

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

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

CASE No. 1850
Order No. R-1597

APPLICATION OF THE OIL CON-
SERVATION COMMISSION ON ITS OWN
MOTION TO CONSIDER REVISING
RULE 303 OF THE COMMISSION RULES
AND REGULATIONS TO ESTABLISH A
PROCEDURE WHEREBY AUTHORITY TO
COMMINGLE PRODUCTION FROM TWO OR
MORE SEPARATE COMMON SOURCES OF
SUPPLY MAY BE APPROVED WITHOUT
NOTICE AND HEARING

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on January 13, 1960, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 8th day of February, 1960, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That in the interest of administrative convenience, Rule 303 of the Commission Rules and Regulations should be revised to establish a procedure whereby the authority to commingle the production from two or more separate common sources of supply may be approved without notice and hearing, provided that the production from each common source of supply will be accurately measured and determined prior to such commingling.

IT IS THEREFORE ORDERED:

That Rule 303 of the Commission Rules and Regulations be and the same is hereby revised to read in its entirety as follows:

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Case No. 1850
Order No. R-1597

RULE 303. SEGREGATION OF PRODUCTION FROM POOLS

(a) Each pool shall be produced as a single common source of supply and the wells therein shall be completed, cased, maintained, and operated so as to prevent communication, within the well bore, with any other specific pool or horizon, and the production therefrom shall at all times be actually segregated, and the commingling or confusion of such production, before marketing, with the production from any other pool or pools is strictly prohibited.

(b) The Secretary-Director of the Commission shall have the authority to grant an exception to Rule 303(a) to permit the commingling in common facilities of the commonly owned production from two or more common sources of supply, without notice and hearing, provided that the liquid hydrocarbon production from each common source of supply is to be accurately measured and determined prior to such commingling.

Applications for administrative approval to commingle the production from two or more common sources of supply shall be filed in triplicate with the Santa Fe office of the Commission. The application must contain detailed data as to the gravities of the liquid hydrocarbons, the values thereof, and the volumes of the liquid hydrocarbons from each pool, as well as the expected gravity and value of the commingled liquid hydrocarbon production; a schematic diagram of the proposed installation; a plat showing the location of all wells on the applicant's lease and the pool from which each well is producing. The application shall also state specifically whether the actual commercial value of such commingled production will be less than the sum of the values of the production from each common source of supply and, if so, how much less.

Applicant shall furnish evidence that all persons owning any interest of record in the subject acreage, which interest appears in the applicant's files, have been sent a copy of the application by registered mail.

The Secretary-Director may approve the commingling, if after a period of twenty (20) days following receipt of the application, no person owning any interest in the subject acreage has objected.

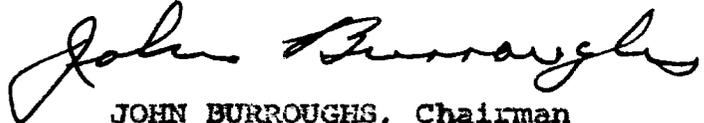
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Case No. 1850

Order No. R-1597

DONE at Santa Fe, New Mexico, on the day and year herein-
above designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



JOHN BURROUGHS, Chairman



MURRAY E. MORGAN, Member



A. L. PORTER, Jr., Member & Secretary



BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
January 13, 1960

IN THE MATTER OF:)

The hearing called by the Oil Conserva-)
tion Commission on its own motion to con-)
sider amending Rule 303 of the Commission)
Rules and Regulations to provide an ad-)
ministrative procedure whereby the pro-)
duction from two or more separate common)
sources of supply may be commingled under)
certain conditions, particularly after)
separately metering or measuring the pro-)
duction from each of the said common)
sources of supply.)

Case 1850

MR. PORTER: How many witnesses do you have, Mr. Payne?

MR. PAYNE: One witness, Mr. Nutter.

MR. PORTER: If Mr. Nutter will stand and be sworn,
please.

(Witness sworn.)

DAN NUTTER

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

DIRECT EXAMINATION

BY MR. PAYNE:

Q Will the witness please state his name and position?

A Dan Nutter, Chief Engineer for the Oil Conservation
Commission.

Q Mr. Nutter, has the Technical Staff of the Oil Con-
servation Commission prepared a proposed revision of Rule 303
dealing with the commingling between pools?

A Yes.

Q Has this proposed rule been circulated to the industry?

A Yes, it was circulated to the industry with the docket
for this hearing today.

Q Why was it felt that it would be desirable to revise
Rule 303?

A An examination of the dockets over the past several
months would reveal that a large percentage of the cases that

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have been heard by the Examiners of the Commission have dealt with commingling of oil between pools. It is felt that this matter can be handled administratively under certain conditions and will eliminate the necessity of the companies as well as the Commission having to have hearings on this subject.

Q Do you have a copy of the proposed revision in front of you?

A Yes, sir.

Q Would you read paragraph (a), section (a)?

A Paragraph (a) of, incidently we have changed the title of that rule too. It's now entitled "Segregation of Production from Pools". It reads as follows, as it was circulated. Paragraph (a): "Each pool shall be produced as a single common source of supply and the wells therein shall be completed, cased, maintained, and operated so as to prevent communication within the well bore with any other specific pool, and the production therefrom shall at all times be actually segregated and the commingling or confusion of such production, before marketing, with the production from any other pool or pools is strictly prohibited.

Q Now, Mr. Nutter, how does section (a), as you propose to revise it, differ from Rule 303 as presently drafted?

A The principal difference between paragraph (a) as proposed and existing Rule 303 is that this actually requires the

separation of production from any type of a pool. Rule 303 at the present time does not distinctly include gas pools would be segregated from other pools. It's in the oil practices section of the rule book and there might be the possibility that someone would feel that gas pools didn't have to be separated from each other or from oil pools.

Q So that section (a) of the proposed rule provides that gas pools as well as oil pools be produced as a separate common source of supply and the wells maintained, cased and operated so as to prevent communication?

A Correct.

Q Now, Rule 403 requires, or we have interpreted it as requiring that the production from gas wells be separately metered?

A Yes, sir, from each gas well.

Q And the metering point is the market point?

A The metering point on the gas well is the marketing point.

Q So if Rule 403 is complied with, no exception is necessary in Rule 303 in order to commingle between two gas pools?

A That is correct.

Q Are there any changes that you would make in the language of section (a)?

A Yes, sir.

Q What are those?

A In the circulated copy the fourth line of paragraph (a) starts out with the words "other specific pool". I would insert the words "or horizon" there, which would, in effect, also include undesignated pools as well as specific designated pools. This would include undesignated pools as well as horizons that may not be in any pool. These should also be maintained separately.

Q Now, Mr. Nutter, section (b) of the proposed rule provides for administrative exception to the no commingling provision of section (a) so long as certain conditions are met. Would you explain what those conditions are and what is the reason for each?

A There are three principal conditions there. The first is that administrative approval could be granted to commingle the production from two pools and common facilities if the production is commonly owned.

The second provision that would be necessary would be that the production from each pool would be accurately measured, and the third, that the actual commercial value of the commingled production will not be less than the sum of the values of the individual productions from each of the two pools.

Q What is the reason for the commonly owned production?

A The commonly owned provision is there because in some

cases you may have a difference in royalty ownership of a deeper pool and shallower pool and the values on account of gravity may be different. We feel that if the two productions would be commingled that the owner of the royalty on the more valuable production might suffer a loss. We feel that the ownership should be common throughout there.

Q For approval? A For approval.

Q What is the reason for the separate measuring?

A This is also to provide that the volume, in the event of a difference in ownership, that the volumes would be the same. It's also to give more accurate control as far as allowables and production.

Q And the commercial value provision, why is that in there?

A This is primarily there to protect the value of the commingled product. This affects a number of things, it would affect the royalty owner. It affects the state as far as the tax value of the product is concerned, and of course the producer himself we want to protect.

Q It might be possible, might it not, that the price paid for the commingled oil would be somewhat less than the sum of the values and yet an operator would feel that to install common tankage would save him money in the long run?

A Yes, sir.

Q And the royalty owner would be the one that would be

penalized in that event?

A The royalty owner and the state.

Q Now, the proposed rule, as circulated, would require the separate metering of casinghead gas, would it not, if you proposed to commingle the oil from two separate oil pools?

A Yes, sir, there's no distinction made between casinghead gas and the oil in the rule as it was circulated.

Q Do you propose to change the language of section (b) to provide that only the liquid hydrocarbons have to be separately metered?

A Yes, sir, Rule 305, which is the metered casinghead gas rule, doesn't specifically say that the casinghead gas from two pools on a lease must be metered separately prior to being sold, and as a result of this, many connections have been made in the past where the casinghead gas from two pools on any one lease is commingled prior to the sale of that gas.

In order to make this practice which has been in effect for many years, and I guess probably completely permissible under Rule 305 as it now exists in order to make those installations and connections legal under the proposed rule, I would suggest that the proposed rule be modified so that on the fourth line where it says "provided that the production", between the words the and production we insert the words "liquid hydrocarbon". On the seventh line of that same paragraph between the words

"commingled production" I would insert the words "liquid hydrocarbon" and in the last full line in that paragraph between the words "the production" I would insert the words "liquid hydrocarbon", so that this commingling rule would apply to the liquid hydrocarbon production on a lease and not to the casinghead gas.

Q Do you feel, Mr. Nutter, that commingled casinghead gas production would vary any substantial amount in price from the values of the casinghead gas where it's all separate?

A As a general rule it wouldn't.

Q It would be insignificant, you feel?

A Yes.

Q Now, Mr. Nutter, applications for administrative exception to section (a) requires detailed information on gravities, volumes and values. Where is that provision in there?

A This is in order that the Commission can determine that the value of the commingled production will not be less than the sum of the values of the individual productions. We require in the suggested rule, we require that the gravities of the hydrocarbons and the volumes of the hydrocarbons be submitted so that we can take a weighted gravity and apply that to the value of the production. They would also submit the same price per barrel of the liquid hydrocarbons. This would enable the Commission to determine whether the value of the commingled production is less or greater than the single production.

Q Now, Mr. Nutter, do you propose to change the language of the paragraph 2 of section (b) to add the word "liquid" before the word "hydrocarbons" in the two places where that word appears?

A Yes, sir, this is in accordance with what we were just talking about in the first paragraph there. I would also in the seventh line insert the words "liquid hydrocarbon" between the words "commingled" and "production".

Q Now, the reason for the word "liquid hydrocarbon", I presume, is to take care of the situation where an operator proposes to commingle the distillate from a gas pool with the oil production from another pool?

A This would apply in that case also.

Q Because they might be separately metering the gas production and yet propose to commingle the distillate production without metering?

A Yes, sir, we would want to permit the commingling of distillates as well as oil, providing the circumstances were right for that.

Q Provided that the distillate is separately measured?

A Yes, sir, one is the nonprorated and the other is prorated. We would have to have them measured.

Q Now, the second paragraph of section (b) provides for notification to offset operators. Why is that in there?

A We feel that an operator is entitled to know what an

operator of an offsetting lease is doing to protect his own correlative rights.

Q You don't feel that he should have the power of objection?

A I don't see why he would want to object to such an approval, as long as he knows what the operator is doing, he'll know what's going on anyway.

Q If the operator who is going to get an approval to commingle is separately metering, which he is required to do, the correlative rights of the offset operator could not be impaired?

A No, sir, they wouldn't be impaired.

Q Now, the proposed rule, as circulated, provides for notification to royalty interests and giving them the power of objection. Do you have any comments with regard to that provision?

A Yes, sir, I would like to make some small amendments to that provision. It requires that, in the second paragraph there of Section (b), it requires that offsetting operators be notified as well as those persons owning royalty interests in the subject acreage. I would scratch out the word "those", substitute the word "all". I would scratch out the word "royalty" and substitute the word "any", and I would take the "s" off of "interests" to make it a singular word. This would provide for notification of anybody that had any interest in that acreage, there may be some other working interest owners.

MR. PORTER: Would you go through those substitutions again?

A Yes, sir. Scratch out the word "those", substitute "all"; scratch out "royalty", substitute "any" and scratch out the "s", that makes "interests" plural to make it singular.

Q Would you also change the last paragraph?

A Yes, sir. In the last paragraph there I would strike out in the last, well, it's only one sentence, scratch out a "royalty" and substitute "any". This would permit anyone that had an interest in this property the right of objection rather than only a royalty owner.

Q Now, to sum up, Mr. Nutter, insofar as commingling the production between gas pools insofar as the commingling between gas pools is concerned, the rule actually has no application?

A Commingling of the gas production?

Q Commingling.

A The gas production from gas pools?

Q Yes.

A It has no application whatsoever.

Q Because Rule 403 does require separate metering of gas wells and the metering point is the purchase point?

A That's correct. The only part that would apply would be the part that prohibits the communication.

Q Yes, sir.

A Or the commingling before marketing.

Q Now the rule does cover the situation where an operator proposes to commingle the distillates from the gas pools with the oil production from an oil pool?

A This rule would permit that.

Q It does cover the situation where an operator proposes to commingle the oil production from two separate pools?

A Two separate oil pools, yes.

Q It does not require casinghead gas production from each pool be separately metered?

A No, sir.

Q Do you have anything else you would like to offer, Mr. Nutter?

A No, sir, I don't believe so.

MR. PAYNE: That concludes the direct examination of this witness.

MR. PORTER: Does anyone have a question?

MR. SELINGER: May I ask the witness a question?

CROSS EXAMINATION

BY MR. SELINGER:

Q With respect to your Rule 303, paragraphs 3 and 4 referring to persons owning any interests in the tract, would you have any objection if it indicated persons of record owning an interest? It would be impossible to keep up with various breakdowns of

mineral interests, sales and so forth, so that an operator can just go to the record and follow the interests of record. Would you have any objection to that, Mr. Nutter?

MR. PAYNE: I think that's very well taken.

A I think that's very well taken too.

Q In other words, where it says applicant shall also furnish evidence that all offsetting operators as well as all persons owning any interests of record in this subject acreage have been notified of the application to commingle, and likewise in paragraph 4, the last paragraph, the Secretary-Director may approve the commingling if, after a period of 20 days following the receipt of the application, no person owning any royalty interest of record in the subject acreage --

MR. PAYNE: It would be any interest of record.

A Right off-hand I can see no objection to the substitution of those words, Mr. Selinger.

MR. GRENIER: May I ask a question?

MR. PORTER: Mr. Grenier.

BY MR. GRENIER:

Q Was it intended that such notice be given to surface owners as well as to owners of interest in the oil and gas?

A No, these would be the mineral.

Q Does the text of the rule make it clear that those are the only interest owners intended to be covered here?

A It probably doesn't, Mr. Grenier. Perhaps should be modified to that extent also.

Q I don't happen to have a copy of it here, but the reading of it would indicate to me that probably some provision of that sort would be appropriate.

A I can't see why the surface owner would have to be notified of this.

BY MR. BUSHNELL:

Q In that connection, and also as an extension of Mr. Selinger's suggestion, would you have any objection, Mr. Nutter, to wording such as this, that applicant shall also furnish evidence that all offsetting operators and owners of interests in the production from said well whose names and addresses are shown of record in the applicant's files have been notified of the filing of this application?

A Would that include royalty owners, Mr. Bushnell?

Q No, interest in the production. That would answer the criticism that the surface owner would have any interest in the production. I'm proposing a change to what Mr. Selinger suggested, to save the operator from examining an abstract under a tract in which he owns the lands and has owned it for 20 years. Every lease, or most every lease, has a change of ownership which protects the lessee where he fails to notify the lessee. In this case owners of interest, including overriding royalties as well as

royalty and oil payments interest, most likely he will have a record of that change of ownership.

A I think that's well taken. I think it should very clearly state though that where you would say any owner of any of the production from the wells there including royalty owners.

Q I said including royalty in view of your change striking royalty, your comments just made, I just this moment struck out royalty to read that applicant shall furnish the owners of interest in the production from the said well.

A Would you have any objection to it saying owners of any production in said well, including royalty owners? I think that that's necessary because some people may think that the only ones they would have to notify would be other working interest owners, figuring the working interest owners with the owners of the production and royalty, with owners of royalty and not production.

Q I think it clarifies the owners of interest in the production. I think your suggestion would merely clarify that. I don't see any objection to that.

MR. PAYNE: All the gentlemen are represented by local counsel? Mr. Grenier, Mr. Bushnell and Mr. Selinger?

MR. SELINGER: Yes, Mr. White.

MR. BUSHNELL: Kellahin and Fox represent us.

MR. VERITY: George Verity for Southern Union.

MR. WHITE: Charles White of Gilbert, White and Gilbert,

Santa Fe, New Mexico. I would like to enter a formal appearance for Skelly, and I have associated with me George S. Verity. I would like to enter the appearance of Sinclair and I have been associated with Mr. Horace Burton. I would like to enter an appearance for Texas Company, Incorporated. In regard to Texas Company's position, they concur with the proposed revised Rule 303 as further revised here at the hearing, except in the following particulars: Texas Company believes that there is no need to advise the offset operators since the commingling is an operational procedure and has no effect upon the ultimate recovery. Also commingling should have no effect upon the operation of offset operators and therefore we question the necessity of notifying them.

Similarly we question the necessity of notifying the royalty interests of intention to commingle at any time when the value of the commonly owned commingled crude is the same or greater than the value of the separate crudes. This requirement would create an additional burden not only on the operators but on the Commission as well in getting out the notices; and further as to the requirement of having two meters, we believe that the primary purpose of requiring the production from individual reservoirs to be kept separate is to have a positive record of the recovery from each zone and to aid the conservation bodies in making sure that the allowable production was properly distributed between zones.

We also believe that accurate production record can be obtained by putting one meter on one zone and determining the other zone's production by the difference in the tank gauges.

Therefore, I request that we do not be required to install the two meters.

MR. PAYNE: Mr. White, Texas Company's proposal to use a subtraction method to determine the production from each pool would amount to charging all the shrinkage against one pool, would it not?

MR. WHITE: It probably would.

MR. PAYNE: Thank you.

MR. ERREBO: If it please the Commission.

MR. PORTER: Mr. Errebo.

MR. ERREBO: Burns Errebo, Modrall, Seymour, Sperling, Roehl and Harris of Albuquerque on behalf of Socony-Mobil Oil Company. We are in complete agreement with most of the changes which have been suggested here this morning, as well as the Commission rule as proposed. We disagree with the change proposed by the Texas Company. Actually we take the position as set out in the modified rule which we have passed out to you, that the offset operators should be furnished with more information and the gist of our change is that they would be furnished with a complete copy of the application.

This would avoid, I think, requiring the offset operator

who is interested in the installation, the procedures, perhaps the equipment that an operator is using who is offsetting his lease, this would avoid the necessity of going to him and asking how you proposed to do this and so on, at the time he was given notice of the application.

We also feel that the royalty owners should be given the same information and that the offset operator should be given the opportunity to object, in the event that they do have some objection to the proposed rule.

MR. PAYNE: Mr. Errebo, if the production from each pool is separately metered, how can an offset operator be injured by approval of commingling?

MR. ERREBO: I would say this, Mr. Payne, that perhaps there might be a difference of opinion among operators as to what might be an effective piece of equipment to perhaps meter or otherwise perform some of the functions in the commingling operation. Certainly we have seen a great difference of opinion in the effectiveness of certain types of packers before this Commission. I can't lay my finger upon a specific instance in a commingling operation where it might occur. We certainly do believe that the offset operator should have a chance to examine and be fully informed as to what a particular operator proposes to do.

MR. PAYNE: I see. Thank you.

MR. PORTER: Mr. Bratton.

MR. BRATTON: If the Commission please, Howard Bratton of Roswell appearing on behalf of Humble Oil and Refining Company. We take the straightforward courage position that we are in favor of the rule as proposed. We would concur with the minor clarifying amendments proposed by Mr. Selinger, Mr. Grenier and to some extent by Mr. Bushnell, although I would have to check with his local counsel to see just what there is in there, but we do support the rule as proposed with the minor clarifying amendments and not the basic changes that have been proposed from the floor here.

MR. KASTLER: Bill Kastler, appearing on behalf of Gulf Oil Corporation. Gulf also favors the amendment for the approval of commingling applications. We, however, see no reason why it is necessary to notify the offset operator. We feel that offset operators are merely trying to go from the permission. We are requiring only the separate metering of commingling of one pay, where only two pays are involved. In other words, using the subtraction method. We feel that the shrinkage factor could be measured and reallocated among these.

MR. PORTER: Mr. Buell.

MR. BUELL: Guy Buell for Pan American Petroleum Corporation. Pan American feels that the proposed rule is a step in the right direction, and we would recommend to the Commission that it be adopted. We would also concur in the Selinger, Grenier, Bushnell amendments to the rule.

MR. PORTER: Mr. Kellahin.

MR. KELLAHIN: Jason Kellahin, Kellahin and Fox, Santa Fe. I am, as has been shown, appearing in behalf of Amerada Petroleum Corporation and associated with Mr. H. D. Bushnell of the Oklahoma bar. I also would like to enter an appearance in behalf of Continental Oil Company. This is not in disagreement with Mr. Bushnell's position.

Both Amerada and Continental feel that the same reason which applies to the question of notice to the offset operator likewise applies to the royalty owner in that in order to comply with the procedure for administrative approval, the ownership has to be common. There could be no loss occasioned to the royalty owner in that the production from the commingled production must equal in value the production from the zones if marketed separately, and we do not feel that the royalty owner needs any notice in this instance.

However, if the Commission sees fit to require this, we subscribe to, both Continental and Amerada, to the proposal which was just made by Mr. Bushnell.

In behalf of Continental Oil Company we would also like to suggest that administrative procedure be established for commingling of production without separate metering, that is metering one zone and deducting it from the other, in those instances which comply with the provisions of this rule, that is that there

is a common ownership throughout and no change in the value of the commingled production, and where the production from the two zones is marginal, in numerous instances the cost of the heater treater and meter for one zone would make the difference between production and abandonment of one horizon, and that has recently come to the attention of the Commission in a case about a month ago.

The additional cost could result in waste, and I think that can clearly be shown. Of course, we realize that under the provision of rule 1 such an exception could be obtained after notice and hearing, but we feel that that is likewise burdensome, particularly when you are dealing with marginal production. For that we recommend administrative procedure for an exception for that purpose.

MR. PAYNE: In that regard, I would like to ask the witness a few questions.

REDIRECT EXAMINATION

BY MR. PAYNE:

Q Mr. Nutter, did you consider inserting such a provision in this rule in the case of both zones being marginal?

A Yes, sir, we considered it. We considered this subtraction metering method. All of the shrinkage, as someone mentioned a moment ago, would be attributed to the well that was going into the tank. It was also mentioned a moment ago that

you could get shrinkage factors which you could apply. Shrinkage can run as high as four or five percent of the total volume of oil in that tank. It's impossible to get a shrinkage factor that would be applicable in every case. Shrinkage varies with temperature. It varies with barometric pressure. It varies with the number of times the hatch on top of the tank is opened.

Q I take it then that you feel that in those situations we would like to docket those for Examiner Hearings and get all the facts?

A Yes, sir. There may be some instance where the subtraction method will work. However, I think that under those conditions we want to investigate them at a hearing. I don't think that we have all the facts before us necessarily in an application for approval.

Now, I'm sure that the cases where the shrinkage factor is negligible or where it can be established that it won't do any harm to use the subtraction method, I'm sure that the Commission would probably look on those cases with favor.

Q Now, certainly the proposed rule is more liberal than the present rule?

A It certainly is.

MR. BURTON: Mr. Porter, Horace Burton for Sinclair Oil and Gas Company. My company favors the amendment to the rule as proposed. We question the necessity of strict notice to the

royalty owners and consequently we would favor a further modification as suggested by Mr. Bushnell.

MR. PORTER: Anyone else?

MR. WOODWARD: Mr. Spann will enter an appearance for me. I would like to ask a question and perhaps make a suggestion here.

MR. SPANN: Charles E. Spann, appearing for El Paso Natural Gas Products Company, and I have associated with me Mr. John Woodward, attorney from El Paso, Texas. Mr. Woodward would like to make a statement.

MR. PORTER: Mr. Woodward.

REXCROSS EXAMINATION

BY MR. WOODWARD:

Q Mr. Nutter, the proposed rule would in no way prevent the Commission from allowing or permitting the commingling of production from two separate oil pools in the well bore after notice and hearing, is that your understanding of its operation? Upon notice and hearing the Commission could authorize commingling in the well bore, particularly if you had two marginal sands?

MR. PAYNE: That's correct, Mr. Woodward.

A I presume they could.

MR. PAYNE: Rule 1 provides for exceptions to any Statewide rule after notice and hearing.

Q If they do grant such exception and authorized the

commingling in the well bore, that would automatically exclude this production, the commingled production from this rule inasmuch as it would be impossible thereafter to separately meter each sand?

A Yes, sir, I presume that if the Commission would authorize the commingling in the well bore, they would authorize the commingling on the surface. They wouldn't require it to be separated and put in two tanks.

Q My suggestion here is an additional exception to this rule, that you except any situation where the Commission has authorized the commingling in the well bore. In other words, not make it necessary to ask for both exceptions, that automatically you would exclude from this separate metering provision any production that the Commission had authorized to be commingled in the well bore.

A I would hate to put that in the rule because I've been here almost five and a half years now and I have never seen an application to commingle in the well bore. If we put that in there it would be an open invitation for something that I haven't --

Q My observation is such that the Commission could entertain such an application, and I assume would consider one seriously, in the, where you had two marginal sands and the only way to produce them is to produce them in the well bore. Now, if they did authorize such a procedure, of course, there is no

possibility that you could separately meter it thereafter, and it should be excluded from the operation of this rule.

A I think what we could do in that event, Mr. Woodward, if the Commission wrote an order and permitted the operator to commingle two marginal sands down in the hole, that order could also grant an automatic exception to Rule 303, requiring separate measurement. That particular order could, rather than put it in here.

MR. WOODWARD: That's all.

MR. PORTER: Mr. Woodward.

BY MR. WOODWARD:

Q As long as the application is diligent for both types of relief, you are going to have the same result?

A Yes.

BY MR. KELLAHIN:

Q In connection with the separate measurement, what is the purpose of that?

A Separate measurement of the production from the two zones, so you'll know how much is coming from each one.

Q For what purpose? What do you use that information for?

A Well, an allowable is assigned to each pool. It's to determine whether the allowable is being produced from one or the other pool. Maybe the allowable would be produced from both. Maybe both allowables would be produced from one zone if it

weren't separately measured.

Q I quite agree. Assuming both zones are marginal, what purpose could it serve?

A One zone may be worked over and become nonmarginal.

Q In that event, then, it wouldn't be marginal any more?

A That's correct. Now, in some instances production is commingled where both zones are marginal and they're not separately measured. Those are rare cases though and rare cases are always welcome for hearing.

Q Aside from just keeping track of the total production say from the particular pool, does it serve any purpose to anybody to keep track of the marginal production?

A No, it enables you to keep track of how much production comes from each reservoir.

Q That's the only purpose?

A That's probably the only purpose.

MR. SETH: Mr. Seth, on behalf of Shell. We are certainly in favor of administrative rules and we are generally in favor of this one, but it would appear that the rule is getting close to the point where it would be easier to have a hearing than it would be for me to go the administrative route. For that reason we would like to suggest, as has already been suggested, that the notice to offset operators be eliminated. There's no correlative rights or anything of that nature involved.

Likewise, the notice to royalty owners be eliminated, and thirdly, the last portion of the second paragraph relating to the value of the commingled crude.

BY MR. SETH:

Q Now, Mr. Nutter, has the Commission ever adopted any rules which relate to and regulate the royalty settlements that are to be made on individual leases? Isn't that what you are doing here? This is a matter of contract settlement under the lease, is it not?

A Possibly with regard to the royalty it is. Like I mentioned, this value of the production, as far as the State is concerned for taxation purposes, is also considered here.

Q Well, those settlements are made to the State as a royalty owner and they're made on the same report as the royalty report, so the value that's used for that computation is the same one, does it get back to the matter that you are regulating the royalty settlements on leases because the Commission otherwise doesn't get any of this, it's strictly on a conservation basis, and the basis on which the settlement is made to the royalty owners, I don't believe is a part of the rule of this kind?

A I think we might be getting into some legal aspects with which I am not familiar.

Q You recall at some of the previous hearings this has come up on the value of the commingled crudes, in those cases

it was disposed of by the operator settling with the royalty owners on the basis of the exact crude. This additional proviso makes this administrative route less useful. That's why we would like to see it eliminated.

A It wouldn't have to be used by any operator who wants. He could ask for hearing.

Q I think with the notice and all you are going to have little use of the administrative route. I think the rule should be written with that in mind.

MR. PAYNE: You would propose, Mr. Seth, that there be no notice to royalty owners?

MR. SETH: Just like you handled the Statewide and present hearings on publication.

MR. PAYNE: Yet you will allow commingling where some of the values would be more than the value of the commingled production?

MR. SETH: Yes, that's right, because I don't think the Commission is in this business. You aren't in the business of protecting royalty owners.

MR. PAYNE: Mr. Seth, I would have to disagree with you there. I feel that the Commission has the legal obligation to protect correlative rights, and the correlative rights involved aren't only the working interests but the royalty interest.

MR. SETH: I agree you have to protect correlative rights,

but I don't believe you have to enforce contract and lease settlements between the operator and the royalty owner.

MR. PAYNE: We don't propose to do that. This is if you want administrative approval. Now, the Commission might approve anything after notice and hearing.

MR. SETH: Well, you put it in the administrative approval, it certainly implies that you have some similar restrictions if it came to hearing. It shows there is some requirement. We don't think that there is any such requirement. I believe that's all we have. We are in favor of the deduction system too.

REDIRECT EXAMINATION

BY MR. PAYNE:

Q Mr. Nutter, how do you define a marginal well?

A A marginal well?

Q Yes.

A One that can't make top unit allowable for that pool.

Q Top unit allowable varies from month to month?

A Yes.

Q If this contained a provision for administrative exception to commingle the production from two wells in two different oil pools, both of which were marginal, it might be marginal one month and not marginal the next?

A That is quite possible.

Q Then, if it became nonmarginal, you would have to

separately meter it?

A That would be a possibility.

MR. PAYNE: Thank you.

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

MR. SETH: I have one more question.

RE CROSS EXAMINATION

BY MR. SETH:

Q How do you determine this value of the commingled crude, or rather when do you determine it, when the application is made, say when there is one well connected from one pool and six from another, the value of the commingled crude will be a certain figure at that stage. How about down the road a little bit?

A Well, we just have to assume that there is a change in price, the change in price would be applicable to both gravities or to the commingled gravity. Usually they do go pretty much in proportion as the prices change.

Q It would depend when you made your application for approval whether you got it or not?

A Yes, sir. I think the current price you would have to go by. You can't see any, foresee, --

Q You are in a development stage on the road, you are going to have 16 more wells on this one side than you have now and it's going to change the value?

A The weighted gravity will change if you have a further

development in the pool. I've thought of that and I don't know how you can solve the thing unless you restricted it to fully developed leases, that would complicate things.

Q I don't believe in this notice to royalty owners, I think if you put it in you ought to state when and how it should be given. There's no time for giving notice in the present rule.

A The rule says that applicant shall also furnish evidence that all offsetting operators, as well as all persons owning any interest in the subject acreage, have been notified, so I think you would have made your application and notify them in the same afternoon mail.

Q Any time before the application is acted upon?

A Yes, sir.

MR. PAYNE: No, sir, this is not what was intended. You file the application for approval, you state in the application that they have been notified, so they would have been notified prior to your filing the application.

MR. SETH: They always have 20 days?

MR. PAYNE: Yes, sir.

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

(Witness excused.)

MR. PORTER: Anybody have any further amendments or comments to make concerning this rule? If nothing further to be

offered in this case, we will take the case under advisement and recess the hearing until one-thirty.

STATE OF NEW MEXICO)
: SS
COUNTY OF BERNALILLO)

I, ADA DEARNLEY, Court Reporter, do hereby certify that the foregoing and attached transcript of proceedings before the New Mexico Oil Conservation Commission at Santa Fe, New Mexico, is a true and correct record to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF I have affixed my hand and notarial seal this 4th day of January, 1960.

Notary Public-Court Reporter

My commission expires:
June 19, 1963.