

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
March 16, 1960

IN THE MATTER OF:

In the matter of the hearing called by the Oil Conservation Commission on its own motion to require Cactus Petroleum, Incorporated, and McWood Corporation to appear and show cause why they should not be required to purchase the Culwin Pool Production from the following-described wells in Eddy County, New Mexico:

Case 1918

Hale and Hale Federal Well No. 1, Unit G, Section 1, Township 19 South, Range 30 East.

Hale and Hale Federal Well No. 2, Unit B, Section 1, Township 19 South, Range 30 East.

BEFORE:

Honorable John Burroughs
Mr. A. L. Porter
Mr. Murray Morgan

TRANSCRIPT OF HEARING

Mr. Porter: The meeting will come to order. The Commission will consider Case 1918.

Mr. Payne: "Case 1918. In the matter of the hearing called by the Oil Conservation Commission on its own motion to require Cactus Petroleum, Incorporated, and McWood Corporation to appear and show cause why they should not be required to purchase the Culwin Pool production from the following-described wells in

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Eddy County, New Mexico:

Hale and Hale Federal Well No. 1, Unit G, Section 1,
Township 19 South, Range 30 East.

Hale and Hale Federal Well No. 2, Unit B, Section 1,
Township 19 South, Range 30 East."

MR. PORTER: I would like to call for appearances in
this case at this time.

MR. CAMPBELL: If the Commission please, I am Jack M.
Campbell, Campbell and Russell, Roswell, New Mexico. I would like
to enter an appearance on behalf of Elwyn and Mabel Hale, Harvey
Yates, owners and operators of the two wells referred to on the
docket there and Olen F. Featherstone, owner of a lease and a well
in the same area.

MR. SETH: Mr. Jack Curry and Oliver Seth for McWood
Corporation.

MR. PAYNE: Cactus Petroleum, Mr. Commissioner, has
notified us by letter that they were not going to appear personal-
ly and they entered an appearance by way of letter.

MR. PORTER: Cactus?

MR. PAYNE: Yes, sir.

MR. PORTER: Mr. Campbell, do you desire to present testi-
mony in this case?

MR. CAMPBELL: If the Commission please, even though the
principal purchaser in this area does not intend to present testi-
mony apparently, we feel that we should present to the Commission

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the circumstances in which we find ourselves in connection with the sale of oil in this area. For that purpose I have two witnesses to be sworn, Mr. Sweeney and Mr. Yates.

MR. PORTER: Will you have the witnesses stand, please?

(Witnesses sworn.)

MR. CAMPBELL: Mr. Sweeney, will you take that chair at the end of the table, please?

MR. PORTER: Mr. Payne, before Mr. Campbell begins the examination of the witness it might be well for you to read the letter which will show the position they will take in the case.

MR. PAYNE: All right. Cactus' letter states as follows: "Re: Case No. 1918 - Set for hearing March 16, 1960, for Cactus Petroleum, Inc., and McWood Corporation to show cause why they should not purchase certain Culwin-Pool Production. Oil Conservation Commission, P.O. Box 871, Santa Fe, New Mexico. Attention: Mr. A.L. Porter, Jr., Secretary-Director. Gentlemen: If this company is required to purchase Culwin Pool production from the wells described in the Commission's order in the above-mentioned case, it will work hardship on this company in view of existing marketing conditionsp however, we would like to make it clear that if the Commission shall see fit to issue an order requiring such purchases, this company will comply with the Commission's order. Please consider this letter an appearance in the above-mentioned cause since we do not contemplate having a



representative present when the case is called. Yours very truly,
T. D. Jenkins, Vice President."

MR. PORTER: Mr. Campbell, you may proceed.

H. M. SWEENEY

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

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Will you state your name, please?

A H.M. Sweeney.

Q Where do you live, Mr. Sweeney?

A Roswell.

Q Are you connected with the Olen F. Featherstone organi-
zation?

A I'm General Manager for Olen F. Featherstone.

Q In that capacity you are acquainted with the well which
has been drilled by Olen F. Featherstone in the Culwin area?

A I am.

Q I refer you to what has been identified as Exhibit No. 1
in Case No. 1918 and ask you to state what that is, please.

A That's the plat of the Culwin Field and surrounding
area that was prepared at my direction, showing the completed
wells, the wells without a market, the drilling wells.

Q Where is the Olen F. Featherstone well located?



A That's in the Northwest Northwest of Section 6, 19, 31 Lot 4.

Q When was that well completed to total depth, Mr. Sweeney?

A Drilling was completed on January 2, 1960.

Q Would you relate to the Commission the circumstances that occurred with regard to the marketing of oil from that well?

A Upon completion of the well we started swabbing back our load oil which consisted of 1368 barrels for which we received a permit to transport that to Cactus. That we had originally purchased our load oil from Cactus and started swabbing and at the rate of something like 100 barrels a day and they actually took a little over 400 barrels of it before we were notified they couldn't take any more oil.

Our storage being full, we had to shut down until we found a market for our oil, that was about the middle of January. We haven't yet found a market for it, but we did put temporary storage on the lease and have now recovered all our load oil and have potentialized the well.

Q Was it necessary for you to obtain additional storage and go to additional expense in order to recover your load oil from this well?

A We had to, of course, pay transportation from two 250-barrel tanks that were put on the lease and we are paying a daily rental now on the temporary storage.



Q Do you have another location on that particular lease for other wells, Mr. Sweeney?

A Yes, sir, one location south of the 1-B, we have a location with two direct offsets.

Q Why have you delayed the drilling of that well?

A Well, it would be foolish to drill another well on the lease where we have one well where we can't sell the oil.

Q Now, Mr. Sweeney, I am going to refer you to what has been identified as Exhibit No. 2, of which there is only one original here, and ask you to state what that is and read it to the Commission, please.

A The letter is from Cactus Petroleum, Incorporated dated November 27, 1959, caption "Federal Lease, NW/4 of Section 6-198-31E, Culwin Field, Eddy County, New Mexico." It's addressed to Olen F. Featherstone. "Dear Sir: This has reference to the No. 1-B well on your captioned lease. We trust this well proves to be a commercial producer. If a pipe line connection is not immediately available to handle this production, we would appreciate very much the opportunity to assist you in arranging a market for your oil by truck. We are presently purchasing and transporting crude oil in this area and would be most happy to serve you in any manner possible. Thank you for consideration you may extend to us in this matter. Yours very truly, CACTUS PETROLEUM, INC."

MR. PAYNE: Would you read that part over again, Mr.

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Sweeney, where it apparently stated they purchase and transported --

A "We are presently purchasing and transporting crude oil in this area --"

MR. PAYNE: Thank you.

Q Mr. Sweeney, on the basis of that letter, will you state when and who you contacted with regard to the sale of the oil from this particular well?

A Cactus notified us just about the middle of January that they would be unable to take the oil since all the oil they took was under contract to Sinclair, all the oil in this area was under contract to Sinclair and Sinclair notified them that they would not make any more connections or take any oil from any new connections of Cactus in this particular area.

I've asked them about the ratable take in the field if they didn't have a market for our oil why shouldn't we share in the entire area and they stated that they couldn't deliver any oil to Sinclair regardless of ratable take without it being on their contract with Sinclair. But they notified us that they were working on it and hoped to find a market for our oil and I have talked about this to Mr. Allen at Artesia, their local transporter, and their crude oil representative at Midland, Mr. Charles Lucas.

To date we still have no market and after waiting two or three weeks for them to take care of the situation, we then contacted McWood Corporation, who said they would be glad to have the oil if

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Texaco would take it. They were delivering all their oil to Texaco. Apparently Texaco Wouldn't take it because we've heard nothing more from McWood Corporation. McWood is taking the oil from the Texaco lease which offsets us.

Q To your knowledge, is that the only well from which McWood is presently purchasing oil?

A So far as I know.

Q So far as you know, is Cactus purchasing oil from all the other wells shown in solid black on Exhibit No. 1?

A So far as I know, yes.

Q Do you know of your own knowledge where that oil is being taken?

A No, just, I have been told roughly that it goes -- I haven't actually seen the tanks to which it is delivered. I have seen it delivered. I understand it's being delivered to Sinclair's tanks in the Sugerette area about four miles from this lease.

Q Now, referring again to Exhibit No. 1, can you point out to the Commission where you believe the nearest pipeline connection is to these wells in the Culwin area?

A The three wells in Section 4 on this map, shown by the solid circles, those in the Northeast Quarter are Carper wells and the one in the Southeast is Cherry Brothers' well, which are connected to Texas-New Mexico Pipeline.

MR. CAMPBELL: I believe that's all the questions I have.



CROSS EXAMINATION

BY MR. PORTER:

Q Mr. Sweeney, do you know whether or not these wells are considered to be in the Culwin or Sugerette Pool, the three you referred to?

A I believe they are undesignated as yet. They probably will be in Sugerette, but I really don't know.

Q And there are a couple of drilling wells between that and what you referred to as the Culwin area?

A Yes, sir,

MR. PORTER: Anyone have a question of this witness?

MR. PAYNE: I have a question of Mr. Campbell.

MR. PORTER: Anyone have a question of Mr. Sweeney?

MR. CAMPBELL: I would like to ask Mr. Sweeney one more question in regard to what the Commissioner has asked him.

REDIRECT EXAMINATION

BY MR. CAMPBELL:

Q Are these wells that you referred to as being in the Sugerette area in Section 4 producing from the same area as the wells that you identified here as being in the Culwin area?

A They are producing from the Queen, which is the same formation.

MR. SETH: May I ask him a question?

MR. PORTER: Okay.

RE-CROSS EXAMINATION

BY MR. SETH:

Q You testified, I believe, that McWood was buying from this Texas offset?

A Yes, sir.

Q How do you know that they are?

A I talked to Mr. Ferin, McFerin at Midland. He told me they were.

Q Do you know if they have taken any oil from there or not?

A I haven't seen them take it.

Q You don't know whether they are purchasing?

A No, sir.

MR. SETH: That's all.

BY MR. PORTER:

Q Would you care to risk an opinion as to whether you think the two areas may connect later by drilling, may be the same common reservoir?

A You have three different zones in the Queen there, Mr. Porter, that produce in this area, and I doubt very seriously if you'll have blanket production in any one zone connecting the two areas. I think it's quite likely that there will be Queen production of some sort in this interval between the two.

As you know, the Queen varies greatly in proosity and can change very fast and there will be some kind of production in there in the Queen almost anywhere in the area between those two, but



whether it's commercial production, I don't know.

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

BY MR. PAYNE:

Q Mr. Sweeney, in your opinion does the lack of a market impeded further development in this area?

A It's keeping us from drilling a second well on this lease which is offset. Well, I would say two sides, the three sides, one with our own well.

MR. PAYNE: Thank you.

MR. PORTER: Any further questions? The witness may be excused and you may ask your question of Mr. Campbell.

(Witness excused.)

MR. PAYNE: Mr. Campbell, the Featherstone well was not advertised, but I would like to ask you this, if it's established at this hearing that McWood and Cactus Petroleum are common purchasers in this pool or field, would it seem to you that an order could be entered requiring the purchase from the Featherstone well, based upon the establishment of Cactus or McWood as the common purchaser in this area?

MR. CAMPBELL: Well, it would appear to me, I haven't read the published notice, it would appear to me that the notice certainly is broad enough to authorize the Commission to enter an order with regard to all wells in the pool. Certainly that's what we would like to have done with regard to the Featherstone well



if the Commission enters such an order, whether it is technically stated in the call or not. If somebody wants to question that, they can, but we would certainly request the Commission to enter it in any order they would enter with regard to ratable take from this pool.

MR. PAYNE: In other words, once it's established who the common purchaser is and who has the primary obligation to take the oil, further hearings would be a waste of time?

MR. CAMPBELL: That would be our position, because additional drilling, you would then have to have a hearing on each well. I think once there's a basic finding, there is a common purchaser, it seems to me that would cover the future wells and any present wells not having presently any market.

MR. PAYNE: Thank you.

HARVEY YATES

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

DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Would you state your name, please?

A Harvey Yates.

Q Where do you live, Mr. Yates?

A Artesia, New Mexico.

Q Are you the operator and do you hav an interest in the



Hale Federal Wells No. 1 and 2 in the Culwin area?

A Yes, sir.

Q Will you please refer, Mr. Yates, to what has been identified as Exhibit No. 1 and state for the record where the Hale Wells are situated?

A Hale No. 1 well is situated in the Southwest Quarter of the Northeast Quarter of Section 1 in Township 19, 30, I mean 19 South, 30 East, and No. 2 is in the Northwest Quarter of the Northeast Quarter of the same section, township and range.

Q Will you state when those wells were completed, please?

A No. 2 was completed first, December 24, 1959. No. 1 was completed January 6, 1960.

Q Have you sold any oil from those wells, Mr. Yates?

A 600 barrels, roughly, was transported before we were notified that Cactus could take no more oil.

MR. CAMPBELL: Mark this, please.

(Marked for identification
Exhibit No. 3.)

Q I hand you what has been identified as Exhibit No. 3 and ask you to state what this is, please.

A That's a letter to me referring to a purchase of oil in this, out of these two wells, signed by Mr. Lucas of the Cactus, saying that it would be necessary to furnish abstract, title opinion to get division orders to pay off on it.



Q Is that a copy of the original letter which you returned to them accepted?

A Yes, sir.

Q Did you furnish them with title information?

A Yes, sir.

Q And received a division order?

A Yes, sir.

Q And you said, I believe, that about 600 barrels of oil was transported and then what occurred?

A We were notified that they could take no more oil.

Q Who notified you?

A Mr. Verel Allen, who is their transporter, and also I understand a representative at Artesia.

Q Did he tell you the reason they were unable to take additional oil?

A Yes, sir.

Q What did he tell you in that regard?

A He said that they could take no more oil because their contract was with the Sinclair Crude Oil Purchasing Company and that Sinclair would take no more oil in the area.

Q Did you have any further contact with any representatives of Cactus in that regard, or Sinclair?

A I had contact, upon Mr. Allen's recommendation I called the Sinclair Crude Oil Purchasing man in Tulsa, Mr. Gardner,



and he told me that they didn't want to purchase any more oil in the area.

Q Did you make any further effort to sell the oil to any other purchaser?

A Yes, sir.

Q What did you do?

A I called McWood Corporation.

Q Who did you talk to, do you know?

A McPherson, I believe his name, in Midland, and he said that he would be glad to take the oil provided Texas Company would purchase it.

Q Did you hear anything further from McWood people in that regard?

A After the original call he called me back and said that he had hoped that they would take it, but that he would know the next day, and if they would he would call me, but apparently he didn't, at least he didn't call.

Q How long have these wells been ready to produce for the market and been shut down?

A The No. 2 well has an allowable set up by the Oil Conservation Commission as of January 1st, 1960; the No. 1 well went on proration January 16, 1960.

Q Both of these wells are directly offset by producing wells which are marketing their oil, are they not?



A Yes, sir.

Q You desire, if the Commission enters an order requiring the purchase of oil from your wells, to seek back allowable for the period for which these wells have been shut down?

A Yes, sir.

MR. CAMPBELL: I believe that's all.

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

CROSS EXAMINATION

BY MR. PAYNE:

Q Are these top allowable wells, Mr. Yates?

A Yes, sir.

Q So that they could make up --

A We feel that they could. However, they weren't operated long enough to really find out, but we produced approximately a thousand barrels of oil over and above the load oil. Indications were they they would make about a hundred barrels a day apiece.

Q As I understand your testimony, Cactus doesn't actually transport the oil that they purchase from this area. They have a Mr. Allen that trucks it for them, is that correct?

A That's my understanding. I know that he trucks it. I don't know what their arrangement is, but he acts as their representative. We called him and have in the past. We sell Cactus in other places.

Q Mr. Yates, do you have any plans to drill additional



wells in this area?

A There are more leases there that probably we would. I'm not sure. We aren't encouraged at the present time.

Q You are not going to drill them unless you have a market?

A That's right.

MR. PAYNE: Thank you.

MR. PORTER: Any further questions of the witness?

You may be excused.

(Witness excused.)

MR. PORTER: Does that conclude your testimony?

MR. CAMPBELL: I would like to offer Exhibit 1,2 and 3 into evidence.

MR. PORTER: Without objection they will be admitted into the record. Mr. Seth, do you plan to offer any testimony?

MR. SETH: Yes, we have one witness.

(Witness sworn.)

R. L. McPHERSON

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

DIRECT EXAMINATION

BY MR. SETH:

Q Would you state your name, please, and your position?

A R. L. McPherson, Crude Oil Representative for McWood Corporation.



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Q How long have you been in that capacity?

A Approximately three years.

Q Are you generally familiar with the crude oil purchasing in this part of New Mexico?

A Yes, sir.

Q Are you familiar with the location of the Culwin Pool?

A Yes, sir, I am.

Q Does McWood have any facilities in this general area of New Mexico?

A Yes, sir, we do.

Q What would you describe those for the Commission?

A We have some storage facilities in the Sugerette Field.

Q About how far distant is that from the Culwin Pool?

A It's approximately four miles.

Q Do you buy from a number of producers in the Sugerette area to supply your Sugerette facilities there?

A Yes, sir, approximately five.

Q Do you transport any oil by pipeline, does McWood Corporation transport any oil by pipeline in this area?

A Not in this area, no, sir.

Q Has McWood purchased and received any oil from the Culwin Pool?

A No, sir, not to my knowledge.

Q Did you make some tentative arrangements with Texaco



looking toward purchase of their oil in the Culwin Pool?

A Yes, sir, we did.

Q Have you ever received any of that oil?

A No, sir.

Q Never purchase any, is that right?

A No, sir.

Q Did Mr. Yates contact you about possible purchase of his oil from the Hale wells?

A Yes, sir, he did.

Q Were you able to find any market for that oil?

A Not at present.

Q Who is the principal purchaser in the Culwin Pool at the present time?

A Well, sir, as I understand it, Cactus Petroleum is.

MR. SETH: I think that's all the direct we have, if the Commission please.

CROSS EXAMINATION

BY MR. PORTER:

Q Mr. McPherson, you say you haven't bought any oil in the Culwin area up-to-date?

A That's correct.

Q Does that include load oil, new production or whatever?

A That's right.

Q Is it your plan to buy oil from the Texaco well?



A Yes, sir, we plan to when they advise us that they're ready to have some production moved.

Q Is that well a fairly recently completed well?

A Yes, sir, it is. I would say, I'm not for sure, but I think within the last six weeks.

MR. PORTER: Mr. Payne.

BY MR. PAYNE:

Q Mr. McPherson, did McWood Corporation nominate for the Culwin Pool for the month of April, 1960?

A Perhaps we did, Mr. Payne, I'm not for sure.

MR. PAYNE: In this regard I would like to ask the Commission to take administrative notice of the nominations which appear in the Commission file that McWood Corporation did nominate for the month of April from the Culwin Pool in the amount of 30 barrels a day. Cactus Petroleum Corporation nominated in the amount of 20 barrels per day in the Culwin Pool.

Q (By Mr. Payne) Mr. McPherson, does the McWood Corporation have a Corporation Commission permit as a common carrier?

A That, Mr. Payne, is out of my department. I'm not qualified to answer that question.

Q Do you regard yourself as a common purchaser of oil rather than transporter?

A I would say so, yes, sir.

Q Do you have a contract executed with Texaco to purchase



the oil from the Texas Company well offsetting the Featherstone well or are the arrangements just tentative?

A I believe we would say the arrangements are tentative.

MR. PAYNE: Thank you.

MR. PORTER: Mr. Campbell.

BY MR. CAMPBELL:

Q What are the arrangements, tentative or otherwise?

A Well, sir, we have made arrangements with Texaco to purchase their production when and if they are ready to have some move.

Q What is the mechanics by which you acquire the oil for the Texaco Company and redeliver it to the Texas Company, Mr. McPherson?

A Well, as far as I'm concerned, Texaco called me and asked me if we would be interested in purchasing the production from their well and, of course, naturally I told them that we would be. It was set up, as far as my records are concerned, to purchase the production when they had some.

Q What do you do with it then?

A We move it to our Schugert storage.

Q Where does it go from there?

A Into Texas-New Mexico Pipeline.

Q To whose account?

A Texaco.



Q What is the disposition of the oil that you are buying in the Schugert Pool now and putting in your storage?

A The same arrangement, it is going for Texaco.

Q Are you buying from Texaco in the Schugert Pool or from other producers?

A Just a minute, please, sir, yes, sir, we are buying from Texaco in the Schugert.

Q And others, or just Texaco?

A Others, yes, sir.

Q But as far as the Culwin area is concerned, you start moving your oil, will you buy that oil from them at the well, at the tanks and charge them, as you do other producers, a transporting charge and then redeliver it to Texas Company through the Texas-New Mexico Pipeline?

MR. SETH: We believe that's a legal problem. The mechanics he knows, but I think you are getting into a legal question here.

Q Well, do you pay the Texaco for the oil you take in the Culwin Pool under this arrangement when you start taking it?

A Well, yes, sir.

Q On the same basis as you handle any other producer's oil?

A Primarily, yes, sir.

Q Then you sell it back to them?

A That's correct.



Q At the pipeline? A Yes, sir.

MR. CAMPBELL: I believe that's all.

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

(Witness excused.)

MR. PORTER: Do you have another question, Mr. Seth?

MR. SETH: Just one.

REDIRECT EXAMINATION OF
MR. McPHERSON

BY MR. SETH:

Q Would you name the other operators from whom you are purchasing in the Schugert?

A Jack Plemmons Drilling Company, Stout and Dodson, Texaco, Incorporated in the Schugert Field, Texaco, Incorporated another lease in the Schugert Field, Three States Natural Gas Company in the West Lusk, Three States Natural Gas Company in the Lusk, Three States Natural Gas Company also in the Lusk.

RECROSS EXAMINATION

BY MR. PAYNE:

Q Mr. McPherson, in view of the fact that you purchase from a number of operators in the Schugert Pool, why are you reluctant to purchase the oil in the Culwin Pool from other operators than Texaco?

A What was that again, Mr. Payne?



Q In view of the fact that you do purchase the oil of other operators than Texaco in the Schugert Pool, why are you reluctant to purchase from other operators in the Culwin Pool?

A I am not reluctant, Mr. Payne, I would be glad to purchase the production, Mr. Payne, if I could market it.

Q You have a market for so much oil from the Culwin Pool?

A I believe, and I am not too for sure about this because it is a contract arrangement which is out of my department, but as I understand it, these areas are set up on a lease basis and orders for me to purchase more production from another lease, arrangements have to be made with our marketing outlet.

Q What you are saying, as I understand it then, is that your ultimate purchaser from you, Texaco, arranges to buy such production from you as comes from certain leases only, not a total volume of oil?

A That's correct.

MR. PAYNE: Thank you.

MR. PORTER: Mr. Seth, do you have another question?

MR. SETH: Just one more.

REDIRECT EXAMINATION

BY MR. SETH:

Q You sell to other purchasers than Texaco in New Mexico, don't you?

A Yes, we do.



REXCROSS EXAMINATION

BY MR. PORTER:

Q Have you offered your oil for sale to Sinclair in this area?

A No, sir, I haven't, because my closest facilities, as I have previously stated, are with Texaco in the Schugert Field, and as yet I have not received an answer from Texaco.

MR. CAMPBELL: Let me ask a question there.

BY MR. CAMPBELL:

Q Is the storage in the Schugert Field owned by Texaco or by McWood?

A No, sir, by McWood.

Q Texaco has no interest in the storage facilities?

A No, sir, not to my knowledge, they do not.

MR. PORTER: Anyone else have a question?

MR. CAMPBELL: I would like to make a statement.

MR. PORTER: Mr. McPherson, you may be excused. Mr. Campbell.

MR. CAMPBELL: If the Commission please, while obviously the immediate concern of the people that I represent is to sell their oil to whoever will buy it at a reasonable price at a reasonable transportation cost, it seems to us that the situation that appears here is going to become more prevelant as companies purchase oil in this fashion for transportation to a pipeline, and subsequent



resale to other purchasers for transportation through a pipeline.

The increased nominations of Cactus and McWood and Permian and other trucking concerns make it apparent that this practice is growing. This provides an outlet for oil which otherwise might not be available. To that extent is certainly is beneficial to the producers. However, it seems that where a trucking concern is purchasing at the well for transportation for any distance to a pipeline, ultimate pipeline, and for sale to a purchaser who is transporting through that pipeline, that those trucking concerns are, in fact, as Mr. McPherson seems to feel, that they are common purchasers and the common purchaser act should apply to them.

To the same extent, it seems to us that in a situation such as exists here where Sinclair is taking the oil from Cactus and Texaco intends apparently ultimately to take it from McWood, that by the same token, Sinclair and Texaco are also common purchasers and that the chain of circumstances from the well head or the tank to the purchaser and the pipeline is covered by the Common purchaser statutes that require that this oil be taken ratably wherever there is a common purchase in the pool.

Particularly vicious can this become if, as apparently is going to occur here in this one instance, at least the company as producer has a trucking concern buy the oil at the well or at the tank, move it to a storage or to a pipeline, put it into the pipeline for the account of that same producer, then it seems to me

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you are right up against the statutory prohibition against a producer who is also a purchaser, discriminating in favor of his own production.

It seems to me this is rather a serious matter which can have some far-reaching consequences. We believe that the Commission should require Cactus, which apparently is the only common purchaser there until McWood starts to take oil, should require Cactus, as a common purchaser, to purchase oil ratably in this pool from all producers and should also define Sinclair as a common purchaser of oil from the Culwin Pool. I do not believe that purchasing companies should be permitted to insulate themselves from the obligations of the common purchasers' statute by making arrangements with trucking concerns to buy the oil and resell it to them at the pipeline.

We also feel that in view of this situation and with regard to the two Hale wells which have been on the proration schedule since January, that those wells are entitled to back allowable for the period of time they were unable to have a market when the offset wells were producing and selling oil.

MR. PORTER: Mr. Seth.

MR. SETH: We would like to ask if the Commission please that McWood be dismissed from the case. I think the evidence shows clearly that McWood is not purchasing in the Culwin Pool. For that reason it is not a common purchaser as defined in the statute in

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the Culwin Pool. We don't ask for any immediate ruling on the motion. The Commission can consider that with the merits.

MR. PORTER: Mr. Seth, the Commission, in its deliberations in this case, will certainly consider your motion for dismissal of McWood in this case. It appears from the testimony here this morning that Cactus does have the primary obligation because of the fact that McWood has not and is not at this time a purchaser in the pool.

Does anyone have anything further to offer? We will take the case under advisement, and I would like to announce before we take up the next case that there are two cases which will be called today, they are not listed on the docket. These cases were continued from an Examiner Hearing and we didn't have time to get them on the docket. Case 1891 is an application by Val R. Reese and Associates for the extension of the Escrito Pool in the San Juan Pool and for pool rules.

I have been advised by counsel of the applicant that he will move for dismissal in that case, and the Case 1915 which is an application of Redfern and Heard for the creation of a pool in the San Juan Basin, which is near the Escrito Pool. That case will probably be heard. At least it will be called and the applicant will be given an opportunity later in the day.

We will take up next Case 1917.

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