



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Montana State Office
222 North 32nd Street
P.O. Box 36800

Billings, Montana 59107-6800

IN REPLY TO:

NDM 32155
SDR-922-97-07
3165 (922.PL)

April 28, 1997

CERTIFIED--RETURN RECEIPT REQUESTED

DECISION

Ms. Sharon Ward)	
Citation Oil and Gas Corporation)	SDR No. 922-97-07
8223 Willow Place South, Suite 250)	
Houston, Texas 77070-5623)	

VIOLATION AND ASSESSMENT AFFIRMED

Citation Oil and Gas Corporation (Citation) requested a State Director Review (SDR) of a \$5,000 assessment issued to Citation by the Dakotas District Office (DDO). The SDR request was dated April 18, 1997, and was filed with this office on April 21, 1997 (Enclosure 1). Citation was notified of the violation and assessment under a Notice of Incident of Noncompliance (INC) WM97021 dated April 14, 1997. The assessment was issued to Citation under the authority of 43 CFR 3163.1(b)(2), due to failure on Citation's part to comply with 43 CFR 3162.3-1(c). The INC was enclosed with a cover letter dated April 14, 1997 from the DDO (Enclosure 2). This letter cancelled an original INC WM97020 dated April 1, 1997, and the assessment of \$5,000 because the DDO did not provide Citation with the regulations reference for the assessment. This letter also identified the authority for the violation and the assessment. The SDR request was considered timely filed on April 21, 1997, in accordance with 43 CFR 3165.3(b).

Citation originally received state approval to drill the Stearns 14-15H well in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of section 15 on October 22, 1996. This well was located on private surface and private minerals; however, the majority of horizontal leg penetrated and currently produces in the federal minerals. Drilling operations on the well commenced on December 9, 1996, and ceased on January 30, 1997. The well was completed horizontally in the Red River Formation on February 13, 1997.

The INC notified Citation that the Stearns 14-15H well had been drilled and completed in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, sec. 15, T. 129 N., R. 106 W., Bowman County, North Dakota, and that the well was completed in federal minerals on Federal lease No. NDM 32155, without a federally approved application for permit to drill (APD). In addition, pursuant to the regulations 43 CFR 3163.1(b)(2), Citation was assessed \$500 per day for each day that the violation existed, including days the violation existed prior to discovery, not to exceed \$5,000. The assessment was capped at \$5,000 because the infraction was discovered by the DDO on April 1, 1997.

Citation states that the amount of fine is disproportionate to the offense, and that this is the first time Citation has been in violation of 43 CFR 3162.3-1(c). Citation further states that it was completely unaware that the Stearns 14-15H well location had federal minerals. Citation also stated that their interoffice correspondence has indicated that the entire section was fee.

Our review has indicated that the DDO issuance of the INC was correct in that Citation had violated the regulations under 43 CFR 3162.3-1(c). The regulations under 43 CFR 3162.3-1(c) states:

"The operator shall submit to the authorized officer (AO) for approval an APD for each well. No drilling operations, nor surface disturbance preliminary thereto, may be commenced prior to the AO's approval of the permit."

Citation was also assessed \$5,000 accordingly to the regulations under 43 CFR 3163.1(b)(2). The regulations state:

"For drilling without approval or for causing surface disturbance on Federal or Indian surface preliminary to drilling without approval, \$500 per day for each day that the violation existed, including days the violation existed prior to discovery, not to exceed \$5,000."

Even though the State Director pursuant to the regulations under 43 CFR 3163.1(e) has the authority to compromise or reduce the assessment, we can find no reason in the record for establishing such a determination. This position is supported by the fact that the entire section, except for the 80 acres in the W $\frac{1}{2}$ SW $\frac{1}{4}$ where the well is located on both fee surface/minerals, are federal minerals being produced from the horizontal leg of the well. As an operator doing business on federal lands, Citation should have known based on the public records available, and the fact that Citation was also the lessee of record on the federal lease, that it was penetrating federal minerals. Until the BLM notified Citation of the existing violation, there was no indication that Citation would have been aware of the violation. Further, the loss of royalties to the federal interests could arguably have continued indefinitely since production was already occurring on this tract of which 87.5 percent (561.50 acres of the total 641.50 acres in Section 15) was federally controlled, had not the problem been detected by the DDO.

Therefore, the INC issued for the violation of the regulations under 43 CFR 3162.3-1(c) and the \$5,000 assessment against Citation are affirmed.

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 3). 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 3165.4(c), 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 this 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/~~ Thomas P. Lonnie

Thomas P. Lonnie
Deputy State Director
Division of Resources

3 Enclosures

- 1- Citations SDR dated April 18, 1997 (3 pp)
- 2- BLM letter and INC dated April 14, 1997 (5pp)
- 3- Form 1842-1 (1p)

cc: (w/o encls.)

WO-310, LS, Rm. 406

DM, Dickinson

DM, Lewistown

DM, Miles City

AM, GFRA

MT-922, Adjudication

AK SO

AR SO

CA SO

CO SO

ESO

ID SO

NV SO

NM SO

OR SO

UT SO

WY SO

922:PLaborda:prl:4/21/97:x2862:SDR_CIT2.WPF