

**STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION**

**CASE NO. 12458
ORDER NO. R-11519**

IN THE MATTER OF THE HEARING CALLED BY THE NEW MEXICO OIL CONSERVATION DIVISION ("DIVISION") THROUGH THE SUPERVISOR OF DIVISION DISTRICT II IN ARTESIA, NEW MEXICO ON ITS OWN MOTION FOR AN ORDER: (I) REQUIRING DELMAR W. BERRY TO PROPERLY PLUG AND ABANDON TWO CERTAIN WELLS IN CHAVES AND EDDY COUNTIES, NEW MEXICO; OR (II) AUTHORIZING THE DIVISION TO PLUG AND ABANDON THESE WELLS.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 11, 2001, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 31st day of January, 2001, 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 its subject matter.

(2) Delmar W. Berry of Alto, New Mexico is the current owner and operator of the two following-described wells:

- (a) Quail State Well No. 1 (API No. 30-015-22008), located 990 feet from the South line and 1650 feet from the West line (Unit N) of Section 8, Township 17 South, Range 28 East, NMPM, Eddy County, New Mexico; and
- (b) State "A" Well No. 1 (API No. 30-005-60282), located 1980 feet from the South and West lines (Unit K) of Section 2, Township 15 South, Range 29 East, NMPM, Chaves County, New Mexico.

(3) At this time neither well is covered by a plugging bond and both are therefore not in compliance with Section 70-2-14, NMSA 1978, and Division Rule 101.

(4) At this time, the Division seeks an order directing the operator to plug the above-described wells in accordance with a Division-approved plugging program and, if the operator fails to do so, authorizing the Division to proceed to plug and abandon these wells, order the recovery of the plugging costs, and impose a fine on the operator for failure to comply with this order.

(5) This matter was styled such that in the absence of objection this case would be taken under advisement. Representatives of the Division's district office in Artesia (District II) and the Division's office in Santa Fe prepared a detailed report and summary supporting its position that the subject wells should be plugged and abandoned.

(6) The operator did not appear at the hearing.

(7) These wells have not produced hydrocarbons and have been inactive for more than one year, and no permit for temporary abandonment has been requested by the operator or approved by the Division.

(8) By virtue of the failure to use the subject wells for beneficial purposes or to have approved temporary abandonment permits, the subject wells are presumed to have been abandoned by Delmar W. Berry.

(9) The current conditions of these wells are such that if action is not taken to properly plug and abandon these wells, waste will probably occur, correlative rights will also be violated, livestock and wildlife may be subject to harmful contaminants, and fresh waters may be in danger of contamination.

(10) In order to prevent waste and to adequately protect correlative rights and the environment, both of the above-described wells should be plugged and abandoned by Delmar W. Berry in accordance with a program approved by the supervisor of the Division's Artesia District Office on or before March 1, 2001.

(11) Should Delmar W. Berry not meet this March 1, 2001 plugging obligation, the Division Director should then be authorized to take such action as is deemed necessary to recover from the operator the plugging costs incurred by the Division.

IT IS THEREFORE ORDERED THAT:

(1) Delmar W. Berry of Alto, New Mexico is hereby ordered to plug and abandon the two following-described wells on or before March 1, 2001:

- (a) Quail State Well No. 1 (**API No. 30-015-22008**), located 990 feet from the South line and 1650 feet from the West line (Unit N) of Section 8, Township 17 South, Range 28 East, NMPM, Eddy County, New Mexico; and
- (b) State "A" Well No. 1 (**API No. 30-005-60282**), located 1980 feet from the South and West lines (Unit K) of Section 2, Township 15 South, Range 29 East, NMPM, Chaves County, New Mexico.

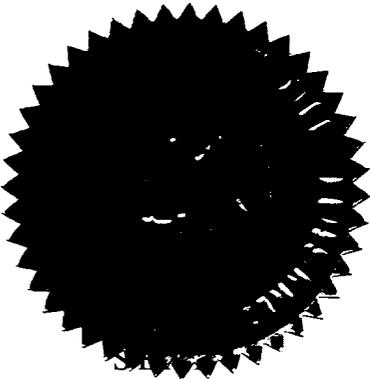
(2) Delmar W. Berry, prior to plugging and abandoning the above-described wells, shall obtain from the supervisor of the Division's district office in Artesia, an approved plugging program and shall notify the Artesia District Office of the date and time this work is to commence whereupon the Division may witness such work.

(3) Should Delmar W. Berry fail or refuse to carry out such provisions in accordance with the terms of this order, the Division shall then take such actions as are necessary to: (i) have this well properly plugged and abandoned; and (ii) recover from the operator the plugging cost incurred by the Division.

(4) Failure to comply with the provisions of this order shall subject Delmar W. Berry to a fine of \$1,000.00 per day per well until such work is completed (see Section 70-2-31, NMSA 1978).

(5) 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


LORI WROTENBERY
Director