



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-922-97-05
NDM 2282 ACQ
3165.3 (922.PL)

January 2, 1997

Certified Mail - Return Receipt Requested *Z 205 997 067*

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

SDR No 922-97-05

AFFIRMED

Basic Earth Science Systems, Inc. (Basic) has requested a State Director Review (SDR) of a November 18, 1996, decision of the Dakotas District Office requesting Basic's plans for ensuring the plugging of the Federal 20-31 and Federal 20-44 wells, and reclamation of the disturbed area. The SDR request was telefaxed to this office on December 20, 1996, and the original letter later received on December 23, 1996 (Enclosure 1). The SDR request was considered timely filed on December 20, 1996, in accordance with 43 CFR 3165.3(b).

On November 18, 1996, (Enclosure 2), Basic was informed that Enterprise Energy Incorporated (Enterprise) who was the operator of the subject wells defaulted on the terms of several federal leases on which they operated in North Dakota, resulting in the attachment of their \$25,000 BLM bond (MT0803). As the lessee of record for NDM-2282 Acq, Basic is ultimately responsible for ensuring the plugging and abandonment of the Federal 20-31 and Federal 20-44 wells, including reclamation of the disturbed surface. Basic was required to provide the DDO with plans for performing the necessary work; otherwise, Basic's \$25,000 BLM bond (MT0868) would be attached to pay for plugging and abandonment costs.

Basic provides an argument which states that based upon knowledge and belief, adequate bonds are on file with the North Dakota Industrial Commission (NDIC) to fund proper plugging and site restoration of the subject wells. Basic also states that the NDIC intends to commence plugging and site restoration of the subject wells in early spring of 1997 utilizing funds forfeited from Underwriters Indemnity Surety for Enterprise. Basic also stated that it should not be primarily liable for the plugging of the subject wells.

This office has already attached Enterprise's \$25,000 BLM bond. The bond was posted for seven (7) federal wells operated by Enterprise in North Dakota. This bond will not be sufficient to plug and abandon these seven (7) wells. Since Enterprise has no intention to plug the two federal wells on your lease as sole lessee of record, you are ultimately responsible for these two wells. If you have evidence to indicate that the NDIC will plug the



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two wells on your lease in the early spring of 1997, in accordance with the federal regulations, you should forward that information to the DDO. In addition, you should also include your plans for these two wells in the event that the NDIC fails to plug and abandon the wells in the early spring of 1997. Your bond will only be attached if you fail to plug and abandon the Federal 20-31 and Federal 20-44 wells, and reclaim the disturbed area.

Therefore, we hereby affirm the DDO's decision requiring a plan from Basic for ensuring the plugging and abandoning of the Federal 20-31 and Federal 20-44 wells, and reclamation of the disturbed area. You must provide a plan to 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 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/ Randy D. Heuscher

Randy D. Heuscher for
Thomas P. Lonnie
Deputy State Director
Division of Resources

3 Enclosures

- 1- Basic letter dated December 20, 1996 (1 p)
- 2- DDO letter dated November 18, 1996 (2 p)
- 3- Form 1842-1 (1 p)

cc: CERTIFIED MAIL (w/ encls.) *Z 205 997 068*
Basic Earth Science Systems, Inc., 633 17th Street, Suite 1670
Denver, CO 80202-3635