

**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:**

**APPLICATION OF SAPIENT ENERGY CORPORATION FOR CASE NO. 12587
AN UNORTHODOX GAS WELL LOCATION AND: (i) TWO
NON-STANDARD 160-ACRE GAS SPACING UNITS; OR IN
THE ALTERNATIVE (ii) ONE NON-STANDARD 160-ACRE
GAS SPACING UNIT AND PRORATION UNIT, LEA COUNTY,
NEW MEXICO.**

**APPLICATION OF SAPIENT ENERGY CORPORATION FOR CASE NO. 12605
SPECIAL POOL RULES, LEA COUNTY, NEW MEXICO.**

ORDER NO. R-11652

ORDER OF THE DIVISION

BY THE DIVISION:

These cases came on for a special hearing at 9:00 a.m. on March 1, 2001, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 13th day of September, 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 these cases and their subject matter.

(2) In **Case No. 12587** the applicant, Sapient Energy Corporation ("Sapient"), seeks approval of an unorthodox Tubb gas well location for its Bertha J. Barber Well No. 12 (**API No. 30-025-05978**), located 330 feet from the North line and 660 feet from the East line (Unit A) of Section 7, Township 20 South, Range 37 East, NMPM, West Monument-Tubb Gas Pool (**96968**), Lea County, New Mexico. This well is to be dedicated to a non-standard 160-acre gas spacing unit consisting of either: (i) the E/2 E/2 of Section 7; or in the alternative (ii) the E/2 NE/4 of Section 7 and the W/2 NW/4 of Section 8, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico. In either case, the applicant requests that the assigned spacing unit be made effective retroactive to the date of first

production from the West Monument-Tubb Gas Pool for this well. In addition, should the Division approve a non-standard 160-acre gas spacing unit comprising the E/2 E/2 of Section 7, then the applicant seeks the approval of a second 160-acre gas spacing unit for the West Monument-Tubb Gas Pool consisting of the W/2 E/2 of Section 7.

(3) In **Case No. 12605**, Sapient, in the alternative, seeks the promulgation of special rules for the West Monument-Tubb Gas Pool, including a provision for 80-acre spacing and designated well location requirements.

(4) At the time of the hearing, Division Cases No. 12587 and 12605 were consolidated for the purpose of presenting testimony. Also, because each application addresses the same factual issues and in order to provide a comprehensive decision in these cases, one order should be entered for both cases.

(5) By Order No. R-11304, issued in Case No. 12321 on January 12, 2000, the Division created and defined the West Monument-Tubb Gas Pool for the production of gas from the Tubb formation, based on its discovery by the above-described Bertha J. Barber Well No. 12. The horizontal limits for this pool currently comprise the same acreage originally forming the pool under Order No. R-11304, which include the following described lands in Lea County, New Mexico:

TOWNSHIP 20 SOUTH, RANGE 37 EAST, NMPM

Section 7:

E/2.

(6) The West Monument-Tubb Gas Pool is an "unprorated gas pool" not subject to Part H of the Division's statewide rules and regulations entitled "*Gas Proration and Allocation*" (Rules 601 through 605). The West Monument-Tubb Gas Pool is subject to: (i) Division Rule 104.C (3), which requires standard 160-acre gas spacing units comprising a single governmental quarter section; and (ii) Division Rule 104.D (3), which restricts the number of producing wells within a single gas spacing unit within non-prorated pools to only one (see official notice to all operators submitted by the Division Director on October 25, 1999). Producing wells within this pool are allowed to produce at capacity.

(7) Chevron U.S.A. Production Company ("Chevron") is the north offsetting operator with 100% of the Tubb gas rights in the SE/4 of Section 6, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico. Sapient owns 100% of the working interest in the E/2 E/2 of Section 7, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico, with the royalty interest being fee. The working interest ownership of the W/2 E/2 of Section 7 is as follows:

Conoco, Inc.	37.41862%
Phillips Petroleum Company	25.00000%
Atlantic Richfield Company (ARCO), now BP/Amoco	18.70931%
Chevron	18.70931%
James Burr	0.06511%
Larry Nermyr	0.06511%
Ruth Sutton	0.03255%

The royalty interest in the W/2 E/2 of Section 7 is Federal.

(8) Both Chevron and Conoco appeared in opposition to the applications of Sapient and requested that the Bertha J. Barber Well No. 12 be shut-in and that Sapient be required to form a standard 160-acre gas spacing unit comprising the NE/4 of Section 7. Neither Chevron nor Conoco opposed the requested unorthodox gas well location for the Bertha J. Barber Well No. 12.

(9) The Bertha J. Barber Well No. 12 was initially drilled by Sinclair Oil & Gas Company in December 1953/January 1954 to a total depth of 5,250 feet and was subsequently completed in the Monument-Paddock Pool at a standard oil well location within a standard 40-acre oil spacing and proration unit comprising the NE/4 NE/4 of Section 7. In 1993 ARCO Oil & Gas Company, successor operator to Sinclair Oil & Gas Company, sold this well to Cross Timbers Operating Company ("Cross Timbers"), which in December 1998 recompleted this well by deepening to a depth of 7,530 feet. From January, 1999 to August, 1999 this well produced as an oil well from the Monument-Abo Pool (production interval 6,892 feet to 7,380 feet), at a location considered to be standard for a 40-acre oil spacing and proration unit also comprising the NE/4 NE/4 of Section 7.

(10) As ascertained from the Division's records in Santa Fe, Cross Timbers filed with the Division's district office in Hobbs on August 18, 1999 Division Form C-103 (*Well Location and Acreage Dedication Plat*), as a notice of intent to recomplete this well from the Abo formation to the Tubb formation as an oil well. On September 10, 1999 the following items were submitted to the Hobbs district office of the Division:

(a) Division Form C-103 (*Sundry Notices and Reports on Wells*), filed as a subsequent report that this well was plugged back and recompleted in the Tubb interval as a gas well; this form was approved on September 20, 1999;

(b) Division Form C-104 (*Request for Allowable and Authorization to Transport*), which indicates the date of first gas delivery from the Tubb interval was **August 21, 1999**; this form was also approved on September 20, 1999;

(c) Division Form C-105 (*Well Completion or Recompletion Report and Log*), which gives specific information concerning this well's recompletion in the Tubb formation; and

(d) Division Form C-102 (*Well Location and Acreage Dedication Plat*), which indicates the 160 acres comprising the E/2 E/2 of Section 7 to be the dedicated acreage in the Tubb formation for the Bertha J. Barber Well No. 12.

(11) The information contained on the forms that were submitted to the Hobbs district office on September 10, 1999 showed the well location to be unorthodox and the assigned acreage as being non-standard. No application for approval of this unorthodox gas well location or the non-standard 160-acre unit comprising the E/2 E/2 of Section 7 was made pursuant to Division rules, nor was notice ever provided to the affected offsetting owners. The interest owners in the W/2 E/2 of Section 7 were denied an opportunity to object at the time the Bertha J. Barber Well No. 12 was recompleted into the Tubb formation as a gas well.

(12) Falcon Creek Resources, Inc. ("Falcon Creek") acquired this well from Cross Timbers on April 1, 2000 and Sapiient acquired the well from Falcon Creek on July 14, 2000.

(13) Division Rule 104.B (2) provides that, "*if a well drilled as an oil well is completed as a gas well but does not conform to the applicable gas well location rules, the operator must apply for administrative approval for a non-standard location before the well can produce.*" Division Rule 104.D (2) provides that, "*any well that does not have the required amount of acreage dedicated to it for the pool or formation in which it is completed may not be produced until a standard spacing unit for the well has been formed and dedicated or until a non-standard spacing unit has been approved.*" In addition to this rule as it relates to the formation of non-standard units, the instructions found on the reverse side of the Division's Form C-102 provide that production of the well will not be authorized until a

non-standard unit has been approved by the Division.

(14) Sapien and its predecessors have failed to apply for and obtain administrative approval of the unorthodox location for the Bertha J. Barber Well No. 12, in violation of Division Rule 104.B (2), and are illegally producing this well. Further, Sapien and its predecessors have assigned the Bertha J. Barber Well No. 12 an unapproved non-standard 160-acre spacing unit, in violation of Division rules.

(15) Sapien should therefore be ordered 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.

(16) The geological and technical evidence presented in this matter supports the conclusions established by Division Order No. R-11304 in January, 2000 that the Bertha J. Barber Well No. 12 is producing from a gas reservoir in the Tubb formation that is a separate common source of supply. Further, the evidence supports the conclusion that this well will drain a large area and that 160-acre spacing units are appropriate for the West Monument-Tubb Gas Pool.

(17) The technical evidence presented shows that wells in the West Monument-Tubb Gas Pool are capable of draining in excess of 80 acres and adopting special rules that provide for 80-acre spacing will result in the drilling of unnecessary wells thereby causing waste.

(18) Adoption of special pool rules for the West Monument-Tubb Gas Pool that provide for 80-acre spacing, or the creation of a non-standard spacing unit for the Bertha J. Barber Well No. 12 comprising the E/2 E/2 of Section 7, will result in reserves being drained from offsetting tracts which could only be recovered by the owners of those reserves by the drilling of unnecessary wells.

(19) The requested unorthodox location of the Bertha J. Barber Well No. 12 was not a contention between Sapien and any other party in this matter. The issuance of Division Administrative Order NSL-3752-A, dated August 29, 2001, which authorized Chevron to recomplete its G. C. Matthews Well No. 12 (**API No. 30-025-05953**), located 330 feet from the South line and 990 feet from the East line (Unit P) of Section 6, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico, into the Tubb formation serves to offset any advantage of the unorthodox location of the Bertha J. Barber Well No. 12 in accordance with Division Rule 104.F (6).

(20) The unorthodox gas well location of Sapiient's Bertha J. Barber Well No. 12 should therefore be approved with the stipulation that a standard 160-acre gas spacing unit comprising the NE/4 of Section 7 be formed retroactive to the date of first production.

(21) The application of Sapiient in Case No. 12587 for approval of two non-standard 160-acre gas spacing units in the E/2 of Section 7 should be denied. Further, the application of Sapiient in Case No. 12605 for the adoption of special pool rules for the West Monument-Tubb Gas Pool to include 80-acre gas well spacing should also be denied.

(22) The allocation of past and future production from the Bertha J. Barber Well No. 12 to the unauthorized 160-acre unit comprising the E/2 E/2 of Section 7 is a violation of Division Rules 104.B (2), 104.C (3), and 104.D (2). A standard 160-acre gas spacing unit comprising the NE/4 of Section 7 is the proper spacing unit for the Bertha J. Barber Well No. 12. Production should be allocated to such unit retroactive to the date of first production from the West Monument-Tubb Gas Pool.

IT IS THEREFORE ORDERED THAT:

(1) The application of Sapiient Energy Corporation ("Sapiient") in **Case No. 12587** for an unorthodox gas well location in the West Monument-Tubb Gas Pool (**96968**) for its Bertha J. Barber Well No. 12 (**API No. 30-025-05978**), located 330 feet from the North line and 660 feet from the East line (Unit A) of Section 7, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico is hereby **approved**.

(2) The NE/4 of Section 7 is hereby dedicated to this well to form a standard 160-acre gas spacing unit for gas production from the West Monument-Tubb Gas Pool.

PROVIDED HOWEVER THAT:

(3) Approval of the aforementioned unorthodox gas well location for the standard 160-acre unit shall be made retroactive to the date of first production from the Bertha J. Barber Well No. 12 (August 21, 1999).

(4) Sapiient is hereby ordered 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.

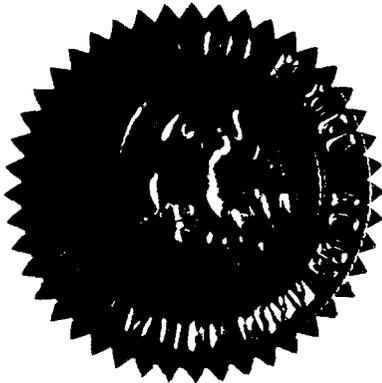
IT IS FURTHER ORDERED THAT:

(5) Sapiient's application in **Case No. 12587** for the above-described Bertha J. Barber Well No. 12 to be dedicated to a non-standard 160-acre gas spacing and proration unit consisting of either: (i) the E/2 E/2 of Section 7; or in the alternative (ii) the E/2 NE/4 of Section 7 and the W/2 NW/4 of Section 8, Township 20 South, Range 37 East, NMPM, Lea County, New Mexico, is hereby **denied**.

(6) The application of Sapiient in **Case No. 12605** for the promulgation of special rules for the West Monument-Tubb Gas Pool, including a provision for 80-acre spacing and designated well location requirements, is hereby **denied**.

(7) 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

Lori Wrotenbery
LORI WROTENBERY
Director



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

GARY E. JOHNSON
Governor
Jennifer A. Salisbury
Cabinet Secretary

Lori Wrotenbery
Director
Oil Conservation Division

July 18, 2001

Mr. W. Thomas Kellahin, Esq.
KELLAHIN AND KELLAHIN
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Santa Fe, New Mexico 87504-2265

Ref: **NMOCD Case Number 12587**
**Amended Application of Sapient Energy Corporation for an Unorthodox
Well Location, Non-Standard Proration Units, Lea County, New Mexico**

NMOCD Case Number 12605
**Application of Sapient Energy Corporation for Special Pool Rules for the
West Monument-Tubb Gas Pool, Lea County, New Mexico**

Dear Mr. Kellahin:

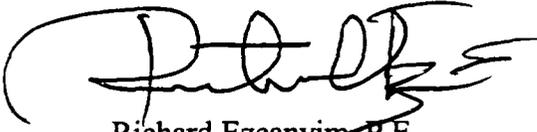
The Oil Conservation Division (OCD) received your letter dated July 17, 2001, regarding the above referenced cases. You are concerned that the provisions of the Division Rule 1223, EX PARTE COMMUNICATIONS, have been violated.

The Division Rule 1223A states that: "In an adjudicatory proceedings, except for filed pleadings, at no time after the filing of an application for hearing shall any party, interested participant or their representatives communicate regarding the issues involved in the application with any Commissioner or the Division Examiner appointed to hear the case when all other parties of record to the proceedings have not had the opportunity to be present."

No provisions of this rule have been violated. Mr. William Carr merely inquired about the status of the Sapient Applications. We told him that we will get to them as soon as we can. Mr. Carr then wrote me a letter on July 2, 2001, expressing his clients' concerns in this matter. This letter was made available to all the parties concerned, and therefore did not constitute ex parte communications violations.

If you have any questions, please contact me at (505) 476-3467.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Ezeanyim', with a large, sweeping flourish on the left side.

Richard Ezeanyim, P.E.
Chief Engineer
Oil Conservation Division

Cc: Ms. Lori Wrotenbery, Director
Mr. Michael Stogner, Hearing Examiner /
Mr. David K. Brooks, Division Counsel
Oil Conservation Division

Mr. William F. Carr
Attorney for Chevron USA Production Company and Conoco, Inc.