

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:

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER AGAINST NORMAN L. & LORETTA E. GILBREATH, FOR WELLS OPERATED IN RIO ARRIBA AND SAN JUAN COUNTIES, NEW MEXICO. CASE NO. 15695

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

June 22, 2017

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner, and David K. Brooks, Legal Examiner, on Thursday, June 22, 2017, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR
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APPEARANCES

FOR APPLICANT NEW MEXICO OIL CONSERVATION COMPLIANCE AND
ENFORCEMENT BUREAU:

KEITH W. HERRMANN, ESQ.
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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
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INDEX

PAGE

Case Number 15695 Called	3
NMOCD Compliance and Enforcement Bureau's Case-in-Chief:	
Witnesses:	
Denise Gallegos:	
Direct Examination by Mr. Herrmann	4
Cross-Examination by Examiner McMillan	7
Proceedings Conclude	9
Certificate of Court Reporter	10

EXHIBITS OFFERED AND ADMITTED

NMOCD Compliance and Enforcement Bureau's Exhibit Numbers 1 through 3 and 3A and 3B	7
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1 (10:31 a.m.)

2 EXAMINER McMILLAN: I'd like to call the
3 hearing back to order.

4 I'd like to call Case Number 15695,
5 application of the New Mexico Oil Conservation Division
6 Compliance and Enforcement Bureau for a compliance order
7 against Norman L. and Loretta E. Gilbreath, for wells
8 operated in Rio Arriba and San Juan Counties, New
9 Mexico.

10 Call for appearances.

11 MR. HERRMANN: Mr. Examiner, Keith Herrmann
12 representing the Oil Conservation Division Compliance
13 and Enforcement Bureau.

14 EXAMINER McMILLAN: Any other appearances?

15 MR. HERRMANN: No.

16 EXAMINER McMILLAN: Do you want this case
17 number combined with 15696?

18 MR. HERRMANN: I think for clarity, we were
19 going to present both separately.

20 EXAMINER McMILLAN: Please proceed.

21 MR. HERRMANN: Mr. Examiner, this is a
22 compliance and enforcement case against Norman and
23 Loretta Gilbreath under the financial assurance
24 provision. The Bureau has one witness, Ms. Denise
25 Gallegos.

1 EXAMINER McMILLAN: Will the witness please
2 stand up and be sworn in at this time?

3 DENISE GALLEGOS,
4 after having been first duly sworn under oath, was
5 questioned and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HERRMANN:

8 Q. Ms. Gallegos, would you please state your name,
9 title and place of employment for the record?

10 A. Denise Gallegos, compliance officer with the
11 New Mexico Oil Conservation Division.

12 Q. And could you briefly describe the duties you
13 do for the OCD?

14 A. Among other duties, I'm responsible for the
15 management, enforcement and ensuring compliance of the
16 Division's Financial Assurance Program.

17 Q. And are you familiar with the violations
18 detailed in the Bureau's application for hearing?

19 A. Yes.

20 Q. Could you please identify the operator that's
21 the subject of this case and their OGRID?

22 A. Norman L. and Loretta E. Gilbreath, OGRID
23 Number 15989.

24 Q. And in what county are these well located?

25 A. San Juan and Rio Arriba Counties.

1 Q. Does the Division post all inactive wells,
2 otherwise known as temporarily abandoned status wells,
3 for an operator on its Web site?

4 A. Yes. This is available on the OCD's Web site
5 and updated daily on the inactive well list, listing
6 each well by operator.

7 Q. Does the OCD require additional financial
8 assurance for wells that have been inactive for over two
9 years?

10 A. Yes.

11 Q. What is the amount of financial assurance for a
12 well that has been inactive for over two years?

13 A. The amount is based on what county the well is
14 located and the measured depth of the well.

15 Q. And referring to Exhibit 1, how many of the
16 operator's wells in this case need additional financial
17 assurance?

18 A. Two.

19 Q. Could you please identify them and the amount
20 needed for each well?

21 A. Harvey #2, API 30-039-21414, in the amount of
22 \$7,740, and the Salmon #1X, 30-045-08199, in the amount
23 of \$6,760.

24 Q. And does the operator have bonding on these
25 wells?

1 A. Yes, but not the required amount.

2 **Q. Okay. Was the operator notified of these**
3 **violations?**

4 A. Yes.

5 **Q. And when?**

6 A. I sent a Notice of Financial Assurance
7 Violation letter, certified mail, on June 20th, 2017,
8 and I received an undeliverable by the post office on
9 June 27th, 2016. So I sent a second letter for
10 violation, certified mail, to a different address on
11 June 29th, 2016, and I received the signed green card
12 back on July 13th, 2017.

13 **Q. And is Exhibit 2 a copy of that notice?**

14 A. Yes.

15 **Q. What relief is the Division requesting?**

16 A. The Division is requesting the operator provide
17 the OCD with acceptable financial assurance within 30
18 days of issuance of an order of finding that the
19 operator is in violation of 70-2-14 of the New Mexico
20 state statutes and 19.15.18 NMAC. And if the operator
21 does not post the requested financial assurance within
22 30 days of the issuance of an order, that the operator
23 is in violation of the Division order.

24 **Q. Is the OCD only seeking to enforce a violation**
25 **of the financial assurance at this hearing?**

1 A. Yes.

2 **Q. Were Exhibits 1 and 2 prepared by you or under**
3 **your direction?**

4 A. Yes.

5 MR. HERRMANN: Mr. Examiner, we have no
6 further questions at this time.

7 At this time I'd move to admit Compliance
8 and Enforcement Bureau Exhibits 1 through 3, Exhibits 1
9 and 2 previously identified by the witness, and Exhibit
10 3 is an Affidavit of Service by myself -- prepared by
11 myself of notice of the original hearing date on May
12 11th. This case has been continued several times, with
13 contact with the operator, showing that they have had
14 notice of this proceeding.

15 EXAMINER McMILLAN: Okay. So Exhibits 1
16 through 3 shall be accepted as part of the record.

17 (OCD Compliance and Enforcement Bureau
18 Exhibit Numbers 1 through 3 are offered and
19 admitted into evidence.)

20 CROSS-EXAMINATION

21 BY EXAMINER McMILLAN:

22 **Q. So how much money do they owe for the Harvey**
23 **#2? Is it \$7,740?**

24 A. Well, currently, they have a bond in place for
25 5,000, so they just owe the difference.

1 Q. So they owe 2,440?

2 A. Yes.

3 Q. And is it the Salmon 1X?

4 A. Yes.

5 Q. It's the same scenario?

6 A. Same scenario.

7 Q. So they have a bond for 5k?

8 A. Yes.

9 Q. That means that they owe 1,960?

10 A. The total amount is 6,760, so they owe an
11 additional 1,760.

12 Q. Ah.

13 And for clarity purposes, you ran a
14 newspaper ad in Farmington and Espanola; is that right?

15 MR. HERRMANN: I believe it's the "Rio
16 Grande Sun," which is a newspaper of general circulation
17 in Rio Arriba. And the other one is the newspaper for
18 San Juan County, the "Daily Times," I believe.

19 EXAMINER McMILLAN: Okay. With that in
20 mind -- thank you very much.

21 Case Number 15659 shall be taken under
22 advisement.

23 EXAMINER BROOKS: I don't know what city
24 the "Rio Grande Sun" is published, but I know that's the
25 one that's always used.

1 MR. HERRMANN: Yeah. It's the one that
2 meets the publication requirements for that county.

3 (Case Number 15695 concludes, 10:39 a.m.)
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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO
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4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.
20

21
22 MARY C. HANKINS, CCR, RPR
23 Certified Court Reporter
24 New Mexico CCR No. 20
25 Date of CCR Expiration: 12/31/2017
Paul Baca Professional Court Reporters