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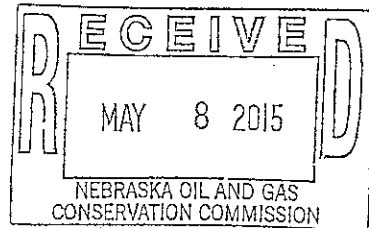
SUMMONS

Doc. No. 13248

IN THE DISTRICT COURT OF Cheyenne COUNTY, NEBRASKA
Cheyenne County District Court
PO Box 217
Sidney NE 69162 0217

Hughson Flying "A" Ranch, Inc. v. The Nebraska Oil & Gas Conservation Commission
Case ID: CI 15 69

TO: The Nebraska Oil and Gas



You have been sued by the following plaintiff(s):

Hughson Flying "A" Ranch, Inc. Jane A Grove

Plaintiff's Attorney: Thomas M Sonntag
Address: 1212 Jackson
P.O. Box 299
Sidney, NE 69162-0299
Telephone: (308) 254-4559

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: MAY 7, 2015

BY THE COURT:

Debra A. Hume
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

The Nebraska Oil and Gas
Conservation Commission
P.O. Box 399
Sidney, NE 69162

Method of service: Certified Mail

Special Instructions:

Please deliver the Summons, together with a copy of the Petition for Judicial Review.

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

Conservation Commission (hereinafter "the Commission) on April 22, 2015 in its ORDER OF THE COMMISSION.

5. That in addition to the Petitioners and The Nebraska Oil and Gas Conservation Commission, the parties appearing and involved in said case were Terex Energy Corp, a corporation, whose address is 520 Zang St., Suite 250, Broomfield, Colorado 80021 and Stevan V. Johnson, whose address is 1911 Highway 29, Mitchell, Nebraska 69357.

6. That as Neb. Rev. Stat., Section 84-917 (2) (a) (i) requires proceedings for review to be instituted in the District Court of the "...county where the action is taken..." and as The Nebraska Oil and Gas Conservation Commission held the hearing with regard to Case No. UIC 14-14 and entered its Order in Cheyenne County, Nebraska, the proper venue for this Petition for Judicial Review is the District Court of Cheyenne County, Nebraska.

7. That the Order entered in Case No. UIC 14-14 approved The Application of Terex Energy Corp., for conversion of an oil well located in Sioux County, Nebraska, to a commercial salt water disposal well, subject to conditions specified in said Order.

8. As reasons for Petitioners' belief that relief should be granted, Petitioners specifically allege as follows:

(a.) The Nebraska Oil and Gas Conservation Commission did not have jurisdiction to enter said Order, for the reason that the evidence presented to The Nebraska Oil and Gas Conservation Commission established that the well in question was to be used for the disposal of salt water produced in Colorado and Wyoming, and there were no plans initially to dispose of water produced in Nebraska.

(b.) The Commission, in reaching its decision, did not consider the following evidence presented at the hearing by your Petitioners:

1. Letter received by the Commission on February 13, 2015, from The Scotts Bluff County Commissioners;
 2. Letter received by the Commission on March 4, 2015, from The Sioux County Commissioners;
 3. Letter received by the Commission on February 17, 2015, from The Village Board of Trustees of Harrison, Nebraska;
 4. Letter received by the Commission on March 12, 2015, from The City of Mitchell, Nebraska;
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5. Letter received by the Commission on February 13, 2015, from The Mitchell Public Schools Superintendent of Mitchell, Nebraska;
 6. Letter received by the Commission on January 23, 2015, from The North Platte Natural Resources District;
 7. Letter received by the Commission on March 16, 2015, from Panhandle Public Health District; and
 8. Letter received by the Commission on March 16, 2015, from The Oglala Sioux Tribe.

(c.) In addition, in reaching its decision, the Commission did not consider its own records, although requested by your Petitioners to do so, relating to production of water from the Spotted Tail Creek Field, specifically well completion and completion reports from the following wells:

1. Laucomer 13-1
2. # 11-16-2X Bird-Corman
3. #7-16 Bird-Dietrich

4. # 13-8 Laucomer

(d.) As a result of the failure by the Commission to consider the letters and records described in paragraphs (b.) and (c.) preceding, Petitioners' witness Jenny Hughson was prevented from fully presenting at the hearing her entire testimony, although she had been verbally assured prior to the hearing that she would be allowed to do so.

(e.) The Nebraska Oil and Gas Conservation Commission was created by the Nebraska State Legislature and has only those powers given it by statute. There is no Nebraska statute that allows the Nebraska Oil and Gas Conservation Commission to approve of, and authorize, the disposal of salt water in Nebraska produced from oil and gas exploration and production activities conducted in Colorado and Wyoming.

WHEREFORE, Petitioners pray that the review in this case be conducted by the District Court without a jury de novo on the record pursuant to Neb. Rev. Stat., Section 84-917 (5) (a); and that the Order in Case No. UIC 14-14 be reversed and set aside or, in the alternative, modified so that only salt water produced from oil and gas exploration and production activities conducted in Nebraska be disposed of in the subject well.

Dated: May 6, 2015

HUGHSON FLYING "A" RANCH, INC., a
Nebraska Corporation and JANE A. GROVE,
Petitioners

BY: Thomas M. Sonntag
Thomas M. Sonntag, NSBA #13943
SONNTAG, GOODWIN & LEEF, P.C.
1212 Jackson Street, P.O. Box 299
Sidney, Nebraska 69162
(308) 254-4559

BEFORE THE NEBRASKA OIL AND GAS CONSERVATION COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
TEREX ENERGY CORP., FOR APPROVAL TO)	
CONVERT THE LAUCOMER 13-1, LOCATED)	CASE NO. UIC 14-14
IN THE NE NW OF SECTION 13, T. 25)	
N., R. 56 W., SIOUX COUNTY,)	ORDER NO. R-890
NEBRASKA, TO A SALT WATER DISPOSAL)	
WELL, IN ACCORDANCE WITH CHAPTER 4)	
OF THE RULES AND REGULATIONS OF THE)	
NEBRASKA OIL AND GAS CONSERVATION)	
COMMISSION.)	

ORDER OF THE COMMISSION

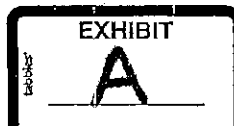
BY THE COMMISSION:

This cause came on for hearing at 2:00 p.m., March 24, 2015, at Sidney, Nebraska, before the Nebraska Oil and Gas Conservation Commission, hereinafter referred to as the "Commission."

NOW, on this 24th day of March, 2015, the Commission, a quorum being present, having considered the application; the application; the evidence presented by the Applicant, represented by Steven F. Mattoon and Justin Huber, Attorneys at Law; the Commission's Well File on the Laucomer 13-1; the objections of Lee M. Hughson and Jenny M. Hughson, owners of the Hughson Flying "A" Ranch, Inc., Rick and Jane Grove, represented by Thomas Sonntag, Attorney at Law, and Stevan V. Johnson; the testimony of David Laucomer, Vice President and Manager of FX Land Company, the surface owner of the proposed salt water disposal well, represented by John A. Selzer, Attorney at Law; the recommendation of the Commission staff; and being fully advised in the premises, the Commission finds as follows:

FINDING OF FACTS

1. The application with supporting exhibits (together "the Application") of Terex Corp for conversion of the Laucomer 13-1 well, in the NE NW of Section 13, T. 25 N., R. 56 W., Sioux County, Nebraska, to a commercial salt water disposal well was received by the Commission November 10, 2014.
2. The Application provided the following:
 - a. A plat outlining the area which will be affected by the proposed operation and showing all governmental quarter sections or equivalent lots thereto directly or diagonally offsetting said area. The names of the owner or operator of each separate tract of land shall be shown, and all wells, including dry, abandoned or drilling wells shall be properly located and designated on said plat.
 - b. The names and addresses of each person owning a fee, leasehold, mineral or royalty interest within one-half (1/2) mile of each injection well or within the area required to be shown on the plat, whichever is the greater.
 - c. A full description of the operation for which approval is sought.
 - d. The name and address of the operator of the project.
 - e. A copy of the completion report and any available



electric or radioactivity logs for the Laucomer 13-1.

- f. A schematic diagram of each well showing:
 - i. The total depth or plug-back of the well.
 - ii. The depth of the injection or disposal interval.
 - iii. The geological name of the injection or disposal zone.
 - iv. A geologic description of the injection or disposal zone including the location and extent of any known faults or fracture systems.
 - v. The depths of the tops and bottoms of the casing and cement used in the well.
 - vi. The size and specifications of the casing and tubing, and the setting depth and type of packer.
- g. Information showing that injection into the proposed zone would not initiate vertical fractures into or through the overlying strata which could enable the injected fluids or formation fluids to enter any fresh water strata.
- h. Information that no unplugged wells exist which would allow the migration of the injected fluids or formation fluids to enter any fresh water strata.
- i. Information regarding the fracture pressures of the injection zone and the overlying strata, including the source of such information.
- j. Proposed operating data:
 - i. Maximum designed or proposed daily injection rates and injection pressures.
 - ii. The source of any fluids to be injected.
 - iii. Analysis of a representative sample of the fluids to be injected.
 - iv. Analysis of fresh water from two or more freshwater wells within one mile of the proposed injection well showing the location of the wells and the dates the samples were collected.
 - v. Geological name of the lowest freshwater zone, if known, and the depth to the base of the freshwater zone.
 - vi. The vertical distance separating top of the injection zone and the base of the lowest freshwater strata.

3. A Certificate of Mailing and Notice were received from Applicant on January 13, 2015, stating they had mailed on December 8, 2014, a copy of the Notice of Hearing, which hearing was set for January 27, 2014, to those persons ("the Interested Person") required to receive notice by the Rules and Regulations of the Nebraska Oil and Gas Conservation Commission.

4. Notice of filing of the application and time and place of hearing was given in a legal notice published December 24, 2014, in the Crawford Clipper/Harrison Sun. That objections were filed to said case by Ross and Sharon Corman, Bruce Corman, Rick and Jane Grove, Hughson Flying "A" Ranch, Inc., and Stevan A. Johnson.

5. The Applicant supplied a Certificate of Mailing and Notice stating Notice of the hearing set for January 27, 2014, was mailed to Interested Parties on January 5, 2014.

6. A Notice of Continuance dated January 20, 2015, was signed by William H. Sydow, Director of the Commission, continuing hearing of the Application until February 24, 2015, for lack of a quorum.

7. A Notice of Continuance dated February 13, 2015, was signed by William H. Sydow, Director, continuing hearing on the Application until March 24, 2015, again, for lack of a quorum.

8. Hearing on the Application was held March 24, 2015, at the offices of the Commission in Sidney, Nebraska.

9. The Commission has jurisdiction of this cause and of all persons interested therein and is authorized by law to enter this Order.

10. The subject matter of the Application is the operation of one salt water disposal well, located as follows:

T. 25 N., R. 56 W., Sioux County, Nebraska
Section 13: NE NW

11. The proposed salt water disposal well is to be a commercial disposal well and the injected water will be the produced water from various oil and gas wells delivered to the disposal well by truck.

12. The trucks delivering the water will not be owned or operated by the Applicant.

13. Analyses of water from the Silo Field, one of the possible sources of produced water proposed to be injected, were offered and accepted into evidence.

14. Analyses of fresh water from two freshwater wells within one mile of the proposed injection well showing the location of the wells and the dates the samples were collected, were offered and accepted into evidence.

15. The Chadron and Arikaree formations are water bearing formations of less than 3,000 ppm in the location of the Laucomer 13-1 with the base of the Arikaree formation found at 300 feet below the surface. There is an interval of 5,800 feet between the base of the Arikaree formation and the top of the proposed disposal zone in the Spearfish Formation.

16. There are no known faults or fracture systems in any formation above the Spearfish Formation which would allow injected fluids to migrate into any fresh water zone.

17. Analysis of water from the Spearfish Formation in the Laucomer 13-1 indicated 21,200 ppm.

18. No evidence was produced that the Ogallala aquifer exists in the Laucomer 13-1. The Chadron and Arikaree formations are water bearing formations of less than 3,000 ppm in the location of the Laucomer 13-1 which must be protected.

19. In the Laucomer 13-1, 10 $\frac{1}{2}$ " surface casing extends from the surface to 603 feet below the surface and is cemented to the

surface; and 7" intermediate casing is cemented from 7,926 feet to the surface.

20. The fracture pressure of the Spearfish Formation is more than 4,329 psig.

21. No unplugged wells exist which would serve as a conduit to allow injected water to flow from the Spearfish Formation into any overlying fresh water zone.

22. A security plan is proposed so that the facility site will be physically secured at all times.

23. Lack of salt water disposal wells inhibits production of oil and gas. Only one other commercial disposal well exists in the panhandle of Nebraska and it is located near Kimball, Nebraska. Waste will occur if exploration and production cannot occur because there is no local site to dispose of produced water in the northern panhandle of Nebraska.

24. All Interested Parties were allowed to testify.

25. The FX Land Company owns the surface where the Laucomer 13-1 is located along with 30,000 additional acres. The family which owns the FX Land Company has owned the surface for 108 years and plan to continue owning and operating it in succeeding generations. The surface owner has no objection to the Application and supports the project.

26. The Nebraska Department of Roads filed no objection to the Application.

27. The Scotts Bluff County Commissioners, the Sioux County Commissioners, the Village of Harrison, the City of Mitchell, the Mitchell Public Schools, the North Platte NRD, the Panhandle Public Health District, and the Oglala Sioux Tribe do not own a fee, leasehold, mineral, or royalty interest within one-half mile of the Laucomer 13-1 well, and therefore do not have standing as "Interested Parties".

28. The disposal of water into the Spearfish Formation is feasible, protective of correlative rights, will prevent waste, will not flow from the receiving zone into any other zone or formation, and should be approved.

CONCLUSIONS OF LAW

1. It is in the public interest to foster, to encourage and to promote the development, production and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that the greatest ultimate recovery of oil and gas be had; and that the correlative rights of all owners be fully protected; and to encourage and to authorize cycling, recycling, pressure maintenance and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the end that the landowners, the royalty owners, the producers and the general public realize and enjoy the greatest possible good from these vital irreplaceable natural resources. Neb. Rev. Stat. § 57-901.

2. All rules and regulations of a general nature promulgated to prevent waste and to conserve oil and gas in the State of Nebraska shall be effective throughout the State of Nebraska and be in force in all pools and fields except as they may be amended, modified, altered or enlarged generally or in specific individual pools or fields by orders issued by the Commission and except where special field rules apply, in which case the special field rules shall govern to the extent of any conflict. Rule 2-001 of Title 267 Rules and Regulations of the Nebraska Oil and Gas Conservation Commission.
3. The Commission shall have jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of sections 57-901 to 57-921. Neb. Rev. Stat. § 57-905(1)
4. The Commission shall have authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission. Neb. Rev. Stat. § 57-905(2)
5. The Commission shall have authority in order to prevent waste, to regulate:
 - (a) The drilling, producing and plugging of wells, or test holes, and all other operations for the production of oil or gas;
 - (b) the shooting and chemical treatment of wells;
 - (c) the spacing of wells;
 - (d) operations to increase ultimate recovery such as, but without limitation, the cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and
 - (e) disposal of oilfield wastes, including salt water. Neb. Rev. Stat. § 57-905(4)
6. In the conduct of oil and gas operations, each owner shall exercise due care in the protection of water-bearing formations as required by the applicable statutes of the State of Nebraska. Rule 2-006 of Title 267 Rules and Regulations of the Nebraska Oil and Gas Conservation Commission.
7. Waste of oil and gas, or either of them, is prohibited in the State of Nebraska. Neb. Rev. Stat. § 57-902.
8. Waste is defined in the Nebraska Revised Statutes as:
 - (a) Waste, as applied to oil, shall include underground waste, inefficient, excessive, or improper use, or dissipation of reservoir energy, including gas energy and water drive, surface waste, open pit storage, and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open pit storage, reasonably necessary for building up or maintaining crude stocks and products thereof for consumption, use, and sale;
 - (b) waste, as applied to gas shall include (i) the escape, blowing, or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas

from wells producing oil or both oil and gas and (ii) the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced, but excluding gas that is reasonably necessary in the drilling, completing, testing, and producing of wells and gas unavoidably produced with oil if it is not economically feasible for the producer to save or use such gas; and

(c) waste shall also mean the abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas therefrom causing reasonably avoidable drainage between tracts of land or resulting in one or more owners in such pool producing more than his or her just and equitable share of the oil or gas from such pool. Neb. Rev. Stat. § 57-903.

9. Interested Party means any person owning a fee, leasehold, mineral or royalty interest within one-half (1/2) mile of the proposed disposal well. Rule 6-006.05 of Chapter 6 Title 267 Rules of Practice and Procedure before the Oil and Gas Conservation Commission of the State of Nebraska.
10. There is no prohibition in Nebraska law concerning disposal of produced water from oil and gas wells outside of Nebraska in a Nebraska salt water disposal well.
11. The Commission does not have jurisdiction over usage of the roads and highways of the State of Nebraska, Sioux County, or Scottsbluff County.

ORDER

IT IS THEREFORE ORDERED:

1. That the application of Terex Energy Corp. for conversion of the Laucomer 13-1 well in the NE NW of Section 13, T. 25 N., R. 56 W., Sioux County, Nebraska, to a commercial salt water disposal well, is hereby approved subject to the following conditions:
 - a. That the proposed commercial disposal well shall be operated and monitored at all times in accordance with the appropriate rules and regulations of the Commission and the terms of this Order.
 - b. That the proposed commercial disposal well is constructed as follows: In the Laucomer 13-1, API#26165211640000, approximately 603 feet of 10 $\frac{3}{4}$ " 40.4 LB/FT J-55 steel casing is cemented to the surface with 360 sacks. The injection casing is 7" LTC 23 LB/FT J-55 steel casing that has been run through the Spearfish Formation to approximately 7,904 feet and cemented with 1,275 sacks, bringing the cement top to the surface. That the cement bond shall be sufficient to ensure that no injected fluids will migrate from the disposal zone into any fresh water zone before further completion operations or injection are commenced.
 - c. That injection shall be through tubing and packer with the packer set at approximately 6000-6050 feet.

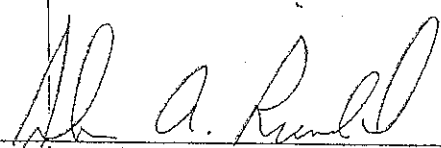
- d. That the maximum authorized injection pressure at the surface shall not exceed 1,500 pounds at the surface and the rate of injection shall not exceed 5,000 barrels per day.
- e. That upon completion of the well, all reports shall be filed as required by the rules and regulation of the Commission and the casing shall be pressure tested as required by Chapter 4, Rule 006.01C, or as required by any subsequent orders issued by the Commission.
- f. That aboveground extensions shall be installed in each annulus in the well and on each injection tubing string with each extension fitted with a valve and a one-fourth inch female fitting for pressure monitoring.
- g. That the injection pressure and the casing annulus pressure shall be monitored no less than once each week and reported monthly.
- h. That all monitoring and reporting shall be in compliance with the appropriate rules and regulations.
- i. That the injection casing shall be pressure tested, or the mechanical integrity proven by other tests approved by the Director, not less than once each year under the supervision of the Director.

2. That the Commission shall retain jurisdiction of this matter and may modify, revoke, and reissue or terminate this authority for cause upon the request of any Interested Person or at the Commission's initiative.

DONE, at Sidney, Nebraska, on the 22nd day of April 2015.

STATE OF NEBRASKA

OIL AND GAS CONSERVATION COMMISSION



John A. Rundel, Commissioner



Thomas D. Oliver, Commissioner