

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. 13,166

APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION THROUGH THE)
ENVIRONMENTAL BUREAU CHIEF, TO REVOKE)
THE PERMIT OF WATSON TREATING PLANT)
TO OPERATE AN OIL TREATMENT PLANT)
AND TO RELEASE BOND, ROOSEVELT COUNTY,)
NEW MEXICO)

) ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

October 9th, 2003

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, October 9th, 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.

* * *

I N D E X

October 9th, 2003
Examiner Hearing
CASE NO. 13,166

PAGE

DIVISION WITNESS:

MARTYNE KIELING (Environmental Geologist,
Environmental Bureau, NMOCD)
Direct Examination by Ms. MacQuesten
Examination by Examiner Catanach

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10

REPORTER'S CERTIFICATE

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* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	5	9-10
Exhibit 2	5	9-10
Exhibit 3	6	9-10
Exhibit 4	7	9-10
Exhibit 5	8	9-10

* * *

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 12:01 p.m.:

3 EXAMINER CATANACH: At this time I'll call Case
4 13,166, the Application of the New Mexico Oil Conservation
5 Division through the Environmental Bureau Chief, to revoke
6 the permit of Watson Treating Plant to operate an oil
7 treatment plant and to release bond, Roosevelt County, New
8 Mexico.

9 Call for appearances in this case.

10 MS. MacQUESTEN: Gail MacQuesten, Energy,
11 Minerals and Natural Resources Department, appearing for
12 the Oil Conservation Division. I have one witness.

13 EXAMINER CATANACH: Any additional appearances?

14 No additional appearances in this case. Will the
15 witness please stand and be sworn in?

16 (Thereupon, the witness was sworn.)

17 EXAMINER CATANACH: Go ahead.

18 MARTYNE KIELING,

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

21 DIRECT EXAMINATION

22 BY MS. MacQUESTEN:

23 Q. Please state your name for the record.

24 A. Martyne Kieling.

25 Q. By whom are you employed?

1 A. The New Mexico Oil Conservation Division.

2 Q. Where is your office located?

3 A. In Santa Fe, New Mexico.

4 Q. What is your title?

5 A. Environmental geologist.

6 Q. What are your duties regarding surface waste
7 management facilities?

8 A. Primarily I permit new facilities, re-permit
9 existing facilities and handle the closure of facilities
10 once they are ready to close.

11 Q. Do your duties also include maintaining records
12 of financial assurances provided by risk management
13 facility operators?

14 A. That is correct.

15 Q. Are you familiar with the Watson Treating Plant
16 and Disposal Facility?

17 A. I am.

18 Q. Have you reviewed the file regarding that
19 facility in preparation for the hearing today?

20 A. Yes, I have.

21 Q. Have you testified before the Oil Conservation
22 Division before?

23 A. Yes.

24 Q. And were your credentials made a matter of record
25 in that case?

1 A. Yes, they were.

2 Q. Were you accepted as an expert environmental
3 geologist?

4 A. Yes.

5 MS. MacQUESTEN: I tender Ms. Kieling as an
6 expert environmental geologist.

7 EXAMINER CATANACH: Ms. Kieling is so qualified.

8 Q. (By Ms. MacQuesten) There is an exhibit packet
9 in front of you. Would you please look at what has been
10 marked as Exhibit Number 1?

11 A. Yes.

12 Q. Can you identify that document?

13 A. This is the Order that gave the facility
14 permission to operate an oil treatment plant.

15 Q. By whom was this Order issued?

16 A. By the Division.

17 Q. Is this different from an administrative permit?

18 A. Yes, it is. This was commonly the way the
19 facilities were permitted at this time. This one was
20 issued in 1997.

21 Q. Would you please look at what has been marked as
22 Exhibit Number 2?

23 A. Yes.

24 Q. Can you identify that document?

25 A. This is a letter authorizing the Watson Treating

1 Plant to relocate to a different location.

2 Q. What is the date of that letter?

3 A. It's February 17th, 1988, they got approval to
4 relocate the treating plant.

5 Q. Is the new location the location that appears in
6 the caption of this case?

7 A. That is correct.

8 Q. Now, today the Division is asking to revoke the
9 permit for the Watson Treatment Facility. Why is that?

10 A. The Watsons have cleaned up the facility, they've
11 removed all tanks, tested the subsurface and have closed
12 the facility.

13 Q. Please take a look at what has been marked as
14 Exhibit Number 3. Can you identify that document?

15 A. This is the approval letter for the closure of
16 the Watson Treating Plant after the review of documents and
17 analytical reports.

18 Q. Now, you signed off on this closure, did you not?

19 A. Yes, I did.

20 Q. What was your role in approving the closure?

21 A. I reviewed -- I did go to the facility on several
22 occasions while it was under closure, while it was being
23 closed, and also reviewed the documentation as it came in
24 from the Watsons that the facility had indeed been closed.
25 They took photographs and submitted analytical analysis for

1 the subsurface beneath the tanks to prove that they had not
2 leaked.

3 Q. When was the closure finally approved?

4 A. The date of this letter is May 2nd, 2003.

5 Q. In your professional opinion, has the Watson
6 Treating Plant been remediated to OCD standards?

7 A. Yes, it has.

8 Q. Did the Division notify Watson of its intent to
9 revoke the permit of the treatment facility?

10 A. Yes, we did.

11 Q. Would you please take a look at what has been
12 marked as Exhibit Number 4?

13 A. Yes.

14 Q. Is that the letter that was sent to Watson
15 notifying them of the Division's intent to revoke the
16 permit?

17 A. Yes, this is the letter that we sent on May 5th,
18 2003, to the Watsons notifying them that we were planning
19 on revoking the original permit by order.

20 Q. Would you take a look at the back of Exhibit
21 Number 4? Was this letter sent certified mail?

22 A. Yes, it was.

23 Q. And did you receive a return receipt from the
24 Watsons?

25 A. Yes, we did. This is the card on the back, a

1 photocopy of the card on the back of the receipt.

2 Q. Was Watson given the opportunity to submit a
3 request to keep the permit?

4 A. Yes, that was the last paragraph in the letter.
5 We had requested that if he so indeed wanted to request to
6 keep the permit, that he needed to submit a letter to us no
7 later than May 23rd, 2003, and we have not received a
8 letter.

9 Q. Does Watson have a bond in place to secure its
10 obligation to close the facility?

11 A. Yes, they do.

12 Q. Would you please look at what has been marked as
13 Exhibit Number 5?

14 A. Yes, this is the bond that the Watson Treating
15 Plant, Incorporated, has for the site. They applied for
16 this bond in 1987.

17 Q. Who is the surety?

18 A. Underwriters Indemnity.

19 Q. And the amount of the bond?

20 A. \$10,000.

21 Q. Is this bond information complete, are there any
22 riders or amendments to the bond?

23 A. Excuse me, I'd like to change that.

24 Q. Sure.

25 A. It's \$25,000. It was increased over the years.

1 The original order required \$10,000, and this was the
2 increase that was requested for \$25,000.

3 Q. So is this the most recent bond?

4 A. Yes, it is.

5 Q. I notice that the original order states that the
6 plant is in Roosevelt County, but most of the
7 correspondence states that the plant is in Lea County. Can
8 you explain that?

9 A. I believe that's a typo on my part. The facility
10 is indeed located in Roosevelt County, but for whatever
11 reason the documentation that I wrote that is in the file
12 all has Lea County, and I can only attest that that's
13 probably because most of my facilities are in Lea County,
14 and it just got carried over.

15 Q. How did you verify that the plant is in Roosevelt
16 County?

17 A. I double-checked the map.

18 Q. Using the legal description?

19 A. Yeah, using the legal description, double-checked
20 the map, and the facility is. And corresponding that to my
21 recalled location on the actual ground surface, it's in
22 Roosevelt County.

23 MS. MacQUESTEN: I move for admission of Exhibits
24 1 through 5.

25 EXAMINER CATANACH: Exhibits 1 through 5 are

1 admitted.

2 MS. MacQUESTEN: I have no more questions of this
3 witness.

4 EXAMINER CATANACH: Okay, Ms. MacQuesten, I was
5 just checking to see if the advertisement of this case was
6 correct, and it does, in fact, say Roosevelt County.

7 MS. MacQUESTEN: Just to be sure, we advertised
8 it in newspapers in both counties.

9 EXAMINER CATANACH: Okay. But as far as you
10 know, the only affected party would be Watson at this
11 point?

12 MS. MacQUESTEN: Yes.

13 EXAMINER CATANACH: And they did receive notice
14 of this Application?

15 MS. MacQUESTEN: Yes.

16 EXAMINATION

17 BY EXAMINER CATANACH:

18 Q. Okay. Ms. Kieling, the first order that was
19 issued for this treating plant was back in 1979. Order
20 Number R-6095 approved a location in Section 34, 8 South,
21 35 East. And subsequent to that time, in February of 1988,
22 the Division approved a -- I assume Watson application to
23 move the treating plant facility from Section 34, 8 South,
24 35 East, to Section 12 of 8 South, 34 East.

25 My question is, do you know if the original site

1 was ever utilized for that purpose?

2 A. I don't know if it was ever utilized. Being that
3 it's a 10-year difference, it may have been. A nine-year
4 difference.

5 Q. Now, you were not personally involved with the
6 application to move the treating plant back in 1988?

7 A. No, I was not.

8 Q. So you wouldn't have any knowledge of whether or
9 not they had to demonstrate at that time whether or not the
10 original site was ever used or cleaned up?

11 A. That's correct.

12 Q. Would be a good idea on the part of the Division
13 to maybe investigate that issue before we release any bond?

14 A. When the site was first shown to me in 1997, the
15 facility that I saw was the facility that was operating. I
16 have not seen the other location. I have not requested to
17 see the other location.

18 To answer your question, I'm not sure if it's
19 reasonable that we do see it or not. I'm not sure what
20 rules and regulations were in effect at the time in 1988,
21 and you know, if it was closed according to the rules and
22 regulations at that time, then that probably should stand.

23 Q. Well, I would note that the actual treating plant
24 bond refers to the treating plant in Section 34, 8 South,
25 35 East, and it doesn't look like that was ever amended.

1 So I don't know that it would be -- I don't know that we
2 could release this bond until we are sure that the location
3 in Section 34 was cleaned up.

4 Ms. MacQuesten, do you have any opinion on this?

5 MS. MacQUESTEN: Well, two suggestions. We could
6 wait until we have inspected the original location to see
7 whether we can release the bond on that and then invoke the
8 permit as to both. Or I would suggest that we could go
9 ahead and revoke the permit but not release the bond until
10 we have had a chance to inspect the original location.

11 EXAMINER CATANACH: We don't need -- To
12 subsequently release a bond, we wouldn't need an additional
13 hearing. So we could revoke the permit. I guess we could
14 revoke the original permit and then the subsequent change-
15 of-location authorization, but not release the bond. I
16 guess that would be -- We could do that, and then you guys
17 could -- if you do inspect the old facility, we could
18 probably then go ahead and release the bond after you guys
19 have cleared it.

20 MS. MacQUESTEN: So leave it to the Division to
21 revoke the bond administratively if they determine that
22 it's --

23 EXAMINER CATANACH: Yeah, I think so. I think
24 that would be the best thing to do, I mean, and let you
25 guys pursue the old location and see what's the status of

1 that, would be my suggestion.

2 Okay, other than that big wrinkle I don't think I
3 have anything else of Ms. Kieling. Ms. Kieling may be
4 excused.

5 And is there anything further in this case, Ms.
6 MacQuesten?

7 MS. MacQUESTEN: Not in this case, but I need to
8 retain Ms. Kieling for the next case.

9 EXAMINER CATANACH: Okay, there being nothing
10 further in this case, Case 13,166 will be taken under
11 advisement.

12 (Thereupon, these proceedings were concluded at
13 12:17 p.m.)

14 * * *

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17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. 13166,
21 heard by me on October 9, 2003.
22 David M. Catnach, Examiner
23 Oil Conservation Division
24
25

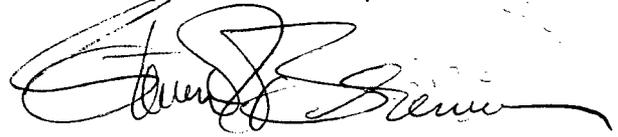
CERTIFICATE OF REPORTER

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 October 12th, 2003.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006