

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. 12,896  
)  
APPLICATION OF THE NEW MEXICO OIL )  
CONSERVATION DIVISION FOR AN ORDER )  
REQUIRING XERIC OIL AND GAS CORPORATION )  
TO BRING 125 WELLS INTO COMPLIANCE WITH )  
RULE 201.B AND ASSESSING APPROPRIATE )  
CIVIL PENALTIES, LEA, ROOSEVELT AND EDDY )  
COUNTIES, NEW MEXICO ) ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

August 1st, 2002

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, August 1st, 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.

\* \* \*

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

## I N D E X

August 1st, 2002  
 Examiner Hearing  
 CASE NO. 12,896

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## E X H I B I T S

Applicant's	Identified	Admitted
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\* \* \*

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

FOR THE DIVISION:

DAVID K. BROOKS  
 Attorney at Law  
 Energy, Minerals and Natural Resources Department  
 Assistant General Counsel  
 1220 South St. Francis Drive  
 Santa Fe, New Mexico 87505

\* \* \*

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

1           WHEREUPON, the following proceedings were had at  
2 10:46 a.m.:

3           EXAMINER CATANACH: At this time we'll call Case  
4 12,896, which is the Application of the New Mexico Oil  
5 Conservation Division for an order requiring Xeric Oil and  
6 Gas Corporation to bring 125 wells into compliance with  
7 Rule 201.B and assessing appropriate civil penalties, Lea,  
8 Roosevelt and Eddy Counties, New Mexico.

9           Now, this case appears three times on the docket,  
10 but I understand that they are separated -- the first case  
11 is all the wells in Lea County and then subsequently the  
12 wells in Roosevelt County and Eddy Counties.

13           I will call for appearances in this case.

14           MR. BROOKS: May it please the Examiner, I'm  
15 David Brooks, Energy, Minerals and Natural Resources  
16 Department, State of New Mexico, appearing for the New  
17 Mexico Oil Conservation. I have some exhibits but no  
18 witnesses.

19           EXAMINER CATANACH: Very good. Any additional  
20 appearances?

21           If there are no additional appearances, I will  
22 turn it over to you, Mr. Brooks.

23           MR. BROOKS: Okay, I will make a brief statement  
24 and then tender my exhibits.

25           This is another part of the inactive well

1 program, and the way the inactive well program has been  
2 conducted, the districts have handled those operators in  
3 their district, with the exception of operators who have  
4 over 100 inactive wells, or had at the beginning of this  
5 proceeding, and the operators that had over 100 wells were  
6 handled directly by the Director.

7 This is one of those operators, Xeric Oil and  
8 Gas, Inc. Prior to yesterday, I had had no contact with  
9 Xeric Oil and Gas, Inc. Yesterday I received -- Well,  
10 first of all, I believe the record will reflect that they  
11 did receive notice, and we will ask the Examiner to take  
12 administrative notice of the file, the case file in that  
13 regard. And of course since this proceeding was brought by  
14 the Division on its own motion, then the notice was given  
15 by the Division, and there should be a return receipt  
16 indicating notice to them in the file.

17 Prior to yesterday I had not received any contact  
18 from Xeric since this case was filed. Yesterday they  
19 called me, a gentleman from Xeric by the name of Rob  
20 Barnett called me, and he said that they were working on  
21 these wells, and he sent me an e-mail with some  
22 attachments.

23 And the bottom line was that while they'd  
24 apparently done nothing for six months or so prior to this  
25 time, they filed 56 C-103s with the Hobbs District Office

1 last week. Well, it's very difficult for me to prove all  
2 this stuff up, especially since the previous contacts with  
3 Xeric, which were several months ago, had been by the  
4 Director and no one else had personal knowledge.

5 After conferring with the Director, the decision  
6 was made to forego any request for penalties for past  
7 conduct. However, since our activity in filing this case  
8 appeared to be producing some activity on the part of  
9 Xeric, we also did not want to let them off the hook on  
10 this, and we wanted to keep the pressure on.

11 Therefore we will be tendering two exhibits  
12 today.

13 The first one is Exhibit Number 1, which is a  
14 printout from our ONGARD system showing that all of these  
15 113 wells, I believe it is, are inactive under our Rules.  
16 Most of them have not produced during the entire five-year  
17 period that's covered by these printouts. However, some of  
18 them have produced during the early part of that period.

19 The exhibit is authenticated by an affidavit of  
20 Jane Prouty, and it also is a takeoff from information that  
21 is electronically maintained in the files and records of  
22 the New Mexico Oil Conservation Division.

23 And so I will tender Exhibit Number 1 on the  
24 basis that it's authenticated by affidavit -- there's no  
25 one here to object to the affidavit being hearsay -- and

1 also on the basis that the Division can take administrative  
2 notice of the Division's records.

3 I tender Exhibit 1.

4 EXAMINER CATANACH: Exhibit Number 1 will be  
5 admitted.

6 MR. BROOKS: Thank you.

7 Exhibit Number 2 I have no means to authenticate,  
8 but it is offered by way of mitigation at the request of  
9 the operator. This is a fax letter from Mr. Rob Barnett to  
10 me, and it attaches a spreadsheet including what they have  
11 allegedly done, the testing that has been done in an  
12 attempt to TA these wells, and the information that they  
13 filed with the Hobbs District Office.

14 Now, here I would ask the Examiner's preference  
15 in how we do this. One way we could do it is to keep the  
16 record open and I can obtain this material from the Hobbs  
17 District Office, which of course has not made its way to  
18 Santa Fe yet, and furnish it to the Examiner. Of course,  
19 you have access to this material also, I just would not be  
20 presumptuous to tell you how we ought best to do it. I  
21 don't have the material here today and was not able to get  
22 it in the tight time frame, since I didn't know it had been  
23 filed until about three o'clock yesterday afternoon.

24 EXAMINER CATANACH: Now, Mr. Brooks, I'm sorry,  
25 this is the C-103 data you're talking about?

1 MR. BROOKS: Yes.

2 EXAMINER CATANACH: Okay.

3 MR. BROOKS: I am reluctant to request a  
4 continuance of this case because, as I say, the pendency of  
5 this case is apparently producing a great deal of activity,  
6 and I would like to keep the pressure on the operator.

7 So with that, I will offer Exhibit Number 2 as,  
8 in effect, an unsworn statement by the operator.

9 And with that I'll rest.

10 EXAMINER CATANACH: Now, in looking at Exhibit  
11 Number 2, Mr. Brooks, it looks like the majority of these  
12 wells were tested for TA status.

13 MR. BROOKS: That would appear to be the case of  
14 the ones they've reported on here.

15 EXAMINER CATANACH: And in that case I'm not so  
16 sure that I would be inclined just to use this as my sole  
17 evidence that they have complied. I think I would like to  
18 see the C-103 data. They apparently have with them MIT  
19 test results, which would be important for us to review.

20 MR. BROOKS: Right.

21 EXAMINER CATANACH: So I guess I would prefer to  
22 leave the record open so that we can obtain this data.

23 MR. BROOKS: Okay, I think that would be an  
24 appropriate procedure.

25 EXAMINER CATANACH: And --

1 MR. BROOKS: And I will undertake to obtain the  
2 information from the District and supply it to you for  
3 purposes of the case file.

4 EXAMINER CATANACH: Okay. Now, in fact, if these  
5 wells have been temporarily abandoned, in accordance with  
6 Division Rules, we would be dismissing them from this  
7 Application; is that correct?

8 MR. BROOKS: That's correct.

9 EXAMINER CATANACH: Okay.

10 MR. BROOKS: What we're asking in this case is  
11 only for a compliance order.

12 Now, I will add that I did ask how long they  
13 thought it would be necessary to complete their getting all  
14 these wells into compliance. They said they thought that  
15 within 30 to 60 days they could complete getting the  
16 repairs made in getting the wells that are to be TA'd,  
17 TA'd.

18 On the other hand, they said it would probably  
19 take like six months -- their expression was, a minimum of  
20 six months -- to complete the plugging of the ones that are  
21 to be plugged. I would be loath to give them, by order,  
22 longer than six months, because they've had a lot of time  
23 already since we first sent out the inactive well notices  
24 in May of 2000, and there's been a lack of activity. But I  
25 realize that with the absence of the Director's testimony,

1 I really don't have any evidence of that, so...

2 EXAMINER CATANACH: Uh-huh. Well, do we know  
3 which wells are to be plugged?

4 MR. BROOKS: They've indicated on here, in the  
5 remarks column on Exhibit 2, on the spreadsheet, which ones  
6 they believe should be plugged.

7 EXAMINER CATANACH: Okay. So what would you  
8 recommend would be a reasonable time period to have them  
9 plug these wells, in terms of a compliance order?

10 MR. BROOKS: Well, they've said a minimum of six  
11 months. I would be inclined to recommend six months.  
12 Perhaps the order could -- Well, I would say an outside of  
13 six months would be acceptable. I would recommend that we  
14 assess some kind of penalty if they do not finish within  
15 six months. I don't know what the validity is of a  
16 prospective penalty. We might have to enforce it, we might  
17 have to begin with another application to confirm it. But  
18 at the same time I would like to do it because I would like  
19 them to feel that they are going to be penalized if they  
20 don't -- if they slack off on this job. So I would request  
21 that relief.

22 EXAMINER CATANACH: Okay. Now, with regards to  
23 the wells that they're not going to plug, do we give them a  
24 different time frame for those other wells to bring them  
25 into compliance? Thirty days or --

1 MR. BROOKS: Yeah, I would think 30 days from the  
2 date the order is entered would be sufficient for  
3 completing the TA filings.

4 EXAMINER CATANACH: Okay. Anything else, Mr.  
5 Brooks?

6 MR. BROOKS: Nothing else, your Honor.

7 EXAMINER CATANACH: Okay. With that, we will  
8 leave the record open in this case to have Mr. Brooks  
9 present the additional C-103 data.

10 And there being nothing further in this case,  
11 Case 12,896 will be taken under advisement.

12 MR. BROOKS: Thank you.

13 EXAMINER CATANACH: Thank you, sir. And I  
14 believe this hearing is adjourned.

15 (Thereupon, these proceedings were concluded at  
16 11:00 a.m.)

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August 1  
David K. Stant  
Conservation Station

## 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 August 3rd, 2002.



STEVEN T. BRENNER  
 CCR No. 7

My commission expires: October 14, 2002