BEFORE THE OIL AND GAS BOARD OF REVIEW

STATE OF OHIO

TRENTON ENERGY, INC.,

Appellant,

v. APPEAL NO. 64

RENEE J. HOUSER,
CHIEF OF THE DIVISION OF
OIL AND GAS,

Appellee.

STATEMENT OF CASE

On April 7, 1983, Appellant issued Order No. 83-26 to Trenton Energy, Inc. ordering it to plug or produce the wells which are the subject of this case. Trenton appealed the Chief's Order to this Board on May 6, 1983 and on June 28, 1983 a hearing was held by this Board.

FINDINGS OF FACT

1. There is no dispute between the parties as to the Chief's order relating to certain wells that are the subject of this case. The wells as to which there is no dispute are:

   (a) John T. Warren well located in Orange Township, Hancock County - Permit No. 224.

   (b) David and Neva Warren well located in Orange Township, Hancock County - Permit No. 226.

   (c) James H. Warren well located in Orange Township, Hancock County - Permit No. 239.

   (d) Willie Anderson well located in Orange Township, Hancock County - Permit No. 241.

   (e) Ernst and Carl Bosse well located in Union Township, Hancock County - Permit No. 242.

2. In the cases of wells (a)-(e) listed above Trenton Energy, Inc. is the permit holder for each well and none of the wells were producing oil or gas at the time of the hearing, and have never produced any quantities of oil or natural gas, and the wells lack the mechanical means to produce oil or natural gas and are idle.

3. Trenton is the present assignee of the Donald Grose lease located in Section 8, Eagle Township, Hancock County.

   (a) At the time Trenton Energy, Inc. acquired the lease there were wells on the lease. One of those wells was producing at the time Trenton acquired the lease and Trenton attempted to treat this well.

   (b) Trenton Energy, Inc. attempted to clean out the second well, but was unsuccessful. Both wells are idle and lack the mechanical means to produce oil or natural gas.

   (c) With respect to the third well on the Grose lease Trenton did not drill the well or attempt to put the well into production; it is also an idle well.

4. Trenton Energy, Inc. admits that it is the present assignee of the Leo Reed lease, located in Section 5, Eagle Township, Hancock County upon which two wells are located.

   (a) Trenton Energy, Inc. drilled the 1-A Reed well without a permit from the State of Ohio.

   (b) The 1-A well does not have the mechanical means to produce oil or natural gas and is idle.

(c) Trenton Energy, Inc. reworked the existing 2-A well, but it was never put into production and lacks the mechanical means to produce oil or natural gas.

5. Trenton Energy, Inc. is the current assignee of two wells on the Lieber lease.

(a) Trenton Energy, Inc. produced the Lieber No. 4 well.

(b) No permits were issued for the Lieber lease.

(c) The two wells assigned to Trenton Energy, Inc. were the Lieber No. 4 and the No. 3 well which is one of two wells next to the No. 4. No work was performed by Trenton Energy, Inc. on the Lieber No. 2.

(d) The Lieber No. 3 and 4 wells lack the mechanical means to produce oil or natural gas and are idle.

6. Trenton Energy, Inc. does not own any lease rights to John Beagle property.

(a) Trenton Energy, Inc. did some work on one of the wells in the Beagle lease for the Veta Grande Company.

7. Trenton Energy, Inc. has not complied with the surety bond requirement set forth in Order 83-26, paragraph XI.

CONCLUSION OF LAW

There is no legal question as to most of the wells involved in this proceeding. Section 1509.31 of the Revised Code provides that:

> The owner holding a permit under Section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by Chapter 1509 of the Revised Code any rules or order issued thereunder. . . .

As to permits 224, 226, 239, 241 and 242 Trenton Energy, Inc. admits that it either holds the lease on the property or received the permits in its name for these wells. There can be no question that Trenton Energy, Inc. is the owner "holding a permit" and is therefore liable to plug these wells which were admittedly idle.

At the opposite end of the scale are the wells on the Beagle lease. There was no evidence presented which showed that Trenton Energy, Inc. in fact held a lease to any portion of the Beagle property. The fact that Trenton obtained a permit to drill a well which was never drilled does not make it liable to plug all unpermitted wells which were found on the lease. This fact situation must be distinguished from the situation for the Anderson and Bosse leases where Trenton Energy, Inc. in fact represented to the State that it was the owner and obtained a drilling permit and drilled the wells even though the lease was owned by Spartan Oil, a third party. In this latter fact situation Trenton Energy, Inc. is clearly liable to plug the wells it drilled pursuant to the permits. Likewise Trenton Energy, Inc. is liable to plug the well on the Reed lease which it drilled, but which was never permitted. Trenton Energy, Inc. cannot avoid it's statutory duties by failing to comply with the permitting process.

The harder questions which this case presents is the liability of Trenton Energy, Inc. to plug unpermitted wells which were existing on leases which it owned. The leases which present this problem are the Reed, Grose and Lieber. A review of the applicable statutes convinces this Board that the statutory scheme of Chapter 1509 of the Revised Code is to make the "owner" of wells as defined by Section 1509.01(K) of the Revised Code liable to plug those wells which are required to be plugged.

In the case of the Reed lease Trenton Energy, Inc. went on to the lease and reworked the 2-A well. This reworking along with ownership of the lease clearly demonstrates ownership of the lease and makes Trenton Energy, Inc. an "owner" of the Reed 2-A well within the meaning of Section 1509.01(K) of the Revised Code and therefore liable for plugging for well.

In the case of the Beagle lease there was no evidence that Trenton Energy, Inc. ever owned an interest in the lease. The Beagle lease is held by Trenton Energy, Ltd., but no evidence was presented to show any assignment from Trenton Energy, Ltd. to Trenton Energy, Inc. Without a showing of lease ownership or evidence of a well drilled under a permit granted to Trenton Energy, Inc. it cannot be held liable for plugging the wells on the Beagle lease.

The Grose lease presents a situation where the lease went to Trenton Energy, Inc. In the lease it is stated (Appellee's Ex. 57) that Trenton Energy, Inc. was being conveyed "all tangibles present on the leased premises as far as any existing wells are concerned". Thus it is clear that Trenton Energy, Inc. took the Grose lease with full knowledge that the lease contained existing wells and in fact Trenton Energy, Inc. bargained for and received as part of the lease the title to the tangibles in the wells. Thus Trenton Energy, Inc. clearly was the "owner" of the Grose lease and the wells on that lease and therefore is liable to plug the wells on that lease. The fact situation presented by the Grose lease is not one where the lessee took a lease with no knowledge of existing wells. This Board does not now decide the lessee's liability to plug in the situation presented where a lessee acquires a lease as to which he has no prior knowledge of any existing wells and he does no work on any existing wells.

The Lieber lease presents the situation where Trenton Energy, Inc. admits that it took an assignment of two wells, the Lieber No. 3 and No. 4 and that it worked on these two wells. Here again Trenton Energy has lease rights and worked on these two wells and therefore meets the definition of "owner" set forth in Section 1509.01(K) of the Revised Code and is liable to plug these two wells. As to other wells on the Lieber lease to which Trenton Energy, Inc. has no lease rights it is not liable to plug those wells.

CONCLUSION

The Board hereby finds Order No. 83-26, dated April 7, 1983, lawful and reasonable and affirms such order except as to the paragraph VII, relating to the John E. Beagle lease and that portion of paragraph X, relating to the Lieber No. 2 well. As to paragraph VII and to that portion of paragraph X relating to the Lieber No. 2 well the Board finds Order No. 83-26 unreasonable and unlawful and vacates paragraph VII and the portion of paragraph X relating to the Lieber No. 2 well.

Dated this 15th day of ~~January~~ February, 1984.

James J. Morgan /bmm
James J. Morgan, Chairman

Lance W Schneier /bmm
Lance W. Schneier

Robert H. Alexander /bmm
Robert H. Alexander

George M. Hauswirth
George M. Hauswirth, Secretary