

FILED

OCT 12 1983

Ardelle M. Kissler, Clerk  
Environmental Quality Council

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

Docket No. 1245-83

IN THE MATTER OF BOND )  
FORFEITURE PROCEEDINGS )  
AGAINST FREMONT ENERGY )  
CORPORATION, NOV 1245-83 )

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

PURSUANT TO NOTICE duly given to all parties in interest, this matter came on for hearing on the 3rd day of August, 1983, at 1:15 p.m. in the conference room of the Carbon Power and Light, 100 East Spring Street, Saratoga, Wyoming. Mr. Edgar L. Langrand, a member of the Environmental Quality Council, presided as hearing officer, with Mr. David B. Park, council member, Ms. Terri Lorenzon, Administrative Aide, and Lawrence J. Wolfe, Senior Assistant Attorney General, in attendance.

The Petitioner appeared and was represented by Mr. John Burk, Attorney at Law, Suite A, The Wyoming Building, Casper, Wyoming. The Department of Environmental Quality, Land Quality Division, was represented by Mr. Weldon S. Caldbeck, Assistant Attorney General, 123 Capitol Building, Cheyenne, Wyoming.

With all parties participating in the hearing, the Environmental Quality Council took this matter under advisement and having been fully advised, and having considered all the testimony and evidence submitted by the parties, and having considered the matter at its regular meeting in Casper, Wyoming, on September 28, 1983, now makes its Findings of Fact, Conclusions of Law and Order.

## FINDINGS OF FACT

1. Petitioner, Fremont Energy Corporation (Fremont), has conducted exploration drilling activities in the Red Desert, Sweetwater County, Wyoming. Fremont received from the Department of Environmental Quality (Department) License to Explore #56 and Drilling Notification #16. The drilling was conducted during the years of 1977, 1978 and 1979. Approximately 1046 holes were drilled. (See Tr. pp. 43, 86, 91, 92; Exhibits 1, 3.)

2. Fremont Energy Corporation has placed with the State of Wyoming a \$10,000 certificate of deposit. (See Tr. p. 92; Exhibit 4.)

3. On June 2 and 3, 1981, the Department of Environmental Quality, Land Quality Division, inspected 20 of Fremont's drill sites located in the Red Desert. Seventy-five percent of said sites were found to be in violation of the Environmental Quality Act in that there was improper surface capping and recontouring, and the surface area vegetation had not been restored. (See Tr. pp. 100-101, 111-112, 125-126; Exhibit 13.)

4. A conference was held in January, 1982, and written stipulations entered into in March, 1982, concerning the restoration deficiencies at Fremont sites. At the conference and by the stipulations, Fremont agreed to (a) locate all drill sites that still needed capping, recontouring, and vegetation; (b) present to DEQ a comprehensive plan on correcting all deficiencies; and (c) correct all deficiencies by December 31, 1982. (See Tr. pp. 102-105; Exhibit 6.)

5. On March 9, 1983, Fremont advised the Department that all restoration at their drill sites was completed. (See

Exhibit B.)

6. The Department conducted an inspection in May, 1983, and one in June, 1983, to determine if Fremont's holes were now in compliance with the Environmental Quality Act. Approximately 90 holes were inspected and, of that number, only three or four were found to be in compliance. Holes were still found to be improperly recapped, recontoured, and revegetated. (See Tr. p. 109.)

7. On June 7, 1983, a notice of violation was issued to Fremont for those deficiencies found during the May and June, 1983 inspections. Representative drill sites were photographed and outlined in the NOV. (See Exhibits 8, 9-12, 14.)

8. On June 23, 1983, the Director of the Department of Environmental Quality requested and received from the Environmental Quality Council approval to have the Attorney General begin bond forfeiture proceedings against Fremont.

9. On June 30, 1983, a letter was forwarded to Fremont that their bond would be forfeited pursuant to W.S. 35-11-421 and that a hearing before the Environmental Quality Council could be requested.

10. On July 13, 1983, the Department of Environmental Quality received from Fremont a request for hearing before the Environmental Quality Council.

11. A hearing on the bond forfeiture was held by the Environmental Quality Council on August 3, 1983. Pursuant to the provisions of W.S. 35-11-421(c), the Petitioner, Fremont, presented statements, documents, and other information respecting the alleged violation.

12. Fremont representatives claim that all recapping,



recontouring, and reseeding had been accomplished and the drill sites are in conformance with the legal requirements. (See Tr. p. 64.)

13. A practice of Fremont was to use an "Octo Plug" to cap holes; dirt and a wooden stake were placed upon such plug. Upon the second attempt to cap the holes, Fremont representatives state that all wooden posts were removed. (See Tr. pp. 60, 63-64.) The practice of capping by placing wood posts on top of the "Octo Plug" had problems as the wood post would deteriorate, water erosion could cause the hole to open; the hole was not backfilled to the surface; and, without enough backfill, the plug could slip down the hole. (See Tr. pp. 60, 89, 111-112, 125-126, 131-132, 153-154.) The May and June, 1983, inspections revealed drill holes were still not backfilled, wooden posts were still found in holes, and "Octo Plugs" were still unstable. (See Tr. pp. 111-112, 123-124; Exhibits 9, 10, 11, 12, 14.)

14. Fremont representatives state that the drill sites have all been reseeded. (See Tr. pp. 47-50, 65-66.)

15. During the inspection of June 2 and 3, 1981, Fremont drill sites were found to not be revegetated. (See Tr. pp. 108-109; Exhibit 13.) During the inspections of May and June, 1983, Fremont drill sites were again found to not be revegetated. (See Tr. pp. 112, 117-119; Exhibits 9, 10, 11, 14.)

16. Encroachment of vegetation on the perimeters of the drill sites, and occasionally within the drill site, indicate the soil could act as a growth medium. (See Tr. pp. 119, 144.)

CONCLUSIONS OF LAW

1. The Environmental Quality Council has jurisdiction over both the subject matter and parties of this proceeding.

2. Due and proper notice of the hearing in this matter was given in all respects as required by law.

3. W.S. 35-11-404(c)(iii) provides that proper abandonment means that each drill hole is to be completely filled to the collar of the hole or securely capped at a minimum depth of two (2) feet below either the original land surface or the collar of the hole, whichever is at the lower elevation. If capped, the cap is to be made of concrete or other material satisfactory for such capping. The hole shall be backfilled above the cap to the original land surface.

4. W.S. 35-11-404(v) provides that proper abandonment means that each drill site shall be restored as nearly as possible to its original condition, including reseeded if grass or other crop was destroyed.

5. The evidence demonstrates that Fremont Energy Corporation did not "surface cap" each drill hole as required by W.S. 35-11-404(c)(iii).

6. The evidence demonstrates that Fremont Energy Corporation did not restore each drill site as required by W.S. 35-11-404(v).

7. The statements, documents, and other information presented by Fremont Energy Corporation does not justify the withdrawing of NOV 1245-83.

8. The \$10,000 performance bond of Fremont Energy Corporation should be forfeited to the Department of Environmental

Quality so that the agency can properly surface cap and restore the abandoned drill sites.

ORDER

WHEREFORE, PURSUANT TO W.S. 35-11-421(c), IT IS HEREBY ORDERED THAT:


1. The performance bond of Fremont Energy Corporation, in the sum of \$10,000, is forfeited to the State of Wyoming, Department of Environmental Quality. Said performance bond is represented by a certificate of deposit.

2. The Department of Environmental Quality shall pursue reclamation of the Fremont Energy drill sites, and Fremont Energy Corporation shall have the right to bid on any reclamation contracts.

3. That the funds from such performance bond shall only be expended toward completing proper abandonment of Fremont Energy Corporation drill sites located in the Red Desert, Sweetwater County, Wyoming, LE56 and DN16, pursuant to the requirements of W.S. 35-11-404.

4. Any funds not expended in the proper abandonment shall be returned to Fremont Energy Corporation.

Dated this 4th day of October, 1983.

  
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Edgar L. Langrand  
Environmental Quality  
Council

CERTIFICATE OF SERVICE

I, Weldon S. Caldbeck, Assistant Attorney General, State of Wyoming, hereby certify that the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in the above-captioned matter was served by placing a true and correct copy thereof in the United States mail, postage prepaid, this 12th day of October, 1983, addressed as follows:

John W. Burk  
Attorney at Law  
202 East 2nd Street  
Suite 500  
Casper, Wyoming 82601

and by interoffice mail this same date to:

Lyle Randen, Administrator  
Department of Environmental Quality/  
Land Quality Division  
401 West 19th Street  
Cheyenne, Wyoming 82002

  
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Weldon S. Caldbeck