

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

IN THE MATTER OF THE HEARING CALLED BY )  
THE OIL CONSERVATION COMMISSION FOR THE )  
PURPOSE OF CONSIDERING: ) CASE NO. 12,459  
)  
APPLICATION OF THE OIL CONSERVATION )  
DIVISION FOR AN ORDER REQUIRING I.T. )  
PROPERTIES TO PROPERLY PLUG ONE WELL, )  
EDDY COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN  
ROBERT LEE, COMMISSIONER

June 21st, 2002

Santa Fe, New Mexico

OIL CONSERVATION DIV.  
02 JUN 27 PM 12:49

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Friday, June 21st, 2002, 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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## I N D E X

June 21st, 2002  
Commission Hearing  
CASE NO. 12,459

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## A P P E A R A N C E S

## FOR THE COMMISSION:

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## FOR THE APPLICANT:

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## FOR I.T. PROPERTIES:

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By: PAUL R. OWEN

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   9:03 a.m.:

3           CHAIRMAN WROTENBERY:   Okay, we'll start the  
4   meeting.  It's Friday, June 21st, 2002, a little bit after  
5   nine o'clock in the morning.  We're in Porter Hall in Santa  
6   Fe, New Mexico, for this meeting of the Oil Conservation  
7   Commission.

8           Today Commissioner Jami Bailey is not here  
9   because she is in Florida with a new grandbaby.  But we've  
10   got a quorum.  Commissioner Robert Lee is here, and I'm  
11   Lori Wrotenbery, Chairman of the Commission.

12           We have, really, just two items on the agenda.  
13   The first, I think we can do quickly here.  It's the  
14   minutes of the Commission Hearing held on April 26th, 2002.

15           Have you had a chance to review that,  
16   Commissioner Lee?

17           COMMISSIONER LEE:   Yes.  I move to --

18           CHAIRMAN WROTENBERY:  I think we can just say --

19           COMMISSIONER LEE:   -- Aye.

20           CHAIRMAN WROTENBERY:  -- Aye, all in favor say  
21   Aye, yeah.  And I'll sign those minutes on behalf of the  
22   Commission.

23                                   \* \* \*

24

25           CHAIRMAN WROTENBERY:  And the next item is Case

1 12,459. This is the Application of the Oil Conservation  
2 Division for an order requiring I.T. Properties to properly  
3 plug one well, Eddy County, New Mexico.

4 This case is being heard *de novo* by the  
5 Commission on the Application of I.T. Properties, and I'll  
6 call for appearances.

7 MR. BROOKS: May it please the Commission, I'm  
8 David Brooks, Energy, Minerals and Natural Resources  
9 Department of the State of New Mexico, appearing for the  
10 New Mexico Oil Conservation Division.

11 MR. OWEN: Paul Owen of the Santa Fe law firm of  
12 Montgomery and Andrews, appearing on behalf of the  
13 Applicant, I.T. Properties.

14 CHAIRMAN WROTENBERY: Thank you, gentlemen.

15 What is it that we're going to try to accomplish  
16 today? Because this particular case has been on the  
17 Commission's docket for over a year now. I know the  
18 parties have been working to try to resolve this issue.  
19 Where do we stand?

20 MR. BROOKS: Okay, may it please the Commission,  
21 go into this very briefly, a bit of history.

22 First of all, I believe that we have resolved the  
23 issues that the Commission is being asked to address by  
24 agreement. And I will explain the agreement, but I first  
25 need to give the Commission a little bit of history about

1 this case.

2 This case, Number 12,459, was brought at the  
3 Division level as a routine plugging case for a well, the  
4 DHY State Well Number 1, which has not produced since 1996,  
5 according to the operator -- we believe 1993, but that's  
6 immaterial, since it would be ripe to be plugged in any  
7 case -- and it had failed a casing integrity test.

8 Now, this well was spudded in 1975 and completed  
9 in January of 1976 by Deptco, Inc., and the present  
10 operator, I.T. Properties, took it over in the 1980s. It  
11 is a dual completion which is perforated in the Wolfcamp  
12 formation at approximately 8500 feet, and in the Morrow  
13 formation at 10,900-something.

14 The dual completion was authorized by a  
15 Commission R order pursuant to an Examiner hearing, and I  
16 assume that was before the present Division structure was  
17 put into effect, although I didn't realize that the  
18 Commission was still doing Examiner Hearings at that late a  
19 date, but apparently it was.

20 It was Order Number R-5184, and that order  
21 specified the manner in which this well was to be  
22 completed, namely that there was to be a packer set above  
23 the Wolfcamp and another packer set at a specified depth  
24 level, ten thousand -- and I have to find that in here, but  
25 it's approximately ten thousand --

1 MR. OWEN: -- nine hundred eighty-five.

2 MR. BROOKS: -- 10,985 feet, anyway, to isolate  
3 the Morrow. And the Wolfcamp would be produced through the  
4 casing tubing annulus and the Morrow would be produced  
5 through the tubing.

6 That detail has become something of a problem,  
7 because when we brought this plugging hearing the operator  
8 determined that they wanted to re-work this well. And they  
9 have attempted to do so on a couple of occasions, but they  
10 have lost the tubing in the hole and after several attempts  
11 to fish it out were unable to recover the tubing in its  
12 entirety.

13 And as a result, they shot off the tubing at  
14 approximately 9200 feet, so that there is tubing in the  
15 hole below the level of approximately 9200 feet. In order  
16 to complete by setting a packer at 10,000-plus it would be  
17 necessary to recover that tubing from the hole, and the  
18 operator wants to avoid that expense.

19 Now, we have several concerns as the Division  
20 here. We do not oppose the operator recompleting the well  
21 in the manner which they now suggest, and they have  
22 advanced two plans.

23 I believe their preferred plan would be to  
24 downhole commingle the Morrow and the Wolfcamp.

25 Alternatively, they would like to set a packer at

1 approximately 9000 feet, just below the Wolfcamp  
2 perforations, so as to avoid having to fish out the tubing  
3 that is below that level.

4 Either of those proposals is acceptable to the  
5 Division's Artesia District Office, provided that the  
6 Artesia District Office, one, is satisfied that the casing  
7 integrity problem has been remedied and, two, that they  
8 actually do what they propose to do.

9 In the event either of those conditions is not  
10 satisfied, the Artesia District Office would like to put an  
11 end to this greatly extended proceeding, probably the  
12 longest plugging proceeding in the history of the OCD, and  
13 get this well plugged. And we do have a bond from these  
14 people so that -- from the operator, pardon me -- so that  
15 we are in a position to proceed with confidence if we get a  
16 plugging order.

17 At this point --

18 CHAIRMAN WROTENBERY: Pardon me, we have a bond  
19 for this particular well or a blanket bond --

20 MR. BROOKS: I.T. has a \$50,000 blanket bond, I  
21 believe --

22 CHAIRMAN WROTENBERY: Okay.

23 MR. BROOKS: -- from Gulf Insurance Company. So  
24 there should be more than adequate coverage for the cost of  
25 plugging this well, even though it's a deep well.

1           At this point, the Division and the operator have  
2 entered into an agreement, and I will state what I believe  
3 to be the agreement. I prepared a draft yesterday, but the  
4 operator wants some changes, and we are agreeable to those  
5 changes. So we do not have a definitive draft at this  
6 time, but I will attempt to state on the record what the  
7 agreement is, and Mr. Owen as attorney for the operator can  
8 confirm and correct my presentation.

9           Our agreement is as follows:

10           That the Commission would enter an order  
11 providing that the operator has 120 days from the date the  
12 order is entered to get this well recompleted. And in  
13 order to do that, he will need to apply to the Division for  
14 permission to downhole commingle.

15           That the Division can then enter an order. And  
16 the Commission order that we propose that the Commission  
17 enter would specifically authorize the Division to modify  
18 the terms and provisions of Order Number R-5184, because  
19 there is some doubt in my mind as to whether or not the  
20 Division Director would have authority, even by hearing  
21 order, to modify an order that was signed by the  
22 Commission. So for that reason, the Commission order will  
23 specifically state that the Division Director will have  
24 authority, based upon the recommendation of the Examiner,  
25 to modify the existing order.

1           We believe 120 days will give the operator  
2 sufficient time to apply for the relief requested at the  
3 Division level and for the Division to either grant or deny  
4 that relief.

5           There is not an agreement between the operator  
6 and Mr. Gum for the Division in terms of what demonstration  
7 of integrity for this well is -- what exactly they're  
8 going to have to do to satisfy the Division as to the  
9 integrity of the well. The Division is prepared to submit  
10 that matter at the Division level, and by doing it in that  
11 manner, we can get a final order entered and get the  
12 Commission out of the loop on this so they won't have to be  
13 in this case coming up every month any further.

14           Furthermore, the advantage to the Division, in  
15 their opinion, of this agreement is that if they do not get  
16 the well recompleted and back on production within 120  
17 days, then we will have a plugging order in place.

18           And what I conceive of as happening is that in  
19 order to fulfill the conditions of this order that I  
20 propose for you to enter, they must get the well back on  
21 production and have a C-104 approved by the Artesia  
22 District Office within 120 days. If they do not do that,  
23 the plugging order automatically becomes effective and they  
24 have 30 days from the expiration of the 120 to plug the  
25 well.

1           If they want any relief from that order, if  
2 there's disagreement between the Artesia District Office  
3 and the operator about whether they've fulfilled the  
4 conditions, then they need to file an application at the  
5 Division level and get that matter -- or file an  
6 application either with the Division or with the Commission  
7 to re-open this case and have further hearings on the  
8 matter.

9           We trust that will not happen, that by that time  
10 the parties will see eye to eye on exactly where we are.  
11 But that way, if nothing is done, plugging order becomes  
12 effective, they have 30 days to plug the well. If they do  
13 not do so, then we can proceed to call their bond and plug  
14 the well.

15           Thank you.

16           Mr. Owen?

17           CHAIRMAN WROTENBERY: Thank you, Mr. Brooks.

18           MR. OWEN: Mr. Brooks has accurately set forth  
19 the history of this case.

20           I'd like to call the Commission's attention to  
21 the fact that this is a plugging case, and to the fact that  
22 the Commission's statutory duties are to prevent waste and  
23 protect correlative rights. It's not its primary duty to  
24 make sure that all wells are plugged. If this well were to  
25 be plugged right now, there are reserves left in the ground

1 which would be wasted.

2           The reason the case has been delayed for over a  
3 year is because during that period of time the operator --  
4 my client, the Applicant I.T. Properties -- has conducted  
5 extensive work on the well when it has had a rig available.  
6 It has expended over \$100,000 in an attempt to bring the  
7 well back to production over a one-year period of time. It  
8 has engaged in several different re-working operations and  
9 has encountered difficulties in bringing the well back to  
10 production.

11           This is not a case that has been pending for a  
12 year while the operator does nothing. It's a case that has  
13 been pending for a year while the operator has worked very  
14 diligently, at great expense, to bring the well back to  
15 production.

16           The agreement which Mr. Brooks and I have reached  
17 in this case adequately protects the Commission's interest  
18 in plugging a well if it's not going to be operated.  
19 However, as I've indicated, the operator fully intends to  
20 bring this well back to production and has expended a great  
21 deal of money toward that end.

22           Mr. Brooks also accurately represents that the  
23 Applicant and the Division are in disagreement right now as  
24 to what tests need to be performed in order to ensure the  
25 integrity of the well and bring the well back to

1 production, as a prerequisite to bringing the well back to  
2 production.

3 That is a matter that should be determined by the  
4 Division Examiner after both parties have had the  
5 opportunity to present their positions, assuming that we  
6 don't reach agreement before that point. It's not a matter  
7 that should be considered by the Commission in this  
8 plugging case.

9 Therefore, with the amendments to the proposed  
10 order, which Mr. Brooks and I have discussed, we agree to  
11 entry of that order and to the procedure proposed by Mr.  
12 Brooks whereby the Applicant will be required to submit an  
13 application for downhole commingling, submit that to the  
14 Division and submit its position to the Division Examiner.

15 The Division Examiner would then enter an order  
16 which would amend the R order and permit the well to be  
17 operated as a downhole-commingled well, rather than a dual-  
18 completion well, which would, in effect, amend the R order  
19 which specifically provides that it's to be a dual-  
20 completion well.

21 I suppose that we will have a final version of  
22 the order before the Commission later today, it depends on  
23 Mr. Brooks' and I's schedules and whether we can work out  
24 the language. He has done an extensive amount of work in  
25 drafting this order, and it is a very thorough order.

1           You will be able to see from the course of that  
2 order the work that, in fact, my client has performed over  
3 the last year, and you'll see the disagreement as well, and  
4 the history of the well before there were any casing  
5 problems as well.

6           So with that position on the record, I recommend  
7 that the Commission accept the order to be submitted by Mr.  
8 Brooks and I later today.

9           MR. BROOKS: Thank you. And may it please the  
10 Commissioners further, I agree with Mr. Owen's statement.

11           Also, because we intended to do this by  
12 agreement, I did not come here intending to put on  
13 witnesses. However, Mr. Gum is present and if the members  
14 of the Commission have any questions he will be glad to  
15 answer them.

16           CHAIRMAN WROTENBERY: Thank you, Mr. Brooks and  
17 Mr. Owen.

18           Do you have any questions, Commissioner Lee?

19           COMMISSIONER LEE: No.

20           CHAIRMAN WROTENBERY: Mr. Ross, do you have any  
21 guidance for us, procedurally? What are we going to need  
22 to do? Are we going to need to take this matter under  
23 advisement and then consider the order at the next  
24 Commission meeting, or is there a way we could go ahead  
25 and --

1 MR. ROSS: That's my initial reaction to it --

2 CHAIRMAN WROTENBERY: Okay.

3 MR. ROSS: -- unless everyone has time to stay  
4 around and recess until the order is agreed to. I don't  
5 know --

6 COMMISSIONER LEE: No problem --

7 CHAIRMAN WROTENBERY: How long would you need to  
8 go ahead and --

9 MR. BROOKS: Well, I imagine we could get it  
10 finalized within an hour, based on our conversation before  
11 we started this morning.

12 MR. OWEN: I think that's right. And may it  
13 please the Examiner -- the Commission, pardon me --

14 CHAIRMAN WROTENBERY: No problem.

15 MR. OWEN: -- even if we don't get it done today,  
16 I think we're in a position of submitting a proposed order  
17 similar to submitting a proposed order to a court whereby  
18 we are agreed on the terms, and I don't think it needs to  
19 be taken under advisement and considered at the next  
20 Commission Hearing. It would be similar to a case in which  
21 you've already heard the case and are simply entering an  
22 order.

23 MR. BROOKS: Yeah. Well, courts are accustomed  
24 to doing that, and I know the Commission is governed by the  
25 Open Meetings Act and cannot act except when it's assembled

1 in a meeting. So I would --

2 CHAIRMAN WROTENBERY: That's our difficulty here.

3 MR. BROOKS: -- defer here, I would defer to Mr.  
4 Ross as Commission counsel as to how the Commission ought  
5 to act procedurally. We will be happy to attempt to get  
6 this matter -- to get a final form of order this morning,  
7 if it pleases the Commissioners. And of course I'm sure  
8 Mr. Ross will want to review it in detail since he's not  
9 had an opportunity to see this proposed order before this  
10 morning.

11 MR. OWEN: May it please the Commission, I think  
12 that Mr. Brooks and I, if we start right now, can get the  
13 order in a final form very shortly.

14 CHAIRMAN WROTENBERY: How about if we take a  
15 break, then, until 10:30? Would that --

16 MR. BROOKS: That should do it.

17 CHAIRMAN WROTENBERY: -- give everybody time to  
18 get together and --

19 MR. BROOKS: I would think so.

20 CHAIRMAN WROTENBERY: -- get this ready for  
21 approval?

22 Okay.

23 COMMISSIONER LEE: Can we make it 10:15?

24 MR. BROOKS: 10:15?

25 CHAIRMAN WROTENBERY: 10:15?

1 MR. BROOKS: I think we can make 10:15.

2 CHAIRMAN WROTENBERY: Okay, 10:15 sounds good.  
3 We'll take a break here.

4 (Thereupon, a recess was taken at 9:22 a.m.)

5 (The following proceedings had at 10:25 a.m.)

6 CHAIRMAN WROTENBERY: Okay, we're ready to go  
7 back on the record.

8 Mr. Brooks and Mr. Owen, you've presented the  
9 Commission an agreed order and indicated your approval by  
10 signing the copy of the agreed order.

11 Did you have anything you wanted to tell the  
12 Commission before the Commission acts on this agreed order?

13 MR. BROOKS: No, we're satisfied.

14 MR. OWEN: I have nothing further to add.

15 CHAIRMAN WROTENBERY: Okay. Commissioner Lee,  
16 have you had a chance to --

17 COMMISSIONER LEE: Yes.

18 CHAIRMAN WROTENBERY: -- review the agreed order?

19 COMMISSIONER LEE: I move we say aye.

20 CHAIRMAN WROTENBERY: Okay, I'll second that  
21 motion.

22 So all in favor of approving the agreed order as  
23 submitted to the Commission say aye.

24 COMMISSIONER LEE: Aye.

25 CHAIRMAN WROTENBERY: Aye. Let's get your

1 signature on here.

2 Okay, the order is entered.

3 (Thereupon, these proceedings were concluded at  
4 10:26 a.m.)

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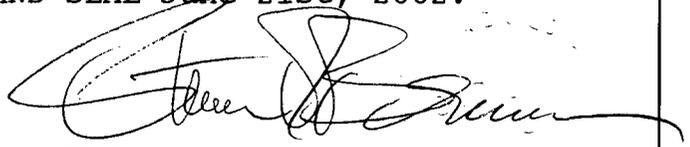
CERTIFICATE OF REPORTER

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 Commission 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 June 21st, 2002.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002

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

CASE NOS. 12,459 and 12,601 (Continued)

CONTINUED CASES  
TRANSCRIPT OF PROCEEDINGS

OIL CONSERVATION DIV.  
02 MAY -2 AM 8:39

BEFORE: LORI WROTENBERY, CHAIRMAN  
JAMI BAILEY, COMMISSIONER  
ROBERT LEE, COMMISSIONER

ORIGINAL

April 26th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Friday, April 26th, 2002, 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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## I N D E X

April 26th, 2002  
Commission Hearing  
CASE NOS. 12,459 and 12,601 (Continued)

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## A P P E A R A N C E S

FOR THE COMMISSION:

STEPHEN ROSS  
Deputy General Counsel  
Energy, Minerals and Natural Resources Department  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 10:10 a.m.:

3           CHAIRMAN WROTENBERY: Okay, and had also Case  
4 12,459 on the docket for today. This is the Application of  
5 the Oil Conservation Division for an order requiring IT  
6 Properties to properly plug one well in Eddy County, New  
7 Mexico. This case will be continued to May 24th, 2002.

8           Commissioners, you may recall we've had this case  
9 on the agenda for a number of months here. I did touch  
10 base with the attorneys for the parties in this proceeding  
11 and have let them know that we will hear this case and are  
12 meeting in May if they have not resolved the matter by that  
13 time.

14                           \* \* \*

15  
16           CHAIRMAN WROTENBERY: And I think we also had  
17 Case 12,601 listed on our agenda, the Application of  
18 Bettis, Boyle and Stovall to re-open Case 12,601 and amend  
19 Order Number R-11,573, to address the appropriate royalty  
20 burdens on the proposed well for purposes of the charge for  
21 risk involved in drilling said well, in Lea County, New  
22 Mexico.

23                           What is the status of that case?

24           MR. ROSS: Well, Commissioners, Sunwest Oil and  
25 Gas has appealed your Order in that case to the District

1 Court. We put it on the agenda because it appears now,  
2 subsequent to the appeal being filed, that Bettis, Boyle  
3 and Stovall are not going to drill the well.

4 The order expires on its terms if a well isn't  
5 drilled in mid-May, and actually before we have to take any  
6 action on the appeal.

7 The parties were initially talking to me early in  
8 this week about having us dismiss that case, and that's why  
9 it was on the agenda. But they've subsequently decided  
10 they'll just let the order expire on its terms and then  
11 dismiss the appeal subsequently. So it actually doesn't  
12 need to be on the agenda, but that's why it was there.

13 CHAIRMAN WROTENBERY: Okay, thank you.

14 \* \* \*

15  
16 CHAIRMAN WROTENBERY: And we still need to take  
17 up the minutes of the March 26th, 2002, meeting. There is  
18 a draft of the minutes in our notebooks, and have you had a  
19 chance to look these over, Commissioners?

20 COMMISSIONER BAILEY: Yes, I have.

21 CHAIRMAN WROTENBERY: I'll entertain a motion for  
22 approval.

23 COMMISSIONER BAILEY: I so move.

24 COMMISSIONER LEE: Second.

25 CHAIRMAN WROTENBERY: All in favor say aye.

1 COMMISSIONER BAILEY: Aye.

2 COMMISSIONER LEE: Aye.

3 CHAIRMAN WROTENBERY: Aye. And I've got a copy  
4 here which I'll sign on behalf of the Commission.

5 Okay, is there anything else we need to take up  
6 today?

7 I don't hear anything, so this meeting is  
8 adjourned. Thank you very much.

9 (Thereupon, these proceedings were concluded at  
10 10:14 a.m.)

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