

**BEFORE THE
OIL & GAS BOARD OF REVIEW**

ROGER BLODGETT,

Appellant,

-vs-

DONALD L. MASON, CHIEF,
DIVISION OF OIL & GAS,

Appellee.

Appeal No. 581

Review of Chief's Order 96-28

**FINDINGS, CONCLUSIONS
& ORDER OF THE BOARD**

Appearances: Hugh I. Troth, Counsel for Appellant Roger Blodgett; Raymond Studer, Assistant Attorney General, Counsel for Appellee Division of Oil & Gas.

Date Issued: March 10, 1997

BACKGROUND

This matter came before the Oil & Gas Board of Review upon appeal by Roger Blodgett from Chief's Order 96-28. This Order required Roger Blodgett to either: (1) post a bond in support of an oil & gas well, or (2) plug said well.

On June 26, 1996, this cause came on for hearing before three members of the Oil & Gas Board of Review. At hearing, the parties presented evidence and examined witnesses appearing for and against them.

After a review of the Record, the Oil & Gas Board of Review makes the following findings of fact and conclusions of law.

ISSUE

The issue presented by this appeal is: **Whether Roger Blodgett, the original driller and owner of a well, remains responsible for said well after assignment of the well to another entity, where the well was not transferred from Mr. Blodgett in accordance with O.R.C. §1509.31.**

Ohio's oil & gas law defines a well "owner" as the person who has the right to produce a well. See O.R.C. §1509.12. An "owner" is responsible to assure that wells are operated in compliance with the law. A transfer of the ownership of a well must comply with O.R.C. §1509.31.

FINDINGS OF FACT

1. In 1971, Mr. Roger Blodgett obtained permit #2877 from the Division of Oil & Gas, authorizing him to drill an oil & gas well in Perry Township, Ashland County, Ohio. In 1971, Mr. Blodgett drilled such a well. At that time, Mr. Blodgett bonded and insured this well in compliance with law.

2. In May 1973, Mr. Blodgett sold the lease and well in question to Mr. F. W. Eikleberry, dba Mack Oil & Gas. Mack Oil & Gas operated this well for several years.

3. In July 31, 1986, Mr. Blodgett attempted to formally transfer ownership of the well to Mr. Eikleberry or Mack Oil & Gas, via the filing of a Form 7 ["Request for Change of Owner" form] with the Division of Oil & Gas. This attempt to change owners was rejected by the Division. The Division did not accept Mr. Eikleberry as the owner of the well because he did not carry liability insurance as required by law. Two more attempts to transfer ownership were undertaken. These too were rejected. One reason for each of the rejections was Mr. Eikelberry's lack of liability insurance.

4. The Division has no record of either F.W. Eikelberry or Mack Oil & Gas carrying the required liability insurance for an oil & gas well. Mr. Eikelberry did carry a surety bond. The bond was eventually replaced by a Financial Statement, filed pursuant to O.R.C. §1509.07.

5. In or after 1987, the well in question may have been assigned by Mr. Eikelberry to another entity. Sometime after 1987, Mr. Eikelberry died.

6. On January 31, 1996, the Chief of the Division of Oil & Gas issued Chief's Order 96-28 to Roger Blodgett. This order identified Mr. Blodgett as the owner of the well in question. The order suspended any and all oil & gas well drilling and producing operations until proper surety bond and liability insurance is filed. The order further required that if the specified actions were not taken to bring this well into compliance with the law, the well must be plugged or transferred to an entity which could comply with the law.

CONCLUSIONS OF LAW

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

2. O.R.C. §1509.01(K) defines an "owner" as:

. . .the person who has the right to drill on a tract or drilling unit and to drill into and produce from a pool and to appropriate the oil or gas that he produces therefrom either for himself or for others.

3. In 1971, Roger Blodgett became the owner of the well in question. His ownership was documented with the Division of Oil & Gas.

4. O.R.C. §1509.31 allows for transfer of ownership of a well. That section of law provides in pertinent part:

The owner holding a permit under section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by this chapter and any rules, orders, and terms and conditions of a permit issued thereunder, and no assignment or transfer by the owner relieves the owner of the obligations and liabilities until and unless the assignee or transferee files with the division of oil and gas the information described in divisions (A), (B), (C), (D), (E), (H), (K), (L), (M), and (N) of section 1509.06 of the Revised Code; files or has filed the certificate of insurance required by section 1509.07 of the Revised Code, . . . ; and executes and files a surety bond, negotiable certificates of deposit, or cash, as described in section 1509.07 of the Revised Code.

(Emphasis added.)

5. O.R.C. §1509.07 requires that:

An owner of any well, . . . shall file with the division of oil and gas a certificate issued by an insurance company authorized to do business in this state certifying that the owner has in force liability insurance coverage in an amount of not less than three hundred thousand dollars bodily injury coverage and three hundred thousand dollars property damage coverage to pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all the owner's wells in this state.

6. No successful transfer of Mr. Blodgett's ownership of the well in question was recorded with the Division of Oil & Gas.

7. The issuance of Chief's Order 96-28 to Roger Blodgett was not unlawful or unreasonable.

DISCUSSION

Ohio's oil and gas law defines a well "owner" as the person who has the right to produce a well. See O.R.C. §1509.12. An owner is responsible to assure that wells are operated in compliance with the law. Ownership of a well may be transferred from one entity to another. See O.R.C. §1509.31. However, such transfers must be made in strict compliance with O.R.C. §1509.31. If an attempted transfer does not comply with the requirements of the law, the original owner remains responsible for the well. See O.R.C. §1509.31.

The facts of this case reveal that Roger Blodgett owned the well at issue. His ownership of this well was documented in the Division's files. Mr. Blodgett sold the lease and well in 1973. Thereafter, he made several unsuccessful attempts to transfer the well. Because the transfers did not comply with O.R.C. §1509.31, Mr. Blodgett was never relieved from his legal responsibilities relative to this well.

The specific deficiency in these attempted transfers was the transferee's lack of liability insurance. Because the transfers were never successful, the Division continued to consider Mr. Blodgett the responsible party.

This Board has ruled in previous appeals, that unless a form to transfer well ownership has been filed with the Division, and the proposed transfer is acceptable to the Division, the original owner remains liable for a well. Victor Petroleum Corp. v. Skalkos, Oil & Gas Board of Review appeal #63 (Sept. 26, 1983); Gem Energy Corp. v. Houser, Oil & Gas Board of Review appeal # 152 (Feb. 20, 1986).

The documents on file with the Division identified Mr. Blodgett as the well owner. The Division should be able to rely upon the documents in its files in enforcing the law. Lester Roach v. Mason, Oil & Gas Board of Review appeal #544 (June 27, 1996).

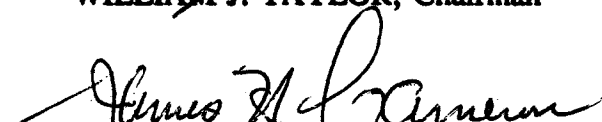
The onus was upon Mr. Blodgett and his transferee to assure that a transfer complies with O.R.C. §1509.31. As this transfer did not comply with O.R.C. §1509.31, it is not unreasonable or unlawful for the Division to require Mr. Blodgett to bring the well into compliance with Chapter 1509 or to plug the well.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the Board hereby **AFFIRMS** the Division's issuance of Chief's Order 96-28.


WILLIAM J. TAYLOR, Chairman

ABSTAIN
BENITA KAHN, Secretary


JAMES H. CAMERON


JOHN A. GRAY

RECUSED
GAIL IGNATZ-HOOVER

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.

DISTRIBUTION:

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