

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION FOR THE)
PURPOSE OF CONSIDERING:)
) CASE NO. 13,336
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR A COMPLIANCE)
ORDER, LEA COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

September 2nd, 2004

Santa Fe, New Mexico

2004 SEP 16 PM 12 57

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, September 2nd, 2004, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

WVJ
9/16/04

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 Examiner Hearing
 CASE NO. 13,336

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
 Deputy General Counsel
 Energy, Minerals and Natural Resources Department
 1220 South St. Francis Drive
 Santa Fe, New Mexico 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 1:30 p.m.:

3 EXAMINER JONES: Okay, let's go back on the
4 record. This is still Docket 24-04, and we're going to
5 call a couple of cases here before the Smith and Marrs
6 case, and it will be about 30 minutes, or at least 30
7 minutes, before that case starts.

8 (Off the record)

9 EXAMINER JONES: Okay, at this time let's call
10 Case 13,336, Application of New Mexico Oil Conservation
11 Division for a compliance order.

12 Call for appearances?

13 MS. MacQUESTEN: Gail MacQuesten, attorney for
14 the Oil Conservation Division. I have two witnesses.
15 Chris Williams will be appearing by phone, and Dorothy
16 Phillips will be here to testify.

17 EXAMINER JONES: Any other appearances?

18 (Off the record)

19 EXAMINER JONES: Okay, will the witness please
20 stand to be sworn?

21 (Thereupon, the witness was sworn.)

22 MS. MacQUESTEN: If I may briefly explain what
23 we're asking for in this case, this is the case involving
24 B. Bernard Lankford, Case Number 13,336.

25 We're asking for an order pursuant to the Oil and

1 Gas Act, Section 70-2-14.B, and OCD Rule 101.M, requiring
2 the operator to bring one well into compliance with Rule
3 201 within 30 days by plugging the well, placing the well
4 on temporary abandonment status or returning the well to
5 beneficial use.

6 We are also asking the order to state that if the
7 operator fails to comply with this deadline, that the
8 Division is authorized to plug the well and to forfeit the
9 applicable financial assurance.

10 We are not asking for a penalty for past
11 misconduct in this case. Because we are not seeking such a
12 penalty, we are not presenting evidence of correspondence,
13 which is usually used to show a knowing and willful
14 violation.

15 We do ask that the order contain a provision
16 assessing a penalty if the operator fails to comply with
17 the deadline set in the order.

18 There should be an evidence packet in front of
19 you. The first exhibit is an affidavit of notice. It
20 shows notice to the address we have for Mr. Lankford and
21 the surety. We received a return from the surety but not
22 from Mr. Lankford. This was the only address we have for
23 him. The only address listed in ONGARD other than the one
24 we sent a notice to was an address listed as a bad address.
25 I did a very brief online search for Mr. Lankford in

1 Midland, Texas, and could not find any other addresses.

2 We have a published notice of the hearing in the
3 paper for the county, the relevant county, but we have not
4 yet received the affidavit of publication from the
5 newspaper. We ask that you hold the case open until we can
6 provide you with a copy of the affidavit of publication.

7 I would call Dorothy Phillips as my first
8 witness.

9 DOROTHY L. PHILLIPS,

10 the witness herein, after having been first duly sworn upon
11 her oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. MacQUESTEN:

14 Q. Would you state your name for the record, please?

15 A. Dorothy Phillips.

16 Q. And where do you work?

17 A. New Mexico Oil Conservation Division in Santa Fe.

18 Q. And what is your title?

19 A. I'm the plugging bond administrator.

20 Q. Do your duties include maintaining records of
21 financial assurance documents filed by operators pursuant
22 to Section 70-2-14?

23 A. That's correct.

24 Q. Have you reviewed OCD's financial assurance
25 records to determine if the well at issue in the above-

1 captioned case, the Spears State Number 1 well, API 30-025-
2 22098, is covered by a financial assurance?

3 A. Yes, I have.

4 Q. Would you take a look at what has been marked as
5 Exhibit Number 3 in this case? Is this a true and correct
6 copy of the bond as it appears in your files?

7 A. Yes, it is.

8 Q. And is this a \$5000 single-well surety bond?

9 A. That's correct.

10 Q. Number 510E5648, issued by the Travelers
11 Indemnity Company in 1979?

12 A. That's correct.

13 Q. Did you confirm that the well location identified
14 on the bond matches the location of the Spears State Number
15 1 well?

16 A. Yes, I have.

17 Q. And that's the well at issue in this case?

18 A. Yes.

19 Q. Do the OCD records show any amendments or riders
20 to this bond?

21 A. No.

22 Q. According to our records, does this bond remain
23 in effect?

24 A. Yes.

25 Q. What is the name of the operator on the bond?

1 A. B. Bernard Lankford.

2 Q. All right. And just to be clear, this is not
3 Bernard Lankford, Jr., but B. Bernard Lankford?

4 A. That's correct.

5 Q. And that is the name of an individual?

6 A. Yes.

7 Q. Now, we weren't able to have Mr. Williams testify
8 before your testimony, but are you aware that the well file
9 in this case has some confusion regarding the name of the
10 operator?

11 A. Yes, one would say Jr. He signed it different
12 ways. But according to our records, what the bond says and
13 ONGARD says is B. Bernard Lankford.

14 Q. So if the well file has the name occasionally of
15 Bernard Lankford, Jr., the fact remains that the operator
16 of record is B. Bernard Lankford, and the name of the bond
17 is B. Bernard Lankford?

18 A. That's correct.

19 Q. Could you take a look, please, at what has been
20 marked as Exhibit Number 4? Is this a copy of a memorandum
21 regarding this bond?

22 A. Yes.

23 Q. And was this found in your bond file?

24 A. Yes.

25 Q. And this is regarding the name issues in the

1 case?

2 A. That's correct.

3 Q. And apparently from the bond file there was some
4 concern that the bond, the name on the bond and the name of
5 the operator of record match; is that right?

6 A. That's correct.

7 Q. Why do you want to make sure they match?

8 A. Well, whenever you submit a bond and however
9 they're registered with the Public Regulation Commission or
10 with the Secretary of State, it has to be exactly as
11 whatever is on the bond. And in this case as an
12 individual, we want to make sure that however they sign on
13 the bond or whatever the name appears on the bond also
14 appears in all the paperwork filed with OCD.

15 Q. Have you checked ONGARD to see who's listed as
16 operator of record for this well?

17 A. Yes, B. Bernard Lankford.

18 Q. And what is ONGARD, just to back up?

19 A. It's an agency -- a tri-agency database. It's
20 State Land Office, Taxation and Revenue, and Oil
21 Conservation Division.

22 Q. And what kind of data is kept in that database?

23 A. What I input there are any bonds. Operators and
24 the bonds, if they have a bond in place.

25 Q. All right. Please take a look at what has been

1 marked as OCD Exhibit Number 5. Is that a copy of the
2 ONGARD listing for B. Bernard Lankford?

3 A. This is what we show on e-permitting, and this
4 shows the wells under B. Bernard Lankford that are active.

5 Q. Okay, and the one well that is listed as active
6 is the Spears State Number 1, the well at issue?

7 A. That's correct, that's correct.

8 Q. So the name of the operator and the name on the
9 bond match --

10 A. Correct.

11 Q. -- in this case?

12 MS. MacQUESTEN: Thank you. Those are all the
13 questions I have of Ms. Phillips.

14 EXAMINATION

15 BY EXAMINER JONES:

16 Q. Okay, Ms. Phillips, you're just here to talk
17 about the bonds, and that's all, right?

18 A. That's correct.

19 Q. Okay. And how often do we have one-well bonds,
20 or one-well plugging bonds? Is it pretty often nowadays,
21 or --

22 A. No, most of our bonds are blanket, are blanket
23 bonds. We do occasionally get one-well bonds, but most of
24 the bonds are blanket bonds.

25 Q. Okay, so Travelers actually responded when you

1 sent them a notice, and they did confirm that they still
2 have -- bond was still placed with Travelers?

3 MS. MacQUESTEN: No, they -- all we received was
4 a confirmation that they received notice at the hearing.

5 EXAMINER JONES: Okay. Okay, well, thank you.

6 THE WITNESS: Thank you.

7 (Off the record)

8 (Thereupon, the witness was sworn.)

9 CHRIS J. WILLIAMS (Present by telephone),
10 the witness herein, after having been first duly sworn upon
11 his oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. MacQUESTEN:

14 Q. Mr. Williams, can you hear me?

15 A. Yes.

16 Q. Would you please state your name for the record?

17 A. Chris Williams.

18 Q. And where are you employed?

19 A. I'm employed by the New Mexico Oil Conservation
20 Division as the District Supervisor in the Hobbs Office.

21 Q. Do your duties include enforcing Rule 201 in your
22 District?

23 A. Yes, it does.

24 Q. Are you familiar with the well, Spears State
25 Number 1? It's API 30-025-22098, located at Unit Letter F,

1 Section 2, Township 26 South, Range 37 East, in Lea County?

2 A. Yes.

3 Q. Is that well located in your district?

4 A. Yes.

5 Q. Have you examined the well file for that well?

6 A. Yes, I have.

7 Q. Do you have a packet of exhibits in front of you
8 that I sent to you?

9 A. Yes, I do.

10 Q. Could you please turn to what has been marked as
11 Exhibit Number 6?

12 A. Okay.

13 Q. Now, is that a complete copy of the well file as
14 it appears in OCD's records?

15 A. Yes, it is.

16 Q. All right, and these well files start with the
17 most recent filings on top and the older filings on bottom;
18 is that right?

19 A. That's correct.

20 Q. And this particular copy, we have marked in the
21 upper right-hand corner page numbers so it's easier for us
22 all to know what page we're referring to.

23 A. Yes.

24 Q. I'd like to go through some of these filings to
25 show the Application is seeking compliance from the correct

1 operator, because as we had some testimony earlier from
2 Dorothy Phillips, there appears to be some confusion over
3 the name of the operator.

4 A. Okay.

5 Q. I'd like to start with the early filings for
6 background. Could you turn to page 28 of Exhibit Number 6?

7 A. Yes. Yeah, I'm on page 28.

8 Q. Okay. And is this a well completion report?

9 A. Yeah it is, for this well.

10 Q. Uh-huh.

11 A. Yeah, John Yuronka is the name of the operator.

12 It was submitted May 15th, 1967.

13 Q. Okay. If you could turn just one page ahead of
14 that to page 27, this is a sundry notice?

15 A. Yes, it is, it's a plug-and-abandonment for the
16 Spears State Number 1, and it was submitted May 13th, 1967.

17 Q. Okay, so that first operator, Mr. Yuronka, went
18 ahead and plugged the well at that time?

19 A. Yes, he did.

20 Q. Okay. Let's turn to page 20.

21 A. Okay.

22 Q. And what does this page show?

23 A. That shows where the well was recompleted in the
24 Yates zone on March 17th, 1975, by Doyle Hartman as the
25 operator.

- 1 Q. Okay. And now turn to page 7.
- 2 A. Okay.
- 3 Q. Is this the first filing in which Bernard
4 Lankford appears as operator?
- 5 A. Yes.
- 6 Q. And what is the date on that?
- 7 A. June 28th, 1976.
- 8 Q. Okay. If you look at the top of that page, under
9 the operator entry, what name is put there?
- 10 A. Bernard Lankford.
- 11 Q. Okay, not Bernard Lankford, Jr., but Bernard
12 Lankford?
- 13 A. Correct.
- 14 Q. And then who signed this form?
- 15 A. B. Bernard Lankford, Jr., I think.
- 16 Q. Yeah, okay, and that was signed as what?
- 17 A. Consulting engineer.
- 18 Q. Okay. So this is where the confusion begins,
19 where we start seeing two different names on these filings,
20 right?
- 21 A. Exactly.
- 22 Q. Okay, let's turn to page 5 --
- 23 A. Okay.
- 24 Q. -- and this is a corrected copy of the form, is
25 it not?

1 A. Yes, it is. It's a 104 operator change to
2 Bernard -- it looks like Bernard Lankford, Jr.

3 Q. Okay. Is there any indication of what the
4 correction was and why it was made?

5 A. Looks like they took the -- marked out the B in
6 front of Bernard.

7 Q. Okay, could you look at just -- just below that
8 and over to the right, there's a -- on the reasons for
9 filing, other, there's an explanation. What does that say?

10 A. "Change in operator Amended to correct Pool Name
11 and give Operators complete name."

12 Q. Okay. So now the name is Bernard Lankford, Jr.?

13 A. Correct.

14 Q. Okay. If you could just turn one page earlier to
15 page 4 --

16 A. Right.

17 Q. -- what operator name is shown there?

18 A. B. Bernard Lankford.

19 Q. And is there an explanation in the reasons other
20 box?

21 A. Yes, "Change in operator Amended to change
22 operating name to correspond with plugging bond."

23 Q. Okay. And go one more page to page 3.

24 A. Uh-huh.

25 Q. Did they ever get the name right?

1 A. No, this is a Notice of Assignment of Allowable
2 to a Gas Well, and the operator is shown as Bernard
3 Lankford, Jr.

4 Q. Okay, but was that approved?

5 A. No.

6 Q. Were there any other filings in the file, well
7 file?

8 A. No, not really.

9 Q. Okay. Whatever is there is shown in this packet;
10 is that correct?

11 A. Yes, it is.

12 Q. Okay. Does anything in the file indicate that
13 this well was plugged after it was recompleted?

14 A. No.

15 Q. And does the file indicate the well was put on
16 temporary abandonment status?

17 A. No.

18 Q. Has your office proposed a plugging procedure for
19 this well?

20 A. Yes, we have.

21 Q. And could you turn to what's been marked as OCD
22 Exhibit Number 7?

23 A. Okay, I've got it.

24 Q. Is that the proposed plugging procedure?

25 A. Yes, it is.

1 Q. Have you reviewed and approved that plugging
2 procedure?

3 A. Yes.

4 MS. MacQUESTEN: All right, I have no more
5 questions of Mr. Williams.

6 EXAMINATION

7 BY EXAMINER JONES:

8 Q. Mr. Williams, is there other stuff at the well
9 site besides the well, like tanks, pits, equipment? Is
10 there some junk?

11 A. Probably. I have not been to that location. My
12 field inspectors have, and I'm sure there is a tank battery
13 there.

14 Q. Does this plugging procedure or the plugging --
15 if the OCD has to plug the well, will they pay for hauling
16 off all the stuff on the surface?

17 A. Yes, we will.

18 EXAMINER JONES: Okay. Okay, that's all I have
19 of Mr. Williams.

20 MS. MacQUESTEN: Thank you. I have one other
21 exhibit that we haven't discussed, and that's OCD Exhibit
22 Number 2. This is an affidavit from Jane Prouty showing
23 that we have no record of production or use for injection
24 for this well.

25 EXAMINER JONES: Okay.

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MS. MacQUESTEN: I'd move to admit Exhibits 1 through 7.

EXAMINER JONES: Exhibits 1 through 7 will be admitted to evidence.

MS. MacQUESTEN: And that concludes our presentation in this case.

EXAMINER JONES: Okay, I have no other questions or comments, so with that we'll take Case 13,336 under advisement.

(Thereupon, these proceedings were concluded at 1:55 p.m.)

* * *

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. _____ heard by me on _____

Oil Conservation Division, Examiner

CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL September 3rd, 2004.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006