

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. 13,027
)
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION THROUGH THE)
ENVIRONMENTAL BUREAU CHIEF TO REVOKE)
THE PERMIT OF JAMAR, INC., TO OPERATE)
AN OIL-TREATING PLANT, LEA COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

May 22nd, 2003

Santa Fe, New Mexico

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Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, May 22nd, 2003, 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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May 22nd, 2003
 Examiner Hearing
 CASE NO. 13,027

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

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

* * *

1 WHEREUPON, the following proceedings were had at
2 1:47 p.m.:

3
4 EXAMINER CATANACH: All right, at this time we'll
5 call Case 13,027, the Application of the New Mexico Oil
6 Conservation Division through the Environmental Bureau
7 Chief to revoke the permit of Jamar, Incorporated, to
8 operate an oil-treating plant, Lea County, New Mexico.

9 Call for appearances.

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

14 EXAMINER CATANACH: Any additional appearances?
15 Let the record show there are no additional appearances in
16 this case.

17 MR. BROOKS: Mr. Examiner, I have two witnesses.
18 These witnesses were sworn in Case Number 13,025 that was
19 heard a few minutes ago.

20 EXAMINER CATANACH: Okay, let me remind the
21 witnesses they are still under oath, and please act
22 accordingly.

23 MR. BROOKS: Don't lie.

24 Call Martyne Kieling.

25 MS. KIELING: Yes.

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MARTYNE KIELING,

the witness herein, having been previously duly sworn upon her oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROOKS:

Q. Ms. Kieling, your credentials were -- You testified in Case Number 13,025, correct?

A. Correct.

Q. And were your credentials made a matter of record and accepted by the Examiner in that case?

A. Yes, they were.

Q. Ms. Kieling, does the Jamar, Inc., treating plant come within the scope of your responsibilities at the Oil Conservation Division?

A. Yes, it does. Jamar, Inc., is a reclamation facility, a treating plant.

Q. Call your attention to what has been marked as OCD Exhibit Number 1 and ask you to identify it.

A. Exhibit Number 1 is the order by the Division authorizing Jamar, Inc., to operate a treating plant located in the northeast northeast quarter of Section 8, Township 20 South, Range 37 East, Lea County, New Mexico. And it was issued on September 8th, 1987.

Q. Order Number -- ?

A. It was Order Number R-8507.

1 Q. Case Number -- ?

2 A. Case Number 9199.

3 Q. What is the location of that treating plant as
4 specified in OCD Exhibit Number 1?

5 A. I believe it's approximately two miles south of
6 Monument, New Mexico.

7 Q. And is it identified as the northeast quarter,
8 northeast quarter, Unit A, of Section 8, Township 20 South,
9 Range 37 East, Lea County, New Mexico?

10 A. Yes.

11 Q. Are you familiar with that location on the
12 ground?

13 A. Yes, I am.

14 Q. And in this case is there, in fact, the remnants
15 of a treating plant at that location?

16 A. Yes, there is.

17 Q. That makes it easier, does it not?

18 A. Always.

19 Q. When did you examine that treating plant?

20 A. I visited it several times over the past few
21 years. I believe in 1997, 1998, I think again in 1999, and
22 I think that was the last time I was there, was in 1999.

23 Q. And was that treating plant abandoned?

24 A. Yes, it was.

25 Q. Has it been properly closed?

1 A. No, it has not.

2 Q. Call your attention to what has been marked as
3 OCD Exhibit Number 4. Since you weren't there in '03, you
4 didn't take these pictures, correct?

5 A. No, I did not.

6 Q. Do these pictures fairly and accurately represent
7 the condition of the Jamar treating plant, and are they
8 similar to the way the plant was when you saw it?

9 A. Yes, they did. It looks very similar. There's
10 four photos here.

11 Q. And there are two on the back.

12 A. It hasn't changed much since 1997, 1999.

13 Q. And that reflects no evidence of activity at that
14 location, correct?

15 A. That's correct. The only activity that I believe
16 has happened is, the landowner slid a sheet of metal over
17 one of the open-top buried tanks and placed a net over the
18 second open-top tank.

19 Q. And when you mention the landowner, you're
20 talking about the person who owns the surrounding pasture
21 land --

22 A. That's correct.

23 Q. -- not Jamar, Inc.?

24 A. Does not own Jamar, Incorporated, but owns the
25 land.

1 Q. Okay. Call your attention to what has been
2 marked as OCD Exhibit Number 2 and ask you to identify it.

3 A. Exhibit Number 2 is the \$25,000 treating-plant
4 bond that was issued by Amwest Surety Insurance Company on
5 September 16th of 1987 for Jamar, Incorporated.

6 Q. And do you know anything significant about Amwest
7 Surety Insurance Company?

8 A. I believe that is the one that is going through
9 receivership or -- What is it called? --

10 Q. Receivership.

11 A. -- bankruptcy, yeah. They've closed, so --
12 There's a way to petition, to try to recover the \$25,000,
13 but we're way down on the list to be able to receive
14 anything on this one, because it's been in receivership for
15 a while.

16 Q. Call your attention to what's been marked as OCD
17 Exhibit Number 3 and ask you to identify it.

18 A. Exhibit Number 3 is a letter the Oil Conservation
19 Division sent on April 8th, 2003, notifying Jamar,
20 Incorporated, in care of Charles Robinson, and also to
21 Amwest Surety Insurance Company.

22 The letter was not received by Jamar,
23 Incorporated. The letter came back, return to sender,
24 unable to find the parties.

25 Amwest Surety Insurance Company, however, did

1 receive the letter and returned the card.

2 Q. And you have had some contacts from the receiver
3 of Amwest Surety Insurance Company?

4 A. Yes, I've spoke to them, I believe once, and we
5 have received a letter regarding how to submit a claim on
6 the \$25,000 bond.

7 Q. They indicated that you could file a claim, but
8 they didn't indicate that they would assume any
9 responsibility; is that correct?

10 A. That's correct.

11 Q. And this Exhibit Number 3, is this the 30-day
12 notice to properly close that's required by Rule 711?

13 A. That's correct. According to Rule 711 we gave
14 them 30 days' notice, and that was this letter.

15 Q. Okay, looking at OCD Exhibit Number 4, in your
16 opinion as an environmentalist does this plant site need to
17 be remediated in the interest of protecting fresh water and
18 the environment and public health and safety?

19 A. Yes, it does. At least two of the tanks still
20 have material in them, the open-top ones. The other three
21 tanks are insulated and it's hard to determine what exactly
22 is in them or if they have been leaking. Older photographs
23 that are not shown here showed evidence of a pit area that
24 we need to investigate to determine if they buried material
25 on site, and then of course there's the trash pile or junk

1 pile of barrels and other items that needs to be removed
2 and make sure that there's no hazardous materials in the
3 junk pile.

4 Depth to groundwater at this location is 20 feet
5 or less, I believe.

6 MR. BROOKS: Tender Exhibits 1, 2 and 3.

7 EXAMINER CATANACH: Exhibits 1 through 3 are
8 admitted.

9 MR. BROOKS: Pass the witness.

10 EXAMINATION

11 BY EXAMINER CATANACH:

12 Q. Ms. Kieling, does the Division intend on filing a
13 claim with this insurance company?

14 A. Yes, we do.

15 Q. Okay. And you have not been able to contact
16 Jamar, Incorporated, at all?

17 A. No.

18 Q. Do you know what type of fluid is in the tanks?

19 A. From what I've been told and what I've kind of
20 understood of their operation, these were paraffin melting
21 tanks. They were trying to recover paraffins and sell
22 paraffins, market them. And that's what these two tanks
23 were buried for, insulation purposes and to keep hot.

24 There was more than the two orange insulated
25 tanks there at the facility at one time. They did

1 remediate some of the site by removing some fluids in
2 tanks. I believe there was maybe 12 tanks total at one
3 time at that location.

4 Q. Is that just from your recollection?

5 A. Old photographs.

6 EXAMINER CATANACH: Looks like this plant was
7 approved by a Mr. Catanach, 1987. I don't recall anything
8 specific about this case, though.

9 I believe that's all I have of this witness.

10 MR. BROOKS: Call Larry Johnson.

11 MR. JOHNSON: Yes, sir.

12 LARRY JOHNSON (Present by telephone),
13 the witness herein, having been previously duly sworn upon
14 his oath, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. BROOKS:

17 Q. State your name for the record, please.

18 A. Larry Johnson.

19 Q. Did you testify a few minutes ago in Case Number
20 13,025?

21 A. Yes, I did.

22 Q. Were your credentials made a matter of record and
23 accepted at that time?

24 A. Yes, sir, they were.

25 Q. Mr. Johnson, I'll call your attention to what has

1 been marked as OCD Exhibit Number 4, four pictures here.

2 Did you take those photographs?

3 A. Yes, sir, I did.

4 Q. And were they taken at or about the date shown
5 thereon, which is February 17 of 2003?

6 A. Yes, sir, they were.

7 Q. Are you familiar with the Jamar site in the
8 northeast quarter of the northeast quarter of Section 8,
9 Township 20 South, Range 37 East, Lea County, New Mexico?

10 A. Yes, sir.

11 Q. Do the photographs shown as Exhibit Number 4
12 fairly and accurately represent the present condition of
13 that site?

14 A. Yes, sir, they do.

15 Q. Do you concur with Ms. Kieling's opinion
16 regarding the need for remediation at that site?

17 A. Yes, sir, I do.

18 MR. BROOKS: Tender Exhibit Number 4.

19 EXAMINER CATANACH: Exhibit Number 4 will be
20 admitted.

21 MR. BROOKS: Pass the witness.

22 EXAMINATION

23 BY EXAMINER CATANACH:

24 Q. Mr. Johnson, there's no wells associated with
25 this site either, are there?

1 A. No, sir, there are not.

2 Q. Okay, so it's just --

3 A. There is one water well to the -- to the very
4 northeastern corner of this. I'm not sure if it's
5 associated with that or not.

6 Q. Okay. Have you guys been in contact at all with
7 the landowner at this site?

8 A. The landowner?

9 Q. Right.

10 A. The actual landowner, Jamar, no.

11 Q. Okay, so whoever attempted to cover these tanks
12 -- Was that Jamar, to your knowledge, or was that somebody
13 else?

14 A. No, that was a Mr. Cooper.

15 Q. Okay, so Mr. Cooper would be the landowner?

16 A. I'm not sure who the landowner is, whether this
17 is part of the -- Mr. Cooper's personal property out there,
18 or whether Jamar owns it. I'm not sure about the actual
19 owner of the land.

20 Q. Okay. Is this near Monument? Is that correct?

21 A. Yes, it's south of Monument about four miles.

22 EXAMINER CATANACH: Okay, I believe that's all I
23 have.

24 MR. BROOKS: We'd like to recall Ms. Kieling.

25 EXAMINER CATANACH: Ms. Kieling?

1 MS. KIELING: The surface land owner is Jimmy
2 Cooper.

3 EXAMINER CATANACH: Jimmy Cooper?

4 MS. KIELING: Yes. The plant is abandoned.

5 MR. BROOKS: Now, let me follow up on that just a
6 minute.

7 MARTYNE KIELING (Recalled),
8 the witness herein, having been previously duly sworn upon
9 her oath, was examined and testified as follows:

10 FURTHER EXAMINATION

11 BY MR. BROOKS:

12 Q. When you say Mr. Cooper is the landowner, have
13 you -- what investigation have you made with regard to that
14 ownership of the land?

15 A. The county courthouse tax records. They've sent
16 me a map and the deeds for that location, and I've already
17 obtained an access agreement with Mr. Cooper for this
18 area --

19 Q. Okay.

20 A. -- for remediation purposes.

21 Q. Now, what about wells? Are there any wells
22 associated with this site?

23 A. I have some old information in the file.
24 Groundwater samples that were taken by the Environment
25 Department and by, I believe, Roger Anderson and Bill Olson

1 from a well that's, I think, in the proximity of those
2 trees that are shown in photo 3. And then Larry did find
3 another well. The information I have, the well near the
4 trees, the depth to groundwater was around 20 feet.

5 Also just to the right -- on the right side of
6 the picture we're tack off the highway that leads to
7 Monument, maybe a quarter mile, and there was a Highway
8 Department pit right there along the road, less than a
9 quarter mile from this site, and they reached groundwater
10 when remediating and digging out that site, and that was at
11 about 23 feet, I believe.

12 Q. But you're not aware of any saltwater disposal
13 wells at this site?

14 A. No. These were freshwater wells that I believe
15 Larry found and the ones that I have on record that were
16 sampled. Fresh, as in Ogallala.

17 MR. BROOKS: Okay, pass the witness again.

18 EXAMINER CATANACH: I have no further questions
19 for Ms. Kieling.

20 I do have one more for Mr. Johnson, though.

21 The car body on site, do you know what that was,
22 Mr. Johnson, by any chance?

23 MR. JOHNSON: It was probably an early 1950s-
24 vintage car.

25 EXAMINER CATANACH: Okay, that's all I have of

1 these witnesses.

2 Do you have anything further, Mr. Brooks?

3 MR. BROOKS: Nothing further.

4 EXAMINER CATANACH: Nothing further in this case.

5 Okay, there being nothing further, Case 13,027 will be
6 taken under advisement.

7 And I believe that takes care of this docket.

8 This hearing is adjourned.

9 (Thereupon, these proceedings were concluded at
10 2:05 p.m.)

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner hearing of Case No. 13027,
heard by me on May 22 1920.
David K. Catnach, 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 May 27th, 2003.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006