

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. 11,604
)
 APPLICATION OF SUNCO TRUCKING WATER)
 DISPOSAL COMPANY FOR A SHOW CAUSE) ORIGINAL
 HEARING AS TO WHY IT SHOULD NOT BE FINED)
 FOR VIOLATIONS OF OIL CONSERVATION)
 DIVISION RULE 711, SAN JUAN COUNTY,)
 NEW MEXICO)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

January 9th, 1997

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, January 9th, 1997, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, 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

January 9th, 1997
 Examiner Hearing
 CASE NO. 11,604

PAGE

REPORTER'S CERTIFICATE

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E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	3	7

* * *

A P P E A R A N C E S

FOR THE DIVISION:

RAND L. CARROLL
 Attorney at Law
 Legal Counsel to the Division
 2040 South Pacheco
 Santa Fe, New Mexico 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 4:10 p.m.:

3 EXAMINER STOGNER: At this time I'll call Case
4 Number 11,604, which is the Application of Sunco Trucking
5 and Water Disposal Company for a show cause why hearing
6 concerning its violation of Division Rule 711, in San Juan
7 County, New Mexico.

8 Call for appearances.

9 MR. CARROLL: May it please the Examiner, my name
10 is Rand Carroll, appearing on behalf of the Oil
11 Conservation Division.

12 I have no witnesses, just a statement and the
13 exhibit and a proposed order.

14 EXAMINER STOGNER: Okay. This matter was heard
15 previously, was it not, Mr. Carroll?

16 MR. CARROLL: No, it wasn't.

17 EXAMINER STOGNER: It was not heard? This
18 appeared on the docket -- so what do you -- Okay, maybe I
19 need to see what you've got.

20 MR. CARROLL: Mr. Examiner, I'd like to introduce
21 what is marked as OCD Exhibit Number 1. It's a certified
22 letter from the Division to Mr. Chuck Badsgard, vice
23 president of Sunco Trucking. Said letter is a notice of
24 violation, notice of third violation, and an assessment of
25 a \$5000 fine, with an advisement that Sunco may request a

1 hearing before the Division if it wishes to contest this
2 fine.

3 Subsequent to this letter, we were contacted by
4 Mr. John Dean, the attorney for Sunco, who advised us that
5 Sunco would like to set this matter for hearing.

6 Subsequent discussions with Mr. Dean revealed
7 that Sunco was not contesting the violations but wanted to
8 explain why these violations occurred.

9 After a few discussions on the phone, Sunco
10 realized that the Division has rules that were violated,
11 and regardless of the reasons why the violations occurred,
12 these rules are in effect to protect the public health and
13 the environment, and whether or not Sunco believes that
14 public health and the environment was protected, regardless
15 of the rules violation, in the OCD's mind, does not excuse
16 the violations. It's not for Sunco to determine that on
17 their own.

18 With that, Sunco agreed to admit all the
19 allegations in the notice of violation and agreed to a
20 stipulated order, which I am submitting to you today, on
21 the condition that they submit a letter which I just
22 received today by fax, explaining why the violations
23 occurred. And if the Examiner wishes to review the letter,
24 in all three violations Sunco admits the violations
25 occurred, but says that Sunco did not believe that a threat

1 to the environment or to the public health and safety
2 occurred.

3 So I submit to the Examiner the proposed order,
4 which is accepted by Sunco.

5 And I also submit to the Examiner the letter from
6 Sunco dated yesterday, January 8th, received today by the
7 OCD.

8 EXAMINER STOGNER: Is that Exhibit 2?

9 MR. CARROLL: No.

10 EXAMINER STOGNER: You just want to make that
11 part of the record?

12 MR. CARROLL: I move that what has been OCD
13 Exhibit Number 1 be admitted into the record, and I would
14 ask that Mr. Dean's letter also be incorporated into the
15 record.

16 EXAMINER STOGNER: And you have also prepared a
17 rough draft order --

18 MR. CARROLL: Right.

19 EXAMINER STOGNER: -- for this agency?

20 Essentially, what is the outcome of this -- Well,
21 can you explain on the record what the order says?

22 MR. CARROLL: Well, yes. The order allows Sunco,
23 in lieu of the \$5000 fine, to put on an environmental
24 education program, approved by our Aztec District Office,
25 that will cost Sunco at least the amount of \$5000,

1 exclusive of any benefits Sunco may receive.

2 So the OCD has allowed -- or is proposing to you
3 that Sunco be allowed to avoid the fine by expending at
4 least \$5000 on this environmental education program.

5 If Sunco does not get this proposed education
6 program approved by the Aztec District Office by January
7 31st, by the end of this month, then the fine is due by the
8 end of February. And even if Sunco does get the education
9 program approved by the Aztec District Office, they must
10 complete the program by the end of 1997 or pay the \$5000
11 fine.

12 EXAMINER STOGNER: Would they be the actual
13 teaching of it, or would they just sponsor it and have
14 professionals do the actual teaching? And where would the
15 public education take place at?

16 MR. CARROLL: That is to be worked out between
17 Sunco and the Aztec District Office.

18 It is my understanding that Sunco will either put
19 on the presentation or hire professionals to do it. The
20 OCD will not be a part of it, but the OCD will attend and
21 answer any questions that are posed.

22 EXAMINER STOGNER: I'd be interested in attending
23 as an observer. Would there be any problem?

24 MR. CARROLL: I would suggest you take that up
25 with the Director of the Division, Mr. Examiner.

1 EXAMINER STOGNER: Okay. Well, with that, I will
2 enter into the record Exhibit Number 1 and also make part
3 of the record a prepared rough draft order for this case,
4 and also make part of the record Mr. -- I'm sorry, this is
5 the response letter faxed today, dated --

6 MR. CARROLL: -- yesterday.

7 EXAMINER STOGNER: -- yesterday, January 8th, but
8 received today, and addressed to this office from Curtis
9 and Dean, attorneys in Farmington.

10 Anything further in this matter?

11 MR. CARROLL: That's all I have, your Honor.

12 EXAMINER STOGNER: Then Case 11,604 will be taken
13 under advisement and acted on accordingly.

14 If there's nothing further for Docket Number
15 1-97, then hearing is adjourned.

16 (Thereupon, these proceedings were concluded at
17 4:15 p.m.)

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I do hereby certify that the foregoing is
a complete record of the proceedings in
the Examining Hearing of Case No. _____,
heard by me on _____ 19____.

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_____. Examiner
Oil Conservation Division

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