

BYRON OIL INDUSTRIES, INC.

IBLA 87-783

Decided November 30, 1987

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, affirming as modified a request that a well be tested to establish its productive capability. CA NCR-352

Affirmed.

1. Oil and Gas Leases: Communitization Agreements -- Oil and Gas Leases: Well Capable of Production

BLM may properly require the operator of a communitized area to conduct a 60-day test of a well pursuant to 43 CFR 3162.4-2(b) where the communitization agreement and the leases thereunder are each held in an extended term and the well at issue has been shut in for 2 years.

APPEARANCES: Alan J. Byron, President, Byron Oil Industries, Inc., Ballwin, Missouri, for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Byron Oil Industries, Inc., has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated July 31, 1987, affirming as modified a request by the Rawlins District Office, BLM, that appellant perform a 60-day test of the Cedar Ridge Federal No. 1 well.

The Cedar Ridge Federal No. 1 well is located on land described by Communitization Agreement (CA) NCR-352. Lease W 30831, on which the well is located, and lease W 31392 were each partially committed to this agreement effective September 1, 1981, during the primary term of each lease. 1/ Appellant is the operator of this communitization agreement. The Cedar Ridge Federal No. 1 well was completed on May 2, 1981, 2/ with an initial production

1/ Lease W 30831 was issued effective Oct. 1, 1971, and describes 960 acres in S 1/2 sec. 22 and all of sec. 26, T. 22 N., R. 85 W., sixth principal meridian. The record shows two distinct effective dates for lease W 31392, Nov. 1, 1971, and Dec. 1, 1971. This lease describes 560 acres of land in SE 1/4 sec. 8, SW 1/4 SW 1/4 sec. 10, SW 1/4 SW 1/4 sec. 14, and the N 1/2 sec. 22, T. 22 N., R. 85 W., sixth principal meridian.

2/ The Acting District Supervisor noted that first production occurred on May 2, 1981. Memorandum of Nov. 27, 1981, to the Deputy Conservation Manager

rate of 3 barrels of oil per day (BOPD), 25 thousand cubic feet of gas per day (MCFGPD), and 25 barrels of water per day (BWPD). By memorandum of November 27, 1981, BLM characterized this well as a "marginal completion," but later 3/ acknowledged it to be "capable of production in paying quantities, on a lease basis." 4/ The Minerals Management Service (MMS) found that based on the "oil discovery" achieved by this well, all lands in CA NCR-352 5/ were within an unnamed, undefined known geologic structure.

Well reports filed by appellant indicate production of 214.62 barrels of oil for the period November 1981 through July 1982. Thereafter until November 1984, appellant reported the well as shut-in. In that month, appellant reported obtaining 70 barrels of oil by swabbing the well; 6/ an additional 3.34 barrels were reported on appellant's December 1984 tally. In all subsequent reports save one, 7/ appellant has reported the Cedar Ridge Federal No. 1 well as shut-in and awaiting stimulation treatment.

These reports caused BLM in January 1985 to direct appellant to set forth its intentions to commence workover operations on this well. BLM explained that CA NCR-352 was in its extended term and held by production. 8/ Referring to section 10 of CA NCR-352, BLM pointed out reworking operations must commence within 60 days of cessation of production to avoid termination of the agreement. In response, appellant stated that it had, in effect, already commenced reworking operations in November and December 1984 when it swabbed the well and recovered 70 and 3.34 barrels of oil, respectively. Appellant also expressed its intention to release the packer on the well, clean the well, and do remedial work to obtain daily production. Because the well did not flow, heavy-duty pumping equipment would have to be installed, appellant noted. BLM advised in response that appellant should continue to pursue its reworking operations to return the well to a producing status.

fn. 2 (continued)

for Oil and Gas. Elsewhere, the record indicates that completion occurred on Oct. 20, 1981. See Township Well Record Plat, dated "1/27/81" (sic).

3/ Memorandum of Dec. 7, 1981, to the Deputy Conservation Manager for Oil and Gas from the Acting District Supervisor, Casper.

4/ See Yates Petroleum Corp., 67 IBLA 246 (1982), for the distinction between a well capable of production in paying quantities on a lease basis and a well satisfying the requirements of section 9 of the model unit agreement. 43 CFR 3186.1.

5/ CA NCR-352 describes lands in W 1/2 sec. 22, T. 22 N., R. 85 W., sixth principal meridian, Carbon County, Wyoming.

6/ "Swabbing a well" involves the "[i]ntroduction of a swab into the tubing after casing is set, perforated and tubing run, in order to clean out drilling mud. This is a recognized method in the oil industry in producing the first oil." 8 Williams and Meyers, Oil and Gas Law 877 (1984).

7/ The well report for June 1985 indicates production of 16.67 barrels of oil obtained by swabbing.

8/ Section 10 of CA NCR-352 states that the agreement shall remain in effect for a period of 2 years and for so long as communitized substances are, or can be, produced from the communitized area in paying quantities.

By decision dated September 9, 1985, BLM determined that CA NCR-352 had terminated effective September 30, 1984, pursuant to section 10 of the communitization agreement. That section provides that the agreement shall remain in force and effect for a period of 2 years and for so long as communitized substances are, or can be, produced from the communitized area in paying quantities. In response, appellant filed amended production reports 9/ crediting the Cedar Ridge Federal No. 1 well with previously misreported production. In a letter accompanying these amended reports, appellant explained that it had spent over \$ 4 million on this well and that appellant had produced the well "from time to time by pumping and more recently by thoroughly swabbing the well." In response to appellant's reports, BLM issued a new decision 10/ vacating its September 9 decision and rescinding the termination of CA NCR-352. In this new decision, BLM held that the Cedar Ridge Federal No. 1 well was capable of producing communitized substances in paying quantities. Following the decision, appellant reiterated its intention to re-enter the well and remove, and possibly replace, the existing packer. 11/

By letter of February 6, 1987, the Rawlins District Manager, BLM, requested that appellant test the Cedar Ridge Federal No. 1 well to show whether the well was capable of producing communitized substances in paying quantities. In support of this request, BLM cited regulation 43 CFR 3162.4-2. 12/ This test was eventually run on June 23, 1987, and test results were found by BLM to be inconclusive.

The inconclusive test results caused the Rawlins District Manager to next request a 60-day test of the well. Appellant's protest of this request was rejected by the State Office, which affirmed the propriety of the request and offered appellant the following options:

1. Conduct a 60-day well test as requested in the RDO [Rawlins District Office] letter dated July 8, 1987, and produce the well.
2. Submit a remedial workover action plan to RDO outlining specific procedures and timeframes necessary to put the Cedar Ridge Federal No. 1 well in a continuous producing status. * * *.

9/ These reports were for the months of November and December 1984 and for June 1985.

10/ The decision is dated Sept. 24, 1985.

11/ Letter to the Rawlins District Office, dated Oct. 1, 1985. A "packer" is a device which can be made to close a borehole or casing by expansion so as to make a watertight joint. See A Dictionary of Mining Mineral and Related Terms. (1967)

12/ This regulation states in part:

"(b) After the well has been completed, the lessee shall conduct periodic well tests which will demonstrate the quantity and quality of oil and gas and water. The method and frequency of such well tests will be specified

3. Submit a notice of intent to abandon the Cedar Ridge Federal No. 1 well on form DOI 3160-5 Sundry Notice, in accordance with 43 CFR 3162.3-4(a).

The instant appeal is taken from this decision of the State Office. In its appeal, appellant asks this Board to suspend the requirements of this decision pending appeal. Because we now fully address the merits of appellant's position, no need exists to consider its suspension request.

In its statement of reasons, appellant contends that the Cedar Ridge Federal No. 1 well has been adequately tested. Attached to its statement are well reports for the period November 15, 1981, through July 24, 1982, showing production in the amount of 214.62 barrels. In earlier arguments in its protest, appellant contended that the June 23, 1987, test of the well was conclusive, but acknowledged that it gave an "exaggerated estimate of production." Any prolonged test would probably show production in the range of two barrels per day, typical of the well's past production efforts, appellant maintained. Economic conditions and the "excessive costs of equipment and services, which would be required to keep the well pumping on a regular basis" have required that the well be shut in for periods in excess of 90 days. Id. As oil prices increase, appellant stated, it will be able to justify the expense of BLM's 60-day test.

[1] The record reveals that leases W 30831 and W 31392 have each been extended approximately 6 years beyond their primary terms. The reason of this extension has been the Cedar Ridge Federal No. 1 well and CA NCR-352. The record further reveals that since its completion in 1981, this well has produced approximately 300 barrels of oil, most recently by swabbing. Oil is not a communitized substance under CA NCR-352. Appropriate pumping equipment is not yet at the well site, and remedial work has been planned since January 1985, but apparently never accomplished. Moreover, the record contains no request for a suspension of producing requirements. See Instruction Memorandum 86-508 (June 6, 1986). If communitized substances are not, or can not be, produced in paying quantities, section 10 of CA NCR-352 implies that the agreement is of no force or effect. If the Cedar Ridge Federal No. 1 well is not a well capable of production in paying quantities, neither lease W 30831 nor W 31392 should continue. It is the purpose of the 60-day test to determine whether the Cedar Ridge Federal No. 1 well remains as an authorized use of the public lands.

In a July 21, 1987, memorandum to the State Office, the Rawlins District Manager stated that production of 2 BOPD indicates that the Cedar Ridge Federal No. 1 well is not capable of producing communitized substances in paying quantities. Rather than resolve this issue against appellant, however, BLM has requested a test to determine whether the well is capable of production

fn. 12 (continued)

in appropriate notices and orders. When needed, the lessee shall conduct reasonable tests which will demonstrate the mechanical integrity of the downhole equipment."

in paying quantities. We find that the State Office decision is supported by regulation and offers a common sense approach to resolving the factual dispute at hand.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Wyoming State Office is affirmed.

Franklin D. Arness
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

R. W. Mullen
Administrative Judge