

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

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|-------------------------|---|--|
| LESTER ROACH, | : | Appeal No. 544 |
| | : | |
| Appellant, | : | |
| | : | Review of Chief's Order 93-265 |
| -vs- | : | |
| | : | |
| DONALD L. MASON, CHIEF, | : | <u>FINDINGS, CONCLUSIONS</u> |
| DIVISION OF OIL & GAS, | : | <u>& ORDER OF THE BOARD</u> |
| | : | |
| Appellee. | : | |

Appearances: Lester Roach, Appellant *pro se*; Sandra Ramos, Assistant Attorney General, Counsel for Appellee Division of Oil & Gas.

Date Issued: June 27, 1996

BACKGROUND

This matter came before the Oil & Gas Board of Review upon appeal by Lester Roach from Chief's Order 93-265. This Order required Lester Roach to either: (1) bond and insure, or (2) plug certain wells.

On September 29, 1994, this cause came on for hearing before five members of the Oil & Gas Board of Review. At hearing, the parties presented evidence and examined witnesses appearing for and against them.

ISSUE

The issue presented by this appeal is: **Whether Lester Roach, as the listed permittee, can be required to bond or plug two wells that he drilled?**

O.R.C. §1509.05 requires that oil & gas wells be permitted. The person who permits a well, and files documents indicating ownership of the well, may be held responsible for the plugging of an unproductive well.

FINDINGS OF FACT

1. In 1969, Mr. Lester Roach drilled two shallow wells on the Paul F. Meredith property in Lawrence Township, Washington County, Ohio.
2. The Meredith wells were drilled pursuant to a verbal contract between Mr. Roach and Mr. Meredith.
3. On January 7, 1969, Mr. Roach, representing Hasley & Roach, filed an Affidavit of Ownership for the first Meredith well. On January 13, 1969, Mr. Roach obtained permit #3212 for this well. The first well was completed in March 1969.
4. On April 21, 1969, Mr. Roach, representing Hasley & Roach, filed an Affidavit of Ownership for a second well. On April 24, 1969, Mr. Roach obtained permit #3223 for the second well. The second well was completed in May 1969.
5. The bonding requirement for both Meredith wells was met by Mr. Roach's filing of a financial statement.

6. No documents indicating a change in well ownership have been filed with the Division of Oil & Gas with regard to either of the Meredith wells.

7. Mr. Roach never held an oil and gas lease on the Meredith property.

8. Mr. Roach never produced the two Meredith wells. No production records were ever filed for these wells.

9. Mr. Roach did not have the right to receive proceeds from the Meredith wells.

10. Landowner Paul Meredith installed the pumping and tubing for the two wells. The pumping units, rods and tubing are no longer on the wells. It is not known who removed the equipment or when. Mr Roach did not remove the equipment, and received no proceeds from the sale of any such equipment.

11. Mr. Meredith no longer lives at the property in question. The property has changed hands several times since the wells were drilled.

12. The Meredith wells are not currently being used for domestic purposes. The two wells lack the mechanical means to produce oil or gas, and are idle. These wells are incapable of production.

13. Between 1963 and 1984, Mr. Roach was a partner in various oil & gas concerns. One such entity was the partnership of Hasley & Roach. Mr. Hasley is now deceased, and the partnership of Hasley & Roach no longer exists. Mr. Roach divested himself of all interests in the oil & gas business approximately 10 years ago.

DISCUSSION

Ohio's oil and gas law requires that unproductive wells be plugged. The well "owner" is responsible for plugging such wells. See O.R.C. §1509.12.

The issue presented by this appeal is: **Whether Lester Roach, as the listed permittee, can be required to bond or plug two wells that he drilled?**

The facts of this case reveal that Mr. Roach was in the oil & gas business twenty-five years ago, when he agreed to drill two shallow wells for landowner Paul Meredith. Mr. Meredith was a farmer who intended to use the wells for domestic purposes. Mr. Roach considered himself solely the contract driller for these wells.

However, Mr. Roach took some additional action with regard to these two wells. He filed for, and received, permits. To obtain the permits, he filed Affidavits of Ownership, on behalf of Hasley & Roach. Also, he satisfied the statutory bonding requirement by filing a financial statement.

Mr. Roach did not hold a lease for the oil and gas on the Meredith property. Mr. Roach testified that he did not produce these wells and that he has gained no income from them. Therefore, Mr. Roach argues that to hold him responsible for the bonding or plugging of these wells is unfair and unreasonable.

The Division asserts that the documents on file with the Division clearly show Mr. Roach to be the "owner" of the two wells. As "owner," the Division finds him responsible for plugging the wells.

The case of Worthington Oil Company v. Skalkos, appeal no. 27 (June 11, 1981), supports the Division's position. The Worthington case stands for the proposition that the "owner" is the responsible party. A permittee, who files an Affidavit of Ownership, qualifies as the well "owner."

The Board is aware that Mr. Roach's actual relationship to the wells in questions does not appear to extend beyond his drilling activities. However, he did file documents indicating ownership of the wells. The Board believes that the Division should be able to rely upon the documents filed with it, particularly sworn statements.

The law assigns certain responsibilities to the permittee/owner of a wells. See O.R.C. §1509.31. Mr. Roach assumed these responsibilities when he filed the documents indicating ownership. Therefore, it was not unlawful or unreasonable for the Division to require Mr. Roach to bond or plug the wells in question.

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. §1509.12 provides in pertinent part:

Unless written permission is granted by the chief, any well which is or becomes incapable of producing oil or gas in commercial quantities shall be plugged, . . . When the chief finds that a well should be plugged, he shall notify the owner to that effect by order in writing and shall specify in such order a reasonable time within which to comply. No owner shall fail or refuse to plug a well within the time specified in the order. . .

3. 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.

4. O.R.C. §1509.05 requires that wells be permitted. O.R.C. §1509.06 provides that an application for a permit shall contain certain information. Paragraph (B) requires the following information:

The signature of the owner or his authorized agent. When an authorized agent signs an application it shall be accompanied by a certified copy of his appointment as such agent.

5. O.R.C. §1509.07 provides in pertinent part:

An owner of any well, before being issued a permit under Section 1509.05 of the Revised Code shall execute and file with the division a surety bond conditioned on compliance with the . . . plugging requirements of Section 1509.12. . .

* * *

Instead of a surety bond, the chief may accept proof of financial responsibility consisting of a sworn financial statement

6. O.R.C. §1509.31 provides:

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 and any rules or orders 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 division (A), (B), (c), (D), (H), (K), (L), (M), and (N) of Section 1509.06 of the Revised Code and executes and files a surety bond [or its equivalent].

7. Lester Roach, as a partner in Hasley & Roach, filed Affidavits of Ownership for both wells in question. He permitted the two Meredith wells. Mr. Roach also satisfied the bonding requirement on these two wells by filing a financial statement.

8. No documents evidencing a transfer of ownership of the two wells have been filed with the Division of Oil & Gas.

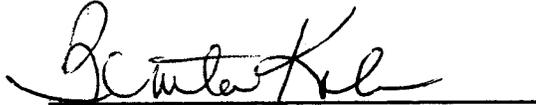
9. On September 27, 1993 [the date on which Chief's Order 93-265 was issued], Mr. Roach was listed as the permittee and owner of the two wells at issue.

10. The issuance of Chief's Order 93-265 to Lester Roach was lawful and reasonable.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the Board hereby **AFFIRMS** the Division's issuance of Chief's Order 93-265.


WILLIAM J. TAYLOR, Chairman


BENITA KAHN, Secretary


JAMES H. CAMERON


JOHN A. GRAY


GAIL IGNATZ-HOOVER

L. Roach
Appeal #544

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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