

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO

18 September 1985

COMMISSION HEARING

IN THE MATTER OF:

Case 8457 being reopened on the motion of LeFlore Oil and Gas, Inc. to require Amerind Oil Company to appear and show cause why Division Order No. R-7796 should not be rescinded.

CASE
8457

BEFORE: Richard L. Stamets, Chairman
Ed Kelley, Commissioner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Division: Jeff Taylor
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A P P E A R A N C E S

For Amerind Oil: James G. Bruce
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MR. STAMETS: Call next then

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Case 8457.

4

MR. TAYLOR: In the matter of

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Case 8457 being reopened on the motion of LeFlore Oil and

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Gas, Inc., to require Amerind Oil Company to appear and show

7

cause why Division Order No. R-7796, as amended, which

8

authorizes compulsory pooling and an unorthodox oil well lo-

9

cation in Section 28, Township 16 South, Range 37 east,

10

should not be rescinded.

11

MR. STAMETS: Call for appear-

12

ances.

13

MS. AUBREY: Karen Aubrey, Kel-

14

lahin and Kellahin, representing the applicant.

15

MR. BRUCE: Jim Bruce of the

16

Hinkle Law Firm, representing Amerind Oil Company.

17

MS. AUBREY: Mr. Stamets, I

18

have one witness.

19

MR. STAMETS: We'll take a fif-

20

teen minute recess.

21

(Thereupon a recess was taken.)

22

MR. STAMETS: I believe we have

23

one witness to be sworn.

24

25

(Witness sworn.)

1 MR. STAMETS: Ms. Aubrey, you
2 may proceed.

3 MS. AUBREY: Thank you, Mr.
4 Stamets.

5 I'd like to make a brief open-
6 ing statement to clarify some of the confusion over the in-
7 volvement of LeFlore Oil and Gas in this case.

8 This case is before you on the
9 application of LeFlore Oil and Gas seeking the reopening of
10 Case 8457.

11 Case 8457 was before Examiner
12 Stogner on the application of Amerind to compulsory pool the
13 west half of the northeast quarter of Section 28. We be-
14 lieve that the testimony which Mr. Lundeen will give you to-
15 day will show you that Amerind has conducted its business in
16 a way that has violated the correlative rights of the work-
17 ing interest owners underlying that proration unit.

18 Amerind's course of conduct in
19 connection with the compulsory pooling, the extension of
20 certain time limits, and the order which was issued, and in
21 changing the location of the well have all been done to al-
22 low Amerind to take advantage of working interest owners in
23 violation of the statute which requires that all forced
24 pooling orders, or all orders affecting pooling shall be
25 made after notice and hearing.

1 At the Examiner Hearing on Jan-
2 uary 30th of this year Examiner Stogner remarked on Amer-
3 ind's use of the forced pooling statute to bring about
4 agreement between working interest owners in a way that was
5 not contemplated by the statute.

6 The conduct which affects
7 LeFlore, however, arose later. The forced pooling order was
8 entered on January 30th (not clearly understood), 32 days
9 after the well was first proposed by mail to the interest
10 owners.

11 Shell Western had a working in-
12 terest in the unit, did not appear at the hearing, and was
13 pooled as a nonconsenting working interest owner.

14 At the end of March, 1985,
15 Amerind sent out its AFE and a copy of the January 30th or-
16 der. It sent a copy of that to Shell.

17 On April 11th Bill Seltzer, re-
18 presenting Amerind, wrote the Commission and asked for an
19 extension of time to drill the Carter No. 2. The time limit
20 for drilling in the forced pooling order was May 1st, 1985.

21 Mr. Seltzer stated in his let-
22 ter that he needed to obtain an extension of the drilling
23 time on the grounds that he wanted to use the same rig to
24 drill the Carter No. 1 and the Carter No. 2, and the Carter
25 No. 2 is the well we're talking about here today.

1 The completion report from the
2 OCD files on the Carter No. 1 shows that it was completed on
3 April 15th; it in fact was selling casinghead gas on April
4 12th, one day after the letter was written.

5 No notice was given to Shell of
6 the request for an extension of time under the forced pool-
7 ing order for the drilling of the Carter No. 2.

8 Also on that day, again with no
9 notice to Shell, a party who had been force pooled, Amerind
10 filed an application for an unorthodox location for the Car-
11 ter No. 2 Well, so there was an application to extend the
12 time to begin the Carter No. 2 Well and an application to
13 move its location to a location other than the location in-
14 volved in the forced pooling hearing or the location stated
15 on the AFE. That happened on April 11th.

16 On April 15th Amerind received
17 a letter saying that they had until July 1 to begin the
18 well.

19 On April 26, and this is how
20 LeFlore gets into the case, LeFlore obtained a farmout of
21 Shell's interests about the imddle of April of '85, and on
22 April 26th Shell wrote to Amerind to explain that Shell did
23 not want to participate in the well but that they had farmed
24 out their interest and LeFlore Oil and Gas did in fact want
25 to participate.

1 On May 1st LeFlore wrote the
2 same letter stating that they had obtained a farmout from
3 Shell, that they wanted to participate in the well, and that
4 they wanted a current AFE and operating agreement. The AFE
5 which Shell had been provided was by then five months old.

6 On April 8th Amerind came up
7 here and put on a case to move the location of the well --
8 I'm sorry, on May -- May 8th, again with no notice to work-
9 ing interest owners, or nonconsenting working interest own-
10 ers, even, that the AFE location was being changed.

11 The next day, even though it
12 didn't have a location change and even though it didn't have
13 a well spudded, Amerind wrote to LeFlore and said you can't
14 come in the well because we didn't get a check with your
15 letter.

16 That continues, as we under-
17 stand it, to be Amerind's position.

18 Three days later, still without
19 an unorthodox location order they spudded the well on May
20 12th; on the 14th they received their order from the Divi-
21 sion allowing them to drill the well at the unorthodox loca-
22 tion.

23 That well was completed on June
24 15th, 1985, according to the records of the Oil Conservation
25 Division.

1 LeFlore Oil and Gas continues
2 to be a working interest owner in that unit under the farm-
3 out from Shell. As of this day they have not yet received
4 actual well costs from Amerind as required by the forced
5 pooling order within ninety days of completion.

6 LeFlore Oil and Gas attempted
7 to participate in this well at a time when not only was the
8 well not spudded but Amerind was intending to change its lo-
9 cation, and were going to have to go to hearing to change
10 the location.

11 No telephone calls or corres-
12 pondence from Amerind was received by LeFlore saying, guys,
13 you got to give us your money.

14 You're going to hear testimony
15 today that LeFlore is an Oklahoma outfit. They have never
16 participated in a well before in the State of New Mexico.

17 They attempted to comply -- do
18 with what they understood to be the requirement of notifica-
19 tion, willingness to join, asking for a current AFE and ask-
20 ing for an operating agreement, not only within the time
21 period set out in the order, but practically speaking at a
22 time when the well had not yet been spudded, at a time when
23 the proposed location had not been approved.

24 We think that when you hear the
25 history of this case on the notice issue and the way that

1 Amerind has manipulated the rules and time limit set out by
2 this -- by the Division, you will find that LeFlore Oil and
3 Gas has not been given an opportunity to participate in this
4 well, that they should be permitted to participate in the
5 well, and that the January 30th, 1985 order is void and of
6 no effect because Amerind failed to drill their well by May
7 1st. They failed to have a valid notice or valid order ex-
8 tending the time for drilling after notice of hearing in
9 violation of the forced pooling statute.

10 Thank you.

11 MR. STAMETS: Mr. Bruce, do you
12 have an opening statement?

13 MR. BRUCE: A few words, Mr.
14 Stamets.

15 First of all, I would state
16 that Amerind did attempt to obtain the agreement of all par-
17 ties before the original forced pooling hearing and further-
18 more notice was given to all of those parties by, I believe,
19 certified mail. They didn't object to it at all, so I think
20 that is more or less of a moot point right now.

21 Ms. Aubrey's statements about
22 the correlative rights of the interest owners in the Carter
23 No. 2 Unit, I really see -- fail to see how that has any-
24 thing much to do with this case. The well was drilled; its
25 initial production was 389 barrels a day and 600 MCF a day.

1 I would think that any interest owner is rather happy with
2 that result.

3 As far as the -- and again, the
4 unorthodox location hearing in May, notice was given as pro-
5 vided under the OCD rules to the offset operators and Ms.
6 Aubrey is right that notice of the hearing was not given to
7 all working interest owners, but that was not required by
8 the OCD rules.

9 Despite all what's going on,
10 the whole chain of events, LeFlore had notice, or had a copy
11 of the original forced pooling order, at least sometime by
12 March, 1985. They did subsequently get a farmout of Shell's
13 interest, I would say that they took subject to any -- any
14 rights or liabilities that Shell had in the unit. Despite
15 having notice of that order they never, have never to this
16 date tendered a check or anything to Amerind to pay for the
17 well costs. All they've ever said is that "we'd like to
18 join in the well" but they have never, ever tendered a
19 check.

20 I think the main point of this
21 hearing is whether or not, as I understand it from the
22 briefs filed and application filed, LeFlore had notice of
23 the extension. I would say and I'll submit some documents a
24 little later on that shows that notice of the extension re-
25 quest was given by Amerind to Shell before Shell farmed out

1 to LeFlore.

2 We believe that was sufficient
3 and LeFlore took subject to Shell's rights; Shell had no ob-
4 jection at that time and I don't see how LeFlore can object
5 at this time.

6 I have nothing further.

7 MR. STAMETS: One question be-
8 fore we get started.

9 When the unorthodox location
10 was -- was granted, was that by an amendment to the Order R-
11 7796?

12 MR. BRUCE: Yes, sir. I would
13 like to say one thing, that Ms. Aubrey said that the well
14 was drilled before that, was spudded before that order was
15 dated.

16 I believe that the file would
17 show, and if necessary we could obtain testimony to show
18 that Amerind had the verbal approval of the OCD to spud the
19 well on that date, two days before the date of the order.

20 But, yes, it's R-7796-A.

21 MR. STAMETS: Okay, thank you.

22 Ms. Aubrey, you may proceed.

23 MS. AUBREY: Thank you.

24

25

1 CHARLES E. LUNDEEN,

2 being called as a witness and being duly sworn upon his
3 oath, testified as follows, to-wit:

4
5 DIRECT EXAMINATION

6 BY MS. AUBREY:

7 Q Will you state your name for the record?

8 A Charles E. Lundeen. L-U-N-D-E-E-N.

9 Q Where are you employed, Mr. Lundeen?

10 A Samson Resources Company.

11 Q Have you testified previously before the
12 Oil Conservation Division and your qualifications as a land-
13 man made a matter of record?

14 A Yes, I have.

15 MS. AUBREY: Mr. Stamets, are
16 the witness' qualifications acceptable?

17 MR. STAMETS: Yes, they are,
18 and I'd like to know the relationship between Samson Resour-
19 ces and LeFlore.

20 A LeFlore is a wholly owned sister company,
21 subsidiary of Samson.

22 MR. STAMETS: Okay, thank you.

23 Q Mr. Lundeen, in connection with the Car-
24 ter No. 2, were you involved with Samson and LeFlore at the
25 time that this matter came on for hearing in January of

1 1985?

2 A Yes, I was.

3 Q Can you tell the Commission what your in-
4 volvement with the prospect was?

5 A Samson and LeFlore have actively attempt-
6 ted to acquire interest in this area. Steve Thrower (sic)
7 was our landman with LeFlore who had direct contact with
8 Amerind.

9 On December 28th it was our knowledge
10 that Amerind proposed the well to Shell in the northeast
11 quarter of 28. Actually the proposal was just for the Car-
12 ter No. 1; it says the northeast quarter. That was the let-
13 ter that we received.

14 Q Was this at a time when you were looking
15 at acquiring a farmout in the area?

16 A Yes.

17 Q Let me ask you to describe for the Com-
18 mission what Samson and LeFlore's interest in New Mexico had
19 been up to January of 1985.

20 A You mean what we held?

21 Q What you'd held; what wells you drilled;
22 what wells you operated.

23 A LeFlore has neither drilled nor partici-
24 pated in any wells in New Mexico.

25 Samson drilled one well in New Mexico,

1 which was completed this year; it was a dry hole in Lea
2 County, and that is it.

3 Q Where do you do most of your business?

4 A In Oklahoma.

5 Q Let me have you look at what we've marked
6 as Exhibit One. Is that the letter you referred to from Mr.
7 Seltzer?

8 A Yes, it is.

9 Q Proposing a well in the northeast quarter
10 of 28, is that right?

11 A Yes.

12 Q Does it refer specifically to a well on
13 the west half?

14 A No, the well that's referred to is 660
15 feet from the north line and east line of Section 28.

16 Q That would be the Carter No. 1.

17 A Yes.

18 Q Were you involved or did you participate
19 in the compulsory pooling hearing which was held on the
20 30th of January, 1985?

21 A No.

22 Q When did you first learn, when did
23 LeFlore or Samson first learn that a compulsory pooling or-
24 der had been entered?

25 A We had contacted Shell and all other par-

1 ties in the section, I guess it was -- it was April before
2 we knew that actually Shell had been pooled by this order.

3 Q And you learned about the pooling from
4 Shell, is that correct?

5 A Yes.

6 Q Let me have you look at what we've marked
7 as Exhibit Number Two.

8 This is an application for compulsory
9 pooling for the Carter No. 2 Well, is that correct?

10 A That's correct.

11 Q Did you ever receive a copy of this docu-
12 ment?

13 A No, we didn't.

14 Q What did LeFlore do in connection with
15 obtaining a farmout and attempting to participate in the
16 well before May of 1985?

17 A We were in contact with Shell over a per-
18 iod of time. They stated they wanted a backin; they
19 weren't being offered high enough terms by Amerind.

20 We offered them a backin, stated that we
21 wanted to participate in the well.

22 We received a farmout agreement from them
23 April 26th, at which time they sent a certified letter to
24 Amerind stating they'd farmed out to LeFlore and LeFlore
25 would participate.

1
2 Q Let me have you identify some more exhi-
3 bits here, Mr. Lundeen.

4 Exhibit Number Three was marked as a copy
5 of the Division's January 30th, 1985 order, is that correct?

6 A Yes.

7 Q And Number Four is a copy of that order
8 with an AFE sent to Shell in March of '85, is that right?

9 A That's correct.

10 Q Let me have you look at the AFE a minute.
11 What's the date on that?

12 A January 2nd, 1985.

13 Q And would you look at that and see if you
14 can tell the Commission what is the proposed location for
15 that well?

16 A The west half of the northeast quarter.

17 Q Okay, showing -- does it show a footage
18 location?

19 A I don't see one.

20 Q Did you receive a copy of this letter
21 from Shell? Is that how you got it?

22 A Yes, I got it from Shell.

23 Q And it's dated March 26, 1985.

24 A That's correct.

25 Q Two months after the forced pooling hear-
ing.

1 A Yes.

2 MR. STAMETS: Whose stamp-in
3 date is that at the top of the page? •

4 MS. AUBREY: Mr. Stamets, I
5 believe that that is Terry Enders with Shell Western.

6 MR. STAMETS: Okay, so that
7 would be a Shell stamp-in.

8 MS. AUBREY: Right. I don't
9 have a copy that's --

10 MR. STAMETS: Okay.

11 MS. AUBREY: -- more legible.

12 MR. STAMETS: Thank you.

13 MS. AUBREY: But I believe it
14 shows that it was received by Shell March 28th.

15 MR. STAMETS: And that would
16 correspond with the March 26th mailing date that I've seen
17 previously.

18 Q Let me have you look now at Exhibit Num-
19 ber Five, Mr. Lundeen.

20 It appears to be a completion report for
21 the Carter No. 1, is that correct?

22 A Yes.

23 Q And if you can, would you look at page
24 two of that exhibit in the -- on the top of the form can you
25 tell what the completion date of the well is?

1 A April 16th, 1985.

2 Q Exhibit Six, Mr. Lundeen?

3 A Uh-huh.

4 Q Is a letter from the Hinkle Law Firm in
5 Midland to the Oil Conservation Division. Does that -- does
6 that letter show a copy to either Shell or to you?

7 A No, it doesn't.

8 Q Have you discussed the question of the
9 change in the location and the extension of the time to
10 drill the Carter No. 2 with representatives of Shell Wes-
11 tern?

12 A No, I haven't.

13 Q Have you talked to Terry Enders?

14 A I have recently. At the time it was Steve
15 Thrower (sic) who was dealing with Terry.

16 Q Since that time, Mr. Lundeen, have you
17 had discussions with respresentatives of Shell Western in
18 the Land Department about whether or not they were aware of
19 the extension of time for the forced pooling order or the
20 unorthodox location?

21 A Yes.

22 Q And what kind of conversations did you
23 have with them?

24 A The gentleman I've been talking to is --
25 Terry Enders is no longer in that department with Shell;

1 that's who was there before.

2 I've been talking to the gentleman who
3 took his place. His name is --

4 Q Have you talked to Shell about whether or
5 not they received notice of the extension of time for the
6 forced pooling order?

7 A He did not know of the extension of time
8 for the forced pooling order.

9 Q Do you have anything, have you seen
10 anything in writing indicating that Amerind notified Shell
11 that they were seeking an extension of time of the force
12 pooling order?

13 A No.

14 Q Have you seen anything in writing
15 notifying Shell as a working interest owner of the change in
16 the proposed location?

17 A No. We found out about these through the
18 State Reporter.

19 Q Why don't you explain to the Commission
20 how you did that?

21 A We receive the New Mexico State Reporter.
22 We noticed after the fact that these had been applied for
23 and were heard. That was when we were aware, which was
24 later on.

25 Q Did you ever receive written notification

1 of the time for drilling the Carter No. 2 Well had been ex-
2 tended?

3 A No.

4 Q Let me have you look at what we've marked
5 as Exhibit Number Seven. It's a three-page document.

6 The first page is a letter from Mr. Sta-
7 mets to Mr. Seltzer granting the extension of time and at-
8 tached to that is a letter dated April 11th from Mr. Seltzer
9 to Mr. Stamets asking for the extension of time.

10 Does that document show a copy to Shell
11 Western Exploration?

12 A No, it doesn't.

13 Q Let me have you look at Exhibit Number
14 Eight, now. Can you identify that?

15 A It's a letter from Shell to Mr. Seltzer
16 stating that Shell would not -- is not interested in farming
17 out their interest at the terms requested by Amerind.

18 Q And that's dated what?

19 A April 19th, 1985.

20 Q Now let me have you look at Exhibit Num-
21 ber Nine. Can you describe that for the Commission?

22 A It's a letter from Shell to Mr. Seltzer
23 stating that they have farmed out their interest to LeFlore
24 Oil and Gas and LeFlore would be participating in the well.

25 Q It shows a copy to LeFlore Oil and Gas on

1 it?

2 A Yes.

3 Q At that time what was LeFlore's
4 understanding of the procedures by which a working interest
5 owner participated in a well which has been force pooled?

6 A You would have to respond within the time
7 period required by certified mail or telegram to
8 participate.

9 We had requested the current AFE,
10 operating agreement, all other information to allow us to
11 participate in the well.

12 Q Let me have you look at Exhibit Number
13 Ten. It's a letter dated April 29th, 1985. Do you have
14 that in front of you?

15 A Yes.

16 Q Does that -- is there a copy of that
17 letter addressed to Shell or to you?

18 A No, there isn't.

19 Q It's a letter to the Oil Conservation
20 Commission dated April 29th, 1985?

21 A Yes.

22 Q And Exhibit Number Eleven?

23 A It's our letter dated May 1st, 1985,
24 whereby LeFlore Oil and Gas notified Amerind that they would
25 participate in the drilling of the Carter No. 2.

1 Q Were you aware at the time this May 1st
2 letter was written that more than thirty days had expired
3 since Bill Seltzer sent the AFE out?

4 A Would you repeat the question?

5 Q Sure. Were you aware when you wrote this
6 letter, Exhibit Number Eleven --

7 A Uh-huh.

8 Q -- that more than thirty days had expired
9 from the time Shell received the AFE?

10 A No.

11 Q What was your next contact with Mr. Selt-
12 zer?

13 A We wrote the letter May 1st, 1985. We
14 received May 15th a letter from him stating that payment was
15 not timely received with our election and that we would not
16 be entitled to participate.

17 Q When was that letter written?

18 A May 9th.

19 Q And it took you a week to get it?

20 A Six days.

21 Q Did you receive any telephone calls from
22 Mr. Seltzer in response to your May 1st letter indicating
23 that he wanted your money with your letter?

24 A No, we've never (not clearly audible).

25 Q Did you have any other correspondence

1 with Mr. Seltzer as a result of either your May 1st letter
2 or the April 26th letter of Shell, telling you that you
3 needed to send a check along with your letter?

4 A No, we didn't.

5 Q When did LeFlore Oil and Gas make the de-
6 cision to participate in the Carter on 2 and pay its share
7 of estimated well costs?

8 A When did we make our decision?

9 Q Yes.

10 A Well, when we got our farmout from Shell.

11 Q And that was April 26th?

12 A April 26th. We'd actually made the deal
13 prior to that. That was the date of the farmout.

14 Q Let me have you look at Exhibit Number
15 Thirteen. I believe it's a letter from Shell -- I'm sorry,
16 from Mr. Seltzer to Shell?

17 A Yes.

18 Q And that indicates that you can't come
19 into the well because you didn't pay your money.

20 A That's correct.

21 Q Now May 9th, the date that Exhibits
22 Twelve and Thirteen were written is the day after the hear-
23 ing here in Santa Fe on the unorthodox location application
24 to change the location of the well which had been proposed
25 under the forced pooling case in January.

1 A Yes.

2 Q Did you have any notice of that proceed-
3 ing?

4 A No, we didn't.

5 Q Exhibit Number Fourteen is a copy of the
6 Commission order dated May 14th, 1985, is that correct?

7 A Yes.

8 Q Let me have you look now at Exhibit
9 Number Fifteen and can you explain to the Commission what
10 that letter is?

11 A It's a letter from Steve Thrower (sic) on
12 behalf of LeFlore Oil and Gas to Bill Seltzer stating that
13 they had been notified that LeFlore wanted to participate
14 in the Carter No. 2. They were notified by LeFlore and
15 Shell.

16 It stated that Amerind was asked for all
17 pertinent instruments and information concerning the well
18 and that we did not feel that we'd been offered fair
19 treatment in requesting to participate as to our small
20 interest.

21 Q How large is the interest we're talking
22 about?

23 A It's 4.6875 percent of the unit.

24 Q Did you receive a response to your June
25 7th letter?

1 A We received a letter July 2nd again deny-
2 ing LeFlore participation.

3 Q And that was from whom?

4 A Bill Seltzer.

5 Q That is what we've marked as our Exhibit
6 Number Seventeen, is that right?

7 A That's correct.

8 Q And that shows it was written June 21st?

9 A It was written June 21st. We got it July
10 2nd.

11 Q Let me have you look now at Exhibit Num-
12 ber Sixteen, Mr. Lundeen, which is a copy of the completion
13 report from the the Oil Conservation Division well files for
14 the Carter No. 2.

15 Let me have you look at the fourth page
16 of that exhibit. Can you tell from that when the well was
17 spudded?

18 A It was May 12th, 1985, at 9:00 a. m..

19 Q And can you place that in relation to
20 your contacts with Mr. Seltzer in efforts to join the well?

21 A Yes, it was -- we contacted him May 1st.
22 Shell contacted him April 26th. Those are the times before
23 the well spudded.

24 Q Have you ever received an AFE from Amer-
25 ind on this well?

1 A No, we haven't. We've not received any
2 from Amerind except letters stating that we cannot partici-
3 pate.

4 Q Let me take you back to the beginning of
5 your exhibits there, Mr. Lundeen, and let's look at Number
6 Three, which is the compulsory pooling order issued by the
7 Division on January 30th.

8 There are some times and dates set out in
9 this order. I'd like you to look specifically at page
10 three, paragraph number three, which begins "After the
11 effective date of this order . . .", do you have that there?

12 A Yes, I do.

13 Q Within ninety days of commencing the well
14 were you furnished an AFE by Amerind?

15 A No, we weren't.

16 Q I understand that there's an AFE that
17 we've seen that was perhaps given to Shell dated January 1?

18 A The AFE is dated January 2nd and it was
19 furnished to Shell.

20 Q And the well was spudded on May 12th.

21 A May 12th.

22 Q Are you aware of whether or not the well
23 has been completed?

24 A We are now.

25 Q Do you know the completion date?

1 A I believe it was June 16th. I'm not
2 positive on that.

3 Q Have you received from Amerind Oil a
4 schedule of the actual well costs?

5 A No, we haven't.

6 Q Do you know whether or not Amerind has
7 withheld the 200 percent penalty provided for in the January
8 30th hearing from your share of production?

9 A No, we don't.

10 Q Have you received any documentation on
11 this well since it was completed in the middle of June?

12 A The only thing we're received is letters
13 stating that we cannot participate.

14 Q Do you know what the production has been
15 to date of either casinghead gas or oil from this well?

16 A No, I don't.

17 Q Can you tell me as a landman how far
18 apart the Carter No. 1 and the Carter No. 2 are?

19 A They're both within the same quarter
20 section.

21 Q Do you have an opinion as to how long it
22 should take to move the rig from the Carter No. 1, which the
23 records show was completed on the 16th of April, over to the
24 Carter No. 2 to start drilling it?

25 A No, I don't.

1 Q Were you provided as a working interest
2 owner with any documentation regarding this well other than
3 the January 2nd, 1985, AFE at a different location?

4 A We were -- Shell provided us with copies
5 of the AFE for pooling at a later date at my request. We
6 have never received an AFE from Amerind; only the copy that
7 was sent to them earlier.

8 Q Do you know whether or not the Carter No.
9 1 Well was completed prior to the spudding of the Carter No.
10 2?

11 A Yes, it was.

12 Q Do you know whether or not --

13 A Oh, was it completed or spudded? Was the
14 Carter No. 1 spudded --

15 Q Was the Carter No. 1 spudded -- completed
16 before the Carter No. 2 was spudded?

17 A The Carter No. 1 was spudded February
18 28th and it was completed April 16th.

19 Q Do you know whether or not actual well
20 costs -- let me start that over.

21 Have you seen the AFE on the Carter No.
22 1?

23 A No, I haven't.

24 Q Do you know whether or not actual well
25 costs would have been available for the Carter No. 1 prior

1 to the Carter No. 2 being spudded?

2 A I would assume that most of their bill-
3 ings would be in.

4 Q There's been a suggestion made, Mr. Lun-
5 deen, in some of the papers that have been filed, that
6 LeFlore's delay was simply an attempt to ride the well down
7 and to see whether or not any production was achieved before
8 paying the money under the forced pooling order.

9 Do you have a response to that?

10 A All of our requests for participation
11 were prior to any information received by the Carter No. 2
12 drilling or it being completed as a well.

13 We wanted to participate in the well
14 since we acquired the interest. We've written letters and
15 it's come to this.

16 We -- all we want to do is participate in
17 a well that we have an interest in. We've tried to do that
18 since April.

19 Q Has Amerind, or anyone representing Amer-
20 ind ever told you that you can't do that unless you pay your
21 money first?

22 A The first letter we received from them
23 said that we did not send our money with our election and
24 therefore we would not be able to participate.

25 Q And that was received by you on what

1 date?

2 A May 9th. Well, we received it May 15th.
3 It was a letter dated May 9th.

4 MS. AUBREY: I have no more
5 questions.

6 MR. STAMETS: One question, Mr.
7 Bruce, before you get started.

8

9

CROSS EXAMINATION

10 BY MR. STAMETS:

11 Q Mr. Lundeen, to your knowledge did Shell
12 ever report to LeFlore on the status of the forced pooling
13 and for the need for somebody to send Amerind a check at the
14 time that they gave you the farmout?

15 A No. To my knowledge they did not state
16 that we needed to send a check.

17 Q Okay, and this letter from Shell, Exhibit
18 Number Nine, is dated April the 26th, and it says that Shell
19 has elected to farmout. Now what is the effective date of
20 the farmout?

21 A April 26th.

22 Q Okay, and that, to my knowledge, is the
23 same date that under the order money would have to be ten-
24 dered to Amerind in order to comply with the order, is that
25 correct?

1 MS. AUBREY: Well, Mr. Stamets,
2 I believe that the AFE was not received by Shell until the
3 28th of March. Seltzer sent it out on the 26th of March.
4 It's our Exhibit Number Four. So it was either the 26th or
5 the 28th.

6 MR. BRUCE: I believe it's pro-
7 bably the 28th, Mr. Stamets.

8 MR. STAMETS: So are you both
9 in agreement that -- that you believe that the word "fur-
10 nish" in order 3 of original Order 7796 means to actually
11 have it in the hands of the parties as opposed to dropping
12 it in the mailbox?

13 MR. BRUCE: If it would have
14 been dropped in the mailbox on April 26th I think (not
15 clearly understood.)

16 MR. STAMETS: I'm talking about
17 your notice, Mr. Bruce, to the other working interest own-
18 ers; that when your client furnished notice to the other in-
19 terest owners, in this case Shell, did that furnishing take
20 place on April 26th when the letter was dropped in the mail-
21 box or on April the 28th when it was picked up by Shell.

22 MR. BRUCE: March 28th, you
23 mean?

24 MR. STAMETS: March, sorry.

25 MR. BRUCE: The way I read the

1 pooling order, I believe the correct date would be March
2 28th, so Shell, it's my interpretation that Shell or their
3 successors had 30 days from March 28th to --

4 MR. STAMETS: I'm not sure
5 which it was myself, because I can see, I think I can per-
6 haps even remember the situation where an owner in such a
7 case refused to pick up the mailed letter, which was certi-
8 fied, and later claimed that they had not been furnished
9 notice and I believe it was the decision of the Commission
10 at that time that the date, effective date for purposes of
11 that order was the date it was placed in the mail to pre-
12 clude parties from utilizing tactics such as not picking up
13 their mail to avoid the effectiveness of that article order.

14 MR. BRUCE: I, you know, that
15 may well be. It was just my personal interpretation, but I
16 think in this case we're not -- I'm not sure whether it's
17 April -- or March 26th or March 28th.

18 MR. STAMETS: It would be at
19 least one of those two dates.

20 MR. BRUCE: It would be one of
21 those two dates, and I don't think that would be conclusive
22 in this case.

23 MR. STAMETS: Do you have
24 questions, Mr. Bruce?

25 MR. BRUCE: I have a few.

CROSS EXAMINATION

1
2
3 BY MR. BRUCE:

4 Q Mr. Lundeen, you previously stated that
5 you really didn't learn of the forced pooling order until
6 April of 1985, is that correct?

7 A We did not receive a copy of the forced
8 pooling order until --

9 Q Until April?

10 A Well, we got a copy of it from Shell.
11 Shell mailed us a copy after we made a deal with them. They
12 mailed it to us.

13 Q In April?

14 A Right.

15 Q I'll hand you what's been marked Amerind
16 Exhibit Number One and would you identify that letter?

17 A It's a letter from Gene Tate dated March
18 15th that Amerind is force pooling Section -- the northeast
19 quarter of Section 28 and we're wanting their interest.

20 Q Is that LeFlore's letterhead?

21 A Yes, it is.

22 Q Do you recognize the signature, Gene
23 Tate?

24 A Yes.

25 Q You have no questions about the way this

1 letter is --

2 A No, this is a good letter.

3 Q In the first paragraph you'll note that
4 they do specifically name Case 8457 regarding the west half
5 northeast quarter of Section 28.

6 A Yes.

7 Q And in the final full paragraph the let-
8 ter states that hearings have been heard by the Commission
9 and that your, quote, your earliest review in response to
10 this proposal is necessary, close quote.

11 A Yes.

12 Q Did -- at that time did LeFlore have a
13 copy of the forced pooling order?

14 A Whenever we go into an area, our broker
15 will furnish us names of respondents and we contact respon-
16 dents.

17 I don't know that Mr. Tate actually had a
18 copy. I don't have one filed that I have gotten from Tate
19 or Thrower (sic) but it is our practice to list respondents
20 from our broker and contact them.

21 Q But at least by March 15th, certainly by
22 that date, LeFlore was aware of Case 8457.

23 A It appears so by this letter, yes.

24 Q When did LeFlore begin negotiating with
25 Shell for the farmout?

1 A I'm not sure exactly when phone calls
2 were made because I did not make them. I would imagine that
3 all letters were sent out March 15th.

4 Q But it could have been earlier?

5 A Possibly could have been.

6 Q And yet you didn't obtain or request a
7 copy of the farm -- of the forced pooling order from Shell
8 until --

9 A Shell did not have a copy until March
10 28th, or 26th. This letter is dated March 15th. Seltzer
11 didn't mail them out until in March, so (not understood.)

12 Q Okay, thank you. I think you mentioned
13 but I forget exactly, what date was the farmout finalized?

14 A I've got a copy here. April 26th, 1985.

15 Q And what date did you notify Amerind of
16 your farmout?

17 A They were notified April 26th and May
18 1st.

19 Q April 26th by whom?

20 A By Shell and it was May 1st by LeFlore.

21 Q But a letter?

22 A Certified letter.

23 Q Certified letter. Do you know what date
24 the April 26th letter was received by Amerind?

25 A The one that Shell sent them?

1 Q Yes.

2 A No, I don't.

3 Q When was the May 1st letter received by
4 Amerind?

5 A The copy of the receipt I have does not
6 show what date; it just says it was received but they didn't
7 date it.

8 Q In any event it appears that Amerind
9 didn't receive notice of the Shell to LeFlore farmout until
10 probably April 28th, or thereafter.

11 A That's two days; I would say it's a fair
12 assumption.

13 Q And so the thirty day period you've been
14 discussing in which payment should have been made had al-
15 ready elapsed or that was the last day, isn't that true?

16 A I'm not sure what the thirty day period
17 is. Is it running, are you saying it's running from.

18 Q Okay, we'll get at that.

19 A Okay.

20 Q Has LeFlore ever tendered a check or any
21 money to Amerind as of this date?

22 A No, we -- our interpretation, and maybe
23 we're wrong, is that the AFE was outdated. It was not an
24 AFE furnished ninety days before the drilling of the well
25 and Amerind stated they would not let us in the well, so we

1 never did furnish our payment.

2 Q If you would look on, I believe it's Ex-
3 hibit Number Three, which is Order R-7796, page three, para-
4 graph three, which Ms. Aubrey previously referred you to, --

5 A Uh-huh.

6 Q -- provides that the operator shall fur-
7 nish each known working interest owner in the subject unit
8 an itemized schedule of well costs within ninety days prior
9 to commencing the well, basically, is that correct?

10 A Yes.

11 Q Okay. I'm missing a couple exhibits, of
12 LeFlore's exhibits, so I'm not sure if this has been submit-
13 ted, and I only have one copy from my files, but what I'm
14 handing to Mr. Lundeen is a letter from Bill Seltzer to Ter-
15 ry Unders at Shell Western Exploration and Production Com-
16 pany, dated March 26th, 1985. A copy was -- a carbon copy
17 was provided to the Oil Conservation Division.

18 After Mr. Lundeen looks at this I'll sub-
19 mit it to the OCD.

20 MR. STAMETS: It probably is Le-
21 Flore's Exhibit Number Four.

22 MR. BRUCE: Okay.

23 MR. STAMETS: Is that correct?

24 MR. BRUCE: That is correct.

25 Q If you're looking at LeFlore's Exhibit

1 Number Four, is the March 26th date within ninety days of
2 drilling the well?

3 A Yes, it is.

4 Q And did this letter enclose an AFE cov-
5 ering the unit?

6 A Yes, it did.

7 Q I see. What -- there were some questions
8 and answers previously about the AFE not being up to date.
9 Would you explain that further, if an AFE was provided with-
10 in ninety days of drilling the well?

11 A Well, I think perhaps my interpretation
12 was that the AFE had to be dated within ninety days of dril-
13 ling the well. You could send in an AFE from 1964 and if it
14 was within ninety days of the drilling of the well --

15 Q The AFE that was sent was dated January
16 2ns, 1985, was it not?

17 A Yes, sir.

18 Q I don't accept the premise of LeFlore in
19 the first place but how much would you anticipate well costs
20 changing between January 2nd and March 26th?

21 A I don't know.

22 Q And would -- would well costs change be-
23 cause the well location was changed from an orthodox to an
24 unorthodox location?

25 A I don't know. It would depend on geo-

1 graphy of the area.

2 Q In general would moving a well rig a few
3 hundred feet increase or decrease the well costs?

4 A I'm not qualified to answer that.

5 Q Referring again to Exhibit Three and par-
6 agraph three, regarding the itemized schedule of estimated
7 well costs, does it give any specific time frame in there
8 regarding the currency of the AFE?

9 A Well, it says within ninety days prior to
10 the commencing of said well operator shall furnish the Divi-
11 sion and each known working interest owner an itemized sche-
12 dule of estimated well costs.

13 Q Now if you'd look down at paragraph four,
14 what is your interpretation of that paragraph?

15 MS. AUBREY: I'm going to ob-
16 ject. He's asking for a legal interpretation of paragraph
17 four of the Order 7796.

18 I guess if you want to ask him
19 what he thinks it means, that's fine, as long as we all un-
20 derstand he's not giving any kind of a legal or binding in-
21 terpretation.

22 A My answer in number four would be contin-
23 gent upon number three. We didn't feel we had an updated
24 AFE.

25 As I stated before, we deal mainly in Ok-

1 lahoma and in Oklahoma an order states that you have to fur-
2 nish an AFE that is dated within 45 days of the drilling of
3 the well.

4 Q This order does not state that, does it?

5 A Well, that was our interpretation.

6 MR. BRUCE: But I would again
7 ask Mr. Lundeen what his interpretation of paragraph four
8 is. Ms. Aubrey has brought up the possibility that LeFlore
9 only had to notify Amerind on its intending to participate
10 in the well within thirty days of being furnished an AFE.

11 Shell never did notify or pay,
12 I should say, never paid within thirty days of receiving the
13 AFE, did they?

14 A Not to my knowledge. No, I'm sure they
15 didn't.

16 MR. BRUCE: I have no further
17 questions of the witness.

18 MR. STAMETS: Mr. Bruce, was
19 Shell given notice of the date and time of the hearing in --
20 in Case 8457 by Amerind?

21 MR. BRUCE: Yes, it was. I be-
22 lieve if you'll look at LeFlore's Exhibit Number Two, which
23 is a letter from our Midland office, the letter states that
24 the hearing is supposed to be January 30th, 1985, and this
25 was sent by certified mail to Shell Western Exploration and

1 Production Company by certified mail, and Attention, Terry
2 Enders.

3 MR. STAMETS: And Shell is a
4 major producing company and has lots of lawyers and presum-
5 ably they're able to understand the procedures that the Oil
6 Conservation Division follows and they should be knowledge-
7 able of the standard terms and conditions of Division com-
8 pulsory pooling orders?

9 MR. BRUCE: I would hope so.

10 MR. STAMETS: And did they ap-
11 pear at the hearing?

12 MR. BRUCE: They never ap-
13 peared, and I believe, I do not have a transcript before me,
14 I do know that -- I believe, and Ms. Aubrey can object, if
15 she wants, but I do not have a copy of the transcript before
16 me, but I know that a number of the forced poolers in that
17 case were called between the mailing of this letter, Exhibit
18 Number Two of LeFlore, and the date of the hearing, by Bill
19 Seltzer just to see if any further progress had been made
20 toward --

21 MR. STAMETS: And to your know-
22 ledge did any -- did Shell ever file any objections to the
23 terms and conditions of the order?

24 MR. BRUCE: Not to my knowledge.

25 MR. STAMETS: Do you believe

1 that -- that Amerind has followed all the terms and condi-
2 tions of the order in -- in providing notice to parties who
3 were pooled following the hearing?

4 MR. BRUCE: It was my opinion,
5 and I think this is reviewing the terms of the forced pool-
6 ing order, I do not think we really need any evidence on
7 this, it's a legal opinion, my legal opinion, that they com-
8 plied with all the terms of the forced pooling order regard-
9 ing sending out AFEs, notifying parties, and various items
10 requiried by the forced pooling order.

11 I would also note that looking
12 at Exhibit Number Three again, on page four, paragraph 7-B,
13 LeFlore has claimed that they were never provided -- or
14 going through the whole set of paragraphs, 5 through 7,
15 LeFlore has claimed that they have never received final, ac-
16 tual well costs which were provided to the OCD.

17 As I read that only a consen-
18 ting working interest owner is entitled to be provided final
19 share of well costs.

20 I may be wrong on that, but I
21 --

22 MR. STAMETS: Somehow, Mr.
23 Bruce, I think you've got the wrong interpertation there;
24 that clearly those people who are subject to the risk penal-
25 ty have perhaps a much greater need of the well costs.

1 MR. BRUCE: Well, regardless, I
2 think that is really not part and parcel of this hearing, as
3 this has more to do with the notice of the extension of the
4 --

5 MR. STAMETS: Whether or not
6 they should be allowed to pay their share and participate in
7 drilling the well.

8 Ms. Aubrey, do you have some-
9 thing further in this case?

10 MS. AUBREY: Only a brief re-
11 sponse to Mr. Bruce.

12 Amerind has not complied with
13 the terms of the January 30th order. They did not drill the
14 well by May 1st. There's no -- no dispute about that, the
15 well was spudded in April.

16 The order does not say that you
17 can't give a working interest owner a stale, out-of-date
18 AFE, but I think that's the intent. I think that's the
19 reason the 90-day provision is in there, is to make sure
20 that when you send someone an AFE the document on which they
21 based their decision to make an election does not contain
22 out-of-date material; that it's a current estimate of well
23 costs.

24 This AFE was more than five
25 months old at the time the well was drilled.

1 One by one these don't sound
2 like such bad things but when you put them together, as
3 they've been put together by Amerind in this case, I think
4 it is clear that they intend to honor the time limits and
5 the letter of the rule and the letter of the order when it
6 helps them and that they are above telling an out-of-state,
7 small organization, hey, guys, you've got to pay money.

8 LeFlore Oil and Gas made a good
9 faith attempt in writing with a request for a current AFE
10 and an operating agreement on May 1st. The well, and I
11 think this is the important part of this case, the well
12 wasn't spudded then. If the well had been spudded we
13 wouldn't be here today, but the well wasn't spudded. Amer-
14 ind suffered no damage, couldn't have been ridden down, they
15 hadn't started the well yet; they didn't even have an appro-
16 val for their location yet.

17 There is no way that permitting
18 LeFlore Oil and Gas to come into this well prior to May 12th
19 could have damaged Amerind at all.

20 They changed their location.
21 They had an old AFE. They still haven't complied with the
22 terms of the order in terms of furnishing us with well
23 costs. They could not have been damaged by picking up the
24 phone and calling LeFlore Oil and Gas in Tulsa and saying
25 you have to send money; in New Mexico the common practice is

1 that this was basically the legal argument or argument in
2 the case.

3 MR. STAMETS: Mr. Bruce, if
4 you'd wait just a moment, the Commission might be able to
5 render a decision in this case.

6 Let's see if we can't.

7 I do believe, Mr. Kelley, --

8 THE REPORTER: Are we on or off
9 the record?

10 MR. STAMETS: We're on the re-
11 cord. This is a public hearing and we're on the record.

12 I believe, Mr. Kelley, that
13 Amerind has complied with the terms and provisions of this
14 order. They did give notice to the working interest owners
15 that were known at the time, and the past and previous cases
16 would indicate that the 30-day time limit expired on April
17 the 26th.

18 That that was the date that Le-
19 Flore acquired the interest from Shell. I think it's one of
20 those unfortunate things and certainly sounds unfair for Le-
21 Flore to have gotten a lease with this burden on it, but in
22 order for Shell or LeFlore to have complied with this order,
23 it would appear as though cash would have had to have been
24 handed to Amerind on that day.

25 Obviously Amerind as the opera-

1 tor can do something about it if they choose but it does ap-
2 pear as though Amerind has complied with the terms of the
3 order and I see no reason why this case should be reopened.

4 COMMISSIONER KELLEY: I think I
5 basically agree with you on your summary of the case. It
6 sounds to me like it was a problem between Shell and Le-
7 Flore, most of this problem.

8 I don't see any reason to re-
9 open the case, either.

10 MR. STAMETS: Okay, on that
11 basis and information we have decided that this case will
12 not be reopened and we will request that Mr. Bruce prepare
13 an order which conveys the sense of the Commission in this
14 matter and submit that for us within two weeks.

15 And that concludes this hear-
16 ing.

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18 (Hearing concluded.)
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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY
CERTIFY that the foregoing Transcript of Hearing before the
Oil Conservation Division (Commission) was reported by me;
that the said transcript is a full, true, and correct record
of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR