

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 SPENCE ENERGY, CO., FOR WELLS OPERATED IN LEA COUNTY, NEW MEXICO. CASE NO. 15803

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

August 31, 2017

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
GABRIEL WADE, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner, and Gabriel Wade, Legal Examiner, on Thursday, August 31, 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 THE NEW MEXICO OIL CONSERVATION DIVISION
COMPLIANCE AND ENFORCEMENT BUREAU:

KEITH W. HERRMANN, ESQ.
STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
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1 (2:08 p.m.)

2 EXAMINER JONES: And the last case I have
3 is -- call Case Number 15803, application of the
4 New Mexico Oil Conservation Division Compliance and
5 Enforcement Bureau for compliance order against Spence
6 Energy Company, for wells operated in Lea County, New
7 Mexico.

8 Call for appearances.

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

12 EXAMINER JONES: Any other appearances in
13 that case?

14 Okay.

15 MR. HERRMANN: Mr. Examiner, this case
16 for -- the Compliance and Enforcement Bureau applied for
17 on this case to require a compliance order directing
18 Spence Energy to comply with our financial assurance
19 provisions. The Bureau has one witness, Ms. Denise
20 Gallegos.

21 EXAMINER JONES: Will the witness please
22 stand and the court reporter swear the witness?

23 DENISE GALLEGOS,
24 after having been first duly sworn under oath, was
25 questioned and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. HERRMANN:

3 Q. Ms. Gallegos, would you please state your name,
4 title, place of employment for the record?

5 A. Denise Gallegos, compliance officer with the
6 Oil Conservation Division.

7 Q. And could you briefly describe the duties you
8 perform for the OCD?

9 A. Among other duties, I'm responsible for the
10 management, enforcement and ensuring compliance of the
11 Division's Financial Assurance Program.

12 Q. Are you familiar with the violations detailed
13 in the application for hearing?

14 A. Yes.

15 Q. Could you please identify the operator that is
16 the subject of this case and their OGRID?

17 A. Spence Energy Co., OGRID Number 21448.

18 Q. And in what county is this well located?

19 A. Lea County.

20 Q. And does the Division make this information
21 available online?

22 A. Yes. This is available on the OCD Web site and
23 updated daily on the inactive well list, listing each
24 well by operator name.

25 Q. Does the OCD require additional financial

1 **assurance for wells that have been inactive for over two**
2 **years?**

3 A. Yes.

4 **Q. What is the amount of financial assurance**
5 **required for a well that's been inactive for over two**
6 **years?**

7 A. The amount is based on what area the well is in
8 and the measured depth of the well.

9 **Q. How many of this operator's wells need**
10 **additional financial assurance?**

11 A. One.

12 **Q. Referencing Exhibit 1, could you identify the**
13 **well and the amount of financial assurance required?**

14 A. The Kellahin 14 State #2, in the amount of
15 \$9,970.

16 **Q. Was the operator notified of this violation,**
17 **and if so, when?**

18 A. Yes. The first Notice of Financial Assurance
19 Violation letter was mailed out certified mail on June
20 30th, 2016, and a green card was received by the OCD on
21 July 7th, 2016. I also sent a second letter of Notice
22 of Financial Assurance Violation, mailed out certified
23 mail on June 9th, 2017, and a signed green card was
24 received by the OCD on June 13th, 2017.

25 **Q. Is Exhibit 2 a copy of that notice?**

1 A. Yes.

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

3 A. The Division is requesting the operator provide
4 the OCD with acceptable financial assurance within 30
5 days of issuance of an order, a finding that the
6 operator is in violation of 70-2-14 of the New Mexico
7 State statutes and 19.15.8 NMAC, and if the operator
8 does not post the requested financial assurance within
9 30 days of the issuance of an order, that the operator
10 is in violation of a Division order.

11 **Q. And is the OCD only seeking to enforce**
12 **violations of the financial assurance requirements at**
13 **this hearing?**

14 A. Yes.

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

17 A. Yes.

18 MR. HERRMANN: Mr. Examiner, at this time I
19 would move to admit Exhibits 1 through 3, Exhibits 1 and
20 2 being previously identified by my witness. And
21 Exhibit 3 is an Affidavit of Service prepared by myself
22 where I notified both Spence Energy's registered address
23 in Dallas, Texas that's on file with the Division and
24 their registered agent, CT Corporation System.

25 And I may have misstapled these exhibits.

1 Exhibit 2 should have six pages identified.

2 EXAMINER JONES: Exhibit 2 is a letter.

3 MR. HERRMANN: Yes. And it's identified
4 with page numbers 1 through 6. It might be just on my
5 copy, but I'd like to make sure.

6 EXAMINER WADE: Mine looks correct, and
7 Exhibit 3 --

8 EXAMINER JONES: I have eight copies [sic].

9 MR. HERRMANN: And then there is attached
10 Exhibit 3A, which is a copy of the notice I sent to the
11 operator for notice of this hearing, the returned green
12 cards, and a response from CT Corporation System where
13 they state that they are no longer the agent.

14 EXAMINER JONES: One of the letters shows
15 an address for Spence Energy in Elida, New Mexico.

16 MR. HERRMANN: Yes. I believe Ms. Gallegos
17 can clarify.

18 THE WITNESS: I sent it to that address
19 first.

20 **Q. (BY MR. HERRMANN) And that was in 2016?**

21 **A.** In 2016.

22 EXAMINER JONES: Was that the address on
23 record at the time for Spence Energy?

24 THE WITNESS: It had to have been. I'm not
25 too sure. I don't remember where I got the address

1 from.

2 Q. (BY MR. HERRMANN) But the Dallas address is the
3 current address on record, and that was the most recent
4 letter of -- and that was where the notice of violation
5 was sent?

6 A. Yes. And I sent the second letter to the
7 address that's on file now.

8 EXAMINER JONES: And the Dallas letter went
9 out when?

10 THE WITNESS: In June.

11 EXAMINER JONES: Okay. Okay. Exhibits 1,
12 2 and 3 are admitted.

13 (NMOCD Compliance and Enforcement Bureau
14 Exhibit Numbers 1 through 3 are offered and
15 admitted into evidence.)

16 MR. HERRMANN: Thank you. That concludes
17 our presentation of this case.

18 EXAMINER JONES: Okay. So this is
19 Roosevelt County. So is it one of the counties that
20 requires more bonding than --

21 THE WITNESS: It's Lea County.

22 EXAMINER JONES: -- than Lea County?

23 THE WITNESS: The well's in Lea County.

24 EXAMINER JONES: Oh, the well's in Lea
25 County. So it's still \$9,000 because of the depth?

1 THE WITNESS: Yes. \$9,970.

2 EXAMINER JONES: For a 5,000-foot deep well
3 or --

4 THE WITNESS: There is a base of \$5,000,
5 and then it's \$1.00 per foot of the measured depth, and
6 the measured depth brings it to \$4,970.

7 EXAMINER JONES: Okay.

8 EXAMINER WADE: I have no questions.

9 EXAMINER JONES: Thank you very much.
10 Do you ask this case be taken under
11 advisement?

12 MR. HERRMANN: I do.

13 EXAMINER JONES: Case Number 15803 is taken
14 under advisement.

15 MR. HERRMANN: Thank you.

16 EXAMINER JONES: And could you -- this will
17 be -- can you give me a brief draft order?

18 MR. HERRMANN: Sure.

19 EXAMINER JONES: Okay. Thank you.

20 And that's the end of the docket, so the
21 docket is adjourned --

22 EXAMINER WADE: Concluded.

23 EXAMINER JONES: -- concluded. We're off
24 the record.

25 (Case Number 15803 concludes, 2:17 p.m.)

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO
3

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