

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. 12,758

APPLICATION OF THE NEW MEXICO OIL )  
CONSERVATION DIVISION FOR AN ORDER )  
REQUIRING OPERATORS TO BRING ONE )  
HUNDRED FORTY-SEVEN (147) WELLS )  
INTO COMPLIANCE WITH RULE 201.B )  
AND ASSESSING APPROPRIATE CIVIL )  
PENALTIES; LEA, ROOSEVELT AND CHAVES )  
COUNTIES, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

November 1st, 2001

Santa Fe, New Mexico

OIL CONSERVATION DIV.  
01 NOV 15 PM 2:09

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, November 11th, 2001, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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Examiner Hearing  
CASE NO. 12,758

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

FOR THE DIVISION:

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

\* \* \*

1 WHEREUPON, the following proceedings were had at  
2 1:08 p.m.:

3 EXAMINER CATANACH: Call the hearing back to  
4 order at this time, and at this time I will call Case  
5 12,758, which is the Application of the New Mexico Oil  
6 Conservation Division for an order requiring operators to  
7 bring 147 wells into compliance with Rule 201.B and  
8 assessing appropriate civil penalties; Lea, Roosevelt and  
9 Chaves Counties, New Mexico.

10 Call for appearances in this case.

11 MR. BROOKS: May it please the Examiner, I'm  
12 David Brooks, Assistant General Counsel, Energy, Minerals  
13 and Natural Resources Department with the State of New  
14 Mexico, appearing for the New Mexico Oil Conservation  
15 Division.

16 And you will be pleased to know that we have  
17 taken care of 140 of those 147 wells.

18 You'll recall the procedure that -- You can call  
19 for other appearances, but it looks unlikely that there  
20 will be any.

21 EXAMINER CATANACH: Let the record show there are  
22 no additional parties in the room, other than those  
23 involved in this case that will be testifying.

24 MR. BROOKS: Okay, I have three witnesses.

25 EXAMINER CATANACH: Will the three witnesses

1 please stand to be sworn in?

2 (Thereupon, the witnesses were sworn.)

3 MR. BROOKS: Okay, thank you.

4 Your Honor, I don't believe it's necessary to go  
5 through the entire speech that I made on the occasion of  
6 the last hearing for District 2, the reason being that you  
7 will doubtless recall the general procedure. That is to  
8 say, there are three categories of operators involved:

9 Those as to whom we cannot proceed for some  
10 reason, and we will request to dismiss the proceeding as to  
11 those. And for this hearing there is only one operator who  
12 is in that category. That is C.W. Stumhoffer. And he has  
13 one well, and that well has been plugged. So we want to  
14 dismiss this case as to C.W. Stumhoffer.

15 The second category is those operators who have  
16 submitted work plans that have been approved by the  
17 District Supervisor to bring their wells into compliance.  
18 And again as to those operators, we will request that they  
19 be severed out of this case and that the case as to them,  
20 as to those operators, be continued for approximately three  
21 months, which would be, in this case, till the first  
22 hearing docket in February of 2002. And I don't have the  
23 2002 docket before me, so I don't know what date that would  
24 be.

25 Finally, there are those operators who have not

1 submitted work plans and whose wells are still not in  
2 compliance, and that is four operators. And those are:

3 Erwin Oil and Gas, Limited, Company, which has  
4 one well;

5 Fi-ro Corporation, which I believe has three  
6 wells;

7 Happy Oil Company, which has one well;  
8 and Kersey and Company, which has one well.

9 As to all of the remaining operators we request  
10 that this hearing be continued until February, 2002.

11 And with that, your Honor, we are prepared to  
12 proceed as to those four operators.

13 EXAMINER CATANACH: You may proceed, Mr. Brooks.

14 MR. BROOKS: Very good. At this time I'll call  
15 Ben Stone.

16 BEN STONE,  
17 the witness herein, after having been first duly sworn upon  
18 his oath, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BROOKS:

21 Q. Good afternoon.

22 A. Good afternoon.

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

25 A. My name is Ben Stone.

1 Q. And by whom are you employed?

2 A. The New Mexico Oil Conservation Division.

3 Q. And in what capacity?

4 A. My classification is petroleum engineering  
5 specialist, my working position is co-bureau chief of  
6 automation and records.

7 Q. Very good. Were you involved in what has come to  
8 be known as the inactive well project?

9 A. I was.

10 Q. And can you tell us a little bit about the  
11 genesis of the inactive well project?

12 A. Well, my involvement was in the generation of the  
13 letters, and in May of 2000 we created the ONGARD database  
14 system for wells that had been inactive for a period of two  
15 years and fell out of compliance with Rule 201 and  
16 transferred that data set to the risk-based data management  
17 system and generated the letters on some 8000 wells, to  
18 about 592 operators.

19 Q. We do not have the actual letters that went to  
20 these operators to offer in evidence in this hearing, but  
21 for the sake of the record would you describe the form of  
22 letter that was generated in May of 2000?

23 A. Well, the letter addressed not only our concern  
24 to bring those wells into compliance, but also, in fact, I  
25 think the spirit of the letter was that we were trying to

1 update our data. So it was an attempt in cooperation with  
2 the operators for us to also bring our data more current,  
3 as we have year after year.

4 Q. Were these letters addressed to the individual  
5 operators who are -- I won't say individuals because they  
6 weren't all individuals. Were these letters addressed to  
7 the operators shown by the records of the New Mexico Oil  
8 Conservation Division to be the operators of the wells that  
9 were inactive?

10 A. That's correct.

11 Q. And you mentioned that the criteria -- Well,  
12 before I go into that, did the letters contain a list of  
13 all of the wells that the ONGARD system showed as having  
14 been inactive for the operator to whom that letter was  
15 addressed?

16 A. That's correct.

17 Q. And did it have a form where it called upon the  
18 operator to tell us if they were not the operator of those  
19 wells or if we were incorrect about the status of those  
20 wells?

21 A. Yes, sir.

22 Q. Okay. And these letters were generated by the  
23 Santa Fe office of the New Mexico Oil Conservation  
24 Division; is that correct?

25 A. That's correct.



1 Q. And were they sent out by the Santa Fe office of  
2 the New Mexico Oil Conservation Division to the operators  
3 at the last known address as shown by our records?

4 A. They were.

5 Q. And this occurred, then, about what time?

6 A. My recollection is, late part of May, 2000,  
7 somewhere around the 20th of May.

8 Q. Very good. Now, I'm going to call your attention  
9 to what has been marked as OCD Exhibit 1, and I'm not going  
10 to ask you to identify it because we'll prove it up through  
11 another witness, but if you'll look at it, it appears to be  
12 a printout of production reports. And I want to call your  
13 attention to -- and I don't have the page number here, but  
14 I'll get it here in a minute. We'll begin with Erwin Oil  
15 and Gas, and it is on page 33 of OCD Exhibit Number 1.

16 And assuming this to be -- page 33 of Exhibit 1  
17 to be a correct printout of what is shown by the ONGARD  
18 data for production, or rather what is not shown by the  
19 ONGARD data for production from the Erwin Oil and Gas  
20 Limited, Company, State WEG Well Number 1, would this have  
21 been a well that would have been included in the May, 2000,  
22 inactive well project?

23 A. Yes, sir.

24 Q. Okay, I will call your attention, then, to pages  
25 numbers 34, 35 and 36, and without attempting to restate

1 that question, because I'm not sure if I can remember it,  
2 would you say the same with regard to Fi-Ro Corporation  
3 Gulf State H Number 1, Hondo Holloway State Number 1 and  
4 North Caprock Queen Unit Number 1 -- Well, no, I won't ask  
5 you about that one. Would you say the same as to Fi-Ro's  
6 Gulf State H Number 1 and Hondo Holloway State Number 1?

7 A. Yes, sir.

8 Q. Okay, yeah, and I will go ahead, because I was  
9 thinking I saw some production data, but these are just  
10 months. Would the same be true of the Fi-Ro Corporation  
11 North Caprock Queen Unit 1, Tract 27, Number 5Y?

12 A. Yes, sir.

13 Q. Very good. And let's see, the next one is Happy.  
14 I'm going to have to find Happy here. We've got to get all  
15 the way through Rasmussen, and that's a long ways to go,  
16 because Mr. Rasmussen is bringing his 47 wells into  
17 compliance.

18 Okay, on page 63 of Exhibit Number 1 you will  
19 find Happy Oil Company, Inc., Chilkat State 6 Well Number  
20 1, and looking at pages 63 and 64 of OCD Exhibit 1 and  
21 assuming that to be a printout of what is shown in the  
22 ONGARD data as to production from Happy Oil Company's  
23 Chilkat State 6 Number 1, would that have been a well that  
24 would have been included in the May, 2000, notification to  
25 Happy Oil Company?

1 A. Yes, sir.

2 Q. Okay. And the next one is Kersey, and -- Where  
3 is Kersey on here? Either it's not -- ah yes, no, that's  
4 Kenson. Oh, that's the problem, Kenson is a long one.

5 A. Page 121.

6 Q. You are correct, page 121. Based on the  
7 assumptions previously stated, would the Kersey and Company  
8 Hover Number 1 well have been included on the inactive well  
9 notification to Kersey and Company in May of 2000?

10 A. Yes, it would.

11 MR. BROOKS: Thank you. I believe that concludes  
12 my examination of Mr. Stone.

13 EXAMINER CATANACH: Did we initially say seven  
14 wells, Mr. Brooks?

15 MR. BROOKS: Six wells, I believe. I did say  
16 seven wells, but I think I was thinking Fi-Ro had four, but  
17 I believe they only had three.

18 EXAMINER CATANACH: Okay, so we're only after  
19 six.

20 MR. BROOKS: We're only after six.

21 EXAMINER CATANACH: Okay, just a couple of  
22 questions.

23 This report that was generated, I presume that  
24 the first month's production was January of 1997; is that  
25 correct?

1 MR. BROOKS: I do intend to prove this report up  
2 by the witness who prepared it.

3 EXAMINER CATANACH: Okay. With that, I guess I  
4 don't have anything else.

5 MR. BROOKS: Very good. Thank you, you may step  
6 down.

7 The OCD will call Fran Chavez.

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

11 DIRECT EXAMINATION

12 BY MR. BROOKS:

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

15 A. Fran Chavez.

16 Q. And by whom are you employed?

17 A. The Oil Conservation Division.

18 Q. And in what capacity?

19 A. I'm a management analyst.

20 Q. I'm sorry?

21 A. Management analyst.

22 Q. Okay, and are you involved with the maintenance  
23 of the ONGARD data?

24 A. Yes, I am.

25 Q. And are you an operator who enters, edits and

1 reviews that data?

2 A. Yes, I do.

3 Q. And were you asked to prepare or to assist in  
4 preparing a printout of the production from the 147 wells  
5 involved in this Case Number 12,758 to assist me?

6 A. Yes, I was.

7 Q. And would you look at what has been marked as OCD  
8 Exhibit Number 1, and I will ask you to identify it.

9 A. This is the report that I prepared.

10 Q. And what does it depict, what does it show?

11 A. It shows all of the wells that were in question,  
12 and it shows the operators who operate these wells and the  
13 -- what was received as reports.

14 Q. Now, if there is no number in the columns headed  
15 "GAS", "OIL", "WATER" and "INJ", what does that mean?

16 A. Those are zeroes.

17 Q. In other words, if -- given -- I'm looking at the  
18 first page, the first item is "YEAR" 1997, "MTH" 1 -- that  
19 means January, right? --

20 A. Yes.

21 Q. -- and there are no entries in those columns,  
22 would that be an indication that that operator reported  
23 that well for that month but reported no production and no  
24 injection?

25 A. That's correct.

1 Q. Now, this report could have been produced to show  
2 all those zeroes, could it not?

3 A. Yes.

4 Q. But we just -- for the sake of making a cleaner  
5 exhibit, we didn't show the numbers unless it was some  
6 value other than zero?

7 A. Greater than zero, yes.

8 Q. Now, if in this chronological -- Well, first I  
9 will ask the question Mr. Catanach addressed to Mr. Stone.  
10 Were you instructed to run this report for the period from  
11 January, 1997, through the most recent available data?

12 A. Yes.

13 Q. And what would be, as under the reporting and  
14 accounting system, and assuming that the reports were  
15 timely filed, what would be the most recent available data?

16 A. August, 2001.

17 Q. Okay. Now, if there is a month in that sequence  
18 which does not appear on this report at all for a  
19 particular well, what does that mean?

20 A. No report was filed at all for that well.

21 Q. In other words, there's two possibilities.  
22 Either the operator filed a report and did not include that  
23 well, or the operator did not file a report at all?

24 A. That's correct.

25 MR. BROOKS: Okay. I believe the report speaks

1 for itself, and I have no further questions of this witness  
2 at this time, Mr. Examiner.

3 EXAMINER CATANACH: Mr. Brooks, do we want to  
4 look at individual wells, the six individual wells in  
5 question, do we want to take a look at them?

6 MR. BROOKS: Okay, let's do that.

7 Q. (By Mr. Brooks) Looking at page 21 is the first  
8 one -- no, that -- I thought I remembered it being page 21,  
9 but that's obviously wrong. The first one is --

10 A. -- 33.

11 Q. -- 33, and that is Erwin Oil and Gas, Limited,  
12 Company, State WEG Number 1, and does that printout  
13 indicate that Erwin Oil and Gas, Limited, Company has not  
14 filed any production reports since 1997?

15 A. For that well, yes.

16 Q. Okay. And it indicates that there was no  
17 production from that well in 1997, correct?

18 A. That's correct.

19 Q. Now, then we will go to Fi-Ro Corporation, which  
20 is on the next page, page 34, and the first well on pages  
21 34 and 35 is the Fi-Ro Corporation Gulf State H Number 1.  
22 I will note that every month appears to be shown from  
23 January, 1997, through July of 2001, however there are no  
24 production or injection figures. Does that indicate that  
25 zero production from that well has been reported in each of

1 the months for the past four years?

2 A. Yes.

3 Q. As to the Fi-Ro Holloway State Number 1 on page  
4 35, what does that show about reported production from that  
5 well?

6 A. For almost two years it produced one barrel of  
7 oil, and then in 1998, November, it stopped -- well, they  
8 stopped reporting any production up through July of 2001.

9 Q. So that no production has been reported from that  
10 well since October, 1998, correct?

11 A. That's correct.

12 Q. Now then, on pages 36 and 37 the Fi-Ro North  
13 Caprock Queen Unit 1 Tract 27 Number 5 Y, does that  
14 indicate that no production has been reported by that  
15 operator from that well for the period 1997 through the  
16 latest reports?

17 A. Yes.

18 Q. Okay. Then we need to go to Happy Oil Company,  
19 which is on page 63, the Chilkat 6 Well Number 1. Does  
20 this report indicate that Happy Oil Company has reported  
21 zero production from that well from beginning in 1997 --  
22 and it appears that -- yeah, that report begins with April,  
23 1997, for some reason, but anyway from April, 1997, through  
24 August, 2001, the latest report?

25 A. No production.



1 Q. Okay. Then on page 121 Kersey and Company,  
2 again, tell us what that tells us about the Kersey and  
3 Company Hover 1 Number 1 well.

4 A. No production from 1997 to current on that well.

5 Q. And does it appear that for the years 1998 and  
6 1999 and most of 2000 no reports were filed?

7 A. No reports were filed at all.

8 Q. However, reports have been filed in 2001, and  
9 they've shown zero production, correct?

10 A. That's correct.

11 MR. BROOKS: Okay. That concludes my examination  
12 of this witness.

13 EXAMINATION

14 BY EXAMINER CATANACH:

15 Q. Ms. Chavez --

16 A. Yes.

17 Q. -- are we confident that these operators still  
18 operate these wells? Do we know that? Or has somebody  
19 else looked at that?

20 A. If it shows on here a current date like July,  
21 2000, then yes. Current as far as July or August, so yes.

22 Q. So they've filed production reports as to that  
23 date, so we know they're still the operator?

24 A. Yes, because if they filed on a well that wasn't  
25 theirs, it wouldn't be able to -- it wouldn't come out.

1 Q. What about the operators that have not filed  
2 production reports for a long time? Are we still confident  
3 that they are still the operators of those wells?

4 A. Whoever the current operator is to operate that  
5 well -- whoever operated it at that period of time, we're  
6 sending them letters. Could you repeat the question?

7 Q. Yeah, the ones that -- the operators that have  
8 not filed any reports for a while --

9 A. Okay.

10 Q. -- do we still know that they're still the  
11 operators of the wells?

12 A. If they did come out on this list with the  
13 well --

14 Q. Uh-huh.

15 A. -- then yes, because that's who we're showing to  
16 be the current operator on this report.

17 EXAMINER CATANACH: Okay, that's all I have.

18 THE WITNESS: Okay.

19 FURTHER EXAMINATION

20 BY MR. BROOKS:

21 Q. Because of Mr. Catanach's question, let me ask  
22 you a further question --

23 A. Okay.

24 Q. -- which you explained to me in that meeting last  
25 week, but I need to get you to explain it to --

1 A. Sure.

2 Q. -- to the Examiner.

3 If someone else, other than the operator shown in  
4 the ONGARD system were to file a C-115 reporting production  
5 from a particular well, what would happen?

6 A. That would be -- It would go through a series of  
7 edits and it would be kicked out, it would not be accepted  
8 at all, if someone else tried to report a well that didn't  
9 belong to them.

10 Q. And would the system then generate some kind of  
11 report which would go to you or to someone else in your  
12 department who would then have the duty to check that out  
13 and see why we were getting that error?

14 A. Every week we run those through edit checks and  
15 we get error reports, individual pieces of paper that we do  
16 mail out weekly, on a weekly basis, to the operators,  
17 letting them know that they're not the operator of this  
18 well.

19 Q. So if someone else reported production from that  
20 well, the OCD would automatically -- and I say  
21 automatically, it would -- through our established  
22 procedure we would generate correspondence with that  
23 operator telling them that they are reporting on a well  
24 that they are not the operator of; is that correct?

25 A. That's correct.

1 MR. BROOKS: Thank you.

2 FURTHER EXAMINATION

3 BY EXAMINER CATANACH:

4 Q. Well, let me follow up. What happens if they are  
5 the operator of that well, if the well has changed hands  
6 and maybe they didn't file the proper paperwork at the  
7 District? Have you run into that situation?

8 A. Yes. Actually, if it's just because it hasn't  
9 been updated in the system, we do not throw out that data,  
10 we suspend that data. And it sits there until the actual  
11 -- the update in the database takes place. So if the well  
12 changing hands happened in June and they were trying to  
13 report now for July and it got kicked out, it would pull  
14 that back in. It's not dele- -- We have the ability to  
15 look that up.

16 Q. . Okay.

17 A. So it's not thrown away. They are notified that  
18 this well is not in our database, it doesn't belong to them  
19 just yet, and in that case we do ask that they call the  
20 District, maybe they're lacking something on paperwork or  
21 something like that.

22 EXAMINER CATANACH: Got you, okay. Thank you.

23 MR. BROOKS: Thank you, you may step down.

24 Call Chris Williams.

25 EXAMINER CATANACH: Who?

1 MR. BROOKS: My third witness.

2 CHRISTOPHER J. WILLIAMS,

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

5 DIRECT EXAMINATION

6 BY MR. BROOKS:

7 Q. Okay, Mr. Williams, would you state your name for  
8 the record, please?

9 A. Chris Williams.

10 Q. And by whom are you employed?

11 A. Oil Conservation Division.

12 Q. And in what capacity?

13 A. District Supervisor, Hobbs, New Mexico.

14 Q. And that is District 1 of the OCD, correct?

15 A. Correct.

16 Q. And what area is District 1?

17 A. Lea, Chaves, Roosevelt and Curry Counties.

18 Q. And it actually includes just a small part of  
19 Chaves, correct?

20 A. Correct.

21 Q. Most of Chaves being in District 2?

22 A. Correct.

23 Q. However, the wells that are included in this  
24 proceeding in Chaves County are in District 1?

25 A. Correct.

1           Q.    And as District Supervisor, you are the person  
2 who is in charge of implementing and enforcing the  
3 regulatory responsibilities of the New Mexico Oil  
4 Conservation Division within the geographic boundaries of  
5 District 1, correct?

6           A.    Yes, sir.

7           Q.    Are you familiar with the inactive well project  
8 that's being conducted -- as it's being conducted in  
9 District 1?

10          A.    Yes.

11          Q.    Okay. Well, I'm going to offer Exhibit Number 2  
12 here in a minute, so I will call your attention to the  
13 exhibits beginning with Exhibit Number 3.

14                Before I do that, before I start taking you  
15 through the exhibit, let me ask you, have you -- There are  
16 quite a number of operators named in this petition other  
17 than Erwin Oil and Gas, Fi-Ro Corporation, Happy Oil  
18 Company and Kersey and Company.

19                First of all, about C.W. Stumhoffer, as to whom I  
20 have requested this case be dismissed, who had one well  
21 that was listed in this Application, can you tell us what  
22 the situation was with that well?

23          A.    Mr. Stumhoffer had plugged the well, but he had  
24 not filed a subsequent report showing how the well was  
25 plugged or when it was plugged. It had not been inspected

1 as far as the location to be clean. We went out and we  
2 inspected it before the hearing, and what we found was that  
3 the well was plugged and a dead-man marker -- or the plug-  
4 and-abandonment marker had fallen over. So he is currently  
5 repairing his P-and-A marker.

6 Q. But he's otherwise in compliance?

7 A. Yes, he is.

8 Q. Very good. Now, as to all of the other  
9 operators, with the exception of the ones that I named,  
10 Erwin, Fi-Ro, Happy and Kersey and Mr. Stumhoffer, what is  
11 the situation with those operators as to the wells that are  
12 named in the Application?

13 A. They have submitted plans to either TA their  
14 wells, plug and abandon the wells or return the wells to  
15 production starting in February of this year -- of 2002,  
16 excuse me.

17 Q. And those plans have been approved by you or a  
18 person acting under your supervision?

19 A. Yes.

20 Q. Okay. And it is your desire, then, to continue  
21 this proceeding on the basis of you applaud their goals and  
22 let's see if they achieve them --

23 A. Correct.

24 Q. -- as the song says? Okay, very good.

25 Now, let's talk about the ones that are remaining

1 in this Application. I will call your attention to what's  
2 been marked as OCD Exhibit Number 3 and ask you to identify  
3 it.

4 A. That's the letter that was mailed out from the  
5 District Office in September of 2000. These were letters  
6 that were mailed to operators that either did not respond  
7 to the May letter or responded to the May letter but did  
8 not provide a plan of action to bring the wells into  
9 compliance.

10 Q. And the operators that fit in those two  
11 categories, you sent out a certified letter on September  
12 8th, 2000?

13 A. Correct.

14 Q. Now, the letter sent out on September 8th, 2000,  
15 I note, does not identify specific wells. Now, it states  
16 in the beginning, In May of this year, the Oil Conservation  
17 Division sent you a letter setting forth the Division's  
18 information on well for which you are operator of record,  
19 et cetera.

20 Is the reason that this did not identify specific  
21 wells because it specifically referred back to the May  
22 letter?

23 A. Correct.

24 Q. Now, the May letters were not sent out by your  
25 office, correct?



1 A. Correct.

2 Q. But this letter, Exhibit Number 3, was sent out  
3 by your office?

4 A. Correct.

5 Q. And that is your signature?

6 A. Yes.

7 Q. Now I'll call your attention to the second page  
8 of Exhibit Number 3, and does that indicate that Exhibit  
9 Number 3 was received by someone who felt bold to sign for  
10 Erwin Oil and Gas, Limited, Company?

11 A. It was received by Ralph Erwin.

12 Q. And do you know who Ralph Erwin is?

13 A. Yes, I do.

14 Q. And is he, in fact, a principal of Erwin Oil and  
15 Gas, Limited, Company?

16 A. Yes, he is.

17 Q. Thank you. Now, we have a little more background  
18 with Fi-Ro Corporation, so I will call your attention first  
19 off to OCD Exhibit Number 4 and ask you to identify it.

20 A. This is a field inspection letter. It was  
21 generated by Billy Prichard, who is one of the inspectors  
22 who works for me in the District, and basically it was to  
23 identify that they needed to restore the well to production  
24 or to temporarily abandon the well according to OCD Rules  
25 or submit a proposal to plug and abandon the well and

1 proceed with plugging.

2 Q. And the well identified at the top of this letter  
3 is the Hondo Holloway State Number 1, correct?

4 A. Correct.

5 Q. And is that the same well that is identified on  
6 page 35 of OCD Exhibit Number 1?

7 A. Correct.

8 Q. And are you familiar with Mr. Billy Prichard's  
9 signature?

10 A. Yes, sir.

11 Q. And is that his signature on OCD Exhibit Number  
12 4?

13 A. Yes, it is.

14 Q. So that we can say that as of August 31st of  
15 1999, Fi-Ro had been advised that the Hondo Holloway State  
16 Number 1 was out of compliance?

17 A. Yes.

18 Q. Now, I will call your attention to what's been  
19 marked as OCD Exhibit Number 5 and ask you to identify it.

20 A. That's another letter generated by Mr. Prichard,  
21 another inspection letter, to restore these wells. It  
22 listed the Hondo Holloway State Number 1, the Gulf State H  
23 Number 1 and the North Caprock Queen Number 5Y. All of  
24 these wells are on the hearing list, and it's basically  
25 that they need to restore these wells to production, set a

1 plug and temporarily abandon, or plug and abandon the well.

2 Q. And these are the same wells identified on page  
3 35 through 37 of OCD Exhibit Number 1?

4 A. Correct.

5 Q. Okay. And again, does that appear to be Mr.  
6 Prichard's initials?

7 A. Yes, it is.

8 Q. Now, I'll call your attention to what has been  
9 marked OCD Exhibit Number 6 and ask you to identify it.

10 A. It's another inspection letter, except this one  
11 was sent by Gary Wink out of my office. He's the Field  
12 Representative II, he's the supervisor over the field reps.  
13 And it is to ask them to do the same thing again, properly  
14 plug the well or bring it into compliance, basically.

15 Q. And does that identify the same three wells that  
16 were identified in Exhibit Number 5?

17 A. Yes, it does.

18 Q. Including one of those wells being the same well  
19 that was identified in Exhibit Number 4?

20 A. Correct.

21 Q. And that is dated June 14th, 2000, correct?

22 A. Correct.

23 Q. And I note that it says that "I am enclosing a  
24 copy of these rules..." Now, there was a copy of these  
25 rules with your file copy of this letter, was there not?

1 A. Yes.

2 Q. But I will represent to the Examiner that I  
3 omitted that for the sake of cutting down on the paperwork  
4 in the files since we have access to the Rules otherwise.

5 Call your attention now to what's been marked as  
6 OCD Exhibit Number 7 and ask you if you identify it.

7 A. This is the September 8th letter to Fi-Ro  
8 Corporation, requesting them to bring their well into  
9 compliance and to, you know, basically let them know that  
10 they did not respond to the May letter.

11 Q. Okay. And if you will look at the second page,  
12 that appears to have been signed by someone who felt bold  
13 as to act for Fi-Ro Corporation, correct?

14 A. Yes, it is.

15 Q. And do you know that individual?

16 A. I'm not sure, I know it's a McDonald, that's all.

17 Q. Okay. And I suppose this is superfluous, but  
18 again, the signature on page 1, is that your signature?

19 A. Yes, it is.

20 Q. Okay. And that concludes our exhibits as to  
21 Fi-Ro.

22 Now I'll ask you to look at what has been marked  
23 as OCD Exhibit Number 8 and ask you to identify it.

24 A. That's the September 8th letter, it was sent to  
25 Happy Oil Company in Artesia, New Mexico?

1 Q. And you don't know if it made them happy or not?

2 A. No.

3 Q. It was, however, apparently received by them, as  
4 indicated by the receipt shown on page 2 of Exhibit 8?

5 A. Correct.

6 Q. And this again, while it does not contain any  
7 information as to specific wells, refers to the May letter?

8 A. Correct.

9 Q. Now I will call your attention to what has been  
10 marked as OCD -- Oh, I forgot to ask you: And that is your  
11 signature appearing on --

12 A. Correct.

13 Q. -- OCD Exhibit Number 8?

14 I will ask you to look at what has been marked as  
15 OCD Exhibit Number 9 and ask you to identify it.

16 A. It's a September 8th letter sent to Kersey and  
17 Company in Fredericksburg, Texas.

18 Q. And is this again a letter that refers back to  
19 the May letter?

20 A. Yes, it does.

21 Q. And does this appear to have been received by  
22 M.E. Kersey, as shown on page 2 of Exhibit Number 9?

23 A. Yes.

24 Q. And is that your signature on page 1 of Exhibit  
25 Number 9?

1 A. Yes.

2 Q. Okay, are Exhibits Numbers 3 through 9 file  
3 copies that are maintained in the records of District 1 of  
4 the Oil Conservation Division in the ordinary course of its  
5 business?

6 A. Yes, they are.

7 Q. And they would be entered into the file at or  
8 about the time that the transaction occurred?

9 A. No, we kept these separate because they were all  
10 certified letters, and we kept them in a separate file.

11 Q. But they were entered into that file --

12 A. Correct.

13 Q. -- at about the time that they were sent?

14 A. Correct.

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

16 EXAMINER CATANACH: Okay, I have a couple  
17 questions.

18 EXAMINATION

19 BY EXAMINER CATANACH:

20 Q. Mr. Williams, I believe that your request is to  
21 continue the case until the first hearing in February, but  
22 did you testify that some of these operators are going to  
23 start doing the work in February?

24 A. Correct.

25 EXAMINER CATANACH: We might want to continue it

1 past February. I'm not sure what you might want to do.

2 MR. BROOKS: Mr. Williams, how long do you think  
3 it would take to fairly evaluate whether or not they're  
4 conscientiously performing their undertakings?

5 THE WITNESS: February 1st, I'll know.  
6 Basically, they're required to submit their paperwork that  
7 they've started on the well, which will be a C-103 intent,  
8 although most of them have already done that. Some of them  
9 have scheduled them. Just due to the availability of  
10 plugging units and pulling units in the southeast, it may  
11 take several months to get these plugged or TA'd.

12 But each one of them has been notified to begin  
13 work no later than February 1st.

14 Q. (By Examiner Catanach) So at the first hearing  
15 in February we should have a pretty good idea of whether or  
16 not they're complying with your directive?

17 A. Correct.

18 EXAMINER CATANACH: And if they are not complying  
19 at that time, we can add them back to the list, seeking  
20 some action against them, Mr. Brooks?

21 MR. BROOKS: Yes, if they are not in compliance  
22 then I would recommend to the Examiner to follow the  
23 recommendations of the District Supervisor in this matter,  
24 but -- in terms of timing. And February was based on the  
25 same period of time that Mr. Gum and Mr. Chavez had

1 recommended in their districts. But in any case, at that  
2 time if they are not moving forward as they said, then  
3 we're going to ask the Examiner to recommend the Director  
4 enter a compliance order.

5 EXAMINER CATANACH: Okay.

6 Q. (By Examiner Catanach) Your September 8th  
7 letter, Mr. Williams --

8 A. Yes.

9 Q. -- gives the operator two alternatives. One of  
10 the alternatives is to bring the well back to compliance  
11 within 60 days, I assume from the date of the letter. That  
12 60-day period has not expired as of today, as near as I can  
13 tell.

14 A. It expired a year ago.

15 Q. Oh, I'm sorry, I have the wrong year, I stand  
16 corrected. But I assume that none of these operators took  
17 you up on that?

18 A. No, they didn't.

19 Q. Okay. It strikes me on the Fi-Ro Corporation --

20 A. Uh-huh.

21 Q. -- how many chances are we going to give these  
22 operators? I mean, we've got four letters that started way  
23 back in 1999.

24 MR. BROOKS: Your Honor, we would recommend a  
25 civil penalty of at least \$4000 per well -- or -- well,



1 let's see, per year, per well. That would be 1998, 1999,  
2 2000 and 2001. Yeah, we would recommend a civil penalty of  
3 \$4000 per well or a total of \$12,000 as to Fi-Ro  
4 Corporation, because it appears that they have been given  
5 ample opportunity to put these wells into compliance. I  
6 guess I should say \$3000 per well, because 1999, 2000 and  
7 2001 they were warned.

8 EXAMINER CATANACH: Okay. So you're requesting a  
9 \$9000 fine be assessed against Fi-Ro?

10 MR. BROOKS: Right. As to the others we would  
11 request \$1000 each, because they've been warned once and  
12 they have ignored several items of correspondence from us,  
13 including the notice of this hearing.

14 Q. I guess I still want to follow up with Mr.  
15 Williams on my question. This isn't common for us to give  
16 this many chances to an operator, is it?

17 A. Yes, it is common. Part of the problem --

18 Q. Are you going to try and improve on that, Mr.  
19 Williams?

20 A. Yes, we are.

21 Q. Okay.

22 A. Part of the problem we've had in the past is  
23 maintaining records and keeping track of all these letters  
24 and things, which we do believe that the RBDMS system that  
25 was initiated, compliance module, will help us track all

1 this stuff. Because from this point forward we can pull  
2 monthly runs showing what is due.

3 Many of these wells have been out of compliance  
4 since 1989. And with about 30,000 well file records, it's  
5 very difficult in each one of these districts to go through  
6 every well file every month. But I do believe with the new  
7 computer data systems that we have implemented we'll be  
8 able to track these compliance issues much better.

9 EXAMINER CATANACH: Okay, I have nothing further  
10 of this witness.

11 MR. BROOKS: Nor have I.

12 EXAMINER CATANACH: This witness may be excused.

13 MR. BROOKS: At this time, Mr. Examiner, I will  
14 offer OCD Exhibits 1 and OCD Exhibits 3 through 9 into  
15 evidence.

16 EXAMINER CATANACH: Exhibit Number 1 and Exhibit  
17 Numbers 3 through 9 will be admitted as evidence.

18 MR. BROOKS: And your Honor, Exhibit Number 2 is  
19 an affidavit of notice. It was prepared by myself.

20 And if you will look at that you will find that  
21 -- the attachments, you will find that Erwin Oil and Gas,  
22 Limited, Company did receipt for their notice, again signed  
23 by Faye Erwin.

24 Fi-Ro Oil and Gas Company, we have not received a  
25 return receipt, nor have we received the mail back. And of

1 course the post office is understandably somewhat slower  
2 these days than they've been in the past, but we have not  
3 received anything back.

4 Happy Oil Company did receipt for their notice.  
5 Kersey and Company also receipted for their notice.

6 So with that, I will offer Exhibit Number 2.

7 EXAMINER CATANACH: Okay, Exhibit Number 2 will  
8 be admitted as evidence.

9 MR. BROOKS: Very good, I've stated our  
10 recommendations. I believe we should have compliance  
11 orders entered as to all four of these operators and a fine  
12 of \$1000 each except in the case of Fi-Ro, \$9000.

13 EXAMINER CATANACH: Mr. Brooks, can I ask you,  
14 what exactly in terms of a compliance order are you  
15 recommending? That we issue an order, ordering the  
16 companies to -- to do what? Either to --

17 MR. BROOKS: Within a specified period of time,  
18 which should be 30 days because they've certainly had lots  
19 of time heretofore, to do one of three things: either plug  
20 and abandon the well, file for and secure Division approval  
21 for temporary abandonment, or restore the well to  
22 production or injection, as the case may be.

23 EXAMINER CATANACH: Now, the fine that you plan  
24 to implement against these operators, that doesn't go  
25 away --

1 MR. BROOKS: No.

2 EXAMINER CATANACH: -- even if they comply with  
3 the terms of the order?

4 MR. BROOKS: No, the purpose of the penalty is as  
5 punishment for these people who have -- we believe  
6 knowingly and intentionally violated our Rules by ignoring  
7 repeated requests that these wells be brought into  
8 compliance.

9 Pursuant to the policies of our director, we have  
10 not pursued fines against people who, up until the day of  
11 the hearing, have appeared and entered into commitments to  
12 get right with us.

13 EXAMINER CATANACH: Okay. Mr. Brooks, I  
14 understand Mr. Stogner, who heard the case for the  
15 northwest, requested a rough draft order in that case?

16 MR. BROOKS: He did, and I'm planning to prepare  
17 one for your for the District 2 and for this one if you  
18 would like.

19 EXAMINER CATANACH: I would appreciate that, Mr.  
20 Brooks.

21 MR. BROOKS: Very good, if I can kill three birds  
22 with one stone, or perhaps two birds with three stones.

23 EXAMINER CATANACH: Is there anything else, Mr.  
24 Brooks?

25 MR. BROOKS: Nothing further, your Honor.

1 EXAMINER CATANACH: Okay, there being nothing  
2 else in this case, Case 12,758 will be partially taken  
3 under advisement for those operators identified in this  
4 case, and will be continued also to the first hearing in  
5 February, 2002, at which time we will determine the fate of  
6 that case.

7 MR. BROOKS: Thank you.

8 EXAMINER CATANACH: And this hearing is  
9 adjourned.

10 (Thereupon, these proceedings were concluded at  
11 2:54 p.m.)

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. \_\_\_\_\_  
heard by me on \_\_\_\_\_ 19\_\_\_\_.

\_\_\_\_\_, Examiner  
Oil Conservation Division

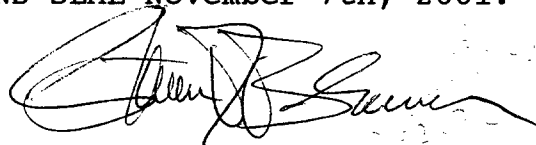
## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                  ) ss.  
COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL November 7th, 2001.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002