

Case No.

10

Application, Transcript,
Small Exhibits, Etc.

February 10, 1938

Hon. J. O. Seth
Attorney and Counselor at Law
111 San Francisco St.,
Santa Fe, N. M.

Re: Case No. 10, In the
Matter of Special Spacing
upon Petition of J. P.
Cusack.

My dear Judge:

In accordance with your letter of February 16, enclosing photostatic copy of a letter from the Empire Oil and Refining Company, under date of January 26, 1938, consenting to the special location petitioned for and granted by order of the Commission in the above matter, said letter is today being filed with the papers in the case.

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl B. Livingston
Attorney

CBL:m

A.K. MONTGOMERY

J. O. SETH
ATTORNEY AND COUNSELOR AT LAW
111 SAN FRANCISCO ST.
SANTA FE, NEW MEXICO

Feb. 16, 1938.

Hon. Carl Livingston,
State Land Office,
Santa Fe, N.M.

Dear Carl:

I enclose photostat copy of letter from the Empire Oil and Refining Company to Mr. J. P. Cusack, dated Jan. 26, 1938, in which that company expresses its agreement to the location of the well of Mr. Cusack 1,000 feet from the north line and 130 feet from the west line of the E $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sec. 34, Twp. 18 S., R. 38 E., Lea County.

At the hearing before the Oil Conservation Commission on Feb. 7th last, on Mr. Cusack's application for the location of the well, he promised to furnish a copy of this letter. I am sending it to you direct with the request that you please see that it is placed with the other papers relating to the hearing on Mr. Cusack's application held as above stated.

Very truly yours,



JOS:M

CITIES SERVICE OIL COMPANY
FORMERLY

EMPIRE OIL & REFINING COMPANY



BARRETTVILLE, OKLA.

EMPIRE OIL & REFINING CO.
CITIES SERVICE OIL CO.
EMPIRE PIPELINE CO.

January 26, 1938

Mr. J. P. Cusack,
J. P. Cusack, Inc.,
P. O. Box 208,
Midland, Texas.

Dear Sir,

Referring to your letter of January 14, we now have executed oil and gas lease, dated January 20, 1938, issued in your favor covering an undivided 1/16 interest in the East Half of Southeast Quarter of Section 34, Township 18 South, Range 38 East, Lea County, New Mexico, providing for oil payment, in addition to the royalty, of \$75 an acre or total of \$375 out of one-fourth of first oil and/or gas produced, saved and sold from the working interest. The lease is made for term of six months, subject to commencement of a well at location on said land on or before February 10, 1938, and completion of the well with due diligence to the known producing formation in the area.

We will hold the executed lease and make delivery to you upon the spudding of the well, or, if you prefer, we shall be glad to send the lease to some bank for escrow until the well is spudded. We shall be glad to have you advise which you would prefer or if neither plan is suitable for your plans advise how you wish the matter handled.

By this letter, we wish to confirm our telegram of January 19th advising that the location specified in your letter of January 14, 1938, is satisfactory to us, that is, the location 1,000 feet from the North line and 120 feet from the West line of the East Half of Southeast Quarter of said Section 34.

Yours very truly,

J. P. Cusack
J. P. Cusack, Inc.,
Land and Lease Department.



January 14, 1938

Hon. Guy Shepard
State Oil and Gas Inspector
Oil Conservation Commission
Hobbs, New Mexico

Dear Guy:

Enclosed is a notice for publication which has just gone forward to the Hobbs News. Please check up on them Monday to see that they get it in the paper on Monday, if possible, and if not, then see that they get it in on the 18th. Monday the 17th will be better.

Tell Mr. Cusack, in the meantime, to file his formal application with the Commission so we will have it as the initial court paper in the proceedings for this particular special spacing.

The hearing, as you will note, is set for February 7, at 9:00 A. M.,

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl B. Livingston
Attorney

OBL:m

January 22, 1938

Mr. J. P. Cusack
Box 208
Midland, Texas

Re: O. C. C. Case No. 10.

Dear Mr. Cusack:

In response to your letter of January 14, please be advised that on the same date, you were written a letter, in which was enclosed publication notice pertaining to the hearing for special spacing, in accordance with your petition and request. I assumed that you had called me from Hobbs, and therefore mailed this matter to you at Hobbs. The same was today returned and is enclosed herewith.

Your Petition and Notice of Intention to Drill were received in your letter of January 14. Remember that the hearing is set for February 7, at nine o'clock, A. M., all of which is pointed out in my letter to you of January 14.

Very truly yours,

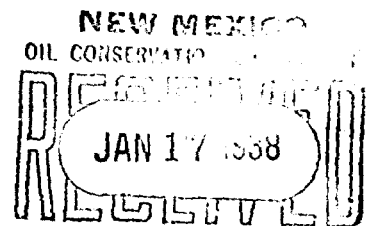
OIL CONSERVATION COMMISSION

By Carl B. Livingston
Attorney

CBL:m

J. P. CUSACK, INC.
BOX 208
MIDLAND, TEXAS

January 14, 1938.



New Mexico Oil Conservation Commission,
Santa Fe, New Mexico.

Attention Mr. Carl Livingston.

Gentlemen:

Enclosed herewith find "Notice of intention to drill"
executed in triplicate covering the E2 SE4 of Section 34-18 South,
Range 38 East, Lea County, together with petition as to spacing.

Shall appreciate your wiring me collect upon receipt
of the enclosed papers.

JC/L

Yours very truly,
J. P. Cusack
J. P. Cusack.

*Back to [unclear] [unclear]
[unclear] [unclear]*

January 14, 1938

New Mexico Examiner
Santa Fe, New Mexico

Gentlemen:

Enclosed herewith please find Notice for Publication, which you are kindly requested to publish once on Monday, ~~January 17~~, at any rate not later than January 18. Please furnish the Commission with a copy of your newspaper containing this publication.

Immediately upon completion of the publication, be sure to transmit to the Oil Conservation Commission your affidavit of publication.

Upon submitting your affidavit to the Commission, please send your statement, in duplicate, together with the enclosed purchase voucher, also in duplicate.

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl E. Livingston
Attorney

CBL:m

January 14, 1938

The Hobbs News
Hobbs, New Mexico

Gentlemen:

Enclosed herewith please find Notice for Publication, which you are kindly requested to publish once on Monday, January 17, at any rate not later than January 18. Please furnish the Commission with a copy of your newspaper containing this publication.

Immediately upon completion of the publication, be sure to transmit to the Oil Conservation Commission your affidavit of publication.

Upon submitting your affidavit to the Commission, please send your statement, in duplicate, together with the enclosed purchase voucher, also in duplicate.

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl B. Livingston
Attorney

CBL:m

January 14, 1938

Mr. J. P. Cusack
Hobbs, New Mexico

Dear Mr. Cusack:

Enclosed is a notice for publication which has just gone forward to the Hobbs News. Please check up on them Monday to see that they get it in the paper on Monday if possible, and if not, then see that they get it in on the 18th. Monday the 17th will be better.

In the meantime, please file your formal application with the Commission so that we will have it as the initial court paper in the proceedings for this particular special spacing.

The hearing, as you will note, is set for February 7, at nine o'clock, A. M., at which time you should appear before the Commission with your witnesses to testify in support of your petition for special spacing. The Commission, for this purpose, sits as a court and its order is a judgment founded upon sworn testimony adduced before the Commission.

Very truly yours,

Oil Conservation Commission

By Carl B. Livingston
Attorney

CBL:m

1000 South of the N line
@ 130 feet East of
the Westinghouse of the
SE 4 34 - 188 - 382

25 Town line - &
property - school
building, residences,
as most available
that not built for,

7th -

9.A.M.

New Mexico
Oil Conservation Commission
Santa Fe, New Mexico

GOVERNOR CLYDE TINGLEY, Chairman
STATE GEOLOGIST G. D. MACY, Member
STATE LAND COMMISSIONER FRANK WORDEN,
Secretary



Hobbs, N.M.
Box 1545
Jan. 12, 1938.

Mr. Carl Livingston, Atty.,
Oil Conservation Commission,
Santa Fe, New Mexico.

Dear Carl:

J. P. Cusack will send you a notice of
intention to drill on Section 34, Twp. 18 South,
Range 38 East, here in Hobbs.

In that this well will be drilled on
the townsite it will be impossible to make a regular
location, and I told him he would have to get a
special hearing. He only has until February 10,
1938, to get this well started, and I would
appreciate it very much if you would get this
notice in the paper as soon as possible,

Very truly yours,

OIL CONSERVATION COMMISSION

By

Guy Shepard
Guy Shepard,
Oil & Gas Inspector,

S

Not Side Hand

BEFORE THE OIL CONSERVATION
COMMISSION OF THE STATE
OF NEW MEXICO

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

THE APPLICATION OF J. P. CUSACK TO
HAVE A CLOSER SPACING THAN IS AT
PRESENT PROVIDED BY THE RULES OF
THE COMMISSION, AS FOLLOWS:
1000 FEET SOUTH OF THE NORTH LINE
AND 130 FEET EAST OF THE WEST LINE
OF THE EISEL OF SECTION 34, TOWNSHIP
18 SOUTH, RANGE 38 EAST. THE GROUNDS
FOR SUCH SPECIAL SPACING ARE: THE
LEGAL SUBDIVISION INVOLVED IS WITHIN
A TOWNSITE, AND THE SPECIAL SPACING
REQUESTED IS THE MOST AVAILABLE TRACT
NOT BUILT UPON, THERE BEING PROPERTY
IN THE WAY OF BUILDINGS, SUCH AS A
SCHOOL HOUSE AND OTHER BUILDINGS
WHICH WOULD INTERFERE WITH A SPACING
IN ACCORDANCE WITH THE GENERAL
SPACING RULES.

CASE NO. 10

ORDER NO. 105

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 o'clock A. M. on
the 7th day of February, 1938, in the office of the Oil Conservation
Commission at the State Capitol, Santa Fe, New Mexico, upon the
call of the Commission in the above designated matter.

NOW, on this 7th day of February, 1938, the Commission
having before it for consideration the evidence adduced at the
hearing in said case and being fully advised in the premises, now
therefore finds:

1.

That notice of the hearing herein was published in accord-
e with the provisions of law, and affidavits from publishers
aid notice, both in Lea County and Santa Fe County, are in
cord of this case.

2.

hat there are located school buildings and school grounds

within the forty-acre subdivision involved herein, namely, the East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) of Section 34, Township 18 South, Range 38 East, so as to make the regular spacing, in accordance with existing rules of the Commission impractical and unsafe for fire hazards.

3.

That the location petitioned for, to-wit: 1000 Feet South of the North line and 130 feet East of the West line of the $E\frac{1}{2}SE\frac{1}{4}$ of Section 34, Township 18 South, Range 38 East, is a practical location which will not create waste.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that J. P. Cusack, the petitioner in this cause, be allowed to locate his well as follows: 1000 feet South of the North line and 130 Feet East of the West line of the $E\frac{1}{2}SE\frac{1}{4}$ of Section 34, Township 18 South, Range 38 East.

OIL CONSERVATION COMMISSION

Frank Worden

Frank Worden, Commissioner of
Public Lands,

Secretary.

A. Andreas

A. Andreas, State Geologist.

H E A R I N G
BEFORE THE OIL CONSERVATION
COMMISSION OF THE STATE
OF NEW MEXICO.

Held in the Office of Frank
Worden, Commissioner of Public
Lands, at the Capitol Building,
February 7, 1938, at nine o'clock,
A. M.

PRESENT: FRANK WORDEN, State Land Commissioner, Secretary;
A. ANDREAS, State Geologist;
J. F. CUSACK,
B. A. BOWERS,
J. O. SETH, Attorney for Petitioner
CARL B. LIVINGSTON, Attorney for Oil Conservation
Commission.

ABSENT: GOVERNOR TINGLEY, Chairman.

The Hearing was opened by Mr. Worden.

THEREUPON, the notice for publication for the
Hearing was read by Mr. Worden, as follows:

"NOTICE FOR PUBLICATION
STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

"Pursuant to Chapter 72, Session Laws of 1935, State
of New Mexico, by which Act the Oil Conservation Commission of
New Mexico was created, investing said Commission with the jur-
isdiction and authority over all matters relating to the conser-
vation of oil and gas in this State and of the enforcement of
all provisions of said Act, notice is hereby given that a public
hearing will be held at the Capitol, Santa Fe, New Mexico, on
the 7th day of February, 1938, at 9:00 o'clock, A. M., for the
purpose of considering the following:

"Case No. 10.

"The application of J. F. Cusack to have a
closer spacing than is at present provided by the
rules of the Commission, as follows: 1000 feet
South of the North line and 130 feet East of the

West line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34, Township 18 South, Range 38 East. The grounds for such special spacing are: The legal subdivision involved is within a townsite, and the special spacing requested is the most available tract not built upon, there being property in the way of buildings, such as a school house and other buildings which would interfere with a spacing in accordance with the General Spacing Rules.

"Any person having any interest in the subject of the said hearing shall be entitled to be heard.

"Given under the seal of said Commission at Santa Fe, New Mexico, on January 14, 1938.

OIL CONSERVATION COMMISSION

By Clyde Tingley
Governor

By Frank Worden
Commissioner of Public Lands

(SEAL)

By _____
State Geologist.

BY MR. WORDEN: The purpose of this hearing is to consider the request of J. P. Cusack for a closer spacing than is provided by the rules of the Commission.

Thereupon, J. P. CUSACK and B. A. BOWERS were called and duly sworn by the Land Commissioner.

Mr. J. P. Cusack testified as follows:

EXAMINATION BY MR. SETH.

Question: Your name is J. P. Cusack?

Answer: Yes.

Q. You are an oil operator, at Hobbs?

A. Yes.

Q. Do you hold the lease on the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34, Township 18 South, Range 38 East, in Lea County?

A. I do.

Q. Mr. Cusack, is that in the town of Hobbs?

A. It is.

- Q. Is it in the part of the town of Hobbs, at least in the part of the town that is built up?
- A. It is.
- Q. Now, I hand you the applicant's Exhibit 1, entitled "Map of Hobbs" and ask you if that area enclosed with a red line represents the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34?
- A. It does.
- (Map introduced in evidence, marked "Exhibit 1".)
- Q. Is the town of Hobbs divided into lots, as shown on this Exhibit?
- A. It is.
- Q. Mr. Cusack, the place where you desire to drill the well that this hearing is about, I take it it is in Lot 24 of Block 25, is that correct?
- A. That is correct.
- Q. What is the distance of that location from the West line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34?
- A. Approximately 130 feet.
- Q. And what distance is it from the North line of your lease?
- A. Approximately 1000 feet.
- Q. Mr. Cusack, are you interested in the lease lying immediately West of your lease?
- A. I am not.
- Q. Are you not interested in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34?
- A. I am not.
- Q. What company is interested in this lease?
- A. The Samedan, who are partners of mine in other leases.
- Q. And their spacing has been on the basis of 330 feet from the West line of the eighty, and 660 feet from the North line, and have drilled wells with such spacing?
- A. Yes.
- Q. And if you followed that system on your lease, that is, the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34, where would it put the well, with reference to buildings, or schools?
- A. On the school property and immediately adjacent to the school building proper.
- Q. Now, this smaller area embraces parts of Blocks 96, 3 and 26. What does that represent?
- A. School property.
- Q. Are they building schools on that property?
- A. The school is built, and there is an athletic field also on the property.

- Q. And to drill the well at the 330-660 spacing would put it right in the middle of the school property?
- A. It would put it where the school building is now located.
- Q. Yes, and if you moved it a short distance, it would still be on the school property.
- A. Yes, it would still be on school property.
- Q. Now, are there any producing wells east of your lease there, at all?
- A. No, no producing wells.
- Q. Is it regarded as pretty nearly on the edge of the production area, this lease?
- A. Yes, it is definitely on the edge of production. There is a dry hole to the East, and a very severe dip to the East.
- Q. The Samedan, which has the $W\frac{1}{2}$ of this quarter section, have they indicated to you that they have no objection to this permit being granted?
- A. Yes, they have.
- Q. Is the Empire also interested?
- A. The Empire has a small operating agreement with the Samedan, in the West half.
- Q. Has the Empire wired you that they have no objection to the proposed spacing?
- A. Yes, they have wired me that they have no objections, considering the circumstances.
- Q. Mr. Cusack, do you know the royalty interest under the East half and the West half of the Southeast quarter of this section?
- A. I do.
- Q. Are they virtually all held by the same person?
- A. Virtually, yes.
- Q. Is that all part of the Turner homestead?
- A. It is.
- Q. Both eighty-acres?
- A. They are.
- Q. You have been in the oil business at Hobbs, in that vicinity for a good many years, haven't you?
- A. Approximately eight years.
- Q. And you are familiar with conditions there?
- A. I am.
- Q. In your opinion, would the granting of permission to drill a well at the place for which you have made application, in any manner injure the royalty interests or leasehold interests in that vicinity?

- A. In my opinion, it would not.
- Q. What is your opinion as to its affect on the ultimate recovery of the oil in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of the eighty, on which you have a lease?
- A. Do you mean as to affecting the West half?
- Q. No, I mean its affect on you. Would it enable you to get more than your fair share of the oil?
- A. I would say not, for the reason that the water drive is coming from the West and South, and there is no water on the East side in this immediate area at present.
- Q. None has shown up at the present time?
- A. No.
- Q. Where is that dry hole you mentioned located?
- A. That dry hole is located approximately in the Northwest quarter of the Southwest quarter of Section 35.
- Q. In the Hobbs townsite?
- A. Yes.
- Q. Has any water shown up?
- A. No, not in the producing horizon. It is some four or five hundred feet below.
- Q. That is all.

UPON EXAMINATION BY MR. SETH, Mr. B. A. Bowers
testified as follows:

- Q. Mr. Bowers, you have been producing oil at Hobbs for several years?
- A. That is right.
- Q. And you are familiar with the conditions in that locality?
- A. That is right.
- Q. And in the locality of this lease of Mr. Cusack, on the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34?
- A. Yes.
- Q. You have heard the testimony of Mr. Cusack with reference to the location of the school building and grounds, as covering the point where the well would be located ordinarily.
- A. I have.
- Q. And that is correct?
- A. Yes, that is correct.
- Q. Are you familiar, generally, with the royalty interests covering the entire Southeast quarter?

- A. Not to the extent that Mr. Cusack has stated that he is, but in general, I will concur with his statement.
- Q. It is all based on the old Turner homestead?
- A. Yes.
- Q. And the town lots were sold with reservation of minerals?
- A. That is correct.
- Q. Is that part of Hobbs, where the school grounds are located, as shown on this Exhibit 1, built up; that is, are there other buildings around the school?
- A. Yes, that is quite settled up around there.
- Q. And this location that Mr. Cusack is **seeking**, is that approximately the closest he can get?
- A. That is the most practical location to make, in view of fairness to the school and the present occupants of the property.
- MR. ANDREAS: How close to any building is this proposed location?
- A. There is a house immediately across the Street to the East, and in the adjoining block, it is well filled up with buildings.
- MR. ANDREAS: How about North and South?
- A. There is a Street on the North, Carlsbad Avenue, which is the **Main street** through Hobbs, and across the street, South, there is a considerable number of buildings in that block.
- Q. There are less buildings in this block in which the tentative location of the well is shown than in any other block in the immediate vicinity?
- A. Yes.
- Q. In your opinion, considering the surface occupancy, is this the best location?
- A. Yes.
- Q. In your opinion, would the locating of the well there be unfair to the adjoining mineral rights?
- A. I will answer and make my statement in this way: were I the royalty owner in the Samedan lease immediately adjoining it on the West, I would have no hesitancy at all in agreeing to Mr. Cusack's drilling the well on the location that he requests.
- Q. Do you believe this spacing unfair in the sense that Mr. Cusack may be able to get more than his fair share of oil from the lease?
- A. I do not.
- Q. And how about the ultimate recovery of oil from this well. Do you think he will get a fair recovery from this location?
- A. I believe that he will, because of the fact that, as stated by him, no water drive comes from the East, both from an engineering and a geological standpoint, and it is not probable that there will be. It is more probable that the water will come across

the structure from the West, it seems at present, and not from the East.

Q. Did the school board object to the regular location?

A. Yes. I have a very close contact with the school board, and am interested in all their work, although I am not a member of the Board, and they do object to the location with the regular spacing, if it can possibly be done in any other way.

Q. Are they erecting new school buildings?

A. They have erected one and they intend to build in several on the present grounds.

MR. CUSACK: In this respect, I called Mr. Staley, who is President of the School Board and also proration umpire at Hobbs, and asked him if they would approve this location, and he said definitely no, and when he said that, I started in to find out if there wasn't some other location available. They objected for two reasons, the safety factor, for one thing, and the space.

Q. While this may be beyond the jurisdiction of the Commission in a sense, you have wholly cooperated with the school board in this new location which you seek?

A. Yes.

Q. And the proration umpire at Hobbs is also chairman of the school board?

A. Yes.

MR. WORDEN: There is no objection from any member of the school board as to this new location?

A. No, there is none whatsoever. They are perfectly satisfied.

MR. WORDEN: And they feel that it is a safe distance and would not be likely to injure any of the children?

A. That is right. They feel that this location could not possibly injure them in any way.

That is all.

There being no further business to come before the hearing, the hearing adjourned.

STATE OF NEW MEXICO)
County of Santa Fe) ss.

I, M. S. Master, hereby certify that the above and foregoing six and a fraction pages of typewritten matter constitute a true, correct and complete transcript of the shorthand notes taken by me at the hearing before the Oil Conservation Commission held in the office of the Oil Conservation Commission at the State Capitol Bldg., on Monday, February 7, 1938.

M. S. Master

H E A R I N G
BEFORE THE OIL CONSERVATION
COMMISSION OF THE STATE
OF NEW MEXICO.

Held in the Office of Frank
Worden, Commissioner of Public
Lands, at the Capitol Building,
February 7, 1938, at nine o'clock,
A. M.

PRESENT: FRANK WORDEN, State Land Commissioner, Secretary;
A. ANDREAS, State Geologist;
J. P. CUSACK,
B. A. BOWERS,
J. O. SETH, Attorney for Petitioner
CARL B. LIVINGSTON, Attorney for Oil Conservation
Commission.

ABSENT: GOVERNOR TINGLEY, Chairman.

The Hearing was opened by Mr. Worden.

THEREUPON, the notice for publication for the
Hearing was read by Mr. Worden, as follows:

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STATE OF NEW MEXICO

OIL CONSERVATION COMMISSION

"Pursuant to Chapter 72, Session Laws of 1935, State
of New Mexico, by which Act the Oil Conservation Commission of
New Mexico was created, investing said Commission with the jur-
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vation of oil and gas in this State and of the enforcement of
all provisions of said Act, notice is hereby given that a public
hearing will be held at the Capitol, Santa Fe, New Mexico, on
the 7th day of February, 1938, at 9:00 o'clock, A. M., for the
purpose of considering the following:

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closer spacing than is at present provided by the
rules of the Commission, as follows: 1000 feet
South of the North line and 130 feet East of the

West line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34, Township 18 South, Range 38 East. The grounds for such special spacing are: The legal subdivision involved is within a townsite, and the special spacing requested is the most available tract not built upon, there being property in the way of buildings, such as a school house and other buildings which would interfere with a spacing in accordance with the General Spacing Rules.

"Any person having any interest in the subject of the said hearing shall be entitled to be heard.

"Given under the seal of said Commission at Santa Fe, New Mexico, on January 14, 1938.

OIL CONSERVATION COMMISSION

By Clyde Tingley
Governor

By Frank Worden
Commissioner of Public Lands

(SEAL)

By _____ "
State Geologist.

BY MR. WORDEN: The purpose of this hearing is to consider the request of J. P. Cusack for a closer spacing than is provided by the rules of the Commission.

Thereupon, J. P. CUSACK and B. A. BOWERS were called and duly sworn by the Land Commissioner.

Mr. J. P. Cusack testified as follows:

EXAMINATION BY MR. SETH.

Question: Your name is J. P. Cusack?

Answer: Yes.

Q. You are an oil operator, at Hobbs?

A. Yes.

Q. Do you hold the lease on the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34, Township 18 South, Range 38 East, in Lea County?

A. I do.

Q. Mr. Cusack, is that in the town of Hobbs?

A. It is.

Q. Is it in the part of the town of Hobbs, at least in the part of the town that is built up?

A. It is.

Q. Now, I hand you the applicant's Exhibit 1, entitled "Map of Hobbs" and ask you if that area enclosed with a red line represents the $E\frac{1}{2}SE\frac{1}{4}$ of Section 34?

A. It does.

(Map introduced in evidence, marked "Exhibit 1".)

Q. Is the town of Hobbs divided into lots, as shown on this Exhibit?

A. It is.

Q. Mr. Cusack, the place where you desire to drill the well that this hearing is about, I take it it is in Lot 24 of Block 25, is that correct?

A. That is correct.

Q. What is the distance of that location from the West line of the $E\frac{1}{2}SE\frac{1}{4}$ of Section 34?

A. Approximately 130 feet.

Q. And what distance is it from the North line of your lease?

A. Approximately 1000 feet.

Q. Mr. Cusack, are you interested in the lease lying immediately West of your lease?

A. I am not.

Q. Are you not interested in the $W\frac{1}{2}SE\frac{1}{4}$ of Section 34?

A. I am not.

Q. What company is interested in this lease?

A. The Samedan, who are partners of mine in other leases.

Q. And their spacing has been on the basis of 330 feet from the West line of the eighty, and 660 feet from the North line, and have drilled wells with such spacing?

A. Yes.

Q. And if you followed that system on your lease, that is, the $E\frac{1}{2}SE\frac{1}{4}$ of Section 34, where would it put the well, with reference to buildings, or schools?

A. On the school property and immediately adjacent to the school building proper.

Q. Now, this smaller area embraces parts of Blocks 26, 3 and 28. What does that represent?

A. School property.

Q. Are they building schools on that property?

A. The school is built, and there is an athletic field also on the property.

- Q. And to drill the well at the 330-660 spacing would put it right in the middle of the school property?
- A. It would put it where the school building is now located.
- Q. Yes, and if you moved it a short distance, it would still be on the school property.
- A. Yes, it would still be on school property.
- Q. Now, are there any producing wells east of your lease there, at all?
- A. No, no producing wells.
- Q. Is it regarded as pretty nearly on the edge of the production area, this lease?
- A. Yes, it is definitely on the edge of production. There is a dry hole to the East, and a very severe dip to the East.
- Q. The Samedan, which has the $W\frac{1}{2}$ of this quarter section, have they indicated to you that they have no objection to this permit being granted?
- A. Yes, they have.
- Q. Is the Empire also interested?
- A. The Empire has a small operating agreement with the Samedan, in the West half.
- Q. Has the Empire wired you that they have no objection to the proposed spacing?
- A. Yes, they have wired me that they have no objections, considering the circumstances.
- Q. Mr. Cusack, do you know the royalty interest under the East half and the West half of the Southeast quarter of this section?
- A. I do.
- Q. Are they virtually all held by the same person?
- A. Virtually, yes.
- Q. Is that all part of the Turner homestead?
- A. It is.
- Q. Both eighty-acres?
- A. They are.
- Q. You have been in the oil business at Hobbs, in that vicinity for a good many years, haven't you?
- A. Approximately eight years.
- Q. And you are familiar with conditions there?
- A. I am.
- Q. In your opinion, would the granting of permission to drill a well at the place for which you have made application, in any manner injure the royalty interests or leasehold interests in that vicinity?

- A. In my opinion, it would not.
- Q. What is your opinion as to its affect on the ultimate recovery of the oil in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of the eighty, on which you have a lease?
- A. Do you mean as to affecting the West half?
- Q. No, I mean its effect on you. Would it enable you to get more than your fair share of the oil?
- A. I would say not, for the reason that the water drive is coming from the West and South, and there is no water on the East side in this immediate area at present.
- Q. None has shown up at the present time?
- A. No.
- Q. Where is that dry hole you mentioned located?
- A. That dry hole is located approximately in the Northwest quarter of the Southwest quarter of Section 35.
- Q. In the Hobbs townsite?
- A. Yes.
- Q. Has any water shown up?
- A. No, not in the producing horizon. It is some four or five hundred feet below.
- Q. That is all.

UPON EXAMINATION BY MR. SETH, Mr. B. A. Bowers testified as follows:

- Q. Mr. Bowers, you have been producing oil at Hobbs for several years?
- A. That is right.
- Q. And you are familiar with the conditions in that locality?
- A. That is right.
- Q. And in the locality of this lease of Mr. Cusack, on the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34?
- A. Yes.
- Q. You have heard the testimony of Mr. Cusack with reference to the location of the school building and grounds, as covering the point where the well would be located ordinarily.
- A. I have.
- Q. And that is correct?
- A. Yes, that is correct.
- Q. Are you familiar, generally, with the royalty interests covering the entire Southeast quarter?

- A. Not to the extent that Mr. Cusack has stated that he is, but in general, I will concur with his statement.
- Q. It is all based on the old Turner homestead?
- A. Yes.
- Q. And the town lots were sold with reservation of minerals?
- A. That is correct.
- Q. Is that part of Hobbs, where the school grounds are located, as shown on this Exhibit 1, built up; that is, are there other buildings around the school?
- A. Yes, that is quite settled up around there.
- Q. And this location that Mr. Cusack is seeking, is that approximately the closest he can get?
- A. That is the most practical location to make, in view of fairness to the school and the present occupants of the property.
- MR. ANDREAS: How close to any building is this proposed location?
- A. There is a house immediately across the Street to the East, and in the adjoining block, it is well filled up with buildings.
- MR. ANDREAS: How about North and South?
- A. There is a Street on the North, Carlsbad Avenue, which is the Main street through Hobbs, and across the street, South, there is a considerable number of buildings in that block.
- Q. There are less buildings in this block in which the tentative location of the well is shown than in any other block in the immediate vicinity?
- A. Yes.
- Q. In your opinion, considering the surface occupancy, is this the best location?
- A. Yes.
- Q. In your opinion, would the locating of the well there be unfair to the adjoining mineral rights?
- A. I will answer and make my statement in this way: were I the royalty owner in the Samedan lease immediately adjoining it on the West, I would have no hesitancy at all in agreeing to Mr. Cusack's drilling the well on the location that he requests.
- Q. Do you believe this spacing unfair in the sense that Mr. Cusack may be able to get more than his fair share of oil from the lessee?
- A. I do not.
- Q. And how about the ultimate recovery of oil from this well. Do you think he will get a fair recovery from this location?
- A. I believe that he will, because of the fact that, as stated by him, no water drive comes from the East, both from an engineering and a geological standpoint, and it is not probable that there will be. It is more probable that the water will come across

the structure from the West, it seems at present, and not from the East.

Q. Did the school board object to the regular location?

A. Yes. I have a very close contact with the school board, and am interested in all their work, although I am not a member of the Board, and they do object to the location with the regular spacing, if it can possibly be done in any other way.

Q. Are they erecting new school buildings?

A. They have erected one and they intend to build in several on the present grounds.

MR. CUSACK: In this respect, I called Mr. Staley, who is President of the School Board and also proration umpire at Hobbs, and asked him if they would approve this location, and he said definitely no, and when he said that, I started in to find out if there wasn't some other location available. They objected for two reasons, the safety factor, for one thing, and the space.

Q. While this may be beyond the jurisdiction of the Commission in a sense, you have wholly cooperated with the school board in this new location which you seek?

A. Yes.

Q. And the proration umpire at Hobbs is also chairman of the school board?

A. Yes.

MR. WORDEN: There is no objection from any member of the school board as to this new location?

A. No, there is none whatsoever. They are perfectly satisfied.

MR. WORDEN: And they feel that it is a safe distance and would not be likely to injure any of the children?

A. That is right. They feel that this location could not possibly injure them in any way.

That is all.

There being no further business to come before the hearing, the hearing adjourned.

STATE OF NEW MEXICO)
County of Santa Fe) ss.

I, M. S. Master, hereby certify that the above and foregoing six and a fraction pages of typewritten matter constitute a true, correct and complete transcript of the shorthand notes taken by me at the hearing before the Oil Conservation Commission held in the office of the Oil Conservation Commission at the State Capitol Bldg., on Monday, February 7, 1936.

NOTICE FOR PUBLICATION
STATE OF NEW MEXICO
OIL CONSERVATION
COMMISSION

Pursuant to Chapter 72, Session Laws of 1935, State of New Mexico, by which Act the Oil Conservation Commission of New Mexico was created, investing said Commission with the jurisdiction and authority over all matters relating to the conservation of oil and gas in this State and of the enforcement of all provisions of said Act, notice is hereby given that a public hearing will be held at the Capitol, Santa Fe, New Mexico, on the 7th day of February, 1938, at 9:00 A. M., for the purpose of considering the following:

Case No. 10.

The Application of J. P. Cusack to have a closer spacing than is at present provided by the rules of the Commission, as follows: 1000 feet South of the North line and 130 feet East of the West line of the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 34, Township 18 South, Range 38 East. The grounds for such special spacing are: The legal subdivision involved is within a townsite, and the special spacing requested is the most available tract not built upon, there being property in the way of buildings, such as a school house and other buildings which would interfere with a spacing in accordance with the General Spacing Rules.

Any person having any interest in the subject of the said hearing shall be entitled to be heard.

Given under the seal of said Commission at Santa Fe, New Mexico, on January 14, 1938.

OIL CONSERVATION

COMMISSION,

By CLYDE TINGLEY,
Governor.

By FRANK WORDEN,
Commissioner of Public Lands.

By _____
State Geologist.
Pub. Jan. 21, 1938.

Affidavit of Publication

Jan. 24, 1938

STATE OF NEW MEXICO
COUNTY OF SANTA FE } ss.
CITY OF SANTA FE

Larry Bynon, hereby swear
that I am the Publisher
of the New Mexico Examiner, a weekly newspaper of general circulation in the City of Santa Fe, the County of Santa Fe, and the State of New Mexico, printed in the City of Santa Fe each week;

the attached is a true copy of Publication,
appeared in the New Mexico Examiner, issues of _____

Jan. 21, 1938, in a full and complete
issue of the paper.

Signed: Larry Bynon

STATE OF NEW MEXICO
COUNTY OF SANTA FE } ss.
CITY OF SANTA FE

Larry Bynon appeared before me this
24 day of January, 1938, known to me
to be the person above making affidavit, and after being duly
sworn, deposes and says that the statements above made are true
and accurate to the best of his knowledge.

Edna L. Draper
Notary Public in and for Santa Fe
County, State of New Mexico.

My Commission expires: Apr 24, 1939

Affidavit of Publication

Jan. 24, 1938

STATE OF NEW MEXICO }
COUNTY OF SANTA FE } ss.
CITY OF SANTA FE }

I, Larry Bynon, hereby swear
and affirm that I am the Publisher
of the New Mexico Examiner, a weekly newspaper of general cir-
culation in the City of Santa Fe, the County of Santa Fe, and the
State of New Mexico, printed in the City of Santa Fe each week;

that the attached is a true copy of Publication,
as it appeared in the New Mexico Examiner, issues of

Jan. 21, 1938, in a full and complete
edition of the paper.

Signed: Larry Bynon

STATE OF NEW MEXICO }
COUNTY OF SANTA FE } ss.
CITY OF SANTA FE }

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24 day of January, 1938, known to me
to be the person above making affidavit, and after being duly
sworn, deposes and says that the statements above made are true
and accurate to the best of his knowledge.

Edna L. Draper
Notary Public in and for Santa Fe
County, State of New Mexico.

My Commission expires: Apr 24, 1939

AFFIDAVIT OF PUBLICATION

State of New Mexico, }
County of Lea

I, Thomas B. Summers
Publisher

Of the Hobbs Daily News-Sun, a daily newspaper published at Hobbs, New Mexico, do solemnly swear that the clipping attached hereto was published once ~~in~~ in the regular and entire issue of said paper, and not in a supplement thereof for a

period of one week

beginning with the issue dated January 17, 1938

and ending with the issue dated

Thomas B. Summers
Publisher.

Sworn and subscribed to before me this 17th day of

January, 1938
J. B. O'Quinn
Notary Public.

My commission expires May 18th, 1941
(Seal)

This newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Laws of 1927, ~~and~~

(Pub. Jan. 17)

**NOTICE FOR PUBLICATION
STATE OF NEW MEXICO
OIL CONSERVATION
COMMISSION**

Pursuant to Chapter 72, Session Laws of 1925, State of New Mexico, by which Act the Oil Conservation Commission of New Mexico was created, investing said Commission with the jurisdiction and authority over all matters relating to the conservation of oil and gas in this state and of the enforcement of all provisions of said Act, notice is hereby given that a public hearing will be held at the Capitol, Santa Fe, New Mexico, on the 7th day

of February, 1938, at 9:00 a.m., for the purpose of considering the following:

Case No. 10.

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Any person having any interest in the subject of the said hearing shall be entitled to be heard.

Given under the seal of said Commission at Santa Fe, New Mexico, on January 14, 1938.

OIL CONSERVATION COMMISSION

By Clyde Tingley, Governor.
By Frank Worden, Commissioner of Public Lands.

RECEIVED



JAN 19 1938 PM

NOTICE FOR PUBLICATION
STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Pursuant to Chapter 72, Session Laws of 1935, State of New Mexico, by which Act the Oil Conservation Commission of New Mexico was created, investing said Commission with the jurisdiction and authority over all matters relating to the conservation of oil and gas in this State and of the enforcement of all provisions of said Act, notice is hereby given that a public hearing will be held at the Capitol, Santa Fe, New Mexico, on the 7th day of February, 1938, at 9:00 A. M., for the purpose of considering the following:

Case No. 10.

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Any person having any interest in the subject of the said hearing shall be entitled to be heard.

Given under the seal of said Commission at Santa Fe,

New Mexico, on January 14, 1938.

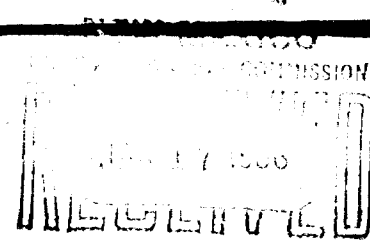
OIL CONSERVATION COMMISSION

By *John T. ...*
Governor

By *Frank Worden*
Commissioner of Public Lands

By _____
State Geologist.

TO THE NEW MEXICO OIL CONSERVATION COMMISSION



TO SAID HONORABLE COMMISSION

Now comes J. P. Cusack, of Midland Texas and makes this petition for permission from said Honorable Commission to permit him to drill a well for Oil and Gas purposes on the following described land, to wit;

East one-half of the South East one-fourth of Section thirty four, Township eighteen South, Range thirty eight East, Lea County, New Mexico.

Petitioner asks to locate said well 1000 feet south of the North line and 130 feet east of the West line of the above described property.

Petitioner desires to make the location as above set forth because the above described property is sub-divided into town lots and there are buildings erected thereon, and because of residences and a school building being erected on and adjacent thereto the location requested is the best location from a stand point of safety.

WHEREFORE your petitioner requests the Honorable Conservation Commission to consider this request and on its hearing be granted a permit to make the location for an Oil well as hereinabove set forth.

Witness my hand at Midland Texas this 14th day of January

A. D. 1938


PETITIONER