

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 THROUGH THE)
ENFORCEMENT AND COMPLIANCE MANAGER)
FOR A HEARING ON THE REQUEST OF AMERICO)
ENERGY RESOURCES, LLC, FOR A WAIVER OF)
PENALTIES DUE UNDER THE TERMS OF AGREED)
COMPLIANCE ORDER 70-A)

CASE NO. 13,819

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

November 30th, 2006

Santa Fe, New Mexico

2006 DEC 13 PM 3 11

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, November 30th, 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

November 30th, 2006
 Examiner Hearing
 CASE NO. 13,819

	PAGE
APPEARANCES	3
REPORTER'S CERTIFICATE	9

* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	4	-
Exhibit 2	-	-
Exhibit 3	-	-
Exhibit 4	-	-
Exhibit 5	-	-
Exhibit 6	-	-
Exhibit 7	8	8

* * *

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

FOR THE APPLICANT:

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 8:17 a.m.:

3 EXAMINER EZEANYIM: Okay, at this point I call
4 Case Number 13,819. This is the Application of the New
5 Mexico Oil Conservation Division through the Enforcement
6 and Compliance Manager for a hearing on the request of
7 Americo Energy Resources, LLC, for a waiver of penalties
8 due under the terms of Agreed Compliance Order 70-A.

9 Call for appearances.

10 MS. MacQUESTEN: Gail MacQuesten, representing
11 the Oil Conservation Division. I have one witness.

12 EXAMINER EZEANYIM: Any other appearances?

13 May the witness stand to be sworn?

14 (Thereupon, the witness was sworn.)

15 EXAMINER EZEANYIM: Ms. MacQuesten?

16 MS. MacQUESTEN: Mr. Examiner, if I may, I'd like
17 to make a brief statement.

18 EXAMINER EZEANYIM: Okay, go ahead.

19 MS. MacQUESTEN: This case is the first of its
20 kind brought before an OCD Examiner. It arises out of an
21 inactive well agreed compliance order entered into by the
22 OCD and Americo Energy Resources, LLC. The order is Number
23 70-A. A copy was attached to the Application, and it is
24 also the first exhibit in the exhibit packet.

25 This order addresses seven inactive wells

1 operated by Americo. In the order, Americo agreed to file
2 a compliance report and return three of those wells to
3 compliance with Rule 201 by September 25th, 2006.

4 If it met its schedule and returned three wells
5 to compliance, the OCD would issue an amendment extending
6 the terms of the order.

7 If the operator failed to bring three of the
8 wells into compliance by September 25th, it was subject to
9 a penalty of \$1000 for each well it failed to return to
10 compliance under the schedule, and it was up to the
11 discretion of the OCD whether to issue an amendment
12 extending the terms of the order.

13 But the order also contained a provision under
14 which the operator could request a waiver or reduction of
15 the penalty. That appears in paragraph 5 on page 4 of the
16 Order.

17 In the event the operator encounters
18 unanticipated circumstances that prevent it from meeting
19 the compliance deadlines, the operator may file an
20 administrative application to request a waiver or reduction
21 of the penalty.

22 If the Enforcement and Compliance Manager
23 concurred, the waiver or reduction would be granted
24 administratively, but if he did not concur, the order
25 provided that Application shall be set for hearing.

1 That's why we're here today. In this case the
2 operator failed to return any wells to compliance by the
3 deadline. He requested a waiver of penalties. The
4 Enforcement and Compliance manager denied that request, so
5 under the terms of the order, the request for waiver is set
6 for hearing.

7 The OCD filed the Application in order to get the
8 matter on the docket, so technically we are the Applicant
9 in the case. But it is Americo that is the entity seeking
10 relief and the party bearing the burden of persuading you
11 to waive the penalty.

12 The OCD opposes that request and asks that the
13 Division enter an order denying Americo's request for a
14 waiver of penalties.

15 Please note that the only issue before you today
16 is the issue of penalties. The issue of whether to issue
17 an amendment was decided by the Enforcement and Compliance
18 Manager. He decided not to issue an amendment. The order
19 does not provide a procedure for Americo to request an
20 amendment from the Examiner, and Americo has not made such
21 requests, so the only issue today is the issue of
22 penalties.

23 Because Americo did not appear today, you could
24 decide this matter strictly on the Application that they
25 made, which is in the form of an e-mail, and it's attached

1 to the Application.

2 If you wish, we can present our evidence in
3 support of our request that you deny the waiver, so we wait
4 your determination as to how to proceed.

5 EXAMINER EZEANYIM: Okay, it appears to me that
6 actually, even though you made the Application, they should
7 be the Applicant because they are asking for a waiver.

8 And one question I have before I make a
9 determination here is, did they agree that they want to go
10 to hearing on this case when you contacted them, or you
11 just sent it to the docket? Did they say, Okay, well, we
12 want to go to hearing?

13 MS. MacQUESTEN: I spoke to them before I set it
14 for hearing, and we discussed that if Mr. Sanchez did not
15 agree to the waiver, that the matter would be set for
16 hearing, and I told them that if they did not wish it to be
17 set for hearing they could dismiss it and they could pay
18 the penalty. I did not hear from them after that.

19 EXAMINER EZEANYIM: It appears to me at this
20 point that there is no point in going ahead with this case.
21 I will take administrative notice of whatever -- since it
22 appears to me the Applicant -- the Applicant didn't show
23 up, I don't think we are going to continue with this case.
24 I can make a determination here, based on what evidence I
25 have already.

1 MS. MacQUESTEN: To complete the record, I would
2 like to ask you to admit what has been marked as OCD
3 Exhibit Number 7. This is the affidavit of service
4 notifying Americo of the hearing today. We did receive a
5 green card return receipt from Mr. Nosrati.

6 EXAMINER EZEANYIM: For the record, Exhibit 7
7 will be admitted into evidence.

8 Anything further?

9 MS. MacQUESTEN: Thank you.

10 EXAMINER EZEANYIM: At this point, Case Number
11 13,819 will be taken under advisement.

12 Thank you, Gail.

13 (Thereupon, these proceedings were concluded at
14 8:23 a.m.)

15 * * *

16
17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. 13,819
21 heard by me on 11/30/88
22 *[Signature]*
23 of Conservation Division, Examiner
24
25

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 December 1st, 2006.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2010