

OIL AND GAS BOARD
OF REVIEW

FEB 20 1986

BOARD OF OIL AND GAS REVIEW

DEPARTMENT OF NATURAL RESOURCES, STATE OF OHIO

GEM ENERGY CORPORATION
1800 Dietz Lane
Zanesville, Ohio 43701

APPEAL NO. 152

Appellant

vs

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

Appellee

Appearances:

For Appellant: Jay Vinsel
Micheli & Micheli
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P.O. Box 2687
Zanesville, Ohio
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For Appellee: Anthony J. Celebrezze, Jr
Attorney General
By: Dominic J. Hanket
Assistant Attorney General
Fountain Square, Columbus
Ohio, 43224



ENTRY

This matter came on for hearing before the Oil and Gas Board of Review on February 13, 1986 in the First Floor Conference Room 65 S. Front Street, Columbus, Ohio pursuant to a Notice of Appeal filed December 6, 1985 by the Appellants. The appeal was taken from Adjudication Order 85-82, issued by the Chief, Division of Oil and Gas, the Appellee, on November 6, 1985 ordering the Appellant to either plug or produce certain wells which during the hearing were identified as some approximately 21 Berea wells in Muskingum County, Ohio.

ISSUES

The specific issues raised in this Appeal are as follows:

1) Is Gem Energy Corporation is owner of wells ordered to be plugged or produced by Order 85-82 of the Chief, Division of Oil and Gas?

2) Are the wells subject to the order capable of production in commercial quantities?

3) Was the Order of the Chief, Division of Oil and Gas lawful and reasonable in spite of the fact that that Rovi Resources Corporation and Gem Energy Corporation had sold and assigned the wells in question to Petroleum Financial and Marketing Group, Inc. ?

4) Does the fact of the filing of involuntary bankruptcy (Chapter 7) by Gem Energy Corporation limit the action of the Chief of the Divison of Oil & Gas or require that she act in a manner consistent with the filings in such an action?

FINDINGS OF FACT

Based on the presentation of counsel for the Appellant, the exhibits and the testimony of Mr. Daniel Troendley, President of Gem Energy Corporation and the presentation and exhibits of counsel for the Appellee, the Board makes the following findings:

1. The wells subject to Order 85-82 are not capable of production. According to the testimony of Mr. Troendley, these wells were near the end of their economic life, were stripped of operating equipment and were not producing or capable of production when they were sold to Petroleum Financial and Marketing Group. Other similar wells which were also bought by the same company were recompleted and put into production, but these were not. Of the 21 wells 20 are not equipped to produce oil or gas and one well was never completed.

2. Gem Energy Corporation is a subsidiary of Rovi Resources. Originally, another company was the operator. Subsequently, Rovi Resources and Gem Energy sold and assigned to Petroleum Financial and Marketing Group, Inc. interests in the wells and according to the testimony of Mr. Troendley, a transfer of ownership form (Form 7) was executed and sent to the Division of Oil and Gas. However, Petroleum Financial and Marketing Group, Inc. was not bonded in Ohio and not eligible to assume the position of an operator, i.e. holder of a permit, under the applicable provisions of the Ohio Revised Code and regulations of the Division of Oil and Gas. Consequently, Gem Energy continued to be the permit holder and subject to the Order to plug or produce the wells (see O.R.C.1509.31).

Finally, it is not within the authority of the Board to

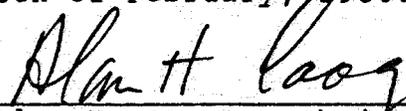
decide questions of conflicts of laws raised by the Appellant where it is alleged that there is a conflict in obligations required by the Order of the Chief and provisions for the protection of investors under the bankruptcy laws. The Board does note that no other party was joined in the Appeal, the Trustee in Bankruptcy did not appear although notified, and that the Appellant, Gem Energy, although willing to put the wells into production had no positive plan or timetable to do so and was constrained now by other actions. In addition, the testimony was to the effect that the Chief is not a party to the bankruptcy proceedings.

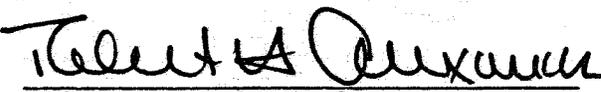
CONCLUSION OF LAW AND ORDER

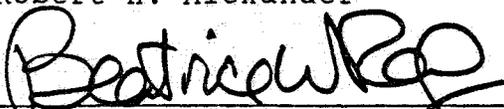
Based on the Findings of Fact set forth herein and the applicable law, the Board finds the Adjudication Order 85-32, issued by the Chief, Division of Oil and Gas is reasonable and lawful, and

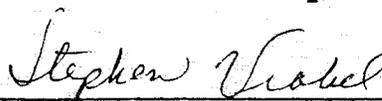
ORDERS, that Adjudication Order 85-82 be and hereby is AFFIRMED.

This Order is effective this 13th of February, 1986.


Alan H. Coogan, Chairman


Robert H. Alexander


Beatrice W. Rakay

 - Telephone
Stephen Vrabel