



# 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-922-98-01  
NDM 2282 ACQ  
3165.3 (922.PL)

NOV 25 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lawrence Bender  
c/o Pearce & Durick, Attorneys At Law  
Basic Earth Science Systems, Inc.  
P.O. Box 400  
Bismarck, North Dakota 58502

SDR No 922-98-01

### AFFIRMED

Basic Earth Science Systems, Inc. (Basic) has requested a State Director Review (SDR) of an October 20, 1997 (Enclosure 1), decision of the Dakotas District Office (DDO) requesting Basic's plans for ensuring the plugging of the Federal 20-31 and Federal 20-44 wells, and reclamation of the disturbed area. Basic was required to submit a plan to the DDO within 30 days of receipt of the certified letter received by Basic on October 23, 1997. The SDR request was telefaxed to this office on November 20, 1997 (Enclosure 2). The SDR request was considered timely filed on November 20, 1997, in accordance with 43 CFR 3165.3(b).

The DDO letter notified Basic that the North Dakota Industrial Commission (NDIC) informed the DDO that plugging and reclamation costs for the wells formerly operated by Enterprise will exceed the amount of the bonds. Therefore, the DDO required that Basic submit a plan to plug and abandon the two federal wells on Basic's lease.

The NDIC informed the DDO, by letter of October 3, 1997 (Enclosure 3), that the \$100,000 bond with the NDIC would not be sufficient to cover the costs to plug and abandon all the wells previously operated by Enterprise. Basic argues that it has been assured by the NDIC that the \$100,000 NDIC bond would be utilized to cover the costs for plugging and abandoning all wells previously operated by Enterprise. However, Basic has not provided any evidence in this SDR to support its statement that the \$100,000 NDIC bond is sufficient. Therefore, we disagree with Basic's SDR request that it not be required to submit plugging plans as required by the DDO until such time as the NDIC concludes its work to plug and abandon all wells covered by the \$100,000 bond.

We hereby affirm the DDO's decision requiring Basic to submit a plan for ensuring the proper plugging and abandoning of the Federal 20-31 and Federal 20-44 wells, and reclamation of the disturbed area. Basic must provide a plan to the DDO within 30 days of the receipt of this decision.

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/ John M. Lonnie*  
*for*

Thomas P. Lonnie  
Deputy State Director  
Division of Resources

4 Enclosures

- 1- DDO letter dated October 20, 1997 (1 p)
- 2- Basic SDR Request letter dated November 20, 1997 (2 pp)
- 3- NDIC letter dated October 3, 1997 (1 p)
- 4- Form 1842-1 (1 p)

cc: CERTIFIED MAIL (w/ encls.)

Basic Earth Science Systems, Inc., 633 17th Street, Suite 1670,  
Denver, CO 80202-3635

Wes Norton, North Dakota Industrial Commission, Oil and Gas Division  
600 East Boulevard, Bismarck, ND 58505

bc: (w/o encls.)

WO(310), LS Bldg., Rm. 501

DM, Dickinson

DM, Miles City

DM, Lewistown

AM, Great Falls

MSO (922)

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