

BEFORE THE OIL CONSERVATION
COMMISSION OF THE STATE
OF NEW MEXICO

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

THE APPLICATION OF R. A. NIPPER AND
DAVID FINKELSTEIN TO HAVE DECLARED THE
HEREINAFTER DESCRIBED WELLS AS ABANDONED
WELLS AND THE APPLICATION OF THE SAME
SAID PARTIES TO PULL CASING FROM THE
SAME SAID WELLS, WHICH SAID WELLS ARE
DESCRIBED AS FOLLOWS:

CASE NO. II

ORDER NO. 124

H. L. Williams' Well No. 3, located on
Section Twenty-nine (29), Township
Eighteen (18) North, Range Eight (8)
West, N.M.P.M.; H. L. Williams' Well
No. 4, located on Section Nineteen (19),
Township Eighteen (18) North, Range
Eight (8) West, N.M.P.M.

ORDER TO FURTHER CONTINUE HEARING

BY THE COMMISSION:

Informal motion to continue hearing in the above cause,
through the attorneys in said cause, H. S. Glascock, Esquire, and
E. R. Wright, Esquire, came on for hearing in the office of the
Oil Conservation Commission at Santa Fe, New Mexico at 1:30 O'clock,
P.M. on the 6th day of May, 1938; and the Commission having considered
the same,

IT IS THEREFORE ORDERED that the hearing in the above matter,
be and the same is hereby continued to June 27th, 1938, at 9:00 o'clock,
A.M., and at that date to be heard in the office of the Oil Conservation
Commission at the Capitol, Santa Fe, New Mexico.


DONE at Sante Fe, New Mexico, this 6th day of May, 1938.

OIL CONSERVATION COMMISSION



Frank Worden, Commissioner of Public
lands,

Secretary.



A. Andreas
Acting State Geologist

BEFORE THE OIL CONSERVATION
COMMISSION OF THE STATE
OF NEW MEXICO

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

THE APPLICATION OF R. A. NIPPER AND
DAVID FINKELSTEIN TO HAVE DECLARED THE
HEREINAFTER DESCRIBED WELLS AS ABANDONED
WELLS AND THE APPLICATION OF THE SAME
SAID PARTIES TO PULL CASING FROM THE
SAME SAID WELLS, WHICH SAID WELLS ARE
DESCRIBED AS FOLLOWS:

CASE NO. 11

ORDER NO. 116.

H. L. Williams Well No. 3, located on
Section Twenty-nine (29), Township
Eighteen (18) North, Range Eight (8)
West, N.M.P.M.; H. L. Williams' Well
No. 4, located on Section Nineteen
(19), Township Eighteen (18) North,
Range Eight (8) West, N. M. P. M.

ORDER TO CONTINUE HEARING.


BY THE COMMISSION:

Motion to continue hearing in the above cause made
by H. L. Williams, through his attorney, E. R. Wright, Esquire,
came on for hearing in the office of the Oil Conservation Comm-
ission at Santa Fe, New Mexico at 9:00 o'clock, A. M. on the
12th day of April, 1938, and H. S. Glascock, Esquire, attorney
for the petitioners, R. A. Nipper and David Finkelstein in said
cause having advised the Commission that the continuance of the
hearing as requested in said motion was agreeable,

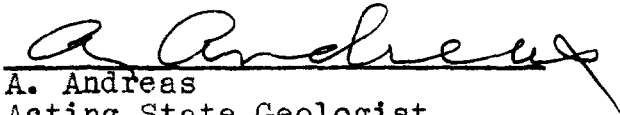
IT IS THEREFORE ORDERED that the hearing in the above
matter, heretofore ordered by publication as provided by law
and set at the hour at which this Motion came on for considera-
tion, be and the same is hereby continued to May 12, 1938, at
9:00 o'clock, A. M., and at that date to be heard in the office
of the Oil Conservation Commission at the Capitol, Santa Fe,
New Mexico.

DONE at Santa Fe, New Mexico, this 12th day of April,
1938.

OIL CONSERVATION COMMISSION


Frank Worden, Commissioner of
Public Lands,

Secretary.


A. Andreas
Acting State Geologist.

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

In the Matter of the Hearing Called
by the Oil Conservation Commission
of the State of New Mexico for the
Purpose of Considering the Application
of R. A. Nipper and David Finkelstein
to have Declared the hereinafter
described Wells as Abandoned Wells,
and the Application of the same said
parties to pull casing from the same
said wells, which said Wells are
described as follows:

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Case No. 12

H. L. Williams Well No. 3, located
on Sec. 29, Twp. 18 N., Rg. 8 W.,
N. M. P. M.

H. L. Williams Well No. 4, located
on Sec. 19, Twp. 18 N., Rg. 8 W.,
N. M. P. M.

TRANSCRIPT OF TESTIMONY

This matter came on for hearing before the Oil
Conservation Commission of the State of New Mexico, at Santa
Fe, New Mexico, on July 26, 1938, at 9 A. M., pursuant to
Notice of Hearing duly served upon H. L. Williams, and R. A.
Nipper and David Finkelstein, the parties hereto, and their
respective attorneys, and filed in said case, the members of
the Commission present being Hon. Frank Worden, State Land
Commissioner, Secretary of the Commission, and Hon. A. Andreas,
State Geologist. E. R. Wright, Esq., of Santa Fe, N. M.
appeared as attorney for H. L. Williams, respondent, Messrs.
Denny & Glascock of Gallup, N. M. by H. S. Glascock, Esq.,
appeared as attorney for the applicants, R. A. Nipper and David
Finkelstein. Carl B. Livingston, Esq., Santa Fe, N. M.
appeared as attorney for the Oil Conservation Commission.

Whereupon the following proceedings were had:

COMMISSIONER WORDEN: This meeting is called for the purpose of hearing the application of R. A. Nipper and David Finkelstein to have declared the hereinafter described wells abandoned and the application of the same parties to pull casing from the same wells, which said wells are described as follows:

H. L. Williams Well No. 3, located on Section 29, Township 18 North, Range 8 West, and H. L. Williams Well No. 4, located on Section 19, Township 18 North, Range 8 West. Are there any statements the attorneys would care to make?

MR. GLASCOCK: May it please the Commission, it is the contention of the applicants that they are the owners of certain casing located in wells originally referred to as Williams Wells numbers 3 and 4.

I might say in outlining our case, that early on 1936 two gentlemen from New York named Burnham and Quigley acquired from Mr. Williams an assignment for all of his oil leases and acreage and permits in McKinley County on what is usually known as the Hospah Structure. A part of this land was Government land on which Mr. Williams held an assignment of a prospecting permit for exploration for oil; the balance of it was land belonging to the Santa Fe, Pacific Railway Company. At the same time Mr. Williams gave these gentlemen a bill of sale which covered the following described property:

All the personal property including two Standard drilling rigs, all machinery, workings, tools, equipment, engines, boilers, tanks, bailers, cars, pipe lines, pumping stations, loading and unloading facilities, reservoirs, and any and all other personal property of every kind, nature and description whatsoever, incidental to, connected with, suitable, necessary, or convenient for the exploration, prospecting, drilling and development of oil wells.

Under that bill of sale, these gentlemen from New York pulled the casing from the two Government wells, have

disposed of all the tools, the boilers, machinery and everything else on the two Government wells, that is the wells on Government land.. They also sold all of the tools and equipment on the Santa Fe land. That was sold to various people, some of them pulled the casing, handled it in different ways. The casing in Williams wells 3 and 4, which were the wells on the Santa Fe land, and over which this Commission has jurisdiction, was sold to Mr. Nipper and Mr. Finkelstein of Tampa, Texas, for \$2,000 as is, they to pull the casing. When they started to pull the casing, they were advised by your Commission they would have to have your consent, and that is what we are here for today.

I might say further that after considerable negotiations between Mr. Williams and Mr. Quigley, Mr. Quigley and Mr. Burnham, his partner, reconveyed to Mr. Williams the leases themselves. That was necessary in order that Mr. Williams could get a new lease from the Santa Fe; the old lease had run out and there was some \$19,000 due in back rentals. Mr. Williams wanted to get a new lease and they eventually assigned their leases to Mr. Williams, and in that assignment there was this reservation. This is the assignment back to Mr. Williams from Mr. Quigley and Mr. Burnham which Mr. Williams had to have before the Santa Fe would give them the leases. This assignment is dated July 17, 1936, between Frank V. Quigley and Alexander O. Burnham of the first part, and H. L. Williams of the second part, and contains this provision:

"Save and excepting, however, unto said Frank V. Quigley and Alexander O. Burnham all of their right, title and interest in and to the personal property, whether above ground or within the ground, of the said Hospah Structure described in a certain bill of sale from said H. L. Williams to said Frank V. Quigley and Alexander O. Burnham, dated February 8, 1936."

It is our position that Quigley and Burnham had acquired the casing before, with all the other personal property, in the original bill of sale, but that if there was any doubt about it, it certainly becomes conclusive when Mr. Williams accepts back from them an assignment with that reservation in it. I think we can show that without that assignment back from Quigley and Burnham Mr. Williams could not have gotten these leases; so he takes that assignment and takes the benefit of it and he certainly is estopped and barred from claiming that he is not bound by the whole thing.

I don't know what position Mr. Williams is taking here. The only pleading filed would indicate he claims the Santa Fe Railroad Company owns this casing. I think we can establish the Santa Fe does not make any claim to the casing. It is our position we own the casing and have complied with whatever regulations you gentlemen make concerning the pulling of it; we have a right to pull it. We are willing to do whatever you say to protect the oil strata formations, and so on.

We also think this: That this Commission does not really have jurisdiction to pass on the title to this casing; that it is not up to you to say whether Mr. Williams owns the casing or whether Mr. Finkelstein and Mr. Nipper own it. We are not trying the question of who owns this casing, but it is our duty to protect the oil stratas and formations if we do pull it, and whoever pulls that casing must do those things, so when you set up your requirements to protect the oil stratas, I think if you do that it is up to Mr. Williams and Mr. Nipper and Mr. Finkelstein to fight it out in the courts over who actually owns the casing. Your duty is fully done if you protect the oil formations and you can certainly do that by saying whoever pulls this casing must do these particular things. I think that is the order this Commission should make. (Argument)

If you enter such an order saying that the Commission has no jurisdiction to determine ownership but does require whoever pulls this casing to do this particular thing, we will go out and pull the casing and do exactly as you think it should be done, and if Mr. Williams thinks he owns it or the Santa Fe think they own it, then he can go into court and get an injunction and we can try the thing out in a court of law, where the thing should properly be tried.

We would like to get a ruling on that proposition, after Judge Wright has stated his position, as to whether or not the Commission is going to pass on the title to the casing or whether it is going to say what is required to be done in order that the casing be pulled.

JUDGE WRIGHT: If the Commission please, I don't think Mr. Glascock and myself are so terribly far apart in connection with this situation.

I think the first thing this Commission has to determine under the facts is, have these wells been abandoned? Then I think I agree with Mr. Glascock that this Board has no jurisdiction to determine the ownership of the casing for that is a matter that should be litigated in the courts, and for that reason I am not going to make any particular statement as to the facts. We don't agree with Mr. Glascock on the facts in connection with the sale and transfer of the personal property, but I agree with him that should be litigated in the courts. The proposition is this, have these wells been definitely abandoned.

We are prepared to show the outstanding existing lease that the Santa Fe made late in 1936 for a five year term.

Mr. Williams has paid the rent; that lease is in good standing. We have the original here, and a copy.

We will show generally that in connection with the drilling of the two wells, they were drilled down to the oil horizon, the reason he did not go ahead and drill them in, there being no pipe line facilities or oil facilities, and the terms of the lease requiring certain substantial payments whether the oil was produced or not.

The next proposition will be that if the Commission would then consider the question of whether these men have a right to pull the casing, that this Commission prescribe rules and regulations for the pulling of that casing, and make their order effective after a reasonable length of time to give a reasonable opportunity of the parties to litigate this matter in court, if they see fit.

I think the preliminary thing to be done is to determine whether or not these wells stand as abandoned wells. Any order made by the Commission as to the method of pulling and what they are required to do should be so worded as not to be effective for, say, thirty days, to give an opportunity to start procedure in court and determine the ownership of the casing.

MR. GLASCOCK: Regarding the proposition that it is first necessary to prove that the wells are abandoned, I am not entirely in accord with Judge Wright on that. As I understand it, even though a well were still in the process of being drilled, it might still be desirable to pull the casing for some reason or other, and if it is pulled and the well treated in accordance with your practices, it could be pulled even though it was not an abandoned well. We have two applications. I imagine they will be treated together, the same evidence goes to both. One is to pull the casing; we are asking to do that whether we

can prove the wells are abandoned or not. An order can be made, without saying who owns it or has a right to pull it, but simply saying if this casing is pulled, you must do these things. We expect to go ahead with our proof that they are abandoned wells but if, for any reason, we should fail in our proof to your satisfaction that the wells are abandoned, I still think the Commission should prescribe regulations by which the casing may be pulled by the rightful owner.

COMMISSIONER WORDEN: We will now hear the testimony on this.

(Messrs. Frost, Nipper, Hemenway, Duffy and Williams sworn as witnesses)

JUDGE WRIGHT: I think we would like to have the witnesses step out.

(Mr. Duffy excluded from room)

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JOHN A. FROST, called as a witness in behalf of the Applicants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GLASCOCK.

Q What is your name?

A John A. Frost.

Q Where do you live?

A Farmington, New Mexico.

Q What is your employment?

A I am with the United States Geological Survey, Division Engineer.

Q Does your territory include all of McKinley County?

A Yes.

Q Are you familiar with what is generally known as the Hespah Structure?

A Yes.

Q Tell the Commission just where that Structure is located, Mr. Frost?

A Well, it is in Townships 17 and 18 North, Range 9 and 10 West, I believe; New Mexico Principal Meridian.

Q Has there ever been any commercial production of oil from that Structure, any oil actually sold or delivered or transferred from that Structure?

A There has been a little bit used there in connection with drilling operations a number of years ago; I don't believe there has been any outside sales.

Q How many producing wells are on this Structure?

A Three wells as capable producers.

Q Do you know whether all three of those are actually commercial wells or not, of commercial value?

A That is a debateable question. The operator who drilled them hasn't seen fit to produce them in some ten years or more since they were drilled.

MR. GLASCOCK: Judge Wright, will you admit Mr. Frost's qualifications as an expert on oil wells and oil production?

JUDGE WRIGHT: I think so; for the purpose of this hearing.

Q What is your opinion as to whether or not those three wells are of commercial value?

A I don't know whether I would want to commit myself until I see them produce a well, to say whether they are productive or not.

Q You say they have been drilled about ten years?

A Longer than that, as I recall. Mr. Williams' Hancock well No. 1, drilled in Section 1, that was completed and shut in October 5, 1927.

Q Is that one of the three you refer to?

A That is one of the three I refer to.

JUDGE WRIGHT: Let me ask one question. You say that well was

completed and shut in. It still remains shut in?

A Yes.

Q The casing has not been pulled in that well?

A Not in this particular well. Another one is listed as a small well. Drilling ceased in June, 1926.

Q What Section is that?

A Hearst No. 1, in Section 1.

Q Has that been shut in?

A Yes.

MR. GLASCOCK: Is that a Mr. Williams well?

A That is not.

JUDGE WRIGHT: The casing has not been pulled in that well?

A No sir, not in that one; and the same Company drilled another well in Section 36, 18 North, 9 West.

MR. GLASCOCK: When was that drilled and completed?

A July and August, 1927.

JUDGE WRIGHT: Has that one been shut in?

A Yes.

Q The casing has not been pulled?

A No sir.

MR. GLASCOCK: Are these the three wells you referred to as being wells that are claimed to be of commercial value?

A That is what some people allege, yes.

Q But what did you say about whether or not there had ever been any real commercial production of oil from those wells?

A In the sense of commercial production, they have not been produced.

Q Are you familiar with the wells known as the H. L. Williams wells numbers 1 and 2?

A I believe those are the two drilled on Government land?

Q Yes.

A..Yes.

Q When were those wells drilled?

A What we call well No. 1, the drilling was approved May 3, 1927; drilling commenced April 30, 1927, and ceased in August, 1927.

Q How deep was that well drilled, about?

A 2,000 feet, according to the records.

Q What is the condition of that well that you find at this time?

A It is plugged and abandoned.

JUDGE WRIGHT: Has the casing been pulled?

A Yes.

MR. GLASCOCK: Did you have charge of the plugging of that well?

A Yes.

Q It was plugged and abandoned?

A Plugged at Government expense and charged plugged off the surety bond. That would also apply to well no. 2.

JUDGE WRIGHT: I will go into that later.

MR. GLASCOCK: You stated that the well was plugged by the Government?

A Yes.

JUDGE WRIGHT: Was that before or after the casing was pulled?

A The pipe was pulled, we plugged it, cleaned it up, cemented the sand off; we were going to mud the hole on up through the pipe, and this Mr. Burnham, he came on out to Gallup. I dropped him a note we were going to plug the well and leave the pipe in the hole and if he claimed any interest in it it would be up to him to make some kind of an agreement to pull the pipe if they wanted it. He came to Gallup and contacted Mr. Carroll, the contractor. They entered into an agreement on the salvage of the pipe, and that was a matter between those two parties.

MR. GLASCOCK: You say that was plugged at Government expense?

A Yes.

Q Had demand been made on Mr. Williams to plug it?

A Yes.

Q What was his reply to that demand?

A I don't know. The sum and substance of it was, he didn't make any move on his part to plug it, and the matter was referred to Washington and we got authority from Washington to plug the wells, after he had been served by notice by registered mail.

Q Who paid the Government for plugging that well?

A The Bonding Company paid us for it, they reimbursed us for what we had spent.

Q Was there any oil in that well, Mr. Frost?

A There was a little bit on top of the water when we cleaned it out and we took the precautions to bail the wells to find out whether there was any oil. After we got that little oil off, there was no more oil showed up other than what we would call a showing there.

Q Had that well been represented to you to be a commercial well?

A The only way I could answer that would be to say what was in the records; there were copies of letters that showed people had been led to believe it was a commercial well.

Q How about the Williams well No. 2?

A The well was approved for drilling September 17, 1927; August 31, commenced drilling; ceased drilling, March 25, 1928; final plugging April 25, 1928.

Q How deep was that well, 1800 feet, was it?

A The reported depth on it.

Q Had that been represented to you as a commercial well?

A I wouldn't know without looking through the records.

Q Did you find any oil in well No. 2?

A A little bit on top of the water when we went in to clean it out.

Q Mr. Frost, is it generally true that wells in that area covering the Hospah Structure and other surrounding areas usually get a slight showing of oil at some shallow depth?

A I don't know as I would want to qualify on that because since I have been in this District there has only been one well drilled in the Hospah area to the Hospah sand; I wasn't around the rig at the time they went through that sand.

Q Did you proceed to the plugging of well No. 2 in very much the same way that you plugged well No. 1?

A Yes.

Q The Government plugged it?

A The two wells were on the same order so far as the water work was concerned; we got permission at the same time to plug both of them.

Q You called on the Bonding Company to pay the expense?

A Yes.

Q Do you know how much that was the Government spent in plugging the two wells?

A Without looking it up, it was in the neighborhood of twenty-two hundred dollars, I believe.

Q Are you familiar with the Williams wells numbers 3 and 4?

They are the wells in question. One other question -

Did Mr. Burnham also have charge of the pulling of the casing from well No. 2?

A Yes.

Q He took that casing under some sort of agreement with Mr. Carroll and they salvaged it and sold it?

A Yes.

Q Are y u familiar with the Williams wells numbers 3 and 4?

- A I know where they are; that is about all I would care to state on that; they were drilled before my time here.
- Q How far are they from Williams wells numbers 1 and 2?
- A Number 3 is, I believe, approximately half a mile east of Well No. 2 on the Government permit, and No. 4, I believe, is about a mile north of the wells.
- Q Do you know when those wells were drilled?
- A I can look in here (referring to memorandum). The one you refer to as Williams No. 3 in Section 29 was commenced in May, 1928, and drilling ceased in August, 1928.
- Q How deep was that well?
- A Our records show 1850 feet.
- Q How about Williams well No. 4?
- A That was commenced - in order to keep the record straight on it, it was originally started in June, 1929 and drilling ceased in October, 1930, but they lost some tools in a hole there and they skidded the rig in about 25 (?), it was started in August, 1932, and drilling ceased in March, 1933.
- Q How deep was that?
- A My records show 1750, I have heard it is around 2,000; I don't know.
- Q These last two wells were drilled about the same depth as the first two, approximately?
- A Yes.
- Q Mr. Frost, have you been out to those locations recently, the locations of those wells numbers 3 and 4?
- A Not right to them. I was out to the Hospah about two weeks ago, I believe; it was within three weeks anyway.
- Q What is the situation of those wells at the present time with reference to whether or not the machinery and camp houses and derricks and so on are still there?

- A About everything has been moved in, the derrick has been wrecked, the camp houses are gone, I believe, the majority, if not all, the tools have been hauled away.
- Q Do you know who disposed of those tools, derricks, boilers, and so on?
- A Well, Burnham sold some of them through correspondence; other parties have been referred over to your office to contact Burnham, I suppose Carroll sold some of it.
- Q Have you been right to those wells in recent years, within the last year or two years?
- A Within the last two years I have been to each one of them a number of times.
- Q Do you know the condition of the holes, whether they are filled up with junk or anything of that sort?
- A The so-called No. 3 well that you refer to, I got it confused with one of the Government wells to start with, I found it filled with junk, timber, rock, and things they could drop into it, it was full clear to the surface.
- Q Mr. Frost, would it be possible to drill down through that junk, rock and timbers and so on?
- A That would depend on what it is; some times you can, some times you can't.
- Q Has there been any activity connected with either one of those wells since the dates you gave there, one 1928 and the other 1933?
- A Not that I know of.
- Q Do you go up there frequently?
- A Quite often in the regular course of the work.

CROSS EXAMINATION BY MR. WRIGHT.

- Q Mr. Frost, when you went out there to plug those two wells on the Government permit, did you find any traces of previous efforts having been made to plug those wells?
- A Well, sir, I believe the point you have in mind there, we distinguish between what you call plug and abandon the well and probably mudding it for indefinite suspension. To answer your question, we had a difference of opinion over what had been done out there.
- Q Do you know who did the previous work?
- A I wasn't there at the time.
- Q Who was supposed to have done it?
- A Duffy was the man in charge of it, he had an extra man or two out there that I believe actually did the work. At that particular time I had just returned from the hospital for an appendicitis operation and couldn't get out and was not present. In my regular course of work I inquired around, found out where they hauled the water from, where they got their material, and in checking up there was a decided difference over what I wanted done and what had been done.
- Q Didn't you approve that plugging?
- A I did, at the time I approved it but I hadn't been out at the well.
- Q You approved the plugging of the two wells?
- A Not what I call plugging, that was mudding.
- Q You approved the mudding of the two wells on the theory of indefinite suspension of operations?
- A Yes.
- Q You filed your report to that effect?

A Yes, I can produce my copy of it. (Producing paper)

I believe this is the one that you refer to, here in June, 1934, the Hospah sand from 1848 to 1950 carried oil and water; no test was ever made of oil; this shows the well was mudded for indefinite suspension during May, 1934.

Q And you approved that, and so reported to the Government?

A Yes.

Q When was it that a later call was made for plugging the well as an abandoned well?

A Here is what I call the cancellation of approval. Under date of May 14, 1934, Mr. W. C. Duffy as agent of Alexander O. Burnham submitted a notice alleging he had mudded No. 1 well with approximately 25 barrels of mud and that the mud was introduced from the surface from a mixing box.

Q Do you know how much casing there was in that well at that time?

A The 12 $\frac{1}{2}$ was set at 82 feet, the 10 inch at 1197 and 8 $\frac{1}{2}$ at 1841.

Q Do you know what the depth of the bottom of that well was?

A That particular one, I think, is the one that was alleged to be 2,000 feet.

Q When was it that you cancelled your approval?

A April 16, 1935.

Q When was the further plugging done?

A The notice was finally approved March 1, 1937; the work was started late in 1936 - along in November or December.

Q What was the reason for the further plugging of that well with the pipe still in the well?

A Well, it has been our policy - just making a general statement - that if a well has been drilled and they walk off and leave it, haven't attempted to plug it or produce it, they call upon the operator to plug the well. In these cases, as I mentioned a while ago, some of my old records would indicate that they

called it a commercial well, I insist on those wells being tested, if they were to take the proper precautions, if they were not to plug them. There was no effort made to prove any oil was in them. We communicated with Mr. Williams, finally wrote him a letter and sent it by registered mail. No effort was then made to go in or prove there was oil in them or plug them. The matter was then referred to Washington and permission was finally granted to proceed to enter into a contract to plug the two wells.

Q But no demand has been made on Mr. Williams to plug the others?

A They are on railroad land, we have no jurisdiction of those wells.

Q How did you happen to communicate with Mr. Burnham about these two wells, Numbers 1 and 2?

A Mr. Quigley had been up through Farmington the summer of 1930, I believe it was, in connection with checking or buying these wells, making a deal on them, and also a well over on the Indian Reservation near Vista, and some one told him to come to my office to get some information and he was the one that was telling me about this proposed transfer of title and I told him what we had been doing. When authority came from Washington, that is how I happened to drop him a note, so if he was interested in the casing to give him an opportunity to pull it. As a matter of policy, if it is necessary to pull the pipe out of the well, we pull it and plug it; if it is not absolutely necessary to the best interest of the department, we will clean the well out and fill the casing with mud and cement the surface up.

Q How long did you say you had been connected with work out there in McKinley County?

A I have been in this district since the fall of 1929.

Q Who was your predecessor?

A A fellow by the name of Snow.

Q Was he working there when numbers 1 and 2 were mudded in by Duffy?

A No, I was here then.

Q Did you find that number 1 had been cemented in, the casing had been set and cemented at the bottom?

A I can probably tell you how much we got out of it. On the well number 1, we pulled 990 ft. of $3\frac{1}{4}$ casing, and the casing that was left in the hole extended from 990 ft. on down to 1341.

Q That would indicate it was cemented in place?

A Either that or it was stuck, one or the other. I see in here in a letter, the $3\frac{1}{4}$ casing reported cemented at 1341 in the August 1927 monthly report. That was where I was checking over some of our old records.

Q That was cemented down very close to the bottom of the hole?

A Yes.

Q What was the reason of asking for other action than just the mudding of that well?

A This casing was set on top of what they call the Hespah sand and after that pipe was set in cement the well was drilled on through that sand or at least into it, and that is where they got their water and showing of oil.

Q How do you know that?

A We bailed the well and cleaned it out and then we went in to cement down through that, and then tested the well to see whether the water was shut off or not before we proceeded with the mudding of it.

Q How about number 2?

- A The casing pulled out of well number 2, we cut the shoe (?) joint on the 6 5/8ths down in that well, that was the inside string, we cut 585 of 8 1/4 casing, that was the outside string, there was 180 of that particular string left in the hole from 585 to 765.
- Q Did you find any indications of a casing leak in number 2 well in the 6 5/8 inch?
- A I don't know that I could answer your question definitely one way or the other; we were interested in cleaning the well out to the bottom and then bailing it to see whether there was water and oil in it.
- Q Were both of these wells capped when you went in there?
- A The number 1 was capped but when we went into it we found quite a bit of dirt, 280 ft. from the top, when we got to that, we found boards and things of that kind that would float on top of oil and water. Then we found some open holes. There was no mud on the hole for a ways. We had to drive that stuff to the bottom and fish it out to get to the sand. The same thing applied to the well number 2 that was not capped. We found boards, sticks and stuff pretty well to the top of it. We had to clean that out before we could get to the fluid.

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RE-DIRECT EXAMINATION BY MR. GLASCOCK

- Q Mr. Frost, you say that these wells were ordered mudded off in what year - 1934, was it?
- A Yes.
- Q That was on the theory that operations would be suspended for some period of time?
- A Yes.
- Q Was that upon representation of Mr. Williams that he intended

to go ahead and produce or develop those wells?

A Off hand, I couldn't answer that question, but the policy, if that might explain it,- a great many times when a permit, what we call our prospecting permits, are still in good standing and if a well isn't being materially damaged, that we would suspect anyway, and the operator doesn't want to plug it and he has good reasons for not wanting to do it, yet we want the well protected, then we tell them to mud it, what we call, fill it up with fluid mud, cap them to the surface and let them stand that way.

Q In 1936 when you ordered the wells plugged, would it have been possible even after you ordered them plugged, for Mr. Williams to have obtained a waiver of that plugging order if he had shown definite intention to go ahead and develop those wells?

A I think so; we don't go out and tell people to do something for the pleasure of making them do it.

Q After you ordered him to plug the well, if he had come forward and showed some intention to go ahead, that plugging order could have been withdrawn?

A I would like to find the letter I wrote; that letter was sent registered to Mr. Williams. He might have it there in his files.

Q Is that the usual policy, that even after you order plugging, if they show some real desire to go ahead and develop the well, the government will permit them to do it?

A Yes, as far as that is concerned.

Q Did Mr. Williams reply to you, in response to your letter telling him you were going to plug these wells?

A He replied to one of them, I don't know just off hand which one

it was.

Q Do you find that letter, that reply? Do you have there a letter which you wrote to Mr. Williams advising him these wells were to be plugged?

MR. GLASCOCK: Judge Wright do you have that letter?

JUDGE WRIGHT: Yes (producing letter).

A Here is one from Mr. Williams dated November 4, 1935; here is the one that was sent registered mail.

MR. GLASCOCK: We would like to get into the record that letter. Could we introduce that in evidence and substitute a copy so Mr. Frost will not be without his file on the thing?

COMMISSIONER WORDEN: You may.

MR. GLASCOCK: I call your attention to this letter; read it all, if you wish, but the last paragraph is particularly in point and I might read it into the record.

I am reading from a letter dated February 11, 1935, addressed to H. L. Williams, Prescott, Arizona, written by John A. Frost, District Engineer of the United States Biological Survey:

"In view of the above facts, you are requested to show cause within fifteen days of receipt of this letter why the well should not be properly plugged and abandoned and the records closed, at government expense, and appropriate action taken to obtain reimbursement under the surety bond."

Q Was there ever any cause shown by Mr. Williams in response to that letter?

A I have one here dated November 4, 1935.

JUDGE WRIGHT: Have you one of February 20, 1935? (Handing witness letter) Did you receive that one?

A Just off hand I can't say I recall it but I wouldn't question it because I do remember some word had passed to Mr. Duffy

because I had met Mr. Duffy.

MR. GLASCOCK: You say that on well number 1 the casing had been cemented in at about 1850 ft.?

A At least from what I have learned since I have been here, I don't believe I would question it, because the pipe was stuck and they had to shoot it there or pull it.

Q There was an open hole below where the casing was cemented?

A Yes.

Q In other words, they had drilled on down through the Hospah sand and fully tested the Hospah sand?

A Yes, I think that is correct.

Q Is that also true of well number 2, that the Hospah sand had been tested?

A Well number 2 had not been drilled as deep, it was drilled quite a distance below where the casing was set.

Q It was also drilled into the Hospah sand?

A I think so.

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RE-CROSS EXAMINATION BY MR. WRIGHT

Q Mr. Frost, what are generally the government requirements under permit, are they not to drill 500 feet the first year and 2000 feet the next?

A That was one of the requirements of the old permit but it has been our policy and without a copy of the rules and regulations here-- there is some areas there where a 500 ft. well wouldn't get anywhere and a 2000 ft. well might not test any particular horizon in an area where you know how deep to drill.

Q- What is true in the Hospah area?

A That case out there, I would say a well 1350 to 1900 ft. in this general area would be sufficient depth to test the sand;

if you wanted to drill deeper to the Dakota sand then it would require a deeper well.

(Witness excused)

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E. O. HEMMENWAY, called as a witness in behalf of the applicants, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. GLASCOCK

Q What is your name?

A E. O. Hemenway.

Q What is your occupation?

A Land Commissioner, Santa Fe Pacific Railway Company.

Q State whether or not the Santa Fe Pacific Railway Company owns Section 29 in Township 18 north, Range 8 west.

A They do.

Q And also Section 19 in Township 18 north, Range 8 west.

A Yes.

Q Mr. Hemenway, for the information of the Commission here, who originally had the oil leases on those two Sections?

A Our record shows on Section 19 and 29 a man by the name of R. E. Palmer had Section 19 and assigned to H. L. Williams December 31, 1927. A man by the name of W. B. Johnson had the lease on Section 29 and assigned to H. L. Williams December 14, 1927.

Q Mr. Hemenway, what was the situation regarding those leases and the payment of the rentals on those leases in the summer of 1936?

A They were quite a ways behind with their rentals and we were attempting to work out some solution of their problem rather than cancel them on account of default.

- Q Will you tell the Commission how much delinquent rental there was owing to the Santa Fe on the leases held by H. L. Williams at that time?
- A Around \$19,000.00 for this stuff.
- Q That went back how many years prior to 1936?
- A 1932-3-4-5 and 6.
- Q In other words, there had been no rentals paid on those leases after the year 1932?
- A Partly paid, 1932. 1933-4-5 and 6 were unpaid, and a part of 1932.
- Q Mr. Hemmenway, did you know anything about the negotiations existing between Mr. Quigley and Mr. Williams during the summer of 1936?
- A I, of course, was not in this position at this time; Mr. Collinson was in the Land Commissioner's position. Our files indicate there was some discussion as to the transfer of those leases but no assignment from Mr. Williams to Mr. Quigley and Mr. Burnham was ever acknowledged by the Santa Fe-Pacific.
- Q Do you know whether or not there was such an assignment from Mr. Williams to Mr. Quigley?
- A Only in our correspondence Mr. Williams and Mr. Quigley both acknowledged that there were some dealings going on; we couldn't say positively whether or not there were.
- Q Do you recall that Mr. Williams undertook to get a new lease from the Santa Fe and you required him to furnish you with the original of the assignment from Quigley and Burnham back to him?
- A We asked him for such a document in the event there was one in existence; we felt we would have to have that if there was one. Our records didn't indicate we ever got it. Our records

indicate the lease was in Mr. Williams' name the whole period.

Q I will ask you to look through the correspondence and see if you have a letter from Mr. Williams' attorneys sent to you, sending you this original assignment from Quigley and Burnham back to Mr. Williams?

A There may be such an assignment there but our records do not indicate we ever acknowledged such an assignment.

Q Look at this letter here. I will ask you if you received from Mr. J. H. Morgan, one of the attorneys for H. L. Williams, an assignment in duplicate from H. L. Williams to Frank B. Quigley and Alexander O. Burnham, dated February 28, 1936?

A Our records indicate that we did.

Q I will ask you, Mr. Hemenway, if your files indicate that you received a copy or the original of the assignment dated August 20, 1936, from Frank B. Quigley and Alexander O. Burnham to H. L. Williams?

A They do.

Q Does that have to do with this acreage here in the Hospah Structure, including Sections 19 and 29?

A Well, I presume it does. I would say yes.

Q I will ask you whether or not you required of Mr. Williams that he furnish you with this assignment from Quigley and Burnham before you executed the new lease which he was trying to get from you?

A At this time, as I remember the file, we were, of course, aware of dealings between Mr. Williams and Mr. Quigley and Mr. Burnham and in order that we might keep the records clear we would, of course, insist that Mr. Williams furnish us, that is, in the event that he had assigned to Quigley and Burnham, copies of that assignment for our approval and in the event Quigley and Burnham reassigned to Williams,

we would expect to have that in our files too.

Q You did get copies of both?

A We evidently did.

Q You got a copy of the assignment from Williams to Quigley and Burnham and a copy of the assignment back from Quigley and Burnham to Williams?

A We evidently did.

Q And that was required before you would enter into a new lease with Mr. Williams, that is, if they existed you insisted on having them?

A If they existed we would insist. My recollection is, they didn't exist, as far as our lease is concerned, the terms of our lease is no assignment would be made without our written consent and that was never procured. That is my recollection.

Q There was no approved assignment from Williams to Quigley and Burnham but you do have knowledge that there was one?

A We did have knowledge there was an agreement, in the event they went through it would be necessary we have executed copies of those agreements.

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CROSS EXAMINATION BY MR. WRIGHT.

Q You entered into a new lease on the 19th of September, 1936. Here is the original, you can look at that.

A I have notes on that. September 19, 1936.

Q That lease is still in effect?

A Yes.

Q With rentals paid?

A Yes.

Q By Mr. Williams?

A Yes.

Q And it is still in effect at the present time?

A Yes.

Q The current rental is on the basis of 50 cents for the first year?

A It will be 60 cents, I think, the last one that is paid as I recollect, two years up to September 19th of this year.

JUDGE WRIGHT: I am going to offer in evidence, if the Commission please, that lease, in connection with this cross examination. Of course we want to keep the original, I have a copy.

MR. GLASCOCK: We have no objection to the introduction of the copy.

Q Do you have any rules and regulations which you insist upon in connection with the handling of wells, the plugging of them, mudding them in?

A Only the provision in the standard form that requires that the lessee abide by the regulations having control; we insist they take care of that.

Q Prior to 1932, Mr. Williams had paid the rentals under the old leases from 1928-9 to 1932?

A Yes, a part of 1932.

Q You required the payment during most of those years of a dollar an acre?

A 50 cents the first, 60 the second, 70 the third, 80 the fourth and by the fifth it would be about a dollar an acre, the last years, yes.

Q He had paid a large and substantial sum under those leases?

A Yes.

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RE-DIRECT EXAMINATION BY MR. GLASCOCK.

Q Mr. Hemenway, just one more question. Does the Santa Fe-Pacific Railway Company lay any claim to the casing in the Williams wells numbers 3 and 4?

A No; if you will notice, one of the provisions in the lease

is in the event we wish to take that over as a water well for grazing purposes we are obligated to pay the lessee for that; that is my recollection.

Q And in case of dispute it has to be determined by arbitration?

A In case I don't see there would be a dispute. If the well failed as an oil well but was a good water well for water for our grazing lessees, it was our privilege to take that well over but we would obligate ourselves to pay for the casing.

Q In the event of dispute of the value of the casing it was subject to arbitration?

A I presume so.

Q That is correct.

(Witness excused)

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(At this time a recess was taken until 1:30 P. M.)

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1:30 P. M:

JOHN A. FROST, recalled as a witness for further

RE-DIRECT EXAMINATION BY MR. GLASCOCK.

Q Mr. Frost, How long have you been with the United States Biological Survey?

A Since about the last week in February, 1927.

Q What are your duties in connection with being a representative of the United States Biological Survey?

A Supervision of operations on the public domain and Indian lands in connection with wells and plugging for oil and gas and relating subjects.

Q In other words, it has to do with the protection of oil and gas, of minerals, but oil and gas particularly?

A Oil and gas, yes.

Q And you have been serving in that capacity since 1927, you

say?

A Yes.

Q Where have you served, outside of McKinley County?

A My present district is northwest New Mexico and Arizona, Southeast Utah and Southwest Colorado. Prior to that I was in the Big Bend Basin in Wyoming.

Q And has practically all your time been spent since 1927 in the supervision and control and inspection of public lands for oil and gas?

A Yes.

Q Mr. Frost, you heard the testimony here about the condition of Williams Wells 3 and 4 regarding the time when they were drilled and the present condition of those wells, the depth to which they were drilled, the fact that the machinery, derrick, tools, and so on are now gone from those locations; I will ask you whether or not in your opinion based on your knowledge and experience, those are abandoned oil wells?

MR. WRIGHT: We object to that on the ground that is the question which this Commission has to answer from the facts adduced in the case, and it is not a question for expert testimony.

MR. GLASCOCK: We think, if the Commission please, that is a question for expert testimony.

MR. WRIGHT: I further object on the ground his testimony with reference to the condition of wells number 3 and 4 does not contain sufficient basic facts or knowledge to justify an expert opinion.

(Argument)

COMMISSIONER WORDEN: Objection sustained.

MR. GLASCOCK: Exception.

Q Mr. Frost, I will ask you whether or not a well in the condition of Well No. 3 as it has been described here would be by the

Government called an abandoned well?

MR. WRIGHT: Same objection, and for the further reason that he has not testified to any facts, and he is the only one that has testified as to the condition of that well, or attempted to. He has not presented any facts to this Commission which would indicate he had any knowledge which would enable him to answer that as an expert, even if expert opinion on this question were admissable.

COMMISSIONER WORDEN: It seems to me your last question is probably the same as the first one. Sustained.

MR. GLASCOCK: Exception. At this time, if the Commission please, we will ask Mr. Williams to produce assignment from Frank Quigley and Alexander Burnham to H. L. Williams dated July 17, 1936. If you will admit this is a true copy, we will introduce that. May I examine Mr. Williams on this?

COMMISSIONER WORDEN: Yes.

(Witness excused)

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H. L. WILLIAMS, called as a witness in behalf of the applicants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GLASCOCK.

Q Mr. Williams, isn't this a copy of the assignment you furnished to Mr. Hemenway as a condition to your getting this new lease?

A I don't remember ever furnishing him with anything, unless Mr. Morgan sent it on. Mr. Morgan was handling that, and I know the first assignment was not satisfactory and Mr. Morgan sent it back.

Q Did you later get another assignment?

A I don't remember.

Q You wouldn't say Mr. Hemenway was incorrect in saying Mr. Morgan as your attorney did furnish to Mr. Hemenway a copy

of the assignment from Quigley and Burnham back to you on these leases?

A No, I wouldn't say that.

Q As far as you know, Mr. Morgan did?

A Mr. Morgan handled that whole matter as my attorney.

Q If he furnished a copy of the assignment, it was with your authority?

A O, yes, he was acting for me.

MR. GLASCOCK: I think, under the circumstances, we will introduce this in evidence, and call your attention to this paragraph here -

A I believe Mr. Hemenway testified he never saw the assignment, did he not?

MR. WRIGHT: We desire to object to the introduction as not having been identified as the document furnished.

MR. GLASCOCK: Judge Wright and Mr. Williams heard Mr. Hemenway's testimony this morning that there was furnished to him an assignment by Mr. Williams' attorneys.

COMMISSIONER WORDEN: As I recall his testimony, he testified that his files would indicate it was furnished.

MR. GLASCOCK: We subpoenaed Mr. Williams and asked specifically that that assignment be produced.

JUDGE WRIGHT: Our answer is, we do not have such a document.

MR. GLASCOCK: What is the Commission's ruling on the admissibility of that? I call your attention, before you rule on that, to our subpoena duces tecum.

MR. WILLIAMS: All I can say is, the first one that was sent, it wasn't satisfactory to Mr. Morgan and he returned that; whether they ever issued another I don't know, but I know I paid the rents and they accepted them.

MR. GLASCOCK: It is quite possible your attorney furnished

Mr. Hemenway with some assignment?

JUDGE WRIGHT: We admit that. I answered you by saying we didn't have it.

(Assignment from Frank V. Quigley and Alexander O. Burnham to H. L. Williams, dated July 17, 1936, marked Applicant's Exhibit 1)

(Assignment from H. L. Williams to Frank V. Quigley and Alexander O. Burnham, dated February 8, 1936, marked Applicant's Exhibit 2)

(Bill of Sale from H. L. Williams to Frank V. Quigley and Alexander O. Burnham, dated February 8, 1936, marked Applicant's Exhibit 3)

COMMISSIONER WORDEN: Applicant's Exhibits 1 and 2 are admitted in evidence.

MR. GLASCOCK: We offer these in evidence for the purpose of showing the whole transaction; that was the original assignment from Mr. Williams to Quigley and Burnham to his acreage leases in the Hospah area. (Referring to Applicant's Exhibits 1 and 2)

(Bill of Sale from Frank V. Quigley to Alexander O. Burnham, dated July 10, 1936, marked Applicant's Exhibit 4)

(Bill of Sale from Alexander O. Burnham to R. A. Nipper and David Finckelstein, dated August ____ 1937, marked Applicant's Exhibit 5)

MR. GLASCOCK: We offer these in evidence.

JUDGE WRIGHT: No objection.

MR. GLASCOCK: I understand that all five of these exhibits have been received in evidence.

COMMISSIONER WORDEN: Yes.

(Witness excused)

R. A. NIPPER, called as a witness in behalf of the Applicants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GLASCOCK.

Q What is your name?

A R. A. Nipper.

Q Where do you live?

A Pampa, Texas.

Q What is your business?

A Selling pipe and buying pipe, drilling oil wells.

Q Is your firm a corporation, partnership or individual enterprise?

A Corporation.

Q With whom are you associated in this enterprise?

A Mr. Finckelstein and his father.

Q State whether or not you and Mr. Finckelstein bought from a Mr. Burnham the casing in what is known as Williams Wells number 3 and 4?

A We did.

Q How much did you pay Mr. Burnham for that casing?

A Two thousand dollars.

Q Have you paid that \$2,000.00?

A Yes.

Q And did you receive from Mr. Burnham a bill of sale of that casing?

A We did.

Q Did you and Mr. Finckelstein attempt to pull that casing?

A We did.

Q Tell the Commission just what steps you took looking towards the pulling of that casing?

A Well, we came in here and tried to get a permit to pull it. Then we went out there and started to pull the 12 $\frac{1}{2}$ and the State came out there and shut us down.

Q What condition did you find those wells in when you got out there, Mr. Nipper?

A We found the 12 $\frac{1}{2}$ open in the No. 4, I believe it is, and we found the other, No. 3, had a breach in it about 30 feet down.

Q What do you mean by the expression "had a breach in it"?

A That was as far down as you could get a measuring line.

Q Do you know what substance was down in there?

A No, I don't.

Q Was there anything in well No. 3?

A There was not.

Q No refuse or anything of that sort, - stones or anything?

A No sir, not as far down as we measured it.

Q Are you sure now of the wells, as to which was well 3 and which was well 4?

A The only thing I have got to go by is what they told me.

Q Was there one that had a derrick over it at that time?

A Yes.

Q Was that the one that had something in it or was that the one that was open?

A That was the one that was open.

Q And it was the other one that was plugged up?

A Yes.

Q So if that was No. 4 that had a derrick over it, No. 3 was the one that was plugged up?

A Yes.

Q Was there a derrick over this No. 4 well out there, one of the wells?

A Yes, the one that was referred to me as No. 4.

Q Were there any tools around there?

A Well, a string of tools hung in the rig and a few scattered around the rig.

Q What about the other well, No. 3, was there any derrick there?

A There was not.

Q Any tools?

A No sir.

Q Nor camp houses?

A There was a camp about half way between the two wells.

Q Was there anything left in well No. 3 at all except the casing?

A Nothing but the thread protectors for the casing.

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EXAMINATION BY STATE GEOLOGIST ANDREAS.

Q You stated you came in to get a permit to pull the casing. Did you get that permit?

A No, I didn't get the permit. What I done, I came in here after I was stopped to get a permit.

Q You came for the permit after we stopped you?

A Yes, and talked to this gentleman here and he said we would have to have a hearing on it and thresh it out here among the Commission.

Q How much work had you done on pulling the casing before you made even an attempt to get the permit?

A We moved in there on that No. 4 and put a cement block in the bottom of it and started in on the 12 $\frac{1}{2}$.

Q How many days had you been working out there before you were stopped?

A Well, I would say probably a week, seven or eight days.

Q You say you have been in the business of salvaging oil pipe for some time?

A I have.

Q Where?

A Texas, Oklahoma, New Mexico.

Q Did you ever try to pull casing without getting a permit before?

A Yes.

Q Where?

A In Oklahoma.

Q Did you ever try it in New Mexico without getting a permit before?

A No, I don't know as I have.

Q Having had experience in that business, you knew you had to have one, didn't you?

A Not on outlawed wells.

Q You knew better than that, didn't you, Mr. Nipper? You knew you had to have a permit to pull oil well casing anywhere, especially during the last four or five years?

A No, I don't know as I do.

Q Did you ever pull casing in Oklahoma without a permit?

A Yes.

Q When? Within the last four or five years?

A The last four or five years.

Q Ever pull any in Texas without a permit?

A Yes.

Q Within the last four or five years? (No answer)

Q Where did you pull any casing in New Mexico before you went out here on this Hospah area?

A I pulled some up here on the Red Lake well.

Q Did you get a permit for that?

A I don't know whether the fellow got it or not.

Q How long ago was that, Mr. Nipper?

A A couple or three years ago.

Q This man, I can't recall his name, he was from Oklahoma?

A Yes.

Q You recall his name, you must have had dealings with him?

A Yes, I pulled it for him.

Q What is his name?

A I can't recall it now.

Q He had a partner by the name of O'Neal?

A I believe he did.

Q This man's name was Pat -

A Patty.

Q Did he have a permit?

A I don't know whether he did or not.

Q You had your dealings with him?

A Yes.

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CROSS EXAMINATION BY MR. WRIGHT.

Q Now, Mr. Nipper, when you went out there this well had a derrick over it, you say. What has become of that derrick since then?

A I don't know; the derrick was there the last time I was there.

Q Were those wells capped?

A No sir, neither one of them was capped.

Q Neither one was capped when you went there?

A No.

Q Was the inside casing on that one well capped that was clear?

A Nothing in it when I went to it and started working on it.

Q No cap on it. Where did you get in touch with Mr. Burnham?

A Through Mr. Denny at Gallup.

Q Where does Mr. Burnham live, do you know?

A In New York city.

Q You got in touch with him through Mr. Denny?

A Yes.

Q And you are familiar with this assignment of these oil rights from Mr. Williams, Mr. Quigley and Mr. Burnham. You saw them there at the time you made the deal?

A Yes.

Q And you saw the bill of sale from Mr. Williams to Mr. Quigley and Burnham?

A I did.

Q And you knew the terms of them at the time?

A Yes.

Q In these negotiations which resulted in your getting the bill of sale from Mr. Burnham, was Mr. Denny acting as your attorney?

A No, he was not.

Q He was not acting as your attorney?

A He was acting as the other fellow's attorney.

Q Burnham's?

A Yes.

(Witness excused)

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W. G. DUFFY, called as a witness for the applicants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GLASCOCK.

Q What is your name?

A W. G. Duffy.

Q Are you familiar with the wells which are known as Williams wells number 3 and 4?

A Yes.

Q When was the last time that you were out to the location

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of those wells?

A The last time I was out there, I believe was in 1935.

Q What was the condition of well No. 3 with reference to being open and free from debris and other substances in the casing?

A Number 3?

Q Yes.

A No. 3 was plugged.

Q What did it have in it?

A I can't tell exactly what it had in it; a lot of stuff thrown in the hole, blocked nearly to the top.

Q Could you see any of the stuff to tell what it was?

A Rock and stuff like that.

Q Have any scrap iron or anything like that in it?

A I didn't go into it to see what was in it; I went there to plug the hole or mud it off and found it in that condition.

MR. ANDREAS: You say you went in there to plug the well?

A Went in there to mud it off.

MR. ANDREAS: Who instructed you to do that?

A Mr. Williams.

MR. GLASCOCK: Could you tell how far down this plugging with rocks and other stuff went?

A No, you couldn't tell how far down it went but it was up pretty close to the top.

Q In your opinion, would it be possible to use that hole and drill down through that substance that was in there?

A The only way you could have found out was move a machine or rig in and went in the hole and drilled it out to see how bad it was.

Q Mr. Duffy, you were formerly employed by H. L. Williams?

A Yes.

Q How long has it been to your knowledge since H. L. Williams

has been at the Hospah Structure?

A Well, the last time I knew of Mr. Williams to be out to the Structure was when he and Mr. Quigley were out there; I don't exactly remember the date, around 1935 or '36, I have forgotten, when they made that deal.

Q Were you in charge of the drilling of well No. 4 there in 1932 and '33?

A Yes.

Q Was Mr. Williams ever there while you were drilling that well?

A No.

Q Had he been on that Structure at any time since 1929 until the present date except the time he went out with Mr. Quigley?

A I couldn't say, up until 1932 when I went out there he never was from my knowledge from 1932 until the time he was out there with Quigley.

Q Has he been out to your knowledge since the time he went out with Quigley?

A Not to my knowledge.

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CROSS EXAMINATION BY MR. WRIGHT.

Q Mr. Duffy, this is not exactly cross examination, but I would like to clear up something Mr. Frost testified about this morning.

MR. GLASCOCK: You are making him your witness for that purpose?

JUDGE WRIGHT: Yes.

Q Mr. Duffy, You know the two wells known as Williams wells number 1 and 2 on the Government permit?

A Yes.

Q Did you go out there and mud those in?

A Yes.

Q Mr. Williams paid you for that?

A Yes.

Q You did the mudding in under whose supervision?

A My own.

Q Was there a Mr. Snow connected with the Biological Survey at that time?

A Mr. Frost.

MR. GLASCOCK: Snow left that country along about 1928 or 1929 and this happened in 1935.

Q You were out there and mudded those in in 1935?

A I believe it was.

Q Was Mr. Frost around there at all when you mudded those in?

A No.

Q You had had experience in mudding in wells?

A Yes.

Q You thoroughly mudded them in?

A I mudded them in according to the instructions from Mr. Frost.

Q You complied exactly with his instructions?

A As near as I could.

Q Mr. Williams paid you for that?

A Yes.

Q Did you cap that well?

A No. 1 had the casing head on; I put a bull plug in No. 2.

Q And capped both wells?

A Yes.

Q And they were in that condition when you left?

A They were when I left.

Q When did you leave out there?

A I was out there off and on up until along in 1936.

Q And they were still capped?

A The last time I saw No. 2 well, some one had taken the bull plug out and drove a wooden plug in it.

Q But it was plugged at the time?

A Yes.

(Witness excused)

-o-

MR. GLASCOCK: That is the Applicants' case, if the Commission please.

-o-

H. L. WILLIAMS, called as a witness in his own behalf, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WRIGHT.

Q Your name is H. L. Williams?

A Yes.

Q You live at Prescott, Arizona at the present time?

A Yes.

Q From about 1927, have you been interested in what is known as the Hospah area in McKinley County?

A I have.

Q When did you first become interested in that?

A I became interested in it - the permit was offered to me in April, 1927. The permit was about to expire and they offered me the permit on an over-riding royalty basis provided I could get a rig over there and spud it in before May 1st.

Q That is where wells 1 and 2 were located?

A Yes.

Q On the same permit?

A Yes.

Q Did you put the rig in?

A I did.

Q When did you become interested in wells 3 and 4?

A That acreage was held by a gentleman in Gallup and when their

rentals were due they said they weren't in position to pay the second year's rental; they gave it to me on an overriding royalty of two and a half percent.

Q You paid the rentals?

A I did.

Q Did you immediately begin to drill on it?

A No, I think it was 1928 I started to drill.

Q Which well did you start to drill then?

A No. 3.

Q How long did it take you to drill that?

A Three or four months, if I am not mistaken.

Q Mr. Williams, without going into a great deal of detail, the testimony here is that wells numbers 1, 2, 3 and 4 were all drilled to an approximate depth of somewhere between 1800 and 2,000 feet. How deep were wells 3 and 4 drilled?

A 3 was drilled to a little less than 1800 feet. The object in drilling these, Peerless P.&R. drilled a well within half a mile, I think, of our No. 1. When we hit the top of the sand in our No. 1, it carried some oil and water. The P. & R. claimed it had the identical same sand and they did not have any showing of oil at all. Then I drilled the No. 2 well, which was exactly half a mile due East of No. 1 and found that the sand was 40 feet higher than the No. 1 well; we just touched the sand, didn't drill into it at all, and that well made quite a little oil; and there was a casing leak in the casing. Then we went on drilling No. 3 and the sand had flattened out then, through there it was only 20 feet higher than the No. 2, showing we were going over. Then I had two geologists out there and located the Hospah Structure and they located two wells one in section 19 and one in section 21. In section 19 I drilled a 15½ inch hole down 1915 feet.

MR. GLASCOCK: Which well was that, now?

A That was No. 4, the first No. 4, that was considerably higher than our No. 1 well.

JUDGE WRIGHT: For the information of the Commission, - is that a diagram of what you are referring to (handing witness map)?

(Oil & Gas Lease from Santa Fe Pacific Railroad Company to H. L. Williams, dated Sept. 19, 1936, marked Respondent's Exhibit A)

(Plat marked Respondent's Exhibit B)

A Yes (indicating on map Respondent's Exhibit B) here is the P. & R. well, that was water; this well is an edge well; this well looked good, just hit the top of the sand; this well hit the top of the sand.

Q Give the numbers of them?

A This is No. 3, this is 2, this 1. Our geologists both drew this picture. This is the possible oil run in the Hospah Structure; that is the Terrace that goes through there; the Midwest have drilled a well here and that is water. They drilled two wells over here each side of the valley; both of them showed no oil at all on each side of the valley. The Hospah Structure, in our opinion, goes through the way the black line is, you can't get any geologists to agree where it does go, unquestionably it is in here. There is about 15 miles in through here of gathering (?) ground and then formations described like my hands, and this is the dome in through here, the Midwest dome. This well, the average is 257 barrels, this other Midwest No. 1, you never could get any information. This well is a good well. The tanks are there, full of oil, sitting down here are two large tanks. My idea was to feel my way, that is what I was doing when the crash came and I didn't have any more

money and I had to stop. We complied with the terms of the Government permit in every respect and then when they wanted the well plugged below the casing, No. 1 and 2, we went in there and Mr. Duffy plugged them and Mr. Frost approved it. Then for some reason best known to himself he started his letter writing and started to plug the wells. Why they would want to plug them I don't know; they were plugged. In the first place, the casing was down; my understanding of plugging a well is if you have an open hole and strike a sand with water and have a sand above without water, the idea is to plug the sand and prevent the water getting into the next sand. In this case this No. 1 well at 1840 feet had 200 sacks of cement and that hole below connected with no sand whatever.

Q Now, Mr. Williams, dealing with this Santa Fe lease after 1932 and when we had our depression, I guess you would call it, what happened to your ability to pay the rental?

A I didn't have it, I couldn't pay it. I told Mr. Collinson in 1932, I paid him what I could, and he carried the leases and was carrying them that way when Mr. Quigley came out from New York.

Q When did Mr. Quigley come out from New York?

A In 1936, I believe.

Q Who was Mr. Quigley?

A Mr. Quigley came out to Arizona with a letter from a friend of mine, he said that he understood that I had some holdings in New Mexico and he said he was in a position to get the capital and he wanted to make a deal.

Q Did you and Mr. Quigley go out on the Structure?

A Mr. Stevenson, Mr. Quigley and Mr. Patterson went out on the Structure, I didn't go with them. Mr. Quigley went

back to New York and returned and on his return this deal was started.

Q You entered into a deal with Mr. Quigley?

A Yes.

Q When did you first know Mr. Burnham in the transaction?

A About the time that Mr. Quigley got the money he told me who his partner was.

Q Mr. Burnham?

A Yes.

Q That was early in 1936 about the time these assignments were drawn up?

A Yes.

Q At that time, for the information of the Commission, what was the general outline of the deal that was to be made? Just sketch it out.

MR. GLASCOCK: If the Commission please, if there was a deal between them I presume it was in writing but in any event if it was an oral deal, certainly Mr. Nipper had no knowledge of it. Mr. Nipper has a right to rely on written instruments which have been introduced in evidence. I don't think Mr. Williams is free to testify about his deal with Mr. Quigley.

JUDGE WRIGHT: That is probably true, and we won't go into it.

Q Mr. Williams, Mr. Nipper has testified he was familiar with those papers which were drawn up on the 8th day of February 1936, at the time and prior to the time that he obtained the bill of sale from Burnham. I hand you an assignment which has been marked Applicant's Exhibit No. 2 and you will note that in this it refers to a promise and agreement to pay some \$3000 worth of your debts?

A Yes.

Q Explain to the Commission what that was and whether or not those debts were ever paid.

MR. GLASCOCK: If the Commission please, we object to that. The instrument recites that this assignment was given in consideration of that promise. That makes a contract and if the debts were never paid, his remedy is to sue Mr. Quigley for not having paid them, but the assignment is nevertheless valid and, while Mr. Nipper did not buy anything covered in the assignment, it does not invalidate the assignment. We object to going into the question of whether the consideration for the assignment was ever actually paid. We are not in a position to need it. I know it was but we are not in a position to need it and we think it is immaterial and object to it.

COMMISSIONER WORDEN: It seems to me we are getting away from the Commission's position in the case. This may lead up to certain things but apparently the Commission's position is whether that well is an abandoned well or whether it is not and what happened to those assets I don't think we are really concerned with.

JUDGE WRIGHT: I will state our position. We are going into this not because we are trying the question of ownership of the personal property at this time but we want to show to this Commission on the question whether this is an abandoned well or not, what the deal was between Mr. Quigley and to refinance this organization and carry on, and I want to show the picture and then the renewing of the lease and the carrying out and doing of the things by Mr. Quigley. At the time Quigley came out, we expect to show by Mr. Williams that there was a deal made to form the Quigley Corporation. The

purpose of these assignments was to have them in their name so they would have something to turn into the Corporation for the issuance of stock. All the property was to be turned into the Corporation and they were to raise the money. That all bears on the question of abandonment. As part of that deal, the assignments were made of those leases to be turned over to the Corporation. Mr. Williams found he could negotiate a new lease with Mr. Collinson of the Santa Fe-Pacific and the lease was taken out. Mr. Quigley has entirely fallen down on that deal. I am not offering it as showing ownership or lack of ownership of the personal property but for the purpose of showing good faith in the efforts we made to rehabilitate this thing after the smash of 1932.

MR. GLASCOCK: I don't think a lot of conversation between Mr. Williams and Mr. Quigley about what they expected to do throws any light on whether these wells had been abandoned or not. If Mr. Williams can testify to anything that they actually did to develop the wells and use them, the fact he has a lease may throw some light on it.

COMMISSIONER WORDEN: I can't see where it will do any harm for him to state to the Commission how he came to go into this deal with these people and why he made this assignment. It is only bringing out the facts as to what Mr. William's position was. If he has gone into that with the expectation of getting a financial return it seems to me he should show it.

MR. GLASCOCK: If he did anything pursuant to that, I would agree with you but unless they testify something was actually done I don't see where it makes the wells abandoned or not.

COMMISSIONER WORDEN: I think we will let him proceed.

A Mr. Quigley, after he had made his second trip out, took over the Hospah and there was a judgment for - it was originally for \$1240 but they cut it off to six or seven or eight hundred dollars, but they were threatening to sell the property.

Q Who was making that threat; who were the attorneys handling that?

A Mr. Lyle.

COMMISSIONER WORDEN: Was that some local accounts you owed somebody?

A Carroll owed it, it wasn't myself. Quigley stated that he could get the money and we would make a deal. I was to transfer all of this acreage. They were to protect - I had sold some undivided interests and they were to protect those undivided interests. The rest of it was to go into the Corporation called the Quigley Corporation, which they were to finance. Also some acreage which I had in Arizona in the Chino valley was to be turned into the Quigley Corporation, which was done. First there was an assignment drawn without a limit. They went into New Mexico and there was a claim there for \$5000 for labor for watching the rig which I knew nothing about and made no arrangements for. Our attorney called the case up and had it dismissed, a man by the name of Hess, there was a watchman out there which I subsequently settled with sold off a lot of stuff, I sent him a lot of money for watching the rig out there, I paid that much, they made me get a release of it. They entered into this agreement, then we changed this assignment to \$3000 limit on the indebtedness they were to pay but everything was to go into

the Quigley Corporation and they posted notices on the rigs to that effect. Then they got some geologists that had some sort of a treatment or other and they found they couldn't finance it and they threw the whole thing up, and the next thing I knew they were trying to sell off this equipment and I tried to stop them. I did stop them after a while.

Q Then what was the status of the leases?

A They were to pay the rentals and when Mr. Quigley went over the leases there was some \$19,000 owing Collinson. I knew him very well and he said "You have spent a lot of money out there and gone ahead in good faith and I will take it up with the Santa Fe and I will issue new leases at 50¢ an acre and cancel your old indebtedness", which was very fair. Mr. Quigley had used that argument that things had been misrepresented to him and he wanted me to face Collinson with him. Mr. Collinson was in the Ashfork Hotel and I said to Mr. Quigley, "I am going to do the talking." I said to Mr. Collinson, "We are in a position now to accept your offer of cancelling my indebtedness and you issuing new leases to me at 50¢ an acre". He said, "I would be very glad to do it". I said, "There is the deal I told you could be made." Then Quigley said to Collinson, "I don't know if we want some of that acreage, we want this along that black line in there." I said, "Mr. Quigley, you agreed to protect anybody who has an undivided interest in the 4480 acres and you agreed to take all the acreage". He said, "I will". He went back East. They said they were ready to take up and pay the rentals, the Quigley Corporation was ready to pay the rentals on the Hospah Structure, and they sent out an assignment for me to make for the Santa Fe but in that assignment I was to

make there wasn't any reservation that they would protect the undivided interests whom I had sold to, so Mr. Morgan wrote them a letter stating it would be necessary for them to add the clause protecting the undivided interests, which they had refused to do and they then refused to pay the rentals at all, and that is where I went in and paid the rentals. Had I thought they couldn't pay those rentals and that they wouldn't have gone on with the deal, I never would have entered the deal. I could have gotten the money to pay the judgment. I subsequently proved that by paying over \$5000 of rentals. Possibly everything isn't in the assignments that ought to be in there. The consideration isn't in there at all. The consideration was the forming of this new company and getting the money to do the developing, not only at Hospah but in the Chino valley.

Q Since then you have acquired control of the Quigley Corporation?

A Mr. Weldon, Mr. Stephenson and I control.

Q You have your Chino development?

A Yes, I have a rig on the Chino and they will be spudding in next week.

Q Have you ever intended to abandon the wells 3 and 4 on this Santa Fe lease?

A Absolutely not, I think the Hospah is a good Structure.

Q How much value in the way of casing was in the two wells?

A Without the books, I would say that 15½ cost me \$7 a foot and the 12½ cost me \$5.25. In the number 3 I think I paid \$1.35 for that 6 5/8, somewhere in that range, and about \$1.60 for the 8½.

Q How much did you have in the way of above-ground improvements, drilling rigs, machinery, tools and boiler?

215.2
A Thirty-five or forty thousand dollars worth of equipment, I would say. In 1932 Mr. Duffy was talking about my not being there. I was in the East raising money and sending it out to them to drill these wells with.

Q Has the Government permit where wells numbers 1 and 2 are located been cancelled out?

A Yes, that has been cancelled. Whether it can be reinstated or not, I don't know. I have been advised by a New York attorney that with the proper representations to the Government it would possibly be reinstated as we had complied with all of the terms.

Q Why did you not go ahead and drill into these sands?

A There was no pipe line in there, there was no pumps. The Santa Fe lease requires if you go on production you must stay on production, you must either deliver them their share of the oil or pay the market value of the oil in cash each month. As far as the Government was concerned, I wanted to get a line on the sands in the structure so I could select the section I wanted which I was entitled to, then try to make a real test there. I first wanted to locate the Hospah sand through the acreage we had as to its depth, then drill down in the Pennsylvania if possible, and the idea of that No. 4 test was to run down to the Pennsylvania.

Q You started with a 15 and 12 foot?

A Yes.

Q Mr. Williams, how much money did you put into that operation out there all together, money of your own and money that you raised?

A Over \$200,000.00. I could get the exact amount if I had the books.

Q Was it the intent or understanding between you and Mr.

Quigley that any of this casing was to be considered as sold under any of those bills of sale?

A It certainly was not; it was to be sold to the Quigley Corporation, the company that was formed.

Q The Quigley Corporation was formed?

A Yes.

Q You were to have a certain share interest in that?

A Yes.

Q Who else?

A Mr. Weldon and Mr. Stevenson and Mr. Quigley.

Q Mr. Quigley was to retain a certain interest?

A Yes, he and Burnham.

Q That corporation was actually formed?

A It was.

Q But after it was formed nothing further was done to transfer the rights?

A The notice that this was the property of the Quigley Corporation, I have been credibly informed, was nailed to a post.

Q How many derricks did you have out there at that time?

A There were two at the Hospah and one at Stalling.

Q Was one on the Government permit and the other on the Santa Fe?

A Yes.

Q And the other was on the Stalling permit?

A Yes.

Q Have you anything else you wish to add to that statement, Mr. Williams? There is one other question. Under this Santa Fe lease your next rental will be due in September?

A Yes.

Q Have you made arrangements to pay that rental?

A Yes.

CROSS EXAMINATION BY MR. GLASCOCK.

Q Mr. Williams, where do you live at the present time?

A Prescott.

Q What business are you engaged in there?

A Mining and oil.

Q What kind of mining?

A I am president and general manager of the Hillside Mine.
gold and silver.

Q You say you are drilling for oil down there?

A We are starting in the Chino Valley, land that belongs to
the Quigley Corporation.

Q How long has it been since you have been on the Hospah
structure?

A Some time in 1936.

Q Were you there in 1936?

A Yes.

Q What was the occasion of your going there in 1936?

A I went out there to get a release from that watchman at
the time that Mr. Quigley requested it, to release the
Quigley Corporation from any liability for claim or wages.

Q Prior to that time how long had it been since you were out
there?

A I believe I was out there in 1934.

Q Isn't it a fact that after you left there in 1929 you never
did even come back into the State of New Mexico until you
came to Gallup there to sell this stuff to Quigley and
Burnham?

A I was in Santa Fe here twice that I know of in 1931 and 1932.

Q Are you sure you were ever out to the Hospah after about 1929
until 1936?

A Yes, I was out there once.

Q Have you been out there since 1936?

A No.

Q Now, your operations out at Hospah, Mr. Williams, were in the nature of promotional operations, weren't they?

A Well, I had money in it and I sold undivided interests, I presume that is promotion the same as selling stock in the corporation.

Q How much did you obtain from the sale of interests in lands, leases and so forth on the Hospah structure?

A Without checking the records I couldn't tell you.

Q Do you have those records here?

A I have not; they are in Seattle.

Q You know a subpoena duces tecum was served on you calling on you to produce all books and papers of record having to do with the names, addresses of all persons to whom you in your individual capacity or as trustee sold any oil leases, rights, or undivided acreage in or to lands in McKinley County on what is known as the Hospah Structure?

JUDGE WRIGHT: We take the position, in view of the statement made by Mr. Glascock as to the limitations in this hearing, that that is wholly immaterial.

JUDGE WRIGHT: How much of your money did you put in?

A I don't know; I came into the State of New Mexico with about \$135,000 and I put it all into the State in development.

Q How much in this particular property, the Government permit and the Santa Fe permit?

A I would say twenty-five or thirty-five thousand dollars.

Q Of your own money?

A Yes, I moved that rig in just that quick; I only had about

20 days to get the rig in there to save that permit.

MR. GLASCOCK: It was not the duty or privilege or right of Mr. Williams and Judge Wright to determine in advance what this Commission would want. They are served with subpoena to produce the books, papers and records for the inspection of the Commission. I don't see what is their reason for not producing them.

JUDGE WRIGHT: The subpoena duces tecum was delivered to me by mail and not to Mr. Williams; I forwarded it to his counsel in Arizona. That is all I know about it.

MR. WILLIAMS: All I know about it is, when I came back from the East, I guess it was about the 18th or 19th of this month. I went out to the Hillside Mine. When I came back Mr. Morgan told me I would have to produce all the papers I had and the question of what would be proper or not should be determined subsequently, but the list of these sales. I haven't the books in question at all. Quigley would take all the papers here like a pack rat, he would pick up everything in sight and go off with it. He had full access to the office until he went East and blew up on the proposition. I don't know what he took and what he didn't.

MR. GLASCOCK: It is our position that whether this is a bona fide effort to produce or whether it is a promotional venture is certainly pertinent here to show whether those wells are abandoned or not. You are entitled to know just what kind of a venture this was that was going on out there.

(Argument)

In view of his not having the record here, we would like to be permitted to examine him generally on how much he had sold out there.

JUDGE WRIGHT: Go ahead, I am not objecting.

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JUDGE WRIGHT: Go ahead, I am not objecting.

- Q Approximately, Mr. Williams, how much acreage interest did you sell?
- A Well, I really don't know but I would say approximately 1,000 acres undivided interest.
- Q And at how much an acre?
- A Well, I paid a 20 per cent commission and some times a bonus; that could be determined by checking the lists.
- Q What was the rate per acre?
- A Some of it was 100 and some of it was 250, whatever it started at.
- Q On a minimum basis you sold 100,000 and if it was 250 you sold a quarter of a million. You were the salesman on most of that stuff, weren't you?
- A No, I had several partners.
- Q Would you tell the Commission here that you didn't sell over a quarter of a million dollars worth of acreage interest on the Hospah Structure?
- A If it is necessary to produce the books, I would say the books speak for themselves.
- Q You haven't them here, you say. I am asking you if you are sure you didn't sell over a quarter of a million dollars worth of acreage interest on the Hospah Structure?
- A I think the actual cash would be less than that.
- Q You are talking about after you took out salesmen's commissions?
- A No, I am talking about the gross. I think that with the division of interests around there, about half of the interests have been transferred, and I so notified Mr. Quigley, he took part of it.
- Q Mr. Williams, if this question is improper, I will withdraw it. Isn't your desire to keep the Hospah Structure alive

and keep it from being declared abandoned largely through fear of criminal prosecution for misrepresentation?

A Nobody put a dollar into the Hospah on any other representation through me or any other of the salesmen than exactly what I have stated here; we were drilling to test out those sands; we were going to sink a deep test there.

Q Mr. Williams, when Mr. Quigley came out to Arizona and talked to you about taking over this project, weren't you already indebted to him to a considerable amount at that time?

A Not a cent.

Q Didn't he or his associates have some money in your Hillside mine or some of your other property?

A Not a cent.

Q I believe you stated Mr. Quigley didn't pay the consideration set up in the assignment?

A I have never seen a statement of that from Mr. Quigley but I don't think he did.

Q Don't you know he paid John Kirk's judgment?

A I understood he did but Mr. Denny said it was too much and he was going to get it cut down.

Q You know Mr. Quigley obligated himself to pay it?

A Yes.

Q You know you haven't been bothered about it since?

A No.

Q Don't you know Mr. Quigley settled the pending suit of the Gallup Mercantile Company against you for \$1200.00?

A I think part of it was paid and a note given.

Q You never have been bothered any more about it?

A No sir.

Q Concurrently with this deal you have told about, you were going to transfer or did transfer to Mr. Quigley and Mr. Burnham a lot of stuff up in San Juan County?

- A No sir, it was the Stalling permit.
- Q Weren't you going to transfer to them a lot of personal property which you later found had been taken away?
- A The Stalling rig was there when you and Mr. Quigley went over there, the notice was posted, it was the property of the Quigley Corporation.
- Q Now, on that proposition, Mr. Williams. You say you understood this transfer was to be to the Quigley Corporation, the transfer of this acreage and of the personal property?
- A The Quigley Corporation. Quigley said he was going to perpetuate his name and use his name.
- Q You knew when you signed the assignments and bills of sale they read to Quigley and Burnham?
- A They were forming a Delaware corporation and they were going to turn that over there to the Delaware corporation; I think we have got letters that will back me up on that; I haven't got them here.
- Q With reference to this deal that you had with Quigley, part of it was that you were to transfer to him the Pettit permit?
- A Yes.
- Q And you did give him some sort of an assignment on it?
- A Yes, that permit at that time was in good standing.
- Q Isn't it true that at that time Mr. Tom Gibson representing Mrs. Pettit had already given you notice of cancellation and your failure to be able to deliver that Pettit permit was the reason this deal fell through?
- A No, I don't remember, this notice from Tom Gibson. I believe, was received after the deal, I am not positive as to that, but the notice was a regular semi-annual affair, and I told Quigley that we were constantly having trouble with Gibson

and he would serve notice.

Q Mr. Williams, you did know that acting for Mr. Quigley and Mr. Burnham, we prepared a suit, the office of Denny & Glascock prepared a suit to quiet title on the Pettit permit and sent it to you for your signature clearing the title in your name, and you were to furnish us your original assignment of the Pettit permit as precedent to quieting that title, and you never did furnish us with the assignment and the suit was never filed?

A I know you were to clear that title up and I believe Quigley pulled out of the deal before it was closed.

Q Don't you know you never did even furnish us with the assignment?

A I would have to go over the correspondence. The original assignment of the permit was sent to Washington and approved in Washington and I don't know where it is unless Quigley would have it.

Q Mr. Williams, regarding your financial ability, there is now a judgment existing against you in the United States Federal Court?

A Yes.

Q In receivership proceedings?

A I don't know of any receivership proceedings.

Q How much is that judgment to which you refer?

A I believe around six thousand.

Q Isn't it about twelve thousand?

A I don't know, I have never seen the judgment; it was set aside once and subsequently reinstated; they have never delivered the rig that they were to deliver.

Q Without going into the merits of it -

A Let's clear it up. My attorney issued a stipulation that I bought this rig and agreed to pay the debts of it. The

affidavit is of record where I absolutely refused to, and Edwards made an affidavit he did that on his own authority and the judgment was issued against me and they never even turned over the equipment.

Q Irrespective of the merits and demerits of the controversy, after those facts were fully reviewed, the judgment is now existing against you?

A Yes, I understand quite a bit of it has been paid.

Q Mr. Williams, you knew that Mr. Burnham pulled and sold the casing out of wells number 1 and 2?

A I learned it after it was done; I know he was notified by my attorney not to sell anything.

Q You have learned since he did sell that casing?

Q And that he sold all the personal property out there, the camp houses, tools, derricks, and all that material?

A Yes.

Q What was the consideration between you and Mr. Quigley for the transfer back to you of this acreage and the assignment to you of the stock of the Quigley Corporation?

A Well, the final settlement Mr. Weldon made was that they give them 14 percent of the capital stock of the Quigley Corporation, that took care of about 4 percent that they had sold, and 10 percent which Burnham took away from Quigley and is issued in Burnham's name. Quigley is no longer a member of the Quigley Corporation, I am informed.

Q There was a valid consideration and substantial consideration for the reassignment to you for the acreage you had assigned?

A The valuable consideration was their inability to carry out their deal and the turning over of some 27,000 acres

in the Chino Valley.

Q Why didn't you insist on reconveyance of the personal property?

A This was done about 30 days ago; Mr. Weldon went with them; all this has been done in the mean time.

Q The reassignment of the acreage was done in 1936, wasn't it?

A I don't know when it was done; I know I sent my personal check to the Santa Fe for the amount of the Hospah rentals and they issued a lease in my name and I signed it; that was the final outcome of that deal.

Q Why, if this deal fell through, didn't you insist on a reconveyance by Mr. Burnham and Quigley of the personal property you conveyed to them by bill of sale. I am talking about this deal you testified about in 1936 by which you gave him a bill of sale and assignment of lease and so forth?

A That was not discussed at all. The Quigley Corporation at that time was supposed to have held everything; they were not going to go ahead with the Hospah but Quigley was writing about moving one of the Hospah rigs over to Arizona.

Q Did you ever, either in 1936 or since then, try to get back from Mr. Quigley and Mr. Burnham a bill of sale of this personal property on the Hospah Structure which you had transferred to them?

A I seemed to be persona non grata with both Quigley and Burnham and all of the dealings had been between Weldon and Stevenson. In fact, I don't think I have heard from any of them since my attorney in Arizona notified them that this equipment was part of the deal and he was holding them personally liable.

Q But you have since settled all your differences and they transferred the Quigley Corporation to you, taken over the Quigley Corporation, obtained a reassignment of the

acreage, issued stock, and the various other things you did in that deal and you didn't ask for or receive a reconveyance of this personal property?

A I told you I had nothing to do with that deal, Mr. Weldon and Mr. Stevenson was the ones that attended to that.

Q You don't know whether they asked for or received such a bill of sale?

A I don't think they even asked for it, everything was gone. Mr. Weldon closed out the deal about 30 or 60 days ago, they hold stock in the Quigley Corporation to the extent of 400 shares and I think there is 150 or 154 shares outside that.

Q Mr. Williams, in your affidavit on file here which you made and swore to under date of April 4, 1938, you state "deponent is now making plans for the purpose of developing said lease and sinking said wells * * * said plans call for expenditures of more than one hundred thousand dollars"; have you spent since that time any part of \$10,000 to carry out the plans?

A Haven't even started to organize; sold the Hospah grant for a million and a half and had to take it back after six weeks.

Q Mr. Williams, as a matter of fact, all you have done on the Hospah since 1933 has been just plans, isn't that true? You haven't actually done anything out there?

A We shut the well down there in 1932, since that time we skidded the rig; there was nothing done on the Hospah except when Mr. Quigley came out and started his deal he was going to finance.

Q He didn't do anything, he didn't drill or clean out the wells?

A They put up a little bit of money and sold all the equipment off.

Q They didn't develop anything?

A They didn't even get steam up in the boiler.

Q You haven't developed anything?

A No, but I intend to, I paid over \$5,000 in rentals and I borrowed that money personally.

Q Isn't it true all you have done out there since 1932 is just make plans?

A No, I paid rentals; surely that shows good faith.

Q You haven't done anything looking towards the development of these particular wells?

A Yes, tried to figure out some way where I could get the money to go to a deep test; I don't intend to do anything with the No. 3 well until such time as the deep test is completed, until we have the field lined up.

Q You have made plans, and that is all, since 1932?

A Weldon and I definitely have decided we would drill the Hespah out ourselves if we couldn't interest anybody else.

Q That is another plan you have?

A I just don't follow you.

Q Let me make myself clear. Have you done any concrete thing?

A No.

Q Or hired anybody else to do anything?

A We have talked with a couple people with a view of interesting them, so far we haven't done anything except pay rentals and hold our ground.

Q You say you have sold about 1,000 undivided acreage interest out there, 1,000 acres?

A I said I didn't know just how much I had sold.

Q Approximately 1,000?

A Maybe so, I am not trying to split hairs but you are asking

me now something I don't want to testify to unless the books are laid down here on the table.

Q Isn't that another thing you were asked to produce in your subpoena, the names and addresses of persons to whom you had sold? (No answer)

Mr. Williams, you recall this being in an instrument which you signed conveying your undivided acreage interest held in the Hespah Structure to Mr. Quigley and Mr. Burnham:

"Save and excepting, however, unto the said H. L. Williams all his right, title and interest which the said H. L. Williams may have in and to the undivided acre interest of the 250 acres of what is known as the "Santa Fe Railroad Leases" on the Hespah Structure in McKinley County, State of New Mexico". Does that clause read 1,000 acres?

A That has nothing to do with that. I have a letter somewhere from Mr. Quigley. Quigley was going to follow this thing before he got Burnham into it on a different basis. He wanted an undivided 100 acres, if he raised the money himself. In this letter Quigley writes Burnham and states 100 acres of that 250 belongs to he and Burnham, the other 150 acres was acreage that I had promised but never delivered title to to those who had helped sell acreage, salesmen, and Quigley had an understanding as to just who it was.

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EXAMINATION BY MR. ANDREAS.

Q You say you have been paying rentals on this acreage since 1933?

A 1932, I couldn't pay, then Collinson let the leases accrue, I mean the rentals accrue. Then when Quigley came into the picture - just before Quigley came into the picture, Collinson came out to see me. He said "I will tell you

what to do, I will get the directors, whoever handles it, to cancel your \$19,000 and issue you a new five year lease at the first year 50 cents an acre". I said "I think I can handle that. It wasn't more than 30 days after that Quigley came on the scene. When Quigley came on the scene I told him this and then we had some differences over accounts, he is a very excitable fellow. That is why when Collinson came to Ashfork just before he was killed I took him down there, and Mr. Collinson verified that statement, then when Mr. Collinson was killed this other gentleman Mr. Hemenway carried out his agreement.

Q What was the object of your keeping up these rentals the last several years?

A I wanted to drill the Hospah again, I have one real belief in the future of the Hospah. I have been scraping and borrowing from Peter to pay Paul and keep these leases. I am not obligated, the assignment made is simply an absolute assignment. I put a lot of money into the Hospah.

Q Did I understand correctly you intend to deepen the No. 4 well?

A I intend to run the No. 4 well down to Pennsylvania. That is why I started the 15½ inch hole, it was 1915 feet and the bull wheel gauge broke, it was a very heavy string, and when those bull wheels came loose they went up the derrick, the line broke, and they dropped 1915 feet. The Gallup Coal Company gave me one of their old hoisting cables, 1½ inch line, we went down there with a side (?) skid, got this stem, the pinon was off it, pulled it up into the 15½ inch casing, couldn't pull it through. We worked there for about a week. We never could get it to work. What was in the bottom, I don't know. When we shut it down we skidded the

rig and used it as a water well. They got out 800 feet of 15½ inch. They went on down, my understanding, 2,000 feet but you have a lot of formation on that location of No. 4 that has been eroded away. Duffy got about an 8 or 10 barrel well, he wired me about the sand which a great many of them contend is the sand we got at Seven Lakes, whether that is true or not I don't know. I wasn't there, I was out getting money to keep the fellows going.

JUDGE WRIGHT: That is all the testimony we have to offer.

MR. GLASCOCK: Might I ask the Commission when you rule on this, that you rule separately on the two applications.

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STATE OF NEW MEXICO

SS

COUNTY OF BERNALILLO

I hereby certify that the foregoing pages, numbered 1 to 67, both inclusive, contain a true and correct transcript of the testimony taken and proceedings had in the foregoing entitled matter.

James B. Bessum

Court Reporter