

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 FOR AN ORDER)
REQUIRING WESTAR EXPLORATION COMPANY)
TO PROPERLY PLUG ONE WELL, IMPOSING)
CIVIL PENALTIES IN EVENT OF FAILURE)
TO COMPLY, AUTHORIZING THE DIVISION)
TO PLUG SAID WELL IN DEFAULT OF)
COMPLIANCE BY OPERATOR AND ORDERING)
A FORFEITURE OF APPLICABLE SECURITY,)
IF ANY, LEA COUNTY, NEW MEXICO)

CASE NO. 13,164

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

October 9th, 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, October 9th, 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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October 9th, 2003
Examiner Hearing
CASE NO. 13,164

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

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 10:41 a.m.:

3 EXAMINER CATANACH: Okay, at this time I will
4 call Case 13,164, which is the Application of the New
5 Mexico Oil Conservation Division for an order requiring
6 Westar Exploration Company to properly plug one well,
7 imposing civil penalties in event of failure to comply,
8 authorizing the Division to plug said well in default of
9 compliance by operator and ordering a forfeiture of
10 applicable security, if any, Lea County, New Mexico.

11 At this time I will call for appearances in this
12 case.

13 MS. MacQUESTEN: Gail MacQuesten, Energy,
14 Minerals and Natural Resources Department, appearing for
15 the Oil Conservation Division. I have three witnesses.

16 EXAMINER CATANACH: Thank you. Any additional
17 appearances? No additional appearances in this case.

18 Can I get the witnesses -- Let the record show
19 that Chris Williams is testifying via conference phone
20 today from the Hobbs District Office. Can I get all three
21 witnesses to stand and be sworn in at this time?

22 (Thereupon, the witnesses were sworn.)

23 EXAMINER CATANACH: I'm sorry, Mr. Williams, I
24 didn't hear a response?

25 MR. WILLIAMS: Yes.

1 EXAMINER CATANACH: Thank you.

2 You may proceed.

3 MS. MacQUESTEN: I call Chris Williams.

4 EXAMINER CATANACH: Can you hear us okay, Chris?

5 MR. WILLIAMS: Tell Gail she needs to move closer
6 to the microphone.

7 EXAMINER CATANACH: Okay, you may proceed.

8 CHRIS WILLIAMS (Present by telephone),
9 the witness herein, after having been first duly sworn upon
10 his oath, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. MacQUESTEN:

13 Q. Please state your name for the record.

14 A. Chris Williams.

15 Q. By whom are you employed?

16 A. New Mexico Oil Conservation Division.

17 Q. Where is your office located?

18 A. Hobbs, New Mexico.

19 Q. And what is your title?

20 A. District Supervisor.

21 Q. What are your duties as District Supervisor?

22 A. I supervise 16 employees who are responsible for
23 the inspection of oil and gas sites and the enforcements of
24 the Statutes and the Rules and Regulations of the Division
25 as they pertain to oil and gas.

1 Q. Are you familiar with a well named TPA State
2 Number 2, API Number 30-025-22013?

3 A. Yes.

4 Q. Have you examined the well file for that case and
5 the information on RBDMS regarding the special reports and
6 compliance actions?

7 A. Yes, I have.

8 Q. Have you testified previously before the New
9 Mexico Oil Conservation Division?

10 A. Yes.

11 Q. And did you testify as to your credentials and
12 were your credentials accepted as an expert well inspector?

13 A. Yes.

14 MS. MacQUESTEN: I tender Mr. Williams as an
15 expert well inspector.

16 EXAMINER CATANACH: Mr. Williams is so qualified.

17 Q. (By Ms. MacQuesten) Mr. Williams, do you have
18 the packet of exhibits in front of you that I faxed to you
19 yesterday?

20 A. Yes, I do.

21 Q. Would you please look at what has been marked OCD
22 Exhibit Number 1?

23 A. Okay.

24 Q. Can you identify that document?

25 A. Yes, it's a change of operator from Headington

1 Oil Company to Westar Exploration Company, Dated August of
2 2001.

3 Q. And is that a change of operator with regard to
4 the well that we previously identified in this case?

5 A. Yes, it is.

6 Q. Would you please look now at what has been marked
7 as OCD Exhibit Number 2?

8 A. Right, Exhibit Number 2 is an APD, application
9 for a permit to drill, to plug back this well from the Penn
10 to the San Andres.

11 Q. Are there other documents included in Exhibit 2?

12 A. Yes, there's a 102, which is a surface plat
13 showing where the well is located; and a C-103 which shows
14 what work was actually done on the well in November of 2001
15 where they set a cast iron bridge plug and -- above the old
16 Penn, the Penn, and then perforated and acidized the San
17 Andres; a C-105 which shows the completion record of the
18 plugback. And that's it.

19 Q. Okay. Do the documents in Exhibit Number 2 --
20 are they taken from the well file and reflecting the
21 documents filed by or regarding Westar after they became
22 operator?

23 A. Correct.

24 Q. Could you just briefly summarize what actions
25 were taken by Westar's operator?

1 A. The only thing that Westar has done, as far as we
2 have a well record on in the well file, is set the cast
3 iron bridge -- was the last C-103 where they set the cast
4 iron bridge plug, acidized the formation. And then they
5 turned in a C-104 showing a test on the well, and since
6 that point in time we show no production on that well.

7 Q. What is the date of the last document filed by
8 Westar in the well file?

9 A. November of 2001.

10 Q. Did Westar ever request a permit for temporary
11 abandonment of this well?

12 A. No.

13 Q. Would you please look at what has been marked as
14 Exhibit 3?

15 A. Okay.

16 Q. Can you identify that document?

17 A. It's a notice of violation dated June the 9th
18 from this office, where we requested them to -- where all
19 the equipment from the well had been removed, and we
20 requested that they turn in a notice of TA, PA or return
21 the well to production.

22 Q. Is this a letter drafted by someone in your
23 office, or is it computer-generated? How does this
24 letter --

25 A. The letter is computer-generated from our

1 inspection files. The information located where it says
2 Comments on Inspection, that shows what the inspector
3 actually saw at the location, and then the computer
4 generates a letter at that point requesting that they do
5 certain things, which was TA, PA or return the well to
6 production.

7 Q. What was the inspection date?

8 A. This one was 8-25-2003. I'm sorry, 5-22-2003.

9 Q. Would this inspection have been done at your
10 request?

11 A. Yes.

12 Q. Would you please look at what has been marked as
13 Exhibit Number 4?

14 A. Okay, that's another notice of violation on
15 inspection. It was done 8-22-2003, and basically it just
16 states that the well is idle, there's no plugging papers or
17 compliance plan submitted, and that they should TA, PA or
18 produce the well.

19 Q. This second notice says that action must be taken
20 by November 28th, 2003?

21 A. Right.

22 Q. How was that date selected?

23 A. That date was automatically generated by the
24 computer. The date that originally was put in there was
25 9-28-2003. The computer overrode that and put in -- We

1 have a standard 90-day compliance date on it, and the
2 computer overrode it, overrode what we manually put in.

3 Q. Now, this Exhibit Number 4, is this a copy of the
4 actual letter sent to Westar, or is it a current printout
5 of the computer?

6 A. This was a current printout.

7 Q. Do you know whether the letter that was sent to
8 Westar showed a 30-day period of a 60- --

9 A. No, I do not know that.

10 Q. In any event, did OCD receive any response to
11 either of these two letters?

12 A. No.

13 Q. Would you please look at what has been marked as
14 Exhibit Number 5?

15 A. I don't have Exhibit Number 5. Okay, what is it?

16 Q. That is the plugging procedure.

17 A. Oh, I do have that on the computer here in my
18 office.

19 Q. Was the plugging procedure for this well prepared
20 by you or at your direction?

21 A. It's prepared at my direction.

22 Q. Do you review the well-plugging procedures that
23 are proposed?

24 A. Yes, I do.

25 EXAMINER CATANACH: Chris, are you attempting to

1 locate that plugging procedure?

2 THE WITNESS: Yes.

3 EXAMINER CATANACH: Okay, let us know when you
4 find it.

5 THE WITNESS: I have seen it, I just can't find
6 it on my computer right now. I can't find it on my
7 computer, David, at the present time. I have seen it,
8 though.

9 EXAMINER CATANACH: Did you have specific
10 questions?

11 MS. MacQUESTEN: I just wanted to know if he has
12 approved of this procedure, if it's the procedure that was
13 sent out by his office.

14 THE WITNESS: Yes.

15 EXAMINER CATANACH: So you have approved this
16 procedure, Mr. Williams?

17 THE WITNESS: Yes.

18 EXAMINER CATANACH: Okay, we'll leave it at that.

19 Q. (By Ms. MacQuesten) If the well is plugged in
20 accordance with the procedure that was proposed for this
21 well, in your professional opinion will the well be
22 properly plugged and abandoned in accordance with the
23 Statutes of the State of New Mexico and the Rules of the
24 New Mexico Oil Conservation Division now in effect?

25 A. Yes.

1 MS. MacQUESTEN: I'd like to offer Exhibits 1
2 through 5 into evidence.

3 EXAMINER CATANACH: Exhibits 1 through 5 will be
4 admitted.

5 MS. MacQUESTEN: I have no more questions of this
6 witness.

7 EXAMINATION

8 BY EXAMINER CATANACH:

9 Q. Mr. Williams, did this well originally show up on
10 an inactive-well list?

11 A. Yes.

12 Q. And that's what prompted the first --

13 A. Yeah, that was part of it. And part of it, Billy
14 -- excuse me, Mr. Prichard, my inspector, had been by this
15 well when it was under other operators, and none of the
16 operators that it had been under previously responded
17 either.

18 Q. So back in November of 2001, Westar took this
19 over and attempted to plug it back from the Penn to the San
20 Andres?

21 A. Well, they actually took it over in, I think,
22 February of 2001.

23 Q. Okay, and they attempted to plug it back?

24 A. Correct.

25 Q. Apparently they encountered no production in the

1 San Andres?

2 A. According to the 104 that was submitted, they
3 encountered four barrels of oil and a small amount -- gas
4 that was too small to measure.

5 Q. But as far as you know, the well never produced
6 from the San Andres?

7 A. Right.

8 Q. Okay. So, on or about May 22nd, you've got a
9 record that says that Mr. Prichard did an inspection on the
10 well?

11 A. Right.

12 Q. And had you been in contact with Westar previous
13 to that inspection?

14 A. No.

15 Q. Okay, so you inspected the well in May. Did you
16 take any action as a result of that inspection?

17 A. Yeah, we sent them a letter telling them that
18 they needed to PA or TA the well.

19 EXAMINER CATANACH: Okay. I don't have copies of
20 that letter. Do you intend to -- I'm sorry, this may be a
21 later exhibit, I just don't know, Ms. MacQuesten.

22 MS. MACQUESTEN: The letters are the exhibits we
23 have marked.

24 Q. (By Examiner Catanach) Okay, these are the
25 actual letters that were sent?

1 A. Right.

2 Q. And --

3 A. Also, excuse me, there was an inspection done on
4 2-14-2001 on this well and there was still nothing done,
5 from that inspection, when the well is still idle.

6 Q. Okay. I was looking at the letter. I guess it's
7 dated June 9th, is when it was sent to Westar?

8 A. Right.

9 Q. And basically what it tells Westar is, the well
10 is not in compliance with the Rules and they need to bring
11 it into compliance by taking some sort of corrective
12 action?

13 A. Correct.

14 Q. Now, to your knowledge did they receive this
15 letter?

16 A. I can't answer that. I don't know if they have
17 or haven't. I just know it was sent to the location that
18 we were told to send it to.

19 Q. Okay. How about the subsequent letter that you
20 sent out on August 29th? Do you know if they got that
21 letter, Mr. Williams?

22 A. No, we don't know.

23 Q. Was it returned to you?

24 A. No.

25 Q. Ms. MacQuesten, I was looking at a letter that's

1 in this case file. Apparently this is a notice of the
2 hearing today that was sent to Westar, and it looks like
3 that letter was signed for by an individual with Westar.
4 That was sent certified mail. However, it doesn't look
5 like that's the same box number that was sent by the Hobbs
6 Office. It looks like the Hobbs District Office sent this
7 to P.O. Box 161896 in Austin, and it looks like you sent
8 this to P.O. 161686 in Austin.

9 Now, I don't know what kind of difference that
10 makes, whether or not they received the initial notice of
11 the noncompliance event, but it does concern me that maybe
12 Westar didn't receive the first and second directives that
13 were sent by Hobbs. I know that -- I guess we don't have
14 any proof at this point that they got the letters; is that
15 right, Mr. Williams?

16 A. Other than they just -- we had nothing returned
17 to us.

18 Q. And normally, if they did not get it would you
19 have had it returned?

20 A. Right, we would have normally got it returned,
21 you know, unable to deliver.

22 Q. Other than the letters, have you been in contact
23 with Westar at all?

24 A. Yes, Billy tried to call them and they've never
25 returned his calls.

1 Q. So you do think you have a good phone number for
2 them?

3 A. Yes, it's the only one we have.

4 EXAMINER CATANACH: Okay. Ms. MacQuesten, you
5 have not been in contact with Westar?

6 MS. MacQUESTEN: No, I've only sent the letters,
7 I haven't attempted to call them.

8 Q. (By Examiner Catanach) Okay. Well, we do have a
9 good notice as far as the hearing goes, and I note that
10 Westar is not here in attendance, nor have they tried to
11 contact the Division to request any kind of continuance or
12 anything of that nature, so I assume that they are aware of
13 what's going with the well. And although we can't say for
14 sure that they got the first and second letters, we assume
15 that they did. Okay, we'll proceed from there.

16 Again, it kind of bothers me a little bit, Mr.
17 Williams, that even on the second notice of violation -- It
18 doesn't direct them to plug the well, it just directs them
19 to take corrective action. Is that the normal procedure?

20 A. Well, normally we'll send -- on the second
21 letter, you know, the second letter says the well is idle,
22 no plugging papers or compliance plan submitted, second
23 notice of violation.

24 Q. Uh-huh, okay.

25 A. I'm assuming they can understand that plugging

1 papers means P and A, but it could be a bad assumption on
2 my part.

3 Q. Okay, I assume from your plugging report that you
4 don't have -- or plugging procedure, that the well is
5 properly plugged back from the Penn at this point?

6 A. Yes.

7 Q. So all you would do is plug back from the San
8 Andres?

9 A. Correct.

10 EXAMINER CATANACH: Okay. I believe that's all I
11 have of Mr. Williams at this point, Ms. MacQuesten.

12 You will stay tuned, won't you, Mr. Williams?

13 MR. WILLIAMS: Yes, I will.

14 EXAMINER CATANACH: We may have some more
15 questions for you soon.

16 MR. WILLIAMS: Okay.

17 MS. MacQUESTEN: Next I would call Jane Prouty.
18 I'll stay over here so Mr. Williams can hear the direct.

19 EXAMINER CATANACH: Okay.

20 JANE E. PROUTY,

21 the witness herein, after having been first duly sworn upon
22 her oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. MacQUESTEN:

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

1 A. Jane Prouty.

2 Q. By whom are you employed?

3 A. Oil Conservation Division.

4 Q. Where is your office located?

5 A. In this building.

6 Q. And where is --

7 A. Oh, excuse me, so naïve. In Santa Fe.

8 Q. Do your duties include maintaining records of
9 well production?

10 A. Yes.

11 Q. What is the source of your information on well
12 production?

13 A. Operators send in monthly reports.

14 Q. Have you reviewed the records of production for
15 Well API Number 30-025-22013?

16 A. Yes.

17 Q. Would you please take a look at what has been
18 marked as Exhibit Number 6?

19 A. Yes.

20 Q. Can you identify that document?

21 A. Yes.

22 Q. What is it?

23 A. It's a report that I prepared at your request,
24 showing all production from this well from 1997 forward.

25 Q. What is the last month of production for this

1 well?

2 A. It's March -- Well, excuse me, I believe
3 February. No, it's March of 2002.

4 Q. Were there any reports filed after the last month
5 of production?

6 A. Yes, it looks like they filed through February of
7 2003 but showed no production for all of the months from
8 April, 2002, through February of 2003.

9 MS. MacQUESTEN: I move to admit Exhibit Number
10 6.

11 EXAMINER CATANACH: Exhibit Number 6 is admitted.

12 MS. MacQUESTEN: I have no more questions of this
13 witness.

14 EXAMINATION

15 BY EXAMINER CATANACH:

16 Q. So, Ms. Prouty, they did file reports up until
17 February of 2003?

18 A. Yes.

19 Q. But they showed no production on those reports?

20 A. Right.

21 EXAMINER CATANACH: Okay. I assume from this
22 data that they did produce from the San Andres for a time,
23 if the well was plugged back in November of 2001. Yes, the
24 San Andres did produce for a time.

25 Okay, I have no further questions of this

1 witness.

2 MS. MacQUESTEN: I call Dorothy Phillips.

3 DOROTHY L. PHILLIPS,

4 the witness herein, after having been first duly sworn upon
5 her oath, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. MacQUESTEN:

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

9 A. Dorothy Phillips.

10 Q. And by whom are you employed?

11 A. New Mexico Oil Conservation.

12 Q. Where is your office located?

13 A. In Santa Fe.

14 Q. Do your duties include the maintenance of records
15 of current financial assurances provided by operators?

16 A. Correct.

17 Q. Have you reviewed the file for Westar Exploration
18 Company?

19 A. Yes, I have.

20 Q. Do they have a financial assurance in place?

21 A. Yes, they do.

22 Q. What type is it?

23 A. It's a one-well cash bond.

24 Q. In what amount?

25 A. \$5000.

1 Q. Would you please look at what has been marked as
2 Exhibit Number 7? Is that a true and correct copy of the
3 one-well cash bond for Westar Exploration Company, with the
4 Assignment of Cash Collateral Deposit?

5 A. That's correct.

6 Q. Does your file show any amendments or changes to
7 this bond?

8 A. No.

9 Q. Is this bond still in effect?

10 A. Correct.

11 MS. MacQUESTEN: I move to admit Exhibit Number
12 7.

13 EXAMINER CATANACH: Exhibit Number 7 is admitted.

14 MS. MacQUESTEN: I have no more questions of this
15 witness.

16 EXAMINATION

17 BY EXAMINER CATANACH:

18 Q. Ms. Phillips, do you know if Westar has any other
19 bonds, or do you know if this is the only one?

20 A. I don't believe they have any other bonds.

21 EXAMINER CATANACH: I have no further questions
22 of this witness, she may be excused.

23 THE WITNESS: Thank you.

24 MS. MacQUESTEN: I have no other witnesses in
25 this case.

1 EXAMINER CATANACH: Okay. And again, like I
2 stated before, it looks like we did send this -- send
3 notice of the hearing to Westar, which they did receive and
4 signed for. There's no date. This notice was sent out
5 September 17th.

6 Okay, there being nothing further in this case,
7 Case Number 13,164 will be taken under advisement.

8 (Thereupon, these proceedings were concluded at
9 11:19 a.m.)

10 * * *

11
12
13
14
15 I do hereby certify that the foregoing is
16 a complete record of the proceedings in
17 the Examiner hearing of Case No. 13164,
18 heard by me on October 9, 2003.
19 David R. Catnach, Examiner
20 Oil Conservation Division
21
22
23
24
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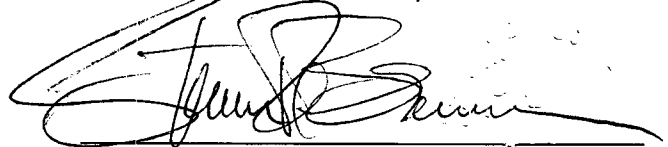
CERTIFICATE OF REPORTER

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 October 11th, 2003.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006