



POTASH COMPANY OF AMERICA

MINE AND REFINERY: P. O. BOX 31 • CARLSBAD, NEW MEXICO • TU 5-2111

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July 31, 1964

R. H. BLACKMAN
RESIDENT COUNSEL

Oil Conservation Commission
Santa Fe, New Mexico

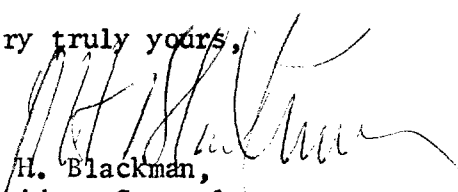
Attention: Mr. A. L. Porter,
Secretary-Director

Re: Case No. 3029

Gentlemen:

As authorized by the Commission, I enclose original
and 2 copies of a suggested form of order incorporat-
ing our requested findings of fact in the above num-
bered case.

Very truly yours,


R. H. Blackman,
Resident Counsel

RHB/b
Enc.

cc: Ross L. Malone, Esq.
Roswell, New Mexico



MEMBER: AMERICAN POTASH INSTITUTE

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BEFORE THE
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO

IN THE MATTER OF:

Application of Pan American Petroleum Corporation for permission to drill in the Potash-Oil Area, Eddy County, New Mexico. Applicant, in the above-styled cause, seeks authority to drill a well to the Mississippian formation at an approximate depth of 12,600 feet, said well to be located 660 feet from the South line and 660 feet from the East line of Section 17, Township 20 South, Range 30 East, Eddy County, New Mexico, or to drill said well at an alternate location anywhere within a circle of 100 feet radius around the Barber Well No. 4-A, located 1639.2 feet from the South line and 2304.5 feet from the East line of said Section 17. The above location and the alternate location are in the Potash-Oil Area as defined by the Commission in Order No. R-111-A as amended.

No. 3029

APPLICATION FOR REHEARING

COMES NOW Applicant Pan American Petroleum Corporation, sometimes herein referred to as "Pan American," and files this, its Application for Rehearing by the New Mexico Oil Conservation Commission of the above styled and numbered cause and, as grounds for granting such Application, states:

1. This cause came on for hearing before the Commission at 9 o'clock A.M., on April 15, 1964, at Santa Fe, New Mexico, on the Application of Pan American duly filed herein, and thereafter the Commission, on the 25th day of September, 1964, having considered the Application and Alternate Application of Pan American, issued its Order

No. R-2772 which was entered in the records of the Commission less than 20 days prior to the filing of this Application for Rehearing.

2. That Finding No. 10 of the Commission is erroneous in that it determines that the practice of Potash Company of America is to leave a pillar of a radius of 100 feet around the shallow oil well, and of 200 feet around a high pressure gas, or oil and gas, well as to primary mining or within a radius equal to the depth of the potash deposit as to secondary mining, and such Finding is contrary to the weight of the evidence and is not supported by substantial evidence.

3. That Finding No. 11 of the Commission is erroneous and contrary to the weight of the evidence and is not supported by substantial evidence to the extent that it finds that Applicant has not established that the proposed well could be cased and cemented in a manner that would withstand the subsidence experienced in normal potash mining operations, and in holding that damaged casing would ultimately result in waste of oil or gas in the event that the Application of Pan American were granted.

4. That Finding No. 12 of the Commission stating that the drilling of a well at either of the proposed locations, at this time, would create a hazard to human life is erroneous, is contrary to the evidence, and is not supported by substantial evidence; that said Finding is further not supported by substantial evidence to the extent that it finds that Applicant has not established that the proposed well could be cased and cemented in a manner that would withstand the subsidence experienced in normal potash mining operations and prevent the escape of natural gas into open mine workings.

5. That Finding No. 13 of the Commission is contrary to the evidence and is not supported by substantial evidence in holding that the drilling of an oil well at either of the proposed locations, at this time, would result in undue waste of potash deposits and unduly interfere with the orderly development of such deposits contrary to the provisions of Commission Order No. R-111-A.

6. That Finding No. 14 of the Commission is contrary to the evidence, is not supported by substantial evidence, deals with matters beyond the issues of this case, and beyond the authority of the Commission on the record and issues in this case.

7. That Finding No. 15 of the Commission is erroneous, unreasonable, and unlawful.

8. The Commission erred in failing to adopt Requested Findings of Fact Nos. 1 to 5 inclusive, of Applicant Pan American Petroleum Corporation in that the evidence, with reference to the facts therein recited, is undisputed and said facts are material to a determination of the issues before the Commission in this proceeding.

9. The Commission erred in failing to adopt Requested Findings of Fact Nos. 6 to 12 inclusive, for the reason that the evidence in support of the Facts therein recited, is undisputed and said Facts are material to the disposition of this case by the Commission.

10. The Commission erred in failing to adopt Applicant's Requested Finding No. 13 in that the facts therein recited were established by a preponderance of the evidence before the Commission and there is no substantial evidence to the contrary.

11. The Commission erred in refusing to adopt proposed Findings

of Fact Nos. 14 and 15 of Applicant in that they are supported by the undisputed evidence in this case and there is no substantial evidence to the contrary.

12. The Commission erred in refusing to adopt Requested Findings of Fact Nos. 16, 17 and 18 of Applicant Pan American Petroleum Corporation in that they are supported by the preponderance of the evidence heard by the Commission and there is not substantial evidence to the contrary.

13. The refusal of the Commission to grant the Application of Pan American to drill at the alternate location proposed constitutes an invalid exercise of the police power of the State of New Mexico and is beyond the power of the Oil Conservation Commission of New Mexico, for the reasons stated in Requested Conclusions of Law Nos. 1 and 2 which were submitted to the Commission.

14. The Order of the Commission is erroneous and unlawful in that the Legislature of New Mexico has not granted to the Oil Conservation Commission of New Mexico power or authority to prohibit or postpone the exercise of rights created by oil and gas leases issued by the Commissioner of Public Lands, be reason of possible interference with potash mining operations conducted under a lease which is junior in right to the oil and gas lease.

✓ 15. The Order of the Commission is erroneous and unlawful in that the Legislature has granted the Oil Conservation Commission of New Mexico jurisdiction and authority over matters relating to the conservation of oil and gas but has granted to the Commission no authority to conserve potash or to prevent the waste thereof, or to prevent interference with potash mining operations when to do so prevents exploration and development of oil

and gas deposits, the right of which was created by a lease paramount and superior to the existing potash lease embracing the premises.

16. The Order of the Commission is erroneous and unlawful in that the Application of Pan American, as elaborated by the testimony in this case, meets all valid requirements of the statutes of New Mexico and the Orders of the Oil Conservation Commission for the drilling of a well at the alternate location proposed by Pan American, and, by reason thereof, said Application should have been granted.

17. The Order of the Commission is unlawful in that it results in the taking of the property of Applicant without due process of law, and the postponement of the rights of Applicant under its lease to the complete exercise of the rights of the potash Lessee under a lease junior in time and right to the oil and gas lease of Applicant.

WHEREFORE, Applicant Pan American Petroleum Corporation respectfully prays the Commission for a rehearing in this case as to all matters determined by the Commission in its Order above referred to, to the extent that the same are alleged herein to be in any respect, illegal, unreasonable or unlawful, and that upon such rehearing the Application of Pan American Petroleum Corporation, above referred to, be granted.

Respectfully submitted,

ATWOOD & MALONE

By Rose A. Malone
by John H. Bassett, Jr.

P. O. Drawer 700

Roswell, New Mexico

Attorneys for Applicant

Pan American Petroleum Corporation

GOVERNOR
JACK M. CAMPBELL
CHAIRMAN

State of New Mexico
Oil Conservation Commission



LAND COMMISSIONER
E. S. JOHNNY WALKER
MEMBER

P. O. BOX 2088
SANTA FE

STATE GEOLOGIST
A. L. PORTER, JR.
SECRETARY - DIRECTOR

September 29, 1964

Mr. Ross Malone
Atwood & Malone
Post Office Box 700
Roswell, New Mexico

Re: CASE NO. 3029
ORDER NO. R-2772
APPLICANT Pan American

Dear Sir:

Enclosed herewith are two copies of the above-referenced Commission order recently entered in the subject case.

Very truly yours,

A. L. Porter, Jr.
A. L. PORTER, Jr.
Secretary-Director

ir/

Carbon copy of order also sent to:

Hobbs OCC X

Artesia OCC X

Aztec OCC

OTHER Mr. Roy Blackman

Mr. Bryant H. Croft (604 El Paso Bldg. - Salt Lake City, Utah)

Mr. John Anderson