

FILED IN 2122

IN THE DISTRICT COURT OF LEA COUNTY

STATE OF NEW MEXICO

GENERAL PETROLEUM, INCORPORATED,)
A CORPORATION,)

PLAINTIFF,)

VS.)

No. _____

OIL CONSERVATION COMMISSION OF)
NEW MEXICO COMPOSED OF JOHN)
BURROUGHS, MEMBER AND CHAIRMAN,)
MURRAY E. MORGAN, MEMBER, AND)
A. L. PORTER, JR., MEMBER AND)
SECRETARY; PAN AMERICAN PETROLEUM)
CORPORATION, A CORPORATION;)
CONTINENTAL OIL COMPANY, A)
CORPORATION; AMERADA PETROLEUM)
CORPORATION, A CORPORATION;)
HUMBLE OIL & REFINING COMPANY,)
A CORPORATION; SINCLAIR OIL &)
GAS COMPANY, A CORPORATION;)
SUNRAY MID-CONTINENT OIL COMPANY,)
A CORPORATION,)

DEFENDANTS.)

PETITION FOR REVIEW OF ORDER
OF OIL CONSERVATION COMMISSION OF NEW MEXICO

COMES NOW General Petroleum, Incorporated by its attorneys, Edwards & Reese, and respectfully petitions the Court pursuant to Chapter 65-3-22, New Mexico Statutes 1953 Annotated, for a review of the decision and order made and entered on the 25th day of June, 1959, denying the application of petitioner for amendment of Rule 311 of the New Mexico Oil Conservation Commission Statewide Rules and Regulations, and as grounds for said petition respectfully alleges and shows:

1. That plaintiff, General Petroleum, Incorporated, is a licensed oil treating plant operator with a treating plant at Hobbs, Lea County, New Mexico, and that each of the individual

defendants above named protested plaintiff's application for amendment.

2. That heretofore on or about the 27th day of March, 1959, plaintiff filed its application herein to amend Rule 311 of the Statewide Rules and Regulations of the New Mexico Oil Conservation Commission as it was at that time, and that plaintiff is aggrieved and directly effected by the findings of fact, conclusions of law, decision and order of the defendant, New Mexico Oil Conservation Commission, dated June 25, 1959, denying said application, said order being Order No. R-1299-A in Case No. 1522 before the New Mexico Oil Conservation Commission.

3. That said decision and order were based on findings made by defendant, New Mexico Oil Conservation Commission, after a formal contested hearing conducted by defendant Commission on the 9th day of June, 1959, at Santa Fe, New Mexico, a copy of said order being attached hereto, marked Exhibit A and made a part hereof as though set out in full herein.

4. That thereafter and within 20 days, pursuant to the rules of the Commission, plaintiff applied for rehearing upon its application, which application was denied by the Commission on July 21, 1959 by its Order No. R-1299-B.

5. Plaintiff, by its application, sought to revise Rule 311, subparagraph (c) of the Statewide Rules and Regulations of the New Mexico Oil Conservation Commission which is as follows:

"(c) When sediment oil is to be removed from a lease for reclamation, the person removing such sediment oil shall obtain a permit (Form C-117-B) from the appropriate

District Office of the Commission prior to removal of the oil from the lease. Any merchantable oil recovered from sediment oil shall be charged against the allowable for the wells on the originating lease. All such recovered oil shall be reported by the operator of the lease on Form C-115 (Operator's Monthly Report). Nothing contained in paragraph (c) of this Rule shall apply to reclaiming of pipeline break oil or the treating of tank bottoms occurring at a pipeline station, crude oil storage terminal, or refinery, to the treating by a gasoline plant operator of oil and other catchings collected in traps and drips in the gas gathering lines connected to gasoline plants and in scrubbers at such plants, nor to the treating or reclamation of oil and other catchings collected in community salt water disposal systems."

by inserting in the second sentence thereof the word "not" so that said sentence as amended would read:

"Any merchantable oil recovered from sediment oil shall not be charged against the allowable for the wells on the originating lease."

and to amend Form C-117-B provided for by Rule 1116 (b), to delete therefrom the provision which charges the merchantable oil recovered to the allowable of the originating lease.

Plaintiff appeared at said hearing, offered testimony and exhibits, and no evidence was produced by the protestants or Commission. Thereafter, the Commission denied plaintiff's application as hereinbefore stated.

6. That plaintiff alleges that the action of the Commission in refusing to make the amendment sought was arbitrary and capricious in that all of the evidence in the case supported plaintiff's application, and the defendant Commission's action in denying the application is completely unsupported by any evidence in this case.

7. Plaintiff further alleges that said defendant Commission in said order denying plaintiff's application failed to determine a material issue in controversy, to-wit: whether

or not sediment oil is allowable oil under the laws of New Mexico and the rules and regulations of the Commission.

8. Plaintiff alleges that said Rule 311 is inconsistent in that it provides that (sediment oils which are recovered become allowable oil while providing in the same order that sediment oils destroyed or used on the leased premises for fire walls, road coverings and other uses are not allowable oils, thus making the same sediment oil as allowable or not allowable oil depending upon the use made of the oil instead of its petroleum characteristics.) Plaintiff alleges that said sediment oils are not allowable oil by reason of the rules and regulations of the defendant Commission and regardless of the proposed use of said sediment oils and that all of the evidence before the Commission so showed and that the Commission's action in Order No. R-1299-A is an unreasonable, arbitrary and capricious ruling not based upon any evidence before the Commission at said hearing.

9. That finding of fact No. 3 in said Order No. R-1299-A is contrary to all of the evidence in this case and is not supported by any evidence, and that all of the evidence in this case is that the proposed revision would prevent waste and promote the ultimate recovery of the maximum amount of oil produced in New Mexico, and that it was the duty of the Commission under Section B, Rule 3 of their own Rules and Regulations and Chapter 65-3-2, New Mexico Statutes 1953 Annotated to enact the amendment proposed by plaintiff.

10. That said Rule 311, subparagraph (c) is inconsistent with and violates the following rules and regulations of the Commission:

- (1) Section A - 3
- (2) Section A - 5
- (3) Section A - 28
- (4) Section A - 60
- (5) Section A - 62
- (6) Section A - 65
- (7) Section A - 67 (b)
- (8) Section B - Rule 3

and the following laws of the State of New Mexico:

- (1) Section 65-3-2
- (2) Section 65-3-3 (b)
- (3) Section 65-3-10.

11. That finding of fact No. 4 in said order violates Rule 1212 of the Statewide Rules and Regulations of the Commission in that there is no competent legal evidence to support said finding and that all of the competent legal evidence before the Commission is contrary to said finding, and that under the law and regulations of the Commission the amendment sought by plaintiff should have been granted and that it was the duty of the Commission under the laws of New Mexico and their rules and regulations to grant said amendment, and that their refusal to grant said amendment was unreasonable, arbitrary and capricious.


WHEREFORE, plaintiff prays that this Court vacate Order No. R-1299-A and enter its order herein amending Rule 311, subparagraph (c) by inserting in the second sentence thereof the word "not" so that said sentence shall read:

"Any merchantable oil recovered from sediment oil shall not be charged against the allowable for the wells on the originating lease."

and by entering its order herein amending Form C-117-B provided for by Rule 1116 (b) to delete therefrom the provision which charges the merchantable oil recovered to the allowable of the originating lease; or in the alternative, for the Court to enter its order herein vacating said Order No. R-1299-A and to enter

its order herein ordering said Commission to enter its order allowing said amendments sought by plaintiff, and for such other and further relief as to the Court may seem proper.

EDWARDS & REESE

By 
Hobbs, New Mexico
Attorneys for Plaintiff

M. Reese

EXHIBIT A

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

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

CASE No. 1822
Order No. R-1299-A

APPLICATION OF GENERAL
PETROLEUM, INC., FOR A REVISION
OF RULE 311 AND AN AMENDMENT OF
ORDER NO. R-1299 TO PROVIDE THAT
ANY MERCHANTABLE OIL RECOVERED
FROM SEDIMENT OIL SHALL NOT BE
CHARGED AGAINST THE ALLOWABLE
FOR THE WELL OR WELLS FROM
WHICH SAID OIL WAS PRODUCED

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 o'clock a.m. on June 9, 1959, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 25th day of June, 1959, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, General Petroleum, Inc., seeks a revision of Rule 311 of the Commission Rules and Regulations and an amendment of Order No. R-1299 to provide that any merchantable oil recovered from sediment oil shall not be charged against the allowable for the well or wells from which said oil was produced.

(3) That such a revision would penalize the prudent operator and would encourage the inefficient operation of oil and gas leases.

(4) That the subject application should be denied.

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Case No. 1322

Order No. R-1299-A

IT IS THEREFORE ORDERED:

That the application of General Petroleum, Inc., for a revision of Rule 311 of the Commission Rules and Regulations and an amendment of Order No. R-1299 to provide that any merchantable oil recovered from sediment oil shall not be charged against the allowable for the well or wells from which said oil was produced be and the same is hereby denied.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

JOHN BURROUGHS, Chairman

MURRAY E. MORGAN, Member

A. L. PORTER, Jr., Member & Secretary

W. E. A. S.

vern

ILLEGIBLE

COPY

HERVEY, DOW & HINKLE, ATTORNEYS
ROSWELL, NEW MEXICO

September 23, 1959

Mr. N. Randolph Reese
Edwards & Reese
Attorneys at Law
P. O. Box 2405
Hobbs, New Mexico

Re: General Petroleum v. OCC
No. 17591 D. C. Lea County
Our No. 127-18

Dear Randy:

It is my understanding that the Court dismissed the above case for lack of proper venue.

Under the circumstances, I do not see any necessity of Humble pleading in the case at this point. If you decide to take an appeal to the Supreme Court, and if the case should be reversed, Humble would like to answer, or intervene at that time, as we are interested in some of the legal propositions which might be urged. We do not desire to participate in any appeal which may be taken to the Supreme Court. I hope that the above suggestions are satisfactory to you and if so we will proceed on the assumption that if the matter should be appealed and reversed, we could appear and participate further at that time. If this arrangement is satisfactory to you, please let me know immediately in order that we may take steps to protect our right to appear at a later date.

With kindest personal regards.

Very truly yours,

HERVEY, DOW & HINKLE

By *Edward D. Hinkle*

HCB:db

JOHN R. BRAND

DISTRICT JUDGE
FIFTH JUDICIAL DISTRICT
STATE OF NEW MEXICO

P. O. BOX 1176
HOBBS, NEW MEXICO

October 5, 1959

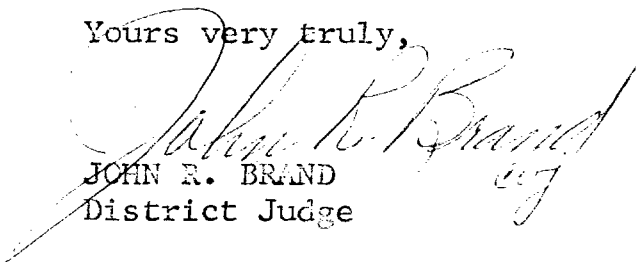
Mr. Oliver E. Payne
General Counsel
Oil Conservation Commission
P. O. Box 871
Santa Fe, New Mexico

Re: Gen. Petroleum, Inc.
vs. OCC
No. 17,591 - Lea

Dear Mr. Payne:

I have put up the Order of Dismissal submitted and
am enclosing same herewith for filing.

Yours very truly,



JOHN R. BRAND
District Judge

Encl.

cc: Messrs. Edwards & Reese

IN THE DISTRICT COURT OF LEA COUNTY
STATE OF NEW MEXICO

GENERAL PETROLEUM, INCORPORATED,
A CORPORATION,

PLAINTIFF,

vs.

OIL CONSERVATION COMMISSION OF NEW
MEXICO COMPOSED OF JOHN BURROUGHS,
MEMBER AND CHAIRMAN, MURRAY E.
MORGAN, MEMBER, AND A. L. PORTER, JR.,
MEMBER AND SECRETARY; PAN AMERICAN
PETROLEUM CORPORATION, A CORPORATION;
CONTINENTAL OIL COMPANY, A CORPORATION;
AMERADA PETROLEUM CORPORATION, A
CORPORATION; HUMBLE OIL AND REFINING
COMPANY, A CORPORATION; SINCLAIR OIL
& GAS COMPANY, A CORPORATION; SUNRAY
MID-CONTINENT OIL COMPANY,

NO. 17591

DEFENDANTS

ORDER OF DISMISSAL

This matter having come on for hearing on the motion of the defendants, Oil Conservation Commission of New Mexico, Continental Oil Company, and Amerada Petroleum Corporation, for dismissal of the above-styled cause on the ground of improper venue, and it appearing that the plaintiff has no property in Lea County, New Mexico, which is affected by the decision appealed from as required by Section 65-3-22, NMSA, 1953 Comp., and the Court being fully advised in the premises,

NOW, THEREFORE, IT IS ORDERED that the above-styled cause be and the same is hereby dismissed for improper venue.

DISTRICT JUDGE

IN THE DISTRICT COURT OF LEA COUNTY
STATE OF NEW MEXICO

GENERAL PETROLEUM, INCORPORATED,
A CORPORATION,

PLAINTIFF,

VS.

OIL CONSERVATION COMMISSION OF
NEW MEXICO, COMPOSED OF JOHN
BURROUGHS, MEMBER AND CHAIRMAN,
MURRAY E. MORGAN, MEMBER, AND
A. L. PORTER, JR., MEMBER AND
SECRETARY; PAN AMERICAN PETROLEUM
CORPORATION, A CORPORATION; CON-
TINENTAL OIL COMPANY, A CORPORA-
TION; AMERADA PETROLEUM CORPORA-
TION, A CORPORATION; HUMBLE OIL
AND REFINING COMPANY, A CORPORA-
TION; SINCLAIR OIL AND GAS COMPANY,
A CORPORATION; SUNRAY MID-CONTIN-
ENT OIL COMPANY, A CORPORATION,

DEFENDANTS.

NO. 17541

MOTION TO DISMISS

COMES NOW the Oil Conservation Commission of New Mexico,
named as Defendant in the above-styled cause, by its
attorney and moves the court to dismiss the above-styled
cause for the following reasons:

1. The Plaintiff has no property in Lea County,
New Mexico, in the sense contemplated by Section 65-3-22,
NMSA, 1953 Comp., which is affected by the decision of
the Oil Conservation Commission appealed from.

2. Notwithstanding whether or not the Plaintiff
has property in Lea County, New Mexico, which is affected
by the decision of the Oil Conservation Commission appealed

from, venue of this proceeding in the District Court of Lea County, New Mexico, is improper. Defendant is a state officer and under Section 21-5-1 (G), NMSA, 1953 Comp., a suit against any state officers may be brought only in the District Court of Santa Fe County, at Santa Fe, New Mexico, where their offices are located and not elsewhere.

WHEREFORE, Defendant Oil Conservation Commission of New Mexico prays that the Petition for Review filed in this cause be dismissed.

OLIVER E. PAYNE
Special Assistant Attorney General
Attorney for Defendant
Oil Conservation Commission

By: _____

I hereby certify that a true copy of the foregoing instrument was mailed to opposing counsel of record this 28th day of August, 1959. *Oliver E. Payne*

STATE OF NEW MEXICO

LEA COUNTY

IN THE DISTRICT COURT

FEDERAL PETROLEUM, INCORPORATED,)
A CORPORATION,)

Plaintiff,)

-vs-

No. 17591

OIL CONSERVATION COMMISSION OF)
NEW MEXICO, ET AL.,)

Defendants.)

M O T I O N

Comes now Sinclair Oil and Gas Company, a corporation, named as a defendant herein, and by its attorneys moves the Court for an order dismissing this cause at plaintiff's cost for the following reasons:

1. The complaint herein fails to state a claim upon which relief can be granted.

2. The Court is without jurisdiction to grant the relief prayed for, or any relief.

3. The complaint does not show, as required by Section 65-3-22, New Mexico Statutes, 1953, Annotated, that said complaint presents for review on appeal only questions presented to the defendant Oil Conservation Commission of New Mexico by application for rehearing.

4. The Complaint shows on its face that plaintiff has no interest sufficient to support its claim for relief.

HORACE B. BURTON
P. O. Box 1470
Midland Texas

KELLAHIN & PEA
P. O. Box 1713
Santa Fe, New Mexico

I hereby certify that a true copy of
the foregoing instrument was mailed to
opposing counsel of record this 22
day of Sept., 1959

Original Signed By
Jason W. Kellahin

By Jason W. Kellahin
attorneys for defendant
Sinclair Oil & Gas Company

STATE OF NEW MEXICO

COUNTY OF LEA

IN THE DISTRICT COURT

GENERAL PETROLEUM, INCORPORATED,)
A CORPORATION,)

Plaintiff,)

-vs-

No. 17591

OIL CONSERVATION COMMISSION OF)
NEW MEXICO, ET AL.,)

Defendants.)

M O T I O N

I

Comes now Continental Oil Company, named as a defendant herein and by its attorneys moves the Court for an order dismissing this cause at plaintiff's cost for the reason that the venue of this action does not lie in the District Court for Lea County in that plaintiff has no property in said county affected by the decision of the Oil Conservation Commission of New Mexico as contemplated by law, and Defendant Oil Conservation Commission of New Mexico and the individual members thereof named as defendants herein are state officers against whom suit may be brought only in the District Court for Santa Fe County, Santa Fe, New Mexico, where their offices are located, as provided by Section 21-5-1 (G), New Mexico Statutes, 1953, Annotated.

II

Without in any manner waiving the above and foregoing motion, and subject to the ruling of the Court thereon, Defendant Continental Oil Company, by its attorneys moves the Court for an order dismissing this cause at plaintiff's costs on the following grounds:

1. The complaint herein fails to state a claim upon which relief can be granted.

2. The Court is without jurisdiction to grant the relief prayed for, or any relief.

3. The plaintiff has no property in Lea County, New Mexico, as contemplated by Section 65-3-22, New Mexico Statutes, 1953, Annotated, which is affected by the decision of the Oil Conservation Commission of New Mexico, from which this appeal is taken.

4. The complaint does not show, as required by Section 65-3-22, New Mexico Statutes, 1953, Annotated, that said complaint presents for review on appeal only questions presented to the defendant Oil Conservation Commission of New Mexico by application for rehearing.

5. The complaint shows on its face that plaintiff has no interest sufficient to support its claim for relief.

HARRY G. DIPPEL
Fair Building
Fort Worth 2, Texas

KELLAHIN & FOX
P. O. Box 1713
Santa Fe, New Mexico

By Jason W. Kellahin

Attorneys for Defendant
Continental Oil Company

I hereby certify that a true copy of
the foregoing instrument was mailed to
opposing counsel of record this 4th
day of Sept, 19 58
Signed By
Jason W. Kellahin

STATE OF NEW MEXICO

COUNTY OF LEA

IN THE DISTRICT COURT

GENERAL PETROLEUM, INCORPORATED,)
A CORPORATION,)

Plaintiff,)

-vs-

No. 17591

OIL CONSERVATION COMMISSION OF)
NEW MEXICO, ET AL.,)

Defendants.)

M O T I O N

I

Comes now Amerada Petroleum Corporation, named as a defendant herein and by its attorneys moves the Court for an order dismissing this cause at plaintiff's cost for the reason that the venue of this action does not lie in the District Court for Lea County in that plaintiff has no property in said county affected by the decision of the Oil Conservation Commission of New Mexico as contemplated by law, and Defendant Oil Conservation Commission of New Mexico and the individual members thereof named as defendants herein are state officers against whom suit may be brought only in the District Court for Santa Fe County, Santa Fe New Mexico, where their offices are located, as provided by Section 21-5-1 (G), New Mexico Statutes, 1953, Annotated.

II

Without in any manner waiving the above and foregoing motion, and subject to the ruling of the Court thereon, Defendant Amerada Petroleum Corporation, by its attorneys moves the Court for an order dismissing this cause at plaintiff's costs on the following grounds:

1. The complaint herein fails to state a claim upon which relief can be granted.

2. The Court is without jurisdiction to grant the relief prayed for, or any relief.

3. The plaintiff has no property in Lea County, New Mexico, as contemplated by Section 65-3-22, New Mexico Statutes, 1953, Annotated, which is affected by the decision of the Oil Conservation Commission of New Mexico, from which this appeal is taken.

4. The complaint does not show, as required by Section 65-3-22, New Mexico Statutes, 1953, Annotated, that said complaint presents for review on appeal only questions presented to the defendant Oil Conservation Commission of New Mexico by application for rehearing.

5. The complaint shows on its face that plaintiff has no interest sufficient to support its claim for relief.

JOHN S. MILLER
P. O. Box 2040
Tulsa 2, Oklahoma

KELLAHIN & FOX
P. O. Box 1713
Santa Fe, New Mexico

I hereby certify that a true copy of
the foregoing instrument was mailed to
opposing counsel of record this 4th
day of Sept., 19 59

Original Signed By
Jason W. Kellahin

By Jason W. Kellahin
Attorneys for Defendant
Amerada Petroleum Corporation

MEMO TO THE FILE: General Petroleum, Inc.,
v.
Oil Conservation Commission

VENUE OF THE CAUSE:

Section 65-3-22(b) of the New Mexico Statutes provides that any party to a rehearing before the Conservation Commission and dissatisfied with the disposition of same may appeal therefrom to the District Court of the "County wherein is located any property of such party affected by the decision" etc.

Subsection (d) of the New Mexico Statute referred to in the preceding paragraph provides:

"The applicable rules of practice and procedure in civil cases for the courts of this state shall govern the proceedings for review, and any appeal therefrom to the Supreme Court of this state, to the extent such rules are consistent with provisions of this act."

There is nothing in the petition for review as filed by the appellant in captioned suit to indicate that any property of the appellant and affected by the Commission's decision is located in Lea County, or any other County, of New Mexico. It would appear from the relief sought in this petition that subsection (b) of Section 65-3-22 of the Statutes would have no application; and that subsection (d) would apply.

The New Mexico procedural statute pertaining to venue, Section 21-5-1, provides that all civil actions commenced in the District Courts shall be commenced in counties, as follows:

"(g) Suits against any state officers as such shall be brought in the court of the county wherein their offices are located at the capitol and not elsewhere."

Reading Section 65-3-22(b) and (d) in connection with Section 21-5-1(g), it might be argued that venue is in the district court of the county where the capitol is situated.

I doubt, however, that the Lea County District Court does not have jurisdiction over the case.

The Supreme Court of New Mexico has held in Peisker v. Chavez, 46 N.M. 159 or 123 P. (2d) 726, that there are three essential elements of jurisdiction, to wit:

- (1) Jurisdiction of the class of cases to which the one to be adjudged belongs,
- (2) Jurisdiction of the parties to the action,
- (3) And the point decided must be in substance and effect within the issues.

Article VI, Section 13 of the State Constitution provides:

"The District Court shall have original jurisdiction in all matters and causes not excepted in this Constitution, and such jurisdiction of special cases and proceedings as may be conferred by law, and appellate jurisdiction of all cases originating in inferior courts and tribunals in their respective districts, and supervisory control over the same.
....."

From this, it would appear that the Constitution did not limit the jurisdiction of the district court to any particular territory in "special cases and proceedings as may be conferred by law;" and that the legislature by its statutory provisions here mentioned was at most setting the venue for appeals from the Conservation Commission.

It is reasonable to therefore conclude that although the Lee County court has in this case jurisdiction to take the case on appeal from the Conservation Commission, there are reasonable grounds for argument that venue is located in the county in which the capital is situated.

So far as Amerada Petroleum Corporation is concerned, assuming that the Lee County court has jurisdiction, I see no beneficial reason for Amerada insisting upon a removal of the cause.

H. D. BUNNELL
August 25, 1959

cc: Mr. Jason Kallahan

SEP 13 AM 9 43

Supplemental 9-16-58 JBJ

Oct. Reg. 1522

THE OIL CONSERVATION COMMISSION
STATE OF NEW MEXICO

IN THE MATTER OF THE APPLICATION OF)
LEA COUNTY DRIP COMPANY, INC. (NO)
STOCKHOLDERS' LIABILITY), A NEW)
MEXICO CORPORATION, FOR REVISION OF)
RULES 311, 312, 1116, AND 1117 OF THE)
STATEWIDE RULES AND REGULATIONS OF)
THE NEW MEXICO OIL CONSERVATION)
COMMISSION.)

Case No. 1522

COMES NOW Lea County Drip Company, Inc. (No Stockholders' Liability), a New Mexico corporation, and respectfully petitions the New Mexico Oil Conservation Commission to amend the following Statewide Rules and Regulations to read as follows:

1.

"RULE 311. WASTE OIL

(a) DEFINITION

"Waste oil" is defined as any unmerchantable liquid hydrocarbon accumulating on an oil and gas lease incidental to normal oil field operations, such as tank bottoms and accumulations in pits, cellars, and sumps.

(b) DESTRUCTION PROHIBITED

The destruction of waste oil is prohibited when it is economically feasible to reclaim the same.

No waste oil shall be destroyed, by burning or otherwise, unless and until the Commission has approved an application to destroy the same on Form C-117-A.

(c) RECLAMATION

When waste oil is to be removed from lease for reclamation, the person removing such oil shall obtain a permit (Form C-117-B) from the appropriate District Office prior to

removal from the lease. Any merchantable oil recovered from such waste oil shall not be chargeable against the allowable of the originating lease.

The provisions of the foregoing paragraph do not apply when waste oil is reclaimed on the lease where it originates and is disposed of through the authorized transporter for the lease as shown on Form C-110.

(d) The provisions of this rule do not apply when waste oil is put to beneficial use on the originating lease for purposes of oiling lease roads, fire walls, tank grades, or any other similar purpose."

2.

"RULE 312. TREATING PLANTS

No treating plant shall operate except in conformity with the following provisions:

(a) Prior to the construction of a treating plant, a written application shall be filed for a treating plant permit stating in detail the location, type and capacity of the plant contemplated. The Commission, in not less than 30 days, will set such application for hearing to determine whether the proposed plant and method of processing will efficiently process, treat and reclaim waste oil. Before beginning actual operations, the permittee shall file with the Commission a performance bond in the amount of \$10,000.00, conditioned upon substantial compliance with applicable statutes of the State of New Mexico and all rules, regulations, and orders of the Oil Conservation Commission of New Mexico.

(b) Such permit shall entitle the treating plant operator to an approved Certificate of Compliance and Authoriza-

tion to Transport Oil, Commission Form C-110, for the total amount of products secured from waste oils processed by the operator. All treating plant operators shall, on or before the 25th day of each calendar month, file at the appropriate District Office, a monthly report on Commission Form C-118, which report shall support the Commission Form C-110 for the net oil recovered and sold during the preceding month.

(c) All permits shall be revocable, after notice and hearing, upon showing of good cause."

3.

"RULE 1116. WASTE OIL DISPOSITION PERMITS (FORM C-117-A and C-117-B)

(a) Form C-117-A, Waste Oil Destruction Permit, shall be submitted in TRIPLICATE in accordance with Rule 311, and shall contain the following information:

- (1) Name of operator
- (2) Name and location of lease
- (3) Type of waste oil (tank bottom, emulsion, etc.)
- (4) Estimated amount (in barrels).

(b) Form C-117-B, Waste Oil Recovery Permit, shall be submitted in QUADRUPLICATE in accordance with Rule 311, and shall contain the following information:

- (1) Name of Transporter
- (2) Name of operator
- (3) Name and location of lease
- (4) Type of waste oil (tank bottom, emulsion, etc.)
- (5) Estimated amount (in barrels)
- (6) Disposition

"RULE 1117. TREATING PLANT OPERATOR'S MONTHLY REPORT (FORM C-118)

Form C-118 shall be submitted in DUPLICATE in accordance with Rule 312, and shall contain the following information:

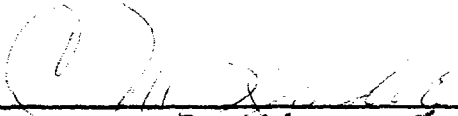
- (1) Name of treating plant operator.
- (2) Location of plant or plants.
- (3) Source of each individual acquisition.
- (4) Number of permit authorizing acquisition.
- (5) Gross volume of waste oil acquired from each source.
- (6) Net amount of pipeline oil recovered from each acquisition."

Petitioner further requests an early hearing before the Commission upon the above matters and any related matters which may properly come before the Commission in connection with the above styled cause, and respectfully suggests a hearing on October 15, 1958.

Respectfully submitted,

LEA COUNTY DRIP COMPANY, INC.
(No Stockholders' Liability)

By


President

151

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

APPLICATION OF GENERAL PETROLEUM,)
INCORPORATED FOR AMENDMENT OF)
RULES 311 AND 1116 OF THE STATE-)
WIDE RULES AND REGULATIONS OF THE)
OIL CONSERVATION COMMISSION OF)
NEW MEXICO.)

No. 1522

A P P L I C A T I O N

COMES NOW General Petroleum, Incorporated, and moves
the Commission to amend Rule 311, subparagraph (c), of the
Statewide Rules and Regulations to read as follows:

"(c) When sediment oil is to be removed from a lease for reclamation, the person removing such sediment oil shall obtain a permit (Form C-117-B) from the appropriate District Office of the Commission prior to removal of the oil from the lease. Any merchantable oil recovered from sediment oil shall not be charged against the allowable for the wells on the originating lease. All such recovered oil shall be reported by the operator of the lease on Form C-115 (Operator's Monthly Report). Nothing contained in paragraph (c) of this Rule shall apply to reclaiming of pipeline break oil or the treating of tank bottoms occurring at a pipeline station, crude oil storage terminal, or refinery, to the treating by a gasoline plant operator of oil and other catchings collected in traps and drips in the gas gathering lines connected to gasoline plants and in scrubbers at such plants, nor to the treating or reclamation of oil and other catchings collected in community salt water disposal systems."

and to amend Form C-117-B provided for by Rule 1116 (b) to delete therefrom the provision which charges the merchantable oil recovered to the allowable of the originating lease.

Petitioners respectfully request a hearing before the full Commission at the April meeting of the Commission or as there after as the same can be heard.

GENERAL PETROLEUM, INCORPORATED

By

A. M. Kuder

President

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BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO

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

CASE No. 1522
Order No. R-1299-A

APPLICATION OF GENERAL
PETROLEUM, INC., FOR A REVISION
OF RULE 311 AND AN AMENDMENT OF
ORDER NO. R-1299 TO PROVIDE THAT
ANY MERCHANTABLE OIL RECOVERED
FROM SEDIMENT OIL SHALL NOT BE
CHARGED AGAINST THE ALLOWABLE
FOR THE WELL OR WELLS FROM
WHICH SAID OIL WAS PRODUCED

APPLICATION FOR RE-HEARING

COMES NOW the applicant, General Petroleum,
Incorporated, and respectfully moves the Oil Conservation
Commission of New Mexico, hereinafter referred to as the
"Commission", for a re-hearing with respect to Order No.
R-1299-A and for a reversal of said order, and as its grounds
therefor, states:

1. That the Commission in Order R-1299-A has failed to determine a material issue in controversy, to-wit: whether or not sediment oil is allowable oil under the laws of New Mexico and the rules and regulations of the Commission, and that said finding is necessary under the application filed herein.
2. That Rule 311 of the Commission Rules and Regulations, as amended by Order R-1299, is inconsistent in that it provides that sediment oils which are recovered become allowable

oil while providing in the same order that sediment oils destroyed or used on the lease premises for fire walls, road coverings and other uses are not allowable oils, thus characterizing the same sediment oil as allowable or not allowable oil depending upon the use made of the oil instead of its petroleum characteristics, it being the contention of the applicant that said sediment oils are not allowable oil by reason of the rules and regulations of this Commission and regardless of the proposed use of said sediment oils and that Order R-1299-A is an unreasonable, arbitrary and capricious ruling, inconsistent in itself, based not upon the evidence as to the physical characteristics of said oil but upon the proposed use of the same.

3. That finding of fact No. 3 is contrary to all the evidence in this case and is not supported by any evidence, and that all of the evidence in this case is that the proposed revision would prevent waste and promote the ultimate recovery of the maximum amount of oil produced in New Mexico.

4. That said order as written is inconsistent with and violates the following rules and regulations of the Commission:

- (1) Section A - 3
- (2) Section A - 6
- (3) Section A - 28
- (4) Section A - 60
- (5) Section A - 62
- (6) Section A - 65
- (7) Section A - 67 (b)
- (8) Section B - Rule 3

and the following laws of the State of New Mexico:


- (1) Section 65-3-2
- (2) Section 65-3-3 (b)
- (3) Section 65-3-10.

5. That finding of fact No. 3 in said Order R-1299-A violates Rule 1212 of the Commission in that said finding is contrary to all of the competent legal evidence in this case, and said finding that the proposed revision would penalize the prudent operator and encourage the inefficient operation of oil and gas leases is not supported by any competent legal evidence.

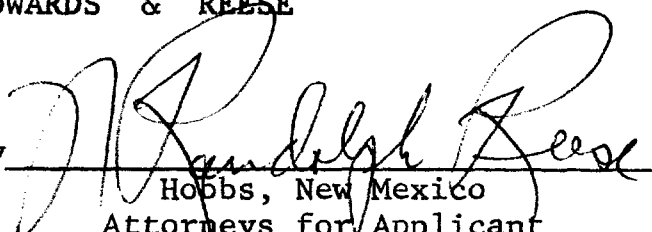
6. That finding of fact No. 4 violates Rule 1212 of the Commission in that there is no competent legal evidence to support said finding and that all of the competent legal evidence before the Commission is contrary to said finding.

For all of which reasons applicant prays that the Commission order a re-hearing in the above entitled cause and upon such re-hearing grant the revision prayed for in applicant's petition herein.

GENERAL PETROLEUM, INCORPORATED

By 
President

EDWARDS & REESE

By 
Hobbs, New Mexico
Attorneys for Applicant