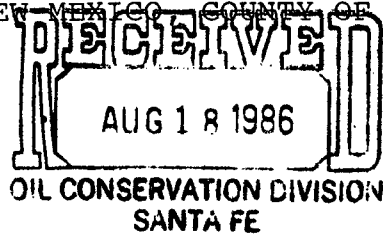


IN THE DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT
STATE OF NEW MEXICO COUNTY OF SANTA FE

JOHN ETCHEVERRY,
Plaintiff,

vs.



No. SF86-1509(c)

SAGE OIL COMPANY, a Texas
Corporation,

Defendant-Cross Defendant,

STATE LAND OFFICE,

Defendant-Cross Complainant,

OIL CONSERVATION DIVISION,

Defendant.

ANSWER, AFFIRMATIVE DEFENSES AND CROSS-CLAIM
OF THE NEW MEXICO STATE LAND OFFICE

The defendant New Mexico State Land Office [hereinafter referred to as SLO] answers the plaintiff's Complaint for Trespass as follows:

1. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in Paragraph 1 of the Complaint.
2. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint.
3. The defendant SLO admits the allegation in Paragraph 3 of the Complaint that its offices are located in Santa Fe,

New Mexico but denies the truth of the remaining allegations in said paragraph. The defendant SLO states, however, that the New Mexico Commissioner of Public Lands is a constitutional executive officer of the state and is charged with the care, custody, control and disposition of all land granted to the state in trust by the federal government.

4. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint.

5. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint.

ANSWER TO COUNT I

6. The defendant SLO adopts and incorporates by reference the answers set forth in Paragraphs 1 through 5 above as if fully restated herein.

7. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint. The defendant affirmatively states, however, that the Shell State No. 1 Well is located on land owned by the State of New Mexico in Section 32, Township 14 South, Range 34 East (not Range 33 East as alleged by the plaintiff), Lea County, New Mexico and that a salt water disposal easement

(SWD-0104) was granted to Sage Oil Company on November 12, 1982 by the Commissioner of Public Lands.

8. The defendant SLO admits the allegation contained in Paragraph 8 of the Complaint as to Sage Oil Company's representations in its application for a salt water disposal easement. The defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in said paragraph.

9. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 9, 10, 11, 12, 13, 14, and 15 of the Complaint.

ANSWER TO COUNT II

10. The defendant SLO adopts and incorporates by reference the answers set forth in Paragraphs 1 through 9 above as if fully restated herein.

11. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 17, 18, and 19 of the Complaint.

ANSWER TO COUNT III

12. The defendant SLO adopts and incorporates by reference the answers set forth in Paragraphs 1 through 11 above as if fully restated herein.

13. The defendant SLO denies the allegations contained in Paragraph 21 of the Complaint.

ANSWER TO COUNT IV

14. The defendant SLO adopts and incorporates by reference the answers set forth in Paragraphs 1 through 13 above as if fully restated herein.

15. The defendant SLO is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Complaint.

WHEREFORE the defendant SLO respectfully requests that the plaintiff's allegations against the SLO be dismissed with prejudice, that plaintiff take nothing against the SLO, that the costs and attorneys' fees incurred by the SLO in its defense of this action be assessed in accordance with law, and that the SLO be accorded such further relief as the Court may deem just and proper.

AFFIRMATIVE DEFENSES

The defendant SLO raises the following affirmative defenses to the claims of the plaintiff and the relief requested in the Complaint.

1. The plaintiff's claims against the SLO are barred by the doctrine of sovereign immunity.
2. The plaintiff's claims against the SLO are barred by the applicable statute of limitations.

3. The plaintiff's claims should be dismissed for plaintiff's failure to exhaust his administrative remedies.
4. The plaintiff has failed to mitigate his damages.
5. The plaintiff's claims are barred by the doctrine of laches.
6. The plaintiff's claims are barred by collateral estoppel.
7. The plaintiff fails to state a claim in trespass against the SLO upon which relief can be granted.
8. The plaintiff fails to state a claim against the SLO pursuant to the 5th and 14th Amendments to the United States Constitution and Article II, Section 20 of the New Mexico Constitution upon which relief can be granted.

CROSS-CLAIM FOR INDEMNIFICATION

Comes now the defendant SLO and for its cross-claim against the defendant Sage Oil Company states:

1. This cross-claim is brought pursuant to New Mexico Rule of Civil Procedure 13(g) NMSA 1978 (1980 Repl. Pam.) and arises out of the transaction and occurrence that is the subject matter of the original action.
2. This Court has jurisdiction of the cross-claim pursuant to Article VI, Section 13 of the New Mexico Constitution and jurisdiction of Sage Oil Company pursuant to Section 38-1-16 (A)(1) and (4) NMSA 1978.

3. The SLO is a statutorily created agency of the State of New Mexico with its offices in Santa Fe, New Mexico.

4. Sage Oil Company conducts business in New Mexico and is the holder of a salt water disposal easement granted to Sage by the SLO on November 12, 1982 (SWD Easement 0104), a copy of which is attached to the Complaint as the plaintiff's Exhibit B.

5. Under Paragraph 12 of SWD Easement 0104 Sage Oil Company agrees to "save and hold harmless, indemnify and defend the State of New Mexico, the Commissioner of Public Lands, and his agent or agents, in their official and individual capacities, of and from any and all liability claims, losses, or damages arising out of or indirectly connected with the operations of grantee [Sage Oil Company] hereunder, off or on the hereinabove described lands, or the presence on said lands of any agent, contractor or subcontractor of grantee."

WHEREFORE the cross-claimant SLO respectfully requests that in the event the SLO is adjudged liable in this action to the plaintiff, the Court enforce the provisions of Paragraph 12 of SWD Easement 0104 and require Sage Oil Company to hold harmless,

indemnify and defend the SLO from any and all liability claims, losses, or damages assessed against the SLO.

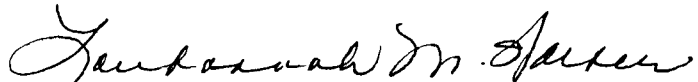
Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing pleading was mailed to all counsel of record this 15th day of August, 1986



LOUHANNAH M. WALKER