

## 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. 12,758

APPLICATION OF THE NEW MEXICO OIL )  
 CONSERVATION DIVISION FOR AN ORDER )  
 REQUIRING KERSEY & COMPANY TO BRING )  
 ONE WELL INTO COMPLIANCE WITH RULE )  
 201.B AND ASSESSING APPROPRIATE CIVIL )  
 PENALTIES, LEA COUNTY, NEW MEXICO )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGSCOMMISSION HEARING

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

March 26th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Tuesday, March 26th, 2002, 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.

\* \* \*

02 APR 10 AM 8:40  
 J. COLEMAN, CCR

## I N D E X

March 26th, 2002  
 Commission Hearing  
 CASE NO. 12,758

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<u>JANE E. PROUTY</u> (Computer Operations Specialist, NMOCD)	
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## A P P E A R A N C E S

## FOR THE COMMISSION:

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## FOR THE APPLICANT:

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Assistant General Counsel  
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Santa Fe, New Mexico 87505

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2   9:18 a.m.:

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5           CHAIRMAN WROTENBERY:   Okay, we'll get started.   I  
6   apologize for the delay in getting started this morning,  
7   but this is a meeting of the Oil Conservation Commission  
8   for March 26th, 2002.   It's about 9:18 Mountain Standard  
9   Time here in Santa Fe, New Mexico, in Porter Hall for this  
10   meeting.

11           I'm Lori Wrotenbery, I'm Chairman of the  
12   Commission.

13           To my right is Commissioner Jami Bailey, she  
14   represents Commissioner Ray Powell on the Commission.

15           To my left is Commissioner Robert Lee.

16           We also have up here Florene Davidson, on my far  
17   right, who serves as the Commission secretary.

18           And then to Commissioner Lee's left is Steve  
19   Ross, the Commission's legal counsel.

20           And Steve Brenner will be taking down the  
21   proceedings today, so that we ask everybody to keep in mind  
22   the need to speak slowly and clearly so that he can get it  
23   all down.

24           We have a number of items on the agenda for the  
25   day, and I think what we'll do is take up several of the

1 pending inactive well cases first this morning. We've got  
2 three requests for the Commission to review Division orders  
3 concerning inactive wells.

4 The first one is Case 12,758. This is the  
5 Application of the New Mexico Oil Conservation Division for  
6 an order requiring Kersey and Company to bring one well  
7 into compliance with Rule 201.B and assessing appropriate  
8 civil penalties, Lea County, New Mexico.

9 This case is being heard *de novo* by the  
10 Commission upon the application of Kersey and Company.

11 I'll call for appearances in this case.

12 Mr. Brooks is not in here yet. I thought I saw  
13 him just a moment ago.

14 MR. GUM: Madame Commissioner, I believe that Mr.  
15 Brooks was anticipating a different order in the  
16 proceedings this morning, so he stepped out for a moment.  
17 He is available.

18 CHAIRMAN WROTENBERY: He is available, okay,  
19 we'll give him just a minute, then, to get back.

20 (Off the record)

21 CHAIRMAN WROTENBERY: Ms. Prouty, is Mr. Brooks  
22 on his way?

23 MS. PROUTY: Yes.

24 CHAIRMAN WROTENBERY: Okay, so we'll be ready for  
25 him when he gets here.

1 (Off the record)

2 CHAIRMAN WROTENBERY: Ready, Mr. Brooks?

3 MR. BROOKS: I apologize for being out of the  
4 room. I had anticipated the first matter would take some  
5 time.

6 CHAIRMAN WROTENBERY: I understand. We just took  
7 these matters out of order this morning, so...

8 MR. BROOKS: Very good.

9 CHAIRMAN WROTENBERY: And I had just called for  
10 appearances in the Case 12,759. This is the Application of  
11 Kersey and Company for *de novo* review.

12 MR. BROOKS: May it please the Commission, I'm  
13 David Brooks, Assistant General Counsel, Energy, Minerals  
14 and Natural Resources Department of the State of New  
15 Mexico, appearing for the New Mexico Oil Conservation  
16 Division.

17 And I do not have any witnesses in the Kersey --  
18 Well, I have one witness, yeah, one witness in the Kersey  
19 case.

20 CHAIRMAN WROTENBERY: Thank you, Mr. Brooks.  
21 Anybody here for Kersey and Company?

22 I don't hear anything.

23 Okay. Mr. Brooks, would you like to go ahead and  
24 state your case?

25 MR. BROOKS: Yes. Do you want to swear the

1 witness?

2 CHAIRMAN WROTENBERY: Yes, that's -- We can go  
3 ahead and do that.

4 (Thereupon, the witness was sworn.)

5 MR. BROOKS: Okay, before I start I will make a  
6 statement, I believe, if I may.

7 CHAIRMAN WROTENBERY: Certainly.

8 MR. BROOKS: The gentleman who wrote to the  
9 Commission requested a hearing for Kersey and Company. I  
10 forget his name, but he indicated he did not intend to  
11 appear but wished for the Commission to review the matter.

12 The evidence, I believe, will show two things  
13 about the Kersey and Company case.

14 First, that Kersey and Company had notice, both  
15 of the Division's demands that this well be plugged and of  
16 the previous hearing at the Division level, and ignored  
17 those notices so far as he did not respond in any way.

18 However, the evidence will also show in  
19 mitigation that Kersey and Company has since reworked that  
20 well and put it on production, and that they began  
21 operations to do so before the Division entered its final  
22 order.

23 So that's what I believe a summary of the  
24 evidence will show.

25 With that, I'll call Jane Prouty.

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JANE E. PROUTY,

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

DIRECT EXAMINATION

BY MR. BROOKS:

Q. Ms. Prouty, if you will look at what's in front  
of you as OCD Exhibit Number 1, I'll ask you to identify  
it.

Oh, I'm sorry, I need to go through the  
preliminaries, do I not?

Would you state your name for the record, please?

A. Jane Prouty.

Q. And how are you employed?

A. By the Oil Conservation Division.

Q. In what capacity?

A. As manager of the production and permitting area,  
permitting just for electronic purposes.

Q. And are you in charge of the department which  
receives and maintains the production reports which are  
supplied by operators on wells in New Mexico?

A. Yes.

Q. Did I ask you to prepare a report for the purpose  
of this hearing?

A. Yes.

Q. Would you look at Exhibit Number 1 and see if you



1 can identify it?

2 A. Yes, that's the report I prepared.

3 Q. I'm sorry?

4 A. That's the report I prepared.

5 Q. And is that a report on Kersey and Company, with  
6 respect to one particular well, right?

7 A. Yes.

8 Q. And what is that well?

9 A. The name is the Hover Number 1.

10 Q. And that well is located in Lea County?

11 A. Yes.

12 Q. And what does that report show with regard to the  
13 production that has been reported from the Hover Number 1  
14 well in Lea County?

15 A. It shows that on the months where Kersey put this  
16 well on a C-115, zero volumes for gas, oil and water  
17 produced were zero, and water injected was zero. They -- I  
18 say on the months where they included this well, if you'll  
19 look at the months to the right under production year and  
20 production month, it appears that for three months in 1997  
21 this well was on a C-115. And then we went to November of  
22 2000 before it appeared on a C-115 again.

23 Q. What period of time is covered by this report?

24 A. This one started from January, 1997, forward,  
25 through the present.

1 Q. Now, why did we start with January, 1997?

2 A. That was the time period where we were measuring  
3 inactivity.

4 Q. Yes, my point simply being that that doesn't have  
5 anything to do with the well itself? The well wasn't  
6 drilled then, nor was that necessarily the first time that  
7 it was inactive?

8 A. Right.

9 Q. Okay. That report, Exhibit 1, does not reflect  
10 any production from that well or injection into that well,  
11 correct?

12 A. Correct.

13 Q. Now, what is the last month that would have been  
14 shown on that report?

15 A. We did receive it on the C-115 for January, 2002,  
16 which is the most recent.

17 Q. But no production was reported?

18 A. Right.

19 Q. However, if there had been production for  
20 February, 2002, that would not be reflected, correct?

21 A. If we had received it, it would be, but --

22 Q. But it would probably not have been received at  
23 the time this was made up, correct?

24 A. Right.

25 MR. BROOKS: Okay. I believe that's all my

1 questions. I'll pass the witness.

2 CHAIRMAN WROTENBERY: Any questions,  
3 Commissioners?

4 Thank you, Ms. Prouty.

5 MR. BROOKS: At this time I will ask that the  
6 Commission take administrative notice of the remaining  
7 exhibits, which are a part of the Division's files, and I  
8 will explain what each of them is.

9 Exhibit Number 2 is a portion of the affidavit of  
10 notice which I filed when this case was filed at the  
11 Division level. I say a portion, because this case  
12 involved numerous respondents, of whom Kersey and Company  
13 was only one. They were the only one who appealed,  
14 therefore this contains only those portions of the exhibits  
15 that relate to Kersey and Company.

16 The first two pages are my affidavit, the second  
17 page is a copy of the letter that was sent to all of the  
18 respondents, and the fourth page is a copy of the postal  
19 receipt and return receipt that shows that this was  
20 delivered to Kersey and Company. This was admitted as  
21 Exhibit 2 at the Division Hearing and is a part of the  
22 Division's official file.

23 OCD Exhibit 3 is a copy of a letter from the  
24 Division's District Office to Kersey and Company, dated  
25 September 8th of 2000, which refers to the inactive status

1 of Kersey and Company's wells. And attached thereto is a  
2 return receipt.

3 Division Exhibit Number 4 is from the well file  
4 pertaining to the Kersey and Company Hover Well Number 1 in  
5 Lea County, New Mexico. This is the only document in the  
6 well file, other than the documents that have been filed in  
7 the last two weeks. I don't know what happened to the  
8 original APD and the completion reports, but they were  
9 found neither in the Santa Fe nor the Hobbs well file.

10 As you will see, this document is basically  
11 irrelevant to this proceeding. It shows that the well was  
12 TA'd for six months in 1991. That would have expired long  
13 before the time of this proceeding. I only offer the  
14 contents of the well file in this case because of the fact  
15 that in Mr. Kersey's letter to the Commission, he had  
16 indicated that the Commission showed this well as being  
17 plugged and abandoned, so... There is nothing in the well  
18 file to support that, however.

19 The remaining three exhibits are copies of the  
20 entire contents of the well file as it is in Santa Fe and  
21 in Hobbs.

22 Exhibit Number 5 is a C-103 showing a plan to  
23 rework that was filed December 3rd of 2001, which was after  
24 the Division Hearing in this case but prior to the entry of  
25 the Division's final order.

1           Exhibit Number 6 is a subsequent report of rework  
2     filed February 12th, 2002. If the report is accurate, the  
3     work began January 11th, 2002. The Division's final order  
4     in this case was entered January 15, 2002.

5           Exhibit Number 7 is the C-104 request for  
6     allowable and authorization to transport which indicates  
7     that the well is being put back on production in February  
8     of 2002.

9           The Division Order dated January 15, 2002,  
10    assessed a fine in the amount of \$1000 against Kersey and  
11    Company because of their failure to respond to Mr.  
12    Williams' letter about their wells being inactive  
13    previously and their failure to respond to the summons to  
14    the Division Hearing which was held in November of 2001.  
15    And that is, I assume, the reason for their application for  
16    review by the Commission.

17           At this time I would like to offer in evidence  
18    Exhibit 1 based on the testimony of the witness and  
19    Exhibits 2 through 7 based on administrative notice of the  
20    Division's files.

21           Thank you.

22           CHAIRMAN WROTENBERY: Thank you, Mr. Brooks, and  
23    Exhibits Number 1 through 7 are admitted into the record.

24           COMMISSIONER BAILEY: I don't have Exhibit 6.

25           CHAIRMAN WROTENBERY: Oh, I'm sorry, do you have

1 another copy of Exhibit 6? Commissioner Bailey is missing  
2 Exhibit 6.

3 MR. BROOKS: I'll be happy to give you my copy,  
4 since I won't need it anymore.

5 CHAIRMAN WROTENBERY: I believe there were two  
6 C-103s -- Oh, you're missing Number 5? Hold on. Exhibit  
7 Number 1 is the report Ms. Prouty testified about.

8 COMMISSIONER BAILEY: Right.

9 CHAIRMAN WROTENBERY: Exhibit Number 2 is the  
10 affidavit of notice.

11 COMMISSIONER BAILEY: Right.

12 CHAIRMAN WROTENBERY: Exhibit Number 3 is a  
13 letter from Chris Williams to Kersey and Company, dated  
14 September 8th, 2000.

15 Exhibit 4 is a Form C-103 from December 1st,  
16 1991.

17 COMMISSIONER BAILEY: Oh, I assumed that I had  
18 two Exhibits 4, so this one is actually 5.

19 CHAIRMAN WROTENBERY: And Exhibit Number 5 is a  
20 Form C-103 dated December 3rd, 2001.

21 COMMISSIONER BAILEY: That's it, okay.

22 CHAIRMAN WROTENBERY: Exhibit 6 is a C-103 dated  
23 February 4th, 2002.

24 And Exhibit 7 is a C-104.

25 COMMISSIONER BAILEY: They were just mislabeled.

1 CHAIRMAN WROTENBERY: Okay, thank you, Mr.  
2 Brooks.

3 We also had a letter from Kersey and Company in  
4 our notebooks.

5 MR. BROOKS: Correct, that is a portion of the  
6 record, therefore I did not consider it necessary to admit  
7 it in evidence, but I have no objection to the Commission  
8 considering the letter.

9 CHAIRMAN WROTENBERY: Okay, thank you, Mr.  
10 Brooks.

11 And I would like to try to see if we can clarify  
12 one point that was raised in the letter from Kersey and  
13 Company, and since Kersey and Company is not here, perhaps  
14 we could ask Ms. Prouty a question about --

15 MR. BROOKS: If she knows --

16 CHAIRMAN WROTENBERY: -- this letter?

17 MR. BROOKS: -- I'll be happy to bring her --  
18 Would you come back to the witness stand momentarily, Ms.  
19 Prouty?

20 EXAMINATION

21 BY CHAIRMAN WROTENBERY:

22 Q. Ms. Prouty, have you had a chance to look at the  
23 February 12th letter from Kersey and Company to Mr. Brooks?

24 A. No.

25 CHAIRMAN WROTENBERY: Do you have a copy of that

1 letter?

2 MR. BROOKS: I do not with me here. I have seen  
3 the letter.

4 CHAIRMAN WROTENBERY: Let me then hand this copy  
5 to Ms. Prouty, and I'll look over Commissioner Bailey's  
6 shoulder here.

7 Q. (By Chairman Wrotenbery) In the letter from  
8 Kersey and Company -- yes, it's dated February 12th, 2002,  
9 from Kenneth Wade to Mr. Brooks. He attaches another  
10 letter dated February 6th, 2002, that he sent to Mr.  
11 Brooks, and in that letter he talks about the status of the  
12 well and raises some questions, and Mr. Brooks alluded to  
13 this point.

14 He notes in the third paragraph of his letter  
15 that for some reason, effective 12-7-94, the well was  
16 listed as plugged and abandoned, and he says see attachment  
17 A, dated July 6th, '01. He says, Since your department was  
18 obviously confused and we saw no particular need and no  
19 real economic advantage to returning this well to active  
20 status, no action was taken.

21 The status was then changed and made effective  
22 January 1st, 1994, before date of the P-and-A status. He  
23 says see attachment B, dated September 24th, 2001.

24 Would you mind, Ms. Prouty, taking a look at the  
25 attachments to Mr. Wade's letter, and there is an



1 attachment dated April 18th, 2001, a report attached to his  
2 letter. The title is "ONGARD Production Unit Number PUN  
3 Suffix Update", is the title. Do you see which document --

4 A. Uh-huh.

5 Q. -- I'm referring to?

6 And it does say, under Current WC Status,  
7 "Plugged and Abandoned".

8 Would you be able to help the Commission  
9 understand what this report is, and what the meaning of  
10 "Plugged and Abandoned" in that column is?

11 A. Okay, I didn't create the report. It appears to  
12 be a report created by the Taxation and Revenue Department,  
13 which administers the PUNs, the production unit numbers,  
14 and the -- Let's see, we're working with the one 4-18?  
15 Yes. Okay, so this particular production unit number  
16 refers to the completion in the Maljamar-Grayburg-San  
17 Andres Pool. That particular pool, 43320, the status of  
18 this well in that pool is that that particular completion  
19 is plugged and abandoned. But that's not the completion we  
20 would expect to be reporting from Kersey.

21 Q. What completion are they currently supposed to be  
22 reporting?

23 A. The completion that's active is the one on the  
24 next page, which is in pool 43329, and on that one you do  
25 see that a production unit number was assigned, and it's an

1 active completion, and -- That is correct, so the other  
2 completion is not what's making the well active in our  
3 records. It's the zone abandonment versus -- It's not  
4 talking about the well but the zone.

5 Q. Okay, thank you. So Mr. Wade was thinking that  
6 plugged and abandoned referred to the entire wellbore, when  
7 it referred just to that one zone?

8 A. It could be. But definitely this report refers  
9 to just that one zone.

10 CHAIRMAN WROTENBERY: Okay, thanks, I wanted to  
11 try to understand what was going on there. Thanks, Ms.  
12 Prouty.

13 Commissioners, do you have any other questions?

14 COMMISSIONER BAILEY: Yes, I do. I'm wondering  
15 if the OCD District people have inspected the well, because  
16 there's conflicting information here.

17 Exhibit Number 4 says that due to casing problems  
18 they've abandoned and TA'd the well. Then there's the  
19 letter saying that it's not casing problems but that it  
20 is -- the pumping unit had become inoperable.

21 MR. BROOKS: And which exhibit is the letter that  
22 you're referring to?

23 COMMISSIONER BAILEY: The one that is in our  
24 notebook, that was not a part of your exhibit package.

25 MR. BROOKS: Okay.

1           COMMISSIONER BAILEY: The February 6th letter  
2 from Mr. Wade to you.

3           MR. BROOKS: Okay, Exhibit Number 4 is dated  
4 1991, and of course many things could have changed.  
5 Actually, I only included Exhibit 4 in our exhibits because  
6 of the contention that the well was thought to be plugged  
7 and abandoned, which -- for that reason I wanted to put the  
8 entire well file in evidence since we didn't find anything  
9 to support that well file.

10           So far as the inspection, I will represent to the  
11 Commission that the District Office has inspected the well  
12 recently and is satisfied that the well is, in fact, in  
13 condition to produce at this point.

14           COMMISSIONER BAILEY: Okay, thank you.

15           CHAIRMAN WROTENBERY: Anything else.

16           COMMISSIONER BAILEY: No.

17           CHAIRMAN WROTENBERY: Commissioner Lee?

18           COMMISSIONER LEE: (Shakes head)

19           CHAIRMAN WROTENBERY: I believe that's all we  
20 have, then, on this particular matter. So the Commission  
21 will take Case 12,758 under advisement at this time.

22           MR. BROOKS: Thank you.

23           (Thereupon, these proceedings were concluded at  
24 9:44 a.m.)

25                           \* \* \*

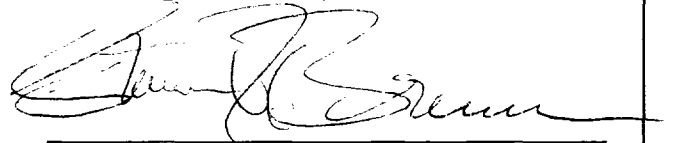
## CERTIFICATE OF REPORTER

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 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 April 7th, 2002.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002