

FIFTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

ROSWELL, NEW MEXICO

August 4, 1950

Messrs. Hervey, Dow and Hinkle  
Attorneys at Law  
Roswell, New Mexico

Messrs. Atwood, Malone and Campbell  
Attorneys at Law  
Roswell, New Mexico

Re: In the matter of the petition of Amerada  
Petroleum Corporation for review and appeal  
of proceedings before the Oil Conservation  
Commission of the State of New Mexico in  
case No. 191; No. 8485, Lea County.

Gentlemen:

Having given further consideration to the legal questions raised at the inception of the pre-trial conference on the above captioned matter on May 29, 1950, and after an examination and study of the briefs filed herein, you are advised that my conclusions as to the questions contained in paragraphs Nos. 1 and 4 of the notice of pre-trial conference, dated May 5, 1950, are, and upon a resumption of the pre-trial conference will be incorporated in the record as follows:-

1. That the Oil Conservation Commission of New Mexico is primarily an administrative body with certain delegated legislative powers; and that in entering the order complained of in the Petition for Review the Commission was acting in that capacity.
2. That this Court is without power to substitute its own independent judgment for that of the Commission as reflected in the Order complained of.
3. That the nature and scope of the review in this case will be confined generally to the validity of the Order and specifically to
  - (a) the power of the Commission to enter the order complained of;
  - (b) the existence of substantial evidence before the commission supporting the order complained of; and
  - (c) the reasonableness of the order.

4. A transcript of the proceeding before the Commission including the evidence taken in a hearing or hearings by the Commission shall be received in evidence by the Court in whole or in part upon offer by either party, subject to legal objections to evidence.
5. Evidence in addition to that contained in the transcript of the proceedings before the Commission will be limited to
  - (a) such matters as to which legal objections are made and sustained to evidence thereon appearing in the transcript of the proceedings before the Commission; and
  - (b) facts bearing upon the question of whether or not the Order of the Commission was arbitrary, capricious or unreasonable, or whether the Commission acted beyond its power.

With reference to sub-paragraph (a) of paragraph 3 above set forth and in order that there may be no confusion or misunderstanding as to the meaning of said sub-paragraph, you are specifically informed that the Court does not look with favor upon the proposition urged under point "V" of Petitioner's brief filed with the Court, and that the Court will not permit the introduction of evidence based upon the proposition that the action of the Commission with reference to the application under consideration by it was one of jurisdiction or power but that it was an action involving the exercise of discretion and judgment only,

You are further advised the pre-trial conference will be resumed at Roswell, New Mexico, on September 11, 1950 at 1:30 o'clock P.M. upon the remaining matters set forth in the Order dated May 5, 1950.

Yours very truly

/s/ Geo. Harris

COPY

*[Faint, illegible handwritten notes or stamps]*

REESE AND McCORMICK

GEORGE L. REESE, JR.  
DON G. McCORMICK  
S. M. RUTHERFORD, III

ATTORNEYS AT LAW  
BUJAC BUILDING  
CARLSBAD, NEW MEXICO

September 9, 1950

C  
Honorable George T. Harris  
District Judge  
Roswell, New Mexico

Re: Amerada Petroleum Corporation,  
Case No. 8485, District Court  
of Lea County.

Dear Judge Harris:

I have received notice that the pre-trial conference in the above case will be resumed at Roswell on 11 September, 1950, at 1:30 p.m. I had planned to attend this hearing, but it now develops a meeting of the Eddy County Bar Association has been called for Noon of that same day in Carlsbad. I happen to be president of this association, and the meeting is important in that we are now making the final plans for the annual meeting of the State Bar of New Mexico. Therefore, I regret that I shall be unable to attend.

P  
I have been informed by both Mr. Hinkle and Mr. Campbell that Amerada Petroleum Corporation will move to dismiss this matter without prejudice, and that the intervenor, Texas Pacific Coal & Oil Company, will resist this motion and urge that any dismissal should be with prejudice.

Y  
I have given this matter some thought and have read a little law on the subject. Under the state of the record, it does not appear to me that it is of great importance to the Oil Conservation Commission which course is taken. You will recall that the order of the Commission which is being reviewed merely held that there was insufficient evidence to justify the establishing of eighty acre pro-ration units in the Bagley-Siluro-Devonia Pool. Therefore, if the case were dismissed with prejudice, it would merely mean that Amerada was bound by the decision, that as of 20 December, 1949, the date of the hearing before the Commission, there was insufficient evidence to justify

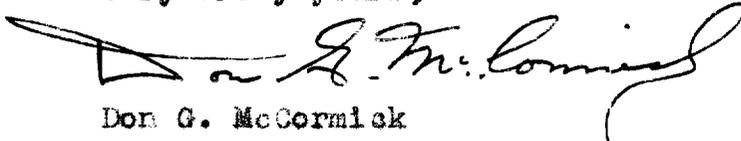
Honorable George T. Harris  
September 9, 1950  
Page 2

the spacing order which was sought. On the other hand, if the case were dismissed without prejudice, the question of whether or not there was sufficient evidence on 20 December, 1949, would not be res adjudicata.

In the event Amerada should later file another petition seeking an eighty acre spacing order, the Commission would be bound to determine all new evidence based on facts developed since 20 December, 1949. In order to do this, they would necessarily have to consider the facts which had been developed up to 20 December, 1949, in order to correlate all the pertinent facts. The law specifically allows Amerada to file a new petition based on changed conditions. Therefore, I do not see that it will make any difference, one way or the other, as to whether the case is dismissed with or without prejudice.

I recognize that counsel for Texas Pacific Coal & Oil Company have borne the brunt of the work in this case, and I trust you will give due consideration to the views of those attorneys. I am merely expressing my own views as attorney for the Oil Conservation Commission and do not desire to prejudice the position of Texas Pacific Coal & Oil Company.

Very truly yours,



Don G. McCormick

CC: Hon. Jack M. Campbell  
Attorney at Law  
J. P. White Building  
Roswell, New Mexico

Hon. Clarence E. Hinkle  
Attorney at Law  
J. P. White Building  
Roswell, New Mexico

Mr. R. R. Spurrier  
State Geologist  
Santa Fe, New Mexico

DGM:mjt

October 27, 1950

C  
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Y

Atwood, Malone and Campbell  
Attorneys at Law  
Box 867  
Roswell, New Mexico

Attention: Mr. Jack M. Campbell

Gentlemen:

I want to acknowledge receipt of a copy of proposed Pre Trial Order in Case No. 8485 in the Fifth Judicial District Court, the same being the Amerada appeal in the Oil Conservation Commission Case No. 191.

I have read the copy carefully and I am of the opinion that the Order is agreeable in all respects except the following indicated typographical errors:

On line 16 you have "George L. Graham" which should be "George A. Graham."

On line 12 of paragraph 2 on page 2 the same correction would please me.

My middle initial is "A" as in "Aloysius"

In the last line of Page 6 the word "contril" should be "control."

I think the draft of the proposed order is well stated.

Very truly yours,

GEORGE A. GRAHAM, Attorney  
State Land Office

October 27, 1950

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Atwood, Malone and Campbell  
Attorneys at Law  
Box 867  
Roswell, New Mexico

Attention: Mr. Jack M. Campbell

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I think the draft of the proposed order is well stated.

Very truly yours,

GEORGE A. GRAHAM, Attorney  
State Land Office

IN THE DISTRICT COURT OF LEA COUNTY, NEW MEXICO

IN THE MATTER OF THE PETITION OF )  
AMERADA PETROLEUM CORPORATION FOR )  
REVIEW AND APPEAL OF PROCEEDING ) CASE NO. 8485  
BEFORE THE OIL CONSERVATION )  
COMMISSION OF THE STATE OF NEW )  
MEXICO IN CASE NO. 191 )

MOTION FOR DISMISSAL

*Renewed*

COMES the Amerada Petroleum Corporation, Petitioner in the above styled cause, acting by and through its Attorneys of Record and moves the Court to dismiss said cause without prejudice at Petitioner's Costs and in support of such motion respectfully shows:

1. This is an appeal from an order entered by the New Mexico Oil Conservation Commission after hearing before the Commission on December 20, 1949, denying the application of the Amerada Petroleum Corporation to establish proration units and uniform spacing of wells in the "Bagley-Siluro-Devonian Pool" in Lea County, New Mexico.

2. That the discovery well in the Bagley Pool or Field was completed on or about June 16, 1949 and that the evidence introduced at the hearing before the Conservation Commission consisted largely of the opinions of experts based upon analysis of drilling information of wells which had been drilled in said field up to the time of said hearing and reasonable inferences or conclusions to be drawn from such information.

3. That the Amerada Petroleum Corporation is willing to abide by the order of the Conservation Commission but believe that it should not be precluded by the dismissal of this cause with prejudice from again requesting the Conservation Commission

to review this matter in the event it should be demonstrated some time in the future by the actual production record of said field that it is for the best interests of all concerned and the State of New Mexico that said field be developed on some basis other than normal 40 acre spacing.

Respectfully submitted,

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Harry D. Page

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Booth Kellough  
Tulsa, Oklahoma

HERVEY, DOW & HINKLE

By 

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Roswell, New Mexico

Attorneys for Petitioner  
Amerada Petroleum Corporation.

BEFORE THE OIL CONSERVATION COMMISSION OF  
THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION  
OF AMERADA PETROLEUM CORPORATION  
FOR THE ESTABLISHMENT OF PROPRATION  
UNITS AND UNIFORM SPACING OF WELLS  
FOR THE COMMON SOURCE OF SUPPLY  
DISCOVERED IN AMERADA-STATE BTA NO. 1  
WELL, NW/4 SE/4 SEC. 2, TOWNSHIP 12  
SOUTH, RANGE 33 EAST,  
LEA COUNTY, NEW MEXICO.

CAUSE NO. \_\_\_\_\_  
ORDER NO. \_\_\_\_\_

A P P L I C A T I O N

COMES, NOW, Amerada Petroleum Corporation, Tulsa,  
Oklahoma, and alleges and states:

1. That applicant has drilled and completed a well known as "State BTA No. 1" located in the center of the NW/4 SE/4 Sec. 2-12S-33E, Lea County, New Mexico, and discovered a new common source of supply found in said well at the approximate depth of from 10,770 feet to 11,000 feet, the probable productive limits of said common source of supply to be determined by the Commission.

2. That in addition to the discovery well referred to above, the following wells are now being drilled to said common source of supply in the area:

- (a) Amerada-State BTC No. 1, located in SE/4 SW/4 Sec. 35-11S-33E;
- (b) Texas, Pacific Coal and Oil Company No. 1, State "B"-Account No. 1, located in SE/4 NW/4 Sec. 2-12S-33E;
- (c) Mid-Continent Petroleum Corporation No. 1, State Land 65, located in SW/4 NW/4 Sec. 1-12S-33E;

3. That in addition to the above described wells the following wells have also been drilled, or are now drilling in the area:

- (a) Amerada No. 1 Caudle, located in the SE/4 NE/4 Sec. 10-12S-33E, which tested salt water in the same stratigraphic horizon that is producing oil in the discovery well described above, and has been completed as an oil well in a shallower formation;

- (b) Amerada-State BTB No. 1, located in NW/4 NW/4 Sec. 26-12S-33E, which tested oil in a formation that may be the same common source of supply in which the above described discovery well has been completed;

4. A plat of the area showing the location of the wells referred to above is attached hereto and marked "EXHIBIT A".

5. That in order to bring about the orderly and proper development of said common source of supply, prevent waste and to avoid the drilling of unnecessary wells, and to secure the greatest ultimate recovery therefrom, and to protect the correlative rights of the interested parties therein, it is necessary and proper for the Commission to enter its order providing for proration units of 80 acres each, such being the area which may be efficiently and economically drained by one well, and to provide for the uniform spacing of said wells in the center of the Northwest and Southeast forty-acre tracts of each quarter section, with a tolerance of 150 feet to avoid surface obstructions.

6. That the well now being drilled to said common source of supply known as "Mid-Continent Petroleum Corporation No. 1, State Land 65," located in SW/4 NW/4 Sec. 1-12S-33E, should be granted an exception to the spacing order established by the Commission hereunder and be considered as the well for the proration unit on which it is located.

WHEREFORE, applicant respectfully requests that the Commission set this application for public hearing at the time and place to be fixed by the Commission, that due and proper notice be given as required by law, and that at the conclusion of said hearing the Commission make and enter an order determining and defining the probable productive limits of the common source of supply referred to above, naming the pool, establish proration units of 80 acres each, and provide for a uniform spacing of such wells, designating the location of said wells

in the center of the Northwest and Southeast forty-acre tracts of each quarter section with a tolerance of 150 feet in any direction from said prescribed location to avoid surface obstructions, and to provide for exceptions in the case of the well now being drilled to said common source of supply known as the "Mid-Continent Petroleum Corporation No. 1, State Land 65", described above.

DATED this 29<sup>th</sup> day of July, 1949.

*Harry D. Page*

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Harry D. Page

*Booth Kelleugh*

\_\_\_\_\_  
Booth Kelleugh

Attorneys for,  
Amerada Petroleum Corporation.

JEFF D. ATWOOD  
ROSS L. MALONE, JR.  
JACK M. CAMPBELL

# ATWOOD, MALONE & CAMPBELL

LAWYERS

RECEIVED  
STATE LAND OFFICE

OCT 16 10 47 AM '50

SANTA FE, N. M.

J. P. WHITE BUILDING  
ROSWELL, NEW MEXICO

October 12, 1950

Mr. George Graham , Attorney  
Commissioner Public Lands  
Santa Fe, New Mexico

RE: In the Matter of the  
Petition of Amerada  
Petroleum Corporation

Dear George:

Enclosed please find copy of proposed Pre-Trial Order for your approval as to form or suggestion as to changes. We consider it better to send copies of the proposed order at this time and when we have all agreed then to circulate the original for initialing.

Very truly yours,

ATWOOD, MALONE & CAMPBELL

By: *Jack M. Campbell*

JAC:hl  
encl.