

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:

ORIGINAL

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR A
COMPLIANCE ORDER AGAINST ORBIT
PETROLEUM, INC.

CASE NO. 143-2

2009 MAY 27 PM 12 53

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Legal Examiner
DAVID K. BROOKS, Technical Examiner

May 14, 2009

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Legal Examiner, and DAVID K. BROOKS, Technical Examiner, on Thursday, May 14, 2009, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
Paul Baca Professional Court Reporters
500 Fourth Street, N.W., Suite 105
Albuquerque, NM 87103 505-843-9241

1 A P P E A R A N C E S

2 FOR THE OIL CONSERVATION DIVISION:

3 Gail MacQuesten
4 Assitant General Counsel
5 P.O. Box 1056
6 Santa Fe, New Mexico 87504

7	INDEX	PAGE
8	WITNESS: DANIEL SANCHEZ	
9	Direct Examination by Ms. MacQuesten	5
10	EXHIBITS 1 AND 2 ADMITTED INTO EVIDENCE	5
11	EXHIBITS 3 THROUGH 14 ADMITTED INTO EVIDENCE	10
12	REPORTER'S CERTIFICATE	12

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1 MR. EZEANYIM: We call Case Number 14312.
2 This is the application of New Mexico Oil Conversation
3 Division for a compliance order against Orbit Petroleum,
4 Inc. Call for appearances.

5 MS. MACQUESTEN: Mr. Examiner, Gail
6 MacQuesten for the Oil Conversation Division.

7 MR. EZEANYIM: Any other appearances? Do
8 you have any witnesses?

9 MS. MACQUESTEN: I have one witness,
10 Daniel Sanchez.

11 MR. EZEANYIM: Will the witness stand and
12 state your name to be sworn?

13 MR. SANCHEZ: Daniel Sanchez.

14 (The witness was sworn.)

15 MS. MACQUESTEN: Mr. Examiner, in this
16 case the Oil Conversation Division seeks a compliance
17 order against Orbit Petroleum, Inc., giving Orbit a
18 deadline to either plug its wells or transfer its wells
19 to another operator and giving the Oil Conservation
20 Division the authority to plug those wells if Orbit fails
21 to meet the deadline.

22 The authority for such an order is 70-2-14(B),
23 which provides that if any of the requirements of the Oil
24 and Gas Act or the OCD's rules are not met, the OCD may,
25 after notice of hearing, order any well plugged and

1 forfeit the financial assurance.

2 The OCD will show that Orbit has violated
3 three rules: It has failed to file timely production
4 reports; it has not posted the required financial
5 assurances; and it has not complied with the inactive
6 well rule.

7 Orbit is in bankruptcy. It used to operate
8 over 90 wells. Now it is the operator of record for only
9 eight wells, and those are the wells that we are dealing
10 with today. The rest of the wells were transferred to
11 another operator.

12 The wells that are left are, apparently, the
13 wells no one wants, and they are being left for the State
14 to plug. The only financial assurances in the form of
15 two cash bonds, one for 50,000 and another for 40,000,
16 we're not sure if the State will be able to access those
17 bonds because of the bankruptcy case. The State has
18 already expended over \$60,000 in plugging other Orbit
19 wells.

20 You should have an exhibit packet in front of
21 you. The first is the Affidavit of Notice. It shows the
22 notice of hearing to Orbit's registered agent. The
23 second exhibit is the Affidavit of our financial
24 assurance administrator with copies of the two cash
25 bonds. I move for admission of Exhibits 1 and 2 at this

1 time.

2 MR. EZEANYIM: Exhibits 1 and 2 will be
3 admitted.

4 Before you continue, there was a request that
5 the written testimony be accepted, and I want to stress
6 that the written testimony will be accepted. Also, all
7 the supporting documentations are made part of this case
8 with emphasis added. So we don't need to go through all
9 the testimony, because I've read all the testimony on my
10 own time, so that has been accepted.

11 I think your witness is here to summarize what
12 is already written down.

13 (Exhibits 1 and 2 were admitted.)

14 MS. MACQUESTEN: That's right. I would
15 like to have him introduce the testimony and adopt it
16 under oath so that it can be properly admitted. And
17 that's Exhibit 3 in your packet.

18 MR. EZEANYIM: Okay.

19 MS. MACQUESTEN: I'd like to call Daniel
20 Sanchez.

21 DANIEL SANCHEZ

22 Having been first duly sworn, testified as follows:

23 EXAMINATION

24 BY MS. MACQUESTEN:

25 Q. Would you please state your name for the

1 record?

2 A. Daniel Sanchez.

3 Q. And what is your title?

4 A. I'm the Compliance and Enforcement Manager.

5 Q. Do your duties include supervising enforcement
6 and compliance actions and supervising the district
7 offices?

8 A. Yes, they do.

9 Q. Have you researched the violations alleged in
10 this compliance action against Orbit?

11 A. Yes, I have.

12 Q. Could you please summarize the issues for us?

13 A. There are three: One, is failure to file
14 production reports. They've filed no reports since, I
15 believe, October of 2007. The second one is they failed
16 to post the additional required bonding on six of these
17 wells, and the third is inactive wells. They've had
18 their eight wells -- or the eight wells on their list all
19 inactive for more than two years at this point.

20 Q. Have you researched what the OCD has done to
21 try to obtain compliance from Orbit on these issues?

22 A. Yes, I have. The OCD has set a plugging case,
23 and out of that plugging case, two of the wells on this
24 list, eight-well list, have already been plugged by the
25 State at a cost of over \$61,000. The OCD has entered

1 into an agreed compliance order for inactive wells with
2 Orbit, and they were unable to meet the deadlines in that
3 order. And at one point they tried to acquire additional
4 wells, which we denied that request.

5 Q. Are you aware of whether Orbit is in
6 bankruptcy?

7 A. Yes, I am aware that they are in bankruptcy
8 right now.

9 Q. Have the parties to the bankruptcy case
10 expressed any interest in acquiring the eight wells that
11 Orbit still operates?

12 A. No, they are not interested in those wells.

13 Q. What are you asking for in this case?

14 A. That Orbit be ordered to plug the remaining
15 wells, clean up the sites by a certain date, by -- within
16 60 days of the issuance of this order. If that doesn't
17 occur, that the State be allowed to go ahead and plug
18 those wells.

19 Q. Do you expect that the State will have to plug
20 them?

21 A. Yes, I do.

22 Q. Does your prefiled written testimony review
23 the allegations in the compliance history in more detail?

24 A. Yes, it does.

25 Q. Do you agree with everything in your written

1 testimony?

2 A. Yes.

3 Q. Do you adopt it today under oath?

4 A. Yes, I do.

5 Q. Let's just briefly review the exhibits that
6 you reference in that testimony. What is Exhibit 4?

7 A. Exhibit 4 is the current well list for Orbit
8 Petroleum.

9 Q. And Exhibit 5?

10 A. Exhibit 5 is a listing of C-115s, the last
11 time that they were submitted by Orbit, and that was back
12 in October of 2007.

13 Q. And what is Exhibit 6?

14 A. Exhibit 6 is just a Form C-104 showing that
15 they have been issued an Allowable and Authorization to
16 Transport.

17 Q. What's the relevance of that?

18 A. Just showing that they are required to report
19 on those wells.

20 Q. Because they have an approved C-114?

21 A. Yes.

22 Q. What is Exhibit 7?

23 A. Exhibit 7 is a copy of the bankruptcy
24 proceeding.

25 Q. Exhibit 8?

1 A. This is the inactive well additional financial
2 assurance report for Orbit, and it's showing six wells
3 that are still requiring additional financial assurance.

4 Q. Exhibit 9?

5 A. Exhibit 9 is an order from -- a previous order
6 from the Division issued back in December of 2004
7 ordering a \$5,000 penalty to Orbit and having them plug
8 some wells.

9 Q. Exhibit 10?

10 A. Exhibit 10 is an invoice for the two wells
11 that have already been plugged by the State. That's the
12 the State BAs 1 and 2, and that was for \$61,238.

13 Q. Exhibit 11?

14 A. Exhibit 11 is the agreed compliance order
15 initially entered into with Orbit. They weren't able to
16 meet the terms of this. We attempted to enter into
17 another agreed compliance order with them, but they took
18 no interest in that.

19 Q. Exhibit 12?

20 A. Exhibit 12 is the denial of application for a
21 change of operator. That was when they were trying to
22 acquire additional wells from Tipton Oil & Gas
23 Acquisitions.

24 Q. How many wells did Orbit operate at the time
25 they were trying to acquire the wells from Tipton?

1 A. Ninety-two.

2 Q. And how many wells were out of compliance at
3 that time?

4 A. Fifty-one.

5 Q. What's Exhibit 13?

6 A. Exhibit 13 was the -- or is the change of
7 operator from Orbit Petroleum to Ridgeway Arizona Oil
8 Corporation.

9 Q. Is that the company that acquired most of
10 Orbit's wells?

11 A. All of the wells, except for the eight in
12 question today.

13 Q. And Exhibit 14?

14 A. Exhibit 14 is an email to Sonny Swazo, one of
15 our attorneys, one of the OCD attorneys, from the company
16 who is interested in some other wells here but stated
17 that they are not interested in acquiring the eight wells
18 in question today.

19 MS. MACQUESTEN: Thank you. I understand
20 that Exhibits 3 through 14 have already been admitted?

21 MR. EZEANYIM: Yes, they are admitted into
22 record.

23 (Exhibits 3 through 14 were admitted.)

24 MS. MACQUESTEN: Then this concludes the
25 OCD's case.

1 MR. EZEANYIM: Go to Exhibit 9. Did they
2 plug any of those wells pursuant to that order?

3 THE WITNESS: There were, I believe, two
4 wells that were plugged.

5 MR. EZEANYIM: Which ones were plugged?

6 THE WITNESS: The State BA #001 and the
7 State BA #002.

8 MR. EZEANYIM: Those were plugged?

9 THE WITNESS: Those were plugged.

10 MR. BROOKS: Were plugged by the State?

11 MR. EZEANYIM: Not by Orbit?

12 THE WITNESS: Not by Orbit, no.

13 MR. EZEANYIM: So, obviously, they didn't
14 do anything pursuant to that order?

15 THE WITNESS: No.

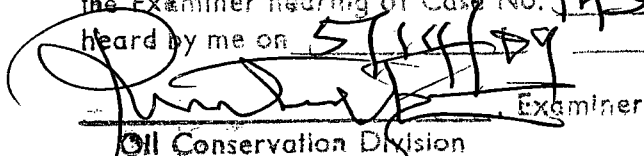
16 MR. EZEANYIM: Do you have any questions?

17 MR. BROOKS: No questions.

18 MR. EZEANYIM: At this point Case 14312
19 will be taken under advisement.

20 * * *

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22
23 I do hereby certify that the foregoing is
24 a complete record of the proceedings in
the Examiner hearing of Case No. 14312
heard by me on 5/14/89

25  Examiner
Oil Conservation Division


REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on May 14, 2009, proceedings in the
above captioned case were taken before me and that I did
report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

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

WITNESS MY HAND this 22nd day of May, 2009.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2009