

IN THE DISTRICT COURT OF LEA COUNTY, STATE OF NEW MEXICO

AMANDA E. SIMS and GEORGE W.
SIMS,

Petitioners,

-vs-

No. 18,860

HONORABLE JOHN BURROUGHS,
CHAIRMAN, MURRY E. MORGAN,
MEMBER, A. L. PORTER, JR.,
MEMBER, SECRETARY OF THE OIL
CONSERVATION COMMISSION OF
THE STATE OF NEW MEXICO; AND
OLSEN OILS, INC.,

Respondents.

PETITIONERS' REQUESTED FINDINGS OF FACT
CONCLUSIONS OF LAW

FINDINGS OF FACT

1. That Commission Order No. R-677 entered by the Commission on July 14, 1955, established the acreage of petitioners as a production unit for the production of Tubb Gas.
2. That the application for the issuance of Order No. R-677 was supported by substantial evidence that the entry of such order would prevent waste and would protect the correlative rights of all the parties; that such order was not appealed from.
3. That the Tubb gas well drilled in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 25 was completed in the Tubb zone and the production from such well was attributed to the acreage of petitioners herein as previously provided by Order No. R-677.
4. That the notice to petitioners of the

hearing in Case No. 1567 in which the purpose of the hearing was recited was as follows:

Application of Olsen Oils, Inc., for a non-standard gas proration unit. Applicant, in the above-styled cause, seeks an order establishing a 160-acre non-standard gas proration unit in the Tubb Gas Pool consisting of the N/2 NW/4, SW/4 NW/4 and the NW/4 SW/4 of Section 25, Township 22 South, Range 37 East, Lea County, New Mexico; or in the alternative for a compulsory pooling order pooling all interests within the vertical limits of the Tubb Gas Pool in the NW/4 of said Section 25 as one Tubb Gas Unit and a like order pooling all interests within the vertical limits of the Tubb Gas Pool in the SW/4 of said Section 25 as another Tubb Gas Unit.

5. That petitioners were never notified that Olsen Oils, Inc. in Case No. 1567 were petitioning to vacate or supercede Order No. R-677.

6. That no evidence concerning the geology or economics of production from Tubb Standard Units as opposed to the existing unit created by Order No. R-677 and an identical unit in the balance of the W/2 of Section 25 was offered in support of the application in Case No. 1567 which was not offered in support of the issuance of Order No. R-677 or available to the applicants at the time Order No. R-677 was secured and no evidence of changed circumstances or waste as a result of production from the unit created by Order No. R-677 or likely to occur from production from the balance of the W/2 of Section 25 as a unit was offered to the Commission in Case No. 1567.

CONCLUSIONS OF LAW

1. That Order No. R-677 was a final order from

which no appeal was taken and was binding upon the Commission and the parties unless a showing of substantial change which would constitute waste was produced to support a change of such order.

2. That petitioners herein were not served with notice that Order No. R-677 was being attacked or that the Commission would be requested to vacate same.

3. That the Commission had no jurisdiction or authority to vacate or amend Order No. R-677.

4. That Case No. R-1310 was a collateral attack on Order No. R-677.

5. That petitioners' petition for review should be sustained and Order No. R-1310 should be vacated and set aside and Order No. R-677 should be allowed to stand.

Respectfully submitted,

/s/ C. N. MORRIS

C. N. MORRIS
Lovington, New Mexico
Attorney for Petitioners

GIRAND, COWAN & REESE

LAWYERS

204 NEW MEXICO BANK AND TRUST COMPANY BUILDING

HOBBS, NEW MEXICO

W. D. GIRAND

RAY C. COWAN

N. RANDOLPH REESE

TELEPHONE

EXPRESS 3-9116

POST OFFICE BOX 2405

November 30, 1961

The Honorable Caswell S. Neal
District Judge
Post Office Box 351
Carlsbad, New Mexico

Re: Sims v. Oil Conservation
Commission, Lea County No. 18860

Dear Judge Neal:

We are enclosing a copy of our requested findings and
conclusions on behalf of Texas Pacific Coal & Oil Company.

Very truly yours,



GIRAND, COWAN & REESE

NRR/fr

Encls.

cc: Mr. C. N. Morris
Lea County Court House
Lovington, New Mexico

Mr. Jack M. Campbell
Campbell & Russell
J. P. White Building
Roswell, New Mexico

Mr. Richard S. Morris ✓
Special Assistant Attorney General
Oil Conservation Commission
Santa Fe, New Mexico

W. D. GIRAND
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N. RANDOLPH REESE

GIRAND, COWAN & REESE
LAWYERS
204 NEW MEXICO BANK AND TRUST COMPANY BUILDING
HOBBS, NEW MEXICO

TELEPHONE
EXPRESS 3-9116
POST OFFICE BOX 2405

November 30, 1961


Mr. W. M. Beauchamp
Clerk of the District Court
Lovington, New Mexico

Re: Sims v. Oil Conservation
Commission, et al.
No. 18860

Dear Mr. Beauchamp:

We are enclosing for filing in the above case defendant
Texas Pacific Coal & Oil Company's Requested Findings of
Fact and Conclusions of Law.

Very truly yours,


GIRAND, COWAN & REESE

NRR/fr
Encls.

cc: Mr. C. N. Morris
Lea County Court House
Lovington, New Mexico

Mr. Jack M. Campbell
Campbell & Russell
J. P. White Building
Roswell, New Mexico

Mr. Richard S. Morris ✓
Special Assistant Attorney General
Oil Conservation Commission
Santa Fe, New Mexico

IN THE DISTRICT COURT OF LEA COUNTY,
STATE OF NEW MEXICO.

AMANDA E. SIMS AND GEORGE W. SIMS,)
)
 Petitioners,)
)
 V.) NO. 18,860
)
)
 HONORABLE EDWIN L. MECHEM, CHAIRMAN,)
 E. S. (JOHNNY) WALKER, MEMBER, A. L.)
 PORTER, JR., MEMBER, SECRETARY OF THE)
 OIL CONSERVATION COMMISSION OF THE)
 STATE OF NEW MEXICO: AND TEXAS PACIFIC)
 COAL AND OIL COMPANY,)
)
 Respondents.)

DEFENDANT TEXAS PACIFIC
COAL AND OIL COMPANY'S:

REQUESTED FINDINGS OF FACT

COMES NOW The defendant Texas Pacific Coal and Oil Company and respectfully requests the Court to make or adopt the following Findings of Fact:

1. That on or about the 17th day of August, 1955, the Oil Conservation Commission of New Mexico, in its Order No. R-677 in Case No. 929, pooled as a Tubb Production Unit the following property, to-wit:

The Southeast Quarter of the Northwest Quarter, The East Half of the Southwest Quarter and The Southwest Quarter of the Southwest Quarter of Section Twenty-five, Township Twenty-two South, Range Thirty-seven East, Lea County, New Mexico; and,

thereafter, a Tubb production well was drilled on the Southeast Quarter of the Northwest Quarter.

2. That on December 17, 1958, the Oil Conservation Commission of New Mexico, entered its Order No. R-1310 establishing a Tubb Gas Unit consisting of the Northwest Quarter of Section Twenty-five, and another Tubb Gas Unit of the Southwest Quarter of said Section Twenty-five, Township Twenty-two South, Range Thirty-seven East, N.M.P.M., Lea County, New Mexico; and, that the applicants, Amanda E. Sims and George W. Sims, had legal and actual notice of said hearing which resulted in said Order No. R-1310 and that the said Amanda E. Sims and George W. Sims did not appear, protest or appeal from said decision.

3. That pursuant to said Order No. R-1310 this defendant's predecessor in interest, Olsen Oils, Inc., drilled and completed a Tubb producer in the Northeast Quarter of the Southwest Quarter, which well is presently producing from the Tubb Gas Zone.

4. That applicants in this hearing have produced no technological evidence justifying any change in the Oil Conservation Commission's Order No. R-1310.

5. That on September 11, 1957, applicants and defendant's predecessor in title, Olsen Oils, Inc., entered into a Non-standard 160 Acre Tubb Gas Production Unit Agreement, which agreement covered only the Southeast Quarter of the Northwest Quarter, East Half

of the Southwest Quarter, Southwest Quarter of the Southwest Quarter of Section Twenty-five, Township Twenty-two South, Range Thirty-seven East, N.M.P.M., Lea County, New Mexico.

6. That one hundred sixty square quarter section areas are the standard production units established by the Oil Conservation Commission of New Mexico for the Tubb Gas Field in Township Twenty-two South, Range Thirty-seven East, N.M.P.M., Lea County, New Mexico.

7. That this defendant's predecessor in title attempted to and failed to obtain a voluntary agreement as to an additional production unit in the West Half of Section Twenty-five, Township Twenty-two South, Range Thirty-seven East, N.M.P.M., prior to its application to the Oil Conservation Commission of New Mexico for forced pooling order, force pooling the Southeast Quarter of the Northwest Quarter, the East Half of the Southwest Quarter and the Southwest Quarter of the Southwest Quarter into one unit and the North Half of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of said section into another Tubb Gas Production Unit, or, in the alternative, one Tubb Gas Production Unit consisting of the Northwest Quarter of said section and another Tubb Gas Production Unit consisting of the Southwest Quarter of said section.

8. That applicants' Application, if granted, would result in economic waste in that it would require this defendant to drill an additional Tubb Gas producer in the West Half of said Section Twenty-five and would require the abandonment of one of the Tubb Gas producers heretofore completed by this defendant.

REQUESTED CONCLUSIONS OF LAW

COMES NOW Defendant Texas Pacific Coal and Oil Company and respectfully requests the Court to make the following Conclusions of Law.

1. That the Application of Amanda E. Sims and George W. Sims herein constitutes a collateral attack upon Order No. R-1310 in Case No. 1567 before the Oil Conservation Commission, applicants having had legal and personal notice of said proceedings and having failed to protest said application or appeal from the Commission's Orders herein.

2. Applicants have failed to produce any technological testimony or evidence justifying the Court in overruling the Commission's Order No. R-1766 in Case No. 2051 before the Oil Conservation Commission of New Mexico.

3. That Order No. R-1310 in Case No. 1567 is a valid Order of the Oil Conservation Commission of New Mexico issued in a case where said Commission had

jurisdiction of the parties involved herein and that the applicant s' Application herein constitutes a collateral attack upon such Order.

4. That the parties having acted upon said Order No. R-316 in drilling the additional Tubb producing well have acted to their detriment and economic waste would result in granting applicants the relief prays for in their Application herein.

5. That applicants are guilty of laches which resulted in the changed conditions of defendant which prevent applicants from having the relief sought herein.

6. That applicants are entitled to no relief against the defendant Texas Pacific Coal and Oil Company by reason of the communitization agreement in evidence herein in this case and said agreement covering only one-half of the acreage in the West Half of Section Twenty-five, Township Twenty-two South, Range Thirty-seven East, N.M.P.M. is immaterial in these proceedings.

7. That applicants' Application be denied

Respectfully submitted,



OF GIRARD, COWAN & REESE

Post Office Box 2405

Hobbs, New Mexico

ATTORNEYS FOR TEXAS PACIFIC
COAL AND OIL COMPANY, SUCCESSOR
TO OLSEN OILS, INC.