

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:

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER AGAINST KERSEY AND COMPANY, FOR WELLS OPERATED IN EDDY COUNTY, NEW MEXICO. CASE NO. 15649

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

March 30, 2017

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER  
WILLIAM V. JONES, TECHNICAL EXAMINER  
MICHAEL McMILLAN, TECHNICAL EXAMINER  
GABRIEL WADE, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Phillip Goetze, Chief Examiner, William V. Jones and Michael McMillan, Technical Examiner, and Gabriel Wade, Legal Examiner, on Thursday, March 30, 2017, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR  
New Mexico CCR #20  
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APPEARANCES

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

KEITH W. HERRMANN, ESQ.  
STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
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1 EXAMINER GOETZE: Case Number 15649,  
2 application of New Mexico Oil Conservation Division  
3 Compliance and Enforcement Bureau for a compliance order  
4 against Kersey and Company, for wells operated in Eddy  
5 County, New Mexico.

6 Call for appearances.

7 MR. HERRMANN: Mr. Examiner, Keith Herrmann  
8 representing the Oil Conservation Division Compliance  
9 and Enforcement Bureau.

10 EXAMINER GOETZE: Any other appearances?  
11 Proceed.

12 MR. HERRMANN: I have one witness,  
13 Ms. Denise Gallegos, and I would ask the -- ask the  
14 Examiner to take notice that she has already been  
15 previously sworn in in OCD Case 15648. And with that,  
16 we can save some time re-identifying her as Denise  
17 Gallegos and as administrator and compliance officer for  
18 the Oil Conservation Division.

19 EXAMINER GOETZE: And her testimony will  
20 be?

21 MR. HERRMANN: Factual.

22 EXAMINER GOETZE: Very good. Proceed.

23 DENISE GALLEGOS,  
24 after having been previously sworn under oath, was  
25 questioned and testified as follows:

DIRECT EXAMINATION

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BY MR. HERRMANN:

**Q. Ms. Gallegos, are you familiar with the violations detailed in this application for hearing?**

A. Yes.

**Q. Can you please identify the operator that's the subject of this compliance case and their OGRID?**

A. Kersey and Company, OGRID Number 12576.

**Q. Is the OCD only seeking to enforce violations of the financial assurance requirements at this hearing?**

A. Yes.

**Q. Are there any financial assurance statutes under the Oil and Gas Act you believe this operator is violating?**

A. Yes, 70-2-14. The statute states that in addition to the blanket plugging financial assurance, the Oil Conservation Division would require a one-well financial assurance on any well that has been held in temporarily abandoned status for more than two years. The Division does have a rule, 19.15.8 NMAC, requiring such well bonds, and the operator has blanket financial assurance.

**Q. Does the Division post all inactive wells or otherwise as temporarily abandoned status for an operator on its Web site?**

1           A.    Yes.  The OCD Web site is updated daily on the  
2  inactive well list listing each well by operator.

3           **Q.    Are there any financial assurance rules under**  
4 **the Oil and Gas Act you believe this operator has**  
5 **violated.**

6           A.    Yes, 19.15.8.9C.  "The operator shall cover a  
7  well that has been in temporary abandonment for more  
8  than two years by either a one-well financial assurance  
9  or a plugging financial assurance for wells in  
10 temporarily abandoned status."

11                               In addition, 19.15.8.9D(2) lists the  
12 required bonding amounts for each county.

13           **Q.    And how many of Kersey's wells need additional**  
14 **financial assurance?**

15           A.    One.

16           **Q.    Can you identify that well in the amount and**  
17 **use Exhibit 1 for reference if you need it?**

18           A.    Texaco State #2, in the amount of \$7,362.

19           **Q.    And in what county is this well located?**

20           A.    Eddy County.

21           **Q.    Was the operator notified of these violations?**

22           A.    Yes.  The notice of financial assurance  
23 violation letter was sent out certified mail on June  
24 17th, 2016, and a signed green card was never received  
25 back.  Of this date, I have not received a response from

1 the operator or the requested financial assurance. I  
2 also have the tracking information, and the letter was  
3 unclaimed, and the amount [sic] expired as of July 6th,  
4 2016.

5 Q. And there is a copy of this in OCD Exhibit 2?

6 A. Uh-huh.

7 Q. Okay. And what relief is the Division  
8 requesting?

9 A. The Division is requesting the operator to  
10 provide the Division with acceptable financial assurance  
11 within 30 days of issuance of an order of finding that  
12 the operator is in violation of 70-2-14 of the New  
13 Mexico State Statutes and 19.15.8 NMAC, and if the  
14 operator does not post the requested financial assurance  
15 within 30 days, an issuance of an order that the  
16 operator is in violation of a Division order.

17 Q. And were Exhibits 1 and 2 prepared by you or  
18 under your direction?

19 A. Yes.

20 Q. And the OCD Compliance and Enforcement Bureau  
21 also has one more exhibit, 3, that I provided showing an  
22 Affidavit of Service provided to Kersey and Company via  
23 certified mail and advertisement of this hearing in  
24 "Artesia Daily Press." And there is an Affidavit of  
25 Publication. At this moment, I would move to admit OCD

1 **Exhibits 1 through 3.**

2 EXAMINER GOETZE: Exhibits 1 through 3 are  
3 so entered.

4 (OCD Compliance and Enforcement Bureau  
5 Exhibit Numbers 1 through 3 are offered and  
6 admitted into evidence.)

7 EXAMINER GOETZE: We'd also ask you at this  
8 time, Mr. Herrmann, to reconcile the 70-2-14 as the  
9 specific statute that you're pursuing --

10 MR. HERRMANN: Yes.

11 EXAMINER GOETZE: -- for resolution.

12 CROSS-EXAMINATION

13 BY EXAMINER WADE:

14 **Q. Which county is the well in?**

15 A. Lea County.

16 **Q. Lea County.**

17 **And the general publication is also Lea**  
18 **County?**

19 A. The well's in Eddy County.

20 **Q. Oh, I'm sorry. Eddy County.**

21 **So the "Artesia Daily Press," Eddy County?**

22 A. Yes.

23 EXAMINER GOETZE: You don't get out enough.  
24 You should read the Artesia daily news.

25 Any questions?

1 I have no questions of this witness.

2 With that, we will take Case 15649 under  
3 advisement.

4 (Case Number 15649 concludes, 1:30 p.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

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

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

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

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MARY C. HANKINS, CCR, RPR  
Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2017  
Paul Baca Professional Court Reporters