

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 Denying the Issuance of a Well Work Permit to Ashland Exploration, Inc. for Conventional Well No. 1, Serial No. 141381, Alpha C. Stickley, et al, Lease on Tract PKJ-30, Docket Number VGOB 92-1020-0278

This cause came on hearing before the Virginia Gas and Oil Board ("Board") this 20th day of October, 1992, upon Ashland's Petition of Appeal of the Virginia Gas and Oil Inspector's ("Inspector") decision denying the issuance of a well work permit to Ashland Exploration, Inc. ("Ashland") for conventional well No. 1, Serial Number 141381, Alpha C. Stickley et al Lease, Tract PKJ-30, Garden District, Buchanan County, Virginia, to occupy Unit J-30 of the Pilgrims Knob Gas Field (herein "Subject Well"), VGOB Number 92-1020-0278.

Island Creek Coal Company (herein "Island Creek") appeared at the hearing and was represented by Howard G. Salisbury and Mark A. Swartz, Kay, Casto, Chaney, Love and Wise; Ashland appeared at the hearing and was represented by J. Grant McGuire, Campbell, Woods, Bagley, Emerson, McNeer and Herndon.

FINDINGS OF FACT

1) By letter dated August 4, 1992, Ashland submitted to the Inspector, its application for a well work permit to drill Subject Well, which application set forth Island Creek among the coal operators or owners who had registered their operation plans with the Department for activities located on the tract to be drilled or within 500 feet of the proposed well location.

2) Pursuant to § 45.1-361.30.E of the Virginia Code and the Notice of Publication of Ashland's application for a well work permit for Subject Well, the persons identified in § 45.1-361.30 of the Code as having the right to file an objection to the gas and oil operation being applied for must state their reasons for objecting in writing with the Inspector within fifteen (15) days of the date of the receipt of notice of application.

3) By letter dated August 13, 1992, Island Creek filed with the Inspector a formal objection to the issuance of a permit for Subject Well and stated in support of its objections the following:

...We had received coordinates for possible locations for this proposed well, however, the coordinates were changed several times and we had never received any final coordinates for review and the coordinates shown on the application plat are different from any of the initial coordinates that we have seen. The proposed well is located within 2,500 feet of an existing well and it appears that its location will interfere with the planned mining operations of our VP-2 operation...

4) Pursuant to § 45.1-361.35 of the Code of Virginia, after notice, an Informal Fact Finding Hearing was scheduled and held by the Inspector on September 9, 1992, to consider the objections received from Island Creek on August 17, 1992, at which time both Ashland and Island Creek appeared and presented evidence.

5) The Inspector issued his decision on September 16, 1992, finding that Island Creek Coal Company, as the coal operator, had not agreed to the location for Subject Well, which as proposed by Ashland would lie within approximately 600 linear feet of the location of an existing coalbed methane gas well operated by OXY USA, Inc. and designated CBMI S-32. Therefore, the Inspector denied Ashland's application for a well work permit for Subject Well pursuant to the requirements of § 45.1-361.12.A of the Code of Virginia.

6) Ashland is a conventional well operator. Island Creek is a coal owner and operator with standing to object to Ashland's application, and in fact, Island Creek did so object in the manner and within the time required by law.

CONCLUSIONS OF LAW

The Board is of the opinion that:

1) Sections 45.1-361.11.B and 45.1-361.12 of the Code of Virginia, 1950 as amended, provide the grounds upon which a coal owner or operator, such as Island Creek, is entitled to object to a well work permit application and, in the event of such objection, govern the action to be taken by the Inspector in granting or denying the permit application being objected to.

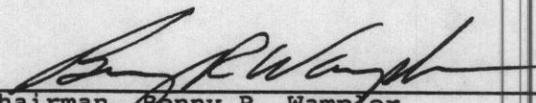
a. In the event of an objection to a well work permit by a coal operator, § 45.1-361.11.B sets forth the safety aspects to be considered and mandates that no order or permit be issued where the evidence indicates that the proposed activities will be unsafe.

b. Section 45.1-361.12 provides that if the well operator and the objecting coal owners present or represented at the hearing to consider the objections to the proposed drilling unit or locations are unable to agree upon a drilling unit or location for a new well within 2,500 linear feet of the location of an existing well or a well for which a permit application is on file, then the permit or drilling unit shall be refused. In the absence of an agreement between the well operator and the coal operator to the location of the well, the only exception to denial is that set forth in Section 45.1-361.12.B., i.e., if the proposed well will be drilled through an existing or planned pillar of coal required for the protection of a pre-existing well drilled to any depth, and the proposed well will neither require enlargement of the pillar nor otherwise have an adverse effect on existing or planned coal mining operations.

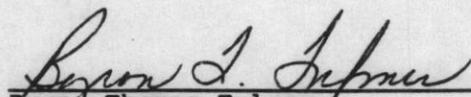
2) Ashland, the applicant, and Island Creek, the objecting coal owner present and represented at the hearing to consider the objections to the location for Subject Well, were unable to agree upon a location for Subject Well, which as proposed, was to be located within 2,500 linear feet of the location of an existing well. Subject Well as proposed in the application does not meet the exception set forth in § 45.1-361.12.B of the Code of Virginia.

Accordingly, this Board affirms the Inspector's decision to deny the issuance of a well work permit for Subject Well as proposed by Ashland.

Done and executed this 30th day of November, 1992, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

Done and performed this 30th day of November, 1992, by Order of
this Board.


Byron Thomas Fulmer
Principal Executive to the Staff
Virginia Gas and Oil Board