

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

IN THE MATTTTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 21669

Hearing on Notice of Violation
issued to Flare Oil, Inc.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

WEDNESDAY, JUNE 2, 2021

This matter came on for hearing before the New Mexico Oil Conservation Division before William Brancard, Hearing Examiner, via the Webex videoconferencing platform.

Reported by: Mary Therese Macfarlane
New Mexico CCR No. 122
PAUL BACA COURT REPORTERS
500 Fourth Street NW, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

1 A P P E A R A N C E S.

2 FOR THE OCD: Eric Ames, Esq.
 3 Office of General Counsel
 4 New Mexico Energy, Minerals
 5 and Natural Resources
 6 Department
 1220 South St. Francis Drive
 Santa Fe, NM 87505
 (505) 476-3463

7 C O N T E N T S

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8	CASE CALLED	3
9	TAKEN UNDER ADVISEMENT:	11
10	OCD WITNESS DANIEL SANCHEZ:	
11	EXAMINATION BY MR. AMES:	5

12 I N D E X of E X H I B I T S

13	EXHIBIT NO.	ADMITTED
14	1 CV of Daniel Sanchez:	11
15	2 Notice of Violation	11
16	3 NM Sec. of State corporate search	11
17	4 Operator Registration page for Flare Oil	11
18	5 First Return Receipt for NOV	11
19	6 Harwin A. Cook Obituary	11
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21	8 First Return Receipt for Bonnie Berger	11
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1 (Time noted 10:02 a.m.)

2 HEARING EXAMINER BRANCARD: With that I will
3 start off with Case No. 1, 21669, Notice of Violation
4 issued to Flare Oil, Inc.

5 Is there an entry of appearance for the Oil
6 Conservation Division?

7 MR. AMES: Yes, Mr. Hearing Examiner. Eric
8 Ames for OCD. Good morning.

9 THE HEARING OFFICER: Thank you.

10 Is there anyone here on behalf of Flare
11 Oil, Inc.? (Note: No response.)

12 Are there any other interested participants
13 in this Case 21669? (Note: No response.)

14 Hearing none, Mr. Ames you may proceed with
15 your case.

16 MR. AMES: Thank you. Mr. Brancard.

17 OCD has one witness: Mr. Sanchez.

18 Our direct testimony has been provided
19 already in the Prehearing Statement, along with all of our
20 exhibits.

21 Given that the Flare Oil has not appeared
22 in this proceeding we would request permission to present
23 Mr. Sanchez for the sole purpose of affirming the
24 testimony that is contained in our Prehearing Statement
25 and then offering the exhibits, and then resting the case,

1 as opposed to presenting all the testimony orally in the
2 proceeding, since there's no other party to object or to
3 counter any of that testimony.

4 Would that be acceptable?

5 HEARING EXAMINER BRANCARD: Thank you. I mean,
6 obviously your witness would stand for questions from the
7 examiner, if there are any, and be available; is that
8 correct?

9 MR. AMES: Yes.

10 HEARING EXAMINER BRANCARD: Thank you. And it
11 would be helpful, I think, if your witness could simply,
12 or you, go through the list of exhibits that you have in
13 this case --

14 MR. AMES: We can do that.

15 HEARING EXAMINER BRANCARD: However you present
16 it.

17 Your witness is Mr. Sanchez?

18 MR. AMES: Yes. So we would like to call
19 Mr. Sanchez at this point.

20 DANIEL SANCHEZ,
21 having been duly sworn by the hearing examiner,
22 testified as follows:

23 EXAMINATION

24 BY MR. AMES:

25 Q. Good morning, Daniel.

1 A. Good morning.

2 Q. Daniel, where do you work?

3 A. I work for the Oil Conservation Division, a
4 division of the Energy, Minerals and Natural Resources
5 Department.

6 Q. How long have you worked there?

7 A. For over 16 years.

8 Q. And what do you do for OCD?

9 A. I am the Administration and Compliance Bureau
10 Chief.

11 Q. And did you prepare the testimony that's
12 identified in the Prehearing Statement under Section 2,
13 Direct Testimony?

14 A. Yes, I did.

15 Q. Do you affirm that this is a true and accurate
16 copy of the testimony that you provided or that you intend
17 to provide today?

18 A. Yes, I do.

19 Q. Let's move on to exhibits.

20 If you could go to Section 3 of the
21 Prehearing Statement, there is a list of exhibits. I'll
22 just run through those quickly.

23 Exhibit 1 is your CV, correct?

24 A. That is correct.

25 Q. Exhibit 2 is the Notice of Violation.

1 A. Yes.

2 Q. Exhibit 3 is the result of a corporate search
3 for Flare Oil Company on the New Mexico Secretary
4 of State website?

5 A. Correct.

6 Q. Exhibit 4 is the OCD Operator Registration page
7 for Flare Oil?

8 A. Yes.

9 Q. Exhibit 5 is the Return Receipt for the first
10 NOV sent to Flare Oil?

11 A. Yes.

12 Q. Exhibit 6 is the obituary of Mr. Harwin T.
13 Cook?

14 A. Yes.

15 Q. Exhibit 7 is the result of a corporate search
16 for Flare Oil, Inc. on the Texas Secretary of State
17 Website?

18 A. Yes.

19 Q. Exhibit 8 is the first Return Receipt for Bonnie
20 Berger?

21 A. Yes.

22 Q. And Exhibit 9 is the second Return Receipt for
23 Bonnie Berger.

24 A. Yes.

25 Q. And Exhibits 10, 11 and 12 are the civil penalty

1 **calculations for the three violations alleged in the NOV;**
2 **is that correct?**

3 A. That is correct.

4 MR. AMES: At this times OCD offers these
5 exhibits for the record.

6 HEARING EXAMINER BRANCARD: Thank you.

7 MR. AMES: There being no objection, can I
8 continue?

9 HEARING EXAMINER BRANCARD: Yes. Please do.

10 MR. AMES: Okay. Thank you.

11 I believe that concludes our case.

12 Mr. Sanchez has affirmed the testimony, identified in the
13 prehearing statement and identified the 10 exhibits --
14 excuse me, 12 exhibits supporting that testimony.

15 At this time OCD rests and invites the
16 hearing examiner's questions.

17 HEARING EXAMINER BRANCARD: Thank you. Could
18 you just briefly list the violations that are in the NOV
19 and let us know whether those violations are still in
20 effect?

21 MR. AMES: List the violations. Let me think
22 for a moment here.

23 **Q. Daniel, what is the first violation alleged in**
24 **the NOV?**

25 A. It is an invalid operator registration by Flare

1 Oil.

2 Q. Is that violation still extant or still
3 existing?

4 A. It is.

5 MR. AMES: Mr. Hearing Examiner, is this what
6 you would like us to do?

7 HEARING EXAMINER BRANCARD: It is. Thank you.

8 MR. AMES: Okay.

9 HEARING EXAMINER BRANCARD: And I guess if you
10 could reference the regulation that the violation is of.

11 MR. AMES: Okay.

12 Q. Daniel, what regulation does Flare Oil -- does
13 the OCD allege Flare Oil violated by failing to maintain a
14 valid operator registration?

15 A. That would be Rule 19.15.9.8(B)(4).

16 Q. What is the second violation alleged in the NOV?

17 A. That Flare changed its address of record without
18 informing the OCD within 30 days of the change.

19 And that is based on Rule 19.15.9.8(C).

20 Q. And to the best of your knowledge is Flare still
21 in violation of that requirement?

22 A. Yes.

23 Q. What is the third violation alleged in the NOV?k ?

24 A. This is Rule 19.15.9.(A)(4)(a) where Flare has
25 more inactive wells than is allowed by rule.

1 **Q. And is that violation still existing, to the**
2 **best of your knowledge?**

3 A. Yes, it is.

4 **Q. And finally, what is the fourth violation?**

5 A. It is a violation of Rule 19.15.5.9(D) and it's
6 insufficient financial assurance for its inactive wells.

7 **Q. Is that violation still existing?**

8 A. Yes, it is.

9 MR. AMES: Thank you.

10 Mr. Hearing Examiner, anything further you
11 would like?

12 HEARING EXAMINER BRANCARD: Yes. Could you list
13 what sanctions you're seeking in this case.

14 MR. AMES: Okay.

15 **Q. So for the first violation the violation of**
16 **19.15.9.(B)(4) for failure to maintain a valid operator**
17 **registration, what sanction is OCD requesting?**

18 And you can find that on page 2 at the top.
19 **It's the very end of the discussion of each violation.**

20 A. The OCD proposes to revoke Flare's operator
21 registration and authority to transport from all its
22 wells.

23 **Q. And for the second violation, what sanction does**
24 **OCD request?**

25 A. OCD proposes to revoke Flare's operator

1 registration and authority to transport from its wells and
2 assess a civil penalty of \$1,200.

3 **Q. Daniel, for the third violation, what sanction**
4 **does OCD propose?**

5 A. The OCD is requesting an Order requiring Flare
6 to plug and abandon the wells or to allow the OCD to do
7 so. And if the OCD does plug and abandon the wells to
8 forfeit the financial assurance for the wells and require
9 Flare to pay the excess cost to plug and abandon the
10 wells. We are also requesting a civil penalty in the
11 amount of \$900.

12 **Q. Finally, for the fourth violation, what**
13 **sanctions are proposed?**

14 A. If Flare -- uh, excuse me for a sec.

15 The OCD proposes to assess a civil penalty
16 in the amount of \$3,600 for this particular violation.

17 **Q. Thank you.**

18 A. Lack of financial assurance.

19 MR. AMES: Thank you, Daniel.

20 HEARING EXAMINER BRANCARD: Thank you. I have
21 no further questions.

22 HEARING EXAMINER BRANCARD: Thank you.

23 MR. AMES: Thank you, Mr. Hearing Examiner. We
24 appreciate having some guidance from you as to what
25 elements you would like us to provide for each case going

1 forward if we proceed in this manner.

2 So with that OCD has nothing further.

3 HEARING EXAMINER BRANCARD: Thank you. At this
4 point are there any
5 other parties with objections to the exhibits, or any
6 other comments on this matter, Case 21669?

7 Hearing none, your exhibits are admitted
8 into the record and the case will be taken under
9 advisement.

10 And we can just discuss, now or later,
11 whether the Division would like to prepare a Draft Order
12 or simply have the Hearing Examiner go ahead with its
13 proposed recommendation to the Division Director.

14 MR. AMES: Mr. Hearing Examiner, we could
15 discuss that now briefly.

16 OCD is prepared to draft an Order for the
17 hearing examiner's consideration, but would defer to your
18 judgment as to how you'd like to proceed.

19 HEARING EXAMINER BRANCARD: Since you are sort
20 of in possession of the facts here and there are no
21 contested parties at this point, I think it would be good
22 if you prepare Findings and Conclusions, Proposed Findings
23 and Conclusions for the examiner that I can possibly work
24 on as part of a proposed decision for the Director.

25 MR. AMES: Okay. I can do that, Mr. Hearing

1 Examiner. Do you have a Form of Order that you've used in
2 the past that would provide me with some guidance as to
3 how you would like these Findings and Conclusions
4 presented?

5 HEARING EXAMINER BRANCARD: No. The closest
6 that I've seen is if you look at the Commission Orders,
7 and I can get you the R number, in the Cano case, which
8 was enforcement. That's, I think, a lot more detailed
9 than your case, because you had an operator that was
10 actually out there supposedly claiming he could do the
11 work. But that's sort of some of the basic Conclusions of
12 Law and Order paragraphs in there.

13 MR. AMES: Mr. Hearing Examiner, I would
14 appreciate having that information so that we could
15 provide you a document as close to what you're expecting
16 as possible.

17 THE HEARING OFFICER: Okay. Thank you. I
18 will get that to you.

19 MR. AMES: Thank you.

20 THE HEARING OFFICER: That concludes Item
21 No. 1, Case 21669.

22 (Time noted 10:13 a.m.)

23

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25

1 STATE OF NEW MEXICO)

2 : SS

3 COUNTY OF TAOS)

4 REPORTER'S CERTIFICATE

5 I, MARY THERESE MACFARLANE, New Mexico Reporter
6 CCR No. 122, DO HEREBY CERTIFY that on Wednesday, June 2,
7 2021, the proceedings in the above-captioned matter were
8 taken before me; that I did report in stenographic
9 shorthand the proceedings set forth herein, and the
10 foregoing pages are a true and correct transcription to
11 the best of my ability and control.

12 I FURTHER CERTIFY that I am neither employed by
13 nor related to nor contracted with (unless excepted by the
14 rules) any of the parties or attorneys in this case, and
15 that I have no interest whatsoever in the final
16 disposition of this case in any court.

17 /s/ Mary Macfarlane

18 _____

19 MARY THERESE MACFARLANE, CCR
20 NM Certified Court Reporter No. 122
License Expires: 12/31/2021

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