

Permit to Drill was inadvertent, having occurred solely due to the unanticipated geological conditions precluding this well from being drilled as originally engineered. Lyco has stated that protocols have been adopted to prevent a similar occurrence in the future. Lyco requests that given the circumstances, the assessment be waived.

DISCUSSION

It appears given the circumstances surrounding the drilling of this well, that Lyco's failure to obtain approval for this well was inadvertent. Lyco has been very responsive in supplying the MCFO with the information necessary to permit this well. Lyco has also stated that they have new protocols in place that will prevent this from happening in the future. This, however, does not change the fact that Lyco drilled the well without approval. It is the company's responsibility to know where the federal leases are located and to ensure compliance with the regulations.

DECISION

It appears that the violation by Lyco was inadvertent. There is no dispute, however, that the violation did occur. Title 43 CFR 3163.1(e) allows the State Director, on a case-by-case basis, to compromise or reduce assessments. Since the violation did occur, a complete waiver of the assessment is not justified. Inadvertent or not, it is Lyco's responsibility to comply with the regulations. However, due to the circumstances surrounding the violation and Lyco's responsiveness after the violation, a reduced assessment is warranted in this case. Title 43 CFR 3163.1(b)(2) states that an assessment of \$500 per day for each day the violation existed, not to exceed \$5,000 shall be levied for drilling without approval. Given the circumstances stated above, an assessment equivalent to one day of violation is appropriate. Therefore, the assessment issued by the MCFO is reduced from \$5,000.00 to \$500.00.

APPEAL RIGHTS

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 1). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR 4.21, the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in the Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

/s/ Chun C. Wong

for

Howard A. Lemm
Deputy State Director
Division of Resources

1 Enclosure
1-Form 1842-1 (1p)

cc:
WO-310, LS, Rm. 501
All BLM State Offices
Miles City Field Office
North Dakota Field Office
Great Falls Oil and Gas Field Station

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