need was apparent.

The subject application requests the Commission to exercise its force-pooling authority in a situation where there is no

September 22, 1961

apparent need. At the hearing of this case the applicant, Southwest Production Company, alleged that it proposed to drill a Dakota gas well on a standard 320-acre gas proration unit and that it had valid oil and gas leases on most of the acreage in the unit and had communitization agreements covering the remaining acreage. Force-pooling was sought in order to cover unknown, contingent interests which might arise at a later time. Although the applicant claimed to have all of the acreage leased or communitized, nevertheless it requested Commission action in the event its leases might later be proven faulty in some regard.

It appears that the subject application would not have been brought if the applicant were sure that its titles were good and that its leases covered the entire area intended to have been leased. If the evidence presented had been to the effect that the owner of some particular interest could not be located, after diligent effort, or, after being located, refused to consent, then the Commission might validly exercise its power to pool the known, but non-consenting, interest. Where no particular interest is specified as non-consenting, however, the Commission would appear to be performing an unnecessary act in issuing a pooling order. Certainly it could not determine whether the applicant had diligently attempted to secure the voluntary consent of the interest-owners being pooled.

If the Commission should exercise its force-pooling power in this type of situation, the operator would be encouraged to secure a pooling order in every instance where title was remotely in question. This could result in a flood of applications where Commission action would be meaningless. Also, knowing that a pooling order could be obtained, an operator could be less than diligent in his leasing practices.

In summary, the proposed denial of this application is based on the grounds (a) that there is no present need for the Commission to exercise its pooling power, and (b) that the approval of this type of application would encourage imprudent leasing practices.

State of New Mexico  
Oil Conservation Commission

**September 29, 1961**

**Mr. George Verity  
Verity, Burr & Cooley  
Attorneys at Law  
152 Petroleum Center Building  
Farmington, New Mexico**

Re: Case No. 2381  
Order No. R-2068  
Applicant:  
**SOUTHWEST PRODUCTION COMPANY**

Dear Sir:

Enclosed herewith are two copies of the above-referenced Commission order recently entered in the subject case.

Very truly yours,

A. L. Porter, Jr.

A. L. PORTER, Jr.  
Secretary-Director

ir/

Carbon copy of order also sent to:

Hobbs OCC       X      

Artesia OCC\_\_\_\_\_

Aztec OCC           x          

OTHER \_\_\_\_\_

DOCKET: EXAMINER HEARING - WEDNESDAY - SEPTEMBER 20, 1961

9:00 A.M. - OIL CONSERVATION COMMISSION CONFERENCE ROOM  
STATE LAND OFFICE BUILDING - SANTA FE, NEW MEXICO

The following cases will be heard before Daniel S. Nutter, Examiner, or Elvis A. Utz, as alternate examiner:

- CASE 2376: Application of the Oil Conservation Commission on its own motion to abolish certain portions of the San Simon and Wilson Pools in Lea County, New Mexico; to create a new pool for oil production in Township 21 South, Range 35 East, to be designated the North San Simon-Yates Pool; and to establish a limiting gas-oil ratio for said North San Simon-Yates Pool.
- CASE 2377: Application of N. R. Williamson for a waterflood project in the Seven Lakes Pool, McKinley County, New Mexico. Applicant, in the above-styled cause, seeks permission to institute a waterflood project in the Seven Lakes Pool in Sections 18 and 19, Township 18 North, Range 10 West, McKinley County, New Mexico. Applicant further seeks the establishment of procedures for obtaining administrative approval of extensions to the proposed waterflood project.
- CASE 2378: Application of The Atlantic Refining Company for a triple completion, Lea County, New Mexico. Applicant, in the above-styled cause, seeks permission to complete its Carlson Federal "A" Well No. 2, located in Unit J, Section 23, Township 25 South Range 37 East, Lea County, New Mexico, as a triple completion (conventional) in the Paddock, Blinebry and Tubb-Drinkard Pools, the production of oil from each pool to be through parallel strings of 2-inch tubing.
- CASE 2379: Application of The Atlantic Refining Company for a triple completion, Lea County, New Mexico. Applicant, in the above-styled cause, seeks permission to complete its Langlie Federal Well No. 2, located in the NW/4 SE/4 of Section 14, Township 25 South, Range 37 East, Lea County, New Mexico, as an oil-oil-oil triple completion in an undesignated Paddock Pool and in the Justis-Blinebry and Justis Tubb-Drinkard Pools.

CASE 2380: Application of Consolidated Oil & Gas, Inc. for a non-standard gas proration unit, San Juan County, New Mexico. Applicant, in the above-styled cause, seeks the establishment of a 320-acre non-standard gas proration unit in the Blanco Mesaverde and Basin Dakota Gas Pools comprising the NE/4 of Section 9, and the NW/4 of Section 10, all in Township 31 North, Range 13 West, San Juan County, New Mexico. Said unit is to be dedicated to applicant's Segal Well No. 1-9, located in the NE/4 NE/4 of said Section 9.

CASE 2381: Application of Southwest Production Company for an order pooling all mineral interests in the Basin-Dakota Gas Pool in the E/2 of Section 22, Township 30 North, Range 12 West, San Juan County, New Mexico.

CASE 2382: Application of Morris R. Antweil for a non-standard gas proration unit, Lea County, New Mexico. Applicant, in the above-styled cause, seeks the establishment of a 230.95-acre non-standard gas proration unit in the Eumont Gas Pool, consisting of Lot 4 in Section 1, and Lots 1, 2, 3, 7 and 8 in Section 2, all in Township 21 South, Range 35 East, Lea County, New Mexico. Said unit is to be dedicated to applicant's L. W. White Well No. 1, located in the NE/4 NE/4 of said Section 2.

CASE 2383: Application of C. H. Sweet Oil Company for an exception to Rule 309-A, Lea County, New Mexico. Applicant, in the above-styled cause, seeks an exception to Rule 309-A to permit the oil produced from applicant's McKinley "B" lease, located in the SE/4 NE/4 of Section 20, Township 18 South, Range 38 East, Lea County, New Mexico, to be transported, prior to measurement on said McKinley "B" lease, to applicant's Grimes lease located in the NE/4 SE/4 of said Section 20.

CASE 2384: Application of General American Oil Company of Texas, for an exception to Rule 309-A, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks an exception to Rule 309-A to permit the Loco Hills oil production from applicant's State Lease B-1778, located in Section 36, Township 17 South, Range 29 East, NMPM, Eddy County, New Mexico, to be transported, prior to measurement on said State Lease B-1778, to applicant's Federal Lease LC 060520, located in Section 31, Township 17 South, Range 30 East.

CASE 2385: Application of Texaco Inc. for a unit agreement and for a waterflood project, Lea County, New Mexico. Applicant, in the above-styled cause, seeks approval of the West Lovington Unit Agreement, covering 2,472 acres, more or less, in Townships 16 and 17 South, Range 36 East, Lea County, New Mexico. Applicant further seeks authority to institute a pool-wide waterflood in the West Lovington Pool by the injection of water into the San Andres formation through 18 wells in Sections 3, 4, 5, 6, 7, 8, and 9, Township 17 South, Range 36 East.

CASE 2386: Application of Continental Oil Company for the establishment of two non-standard oil proration units in the Empire-Abo Pool, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks the establishment of two non-standard oil proration units in the Empire-Abo Pool described as follows:

(1) Lot 2 and the Southernmost 12.06 acres in Lot 1, Section 30, Township 17 South, Range 29 East, Eddy County, New Mexico, comprising 40 acres. Applicant proposes to dedicate said unit to its State S-30 Well No. 1, 2310 feet from the North line and 330 feet from the West line of said Section 30.

(2) Lot 3 and the Northernmost 11.83 acres of Lot 4, all in said Section 30, comprising 40 acres. Applicant proposes to dedicate said unit to its State S-30 Well No. 3, to be drilled at a standard location in said unit.

CASE 2387: Application of Continental Oil Company for permission to dispose of salt water, Lea County, New Mexico. Applicant, in the above-styled cause, seeks permission to dispose of produced salt water from the Anderson Ranch Wolfcamp Pool into the Wolfcamp formation through its Anderson Ranch Unit Well No. 8, located 1980 feet from the South line and 660 feet from the East line of Section 11, Township 16 South, Range 32 East, Lea County, New Mexico.

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Page 2381

**VERITY, BURR & COOLEY**  
ATTORNEYS AND COUNSELLORS AT LAW  
SUITE 152 PETROLEUM CENTER BUILDING  
FARMINGTON, NEW MEXICO

GEO. L. VERITY  
JOEL B. BURR, JR.  
WM. J. COOLEY

August 9, 1961

TELEPHONE 325-1702

Oil Conservation Commission  
P. O. Box 871  
Santa Fe, New Mexico

Gentlemen:

Re: Our file #1320-L

Application of Southwest Production Company for an order force pooling the E 1/2 of Sec. 22, Twp. 30 N., Range 12 West, NMPM. San Juan County, New Mexico

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Enclosed herewith is the original together with two copies of Southwest Production Company's application in connection with the referenced matter.

Yours very truly,

VERITY, BURR & COOLEY

By

*William J. Cooley*  
William J. Cooley

WJC/m  
encls  
cc: Southwest

*Booked  
mailed 9/8/61  
JL*

BEFORE THE  
OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
September 20, 1961

IN THE MATTER OF:  
Application of Southwest Production Company  
for an order pooling all mineral interests in  
the Basin-Dakota Pool

Case  
2381

TRANSCRIPT OF HEARING

DEARNLEY-MEYER REPORTING SERVICE, Inc.

ALBUQUERQUE, NEW MEXICO

PHONE CH 3-6691



DEARNLEY-MEIER REPORTING SERVICE, Inc.

PHONE CM 3-6691

ALBUQUERQUE, NEW MEXICO

BEFORE THE  
OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
September 20, 1961

IN THE MATTER OF:

Application of Southwest Production Company  
for an order pooling all mineral interests in  
the Basin-Dakota Gas Pool in the E/2 of Section  
22, Township 30 North, Range 12 West, San Juan  
County, New Mexico.

Case  
2381

BEFORE:

Daniel S. Nutter, Examiner

TRANSCRIPT OF HEARING

MR. NUTTER: Call Case 2381.

MR. MORRIS: Application of Southwest Production Company  
for a force-pooling order.

MR. VERITY: George L. Verity, for the applicant.

(Witness sworn.)

JACK D. JONES

called as a witness, having been first duly sworn, testified as  
follows:

DIRECT EXAMINATION

BY MR. VERITY:

Q Will you state your name, please?

A Jack D. Jones.

Q Mr. Jones, what is your present occupation?

A I am an independent lease man.



DEARNLEY-MEIER REPORTING SERVICE, Inc.

PHONE CH 3-6691

ALBUQUERQUE, NEW MEXICO

Q Have you been employed as a lease broker heretofore, and for how long a period of time?

A Yes, sir, for the past year.

Q Prior to that, were you employed by a major oil company?

A I was employed by Shell Oil as both an attorney and land man.

Q Are you familiar with both land and the drilling economics situation in the Basin-Dakota Pool?

A Yes, sir.

Q Have you had occasion to familiarize yourself with the lease situation in the E/2 of Section 22, Township 30 North, Range 12 West?

A Yes, sir.

Q Who owns the leases in this half section?

A The leases are held by Southwestern Production Company, certain of the leases Tidewater has an undivided quarter interest. There are two parcels in there which are not leased; they are shown in yellow and green.

Q You are referring to Applicant's Exhibit No. 1, are you, when you say yellow and green?

A Yes. Those lands are owned by Coffey and Millett, and are communitized by virtue of an operating agreement.

Q Does Southwest Production Company, other than those two tracts, own leases on all of the E/2 of Section 22, 30 North, 12 West?



DEARNLEY-MEIER REPORTING SERVICE, Inc.

PHONE CN 3-6691

ALBUQUERQUE, NEW MEXICO

A Yes, sir.

Q What is the land situation in this E/2 of 22; are there small tracts, is it a complicated land situation?

A There are quite a few small tracts there, metes and bounds, descriptions such as that.

Q Is the community of Flora Vista located within this E/2 of Section 22?

A Yes, it is.

Q Describe that community, if you will, please, to the Commission.

A The community is really not much of a community. There is one store in there, which is a typical country store as they used to exist in my childhood, where there is practically nothing in the store and the people gather around to smoke and chew the fat.

Q Has there been a plat dedication of a town site there?

A Yes.

Q When was it filed, do you know?

A In 1906, I believe.

Q Do those streets and alleys actually exist today?

A No, sir, they do not.

Q This is indicated, is it, on Exhibit No. 1?

A Yes, it shows on there.

Q Are there other unusual and somewhat questionable land situations with regard to small slivers and tracts of land?

A Well, there may be conflicts which exist, and as described



## DEARNLEY-MEIER REPORTING SERVICE, Inc.

PHONE CN 3-6691

ALBUQUERQUE, NEW MEXICO

and platted out, they leave gaps and such things as that.

Q Does this mean there is a possibility of some individual making claim of ownership that is not known to Southwest Production?

A I think that contingency probably exists.

Q As far as you know, with exception of Coffey and Millet's tracts, which are communitized, Southwest has a lease on everything?

A Yes, sir.

Q This area, is it in the Basin-Dakota Pool?

A Yes, sir.

Q Has Southwest started a Dakota well in this area?

A Well, yes, they have. In fact, it is completed, drilled in the N/E of the N/E there. As a matter of fact, it would be just on what is called Note 1, the lease up there.

Q At the time that this application was filed, was that well completed?

A No, sir.

Q Mr. Jones, how long have you been in the oil and gas business as a lease man?

A Well, I have been connected with the oil and gas business for the last eleven years, both as an attorney and lease man.

Q In this capacity, are you familiar with the cost of overhead operation of drilling and producing an oil well?

A At least as it affects a major company.

Q In your more recent experience, are you also familiar with the effects it would have on an independent such as South-



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PHONE CH 3-6691

ALBUQUERQUE, NEW MEXICO

western?

A I am becoming more and more familiar.

Q In your opinion, what percent of oil and/or gas income would be necessary to defray overhead costs and expenses?

A My experience indicates it would have to be at least ten percent.

Q Are you familiar with the fact that drilling oil and gas wells is a hazardous endeavor from an economic standpoint?

A Yes, sir.

Q Are you familiar with the percentage of success and failure in the Basin-Dakota Gas Pool, and particularly in the vicinity of the E/2 of Section 22?

A Generally, yes.

Q Can you have a failure in this area?

A You could have a failure: I don't believe there have been any, but the possibility would exist there could be a failure.

Q Do you have more than one kind of hazard?

A Yes, sir.

Q In addition to geological?

A There could be mechanical problems.

Q In your opinion, what percentage of pay would an operator need in order to compensate for those hazards in this area?

A Well, I think he should have a return of somewhere between twenty to forty percent, fifty percent.

Q In order to compensate for the hazard involved?



A If he is going to invest his money and take the risk, yes.

MR. VERITY: I believe that is all.

CROSS EXAMINATION

BY MR. NUTTER:

Q Mr. Jones, how much acreage here does Southwest Production have the lease on?

A We have the lease on 320 acres.

Q What has to be force-pooled, then?

A The possibility of contingent interests, because you can see on the map, you will notice there are certain gaps in there, overlaps between parcels, and that would be it, just contingent interests there, also some conflicts as to ownership in the area. I believe from studying the abstracts and attorneys' opinions, that we undoubtedly have defensible title to the whole area, but the contingency does exist there are third parties that might successfully claim an interest to some of those lands, in the mineral interests.

Q Southwest does hold a lease, though, on everything except the Millet and Coffey lands?

A Yes, sir, with whom we have an operating agreement.

Q And Millet and Coffey will be working interest owners?

A Yes, sir.

Q Do you have a lease on the railroad right of way?

A Yes, sir.

DEARNLEY-MEIER REPORTING SERVICE, Inc.

PHONE CH 3-6691

ALBUQUERQUE, NEW MEXICO



DEARNLEY-MEYER REPORTING SERVICE, Inc.

PHONE CH 3-6691

ALBUQUERQUE, NEW MEXICO

Q Do you have a lease on the public road?

A That is one of the questions, to whom that land belongs. I have been unable to find any records of conveyances into the County, or anything, and the property descriptions cover that road.

Q So it may not be a public road?

MR. VERITY: If I could interject a comment at this point, there is an absence of authority in New Mexico that is definite and clear as to ownership of the minerals under a dedicated right of way. The statute is slightly ambiguous with regard to the matter. There are conflicting decisions from other states with regard to application of a similar statute. There is real good legal authority in the state to the effect that under such a right of way the County and/or the City, as the case may be, has no title, but there is some authority to the contrary, and this is one of the reasons that we need to have forced-pooling order here. In addition to this, as you will notice from the plat, the area is cut up badly, and the survey situation, and the land situation in this valley is such that survey is difficult and controversies do arise with regard to vacancies and overlaps.

Q (By Mr. Matter) As I understand it you don't think you need a force-pooling, it is just in event of some undefensible title?

A Yes, sir, because we have proceeded to drill a well, and we feel we are entitled to be able to produce the full allowable and to be reimbursed in the event our title should fail by reason



of one of these contingent interests.

Q And Millet and Coffey voluntarily joined in the venture?

A Yes, sir.

MR. NUTTER: Any further questions of Mr. Jones:

BY MR. MORRIS:

Q Mr. Jones, you say you may have some conflicts of ownership in this area?

A Yes.

Q Do you feel that the Oil Conservation Commission is the right ~~form~~ <sup>Forum</sup> to use to resolve these conflicts, or do you feel, if you have a title problem, you ought to quiet title?

MR. VERITY: I was wondering if I might interpose an answer.

MR. MORRIS: I was hoping you would.

MR. VERITY: Wherever there is an overlap of title we have no problem, because we have a lease from both sides. If there is a title vacancy in place, then this vacancy would need to be pooled, and this is the contingency, one of the contingencies we are concerned about. We, of course, do not suggest that this Commission could quiet title to real estate, only that they can force-pool the mineral interests.

THE WITNESS: That is the reason, as I said, so Southwestern can get full allowable and produce the gas and oil.

MR. MORRIS: In effect, an order of the Commission is going to be sort of in the nature of administrative quiet title



order.

PAGE 2

MR. VERITY: I don't agree with counsel in that regard. It doesn't quiet title. What it does do, we feel that it does pool all of the mineral interests in the area, and if someone proves they have a mineral interest, then it would be subject to a pooling order, and the individual who had drilled a well and expended his money would have a just and equitable return upon it.

MR. NUTTER: Mr. Verity, you were in shape, however, when you obtained the drilling permit, to file an acreage dedication plat showing 320 acres dedicated to the well, were you not?

MR. VERITY: And we contend we own 320 acres, that is correct, and we think we are ready to prove this, but I am sure the Examiner is familiar with the fact there are certain vagaries in the laws, always foreseeable.

MR. NUTTER: Any further questions of Mr. Jones? He may be excused.

MR. VERITY: We offer in evidence Exhibit 1.

MR. NUTTER: Applicant's Exhibit No. 1 will be admitted in evidence. Do you have anything further, Mr. Verity?

MR. VERITY: We have nothing further.

MR. NUTTER: Does anyone have anything further they wish to offer in Case 2381? Take the case under advisement and recess the hearing until 1:15.



ALBANY, N.Y. 12208

PEARLEY-MEIER REPORTING SERVICE, INC.

FOR COMMISSION EXPENSE  
May 17, 1964

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