

BEFORE THE
NEW MEXICO OIL CONSERVATION COMMISSION
Santa Fe, New Mexico
28 September, 1977

IN THE MATTER OF:

Application of Atlantic Richfield) CASE
Company for a unit agreement, Lea) 5997
County, New Mexico.)

BEFORE: Daniel S. Nutter

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the New Mexico Oil Lynn Teschendorf, Esq.
Conservation Commission: Legal Counsel for the Commission
State Land Office Building
Santa Fe, New Mexico

For El Paso Natural Gas: H. L. Kendrick, Esq.
El Paso Natural Gas
El Paso, Texas.

For Texaco: Kenneth Bateman, Esq.
WHITE, KOCH, KELLY & McCARTHY
220 Otero Street
Santa Fe, New Mexico

For J. R. Cone and W. Thomas Kellahin, Esq.
Summit Energy, Inc.: KELLAHIN & FOX
500 Don Gaspar
Santa Fe, New Mexico

For the Applicant, Clarence L. Hinkle, Esq.
Atlantic Richfield: HINKLE, COX, EATON, COFIELD &
HENSLEY
Roswell, New Mexico

1 MR. NUTTER: Call Cases Numbers 5997 and 5999,
2 which have the same caption.

3 MS. TESCHENDORF: Those are both the applications
4 of Atlantic Richfield Company for a unit agreement, Lea County,
5 New Mexico.

6 MR. NUTTER: And we'll call Case Number 5998 and
7 6000, both of which have the same caption.

8 MS. TESCHENDORF: Applications of Atlantic Richfield
9 Company for a waterflood project, also in Lea County, New
10 Mexico.

11 MR. NUTTER: I'll call for appearances at this time
12 in these cases.

13 MR. KENDRICK: H. L. Kendrick, El Paso Natural Gas.

14 MR. BATEMAN: Kenneth Bateman of White, Koch, Kelly
15 and McCarthy, appearing for Texaco.

16 MR. KELLAHIN: Tom Kellahin, appearing for J. R.
17 Cone and for Summit Energy, Inc..

18 MR. HINKLE: Clarence L. Hinkle, Hinkle, Cox, Eaton,
19 Cofield, and Hensley, Roswell, New Mexico, appearing on behalf
20 of Atlantic Richfield.

21 (Witnesses sworn.)

22 MR. NUTTER: Now, Mr. Hinkle, did you want to con-
23 solidate these cases?

24 MR. HINKLE: Yes. These four cases are all inter-
25

1 related and I'd like to move that they be consolidated, be
2 called and consolidated for the purpose of the hearing.

3 MR. NUTTER: Cases 5997, 5998, 5999, and 6000 will
4 be consolidated for the purpose of hearing. Separate orders
5 will be entered in each case.

6 MR. BATEMAN: Mr. Examiner, excuse me, before we
7 proceed there's a preliminary matter I'd like to bring up.

8 MR. NUTTER: All right, an opening remark.

9 MR. BATEMAN: Not an opening remark, Mr. Examiner,
10 but I'd like to draw your attention to the advertisement in
11 5997 and 5999, I believe. There's some confusion, at least on
12 the part of my client, and I think the others, with respect
13 to the advertisement.

14 I believe that is a form of advertisement used for
15 a voluntary unit approval, and as I understand the application,
16 I have a copy of the application in 5997, Paragraph 9 of the
17 application indicates that the application was filed under and
18 pursuant to the statutory unitization act.

19 Obviously, there's a considerable difference be-
20 tween a voluntary unit approval and a statutory unitization
21 act proceeding. And it is our position, Mr. Examiner, that the
22 application was not properly advertised and that there is no
23 jurisdiction to proceed at this point.

24 MR. HINKLE: Mr. Examiner, I don't think there's
25 anything in the statutory unitization act that requires that

1 you give specific notice of a statutory unitization.

2 MR. BATEMAN: Mr. Examiner, Article 65-3-6 requires
3 a notice of hearings, and including, the notice, if pub-
4 lished, shall briefly state the nature of the order, or
5 orders, sought -- I'm paraphrasing -- by the applicant.

6 The form of application -- excuse me, the form of
7 advertisement used in previous cases that I am familiar with
8 in connection to statutory unitization, of course, have
9 been rather specific about the compulsory aspect of the
10 application, and the fact that interests are -- there's an
11 attempt being made to force interestes in the unit, which
12 have not voluntarily complied or ratified the operating
13 agreement.

14 There's no indication in this application -- ex-
15 cuse me, this notice that that is the case here. It may
16 well be additional opposition to this application if that
17 were specified.

18 MR. HINKLE: Mr. Examiner, I think all of those who
19 have entered an appearance here are the only ones who have
20 expressed any opposition. I think the evidence will show
21 that over eighty percent of the working interest owners and
22 royalty owners have agreed to unitization, and those who have
23 entered an appearance here are the only ones that have not
24 consented to it, so there couldn't be prejudice whatsoever
25 because you're here before the Commission.

1 MR. NUTTER: Mr. Hinkle, do we know that everyone
2 is here, and how would we ascertain that fact?

3 MR. HINKLE: Because we do, we know that everybody
4 that is represented here who has not agreed to it.

5 MR. RAMEY: Royalty owners, too?

6 MR. HINKLE: Royalty owners, well, there's one or
7 two royalty owners that I never have been able to get in
8 touch with; never have heard from them.

9 MR. NUTTER: Well, if we can't get in touch with
10 them, we depended on the notice nailed on the old oak tree,
11 you know.

12 MR. KELLAHIN: If the Examiner please, on behalf of
13 J. R. Cone and Summit Energy, Inc., we would concur in
14 Texaco's motion that the Commission lacks jurisdiction to
15 proceed in this matter. There's a substantial difference in
16 appearing in response to an advertisement that indicates the
17 approval of a voluntary unit agreement as opposed to the
18 statutory notification with regards to forced unitization.

19 MR. NUTTER: I'm afraid you're right and I don't
20 think we can proceed. I'm sorry, Mr. Hinkle, but probably
21 it's the error of the Commission. I'm afraid we can't pro-
22 ceed on this.

23 MR. HINKLE: I had it in the application.

24 MR. NUTTER: We've had only two previous statutory
25 unitization hearings and in each of those we've been very

1 specific in the notice that it is a statutory unitization,
2 and I think by having set that precedent on those cases, it
3 would be unwise for us to proceed with the standard notice
4 for a voluntary unit agreement here.

5 MR. HINKLE: Well, let me ask this. When can these
6 be set now?

7 MR. NUTTER: They can be set for the second hearing
8 in October.

9 MR. HINKLE: That will be when?

10 MR. NUTTER: There's a hearing on the 12th and I
11 don't -- October 26th.

12 MR. HINKLE: October the 26th. Okay, put them
13 right up at the top so we can start early.

14 MR. NUTTER: With that I think we have to dismiss
15 Cases Numbers 5997 and 5999, and continue Cases Numbers 5998
16 and 6000 to the Examiner Hearing, which will be held at this
17 same place at 9:00 a.m., October 26, 1977.

18 MR. HINKLE: Now, it will not be necessary to file
19 a new application, as I understand it.

20 MR. NUTTER: No, sir, we'll accept these applica-
21 tions. I haven't looked at the application but I presume
22 it's --

23 MR. HINKLE: Because it's specific.

24 MR. NUTTER: Okay, well, it's the error of the Com-
25 mission. We're sorry for it but those things do happen.

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Phone (505) 982-9212

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The hearing is adjourned.

(Hearing concluded.)

REPORTER'S CERTIFICATE

I, Sally Walton Boyd, a Certified Shorthand Reporter,
DO HEREBY CERTIFY that the foregoing and attached Transcript
of Hearing before the New Mexico Oil Conservation Commission
was reported by me, and the same is a true and correct record
of the said proceedings to the best of my knowledge, skill,
and ability.

Sally Walton Boyd
Sally Walton Boyd, C. S. R.

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