

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:)
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR A COMPLIANCE)
ORDER)

CASE NO. 13,846

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Hearing Examiner

January 18th, 2007

Santa Fe, New Mexico

2007 FEB 1 PM 9 26

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Hearing Examiner, on Thursday, January 18th, 2007, 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.

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January 18th, 2007
 Examiner Hearing
 CASE NO. 13,846

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<u>JOSÉ DANIEL SANCHEZ</u> (Compliance Enforcement Manager, NMOCD)	
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A P P E A R A N C E S

FOR THE DIVISION:

GAIL MacQUESTEN
Deputy General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR C.W. TRAINER:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
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* * *

1 WHEREUPON, the following proceedings were had at
2 8:17 a.m.:

3 EXAMINER BROOKS: Very good, at this time we will
4 call Case Number 13,846, Application of the New Mexico Oil
5 Conservation Division for a compliance order.

6 Call for appearances.

7 MS. MacQUESTEN: Mr. Examiner, my name is Gail
8 MacQuesten, I'll be representing the Oil Conservation
9 Division in this matter.

10 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
11 representing C.W. Trainer.

12 EXAMINER BROOKS: Okay, and I take it you have
13 one witness?

14 MS. MacQUESTEN: That's right.

15 EXAMINER BROOKS: And do you have any witnesses?

16 MR. BRUCE: I have no witnesses.

17 EXAMINER BROOKS: Very good, the witness will be
18 sworn.

19 (Thereupon, the witness was sworn.)

20 MS. MacQUESTEN: Mr. Examiner, if I may, this is
21 a plugging case. The Oil Conservation Division is asking
22 for an order finding that the operator knowingly and
23 willfully violated Rule 201 and imposing penalties for that
24 violation. We are also asking that the order require the
25 operator to return the wells to compliance by a date

1 certain and authorize the OCD to plug the wells in the
2 event the operator fails to do so.

3 With that, I would call Mr. Daniel Sanchez.

4 Actually, before I do that, you should have an
5 exhibit packet in front of you, and I would like to point
6 out the first exhibit is an affidavit of service with
7 return receipts showing receipt by the operator and the
8 surety.

9 Exhibit Number 2 is an affidavit from Dorothy
10 Phillips, our financial assurance administrator. The
11 operator in this case has posted a \$50,000 bond through
12 U.S. Specialty Insurance Company, and a copy of the Bond is
13 attached to the affidavit.

14 Now I would like to call Mr. Daniel Sanchez.

15 EXAMINER BROOKS: You may proceed.

16 JOSÉ DANIEL SANCHEZ,

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

19 DIRECT EXAMINATION

20 BY MS. MacQUESTEN:

21 Q. Would you please state your name for the record?

22 A. José Daniel Sanchez.

23 Q. And where do you work, Mr. Sanchez?

24 A. I work for the Oil Conservation Division.

25 Q. What is your title?

1 A. Compliance and enforcement manager.

2 Q. Do your duties include supervising the inactive
3 well program?

4 A. Yes, they do.

5 Q. Would you please turn to what's been marked as
6 Exhibit Number 3? Can you identify this document for us?

7 A. This is the complete well list for C.W. Trainer.

8 Q. If you look at the headings of the columns on
9 this document, would you look at the last full column? It
10 says "Last Production/Injection". What does that column
11 show us?

12 A. This shows us the last date that a well has
13 either produced or injected.

14 Q. Now some of the wells are highlighted in green.
15 What is the significance of that?

16 A. The highlighted wells are those wells which are
17 in question today.

18 Q. Now, if I look at that column showing "Last
19 Production/Injection", there are some dates on wells that
20 aren't highlighted that are quite a few years old. Why
21 aren't we addressing those wells in this hearing?

22 A. We're only addressing wells that were part of the
23 agreed compliance order that are being looked at in this
24 hearing.

25 Q. I'd like to ask you about the current status of

1 each of the four wells at issue today. Have you had the
2 opportunity to review the well file for those wells?

3 A. Yes, I have.

4 Q. Let's start with the Gulf State Com Number 1.
5 What is the last date of production or injection for that
6 well?

7 A. That was April of 1999.

8 Q. Has this well been plugged?

9 A. No.

10 Q. Is it on approved temporary abandonment status?

11 A. No, it's not.

12 Q. Would you please turn to what's been marked as
13 Exhibits 4 and 5, and can you tell us what these documents
14 are?

15 A. These documents are from our well files.

16 Q. According to those documents, what is the
17 operator trying to do with this well?

18 A. They're trying to temporarily abandon it.

19 Q. When were these two documents about the temporary
20 abandonment filed?

21 A. In January -- early January of this month -- of
22 this year.

23 Q. Has the temporary abandonment status been
24 approved for this well?

25 A. No, it hasn't.

1 Q. Why not?

2 A. They have not met the requirements to have this
3 thing temporarily abandoned, the well temporarily
4 abandoned.

5 Q. What requirements are they missing?

6 A. Well, apparently they tested the well up to 400
7 pounds -- our minimum test range is 500 pounds -- and they
8 have failed to supply the original chart to the District
9 Office.

10 Q. Let's look at the second well highlighted on
11 Exhibit Number 3, the Harris Federal Number 1. What is the
12 last production or injection date for this well?

13 A. July, 2004.

14 Q. Has this well been plugged?

15 A. No.

16 Q. Is this well on approved temporary abandonment
17 status?

18 A. No, it's not.

19 Q. If you could turn to what's been marked as
20 Exhibit Number 6, can you tell us what this document shows?

21 A. This document shows an approved temporary
22 abandonment status with a deadline of September 24th, 2006,
23 which has come and gone.

24 Q. Could you turn to what's been marked as Exhibit
25 Number 7 and tell us what this is?

1 A. This is also a request for temporary abandonment.

2 Q. Is this the most recent filing in the well file?

3 A. Yes, it is.

4 Q. Has the request for temporary abandonment been
5 approved?

6 A. No, it has not.

7 Q. There's a handwritten notation on Exhibit Number
8 7. It reads, "Effective 5/1993, management and plugging of
9 this well responsibility of NMOCD due to expiration of
10 lease." Can you explain what this handwritten notation is
11 about?

12 A. I believe what they were trying to get out of
13 this was that the OCD would go ahead and extend the
14 temporary abandonment status on this. That is not our job.
15 It is up to the operator to go ahead and request and obtain
16 the status of a temporary abandonment.

17 Q. So as far as the OCD is concerned, this well is
18 not on approved temporary abandonment status at this point?

19 A. No, it is not.

20 Q. And it remains the operator's responsibility to
21 either plug the well or otherwise return it to compliance
22 with 201?

23 A. Yes, it is.

24 Q. Let's turn to the third well identified on
25 Exhibit Number 3, the Morse Number 1. What is the last

1 production or injection date for this well?

2 A. March, 2001.

3 Q. Has it been plugged?

4 A. No.

5 Q. Is it on approved temporary abandonment status?

6 A. No.

7 Q. Has the operator indicated to you what it plans
8 to do with this well?

9 A. They have indicated they want to plug this well.

10 Q. Have they been able to do so?

11 A. No, they're apparently having a problem getting
12 on the lease and working with the current leaseholder to
13 get in there and plug it.

14 Q. What is the OCD's position when an operator is
15 not able to get onto a lease because the leaseholder won't
16 allow it? Is it still the operator's responsibility?

17 A. It is still the operator's responsibility.

18 Q. Let's look at the last well highlighted on
19 Exhibit Number 3, the State GB Number 1. What is the last
20 production or injection for this well?

21 A. February, 2003.

22 Q. Has it been plugged?

23 A. No.

24 Q. Is it on approved temporary abandonment status?

25 A. No, it's not.

1 Q. If you could turn to what's been marked as
2 Exhibit Number 8, can you identify this document for us?

3 A. It's a letter from B.C. Operating, telling us
4 that they want to go ahead and sell the well to another
5 company.

6 A. B.C. wants to sell it?

7 A. Well B.C. Operating, I'm sorry, is looking at
8 obtaining this well from C.W. Trainer.

9 Q. What does it intend to do with the well,
10 according to this letter?

11 A. They want to re-enter the well, it looks like.

12 Q. Okay. What's the date of the letter?

13 A. December 14th, 2006.

14 Q. How are operator changes done in the OCD?

15 A. They're done electronically.

16 Q. Have you reviewed the change of operator requests
17 involving C.W. Trainer?

18 A. Yes, I have.

19 Q. Has C.W. Trainer initiated a change of operator
20 to either B.C. Operating, Inc., or Crown Oil Partners,
21 which is the affiliate mentioned in the letter?

22 A. Not to date.

23 Q. Is Crown Oil Partners even registered as an
24 operator in New Mexico?

25 A. Not with the OCD.

1 Q. How about B.C. Operating, Inc.? Are they
2 registered as an operator?

3 A. Yes, they are.

4 Q. Are they in compliance with Rule 40?

5 A. Not at this time.

6 Q. Will that affect B.C. Operating's ability to
7 acquire this well if it seeks to acquire it from C.W.
8 Trainer?

9 A. Yes, it will.

10 Q. How?

11 A. Under Rule 40, if they are not in compliance with
12 Rule 40 we have the option of denying them a transfer of
13 additional wells.

14 Q. In the letter it mentions that B.C. Operating
15 hopes to obtain a saltwater disposal permit for this well.
16 Will its failure to comply with Rule 40 affect the ability
17 to get a saltwater disposal permit?

18 A. Yes, again under Rule 40 it will not be able to
19 give them a permit for an injection well.

20 Q. Have the four wells at issue in this Application
21 been the subject of prior enforcement and compliance
22 actions by the OCD?

23 A. Yes, they have.

24 Q. I'd like to go through those actions. If you
25 could turn to what's been marked as Exhibit 9, can you tell

1 us what this document is?

2 A. It's the original agreed compliance order that
3 was signed by C.W. Trainer in order to get, I believe,
4 seven wells into compliance.

5 Q. When was this order executed?

6 A. This was October 23rd of 2004.

7 Q. Are any of the seven wells that are covered by
8 this order at issue in today's hearing?

9 A. Yes, there's three of those wells.

10 Q. And which ones are those?

11 A. The Gulf State Com Number 1, the Harris Federal
12 Number 1, and the State GB Number 1.

13 Q. All right. Mr. Examiner, I'd like to direct your
14 attention to some of the relevant provisions in the order.

15 On the first page, paragraph 4, Mr. Trainer
16 acknowledges that the wells are out of compliance, so he's
17 acknowledged that the three wells that Mr. Sanchez just
18 mentioned have been out of compliance since at least the
19 date of the entry of this order in October of 2004.

20 At page 2, at the bottom of that page in the
21 Order section, the operator is ordered to return the wells
22 to compliance by December 31st, 2005.

23 On page 4, paragraph 7, there are penalty
24 provisions if the operator fails to meet that compliance
25 schedule.

1 Now Mr. Sanchez, was this order replaced with a
2 new agreed compliance order?

3 A. Yes, it was.

4 Q. And is that new agreed compliance order Exhibit
5 10?

6 A. Yes, it is.

7 Q. And that's ACOI 7-A?

8 A. Yes.

9 Q. When was this renewed -- or replacement order
10 entered?

11 A. In December of 2005.

12 Q. Again, I'd like to direct the Examiner's
13 attention to specific paragraphs in the order. If you'll
14 turn to the second page, paragraph 7, it states that the
15 operator returned three of the seven original wells to
16 compliance and lists them. That list includes the Harris
17 Federal Number 1, which is one of the wells at issue today.

18 So Mr. Sanchez, if C.W. Trainer brought the
19 Harris Federal 1 into compliance under the agreed order,
20 why is it included in this case?

21 A. The TA status has expired, so it's out of
22 compliance again.

23 Q. So he managed to put it under temporary
24 abandonment, but that abandonment status is now expired --

25 A. Yes.

1 Q. -- so it's back out of compliance?

2 A. Yes.

3 Q. Mr. Examiner, if I could again direct your
4 attention to some specific paragraphs in the order,
5 paragraph 8 on page 2 explains that the operator needed
6 additional time and therefore obtained this new order and
7 cited difficulties obtaining equipment, unanticipated
8 difficulties in returning wells to production and/or
9 placing the wells on approved temporary abandonment status,
10 and personal issues including health problems.

11 But in paragraph 9 we also have the statement,
12 "Operator acknowledged to the OCD that it had not the read
13 the terms of ACO 7, and had put other business priorities
14 ahead of meeting the compliance schedule set out in ACO 7.
15 Operator did not file compliance reports as required by ACO
16 7, or request an amendment when it first encountered
17 difficulty in meeting the schedule set out in ACO 7.

18 Finally, in page 3, the last two paragraphs give
19 the operator a new deadline of June 30th, 2006, and add two
20 additional wells, including the Morse Number 1, which is
21 one of the wells at issue today, and imposed a \$1000
22 penalty for failing to meet the original order.

23 Mr. Sanchez, did C.W. Trainer pay that \$1000
24 penalty?

25 A. Yes.

1 Q. If the OCD had imposed the full amount of
2 penalties available under that original order, would the
3 amount have been higher?

4 A. Yes, it could have been much higher.

5 Q. Why did we only impose \$1000?

6 A. We wanted to work with the operator to get those
7 wells into compliance, and we felt that \$1000 would get
8 their attention and help us continue to work with them.

9 Q. Did the operator meet the new June 30th deadline?

10 A. No, he didn't.

11 Q. Did the OCD take further compliance action?

12 A. Yes, we did.

13 Q. If you could turn to what's been marked as
14 Exhibit Number 11, can you tell us what that document is?

15 A. Exhibit 11 is a notice of violation issued on
16 July 18th of 2006, and it took into account the wells that
17 did not meet ACO 7-A.

18 Q. Was there a penalty imposed in the notice of
19 violation?

20 A. Yes, there was, it was \$5000.

21 Q. Did the OCD seek anything beyond the penalty in
22 that notice?

23 A. We did ask that the operator come in and -- well,
24 requested compliance -- administrative compliance
25 conference and give us a plan on what they intended to do

1 with the wells.

2 Q. Did the operator pay the \$5000?

3 A. Yes, he did.

4 Q. Did the operator come in for a compliance
5 conference?

6 A. No, they didn't.

7 Q. Would you turn to what's been marked as Exhibit
8 Number 12? Can you tell us what this document is?

9 A. This is another letter that went out to C.W.
10 Trainer on August 25th of 2006, acknowledging the \$5000
11 payment by the operator and also letting them know that
12 they failed to meet the deadline on the administrative
13 conference and that we would be taking this to hearing.

14 Q. What is the OCD asking for in this hearing?

15 A. We're asking for -- is that we have a date
16 certain that C.W. Trainer come into compliance on the
17 remainder of its wells. We're also going to be asking for
18 an additional fine on the wells that they did not bring
19 into compliance with Compliance Order ACO 7-A.

20 Q. What date certain would you suggest?

21 A. May 31st.

22 Q. Why?

23 A. We feel that this gives them another four and a
24 half months to get into compliance and at least come up
25 with a plan letting the OCD know what they're going to be

1 doing with these wells.

2 Q. You said you would be asking for penalties. What
3 penalties do you request?

4 A. \$1000 per well that were not addressed through
5 the compliance conference that we requested.

6 Q. And that would be \$4000?

7 A. \$4000.

8 Q. Would you also ask for a penalty if Mr. Trainer
9 fails to meet the deadline that's given?

10 A. I think by May 31st, if the deadline isn't met or
11 some kind of plan isn't presented, that the OCD -- I'm not
12 sure that another penalty would do much good, and I think
13 we would probably request that the wells be shut in.

14 Q. If Mr. Trainer is correct that he's either
15 transferring a well or he's lost a lease to the well, why
16 should we still obtain an order allowing the OCD to plug
17 those wells?

18 A. We haven't seen any actions to show that they are
19 transferring these wells to someone else, or that those
20 leases were lost. By giving them until the end of May, I
21 believe this gives them plenty of time to take care of any
22 paperwork that would resolve those issues.

23 Q. What happens if they are able to transfer the
24 wells?

25 A. Then they would come off the inactive well list.

1 Q. And if an order is in place and the well is
2 transferred, would that affect the new operator acquiring
3 the well?

4 A. It will with respect to what they are going to be
5 doing with those inactive wells and if they have -- if it
6 increases the number of inactive wells that they have in
7 their possession.

8 Q. Does the OCD have the ability, once an order is
9 entered, requiring corrective action to refuse the transfer
10 until the new operator takes on the responsibility of
11 making corrective action on the well?

12 A. Yes, we do.

13 MS. MacQUESTEN: Mr. Examiner, that concludes my
14 direct examination of Mr. Sanchez.

15 I would move for the admission of Exhibits 1
16 through 12.

17 MR. BRUCE: No objection.

18 EXAMINER BROOKS: Exhibits 1 through 12 will be
19 admitted.

20 Mr. Bruce?

21 MR. BRUCE: Just a few questions.

22 CROSS-EXAMINATION

23 BY MR. BRUCE:

24 Q. Mr. Sanchez, have you been contacted by Sheryl
25 Jonas of O'Briant and Associates, Inc., of Midland

1 regarding these wells on behalf of Mr. Trainer and B.C.
2 Operating?

3 A. Yes.

4 Q. Have they provided you any paperwork as a result
5 of the phone calls?

6 A. We have gotten some paperwork from them --

7 Q. Okay.

8 A. -- but nothing that would resolve the wells that
9 we have at issue.

10 Q. Okay. And I just want to clarify a couple of
11 things.

12 On the Morse, was that ever subject to an agreed
13 compliance order, the Morse well?

14 A. Morse well? Yes, it was.

15 Q. Which exhibit is that?

16 A. Exhibit 3. And that would be under the current
17 -- or the just recently expired ACO, 7-A.

18 Q. Well, I'm looking at Exhibits 9, 10 -- 9 and 10.
19 Could you point out where the Morse well is on that, on
20 either exhibit?

21 A. Page 2 of Exhibit 10, Number 10, paragraph 10.

22 Q. Okay. And that wasn't addressed in the original
23 complaints, correct?

24 A. I don't think so.

25 Q. Okay. And I just want to clarify a couple of

1 things on these wells.

2 The issues with the Gulf State Number 1 is, they
3 need to provide a proper test of that well to the Division;
4 is that correct?

5 A. Yes.

6 Q. Witnessed by the Division?

7 A. Yes, they could schedule it with the Division,
8 and the Division should be out there to witness it, but if
9 they chose not to, then the original chart would work.

10 Q. Okay. And on the Harris Federal Number 1, you
11 submitted some documents that looked like they were
12 requesting an extension of the TA status, but they didn't
13 have BLM approval, did they?

14 A. That's right.

15 Q. And then the next two wells, the State GB Number
16 1 and the Morse -- or State GB Number 1 is the owner that
17 BC Operating was alleged to take over?

18 A. Yes.

19 Q. Okay, and that hasn't been filed with the
20 Division?

21 A. No, not yet.

22 Q. Okay. And the Morse Number 1 is the one where
23 there's issues about whether or not the lease has expired
24 and who has the right to go on there?

25 A. That's right.

1 Q. Okay. Did the Division make any effort to
2 determine who the lessee was on that expired -- on that --

3 A. No.

4 MR. BRUCE: Okay. Nothing further, Mr. Examiner.

5 EXAMINATION

6 BY EXAMINER BROOKS:

7 Q. Okay, Mr. Sanchez, you said you were asking for
8 \$4000 in penalties, for \$1000 for each of the four wells
9 addressed in, did you say, the original compliance order?

10 A. No, in 7-A. Well, the four wells that are in
11 question today.

12 Q. Okay. So -- But the four wells that are listed
13 on Exhibit 3 --

14 A. Yes, sir.

15 Q. -- that are in green?

16 A. Yes, sir.

17 EXAMINER BROOKS: Okay. Very good, thank you.
18 Nothing further.

19 MR. BRUCE: Nothing further, Mr. Examiner.

20 I'd just say -- would agree that if there would
21 be that date certain, the companies are working on bringing
22 these into compliance. I've received a number of
23 documents, but I'll make sure they're filed with the
24 Division.

25 EXAMINER BROOKS: Thank you.

1 If there's nothing further, then Case Number
2 13,846 will be taken under advisement.

3 (Thereupon, these proceedings were concluded at
4 8:42 a.m.)

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12
13 I do hereby certify that the foregoing is
14 a complete record of the proceedings in
15 the Examiner hearing of Case No. 13846,
16 heard by me on Jan 18, 2007.
17 David K. Peck, Examiner
18 Oil Conservation Division
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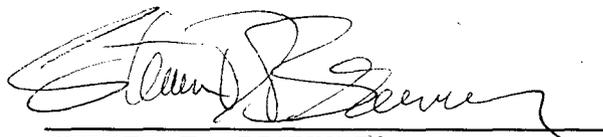
CERTIFICATE OF REPORTER

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 January 18th, 2007.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2010