Case 2080

BEFORE THE OIL CONSERVATION COMMISSION
OF THE STATE OF NEW MEXICO.

Case No. 2036
Order No. R-1748

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

APPLICATION OF CHARLES LOVELESS FOR A 280 -ACRE NON-STANDAR GAS UNIT IN THE ATOKA-PENNSYLVANIAN GAS POOL, EDDY COUNTY, NEW MEXICO, AND FOR AN UNORTHODOX GAS WELL LOCATION IN SAID POOL.

APPLICATION FOR REHEARING

Comes now W. H. Swearingen, and makes application to the Commission for a rehearing of the above case, in which order was entered on August 10, 1960.

For grounds of rehearing, applicant respectfully shows to the Commission as follows:

1. Applicant is the owner of the $SE\frac{1}{4}$ of the $NW\frac{1}{4}$, of Section 21, Township 18 South, Range 26 East, Eddy County, New Mexico.

2. That by its order, the Commission a 280-acre non-standard gas unit, consisting of all of the $N\frac{1}{2}$ of the said Section 21, except the said forty acre tract owned by applicant.

3. That 320 acres is the standard gas unit for the field in which the aforesaid lands lie.

4. That the Commission has approved a location for a well on the said non-standard unit at a point 330 feet from the east line of the forty acre tract owned by applicant.

5. That by so doingthe Commission has in effect granted the applicant for the esbalishment of the non-standard unit, authority to deprive this applicant for a rehearing of the right and opportunity to recover his just and equitable share of the natural gas and crude petroleum in the pool in which the lands involved lie.

6. That it was made known to the Commission at the hearing, that this applicant, and Charles Loveless, the applicant for the establishment of a non-standard unit, had no been able to agree on a communitization agreement.

7. That the smallness of the tract owned by this applicant is such that under the uniform spacing plan and proration unit, would, if enforced, operate to deprive this applicant of the opportunity to recover his just and equitable share of the natural gas and crude petroleum in the pool.

8. That it would be wholly impracticable, if not indeed impossible, for this applicant to drill a well on his said forty acre tract of land.

9. That it is to obvious distinct advantage to the said Charles Loveless not to have this applicant's land included in the drilling unit, since by the leaving it out of the unit, he will be able to take all of the oil and gas from this applicant's land, and without and remuneration to applicant.

10. That for the above reason, the said Charles Loveless was and is unwilling to enter into a fair and equitable agreement for communitization with this applicant.

11. That the statute, namely, Section 65-3-14 (c), expressly provides for the requirement that this applicant's land be required to be included in the unit, upon terms that are just and equitable, and reasonable, to be prescribed by the Commission.

Upon the above outlined facts and premises, this applicant submits that the order of the Commission, of August 10, 1960, is unjust, unreasonable, and unlawful, and would have the effect of depriving this applicant of his property without due process of law, if permitted to stand.

Applicant therefore prays that a rehearing of the case may be granted, and that upon rehearing, the Commission withraw its order of August 10, 1960.

That the Commission enter an order , requiring that the said forty acres of land of the applicant be added to the drilling unit, upon such terms and conditions that are just and reasonable as to all parties in interest.

Respectfully submitted,

Charles B. Barker

Attorney for W. H. Swearingen.