

**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. 12587

**APPLICATION OF SAPIENT ENERGY CORP. FOR AN
UNORTHODOX GAS WELL LOCATIONS AND (i) TWO
NON-STANDARD 160-ACRE GAS SPACING UNITS;
OR IN THE ALTERNATIVE (ii) ONE NON-STANDARD
160-ACRE GAS SPACING AND PRORATION UNIT,
LEA COUNTY, NEW MEXICO.**

CASE NO. 12605

**APPLICATION OF SAPIENT ENERGY CORP.
FOR SPECIAL POOL RULES,
LEA COUNTY, NEW MEXICO**

**MOTION OF
SAPIENT ENERGY CORP.
FOR STAY OF
DIVISION ORDER NO. R-11652**

SAPIENT ENERGY CORP. ("Sapient"), through its attorneys, Kellahin & Kellahin, and in accordance with 19 NMAC 15.N.1220.B, hereby moves the Oil Conservation Division and the Oil Conservation Commission for an order staying Oil Conservation Division Order No. R-10731 pending **De Novo** review by the Commission;

AND IN SUPPORT STATES:

1. Sapient Energy Corp. had sought approval by the Division:
 - (a) of an unorthodox gas well location for its Bertha J. Barber Well No 12 ("Barber 12 Well") which is located at an unorthodox gas well location 330 feet from the north line and 660 feet from the east line of Section 7, T20S, R37E, Lea County, New Mexico;

(b) to be dedicated to a non-standard 160-acre gas proration and spacing unit consisting of the E/2E/2 this section for production from the West Monument-Tubb Gas Pool **retroactive to the date of first production (September 9, 1999)**;

(c) should the Division approve a non-standard 160-acre spacing and proration unit consisting of the E/2E/2 of Section 7, then the applicant seeks the approval of a second non-standard 160-acre proration and spacing unit consisting of the W/2E/2 of this section;

(d) in the alternative, applicant requests that the Division adopt special rules and regulations for the West Monument-Tubb Gas Pool, including a provision for standard 80-acre spacing units.

2. Conoco Inc., as the owner of a 37.41862% working interest in the W/2NE/4, appeared in opposition to Sapient contending Sapient should be required to form a 160-acre spacing unit consisting of the NE/4 of Section 7 and thereby allowing Conoco to share in 18.70931% of the production from the Barber Well.

3. By Order R-11652, entered effective September 13, 2001, the Division **denied** Sapient's application and, among other things, ordered Sapient to: "...shut-in the Bertha J. Barber Well No. 12 until such time as all production from this well has been appropriately reallocated to all of the mineral interest owners in the standard 160-acre unit comprising the NE/4 of Section 7, either by voluntary agreement of all such owners or by a compulsory pooling order."

4. Sapient has filed for a DeNovo hearing of these cases before the New Mexico Oil Conservation Commission ("Commission") requesting a hearing on November 9, 2001.

5. Sapient seeks a stay of Division Order R-11652 to enable it to continue to produce its Bertha J. Barber Well No. 12 ("Barber Well") pending a final order of the Commission in these matters.

SHUT-IN WILL DAMAGE THIS WELL

6. Prior to the Division order, Sapient had commenced rework operations on the Barber Well including acidizing the Tubb formation in this wellbore. Unless Order R-11652 is stayed, Sapient will be required to shut-in the well and leave fluids and substances in the formation which can jeopardize Sapient's ability to restore this well to production; **See Exhibit 1.**

CONOCO'S CORRELATIVE RIGHTS ARE PROTECTED

7. Conoco's correlative rights will not be impaired by allowing the Barber Well to continue to produced because:

(i) should Conoco ultimately prevail, then it is in Conoco's best interests to not risk reducing the ultimate recovery from the well by shutting it in and risking damaging its ability to produce.

(ii) there is sufficient remaining recoverable gas to be produced by the Barber Well, provided it is not shut-in, that should Conoco ultimately prevail then it can receive its appropriate share of both past and future production;

SAPIENT EXPECTS TO PREVAIL AT A HEARING BEFORE THE COMMISSION

Proportioning:

8. Among other problems, Division Order R-11652 fails to comply with NMSA (1978) Section which requires:

"A. ..., so far as it is practicable to do so, afford to the owner of each property in a pool the opportunity to produce its just and equitable share of the oil or gas, or both, in the pool, being the amount, so far as can be practically determined, and so far as such can be practicably obtained without waste, **substantially in the proportion that the quantity of the recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool...**" [emphasis added]

B. ...may establish a proration unit for each pool, such being the area that can be efficiently and economically drained and developed by one well...."

9. The Division denied Sapient's request that the Division adopt rules and regulations for the production of gas from the West Monument-Tubb Gas Pool including a provision for standard 80-acre gas spacing and proration units.

10. Sapient contends that spacing units consisting of 80-acres formed as described in paragraph (8) above satisfy the statutory requirements set forth in Section 70-2-17 NMSA (1978).

Prior Division approvals:

11. Sapient relied upon the Division's approvals set forth in paragraph (18) below, and to now require Sapient to obtain further approvals for this well will cause Sapient to be damaged and irreparably harmed.

12. By letter dated October 11, 2000, Chevron USA Production Company filed an administrative application with the Division seeking approval of an unorthodox gas well location for its G. C. Matthews Well No. 12, 330' FSL & 990' FEL Unit P, Section 6, T20S, R37E, to be dedicated to a standard 160-acre gas spacing consisting of the SE/4 of this section for production from the West Monument-Tubb Gas Pool.

13. Chevron sent notification of its application to Falcon Creek Resources, Inc. ("now Sapient Energy Corp.") as the offsetting operator of the Bertha J. Barber Well No. 12 ("the Barber 12 Well"), Unit A of Section 7, T20S, R37E, towards whom the Chevron well will encroach.

14. On August 21, 1999, Cross Timber recompleted the Barber 12 Well from an oil well to a producing gas well in the Tubb gas formation.

15. On January 6, 2000, in Case 12321, the Division issued Order R-11304 which approved the creation of the West Monument-Tubb Gas Pool, designated the E/2 of Section 7 as the acreage for the new pool and **approved** the Barber 12 Well as the discovery well for this pool.

16. On April 1, 2000, Falcon Creek Resources, Inc. ("Falcon Creek") acquired the Bertha J. Barber Well No. 12 from Cross Timbers Operating Company ("Cross Timbers").

17. On July 14, 2000, Sapient Energy Corp. ("Sapient") acquired this well from Falcon Creek.

18. As a result of Chevron's application, Sapient has determined from an examination of the Division files the following:

(a) Cross Timbers filed a C-103 (Sundry Notice) dated August 10, 1999, being a notice of intention to recomplate the Bertha J. Barber Well No. 12 in Tubb formation. **Approved** by Paul Kautz (OCD-Hobbs on September 20, 1999)

(b) Cross Timbers filed a C-105 dated September 9, 1999, being a Tubb gas well recompletion report;

(c) Cross Timbers filed a C-103 (Sundry Notice) dated September 9, 1999, being a report that it had recompleted the Bertha J. Barber Well No. 12 in Tubb formation. **Approved** by Paul Kautz (OCD-Hobbs on September 20, 1999)

(d) Cross Timbers filed a C-102 dated September 9, 1999, showing an unorthodox Tubb gas well location and the dedication of a non-standard 160-acre spacing unit consisting of the E/2E/2 of Section 7;

(e) on September 20, 1999, the Division (OCD-Hobbs) **approved** Cross Timbers' C-103 to recomplate this oil well at an unorthodox gas well location in the Tubb formation with a 160-acre non-standard acreage dedication consisting of the E/2E/2 of Section 7;

(f) on September 20, 1999, the OCD-Hobbs **approved** Cross Timbers' C-104 (allowable request) which shows this well as a Wildcat Tubb gas well.

(g) on April 14, 2000, the OCD-Hobbs **approved** Falcon Creek's C-104 (allowable request) which shows this well to be in the West Monument Tubb Gas Pool.

retroactivity:

19. From the date of first production, Cross Timbers, Falcon Creek and now Sapient has paid and distributed proceeds from the Tubb formation production from the Barber 12 Well to the mineral owners in the E/2E/2 of this section.

20. The Division has exceeded its authority to require the retroactive reallocation of production and proceeds from this well including but not limited to the dates preceding the Division's designation of Sapient as the operator of the Barber Well.

NOTIFICATION

21. Counsel for Sapient has notified counsel for Conoco Inc. of this request and is and awaiting a response to determine if this motion is opposed.

CONCLUSION

22. Sapient has a right to have these issues reviewed **De Novo** by the Commission.

23. A stay of Order R-11652 until and order is entered by the Commisismo after the **De Novo** review will protect the rights of the interest owners in this spacing unit and afford them the **De Novo** hearing as guaranteed by the Oil and Gas Act. **See Exhibit 2 attached.**

WHEREFORE, Sapient Energy Corp. request that Oil Conservation Division Order R-11652 be stayed in its entirety pending a **De Novo** review by the Oil Conservation Commission.

Respectfully submitted,



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P. O. Box 2265
Santa Fe, New Mexico 87504-2265
ATTORNEYS FOR SAPIENT ENERGY CORP.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Stay was hand-delivered this 19th day of September 2001 to William F. Carr, Esq. attorney for Conoco Inc.

A handwritten signature in black ink, appearing to read "W. Thomas Kellahin", written over a horizontal line.

W. Thomas Kellahin