

BEFORE THE OIL & GAS COMMISSION

KENNETH PARRILL,
dba HOYT-PARRILL COMPANY,

Appellant,

-vs-

DIVISION OF OIL & GAS,

Appellee.

Appeal Nos. 583 & 607

Review of Chief's Order 96-61
& Chief's Order 97-1

FINDINGS, CONCLUSIONS
& ORDER OF THE
COMMISSION

Appearances: Kenneth W. Parrill, on behalf of Hoyt-Parrill & Co.; Raymond Studer, Assistant Attorney General, Counsel for Appellee Division of Oil & Gas; Frank Paniccia, Interested Person.

Date Issued: Feb. 25, 1998

BACKGROUND

This matter came before the Oil & Gas Commission upon appeal by Kenneth Parrill from Chief's Orders 96-61 and 97-1. Chief's Order 96-61 asserted that Kenneth Parrill, dba Hoyt-Parrill & Co., failed to show proof of financial responsibility, by failing to submit bond or a financial statement in support of several oil & gas wells. Order 96-61 required Kenneth Parrill to bond, transfer or plug the subject wells. Chief's Order 97-1 amended Order 96-61. Chief's Order 97-1 added Frank Paniccia as a possible owner of the subject wells. Chief's Order 97-1 was issued to both Mr. Parrill and to Mr. Paniccia.

On September 23, 1997, these causes came on for hearing before four members of the Oil & Gas Commission. At hearing, the parties presented evidence and examined witnesses appearing for and against them.

After a review of the Record, the Oil & Gas Commission makes the following findings of fact and conclusions of law:

ISSUE

The issue presented by this appeal is: **Whether any entity claiming to be an owner of certain subject wells has complied with the bonding requirements of O.R.C. §1509.07 and O.A.C. §1501:9-1-03.**

Ohio's oil & gas law requires that, in order to obtain a permit to drill an oil & gas well, the well owner must first file with the Division of Oil & Gas a surety bond or other proof of financial responsibility. The bonding requirement must be continuously met until the well is plugged and the site restored. See O.R.C. §1509.07 & O.A.C. §1501:0-1-03.

THE LAW

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

2. O.R.C. §1509.01(K) defines a well "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. O.R.C. §1509.07 requires that:

An owner before being issued a permit under section 1509.05 of the Revised Code shall execute and file with the division of oil and gas a surety bond conditioned on compliance with the restoration requirements of section 1509.072, plugging requirements of section 1509.12, permit provisions of section 1509.13 of the Revised Code, and all rules, regulations, and orders of the chief of the division of oil and gas relating thereto, in an amount set by rule of the chief.

* * *

In lieu of such bond, the chief may accept proof of financial responsibility consisting of a sworn financial statement . . .

FINDINGS OF FACT

1. The Chief's Orders under appeal address nine wells, located in Licking County, Ohio. Mr. Kenneth Parrill claims ownership in these nine wells. The Division's files reflect that these wells are owned by Kenneth Parrill, dba Hoyt-Parrill & Company.

2. Prior to 1990, at least four of these nine wells were owned by Kenneth Parrill (the Parrill Corporation) and were covered by a surety bond. The bond was canceled through the insolvency of the bonding company in 1990. In September 1991, these four wells were transferred from Kenneth Parrill (the Parrill Corporation) to Hoyt-Parrill & Company.

3. Currently, there is no bond covering any of the wells identified as owned by Kenneth Parrill, dba Hoyt-Parrill & Company.

4. Financial statements, in lieu of bond, were filed by Kenneth Parrill, dba Hoyt-Parrill & Company, and accepted by the Division Chief, in 1982, 1983, 1984, 1986, 1988, 1989, 1990, 1991, 1992 and 1993.

5. No financial statements were filed by Kenneth Parrill, dba Hoyt-Parrill & Company, after 1993.

6. On February 28, 1996, the Division Chief issued Chief's Order 96-61 to Kenneth Parrill, dba Hoyt-Parrill & Company. This Chief's Order found that Kenneth Parrill, dba Hoyt-Parrill & Company, had not demonstrated proof of financial responsibility since 1993. Chief's Order 96-61 required Kenneth Parrill, dba Hoyt-Parrill & Company, to bond, transfer or plug the subject wells. Mr. Parrill dba Hoyt-Parrill & Co. appealed this order to the Oil & Gas Commission. This appeal was assigned case number 583.

7. Mr. Frank Paniccia claims an ownership interest in some of the nine wells. Mr. Paniccia asserts that he obtained ownership of these wells via purchasing the property on which the wells are located.

8. Upon discovering that Mr. Paniccia claims ownership in some of the subject wells, the Division amended Chief's Order 96-61, by issuing Chief's Order 97-1. Chief's Order 97-1 was directed to both Kenneth Parrill, dba Hoyt-Parrill & Company, and Frank Paniccia. Chief's Order 97-1 identifies Mr. Paniccia as a possible owner of the subject wells. Mr. Parrill appealed Chief's Order 97-1. This appeal was assigned case number 607.

9. Mr. Parrill has not posted bond, transferred or plugged the subject wells.¹

10. Mr. Paniccia has not posted bond, transferred or plugged the wells in which he claims an ownership interest.

¹ The evidence was unclear as to whether well #10A, Forry Lease, has been plugged.

CONCLUSIONS OF LAW

1. Kenneth Parrill, dba Hoyt-Parrill & Company, and Frank Paniccia both claim to be the owner of the wells that are the subject of Chief's Orders 96-61 & 97-1.
2. No entity claiming ownership of the wells in question has complied with the bonding requirements of O.R.C. §1509.07.
3. The issuance of Chief's Order 96-61 to Kenneth Parrill, dba Hoyt-Parrill & Company, was not unlawful or unreasonable.
4. The issuance of Chief's Order 97-1 to Kenneth Parrill, dba Hoyt-Parrill & Company, and Frank Paniccia was not unlawful or unreasonable.

DISCUSSION

Ohio's oil & gas law requires that the owner of a well post with the Division a surety bond, or an acceptable alternative to bond. See O.R.C. §1509.07. The purpose of this bonding requirement is to ensure that non-producing well will be plugged, and their sites restored, in accordance with law. The Chief has the discretion to accept statements of financial responsibility in lieu of a bond. See O.R.C. §1509.07 & O.A.C. §1501:9-1-03. If the Chief allows the filing of financial statements, such statements must be filed annually.

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.

The issue presented by these appeals, is whether the subject wells comply with the bonding requirements. Chief's Order 97-1 added Mr. Paniccia as a potential owner of the wells. Therefore, the Commission must also address whether the Chief's Order directed to Mr. Paniccia was lawful and resonable.

The record clearly reflects that no bond has been in effect on any of the subject wells since 1990. The record also reveals that, while financial statements were filed for several years by Kenneth Parrill, dba Hoyt-Parrill & Company, no such financial statements have been filed since 1993.

Therefore, for the past four years these wells have failed to comply with the bonding requirements of O.R.C. §1509.07. Thus, the issuance of Chief's Order 96-61 is both reasonable and lawful.

The evidence presented in these appeals clearly indicates that a dispute exists between Mr. Parrill and Mr. Paniccia regarding the ownership of certain wells. Neither the Division Chief, nor the Oil & Gas Commission, is authorized under the law to decide property rights disputes. Indeed, the courts have suggested that the Chief exceeds his statutory authority, even where he attempts to interpret the language of leases. Bruce Doolittle, et al. v. Transcontinental Oil & Gas, Inc. et al., case no. 94CVF02-839 (Franklin County Court of Common Pleas [Nov. 30, 1994]).

Mr. Paniccia identified himself as an owner of certain wells. The Division Chief was not unreasonable, and was not acting unlawfully, in requesting that an individual claiming to own a well post bond for such a well. The issuance of Chief's Order 97-1, identifying Mr. Paniccia as a potential owner of the wells, was not unreasonable or unlawful.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the Commission hereby **AFFIRMS** the Division's issuance of Chief's Order 96-61 and Chief's Order 97-1.



WILLIAM J. TAYLOR, Chairman

ABSTAIN

JAMES H. CAMERON



JOHN A. GRAY

GAIL IGNATZ-HOOVER



BENITA KAHN, Secretary

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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