

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

4 IN THE MATTER OF THE HEARING CALLED
5 BY THE OIL CONSERVATION DIVISION FOR
6 THE PURPOSE OF CONSIDERING:

7 APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER AGAINST JIM PIERCE, FOR WELLS OPERATED IN EDDY COUNTY, NEW MEXICO. CASE NO. 15590

8

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS

10 EXAMINER HEARING

11 December 1, 2016

12 Santa Fe, New Mexico

13

14 BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
15 GABRIEL WADE, LEGAL EXAMINER

16

17

18 This matter came on for hearing before the
19 New Mexico Oil Conservation Division, William V. Jones,
20 Chief Examiner, and Gabriel Wade, Legal Examiner, on
21 Thursday, December 1, 2016, at the New Mexico Energy,
22 Minerals and Natural Resources Department, Wendell Chino
23 Building, 1220 South St. Francis Drive, Porter Hall,
24 Room 102, Santa Fe, New Mexico.

25

26 REPORTED BY: Mary C. Hankins, CCR, RPR
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APPEARANCES

FOR APPLICANT NEW MEXICO OIL CONSERVATION DIVISION
COMPLIANCE AND ENFORCEMENT BUREAU:

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1 (8:16 a.m.)

2 EXAMINER JONES: Let's go on the record
3 this morning. This is December 1st, 2016. This is
4 Docket Number -- you might want to mark on your dockets
5 this is actually Docket Number 46-16, and the subsequent
6 pages on your docket need to be marked 12/1 and Docket
7 Number 46-16. We're still missing Florene.

8 And subsequent to Jim Bruce getting here,
9 we're going to do the compliance case, and then we'll do
10 the transcript of the -- of the docket for all the
11 continuances.

12 Let's start first by calling Case Number
13 15590, which is application of New Mexico Oil
14 Conservation Division Compliance and Enforcement Bureau
15 for a compliance order against Jim Pierce for wells
16 operated in Eddy County, New Mexico.

17 Call for appearances.

18 MR. HERRMANN: Mr. Examiner, Keith Herrmann
19 representing the Compliance and Enforcement Bureau.

20 EXAMINER JONES: Any other appearances in
21 this case?

22 MR. HERRMANN: I do not believe anyone else
23 has entered an appearance.

24 EXAMINER JONES: Do you have any witnesses?

25 MR. HERRMANN: I have one witness,

1 Mr. Daniel Sanchez.

2 EXAMINER JONES: Will the court reporter
3 please swear the witness?

4 (Mr. Sanchez sworn.)

5 EXAMINER JONES: You may proceed whenever
6 you're ready, Counselor.

7 MR. HERRMANN: Thank you.

8 DANIEL SANCHEZ,

9 after having been first duly sworn under oath, was
10 questioned and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. HERRMANN:

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

15 A. I'm Daniel Sanchez. I'm the compliance and
16 enforcement manager out of Santa Fe Oil Conservation
17 Division?

18 Q. And can you briefly describe the duties you
19 perform for the OCD?

20 A. Yes. I oversee the compliance and enforcement
21 efforts for the Division. I oversee the four district
22 offices, and I am the director of the Underground
23 Injection Control Program.

24 Q. Have you researched the violations detailed in
25 the application for hearing?

1 A. Yes, I have.

2 Q. And have you previously testified in an expert
3 capacity before the OCD?

4 A. Yes, I have.

5 MR. HERRMANN: I'd like to move to admit
6 Mr. Sanchez as an expert witness in compliance with the
7 oil and gas production rules by the State of New Mexico.

8 EXAMINER JONES: He is qualified as you
9 say.

10 MR. HERRMANN: Thank you.

11 Q. (BY MR. HERRMANN) Can you please identify the
12 operator, its OGRID and officers. Feel free to
13 reference what's marked as OCD Exhibit 1.

14 A. OCD Exhibit 1 is the operator information from
15 the --

16 (The court reporter requested the witness
17 speak louder.)

18 A. Exhibit 1 is the operator information from the
19 Secretary of State's Office. It's indicating that Jim
20 Pierce is the operator of record. Their OGRID number is
21 99439, and then Mr. Phil Brewer is listed as the
22 executor since Jim Pierce has passed away. Since he
23 became executor, Mr. Brewer has also passed away, and we
24 are of the understanding that his law partner, Adriann
25 Ragsdale, is now the executor of the Jim Pierce estate.

1 Q. And just to clarify, this is not from the
2 Secretary of State. It's from the OCD records?

3 A. I'm sorry. I had the -- I had both of them,
4 but this is from the OCD records, the OCD Permitting.

5 Q. Because Jim Pierce is a sole proprietor and not
6 required to register with the Secretary of State?

7 A. Yes, that's right.

8 Q. And in what county does Mr. Pierce have wells?

9 A. All nine of his wells are in Eddy County.

10 Q. Do you know the general location?

11 A. I haven't been out to the wells myself, but
12 they're out of -- out in a remote area, not too close to
13 town.

14 Q. Do you recognize OCD Exhibit -- what's marked
15 as OCD Exhibits 2A through C?

16 A. Yes. 2A is actually kind of a combination of
17 our inactive well list and financial assurance
18 requirements. 2B is a copy of a notice of violation. I
19 went after Mr. Pierce for insufficient financial
20 assurance. And 2C is a letter that went out -- a 5.9
21 compliance letter that went out to Mr. Pierce for his
22 inactive wells.

23 Q. How many wells does Mr. Pierce operate and how
24 many are inactive?

25 A. He operates nine wells right now, and all nine

1 are inactive.

2 Q. How many are required to have financial
3 assurance?

4 A. Seven. Two of them are federal so they don't
5 require insurance -- I mean the financial assurance.
6 And they do have some bonds in place, but they're
7 insufficient.

8 Q. What is the amount of the deficiency?

9 A. For the first one, \$2,600; the next one, 2,868;
10 2,890; 2,227; 2,443; 3,535; and 3,500, for a total of
11 \$17,463.

12 Q. And when was Mr. Pierce notified of these
13 violations?

14 A. The notice of violation was issued on June 16th
15 of 2016, and the 5.9 compliance letter was issued on
16 June 29th, 2016.

17 Q. And has Mr. Pierce or whoever's in charge of
18 his estate made any attempt to resolve these issues?

19 A. Not at this time.

20 Q. And what permitting restrictions are imposed on
21 operators who are out of compliance with OCD Rule 5.9?

22 A. An operator may not be allowed to drill or
23 acquire if there are any additional wells, or may not be
24 able to obtain the injection permits if they're in
25 violation of 5.9.

1 Q. So it severely restricts their ability to
2 operate in New Mexico?

3 A. Yes, it does.

4 Q. And of the items under 19.15.5.9 NMAC -- feel
5 free to reference to Exhibit 3, which is a copy of some
6 of the relevant rules -- which one is Mr. Pierce out of
7 compliance with?

8 A. First, the financial assurance requirement,
9 19.15.8. He has not met any of the terms of that given
10 the amounts of bonding that he has in place. And with
11 19.15.25.8, he has more than two wells out of compliance
12 with that part of the rule.

13 Q. Okay. Are the --

14 MR. HERRMANN: At this point I'd like to
15 ask the Examiner to take judicial notice of Oil
16 Conservation Commission Order R-9210, which was the
17 rulemaking proceeding adopting all these relevant OCD
18 rules and that had findings that these rules were
19 enacted to prevent the migration of fluids, prevent
20 waste, protect correlative rights and protect fresh
21 water.

22 EXAMINER JONES: Is that okay?

23 EXAMINER WADE: Yeah. I don't see a
24 problem with that.

25 EXAMINER JONES: We're taking

1 administrative notice of Division -- Commission rule?
2 Commission --

3 MR. HERRMANN: It's a Commission order.

4 EXAMINER JONES: Commission Order 9210.

5 MR. HERRMANN: Thank you.

6 Q. (BY MR. HERRMANN) And referencing OCD Exhibit
7 4, can you briefly summarize the status of these wells?

8 A. Okay. Yeah. Out of the nine wells, two of
9 them do not even have any electricity to the sites, so
10 no flowlines, no tank batteries. One of them does not
11 have a pump jack. So those two probably wouldn't be
12 able to be operable at this time without a lot of work.
13 The other seven do have electricity to the sites with
14 full lines connected, but the electricity has been
15 turned off on two of those seven. So out of the seven,
16 right now five are probably capable of operating.

17 Q. And we might not have touched on this, Daniel,
18 but when was the last production -- or the most recent
19 production in any of these wells?

20 A. I believe it was July of 2015, but -- let's
21 see. Yeah, July of 2015. That was on one well, the
22 State R #3.

23 Q. And all the other wells have been inactive for
24 a longer period than that?

25 A. Yes.

1 Q. And a well goes inactive -- or what's the time
2 period that the well is considered inactive under our
3 rules?

4 A. 15 months.

5 Q. What's the estimated plugging cost of these
6 wells?

7 A. From the wells that we've been plugging
8 currently, we're running an average of about 30- to
9 36,000 a well. On these ones, it would probably be
10 closer to 30- due to the depth.

11 Q. And what corrective actions is the Division
12 requesting?

13 A. We would like to see the current executor,
14 whoever that may be, Adriann Ragsdale, ensure that the
15 wells are brought back into compliance within 60 days of
16 issuance of the order in this case, and within 30 days
17 of issuance of an order, that the proper financial
18 assurance be put back into effect.

19 Q. And in your opinion, is that relief sought in
20 the best interest of protecting the environment and
21 correlative rights?

22 A. Yes, it is.

23 Q. Were Exhibits 1 through 4 prepared by you or
24 under your direction?

25 A. Yes.

1 MR. HERRMANN: Mr. Examiner, we also have
2 Exhibit 5 that I prepared, which was notice to the
3 operator served pursuant to our rules. There is a copy
4 of the returned green card.

5 The one thing we are currently waiting for
6 right now is the return from the New Mexico
7 Superintendent of Insurance so we could notify the
8 surety that we may intend to take their bonds. With
9 your permission, I would like to supplement the record
10 as soon as I hear back from the New Mexico
11 Superintendent of Insurance.

12 EXAMINER JONES: When do you think that
13 would be?

14 MR. HERRMANN: I'm following up with them
15 today. It will definitely be before the next docket on
16 December 15th.

17 EXAMINER JONES: So it's a notice issue
18 that you want to supplement the record on --

19 MR. HERRMANN: Yes.

20 EXAMINER JONES: -- versus a continuance
21 for two weeks?

22 MR. HERRMANN: Yes.

23 EXAMINER WADE: We would be better
24 continuing it to go ahead and give them the opportunity
25 to respond to the notice if they want that opportunity.

1 MR. HERRMANN: Okay. At this time I would
2 move to admit Exhibits 1 through 5 to the record.

3 EXAMINER JONES: Exhibits 1 through 5 are
4 admitted.

5 (NMOCD Exhibit Numbers 1 through 5 are
6 offered and admitted into evidence.)

7 MR. HERRMANN: I have no further questions.

8 EXAMINER JONES: Do you have questions?

9 EXAMINER WADE: I don't have questions.

10 CROSS-EXAMINATION

11 BY EXAMINER JONES:

12 Q. They talk about -- what would you do with them
13 if you plugged the wells? Are they big pumping units?
14 Little, bitty pumping units?

15 A. I haven't been out to the sites myself. That
16 is done through the district offices. But through the
17 plugging process, we would probably have the plugger do
18 a salvage on them and --

19 Q. Two wells are federal, you said?

20 A. There are -- there are two wells that are
21 federal, not the ones that didn't have electricity or
22 lack of a pump jack, were not federal. They were state
23 wells.

24 Q. Okay. I don't have any more questions.

25 EXAMINER WADE: If you would draft a

1 proposed order for the next hearing.

2 MR. HERRMANN: Yes. I will have that
3 ready.

4 EXAMINER JONES: Sounds good. Thank you
5 very much.

6 With that, we are going to continue Case
7 Number 15590 to December the 15th.

8 (Case Number 15590 concludes, 8:29 a.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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CERTIFICATE OF COURT REPORTER

I, MARY C. HANKINS, Certified Court Reporter, New Mexico Certified Court Reporter No. 20, and Registered Professional Reporter, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings that were reduced to printed form by me to the best of my ability.

I FURTHER CERTIFY that the Reporter's Record of the proceedings truly and accurately reflects the exhibits, if any, offered by the respective parties.

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

MARY C. HANKINS, CCR, RPR
Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2016
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