



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:

SDR-922-97-10
SDM-28740
3165.3 (922.JB)

SEP 16 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DECISION

Jeff B. Hume
V.P., Drilling Operations)
Continental Resources, Inc) SDR No 922-97-10
P. O. Box 1032
Enid, OK 73702

AFFIRMED

Continental Resources, Inc. (CRI) requests a State Director Review (SDR), of a Decision, (Enclosure 1) issued by the Dickinson District Office (DDO) on August 21, 1997, to assess the company for failure to receive prior approval for abandonment operations for the SBRRU 12-2 which is located on federal lease SDM-28740. The subject well is located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ sec. 2, T. 20 N., R. 4 E., Harding County, South Dakota. The SDR request was considered timely filed on September 11, 1997, in accordance with 43 CFR 3165.3(b), and assigned number SDR-922-97-10.

Continental Resources, Inc. notes in their request for an SDR that they filed a sundry notice (Enclosure 2) describing plans to plug and abandon the SBRRU 12-2 well with the South Dakota Department of Environment and Natural Resources (DNER) on October 23, 1996. The work was completed on November 7, 1996 and followed by a plugging report filed with the DNER on December 19, 1996 (Enclosure 3). No notices were filed with the BLM.

The abandonment was discovered during an environmental inspection by BLM staff on June 6, 1997. Records were checked and it was established that the well had been plugged and abandoned without prior BLM approval. Pursuant to 43 CFR 3163.1(b)(3), CRI was assessed \$500 for failure to obtain prior approval for abandonment operations.

Continental Resources, Inc.'s request for an SDR asserts that the assessment by the DDO is improper and double jeopardy under the law. They state in their request that the SBRRU 12-2 well is part of the South Buffalo Red River Unit and under the rules of the state of South Dakota. Notification of the abandonment was given by CRI to the DNER under their rules. Continental Resources, Inc. claims that the DNER is the regulatory body with jurisdiction over federal lease SDM-28740 and that the federal government is simply a mineral owner with interest in the property.

The regulations at 43 CFR 3161.1(a) establish that all operations conducted on a Federal oil and gas lease by the operator are subject to the regulations in 43 CFR Part 3160. Pursuant to 43 CFR 3162.3-4 an operator is to promptly plug and abandon, in accordance with a plan first approved in writing or prescribed by the BLM authorized officer, any producing well that has been demonstrated to no longer be able to producing in paying quantities unless the well is approved for use as a service well. Furthermore, Onshore Oil and Gas Order No. 1 also requires at Section V (Well Abandonment) that no well abandonment operations may be commenced without the prior approval of the authorized

officer. Regulations at 43 CFR 3163.1(b)(3) establish that failure to obtain approval of a plan for well abandonment prior to commencement of such activities will lead to an immediate assessment of \$500 by the authorized BLM officer. Therefore, the assessment issued by the Dickinson District Office is proper and in accordance with regulations found at 43 CFR 3163.1(b)(3). Accordingly, the notice of assessment for \$500 is upheld.

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 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.

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

Deputy State Director
Division of Resources

4 Enclosures

- 1-SDR request by CRI (1 p)
- 2-SD DNER Sundry (1 p)
- 3-SD Plugging Report (1 p)
- 4-Form 1842-1 (1 p)

cc: (w/ encls.)
DM, Dickinson