

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

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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 AN ORDER )  
REQUIRING GORDON M. CONE TO PLUG ONE )  
WELL AND AUTHORIZING THE DIVISION TO )  
PLUG SAID WELL, LEA COUNTY, NEW MEXICO )

Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

CASE NO. 13,190

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

December 4th, 2003

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, December 4th, 2003, 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.

\* \* \*

## I N D E X

December 4th, 2003  
 Examiner Hearing  
 CASE NO. 13,190

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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

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 10:40 a.m.:

3           EXAMINER STOGNER: Hearing will come to order at  
4 this time. I'll call Case Number 13,190. This is the  
5 Application of the New Mexico Oil Conservation Division for  
6 an order requiring Gordon M. Cone to plug one well, one  
7 certain well, in Lea County, New Mexico, and authorizing  
8 the Division to plug this well -- it is the Beery State  
9 Well Number 1, that's API Number 30-025-05514, in Section  
10 30 of 18 South, 37 East.

11           At this time I'll call for appearances.

12           MS. MacQUESTEN: Gail MacQuesten, Energy,  
13 Minerals and Natural Resources Department, appearing for  
14 the Oil Conservation Division. I have two witnesses.  
15 Chris Williams will be appearing by telephone, and Dorothy  
16 Phillips is in person.

17           EXAMINER STOGNER: Any other appearances?

18           There being none, I'm going to ask the witnesses,  
19 the witness here, to stand, and I'm going to ask our  
20 reporter to administer the oath.

21           (Thereupon, the witnesses were sworn.)

22           MS. MacQUESTEN: Mr. Examiner, before I call the  
23 first witness, I'd like to briefly explain what we're  
24 asking for in this case.

25           The well at issue was drilled and abandoned in

1 the 1940s. There is no bond. The only address we have for  
2 the operator is a post office box number dating from the  
3 1940s, and our records indicate that the operator is  
4 deceased. The well is either not plugged or not plugged  
5 according to current standards. We are asking for  
6 authority to plug the well, using the reclamation fund.

7 The Oil and Gas Act sets out a structure for  
8 hearings in plugging cases in Section 70-2-14.B, and that  
9 structure is followed also in our Rules. It requires  
10 notice of hearing, an order requiring the operator or  
11 surety to plug the well within a certain time, an order  
12 forfeiting the bond if the well is not plugged, and then  
13 and only then will the OCD be allowed to plug the well.

14 The statutes and regulations don't set out a  
15 procedure where there's no bond, no surety, and very likely  
16 no operator. So in an abundance of caution we're following  
17 the established procedure and asking for an order requiring  
18 the operator to plug the well, even though it's very  
19 doubtful that the operator or his estate will be able to do  
20 so.

21 We do ask that the time given the operator to  
22 plug the well be short so we can proceed to plug the well  
23 using the Reclamation Fund.

24 I'd like to call Chris Williams.

25 EXAMINER STOGNER: Please proceed.

1                    CHRIS WILLIAMS (Present by telephone),  
2 the witness herein, after having been first duly sworn upon  
3 his oath, was examined and testified as follows:

4                    DIRECT EXAMINATION

5 BY MS. MacQUESTEN:

6            Q.    Mr. Williams, can you hear me?

7            A.    Yes.

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

9            A.    Chris Williams.

10          Q.    And where are you employed?

11          A.    New Mexico Oil Conservation Division.

12          Q.    Which office?

13          A.    Hobbs.

14          Q.    Which district is that?

15          A.    District 1.

16          Q.    Okay. And what is your title there?

17          A.    District Supervisor.

18          Q.    What are your duties?

19          A.    It's the inspection and enforcement of wells in  
20 Lea, Roosevelt, Chaves and Curry Counties, and related  
21 facilities.

22          Q.    Are you familiar with the well at issue in this  
23 case, the Beery State Number 1, API 30-025-05514?

24          Q.    Is that well located in your District?

25          A.    Yes.

1 Q. Have you examined the well file, the information  
2 on the RBDMS system regarding inspection reports and  
3 compliance actions?

4 A. Yes.

5 Q. Have you testified previously before the New  
6 Mexico Oil Conservation Division?

7 A. Yes.

8 Q. And have your credentials as a well inspector  
9 been accepted by the OCD Examiner?

10 A. Yes.

11 Q. I tender Mr. Williams as an expert well  
12 inspector.

13 EXAMINER STOGNER: Mr. Williams is so qualified.

14 Q. (By Ms. MacQuesten) Mr. Williams, do you have  
15 the packet of exhibits that I faxed you yesterday?

16 A. Yes, I do.

17 Q. Could you please look at what has been marked as  
18 OCD Exhibit Number 1 and identify that packet of documents  
19 for us?

20 A. Exhibit Number 1 is a copy of the well file.

21 Q. Is that a complete copy of the well file?

22 A. Yes.

23 Q. Does the well file indicate when this well was  
24 drilled?

25 A. Yeah, it was drilled in 1943, I think. Let me

1 check the page first. Yeah, there was an APD, a permit to  
2 drill, October 28th, 1943.

3 Q. Who was the original operator for this well?

4 A. Gordon M. Cone.

5 Q. Is that an individual or a corporation?

6 A. It appears to be an individual.

7 Q. All right. Are there any other operators listed  
8 in this well file?

9 A. No.

10 Q. Did the operator ever file a notice of intent to  
11 plug the well?

12 A. No, they did not.

13 Q. Could you just double-check on that, please? I  
14 direct your attention to -- let's see, a miscellaneous  
15 notice. It's in the middle of the packet, dated February  
16 of 1944. It's right before the scout report.

17 A. Okay. Right before the scout report?

18 EXAMINER STOGNER: I believe what she's referring  
19 to, right before the scout report there's a miscellaneous  
20 notice form, and on the upper left-hand corner it's dated  
21 February 10th, 1944. Over on the right it says  
22 "duplicate". It's signed down on the bottom right by Roy  
23 Yarbrough. It looks like some of the other forms.

24 THE WITNESS: Yeah, I'm having -- Let's see if I  
25 can clarify this. Okay, Notice of Intent to Plug the Well.

1 Okay, it's -- Yeah, I see which one you're talking about  
2 now.

3 Q. (By Ms. MacQuesten) So is -- and that was signed  
4 by Mr. Cone, the operator?

5 A. Yes, Gordon M. Cone.

6 Q. So he did file a Notice of Intent to Plug the  
7 Well?

8 A. Correct.

9 Q. Was there anything in the file that indicated  
10 that the well was actually plugged?

11 A. No, it appeared, according to the well file, that  
12 it was never plugged.

13 Q. Now, if you turn to the last set of documents in  
14 the well file, they appear to come from 1944; is that  
15 right?

16 A. Yeah.

17 Q. Is there anything in the well file more recent  
18 than 1944?

19 A. There's just one -- oh, part of the completion  
20 report, which is -- it appears to be part of the completion  
21 report from 1946. That's the latest.

22 Q. Okay, and that's the most recent --

23 A. Right.

24 Q. -- item in the well file?

25 A. Right.

1 Q. All right. Has there been a recent inspection  
2 done of this well?

3 A. Yes, under Exhibit 2, Billy Prichard, a field  
4 inspector in this district, there's an inspection on 7-24-  
5 2003 where he states, "Well has never been plugged. Well  
6 currently has 8 5/8" x 4" swedge with valve on top. Well  
7 has estimated 40-50 psi on casing, Will flow oil out the 1"  
8 valve."

9 And then there's another one on 7-24, I think,  
10 2003, "Well has never been plugged. Well..." Okay, he  
11 went through the whole same procedure again.

12 Q. Yeah, just to explain this exhibit, where does  
13 this document come from?

14 A. It comes from the RBDMS database.

15 Q. Okay. And the first page would be the screen  
16 you'd see on the RBDMS system?

17 A. Correct.

18 Q. And in the center of that there's a note section?

19 A. Right.

20 Q. And if you turn to the second page, does that  
21 enlarge that note section so you can read the complete  
22 notes?

23 A. Yes.

24 Q. Okay. Now, did I understand you to say that the  
25 inspection indicated that there's a leaking valve on this

1 well?

2 A. Because there's no plugs and there appear to be  
3 no plugs in it, we have oil at the surface. And if you  
4 crack that valve, it will flow oil out of it.

5 Q. In your opinion, does this well in its current  
6 state pose a hazard?

7 A. Yes, it could. Groundwater in that area is 46  
8 feet, and it appears by looking at the other documents in  
9 the well file, the well is not cemented completely to  
10 surface.

11 Q. Does that leak give you any special concerns?

12 A. Yes, it's possible that there could be a casing  
13 leak and -- without adequate cement behind the pipe, and  
14 due to the pipe's age could develop a casing leak and  
15 actually leak into the freshwater zone.

16 Q. Was a plugging procedure prepared for this well?

17 A. Yes, it was.

18 Q. Who prepared it?

19 A. Billy Prichard.

20 Q. And he's the gentleman who did the inspection?

21 A. Correct.

22 Q. Is Exhibit Number 3 a copy of the plugging  
23 procedure Mr. Prichard prepared?

24 A. Yes.

25 Q. Have you reviewed this procedure?

1 A. Yes.

2 Q. Do you agree with the plugging procedure that has  
3 been proposed?

4 A. Yes.

5 Q. If the well is plugged in accordance with the  
6 proposed plugging procedures, in your professional opinion  
7 will the well be properly plugged and abandoned in  
8 accordance with the statutes of the State of New Mexico and  
9 the Rules of the New Mexico Oil Conservation Division now  
10 in effect?

11 A. Yes.

12 MS. MacQUESTEN: I have no more questions of this  
13 witness.

14 EXAMINATION

15 BY EXAMINER STOGNER:

16 Q. Mr. Williams, where is this well located?

17 A. It's in -- Let me see, it's in --

18 Q. Geographically speaking.

19 A. Oh, geographically?

20 Q. Yeah, I know it's in Lot 3 of Section 30, but  
21 where is that?

22 A. Okay, that's east of -- I think it's east of  
23 Hobbs, a little bit east of Hobbs and east of Loving, kind  
24 of northeast of Hobbs.

25 Q. Near the state line?

1 A. Yeah.

2 Q. Is it out in the middle of nowhere? Are there  
3 some houses, farmland, ranching?

4 A. Ranching, but it's pretty much away from, you  
5 know, everybody. But it's out in a ranching area, yes.

6 Q. Okay. Is this a well that we had a complaint on,  
7 or did we run up on it or --

8 A. No, it's one that Billy ran across when he was  
9 out inspecting other wells.

10 Q. Okay. And are there any noticeable -- is there  
11 any windmills around there, or what's the water source or  
12 water supply?

13 A. The water supply there is groundwater, about 46  
14 feet. I don't know if there's any windmills close.

15 Q. Okay, and what's the formation, what's the  
16 aquifer?

17 A. The Ogallala.

18 EXAMINER STOGNER: The Ogallala. Okay, thank  
19 you, Mr. Williams.

20 Does anybody else have any questions?

21 Thank you, sir. Why don't you stay on the line  
22 until it's over, though --

23 MR. WILLIAMS: Okay.

24 EXAMINER STOGNER: -- if you would?

25 MS. MacQUESTEN: I would call Dorothy Phillips.

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DOROTHY PHILLIPS,

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

DIRECT EXAMINATION

BY MS. MacQUESTEN:

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

A. Dorothy Phillips.

Q. And by whom are you employed?

A. New Mexico Oil Conservation.

Q. Where is your office located?

A. Here in Santa Fe.

Q. What are your duties? Do they include the maintenance of records regarding financial assurances provided by operators?

A. Yes.

Q. Did you check your records for Gordon M. Cone?

A. Yes, I did.

Q. I'd like you to take a look at what has been marked as Exhibit Number 4 that appears in this stack of documents in front of you -- or, I'm sorry, Exhibit Number 5. Can you tell us what this is?

A. This is a little cardex file that I keep that gives the basic information on a bond, or an operator and the bond as being held for that operator.

Q. And are these the only two cards you found for

1 Gordon M. Cone?

2 A. Correct.

3 Q. And you found no files other than these cards?

4 A. That's correct.

5 Q. Now, the top card shows a \$10,000 blanket bond;  
6 is that right?

7 A. That's right.

8 Q. And the bottom shows a single-well bond?

9 A. That's correct.

10 Q. Now, the bottom one does show a well location  
11 that would identify which particular well is associated  
12 with that single-well bond. It is not the -- I'm sorry,  
13 the location in our well does not match the location shown  
14 on that card; is that right?

15 A. That's correct.

16 Q. So that leads you to believe that it's the  
17 blanket bond that would have applied in this particular  
18 situation?

19 A. Yes.

20 Q. Now, both of those wells have been canceled?

21 A. Yes, ma'am.

22 Q. Can you tell us why they were canceled?

23 A. I have no idea. Who is the principal listed for  
24 the two canceled bonds?

25 A. Gordon M. Cone Estate.

1 Q. All right, and the cancellation date for that  
2 single well bond, it shows December 27, 1979?

3 A. That's correct.

4 Q. So for the estate to be listed as the principal,  
5 we can assume Mr. Cone passed away either in 1979 or prior  
6 to 1979?

7 A. Yes.

8 Q. Is it your testimony that there's not financial  
9 assurance in place for this particular well?

10 A. That's correct.

11 MS. MacQUESTEN: I have no more questions of this  
12 witness.

13 EXAMINER STOGNER: Nor, do I. You may be  
14 excused, Ms. Phillips, thank you.

15 MS. PHILLIPS: Thank you.

16 MS. MacQUESTEN: Mr. Examiner, I had intended to  
17 call Jane Prouty to testify regarding the production  
18 history of this well, just to assure us that there had been  
19 no recent production. That's one of the requirements of  
20 the Statute.

21 Ms. Prouty is not available to testify today  
22 because she's tied up in meetings all day, but I do have an  
23 affidavit from her, and it is Exhibit Number 4. Regarding  
24 the production history on this well, it shows that she has  
25 no record of production since at least 1973, when

1 production information was entered into ONGARD.

2 I would ask you to admit her affidavit. If you  
3 would prefer to have live testimony, I'd ask that you  
4 continue the hearing for a future date, to allow Ms. Prouty  
5 to testify in person.

6 EXAMINER STOGNER: Ms. MacQuesten, Exhibit Number  
7 4 will be acceptable.

8 I will ask Mr. Williams, do you know of any  
9 production records or where this well might have -- what  
10 lease or what pool this well might have produced from back  
11 in the 1940s?

12 MR. WILLIAMS: No, because we don't even have  
13 annual reports that go -- I don't -- in this office, that  
14 go back that far.

15 EXAMINER STOGNER: Okay, in your office, okay.

16 MR. WILLIAMS: Right.

17 EXAMINER STOGNER: They may be in somebody else's  
18 office up here, right?

19 MR. WILLIAMS: Right.

20 EXAMINER STOGNER: Somebody with the most  
21 complete set in the country?

22 MR. WILLIAMS: Uh-huh.

23 EXAMINER STOGNER: Like my office, perhaps?

24 MR. WILLIAMS: Like your office.

25 EXAMINER STOGNER: Okay. That's all the

1 questions I have for Mr. Williams.

2 Anything else?

3 MS. MacQUESTEN: I'd ask the Examiner to take  
4 administrative notice that the Examiner's file should  
5 contain the notice that was sent to the only address we  
6 have for Mr. Cone, which was that 1944 post office box  
7 address, and that notice was returned.

8 I would also move the Examiner to admit the  
9 remaining exhibits, 1, 2, 3 and 5.

10 EXAMINER STOGNER: Exhibits 1, 2, 3 and 4 will be  
11 admitted into evidence at this time.

12 MS. MacQUESTEN: And that concludes our case.

13 EXAMINER STOGNER: Case Number 13,190 will be  
14 taken under advisement at this time.

15 With that, we stand in recess.

16 (Thereupon, these proceedings were concluded at  
17 10:55 a.m.)

18 \* \* \*

19 I do hereby certify that the foregoing is  
20 a complete record of the proceedings in  
21 the Examiner hearing of Case No. 13190,  
22 heard by me on 4 December 2003.

23  , Examiner  
24 Oil Conservation Division  
25

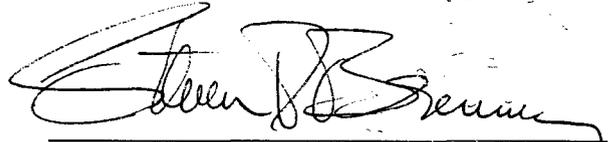
CERTIFICATE OF REPORTER

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 December 5th, 2003.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006