

W. D. GIRAND  
RAY C. COWAN  
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 27, 1961

The Honorable Caswell S. Neal  
District Judge  
Carlsbad, New Mexico

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

Dear Judge Neal:

I am presently preparing requested findings and conclusions in the above case. I shall try to have these ready to send to you and to other counsel by December 1, 1961.

Very truly yours,

GIRAND, COWAN & REESE

NRR:mys

cc: C. N. Morris, Esq.  
Lea County Courthouse  
Lovington, New Mexico

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

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

CASWELL S. NEAL  
DISTRICT JUDGE  
CARLSBAD, NEW MEXICO

November 21, 1961

C. W. Morris, Esq.  
Lee County Courthouse  
Lovington, New Mexico

A. Randolph Case, Esq.  
Strand, Cowan & Reese  
P. O. Box 2405  
Hobbs, New Mexico

James W. Campbell, Esq.  
Campbell & Russell  
J. P. White Building  
Roswell, New Mexico

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

Re: Sims v. Oil Conservation Commission  
Lee County Cause No. 18860

Gentlemen:

If you gentlemen have any requested findings outside the written stipulations which were made by stipulation in open court when this case was heard at Lovington on November 17th, you may submit them to the Court forthwith at Box 351, Carlsbad, New Mexico, with your requested conclusions of law.

Thanking you, I am

Respectfully,

  
CASWELL S. NEAL  
District Judge

CSN/cwh

C. CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

November 10, 1961

Mr. Jack Campbell  
Campbell & Russell  
Attorneys at Law  
P. O. Box 766  
Roswell, New Mexico

Re: Sims v. Oil Conservation Commission,  
et al., No. 18,860, Lea County, New  
Mexico

Dear Jack:

In talking with John Russell at our Examiner's hearing this past Wednesday, I learned you intend to move for substitution of Texas Pacific Coal & Oil Company in the place of Olsen Oils, Inc. at the beginning of the trial in the subject case. I assume therefore that you, rather than Dub, are planning to handle the Respondents portion of this case.

As I understand it, this matter is set for next Friday, November 17th, in Lovington. I plan to come to Hobbs next Thursday morning and will be at the Hobbs District Office that day in the event you would like to confer about the presentation to be made in this case.

It occurs to me that outside of offering the transcript, and exhibits in the various Commission cases involved, the case will involve only an argument of the force-pooling law. I will plan to bring all of the case files involved and also a certified copy of the order establishing 160-acre proration units in the Tubb Gas Pool. If you can think of anything else I should bring, please call me on Monday or Tuesday, if possible.

Very truly yours,

RICHARD S. MORRIS  
Special Assistant  
Attorney General

RSM/esr

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

November 1, 1961

Mr. W. D. Girand  
Girand, Cowan & Reese  
P. O. Box 2405  
Hobbs, New Mexico

Re: Sins v. Oil Conservation Commission,  
et al., No. 18,860, Lea County, New  
Mexico

Dear Dub:

In this morning's mail, I received a Notice of Setting in this matter for November 17, 1961, and I am sure that you received a similar notice. In the same mail, I received your letter of October 30th indicating that from your conversation with Judge Neal, the case would be set for November 28, 1961.

Either date, November 17th or November 28th, is satisfactory with me - actually, I would prefer the 17th, if that is all right with everyone else.

I realize that I have probably inconvenienced you and caused some confusion in this matter, and I hope the date for hearing this matter can be set at a time agreeable with you. Unfortunately, the original hearing was set for the only date in the month that caused conflict in my schedule. I appreciate your efforts in securing a new date.

Very truly yours,

RICHARD S. MORRIS  
Special Assistant  
Attorney General

RSM/esr

cc: Mr. Jack Campbell  
Campbell & Russell  
Roswell, New Mexico  
Mr. C. W. Morris  
Lovington, New Mexico

W. D. GIRAND  
RAY C. COWAN  
N. RANDOLPH REESE

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

TELEPHONE  
EXPRESS 3-9116  
POST OFFICE Box 2405

October 30, 1961

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

Re: Sims v. Oil Conservation  
Commission, et al, No. 11860,  
Lea County, New Mexico

Dear Dick:


I talked with Judge Caswell Neal and he has tentatively set the hearing for Tuesday, November 28, 1961, at 10:00 o'clock a.m. in Carlsbad, New Mexico.

For your information, there have been no other pleadings filed other than the copies I furnished you earlier.

In the trial of this matter, we will need the reporter's transcript in Case No. 1567 as well as case No. 2051. If this hearing date is not satisfactory to you, please notify the Court and furnish copies of your notification to the writer, Jack Campbell and C. N. Morris.

With best personal regards, I am

Very truly yours,



GIRAND, COWAN & REESE

WDG:mys

W. D. GIRAND  
RAY C. COWAN  
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

October 30, 1961

Mr. C. N. Morris  
County Courthouse  
Lovington  
New Mexico

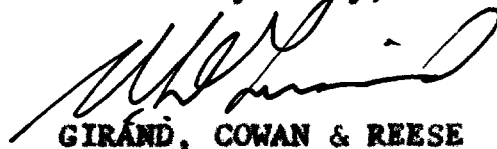
Re: Sims v. Oil Conservation Commission,  
et al, No. 11860, Lea County, New  
Mexico.

Dear Bill:

I have received notice from Richard S. Morris, attorney for the Oil Conservation Commission advising that the November 15th setting conflicts with the regular Commission monthly hearing. By telephone I discussed the matter with Judge Caswell Neal at Carlsbad and he advised of a tentative hearing date of Tuesday, November 28, 1961, at Carlsbad at 10:00 o'clock a.m. If this date at Carlsbad is not satisfactory, you should contact Judge Neal in regard thereto.

In reviewing this case, in all probability we should be able to get together and stipulate on the biggest part of the facts, if not all of the facts to be submitted to the Court. However, I will need concurrence in this from Mr. Jack Campbell and the attorney for the Oil Conservation Commission.

Yours very truly,



GIRAND, COWAN & REESE

WDG:mys

cc: Campbell & Russell, J. P. White Bldg., Roswell, N.M.  
Richard S. Morris, Special Ass't. Atty. Gen'l., OCC

IN THE DISTRICT COURT OF LEA COUNTY  
STATE OF NEW MEXICO

AMANDA E. SIMS AND GEORGE W. SIMS

Plaintiff.

No. 18860

OIL CONSERVATION COMMISSION

Defendant.

RE-  
NOTICE OF SETTING

TO RICHARD S. MORRIS, Special Assistant Attorney General  
P.O.Box 871, SANTA FE, NEW MEXICO ~~Attorney for Plaintiff~~

TO W.D. GIRAND, JR.,  
GIRAND, COWAN & REESE, Hobbs, New Mexico Attorney for Defendant

You are hereby notified that the above styled and numbered cause has been set for hearing at  
9 o'clock a m., on the 17 day of NOVEMBER 19 61  
at the Court House in Lovington, County of Lea, New Mexico. , before the Honorable  
**Caswell S. Neal, District Judge**

W.M. BEAUCHAMP

Clerk of the District Court, New Mexico

By:

Lucille B. Lister  
Deputy

CC: Honorable Caswell S. Neal  
District Judge  
Carlsbad, New Mexico

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

October 23, 1961

Mr. W. D. Girand  
Girand, Cowan and Reese  
Attorneys at Law  
P. O. Box 1445  
Hobbs, New Mexico

Re: Sims vs. Oil Conservation Commission  
and Olsen Oils, Inc., No. 18,860,  
Lea County, New Mexico

Dear Dub:

I am sure that you have received a Notice of Setting in this case for November 15th. Since this is the date of the Commission's monthly hearing, I have written a letter to Judge Neal, with a copy to Mr. Beauchamp, asking that another date be set. If it would be satisfactory with you to have the matter heard some other day, I would certainly appreciate it if you could give me some assistance in having another date set. Although I realize that Judge Neal does not sit in Lovington very often, it occurs to me that perhaps Mr. Beauchamp could arrange the matter if he were asked. If you happen to be in Lovington soon, I would appreciate your asking him about this.

Neither Oliver Payne nor I have received any pleadings in this matter since you filed your Answer last November. Since I know that Judge Brand has been disqualified and since I received no notification of that disqualification, I am wondering if other action has been taken on this matter, either by C. N. Morris or yourself of which I am not aware.

I would appreciate hearing from you concerning the status of this case.

Very truly yours,

RICHARD S. MORRIS  
Special Assistant  
Attorney General

RSM/esr



OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

October 23, 1961

Mr. Earl Foster  
General Counsel  
Interstate Oil Compact Commission  
P. O. Box 3127  
Oklahoma City 5, Oklahoma

Dear Mr. Foster:

The Commission is presently involved in some litigation concerning our force-pooling statute as it existed prior to the 1961 amendment. As you know, that statute is substantially the Compact's model force-pooling statute. The particular part of the statute (Section 65-3-14, New Mexico Statutes Annotated, 1953 Compilation) that will be involved is the part stating, "The pooling of properties or parts thereof shall be permitted, and, if not agreed upon, may be required..." (Emphasis mine) Plaintiff's argument seems to be that the Commission has no power to force-pool if a private agreement has been entered into concerning the manner in which the affected properties should be developed.

If there have been any similar cases under this statute that have come to your attention, I would appreciate knowing of them. While I have found cases almost on point under the Mississippi statute, which seems to be the same as ours, I do not believe that the Plaintiff's contentions are based upon the particular part of the statute cited above.

Your comments and references with respect to this matter will be appreciated.

Very truly yours,

RICHARD S. MORRIS  
Attorney

RSM/esr

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

October 16, 1961

SPECIAL DELIVERY

Honorable Caswell S. Neal  
District Judge  
District Court of Lea County  
Lovington, New Mexico

Re: Sims vs. Oil Conservation Commission,  
et al., No. 18,860

Dear Judge Neal:

Notice of Setting in the above-referenced cause for November 15, 1961, has been received. I will be representing the Oil Conservation Commission as Special Assistant Attorney General, rather than Mr. Oliver E. Payne to whom the Notice of Setting was directed. On October 3, 1961, I filed an Entry of Appearance in this case, replacing Mr. Payne.

The Commission's regular monthly hearing is scheduled for November 15, 1961, which will conflict with the hearing of the above-referenced cause. Inasmuch as the Commission hearing date cannot be changed, inasmuch as the Commission will need counsel at that hearing, and inasmuch as no counsel other than myself is available who is familiar with the cases to be presented at that hearing, it is respectfully requested that the above-referenced cause be set for some date other than November 15, 1961.

Your consideration in setting a new date for the hearing of this cause will be greatly appreciated.

Very truly yours,

RICHARD S. MORRIS  
Special Assistant  
Attorney General

RSM/esr

cc: Mr. W. M. Beauchamp  
Clerk of the District Court  
District Court of Lea County  
Lovington, New Mexico

IN THE DISTRICT COURT OF LEA COUNTY  
STATE OF NEW MEXICO

AMANDA E. SIMS AND  
GEORGE W. SIMS

Plaintiff.

No. 18860

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

Attorney for Plaintiff

W. D. Girand, Attorney at Law  
Girand, Cowan & Reese, Hobbs, New Mexico

TO and \_\_\_\_\_

Attorney for Defendant

Oliver E. Payne, Special Assistant Attorney General  
Oil Conservation Commission, Santa FE, New Mexico

You are hereby notified that the above styled and numbered cause has been set for hearing at  
9 o'clock a m., on the 15 day of NOVEMBER 19 61

at the Court House in Lovington, County of Lea, New Mexico., before the Honorable  
Caswell S. Neal, Dist Judge

W. M. BEAUCHAMP

Clerk of the District Court, New Mexico

By: \_\_\_\_\_

Lucille B. Lister  
Deputy

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

October 3, 1961

Honorable Caswell S. Neal  
District Judge  
Carlsbad, New Mexico

Re: Sins vs. Oil Conservation Commission,  
et al., No. 18,860, Lea County, New  
Mexico

Dear Judge Neal:

I have recently entered my appearance in this case as a Special Assistant Attorney General representing the Oil Conservation Commission of the State of New Mexico, replacing Mr. Oliver E. Payne, who formerly held this position.

It will be appreciated if you will advise me when the subject case is set for trial.

Very truly yours,

RICHARD S. MORRIS  
Special Assistant  
Attorney General

RSM/esr

cc: Honorable George L. Reese, Jr.  
District Judge  
Fifth Judicial District Court  
Roswell, New Mexico

CHAMBERS

FIFTH JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
ROSWELL, NEW MEXICO

GEORGE L. REESE, JR.  
DISTRICT JUDGE

COUNTIES OF  
CHAVES  
LEA  
EDDY

C. G. BLAIR  
COURT REPORTER

October 2, 1961

Honorable Caswell B. Neal  
District Judge  
Carlsbad, New Mexico

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

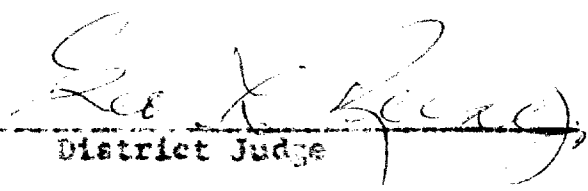
Dear Caswell:

I enclose original letter from C. N. Morris. Since I do not believe that I should try this case, I request that you correspond directly with Mr. Morris in the event you are in a position to sit.

was very sorry that I could not be present this morning at your "inaugural", but I had a full day here and will have to go back to Alamogordo this evening.

With best personal regards, I am,

Yours sincerely,

  
District Judge

G.L.R.

cc: Mr. C. N. Morris  
Oliver L. Payne  
W. D. Girard

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

October 2, 1961

Mr. C. W. Morris  
Attorney at Law  
1224 North Love  
Lovington, New Mexico

Re: Amanda E. and George W. Sims  
vs. Oil Conservation Commission,  
et al., No. 18,860, District  
Court, Lea County, New Mexico

Dear Mr. Morris:

Enclosed please find a copy of my Entry of Appearance in this case, replacing Oliver Payne, who is no longer with the Commission.

The Commission has received no copies of pleadings in this matter since November 14, 1960, on which date Olsen Oils, Inc. filed its Answer. The Oil Conservation Commission filed its Response to Petition for Review on November 8, 1960. If any pleadings have been filed in the meantime, I am not aware of them. I would appreciate learning from you what action has been taken on this matter since the filing of the Answer by Olsen Oils, Inc.

Very truly yours,

RICHARD S. MORRIS  
Special Assistant  
Attorney General

RSM/esr  
Enclosure

cc: Mr. Jack Campbell  
Attorney at Law  
Campbell & Russell  
Roswell, New Mexico

Mr. W. D. Girard  
Attorney at Law  
Hobbs, New Mexico

IN THE DISTRICT COURT OF LEA COUNTY

STATE OF NEW MEXICO

AMANDA E. SIMS and GEORGE W. SIMS,  
Petitioners,  
vs.  
HONORABLE JOHN BURROUGHS,  
CHAIRMAN, MURRAY 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.

NO. 18,860

ENTRY OF APPEARANCE

Richard S. Morris, Special Assistant Attorney General representing the Oil Conservation Commission of the State of New Mexico, hereby enters his appearance in this matter on behalf of the Respondent, Oil Conservation Commission of the State of New Mexico, replacing Oliver E. Payne, formerly Special Assistant Attorney General representing the Oil Conservation Commission of the State of New Mexico.

RICHARD S. MORRIS  
Special Assistant Attorney General  
representing the Oil Conservation  
Commission of the State of New  
Mexico

I hereby certify that on the  
4th day of October,  
1941, a copy of the fore-  
going pleading was mailed to  
opposing counsel of record.

*Richard S. Morris*

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, MURRAY 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.

ENTRY OF APPEARANCE

Richard S. Morris, Special Assistant Attorney  
General representing the Oil Conservation Commission of  
the State of New Mexico, hereby enters his appearance in  
this matter on behalf of the Respondent, Oil Conservation  
Commission of the State of New Mexico, replacing Oliver E.  
Payne, formerly Special Assistant Attorney General repre-  
senting the Oil Conservation Commission of the State of  
New Mexico.

RICHARD S. MORRIS  
Special Assistant Attorney General  
representing the Oil Conservation  
Commission of the State of New  
Mexico

I hereby certify that on the  
..2nd.. day of ..October....,  
19..61..., a copy of the fore-  
going pleading was mailed to  
opposing counsel of record.

..Richard S. Morris....



September 29, 1961

Honorable Geo. L. Reese, Jr.  
District Judge  
Roswell, New Mexico

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

Dear Judge Reese:

The above matter, a petition for review of an order of the Oil Conservation Commission, is at issue and ready for trial, and Judge Brand has been disqualified in the case. I would appreciate a setting of this matter for trial before you at your early convenience. The attorneys involved are Mr. Payne, representing the Commission, and Mr. W. D. Girand, representing Olsen Oils, Inc.

Respectfully requested,



C. N. Morris

CNM:pmr

cc: Oliver E. Payne  
Oil Conservation Commission  
Santa Fe, New Mexico

W. D. Girand  
Girand, Cowan and Reese  
Attorneys at Law  
Hobbs, New Mexico

W. D. GIRAND

LAWYER

204 NEW MEXICO BANK AND TRUST CO. BUILDING  
HOBBS, NEW MEXICO

POST OFFICE BOX 1445

TELEPHONE EX. 3-9116

November 14, 1960

Mr. W. M. Beauchamp  
District Court Clerk  
Lea County Courthouse  
Lovington, New Mexico

Re: No. 18,860, Amanda E. & George W. Sims  
vs. Hon. John Burroughs, et al,  
District Court, Lea County, New Mexico

Dear Mr. Beauchamp:

Please file the enclosed Answer of Olsen Oils,  
Inc., with the other papers in the above cause. A copy  
of the answer has been sent to the parties as indicated  
below.

Yours very truly,



W. D. Girand

WDG/gd  
Encl.

cc: Mr. Oliver Payne  
Oil Conservation Commission  
P.O. Box 871  
Santa Fe, New Mexico

Mr. Jack Campbell  
Attorney at Law  
Campbell & Russell  
Roswell, New Mexico

Mr. C. N. Morris, Atty. at Law  
Eunice, New Mexico

AMANDA E. SIMS and GEORGE W.  
SIMS,

**vs.**

## Respondents.

**ANSWER OF OLSEN OILS, INC.**

1.

**2.**

3.

4.

Defendant, Olsen Oils, Inc., admits the allegations contained in Paragraph 4.

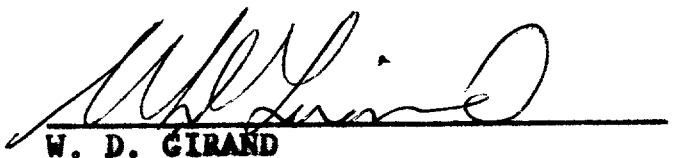
5.

Defendant, Olsen Oils, Inc., admits the allegations contained in Paragraph 5.

6.

Defendant, Olsen Oils, Inc., denies the allegations contained in Paragraph 6.

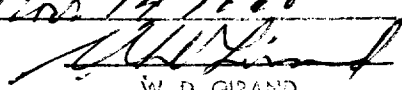
WHEREFORE, the Defendant having fully answered herein, prays that the Plaintiffs take nothing by their suit and that Defendant, Olsen Oils, Inc., be discharged with its costs.



W. D. GIRARD  
P. O. Box 1445  
Hobbs, New Mexico

ATTORNEY FOR DEFENDANT,  
OLSEN OILS, INC.

I HEREBY CERTIFY THAT I HAVE MAILED A  
COPY OF THE FOREGOING RELATING TO  
OPPOSING COUNSEL OF RECORD THIS

*Dec 14 1960*  
  
W. D. GIRARD

LAW OFFICES OF  
CAMPBELL & RUSSELL  
J. P. WHITE BUILDING  
ROSWELL, NEW MEXICO

TELEPHONES  
MAIN 2-4641  
MAIN 2-4642

JACK M. CAMPBELL  
JOHN F. RUSSELL

November 8, 1960

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

Dear Oliver:

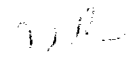
Thank you for sending me a copy of your Response to Petition for Review in the Sims appeal. I am enclosing herewith a copy of a proposed answer of Plaintiff Olsen Oils, Inc. which Dub Girand furnished me.

It appears that your answers are identical except that Dub seems to concede that the pooling power of the Commission can be exercised only as to tracts upon which voluntary pooling is not established by the parties owning such tracts. I am wondering whether the language might lead to the conclusion that whatever the size, shape or well location for a voluntary unit, the Commission would have no authority to either disapprove it or change it in order to prevent waste and protect correlative rights. Perhaps it might be well to consider a straight denial and argue the meaning of the statute at a later time.

The response of Olsen is, as I understand it, due November 28 and I assume that Dub will not file the response until we have had a chance to discuss it among the three of us.

With kindest regards, I am

Very truly yours,

  
Jack M. Campbell

JMC:np  
Enclosure

cc: Mr. W. D. Girand

Defendant, Olsen Oils, Inc., admits the allegations contained in Paragraph 1.

5.

Defendant, Olsen Oils, Inc., admits the allegations contained in Paragraph 5.

6.

Defendant, Olsen Oils, Inc., denies the allegations contained in Paragraph 6.

WHEREFORE, the Defendant having fully answered herein, prays that the Plaintiffs take nothing by their suit and that Defendant, Olsen Oils, Inc., be discharged with its costs.

---

W. D. GIRARD  
P. O. Box 1445  
Hobbs, New Mexico

ATTORNEY FOR DEFENDANT,  
OLSEN OILS, INC.

No 621124

RECEIPT FOR CERTIFIED MAIL—20¢

SENT TO <b>Mr. W. M. Beauchamp</b> <b>Clerk of the Dist. Court of</b>		POSTMARK OR DATE <b>11-7-60</b>
STREET AND NO. <b>Lea County - County Courthouse</b>		
CITY AND STATE <b>Lovington, New Mexico</b>		
<i>If you want a return receipt, check which</i> <input type="checkbox"/> <i>10¢ shows to whom and when delivered</i> <input type="checkbox"/> <i>35¢ shows to whom, when, and address where delivered</i>		<i>If you want restricted delivery, check here</i> <input type="checkbox"/> <i>50¢ fee</i>
<b>FEE ADDITIONAL TO 20¢ FEE</b>		

POD Form 3800  
Jul 1957

SEE OTHER SIDE



**C - CONSERVATION COMMISSION**  
P. O. BOX 871  
SANTA FE, NEW MEXICO

**November 7, 1960**

**Mr. W. M. Beauchamp  
Clerk of the District Court of  
Lea County  
County Courthouse  
Lovington, New Mexico**

**Dear Mr. Beauchamp:**

**Enclosed please find the Oil Conservation  
Commission's Response to a Petition for Review filed  
in your Court on behalf of Amanda E. Sims and George  
W. Sims.**

**The copy of the Petition for Review which  
was served upon us failed to designate your Docket  
Number. It would be appreciated, therefore, if you  
would supply the number on our Response in order  
that it may be properly filed.**

**Very truly yours,**

**RICHARD S. MORRIS  
Legal Assistant**

**RSN/esr  
Enclosure**

**C  
O  
P  
Y**

IN THE DISTRICT COURT OF LEA COUNTY  
STATE OF NEW MEXICO

AMANDA E. SIMS AND  
GEORGE W. SIMS,

Petitioners,

vs.

HONORABLE JOHN BURROUGHS,  
CHAIRMAN, MURRAY 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.

No. 18860

RESPONSE TO PETITION FOR REVIEW

Comes now the Oil Conservation Commission of the State of New Mexico, one of the Respondents herein, and in response to Petitioners' petition for review states:

1. That the allegations of paragraph 1 of said petition are admitted.
2. That the allegations of paragraph 2 of said petition are denied.
3. That the allegations of paragraph 3 of said petition are admitted.
4. That the allegations of paragraph 4 of said petition are admitted.
5. That the allegations of paragraph 5 of said petition are admitted.
6. That the allegations of paragraph 6 of said petition are denied except insofar as it is stated that the pooling power of the Commission can be exercised only as to tracts upon which voluntary pooling is not agreed upon by the parties owning said tracts.

WHEREFORE, Respondent prays:

(1) That the Court dismiss Petitioners' petition for review.

(2) That the Court affirm Oil Conservation Commission Order Nos. R-1310, R-1766 and R-1766-A.

(3) For such further relief as seems proper to the Court.

HILTON A. DICKSON, Jr.  
Attorney General

---

OLIVER E. PAYNE  
Special Assistant  
Attorney General  
representing the  
Oil Conservation  
Commission of the  
State of New Mexico.

I hereby certify that  
a copy of the foregoing  
pleading has been mailed  
to opposing counsel  
of record this \_\_\_\_\_  
day of November, 1960.

---

IN THE DISTRICT COURT OF LEA COUNTY  
STATE OF NEW MEXICO

AMANDA E. SIMS AND  
GEORGE W. SIMS,

Petitioners,

vs.

No. 18860

HONORABLE JOHN BURROUGHS,  
CHAIRMAN, MURRAY 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.

RESPONSE TO PETITION FOR REVIEW

Comes now the Oil Conservation Commission of the State of New Mexico, one of the Respondents herein, and in response to Petitioners' petition for review states:

1. That the allegations of paragraph 1 of said petition are admitted.
2. That the allegations of paragraph 2 of said petition are denied.
3. That the allegations of paragraph 3 of said petition are admitted.
4. That the allegations of paragraph 4 of said petition are admitted.
5. That the allegations of paragraph 5 of said petition are admitted.
6. That the allegations of paragraph 6 of said petition are denied except insofar as it is stated that the pooling power of the Commission can be exercised only as to tracts upon which voluntary pooling is not agreed upon by the parties owning said tracts.

WHEREFORE, Respondent prays:

- (1) That the Court dismiss Petitioners' petition for review.
- (2) That the Court affirm Oil Conservation Commission Order Nos. R-1310, R-1766 and R-1766-A.
- (3) For such further relief as seems proper to the Court.

HILTON A. DICKSON, Jr.  
Attorney General

---

OLIVER E. PAYNE  
Special Assistant  
Attorney General  
representing the  
Oil Conservation  
Commission of the  
State of New Mexico.

I hereby certify that  
a copy of the foregoing  
pleading has been mailed  
to opposing counsel  
of record this \_\_\_\_\_  
day of November, 1960.

---

IN THE DISTRICT COURT OF LEA COUNTY  
STATE OF NEW MEXICO

AMANDA E. SIMS AND  
GEORGE W. SIMS,

Petitioners,

vs.

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.

NO. 18860

PETITION FOR REVIEW

Come now the Petitioners herein and shows the  
Court as follows:

1. That Petitioners filed their application with  
the respondent Commission for an order vacating and  
setting aside Commission Order No. R-1310, said application  
being styled APPLICATION OF AMANDA E. SIMS AND GEORGE  
W. SIMS FOR AN ORDER VACATING AND SETTING ASIDE ORDER  
NO. R-1310 ENTERED IN CASE NO. 1567 ON DECEMBER 17,  
1958, AND TO SUBSTITUTE THEREFOR A NON-STANDARD 160 ACRE  
GAS PRODUCTION UNIT IN CONFORMITY WITH AGREEMENT OF PARTIES.  
A copy of said application is attached hereto and made a  
part hereof by reference as though fully set out herein.
2. That such application was fully supported before  
the Commission on its hearing date.
3. That on September 2, 1960, the Commission entered  
its Order denying Petitioners any relief on account of  
their application. A copy of the Order of the Commission,  
Order No. R-1766, is attached hereto and made a part  
hereof by reference.

4. That thereafter and within the time prescribed by law, Petitioners filed an Application for Rehearing before the Commission. A copy of said Application is attached hereto and made a part hereof by reference.

5. That thereafter on September 28, 1960, the Commission entered its Order denying Petitioners a rehearing from which order this Petition for Review is being prosecuted. A copy of said Order is attached hereto and made a part hereof by reference.

6. The nature of this proceeding is fully described in Petitioners' Application before the Commission and in their Application for Rehearing before the Commission. That said Orders of the Commission, R-1766 and R-1766-A, are both invalid and should be overruled and the relief sought in Petitioners' original Application and their Application for Rehearing should be granted for the reason that the Commission was without jurisdiction to enter its Order No. R-1310. That said Order No. R-1310 violates the correlative rights of Petitioners. That the pooling power of the Commission can be exercised only as to tracts upon which voluntary pooling is not established by the parties owning such tracts. That Order No. R-1310 took from Petitioners an interest in production unit which was vested by a contract and prior order of the Commission, and the said order resulted in the more rapid depletion of the property of Petitioners by allowing the drilling of two gas wells into the Tubb formation in the same economic unit causing Petitioners to suffer economic loss. That for the foregoing reasons and the other reasons set out in Petitioners' Application before the Commission and Application for Rehearing, the relief prayed for herein should be granted.

WHEREFORE, Petitioners pray that the Court vacate, set aside and hold naught Oil Conservation Commission Order No. R-1310 hereinbefore mentioned and referred to and leave undisturbed the production unit first established and, by leaving undisturbed the respective interest of these Petitioners in said original unit, enforce the voluntary pooling agreement of the parties and act within the jurisdiction granted to the Commission by law, and for such other relief as shall be deemed proper.

C. N. Morris  
Eunice, New Mexico

---

Attorney for Petitioners



BEFORE THE OIL CONSERVATION COMMISSION

STATE OF NEW MEXICO

APPLICATION OF AMANDA E. SIMS  
AND GEORGE W. SIMS FOR AN ORDER  
VACATING AND SETTING ASIDE ORDER  
NO. R-1310 ENTERED IN CASE NO.  
1567 ON DECEMBER 17, 1958, AND  
TO SUBSTITUTE THEREFOR A NON-  
STANDARD 160 ACRE GAS PRODUCTION  
UNIT IN CONFORMITY WITH AGREE-  
MENT OF PARTIES.

A P P L I C A T I O N

Comes now Amanda E. Sims and George W. Sims and in support of this Application they show the Commission as follows:

1. That Applicants are the owners of the minerals and mineral rights in and under the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$  and SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 25, Township 22 S, Range 37 E, N.M.P.M., Lea County, New Mexico, subject to the outstanding oil and gas lease thereon of which Olsen Oils, Inc. is the present operator.

2. That the estate of Vivian H. Drinkard, deceased, and Amanda E. Sims, Leo V. Sims, Ellie I. Spear, Bertha E. Sims, G. P. Sims and Winnie L. Sims are the owners of the minerals and mineral rights in and under the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  NW $\frac{1}{4}$  and NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 25, Township 22 S, Range 37 E, N.M.P.M., Lea County, New Mexico, subject to the outstanding oil and gas lease thereon of which Olsen Oils, Inc. is the present operator.

3. That Applicants' property described in Paragraph one (1) above was, by an agreement entered into between Applicants and the lease holders, pooled into a non-standard 160 acre gas production unit on September 11, 1957, for the production of dry gas and associated liquid hydro-carbons which might be produced from the vertical limits of the Tubb gas field. That under such pooling agreement a well was completed in the Tubb zone and such production was attributed to the said 160 acre tract of Applicants.

4. That thereafter an application was filed by Olsen Oils, Inc., Oil Conservation Commission Case No. 1567, upon which a hearing was held on December 10, 1958. This application asked the establishment of a 160 acre non-standard gas proration unit in the Tubb gas pool

or in the alternative for an Order force pooling the NW $\frac{1}{4}$  of said section as a Tubb Gas Unit and the SW $\frac{1}{4}$  of said section as a Tubb Gas Unit.

5. That on December 17, 1958, the Commission entered its Order No. R-1310 force pooling the NW $\frac{1}{4}$  of said Section 25 as a Tubb Gas Unit and SW $\frac{1}{4}$  of said Section 25 as a Tubb Gas Unit. That the Commission was without jurisdiction to enter such Order and same should be vacated for such reason. That the Commission was not informed by Olsen Oils Inc., applicant in said case no. 1567, of the agreed pooling of Applicants' property as a Tubb Gas Unit and the concealing of such fact by Olsen Oils Inc. amounted to a misrepresentation to the Commission concerning the rights of applicants and the jurisdiction of the Commission in such matter.

WHEREFORE APPLICANTS PRAY that the Commission hear and determine this matter and enter its Order revoking or rescinding Order No. R-1310 entered in Case No. 1567 and substitute therefore its Order pooling the property of Applicants agreement of the parties.

C. N. Morris  
Eunice, New Mexico

---

Attorney for Applicants

10 20

CASE No. 2051  
Order No. R-1766

### ORDER OF THE COMMISSION

NOW, on this 2nd day of September, 1960, 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,

(4) That applicants herein, Amanda E. Sims and George W. Sims, seek an order vacating the standard 160-acre Tubb gas proration units established by Order No. R-1310, and seek an

-2-  
CASE No. 2051  
Order No. R-1766

order establishing a 160-acre non-standard gas proration unit in the Tubb Gas Pool comprising the SE/4 NW/4, E/2 SW/4 and SW/4 SW/4 of Section 25, Township 22 South, Range 37 East, NMPM, Lea County, New Mexico.

(5) That applicants allege the existence of a communitization agreement between themselves and Olsen Oils, Inc., pooling the SE/4 NW/4, E/2 SW/4 and SW/4 SW/4 of said Section 25 to form a non-standard Tubb gas proration unit, which agreement is alleged to have been executed prior to the application of Olsen Oils, Inc., in Case No. 1567.

(6) That the communitization agreement between the applicants herein and Olsen Oils, Inc., concerned only the non-standard unit comprising the SE/4 NW/4, E/2 SW/4 and SW/4 SW/4 of said Section 25, and did not result in an agreement to form standard units in either the NW/4 or SW/4 of said Section 25, although an unsuccessful attempt was made by Olsen Oils, Inc., to form standard 160-acre Tubb gas proration units in the NW/4 and SW/4 of said Section 25 prior to its application in Case No. 1567 for an order force-pooling all interests to form such standard units as an alternative to the proposed non-standard units.

(7) That since the parties had been unable to agree to the formation of two standard 160-acre Tubb gas proration units, one consisting of the NW/4 and the other consisting of the SW/4 of said Section 25, the Commission had jurisdiction to enter an order force-pooling all mineral interest owners to form said units.

(8) That applicants herein had both actual notice and constructive notice by publication of the hearing upon the application of Olsen Oils, Inc., in Case No. 1567, but failed to appear or protest said application.

(9) That the applicants herein should seek relief, if any there be, in the state courts.

IT IS THEREFORE ORDERED:

That the subject application 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

S E A L

MURRAY E. MORGAN, Member

esr/

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

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. 2051

APPLICATION OF AMANDA E. SIMS AND  
GEORGE W. SIMS FOR AN ORDER VACATING  
THE STANDARD 160-ACRE TUBB GAS UNITS  
CREATED BY ORDER NO. R-1310, AND FOR  
AN ORDER ESTABLISHING A 160-ACRE  
NON-STANDARD GAS PRORATION UNIT IN  
THE TUBB GAS POOL, LEA COUNTY,  
NEW MEXICO.

APPLICATION FOR REHEARING

TO THE HONORABLE JOHN BURROUGHS, CHAIRMAN,  
and to MURRY E. MORGAN, MEMBER, and A. L.  
PORTER, JR., MEMBER AND SECRETARY OF THE  
OIL CONSERVATION COMMISSION OF THE STATE  
OF NEW MEXICO:

The Petitioners respectively request a rehearing in the  
above entitled cause and that Order No. R-1766, of the Commission  
entered in said cause on the 17th day of August, 1960, be vacated,  
set aside and held for naught and replaced by an order of the  
Commission as hereinafter suggested for the reasons and upon the  
grounds following, to-wit:

1. That on or about the 14th day of July, 1955, this  
Commission in Case No. 929 pursuant to an application filed there-  
in by R. Olsen Oil Company, a corporation, made and entered its  
Order No. R-677 thereby creating a production unit for the purpose  
of producing dry gas and associated liquid hydro-carbons from the  
vertical limits of the Tubb gas zone. Said production unit covered  
an oil and gas Leasehold estate owned by R. Olsen Oil Company, a  
corporation, which said oil and gas Leasehold estate covered the  
following described real estate situate in Lea County, New Mexico,  
towit:

SE $\frac{1}{4}$  NW $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$  and SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 25, Township 22 S,  
Range 37 E, N.M.P.M., and containing 160 acres more or less.

That thereafter and on or about the 11th day of September, 1957, there was consummated by and between R. Olsen Oil Company, a corporation, Charlton Lyons, Marjorie Lyons, W. P. Prentiss, Dorothea Prentiss, George F. Bauerdorf and Thelma Bauerdork, the then owners of the aforementioned and described oil and gas Leasehold estate and Amanda E. Sims and George W. Sims, the then owners of the fee simple title of the aforementioned and described real estate covered by said aforementioned oil and gas leasehold estate, a communitization agreement pooling said aforementioned and described oil and gas Leasehold estate for the development of the same as a production unit and for the production therefrom of dry gas and associated liquid hydro-carbons which may be produced from the vertical limits of the Tubb gas zone as defined by the New Mexico Oil Conservation Commission. That said agreement provided that the covenants thereof should be considered as covenants running with the ownership of the respective interests committed by reason of said agreement and shall extend to the heirs, personal representatives, successors and assigns of all the parties to said agreement. That by virtue of this agreement the respective interest of the respective parties thereto became a fixed and vested interest not subject to change alteration or modification by this Commission. That the production unit created by this Commission in its Order No. R-677, on July 14, 1955, in Case No. 929, aforementioned and referred to. That thereafter and on or about the 20th day of September, 1957, pursuant to the aforementioned Order of this Commission and also the communitization agreement, R. Olsen Oil Company, a corporation, began the drilling of a gas well to the Tubb gas zone on the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of said aforementioned and described acreage. That said gas well was completed in the Tubb gas zone as a commercial producer of dry gas and associated liquid hydro-carbons from the vertical limits of the Tubb gas zone on or about the 1st day of January, 1958. That such production was attributed to the aforementioned lease in accordance with the Commission's Order No. R-677 and the contract of the parties. That thereafter an application was filed by Olsen Oils, Inc., successors

in interest to R. Olsen Oil Company in the aforementioned and described Leasehold estate, in Oil Conservation Commission Case No. 1567, upon which a hearing was held on December 10, 1958. That during the hearing held by said Commission as aforesaid the applicants did not advise or make known to said Commission the fact that they had entered into a communitization agreement on September 11, 1957, with Amanda E. Sims and George W. Sims, the then owners of the fee simple title of the aforementioned and described real estate covered by said aforementioned oil and gas Leasehold estate for the development of the same and the production therefrom of dry gas and associated liquid hydro-carbons which might be produced from the vertical limits of the Tubb gas zone as defined by the Oil Conservation Commission. That said applicants by their failure to advise the Commission of said agreement misled the Commission in connection with said hearing. That pursuant to said hearing this Commission made an Order on December 17, 1958, being Order No. R-1310, force pooling of the NW $\frac{1}{4}$  of the aforescribed property as a Tubb gas unit and the SW $\frac{1}{4}$  of the aforescribed property as a Tubb gas unit. That said Order was in violation of the fixed, vested rights of these applicants as created by the previous Order of this Commission first hereinabove mentioned and referred to and the communitization agreement as aforementioned and referred to. That by reason of Order No. R-677 having been adopted by the Commission and by reason of the communitization agreement having been entered into between the parties as aforesaid, the Leasehold estate hereinbefore described was not subject to the jurisdiction of this Commission for any pooling order and the Commission was without jurisdiction to enter its Order No. R-1310. That this last mentioned and referred to Order of the Commission also was in violation of the correlative rights of said applicants.

2. That by reason of Order No. R-1310 made and entered in Case No. 1567 by this Commission under date of December 17, 1958, the rights of said applicants have been adversely affected due to the fact that their participating interest in the production unit first aforementioned and referred to has been reduced causing them

to suffer economic loss. Said last mentioned and referred to Order of this Commission also resulted in an additional Tubb gas well being drilled upon the first production unit hereinbefore mentioned and referred to thereby causing more depletion of the reservoir under the first production unit and causing further economic loss to these applicants.

That this Commission should vacate, set aside and hold for naught the last production unit created by its last Order hereinbefore mentioned and referred to and leave undisturbed the production unit first hereinabove mentioned and referred to and, by leaving undisturbed the respective interest of these applicants in said original unit, enforce the voluntary pooling agreement of the parties and act within the jurisdiction granted to the Commission by law.

Respectfully requested,

C. N. MORRIS  
BOX 977  
EUNICE, NEW MEXICO

---

Attorney for Applicants



BEFORE THE OIL CONSERVATION COMMISSION  
OF THE STATE OF NEW MEXICO

CASE No. 2051  
Order No. R-1766-A

APPLICATION OF AMANDA E. SIMS  
AND GEORGE W. SIMS FOR AN ORDER  
VACATING THE STANDARD 160-ACRE  
TUBB GAS UNITS CREATED BY ORDER  
NO. R-1310, AND FOR AN ORDER  
ESTABLISHING A 160-ACRE NON-  
STANDARD GAS PRORATION UNIT IN  
THE TUBB GAS POOL, LEA COUNTY,  
NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for reconsideration upon the petition of Amanda E. Sims and George W. Sims for a rehearing in Case No. 2051, Order No. R-1766, heretofore entered by the Commission on September 2, 1960.

NOW, on this 28th day of September, 1960, the Oil Conservation Commission, a quorum being present, having considered the petition for rehearing,

FINDS:

- (1) That the petition for rehearing does not allege that the applicant has any new or additional evidence to present in this case.
- (2) That the Commission has carefully considered all the evidence presented in the case and is fully advised in the premises.
- (3) That accordingly the petition for rehearing should be denied.

IT IS THEREFORE ORDERED:

That the petition of Amanda E. Sims and George W. Sims for a rehearing in Case No. 2051, Order No. R-1766, 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

S E A L

esr/

ARTESIA DAILY PRESS  
ARTESIA, N. M.

MAY 20 1963  
New Mexico Press Clipping Bureau  
Albuquerque, N. M.

## Supreme Court Reverses Two District Rulings

SANTA FE (AP) — The New Mexico Supreme Court reversed two district court decisions and agreed with another in rulings issued Monday.

One ruling voided an order by the Oil Conservation Commission that pooled oil leases in Lea County into two 160-acre standard production units.

Amanda E. Sims and George W. Sims, owners of leases involved, contended the OCC was without jurisdiction because there was no proof that the pooling arrangement would save gas and oil.

An Albuquerque woman, Margaret Armijo Jimenez, lost her appeal to the Supreme Court. She had appealed a lower court ruling that she was not entitled to damages after slipping on a grape in an Albuquerque Piggly Wiggly store.

Hobbs Daily News-Sun

MAY 20 1963

New Mexico Press Clipping Bureau  
Albuquerque, N. M.

## Court Voids Lea County OCC Order 2d

SANTA FE (AP) — The New Mexico Supreme Court reversed two district court decisions and agreed with another in rulings issued Monday.

One ruling voided an order by the Oil Conservation Commission that pooled oil leases in Lea County into two 160-acre standard production units.

Amanda E. Sims and George W. Sims, owners of leases involved, contended the OCC was without jurisdiction because there was no proof that the pooling arrangement would save gas and oil.

An Albuquerque woman, Margaret Armijo Jimenez, lost her appeal to the Supreme Court. She had appealed a lower court ruling that she was not entitled to damages after slipping on a grape in an Albuquerque Piggly Wiggly store.

A Bernalillo County District Court decision which allowed attorney's fees to a group of protesting Rocky Mountain Life Insurance Co. stockholders was overturned by the Supreme Court.

Rocky Mountain filed the appeal after Dist. Court Judge Robert W. Reidy directed the state superintendent to pay \$10,000 from the insurance company's assets to Merrill L. Norton, Lovington attorney.

MAY 28 1963

New Mexico Press Clipping Bureau  
Albuquerque, N. M.

## 2 Court Rulings

### Now Reversed <sup>22</sup>

The New Mexico Supreme Court reversed two district court decisions and agreed with another in rulings issued Monday.

One ruling voided an order by the Oil Conservation Commission that pooled oil leases in Lea County into two 160-acre standard production units.

Amanda E. Sims and George W. Sims, owners of leases involved, contended the OCC was without jurisdiction because there was no proof that the pooling arrangement would save gas and oil.

An Albuquerque woman, Margaret Armijo Jimenez, lost her appeal to the Supreme Court. She had appealed a lower court ruling that she was not entitled to damages after slipping on a grape in an Albuquerque Piggly Wiggly store.

A Bernalillo County District Court decision which allowed attorney's fees to a group of protesting Rocky Mountain Life Insurance Co. stockholders was overturned by the Supreme Court.

MAY 28 1963

New Mexico Press Clipping Bureau  
Albuquerque, N. M.

# Supreme Court Overturns OCC, Insurance Decisions

**SANTA FE (UPI)—** The State Supreme Court Monday reversed an Oil Conservation Commission (OCC) order and three district court decisions, including one involving the defunct Rocky Mountain Life Insurance Co.

Justice David Chavez ruled two orders made by Dist. Judge Robert W. Reidy of Bernalillo County District Court were void, regarding the insurance company case, because he was without jurisdiction in the matter.

The case involved a group of men who petitioned the court Sept. 5, 1961, for payment of expenses and attorneys fees. In addition the group had the superintendent of insurance file suit against the officers of the company for damages and losses suffered by the company.

The group, headed by Jesse E. Baxter, secretary-treasurer of the company, already had obtained an order for rehabilitation, reorganization and conservation against the officers who they alleged had "breached the fiduciary obligations to Rocky Mountain, and had converted its assets to their own use."

<sup>22</sup> **Firm Absorbed**  
National American Life Insurance Co. of Louisiana, which later absorbed Rocky Mountain, filed the appeal, saying the court had acted in error in awarding the expenses and fees to the Baxter group.

Chavez agreed, saying an opinion and order of the court dated Dec. 15, 1961 and a Feb. 12, 1962, order of conservation were void "since granting the appeal on Dec. 4, 1961, the court was without jurisdiction to enter the orders..."

In a suit filed by a Lea county couple against the Oil Conservation Commission, Chief Justice J. C. Compton reversed a decision by Dist. Judge Caswell F. Neal which upheld an OCC order. He ordered Neal to enter an order voiding the OCC order.

Compton said the OCC order contains no finding as to the existence of waste, or "that pooling would prevent waste, and that the commission, therefore, had no jurisdiction to enter the order."

The matter concerned the OCC's Dec. 17, 1958, order establishing a certain portion of land as two separate 160-acre standard pro-

duction units in Lea County. Amanda E. Sims and George W. Sims filed an application to vacate the order and to re-establish the non-standard 160-acre production unit ordered by a previous OCC order.

The couple alleged the concealment from the OCC of an agreement between the parties, and they challenged the jurisdiction of the OCC to enter the order in violation of an agreement and of the rights of the couple.

They were denied the application. Compton ordered the order vacated.

#### Two Other Reversals

In two other cases reversed by the high court today:

—Justice M.E. Noble ruled the lien of an owner or operator of a trailer court for unpaid space rental is not superior to a prior chattel mortgage on a house trailer filed as required by state law. This concerned a declaratory judgment by Dist. Judge Frank B. Zinn of McKinley County district court and, although involving a small amount, the determination of the priorities of liens was important.

—Justice Chavez reversed a decision by Dist. Judge Paul Tackett of Albuquerque concerning a declaratory judgment which cancelled the conditional sales contract between David Rozell and the Public Finance Corp. Over a car repair bill, Chavez said the court did not feel that local charges in Albuquerque for rebuilding a motor, repairing a radiator or charges for labor are of such common and general knowledge that they can be judicially noticed. Such matters require proof. He ordered the judgment vacated.

May 28, 1963

ALBUQUERQUE JOURNAL

## Rocky Mountain Insurance Rulings Reversed on Appeal

22

SANTA FE (UPI) — The state Supreme Court has reversed a Bernalillo County District Court ruling on payment of expenses and attorney's fees in a case involving the defunct Rocky Mountain Life Insurance Co. Justice David Chavez ruled that two orders made by District Judge Robert W. Reidy of Albuquerque regarding the insurance company case were void because Reidy was without jurisdiction in the matter. The case involved a group of men headed by Jesse E. Baxter, former secretary-treasurer of Rocky Mountain, who petitioned the court Sept. 5, 1961, for payment of expenses and attorney's fees and to have the superintendent of insurance file suit against the officers of the company for damages and losses suffered by the company.

Baxter's group already had obtained an order for rehabilitation, reorganization and conservation against the officers who they alleged had "breached the fiduciary obligations to Rocky Mountain

and had converted its assets to their own use." National American Life Insurance Co. of Louisiana, which later absorbed Rocky Mountain, filed the appeal, saying the court had acted in error in awarding the expenses and fees to the Baxter group.

Chavez agreed, saying an opinion and order of the court dated Dec. 15, 1961, and a Feb. 12, 1962, order of conservation were void "since granting the appeal on Dec. 4, 1961, the court was without jurisdiction to enter the orders . . ."

The reason the court was without jurisdiction, Chavez said, was because it did not rule on the motion directed against a judgment of the court within 30 days after the motion was filed.

In another decision, Chief Justice J. Compton reversed a decision by District Judge Caswell F. Neal of Carlsbad

which upheld an oil conservation commission order. A Lea County couple, Amanda E. Sims and George W. Sims, filed the appeal from Neal's ruling.

Compton said the OCC order contains no finding as to the existence of waste, or "that pooling would prevent waste," and that the commission had no jurisdiction to enter its Dec. 17, 1958, order. The matter concerned the

order establishing a portion of land as two separate 160-acre standard production units in Lea County. The Sims applied to the OCC to vacate the order and to re-establish jurisdiction of the OCC to enter the non-standard 160-acre production unit ordered by a previous OCC order. The couple alleged the concealment from the OCC of an agreement between the parties, and they challenged the jurisdiction of the OCC to enter the order in violation of an agreement and of the rights of the couple.

C MAY 27 1963

# Reidy Orders<sup>22</sup> On Insurance Firm Voided

## Tribunal Upsets Decision Against Rocky Mountain

SANTA FE, May 27 (UPI) — The State Supreme Court today reversed an Oil Conservation Commission order and a District Court decision involving the defunct Rocky Mountain Life Insurance Co.

Justice David Chavez ruled that two orders made by Dist. Judge Robert W. Reidy of Bernalillo County District Court were void, regarding the insurance company case, because he was without jurisdiction in the matter.

### Applied For Fees

The case involved the group of men who petitioned the court Sept. 5, 1961, for payment of expenses and attorneys fees, in addition to having the superintendent of insurance file suit against the officers of the company for damages and losses suffered by the company.

The group, headed by Jesse E. Baxter, secretary - treasurer of the company, already had obtained an order for rehabilitation, reorganization and conservation against the officers who they alleged had "breached the fiduciary obligations to Rocky Mountain, and had converted its assets to their own use."

National American Life Insurance Co. of Louisiana, which later absorbed Rocky Mountain, filed the appeal, saying the court had acted in error in awarding the expenses and fees to the Baxter group.

Chavez agreed, saying an opinion and order of the court dated Dec. 15, 1961 and a Feb. 12, 1962, order of conservation were void "since granting the appeal on Dec. 4, 1961, the court was without jurisdiction to enter the orders. . ."

The reason the court was without jurisdiction, Chavez said, was because it did not rule on the motion directed against a judgment of the court within 30 days after the motion was filed.

In a suit filed by a Lea County couple against the Oil Conservation Commission, Chief Justice J. C. Compton reversed a decision by Dist. Judge Caswell F. Neal which upheld an OCC order. He ordered Neal to enter an order voiding the order.

### No Waste Findings

Compton said the OCC order contains no finding as to the existence of waste, or "that pooling would prevent waste," and that the commis-

sion, therefore, had no jurisdiction to enter the order.

The matter concerned the OCC's Dec. 17, 1958, order establishing a certain portion of land as two separate 160-acre standard production units in Lea County. Amanda E. Sims and George W. Sims filed an application to vacate the order and to re-establish the non-standard 160-acre production unit ordered by a previous OCC order.

The judgment appealed from must be reversed and the cause remanded to the district court with instructions to vacate the judgment and to proceed in a manner not inconsistent with what has been said. IT IS SO ORDERED.

/s/ M. E. NOBLE  
Justice

WE CONCUR:

/s/ DAVID W. CARMODY J.  
/s/ IRWIN S. MOISE J.

*Filed: May 27, 1963*

In the Supreme Court of the  
State of New Mexico

AMANDA E. SIMS and GEORGE W. SIMS  
Petitioners-Appellants,

vs.

No. 7206

HON. 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; OLSEN OILS,  
INC., and TEXAS PACIFIC COAL AND OIL  
COMPANY, Successor to Olsen Oils, Inc.,  
Respondents-Appellees.

APPEAL FROM THE DISTRICT COURT OF  
LEA COUNTY

NEAL, JUDGE

C. N. MORRIS

Carlsbad, New Mexico

FOSTER WINDHAM

Carlsbad, New Mexico

Attorneys for Appellants

RICHARD S. MORRIS

JAMES M. DURRETT, JR.

Santa Fe, New Mexico

Attorneys for N. M. Oil Conservation  
Commission

CAMPBELL & RUSSELL

Roswell, New Mexico

GIRAND, COWAN and REESE

Hobbs, New Mexico

Attorneys for Olsen Oils, Inc. and  
Texas and Pacific Coal & Oil Co.

#### OPINION

COMPTON, Chief Justice.

This appeal involves Order No. R-1310 of the Oil Conservation Commission, the validity of which is challenged here on jurisdictional grounds.

Reviewing the record, in August, 1955, the commission issued Order No. R-677 pooling contiguous acreage in Section 25, Township 22 South, Range 37 East, N.M.S.A., Lea County, consisting of 40 acres in the southeast quarter of the northwest quarter and 120 acres in the northeast quarter of the southwest quarter, and south half of the

72 NM 186, 382 P.2d 183

southwest quarter of Section 25 as a 160-acre non-standard production unit and approved the drilling of a well. In September, 1957, the appellants, being owners of the mineral interests in the above-described production unit, and the then holder of the outstanding oil and gas leases thereon, entered into a communitization agreement pooling the leasehold estate for development. In January, 1958, a well was completed in the center of the 40 acres in the southeast quarter of the northwest quarter and its production attributed to the 160-acre production unit as provided in Order R-677 and the communitization agreement.

Subsequently, the successor in interest to the leasehold estate applied to the commission for a 160-acre non-standard gas proration unit consisting of the balance of the acreage in the northwest and southwest quarters of Section 25, on which it held leases or, in the alternative, for an order force-pooling the northwest quarter of Section 25 and the southwest quarter of Section 25 as two separate standard 160-acre production units. It was proposed in this application that if the two standard units were force-pooled that a second well would be drilled in the northeast quarter of the southwest quarter of the section.

After a hearing on the application, the commission found that the most efficient and orderly development of the acreage in the west half of Section 25 could be accomplished by force-pooling it into two standard units, and on December 17, 1956, entered Order No. R-1310 establishing the northwest quarter and the southwest quarter of Section 25 as two separate 160-acre standard production units, and rescinded its previous Order No. R-677. The production for each pooled unit was allocated to each tract in that unit in the same proportion that the acreage in said tract bore to the total acreage in the unit.

Pursuant to Order R-1310 the production from the first well was attributed to the acreage in the northwest quarter of Section 25 in which appellants held only a 1/15th royalty interest, and a second well was drilled in the northeast quarter of the southwest quarter and its production attributed to the acreage in the southwest quarter of which appellants were principal owners. The second well was a smaller producer than the first, resulting in diminished royalties to appellants.

Thereafter, in October, 1960, appellants filed an application before the commission for an order to vacate and set aside as void Order R-1310 and to reestablish the non-standard 160-acre production unit in conformity with Order R-677 and the communitization agreement. The basis of this application was the alleged concealment from the commission of the agreement between the parties, and it challenged the jurisdiction of the commission to enter Order R-1310 in violation of the agreement and of the rights of appellants. The denial of this application is the basis of appellants' petition for review.

On the hearing of the petition for review, the trial court denied appellants' petition and from such ruling they have appealed to this court for review.

Appellants have argued several points, but, in view of our disposition of this appeal, we need only concern ourselves with a determination of a basic jurisdictional question.

They now urge that the commission was without jurisdiction to enter Order R-1310 because the commission failed to find that waste was being committed under Order R-677 or that waste would be prevented by the issuance of Order R-1310. Insofar as can be ascertained from the record, the lack of jurisdiction of the commission to enter Order R-1310 is raised here for the first time. Consequently, this jurisdictional question must first be determined. Davidson v. Enfield, 35 N.M. 580, 3 P. 2d 979; State v.

Eychaner, 41 N.M. 677, 73 P. 2d 805; Brown v. Brown 58 N.M. 761, 276 P. 2d 899; In re Conley's Will, 58 N.M. 771, 276 P. 2d 906. Also compare Driver-Miller Corp. v. Liberty, 69 N.M. 259, 365 P. 2d 910; Warren Foundation v. Barnes, 67 N.M. 187, 354 P. 2d 126; Section 21-2-1 (20) (1), N.M.S.A. 1953.

Unquestionably the commission is authorized to require pooling of property when such pooling has not been agreed upon by the parties, § 65-3-14(c), N.M.S.A. 1953, and it is clear that the pooling of the entire west half of Section 25 had not been agreed upon. It is also clear from sub-section (c) of the same section that any agreement between owners and leaseholders may be modified by the commission. But the statutory authority of the commission to pool property or to modify existing agreements relating to production within a pool under either of these sub-sections must be predicated on the prevention of waste. Section 65-3-10, 1953 Comp.

The statutory authority of the Oil Conservation Commission was thoroughly considered by this court in the recent case of Continental Oil Company v. Oil Conservation Commission, 70 N.M. 310, 373 P. 2d 809, wherein we said:

"The Oil Conservation Commission is a creature of statute, expressly defined, limited and empowered by the laws creating it. The commission has jurisdiction over matters relating to the conservation of oil and gas in New Mexico, but the basis of its powers is founded on the duty to prevent waste and to protect correlative rights. \* \* \* Actually, the prevention of waste is the paramount power, inasmuch as this term is an integral part of the definition of correlative rights."

Appellees contend that the commission's finding that

"... the most efficient and orderly development of the subject acreage can be accomplished by force pooling the NW/4 of said Section 25 and the SW/4 of said Section 25 to form two standard gas proration units in the Tubbs Gas Pool, and that such an order should be entered."

is equivalent to a finding that this pooling will prevent waste. We do not believe the finding is susceptible to such construction. There is nothing in evidence before the commission tending to support a finding of waste or the prevention of waste by pooling the property into two standard units.

We conclude, therefore, that since commission Order R-1310 contains no finding as to the existence of waste, or that pooling would prevent waste, based upon evidence to support such a finding, the commission was without jurisdiction to enter Order R-1310, and that it is void. Continental Oil Company v. Oil Conservation Commission, supra.

The order denying appellants' petition for review should be reversed, with directions to the trial court to enter an order declaring Order R-1310 of the commission void.

IT IS SO ORDERED.

s/ J. C. Compton  
Chief Justice

WE CONCUR:

s/ M. E. NOBLE J.  
s/ IRWIN S. MOISE J.

ILLEGIBLE

FILED: May 27, 1963

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

AMANDUS E. BIRD and GEORGE W. BIRD,

Petitioners-Appellants,

vs.

NO. 7206

HON. EDWIN L. RECHIN, Chairman;  
S. (JOSEPH) WALKER, Member,  
A. B. POTTER, JR., Member, Secretary  
of the Oil Conservation Commission of  
the State of New Mexico; OLSEN OILS,  
INC., and TEXAS PACIFIC COAL AND OIL  
COMPANY, Successor to Olsen Oils, Inc.,

Respondents-Appellees.

APPEAL FROM THE DISTRICT COURT OF LEA COUNTY

HEARD, JUDGE

ILLEGIBLE

C. F. MORRIS  
Carlsbad, New Mexico  
FOSTER WINDHAM  
Carlsbad, New Mexico

Attorneys for Appellants

RICHARD S. MORRIS  
JAMES C. DURANTT, JR.  
Santa Fe, New Mexico

Attorneys for N. M. Oil Conservation  
Commission

CAMPBELL & RUSSELL  
Roswell, New Mexico  
CIRAM, COGAN and REESE  
Hobbs, New Mexico

Attorneys for Olsen Oils, Inc. and  
Texas and Pacific Coal & Oil Co.



OPINION

COMPTON, Chief Justice.

This appeal involves Order No. 2-1310 of the Oil Conservation Commission, the validity of which is challenged here on jurisdictional grounds.

Reviewing the record, in August, 1955, the commission issued Order No. A-477 pooling contiguous acreage in Section 25, Township 22 South, Range 37 East, N.M.S.A., Lea County, consisting of 40 acres in the southeast quarter of the northwest quarter and 120 acres in the northeast quarter of the southwest quarter, and south half of the southwest quarter of Section 25 as a 160-acre non-standard production unit and approved the drilling of a well. In September, 1957, the appellants, being owners of the mineral interests in the above-described production unit, and the then holder of the outstanding oil and gas leases thereon, entered into a communitization agreement pooling the leasehold estate for development. In January, 1958, a well was completed in the center of the 40 acres in the southeast quarter of the northwest quarter and its production attributed to the 160-acre production unit as provided in Order A-477 and the communitization agreement.

Subsequently, the successor in interest to the leasehold estate applied to the commission for a 160-acre non-standard gas production unit consisting of the balance of the acreage in the northwest and southwest quarters of Section 25, on which it held leases or, in the alternative, for an order force-pooling the northwest quarter of Section 25 and the southwest quarter of Section 25 as two separate standard 160-acre production units. It was proposed in this application that if the two standard units were force-pooled that a second well would be drilled in the northeast quarter of the southwest quarter of the section.

After a hearing on the application, the commission found that the most efficient and orderly development of the acreage in

ILLEGIBLE

# ILLEGIBLE

1 the west half of section 25 could be accomplished by communitization  
2 it into two standard units and, on December 17, 1958, entered  
3 Order No. R-1310 establishing the northwest quarter and the south-  
4 west quarter of section 25 as two separate 160-acre standard  
5 production units, and rescinded its previous Order No. 677. The  
6 production from each pooled unit was allocated to each tract in  
7 that unit in the same proportion that the acreage in said tract  
8 bore to the total acreage in the unit.

9 Pursuant to Order R-1310 the production from the first  
10 well was attributed to the acreage in the northwest quarter of  
11 section 25 in which appellants held only a 1/16th royalty interest,  
12 and a second well was drilled in the southeast quarter of the  
13 southwest quarter and its production attributed to the acreage in  
14 the southwest quarter of which appellants were principal owners.  
15 The second well was a smaller producer than the first, resulting  
16 in diminished royalties to appellants.

17 Thereafter, in October, 1960, appellants filed an  
18 application before the commission for an order to vacate and set  
19 aside as void Order R-1310 and to reestablish the non-standard  
20 160-acre production unit in conformity with Order R-677 and the  
21 communitization agreement. The basis of this application was the  
22 alleged concealment from the commission of the agreement between  
23 the parties, and it challenged the jurisdiction of the commission  
24 to enter Order R-1310 in violation of the agreement and of the  
25 rights of appellants. The denial of this application is the basis  
26 of appellants' petition for review.

27 On the hearing of the petition for review, the trial court  
28 denied appellants' petition and from such ruling they have appealed  
29 to this court for review.

30 Appellants have argued several points, but, in view of our  
31 disposition of this appeal, we need only concern ourselves with a  
32 determination of a basic jurisdictional question.

# ILLEGIBLE

1 They now urge that the commission was without jurisdiction  
2 to enter Order R-1310 because the commission failed to find that  
3 waste was being committed under Order R-677 or that waste would be  
4 prevented by the issuance of Order R-1310. Insofar as can be  
5 ascertained from the record, the lack of jurisdiction of the  
6 commission to enter Order R-1310 is raised here for the first time.  
7 Consequently, this jurisdictional question must first be determined.  
8 Davidson v. Anfield, 35 N. M. 580, 3 P. 2d 979; State v. Sychaner,  
9 41 N. M. 677, 73 P. 2d 805; Brown v. Brown, 38 N. M. 761, 276 P. 2d  
10 899; In re Conley's Will, 38 N. M. 771, 276 P. 2d 906. Also compare  
11 Driver-Miller Corp. v. Liberty, 69 N. M. 259, 385 P. 2d 910; Warren  
12 Foundation v. Barnes, 67 N. M. 187, 354 P. 2d 126; Section 21-2-1  
13 (20) (1), N.M.S.A. 1953.

14 Unquestionably the commission is authorized to require  
15 pooling of property when such pooling has not been agreed upon by  
16 the parties, § 65-3-14(c), N.M.S.A. 1953, and it is clear that the  
17 pooling of the entire west half of Section 23 had not been agreed  
18 upon. It is also clear from sub-section (e) of the same section  
19 that any agreement between owners and leaseholders may be modified  
20 by the commission. But the statutory authority of the commission  
21 to pool property or to modify existing agreements relating to  
22 production within a pool under either of these sub-sections must  
23 be predicated on the prevention of waste. Section 65-3-10, 1953  
24 Comp.

25 The statutory authority of the Oil Conservation Commission  
26 was thoroughly considered by this court in the recent case of  
27 Continental Oil Company v. Oil Conservation Commission, 70 N. M.  
28 310, 371 P. 2d 839, wherein we said:

29 "The Oil Conservation Commission is a creature  
30 of statute, expressly defined, limited and empowered  
31 by the laws creating it. The commission has juris-  
32 diction over matters related to the conservation of  
oil and gas in New Mexico, but the basis of its  
powers is founded on the duty to prevent waste and  
to protect correlative rights. \* \* \* Actually, the

# ILLEGIBLE

1 prevention of waste is the paramount power,  
2 inasmuch as this term is an integral part of  
the definition of correlative rights."

3 Appellees contend that the commission's finding that

4 "... the most efficient and orderly  
5 development of the subject acreage can be  
6 accomplished by force pooling the NW/4 of  
7 said Section 25 and the SW/4 of said Section  
25 to form two standard gas proration units  
in the Tubbs Gas Pool, and that such an order  
should be entered."

8 is equivalent to a finding that this pooling will prevent waste.

9 We do not believe the finding is susceptible to such construction.

10 There is nothing in evidence before the commission tending to  
11 support a finding of waste or the prevention of waste by pooling  
12 the property into two standard units.

13 We conclude, therefore, that since commission Order 2-1310  
14 contains no finding as to the existence of waste, or that pooling  
15 would prevent waste, based upon evidence to support such a finding,  
16 the commission was without jurisdiction to enter Order 2-1310, and  
17 that it is void. Continental Oil Company v. Oil Conservation  
18 Commission, supra.

19 The order denying appellants' petition for review should  
20 be reversed, with directions to the trial court to enter an order  
21 declaring Order 2-1310 of the commission void.

22 IT IS SO ORDERED.

23  
24 s/ K. G. Compton  
25 Chief Justice

26 WE CONCUR:

27 s/ M. E. Noble J.

28 s/ Irwin S. Hoise J.  
29  
30  
31  
32

**OIL CONSERVATION COMMISSION**

P. O. BOX 871

SANTA FE, NEW MEXICO

**LEGAL DIVISION  
PHONE 827-2741**

**December 18, 1964**

**Mr. John F. Russell  
Attorney at Law  
Suite 1010 Security National  
Bank Building  
P. O. Drawer 640  
Roswell, New Mexico**

**Re: Texas Pacific Oil Company Wells No. 2  
and 3, Section 25, Township 22 South,  
Range 37 East, NMPM, Lea County, New  
Mexico**

**Dear Mr. Russell:**

In reply to your letter of December 9, 1964, I am enclosing a copy of a letter that I wrote on September 11, 1963, to the Supervisor of the Commission's Hobbs District Office setting out the Commission's position concerning the above wells. I also am enclosing a copy of a letter that I wrote on October 24, 1963, in reply to a letter of inquiry from Mr. Pat Sims, and a copy of a letter that I wrote on November 21, 1963, to the gas purchaser. I believe these letters will answer your questions concerning the status of these wells.

I also am, by copy of this letter, forwarding a copy of the above letters to Mr. C. W. Morris.

There is a typographical error in my letter of November 21 to Mr. Gordon. The second sentence in the second paragraph should read, "The non-standard proration unit created by Order No. R-677 has been classified as a non-marginal 160-acre non-standard unit."

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

-2-

December 18, 1964

Mr. John F. Russell  
Attorney at Law  
Roswell, New Mexico

C  
O  
P  
Y  
Since my letter of November 21 to Mr. Gordon, I have been advised that El Paso is connected to one of the wells and that Skelly is connected to the other well. However, this does not change our opinion concerning the manner in which the wells should be operated. An allowable is assigned to the unit each month and the operator may produce that portion of the allowable that he desires from each well.

The non-standard unit was classified marginal in January, 1964, and has remained marginal since that time.

Very truly yours,

J. M. DURRETT, Jr.  
Attorney

JMD/esr  
Enclosures

cc: Mr. C. N. Morris  
Attorney at Law  
305-C West Mermod  
Carlsbad, New Mexico

TELEPHONE  
TUXEDO 5-9927

**C. N. MORRIS**  
ATTORNEY AT LAW  
CARLSBAD, NEW MEXICO  
88220

305-C WEST MERMOD

December 10, 1964

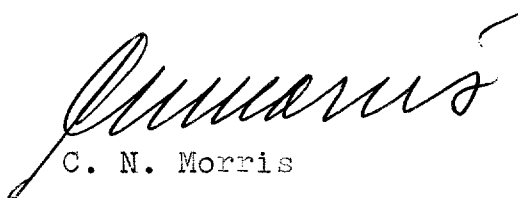
Mr. J. M. Durrett, Jr.  
Oil Conservation Commission  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Dear Mr. Durrett:

This office received a copy of Mr. Russell's letter to you concerning the two Tubbs gas wells located in Section 25, Township 22 South, Range 27 East, Lee County, New Mexico, and in order to be sure that you understand the problem I wish to inform you of some facts as I understand them.

The first well drilled is located in the SENW and the second well drilled is located in the NESW. The production from the 160 acre unit is from the first well and the only controversy concerns any production from the second well. If any allowable is attributed to the second well we need to know the authority for such allowable.

Yours very truly,

  
C. N. Morris

CNM/jj

cc: Mr. John F. Russell - Roswell

LAW OFFICES OF  
JOHN F. RUSSELL  
SUITE 1010 SECURITY NATIONAL BANK BUILDING  
P. O. DRAWER 640  
ROSWELL, NEW MEXICO 88201

TELEPHONE 622-4641  
AREA CODE 505

December 9, 1964

Mr. J. M. Durrett, Jr.  
Oil Conservation Commission  
P. O. Box 2088  
Santa Fe, New Mexico 87501

Dear Mr. Durrett:

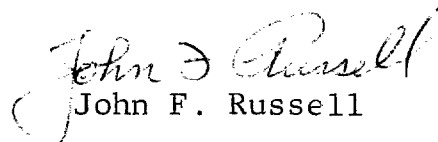
A controversy has arisen between Mrs. Amanda Sims and Texas Pacific Oil Company concerning the status of the two Tubb gas wells located in Section 25, Township 22 South, Range 37 East, Lea County, New Mexico. The first well drilled is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  and the second well is in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 25.

I will appreciate your advising me as to the present status of these two wells, the acreage attributed to each well and the allowable assigned to them.

Mr. C. N. Morris, attorney for Mrs. Sims, has also requested that you advise as to the authority under which the well located in the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 25 is being produced.

I will appreciate it if you will send a copy of your reply to Mr. C. N. Morris, Attorney at Law, 305-C West Mermod, Carlsbad, New Mexico.

Very truly yours,

  
John F. Russell

JFR:np

cc: Mr. C. N. Morris - Carlsbad



OIL CONSERVATION COMMISSION  
P. O. BOX 871  
SANTA FE, NEW MEXICO

November 21, 1963

Mr. Kenneth Gordon  
El Paso Natural Gas Company  
Jal, New Mexico

Re: T.P.C. & O. Company Wells Nos. 2 and 3,  
Section 25, Township 22 South, Range  
37 East, NMPM, Lea County, New Mexico

Dear Mr. Gordon:

Our Hobbs District Office advises that your company is the purchaser from the above two wells, and that you have requested information concerning the manner in which your company should take gas from these wells.

I am enclosing herewith a copy of a letter that I wrote to Joe Ramey on September 11, 1963, setting out the results of the recent Court decision concerning these wells. The non-standard proration unit created by Order No. R-677 has been classified as a non-standard 160-acre non-standard unit. The combined production from both wells will be used in computing over- and under-production as if there were only one non-marginal well in the unit. If the unit becomes sufficiently overproduced to be shut in for overproduction, it will be necessary to shut in both wells. As long as the unit is not shut in, the Commission will not dictate the portion of the allowable that is to be produced from each well. This will be a matter between your company and the operator of the well just as if there were only one well involved.

Please contact me if you have any other questions concerning this matter.

Very truly yours,

J. M. DURRETT, Jr.  
Attorney

JMD/esr  
Enclosure

cc: Mr. Joe Ramey  
Supervisor, District 1  
Oil Conservation Commission  
P. O. Box 1980 - Hobbs, New Mexico

**OIL CONSERVATION COMMISSION**

P. O. BOX 871

SANTA FE, NEW MEXICO

**November 21, 1963**

**Mr. Kenneth Gordon  
El Paso Natural Gas Company  
Jal, New Mexico**

**Re: T.P.C. & O. Company Wells Nos. 2 and 3,  
Section 25, Township 22 South, Range  
37 East, NMPM, Lea County, New Mexico**

**Dear Mr. Gordon:**

**Our Hobbs District Office advises that your company is the purchaser from the above two wells, and that you have requested information concerning the manner in which your company should take gas from these wells.**

**I am enclosing herewith a copy of a letter that I wrote to Joe Ramey on September 11, 1963, setting out the results of the recent Court decision concerning these wells. The non-standard proration unit created by Order No. R-677 has been classified as a non-standard 160-acre non-standard unit. The combined production from both wells will be used in computing over- and under-production as if there were only one non-marginal well in the unit. If the unit becomes sufficiently overproduced to be shut in for overproduction, it will be necessary to shut in both wells. As long as the unit is not shut in, the Commission will not dictate the portion of the allowable that is to be produced from each well. This will be a matter between your company and the operator of the well just as if there were only one well involved.**

**Please contact me if you have any other questions concerning this matter.**

**Very truly yours,**

**J. M. DURRETT, Jr.  
Attorney**

**JMD/esr  
Enclosure**

**cc: Mr. Joe Ramey  
Supervisor, District 1  
Oil Conservation Commission  
P. O. Box 1980 - Hobbs, New Mexico**

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

October 24, 1963

Mr. Pat Sims  
P. O. Box 1046  
Bunice, New Mexico

Dear Mr. Sims:

Mr. A. L. Porter, Jr., has referred your letter of October 8, 1963, to me for reply. Please excuse my delay in replying.

As the New Mexico Supreme Court, in Sims v. Mechem, \_\_\_ N.M. \_\_\_, 382 P.2d 183 (1963), held that the order establishing the SW/4 of Section 25, Township 22 South, Range 37 East, NMPM, Lea County, New Mexico, as a standard 160-acre proration unit was void, the result is that there are now two wells located on the non-standard proration unit consisting of the SE/4 NW/4, E/2 SW/4, and SW/4 SW/4 of Section 25. This non-standard 160-acre proration unit was created by Commission Order No. R-677.

As the Commission Rules and Regulations do not prohibit the drilling of more than one well on a standard or non-standard proration unit at standard locations and both wells comply with the Commission's well location requirements, it is our opinion that the acreage comprising the non-standard unit created by Order No. R-677 may be dedicated to both wells simultaneously. It is also our opinion that as long as the combined production status from both wells does not exceed a 160-acre allowable in the Tubb Gas Pool, the operator may produce any portion of the allowable that he desires from each well.

As the combined production status for both wells since July 1960 when the No. 3 well went on production has not exceeded a 160-acre one-well non-marginal allowable in the Tubb Gas Pool, the Commission does not plan to take any action at this time concerning these two wells.

OIL CONSERVATION COMMISSION  
P. O. BOX 871  
SANTA FE, NEW MEXICO

-2-

October 24, 1963

Mr. Pat Sims  
Eunice, New Mexico

C  
O  
P  
Y

If you feel the Commission should take action concerning these two wells, please feel free to file an application for a hearing before the Commission to determine the matter. Also, please feel free to contact me if you have any other questions concerning this matter.

Very truly yours,

J. M. DURRETT, Jr.  
Attorney

JMD/esr

MAIN OFFICE OCC

1963 OCT 13 PM 12:51

Box 1046  
Lunice, New Mexico  
October 8, 1963

Mr. K. L. Porter, Jr.  
Secretary-Director  
New Mexico Oil Conservation Commission  
Box 871  
Santa Fe, New Mexico

Dear Mr. Porter:

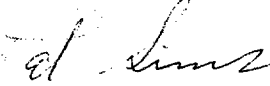
My mother, Amanda E. Sims, has asked me to find out what is to be done with the well which Mr. R. Olsen drilled in the southwest quarter of Section 25-22-37E.

This well has been in court action for some time. As I understand it, Mr. Olsen might have misrepresented to the Commission the purposes of this well. A decision was granted in my mother's favor. Could you tell me what is to be done with the well?

Skelly is taking natural gas into their low-pressure system at about half price. As I understand it, this well is drilled on my mother, and the royalty is going to the Vivian Drinkard Estate. When the well was drilled, it was very much against her consent for it to be drilled on her and the royalty go to the Drinkard Estate from an irregular unit planned by R. Olsen's firm.

If you could give us any information on this, we would very much appreciate it.

Very truly yours,

  
Pat Sims

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

September 11, 1963

Mr. Joe D. Ramsey  
Supervisor, District 1  
Oil Conservation Commission  
P. O. Box 1980  
Hobbs, New Mexico

Re: T.P.C. and O. Co. Well No. 2, SE/4 NW/4 and  
T.P.C. and O. Co. Well No. 3, NE/4 SW/4, Sec-  
tion 25, Township 22 South, Range 37 East,  
NMPM, Lea County, New Mexico

Dear Joe:

In Amanda E. Sims et al. v. Oil Conservation Commis-  
sion et al., No. 7206, the Supreme Court of New Mexico  
declared Commission Order R-1310 void. As Order No. R-  
1310 had superseded Order No. R-677, the effect of the  
Court's decision was to re-establish the validity of  
Order No. R-677 and the non-standard proration unit cre-  
ated by that order. As T.P.C. and O. Co. Well No. 2 was  
drilled in reliance on Commission Order No. R-677 and  
T.P.C. and O. Co. Well No. 3 was drilled in reliance on  
Commission Order No. R-1310, the result is that there are  
now two wells located on the same non-standard proration  
unit.

As the Commission Rules and Regulations do not pro-  
hibit the drilling of more than one well on a standard or  
non-standard proration unit at standard locations and both  
wells comply with the well location requirements, the acre-  
age comprising the non-standard unit created by Order No.  
R-677 may be dedicated to both wells simultaneously. As  
long as the combined production status from both wells  
does not exceed a 160-acre allowable in the Tubbs Gas Pool,

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

-2-

September 11, 1963

Mr. Joe D. Ramey  
Supervisor, District 1  
Oil Conservation Commission  
Hobbs, New Mexico

C  
O  
P  
Y

the operator may produce any portion of the allowable that he desires from each well. As the combined production status for both wells since July 1960 when the No. 3 well went on production has not exceeded a 160-acre one-well non-marginal allowable in the Tubb Gas Pool, the Commission does not feel that any action is necessary on its part concerning these two wells. Of course, any interested party may file an application for hearing concerning the wells and the production therefrom if he so desires.

Very truly yours,

J. M. DURRETT, Jr.  
Attorney

JMD/esr

cc: Mr. John F. Russell  
Attorney at Law  
500 North Main  
Roswell, New Mexico

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

June 24, 1963

MEMO

TO: WELL FILE

FROM: J. M. DURRETT, Jr., GENERAL COUNSEL

SUBJECT: T.P.C. AND O. COMPANY WELL NO. 2, SE/4 NW/4, SECTION 25, TOWNSHIP 22 SOUTH, RANGE 37 EAST, NMPM, LEA COUNTY, NEW MEXICO, AND T.P.C. AND O. COMPANY WELL NO. 3, NE/4 SW/4, SECTION 25, TOWNSHIP 22 SOUTH, RANGE 37 EAST, NMPM, LEA COUNTY, NEW MEXICO.

As a result of Amanda E. Sims et al. v. Oil Conservation Commission et al., No. 7206, the staff held a conference on Wednesday June 19, 1963, to determine the status of the two subject wells.

A tabulation of the combined production status for both wells since July 1960 when the No. 3 well went on production indicates that the combined production for both wells has not exceeded a 160-acre one-well non-marginal allowable to date. Although it is the policy of the Commission to require a hearing prior to approval of a second well on a non-standard proration unit, it was determined by the Commission staff that a hearing should not be called concerning these wells in view of their combined cumulative production status and the fact that the second well was drilled in reliance upon an order of the Commission.



LAW OFFICES OF  
JOHN F. RUSSELL  
SUITE 1010 SECURITY NATIONAL BANK BUILDING  
P. O. DRAWER 640  
ROSWELL, NEW MEXICO

TELEPHONE 622-4641  
AREA CODE 505

June 14, 1963

*file  
June 14, 1963  
JFR*

Mr. Miles Hart, General Counsel  
Texas Pacific Coal and Oil Company  
P. O. Box 2110  
Fort Worth, Texas

Dear Mr. Hart:

I conferred with Mr. Durrett, Attorney for the New Mexico Oil Conservation Commission in Santa Fe, on June 5 in connection with the problems created by the decision of the New Mexico Supreme Court in the case of Amanda E. Sims, et al, vs. the Oil Conservation Commission, et al.

The above case declared that Order No. R-1310 entered by the Oil Conservation Commission in Case No. 1567 was void for the reason that the Commission did not make a finding that the entry of the new order would prevent waste or that waste was being created under the prior order.

Mr. Durrett is going to confer with the Commission members to determine whether the case before the Commission should be reopened upon the Commission's motion or whether it should be reopened by Texas Pacific Coal and Oil Company as successor in interest to Olsen Oils, Inc. I shall advise you of this decision when it has been reached.

It is my opinion that there is no basis for the petition for a rehearing by the Supreme Court in view of the fact that their decision was based upon the lack of finding in connection with waste which is jurisdictional and without which finding the Commission had no jurisdiction to enter its order.

It is my thinking that it will be necessary to assemble all factual data available in connection with gas well production surrounding the area in question in order to determine whether

Mr. Miles Hart, General Counsel  
Texas Pacific Coal and Oil Company -2-

June 14, 1963

evidence can be presented to the Commission establishing that the entry of any order other than the order originally entered would constitute waste and an order establishing the proration units, as established by Order R-1310, will prevent waste.

Additional research will be done by Mr. Durrett and myself in an effort to determine whether we feel that a new order entered by the Commission would be retroactive to the date of the entry of Order R-1310. At the present time I doubt the validity of such an order and in the event further research convinces us that it would not be a valid order, I do not feel we should press the matter as we could again go to the Supreme Court of New Mexico and be reversed without having settled the main problem.

I am also considering how best to handle the period from the date of the entry of Order 1310 to the entry of a new order and will advise you further when I have a more concrete opinion in this regard.

We are in the position at the present time of having two wells producing on one proration unit and no producing wells on the adjacent unit, which also creates problems and which I shall discuss further with Mr. Durrett and the Commission after they have conferred on the problem.

I discussed the entire matter with Mr. Reese and advised him that in view of the presumed sale of Texas Pacific Coal and Oil Company, the purchaser may wish to examine this situation in view of the fact that it probably will entail considerable litigation and expense before the matter is resolved. I advised Mr. Reese that I would contact him as soon as I was advised and instructed how the matter will be handled from this point on.

With kind personal regards, I am

Very truly yours,

John F. Russell

JFR:np

cc: Mr. N. Randolph Reese - Hobbs  
Mr. James M. Durrett, Jr. - Santa Fe

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO  
1963 JUN 17 AM 11 13

MANDATE

NO. 7206

THE STATE OF NEW MEXICO TO THE DISTRICT COURT sitting within  
and for the County of Lea, GREETING:

WHEREAS, in a certain cause lately pending before you,  
numbered 18860 on your Civil Docket, wherein Amanda E. Sims and  
George W. Sims were Petitioners, and Honorable Hon. 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, et al., were Respondents, by your consideration in that  
behalf judgment was entered against said Petitioners; and

WHEREAS, said cause and judgment were afterwards brought  
into our Supreme Court for review by Petitioners by appeal, where-  
upon such proceedings were had that on May 27, 1963, an opinion was  
handed down and the judgment of said Supreme Court was entered  
reversing your judgment aforesaid, and remanding said cause to you;

NOW, THEREFORE, this cause is hereby remanded to you  
with directions to the trial court to enter an order declaring  
Order R-1310 of the Commission void.

Witness, The Honorable J. C. Compton,  
Chief Justice of the Supreme Court  
of the State of New Mexico, and  
the seal of said Court this 17th  
day of June, 1963.

LOWELL C. GREEN  
Clerk of the Supreme Court of  
the State of New Mexico

By Muriel Bowen Deputy

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

ILLEGIBLE

May 25, 1963

MEMORANDUM

TO: GOVERNOR CAMPBELL, COMMISSIONER WALKER, AND  
COMMISSIONER PORTER

FROM: J. W. DURRETT, JR., GENERAL COUNSEL

SUBJECT: ANANDA E. SIMS ET AL. V. DON. EDWIN L. MECHAM  
ET AL., NO. 7206

On May 27, 1963, the Supreme Court filed its opinion in the above case. The case involved the validity of Order No. R-1310, a compulsory pooling order issued by the Commission on December 17, 1958. Order No. R-1310 established two standard 160-acre gas proration units in the Tubb Gas Pool and rescinded Order No. R-677. Order No. R-677 had previously established a 160-acre non-standard gas proration unit comprising part of each quarter section pooled by Order No. R-1310. Order No. R-1310 was not appealed. However, the Sims interests subsequently filed an application requesting the Commission to vacate and set aside as void Order No. R-1310 and to re-establish the non-standard 160-acre proration unit established by Order No. R-677. The basis of the application was alleged concealment from the Commission of a communitization agreement between the parties establishing the 160-acre non-standard gas proration unit approved by Order No. R-677. The Sims interests challenged the jurisdiction of the Commission to enter Order No. R-1310 in violation of the agreement between the parties. The Commission denied the application, the District Court upheld the Commission's order and the appeal followed. On appeal, the Sims interests alleged that the Commission was without jurisdiction to enter Order No. R-1310 because the Commission failed to find that waste was being committed under Order No. R-677 or that waste would be prevented by the issuance of Order No. R-1310.

OIL CONSERVATION COMMISSION

P. O. BOX 871

SANTA FE, NEW MEXICO

-2-

May 29, 1963

MEMORANDUM

The Supreme Court recognized that the question of the Commission's lack of jurisdiction was raised for the first time upon appeal and stated that unquestionably the Commission is authorized to require pooling of property and to modify any agreement between owners and leaseholders "but the statutory authority of the commission to pool property or to modify existing agreements relating to production within a pool under either of these sub-sections must be predicated on the prevention of waste. Section 65-3-10, 1953 Comp." The Court also held that the Commission's finding that "... the most efficient and orderly development of the subject acreage can be accomplished by force-pooling ..." is not equivalent to a finding that this pooling will prevent waste. The Court then stated, "We conclude, therefore, that since commission Order R-1310 contains no finding as to the existence of waste, or that pooling would prevent waste, based upon evidence to support such a finding, the Commission was without jurisdiction to enter Order R-1310, and that it is void." Continental Oil Company v. Oil Conservation Commission, 70 N.M. 310, 373 P.2d 809 (1962).

Based upon this decision, it is my opinion that all orders previously issued by the Commission are susceptible to attack by filing an application with the Commission to set the same aside if they do not contain a specific finding concerning the prevention of waste based upon substantial evidence in the record.