

**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. 14103
ORDER NO. R-12964**

**APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR A
COMPLIANCE ORDER AGAINST C.W.
TRAINER, LEA AND CHAVES COUNTIES,
NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on April 3, 2008, at Santa Fe, New Mexico, before Examiners William V. Jones, Terry Warnell and David K. Brooks.

NOW, on this 20th day of June, 2008, the Division Director, having considered the testimony, the record and the recommendations of the Examiners,

FINDS THAT:

(1) Due notice has been given, and the Division has jurisdiction of the subject matter of this case.

(2) This is a compliance proceeding brought by the Division against an operator pursuant to Rule 1227. The Division asks the Director to find that C.W. Trainer (Trainer) is in violation of Rules 101.B (requiring for inactive well bonding), 201 (requiring restoration to production, plugging, or Division approval for temporary abandonment, of inactive wells), 202 (requiring restoration of the well sites of plugged and abandoned wells) and 116.D (requiring clean-up of fluid releases from an operator's wells). The Division further seeks an order pursuant to NMSA Section 70-2-14.B requiring Trainer to plug and abandon all of the wells he operates, and in event he fails to comply with such order, forfeiting his well plugging financial assurance, as provided in that statute.

(3) The application also asks for a finding that Trainer has violated Rule 1115 (requiring monthly production reports), but the Division abandoned that count at the hearing.

(4) The Division appeared at the hearing through counsel and presented testimony and exhibits to the effect that:

(a) Trainer is the operator of 13 wells in Lea and Chaves Counties, New Mexico (the subject wells), as follows:

Ref #	Well Name	API No.	Location (ULSTR)
1.	Barbara Federal #1	30-025-24598	I-6-22S-34E
2.	Grama Ridge 8 State #1	30-025-30046	H-8-22S-34E
3.	Gulf Deep #1	30-005-01210	C-34-14S-31E
4.	Gulf State Com #1	30-025-23525	A-4-15S-35E
5.	Harris Federal #1 [SWD]	30-025-28551	O-5-22S-34E
6.	Hope State #1	30-025-01059	P-22-12S-33E
7.	Lea DS State #1	30-025-23611	E-36-19S-34E
8.	M&G Medlin #1	30-005-00588	D-8-15S-31E
9.	Morse #1	30-025-04991	E-27-10S-37E
10.	Morse #1 [SWD]	30-025-04995	A-28-10S-37E
11.	Nancy #1	30-025-24582	F-5-15S-34E
12.	Thistle Unit #2	30-025-33424	E-28-23S-33E
13.	Tower #2	30-025-35093	M-23-12S-33E

(b) Each of the subject wells [except the Barbara Federal #1, discussed in paragraph (c) below, and the Grama Ridge 8 State #1] has failed to produce oil or gas for a continuous period of time exceeding one year plus 90 days, up to and including the last production reports available at the time of the hearing.

(c) None of the subject wells has been approved by the Division for temporary abandonment.

(d) The Barbara Federal #1 reported water production; but had not produced oil or gas for a period of more than one year up to and including the last production reports available at the time of the hearing. The period of non-production shown was for 13 successive months from January, 2007, through and including January, 2008. Thus, the well had not produced for a period of one year ending 90 days prior to the hearing, and there is no evidence that it produced during the 90 days immediately preceding the hearing.

(e) Five of the subject wells (Reference Numbers 6, 7, 8, 11 and 13) have been plugged and abandoned. More than one year has passed since these wells were plugged, but Trainer has not restored the locations as required by Rule 202.B(3), notified the appropriate district office to arrange for an inspection as

required by Rule 202.B(4), or filed a report of restoration work done, as required by Rule 202.C(2). Hence these wells are currently out of compliance with Rule 202.

(f) For three of the subject wells (Reference Nos. 3, 10 and 12), Division records show no evidence of activity since production ceased. Hence these wells are currently out of compliance with Rule 201.

(g) Two of the subject wells identified as inactive in Paragraph (b) above (Reference Numbers 5 and 9) "may be" currently active as a result of documents filed with the Division after the filing of this case but prior to the hearing, indicating intent to do work on these wells. If the indicated work has been done, these wells are not currently out of compliance. However, the Division has no evidence that any of these wells has been restored to production.

(h) Trainer has filed a report indicating that the Gulf State Com #1 (Reference #4) was plugged and abandoned as of March 19, 2008. If this report is accurate, site restoration work on that well is not required until March 19, 2009, and this well is not currently out of compliance with Rule 201 or 202. However, it is out of compliance with Rule 101, as indicated in Paragraph (i) below.

(i) Eight of the subject wells [Reference Nos. 3, 4, 6, 7, 8, 10, 11 and 13] have been continuously inactive for more than two years, and are located on lands where the mineral fee interest is owned by the State of New Mexico or private persons. Hence for each of these wells, Rule 101, effective on January 1, 2008, requires the operator to file single-well financial assurance with the Division. Trainer has not filed such financial assurance for any of these wells.

(j) An unauthorized release occurred at the site of the Harris Federal No. 1 (Reference No. 5), which the Division ordered Trainer to clean up as required by Rule 116.D. Trainer has not cleaned up this site as directed, and the contractor that Trainer engaged to perform the clean-up work has advised the Division that it has ceased work on the clean-up because it has not been paid.

(k) The Division filed a previous compliance case against Trainer, which resulted in the issuance of Order No. R-12720, issued in Case No. 13486 on February 23, 2007. That order directed Trainer to plug certain wells, including subject wells Reference Nos. 4, 5 and 9, and assessed penalties. Although Trainer paid the penalty provided in said order, he did not comply with the plugging directive.

(l) The Division has made numerous efforts to secure Trainer's compliance with Division rules, including entering into Agreed Compliance Orders, with which Trainer has failed to comply.

(m) The Division asks that Trainer be ordered to plug all wells he operates, because previous enforcement efforts have not availed to secure compliance.

(n) Trainer has on file with the Division, as blanket financial assurance, surety bond No. B001539, issued by U.S. Specialty Insurance Company.

(5) Trainer appeared at the hearing through counsel, but did not appear in person or testify. Counsel tendered an affidavit from Trainer. However, the affidavit was excluded as hearsay. U.S. Specialty Insurance Company, though duly noticed, did not appear at the hearing or otherwise enter any appearance in this case.

The Division Director concludes as follows:

(6) Trainer is the operator of the subject wells.

(7) The subject wells identified in Finding Paragraph (4)(e) have been plugged and abandoned for more than one year, but Trainer has failed to restore the well sites, secure Division approval of site restoration, or file final reports of site restoration, as required by Rule 202. Trainer should accordingly be ordered to comply with these requirements by a date certain.

(8) The subject wells identified in Finding Paragraph (4)(f) are currently out of compliance with Rule 201, and should be ordered plugged and abandoned by a date certain.

(9) The Barbara Federal Well No. 1 (Reference No. 1) produced only water for the thirteen-month period ending January 31, 2008. Water production cannot be accepted as making a well active within the meaning of Rule 201 absent evidence to show that producing water only from the well served a beneficial purpose. The Division did not establish fifteen months of continuous inactivity from this well. However, if the well had produced oil or gas during the period from January 31, 2008 to the date of the hearing, such production would be known to Trainer, and he offered no evidence thereof. In a civil case, a tribunal may assume that if a party offers no evidence concerning facts necessarily within its knowledge, that such facts are adverse to such party. Accordingly, the Director concludes that the Barbara Federal Well No. 1 is currently out of compliance with Rule 201, and should be ordered plugged and abandoned by a date certain.

(10) The Gulf State Com Well No. 1 has apparently been plugged. Rule 202 requires that the well site be restored not later than March 19, 2009. Hence, no compliance order is at this time required with respect to this well.

(11) The Harris Federal Well No. 1 is classified as a disposal well. Last reported injection into this well occurred in the month of July 2004. Accordingly, the injection permit for this well expired not later than July 31, 2005, pursuant to Rule 705.C(1). There is no evidence that Trainer has taken any action to reinstate the injection

permit for this well, nor is there any evidence that this well is capable of producing oil or gas. Accordingly, this well should be deemed inactive under the provisions of Rule 201, and should be ordered plugged and abandoned by a date certain.

(12) Rule 101 requires that single-well financial assurance be filed for each well located on land where the mineral fee interest is owned by the State of New Mexico or private persons, that has been inactive for two years. Single-well financial assurance is required under this Rule for each of the subject wells identified in Finding Paragraph 4(i), and Trainer should be ordered to file such financial assurance with the Division not later than 30 days from the date of this order, for each of such wells for which he has not theretofore fully complied with all of the requirements of Rule 202.

(13) Trainer should be ordered to complete the clean-up of the release at the site of the Harris Federal Well No. 1 in accordance with Rule 116.D and all applicable Division directives.

(14) In addition, the Division has requested that all of the subject wells be ordered plugged, whether or not such wells are currently out of compliance with specific rules, by reason of Trainer's numerous existing and continuing violations of Division rules and orders. The only wells affected by this request are those that have not been plugged, and that are not now out of compliance with Rule 201. These are the Grama Ridge State No. 1 (Reference No. 2), with respect to which the Division offered no evidence of non-compliance, and the Morse No. 1 (Reference No. 9), which the Division's witness testified the Division does not consider inactive due to recent workover efforts.

(15) NMSA 1978 Section 70-2-14.C provides, in pertinent part:

If any of the requirements of the Oil and Gas Act or rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order *any well* plugged and abandoned by the operator [Emphasis added]

(16) Since this statute provides that the Division may order *any well* plugged, a finding that each particular well ordered plugged is non-compliant is not a prerequisite to issuance of an order requiring well plugging. Hence the Director has authority to order all of the subject wells, including the Grama Ridge State No. 1 and the Morse No. 1 to be plugged, as requested.

(17) Ordering plugging of only the inactive wells would allow the operator to retain the economic benefit of wells that may be assets, while escaping responsibility for those that have become liabilities. Such an order would offer little incentive for compliance. Accordingly, in view of Trainer's record of non-compliance with Division orders and directives, Trainer should be ordered to plug all of the subject wells by a date certain.

(18) Notwithstanding the foregoing findings, ordering plugging of wells that may be producing or capable of producing oil or gas involves potential waste. Accordingly, Trainer should be afforded a means to secure relief from this order with respect to the wells identified in Finding Paragraph (14) if he can demonstrate that such wells have been restored to production, and that he has otherwise fully complied with all of the requirements of this Order.

IT IS THEREFORE ORDERED THAT:

(1) C.W. Trainer (OGRID 3474) shall file single-well financial assurances for each of the following wells by July 25, 2008 [excepting any as to which he has, at such time, fully complied with the provisions of Ordering Paragraph (2)]:

<u>Ref #</u>	<u>Well Name</u>	<u>API No.</u>	<u>Location (ULSTR)</u>
3.	Gulf Deep #1	30-005-01210	C-34-14S-31E
4.	Gulf State Com #1	30-025-23525	A-4-15S-35E
6.	Hope State #1	30-025-01059	P-22-12S-33E
7.	Lea DS State #1	30-025-23611	E-36-19S-34E
8.	M&G Medlin #1	30-005-00588	D-8-15S-31E
10.	Morse #1 [SWD]	30-025-04995	A-28-10S-37E
11.	Nancy #1	30-025-24582	F-5-15S-34E
13.	Tower #2	30-025-35093	M-23-12S-33E

(2) Trainer shall complete site restoration for each of the following wells, secure Division approval thereof, and file a final report of site restoration pursuant to Rule 202.C(2), by September 26, 2008:

<u>Ref #</u>	<u>Well Name</u>	<u>API No.</u>	<u>Location (ULSTR)</u>
6.	Hope State #1	30-025-01059	P-22-12S-33E
7.	Lea DS State #1	30-025-23611	E-36-19S-34E
8.	M&G Medlin #1	30-005-00588	D-8-15S-31E
11.	Nancy #1	30-025-24582	F-5-15S-34E
13.	Tower #2	30-025-35093	M-23-12S-33E

(3) Trainer shall plug and abandon each of the following wells in accordance with Division Rules and a Division-approved plugging procedure, by December 30, 2008:

<u>Ref #</u>	<u>Well Name</u>	<u>API No.</u>	<u>Location (ULSTR)</u>
1.	Barbara Federal #1	30-025-24598	I-6-22S-34E
2.	Gramma Ridge 8 State #1	30-025-30046	H-8-22S-34E
3.	Gulf Deep #1	30-005-01210	C-34-14S-31E
5.	Harris Federal #1 [SWD]	30-025-28551	O-5-22S-34E

9.	Morse #1	30-025-04991	E-27-10S-37E
10.	Morse #1 [SWD]	30-025-04995	A-28-10S-37E
12.	Thistle Unit #2	30-025-33424	E-28-23S-33E

(4) Trainer shall fully comply with the site restoration requirements of Rule 202.B(3), (4) and (5) and Rule 202.C (2) and (3), for Gulf State Com. Well No. 1 (API No. 30-025-23525) and for each of the wells identified in Ordering Paragraph (3) within the applicable timeframes provided in said Rule.

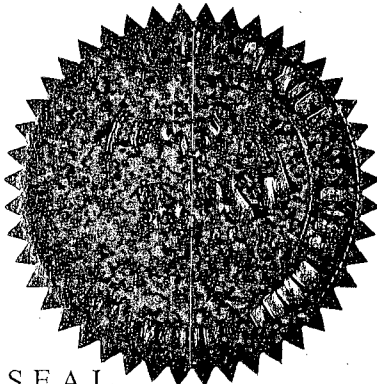
(5) Trainer shall fully complete the clean-up of the release that occurred at the site of the Harris Federal Well No. 1 (API No. 30-025-28551), in accordance with all applicable Division directives, by September 26, 2008.

(6) If Trainer fails to comply fully and timely with any of the requirements of Ordering Paragraphs (2) through (4) above, its financial assurance, described in Finding Paragraph (4)(n), and any other applicable financial assurance shall be forfeit. The Division, in such event, shall be authorized to complete the work required in said paragraphs to be performed by Trainer, and, if the costs it incurs in so doing exceed available financial assurance, to pursue all available remedies for collection of the balance of such costs from Trainer.

(7) Notwithstanding the foregoing, Trainer may, at any time prior to 180 days from the date of issuance of this Order, petition the Division for relief from the requirement of Ordering Paragraph (3) that it plug and abandon the Grama Ridge 8 State No. 1 (API No. 30-025-30046) and/or the Morse No. 1 (API No. 30-025-04991). Such petition shall be made by filing a motion to re-open this Case No. 14103, and shall be granted if Trainer, at a hearing of such motion, shall satisfactorily demonstrate that (a) the well or wells for which it seeks relief from this Order is then producing oil or gas, and (b) it has in all things else fully complied with the terms and provisions of this order.

(8) 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".

MARK E. FESMIRE, P.E.
Director