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 SMITH & MARRS, INC., FOR APPROVAL OF A SALTWATER DISPOSAL WELL, LEA COUNTY, NEW MEXICO	)	CASE NO. 13,511

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

June 16th, 2005

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, June 16th, 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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I N D E X

June 16th, 2005
Examiner Hearing
CASE NO. 13,511

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E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	7	20
Exhibit 2	7	20
Exhibit 3	19	20

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A P P E A R A N C E S

FOR THE APPLICANT:

PADILLA LAW FIRM, P.A.
1512 South St. Francis Drive
P.O. Box 2523
Santa Fe, New Mexico 87504-2523
By: ERNEST L. PADILLA

FOR RICE OPERATING COMPANY:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

* * *

WHEREUPON, the following proceedings were had at 1:10 p.m.:

EXAMINER CATANACH: All right, at this time I'll call the hearing back to order and call Case 13,511, which is the Application of Smith & Marrs, Inc., for approval of a saltwater disposal well, Lea County, New Mexico.

Call for appearances.

MR. PADILLA: Mr. Examiner, I'm Ernest L. Padilla for the Applicant in this case. I have one witness to be sworn.

MR. CARR: May it please the Examiner, my name is William F. Carr with Holland and Hart, L.L.P. We represent Rice Operating Company in this matter. I do not have a witness.

EXAMINER CATANACH: Okay, will the witness please stand to be sworn in?

(Thereupon, the witness was sworn.)

EDDIE W. SEAY,

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

DIRECT EXAMINATION

BY MR. PADILLA:

Q. Mr. Seay, state your full name, please.

A. Eddie W. Seay.

Q. Mr. Seay, what do you do?

A. I do consulting work for the oil and gas.

Q. Mr. Seay, who is the Applicant in this case?

A. Smith & Marrs.

Q. And what is your relationship with the Applicant?

A. I do permitting and consulting for them.

Q. I also understand that you will be taking an assignment of the proposed saltwater disposal well following approval of this Application, if it is approved.

A. Yes, sir.

Q. So you'll be the owner at that point?

A. Yes, sir.

Q. So you're here both as a consultant and as an entrepreneur of sorts?

A. Of sorts, yes, sir.

Q. Okay, Mr. Seay, have you previously testified before the Oil Conservation Division as a regulatory expert --

A. Yes, sir, I have.

Q. -- in oil and gas matters?

A. I have, sir.

Q. Have your credentials been accepted as a matter of record in those hearings?

A. Yes, sir.

Q. Have you also been qualified as an expert in regulatory affairs for oil and gas matters in any litigated

cases?

A. Yes, sir, I have.

Q. Can you tell the Examiner about that?

A. I testified in the Supreme Court of Texas, the District Court of Texas in several cases, Lea County, New Mexico Supreme Court, on environmental matters.

Q. Have you, Mr. Seay, been involved in any type of hearings where your qualifications have been challenged?

A. Yes, I have.

Q. And what has been the result in those cases?

A. I've been accepted.

Q. As a --

A. As an expert witness.

Q. Okay, in regulatory matters?

A. In regulatory matters, yes.

Q. How many disposal well applications have you made over the years?

A. Fifty or 75. I haven't kept up with the number, but in that neighborhood, probably.

MR. PADILLA: Okay, we tender Mr. Seay as a regulatory expert.

MR. CARR: We have no objection to his qualifications.

EXAMINER CATANACH: Mr. Seay is so qualified.

Q. (By Mr. Padilla) Mr. Seay, let's start off right

off the bat with the Exhibit Number 1, which is the Application for Authorization to Inject, and let me also at the same time -- Well, no, I'll just wait on that.

Did you prepare this Application?

A. Yes, I did.

Q. Let's start out on page 1 of that Application, and tell us what that is, what's shown on that --

A. That's just a cover page for the Application and where you sign the signature of it.

Q. And that's -- the Applicant still for the purposes today is Smith & Marrs, right?

A. Yes.

Q. Okay, let's turn to the next page -- or let's go to the third page, I should say, and what is that?

A. That is the map showing your area of review for wells that you have to look at to see if your wells is compatible with that area.

Q. And is that a half-mile circle, or what is that?

A. Yes, sir.

Q. Now, where in particular is the proposed injection well shown on this map?

A. Well, it's the black dot right in the middle of the circle.

Q. You've also prepared another map that's labeled Exhibit Number 2; is that right?

A. Yes, I have.

Q. Does that show the proposed well a little bit better?

A. Yes, it does.

Q. You also have -- and that's in blue?

A. It's in blue, yes, it is.

Q. You also have some other wells located on that, right?

A. Yes, I do.

Q. Would you tell the Examiner what those blue circles or the blue dots on that map are?

A. The blue dot is our proposed disposal well. The green dots are three existing wells that Rice Engineering own and operate.

Q. And where does Rice Engineering dispose of water?

A. In the lower San Andres.

Q. Okay. Same proposed injection zone as the proposed well in this case?

A. Yes, sir, other than in our Application we asked for the San Andres and the Paddock.

Q. Okay, let's go on to the next page, and tell us what that shows.

A. Excuse me, San Andres and Glorieta.

Q. Okay. What's shown on the next page?

A. That's your data sheet, that's your attachment

for answering the questions from the first page.

Q. Okay, now you've made a change as far as disposal is shown, at least as far as injection information in this case, right?

A. Yes, we have.

Q. Is the advertisement for this case today consistent with your changed disposal zone?

A. Yes, it is.

Q. Now, how does the advertisement in this case change -- or different from what's contained on this page?

A. The original application, we sought to inject into the San Andres, Glorieta, Blinebry and Tubb formation.

Q. Okay.

A. Since talking to Mr. Jones with the OCD and Amerada, who had a complaint about they had some Blinebry minerals, we agreed to set a plug across the Blinebry and Tubb and only inject into the San Andres and Glorieta.

Q. So as far as the Application is concerned, anything dealing with the Blinebry and the Tubb are not part of the Application any longer, right?

A. That's right.

Q. And that was through agreement with Amerada Hess?

A. Yes, it was.

Q. Have you received any other objections to this Application in the same manner as Amerada?

A. We've received an objection from Rice, but I don't know what the objection was, no.

Q. Did they ever say to you, or anyone associated with Rice Operating, why they were objecting?

A. No, sir.

Q. Are there any other changes with regard to what is contained on this page that we're looking at now?

A. Not that I'm aware of.

Q. Now, let's talk a little bit -- I know you'll get into that later, but about pressures, which is part VII of the Proposed Operating section on the page that we're looking at.

A. Yes.

Q. What kind of pressures would you encounter in this well?

A. We're expecting the well to be on a vacuum, which would be negative pressure.

Q. How about the other wells, the Rice Operating --

A. They too --

Q. -- disposal well?

A. -- are on a vacuum.

Q. Okay, what does that mean, they're on a --

A. It means they take fluid without having to have a mechanical device putting it down there.

Q. Before I move on, tell us a little bit about the

Anderson Number 1 well. How long has it been productive or nonproductive?

A. It was drilled in approximately 1985 or 1984 as a producing well, but ceased to produce in about 1997 or 1998, in -- It hasn't produced since then.

Q. What's been its status since that time?

A. It's been just shut in.

Q. Okay. If this well was not converted to an injection well, what would be required?

A. Probably have to plug it.

Q. Okay. Let's move on to the next page, the first page dealing with a schematic. Is that the schematic of the Anderson Number 1 well?

A. Yes, it is.

Q. And that's a proposed disposal well?

A. Yes, it is.

Q. Okay. Tell the Examiner what --

A. Other than the change that was made. It should be -- There would be a bridge plug and a cement plug above the Blinebry.

Q. Okay. And where -- would that be -- Let's talk about the cementing program on that well and the casing. Is there any chance that there may be any migration of injected fluids into other oil-producing zones or into freshwater zones?

A. No, it has cement above the top of your injection zone.

Q. Can you elaborate on the fresh water, just generally, before we get to the --

A. Fresh water in the general area is from 28 to 30 feet from surface --

Q. Okay.

A. -- and that's the only freshwater zone you have out in the Monument area.

Q. In terms of this casing program as shown on this schematic, is there any likelihood that you would have any kind of contamination into the fresh -- or migration into the fresh water?

A. No, we have three strings of casing in the well that's for protection.

Q. Okay. Now, looking at the second page following the well schematic, it's labeled "Injection Well Data Sheet". What are the changes in terms of the injection interval on that?

A. It should be in that -- In Number 2, it should be just lower San Andres and Glorieta --

Q. Okay.

A. -- and not the Blinebry, Tubb.

Q. And Number 4, you would also eliminate the --

A. Everything to do with the Blinebry, Tubb.

Lowermost perforations would be at 5178.

Q. Okay. Now, following that page are a number of schematics; is that right?

A. Yes.

Q. Okay, can you briefly go through those and -- Let me ask you this: Was any problem with regard to cementing as shown by the schematics that follow here, was that ever -- was any problem brought to your attention while this Application was before the Oil Conservation Division for administrative approval?

A. No, it wasn't, everything looked like it was in good shape, as far as the cement and pipe.

Q. Are you satisfied that all of the schematics in the well-casing programs on the wells attached to this Application are appropriately cemented to prevent migration of fluids into oil-producing zones or freshwater sources?

A. As far as the records show, they are, yes, sir.

Q. Okay, let's take this -- For example, let's go through this Theodore Anderson Number 18 well. That looks like a complicated schematic. Is that --

A. That's a Chevron well that was plugged.

Q. Okay.

A. If you notice, they've got plugs in about nine different places up and down that casing.

Q. Okay. A well like this, there's probably very

little likelihood of any type of migration; is that right?

A. Yes, sir.

Q. Let's go on to the Chevron USA Number 3 well, which is next. Any problems that you see there?

A. No, sir.

Q. Is that well plugged also?

A. No, sir, it's not.

Q. Okay.

A. It's a producing well.

Q. But it's adequately cemented, in your opinion, to prevent any migration?

A. Yes, sir.

Q. How about the next well, which is the T. Anderson -- or Amerada Hess Number 3? Any problems that you with that well?

A. No, sir.

Q. Any problems with any of the other wells that are shown in this exhibit?

A. None that I know of.

Q. Okay. Let's move on to the freshwater analysis that's a few pages down the line. It's labeled -- with a letterhead of Cardinal Laboratories.

A. Right.

Q. What does that show?

A. This is an analytical from a freshwater well

that's right close -- two locations from where our proposed disposal well is.

Q. Is that water good?

A. No, it appears to be contaminated, from the analytical.

Q. Okay. And this is the only source of fresh water there?

A. This is the only well that I took a sample from, yes. There's some other wells that are further north from where I'm at, oh, a mile away, but I'm talking about within my area of review.

Q. Okay. Why would you say this was contaminated?

A. Because the chloride content is above the drinking water standards of 24- -- It's 2499 on this analytical.

Q. Do you have any theory as to how this water became contaminated?

A. I have not investigated it, no.

Q. Okay. Is there any reason to believe that there was migration of any sort from any of the disposal wells operated by Rice or this proposed injection well?

A. Not that I know of.

Q. Okay. And I mean in terms of casing programs or any type of migration that would impair the water quality as shown by this Cardinal Laboratory analysis.

A. If it had been contaminated from, say, an injection well, which water -- the chloride content of the waters going in those wells are from 50- to, say, 100,000 parts -- you would have much higher chloride content in your water well.

Q. Does the next page give you some idea as to the chloride content of what is going to go into this well?

A. Yeah, that's the chloride content in a well we propose to use to put in the injection well.

Q. Do you propose to inject water from all those pools that are listed on this potentially?

A. Well, those pools are within trucking limits of where we're going to have this well put; this possibly could happen.

Q. Okay. What type of water is encountered in the lower San Andres in this well, in terms of brine water?

A. In -- ?

Q. In the lower San Andres?

A. In the lower San Andres it's in excess of 100,000 parts.

Q. And let's take that unit as Grayburg-San Andres at 137,385 chlorides per -- parts per --

A. Parts per million, yes, sir.

Q. Now, how does that compare to what's in there now?

A. It's the same formation.

Q. Okay.

A. That's Grayburg water -- or Grayburg-San Andres is almost the same.

Q. Is there any danger there at all with regard to injecting those type of waters in there?

A. No.

Q. Do you know where the Rice wells -- or how they -- where they obtain their saltwater disposal, the saltwater they dispose?

A. The water that goes in the Rice wells is piped in from various operators from around the area.

Q. It would be the same thing as you're proposing, essentially?

A. Yes, sir.

Q. What's the difference in the two systems? Do they have a closed system?

A. They have a closed system where everything is on pipeline. It's hooked up to different tank batteries and different operators that's piped into the wells, versus we're going to put a truck-in system where what we do is pull up there and unload into tanks, and then it will go in the wells.

Q. So is your system going to be an open system?

A. Yes, it is.

Q. Theirs is a closed system?

A. Yes.

Q. Okay. What are the next two pages? Is that part of the same kind of thin?

A. That's just some more analyticals showing the formation waters from the Monument area.

Q. Okay. Now, you gave notice of this Application to whom?

A. To Chevron, Pure, Amerada, Rice, and then the landowner, Mr. Cooper.

Q. Okay. Have you received any objections other than from Rice?

A. We've got a letter from Mr. Jim Bruce with Amerada about the two lower zones. And other than that, that's all.

Q. Okay. Now, the last thing here is a publication that you published in Lea County, correct?

A. Yes, sir.

Q. Up to now, has there been any problem with this Application in terms of any technical aspect?

A. Not that I'm aware of.

Q. Okay. Mr. Seay, do you have an opinion as to whether this Application is in the best interests of conservation of oil and gas?

A. Yes, it is. If we don't utilize a wellbore,

we're going to have to plug it, and I think this is the best way to get rid of some produced water.

Q. How about active -- or prolonging producing by getting rid of produced water from other wells, from other sources that we're going to use --

A. Sure.

Q. -- in this injection well?

Okay, let's move on to Exhibit Number 3. Tell us how you procured the contents of this exhibit.

A. Mr. Epley did -- earlier when I was working on this permit, he did some logging work for me and some -- picking some tops on my logs and some engineering -- checked some of my engineering stuff.

And when we got the hearing deal set up for this case, I just asked him to give me a report as to what his findings were.

Q. Were you concerned about whether that well would be able to take water on a consistent basis?

A. That was what I was concerned with in the first place, was having him check everything out on the logs and the well files.

Q. What does this report essentially say?

A. The report was done to show how far out the water will go and, you know, how much porosity we have, how much water we're putting in the ground and, in time, how far it

will reach past the wellbore.

Q. Okay. What are the results or conclusions that Mr. Epley gave you, in terms of -- How much water can you put in this disposal well?

A. We were only -- We used a figure of 4000 barrels a day, and I asked him to figure the radius of a quarter of a mile, which is half the distance between us and any of the Rice wells. And that number came up to 74 million barrels, and it would take 50 years to reach that -- based on his calculations -- to reach that quarter of a mile.

Q. Do you have any -- or do you have an opinion as to whether you're going to affect any of the Rice wells?

A. Not right away, we wont, based on the calculation.

Q. It would take 50 years, according to your testimony?

A. It would take 50 years to reach halfway there.

MR. PADILLA: Mr. Examiner, we tender Exhibits 1, 2 and 3.

EXAMINER CATANACH: Any objection?

MR. CARR: No objection.

EXAMINER CATANACH: Exhibits 1 through 3 will be admitted.

MR. PADILLA: We pass the witness.

EXAMINER CATANACH: Mr. Carr?

CROSS-EXAMINATION

BY MR. CARR:

Q. Mr. Seay, you're the individual that actually selected this Anderson well as a good candidate for a disposal well; is that right?

A. Yes, I did, sir.

Q. At that time, were you looking at any other potential wells for disposal purposes?

A. I look for wells all over Lea County. I have clients who are looking for disposal wells everywhere.

Q. And this one looked like a good candidate to you; is that right?

A. Yes, it did.

Q. You indicated that you're going to have the -- you're going to acquire the well once the Application is approved?

A. I have the option to take the well over from Mr. Smith, yes, sir.

Q. And Mr. Smith has this now, and he's acquired the rights from Mr. Cooper; is that correct?

A. Yes, sir.

Q. And they have a -- what, a saltwater disposal lease of some kind covering this acreage?

A. We don't have a disposal well yet.

Q. But do you know what you're going to get? Are

you going to have a saltwater disposal lease, or are you going to work out a separate arrangement with Mr. Cooper at that time?

A. I'll have to work out something with Mr. Cooper. He didn't protest the Application. I talked to him about it.

Q. And if I look at your Exhibit Number 2, you've placed the two nearest Rice wells, the G-8 and the M-9 on that well, correct? --

A. Yes --

Q. -- on that exhibit?

A. Yes, sir.

Q. Both of those are approximately a half mile from where you're proposing to actually recomplete this well for the purpose of injection?

A. Yes, sir.

Q. You indicated that you had employed Scott Epley to help you determine whether or not this well really had the ability to take significant volumes of water; is that fair to say?

A. Yes, sir, that and how far it would affect radially.

Q. If I look at Mr. Epley's report, he talks about the cumulative injection from January, 1994, through October of 2004, being a total of 35.2 million barrels.

That's from the three injection wells in the area?

A. Yes, sir.

Q. Why did he pick the January, 1994, start date; do you know?

A. Because I told him to pick a 10-year span there to see what was happening.

Q. Are you aware that the M-9 well has been injecting since 1963?

A. No, sir, since 1958.

Q. All right, far -- long ago?

A. Yeah.

Q. And are you aware that the total volumes injected in that well alone to date are approximately 80 million barrels?

A. All the figures we had was from the stat books, I --

Q. Okay.

A. -- I don't know what Rice's figures are.

Q. If you've already had 80 million barrels injected in a well that is structurally flat to the proposed well --

A. Yes, sir.

Q. -- there's going to be continuing injection in that well, wouldn't it be fair to say that there would be some interference between those two wells?

A. Well, based on the calculation, they would be

halfway to us, based on -- at this calculation of 74 million barrels in 50 years, then Rice's injection puts them within a quarter of a mile of us, yes, sir --

Q. And so as --

A. -- if that's what you're asking.

Q. Yes.

A. Okay.

Q. And isn't that something that you would want to consider in terms of determining whether or not your well, in fact, can over the next 50 years receive 74 million barrels of water?

A. I didn't calculate that, no.

Q. Did you look at the current injection rates for the two wells offsetting the proposed location, being the G-8 and the M-9?

A. We did a calculation on how many -- how much barrels and everything was going into those two.

Q. Do you realize that in those two wells alone at the present time there are 440,000 barrels a month going in those two wells?

A. Pretty much, yes, sir.

Q. Isn't it fair to say that when you're putting the wells in this kind of proximity with that volume already in the reservoir, that they're going to have a direct impact on each other as we go forward?

A. I don't think they have yet, but I don't know.

Q. Wouldn't you think that that volume in the reservoir and these continued rates over, say, the next 20 years, would in fact impact the volumes that you could take in your proposed well?

A. I didn't count them, I don't know.

MR. CARR: All right, that's all I have. Thank you.

EXAMINER CATANACH: Okay. Anything further?

MR. PADILLA: Yeah, I have a question.

REDIRECT EXAMINATION

BY MR. PADILLA:

Q. Mr. Seay, do you know of any regulation that essentially says, as far as disposal wells, first in time wins in terms of reservoir space or anything like that for injection purposes?

A. No.

MR. PADILLA: That's all I have.

EXAMINATION

BY EXAMINER CATANACH:

Q. Okay. Mr. Seay, this well is currently on record as being owned and operated by Smith & Marrs; is that correct?

A. Yes, sir.

Q. And it's on a fee lease, it's on Cooper's -- it's

fee acreage?

A. Fee acreage.

Q. Okay. Does Smith & Marrs have any agreement with Cooper at this point?

A. No --

Q. So --

A. -- only with me.

Q. Okay. So you'll have to negotiate some kind of agreement with --

A. I have talked to Mr. Cooper and told him what I was doing. After the fact, I may have to get a separate deal with him. Now, that's...

Q. Okay, and you are planning to take over the well?

A. Yes, sir, if approved.

Q. And you'll have to get a plugging bond, right? You don't currently have a plugging bond, do you?

A. No, I don't, we'll have to get that.

Q. Okay. Can you tell me where you plan to set the plug, the bottom plug, in this well, to isolate the lower formations?

A. Above the Blinebry.

Q. All right. Can you give me a depth?

A. Well, we didn't discuss a depth when Will Jones and I was talking about that change, but it will be whatever OCD recommends. All he told me was, we had to

isolate that.

Q. Well, what formation did this well produce from; do you know?

A. Perforations are open from Blinebry, Tubb, Glorieta. That's where it's perforated right now.

Q. Do you have any plans to squeeze the Blinebry perforations, or are you just going to isolate it by --

A. Just isolate them with a cast-iron bridge plug and cement.

Q. And you testified that the San Andres water in this area is 100,000 TDS?

A. 100,000 parts per million of chloride, not TDS.

Q. Of chloride, okay. Do you have an analysis of the San Andres water, Mr. Seay?

A. Other than what I've got here that shows -- that I got from the Oil Commission on these sheets here. It shows San Andres.

Q. Is that specifically --

A. Not --

Q. -- as to this area?

A. Not specifically from that well or area, because there's not any wells producing from the lower San Andres there.

Q. But the San Andres in this area is generally -- is it oil-productive in this area?

A. The upper San Andres is.

Q. And this is lower --

A. That's where Amerada has its waterflood, into the upper San Andres, and maybe Chevron too, I'm not real sure. But it is productive.

Q. Okay. And your plan of operation is to have a tank on location?

A. Tank in close proximity. Maybe not right on location, but maybe up close to the highway somewhere, if I can work out that with Mr. Cooper.

Q. And from there, the trucks will drop off the water at the tank?

A. Yes.

Q. Okay. You indicated that you're going to be taking water from a number of sources in this area, and we only have -- you only submitted an analysis of what I think are two or three different sources, Tubb and Grayburg-San Andres.

Do you plan on running additional source analysis for us?

A. If you need them, yes, sir.

Q. We do, because we're actually supposed to have an analysis of all the source water going into the well.

A. The reason there's not -- that I don't have -- I mean, I don't know where they're going to bring the water

from. Most of the water within a five- or 10-mile area of where we're at is San Andres, Blinebry, Glorieta, Yates. There's no deeper well around there that I'm aware of. But if we need it, we'll get it. No problem.

EXAMINER CATANACH: Okay. I think that's all I have. Is there anything further?

MR. PADILLA: Nothing further.

MR. CARR: I have a statement I want to make.

EXAMINER CATANACH: Okay, go ahead.

MR. CARR: May it please the Examiner, as we know, Smith & Marrs, Inc., is the Applicant here today, proposing to convert a well to injection in the lower San Andres formation.

Exhibits show today that Rice Operating Company operates two injection wells, the G-8 to the north, which is slightly more than a half mile from the proposed injection well, the M-9, which is less than half a mile to the east. They are injecting into the same intervals that Smith & Marrs now proposes to utilize.

The G-8 has been injecting since 1982 and to date has disposed of 24 million barrels, with a current injection rate of 250,000 barrels a month.

The M-5 [*sic*] has been injecting since 1958 and to date has taken 80 million barrels, with a current rate of approximately 180,000 barrels a month. These wells plan

to be utilized for at least an additional 20 years.

What we have here is, within approximately a half mile in two directions, already 100 million barrels of water having been disposed and a current injection rate of 440,000 barrels a month, we have an Applicant before you that testifies as of today they have no right to the well beyond the acreage.

We submit to you that supporting an application with an engineering study that goes back 10 years when, in fact, injection has been occurring for 47 years, is not an accurate depiction of the status of the reservoir at this time.

We don't believe that first in time wins, but we do believe that the Division, as it carries out its functions, is to assure that wells are drilled, operated and produced so as not to damage offsetting properties, and we believe that's what will happen here for that reason.

Rice Operating Company opposes the Application.

EXAMINER CATANACH: Thank you, Mr. Carr.

Anything else, Mr. Padilla?

MR. PADILLA: Well, in light of that I have to say something.

Mr. Examiner, this is about competition. Mr. Seay, or Smith & Marrs, which is the Applicant in this case, proposes to compete in some manner with Rice

Operating. That is why there's an opposition in this case today.

There's nothing in the record that says that the Applicant in this case is going to impair oil and gas reserves. How in the world you can apply a first-come, first-served type of basis in this case I don't know. It's just simply -- Obviously, this is a regulatory proceeding, and obviously the Applicant is going to have to get some permission to inject. You can easily separate the regulatory proceeding from a land right, which the Applicant proposes to get.

So once that's obtained, as far as the right to inject into this mineral estate, then I think everything would be appropriate. There's no precondition to obtaining permission to inject prior to seeking a regulatory permission to inject or to dispose of water.

So I think the Application -- or the opposition in this case is simply trying to preserve a noncompetitive type of status in that area for saltwater disposal.

EXAMINER CATANACH: Thank you, Mr. Padilla.

Okay, there being nothing further, this case, Case 13,511, will be taken under advisement.

(Thereupon, these proceedings were concluded at 1:47 p.m.)

* * *

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 13511 heard by me on June 16, 2005

David R. Catanach, 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 June 20th, 2005.

STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006