

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:)

CASE NO. 12,861

APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR AN ORDER)
REQUIRING CHARLES E. YANCURA TO PROPERLY)
PLUG ONE WELL, IMPOSING CIVIL PENALTIES)
IN EVENT OF FAILURE TO COMPLY,)
AUTHORIZING THE DIVISION TO PLUG SAID)
WELL IN DEFAULT OF COMPLIANCE BY CHARLES)
E. YANCURA, AND ORDERING A FORFEITURE)
OF APPLICABLE PLUGGING BOND, LEA COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

May 16th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, May 16th, 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.

* * *

I N D E X

May 16th, 2002
 Examiner Hearing
 CASE NO. 12,861

PAGE

APPEARANCES

3

DIVISION WITNESSES:

CHRIS J. WILLIAMS (District Supervisor, Hobbs
 District Office, District 1, NMOCD) (Present by
 telephone)

Direct Examination by Mr. Brooks 5

Examination by Examiner Catanach 9

DOROTHY L. PHILLIPS (Plugging Bond Administrator,
 NMOCD, Santa Fe)

Direct Examination by Mr. Brooks 12

Examination by Examiner Catanach 14

REPORTER'S CERTIFICATE

19

* * *

E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	6	9
Exhibit 2	6	9
Exhibit 3	7	9
Exhibit 4	13	16
Exhibit 5	16	-

* * *

A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS
Attorney at Law
Energy, Minerals and Natural Resources Department
Assistant General Counsel
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

ALSO PRESENT:

WILL JONES
Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

1 WHEREUPON, the following proceedings were had at
2 8:20 a.m.:

3 EXAMINER CATANACH: Call the hearing to order
4 this morning for Docket Number 14-02. I'll call the
5 continuances and dismissals first.

6 (Off the record)

7 EXAMINER CATANACH: At this time I will call Case
8 12,861, the Application of the New Mexico Oil Conservation
9 Division for an order requiring Charles Yancura to properly
10 plug one well, imposing civil penalties in event of failure
11 to comply, authorizing the Division to plug said well in
12 default of compliance by Charles Yancura, and ordering a
13 forfeiture of applicable plugging bond, Lea County, New
14 Mexico.

15 Call for appearances in this case.

16 MR. BROOKS: Mr. Examiner, David Brooks, Energy,
17 Minerals and Natural Resources Department, State of New
18 Mexico, appearing for the Oil Conservation Division.

19 EXAMINER CATANACH: Okay, call for additional
20 appearances in this case.

21 MR. BROOKS: I have two witnesses, including the
22 one on the phone.

23 EXAMINER CATANACH: Okay, can I get the two
24 witnesses, here and Mr. Williams, would you please stand to
25 be sworn in at this time?

1 MR. BROOKS: Just one witness here.

2 EXAMINER CATANACH: I'm sorry, one witness.

3 MR. WILLIAMS (Present by telephone): Okay.

4 EXAMINER CATANACH: Are you standing?

5 MR. WILLIAMS: Yes, I am.

6 (Thereupon, the witnesses were sworn.)

7 MR. BROOKS: Okay, we'll call Chris Williams.

8 CHRIS J. WILLIAMS,

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

11 DIRECT EXAMINATION

12 BY MR. BROOKS:

13 Q. Can you hear me, Chris?

14 A. Yeah.

15 Q. Good, I can approach the phone if you can't.

16 Do you have the exhibits that I faxed to you in
17 front of you, Chris?

18 A. Yes, I do.

19 Q. Okay, very good. We'll get started then.

20 Would you state your name for the record?

21 A. Chris Williams.

22 Q. And by whom are you employed?

23 A. State of New Mexico, Oil Conservation Division.

24 Q. In what capacity?

25 A. District Supervisor in Hobbs.

1 Q. And in that capacity are you responsible for
2 overseeing the inspection of wells and the status of wells
3 in Lea County, New Mexico?

4 A. Yes, I am.

5 Q. Are you familiar with Charles E. Yancura's State
6 43-35 Well Number 1, which is located in Section 35,
7 Township 16 South, Range 35 East in Lea County, New Mexico?

8 A. Yes, I am.

9 Q. Okay. I will call your attention to what has
10 been marked as OCD Exhibit Number 2 in this case and ask
11 you to identify that?

12 A. It's a well completion report on the State 43-35
13 Number 1.

14 Q. Okay, and I will state for the record -- Well,
15 who does that show to be the operator of that well?

16 A. It shows the operator to be Charles E. Yancura.

17 Q. Okay. I will state for the record that that's
18 really the only reason that this exhibit is being offered,
19 is to show that Charles E. Yancura is the operator of that
20 well.

21 I will call your attention, then, to Exhibit OCD
22 Number 1 and ask you to identify that.

23 A. Number 1 is a Sundry Notice, a C-103, Charles
24 Yancura on the State 43-35 Number 1.

25 Q. Okay, and what is the date on that notice?

1 A. April 18th, 1995.

2 Q. Now, from my examination of the records on this
3 well, this appears to be the last thing that was filed in
4 this well file; is that correct?

5 A. That's correct.

6 Q. Okay. I will now call your attention to OCD
7 Exhibit Number 3 and ask you to identify it.

8 A. OCD Exhibit Number 3 is a plugging procedure
9 prepared by Billy Prichard in my office for this particular
10 well.

11 Q. Okay. Now, I forgot to qualify you here, but you
12 have testified before the New Mexico Oil Conservation
13 Division Hearing Examiners in the past, have you not?

14 A. Yes, I have.

15 Q. Including Mr. Catanach?

16 A. Yes, I have.

17 Q. And have your credentials as an expert well
18 inspector been accepted by the Division?

19 A. Yes.

20 MR. BROOKS: We'll tender Mr. Williams as an
21 expert in well inspection.

22 EXAMINER CATANACH: Mr. Williams is so qualified.

23 Q. (By Mr. Brooks) Very good. Mr. Williams, based
24 on your familiarity with this well, your own and that that
25 you have acquired from the reports received in the ordinary

1 course of business from your staff, in your opinion does
2 this well need to be plugged?

3 A. Yes, it does.

4 Q. And would the failure to plug it threaten waste
5 and impairment of correlative rights and damage to the
6 environment?

7 A. Yes, it would.

8 Q. Now, have you made efforts to get Mr. Yancura to
9 do something about this well?

10 A. Yes, we have.

11 Q. And have they been successful?

12 A. No.

13 Q. Now, has this well been inactive for a period in
14 excess of 15 months continuously prior to this date?

15 A. Yes, it has.

16 Q. Now, if this well were plugged in accordance with
17 the procedure set forth in OCD Exhibit Number 3, do you, in
18 your professional opinion, believe that it would be
19 properly plugged so as to prevent migration of fluids from
20 the formations in which they are found into other
21 formations or to the surface?

22 A. Yes.

23 Q. And do you believe that plugging the well in
24 accordance with OCD Exhibit Number 3 would prevent waste,
25 protect correlative rights and protect public health and

1 the environment?

2 A. Yes.

3 Q. Okay. OCD Exhibits 1 and 2, are those documents
4 from files kept in your office in the ordinary course of
5 business?

6 A. Yes, they are.

7 Q. And are they public records of the New Mexico Oil
8 Conservation Division?

9 A. Yes.

10 Q. And OCD Exhibit Number 3, was that prepared under
11 your direction?

12 A. Yes, it was.

13 MR. BROOKS: We'll tender OCD Exhibits 1, 2 and
14 3.

15 EXAMINER CATANACH: Exhibits 1, 2 and 3 will be
16 admitted as evidence.

17 MR. BROOKS: Pass the witness.

18 EXAMINATION

19 BY EXAMINER CATANACH:

20 Q. Mr. Williams, are you familiar with the history
21 of this well?

22 A. Yes.

23 Q. Was this well drilled by the Applicant?

24 A. Yes.

25 Q. And it was drilled to a depth of approximately

1 what, 10,000 feet?

2 A. I think it was 12,000.

3 Q. 12,000 feet. And do you know if the well ever
4 produced?

5 A. We have a completion report, that's the only
6 information that I have right now on it in front of me, a
7 completion report where it showed a well test of 8 million
8 cubic feet a day, so I'm assuming it did produce at one
9 point in time. But I don't have in front of me any kind of
10 production records.

11 Q. Okay. When was this thing drilled, do you know?

12 A. Back in ninety- -- I'd have to pull the rest of
13 the well file. I think it was 1994. Yeah, 10-18-94.

14 Q. Okay. I show where -- on the C-103, Exhibit
15 Number 1, where the well was sidetracked?

16 A. Right, right.

17 Q. You're not aware of the problems that they
18 encountered in the well or why they had to sidetrack it?

19 A. No, I'm not.

20 Q. Okay. Have you guys inspected the well?

21 A. Yes.

22 Q. Okay. There's no production equipment on it, I
23 assume, or --

24 A. Right.

25 Q. And have you been unable to reach Mr. Yancura,

1 Mr. Williams?

2 A. We've sent at least two letters, certified. Both
3 of them were returned. Two letters, I don't know if they
4 were certified or not, to the address that we had for Mr.
5 Yancura. Both of them were returned, address unknown.

6 Q. And that is the address in Garland, Texas?

7 A. Right, right.

8 Q. Okay. Have you done any estimates, Mr. Williams,
9 on what the cost of plugging this well might be?

10 A. Based on the depth and the sidetracking and
11 things like that, it would run probably -- I'm going to
12 guess somewhere around \$18,000 to \$20,000. That's assuming
13 we have no problems.

14 Q. Okay. Now, you said that it had not produced in
15 at least 15 months. Is that -- based on what?

16 A. Based on inspection reports from Billy Prichard,
17 one of my field inspectors who's been going by there and
18 checking it.

19 Q. So are you saying that you first inspected this
20 well approximately 15 months ago?

21 A. No, it's been inspected starting about two years
22 ago.

23 Q. Two years ago. And at that time you determined
24 from these inspections that the well was not capable of
25 production?

1 A. Right.

2 EXAMINER CATANACH: Okay, I believe that's all I
3 have of this witness, Mr. Brooks.

4 MR. BROOKS: Very good, that's all I have. He
5 may want to continue to listen, since he's the client here.

6 EXAMINER CATANACH: Okay, I assume that you'll
7 stay on the line, Mr. Williams?

8 THE WITNESS: Yes, I will.

9 MR. BROOKS: He's also a witness in the next
10 case.

11 Okay, with that I will call Dorothy Phillips.

12 May it please the Examiner?

13 DOROTHY L. PHILLIPS,

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

16 DIRECT EXAMINATION

17 BY MR. BROOKS:

18 Q. Miss Phillips, would you state your name for the
19 record?

20 A. Dorothy Phillips.

21 Q. And by whom are you employed?

22 A. By the New Mexico Oil Conservation Division.

23 Q. In what office?

24 A. I'm the plugging bond administrator.

25 Q. And you're in the Santa Fe office?

1 A. That's correct.

2 Q. And is it your responsibility to maintain the
3 files in which the bonds furnished by the operator to
4 secure their obligation to plug wells are maintained?

5 A. That's correct.

6 Q. I'll call your attention to what has been marked
7 as OCD Exhibit Number 4 and ask you to identify it.

8 A. It's a copy of the single well cash bond for Mr.
9 Charles E. Yancura.

10 Q. Okay, and what is the amount of that bond?

11 A. \$10,000.

12 Q. And who is the surety? It's a cash bond, is it
13 not? I'm sorry.

14 A. Yes, it's on the assignment of cash collateral
15 and it's Sunwest Bank of Hobbs.

16 Q. Sunwest Bank of Hobbs is the depository?

17 A. That's correct.

18 Q. And do you know -- Sunwest Bank of Hobbs, all the
19 Sunwest Banks are now Bank of America; is that correct?

20 A. That's correct.

21 Q. Okay. Now, this bond has a well name, Ramco
22 State Number 2, correct?

23 A. That's correct.

24 Q. But if you look at the location identification
25 and compare it with -- Well, you don't have a copy of

1 Exhibit Number 1. The location identification -- Well, the
2 Examiner can compare it, I don't need you to. But the
3 location identification shows where the well is located.
4 And is it our practice to make sure that those location
5 identifications are correctly put on each bond so that we
6 can unambiguously identify the single well to which they
7 relate?

8 A. That's correct, sir.

9 MR. BROOKS: Okay, I believe that's all my
10 questions to this witness.

11 EXAMINATION

12 BY EXAMINER CATANACH:

13 Q. Ms. Phillips, on the first page of Exhibit 4, the
14 actual single cash plugging bond, I notice that for the
15 well footage locations it had typed in 1980 feet from -- it
16 appears, it looks like feet from the north line?

17 A. Yes, it looks like it was typed in and then they
18 put in south line, someone wrote over the north and put the
19 south.

20 Q. Okay. My question is, do you know who might have
21 done that?

22 A. No. But what happens when I get a bond, a single
23 well, I check with the District for an API number, and I
24 give the location that's on the bond to the District and
25 they verify before they give me an API number. So based on

1 what they give me, that's how I enter it into the computer,
2 into the database. So the API number is issued by the
3 district office for each well.

4 Q. Okay. Now, it makes me a little uncomfortable
5 because the name of this well on the plugging bond is the
6 Ramco State Number 2, and it has a different well location.

7 Maybe this is a question more for Mr. Williams.
8 Do you know, Mr. Williams, that there's not another well
9 out there operated by Mr. Yancura?

10 MR. WILLIAMS: I can't say that for certain. I
11 can check, but this is the only one that we have in our
12 computers.

13 EXAMINER CATANACH: Okay, you might want to check
14 that -- it has a location -- the original location showed
15 1980 feet from the north line --

16 MR. WILLIAMS: Yes.

17 EXAMINER CATANACH: -- and it looks like somebody
18 scratched out "N" and put "S", which would correspond to
19 the well that we're dealing with today.

20 But you might check that just to verify that
21 there's not another well out there --

22 MR. WILLIAMS: Okay.

23 EXAMINER CATANACH: -- and let us know.

24 And I assume, Mr. Brooks, that we're going to try
25 and get this bond forfeited?

1 MR. BROOKS: When we're ready to plug the well,
2 I'm sure we will. We would not be able to do so
3 immediately, but that would be our intention when we got
4 ready to plug the well.

5 EXAMINER CATANACH: Okay. And do you know if
6 this bond is still in place?

7 MR. BROOKS: I have no information to the
8 contrary.

9 EXAMINER CATANACH: Okay.

10 MR. BROOKS: Since we have not released it, if
11 the money has been withdrawn, then the bank has breached
12 their agreement with us.

13 EXAMINER CATANACH: Okay. Okay, I have nothing
14 further of this witness. You may be excused.

15 Anything further, Mr. Brooks?

16 MR. BROOKS: Okay, first of all I forgot to
17 tender Exhibit Number 4 in evidence.

18 EXAMINER CATANACH: Okay, Exhibit Number 4 will
19 be admitted into evidence.

20 MR. BROOKS: Next, I will mention that Exhibit
21 Number 5 and -- Exhibit Number 5 is a printout from ONGARD
22 -- You may stand down.

23 THE WITNESS: Thank you.

24 MR. BROOKS: Exhibit Number 5 is a printout from
25 ONGARD. Unfortunately, I couldn't find Jane this morning

1 and her office was dark, so I don't have a witness to
2 verify. However, since whatever is in ONGARD is a part of
3 the files and records of the Oil Conservation Division, I
4 will request the Examiner to take administrative notice of
5 the contents of the ONGARD system with regard to this
6 well's production reports, and that can be verified in
7 whatever manner is most expedient for the Examiner that
8 that is actually what is in the system.

9 So I won't tender this in evidence, Exhibit
10 Number 5, in evidence since I don't have a witness to
11 sponsor it. But I will ask you to take administrative
12 notice of it.

13 EXAMINER CATANACH: Okay, Mr. Brooks, we will
14 take administrative notice of the information present on
15 the ONGARD system --

16 MR. BROOKS: Thank you.

17 EXAMINER CATANACH: -- in regards to this well.

18 MR. BROOKS: I will also ask you to take
19 administrative notice that the case file in this case
20 reflects that a certified notice of this proceeding was
21 sent to Charles E. Yancura at the same address shown here,
22 which is the same address at which he was attempted to be
23 noticed by Mr. Williams. It does not reflect that there
24 was a return receipt, nor does it reflect that the mail has
25 been returned to us.

1 And I notice that's getting to increasingly to
2 happen, and I assume it's just because three weeks is
3 really not long enough for the post office at their present
4 rate of operation to get the return mail back to us. But I
5 would assume the letter will probably be returned inasmuch
6 as the District's correspondence to Mr. Yancura at this
7 address has been returned.

8 And according to Mr. Williams -- I don't know
9 that we've verified that with him, but I'm not aware that
10 we have any other address for Mr. Yancura.

11 EXAMINER CATANACH: Okay, administrative notice
12 will be taken of the notice data contained in the well
13 file.

14 Anything further, Mr. Brooks?

15 MR. BROOKS: That concludes my presentation as to
16 this case.

17 EXAMINER CATANACH: Okay, there being nothing
18 further in this case, Case 12,861 will be taken under
19 advisement.

20 (Thereupon, these proceedings were concluded at
21 8:45 a.m.)

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17 May 16
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Daniel Watson

STEVEN T. BRENNER, CCR
(505) 989-9317