

RECEIVED
OIL CONSERVATION COMMISSION
MAY 19 1955

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF)
EL PASO NATURAL GAS COMPANY FOR)
COMPULSORY COMMUNITIZATION OF THE)
E½ OF SECTION 3, TOWNSHIP 30 NORTH,)
RANGE 10 WEST, N.M.P.M., SAN JUAN)
COUNTY, NEW MEXICO)

Case No. 712

APPLICATION FOR REHEARING

Come now Applicants, Saul A. Yager, Marian Yager,
M. E. Gimp, Morris Mizel and wife Flora Mizel, and Sam Mizel,
by their attorney, and state:

(a) Applicants are the owners of interests in the
NW¼NW¼SE¼ of Section 3, Township 30 North, Range 10 West, San Juan
County, New Mexico and are parties affected by Order No. R-558
entered by the Commission on December 17, 1954.

(b) Order No. R-558 is erroneous in the following
respects:

1. The U. S. Geological Survey is without power or
authority to grant permission to create or form a drilling unit
under the Laws of the State of New Mexico.

2. The order neither grants nor denies the relief
sought and is therefore not within the call of the hearing.

3. Findings No. 7, 8 and 9 are contrary to law.

4. The order is contrary to Section 1(a) of
Order No. R-110 heretofore issued by the Commission.

5. The order is contrary to Section 13(b) of
Chapter 168, Laws of 1949, as amended.

6. The order is an unreasonable and arbitrary
interpretation of the Commission's rules and deprives Applicants
of their correlative rights.

7. The order deprives Applicants of their property
without due process of law.

8. The order impairs the obligations of valid contract between Applicants and El Paso Natural Gas Company.

9. The order bears no relation to prevention of waste.

10. The order renders meaningless pooling clauses in leases referred to in the original application and the testimony and renders meaningless the application in the instant case.

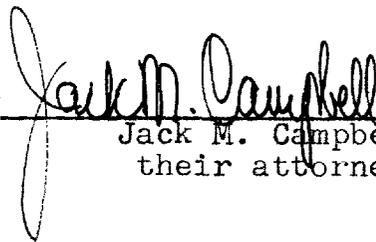
WHEREFORE, Applicants request a rehearing in Case No. 712 before the Commission.

Respectfully submitted,

Saul A. Yager, Marian Yager,
M. E. Gimp, Morris Mizel and
wife Flora Mizel, and Sam
Mizel

1-4-55

By



Jack M. Campbell
their attorney

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
COMPULSORY COMMUNITIZATION
OF E/2 OF SECTION 3, TOWNSHIP
30 NORTH, RANGE 10 WEST, NMPM,
SAN JUAN COUNTY, NEW MEXICO.

CASE NO. 712)
CASE NO. 852) Consolidated

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
DETERMINATION AND RATIFICATION
OF COMMUNITIZATION OF E/2 OF
SECTION 3, TOWNSHIP 30 NORTH,
RANGE 10 WEST, NMPM, SAN JUAN
COUNTY, NEW MEXICO, CONTAINING
320.68 ACRES.

Order No. R-558-B

APPLICATION FOR REHEARING

Your Applicant, EL PASO NATURAL GAS COMPANY, applies for re-hearing and states:

1. Applicant is the owner of oil and gas leasehold interests in and under the tract of land described in the caption and is a party affected by Order No. R-558-B entered by the Commission on January 12, 1956.

2. Your Applicant would show the Commission that its Order No. R-558-B is erroneous as follows:

a. That the Commission's Finding No. 9, insofar as it finds that the date upon which the working interest owners agreed to communitize their leases of May 19, 1954 is not supported by and is contrary to the credible evidence.

b. That the Commission's Finding No. 11 that the pooling and drilling unit was established on May 19, 1954 is not supported by and is contrary to the weight of the credible evidence.

c. That the portion of Paragraph 1 of the Commission's Order establishing May 19, 1954 as the date the drilling unit upon a pooled and communitized tract became effective is erroneous.

d. That there is no evidence in the record to show that the working interest owners made any agreement on the 19th day of

May, 1954, the date when the original hearing was conducted, and that the evidence shows the agreement to have been made and consummated prior to that date and the selection of that date is arbitrary and unreasonable.

e. That the evidence shows the working interest owners had agreed to communitize and pool their respective interests prior to August 14, 1953, on which date United States Geological Survey granted permission to drill.

f. That the finding of the Commission that an agreement was made on May 29, 1954, is an arbitrary and unreasonable finding and not necessary to a determination of the applications.

g. The Commission having held that the working interest owners have the power without the joinder of the lessors to enter an agreement for the communitizing or pooling of tracts of land into drilling units in conformity with Order R-110, the Commission exceeded its jurisdiction by determining the date upon which the working interest owners made such agreement and exceeded its jurisdiction in determining that such agreement did not become effective until the date of the first hearing, which findings were not necessary to a determination of the applications. The Commission, having found that the working interest owners effectively pooled or communitized the tracts of land into a drilling unit, has no further jurisdiction and the Commission's Order is erroneous in attempting to do more than determine the effect of the agreement made by the working interest owners. When that agreement effectively pooled the several tracts into a drilling unit, there remained nothing further for the Commission to do, and those portions of the Commission's Order which attempt to pool or communitize at a later date are invalid and void.

h. Paragraph 2 of the Commission's Order is beyond its jurisdiction and is not supported by the evidence, and is contradictory and contrary to all of the findings and conclusions of the

Application for Rehearing

Cases Nos. 712 and 852

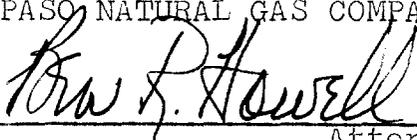
Commission made in the remaining portions of the Order.

WHEREFORE, your Applicant respectfully requests the Commission to grant a rehearing in these consolidated cases and to hear such further evidence as may be material, and to reconsider the Order entered by the Commission.

Respectfully submitted,

EL PASO NATURAL GAS COMPANY

By



Attorney

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
COMPULSORY COMMUNITIZATION
OF E/2 OF SECTION 3, TOWNSHIP
30 NORTH, RANGE 10 WEST, NMPM,
SAN JUAN COUNTY, NEW MEXICO.

CASE NO. 712) Consolidated
CASE NO. 852)

THE APPLICATION OF EL PASO
NATURAL GAS COMPANY FOR
DETERMINATION AND RATIFICATION
OF COMMUNITIZATION OF E/2 OF
SECTION 3, TOWNSHIP 30 NORTH,
RANGE 10 WEST, NMPM, SAN JUAN
COUNTY, NEW MEXICO, CONTAINING
320.68 ACRES

APPLICATION FOR REHEARING

Come now Saul A. Yager, Marian Yager, M. E. Gimp,
Morris Mizel and wife, Flora Mizel, and Sam Mizel, by their
attorneys, Campbell & Russell, and make application to the
Commission for rehearing upon Order No. R-558-B, and as a basis
for the application state:

(a) Applicants are the owners of interests in the
NW/4 NW/4 SE/4 of Section 3, Township 30 North, Range 10 West,
N.M.P.M., San Juan County, New Mexico and are parties affected
by Order No. R-558-B entered by the Commission on January 12,
1956.

(b) Order No. R-558-B is erroneous in the following
respects:

1. Finding No. 8 is erroneous in that the United
States Geological Survey is without power or authority to grant

permission to create or form a drilling unit under the laws of the State of New Mexico.

2. Finding No. 10 is erroneous in that Order No. R-110 was not complied with in the establishment of the drilling unit.

3. Finding No. 11 is erroneous in that the United States Geological Survey has no authority to approve a Notice of Intention to Drill under the laws of the State of New Mexico, and said finding is further erroneous in that all interests within the said unit were not consolidated by pooling agreement or otherwise as required by Order No. R-110.

4. Order No. R-558-B is contrary to Section 1(a) of Order No. R-110 of the Commission.

5. Order No. R-558-B is contrary to Section 13(b) of Chapter 168, Laws of 1949, as amended.

6. Order No. R-558-B is an unreasonable and arbitrary interpretation of the Commission's rules and regulations and deprives Applicants of their correlative rights.

7. Order No. R-558-B deprives Applicants of their property without due process of law.

8. Order No. R-558-B impairs the obligations of a valid lease contract between Applicants and El Paso Natural Gas Company.

WHEREFORE, Applicants request a rehearing in Case No. 712 - 852 Consolidated on Order No. R-558-B.

Respectfully submitted,

Saul A. Yager, Marian Yager,
M. E. Gimp, Morris Mizel and
wife, Flora Mizel, and Sam
Mizel

By


for CAMPBELL & RUSSELL
their attorneys