

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:)
APPLICATION OF NEW MEXICO OIL)
CONSERVATION DIVISION FOR A COMPLIANCE)
ORDER AGAINST ECLIPSE OIL AND GAS, INC.)

CASE NO. 13,456

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: WILLIAM V. JONES, JR., Hearing Examiner

April 7th, 2005

Santa Fe, New Mexico

2005 APR 21 AM 10 11

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, April 7th, 2005, 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 7th, 2005
Examiner Hearing
CASE NO. 13,456

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APPLICANT'S WITNESS:	
<u>BILLY PRICHARD</u> (Compliance and Enforcement Officer, Hobbs District Office, District 1, NMOCD) (Present by telephone)	
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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
 Deputy General Counsel
 Energy, Minerals and Natural Resources Department
 1220 South St. Francis Drive
 Santa Fe, New Mexico 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 10:40 a.m.:

3 EXAMINER JONES: Okay, let's go back on the
4 record and call Case 13,456, Application of New Mexico Oil
5 Conservation Division for a compliance order against
6 Eclipse Oil and Gas, Incorporated.

7 Call for appearances.

8 MS. MacQUESTEN: Gail MacQuesten, Energy,
9 Minerals and Natural Resources Department, appearing for
10 the Oil Conservation Division.

11 I have one witness, Mr. Billy Prichard, who will
12 be appearing by telephone.

13 EXAMINER JONES: Okay, there being no other
14 appearances, Mr. Prichard, will you please prepare to be
15 sworn.

16 (Thereupon, the witness was sworn.)

17 MS. MacQUESTEN: Mr. Examiner, I'd like to
18 briefly explain what we're asking for in this case. The
19 case involves 10 wells. All are in violation of Rule 201
20 because they've been inactive for a period in excess of one
21 year plus 90 days and haven't been properly plugged and
22 abandoned or placed on temporary abandonment status.

23 One of the 10 wells has not been plugged at all.
24 The other nine wells have had their wellbores plugged, but
25 although the plugging took place more than a year ago, the

1 sites have not been cleaned as required under the plugging
2 rule, Rule 202.

3 We are seeking an order under Rule 101.M setting
4 a deadline for the operator to properly plug the wells and,
5 if the operator fails to meet that deadline, authorizing
6 the Division to plug the wells and forfeit the applicable
7 financial assurance.

8 You should have an exhibit packet in front of
9 you.

10 Exhibit Number 1 is our certificate of notice.
11 We gave notice to the surety in this case, and we sent
12 notice to every address we had for Eclipse. We did receive
13 returns on one of the addresses for Eclipse, and we
14 received returns on two addresses that were for agents of
15 Eclipse.

16 Because we weren't sure we were going to be able
17 to reach Eclipse, we also published notice in the *Lovington*
18 *Daily Leader*, and the affidavit of publication is attached
19 to Exhibit 1.

20 Exhibit Number 2 is an affidavit from Jane Prouty
21 verifying that all of the wells listed in the Application
22 have, in fact, been inactive for a period in excess of one
23 year plus 90 days.

24 Exhibit Number 3 is an affidavit from Dorothy
25 Phillips. It shows the \$50,000 blanket plugging bond

1 through Underwriters Indemnity Company.

2 Attachment C to Ms. Phillips' affidavit is a memo
3 explaining that Underwriters has been acquired by RLI
4 Insurance. That is why the notice went out the way it did
5 to Mr. Roy C. Die, Vice President of the Underwriters
6 Indemnity Division of RLI Insurance company.

7 Attachment B to Ms. Phillips' affidavit is a
8 letter requesting release of the bond. Eclipse is no
9 longer operating in New Mexico, but Ms. Phillips did not
10 release the bond because the wells were not all properly
11 plugged.

12 And with that, I would call Mr. Prichard.

13 BILLY PRICHARD (Present by telephone),
14 the witness herein, after having been first duly sworn upon
15 his oath, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MacQUESTEN:

18 Q. Mr. Prichard, can you hear me all right?

19 A. Yes, ma'am, I sure can.

20 Q. Okay, would you please state your full name for
21 the record?

22 A. Billy Prichard.

23 Q. And where do you work?

24 A. I work for the New Mexico Oil Conservation
25 Division, District 1.

1 Q. And where is that located?

2 A. In Hobbs, New Mexico.

3 Q. What is your title?

4 A. Compliance and enforcement officer.

5 Q. Are you familiar with the 10 wells that are
6 identified in the Application in this case?

7 A. Yes, ma'am, I am.

8 Q. Are those wells located in your district?

9 A. Yes, ma'am, they are.

10 Q. Do you have the packet of exhibits that I sent to
11 you?

12 A. Yes, I do.

13 Q. Could you please turn to what has been marked as
14 Exhibit Number 4 --

15 A. Yes, ma'am.

16 Q. -- and can you tell us what this is?

17 A. This is a well selection criteria list of wells
18 that are operated under Eclipse Oil and Gas, Inc. --

19 Q. Okay.

20 A. -- pulled from the RBDMS computer system.

21 Q. What is RBDMS?

22 A. It's risk-based data management system, and it
23 tracks well APIs and inspections and a lot of the different
24 data stored in RBDMS.

25 Q. Okay. Now, when I look at this list and count

1 them up, I see a total of 12 wells, but it looks like one
2 of them, the State D SWD, is listed twice; is that right?

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

4 Q. So Eclipse is actually the operator of 11 wells
5 in New Mexico?

6 A. Yes, ma'am.

7 Q. Okay, and of those 11 wells there are 10 that are
8 listed in the Application?

9 A. Yes, ma'am.

10 Q. But one of them isn't, the State G Number 001.
11 Why is that?

12 A. Well, the State G Number 1, there was a big mixup
13 in API numbers, and actually the State G Number 1 should
14 never have been transferred to Eclipse Oil and Gas. It was
15 plugged and abandoned by Tamarack.

16 Q. Okay, so it's not at issue today?

17 A. It is not at issue, it is properly plugged and
18 abandoned.

19 Q. Okay. And Mr. Prichard, I'm not sure that your
20 packet of exhibits has the State G Number 1 highlighted,
21 but I think the other exhibit packets do have that one
22 highlighted so people can tell which one is excluded from
23 our list.

24 But it looks like every other well operated by
25 Eclipse is in violation; is that right?

1 A. Well, looking at this list, it doesn't show it.
2 In my mind, the inspections in Exhibit Number 5 shows it a
3 lot clearer.

4 Q. Okay. Before we get to Exhibit Number 5, you
5 bring up a good point, because the column marked "Status"
6 on Exhibit Number 4 indicates that all of the wells that
7 we're interested in are plugged except for one.

8 A. Yes, ma'am, sure does.

9 Q. And which is the unplugged well?

10 A. It is the State D SWD.

11 Q. Okay, and all of the rest are listed as plugged,
12 but it's still part of this plugging Application. Why is
13 that?

14 A. These wells have never been cleaned up. Tenneco
15 Sunshine State has a tank battery and associated junk with
16 it. All of the Saunders State wells, the Lion State and
17 the Lion A State wells all have miscellaneous junk and
18 stuff scattered around. The wells are properly plugged and
19 abandoned, they just have not been cleaned up.

20 Q. Okay, so not all the requirements of the plugging
21 rule have been met, although the wellbores have been
22 plugged?

23 A. Yes, ma'am, that's correct.

24 Q. And for RBDMS purposes, are they listed as
25 plugged if the wellbore is plugged?

1 A. Yes, ma'am, they are.

2 Q. Okay.

3 A. And actually, in our inactive well data stuff,
4 they're actually shown as plugged, not released.

5 Q. Okay. Let's turn to Exhibit Number 5, then, and
6 can you tell us what this is?

7 A. Yes, ma'am, I believe this is something I put
8 together on these 11 wells, describing what needed to be
9 done on them.

10 Q. Okay, and where did you get the information about
11 what needed to be done?

12 A. Many miles of New Mexico roads. I drove and
13 inspected every well.

14 Q. Okay. Now, again, one of these wells, this State
15 G Number 1, is listed as okay. Is that the one well that's
16 not in the Application?

17 A. Yes, ma'am, that's right.

18 Q. Okay. And in the column marked "Description of
19 Cleanup" you have -- are those your notes as to what still
20 needs to be done for each well?

21 A. Yes, ma'am, that's right.

22 Q. And you say this was based on inspections that
23 you performed?

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

25 Q. Is Exhibit Number 6 a collection of all the

1 inspection reports from RBDMS that you did on these wells?

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

3 Q. And these are in the same order as the list of
4 wells in your summary; is that right? We hope, anyway?

5 A. Yes, ma'am, I think it is.

6 Q. Okay. If you look at the first page of Exhibit
7 Number 6, this is the description of State D SWD. That's
8 that one well that has not been plugged at all?

9 A. Yes, ma'am, that's right.

10 Q. And it shows efforts to obtain compliance going
11 back for several years?

12 A. Yes, ma'am. I feel like the original plugging
13 that Eclipse did was approved by pressure.

14 Q. Okay. Now, the other pages are for wells that
15 have had the wellbore plugged, but the site just hasn't
16 been cleaned up yet?

17 A. Yes, ma'am.

18 Q. Let's look at some of the information from the
19 well files on these wells. First, let me ask you, do the
20 documents in the well file verify that Eclipse is the
21 operator for these wells?

22 A. Yes, ma'am, they do.

23 Q. Okay, if you would look at what's been marked as
24 Exhibit Number 7, is this a packet of change-of-operator
25 forms for all 10 wells at issue?

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

2 Q. And do they show Eclipse taking over from Caprock
3 Exploration, Inc.?

4 A. Yes, ma'am, they do.

5 Q. And all of these date from either 1998 or 1999?

6 A. Yes, ma'am, they do.

7 Q. Now, for the nine wells that RBDMS lists as
8 plugged, do the well files contain subsequent reports of
9 plugging and abandonment?

10 A. Yes, ma'am, some of them do and some of them
11 don't.

12 Q. Okay. Let's look at what's been marked as
13 Exhibit Number 8. Are these the subsequent reports that we
14 found for six of the wells?

15 A. Yes, ma'am, they are. They were filed by Roger
16 Massey. He's the one that plugged those wells.

17 Q. Okay. Now, when I look at these, I see the first
18 five have a stamp on them that says "Approved as to
19 plugging of the Well Bore. Liability under bond is
20 retained until surface restoration is completed." What
21 does that mean?

22 A. When we switched to the electronic releasing of
23 wells versus the actual signature on the subsequent report
24 of the C-103, of the plugging, this was starting -- they
25 put this on when the subsequent report of the plugging was

1 sent in, they stamped that on the C-103 until the cleanup
2 was made and a final inspection was made so that we could
3 return the form to the operator and actually approve the
4 plugging of the wellbore but not the release of the bonds,
5 due to the fact that -- well, at that time that we were
6 unsure of the status of the cleanup.

7 Q. Okay. So we have that stamp for the four
8 Saunders state wells and the Tenneco Sunshine Number 3.
9 But when I look at the very last one in this packet for the
10 Tenneco Sunshine Number 1, I don't see that stamp anywhere.
11 In fact, it's signed "approved".

12 A. Yes, ma'am, and that would have been done due to
13 the fact that there was three wells in this lease, and that
14 well was released due to the other two wells -- actually,
15 you know, the bond on the wells would not be released on
16 those two wells until the cleanup was done. So I mean,
17 it's a one-well release, because one particular well was,
18 you know, plugged.

19 Q. Okay, but it indicates that we were going to hold
20 on -- or your understanding is, we would hold onto the bond
21 until all of those wells were completely cleaned?

22 A. Yes, ma'am, that's right.

23 Q. Okay. All right, that accounts for six of the
24 nine wells that have plugged wellbores. For the remaining
25 three wells we don't have subsequent reports of plug and

1 abandonment?

2 A. Yes, ma'am, that's right.

3 Q. Okay. Do we have the notice of intention to plug
4 and abandon for those wells?

5 A. Yes, ma'am, we do.

6 Q. Okay, are those in what's been marked as OCD
7 Exhibit Number 9?

8 A. Yes, ma'am.

9 Q. Okay, and those are for the Tenneco Sunshine 2,
10 the Lion State 1 and the Lion A State 2?

11 A. Yes, ma'am.

12 Q. Now, if we don't have subsequent reports of
13 plugging and abandonment for these three wells, are you
14 confident that the wellbores have been plugged correctly?

15 A. Yes, ma'am, I feel certain that they were.

16 Q. Okay.

17 A. I'm sure they were witnessed, and although, you
18 know, some of those records are left out due to the change
19 to the RBDMS, I'm sure the wells were witnessed by the OCD.

20 Q. Okay, so your main concern, then, is that the
21 well sites be cleaned up in accordance with the rules?

22 A. Yes ma'am, I am.

23 Q. All right. Now, under those rules the operators
24 have a year to clean up the site after plugging the
25 wellbore?

1 A. Yes, ma'am.

2 Q. Were all nine of the wells with plugged wellbores
3 plugged more than a year ago?

4 A. Yes, ma'am, they were.

5 Q. Okay. So do you have a plugging procedure for
6 the one well that hasn't had its wellbore plugged, the
7 State D SWD Number 1?

8 A. Yes, ma'am, I do.

9 Q. Okay, is that Exhibit Number 10?

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

11 MS. MacQUESTEN: All right. Mr. Examiner, I
12 would move to admit Exhibits 1 through 10.

13 EXAMINER JONES: Exhibits 1 through 10 will be
14 admitted to evidence.

15 MS. MacQUESTEN: That concludes our case.

16 EXAMINATION

17 BY EXAMINER JONES:

18 Q. Mr. Prichard, on this Exhibit 5 where you made up
19 this exhibit with things to be done to these wells --

20 A. Yes, ma'am -- Yes, sir.

21 Q. -- which three wells are there on that form that
22 have not -- you have not received a post-plugging sundry
23 on?

24 A. No, I'd have to go back through Gail's list and
25 underline those wells.

1 MS. MacQUESTEN: I can help you out on that. It
2 would be the Tenneco Sunshine Number 2, the Lion State 1,
3 and the Lion A State 2.

4 EXAMINER JONES: Lion A State 1 or 2?

5 MS. MacQUESTEN: It should be Number 1.

6 EXAMINER JONES: Lion A State 1?

7 MS. MacQUESTEN: Yeah. Let me double-check with
8 Exhibit Number 9, because those are the ones that we don't
9 have a --

10 Q. (By Examiner Jones) Billy, are they going to
11 turn in sundries, plugging sundries, on those?

12 A. Is this Will I'm talking to?

13 Q. Yeah, I'm sorry, I'm sorry.

14 A. I don't feel like they will.

15 Q. Why not?

16 A. We've gone this far with them, Will, I don't
17 think they're going to submit a subsequent report. Most of
18 those -- the Lion State wells -- now the Tenneco well, I
19 didn't witness this, but on the Lion State wells I was in
20 contact with them during the plugging of those wells. You
21 know, I mean I know that they're properly plugged and
22 abandoned, they just never filed any paperwork.

23 Q. So the Lion State -- you were in contact with
24 them the day they were plugging them?

25 A. Yes, during the plugging.

1 Q. But you didn't witness the plugging of them?

2 A. Yes, I did, in some instances I witnessed the
3 plugging of -- I was actually on location during the
4 plugging, but I was in contact with them on a daily basis
5 while the plugging was going on.

6 Q. Okay. But the Tenneco Sunshine Number 2 is a
7 different story?

8 A. Yes, sir, that's right. It was plugged back
9 before my time.

10 Q. And you just got their word for it that it was
11 plugged?

12 A. Well, there's a P-and-A marker on it with all the
13 proper identification on it. I'm assuming that the well is
14 plugged.

15 Q. How long ago would that have been?

16 A. I don't know for sure. Now, we have paper
17 records going back. We could probably find field trips
18 showing that the wells were properly plugged and abandoned,
19 but there's stacks and stacks of those old field trips,
20 so...

21 Q. Okay.

22 A. You know, it's...

23 Q. No, I just -- the reason I'm asking is, I want to
24 make sure that we have something in writing. But you're
25 testifying today that you think they are plugged, that you

1 believe they're --

2 A. There is a P-and-A marker on all of these
3 wells --

4 Q. Okay.

5 A. -- with all of the proper OCD stuff on it, you
6 know. And my assumption is -- and I'm assuming -- that the
7 wells were plugged off the C-103, you know, on the notice
8 of intent, and that there was OCD people there witnessing
9 it. But all that was done back when all that was kept was
10 paper records.

11 EXAMINER JONES: Okay, that's enough about that.
12 I just wanted to talk about it a minute.

13 And I don't think I have any more questions.

14 Thank you very much, Mr. Prichard, Billy, and
15 thanks Gail, and we'll take Case 13,456 under advisement.

16 MS. MacQUESTEN: Thanks Billy.

17 THE WITNESS: Yes, ma'am, thank you.

18 (Thereupon, these proceedings were concluded at
19 10:56 a.m.)

20 * * *

21 I do hereby certify that the foregoing is
22 a complete record of the proceedings in
the Examiner hearing of Case No. _____
heard by me on _____

23 _____, Examiner
24 Oil Conservation Division
25

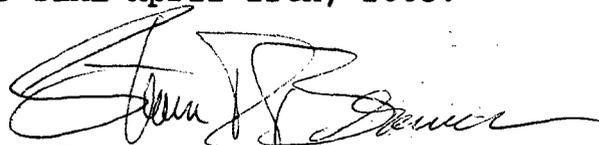
CERTIFICATE OF REPORTER

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 April 12th, 2005.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006