

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

**CASE NO. 12862
ORDER NO. R-11859**

IN THE MATTER OF THE HEARING CALLED BY THE NEW MEXICO OIL CONSERVATION DIVISION ON ITS OWN MOTION FOR AN ORDER REQUIRING N. DALE NICHOLS TO BRING EIGHT (8) CERTAIN WELLS INTO COMPLIANCE WITH RULE 201.B AND ASSESSING APPROPRIATE CIVIL PENALTIES; CHAVES COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 2, 2002, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 5th day of November, 2002, 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) N. Dale Nichols of Midland, Texas is the current owner and operator of the following eight (8) wells located in Chaves County, New Mexico:

- (a) Lewis Neff Well No. 4 (**API No. 30-005-00224**), located 330 feet from the South line and 2310 feet from the East line (Unit O) of Section 32, Township 7 South, Range 27 East, NMPM;
- (b) Lewis Neff Well No. 3 (**API No. 30-005-10432**), located 660 feet from the South and East lines (Unit P) of Section 32, Township 7 South, Range 27 East, NMPM;
- (c) Alma Shields Well No. 7 (**API No. 30-005-62567**), located 990 feet from the South line and 1650 feet from the West line (Unit N) of Section 33, Township 7 South, Range 27 East, NMPM;

- (d) Avalanche Journal State Well No. 4 (**API No. 30-005-10471**), located 2310 feet from the South line and 1650 feet from the West line (Unit K) of Section 4, Township 8 South, Range 27 East, NMPM;
- (e) Standard State Well No. 3 (**API No. 30-005-10429**), located 990 feet from the North line and 1650 feet from the East line (Lot 2/Unit B) of Section 5, Township 8 South, Range 27 East, NMPM;
- (f) Standard State Well No. 6-Y (**API No. 30-005-10513**), located 2310 feet from the North and East lines (Unit G) of Section 5, Township 8 South, Range 27 East, NMPM;
- (g) State "A" Well No. 2 (**API No. 30-005-00232**), located 660 feet from the South and East lines (Unit P) of Section 7, Township 8 South, Range 27 East, NMPM; and
- (h) Lynx Well No. 1 (**API No. 30-005-62160**), located 1815 feet from the North line and 1980 feet from the East line (Unit G) of Section 19, Township 8 South, Range 29 East, NMPM.

(3) By this Application, the New Mexico Oil Conservation Division ("Division") seeks an order directing the named respondent to bring the above-described eight (8) wells into compliance with Division Rule 201.B, either by: (i) restoring these wells to production or other Division-approved beneficial use; (ii) causing these wells to be properly plugged and abandoned in accordance with Division Rule 202.B; or (iii) securing Division authority to maintain these wells in temporary abandonment status, in accordance with Division Rule 203.

(4) Representatives of the Division's office in Santa Fe and its district office in Artesia (District II) presented evidence and testimony supporting the Division's position that five of the eight subject wells are inactive and not in compliance with Division Rule 201.B. The following three wells however were identified as being in compliance at this time and the portion of this case seeking to bring them into compliance with Division Rule 201.B should therefore be **dismissed**: (i) the above-described Lynx Well No. 1 has been plugged and abandoned; (ii) the Lewis Neff Well No. 4 is now producing; and (iii) State "A" Well No. 2 is also producing.

(5) The Alma Shields Well No. 7 was not listed in the notice of hearing in this case. This well should therefore be excluded from these proceedings at this time, and the case against it **dismissed**.

(6) The Division presented testimony that demonstrates:

- (a) the above-described Lewis Neff Well No. 3, Avalanche Journal State Well No. 4, and Standard State Wells No. 3 and 6-Y, have not produced any hydrocarbons since before 1997, and are not presently equipped to produce;
- (b) the Division first notified N. Dale Nichols by letter dated November 5, 1997 that the above-described Lewis Neff Well No. 3 was not in compliance with Rule 201.B, and demanded that the well be brought into compliance;
- (c) the Division first notified N. Dale Nichols by letter dated May 11, 2000 that the above-described Avalanche Journal State Well No. 4 and Standard State Wells No. 3 and 6-Y were not in compliance with Rule 201.B, and demanded that these wells be brought into compliance; and
- (d) by demand letter dated July 25, 2001, the Division issued its final notice to N. Dale Nichols to have these wells brought into compliance and set a deadline date of January 1, 2002 before hearing proceedings would be initiated.

(7) The above-described Lewis Neff Well No. 3, Avalanche Journal State Well No. 4, and Standard State Wells No. 3 and 6-Y wells are not in compliance with Division Rule 201.B.

(8) Mr. John Nichols of Roswell, New Mexico, general manager of N. Dale Nichols' operations and the son of the owner, appeared before the Division and requested a 60-day time extension to bring the four (4) remaining wells into compliance.

(9) As of October 29, 2002, the above-described Lewis Neff Well No. 3, Avalanche Journal State Well No. 4, and Standard State Wells No. 3 and 6-Y wells are still not in compliance with Division Rule 201.B

(10) With respect to the above-described Lewis Neff Well No. 3, Avalanche Journal State Well No. 4, and Standard State Wells No. 3 and 6-Y, N. Dale Nichols knowingly and willfully failed to comply with Division Rule 201.B and pursuant to NMSA 1978, Section 70-2-31.A, a civil penalty should be assessed against N. Dale Nichols in the amount of: (i) Five Thousand Dollars (\$ 5,000.00) (\$ 1,000.00 for each year the well was out of compliance since first notification) for the Lewis Neff Well No. 3; and (ii) Two Thousand Dollars (\$ 2,000.00) (\$ 1,000.00 for each year the well was out of compliance since first notification) each for the Avalanche Journal State Well No. 4 and Standard State Wells No. 3 and 6-Y. The total penalty assessed should therefore be Eleven Thousand Dollars (\$ 11,000.00).

(11) N. Dale Nichols should be ordered to bring these four (4) wells into compliance with Division Rule 201.B.

IT IS THEREFORE ORDERED THAT :

(1) Pursuant to the request of the New Mexico Oil Conservation Division ("Division") through its counsel, this Application insofar as it relates to the following-described N. Dale Nichols wells is hereby **dismissed**:

- (a) Lewis Neff Well No. 4 (**API** No. 30-005-00224), located 330 feet from the South line and 2310 feet from the East line (Unit O) of Section 32, Township 7 South, Range 27 East, NMPM, Chaves County, New Mexico;
- (b) Alma Shields Well No. 7 (**API** No. 30-005-62567), located 990 feet from the South line and 1650 feet from the West line (Unit N) of Section 33, Township 7 South, Range 27 East, NMPM, Chaves County, New Mexico;
- (c) State "A" Well No. 2 (**API** No. 30-005-00232), located 660 feet from the South and East lines (Unit P) of Section 7, Township 8 South, Range 27 East, NMPM, Chaves County, New Mexico; and

- (d) Lynx Well No. 1 (**API No. 30-005-62160**), located 1815 feet from the North line and 1980 feet from the East line (Unit G) of Section 19, Township 8 South, Range 29 East, NMPM, Chaves County, New Mexico.

(2) Pursuant to the Application of the Division, N. Dale Nichols of Midland, Texas is hereby ordered, no later than thirty (30) days from the date of issuance of this Order, to bring each of the following-described wells into compliance with Rule 201.B by accomplishing one of the following with respect to each well: (i) causing the well to be plugged and abandoned in accordance with Rule 202, and in accordance with a Division approved plugging program; (ii) restoring the well to production; or (iii) causing the well to be temporarily abandoned with Division approval in accordance with Rule 203:

- (a) Lewis Neff Well No. 3 (**API No. 30-005-10432**), located 660 feet from the South and East lines (Unit P) of Section 32, Township 7 South, Range 27 East, NMPM, Chaves County, New Mexico;
- (b) Avalanche Journal State Well No. 4 (**API No. 30-005-10471**), located 2310 feet from the South line and 1650 feet from the West line (Unit K) of Section 4, Township 8 South, Range 27 East, NMPM, Chaves County, New Mexico;
- (c) Standard State Well No. 3 (**API No. 30-005-10429**), located 990 feet from the North line and 1650 feet from the East line (Lot 2/Unit B) of Section 5, Township 8 South, Range 27 East, NMPM, Chaves County, New Mexico; and
- (d) Standard State Well No. 6-Y (**API No. 30-005-10513**), located 2310 feet from the North and East lines (Unit G) of Section 5, Township 8 South, Range 27 East, NMPM, Chaves County, New Mexico.

(3) As to any wells that the operator fails to bring into compliance when required by this Order, the supervisor of the Artesia district office of the Division and Division legal counsel may commence proceedings to order that these wells be permanently plugged and abandoned by the operator or by the Division, and to forfeit the

financial assurance, if any, provided by the operator pursuant to NMSA 1978 Section 70-2-14, as amended, and Division Rule 101, or take other actions as appropriate.

(4) Administrative penalties are hereby assessed against N. Dale Nichols in the amount of Eleven Thousand Dollars (\$11,000.00) for knowingly and willfully failing to bring its wells described in Ordering Paragraph No. (2) above into compliance after receiving notice from the Division to do so.

(5) The civil penalty herein assessed shall be paid within thirty (30) days of receipt of this Order, by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Lori Wrotenbery, Director, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, unless the operator timely files an application for *de novo* review by the New Mexico Oil Conservation Commission of the penalty hereby assessed.

(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.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

LORI WROTENBERY
Director

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