

CHAVEROO OPERATING CO., INC.

IBLA 93-284

Decided July 10, 1996

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, upholding an order to either test or plug and abandon shut-in wells on Federal lease NMNM 83197. SDR 93-10.

Affirmed.

1. Environmental Quality: Generally—Oil and Gas Leases: Generally

An order to the operator to test or abandon nonproducing, shut-in wells on an oil and gas lease is properly upheld where the operator has failed to justify a further delay in abandoning the wells under 43 CFR 3162.3-4 and BLM has ordered such testing to ascertain the integrity of each well pursuant to 43 CFR 3162.4-1(b).

APPEARANCES: W. J. Graham, President, Chaveroo Operating Co., Inc., Kingwood, Texas.

OPINION BY ADMINISTRATIVE JUDGE KELLY

Chaveroo Operating Co., Inc. (Chaveroo), has appealed a February 19, 1993, decision of the Deputy State Director-Lands and Minerals, New Mexico State Office, Bureau of Land Management (BLM), upholding the Roswell Resource Area Manager's order to either test or plug and abandon 20 shut-in wells on Federal lease NMNM 83197.

Chaveroo apparently operated those wells from 1983 through 1988, and then shut them in during 1989. By order dated October 28, 1992, the Area Manager instructed Chaveroo as follows:

Please find enclosed a list of wells on Chaveroo Operating Company's federal lease Farrell Federal, lease number NMNM83197, located in Section 28, Township 7 South, Range 33 East, Roosevelt County, New Mexico, which have been idle for over twelve (12) months. The Bureau of Land Management must know the condition of the downhole equipment (casing, tubing, etc.) in each well that is inactive.

Within thirty (30) days from the date of this letter, a testing program shall be submitted for approval by the Roswell Resource Area Manager. Any downhole problems found shall be corrected and the well or wells put into service. Wells that are considered unserviceable and must be plugged and abandoned. Well tests shall be witnessed by a representative of the Bureau of Land Management. If the well or wells have been tested within the last twelve (12) months, you will not be required to retest. The test results shall be filed with and approved by this office.

When Chaveroo appealed to the State Director under 43 CFR 3165.3, it asserted that with "severely low bottom hole pressure[,] contamination of any shallower sand is virtually impossible," that it is "pursuing every avenue to secure bids from responsible parties" to restore production or to test, and other pertinent reasons for suspending the order. Chaveroo presented detailed data in support of its arguments. The Deputy State Director in his review (SDR 93-10), however, sustained the order as follows:

According to Stevens Engineering, the submitted water flood economic analysis was a brief study and is not the final results of a complete study. Assuming that the analysis is valid, Chaveroo has been unsuccessful in obtaining financial support to commence the water flood project. Therefore, a successful water flood project seems unlikely.

The Manager's concern for the down hole integrity of the subject wells is valid. Accordingly, the Manager's Order is upheld.

In its statement of reasons, Chaveroo sets forth data regarding depletion of the San Andres reservoir, subnormal pressures found in the reservoir, and the unlikelihood of casing failures. Appellant argues that testing is therefore unnecessary. Appellant continues with its request for a suspension of the order to test or abandon so that it may pursue other options in order that these wells will not be permanently abandoned, which, it argues, is a most-likely scenario if they are plugged at this time. BLM did not respond.

We find that the appealed BLM decision did little to rebut the arguments and information submitted by appellant. However, while BLM should support its decision with reasoned analysis, it is well established that a party dealing with the Government is responsible to know and observe the governing rules and regulations. See Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 385 (1947); Margaret H. Paumier, 2 IBLA 151, 154 (1971). The two issues of this appeal, Chaveroo's efforts to initiate a waterflood project to avert abandoning these wells and the condition of the wells, are adequately addressed in the Department's regulations.

[1] As noted, the wells have not produced for several years. Pursuant to 43 CFR 3162.3-4(a), the Department may require an operator to plug and abandon a well that is not capable of producing oil or gas in paying quantities. 43 CFR 3162.3-4(c) further provides:

No well may be temporarily abandoned for more than 30 days without the prior approval of the authorized officer. The authorized officer may authorize a delay in the permanent abandonment of a well for a period of 12 months. When justified by the operator, the authorized officer may authorize additional delays, no one of which may exceed an additional 12 months.

Paragraph (c) above clearly contemplates that an operator may delay the plugging and abandonment of a well for as long as 12 months with BLM's prior approval. While no limit to the number of such authorized delays is imposed by the regulation, authorization for each 12-month delay is dependent upon the operator showing justification for such action. ERC Industries, 124 IBLA 331 (1992).

Appellant awaits improved economics and financial support, but in the meantime a risk of environmental harm persists. BLM is responsible to ensure and the operator is responsible to conduct operations in a manner which protects other natural resources and the environmental quality. 43 CFR 3161.2, 3162.5-1(a). The operator must comply with pertinent orders regarding that responsibility. 43 CFR 3162.5-1(a). Moreover, 43 CFR 3162.4-1(b) provides: "When needed, the lessee shall conduct reasonable tests which will demonstrate the mechanical integrity of the downhole equipment."

In the absence of progress by Chaveroo in implementing its waterflood program here, BLM acted within its discretion in ordering appellant to test or abandon the subject wells. The wells are no closer to production or abandonment than they were when production ceased, and, in their present state, pose environmental concerns which BLM feels need to be addressed by testing. Chaveroo has argued that there is no danger based on generalized statements. However, BLM has requested information on each well in order to make a well-by-well analysis. We find that the Area Manager's order is supported by regulation and appellant has failed to show error in the State Office's decision.

Assuming, arguendo, that appellant has found, during the pendency of this appeal, the necessary resources or economic environment to proceed with its waterflood project, BLM is not precluded from reconsidering its order in keeping with its responsibility to encourage "maximum ultimate recovery of oil and gas with minimum waste" while protecting the environment. See 43 CFR 3161.2.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

John H. Kelly
Administrative Judge

I concur.

David L. Hughes
Administrative Judge

