

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:

IN RE LEASE HOLDERS ACQUISITIONS, INC. Case No. 22220

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, DECEMBER 1, 2021

EXAMINER HEARING

This matter came on for hearing before the New Mexico Oil Conservation Division before Hearing Examiner, Ripley Harwood, Esq. on Wednesday, December 1, 2021, via Webex Virtual Conferencing Platform hosted by the New Mexico Department of Energy, Minerals and Natural Resources

Reported by: Mary Therese Macfarlane
New Mexico CCR #122
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A P P E A R A N C E S

FOR NM EMNRD, OIL & GAS DIVISION:

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1 (Time noted 1:00 p.m.)

2 EXAMINER HARWOOD: Okay. So, Ms. Macfarlane,
3 let's go back on the record. And we are here on the
4 December 1, 2021, Docket, Notice of Violation Hearings,
5 and I believe we are down to the last three, Case No.
6 22220, 22221, and then No. 6, which is 22222.

7 Is there anybody in attendance at this
8 hearing that represents any of Respondents in any of those
9 three, Primal Energy Corporation, Robinson Oil, LLC, or
10 Lease Holders Acquisitions Incorporated. Speak up now.

11 (Note: Pause.) All right. I'll note for
12 the record that nobody unmuted themselves on the list of
13 people listening in on this, so we are going to that that
14 those three entities are not represented today.

15 Do you have -- Mr. Tremaine, do you have a
16 preference to which case goes first?

17 MR. TREMAINE: I would just take them in order,
18 in docket order.

19 EXAMINER HARWOOD: That's fine.

20 Let's proceed, then, with Case No. 22220.
21 When we are done with that I will re-announce a request
22 for representation in the next case, and so on and so
23 forth.

24 Let's proceed. If you are ready to proceed
25 with that case, Mr. Tremaine, the floor is yours.

1 MR. TREMAINE: Yes, sir.

2 I understand that Mr. Jackson is still
3 sworn in, and I would, just for the sake of time, skip the
4 introductory testimony and go right on to the exhibits, if
5 that's all right with you.

6 EXAMINER HARWOOD: Sure. Mr. Jackson, you do
7 understand you are still under oath from this morning?

8 MR. JACKSON: Yes, sir.

9 EXAMINER HARWOOD: Okay.

10 ROB JACKSON,
11 previously sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. TREMAINE:

14 Q. All right. Mr. Jackson, we are talking about
15 Lease Holders Acquisitions, Case No. 22202.

16 I want to ask you a few questions about the
17 Prehearing Statement in this case and then move on to the
18 exhibits.

19 Are you aware that the OCD filed a
20 Prehearing Statement and Exhibit Binder in this case?

21 You're muted.

22 A. Yes. My apologies.

23 Q. Have you reviewed both the Prehearing Statement
24 and the Exhibit Binder?

25 A. Yes, I have.

1 Q. And who provided the initial information and the
2 numbers that form the basis of the Notice of Violation in
3 this matter?

4 A. I did.

5 Q. Are you aware that there is a section labeled
6 Direct Testimony in the Prehearing Statement?

7 A. Yes.

8 Q. Do you affirm and adopt the Direct Testimony
9 section of the Prehearing Statement as the testimony that
10 you intend to provide today?

11 A. I do.

12 Q. I want to move on to the exhibits.

13 Mr. Jackson, Exhibit 1 is your resume; is
14 that correct?

15 A. Correct.

16 Q. You created that exhibit?

17 A. Yes.

18 Q. And is that true and accurate to the best of
19 your knowledge?

20 A. Yes.

21 Q. Exhibit No. 2, is it true that is the Notice of
22 Violation which you worked on and was issued on August 12,
23 2021 to Lease Holders Acquisitions?

24 A. Correct.

25 Q. And to the best of your knowledge is the

1 information contained in that Notice of Violation true and
2 accurate?

3 A. Yes.

4 Q. And Exhibit No. 3, is it true this is the Oil
5 Conservation Division's Docketing Notice?

6 A. Yes, it is.

7 Q. Exhibit No. 4 I want to ask you in a little bit
8 more -- a couple of additional questions.

9 So Exhibit No. 4, is it true that this is
10 the Certified Mail tracking information related to the
11 Notice of Violation and the Docket Notice for Lease
12 Holders Acquisitions.

13 A. It is.

14 Q. And have you reviewed the tracking information
15 associated with those tracking numbers?

16 A. I have.

17 Q. And have you been able to verify delivery dates
18 of that Certified Mail?

19 A. Yes.

20 Q. And specifically are you able to verify that the
21 delivery, the status of that Certified Mail is accurate as
22 it's presented in the Prehearing Statement?

23 A. It is.

24 Q. Moving on to Exhibit 5. Mr. Jackson, is it true
25 that this is the OCD's proposed civil penalty for the

1 violation of having inactive wells exceeding the threshold
2 set out in 19.15.5.9(A)?

3 A. Correct. It is.

4 Q. Were you able to review the numbers of inactive
5 wells that form that basis of this civil penalty
6 calculation?

7 A. I did.

8 Q. Based on your review are the numbers here true
9 and accurate?

10 A. They are.

11 Q. Same question for Exhibit 6. Is it accurate
12 that this is the OCD's proposed civil penalties for
13 operator's failure to file C-115s?

14 A. It is.

15 Q. And were you able to review the numbers that are
16 the basis of this violation?

17 A. I have.

18 Q. And those are also true and accurate?

19 A. It is.

20 Q. Moving on to Exhibit 7, Mr. Jackson. Is it true
21 that this is the proposed civil penalty for the violation
22 of failure to provide financial assurance?

23 A. It is.

24 Q. And have you reviewed for accuracy the numbers
25 that form the basis of this civil penalty calculation?

1 A. I have.

2 **Q. Are they accurate?**

3 A. They are.

4 MR. TREMAINE: Mr. Hearing Examiner, Exhibit
5 No. 8 is email correspondence that I believe speaks for
6 itself and that Mr. Jackson cannot speak to.

7 And Exhibit No. 9 is also email
8 correspondence that speaks for itself, that Mr. Jackson
9 cannot speak to.

10 And the same is true for Exhibit No. 10.
11 Exhibits 8 through 10 constitute attempts by either myself
12 or my paralegal to provide Notice, in addition to the
13 Certified Mail tracking to Lease Holders Acquisitions.

14 And I would note that as things
15 progressed -- actually, strike that.

16 So at this time I would move admission of
17 all Exhibits 1 through 10.

18 EXAMINER HARWOOD: And I'll note for the record
19 that the Respondent has failed to appear either on its own
20 or through counsel, so since there's no objections to any
21 of these exhibits, they will be admitted.

22 MR. TREMAINE: At this point, Mr. Hearing
23 Examiner, with the admission and the adoption of the
24 Direct Testimony and the admission of the exhibits, I
25 don't believe that -- I only have a couple of additional

1 questions for Mr. Jackson, but I don't intend to walk
2 through each of the violations unless you want me to, or
3 have specific questions.

4 EXAMINER HARWOOD: I don't see the need for
5 that. I would like the record to reflect either in
6 testimony or in a Proposed Order that you submit, when the
7 Certified Mail, Exhibit 4, when those Certified Mail
8 returns were received and what they show the date was for
9 service of the NOV and the Docket Notice.

10 I don't need to know that in testimony but
11 I think that should be in an Order.

12 MR. TREMAINE: Okay. Just for the record, I
13 don't have a record of the return receipts. I can't speak
14 for the United States Postal Service, but this is a
15 problem we've had consistent across Certified Mail since
16 August. We are seeing three-plus weeks for delivery in
17 certain instances, and often -- or regularly we're not
18 getting the return receipts.

19 What happened in this case was that I asked
20 Mr. Jackson to verify the tracking information, so I have
21 provided in Exhibit 4 the Certified Mail receipt from the
22 mailing but not the return receipt, because I don't
23 believe the OCD has it. And what Mr. Jackson did is
24 verify that the tracking information through the United
25 States Postal Service website indicates the NOV and the

1 Docketing Notice were delivered.

2 In this case the Docketing Notice was not
3 accepted. I would note, though, that the Docketing Notice
4 is not required to be delivered by Certified Mail, and all
5 of the Notices were also sent to the email address that
6 the operator has on record in OCD's system.

7 EXAMINER HARWOOD: Okay. Well, I doubt that the
8 regulations require delivery by Certified Mail. I may be
9 wrong, but legally I think it is generally sufficient if
10 you can show that you mailed to the last known, you know,
11 provided address of record and that the document was not
12 returned to you.

13 So I would just include what -- the best
14 information you can as to Notice in that Proposed Order.

15 MR. TREMAINE: Yes, Mr. Hearing Examiner.

16 I want to note that the Notice of Violation
17 must be delivered by Certified Mail in 19.15.5.10.(C)(2).
18 The Notice of Violation is required by Certified Mail, and
19 may provide -- the Division may provide the Notice of
20 Violation by electronic mail, if possible.

21 EXAMINER HARWOOD: Okay.

22 MR. TREMAINE: So what I'm attempting to show
23 here is that OCD exceeded that requirement and actually
24 provided the Docketing Notice by Certified Mail, however
25 it was not accepted, for unknown reasons, and we went belt

1 and suspenders and also sent it by email, both, to the
2 last address on record with the OCD. So I can provide
3 supplemental information capturing that address of record
4 in OCD's system.

5 EXAMINER HARWOOD: I think it would be
6 sufficient just to state all of that in a Proposed Order.

7 MR. TREMAINE: Understood. Thank you.

8 EXAMINER HARWOOD: Also that Proposed Order
9 should include all of the findings of violations and the
10 proposed penalties, which you probably know better than I
11 do.

12 MR. TREMAINE: I'm happy to provide that.

13 EXAMINER HARWOOD: Okay.

14 MR. TREMAINE: So I just have a couple of
15 additional questions for the record for Mr. Jackson.

16 **Q. Rob, to your knowledge has the operator taken**
17 **any of the compliance actions that were required by OCD**
18 **under Section 3 of the NOV?**

19 A. No, they haven't.

20 **Q. And to your knowledge has this operator**
21 **contacted OCD generally, or Administrative Compliance**
22 **Bureau specifically, to discuss the NOV?**

23 A. No.

24 MR. TREMAINE: No further questions.

25 EXAMINER HARWOOD: Okay. Well, give me a draft

1 of that Proposed Order at your earliest convenience.

2 And we will move on to the next case if
3 there's nothing further.

4 MR. TREMAINE: Nothing further.

5 (Time noted 1:12 p.m.)

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3 COUNTY OF TAOS)
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5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter
7 CCR No. 122, DO HEREBY CERTIFY that on Wednesday,
8 December 1, 2021, the proceedings in the above-captioned
9 matter were taken before me; that I did report in
10 stenographic shorthand the proceedings set forth herein,
11 and the foregoing pages are a true and correct
12 transcription to the best of my ability and control.

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

18 /s/ Mary MacFarlane
19 _____

20 MARY THERESE MACFARLANE, CCR
21 NM Certified Court Reporter No. 122
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