

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:)

CASE NO. 13,547

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)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

August 25th, 2005

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, August 25th, 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

August 25th, 2005
Examiner Hearing
CASE NO. 13,547

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APPLICANT'S WITNESS:	
<u>BILLY PRICHARD</u> (Compliance and Enforcement Officer, Hobbs District Office, District 1, NMOCD) (Present by telephone)	
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* * *

A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS, JR.
 Assistant General Counsel
 Energy, Minerals and Natural Resources Department
 1220 South St. Francis Drive
 Santa Fe, New Mexico 87505
 and

GAIL MacQUESTEN
 Deputy General Counsel
 Energy, Minerals and Natural Resources Department
 1220 South St. Francis Drive
 Santa Fe, New Mexico 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 8:55 a.m.:

3 EXAMINER EZEANYIM: Let's go on the record again.
4 At this point, I call Case Number 13,547. This is the
5 Application of the New Mexico Oil Conservation Division for
6 an order requiring Terry Pate to properly plug one well,
7 authorizing the Division to plug said well in default of
8 compliance by operator, and ordering a forfeiture of
9 applicable security, Lea County, New Mexico.

10 Call for appearances.

11 MR. BROOKS: Mr. Examiner, I'm David Brooks with
12 the Energy, Minerals and Natural Resources Department of
13 the State of New Mexico, appearing for the Division. I
14 have one witness on the telephone.

15 EXAMINER EZEANYIM: Any other appearances?

16 Okay, may the witness be sworn?

17 (Thereupon, the witness was sworn.)

18 (Off the record)

19 MR. BROOKS: Before I put on my witness, Mr.
20 Examiner, I'm going to offer Exhibits Numbers 1, 2 and 3 as
21 being copies of information on the -- of record in the
22 Division, of which you can take administrative notice.

23 Exhibit Number 1 is a report which is generated
24 by a printout from the inactive well files that are
25 maintained on the Division's website. It shows that Terry

1 Pate operates one well. That well is the Frances Evelyn
2 Number 1, located Unit N, Section 35, Township 19 South,
3 Range 38 East. It's API Number 30-025-32163, completed in
4 the House-Blinebry. Date of last production or injection
5 was August of '01. 01

6 The Exhibit Number 2 is a copy of the single-well
7 cash bond posted by Terry Pate in the amount of \$10,000,
8 referring to this well.

9 Exhibit Number 3 is a copy of the assignment of
10 collateral deposit, assigning -- There is a discrepancy
11 here, which I hadn't noticed till today, in terms of the
12 amount of the bond versus the amount of the collateral
13 deposit. But of course the collateral deposit is the
14 security, it's for the lesser amount. So the actual
15 security that's available is \$7500 under the collateral
16 assignment of an account in Sunwest Bank of Hobbs, which I
17 know from other dealings, and hopefully these will be more
18 satisfactory as Bank of America now.

19 I have here with me the Division's official bond
20 file on this operator so that if the Examiner wishes to
21 compare Exhibits 2 and 3 to the exhibits in the bond file,
22 he can have the opportunity to do so.

23 I ask the Division to take administrative notice
24 of Exhibits 1, 2 and 3.

25 EXAMINER EZEANYIM: The Division will take

1 administrative notice of Exhibits 1, 2 and 3.

2 MR. BROOKS: Okay, at this point I will call
3 Billy Prichard.

4 BILLY PRICHARD (Present by telephone),
5 the witness herein, after having been first duly sworn upon
6 his oath, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BROOKS:

9 Q. Good morning, Billy.

10 A. Good morning, David.

11 Q. You can hear me all right?

12 A. You bet, David, I can hear you fine.

13 Q. Are you acquainted with or familiar with the
14 Frances Evelyn Number 1 well, API Number 30-025-32163?

15 A. Yes, sir, I am.

16 Q. Do you know anything -- Terry Pate is the
17 operator of record, correct?

18 A. That is correct.

19 Q. Do you know anything about Terry Pate?

20 A. No. I know that his mailing address is through
21 Oil and Gas Reports in Hobbs.

22 Q. Okay, you have not been in contact with him for a
23 long time; is that correct?

24 A. That's correct.

25 Q. You are acquainted with this well on the ground,

1 correct?

2 A. Yes, I am.

3 Q. I'm sorry, I forgot to have you state your name
4 for the record.

5 A. My name is Billy Prichard, compliance and
6 enforcement, District 1.

7 Q. And you work for the Oil Conservation Division?

8 A. Yes, I do.

9 Q. And in what office?

10 A. In the District 1 Office out of Hobbs.

11 Q. Okay, and this well that we're talking about,
12 this well is in Lea County, correct?

13 A. That is correct.


14 Q. And it's within District 1 of the Oil
15 Conservation Division?

16 A. That's correct.

17 Q. Now, have you inspected this well on the ground?

18 A. Yes, I have.

19 Q. And is it, in fact, abandoned?

20 A. Well, it looks abandoned, and there hasn't been
21 any production reported in over four years. 

22 Q. And in your opinion does it need to be plugged?

23 A. Yes, it does.

24 Q. Did you prepare a plugging procedure to properly
25 plug this well?

1 A. Yes, I did.

2 Q. Now, since you are not here to identify the
3 exhibit, I'm going to read a few selected lines. I believe
4 you have a copy of your plugging procedure in front of you,
5 correct?

6 A. Yes, I do.

7 Q. Okay. Exhibit Number 4, which I have in front of
8 me, is headed at the top, "Terry Pate, Ogrid # 153644,
9 Frances Evelyn #1". Is that similarly on your plugging
10 procedure?

11 A. That is correct.

12 Q. Okay. The first line below the date -- below the
13 date of last production on the plugging procedure reads,
14 "12-3/4-inch casing set at 213 feet, cement with 125 sacks,
15 circulation by calc". Does that conform to what you have?

16 A. Yes, that is. That conforms to my plugging
17 procedure.

18 Q. And the description of the wells as "San Andres
19 Perfs 4317-4497...top Anhy..." I suppose that's anhydrite
20 "...1590, Base of Salt - 2830...San Andres - 4317, Glorieta
21 - 5580..." is that --

22 A. That is correct.

23 Q. Okay. Just so the Examiner can see that we're
24 offering the right document, would you summarize your
25 plugging procedure for this well?

1 A. It starts out with step one, to "Move in plugging
2 rig".

3 "Pull rods and pump". The well does have a
4 pumping unit on it and rods and tubing in the hole. And
5 step two to "Pull rods and pump".

6 Step three is "nipple up BOP".

7 Pull and tally the tubing, and then run tubing
8 open ended to 6050, and spot 40 sacks cement plug. And
9 then it goes all the way through step 28, which should have
10 the well plugged and abandoned.

11 Q. Okay, if -- There are two pages to this, correct?

12 A. That's correct.

13 Q. And the second page is a list of mater- -- Let's
14 see, what is --

15 A. The second page is asking to bid an additional 50
16 sacks of cement and eight hours of rig time if the well
17 takes the first 50-sack plug at 6050 feet. And it is also
18 a report of the average depth of water from the State
19 Engineer's website.

20 Q. Okay, thank you. Now Billy -- Mr. Prichard, if
21 this well were plugged in accordance with Exhibit Number 4,
22 would it be properly plugged and abandoned in accordance
23 with OCD Rules?

24 A. Yes, it would.

25 MR. BROOKS: Provided, of course, the site were

1 cleaned up in accordance with OCD Rules.

2 Mr. Examiner, I ask you to admit Exhibit Number 4
3 based on Mr. Prichard's testimony.

4 EXAMINER EZEANYIM: Exhibit Number 4 will be
5 admitted into evidence.

6 MR. BROOKS: I think that's all I have of the
7 witness, Mr. Examiner.

8 EXAMINER EZEANYIM: Do you have any?

9 MS. MacQUESTEN: Could I ask --

10 EXAMINATION

11 BY MS. MacQUESTEN:

12 Q. Mr. Prichard?

13 A. Yes.

14 Q. This is Gail MacQuesten.

15 A. Yes, ma'am.

16 Q. I have a question for you. Now, you've had a
17 chance to read through the well file for this well?

18 A. Yes, ma'am, I did. That's where I gathered this
19 information.

20 Q. Okay, was there any indication in the well file
21 that this well had been placed on temporary abandonment
22 status?

23 A. No, ma'am, none that I could find.

24 Q. Okay, and there were no documents showing any
25 attempts to plug or anything related to plugging?

1 A. No, ma'am, there sure was not.

2 MS. MacQUESTEN: Okay, thank you.

3 MR. BROOKS: I believe that's all we have. And
4 we request the Division to enter an order directing Terry
5 Pate to plug this well in accordance with the plugging
6 procedure admitted as Exhibit 4 by a date certain. In the
7 event of his failure to do so, authorizing the Division to
8 plug the well and forfeit the bond admitted as Exhibit
9 Number 3.

10 EXAMINER EZEANYIM: Thank you, Mr. Brooks. I
11 have a couple of questions and comments I want to make
12 here. Terry Pate, who is Terry Pate? Is he an operator or
13 just -- he just owns only one well in the state?

14 MR. BROOKS: He only has one well, according to
15 our computer systems.

16 EXAMINER EZEANYIM: Only one well, and this is
17 not a current well?

18 MR. BROOKS: That's correct.

19 EXAMINER EZEANYIM: And according to Billy
20 Prichard's testimony, we couldn't locate him?

21 MR. BROOKS: That was my understanding. Do you
22 wish to direct a question to the witness?

23 EXAMINATION

24 BY EXAMINER EZEANYIM:

25 Q. Mr. Prichard, you couldn't locate Mr. Terry Pate,

1 right?

2 A. We wrote him a letter requesting that he do
3 something with the well, and there was no response.

4 FURTHER EXAMINATION

5 BY MR. BROOKS:

6 Q. And you said, Mr. Prichard, that his oil records
7 was his address?

8 A. Yes, his mailing address for us, out in District
9 1, was Oil and Gas Reports here in Hobbs.

10 Q. Now, they are people who file production records,
11 correct?

12 A. That's correct.

13 Q. And they do that for a lot of operators?

14 A. Yes, they do.

15 Q. And a number of operators use that address,
16 correct?

17 A. That's correct.

18 Q. So the fact that that address -- a letter gets
19 delivered at that address, doesn't really mean anything
20 about whether or not the operator is still in business or
21 can be found?

22 A. Or even whether the operator received a notice.

23 Q. Yeah, correct. But of course if the operator --
24 if Oil Records had an address for the operator, then they
25 would forward that correspondence to them, presumably,

1 correct?

2 A. That is -- That's what I presume myself.

3 Q. Yeah, and there are a number of operators with
4 whom you communicate through that address, are there not?

5 A. Yes, there are.

6 Q. And those communications for the ones that --
7 they get forwarded, a lot of them do, correct?

8 A. That's correct.

9 MR. BROOKS: Okay, thank you.

10 FURTHER EXAMINATION

11 BY EXAMINER EZEANYIM:

12 Q. Again, Mr. Prichard, this is Richard again. Go
13 back to Exhibit 4, the plugging program. From your
14 experience, how much do you think that program will cost?
15 How much -- Do you have an idea how much it's going to cost
16 to do all those --

17 A. I'm going to estimate \$15,000 to \$16,000.

18 Q. \$15,000 to \$16,000?

19 A. That's correct.

20 EXAMINER EZEANYIM: And we have \$7500 in the --

21 MR. BROOKS: Correct.

22 EXAMINER EZEANYIM: A few more questions?

23 MS. MacQUESTEN: Yeah. Mr. Brooks, do you have
24 an affidavit of notice or publication?

25 MR. BROOKS: No, I do not. We -- When I was

1 doing these plugging cases in the past, I ceased doing
2 affidavits of notice, because the -- a copy of the letter
3 and the mailing receipt and the return receipt, if we've
4 gotten it, would be contained in the Division's files,
5 since the Division does that -- in the Division's case
6 files, since the Division does that.

7 So I will ask the Examiner to take notice of
8 whatever is in the Division's case file in that regard.

9 MS. MacQUESTEN: I assume that we did not get a
10 return receipt, since we're having trouble locating Mr.
11 Pate, so was there publication in the newspaper?

12 MR. BROOKS: There was not, because we had an
13 address for him. And that address -- I don't know if we
14 got a return receipt. That address is not his address, so
15 we have -- There once again, we've taken the position that
16 notice to the last known address was sufficient for the
17 operator -- or that's the address the operator furnished
18 us.

19 MS. MacQUESTEN: But you have no reason to
20 believe that that address is going to reach him. Is it
21 your position you don't need to publish in the newspaper?

22 MR. BROOKS: Yes, that would be my position.

23 MS. MacQUESTEN: I disagree with that.

24 MR. BROOKS: Well, if you want -- In view of
25 counsel's disagreement with that, we would request that the

1 case be continued for four weeks, the evidence be made part
2 of the record and the case be continued for four weeks to
3 allow us to publish the notice.

4 MS. MacQUESTEN: Also, Mr. Brooks, you mentioned
5 a discrepancy in the bond on that?

6 MR. BROOKS: Yeah.

7 MS. MacQUESTEN: What was that?

8 MR. BROOKS: I just noticed that this morning
9 when I was looking at the documents. The bond -- Oh, no, I
10 was wrong about that. There's not a discrepancy. I was
11 looking at the wrong figure on the bond.

12 EXAMINER EZEANYIM: Yeah, that \$10,000 figure.

13 MR. BROOKS: Yeah, the \$10,000, it's not more
14 than \$10,000. I apologize for that.

15 EXAMINER EZEANYIM: It's all right.

16 MR. BROOKS: There is no discrepancy.

17 MS. MacQUESTEN: Thank you, I don't have anything
18 else.

19 MR. BROOKS: I believe, come to think of it, Ms.
20 MacQuesten is right about our obligation. I realized at
21 the time that I was doing these cases before, we were
22 publishing notices of the hearings in the newspaper, and
23 we've since ceased doing that. So the procedure I followed
24 in the past probably is not appropriate. Therefore I would
25 reiterate my request that this be continued for four weeks

1 to allow us to publish it.

2 EXAMINER EZEANYIM: Thank you, Mr. Brooks. In
3 the light of what Ms. MacQuesten just said, we didn't have
4 enough publication to maybe take this case under
5 advisement, so this case will be continued to September
6 22nd, so that will give the Division the opportunity to do
7 the public notice appropriately and give due process.

8 MR. BROOKS: Thank you, Mr. Examiner.

9 EXAMINER EZEANYIM: Mr. Prichard, are you still
10 there?

11 THE WITNESS: Yes, I am.

12 EXAMINER EZEANYIM: Okay, we are done now. We're
13 going to continue this case to September 22nd, according to
14 Mr. Bruce.

15 MR. BROOKS: I assume it will not be necessary to
16 have the witness available again?

17 EXAMINER EZEANYIM: At that point, okay, just to
18 make --

19 MR. BROOKS: Unless -- except in the unlikely
20 event there's an appearance by the respondent.

21 EXAMINER EZEANYIM: Yeah, that was very good.

22 MR. BROOKS: Thank you.

23 (Thereupon, these proceedings were concluded at
24 9:13 a.m.)

25 * * *

I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 13517
heard by me on 8/23/03

STEVEN T. BRENNER, Examiner
(505) 989-9317 Conservation Division

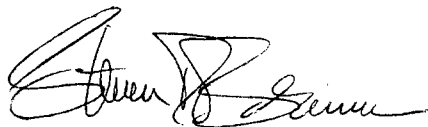
CERTIFICATE OF REPORTER

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 September 5th, 2005.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006