

BEFORE THE
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO

IN THE MATTER OF:

Case No. 1186

December 13, 1956.

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BEFORE THE
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IN THE MATTER OF:

Application of El Paso Natural Gas Company for the forced pooling of the N/2 of Section 26, Township 31 North, Range 11 West, Blanco-Mesaverde Pool, San Juan County, New Mexico, or in the alternative, for a 280-acre non-standard drilling and proration unit in the Blanco-Mesaverde Pool. Applicant, in the above-styled cause, seeks an order force pooling the N/2 of Section 26, Township 31 North, Range 11 West, San Juan County, New Mexico, or in the alternative, authorizing a 280-acre non-standard drilling and proration unit in the Blanco-Mesaverde Pool consisting of the NW/4, N/2 NE/4, SE/4 NE/4 of said Section 26.

Case 1186

BEFORE:

Mr. A. L. Porter
Mr. E. S. (Johnny) Walker

TRANSCRIPT OF PROCEEDINGS

MR. PORTER: The meeting is called to order. The first case on the docket this afternoon is Case 1186.

MR. COOLEY: Case 1186. Application of El Paso Natural Gas Company for the forced pooling of the N/2 of Section 26, Township 31 North, Range 11 West, Blanco-Mesaverde Pool, San Juan County, New Mexico, or in the alternative, for a 280-acre non-standard drilling and proration unit in the Blanco-Mesaverde Pool.

MR. PORTER: How many witnesses do you have?

MR. DANIEL One witness, Mr. Porter. I am Lee Daniel, representing El Paso Natural Gas Company. I will have one witness in the case, Mr. Joe Cherry. Just for the matter of the record, on our application we would like to strike the first "the"

appearing immediately before the word "leasehold" in the first sentence of the first paragraph. Further, any place the word "Randlemon" appears in the application or our exhibit, the word should be spelled R-a-n-d-l-e-m-o-n, instead of a-n.

MR. PORTER: Is that with respect to your application and your exhibit?

MR. DANIEL: Yes.

MR. PORTER: Is there objection? Let the record show that it is all right.

JOE CHERRY

a witness, of lawful age, having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

By MR. DANIEL:

Q Please state your name.

A Joe W. Cherry.

Q What company do you work for?

A El Paso Natural Gas Company.

Q In what capacity?

A I am areal landman for the San Juan Area, and I have direct supervision of all our leasehold interest in the San Juan Basin.

Q Did you prepare, or were you instrumental in preparing the application in this case?

A I was.

MR. DANIEL: Are the qualifications of this witness acceptable to the Commission?

MR. PORTER: Yes, they are.

Q Mr. Cherry, are you familiar with the application in this case?

A I am.

Q What does that application seek to do?

A It seeks to compulsorily pool the North Half of Section 26, Township 31 North, Range 11 West, or in the alternative, to establish a non-standard proration unit consisting of the Northwest Quarter, the North Half of the Northeast Quarter and the Southeast Quarter Northeast Quarter of Section 26, Township 31 North, Range 11 West.

Q In your capacity as areal landman for El Paso, are you familiar with the North Half of Section 26, Township 31 North, Range 11 West?

A I am.

Q I hand you this paper and ask what that is.

A That is an exhibit showing the various tracts making up the North Half of Section 26, Township 31 North, Range 11 West.

Q Was this exhibit prepared under your supervision?

A It was.

Q You say it covers the North Half of that Section 26?

A That is right.

Q How many acres are included in that?

A There are 320 acres in the North Half of Section 26.

Q Are you familiar with ownership of the North Half of Section 26, insofar as that ownership is reflected by El Paso's records?

A I am.

Q Please state to the Commission what El Paso's records show to be the ownership of the lands located in the North Half of Section 26.

A Tract 1 is a lease executed by Frank Randlemon and wife, Eva Randlemon, under date of January 17, 1952, covering 68.05 acres in the Northeast Quarter and in the North Half of the Southeast Northeast of Section 26, Township 31 North, Range 11 West, with the exception of four acres in the extreme Northeast Northeast Quarter of Section 26.

Q What type lease is that?

A That is an oil and gas lease.

Q Is it State, Federal or Fee?

A It is Fee land.

Q Does that particular lease contain a pooling clause that would allow the communitization of that tract with other lands?

A All of the leases contributed to this unit by El Paso have pooling clauses which would allow the pooling to form this unit. Also the leases owned by Aztec Oil and Gas Company have pooling clauses which would allow the pooling.

Tract No. 2 is an oil and gas lease executed by Marion I. Vance, Betty D. Vance, Junius Lothair Payne and Marguerite Payne, as lessors; it was dated January 7, 1952, and it covers 169 acres in the Northwest Quarter and that portion of the Northeast Quarter which lies west of the Las Animas River. This is Tract 2 on our exhibit.

Q As I understand it, that is a Fee lease?

A That is a Fee lease also, and it contains a pooling clause.

Tract No. 6, being the third lease in the North Half, was contributed by El Paso, is an oil and gas lease dated February 8, 1952, executed by Archie D. Hill and wife, Marian F. Hill, as lessors, and it covers 9 acres in the Southeast Quarter of the Northwest Quarter of the Section under question, and it contains 9 acres, more or less. This lease also allows for the pooling to form a gas proration, or a gas unit. Those are the leases contributed by El Paso. There are four leases contributed by Aztec Oil and Gas Company. The first of these leases is an oil and gas lease dated December 8, 1948, executed by Nellie M. Randlemon, as lessor, covering 4 acres in the extreme Northeast corner of the Northeast Quarter Northeast Quarter of Section 26. That is described as Tract 3 on our exhibit and contains a pooling clause.

Aztec has three leases in the South Half of the Southeast Quarter of the Northeast Quarter, which together comprise an undivided one-third interest in that tract. The first of these leases is a lease, an oil and gas lease, dated May 27, 1952, executed by Edith Maize and husband, Melvin L. Maize, as lessors, and it covers an undivided one-fourth of one-third interest in the South Half of the Southeast Quarter of the Northeast Quarter. The second of these leases is an oil and gas lease dated April 10th, 1952, executed by Mrs. Eloise Emmons, as lessor, and it covers an undivided eleven-sixteenths of one-third in the acreage just previously described.

The third is an oil and gas lease dated May 27, 1952, executed by Anne Peterson and husband, Torgny C. Peterson, as lessors, and it covers an undivided one-sixteenth of one-third

in the acreage just previously described.

Those three leases make a total of one-third interest, and they are described under Tract 4 of our exhibit.

The remaining two-thirds of the interest in the South Half of the Southeast of the Northeast is a mineral interest owned by Charles B. Jahns and it covers two-thirds mineral interest. In addition, Mr. Jahns is the owner of the mineral interest under 9.95 acres in the Southeast of the Northwest of Section 26, and this is described as Tract 7 in our exhibit.

Lastly, the minerals under the southwest Quarter of the Northeast Quarter are owned by the estate of Ray Morrison, deceased, being described as Tract 5 in our exhibit.

Q You say these are Fee lands?

A The entire North Half is all Fee land.

Q As an owner of leasehold interest in the North Half of Section 26, does El Paso wish to drill a well in that half-section?

A We do.

Q What type of well will it drill there?

A We propose to drill a well to test the Mesaverde formation.

Q Would the Mesaverde well be a proper well to drill in the North Half of Section 26?

A In view of the fact that the North Half of 26 is offset by Mesaverde wells on the north, the east, the west, and the south, we feel that a Mesaverde would be a proper well.

Q Do you feel that such a well could reasonably be presumed to be productive of gas?

A We feel that the well could reasonably be presumed to be

productive of gas.

Q Are any other interest owners in the North Half of 26 willing to have a Mesaverde well drilled in the North Half?

A Aztec Oil and Gas has indicated a desire to commit their leases to the drilling unit, and Charles B. Jahns has indicated his desire to commit his interest to the drilling unit; and both of the parties have agreed to pay their share of the cost of drilling, completing, testing, and operating the well.

MR. DANIEL: These are letters or telegrams of consent on the part of Aztec and Mr. Charles B. Jahns that we would like to introduce into the record for the Commission's examination.

MR. PORTER: Without objection it will be made a part of the record. Mr. Daniel, they should be marked as exhibits.

MR. DANIEL: All right, we request that telegram dated December 12th from Aztec Oil and Gas Company be marked as Exhibit No. 2 and accepted into evidence in this case. We request that a telegram dated December 13th from Mr. Charles B. Jahns be marked as Exhibit 3 and accepted as evidence in the case.

(El Paso Natural Gas Company's Exhibits No. 2 and 3 marked for identification).

MR. PORTER: The exhibits will be so marked and entered into the record.

Q Are Aztec and Mr. Charles B. Jahns, are they willing to pay their share of the drilling, completing, testing of the Mesaverde well to be drilled in the North Half of 26?

A They are.

Q Are they willing to enter into communitization agreement

and operating agreement to that effect?

A That is right, they are.

Q Does this well have to be drilled to preserve the rights of any one of the leaseholders under the North Half of 26 that you know of?

A There are two leases that will have to be committed to a drilling unit: The lease described as Tract 2 in our exhibit must be committed to a drilling unit prior to January 6, 1957, or it will expire. Also the lease described as Tract No. 6 must be committed to a drilling unit prior to February 7, 1957, or it will expire.

Q You testified before that the North Half of this Section is presently being drained by Mesaverde wells?

A Yes. There is a Mesaverde well offsetting this unit to the north, to the east, to the west, and to the south.

Q Has the estate of Ray Morrison been contacted in an effort to obtain a lease on the Southwest Quarter of the Northeast Quarter of the Section 26?

A Mr. T. W. Bittick, our division land manager, in Farmington, contacted the Administrator of the estate and was advised by the Administrator that he did not wish to enter a lease at this time.

Q Has the estate been offered a right to commit its mineral interest to a drilling unit to the North Half of Section 26?

A When the Administrator advised Mr. Bittick that he would not be able to enter a lease, we suggested that they commit their interest and share in the cost of drilling of the well as working interest owners, and the Administrator advised that he did not

feel that he could commit the estate to pay its share of the cost.

Q In the event the Commission would grant an order in this case allowing for the compulsory ruling of the estate lands with El Paso and Jahns, would El Paso be willing to cover the share of the cost test out of the estate's share of production from the well?

A El Paso would.

Q In other words, El Paso is willing to carry them for their interest?

A We will carry them for their interest.

Q What percentages of the estate's share did the El Paso desire the Commission to allow for carrying the estate?

A We would like to have a six percent interest on the unrecovered balance allocated to this tract, the unrecovered portion of the cost.

Q Mr. Cherry, at what time would that interest begin to run, as far as El Paso is concerned?

A We would like for it to commence running fifty days from the date of the billing, the date of the statement sent.

Q Statements are usually sent when?

A Normally our accounting department makes their statements approximately the 15th of the month.

Q Would that be before or after the well is drilled?

A It would be after the well was drilled. There would be no cost until the well was actually commenced.

Q Would El Paso be willing, in the event the Commission allowed the forced pooling, to allow the estate to come in at any time before interest started running, to allow the estate to pay

their share of the drilling cost?

A Yes.

Q In the event that interest did begin to run and El Paso subsequently made recovery of the drilling costs of the estate, are we willing -- is El Paso willing at any time to allow the estate to come in and make payment of its share and to discontinue the interest and allow them to have their interest free and clear there?

A At any time the estate desires to pay off the unrecovered balance of their cost, El Paso would like for them to do so.

Q In the event that the Commission is not willing to grant compulsory pooling in this case, do El Paso, Aztec, and Jahns desire that they be granted a non-standard proration unit allowing them to produce and drill a well in the North Half of 26?

A Yes, sir, we desire to have a non-standard proration unit consisting of the Northwest Quarter, the North Half of the Northeast Quarter, and the Southeast Quarter of the Northeast Quarter of Section 26.

Q Just for the record, is such acreage made up of contiguous quarter quarter-sections?

A Yes.

Q Does it lie wholly within a governmental section?

A It does.

Q Would the non-standard unit lie within the horizontal limit of the Mesaverde Pool?

A It would.

Q In your opinion, could a well be drilled on and produce

from such an unorthodox spacing and non-standard gas proration unit without causing waste?

A In my opinion it would.

Q Could such a well be drilled and all the rights be protected?

A In my opinion it could.

Q In the event such a non-standard gas proration unit is granted covering this acreage, would the same be covered by a communitization agreement and operating agreement signed by the parties involved in that acreage?

A It would be covered by a communitization agreement and operating agreement entered into by El Paso, Aztec, and Charles B. Jahns.

MR. DANIEL: We request that El Paso's Exhibit 1 be accepted in evidence as part of the case.

MR. PORTER: Is there objection to the admittance of this exhibit? It will be admitted.

MR. DANIEL: I have no further questions. Does the Commission have a question?

MR. PORTER: Mr. Gurley.

CROSS EXAMINATION

By MR. GURLEY:

Q Mr. Cherry, in your application you have indicated that the Administrator for the estate of Ray Morrison is not willing or able to enter into a lease. From your testimony I couldn't quite determine just what the situation might be there. Did he express his unwillingness to take the necessary action for the estate to

enter into the agreement, or did he feel that he didn't have the power?

A It was not a question of power; he was just unwilling to do so at the time. Apparently there are some large number of heirs involved, and he expressed his unwillingness to enter into a lease. It was not a question of whether he had the power to do so.

Q Do you have at your hand the name of the party?

A John A. Morrison.

Q He is part of the family?

A He is related to the deceased.

MR. GURLEY: That is all I have.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: Jason Kellahin, representing John A. Morrison, Administrator of the estate of Ray Morrison. I would like to ask Mr. Cherry a question.

By MR. KELLAHIN:

Q Are you asking the Commission at this time to enter an order setting the interest rate?

A We feel that as the party carrying the uncommitted interest that we are entitled to some type -- and also the party who is taking the risk -- that we are entitled to some type of recovery over and above the share of cost allocated to this tract. Our suggestion in this matter is six percent.

Q Are you asking, to make my question specific, are you asking the Commission to include that in the present order?

A We are.

Q On that basis, do you know what the actual cost of the

well will be?

A We know what the cost of Mesaverde wells in the general area are. The actual cost is not the same, and generally they run from eighty to eighty-six thousand dollars.

Q At the present time you can't say what the expenditures will be?

A I cannot.

Q Are you familiar with the provision of the statute in regard to that?

A I am sorry.

Q Are you familiar with the provisions of the statute in regard to that provision for pay-out under a forced pooling order?

A Well, I'm not clear on what you mean by the provisions.

Q Do you know what the law provides in regard to pay-out under a forced pooling order?

A Well, if I understand your question right, the Commission will set what they feel is an average price or an average cost for drilling a Mesaverde well and set the amount of recovery that will be allowed the operator.

Q That answers the question. I think it shows that you are not familiar with the statute. I didn't mean to ask you for a legal conclusion. Mr. Cherry, are you familiar with the pay-out period on these wells in this area?

A I don't think I could honestly say I was. The accounting problem is not in my realm.

Q You don't know then, on the basis of a six percent interest on the unrecovered balance, whether that would amount to 150 percent

pay-out or more or less than that figure?

A I could not say.

MR. KELLAHIN: That is all the questions I have.

MR. PORTER: Does anyone else have a question of Mr. Cherry?

Mr. Utz.

By MR. UTZ:

Q Mr. Cherry, I wondered if you would care to state whether Charles Jahns' two-third interest in Tract 4, and Aztec Oil and Gas' working interest in Tract 3 is participating in the cost of the well in cash or are you carrying them?

A They are participating in cash.

Q Can you tell me where you intend to drill this well?

A Wouldn't Tract be satisfactory, or do you want exact --

Q (Interrupting) I would like to have a footage location if possible.

A The location has not been staked and made. It will be drilled on Tract 1 in the Northeast Quarter.

Q Presumably it will be an orthodox location?

A It will be an orthodox location, presumably.

MR. UTZ: That is all I have.

MR. PORTER: Anybody else have a question? The witness may be excused.

(Witness excused).

Are there any other witnesses in the case?

MR. DANIEL: We have no other witness.

MR. PORTER: Anyone wish to make a statement?

MR. KELLAHIN: Representing the Administrator of the estate

of Ray Morrison, I want to state that we have no objection to the Commission's entering a forced pooling order in the case. However, we would request that the matter be held open in regard to the recovery of costs as provided by New Mexico Statute 65-3-14, Subsection (c), which, in part, reads as follows:

"All orders requiring such pooling shall be upon terms and conditions that are just and reasonable, and will afford to the owner of each tract in the pool the opportunity to recover or receive his just and equitable share of the oil or gas, or both, in the pool as above provided, so far as may be practicably recovered without waste. In the event such pooling is required the costs of development and operation of the pooled unit shall be limited to the lowest actual expenditures required for such purpose including a reasonable charge for supervision; and in case of any dispute as to such costs, the Commission shall determine the proper costs."

Obviously, there can be no dispute as to the cost of the well, because we don't know what the matter will be. Until the matter is negotiated, I don't feel it is proper to present to the Commission the question of recovery of costs or interest thereon in connection with this case. If the parties are unable to negotiate a settlement as to what their proportionate share shall certainly be, then either party can appeal to the Commission at that time and ask them to determine what the proper cost should be. Until that stage is reached, I think it would be improper for the Commission to state what is going to be recovered.

As brought out on examination of the witness, he cannot say whether six percent would amount to 150 percent or more than

150 percent or less than 150. Certainly if the estate has their money and they could put their money in the well, there would be no interest in the well. It is apparent they haven't been able to do that, or they would have done so. We would resist the Commission's entering an order at this time setting an interest figure of six percent on the unrecovered balance until the matter has been negotiated after we determine what the costs are.

MR. PORTER: Any further statements?

MR. DANIEL: If it please the Commission, we feel that asking the Commission for six percent on the unrecovered at this time is well within the powers and discretion of the Commission to lay that down. We feel as an operator who is spending money, taking the risk, carrying a person, we are asking for a legal rate of interest and it is not out of line; and at the time we drill our well, we would like to have some idea, we would like to know that we are going to be able to recover for carrying such a person as this. We feel it is definitely within the power of the Commission to lay down such a recovery, and we are asking affirmatively for that.

MR. PORTER: Mr. Cooley.

MR. COOLEY: With reference to this pay-out and your request for six percent interest, it has been the previous practice of the Commission, and certainly the desire of the Commission, to have these matters worked out on a volunteer basis, if at all possible. Should a forced pooling order be entered in the case, then I think El Paso would be in a position to negotiate with the estate, the Administrator, Mr. Morrison, for some agreeable solution to this

problem. We would rather see a voluntary agreement, if at all possible in this case. Since those efforts have not even been attempted at the present time, I wonder if we couldn't get a concession from you people to work out a voluntary agreement prior to requesting the Commission to enter an order forcing this matter.

MR. DANIEL: If that is the feeling of the Commission, we will definitely be willing to do that.

MR. COOLEY: That is in line with our previous policy. We have usually taken two stages: We enter an order that the acreage is pooled, and then if, through arbitration and agreement and discussion of this matter between the parties, they are unable to come to an agreement, then we will take the matter in hand and make a detailed accounting of what each party, what his share of the cost that must be borne, but we would rather stay out of the field of forced pooling, if at all possible.

MR. GURLEY: It is my understanding that there has been no attempt at contacting Mr. Morrison at all in regard to such a settlement as to the share in the cost, providing that the property is forced pool?

MR. DANIEL: At the time our contact was made, they would not give a lease nor would they give their consent to forced pooling. How can you ask for interest under circumstances like that?

MR. GURLEY: I wanted to be sure there was no attempt at all.

MR. COOLEY: El Paso has no objection to the attempt to make it voluntary agreement?

MR. DANIEL: We have no objection. We will be glad to do

