BEFORE THE
OIL CONSERVATION COMMISSION
STATE OF NEW MEXICO

TRANSCRIPT OF PROCEEDINGS

Case No. 373

Regular Hearing
May 20, 1952



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BEFORE THE
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO

May 20, 1952

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Oil Conservation Commission's application relating to extension of Oil Conservation Commission Rule 104 (m) to provide that the Secretary of the Commission shall have authority to approve the pooling of fractional lots of 20.49 acres or less with another oil proration unit when the units involved are (1) part of the same basic lease, carrying the same royalty interest; (2) when the ownership of the leases is common; and (3) when the leases are contiguous and substantially in the form of a square; and other provisions as legally advertised in oil-producing counties of New Mexico.

Case No. 373

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(Notice of Publication read by Mr. Graham.)

MR. CAMPBELL: The Commission called this. I have a problem in connection with it. If the Commission please, this was a notice set up on the Commission's own motion to attempt to work out some kind of a system of approval of unitization of two proration units where they are owned under the same lease and where they can be granted an automatic increased allowable upon the furnishing of certain information to the Commission. I have noticed in the suggested procedure that the Commission suggested giving the Secretary the power to do this. I feel that certainly

one amendment that should be made or one suggestion that should be made is that it be the Commission and not the Secretary of the Commission.

There are going to be a great number of these occur as development proceeds up and down the state line. I can see no reason where the ownership is the same of granting this. The only difficulty is that the proration people don't have the authority without some Commission order to give an allowable to these tracts along the state line because they are separate tracts. This would simply authorize the Commission upon the furnishing of surveys showing the size of the tract and satisfactory evidence of the lease ownership to automatically give an allowable to the entire area as one unit. I believe it will save a considerable number of hearings, and I think that is a practical way to approach it without the necessity for clogging up the hearings with a lot of the applications on the state line over there particularly.

MR. SELINGER: Would you have any objections if the suggested amendment included a provision that all the offset operators to the units involved be notified so that they will have the opportunity of voicing their opinion in case there is, for example, some unproductive acreage or dry holes involved, at least the offset operators will be notified of the intention of the Commission. If no objection is had by the offset operators then the Commission can automatically go ahead and grant it.

MR. CAMPBELL: With some kind of a time control?

MR. SELINGER: Yes, ten days.

MR. CAMPBELL: I don't know that there would be any objection. There could be a situation, I suppose, where they would have an objection to the granting of the additional allowable.

MR. SELINGER: I have in mind one area which would offset Skelly's acreage. I believe it is in the east Hobbs Pool wherein there was a dry hole drilled and an operator attempted to take a portion of the unit from which the 40-acre unit had a dry hole on and attempted to attach it to another well on his lease. If we hadn't had the notice of the hearing, why, we would never have known it. That is all I had in mind, that the offset operators be given a reasonable time to voice their opinions, say ten days, then if they don't, the Commission would be authorized to automatically grant it.

MR. CAMPBELL: I can see the possibility. I do think it should be New Mexico operators. We should not get into the Texas offsets. We would run into a lot of trouble because of the difference in allowable. I think the Commission would make that clear anyway. My consideration is that normally it is a routine matter in normal cases and for the sake of the saving of time if we can cut down the procedural aspects of it and be fair to everybody, I think it would be a good thing to do.

MR. SELINGER: We agree on that.

MR. MACEY: Is it your recommendation that the Commis-

sion do the notifying?

MR. SELINGER: No, the one making the application for the additional acreage be burdened with the duty or task of notifying the offset lease owners and advise the Commission, and at the expiration of ten days the Commission would automatically grant it.

MR. SPURRIER: Not necessarily requiring waiver but just notification?

MR. SELINGER: Just notifying.

MR. McPHERON: You stated offset lease?

MR. SELINGER: I mean the offset units, the unit involved.

MR. WHITE: Why couldn't the applicant obtain the consent of the offset operators prior to filing their application and have it right on the application?

MR. SELINGER: That is followed in several other states and a great many times it involves a great deal of time. Whereas, if you put it on the ten day notice, the burden is on the offset unit operators to act. We find it more satisfactory if a time limit is placed on the surrounding offset unit. Then they operate. They work fast. It doesn't unduly delay.

MR. COLLISTON: I would like to make comments on that. Most of the points that have been brought out in use in many of the states where we operate. This automatic procedure is not new. In fact, various commissions have found it beneficial. Texas has

made very excellent use of the automatic procedure to cut down the number of hearings before them. They have developed a rather well-rounded procedure that gives everybody a chance to be heard, yet at the same time give the Commission power to act immediately and give the operator the relief he wants. The procedure in such cases is, roughly, as follows: The applicant sends to the offset operator a copy of his application to the Commission. And he states to the Commission in the application that he was furnished those copies. If he can at the same time present waivers from all offset operators at the time that he files his application, the Commission is authorized to give the applicant his relief immediately with no delay. If he is not able to present waivers from all the offset operators, doesn't desire to ask for them, he has to wait a statutory time, ten days, before the Commission can give him his order, providing there is no objection. If there is objection from an offset operator, the matter must be heard in the normal fashion.

I would suggest, respectfully suggest, to the Commission and urge the Commission in New Mexico that they make the utmost use of automatic procedure wherever such procedure is justified, but that they require notice to offset operators provided the application and release by immediate order if he can supply the waiver and call a hearing if an objection is received within a reasonable length of time, which would certainly be ten days with the mails as slow as they are now.

MR. SPURRIER: Thank you.

MR. BOND: Yes, I would like to ask a question. Lewis Bond for Stanolind Oil and Gas Company. I would like to ask if the qualifications that are listed in this notice about the tracts having to be a part of same basis lease and same royalty interest, etc., if those conditions would be met by pooling one of these tracts with the 40 acres. In other words, say that you had a 10-acre tract of a different ownership and voluntarily pooled with the 20, would you then consider that these conditions had been met as far as the same royalty ownership?

MR. SPURRIER: If you expect me to answer, I had better get, for sure, what you mean.

MR. BOND: My question was just this: I didn't see why the Commission's authority to approve units of this type should be limited to those cases where the tracts involved were all of the same basic lease, same royalty ownership, and the other conditions listed. If a 10-acre tract were available there for pooling of a different royalty ownership and by voluntarily pooling agreement it was made a part of your 40-acre unit, would that satisfy your conditions?

MR. SPURRIER: I think it could. I see no reason why we couldn't.

MR. GRAHAM: You have reference to a recent case before the Commission?

MR. BOND: No, sir, I wasn't referring to a particular

case. I thought it would give more latitude to the Commission in approving the units. In other words, as it is now unless they are the same royalty ownership, we would still be required to have a hearing. If it were pooled, I think that condition -- I just want to get that point cleared up.

MR. GRAHAM: Where we have a 40-acre tract and 9-acre tract subject to a pooling agreement, it seems to me you could make the same situation as this.

MR. BOND: It seems to me that it would be considered one basic lease after that. I wanted to be sure that is the way the Commission was interpreting the order, and to recommend that it be given that interpretation, and that the order be adopted by the Commission.

MR. MACEY: You mean that if the operator furnishes the Commission with a copy of a pooling agreement involving the acreage involved make the rule read that it would be covered by this rule?

MR. BOND: That is correct.

MR. MORRELL: Foster Morrell representing himself. If it be of assistance to the Commission, I would like to introduce into your record the thought that you have somewhat of a double jointed proposition considered under this proposed order. By that I mean we will be involving small lots along the Texas-New Mexico state line that are of the nature of only two and a half acres. Up to the 20.49 limitation. It seems to me under that,

where two of those lots are considered as proration units to be combined with themselves as the lots combine with another lot that the suggestion by Mr. Colliston is very good. That there should be consideration with the offset operators. But you have also the other condition where small lots are east of a full 40-acre proration unit on the same basis at least with the same royalty in that really doesn't involve the offset operator there you would be adding seven acres to a 40, such as the Magruder case that was heard before the Commission heretofore. It seems to me that the first sentence of the proposed Rule 104 (m) which says, "that the Secretary of the Commission shall have authority to approve the pooling of fractional lots of 20.49 acres or less with another oil proration unit," could have either added after the word "another or substituted for another a 40-acre unit, 40-acre or proration unit." In other words, you are adding a lot to a 40-acre proration unit in one case and the other you might be adding a lot to a lot. Where it is a lot added to a lot I think Mr. Colliston's position is very well taken. But where it is a 40 acres plus a small addition it should be allowed automatically. Another suggestion under item No. (3), you say where "the leases are contiguous." I was wondering if the words "proration units" should not be substituted for the word "leases." I question also or the wisdom of having the words "and substantially in the form of a square" remain since you are adding it to something that is either already a square or oblong. It is going to be more oblong

than it was to begin with. I don't believe they add anything. I suggest putting a period after the word "contiguous". Those are thoughts offered for what they may be worth.

MR. COLLISTON: Mr. Spurrier, I would like to go in with Foster in striking that in the form of the square and with Jack Campbell in striking the words of the secretary before the Commission. I still think the Commission would be taking the wrong step to institute any automatic procedure that denied an offset operator if he had an interest in the matter from his right to notice and hearing. I think that would be a very bad precedent for the Commission to start. If the offset operator has no interest, it goes unchallenged, but he does have the right to notice and hearing. What do you think, Judge Foster, on that?

MR. FOSTER: Of course he ought to have a right to be heard. It couldn't be denied. I don't care what you got in the rule.

MR. COLLISTON: I don't think the Commission can deny him the right to have notice and be here. That is a legal point I would rather the lawyers would argue. I would like that privilege.

MR. SPURRIER: It is well taken.

MR. CAMPBELL: I might state as far as my interest is concerned, I certainly have no objection and I think that the offset operators are entitled to notice of what is taking place. My only interest is to cut the time element down and eliminate,

where practical, the necessity for hearing in connection with it. I think they are entitled to notice and an opportunity to be heard if they have a legitimate objection that the Commission should hear.

MR. SPURRIER: Any further comment? If not, the case will be taken under advisement and we will return to Case No. 372.

STATE OF NEW MEXICO )
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COUNTY OF BERNALILLO )

I HEREBY CERTIFY that the foregoing and attached transcript of hearing in Case No. 373 before the Oil Conservation Commission, State of New Mexico, at Santa Fe, on May 20, 1952, is a true and correct record of the same to the best of my knowledge, skill and ability.

DATED at Albuquerque, New Mexico, this _____ day of May, 1952.

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REPORTER