

BEFORE THE
OIL CONSERVATION COMMISSION
Santa Fe, New Mexico

June 7, 1962

EXAMINER HEARING

IN THE MATTER OF:

Application of J. Gregory Merrion and Associates
for compulsory pooling, Rio Arriba County, New
Mexico. Applicant, in the above-styled cause,
seeks an order of the Commission force pooling
all interests in the Basin-Dakota Pool in the
W/2 of Section 35, Township 25 North, Range 6
West, Rio Arriba County, New Mexico.

CASE NO.
2574

BEFORE: Daniel S. Nutter, Examiner.

TRANSCRIPT OF HEARING

(Afternoon Session)

(Whereupon, Applicant's Exhibits
Nos. 1, 2, and 2A, Marked for
Identification.)

MR. NUTTER: The Hearing will come to order, please.

The first case this afternoon will be Case 2574.

MR. MORRIS: Application of J. Gregory Merrion and
Associates for compulsory pooling, Rio Arriba County, New Mexico.

MR. COOLEY: William J. Cooley of the law firm of
Verity, Burr and Cooley, Farmington, New Mexico, appearing on
behalf of Applicant.

We have one witness in support of our application, Mr.
J. Gregory Merrion.

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(Witness sworn.)

J. GREGORY MERRION,

called as a witness herein, having been first duly sworn on oath,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. COOLEY:

Q Will the witness state his full name, please?

A J. Gregory Merrion.

Q Where do you reside?

A Farmington, New Mexico.

Q How are you employed?

A I am an independent petroleum operator and petroleum
engineer.

Q Would you state your connection with the organization
known as J. Gregory Merrion and Associates?

A I'm the operator.

Q What does the term "associates" actually refer to?

A My brothers and the Edgar Merrion Trust, Number One,
Two and Three.

Q Who are the beneficiaries of these trusts?

A Two of my brothers and myself.

Q Have you previously testified as an expert witness
before the New Mexico Oil Conservation Commission?

A I have.

MR. COOLEY: Are the witness's qualifications acceptable



in the case of this nature, or do you want to go into anything further?

MR. NUTTER: No, sir, please proceed with your case.

MR. COOLEY: You say his qualifications are not okay?

MR. NUTTER: No, we don't want to go into them.

Q (By Mr. Cooley) Have you prepared a plat showing the Northwest Section of Section 35, Township 25 North, Range 6 West, Rio Arriba County, New Mexico?

A I have.

Q I want you to take Exhibit No. 1 and explain the information thereon.

A I have outlined a nine section area in the center of which is the West Half of Section 35, Township 25 North, Range 6 West, which section we are requesting be force pooled. I and my associates have the operating rights on 120 acres of fee land in the center of this West Half of Section 35, the remaining acreage in the Half Section is controlled by Kay Kimball and a 25 percent interest in that lease is owned by the estate of E. P. Campbell.

Q Is the Kimball-Campbell lease to which you refer a federal oil and gas lease?

A It is.

Q Have you made any overtures to the owners of this federal oil and gas lease in efforts to communitize the same voluntarily?



A I've written to the E. P. Campbell estate requesting that they join in the development of this Half Section as to the Dakota formation.

Q I hand you what has been marked as Applicant's Exhibit No. 2 and ask you if this is a letter to which you refer?

A It is.

Q Do you have any evidence that this letter was received?

A I have a Return Receipt, it was sent by Registered mail.

Q Is it attached to Exhibit No. 2?

A It is.

MR. COOLEY: I don't believe there's any necessity to read the letter into the record, it speaks for itself.

Q (By Mr. Cooley) Did you attempt to contact Mr. Kay Kimball with respect to obtaining his joinder in this communitization?

A I have contacted Mr. Kay Kimball and they have agreed to join in the drilling of the well, although they will not join in the force pooling.

Q Is a Communitization Agreement in the process of being formed with regard to Kay Kimball's interest?

A Yes, it is.

Q Have the terms of that agreement been agreed upon between the Applicant and Kay Kimball?

A Yes, they have.

Q When do you anticipate that this agreement would be



consummated?

A Possibly within three weeks.

Q Did you receive any reply or any response whatsoever from the estate of E. P. Campbell, deceased?

A No, I didn't.

Q Have you made other efforts aside from the letter which is marked as Exhibit 2 to ascertain or attempt to obtain the joinder of E. P. Campbell in this communitization?

A I have made other efforts. They haven't been with E. P. Campbell estate, it is my understanding that the E. P. Campbell estate is a bankrupt estate and that anything which would otherwise be in that estate is under litigation. It is my understanding that the ~~Makli~~Burton Company and the Continental-Emsco Company has a claim on the rights of E. P. Campbell on this land and I have talked to them, but it's going to be some time before they can establish their rights and they are not willing to talk trade until such time as they get the rights established.

Q At this point these interests to which you refer are only security interests, is that correct?

A I guess that's what you would call it.

Q They have no legal title at this time?

A Correct.

Q Then, are you convinced in your mind at this time at least that it is impossible to obtain the voluntary joinder of the acreage owned by the estate of E. P. Campbell, deceased?

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A Yes, I am convinced of it.

Q Is the area which is sought to be forced pooled offset by production in the Dakota formation?

A Yes, it is, in all directions.

Q Are the wells surrounding this area shown on Applicant's Exhibit No. 1?

A Yes, they are.

Q Would you analyze the producing capacities and other data that you have concerning these offsetting wells?

A There are 15 Dakota penetrations on the plat, 14 of the wells are producers, one, the Kay Kimball No. 135 Warren Federal in Unit A of Section 35, 25 North, 6 West, produced originally from the Dakota and was later plugged back to the Gallup, now produces from the Gallup horizon and the Dakota has been abandoned.

Q For what reason was this well plugged back?

A It was not a very good well as I understand it. The remaining 14 wells have current deliverabilities ranging from 156 MCF per day on the Kay Kimball Corral Unit No. 1 in Section 27, 25 North, 6 West, to a maximum of 1,921 MCF per day on the El Paso Natural Gas Company Canyon Largo Unit No. 95 in Unit B of Section 36, Township 25 North, Range 6 West. The average deliverabilities of these wells is 864 MCF per day and the mean deliverabilities is, roughly, 568 MCF per day.

Q Taking into consideration the cost of drilling these



wells, what do you consider the breaking point to be with respect to classification of wells in this area as being commercially productive?

A I would say, roughly, a deliverability of a half a million.

Q Are there several wells shown on this nine section plat that, in your opinion, are not what you would consider desirable or commercially productive wells?

A Well, there are six of the fourteen wells having deliverabilities less than a half million which I judge to be the breakover point between commercial and non-commercial.

Q Am I to understand, then, that the six wells to which you refer will not within a reasonable length of time repay the cost of drilling and operation?

A That's correct.

Q Then, in view of this information, what do you feel would be a reasonable risk factor with respect to the drilling of the well in the West Half of Section 35?

A I think a minimum that I can stand in the way of a risk factor or a combination risk and interest factor would be 50 percent in addition to the cost or 150 percent back. There is a 6 percent override on the Campbell interest.

Q That's the Kimball and the Campbell interest?

A Yes.

Q What does the presence of 6 percent overriding royalty,



what effect does that have upon your recovery?

A It takes it longer to get the money back.

Q What do you estimate the cost of the carried interest of E. P. Campbell estate to be in this particular well?

A His proportionate share of the drilling, completing and equipping of this well would be, roughly, something slightly less than eleven thousand dollars.

Q Of course, I must presume that it would be incumbent upon J. Gregory Merrion and Associates to come up with this money, is that correct?

A That's correct.

Q What interest rate would you anticipate would be required to borrow this money?

A I have always had to pay 6½ percent at the bank and they want their money back in 2 years.

Q Do you feel that there's any reasonable probability of expecting pay-out on the proposed well within a 2 year period?

A It's very unlikely.

Q First of all, where do you propose to drill this well?

A The proposed location will be in Unit M of Section 35, Township 25 North, Range 6 West.

Q "M" as in Mary?

A Yes. Roughly 790 feet from the South and West lines.

Q Would you please evaluate what you consider your risks are with respect to obtaining commercial production at the



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proposed location?

A Well, the Dakota sand is somewhat erratic in here. The best well in the area, the El Paso Natural Gas Company Canyon Largo Unit No. 95 is offset to the north by 2 wells in Section 25 which have deliverabilities of 305 on the McKenzie Federal No. 1 and 332 on the McKenzie Federal No. 34. These, in my opinion, are uncommercial and undesirable. The No. 2-35 Warren Federal, a half mile to the east of the proposed location was a good deliverability of 1,795 MCF per day, and the Kay Kimball 134 Salazar Federal, roughly a half mile to the northwest of the proposed location has a deliverability of 464 which is sub-commercial. I would expect, roughly, an average or a mean well of something in the 568 to 864 range.

Q If it is determined or actually develops that that's the type of well that you get, approximately how long would it take for that well to pay out?

A Roughly, 6 or 7 years I would estimate.

Q Then, on interest alone what would be your outlay with respect to the monies advanced on behalf of the E. P. Campbell interest in terms of percentage?

A The amount of interest I'd have to pay on a 6 or 7 year pay-out, well, actually, if I had to pay back the interest which I would have to pay it would take longer than 6 or 7 years, it probably would take 8, 9 or 10 and the total interest I would have to pay would be, roughly, 30 percent of the ten or eleven thousand dollars



Q This does not take into consideration the risk which you are taking in drilling a well in this sporadic area?

A That's right.

Q What is the economic effect upon your particular company of the fact that you are having to advance the share of the drilling of this well that would ordinarily be advanced by the E. P. Campbell estate?

A We have several drilling ventures to get into this year. We have limited funds to get into them. We will not be able to do all of the drilling that we otherwise would do if we have to put up the 10 or 11 thousand dollars for the E. P. Campbell share of this well. We have a proposed well in the Canyon Largo Unit in the East Half of Section 12, Township 24 North, Range 6 West, which is adjacent to the area shown in which the Merrion trust have 80 acres under a 320 acre drilling block. That well has been proposed. It appears as though we will either not participate in it if it is drilled or see it go undrilled this year. If we do not participate and it is drilled, according to the terms of the Canyon Largo Unit Operating Agreement, we would be charged 150 percent out of 7/8th's out of future production. In other words, there will be no override on that, we'll get our fee royalty, but nothing else until they recovered 150 percent of the drilling costs.

Q If you were not required to advance the monies necessary to finance the E. P. Campbell interest in the proposed well in

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Section 35, would you then have ample funds to participate in the Canyon Largo well?

A It would be pretty close. I think we would. In other words, you are talking about 80 acres under that well as compared to 50 acres belonging to the E. P. Campbell estate in the West Half of Section 35.

Q Then, the net effect on your company is that it will force you to be penalized at another location?

A That's right.

MR. COOLEY: Nothing further at this time.

MR. NUTTER: Any questions of Mr. Merrion?

MR. MORRIS: Yes, sir.

MR. NUTTER: Mr. Morris.

CROSS EXAMINATION

BY MR. MORRIS:

Q Mr. Merrion, is all of this land in the West Half of Section 35 federal land?

A The acreage belonging to me and my associates is fee land and patented land. The remainder is all federal.

Q Who is the fee owner of that 120 acres there?

A 65 percent of the minerals are owned by the Merrion trusts, 25 percent of the minerals are owned by Loren and Norma Wilcox, 10 percent of the minerals are owned by Mark Elkins. The Merrion trusts have a lease on the Wilcox minerals and I have a lease on the Elkins' minerals.



MR. NUTTER: So that you or your associates have 100 percent of the fee land?

A Of the fee land.

MR. NUTTER: Of the mineral interests in the fee tract?

A That is correct.

Q (By Mr. Morris) You said there was a 6 percent override on the Campbell interest which is a --

A The 6 percent is proportionally reduced.

MR. COOLEY: It's on the entire lease.

MR. MORRIS:) It's on the entire lease, but it's carved out of the 25 percent.

MR. COOLEY: No, it's 6 percent on the entire federal lease which represents the remaining 200 acres in the West Half of 35, which working interest is owned 75 percent Campbell and 25 percent Kimball.

Q (By Mr. Morris) Have you given a name to your well?

A It hasn't been drilled yet and we have not selected a name yet.

Q From your experience in this general area, Mr. Merrion, what would you say would be the average operating costs for a Dakota well on a monthly basis?

A I don't at the present time operate any Dakota wells in the area and I won't operate this one. The only way I can get the Kimball interest to join me on this is that they don't have to pay any of the force pooling and that they get to operate it



after it's drilled. In negotiating with Kay Kimball we have arrived, and not got it down on paper, but verbally agreed to seventy-five dollars a month for operating costs which I think has been what the Commission has previously allowed on such deals.

Q That is correct. I wanted your opinion on whether that was high or low or just about right.

A Well, I think it depends a lot on the problems of the well. I think it's pretty reasonable and I was happy to be able to get Kimball to verbally agree to it. Sometimes you have more production equipment, tankage, condensate to be run, and so forth, and the wells require more attention than other times and seventy-five dollars might sometimes be very inadequate.

Q If I understand a comment that you have just made, you will be the operator of the well only through the drilling of the well?

A That's correct.

Q Whereupon it will be turned over to Kay Kimball to actually operate the well and to disburse the money that's derived from the proceeds of the well?

A Well, I would imagine that the pipeline will make the disbursements.

Q Yes.

A But Kimball will operate and the operating costs will be paid to him.

Q Mr. Merrion, the Commission has had some dealings with



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the estate of E. P. Campbell and I realize that as a practical matter they are probably not able to join you on a voluntary basis in this matter, but in the event they should be able to join, let's say within 30 days following the day the well is completed, would it be agreeable with you and with Kay Kimball for the estate of E. P. Campbell to pay their share of well costs in advance and thereby escape any of the risk that might be assessed against their interest as non-consenting owners?

A In other words, just consider this a no-risk and after we had drilled the well and completed it they would pay for it?

Q They would pay either up to the date of completion or within 30 days after.

A In other words, they would get to look at the well before they paid for it?

Q That would be the effect of it.

A Well, I would prefer that to collecting my money out of 125 or 150 percent but I don't think it would be fair because I would have taken some risk in their behalf but I don't think 125 or 150 percent even compensates you for the interest you have to pay in having your capital tied up. I think that you should get something for the risk and I think you should get some interest.

Q In other words, you are generally against the proposition as I have stated it?

A Well, yes, it would be preferable, though, to having



my capital tied up for 10 years, but I don't think it would be fair.

MR. MORRIS: I believe that's all I have.

BY MR. NUTTER:

Q Mr. Merrion, would you give me the deliverabilities on the remainder of the wells on this plat?

A Starting from the upper left-hand corner, the Kay Kimball Corral Unit No. 1 according to my records or your records was deliverable of 156 MCF per day. The Kay Kimball Corral Unit No. 2 has a deliverability of 305 MCF per day. The Kay Kimball 2-26 has a deliverability of 546 MCF per day. The Kay Kimball 3-26 has a deliverability of 591 MCF per day. The Kern County Land Company McKenzie Federal No. 1, deliverability of 305 MCF per day. The Kern County Land Company No. 34, McKenzie Federal has a deliverability of 332 MCF per day. The Kay Kimball 1-34 Salazar Federal has a deliverability of 464 MCF per day. The Kay Kimball 2-35 Warren Federal has a deliverability of 1,795 MCF per day. The Kern County Land Company Harvey State No. 1 has a deliverability of 1,452 MCF per day. The El Paso Natural Gas Company Canyon Largo Unit -95 has a deliverability of 1,921 MCF per day. The Skelly Farming E State No. 1 has a deliverability of 1,487 MCF per day, the Farming E-3 has a deliverability of 602 MCF per day. The El Paso Natural Gas Company Canyon Largo Unit 110 has a deliverability of 1,718, and the Canyon Largo Unit 111 has a deliverability of 423.



Q I notice that this letter which you addressed to the estate of E. P. Campbell was sent in care of Mr. Chardo Pierce at 1603 Broadway, Lubbock, Texas. Is this the correct address for the estate of E. P. Campbell?

A It's my understanding that Chardo Pierce was at one time handling the estate of E. P. Campbell.

Q Now, the Return Receipt for your letter was signed for the estate by W. Maimbourg?

A Yes.

Q Is W. Maimbourg in association with Mr. Chardo Pierce

A I don't know who Mr. W. Maimbourg is. All I know is that's the way I sent the letter.

Q Have you had any acknowledging receipt of any mail with the estate of E. P. Campbell when you sent it to this address?

A No.

MR. MORRIS: In conjunction with the plugging of wells in Eddy County the Commission has had considerable communication with this person at this address and he does represent Mr. E. P. Campbell.

MR. COOLEY: Do you know who Mr. E. Maimbourg is?

MR. MORRIS: I never heard of the person.

MR. COOLEY: It may be assumed that whoever Mr. W. Maimbourg is, he is able to sign a receipt or has the right to receive mail addressed to this person.

Q (By Mr. Nutter) As I understand it, of the 200 acres



which the Merrion Associates do not own, Kay Kimball and the estate of E. P. Campbell have $8\frac{1}{2}$ percent, which would be $12\frac{1}{2}$ percent government minus a 6 percent overriding interest?

A That is correct.

Q And this overriding royalty is a carried royalty as far as working interest or costs are concerned?

A They have no costs, they get 6 percent of the revenue.

Q So, the well will have to sustain their costs and/or the estate of Campbell would pay those costs out of $81\frac{1}{2}$ percent of the production, 25 percent of $81\frac{1}{2}$ percent, approximately?

A Yes.

Q And Kimball has agreed to put up his share of the well costs in advance?

A Yes.

MR. MORRIS: I have one more question.

MR. NUTTER: Mr. Morris.

BY MR. MORRIS:

Q I meant to ask you a question concerning the terms of the Operating Agreement which has been reached or will be executed between yourself and Kay Kimball.

Does that Agreement provide any percentage for the risk involved in the drilling of the well?

A Well, the Operating Agreement between Kimball and I, they put up their money, I put up my money, we both stand our own



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risk, so there is no further percentage involved.

Q There are no carried interests involved, then?

A That's correct.

MR. MORRIS: Thank you.

MR. NUTTER: Any further questions?

The witness may be excused.

(Witness Excused.)

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

Cooley?

MR. COOLEY: Nothing, Mr. Examiner.

MR. NUTTER: Does anyone have anything they wish to offer in Case 2574?

We will take the Case under advisement, and call Case 2576.



STATE OF NEW MEXICO)
) ss
 COUNTY OF BERNALILLO)

I, ADA DEARNLEY, 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.

Ada Dearnley
 NOTARY PUBLIC

My Commission Expires;

June 19th, 1963.

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 2574, heard by me on June 7, 1962.

W. H. Hume, Examiner
 New Mexico Oil Conservation Commission

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