

# Correspondence

Case No. 20

1940

EDWIN C. CRAMPTON  
GEORGE W. ROBERTSON

LAW OFFICES OF  
CRAMPTON & ROBERTSON  
RATON, NEW MEXICO

May 28, 1940

Mr. Carl B. Livingston, Attorney  
New Mexico Oil Conservation Commission  
Santa Fe, New Mexico

Dear Mr. Livingston:

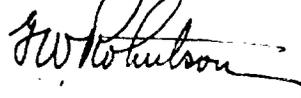
In re Plugging of Winston Marks  
Well on Sec. 25-25N-24E, Colfax  
County, New Mexico, and can-  
cellation of \$5,000 drilling  
bond, National Surety Corpora-  
tion, surety

I have for acknowledgement your letter of May 27 returning the approved triplicate original of the report of plugging well on Form C-103, and another letter from you of the same date advising that the above mentioned bond is now cancelled. I am also in receipt of a letter dated May 27 from Mr. A. Andreas, state geologist, indicating his approval of the plugging of the well and of the cancellation of the drilling bond.

May I express my thanks and appreciation to you and Mr. Andreas, as well as to the other members of the Oil Conservation Commission, for the kind consideration and courteous treatment which you have all extended to me and to my client, National Surety Corporation? It is indeed a pleasure to deal with public officials who so consistently display an attitude of kindness and consideration.

With kindest regards,

Very truly yours,



GWR:d

cc to Mr. A. Andreas, State Geologist  
New Mexico Oil Conservation Commission  
Santa Fe, New Mexico

May 27, 1940

Mr. G. W. Robertson  
Attorney at Law  
Raton, New Mexico

Re: \$5,000.00 drilling bond with Winston Marks,  
Principal, and National Surety Corporation,  
Surety, for one well upon SE $\frac{1}{4}$ N $\frac{1}{4}$ , Sec. 5-  
25N-24E, Colfax County.

Dear Mr. Robertson:

The well covered by the bond noted in the  
caption has the status of approved abandonment and  
said bond is hereby cancelled as of this date.

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl B. Livingston  
Attorney

CBL:ik  
cc - Mr. A. Andreas  
cc - Mr. Frank Horn

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May 27, 1940

Mr. G. W. Robertson  
Attorney at Law  
Raton, New Mexico

Re: Plugging of Winston Marks Well  
on Sec. 25-25N-24E, Colfax County,  
New Mexico.

My dear Mr. Robertson:

Reference is made to your letter of May 21.

I conferred with Mr. A. Andreas this morning relative to the impossibility of obtaining the log of the well. He has taken into consideration that the failure to supply the log by the corporate surety you represent is no fault of theirs, and inasmuch as the proceedings for formal abandonment have been carried out by the corporate surety, the supplying of the well record is excused.

Enclosed you will find an approved triplicate original of Report C-103.

Yours very truly,

Carl B. Livingston  
Attorney

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Enc.

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April 16, 1940

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The Raton Reporter  
Raton, New Mexico

Gentlemen:

Re: Notice for Publication, Case No. 20,  
Petition of National Surety Corpora-  
tion respecting Winston Marks well  
on Sec. 5-25N-24E, Colfax County,  
New Mexico.

On March 27, 1940, we sent you the above captioned Notice for Publication and requested that you publish it once immediately and furnish the Commission with a copy containing this publication, your affidavit of publication, statement in duplicate, and purchase voucher in duplicate.

We have received your Affidavit of publication, which was brought to us by Mr. George W. Robertson, Attorney at Law, Raton, New Mexico. However, the other items mentioned have not as yet been furnished, and we would therefore appreciate it if you will check into the matter.

Yours very truly,

OIL CONSERVATION COMMISSION

By \_\_\_\_\_  
Carl B. Livingston  
Attorney

CBL:ik

April 16, 1940

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New Mexico Examiner  
Santa Fe, New Mexico

Re: Notice for Publication, Case No. 20,  
Petition of National Surety Corporation  
respecting Winston Marks well on Sec.  
5-25N-24E, Colfax County, New Mexico.

Gentlemen:

On March 27, 1940, we sent you the above captioned Notice for Publication, requesting that you publish it once immediately and furnish the Commission with a copy containing this publication, together with your affidavit of publication, statement in duplicate, and purchase voucher in duplicate.

We have not as yet been furnished the matters requested, and therefore would appreciate it if you will check into the matter at once.

Yours very truly,

OIL CONSERVATION COMMISSION

By \_\_\_\_\_  
Carl B. Livingston  
Attorney

CBL:ik

April 15, 1940

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Mrs. Winston Marks  
c/o Herring Hotel  
Amarillo, Texas

Re: Petition of National Surety Corporation respecting the Winston Marks well on Sec. 5-25N-24E, Colfax County, New Mexico, Case No. 20.

Dear Mrs. Marks:

Enclosed please find the Commission's order promulgated pursuant to the hearing on the above captioned matter, which order is self-explanatory.

Very truly yours,

OIL CONSERVATION COMMISSION

By \_\_\_\_\_  
Carl B. Livingston  
Attorney

CBL:ik  
Enc.

April 15, 1940

Honorable George W. Robertson  
Attorney at Law  
Haton, New Mexico

Re: Petition of National Surety Corporation respecting the Winston Marks well on Sec. 5-25N-24E, Colfax County, New Mexico, Case No. 20.

Dear Mr. Robertson:

Enclosed please find two copies of the Commission's order promulgated pursuant to the hearing on the above captioned matter, which order is self-explanatory.

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl B. Livingston  
Attorney

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April 2, 1940

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Mr. G. W. Robertson  
Attorney at Law  
Raton, New Mexico

Re: Petition of National Surety Corporation  
respecting the Winston Marks well on  
Sec. 5-25N-24E, Colfax County, New Mexico.

Dear Mr. Robertson:

Thank you for your letter of April 1 and for your checking the notice of publication in the above captioned matter.

As to the exact chamber in which the hearing in question will be held on the date set, you will be advised at the State Land Office that morning. The office of the Oil Conservation Commission is in the State Land Office, but hearings are frequently held in the House of Representatives or some chamber. However, there will be no confusion as to the place of hearing, because everyone comes to the State Land Office and Office of the Commission where they are advised as to the exact room in which the hearing is to be held.

The testimony is reported by a professional reporter and permanently preserved. The proceedings are carried on as in a judicial hearing. There are no special rules of evidence other than, as for instance, both sides are expected to confine their evidence to the issues.

With kindest regards,

Very truly yours,

Carl B. Livingston  
Attorney

CBL:ik

EDWIN C. CRAMPTON  
GEORGE W. ROBERTSON

LAW OFFICES OF  
CRAMPTON & ROBERTSON  
RATON, NEW MEXICO

April 1, 1940

Mr. Carl B. Livingston, Attorney  
New Mexico Oil Conservation Commission  
Santa Fe, New Mexico

Dear Mr. Livingston:            In re Petition of National  
Surety Corporation respect-  
ing the Winston Marks well  
on Sec. 5-25N-24E, Colfax  
County, New Mexico

Your letter of March 27 was received in due course, and at your request I called the Raton Reporter insisting upon proof reading of the notice of publication. This was taken care of, and I think you will find that the notice has been properly published. I understand from the newspaper that the affidavit of publication has already been sent directly to you.

The date which the commission has fixed for this hearing is entirely satisfactory to us, and I will arrange to be present at ten o'clock a. m. on April 15. I assume that the hearing will be held in the State Land Department offices. If this is incorrect, will you please let me know?

Please accept my thanks for your promptness in presenting the petition to the commission and arranging for such an early hearing.

With kindest regards,

Very truly yours,



GWR:d

March 27, 1940

Miss Winston Marks  
c/o Herring Hotel  
Amarillo, Texas

Re: Petition of National Surety Corporation respecting the Winston Marks well on Sec. 5-25N-24E, Colfax County, New Mexico.

Dear Miss Marks:

Enclosed please find copy of Notice for Publication, giving notice that a public hearing will be held relative to the above captioned matter on the 15th of April, 1940, at ten o'clock A. M., at the Capitol, Santa Fe, New Mexico.

Very truly yours,

Carl B. Livingston  
Attorney

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Enc.

March 27, 1940

Honorable Geo. W. Robertson  
Attorney at Law  
Raton, New Mexico

Re: Petition of National Surety Corporation respecting the Winston Marks well on Sec. 5-25N-24E, Colfax County, New Mexico.

My dear Mr. Robertson:

Enclosed please find copy of Notice for Publication, giving notice that a public hearing will be held relative to the above captioned matter on the 15th of April, 1940, at ten o'clock A. M., at the Capitol, Santa Fe, New Mexico.

Very truly yours,

Carl B. Livingston  
Attorney

CBL:ik  
Enc.



March 27, 1940

**The Raton Reporter  
Raton, New Mexico**

**Gentlemen:**

There is enclosed herewith a Notice for Publication, which you are kindly requested to publish once immediately. You are also requested to furnish this Commission with a copy containing this publication.

Immediately upon completion of the publication be sure to transmit to the Oil Conservation Commission your affidavit of publication.

Upon sending to the Commission your affidavit of publication, please send your statement in duplicate and enclosed purchase voucher, also in duplicate.

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl B. Livingston  
Attorney

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March 15, 1940

Honorable Geo. W. Robertson  
Attorney at Law  
Raton, New Mexico

Re: Petition of National Surety Corporation  
respecting the Winston Marks well on  
Sec. 5-25N-24E, Colfax County, New Mexico.

My dear Mr. Robertson:

Your amended petition, accompanying your letter of March 14, will come to the attention of the Commission at its next meeting. I do not know exactly when that will be, but it will be at least a week as yet.

Please pardon me for overlooking the answering of one of your inquiries. Ex parte evidence, such as affidavits, would hardly suffice. The practice has been to present testimony by sworn witnesses with the opportunity for cross-examination. A transcript of the testimony is made somewhat like that of the district court. The proceedings before the Commission in its judicial capacity are carefully conducted for a quasi judicial body. As evidence of this, so far the Commission has never been reversed.

Very truly yours,

Carl B. Livingston  
Attorney

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EDWIN C. CRAMPTON  
GEORGE W. ROBERTSON

LAW OFFICES OF  
CRAMPTON & ROBERTSON  
RATON, NEW MEXICO

March 14, 1940

Mr. Carl B. Livingston, Attorney  
Oil Conservation Commission  
Santa Fe, New Mexico

Dear Mr. Livingston:

In re Petition of National Surety  
Corporation respecting the  
Winston Marks well on Sec. 5-  
25N-24E, Colfax County, New Mexico

Thank you for your kind letter of March 12th in which you return the Petition for correction in the manner indicated. In accordance with your suggestion, the prayer of the Petition has been redrawn so as to include a specific request for determination by the Commission of the status of the well as an abandoned well.

Will you kindly file the Petition, and notify us as to the number of the case, and have it presented to the Commission as quickly as possible?

The additional explanation set out in your letter is very much appreciated. There still remains one question in my mind which has not been answered. In my letter to you dated March 11th, I asked whether at the hearing before the Commission it would be satisfactory and in conformity with the Commission's usual practice to receive ex parte affidavits on the question of abandonment, or whether it would be necessary to have witnesses present to testify to the fact. At your convenience, I wish you would let me know what you think about this.

Very truly yours,



GWR:d

enc.

March 12, 1940

Honorable George W. Robertson  
Attorney at Law  
Raton, New Mexico

Re: Petition of National Surety Corporation  
respecting Winston Marks well on Sec.  
5-25N-24E, Colfax County, New Mexico.

My dear Mr. Robertson:

Reference is had to your letter of March 11, submitting in duplicate the petition noted in the caption.

The procedure before oil regulatory bodies is rather new and specialized. It is therefore always a pleasure to offer suggestions in order that a matter may be squarely presented to the Commission.

In a case of this nature (and it is a case before the Commission, taking a number and style), it must always be borne in mind:

1. That the Commission will not undertake to adjudicate property rights in equipment. This is for the court having jurisdiction thereof. That is, I believe, true unless a matter of title is self-evident and undisputed. From your allegations, apparently the matter of title is self-evident.

2. That a well authorized by the Commission to be drilled has the status of an unabandoned well until the permittee voluntarily completes the procedure with the Commission of an approved abandonment. If the permittee refuses such voluntary abandonment, then the status of the well as an abandoned or an unabandoned well must be judicially determined by the tribunal having jurisdiction thereof, which is the Oil Conservation Commission. Here is an extremely important point in procedure. One may have every reason in the world to believe that a well is in fact abandoned, but in the actual judicial determination of that fact, results may be different. Both the members of the Commission and the petitioner would wish to be protected against guessing wrong as to the fact of abandonment. Therefore, the careful way is to determine that fact before the Commission. I recall a specific case wherein a promoter who held a permit to drill

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Honorable George W. Robertson

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a well apparently had certainly abandoned his well and the owners of the casing therefore desired to be permitted to withdraw the casing and not go through the procedure of determining the well's status as abandoned or unabandoned inasmuch as the matter of abandonment apparently was self-evident. The Commission, however, proceeded in the regular way by calling a hearing to determine the status of the well as abandoned or not abandoned. Surprisingly, at the hearing the proof offered by the respondent was such that the Commission was obliged to hold that the well was not abandoned. Very satisfactory and convincing explanations were made for the cessation of drilling activities and an exceedingly strong showing was made as to then present financial backing to support renewed prosecution of well drilling.

In your petition you have stated facts for abandonment in Paragraph III, but in your prayer by all means include the request for determination by the Commission of the status of the well as an abandoned well. Failure so to do might be a jurisdictional defect if the Commission acts upon your petition as the basis for the calling of the hearing.

I am therefore returning your petition in duplicate for this suggested revision.

Whether you file in triplicate, along with your petition, the Notice of Intention to Plug Well is optional. There is plenty of time for this. An office engineer can render you some assistance in making out your Notice of Intention to Abandon.

Very truly yours,

Carl B. Livingston  
Attorney

CBL:sk

P. S. Return the petition as soon as possible and I will endeavor to get it presented to the Commission immediately.

EDWIN C. CRAMPTON  
GEORGE W. ROBERTSON

LAW OFFICES OF  
CRAMPTON & ROBERTSON  
RATON, NEW MEXICO

March 11, 1940

Mr. Carl B. Livingston, Attorney  
Oil Conservation Commission  
Santa Fe, New Mexico

Dear Mr. Livingston:

In re Petition of National Surety  
Corporation respecting Winston  
Marks well on Sec. 5-25N-24E,  
Colfax County, New Mexico

I want to express my deep appreciation for your very kind letter of February 29th setting forth an explanation of the general method of procedure before the Oil Conservation Commission in order to reach a solution of our problems.

As you point out in your letter, it is rather difficult to outline in a single letter a whole new system of procedure. Notwithstanding this, your explanation seems remarkably clear and concise.

You will appreciate, I feel sure, that, in attempting to carry through the procedure as suggested in your letter, it is somewhat difficult, if not impossible, for an attorney who has had no previous experience in this field to draft the necessary papers with any considerable degree of confidence.

I have studied your letter very carefully in the light of the rules and regulations, and I have prepared and enclose herewith a petition setting forth the facts and asking for the permission of the Commission to pull the casing and also to plug the well. This petition is intended for immediate filing with the Commission. Nevertheless, before you actually file it, I would take it as a personal favor if you would read it over carefully and see whether in your judgment it adequately meets the situation. If in your opinion the petition is inadequate or improper in any particular, please advise me so that I may have an opportunity before actual filing of the petition to make any corrections or additions which you may consider advisable.

A word of explanation may be in order as to our allegations concerning ownership of the casing. In your letter you suggest that the statement of ownership be supported by a certified copy of the court proceedings placing title in the petitioner. As you will see from reading the petition, our title does not rest upon any court proceedings. It comes by bill of sale and assignment from the former owner, who never sold the casing to Marks but simply made a rental

Mr. Carl B. Livingston

March 11, 1940

agreement. Consequently, it has never been necessary for us to bring a court proceeding to obtain title as we have had the title all of the time. It is true that we did bring a replevin suit, which is now pending in the district court of Colfax County, and in that suit a writ of replevin has been served by the deputy sheriff, under the terms of which writ we are given the right of immediate possession of the casing. This suit was brought against one Tom Bressler who, totally without authority, had adopted a "dog in the manger" attitude and refused to let anyone near the well. To my mind this replevin suit is a side issue and for that reason I have not set it out in the petition inasmuch as the petitioner's title does not in any sense come through or depend upon the replevin action. For your information, I may say that we have as yet no reason to think that the replevin suit will be contested.

I would like to inquire as to the usual practice at the hearing before the Commission in such cases as this. The facts as to the abandonment of the well and as to its being a dry well are widely known in this community and in all probability are judicially known to the Commission itself. Would it be satisfactory and in conformity with the Commission's usual practice to receive affidavits on this subject? We could, of course, bring to the hearing a witness or two who could testify to those facts, but that would naturally entail a considerable expense, which we would like to avoid if possible. I would very much appreciate your reactions and suggestions along this line.

If I interpret your letter correctly, the notice of intention to plug well, to be filed in triplicate upon Form C-102, should not be filed until after hearing before the Commission and the entry of an order giving permission to plug the well. Consequently, I am not filing that notice at this time. The regulations indicate that such a notice, when filed, should give a detailed statement of the proposed work, including length and depth of plugs, plans for mudding, cementing, shooting, testing, and removing casing, and the date of the proposed plugging operations. Naturally, we will want to do this work in whatever manner is satisfactory to the Commission, and we will engage an experienced and competent man to do the work. Under the circumstances, however, as you can readily see, it would be rather difficult for us to know in advance all the details as to what will be necessary. Would it be satisfactory for us, when we do file this notice, simply to state that the work will be done in whatever manner the Commission requires, and then leave the determination of the actual details on the ground to some representative of the Commission?

I am sorry to trouble you with so many details about this matter, but, having had no previous experience in this field, I know of no where else to turn. Your kindness in offering suggestions and

Mr. Carl B. Livingston

March 11, 1940

answering my inquiries will be very greatly appreciated.

With kindest regards,

Very truly yours,

A handwritten signature in cursive script, appearing to read "G. W. H. Kuback", written in dark ink.

GWR:d

enc.

February 29, 1940

Honorable Geo. W. Robertson  
 Attorney at Law  
 Sateen, New Mexico

Re: \$5,000.00 drilling bond with Winston Marks,  
 Principal, and National Surety Corporation,  
 Surety, for one well upon SP1NR, Sec. 5-251-24E.

My dear Mr. Robertson:

Reference is had to your conversation by long distance wherein you assert that the well noted in the caption is abandoned and that your client owns the casing.

The permit to drill this well was issued to the principal of the bond, who, with the surety, is responsible for final approved abandonment. No one, other than the permittee, can legally conduct any operations in connection with the well itself, unless acting as the permittee's authorized agent. Section 22 of the Oil Conservation Law provides for a fine and injunctive remedy. The mere ownership of equipment in a well does not in itself entitle such owner to disturb the well, unless the right so to do is attained through proper legal procedure before the Commission. Where the permittee does not voluntarily abandon, the procedure is outlined as follows:

Such outline, however, is prefaced with this statement: Your client, I surmise, is primarily interested in getting his equipment out of the hole, but from the Commission's standpoint a number of conservation measures must be observed, of which mention will be touched upon later.

A. The well should be tried before the Commission as to its status - whether it is in fact an abandoned well. If it is judicially established that such well is an abandoned well, then, of course, it must be plugged - which means the well must be abandoned in accordance with the regulations of the Commission. The owner of the casing in the hole, desiring to remove such casing, should set up in his petition before the Commission a statement of facts, making a case of abandonment.

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OIL CONSERVATION COMMISSION

Honorable Geo. W. Robertson

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B. In another division of the petition should be set up a statement of the ownership of the equipment, which should be supported by a certified copy of the pertinent portions of the court proceedings placing the title over into the petitioner. The Commission does not undertake to adjudicate title in property. That is for the tribunal having jurisdiction thereof. Therefore, it is necessary to have the transcript mentioned accompanying your petition, or else be in a position to introduce it in evidence at the hearing before the Commission.

C. The petitioner should also petition to plug the well in accordance with the administrative requirements of the Commission.

Thereafter, should you be successful in establishing proof of abandonment, should the Commission be satisfied that your client has unquestioned title to the casing, and should the Commission order that you may plug the well and remove the casing, such order would carry with it the following formalities:

1. A drilling bond with corporate surety, to be written in the sum of \$5,000.00 to issue approved abandonment. If your client is the same party and is the corporate surety on the permittee's bond, I do not believe another bond would be necessary.
2. File in triplicate upon Form C-102 Notice of Intention to Plug Well. When this notice is approved, it is your permit to plug.
3. The next step, after the plugging is accomplished, is to file in triplicate upon Form C-103 report on result of Plugging of Well. When that report is approved, the plugging bond is eligible for immediate release.

You are being sent under separate cover the following matters:

1. Circular 1 of the Commission containing general rules. Your particular attention is drawn to rules 28 and 29.
2. A set of Form C-102.
3. A set of Form C-103.
4. Bond Form 39-41. The bond is to be for \$5,000.00 with corporate surety.

**ILLEGIBLE**

Honorable Geo. W. Robertson -3-

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When the Commission has received your petition and has passed upon it from the standpoint of the petition having stated its case, the Commission issues an order directing service as required by the Conservation Act (which is usually by publication), and sets the time and place for hearing. At the trial, the petitioner has the burden, the testimony is reported, and the Commission issues its order pursuant to the proceedings and upon the testimony, either at the hearing or takes the matter under advisement.

It is rather difficult to outline a whole new system of procedure in the compass of a letter, and I trust this will be of some assistance to you from a procedural standpoint. I do not believe that you as a lawyer will find that your time will be spent unprofitably in this matter, for New Mexico has become one of the great oil states and conservation has become one of the outstanding phases of the oil industry not only in New Mexico but in practically all of the oil producing states today. A new branch of law is rapidly growing up around conservation. The New Mexico Commission sits in a dual capacity, as a board of executives and as a quasi judicial body, whose decisions are reviewable by the district court and thereby conforms to constitutional requirements. It is in the latter capacity that the Commission will be acting in the instant matter, should you present your petition.

Very truly yours,

OIL CONSERVATION COMMISSION

By \_\_\_\_\_  
Carl B. Livingston  
Attorney

CBLsk

February 28, 1940

Mr. York Denton  
Maxwell Lumber Company  
Maxwell, New Mexico

Re: \$5,000.00 drilling bond with Winston  
Marks, Principal, and National Surety  
Corp., Surety, for one well upon  
SW1/4 Sec. 5025N-24E.

Dear Mr. Denton:

Reference is had to your letter of February 27.  
Immediately upon receipt of your letter, a field  
man proceeded to the location to investigate.

Very truly yours,

OIL CONSERVATION COMMISSION

By Carl B. Livingston  
Attorney

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**MAXWELL LUMBER CO.****HARDWARE & COAL**LUMBER, LATH, SHINGLES, SASH, DOORS, MOULDING BRICK  
LIME, PLASTER, CEMENT, PAINTS AND OILS

MAXWELL, N. M. February 27th

State land Commissioner.,  
Santa Fe, N.M.

Gentlemen :-

I thought possibly you might be interested in knowing that the Gibson Machine and tool Co., of Borger, Texas trucks went through Maxwell this morning, going to pull the casing in the Winston marks well, section five Twp 25 range 24.

I dont know who her bondsman are to see that the well is plugged as they pull the casing.

Yours truly

RECEIVED  
STATE LAND OFFICE

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SANTA FE, N. M.