

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION
STATE LAND OFFICE BLDG.
SANTA FE, NEW MEXICO

7 January 1987

EXAMINER HEARING

IN THE MATTER OF:

The hearing called by the Oil Conservation Division on its own motion to permit Petro-Thermo Corporation to appear and show cause why its Form C-133, Authorization to Haul Water, should not be cancelled for noncompliance with Oil Conservation Division regulations.

CASE
9051

BEFORE: Michael E. Stogner, Examiner

TRANSCRIPT OF HEARING

A P P E A R A N C E S

For the Commission: Jeff Taylor
Legal Counsel for the Division
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1
2 MR. STOGNER: Call next Case
3 Number 9051, which is in the matter of the hearing called by
4 the Oil Conservation Division on its own motion to permit
5 Petro-Thermo Corporation to appear and show cause why its
6 Form C-133, Authorization of Haul Water, should not be can-
7 celled for noncompliance with Oil Conservation Division reg-
8 ulations.

9 Call for appearances.

10 MR. TAYLOR: May it please the
11 Examiner, I'm Jeff Taylor, Counsel for the Division, and
12 I'll have one witness.

13 MR. STOGNER: Any other appear-
14 ances?

15 MR. WEBER: May it please the
16 Examiner, my name is John Paul Weber from the law firm of
17 Maddox, Renfrow and Saunders in Hobbs.

18 I appear on behalf of Petro-
19 Thermo Corporation and we have two witnesses.

20 MR. STOGNER: Are there any
21 other appearances in this matter?

22 Will all witnesses please stand
23 at this time and be sworn?

24

25

(Witnesses sworn.)

1 Mr. Taylor?

2

3 EDDIE W. SEAY,

4 being called as a witness and being duly sworn upon his
5 oath, testified as follows, to-wit:

6

7 DIRECT EXAMINATION

8 BY MR. TAYLOR:

9 Q Would you please state your name, by whom
10 you're employed, and in what capacity?

11 A Eddie Seay, Oil Conservation Division,
12 Hobbs District I, Field Rep II.

13 Q Mr. Seay, have you previously testified
14 before the Commission or its examiners and had your creden-
15 tials accepted?

16 A No, I have not.

17 Q Would you then briefly go through your
18 educational and work experience?

19 A Yes. I received a BBA from Eastern New
20 Mexico University with a double major in business and agri-
21 culture.

22 I went to work for the Oil Commission in
23 1977 as a Field Rep I and as a Field Rep I I witnessed well
24 tests, workovers, plugging and cementing wells, and worked
25 extensively with Mr. John Runyan on water contamination

1 cases.

2 And in 1982 I was promoted to Field Rep
3 II, at which I supervise drilling, field operations, ap-
4 proved applications, workovers, and worked on contamination
5 problems and relieve the District Supervisor when he's gone.

6 Q Okay.

7 MR. TAYLOR: I tender the wit-
8 ness as an expert.

9 MR. STOGNER: Mr. Weber?

10 MR. WEBER: No objection.

11 MR. STOGNER: Mr. Seay's quali-
12 fications are so accepted.

13 Q Mr. Seay, would you please tell us the
14 purpose of this case, just for the record?

15 A It was a complaint, an anonymous com-
16 plaint made on November 7th, stinking water running out into
17 a street, with an investigation made by myself.

18 Q That would be October 7th, wouldn't it?

19 A October 7th, excuse me.

20 Q Okay, and the purpose, then, of the case
21 is to look into the facts relating to that complaint and de-
22 termine whether some action ought to be taken against Petro-
23 Thermo.

24 A Yes, sir.

25 Q Would you please then go further into how

1 the case came to be called, or really go into the facts of
2 the investigation that we went through?

3 A Yeah, I received the message around 4:00
4 o'clock on this date and went directly to the Petro-Thermo
5 yard and then in the street, on Roxanna Street behind the
6 yard there was water running out in the street and from
7 there I went to a phone to call. I called Mr. Sexton, my
8 supervisor, and he instructed me to get hold of Petro-Thermo
9 and take pictures and water samples.

10 Q And did you subsequently do those things?

11 A Yes, sir.

12 Q And those pictures are -- are here and we
13 want to -- do you want to enter those as exhibits?

14 A Exhibit One.

15 Q Okay, Exhibit One is the water in the
16 street?

17 A Yes, sir.

18 Q Okay.

19 A Well, both of the pictures were listed as
20 Exhibit One.

21 Q Okay.

22 A They were taken at the same time only
23 different areas.

24 Q We'll have the one with the water in the
25 street be Exhibit One-A, then, and you can make the one of

1 the truck and the fence with the water standing there Exhi-
2 bit One-B.

3 MR. TAYLOR: And here I have
4 the original of those pictures, Mr. Examiner, and I'll give
5 you those after -- at the conclusion of the hearing.

6 Q Would you please then identify the pic-
7 tures for the Examiner and show what both of them show? Ex-
8 plain what both of them show?

9 A The one you have listed as Exhibit One-A
10 is in Roxanna Street behind Petro-Thermo's yard.

11 Q And that was taken immediately after you
12 arrived at the --

13 A Yes, sir, after I've --

14 Q -- location.

15 A This is after I had called --

16 Q After you called Mr. --

17 A -- Mr. Thornton and Mr. Sexton. And this
18 was taken at the same time at the southeast corner of the
19 yard --

20 Q One-B.

21 A -- where it was running out.

22 Q Okay. And were both of these pictures
23 taken by you and do they accurately depict the situation at
24 the site that day?

25 A Yes, sir.

1 Q Okay. Please continue with what happened
2 then.

3 A After I had taken the pictures, collected
4 a water sample, I was -- I'm going to say, I'm guessing, 30
5 or 45 minutes had passed, and one of the representatives for
6 Petro-Thermo had showed up and we went over the yard area
7 where the water was standing and running out, and I had
8 instructed this person to get it cleaned up where it would
9 not run out in the yard -- in the street.

10 Q Okay. Did you -- you said you took a
11 water sample. You took that about the same time you took
12 the photographs?

13 A Took the sample the same time I took the
14 pictures.

15 Q Do you have the results of that sample?

16 A Yes, sir. Tested 11,350 parts chloride.

17 Q And what does that indicate to you?

18 A It's not fresh water. It's extremely
19 high to be putting out on the ground, I'd think.

20 Q And what number did we -- did you label
21 that exhibit, the water sample?

22 A Two.

23 Q Exhibit Number Two.

24 A Yes, sir.

25 Q And how -- how did you have that -- the

1 TDS determined in that water? Was that sent to a lab or did
2 you --

3 A I tested it myself.

4 Q Do you have facilities to do that?

5 A Yes, sir.

6 Q Okay.

7 A Using a titration method.

8 Q Okay, please continue.

9 A I had estimated the water standing in the
10 yard was -- there was pools covering the whole yard four to
11 six inches deep and then 75 barrels, just estimating, was in
12 the yard and 5 to 10 barrels had run into the street.

13 Q Uh-huh.

14 A And upon returning from this, before I
15 took the pictures and the -- collected the water sample, a
16 neighbor had come out there while I was doing all this. He
17 witnessed me getting pictures and everything, and he was out
18 there with his shovel throwing dirt up around the back
19 corner trying to stop the water.

20 Q From -- from exiting -- stop the water
21 from exiting from the lot?

22 A Yes, sir.

23 Q Okay. You stated a minute ago that you
24 did this water sample but obviously at that time you didn't
25 know the TDS.

1 A No.

2 Q Were there any indications to you at the
3 time that the water was other than fresh? Was there any-
4 thing about the water that --

5 A All I know is the neighbor had said it
6 was stinky when it was running out. I did not taste it. I
7 just collected a sample, took my pictures.

8 Q Okay. Did you at that time or any time
9 around the period when you were there talk to any employees
10 or officials of Petro-Thermo?

11 A Just -- just the one that Mr. Thornton
12 sent out there.

13 Q And what was the subject of your conver-
14 sation?

15 A I was trying to find out where the water
16 was coming from and he -- and at the time I was there there
17 was water coming off the wash rack, still running down into
18 the yard area.

19 Q Uh-huh.

20 A And it was -- I had instructed him to
21 stop it because it was getting in the street.

22 Q Uh-huh. And where did you take the sam-
23 ple from that you tested?

24 A In the street.

25 Q In the street?

1 A Itself.

2 Q Okay. In your experience would there be
3 any way that if this was fresh water that it could by the
4 time it got to the street show a TDS of 11,000, if it had
5 been fresh water as it came off the wash rack, or if all the
6 water was fresh water, that it would have shown a TDS of
7 11,000?

8 A I wouldn't think so.

9 Q Have -- on any previous occasions has the
10 District I office had any complaints about Petro-Thermo dum-
11 ping water or letting water, produced water, run off their
12 lot?

13 A Yes, we've had a number of calls over the
14 past few years about water running out and always they've
15 been anonymous people, just don't want to get involved, and
16 we've contacted, both myself and Mr. Sexton, too, talked to
17 Petro-Thermo.

18 Q Just neighbors, probably neighbors in the
19 area is what -- who've been making these calls but --

20 A I would assume so.

21 Q -- they haven't identified themselves.

22 Let's see if we've got all your exhibits.

23 Well, you have a -- did you want to
24 identify the -- your complaint form and your trip report as
25 exhibits?

1 A No, sir.

2 Q Okay.

3 A Just number three, a letter from a neigh-
4 bor.

5 Q All right, did you want to use that as an
6 exhibit? I don't have a copy of that.

7 A Yeah, he's got the original there from
8 Mr. Plumlee.

9 Q Now, Mr. Plumlee is --

10 A P-L-U-M-L-E-Y. (Spelling by Mr. Seay.)

11 Q And Mr. Plumlee is a neighbor of the
12 Petro-Thermo yard, lives near there?

13 A Right, he lives on Roxanne Street there,
14 and --

15 Q And --

16 A -- he was the man who witnessed me col-
17 lecting the sample and the pictures and the one that threwed
18 the dirt up around the back side of the yard.

19 Q Do you want to read the contents of that
20 letter? I know it's difficult to read, or do you just want
21 to --

22 A I don't know whether I have a copy of it.
23 Yeah, I have a copy of it.

24 It says, I, G. L. Plumlee, live at 807
25 West Roxanna Street in Hobbs. Would appreciate if something

1 could be done about brine water and oil sometimes that comes
2 out of Petro-Thermo's yard or the south end of the yard. My
3 home -- well, it says, in front of my home the company had
4 trucks pick up fluid in the street on October 7th and again
5 on October 15th. The problem has happened numerous times.
6 Sincerely, George Plumlee.

7 Q Have there been any complaints to you
8 about the Division's response to these Petro-Thermo spills
9 and leaks?

10 A Yeah, in visiting with some of those
11 neighbors around there, they were going to get a petition
12 against us for not doing something.

13 Q In other words, they think we're not tak-
14 ing strong enough action to alleviate these problems?

15 A Yes sir.

16 Q Do you have anything further to add to
17 your testimony?

18 A No, sir.

19 MR. TAYLOR: Mr. Examiner, I
20 think I could just for the Division make a recommendation
21 that in this case I think because of the prior history of
22 problems with Petro-Thermo, that we levy a fine which -- to
23 the maximum extent of our statute, which would be \$1000 a
24 day, and since we only have one occurrence here, that we
25 fine Petro-Thermo \$1000 and that we require them to enter

1 into an agreement much like we did in the case of -- what
2 was that?

3 MR. WEBER: INW?

4 MR. TAYLOR: INW, whereby they
5 would have rules applicable to their drivers that if their
6 drivers knowingly dumped produced water that they would au-
7 tomatically be fired from the company and in that manner I
8 think we could control the dumping of water.

9 If the trucker does it on his
10 own, then he'll be -- he'll be fired and if the company
11 directs him to do it and we find out about it, then obvious-
12 ly the worker, the employee would have some action against
13 the company, and we would -- would want the company to enter
14 into an agreement with us that they make these rules applic-
15 able to their employees and that they would be on a proba-
16 tion period for -- for about a year, under which time we
17 could -- if they were knowingly violating this rule again,
18 that their permit would be pulled at that time automatically
19 if they came to hearing within a year while they're on this
20 probation and it's found that they are knowingly dumping
21 produced water.

22 And I think if -- if we do
23 reach that agreement, we could have them pay the fine and
24 enter into the agreement and dismiss the case; otherwise, I
25 suppose we'd have to write an order on it. In INW that's

1 the way we did it. We had them pay the fine, enter into an
2 agreement with us, and the case was then dismissed.

3 And I would -- oh, I guess I do
4 need to enter these exhibits. I already qualified the pic-
5 tures as being taken and the water analysis, and I'd move
6 that they be admitted.

7 A He's got -- he's got the letter.

8 MR. TAYLOR: Oh, and the let-
9 ter.

10 MR. STOGNER: Are there any
11 objections? That's Exhibits One, One-A, One-B, Two, and
12 Three?

13 MR. WEBER: There are none.

14 MR. STOGNER: Being none, these
15 exhibits will be admitted into evidence at this time.

16 MR. WEBER: If I may be permit-
17 ted to --

18 MR. STOGNER: Mr. Weber, your
19 witness.

20 MR. WEBER: -- ask Mr. Seay a
21 number of questions.

22

23 CROSS EXAMINATION

24 BY MR. WEBER:

25 Q Mr. Seay, you testified that you traveled

1 to the Petro-Thermo Corporation trucking terminal or yard on
2 the corner of Burk and Roxanna in Hobbs on the afternoon of
3 October 7, 1986.

4 And you also testified that you took a
5 sample of the water at a low spot on Roxanna Street.

6 I'm just wondering if you could step up
7 to the map that's been posted on the wall and has been mar-
8 ked for identification as Petro-Thermo Corporation Exhibit
9 Number One, and first tell us if that's an accurate survey
10 of the Petro-Thermo Corporation trucking terminal.

11 A This Roxanna here? Yeah.

12 Q Sir, does that appear to be an accurate
13 survey of the Petro-Thermo Corporation trucking terminal, to
14 your knowledge?

15 A Well, the terminal appears to be more of
16 a square yard instead of a rectangle as you showed it, to
17 me. That's my opinion.

18 Q Could you locate on that map where you
19 took your sample of water, and could you please take this
20 red pen, put the number 1 --

21 A If this is the southeast corner, as I as-
22 sume it is, of the yard?

23 Q Yes, sir.

24 A In the street area right in through here.

25 Q Please put the number 1 at that location

1 and circle it.

2 Now I direct your attention to Exhibit
3 One-A, which appears to be a picture of some water standing
4 in the street.

5 A Yes, sir.

6 Q Could you identify with an arrow showing
7 the direction of where you pointed the camera with the base
8 of the arrow showing the place from which you took that pho-
9 tograph?

10 A I was standing shooting this way.

11 Q And could you mark that arrow with a 2?

12 Now I direct your attention to Exhibit
13 One-B and ask you if you could make the same sort of an ar-
14 row showing the direciton in which you took that photograph
15 and identify that arrow with the number 3.

16 A Southeast corner.

17 Q I thank you. If you could resume your
18 seat.

19 Mr. Seay, you indicated in your complaint
20 form that you completed that the water had a slight odor.
21 Will you please describe that odor?

22 A Smelt (sic) like, kind of like produced
23 water, had maybe a gassy smell to it.

24 Q Was it an H2S smell or a methane smell?

25 A Well, produced water has an H2S odor to

1 it.

2 Q Does it also have a methane odor to it?

3 A I'm not sure I could (unclear) between
4 methane and --

5 Q Now, isn't it true that there are quite a
6 number of small businesses in the area of the Petro-Thermo
7 Corporation's trucking terminal?

8 A Yes, sir.

9 Q Isn't there a company known as General
10 Welding and Supply located just to the east of the Petro-
11 Thermo Corporation terminal and adjacent to the wash rack?

12 A Yes, sir.

13 Q And they have various and sundry gases
14 that they from time to time release into the air.

15 A I don't know whether they do or don't.

16 Q Sir, isn't there a Texaco service station
17 also located just to the east of the Petro-Thermo Corpora-
18 tion terminal operation?

19 A Yes, on the corner of Marland and Grimes.

20 Q And isn't there a pumpjack, a recently
21 drilled well, just to the west of the terminal on the pro-
22 perty of Moran Drilling?

23 A There is, but I think the well was dril-
24 led after this, wasn't it?

25 Q Do you know if that was --

1 A I'm not sure.

2 Q -- an injection well for waterflood pur-
3 poses?

4 A I'm not sure at this time.

5 Q Do they use treated effluent or sewage
6 water in the injection wells, waterflood (inaudible)?

7 A Yes, sir.

8 Q And don't all these facilities generate
9 noxious odors of one sort or another?

10 A Yes, sir.

11 Q And isn't it possible that you might have
12 misconstrued these background odors?

13 A I guess it's possible.

14 Q Sir, your sample showed a concentration
15 of about 11,000 parts per million of chloride, did it not?

16 A Yes, sir.

17 Q Now is there not at least one other
18 company who maintains a terminal yard in the immediate
19 vicinity?

20 A Yes, sir.

21 Q And that company is engaged in the
22 business of transporting produced water and brine?

23 A Yes, sir.

24 Q And do you know of your own knowledge
25 that the trucks of that company routinely travel along

1 Roxanna and Burk in an effort to bypass the traffic signal
2 at Grimes and Marland?

3 A I don't know that.

4 Q Is it possible that they could?

5 A Sure, I guess anybody can use the street.

6 Q So the sample was taken on a public
7 street.

8 A Yes, sir.

9 Q And there are various and sundry differ-
10 ent conveyances the identity of which you can't be sure and
11 I'm not sure anybody could be sure that travel along those
12 streets.

13 A Yes, sir.

14 Q How can you be certain, then, that the
15 chlorides came from PTC's terminal operation, since you took
16 the sample in the street rather than in the yard itself?

17 A Because the water was running out of the
18 yard.

19 Q Now, if that water was running out of the
20 yard, is it possible it could have been contaminated by any-
21 thing that may have been present in the street?

22 Was the water standing or running?

23 A It was standing.

24 Q Now doesn't the City of Hobbs use brine
25 on its streets very frequently in times of snowfall in an

1 attempt to clear the roads as quickly as possible?

2 A Yes, sir.

3 Q And what happens when the snow melts and
4 the water evaporates, to the chloride content of the brines
5 that are placed on the streets?

6 A I assume part of it goes down the drains
7 and part of it will stay there.

8 Q If there was a sufficient amount of resi-
9 due from the brine placed upon the streets, or from other
10 materials, is it possible that that when mixed with fresh
11 water could have created the 11,000 parts per million chlor-
12 ides that you discovered in your sample?

13 A I don't know how recent they had put any
14 brine water on there. I suppose it's possible.

15 Q Now, you indicated that this concentra-
16 tion, 11,000 parts per million, in chlorides meant that it
17 wasn't fresh water.

18 A Yes, sir.

19 Q So that we can have some basis of compar-
20 ison, do you have any idea what the chloride concentrations
21 are in brines, say, sold by Salty Dog, Wasserhund, or Truck-
22 er (not understood) or Trucker's (not understood)?

23 A I don't -- I don't think I've ever tested
24 any of it, but I would assume it would be saturated, probab-
25 ly 100,000 parts.

1 Q So that clearly that was not brine.

2 A No.

3 Q Now, you've indicated that you've done
4 some analysis of various different waters. Have you
5 analyzed the chloride concentrations in formation waters,
6 say, of the Devonian, the Paddock, Drinkard, Blinebry?

7 A Yes, sir.

8 Q And what are the chloride concentrations
9 in those formations, sir?

10 A Without having figures in front of me, I
11 couldn't tell you. I would assume that the average produced
12 water would probably run 50,000 parts.

13 Q Once again considerably higher than the
14 sample that you took.

15 Could you conclusively determine that the
16 substance that you sampled was production water, just based
17 upon the chloride concentration?

18 A All I could determine is it wasn't fresh
19 water.

20 Q All right. Now you personally conducted
21 the water analysis of the sample, did you not?

22 A Yes, sir.

23 Q And you used a titration test method.
24 Was that the only test you performed?

25 A Yes, sir.

1 Q You only tested for chlorides.

2 A Yes, sir.

3 Q Does a test for chlorides conclusively
4 prove that a water sample is or is not produced water?

5 A It only says that it's not fresh water or
6 it is fresh water.

7 Q Did you test for the presence of hydro-
8 carbons at all?

9 A No, sir.

10 Q What tests could have you -- could you
11 have conducted?

12 A The only test I run at my lab, or set-up,
13 is the chlorides test.

14 Q Wouldn't a test for hydrocarbons indicate
15 that a given sample was more probable than not produced
16 water?

17 A It would give you a better analysis, yes,
18 sir.

19 Q Now, you have indicated that you received
20 a number of anonymous telephone calls with regard to this
21 (unclear).

22 A Yes, sir.

23 Q Was any Oil Conservation Division com-
24 plaint form completed for these?

25 A No, sir.

1 Q Was any sample of the water spilled tes-
2 ted?

3 A No, sir. You're talking about previous -

4 Q Yes, sir.

5 A No, sir.

6 Q Now, when you talked about a prior his-
7 tory of problems, then you're talking about a prior history
8 of generally unsubstantiated complaints.

9 A Well, I have an affidavit here from one
10 of the neighbors, not this one but another one, that I would
11 use as Exhibit Four, if I may, and this was from a business
12 across the street that had witnessed and had reported to the
13 police a number of times that water had been running down
14 the street and the alley.

15 Q Now this particular affidavit does not
16 indicate what was dumped, does it, whether it was production
17 water or brine or fresh water?

18 A No, sir.

19 MR. STOGNER: Excuse me, Mr.
20 Taylor, are you going to offer this Exhibit Four as an exhi-
21 bit?

22 MR. TAYLOR: Oh, probably not.
23 I'll have to read it but at this time we will not be.

24 Q So in this affidavit from Ms. Velma
25 Marchbanks, a former employee of the Antweil Oil Company,

1 she indicates that some unspecified contents of a trailer
2 were in fact spilled.

3 A Yes, sir.

4 Q But she does not specify whether or not
5 the spill was production water, brine, fresh water, or
6 really any other substance.

7 Similarly, in what has been marked as Di-
8 vision Exhibit Number Three, the letter from Mr. Plumlee,
9 there is an indication that brine and oil have been dumped.

10 Do you know what Mr. Plumlee's qualifica-
11 tions are?

12 A I believe he's retired from Gulf Oil Com-
13 pany.

14 Q And do you know if he conducted any sam-
15 ples, any testing done of his own to determine the composi-
16 tion of the various different substances he reported to you?

17 A No.

18 Q And you have previously indicated that
19 the Oil Conservation Division did not conduct any analysis
20 or test of these samples.

21 A Previously, you're talking about?

22 Q Yes, sir.

23 A No, sir.

24 Q Mr. Seay, did you meet with Mr. Robert
25 Tillery of Petro-Thermo Corporation when he visited the

1 terminal?

2 A I've -- I've met with one representative.
3 I don't recall his name, sir.

4 Q Yes, sir. Could you describe him for me?

5 A No, not right offhand. There was two
6 Spanish guys and him there. I don't know.

7 Q Did you have an opportunity to walk
8 inside the terminal?

9 A Yes, sir.

10 Q With Mr. Tillery?

11 A Yes, sir.

12 Q And how did you calculate that there were
13 75 barrels of some sort of substance out there?

14 A As I stated, it was just an
15 approximation, just a guess.

16 Q It could have been considerably less or
17 --

18 A Or considerably more, maybe.

19 Q Now, did you take a sample inside --

20 A No, sir.

21 Q -- the terminal. Wouldn't such a sample
22 taken inside of the trucking terminal give you more specific
23 conclusion as to the presence or absence of produced water?

24 A Maybe. I assume that they were the same
25 but after they'd run out after it was in the yard itself.

1 Q Did you have a conversation either with
2 Mr. Thornton or Mr. Tillery, whoever the Petro-Thermo Cor-
3 poration representative was who met you at the terminal,
4 with regard to what sort of water this was on the ground?

5 A Well, on the initial call that I called
6 Mr. Thornton, he had told me that it was fresh water and I
7 asked him to have somebody or himself meet me at the yard so
8 we could check it out, and he -- never mind, go ahead.

9 Q Go ahead.

10 A He told me he would give me a number of
11 his foreman, I guess is what he's qualified to be, the fore-
12 man of his yard, and I could call him to meet me.

13 Q And someone from Petro-Thermo --

14 A Yes, sir.

15 Q -- came down and met you at the yard.

16 A Yes.

17 Q Did that individual say anything to you
18 about what that substance might be?

19 A He just said they'd been washing a truck
20 out.

21 Q Did he reach his hand down and scoop up
22 any of the water and taste it for you?

23 A I don't recall.

24 Q Did you taste the water?

25 A No, sir.

1 Q All right, had it been brine as opposed
2 to fresh water, could you have probably told the difference
3 had you tasted it?

4 A You could taste 10,000 parts salt, yes,
5 sir.

6 Q Would production water have a distinctive
7 taste?

8 A Yes, sir.

9 Q Would that distinctive taste cause an in-
10 dividual to grimace or --

11 A Yes, sir, I'm sure it would.

12 Q Did Mr. Tillery taste the water?

13 A I'm not sure he did, sir. I didn't wit-
14 ness him doing it.

15 Q Now, you're familiar with the rules and
16 regulations of the Oil Conservation Commission with regard
17 to disposition of produced water, is that correct?

18 A Fairly familiar.

19 Q And those rules and regulations provide
20 that produced water shall not be dumped on the ground or at
21 any other place or any other manner that would constitute a
22 hazard to existing fresh water supply.

23 A Yes.

24 Q And from what you've told us, you haven't
25 been able to absolutely, positively identify this particular

1 substance that was dumped on the water as production water?
2 Is that correct?

3 A Yes, sir.

4 Q Now the rules and regulations of the Oil
5 Conservation Division also provide for notification of the
6 Division in the case of spills or leaks of brine, is that
7 not correct?

8 A Yes, sir.

9 Q And there's a requirement for notifica-
10 tion of 25 barrel or more of brine if it happens to be spil-
11 led or leaked on the ground.

12 A Yes, sir.

13 Q But isn't it true that there's no
14 requirement for any notification of less than 25 barrels?

15 A Yes, sir.

16 Q And what requirement, if any, is imposed
17 by the rules and regulations of the Oil Conservation Divi-
18 sion with regard to the spilling of fresh water on the
19 ground?

20 A None.

21 MR. WEBER: Mr. Examiner, I
22 have no further questions of this witness.

23

24

25

CROSS EXAMINATION

1
2 BY MR. STOGNER:

3 Q Mr. Seay, Exhibit One-A here shows the
4 water in the street and it was -- it appears it's running
5 down to another street. What's that street?

6 A Grimes.

7 Q Okay. And this was taken on October the
8 7th, right?

9 A Yes, sir.

10 Q Had there been any snow in Hobbs prior to
11 this time in October or September?

12 A I have the copy of what I got from the
13 airport on the moisture content and wind direction and
14 everything two weeks and there was no moisture within that
15 two weeks.

16 Q So if there was salt water dumped on the
17 streets to melt to the salt, it probably wasn't done till
18 last winter, probably.

19 A I have no idea. I don't know that for
20 sure.

21 Q Are you aware of this practice of dumping
22 salt water to melt the salts -- melt the snow?

23 A I've witnessed it.

24 Q Do they usually do it on main streets or
25 do they do it on these little side streets?

1 A Normally it's on your main streets.

2 Q Okay. I'm looking at Exhibit Number One-
3 B here and that appears to be a tailend of a truck or a
4 trailer?

5 A Yes, sir.

6 Q Okay, about how deep was that water where
7 the wheel was on the truck?

8 A I believe I estimated 4 to 6 inches
9 there, but I did not measure it.

10 Q Okay, but it is -- that's an accurate de-
11 scription of the truck usually being quite a bit -- ways off
12 the ground.

13 A I don't know whether the truck may have
14 had a flat. If it did it would have been a little bit lower
15 than what, you know, you know is here.

16 Q How much of the yard, Petro-Thermo's yard
17 was this water?

18 A There was water standing on nearly all of
19 the yard.

20 Q Okay, was there any -- is there another
21 border or fenceline that separates Petro-Thermo's yard to
22 the east?

23 A That's an alley that goes through there.

24 Q That's an alley, okay. Was there any
25 water in that alley?

1 A No, sir.

2 Q Where is this welding shop that was al-
3 luded to earlier?

4 A I believe on the map there it would be
5 about halfway down that east side, roughly.

6 Q Is there anybody -- is there any other
7 company or organization on that block that would use that
8 much water in their every day work? Would the welding shop
9 need water?

10 A I wouldn't think so but I don't know what
11 they --

12 Q Would the service station handle that
13 much water, do you think?

14 A The service station I'm sure has a wash
15 rack area, but I don't -- I'm not sure where that water
16 goes. It's probably in the sewer system.

17 Q And the service station is downhill from
18 -- it's on Grimes, is it not?

19 A It's on the corner of Grimes and Marland,
20 I believe.

21 Q All right. So that water was clearly
22 coming from the particular general area of Petro-Thermo's
23 yard, was it not? Okay.

24 On these -- do you know what the capacity
25 of some of these trailers or water hauling trucks are?

1 A I think they're most of them are 150 to
2 180 barrel trucks. They say they were bobtail trucks and I
3 think the truck they had on the wash rack was a vacuum
4 truck. I'm not sure of it; maybe a 75 or 80 barrel truck.

5 Q Okay. Do you think anybody would use 75
6 barrels of water to wash a truck?

7 A I don't know.

8 Q This Exhibit Number Three, the letter
9 from Mr. Plumlee, --

10 A Yes, sir.

11 Q -- did this come out -- was it just re-
12 ceived in the mail some day or was it after another com-
13 plaint or was it any connection with the particular com-
14 plaint?

15 A It was in connection with this particular
16 complaint.

17 Q Okay.

18 A He was the -- he was the one that came
19 out and witnessed when I was getting the water sample and
20 taking the pictures and like I say, he was the one that
21 threw the dirt across that dike to keep it from running ut
22 in the street.

23 Q So he lives directly across the street
24 from where you took the pictures?

25 A Yes, right behind Roxanna. His house

1 faces their yard.

2 MR. STOGNER: I have no further
3 questions.

4 Mr. Taylor, do you have any
5 questions?

6 MR. TAYLOR: Yeah, I have one
7 or two follow-up.

8

9

REDIRECT EXAMINATION

10 BY MR. TAYLOR:

11 Q Mr. Seay, you stated that the phone call
12 that led to your investigation, the complaining party stated
13 that there was water -- there was stinking water coming from
14 the Petro-Thermo yard and running down the street.

15 Is it your experience that fresh water in
16 the Hobbs system stinks?

17 A No, sir.

18 Q Did this water have a smell similar to
19 that that you've experienced from produced water rather than
20 from any fresh water?

21 A It had a faint smell to it. May I -- I'm
22 around so much that it's hard for me to tell, but it did
23 have a faint smell to it.

24 MR. TAYLOR: That's all the
25 questions I have, Mr. Examiner.

1 I would state that we will pro-
2 vide you information on whether there was any snowfall in
3 Hobbs prior to October 7th of this year, and whether, there-
4 fore, there might have been salt water or salt or something
5 on the road.

6 A I have a deal from the airport on wind
7 directions and moisture four or five days prior to that.

8 MR. TAYLOR: Well, we'll take
9 this and supplement it with information on whether there was
10 any snow at all prior to that -- that point in time.

11 MR. STOGNER: I'll do something
12 a little bit unorthodox.

13 How many from Hobbs here? How
14 many live in Hobbs?

15 All right, was there any snow
16 prior to October 7th that anybody remembers, between then ad
17 summer?

18 (General response.)

19 I took a vote and I don't see
20 that anybody remembers snow prior to October 7th of that
21 year, but if you'd like to supplement the record with some
22 technical data or some official data, that would be fine.

23 Mr. Weber, do you have anything
24 further?

25 MR. WEBER: Yes, sir, I do, in

1 response to your questions I have several.

2

3

RE CROSS EXAMINATION

4

BY MR. WEBER:

5

Q Sir, you discussed with the Examiner this

6

particular photograph, I'm not certain if it's One-A or B,

7

my exhibit is not marked. Could you tell us if this was the

8

deepest part of the standing water in the yard?

9

A It appeared to me it was.

10

Q Yes, sir, and isn't it generally true, as

11

is shown on the map, that the ground slopes towards the

12

southeast in the direction of the point where you took your

13

water sample and took the photographs?

14

A Yes, sir.

15

Q Now, you'd identified the location of the

16

Texaco service station, which is located to the north --

17

A Yes, sir.

18

Q -- and slightly to the east, and that's

19

generally uphill from the point, the site where you took

20

your water sample, was it not?

21

A Yes, sir.

22

Q So any water or contaminants of any sort

23

stemming from the service station might well flow right down

24

that alley towards the point where you took your sample.

25

A Could have.

1 Q Now you were questioned with regard to
2 washing a truck, that the water might have come from the
3 wash rack, and you indicated that no one that you knew would
4 use 75 barrels of water for washing a truck.

5 A I did not say that.

6 Q What did you say?

7 A I said I don't know how much water it
8 takes to wash a truck.

9 Q Okay. Could there have been some other
10 reason for the dispersal of fresh water throughout the area
11 other than, say, washing a truck?

12 A No, sir, not to my knowledge.

13 Q Now, there's quite a bit of difference
14 between water that stinks and water that has a faint odor,
15 is there not, and you're absolutely certain that the odor
16 was faint.

17 A Yes, sir.

18 Q At that point in time that you analyzed
19 it.

20 MR. WEBER: I have no further
21 questions.

22 MR. TAYLOR: I still have a
23 question.

24

25

REDIRECT EXAMINATION

1
2 BY MR. TAYLOR:

3 Q Mr. Seay, was there any water in the
4 street or the alley where you took the sample coming from
5 the gas station, the service station, up the street?

6 A No, sir.

7 Q Did you see a line of water coming down
8 from the service station?

9 A No, sir.

10 Q Thank you.

11 MR. STOGNER: Are there any
12 other questions of Mr. Seay?

13

RECROSS EXAMINATION

14
15 BY MR. WEBER:

16 Q Mr. Seay, did you look particularly for
17 any water coming from the service station or were you re-
18 sponding to this complaint focusing in on what had previous-
19 ly been told to you as water coming from Petro-Thermo's
20 yard?

21 A I did not look at the service station,
22 no, sir.

23 Q Thank you, sir.

24 MR. TAYLOR: Mike, I have an-
25 other question I want to ask.

1

2

REDIRECT EXAMINATION

3 BY MR. TAYLOR:

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Q Mr. Seay, did the representative from Petro-Thermo give any statement that the water did not come from Petro-Thermo, that it wasn't their water, that it came from somewhere else, the service station or up the hill or down the hill or from Texas?

A No. In fact they were still washing a truck when I was there and the water was still running down the yard.

Q And it would be consistent that if that were produced water and they were washing the truck with fresh water that it would dilute the TDS or the chlorides in the water so that it would test at 10,000 rather than what the produced water, or whatever was in the truck, might actually have been?

A It's possible.

Q Thank you.

MR. STOGNER: Are there any other questions of Mr. Seay?

MR. WEBER: No, Mr. Examiner.

MR. STOGNER: Pardon?

MR. WEBER: No, Mr. Examiner.

MR. STOGNER: All right, he may

1 be excused at this time.

2 I'm going to take a five minute
3 recess.

4
5 (Thereupon a recess was taken.)

6
7 MR. STOGNER: We will resume
8 order.

9 Mr. Weber?

10 MR. WEBER: Mr. Examiner,
11 Petro-Thermo Corporation would like to call as its first
12 witness Mr. Jim Abbott, who has previously been sworn.

13
14 JAMES T. ABBOTT,
15 being called as a witness and being duly sworn upon his
16 oath, testified as follows, to-wit:

17
18 DIRECT EXAMINATION

19 BY MR. WEBER:

20 Q Sir, would you please state your full
21 name?

22 A James T. Abbott.

23 Q And where, Mr. Abbott, do you currently
24 reside?

25 A Hobbs, New Mexico.

1 Q Have you previously testified before the
2 Oil Conservation Division?

3 A No, sir.

4 Q Sir, what is your relationship to Petro-
5 Thermo Corporation?

6 A I'm Vice President, Operations Manager.
7 I'm a Director of the company.

8 Q And what are your duties and responsibil-
9 ities generally?

10 A General supervision of all trucking oper-
11 ations for Petro-Thermo.

12 Q And this supervision extends to person-
13 nel, equipment maintenance, terminal operations, and regula-
14 tory compliance, does it not?

15 A Yes. All supervision of trucking opera-
16 tions.

17 Q How long have you been involved in the
18 supervision of trucking operations?

19 A Six years.

20 Q What trucking permits, certificates, or
21 authorizations does Petro-Thermo Corporation currently pos-
22 sess?

23 A We have Interstate Commerce Commission
24 permits for hauling liquids interstate.

25 We have been issued a Certificate of Pub-

1 lic Convenience and Necessity by the State Corporation Com-
2 mission of New Mexico to haul oilfield liquids within the
3 eastern half of New Mexico.

4 And we have an Authorization to Move Pro-
5 duced Water, C-133 Form, from the Oil Conservation Division.

6 Q Please describe in general terms the bus-
7 iness undertaken by Petro-Thermo Corporation.

8 A Our primary business is hauling oilfield
9 liquids, produced water, fresh water, brine water, oil,
10 drilling mud, and other fluids to the oilfield.

11 Q Isn't Petro-Thermo Corporation one of the
12 major haulers of oilfield liquids in southeastern New Mex-
13 ico?

14 A Yes, I'd say we were in the top five of
15 twenty or so haulers in Lea County.

16 Q Please describe in general terms the num-
17 ber and types of equipment used in Petro-Thermo's trucking
18 operations.

19 A We have approximately thirty vehicles,
20 transport trucks, kill trucks, potable water trucks, vacuum
21 trucks, that we send out every day for oilfield services.

22 Q Who is responsible for the supervision of
23 the general condition, the maintenance, repairs of these
24 items of equipment?

25 A I am.

1 Q Please describe in general terms Petro-
2 Thermo Corporation's terminal facilities, shop and mainten-
3 ance facilities.

4 A We have a shop located at 500 South Burk
5 in Hobbs, which consists of a two bay shop and an adjacent
6 wash rack with a cement lined sump.

7 Q Why do you have a cement lined sump at
8 the wash rack?

9 A To prevent any waters that go into the
10 sump from contaminating any fresh water.

11 Q And what do you do to waters that flow
12 into this concrete lined sump?

13 A We haul this sump water off to our Good-
14 win disposal, which is an approved Oil Conservation Division
15 disposal for waste fluids.

16 Q I direct your attention to the map which
17 has been posted on the wall and has been marked for identi-
18 fication as Petro-Thermo Corporation Exhibit Number One, and
19 ask you if you can recognize that?

20 A Yes, sir, I do.

21 Q What is that?

22 A That is our -- the bottom part of the
23 righthand corner is the yard area where we park our trucks.

24 Just north of that is our wash rack area
25 and just north of the wash rack area is our shop area.

1 Q Is that an accurate survey of the term-
2 inal area prepared by John West Engineers?

3 A Yes, sir.

4 Q Do you conduct daily inspection of the
5 terminal facility?

6 A Yes, daily.

7 Q And what are your other duties and
8 responsibilities with regard to dispatch of vehicles, taking
9 water, and things of that nature?

10 A I take jobs over the phone in the office
11 and dispatch trucks to the various locations as they come
12 in, and I also dispatch truck pushers to go out and super-
13 vise these jobs.

14 Q What administrative agencies, Federal and
15 State regulate Petro-Thermo Corporation's trucking opera-
16 tion?

17 A Interstate Commerce Commission, New Mex-
18 ico State Corporation Commission, and New Mexico Oil Conser-
19 vation Division.

20 Q How familiar are you with the rules and
21 regulations promulgated by each of these agencies?

22 A Very familiar.

23 Q Who is responsible for insuring compli-
24 ance as far as Petro -Thermo Corporation is concerned with
25 these regulations?

1 bits any spill of produced water on the ground.

2 Q Isn't it true that Rule 116 is a rule
3 which requires that the Oil Conservation Division be noti-
4 fied in the case of any leakage and spill of salt water of
5 more than 25 barrels?

6 A Yes, sir.

7 Q And that there is no notification re-
8 quired if 25 barrels or less of salt water is leaked, is
9 that your understanding of the --

10 A Yes, sir.

11 Q -- rules and regulations? Now, 710-A is
12 a complete prohibition against disposing of produced water
13 in any than an approved disposal site, is that correct?

14 A That's correct.

15 Q Now, are your employees aware of these
16 rules and regulations?

17 A Yes, they are.

18 Q How do you at Petro-Thermo Corporation
19 make them aware of these rules and regulations?

20 A We conduct safety meetings practically
21 once a month with our employees and we not only go over
22 safety but we stress the rules that they need to follow.

23 Q And have you on occasions specifically
24 stressed the rules concerning dumping of salt water or dump-
25 ing produced water?

1 A Yes.

2 Q Have you made compliance with these rules
3 a condition of employment?

4 A Yes. All our employees are aware that
5 they can be terminated if they fail to follow the rules of
6 the OCD.

7 Q How have you made them aware that they
8 could be terminated?

9 A We have our Employee Handbook which we
10 give to all our employees when they're hired and the first
11 page of it says that they will comply with all the rules of
12 the New Mexico Corporation Commission and the New Mexico Oil
13 Conservation Division.

14 Q Now I direct your attention to what has
15 been marked for identification as Petro-Thermo Corporation
16 Exhibit Number Two and ask you if you can identify that?

17 A Yes. This is the first page of our Em-
18 ployee Handbook.

19 Q And that first page indicates that it is
20 a condition of employment to comply with the rules and regu-
21 lations of the Oil Conservation Division.

22 A Right.

23 Q And it also indicates that the rules and
24 regulations have been made available to the employee for his
25 consideration.

1 A Yes, sir.

2 Q And that in addition to your routine
3 briefings of your employees with regard to compliance, do
4 you let them know if they have any questions about these
5 rules and regulations they should contact the supervisor.

6 A Yes. They're reminded of these rules.
7 Any time a truck has gone out to haul produced water he is
8 told the appropriate disposal site for disposal of produced
9 water.

10 Q What sanctions could you, what sanctions
11 would you apply for a violation of the rules and regulations
12 of the Oil Conservation Division?

13 A They would be terminated if they failed
14 to follow the rules of the OCD.

15 Q Mr. Abbott, do you have any personal
16 knowledge of the facts and circumstances which led to the
17 investigative report filed by Mr. Seay of the Hobbs District
18 Office, Oil Conservation Division, on or about the 7th of
19 October, 1986?

20 A Yes, sir.

21 Q Did you respond to that?

22 A Yes. The first thing came to mind when
23 we were notified of the spilling of water in our yard was
24 earlier that day I had dispatched a driver, Mr. Joe Espin-
25 osa, to go out on a job and in Truck No. 47, and at which

1 time he came down to the yard and noticed there was some
2 water on Truck No. 47, and this water was on the truck.
3 This was fresh water and it had been used for testing some
4 well that we had done September 25th, and at which time I
5 told him to unload this partial load of fresh water onto our
6 yard.

7 Q And did you report this fact to the Oil
8 Conservation Division at a point in time before you had an
9 opportunity to review the investigative report filed by Mr.
10 Seay?

11 A Yes, we sent a letter to the OCD and
12 pointed this out.

13 Q Now, following receipt of the report did
14 you personally conduct an investigation into the allegations
15 set forth in the report?

16 A Yes, I talked to truck driver Joe Espin-
17 osa that unloaded the water on the yard. I talke to Mr.
18 Robert Tillery, our truck pusher that met with Eddie Seay
19 the day of the spill on the yard, and also I talked to our
20 mechanic shop foreman, Dan Roberts, about the incidence of
21 loading the fresh water onto Truck 47 after we had made some
22 weld -- welding repairs on the back of the truck.

23 Q Did you ask that each of the individuals
24 who you personally interviewed make an affidavit regarding
25 the facts and circumstances?

1 A Yes, sir.

2 Q Did you bring these affidavits with you?

3 A Yes.

4 Q I show you now what has been marked for
5 identification as Petro-Thermo Exhibits Number Three, Four,
6 and Five, and ask you if you could identify them.

7 A Exhibit Number Three is an affidavit from
8 Daniel C. Roberts, our shop foreman and welder, employed by
9 Petro-Thermo Corporation, and this affidavit goes over the
10 steam cleaning that was done on Trailer No. 47 prior to some
11 welding repairs that were to be made on the trailer.

12 Q And Petro-Thermo Corporation Exhibit Num-
13 ber Four?

14 A This is Joe Espinosa's affidavit, the
15 Petro-Thermo driver that was instructed to unload Trailer
16 47's contents on the Petro-Thermo yard on October 7th.

17 Q And what has been marked for identifica-
18 tion as Petro-Thermo Corporation Exhibit Number Five?

19 A This is the affidavit of Robert Tillery,
20 the truck pusher that met with Eddie Seay down at our yard
21 on October 7th when the spill occurred.

22 Q What steps did you personally take to
23 confirm the information set forth in those affidavits? What
24 reports or other records might you have reviewed?

25 A I reviewed the truck maintenance reports

1 that were made on this Truck 47 and that was done on Septem-
2 ber 25th and the truck was not used between September 25th
3 and October 7th.

4 Q Did you also check the various different
5 job logs, dispatch logs, to confirm this finding?

6 A Yes. Checked our job log and we hadn't
7 used this truck in some time and since about September 10th,
8 and the next time we used it was October 7th.

9 Q What was your first impression when you
10 learned of the investigative report that was filed?

11 A I assumed that the report was made in re-
12 ference of the fresh water that was unloaded from Trailer 47
13 onto our yard.

14 Q And what did your subsequent investiga-
15 tion reveal?

16 A Mr. Tillery, as evidenced in Exhibit
17 Five, went down to the yard and met with Mr. Seay, in Mr.
18 Seay's presence, and he tasted the water and it was not sal-
19 ty, and he smelled the water and it did not have an odor.

20 Q Now, let's go back to the date you first
21 mentioned, the 10th of September, 1986. What occurred on
22 that particular date?

23 A We noticed that Truck 47 had some small
24 leaks on the rear sump of the trailer and at which time I
25 deadlined the trailer.

1 Q Why did you deadline the trailer?

2 A Because we didn't want to be leaking any
3 type of fluids from the trailer on any subsequent jobs.

4 Q What was subsequently done to Trailer
5 Number 47?

6 A Trailer 47, since it had these holes, was
7 scheduled to be welded to patch up these holes, and in order
8 to weld on a truck we have to steam clean the truck, make
9 sure there's not any sort of gases inside the trailer that
10 could ignite an explosion when the welding was made, and
11 this was done.

12 Q Where do you do the steam cleaning?

13 A We do it at our yard on the wash rack.

14 Q Why do you do it at the wash rack?

15 A Because we have a cement lined sump there
16 by the wash rack that holds the water.

17 Q And you previously indicated that you use
18 a vacuum truck to drain the sump and take the produced water
19 residue or whatever else may remain in the sump to the Good-
20 win Treating Plant?

21 A Yes, sir.

22 Q Now, after steam cleaning what is done?

23 A After steam cleaning is done we can refer
24 to Exhibit Three and Number 4 of Exhibit Three, and see that
25 we use a certified gas detection meter to check for gases

1 inside the trailer.

2 Q Why do you use this?

3 A For safety so that the trailer will not
4 explode when it's welded on.

5 Q Does this checking also have the ancil-
6 lary purpose of assuring that the trailer tank is clear of
7 any produced water or residue?

8 A Yes. These -- this Explosion Meter 2-A
9 of Main Safety and Appliance Company is very accurate in de-
10 tecting any gas and if you detect any gas with this meter
11 you are not to weld on a trailer.

12 Q And was Trailer No. 47 subsequently wel-
13 ded?

14 A Yes, sir, it was.

15 Q Was there any explosion or other --

16 A No, a safe weld.

17 Q What was then done?

18 A After the welding of the trailer, to make
19 sure that the trailer is free of leaks, it's routine for us
20 to fill, partially fill a trailer with fresh water from our
21 city water source at our yard, and stress the welds and see
22 if there's going to be any leaks from it.

23 Q And how long do you generally leave the
24 fresh water in the trailer?

25 A We might leave it over night or for two

1 or three days.

2 Q Do you recall in this particular instance
3 how long the fresh water remained in that trailer?

4 A I think for about three or four days.

5 Q Then what happened with regard to the
6 Trailer No. 47?

7 A Then after the welds and testing with the
8 water was done, it was parked in our yard and was not used
9 until October 7th.

10 Q What was the occasion on which this par-
11 ticular trailer was used?

12 A We had a job to haul some produced water
13 with Trailer 47 and in order to do so we had to unload the
14 fresh water onto the yard.

15 Q Okay. What part, if any, did you play in
16 that?

17 A I -- I sent the driver on the job when
18 the job came in and I ordered the driver to disperse the
19 fresh water onto the yard.

20 Q Did you tell him how to do it?

21 A I told him to drive up and down the yard
22 within the parking area and open the back valves of this
23 truck and disperse the water on the yard.

24 Q How did you know that there was fresh
25 water in the trailer?

1 A Because I talked to Joe Espinosa, the
2 truck driver that was going out on the job and also our
3 mechanic, Dan Roberts, and they both told me that they wit-
4 nessed the filling of Truck 47 the day that the -- it was
5 filled, partially filled.

6 Q Did anyone witness the dispersal of
7 water from Truck No. 47?

8 A Joe Espinosa was the driver. He was the
9 one doing the dumping on the yard, and I'm sure there were
10 other employees down at the yard at the same time that saw
11 him do this.

12 Q Did Mr. Espinosa note any particular odor
13 to the water or any other indication it was other than fresh
14 water?

15 A No, he did not. In Exhibit four, on num-
16 ber 4, it says he did not note any odor indicating the pre-
17 sence of produced water on Truck 47.

18 MR. TAYLOR: Mr. Examiner, I'll
19 just note for the record an objection to this line of ques-
20 tioning. The witness is testifying about what somebody else
21 may or may not have said or done and I don't see how it can
22 be credible at all; if the person that checked the water
23 wants to testify, that's fine. You know, I can say the guy
24 did or did not do anything I want, and so can the witness,
25 and I think it has no credibility at all for this hearing to

1 say what somebody else did.

2 But I'll just note that for the
3 record and note also that we will object to the entry of the
4 affidavits because we can't cross examine these witnesses,
5 and we don't think they should be admitted as evidence.

6 MR. STOGNER: Your objection
7 will be so noted.

8 Mr. Weber.

9 MR. WEBER: If I may continue,
10 Mr. Examiner.

11 MR. STOGNER: Please.

12 Q Mr. Abbott, did you at a point in time
13 prior to this particular incident order some water analyses
14 to be done on samples of brine stations in the Hobbs vicin-
15 ity?

16 A Yes, sir.

17 Q And I direct your attention to what has
18 been marked as Petro-Thermo Exhibit Number Six and ask you
19 if these are copies of water analyses performed by UniChem
20 International at your request in June of 1985?

21 A Yes, they are.

22 Q Based upon your personal knowledge of the
23 facts and circumstances surrounding the incident on October
24 7th, 1985, based upon your personal review of the mainten-
25 ance records, the dispatch logs, maintained in the ordinary

1 course of business by Petro-Thermo Corporation, have you
2 come to a conclusion as to what the substance was that was
3 spilled on the ground of the Petro-Thermo Corporation Truck-
4 ing Terminal on October 7th, 1986?

5 A Yes. I've concluded that the spill that
6 was created on October 7th at our Petro-Thermo yard was
7 created by unloading fresh water from Truck No. 47.

8 MR. WEBER: I have no further
9 questions.

10 MR. STOGNER: Mr. Taylor, your
11 witness.

12

13

CROSS EXAMINATION

14 BY MR. TAYLOR:

15 Q Mr. Abbott, you said you have an employee
16 handbook and that you explain to employees that they will be
17 discharged for violation of the rules, has Petro-Thermo ever
18 been cited or fined for illegal disposal of water?

19 A Yes, about three or four years ago.

20 Q And was the responsible employee either
21 fired or otherwise reprimanded?

22 A He was fired.

23 Q And what was that employee's name?

24 A Richard Garcia.

25 Q And could you give me the date of this?

1 A No, I don't remember the date.

2 Q What period of time from the illegal
3 dumping was he fired?

4 A A matter of the next day.

5 Q Did you actually check this Truck 47 to
6 see if the water was fresh in it?

7 A I personally did not check the truck.

8 Q How can you explain the fact that the
9 sample of water we tested showed 10,000, over 10,000 parts
10 of chlorides if it was fresh water?

11 Is that the quality of fresh water in the
12 area?

13 A No, but the sample was not taken from the
14 truck. The sample was taken off the ground.

15 Q And how do you explain the fact from the
16 truck to the sample taken it changed from, I suppose zero
17 TDS to 10,000?

18 A Well, I think the ground has all sorts of
19 chloride contaminants and any water that goes across it is
20 contaminated by chlorides in the soil.

21 Q Does this mean that you've dumped pro-
22 duced water in the yard as a common practice and therefore
23 there's chlorides in the yard or TDS -- or solids, things
24 that were picked up by the water in the yard?

25 A No, there wasn't any produced water dum

1 ped in the yard.

2 Q Is there any difference between water
3 with 10,000 TDS going down the street being produced water
4 or being water that just picked that up in your yard? I
5 mean --

6 A Yes, there is a difference.

7 Q -- what's the difference between that
8 water having the 10,000 TDS out in the street and -- and --

9 A The difference is the amount of hydrocar-
10 bons that are --

11 Q -- coming from the truck?

12 A -- in solution of the water and without a
13 hydrocarbons type test you cannot say that it was produced
14 water or fresh water.

15 Q Have you ever had or are you aware of any
16 complaints from people in the area about the dumping of
17 water by Petro-Thermo?

18 A Yes, I've been aware of a few complaints
19 that there had been water in our yard.

20 Q How have you responded to those?

21 A We have dispatched vacuum trucks to clean
22 the water up, dispose of it in our Goodwin disposal.

23 Q So this is not the first time that water
24 has bene in the streets from your operation?

25 A No.

1 Q Is it a fairly common practice that water
2 leaves your operation and goes out into the streets in
3 Hobbs?

4 A No, sir.

5 Q How -- you told us that the sump pit was
6 to hold produced water and other, I guess, contaminants, and
7 then I think you pump it out of there?

8 A Yes.

9 Q Is it -- why would allow the sump pit
10 that has this contaminated water in it to fill up and over-
11 flow out into the yard if the whole idea of the sump pit is
12 to keep those contaminants from getting out into the yard
13 and the streets and the roads and the environment?

14 A Well, the sump is pumped out each time
15 it's filled up and we check this daily and it's pumped out
16 when needed.

17 Q So possibly on this occasion it just
18 overflowed, and obviously there -- this water was coming
19 from somewhere, right? Normally it would have gone into the
20 --

21 A It's possible.

22 Q -- had the sump not been full?

23 A It's possible but not probable since I
24 had Truck No. 47 unloaded onto the yard that day.

25 MR. TAYLOR: I guess that's all

1 the questions we have. Thank you.

2 MR. STOGNER: Mr. Weber, redi-
3 rect?

4 MR. WEBER: Yes, sir.

5
6 REDIRECT EXAMINATION

7 BY MR. WEBER:

8 Q Where, Mr. Abbott, did this water come
9 from? Did it come from Trailer No. 47 or from the sump?

10 A It came from Trailer No. 47.

11 Q Now you indicated that this is not the
12 first time water has been in the street. What kind of water
13 has been in the street?

14 A On occasion our fresh water source at our
15 yard has had leaky valves and has leaked water into the
16 street before, and --

17 Q Now, what steps have you taken within the
18 confines of the yard to assure that this water does not flow
19 on out into the street?

20 A We have some small dikes around the peri-
21 meter of the yard along the fenceline to keep in any water
22 that might leak out into the street.

23 Q Even fresh water?

24 A Even fresh water, just so someone
25 wouldn't think it was produced water.

1 Q And with regard to the fresh water from
2 the overhead loaders, have you made any improvements to the
3 yard to make sure that the flow of that fresh water doesn't
4 go out in the street?

5 A Yes, we've installed some sumps next to
6 the fresh water loaders to collect any fresh water that
7 might --

8 Q And this was just to --

9 A -- go down the alley.

10 Q -- avoid the appearance that --

11 A To avoid the appearance of a spill.

12 MR. WEBER: I have no further
13 questions.

14 MR. STOGNER: Mr. Taylor?

15

16 RECROSS EXAMINATION

17 BY MR. TAYLOR:

18 Q Mr. Abbott, if you have berms, or what-
19 ever, around the yard to prohibit water from leaving the
20 yard, why did then the neighbor have to come out and pile
21 dirt up around so that the water would quit running into the
22 street, as is shown on our Exhibit One-A, which shows water
23 from the yard running into the street?

24 A Possibly there was a break in the dike in
25 that area where fresh water could leak out.

1 Q You guys are not denying that water was
2 in the street from the yard, are you?

3 A No.

4 Q Okay, thank you.

5 MR. TAYLOR: That's all the
6 questions I have.

7

8 CROSS EXAMINATION

9 BY MR. STOGNER:

10 Q Mr. Abbott, let's see, if I look at Exhi-
11 bit Number Four, paragraph 2, at approximately 8 -- I'm sor-
12 ry, at approximately 10:00 a. m. October 7th Mr. Espanola --
13 Espinosa was directed to drive the Petro-Thermo Corporation
14 Trailer No. 47 to the job site.

15 A Yes, sir.

16 Q And when did he go?

17 A He went at about 1:30 that afternoon.

18 Q When did you direct the water to be dum-
19 ped onto the -- to you all's site there in Hobbs?

20 A Prior to his leaving the yard. I would
21 approximate 1:00 p. m.

22 Q So he dumped the water on 47 at 1:00 p.m.
23 and then left out about 1:30 --

24 A Yes, sir.

25 Q -- to go pick up this salt water.

1 Is there ever any produced water dumped
2 into the sump prior to cleaning?

3 A Not as such. We have trucks, empty
4 trucks that have hauled produced water that are sprayed out
5 with our fresh water steam cleaner into the sump, so -- but
6 there's no produced water dumped into the sump, pure pro-
7 duced water. This trucks are steam cleaned out when they're
8 empty.

9 Q Were you there -- evidently when you di-
10 rected Mr. Espinosa at 1:30 to go pick up this produced salt
11 water with No. 47, did you see the yard?

12 A No, I was at the office at the time.

13 Q Your office is not there at the same --

14 A No, it's not.

15 MR. STOGNER: I have no further
16 questions of Mr. Abbott. Are there any other questions of
17 this witness?

18 If not, he may be excused.

19 Mr. Weber?

20 MR. WEBER: Sir, we would like
21 to call as Petro-Thermo Corporation's second witness Mr. Jim
22 Thornton.

23

24

25

1

2

JAMES D. THORNTON,

3

being called as a witness and being duly sworn upon his

4

oath, testified as follows, to-wit:

5

6

DIRECT EXAMINATION

7

BY MR. WEBER:

8

Q

Sir, would you please state your full

9

name?

10

A

James D. Thornton.

11

Q

And where do you reside?

12

A

Hobbs, New Mexico.

13

Q

And what is your relationship to Petro-

14

Thermo Corporation?

15

A

I'm the engineer at Petro-Thermo.

16

Q

Have you previously testified before the

17

Commission?

18

A

Yes, I have.

19

Q

And have your qualifications been accep-

20

ted?

21

A

Yes, they have.

22

MR. WEBER: At this point I

23

would tender Mr. Thornton as an expert engineer.

24

MR. STOGNER: Are there any ob-

25

jections?

1 Mr. Thornton is so qualified.

2 Q Mr. Thornton, were you contacted by Mr.
3 Seay on October 7th, 1986?

4 A Yes, I was.

5 Q What transpired at that time?

6 A He indicated that there was some water in
7 the yard. He said that it was dumped on the yard and I told
8 him that it was probably fresh water at that time.

9 Q What actions did you take?

10 A I immediately called Robert Tillery, the
11 truck pusher for Petro-Thermo, to meet him and help him to
12 clean up the problem and solve it.

13 Q And was that done?

14 A Yes, it was.

15 Q Did you subsequently have occasion to re-
16 view the Oil Conservation Division complaint form and the
17 water analysis report that were completed by Mr. Seay?

18 A Yes, I was. Yes, I did.

19 Q I want to show you now what has been mar-
20 ked as the Division's Exhibit Number Two and ask you if you
21 can identify that?

22 A Yeah, this the water analysis report form
23 submitted by the Oil Conservaation Division.

24 Q Based upon your experience as an engineer
25 is this particular test that was conducted conclusive for

1 the presence of produced water?

2 A No, it is not.

3 Q Why not?

4 A You can't determine produced water just
5 from chlorides alone. You have to get a test done on the
6 hydrocarbon and the content of the hydrocarbon.

7 Q Now, is this particular test indicative
8 of the brine that's typically sold in the Hobbs area?

9 A No, it is not.

10 Q What concentrations of chlorides were
11 found in the sample that was taken by Mr. Seay?

12 A 11,360 parts per million.

13 Q Now, have you had an opportunity to re-
14 view the business records of Petro-Thermo Corporation with
15 regard to chloride concentrations in typical samples of
16 brines sold in the Hobbs area?

17 A Yes, I have. We've done water analyses
18 for customers, oil companies, that use our services, and
19 that is our Exhibit Number Six.

20 Q I direct your attention to what has been
21 marked for identification as Petro-Thermo Corporation Exhi-
22 bit Number Six and ask you if you can identify that?

23 A Yeah, this is the water analysis that was
24 performed by Petro-Thermo Corporation.

25 Q Will you please describe those records

1 and tell us what they indicate?

2 A Okay. These are all -- well, not all,
3 but some of the brine stations around the Hobbs area, and
4 from these -- from this analysis, from these analyses of
5 several different brine stations you can note that the
6 chlorides range from -- have a low value of 165,000 parts
7 per million to 188,000 parts per million.

8 Q How do the concentrations of chlorides
9 analyzed by UniChem International compare with the sample
10 taken by Mr. Seay on the 7th of October 1986?

11 A The chloride concentration of the sample
12 that was submitted by the OCD at the puddle of water in the
13 street is approximately anywhere from 15 to 20 times less
14 than the chlorides of typical brine water.

15 Q What do you conclude from that compari-
16 son?

17 A That this is definitely -- the sample
18 that was taken by Mr. Seay in the street is definitely non-
19 brine water.

20 Q Have you had an opportunity to review an-
21 alyses of production water or formation water of the type
22 typically hauled by Petro-Thermo Corporation?

23 A Yes, I have. It is labeled Exhibit Num-
24 ber Seven.

25 Q I show you now what has been marked as

1 Petro-Thermo Corporation Exhibit Number Seven for identifi-
2 cation and ask you if you recognize that?

3 A Yeah, these -- this is the samples of the
4 produced water that is hauled, or that was hauled by Petro-
5 Thermo Corporation during this period of time.

6 Q And who took those samples and how were
7 they analyzed?

8 A I personally took the samples. Oh, no, I
9 -- the sample at H-35 I took, but the three other samples
10 were taken from -- or taken by Robert Tillery, our truck
11 pusher, who constantly monitors those leases for water
12 hauling.

13 Q And were those samples analyzed?

14 A Yes, they were. They were analyzed by
15 Treat-o-Lite, Ron Matthews of Treat-o-Lite. He used the
16 similar method of titration that Mr. Seay performed on his
17 sample.

18 Q And what did he -- his results show?

19 A Well, his results show that any of the
20 produced water that we hauled during this time had
21 concentrations between 40-and-126,000 parts per million,
22 which is approximately 4-to-12 times the concentration of
23 the sample that was taken by Mr. Seay in the street.

24 Q Let me direct your attention to that low
25 sample, that 40,000 parts per million of chloride. Was that

1 affected by any condition which might skew that number down-
2 ward?

3 A Yes. In the Eunice area, where the
4 Blinebry-Drinkard salt water disposal system is, is located,
5 there are various waterfloods and the way they get rid of
6 their water, some of these wells are tied onto our system,
7 which would significantly lower the concentration. But this
8 would be an average of, say, 15 different pools in that
9 area, some of which are waterflooded and some of which are
10 not.

11 Q What did you conclude by comparing the
12 Treat-o-Lite analysis with the analysis of Mr. Seay?

13 A Well, the -- based on the chloride it was
14 not produced water. Mr. Seay's report indicated 11,000
15 parts per million, which is significantly less than of the
16 water that -- that Petro-Thermo Corporation has hauled
17 during that period of time.

18 Q Is there any conclusive evidence that has
19 been presented to you which would indicate to you that the
20 sample taken by Mr. Seay is either produced water or brine?

21 A No, there is none whatsoever.

22 Q What would have to be done in order to
23 conclusively establish that that particular sample was brine
24 or produced water?

25 A Produced water typically has a small

1 amount of hydrocarbons associated with it, unrefined hydro-
2 carbons, so what you would have to do is take an analysis of
3 the hydrocarbons and if there were any present and the type
4 of hydrocarbons, you could definitely determine if that was
5 produced water.

6 Q How can you explain the concentrations of
7 chlorides which were found in the sample that was analyzed
8 by Mr. Seay?

9 A Mr. Seay's sample was taken anywhere from
10 100 to maybe 500 feet from the source. There is a lot of
11 ground to cover in that area. The alley in particular is a
12 mixture of an asphalt-type material that was placed on the
13 alley by the City of Hobbs, and although I couldn't tell you
14 exactly what is made up -- what the road is made up, I would
15 imagine that there are a significant amount of chlorides due
16 to vehicles or just rain -- just typical, you know, water
17 that has been -- that has evaporated, say, and that can be
18 from a number of sources.

19 Q Now what about the collection point? You
20 indicated it was 1-to-500 feet from the source. Are there
21 any other characteristics of the collection point which
22 might contribute to the presence of, say, more chlorides
23 (unclear)?

24 A Yeah. There -- Roland Trucking is lo-
25 cated east of our yard across on Grimes. To avoid a traffic

1 light they generally travel down Burk, if they're coming
2 from the west side of town, will travel down Marland, down
3 Burk, and then take Roxanna Street, so there could have been
4 trailer leaks; there could have been residual chlorides from
5 the City of Hobbs dumping brine water on -- on the streets.

6 Q And was the sample point, based upon your
7 understanding of the area, a particularly low spot?

8 A Yes, it was. It was a natural -- it must
9 have been a natural collection point, according to Mr. Seay,
10 it was a puddle of water. It was not running. It was a
11 spill, so in the past a great volume of water could have --
12 a great deal of water could have been evaporated from that
13 particular point. Evaporation does not take care of the
14 chlorides. The chlorides remain. So a large volume of
15 small concentrations of chlorides can produce a pretty salty
16 area.

17 Q Based upon your review of the evidence
18 and the testimony that you've heard today, have you drawn
19 any conclusion as to what that water was?

20 A I believe it is fresh water that was un-
21 loaded from the trailer or Truck No. 47 in the Petro-Thermo
22 yard.

23 MR. WEBER: I have no further
24 questions.

25 MR. STOGNER: Mr. Taylor.

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CROSS EXAMINATION

BY MR. TAYLOR:

Q Mr. Thornton, I can't help thinking that you guys have thought of every excuse for this except a miracle. Do you think it was a miracle that this water got to 10,000 parts chloride?

A No, it was not.

Q Oh, okay.

A As I explained, the water could have picked up impurities from the road itself.

Q Isn't it just as likely that this water could have had 100,000 parts chloride and it got diluted? Is that not just as likely rationale for how it happened as that it picked it up as it went across the ground?

A No, it is not as likely. It's a possibility. We don't want to normally, you know, dispose of fresh water unless we -- we have to. It costs money.

Q Mr. Thornton, it sounds to me from this explanation like your yard may be a major source of chloride pollution and maybe you ought to scrap it all up and haul it away.

A I don't believe there's been any test done on the street, City of Hobbs streets, to measure the chlorides

1 Q I think maybe we better.

2 A Maybe.

3 Q How often personally when you've done a
4 test of produced water have you had the oil content checked?
5 Hydrocarbon.

6 A I don't doubt ever that a water is pro-
7 duced water if I go to the well or have the sample taken
8 from a producing well.

9 Q I don't think you answered my question.
10 How many times have you personally when you were testing for
11 produced water, or testing produced water, did you sample
12 for hydrocarbons?

13 A I would say I've never tested for hydro-
14 carbons associated with produced water.

15 Q Thank you. If this was salt water or
16 produced water and it was diluted with fresh water from the
17 rack or the washer or whatever, what would happen to it?

18 A Of course, the chloride concentrations
19 would be decreased.

20 Q It would? Jeez, that's interesting.
21 What is the chloride content of water from the Hobbs Pool or
22 the Jalmat Pool, do you know?

23 A I don't know but we don't haul from those
24 pools.

25 Q You said that the water sample taken by

1 Mr. Seay was 1-to-500 feet from the source. What is the
2 source that you're speaking about?

3 A The yard area.

4 Q The yard area.

5 MR. TAYLOR: I guess that's all
6 the questions I have.

7 MR. STOGNER: Mr. Weber, redi-
8 rect?

9 MR. WEBER: None, Your Honor.

10

11

12 CROSS EXAMINATION

13 BY MR. STOGNER:

14 Q I'm going to direct this question to
15 you, Mr. Thornton.

16 When we talk about Petro-Thermo or you
17 working for Petro-Thermo, whenever you hear of a small leak
18 in one of your trucks, what's a small leak? What does Pet-
19 ro-Thermo consider a small leak?

20 A A gallon every 30 minutes, an hour; pos-
21 sibly less.

22 Q Possibly more?

23 A Possibly more. The drivers, I have a
24 morning meeting with the drivers and they're instructed every
25 morning to check their vehicles for any problems, including

1 leaks.

2 Q Do some of these leaks go maybe undetec-
3 ted for a few days?

4 A That I would not know. As soon as we
5 spot them we fix it. We can't -- I can't tell you if I
6 didn't know when that leak originally started and if we did
7 know the leak had started, we would fix it.

8 Q And is it Petro-Thermo's policy to bring
9 mabe a loaded truck into the yard and let it set overnight,
10 a couple of days, or what?

11 A No, not normally, unless the Goodwin
12 disposal well is at a -- at it's maximum capacity.

13 We will -- we have approximately, I'd
14 say, near 10,000 barrels of storage capacity at the Goodwin.
15 If the well cannot take it we can store it in any number of
16 tanks out there until it can be disposed of into the well.

17 Q But as far as bringing a loaded truck in,
18 that is commonly a practice?

19 A Not at all.

20 MR. STOGNER: I have no further
21 questions of this witness.

22 Are there any other questions
23 of Mr. Thornton?

24 If not, he --

25 MR. WEBER: I have none.

1 MR. STOGNER: He may be ex-
2 cused.

3 Mr. Weber, do you have any --
4 are you going to call another witness?

5 MR. WEBER: That concludes our
6 presentation. We do not desire to recall our witnesses.

7 MR. STOGNER: I have a couple
8 of questions for Mr. Abbott. I'd like to recall him.

9 Let the record show that Mr.
10 Abbott is so qualified and has been sworn.

11
12 JAMES ABBOTT RECALLED,
13 and being still under oath, testified as follows, to-wit:

14
15 RECROSS EXAMINATION

16 BY MR. STOGNER:

17 Q Mr. Abbott, I'm going to ask you the same
18 question. What do you consider a small leak coming from
19 your trucks?

20 A I would say any noticeable leak, anywhere
21 from a few drops to a few gallons, within an hour time limit
22 --

23 Q Okay.

24 A -- would be a small leak.

25 Q Is it -- is it Petro-Thermo's practice to

1 bring a fully loaded truck into the yard?

2 A No.

3 Q Okay. If I look at Exhibit Number Three,
4 paragraph 2, why was this leak reported in the vicinity of
5 the rear pump?

6 Who saw it and what was it loaded with?

7 A The truck had hauled produced water prior
8 to the leak.

9 Q Uh-huh. But it was empty.

10 A But it was empty.

11 Q So how was it leaking? What was it
12 leaking?

13 A It was noticed while the truck was being
14 unloaded at our disposal that the truck was leaking out of
15 back sump and so we --

16 Q Where is the rear sump located?

17 A It's on the rear portion of the truck
18 trailer.

19 Q Oh, we're not talking about the sump,
20 then, at the yard.

21 A No, we're talking about the sump within
22 the trailer of the truck.

23 Q Oh, okay.

24 MR. STOGNER: Okay, I have no
25 further questions for this witness.

1 Mr. Taylor, do you wish to re-
2 call your witness at this time?

3 MR. TAYLOR: No, sir, that's
4 all we have.

5 MR. STOGNER: We're ready for
6 closing statements, then.

7 Mr. Weber, I'll let you go
8 first.

9 Mr. Taylor, I'll let you fol-
10 low.

11 MR. WEBER: Mr. Examiner, it's
12 Petro-Thermo Corporation's position that this is just a
13 question of mistaken identity.

14 Petro-Thermo is well aware of
15 the rules and regulations of the Oil Conservation Division
16 and has taken detailed steps to assure that it complies with
17 all the rules and regulations.

18 It has indicated to each of its
19 employees, not only in the Employee Handbook that they re-
20 ceive but in periodic briefings exactly what is expected.
21 Each of the employees is informed if they have any questions
22 with regard to compliance with these rules and regulations
23 to contact their supervisor.

24 Petro-Thermo Corporation has in
25 the past discharged employees for failure to abide by the

1 rules and regulations of the Oil Conservation Division.

2 Now, what rules and regulations
3 are we talking about that Petro-Thermo Corporation may have
4 violated, may have violated to such an extent that it should
5 be fined or why it's Form C-133, Authorization to Move Pro-
6 duced Water, should be cancelled?

7 It is contended that some sub-
8 stance other than fresh water was dumped on the ground of
9 Petro-Thermo Corporation's yard.

10 The only rules and regulations
11 of the Oil Conservation Division which go to the dumping,
12 the spilling, the leaking of liquids relate to salt water
13 and produced water. At this point in time the evidence is
14 simply not sufficient to demonstrate to us that either 25
15 barrels or more of salt water was dumped on the Petro-Thermo
16 Corporation yard, which would have required simply notifica-
17 tion to the Division of the spill or leakage, or whether or
18 not produced water had been dumped on the yard.

19 There is no conclusive test
20 which has been shown to demonstrate that that substance was
21 produced water.

22 The facts, as investigated by
23 Mr. Jim Abbott, show an entirely different set of circum-
24 stances, a set a circumstances which in our view is not only
25 plausible but is the way in which the water came to come on

1 perse that fresh water throughout the Petro-Thermo Corpora-
2 tion yard. He did so. He opened the taps. He looked at
3 it; there was no odor; there was no smell; and he complied
4 with his instructions and dispersed that water.

5 The quantity of the water is
6 subject to speculation. There has been no credible evidence
7 as to exactly how much fresh water was in that particular
8 case, but there was certainly enough fresh water to flow to
9 the southeast end of the yard where those photographs were
10 taken by Mr. Seay.

11 Now, let's consider that parti-
12 cular sample and the analysis and testing that was done on
13 the sample of water taken by Mr. Seay. We have offered evi-
14 dence and we believe that the analysis and testing is not
15 sufficient to show whether that was produced water, nor was
16 that analysis sufficient when coupled with the photographs
17 and the rough estimate of the barrels of oil which were
18 found on the ground and in the yard conclusive to establish
19 that more than 25 barrels of salt water had been dispersed
20 on the yard.

21 Now, the sample was not tested
22 for conductivity, was not tested for the presence of hydro-
23 carbons, either of which might have given a clearer picture
24 of what the sample was.

25 The sample was not taken from

1 inside the yard, which was readily accessible. The sample
2 was not taken from the trailer, which was also readily ac-
3 cessible. The sample was taken at a point remote in place
4 and time from the dumping of the fresh water from Trailer
5 No. 47, and it's entirely, we feel, appropriate to consider
6 that some other contaminants in the alley, and you will re-
7 member the drain flow is out to the side of the yard and
8 down the alley, could well have influenced the concentra-
9 tions of chloride that were made by Mr. Seay.

10 We would ask you to compare the
11 concentrations of chloride to the evidence of chloride con-
12 centrations in brines sold in the Hobbs area, as well as to
13 the evidence of concentrations with regard to the formation
14 waters and produced waters from areas from which Petro-Ther-
15 mo Corporation hauls.

16 The conclusion, we submit, is
17 inescapable. Petro-Thermo Corporation did not dispose of
18 produced water or brine contrary to the rules and regula-
19 tions of the Oil Conservation Division and should not be
20 either fined or have its Authorization to Move Produced
21 Water cancelled.

22 In response to Mr. Taylor's
23 suggestion, since the provisions regarding violation of the
24 rules and regulations of the Oil Conservation Division are
25 already in Petro-Thermo Corporation's handbook, and since

1 violation of those rules and regulations is a condition of
2 employment, and has resulted in discharge of an employee on
3 at least one occasion, there would be no objection for Pet-
4 ro-Thermo Corporation to enter into any sort of agreement
5 with regard to compliance with the rules and regulations of
6 the Oil Conservation Division.

7 That concludes my statement.

8 MR. STOGNER: Thank you, Mr.
9 Weber.

10 Mr. Taylor?

11 MR. TAYLOR: Mr. Examiner, I
12 just have a brief statement and that is that the only admis-
13 sible evidence that's been presented is that the water tes-
14 ted by Mr. Seay was not fresh water. The State defines
15 fresh water as those waters less than 10,000 TDS. Clearly
16 it cannot be defined as fresh water.

17 The complainant stated when he
18 filed the complaint with the Division office in Hobbs that
19 there was an odor to the water; that it smelled bad.

20 Mr. Seay has stated that when
21 he went out there there was a faint odor to the water.

22 I think that regardless of how
23 Petro-Thermo may try to explain that this happened, we have
24 a sample of water that clearly came from their property.
25 You can't say it came from the alley, it came from the fill-

1 ing station. It came from their property and it tested over
2 10,000 TDS and it had an odor to it being of produced water.

3 I think whether it came from
4 the sump on their property or wherever, letting that water
5 escape their property and run down the streets is a viola-
6 tion of our rules and we should enforce that.

7 In the future if they want to
8 berm up their property and turn it into a salt water dispo-
9 sal pit, I don't know if I have any problem with that, but I
10 think I do have a problem with it running into the streets
11 of Hobbs. Obviously the citizens living around their yard
12 have a problem with that. Apparently, even former oil in-
13 dustry employees have a problem with that and I think be-
14 cause of the complaints that are received, because of the
15 complaints of our failure to enforce this in that area, that
16 we need to show Petro-Thermo that the rules are going to be
17 enforced and we need to do that by levying a fine against
18 them and by putting them on probation for an appropriate
19 period of time.

20 MR. STOGNER: Thank you, Mr.
21 Taylor.

22 MR. TAYLOR: Thank you.

23 MR. STOGNER: Does anybody else
24 have anything further in Case Number 9051?

25 If not, this case will be taken
under advisement.

C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY CERTIFY the foregoing Transcript of Hearing before the Oil Conservation Division (Commission) was reported by me; that the said transcript is a full, true, and correct record of this portion of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

I do hereby certify that the foregoing is a complete record of the proceedings in the Examiner hearing of Case No. 9051, heard by me on 7 January 1987.
Michael S. Stinson, Examiner
Oil Conservation Division