

V I R G I N I A:

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

Appeal of the State Gas and Oil Inspector's Decision to Issue Well Work Permits for Well Number(s) B-28, VGOB-1010-27 and E-28, VGOB-1010-28

This cause came on this 11th day of October, 1990, upon the Notice of Appeal of the Inspector's decision to issue well work permits to Oxy USA, Inc., "Oxy", for Wells B-28, VGOB 1010-27 and E-28, VGOB 1010-28 filed by Cabot Oil and Gas Corporation, "Cabot".

Cabot appeared at this hearing and was represented by Hugh M. Fain, III, McGuire, Woods, Battle and Boothe. Oxy appeared in person and was represented by Richard A. Counts, Counts, McKinnis and Scott and Mark Swartz, Kay, Casto, Chaney, Love and Wise, P. O. Box 1230, Morgantown, WV 26507. The matter was heard by the Board ore tenus.

FINDINGS OF FACT

1) On August 8, 1990, an informal hearing was held before the State Gas and Oil Inspector. The purpose of the hearing was to hear objections raised by Cabot.

2) Certification was made that all parties entitled to receive notice did in fact receive notice.

3) Oxy did not list Cabot in its application for well work permits as a person entitled to receive notice.

4) Cabot owns conventional oil and gas rights in the vicinity of these proposed wells.

5) The Inspector determined that Cabot was entitled to notice of the well work permits and does have standing to appear

and raise issues with respect to matters properly within the Inspector's jurisdiction. The Inspector further determined that Oxy's drilling of these two coalbed methane wells was not an arbitrary or unreasonable impingement upon Cabot's conventional oil and gas rights and that Cabot failed to substantiate that the drilling and construction of these particular wells would preclude Cabot's ability to explore for and produce its conventional oil and gas rights.

6) The Inspector issued well work permits for B-28 and E-28.

CONCLUSIONS OF LAW

The Board is of the opinion that:

1) Section 45.1-361.35 of the revised Virginia Gas and Oil Act, 45.1-361.1 et seq. of the Code of Virginia provides that objections to new or modified well work permits may be filed by only those persons having standing as set out in Section 45.1-361.30.

2) Section 45.1-361.30 describes those persons that are entitled to notice of permit applications and provides in paragraph A.4 that notice is to be given to "all gas, oil, or royalty owners within one-half the distance specified in Section 45.1-361.17 for that type of well, or within one-half the distance to the nearest completed well in the same pool, whichever is less, or within the boundaries of a drilling unit established pursuant to provisions of this chapter."

3) Gas and oil owner is defined in Section 45.1-361.1 as "any person who owns, leases, or has an interest in, or who has the right to explore for, drill or operate a gas or oil well as a principle or a lessee..." Cabot has the right, as a conventional oil or gas owner, to drill or operate gas or oil wells.

4) In this case, the Inspector notified Cabot of the informal hearing. Cabot attended and participated in the informal hearing. No request for a continuance was made by Cabot. With respect to issues raised by Cabot, they had a full and fair opportunity to participate in the informal proceedings.

5) Cabot contends that Oxy's drilling of these coalbed methane wells would substantially preclude Cabot's ability to explore for and produce its conventional oil and gas rights. Cabot did not prove that they had been denied any well work permit applications resulting from Oxy's proposed drilling of Wells B-28 and E-28. To conclude that Oxy's drilling of these two coalbed methane wells represents an arbitrary or unreasonable impingement on Cabot's conventional oil and gas rights is highly speculative and beyond the Inspector's jurisdiction.

Accordingly, this Board affirms the Inspector's decision to issue Oxy well work permits for wells B-28 and E-28.

This Board further Orders that notice of well work permit applications shall be given to all gas, oil or royalty owners consistent with provisions of Sections 45.1-361.30 and 45.1-361.35. In this case, Cabot received actual notice of the proceedings and Cabot participated and had an opportunity to

present its case. Since Cabot received actual notice of the proceeding, this Board finds that that notice was sufficient. However, this Board emphasizes the need to ensure that all persons who may be affected by a well work permit application have a meaningful opportunity to participate in informal hearings convened by the Gas and Oil Inspector.

Notice of well work permit applications shall be given to all gas, oil or royalty owners within the distance limitations expressed in Section 45.1-361.30.A.4.

All members present and in agreement, done this 8th day of November, 1990.

Benny R. Wampler
CHAIRMAN

Done and performed this 8th day of November, 1990, by order of this Board.

Dezron J. Fulmer
Principal Executive to the Staff,
Virginia Gas and Oil Board