

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION COMMISSION FOR THE)
PURPOSE OF CONSIDERING:)

CASE NO. 12,333

APPLICATION OF NEW MEXICO OIL)
CONSERVATION DIVISION TO AMEND)
DIVISION RULES 103 AND 202)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN
JAMI BAILEY, COMMISSIONER
ROBERT LEE, COMMISSIONER

January 21st, 2000

Santa Fe, New Mexico

OIL CONSERVATION DIV.
00 FEB - 7 PM 4:40

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Friday, January 21st, 2000, at the New Mexico Energy, Minerals and Natural Resources Department, Conference Room of the Office of the Secretary, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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January 21st, 2000
 Commission Hearing
 CASE NO. 12,333

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A P P E A R A N C E S

FOR THE COMMISSION:

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* * *

1 WHEREUPON, the following proceedings were had at
2 9:05 a.m.:

3 CHAIRMAN WROTENBERY: And the last item -- well,
4 the next to the last item on our agenda, is Case 12,333.
5 This is the Application of the New Mexico Oil Conservation
6 Division to amend Division Rules 103 and 202.

7 And we have Rand Carroll, the Division's legal
8 counsel here, and Mark Ashley, one of the Division's
9 Hearing Examiners, to inform us on this particular
10 application.

11 Mr. Carroll?

12 MR. CARROLL: May it please the Commission, our
13 District Offices have determined that Rule 103 needs to be
14 rewritten, and this is the rule regarding well signs, and
15 that also 202 needs some additions to it to deal with
16 below-ground wellhead markers. I will pass out what I've
17 marked as OCD Exhibit Number 1 and also hand out a copy of
18 the old Rule 103.

19 I have Mark Ashley here today to testify, rather
20 than -- Chris Williams, our Hobbs District Supervisor, was
21 the one that proposed these rules, and rather than have him
22 drive up for five to ten minutes of testimony, I've had
23 Mark Ashley speak to him regarding his concerns, and so I'm
24 going to have Mark testify as to the need for these rule
25 changes. Mark was in the Artesia District Office for a few

1 years, so he knows the problems out in the field regarding
2 well signs and below-ground markers.

3 CHAIRMAN WROTENBERY: Okay, thank you. Mr.
4 Ashley, would you stand and be sworn?

5 (Thereupon, the witness was sworn.)

6 CHAIRMAN WROTENBERY: Why don't you come on up
7 here to the table? Yeah.

8 MR. CARROLL: You can sit there, Mark.

9 MARK ASHLEY,
10 the witness herein, after having been first duly sworn upon
11 his oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. CARROLL:

14 Q. Mark, for the record will you please state your
15 name and employer for the record?

16 A. My name is Mark Ashley, and I'm employed with the
17 New Mexico Oil Conservation Division.

18 Q. And what is your title and what are your duties?

19 A. I'm a Hearing Examiner and hear cases regarding
20 oil and gas issues with regards to our rules.

21 Q. And what's your educational background?

22 A. I have a bachelor's of science in geology.

23 Q. And were you down at our Artesia District Office
24 for a number of years?

25 A. Yes, for two years as a District Geologist.

1 Q. So you're aware of the conditions in the field
2 that require these rule changes?

3 A. Yes.

4 Q. And you've spoken to Chris Williams with our
5 Hobbs District Office regarding his concern?

6 A. Yes.

7 Q. Mark, if you'll refer to what has been marked OCD
8 Exhibit Number 1 -- Are there any more of them?

9 And why are we rewriting Rule 103?

10 A. For several reasons. The main reason is because
11 of the lack of signs at related oil and gas well facilities
12 like, for example, tank batteries. We want tank batteries
13 to have signs. In the past they've had signs, and then the
14 rule as it is now does not specifically address that. And
15 also for signs for drilling wells, as well. That has been
16 something that has been overlooked, and we want that as
17 well.

18 Q. And that's why it says "For drilling wells, the
19 sign shall be posted on the derrick..."?

20 A. That's correct.

21 MR. CARROLL: Madame Chairman, if you'll notice,
22 OCD Exhibit Number 1 has some markings on it. The markings
23 are the difference between what was posted on our web page
24 and the changes just made in the last couple days.

25 And it's just further cleanup. I think on 103

1 the "shall" was changed from "will", and then two sentences
2 were combined, and that's where the "and" comes in. But in
3 substance it's exactly what was posted on our web page.

4 Q. (By Mr. Carroll) So that is the only change to
5 Rule 103, Mark?

6 A. Yes, those changes, related facilities and
7 drilling wells. And then I guess the Rule was redesigned
8 so it would be a little easier for operators to read.

9 Q. Now, moving on to Rule 202, this deals with
10 below-ground markers; is that correct?

11 A. That's correct.

12 Q. And why does this rule need to be amended?

13 A. One reason is because there have been occasions
14 in the state where houses have been built over dry holes,
15 they've simply gone in and cut the dryhole marker off that
16 we require and built their house over it. And that's
17 addressed in 202.B.(2).

18 And other occasions were for agricultural reasons
19 where we have a dry well and the farmer wants to cultivate
20 the land. We've allowed them to cut the markers off and
21 return the ground back to farming, but we haven't required
22 any kind of underground marking. And so from now on we
23 want to be able to not only have a marker there underground
24 but have identification on it.

25 Q. Well, if it's below ground, how are we going to

1 find it?

2 A. They'd have to re-survey.

3 Q. What do you mean "re-survey"?

4 A. They'd have to re-survey from the surface the
5 original location of the well and then dig it up to see the
6 location marker on it.

7 Q. And we could use a metal detector to find the
8 wellhead or --

9 A. Yes.

10 Q. Are there any other changes besides what has been
11 marked on OCD Exhibit Number 1, changes to Rules 103 or
12 202?

13 A. Not to my knowledge.

14 MR. CARROLL: I would ask that any questions now
15 be asked of the witness.

16 CHAIRMAN WROTENBERY: Commissioners?

17 EXAMINATION

18 BY COMMISSIONER BAILEY:

19 Q. The old Rule 103 allows an operator 60 days --

20 A. Uh-huh.

21 Q. -- to put a up a new sign? The new rule allows
22 them another month. Is there a reason why that's
23 necessary?

24 A. I don't know the reason why another month was
25 added to that.

1 MR. CARROLL: I don't recall either. Chris is
2 the one that made the change, and I forgot to ask him for
3 the reason.

4 CHAIRMAN WROTENBERY: I might speculate, if
5 that's allowed.

6 When a change is made in operator, frequently
7 it's in connection with an acquisition of another company
8 or a purchase of a number of properties from another
9 company, and so there may be a need for some additional
10 time to make the change at a large number of locations, as
11 opposed to a circumstance where you're just adding a new
12 lease or drilling a new well in the ordinary course of your
13 operations, it may be easier to get that done a little bit
14 quicker.

15 I really don't know why the difference.

16 MR. CARROLL: That would be my speculation too,
17 like the recent Exxon-Mobil merger where they're changing
18 all the well signs. They've got hundreds of wells that
19 they have to do this and to give them another 30 days, I
20 guess Chris deems advisable.

21 COMMISSIONER BAILEY: Because the original rule
22 does allow an extension of time on a case-by-case basis,
23 where the new rule doesn't. It's strange that an extension
24 of time can't be granted and still retain the 60 days. I
25 just don't see the need for that.

1 MR. CARROLL: Well, it's up to the Commission
2 whether to adopt that change or not.

3 CHAIRMAN WROTENBERY: That's a good point. We
4 could draft it in such a way that they'd have 60 days
5 unless they requested --

6 COMMISSIONER BAILEY: Which is what the original
7 rule says.

8 CHAIRMAN WROTENBERY: -- an extension of time
9 from the --

10 MR. CARROLL: That's what the current rule says.

11 CHAIRMAN WROTENBERY: Uh-huh.

12 THE WITNESS: I think the rule as it's rewritten
13 now was taken from the rule as it was written prior to the
14 one that's in effect right now, and so you might go back
15 and check that as well. I think -- My understanding is,
16 that might be how it was originally written, prior to when
17 the current rule was in effect.

18 CHAIRMAN WROTENBERY: Perhaps what we should do
19 is get some more information from Chris Williams on his
20 thinking behind that particular change.

21 MR. CARROLL: Okay.

22 CHAIRMAN WROTENBERY: We really don't know.

23 COMMISSIONER BAILEY: It could always be a typo
24 too.

25 CHAIRMAN WROTENBERY: Huh?

1 COMMISSIONER BAILEY: It could always be a typo
2 too.

3 CHAIRMAN WROTENBERY: It could be, it could be.
4 We can do that, we can see if there's a reason for changing
5 it so that it's just a definite 90 days, as opposed to 60
6 days, with the opportunity for an extension. We can check
7 on that?

8 Any questions, Commission?

9 EXAMINATION

10 BY CHAIRMAN WROTENBERY:

11 Q. I had one question for Mr. Ashley, and that is,
12 are there circumstances besides the need to use the
13 property for agriculture that would justify granting an
14 exception to the above-ground marker requirement?

15 A. I know of one other case when a house was built
16 over a dryhole marker, over a dry hole, and so I don't know
17 if that would be an exception that somebody would want.

18 Q. Uh-huh.

19 A. I don't know if they want to take that chance.
20 But that's happened.

21 Q. Okay. But in this case we're proposing that we
22 prohibit the building of a house over --

23 A. Without written permission from the OCD.

24 Q. Right, okay. So if that were to occur, then we
25 could consider that under that provision of 202.B.(2)

1 A. That's correct.

2 MR. CARROLL: Well, that's a good point. Maybe
3 we want to open up 202.B.(5) for -- "would interfere with
4 agricultural operations." "...agricultural or other
5 operations", just to leave it open so we have a little more
6 discretion there.

7 CHAIRMAN WROTENBERY: That would avoid the sort
8 of internal conflict in our rules that we might end up with
9 if we adopted like that, I suppose.

10 MR. CARROLL: What internal conflict?

11 CHAIRMAN WROTENBERY: Well, on one hand we might
12 grant an exception to our rules allowing a house to be
13 built, but on the other hand we wouldn't have that
14 discretion to allow them to use a below-ground marker under
15 the provisions of 202.B.(5), unless we draft it a little
16 bit farther and gave ourselves the opportunity to consider
17 other circumstances.

18 MR. CARROLL: Madame Chairman, I would ask, then,
19 that this case be continued for a month for additional
20 evidence regarding the 90-day period and the possible
21 exceptions to above-ground markers.

22 CHAIRMAN WROTENBERY: We'll do that. May I ask
23 one other legal question?

24 Q. (By Chairman Wrotenbery) The provisions of
25 202.B.(2) preventing the building of permanent structures

1 over a plugged and abandoned well without approval of the
2 OCD, does that apply just to oil and gas operators, or does
3 it also apply to other persons who might be using a
4 property? For example, a developer, or just a private
5 landowner that was building a house on their own surface
6 acreage?

7 MR. CARROLL: Well, as written it would seem to
8 apply to them, but our jurisdiction is probably limited to
9 oil and gas operators. I don't know, it's a good question.

10 COMMISSIONER LEE: So they can sell it to private
11 owner and they build it.

12 MR. CARROLL: And for us to take an action
13 against the private owner, our jurisdiction might not
14 extend that far.

15 CHAIRMAN WROTENBERY: We'll continue the case and
16 then think about that one too, I guess, before the next
17 hearing and talk about that a little bit more.

18 And unfortunately, I need to tell everybody Mr.
19 Carroll won't be here for the next hearing. I'm not sure
20 everybody's heard the news. Commissioner Lee was here last
21 week, so he talked to me, but Rand is going to be taking
22 another position with the State Engineer's Office.

23 COMMISSIONER BAILEY: Really?

24 MR. CARROLL: I'll be a hearing officer for them,
25 for water-rights cases.

1 COMMISSIONER LEE: Well, we congratulate you,
2 finally get rid of him.

3 (Laughter)

4 CHAIRMAN WROTENBERY: We'll strike that remark
5 from the record and substitute instead an expression of our
6 sincere appreciation for all that you've done here.

7 MR. CARROLL: When Dr. Lee came on board, that
8 was the last straw.

9 (Laughter)

10 COMMISSIONER BAILEY: Well, you will be missed.

11 CHAIRMAN WROTENBERY: He certainly will. He's
12 been here at the Department for -- ten years now, I
13 believe? Is that right? And working in his current
14 position with the Division for five --

15 MR. CARROLL: About five.

16 CHAIRMAN WROTENBERY: -- years. And certainly
17 he's been a tremendous help to me in my two years here at
18 the agency. So we will miss him. And he has promised to
19 leave us his phone number. So we will be calling, I'm
20 sure, on occasion.

21 COMMISSIONER BAILEY: Wish you well.

22 MR. CARROLL: Thanks, Jami.

23 COMMISSIONER LEE: I still owe you a lunch.

24 CHAIRMAN WROTENBERY: You now, especially, owe
25 him lunch, I think, for that remark.

1 COMMISSIONER LEE: Is that in the record?

2 CHAIRMAN WROTENBERY: That is in the record, yes.
3 But we know you were just kidding.

4 Thank you very much.

5 What do we need to do? We'll continue that
6 Application of the Division until the Commission's meeting
7 February 25th.

8 Do we need to make any announcement about the
9 public comment period? We did not receive any comments on
10 this particular proposal; is that right?

11 MR. CARROLL: I didn't, and Florene didn't.

12 CHAIRMAN WROTENBERY: Okay.

13 MR. CARROLL: Madame Chairman, I'd like to move
14 that OCD Exhibit Number 1 be entered into the record.

15 CHAIRMAN WROTENBERY: Okay, it's so entered.

16 Is the public comment period still open, or did
17 it --

18 MR. CARROLL: If we continue it, it will be.

19 CHAIRMAN WROTENBERY: It will be open until the
20 date of the hearing?

21 MR. CARROLL: February 25th.

22 CHAIRMAN WROTENBERY: Okay. We don't expect to
23 get a rash of comment, so there wouldn't be a need to set
24 the deadline a little bit earlier to give us an opportunity
25 to review those, I suppose.

1 MR. CARROLL: Unless we put it in the notice for
2 the hearing.

3 CHAIRMAN WROTENBERY: Okay.

4 COMMISSIONER BAILEY: Written comments.

5 CHAIRMAN WROTENBERY: Yeah, that might be good,
6 any written comments need to be submitted. Let's see what
7 day would be good. The week before?

8 MR. CARROLL: Probably the Friday before.

9 CHAIRMAN WROTENBERY: That would be Friday,
10 February 18th. Florene, would you make sure that that
11 notation gets included in the notice for the next meeting?

12 * * *

13
14 (Thereupon, these proceedings were concluded at
15 9:27 a.m.)

16 * * *

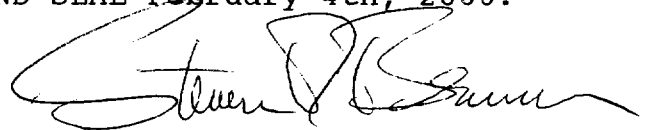
CERTIFICATE OF REPORTER

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 Commission 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 February 4th, 2000.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002

103 [REWRITTEN] All wells and related facilities regulated by the Division shall be identified by a sign, which sign shall remain in place until the well is plugged and abandoned and the related facilities are closed. For drilling wells, the sign shall be posted on the derrick or not more than 20 feet from the well. The sign shall be of durable construction and the lettering shall be legible and large enough to be read under normal conditions at a distance of 50 feet. The wells on each lease or property shall be numbered in non-repetitive, logical and distinctive sequence. When an operator change occurs, the new operator has 90 days to replace the information on the sign. Each sign shall show the:

1. number of well,
2. name of property,
3. name of operator,
4. location by footage, quarter-quarter section, township and range (or Unit Letter can be substituted for the quarter-quarter section), and
5. API number

202.B. (2) [ADD AT END OF PARAGRAPH] No permanent structures preventing access to the wellhead shall be built over a plugged and abandoned well without written approval of the OCD. No plugged and abandonment marker shall be removed without the written permission of the OCD.

202.B. (5) [NEW PARAGRAPH] Below-ground plugged and abandonment markers can be used only with written permission of the OCD when the above-ground marker would interfere with agricultural operations. The below-ground marker shall have a steel plate welded onto the surface or conductor pipe of the abandoned well. ~~The below-ground marker~~ ^{and} shall be at least 3 feet below the ground surface and of sufficient size so that all the information required by Rule 103 can be stenciled into the steel or welded onto the surface of the steel plate. The OCD may require a re-survey of the well location.

BEFORE THE	
OIL CONSERVATION COMMISSION	
Sergey P. Hovav, Chairman	
Case No.	12333 1
Submitted by	OCD
Hearing Date	1/21/00

103 SIGN ON WELLS

All wells subject to these regulations shall be identified by a sign not more than 50 feet from such well, and such sign shall be of durable construction and the lettering thereon shall be kept in legible condition and shall be large enough to be legible under normal conditions at a distance of 50 feet. Each sign shall show the number of the well, the name of the property, the name of the operator, and the location by unit letter, section, township and range. Each sign posted after June 30, 1997, shall show the API number of the well with the state code, the county code, and the next five digits of the API number. An operator will have 60 days from the effective date of an operator name change to change the operator name on the well sign unless an extension of time, for good cause shown along with a schedule for making the changes, is granted. If an API number has not been assigned to a well before it is spud, then the number is not required on the sign used at the drilling site even if it is a permanent sign. The API number must however be added after it is assigned. [1-1-50...2-1-96; 6-30-97]

104 WELL SPACING: ACREAGE REQUIREMENTS FOR DRILLING TRACTS

104.A. CLASSIFICATION OF WELLS: WILDCAT WELLS AND DEVELOPMENT WELLS

(1) San Juan, Rio Arriba, Sandoval, and McKinley Counties

- (a) Any well which is to be drilled the spacing unit of which is a distance of 2 miles or more from:
 - (i) the outer boundary of any defined pool which has produced oil or gas from the formation to which the well is projected; and
 - (ii) any other well which has produced oil or gas from the formation to which the proposed well is projected, shall be classified as a wildcat well.

[12-29-52...2-1-96]

(2) All Counties Except San Juan, Rio Arriba, Sandoval, and McKinley

- (a) Any well which is to be drilled the spacing unit of which is a distance of one mile or more from:
 - (i) the outer boundary of any defined pool which has produced oil or gas from the formation to which the well is projected; and
 - (ii) any other well which has produced oil or gas from the formation to which the proposed well is projected, shall be classified as a wildcat well.

[12-29-52...2-1-96]

(3) Any well which is not a wildcat well as defined above shall be classified as a development well for the nearest pool which has produced oil or gas from the formation to which the well is projected. Any such development well shall be spaced, drilled, operated, and produced in accordance with the rules and regulations in effect in such nearest pool, provided the well is completed in the formation to which it was projected. [5-25-64...2-1-96]