

BEFORE THE
Oil Conservation Commission
SANTA FE, NEW MEXICO

IN THE MATTER OF:

CASE NO. 779

TRANSCRIPT OF PROCEEDINGS

ADA DEARNLEY AND ASSOCIATES
COURT REPORTERS
ROOMS 105, 106, 107 EL CORTEZ BUILDING
TELEPHONE 7-9546
ALBUQUERQUE, NEW MEXICO

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
December 16, 1954

Application of the Commission upon its own :
motion for revision of Rule 312 of its Rules : No. 779
and Regulations to promulgate supplementary :
and additional rules governing the acquisition, :
transportation and sale of drip gasoline and :
trap oil. :

BEFORE:

MR. E. C. (Johnny) WALKER
MR. WILLIAM B. MACEY

TRANSCRIPT OF HEARING

MR. MACEY: The next case on the docket is case 779, which has been continued for the past two months. Does anyone have any comments or statements or testimony to give in case 779?

MR. GIRAND: The Commission has previously been furnished with recommended orders, one by the Famariss Crude Oil Purchasing Company and one by the El Paso Natural Gas. We heartily urge the Commission to adopt the recommended amendment of the Famariss Crude Oil Purchasing Company, and if the Commission would like to have some proof in regard to the matter, why we are prepared to offer some proof as to the method of handling of this type of commodity on the East side. I am not familiar with the San Juan Basin area. There was some testimony given here at the last meeting and we just feel that the reporting forms as requested and required by our proposed amendment would give the Commission a complete and adequate check of this

property and will insure the purchasers of this product of having acquired legal oil, so to speak. Now if the Commission please, I'd like to call Mr. Newman and have him sworn.

I'd like to make this announcement to the Commission, that the proposed amendment to Rule 312 as proposed by the Famariss Crude Oil Purchasing Co. are the rules under which the Famariss Crude Oil Purchasing Co. is now operating and has been operating ever since the old tank or treating plant rule was enacted.

J O E N E W M A N

called as a witness, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By: MR. GIRAND:

Q State your name, please, sir.

A Newman, Joe Newman.

Q And where do you live, Mr. Newman? A Hobbs.

Q What business are you engaged in, Mr. Newman?

A Well, I have got two businesses, one, I operate a filling station there and I also pick up drip gasoline.

Q I see. How much of your time is used or consumed in the picking up of drip gasoline?

A Oh, I couldn't rightly say how much time I put in.

Q How many units do you operate to pick up drip gasoline?

A One.

Q What is the capacity of that unit?

A I believe it is 1690 gallons.

Q Is it constantly in use in the picking up of drip gasoline?

A No, sir.

Q How much drip gasoline would you say that you pick up on an average, a month?

A Well, it's been different every month since I picked it up.

Q Well, do you have with you any record of the amount of drip gasoline you picked up in the month of November?

A Yes, sir.

Q How much gasoline did you pick up in the month of November?

A I'd have to look at the records there and see.

Q Do you have your records?

A There is about, I believe, four different places has records of that.

Q Do you have the records, Mr. Newman?

A Yes, sir, I have them.

Q Would you mind referring to them, please, sir?

A No, take me a little bit here to find it, I may not have the November's, I have the October's.

Q All right, sir, I will change my question. What does your report for October show?

A It shows 1565 barrels and 74 hundredths to one refinery and to one - -

Q What refinery?

A Wicket.

Q Wicket, Texas?

A Wicket, Texas, and to Mr. Walter Famariss Refinery was 110 barrels and 78 one-hundredths.

Q Now did you make any other sales? A No, sir.

Q Do your records show where you acquire this gasoline?

A Yes, sir.

Q And where did you acquire it?

A I acquired it from Permian Pipe Line.

Q In Lea County?

A In Lea County, yes, sir.

Q And how many drips were involved in obtaining this amount of fluid?

A Well, I have an Exhibit A here that has every drip on it, we'd have to count them, there's over a hundred of them.

Q There's over a hundred? A Yes, sir.

Q And how often do you furnish service to these drips?

A I try to check them twice a week, get around to all of them.

Q Now if I understand you right, the entire amount of drip gasoline that you pick up is either transported to the Wicket Refinery or the Famariss Refinery, right?

A Yes, sir, that is right.

Q Now what was the other business that you were engaged in, Mr. Newman? A I have a filling station in Hobbs.

Q Is that a -- A Gulf.

Q Gulf Station? A Gulf Station in Hobbs.

Q Are you the sole owner of both businesses?

A I am not, I -- the Gulf Station in Hobbs, I have a partner in that.

Q You have a partner in the Gulf Station?

A Yes, sir.

Q Do you have any partner on your drip gasoline?

A Well, a couple of working partners with me.

Q Working partners? A U-huh.

Q Do you mind giving us their names?

A Tipton and Cothran.

Q What is Mr. Tipton's first name?

A Jack E.

Q Jack E. Tipton and Cothran?

A C-o-t-h-r-a-n, Cothran.

Q And what are his initials?

A G. T.

Q Now what are their duties in regard to your drip gasoline operations?

A Well, they, they drive a truck and pick it up.

Q They drive a truck and pick it up?

A U-huh.

Q Now when you acquired this gasoline, just tell the Commission what you do, in other words, do you make any report to Permian on this?

A Yes, sir, I make a weekly report to them on every week as to what I pick up, the number of drips that I blow and the locations.

Q I see. Then do they furnish you with the C-110?

A They don't furnish me with anything, I get that from the Oil Commission.

Q Well, now on what records do you furnish the Oil Commission to get a C-110?

A I give him a report, a monthly report.

Q And on the basis of that monthly report, do you then require a C-110?

A U-huh.

Q Now during the month do you retain all of the drip gasoline in one central storage and then after you get your month's runs ask for a C-110, or do you sell it by the load?

A I sell it by the load as I get it, I have got storage for it.

Q Beg pardon? A I have storage.

Q I understand, but you don't use that for the purpose of accumulating the drip gasoline, do you?

A Not by months at the time, I don't.

Q Now do you have any records before the Commission showing the quantity of gas, drip gas, that you are selling to either Wicket or to the Famariss Refinery prior to your monthly report?

A I have a report, the gallons, on every gallon that I have ever sold to anybody.

Q I appreciate that, but I mean at the time you actually delivered the gasoline or the drip gas to Wicket or to Famariss, do you at that time have a C-110 to support the movement?

A Yes, sir.

Q You do at that time?

A I have one to cover it before I ever sell it to anybody.

Q Now how do you acquire that C-110, what do you show the Commission to acquire a C-110?

A Well, you can't rightly show any designated gallons or barrels on this drip gasoline business, you might go out there and get, say you wanted an allowable for C-110 for a thousand barrels, you might not get 200 barrels, and -- or you might get 2,000 barrels, you can't designate as to how much, there is no way of figuring how much you are going to get out of that thing.

Q Well, how do you arrive at requesting a C-110?

A Well, we just guess at a figure.

Q In other words, just go in and say, "I want a C-110 for so many barrels", is that right?

A Right.

Q And at that time you don't have any barrels, is that right?

A That is right, not even - -

MR. GIRAND: I believe that is all.

A - - not any guaranteed.

MR. GIRAND: I believe that is all.

MR. MACEY: Any questions of the witness?

CROSS EXAMINATION

BY: MR. JOHNSON:

Q Mr. Newman, when you pick up this gas, are the traps on the Permian Basin Pipeline after it has already passed through the meter between the pipeline and the wellhead?

A I pick it up after it's gone through the meter and got out into the line.

Q In other words, the amount of gas to be taken has already been determined?

A Yes, sir.

Q Before the condensation takes place in the line where you pick it up?

A Yes, sir.

Q This condensation of the gas, is that subject to your control or control by the Permian Pipeline?

A I have a contract to pick that up after it gets into the lines.

Q The condensation, Mr. Newman, is there any way that you can control the condensation of the gas?

A No, sir.

Q Isn't that just a natural process?

A That is right.

Q Subject to changes in accordance with temperature changes, thermal conditions and pressure, temperature changes and pressure on the line?

A Right.

Q In making application for your C-110, do you just estimate

the amount of gas that you are going to pick up?

A Yes, sir.

Q And turn that in to the Conservation Commission office in Hobbs, New Mexico? A Right.

Q And in arriving at that figure, it is necessary for you to estimate the amount of gas that will condense through a natural process? A Yes, sir.

Q And in arriving at that figure, do you take any consideration of the amount of gas that you have picked up in the preceding months?

A Yes, sir.

Q The meter through which the gas passes, I want the Commission to thoroughly understand the position of that meter, Mr. Newman, is that between the wellhead and the pipeline?

A Yes, sir.

Q Now these drips which you service, are they on the pipeline after the gas has already passed through the meter?

A Yes, sir, they are.

Q And the quantity of the gas to be taken from any particular well has already been determined at that time? A Right.

Q And the gas which you are picking up from these gas drips, whose product is that if you know?

A I wouldn't rightly know if it come from - -

Q Can you tell from any particular well, I mean tell how much of the gas that you pick up comes from any particular well?

A No, sir.

Q Do you know how many wells are tied into the line that you service?

A No, sir, I'd just/to count them up on this map, Mr. Johnson,

I don't know.

Q Can you state with an approximate degree of accuracy?

A Oh, I'd say a hundred and five, ten, somewheres along there, twenty-five, a hundred and twenty-five, up to a hundred and twenty-five.

Q In servicing these drips, you testified that you serviced them twice a week?

A Yes, sir.

Q When you go back to service the drips, do you always find gas in each drip?

A No, sir.

Q How long does it take for a quantity of gas to accumulate in there, based on your past experiences, Mr. Newman?

A That is something else you can't determine either, it, it might get some in there, oh, we'd say 24 hours and you pick up a barrel or two, you go back in another 24 hours or so, might not be a drop, might be dry, it might have gone somewhere else down that line, if there was any, and I couldn't rightly say that at all.

Q In other words, the quantity of gas that condenses is determinable by the amount of pressure on the line and the thermal changes?

A It is, and the way it drops out, it has to do with the moisture that collects in the line some, I guess, now I don't know anything about that part of it, what makes it collect or where it comes from, it comes out of some well somewhere.

MR. JOHNSON: That is all.

REDIRECT EXAMINATION

By: MR. GIRAND:

Q Mr. Newman, do you have any serious objection to the Oil Conservation Commission regulating this type of operation?

A No, sir, if the Commission sees fit to regulate that, it is all right with me.

Q And don't you think that it is such an industry that ought to be regulated?

A I do.

MR. GIRAND: That is all, sir.

REXCROSS EXAMINATION

By: MR. JOHNSON:

Q May I ask one more question of the witness. Mr. Newman, the Commission has regulated your operations up to this time, have they not?

A Right.

Q Do you have any objections to the Commission continuing the regulations that they now have into effect?

A No, sir, it is all right.

Q Are you familiar with the amendment of Rule 312 as proposed by the Famariss Oil Refining Co.?

A I have read it, yes.

Q Do you have any objections to that rule?

A Well, other than what I am already doing, I don't think I would object at all.

Q In other words, under subsection D, if the Commission please, I'd like to read this to Mr. Newman, the rule as proposed. "The Commission shall issue a permit to any purchaser or transporter, not a common purchaser as defined by the rules of the Commission, upon such purchaser or transporter filing an application for a permit, such application to show the following, to wit: the name and location or the lease trap or pit." Is it possible for you to show the name or location of the lease from which this comes?

A It would be impossible for me to show it, I couldn't.

Q In other words, you don't know where the gas, what particular lease the gas comes from - -

A No, sir.

Q - - which condenses out?

A No, sir.

Q It is all poured into a common line?

A Right.

Q The source of such oil or drip at the present time, you are furnishing the Commission that information, are you not?

A Yes, sir.

Q In other words, the Commission is advised that you are getting this from the Permian Basin Pipeline?

A Right.

Q The name of the owner or operator, you are furnishing the Commission that, are you not?

A Yes, sir.

Q That is, the owner or operator of the pipeline from which you pick up the gas?

A Right.

Q Copies of contracts of purchase, have you furnished the Commission copies of your contracts of purchase?

A With Permian?

Q With Permian Pipeline.

A I don't know whether they have one or not, I kinda think they do have.

MR. MACEY: Mr. Johnson, Permian has given us a copy of the contract.

MR. JOHNSON: Permian has furnished you that. (Resuming) The location of the permanent storage to be installed by the permittee, you are doing that, are you not?

A Yes.

Q Isn't that shown on your C-110? A Yes, sir.

Q Now do you have any objections, Mr. Newman, to the \$25,000 surety bond?

A Well, I do, yes, sir.

Q Is that bond necessary to your operation?

A Well, that is the reason I object, I don't think so, I don't believe it is.

Q The gas which you are picking up is gas owned by the Permian Basin Pipeline, is it not? A Yes.

Q And by the terms of your contract, if you violate any of the regulations or rules or breach your contract with the Permian Basin Pipeline, is that contract subject to cancellation?

A Yes, sir.

Q And the product which you pick up in every occasion is gas owned by the Permian Basin Pipeline? A Yes, sir.

Q Which they have purchased? A Yes, sir.

Q And the producing lessee, or the royalty owners, have been paid or will be paid their pro rata share of the gas purchased?

A Yes.

MR. JOHNSON: I believe that is all, if the Commission please.

REDIRECT EXAMINATION

By MR. GIRAND:

Q Mr. Newman, if you pick up the gas in a trap or at a pit, you know the location of that pit, don't you?

A Yes, sir, I know the location of the pit, but I don't know where the fluid come from.

Q Well, you read this proposed rule, did you not, and it says "the name and location of the lease trap or pit", in other words, that

meant the source, that is all it means, and you are not telling this Commission that you don't want to tell them the source of where you get your products, do you?

A I furnish Permian weekly reports on every one of these locations, that I pick it up from, D-2, D-2-ER-4, and it is marked right onthere, the number of gallons that I got out of that one, I do that, yes, sir.

Q Then you are complying with that first one, aren't you?

A Yes, sir, I am doing that.

Q Now what is your primary objection to furnishing the Commission with a bond of your faithful performance of these proposed rules?

A Well, I don't object to it insofar as the bond goes, but it looks like just an added expense there that it is not necessary to have.

Q Then the expense of the bond is your primary factor, is that right?

A That is right.

Q Have you made any inquiry as to the cost of a surety bond for \$25,000?

A Yes, I know what it costs, it is very little.

MR. MACEY: Anyone have a question of the witness? If not, the witness may be excused.

MR. GIRAND: I have nothing further.

(Witness excused.)

MR. HILL: A. L. Hill with El Paso Natural Gas. As you know, Mr. Ben Howell, our counsel, usually is here and handles these things very expertly. I am sitting around here trying to clear up a little of my confusion that I have pertaining to the

intent of the application of the rules as suggested by Mr. Famariss. As you know, we submitted for the Commission's consideration a simplified, what we thought was a rather simplified rule to cover, and that pertained strictly to condensates and other products that accumulate in pipeline drips. That is all that we are interested in, that is under discussion here at this time.

We felt -- well, to begin with, we didn't understand that the Commission's original intention was to amend Rule 312 or whatever it is, pertaining to all these other things, creek oil, pit oil and all that. We didn't understand at that time that the Commission was thinking strictly of drip products as such, and therefore, we wrote this little proposal just as something to get started on. That pertains strictly to those products. It is still our feeling that if the working in of some revision of Rule 312 in order to give the Commission the information, and we might say reports and control, is what they want over drip products, means working that into a rule where you find it difficult to set up wordings and requirements to adequately care for the drip products along with all these other things. If that is to be done, I think that we should be entitled to a good explanation and some assurance of just how that would affect El Paso and Permain and these other pipeline companies operations and particularly insofar as the additional paperwork and red tape, so-called, would enter into it.

Now I think our Mr. ^{alch} Belsen, in last month's meeting, gave a brief outline of our drip operations insofar as gathering and disposing of the drip products is concerned. In one instance, we gather from our drips, have our storage from which we sell to a transporter. Now as you know, the way it was done now we keep an

account of what we gather and store and then what we sell, and that is duly reported to the Commission, as I understand, by the transporter himself when he buys from us at those storage tanks. Now from our point of view, and incidentally since the drip gas, as we all know, is one of those uncontrollable darn things, it just happens, it is a darn nuisance actually, if you will excuse the darn business, it is sort of a nuisance to the pipeline operation, particularly in the wintertime when you get extra large volumes of it to contend with. We just gather that as a routine part of our gas system, it is there incidental to the gas and it is there to contend with, obviously we have to gather it, store it and then when it is sold to a transporter he is now conforming to the Commission's requirements, as I understand. And the Permian, in Lea County, I should say, why there we have a contract with a gatherer and he just reports to us how much he gathers, and I believe that is also reported to the Commission but beyond that El Paso isn't concerned.

Now I think our prime interest here, aside from doing all we can within reason to cooperate with the Commission in all our operations, we want that understood, but aside from that, our prime interest in it is trying to make sure that we aren't unduly overburdened with extra paper work and requirements in this. That is our position as I stated.

MR. MACEY: Thank you, Mr. Hill.

MR. GIRAND: If the Commission please, I'd like to ask Mr. Hill one question, I realize he is not under oath. Mr. Hill, in examining the proposed amendment to Rule 312, have you found anything in that proposed amendment as submitted to you by the Famariss Crude Oil that puts any additional burden on the El Paso

that they are not already doing or complying with?

MR. HILL: Well, only this and that is when I said I felt that we'd need time to study it, or at least have some assurance that it isn't going to add any particular burden to us. Now how many of these proposed requirements would apply to our operations?

MR. GIRAND: I think your signed run ticket is your sole requirement on El Paso or on any pipeline or on any lease operator and that is what is being done by you, under your statement to the Commission, now that you are reported to every week, the amount and from where.

MR. HILL: Well, as I stated, we are perfectly willing to go along with the way we are operating now on these things, if it doesn't change our responsibilities and operations too much. Let us say, we want to cooperate to the extent we can just so we are not required to have too many additional reportings and what have you on our day to day operations.

MR. GIRAND: Mr. Hill, the rule does not apply to your company or to any company who gathers their own product and then acquires, makes application for a C-110, it only applies to the operator going up and down the field purchasing this and gathering, doing his own gathering there, applies to all those operators and I think the Commission ought to know who they are and where they are getting it and the volume.

MR. HILL: Well, I think I made myself clear on that. You see, that happens in the San Juan right now, gather, and have our own storage and we sell from storage to a transport and the way that is handled now, it is perfectly satisfactory to us, and we are perfectly happy to go along with it. Now whatever requirements

the Commission might place beyond that on the transporter, why, of course, that would be a matter between the transporter and the Commission, not us. I am not saying, I want to make it clear again, that we aren't willing to do what is reasonable if the Commission desires.

MR. MACEY: Mr. Johnson.

MR. JOHNSON: If it please the Commission, I understand that the El Paso Natural Gas Company has an engineer here and just for the purpose of the record, I'd like to call him to the stand and have him give an explanation as to how these drips operate.

MR. GIRAND: I think that was gone into at the earlier hearing, Ted. We will stipulate that the drips are placed along the line to catch the liquid as the gas is transported from point to point, as it drops out then either the liquids are blown out of the trap or gathered.

MR. JOHNSON: Will you also stipulate, Mr. Girand, if the liquid is not picked up it is blown out on the ground?

MR. GIRAND: That has been said, that it is blown into a pit.

MR. JOHNSON: That there is no way of getting it back into the well?

MR. GIRAND: I don't know of any, Mr. Johnson, in my limited knowledge.

MR. JOHNSON: I'd like to call Mr. Famariss to the stand, please.

MR. MACEY: Let's go off the record for a moment, please.

(Discussion off the record.)

MR. MACEY: We will continue Case No. 779 until after the noon recess. (Recessed)

MR. MACEY: We will ~~not~~ re-open Case No. 779.

MR. JOHNSON: That is right. We'd like to examine Mr. Famariss. We are calling him as an adverse witness.

W A L T E R F A M A R I S S,

called as a witness, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By: MR. JOHNSON:

Q Your name is Walter Famariss?

A Walter Famariss, Jr.

Q You are president of the Famariss Oil Refining Company?

A And also the Famariss Crude Oil Marketing Company.

Q Crude Oil Marketing. You are one of the proponents of the amendment of Rule 312 which is the subject of the hearings before this Commission, are you not?

A We were asked to submit suggestions for the revision of Rule 312, which we have so done.

Q You were asked to submit objections?

A No, recommendations.

Q Recommendations?

A Yes.

Q Mr. Famariss, will you explain to the Commission briefly the reasons why you make these recommendations?

A The best answer I can give you to that is because we deem them minimum security regulations under which the various parties involved can operate.

Q What is your reason for making the recommendation that the name and location of the lease trap or pit be furnished to the Commission?

A To give the Commission the proper identification of any oil that might be acquired in this nature.

Q You mean oil acquired by the operators servicing drip gas traps on the line?

A It is purely identification.

Q Just for identification?

A Identification.

Q What is your reason for making a recommendation at the source, that the Commission be furnished the information as to the source of such oil or drip?

A Again that it may be identified.

Q What is your reason for making the recommendation that the name of the owner or operator be furnished to the Commission?

A Again that it may be identified.

Q What is your reason for making the recommendation that copies of contracts of purchase be furnished the Commission?

A To provide them with as comprehensive information of the operation as is possible.

Q That is purely another matter of identification, is it not, Mr. Famariss?

A You could name it such.

MR. GIRAND: May I interrupt, the present order requires the filing of a contract as it is, Rule 312, Section C, requires the filing of any contract.

MR. JOHNSON: If it please the Commission, I believe that particular order only applies to wash-in oil, creek oil, pit oil, or scrubber oil. (Resuming) What was the purpose of your recommendation that the location of permanent storage be installed by the permittee?

A Well, the idea there is that there may be some control over acquisition and no blanket authority granted for a supposed acquisition which may or may not occur.

Q Is it your recommendation that this would apply to drip gasoline, Mr. Famariss?

A Yes, it is.

Q Is it your recommendation that permanent storage facilities be installed and all of the drip gasoline which is acquired by the operators servicing the drips be placed in this storage before the operator gets a C-110 from the Corporation Commission?

A Without qualification, yes.

Q In your opinion can the Corporation Commission control the acquisition or quantity of the drip gas?

A I think they can regulate it, I think that it is their duty to regulate it.

Q Can they control the quantity?

A Nobody can control the quantity.

Q That is just a natural process, isn't it, Mr. Famariss?

A I don't know, I am not an engineer.

Q You are familiar with how it forms, though, aren't you?

A Oh, in a layman sort of way.

Q You have been in and around the oil fields for twenty years and worked in the oil field?

A A little more than that.

Q What was the purpose for your recommendation as to the \$25,000 surety bond?

A The State requiring bonds in certain actions is not an unusual procedure, it provides the State with a means of being

remunerated for any practices by which they might be attacked through the course of law, by the acquisition of people's property which was not supposed to have been acquired, it also assures the Commission that the people entering this business or any business, this bond or any bond, that they are financially able to handle the business, they pre-suppose that they can, and it also gives an, an element of screening, makes available to the State an element of screening of any person who might wish to enter the business. I don't think the requiring of the bond here is unusual, it exists all through our State government and Federal government. We are bonded to the hilt in the refining business, every time we turn around it is another bond.

Q Do you think that the furnishing of the bond, Mr. Famariss, would prevent misappropriation of the oil?

A I can't construe what you mean, they are two divorced things.

Q I am trying to get at what was the purpose behind the recommendation for the \$25,000 bond.

A To provide an indemnifying instrument in there to cover any losses that might occur to interested parties involved.

Q In other words, prohibit theft of oil which belonged to other people?

A That could be.

Q Do you feel that the criminal laws of the State of New Mexico are not sufficient for that purpose?

A I don't know anything about criminal law.

Q Now about the screening of permittees, do you think that the Permian Basin Pipeline Co. or the El Paso Natural Gas Co. would

enter into a contract with any individual to perform this service who was not capable of performing the service?

A Everybody makes bad deals.

Q Do you think that they would enter into any contracts with individuals - -

A Not any more than you would, knowingly.

Q That is a matter between the - -

A (Interrupting) It is arbitrary.

Q - - between the operator and the Permian Basin Pipeline and the El Paso Gas, isn't it?

A I don't think that is involved here, we are concerned primarily with the regulation of the Oil Commission over the operation and I think that what goes on between a party wishing to enter the business and the party he is going to do business with is irrelevant here.

Q Well, any theft of this oil or gas actually would be a theft of property from the Permian Basin Pipeline or the El Paso?

A No, not necessarily, no, absolutely not.

MR. GIRAND: We are going to object to this line of questioning as purely argumentative, he is only asking for opinions of the witness, not for any facts. We submit that it is improper.

MR. JOHNSON: If it please the Commission, we are just trying to find out what is the reason behind the recommendations made.

MR. GIRAND: Well, if you want to elicit the information that the El Paso may have and the Permian Basin may have, I submit that they have agents and representatives here qualified to answer the policies of their company.

MR. JOHNSON: If it please the Commission, the burden is on

Mr. Famariss to sustain the proposal of this amendment.

MR. GIRAND: I beg counsel's pardon, if the Commission please, there is no burden involved in this. The Commission asked us to submit a proposal, we did, we think it was good and still do. We are open to any other suggestions that might improve it, that sure should be --

MR. JOHNSON: Maybe I misunderstood the proposal. Now, of course, I didn't have the benefit of the previous hearings on this, but it is my understanding Walter Famariss, Jr., is proposing this rule change. Now whether he is doing that at the request of the Commission, I don't know.

MR. GIRAND: I would like to have the Commission read the notice of the case, please for the record.

MR. MACEY: This notice is a matter of record in the case, it is the matter of the application of the Oil Conservation Commission for regulations relating to drip gasoline. "Applicant in the above styled case seeks revision of rule 312 of its rules and regulations to promulgate supplementary and additional rules governing the acquisition, transportation, and sale of drip gasoline and trap oil." That is the way the notice reads.

MR. JOHNSON: Mr. Famariss --

MR. MACEY: (interrupting) Just a minute, Mr. Johnson. We would like to know the reasons behind the recommendations which are included in Mr. Famariss's proposal, as I understand it, this is your proposal, is that correct?

A That is right, sir, yes.

MR. MACEY: And I think the Commission should very definitely know the reasoning behind every part of the proposal, as a matter

of fact, I think there is a -- that the line companies who are involved in the case would be interested in knowing why these things are required for their own information. All right, Jr. Johnson.

MR. JOHNSON: (resuming) As I understand your testimony, Mr. Famariss, the purpose of the bond is to permit the Oil Conservation Commission to screen the applicants?

A Its qualifications, yes.

Q As a financial qualification of his ability to perform the services authorized by the Permian?

A That would be one of the elements.

Q What would be the other elements, Mr. Famariss?

A The normal procedure that a person has to go through in obtaining a bond.

Q What do you mean, normal procedure?

A Normally you have an application, it states out your name, age, date, birthplace, and so on down through it. When you get through, you have a pretty good history of what the applicant has done in years past, which does have a connection in his ability to secure or not secure the bond.

Q That information wouldn't be furnished to the Commission, would it?

A The Commission would know that it had been.

Q That would be furnished to the bonding company?

A I imagine it would be available to the Commission if they so wanted it, it is public record.

Q Are there any other reasons for that recommendation?

A I think we have covered it pretty thoroughly.

Q Do you have any other reasons, Mr. Famariss?

A I think we have covered it pretty thoroughly.

Q That is your only two reasons for the bond?

A Well, you know you, had I known you were going to ask that question, I am quite sure I'd have had voluminous testimony to offer.

Q Upon the granting of the permit to the purchaser or transporter, you made a recommendation that the permittee be required to furnish the following: run tickets showing acquisition, is that right?

A (Nods head.)

MR. GIRAND: Answer up.

A Right.

MR. JOHNSON: What was your reason for making that recommendation, Mr. Famariss?

A Well, if I may, Mr. Counsellor, I would prefer to answer your question in a comprehensive manner of logic by going through all of the points that have been set out here, which are points 1, 2, 3, and 4.

Q All right.

A The run tickets showing acquisition, we feel, are essential and necessary, the run tickets could cover even an accumulated tank of drip on the line or a transport-load which had^{been} acquired through small drips, in other words, it could be of any unit of acquisition. In such a case the parties in whose lines this drip gasoline originates then have an immediate accounting or record of the acquisition, and there was a question brought up here this morning relevant to the burden of paper work, and at this particular point

is the only point at which the owner of the gathering system, speaking of the gas system, enters into the execution of papers as far as the permittee is concerned, he does that by virtue of signing the run ticket, just as you run oil from a lease, the purchaser signs it and the owner signs it, so you have a good accounting of it at that point. The accumulation reports we deem essential for the reason that they'd provide the means by which acquisition is effected and proven against which point number three, a C-110 would be issued. We see nothing burdensome in this on anybody. We also see an excellent control established for the Commission because it makes necessary the accumulation before authority to transport and sell is obtained. We feel definitely that the issuance of a blanket C-110 on a presupposed amount that might be acquired is a dangerous instrument. Off the record.

(Discussion off the record.)

WITNESS: The monthly reports we consider necessary for good accounting purposes, for the Commission to have a quick method of overall operations that would be tied over a calendar period, comparable to the monthly or periodical reports required by the Commission in other instances in other businesses. Now that pretty well covers the purposes for which -- you have anything, Mr. Girand, you'd care to add to that?

MR. JOHNSON: The run tickets showing acquisition, by that you mean showing acquisition from the pipeline or owner of the pipeline gas?

A Yes.

Q Not necessarily the lease operator?

A Not the lease operator, he is not involved.

Q The accumulation reports showing the storage, if I understand your recommendation, that as the acquisitions of the drip gas are made and stored, the Commission would be furnished a statement showing the amount put in the storage facilities?

A That would constitute the request for the C-110.

Q And it^{is}/your recommendation that the C-110 not be issued until after all of the gas had been accumulated and stored, is that right?

A What do you mean by "all"?

Q After the gas which was collected from the drips were stored in permanent storage facilities.

A Well, you have to use some sort of, either a calendar period or a tank capacity.

Q Well, over thirty?

A No, not necessarily over thirty days, it might be, or one day, in other words, you pick up five 100 barrels, you have accumulated there itself, and you are ready to make out your report.

Q At that time the C-110 could be issued?

A Yes.

Q And not before?

A Not before.

Q The monthly reports, it is your recommendation that the monthly reports be made to the Commission?

A Yes, definitely.

Q You heard the testimony here this morning, didn't you, Mr. Famariss, whereby reports were made biweekly to the Permian Basin Pipeline Co.?

A I don't recall it.

Q The issuance of the C-110, insofar as this applies to operators

servicing drip gas, drips, on the line, the proration of the gas has already been determined prior to the acquisition of that, hasn't it?

A Yes, the gas/well being legally produced, it would have to have been determined.

Q And this is just a byproduct which takes place through natural processes after the gas has been purchased, isn't it, Mr. Famariss?

A Now what do you mean "this"?

Q After the gas, in other words, the drip gas which accumulates in these drips along the line.

A Is what?

Q That is just an accumulation which takes place after the gas has been purchased by the Permian or the El Paso, isn't that true?

A Well, it is purchased after it flows out of the well, so therefore it would have to, because it has to get out of the well, but I wouldn't concur with you that it occurs after the meter run.

Q In other words, after it passes through the meter?

A I don't concur that drip don't collect on the stream side of the meter.

Q But there has been no evidence here that these operators are servicing those drips, are they?

A I don't know.

Q The pipeline companies have no authority to authorize these operators to service those drips, do they?

A I can only speak in a particular instance of our own

production, and it is a pipeline company's line to our wellhead, so I would say that the pipeline company has jurisdiction from our wellhead on.

Q From your wellhead on?

A From our wellhead on, which is both downstream and upstream to the meter.

Q Did you hear the testimony this morning which was given by Mr. Joe Newman to the effect that all of the drips which he serviced were drips situated along the line of the Permian Basin Pipeline after the gas had already passed through the meter into the main line?

A I believe that is what he contended.

Q And that those were the only drips in which he was servicing?

A I don't recall that statement from him.

Q You have also recommended that after the granting of the permit and in the event the permittee is found guilty of violation of any of these rules and regulations of the Oil Conservation Commission or any of the laws of the State of New Mexico in regard to production, sale and transportation of wash-in, creek, pit, scrubber or drip gasoline, that the permit be subject to cancellation without hearing?

A U-huh.

Q Is it your recommendation that that should apply to drip gasoline?

A Definitely.

Q Why should it apply to drip gasoline?

A Well, once a malpractice is turned out, why there is no

logical reason for continuing the party in business.

Q Well, you think or is it your statement that any of the pipeline companies wouldn't take steps to correct any malfeasance which any of their permittees were engaging in?

MR. GIRAND: If the Commission please, we object, again it is strictly argumentative, what he thinks the pipeline people would do, it wouldn't make any difference what he thinks.

MR. JOHNSON: If it please the Commission, we feel like we are entitled to inquire into it.

COMMISSIONER WALKER: Mr. Johnson, we feel that you are, too, but not to the extent of the witness's speculation as to what the pipeline companies would do as far as malfeasance itself is concerned.

MR. JOHNSON: (resuming) Now Mr. Farmariss, in your opinion, could the operator of, or one of the individuals servicing these drip pipelines or these drips on the pipelines misappropriate drip gas?

A You are more or less asking me to reflect conviction.

Q Well, that is the purpose.

A I decline to answer your question. I think the answer is obvious.

Q Do you recommend that the permit be suspended without a hearing or cancelled?

A I do, as previously stated.

Q Mr. Famariss, would this affect your operation in any way there in the refinery?

A Not one bit.

Q Would it affect your operation as a crude oil purchasing

company?

A Not one bit, we have self-imposed these same rules on ourselves because we considered them minimum security operation methods, even though not required by the Commission.

Q You have self-imposed those rules on yourself because you do purchase wash-in oil, creek oil, pit oil, or tank bottom oil, do you not?

A We do not.

Q Have you ever at any time purchased them?

A We did not, we purchased scrubber oil.

Q What do you mean by the use of the term "scrubber oil"?

A It is in the same category oil-wise as drip gasoline is gasoline-wise, it occurs in the same manner.

Q Mr. Famariss, you purchased drip gas from Mr. Newman, did you not?

A we have.

Q And are you purchasing gas from him at the present time?

A I don't know when his last delivery was made to us, we still would.

Q I didn't ask you, Mr. Famariss, if you would, I asked you if you are purchasing it at the present time.

A We still offer him a market.

Q You still offer him a market. Is he selling gas to you?

A Now, Ted, he sold me some in November, this is December, and I haven't seen our report and I can't tell you when the last delivery was made to our refinery by month, day, and time.

Q What did you pay him for oil if you recollect?

MR. GIRAND: Now if the Commission please, I can't see what a refinery pays for drip gasoline has to do with the order permitting a man to pick it up. That is strictly an arm's length

negotiation between a possessor of the drip gasoline and the refinery to whom he sells, it could have no bearing on a rule or regulation governing the transportation.

MR. JOHNSON: If it please the Commission, we'd like to make inquiry into it to see whether or not there is any bias or prejudice which motivated these recommendations.

MR. GIRAND: If the Commission please, I'd like to make this further statement. I have failed to find in this proposed rule any wording that would even slightly intimate that the holder of a permit would be required to sell the product to Famariss Refinery. I think it applies to all of them and even apply to Famariss if he obtains a permit, what he pays for it is surely not germane here.

MR. MACEY: Mr. Johnson, exactly what was the purpose of your question?

MR. JOHNSON: Off the record.

(Discussion off the record.)

MR. JOHNSON: That will be all, if the Commission please.

CROSS-EXAMINATION

By: MR. GIRAND:

Q Just one question, it may be a little repetitious, but Mr. Famariss, at the present time you are now operating under the very rules that you have suggested here with the exception of the penalty clause authorizing summary cancellation of your permit, isn't that correct?

A Yes, we are operating under these rules and, well, I might add to it that we are very proud that we are.

Q Have you found the requirements of these rules prohibitive or burdensome on you?

A They are definitely not burdensome.

MR. GIRAND: That is all.

REDIRECT EXAMINATION

by: MR. JOHNSON:

Q Mr. Famariss, the oil which you are purchasing though, is being purchased at the wellhead and any purchase that you made without this rule would be purchase of oil in addition to the oil produced by the daily allowable, wouldn't it be?

A I don't know that I follow you.

Q In other words, Mr. Famariss, you go out and you purchase ^{of} some / this scrubber oil at the wellhead or at the tank or wherever it is, say you purchase 40 barrels, if the Commission doesn't have some information as to that 40 barrels which you purchased and take that into account in establishing the daily allowable for this well, that would permit that well to produce oil in excess of the allowable, wouldn't it?

A I think that the Commission has adequate controls over refinery operation that absolutely makes impossible the handling of what you are implying, hot oil, it makes it impossible, there is no complication as that in your question.

Q If the rule though, as it exists at the present time as to the type of oil that you purchase, if the Commission did not have that information before them, the amount of oil that you purchased, it would permit the operator to go ahead and produce oil in addition to that which they sold to you, is that true?

A That is why we proposed this, that will prevent it.

Q But in this instance, as to drip gas, the quantity of the drip gas is accumulated after the allowable has already been established and after it has already been purchased, isn't that true?

A This will still account for it and I think nothing less than this will account for it.

Q Is it your recommendation that the Commission can control the acquisition or the accumulation or disposition of the accumulation of the drip gas after it has been purchased?

A I think that this regulation here offers the Commission opportunity to control this particular type of oil regardless of where it moves.

MR. JOHNSON: No questions.

MR. GIRAND: Mr. Famariss, in order to enlighten Mr. Johnson and the Commission, does the drip gas and scrubber oil have any particular distinguishing characteristic over crude oil?

A Drip gasoline and scrubber oil have the characteristics of crude oil?

MR. GIRAND: No, do they have any distinguishing characteristic?

A No, no.

MR. GIRAND: Is there anything, anything particularly --

A (Interrupting) No, no, the same stuff.

MR. GIRAND: Can you look at the stuff and tell whether or not it came out of a drip or distillate well?

A You cannot.

MR. GIRAND: That is all.

MR. MACEY: Anyone else?

EXAMINATION

By: MR. MACEY:

Q Mr. Famariss, you made a statement in connection with your item number one pertaining to run ticket showing acquisition in which you draw a parallel of an owner of oil in a tank battery selling oil to a pipeline company, they issue a run ticket and a purchaser's representative and the lease owner's representative sign the run ticket. Now what possible parallel could you draw to the man owning the drip gasoline in the drip acquiring it himself?

A For instance, El Paso Natural acquiring it himself?

Q Or Mr. Newman acquiring it himself, Mr. Newman owns the drip, the drip gasoline that is collected in it according to the contract.

A He owns it before he acquires it?

Q He goes out and gets it, it's his if he goes out and gets it.

A It is after he gets it, it becomes his, he gets it at this time after removing it.

Q All right, let's forget about Mr. Newman, let's talk about El Paso getting the drip, do they make themselves out a run ticket?

A No, no, they are excluded from any regulation under here where the owner accumulates and sells into the market, they are excused from these regulations, this is only where another party enters.

MR. GIRAND: Mr. Macey, may I interrupt?

MR. MACEY: No, you may not interrupt. I want to ask, you mean to tell me under your proposal El Paso wouldn't have to comply

with any of these provisions or any other pipeline?

A They would have to, as I understand, they do not acquire C-110 or file for C-110 to ship, but other than that, no, there isn't any other place in this regulation where they would be bound, see, they are excluded in this first paragraph of the proposal.

Q And they could burn it if they wanted to?

A I imagine so.

Q Well, now Mr. Girand, go ahead.

MR. GIRAND: That is all I wanted to clarify, the rule provides that the owner, the sale by the owner is not subject to the rules and that would be a sale when the owner acquired the C-110, the authority to transport the moving.

MR. MACEY: Now I want to ask another question about the so-called parallel between drip gasoline and scrubber oil, do you go out and pick up any kind of liquid hydrocarbons on a natural ^{gas} ~~pass~~ gathering system?

A Yes, sir, yes.

Q Where, in what do you pick it up?

A How, you mean physically do we pick it up?

Q I mean where does it accumulate.

A All right, we have several methods, one of them where you might say quantities exist, we erect a tank and blow the drips down into the tank to where the quantity is economically feasible is gathered, that is one method and on rare occasions we might enter the truck direct from the drip.

Q You have any kind of a connection with a scrubber on a gasoline plant?

A You mean to the gasoline plant scrubber tank? In one

instance, yes, we have a line that runs from that scrubber permitting it to be blown down into a tank which prevents waste and recovers all of the available oil that would be recovered by that scrubber.

Q In other words, if I understand it, you have some kind of a contract with this gasoline plant whereby they have a tank that collects the scrubber oil?

A No, we own the tank.

Q All right, the oil is taken out of the scrubber directly into your tank?

A That is right.

Q And then it goes, where does it go?

A Well, from that accumulation tank if it is pipeline quality, which it rarely is, then it would be transferred from that accumulation tank to pipeline run tanks or in other instances from the accumulation tank to our tanks and in turn taken to the refinery.

Q All right, now when does it become your scrubber oil, when do you own it?

A When it enters our property, our tanks, or our truck, all we have is the right to gather.

Q How often do they put oil from the scrubber into the tank?

A As often as it accumulates, I mean it might be a month and you'd get none and then it might be that that scrubber tank may dump two or three times in a day.

Q Every time you make a run out of that accumulation tank, you make a run ticket?

A Yes, sir, yes, sir.

Q Now Mr. Famariss, isn't it a fact that the oil as it is used in here as the term wash-in oil, creek oil, pit oil,

scrubber oil, isn't that oil, that liquid hydrocarbon in almost every instance oil which is produced in addition to any authorized allowable to an oil well to a proration unit?

A It is bound to be.

Q Well, wasn't the main purpose of the \$25,000 performance bond to prevent anyone from going out and making any kind of a deal to pick up oil from the lease pit or something like that in addition to the oil?

A Definitely.

Q Because of the fact that you had a certain fixed allowable on that well, and if someone made a deal to go out and pick up so-called hot oil, that was the Commission's protection, \$25,000 against someone doing that in an unscrupulous manner?

A Yes, yes.

Q Now inasmuch as the drip gasoline is produced against -- not against allowable, as far as the gasoline itself is concerned, why is it necessary other than knowing what volume is involved, why is it so necessary that we are concerned about the disposition of it?

A Well, is it not your distillate that is produced incidental to gas, is under an allowable if I understand correctly.

Q It is an arbitrary allowable, though?

A But it is an established allowable, though.

Q Sure, the allowable is fixed up ahead of time, incidentally, and is assigned to the well before the well is ever produced into a tank. Mr. Porter authorizes a certain well to produce an estimated amount of distillate, condensate, whatever you want to call it, on a monthly basis, whether they produce half of it or all of

it or all of it doesn't make any difference, it is solely for the accounting differences and in its distillate or condensate is in the same category of drip gasoline as my concept of drip gasoline is, that it is produced incidental to a gas allowable.

A That is right.

Q Now some of the condensate or drip is of low gravity due to the complex nature of the reservoir which we are dealing with, such as the Blinebry or the Eumont where some of the gas wells make oil, but that liquid hydrocarbon which we are dealing with, in that case there is no question of a violation of over-producing the well from the liquid standpoint, the violation can only occur where you can have an allowable on the liquids?

A That, yes, I'll go along with that completely, however, I'd like to qualify it in this manner, that the opportunity to go to a lease tank for drip gasoline exists just as does the opportunity to go there for lease oil.

MR. MACEY: Let's take a short recess.

(Recess)

MR. MACEY: (resuming) Any further questions of the witness? Mr. Porter?

MR. PORTER: I would like to explain a situation which presents now as a matter of record, and then ask how that might be affected by these proposed rules. There is a leaseholder near Eunice who I believe has an agreement with one of the gas transmission systems whereby he is to get the drip from certain wells, and he sets storage to collect that drip on his own property there and it is very close to a crude oil transmission line, and he either had the connection or he anticipates one to his crude oil

line, my question is, would he be subjected to this bonding provision also, he'd have to have a hearing to get a permit to continue this operation, and there may be others like it?

A Were you asking me the question?

MR. PORTER: Yes, sir, I wonder how those proposed rules affect the operation.

A That looks to me like it is an interpretation that would be reserved to the Commission. I'll express my opinion that he should qualify as should anybody else.

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

(Witness excused.)

(Discussion off the record.)

MR. MACEY: Let's go back on the record. Anyone have anything further that they'd like to say in this case?

MR. HILL: I'd like to state that since the various questions have just been tossed around here, and since our attorney is unable to be here and there is quite a legal question involved, and furthermore, more specifically, the proposed rules as entered by Mr. Famariss, while according to the counsel are not intended to apply in all their points to the owner of the pipeline itself, they do not specifically, to me at least, exclude the pipeline from any of them. There are things, I feel, that at least the wording should be so changed as to make it clear as to which points do apply and which do not apply to the pipeline company operating the pipeline system from which this drip gasoline is gathered. With that in mind, I should like to request the Commission to continue this case until the next hearing.

MR. MACEY: I might add something to Mr. Hill's statement. I have had a discussion on this problems of this case, Mr. Stanley, our engineer at Hobbs, Mr. Stanley stated that he would like to make a thorough study of all of the conditions involving any of the movement of any product under Rule 312, with the idea in mind that maybe the entire rule should be thoroughly checked into. Now I think frankly he may have a point, I know that the Commission should, if they are going to have a rule, they ought to make sure that they understand everything that is going on under the provisions of the rule. Now I realize we have been dragging this case out since sometime in October, I believe, this is the third month, and with the thought in mind that we will wind it up in January, and give everyone an opportunity to go over the proposal, I'd like to ask a question of Mr. Famariss or Mr. Girand. Has this been offered in evidence, this is the first time that I saw it?

MR. GIRAND: No, it has not, I furnished the El Paso with a copy of it and Mr. Hinkle at Roswell, I just revised it, the first proposed rules to take care of the things that Mr. Ben Howell was objecting to, primarily, mixing in drip gasoline with wash-in oil and pit oil and creek oil and such as that.

MR. MACEY: We have had a motion to continue the case until next month by Mr. Hill, is there objection to the continuance of the case to January 13 hearing?

MR. GIRAND: Well, we just furnished the service here to the Commission by offering a proposal on their hearing, and we give it for what it is worth. That is all we have to say.

MR. MACEY: That is the point that Mr. Walker just brought out, that this rule with your amendments has not been distributed

