

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. 13,412
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR A COMPLIANCE)
ORDER AGAINST TOMMY L. WILLYARD AND)
TOMMY L. WILLYARD, JR., d/b/a RW OIL)
COMPANY)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

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

February 3rd, 2005

Santa Fe, New Mexico

2005 FEB 17 AM 9 01

WVJ 2/17/05

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, February 3rd, 2005, 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.

* * *

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February 3rd, 2005
Examiner Hearing
CASE NO. 13,412

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<u>GARY W. WINK</u> (Field Rep II, Hobbs District Office, District 1, NMOCD) (Present by telephone)	
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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 9:49 a.m.:

3 EXAMINER JONES: Let's go back on the record and
4 call Case 12,771 [sic], Application of the New Mexico Oil
5 Conservation Division for a compliance order against Tommy
6 L. Willyard and Tommy L. Willyard, Jr., d/b/a RW Oil
7 Company.

8 Call for appearances.

9 MS. MacQUESTEN: Gail MacQuesten, Energy,
10 Minerals and Natural Resources Department, appearing for
11 the Oil Conservation Division. I have one witness.

12 EXAMINER JONES: Will the witness please stand to
13 be sworn?

14 (Thereupon, the witness was sworn.)

15 MS. MacQUESTEN: Mr. Examiner, if I may briefly
16 explain what we're asking for in this case, RW Oil Company
17 has four wells. All four of those wells are in violation
18 of 201 because they've been inactive for a period in excess
19 of one year plus 90 days. They are not plugged and
20 abandoned, and they are not on temporary abandonment
21 status.

22 We are asking for an order pursuant to the Oil
23 and Gas Act, Section 70-2-14.B, and OCD Rule 101.M,
24 requiring the operator to bring the wells into compliance
25 with Rule 201 within 30 days by plugging them, placing them

1 on temporary abandonment status, or returning them to
2 beneficial use.

3 If the operator fails to comply, we ask that you
4 impose a penalty, that you authorize the Division to plug
5 the wells and authorize the Division to obtain
6 reimbursement for any costs incurred from the operator.

7 For reasons I will explain in a moment, we are no
8 longer asking to forfeit the financial assurance in this
9 case.

10 There are several complications I would like to
11 alert you to as we go through the preliminary exhibits in
12 your exhibit packet.

13 Exhibit Number 1 is an application in a different
14 case, Case 12,771. This is another pending compliance case
15 against RW Oil Company regarding the same four wells. That
16 case, however, seeks different relief. In that case, the
17 Division asks for an order setting a deadline to bring the
18 wells into compliance, a penalty for the operator's
19 knowing, willful failure to comply, and additional
20 financial assurances on the wells. It did not request
21 authority for the OCD to plug the wells.

22 That case was heard November 15, 2001, and no
23 order has yet been issued.

24 Given the length of time that the wells have been
25 inactive, the OCD has filed this new compliance action

1 requesting an order requiring the operator to bring the
2 wells into compliance by a date certain and, if he fails to
3 comply, authorizing the OCD to plug and abandon the wells
4 itself.

5 Because Case 12,771 seeks different relief, we
6 are not asking you to dismiss the operator from that case.
7 The OCD may still want to pursue the penalties it sought in
8 that case.

9 Exhibit Number 2 in your packet is an affidavit
10 from Jane Prouty. It shows that there were no production
11 reports filed on any of these four wells for over 10 years.

12 Exhibit 3 is an affidavit from Dorothy Phillips
13 regarding the financial assurances posted in this case.
14 This is where we'll find the other complications.

15 The first issue related to the financial
16 assurance is the bond itself. Upon further review of the
17 record, the OCD is withdrawing its request to forfeit the
18 bond posted with Underwriters Indemnity. The wells at
19 issue are federal, both federal surface and federal
20 minerals. The bond, by its terms, applies only to wells
21 located on state leases, on lands patented by the United
22 States of America to private individuals, or on lands
23 otherwise owned by private individuals.

24 Presumably, the operator has posted a federal
25 bond. If the OCD plugs the wells itself, we will be

1 looking to the BLM for reimbursement and to the operator if
2 the federal bond is insufficient to cover the costs.

3 The second issue related to the bond has to do
4 with the names we found in the file for this operator.

5 The well file documents list Tommy Willyard as
6 the owner-operator of RW Oil Company, which apparently is a
7 sole proprietorship. The bond, however, lists Tommy L.
8 Willyard, Jr., doing business as RW Oil Company. Now,
9 Tommy L. Willyard signed the bond as principal without
10 using the designation "Junior". We don't know if Tommy L.
11 Willyard and Tommy L. Willyard, Jr., are the same person.
12 The way the bond is filled out suggests that they probably
13 are the same person but that person is just careless about
14 when he uses the "Junior" and when he doesn't use the
15 "Junior".

16 If you look at attachment D to Ms. Phillips'
17 affidavit, that is a memo from the bond file indicating
18 that the wells were transferred from Willis, doing business
19 as RW Oil Company, to Tommy L. Willyard, Jr., doing
20 business as RW Oil Company.

21 So that we get the name of the operator correct
22 in this case -- and sometimes he uses the "Junior" and
23 sometimes he doesn't -- we request that the order be issued
24 to Tommy L. Willyard and Tommy L. Willyard, Jr., doing
25 business as RW Oil Company, so that whichever is the

1 correct name, we have it.

2 With that, I would call our first witness, Gary
3 Spence.

4 MR. WINK: Wink.

5 EXAMINER JONES: Wink.

6 MS. MacQUESTEN: Gary Wink. I'm sorry, Gary, you
7 threw me by being a last-minute substitute for Billy.

8 MR. WINK: Threw me too.

9 (Laughter)

10 GARY W. WINK (Present by telephone),
11 the witness herein, after having been first duly sworn upon
12 his oath, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MacQUESTEN:

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

16 A. Gary Webster Wink.

17 Q. And where do you work?

18 A. Hobbs, New Mexico.

19 Q. What is your title?

20 A. Staff manager.

21 Q. And what organization are you staff manager for?

22 A. Hobbs District 1.

23 Q. Of what?

24 A. Oil Conservation Division, I guess.

25 Q. Okay. What are your duties as staff manager?

1 A. Well, I review plugging reports, pit diagrams,
2 take all complaints, answer all calls, basically oversee
3 things for inspectors and -- and Sylvia, I forget what her
4 title is -- and work with the rest of the Hobbs staff as
5 needed.

6 Q. Okay. Are you familiar with the types of records
7 that are filed with the OCD regarding the wells?

8 A. Yes, ma'am.

9 Q. And you're familiar with searching well files for
10 information?

11 A. Yes, ma'am.

12 Q. Now, you've stepped into this case at the last
13 minute; is that right? You're substituting for Billy
14 Prichard?

15 A. Yes, that's correct.

16 Q. So if I ask you questions that you don't know the
17 answer to, just please tell us that, and we'll handle it;
18 if we need to go and research additional information,
19 that's okay.

20 A. All right.

21 Q. All right, now I don't know how much time you've
22 had to look at the exhibits that were sent to Mr. Prichard
23 or the Application in this case. Have you had a chance to
24 look at any of that information?

25 A. No ma'am, not yet.

1 Q. Okay.

2 A. I'm looking at it.

3 Q. Okay.

4 A. I've been, you know, dealing with this same thing
5 for the last six or seven years.

6 Q. Okay. So are you familiar, then, with the four
7 wells that are at issue in this case, the Reno Federal 1,
8 2, 3 and 4?

9 A. Yes, ma'am.

10 Q. And are they located in your district?

11 A. Yes.

12 Q. Could you take a look at Exhibit Number 4 in your
13 exhibit packet? Do you have that in front of you?

14 A. Yes.

15 Q. Now, this is a printout from RBDMS; is that
16 right?

17 A. Correct.

18 Q. Could you tell us in just a general way what
19 RBDMS is?

20 A. Well, it's our -- it's what we conduct all our
21 business with, it's our well files, and I look up the well
22 files on these, and our way of tracking what we are doing.

23 Q. Okay, and it contains the data that is collected
24 by the OCD on various wells?

25 A. Yes, ma'am.

1 Q. And this particular document, Exhibit Number 4,
2 is this a printout of the wells that are operated by RB Oil
3 Company?

4 A. Yes.

5 Q. And it shows the four wells that are at issue in
6 this case?

7 A. Yes.

8 Q. And it lists them all as active; is that right?

9 A. Yes, ma'am.

10 Q. And it doesn't show any other wells for RW Oil
11 Company. Do you know if RW Oil Company has any other
12 wells?

13 A. Not to my knowledge, no.

14 Q. Okay. Now, you're familiar with these wells, but
15 you may not have had the opportunity to review the well
16 files for this hearing; is that right?

17 A. Correct.

18 Q. Let me walk you through the exhibits that were
19 prepared for Mr. Prichard and have you talk to us about
20 those exhibits. If you could look at Exhibit Number 5,
21 Exhibit Number 5 is a packet of documents from the well
22 file for the Reno Federal Number 1 well; is that right?

23 A. Yes, that's correct.

24 Q. Okay, and I've numbered them down in the bottom
25 corner, so I may be asking about some of the different

1 pages, and we'll start with that top page number 1.

2 A. Yeah.

3 Q. Is this a request for allowable?

4 A. For Exhibit 5?

5 Q. Yes.

6 A. What I'm seeing is change in operator.

7 Q. That's right, and the title of the document,
8 though, is "Request for Allowable and Authorization to
9 Transport Oil and Natural Gas", at the top of the document?

10 A. Yes, ma'am, that's what it looks like.

11 Q. Okay. It's a C-104, is it not?

12 A. Correct.

13 Q. Okay. And it shows a change of operator from
14 Bisco Oil Company to RW Oil Company?

15 A. Correct.

16 Q. And what is the date on this?

17 A. April 27th, 1989.

18 Q. Okay, and who signed it by the applicant?

19 A. Donna Holler.

20 Q. Uh-huh, and did she sign it -- What title did she
21 list?

22 A. Agent.

23 Q. As agent, okay. And what address was given for
24 R.W. Oil Company, can you tell?

25 A. It's the Oil Reports address.

1 Q. Okay. So from this document we really don't know
2 who owns RW Oil Company, do we? All we have is the name
3 and address of an agent for that company?

4 A. Correct.

5 Q. Okay. If you could turn to page number 2 --

6 A. I've got it.

7 Q. -- this is the next document filed for this well,
8 and it is a sundry notice?

9 A. Correct.

10 Q. All right, and it was filed by RW Oil Company?

11 A. Correct.

12 Q. And this time there's a name associated with RW
13 Oil Company, it says Tommy Willyard; is that right?

14 A. Correct.

15 Q. And then down at the bottom it's also signed, it
16 appears, by Tommy Willyard?

17 A. That's correct.

18 Q. And he indicates that he's the owner/operator?

19 A. Yes.

20 Q. And this is dated in 1994?

21 A. Yes.

22 Q. And he gives an address with a post office box in
23 Lovington; is that right?

24 A. That's correct.

25 MS. MacQUESTEN: And I'd just ask the Examiner to

1 note, that's the address we used to try to obtain notice in
2 this case.

3 Q. (By Ms. MacQuesten) In the body of this
4 document, when it says "describe the proposed or completed
5 operations", Mr. Willyard explains that he acquired all
6 four of these wells from people named James and Jeanie
7 Crain; is that right?

8 A. That's correct.

9 Q. Okay. And if you could turn to page 3, we have
10 the next document for this well, which is also a sundry
11 notice, and this is dated 1996; is that right?

12 A. That's correct.

13 Q. And it's also from Tommy Willyard, RW Oil
14 Company?

15 A. Yes.

16 Q. And he was doing, apparently, an annual integrity
17 test?

18 A. That's correct.

19 Q. What is an annual integrity test done for?
20 What's the purpose of that?

21 A. To make sure we don't have casing leaks.

22 Q. Okay. Was he trying to put the well on temporary
23 abandonment status by doing this?

24 A. It doesn't indicate that.

25 MS. MACQUESTEN: Okay. Now, because Mr. Wink

1 hasn't had an opportunity to go through the well files, I
2 will represent to the Examiner today that these are the --
3 there were no other documents in the well file for this
4 particular well. So these are the most recent documents
5 filed since Mr. Willyard took over the operations of the
6 well. And I'd ask the Examiner, if you have any concerns
7 about the well file in this case, to take administrative
8 notice of the well file and verify that these are the most
9 recent documents.

10 EXAMINER JONES: Okay, we'll take administrative
11 notice of the well file and Division records that are
12 existing in this case.

13 Q. (By Ms. MacQuesten) Mr. Wink, could you turn to
14 the next exhibit, Exhibit Number 6?

15 A. Okay.

16 Q. And this is a packet of documents from the well
17 file for the Reno Federal Number 2 well, and again I've
18 numbered them down in the bottom right-hand corner.

19 On page 1, is this a change of operator from
20 Bisco to RW Oil Company?

21 A. That's correct.

22 Q. And that's dated in 1989?

23 A. Correct.

24 Q. It's like the change-of-operator form we saw for
25 the Number 1 well; is that right?

1 A. That's correct.

2 Q. And then page 2 is a sundry notice from Tommy
3 Willyard, dated in 1994.

4 A. Correct.

5 Q. And again, he's explaining that he's acquired
6 these wells from the Crains?

7 A. That's correct.

8 Q. So it's similar to the form that we saw in the
9 other file; is that right?

10 A. That's right.

11 MS. MacQUESTEN: And again, I would represent to
12 the Examiner that these are the most recent documents we
13 have in the file for the Number 2 well.

14 Q. (By Ms. MacQuesten) Mr. Wink, if you could turn
15 to Exhibit Number 7 --

16 A. Okay.

17 Q. -- now, this is just a single document, and this
18 is from the Reno Federal Number 3 well; is that right?

19 A. That's correct.

20 Q. And it shows RW Oil Company acquiring the wells
21 from Bisco; is that right?

22 A. Correct.

23 Q. But it doesn't say anything else, and we don't
24 have any other, more recent documents in the file for this
25 well than this document. However, we've already seen

1 documents from the other files indicating that Mr. Willyard
2 acquired all four wells from the Crains?

3 A. That's right.

4 Q. And if you could turn to Exhibit Number 8,
5 please?

6 A. Okay.

7 Q. And this is the packet for the Reno Federal
8 Number 4 well. It's a little bit more complete than the
9 last file we just saw. Again, on page 1 we have a transfer
10 from Bisco to RW Oil Company?

11 A. That's correct.

12 Q. And the second one is the notice from Mr.
13 Willyard explaining that he's taking over the four wells
14 from the Crains?

15 A. Correct.

16 Q. And then the last page is a sundry notice from
17 Mr. Willyard saying he's repaired a flow line and put the
18 well back on production, and this is back in 1995; is that
19 right?

20 A. That's right.

21 MS. MacQUESTEN: And again I'd represent to the
22 Examiner that we have no more recent filings in this well
23 file.

24 Q. (By Ms. MacQuesten) So Mr. Wink, are you aware
25 of whether any of these four wells have been placed on

1 temporary abandonment status?

2 A. To my knowledge, they haven't been.

3 Q. All right. And to your knowledge, have they been
4 plugged and abandoned?

5 A. No.

6 Q. All right. If you could take a look at what's
7 been marked as Exhibit Number 9, please --

8 A. Okay.

9 Q. -- these are plugging procedures for the four
10 wells?

11 A. Correct.

12 Q. I know you haven't had much time to look at the
13 exhibits, but have these plugging procedures been approved
14 by the district?

15 A. Well, I -- Gail, I don't know.

16 Q. Okay. If the wells are plugged according to
17 these procedures, would they be plugged in accordance with
18 the Division-approved plugging program?

19 A. Yes, they would.

20 Q. Okay. So you'd find those plugging procedures
21 acceptable for these wells?

22 A. Yes, I would.

23 MS. MacQUESTEN: Okay. I have no more questions
24 of Mr. Wink at this time.

25 EXAMINER JONES: Okay, I'll make a note that I

1 called Case 12,771, and I intended to call Case 13,412.

2 EXAMINATION

3 BY EXAMINER JONES:

4 Q. And Mr. Wink, where is Billy Prichard? Is he --

5 A. He had a -- one of our state pluggings out on the
6 Young stuff, case, and fell over to the side, and we're in
7 kind of a bind.

8 Q. Okay. Okay, normally when -- It says Billy
9 Prichard wrote these plugging procedures. Do they normally
10 run them by you, or --

11 A. Yes, they do.

12 Q. Okay. But from looking at these procedures you
13 can tell that they would be adequate?

14 A. I've looked at them just real quickly, but
15 looking at -- I'll look at them again, but they look okay
16 right now.

17 EXAMINER JONES: Okay. Okay, that's all my
18 questions in this case. Thanks very much, Mr. Wink.

19 MS. MacQUESTEN: Thank you, and I really do
20 appreciate you stepping in at the last moment in this case.

21 THE WITNESS: Thank you, Gail.

22 MS. MacQUESTEN: I know it's not much fun to do.

23 THE WITNESS: Oh, it's no problem, but I just --
24 you know, I have the utmost faith in Billy.

25 MS. MacQUESTEN: Okay, thank you.

1 EXAMINER JONES: Thanks, Mr. Webster.

2 (Laughter)

3 THE WITNESS: Thank you.

4 EXAMINER JONES: Anything else?

5 MS. MacQUESTEN: Yes, I have -- Exhibit Number 10
6 in your packet is an affidavit of notice. It shows notice
7 to the only address we were able to find for the Willyards
8 or for RW Oil Company. This is the address that appears in
9 the bond and also in the well files. We also sent notice
10 to the surety, because we originally did apply for an order
11 that would authorize us to forfeit the bond.

12 We received green return receipts from both the
13 address to the Willyards and from the surety.

14 EXAMINER JONES: You did receive -- ?

15 MS. MacQUESTEN: We did receive a green card
16 receipt, and that should be the very last page of the
17 Exhibit 10.

18 And I would move to admit Exhibits 1 through 10.

19 EXAMINER JONES: Exhibits 1 through 10 will be
20 admitted to evidence.

21 So you ask this order to be placed in lieu of the
22 order that was asked for in 2001?

23 MS. MacQUESTEN: No, I'd ask that that case be
24 left as is, because it requested different relief than
25 we're asking for in this case. The application appeared

1 simply to request an order requiring compliance and fines
2 for failing to comply because of all the notices that had
3 previously been sent.

4 You'll notice in this case we're not asking for
5 fines for past misbehavior, we're simply at this point
6 asking for permission to plug the well if the operator
7 fails to plug it. And I would ask for a penalty if he
8 disregards the order, but no penalties for prior
9 misbehavior.

10 I did prepare a draft order for you, if I can
11 find it, and I can send this to you by e-mail also, but it
12 will set out what we're asking for in this case.

13 EXAMINER JONES: Yes, that would be good, thank
14 you, to send it by e-mail.

15 MS. MacQUESTEN: And that concludes our case.

16 EXAMINER JONES: With that, we'll take Case
17 13,412 under advisement.

18 And Docket 04-05 is closed.

19 (Thereupon, these proceedings were concluded at
20 10:13 a.m.)

21 * * *

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

_____, Examiner
Oil Conservation Division

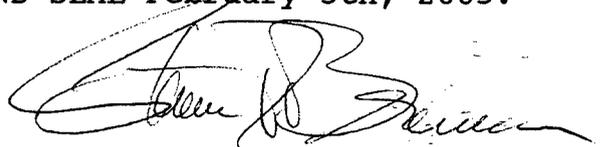
CERTIFICATE OF REPORTER

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 February 5th, 2005.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006