

NEW MEXICO OIL CONSERVATION COMMISSION

EXAMINER HEARING

SANTA FE, NEW MEXICOHearing Date JULY 25, 1991 Time: 8:15 A.M.

NAME	REPRESENTING	LOCATION
Bill Dalness	BLM	Santa Fe
Margaret Miller	Office of the Field Solicitor U.S. Dept. of the Interior	Santa Fe.
Peter W. Chester	BLM-RRR	Rosewell, N.M.
Armando Lopez	BLM	Rosewell, N.M.
Lenny G. Faust	OCD	Aztec
STEVE SALCMAN	BLM	SANTA FE
Stephen Mason	"	FRA
William B. Blackford	BLM	Farming Lov. N.M.
JERRY ELGER	NEARBURG	MIDLAND
Randy Watts	Nearburg	Roswell
Jack Ahlen	Stevens Operating Corp	Roswell
Chris Camden	BHP Petroleum (Americas)	Houston, TX
Melissa Torbet	BHP Petroleum	Houston, TX
Donald Reinhardt	✓	✓
Jon Bowden	BHP Petroleum	Houston TX
ROBERT KENT	BLM	ALBUQUERQUE
Kelley	Kelley Kelley Aubrey	Santa Fe

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NAME	REPRESENTING	LOCATION
James Bruce	Huckle Law Firm	Albuquerque
Mark S. Parker	Owens Petroleum Inc.	Midland
KENNETH R. OWENS	OWENS PETROLEUM, INC.	MIDLAND
Bonnie Wilson	DRYX ENERGY	CKC
Cliff Murray	"	"
W. Perry Pearce	Montgomery, Andrews, PA	Santa Fe
Charles A. Gray	Dryx Energy Co.	Dallas, TX.
Merle Merchant	Warriner - Peuroe	Abbs
Richard Tully	Richard T.C. Tully, P.A.	Farmington
PED Walsh	Walsh Engineering - Locke-Taylor	Farmington
Mike Cunningham	Tully PA	Farmington

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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. 10334
APPLICATION OF UNITED STATES)
DEPARTMENT OF THE INTERIOR,)
BUREAU OF LAND MANAGEMENT)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

JULY 25, 1991

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Division on JULY 25, 1991, at 8:20 a.m. at the Oil Conservation Division Conference Room, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Freda Donica, RPR, Certified Court Reporter No. 417, for the State of New Mexico.

FOR: OIL CONSERVATION DIVISION BY: FREDA DONICA, RPR
Certified Court Reporter
CCR No. 417

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I N D E X

JULY 25, 1991
Examiner Hearing
CASE NO. 10334

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APPEARANCES

UNITED STATES DEPARTMENT OF THE INTERIOR WITNESSES:

Peter W. Chester
Direct Examination by Ms. Miller 4
Examination by Mr. Stovall 9, 14

REPORTER'S CERTIFICATE 20

* * *

E X H I B I T S

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A P P E A R A N C E S

FOR THE DIVISION: ROBERT G. STOVALL, ESQ.
General Counsel
Oil Conservation Commission
State Land Office Building
310 Old Santa Fe Trail
Santa Fe, New Mexico 87501

FOR THE APPLICANT: MARGARET C. MILLER, ESQUIRE
Attorney-Adviser
Office of the Field Solicitor
U.S. Department of the Interior
P.O. Box 1042
Santa Fe, New Mexico 87504-1042

1 HEARING EXAMINER: Call this hearing to order. I'm
2 Michael E. Stogner, hearing officer for today's cases for
3 Docket Number 21-91. Today's date, please note, July 25,
4 1991. At this time I'll call Case Number 10334.

5 MR. STOVALL: Application of the United States
6 Department of Interior, Bureau of Land Management, to plug
7 and abandon a certain well in Chaves County, New Mexico.

8 HEARING EXAMINER: Call for appearances.

9 MS. MILLER: Margaret Miller appearing for U.S.
10 Department of Interior. I'm with the office of the field
11 solicitor in Santa Fe, New Mexico.

12 HEARING EXAMINER: Are there any other appearances in
13 this matter?

14 MR. STOVALL: How many witnesses do you have?

15 MS. MILLER: I have two witnesses, Pete Chester and
16 Steve Mason, both with the Bureau of Land Management

17 (Witnesses sworn.)

18 HEARING EXAMINER: Ms. Miller.

19 MS. MILLER: Will it be all right for me to sit?

20 HEARING EXAMINER: Absolutely.

21 MR. STOVALL: We're very informal here.

22 PETER W. CHESTER

23 the witness herein, having been first duly sworn, was
24 examined and testified as follows:

25 DIRECT EXAMINATION

1 BY MS. MILLER:

2 Q. Please state your full name for the record.

3 A. Peter W. Chester.

4 Q. And where do you work?

5 A. I work for the Bureau of Land Management in
6 Roswell, New Mexico.

7 Q. And what is your job title?

8 A. Petroleum engineer.

9 Q. Why have you come here today?

10 A. I'm here to request that the Number One Keys
11 Federal Well be plugged by the NMOCD.

12 Q. Is this the well file for that well?

13 A. Yes, ma'am, it is.

14 Q. And have you an extra copy that I can hand to the
15 hearing examiner?

16 A. I'll give him mine when I get finished with it.

17 MR. STOVALL: We need one copy to look at during the
18 course of the questioning.

19 (Off the record discussion.)

20 HEARING EXAMINER: Let's go back on the record, Ms.
21 Miller.

22 Q. (By Ms. Miller) I've just handed you a set of
23 documents which you have identified as the well file, and I
24 will identify this as Exhibit A. Where is the well located?

25 A. Okay. It's located in Chaves County in Section

1 33, Township 6 South, Range 26 East. It's a New Mexico
2 Prime Meridian. It's 993 from the north line and 333 from
3 the west line of the section.

4 Q. Is this an active well?

5 A. No, ma'am. It's been shut in.

6 Q. And when was it shut in?

7 A. Okay. It was shut in after it was drilled, which
8 drilling ceased in September of 1964.

9 Q. And it has never been reactivated or reentered?

10 A. No, ma'am.

11 Q. Was it drilled on a federal lease?

12 A. Yes, ma'am.

13 Q. And what was the serial number for that lease?

14 A. NM 022685-A.

15 Q. And is that lease still current?

16 A. No, that expired -- you want a date?

17 Q. Yes, please.

18 A. In November of 1966.

19 Q. And has the federal property since been released?

20 A. Yes, they were released to Yates Petroleum.

21 MR. STOVALL: Who did you say? What was the name you
22 said?

23 THE WITNESS: Yates Petroleum Company.

24 MR. STOVALL: Okay.

25 A. You need the current lease number?

1 Q. (By Ms. Miller) That would be fine.

2 A. The current lease number is NM 25473.

3 Q. And does the BLM hold the lessees of the current
4 lease responsible for activities conducted under the prior
5 lease?

6 A. No.

7 Q. With regard to the earlier federal lease, what is
8 the name of the last known operator of record?

9 A. It's Dr. Sam G. Dunn, was the approved operator
10 of the well.

11 Q. And who was the lessee under the federal lease?

12 A. That was also Dr. Sam G. Dunn.

13 Q. Does the well file indicate that there have been
14 any other operators under that lease?

15 A. Well, the well file shows an A. D. Raby and a
16 J. T. Raby have sent in a couple of reports, but there was
17 -- they were never actually approved as operator. And they
18 also -- there's nothing shown they were ever bonded or
19 anything like that, so...

20 Q. Is it your testimony then that only Dr. Dunn was
21 the operator or lessee of record?

22 A. Yes, ma'am.

23 Q. Have you attempted to notify Dr. Dunn?

24 A. Dr. Dunn died in -- I am pretty sure it was in
25 the sixties. I don't know the exact date of his death, but

1 it was back some time.

2 Q. What is the status of the bond that covers this
3 well?

4 A. That bond was terminated.

5 Q. Do you know when it was terminated?

6 A. I don't know the date. I was just told that was
7 terminated.

8 Q. Have you notified all persons that may be
9 affected by the plugging of this well and obtained
10 indemnification from them?

11 A. Yes, ma'am. Yates Petroleum would be the only
12 person that we know of that would be interested in it. And
13 we have a letter stating that they're not interested in the
14 well and have no objection.

15 Q. Is that the letter that you have in your hand
16 now?

17 A. Yes.

18 MS. MILLER: I would like to introduce this as Exhibit
19 B.

20 Q. (By Ms. Miller) In brief summary, what does the
21 letter do, and what does the letter say, and what is the
22 purpose of the letter?

23 A. Well, we requested from Yates that if they had
24 any objections to us having this well plugged. And in it
25 they stated they didn't, and it releases the Bureau of Land

1 Management insofar as the plugging and abandoning of the
2 well bore from any obligations.

3 Q. In summary, have you been able to find any
4 responsible parties for the well at issue?

5 A. No, I haven't.

6 MS. MILLER: No further questions.

7 MR. STOVALL: I think we now have the opportunity at
8 this time to look at the crossover between OCD and BLM
9 recordkeeping activity on wells. Let me ask you a question,
10 if you do know. And if you don't know, please say so.

11 EXAMINATION

12 BY MR. STOVALL:

13 Q. But as far as the regulations in effect at the
14 time this lease was issued, who all potentially could have
15 been responsible for plugging and operations on the --

16 A. I wasn't working for the federal government in
17 the seventies. I started in June of '80, but from what I
18 have been told, the lessee was the bonded party. At that
19 time operators were not bonded, and they were the final
20 responsible party.

21 Q. And you're saying Dr. Dunn was both the lessee
22 and the operator, so it's kind of immaterial?

23 A. Yes.

24 Q. Do you have any idea where Dr. Dunn might be
25 today?

1 A. He died. He's dead now.

2 Q. Are you familiar at all with the Oil Conservation
3 Division reporting activity in terms of operatorships on
4 wells, specifically Form C-104?

5 A. Is that the change of operator?

6 Q. The authorization to transport natural gas and
7 also used for change-of-operator form.

8 A. Yeah, yeah. I'm not real familiar with it, but I
9 know of it, and I know that's what it's used for.

10 Q. Let me check and make sure we're -- I'm going to
11 go ahead and mark this for convenience of identification.
12 I'll send it down to you. We only have one copy of this
13 one. We'll call it Exhibit C. It's the C-104 form which
14 for the purpose that we're concerned with is used for
15 designating a change of operator, and I will show you on
16 that form it shows a Paul Slaton as the operator in the top
17 line. Are you familiar with Mr. Slaton, or have you ever
18 heard anything about that?

19 A. Yes, I know Mr. Slaton. He's an operator in
20 Roswell, New Mexico.

21 Q. Is he still around?

22 A. Yes.

23 Q. I believe that form shows that that was filed in
24 1971. Have you ever had anything in the BLM records that
25 would indicate that Mr. Slaton had any involvement in the

1 well?

2 A. Not in our records, no. The lease, of course,
3 was -- what lease is that?

4 Q. I think it refers to the same well. So we don't
5 worry about the lease number, I will tell you that.

6 A. I have no knowledge of that at all. Many times
7 people file things with the NMOCD and we know nothing about
8 it.

9 Q. I think we all know that we get copies of things
10 filed with you, but you probably do not get copies of
11 reports and forms filed with us. So, obviously, my purpose
12 here is to say, who could we hold responsible for the
13 plugging fund for this? You said the lease actually expired
14 in '66, however; is that correct?

15 A. Yes, sir.

16 Q. Then, again, we have another C-104 in the file,
17 and I will hand it to you. These are from our records.
18 Obviously, you can't verify as to the authenticity of
19 these. We'll mark it Exhibit D, approved April 30th, 1974,
20 naming A. D. Raby or James T. Raby as operator of this
21 well. And what's interesting is it shows the previous
22 operator as H-something-Prince from Roswell, New Mexico.

23 A. H. E. Prince. He's operated many wells up there,
24 and he's passed away also.

25 Q. What about the Rabys? Do you have any idea where

1 they are?

2 MS. MILLER: He did testify about Raby.

3 MR. STOVALL: I'm sorry.

4 Q. (By Mr. Stovall) State that again, if you
5 wouldn't mind.

6 A. About Raby?

7 Q. Raby.

8 A. Yeah. We have in our well records is a couple of
9 indications that they sent some reports in. I have nothing
10 that shows they were ever approved as operator, and there's
11 no bonding that I know of.

12 Q. Do you know the Rabys? Are they still around?

13 A. This is -- I have no direct knowledge. I was
14 told that they did operate an automobile company sales in
15 Roswell and have since -- that's closed, and they've moved
16 on, from what I've been told.

17 Q. Well, more in terms of comment than anything,
18 it's interesting that we are having a change of operator
19 filed with the OCD for a well on which the lease is
20 expired. I would suggest that perhaps we're going to need
21 to coordinate even more than we already do.

22 A. They might have had the idea to use this as a
23 water injection well, which the NMOCD has primacy.

24 Q. What would be the relation -- how would they be
25 able to use that? Would not the BLM have to give them basic

1 permission to use the well and lease for that purpose
2 initially?

3 A. For water injection? That would depend,
4 actually, on the surface ownership on water injection
5 because water injection is controlled by the surface
6 ownership, not the mineral ownership.

7 Q. Is that true even if it is injecting water from
8 an existing federal lease?

9 A. If it was used for only lease purposes, in that
10 case it would be.

11 Q. As far as you can tell, there's nobody out there
12 that's responsible for the --

13 A. Not that I know of.

14 Q. And the well doesn't seem to have any commercial
15 value of any sort?

16 A. The reports here stated it was just water
17 production. There was no oil.

18 MR. STOVALL: I guess I have no further questions.

19 HEARING EXAMINER: Mr. Chester, in looking at the -- on
20 your Exhibit A, I believe the third page back, that is the
21 OCD Form C-103, and that seems to be the last report on your
22 record as well as mine on this well. And it talked about
23 that the well had been reported leaking.

24 THE WITNESS: Yes.

25 HEARING EXAMINER: Have you inspected this well?

1 THE WITNESS: I was out there one time when this was
2 first proposed. They wanted to get it plugged and -- just
3 to look at the lay of the land and the road going into it
4 and the well head itself. And at that point it's not
5 leaking. You can see where there's been some salt buildup
6 around some of the fittings, but there's no actual water
7 leaking out of it.

8 HEARING EXAMINER: What equipment is on the well at
9 this time?

10 THE WITNESS: Just the well head.

11 HEARING EXAMINER: No other -- a pump jack, anything
12 like that?

13 THE WITNESS: No, there's no pump jack.

14 HEARING EXAMINER: Any other questions?

15 MR. STOVALL: One other line of questioning.

16 EXAMINATION

17 BY MR. STOVALL:

18 Q. Assuming that we do issue an order authorizing
19 the plugging of this well and the use of the New Mexico
20 State Reclamation Fund -- I know we've had some discussions
21 off the record with various BLM staff -- do you have an
22 opinion -- or what's your understanding as to how a plugging
23 procedure would be developed and whose requirements would
24 have to be satisfied as far as plugging procedure, to the
25 extent that they're differences between agencies? There may

1 not be any differences.

2 A. I don't myself have an opinion. You know, we
3 probably have the same procedures as far as the downhole.
4 Our district manager said that we would take care of the
5 surface part of it, as far as cleanup or -- and building a
6 road into the site. I imagine NMOCD procedures would be all
7 right for the downhole because we usually work on the same
8 procedures, you know, as far as protection of the surface of
9 fresh water zones. I don't have any authority myself to say
10 whether we have -- we need to have the downhole procedures
11 approved.

12 Q. Who actually would have that authority to -- let
13 me state for the record that in our conversations I think
14 there's an understanding between OCD and BLM that basically
15 because OCD was using State of New Mexico money, that
16 ultimate responsibility for decisions on plugging would be
17 OCD's. But that, of course, would be worked out in probably
18 a cooperative development of a plugging procedure between
19 BLM and OCD. Is that your understanding, that we would
20 probably cooperate?

21 A. It would more likely be a cooperative agreement.
22 I've worked myself directly with the Artesia and Hobbs
23 office, and usually we have no troubles at all. If it came
24 to be a discrepancy, I imagine it would be solved at the
25 state level. Our state director would determine whether it

1 was -- which party would -- you know, whether we would go
2 with the NMOCD or contest that.

3 MR. STOVALL: Again, I'm not assuming any problems. I
4 have this discussion on the record so we've got something to
5 reference.

6 Ms. Miller, do you have any off-the-cuff legal
7 opinion as to any jurisdictional regulatory applicability
8 should there be disagreement? Where I'm coming from, I
9 believe the BLM has got more detailed plugging requirements
10 in a regulatory structure than the OCD does.

11 MS. MILLER: I guess my first concern would be, of
12 course, that we'd be plugging on federal property, so we'd
13 have the federal property interest to protect. If, by any
14 chance, the federal standards were more stringent, perhaps
15 we'd require those to be utilized. I really don't know.
16 Ultimately, it would probably be a managerial decision made
17 at Larry Woodard's level. I'm not sure that necessarily
18 they require it to all balance on a legal opinion having to
19 do with jurisdiction. I think that they probably look at it
20 from more of a pragmatic point of view, what's the most
21 practical way to go about it.

22 MR. STOVALL: The purpose of this discussion, for the
23 record, what we're concerned with, both -- the primary
24 concern is the protection of fresh water supplies,
25 prevention of fluids from migrating within the well bore and

1 cross migration and various downhole-caused problems,
2 environmental problems, that could occur.

3 From the State's standpoint, I would say that we
4 would want to plug to insure that those problems were
5 prevented, and, in fact, the well was adequately plugged, as
6 we do with any well under our jurisdiction. But because we
7 are dealing with state monies, we obviously want to do so in
8 the most economical, cost-effective manner possible. The
9 only place where I could see a difference coming up is if
10 there was BLM regulatory requirements which OCD felt imposed
11 some additional costs which were unnecessary. And, again,
12 I'm not assuming that's the case. I'm rather trying to
13 address it ahead of time.

14 Q. (By Mr. Stovall) And what I'm hearing you say is
15 should that come up, that you believe that that would have
16 to be a state-level BLM decision making --

17 A. I wouldn't have the authority myself.

18 MS. MILLER: And maybe what we should do is check for
19 you on that and get back to you.

20 MR. STOVALL: I think this is something we'll have to
21 discuss in the course of developing the plugging program.

22 THE WITNESS: This particular well might actually go
23 down to the district level, if it's just this well we're
24 talking about.

25 MR. STOVALL: Well, I think we're setting precedent for

1 OCD, BLM. This is the first of many wells that BLM is going
2 to ask OCD to plug. I think we want to do it right from the
3 beginning, learn early and avoid problems from the
4 beginning.

5 Q. (By Mr. Stovall) Your understanding is that BLM
6 would assume responsibility for any surface reclamation
7 beyond removal of contaminated soil or -- I'm talking about
8 reseeding, things that might be required --

9 A. In the case of this well, that was stated by our
10 district manager that -- I don't know if that's something
11 that was for all cases.

12 MR. STOVALL: I have nothing further at this time.

13 HEARING EXAMINER: Ms. Miller, I'll see that you get a
14 copy of the Exhibit C and D since it appears that you don't
15 have it on your record.

16 MR. STOVALL: I'll move the admission of Exhibits C and
17 D as being official records of the Oil Conservation
18 Division.

19 HEARING EXAMINER: Do you wish to move your Exhibits A
20 and B at this time, Ms. Miller?

21 MS. MILLER: Yes, sir.

22 HEARING EXAMINER: Exhibits A through D will be
23 admitted into evidence at this time.

24 MR. STOVALL: Ms. Miller, could we get an affidavit of
25 service on any parties that you feel are entitled to notice

1 of this hearing?

2 MS. MILLER: Very good, I'll do that.

3 HEARING EXAMINER: At this time I don't have any other
4 questions. Are there any other questions of this witness?

5 You may be excused.

6 Does anybody else have anything further in case
7 10334?

8 At this time I'll take this case under
9 advisement; however, the division will retain jurisdiction
10 to recall this case and any part thereof at any time.

11 (The foregoing hearing was adjourned at the
12 approximate hour of 8:35 a.m.)

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1 STATE OF NEW MEXICO)
2 :
3 COUNTY OF SANTA FE)

4 I, FREDA DONICA, RPR, a Certified Court Reporter, DO
5 HEREBY CERTIFY that I stenographically reported these
6 proceedings before the Oil Conservation Division; and that
7 the foregoing is a true, complete and accurate transcript of
8 the proceedings of said hearing as appears from my
9 stenographic notes so taken and transcribed under my
10 personal supervision.

11 I FURTHER CERTIFY that I am not related to nor employed
12 by any of the parties hereto, and have no interest in the
13 outcome hereof.

14 DATED at Santa Fe, New Mexico, this 16th day of
15 September, 1991.

16 *Freda Donica*
17 Freda Donica
18 Certified Court Reporter
19 CCR No. 417

20 I do hereby certify that the foregoing is
21 a complete record of the proceedings in
22 the Examiner hearing of Case No. 10334
23 heard by me on July 25 1991.
24 *[Signature]*, Examiner
25 Oil Conservation Division