

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 HEARTLAND ENERGY CORP. TO)
PLUG TWO WELLS AND ORDERING FORFEITURE)
OF APPLICABLE FINANCIAL ASSURANCE IN)
EVENT OF OPERATOR'S NONCOMPLIANCE,)
EDDY COUNTY, NEW MEXICO)

CASE NO. 13,712

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

June 8th, 2006

Santa Fe, New Mexico

2006 JUN 22 AM 10 06

WV Jones

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, June 8th, 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.

* * *

I N D E X

June 8th, 2006
Examiner Hearing
CASE NO. 13,712

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<u>VAN BARTON</u> (Field Supervisor, Artesia District Office, District 2, NMOCD) (Present by telephone) Direct Examination by Mr. Brooks	7
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* * *

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A P P E A R A N C E S

FOR THE DIVISION:

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

FOR THE APPLICANT:

DAVID K. BROOKS, JR.
 Assistant 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 2:16 p.m.:

3
4 EXAMINER JONES: And then we'll call the next
5 case, which is Case 13,712, Application of the New Mexico
6 Oil Conservation Division for an order requiring Heartland
7 Energy Corp. to plug two wells and ordering forfeiture of
8 applicable financial assurance in event of operator's
9 noncompliance, Eddy County, New Mexico.

10 Call for appearances.

11 MR. BROOKS: Mr. Examiner, David Brooks for the
12 Oil Conservation Division.

13 EXAMINER JONES: No other appearances. You have
14 one witness?

15 MR. BROOKS: I have one witness, and the witness
16 was sworn in the previous case.

17 EXAMINER JONES: Okay.

18 MR. BROOKS: Okay. You understand, Mr. Barton,
19 that you're to tell the truth in all of these cases, not
20 just in the first one in which you were sworn?

21 THE WITNESS: Yes, sir.

22 MR. BROOKS: Okay. In this case I will first
23 call the attention -- Well, I guess I'd first better give
24 you the exhibits, hadn't I?

25 First call your attention to what's been marked

1 as OCD Exhibit Number 1. This is a well list of wells
2 operated by Heartland Energy Corp., generated by the OCD
3 system. Second, call your attention to -- again, you will
4 note that there are two wells, they are both inactive and
5 have been since 6 of '97, according to this exhibit.

6 Second, call your attention to what's been marked
7 as OCD Exhibit Number 2. This is a Form C-104 relating to
8 the Sun Texas State Number 1 well, showing that the
9 operatorship was changed from Alpine Petroleum Corporation
10 to Heartland Energy Corporation.

11 Next call your attention to what's been marked as
12 OCD Exhibit Number 3. This is a Form C-104 relating to the
13 Froelich Federal Number 1, reflecting change of
14 operatorship from Alpine Petroleum Corp. to Heartland
15 Energy Corp.

16 Next call your attention to what's been marked as
17 OCD Exhibit Number 4. This is a copy of a letter dated May
18 15th of '03 from the OCD to Heartland Energy Corp., calling
19 their attention to the fact that these wells are inactive.

20 Next call your attention to OCD Exhibit Number 5.
21 It's a letter dated September 19th, 2003, again calling the
22 attention of Heartland Energy Corp. to these wells being
23 inactive.

24 We'll pass over Exhibits 6 and 7 and go on to OCD
25 Exhibit 8 and call your attention to OCD Exhibit 8, which

1 is a letter -- a copy of a notification letter of this
2 hearing, directed to Heartland Energy Corp. at three
3 different addresses.

4 And the exhibits -- the attached pages indicate
5 that the letter to the address in Rockville, Maryland, was
6 undelivered. However, we do have return receipts from the
7 letter -- from the letter addressed to -- at Prentice-Hall,
8 which is their agent for service at process, and --
9 however, that -- we have heard no further response from
10 that.

11 Finally call your attention to OCD Exhibit Number
12 9, which is a copy of an affidavit of publication showing
13 that a notice of the hearing of this matter on May the
14 11th, 2006, was published in the *Artesia Daily Press* in
15 Eddy County.

16 And that would -- there are three cases involved
17 in this. The middle one, Case Number 13,712, is in the
18 second column there, and I believe the record will reflect
19 that this hearing was continued from the May 11th setting
20 to the present setting of today.

21 With that, I will tender into evidence OCD
22 Exhibits 1, 2, 3, 4, 5, 8 and 9.

23 EXAMINER JONES: Exhibits 1, 2, 3, 4, 5, 8 and 9
24 will be admitted to evidence.

25 MR. BROOKS: Okay, call Van Barton.

1 VAN BARTON (Present by telephone),
2 the witness herein, having been previously duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BROOKS:

6 Q. Mr. Barton, in the interest of saving everybody's
7 time, I won't go through the preliminary questions again
8 but just ask you, if I asked you about your name,
9 qualifications, employment and so forth, would the answers
10 still be the same as they were in the last case?

11 A. Yes, sir.

12 Q. Okay. Are you familiar with the Heartland Energy
13 Corporation Sun State Number and Froelich Federal Number 1
14 wells?

15 A. Yes, sir.

16 Q. Did you or someone acting under your supervision
17 prepare plugging procedures for those wells?

18 A. Yes, sir, we did.

19 Q. Are Exhibits 6 and 7 marked for this case copies
20 of the plugging procedures that you or someone under your
21 supervision prepared?

22 A. They are, sir.

23 Q. And if these wells were plugged in accordance
24 with these plugging procedures, would they be properly
25 plugged and abandoned in accordance with OCD Rules?

1 A. Yes, sir.

2 Q. Have you examined the well files on these wells?

3 A. Yes, sir, I have.

4 Q. Did you find any evidence that either of these
5 wells was currently in approved temporary abandonment
6 status?

7 A. I found no evidence of that.

8 MR. BROOKS: Tender Exhibits 6 and 7.

9 EXAMINER JONES: Exhibits 6 and 7 will be
10 admitted to evidence.

11 MR. BROOKS: Pass the witness.

12 EXAMINER JONES: I have no questions.

13 MS. MacQUESTEN: I just had a question for Mr.
14 Brooks to clarify. I understand from the Application that
15 you weren't able to find a financial assurance in the file?

16 MR. BROOKS: We are not able to find any
17 financial assurance for this well. Heartland has a one-
18 well bond in our file, but it specifically says it's for a
19 different well from either of these two, and that well
20 apparently has already been plugged. No one has ever
21 requested that that bond be released.

22 (Laughter)

23 MS. MacQUESTEN: Well, if we were ever so lucky
24 as to find that there was a bond out there, would we then
25 go through this process again to notify that surety or --

1 MR. BROOKS: I suppose we would have to. I have
2 requested in my Application that the order forfeit any
3 applicable financial assurance, but unless it was a cash
4 bond I don't think that would have any effect since -- if
5 it was a surety bond, the surety would not have had notice
6 of this proceeding.

7 MS. MacQUESTEN: Okay. And I didn't see a
8 request for a penalty, although you did present some
9 evidence that we had notified them of the problem and so
10 forth --

11 MR. BROOKS: Yeah.

12 MS. MacQUESTEN: -- is that because we just can't
13 find these folks?

14 MR. BROOKS: Well, yeah, I think it would be idle
15 to request penalties in these default cases for many
16 reasons at this stage, so for that reason I am not
17 requesting penalties.

18 MS. MacQUESTEN: Okay, that's all I had.

19 EXAMINER JONES: Okay, thank you, Mr. Brooks.
20 With that, we'll take Case 13,712 under advisement.

21 (Thereupon, these proceedings were concluded at
22 2:21 p.m.)

23 I do hereby certify that the foregoing is
24 * * * complete record of the proceedings in
the Examiner hearing of Case No. _____
heard by me on _____.

25

_____, Examiner
Oil Conservation Division

STEVEN T. BRENNER, CCR
(505) 989-9317

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 12th, 2006.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006