

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. 13,026  
)  
APPLICATION OF THE NEW MEXICO OIL )  
CONSERVATION DIVISION THROUGH THE )  
ENVIRONMENTAL BUREAU CHIEF TO REVOKE )  
THE PERMIT OF AM-BETT OIL COMPANY, INC., )  
TO OPERATE AN OIL TREATMENT PLANT, )  
LEA COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

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

June 19th, 2003

Santa Fe, New Mexico

RECEIVED

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Oil Conservation Division

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, JR., Hearing Examiner, on Thursday, June 19th, 2003, 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

June 19th, 2003  
Examiner Hearing  
CASE NO. 13,026

## PAGE

## APPLICANT'S WITNESSES:

MARTYNE KIELING (Environmental Geologist,  
Environmental Bureau, NMOCD)  
Direct Examination by Mr. Brooks  
Examination by Examiner Jones

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## REPORTER'S CERTIFICATE

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

## FOR THE DIVISION:

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

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 8:34 a.m.:

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5 EXAMINER JONES: At this time let's call Case  
6 13,026, which was continued from May the 22nd Examiner  
7 Hearing, but it's the Application of the New Mexico Oil  
8 Conservation Division through the Environmental Bureau  
9 Chief to revoke the permit of Am-Bett Oil Company,  
10 Incorporated, to operate an oil treatment plant in Lea  
11 County, New Mexico.

12 Call for appearances in this case.

13 MR. BROOKS: Mr. Examiner, I'm David Brooks,  
14 Assistant General Counsel, Energy, Minerals and Natural  
15 Resources Department, appearing for the New Mexico Oil  
16 Conservation Division.

17 I have one witness.

18 EXAMINER JONES: Any other appearances?

19 There being none, will the witness please stand  
20 to be sworn in?

21 (Thereupon, the witness was sworn.)

22 EXAMINER JONES: Mr. Brooks, go ahead.

23 MR. BROOKS: Thank you.

24 Good morning.

25 MS. KIELING: Good morning.

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MARTYNE KIELING,

the witness herein, after having been first duly sworn upon  
her oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROOKS:

Q. Would you state your name, please, for the  
record?

A. Martyne Kieling.

Q. And where do you reside?

A. Here in Santa Fe.

Q. And by whom are you employed?

A. By the Oil Conservation Division Environmental  
Bureau.

Q. In what capacity?

A. As an environmental geologist.

Q. This case was continued from the May 22nd, 2003,  
Examiner Docket, at which there was a hearing. Did you  
testify at that hearing?

A. Yes, I did.

Q. And that was before Examiner Catanach, correct?

A. Yes.

Q. And were your credentials testified to and made a  
matter of record, accepted by the Examiner at that time?

A. Yes, they were.

Q. Why was it that Examiner Catanach ordered this

1 case to be continued?

2 A. I believe he was interested in gaining a little  
3 bit more information regarding the site, actual location of  
4 the site, and whether there was something actually there.

5 Q. Now, since we have a different honorable Examiner  
6 this time, can you describe just basically what the problem  
7 -- Well, first of all, what are we seeking to do? What is  
8 the Division seeking to do in this proceeding?

9 A. The Division would like to have the order  
10 permitting the treating plant revoked so -- Initially, the  
11 plan was to be able to begin cleanup of the site. However,  
12 the legal location and the actual physical location of the  
13 pit on the ground was possibly different. The legal  
14 location had the treating plant listed in the Order as in  
15 Unit Letter F, or Lot 6, of Section 3, Township 21 South,  
16 Range 37 East, in Lea County.

17 That section was never carefully looked at on the  
18 ground. However, we did find a pit and an asphalt area and  
19 an outflow pipe that was in a different unit letter, at  
20 Unit Letter N, of the same section, township and range.  
21 And this became confusing. This is a long -- one of the  
22 long or extended sections.

23 Q. Now, at the previous hearing we entered into  
24 evidence Exhibit Number 4, which was some pictures, and  
25 since you don't have an exhibit folder this morning I'll

1 show them to you --

2 A. Okay.

3 Q. -- some pictures that were taken, and also  
4 Exhibit Number 5, which was a map that appeared in the  
5 OCD's records, correct?

6 A. Correct.

7 Q. And the things that are shown in those pictures  
8 were not at the site where the Order called for the  
9 treatment plant to be, correct?

10 A. That's correct, the photos are in Unit Letter N,  
11 and the Order said Unit Letter F.

12 Q. And at that time there was some belief that those  
13 pictures were part of where the treatment plant probably  
14 actually was, correct?

15 A. That's what we were trying to determine, and we  
16 had a feeling that it might be the location.

17 Q. Okay. Now, since the May 22nd hearing have you  
18 again visited the site?

19 A. Yes, I have, myself, Chris Williams and Ed Martin  
20 walked over the site on Friday, last week.

21 Q. Now, as I recall your testimony at the last  
22 hearing, it had been quite a long time since you'd been to  
23 the site; is that correct?

24 A. Yeah, I believe it was in 2001 since I had been  
25 to the site.

1 Q. Okay. Did you find anything on the ground  
2 anywhere in that vicinity that appeared to be associated  
3 with a previously existing treatment plant in that general  
4 area?

5 A. In Unit Letter F, or Lot 6, that location, we  
6 walked it extensively and did not find any evidence of a  
7 treating plant, asphaltines, any trash material, anything  
8 that would lead us to believe that there was a treating  
9 plant there.

10 Q. What about in Unit Letter N, what did you find?

11 A. Unit Letter N, we found what is shown in these  
12 two photographs, asphaltines up on top of the rise there,  
13 with an outflow pipe coming down to a pit that had been  
14 slightly pushed in, and the pit has barrels and some other  
15 sort of trash in it. But that was the only thing that we  
16 saw there, was those two areas.

17 Q. Based on what you saw, do you believe that the  
18 Division can establish with any kind of reasonable  
19 certainty that that actually is part of that treatment  
20 plant?

21 A. The material in Unit Letter N, it doesn't seem to  
22 appear to be the treating plant in question.

23 Q. Now, there were some oil and gas production  
24 installations in the vicinity at one time, were there not?

25 A. That's correct, the map shows a pumping well,

1 labeled the Shell Number 8, and we kind of walked in  
2 different directions according to the map, to try to locate  
3 things that might have been there.

4 To the south of the pumping well we did find this  
5 pit -- or to the south of a pumping well. It's not labeled  
6 Shell Number 8, it's something else now, and we're not even  
7 sure if it's the same well. But there was this pit south  
8 of a well in Unit Letter N. But there wasn't anything to  
9 the north, there wasn't another 30-by-30-foot pit or any  
10 asphaltines or a pad that would have implicated a tank  
11 battery to the north of a pumping well in Unit Letter N.

12 Again, we looked in the same directions from the  
13 pumping well that was in Unit Letter F, and we didn't find  
14 anything that led us to believe there was anything there  
15 also, so --

16 Q. So while the situation that is depicted in  
17 Exhibit 4 might have been remnants of the treating plant  
18 that at one time existed, it also might have been the  
19 result of something associated with some of those  
20 production facilities that are or were in the area,  
21 correct?

22 A. That's very likely, it could have been a treating  
23 plant, it could have been a tank battery associated with  
24 the pumping well and, you know, a pit associated with a  
25 well. It's just not clear. But the Order had the location



1 in Unit Letter F, and we didn't find anything there. So --

2 Q. So given -- I'm sorry, go ahead.

3 A. So we believe that it's been taken care of.

4 Anything that was in Unit Letter F has been taken care of.

5 Q. Given that you're not able to establish where the  
6 plant was or what, if anything, remains that has not been  
7 cleaned up, what is the Division asking the Examiner to do  
8 at this time?

9 A. Well, we'd still like the Order revoked or  
10 terminated for any operation of a treating plant. There  
11 doesn't seem to be a treating plant in Unit Letter F, and  
12 we probably won't be cleaning anything up using reclamation  
13 funds in Unit Letter F.

14 Q. And you understand that because you can't  
15 establish that there has been any damages here,  
16 environmental damage, that you can't forfeit their bond,  
17 correct?

18 A. That's correct.

19 Q. Okay, anything further?

20 A. I don't believe so.

21 MR. BROOKS: Very good, I'll pass the witness.

22 EXAMINATION

23 BY EXAMINER JONES:

24 Q. Ms. Kieling, can you explain the original permit  
25 that was issued? Does it have a specific site, legal

1 location on it?

2 A. Yes, the original order has Unit Letter -- or,  
3 excuse me, lot, it says Lot 6, which is the same as Unit  
4 Letter F, in the Section 3, Township 21 South, Range 37  
5 East. That's what's on the original order for the treating  
6 plant.

7 Q. Is the original order part of our exhibits?

8 A. It should be.

9 MR. BROOKS: Yes, it's Exhibit 1, your Honor.

10 EXAMINER JONES: Exhibit 1, okay.

11 Were these exhibits admitted at the previous  
12 hearing?

13 THE WITNESS: Yes.

14 MR. BROOKS: Yes, your Honor, I believe they  
15 were.

16 EXAMINER JONES: So you want the permit revoked  
17 but not the bond? You're not going to pull the bond?

18 MR. BROOKS: That's correct, we're not asking at  
19 this time for any order except just to revoke the permit.

20 Q. (By Examiner Jones) And the permit was  
21 specifically to refine oil; is that right?

22 A. Reclaim oil from tank bottoms, a tank-bottom  
23 cleaning process where they reclaim any tank bottoms that  
24 they clean out of other people's tanks.

25 Q. So this was a commercial operation that took the

1 SNW from other tanks and refined it into asphaltine? Is  
2 that right?

3 A. I'm not sure exactly what they refined it into,  
4 if it was pipeline-grade oil or if it was then sent to  
5 another treating plant that refined it further. I really  
6 don't know.

7 Q. Am I correct in assuming that because they are no  
8 longer doing this, you want the permit revoked?

9 A. That's correct, so no one else can step forward  
10 and use the order.

11 Q. Can you determine how long they have not been  
12 doing this?

13 A. Let's see, the map has a date on it of 1978,  
14 showing that there was a tank battery of six tanks and two  
15 30-by-30 pits that were approximately four or three feet  
16 deep.

17 I believe it was in the mid- -- or early 1990s  
18 that the Environmental Bureau sampled some material out of  
19 the tanks, and I can't recall the date for sure. And then  
20 after that it stopped operating, we don't have anything  
21 else on file. When I first saw it in 1997 there was  
22 nothing there. It looks like it does today.

23 Q. The beginning cleanup, are you asking for  
24 something -- some wording to that effect in the Order,  
25 revoking the permit, requiring any cleanup?

1           A.    To the best that we can tell walking the site in  
2 Unit Letter F or Lot 6, there isn't anything there to be  
3 cleaned up.

4           Q.    Did you do any soil sampling and maybe some wells  
5 to check the -- In other words, was it just a visual  
6 examination?

7           A.    Visual check, yes.

8           Q.    Was that adequate, in your opinion?

9           A.    In my opinion, to this point it seems like it,  
10 because there's no trash, there's no soil staining of the  
11 surface. Usually there would be something we'd see, a  
12 leveled area, an area that was cleared of brush. But there  
13 was mesquite everywhere. Part of the section, part of that  
14 quarter quarter, was rolling dunes. There was nothing  
15 level to it.

16                   The only thing that had been disturbed was a  
17 recent well that had been put in near an older well that's  
18 been, I think, TA'd, and there wasn't really much around  
19 that newer well except the pit that was built for that  
20 well, and it was covered over and reclaimed very nicely.

21           Q.    There's no evidence of pollution of groundwater  
22 in this area?

23           A.    That has not been investigated at this location.  
24 We haven't put in any monitoring wells.

25           Q.    And when you investigated this site with the

1 District Manager of Hobbs, how did you locate Lot 6?

2 A. We went from well to well reading the signs and  
3 determined, you know, which lot we were in, and then we  
4 worked out from there. There were three of us, so we  
5 spread out quite a ways and walked over the area.

6 EXAMINER JONES: Do you have an example of a  
7 similar Division order revoking a permit that I can look  
8 at?

9 MR. BROOKS: I believe we do, I think I can find  
10 one.

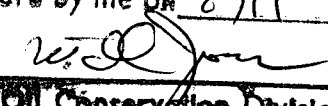
11 EXAMINER JONES: I have no other questions of  
12 this witness. Thanks, thank you very much.

13 MR. BROOKS: Thank you. We have nothing further.

14 EXAMINER JONES: Okay, with that Case 13,026 will  
15 be taken under advisement.

16 (Thereupon, these proceedings were concluded at  
17 8:50 a.m.)

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19  
20  
21 I do hereby certify that the foregoing is  
22 a complete record of the proceedings in  
the Examiner hearing of Case No. 13026  
heard by me on 6/19/03  
23   
24 W. D. Jones, Examiner  
Oil Conservation Division  
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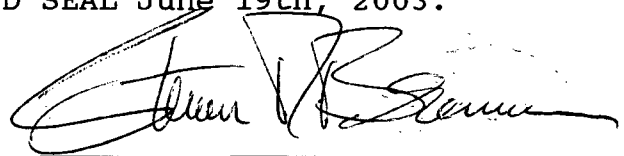
## CERTIFICATE OF REPORTER

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 June 19th, 2003.



STEVEN T. BRENNER-  
CCR No. 7

My commission expires: October 16th, 2006