

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

CASE NO. 12758

**APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION
THROUGH THE SUPERVISOR OF THE DISTRICT I HOBBS OFFICE FOR AN
ORDER REQUIRING KERSEY AND COMPANY TO BRING ONE (1) WELL
INTO COMPLIANCE WITH RULE 201.B AND ASSESSING APPROPRIATE
CIVIL PENALTIES, LEA COUNTY, NEW MEXICO.**

ORDER NO. R-11712-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 Kersey & Company for review *de novo* of this matter.
3. At the hearing, the New Mexico Oil Conservation Division ("the Division") appeared through counsel. Kersey & Company did not appear but submitted a letter dated February 12, 2002.
4. The Division seeks an order directing Kersey & Company to bring its Hover "1" Well No. 1 (hereinafter referred to as the "Hover No. 1 well") into compliance with Division Rule 201.B, 19 NMAC 15.D.201, either by: (i) restoring the well to production or other Division-approved beneficial use; (ii) causing the well to be properly plugged and abandoned in accordance with Division Rule 202.B, 19 NMAC 15.D.202.B; or (iii) securing Division authority to maintain the well in temporary abandonment status, in accordance with Division Rule 203, 19 NMAC 15.D.203.

5. The Division presented testimony that demonstrates:

(a) Kersey & Co. is the operator of the Hover No. 1 well, API No. 30-025-00789, which is located in Unit A of Section 32, Township 17 South, Range 32 East, NMPM, Lea County, New Mexico;

(b) the Hover No. 1 well has not produced any hydrocarbons since before 1997;

(c) the Division, on or about May 20, 2000, notified Kersey & Co. that the Hover No. 1 well was not in compliance with Rule 201.B. By letter dated September 8, 2000, the Division again notified Kersey & Co. that the well was not in compliance, and ordered that it bring it into compliance with Division rules;

(d) Kersey & Co. did not respond to the Division's letters; and

(e) the Hover No. 1 well was returned to production on or about December 3, 2001.

6. Kersey & Co. submitted a letter dated February 12, 2002 to the Division's attorney. That letter contained a letter dated February 6, 2002 to Division counsel together with spreadsheets from the ONGARD computer system and forms indicating the well was serviced and returned to production.

7. In the letter, Kenneth R. Wade, the production manager of Kersey & Co., objected to the fine imposed by the Division in Order No. 12758. Mr. Wade indicated that he saw no urgency to comply with the Division's rules and regulations because in his view the well did not pose an environmental hazard. Mr. Wade also seems to indicate that he saw no urgency to respond because the Division's records indicated the well was plugged and abandoned. He indicates that he failed to bring the well into compliance with the Division's rules and regulations because there was no "economic advantage" for doing so.

8. Kersey & Co.'s Hover "1" No. 1 was not in compliance with Rule 201.B at the time the application in this matter was filed and was out of compliance until it was brought back into production on December 3, 2001.

9. Comments in the letter of February 6, 2002 indicate that Kersey & Co. fails to understand the necessity to communicate with the Division concerning violations of the rules and regulations and the seriousness of the situation that gave rise to the application of the Division.

10. The comments of Kersey & Co. in the letter of February 6, 2002 also indicate that Kersey & Co. knowingly and willfully failed to comply with Rule 201.B.

11. However, because the well has been returned to production, no fine should be imposed for the violation of Rule 201.B and the Division's application should be denied.

IT IS THEREFORE ORDERED:

1. No administrative penalty shall be assessed against Kersey & Co. at this time for its knowing and willful failure to bring its well into compliance after receiving notice from the Division to do so, and the Division's application shall be and hereby is denied.

2. Kersey & Co. is warned to respond in the future to Division directives and to communicate with the Division concerning its intentions when requested to do so. Failure to do so will result in possibly severe penalties and administrative sanctions.

3. 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.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

LORI WROTENBERY, CHAIR

JAMI BAILEY, MEMBER

ROBERT LEE, MEMBER

SEAL