

**BEFORE THE
OIL & GAS COMMISSION**

CHIEFTAIN ENERGY CORP.,

Appellant,

-vs-

DIVISION OF MINERAL RESOURCES
MANAGEMENT,

Appellee.

Appeal No. 741

Review of Chief's Order
2004-49

**ORDER OF COMMISSION
DENYING MOTION TO
DISMISS APPEAL**

Appearances: Douglas Kitchen, on behalf of Appellant Chieftain Energy Corp., Holly N. Deeds, Assistant Attorney General, Counsel for Appellee Division of Mineral Resources Management.

Date Issued: 4/5/05


This matter came before the Oil & Gas Commission upon appeal by Chieftain Energy Corporation [Chieftain] from Chief's Order 2004-49. Chief's Order 2004-49 ordered the forfeiture of surety bond in the amount of \$15,000. Chief's Order 2004-49 was issued for Chieftain's failure to comply with Chief's Orders 2004-23 and 2004-24, which ordered Chieftain to plug or produce certain oil & gas wells.

On July 19, 2004, Chieftain filed a notice of appeal with the Oil & Gas Commission from Chief's Order 2004-49. On October 5, 2004, Appellee Division filed a Motion to Dismiss this appeal for failure to state sufficient grounds upon which relief can be granted. Appellant has not responded to this Motion.

ORDER

The Oil & Gas Commission has read and considered the Appellee's Motion to Dismiss. The Commission has also reviewed its prior orders and decisions. The Commission finds that the Appellee's arguments are not well taken. WHEREFORE, the Commission DENIES Appellee's Motion and appeal no. 741 shall proceed to hearing.


WILLIAM J. TAYLOR, Chairman


JOHN A. GRAY


JAMES H. CAMERON


MARILYN ENNIS

DISTRIBUTION:

Douglas Kitchen
Holly Deeds

BEFORE THE OIL & GAS COMMISSION

CHIEFTAIN ENERGY CORP.,

Appellant,

-vs-

DIVISION OF MINERAL RESOURCES
MANAGEMENT,

Appellee.

Appeal Nos. 734, 735 & 741

Review of Chief's Orders 2004-29,
2004-37 & 2004-49

FINDINGS, CONCLUSIONS & ORDER OF THE COMMISSION

Appearances: Kevin M. Maloney, Counsel for Appellant Chieftain Energy Corp., Holly Deeds Martin, Assistant Attorney General, Counsel for Appellee Division of Mineral Resources Management.

Date Issued: February 6, 2006

BACKGROUND

These matters came before the Oil & Gas Commission upon appeal by Chieftain Energy Corp. ["Chieftain Energy" or "Chieftain"] from Chief's Orders 2004-29, 2004-37 and 2004-49. Chief's Orders 2004-29 and 2004-37 required Chieftain to either plug or produce certain oil & gas wells. Chief's Order 2004-49 demanded the forfeiture of bond in the amount of \$15,000.

On November 30, 2005, these causes came on for hearing before four members of the Oil & Gas Commission. At hearing, the parties presented evidence and examined witnesses appearing for and against them.

ISSUES

The issues presented by these appeals are: **Whether the Chief acted lawfully and reasonably in ordering Chieftain Energy to plug or produce certain oil & gas wells. And whether the Chief acted lawfully and reasonably in ordering the forfeiture of Chieftain's blanket bond.**

THE LAW

1. Pursuant to O.R.C. §1509.36, the Commission will affirm the Division Chief if the Commission finds that the order appealed is lawful and reasonable.

2. O.R.C. §1509.12 provides in part:

Unless written permission is granted by the chief, any well which is or becomes incapable of producing oil or gas in commercial quantities shall be plugged, but no well shall be required to be plugged under this section that is being used to produce oil or gas for domestic purposes, or that is being lawfully used for a purpose other than production of oil or gas. When the chief finds that a well should be plugged, the chief shall notify the owner to that effect by order in writing and shall specify in such order a reasonable time within which to comply. No owner shall fail or refuse to plug a well within the time specified in the order.

3. O.R.C. §1509.07 provides *inter alia*:

[A]n owner of any well, before being issued a permit under section 1509.06 of the Revised Code, shall execute and file with the division of mineral resources management a surety bond conditioned on compliance with the restoration requirements of section 1509.072, the plugging requirements of section 1509.12, the permit provisions of section 1509.13 of the Revised Code, and all rules and orders of the chief relating thereto, in an amount set by rule of the chief.

The owner may deposit with the chief, instead of a surety bond, cash in an amount equal to the surety bond as prescribed pursuant to this section or negotiable certificates of deposit or irrevocable letters of credit, having a cash value equal to or greater than the amount of the surety bond as prescribed pursuant to this section.

4 O.R.C. §1509.071 provides for the forfeiture of bond:

(A) When the chief of the division of mineral resources management finds that an owner has failed to comply with the restoration requirements of section 1509.072, plugging requirements of section 1509.12, or permit provisions of section 1509.13 of the Revised Code, or rules and orders relating thereto, the chief shall make a finding of that fact and declare any surety bond filed to ensure compliance with those sections and rules forfeited in the amount set by rule of the chief. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the forfeiture.

5 O.A.C. §1501:9-1-03 addresses performance bond and provides in pertinent part:

(A) Amount: for a blanket bond covering all such wells operated by the principal, fifteen thousand dollars;

* * *

(C) Forfeiture criteria and amount. The chief shall forfeit the total amount of the performance bond when he or she finds that the oil or gas well owner or permittee has:

* * *

(1) Failed to comply with the plugging requirements of section 1509.12 of the Revised Code, the permit provisions of section 1509.13 of the Revised Code or rules adopted thereunder.

FINDINGS OF FACT

1 Chieftain Energy Corporation owns several oil & gas wells, including the Bozett #9 Well, the Crabil/Long #1 Well, the James Perry # 1 & #2 Wells, the Orlan Perry #1, #2 & #3 Wells, the Armstrong #1 Well and the Stanart #12 Well.

2. Chieftain Energy's wells are covered by a "blanket bond" in the amount of \$15,000. This bond consists of an Irrevocable Letter of Credit from the Citizens Bank of Logan, Ohio. This "blanket bond" was filed in accordance with O.R.C §1509.07

THE BOZETT #9 WELL

Subject of Chief's Order 2004-29 (plug or produce)

3 Chieftain Energy is the registered owner of the Bozett #9 Well. Chieftain obtained this well on October 29, 2001, via transfer from former owner Paul Grim. The Bozett #9 Well is located in Hocking County, Ohio.

4 On February 24, 2004, the Division conducted an inspection of the Bozett #9 Well. The Division determined that this well was incapable of producing oil and/or gas in commercial quantities. This determination was based upon the Division's findings that equipment to produce the well was not present at the site. The well consisted only of a 4½ inch casing protruding from the ground. A Notice of Violation was issued to Chieftain, requiring Chieftain to plug or produce this well by April 16, 2004. Chieftain did not comply with this Notice of Violation.

5 On May 3, 2004, Chief's Order 2004-29 was issued to Chieftain Energy. This order declared the Bozett #9 Well incapable of production in commercial quantities. The order required Chieftain Energy to produce the well within 10 days, or plug the well within 30 days.

6. More than 30 days after May 3, 2004, Chieftain laid a gas line to a building located on the Bozett property. This building was not a continuously inhabited building, but was utilized as a hunting lodge. The owner of the property resides in Georgia. On August 28, 2005, Chieftain plugged the Bozett #9 Well. The plugging occurred approximately 15 months after the issuance of Chief's Order 2004-29.

THE CRABIL/LONG #1 WELL
Subject of Chief's Order 2004-37 (plug or produce)

7. Chieftain Energy is the registered owner of the Crabil/Long #1 Well. Chieftain obtained this well on November 23, 2001, via transfer from former owner Paul Grim. The Crabil/Long #1 Well is located in Vinton County, Ohio.

8. On February 19, 2004, the Division conducted an inspection of the Crabil/Long #1 Well. The Division determined that this well was incapable of producing oil and/or gas in commercial quantities. This determination was based upon the Division's findings that no engine was connected to the pump jack and that the well's flow line was leaking. Historically, the Crabil/Long #1 Well had been productive. However, production statements for this well showed no production since 1998. A Notice of Violation was issued to Chieftain, requiring Chieftain to plug or produce this well by April 2, 2004. Chieftain did not comply with this Notice of Violation.

9. On May 21, 2004, Chief's Order 2004-37 was issued to Chieftain Energy. This order declared six wells, including the Crabil/Long #1 Well, incapable of production in commercial quantities. The order required Chieftain Energy to produce the well within 10 days, or plug the well within 30 days.

10. More than 30 days after May 21, 2004, Chieftain laid a new flow line between the well and the tank battery. Chieftain also repaired the well's motor. On April 27, 2005, Chieftain shipped 32 barrels of oil from the Crabil/Long #1 Well. This small shipment, being the only shipment made since 1998, does not constitute commercial production. Additionally, there is no conclusive proof of when the shipped oil was actually produced. Furthermore, this shipment was not made within the time specified in Chief's Order 2004-37, and in fact, was not made until approximately 11 months after the order was issued.

THE JAMES PERRY #1 & #2 WELLS
Subject of Chief's Order 2004-37 (plug or produce)

11 Chieftain Energy is the registered owner of the James Perry #1 & #2 Wells. Chieftain obtained these wells on November 23, 2001, via transfer from former owner Paul Grim. The James Perry #1 & #2 Wells are located in Vinton County, Ohio.

12. In early 2004, Mr. James Perry lodged a complaint with the Division, asserting that the wells on his property had been idle for several years. On February 19, 2004, the Division conducted an inspection of the James Perry #1 & #2 Wells. The Division determined that these wells were incapable of producing oil and/or gas in commercial quantities. This determination was based upon the Division's findings that the equipment at the well sites was in disrepair, and that no electricity was running to the wells. Production reports showed that the James Perry #1 Well had not been produced since 1996, and that the James Perry #2 Well was never produced. Notices of Violation were issued to Chieftain, requiring Chieftain to plug or produce these wells by April 2, 2004. Chieftain did not comply with these Notices of Violation.

13 On May 21, 2004, Chief's Order 2004-37 was issued to Chieftain Energy. This order declared six wells, including the James Perry #1 & #2 Wells incapable of production in commercial quantities. The order required Chieftain Energy to produce the wells within 10 days, or plug the wells within 30 days.

14. More than 30 days after May 21, 2004, Chieftain repaired the wells' tubing, repaired the electric lines to the wells, repaired the flow lines and installed two tank batteries. On April 27, 2005, Chieftain shipped 20 barrels of oil produced from the James Perry #1 Well. This small shipment, being the only shipment made since 1996, does not constitute commercial production. Additionally, there is no conclusive proof of when the shipped oil was actually produced. Furthermore, this shipment was not made within the time specified in Chief's Order 2004-37, and in fact, was not made until approximately 11 months after the order was issued. Chieftain further asserts that 40 - 45 barrels of oil are ready to be shipped from these wells. The James Perry #1 Well has been connected to a dwelling located on the James Perry property, and now furnishes domestic gas to this dwelling. The James Perry #1 Well was connected to this dwellings after May 2004. Photographs of the James Perry #2 Well taken in November 2005, show no signs of recent production.

THE ORLAN PERRY #1, #2 & #3 WELLS
Subject of Chief's Order 2004-37 (plug or produce)

15 Chieftain Energy is the registered owner of the Orlan Perry #1, #2 & #3 Wells. Chieftain obtained these wells on November 23, 2001, via transfer from former owner Paul Grim. The Orlan Perry #1, #2 & #3 Wells are located in Vinton County, Ohio.

16. On February 19, 2004, the Division conducted an inspection of the Orlan Perry #1, #2 & #3 Wells. The Division determined that these wells were incapable of producing oil and/or gas in commercial quantities. This determination was based upon the Division's findings that the equipment at the well site was in disrepair, and that flow lines and/or electrical lines were not connected to the wells. Production statements showed that the Orlan Perry Wells had not been produced since 1997. Notices of Violation were issued to Chieftain, requiring Chieftain to plug or produce these wells. Chieftain did not comply with the Notices of Violation.

17 On May 21, 2004, Chief's Order 2004-37 was issued to Chieftain Energy. This order declared six wells, including the Orlan Perry #1, #2 & #3 Wells, incapable of production in commercial quantities. The order required Chieftain Energy to produce the wells within 10 days, or plug the wells within 30 days.

18. More than 30 days after May 21, 2004, Chieftain connected flow lines to the wells and repaired the electric lines to the wells. During the summer of 2004, the Orlan Perry #2 Well was connected to a home on the Perry property in order to furnish domestic gas. Chieftain asserts that the Orlan Perry #1, #2 & #3 Wells are all connected. However, any lines connecting the wells are buried, and have not been directly observed by Chieftain. The Orlan Perry #2 Well produces a very small amount of domestic gas. On April 28, 2005, Chieftain shipped 50 barrels of oil produced from the Orlan Perry Wells. This small shipment, being the only shipment made since 1997, does not constitute commercial production. Additionally, there is no conclusive proof of when the shipped oil was actually produced. Furthermore, this shipment was not made within the time specified in Chief's Order 2004-37, and in fact, was not made until approximately 11 months after the order was issued. Photographs taken in November 2005 show no signs of recent production from the Orlan Perry #1 and #3 Wells.

THE ARMSTRONG #1 WELL
Subject of Chief's Order 2004-49 (bond forfeiture)

19 Chieftain Energy is the registered owner of the Armstrong #1 Well. Chieftain obtained this well on October 29, 2001, via transfer from former owner Paul Grim. The Armstrong #1 Well is located in Hocking County, Ohio.

20. On June 27, 2003, the Division conducted an inspection of the Armstrong #1 Well. The Division determined that the well was idle and not producing. A Notice of Violation was issued to Chieftain, requiring Chieftain to plug or produce this well by July 25, 2003. Chieftain did not comply with this Notice of Violation.

21. On March 30, 2004, the Division again inspected the Armstrong #1 Well. The Division determined that this well was incapable of producing oil and/or gas in commercial quantities. This determination was based upon the Division's findings that the equipment associated with the well was in disrepair, that no pump jack was connected to the well and that no production lines were connected to the wellhead.

22. On April 9, 2004, Chief's Order 2004-24 was issued to Chieftain Energy. This order declared the Armstrong #1 Well incapable of production in commercial quantities. The order required Chieftain Energy to produce the well within 10 days, or plug the well within 30 days. Chieftain did not appeal Chief's Order 2004-24 to the Oil & Gas Commission. Chieftain did not comply with Chief's Order 2004-24 in a timely manner.

23. On June 11, 2004, Chief's Order 2004-49 was issued to Chieftain Energy. This order required the forfeiture of Chieftain's blanket bond for failure to plug or produce two wells, including the Armstrong #1 Well, in a timely manner.

24 After June 11, 2004, Chieftain plugged the Armstrong #1 Well.

THE STANEART #12 WELL
Subject of Chief's Order 2004-49 (bond forfeiture)

25 Chieftain Energy is the registered owner of the Stanearth #12 Well. Chieftain obtained this well on November 23, 2001, via transfer from former owner Paul Grim. The Stanearth #12 Well is located in Vinton County, Ohio.

26. On March 4, 2002, the Division conducted an inspection of the Stanearth #12 Well. A Notice of Violation was issued to Chieftain, requiring Chieftain to plug or produce this well by April 19, 2002. Chieftain did not comply with this Notice of Violation.

27 On March 3, 2004, the Division again inspected the Stanearth #12 Well. The Division determined that this well was incapable of producing oil and/or gas in commercial quantities. This determination was based upon the Division's findings that the Stanearth #12 Well has never been completed, and has never been produced. Chieftain's representative testified that a swab or steel tool is stuck inside the well at a depth of approximately 800 feet. The swab or tool would need to be milled out of the well in order for the well to be produced. A tenant on the Stanearth property assaulted Paul Grim and his crew, when Grim attempted to work at the well site. In June 2004, the landowner filed an action to quiet title against Chieftain Energy and Paul Grim. In September 2004, the Vinton County Court of Common Pleas issued an order, quieting title in favor of the landowner, and enjoining Chieftain Energy and Paul Grim from entering the property and affecting the Stanearth well.

28. On April 9, 2004, Chief's Order 2004-23 was issued to Chieftain Energy. This order declared the Stanearth #12 Well incapable of production in commercial quantities. The order required Chieftain Energy to produce the well within 10 days, or plug the well within 30 days. Chieftain did not appeal Chief's Order 2004-23 to the Oil & Gas Commission. Chieftain did not comply with Chief's Order 2004-23 in a timely manner.

29 On June 11, 2004, Chief's Order 2004-49 was issued to Chieftain Energy. This Order required the forfeiture of Chieftain's blanket bond for failure to plug or produce two wells, including the Stanearth #12 Well, in a timely manner.

30 Chieftain asserts that an agreement has been reached between Chieftain and the landowner, and that the Stanart #12 Well will be plugged in the near future.

DISCUSSION

Before being issued a permit, the owner of any oil & gas well in the State of Ohio must post a performance bond. The purpose of the bond is to ensure that the well owner complies with the laws and rules regulating the production of oil & gas. The bond is also intended to provide funds to insure the plugging of non-productive wells. See O.R.C. §1509.071. O.R.C. §1509.071 specifically states that the performance bond is conditioned upon compliance with the plugging requirements of O.R.C. §1509.12. O.R.C. §1509.12 requires the plugging of wells that are determined to be incapable of producing oil or gas in commercial quantities, and are not being used for domestic purposes. This plugging requirement is intended to protect both the environment and other oil & gas producing strata.

The instant decision addresses three separate Chief's Orders. The first order requires the plugging or production of the Bozett #9 Well. A second order requires the plugging or production of six wells, all located in Vinton County, and identified as the Crabil/Long #1 Well, the James Perry #1 & #2 Wells, and the Orlan Perry #1, #2 & #3 Wells. A third order mandates the forfeiture of Chieftain's performance bond, and is based upon Chieftain's failure to plug or produce the Armstrong #1 Well and the Stanart #12 Well.

Chief's Orders 2004-29 and 2004-37 allege that in May 2004, seven wells owned by Chieftain Energy were idle and unproductive. These Chief's Orders required Chieftain Energy to plug or produce the wells within a stated period of time. In issuing these Chief's Orders, the Division determined that in May 2004 these seven wells were both incapable of producing oil & gas in commercial quantities and were not being utilized for domestic purposes.

To determine whether the Division Chief has reasonable grounds to believe that a well is incapable of producing oil or gas in commercial quantities, this Commission has developed a five-point test. State of Ohio v Baldwin Producing Corporation, No. 76AP-892 (Court of Appeals, Franklin County [March 10, 1997]). The Baldwin test requires consideration of five indicia of commercial production, which are:

1. Has the owner of the well requested permission from the Chief for the well to stand idle and presented firm, reasonable plans, which he is capable of carrying out, to produce oil or gas in commercial quantities?
2. How recently the well has, in fact, produced oil or gas in commercial quantities and how much oil or gas has been sold?
3. Is the well equipped sufficiently with both surface and in-hole equipment to allow for commercial production?
4. How recently have actual good faith on-site attempts been made to produce the well in commercial quantities?
5. Has the state caused investigation to be made on the well site?

See also: Lake Underground Storage v Mason, appeal #487 (June 27, 1996); Alsld Oil & Gas v Division, appeal #650 (January 11, 1999).

In the Baldwin appeal, the Commission held, and the courts affirmed, that the word "incapable" does not mean that there was no "technical or proprietary hope" that the well will produce in commercial quantities. Rather, the examination focuses on whether the well has recently produced commercial quantities of oil or gas, and whether the well is equipped for such production.

To determine if the issuance of the plug or produce orders to Chieftain was reasonable and lawful, the Commission must consider the facts as they existed on the date on which the Chief issued these orders. The facts in these matters reveal that in May 2004, the Bozett #9 Well, the Crabil/Long #1 Well, the James Perry #1 & #2 Wells, and the Orlan Perry #1, #2 & #3 Wells had not been recently produced and were not equipped for commercial production.

This Commission has consistently held that the lack of surface and/or in-hole equipment necessary for commercial production indicates that a well is incapable of production. See Gary Harris & Group Maintenance v Division, appeal #714 (October 27, 2003). Testimony and photographs presented at hearing show that these wells were not equipped for commercial production in May 2004

The Chief, and the Commission, may also consider how recently, and in what amounts, the wells have been produced. The evidence presented at hearing established that, prior to May 2004, the most recent production from the Vinton County wells occurred in 1998. After 1998, a single, small shipment from each of the Crabil/Long #1 Well, the James Perry Wells and the Olan Perry Wells was made. However, the evidence did not conclusively establish when the shipped oil was actually produced, and it is possible that Chieftain shipped residual oil from the wells' tanks. Each of these shipments was the first, and only, shipment since the 1990's. Moreover, the shipments occurred approximately one year after the issuance of the plug or produce orders. When viewed against the Division's testimony and photographic evidence showing the condition of the wells in 2004, these single, small shipments of oil do not support findings of on-going commercial production.

Chieftain argued at hearing that at least two of the Vinton County wells are currently being utilized for domestic purposes, and, therefore, are excepted from the plugging requirement of O.R.C. §1509 12. Again, to determine whether the plug or produce orders were properly issued, the Commission must consider the facts as they existed in May 2004. Chieftain did not prove that any of the wells at issue were being used for domestic purposes in May 2004

The Commission **FINDS** that the Division's issuance of Chief's Orders 2004-29 and 2004-37 is supported by the evidence, which establishes that the wells addressed in these orders were incapable of production in commercial quantities in May 2004. Also, Chieftain did not establish that the wells at issue were being used for domestic purposes in May 2004

The bond forfeiture provision of O.R.C. §1509.071 states that failure of an owner to comply with the plug or produce requirements of O.R.C. §1509.12 is grounds for forfeiture. Bond forfeiture order 2004-49 was issued on June 11, 2004, and is based upon Chieftain's failure to plug or produce the Armstrong #1 Well and the Stanart #12 Well, following the issuance of orders requiring Chieftain to plug or produce these wells. The plug or produce orders for these wells were issued in March and April of 2004.

The evidence established that the Armstrong #1 Well and the Stanart #12 Well were not productive at that time when the plug or produce orders were issued. The evidence also established that these wells were not plugged in a timely manner. While the Armstrong #1 Well was plugged subsequent to the issuance of the forfeiture order, that does not effect the propriety of the Chief's issuance of the order in early 2004. Chieftain argued that an order from the Court of Common Pleas for Vinton County limiting Chieftain's access to the Stanart property relieves Chieftain from the legal requirement to plug or produce the Stanart #12 Well. However, this Court Order was sought and issued after the Chief's order of forfeiture. Moreover, problems with a landowner, including those which bar access to a site, do not remove an operator's duties and obligations under the law. See Quality Ready Mix v. Division, 35 Ohio St. 3d 224 (1988).

The Commission **FINDS** that the Division's issuance of Chief's Order 2004-49 is supported by the evidence, which establishes that the wells addressed in this order were not plugged or produced within the time frames set forth in orders issued by the Chief.

Chieftain argued at hearing that many of its problems with the Vinton County wells resulted from a poor business decision to associate with Paul Grim, the previous owner of these wells. Chieftain is clearly identified in the Division's records as the official owner of all of the wells at issue. A poor business decision does not excuse the well owner from complying with the legal requirements relating to well production.

Chieftain also stressed at hearing that it has invested substantial moneys to repair several wells and to establish certain wells as domestic supplies. However, all of these activities were undertaken after the issuance of the orders under appeal, and after the compliance deadlines associated with these orders had passed. Therefore, these activities cannot be considered in an examination of the lawfulness and reasonableness of the Chief's decisions to issue these orders in 2004. Additionally, money expended to repair the wells provides no credit against the ordered forfeiture, as O.R.C. §1509.071 and O.A.C. §1501:9-1-03(C) require that forfeitures be made in the entire amount of the posted bond. See Century Surety v Division, no. 99AP-135 (Court of Appeal for Franklin County [March 30, 2000]).

CONCLUSIONS OF LAW

1. Pursuant to O.R.C. §1509.36, the Commission will affirm the Division Chief if the Commission finds that the order appealed is both lawful and reasonable.

2. Chieftain Energy is the "owner" of the wells that are the subject of Chief's Order 2004-29, Chief's Order 2004-37 and Chief's Order 2004-49. Chieftain's ownership is established by virtue of the official permitting and bonding documents on file with the Division of Mineral Resources Management. The Change of Owner Forms filed with the Division of Mineral Resources Management in 2001, specifically list the wells at issue and identify Chieftain Energy as owner of these wells.

3. The issuance of Chief's Order 2004-29, determining that the Bozett #9 Well was idle and incapable of producing oil or gas in commercial quantities, was lawful and reasonable.

4. The issuance of Chief's Order 2004-37, determining that the Crabil/Long #1 Well, the James Perry #1 & #2 Wells, and the Orlan Perry #1, #2 & #3 Wells were idle and incapable of producing oil or gas in commercial quantities, was lawful and reasonable.

5 The issuance of Chief's Order 2004-49, requiring the forfeiture of Chieftain Energy's blanket bond, for failure to plug the Armstrong #1 Well and the Stanart #12 Well, was lawful and reasonable.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the Commission hereby **AFFIRMS** the Division's issuance of Chief's Order 2004-29, Chief's Order 2004-37 and Chief's Order 2004-49


WILLIAM J. TAYLOR, Chairman


JOHN A. GRAY


JAMES H. CAMERON


M. HOWARD PETRICOFF

INSTRUCTIONS FOR APPEAL

This decision may be appealed to the Court of Common Pleas for Franklin County, within thirty days of your receipt of this decision, in accordance with Ohio Revised Code §1509.37

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