

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. 13,844

APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR A COMPLIANCE)
ORDER AGAINST THORNTON HOPPER)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

January 4th, 2007

Santa Fe, New Mexico

2007 JUN 18 AM 9 12

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, January 4th, 2007, 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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January 4th, 2007
 Examiner Hearing
 CASE NO. 13,844

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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

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 8:25 a.m.:

3 EXAMINER CATANACH: At this time I'll call Case
4 13,844, the Application of the New Mexico Oil Conservation
5 Division for a compliance order against Thornton Hopper.

6 Call for appearances.

7 MS. MacQUESTEN: Gail MacQuesten representing the
8 Oil Conservation Division. I have two witnesses.

9 EXAMINER CATANACH: Are there any additional
10 appearances?

11 Okay, will the witnesses please stand to be sworn
12 in?

13 (Thereupon, the witnesses were sworn.)

14 MS. MacQUESTEN: Mr. Examiner, this is a plugging
15 case. We're asking for an order requiring the operator to
16 plug five inactive wells by a date certain and authority
17 for the OCD to plug the wells in the event the operator
18 does not do so.

19 You have an exhibit packet in front of you. The
20 first exhibit is an affidavit of service showing service.
21 We did receive a green return receipt card.

22 The second exhibit is an affidavit from Dorothy
23 Phillips, our financial assurance administrator, showing
24 that she found no financial assurance for these wells.

25 I would call the first witness, Daniel Sanchez.

1 JOSÉ DANIEL SANCHEZ,
2 the witness herein, after having been first duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MacQUESTEN:

6 Q. Would you state your name for the record, please?

7 A. José Daniel Sanchez.

8 Q. And where do you work, Mr. Sanchez?

9 A. For the Oil Conservation Division.

10 Q. What is your title?

11 A. Compliance and Enforcement Manager.

12 Q. Do your duties include supervising the inactive
13 well program?

14 A. Yes, they do.

15 Q. Would you please turn to what's been marked as
16 Exhibit Number 3?

17 A. Okay.

18 Q. Could you tell us what this exhibit is?

19 A. It's the well list, a complete well list, for
20 Thornton Hopper.

21 Q. So these are all the wells that Mr. Hopper is
22 operator of record for in New Mexico?

23 A. Yes.

24 Q. And the five wells listed are the five wells that
25 are the subject of this Application?

1 A. Yes, they are.

2 Q. Now I notice one of the columns is headed "Lease
3 Type", and four of the wells are listed as "F". What does
4 that mean?

5 A. That they are federal wells.

6 Q. And one is listed as "S". What does that mean?

7 A. That would mean that it was a state well.

8 Q. Did you check that well to see if it was a state
9 well?

10 A. Yes, I did, and it's a federal well, it was a --

11 Q. How do you know that?

12 A. From the paperwork in the well file. It's on
13 federal -- they're federal forms, and all the forms
14 indicate it's a federal well.

15 Q. So all five wells that we're talking about today
16 are federal wells?

17 A. Yes, they are.

18 Q. There's also a column for last production or
19 injection. What is the most recent production or injection
20 on any of these wells?

21 A. December of 1992.

22 Q. Has any prior enforcement action been taken to
23 have Mr. Hopper return these wells to compliance?

24 A. Yes, there was.

25 Q. I would ask the Examiner to take administrative

1 notice of Case 12,733, Order R-11,710.

2 Mr. Sanchez, can you tell us what happened in
3 that case?

4 A. Yes, Thornton Hopper was ordered to bring those
5 five wells into compliance, and they were fined \$5000.

6 Q. Was that case also a plugging case in the sense
7 that we asked for authority to plug the wells if Mr. Hopper
8 did not do so?

9 A. I believe it was -- No, I'm sorry, never mind.
10 Yeah, it was not.

11 Q. That's why we're here today?

12 A. Yeah, it was for the fines, I'm sorry.

13 Q. Did Mr. Hopper ever pay that fine?

14 A. No.

15 Q. Did he ever bring the wells into compliance?

16 A. No.

17 Q. So are the wells still inactive?

18 A. Yes.

19 Q. Have any of the wells been placed under approved
20 temporary abandonment status?

21 A. No.

22 Q. Have any of the wells been plugged?

23 A. No.

24 Q. Since you became -- When was this order issued,
25 by the way?

1 A. It was issued on January 15th of '02.

2 Q. Is that before your time as Enforcement and
3 Compliance Manager?

4 A. Yes.

5 Q. Have you taken any enforcement and compliance
6 action against Mr. Hopper regarding these wells?

7 A. Yes, I have.

8 Q. Could you turn to what's been marked as Exhibit
9 Number 4?

10 A. Okay.

11 Q. Can you tell us what this is?

12 A. It's a letter informing Thornton Hopper that
13 we've canceled their authority to transport or inject into
14 the wells they have operated.

15 Q. Why was this action taken?

16 A. They have failed to report their C-115s, do their
17 reporting on the C-115s over the years, and they were asked
18 in a previous letter to come into compliance with that rule
19 there and they refused. Well, they didn't refuse, they
20 just didn't respond. And they were also asked to respond
21 if they wanted a hearing on that, which they didn't do.

22 Q. When was this letter sent?

23 A. October 12th of '06.

24 Q. And did you receive any response from them?

25 A. No.

1 MS. MacQUESTEN: I would move for the admission
2 of Exhibits 1 through 4.

3 EXAMINER CATANACH: Exhibits 1 through 4 will be
4 admitted.

5 MS. MacQUESTEN: This concludes my direct
6 examination of Mr. Sanchez.

7 EXAMINER CATANACH: Ms. MacQuesten, on the issue
8 of plugging bond, is that going to be addressed?

9 MS. MacQUESTEN: We have no plugging bond.

10 EXAMINER CATANACH: There is no plugging bond,
11 it's on federal --

12 MS. MacQUESTEN: We'll have to use the
13 reclamation fund, and if we can find Mr. Hopper we will ask
14 him for reimbursement.

15 EXAMINER CATANACH: Do you know if there's a
16 federal bond?

17 MS. MacQUESTEN: I don't know.

18 EXAMINATION

19 BY EXAMINER CATANACH:

20 Q. Mr. Sanchez, one of these wells, I guess, was a
21 saltwater disposal well; is that correct?

22 A. I believe so.

23 Q. But that particular well doesn't have any date
24 for last production or injection. Do you know what that
25 might have been?

1 A. No, looking through the well file I didn't see
2 anything in there.

3 Q. But do you know that that well is inactive at
4 this time?

5 A. It does come up as inactive.

6 EXAMINER CATANACH: Ms. MacQuesten, were you here
7 for the January, 2002, hearing?

8 MS. MacQUESTEN: No.

9 EXAMINER CATANACH: Okay, you don't know anything
10 -- whether he appeared at that hearing or not?

11 MS. MacQUESTEN: I don't know. If he did, it
12 would probably be stated in the order itself, but I don't
13 recall whether it so stated.

14 Q. (By Examiner Catanach) Have you guys been in
15 contact with him besides the letter? Have you tried to
16 call him or anything?

17 A. I personally haven't. Just in the letters that
18 we've sent out.

19 Q. So he hasn't responded to the letters at all?

20 A. No.

21 MS. MacQUESTEN: Mr. Examiner, if I may, I also
22 have a witness, Mr. Bradshaw, who was in contact with some
23 people from Mr. Hopper's organization, and he'll be able to
24 testify as to that.

25 EXAMINER CATANACH: Okay. I have nothing further

1 of this witness. He may be excused.

2 MR. BROOKS: No questions.

3 EXAMINER CATANACH: Sorry.

4 MS. MacQUESTEN: I'd call David Bradshaw, please.

5 DAVID BRADSHAW,

6 the witness herein, after having been first duly sworn upon
7 his oath, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MacQUESTEN:

10 Q. Would you state your name for the record?

11 A. David Bradshaw.

12 Q. And where you employed?

13 A. Oil Conservation Division.

14 Q. What is your title?

15 A. Management analyst in the Automation and Records
16 Bureau.

17 Q. Do your duties include monitoring the reporting
18 compliance of operators?

19 A. Yes.

20 Q. Would you please turn to Exhibit 4 in the exhibit
21 packet? That is the letter canceling the authority of Mr.
22 Hopper to transport or inject. Attached to that letter are
23 three attachments, and I'd like to ask you some questions
24 about those. Would you please look at the first
25 attachment, which appears to be a letter from you to Mr.

1 Hopper? Can you tell us what that letter was about?

2 A. It's a notice that they are out of compliance
3 with Rule 1115, and stating the period of months that they
4 have not filed their C-115 production reports.

5 Q. What is the date of that letter?

6 A. June 2nd, 2006.

7 Q. Now I notice it's not signed. Do you know
8 whether this letter was sent out?

9 A. Yes, it was, and it was sent out on June 2nd,
10 2006.

11 Q. What is your practice regarding copies of letters
12 sent to operators?

13 A. When I mail letters to operators I print two
14 copies. I throw one blank letterhead in the printer but
15 print two copies, so one comes on the letterhead, one comes
16 out on blank paper. I sign the letterhead and mail that,
17 and then the blank copy is for my files, and that's what
18 this is.

19 Q. That's what this is.

20 Where did you get the address that you used in
21 this letter?

22 A. From the ONGARD OCD database, which contains the
23 operator information of record.

24 Q. Did you receive any response to this letter?

25 A. No.

1 Q. The second attachment is titled "C-115 -
2 Compliance - 12-Day Action Report". Did you prepare this
3 report?

4 A. Yes.

5 Q. What is this report used for?

6 A. To summarize information relating to operators
7 out of compliance with reporting their C-115.

8 Q. There's a column titled "Contact Person", and
9 there are two names under that column. Who are those
10 people?

11 A. Mary Eschberger -- the report misstates her last
12 name as Schberger; that was just a typo on my part -- but
13 she is listed on the last C-115s that were reported from
14 Thornton Hopper. She signed and certified those C-115s,
15 and so she's a contact for the operator.

16 Q. And who is the second person listed?

17 A. Harlon Hopper. And I called Mary when I was
18 following up on delinquent C-115 reports. She stated she
19 filed the reports, wasn't getting the information that she
20 needed to do that, and gave me Harlon Hopper's contact
21 information and suggested I contacted him regarding the
22 delinquent C-115s.

23 Q. Did you talk to Mr. Harlon Hopper?

24 A. Yes, I did.

25 Q. And what was the substance of that conversation?

1 A. I spoke to Harlon on May 2nd, 2006 -- oh,
2 actually I spoke to Mary on May 2nd, and then spoke to
3 Harlon on May 8th, 2006. During our conversation Harlon
4 stated their wells were being sold and they were not
5 producing. I advised him that the C-115s were still
6 required, as long as OCD records indicated Thornton Hopper
7 owned the wells.

8 Q. Does your job also involve any review of the
9 change of operators? Are you able to review whether a
10 change of operator has occurred?

11 A. Yes, I can.

12 Q. And has any change of operator been initiated for
13 these wells?

14 A. Not to my knowledge.

15 MS. MacQUESTEN: Those are all the questions I
16 have for Mr. Bradshaw.

17 EXAMINER CATANACH: Do you have any questions?

18 MR. BROOKS: No questions.

19 EXAMINER CATANACH: I have no questions.

20 MS. MacQUESTEN: That concludes our presentation.

21 EXAMINER CATANACH: Ms. MacQuesten, can you
22 summarize what you guys are asking us to do here? You're
23 asking us to issue an order requiring them to plug the
24 wells?

25 MS. MacQUESTEN: Yes.

1 EXAMINER CATANACH: And if they don't comply, for
2 the OCD to plug the wells?

3 MS. MacQUESTEN: That's right.

4 EXAMINER CATANACH: Is there any request as to
5 the fine that's been levied previously to this operator?
6 Is there anything with regards to that?

7 MS. MacQUESTEN: We have a \$5000 fine pending.
8 We haven't been able to collect that. We're having
9 difficulty even finding Mr. Hopper himself, so I didn't
10 seek a finding in this particular action where at this
11 point we just want to plug these wells.

12 EXAMINER CATANACH: Okay. Do you know what the
13 procedure is -- If there is a plugging bond in place for
14 these wells, do you know what the procedure would be on
15 that?

16 MS. MacQUESTEN: A federal bond?

17 EXAMINER CATANACH: A federal plugging bond.

18 MS. MacQUESTEN: We can approach the BLM and ask
19 them for reimbursement.

20 EXAMINER CATANACH: Okay.

21 MR. BROOKS: My understanding is that they're
22 taking the position that federal procurement laws prevent
23 them from doing that unless we will qualify with the
24 federal procurement policy to become a federal contractor,
25 but that's just hearsay. Some of their people have told me

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25

heard by me on January 4, 2007
David R. Catlett, Examiner

Oil Conservation Division
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1 essentially that, but whether that's an official position
2 or not I don't know for sure.

3 EXAMINER CATANACH: Okay, we may want to explore
4 that further.

5 MS. MacQUESTEN: The person who does the
6 contracting, I'm sure, will explore that.

7 I did want to add, just because the question
8 comes up, what do you do when the operator is representing
9 that the wells are going to be sold? We're asking for the
10 order regardless of whether Mr. Hopper sells these wells.
11 It's been a number of months since that representation was
12 made. We don't know if these wells are ever going to be
13 sold. But even if they are, having an order in place will
14 help the OCD.

15 Once an order is in place requiring compliance
16 action, we can hold up the transfer of the wells until the
17 new operator agrees to a compliance order. So having an
18 order in place is helpful, even if the wells are sold.

19 EXAMINER CATANACH: Okay, anything further?

20 There being nothing further, Case 13,844 will be
21 taken under advisement.

22 (Thereupon, these proceedings were concluded at
23 8:42 a.m.)

24 I do hereby certify that the foregoing is
25 a complete record of the proceedings in
* * * the Examiner hearing of Case No. 13844,
heard by me on January 4, 2009.

David A. Catnach, Examiner

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 January 8th, 2007.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2010