

**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. 14583
ORDER NO. R-13427**

**APPLICATION OF FARLEIGH OIL PROPERTIES FOR A
COMPLIANCE ORDER AGAINST SWEPI LP AND SHELL
EXPLORATION AND PRODUCTION COMPANY,
GUADALUPE COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 26, 2011, at Santa Fe, New Mexico, before Examiner Terry Warnell.

NOW, on this 15th day of July, 2011, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

- (1) Due notice has been given, and the Division has jurisdiction of the subject matter of this case.
- (2) Farleigh Oil Properties ("Applicant") filed this application seeking an order to compel SWEPI LP and Shell Exploration and Production Company (collectively "Respondents") to comply with Division reporting requirements, including the filing of well logs and test data, regarding five wells operated by Respondents in Guadalupe County, New Mexico.
- (3) Bayswater Exploration and Production, LLC ("Bayswater") and the New Mexico Oil Conservation Division (through its Compliance and Enforcement Manager) (collectively "Intervenors") intervened in this case in support of the Application.
- (4) This case was originally set for hearing on December 16, 2010, and has been continued numerous times. The Division's hearing examiners have conducted two pre-hearing conferences in an effort to resolve the issues raised in the application, and

apparently several meetings have occurred among counsel for the parties without the participation of a Division hearing examiner. Respondents have furnished various supplemental documents and information.

(5) Respondents have filed a Motion to Dismiss the Application, contending that regardless of what may have been the case when the Application was filed, Respondents are now in compliance. Respondents appeared at the hearing on May 26, 2011, through counsel, and urged their Motion to Dismiss.

(6) In advance of the hearing, the Division's Compliance and Enforcement Manager, through counsel, filed a written statement indicating the Division would not appear at the hearing or present evidence, and the Division did not do so.

(7) At the hearing Applicant and Intervenor, Bayswater, appeared through counsel, but declined to go forward and present any evidence.

(8) Intervenor Bayswater urged the Division to take administrative notice of the case file and of the well files for the subject wells, and the Division did so. Intervenor Bayswater further urged the Division to make findings concerning the timeliness of Respondents' compliance with Division rules.

The Division concludes that:

(9) The Division has not, after examination of the well files for the subject wells, identified any deficiency in the current state of Respondent's compliance with Division reporting rules.

(10) On this record, the Division cannot conclude that Respondents are now out of compliance with any reporting requirement.

(11) The Division has no power, through the administrative hearing process, to penalize an operator for past infractions, if any have occurred. *Marbob Energy Corporation v. Oil Conservation Commission* 146 N.M. 24, 206 P.3d 135 (Sup. Ct. 2009). Accordingly, the issue of timeliness of Respondents' compliance is moot.

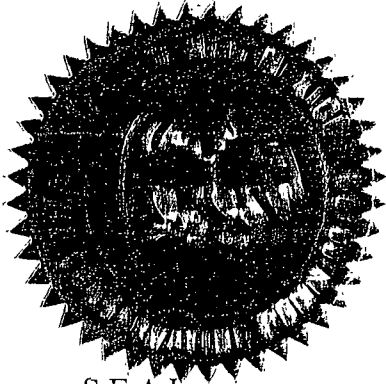
IT IS THEREFORE ORDERED THAT:

(1) The Application of Farleigh Properties for a compliance order against SWEPI LP and Shell Exploration and Production Company is dismissed.

(2) Since the issue of when compliance was achieved is moot, the Division declines to make any advisory findings thereon.

(3) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in cursive script, appearing to read "Jami Bailey".

JAMI BAILEY
Director