

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR A COMPLIANCE
ORDER AGAINST TOM R. CONE

CASE NO. 14076

FEBRUARY 7, 2008

1220 South St. Francis
Santa Fe, New Mexico

EXAMINER: RICHARD EZEANYIM

LEGAL ADVISOR: David Brooks

ATTORNEY FOR APPLICANT:

SONNY SWAZO, ESQ.
New Mexico Oil Conservation Division
1220 South St. Francis
Santa Fe, New Mexico 87505

WITNESS: Daniel Sanchez

EXHIBITS: 1 - 9 (sans 7)

REPORTED BY: JOYCE D. CALVERT, P-03
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Albuquerque, New Mexico 87102

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1 EXAMINER EZEANYIM: On Page 2, I call Case No. 14076.
2 This is an application of the New Mexico Oil Conservation
3 Division for a Compliance Order against Tom R. Cone.

4 I call for appearances.

5 MR. SWAZO: Sonny Swazo on behalf of Applicant, Oil
6 Conservation Division.

7 EXAMINER EZEANYIM: Do you have any witnesses?

8 MR. SWAZO: I have one witness, Mr. Hearing Examiner,
9 and that's Daniel Sanchez.

10 EXAMINER EZEANYIM: If there are no other
11 appearances, then let the witness stand up to be sworn in.

12 DANIEL SANCHEZ

13 after having been first duly sworn under oath,
14 was questioned and testified as follows:

15 EXAMINER EZEANYIM: Mr. Swazo, you may continue.

16 MR. SWAZO: Thank you, Mr. Hearing Examiner.

17 EXAMINATION

18 BY MR. SWAZO:

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

20 A. Daniel Sanchez.

21 Q. And Mr. Sanchez, with whom are you employed?

22 A. The Oil Conservation Division.

23 Q. And, actually, if I may go ahead and stop right
24 there. Let me just go ahead and give a brief introduction to
25 the case. In this case, Mr. Hearing Examiner, the original

1 application was against four inactive wells. Since this
2 application has been filed, two wells have fallen off the
3 inactive well list. Those wells are the Donnelly well and the
4 North Shugart Queen well. So we are dismissing those wells
5 from the application.

6 EXAMINER EZEANYIM: Okay.

7 MR. SWAZO: One well has fallen onto the inactive
8 well list, however that was not part of this original
9 application so it's not part of this case. But if the operator
10 does not bring that well into compliance in the future, we will
11 be bringing an application, a compliance application, against
12 him.

13 In this case, what we're asking for, is we're asking
14 for the operator to bring his wells into compliance by a date
15 certain. We are asking that the date certain be within 60 days
16 of the issuance of the your order. And if the operator fails
17 to bring the wells into compliance with Rule 201 by that set
18 date, we are asking for authorization to plug and abandon the
19 well and restore and redig the site.

20 The wells in this case are federal wells, so there's
21 no financial assurance requirement. And none has been posted
22 for these wells. And with that, I'd like to -- well, briefly,
23 my exhibit packet does include Exhibit No. 1 which is the
24 Affidavit of Service, the Hearing Notice, and a signed returned
25 receipt. It is signed by a Mr. Dwayne Burris, and in testimony

1 you will find out that he is an official with this company.
 2 There's also the Affidavit of Publication showing that we did
 3 publish notice for this case in the Artesia -- in the Artesia
 4 Daily Press. And with that, I'd like to go ahead and resume my
 5 examination of Mr. Sanchez.

6 EXAMINER EZEANYIM: You may proceed.

7 Q. (By Mr. Swazo): Mr. Sanchez, I don't recall
 8 where we left off, but with whom are you employed?

9 A. Oil Conservation Division.

10 Q. And what is your title?

11 A. Compliance and Enforcement Manager.

12 Q. And what are your duties?

13 A. I manage the four district offices, the
 14 environment bureau, and oversee the compliance and enforcement
 15 programs within the division.

16 Q. And as part of your duties, have you reviewed the
 17 OCD file and records for the wells in this case?

18 A. Yes, I have.

19 Q. And are these records kept by OCD in the normal
 20 course of business?

21 A. Yes, they were.

22 Q. And are the records available to the public at
 23 the OCD website?

24 A. Yes, they were.

25 Q. If you turn to Exhibit No. 2, can you please

1 identify that exhibit?

2 A. This is the well list for Tom R. Cone.

3 Q. And how many wells does Mr. Cone operate?

4 A. 34.

5 Q. And do the two wells that are in this case, the
6 Federal 18 No. 002 and the Federal 18 No. 004, do those wells
7 appear on this list?

8 A. Yes, they do.

9 Q. Please turn to Exhibit No. 3. Can you please
10 identify that exhibit?

11 A. This is the inactive well list for Tom R. Cone.

12 Q. And what does that list show?

13 A. It shows currently three wells out of compliance;
14 the two in question today, the Federal 18 No. 002 and No. 004
15 and the Federal 18 No. 001.

16 Q. And what date was this document printed?

17 A. February 6, 2008.

18 Q. And does it show the last date of production for
19 Federal 18 No. 002 and the Federal 18 No. 004?

20 A. Yes, it does. For the No. 002 the last date of
21 production was November of '97 and for the No. 004 it was
22 September of '97.

23 Q. And how does a well get on that list?

24 A. If it's been inactive for more than a year plus
25 90 days.

1 Q. And can you turn to Exhibit No. 4 and can you
2 identify that exhibit?

3 A. Exhibit No. 4 is a copy of Rule 201.

4 Q. Are you familiar with Rule 201?

5 A. Yes.

6 Q. Now, what does Rule 201 require?

7 A. It requires operators to properly abandon their
8 wells when they are no longer in production or if they've been
9 out of production for a certain amount of time.

10 Q. Is there any other way that an operator can come
11 into compliance with Rule 201?

12 A. Yes. They can temporarily abandon the well.

13 Q. And are the wells in this case plugged?

14 A. No.

15 Q. Are the wells on OCD-approved temporary
16 abandonment status?

17 A. No.

18 Q. And I would -- please turn to Exhibit No. 5.

19 A. Okay.

20 Q. Could you please identify that exhibit?

21 A. This is the Change of Operator form from SWR
22 Operating Company of Tom R. Cone.

23 Q. Is this available at OCD online?

24 A. Yes, it is.

25 Q. And who would have this document?

1 A. Probably Tom R. Cone.

2 Q. And is there a name under the new operator?

3 A. Yes. It's Dwayne Burris.

4 Q. And does he indicate his title or his position
5 with the company?

6 A. Yes. It's treasurer.

7 Q. And the date of this document?

8 A. April 22nd, 2005.

9 Q. And if you can turn to Exhibit No. 6. Would you
10 please identify that exhibit?

11 A. This is also a Change of Operator from Fi-Ro
12 Corporation to Tom R. Cone.

13 Q. And who submitted this document on behalf of Tom
14 R. Cone?

15 A. Dwayne Burris.

16 Q. Does he indicate what his title is with the
17 company?

18 A. Yes. On this document, it's vice president.

19 Q. Have OCD inspectors inspected the well?

20 A. Yes, they have.

21 Q. Are such inspections documented?

22 A. Yes.

23 Q. Are the documents made in the normal course of
24 business?

25 A. Yes, they were.

1 Q. And if you can turn to Exhibits No. 7 --
2 actually, Exhibits No. 8 and No. 9.

3 A. Okay.

4 Q. Can you please identify those exhibits?

5 A. These are the well inspection histories found in
6 our DBS system for the Federal 18 No. 002 and the No. 004
7 wells.

8 Q. And what one is for No. 002?

9 A. That's Exhibit No. 8.

10 Q. And the No. 004 is Exhibit No. 9?

11 A. Yes.

12 Q. Now, with regard to these inspections, do these
13 inspections indicate anything with regard to Rule 201?

14 A. Yes. The notes on both wells, the inspections --
15 the last inspection date was for March 2nd of 2006, and the
16 notes indicate that they were idle wells, which is in violation
17 of Rule 201. And for the No. 002, it shows that there's no
18 current production being reported. The sign on the tank
19 battery was for Tom R. Cone. And pretty much the same notes
20 for the No. 004, idle well, Rule 201 violation, no current
21 production being reported.

22 Q. Mr. Sanchez, in this case, what are you asking
23 for?

24 A. We're just asking that Tom R. Cone bring these
25 wells back into compliance. We are asking that the order state

1 that they have 60 days from the date of the issuance from that
2 order to do so. If they don't meet that deadline, give the OCD
3 the authority to go in and plug those wells.

4 Q. Is there anything else that you would like to say
5 about this case?

6 A. No. Not at this time.

7 MR. SWAZO: With that, Mr. Hearing Examiner, I don't
8 have any further questions.

9 EXAMINER EZEANYIM: Mr. Brooks?

10 MR. BROOKS: No questions.

11 EXAMINER EZEANYIM: I would like the record to
12 reflect that Mr. Sanchez is qualified to give the testimony
13 that he did today.

14 Mr. Sanchez, could you go back again and tell me the
15 efforts that the Enforcement and Compliance Division did to get
16 this well in compliance? Because it has been inactive since
17 1997, according to your testimony. What procedures have you
18 taken to bring these wells into compliance?

19 THE WITNESS: Letters have been sent to the operator
20 notifying them that they are out of compliance with Rule 201.
21 And over a period of time, there was an Agree to Compliance
22 Order for their inactive wells that they did not meet the basis
23 for that Agree to Compliance or they didn't meet the deadlines
24 on that. These wells have continued to be out of compliance
25 even after they have been notified over a period of time. We

1 are just to the point where we don't believe anything is going
2 to be done with those wells.

3 EXAMINER EZEANYIM: Did they respond to your letters
4 saying that it was out of compliance? Did they respond to
5 those letters that you wrote?

6 THE WITNESS: I haven't written any. Those letters
7 were sent out before I got involved in this case, so I really
8 couldn't answer to that.

9 EXAMINER EZEANYIM: These wells are on federal lands?

10 THE WITNESS: Yes.

11 EXAMINER EZEANYIM: And therefore, we don't have any
12 choice?

13 THE WITNESS: That's correct.

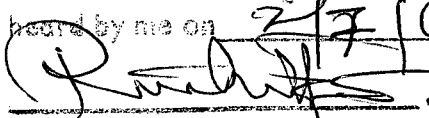
14 EXAMINER EZEANYIM: Nothing further.

15 MR. SWAZO: At this time, Mr. Hearing Examiner, I'd
16 like to move for the admission of all the exhibits with the
17 exception of Exhibit No. 7. That's for the Donnelly Pan
18 American well that was dismissed from this application.

19 EXAMINER EZEANYIM: I order that the exhibits be
20 admitted except Exhibit No. 7. You may be excused.

21 I recommend that Case No. 14076 be taken under
22 advisement.

23 (Hearing concluded.)

24 I do hereby certify that the foregoing is
25 a complete record of the proceedings in
the Examiner hearing of Case No. 14076
heard by me on 2/7/08.
 , Examiner
Oil Conservation Division

REPORTER'S CERTIFICATE

I, JOYCE D. CALVERT, Provisional Court Reporter for the State of New Mexico, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings and was reduced to printed form under my direct supervision.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case and that I have no interest in the final disposition of this proceeding.



JOYCE D. CALVERT
New Mexico P-03
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