BEFORE THE
OIL CONSERVATION COMMISSION
STATE OF NEW MEXICO
at
Santa Fe, New Mexico
December 17, 1953

In the Matter of: Application of Aztec Oil & Gas Company for exception to Rule 7(a) of Order No. R-370-A to permit establishment of an unorthodox gas proration unit of 120 acres, more or less, consisting of the E/2 SW/4 and NW/4 SE/4 of Section 27, Township 19 South, Range 37 East, in the Eumont Gas Pool, Lea County, New Mexico Application of Aztec Oil & Gas Company for exception to Rule 7(a) of Order No. R-370-A to permit establishment of an unorthodox gas proration unit of 120 acres, more or less, consisting of the SW/4 NW/4 of Section 27, and the E/2 NE/4 of Section 28, Township 19 South, Range 37 East, in the Eumont Gas Pool, Lea County, New Mexico. Application of Aztec Oil & Gas Company for exception to Rule 7(a) of Order No. R-370-A to permit establishment of an unorthodox gas proration unit of 160 acres, more or less, consisting of the W/2 SW/4 of Section 27, and the E/2 SE/4 of Section 28 in Township 19 South, Range 37 East, in the Eumont Gas Pool, Lea County, New Mexico.	Case No.s 619 620 621 (Consolidated)

MR. DAVIS: Quilman Davis, representing Aztec Oil and Gas Company. If the Commission please we would like to have 619, 620 and 621 consolidated since the testimony will be identical in all of these cases.

(Notice of Publication read by Mr. Graham.)

(Aztec's Exhibit No. 1 Marked for Identification in Cases No. 619, 620 and 621)

A. M. WIEDERKEHR

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. DAVIS:

Q Will you please state your name?

A A. M. Wiederkehr.

Q By whom are you employed, Mr. Wiederkehr?

A Southern Union Gas Company.

Q In what capacity?

A Reservoir Engineer.

Q What relationship does Aztec Oil and Gas Company have with Southern Union Gas Company?

A Aztec is a wholly owned subsidiary of Southern Union Gas Company.

Q In performing work for Southern Union you likewise perform work for Aztec Oil and Gas Company?

A I do.

Q Have you testified before this Commission before?

A I have.

MR. DAVIS: Are the witness' qualifications acceptable?

MR. WALKER: They are acceptable.

Q Mr. Wiederkehr, are you familiar with the operations of Aztec Oil and Gas Company in the Eumont Pool of Lea County, New Mexico?

A I am.

Q Are you also familiar with the wells, Burk wells No. 1 and 2, and the Maxwell well No. 1, owned by Aztec in such pool?

A I am.

Q Are these wells currently producing gas?

A They are.

Q To which line are they connected?

A Connected to Southern Union Gas Company.

Q Mr. Wiederkehr, I want to direct your attention to Aztec's Exhibit No. 1 on the board, would you please indicate the nature of Aztec's application in Cases 619, 620, and 621?

A Aztec Oil and Gas Company acquired from Southern Union three wells, There are two separate and independent leases. The west half of the east, the west half of the northeast quarter, east half of the northeast quarter section 28, the east half of the southeast quarter of 28, the west half of the southwest quarter of 27 and the southwest quarter of the northwest quarter of 27 all comprise one base lease which is fee. The east half of the southwest quarter of 27, and the northwest quarter of the northeast quarter of 27 is another base lease, being state land. Southern Union Gas Company drilled these wells,I will refer to them as Aztec wells. Aztec-Burk No. 1 well, located in the East half of the southeast quarter of 28, the No. 2 well is located in the east half of the northeast quarter of 28,and the Maxwell State Well No. 1 is located in the east half of the southwest quarter of Section 27. These wells, particularly Aztec's Maxwell State No. 1 and Burt No. 2 are marginal wells.

Q Mr. Wiederkehr, these lands that you have been referring to are all in Township 19 South, Range 37 East?

A That is right.

Q Is that right?

A Yes.

Q Mr. Wiederkehr, first let me ask you who is the owner of

the fee lands involved in the Burk wells No. 1 and 2?

A Mr. T. E. Burk.

Q Did Southern Union make an effort at the time it drilled those two wells to communitize and pool Mr. Burk's lands to form regular orthodox gas units and/or orthodox units?

A Southern Union made such an attempt when the wells were drilled.

Q What was the results of those attempts?

A Mr. Burk said he does not want to communitize any part of his holdings.

Q Do you have a copy of Mr. Burk's reply and a copy of Southern Union Gas Company's letter to Mr. Burk asking for communitization and pooling of these lands?

A I have a copy of a letter written January 5th by Southern Union's land man to Mr. Burk. A follow-up letter to January 23rd and an answer on the back of the follow-up letter.

MR. DAVIS: Would you mark those?

Q What year was that correspondence written in?

A January, 1951.

(Aztec's Exhibit No. 2&3 Marked for Identification in Cases No. 619, 620 and 621)

Q Mr. Wiederkehr, do you have some production information data or contour maps with respect to these three locations, or these three wells?

A We do have a contour map of this green area contoured on the top of the Queen Formation, which is a pay formation. This contour map shows, it is a structural map which shows a marked drop to the

east in that particular formation.

Q Is that a copy of the contour map you are referring to?

A It is.

(Aztec's Exhibit No. 4 Marked for Identification in Cases No. 619, 620 and 621)

Q Is there any other information that you have concerning the contour map or what the effect of it is on these three well locations?

A I might point out that according to our structural relationship between the Maxwell No. 1 and the Burk No. 2, and our production history correspond quite well on those. The Maxwell No. 1 being considerably lower has the lowest productive capacity; the Burk No. 2, next, has the next lowest, and the Burk No. 1 has the best production capacity.

(Aztec's Exhibits No. 5, 6 and 7 Marked for Identification in Cases No. 619, 620 and 621)

Q Will you briefly explain what Aztec's Exhibits 5, 6 and 7 constitute?

A They show 1953 production from each of these wells by months as well as acumulative production through November of 1953 for each individual well. They show that the Maxwell No. 1 well during the year 1953, that is through November, 1953, the maximum monthly production was four million, thirty-five thousand cubic feet. The maximum production from the Burk No. 2 well was six million, one hundred seventy-four thousand cubic feet, while the production from the Burk No. 1 averaged somewhere around twenty-three million feet per month.

Q Do you have the cost of those wells, the drilling cost,

completion costs?

A Yes.

Q Round figures?

A Aztec's Burk wells No. 1 and 2 cost approximately forty-four thousand. The Maxwell State Well cost approximately seventeen thousand dollars.

Q Do you have any other information you think might be helpful to the Commission in connection with these applications?

A I would like to point out to the Commission that we, these particular wells, particularly the Maxwell State No. 1 and Burk No. 2 are both the outer wells within that particular pool. There are no wells either to the northeast or to the east within that pool and we feel that due to the fact that these are marginal wells that the cost of drilling according to our production figures would be recovered in seven plus years. We don't feel that anyone else could be justified in drilling further to the east, and for that reason we see no reason why the Commission should exempt us from the normal spacing pattern.

Q In other words, what we are asking for in the case of the Burk No. 1 well, we are asking for a three-fourths allowable?

A That is correct.

Q The Burk No. 2, we are asking for a full allowable on 160 acre tract?

A That is correct.

Q From Maxwell State No. 1 we are asking for three-fourths allottment?

A Correct.

Q Do you have anything else in connection with those?

A No, sir, I don't.

MR. DAVIS: As a matter for the record, here, I would like to point out to the Commission that we have this morning been discussing with Gulf the possibility of pooling and communitizing the northwest quarter, northwest quarter of Section 27, Township 19 South, Range 37 East, to form a full 160 acre proration unit for the Burk No. 2 well as pooling their lands in the southwest, southeast of 27,19,37 to form a full 160 acre proration unit for the Maxwell State No. 1 well. Aztec, of course has no objection whatsoever to permit Gulf to come in on these two wells. If we are successful in working out negotiations between the two companies,the specific royalty owners,and lease owners involved,we are more than glad to do that. We will certainly discuss the matter with Gulf more as soon as we get home. We are unable to make any decisions here this morning, but I did want to point that out to the Commission, that we would like for the order to permit us to come back and ask for a full 160 acre allowable for those two wells if we are successful in communitizing with Gulf. That is all we have. I would like to introduce into the record Exhibits, Aztec's Exhibits 1 through 7, inclusive.

MR. SPURRIER: Without objection they will be admitted. Does anyone have a question of the witness?

MR. HINKLE: Clarence Hinkle, representing Humble Oil and Refining Company.

(Questions by Mr. Hinkle)

Q Mr. Wiederkehr, according to the plats which you have intro-

duced in evidence they are the northwest quarter of Section 27, 19, 37, is a standard or regular proration unit, is it not?

A That is correct.

Q Set up under the Commission's order. Does your plat show that the Humble owns any acres there?

A Forty acres.

Q What forty?

A Southeast quarter of the northwest quarter.

Q Have you made any effort as far as the Humble is concerned to communitize the northwest quarter?

A We have not.

Q Of that tract?

A We have not.

Q Have you made any effort as far as Mr. Burk is concerned to communitize or pool the northwest quarter since this proration order was entered?

A We have.

Q Since the proration order?

A We have.

Q What was the result?

A Nothing. We didn't get an answer to our letter.

Q He didn't refuse, he just didn't reply?

A He just didn't reply.

MR. HINKLE: That is all.

MR. SPURRIER: Mr. Stanley.

MR. STANLEY: As a matter of personal knowledge would you read the letter from Mr. Burk?

A What is that?

MR. STANLEY: Didn't you submit a letter into evidence from Mr. Burk?

A This is the old one. It is when we originally drilled. We did not submit the last letter we wrote.

MR. DAVIS: We will be glad to introduce it if you want it. We had no reply so we see no need to introduce it.

MR. CAMPBELL: I would like to ask a few questions for Gulf Oil Corporation.

(Questions by Mr. Campbell)

Q Mr. Wiederkehr, prior to the discussions this morning which Mr. Davis has referred to, and since the order number R-370-A which is the proration order in the Eumont Gas Pool has any effort been made by Aztec or Southern Union to communitize with Gulf the northwest quarter of the northwest quarter of Section 27 into your proposed unit?

A No, we have not, so far as I know.

Q Is that same thing true with reference to the forty acre Gulf tract in the southwest quarter of the southeast quarter of Section 27?

A That is correct.

Q Has any consideration, Mr. Wiederkehr, been given to the possibility of attributing the entire northwest quarter of Section 27 to this well in the east half northeast quarter of Section 28, or will it make that much gas?

A Our records indicate that the well is capable of producing between six and seven million feet per month, which according to us

would not justify more than the 120 acres we have given it.

Q Do you think it would justify that much?

A It is all under one lease.

Q I notice that you have proposed to include in one of these units Case 619, that is your 120 acre unit in the south, on the east half of the southwest quarter and the northwest quarter southeast quarter of Section 27 that you intend to include in that 40 acre tract, which, I believe, is outside the boundaries of the Eumont Gas Pool, is that correct?

A That was pointed out to me this morning.

Q Do you propose to request the Commission to include that in the Eumont Gas Pool?

A We do.

Q Does your geological information indicate that that forty acre tract would be productive of gas were it drilled?

A We believe there is some marginal gas there. We seriously doubt it would justify the completion of the well. Since the well is there already we think we have proved there is some small amount of gas there we can recover.

Q Does that, the southwest quarter of the southeast quarter of Section 27, which is Gulf's 40 acre tract in that 160 acre unit, would also be productive of some gas?

A It would have some gas.

Q And could probably, you could probably attribute some of the production from that well to the forty acre tract, is that correct?

A You could.

MR. CAMPBELL: I believe that is all.

MR. SPURRIER: Anyone else?

MR. GRAHAM: Does Southern Union know if Mr. Burk still lives?

MR. DAVIS: We wouldn't want to make that statement for the record.

MR. CAMPBELL: I have one more question I have overlooked, if I may.

Q I believe you stated that these wells were producing from the Queen Formation?

A That is correct.

Q Where in the Queen Formation are these wells producing from?

A The geological information I looked at prior to the time I left said Penrose. I am not a geologist, I am taking that from the geological department.

Q Do you know where that is in the Queens?

A It is down in the lower section according to the map, the log at which I was looking.

Q There is a possibility that these wells aren't producing from the Eumont Gas Pool, then, isn't there?

A You got me, I don't know.

MR. CAMPBELL: That is all.

MR. SPURRIER: Anyone else?

MR. HINKLE: I have a question.

(Questions by Mr. Hinkle:

Q Mr. Wiederkehr, I believe it was brought out in the testimony by a question of Mr. Campbell's that the northwest quarter of the southeast quarter of 27 is not within the limits of the Eumont Field, is that right?

A That is correct.

Q Why did you include that forty which is outside the limits rather than try to take in the Humble's which adjoins that, which is within the field?

A Primarily, Mr. Hinkle, because we have been unsuccessful in trying to communitize acreage with Mr. Burk. And just as I pointed out before we don't think, we know that the wells are not making enough gas to warrant anymore acreage included within the unit; that any other acreage is going to be excess and we feel that if anybody thinks that there is commercial production east of us that there is plenty of space they can go ahead and drill. We are sure that when they get through drilling that they will have all the acreage they need for their allowable.

MR. DAVIS: Excuse me just a minute. One correction, Mr. Wiederkehr, you referred to Mr. Burk, that is the Maxwell State Well that he is referring to, is it not?

MR. HINKLE: Yes.

MR. DAVIS: In other words, you were going - -

MR. HINKLE: (Interrupting) Why couldn't you include, if you are going to have an unorthodox unit, the Humble's southeast of the northwest quarter of 27 with the east half of the southwest quarter of Section 27, instead of including the forty which is entirely outside the field?

A Mr. Hinkle, something that was not put into the record, but there are two independent, or there were two leases from which we obtained this base lease, they have been communitized heretofore. Actually, the north half of this 120 acres and the south 40 being the other 40 acres were communitized heretofore. When we drilled

that well originally. That is the reason we were including that, all of that within that one well.

MR. DAVIS: Let me get the record clear on that particular point. In other words, the entire proposed unit for the Maxwell Well is a state lease?

A Right.

Q A single state lease, and out of the state lease, part of it was assigned to J. C. Maxwell and part of it assigned to Stanolind Oil and Gas Company. Southern Union in turn took a farm-out agreement from each of those companies and thereby,and they each reserved an over-ride and their interest in those respective leases were pooled so as to complete at least 120 acre drilling unit , is that correct?

A That is correct.

MR. FOSTER: Mr. Foster, I would like to ask one question.

(Questions by Mr. Foster)

Q Phillips is interested in this particular pool. I am not quite clear in regard to your statement about allocating acreage, to the well that would give it too much allowable.

A The present rules call for one hundred percent acreage allocation, the more acreage you can include within that unit the more allowable you would get,the way I read the rules.

Q That is the method of allocating the total field allowable to the individual well?

A Right.

Q Are you saying that you don't want to put 160 acres back of this well because it will allocate too much of the total field allowable to the well.

A I am not - - I am saying that the well can not make, would not be able to make its allowable on 120 acre spacing basis.If you give it 160 you would thereby increase its allowable and it still wouldn't be able to make it.

Q The fact that a well won't make its allowable,in your opinion, would offer reason for ordering an unorthodox unit, is that what you are saying?

A I don't know just what you are talking about.

Q Well, you are asking for an unorthodox unit here?

A That is right.

Q One of the reasons that you want it is because if you had 160 acres back of the well it wouldn't make its allowable?

A No, sir. The reason we ask for this is because it is all one base lease, there is a well on it already and it is fee lease and we haven't been able to communitize it any other way.

Q Well, then,what is your objection to putting 160 back of the well instead of 120?

MR. DAVIS: May I answer you on that? I think I can. We are not objecting to allocating 160 acres to either one of these. We just, it hasn't been done yet and since Aztec owns the 120 acres which is being dedicated, or allocated to the Burk No. 2 Well we are asking for three-fourths allowable with a full allowable if we are able to work out pooling with Gulf up here.

MR. FOSTER: What confuses me is when you say you are asking for a three-fourths allowable. I don't understand that. The principle of the thing is the part I am interested in.

MR. DAVIS: I will - - we will take a whole allowable, but

I don't think the Commission would give us but three-fourths of 120.

MR. FOSTER: You don't want 160 back of the well, could you put 160 back of the well?

MR. DAVIS: If we could communitize.

MR. FOSTER: You don't want to put 160 back of the well?

A I say it would be a waste of acreage.

MR. FOSTER: Are you opposed to communitizing it because it would waste the acreage.

A No, we are not opposed to it. We are perfectly willing to communitize it if it can be worked out with the other operator and with our royalty owner. That statement has been made.

MR. FOSTER: The 160 acres that goes back of the well, if you could unitize is that all under one basic lease?

A 120 is the 120 that we own.

MR. FOSTER: The other 40 is under another lease?

A It belongs to Gulf.

MR. FOSTER: Is the Gulf lease held by production?

A I don't know.

MR. FOSTER: Then you don't have any trouble about the royalty owners as far as communitizing?

A If we communitize we would certainly have to get Mr. Burk's approval.

MR. FOSTER: You could communitize the lease interest portions, could you not?

A The lease interest. You are still getting - - you are getting beyond the scope of an engineer again.

MR. FOSTER: Well, I didn't know that. That is all I have.

MR. SPURRIER: Anyone else have a question?

MR. MANKIN: I have a question, Mankin, with the Texas Company.

(Questions by Mr. Mankin)

Q Did you say that this well was producing from the Queen or the Grayburg?

A I said Queen.

Q Of the Maxwell State?

A I said Queen.

Q The Commission map shows it as Grayburg.

A I have questioned our geological department on that, they said it is Queen. It was drilled deeper at one time. It has been plugged back, I believe. That was prior to my association with Southern Union.

Q So it is Queen?

A As far as I know it is. That is the way we have it on record.

MR. MANKIN: That is all.

MR. SPURRIER: Mr. Campbell.

MR. CAMPBELL: Mr. Wiederkehr, is it your opinion , as a reservoir engineer, that whatever gas is being produced from the well in the east half of the southeast quarter of Section 27, part of the gas is coming from the southwest quarter of the southeast quarter which is the Gulf State lease?

A Very definitely. I might point out in that line that the total amount is very small, so you don't have much coming out of there. Maximum production, as we reported before, as between three and four million a month.

MR. SPURRIER: Anyone else? If not the witness may be excused.

MR. DAVIS: Excuse me just a minute. Mr. Wiederkehr, one more question. Since we have gotten involved a little bit on the Maxwell Well, do you have knowledge of the fact that at the time Southern Union drilled the Maxwell State Well that it invited Gulf into a unit which would have embraced the east half of the southwest quarter of 27 and the west half of the southeast quarter?

A I have seen correspondence covering that.

MR. DAVIS: At that time what was their reply to a proposed - -

A (Interrupting) They were not interested in joining a communitization agreement at that time.

MR. DAVIS: Notwithstanding that we are still willing to work out a communitization if it is agreeable with the two parties and the lease owners to agree upon a proper pool of the lease ownership?

A That is correct.

MR. CAMPBELL: When was that well drilled, now?

A That was - -

MR. DAVIS: 1951, '50?

A I think it was in the fall of '51. Yes, it was drilled, completed in the fall of '51.

MR. DAVIS: I believe you testified previously that you had not renewed that effort since proration went into the pool.

A I so testified.

MR. SPURRIER: Do you have any other witnesses?

(Mr. Hinkle excused)

MR. DAVIS: That is all.

MR. HINKLE: We have a witness.

LEON Mc MILLAN

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. HINKLE:

Q What is your name, please?

A Leon McMillan.

Q Are you employed by the Humble Oil Refining Company?

A I am.

Q In what capacity?

A Land man.

Q How long have you been with the Humble Oil Company?

A 23 years.

Q Are you familiar with their operations in New Mexico?

A I am.

Q What are your particular duties with respect to acreage in New Mexico?

A I handle the joint operations and unitization projects for the Humble Oil Refining Company.

Q Have you made a study of the gas proration and formation of proration units in the Eumont Field insofar as it relates to the Humble acreage?

A Yes, I have.

Q Are you familiar with the application of the Aztec Oil and Gas Company in Case 620?

A I am.

Q That application proposes to form a unorthodox unit consisting of the southwest quarter of the northwest quarter of 27, east half of the northeast quarter of Section 28, does it not?

A It does.

Q Has Humble any lease-hold interest in the northwest quarter of Section 27?

A Yes, Humble owns the southeast quarter of the northwest quarter of Section 27.

Q What kind of a lease is that, a fee - -

A (Interrupting) State.

Q Federal or State?

A State.

Q Under the standard proration unit the northwest quarter of Section 27 would be a standard proration unit under the proration order, would it not?

A That is right.

Q Do you know whether or not the Aztec Oil and Gas Company has invited the Humble Oil Company to join in any pooling arrangement or communitization agreement for the northwest quarter of Section 27?

A They have not.

Q Do you know the attitude of the Humble Oil Refining Company with respect to entering into a pooling agreement or communitization agreement covering the northwest quarter of Section 27?

A The Humble Oil Refining Company is ready and willing to join with the Gulf-Aztec in the formation of a regular 160 acre proration unit in the drilling of a gas well to the Queen sand.

Q And they would pay their proportionate part?

A Pay their proportionate share of the cost.

Q The Gulf Company own the north half of the northwest section of 27?

A According to this plot.

Q The Aztec the southwest quarter of the northwest quarter?

A That is right.

Q The Humble the southeast of the southwest, which would make up the proration unit?

A That is correct.

Q Is the northwest quarter of the section offset by any producing gas wells?

A Yes, it is offset on the south and west by a producing gas well.

Q Is it your opinion that these wells are draining from the northwest quarter of Section 27?

A I am not a geologist or an engineer, but I would think that they are draining the northwest quarter, due to the close proximity to the northwest quarter.

Q If the application 620 of the Aztec should be approved for this unorthodox pooling arrangement what effect would it have on the Humble acreage in the northwest quarter of Section 27?

A If the Commission grants the application for irregular-shaped unorthodox proration unit of 120 acres here it could have the effect of causing the other operators in the area and in the field to be forced to form irregular-shaped units or smaller-sized units, which would cause them to accept or reduce the allowable.

Q Would that necessarily apply to only this particular area

or would it be possible by so-called chain reaction - -

A (Interrupting) It could set off a chain reaction.

Q It might effect the spacing unit in the entire field, or a considerable part of it?

A Conceivably it could.

MR. HINKLE: I believe that is all.

MR. SPURRIER: Are there any questions of the witness?

MR. DAVIS: Yes, sir.

(Questions by Mr. Davis)

Q I am sorry, I didn't get your name?

A Mr. McMillan.

Q First let me ask you about this drainage. You say you are not an engineer and not a geologist, what do you base your idea on that there is drainage there?

A Well, did I testify that there was drainage?

Q That you thought there was drainage.

A Well - -

MR. HINKLE: Excuse me, I believe he testified that he was an engineer and couldn't testify.

A A land man. I couldn't qualify to testify as to what it was.

Q You couldn't say there was drainage?

A I couldn't say there is drainage.

Q Mr. McMillan, you are talking about this chain reaction of unorthodox units throughout the Eumont Pool, by virtue of these three little unorthodox units, isn't that rather hypothetical? We are talking about an area over here to the edge of the pool, are we not? How would that carry back all the way through the pool?

A Well, you are starting off with an unorthodox unit crossing section lines. If you are going to set up a pattern of your drainage with a well in each quarter section and try to stay within legal subdivisions of a section you start off with an unorthodox unit that is going to extend to the operators around there.

Q Do you have anything, any acreage over in the remainder of Section 28?

A No, we have not. We do have other acreage in other parts of the field.

Q All right, now, as to Section 27, have you ever approached Gulf about communitizing the east half of the northwest quarter and the west half of the northeast quarter of Section 27 to drill a well?

A We have not.

Q Don't you think that could be a unit just as good as the northwest quarter of Section 27?

A Not knowing the geology andnot being a geologist I would not be able to answer your question.

Q It would be a 160 acre unit, would it not?

A Could be.

Q What I am talking about, one unit there of the east half of the northwest,and west half of the northeast would be 160 acres, assuming they are full legal quarter sections?

A Would be.

MR. DAVIS: That is all.

MR. SPURRIER: Any other questions?

MR. WHITE: May I ask a question? In the event this unorthodox

unit is allowed, in other words, the southwest quarter of the northwest would be within the unorthodox unit.Under our rules you have to have 160 acres, how could you drill a new well within the 160 acres in the northwest quarter, it would be impossible, would it not?

A It would be impossible.

MR. SPURRIER: Anyone else?

MR. HINKLE: If the Commission please I would like to make a motion at this time.Humble is only interested in Case 620 of these several cases which have been consolidated. Of course, this motion made on behalf of Humble will go only to Case 620. The Humble would like to make a motion to dismiss the application of the Aztec Oil and Gas Company in connection with Case 620, on the ground that the New Mexico Oil Conservation Commission had no jurisdiction to entertain or approve application for approval of an unorthodox proration unit unless all parties in interest have consented thereto. I realize that this motion raises a very serious question and one which, if sustained, would set a pattern for the Commission to follow in all of these cases, and would be very far reaching. For that reason I want to urge the Commission to give serious consideration to this motion and in support of it I would like to say this: The order setting up the special rules in connection with the Eumont Field and these other fields in southern New Mexico containslanguage - - Section 7A, I believe it is, of those orders, containslanguage which is probably broad enough to permit the Commission to approve unorthodox proration units. Now, by unorthodox units I mean those in the sense that they cross section lines, or across quarter section lines, not unorthodox units within the square 160 acre units, which

are set up under those proration orders. Now, in the application of these special units are rules which are set up under those orders. I think it is the position of the Humble that the Commission is necessarily limited in applying them to the powers granted under the Conservation Act, to the Commission. All of these applications, where they are not made with the consent of all of the parties, necessarily have to be made under Section 13-C of the New Mexico Conservation Act. That provision provides that "the pooling of properties, or parts thereof, shall be permitted and if not agreed upon may be required in any case when and to the extent that the smallness or shape of a separatly owned tract would, under the enforcement of the uniform spacing plan, or proration unit, otherwise deprive or tend to deprive the owner of such tract of the opportunity to recover his just and equitable share of the crude petroleum or natural gas, or both, in the pool. Provided that the owner of any tract that is smaller than the drilling unit established for the field shall not be deprived of the right to drill on and produce from such tract, if same can be done without waste. But in such case the allowable production from such tract as compared with the allowable production therefrom, if such tract were a full unit, being in ratio of the area of such tract to the area of the full unit." The last sentence of that simply provides that in the event of forced pooling the Commission shall set up equitable cost to be shared in the development of the unit. I won't read that. It is our position that that language in the Conservation Act, Section 13 C limits the powers of the Commission with respect to approving unorthodox units unless they are agreed upon by all of the interested

parties. Now, in this particular case it is evident that the interested parties in the northwest quarter of Section 27, which is the standard proration unit, have not agreed to this unorthodox unit. I think that if you consider this provision that you will reach the conclusion that it limits the powers of the Commission to only approve those where we do not have the consent that are within this Standard proration unit, because it refers to the extent and so forth under the enforcement of a uniform spacing plan, or proration unit program. If one exemption is granted,as it was brought out here, it is apt to lead to a chain reaction which would necessitate the formation of many unorthodox units and might result in an end to where, rather than have a uniform method of spacing, or proration unit, you would have more unorthodox units than you would have regular units. The formation of the uniform pattern of well spacing for proration is based primarily upon another provision in our statute which presupposes the Commission has found that one well on that spacing Standard unit will efficiently and effectively drain that particular area. Now, I don't think that it contemplated a case, or any case where the working interest owners could get together and set up proration units to suit their convenience, and that the Commission could enter an order which would be binding upon the royalty owners or the non-consenting owners. I don't believe that by any stretch of the imagination that the Courts would construe this statute to mean just that. So that is why I say it is limited in its scope and application to a standard proration unit, and that is the idea on which the Commission has heretofore,as I understand it, applied this forced ruling provision, with respect to oil units, 40 acre units. In other words, they have taken 20 acres and combined

it with the small other area to form a standard proration unit. I think that was the intention all the way through of this 13 - C.

MR. WHITE: Is it your opinion to carry that to a conclusion that the Commission, by application of Gulf and Humble Oil Companies could force the Aztec to come into a standard proration unit in the northwest quarter?

MR. HINKLE: That is right, either one, the Gulf or Humble, in this case, could come in with an application to cause the forced pooling of the northwest quarter. I think they have a vested right to do that under the provisions of your proration order which you have set up, because that is the standard unit. I think the Commission contemplated and the order contemplates and the law contemplates that an effort should be made to unitize or communitize every one of those standard units before any exemptions are made, and then those exemptions can only be made where all of the parties agree. Otherwise the Commission would be re-writing,in effect, the basic leases, especially your fee leases, under which the royalties are paid, which it certainly does not contemplate. For these reasons we submit that the Commission is without authority to force the pooling of tracts, other than that embraced in a standard proration unit, without the consent of all interested parties. Now the Humble, in making this motion in connection with Case 620, has a very small acreage involved in this particular case, only 40 acres, but it does have other acreage in this field and in other fields which are going to be under proration. As a matter of policy the Humble would be very much against this Commission establishing as a matter of policy the pooling of these unorthodox locations, which in the end would lead

not to a regular spacing program, but really to an unorthodox development program.

MR. SPURRIER: Anyone else?

MR. CAMPBELL: May I ask Mr. Hinkle a question, to be sure I understand the position of Humble Oil Company. In this case, here, if Aztec is not seeking, is not to get the Commission to do what you say, they are without jurisdiction to do?

MR. HINKLE: Yes, I think they are, because they are seeking to take part of the acreage in one standard proration unit and combine it with acreage in another standard proration unit.

MR. CAMPBELL: They are asking the Commission to force somebody to pool?

MR. HINKLE: It is our opinion that the statute in the case of forced pooling, as distinguished from where you have the consent of the parties itself, power is only to force pooling of the standard proration unit.

MR. CAMPBELL: Do you think it would make any difference for the Commission to refuse an exception in any case might require the drilling of an unnecessary well?

MR. HINKLE: I don't think that is the matter to be considered. You have to change the statute. You are bound by whatever the limitationsof the statute are. You would have to go to the legislature to get it changed.

MR. DAVIS: Your construction of 13-C, in other words, is that you can not have an exception unless all the parties agree?

MR. HINKLE: That is right, that is an exception to the standard proration unit, because that is the unit as it is set up for

the additional reason. Suppose that you had two operators working interest owners who came in,one of them owned the east half of the east half and the other owned the west half of the east half, which I would have to loan 160 acres. Suppose the royalty ownership was different under those, and you had a small well, or well capable at its ultimate potential in one end of it was capable of producing, ultimately producing just half of the gas as the other one. I think the royalty owners, even though they didn't come in and object when you went in to form those units, could stand under this statute because they have a right to assume that when the Commission forms a unit it will be a standard unit, because of the fact that they have made a previous finding that a well on a unit will effectively drain that particular standard unit, not some other unit that the Commission or the operators may agree upon for their convenience.

MR. DAVIS: What would happen if you had some un-leased lands in your so-called standard proration unit that the man didn't desire that he engaged in drilling operations, what do you do then? You said they can't drill on the unorthodox unit.

MR. HINKLE: No, I think under the statute they have a right to drill,anybody with a smaller tract has a right to drill under that statute, they are going to be reduced and economically it is not going to work that way. It is a means of forcing the unitization.

MR. DAVIS: May I make a statement for the record, please?

MR. SPURRIER: Yes.

MR. DAVIS: I can't, of course, agree with the construction put on 13-C of the statute, and do not believe that the Commission

should be restrained at the present time approving unorthodox units when the necessity therefore exists. If we have a situation where it is not feasible or not economical to form a proration unit that will require the drilling of additional wells,certainly,as to the existing wells which were drilled prior to any consideration of proration, then it seems to me that you are certainly penalizing anyone that has drilled wells in the earlier years.

MR. HINKLE: It is not our position that we want to penalize anybody or that we don't want to give this power to the Commission. It is our position that is the limitation in the statute,that is the proper and reasonable construction of that statute, and that is the construction that I think the Courts would likely place upon it. It is not a question of what we would like to do and what we want to do. I think it is a question of what the limitations are of the Commission under that statute.

MR. DAVIS: We feel that the application of Aztec is fully justified, the proposed unorthodox gas proration units in Case 619, 20 and 21, and urge the Commission to issue an order approving such locations and granting the allowables applicable thereto.

MR. CAMPBELL: I would like to briefly state the position of Gulf in these cases. Our principle objection is that the applications are premature under the order,inasmuch as it is obvious that an effort has not been made to communitize into either orthodox tracts, or to include within the proposed units all of 160 acres. We therefore feel that these cases, particularly the cases 619 and 620 should be continued until such time as the applicant is able to show the Commission that an effort has been made, unsuccessfully, to communitize

these areas to set up either standard or unorthodox proration units as the Commission sees fit to grant them.

MR. SPURRIER: Anyone else? Let us take a short recess.

(Recess)

Afternoon session
(Following recess at 3:30)

MR. SPURRIER: The meeting will come to order, please. Mr. Foster, did you have something to say before we finished the other case?

MR. FOSTER: In regard to the statement made by Mr. Hinkle, I want to go on record as agreeing with him. I think he rather understated it than overstated it. I don't believe this Commission has any power or authority to grant these unorthodox units unless it is for the purpose of preventing waste or the confiscation of the property. And certainly there is no evidence in the record here, up to now, that unless you do grant these applications to form these unorthodox units that the applicant will have his property confiscated, or that waste will occur. I think the Humble Oil Company's position is well taken. We join with it except I think it is understated rather than overstated.

MR. SPURRIER: Anyone else? If not, we will take the cases under advisement and we will move on to Case 622.

(Witness excused)

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

I HEREBY CERTIFY that the foregoing and attached transcript of hearing in Case No.s 619, 620 and 621, before the Oil Conservation Commission, State of New Mexico, at Santa Fe, on December 17, 1953, is a true and correct record of the same to the best of my knowledge, skill and ability.

DATED at Albuquerque, New Mexico, this 23rd day of December, 1953.

Ada Dearnley
COURT REPORTER

ADA DEARNLEY & ASSOCIATES
COURT REPORTERS
ROOM 105-106, EL CORTEZ BLDG.
PHONES 7-9645 AND 5-9546
ALBUQUERQUE, NEW MEXICO