

BOARD OF OIL AND GAS REVIEW
DIVISION OF OIL AND GAS



DEPARTMENT OF NATURAL RESOURCES, STATE OF OHIO

ROYAL PETROLEUM PROPERTIES, INC.
by: JOHN J. HUNTER,
Trustee in Bankruptcy

Appellant

APPEALS NOS. 363-366

VS

J. MICHAEL BIDDISON, CHIEF
Division of Oil & Gas
Ohio Department of Natural Resources
Fountain Square, Columbus
Ohio 43224

Appellee

Appearances:

For Appellant: Mr. Thomas J. Schank
Attorney at Law
Hunter & Shank, LPA
5403 Summit Street
Toledo, Ohio 43611

For Appellee: Anthony J. Celebrezze, Jr
Attorney General
By: Scott E. Farkas
Assist. Attorney General
Fountain Square, Columbus
Ohio 43224

ENTRY

This matter came on for hearing before the Oil and Gas Board of Review on March 13, 1990, in the First Floor Conference Room Building E., Fountain Square, Columbus, Ohio pursuant to a Notice of Appeal filed by the Appellant. The appeal was taken from the Orders of the Chief, Division of Oil and Gas, No. 88-847, 89-36, 89-337 and 89-396 to Royal Petroleum Properties, Inc., ordering the plugging of certain wells cited in the specific orders.

The Appellant, by its Attorney for the Trustee in Bankruptcy, appeared at the hearing of the Board. It was stipulated that the wells in question were not in compliance, however, the Appellant claimed an inability to carry out the orders of the Chief owing to several different facts, to wit:

1. Although the Trustee is the permit holder on the records of the Division of Oil and Gas, actual possession and control of 180 wells is in other hands, and

2. Although the Trustee moved the Bankruptcy Court to transfer control of all wells to the Trustee, the motion was denied.

3. The filing of the Chapter 11 action in Bankruptcy Court was prior to the orders of the Chief.

ISSUES

The specific issue raised in this Appeal is whether the Chief of the Division of Oil and Gas lawfully and reasonably ordered the plugging of the subject wells, where as here, the subject wells are part of the bankruptcy estate and consequently

the order is also subject to a stay under the bankruptcy laws?

FINDINGS OF FACT


1. Based on the testimony of the witnesses the Board finds that the wells are not in compliance with the orders.

2. In keeping with the prior decision of the Board in Gem Energy v. Houser, Appeal No. 152, the Board finds that it has no authority to decide the questions of conflicts of laws raised by the Appellant, and

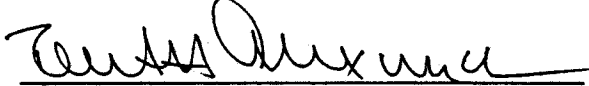
3. There is no disagreement otherwise as to the lawful and reasonable nature of the orders.

Based on these findings of fact, the Board of Oil and Gas Review

ORDERS, that Appeals 363, 364, 365 and 366 are hereby DISMISSED and that Adjudication Orders Nos. 88-847, 89-36, 89-337 and 89-396 be and hereby are AFFIRMED.



Alan H. Coogan, Chairman



Robert H. Alexander, Secretary



Gail Ignatz-Hoover



Benita Kahn

ABSTAIN

William G. Williams