

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 FOR AN ORDER)
REQUIRING FI-RO CORPORATION TO PLUG)
SIX WELLS, EDDY COUNTY, NEW MEXICO)

CASE NO. 13,657

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

March 2nd, 2006

Santa Fe, New Mexico

2006 MAR 16 AM 11 29

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, March 2nd, 2006, 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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March 2nd, 2006
Examiner Hearing
CASE NO. 13,657

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APPLICANT'S WITNESS:	
<u>VAN BARTON</u> (Field Supervisor, Artesia District Office, District 2, NMOCD - present by telephone)	
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A P P E A R A N C E S

FOR THE DIVISION:

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* * *

STEVEN T. BRENNER, CCR
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1 WHEREUPON, the following proceedings were had at
2 9:02 a.m.:

3 EXAMINER EZEANYIM: At this time we continue. At
4 this time -- First of all, let's get out these plugging
5 cases, take time, before we go to the contested cases.

6 So at this point I call Case Number 13,567. This
7 is the Application of the New Mexico Oil Conservation
8 Division for an order requiring Fi-Ro Corporation to plug
9 six wells, Eddy County, New Mexico.

10 Call for appearances.

11 MR. BROOKS: Mr. Examiner, David Brooks with the
12 Energy, Minerals and Natural Resources Department of the
13 State of New Mexico for the Oil Conservation Division.

14 EXAMINER EZEANYIM: Do you have any witnesses?

15 MR. BROOKS: I have one witness.

16 EXAMINER EZEANYIM: Any other appearances?

17 Mr. Brooks, you may proceed.

18 MR. BROOKS: Okay, do you want to swear Mr.
19 Barton?

20 (Thereupon, the witness was sworn.)

21 MR. BROOKS: Okay, before I examine Mr. Barton,
22 I'm going to present the documentary evidence, because the
23 exhibits being offered, 1 through 10, do not require to be
24 identified since they're documents on file with the Oil
25 Conservation Division, of which the Division can -- or

1 rather 1 through 9 are documents on file with the Oil
2 Conservation Division, of which under the Rules the
3 Division can take administrative notice.

4 EXAMINER EZEANYIM: Okay, we'll do --

5 OCD Exhibit Number 1 is a printout of the
6 inactive well list for Fi-Ro Corporation. There are more
7 wells on there than the wells involved in this case, but if
8 you will look at that exhibit you'll see that each of the
9 wells that are involved in this case is listed as an
10 inactive well.

11 Going down the list for this case, the Eddy 35
12 Number 1, according to the list, was last produced in July
13 of '01, the Fo Fo Number 1 was last produced in October of
14 '96, the Fo Fo Number 2 in October of '85, the Fo Fo Number
15 3 in June of '87, the Tidewater State Number 1 in July of
16 '99, and the Tidewater State Number 2 in April of 2000.

17 Next call your attention to Exhibit Number 2.
18 Exhibit Number 2 is a copy of a Form C-104 reflecting the
19 transfer of operations to Fi-Ro Corporation for the Eddy 35
20 State Well Number 1 from Chevron, USA, Inc.

21 Exhibit Number 3 is a copy of a C-104 reflecting
22 the transfer of operations of the Fo Fo Number 1 to Fi-Ro
23 Corporation from Collier Energy, Inc.

24 Exhibit Number 4 is a copy of a C-104 reflecting
25 transfer of operations of the Fo Fo Well Number 2 to Fi-Ro

1 Corporation from Collier Energy, Inc.

2 Exhibit Number 5 is a copy of a C-104 reflecting
3 transfer of operations to Fi-Ro Corporation for the Fo Fo
4 Well Number 3 from Collier Energy, Inc.

5 Exhibit Number 6 is a copy of a letter from Tim
6 Gum, Supervisor, District 2, to Fi-Ro Corporation, dated
7 October 3rd, 1996, relating to the Fo Fo Wells Numbers 1, 2
8 and 3 and pointing out that they are inactive and need to
9 be brought into compliance. This is simply put in there to
10 show that the Division has been working on this situation
11 for some time.

12 Similarly, Exhibit Number 7 is a copy of a letter
13 from Tim Gum to Fi-Ro Corporation dated April 25th, 1997,
14 with respect to those same wells.

15 Exhibit Number 8 is a copy of a C-104 reflecting
16 transfer of operations for the Tidewater State Number 1 to
17 Fi-Ro Corporation from Homer J. Kyle.

18 Exhibit Number 9 is a copy of a C-104 for the
19 Tidewater State Well Number 2 reflecting transfer of
20 operations to Fi-Ro Corporation from Homer J. Kyle.

21 Exhibit Number 10 is not a document on file with
22 the Division. However, that is my affidavit of notice.
23 Basically the notice situation in this case is that we do
24 not have a valid address for Fi-Ro Corporation. We sent
25 the letter to -- by certified mail, return receipt

1 requested, to the registered agent in New Mexico for Fi-Ro
2 Corporation as shown by the records of the Public
3 Regulation Commission, and we have neither received a
4 return receipt, nor has the mailing been returned from that
5 address.

6 Because we anticipated that we would not be able
7 to communicate with Fi-Ro Corporation, we also published
8 notice of this hearing in the *Artesia Daily Press*, which is
9 a newspaper of general circulation in Eddy County, New
10 Mexico, and that publication was accomplished on February
11 7th of 2006. The affidavit of publication is attached to
12 my affidavit of notice.

13 With that, I will offer OCD Exhibits 1 through
14 10.

15 EXAMINER EZEANYIM: Exhibits 1 through 10 will be
16 admitted into evidence.

17 MR. BROOKS: At this time I will call Van Barton.

18 VAN BARTON (present by telephone),
19 the witness herein, after having been first duly sworn upon
20 his oath, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BROOKS:

23 Q. Can you hear me, Van?

24 A. Yes, sir.

25 Q. Okay, would you state your name for the record,

1 please?

2 A. Van Barton.

3 Q. And by whom are you employed?

4 A. New Mexico Oil Conservation Division --

5 Q. In what office?

6 A. -- District 2.

7 Q. And where is that located?

8 A. In Artesia, New Mexico.

9 Q. And in what capacity?

10 A. I am the field supervisor.

11 Q. Mr. Barton, do you know anything about Fi-Ro
12 Corporation?

13 A. We have tried to contact them in the past and
14 have had no success.

15 Q. Okay. Mr. Gum has indicated to me at one time
16 that the principal of that corporation is deceased. Do you
17 know anything about that?

18 A. No, sir.

19 Q. Okay. Are you acquainted with the Eddy 35 State
20 Number 1 well, the Fo Fo Wells 1, 2 and 3, and the
21 Tidewater State Wells 1 and 2?

22 A. Yes, sir.

23 Q. Did you prepare plugging procedures for those
24 wells?

25 A. I did prepare plugging procedures for part of

1 them. There were plugging procedures prepared prior in the
2 well file on some of them.

3 Q. Okay. Did you forward to me yesterday by e-mail
4 plugging procedures for each of these wells?

5 A. I did.

6 MR. BROOKS: Okay. I will represent to the
7 Examiner that OCD Exhibits 11, 12, 13, 14, 15 and 16 are
8 the plugging procedures that were forwarded to me by Mr.
9 Barton.

10 EXAMINER EZEANYIM: Exhibits 11 through 15 will
11 be admitted into evidence.

12 Q. (By Mr. Brooks) Okay, Mr. Barton, if these wells
13 were plugged in accordance with Exhibits -- with the
14 plugging procedures that you forwarded to me yesterday by
15 e-mail, would they be properly plugged and abandoned in
16 accordance with OCD Rules?

17 A. They would, sir.

18 Q. Mr. Barton, in your opinion as a well examiner --
19 as a well inspector, do these wells need to be plugged and
20 abandoned?

21 A. They do.

22 Q. Okay. Mr. Barton, have you reviewed the well
23 files with regard to each of these wells?

24 A. I have.

25 Q. Is there anything in these wells -- in the well

1 files, to indicate that these wells have been plugged?

2 A. No, sir.

3 Q. Is there anything in the well files to indicate
4 that there has ever been an application for or an approval
5 of approved temporary abandonment for any of these wells?

6 A. No, sir.

7 MR. BROOKS: I believe that's all my questions.

8 EXAMINER EZEANYIM: Okay. Do you have questions?

9 MS. O'CONNOR: No. Do you need him to stay on
10 the line for the next case, though?

11 MR. BROOKS: Yes, if the Examiner wishes to ask
12 any questions.

13 EXAMINER EZEANYIM: Sure.

14 EXAMINATION

15 BY EXAMINER EZEANYIM:

16 Q. Mr. Barton, you made good faith efforts since
17 1996 to contact Mr. Fi-Ro or the Fi-Ro Corporation. Do you
18 know what happened to them? You know, are they out of
19 state, or what's going on? Bankrupt? What's going on
20 here?

21 A. No, sir, my extent of knowledge goes to -- there
22 were idle wells that were owned by the Fi-Ro Corporation.
23 We've made attempts to contact them, to get them to bring
24 the wells into compliance by normal means of service
25 through the Internet and the addresses that we had, and we

1 failed to get any response from any of our endeavors.

2 Q. I don't know whether you answered this question,
3 are there any bonds for these wells, or --

4 MR. BROOKS: I can offer that -- I can enlighten
5 the Examiner on that subject. Fi-Ro Corporation had a
6 \$50,000 blanket well plugging bond. They also had inactive
7 wells in District 1, which the Division has plugged. And
8 the Division forfeited that bond and it's in process of
9 being collected, but the amount of the bond is less than
10 the amount necessary to reimburse the Division for the
11 wells it's already plugged in District 1 for Fi-Ro.

12 EXAMINER EZEANYIM: Okay, so for that blanket
13 bond we don't have anything --

14 MR. BROOKS: We have no further security from
15 Fi-Ro.

16 EXAMINER EZEANYIM: So could you state again what
17 you are seeking in this case?

18 MR. BROOKS: We are seeking an order directing
19 Fi-Ro to plug and abandon these wells. And since we have
20 no security, we're not seeking forfeiture of security in
21 this case. The reason for this proceeding is that if we
22 ever do locate Fi-Ro or a successor entity, we can -- if
23 they fail to comply with the Division's order, we can then
24 bring suit against them for reimbursement for the costs
25 that the Division must bear.

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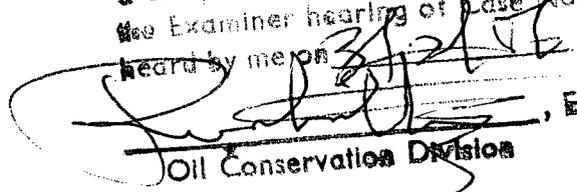
EXAMINER EZEANYIM: Okay, that concludes my questions.

MR. BROOKS: Okay, Mr. Barton, please stay on the line for the next case.

EXAMINER EZEANYIM: And at this point, Case Number 13,657 will be taken under advisement.

(Thereupon, these proceedings were concluded at 9:15 a.m.)

* * *

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 13657 heard by me on 3/24/76
, 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 March 5th, 2006.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006