

BEFORE THE
Oil Conservation Commission
SANTA FE, NEW MEXICO

IN THE MATTER OF:

CASE NO. 1138

TRANSCRIPT OF PROCEEDINGS

DEARNLEY-MEIER AND ASSOCIATES
COURT REPORTERS
605 SIMMS BUILDING
TELEPHONE 3-6691
ALBUQUERQUE, NEW MEXICO

September 5, 1956

Application of R. E. Jackson for an order pooling all oil and gas interests in certain acreage in the Aztec-Pictured Cliffs Gas Pool, San Juan County, New Mexico, in accordance with Section 65-3-14 (c) New Mexico Statutes Annotated (1953). Applicant, in the above-styled cause, seeks an order pooling the rights and interests of all persons having the right to drill for, produce, or share production of oil, gas and liquid hydrocarbons, or any of them, underlying the SW/4 of Section 28, Township 29 North, Range 10 West, Aztec-Pictured Cliffs Gas Pool, San Juan County, New Mexico. The above-described quarter section is presently dedicated to the Bruington Pooled Unit Well No. 1 which is operated by Frances L. Harvey and located in the SW/4 SW/4 of said Section 28.

BEFORE:

TRANSCRIPT OF HEARING

MR. COOLEY: Application of R. E. Jackson for an order

MR. KELLAHIN: Jason W. Kellahin, Santa Fe, New Mexico, representing the applicant. We will have one witness. I would like to call Mr. Cotter.

C H A R L E S H. C O T T E R

having first been duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. KELLAHIN:

Q Would you state your name, please?

A Charles H. Cotter.

Q By whom are you employed?

A By Empire States Drilling Company.

Q What connection do you have with Mr. R. E. Jackson, the applicant in this case?

A I did the land and title work for him.

Q In connection with that work, Mr. Cotter, are you familiar with the application that has been filed in this case?

A Yes, sir.

Q Are you familiar with the lease ownership in connection with the southwest quarter of Section 28 in Township 29 north, Range 10 west?

A Yes, sir.

Q How did you become familiar with that?

A I was buying leases and putting together some drilling units around Bloomfield, New Mexico, and there was this acreage. They didn't have all the heirs, so I proceeded to go out and buy the rest of the heirs that Stanolind didn't have.

Q Which acreage are you referring to?

A The 280 which includes the north half of the southwest quarter of 28 where the well of Bruington No. 1 is drilled.

Q You say you got leases from five of seven heirs. Was that on the entire unit?

A That is on the full 280 acres, which included the unit of

this well.

Q But limiting your answer to the unit on which the well is located, what acreage is covered by the leases now held by you?

A The north half of the southwest quarter.

Q What lease does Francis L. Harvey hold on the same acreage?

A He holds a farm out from Stanolind on the two heirs that they had.

Q Have you made any check of the title on that particular acreage, Mr. Cotter?

A Yes, sir.

Q Have you examined the probate files?

A Yes, sir.

Q Have you obtained a certified copy of the decree in the estate of Katrine Elizabeth Anderson and Hans Anderson?

A Yes, sir.

Q I hand you what has been marked as Exhibit No. 1 and ask you to state if that is a certified copy?

A This is a certified copy I had made the other day at the Court House from Mrs. Dial, the County Clerk.

Q In what Court House?

A The San Juan County Court House.

Q Referring to that Exhibit, who were the heirs holding the property described, which is included within this unit, Mr. Cotter?

A Well, there was Mrs. Mary Downing, a daughter, Mrs. Anna Valintine, a daughter, Leonard Anderson, Fred Anderson, Levi Anderson, and there is one that omitted from the probate which is Wallace Anderson, and that was omitted. I have at home, I didn't bring it with me, two affidavits from Levi Anderson's daughter, and another one

of the heirs, stating that Wallace Anderson was heir and should have been included in the probate.

Q What was wrong?

A It was left out.

Q Did you check on that with the other heirs?

A Yes, and there was a Clara McDaniel, a daughter too. I overlooked it.

Q Among those heirs, who leased their lands to Stanolind?

A Leonard, who is now dead leased his and Fred Anderson who has disappeared from his original home in California, leased their lands to Stanolind.

Q From whom did you obtain leases?

A I obtained one from Anna Valintine, Mrs. Mary Downing, Mrs. McDaniel, Levi Anderson, and the widow of Wallace Anderson, who is now Mrs. Attridge.

Q Mr. Cotter, I hand you what has been marked as Applicant's Exhibit No. 2 through 6 inclusive, and ask you to state if those are photostatic copies of the leases?

A Yes, sir.

Q Do you have the originals of those leases with you?

A Yes, sir.

Q Are they present here in the hearing room for examination?

A Yes, sir.

MR. MANKIN: If there is no objection of the Applicant's counsel in this case, we will recess for approximately forty-five minutes until 10:30 at which time we expect Mr. Cornell might be present.

(Recess.)

MR. MANKIN: The Hearing will come to order. We will continue with Case 1138. At this particular time we will continue with the case. We have wasted a sufficient amount of time for Mr. Cornell. It is presently ten minutes to eleven and we indicated we would wait until ten-thirty. Proceed.

Q Would you state your name, please?

A Charles H. Cotter.

Q Are you the same Charles Cotter who was previously testifying in this case?

A Yes, sir.

Q I handed you prior to the recess of this Hearing, Exhibits marked 2 through 6 inclusive.

A Yes.

Q Did you state what those were? A They were leases.

Q Are those photostatic copies? A Yes.

Q The originals are here in the hearing room for examination?

A Yes, sir.

Q From whom were those leases obtained, Mr. Cotter?

A From Mrs. Attridge and her husband, from Mr. and Mrs. Downing, from Levi Anderson and wife, from Mr. McDaniel and wife, Clara McDaniel, and Roy Valentine, heirs of Hans Anderson.

Q Do those names include the persons named as heirs in Exhibit No. 1?

A All except one.

Q Which one is that?

A That is Mrs. Attridge.

Q Who is Mrs. Attridge?

A She is the wife of the late Wallace Anderson.

Q Has she since remarried?

A Yes, sir.

Q Is Wallace Anderson one of those named in the Exhibit No. 1?

A He wasn't named in the Exhibit No. 1. They left his name out inasmuch as he had died and they didn't think that his wife would be an heir?

Q Is that the individual you said you had affidavits concerning?

A Yes, sir.

Q What do the affidavits show?

A They state that Wallace Anderson was left out. That he was a legal heir of Hans Anderson, the son, and that he was left out of the probate proceedings.

Q By whom were the affidavits executed?

A By Mrs. Bunts, who is a daughter of Levi Anderson, one of the other heirs.

Q Do you have that affidavit with you?

A No, sir, I don't.

Q Are you willing to file it in this case as a late exhibit?

A Yes, sir.

Q In connection with this acreage, Mr. Cotter, is there a well on the unit involved in this hearing?

A Yes, sir.

Q What is that well?

A It is the Bruington No. 1.

Q I hand you what has been marked as Applicant's Exhibits 7 through 15 inclusive, and ask you to state what those are.

A Well, one is a notice of intention to drill and the location, plat, miscellaneous report on the wells, miscellaneous well report on well, two; miscellaneous reports on well, three; and certificate of compliance and authorization to transport oil and natural

gas, request for oil and gas allowable, well record, and the plat which is supposed to set out the royalty owners.

Q What exhibit is that you are referring to, Mr. Cotter?

A It is Exhibit 15.

Q That is the gas well plat? A Yes, sir.

Q Referring to all of the exhibits as a group, where did you obtain those, Mr. Cotter?

A From the Oil Conservation Commission office in Aztec.

Q Are those all the instruments contained in the well file?

A Yes, sir.

Q For the Bruington No. 1? A Yes, sir.

Q Referring to Exhibit No. 15, what does that show in regard to dedication of acreage?

A Roy Sullivan for the southeast quarter. G. E. Bruington for the southwest, and Stanolind, lessee Francis Harvey, farmout owner. It doesn't list the royalty owners as supposed to be filed.

Q Does that show 160 acres dedicated to the Bruington?

A Shows a full southwest quarter 160 acres.

Q Do you know when the Bruington Well No. 1 was placed on production?

A On November 11, 1953. It was tied on by El Paso Natural Gas Company.

Q Did you obtain a certificate from an employee of the Oil Conservation Commission?

A Yes, sir.

Q I hand you what has been marked as Applicant's Exhibit 16 and ask you to state what that is.

A It is a letter from the supervisor of District No. 3 stating

"To whom it may concern: This is to advise that according to records in our office, the F. L. Harvey No. 1 Bruington Well in the southwest quarter of Section 28, 29 North, 10 West, was tied into the El Paso Natural Gas Company pipeline and started producing on November 11, 1953".

Q Mr. Cotter, have you personally made any effort to obtain a pooling agreement with Mr. Harvey, Francis L. Harvey?

A Yes, sir, I have made seven trips to Wichita Falls to try and straighten this out.

Q Did you have any conferences with Mr. Harvey?

A Yes, and each time I was put off.

Q Have you been able to obtain any agreement with him as to pooling?

A No, sir, I have not.

Q Has he acknowledged to you at any time that you hold leases on this land?

A Yes, sir.

MR. KELLAHIN: At this time we move the introduction in evidence of Exhibits 1 through 16 inclusive.

MR. MANKIN: Are there any objections to entering Exhibits 1 through 16 in this case?

MR. KELLAHIN: Mr. Cornell hasn't had an opportunity to examine them.

MR. CORNELL: At this time I would like to enter an appearance for Francis Harvey and his associates and apologize to the Commission for being late here. I wasn't consulted about this until Sunday when I ran into Mr. Harvey and Mr. Hughes, and I told them I would try to be here at ten o'clock. I was delayed a little bit on the road.

About all I can request here you have gone ahead and I see that you have the exhibits.

MR. MANKIN: Would you like to look at them in the interim here?

MR. CORNELL: I would like to look them over. I wonder if we could have a little recess and let me talk to Mr. Kellahin and perhaps ten minutes, something like that.

MR. MANKIN: Is it agreeable to a ten minute recess?

MR. KELLAHIN: Yes, sir.

MR. MANKIN: We will recess for ten minutes more.

Recess.

MR. MANKIN: The Hearing will come to order.

MR. CORNELL: I have examined the exhibits and representing the respondents, offer no objection to the introduction of the exhibits, except insofar as any of them relate to the title, basic title of the leases, which we do not concede this Commission would have any jurisdiction over. At the same time, we don't object to the Commission issuing a forced pooling order. We will get together with the Complainant and I believe we will be able to work out the details of contribution and other matters and with respect to the simple order of forced communitization, we have no objection for the record.

MR. GURLEY: What do you mean the basic title?

MR. CORNELL: I understand there was a question of the heirship in the 80 acres. That will be a matter of examining the abstract which I haven't seen.

MR. COOLEY: The Commission will in no way attempt to adjudicate the title.

MR. KELLAHIN: You have no objection to the Commission's order including a finding that Mr. Harvey holds leases covering 2-7 and we hold leases covering 5-7 in order to grant the order for forced pooling?

MR. CORNELL: Insofar as my information is now, I would say, no, I have no objection. I haven't seen an abstract and I would hate to make it any stronger than that.

MR. KELLAHIN: We would have no objection to the order of the Commission passing upon an adjudication of the title in this case.

MR. MANKIN: Since there was no objection to the Exhibits 1 through 16 they will be received in evidence.

MR. KELLAHIN: That is all I have of the witness.

MR. MANKIN: That will be the only witness?

CROSS EXAMINATION

By MR. MANKIN:

Q Mr. Cotter, I take it from your direct testimony which you have given, that you, as representing Mr. Jackson, have made numerous attempts to get Mr. Harvey to join in this particular unit, the pooling of this 160 acres?

A Yes, sir. I have made seven trips to Wichita Falls to try to get him to straighten it out.

Q I believe it was also your testimony as shown by an exhibit, that this well has been on production in the Aztec-Pictured Cliff Gas Pool since about November, 1953?

A Yes, sir.

Q And the title of the well is the Bruington pooled unit?

A Yes, sir.

Q Even though in essence it has not been properly pooled prior

to this time?

A That is right.

By MR. COOLEY:

Q The Applicant in this case does not seek a retroactive pooling order, is that correct?

A No.

Q It will be effective from --

A (Interrupting) The date of our leases.

Q No, sir, you misunderstand my question. The order of the Commission, should they deem it advisable to pool this acreage, would be effective from the date of the order. It would be pooled from that date. It would have no retroactive effect that any accounting as to proceeds of production prior to that time would have to be made, aside from any action by the Commission?

A Yes, sir.

MR. KELLAHIN: I think that calls for a legal answer.

MR. COOLEY: I was just clarifying the application. They seek a retroactive pooling order or do they seek one effective from the date of the order?

MR. KELLAHIN: I believe I could answer that question. It is our position that the Commission should enter an order pooling this unit. It is further our position, whether the Commission passes on it at the present time or it is handled in some other manner, that upon the filing of the appropriate plats and the dedication of this acreage, it was in effect pooled. That would be a matter of accounting, which I think is possibly beyond the jurisdiction of the Commission. It is our position that we are seeking a pooling order. Whether the Commission enters it retroactively as

of the date that the various and sundry plats were filed or as of the date of the order, I think that would be within the discretion of the Commission.

MR. GURLEY: Your point is that the acreage was pooled as to the 5-7 at the time that you filed the necessary documents, is that correct?

MR. KELLAHIN: That is correct.

MR. GURLEY: You are asking for pooling of the other 2-7 along with it within the discretion of the Commission?

MR. KELLAHIN: The Applicant has the 5-7 which we are asking to be pooled with the remainder of the leases which includes the 2-7 in the acres of the north half and the acreage in the south half which is held under different leases.

By MR. MANKIN:

Q To continue further, Mr. Cotter, then what Mr. Jackson is requesting here is that Francis Harvey as the operator of this well, did at the time he filed the necessary plats and production started in 1953, did in essence claim the acreage which he did not have, is that what you are saying?

A Yes, sir.

Q That is why you are requesting pooling at this time?

A Yes, sir.

Q Therefore the Commission, in good faith, at that time issued an allowable based on 160 acres which the Applicant or the operator at that time did not properly have?

A Yes, sir.

By MR. UTZ:

Q Is the gas well plat as shown as a photostatic copy on

DEARNLEY-MEIER AND ASSOCIATES
STENOGRAPHIC REPORTERS
ALBUQUERQUE, NEW MEXICO
TELEPHONE 3-6691

DEARNLEY-MEIER AND ASSOCIATES
STENOGRAPHIC REPORTERS
ALBUQUERQUE, NEW MEXICO
TELEPHONE 3-6691

Exhibit 15?

A Yes, sir.

Q That is the New Mexico Oil Conservation Commission gas well plat dated January 10, 1955?

A Yes, sir.

Q Under the name of the pool does it not say "Bloomfield"?

A Yes, sir.

Q I would like to make a correction to that, that is the Aztec-Pictured Cliff Gas Pool rather than the Bloomfield-Pictured Cliff Gas Pool. Our Commission record is in error in that respect.

A It could be called the Kutz-Fulcher also.

Q It's within the limits of the Aztec-Pictured Cliffs Gas Pool as now designated by the Oil Conservation Commission?

A It is.

MR. UTZ: That is all I have.

MR. MANKIN: He was merely making photostatic copies of the records that were in our files and all he is testifying to is to what was in the files, what is the proper nomenclature is aside from what is in the exhibit.

MR. UTZ: I am not questioning his statement as to whether or not it is correct. I am merely correction the Commission's own records.

MR. MANKIN: Is there further question of the witness in this case? Do you have anything further, Mr. Cornell?

MR. CORNELL: No.

MR. KELLAHIN: That is all I have.

MR. MANKIN: If there is nothing further the witness may be excused. We will take the case under advisement.

(Witness excused.)

C E R T I F I C A T E

I, ADA DEARNLEY, Court Reporter, do hereby certify that the foregoing and attached transcript of proceedings in the matter of Case No. 1138 were taken by me on September 5, 1956; that the same is a true and correct record to the best of my knowledge, skill and ability.

Ada Dearnley
Reporter