

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. 13,167
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION THROUGH THE)
ENVIRONMENTAL BUREAU CHIEF TO REVOKE)
THE PERMIT OF A.L. DAUGHERTY TO OPERATE)
AN OIL TREATMENT PLANT AND DISPOSAL)
FACILITY AND TO RELEASE BOND, CHAVES)
COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

October 9th, 2003

Santa Fe, New Mexico

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.

* * *

I N D E X

October 9th, 2003
Examiner Hearing
CASE NO. 13,167

PAGE

DIVISION WITNESS:

MARTYNE KIELING (Environmental Geologist,
Environmental Bureau, NMOCD)
Direct Examination by Ms. MacQuesten
Examination by Examiner Catanach

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10

REPORTER'S CERTIFICATE

12

* * *

E X H I B I T S

Applicant's

Identified

Admitted

Exhibit 1	4	9
Exhibit 2	5	9
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Exhibit 5	9	9

* * *

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

* * *

RECEIVED
OCT 23 2003
Oil Conservation Division

1 WHEREUPON, the following proceedings were had at
2 12:18 p.m.:

3 EXAMINER CATANACH: At this time I'll call Case
4 13,167, which is the Application of the New Mexico Oil
5 Conservation Division through the Environmental Bureau
6 Chief to revoke the permit of A.L. Daugherty to operate an
7 oil treatment plant and disposal facility and to release
8 bond, Chaves County, New Mexico.

9 Call for appearances in this case.

10 MS. MacQUESTEN: Gail MacQuesten, Energy,
11 Minerals and Natural Resources Department, appearing for
12 the Oil Conservation Division. I have one witness.

13 EXAMINER CATANACH: Any additional appearances?
14 Let the record show there are no additional parties
15 present, and I believe, Ms. MacQuesten, your witness, Ms.
16 Kieling, has been previously sworn in and previously
17 qualified, so we will proceed from there.

18 MS. MacQUESTEN: Thank you.

19 MARTYNE KIELING,
20 the witness herein, having been previously duly sworn upon
21 her oath, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MacQUESTEN:

24 Q. Ms. Kieling, are you familiar with the Daugherty-
25 Crosby Salt Lake Treating Plant and Disposal Facility?

1 A. Yes, I am.

2 Q. And is that the facility at issue in today's
3 case?

4 A. It is.

5 Q. Have you reviewed the file in preparation for the
6 hearing today?

7 A. Yes, I have.

8 Q. There's a packet of exhibits in front of you.
9 Would you please take a look at what's been marked as
10 Exhibit Number 1?

11 A. Yes.

12 Q. Can you identify that document?

13 A. This is an Order authorizing the treating plant,
14 listed here as A.L. Daugherty.

15 Q. And when was that Order issued?

16 A. It was issued in May -- on May 11th, 1977.

17 Q. And who issued the Order?

18 A. Excuse me, let's say June 14th, 1977. The
19 Commission, the Oil Conservation Commission, issued this
20 Order.

21 Q. Today the Division is asking to revoke that
22 permit. Why?

23 A. The previous owners of the facility have cleaned
24 up the site, and we feel that we would like to now revoke
25 the Order that gave them permission to have the facility,

1 since it is completely cleaned up.

2 Q. Is the facility still in operation?

3 A. No.

4 Q. Would you please look at what has been marked as
5 Exhibit Number 2?

6 A. Yes.

7 Q. Can you identify that document?

8 A. This is the approved closure of the Daugherty-
9 Crosby Salt Lake Treating Plant.

10 Q. When was the closure approved?

11 A. This approval letter went out August 8th, 2003.

12 Q. Did you have a role in approving the closure of
13 this facility?

14 A. Yes, I did do a few field inspections at the
15 facility prior to and after the facility was closed, and I
16 also had a field representative inspect the facility and be
17 my eyes and ears during the complete closure of the
18 facility, and that was Mike Stubblefield.

19 Q. In your professional opinion, has the Daugherty-
20 Crosby facility been remediated to OCD standards?

21 A. Yes, it has.

22 Q. Was the operator of the facility notified that
23 the Division intended to revoke the permit?

24 A. Yes, they were.

25 Q. Would you please look at what has been marked as

1 Exhibit Number 3?

2 A. Yes, this is a letter dated August 8th, 2003,
3 that was sent to the former owners of the treating plant,
4 notifying them that the OCD was going to revoke the permit.

5 Q. I note that the letter indicates that it was sent
6 certified mail.

7 A. Yes.

8 Q. Did you receive a return on this?

9 A. It appears that we did.

10 Q. Did the letter ask the operator to respond if he
11 requested to maintain the permit?

12 A. Yes, it does, in the last paragraph it asks if
13 they want to request to keep the permit that they need to
14 submit a letter no later than August 29th, 2003.

15 Q. Did you receive such a request?

16 A. No, we have not.

17 Q. Who currently represents the operator of the
18 facility?

19 A. Mr. Fred Seeligson.

20 Q. Did you work with him regarding the closure of
21 the facility?

22 A. Yes, I did.

23 Q. Did you have conversations with him regarding the
24 Division's intent to revoke the permit?

25 A. Yes, I did.

1 Q. Did he ever express any desire to keep the
2 permit?

3 A. No, he did not.

4 Q. Why are you laughing?

5 A. He was glad to have it finally closed and cleaned
6 up.

7 Q. Did the Division attempt to notify Mr. Seeligson
8 of this hearing by certified mail?

9 A. Yes, we did.

10 Q. Did the Division receive a signed return from Mr.
11 Seeligson?

12 A. It does not appear that we did.

13 Q. Was the letter returned?

14 A. Yes, the envelope was returned.

15 Q. Is there any indication on the letter why it was
16 returned?

17 A. We believe it was a change of address on
18 Seeligson's part. They had moved their office, and we were
19 not aware of it.

20 Q. Was any effort made to contact Mr. Seeligson to
21 notify him of this hearing?

22 A. Yes, we did call and talk to him and contacted
23 his office and acquired an e-mail address that we could
24 send him the missing information that he had not -- that it
25 appeared that he had not received.

1 Q. Did the Division ask Mr. Seeligson to indicate
2 whether he objected to the hearing?

3 A. Yes, we did. Along with the package of material
4 that we sent to him, we requested that he acknowledge that
5 he did receive all the material and state whether he wanted
6 to -- or would want to object to this hearing, and he
7 signed saying that he would not object to it.

8 Q. Is what has been marked as Exhibit Number 4 the
9 document signed by Mr. Seeligson and returned to this
10 office?

11 A. That is correct.

12 Q. And that indicates that he received the documents
13 that are identified in that document?

14 A. Yes, there's a list of -- it looks like four
15 items that were sent to him. These are items that I did
16 scan in and e-mail to him regarding the case so he would be
17 sure to have the ones that were sent, that straddled
18 possibly the time period when they moved their offices.

19 Q. Does this fax indicate his response regarding how
20 he -- whether he had any objection to the hearing?

21 A. Yes, it does, he signed that he does not object
22 to the Division's Application.

23 Q. Is there a bond in place for this facility?

24 A. Yes, there is.

25 Q. Would you please look at what has been marked as

1 Exhibit Number 5?

2 A. Yes.

3 Q. Can you identify this?

4 A. This is the bond for the Seeligsons, for this
5 facility.

6 Q. Who is the surety in this bond?

7 A. National Surety Corporation on the bond.

8 Q. And the amount of the bond?

9 A. I believe -- It should be for \$25,000. Yes,
10 \$25,000.

11 Q. I note there's a rider attached. What does the
12 rider refer to?

13 A. The rider -- If you'll notice on the original
14 bond, the location in the middle of the first page where
15 you're supposed to put the section, township and range, the
16 legal location of the facility, it was not put on the
17 original bond, and we had requested a rider, and they sent
18 a rider regarding the legal location.

19 Q. Is this bond still in effect?

20 A. Yes.

21 MS. MacQUESTEN: I move for admission of Exhibits
22 1 through 5.

23 EXAMINER CATANACH: Exhibits 1 through 5 are
24 admitted.

25 MS. MacQUESTEN: I have no other questions of

1 this witness.

2 EXAMINATION

3 BY EXAMINER CATANACH:

4 Q. Ms. Kieling, who conducted the actual inspection
5 of this facility? Was it Mr. Stubblefield?

6 A. I inspected it several times over the years. The
7 last inspection that I did was just prior to them beginning
8 to do the cleanup. We met with the owner, Mr. Seeligson,
9 and his contractor and walked the facility site to
10 determine exactly what they were going to do corresponding
11 to the proposed cleanup plan that they had submitted.

12 Mike Stubblefield was my eyes and ears in the
13 field. He went out there during the cleanup, once a week
14 or twice a week he was out there and would take pictures
15 and send them back to me and describe how the cleanup was
16 going. And he also inspected the facility once it was
17 completely cleaned up and covered, closed.

18 Q. Okay. That was to his satisfaction and to your
19 satisfaction?

20 A. Yes. He did send me e-mails regarding that he
21 was comfortable with how the work had performed and how the
22 final closure had proceeded.

23 EXAMINER CATANACH: Okay, I have nothing further.
24 Anything further, Ms. MacQuesten?

25 MS. MacQUESTEN: No.

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EXAMINER CATANACH: All right, there being
nothing further, Case Number 13,167 will be taken under
advisement.

(Thereupon, these proceedings were concluded at
12:29 p.m.)

* * *

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

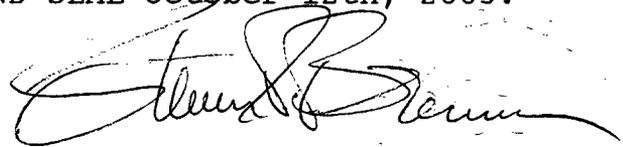
CERTIFICATE OF REPORTER

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 12th, 2003.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006