

NEW MEXICO OIL CONSERVATION COMMISSION

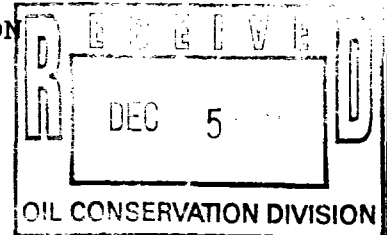
EXAMINER HEARINGSANTA FE, NEW MEXICOHearing Date DECEMBER 1, 1994 Time: 8:15 A.M.

NAME	REPRESENTING	LOCATION
Maurice Trimmer	Byram	ST
Frank T. Chavez	OCO	Hatec
John Robinson	"	"
William T. San	Samuel, Sam, Fong + Shen dan	Santa Fe
W. Kellum	Kellum + J. L. L.	Santa Fe

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:)
)
 HEARING CALLED BY THE OIL)
 CONSERVATION DIVISION)
 _____)

CASE NO. 11,144

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

December 1st, 1994

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Division on Thursday, December 1st, 1994, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, before Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
 (505) 989-9317

I N D E X

December 1st, 1994
 Examiner Hearing
 CASE NO. 11,144

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

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Legal Counsel to the Division
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FOR COMMERCIAL UNION INSURANCE COMPANY:

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Santa Fe, New Mexico 87504-2307
By: NED KENDRICK

* * *

1 WHEREUPON, the following proceedings were had at
2 8:12 a.m.:

3
4
5 EXAMINER CATANACH: We're going to call this
6 hearing to order this morning, and we've got the Director
7 of the Oil Conservation Division, Mr. Bill LeMay, is going
8 to make a few opening remarks this morning.

9 CHAIRMAN LEMAY: Well, welcome to our new hearing
10 room. Examiner Catanach is going to give me a couple
11 minutes here just to welcome you to what will be christened
12 Porter Hall, which I think is very appropriate, in honor of
13 Pete Porter, who most of you know or know of. He was a
14 long-time director of what was then the Commission and
15 served our state well for at least 17 years, I think, in
16 that post.

17 So I think it's appropriate that we have that
18 name. And it was cleared by the Secretary's office and
19 proposed by the Oil and Gas Association. And if there's no
20 objections...

21 (Bangs gavel)

22 CHAIRMAN LEMAY: I think you'll like it here.
23 We're going to have our hearings, both the Division
24 Examiner hearings and Commission hearings here. The
25 parking is a lot better. We hope we can get the heating

1 set so you're not going to be sweltering in here like we
2 were yesterday; that can be a problem.

3 But I think, given everything, we've got our own
4 hearing room now and it's got ample seating. We're not
5 quite finished with what will be the final product. I
6 think we're going to have a little bit of a ramp here,
7 hopefully some audio-visual aids so the witness here will
8 be able to project in this corner the exhibits on a screen,
9 slides, so that you in the audience as well as the lawyers
10 and the Examiner and Commissioners and so forth, can see
11 it.

12 And any suggestions you all have, let Examiner
13 Catanach know, and he'll try and get them for you.

14 Again, I just want to welcome you to our hearing
15 room and our first official piece of business, which will
16 be Examiner Catanach's hearing here.

17 Welcome.

18 EXAMINER CATANACH: Thank you, Bill.

19 I've been told that some maintenance personnel
20 have to get into the ceiling, so we're going to take a
21 short five- to ten-minute break.

22 (Laughter)

23 (Thereupon, a recess was taken at 8:15 a.m.)

24 (The following proceedings had at 8:24 a.m.)

25 EXAMINER CATANACH: At this time we'll call Case

1 11,144, in the matter of the hearing called by the Oil
2 Conservation Division on its own motion to permit the
3 operator, S&I Oil Company, American Employers' Insurance
4 Company, and all other interested parties to appear and
5 show cause why the seven wells that appear on the docket
6 should not be plugged and abandoned in accordance with the
7 Division-approved plugging program.

8 Are there appearances in this case?

9 MR. CARROLL: May it please the Examiner, my name
10 is Rand Carroll, representing the New Mexico Oil
11 Conservation Division.

12 I have one witness to be sworn.

13 EXAMINER CATANACH: Are there additional
14 appearances?

15 MR. KENDRICK: Ned Kendrick with the Montgomery
16 and Andrews law firm for Commercial Union Insurance
17 Company.

18 EXAMINER CATANACH: I'm sorry, for -- Who was
19 that, Mr. Kendrick?

20 MR. KENDRICK: Commercial Union Insurance
21 Company.

22 EXAMINER CATANACH: Any additional appearances?
23 Swear in the witness.

24 (Thereupon, the witness was sworn.)

25 EXAMINER CATANACH: Mr. Carroll, you may proceed.

1 FRANK T. CHAVEZ,
2 the witness herein, after having been first duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. CARROLL:

6 Q. Mr. Chavez, will you please state your name for
7 the record, your employer and your position with your
8 employer?

9 A. My name is Frank Chavez. I'm District Supervisor
10 of the Oil Conservation District Office in Aztec, New
11 Mexico.

12 Q. And your duties as District Supervisor include
13 supervising the plugging of abandoned or open wells?

14 A. Yes, they do.

15 Q. Are you familiar with the subject matter of Case
16 11,144?

17 A. Yes, I am.

18 Q. Are there any corrections or deletions to the
19 docket as it stands?

20 A. Yes, at this time we would like to delete the
21 Neilson Number 1 well from the case.

22 Q. And why is that?

23 A. We have received a C-104 and a bond from a new
24 operator on that well.

25 Q. Are there corrections to two of the wells on the

1 docket, the TRS-EV Well Number 1?

2 A. Yes, the correct name for that is the TRS-EVI
3 Number 1.

4 And the Bob Blanche should be hyphenated,
5 Bob-Blanche.

6 Q. Do you have before you exhibits marked OCD
7 Exhibits 1a through 1f?

8 A. Yes, I do.

9 Q. And are they the well files maintained by the OCD
10 regarding each of the six subject wells in this case?

11 A. Yes, they are copies of the well files of the
12 District Office.

13 Q. Okay. Mr. Chavez, can you go through each of the
14 seven well files and give a brief history of each of the
15 six wells?

16 A. Exhibit Number 1a is the copy of the well file
17 for the Barbara Number 1 well.

18 The well file contains the application for permit
19 to drill, Form C-101, also the dedication plat, Form C-102,
20 various C-104s on the well, and the well completion report
21 showing the mechanical completion of the well, also some
22 other sundry notices and all associated with the well.

23 The latest documentation in here does indicate
24 that S&I Oil Company is the operator of the well.

25 Exhibit Number 1b is copies of the documents in

1 the well file for the Davie Number 1 well, and it contains
2 basically the same information as the previous well file
3 with the permits, C-104s and other documents on the well,
4 all showing that S&I is the operator of the well.

5 Exhibit Number 1c is the information for the
6 Moore Number 1 well. The same information is attached to
7 that.

8 The Exhibit Number 1d is a copy of the well file
9 for the TRS-EVI Number 1 well.

10 Exhibit Number 1e is copies of documents in the
11 well file for the Barbara Number 1.

12 Number 1f is for the Dorothy Number 1.

13 And those are the exhibits.

14 Q. Are the documents contained in these exhibits
15 prepared and kept by the Oil Conservation Division in its
16 ordinary course of business?

17 A. Yes, they are.

18 Q. What is the current condition of the six wells?

19 A. These six wells are currently neglected, they're
20 not being produced, they are temporarily abandoned or shut
21 in.

22 Actually, they're temporarily abandoned without
23 approval from the District Office, and they're not being
24 produced.

25 Q. Okay. Will you please turn to OCD Exhibit Number

1 2 and tell the Examiner what is contained in that exhibit?

2 A. Exhibit Number 2 is a copy of the letter written
3 by Charles Gholson, who was the Deputy Oil and Gas
4 Inspector at that time. It was written on May 3rd of this
5 year, 1994, to Mr. Strickland of S&I Oil Company, directing
6 him to take action for violations on these wells and to
7 comply with Rule 201 to bring the wells into temporary
8 abandonment status -- I'm sorry, into production or
9 appropriate temporary abandonment status or to plug and
10 abandoned the wells.

11 Q. And in the second paragraph of that letter, is
12 S&I and Mr. Strickland given a deadline for submitting a
13 plan or commencing action?

14 A. Yes, they're given a deadline of July 4th.

15 Q. Did you hear from Strickland or S&I regarding
16 these wells?

17 A. We did not receive any correspondence at all from
18 them concerning these wells at that time in response to
19 this letter.

20 Q. In the last sentence of paragraph 2 of that
21 letter, was Strickland and S&I notified that a show-cause
22 hearing would be instituted upon failure to comply by July
23 4th?

24 A. Yes, they were.

25 Q. Mr. Chavez, will you please turn to Exhibit

1 Number 3 and tell the Examiner what is contained in this
2 exhibit?

3 A. Exhibit Number 3 contains at the top an inventory
4 of the equipment and some of the conditions at the well
5 sites for these wells.

6 They also include the Neilson well, which has
7 been dropped from the exhibit, so we can ignore that
8 portion of that exhibit.

9 To note, there are two wells that show asterisks:
10 the Dorothy Number 1 and the Barbara Number 1. On those
11 wells, we do have some surface problems.

12 There's gas leaking between the slips in the
13 tubing on the wellhead on the Dorothy Number 1, and there's
14 water seeping between the tubing and casing on the wellhead
15 on the Barbara Number 1.

16 Q. And in the rest of the exhibit the Aztec District
17 Office has apparently prepared their recommended plugging
18 procedures for each of the six wells?

19 A. Yes, the next pages contain another copy of the
20 letter to S&I, a copy of the letter to you, and our
21 recommended plugging procedures for these wells.

22 Q. Mr. Chavez, if you'll please turn to Exhibit 4
23 and tell the Examiner what that exhibit contains.

24 A. Exhibit Number 4 is a copy of the plugging bond,
25 blanket plugging bond, for S&I Oil Company, for these wells

1 set for the hearing.

2 Also contained with the plugging bond is a -- The
3 last page is a letter from Commercial Union to our office
4 here in Santa Fe, assuming liability for the existing
5 wells.

6 Q. Assuming liability for the American Employers'
7 Insurance Company bond, numbered AR 71351-78?

8 A. That's correct.

9 Q. And this bond is a \$50,000 blanket bond?

10 A. That's right.

11 Q. In your opinion, will plugging these wells result
12 in the protection of freshwater supplies or protect the
13 environment and/or prevention of waste and protection of
14 correlative rights?

15 A. Yes, it will. As I mentioned, two of the wells
16 currently have surface problems. Without maintenance and
17 operation, we do expect the wellhead equipment to
18 deteriorate, also other equipment to deteriorate.

19 There is a tank that has over three foot of
20 product in it. Without maintenance, leaks could occur.
21 And we have other situations at the surface that could
22 cause problems with the surface pollution or waste or fire
23 hazard.

24 Downhole, we would anticipate that over time
25 without maintenance and service the casing will

1 deteriorate, and we could have problems downhole because of
2 that, that would lead to downhole waste or contamination.

3 Q. Mr. Chavez, do you have any recommendation as to
4 a fine that could be levied against Mr. Strickland and/or
5 S&I pursuant to New Mexico Statute 70-2-31?

6 A. Yes, I recommend that a minimum \$1000 fine for
7 noncompliance with an order to plug the wells be assessed.

8 Q. Is that \$1000 per well?

9 A. Yes, per well.

10 MR. CARROLL: Mr. Examiner, in the case file you
11 have is evidence that notice was sent by certified mail on
12 November 10th to J.C. Well Service, Marmack, Troy
13 Strickland and S&I, Sharcretia deBardelow [phonetic], who
14 is the attorney for Commercial Union, now represented by
15 local counsel, and notice was sent to Commercial Union
16 Insurance Company.

17 That's all I have, and at this point I'd like to
18 move that OCD Exhibits 1a through -f, 2, 3 and 4 be
19 admitted into the record.

20 EXAMINER CATANACH: Exhibits 1a through -f, 2, 3
21 and 4 will be admitted as evidence in this case.

22 Mr. Kendrick, any questions of the witness?

23 CROSS-EXAMINATION

24 BY MR. KENDRICK:

25 Q. You said that Commercial Union has acknowledged

1 liability in this matter?

2 A. This is the way I understand this documentation
3 that's been sent to us, yes.

4 Q. And which letter so stated?

5 A. A letter dated September 24th, 1986, to the State
6 of New Mexico, Oil Conservation Division [sic], at the Post
7 Office Box 2088, Santa Fe. It was signed by Gail Magness
8 of the Bond Department, from Commercial Union Insurance
9 Company.

10 MR. KENDRICK: Okay, I have no further questions.

11 EXAMINATION

12 BY EXAMINER CATANACH:

13 Q. Mr. Chavez, do you have a recommendation of when
14 this plugging should commence?

15 A. Yes, I would recommend that the order require the
16 wells be plugged and abandoned within 30 days of the day
17 that the order is issued.

18 EXAMINER CATANACH: Are there any other questions
19 of this witness?

20 If not, he may be excused.

21 MR. KENDRICK: I have, I guess, a comment.

22 I think Mr. Strickland and others may have
23 something to say in terms of the time frame of the proposed
24 order, and I just want to give them a chance to present
25 their position on the time frame.

1 EXAMINER CATANACH: Okay, that would be fine.

2 Would you please identify yourself, sir?

3 MR. CUNNINGHAM: John Cunningham of J.C. Well
4 Service.

5 Thirty days would be pretty quick, Frank, if, you
6 know, we could spread it out more. But I'm going to have
7 to contact Marmack to get their involvement in the deal
8 before I can do anything, but that's up to me to do that.
9 We could start within 30 days, you know, or something like
10 that.

11 MR. KENDRICK: If I could ask Mr. Cunningham a
12 question or two.

13 Are you saying it would take -- even once you
14 begin it would take more than 30 days to do the plugging?

15 MR. CUNNINGHAM: On six wells it probably would,
16 yes. I would think it probably would. You know, I can't
17 say for sure. I haven't seen the plugging orders; I don't
18 know what they say. You know, I don't know what's
19 required, so I can't say.

20 MR. KENDRICK: And in addition to that, there's
21 some issues in terms of who would actually do the plugging,
22 and that will take a little time to iron out?

23 MR. CUNNINGHAM: I would assume so, yes.

24 MR. KENDRICK: And I also assume that this is
25 probably the worst time of year to be out there doing this

1 work; is that correct? Or maybe that's not a factor?

2 MR. CUNNINGHAM: It's not much of a factor there,
3 not where it's at. It's not much of a factor, it certainly
4 isn't.

5 MR. KENDRICK: What would you think is a fair
6 amount of time for the work to be done in?

7 MR. CUNNINGHAM: You might get started in 30
8 days, but it will probably be a 90-day completion period or
9 something like that, you know. I just -- I can't -- I
10 really can't say at this point.

11 MR. KENDRICK: Mr. Troy Strickland, I think, has
12 something to add.

13 EXAMINER CATANACH: Mr. Strickland?

14 MR. STRICKLAND: Okay, he was saying there that,
15 you know, that we hadn't -- we had visited with Mr. Chavez
16 and Charlie over in Aztec Oil and Gas Commission Office,
17 and Mr. Chavez, and Mr. Chavez had recommended that we go
18 this way and try to get Marmack involved before we done
19 anything.

20 But I was under the impression of what he said
21 there that we hadn't contacted him, and we had visited with
22 them, with Mr. Chavez and Charlie over there, and they
23 recommended that we go this route, trying to get Marmack
24 involved so that it wouldn't fall back on us, and since
25 Marmack -- Mr. Cunningham at J.C. Well Service had bought

1 the wells, and then Marmack had received payment from oil
2 and maybe gas off of this from Giant, that he had been sold
3 production and stuff from these wells and received payment.

4 So if this is the case, why, if Marmack had been
5 paid, it looks like it should be falling back on Marmack
6 instead of S&I or anyone else, or Troy Strickland or EV.

7 EXAMINER CATANACH: I'm sorry, I --

8 MR. CARROLL: Mr. Examiner, could Mr. Chavez
9 respond to --

10 EXAMINER CATANACH: Yes, please.

11 MR. CHAVEZ: Okay. Mr. Examiner, if -- Over
12 time, we have had a response only in conversation with Mr.
13 Strickland and Mr. Isbell. We have received no notice of
14 intention to plug and abandon that we've requested, and
15 each time we've requested that we get an issue of more
16 discussion, we just don't get the sundry notices and the
17 intent from the operator to comply with the rules and
18 regulations.

19 There is an involvement that Mr. Strickland has
20 mentioned, mentioned a company called Marmack. We
21 thoroughly considered that issue, as far as who's
22 responsible for these wells, until another operator does
23 claim responsibility for these wells, and we've already
24 discussed that with S&I, that they are responsible for the
25 wells.

1 If there's a different issue, it's between them
2 and Marmack. But for our purposes, they are ultimately
3 responsible for these wells.

4 MR. CARROLL: Mr. Examiner, I will remind Mr.
5 Examiner that our OCD Rule 101-I states that the transfer
6 of a property does not of itself release a bond. Until
7 another bond is placed with the OCD, the prior operator is
8 responsible, until another bond is in place and a change-
9 of-operator form is filed.

10 MR. STRICKLAND: Sir? How would they -- How
11 would Marmack get paid and released to pay the oil and gas
12 without them doing something or saying they were going to
13 put up a bond? How would they get paid? Why would they
14 get paid, maybe I should say?

15 MR. CARROLL: Mr. Examiner, I don't believe
16 that's any of OCD's business, as to how Marmack gets paid
17 regarding the sale of production.

18 EXAMINER CATANACH: I'll --

19 MR. STRICKLAND: I was under the impression there
20 that for anybody to get paid, that they would have to have
21 a certain type of bond or promise to put up a bond before
22 Giant would receive any payment. Is this not true?

23 MR. CARROLL: I don't believe so.

24 EXAMINER CATANACH: S&I, as far as you know, has
25 the bond for these wells, and there's no other operator

1 that has put up a bond for these wells, Mr. Chavez?

2 MR. CHAVEZ: No, except as I mentioned earlier,
3 for the Neilson, which we dropped, but we have a valid
4 bond.

5 This issue of trying to determine responsibility
6 is one we've discussed with S&I previously, and until
7 another operator does assume the -- these wells with
8 bonding, the C-104, they are responsible for the wells.

9 EXAMINER CATANACH: Okay. Is there anything
10 further?

11 MR. KENDRICK: I believe there is. Just one
12 moment, please.

13 In view of the complications in terms of internal
14 agreements between Marmack, Cunningham, S&I, and the amount
15 of time it would take to actually plug the wells,
16 Commercial Union would ask for -- that any order that is
17 entered that may require anything be for a period of 90
18 days instead of 30 days.

19 EXAMINER CATANACH: A period of 90 days within
20 which to plug the wells, Mr. Kendrick?

21 MR. KENDRICK: Yes, if that's your inclination to
22 order that.

23 EXAMINER CATANACH: Mr. Chavez, do you have any
24 recommendation on that issue?

25 MR. CHAVEZ: I recommended 30 days because we've

1 had discussions before with S&I, and I didn't really
2 anticipate that they would be serious about wanting to plug
3 these wells.

4 If they are seriously pursuing it -- we do have a
5 representative now, at least from the bonding companies,
6 who wants to do this -- I would say we should have a
7 certain time period for them to file the notices of
8 intention to plug and abandon, perhaps then 30 days.

9 And then once the notice of intention to plug and
10 abandon is filed, there, to have another time period, I
11 think we could probably do that within 60 days. That would
12 give them the 90 days but would require at least the notice
13 of intention to plug and abandon within 30 days.

14 MR. CARROLL: And Mr. Chavez, your recommendation
15 as to a fine stance --

16 MR. CHAVEZ: Yes, if they do not comply with the
17 notice of intention to plug and abandon within that 30-day
18 time period, they should be fined.

19 MR. CARROLL: And if they don't plug the wells
20 within the following 60-day period, even if they file an
21 intention to plug within the 30 days, after 90 days you
22 would still recommend a \$1000-fine per well?

23 MR. CHAVEZ: That's right.

24 EXAMINER CATANACH: The fine is contingent upon
25 them filing the notice to P-and-A within 30 days from the

1 date of the order?

2 MR. CHAVEZ: Yes.

3 MR. CARROLL: And plugging.

4 MR. CHAVEZ: And plugging within 60 days.

5 EXAMINER CATANACH: And plugging within 60 days.

6 It's not contingent on anything that's taken place thus
7 far? I mean, it's not subject to anything that's -- you've
8 issued before this date?

9 MR. CHAVEZ: No.

10 EXAMINER CATANACH: Okay.

11 MR. CHAVEZ: One other item too: Should there be
12 an issue with us having to go ahead and contract to plug
13 and abandon the wells, the activities that may occur on the
14 well site may significantly hamper the -- our ability to
15 come in and plug the wells, if we have to do that
16 ourselves.

17 So the -- I'd recommend that the order be such
18 that they're not to commence any activity on any of the
19 well sites, including moving any of the equipment from the
20 well sites, without district approval.

21 EXAMINER CATANACH: Is there anything further,
22 Mr. Carroll?

23 MR. CARROLL: No, that's all I have, Mr.
24 Examiner.

25 EXAMINER CATANACH: Mr. Kendrick?

1 MR. KENDRICK: One moment.

2 (Off the record)

3 MR. KENDRICK: Okay, we have nothing to add at
4 this time.

5 EXAMINER CATANACH: Okay. There being nothing
6 further, Case 11,144 will be taken under advisement.

7 (Thereupon, these proceedings were concluded at
8 8:50 a.m.)

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CERTIFICATE OF REPORTER

[illegible]

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 December 2, 1994.

STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 1998

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiners Hearing of Case No. 1114 heard by me on December 1 1996

David R. Catant, Examiner
Observation Division