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BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
November 8, 1962

EXAMINER HEARING

IN THE MATTER OF:)

)
Application of Southern Union Production)
Company for an amendment to the Northwest)
New Mexico Gas Proration Rules and Regu-)
lations. Applicant, in the above-styled)
cause, seeks an amendment to Order R-1670)
as amended by Order No. R-2086, Rules)
and Regulations for Prorated Gas Pools,)
San Juan, Rio Arriba, McKinley and Sando-)
val Counties, New Mexico, to permit wells)
ordered shut-in for extended periods to)
make up accumulated overproduction to)
produce a minimum of 500 MCF each month)
during such shut-in.)

Case 2694

BEFORE: Daniel S. Nutter, Examiner.

TRANSCRIPT OF HEARING

MR. NUTTER: We will call Case 2694.

MR. DURRETT: Application of Southern Union Production Company for an amendment to the Northwest New Mexico Gas Proration Rules and Regulations.

MR. VERITY: George L. Verity for the applicant. I would like to make an opening statement with regard to this matter. Practically all modern oil and gas leases have a provision to the effect that the lease will be held in force and



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effect beyond its primary term for as long a period of time as oil or gas is produced in paying quantities from the land. This paying quantities has been defined by most courts to mean not the return of the initial investment, but paying quantities meaning merely a profit over and above month to month operating expenses.

The Commission, in its wisdom, has seen fit to make pro-ration orders with which Southern Union is in accord, and on occasion without anyone being in fault wells and gas pools will become overproduced. This happens occasionally in Northwest New Mexico. The paying quantities clause, the produced in paying quantities clause of the ordinary gas lease thus come into question if a well is shut in and not allowed to produce at all for a period of time.

Southern Union does not take the position, and in fact it resists the concept that a well which has been overproduced and is shut in should terminate by its terms under the thought that it is not producing in paying quantities, but particularly the United States Geological Survey for the Navajo Tribe has given notice to Southern Union, and I think other producers in the area, that if a well is shut in for one or more months, the Navajo Tribe may take the attitude that it has terminated by virtue of its terms.

For this reason Southern Union has filed its application



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and would like the Commission to enter, and thinks that it's necessary to protect correlative rights, that the Commission enter an order amending Order R-1670 in its various aspects, I believe A, B, C, D, E and F, and Order No. R-2086 which have promulgated rules and regulations for the production of gas from Northwestern New Mexico. That was our application.

At this time I am amenable to an amendment to our prayer for a change of rules here by reason of the fact that El Paso Natural Gas Company approached us prior to this hearing and said that they would object to a general order that allowed 500,000 MCF of production a month from a well even though it was overproduced and under a shut-in order, if such an order was to be generally applicable to all wells in the pool. They are sympathetic with the problem that I have outlined regarding termination of leases and have suggested that in lieu of a general minimum order of 500 MCF applying to any well, that the Commission amend the rules to provide that any operator whose lease was in jeopardy, by virtue of such shut-in provisions, should have the right to apply to the Commission for an administrative order setting out his peril with regard to the possibility of losing his lease, and that the Commission then enter an administrative order granting such relief as was necessary.

We are amenable to such change of our application, provided



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that the administrative authority is granted on the district level so that if Southern Union or another operator came up to the end of a month and suddenly realized that they were in this situation they could get administrative relief at the district level and wouldn't have to come possibly to Santa Fe.

MR. NUTTER: Would your 500 MCF still stand, Mr. Verity?

MR. VERITY: As a maximum, yes, sir. We think it's necessary that if we are going to set aside a shut-in order of the Commission that we keep it to the minimum figure that will grant relief that is necessary, and we have some evidence as to why we think 500,000 MCF per month is the proper place this should be placed.

MR. NUTTER: When we received the application and were preparing the legal notice of the case, frankly we interpreted the application as wanting this provision for Indian leases. However, we weren't sure that you wanted to restrict to Indian leases, so we advertised it without any restriction as to any type of leases.

MR. VERITY: I don't think it should be restricted to Indian leases. I really believe that probably the only place the problem will be acute is on Indian leases.

MR. NUTTER: But the notice we gave to cover any kind



of lease is satisfactory?

MR. VERITY: I think the administrative order should be this broad. Probably it wouldn't be effectuated except in Indian lease situations, because in the ordinary fee lease I think there's less possibility that the courts might cancel or terminate for non-production if it had previously been over-produced than there is no Indian leases, because they take the position that this Commission has no authority over their land or properties.

MR. NUTTER: We will so amend the case, Mr. Verity, so that this will be directed towards an administrative procedure rather than a blanket exception.

MR. VERITY: This would be for administrative authority at district level?

MR. NUTTER: Yes.

MR. VERITY: With that I would like to call Mr. Minick.

(Witness sworn.)

LYNN MINICK

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

DIRECT EXAMINATION

BY MR. VERITY:

Q State your name, please.

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A My name is Lynn Minick.

Q What is your occupation, Mr. Minick?

A I am a petroleum engineer.

Q By whom are you employed at the present time?

A I'm employed by Southern Union Production Company.

Q What is your educational background, very briefly?

A Degree in petroleum and natural gas engineer, Texas A & M College, worked for Southern Union Production as petroleum engineer for seven years.

Q Are you presently located in their Farmington field office, district office?

A Yes, sir.

Q Are you familiar with the production situation generally in the San Juan Basin and in Northwestern New Mexico?

A Yes, I am.

Q Have you familiarized yourself over a period of the past several days with the costs of producing gas wells in that area?

A Yes, I have.

Q Mr. Minick, are you familiar with the fact that the vast majority of the oil and gas leases in Northwestern New Mexico provide that they must be producing oil or gas in paying quantities if they are to be held?



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A Yes, I mean we were informed by the United States Geological Survey that Indian leases, if not produced in paying quantities for a well each month, that the lease would be in jeopardy of being terminated.

Q Have you made any study as to the cost of producing gas wells in your area?

A Yes, I have. I went through the company records for the past nine months on average trying to determine average operating costs on the various wells and found that the operating costs on wells varied greatly from well to well as well as month to month. However, we did take an average of as many as fifty wells to come up with the average operating cost.

Q What all did you consider in arriving at the average operating cost?

A We considered all direct charges to the well maintenance. The only thing we did not include was office overhead or indirect expense from our Dallas office.

Q Does Southern Union keep an accurate record of the cost of operating its wells?

A Yes, sir, we do, we have an I.B.M. recording of it.

Q Have you prepared an exhibit which would show the income to a Dakota gas well in the Basin-Dakota Gas Pool if it had production of 500 MCF for one month?



A Yes, sir, I have.

(Whereupon, Applicant's Exhibit No. 1 was marked for identification.)

Q I hand you what the reporter has marked Exhibit No. 1. Will you explain it to us, please?

A We took an average of fifteen Dakota wells, our Dakota wells had the most expenses with the operating cost due to drip tanks which required greater attention. That is the reason we took the Dakota. We came up with an average cost. We picked an average Dakota which we list here as the Zachary No. 19, showing the operational costs for an average of a nine-month period. In the Basin-Dakota Pool that gas is selling for thirteen cents per MCF.

We show then the gross income of \$65.00 less our Federal royalty of 12½%, less the following taxes, conservation tax, school tax, severance tax, county and school district tax, and also less our average operating expense of \$30.91, and at that producing rate of 500 MCF we would show a profit or net income of \$21.96.

Q Mr. Minick, when you say the average cost of \$30.91, are you referring to the average cost of your Zachary No. 19 Well for a period of nine months?

A That is correct.

Q Did you make a study with regard to the average cost of

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Dakota takes in the area?

A Yes.

Q What did you find was the average cost per month?

A The average cost on the Dakota was \$39.92 per month. They varied greatly depending on the number of days the wells were on production from as low as \$14.00 a month to above \$39.00 a month.

Q In your opinion, in order to be assured that a well in Northwestern New Mexico is producing gas in paying quantities, you think it's necessary that you have the right to produce it in the amount of 500 MCF per month?

A Yes, I do.

Q Mr. Minick, in the nature of gas production, does it oftentimes occur that wells become overproduced?

A Yes. It is not uncommon, particularly during the winter where the pipeline has some wells and you are unable to get to them, the wells were overproduced and been shut in by the Commission.

Q In your opinion, is it necessary that the Commission amend its rules with regard to Northwestern New Mexico gas pools to permit a minimum allowable even on shut-in wells of 500 MCF per month?

A Yes, I do.

Q Do you think that this is necessary in order to protect



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the correlative rights of the producers in the area?

A Yes, sir, I do.

Q Do you think that this need to protect correlative rights would be adequately safeguarded if the 500,000 MCF minimum allowable were granted in those cases where the Commission has shut in a well only on administrative order after application?

A Yes, I believe so.

Q State whether or not you feel this authority should be vested in the district level.

A Yes, I believe this authority should be in the district level due to the fact that at times an operator may not be aware until near the end of the month that a particular lease has not been produced and would need quick relief which could be gotten at the district level. I believe that it is necessary to obtain the relief that we feel is necessary.

MR. VERITY: We offer Exhibit No. 1 in evidence.

MR. NUTTER: Exhibit 1 will be admitted in evidence.

(Whereupon, Applicant's Exhibit No. 1 was admitted in evidence.)

MR. VERITY: I believe that's all we have.

MR. NUTTER: Does anyone have any questions of Mr.

Minick?

MR. DURRETT: Yes, sir, I have a few questions.



MR. NUTTER: Mr. Durrett.

CROSS EXAMINATION

BY MR. DURRETT:

Q Mr. Minick, you are familiar with the rules and regulations governing the Commission and with the statutes as passed by the State of New Mexico applicable to this Commission?

A Yes.

Q I believe you stated on direct examination that in your opinion this would protect correlative rights, is that correct?

A Yes.

Q I would like to go into detail with you a little bit on that. Would you explain as to how you feel correlative rights would be protected?

MR. VERITY: You might excuse my interruption. I feel this is a legal question and would request permission to answer it.

MR. NUTTER: The witness stated that he thought it would protect correlative rights. He must have had a legal opinion there.

MR. DURRETT: Let me clarify my question a little bit, Mr. Verity. I would like to read to you the definition of correlative rights, Mr. Minick, appearing in the definitions preceding the rules, and then I would like to ask you if you feel that this

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would fall within that definition. These definitions read as follows: "Correlative rights shall mean the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for such purpose to use his just and equitable share of the reservoir energy."

In your opinion, would that for this case fall within the protection of correlative rights, under that definition?

A Exactly under that definition, no. In regard to our share of the production, I was speaking more of the fact that the lease would be in jeopardy if we were not allowed to produce this and we would possibly lose our lease on which we had a well producing which we would also lose, and we would not have our rights protected.

Q (By Mr. Durrett) To go a little bit further into the point, I believe Mr. Verity will go along with me to the extent that the New Mexico Supreme Court has held that correlative rights are directly related to waste. Now, referring to this application,

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do you feel that this application will prevent waste in any manner other than economic waste to the operators own personal income?

MR. VERITY: I object to the question, first on the grounds that correlative rights are not related only to waste. Correlative rights are the relation of one party's right to the relation of the owners of their mineral interests and working interests in the pool. In this particular situation correlative rights are involved because if in order to protect all correlative rights the Commission shuts in one lease completely and totally, then they, if the Indian Tribe is correct about termination of lease, they have destroyed by this rule the correlative rights of the party whose lease is terminated and he does not have his correlative rights to produce his just share of the oil and/or gas from the pool.

Therefore, I think the question is improper and that the witness' original answer that correlative rights are affected and that this order is necessary to protect them is correct.

MR. DURRETT: May the Examiner please, I do not wish to examine Mr. Verity, so I'll withdraw my question and state a new question to the witness.

Q (By Mr. Durrett) Do you feel that this application, as presented to this Commission, will prevent waste of natural

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resources?

A Yes, I believe it will.

Q Will you please explain how it will?

A In the event that a lease was terminated due to a well being overproduced and shut in and the Indian lease was terminated and we would lose our particular well, that well would not be produced, therefore there would be waste involved in that we would not be able to produce oil and gas.

Q Would that well not revert to the Indians and would they not have the right to produce that well or drill new wells as they always have had as the royalty owners?

A It would probably revert to the Indians, that would be a legal question in the courts I imagine before it would all come about.

Q If it would not revert to the Indians, then there is no reason for this application being filed. We would have to assume it would revert to Indians or there's no reason for this rule to be passed?

A That is correct. We would be in jeopardy of losing the lease as well as the wells.

Q If you did lose it, the Indians would always have the right to produce it as they always have as a royalty owner and as a fee owner if you assumed the lease terminated and it was no

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longer in operation, they would have the entire fee, would that be correct?

A I am sure it would. I'm not familiar with their operations, but I would assume that would be correct.

MR. NUTTER: Let's put it this way, Mr. Minick, if the gas were produced, if the gas were not produced there might be waste?

A That's correct.

MR. NUTTER: Do you have another question?

MR. DURRETT: Yes, I have one other question.

Q (By Mr. Durrett) Do you feel that this Commission has the jurisdiction, and I'll let Mr. Verity object to this if he would like, to protect operators in their leases, which is in effect drawing a lease for the parties?

A I don't believe I quite understand your question.

MR. NUTTER: I believe the provision of the lease provides if it's not produced in thirty days.

MR. VERITY: May I answer the question?

Q It will terminate. Don't you feel that that would be, the Commission if it approved this application, would be drawing the lease in effect for the parties, changing the terms of that lease?

MR. VERITY: I object to the question.

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MR. NUTTER: Would you give your opinion on that?

MR. VERITY: Yes, I would like to. I don't think that this would be in any way redrafting the lease. Of course, the whole point of our application is that if the Commission rules are to be applied strictly so that a lease is shut in over a period of months without it being permitted to produce, then the lease is going to terminate by virtue of the order of this Commission, not by virtue of the intent of the parties or the terms of the instrument, but because this Commission in its police power intervenes with the right of the individual to continue his lease in force. This is the whole point of our application, that the rules should not be so stringent or inflexible that it would cause an individual to lose his lease, but that rather the waste should be protected against or prevented, and correlative rights should be protected in such a manner that everybody's rights are enjoyed to the fullest and a lease should be curtailed down to the minimum point to where it would not be permanent. If it comes to that point, then the Commission, we feel, should allow that minimum amount of production so that the individual's economic interest will not be forfeited if the law comes to this.

MR. NUTTER: Mr. Verity, you stated that you felt that this shut-in order would intervene with the right of the

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individual to keep his lease in force and effect. Do you think that an order such as the one you have proposed here would intervene with the right of the royalty owner under the terms of the lease to cancel the lease?

MR. VERITY: This is the reason when you ask "Should it be confined to Indian leases", I don't think that it should be, but the problem is not so acute with the fee lease as it is with an Indian lease because if it's overproduced the fee royalty owner who is unequivocally subject to the law of New Mexico and the rules and regulations of this Commission can not complain that he has had this month's royalty last month, if you follow me.

But the theory of the Indians is that we haven't had this month's royalty at all, even though you say it was overproduced last month, we say we were entitled to take whatever we took out of it and you can't tell us that we can't.

The problem is much more acute with regard to an Indian lease, and there's a greater possibility that the courts might hold the lease terminated in the case of the Indian lease than in the case of the fee lease. I don't think it's going to be cancelled in either instance, and Southern Union doesn't think it should be. We don't think that the courts would so hold. We can't prejudge these courts and we have been wrong before about it, and we feel we should not be put to the jeopardy of losing a lease.

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MR. NUTTER: Before I get on with some questions to Mr. Minick, I want to ask you, Mr. Verity, in setting up this administrative procedure, what would constitute the proof of peril that the operator would have to present to get the exception?

MR. VERITY: It seems to me reasonable that the operator should make showing that his lease is non-productive unless he's given an administrative order of 500,000 MCF allowable for the month.

MR. NUTTER: There would be no proof of anything except that the well has not produced yet this month?

MR. VERITY: Proof that it's not allowed to produce.

MR. NUTTER: Under a shut-in order.

MR. VERITY: And this is the point I think that El Paso is making, that it should be a matter of a lease rather than a well. In other words, if a lease has got one well that's not under a shut-in order and another one that is, they don't have a problem, but you only need production in paying quantities from the lease, not from each well on the lease.

MR. NUTTER: Minimum amount of gas, say one MCF would not be in paying quantities, would not hold the lease?

MR. VERITY: No, it would not, because the law has with pretty much uniformity held paying quantities meaning some profit over and above the cost of operation.



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I have one thing with regard to Mr. Durrett's question that I would like to get in the record, I can do it with the witness. I think really it's apparent if I could make the statement. Some waste would occur if you allow these leases to be terminated, because although the leasehold estate would revert to the Indian Tribe or to the owner of the mineral interest, the oil and gas leases uniformly provide that the lessee may recover whatever personal property he has placed on the lease. This means if the Indians say "Well, the lease is terminated and there's no out to this at all", then the operator goes in and pulls his tubing and pulls his pipe and there's no well there.

Now, if the property has been partially depleted, which certainly at this instance it would, you might leave a great measure of unrecovered gas in the ground which still would not be a sufficient amount of gas to justify the drilling and completion of a new well. So, although the lease reverts, the personal property and the development of the lease does not revert. No one is entitled to that except the owner of the lease.

MR. NUTTER: Can the owner of the lease plug the well?

MR. VERITY: He not only can, he must under your orders. He must do this when he pulls his pipe. Certainly if the lease is terminated he's going to recover his personal property, which are sizeable values on leases.



MR. NUTTER: Is this an automatic thing that he recovers his personal property, or would that be part of the judgment of the court?

MR. VERITY: No, this is a matter of contract. A lease universally provides that the lessee may recover any property that he places on it. This is an exception to the general rule of law which would make pipe that is cemented into the ground a part of the real estate, so for this reason, even though you put a building on the lease, cement pipe in the ground, set a tank there, even though these would be in the nature of permanent installations so that they might be a part of the real estate under normal legal considerations, the oil and gas lease itself provides that any property that the lessee places upon the lease may be removed by the lessee at his will or at the termination of the lease.

BY MR. NUTTER:

Q Mr. Minick, to get on with some of these other things. You stated that over a nine-month period the Basin-Dakota Zachary No. 19 had had an average operating cost of \$30.91?

A That's correct.

Q You also said this included maintenance but no overhead and office expense in Dallas. Just what type of maintenance are you including there?

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A I am including maintenance on the particular separators, tanks or any maintenance on the particular well.

Q If you had had a workover on that well, would that have been included in that?

A That would be included in maintenance, yes.

Q How about your other wells, you said that the Dakota wells were the most expensive to operate. What are the operating costs on some of the others?

A I have an average of thirty-four Mesaverdes, and average cost of those Mesaverdes, and this is for a nine-month period, was \$30.68 per well. Then I have some, oh, twenty-six Pictured Cliffs wells where the operational cost was just \$3.47 per month, and then I have some more Pictured Cliffs where the cost ran as low as \$1.29 per month.

These wells are wells that produce no drip or tied into a line. The field men may not have to make these wells, the pipeline turns them on and off, the men may not hit those wells for a month or two at a time. As I stated, they vary greatly from well to well and month to month.

Q Is this average cost or have you picked your wells at random or picked wells that look like average?

A No, I picked a field at a time, the Ballard Field, thirty-four wells.

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Q How did you pick the thirty-four wells in the Mesaverde?

A That was the total wells in that field.

Q That's all that you operate?

A Yes, in this particular field.

Q So this is just a random selection of all the wells?

A Yes, it was random in that we took about four of the fields in various parts of the country. We took Jicarilla, the Apache, the Basin-Dakota, and we took the Mesaverde and we took a Pictured Cliffs and Ballard area.

MR. NUTTER: Any further questions of Mr. Minick? Mr. Utz.

BY MR. UTZ:

Q Mr. Minick, I gather from Mr. Verity's statement a while ago that actually your application is not on a well basis, it's on a lease basis?

A That is correct.

Q So long as you had one well on a lease, regardless of how many wells that were on that lease that would produce 5 MCF per day, you would not need any relief?

A That is correct.

Q You are familiar with the proration rules, I understand, aren't you?

A Yes.



Q Any overproduction you have in one six-month's period you have another six-month's period in which to make that up, isn't that true?

A You say overproduction?

Q Yes, sir.

A Yes, you are speaking of underproduction?

Q I am speaking of over or under production. Here we're only talking about overproduction.

A Yes.

Q So would it not seem that an operator in a six-month's period ought to be able to make up overproduction from the previous six-month's period?

A That, in most cases you should be able to; however, we have had two particular cases in the last year where a well was shut in because of overproduction, pipeline had overproduced it, not a great amount however. The allowable during the summer was very low on the well, and the well had to be shut in. It was an Indian lease, a Navajo lease, and the United States Geological Survey, the Indians were going to put the lease in jeopardy if the well did not produce. The well was, in that particular case was a one-well lease.

Q Well, actually, in making up of overproduction, even though the well is not shut in by a Commission order, you have to

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shut in the well for a thirty-day period in order to make up over-production, is that true?

MR. VERITY: If I might answer this. We agree with you completely that you should be able to balance this off on six-month's period and that if you are overproduced, even if it's for a two-year period, that the lease should not terminate, because it's had its production, but our problem is that the Indians don't agree with us and possibly some fee owners might not agree with us.

The Indians are definitely contending that as far as we are concerned the lease is terminated. We contend the lease is terminated if it goes a month without production in paying quantities. We feel that we don't want to run the risk of being put in the jeopardy of that termination and that we should be allowed to produce this minimum amount from each lease during every month.

Q (By Mr. Utz) Let me ask this. Are most of your Indian leases in the Pictured Cliff Pools?

A I'd say the larger percent is. However, we have a number of Dakotas and some Mesaverde also, but I would say the greater majority is Pictured Cliffs.

Q What are the sizes of those leases, do you have quite a number of one-well leases, Indian leases?

A If I recall, we have either five or six one-well leases



and a number of two-well leases. Then we have a number of leases with as many as twenty wells.

Q Well, the chances are pretty remote, are they not, that you wouldn't actually need any relief on any leases except possibly the one or two-well leases?

A That is correct.

MR. UTZ: That's all I have.

MR. NUTTER: Any further questions?

MR. VERITY: I would like to make this one more point before the witness leaves. We have presented to you here an average cost and we've talked about averages, but actually our problem is not necessarily one of averages because we may have a lease shut in that has a well on it that has a greater average cost. We still feel that with the margin that we have in all except the rarest of instances, that a 500 MCF would give us the protection that is required, and we think that it is a proper figure to place it, but the mere fact that an average lease might produce in paying quantities would not protect you on a given lease if it cost more than that to produce it.

MR. NUTTER: Mr. Minick may be excused.

(Witness excused.)

MR. DURRETT: I have one question of Mr. Verity. Don't you feel this is basically a question between private parties

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that should be determined by the courts and not by this Commission?

MR. VERITY: No, I really don't, because this Commission regulates the production of oil and gas and what we felt, and I earnestly believe in this instance, as I said a while ago, or endeavored to, that the rules or regulations of the Commission should not be so harsh that in protecting correlative rights and preventing waste they put a particular operator at a given moment where his lease might terminate. I don't think that's the purpose of the Commission and I don't think that's the purpose of its rules, but in this instance that is the situation that we have if it's not relinquished in the manner that we have requested.

I don't think this is just a matter where two people should be left to their contract, because this isn't the situation, the Commission has interposed itself between their contract and we think rightfully so.

In other words, two people make a contract, but then the Commission comes along and says "Irrespective of the contract you made we are going to regulate the way that this lessee produces this oil and gas lease", and that regulation is what we are talking about here and we are saying it should not be so harsh that it places the lessee in jeopardy of losing his rights.

Have I made our position clear now?

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MR. DURRETT: I think you have.

MR. NUTTER: Do you have anything further, Mr. Verity?

MR. VERITY: That's all.

MR. NUTTER: Does anyone have anything to offer in this case?

MR. DURRETT: Yes, sir, I have a telegram I would like to read into the record. Received November 7, reads as follows: "Re: Examiner hearing scheduled for November 8, 1962 at Santa Fe, Specifically Case 2694, Texaco, Inc., as leasehold owner and operator of prorated gas pool wells in San Juan County, recommends adoption of a minimum monthly gas withdrawal for those wells shut in for extended periods due to overproduction. Single-well leases are unduly jeopardized by loss of leasehold estate during shut-in periods. For this reason Texaco supports Southern Union Production Company's amendment to Order No. R-1670 as amended by Order No. R-2086, Texaco, Inc., Domestic Producing Department, J. F. Neil", N-e-i-l.

I also have a letter in the Commission files received November 7. I would like to read a portion of this letter. "Case No. 2694. Continental supports the application of Southern Union Production Company for an amendment to the Northwest New Mexico Gas Proration Rules and Regulations which will permit wells ordered shut-in for extended periods to make up accumulated



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overproducing to produce a minimum of 500 MCF each month during shut-in. Such a provision will allow an operator to maintain a well bore condition free from accumulated formation water during the shut-in periods which will allow a more economic lease operation and prevent waste which could result from possible damage to the producing formation. Continental does question however, the use of the word minimum in the last sentence of Case No. 2694 as presented on the docket." This letter is signed by R. E. White, Division Superintendent, Production Department.

I also have been requested to read a statement into the record furnished to me by Pan American Petroleum Corporation. I will read that statement at this time. This statement reads as follows: "Pan American Petroleum Corporation concurs with Southern Union's application and recommends that the rules be amended to provide that wells that are overproduced may produce a maximum of 500 MCF per month while making up their overproduction."

MR. NUTTER: Does anyone have anything further? Mr. Woodruff.

MR. WOODRUFF: Norman Woodruff on behalf of El Paso Natural Gas Company. We would like to indicate concurrence in the revised or clarified application by Southern Union Production Company in this case. In support of our concurrence I would like



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to make several observations. One, the problem of applicant here is a real problem shared by many producers in the San Juan Basin. We believe that it is the desire of no operator, nor should be the desire of the Commission, to force dedication on this matter. There is a serious legal question involved.

I would like to speak as an individual for a moment relative to the question of correlative rights. In my own concept I believe the correlative rights must be considered in terms of cumulative performance within a field, otherwise we would never at any one time have perfect protection of correlative rights. The Commission recognizes this and permits wells to come in balance on a cumulative basis.

Applicant here seeks the same thing. Permission to bring wells in balance with others in the same pool on a cumulative basis. It would appear to me that the correlative rights within a field are protected if upon depletion of the field each party's correlative rights have been protected. It is not something to be applied on a time basis sometime during the production as the questions have caused us to consider here today. We think that present relief probably could only be obtained as a result of a hearing, which because of the length of time involved, could cause the month period to be exceeded.

I do recall the Commission having emergency powers to permit



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production, certainly, if I'm correct in my recollection what is being requested here by applicant could be accomplished under those emergency powers. There is nothing which would permit an injured party within a pool from appealing administrative order granted by the Commission under such a circumstance.

We would concur with Mr. Verity's last statement, or last answer to the question tendered by Commission's counsel concerning the Commission's responsibility in this matter. We agree that the Commission must take action, that the cause of concern is a Commission rule and the relief of this concern can only be accomplished by additional Commission ruling. Thank you.

MR. NUTTER: Mr. Anderson.

MR. ANDERSON: John Anderson, Geological Survey, Roswell, New Mexico. This matter that we have been discussing here today first came to our attention several years ago when El Paso Natural Gas Company asked us whether in our opinion an Indian lease, either tribal or allotted, which was in its standard term by reason of production would expire or terminate if the well were shut-in by Commission order for overproduction. We have had no cases like this in the department on which to base any answer.

We replied that since there was no department decisions on the matter, that in our opinion the best answer to all of it



would be to produce the well for a period each month sufficient production to be production in paying quantities, and so avoid any question on the part of individuals, Indians or tribes of Indians, as to whether or not the lease terminated by its own terms.

We also forwarded El Paso's request to the Gallup area office of the Bureau of Indian Affairs, which is in charge of all of the Indian agencies in New Mexico. As I recall, the answer of the Bureau of the Gallup area office was essentially the same as ours. As far as any individual Indians or tribes of Indians threatening to cancel leases that might be shut in by reason of overproduction, I know of no cases where this has happened, but at the same time we feel very definitely that the lessees of Indian leases should take proper precaution so it won't happen.

We don't know what the answer would be on the part of the Department of Interior, nor what it would be next, but we certainly would not advise the lessee simply to let the thing go and get the answer and at the same time lose the lease.

MR. NUTTER: Thank you. Does anyone have anything further?

MR. DURRETT: Yes, sir, I would like to recall Mr. Minick for just a minute for purpose of clarification.

MR. NUTTER: Mr. Minick.

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

CROSS EXAMINATION

BY MR. DURRETT:

Q Mr. Minick, I notice in this case on the docket the word minimum is used. I'm not sure just how your application read. The docket reads "to permit wells ordered shut-in for extended periods to make up accumulated overproduction to produce a minimum of 500 MCF each month during such shut-in." I would like to question the use of the word minimum and ask you if you really intended to use the word maximum?

A We would prefer that the word maximum be used, that it be a maximum of 500.

MR. NUTTER: It would be a volume of gas not to exceed 500, is that what you mean?

A That is correct. When the application was filed the application was filed in Dallas, they put minimum of 500. This was that that much would be required to show that the lease was producing in paying quantity. In other words, to cover your operational costs that the lease would be considered producing in paying quantities.

MR. VERITY: In other words, what the Dallas attorney

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who prepared this application was meaning is that that minimum be allowed. Not that it be in excess of it, but that in each instance the allowable be not less than that minimum. We have no objection to that also being the maximum.

MR. NUTTER: We've used the term minimum allowable a lot of times, I think it's a minimum-maximum actually.

MR. VERITY: Right, we will agree.

MR. DURRETT: Thank you. I think that clears it up.

MR. NUTTER: Does anyone have anything further?

MR. WOODRUFF: If I may be privileged to do so, I would like to ask Mr. Anderson relative to his letter to El Paso, because it's not clear in my mind whether your letter was relative to individual wells or leases.

MR. ANDERSON: That was to leases entirely.

MR. WOODRUFF: Then the application here would cover the question that you raised?

MR. ANDERSON: That is right.

MR. WOODRUFF: That is right.

MR. NUTTER: Does anyone have anything further in Case 2694? We will take the case under advisement.



