

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:

ORIGINAL

APPLICATION OF THE NEW MEXICO  
OIL CONSERVATION DIVISION FOR  
A COMPLIANCE ORDER AGAINST  
KIRBY EXPLORATION COMPANY OF TEXAS.

CASE NO. 15139

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

June 12, 2014

Santa Fe, New Mexico

BEFORE: RICHARD EZEANYIM, CHIEF EXAMINER

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This matter came on for hearing before the  
New Mexico Oil Conservation Division, Richard Ezeanyim,  
Chief Examiner, on Thursday, June 12, 2014, 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  
Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

1 APPEARANCES  
2 FOR APPLICANT NEW MEXICO OIL CONSERVATION DIVISION

3 KEITH HERMAN, ESQ.  
4 STATE OF NEW MEXICO  
5 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
6 Office of General Counsel  
7 Wendell Chino Building  
8 1220 South St. Francis Drive  
9 Santa Fe, New Mexico 87505  
10 (505) 476-3210  
11 keith.herman@state.nm.us  
12  
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1 (8:49 a.m.)

2 EXAMINER EZEANYIM: Continue on the same  
3 page and call Case Number 15139, and this is the  
4 application of the New Mexico Oil Conservation Division  
5 for a compliance order against Kirby Exploration Company  
6 of Texas. That's interesting.

7 Call for appearances.

8 MR. HERMAN: Keith Herman with the OCD.

9 EXAMINER EZEANYIM: Do you have any  
10 witnesses?

11 MR. HERMAN: I have one witness.

12 EXAMINER EZEANYIM: Any other appearances?

13 MR. HERMAN: Mr. Daniel Sanchez.

14 EXAMINER EZEANYIM: Okay. Daniel has been  
15 sworn in, and you are still under oath. So let's  
16 proceed.

17 MR. HERMAN: I'd like to move that we  
18 accept his qualification from Case 15138.

19 EXAMINER EZEANYIM: So accepted.

20 Okay. You may proceed.

21 DANIEL SANCHEZ,  
22 after having previously duly sworn under oath, was  
23 questioned and testified as follows:  
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DIRECT EXAMINATION

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BY MR. HERMAN:

Q. Mr. Sanchez, have you researched the alleged violation against Kirby Energy?

A. Yes, I have.

Q. Or Kirby Exploration. Excuse me.

A. Yes, I have.

Q. Could you describe the investigation?

A. Once again, this was an investigation that was started in our Hobbs District, and a number of inactive wells were found with no apparent ownership. We concluded that they were orphan wells, and we decided to go forward with trying to contact any potential operator and, if not, to go ahead and plug those wells.

Q. Could you identify Exhibit 1?

A. Exhibit 1 is the affidavit of Maxey Brown, the Hobbs District supervisor concerning the Kirby case.

Q. And could you identify the well in item six of Exhibit 1. This would be the subject well.

A. This is the GG Travis #1.

Q. And could you identify the operator in item seven and the OGRID number?

A. Kirby Exploration Company of Texas, OGRID Number 12757.

Q. Could you identify Exhibit 2?

1           A.   Exhibit 2 is a group of pictures of that Kirby  
2   well and the location that shows a single well  
3   surrounded by shrubs. And the general conditions of the  
4   area is okay, but definitely needs the well to be  
5   plugged.

6           Q.   Could you identify Exhibit 3?

7           A.   Exhibit 3 is from the Office of the Secretary  
8   of State, and it shows the standing of Kirby Exploration  
9   Company. It shows that George Peterkin, Jr. is the  
10   president of the company, and Myron H. Newman is the  
11   vice president, secretary and treasurer of the company.

12          Q.   And their status in New Mexico?

13          A.   Is revoked and beyond the appeal period.

14          Q.   Could you describe the steps that we took to  
15   notify the operator that would be contained in Exhibit  
16   4?

17          A.   Yes. We have advertised in the Lovington Daily  
18   Leader and the OCD Website as required by the OCD rules.  
19   We also sent copies of the hearing notice directly to  
20   the addresses on file with the Secretary of State, which  
21   according to the certified mail receipt was delivered on  
22   April 29th of 2014. It was delivered to the corporate  
23   address with return to sender. The agent in Santa Fe  
24   returned our letter stating that the operator had  
25   withdrawn from doing insurance in New Mexico on December

1 14th of 1988.

2 Q. And, again, could you just describe the OCD  
3 rules that this well is violating?

4 A. Rule 19.15.28.8, requiring an operator to plug  
5 and abandon or temporary abandon a well in accordance  
6 with Division rules within 90 days after a period of one  
7 year of continuous inactivity.

8 Rule 19.15.25.10.B provides that as soon as  
9 practical but no later one year after the completion of  
10 a plugging operation, the operator shall level the  
11 location to remove deadman and other junk and take  
12 measures necessary or required by the OCD to restore the  
13 location to a safe and clean condition.

14 Rule 19.15.25.11 requires that the operator  
15 shall file with the OCD a record of the work done within  
16 90 days of completion.

17 And the operator's out of compliance with  
18 19.15.5.9(A)(1) NMAC by not meeting financial assurance  
19 requirements, and 19.15.5.9(A)(4) by having too many  
20 wells out of compliance with 19.15.25.8.

21 MR. HERMAN: No further questions.

22 EXAMINER EZEANYIM: Are you passing the  
23 witness?

24 MR. HERMAN: Yes.

25 EXAMINER EZEANYIM: When you are done, just

1 tell me you are done; you are passing the witness.

2 Okay. Good. I have some questions like  
3 the last case.

4 CROSS-EXAMINATION

5 BY EXAMINER EZEANYIM:

6 Q. In this case, I see that Kirby is no longer  
7 operating in New Mexico, right?

8 A. That's correct.

9 Q. Their license has been revoked by the Secretary  
10 of State?

11 A. Yes.

12 Q. Okay. No more operating.

13 And so did you find anybody that still owns  
14 the well?

15 A. No.

16 Q. Do we have any financial assurance?

17 A. No, we do not.

18 Q. Any blanket bond?

19 A. No, we do not.

20 Q. When did this well -- I know you may have  
21 mentioned. When did they start producing oil? When was  
22 the last time?

23 A. In 2006, I believe, was the last time. I  
24 didn't even --

25 MR. HERMAN: That's a mistake in that

1 affidavit.

2 Q. (BY EXAMINER EZEANYIM) What date did the  
3 activities cease on this well?

4 A. It has been more than ten years. That's all I  
5 can say for sure.

6 Q. Who was the operator of this well?

7 A. Kirby.

8 Q. So we think that ten years from today their  
9 license was revoked because they didn't plug the well or  
10 because of other issues?

11 A. Yes. As a matter of fact, the company itself  
12 stopped doing business in New Mexico in 1988.

13 Q. But ten years ago -- 1988 is more than ten  
14 years. Who was operating that well ten years ago?

15 A. No one that we're aware of.

16 Q. Was it a producing well at that point?

17 A. At that point, it was.

18 Q. And then I'm surprised we don't have any  
19 blanket bond; we don't have any financial assurance.

20 If it was 2000- -- what, 2004, by then we  
21 were requiring them to have financial assurance and a  
22 blanket bond, and it was operating, and nobody cared for  
23 it? I don't know.

24 A. No. This is one of those wells that we found  
25 on a regular inspection just out in the wilderness, more



1 or less.

2 Q. Okay. No further questions. You may step  
3 down?

4 EXAMINER EZEANYIM: At this point, Case  
5 15139 will be taken under -- exhibits?

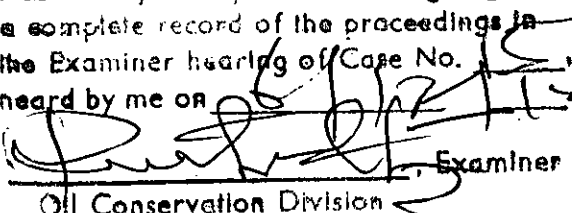
6 MR. HERMAN: I would like to submit for  
7 your consideration OCD Exhibits 1 through 4.

8 Mr. Sanchez, if you would give the  
9 originals to the court reporter.

10 EXAMINER EZEANYIM: OCD Exhibits 1 through  
11 4 will be admitted into the record.

12 (NMOCD Exhibit Numbers 1 through 4 were  
13 offered and admitted into evidence.)

14 (Case Number 15139 concludes, 8:57 a.m.)  
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20 I do hereby certify that the foregoing is  
21 a complete record of the proceedings in  
22 the Examiner hearing of Case No. 15139  
23 heard by me on 6/21/17  
24  Examiner  
25 Oil Conservation Division

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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CERTIFICATE OF COURT REPORTER

I, MARY C. HANKINS, 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*

MARY C. HANKINS, CCR, RPR  
Paul Baca Court Reporters, Inc.  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2014