

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. 14472  
ORDER NO. R-13294

APPLICATION OF COG OPERATING, LLC FOR CANCELLATION OF  
OPERATOR'S AUTHORITY AND TERMINATION OF SPACING UNITS, YESO  
ENERGY, INC. DOW "B" 28 FEDERAL WELL NO. 1, EDDY COUNTY, NEW  
MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on May 13, 2010, at Santa Fe, New Mexico, before Examiner Terry Warnell.

NOW, on this 13<sup>th</sup> day of July, 2010, 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) COG Operating, LLC, [OGRID 229137] ("Applicant"), seeks an order canceling the authority of Yeso Energy, Inc. as operator of the Dow "B" 28 Federal Well No. 1 (API No. 30-015-28676) (the subject well) and terminating all spacing and proration units dedicated to the well. These include the S/2 of Section 28, Township 17 South, Range 31 East, NMPM, in Eddy County, New Mexico (East Cedar Lake-Morrow, Wildcat Cedar Lake-Mississippian, and Cedar Lake-Morrow pools).

(3) Applicant appeared at the hearing through counsel and presented testimony as follows:

(a) COG seeks an order canceling the authority of Yeso Energy, Inc. as the operator of the Dow "B" 28 Federal Well No. 1 and proration units dedicated to the well.

*Before the OCC*

*Case 14472*

*Case 14547*

*OCD Exhibit 5*

(b) Yeso is the current operator of record of the Dow "B" 28 Federal Well No. 1, but the well has been placed on the Division's plugging list pursuant to a compliance order.

(c) COG hopes to convert the well to disposal operations but has been unsuccessful in acquiring the rights from Yeso.

(d) COG has been very active in the area having drilled over 50 wells in the Skelly Unit. COG has development plans, which have been submitted to the United States Bureau of Land Management (BLM), to drill another 50 wells in the unit.

(e) COG is attempting to obtain a permit from the BLM to utilize the Dow "B" 28 Federal Well No. 1 wellbore for injection.

(f) Yeso has refused to consent to a change of operator for this well.

(4) Yeso Energy Inc., and Chica Energy, LLC entered an appearance through counsel, but produced no witnesses.

(a) Counsel offered to submit a copy of the Penroc Oil Corporation case, IBLA 84-440, which held, on the facts of that case, that BLM had no right to issue an easement for use of an abandoned well on a subsisting lease.

(5) OCD entered an appearance through counsel, and presented testimony as follows:

(a) OCD found that Yeso had abandoned the subject well and ordered Yeso to either properly plug and abandon the well, or transfer operations to a nonaffiliated Division-approved operator on or before March 15, 2010 (Order No. R-12930-B, issued in Case No. 14294 on September 15, 2009).

(b) OCD has plugged 2 Yeso wells but once they heard COG was interested in the Dow "B" 28 Federal Well No. 1, OCD voluntarily held off plugging it.

(c) Chica Energy, a startup company, approached OCD about acquiring the Yeso wells. Chica Energy applied to become operator of record for all of the Yeso wells, but later wrote a letter to OCD withdrawing the application.

(d) OCD has been seeking compliance with the inactive well rule on these wells for over 5 years.

(e) Once OCD heard from COG that they were interested in becoming Operator of record for the Dow "B" 28 Federal Well No. 1 a hold was put on plugging the well.

The Division concludes that:

(6) Yeso has wholly failed to fulfill its obligation as operator under Division rules and orders, and its right to operate the subject well should be terminated.

(7) COG has no interest in this property at this time except the possibility that their application to use this well as a disposal well will be granted.

(8) Plugging of this well should be suspended for six months to allow COG to pursue its application for an easement or other legal authority to take possession of the subject well.

(9) Granting of this application will prevent waste and will not impair correlative rights.

**IT IS THEREFORE ORDERED THAT:**

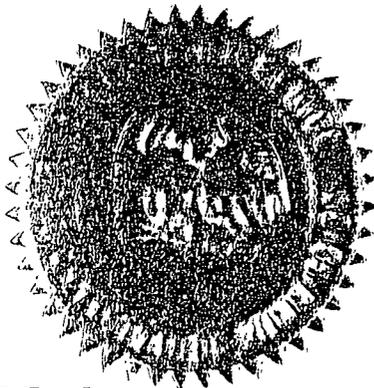
(1) The Division hereby terminates the authority of Yeso Energy to act as operator of the Dow "B" 28 Federal Well No. 1 (API No. 30-015-28676) located in Section 28, Township 17 South, Range 31 East, (Unit P) NMPM, in Eddy County, New Mexico.

(2) The Division shall not plug the subject well prior to July 30, 2011 unless COG advises that it is no longer pursuing its plan to obtain the right to use this well.

(3) COG shall file an application with the Division to use the subject well for disposal operations without the necessity of a change of operator that would be ordinarily required.

(4) 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

A handwritten signature in black ink, appearing to read "Mark E. Fesmire", is written over the printed name.

MARK E. FESMIRE, P.E.  
Acting Director

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