

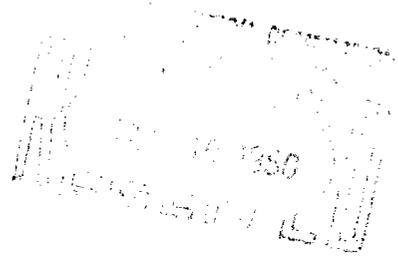
E. JAMES MCGURDY, JR.

FORT WORTH

(2)

1703 Fair Building

January 25, 1950



To the Oil Operators of the State of New Mexico

Gentlemen:

Mr. Glenn Staley of the Lea County Operators Committee circularized a letter from the Buffalo Oil Company dated January 18, 1950, to him, in which they state they have requested a re-hearing in Case #205 and Order #849, which order granted me permission to drill a "five-spot" well in approximately the center of the NW/4 Section 20-18S-32E, in which letter it is said this order "makes possible the assigning of an allowable for a 40-acre unit, greater than State top . . ."

In my opinion, the above letter misconstrues the order of the Commission, which provided:

"Provided, however, that the production from the five wells shall be prorated and never be allowed to produce in excess of the allowable for four regular 40-acre tracts as now or may hereafter be allocated in the Young Pool, . . ."

This order was entered after I had filed with the U.S.G.S. a nonsegregation stipulation as required by them and provided in the above order. This, in effect, unitizes the 160 acres. I made this application for a "five-spot" well and only ask the Commission to grant me the same privilege of drilling a "five-spot" well that has been granted to other operators in New Mexico and only expect the privilege of producing said well upon the same basis that other operators in the State, who have units with "five-spot" wells, are accorded under the proration schedules of the Commission.

I attach hereto a sketch showing the location of my wells in Section 20-18S-32E and the well of the Buffalo Oil Company in Section 17. I am convinced that one well in the Red Sand in the Young Pool will not sufficiently drain 40 acres to obtain all of the recoverable oil and I have gone to the expenditure of drilling this well with the idea that I will obtain more oil from the 160 acres. The United States Government and the State of New Mexico will likewise benefit by the drilling of this fifth well on the 160 acres. I do not believe by drilling this fifth well on my 160 acres that it will affect the Buffalo Oil Company lease by drainage. They have a well 510 feet from my North line, while my regular locations are 660 feet from their line.

If the Buffalo Oil Company wants to produce more oil, it is their privilege to drill more wells.

Very truly yours,

E. J. MCGURDY, JR.

EJMc/hce

17

E.J. McCurdy, Jr.

Buffalo

Minntex

E.J. McCurdy,

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¹ 660

1426 ⁵

Minntex

E. J. McCurdy, Jr.

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20

L.R. Simon
M.E. Young

Minntex

McCurdy

Minntex

McCurdy

Minntex



LEA COUNTY
NEW MEXICO
SCALE: 1" = 1000'

HUMBLE OIL & REFINING COMPANY
MIDLAND, TEXAS

February 6, 1950

File: 6-1, New Mexico

Mr. R. R. Spurrier
Oil Conservation Commission
State of New Mexico
Santa Fe, New Mexico

Dear Mr. Spurrier:

Supplementing our telegram, a copy of which is attached hereto, the Humble Oil & Refining Company submits the following statement in conjunction with the re-hearing February 8 of Order 849.

STATEMENT CONCERNING FIVE-SPOT DRILLING IN THE YOUNG POOL,
LEA COUNTY, NEW MEXICO

The Humble Company does not operate in the Young Pool, but feels that such a precedent as this, once established in Lea County, would endanger the whole 15-year-old system of allocation in Lea County.

Based upon long experience and observation, we believe that the various pools in Lea County, certainly those in which we operate, can be efficiently and economically drained by one well to 40 acres.

We have no performance records of five-spot wells in Lea County, as there have been none drilled. We have not studied them in detail in Eddy County, but such information as we have is not impressive evidence of their necessity. As shown by State Pro-ration Order No. 852 for January 1950, the 13 "unorthodox" wells of the Grayburg Oil Company which were produced during November averaged 30 barrels per day as compared to a 27.4-barrel-per-day average for the 52 wells surrounding them, a difference of less than 9 % despite the fact that the five-spot wells had an average age of less than seven months. This leads us to believe that good connection exists between the wells drilled in this pool on 40-acre units, and that the five-spot wells were unnecessary to drain the area efficiently and economically.

We believe further that the equity between operators cannot be maintained under a program of five-spot drilling in Lea County if the allowables of tracts so drilled are increased as a result

HUMBLE OIL & REFINING COMPANY
MIDLAND, TEXAS

Mr. R. R. Spurrier
Santa Fe, New Mexico
February 6, 1950
Page 2

of such drilling. Such procedure, in our opinion, would contravene paragraph one of Section 13 of the Conservation Statute, which is as follows:

"No owner of a property in a pool should be required by the Commission, directly or indirectly, to drill more wells than are reasonable necessary to secure his proportionate part of the production. To avoid the drilling of unnecessary wells, a pro-ration unit for each pool may be fixed, such being the area which may be efficiently and economically drained and developed by one well. The drilling of unnecessary wells creates fire and other hazards conducive to waste, and unnecessarily increases the cost of the products to the ultimate consumer."

It is obvious that nine 5-spot wells can be drilled on a 640-acre tract, three on 320 acres, one on 160 acres, and none on 80 or 40 acres. It is equally obvious that if one operator in a pool secures an increased allowable as a result of five-spot drilling, not only would every other operator in the pool be forced to either drill unnecessary wells or to share the expense of unnecessary drilling in order to protect themselves from drainage, despite the statutory provision cited above, but the Commission would face an overwhelming task of protecting correlative rights.

It is our sincere hope that the Commission will not adopt a program of five-spot drilling in the oil pools of Lea County.

We will appreciate the Conservation Commission giving due consideration to the effects that a precedent granting additional allowable to units would have on the equities which have so long been established in Lea County.

Yours very truly,

HUMBLE OIL & REFINING COMPANY


J. W. HOUSE
Division Superintendent

RSD/rs
Attachment

Charge to the account of

\$

CLASS OF SERVICE DESIRED	
DOMESTIC	CABLE
TELEGRAM	ORDINARY
DAY LETTER	URGENT RATE
SERIAL	DEFERRED
NIGHT LETTER	NIGHT LETTER

Patrons should check class of service desired; otherwise the message will be transmitted as a telegram or ordinary cablegram.

WESTERN UNION

1206

A. N. WILLIAMS
PRESIDENT

NEWCOMB CARLTON
CHAIRMAN OF THE BOARD

J. C. WILLEVER
FIRST VICE-PRESIDENT

CHECK
ACCOUNTING INFORMATION
TIME FILED

Send the following message, subject to the terms on back hereof, which are hereby agreed to

Midland, Texas
February 6, 1950

Mr. R. R. Spurrier
Conservation Commission
State of New Mexico
Santa Fe, New Mexico

With reference hearing February 8, Order 849, Humble Oil & Refining Company approves the right of any operator to drill as many wells on any 40-acre unit as he may desire to drill provided the location of such wells is in accordance with the rules and regulations or the special orders of the Conservation Commission, and further provided that the drilling of such additional wells will in no event result in the allowable from any 40-acre unit being increased above the amount which such 40-acre unit would receive from one unpenalized top unit allowable well completed on the unit stop To permit the allowable of any 40-acre unit to be increased above unpenalized top unit allowable jeopardizes the fifteen year old system of allocation in Lea County and contravenes Section 13 of the Conservation statutes by creating waste in forcing operators to drill wells which are not reasonable necessary to secure their proportionate share of the production.

HUMBLE OIL & REFINING COMPANY
BY: J. W. HOUKE

CHG. HUMBLE OIL & REFG. CO.
MIDLAND, TEXAS

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. 205
ORDER NO. 849

THE APPLICATION OF E. J. McCURDY FOR
AN ORDER AUTHORIZING THE DRILLING OF
AN UNORTHODOX (FIFTH) LOCATION TO THE
"RED SAND" AND 1,214 FT. SOUTH OF THE
NORTH LINE AND 1,426 FT. EAST OF THE
WEST LINE (NE $\frac{1}{4}$ NW $\frac{1}{4}$) OF SECTION 20, TWP.
18 S., RGE. 32 E., N.M.P.M., AND TO
ADJUST THE ALLOWABLE FOR THE FIVE WELLS
IN SAID NW $\frac{1}{4}$ OF SECTION 20 IN THE YOUNG
POOL, LEA COUNTY, NEW MEXICO.

CONSENT TO MODIFICATION OF ORDER

Comes E. J. McCurdy, and respectfully shows to the
Commission:

1. That a hearing was held before the Oil Conservation
Commission of the State of New Mexico on December 1, 1949, upon
the application of E. J. McCurdy for approval of the drilling of
a fifth well for oil and gas to be located upon the NW $\frac{1}{4}$ Sec. 20,
T. 18 S., R. 32 E., N.M.P.M., Lea County, New Mexico, in what
is known as the Young Pool.

That after said hearing, and being fully advised in
the premises, the Commission entered Order No. 849 approving the
drilling of said fifth well at a location 1,214 feet South of
the North boundary and 1,426 feet East of the West boundary of
said Sec. 20, T. 18 S., R. 32 E., N.M.P.M., said order having
been entered on December 27, 1949.

2. That said order in granting permission to drill
said fifth well erroneously described said land as being in
Range 31 E., rather than 32 E., although the application for the
approval of the drilling of said well and the caption to the
order correctly described said land as being in Range 32 E.

3. That said order further provided "that the production from the five wells shall be prorated and never be allowed to produce in excess of the allowable for four legal forty acre tracts as now, or may hereafter, be allowed to the Young Pool".

4. That the application for the approval of the drilling of said fifth well requested that applicant be permitted to allocate the normal unit maximum allowable for four wells upon said land to the five wells, and it was the intention and purpose of said application that the NW $\frac{1}{4}$ of said Section 20 be unitized for proration and allowable purposes and that applicant be authorized to produce from said unitized tract the total allowable production as fixed by the Commission for the total number of developed forty acre proration units comprising such unitized tract, and also that no well located upon such unitized tract should be permitted to produce at a rate in excess of the top allowable as fixed by the Commission.

5. That applicant assumed that said order would provide for the unitization of the said NW $\frac{1}{4}$ Section 20 for proration and allowable purposes, and that said order would limit the production from said unitized tract as above indicated and it was not the intention or purpose of applicant to request or that he be permitted to produce any well located upon the said NW $\frac{1}{4}$ of Section 20, including the fifth well to be drilled, at a rate in excess of the top allowable as fixed by the Commission, and applicant is willing that the order heretofore entered be modified and amended to carry out the purposes and intention herein expressed.

WHEREFORE, E. J. McCurdy hereby consents to a modification of Order No. 849 in the following respects:

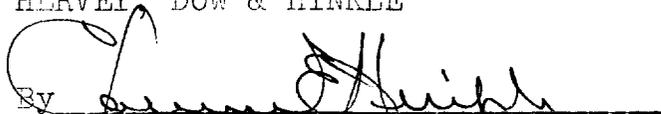
a. That said order be amended so as to correctly describe the NW $\frac{1}{4}$ Sec. 20, T. 18 S., R. 32 E., N.M.P.M.

b. That said order be modified so as to provide for the unitization for proration and allowable purposes of the said NW $\frac{1}{4}$ Section 20, and that applicant be authorized to produce from said unitized tract the total allowable production as fixed by the Commission for the total number of developed forty acre proration units comprising such unitized tract.

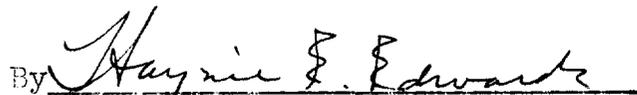
c. That said order be amended to provide that no well located upon said unitized tract shall be permitted to produce at a rate in excess of the top allowable as fixed by the Commission.

Respectfully submitted,

HERVEY, DOW & HINKLE

By 
Roswell, New Mexico

PHILLIPS, TRAMMELL, EDWARDS & SHANNON

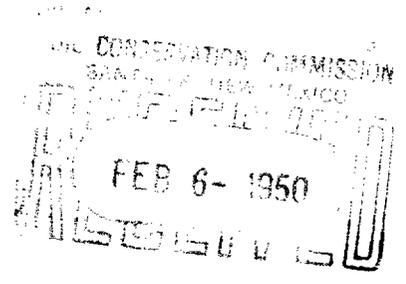
By 
Fort Worth, Texas

Attorneys for E. J. McCurdy

CERTIFICATE OF SERVICE

The undersigned, Clarence E. Hinkle, one of the attorneys for E. J. McCurdy, does hereby certify that he delivered a copy of the above and foregoing Consent to Modification of Order to Atwood, Malone & Campbell, attorneys for the Buffalo Oil Company, on the 1st day of February, 1950.


A handwritten signature in cursive script, appearing to read "Clarence E. Hinkle", is written over a horizontal line.



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. 205
ORDER NO. 849

THE APPLICATION OF E. J. McCURDY FOR
AN ORDER AUTHORIZING THE DRILLING OF
AN UNORTHODOX (FIFTH) LOCATION TO THE
"RED SAND" AND 1,214 FT. SOUTH OF THE
NORTH LINE AND 1,426 FT. EAST OF THE
WEST LINE (NE $\frac{1}{4}$ NW $\frac{1}{4}$) OF SECTION 20, TWP.
18 S., RGE. 32 E., N.M.P.M., AND TO
ADJUST THE ALLOWABLE FOR THE FIVE WELLS
IN SAID NW $\frac{1}{4}$ OF SECTION 20 IN THE YOUNG
POOL, LEA COUNTY, NEW MEXICO.

RESPONSE TO CONSENT
TO MODIFICATION OF ORDER

Comes now Buffalo Oil Company, and in response to
the instrument filed herein by Applicant McCurdy and denominated
Consent to Modification of the Original Order, states:

1. That the first application for approval of a
five spot location as filed with this Commission contained no
reference to the allocation of production in the event the
application for the drilling of the fifth well was approved,
and contained no reference to unitization of the NW $\frac{1}{4}$ of
Section 20, Township 18 South, Range 32 East for proration
and allocation purposes.

2. That no testimony was offered to the Commission
at the hearing on December 1, 1949 with reference to the
requested exception to the existing State-wide and Lea County
orders relating to spacing and proration. The transcript of

the hearing contains no testimony relating to the prevention of waste or the protection of correlative rights of adjacent owners.

3. The Consent to Modification of Order filed herein by E. J. McCurdy constitutes a new application with reference to unitization and allocation of production.

WHEREFORE, Buffalo Oil Company moves the Commission to consider the Consent to Modification of Order to be a new application for exceptions to existing State-wide and Lea County orders, and that upon rehearing the matter be heard de novo.

Respectfully submitted,

ATWOOD, MALONE & CAMPBELL
By Jack M. Campbell
Attorneys for Buffalo Oil
Company.

CERTIFICATE

Jack M. Campbell, being one of the attorneys for applicant, Buffalo Oil Company, hereby certifies that on February 2nd, 1950, he delivered a copy of the foregoing Response to Consent to Modification of Order to the offices of Hervey, Dow & Hinkle at Roswell, New Mexico, who are attorneys of record for E. J. McCurdy.

Jack M. Campbell

NOTICE OF PUBLICATION
STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

The State of New Mexico by its Oil Conservation Commission hereby gives notice of public hearing to be held February 8, 1950 beginning at 10:00 o'clock A.M. on that day in the Capitol Building, Santa Fe, New Mexico.

STATE OF NEW MEXICO TO:

E. J. McCurdy, c/o Hervey, Dow and Hinkle, White Building, Roswell, New Mexico; E. J. McCurdy, Fort Worth, Texas; Buffalo Oil Company, c/o Jack M. Campbell, Roswell, New Mexico; Buffalo Oil Company, Artesia, New Mexico, and to all persons having an interest in:

Case 205

In the matter of the Oil Conservation Commission's Order No. R-5, dated January 23, 1950, granting a rehearing in Case 205 whereby E. J. McCurdy, Jr. was granted, by Order No. 849, December 27, 1949, authority for an unorthodox location, and Buffalo Oil Company, an interested party having filed application and timely motion for rehearing of said case.

Given under the seal of the Oil Conservation Commission of New Mexico, at Santa Fe, New Mexico, on January 23, 1950.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


R. R. SPURRIER, SECRETARY

CLASS OF SERVICE
 This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable symbol above or preceding the address.

WESTERN UNION

1201

SYMBOLS	
DL	= Day Letter
NL	= Night Letter
LC	= Deferred Cable
NLT	= Cable Night Letter
Ship Radiogram	

W. P. MARSHALL, PRESIDENT

The filing time shown in the date line on telegrams and day letters is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination

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FOR R SPURRIER=

OIL CONSERVATION COMMISSION SANTA FE NMEX=

MOTION FOR REHEARING CASE NO 205 APPLICATION OF E J MCCURDY
 FOR AN UNORTHODOX "FIFTH" LOCATION YOUNG POOL BEING
 FORWARDED TO COMMISSION THIS DATE ON BEHALF OF BUFFALO OIL
 COMPANY=

ATWOOD MALONE AND CAMPBELL

OIL CONSERVATION COMMISSION
 SANTA FE, NEW MEXICO.
 JAN 16 1950

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No. 2870
 By [Signature] [Signature]
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205 =

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

In the matter of the application of)
E. J. McCurdy for an order authorizing)
the drilling of an unorthodox (Fifth))
location to the "Red Sand" and 1214 Ft.)
South of the North Line and 1426 Ft.)
East of the West Line (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of)
Section 20, Twp. 18 S., R. 32 E.,)
N.M.P.M., and to adjust the allowable)
for the five wells in said NW $\frac{1}{4}$ of)
Section 20 in the Young Pool, Lea)
County, New Mexico.)

Case No. 205



APPLICATION FOR REHEARING

Comes now Buffalo Oil Company, a corporation, by its attorneys Atwood, Malone & Campbell and applies to the Commission for rehearing in this case, in which Order No. 849 of the Commission was entered on December 27, 1949, and as its reason for the application states:

1. That said Buffalo Oil Company is affected by said order in that it is the owner of certain properties situated in the SW $\frac{1}{4}$ of Section 17, Township 18 South, Range 32 East, and that there is situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 17 a producing oil and gas well in which this applicant has an interest.

2. That 20 days have not elapsed since the entry of said order.

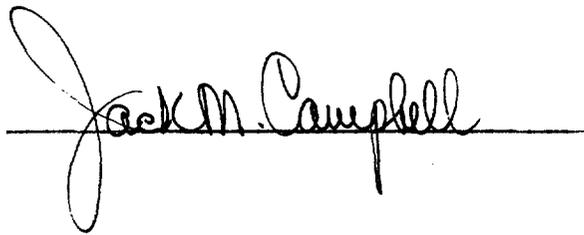
WHEREBY said applicant prays that its application for rehearing be granted.

ATWOOD, MALONE & CAMPBELL

By: Jack M. Campbell
Attorneys for Applicant
Buffalo Oil Company

CERTIFICATE

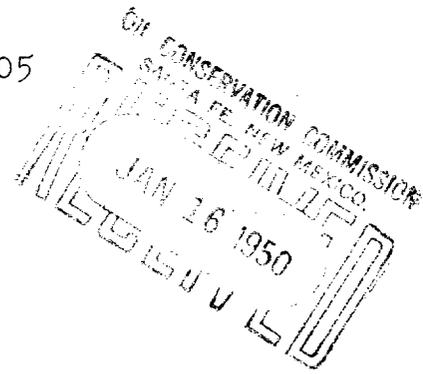
Jack M. Campbell, being one of the attorneys for applicant, Buffalo Oil Company, hereby certifies that on January 14, 1950, he delivered a copy of the foregoing application to the offices of Hervey, Dow & Hinkle at Roswell, New Mexico, who are attorneys of record for E. J. McCurdy.

A handwritten signature in cursive script, reading "Jack M. Campbell", is written over a solid horizontal line.

BEFORE THE OIL CONSERVATION COMMISSION OF THE STATE OF NEW MEXICO

In the matter of the application of)
E. J. McCurdy for an order authorizing)
the drilling of an unorthodox (Fifth))
location to the "Red Sand" and 1214 Ft.)
South of the North Line and 1426 Ft.)
East of the West Line (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of)
Section 20, Twp. 18 S., R. 32 E.,)
N.M.P.M., and to adjust the allowable)
for the five wells in said NW $\frac{1}{4}$ of)
Section 20 in the Young Pool, Lea)
County, New Mexico.)

Case No. 205



AMENDED APPLICATION FOR REHEARING

Comes now Buffalo Oil Company, a corporation, by its attorneys Atwood, Malone & Campbell and by this Amended Application applies to the Commission for rehearing in this case, in which Order No. 849 of the Commission was entered on December 27, 1949, and as its reason for the application states:

1. That said Buffalo Oil Company is affected by said order in that it is the owner of certain properties situated in the SW $\frac{1}{4}$ of Section 17, Township 18 South, Range 32 East, and that there is situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 17 a producing oil and gas well in which this applicant has an interest.

2. That 20 days have not elapsed since the entry of said order.

3. That said order is believed by the applicant to be erroneous for the reason that it is prejudicial to its rights in that the allowable established is not upon a reasonable basis and the order fails to recognize its correlative rights with the result that there will be uncompensated drainage of the oil underlying the above described lands.

WHEREBY said applicant prays that its application for rehearing be granted.

ATWOOD, MALONE & CAMPBELL
By: Jack M. Campbell
Attorneys for Applicant
Buffalo Oil Company

CERTIFICATE

Jack M. Campbell, being one of the attorneys for applicant, Buffalo Oil Company, hereby certifies that on January 14, 1950, he delivered a copy of the foregoing amended application to the offices of Hervey, Dow, & Hinkle at Roswell, New Mexico, who are attorneys of record for E. J. McCurdy.

Jack M. Campbell

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. 205
ORDER NO. 849

THE APPLICATION OF E. J. MCCURDY FOR AN
ORDER AUTHORIZING THE DRILLING OF AN UN-
ORTHODOX (FIFTH) LOCATION TO THE "RED SAND"
AND 1214 FT. SOUTH OF THE NORTH LINE AND 1426
FT. EAST OF THE WEST LINE (NE/4 NW/4) OF
SECTION 20, TWP. 18S, R.32E, N.M.P.M., AND
TO ADJUST THE ALLOWABLE FOR THE FIVE WELLS IN
SAID NW/4 OF SEC. 20 IN THE YOUNG POOL, LEA
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This matter came on for hearing at 10:00 o'clock A.M. on December 1, 1949, at Santa Fe, New Mexico before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission".

NOW on this 27th day of December, 1949 the Commission having before it for consideration the testimony adduced at said hearing and being fully advised in the premises,

FINDS:

1. That due public notice having been given as required by law, the Commission has jurisdiction of this cause.
2. That the acreage involved in said application is Federally owned and the Supervisor of the United States Geological Survey interposes no objection to the proposal after applicant executes and files a non-segregation stipulation.
3. That applicant has officially filed said non-segregation stipulation.
4. That heretofore there has been drilled to the "red sand" four producing wells upon the NW/4 of said section 20.
5. That a fifth well 1214 ft. south of the north boundary and 1426 ft. east of the west boundary of section 20, township 18 south, range 31 east, N.M.P.M. in the Young pool, Lea County, New Mexico in all probability would recover oil that otherwise might not be recovered.

IT IS THEREFORE ORDERED that the application of E. J. McCurdy, Jr. for an order granting permission to drill the fifth well, McCurdy-Young #5, 1214 ft. south of the north line and 1426 ft. east of the west line (NE/4 NW/4) of section 20,

Twp. 18 south, R. 31E., N.M.P.M. in the Young pool, Lea County, New Mexico be,
and the same hereby is approved,

PROVIDED HOWEVER, that the production from the five wells shall be prorated and
never be allowed to produce in excess of the allowable for four regular 40-acre
tracts as now or may hereafter be allocated to the Young pool and

PROVIDED FURTHER that a non-segregation stipulation satisfactory to the Supervisor
of the United States Geological Survey is filed with the Commission.

DONE at Santa Fe, New Mexico on the date hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

/s/ THOMAS J. MABRY, CHAIRMAN

GUY SHEPARD, MEMBER

R. R. SPURRIER, SECRETARY

LEA COUNTY OPERATORS COMMITTEE
HOBBS, NEW MEXICO
January 9, 1950

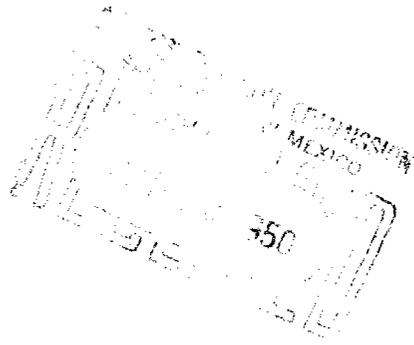
LAW OFFICES
HERVEY, DOW & HINKLE
ROSWELL, NEW MEXICO

J. M. HERVEY
HIRAM M. DOW
CLARENCE E. HINKLE
W. E. BONDURANT, JR.

January 18, 1950

GEORGE H. HUNKER, JR.

Via Air Mail



Mr. R. E. Spurrier, Secretary
New Mexico Oil Conservation Commission
Santa Fe, New Mexico

Re: Case No. 205 - Five-spot Location of
E. J. McCurdy, Jr.

Dear Dick:

We hand you herewith answer of E. J. McCurdy, Jr., to the amended application of the Buffalo Oil Company for rehearing in the above case.

As I advised you over the telephone, the depth of the well is such that it would certainly be a great injustice to Mr. McCurdy to permit a rehearing on this matter at this time.

The 1949 Act amending the Conservation Act providing for filing of applications for rehearing provides for granting of such rehearings where the order or decision is believed to be erroneous. The Commission certainly had jurisdiction in this case by reason of having given the statutory notice of the hearing, and the order is within the scope of the authority of the Commission to make, and it could not possibly be erroneous in the sense that the Commission had no authority to enter the order or jurisdiction over the subject matter. We are inclined to believe that the 1949 Amendment was for the purpose of correcting orders or decisions of the Commission which for some reason have been irregularly entered, and that it was not the intent and purpose of the statute to open up all matters for re-trial or rehearing which may have been decided by the Commission after giving regular notice of the hearing. Otherwise, it would seem to us that you would have a situation where the first notice did not amount to anything and that anyone could simply sit back and wait to see what the Commission did, and if it did not happen to suit them they could come in and ask that the whole matter be opened up and heard again.

Yours sincerely,

HERVEY, DOW & HINKLE

By 

CEH:rh