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R-11711-A

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

CASE NO. 12739

IN THE MATTER OF THE HEARING CALLED BY THE NEW MEXICO OIL CONSERVATION COMMISSION THROUGH THE SUPERVISOR OF DIVISION DISTRICT III IN AZTEC, NEW MEXICO ON ITS OWN MOTION FOR AN ORDER REQUIRING COULTHURST MANAGEMENT & INVESTMENTS TO BRING TWELVE (12) WELLS INTO COMPLIANCE WITH RULE 201.B AND ASSESSING APPROPRIATE CIVIL PENALTIES; SANDOVAL COUNTY, NEW MEXICO.

ORDER NO. R-11711-A

ORDER OF THE NEW MEXICO OIL CONSERVATION COMMISSION

BY THE COMMISSION:

This case came before the Oil Conservation Commission (hereinafter referred to as "the Commission") on March 26, 2002 at Santa Fe, New Mexico, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this 26th day of April, 2002,

FINDS,

1. Notice has been given of the application and the hearing on this matter, and the Commission has jurisdiction of the parties and the subject matter herein.
2. This case is before the Commission on application of Coulthurst Management & Investments (hereinafter referred to as "Coulthurst") for review *de novo* of this matter.
3. At the hearing, the New Mexico Oil Conservation Division ("the Division") appeared through counsel. Coulthurst appeared through counsel and presented the testimony of its President and Owner, John Coulthurst.
4. Coulthurst is the operator of the following twelve wells all located in Township 18 North, Range 3 West, NMPM, Sandoval County, New Mexico:
 - (a) Ann Well No. 3 (API No. 30-043-05040), located 902 feet from the North line and 576 feet from the East line (Unit A) of Section 33;
 - (b) Ann Well No. 5 (API No. 30-043-07011), located 994 feet from the North line and 321 feet from the East line (Unit A) of Section 33;

- (c) Ann Well No. 6 (**API No. 30-043-60003**), located 694 feet from the North line and 667 feet from the East line (Unit A) of Section 33;
- (d) Ann Well No. 15 (**API No. 30-043-20248**), located 1021 feet from the North line and 1121 feet from the East line (Unit A) of Section 33;
- (e) Darla Well No. 1 (**API No. 30-043-20678**), located 1750 feet from the North line and 1230 feet from the East line (Unit H) of Section 33;
- (f) Darla Well No. 2 (**API No. 30-043-05035**), located 1670 feet from the North line and 1014 feet from the East line (Unit H) of Section 33;
- (g) Darla Well No. 7 (**API No. 30-043-07017**), located 1347 feet from the North line and 1166 feet from the East line (Unit H) of Section 33;
- (h) Darla Well No. 16 (**API No. 30-043-20247**), located 1904 feet from the North line and 1158 feet from the East line (Unit H) of Section 33;
- (i) Erin Well No. 1 (**API No. 30-043-20861**), located 990 feet from the North line and 1650 feet from the West line (Unit C) of Section 33;
- (j) Erin Well No. 3 (**API No. 30-043-20868**), located 1650 feet from the North and West line (Unit F) of Section 33;
- (k) Erin Well No. 4 (**API No. 30-043-20869**), located 1650 feet from the North line and 2310 feet from the West line (Unit F) of Section 33; and
- (l) Jenny Well No. 1 (**API No. 30-043-20894**), located 990 feet from the South line and 2310 feet from the East line (Unit O) of Section 28.

5. The Division seeks an order directing Coulthurst to bring the above-listed wells into compliance with Division Rule 201.B, 19 NMAC 15.D.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, 19 NMAC 15.D.202; or (iii) securing Division authority to maintain these wells in

temporary abandonment status, in accordance with Division Rule 203, 19 NMAC 15.D.203.

6. During the hearing of this matter, the Division presented evidence that demonstrates:

(a) the above-described Coulthurst-operated wells have not produced any hydrocarbons since before 1997, and are not presently equipped to produce; and

(b) the Division has notified Coulthurst that the above-described wells are not in compliance with Rule 201.B, and demanded that Coulthurst bring said wells into compliance.

7. During his testimony, Mr. Coulthurst acknowledged that the wells are not currently producing but also testified that his company is endeavoring to develop the property and has a plan to bring all the wells back into compliance with the rules and regulations. Mr. Coulthurst testified that some wells will be converted to water injection to enhance production, several new wells will be drilled and several wells will be plugged. The wells to be plugged include the Jenny Well No. 1, the Darla Well No. 16, the Anne Well No. 5, the Anne Well No. 6 and possibly the Anne Well No. 16.

8. Mr. Coulthurst testified that he has presented a written proposal to the Bureau of Land Management detailing his development plan, but had not obtained approval as of the date of the hearing in this matter.

9. Concerning his failure to communicate with the Division concerning violations of Rule 201.B, Mr. Coulthurst testified that he had confused communications from the Division with those from the Bureau of Land Management (with whom he was in routine contact). In addition, Mr. Coulthurst testified he learned of the Division's hearing the night before the hearing. Mr. Coulthurst testified that the Division was unaware of his plans to create a water flood project as the necessary forms had been submitted only to the Bureau of Land Management, not the Division.

10. Concerning the proposed plugging program, Mr. Coulthurst testified that he has had ongoing discussions with the Bureau of Land Management concerning the plugging program, but that the Bureau's plugging requirements had increased the cost of plugging significantly and he had asked the Bureau to relax its requirements.

11. Concerning the remaining inactive wells, Mr. Coulthurst testified he intended to obtain integrity testing of four wells and apparently intends to place each of these wells into temporary abandoned status.

12. Mr. Coulthurst requested additional time to work out the details of the program described above with the Bureau of Land Management and the Division. He also requested that the Commission permit him to perform the plugging operations after

restoration to production because Coulthurst cannot afford to both plug the wells and begin the water flood operation.

13. Mr. Coulthurst testified on the sources of ground water for the water flooding operation and also testified that some of the existing wells are improperly cemented and groundwater is not presently being protected, although no contamination is evident.

14. It is apparent that the above-described Coulthurst-operated wells are not in compliance with Rule 201.B.

15. Coulthurst should be ordered to bring its wells as described above into compliance with Rule 201.B.

16. It is also apparent that Coulthurst knowingly and willfully failed to comply with Rule 201.B and, pursuant to NMSA 1978 70-2-31(A), that a civil penalty in the amount of Twelve Thousand Dollars (\$12,000), representing a civil penalty of \$1,000 for each well not in compliance with Rule 201.B, should be assessed against Coulthurst for this knowing and willful violation.

17. However, it is also apparent from the foregoing that Coulthurst has a genuine desire to restore the property to production and has developed a practical and reasonable plan to accomplish this goal, and therefore the civil penalty described in the previous paragraph should be suspended so that Coulthurst has time to accomplish its objective.

18. The civil penalty should be suspended so long as any wells not brought back into production or plugged within one hundred eighty (180) days from the date of this order are properly tested, repaired, if necessary, and placed into temporary abandoned status within the same time frame.

19. The request of Coulthurst to continue this matter pending completion of the water flood project and plugging project should be denied.

IT IS THEREFORE ORDERED:

1. Pursuant to the Application of the Division, Coulthurst Investment Co. of Berkeley, California ("Coulthurst") is hereby ordered, no later than one hundred eighty (180) days from the date of issuance of this Order, to bring each of its wells identified in Finding Paragraph No. 4 of this Order into compliance with Rule 201.B by accomplishing one of the following with respect to each well:

(a) causing said well to be plugged and abandoned in accordance with rule 202, and in accordance with a Division approved plugging program;

(b) restoring said well to production; or

(c) causing said well to be temporarily abandoned with Division approval in accordance with Rule 203.

2. As to any wells that the operator fails to bring into compliance as required by this Order, the supervisor of the Aztec district office of the Division and Division legal counsel may commence proceedings to permanently plug and abandon the wells 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 Rule 101, NMAC 19.15.3.101, or take other actions as appropriate.

3. Administrative penalties are hereby assessed against Coulthurst in the amount of \$1,000 for each well (a total of \$12,000) for knowingly and willfully failing to bring its above-described wells into compliance after receiving notice from the Division to do so.

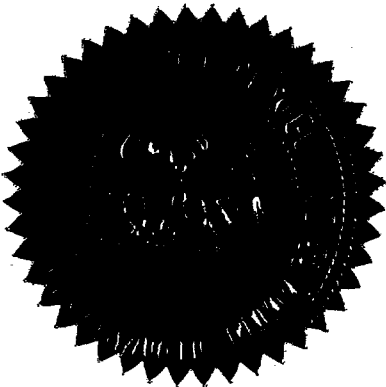
4. The civil penalty herein assessed shall be paid within two-hundred ten (210) days of receipt of this Order, by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Lori Wrotenbery, Director, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505.

5. The civil penalty of \$1,000 per well shall be and hereby is suspended for any well brought into compliance within one hundred eighty (180) days from the date of this order.

6. The application of Coulthurst for a continuance of this matter pending completion of the water flood project and plugging project shall be and herein is denied

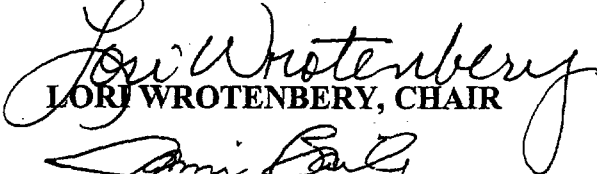
7. Jurisdiction of this case is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.




SEAL

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


LORI WROTENBERY, CHAIR


JAMI BAILEY, MEMBER


ROBERT LEE, MEMBER