

BEFORE THE  
OIL CONSERVATION COMMISSION  
HOBBS, NEW MEXICO

IN THE MATTER OF:

Case No. 1522

TRANSCRIPT OF HEARING

APRIL 15, 1959

DEARNLEY - MEIER & ASSOCIATES  
GENERAL LAW REPORTERS  
ALBUQUERQUE, NEW MEXICO  
Phone CHapel 3-6691

BEFORE THE  
OIL CONSERVATION COMMISSION  
HOBBS, NEW MEXICO

IN THE MATTER OF:  
  
Case 1522    Application of General Petroleum, Inc., for  
              an amendment to Order No. R-1299. Applicant,  
              in the above-styled cause, seeks an order  
              amending Order No. R-1299 to provide that  
              any merchantable oil recovered from sediment  
              oil shall not be charged against the  
              allowable for wells on the originating  
              lease, which amendment would revise  
              Rule 311.

Hobbs Auditorium  
Hobbs, New Mexico  
April 15, 1959

BEFORE:

A. L. Porter, Jr.  
Murray Morgan  
Governor John Burroughs

TRANSCRIPT OF HEARING

MR. PORTER: The meeting will come to order, please.

I would like to interrupt the case presently under consideration and announce that the Commission has been requested to continue another case, Case 1522, until the May regular hearing. There are a number of people who are remaining here for this case, so I thought it appropriate to make the announcement at this time.

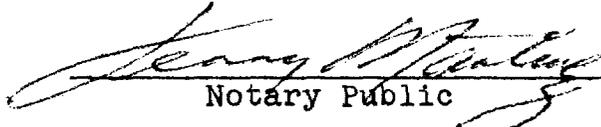
Is there any objection to the continuance of Case 1522 to the May regular hearing docket?

The case will be continued.

STATE OF NEW MEXICO )  
                                  :   SS  
COUNTY OF BERNALILLO )

I, JERRY MARTINEZ, Notary Public in and for the County of Bernalillo, State of New Mexico, do hereby certify that the foregoing and attached Transcript of Hearing were reported by me in Stenotype, and that the same was reduced to typewritten transcript by me and contains a true and correct record of said proceedings, to the best of my knowledge, skill and ability.

DATED this 7th day of May, 1959, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

  
Notary Public

My Commission Expires:  
January 24, 1962

BEFORE THE  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO

IN THE MATTER OF:

CASE NO. 1522

TRANSCRIPT OF HEARING

NOVEMBER 13, 1958

DEARNLEY - MEIER & ASSOCIATES  
GENERAL LAW REPORTERS  
ALBUQUERQUE NEW MEXICO  
Phone CHapel 3-6691

BEFORE THE  
OIL CONSERVATION COMMISSION  
SANTA FE, NEW MEXICO  
NOVEMBER 13, 1958

-----

IN THE MATTER OF: :

CASE 1522 Application of Lea County Drip Company, Inc.:  
 for the revision of certain of the Commiss-:  
 ion Statewide Rules and Regulations and for:  
 the revision of certain of the Commission :  
 forms. Applicant, in the above-styled :  
 cause, seeks an order to revise Rules 311, :  
 312, 1116 and 1117 of the Commission Rules :  
 and Regulations, to replace the present :  
 Commission Form C-117 with two forms to be :  
 designated as C-117-A and C-117-B, and to :  
 revise Commission Form C-118. :

-----

BEFORE:

- Mr. A. L. Porter,
- Mr. Edwin L. Mechem
- Mr. Murray Morgan

T R A N S C R I P T    O F    P R O C E E D I N G S

MR. PORTER: Now, getting back to continued cases, we will call Case 1522. This case first came on the October regular hearing in Farmington, "Application of Lea County Drip Company." At that time the applicant presented testimony and the proposed changes to certain rules. And certain rules were circulated to those in attendance, and they have also been circulated to our entire mailing list. At the hearing Humble Oil & Refining Company moved for a continuance to this date, and the case was continued to this November regular hearing. At this time I recognize Mr.

Reese, counsel for the applicant.

MR. REESE: My name is Randolph Reese. I represent Lea County Drip Company. At the last hearing there was some expression during the hearing and some more afterwards that there had been insufficient time in which to study the proposed recommendations. We feel that we have adequately covered the proposals and reasons for them in our testimony as presented. However, I have Mr. Rieder, the witness, who testified, present, if at this time anyone desires to cross examine him in connection with his testimony on these Rules.

MR. PORTER: Does anyone desire to have Mr. Rieder recalled to the stand for cross examination?

MR. COOLEY: Yes, sir, please. I would like to ask him some questions.

MR. PORTER: Mr. Rieder, would you come forward?

(Witness sworn)

C. M. RIEDER,

recalled as a witness, having been first duly sworn on oath, testified as follows:

CROSS EXAMINATION

BY MR. COOLEY:

Q Mr. Rieder, in discussing your proposal with other members of the oil and gas industry, certain individuals have commented that they felt that the first sentence in sub-paragraph (b) of your proposed Rule 311, which reads, and I quote: Destruction of waste oil is prohibited when it is economically feasible to re-

claim the same. End of quote. These individuals have suggested that this is somewhat vague and indefinite, difficult to understand. They have suggested that this sentence be deleted. Do you feel that it would impair the operating efficiency of the Rule if this sentence were deleted?

A No, sir, I don't, and it might actually improve the Rule. That "economically feasible" is rather vague and possibly would lead to some confusion, so we would see nothing wrong in the removal of that first sentence.

Q Then if that sentence were deleted, Rule 311 sub (b) would then read "Destruction Prohibited. No waste oil shall be destroyed, by burning or otherwise, unless and until the Commission has approved an application to destroy the same on Form C-117-A."

A That is correct, sir, and in line with the same thought, we feel possibly it might improve the Rule by deleting "by burning or otherwise" as it is a trifle ambiguous as well. By leaving the paragraph (b) to read as follows: "No waste oil shall be destroyed unless and until the Commission has approved an application to destroy the same on Form C-117-A.

Q Mr. Rieder, why do you feel that it is necessary to obtain a permit prior to destroying any waste oil?

A Well, sir, in addition to the fact as testified before, we are quite frankly of the opinion that there is an implied restriction within the statutes and the Rules presently toward the burning of it.

Further, we feel that it is imperative that prior to the burning that the Commission be apprised of the fact, both the Commission and the operators be apprised. Ofttimes -- well, in the first place, I don't believe that the Commission would have any control if indiscriminate burning were permitted. Secondly, I feel that it would aid the operators in controlling their own destruction. Ofttimes mistakes -- accidents happen in which oil is flooded to the pit. Too often these mistakes can be too easily eliminated with just a match, and I feel that, quite frankly, that it doesn't involve too great a burden in the normal course of operations for such an application to be made. Now, obviously there are going to be situations and occasions in which operators are going to be in a serious situation to the extent that they are going to have to destroy that pit immediately, and I believe that, as is always the case with the Commission, such approvals can be gained normally, first by telephone conversations and followed by the application. This Commission has never in the past, and I am sure in the future, will take an action to place an operator in jeopardy. We feel that the statement is imperative.

Q Mr. Rieder, Rule 312 as it now exists, 312 (c) also prohibits the reclamation of what is termed creek oil, wash in oil and pit oil.

A Yes, sir. We depleted that, however, from our new 313. Just one moment, sir. We feel that in this deletion that Rule 312 deals with treating plants, and as such, should deal with treating

plants, the problems operation and control of treating plants more than anything else, and we feel that paragraph 312 (c) as it now exists if it were to be retained would belong properly in 311. Now, actually, we feel that we have covered the products and the wording of existing 312 (c) in our proposed revised 311.

Q That is, in the definition of waste oil itself?

A Yes, sir. And then in the various sub paragraphs as to how to handle it. If you will note in the existing 312 (c), the method and manner of achieving permission to deal with these creek oil, wash in oil and pit oil are extremely vague, and to the best of my knowledge, the Commission, I don't believe, has ever had occasion to handle any of these products under the existing Rule and, to the best of my knowledge, there would be extreme confusion as to how to handle it. We felt that by eliminating it with 312 we've got 312 to what it actually is. It deals with treating plants, and we feel by 311 we have actually covered any unmerchantable oil and we have given a provision whereby they may be recovered and in such case as where it is necessary they can be destroyed.

Q In substance, all it has done is remove the provisions of the present Rules regarding wash in oil, creek oil and pit oil from Rule 312 and put them in 311?

A Yes, sir.

MR. COOLEY: That's all the questions I have.

MR. PORTER: Anyone else have a question of Mr. Rieder?

You may be excused.

(Witness excused)

MR. PORTER: Anyone else have any testimony in this case?  
Any statements?

MR. BRATTON: If the Commission please, Howard Bratton, Hervey, Dow, Hinkle, appearing on behalf of Humble Oil & Refining Company. We appreciate the consideration of the applicant in consenting to and the Commission in granting a continuance to the hearing this month in this case. During the month we have carefully analyzed and studied the proposed Rule, and we have some, what we believe, are basic objections to the proposed change. We do not propose to put on any evidence or any testimony in the case as we believe that it is primarily a matter of legal argument and policy which can be as well presented in the form of argument as from the witness' chair. However, we have available two witnesses if the question of operating practices in the field are material or if the applicant or the Commission are interested in that aspect of the matter. Humble's basic objection and the one which we believe runs throughout the entire proposed change is the provision in 311-C that "Any merchantable oil recovered from such waste oil shall not be chargeable against the allowable of the originating lease." We are opposed to that provision. We believe that it should be chargeable against the allowable of the originating lease. To go back and survey the problem and the reason that Mr. Rieder suggested that the allowable should not be chargeable against the originating lease, as I recall, he suggested that in case of a lease having

top allowable, top allowable wells that it would be uneconomic for the operator to see that all of this oil is reclaimed and have it charged against its allowable by running a full allowable and full price oil from the wells themselves. We believe that's an immaterial consideration because either under the statutes as they exist and will exist and under the Rule as proposed by Mr. Rieder, we believe that waste oil containing merchantable liquid cannot be destroyed. That is waste and, of course, to go back to the basic statute, the first statute, 65-3-3, prohibits waste; the second statute would be 65-3-3 (b) which includes -- which covers surface waste. And that, of course, prohibits the waste of crude petroleum oil or any products including the loss or destruction without beneficial use resulting from evaporation, seepage, leakage or fire. The products are defined in 65-3-29 to include residue from crude petroleum oil, wash oil, waste oil and a number of other items. Therefore, we believe that it's clear under the statute with or without this proposed regulation that the burning of residue that contains merchantable oil which, let's say, its economic feasibility to reclaim it, I believe that is prohibited. There is no question in my mind as to that aspect of it. Therefore, the operator cannot burn or destroy this oil; it is the Commission's duty under the statute to see that he doesn't. Now, to say that we are going to encourage you not to burn this oil dispose of it in some other manner, we are going to encourage you not to do that by not charging it against your allowable. That, it seems to me, is giving a man a bonus to stay within the law.

It would encourage poor operating practices, it appears to me, and there is no necessity for it. It is primarily a policing matter and if the Commission doesn't now have or feels that it has the authority to prohibit the destruction of waste oil until permission is obtained from the Commission, that, of course, is an effective remedy to the entire problem, it appears to me. You prohibit the destruction of the waste oil, you charge it against the lease, any reclaimable merchantable oil against the lease allowable, and it appears to me you solve the problems that are involved. Now, I realize that in a number of situations you cannot identify the originating lease from which this oil came. Certainly there are problems in connection with central tanks facilities such as the salt water disposal plants where you are going to have some accumulation of oil gathering at those plants and you cannot identify the particular lease from which that oil accumulated. I would see no objection at all to eliminating that oil from any -- charging it against anybody's lease allowable and allowing the operator of the disposal system to go ahead and sell that oil for the account of all the operators in the system. You have a built-in safeguard in that situation because if one operator is using poor practices and a good amount of oil is getting out of his lease and into those lines, if he is, say, putting in 20 or 30 percent of the oil going into central facilities, he is receiving only 5 percent of the proceeds, I think he wouldn't allow that to continue very long. Therefore, I think you've got a built-in safeguard in situations such as that which you do not have in

the case of a separate lease where you cannot identify the lease from which the oil came and the operator responsible for that oil getting into the pit or the tank bottom, wherever the oil may come from. That is our first and foremost objection to the proposal. We just believe that in any situation where the lease can be identified from which the oil originates that it should be chargeable to the allowable of that lease.

Now, secondly, we believe perhaps not as important, but in the entire process of reports which are made and applications which are made in connection with this proposal, we cannot find anywhere where the operator ever appears on any form or gives any consent or signs anything in connection with this entire transaction. If that is the proposal, we believe that it is wrong in that regard. Most of the companies, of course, don't like to increase their paper work, but I think the case of oil going off of their lease, an operator -- the lease owner should somewhere indicate his assent to that movement in some kind of report in connection with that. Last month the question of the royalty which might or might not be payable on this reclaimed oil was brought up. I couldn't answer as to how much royalty may be payable or who is liable for it, but if I were representing a royalty owner, there would be no doubt in my mind that some royalty is due from somebody in connection with oil coming from off that lease. Now, if that is the situation, I think the lease owner or operator should somewhere appear on these forms or reports that are filed with the Commission, because he is the one

who has made the contract with the royalty owner, and he is the one to whom the royalty owner is going to look to account. So I believe that in that regard we would object to the proposal.

There are certain other technical matters to which we might object in the draftsmanship, but I am sure if I drafted a proposed rule, there would be technical matters that other people would view in another regard, and we don't raise any objection with regard to that, to those matters. We would suggest that in sub-paragraph (d) of Rule 311 -- it says that "The provisions of this rule do not apply when waste oil is put to beneficial use on the originating lease for purposes of oiling lease roads, fire walls, tank grades, or any other similar purpose." I assume that as the Rule is drafted and proposed that that oil is chargeable to the allowable of the lease inasmuch as it excepts that oil from the provision of the Rule. Now, I don't know if that is the intent or not, but I raise that as a problem for consideration by the applicant and the Commission. Re-stating our basic original objection, we believe that the Rule should not be adopted to provide that merchantable oil shall not be chargeable against the allowable and the originating lease. Going further than that, if the "not" is stricken from that sentence, if it reads that any merchantable oil shall be chargeable, then we believe that the present Rules are just as feasible and workable as the proposed Rule, and for that purpose we suggest and we urge that the present Rules be retained and that the proposed Rules not be adopted.

If there are any questions as to Humble's position or as

to the matter which I have urged here by Mr. Reese or by the Commission, I would be happy to answer it if I can. Thank you.

MR. PORTER: Does anyone desire Humble's witnesses to take the stand to answer questions in connection with those things covered by Mr. Bratton?

MR. REESE: Yes, sir, we would like for one of the witnesses to take the stand on behalf of Lea County Drip.

MR. PORTER: The applicant requests that the witnesses be made available.

MR. BRATTON: To what do you wish to direct your questions, Mr. Reese? I have two gentlemen, one from our Midland operations office, and one from our Hobbs office, and they might be more versed with different aspects of the matter.

MR. REESE: I don't think we have any choice if both are familiar with the operating practices.

MR. BRATTON: You are concerned primarily with the actual operations going on by Humble in the field?

MR. REESE: Yes.

(Witness sworn)

B. K. BEVILL,

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

DIRECT EXAMINATION

BY MR. REESE:

Q State your name, please.

A B. K. Bevill.

Q You are employed by the Humble Oil Corporation?

A I am.

Q In what capacity?

A District engineer.

Q Are you familiar with the operating practices in the production of oil upon the Humble properties?

A Yes, I am.

Q Would you state whether or not Humble would allow its oil to be available for reclamation purposes if it were charged against the allowable?

A I am not sure.

Q These tank bottoms, for instance, --

A Would Humble be willing to sell it, is that your question?

Q That's right, if they were chargeable to the allowable.

A I am not sure that I am in a position to answer that question. It is a very rare occasion that we have any merchantable oil as a result of tank bottoms or pits, that would be available for sale.

Q What is the present practice of Humble in the Southeastern New Mexico field as to their tank bottoms?

A We recycle them.

Q Do you burn any residue products?

A Rare occasion that we have any occasion to burn any oil.

Q You, of course, are familiar with the lease operations where several wells are run into a tank?

A Yes.

Q Are you also familiar with the fact that the basic sediments vary from well to well that are produced?

A Yes, sir.

Q And can you state it as a fact, from a tank where several wells are producing into one tank, that it would be impossible to prororate the basic sediment to each individual well that was flowing into that tank?

A That is practically impossible.

Q Are you familiar with the production operations generally in Southeastern New Mexico?

A Yes, sir.

Q Are you aware that pits are being burned down there?

A I suppose they are. I see smoke quite often.

Q Are you an engineer?

A Yes, sir.

Q Can you state to the Commission approximately what percentage hydrocarbon would be necessary in a pit in order for it to sustain, to support sustained combustion? Does the figure in the neighborhood of 40, 50 percent hydrocarbon sound reasonable to you?

A I am not sure that I understand your question.

Q In the pits, you have water and hydrocarbons and all the

other sediments, is that correct?

A That's right.

Q Do you think that it is a fair statement that it would take at least 40 or 50 percent hydrocarbon in a pit before it would support this sustained combustion such as is advisable in the pit burnings?

A I don't know.

MR. REESE: That's all.

MR. PORTER: Anyone else have a question of the witness?

CROSS EXAMINATION

BY MR. BRATTON:

Q I would like to ask Mr. Bevill -- would you detail very briefly, Mr. Bevill, just what you do in connection with tank bottoms and accumulation of oil on pits?

A In the case of tank bottoms, practically all of our batteries are so equipped with treating systems, either barrels or heater treaters, and cycling systems whereby we can draw off the bottoms and run them right back into our treating systems and back into the tanks. Now, occasionally, as Mr. Rieder stated a while ago, it is almost impossible to keep all oil off pits. There are times when you have to drain off, and we are no different from anyone else in that respect, but when we do, we let it accumulate and then pick it up with portable pumps and put it back into our tanks; that is, the merchantable oil.

Q Now, all of that oil that you drain off and put back in

the tanks and the oil that you get out of your treaters, that goes right back into your tanks and goes out and is chargeable against your allowable, right now?

A Correct.

MR. BRATTON: I have no further questions.

MR. REESE: I have one additional question.

REDIRECT EXAMINATION

BY MR. REESE:

Q As I understand your statement, then Humble would not be affected by this proposed revision if you are taking off all your own oil now?

A Well, I am not sure that we wouldn't be affected in some respects.

Q You take care of all your tank bottoms and all your pit oil. Can you envision any situation where Humble would be involved in this revision?

A Not directly.

MR. REESE: That's all.

MR. PORTER: Anyone else have a question?

RE CROSS EXAMINATION

BY MR. COOLEY:

Q Mr. Bevill, of the various elements that are in these pits that are burned, that you observed being burned and that you occasionally burn yourself, is liquid hydrocarbons in that pit that will burn?

A Well, it is according to how you classify liquid hydrocarbons. Actually, a great percentage of it is heavy paraffin.

Q This is a hydrocarbon product, isn't it? It comes from the oil that is in the ground. It isn't water or basic sediment?

A That is right.

Q And isn't it also common practice in many areas to recover, not only the oil but some of these waxes that are in this paraffin?

A The ones that you are able to pick up.

Q And anything that could be recovered from these pits that you do burn would be just that much oil or waxes or whatever it may be that is recovered, that much?

A That is right.

Q You recover nothing except the oil that you can syphon off the top and put back in the tanks and sell?

A That's correct. As a general rule, we do run that back through our treating systems.

Q Yes, I understand. How about chemical treatments and that sort of thing, do you engage in those yourself in your own tanks?

A That is correct.

Q Now, you say that Humble has heater treaters and cycling systems installed on nearly all of their lease facilities. How about other operators? I understand that you are not aware of detailed operations of other people down there, but are you generally

aware of whether it is quite common to have this type of equipment?

A It is a common practice.

Q Would you say that 50 percent of the people have it or less or more? There are some that don't have it, is that right?

A I assume that there are some.

Q If they don't have this equipment, it is impossible for them to recycle and treat their own?

A It is not impossible. They can pick it up and put it back in their tanks and have it steamed.

Q That is a type of treatment?

A That is a type of treatment.

Q If they do have this equipment, they can't treat it or steam it?

A Unless they hire someone.

Q I assume that this type of oil would not be accepted by a pipeline unless it were treated?

A Unless it meets pipeline requirements.

Q Would it be your opinion that this type of hydrocarbon that you would draw from the pits that you say you let accumulate in the Humble properties and withdraw from the pits, would it be marketable, would the pipeline accept that without treatment?

A Yes, sir, if it meets their specifications.

Q I understand they would if they met their specifications. What I am getting at is, does it ordinarily meet its specifications without treatment?

A Not without treatment.

Q And hence, if the operator does not have the equipment to treat his own oil, and the pipeline won't accept it without treatment, it surely would follow that that is a good portion of these black columns that we see going up in the southeast, isn't it?

A That's right.

MR. PORTER: Anyone else have a question?

QUESTIONS BY MR. NUTTER:

Q Mr. Bevill, I think you said this oil could be run into the tanks and then steamed and made merchantable in some instances?

A In some instances it could be treated out by steaming, --

Q Well, --

A -- and chemical, added chemical.

Q Well, if an operator doesn't have this steaming equipment, is it available.--

A It is available.

Q -- for hire?

A Yes.

Q It is? A Yes.

Q What is that, portable equipment?

A Portable steamers.

Q So if an operator were to pick up a sizeable amount of oil off his pit and it were treated, then it could be --

A It could be.

Q -- without having the necessity of having treating facilities being installed permanently on the lease?

A That is correct.

MR. NUTTER: That's all.

MR. PORTER: Any further questions? The witness may be excused.

(Witness excused)

MR. PORTER: Anyone else have testimony to offer in the case?

MR. BRATTON: We have no further testimony, but in view of the line of interest here as to the practices, I would like to make a further statement and to repeat Humble's interest in the matter. We believe it is just a matter of policy of not rewarding a careless operator or an inefficient operator by not charging this reclaimed oil against his lease allowable. We, as much as anybody, are against the burning of any oil that can be reclaimed through Mr. Rieder's process or anybody else's, and we feel that the Commission has full authority right now, full power, to prevent the burning of any oil, any pits that it feels contains hydrocarbons that can be economically reclaimed. We think it is just a matter of the Commission exerting the police powers which it now has without rewarding by exempting these reclaimed oils from the allowable restrictions.

MR. PORTER: Any statements?

MR. GRANTHAM: Everett Grantham, Grantham, Spann &

Sanchez, appearing for El Paso Natural Gas Products Company. My client is of the opinion that the recovery of waste oil should not be charged against the allowable, and I might point out to the Commission that the allowable is fixed on the basis of the market demand for clean oil as expressed by the purchaser's nominations. Furthermore, I think that probably the last paragraph of sub-division (c) of Rule 311 under the proposed Rules takes care of exceptions. That is, the provisions of the foregoing paragraph do not apply when waste oil is reclaimed on the lease where it originates and is disposed of through the authorized transporter for the lease as shown on Form C-110. In other words, if waste oil is used and sold or sold as waste oil, then it shouldn't be charged against the allowable if it is reclaimed and sold as clean oil which will meet the specifications, then it is covered by the exception as proposed by the last sub-paragraph of paragraph (c) on the reclamation.

MR. PORTER: Anyone else?

MR. KELLAHIN: Jason Kellahin of Kellahin & Fox, representing Continental Oil Company. I would like to preference my remarks with the statement that we do not in any way question the good faith and integrity of the applicant in this case. In analyzing the proposed Rules, we do see some fundamental flaws which we think open the way to a serious danger to the oil industry. On the face of it, the proposed Rules advocated in this case are designed to insure the salvage of oil which is not now being salvaged, and that, of course, is a very commendable objective. However, Contin-

ental Oil Company does not feel that these proposed Rules do not -- accomplish this objective, and that the objective has already been achieved, and there is ample authority within the statutes and present Rules to achieve this purpose at the present time. In addition, the proposed Rules raise serious questions of property rights, prevention of waste and the creation of a situation which opens the door to outright fraud. Continental is opposed to the proposed changes in Rules 311, 312, 1116 and 1117, and recommends that the application in Case 1522 be denied for the following reasons:

Under the proposed Rules, reclaimed pit oil is not chargeable against the lease or unit allowable, and this creates a situation conducive to careless operations resulting in waste. This, then, would greatly increase the present burden of the Commission increasing the oil industry to insure efficient operations in that, as Mr. Bratton pointed out, it would offer an incentive to careless operations. With no penalty against the allowable, oil would be removed from the lease with no accounting safeguards for lease interest owners, with probable loss of revenue to royalty owners, including the state and state institutions. If the Commission must determine when and under what circumstances pits may be burned, and when and under what circumstances they may not be burned, the Commission would be in the position of allocating oil to treating plants which have no ownership in such oil and with whom the lease operator has no contract or agreement, and under the proposed rules is not in a position to negotiate a contract or agreement. We are at a loss to understand why the provisions requiring written permission of the

operator before any pit oil can be removed from the lease has been omitted in the proposed rules. Continental feels the permission of the owner should be required in all instances before any pit oil should be disposed of off the lease. To carry the discussion one further step, the terms of the proposed order are contradictory. "Waste oil" is defined in Section (a) as any unmerchantable liquid hydrocarbons accumulating on an oil or gas lease incidental to normal oil field operations. Section (b) then provides that "waste oil" cannot be destroyed when it is economically feasible to reclaim it. If it is economically feasible to reclaim such oil, how can it be unmerchantable? It should be charged against the lease allowable, regardless of the disposition made of it.

To sum up the argument, Continental's opposition to the proposed rules may be stated under three points. 1. The proposed change in Rule 311 places unnecessary restrictions on the oil producer in requiring him to obtain approval to burn waste oil on his lease, which by definition is unmarketable and of no value. 2. The proposed change under paragraph 3 of Rule 311 would relax control of oil production which is the responsibility of the lease operator and encourage the accumulation of pit oil with no penalty of loss of allowable. 3. The proposed changes in Rule 312 appear to be designed to eliminate the oil producer's property rights in regard to waste oil in pits.

Ample protection against waste is afforded in the present rules. The production of excessive amounts of oil into the pit clearly constitutes waste. Oil recovered from pits is charged back against the allowable. To remove this charge against the allowable would afford an economic incentive for careless, or even fraudulent

operations.

The present rules require permission of both the owner and the Commission before any oil may be removed from the pit. Protection is thus afforded to the operator and all interest owners.

What necessity exists for the proposed rule? If this unmarketable waste oil has an economic value, its purchase or salvage can be readily negotiated with the owner of such oil with full accounting to all interested parties, including the Commission. The Commission should not be asked to force this owner to sell or give away his property.

MR. PORTER: Anyone else have a statement?

MR. CHRISTIE: R. S. Christie, Amerada Petroleum. We think the present Rules, 311, 312, are adequate, and we recommend that they retain full force and effect.

MR. PORTER: Anyone else have any statement to make?

MR. PAYNE: Mr. Chairman, we have received comments on this proposed Rule change from the following operators: Shell Oil Company, Atlantic Refining Company, Sunray Mid-Continent Oil Company, Skelly Oil Company, Phillips Petroleum Oil Company, Gulf Oil Corporation and the Carper Drilling Company. Some of these statements are lengthy, some are not, opposition. They are in the form of comment, and I propose that these be put into the record, but that they not be read unless someone requests it at this time.

MR. PORTER: Is there a desire on the part of anyone to have these statements read?

MR. RIEDER: Mr. Porter, I would like to make a statement in summation closing, if everybody is through.

MR. PORTER: Statements received prior to the hearing will be included in the record.

MR. REESE: In answer to the statements and objections which have been made here today, I would like to say a few things. To begin with, the reason for deleting this oil from the allowable is that it's not allowable oil now, it is not being marketed. In Humble's case, perhaps we will have a competitor, they are reclaiming their products and selling them, but that is what Lea County Drip wants to do for the operators who aren't doing it. I don't see any reason that it should involve Humble at all since the amendment, as proposed, does allow any operator to reclaim his own oil and run it with the rest of his oil without bothering with these Rules at all. This is only for those operators who do not or cannot reclaim their own oil. Now, there is a lot of talk about the economic feasibility of reclaiming this oil, and actually that is where the burning comes in. What might be economical for Humble with thirty or forty tanks near by, each other, to do, certainly it wouldn't be economically feasible for an operator with, say, one five hundred barrel tank, he can't afford to reclaim those bottoms on an economic basis. It costs him too much to do it, and I submit to the Commission that's the reason it is being burned now. When we proposed these Rules,

we didn't propose them with the idea in mind of stealing oil from the Commission or from the operators. In Form C-10 -- C-117-B, we provided in the Rules that this application be obtained by the transporter from the Commission in triplicate so that the operator could be furnished with his copy of it, and we contemplated a telephone contract and matters of that nature in order to obtain permission to clean the tank bottoms. In other words, it might slow down the business to some extent to require their signature of the operator prior to the cleaning. However, we have no objection to adding on this form a consent by the lease operator to this waste oil recovery permit if the industry feels that that is necessary to prevent the illegal activities. As I say, we propose a legitimate business, and if we were going into the business of theft of oil, we certainly wouldn't apply to the Oil Conservation Commission for permission to do so. I don't think that anyone who has ridden in a plane down in Lea County country can say that they are not familiar with the practice of burning pits. We feel that by having one operator to take care of a lot of tanks and treat this sediment in large lots, that it will be economically feasible to handle it. Now, so far as the lease interests are concerned, what we are referring to, the operators and the royalty owners, either in the case of Humble are getting all of it now, or in the other case they are getting nothing now where it is being burned, and we feel that especially if the Commission sees fit to put in writing on the face of the permit, to begin with, that the consent of the operator that

there will certainly be no stealing of the oil. Further, with the two permits required, the one to remove it and the one to destroy it, an operator from his records can tell what's happening to his oil, and it will give him a better control instead of less control of this matter of burning. The fact was mentioned that an efficient operator is going to clean up his business anyhow. Certainly, if it appears to him from the permits as they are returned to him that there is an exorbitant amount of oil going not through the pipeline for his two-eighty to three dollars a barrel, but through this method, I don't think there is any question but that an efficient operator will get right in there and clean his situation up there, and there will be a resultant conservation of oil from the mere reports themselves. I don't have the exact figures on the hydrocarbon content necessary for these black plumes, but I am informed that it takes 40 to 50 percent hydrocarbon to sustain that type of combustion, and I think there is waste oil so that could be appreciably cut down by the revisions as proposed.

That's all I have to say.

MR. PORTER: Are there any further statements in this case? If there is nothing further, we will take the case under advisement and take a ten-minute recess.

"IN REGARD TO CASE NUMBER 1522 ON THE REGULAR HEARING DOCKET FOR OCTOBER 15 1958 ATLANTIC URGES THE RETENTION OF PARAGRAPH (C) OF THE PRESENT RULE 312 IN THE STATE WIDE RULES AND REGULATIONS. THIS WILL PROVIDE REGULATION OF THE REMOVAL OF WASTE OIL FROM LEASES TO TREATING PLANTS WE HAVE NO OBJECTION TO OTHER CHANGES IN RULES 311 312 1116 AND 1117 PROPOSED BY THE LEA COUNTY DRIP CO

THE ATLANTIC REFINING CO BY W P TOMLINSON"

"PLEASE READ FOLLOWING STATEMENT INTO RECORDS OF CASE 1522. AT REGULAR NMOCC HEARING, OCTOBER 15, 1958 FARMINGTON NEW MEXICO 'SHELL OIL CO IS OPPOSED TO THE CHANGES IN RULES 311 AND 1116 AS PROPOSED IN CASE NUMBER 1522 AND SUGGESTS THAT THE SELF-INTERESTS OF OPERATORS WILL KEEP THEM FROM DESTROYING WASTE OIL HAVING SUBSTANTIAL ECONOMIC VALUE. WE FEEL THAT THE REQUIRING OF A PERMIT TO DISPOSE OF SUCH IS AN UNNECESSARY BURDEN AND IN OPPOSITION TO THE EFFORTS NOW BEING MADE IN INDUSTRY TO STREAMLINE PAPER WORK AND PROCEDURES WHERE FEASIBLE. GENERALLY SHELL PREFERS TO BURN ITS WASTE OIL AS IT HAS FOUND THAT THE POLICING OF TAKES BY TREATING PLANTS MAKES RECOVERY BY THEM UNECONOMICAL TO SHELL AS A LEASE OPERATOR.

P A DENNEY DIVISION PRODUCTION MANAGER SHELL OIL CO  
ROSWELL N MEX"

"REGARD CASE 1522 CONTINUED TO NOVEMBER 13, HEARING UPON APPLICATION OF LEA COUNTY DRIP COMPANY, INC. FOR REVISION OF PRESENT RULES 311, 312, 1116 AND 1117. SKELLY OIL COMPANY RECOMMENDS COMMISSION NOT TO CHANGE EXISTING RULES OR FORMATION FOR REASON THAT PRESENT RULES ARE ADEQUATE  
GEORGE W SELINGER SKELLY OIL CO"

"RE: CASE 1522, APPLICATION OF LEA COUNTY DRIP COMPANY, INC. FOR REVISION OF CERTAIN COMMISSION RULES AND FORMS TO PROVIDE A MORE EFFICIENT METHOD OF HANDLING AND RECLAIMING WASTE OIL. PHILLIPS PETROLEUM COMPANY DESIRES TO CALL TO YOUR ATTENTION INTERSTATE OIL COMPACT COMMISSION RECOMMENDED FORM NO. P-14 ENTITLED "PERMIT TO CLEAN TANK" AND URGE YOU TO ADOPT COMPACT COMMISSION FORM FOR DESIRED PURPOSE

PHILLIPS PETROLEUM CO L E FITZJARRALD"

"ATTN: MR. A. L. PORTER RE: CASE #1522 SUNRAY MID-CONTINENT OIL COMPANY SUBMITS THE FOLLOWING SUGGESTIONS TO THE APPLICATION OF LEA COUNTY DRIP COMPANY, INC. IN CASE #1522 SET BEFORE THE COMMISSION ON OCTOBER 15, 1958: (1). IT IS RECOMMENDED THAT THE FIRST SENTENCE OF THE PROPOSED RULE 311 (B) BE ELIMINATED OR ELSE A SIMPLE CRITERIA AND ADMINISTRATION PROCEDURE BE ESTABLISHED TO DETERMINE WHEN IT IS ECONOMICALLY FEASIBLE TO RECLAIM WASTE OIL. (2). WE RECOMMEND THAT THE MERCHANTABLE OIL DETERMINATION PROCEDURE IN THE PRESENT RULE 311 BE RETAINED; THAT THE SECOND SENTENCE IN THE PROPOSED RULE 311 (C) BEGINNING "ANY MERCHANTABLE OIL..." BE DELETED. ANY MERCHANTABLE OIL RECLAIMED SHOULD BE CHARGED AGAINST THE LEAST OR UNIT ALLOWABLE IT WOULD FOLLOW THAT THE SECOND PARAGRAPH OF THE PROPOSED RULE 311 (C) BE DELETED

WILLIAM R LOAR"

"Gentlemen:

RE: Case No. 1522

Reference is made to the above case which is the Application of Lea County Drip Co., Inc. for Revision of Rules 311, 312, 1116 and 1117 of the Statewide Rules and Regulations of the New

Mexico Oil Conservation Commission.

- 1. "Rule 311. Waste Oil.
  - (b) Destruction Prohibited.

The destruction of waste oil is prohibited when it is economically feasible to reclaim the same.

No waste oil shall be destroyed, by burning or otherwise, unless and until the Commission has approved an application to destroy the same on Form C-117-A."

- 2. Because we reclaim tank bottoms that have enough value to bother with, we do not believe anybody would be interested in reclaiming what we would burn.

We also believe it would cause us unnecessary delay and expense to get somebody to determine what is economically feasible or unfeasible to reclaim, and to wait on the approval of Form C-117-A.

For the above stated reasons we believe (b) should be eliminated from Rule 311. We would appreciate your considering this objection when this case comes up for a hearing.

Yours very truly,

CARPER DRILLING COMPANY, INC.  
 /s/ Marshall Rowley  
 Marshall Rowley"

"CASE 1522

Gulf Oil Corporation takes exception to sub-paragraph (b) of the proposed revision of Rule 311.

The first sentence which reads, "The destruction of waste oil is prohibited when it is economically feasible to reclaim the same", is vague and uncertain and is vulnerable to the criticism of being an inappropriate exercise of administrative authority. This is for the reason that the rule does not set any standard whatever for determining the economic feasibility. Under such a rule it is possible for the Commission staff to adopt purely arbitrary standards which would apply in one case and not in another. Moreover, the information to be given in the application for such a permit is grossly inadequate to enable the Commission to determine the economic

feasibility.

We further feel that the proposed change is somewhat self-conflicting because sub-paragraph (b) prevents an operator without the Commission's express approval from destroying waste oil by "burning or otherwise" with no indication of what is meant by the words, "or otherwise". Sub-paragraph (d) on the other hand purports to allow an operator without any approval to otherwise dispose of waste oil by merely putting it to any beneficial use similar to those enumerated.

Finally, Gulf suggests that in operation this rule would be exceedingly burdensome. All operators would have to be bothered with more red tape by filling out forms, possibly delaying operations pending approval, possibly not receiving approval and delaying operations further until waste-oil could be picked up; and going through with this procedure on each lease having any waste oil however small or however poor.

In view of these shortcomings we respectfully urge that sub-paragraph (b) be stricken or not adopted by the Commission if Rule 311 is amended as a result of this case. As a correlative matter we further urge that sub-paragraph (a) of the proposed amendment to Rule 1116 be stricken or not adopted by the Commission. This is the amendment or the part of it which deals with the Waste Oil Destruction Permit.

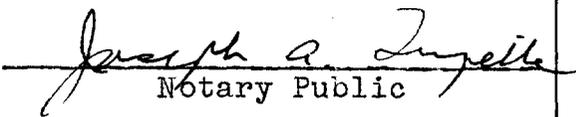
Respectfully submitted,  
/s/ William V. Kastler  
/t/ William V. Kastler  
Attorney for  
Gulf Oil Corporation"

C E R T I F I C A T E

STATE OF NEW MEXICO )  
  : ss  
COUNTY OF BERNALILLO)

I, J. A. TRUJILLO, Notary Public in and for the County of Bernalillo, State of New Mexico, do hereby certify that the foregoing and attached Transcript of Proceedings before the New Mexico Oil Conservation Commission was reported by me in stenotype and reduced to typewritten transcript by me and/or under my personal supervision, and that the same is a true and correct record to the best of my knowledge, skill and ability.

WITNESS my Hand and Seal, this, the 19<sup>th</sup> day of November 1958, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

  
Notary Public

My Commission Expires:  
October 5, 1960.