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

ORIGINAL

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 14137

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR A COMPLIANCE
ORDER AGAINST CALVIN F. TENNISON

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: CAROL LEACH, Legal Examiner
WILLIAM V. JONES, Technical Examiner
TERRY WARNELL, Technical Examiner

June 12, 2008

Santa Fe, New Mexico

FIRST HEARING

This matter came for hearing before the New Mexico Oil Conservation Division, CAROL LEACH, Legal Examiner, WILLIAM V. JONES, Technical Examiner, and TERRY WARNELL, Technical Examiner, on June 12, 2008, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: JOYCE D. CALVERT, P-03
Paul Baca Court Reporters
500 Fourth Street, NW, Suite 105
Albuquerque, New Mexico 87102

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A P P E A R A N C E S

FOR THE APPLICANT,

Gail MacQuesten, Esq.
Assistant General Counsel, Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

PAGE

EXHIBITS 1 - 9 ADMITTED

14

I N D E X

WITNESS DANIEL SANCHEZ

EXAMINATION BY MS. MACQUESTEN

5

1 MR. JONES: Let's call Case No. 14137, Application of
2 New Mexico Oil Conservation Division for a Compliance Order
3 against Calvin F. Tennison.

4 Call for appearances.

5 MS. MACQUESTEN: Gail MacQuesten for the Oil
6 Conservation Division. I have one witness, Daniel Sanchez.

7 MR. JONES: Any other appearances? Hearing none, you
8 may proceed.

9 MS. MACQUESTEN: I'd like to make a brief statement
10 to explain what we are asking for. This is a compliance action
11 against a sole proprietor, Calvin F. Tennison. The OCD alleged
12 multiple violations in this case: Failure to post financial
13 assurances, failure to file reports, inactive wells,
14 unregistered open pits with contamination.

15 We're seeking an order requiring the operator to come
16 into compliance or plug his wells or allow the OCD to plug the
17 wells and clean up the sites if the operator doesn't do so.
18 Now, the testimony you're going to hear today will go through
19 the various violations that were alleged in the application.
20 But after filing the application, we learned more about the
21 situation, and we believe Mr. Tennison to be deceased.

22 It also appears that there is no viable financial
23 assurance on the well because the surety on the bond went into
24 receivership and the bonds were cancelled.

25 So the true purpose of the hearing today is to go

1 through the hearing process, provide what notice we can to the
2 surety, if it is still out there, and enable the OCD to take
3 care of the wells.

4 If I may, I'd like to give you the exhibit packets.

5 And if we could swear in Mr. Sanchez?

6 MR. JONES: Mr. Sanchez, will you please stand and be
7 sworn?

8 DANIEL SANCHEZ

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

11 MS. MACQUESTEN: Before I start asking Mr. Sanchez
12 questions, I'd like to go through the first few exhibits.

13 Exhibit No. 1 is the Affidavit of Notice. We sent notice to
14 the address of record for the operator at 2401 Martin Lane in
15 Carlsbad. That's also the address listed for the operator on
16 the bond. It was returned unclaimed marked deceased.

17 We also sent notice to the surety using the address
18 on the bond. We received no response. We published notice in
19 the relevant newspaper.

20 The second exhibit is the Affidavit of Financial
21 Assurance, and according to that affidavit, Mr. Tennison posted
22 a \$50,000 blanket bond in 1992. He has not posted any single
23 well financial assurance so all we have is the \$50,000 blanket
24 bond. The affidavit contains what little information we have
25 about that bond and the situation with the surety.

1 A. I work for the Oil Conservation Division as the
2 Compliance and Enforcement manager.

3 Q. Do your duties include overseeing compliance and
4 enforcement efforts?

5 A. Yes, they do.

6 Q. Have you received -- I'm sorry -- have you
7 reviewed the OCD compliance efforts regarding the wells
8 operated by Calvin Tennison?

9 A. Yes, I have.

10 Q. Let's talk about the financial assurance issues
11 first. We have already reviewed the affidavit and know that
12 there's a blanket bond that may or may not be viable, and no
13 single well financial assurances.

14 Are you familiar with Rule 101, the financial
15 assurance rule?

16 A. Yes, I am.

17 Q. Would you state the general requirements for
18 financial assurance?

19 A. An operator is required to have a \$50,000 bond on
20 all their wells or that bond and individual well bonds,
21 depending on the situation.

22 Q. So you can either have a blanket bond or you can
23 post single well financial assurances for all the wells that
24 require financial assurance?

25 A. Yes.

1 Q. If an operator had a viable blanket bond, are
2 there any situations in which he would also have to post single
3 well bonds?

4 A. Yes. If any of the state or fee wells are
5 inactive for longer than a period of two years, those wells
6 would have to be covered by single well bonds.

7 Q. All right. Would you turn to what has been
8 marked as Exhibit No. 3, please?

9 A. Okay.

10 Q. Is this the inactive well additional financial
11 assurance report available on the OCD's website?

12 A. Yes, it is. And it's for Calvin F. Tennison.

13 Q. And is this report based on OCD records?

14 A. Yes.

15 Q. According to this report, are any of the wells
16 operated by Calvin Tennison wells that require single well
17 bonds in addition to any blanket bonds that may be posted?

18 A. Yes. There's three of them: The Malaga
19 Unit #001, the Malaga Unit #002 injection well, and the
20 Malaga Unit #003.

21 Q. Is it -- okay. Those are the three wells that
22 have the Y in the far right column --

23 A. Yes.

24 Q. -- saying in violation?

25 A. Yes.

1 Q. And do those wells require the single well
2 financial assurance because they are state or fee wells and
3 they have been inactive for more than two years?

4 A. Yes. That's correct.

5 Q. So for the operator to come into compliance, even
6 if that blanket bond is viable, he would still need to post
7 single well bonds for those three wells?

8 A. Yes, he would.

9 Q. Let's talk about the violations of Rule 201, the
10 inactive well rule. Under that rule, how long can a well be
11 inactive before it must be returned to activity, temporarily
12 abandoned, or plugged?

13 A. For one year plus 90 days.

14 Q. Could you turn to what's been marked as Exhibit
15 No. 4, please?

16 A. Okay.

17 Q. Is this the inactive well list for Calvin
18 Tennison?

19 A. Yes, it is.

20 Q. And is this list based on OCD records and
21 available on OCD's website?

22 A. Yes, it is..

23 Q. According to the list, how many wells operated by
24 Calvin Tennison have been inactive for more than one year plus
25 90 days?

1 A. Four.

2 Q. Now, there are two wells listed that have the
3 same name of Malaga Unit #002; do you know why that is?

4 A. I looked into it, and I couldn't find any record
5 or any knowledge from the District why the names of the wells
6 are the same, but they are two separate wells. One is an
7 injection well and the other is an oil well.

8 Q. Now, the four wells that appear on the inactive
9 well list, would they appear on this list if they were on
10 temporarily abandonment status --

11 A. No.

12 Q. -- or if they were on approved temporarily
13 abandonment status --

14 A. No.

15 Q. -- or if they were properly plugged and
16 abandoned?

17 A. No.

18 Q. Did you review the well files for these wells to
19 double check to make sure they are not TA'd or plugged
20 according to OCD records?

21 A. Yes, I have.

22 Q. And what did you find?

23 A. For the first one, the Malaga Unit #001, the last
24 entry into the well file was a C-104 filing back in 1993. For
25 the Malaga Unit #002 injection well, there was an authority to

1 inject withdrawn by the District Office, and that was in August
2 of 2006. For the Malaga Unit #002 two oil well, there was an
3 LOV issued January 17th of 2008 for a Rule 201 violation, which
4 is a well being out of compliance, inactive.

5 And for the Malaga #003, the last entry was in August
6 of 2001, and it was a C-103, a Notice of Intent to Perform
7 Remedial Work on the well.

8 Q. Okay. Let's talk about the reporting issues in
9 this case. According to the OCD Rule 1115, how often must
10 production reports be filed?

11 A. Monthly.

12 MS. MACQUESTEN: I'd like to direct the Examiner's
13 attention to Exhibit No. 5. It is the affidavit of Jane Prouty
14 who supervises production and permitting in the OCD Santa Fe
15 office.

16 According to her affidavit, the last C-115 monthly
17 production report filed by or on behalf of this operator was
18 filed for April 2007 and approved on May 29th, 2007.

19 Q. (By Ms. MacQuesten): Mr. Sanchez, let's talk
20 about the alleged violation of Rule 50, the Pit Rule. Which
21 well has pit issues?

22 A. That's the Hanagan State No. 1.

23 Q. Is Exhibit No. 6 the well inspection history for
24 the Hanagan State No. 1?

25 A. Yes, it is.

1 Q. Who enters the information that appears on a well
2 inspection history?

3 A. They are entered by the inspector from the
4 District Office who goes out and does the actual inspection and
5 they are entered at the time of the inspection.

6 Q. Would you please look at the entry for
7 December 10th, 2007?

8 A. Okay.

9 Q. Would you summarize what the inspector reported?

10 A. He reported there were unregistered pits on
11 location. Both pits have hydrocarbon contamination on top.
12 Both pits were fenced. One pit was netted with wire. Some of
13 the netting is below the fluid level. The second pit with
14 nylon netting had a large hole in the netting. Hydrocarbon
15 contaminated soil is what seems to be holding up the side of
16 that pit.

17 Q. Would you look at the entry just above that, the
18 one for December 12, 2007?

19 A. Okay.

20 Q. And what does that refer to?

21 A. It showed that the inspector had gone back to
22 take pictures of the site. Apparently he didn't have his
23 camera with him at the time of the first inspection.

24 Q. Is Exhibit No. 7 a copy of the pictures taken on
25 December 12th by this inspector?

1 A. Yes, it is.

2 Q. Now, this central picture on the first page of
3 Exhibit No. 7 shows a well sign and the operator listed as
4 Sisters, LLC. Is Sisters, LLC a registered operator with the
5 OCD?

6 A. No, they're not.

7 Q. Now, how long may a pit remain open after
8 cessation of use under Rule 50?

9 A. Six months.

10 Q. Have you reviewed the well file for the Hanagan
11 State No. 1?

12 A. Yes, I have.

13 Q. Does it show, first of all, any registered pits?

14 A. No.

15 Q. What is the last reported activity for the
16 Hanagan State No. 1?

17 A. It was in March of 2007.

18 Q. Is that 2007?

19 A. I mean 2002. I'm sorry.

20 Q. Is Exhibit No. 8 a copy of the sundry reporting
21 in 2002?

22 A. Yes, it is.

23 Q. If the last activity on the well was 2002, is
24 there any reason for pits to still be open in 2008?

25 A. No, there's not.

1 Q. Did the OCD attempt to take enforcement action
2 with this pit violation?

3 A. Yes, we did.

4 Q. And is Exhibit No. 9 a letter of violation
5 issued on the pit violation?

6 A. Yes.

7 Q. And when was that written?

8 A. That was sent out December 21, 2007.

9 Q. Do you know if the operator received this letter
10 of violation?

11 A. It was returned to the District Office.

12 Q. Are any of the wells operated by Calvin F.
13 Tennison located in close proximity to a water course?

14 A. Yes. According to the District, all of the wells
15 are fairly close to the Pecos River.

16 Q. Does that affect the need for the State to take
17 action to plug these wells?

18 A. I believe it does. If the wells are in poor
19 condition, the well bores, there's a good chance that there may
20 be contamination issues that we need to resolve.

21 Q. Okay. What are you asking for in this case?

22 A. Just that the operator, if there is an operator,
23 come into compliance, those compliance issues being the
24 violated reports, post the additional financial assurances,
25 return inactive wells into compliance, and to properly close

1 the Hanagan pit.

2 Q. And if the operator doesn't do that, what would
3 you ask for?

4 A. We're asking that the Hearing Examiner issue an
5 order allowing the OCD to go ahead and close those wells and
6 clean them up.

7 Q. And that includes both wells that have been
8 inactive for more than one year plus 90 days and any wells that
9 have been inactive for a shorter period of time?

10 A. Yes.

11 Q. Are you also asking that if that bond under Far
12 West Insurance Company actually exists that we be able to
13 forfeit it?

14 A. Yes, if it does exist.

15 MS. MACQUESTEN: Okay. I move for admission of
16 Exhibits 1 through 9.

17 MR. JONES: Exhibits 1 through 9 will be admitted.

18 MS. MACQUESTEN: I don't have any other questions for
19 Mr. Sanchez.

20 MR. JONES: Okay. How much time do you recommend
21 they be given, the heirs of this guy, to come under compliance
22 with Rule 201 before --

23 THE WITNESS: Given the history of the heirs that we
24 think may be viable, they're not going to accept any mailings
25 that they receive on this. They haven't at this point. One of

1 our field inspectors, Gerry Guye, out of the Artesia District
2 Office is familiar with the family. And apparently they
3 want -- according to him, they want nothing to do with those
4 wells. And since there was no transfer of ownership, I don't
5 see where we are going to be able to make them viable operators
6 to take care of these.

7 MR. JONES: Okay.

8 MS. LEACH: I have a couple of questions. Did we --
9 I see a document in here that is signed off by Patsy Rich. Did
10 we send notices to her of this case?

11 THE WITNESS: Yes.

12 MS. LEACH: Did we send notices to this Sisters, too?

13 MS. MACQUESTEN: Patsy Rich and Bill Rich live in the
14 same home where Mr. Tennison used to live. So all the notices
15 were sent to that address.

16 MS. LEACH: But was it addressed to them?

17 MS. MACQUESTEN: I don't believe so.

18 MS. LEACH: I didn't see that in here. That's why
19 I'm asking.

20 MS. MACQUESTEN: I don't believe so.

21 MS. LEACH: I'm just worried because here she is
22 signing as a co-owner and that was approved by the OCD
23 employee -- this document was approved by Mike Stubblefield.
24 And I guess I'm kind of thinking maybe that gave us notice that
25 maybe notice needs to go directly to Patsy Rich and to Sisters,

1 LLC, which is listed as the name of the operator on this
2 document we accepted. So I'm a little concerned about that.

3 MS. MACQUESTEN: If you would like us to give notice
4 to those entities, we can certainly attempt to do that. Our
5 concern was -- and I'm not sure how to deal with this --
6 Mr. Tennison operated these wells as a sole proprietor. We
7 believe, but can't prove, that Mr. Tennison is now deceased and
8 that Patsy Rich is his daughter. We're not sure when
9 Mr. Tennison passed away, but we believe it was a number of
10 years ago.

11 MS. LEACH: Before 2002?

12 MS. MACQUESTEN: I'm not sure.

13 MS. LEACH: In 2002, she's willing to identify herself
14 as a co-owner, so maybe that's a reason to send something to
15 her and maybe she is more responsible than being able to reject
16 the mail that's addressed to her deceased father.

17 I'm sort of looking for a possibility out there, I
18 guess -- is what I'm thinking, so the State doesn't get stuck
19 with --

20 MS. MACQUESTEN: Well, there are two questions,
21 really: Do we need to give notice to them in order for us to
22 have authority to do something to the wells; or do we need to
23 give them notice as a first step in possibly pursuing them?

24 We wanted to -- as this case developed and we
25 realized how complicated this situation was, we wanted to go

1 forward to see if we could get the State to take action on the
2 wells because we are concerned about them being close to a
3 water course. And we didn't want to delay things while we
4 figure out who might be responsible and how we might be able to
5 tie them in.

6 But if we need to give notice in order for them to
7 have due process, then we certainly want to go ahead and do
8 that, and we'll do that and have this set again for the next
9 hearing date that we can.

10 If the question is do we want to give notice to them
11 because we may want to pursue them, what we would ask, if it's
12 appropriate, is that we go ahead and get authority for the
13 State to deal with these wells now so that they don't pose a
14 hazard and look into what we might be able to do to pursue
15 other entities in this case.

16 One real question is: If we can link Bill and Patsy
17 Rich to the well or Sisters, LLC to the well, we are not sure
18 that there are assets that would be gained by going after them.
19 So it's also a question of the best use of our resources in
20 terms of going after them.

21 MS. LEACH: I guess I'm a little worried since she's
22 listed as a co-owner if they want -- and maybe it really is
23 more of a cost question. But there's also like if she is a
24 co-owner and we've acknowledged that in this document, and
25 we're acting without giving notice to her and it has some

1 impact on her rights, that's a problem.

2 But what I'm thinking is it's going to take a load
3 off the Hearing Examiner to figure out what he wants to do with
4 this so that maybe if you sent notice in the next couple of
5 days giving them a fairly short turnaround of like, you know,
6 if you want to be part of this case, you've got to give us a
7 reply in, you know, not too many days out there. Sort of like
8 a 10-day kind of thing saying, you know, this has started, you
9 know.

10 Let's just send that to her and get your return on
11 that and have that submitted, you know, later, to one of the
12 assorted hearing officers and one of the assorted weeks and it
13 can be made part of this file.

14 MS. MACQUESTEN: Sure. Would you like to set a
15 hearing date in the future?

16 MR. JONES: Yes.

17 MS. LEACH: That would be fine.

18 MR. JONES: We can notice and continue it to however
19 long.

20 MS. LEACH: If you can get a notice out in the next
21 couple of days, then two weeks is probably long enough.

22 MS. MACQUESTEN: Could we push that a little longer
23 so I can go on vacation?

24 MS. LEACH: Sure. I'm sorry, I forgot.

25 MR. JONES: June 26 is the next one, and then after

1 that is July the 10th.

2 THE WITNESS: I'll be on vacation until the 11th.

3 MR. JONES: Well, it will just be presenting the
4 notice. But if they do show up, I guess --

5 MS. LEACH: If they do show up, we'll probably
6 continue it from then, but at least if we tell them they have
7 to respond by then whether they want to participate in the
8 case.

9 MR. JONES: Okay. We'll continue it to July
10 the 10th.

11 And I had one more question. I probably heard this,
12 but I know they haven't reported production since -- but has
13 anybody verified that the injection well is not being operated
14 and the production wells are not being produced?

15 THE WITNESS: The District Office has verified that
16 they are not being operated at this time, yes.

17 MR. JONES: Okay.

18 MR. WARNELL: Which wells are we talking about, if
19 there is to be a plugging order?

20 THE WITNESS: Actually, we're talking about all the
21 of the wells right now.

22 MR. WARNELL: All of them, okay.

23 MR. JONES: Anything else on this case?

24 MS. MACQUESTEN: Nothing else.

25 MR. JONES: With that, we will take Case No. 14137

1 under advisement.

2 And that being the last case of this docket, the
3 docket is adjourned.

4 [Hearing concluded.]

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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. _____,
heard by me on _____
_____, Examiner
Oil Conservation Division

REPORTER'S CERTIFICATE

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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.

Signed this 12th day of June, 2008.



JOYCE D. CALVERT
New Mexico P-03
License Expires: 7/31/08

1 STATE OF NEW MEXICO)
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2 COUNTY OF BERNALILLO)

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I, JOYCE D. CALVERT, a New Mexico Provisional Reporter, working under the direction and direct supervision of Paul Baca, New Mexico CCR License Number 112, hereby certify that I reported the attached proceedings; that pages numbered 1-20 inclusive, are a true and correct transcript of my stenographic notes. On the date I reported these proceedings, I was the holder of Provisional License Number P-03.

Dated at Albuquerque, New Mexico, 12th day of June, 2008.



Joyce D. Calvert
Provisional License #P-03
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