

BEFORE THE
OIL CONSERVATION COMMISSION
MABRY HALL
Santa Fe, New Mexico
October 19, 1960

EXAMINER HEARING

IN THE MATTER OF:

Application of Cities Service Oil Company for an order force-pooling all mineral interests in a standard 80-acre oil proration unit. Applicant, in the above-styled cause, seeks an order force-pooling all mineral interests within the vertical limits of the Southwest Gladiola-Devonian Pool in a standard 80-acre unit consisting of the S/2 SW/4 of Section 27, Township 12 South, Range 37 East, Lea County, New Mexico. The non-consenting royalty owners include B. F. Turner and wife, George C. Koch and wife, Hugh O. Sears and wife, Harry J. Kaindl and wife, and Clark and Judge Properties, a partnership.

Case 2101

BEFORE:

Daniel S. Nutter, Examiner

TRANSCRIPT OF HEARING

MR. MORRIS: Application of Cities Service Oil Company for an order force-pooling all mineral interests in a standard 80-acre oil proration unit.

MR. KELLAHIN: Jason Kellahin, Kellahin and Fox, representing the applicant. We will have one witness, Mr. Emmett Williams.

(Witness sworn.)

EMMETT WILLIAMS

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

DIRECT EXAMINATION

BY MR. KELLAHIN:

Q Would you state your name, please.

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A Emmett Williams.

Q By whom are you employed and what position, Mr. Williams?

A Cities Service Oil Company, as District Land Man.

Q How long have you held the position of District Land man?

A Since 1951

Q Where are you located at the present time?

A Roswell.

Q Are you familiar with the application in Case No. 2101 now before the Commission?

A Yes, sir.

Q Would you just briefly state what is proposed in this application.

A We propose to drill a Devonian test in the southwest Gladiola-Devonian Pool, to be located in the Southeast Quarter Southwest Quarter of Section 27, Township 12 South, Range 37 East. We want to unitize this with the Southwest Southwest to make an 80-acre spacing unit as authorized by the Commission and in order number R-1724. We have some mineral owners.

Q Before we get to that, what is the working interest, working ownership on this proposed unit, Mr. Williams?

A Cities Service Oil Company is the working interest owner of the Southeast Southwest and Max Pray and others have the working interest on the Southwest Southwest.

Q Has the working interest been pooled?

A Yes, sir; we have agreed on a pooling for the working interest.



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Q In the application before the Commission, you are not asking for force-pooling as to the working interest, is that correct?

A That is correct.

Q Now, what is the situation as to the mineral royalty interest?

A We have 5 mineral owners who have refused to sign the pooling agreement. Some 7 or 8 have already signed the pooling agreement.

Q Does that affect both quarter sections?

A Yes, sir.

Q In other words, you have royalty owners in the Southwest of the Southwest of Section 27 you have not signed.

A That is correct.

Q Who are they?

A George C. Koch and wife and B. F. Turner and wife.

Q You also have royalty owners who have not signed as to the Southeast Quarter of the Southwest Quarter, is that correct?

A That is correct.

Q What royalty owners are those?

A That is B. F. Turner, Clark and Judge Properties, Hugh O. Sears and Harry J. Kaindl.

Q What does the ownership amount to on these interests?

A On the Southeast of the Southwest, the four parties mentioned are all of the mineral owners.

Q That would be 1/8?

A That is right.

Q As to the Southwest Southwest, what does that amount to?



A The unsigned interest amount to 1/12 of 1/8.

Q Was any effort made to secure the signatures of these unsigned owners?

A Yes, sir.

Q Would you describe what was done in that capacity.

A Mr. Paul Lobinhien, of Ft. Worth, represented us in contacting all of these mineral owners and he did get the signature of a good many of them. The ones mentioned refused to sign the pooling agreement.

Q Now, was a pooling agreement presented to them for signatures?

A Yes, sir.

Q On what basis would the reason have been under that pooling agreement as to accounting on an acreage basis or do you know?

A I am sure it would be an acreage basis.

Q Do you know what objection they raised to the pooling of this tract?

A I think their objection was due to the fact that this case is due to be reviewed again in next July by the Commission as to 40 or 80-acre spacing and they preferred not to sign the pooling agreement at this time.

Q Was a second pooling agreement presented to them which would reserve their right to object to the spacing in this pooling?

A Yes, sir; it was. We added another page to the agreement which provided for that and they refused also to sign that

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agreement.

Q Now, is the unit which you are proposing here a standard unit under the present pool rules, under the temporary order?

A It is.

Q The well location you propose, at which you propose to drill a standard location is under the rules.

A Yes, sir.

Q Do you have anything you would like to add to your testimony, Mr. Williams?

A No, I don't think so.

MR. KELLAHIN: That is all I have.

MR. NUTTER: Any questions of Mr. Williams?

(No response.)

CROSS EXAMINATION

BY MR. NUTTER:

Q At the outset of your testimony, you stated that inasmuch as the working interest owners had agreed to pool their interest here that you weren't seeking an order pooling anything but the royalty interests, actually in effect what you are seeking, is it not, is an order pooling all of the interest including royalties.

MR. KELLAHIN: I think I should answer that. That is correct, Mr. Nutter.

Q (By Mr. Nutter) That is the application.

MR. KELLAHIN: That is the application, the working interest owners have agreed, however.

MR. NUTTER: But you are seeking to pool all of it in this



80 acres.

MR. KELLAHIN: That is correct.

Q (By Mr. Nutter) Does the last page which you added to the agreement provide this in essence, Mr. Williams.

A Would you like for me to read that?

Q No, sir; just briefly tell us what it states.

A It provided what the signers reserve the right to present their contentions at the regular hearing of this Commission in July of '61, in Case 2012, and they reserve a right to urge at such hearing that the 80-acre spacing is not a proper spacing at that time if they so desire.

Q If this provides them with the opportunities of not agreeing to the 80-acre spacing by signing the communitization agreement, by signing it with the reservation they would oppose it in July.

A That is correct.

Q And Cities Service would understand if the Commission would enter an order force-pooling the 80 acres, that order would be negated or nullified at the time the pool reverted to 40 acre spacing, if it should.

A Yes, sir.

Q Now, the well is to be in the Southeast of the Southwest of 27. I understand that all of the royalty owners under that 40 have refused to sign the agreement.

A That is correct, there are 4 of them.

Q You would add the Southwest of the Southwest to that and 1/12 of 1/8 of the total interest in that Section has



refused, of the 40 has refused to sign.

A That is correct. We have 11/12 signed in that 40.

MR. NUTTER: Any other questions of Mr. Williams?

(No response.)

MR. NUTTER: You may be excused.

MR. NUTTER: Do you have anything further?

MR. KELLAHIN: That is all.

MR. NUTTER: Does anyone have anything they wish to offer in Case 2101?

MR. MORRIS: Yes, sir. The Commission has received telegrams from the non-consenting interest owners which I should like to read into the record at this time. "The undersigned mineral owners under the Southwest Quarter Southwest Quarter of Section 27, Township 12 South, Range 37 East, NMPM object to the request of Cities Service in Case 2101 and urge the Commission not to enter any order purporting to force-pool their royalty interest in the above acreage to form any 80-acre unit. Our reasons for objection are: (1) There is no statutory authority for force-pooling royalty owners. (2) Order number R-1724 creating 80-acre proration units is a temporary order and unless cause is shown the pool will revert to standard 40-acre proration units in August 1, 1961. (3) We had no actual notice of Case 2101 in which temporary 80-acre proration units were authorized and at the July hearing we are going to appear and strongly oppose making 80-acre units permanent. (4) Order Number R-1924 permits the drilling of wells on 80 acres during the one year period and the attempt of Cities Service to force-pool during the one year period is purely a

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lease holding and contractual avoidance device. (5) Under any circumstances any purported force-pooling order issued would have no effect beyond August 1, 1961 and would have to be so limited by its provisions. Under the circumstances we strongly urge that the Commission deny the application of Cities Service in Case 2101. Please make this a part of the transcript in case 2101. B. F. Turner, Lucille Turner, George C. Koch, Sesser Mae Koch." Then the other application is verbatim with the exception it's the Southeast Quarter Southwest Quarter of Township 27, 12 South, Range 37 East NMPM 2101. Signed by B. F. Turner, Lucille Turner, Hugh O. Sear, Florence Sears, Harry J. Kaindl, Mary Kaindl, Clark and Judge Properties, a co-partnership composed of Elizabeth Wymond, Clark and Judge Properties.

MR. NUTTER: Do you have anything further, Mr. Morris?

MR. MORRIS: No, sir.

MR. NUTTER: If there is nothing further in Case 2101 --

MR. KELLAHIN: I would like to make a comment. We have no objection of course to the inclusion of the testimony in the record for whatever it may be worth, but several questions have been raised here which I think should be commented on. First, they raised the question of statutory authority of the Commission to force-pool royalty interests. As the Commission Examiner knows, the Commission has in the past concisely interpreted present statutes as investigating that authority and the Commission has entered force-pooling royalty interests, we contend they do have that authority. As to the temporary nature of the spacing order, I think that was brought out in the hearing



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and Cities Service realizes that the pool could revert to 40 acres and would certainly have no objection as to limiting this pooling order to coincide with any order entered by the Commission in the future. I do not agree, however, that the order would automatically terminate at the end of the one year period. I submit that the Commission can enter an order force-pooling an 80-acre tract subject to any future spacing order entered by the Commission and in the event it remains on 80-acres, the force-pooling order would remain in effect. As to the lack of notice, on the prior hearing I think that they had notice as required by law and that is not a contention which could be properly raised at this time.

MR. NUTTER: Anything further?

MR. KELLAHIN: That is all, sir.

MR. NUTTER: Does anyone have anything further?

(No response.)

MR. NUTTER: We will take the case under advisement and call 2102.



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WITNESSES

PAGE

EMMETT WILLIAMS

Direct Examination by Mr. Kellahin

1

Cross Examination by Mr. Nutter

5

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STATE OF NEW MEXICO }
COUNTY OF BERNALILLO } ss

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 1st day of November, 1960, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

Lewellyn F. 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. 2101,
heard by me on 10/17, 1960.

Arthur, Examiner
New Mexico Oil Conservation Commission

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