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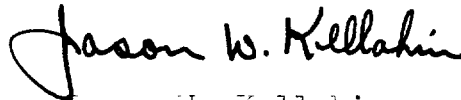
Oil Conservation Commission
State of New Mexico
P. O. Box 671
Santa Fe, New Mexico

Gentlemen:

Enclosed are three copies of the application of Continental Oil Company for a rehearing in Case No. 1327, seeking reconsideration of Order No. A-1092-A as said Order pertains to the inclusion of a deliverability factor in the proration formula for the Jalmat Gas Pool, Lea County, New Mexico.

Please acknowledge receipt of this application on the attached copy of this letter and return it to me.

Very truly yours,


Jason W. Kellahin

JWK:j
enc -3

cc: Mr. Harry G. Dippel

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:

CASE NO. 1327
Order No. R-1092-A

APPLICATION OF TEXAS PACIFIC COAL
& OIL COMPANY FOR AN ORDER IM-
MEDIATELY TERMINATING GAS
PRORATIONING IN THE JALMAT GAS
POOL; OR IN THE ALTERNATIVE,
REVISING THE SPECIAL RULES AND
REGULATIONS FOR THE JALMAT GAS
POOL IN LEA COUNTY, NEW MEXICO.

APPLICATION FOR REHEARING

TO THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO:

COMES NOW CONTINENTAL OIL COMPANY, a Delaware Corporation,
duly authorized to transact business in the State of New Mexico,
hereinafter sometimes referred to as "applicant", and applies
for a rehearing in the above entitled and numbered case and in
support thereof would respectfully show unto the New Mexico Oil
Conservation Commission, hereinafter referred to as "Commission",
the following:

1. This applicant owns and operates oil and gas leases and
gas wells within the limits of the Jalmat Gas Pool in Lea County,
New Mexico.

2. This applicant participated in and presented testimony
to the Commission in the hearing on the application of Texas
Pacific Coal & Oil Company in the above styled and numbered case
and as an operator in the Jalmat Gas Pool was affected by Order
N-. R-1092-A entered by the Commission under date of January 29,
1958.

3. This applicant believes and therefore alleges that Order No. R-1092-A aforesaid was erroneous, illegal and is invalid and by reason thereof a rehearing is requested in respect to that portion of said Order No. R-1092-A which provides that effective July 1, 1958, a deliverability factor shall be included in the gas proration formula of the Jalmat Gas Pool and the succeeding portions of said Order carrying into effect the decision of the Commission that deliverability shall be included in the proration formula subsequent to July 1, 1958, and as grounds therefor states:

a) That the application of Texas Pacific Coal & Oil Company in Case No. 1327, to the extent that it sought the inclusion of a deliverability factor in the proration formula of the Jalmat Gas Pool, constituted a collateral attack upon Order No. R-520 in Case No. 673 of this Commission entered on the 12th day of August, 1954, and therefore should not have been entertained by the Commission and cannot be made the basis of a valid Order in Case No. 1327 in so far as the inclusion of deliverability in the proration formula is concerned.

b) That the evidence introduced in this proceeding provides no basis upon which a valid order could be entered by the Commission changing the basis for the allocation of production from the Jalmat Gas Pool from a 100% acreage basis to the basis provided in Order No. R-1092-A for the reason that Order No. R-520 entered by this Commission in Case No. 673 constituted a final determination that deliverability should not be included in the proration formula of the Jalmat Gas Pool. Texas Pacific Coal & Oil Company was a party to and actively participated in the hearing in Case No. 673 in which the inclusion of deliverability as a factor in the proration formula was vigorously advocated and considered by the Commission, and Order No. R-520

was entered denying the request for the inclusion of deliverability in said formula. No appeal was taken by Texas Pacific Coal & Oil Company from the final decision of the Commission so ordered in said Case No. 673. On the basis of the record in this case, the Commission is without authority to modify or change the decision so reached in Case No. 673.

c) That the inclusion of deliverability as a factor in the Jalmat Gas Pool proration formula as ordered by the Commission in Order No. R-1092-A is predicated on a finding by this Commission "that the applicant has proved that there is a general correlation between the deliverabilities of the gas wells in the Jalmat Gas Pool and the gas in place under the tracts dedicated to said wells". This applicant respectfully alleges that this finding of the Commission is contrary to and wholly without support in the evidence and is therefore invalid and void. In further support of the grounds here alleged there is attached hereto as Exhibit "A" a vertical bar graph depicting the relationship between the recoverable gas in place under the fifty-eight tracts which were the subject of testimony and exhibits presented by this applicant and other operators at the hearing in this case before the Commission on December 9, 1957, and the deliverability of the fifty-eight gas wells located on said tracts. Said exhibit is based upon evidence in the record in this case and clearly demonstrates the total absence of correlation between the deliverabilities of gas wells in the Jalmat Gas Pool and gas in place under the tracts dedicated to said wells. If afforded an opportunity to do so, this applicant will present further evidence in this regard but asserts that on the evidence received by the Commission at the December 9, 1957 hearing in this case it is clearly shown that no such correlation exists.

d) That Order No. R-1092-A is invalid in that even though it be assumed, as found by the Commission, it has been proved "there is a general correlation between the deliverabilities of the gas wells in the Jalmat Gas Pool and the gas in place under the tracts dedicated to said wells", said finding provides no basis authorized by the statutes of New Mexico for modification of the pre-existing acreage formula for proration of gas produced from said pool.

e) That the Commission has considered factors not permitted by the statutes of New Mexico in arriving at its decision which was the basis of Order No. R-1092-A. It is apparent from said Order that it was predicated in part upon (1) a finding that the inclusion of a deliverability factor in the Jalmat Gas Pool proration formula would result in the production of a greater percentage of the pool allowable, and (2) that such inclusion of a deliverability factor would more nearly enable various gas purchasers to meet the market demand for gas in the Jalmat Gas Pool. Neither of said considerations provides any legal basis for the allocation of production under the statutes of New Mexico.

f) That Order No. R-1092-A results in economic waste in that it will require the expenditure of an excess of Four Hundred Thousand Dollars (\$400,000.00) by this applicant to increase the deliverability of the gas wells operated by it in this pool in an effort to protect its correlative rights, although the ultimate recovery from the tracts operated by this applicant will not be appreciably increased thereby.

g) That Order No. R-1092-A will result in underground waste in that many of the wells in the Jalmat Gas Pool have been completed for some ten to twenty years and their condition is such that the action required of a prudent operator

under Order No. R-1092-A will necessarily result in underground waste of natural gas and abuse of correlative rights of the owners of many of said wells.

h) That the Order No. R-1092-A is invalid in that the Commission would have authority to change its existing proration order for the Jalmat Gas Pool only upon proof by the applicant in this case, Texas Pacific Coal & Oil Company, by a preponderance of the evidence, that either (1) waste would be reduced or eliminated, or (2) correlative rights of the owners in the Jalmat Gas Pool would be protected to a greater degree by the inclusion of deliverability as a factor in said proration formula. The burden of proof so assumed by Texas Pacific Coal & Oil Company as such applicant was not discharged by it.

i) That Order No. R-1092-A results in irreparable injury to the correlative rights of this applicant and deprives this applicant of its property without due process of law in that it will permit production by offset operators of natural gas underlying the tracts owned and/or operated by this applicant without affording compensating counter-drainage from other adjoining tracts, and will prevent this applicant from producing the recoverable gas in place in the Jalmat Gas Pool underlying the respective tracts upon which the wells operated by this applicant are located.

j) That Order No. R-1092-A is unreasonable, arbitrary and discriminatory and the effect of said order is to confiscate and deprive this applicant of its property without due process of law contrary to and in violation of the Fourteenth Amendment to the Constitution of the United States and of Article II, Section 18 of the Constitution of the State of New Mexico. Under the provisions of Order No. R-520, as amended, and in reliance upon said order, this applicant has performed drilling operations

recompletion operations, and has expended large sums of money on its properties in the Jalmat Gas Pool, acquiring vested property rights therein prior to the issuance of Order No. R-1092-A, which property rights will be impaired by said Order No. R-1092-A.

k) That as a result of the aforesaid expenditures and other actions taken by this applicant in drilling operations, recompletion operations, and other actions taken in good faith and in reliance upon the existing proration rules as set forth in Order No. R-520, as amended, the Commission is as a matter of equity and justice, estopped from amending said Order No. R-520, as amended, to include a deliverability factor in the allocation formula, which amendment would discriminate against this applicant.

l) That Order No. R-1092-A, as regards the findings and provisions therein which purport to revise and change the existing allocation formula for the Jalmat Gas Pool as set forth and provided for in Order No. R-520 as amended by Order No. R-967, is so vague, indefinite and uncertain as to render said Order No. R-1092-A invalid and void, and particularly is this true as regards paragraph (3) of said Order insofar as it purports to revise, effective July 1, 1958, Rule 6 of the Special Rules and Regulations For The Jalmat Gas Pool.

WHEREFORE, applicant Continental Oil Company prays that this application for rehearing be granted for the purpose of reconsidering that portion of Order No. R-1092-A providing for the inclusion of a deliverability factor in the allocation formula of the Jalmat Gas Pool effective July 1, 1958, and that after notice as required by law, and upon rehearing, the Commission modify said Order R-1092-A by striking and removing

therefrom each and every erroneous and invalid finding referred to hereinabove and each and every provision of said order relating to the inclusion of a deliverability factor in the gas proration formula for the Jalmat Gas Pool, and in lieu thereof, enter its order denying the application of Texas Pacific Coal & Oil Company in Case No. 1327 in its entirety.

Respectfully submitted,

CONTINENTAL OIL COMPANY

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