

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. 2432  
ORDER NO. R-2141

APPLICATION OF THE OIL CONSERVATION  
COMMISSION OF ITS OWN MOTION TO  
CONSIDER GRANTING PAUL E. HASKINS  
PERMISSION TO DRILL A WELL IN THE  
POTASH-OIL AREA, EDDY COUNTY, NEW  
MEXICO.

APPLICATION FOR REHEARING

Comes now POTASH COMPANY OF AMERICA, objector and protestant in the above case and respectfully requests that the Commission grant a rehearing in this cause with respect to the following matters determined by the Order of the Commission dated December 18, 1961 and for the purpose of entering the revised findings of fact hereinafter requested, and as grounds therefor states:

A. That the Commission erred in its finding No. (7)  
"That the evidence presented by Potash Company of America at the hearing of this matter was inconclusive that mining operations would ever be conducted on the SW/4NW/4 of said Section 13."

The testimony of witness J. B. Cummings at the hearing on November 16th, 1961 was positive and definite that the potash

ore underlying the SW/4NW/4 of Section 13, Twp. 20 South, Range 29 East, N.M.P.M., Eddy County, New Mexico would be mined in conjunction with current mining operations now being conducted by Potash Company of America. Mr. Cummings testified that development operations for the next few years include plans for an extension of the present underground workings into the area designated as the P.C.A. Southwest orebody and the further development of entry-ways in a northerly direction in said Southwest orebody into the vicinity of the SW/4NW/4 of said Section 13 from whence mining operations in that area would be conducted.

Mr. Cummings testified (Tr. p. 49) in response to the question by Mr. Bratton, as to whether he could state to the Commission when either primary or secondary mining are going to be performed in that area, as follows:

A I can't at this time state when the mining would take place in that 40-acre tract. I might definitely give you some indication within the range of years as to when it might happen.

It is our intent that development of the ore body of which that is a part will be taking place within the next five years. Our over-all estimated total reserves at the present time, of course, we are all hopeful we might extend that, but at our present rate of production, sixteen years in this mining area.

Q Is that primary or secondary or both?

A Inclusive of all mining within the present mining area.

Q So, you might be mining in this area some time after five years and up to sixteen years?

A That is right. That's as close as I could tie it down at this time.

Potash Company of America requests that finding No. (7) of the Order dated December 18, 1961 be amended to read substantially as follows:

(7) That the evidence presented by Potash Company of America at the hearing of this matter indicated that mining operations would be conducted in the SW/4NW/4 of said Section 13 within approximately the next 5-16 years but such evidence was inconclusive as to the exact time within such period when such mining operations would be conducted.

B. "That the Commission erred in finding of fact (12):  
"That if no well were drilled at any location in the SW/4NW/4 of said Section 13, it is probable that oil would be left unrecovered in the Getty Pool."

The finding of fact is incomplete in that it does not recognize that any oil which may exist under SW/4NW/4 of said Section 13 would not be drained by any existing well and would not migrate in the next 16 years which would permit the potash measures to be mined, after which the oil underlying said quarter-section could be recovered without waste of the potash reserves. The evidence clearly shows (Tr. p. 90) that the oil would not be drained by any presently existing well and therefore, the oil, if any there be, may be recovered at some future time and will not be left unrecovered..

Finding of fact No. (12) should be amended to clearly indicate that a well can be drilled at any future time to drain said land.

C. The Commission erred in making its finding No. (13) "That in order to prevent the waste that might occur if the subject well were not drilled, in order to protect the correlative rights of both

the oil operator and the potash operator, in so far as possible, and in order to promote the principle of multiple use, a well location 150 feet from the North and East lines of the SW/4NW/4 of said Section 13 would be authorized."

The evidence is uncontroverted that oil underlying the property in question would not be drained to any appreciable extent by any existing well. The only evidence presented on this point was that of Mr. Randal L. Montgomery. His testimony in this regard appears near the middle of page 90 of the transcript where he states "\*\*\* there is no way that the existing well can drain that particular 40-acre tract to any degree." Mr. Montgomery also identified Haskins' Exhibit No. 8 which showed that there were no other existing wells in the area from which the oil in the SW/4NW/4 could be drained.

Soon after the potash mining has been completed, oil and gas drilling may proceed through the subsided area. Therefore, since there is no evidence in the record to show that any oil will be lost if Haskins' right to drill is temporarily postponed, the portion of finding No. (13) which refers to "waste that might occur if the subject well were not drilled" is erroneous.

D. There is no evidence in the record or otherwise before the Commission to support the finding that the principle of multiple use will be promoted by the drilling of a well at the location approved or at any other location within the quarter quarter section. The principle of multiple use envisages a situation where the property is utilized to the maximum extent possible by both parties. The evidence is clear that the oil underlying the property would not be lost or wasted if the drilling of any well or wells is postponed until after the potash has been recovered. On the other hand, the

evidence is also clear that to the extent that recoverable potash exists within this area, a substantial portion will never be recovered if an oil well is permitted at this time. This loss of potash will occur within a circle having a radius of 550 feet around the well.

There is substantial uncontroverted evidence of the extremely strong probability that potash orebodies of 4 feet of 10%  $K_2O$  extend throughout substantially all of the land in question (P.C.A. Exhibit 10) and that substantial waste of such potash bodies will occur if the oil well in question is permitted to be drilled.

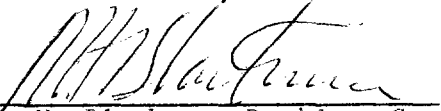
It will be remembered that the testimony of Mr. Robert Lane, chief mining engineer of International Minerals and Chemical Corporation, (Tr. pp. 76-80) showed that that corporation during the months of May, June and July, 1961 had mined approximately 192,000 tons of potash ore of a grade averaging 9.27%  $K_2O$ . Further uncontroverted evidence showed that Potash Company of America by use of machine methods of mining is currently mining thicknesses of 48 inches and is conducting engineering design work on a mining machine to mine at a minimum thickness of 42 inches. (Tr. p. 18) It is therefore submitted that it has been conclusively proved that potash ore 4 feet in thickness of 10%  $K_2O$  grade is commercial at the present time and that experience in the potash mining industry indicates that potash ore of grades less than 10% and thicknesses less than 48 inches will probably be commercial in the near future. Therefore it is submitted that the presence of commercial potash ore extending throughout substantially all of the land in question was conclusively proved.

The following findings of fact are requested:

1. That the evidence presented by Potash Company of America at the hearing of this matter indicated that mining operations would be conducted in the SW/4NW/4 of said Section 13 within approximately the next 5-16 years but such evidence was inconclusive as to the exact time within such period when such mining operations would be conducted.
2. That the oil underlying the SW/4NW/4 of said Section 13 will not be drained to any appreciable extent by any existing well.
3. That potash ore in the Eddy and Lea County area of a thickness of 4 feet and a grade of 10%  $K_2O$  is commercial potash ore at the present time and that experience indicates the strong probability that thicknesses of less than 4 feet and grades of less than 10%  $K_2O$  will be commercial in the near future.
4. That in order to promote the principle of multiple use, no well or wells should be drilled on the SW/4NW/4 of said Section 13 until the potash has been mined from under said Section or until it is determined either that commercial potash reserves do not exist under said land or that the same will not or cannot be economically mined.
5. That the correlative rights of both the oil operator and the potash operator will be protected and the principle of multiple use best served by the disapproval of any well location within said quarter quarter section.

Respectfully submitted,

POTASH COMPANY OF AMERICA

By   
R. H. Blackman, Resident Counsel