

1 only 24 hours' notice, and accordingly they request 30
2 days' continuance of what they refer to as "the meeting",
3 so they obviously misunderstand the nature of this
4 proceeding, would seem to me to be somewhat disingenuous in
5 view of their failure or refusal to accept the Division's
6 mailings.

7 However, I call this to your attention before
8 presenting my evidence in case your Honor construes this as
9 a request for a continuance which you are disposed to
10 grant.

11 Thank you.

12 EXAMINER STOGNER: No, I'm not going to consider
13 this a request for continuance at this time. I'd like for
14 you to go ahead and proceed, and perhaps after we hear the
15 testimony I'll make the decision at that time.

16 MR. BROOKS: Very good. The Division will call
17 Mr. Frank Chavez.

18 May I proceed?

19 EXAMINER STOGNER: Please.

20 FRANK T. CHAVEZ

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

23 DIRECT EXAMINATION

24 BY MR. BROOKS:

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

1 A. My name is Frank Chavez.

2 Q. And where do you reside?

3 A. I reside in Aztec, New Mexico.

4 Q. And how are you employed?

5 A. I'm the District Supervisor for the Oil
6 Conservation Division District 3 Office in Aztec.

7 Q. And in that capacity are you the person who is
8 responsible for the administration of the District's
9 regulation of oil and gas in District 3?

10 A. Yes, I am.

11 Q. And what counties does District 3 include?

12 A. District 3 includes San Juan, Rio Arriba,
13 Sandoval and McKinley Counties.

14 Q. Okay. Mr. Chavez, have you been involved in what
15 has been referred to in previous proceedings as the
16 inactive well project that is being conducted by the
17 Division?

18 A. Yes, I have.

19 Q. And would you briefly review for the Examiner how
20 you have proceeded in regard to the inactive well project,
21 what your function has been?

22 A. In the District we've been responsible for
23 following on notifying operators of wells that have been
24 out of compliance with Oil Conservation Division Rules and
25 Regulations, wells that have been inactive and not in

1 compliance with the temporary abandonment rules, or wells
2 for which operators have not filed production reports,
3 C-115s, as are required by OCD Regulations.

4 We sent an initial mailing out to operators who
5 had met those criteria of having inactive wells or
6 unreported wells in May of the year 2000. We received
7 responses back, but in September of year 2000 we sent
8 letters to those operators who hadn't responded to the May
9 mailing.

10 The purpose of bringing Coulthurst for this
11 particular hearing is that they did not respond to the May
12 mailing, nor did they accept the September 25th letter that
13 we sent to them concerning their response to the initial
14 mailing.

15 Q. Okay. To clarify for the purposes of the record
16 and the Examiner's understanding of this, there was a mass
17 mailing mailed out in May -- approximately May 11th, 2000;
18 is that correct?

19 A. I think that's correct.

20 Q. And was that mailed from the Santa Fe office?

21 A. Yes, it was.

22 Q. And was Jane Prouty responsible for generating
23 the list of people to whom that was to be mailed?

24 A. That's correct.

25 Q. Okay, Ms. Prouty will be our next witness, and I

1 will go into that with her. But then you were notified as
2 to the people to whom that mailing had been sent, correct?

3 A. That's correct, we received a list of the
4 operators that had been notified and a list of wells that
5 met those criteria.

6 Q. Very good. And one of the operators to whom that
7 notice was sent was Coulthurst Management and Investment,
8 Inc., correct?

9 A. That's correct.

10 Q. And did you receive any reply to that May 11th,
11 2000, letter from Coulthurst Management and Investment,
12 Inc.?

13 A. No, we did not.

14 Q. Okay. Now, would you look at your exhibit stack,
15 and I will call your attention to what has been marked as
16 OCD Exhibit 3, and ask you to identify it.

17 A. Is it this one?

18 Q. Yes. Your exhibits -- you don't have a marked --

19 A. I don't have the numbers.

20 Q. -- marked set of exhibits. Let me get you a
21 marked set of exhibits.

22 A. Thank you.

23 Q. That's all Exhibit 1, so just go on to the next
24 one. There we go.

25 A. Exhibit Number 3 is a copy of a certified mail,

1 return receipt requested, letter that my office sent to
2 Coulthurst Management and Investment Company on September
3 25th of the year 2000.

4 Q. Okay, and I will call your attention to the
5 address. Would you read into the record the address to
6 which that was sent?

7 A. The address is 1990, Marin Avenue, Berkeley,
8 California 94707.

9 Q. Okay. Now I will call your attention to what has
10 been marked as Exhibit 4 and ask if you can identify it.

11 A. This is a copy of the envelope that this letter
12 was sent in as it was returned to our office.

13 Q. Okay. And we'll note for the record that Exhibit
14 Number 4 has what appears to be a postal stamp that says
15 "Returned to Sender", and below that the stamp says "Reason
16 Checked", and of the various reasons that are given on the
17 stamp the one that is checkmarked is "Unclaimed".

18 Now, Mr. Chavez, did you ever receive any further
19 correspondence from Coulthurst regarding the inactive well
20 project up to this week?

21 A. No, we did not.

22 Q. And this week, after this Application had been
23 filed, did you attempt to contact Coulthurst?

24 A. Yes, Mr. Perrin from my office made several
25 attempts through different channels and was finally able to

1 contact Mr. Coulthurst by telephone.

2 Q. Okay, I will call your attention to what has been
3 marked as OCD Exhibit Number 5 and ask you if you can
4 identify it.

5 A. This is a faxed, handwritten memorandum that was
6 sent to Mr. Perrin in my office in response to his
7 telephone contact. It was sent by Mr. Coulthurst.

8 Q. I note that Exhibit Number 5 is dated 10/16,
9 without any year. Can you tell me what year that this was
10 received?

11 A. It's this year.

12 Q. So that was 10-16 of 01?

13 A. That's correct.

14 Q. Which would have been the day before yesterday?

15 A. Yes. In looking at this we noticed also, we
16 can't take into consideration the date at the top of the
17 fax. Their machine is apparently not programmed correctly
18 with the right times and dates.

19 Q. Yes, I will note that the fax machine says
20 "01/22/1995", or is it 1998? I don't have my glasses?

21 A. 1995.

22 Q. Okay. Well, this was not, in fact, received in
23 1995?

24 A. No, it was not.

25 Q. Very good. Okay, let me call your attention next

1 to what has been marked as OCD Exhibit 6 and ask you if you
2 can identify it.

3 A. This is a copy of the fax that we received in our
4 office addressed to Mr. Perrin in further response to the
5 phone call that he had made.

6 Q. Okay, and this is dated October 16, 2001,
7 correct? Again, Tuesday of this week?

8 A. Yes, it is there at the -- just above the
9 greeting on the --

10 Q. And again, the fax stamp indicates that it was
11 sent on "01/22/1995"?

12 A. That's right.

13 Q. And that is not correct as to when it was sent?

14 A. No, it's not.

15 Q. Thank you. Now, did you cause a physical
16 inspection to be made of the Coulthurst wells that are
17 included in this Application?

18 A. Yes, yes, we did.

19 Q. I will call your attention to what has been
20 marked as OCD Exhibit 7 through 18, and of course these are
21 Xerox copies of color pictures, and they may be a little
22 hard to identify, but -- some of them, but I will ask you
23 if you can identify those pictures.

24 A. Yes, these are copies of photos of the wells that
25 are the subject of this Application for Coulthurst.

1 Q. Thank you. And I will note that the Examiner has
2 been furnished with the originals, the color photographs
3 that are not Xerox copies.

4 Is each of these photographs labeled with a label
5 in rather large type showing the well to which it relates
6 by well name, number and API number?

7 A. Yes, on the copies it's not very clear but it
8 should be very clear on the originals.

9 Q. Okay. And these -- unlike some Division
10 photographs, these do not have dates imprinted on them by
11 the camera. Can you tell me approximately when these
12 photographs, Exhibits 7 through 18, were taken?

13 A. They would have -- I'm sorry, I can't. It's done
14 by a field inspection staff, and I don't recall the date
15 they went out. It's been within the last month.

16 Q. It would have been since the filing of this
17 Application?

18 A. That's correct.

19 Q. And this Application was filed on September the
20 27th, 2001?

21 A. Yes, sir.

22 Q. So it would have been sometime since that date
23 and prior to today, correct?

24 A. Yes, sir.

25 MR. BROOKS: Okay. I'll move for the admission

1 of OCD Exhibits 3 through 18.

2 EXAMINER STOGNER: Exhibits 3 through 18 will be
3 admitted into evidence at this time.

4 MR. BROOKS: And I'll pass the witness.

5 EXAMINATION

6 BY EXAMINER STOGNER:

7 Q. Mr. Chavez, in referring to Exhibit Number 6, up
8 there at the top in the text it says "Dear Charlie, Thank
9 you for your call and e-mail which were received about 4 PM
10 Friday, Oct. 12th." What e-mail is he referring to that
11 was sent on October the 12th?

12 A. My recollection is -- I'm sorry, I don't have a
13 copy of that. In Mr. Perrin's communication with Mr.
14 Coulthurst, he did send him copies or a list of the wells
15 that we referred to, we're referring to, and I think some
16 other communications, but I'm not real sure. He is present
17 and he can be able to tell you exactly what that e-mail
18 communication included.

19 Q. Are you referring to previous -- Okay, you've
20 already stated in your testimony today about a mass mailing
21 of May 11th, and of course Exhibit Number 3 contains a
22 September 25th of 2000 letter. Are there any other
23 additional correspondence --

24 A. Just --

25 Q. -- that would have been contained in that e-mail

1 that you know of?

2 A. I don't know. Like I say, you'd have to verify
3 that with Mr. Perrin. But those e-mails were only after he
4 established phone communication.

5 Q. Do you know who called who? Was it Mr. --

6 A. Yes, Mr. --

7 Q. -- Perrin that had reached him at this number
8 stated on the letterhead?

9 A. Yes, Mr. Perrin initiated the phone call after
10 looking -- several attempts to try to find a current number
11 for Mr. Coulthurst.

12 Q. Because it goes down there, if you notice, "I
13 never received either letter about an information
14 request..." So that's what I was curious, of which
15 correspondence was sent to him.

16 A. I'm presuming. He's referring to the initial
17 May, 2000, letter and then the -- which wasn't returned --
18 or the September 20th, 2000, letter that was sent certified
19 that he didn't claim. I was presuming that's what he was
20 referring to.

21 Q. Okay, now it mentions something in here about his
22 working with the BLM. What's been your correspondence or
23 work or your people's work with the BLM concerning these
24 federal lands?

25 A. We've only recently talked to the engineer with

1 the BLM out of the Albuquerque office, and apparently Mr.
2 Coulthurst has been working with them on some long-term
3 development issues on that property that appear to be
4 waterflood issues.

5 Q. Now, is this property currently under waterflood?

6 A. No.

7 Q. And so there's no production and no injection
8 whatsoever going on out there on any of these wells?

9 A. That's correct. If there's production going on
10 on some wells, my understanding is that is not -- that
11 these wells have not been reporting any production or
12 injection.

13 Q. Okay, just by reviewing 7 through 18 it looks
14 like some of them aren't even capable of producing.

15 A. That's correct.

16 MR. BROOKS: Mr. Examiner, it is our intention to
17 offer the production records as they're shown in the OCD
18 system through another witness.

19 EXAMINER STOGNER: Okay, I'll still reserve
20 judgment on the -- I guess what can be interpreted -- I'm
21 still not sure that can even be interpreted that way for
22 their request for a 30-day delay stated in Exhibit Number
23 6.

24 So I have no other questions of Mr. Chavez. Are
25 there any other questions of Mr. Chavez at this time, Mr.