

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 NEW MEXICO OIL CONSERVATION DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER AGAINST GARNER'S WELL SERVICE, LLC FOR A WELL OPERATED IN LEA COUNTY, NEW MEXICO. CASE NO. 15825

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

October 12, 2017

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Phillip Goetze, Chief Examiner, and David K. Brooks, Legal Examiner, on Thursday, October 12, 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
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR APPLICANT NMOCD COMPLIANCE AND ENFORCEMENT BUREAU:

KEITH W. HERRMANN, ESQ.
STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL
RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION
Office of General Counsel
Wendell Chino Building
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3463
keith.herrmann@state.nm.us

INDEX

PAGE

| | |
|---|----|
| Case Number 15825 Called | 3 |
| NMOCD Compliance and Enforcement Bureau's Case-in-Chief: | |
| Witnesses: | |
| Michael Valdez: | |
| Direct Examination by Mr. Herrmann | 4 |
| Cross-Examination by Examiner Goetze | 13 |
| Proceedings Conclude | 13 |
| Certificate of Court Reporter | 14 |

EXHIBITS OFFERED AND ADMITTED

| | |
|--|----|
| NMOCD Compliance and Enforcement Bureau Exhibit Numbers 1 through 6 | 12 |
|--|----|

1 (8:26 a.m.)

2 EXAMINER GOETZE: Okay. First we will call
3 the compliance case, Case Number 15825, application of
4 the New Mexico Oil Conservation Division Compliance and
5 Enforcement Bureau for a compliance order against
6 Garner's Well Service, LLC for a well operated in Lea
7 County, New Mexico.

8 Call for appearances.

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

11 EXAMINER GOETZE: Any other appearances?
12 Very good.

13 Mr. Herrmann.

14 MR. HERRMANN: Mr. Examiner, this case is
15 regarding Garner's Well Service, LLC. They have one
16 well in Lea County. The OCD has one witness, Mr. Mike
17 Valdez.

18 And at this time, we would move to direct
19 testimony after he's sworn in.

20 EXAMINER GOETZE: Would you please stand
21 and be sworn in?

22 MICHAEL VALDEZ,
23 after having been first duly sworn under oath, was
24 questioned and testified as follows:

25

1 DIRECT EXAMINATION

2 BY MR. HERRMANN:

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

5 A. Yes. My name is Michael Valdez. I'm currently
6 a compliance and enforcement supervisor with the OCD.

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

9 A. I act as a liaison between the inspectors and
10 the environmental specialists out in the field. With a
11 law enforcement background, I conduct a little bit more
12 extensive investigation regarding spills and other
13 anomalies that relate to compliance and enforcement with
14 OCD.

15 Q. Have you researched the violations detailed in
16 the application for hearing?

17 A. Yes, I have.

18 Q. Moving to Exhibit 1, would you please identify
19 what's marked as OCD Exhibit 1?

20 A. OCD Exhibit 1 is the OCD permitting report
21 indicating Garner's Well Service as the operator. And
22 on Exhibit 1, it indicates general information regarding
23 Garner's Well Service, their address, the fact that the
24 central contact person is a Devin Garner, and also
25 indicating that there's a blanket bond for \$50,000 on

1 this particular well, also indicating that there's been
2 no activity in this particular abandoned well -- what we
3 consider an abandoned well since March of 2008.

4 **Q. And referring to the top of Exhibit 1, could**
5 **you identify this operator's OGRID number?**

6 A. Yes. The OGRID number is 247070.

7 **Q. And moving to page 2 of Exhibit 1, could you**
8 **identify that information?**

9 A. The entity details here are -- is information
10 regarding Garner's Well Service from the State
11 Corporation Commission. It indicates that the business
12 identification number is 2536092, Garner's Well Service.
13 It is a domestic limited liability company located in
14 New Mexico. The contact information is 1004 North 14th
15 Street in Lovington, New Mexico, and it also indicates
16 that the only organizer listed on the Secretary of
17 State's information is Garner, Devin -- or Devin Garner,
18 actually. It's backwards.

19 **Q. Thank you.**

20 A. Uh-huh.

21 **Q. Could you identify or -- could you identify**
22 **Exhibit 2?**

23 A. Exhibit 2 is a State of New Mexico Energy,
24 Minerals and Natural Resources Department letter dated
25 June 16th, 2016, addressed to Garner's Well Service at

1 P.O. Box 226, also at 704 Northwest 11th, Andrews,
2 Texas. The letter is from our -- from Daniel Sanchez,
3 who is our Compliance and Enforcement manager at OCD,
4 advising Garner's Well Service of compliance problems
5 with the inactive well. And that's according to the
6 attached Inactive Well List. The company has too many
7 wells in violation of 19.15-25-8 [sic] regarding the
8 Inactive Well List.

9 Q. Okay. And then just to clarify, that Andrews,
10 Texas exhibit is the same address that the OCD has
11 listed as a contact in Exhibit 1?

12 A. Yes, it is.

13 Q. Was this letter sent at least 60 days prior to
14 commencing this enforcement action as required by
15 19.15.5.9(B) NMAC?

16 A. Yes. This letter was sent out approximately 15
17 months prior to today's hearing. So it is in compliance
18 with the 60-day rule, 5.9.

19 Q. Could you please identify Exhibit 3?

20 A. Exhibit 3 is OCD permitting Inactive Well List
21 report, and it indicates the district, the -- District
22 Number 1, the API number of 30-025-38266. The well is
23 identified as Fort Family 9 State #1.

24 Q. And page 2?

25 A. Page 2 of Exhibit 3 indicates that the location

1 of the well is L09, 14 South and 34 East.

2 Q. And is page 2 an additional financial assurance
3 report?

4 A. Yes.

5 Q. Is additional financial assurance required on
6 this well?

7 A. Yes, it is. It indicates that the required
8 bond amount is \$15,640.

9 Q. Okay. And was the operator notified of this
10 additional bonding requirement, referring to Exhibit 3A?

11 A. 3A, yes. This, again, is the letter sent on
12 June 1st, 2016 by Daniel Sanchez also indicating that
13 there was a notice of violation regarding the
14 noncompliance issues with Garner's Well Service,
15 specifically regarding the noncompliance with the
16 acceptability or nonacceptability of the financial
17 assurance issues in violation of OCD rules and the Oil
18 and Gas Act.

19 Q. To your knowledge, has Garner's Well Service
20 made any attempt to rectify either of the inactive well
21 issue or the financial assurance issue?

22 A. No. To my knowledge, he has not, or they have
23 not.

24 Q. What county is this well in, and do you know
25 the approximate locations?

1 A. This well is located in Lea County
2 approximately 20 miles northwest of Lovington, New
3 Mexico as -- as the crow flies, but as a drive, it's
4 approximately 20 miles.

5 **Q. When was the last production on this well?**

6 A. The last reported production that we have is in
7 March of 2008.

8 **Q. Have you contacted the OCD district staff in**
9 **Hobbs about this well?**

10 A. Yes. As a matter of fact, yesterday I spoke
11 with Mark Whitaker, who is the petroleum engineer
12 specialist in Hobbs, and requested information specific
13 to this well. He indicated that he had inspected this
14 well in August of this year and found that the well was
15 not in operation. There was no pump jack. There is no
16 power to the well. All the valves were closed. There
17 were no fuel lines, no lines to or from the well, and it
18 appeared as though it hadn't been in operation for quite
19 a long time.

20 **Q. Did you find any site photographs of this well?**

21 A. I did. On our L drive, I found photographs of
22 the well. I have them here.

23 **Q. And that's marked as OCD Exhibit 4?**

24 A. Yes. This particular -- these photographs were
25 taken on or about May 25th, 2017 and indicate that the

1 wellhead has a piping to it -- on it, but, again, there
2 is no wellhead. Mark Whitaker indicated that there
3 didn't appear to be any severe environmental issues.
4 There were some weeds there, but it was obvious that no
5 one had been to the site in quite a long time.

6 Q. So no evidence that an operator is trying to
7 produce this well?

8 A. Correct.

9 Q. Just to jump quickly back to Exhibit 3, they
10 require an additional bond of \$15,640?

11 A. \$15,640, yes.

12 Q. And is that amount required because the well's
13 been inactive in excess of two years?

14 A. Yes, exactly.

15 Q. What permitting restrictions are imposed on an
16 operator who is out of compliance with Rule 5.9?

17 A. I'm not understanding your question.

18 Q. Let me rephrase that. Of OCD Rule 5.9, does
19 the operator meet the financial assurance requirements
20 required under it?

21 A. In this particular instance, no. They do have
22 a \$50,000 blanket bond, but in the particular instance
23 where they have been in violation or noncompliance with
24 the additional bonding as required concerning the
25 abandonment of this particular well, no.

1 **Q. And do they have -- 5.9 permits an operator to**
2 **have a certain amount of wells inactive. Do they meet**
3 **that criteria?**

4 A. In this particular instance, no, because they
5 only have one well. They do not meet that requirement.

6 **Q. Did you get an estimated plugging cost on this**
7 **well?**

8 A. We have a couple of -- well, one more formal
9 than the other. The financial institution has done a
10 preliminary estimate on plugging the well, and they feel
11 it would be somewhere in the neighborhood of 50- to
12 \$55,000 to plug the well. In my discussion yesterday
13 with Mark Whitaker, he feels, because of the location of
14 the well, that the plugging might be more expensive,
15 possibly up to 70,000, but that would require some
16 examination and some analysis. But that was just his
17 off-the-cuff estimate. So we're running anywhere
18 between 50- and \$70,000 as estimated to plug this
19 particular well.

20 **Q. And what corrective action is the Division**
21 **requesting?**

22 A. What we're requesting is a Division order
23 requesting that Garner's come into compliance regarding
24 the bonding issue within 30 days, authority to plug the
25 well in 60 days if they don't comply with our OCD order,

1 and authorizing the OCD to plug and abandon the well in
2 accordance with 19-15-8-13 [sic] NMAC and seek
3 indemnification as permitted by NMSA 1978, Section
4 70-2-14(E).

5 MR. HERRMANN: Mr. Examiner, at this time I
6 would request that you take administrative notice of
7 Order R-9210, which was the order issuing a plugging
8 rule and establishing that -- requiring inactive wells
9 to be plugged and abandoned in the interest of limiting
10 waste and protecting correlative rights.

11 Q. (BY MR. HERRMANN) Could you identify Exhibit 5
12 just for the record? Do you have a copy?

13 Here (indicating).

14 A. Exhibit Number 5 is an application for
15 compliance order against Garner's Well Service. It's
16 Exhibit Number 5 relevant to OCD rules, and it outlines
17 the compliance requirements 19.15-5-9 [sic], also
18 financial assurance regarding well plugging, which is
19 19-15-8-9 [sic], and also OCD requirements regarding --
20 compliance requirements regarding wells to be properly
21 abandoned, which is 19-15-25-8 [sic].

22 Q. And were Exhibits 1 through 5 prepared by you
23 or under your direction?

24 A. Yes.

25 MR. HERRMANN: Mr. Examiner, at this time I

1 would move to admit Exhibits 1 through 5. And I also
2 provided Exhibit 6, which was prepared by myself, an
3 Affidavit of Service that we sent notice of this hearing
4 to both Garner's Well Service and First American Bank,
5 which is the successor in interest to First National
6 Bank, the surety in this case. The surety has accepted
7 delivery. Garner's Well Service did not. So the case
8 was originally calendared for the September 14th, 2017
9 hearing. We continued it two weeks to September 28th
10 while we were re-serving both the agent's address for
11 Garner's Well Service, and we were advertising the case
12 in the "Lovington Leader." However, at this time I have
13 not gotten the Affidavit of Publication returned from
14 the "Lovington Leader." So at this time, I think we
15 should continue the case until I can supplement the
16 record with that Affidavit of Publication.

17 EXAMINER GOETZE: Okay. So Exhibits 1
18 through 6 are so entered.

19 (NMOCD Compliance and Enforcement Bureau
20 Exhibit Numbers 1 through 6 are offered and
21 admitted into evidence.)

22 EXAMINER GOETZE: And do you think two
23 weeks --

24 MR. HERRMANN: Yes.

25 EXAMINER GOETZE: -- would be sufficient?

1 CROSS-EXAMINATION

2 BY EXAMINER GOETZE:

3 Q. And then one quick question for you,
4 Mr. Valdez: In all this effort, did anyone ever get in
5 contact Mr. Devin Garner?

6 A. I did not, no.

7 Q. Has anybody made contact with him?

8 MR. HERRMANN: Yes. I've tried calling him
9 with Daniel Sanchez, and none of the numbers work.

10 EXAMINER GOETZE: Okay.

11 Anything else in this case?

12 MR. HERRMANN: No. That's it.

13 EXAMINER GOETZE: Very good.

14 Thank you, Mr. Valdez.

15 THE WITNESS: Thank you.

16 EXAMINER GOETZE: Case Number 15825 is
17 continued to October 26th.

18 (Case Number 15825 concludes, 8:43 a.m.)

19

20

21

22

23

24

25

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

23

24

25

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