

DEARNLEY-MEIER REPORTING SERVICE, Inc.

PHONE CH 3-6691

ALBUQUERQUE, NEW MEXICO

BEFORE THE
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO
APRIL 5, 1961

EXAMINER HEARING

IN THE MATTER OF :

CASE 2235: Application of Kay Kimbell for an order force- :
pooling a 160-acre gas proration unit in the :
Aztec-Fruitland Gas Pool. Applicant, in the :
above-styled cause, seeks an order force-pool- :
ing all mineral interests in the Aztec-Fruit- :
land Gas Pool in the SW/4 of Section 22, Town- :
ship 29 North, Range 11 West, San Juan County, :
New Mexico, including those of Mrs. J.A. John- :
son, Miss Jennie Kissell, Mr. and Mrs. John :
Giscomelli, and The Corporation of the Presid- :
ing Bishop of the Church of Jesus Christ of :
Latter Day Saints. :

BEFORE:

Daniel S. Nutter

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

MR. NUTTER: We will take next No. 2235.

MR. MORRIS: Case 2235. Application of Kay Kimbell for
an order force-pooling a 160-acre gas proration unit in the Aztec-
Fruitland Gas Pool.

MR. McCALLISTER: Orville McCallister, representing the
applicant. I have one witness.

(Witness sworn)



MR. McCALLISTER: This is an application to force-pool unleased minerals in the southwest quarter of Section 22, Township 29 North, Range 11 West.

JAMES G. WHITE,

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

DIRECT EXAMINATION

BY MR. McCALLISTER:

Q Would you state your name, address and occupation?

A James G. White, Attorney at Law, Albuquerque, New Mexico.

Q Mr. White, do you represent the applicant, Kay Kimbell, in the oil and gas property?

A I do.

Q Would you state in your own words the efforts made to secure voluntary pooling of the southwest quarter of Section 22?

A A Mr. Roy L. Cook is the lessee on the leased minerals in this unit, and he has made diligent efforts to secure leases on the unleased minerals. He has informed me of this by telephone on numerous occasions, personal visits to my office, and copies of correspondence to the unleased mineral owners. Likewise, the man who handles the leasing for Mr. Kay Kimbell, the applicant, has informed me on numerous occasions of his efforts to secure lease on these minerals.

Q Mr. White, did you represent Kay Kimbell in an application to force-pool the same mineral interests under a Dakota well

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in the entire west half of Section 22?

A I did, together with other unleased mineral interests.

Q I have here the case file No. 2057 of the application of forced-pooling on the Dakota producing interval involving the same unleased minerals. I would like to introduce this as evidence, and have the Commission take administrative notice thereof.

MR. NUTTER: You would like us to take administrative notice of Case No. 2057 and the record therein, as it applies to the west half of 22 in the forced-pooling?

MR. McCALLISTER: Yes. There's testimony of Mr. Roy Cook pertaining to his efforts to secure voluntary entry into the Dakota producing interval in the same unleased mineral under the same lease.

MR. NUTTER: All the acreage that is included in the hearing in this previous case, all of the acreage that is in this present case is in the previous case, is that correct?

MR. McCALLISTER: That's right. That involves the entire west half of the Section 22. This involves the southwest quarter of Section 22.

MR. NUTTER: We will take administrative notice of the hearing of Case 2057 in the record.

Q (By Mr. McCallister) Mr. White, do you have anything further to say?

A No.

MR. McCALLISTER: I have no further questions.

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CROSS-EXAMINATION

BY MR. NUTTER:

Q Mr. White, does this application involve the forced-pooling of leased minerals as well as unleased minerals?

A No, only unleased minerals.

Q These unleased minerals, they include what would be working interests as well as royalty interests, is that correct?

A That's correct.

Q What percentage of the mineral interests in the southwest quarter of Section 22 are committed to this unit and to this well at the present time?

A Can I give you an approximate figure? I would say ninety-nine percent has been committed to the unit. The unleased minerals consist of town lots and just a fraction of an acre in each tract. I believe I can give you this thing here. For instance, to give you an idea, I have worked out a proposed division order which includes the unleased minerals and the percentage that is one-eighth of the production attributable to their interest. For instance, on one unleased mineral tract, .015692 percent. Another would be .0032266 percent. Another would be .065794 percent. The other one would be .020000. That would amount to a little over an acre, probably.

Q That's the unleased minerals?

A Yes.

Q Those four figures?



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A Yes.

Q That's the entire unleased or uncommitted acreage?

A That's right.

Q The total comes up to what percent of the total 160 acres?

A Well, .13415. It would be .072216.

Q In the application, you mentioned that there are unleased minerals under four tracts, being Tract 4, Tract 5, Tract 6 and 9. Are those the four tracts that you just enumerated?

A Yes, sir. Actually, the application was set up from our title opinion where we classified them by tracts for easier handling.

Q Have all of these owners in these tracts been contacted --

A Yes, sir.

Q -- about joining the unit?

A Yes. For instance, the Mormon Church, it would appear that their interest is so small and the trouble that it would cause to present the lease to their elders or whatever they have to do, would be too much work and trouble to come in with the lease on this thing. That is the report to me.

Q Tract 5 and Tract 9 are owned by John Giacomelli and his wife?

A Yes.

Q Have they expressed a desire not to join the unit?

A No, sir. As a matter of fact, they were represented by



counsel in the case filed, but what was the number of that?

Q 2057.

A You have a letter there from their counsel stating that they have no objections to force-pooling and joining the unit, provided that during payout they get their one-eighth royalty, and Mr. Kimbell, the operator, recovers one hundred twenty-five percent before their royalty reverts to a working interest.

Q That letter would apply to 320 acres to the Dakota?

A Right.

Q Would it apply to the 160 acres for a Fruitland Well?

A I can't say. I don't know.

Q How about Tract 4 owned by Mrs. Johnson and Miss Kissell in Fayetteville, Arkansas?

A Yes. I have copies of correspondence in my file where they have been contacted and no reply.. As a matter of fact, we sent a letter to them out of my office, to try to get their mineral interest leased, and got no reply at all to it.

BY MR. PAYNE:

Q Mr. White, you are aware that for administrative purposes, at least, in forced-pooling orders where there is unleased acres, that the Commission considers that the mineral interest severed insofar as we're concerned, and that the royalty owner received his one-eighth before the well was actually paid out?

A That is correct. We have no objection to that. It complicates the bookkeeping.



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Q You just withdraw on his seven-eighths until the well is paid out?

A That's right. As a matter of fact, I have proposed division order set-up which is set up in that manner. I have the unleased mineral interests set up in here as though they had signed a lease.

MR. NUTTER: Is Kay Kimbell in this case proposing any particular percentage of these people' share of the well to be withheld from their production?

A Oh, seven-eighths and give them one-eighth.

MR. NUTTER: I mean their share of the cost of the well. Do you want them to pay a hundred percent?

A Yes, one hundred twenty-five percent.

MR. NUTTER: One hundred twenty-five percent?

A Yes.

MR. NUTTER: Which was the same in the previous case?

A Yes.

MR. McCALLISTER: We would ask the Commission to prepare an order similar or like the former order on the 320 acres.

MR. NUTTER: I see.

Q (By Mr. Payne) Have you prepared an estimate of the well cost, Mr. White?

A I have one here, Mr. Payne, showing operation expenses through December. Would you like to mark this as an Exhibit?

Q Has this well actually been drilled?



A Yes. It was completed, at least commenced, in April of last year.

Q What was shown as being dedicated to it --

A Now, that, I can't say. I don't handle those records.

Q -- because you see if there had been no voluntary communitization agreement or no forced-pooling order, then, obviously, the operator would not be the owner?

A I beg your pardon, Mr. Payne. I did file a declaration of unit on that showing, however, the unleased minerals in my declaration unit.

Q Now, the proportionate share of the unleased mineral owners from the production thus far, what is the status of that money?

A There has been no money released at all. They will get their proportionate share.

MR. NUTTER: When did the well go on production?

A I would have to verify this for you, but I think in November it was hooked up, of 1960. I think the gas is being delivered to El Paso Natural Gas Company. Of course, no payments have been made at all. As a matter of fact, I had a proposed division order here.

Q (By Mr. Payne) No payments have been made by El Paso?

A No, sir.

MR. MORRIS: I would like to set the record here straight, Mr. Nutter. I looked in the well file on this well. I believe the

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well is Well No. 2 in the southeast quarter of the southwest quarter of 22.

A That's correct.

MR. MORRIS: That well was connected on October 25, 1960, and the date of first delivery was December 1st, 1960.

MR. NUTTER: I presume there has been delivery of gas off and on since the date of first delivery?

A I don't know. I understand it's not a very good well.

MR. PAYNE: Did that show a 160-acre dedication?

MR. MORRIS: I don't remember the exact dedication that was shown on the 128. We could look that up.

A I believe that we brought the wrong file that might contain our declaration of unit on the southwest quarter. It was handled in the same manner we handled the west half. In other words, we filed a declaration of unit, stating that all the acreage was not in listing the acreage not in, and with a statement that if it was not committed to the unit, it would be forced-pooled. Then, later, we filed an amended declaration. In other words, we had some short term leases that we were trying to protect.

MR. NUTTER: I see.

A The declaration unit on the southwest quarter was handled in the same manner and did not dedicate the entire 160 acres.

MR. NUTTER: That was filed with the acreage dedication plat when the well --

A No, I'm talking about the declaration of unit that we

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filed with the County Recorder's office under the terms of the oil and gas leases.

MR. NUTTER: How about the C-128, the acreage dedication plat?

A That's handled out of Fort Worth. Our office has nothing to do with it.

MR. NUTTER: We'll take administrative notice of whatever the file for this particular well in the Commission records also reflects. Do you have anything further, Mr. McCallister?
(Witness excused)

MR. McCALLISTER: Only that this estimated well cost does not reflect our examination of the records of Kay Kimbell, but was simply submitted to us by Mr. Kay Kimbell.

MR. NUTTER: You are offering this as Exhibit No. 1?

MR. McCALLISTER: Yes.

MR. NUTTER: Kay Kimbell's Exhibit 1 will be admitted in evidence.

(Whereupon, Kay Kimbell's Exhibit No. 1 was received in evidence.)

MR. NUTTER: Does anyone have anything further? If not, we will take the case under advisement.

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