

1 STATE OF NEW MEXICO  
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
3 OIL CONSERVATION COMMISSION  
4 STATE LAND OFFICE BUILDING  
5 SANTA FE, NEW MEXICO

6 21 September 1989

7 COMMISSION HEARING

8 IN THE MATTER OF:

9 In the matter of the hearing called by CASE  
10 the Oil Conservation on its own motion 9769  
11 to amend General Rules 312 and 711 to  
12 require bonds for treating plants to be  
13 in place prior to the commencement of  
14 construction instead of at the time of  
15 application.

16 BEFORE: William J. Lemay, Chairman  
17 William W. Weiss, Commissioner  
18

19 TRANSCRIPT OF HEARING

20 A P P E A R A N C E S

21 For the Division: Robert G. Stovall  
22 Attorney at Law  
23 Legal Counsel to the Division  
24 State Land Office Building  
25 Santa Fe, New Mexico

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## I N D E X

ROGER C. ANDERSON

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## E X H I B I T S

Exhibit One, Document 5

Exhibit Two, Document 6

1 MR. LEMAY: We'll call next  
2 Case 9769. In the matter of the hearing called by the Oil  
3 Conservation Division of the Energy, Minerals and Natural  
4 Resources Department on its own motion to amend General  
5 Rules 3, 12 and 711 to require bonds for treating plants to  
6 be in place prior to the commencement of construction  
7 instead of at the time of application.

8 Appearances in this case?

9 MR. STOVALL: Robert G.  
10 Stovall of Santa Fe, New Mexico, on behalf of the Division.

11 I have one witness.

12 MR. LEMAY: Thank you. Are  
13 there additional appearances in the case?

14 If not, you may call your  
15 witness and have him sworn in.

16  
17 (Witness sworn.)

18  
19 ROGER C. ANDERSON,  
20 being called as a witness and being duly sworn upon his  
21 oath, testified as follows, to-wit:

22  
23 DIRECT EXAMINATION

24 BY MR. STOVALL:

25 Q Please state your name and place of

1 employment?

2 A Roger C. Anderson. I'm an Environ-  
3 mental Engineer for the Oil Conservation Division.

4 Q Have you previously testified before the  
5 Division or Commission and had your credentials accepted as  
6 a matter of record?

7 A No, I have not.

8 Q Would you please tell the Commission  
9 your educational background?

10 A I obtained a Bachelor of Science in  
11 chemical engineering from New Mexico State University in  
12 1975.

13 Q Thank you. Would you describe briefly  
14 your work experience since that time?

15 A Since that time I've worked -- I worked  
16 11 years Dowell Division of Dow Chemical as a district  
17 engineer, service manager, and manager, and 3-1/2 years for  
18 the Oil Conservation Division as an environmental engineer.

19 Q And as an environmental engineer, what  
20 have been your responsibilities?

21 A The permitting and compliance with en-  
22 vironmental rules for the Oil Conservation Division and the  
23 Water Quality Control Commission.

24 Q Are you familiar with the application  
25 for changes to Rule 312 and 711-C?

1                   A           Yes, I am.

2                                   MR. STOVALL:   Are the wit-  
3 ness' qualifications acceptable?

4                                   MR. LEMAY:   They're accept-  
5 able.

6                   Q           Mr. Anderson, I'm going to hand you what  
7 has been marked as Exhibit Number One and ask you to ex-  
8 plain, please, the purpose of the rule change as contained  
9 in Exhibit Number One, the amendments to Rule 312.

10                   A           The purpose of the rule change is to  
11 make the bonding requirements more consistent with other  
12 rules in the rule book and change the timing of the bonding  
13 requirement on a treating plant from at the time of appli-  
14 cation to prior to construction.

15                   Q           Okay, under the current rules an appli-  
16 cant is required to post a bond at the time he applies for  
17 a treating plant permit, is that correct?

18                   A           Yes, he is.

19                   Q           And what is the impact upon that upon an  
20 operator?

21                   A           If an operator is planning to construct  
22 a treating plant and he has to financially obtain a \$25,000  
23 bond before he even knows that he's going to get that ap-  
24 plication, it could be a financial burden on him.

25                   Q           And what is the purpose of the treating

1 plant bond?

2 A To assure clean up of the treating plant  
3 at cessation of operations. At the time that he applies  
4 for a treating plant permit he has no operations to clean  
5 up.

6 Q And when, from the Division's stand-  
7 point, when is it necessary that this bond be in place?

8 A When anything is being constructed on  
9 the site. If there's something that has to be cleaned up,  
10 it could be a construction of a pit or a tank or --

11 Q And that can't take place, that con-  
12 struction can't take place until a permit is issued, is  
13 that correct?

14 A They obtain a permit, that's right.

15 Q So this rule change simply says we need  
16 the bond when it serves it's purpose and not prior to that  
17 time, is that --

18 A Yes, sir.

19 Q -- the effect of it?

20 A Yes, sir.

21 Q I hand you now what's been marked Ex-  
22 hibit Two in this case and ask you to -- let me, before I  
23 do that, let me back up.

24 One further question on -- on Exhibit  
25 Number One.

1 I observe that there have been -- ap-  
2 pear to be some redesignations of paragraphs under Exhibit  
3 Number One. Would you briefly describe what is going on  
4 there?

5 A Yes, sir. Rule 312(a) is the require-  
6 ments for what must accompany a treating plant bond.

7 The Division proposes to delete sub-  
8 paragraph 6, that paragraph (a), which reads "a surety or  
9 cash bond in the amount of \$25,000 in a form approved by  
10 the Division conditioned upon compliance with the statutes  
11 of the State of New Mexico and rules of the Division and  
12 the satisfactory cleanup of the site upon cessation of  
13 operation in accordance with part (i) of this rule."

14 I believe that subparagraph entirely  
15 changed subparagraph 7 to subparagraph 6 without any  
16 changes in the paragraph, and add a new subparagraph, or a  
17 new paragraph (c), which will read "before commencing con-  
18 struction..."

19 Q Excuse me, Mr. Anderson, I think it's  
20 not necessary to read the entire rule.

21 A Okay, add the new paragraph (c) and then  
22 change the present paragraph (c) through (i) down by one  
23 letter.

24 Q Thank you. Now let's turn to Exhibit  
25 Number Two, Rule 711, and will you please explain the

1 nature of the change in that rule?

2 A It is changing paragraph -- Rule 711,  
3 Paragraph C, adding in the beginning of the paragraph,  
4 "Before commencing construction", that all surface waste  
5 disposal facilities shall have a surety or cash bond.

6 Q And why, why is that change important?

7 A In the present rule there's no time at  
8 which a bond is required. It just states that a \$25,000  
9 bond is required, and to make it consistent with the other  
10 bonding rules in Rule 312, inserting the "before commencing  
11 construction".

12 Q And is it similar logic to that in 312  
13 --

14 A Yes, sir.

15 Q -- that a bond is needed for cleanup and  
16 there's no cleanup needed until construction is commenced?

17 A Correct.

18 Q And have you reviewed Exhibits One and  
19 Two in this case as to accuracy and are you aware that they  
20 are accurate and correct?

21 A Yes, sir.

22 MR. STOVALL: I offer Exhibits  
23 One and Two into the record.

24 MR. LEMAY: Without objection  
25 Exhibits One and Two will be admitted into evidence.



1 MR. STOVALL: And I have  
2 nothing further in this case.

3 MR. LEMAY: Any questions of  
4 Mr. Anderson?

5  
6 QUESTIONS BY MR. WEISS:

7 Q What does it cost to cover a pit?

8 A It depends on the size of the pit now.  
9 What we did was about a year and a half ago when we put the  
10 \$25,000 bond on it, we took the average pit and went  
11 through the mining and minerals reclamation process and  
12 figured \$25,000 would be the amount that covered it, to  
13 clean up an average site that we have in New Mexico.

14 Q It seems like a lot.

15 A Some of the sites are pretty big that we  
16 have in New Mexico.

17

18 REDIRECT EXAMINATION

19 BY MR. STOVALL:

20 Q Let me ask you perhaps for clarification  
21 for Mr. Weiss, if in fact a pit -- would you go through the  
22 process of reclamation? What is required if the operator,  
23 first, is required to do the cleanup himself?

24 A Initially the operator, if he is still a  
25 viable operator, is required to clean up his pit after he

1 ceases operations and that is reclaiming, removing all  
2 fluids or sludges, reclaiming the site and removing all  
3 tanks.

4 Q And the bond then serves the purpose of  
5 an insurance policy, in effect --

6 A Yes, sir.

7 Q -- to insure that the Division has the  
8 money to clean up if the operator fails to do so?

9 A Yes, it does.

10 Q And is it correct they'd only use the  
11 bond to the extent necessary to clean up a pit? In other  
12 words, if a cleanup only cost \$10,000, that's all the money  
13 that would be used.

14 A That's correct.

15 MR. STOVALL: I have nothing  
16 further.

17 MR. LEMAY: Additional ques-  
18 tions of the witness?

19 He may be excused.

20 Is there anything additional  
21 in the case?

22 MR. STOVALL: Nothing further  
23 in this case.

24 MR. LEMAY: Thank you, Mr.  
25 Stovall. Does anyone have any comments in Case Number

1 9769?

2 If not, the Commission will  
3 take that case under advisement.

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5 (Hearing concluded.)

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## C E R T I F I C A T E

I, SALLY W. BOYD, C. S. R. DO HEREBY  
CERTIFY that the foregoing Transcript of Hearing before the  
Oil Conservation Division (Commission) was reported by me;  
that the said transcript is a full, true and correct record  
of the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR