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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

TAKE PRIDE IN AMERICA

IN REPLY TO:

NDM 35440
SDR 922-91-02
3165 (922.LB)

October 15, 1990

CERTIFIED-RETURN RECEIPT REQUESTED

DECISION

Mr. M. E. Mills Jr. Texaco USA P.O. Box 46510 Denver, Colorado 80201-6510	))))	SDR No. 922-91-02

Affirmed

Texaco USA (Texaco) requested a State Director Review (SDR) (Enclosure 1) of an assessment issued by the Dickinson District Office (DDO). The assessment was issued to Texaco for failure on Texaco's part to comply with a written order of the authorized officer (AO).

On June 29, 1990, the DDO requested Texaco to furnish documents to support a gas production accountability inspection covering the months of January, February and March 1989 (Enclosure 2). The inspection was being conducted on lease number NDM 35440 well name and numbers Covered Bridge #10-7 and #10-11. The DDO instructed Texaco to submit information within 30 days from receipt of the letter. Texaco received the letter on July 2, 1990. On September 29, 1990, the DDO issued an Incident of Noncompliance (INC) (Enclosure 3) for failure to submit the information. Texaco was also issued an assessment of $250 for failure to comply with a written order issued by the AO on June 29, 1990.

Texaco is contesting the assessment because Texaco claims that the information was sent to the DDO within the abatement period. Texaco argues that upon receiving the letter of June 29, 1990, in their Watford City, North Dakota, office, it was sent to Texaco's Denver office where it was received on July 6, 1990. On July 6, 1990, Texaco requested copies of the needed information from Koch, which they partially received by telefax the same day. The remaining information was received by Koch on July 9. 1990. Texaco (Denver office) stated that they sent the entire package to their Regulatory Department in Houston, Texas, on July 17, 1990, for final handling. Texaco (Denver and Watford City offices) assumed that the matter had been handled to conclusion because Texaco was never advised differently.

Texaco stated that it can not be determined whether the original information was misplaced by Texaco or the BLM. However, Texaco feels that they acted prudently and expeditiously to get the information to the BLM when they were notified that BLM did not receive the original documents. Therefore, Texaco requests that the assessment be waived.

The assessment regulation quoted by the DDO is located at 43 CFR 3163.1(a)2, which states, "Where noncompliance involves a minor violation, the AO may subject the operating rights owner or operator as appropriate to an assessment of $250 for failure to abate the violation or correct the default within the time allowed."

Texaco provided no evidence or proof that the information was mailed to DDO or received by DDO within the abatement period. Conversations with DDO indicated that the information was not received. The DDO was correct in issuing the INC and assessment for failure to comply with a written order of the AO. Therefore, we uphold the INC and the assessment issued by the DDO.

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 the enclosed Form 1842-1 (Enclosure 4). 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.

Donald L. Gilchrist
Acting Deputy State Director
Division of Mineral Resources

4 Enclosures
1-SDR dated October 2, 1990 (2 pp)
2-Letter to Texaco requesting information (1 p)
3-INC No. IKW90002 (1 p)
4-Form 1842-1 (1 p)

cc: (w/o encls.)
DM, Dickinson