

**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. 13846
ORDER NO. R-12720**

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR
A COMPLIANCE ORDER AGAINST C. W. TRAINER, LEA COUNTY, NEW
MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 18, 2007, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 23rd day of February, 2007, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

- (1) Due public notice has been given, and the Division has jurisdiction of this case and of the subject matter.
- (2) C.W. Trainer of Midland, Texas ("Operator"), is the operator of the following oil or gas wells in Lea County, New Mexico (the "subject wells"):

| <u>Name</u> | <u>Location</u> | <u>API No.</u> |
|---------------------------|-----------------|----------------|
| Gulf State Com Well No. 1 | 1-4-15S-35E | 30-025-23525 |
| Harris Federal Well No.1 | O-5-22S-34E | 30-025-28551 |
| Morse Well No. 1 | E-27-10S-37E | 30-025-04991 |
| State GB Well No. 1 | C-16-15S-36E | 30-025-03689 |

- (3) The Oil Conservation Division (the "Division") filed this application seeking an order pursuant to Section 70-2-14 NMSA 1978 and Division Rule 101.H directing Operator to properly plug and abandon the subject wells, or otherwise bring the

subject wells into compliance with Division Rule 201, by a date certain, and, in event of Operator's failure to comply with such order, forfeiting Operator's financial assurance. The Division also seeks assessment of civil penalties by reason of the Operator's failure to bring the subject wells into compliance with Rule 201.

(4) The Division presented evidence that demonstrated the following:

(a) The subject wells have been inactive for a continuous period exceeding one year plus 90 days. None of the subject wells has been plugged and abandoned in accordance with Division Rule 202, nor is any of them currently in approved temporary abandonment status in accordance with Division Rule 203.

(b) On October 23, 2004, Operator entered into Inactive Well Agreed Compliance Order NMOCD-ACO-04-007 ("ACOI 7") by which Operator agreed to return three of the subject wells to compliance with Rule 201 on or before December 31, 2005. Operator failed to comply with ACOI 7 and was assessed, and paid, a \$1,000 penalty under the terms of that Order.

(c) On or about December 6, 2005, Operator entered into Inactive Well Agreed Compliance Order NMOCD-ACO01-04-07-A ("ACOI 7-A") by which Operator agreed to return all of the subject wells to compliance by June 30, 2006. Operator failed to comply with ACOI 7-A and was assessed, and paid, a \$5,000 penalty under the terms of that Order.

(d) On or about July 18, 2006, and again on or about August 25, 2006, the Division mailed to Operator Notices of Violation specifically informing Operator that the subject wells remained out of compliance with Rule 201.

(e) As of the date of the hearing, the subject wells remained out of compliance.

(f) Operator has furnished financial assurance to the Division to secure its obligation to properly plug and abandon wells that it operates, as required by Section 70-2-14 NMSA 1978 and by Division Rule 101. Operator's financial assurance consists of a blanket surety bond in the amount of \$50,000, being Bond No. B001539, issued by U.S. Specialty Insurance Company.

(5) Operator appeared at the hearing by counsel but did not offer any evidence.

(6) Division Rule 101.H authorizes the Director to order the operator to plug and abandon any well not in compliance with Rule 201, and to restore the location thereof, by a date certain, and further authorizes the Director to forfeit the operator's financial assurance upon failure or refusal of the operator or its surety to comply.

(7) Section 70-2-31(A) NMSA 1978 provides that any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation, and that, in the case of a continuing violation, each day of violation shall constitute a separate violation.

(8) The evidence in this case demonstrates that the continued failure of Operator to bring the subject wells into compliance with Rule 201 during the period of time from June 30, 2006, when ACOI-7A expired, to January 18, 2007, the date of the hearing, was a knowing and willful violation of that Rule.

(9) A civil penalty, pursuant to Section 70-2-31(A) should be assessed against Operator for its knowing and willful failure to bring the subject wells into compliance with Rule 201 during the period of time described in Finding Paragraph (8), in the amount of Five Thousand Dollars (\$5,000).

IT IS THEREFORE ORDERED THAT:

(1) Operator shall properly plug each of the subject wells, in accordance with Division Rule 202.A and 202.B(1) and (2), and a plugging procedure approved by the Hobbs District Office of the Division, or shall otherwise bring each of the subject wells into compliance with Rule 201, on or before May 31, 2007.

(2) Operator shall restore the well sites of the subject wells in the manner and within the time provided in Division Rule 202.B(3).

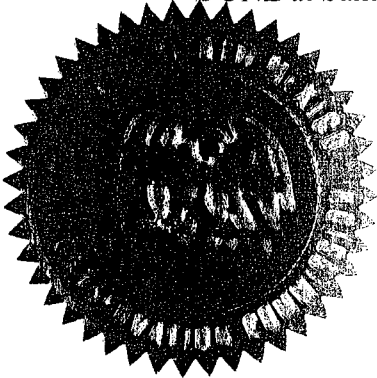
(3) In the event that Operator and its surety fail to comply with Ordering Paragraphs (1) or (2) within the time provided, the Division may proceed to plug and abandon the subject wells, and/or to restore the well sites, and the bond described in finding (4)(f) of this Order shall be forfeited to the Division. If the Division incurs costs in plugging the subject wells or restoring the wells sites exceeding the amount recoverable from the surety, the Division may recover the excess costs so incurred from the Operator.

(4) A civil penalty is assessed against Operator in the amount of Five Thousand Dollars (\$5,000) by reason of Operator's knowing and willful failure to return the subject wells to compliance with Division Rule 201 for the period from June 30, 2006 to January 18, 2007.

(5) Operator shall pay the penalty provided in Ordering Paragraph (4) by delivery of a certified check or cashier's check to the Division's Santa Fe Office within thirty days from the date that this Order is issued.

(6) 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.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Mark E. Fesmire
MARK E. FESMIRE, P.E.
Director