

Order Book



BOARD OF OIL AND GAS REVIEW
DEPARTMENT OF NATURAL RESOURCES, STATE OF OHIO

Mr. ROBERT R. GARDNER
P.O. Box 336
Strafford, Ohio 43786

APPEAL NO. 165

Appellant

VS

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

Appellee

Appearances:

For Appellant: Mr. Robert Gardner
P.O. Box 336
Strafford, Ohio
43786

For Appellee: Anthony J. Celebrezze, Jr
Attorney General
By: Edda Post
Assistant Attorney General
Fountain Square, Columbus
Ohio, 43224

ENTRY

This matter came on for hearing before the Oil and Gas Board of Review on April 10, 1986, in the First Floor Conference Room Building E., Fountain Square, Columbus, Ohio pursuant to a Notice of Appeal filed January 27, 1986 by the Appellant. The appeal was taken from Adjudication Order 86-01, issued by the Chief, Division of Oil and Gas, the Appellee, on January 3, 1986 ordering the Appellant to either plug or produce certain wells which during the hearing were identified as three wells, the so-called Fogle #1, #2 and #3 located in Monroe County, Ohio. All the wells were drilled prior to the establishment of the Division of Oil and Gas and prior to permitting procedures.

ISSUES

The specific issues raised in this Appeal are as follows:

- 1) Is Robert R. Gardner the owner of wells ordered to be plugged or produced by Order 86-01 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 the Appellant had released back to the landowners, John and Zelma Fogle, the leasehold interest in the wells ordered to be plugged?

FINDINGS OF FACT

Based on the presentation of the Appellant, the exhibits and the testimony of Mr. Robert R. Gardner, and of Mr. Clyde Dobbins, ODNR oil and gas inspector, and the presentation and exhibits of counsel for the Appellee, the Board makes the following findings:

1. The wells subject to Order 86-01 are not capable of production. According to the testimony of Mr. Gardner, these wells were have not been in production since 1972. New equipment was placed on these wells during the decade of the 1960's. The wells were originally drilled in the late 1920's or 1930's. Mr. Gardner purchased the wells in the 1960's with the intention to repressure and use secondary recovery methods on these wells.

2. The wells were inspected by Mr. Dobbins of ODNR on a complaint of the landowner, Mr. John Fogle. He found the wells idle and issued a notice of violation on September 20, 1985. This notice was received by Mr. Gardner on September 26, 1985. Mr. Gardner assigned the leases with the idle wells back to the landowners, based on their demand, on September 25, 1985. However, Mr. Gardner had spoken with the ODNR inspector, Mr. Dobbins and knew that a notice of violation and order to plug or produce had been given orally and would be sent to him.

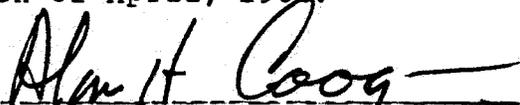
3. Consequently, the Chief of the Division of Oil and Gas acted reasonably in the inspection of the idle wells and the issuance of a Notice of Violation and and Order to plug or produce. At the time the actual notice was issued, Mr. Gardner was the owner of the working interest in the wells and the operator of the wells. His release of the leases to the lessors (the Fogle family) between the time of inspection and the actual receipt of the notice of violation by certified mail is not sufficient to change the ownership of the wells in so far as the enforcement of the provisons of the law by the Chief of the Division of Oil and Gas is concerned.

CONCLUSION OF LAW AND ORDER

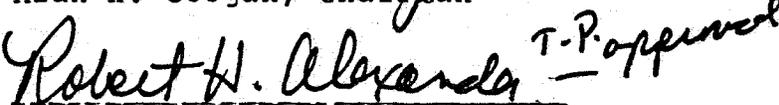
Based on the Findings of Fact set forth herein and the applicable law, the Board finds the Adjudication Order 86-01, issued by the Chief, Division of Oil and Gas is reasonable and lawful, and

ORDERS, that Adjudication Order 86-01 be and hereby is **AFFIRMED.**

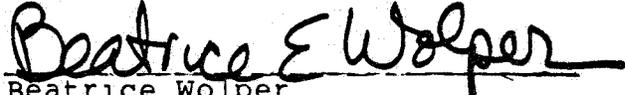
This Order is effective this 10th of April, 1986.



Alan H. Coogan, Chairman



Robert H. Alexander



Beatrice Wolper