



NEW MEXICO ENERGY, MINERALS and  
NATURAL RESOURCES DEPARTMENT

**BILL RICHARDSON**  
Governor  
**Joanna Prukop**  
Cabinet Secretary

**Mark E. Fesmire, P.E.**  
Director  
Oil Conservation Division

September 12, 2005

Hon. William Jones  
Hearing Examiner  
Oil Conservation Division

**Re: Case No. 13547; Application of the New Mexico Oil Conservation Division for an Order Requiring Terry Pate to Properly Plug One Well, etc.**

Dear Mr. Jones:

The captioned case was heard at the August 25, 2005 examiner hearing before Hon. Richard Ezeanyiam.

At that time, I was unaware that notice had been published, and since it appeared that the address to which notice was mailed to Mr. Pate was not actually his address, the case was continued to the September 22 hearing docket so that notice could be published.

In fact, notice *was* published of the August 25 hearing, as evidenced by the attached affidavit which is hereby tendered. Accordingly there was no procedural defect in the August 25 hearing. I will not be able to attend the September 22 hearing, and hereby request that the case be taken under advisement at that hearing based on the record made on August 25. In the extremely unlikely event that Terry Pate or a representative of Terry Pate appears at that hearing, I ask that the matter be taken under advisement on the record made on August 25 plus any evidence offered on behalf of the respondent.

Should you have questions, please feel free to call the undersigned at (505)-476-3450.

Very truly yours,

David K. Brooks,  
Assistant General Counsel

WVF 9/12/05



**TRANSMITTAL COVER SHEET**

**OIL CONSERVATION DIVISION**  
**1220 S. Saint Francis Drive**  
**Santa Fe, NM 87505**  
**(505) 476-3483 (office)**  
**(505) 476-3462 (fax)**

**PLEASE DELIVER THIS FAX TO:**

**To:** *Lovington Daily Leader*  
*Attn: Debbie, Legal Department*  
*(505) 396-5775*

**From:** *Sally Martinez – (505) 476-3483*

**Subject:** *Notice of Publication*

**Date:** 8-4-05

**Pages:** 3

**Please verify that you have received this fax. Thank you.**

Case No. 13547  
OCD Examiner Hearing  
August 25, 2005  
Exhibit No. 5

# Affidavit of Publication

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF LEA )

OK  
Ed

Joyce Clemens being first duly sworn on oath deposes and says that she is Advertising Director of **THE LOVINGTON DAILY LEADER**, a daily newspaper of general paid circulation published in the English language at Lovington, Lea County, New Mexico; that said newspaper has been so published in such county continuously and uninterruptedly for a period in excess of Twenty-six (26) consecutive weeks next prior to the first publication of the notice hereto attached as hereinafter shown; and that said newspaper is in all things duly qualified to publish legal notices within the meaning of Chapter 167 of the 1937 Session Laws of the State of New Mexico.

That the notice which is hereto attached, entitled

Legal Notice

was published in a regular and entire issue of **THE LOVINGTON DAILY LEADER** and not in any supplement thereof, for one (1) day, beginning with the issue of August 5, 2005 and ending with the issue of August 5, 2005.

And that the cost of publishing said notice is the sum of \$ 47.96 which sum has been (Paid) as Court Costs.

Joyce Clemens

Subscribed and sworn to before me this 18th day of August 2005

Debbie Schilling

Notary Public, Lea County, New Mexico  
My Commission Expires June 22, 2006

LEGAL NOTICE  
NOTICE OF HEARING  
STATE OF  
NEW MEXICO  
ENERGY MINERALS  
AND NATURAL  
RESOURCES  
DEPARTMENT  
OIL CONSERVATION  
DIVISION  
SANTA FE  
NEW MEXICO

The State of New Mexico through its Oil Conservation Division hereby gives notice pursuant to law and the Rules and Regulations of the Division of the following public hearing to be held at 8:15 A.M. on August 25, 2005, in the Oil Conservation Division Hearing Room at 1220 South St. Francis Drive, Santa Fe, New Mexico, before an examiner duly appointed for the hearing. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at 505-476-

3458 or through the New Mexico Relay Network, 1-800-859-1779 by August 15, 2005. Public documents, including the agenda and minutes, can be provided in various accessible forms. Please contact Florene Davidson if a summary or other type of accessible form is needed.

STATE OF NEW MEXICO  
TO:  
All named parties and persons having any right, title, interest or claim in the following cases and notice to the public.

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian whether or not so stated.)

**CASE 13547:** ✓  
Application of the New Mexico Oil Conservation Division for an Order Requiring Terry Pate to Properly Plug One Well, Authorizing the Division to Plug Said Well in Default of Compliance by Operator, and Ordering a Forfeiture of Applicable Security, Lea County, New

Mexico. The Applicant seeks an order requiring Terry Pate, the operator of one inactive well in Lea County, New Mexico, properly plug and abandon the same and if Operator fails to do so, authorizing the Division to plug said well and to insure Operator's plug security. The affected well is the following: Frad Evelyn Well No. J No. 30-025-32163) in ad 990 FSL and 1740 (Unit N) of Section Township 19 S Range 38 East, Lea County, New Mexico.

Given under the Seal of the State of New Mexico at Santa Fe, New Mexico on this day of August, 2005.

STATE OF NEW MEXICO  
OIL CONSERVATION  
DIVISION

Mark E. Fesmire, P.E.  
Division Director  
SEAL

Published in Lovington Daily Leader August 5, 2005.