

1 STATE OF NEW MEXICO
2 ENERGY, MINERAL AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION COMMISSION

4 APPLICATION OF THE NEW MEXICO OIL COMMISSION
5 DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A
6 COMPLIANCE ORDER AGAINST TOM R. CONE FOR WELLS
OPERATED IN EDDY AND LEA COUNTIES, NEW MEXICO

7
8 CASE NO. 15462

9 TRANSCRIPT OF PROCEEDINGS

10 March 31, 2016

11 Santa Fe, New Mexico

12

13 BEFORE: MICHAEL McMILLAN, Lead Examiner
14 DAVID K. BROOKS, Legal Examiner
WILLIAM JONES, Examiner

15 This matter came on for hearing before the New
16 Mexico Oil Conservation Division, MICHAEL McMILLAN,
17 Lead Examiner, and DAVID K. BROOKS, Legal Examiner,
18 and WILLIAM JONES, Examiner, on Thursday, March 31,
19 2016, at the New Mexico Energy, Minerals and Natural
20 Resources Department, 1220 South St. Francis Drive,
21 Room 102, Santa Fe, New Mexico.

22

23 REPORTED BY: PAUL BACA, CCR #112

24 PAUL BACA COURT REPORTERS
500 4th Street, NW, Suite 105
25 Albuquerque, New Mexico 87102

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A P P E A R A N C E S

For OCD:

Keith Herrmann
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I N D E X

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2	Letter, 10-29-14, Sanchez to Cone 9
3	E-mail, 3-24-16, Whitaker to Brown 9
4	Certified Mail Receipt 10

1 EXAMINER McMILLAN: What we are going to
2 do now is, we're going to go ahead and start Case
3 Number 15462, the application of the New Mexico Oil
4 Conservation Division Compliance and Enforcement
5 Bureau for a compliance order against Tom R. Cone
6 for wells operated in Eddy and Lea Counties,
7 New Mexico.

8 Call for appearances, please.

9 MR. HERRMANN: Keith Herrmann representing
10 the Oil Conservation Division Compliance and
11 Enforcement Bureau.

12 EXAMINER McMILLAN: Any other appearances?
13 Please proceed.

14 MR. HERRMANN: I have one witness,
15 Mr. Daniel Sanchez.

16 EXAMINER McMILLAN: If the witness would
17 please be sworn in.

18 (Witness sworn.)

19 MR. BROOKS: And I will note for the
20 record, just as a matter of interest, that Tom R.
21 Cone was the respondent in one of the first
22 enforcement cases that I handled when I came -- when
23 I started with the Oil Conservation Division in
24 2001.

25 MR. HERRMANN: This should be a quick

1 hearing. Mr. Cone has not had any activity on his
2 well since 2009, and we will present evidence to
3 show that he has abandoned these wells, and are
4 going to seek an order requiring that he plug and
5 abandon the wells in accordance with division rules.

6 DANIEL SANCHEZ,

7 after having been first duly sworn under oath,

8 was questioned and testified as follows:

9 EXAMINATION

10 BY MR. HERRMANN:

11 Q. Mr. Sanchez, would you please state your
12 name, title, and place of employment for the record?

13 A. Daniel Sanchez. I am the compliance and
14 enforcement manager for the Oil Conservation
15 Division here in Santa Fe.

16 Q. Could you briefly describe the duties you
17 perform for the OCD?

18 A. Yes. I oversee the district offices, the
19 UIC program for underground injection controls and
20 EPA program, and I handle the compliance and
21 enforcement cases as they come up through the
22 division.

23 Q. Have you previously testified in an expert
24 capacity in front of the Oil Conservation Division?

25 A. Yes, I have.

1 MR. HERRMANN: At this point I would like
2 to move to admit Mr. Sanchez as an expert in oil --
3 New Mexico rules regarding oil and gas production.

4 EXAMINER McMILLAN: So qualified.

5 Q. (By Mr. Herrmann) Mr. Sanchez, are you
6 personally familiar with the violations alleged
7 against Mr. Tom R. Cone?

8 A. Yes, I am.

9 Q. Could you please identify Oil Conservation
10 Division Exhibit 1?

11 A. Exhibit 1 is an inactive well list for Tom
12 R. Cone. It shows 22 wells total for Mr. Cone. And
13 all 22, at this time, are inactive.

14 Q. And by inactive, you mean they haven't had
15 any production for at least one year plus 90 days?

16 A. Yes. That is correct.

17 Q. And how many wells does he operate, in
18 total, in New Mexico?

19 A. 22.

20 Q. And under Oil Conservation Rule 5.9, how
21 many wells is an operator with 22 wells allowed to
22 have inactive?

23 A. Two.

24 Q. When was his last report of production?

25 A. For every well -- the majority of the

1 wells, the last reported production was in October
2 of 2009. There were some in September, and -- it
3 was September and October of 2009 for all of them.

4 Q. And has he been filing his monthly
5 production reports with the Oil Conservation
6 Division?

7 A. No, he has not.

8 Q. When was the last one received?

9 A. It would have been back in 2009.

10 Q. The same as the last reported production?

11 A. The same as the last reported production.

12 Q. When are production reports due?

13 A. 45 days after the end of the month of the
14 last reported production.

15 Q. And if an operator fails to file these
16 reports what will happen to them?

17 A. Depending on how the -- or the length of
18 time that those production reports are not reported,
19 they could create an inactive well situation.

20 Q. But is it also true that they could lose
21 their authority to transport and inject?

22 A. Yes. That's true as well.

23 Q. Would that be an accurate description of
24 what OCD Exhibit 2 is?

25 A. Yes. That's a letter to Mr. Tom R. Cone

1 revoking his authority to inject or the authority to
2 transport production, to shut them down.

3 Q. And that was via certified mail, which
4 is --

5 A. Yes, it was.

6 Q. With the cards that are attached?

7 A. Yes.

8 Q. Has he made any attempt to reinstate his
9 authority?

10 A. No, not at all.

11 Q. And the last document in Exhibit 2.
12 Would you identify that, please?

13 A. This is a copy of the letter from the BLM,
14 and it's dealing -- pretty much terminating the
15 North Shugart Queen Unit lease from Mr. Tom R. Cone.

16 Q. And if we look at Exhibit 1, looking at
17 his well list, how many wells does he have in the
18 North Shugart Queen Unit?

19 A. 11. 11 of 22.

20 Q. Would you please identify Exhibit 3?

21 A. I do not have Exhibit 3 in my packet.

22 Q. I can give you a copy.

23 MR. HERRMANN: Permission to approach the
24 witness?

25 EXAMINER McMILLAN: Yes.

1 THE WITNESS: Exhibit 3 shows the most
2 recent inspections of all 22 wells. It includes an
3 e-mail from Mark Whitaker, the inspector in the
4 Hobbs district office, who inspected four of the 22
5 that were out of that district.

6 And the other copies are the latest
7 reported inspections on the remainder of the wells
8 which were done out of the Artesia district office.

9 Q. (By Mr. Herrmann) And in general, has any
10 activity been noted on these sites that would
11 indicate someone has been operating these wells
12 since 2009?

13 A. No. No activity at all on any of the
14 sites.

15 Q. Are many blocked off from even vehicle
16 access?

17 A. Yes. The majority of them are either
18 fenced off from the main gates or just don't have
19 any -- the equipment on them is idle or there are no
20 pump jacks on the sites. Tank batteries are not
21 being taken care of.

22 But mainly, just all of the inspections
23 indicate that the wells are idle. A lot of them do
24 not have any power to them, and they haven't been
25 active for some time.

1 Q. So would it be accurate to say that the
2 division has requested relief of requiring Mr. Cone
3 to plug and abandon these wells is in the best
4 interest of protecting correlative rights and the
5 environment?

6 A. Yes, it is.

7 MR. HERRMANN: At this time I would like
8 to admit Exhibits 1 through 3.

9 EXAMINER McMILLAN: Exhibits 1, 2, and 3
10 may now be accepted as part of the record.

11 MR. HERRMANN: And I also have Exhibit 4,
12 that shows that we gave proper notice to Mr. Cone,
13 sent via certified mail to the address he has on
14 record in the file, and also published notice of
15 this hearing in Lea and Eddy Counties.

16 MR. BROOKS: Okay. Do you know if
17 Mr. Cone is still alive or what has happened to him,
18 anything about what's happened to him?

19 MR. HERRMANN: We've received some
20 information that he is residing in Oklahoma. That
21 information came up earlier this week, and we feel
22 we have still met our notice obligations under OCD
23 rules.

24 MR. BROOKS: Okay. Thank you.

25 EXAMINER McMILLAN: Okay. So Exhibit 4

1 may now be accepted as part of the record.

2 MR. JONES: Mr. Sanchez, page 1 of
3 Exhibit 1, at the bottom of that page it says
4 there's an intent to PNA approved in April of 2013
5 by BLM -- to BLM.

6 So it looks like Mr. Cone was -- had
7 someone sending paperwork in.

8 These -- the wells that are federal, would
9 they be plugged under a federal state agreement
10 program?

11 THE WITNESS: Yes, they would.

12 MR. JONES: Okay.

13 I don't have any more questions.

14 MR. BROOKS: Okay. This was published in
15 the Lovington Leader, so it was published in Lea
16 County. And it was published in the Artesia Daily
17 Press, so that takes care of Eddy County.

18 EXAMINER McMILLAN: Okay. All right.

19 Well, with that in mind, Case Number 15462
20 shall be taken under advisement.

21 Thank you very much.

22 (Proceedings concluded at 8:39 a.m.)

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CERTIFICATE

I, Paul Baca, RPR, CCR in and for the State of New Mexico, do hereby certify that the above and foregoing contains a true and correct record, produced to the best of my ability via machine shorthand and computer-aided transcription, of the proceedings had in this matter.

PAUL BACA, RPR, CCR
Certified Court Reporter #112
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