

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. 12249
ORDER NO. R-11387**

**APPLICATION OF NAVAJO REFINING COMPANY TO MODIFY ITS
DISCHARGE PLAN TO CHANGE THE LOCATION OF AN INJECTION
WELL, EDDY COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 4 and December 2, 1999, at Santa Fe, New Mexico, before Examiners David R. Catanach and Mark Ashley, respectively.

NOW, on this 30th day of May, 2000, 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) The applicant, Navajo Refining Company ("Navajo"), seeks to modify its Discharge Plan No. UIC-CLI-008 to revise the location of its proposed WDW-2 injection well to a well originally drilled as the Amoco Production Company Diamond Federal Gas Com No. 1 (**API No. 30-015-20894**) located 1980 feet from the North line and 660 feet from the West line (Unit E) of Section 12, Township 18 South, Range 27 East, NMPM, Eddy County, New Mexico.

(3) Division records demonstrate that:

- (a) on April 29, 1998, Navajo submitted a discharge plan and Form C-108 (Application to Inject) to the Division for its proposed WDW-1, -2 and -3 injection wells. The WDW-2 injection well was originally proposed to be a new drill at a location in

Unit F of Section 6, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico;

- (b) on July 14, 1998, the Division issued Discharge Plan No. UIC-CLI-008-1 approving Navajo's application;
- (c) on April 27, 1999, Navajo submitted an application to the Division to revise its Discharge Plan No. UIC-CLI-008-1 by changing its proposed WDW-2 injection well from a new drill to a re-entry of the Eastland Oil Company Chukka Federal Well No. 2 (formerly the Amoco Production Company Diamond Federal Gas Com No. 1);
- (d) on August 10, 1999, Navajo notified lease holders of record, including Mr. Don L. Benscoter ("Mr. Benscoter"), of its intent to revise its Discharge Plan No. UIC-CLI-008-1;
- (e) on August 23, 1999, Mr. Benscoter filed an objection to Navajo's application to revise its Discharge Plan No. UIC-CLI-008-1 on the basis that he is the lessee of Federal Lease No. NM-6852, on which the subject well is located, and that by virtue of owning this lease, he has the rights to, and control of, the Chukka Federal Well No. 2;
- (f) on October 6, 1999, the Division issued Discharge Plan No. UIC-CLI-008-2, which approved Navajo's application to revise Discharge Plan UIC-CLI-008-1, contained special ownership provisions; and
- (g) due to unresolved allegations by Mr. Benscoter in a letter to the Division alleging that Navajo does not have the right to re-enter and utilize the Chukka Federal Well No. 2 for disposal purposes, Navajo's application was subsequently set for hearing before a Division Examiner.

- (4) Division records further demonstrate that:
- (a) the Chukka Federal Well No. 2 (originally designated the Diamond Federal Gas Com No. 1) was drilled by Amoco Production Company ("Amoco") in 1973 to a depth of approximately 10,372 feet to test the Morrow formation. The well encountered no commercial hydrocarbons and was subsequently plugged by Amoco in August 1973;
 - (b) in September, 1985, Fred Pool Drilling, Inc. re-entered the Chukka Federal Well No. 2 and completed the well as a producing oil well in the Artesia Queen-Grayburg-San Andres Pool through perforations from 1,446-1,462 feet;
 - (c) on September 1, 1990, the Eastland Oil Company assumed operations on the Chukka Federal Well No. 2;
 - (d) on April 22, 1999, Navajo filed a Form C-101 (Application for Permit to Drill, Re-Enter, Deepen, Plugback, or Add a Zone) and Form C-102 (Well Location and Acreage Dedication Plat) to re-enter the Chukka Federal Well No. 2 and complete the well as a disposal well in the Lower Wolfcamp, Cisco, and Canyon formations through perforations from 7,270-9,200 feet. Form C-101 was approved by the Division on May 3, 1999;
 - (e) on April 27, 1999, the United States Bureau of Land Management ("USBLM") approved Navajo's Federal Form 3160-3 (Application for Permit to Drill or Deepen) to re-enter the Chukka Federal Well No. 2 and complete the well as a disposal well in the Lower-Wolfcamp, Cisco, and Canyon formations through perforations from 7,270-9,200 feet; and

- (f) on July 20, 1999, Navajo filed a Form C-105 (Well Completion or Recompletion Report and Log) for the Chukka Federal Well No. 2 indicating that the well was re-entered and completed for injection into the perforated interval from 7,570-8,399 feet.

(5) Navajo appeared at the hearing and presented evidence to support its position that it has the right to re-enter and utilize the Chukka Federal Well No. 2 as a disposal well.

- (6) Mr. Benscoter did not appear at the hearing.

(7) Navajo testified that Mr. Benscoter acquired the property and wellbore (Chukka Federal Well No. 2) after Amoco plugged the well in 1973. Navajo further testified that Mr. Benscoter then assigned the wellbore, to a certain depth, to Fred Pool Drilling, Inc., which subsequently established production from the Artesia Queen-Grayburg-San Andres Pool.

- (8) Navajo presented further evidence demonstrating that:

- (a) on April 15, 1999, the Eastland Oil Company and Polo Oil and Gas Company conveyed all of their rights, title and interest in the Chukka Federal Well No. 2 to Navajo Refining Company. At the time of this conveyance, the Chukka Federal Well No. 2 was a producing well in the Artesia Queen-Grayburg-San Andres Pool; and
- (b) by letter dated March 16, 1999, Mewbourne Oil Company, the owner of the producing rights from the base of the Abo formation to 100 feet below the base of the Morrow formation underlying the N/2 of Section 12, Township 18 South, Range 27 East, NMPM, waived objection to Navajo's proposed injection into the Lower-Wolfcamp, Cisco and Canyon formations in the Chukka Federal Well No. 2.

(9) Mr. Benscoter confirmed, in a letter dated September 24, 1999, to Mr. Joel M. Carson, counsel for Navajo, that:

- (a) he acquired Federal Lease No. NM-6852 from Jack Diamond and Amoco Production Company;
- (b) he assigned producing rights from the surface to a subsurface depth of 2,012 feet to Fred Pool Jr. and T. Calder Ezzell, Jr., who subsequently sold this assignment to the Eastland Oil Company. Mr. Benscoter retained an overriding royalty interest; and
- (c) he assigned producing rights from the base of the Abo formation to 100 feet below the base of the Morrow formation to Mewbourne Oil Company for the purpose of drilling a prospective gas well, which was drilled and subsequently plugged and abandoned. Mr. Benscoter also retained an overriding royalty interest in this transaction.

(10) Prior to the hearing in this matter, Navajo filed a motion to dismiss Mr. Benscoter's protest based upon its contention that the Division does not have the jurisdiction to determine the ownership of the wellbores of oil and gas wells in New Mexico.

(11) Pursuant to Section 70-2-12 (8), NMSA 1978, the Oil Conservation Division is empowered "to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities." Even though OCD does not decide title ownership, it does not issue permits to applicants who do not have a good faith claim to title.

- (12) Navajo's motion to dismiss should be denied.
- (13) Navajo presented a good faith claim to title.
- (14) Mr. Benscoter failed to appear at the hearing.
- (15) Navajo's Discharge Plan is affirmed.

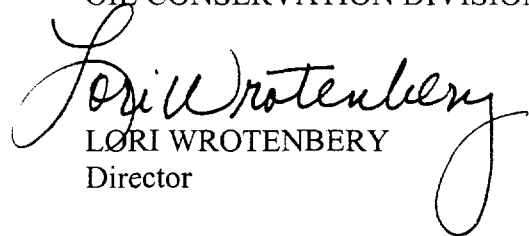
IT IS THEREFORE ORDERED THAT:

(1) Pursuant to the application of Navajo Refining Company, Discharge Plan No. UIC-CLI-008-2, dated October 6, 1999, is hereby affirmed and continued in full force and effect.

(2) Jurisdiction is hereby 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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