

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. 12,862
)
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR AN ORDER)
REQUIRING N. DALE NICHOLS TO BRING)
EIGHT WELLS INTO COMPLIANCE WITH)
RULE 201.B AND ASSESSING APPROPRIATE)
CIVIL PENALTIES, CHAVES COUNTY,)
NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

May 2nd, 2002

Santa Fe, New Mexico

OIL CONSERVATION DIV
02 MAY 16 AM 8:45

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, May 2nd, 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.

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 Examiner Hearing
 CASE NO. 12,862

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A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS
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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

JOHN NICHOLS
General Manager for N. Dale Nichols
Roswell, New Mexico,

* * *

1 WHEREUPON, the following proceedings were had at
2 1:13 p.m.:

3 EXAMINER STOGNER: This hearing will come to
4 order.

5 Call at this time Case Number 12,862, which is
6 the Application of the New Mexico Oil Conservation Division
7 for an order requiring N. Dale Nichols to bring eight
8 certain wells into compliance with Rule 201.B and assessing
9 appropriate civil penalties, in Chaves County, New Mexico.

10 At this time I'll call for appearances.

11 MR. BROOKS: Your honor, David Brooks, Energy,
12 Minerals and Natural Resources Department of the State of
13 New Mexico for the Oil Conservation Division. I have two
14 witnesses.

15 EXAMINER STOGNER: Any other?

16 MR. NICHOLS: John Nichols for Dale Nichols.

17 EXAMINER STOGNER: Mr. Nichols, why don't you
18 come on up, have a seat here, and that way we'll all be a
19 little closer together, and that way we can get some copies
20 of stuff and look for them, look at them.

21 Any other appearances in this matter?

22 Okay. Now, Mr. Nichols, will you be presenting
23 testimony today?

24 MR. NICHOLS: Yes.

25 EXAMINER STOGNER: Okay, I'm going to have you

1 stand up to be sworn whenever I swear in the other two
2 witnesses or have them sworn in.

3 MR. NICHOLS: Okay.

4 EXAMINER STOGNER: And that means that you'll be
5 under oath, so...

6 Any other appearances?

7 Okay, will Mr. Nichols and the two witnesses
8 please stand to be sworn at this time?

9 (Thereupon, the witnesses were sworn.)

10 MR. BROOKS: Very good, may I proceed, your
11 Honor.

12 EXAMINER STOGNER: Please.

13 MR. BROOKS: I'll call Fran Chavez.

14 FRAN CHAVEZ,

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

17 DIRECT EXAMINATION

18 BY MR. BROOKS:

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

20 A. Fran Chavez.

21 Q. And by whom are you employed?

22 A. The Oil Conservation Division.

23 Q. And in which office? In Santa Fe or the
24 District?

25 A. Oh, in the Santa Fe office.

1 Q. And what is the nature of your duties with the
2 Oil Conservation Division?

3 A. I pull production reports and keep track of the
4 C-115 production reports.

5 Q. And you are involved in entering and retrieving
6 data from the ONGARD system, correct?

7 A. Yes, that's correct.

8 Q. And you supervise a number of employees who are
9 engaged in that function?

10 A. Yes, that's correct.

11 Q. Did you at my request pull some data from the
12 ONGARD computer system regarding wells operated by N. Dale
13 Nichols?

14 A. Yes, I did.

15 Q. If you would look at the exhibit folder in front
16 of you, I'll ask you to look at Exhibit Number 1, call your
17 attention to Exhibit Number 1, and ask you to identify it
18 for the record.

19 A. It's a production report that I pulled from the
20 ONGARD database.

21 Q. And can you explain how this report is set up to
22 Mr. Stogner?

23 A. Yes. What I do is, I go into the database and I
24 query for this specific operator for the year of 1997 to
25 current, and I had a list of API-number wells that were

1 given to me by David Brooks, and I entered all of those
2 into this report, I queried it, I pulled them all out, and
3 it shows all the data that was submitted since 1997 for all
4 of the wells.

5 Q. Okay. The format of this report is a little bit
6 different from the ones we've used in the previous
7 proceedings, correct?

8 A. Yes, that's correct.

9 Q. Specifically, it does not include the well name?

10 A. That's correct.

11 Q. However, it does include the API numbers?

12 A. Yes.

13 Q. So if we want to look for a specific well, the
14 API number will be shown on the Application and you can go
15 to the API number and find that well?

16 A. Yes.

17 Q. But going to the specific thing that's important
18 in this particular exhibit, the column labeled "Volume",
19 now, if there had been any production reported from any of
20 these wells during the period 1997 to the present, it would
21 show as a number in that column labeled "Volume", would it
22 not?

23 A. That is correct.

24 Q. Okay. Just paging through here -- and I did this
25 last night, so I believe I'm right -- there are no volumes

1 reported other than zeroes in this exhibit? Well, there is
2 over on page 22, correct?

3 A. Page 22 and --

4 Q. -- and 23.

5 A. -- and a little bit of 24, up at the top.

6 Q. Okay. Now, these on page 22 and 23, it appears
7 that the latest month would have been February of 1999?

8 A. The most current?

9 Q. Yeah.

10 A. Yes, that's correct.

11 Q. Okay, and on page 24 that was for October of
12 1999?

13 A. Yeah, just one month there.

14 Q. Okay, and there's no other volumes of production
15 reported from any of these wells on this Exhibit 1?

16 A. That's correct, all zeroes.

17 Q. And can you state, based on your knowledge of how
18 the system works, what does that mean about whether or not
19 the operator reported any production from these wells
20 during that period of time?

21 A. No production was reported for any of these
22 wells, except for that one.

23 Q. Okay. Now, this actually means that the operator
24 reported zero production, does it not?

25 A. That's correct.

1 MR. BROOKS: Okay. Thank you very much. Pass
2 the witness. Well, tender Exhibit 1.

3 EXAMINER STOGNER: Exhibit Number 1 will be
4 admitted into evidence.

5 MR. BROOKS: Pass the witness.

6 EXAMINER STOGNER: Mr. Nichols, at this time
7 you're free to ask this witness any questions. I'm
8 assuming you're here representing yourself.

9 MR. NICHOLS: Yeah, I represent my father.

10 EXAMINER STOGNER: Okay.

11 MR. NICHOLS: Yeah, I don't have any questions.

12 EXAMINER STOGNER: All right. Okay, I don't have
13 any questions of Ms. Chavez at this time. You may step
14 down.

15 THE WITNESS: Okay, thank you.

16 EXAMINER STOGNER: Mr. Brooks?

17 MR. BROOKS: Call Tim Gum.

18 TIM W. GUM,

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

21 DIRECT EXAMINATION

22 BY MR. BROOKS:

23 Q. State your name for the record, please.

24 A. My name is Tim W. Gum.

25 Q. And by whom are you employed?

1 A. New Mexico Oil Conservation Division.

2 Q. And in what capacity?

3 A. District Supervisor of District 2 in Artesia, New
4 Mexico.

5 Q. Okay, in the past hearings of this character I've
6 gone into your responsibilities and the geographical area
7 of your District, but I think the honorable Examiner knows
8 all that, so I won't ask you those questions again.

9 A. All right, thank you.

10 Q. If you will look at the exhibit folder in front
11 of you, I will ask you to look at Exhibits Numbers 2, 3, 4
12 and 6 and 7, and ask you if those are file copies of
13 correspondence that was sent by you or under your direction
14 to N. Dale Nichols.

15 A. That is correct.

16 Q. Okay. I will then ask you to look at OCD
17 Exhibits Numbers 5 and 8 and ask you to verify that those
18 are copies of letters received by you in the Artesia
19 District Office of the Oil Conservation Division from N.
20 Dale Nichols.

21 A. That's correct.

22 Q. Now, are these copies of correspondence kept on
23 file in the Artesia District Office of the Oil Conservation
24 Division?

25 A. Yes, they are.

1 Q. And are they placed in the file at or about the
2 time that they are received or sent?

3 A. Yes. You'll note there's a time/date stamp on
4 there --

5 Q. Okay.

6 A. -- and they're normally put in the file at that
7 date of receipt.

8 Q. Very good. Now, in order to avoid prolonging
9 this hearing unnecessarily, rather than going through each
10 letter will you tell me here the -- this proceeding
11 involves eight wells -- and I will show you a list of them
12 here -- that we used in making this proceeding. Now, first
13 of all, you have told me that there are three of those
14 wells which are now in compliance; is that correct?

15 A. That is correct.

16 Q. And which ones are those?

17 A. They're the Lynx Number 1, which was plugged and
18 abandoned, the Lewis Neff Number 4, and the State A Number
19 2, which were returned to production.

20 Q. Okay. Now, the other wells on that list -- Well,
21 first of all, the Lewis Neff Number 3 is one of the wells
22 on that list, is it not?

23 A. That's correct.

24 Q. Okay. Referring to Exhibit Number 2, was N. Dale
25 Nichols notified of the inactive status of the Lewis Neff

1 Number 3 on November 5 of 1997?

2 A. That's correct.

3 Q. Okay, looking at Exhibit Number 2, I believe
4 there's one other well that's in this hearing that is on
5 that list. Is that the State A Number 3?

6 A. Yes, it was on the November 5th, 1997, letter,
7 but I do not see it on your --

8 Q. It wasn't in this proceeding then. What about
9 the State A Number 1?

10 A. The State A Number 1 is not in this proceeding
11 either.

12 Q. Okay, so the only one that's on this November
13 5th, 1997, letter that's involved in this proceeding is the
14 Lewis Neff Number 3; is that correct?

15 A. That's correct.

16 Q. Now, therefore we have one well, the Lewis Neff
17 Number 3, which N. Dale Nichols has been given
18 approximately four years notice of its inactive status,
19 correct?

20 A. That's correct.

21 Q. Okay. Now call your attention to Exhibit Number
22 3, and I will ask you to check through Exhibit Number 3 and
23 tell me if the wells that are the subject of this
24 proceeding that are still inactive are all listed on
25 Exhibit Number 3 or if there are any that are not.

1 A. I do not believe that I see the Alma Shields
2 Number 4.

3 Q. So the Alma Shields Number 4 is not listed on
4 Exhibit Number 3.

5 MR. NICHOLS: Need to make a correction on that.
6 That's Alma Shields Number 7. It's the API number for
7 Shields Number 7.

8 MR. BROOKS: Okay.

9 MR. NICHOLS: That's the well that is not
10 producing

11 MR. BROOKS: Okay, thank you.

12 Q. (By Mr. Brooks) Okay. Now, which wells that are
13 currently not producing, in addition to the Lewis Neff
14 Number 3, are listed on Exhibit 3, if there's -- that
15 should be three wells?

16 A. The Avalanche Journal State Number 4 --

17 Q. The Avalanche Journal State Number 4.

18 A. -- Standard State 3, Standard State 6Y --

19 Q. Standard State 3 and 6Y. Is that all?

20 A. -- then the Lewis Neff Number 3.

21 Q. Okay, the Neff Number 3 we'd already mentioned.

22 A. Right.

23 Q. Okay. So the Avalanche Number 4, the Standard
24 State Number 3 and 6Y are listed on Exhibit Number 3; is
25 that right?

1 A. That's correct.

2 Q. Now, what is the date of Exhibit Number 3?

3 A. The date that it was mailed out was May 11th,
4 2000.

5 Q. Okay, and that will be two years ago next
6 Saturday, right?

7 A. Yes.

8 Q. So we have three wells of which two years ago N.
9 Dale Nichols was given notice of their inactive status,
10 correct?

11 A. That's correct.

12 Q. Okay. That leaves one more well. Which well is
13 that, that were not on either one of these notifications?

14 A. That would be the Alma Shields Number 4, and it's
15 now corrected to be Number 7.

16 Q. Okay. Now, I call your attention to Exhibit
17 Number 6, and what is the date of Exhibit Number 6?

18 A. That is attached to a letter dated January 10th,
19 2001.

20 Q. Okay, and that does not list the Alma Shields
21 either, correct?

22 A. That's correct.

23 Q. So while our data shows that well to be inactive,
24 none of our exhibits show that well to have been subject to
25 notice from the OCD, correct?

1 A. That's correct.

2 Q. Okay. Now, I believe that you have identified
3 all of this correspondence, so let me ask you, then, Mr.
4 Gum, are you personally familiar with these wells?

5 A. Yes, I am.

6 Q. And do you know them to be inactive, other than
7 the three that you mentioned that they are still inactive?

8 A. The data we have to work with, they are still
9 inactive.

10 Q. Okay. So far as any information that has been
11 reported to your office?

12 A. There's been nothing that said that they are in
13 compliance.

14 Q. Okay, and have there been any notices of intent
15 filed on these wells to do anything with them?

16 A. No.

17 Q. Okay. And our rules, do they not, require before
18 a person plugs and abandons or temporarily abandons a well,
19 they require that they file a C-103 indicating what they
20 plan to do, correct?

21 A. That's correct.

22 Q. And that would also be true if they were going to
23 work over those wells, correct?

24 A. That's correct.

25 MR. BROOKS: Very good. I will at this time

1 offer into evidence Exhibits Numbers 2 through 8 inclusive.

2 EXAMINER STOGNER: Exhibits 2 through 8 will be
3 admitted into evidence at this time.

4 MR. BROOKS: And pass the witness.

5 EXAMINER STOGNER: Mr. Nichols, do you have any
6 questions of Mr. Gum?

7 MR. NICHOLS: No, pretty straightforward.

8 EXAMINATION

9 BY EXAMINER STOGNER:

10 Q. Okay, so let me make sure I've got this straight,
11 Mr. Gum. The Lewis Neff Number 4 is now returned to
12 production?

13 A. Right.

14 Q. And the Lynx Number 1 is returned to production
15 and the State A Number 2, so these can be --

16 A. The Lynx Number 1 was plugged and abandoned, but
17 it is in compliance.

18 Q. And the State A Number 2 returned to production?

19 A. That's correct.

20 Q. So the Alma Shields 4/7, whatever that one is,
21 has not been -- he has not been notified of this?

22 A. That's correct, and I wonder if this is not one
23 that has just now came into noncompliance, because it
24 hasn't appeared on any of the other lists.

25 Q. Well, also this one has had production -- I have

1 to look on page 22 and 23 of -- and 24 of Ms. Fran Chavez's
2 list. The last month of production for that well would
3 have been 1999 -- I'm sorry, was October of 1999. Would
4 that have made some sort of a difference?

5 A. It should have appeared on the printout that was
6 attached to the January 10th, 2001, letter.

7 MR. BROOKS: It apparently did not, however.

8 THE WITNESS: So based on that, Mr. Examiner, I
9 would say that Mr. Nichols has not been notified that that
10 well was in noncompliance.

11 Q. (By Examiner Stogner) Okay. What is your
12 recommendation at this time, Mr. Gum, of the other wells,
13 the Standard 6Y and the State Number 3 and the Lewis Neff
14 Number 3?

15 A. That a compliance order be issued with a civil
16 penalty assessed for each well, based on the established
17 formula.

18 Q. And what is that established formula?

19 A. Tell me if I misstate this, but I believe it is
20 \$1000 per month from the deadline that was stated in the
21 latest correspondence, which would be January 1st of 2002,
22 all wells were to be in compliance, plus \$1000 per year per
23 well that had prior notice.

24 Q. Do you have those figures on what that would be
25 for these wells?

1 A. No, I do not.

2 MR. BROOKS: I do.

3 EXAMINER STOGNER: Do you?

4 MR. BROOKS: That would be, your Honor, for the
5 Lewis Neff Number 3, which we had four years' notice, that
6 would be \$4000, plus the deadline date was January -- was
7 the beginning of this year, so it would be \$4000 plus \$5000
8 -- no, plus \$4000, I'm sorry, we're four months into this
9 year. That would be \$8000 for the Lewis Neff.

10 For the other two it would be \$2000 for two years
11 plus \$4000 for four months, so it would be \$6000 each for
12 the other three wells of which he had notice.

13 That would be a total of \$18,000 plus \$8000 would
14 be \$24,000 -- \$26,000, my arithmetic is not very good --
15 \$26,000 and no penalty for the Alma Shields because we have
16 no notice.

17 EXAMINER STOGNER: Okay.

18 MR. BROOKS: This is the same formula we used in
19 Case Number 12,811.

20 EXAMINER STOGNER: Any other questions of this
21 witness?

22 MR. NICHOLS: I don't.

23 EXAMINER STOGNER: Okay, you may be excused, Mr.
24 Gum, if there's nothing further.

25 Mr. Brooks, do you have anything further at this

1 time?

2 MR. BROOKS: Your Honor, I'll ask you to take
3 administrative notice of the contents of the file that
4 reflect that due notification was given of this proceeding,
5 both by publication and by mailed notice, to Mr. Nichols,
6 certified mail, return receipt requested, and I believe
7 that there is a return receipt in the file, although I
8 didn't pull it as I did on the other cases this afternoon.

9 EXAMINER STOGNER: I've got that file in front of
10 me, and I believe you're referring to the April 10th, 2002,
11 notice; is that correct, Mr. Brooks?

12 MR. BROOKS: Yes, sir.

13 EXAMINER STOGNER: And that is in the file that I
14 have in front of me.

15 Okay, Mr. Nichols, thank you for coming today.
16 As I have done previously in these kind of cases -- these
17 are somewhat new -- if you'll identify yourself by stating
18 your name and where you live and your affiliation with the
19 wells, let's start that first, if you don't mind, please.

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

23 DIRECT TESTIMONY

24 BY THE WITNESS:

25 MR. NICHOLS: Okay, John Nichols. I live in

1 Roswell, New Mexico, and I'm the general manager for N.
2 Dale Nichols.

3 EXAMINER STOGNER: And Mr. Nichols, N. Dale
4 Nichols is what relationship to you?

5 THE WITNESS: He's my father.

6 EXAMINER STOGNER: Excuse my ignorance, but is
7 Mr. N. Dale Nichols still alive?

8 THE WITNESS: Yeah.

9 EXAMINER STOGNER: Okay.

10 THE WITNESS: Yes, sir.

11 EXAMINER STOGNER: Okay. Do you have anything
12 you'd like to present or say at this time?

13 THE WITNESS: Just that we obviously haven't been
14 performing very good, but we are really making hard
15 attempts to get everything into compliance.

16 I talked to Tim the other day and told him on the
17 Lewis Neff Number 3, I'd like to TA it. But I haven't sent
18 any -- the C-103 proposing that yet. That was just a
19 telephone conversation.

20 And the other, the Avalanche Number 4 has got
21 tubing stuck in it and it's going to be a fishing job and a
22 washover fishing job. And we've been having surface
23 equipment problems, the transmission going out on pulling
24 units and stuff like that, and that's part of the reason
25 why we're running behind.

1 And we just don't want to plug any wells because
2 we're trying to put in a waterflood here. Our plans are to
3 put in a waterflood. We own every well in the field now,
4 and we'd like to put in a waterflood. And so we don't want
5 to plug any wells that might potentially have some
6 production later on.

7 EXAMINER STOGNER: Now, when you say "field", all
8 of these, the Avalanche Journal Number 4, the Lewis Neff,
9 they're all in a field, you say?

10 THE WITNESS: Yes, sir, they're all in the Acme-
11 San Andres Pool in Chaves County. I've got a map that
12 shows the main production of the field.

13 EXAMINER STOGNER: Is that an extra copy? Could
14 I have --

15 THE WITNESS: Oh, yeah. We own all the wells in
16 the field now. We just acquired the last one in March.

17 That's one reason why we're running slow on
18 putting these wells into compliance, is, we've been trying
19 to obtain stuff and obtain the wells and -- We do our own
20 pulling-unit work and well-surface work and everything we
21 can ourselves.

22 We're small operators.

23 EXAMINATION

24 BY EXAMINER STOGNER:

25 Q. Okay, in looking at this, all the wells in

1 Section 4 appear to be state wells --

2 A. Uh-huh.

3 Q. -- on state leases; is that correct?

4 A. Yes, sir.

5 Q. Are all the wells listed on here, on your list,
6 are they all on state leases at this time?

7 A. Everything but the Alma Shields.

8 Q. And what's the -- Is that federal or fee?

9 A. It's a fee.

10 Q. It's a fee acreage?

11 A. Yes, sir.

12 Q. Have you done any permitting or approach to the
13 State Land Office on the waterflood?

14 Wouldn't you have to unitize this area to do
15 that?

16 A. To tell you the truth, I'm not sure what Dale has
17 done on that.

18 I know he's talked to several landmen in Roswell
19 and in Midland where he lives and has talked to the State
20 Land Office on several occasions, but I'm not exactly sure
21 what all he's done and all that.

22 EXAMINER STOGNER: Mr. Gum, why don't you come
23 back up here, please? It will be easier to ask some
24 questions.

25 Mr. Gum, I'll remind you you're still under oath.

1 TIM W. GUM (Recalled),
2 the witness herein, having been previously duly sworn upon
3 his oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY EXAMINER STOGNER:

6 Q. Have you either talked to Mr. John Nichols or the
7 elder Mr. Nichols about a proposed waterflood in this pool?

8 A. No, sir, it was not a waterflood. There was some
9 mention as a response to the May, 2000, mailout that they
10 were considering pressure maintenance to re-inject gas in
11 one well, but that's the only --

12 MR. NICHOLS: That would be Neff Number 3, is the
13 well we want to inject gas into.

14 THE WITNESS: But the discussion of a waterflood
15 never has come up, as best I can recollect.

16 Q. (By Examiner Stogner) Do you remember how many
17 conversations you have had with either Mr. John Nichols or
18 the elder Nichols?

19 A. I know -- I do not believe I've had a
20 conversation with Dale personally. It was in his response
21 to the May, 2000, mailout.

22 And then the last response, was -- John, was a
23 week or so ago when we were preparing how we could
24 eliminate wells in this particular area.

25 Q. In those conversations, have you told them what

1 they have needed to do?

2 A. Yes, I've mentioned the C-108 process, how they'd
3 have to go back. But at this time it was not mentioned
4 that they were wanting to form a unit, that they just
5 wanted to use one well for pressure maintenance.

6 Q. Okay, I guess what my -- Let me restate my
7 question. Have you -- You haven't had within the
8 discussions about how to reactivate these wells, if I might
9 use that term, regardless if it was in production or
10 whatever the case may be?

11 A. Oh, yes, they've been -- in conversations that
12 they did not have to plug the wells. The wells could be
13 brought into compliance by returning them to production
14 and/or putting them into TA programs, or plug the well.

15 EXAMINER STOGNER: So Mr. Nichols, I guess at
16 this point you haven't made any kind of attempt to file for
17 an injection authority, either with us or --

18 MR. NICHOLS: No, sir.

19 EXAMINER STOGNER: -- approached the State Land
20 Office?

21 MR. NICHOLS: No, sir, not that I know of.

22 EXAMINER STOGNER: Well, essentially I have four
23 wells here that Mr. Gum has asked me to bring into
24 compliance. Are you asking for more time, or what do you
25 want to see?

1 MR. NICHOLS: I would like a little more time.
2 You know, I think in 60 days I can have everything in
3 compliance.

4 Q. (By Examiner Stogner) Mr. Gum, how does 60 days
5 sound to you?

6 A. If the wells could be brought into compliance
7 within 60 days, that would be very well received. But I
8 would like to also point out that these wells have been on
9 the list for a number of years, and the progress has not
10 demonstrated that this time-frame could be had.

11 Now, I do not know how the effort was directed on
12 bringing these wells into compliance, but past performance
13 indicates that 60 days to bring the wells in probably will
14 not happen. But if John states that that's a reasonable
15 time for him to bring the wells into compliance, I'd be
16 willing to accept that.

17 Q. So that could be something that could be entered
18 into an order issued subsequent to today's hearing, that
19 within 60 days, if the wells were in compliance, then that
20 could forego any of the fines that are being sought today;
21 but if any well has not been brought into, then the order
22 should state, or something to that effect, of the fines
23 being issued?

24 A. That's correct.

25 EXAMINER STOGNER: Okay. Mr. Nichols, how does

1 that sound?

2 MR. NICHOLS: Sounds reasonable to me.

3 EXAMINER STOGNER: Okay, that's something for me
4 to consider at this time. Do you have anything further?

5 MR. NICHOLS: No, sir.

6 EXAMINER STOGNER: Okay, this map you've given me
7 -- May I keep it?

8 MR. NICHOLS: Yes, sir.

9 EXAMINER STOGNER: With that, I have marked it
10 Nichols Exhibit Number 1, and essentially it is a -- four
11 complete sections and four half sections in this general
12 area. It looks like it's a blowup copy of what I call the
13 Midland Map area, that we're all familiar with, that shows
14 the lease boundaries and well spots of these wells and the
15 lease names.

16 At this time I'll admit Exhibit Number 1. I'll
17 call this Nichols Exhibit Number 1 in Case 12,862 and enter
18 that as part of the record at this time.

19 Is there anything further in this matter?

20 JOHN NICHOLS (Recalled),
21 the witness herein, after been previously duly sworn upon
22 his oath, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. BROOKS:

25 Q. Well, I would just ask Mr. Nichols, as I

1 understand it, you do not dispute that the Neff Number 3,
2 the Avalanche Journal Number 4, the Standard State Number
3 3, Number 6Y and the Alma Shields Number 7 are inactive; is
4 that correct?

5 A. I do not dispute that, no.

6 Q. And they have been inactive for a period in
7 excess of 15 months?

8 A. Yes, sir.

9 MR. BROOKS: Thank you, nothing further.

10 EXAMINER STOGNER: Mr. Brooks, as my standard,
11 run-of-the-mill sentence at this particular time, would you
12 provide me a rough-draft order in this matter?

13 MR. BROOKS: I will do so.

14 EXAMINER STOGNER: Okay. If there's nothing
15 further...

16 What I have asked -- Mr. Nichols, what I have
17 asked Mr. Brooks to do is provide me a rough-draft order.
18 That kind of helps me -- Actually, he's doing my job for
19 me. He will provide me an order in this matter, in which I
20 will review. And then the process after that is, my
21 recommendation would then go to our Director, Ms.
22 Wrotenbery, who will write an order on that.

23 But what I have to consider today, the testimony
24 I've heard, what I've heard from both parties, I will
25 probably make that recommendation to her from today's date,

1 the 60 days, whereby if these wells are brought into
2 compliance that you be off the hook.

3 But after that, then, I'm going to recommend what
4 Mr. Brooks -- I mean, I'm sorry, Mr. Tim Gum has requested
5 at this time, so that you're under the understanding.

6 However, there could be something else that
7 comes up. Ms. Wrotenbery has every opportunity to change
8 that, so just be aware of that.

9 With that, then this matter will be taken under
10 advisement at this time.

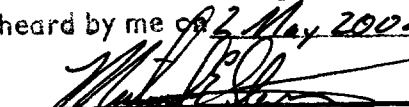
11 MR. BROOKS: Thank you.

12 MR. NICHOLS: Thank you.

13 (Thereupon, these proceedings were concluded at
14 1:46 p.m.)

15 * * *

16
17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. 12862,
heard by me on 2 May 2002 at.

21  , Examiner
Oil Conservation Division

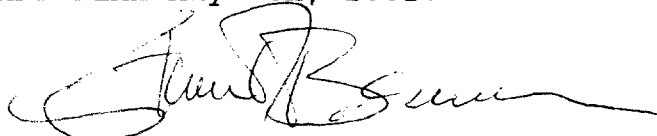
CERTIFICATE OF REPORTER

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 May 7th, 2002.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002