

BEFORE THE
OIL CONSERVATION COMMISSION
MABRY HALL
Santa Fe, New Mexico
August 24, 1960

PHONE CH 3-6691

DEARNLEY-MEIER REPORTING SERVICE, Inc.

ALBUQUERQUE, NEW MEXICO

IN THE MATTER OF:) Case 2057
)
Application of Kay Kimbell for an order force-)
pooling all interests in a 320-acre standard gas)
unit in the Dakota Producing Interval. Applicant,)
in the above-styled cause, seeks an order force-)
pooling all mineral interests in the Dakota Pro-)
ducing Interval in a 320-acre standard gas unit)
consisting of the W/2 of Section 22, Township 29)
North, Range 11 West, San Juan County, New Mexico)

BEFORE:

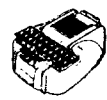
Daniel Nutter

TRANSCRIPT OF HEARING

MR. NUTTER: We will take case 2057.

MR. PAYNE: Application of Kay Kimbell for an order force-
pooling all interest in a 320-acre standard gas unit in the
Dakota Producing Interval.

MR. WHITE: My name is Mr. White of the law firm of White
and Rhodes of Albuquerque, representing Mr. Kay Kimbell. This
is an application of force-pooling for unleased minerals within
the unit. The unit being the W/2 of Section 22, Township 29
North, Range 11 West, San Juan County, New Mexico. These minerals
amount to approximately 2.19 acres. Diligent efforts have been
made to acquire leases for these minerals and we have not been
able to do so. I will ask the Commission what type of testimony
they would like to hear as I am unfamiliar with the rules.



MR. NUTTER: We would like to have some evidence of the effort that you have made in contacting the parties.

MR. WHITE: Right, my witness will be right here. I have just sent for him. I would like to point out that Mr. Roberts from the Law Firm of Brown, Wood and Roberts wrote to the Commission on August 15 representing two of the unleased mineral owners. I believe you have that letter before you which he states he has no objection to the pooling provided certain things are done. Mainly, that Mr. Kimbell who is carrying these interests recover out of 7/8 of the production as opposed to 8/8. I would like to make issue of that.

MR. PAYNE: Isn't it customary for the working interest owner to pay for the entire cost of the well?

MR. WHITE: That is correct. We have no objection to that. We would like to ask for recovery of the minimum of 125 percent. My objection to Mr. Roberts' proposal is simply that Mr. Kimbell is spending 100 percent of the money. I think he is entitled to 100 percent of the tax benefits which he would not have under Mr. Roberts' proposal.

MR. PAYNE: You are prepared to furnish these non-consenting orders with monthly reports of production, at least until such time the drilling costs have been paid?

MR. WHITE: To the extent we are prepared to do that. I don't think it would be fair on an interest this small to put the



burden on Mr. Kimbell and have the accounting department to furnish them with the various invoices in the operation of the well. I think that we will certainly agree to give them a total gross income on the well and the total gross concerning the expenses.

MR. PAYNE: Apparantly there is no dispute on his 125 percent figure.

MR. WHITE: No, sir. You bear in mind there is others in here also, not with these two, sir. As a matter of fact we have 55 unleased mineral orders.

MR. PAYNE: The ordinary force-pooling order, Mr. White, doesn't contain any provision relative to what the percentage figure should be unless the parties have been unable to agree on the figure and I take it that at least as to the parties represented by Mr. Roberts, there is no disagreement on that point.

MR. WHITE: That appears to be correct. I have not talked or discussed this matter with Mr. Roberts.

MR. NUTTER: Is there a representative of Robert Finch and Winnie Finch and John Giacomelli present? Have you discussed this matter with Brown, Woods, and Roberts?

MR. WHITE: No, sir that letter is my only communication from them. I found it in my office when I returned yesterday.

MR NUTTER: I would like a little further explanation what they intend to say here.



MR. WHITE: I gathered from this letter although they are not furnishing us with the lease covering these minerals, that they are willing for us to pool that interest, but they would like it set up as though they did furnish a lease. In other words, they want a 1/8 of the production till the pay out period is over. I object to that as I previously stated because that would give the one furnishing the money or the one carrying the interest only 7/8 of the tax benefits. I think he is entitled to 88/8 tax benefits being he is spending all the money.

MR. NUTTER: As I understand it, these people that are represented by this letter from Brown, Woods and Roberts are fee landowners.

MR. WHITE: That is correct.

MR. NUTTER: They also own the minerals and the mineral interest that have not been leased out.

MR. WHITE: That is correct.

MR. NUTTER: They own 100 percent of the mineral interests?

MR. WHITE: Yes, sir.

MR. NUTTER: It would appear they would not only be a royalty owner in this 320, they will also be a working owner.

MR. WHITE: That is correct.

MR. NUTTER: They are presently carrying their interest?

MR. WHITE: As far as working interest. The working interest would be 100 percent as it applies against these lots to the hole.



You see I don't think we can differentiate a royalty interest and a fee interest or a working interest. They have 100 percent of the working interest and what I am saying is that we want a 100 percent of the recovery from the 100 percent interest until Mr. Kimbell has recovered his money.

MR. NUTTER: I see.

MR. WHITE: And of course the only issue that we have here is on the 1/8 royalty they wish to receive in the pay out period.

MR NUTTER: These people own approximately how much acreage on this 320-acre unit?

MR. WHITE: Those people will own a little less than 2 acres.

MR. NUTTER: Robert and Winnie Finch 1.49 acres. How about the Giacomelli's, they own 6 lots.

MR. WHITE: 21/100 of an acre.

MR. NUTTER: 21/100 of an acre. So you propose that their cost of the well there is going to be relatively small.

MR. WHITE: That is true. Another objection we have to paying the 1/8 during the pay out period, this thing is going to complicate the bookkeeping system and it will actually be a mess. We have some 35 leases covering this thing. We are trying to eliminate as much bookkeeping as possible.

MR. NUTTER: I can appreciate that, separating the royalty ownership and the working interest ownership, then paying 88/8 of 1-7/8 of another could be rather complicated here.



MR. WHITE: Yes, sir. If you are ready, my witness is here.

MR. NUTTER: Yes, please proceed.

(Witness sworn.)

ROY COOK

called as a witness, having been first duly sworn on oath, testified as follows:

DIRECT EXAMINATION

By MR. WHITE:

Q. Will you state your full name.

A Roy L. Cook.

Q Will you state your residence, Mr. Cook?

A Pueblo, Colorado.

Q Are you familiar with the W/2 of Section 2, Township 29 North, Range 11 West, San Juan County, New Mexico?

A Yes, sir.

Q Do you have an interest in this property, Mr. Cook?

A Yes, I do.

Q Will you tell the Commission what your interest is.

A I obtained the leases on this Dakota unit, 320-acres with the exception of these mineral interests outstanding here and farmed it out to Kay Kimbell.

Q Will you tell the Commission with respect to these unleased mineral interests what you did trying to get these interests in the unit? In other words, what you did trying to get them

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leased?

A First this unit covers most of the village town site of Bloomfield and there were some 46 lots, 25 foot lots involved where the mineral interests were not retained when the land was sold, and I obtained leases from all of them except 4 individuals. One was the Finch interest, a 1-49/100 interest, the other was Giacomelli, 3 25 foot lots. There are 2 lots in this Town site owned by heirs that live in Fayetteville, North Carolina and 5 lots which are owned by the Morman Church. Now, those 5 lots, with the leases coming through their General Council of Salt Lake City, is approved in all probability. The leases are here in my office, the 2 lots in Fayette ville, North Carolina, the heirs have considered it so minimal that it wasn't worth their time to do anything. I sent them another letter a few weeks ago and haven't heard from them. In the case of the Finch and Giacomelli, I have contacted them many times and so recently as I sent them certified letters on August 1st explaining the situation and trying to avoid forced-pooling and I haven't heard from them. Over the period of time, I have probably contacted them oh, 25 or 30 times.

Q Are you the leasee?

A I am the leasee, yes, sir.

Q And you farmed this acreage out to Kay Kimbell and E. P. Kimbell?



A That is right.

Q Under where Mr. Kay Kimbell is the operator?

A Yes, sir the operator.

MR. PAYNE: Your application doesn't deny that the mineral interest owners in the remaining portion of the 320-acre unit would be deprived of their right to produce the oil and gas under their tract.

A Sir, that is a difficult question for me. Now, that amounts to 1 and approximately 1/100 of an acre. If I had that, I don't presume I would be able to produce it.

MR. PAYNE: I am concerned with the remainder of the 320. Do you feel if your application is not granted that the oil and gas underlying the 320-acre tract will not be produced?

A Sir, I don't believe I have an opinion on that right now. That would be a legal question, I believe. I say that they should not be deprived of it.

Q You have to drill a well to get it, right?

A That is right.

Q And if this application is denied, you can't drill the well.

A Well, sir the well is already drilled so that-

Q What is dedicated to it, what acreage?

A 320 is dedicated to it.

Q And is the well producing?



A It's capable of producing, sir it's not on the line at this time.

Q Has it ever been?

A No, sir not to my knowledge.

Q So there is no problem of apportioning any monies for past production.

A At this time, no. I am testifying to an opinion now and that I am sure it's not on the line. I haven't made a physical inspection of it in the past few days.

Q Where is the acreage located in the 320 of the non-consenting mineral interest owners, on the edge?

A Well, it would be near the edge, a part of it may, I show you this as to illustrate.

Q Yes.

A The 1.49 hundred acres is right here. The well is located here (indicating) this is 320-acres. Now, these lots are, I don't have a plot of the Townsite in this area right here (indicating) this is the Village of Bloomfield here and this is the-

MR. NUTTER: We have some acreage being 1.49 which is located in the South East of this. Is this the W/2 of the Section, the SE of the NW quarter?

A Yes, sir.

Q We also have some lots in the NE of the SW Section.



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A That is right.

MR. NUTTER: Now as I understand it all of the mineral interests in the W/2 of this Section are committed to this well with the ~~Section~~ ^{exception} of the tract one which is the Finch property

A Right.

MR. NUTTER: Tract 4 which belongs to these people in Fayette ville, North Carolina

A That is correct.

MR. NUTTER: And the Kissel tract 5 which belongs to Giacomelli

A Correct.

MR. NUTTER: Tract 6 which belongs to the Morman Church, I believe you said the edge is dedicated.

A Yes, sir.

MR. NUTTER: And tract 9 which belongs to Giacomelli.

A That is correct.

MR. NUTTER: All the remaining mineral interests are dedicated and committed.

A That is correct.

MR. NUTTER: Can you furnish us with the plat of the W/2?

A Yes.

MR. NUTTER: Section 22

A You may mark this application an exhibit if you like.

MR. NUTTER: This will be identified as Kimbell's Exhibit



Number 1 in Case 2057. Does anyone have any questions of Mr. Cook? You may be excused. Do you have anything further, Mr. White?

MR. WHITE: No, sir.

MR. NUTTER: Does anyone have anything to offer in Case 2057?

(No response)

MR. NUTTER: We will take the case under advisement and take case 2058.

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ALBUQUERQUE, NEW MEXICO

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

I, Lewellyn Nelson, Notary Public in and for the County of Bernalillo, State of New Mexico, do hereby certify that the foregoing and attached Transcript of Hearing was reported by me in Stenotype, and that the same was reduced to typewritten transcript under my personal supervision and contains a true and correct record of said proceedings, to the best of my knowledge, skill and ability.

DATED this 30th day of August, 1960, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

Lewellyn J. Nelson
NOTARY PUBLIC

My Commission Expires:

June 14, 1964

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner Hearing of Case No. 2057 heard by me on 8/24, 1960.
[Signature], Examiner
New Mexico Oil Conservation Commission

