

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR A
COMPLIANCE ORDER AGAINST BTA OIL
PRODUCERS, LLC

CASE NO. 14413

TRANSCRIPT OF PROCEEDINGS
Examiner Hearing
February 4, 2010
10:36 a.m.

1220 South St. Francis Drive, Room 102
Santa Fe, New Mexico 87504

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2010 FEB 24 A 8:36

BEFORE: RICHARD EZEANYIM, HEARING EXAMINER
DAVID K. BROOKS, LEGAL ADVISOR

REPORTED BY: CONNIE JURADO, RPR, NM CCR #254
Paul Baca Professional Court Reporters
500 Fourth Street NW, Suite 105
Albuquerque, New Mexico 87102

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A P P E A R A N C E S

For the Applicant:

HOLLAND & HART, LLP
Attorneys at Law
Post Office Box 2208
Santa Fe, New Mexico 87501
BY: WILLIAM F. CARR

For the Oil Conservation Division:

GAIL MACQUESTEN
Attorney at Law
1220 St. Francis Drive
Santa Fe, New Mexico 87505

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1 MR. EZEANYIM: Now, we can go back to
2 page 2 now and call Case Number 14413, and this is
3 the Application of New Mexico Oil Conservation
4 Division for a Compliance Order against BTA Oil
5 Producers, LLC. Call for appearances.

6 MS. MACQUESTEN: Mr. Examiner, Gail
7 MacQuesten for the Oil Conservation Division.

8 MR. CARR: May it please the
9 examiner, William F. Carr with Holland & Hart. We
10 represent BTA Oil Producers.

11 MR. EZEANYIM: Any other appearances?
12 Ms. MacQuesten?

13 MS. MACQUESTEN: Mr. Examiner, this
14 case involves an unlined, unpermitted pit used to
15 dispose of overflow from produced water tanks at a
16 salt water disposal well operated by BTA. BTA and
17 the OCD are here today to submit a stipulated order
18 that will provide a path forward to resolving the
19 issues in this case. The stipulated order is Exhibit
20 Number 3 in your packet. It is signed by BTA and by
21 Daniel Sanchez, the OCD Compliance and Enforcement
22 Manager.

23 The BTA and the OCD ask that the
24 order be presented to Director Mark Fesmire, and if
25 he approves it, that it be signed and entered as the

1 order in this case. The order provides that BTA will
2 submit a delineation plan to the OCD's Environmental
3 Bureau by February 25, 2010. It also provides that
4 this case be continued until March 4, 2010. At that
5 time, the issue will be whether the delineation plan
6 is acceptable and what next steps need to be taken in
7 the delineation and remediation process.

8 The parties hope that they will be
9 able to enter an amendment to the stipulated order
10 specifying the next step, and that we will be able to
11 proceed in that manner until this issue is resolved.
12 If at any point the parties are not able to agree,
13 either party may come back and ask for the examiners
14 to resolve the unresolved issues.

15 The draft -- the stipulated order
16 also provides that if BTA fails to meet any deadline
17 set by the order or any amendments to the order, that
18 the OCD may move for an order authorizing it to
19 remediate the site itself and forfeit the applicable
20 financial assurance.

21 The order also provides that BTA
22 shall be in violation of Part 5.9 until it has
23 substantially completed the remediation of the site.
24 By that I mean that they need to submit an acceptable
25 delineation plan, receive OCD approval for the

1 remediation plan, complete the soil remediation and
2 begin the remediation process for water
3 contamination.

4 There are two other exhibits in your
5 packet. Exhibit 1 is the Affidavit of Notice showing
6 notice to BTA and to its surety, Travelers Indemnity
7 Company. Exhibit Number 2 is the Affidavit of
8 Dorothy Phillips showing the \$50,000 blanket bond
9 that BTA posted with Travelers.

10 If this proposal is acceptable to the
11 examiners, I would ask that you go on record to
12 continue this case until March 4 as stated in the
13 order. By verbally continuing this case to that
14 date, we will avoid having to renotice the case.

15 MR. EZEANYIM: Before we do that, let
16 me hear from Mr. Carr.

17 MR. CARR: May it please the
18 examiner, BTA Oil Producers concurs and joins in the
19 request to present the stipulation of the parties to
20 Director Fesmire, and if it is acceptable to him,
21 that it become the order in this case. We have
22 scheduled a meeting this afternoon at 1:30 where BTA
23 will be meeting with the Environmental Bureau to
24 develop a delineation report, and we're hopeful that
25 we -- and believe that we will be able to stay

1 comfortably ahead of the deadlines and that we will
2 be able to resolve this without an extended hearing
3 before the division. We have no objection to the
4 exhibits.

5 MR. BROOKS: What action you're
6 asking specifically today is to continue it to March
7 4?

8 MR. CARR: Correct.

9 MR. BROOKS: To avoid having to
10 renote --

11 MR. CARR: That's correct, and that
12 the stipulation be accepted.

13 MR. BROOKS: Okay. Very good.
14 Nothing further.

15 MR. EZEANYIM: Okay. Let me
16 understand the stipulated order, what you want me to
17 do with that right now. We are going to continue the
18 case. I agree with you to continue the case if
19 you're working to get this resolved till March 4.
20 Meanwhile, what do you want me to do with Exhibit
21 Number 3, which is the stipulated order?

22 MS. MACQUESTEN: I believe both BTA
23 and OCD recommend that Director Fesmire accept that
24 order, sign it, and enter it as an order in this
25 case.

1 MR. EZEANYIM: After March 4?

2 MS. MACQUESTEN: No. Now.

3 MR. EZEANYIM: Okay. Now?

4 MR. CARR: Now.

5 MS. MACQUESTEN: Part of the order,
6 part of the stipulated order is that this case be
7 continued till March 4, and that this case proceed in
8 this manner of trying to resolve it through
9 stipulation.

10 MR. CARR: And Mr. Ezeanyim, it also
11 provides that the delineation plan will be provided
12 by the 25th of February, so there are certain things
13 that will happen before March 4. And so for that
14 reason, we agree that it should be adopted and signed
15 by the director.

16 MR. EZEANYIM: Okay. So you're
17 asking me after this hearing to make a recommendation
18 to the director that this order should be signed as
19 of today, and that the case has been continued to
20 March 4, right?

21 MR. CARR: Correct.

22 MR. EZEANYIM: To see whether this
23 will be the real order. Then after March 4, if you
24 haven't come to agreement, then you come to hearing
25 again, right? Is that what you're asking?

1 MS. MACQUESTEN: Yes. Well, this
2 would be the real order. It would be an order. It
3 would not completely dispose of all the matters in
4 the case because we recognize that we still have work
5 to be done.

6 MR. EZEANYIM: Yeah.

7 MS. MACQUESTEN: We're not at the
8 stage where we could write an order to specify
9 everything that needs to be done in this case because
10 we don't even have a delineation yet.

11 MR. CARR: And we won't know what
12 needs to be done until the site is delineated.

13 MR. EZEANYIM: Well, unfortunately, I
14 didn't have time to read the stipulated order, so but
15 after the hearing, I mean, we will sit down and read
16 it and make that recommendation to the director and
17 advise him to sign it. I hope the record will
18 reflect that. And, again, on the other issue, the
19 record will also reflect that Case Number 14413 will
20 be continued to March 4.

21 MS. MACQUESTEN: May I ask that the
22 exhibits be introduced?

23 MR. EZEANYIM: Exhibits 1, 2, 3?

24 MS. MACQUESTEN: 1 through 3.

25 MR. EZEANYIM: Exhibits 1, 2, 3 will

1 be admitted into the record.

2 (Exhibits 1, 2, 3 admitted.)

3 MR. EZEANYIM: Anything further?

4 MS. MACQUESTEN: That is all.

5 MR. CARR: That's all.

6 MR. EZEANYIM: Thanks.

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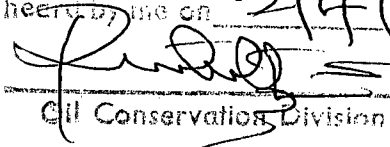
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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examiner's hearing of Case No. 14413
heard by me on 2/4/10


_____, Examiner
Oil Conservation Division

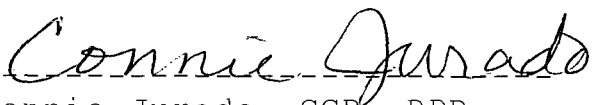
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REPORTER'S CERTIFICATE

I, CONNIE JURADO, do hereby certify that I reported the foregoing case in stenographic shorthand and transcribed, or had the same transcribed under my supervision and direction, the foregoing matter and that the same is a true and correct record of the proceedings had at the time and place.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

WITNESS MY HAND this 4th day of February, 2010.



Connie Jurado, CCR, RPR
New Mexico CCR No. 254
Expires: December 31, 2010