

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:) CASE NO. 12,965
)
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR AN ORDER)
REQUIRING SWR OPERATING COMPANY TO)
PROPERLY PLUG 15 WELLS, IMPOSING CIVIL)
PENALTIES IN EVENT OF FAILURE TO COMPLY,)
AUTHORIZING THE DIVISION TO PLUG SAID)
WELLS IN DEFAULT OF COMPLIANCE BY)
OPERATOR AND ORDERING A FORFEITURE OF)
APPLICABLE SECURITY, IF ANY,)
EDDY COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

November 14th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, November 14th, 2002, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

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OIL CONSERVATION DIV.

I N D E X

November 14th, 2002
Examiner Hearing
CASE NO. 12,965

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A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS
Attorney at Law
Energy, Minerals and Natural Resources Department
Assistant General Counsel
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

* * *

ALSO PRESENT:

WILLIAM V. JONES, JR.
Petroleum Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 2:25 p.m.:

3 EXAMINER CATANACH: Okay, at this time we'll call
4 the hearing back to order, and I'll call Case 12,965, the
5 Application of the New Mexico Oil Conservation Division for
6 an order requiring SWR Operating Company to properly plug
7 15 wells, imposing civil penalties in event of failure to
8 comply, authorizing the Division to plug said wells in
9 default of compliance by operator and ordering a forfeiture
10 of applicable security, if any, Eddy County, New Mexico.

11 Call for appearances in this case.

12 MR. BROOKS: Mr. Examiner, I'm David Brooks,
13 Energy, Minerals and Natural Resources Department of the
14 State of New Mexico, for the New Mexico Oil Conservation
15 Division. I have two witnesses.

16 EXAMINER CATANACH: Additional appearances?
17 Will the witnesses please stand to be sworn at
18 this time?

19 (Thereupon, the witnesses were sworn.)

20 JANE E. PROUTY,
21 the witness herein, after having been first duly sworn upon
22 her oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. BROOKS:

25 Q. State your name, please, for the record.

1 A. Jane Prouty.

2 Q. And where do you reside?

3 A. In Santa Fe.

4 Q. By whom are you employed?

5 A. Oil Conservation Division.

6 Q. In what capacity?

7 A. I manage the C-115 area.

8 Q. And is that the production reporting area?

9 A. Yes.

10 Q. And are you in charge of the staff that causes
11 things to be put in and taken out --

12 A. Yes.

13 Q. -- of the production reports?

14 A. That would be a technical description.

15 Q. At my request did you prepare a report to show
16 the production in the last several years for wells operated
17 by SWR Operating Company?

18 A. Yes.

19 Q. Would you look in the folder at what has been
20 marked as Exhibit Number 1? Is that the report that you
21 prepared?

22 A. Yes.

23 Q. And just briefly -- First of all, what period of
24 time did your inquiry cover?

25 A. This covers the beginning of 1997 through the

1 present time.

2 Q. And what does Exhibit Number 1 show about SWR's
3 production reports on these wells for that period of time?

4 A. It shows that they have not sent us a C-115 for
5 these wells, for that entire period.

6 Q. So this is not a situation where they've reported
7 no production, they have simply not reported production?

8 A. Correct.

9 Q. Okay, thank you. Now I will call your attention
10 to what has been marked as Exhibit Number 32, which is the
11 last item in the folder?

12 A. Uh-huh.

13 Q. Now, that was actually prepared by me, was it
14 not?

15 A. Yes.

16 Q. And did I ask you to verify the information shown
17 in that exhibit?

18 A. Yes.

19 Q. And did you do so?

20 A. Yes.

21 Q. And is that exhibit correct? If it's not, tell
22 us what's wrong.

23 A. All right, it's a tiny bit off as a copy. I just
24 marked up the same page. The data David had access to
25 didn't necessarily separate out production and injection.

1 So first understand, anything prior to December of 1992 is
2 not within our hands 100-percent accurate; it was involved
3 in a conversion of a system. So I'll testify to what I
4 have, but I would not say I'm absolutely positive it's
5 entirely correct if it's prior to 1992.

6 But for the first well with the API ending in
7 05739 I show the last production to be December of 1987.

8 For the next well I show the last production to
9 agree with what David had written, October, 1987.

10 The next one, I show production in June of 1988,
11 not just February as indicated here.

12 The next one, which is the Featherstone Number 2,
13 also June, 1988.

14 The next one, the last production I have is
15 September, 1979, the Featherstone Number 4.

16 EXAMINER CATANACH: I'm sorry, Ms. Prouty, what
17 was the date on that?

18 THE WITNESS: The last production I show is
19 September of 1979.

20 And what happens, when these get amended in our
21 current system with a very old date it can have an impact
22 on the cumulative value up to that date. So they
23 apparently amended the month of September, 1979 -- that's
24 how I have this value -- but it can have an impact on other
25 production data there.

1 The next one, I agree with the number David had,
2 the Keohane. I have March, 1990.

3 And the Nickson A, I have production in February
4 of 1986.

5 The Shugart B, as David -- It's marked here as
6 Well Type, Injection, and the last injection was in
7 November of 1981, and the last production was in May of
8 1988, which is what David does have indicated here.

9 The Number 3, the last production, the number is
10 the same.

11 The Welch Number 1, October, 1982.

12 I have no record for the Welch Number 2 ever
13 having produced.

14 The Welch Number 3, the last production I have is
15 February, 1986.

16 And the Welch Number 4 injected as well as
17 produced. The last production I have agrees with the
18 number David had of December, 1992. That's a cumulative
19 value, so we don't know what year that actually represents.
20 But I do have the last non-cum production in the system for
21 -- excuse me, injection for this well, in October of 1982.

22 So the fact that all the dates last produced a
23 long time ago remains correct. Which year a long time ago
24 it produced is not 100-percent clear in every case.

25 Q. (By Mr. Brooks) Well, next time I'll get you to

1 prepare the exhibit initially and not rely on GO-TECH,
2 because that doesn't seem to correspond with what you have
3 with ONGARD.

4 A. It's -- we just -- We're both pulling from
5 incomplete data. It's not their system or our -- I
6 wouldn't say ours is correct; it's, they did not match
7 production by API prior to 1982, so it's difficult --

8 Q. Very good.

9 A. -- 1992.

10 Q. Was Exhibit Number 1 prepared by you?

11 A. Yes.

12 MR. BROOKS: Okay. In view of the witness's
13 corrections on Exhibit Number 31, I won't offer it in
14 evidence, I'll simply let the witness's testimony stand for
15 the evidence, what the situation is.

16 I will tender Exhibit Number 1 at this time.

17 EXAMINER CATANACH: Exhibit Number 1 will be
18 admitted.

19 MR. BROOKS: Pass the witness.

20 EXAMINATION

21 BY EXAMINER CATANACH:

22 Q. Well, if you go by Exhibit Number 1, Ms. Prouty,
23 it's safe to say that none of these wells has produced or
24 injected since 1997?

25 A. Correct.

1 EXAMINER CATANACH: Okay, that's all I have.

2 MR. BROOKS: Very well, call Van Barton.

3 VAN BARTON,

4 the witness herein, after having been first duly sworn upon
5 his oath, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BROOKS:

8 Q. Good afternoon, Mr. Barton.

9 A. Howdy.

10 Q. State your name for the record, please.

11 A. Van Barton.

12 Q. And where do you reside?

13 A. Carlsbad, New Mexico.

14 Q. By whom are you employed?

15 A. The Oil Conservation Division.

16 Q. What office?

17 A. Artesia.

18 Q. What capacity?

19 A. I'm a field supervisor.

20 Q. And is it your responsibility to -- either

21 personally or by overseeing the staff of the Artesia

22 office, to inspect wells and be aware of wells that need to
23 be plugged?

24 A. Yes, sir.

25 Q. Call your attention to what's been marked as

1 Exhibit Number 2 in the exhibit folder in front of you, and
2 what is Exhibit Number 2?

3 A. That is a Daily Trip Report from one of the field
4 inspectors where he went out and he inspected these wells
5 and took photos of them.

6 Q. And that says at the upper left hand corner
7 "Inspector: Gerry Guye". Is that one of the inspectors who
8 works under you in the Artesia Office?

9 A. That's correct.

10 Q. Okay, I'll call your attention now to the
11 exhibits marked 3 through 16, and each of them are similar
12 documents. Would you tell us what those documents are?

13 A. They just reflect the ownership of the wells in
14 question.

15 Q. Do they indicate that SWR Operating Company in
16 1991 assumed operation of these wells?

17 A. Yes, sir.

18 Q. And I believe the record will reflect that
19 there's one for each of the 14 wells that we're dealing
20 with. Now, there are 15 wells on the Application, one of
21 which is the Hodges Number 1. Can you tell us what the
22 situation is with the Hodges Number 1?

23 A. I believe that's the one that is already plugged
24 and abandoned.

25 Q. Okay, so we're not asking for any relief with

1 regard to the Hodges Number 1 in this case; we'll ask that
2 that be dismissed, correct?

3 A. Correct.

4 Q. Okay, thank you.

5 Call your attention to what's been marked as
6 Exhibits Numbers 17 through 30, inclusive.

7 A. Yes, sir.

8 Q. What are those?

9 A. Those are the plugging procedures that I wrote
10 for the wells in question.

11 Q. And is there one for each of these wells?

12 A. Yes, except for the one that --

13 Q. Except for the Hodges?

14 A. Yes, sir.

15 Q. There are 14 of them, one for each of the 14
16 wells other than the Hodges.

17 I forget to get this witness qualified.

18 Would you briefly state your educational
19 experience as a well inspector?

20 A. As a well inspector?

21 Q. Well, as a person knowledgeable about oil and gas
22 wells?

23 A. Well, I guess a brief history would be, I was in
24 the oilfield construction business for five years, and then
25 I worked for a major oil company. I've worked for

1 independents as an independent consultant and drilling,
2 production and construction in three states with a total of
3 28 years of experience. I'm currently supervisor over the
4 field inspectors in Artesia, and I am a certified BLM
5 production inspector.

6 Q. And you work for drilling contractors among other
7 things you've done?

8 A. Yes, sir.

9 Q. And how long have you been with OCD?

10 A. I've been what? Fourteen months, this time.

11 Q. You were previously employed --

12 A. That is correct.

13 Q. -- for the OCD?

14 A. For 12 months.

15 Q. Was that in the same capacity?

16 A. No, sir, I was a field inspector at that point.

17 MR. BROOKS: Okay, tender Mr. Barton as an expert
18 well inspector.

19 EXAMINER CATANACH: Mr. Barton is so qualified.

20 Q. (By Mr. Brooks) Okay. Mr. Barton, based on your
21 review of the production records and your review of Exhibit
22 Number 2, Mr. Guye's inspection report, and your field
23 inspection of one of these wells -- By the way, which one
24 was it you field-inspected?

25 A. That's the Shugart B 3.

1 Q. Okay. Based on Exhibit Numbers 1 and 2 and your
2 inspection of the Shugart B Number 3, do you have an
3 opinion as to whether or not the wells in this case should
4 be plugged for the protection of correlative rights,
5 prevention of waste and protection of the environment?

6 A. They definitely need to be plugged, sir.

7 Q. If each of these wells was plugged in accordance
8 with the respective Exhibits 17 through 30 that were
9 prepared by you, in your opinion would they be properly
10 plugged and abandoned in accordance with prudent operating
11 practices and OCD Rules and Regulations?

12 A. Yes, sir.

13 Q. Okay, we've got a pretty picture here, Exhibit
14 Number 31. Did you take that picture?

15 A. No, sir.

16 Q. Are you acquainted with the site where that
17 picture was taken?

18 A. Yes, sir.

19 Q. And what site is that?

20 A. This is the Shugart B 3.

21 Q. And is this an accurate representation of the way
22 that well site looks?

23 A. It is.

24 Q. In your opinion, does that represent a situation
25 that needs to be addressed with some speed and diligence?

1 A. With some speed and diligence, yes. It's not an
2 immediate threat to groundwater or humanity at this point
3 in time.

4 Q. I asked you that yesterday, if this was something
5 that was an emergency where we ought to request an
6 emergency procurement authorization, and you said no,
7 correct?

8 A. Not at this time, not unless the condition or
9 situation changes.

10 Q. But it does need to be addressed with more
11 dispatch than other wells that might need to be plugged?

12 A. That's correct, sir.

13 MR. BROOKS: Okay. We'll offer in evidence
14 Exhibits 2 through 31 inclusive.

15 EXAMINER CATANACH: Exhibits 2 through 31 will be
16 admitted.

17 MR. BROOKS: Pass the witness.

18 EXAMINATION

19 BY EXAMINER CATANACH:

20 Q. Mr. Barton, these wells are all generally about
21 the same depth, and construction is similar on all these
22 wells?

23 A. That's correct.

24 Q. So generally they're going to be plugged in the
25 same manner?

1 A. Yes, sir.

2 Q. Okay. And this well that you took the picture
3 of, what well is this again?

4 A. Shugart B 3.

5 EXAMINER CATANACH: Shugart B 3. Okay.

6 I think I don't have anything else, except I was
7 going to ask Mr. Brooks, has this been the subject of a
8 previous case, Mr. Brooks, for inactive wells?

9 MR. BROOKS: Yes, sir.

10 EXAMINER CATANACH: And I assume that -- I don't
11 recall, but we did enter an order, ordering SWR to take
12 some action?

13 MR. BROOKS: That is correct, an order was
14 entered, and no action has been taken.

15 EXAMINER CATANACH: No action has been taken.
16 Okay. I will ask you further, are we -- are you requesting
17 civil penalties in this case?

18 MR. BROOKS: Well, I think it's in the
19 Application we request civil penalties, in the usual
20 language. I don't think that the likelihood of collecting
21 them is very great.

22 EXAMINER CATANACH: In the previous order, did we
23 issue civil penalties?

24 MR. BROOKS: We did, yes, there was a civil
25 penalty issued, I believe, against SW- -- I would stand to

1 be corrected according to what the record reflects, because
 2 you'll remember we asked against those in which we had
 3 return receipts for notices that we had sent them, and I do
 4 not really recall whether there was a penalty assessed
 5 against SWR. I'm thinking there was, but the order would
 6 be the best evidence.

7 EXAMINER CATANACH: Okay. So to answer your
 8 question, you are seeking civil penalties, Mr. Brooks?

9 MR. BROOKS: Yes, we would -- we are -- I believe
 10 it's in our petition, and we are seeking civil penalties.
 11 That's not the main thrust of this Application, but I
 12 believe that is requested.

13 EXAMINER CATANACH: Okay.

14 MR. BROOKS: And I would further ask the Examiner
 15 to take notice of the fact that a notice of this proceeding
 16 was sent to SWR, and in fact there is a return receipt in
 17 the file indicating that SWR received that notice.

18 EXAMINER CATANACH: Okay. Thank you, Mr. Brooks.
 19 Anything further?

20 MR. BROOKS: No, sir.

21 EXAMINER CATANACH: There being nothing further,
 22 Case 12,965 will be taken under advisement.

23 (Thereupon, these proceedings were concluded at
 24 2:44 p.m.)

25

* * *

I do hereby certify that the foregoing is
 a complete record of the proceedings in
 the Examiner hearing of Case No. 12965
 heard by me on March 14 1960.

STEVEN T. BRENNER, ^{PCR}
 (505) 989-9317

David J. Catnach, Examiner
 Off Conservation Division

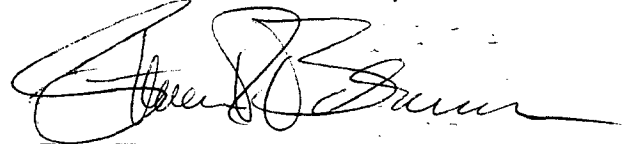
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL November 24th, 2002.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006