

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

4 IN THE MATTER OF THE HEARING CALLED
5 BY THE OIL CONSERVATION DIVISION FOR
6 THE PURPOSE OF CONSIDERING:

ORIGINAL

7 APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, BY AND
8 THROUGH ITS ATTORNEY, FOR A COMPLIANCE ORDER AGAINST LARRY
9 MARKER D/B/A MARKER OIL, DIRECTORS AND OFFICERS, JOINTLY AND SEVERALLY.
10

CASE NO. 15254

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 EXAMINER HEARING

13 February 19, 2015

14 Santa Fe, New Mexico

15 BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
16 GABRIEL WADE, LEGAL EXAMINER

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17 This matter came on for hearing before the
18 New Mexico Oil Conservation Division, Michael McMillan,
19 Chief Examiner, and Gabriel Wade, Legal Examiner, on
20 Thursday, February 19, 2015, at the New Mexico Energy,
21 Minerals and Natural Resources Department, Wendell Chino
22 Building, 1220 South St. Francis Drive, Porter Hall,
23 Room 102, Santa Fe, New Mexico.

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

FOR APPLICANT NEW MEXICO OIL CONSERVATION DIVISION:

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1 (8:17 a.m.)

2 EXAMINER McMILLAN: I'd like to call Case
3 Number 15254, application of the New Mexico Oil
4 Conservation Division, by and through its attorney, for
5 a compliance order against Larry Marker d/b/a Marker
6 Oil, directors and officers, jointly and severally.

7 Call for appearances.

8 MR. HERRMANN: Mr. Examiner, Keith Hermann
9 representing the OCD.

10 EXAMINER McMILLAN: Any other appearances?

11 Okay.

12 MR. HERRMANN: I have one witness,
13 Mr. Daniel Sanchez.

14 EXAMINER McMILLAN: Okay. The witness will
15 need to be sworn in.

16 DANIEL SANCHEZ,
17 after having been first duly sworn under oath, was
18 questioned and testified as follows:

19 MR. HERRMANN: If I may approach with my
20 exhibits?

21 DIRECT EXAMINATION

22 BY MR. HERRMANN:

23 Q. Mr. Sanchez, would you please state your name
24 and title for the record?

25 A. Daniel Sanchez. I am the compliance and

DIVISION

1 enforcement manager for the Oil Conservation Division.

2 Q. And have you previously testified in front of
3 the Commission here before?

4 A. Yes, I have.

5 Q. Are you familiar with the case that the OCD is
6 bringing against Larry Marker?

7 A. Yes, I am.

8 EXAMINER McMILLAN: Excuse me, sir. You
9 need to ask about his credentials.

10 EXAMINER WADE: Are you going to be
11 requesting that he be testifying as an expert witness or
12 just a fact witness?

13 MR. HERRMANN: No, just a fact witness.

14 EXAMINER WADE: We're fine as long as he
15 doesn't need to be an expert witness.

16 (Consultation off the record.)

17 EXAMINER McMILLAN: Okay. Proceed.

18 Q. (BY MR. HERRMANN) Okay. If you would, briefly
19 identify what I've labeled as Exhibit A.

20 A. Exhibit A is the well list for Larry Marker
21 d/b/a Marker Oil.

22 Q. To your knowledge, does Larry Marker have any
23 financial assurance on file with the Division?

24 A. No, he does not.

25 Q. And does he require financial assurance?

1 A. Yes, he does.

2 Q. What wells does he require financial assurance?

3 A. The state wells. There are eight wells that he
4 operates at this time that require that financial
5 assurance. Would you like me to read through them?

6 Q. Just the names, please.

7 A. Casa State Number 1, Casa State Number 2, the
8 Joannie Number 1, Joannie Number 3, Joannie Number 4,
9 Kersey State Number 1, Kersey State Number 3, and the
10 Rose Number 2.

11 Q. Have we had -- or has the OCD had any contact
12 with Larry Marker regarding this issue?

13 A. On several occasions, yes.

14 Q. Approximately when did this contact start? If
15 you need to refresh your memory, you can look at
16 Exhibit C.

17 A. That would be back in November. November 12th
18 of 2014.

19 Q. And could you identify this exhibit?

20 A. This is an e-mail from Larry Marker to
21 Mr. Keith Herrmann.

22 Q. And on the second page, would you continue that
23 e-mail?

24 A. Yes. The second portion is from Keith Herrmann
25 to Larry Marker, and it's regarding the need for the

1 financial assurance.

2 Q. Okay. If you could identify Exhibit B.

3 A. B is the notice of this hearing to Mr. Marker.

4 Q. And the other address?

5 A. To Kelly Mack Cassels, who is acting as
6 Mr. Marker's attorney.

7 Q. And you will note that they were delivered.

8 Though the one to Larry Marker was returned, his
9 attorney did get it?

10 A. That's correct.

11 Q. And have we -- since that was sent on December
12 12th, have we since had contact with Larry Marker
13 regarding this issue?

14 A. Yes, we have, over the phone and in person at
15 the Artesia District Office.

16 MR. HERRMANN: I have no further questions.

17 CROSS-EXAMINATION

18 BY EXAMINER WADE:

19 Q. What was the date of the phone conversation and
20 the date of the meeting in the Artesia office?

21 A. The meeting in the Artesia office --

22 Q. It could be a rough date, but you're saying
23 that after he received --

24 A. Yes. This occurred last month, late January.
25 I don't remember the exact date.

1 MR. HERRMANN: I believe -- if I may -- it
2 might have been February 12th -- or 5th. Excuse me.

3 THE WITNESS: Yes. That's correct,
4 February 5th.

5 EXAMINER McMILLAN: So Artesia is February
6 5th?

7 Q. (BY EXAMINER WADE) So the attorney received
8 notice of hearing back in December of 2014, and that
9 hearing was originally set on a different date?

10 A. That's correct.

11 Q. And then continued?

12 A. Yes.

13 MR. HERRMANN: Yes.

14 Q. (BY EXAMINER WADE) Did the attorney receive any
15 more contact or notice for this hearing date in
16 particular?

17 MR. HERRMANN: If I may, yes, he has.

18 EXAMINER WADE: He has or she has?

19 MR. HERRMANN: It's a he.

20 At the meeting of February 5th, we also --

21 EXAMINER WADE: The attorney attended that
22 meeting?

23 MR. HERRMANN: No, no. Larry did, and we
24 notified him in person. And I since had contact with
25 Mr. Marker up until yesterday. So he's aware of this

1 hearing.

2 EXAMINER WADE: Okay.

3 Do you have any questions?

4 CROSS-EXAMINATION

5 BY EXAMINER McMILLAN:

6 Q. And the question I've got is: Based on your
7 conversation Monday, did he state why these wells were
8 out of production greater than 90 -- than the 90-day
9 period?

10 *These questions are not related to insurance*
11 And the other question I have is: Did
12 he -- is the production legitimate? Because what he was
13 doing is -- if you look through production, you see that
14 it's making one barrel per month. Is that possible?

15 A. That is possible, but not likely.

16 Q. When is the last time an inspection was done?

17 A. Actually we had our district supervisor go out
18 and inspect some of his wells or at least some of the
19 wells he claims to be operating as early as last week.

20 Q. Were those wells capable of production?

21 A. Yes. As a matter of fact, some of them were
22 producing all over the ground at the time of the
23 inspection.

24 Q. So is there a possibility that there could have
25 been contamination to the groundwater?

A. It's very possible.

1 Q. What does staining around the wellhead
2 represent except for the Kersey State? What do you
3 think that represents?

4 A. That there is a leak that hasn't been fixed.

5 Q. Where's the leak? Do you have any feel?

6 A. Personally I don't know. I haven't done the
7 inspection for it, but I could find out.

8 Q. Okay. That would be -- yeah. Please provide
9 that.

10 A. All right.

11 EXAMINER WADE: I guess I just have one
12 more question regarding these e-mails. It's more than
13 one e-mail, December 31st and I guess a December 12th,
14 in Exhibit B. When you send those e-mails, do you ask
15 for confirmation that they've been received by the --

16 MR. HERRMANN: No. I wasn't on these
17 e-mails, but I was getting replies.

18 EXAMINER WADE: You were getting replies
19 later on?

20 MR. HERRMANN: This is an issue we've been
21 dealing with Mr. Marker since actually late October when
22 we discovered he didn't have any bonding on file, and he
23 does happen to have a number of other compliance issues.
24 But at this current juncture, we are just trying to get
25 his bonding in place so we can have some liability for

1 the remaining violations.

2 EXAMINER WADE: I don't have any other
3 questions.

4 EXAMINER McMILLAN: I have no more
5 questions.

6 Okay. At this time I would like to take
7 Case Number 15254 under advisement.

8 MR. HERRMANN: If I may just briefly state
9 what I'm asking for in my pre-hearing statement. We're
10 asking for him to shut in his state wells that require
11 financial assurance immediately. And if he fails to
12 furnish adequate financial assurance within 30 days of
13 issuance of the order, that his remaining wells be shut
14 in until acceptable financial assurance is furnished to
15 the Division, and until he furnishes financial
16 assurance, that no further wells be transferred to his
17 name.

18 EXAMINER McMILLAN: Also, I would like to
19 make Exhibits A, B and C as part of the record.

20 (New Mexico Oil Conservation Division
21 Exhibit Letters A, B and C were offered and
22 admitted into evidence.)

23 EXAMINER McMILLAN: Okay. Well, at this
24 time Case 15254 will be taken under advisement. And
25 thank you very much.

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MR. HERRMANN: Thank you.

(Case Number 15254 concludes, 8:28 a.m.)

I do hereby certify that the foregoing is a true and correct record of the proceedings in the Examiner hearing of Case No. _____ heard by me on _____, Examiner
Oil Conservation Division

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

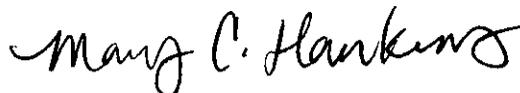
5 I, MARY C. HANKINS, New Mexico Certified
6 Court Reporter No. 20, and Registered Professional
7 Reporter, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that
9 the foregoing pages are a true and correct transcript of
10 those proceedings that were reduced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

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

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

19

20



21

MARY C. HANKINS, CCR, RPR
Paul Baca Court Reporters, Inc.
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2015

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